

Surety Bonds

The Comptroller of Public Accounts (CPA) discourages the use of performance bonds on open market or delegated purchases unless there is either a compelling need or statutory requirement (See TGC Section [2156.004](#) for the statutory requirement). Placing bond requirements in the specifications can restrict competition and delay the award, as well as raise the cost of the contract to the state.

Since each ordering entity is responsible for determining its own needs, an ordering entity may require the successful bidder to post a bond to ensure the bidder's performance. In order to do this, the bonding requirement must be stated in writing as a part of the specifications in the Invitation for Bids (IFB).

As a guide for determining the value of bond requirements, bonding levels for CPA term contracts (if a bond is required) are listed below:

Awards up to \$100,000 - No bond required

\$100,001 to \$250,000 - \$25,000 bond

\$250,001 to \$500,000 - \$50,000 bond

Over \$500,001 - \$50,000 plus 5% of the amount over \$500,000 rounded to the next \$1,000

Pursuant to Texas Government Code Section [2156.004](#), the CPA may require a bid deposit, if necessary, in an amount which will be determined by CPA. If CPA requires a deposit, this amount must be stated in the public notice and the Invitation for Bid. CPA will refund the bid deposit of an unsuccessful bidder on the award of a bid or the rejection of all bids. CPA may also accept a bid deposit in the form of a blanket bond.

The above requirements should be followed for procurement initiatives that have been delegated to agencies that are over \$100,000 in value. For bonding requirements associated with major contracts (over \$1 million in value), agencies should refer to the State Contract Management Guide at: <http://www.window.state.tx.us/procurement/pub/contractguide/contractguide>

NOTE: Bonding companies have to be U. S. Treasury listed. Bonds completed (signed) by an out-of-Texas surety require a counter signature by a Texas resident agent of a company chartered or authorized to do business in Texas.

Please consult your legal counsel for guidance when requiring bonding.

SECTION 2.29

REVISED DATE: 09/05/06