



# BONDS

What are they and how do they work.



# What is a bond?

- A bond is a contract between the surety and the prime contractor for the benefit of subcontractors and MoDOT.
- For subcontractors and material suppliers it ensures that they will be paid for work performed.
- For MoDOT it ensures that, in the event of default of the contractor, the job will be completed.

# Bid Bond

- A bid bond ensures that the contractor will honor its bid and take on the job.
- If a contractor submits a bid and is the lowest responsible bidder and refuses to sign the contract they will forfeit their bid bond.
- A bid bond is the most common method used to satisfy the “Bid Guaranty” requirement. A bidder could also submit a check in lieu of the bid bond. Without one of these two bid guaranties, a bid is considered non responsive.
- The bid bond is a minimum of 5% of the bid amount.



# Annual Bid Bond

- Instead of submitting a bid bond for each individual project a contractor may elect to submit an annual bid bond to cover all projects submitted in that year.
- The requirements and process for a contractor to submit an annual bid bond is outlined in Spec. 102.9.




# Payment Bond

- A payment bond is required to ensure all subcontractors and suppliers are paid.
- A subcontractor or material supplier cannot file a lien on state property.
- A surety company is the entity that provides the bond.
- The bond ensures payment when the prime refuses to pay for completed work.




# Performance Bond

- This bond ensures that in the event the prime contractor is unable to complete the job, the surety will ensure that the job is completed.
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# Contract Bond

- MoDOT's required bond form combines the payment and performance bond into a single document to reduce paperwork.
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# Payment for Bond

- The contract bond cost is included in the contractor's bid. It is part of the contractor's mobilization.
- The contractor may submit a request for an upfront reimbursement for the cost of the contract bond.
- The RE will issue a no cost change order to add a payment for this cost and reduce the cost of mobilization by an equal amount.



# What is a surety?

- The definition of a surety is: a person who takes responsibility for another's performance of an undertaking, for example their appearing in court or the payment of a debt.
- A surety company is the entity that provides the bond. It is basically like an insurance company.
- The surety agent is who your correspondence goes through. They are similar to your local insurance agent who sells and administers your insurance policy.

# Who can file a claim against the Surety?

- If a supplier or subcontractor is not paid for work or materials supplied they can file a claim with the surety.
- The pay dispute can be resolved between these parties and the prime contractor.
- MoDOT should not intervene in these pay disputes but should provide the surety information to any party contacting MoDOT about non or insufficient payments.

# When does MoDOT engage a contractor's surety company?


- If a contractor is given a notification of default under any of the circumstances outlined in 108.10. Then a letter is sent to the surety agent and contractor to advise them of the actions required to remedy the default violation.
- If there is no remedy within 10 days a letter is sent to the surety agent and contractor declaring the contractor in default.

# When does a surety take over the contract?

- The surety has 10 days after the declaration of default to take over the contract.
- The contractor and surety shall be liable for all expenses incurred in completing the work.
- Often the surety will retain the services of the original contractor to complete the work.
- If the surety does not proceed with the work MoDOT can contract to others and file a claim against the surety.



# Liability for Costs

- The contractor and surety shall be liable for all cost and expenses incurred in completing the work, and for all liquidated damages in conformity with the contract.
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# What if the surety is non-responsive?

- A surety failing to proceed within ten days after declaration of default may be required to show cause why the surety should continue to be accepted for future bonds.
- The commission would decide if this surety is no longer allowed to bond MoDOT projects.