

Section 2.21

Surety Bonds

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 of its obligations under the contract. TPASS discourages the use of performance bonds on open market or delegated purchases unless there is either a compelling need or statutory requirement (See Texas Government Code §§ 2156.004 and 2156.011 for statutory requirements). 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 bonds are not routinely maintained by businesses and require actual outlays of capital to obtain.

If the ordering entity elects to require a bond, the bonding requirement must be stated in writing as a part of the specifications in the Invitation for Bids (IFB) or Request for Proposal (RFP).

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

Size of Award	Bond Requirements
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 § 2156.004, TPASS may require a bid deposit, if necessary, in an amount which will be determined by TPASS. If TPASS requires a deposit, this amount must be stated in the public notice and the Invitation for Bid or Request for Proposal. TPASS will refund the bid deposit of an unsuccessful bidder upon the award of a bid or the rejection of all bids. TPASS may also accept a bid deposit in the form of a blanket bond.

The above requirements should be followed for procurement initiatives over \$100,000 in value that have been delegated to agencies. For bonding requirements associated with major contracts (over \$1 million in value), agencies should refer to the [State Contract Management Guide](#).

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.