

§ 224.5

\_\_\_\_\_ 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 BONDS<sup>1</sup>**

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- 225.2 Bonds or notes acceptable as security; power to sell.
- 225.3 Obligor must be owner; registration.
- 225.4 Risk of loss; receipt.
- 225.5 Application of proceeds in case of default; forms.
- 225.6 Facts to be determined by bond-approving officers.
- 225.7 Substitutions.
- 225.8 Authorized depositories; withdrawal.
- 225.9 Risk of loss or destruction.

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

31 CFR Ch. II (7-1-98 Edition)

- 225.10 Delivery to the depository.
- 225.11 Payment of interest to obligor; coupons.
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- 225.13 Return to obligor; risk of loss.
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- 225.15 Receipt for return.
- 225.16 Penal bonds; form to be used with bonds or notes as security.
- 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.

**§ 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 matures or, at the option of the holder, may be redeemed within 30 days of the date of deposit; and any bond-approving officer may refuse to receive bonds or notes which mature or, at the option of the holder, may be redeemed within a year of the date of deposit, in cases where he rules that deposit of such bonds or notes might lead to frequent substitutions.

**§225.3 Obligor must be owner; registration.**

The individual, partnership, or corporation required to furnish any penal bond, who deposits bonds or notes as security in lieu of surety or sureties in accordance with the provisions of this part, must be the owner of the bonds or notes deposited, and is hereinafter called the obligor. Bonds or notes may be deposited with bond-approving officers pursuant to the provisions of this part in either coupon or registered form. Coupon bonds or notes shall have attached thereto all coupons unmatured at the date of such deposit, and all matured coupons should be detached. Registered bonds or notes must be registered in the name of the obli-

gor. They need not be assigned, and must not be assigned to the bond-approving officer. Bonds registered in the name of the obligor may, however, bear assignment in blank or to the Secretary of the Treasury for exchange for coupon bonds.

**§ 225.4 Risk of loss; receipt.**

The bonds or notes to be deposited must in every case be delivered to the bond-approving officer at the obligor's risk and expense. Coupon bonds or notes and registered bonds or notes assigned in blank or for exchange for coupon bonds or notes cannot safely be forwarded by registered mail unless insured by the obligor against risk of loss in transit. Registered bonds or notes, unless assigned in blank or for exchange for coupon bonds or notes, need not be so insured when forwarded by registered mail, unless the obligor so elects. The bond-approving officer shall issue a receipt in duplicate, substantially in Form A, for the bonds or notes so deposited, the original of the receipt to be given to the obligor and the duplicate to be retained by the bond-approving officer for his files.

**§ 225.5 Application of proceeds in case of default; forms.**

At the time of the deposit of any bonds or notes with a bond-approving officer in accordance with the provisions of this part, the obligor shall deliver to the bond-approving officer a duly executed power of attorney and agreement, in favor of the bond-approving officer, authorizing such 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 the penal bond, and to apply the proceeds of such sale or collection, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of such default. The power of attorney and agreement shall not be revocable by the obligor; and, in the case of an individual, shall be substantially in Form C, in the case of a partnership, substantially in Form D, and in the case of a corporation, substantially in Form E.

**§ 225.6 Facts to be determined by bond-approving officers.**

In connection with the acceptance of bonds or notes hereunder as security in lieu of surety or sureties, bond-approving officers must satisfy themselves as to the ownership of the bonds or notes deposited and the sufficiency of the power of attorney and agreement, and in the case of registered bonds or notes, as to the regularity to the assignments as well, and, in general, that the deposit is made in conformity with the provisions of this part.

**§ 225.7 Substitutions.**

Any obligor who deposits bonds or notes in accordance with the provisions of this part may upon written application to and with the approval of the bond-approving officer, substitute for the bonds or notes so deposited:

(a) Other bonds or notes in a sum equal at their par value to not less than the par amount of the bonds or notes to be withdrawn, upon compliance with all the provisions of this part applicable to an original deposit of bonds or notes in lieu of surety or sureties, or

(b) A penal bond with surety or sureties or such other security as may be allowed by law. The bonds or notes withdrawn shall be returned in the manner hereinafter provided for the return of bonds and notes deposited.

**§ 225.8 Authorized depositaries; withdrawal.**

Bonds or notes deposited with bond-approving officers as security in accordance with the provisions of this part and such other bonds or notes as may be substituted therefor from time to time as such security, may be deposited by bond-approving officers with a Federal Reserve Bank or Branch having the requisite facilities, or other depository duly designated for that purpose by the Secretary of the Treasury. *Provided, however,* That bond-approving officers shall deposit with the United States Treasury all bonds or notes received by them in the District of Columbia pursuant to the provisions of this part. Depositaries of public moneys are not authorized to act as depositaries for bonds or notes accepted under this part, unless specifically des-

ignated for that purpose by the Secretary of the Treasury. Any authorized depository receiving deposits of bonds or notes from bond-approving officers in accordance with this part shall give receipt therefor in duplicate, describing the bonds or notes so deposited, substantially in Form B, the original to be delivered to the bond-approving officer and the duplicate to be retained by the depository for its own files. The bond-approving officer will hold the original receipt subject to the instructions of his administrative superior. Bonds or notes so deposited with an authorized depository may be withdrawn only by or on the written order of the bond-approving officer. Bonds or notes accepted by or on behalf of any United States court, under this part may also be deposited as aforesaid under a duly authenticated order of the court, and bonds or notes so deposited may be withdrawn only by or on the duly authenticated order of such court.

[Dept. Circ. 154, Feb. 6, 1935, as amended at 39 FR 32911, Sept. 12, 1974]

**§ 225.9 Risk of loss or destruction.**

Bonds or notes accepted by bond-approving officers from obligors under this part and not deposited by them with authorized depositaries, will be held at the risk of the respective bond-approving officers, subject to such regulations and instructions as may be prescribed for their guidance by their respective administrative superiors. Coupon bonds or notes and registered bonds or notes assigned in blank or for exchange for coupon bonds or notes are in effect bearer obligations and must be kept in safe custody; registered bonds or notes not assigned in blank or for exchange for coupon bonds or notes must also be kept in safe custody, but in the event of loss or destruction may be replaced upon compliance with the provisions of law and the regulations of the Treasury Department applicable thereto.

**§ 225.10 Delivery to the depository.**

Bond-approving officers desiring to deposit bonds or notes received by them with authorized depositaries must deliver such bonds or notes to the depository, without risk or expense to the depository. Coupon bonds or notes

and registered bonds or notes assigned in blank or for exchange for coupon bonds or notes cannot safely be shipped by registered mail unless covered by insurance. Registered bonds or notes not assigned in blank or for exchange for coupon bonds or notes may be forwarded by registered mail uninsured.

**§ 225.11 Payment of interest to obligor; coupons.**

The obligor shall be entitled to receive the interest accruing upon bonds or notes deposited in accordance with this part, in the absence of any default in the performance of any of the conditions or stipulations of the penal bond. The interest on any registered bonds or notes which the obligor is entitled to receive hereunder will be paid by check in regular course to the registered holder. The coupons for any interest on coupon bonds or notes which the obligor is entitled to receive hereunder will, upon written application from the obligor to the bond-approving officer, be detached, as they mature, from the bonds or notes deposited and forwarded to the obligor at the obligor's risk and expense, either by the bond-approving officer or upon his written order by the depository with which the bonds or notes may be deposited, or, at the direction of the bond-approving officer, collected by the depository and check therefor forwarded to the obligor. In the absence of written application therefor by the obligor, coupons for interest on coupon bonds or notes to which the obligor may be entitled under this part shall remain attached to the bonds or notes deposited, subject to the provisions of this part.

**§ 225.12 Return to obligor of security.**

(a) *Generally.* As soon as security for the performance of the penal bond is no longer necessary, the bonds or notes deposited in lieu of surety or sureties on such penal bond, together with the power of attorney and agreement accompanying such bonds or notes, shall be returned to the obligor by the bond-approving officer, without application therefor from the obligor. The determination of the question whether security is any longer necessary for the performance of the penal bond shall rest with the bond-approving officer.

(b) *Miller Act payment bonds.* If a person who supplied labor or material to a contractor, required by the Miller Act, as amended (40 U.S.C. 270a-d), to give a payment bond to the United States, files with the Comptroller General the application and affidavit provided for in that Act after a default in the performance of a contract covered by that Act, the bond-approving officer shall not return to the contractor-obligor the deposited bonds, notes or any surplus proceeds thereof until the expiration of the time within which such a person may commence suit on the payment bond as provided in the Act, *i.e.*, 1 year after the day on which the last of the labor was performed or material supplied by that person. If suit is instituted within that time, the bond-approving officer shall hold such bonds, notes or proceeds subject to the order of the court having jurisdiction of the suit. If suit is not instituted within that time but the bond-approving officer is on notice of a claim against the contractor-obligor on the basis of his payment bond, the bond-approving officer shall determine the time at which, and the evidence of settlement of the claim upon which, he will release the bonds, notes or proceeds.

(c) *Claim of United States unaffected.* Nothing in this section shall affect or impair the priority of any claim of the United States against bonds or notes deposited, or any right or remedy granted by the Miller Act or by this part to the United States for default upon any obligation of a penal bond.

[34 FR 17953, Nov. 6, 1969]

**§ 225.13 Return to obligor; risk of loss.**

Bonds or notes to be returned to the obligor will be forwarded at the obligor's risk and expense, either by the bond-approving officer, or upon his written order by the depository with which the bonds or notes may be deposited, and unless delivered direct to the obligor, will be forwarded, in the absence of other written instructions and remittance to cover expenses, by express, collect, except that registered bonds or notes not assigned in blank or for exchange for coupon bonds or notes may be forwarded by registered mail, uninsured.

**§ 225.14 Withdrawal.**

Any obligor who desires to withdraw a portion only of the bonds or notes deposited, by reason of reduction in liability under the penal bond, shall make written application for such withdrawal to the bond-approving officer, who shall, if he approve such application, return such portion of the bonds or notes to the obligor.

**§ 225.15 Receipt for return.**

Upon the complete or partial return to the obligor of bonds or notes deposited as security under the provisions of this part, the bond-approving officer shall require from the obligor a receipt in duplicate, substantially in Form G, and shall further require the obligor, in case of complete return, to surrender the original receipt on Form A.

**§ 225.16 Penal bonds; form to be used with bonds or notes as security.**

Penal bonds on which bonds or notes are accepted as security in lieu of surety or sureties may be substantially in Form F. Administrative officers of the Government may, however, use other forms of penal bonds appropriate to the work of their respective offices: *Provided*, That upon the execution of the penal bond the principal shall indorse on the face thereof and sign the following statement:

The securities described in the annexed schedule are hereby pledged as security for the performance and fulfillment of the foregoing undertaking in accordance with 6 U.S.C. 15, and 31 CFR part 225.

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Principal on the above bond

[Dept. Circ. 154, Rev., Feb. 6, 1935, as amended at 34 FR 9928, June 27, 1969; 34 FR 17953, Nov. 6, 1969]

**§ 225.17 Penal bonds; existing practice or duties of administrative offices in handling not modified.**

Nothing contained in this part shall be construed as modifying the existing practice or duties of administrative offices in handling penal bonds, except to the extent made necessary under the terms of this part by reason of the acceptance of bonds or notes as security in lieu of surety or sureties thereon.

**§ 225.20 All Government bond-approving officers governed by the provisions of this part.**

Bond-approving officers of other departments and establishments of the Government accepting bonds or notes in lieu of surety or sureties under the provisions of 6 U.S.C. 15, shall be governed by the provisions of this part. This part may be modified or amended only upon the approval of the Secretary of the Treasury.

[Dept. Circ. 154, Rev., Feb. 6, 1935, as amended at 34 FR 9928, June 27, 1969]

**§ 225.21 Other authority to take bonds and notes not affected by this part.**

Nothing contained in this part shall affect the authority of courts over the security when bonds or notes are taken as security in judicial proceedings, or the authority of any administrative officer of the United States to receive United States bonds or notes for security in cases authorized by provisions of law other than 6 U.S.C. 15.

[Dept. Circ. 154, Rev., Feb. 6, 1935, as amended at 34 FR 9928, June 27, 1969]

**§ 225.22 Conversion to book-entry Treasury securities.**

Treasury bonds, notes, certificates of indebtedness, or bills deposited with a Federal Reserve bank or branch bank under this part may be converted into book-entry Treasury securities in accordance with subpart O of part 306 of this chapter, and the pertinent provisions of that subpart shall apply to such Treasury securities.

[34 FR 9928, June 27, 1969, as amended at 36 FR 2507, Feb. 5, 1971]

**PART 226—RECOGNITION OF INSURANCE COVERING TREASURY TAX AND LOAN DEPOSITARIES**

- Sec.
- 226.1 Scope.
- 226.2 General.
- 226.3 Application—termination.
- 226.4 Adequacy of security—how computed.
- 226.5 Examinations.
- 226.6 Financial reports.
- 226.7 Effective date.

AUTHORITY: Secs. 2 and 3, Pub. L. 95-147. 91 Stat. 1227 (31 U.S.C. 1038).