

## **Procurement of Construction: *Construction Bonds and Security***

### **Bid Security Requirements—**

Bid security in an amount equal to at least 5% of the amount of the bid shall be required for all competitive bidding for construction contracts. Bid security shall be a bond provided by a surety company authorized to do business in this state, the equivalent in cash, or any other form satisfactory to the District. The District may waive the requirement of a bid bond to the extent allowed by rules of the Procurement Policy Board in circumstances where the Procurement Officer determines that such bond is unnecessary to protect the District.

When a bidder fails to comply with the requirement for bid security described in the invitation for bids, the bid shall be rejected unless, pursuant to rules of the Procurement Policy Board, the District determines that the failure to comply with the security requirements is nonsubstantial.

After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, except as provided in Policy CBB. If a bidder is permitted to withdraw a bid before award, no action shall be taken against the bidder or the bid security.

When issuing an invitation for a bid, neither the Board of Education nor the Procurement Officer may require a person or entity who is bidding for a contract to obtain a bond from a specific insurance or surety company, producer, agent, or broker.

*Utah Code § 63G-6a-1102 (2013); § 63G-6a-1103(3) (2014)*

### **Required Bonds—**

When a construction contract is awarded by the District, the contractor to whom the contract is awarded shall deliver the following bonds or security to the District, which shall become binding on the parties upon the execution of the contract:

- a performance bond satisfactory to the District that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in this state or any other form satisfactory to the District; and
- a payment bond satisfactory to the District that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in this state or any other form

satisfactory to the District, which is for the protection of each person supplying labor, service, equipment, or material for the performance of the work provided for in the contract.

Neither the Board of Education nor the Procurement Officer may require a contractor to whom a contract is awarded to obtain a performance or payment bond from a specific insurance or surety company, producer, agent, or broker.

The District may waive the requirement of a performance or payment bond to the extent allowed by rules of the Procurement Policy Board in circumstances where the Procurement Officer determines that such bonds are unnecessary to protect the District.

*Utah Code § 63G-6a-1103 (2014)*

### **Form of Bonds—**

The form of the bonds required by this policy shall be established by rule made by the Procurement Policy Board. Any person may obtain from the District a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any.

*Utah Code § 63G-6a-1105 (2014)*