**GDPM**

Greater Dayton Premier Management

# General Contractor Bonding Requirements

*A Guide for Construction Contractors on Public Housing Projects*

Applicable to contracts exceeding $250,000

⚠ **Important:** GDPM is a public housing authority receiving HUD funding. All bonding requirements in this guide are mandatory under federal law (2 CFR Part 200, 24 CFR Part 85) and HUD regulations. Non-compliance will result in disqualification from award or contract termination.

## 1. Overview of Bonding Requirements

As a HUD-funded public housing authority, GDPM is required to comply with federal bonding standards for all construction contracts. These requirements protect GDPM, its residents, and the public by ensuring that contractors fulfill their obligations and that workers and suppliers are paid.

All contractors bidding on or awarded GDPM construction contracts exceeding $250,000 must provide the following bonds:

| Bond Type | When Required |
|---|---|
| Bid Guarantee / Bid Bond | At time of bid submission |
| Performance Bond | At contract execution, prior to Notice to Proceed |
| Payment Bond (Labor & Material) | At contract execution, prior to Notice to Proceed |

These requirements are rooted in the Miller Act (40 U.S.C. §3131–3134) and apply to federally funded construction projects. GDPM's obligations as a HUD recipient also incorporate 2 CFR Part 200.325, which governs bonding policies for non-federal entities.

## 2. Bid Guarantee

### 2.1 Purpose

The bid guarantee protects GDPM if a contractor is awarded the contract but fails or refuses to execute it. It ensures that GDPM is not left without recourse if a low bidder walks away after the award.

### 2.2 Required Amount

The bid guarantee must equal at least 5% of the total bid price. GDPM requires the following forms:

- Certified check or cashier's check made payable to GDPM, OR
- Bid bond executed by a surety company licensed to do business in Ohio and appearing on the U.S. Department of the Treasury's listing of approved sureties (Treasury Circular 570).

**Note**: Personal checks and company checks are NOT acceptable forms of bid guarantee. Bids submitted without a compliant guarantee will be rejected as non-responsive.

### 2.3 Return of Bid Guarantee

Bid guarantees will be returned as follows:

- Unsuccessful bidders: returned after contract award, typically within 10–15 business days.
- Awarded contractor: returned after execution of the contract and delivery of performance and payment bonds.
- Forfeiture: if the low bidder fails to execute the contract within the time specified, GDPM may retain the bid guarantee as liquidated damages.

## 3. Performance Bond

### 3.1 Purpose

The performance bond guarantees that the contractor will complete the project in accordance with the contract documents, including specifications, drawings, schedule, and all applicable laws and regulations. If the contractor defaults, the surety is obligated to either complete the work or pay GDPM the cost of completing it.

### 3.2 Required Amount

The performance bond must be for 100% of the contract price. GDPM does not accept reduced performance bonds.

### 3.3 Surety Requirements

The surety company must meet all of the following:

- Licensed and authorized to do business in the State of Ohio
- Listed on Treasury Circular 570 (acceptable federal sureties)
- Carry a financial strength rating of “A-” or better from A.M. Best
- The bond amount must be within the surety’s underwriting limit as listed in Circular 570

### 3.4 When to Submit

The executed performance bond must be submitted to GDPM within 10 calendar days of contract award notification, and in all cases before the Notice to Proceed is issued. Failure to deliver the performance bond on time may result in rescission of the award and forfeiture of the bid guarantee.

### 3.5 Duration

The performance bond remains in effect through final completion and acceptance of the project. For projects that include a warranty period, GDPM may require the bond to remain in effect through the end of the warranty period, typically one year from substantial completion. Contractors should confirm the specific duration in the contract documents.

## 4. Payment Bond (Labor and Material Bond)

### 4.1 Purpose

The payment bond (also referred to as a labor and material bond) protects subcontractors, laborers, and material suppliers who furnish labor or materials for the project but are not paid by the general contractor. Because GDPM is a public entity, liens cannot be filed against its property; the payment bond is the primary recourse for unpaid lower-tier parties.

### 4.2 Required Amount

The payment bond must be for 100% of the contract price. No reduction is permitted.

### 4.3 Who Is Protected

- First-tier subcontractors
- Second-tier subcontractors (those contracted with a first-tier subcontractor)
- Material suppliers providing materials incorporated into the work
- Laborers and workers employed directly on the project

Claims on the payment bond are governed by the Miller Act. Claimants who are not in direct privity with the general contractor must provide written notice of their claim within 90 days of the date they last performed work or supplied materials.

### 4.4 Surety Requirements

The same surety qualification requirements that apply to the performance bond apply to the payment bond. GDPM will accept a combined performance and payment bond from a single surety, provided the combined instrument clearly states 100% coverage for each obligation.

## 5. Acceptable Surety Companies

All surety companies providing bonds to GDPM must be listed on the current edition of U.S. Department of the Treasury Circular 570, “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies.”

| How to Verify a Surety Company |
|---|
| 1. Visit: www.fiscal.treasury.gov/surety-bonds |
| 2. Download the current Circular 570 listing |
| 3. Confirm the company is listed for the State of Ohio |
| 4. Verify the underwriting limit covers the full contract amount |
| 5. Confirm the company’s A.M. Best rating is A- or better |

Foreign sureties and surplus lines carriers are NOT acceptable, even if they are otherwise licensed in Ohio. GDPM reserves the right to reject any bond from a surety that does not meet these standards.

## 6. Execution and Form Requirements

### 6.1 Standard Form

GDPM requires bonds to be executed on HUD-prescribed forms or on forms that are legally equivalent and contain all required provisions. For public housing projects, HUD Form 5369 (Instructions to Bidders) and related contract forms govern the bonding requirements. Contractors should review the specific bond form requirements included in each solicitation package. Contractors may use GDPM's Combined Bid Guaranty and Payment/Performance Bond Form located here: GDPM Combined Bond Forms.

### 6.2 Power of Attorney

Each bond must be accompanied by a certified power of attorney from the surety company, confirming that the individual signing the bond on behalf of the surety has authority to do so. The power of attorney must:

- Be an original document (not a photocopy) or a certified copy with an original corporate seal
- Be current and not expired
- Authorize the specific bond amount or an amount no less than the bond being executed

### 6.3 Co-signers and Agents

Bonds submitted through a licensed surety agent or broker are acceptable, provided the underlying surety company meets all qualification requirements. The contractor is responsible for ensuring the surety's compliance regardless of whether the bond is arranged through an intermediary.

## 7. Change Orders and Contract Modifications

When contract modifications increase the contract price, the contractor must provide:

- Written notice to the surety of any change order or modification exceeding $25,000 or 10% of the original contract price, whichever is less
- Updated bond riders or endorsements confirming coverage of the increased contract amount
- Rider or endorsement submitted to GDPM before proceeding with work covered by the modification

Failure to maintain bonds at 100% of the current contract amount (including all approved change orders) constitutes a material breach of the contract.

## 8. Subcontractor Bonding

While GDPM's primary bonding requirements run to the general contractor, GDPM reserves the right to require the general contractor to obtain bonds from subcontractors under the following circumstances:

- Any single subcontract exceeding $100,000
- Subcontractors performing specialized trades (electrical, mechanical, structural steel) with subcontracts exceeding $75,000
- Any subcontractor identified by GDPM or the general contractor as carrying elevated financial risk

The general contractor's payment bond provides coverage to unpaid subcontractors and suppliers regardless of whether individual subcontractor bonds are required. Subcontractor bonding requirements, if any, will be stated in the specific contract documents.

## 9. Quick Reference Summary

| Requirement | Standard |
|---|---|
| Bid Guarantee — Amount | 5% of bid price (minimum) |
| Bid Guarantee — Acceptable Forms | Certified check, cashier's check, or bid bond |
| Performance Bond — Amount | 100% of contract price |
| Payment Bond — Amount | 100% of contract price |
| Surety Listing | Treasury Circular 570 (current edition) |
| Surety Financial Rating | A.M. Best A- or better (A or better recommended) |
| Bond Submission Deadline | Within 10 calendar days of award; before NTP |
| Change Order Threshold | Bond rider required at $25,000 or 10% of contract |
| Subcontractor Bond Threshold | Subcontracts exceeding $100,000 |
| Recommended: Consent of Surety | Required before final payment release |
| Recommended: Maintenance Bond | 1 year, 10–20% of final contract value |

## 10. Contacts and Submission

All bond documents must be submitted to the GDPM Procurement and Contracts office. Questions regarding bonding requirements should be directed as follows:

| GDPM Procurement and Contracts |
|---|
| Greater Dayton Premier Management (GDPM)<br>Dayton Metropolitan Housing Authority |
| 400 Wayne Avenue • Dayton, Ohio 45410 |
| Phone: (937) 910-7500<br>Website: www.gdpm.org<br><br>For bonding questions during active solicitations, submit written inquiries to ebid@dmha.org. Questions received after the question deadline may not receive a response. |

## Regulatory References

Contractors and their sureties are encouraged to review the following primary regulatory sources:

- Miller Act — 40 U.S.C. §3131–3134

- 2 CFR Part 200.325 — Bonding requirements for non-federal entities
- 24 CFR Part 85 — HUD administrative requirements for grant recipients
- HUD Form 5369 — Instructions to Bidders for Contracts
- HUD Form 5370 — General Conditions for Construction Contracts (Public Housing)
- Treasury Circular 570 — Approved federal sureties (fiscal.treasury.gov/surety-bonds)
- Ohio R.C. Chapter 153 — Ohio Public Works bonding requirements