

Part I Chapter 38 Payment Bonds

- A. Requirements for Payment Bonds.** For construction contracts in excess of \$100,000 (adjusted annually by DGS), a payment bond, executed by a surety company authorized to do business in this Commonwealth and made payable to the Commonwealth, in an amount equal to 100% of the price specified in the contract and conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the prosecution of the work, is required. Labor or materials include public utility services and reasonable rentals of equipment for the periods when the equipment is actually used at the site. A payment bond shall be solely for the protection of claimants supplying labor or materials to the prime contractor to whom the contract was awarded or to any of its subcontractors in the prosecution of the work provided for in the contract whether or not the labor or materials constitute a component part of the construction.
- B. Requirements for Payment Bonds in Other Circumstances.** Commonwealth agencies have the discretion to require payment bonds in circumstances other than specified in Section A.
- C. Action on Payment Bonds.**
- 1.** Subject to paragraph 2., any claimant who has performed the labor or furnished material in the prosecution of the work provided for in any contract for which a payment bond has been given and who has not been paid in full before the expiration of 90 days after the day on which the claimant performed the last of the labor or furnished the last of materials for which it claims payments, may bring an action on the payment bond in its own name, in assumpsit, to recover any amount due it for the labor or material and may prosecute the action to final judgment and have execution on the judgment.
 - 2.** Any claimant who has a direct contractual relationship with any subcontractor of the prime contractor who gave the payment bond but has no contractual relationship, express or implied, with the prime contractor may bring an action on the payment bond only if it has given written notice to the contractor within 90 days from the date on which the claimant performed the last of the labor or furnished the last of the materials for which it claims payment, stating with substantial accuracy the amount and name of the person for whom the work was performed or to whom the material was furnished.
 - 3.** Notice shall be served by registered mail in an envelope addressed to the contractor at any place where its office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the manner provided by law for the service of a summons except that the service may not be by a public officer.
 - 4. Copies of Bonds.** Agencies shall furnish a copy of any payment bond and the contract for which the bond was given to any person who makes an application for the copy. The agency may charge and collect a fee from the applicant to cover the actual costs of the preparation of the copy.