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Federal Government Raises Threshold for Miller Act Bonds

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On Aug. 2, 2010, the Civilian Agency Acquisition Council and the Defense Agency Acquisition Council published a Final Rule (Rule) raising the dollar threshold for construction projects that require the posting of performance and payment bonds from \$100,000 to \$150,000. Thus, as a result of the revised Rule, effective October 1, 2010, any contract for the construction, alteration, or repair of any public building or public work of the federal government of more than \$150,000 requires performance and payment bonds.

The Rule was issued pursuant to a federal statute passed in 2004, which requires regulators to adjust acquisition-related thresholds for inflation every five years, using the Consumer Price Index.

The Rule was opposed by groups representing both sureties and subcontractors on the grounds that it would result in fewer bonded projects and less protection for trade contractors. The Civilian Agency Acquisition Council and the Defense Agency Acquisition Council countered that the increase for inflation was mandated by federal statute. Furthermore, they argued that the increased dollar threshold will not decrease the number of bonded projects; rather, it will maintain the status quo by preventing the number of bonded projects to increase.

The Final Rule, which amends 40 U.S.C. § 3131, can be found at [Federal Register, August 30, 2010 \(Volume 75, Number 167\)](#).

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