

# State Procurement Manual

DOA-3449 N(R06/94) Formerly AD-P-12

Section THE PROCUREMENT PROCESS	Agencies Affected ALL	Number PRO-C-19
		Effective 6-19-03
		Replaces 12-1-83
Title BONDS AND SURETIES		Page 1 of 2

AUTHORITY: [Wis. Stats. 16.75\(5\)](#)  
[Wis. Adm. Code Chapter Adm 7.08](#)

SCOPE: - to establish policy on the requirement for sureties and bonds from suppliers  
- to authorize use of various types of sureties

CONTENT: I. The State Bureau of Procurement, or agency offices operating under delegated authority, may require sureties from bidders or contractors when such action is deemed to be in the best interests of the state.

A. A surety is a guarantee that a bidder or contractor will perform some specific act or complete some specific process. Sureties may consist of:

1. Cash on deposit with an agency of the state.
2. A certified or cashier's check.
3. An irrevocable letter of credit.
4. A bond issued by a bonding or insurance company authorized to do business in Wisconsin.

B. Basic types of sureties are:

1. A bid surety required to be submitted with a bid to ensure that a bidder will accept any resulting contract award.
2. A payment surety required in conjunction with the award of a contract that assures that a contractor will pay the valid bills of subcontractors who perform work under the prime contract so as to prevent the state from being subject to a lien action by the subcontractor.
3. A performance surety required to ensure that a contractor will perform to the requirements of a contract.

Authorized:



Jane Pawasarat Director  
State Bureau of Procurement

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- II. Sureties will not be required as a matter of course and will not be used to restrict small or minority businesses from bidding or receiving contracts. Sureties will be used only in those cases where justified. Justification for requiring sureties can include:
- A. A past history of nonperformance on specific classes of state bids or contracts.
  - B. A valid need for bid sureties, such as when failure to sign a contract may result in serious harm or damage to state operations.
  - C. Past history of nonpayment of subcontractors' valid invoices on specific classes of state contracts.
  - D. Situations where nonperformance of a contract can result in grievous harm or damages to state operations, such as the nondelivery of food to institutions, or where the need for on-time delivery of a component can negatively affect a broad project.
- III. If sureties are required on a solicitation or award, the requirement will be applied to all bidders and contractors. In exceptional cases, the State Bureau of Procurement may approve the imposition of surety requirements on an individual bidder or contractor when such approval is necessary to permit the bidder or contractor to receive a request for bid/proposal or an award where past history would preclude such action.
- IV. Sureties may not be amended as the result of an amendment to a solicitation or contract. New sureties will be called for and provided. Since a surety is a guarantee of performance of a specific act, an amendment that changes the act on which the surety is provided, by nature, voids the original surety.

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