

§ 223.22 Fees for services of the Treasury Department.

(a) Fees shall be imposed an collected, for the services listed in paragraphs (a) (1) through (4) of this section which are performed by the Treasury Department, regardless of whether the action requested is granted or denied. The payee of the check or other instrument shall be the Financial Management Service, Treasury Department. The amount of the fee will be based on which of the following categories of service is requested:

(1) Examination of a company's application for a certificate of authority as an acceptable surety on Federal bonds or for a certificate of authority as an acceptable reinsuring company on such bonds (see § 223.2);

(2) Examination of a company's application for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States (see § 223.12(a) and (b));

(3) Determination of a company's continuing qualifications for annual renewal of its certificate of authority (see § 223.3); or

(4) Determination of a company's continuing qualifications for annual renewal of its authority as an admitted reinsurer (see § 223.12(c)).

(b) In a given year a uniform fee will be collected from every company requesting a particular category of service, e.g., determination of a company's continuing qualifications for annual renewal of its certificate of authority. However, the Treasury Department reserves the right to redetermine the amounts of fees annually. Fees are determined in accordance with Office of Management and Budget Circular A-25, as amended.

(c) Specific fee information may be obtained from the Assistant Commissioner, Comptroller at the address shown in § 223.2. In addition, a notice of the amount of a fee referred to in § 223.22(a) (1) through (4) will be published in the FEDERAL REGISTER as each change in such fee is made.

[43 FR 12678, Mar. 27, 1978, as amended at 49 FR 47001 and 47002, Nov. 30, 1984]

PART 224—FEDERAL PROCESS AGENTS OF SURETY COMPANIES

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AUTHORITY: 31 U.S.C. 9306.

§ 224.1 Statutory provision.

The rules and regulations in this part are prescribed for carrying into effect 31 U.S.C. 9306.

[61 FR 26840, May 29, 1996]

§ 224.2 Appointment of process agents.

(a) *Generally.* Companies should especially note that the law prohibits the doing of business under the provisions of this act beyond the State under whose laws it was incorporated and in which its principal office is located until an agent is appointed to accept Federal process on behalf of the company. An agent for the service of Federal process should be appointed:

(1) In the district where the principal resides;

(2) In the district where the obligation is to be undertaken and performed; and

(3) Also in the District of Columbia where the bond is returnable and filed.

The appointment of process agents pursuant to a local State statute is not compliance with the Federal law. Although one and the same agent may serve under both the State and Federal appointments, he must, nevertheless, be especially designated to accept Federal process. It should also be noted that the agent so designated must reside within the jurisdiction of the court for the judicial district wherein such suretyship is to be undertaken, and must be citizen of the State, Territory, or District of Columbia in which such court is held. Consequently an agent residing in the northern district of New York could not at the same time serve as the company's Federal

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process agent for the southern district of that State.

(b) *Agent required in District of Columbia.* Every company must, immediately upon receipt of its initial authority from the Secretary of the Treasury, appoint a suitable person resident in the District of Columbia on whom may be served all lawful process issued by the Federal Courts in said district. This appointment is required whether or not the company contemplates the writing of bonds in favor of the United States to be undertaken within the District of Columbia.

(c) *Agent not required in State of incorporation where principal office is located.* The law does not require the appointment of Federal process agents for the State under whose laws the company is incorporated, and in which its principal office is located.

[17 FR 2605, Mar. 26, 1952]

§ 224.3 Powers of attorney appointing process agents; with whom filed.

The clerk of the United States district court at the main office in each judicial district must be furnished with a sufficient number of authenticated copies of the power of attorney appointing an agent for the service of process to enable him to file a copy in his office, and at each other place where a divisional office of the court is located within the judicial district for which the process agent has been appointed. Such copies may be authenticated at the home office of the company by its officers duly authorized, and sworn to before an officer legally authorized to administer oaths. Where the charter of bylaws of the corporation do not confer authority on its executive officers to give such powers of attorney the authenticated copy filed with the clerk of the court must be accompanied by a certified copy of the resolution duly adopted by its board of directors or other governing body showing that the officer making the appointment had authority to do so.

[17 FR 2606, Mar. 26, 1952]

§ 224.4 Power of attorney; form.

In making such appointments a power of attorney should be used substantially in the following form:

31 CFR Ch. II (7-1-97 Edition)

Know all men by these presents, that the _____ a corporation existing under and by virtue of the laws of the State of _____ and having its principal office at _____, desiring to comply with section 9306 of Title 31, United States Code, hereby constitutes and appoints _____, of _____, its true and lawful attorney and agent in and for the _____ judicial district of _____, upon whom all lawful process in any action or proceeding against the company in said district may be served in like manner and with the same effect as if the company existed therein, and who is authorized to enter an appearance in its behalf.

In witness whereof the said company, pursuant to proper authority of its board of directors or other governing body, has caused these presents to be subscribed by its _____ president and its corporate seal to be affixed hereto this _____ day of _____, A.D. 19—

[CORPORATE SEAL] _____
President,

State of _____
County of _____, ss:

On this _____ day of _____, A.D. 19—, before me appeared _____, president of the _____ Company, with whom I am personally acquainted, who being duly sworn, says that he is _____ president of the _____ Company; that he knows the corporate seal of the company; that the seal affixed to the foregoing instrument is such corporate seal; that it was affixed by order of the board of directors or other governing body of said company, and that he signed said instrument as _____ president of said company by like authority.

[NOTARIAL SEAL]

[Dept. Cir. Ltr. 4, Nov. 15, 1930, as amended at 49 FR 14340, Apr. 11, 1984]

§ 224.5 Process agents; termination of authority.

Whenever the authority of a process agent is terminated by reason of revocation, disability, removal from the district, or any other cause, it shall be the duty of the company to immediately make a new appointment.

[40 FR 51194, Nov. 4, 1975. Redesignated at 61 FR 26840, May 29, 1996]

§ 224.6 United States district courts; location of divisional offices.

A list of the divisional offices of the court in each judicial district where powers of attorney should be filed may be obtained from the Surety Bond

Branch, Financial Management Service, Department of the Treasury, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782.

[61 FR 26840, May 29, 1996]

PART 225—ACCEPTANCE OF BONDS, NOTES, OR OTHER OBLIGATIONS ISSUED OR GUARANTEED BY THE UNITED STATES AS SECURITY IN LIEU OF SURETY OR SURETIES ON PENAL BONDS¹

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- 225.17 Penal bonds; existing practice or duties of administrative offices in handling not modified.
- 225.20 All Government bond-approving officers governed by the provisions of this part.
- 225.21 Other authority to take bonds and notes not affected by this part.
- 225.22 Conversion to book-entry Treasury securities.

AUTHORITY: Sec. 15, 61 Stat. 650; 6 U.S.C. 15.

SOURCE: Department Circular 154, Revised, Feb. 6, 1935, unless otherwise noted.

§ 225.1 Bond-approving officers; definition.

The term *bond-approving officers* as used in this part means the head of an executive department or Government establishment or an officer designated either by law or regulation to approve *penal bonds*. The Treasury of the United States assumes no responsibility or liability on account of the acts of bond-approving officers. The term *bond-approving officer* shall be deemed to include the officer's successors in office.

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§ 225.2 Bonds or notes acceptable as security; power to sell.

Any individual, partnership, or corporation required by the laws of the United States or regulations made pursuant thereto to furnish any recognition stipulation, bond, guaranty, or undertaking (hereinafter called *penal bond*), with surety or sureties, may, in lieu of such surety or sureties, deposit as security with the official having authority to approve such *penal bond* (hereinafter called the *bond-approving officer*), United States bonds, Treasury notes, or other public debt obligations of the United States or obligations which are unconditionally guaranteed as to both interest and principal by the United States (all of which classes of obligations are hereinafter called *bonds or notes*), in a sum equal at their par value to the amount of the *penal bond* required to be furnished, together with an irrevocable power of attorney and agreement in the form prescribed, authorizing the *bond-approving officer* to collect or sell, assign and transfer such *bonds or notes* so deposited in case of any default in the performance of any of the conditions or stipulations of such *penal bond*. The acceptance of such *bonds or notes* in lieu of surety or sureties required by law shall have the same force and effect as individual or corporate sureties, or certified checks, bank drafts, post-office money orders, or cash, for the penalty or amount of such *penal bond*. The term *par value* as applied in this part to *bonds or notes* not issued on a discount basis means the stated dollar amount thereof; *i.e.*, the denominational amount, such as \$100, \$500, and \$1,000; and as applied to *bonds or notes* issued on a discount basis means the dollar amount which the holder is entitled to receive at maturity or the next following date of redemption at the option of the holder, whichever amount is less. In order to avoid the frequent substitution of *bonds or notes*, *bond-approving officers* will not receive a *bond or note* which

¹The forms mentioned in this part may be obtained from Financial Management Service, U.S. Treasury Department, Washington, DC 20226.