

FILMING BONDING REQUIREMENTS

Attachment 4 - Bond Instruments

Acceptable bond instruments include Personal bonds, Surety bonds, or Policy of Insurance. Surety bonds from the approved list of sureties (U.S. Treasury Circular 570) must be payable to the BLM. The BLM will not accept a corporate guarantee as an acceptable form of bond. If a State regulatory authority requires a bond to cover some portion of environmental liabilities, such as hazardous material damages or releases, reclamation, or other requirements for the project, the BLM must be listed as an additionally named insured on the policy. This inclusion would suffice to cover the BLM's exposure should a holder default in any environmental liability listed in the respective State bond. The authorized officer shall not accept bonds from any entity or individual other than the applicant/holder, (i.e., the holder's contractors, subcontractors, lessees, or subsidiaries).

Where a proponent has multiple authorizations within a State or surrounding States, the proponent may elect to consolidate more than one authorization covered by this IM, i.e., rights-of-way grants and land use authorizations, into one bond. Such consolidation may also include the use of a single national bond. A consolidated bond must specifically identify each covered authorization by BLM case file serial number and the bond amount determined by the authorized officer. A bond for uses not covered by this IM, e.g., oil and gas leases, and solar, wind, or geothermal leases may not be consolidated with right-of-way grant or land use authorization bonding. Local consolidated bonds are to be addressed by the authorized officer, intrastate (BLM State Office jurisdiction) consolidated bonds are to be addressed by the appropriate BLM State Office, and interstate consolidation of bonds must be developed in coordination with the WO350 Branch Chief for Major Realty Projects (WO350).

1. Personal Bonds:

Personal bonds will be accompanied by BLM Form 2800-17 (Attachment 5) and payment for the amount required by the authorized officer.

Book entry deposits must be accompanied by a power of attorney authorizing the Secretary of the Interior to collect the proceeds in the event the holder fails to adhere to the grant stipulations covered by the bond. In the past, personal bonds in the form of a Treasury bond or note involved the physical handling by Bureau personnel. This is no longer acceptable. A change in the procedures of the Department of the Treasury in 1983 provides notes and bonds will be in a book entry form on deposit in the Federal Reserve System and no actual handling of the securities themselves are involved. A charge is assessed by the Federal Reserve System for security safekeeping and transfer services. This charge is to be paid by the principal.

The only acceptable forms of security for personal bonds are:

- Cash (cash, certified or cashier's check, or certificates of deposit (personal/business checks will not be accepted));
- Book entry deposits;
- Irrevocable letters of credit payable to the BLM issued by a financial institution that has the authority to issue irrevocable letters of credit and whose operations are regulated and examined by a federal agency, or;
- A policy of insurance that provides BLM with acceptable rights as a beneficiary and is issued by an insurance carrier that has the authority to issue insurance policies in the applicable jurisdiction and whose insurance operations are regulated and examined by a federal agency.

2. *Surety Bonds:*

Surety bonds will be accompanied by BLM Form 2800-16 (Attachment 6).

A surety bond consists of a promise to the United States by the applicant/holder. The surety will correct any failure of the holder to adhere to grant stipulations or pay up to the limits of the amount of the bond. For all Federal bonds, the surety corporation must be approved by the Department of the Treasury and in Circular 570 as an acceptable surety. The acceptance of the surety bond by the authorized officer on behalf of the United States and authorization of activity based upon the bond completes the cycle and makes the bond a three-way contract between the holder, the surety, and the United States, which can be enforced should the holder fail to comply with the grant stipulations. The money paid by the holder to obtain the surety's entry into the arrangement is normally called the premium and is solely a matter between the principal and the surety.

You can find Circular 570 at <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>. This circular is published annually in July.

3. Bond Processing Steps

An example template of demonstrating bond processing steps is provided (Attachment 7).

4. *Policies of Insurance:*

Insurance policies may be accepted in place of a bond for grants. The policy itself must contain the following requirements: 1) the BLM must be included as an additional insured; 2) the statement "*this policy shall remain in full force and effect on a continuous basis for the term of the grant(s) unless the Insurer provides to the insured not less than*

one hundred twenty (120) days advance written notice of its intent to cancel the policy. It is understood and agreed that the Insured may recover the full amount of the policy (less any previous amounts paid to the Insured under the policy) if the Insurer cancels the policy, and within thirty (30) days prior to the effective date of the cancellation, if the Insured has not received replacement Security acceptable to the BLM” (this is an endorsement to the policy that the holder must request be added). This would be an endorsement on the policy; and 3) the grants must be listed on the policy under “Description of Operations, . . .”

The policy will be reviewed to ensure the policy covers the work spelled out in the RCE (i.e., hazardous materials, etc.) or under the road maintenance agreement. A letter accepting the policy, the same as a bond instrument, will be sent to the applicant/holder. If the policy does not include the necessary coverage or statements required, a letter returning the policy to the applicant/holder will be sent.

Insurance policies cannot be put in the Bond Surety System (B&SS). The insurance policy General Liability and Umbrella Liability total must exceed the total of all the estimates to be acceptable.