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SURETY BONDS IN FAVOR OF THE UNITED STATES.

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LETTER FROM THE COMPTROLLER GENERAL SUBMITTING,  
PURSUANT TO LAW, A DRAFT OF PROPOSED LEGISLATION FOR  
THE STANDARDIZATION OF PROCEDURE WITH REFERENCE  
TO SURETY BONDS RUNNING IN FAVOR OF THE UNITED  
STATES.

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JANUARY 16, 1924.—Referred to the Committee on Finance and ordered to be  
printed.

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OFFICE OF THE COMPTROLLER GENERAL,  
*Washington, January 15, 1924.*

The PRESIDENT PRO TEMPORE OF THE SENATE.

SIR: Pursuant to the provisions of section 312 of the Budget and accounting act of June 10, 1921, I have the honor to submit the inclosed draft of proposed legislation intended to accomplish the centralization and standardization of procedure with reference to surety bonds running in favor of the United States.

Jurisdiction over corporate surety companies now authorized to transact a fidelity and surety business with the United States is under present law vested in the Secretary of the Treasury, and there is now in the Treasury Department a Section of Surety Bonds which, in addition to performing the duties of enforcing the provisions of law in respect to the authorization of corporate surety companies, performs certain duties connected with the acceptance and approval of such bonds in favor of the Government. There is, however, more or less bond work at present being conducted in the various Government establishments which is predicated upon records similar to those set up in the Section of Surety Bonds of the Treasury.

Section 236 of the Revised Statutes, as amended by the Budget and accounting act of June 10, 1921 (42 Stat. 24), provides that—

All claims and demands whatever by the Government of the United States or against it, and all accounts whatever in which the Government of the United States is concerned, either as debtor or creditor, shall be settled and adjusted in the General Accounting Office.

Quite generally the necessity for recourse to bonds arises in the audit of accounts and the settlement of claims under contracts; and bonds are required and maintained with a view to immediate recourse by the accounting officers in the event of a breach of contractual or other obligations.

It is my belief that all such bonds, in so far as possible, should clear through the General Accounting Office. The bond work of

the Government thus centralized would be subjected to standardized procedure, handled with maximum efficiency by a force well versed in its minutia, with a saving, it is believed, in personnel, and surety companies generally would be required to report to and deal with but one Government agency instead of many.

It is believed that the present jurisdiction of the Treasury Department over corporate sureties was vested in the Secretary of the Treasury for the reason that the accounting officers were then in the Treasury Department. As the work of accounting and auditing has now been centralized in the General Accounting Office (an independent establishment) it is thought that the jurisdiction of the Secretary of the Treasury over them should be transferred to and vested in the General Accounting Office.

Under date of May 22, 1922, my views in the premises were set forth in a communication addressed to the Secretary of the Treasury, and under date of June 13, 1922, the Secretary indicated his entire concurrence therewith. Copies of these communications are attached.

Summarizing, it is my belief that the proposed legislation will be a decided step toward the centralization and simplification of the bonding work of the Government, in the interest of economy and efficiency of procedure, and will greatly inure to the benefit of the United States, and I accordingly recommend the enactment of the inclosed draft into law at the present session of the Congress.

I am to-day transmitting to the honorable the Speaker of the House of Representatives a like report and recommendation.

I have the honor to be, sir,

Respectfully,

J. R. McCARL,  
*Comptroller General.*

MAY 22, 1922.

The SECRETARY OF THE TREASURY.

SIR: I have the honor to submit herewith, for your consideration and comment, a draft of proposed legislation to accomplish a transfer of the Section of Surety Bonds from the Treasury Department to the General Accounting Office.

The Section of Surety Bonds, which is now a part of the Appointment Division of your department, is designed to protect the Government in its contracts and engagements by assuring and maintaining the validity of fidelity, indemnity, and surety bonds. Quite generally the necessity for recourse to bonds arises in the audit of accounts and the settlement of claims under contracts, and bonds are required and maintained with a view to immediate recourse by the accounting officers in the event of a breach of contractual or other obligations.

Section 236 of the Revised Statutes as amended by the Budget and accounting act of June 10, 1921, provides that—

All claims and demands whatever by the Government of the United States or against it, and all accounts whatever in which the Government of the United States is concerned, either as debtor or creditor, shall be settled and adjusted in the General Accounting Office.

It is believed that jurisdiction over surety bonds was originally given to the Treasury Department for the reason that the accounting officers were then in the Treasury Department. As the work of

accounting and auditing has now been centralized in the General Accounting Office, an independent establishment, and as the General Accounting Office is now most concerned, perhaps, about the sufficiency of the surety bonds and their preservation, it is thought that jurisdiction over them and the determination of their sufficiency should be taken over and vested in the General Accounting Office.

To the end, therefore, that this suggested change may be brought about, this office has in contemplation a request for the legislation referred to, but before submitting it to the Congress I would appreciate your views and comments, either for or against the proposal, and if favorable to the change, your cooperation in bringing it about is invited.

You will appreciate, I am sure, that this suggestion is prompted wholly in the interest of efficient and economic administration, in which we are all deeply interested.

A reply at your early convenience will be appreciated.

Very respectfully,

J. R. McCARL,  
*Comptroller General.*

TREASURY DEPARTMENT,  
*Washington, June 13, 1922.*

DEAR MR. COMPTROLLER GENERAL: Your letter of May 22, 1922, submitting for my consideration and comment a draft of proposed legislation to accomplish a transfer of the Section of Surety Bonds from the Treasury Department to the General Accounting Office, has been received. I have noted the reasons indicated by you which seem to make this transfer desirable, and after giving the matter consideration am prepared to say that it would meet with the approval of the Treasury Department. The draft of proposed legislation submitted by you seems to be in proper form, and I have no changes or suggestions to offer in connection with it. I shall be very glad to cooperate with you in every way in bringing about this proposed transfer.

Very truly yours,

A. W. MELLON, *Secretary.*

Hon. J. R. McCARL,  
*Comptroller General of the United States.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all jurisdiction, powers, functions, and duties now imposed upon, possessed, and exercised by the Secretary of the Treasury pertaining to the enforcement of the act of August 13, 1894 (Twenty-eighth Statutes, 279, 280), entitled "An act relative to recognizances, stipulations, bonds, and undertakings, and to allow certain corporations to be accepted as surety thereon," as amended by the act of March 23, 1910 (Thirty-sixth Statutes, 241), are hereby transferred to and vested in the Comptroller General of the United States, to be hereafter performed under his direction; that all bonds, books, records, documents, papers, furniture, office equipment, and all other property of the Treasury Department relating to said bonding work as now performed in the Division of Appointments, Treasury Department, shall be immediately transferred to the General Accounting Office; that the officers and employees now engaged upon said bonding work and appropriated for as officers and employees of the Treasury Department, as follows: One chief examiner at \$3,000; one examiner at \$2,200; clerks—two of class 4, one of class*

3, one of class 2, one of class 1, one at \$1,000, and one messenger at \$840, are hereby transferred to the General Accounting Office; that so much of the appropriations under the Treasury Department available and necessary for their salaries, including appropriation for increase of compensation, for the remainder of the current fiscal year is hereby transferred to and made available for expenditure by the General Accounting Office; and that said officers and employees so transferred shall occupy temporarily the rooms now occupied by them in the Treasury Department Building.

SEC. 2. That hereafter all bonds relating to the settlement of those public accounts for which a fiscal accounting is required under the provisions of the Budget and accounting act of June 10, 1921, shall be transmitted by the executive department, independent establishment, or office of the United States in Washington, District of Columbia, in which the bond originates, to the Comptroller General for examination, approval, or disapproval as to the sufficiency of the sureties thereon and as to form and execution, for recordation, for filing as he may direct, and for reexamining, strengthening, and renewal purposes; and all fidelity, surety, and indemnity bonds of whatsoever character running in favor of the United States, or in which the United States has an interest, direct or indirect, which are hereafter executed and filed in any executive department, independent establishment, or office of the United States in Washington, District of Columbia, shall, prior to such filing, be referred to the Comptroller General for examination and approval or disapproval as to the sufficiency of the sureties thereon and for recordation: *Provided*, That this section shall not be construed as modifying existing law or procedure relating to bonds involved in the operation of the Postal Service.

SEC. 3. That sections 3 and 4 of the act of August 13, 1894 (Twenty-eighth Statutes, pages 279, 280), entitled "An act relative to recognizances, stipulations, bonds, and undertakings, and to allow certain corporations to be accepted as surety thereon," as amended by the act of March 23, 1910 (Thirty-sixth Statutes, page 241), are hereby further amended as follows:

"SEC. 3. That every corporation, before transacting any business under this act, shall deposit with the Comptroller General of the United States a copy of its charter or articles of incorporation, and a financial statement, in such form as he may require, signed and sworn to by its president and secretary, and under its corporate seal, showing its financial condition. If the Comptroller General shall be satisfied that such corporation has authority under its charter to do the business provided for in this act, that it is lawfully licensed to transact and has actually been transacting such business in the United States not less than one year prior to the date of its application for authority to do business under this act, and that it has a paid-up capital stock of not less than \$500,000, in cash or its equivalent, and a surplus of not less than \$250,000, and is able to keep and perform its contracts, he shall grant authority in writing to such corporation to do business under this act: *Provided*, That the requirement herein as to the amount of paid-up capital stock and surplus shall not apply to corporations now authorized to execute bonds in favor of the United States so long as their present authorizations remain unrevoked: *Provided further*, That no company authorized to transact business under this act shall expose itself to any loss on any one risk or hazard in an amount exceeding 10 per centum of its combined capital stock and surplus as determined by the Comptroller General, unless it shall be protected in excess of that amount by adequate security satisfactory to the Comptroller General.

"SEC. 4. That every such corporation shall, in the months of February and August of each year, file with the Comptroller General a financial statement as of December 31 and June 30, respectively, signed and sworn to by its president and secretary, and under its corporate seal, showing its financial condition as required by section 3 of this act; and the Comptroller General shall have the power and it shall be his duty to revoke the authority of any corporation to transact any new business under this act whenever in his judgment such corporation is not solvent or is conducting its business in violation of this act. He may institute inquiry at any time into the solvency and conduct of such corporation and may require that additional security be given at any time by any principal when he deems such corporation no longer sufficient security."

SEC. 4. That the act of August 8, 1888 (Twenty-fifth Statutes, 387), entitled "An act requiring notice of deficiency in accounts of principals to be given to sureties upon bonds of United States officials, and fixing a limitation of time within which suits shall be brought against said sureties upon said bonds," is hereby amended as follows:

"That hereafter, whenever any deficiency shall be discovered in the accounts of any official of the United States or of any officer or agent disbursing or charge-

able with public money, it shall be the duty of the Comptroller General of the United States on making such discovery at once to notify the head of the department or independent establishment or office having control over the affairs of such official, or officer, or agent, and all obligors upon his bond or bonds, of the nature of such deficiency and the amount thereof. Such notification shall be deemed sufficient if mailed at the post office in the city of Washington, District of Columbia, addressed to said sureties, respectively, and directed to the respective post offices where such obligors may reside, if known; but a failure to give or mail such notice shall not discharge the surety or sureties upon such bonds.

"SEC. 2. That if, upon the settlement by the Comptroller General of the account of any official of the United States or officer or agent disbursing or chargeable with public money, including postmasters, it shall thereby appear that he is indebted to the United States, and suit therefor shall not be instituted within five years after the date of such settlement of account, the sureties on his bond shall not be liable after the expiration of such five years for such indebtedness."

SEC. 5. That the Comptroller General is hereby authorized to perform all acts and to make such rules and regulations as may be necessary to carry the provisions of this act into effect.

SEC. 6. That all laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

