

BONDS FOR PUBLIC IMPROVEMENT CONTRACTS

Bid Bonds:

If the invitation for bids is for the construction of a public improvement that involves the expenditure of \$100,000 or more, or for the furnishing of any material or labor therefore, each bid shall contain a certified check or a cashier's check for five percent (5%) of the amount of the bid. The check shall be certified or issued by either a state or a national bank and payable to the District. In lieu of a check, a bid may contain a bid bond for ten percent (10%) of the amount of the bid. The bond may be issued by a surety authorized to do business in South Dakota payable to the District, as a guaranty that the bidder will enter into a contract with the District.

No bidder on a public improvement contract may be required, either in the invitation for bids or otherwise, to leave a certified check or cashier's check, or bid bond, posted for longer than thirty (30) days after the bid opening if the bid is not accepted. The check or bid bond of the successful bidder shall be returned upon execution of the contract and surety. The checks of all unsuccessful bidders shall be immediately destroyed by the District. No more than forty-five (45) days may elapse between the opening of the bids and either the acceptance of the bid of the lowest responsible bidder or the rejection of all of the bids presented.

In the procurement of supplies or services, the Board may require a bond or an approved security to be submitted with any bid or proposal as a guarantee that the bidder will enter into a contract with the District. No offeror or bidder may be required to leave the bond or security posted for longer than thirty (30) days after the bid opening if the bid or proposal is not accepted. The bond or approved security of the successful offeror or bidder shall be returned upon the signing of the contract.

The requirement of a bid bond, certified or cashier's checks, or other security may be waived by the District if the bid submitted does not exceed \$100,000 or in case of an emergency procurement as authorized by law.

Performance Bonds:

When any contract is entered into for the construction of a public improvement for the furnishing of any material or labor for the improvement, the contractor must furnish a performance bond in an amount equal to the contract price. This bond guarantees the faithful performance and the payment for labor and materials by the contractor.

If the contract includes total cost bidding, the District may require a performance bond for the cost of repairs and guaranteed repurchase cost.

The requirement of a performance bond may be waived by the Board if the bid submitted does not exceed \$100,000. The requirement of a performance bond may also be waived by the Board in the case of an emergency procurement authorized by law.

The Board may require performance bonds for purchases of supplies or services.

LEGAL REFS.: SD AGO 86-01
SDCL 5-18A-9; 5-18A-14; 5-18A-35; 5-18A-36; 5-
18B-2; 5-18B-9; 5-21-1; 5-21-1.1; 5-21-1.3; 13-
20-7; 13-20-7.1
SD DLA

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