



Murrieta Valley Unified School District Payment Bond Definitions and Procedures

Legal Requirement:

Reference Public Contract Code PCC 7103

"Every original contractor that is awarded a contract by a state entity, as defined in subdivision (d), involving an expenditure in excess of twenty-five thousand dollars (\$25,000) for any public work shall, before **entering upon the performance of the work**, file a payment bond with and approved by the officer or state entity that awarded the contract. The bond shall be in a sum not less than 100 percent of the total amount payable by the terms of the contract."

"For purposes of this section, "public work" includes the erection, construction, alteration, repair, or improvement of any state structure, building, road, or other state improvement of any kind."

Civil Code 9550:

"A direct contractor that is awarded a public works contract involving an expenditure in excess of twenty-five thousand dollars (\$25,000) shall, before commencement of work, give a payment bond to and approved by the officer or public entity by whom the contract was awarded."

What is a Payment Bond?

A payment bond is a type of surety bond issued to contractors which guarantees that all entities (subcontractors, laborers, and material suppliers) involved with a specified project will be paid. A payment surety bond is a legal contract, a type of bond, that guarantees certain employees, subcontractors, and suppliers are protected against non-payment. You'll often see payment bonds required for a contractor bidding on public projects or a general contractor requiring them from their subcontractors.

The payment bond is designed to protect both the public agency requesting the work, as well as the contractor's subcontractors and vendors.

District Process:

1. The *Department Representative* requesting the quote from the contractor should always ask the vendor to include the **cost** of a payment bond in their proposal if they anticipate the cost is going to be more than \$25,000. **Please ensure that the payment bond is listed as an inclusion on the proposal.**

2. Once the proposal is received, if the cost is more than \$25,000, you must verify the payment bond is in fact included in the cost of the proposal.
 - *Sometimes vendors will include the cost of the payment bond and not list it on the proposal or forget to include it in their cost all together.*
3. Once the *Department Representative* has verified the proposal for completeness (including payment bond if cost is over \$25,000) and would like to move forward with the project, the *Department Representative* shall request that the vendor provide a digital copy of the fully executed payment bond to submit as back-up to the Purchasing Department.
 - *The Purchasing Department will not issue the Purchase Order without a digital copy of the fully executed Payment Bond.*
 - **Please Note:** *Very often, Vendors need a Letter of Intent from the District to send to their surety company as proof that they are being awarded a project. If this is the case, and the Vendor states they require a document from the District to obtain the fully executed payment bond, please email Nadia Zeien and request a Letter of Intent with the proposal attached and a Letter of Intent will be returned to the requestor for distribution to the vendor.*
4. Once the vendor provides a fully executed digital copy of the payment bond, please send the digital copy to Purchasing as part of all the required back-up and ask that the original copy be sent to the District Office, attention Purchasing Department.

Frequently Asked Questions:

1. My vendor does not have any suppliers or subcontractors working for them, do they need a payment bond?

Yes, in addition to subcontractors and material suppliers, the payment bond also covers employees of the vendor itself. In addition, the payment bond will also cover if the vendor did not pay appropriate prevailing wage rates to their employee(s).

2. What if a payment bond is not issued?

The responsibility is with the District to ensure that the adequate bonds are furnished by the contractor in accordance with the Public Contract Code. Consequently, the District's failure to require the vendor to obtain a payment bond prior to the performance of the work could result in the safeguards of the District to uphold the vendor in their part of the agreement.

If a payment bond is not given and approved as required by Section 9550: (a) Neither the public entity awarding the public works contract nor any officer of the public entity shall audit, allow, or pay a claim of the direct contractor pursuant to the contract.

“California Civil Code Section 9950: A direct contractor that is awarded a public works contract involving an expenditure in excess of twenty-five thousand before commencement of work, give a payment bond to and approved by the officer or public entity by whom the contract was awarded.”

This is also why it is important to obtain fully executed payment bonds prior to the Purchase Order being issued.

3. Does the payment bond dollar amount have to include the cost of the payment bond also?
Yes, the law states that the payment bond must be 100% of the contract cost. Therefore, if the vendor is charging for the payment bond as part of their proposal, the cost of the payment bond is part of the total contract price. This is why it is important that the cost of the payment bond is included in the total proposal cost when it is submitted to the surety company to establish payment bond.