§ 9302. Prohibition against surety bonds for United States Government personnel

An agency (except a mixed-ownership Government corporation) may not require or obtain a surety bond for a member of the uniformed services or an officer or employee of the United States Government in carrying out official duties. This section does not affect the personal financial liability of the member, officer, or employee.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1046.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
9302	31:1201.	June 6, 1972, Pub. L. 92–310, § 101, 86 Stat. 201.

The words "agency (except a mixed-ownership Government corporation)" are substituted for 31:1201(c)(words before last comma) and "agency of the Federal Government" because of section 101 of the revised title and for consistency. The words "member of the uniformed services or an officer or employee of the United States Government" are substituted for "civilian employees or military personnel" for consistency with other titles of the United States Code. The words "in carrying out official duties" are substituted for "in connection with the performance of their official duties" to eliminate unnecessary words and because of the restatement. The words "to the Federal Government" are omitted as surplus. The words "member, officer, or employee" are substituted for "employees and personnel" because of the restatement.

§ 9303. Use of eligible obligations instead of surety bonds

(a) If a person is required under a law of the United States to give a surety bond, the person may give an eligible obligation as security instead of a surety bond. The obligation shall—

(1) be given to the official having authority to approve the surety bond;

(2) as determined by the Secretary of the Treasury, have a market value that is equal to or greater than the amount of the required surety bond; and

(3) authorize the official receiving the obligation to collect or sell the obligation if the person defaults on a required condition.

(b)(1) An official receiving an eligible obligation under subsection (a) of this section may deposit it with—

(A) the Secretary of the Treasury;

(B) a Federal reserve bank; or

(C) a depositary designated by the Secretary.

(2) The Secretary, bank, or depositary shall issue a receipt that describes the obligation deposited.

(c) Using an eligible obligation instead of a surety bond for security is the same as using—

(1) a personal or corporate surety bond;

(2) a certified check;

(3) a bank draft;

(4) a post office money order; or

(5) cash.

(d) When security is no longer required, an eligible obligation given instead of a surety bond shall be returned to the person giving the obligation. If a person, supplying labor or material to a contractor defaulting under sections 3131 and 3133 of title 40, files with the United States Government the application and affidavit provided under section 3133(a) of title 40, the Government—

(1) may return to the contractor the eligible obligation given as security (or proceeds of the eligible obligation given) under sections 3131 and 3133 of title 40 only after the 90-day period for bringing a civil action under section 3133(b) of title 40; and

(2) if a civil action is brought in the 90-day period, shall hold the eligible obligation or the proceeds subject to the order of the court having jurisdiction of the action.

(e) This section does not affect the—

(1) priority of a claim of the Government against an eligible obligation given under this section;

(2) right or remedy of the Government for default on an obligation provided under—

(A) sections 3131 and 3133 of title 40; or

(B) this section;

(3) authority of a court over an eligible obligation given as security in a civil action; and

(4) authority of an official of the Government authorized by another law to receive an eligible obligation as security.

(f) To avoid frequent substitution of eligible obligations, the Secretary may prescribe regulations limiting the effect of this section to an eligible obligation maturing more than one year after the date the obligation is given as security.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1046; Pub. L. 107–217, § 3(h)(9), Aug. 21, 2002, 116 Stat. 1300; Pub. L. 108–178, § 4(f)(2), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 109–351, title IX, § 901(b), (c), Oct. 13, 2006, 120 Stat. 2007.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
9303(a)	6:15(1st sentence).	
9303(b)	6:15(3d sentence).	
9303(c)	6:15(2d sentence).	
9303(d)	6:15(4th, 5th sentences).	
9303(e)	6:15(6th, 8th sentences).	
9303(f)	6:15(7th, 9th, 11th sentences).	

In subsection (a), before clause (1), the words "If a person is required under a law of the United States to give a surety bond, the person may give a Government obligation as security instead of a surety bond" are substituted for "Wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called 'penal bond', with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security . . . United States Liberty bonds or other bonds or notes of the United States" to eliminate unnecessary words and for consistency. The words "The obligation shall be" are added because of the restatement. Clause (3) is substituted for "together with an agreement authorizing such official to collect or sell 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" to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words "An official receiving a Government obligation under sub-