

\*You can find copies of the forms and related instructions at our [Forms page](#).

\*\*Representatives who sign for the surety must enclose a current power of attorney showing authority to obligate the company for the bond.

\*\*\*See the Department of the Treasury [Circular 570](#) for a list of approved surety companies.

\*\*\*\*Assets used as security must be in the name of the trustee and be readily convertible to currency. The assets may not be released or pledged for another purpose while the Trust Fund Agreement is in effect.

### Where do I go to get a bond?

Look for a company that provides bonds in the state(s) where your business is headquartered (see note about approved surety companies above). You might start with a company that you already have a business relationship, such as your insurance agent or banker.

### How much will it cost?

If you have the funds to set aside in a Certificate of Deposit (CD) to obtain a Trust Fund Agreement (TFA), the only cost would be the trustee's fee, if any. You would lose access to the CD, as long as it backs the TFA. If you obtain a surety bond or a Letter of Credit pledged to a Trust Agreement, there will be an annual fee that is a percentage of the face value, and collateral is often required. If you have a poor credit history, that fee may be much higher, or you may be denied.

### Who may serve as a trustee?

The trustee must be a financially responsible and disinterested person. The trustee cannot be directly involved in your business. Examples include:

- State officials
- Officers of livestock exchanges or similar trade associations
- Attorneys at Law or Certified Public Accountants (CPAs), and
- Banks and other financial institutions, or their officers.

If a statute requires a state official, or the state official has agreed to act as trustee, you must designate that official as the trustee. See the AMS website for more information about states requiring a state official serve as trustee.

### Where do I file the bond?

Submit the fully executed bond(s) to the PSD regional office covering the state where your business is headquartered. If no trustee is named on a surety bond, a copy of the surety bond may be submitted instead of the original.

If you are a market agency or dealer, you must also file an Application for Registration, along with a fully executed bond. The name on the Application for Registration must exactly match the name on the bond. The business activity on the Application for Registration must also match the effective condition clause(s) on the bond.

PSD will not process your Application for Registration until you file a fully executed and effective bond in the required amount, and we find them both acceptable. Wait for written

notice from us that your registration is effective before conducting business activities subject to the P&S Act.

Contact info for PSD regional offices:  
[www.ams.usda.gov/about-ams/programs-offices/fair-trade-practices/packers-and-stockyards-contacts](http://www.ams.usda.gov/about-ams/programs-offices/fair-trade-practices/packers-and-stockyards-contacts)

### Please direct comments or questions about this publication to:

USDA Agricultural Marketing Service  
Fair Trade Practices Program

Packers and Stockyards Division  
1400 Independence Avenue S.W.

Washington DC 20250-3601

Phone: 202-720-7051

Fax: 202-205-9237

Email: [PSDWashingtonDC@ams.usda.gov](mailto:PSDWashingtonDC@ams.usda.gov)

AMS Website: [www.ams.usda.gov](http://www.ams.usda.gov)

Toll-Free HOTLINE:  
1-833-DIAL PSD (1-833-342-5773)

This publication does not create or confer any rights for or on any person. Nor does it operate to bind the public. You can use another approach, if it satisfies the requirements of the P&S Act, and regulations. See 7 U.S.C. § 204; and 9 CFR 201.10, and 201.27 - 201.34, which relate to content in this publication. You may also want to see 9 CFR 203.18 - 203.19.

USDA is an equal opportunity provider, employer, and lender.

April 2018



**Agricultural Marketing Service**

**Packers & Stockyards Division**



# How to Comply with the Bond Requirement

## What is a bond?

Bonding is one form of financial protection offered under the Packers and Stockyards (P&S) Act. A bond is a written guarantee of payment up to the face amount of the bond if you, as the principal, fail to meet your obligations for the covered business activities. Three different types of financial instruments are available to satisfy your bond requirement: (1) Surety Bond; (2) Trust Agreement, or (3) Trust Fund Agreement. You can use one or any combination of financial instruments to satisfy your required bond amount. Hereafter, we'll use "bond" as a generic reference to a surety bond or any other satisfactory financial instrument.

### What is the purpose of a bond?

People harmed by your failure to meet your obligations for covered business activities can file claims against your bond. If the surety company or trustee on the bond deems the claims to be timely filed and valid, the claimants may recoup some or all of their losses from the bond. You will remain liable for any unmet obligations not paid by your bond.

### Who is subject to the bonding requirement?

Five types of businesses activities are subject to the bonding requirement of the P&S Act. These activities include:

- Market agency selling livestock on commission
- Market agency buying on commission or Livestock Dealer

- Market agency operating as a clearing agency, and
- Packer, if average annual purchases of livestock exceed \$500,000.

### Which condition clause applies to my business?

If you operate as a ...

- Market agency selling livestock on commission, use clause 1
- Market agency buying on commission/ dealer, use clause 2
- Market agency providing clearing services (providing bond coverage for the subject buying activities of another market agency or dealer), use clause 3
- Packer, use condition clause 4

On the bond forms, you will only select the condition clause that applies to your business activity. Clause 2 and 3 activities can be covered by one bond (2/3 clause bond). However, clause 1 and clause 4 bonds must be independent and separate bonds.

### What is the required bond amount?

The minimum requirement is \$10,000. There is no upper-limit on the required bond amount. Some states may require a higher bond amount than the PSD. If that is true in your state, you will have to obtain the higher bond amount to comply with state law.

PSD computes the required bond amount using formulas in the P&S regulations. In general the formula for ...

- Market agencies selling livestock on commission is based on the actual dollar value of livestock sold during the preceding business year divided by the number of days on which livestock is sold
- Market agencies buying on commission, or acting as a clearing agency, dealers, and packers are based on the average value of livestock purchased during two (2) business days
- See 9 CFR 201.30 for the complete bond formulas: [www.law.cornell.edu/cfr/text/9/201.30](http://www.law.cornell.edu/cfr/text/9/201.30)

Special circumstances where we may calculate your bond differently include, but are not limited to, new registrants and successors of previously registered entities. For these circumstances, contact your regional office for more details.

The Administrator of AMS may adjust your required bond amount. Please contact the PSD regional office that covers the state where your business is headquartered to confirm your required bond amount.

### What is required to obtain a bond?

The following table provides a summary.

	Surety Bonds	Trust Agreements & Letters of Credit	Trust Fund
<b>Required Form(s)*</b>	PSD 2000**	PSD 2300 & PSD 2600	PSD 2200
<b>Obtained From</b>	Surety company	Trust Agreements: Trustee Letters of Credit: Bank or other financial institution	Bank or other financial institution, or the trustee
<b>Requirements</b>	Must be currently approved to issue bonds executed to the U.S.A.***	Bank or institution must be Federally-insured; trustee must be financially responsible & disinterested	The trustee must be financially responsible & disinterested
<b>Secured by</b>	Lien on assets/line of credit	One or more irrevocable, transferable, standby letter(s) of credit	Federally-insured accounts or deposits****, or fully negotiable obligations of the U.S.A.
<b>Who retains possession of the security</b>	You	Trustee	Depository bank / financial institution or trustee
<b>Required signatures</b>	Surety representative, trustee (if required) & you	Bank representative, trustee, & you	Bank representative, if applicable, trustee, & you