

amended Pub. L. 98-473, title I, §115, Oct. 12, 1984, 98 Stat. 1967.)

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98-473, §115(1), (2), substituted “shall be issued” for “may be issued” and inserted “, and the Administration is expressly prohibited from denying such guarantee due to the property being so acquired”.

Subsec. (c). Pub. L. 98-473, §115(3), substituted “be less than 1 per centum or more than 3½ per centum” for “exceed 3½ per centum”.

§ 694-2. Revolving fund for qualified contract guarantees; investment of idle funds

There is created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitations as a revolving fund for the purpose of section 694-1 of this title. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with section 694-1 of this title shall be deposited in the fund. All expenses and payments, excluding administrative expenses, pursuant to operations of the Administrator under section 694-1 of this title shall be paid from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.

(Pub. L. 85-699, title IV, §405, as added Pub. L. 94-305, title I, §102, June 4, 1976, 90 Stat. 665; amended Pub. L. 95-89, title I, §104, Aug. 4, 1977, 91 Stat. 556; Pub. L. 96-302, title I, §112, July 2, 1980, 94 Stat. 837.)

AMENDMENTS

1980—Pub. L. 96-302 inserted investment of idle funds provision.

1977—Pub. L. 95-89 prohibited payment of administrative expenses from the fund and deleted provisions which authorized: a \$15,000,000 appropriation of capital for the fund; payment during the fiscal year into the Treasury as miscellaneous receipts, from the fund, of interest on the cumulative amount of appropriations available as capital to the fund less the average undisbursed cash balance in the fund during the year; and investment of noncapital moneys, when not needed for payment of current operating expenses or claims arising under section 694-2 of this title, in Federal bonds or obligations or bonds or obligations guaranteed by the United States as to principal and interest.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-302 effective Oct. 1, 1980, see section 507 of Pub. L. 96-302, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-89 effective Oct. 1, 1977, see section 106 of Pub. L. 95-89, set out as a note under section 633 of this title.

PART B—SURETY BOND GUARANTEES

§ 694a. Definitions

As used in this part—

(1) The term “bid bond” means a bond conditioned upon the bidder on a contract entering

into the contract, if he receives the award thereof, and furnishing the prescribed payment bond and performance bond.

(2) The term “payment bond” means a bond conditioned upon the payment by the principal of money to persons under contract with him.

(3) The term “performance bond” means a bond conditioned upon the completion by the principal of a contract in accordance with its terms.

(4) The term “surety” means the person who (A) under the terms of a bid bond, undertakes to pay a sum of money to the obligee in the event the principal breaches the conditions of the bond, (B) under the terms of a performance bond, undertakes to incur the cost of fulfilling the terms of a contract in the event the principal breaches the conditions of the contract, (C) under the terms of a payment bond, undertakes to make payment to all persons supplying labor and material in the prosecution of the work provided for in the contract if the principal fails to make prompt payment, or (D) is an agent, independent agent, underwriter, or any other company or individual empowered to act on behalf of such person.

(5) The term “obligee” means (A) in the case of a bid bond, the person requesting bids for the performance of a contract, or (B) in the case of a payment bond or performance bond, the person who has contracted with a principal for the completion of the contract and to whom the obligation of the surety runs in the event of a breach by the principal of the conditions of a payment bond or performance bond.

(6) The term “principal” means (A) in the case of a bid bond, a person bidding for the award of a contract, or (B) the person primarily liable to complete a contract for the obligee, or to make payments to other persons in respect of such contract, and for whose performance of his obligation the surety is bound under the terms of a payment or performance bond. A principal may be a prime contractor or a subcontractor.

(7) The term “prime contractor” means the person with whom the obligee has contracted to perform the contract.

(8) The term “subcontractor” means a person who has contracted with a prime contractor or with another subcontractor to perform a contract.

(9) Notwithstanding any other provision of law or any rule, regulation, or order of the Administration, for purpose of sections 694a, 694b, and 694c of this title the term “small business concern” means a business concern that meets the size standard for the primary industry in which such business concern, and the affiliates of such business concern, is engaged, as determined by the Administrator in accordance with the North American Industry Classification System.

(Pub. L. 85-699, title IV, §410, as added Pub. L. 91-609, title IX, §911(a)(4), Dec. 31, 1970, 84 Stat. 1812; amended Pub. L. 95-507, title I, §110, Oct. 24, 1978, 92 Stat. 1758; Pub. L. 111-5, div. A, title V, §508(c), Feb. 17, 2009, 123 Stat. 158; Pub. L. 112-239, div. A, title XVI, §1695(c), Jan. 2, 2013, 126 Stat. 2090.)

AMENDMENTS

2013—Par. (9). Pub. L. 112-239 added par. (9).