

REVISOR'S NOTE: This section is new language derived without substantive change from former SF § 12-201(a)(2) and, as it related to the requirement to provide security and its amount, (1).

The word "security" is used throughout this section since the security need not be in the form of a bond. See § 17-104 of this subtitle.

In subsection (a) of this section, the former reference "[e]xcept as provided in paragraph (2) of this subsection" is deleted since the referenced provision -- now subsection (b) of this section -- is not an exception to subsection (a).

The Procurement Revision Review Committee notes, for consideration by the General Assembly, that the law implies that a political subdivision may not require performance or payment security for a construction contract if the price of the contract is \$25,000 or less. However, at least 14 counties do, in fact, require performance or payment security for those construction contracts. Those counties are: Anne Arundel, Calvert, Caroline, Frederick, Garrett, Harford, Howard, Kent, Montgomery, Prince George's, Somerset, Talbot, Wicomico, and Worcester. The General Assembly may wish to clarify the law by expressly providing that a political subdivision either may or may not require performance or payment security for a construction contract costing \$25,000 or less.

As to payment or performance security for a State contract if the price is \$50,000 or less, see § 13-216 of this article.

Defined terms: "Construction" § 11-101

"Payment security" § 17-101

"Performance security" § 17-101

"Public body" § 17-101

17-104. TYPE OF SECURITY.

PAYMENT SECURITY OR PERFORMANCE SECURITY REQUIRED UNDER THIS SUBTITLE SHALL BE:

(1) A BOND EXECUTED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE;

(2) CASH IN AN AMOUNT EQUIVALENT TO A BOND; OR