Fire Suppression Services Incorporated
3802 South 2300 East, Salt Lake City. UT 84109. Ph (801) 277-6464

Bond, Surety & Retainage; Insurance
Summary

What is a Surety Bond?
In simple terms, surety bonds are a form of a contract.
They promise that work will be completed per agreed upon terms and payments will be given to subcontractors and material suppliers.

In all cases, surety bonds are an agreement involving three parties:
Obligee – the project owner
Principal – the bond purchaser or bond owner
Surety – the agency selling the bond and overseeing work is performed per the bond's protections

How do surety bonds differ from insurance?
The biggest difference between bonds and insurance is due to risk assessment.
For insurance most of the risk associated with protecting a client lies with the insurance agency.
On the other hand, bonds are issued under the expectation a claim will never have to be filed.
If however a principal is found to be in violation of his/her bond protections, the surety agency will pay reparations to the claimant and then seek reimbursement from the bond purchaser.
Due to this, risk always lies on the side of the principal – the bond owner.

The Bonding of a Company is quite a process.
It is the process of gaining a 'Certified money-back & a Certified money-to-pay-to-complete guarantee' to another party to whom one is contractually obligated.
Each Bond type is a separate entity and is put through the analysis process separate from any other bond analysis process.
In order for an Agent & a Surety to underwrite a bond, all of the following must be submitted to the underwriters and are minutely reviewed for inconsistencies and negative attributes are analyzed closely:

- This Company's
    - Bonding history:
        - Current Bonds it may have, and
        - how long they have run, and
        - how close to completion they are.
        - Bond applications that have been denied.
        - Bonds that have had to be paid out on. (you failed to complete/perform)
    - Knowledge and experience
    - Years of operation in the field of the Bondable Contracting.
    - Experience Modification Rating (EMR)
    - Last five years OSHA logs.
    - Legal Standing & freedom from legal claims & past litigation history
    - Employee
        - Accident Rating & Union Rating.
        - Training Program
        - Health & Safety Program
        - Drug & Alcohol Testing Program
        - Wage Rates, FICA, WIC, Medical, etc.
        - Certification & Experience
    - Local, State & Federal Tax Standing
    - Last five years Annual Reports and Tax Filings.
    - Company Credit history & Rating

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- Dun & Bradstreet Rating
- Paydex Score
- Corporate Officer's Credit Ratings (President, CEO, CFO, CCO Secretary, Treasurer etc.).
- Company Insurance & claims & payout history
- Company Financial Statement (preferrably Audited) incuding:
  - Latest Balance Sheet
  - Profit & Loss Statement
  - Accounts Receivable
    - Accounts & Notes receivable
    - Aged Receivables as at date of application.
  - Assets & Liabilities Statement
    - Cash
    - Joint Venture
    - Accounts & Notes receivable
    - Accrued income
    - Deposits
    - Prepaid expenses
    - Current Materials Inventory
    - Provision for income taxes, advances, accrued salaries & payroll taxes.
  - Accounts Payable
    - Notes payable
    - Suppliers payable
  - Equity Accounts
    - Capital
    - Capital Stock, Outstanding Shares
    - Retained Earnings
- Supplier Credit Reports & Ratings & outstanding balances.
- .. and any other information the Surety deems necessary it needs to know before it writes said bond.

Any negatives in the above list severely affect the ability of a company to obtain Bonds and Insurance.
Negatives also markedly increase the cost to obtain Bonds and to obtain Insurance/s. The approximate cost to Bond for a $250,000.00 contract is in the order of $15,000.00 plus a commission rate of $1200.00. A negative Aged Receivables increases the cost by $500.00 per $100,000.00 of AR that are over sixty days, with the attendant increase in the commission rate. Refer also to the 'Design, Submit, Permit' doc. In this same folder.
(Author's Note: If you have ever tried to get a mortgage, recall the paperwork, then multiply that grief by 42!)

Terminology

Contract Security Bonds are made up of several bond types to cover the construction project from start to end. They are:

- **Bid Bonds A-310**
  Guarantee that the bonding company will provide a performance bond if the contractor is awarded the bond.
  Note that the Surety Bond & the Performance Bond are interdependent on each other. (ya cain't have one without t'other!)

  In general the Surety will NOT approve a Bid Bond if they do not write/approve the Performance Bond and vice versa.
  Bond Companies are now unwilling to extend Surety Credit. Hence the 2010-2012 stagnation on 'new business'

- **Construction Bond**
  No Such thing! It is a 'General term' used to describe the bonding process. It is NOT a bond.

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What the term describes is a '**Category**' of bond types which include:

- Performance bonds
- Subdivision Bonds etc.

Authors note: The underwriting methods of the bonding & surety industry are VERY conservative. However between 1998- to -2000 they relaxed as the surety & bonding companies became de-regulated and as a consequence their appetite grew too large, became very aggressive and thence lead to historical losses. This effect brought 'em back to more traditional underwriting rules in 2012

- **Lien Bond**
  This bond names a person's property as collateral against a loan. It is used to ensure that debts are paid. If the debt is not paid on time, the property may be seized as payment. Specific legal situations determine the type of lien bond that will be used.
  In the United States, the term lien bond has a broader definition than that used in other countries.

- **Maintenance Bond**
  This is the bond on a contractor that remains in force following the performance bond. It guarantees your work to the Owner, for a specified period, after you have left the project and the Owner has taken possession. (2-5 yrs)

- **Payment Bond**
  This bond ensures that all your suppliers, labourers, and all your subcontractors will be paid if the contract defaults. This is another Bond that is tied interdependently with your Performance Bond. (Performance & Payment Bond)

- **Performance Bond A-312**
  This is a bond that guarantees that you 'The Contractor' will
  - Complete your project according to the terms of your contract,
  - Pay your materials,
  - Pay your workers and
  - Pay YOUR subcontractors.

  This bond is submitted, by the WINNING bidder immediately upon being awarded The Contract.
  Performance & Payment Bond are usually submitted together, because of their interdependence.

- **Retainage Bond**
  The portion of a contract's final payment withheld by a principal (client or owner) until the project is complete in all respects, functioning satisfactorily according to the contract terms, and all mechanic's liens have either been released or have expired.

- **Site Improvement Bond**
  Guarantees to the Owner that you will return all Public property affected by your work, AND the Owner's property, to an improved condition.
- **Subdivision Bond**
  This bond is required when Local Authorities insist that the Owner completes all mandatory public improvements that the Owner (or developers) makes to a property.
- **Supply Bond**
  Required by
  - Federal,
  - State and
  - Municipalities having jurisdiction, and as such
  - the Owner,

to secure all payments to all your 'suppliers' (Parts, Freight, Drawing, Design, Engineering, Nuts, Bolts, and Pipe etc. Not Labour)

There are others; however they do not affect **Fire Suppression Services Inc.** in this discussion.

Retainage

Points of note:

Retainage ensures the Contractor or the Subcontractor completes & delivers on:

- Site Cleanup
- Equipment Removal
- Payment Waivers
- Supplier payments
- Form Completion
- Punch Lists
- Stamped As-Built Drawings
- O&M Manuals [1]
- Training
  - Lectures &
  - Manuals &
  - Record of Attendance
- Finals/Permits

Authors note: The Surety always has 'First Right' to the Retainage. Retainage is held in escrow, with first right Lien. So, if YOU require your subcontractor to post bond on his/her bid, any retainage on sections of his bid payouts must be held in an escrow account, and his/her Surety Company has first right to the retainage. (In the case of FSSI, it is Old Republic Surety via agent: Leslie Robles)

To reduce or remove the Retainage, you will need to complete AIA form G705A yyyy 'Consent of Surety to Reduction or Partial Release of Retainage'. (Remember the Surety has a Lien of first right on the Retainage.)

Again, the use of Standard Forms eases the underwriting process.

Public Works

For public works projects, a municipal government must withhold a sum of money referred to as retainage from progress and other payments and must also have a contractor's performance and payment bond on file.

For public works contracts under $35,000, these requirements may be waived under a Limited Public Works Process.

For public works contracts under $35,000 that are not processed under the Limited Public Works Process, there is another exception, described below in the Bonding section of this document.

Laws require municipal governments to withhold 5% of money due the contractor for a public improvement or work until completion and/or acceptance of the contract.

This money is to be set aside as a trust fund for the claims of any person arising under the contract; and the state with respect to taxes imposed pursuant to

- Title 50 RCW (Employment Security),
- Title 51 RCW (Industrial Insurance), and
- Title 82 RCW (Department of Revenue) RCW

  -Which may be due from such contractor.

A person is defined as a "person or persons, mechanic, subcontractor, or material-person who performs labor or provides materials for a public improvement contract, and any other person who supplies the person with provisions or supplies for RCW 39.08.010 requires municipal governments to call for a performance and payment bond. The bond is to be issued by a surety company licensed to do business in the State that the project is in.(UT, WY, ID etc).

[1] Operation and Maintenance manuals. Part of Health & Safety requirements.

It is to be conditioned that the contractor shall faithfully perform all the provisions of such contract and pay all laborers, mechanics, and subcontractors and material-men, and all persons who supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work.
Note: State agencies (DOR, L&I, ESD) have no direct claim against the bond.

Also Keep in mind:

Terms & Conditions

Fire Suppression Services Incorporated Bid/Proposal & the ensuing Contract must reflect the Standard Price for a Bond and stipulate that there is to be NO RETAINAGE on BOND (100% paid on gaining the Bond). This is because as soon as the Bond is issued, the Surety must be paid the full price of Issuance and the Agent must be paid the Commission for Underwriting, within five days with seasoned funds or the bond is automatically cancelled (expires).

Fire Suppression Services Incorporated Bid Proposal & ensuing Contract must ALSO reflect NO RETAINAGE on Permit/Design/Submittals (100%). We do not have our own Licensed Project Engineer (PE). They must be paid upon submittal, in full, because the Design becomes the property of the 'Owner' and must be free of all Liens, and must be reflected as such in the final Punch-List.

A copy of Fire Suppression's Terms & Conditions exists in the >Companies>Common>pdf folder as two files: Paragraphs to add to your bid.docx AND as Terms & Conditions.pdf. They are the same, choose one. AND, in the same folder is another critical pdf: 'Special Lead Times Required.pdf'; be conversant with both docs, and send 'em to your customer. [2]

And finally:

If we are required to supply a Bond, then there should be NO RETAINAGE on any part of the Application for Payment. The Contractor does not need both a Bond & Retainage. The Bond/s is/are their money back gaurantee!
Watch for this.

[2] The PreQual.zip file is he better choice. It contains all that the General needs to know.