BUREAU OF THE
Fiscal Service
U.S. DEPARTMENT OF THE TREASURY

FAQ for New Individual Sureties Law

1. Why has this legislation been passed?

Congress passed this mandate in order to prevent instances where individual surety bonds with insufficient or non-existent assets are pledged on federal contracts, thereby making the collateral valueless and jeopardizing federal tax funds and the payment rights of subcontractors or suppliers. This regulation permits government agencies (also referred to as a bond official) to accept bonds secured by government obligations in lieu of bonds secured with sureties. The bond provides the government with protection should the individual default on an obligation to the government agency.

2. What is the impact of this legislation?

All assets now pledged by individual sureties must be eligible obligations as defined in 31 CFR Part 225, “Acceptable Collateral for Pledging to Federal Agencies.” This collateral will be placed in the custody of the US Treasury, with the Federal Reserve Bank (FRB), Treasury Collateral Monitoring and Management (TCMM) Operations Team, acting as the agent until the completion of the obligation. Companies producing individual surety bonds must only pledge these eligible obligations, and this will simplify the work of agency contracting officials. By placing these obligations in the custody of the Federal Reserve, the risk that the assets can be pledged simultaneously to multiple government agencies or other project owners is reduced or eliminated.

3. What is a surety bond?

A surety bond is a promise to fulfill a debt upon default, and it is similar to an extension of credit. Often, surety bonds involve a three-party insurance agreement – the principal (obligor), the surety (typically a bond company or division within an insurance company) and the government agency (obligee). The obligor is promising to pay the obligee if the obligor defaults on a contract, with the surety paying the bond amount to the obligee.

4. When an individual contractor's bid is awarded, will the Agency's Bond-Approving (Contracting) Officer inform the contractor of the required collateral obligation?

The Agency Contracting Bond Official is an internal contact at each agency who reviews and approves bid submissions and communicates this information to TCMM Operations at FRB St. Louis. The Agency Contracting Bond Official will inform the bidding contractor of the obligation value that is required. The obligation must adhere to the terms set forth under the 31 CFR 225 Program. This provides protection should the individual contractor, also known as the obligor or pledger, default on an obligation to the government agency.

5. What is Treasury Collateral Monitoring and Management (TCMM)?

TCMM is a centralized system operated by FRB St. Louis to monitor collateral pledged to government agencies to protect public funds against loss and to secure obligations owed to agencies. The TCMM system already provides service to federal agencies who accept collateral instead of surety bonds. This new legislation will be handled very much like current

TCMM operations. The TCMM team provides support to federal agencies, bond pledgers, and financial institutions and they can be contacted with questions at 1-888-568-7343 option 2, or emailed at TCMM@stls.frb.org.

6. Who will be responsible for establishing new accounts for individual contractor(s) pledging collateral and how will they be set up?

The Agency Contracting Official will be responsible for providing FRB St. Louis TCMM Operations area with the following:

1) Written instructions signed off by an authorized agency contact on agency letterhead. Instructions should address the following:
    a. Establishing a new account;
    b. Providing individual contractor name, address, phone number, paying depositary financial institution and their point of contact;
    c. Setting obligation value or amount to be collateralized (ATBC);
2) Approval of the pledged bond;
3) Approval to establish a book-entry account for the benefit of the bond official;
4) Verification of ownership of registered government obligation given, and ensuring that those government obligations are properly assigned;
5) Completed TCMM Agency Authorization Form for agency official.

FRB St. Louis, TCMM Operations area will be responsible for the following:

1) Confirming authenticated instructions;
2) Establishing the new account;
3) Ensuring the ATBC is set;
4) Informing contractor that the account has been established;
5) Assisting contractor or its depositary financial institution with pledge process;
6) Ensuring acceptable collateral is pledged under the 31 CFR 225 Program;
7) Verifying sufficient collateral is pledged to meet obligor's government obligation, known in TCMM as the ATBC.

Obligor / Contractor is responsible for:

1) Depositing acceptable government obligation with the custodian (Federal Reserve Bank of St. Louis, TCMM area) in the amount of the required government obligation with the government agency;
2) Ensuring that sufficient collateral is pledged as valuations or particular securities change.

7. When will this legislation go into effect?

This legislation becomes effective on November 30, 2016. The TCMM system and operations area is ready to assist all federal agencies and their contractors.

8. Who do I contact for additional information?

Please contact FRB St. Louis, Treasury Collateral Monitoring and Management (TCMM) team at 1-888-568-7343 option 2, or email TCMM Operations at TCMM@stls.frb.org.