

Chapter 3. Account Audits

Section E. Bonds and Withdrawal Agreements

23. Surety Bond Requirements for **VA-appointed** Federal Fiduciaries

Introduction

This topic contains information on the requirements for surety bonds from [VA-appointed](#) Federal fiduciaries. It includes general policy information on bond requirements for legal custodians, custodians-in-fact, and institutional award ~~payee~~ fiduciaries. [It addresses the minimum](#) criteria for a bond, and [other](#) issues involving [the responsibility of the fiduciary hub manager regarding a change in jurisdiction of a beneficiary's funds under management that are protected by](#) a corporate surety bond.

Change Date

~~July 13, 2005~~ [August 1, 2015](#)

a. General Policy for Requiring a Bond from a VA-appointed Federal Fiduciary

If it is considered necessary to protect the ~~interest of the~~ beneficiary's funds under management, the ~~Veterans Service Center Manager (VSCM)~~ fiduciary hub manager, under 38 CFR 13.105(a), is authorized to require a corporate surety bond from a VA-appointed fiduciary serving as

- a legal custodian
- a custodian-in-fact, or
- an institutional award fiduciary. ~~payee, see M21-1MR, Part XI.2.E.28i-e~~

A bond is required when VA funds under management equal or exceed \$25,000. The threshold can be reached by

- release of any retroactive benefits of \$25,000 or more, or
- release of any retroactive benefits that would increase the VA funds under management to \$25,000 or more, or
- audit of an account which reveals accumulated VA funds of \$25,00 or more.

The amount of VA funds under management must be calculated using the funds under management tool contained in the Accounting Wizard within the Beneficiary Fiduciary Field System unless the record contains clear evidence that VA funds have and continue to be maintained in an account independent of all other income. **The amount of VA funds will not be calculated using the rationale that VA funds are expended first.**

Any such bond must be

- be received and verified within 30 days of appointment of the fiduciary, or
- received within 30 days of the date the VA funds under management are determined in need of a bond, and
- ~~— prior to certification of the fiduciary with the exception of a partial release of funds for payment of a bond premium only, and~~
- be payable to the Secretary of Veterans Affairs for the use and benefit of the beneficiary.

Allow the fiduciary 30 days to provide the requested funds under management protection. If the fiduciary does not provide proof of a surety bond within 30 days of appointment, the fiduciary hub must make a second request for the bond. If the fiduciary does not comply with the protection requirement within 60 days, a successor fiduciary must be appointed.

~~When~~ ever a bond is required, the ~~VSCM~~ fiduciary hub manager must require a periodic accounting an annual accounting. However, not all accounting cases will require a bond.

~~Note: Not all accounting cases will require a bond.~~

b. Minimum Criteria for a Bond

At a minimum, a [VA-appointed](#) Federal fiduciary's bond must be obtained from a bonding authority ~~recognized~~ licensed by a ~~in the~~ state ~~of~~ [having](#) jurisdiction, and include the following

- the amount of the bond
- the names of the fiduciary and beneficiary
- the name of the bonding company,
- ~~, and affirmation by the bonding company that they will pay.~~

Questions concerning the legality of a bond must be referred to the Regional Counsel.

c. Acceptable Documentation for Surety Bonds from [VA-appointed](#) Federal Fiduciaries

The [beneficiary's eFolder \(formerly the](#) principal guardianship folder ~~(PGF)~~ must contain documentation to show evidence of adequate bond.

Acceptable documentation consists of a certified or original file-stamped copy of the corporate ~~or personal~~ surety bond signed by the fiduciary and authorized agent of the surety, [or a copy of the bond containing this information that does not exhibit any signs of alteration.](#)

[Subsequent verification that a bond remains in effect as required during the account audit process may be accomplished by recording the required information on VA Form 21-0820, Report of General Information, or by completion of the subsection of the Accounting Wizard that addresses current bond information.](#)

Notes:

~~If personal property is the basis for the surety bond, the FE must, at the time of the Initial appointment, verify that~~

- ~~the property still exists~~
- ~~its value remains, and~~
- ~~the value is unencumbered in any other way.~~

~~The Legal Instruments Examiner (LIE) must review the worth of the personal surety at the time of each accounting.~~

d. When There Is a Change in [Principal VSCM Jurisdiction](#)

When a ~~VSCM~~ [fiduciary hub manager](#) transfers [jurisdiction of a beneficiary's case](#) ~~PGF~~ involving a [VA-appointed](#) Federal fiduciary with a corporate surety bond ~~to another~~ [jurisdiction](#), the receiving ~~VSCM~~ [fiduciary hub manager](#) must be advised of any adjustments or actions required on the bond, and take any corrective action required, [such as verification that the bonding authority \(agency\) is licensed in the state of jurisdiction where the fiduciary resides.](#)

e. Bond Requirements for a Legal Custodian-VA-appointed fiduciaries

~~In legal custodian cases, the need for surety bonds to ensure the reasonable protection of the beneficiaries' interests is more frequent than in other Federal fiduciary cases, particularly when the fiduciary relationship for an indefinite period of time.~~

~~Among the factors to~~ Consider the following when determining the need for a bond and the amount required for the adequate protection of the beneficiaries' ~~interests are the~~ VA funds under management.

- ~~relationship between the fiduciary and the beneficiary~~
- ~~extent to which the fiduciary has demonstrated a personal interest in the beneficiary~~
- ~~financial standing and general stability of the fiduciary~~
- ~~amount of funds in excess of anticipated needs, initially and/or thereafter, and~~
- ~~existence of other individuals with sufficient awareness of, and interest in, the beneficiary's welfare to notify VA if the fiduciary does not properly use the funds for the beneficiary's care.~~

~~Note:~~ A surety bond or other method of protection must be considered when the VA estate funds under management equals or exceed ~~\$20,000~~\$25,000. A change in the amount of the bond is required only if the VA funds under management changes by 20 percent.
~~.and PGF must be appropriately documented~~

~~f. Guideline for Requiring a Bond From a Custodian-in-Fact or an Institutional Payee~~

- ~~While the VSCM is authorized to require surety bonds in these cases, exercise of this authority should be infrequent due to the limited scope and duration of this type of fiduciary relationship.~~