

**Contract Performance Bonds
Survey of States
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The WSDOT Research Office conducted a survey by contacting all 50 states and agencies in Canada inquiring on performance bonds requirements for capital construction.

The questions asked were kept simple in an attempt to gain as many responses as possible; these questions were as follows;

- 1) *Does your agency require performance bonds on contracts?*
- 2) *If so, is the bond requirement set at 100% of the contract amount?*
- 3) *If less than 100% how are bond levels established? Who can we contact to learn more?*
- 4) *Have you experienced any difficulty attracting contractors to large projects because of bonding limits? (This question was intentionally vague as large is relative to the contracting agency, consequently some respondents said it was too vague)*

A total of 26 states, British Columbia and Alberta Canada responded to the survey. WSDOT's information is also included in the totals. The 28 responses are broken down as follows:

Require some level of performance bonds: 28
Performance Bond levels set at 100% of contract price: 24*
Performance Bond levels set at 50%: 4

*The state of Maryland has statutory approval to reduce the level when deemed appropriate – They have done this on three contracts to date all over \$100M (one was over \$400M) on these projects they required a 50% performance bond. This reduced bond level required Attorney General and Governor's Office approval.

*Of the respondents at 100% one other state (Oregon is considering lowering the bond requirement)

General comments from all states;

Performance bonds are an important part of the qualification process that helps ensure that the contractors that bid on projects are solvent and have the ability to complete the project.

Attracting contractors to large projects is not generally a problem related to bonding, however on very large contracts the availability of bonds is more of an issue.

Other interesting bonding issues and comments:

From Delaware, the issue with bonds after 9/11 is term more so than amount. Projects over three construction seasons are harder to bond than the amount.

Maryland; on a recent maintenance contract valued at \$5M the requirements were reduced to 50%, this was done in part due to the five year time frame that the contract spanned and expected risk.

Missouri; the state published a RFP for a \$400-\$600M contract to replace, rehabilitate and finance a large number of bridges statewide. The requirements included a 30 year performance bond. Proposers were not able to obtain this type of bonding. The agency is now going to the legislature for a change to allow lower bonding requirements.