
Section 5

E - FINANCIAL SECURITY

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause when clause E0004T is used in the bid solicitation. The contracting officer is to fill in data required under paragraphs 1 and 2 (percentage requested only).

E0001T (13/12/02) Security Deposits and/or Surety Bonds

1. Enclosed with this bid is the requested security consisting of:
 - (a) security deposit (government guaranteed bonds, bills of exchange, irrevocable standby letters of credit) in the amount of \$ _____, being not less than _____ percent of the bid price; or
 - (b) a bid bond in the amount of \$ _____, being not less than _____ percent of the bid price, issued by _____ .

2. If this bid is accepted, the Bidder shall be required to provide contract financial security within _____ days of contract award as follows:
 - (a) a performance bond in the amount of _____ percent of the Contract Price, issued by a surety listed in Treasury Board (TB) Appendix L, Acceptable Bonding Companies (http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_1_e.html), on the format shown as Annex 7.3, Performance Bond, attached hereto; OR
 - (b) a performance bond and a labour and material payment bond, each in the amount of _____ percent of the Contract Price, issued by a surety listed in TB Appendix L, Acceptable Bonding Companies, on the format shown as Annex 7.3, Performance Bond and Annex 7.2, Labour and Material Payment Bond, attached hereto; OR
 - (c) a labour and material payment bond in the amount of _____ percent of the Contract Price, issued by a surety listed in TB Appendix L, Acceptable Bonding Companies, on the format shown as Annex 7.2, Labour and Material Payment Bond, attached hereto, plus the security deposit furnished in accordance with 1.(a) above, both of which Canada will retain; OR
 - (d) a security deposit (government guaranteed bonds, bills of exchange, irrevocable standby letters of credit) to the value of _____ percent of the Contract Price, plus the security deposit furnished in accordance with 1.(a) above, both of which Canada will retain; OR
 - (e) a security deposit (government guaranteed bonds, bills of exchange, irrevocable standby letters of credit) to the value of _____ percent of the Contract Price.

3. If, for any reason, Canada does not receive, within the specified period, the Contract executed by the bidder and the financial security described above, Canada may retain the bid security and may accept any offer, seek new bids, negotiate a contract or not accept any bids, as Canada may deem advisable.

E0001T (01/12/00) Security Deposits and/or Surety Bonds

Effective 13/12/02, this clause is superseded by E0001T.

E0002T (01/06/91) Security Deposits and/or Surety Bonds

This clause is cancelled effective 16/02/98.

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Remarks: Use the following clause in bid solicitations which allow security deposits as bid security.

E0003T (16/02/98) Security Deposit

1. The security deposit (government guaranteed bonds, bills of exchange, irrevocable standby letters of credit) shall be held by Canada as security for entry into contract and the furnishing of required contract security acceptable to Canada. In the event of any default or non-performance by the Bidder, the said sum shall be forfeited to Canada, up to the amount of the difference between the bid price and the amount of the contract entered into by Canada for the work, supplies and services which are specified in this bid. Otherwise, a security deposit will be dealt with as follows:
 - (a) it will be returned to the unsuccessful Bidder when a contract is awarded;
 - (b) it will be returned to the Contractor if surety bonds are permitted and submitted as contract financial security;
 - (c) it will be applied to and form part of contract financial security if surety bonds are not submitted. Security deposits in the form of bills of exchange shall be deposited to the credit of the Consolidated Revenue Fund and shall bear simple interest, calculated on the basis of the rates which are in effect during the period that the deposit is held. These rates are published monthly by the Department of Finance and are set to be equal to the average yield on 90-day Treasury Bills less 1/8 of 1 percent. Interest shall be paid annually or, if the term of the deposit is less than twelve (12) months, when the security deposit is returned to the Contractor. A Contractor may, however, request the Minister to hold and not cash the bill of exchange, in which case no interest will become payable.

E0003T (01/06/91) Security Deposit

Effective 16/02/98, this clause is superseded by E0003T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in bid solicitations where bid financial security is required. Contracting officers should insert percentages and amounts in paragraph 3. (Refer to the *Supply Manual*, procedure 6C.279).

This clause is to be used in conjunction with E0008D, Definitions.

E0004T (13/12/02) Financial Security

1. Bid financial security is required and shall consist of:
 - (a) a security deposit as defined hereunder, or
 - (b) a bid bond issued by a surety listed in Treasury Board Appendix L, Acceptable Bonding Companies (http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_e.html), on the format shown as Annex 7.1, Bid Bond, attached hereto.
2. Security deposits in the form of coupon bonds must have attached thereto all coupons that are unmatured at the time such bonds are delivered to Canada. Canada may, from time to time detach matured coupons and send them to the bidder at the address noted on the bid, unless advised otherwise by the Contractor.

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3. Where the bid price is \$250,000 or less, the security deposit shall be _____ percent thereof. Where the bid price exceeds \$250,000, the security deposit shall be \$ _____ plus _____ percent of the amount by which the bid price exceeds \$250,000, to a maximum of \$ _____.
 4. Bidders who supply a security deposit as bid security are required to submit their bids under seal (does not apply in Quebec).
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E0004T (01/12/00) Financial Security

Effective 13/12/02, this clause is superseded by E0004T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in contracts which provide for a security deposit as contract financial security.

This clause is to be used in conjunction with E0008D, Definitions.

E0005C (01/12/00) Security Deposit

1. (a) The Contractor shall deposit with Canada a security deposit in the amount of \$ _____ within _____ calendar days of the Contract date. If, for any reason, Canada does not receive, within the specified period, the Contract executed by the Contractor and the security deposit in the amount set out above, Canada may retain the bid security provided and may accept any offer, seek new bids, negotiate a contract or not accept any bids as Canada may deem advisable.
- (b) If the security deposit is in the form of a coupon bond, the bond shall have attached thereto all coupons that are unmatured at the time the security deposit is given. Canada may, from time to time, detach matured coupons and send them to the Contractor at the address provided for by this agreement for the sending of notices, unless advised otherwise by the Contractor.
- (c) If the security deposit is in the form of a bill of exchange, Canada shall deposit it in an open account in the Consolidated Revenue Fund. Security deposits in the form of the bills of exchange that are deposited to the credit of the Consolidated Revenue Fund shall bear simple interest, calculated on the basis of the rates which are in effect during the period that the deposit is held.

These rates are published monthly by the Department of Finance and are set to be equal to the average yield on 90-day Treasury Bills less 1/8 of 1 percent. Interest shall be paid annually or when the security deposit is returned to the Contractor, if earlier. A Contractor may, however, request Canada hold and not cash the bill of exchange, in which case no interest will become payable.

2. Canada may convert the security deposit to the use of Canada if any circumstance exists which would entitle Canada to terminate the Contract for default, but any such conversion shall not constitute termination.
3. Where Canada so converts the security deposit:
 - (a) the proceeds thereof shall be used to complete the Work according to the terms of the Contract to the nearest extent that it is feasible to do so and any balance left thereafter shall be returned to the Contractor on completion of the warranty period; and
 - (b) if Canada enters into an agreement outside the Contract to have the Work completed, the Contractor shall:
 - (1) be deemed to have irrevocably abandoned the Work; and

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- (2) remain liable for the excess cost of completing the Work if the amount of the security deposit is not sufficient for such purpose. ("Excess cost" means any amount over and above the amount of the Contract Price remaining unpaid together with the amount of the security deposit.)
4. If Canada does not convert the security deposit to the use of Canada prior to the date of completion of the warranty period, Canada shall return the security deposit to the Contractor within a reasonable time after such date.
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E0005C (21/06/99) Security Deposit

Effective 01/12/00, this clause is superseded by E0005C.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS.

E0006D (01/08/92) Financial Security

The Contractor shall provide Financial Security as outlined at Annex "___" attached to and forming part of this Contract. List of companies whose guarantee bonds may be accepted by the Government of Canada and samples of "Performance Bond" and "Labour and Material Payment Bond" incorporated in the Request for Proposal (RFP) form part of this Contract.

E0006D (31/01/92) Financial Security

Effective 01/08/92, this clause is superseded by E0006D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause when contract security is required, and in conjunction with E0005C and E0008D.

E0007T (30/05/03) Contract Financial Security

1. If this bid is accepted, the bidder shall be required to provide contract financial security within _____ calendar days of contract award as follows:
- (a) a performance bond in the amount of _____ percent of the Contract Price, issued by a surety listed in Treasury Board (TB) Contracting Policy, Appendix L, Acceptable Bonding Companies (http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_l_e.asp), on the format shown as Annex 7.3, Performance Bond, attached hereto; OR
 - (b) a performance bond and a labour and material payment bond, each in the amount of _____ percent of the Contract Price, issued by a surety listed in TB Contracting Policy, Appendix L, Acceptable Bonding Companies, on the format shown as Annex 7.3, Performance Bond and Annex 7.2, Labour and Material Payment Bond, attached hereto; OR

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- (c) a labour and material payment bond in the amount of _____ percent of the Contract Price, issued by a surety listed in TB Contracting Policy, Appendix L, Acceptable Bonding Companies, on the format shown as Annex 7.2, Labour and Material Payment Bond, attached hereto; OR
 - (d) a security deposit (government guaranteed bonds, bills of exchange, irrevocable standby letters of credit) to the value of _____ percent of the Contract Price.
2. If, for any reasons, Canada does not receive, within the specified period, the Contract executed by the bidder and the requested contract financial security described above, Canada may accept another offer, seek new bids, negotiate a contract or not accept any bids, as Canada may deem advisable.
3. Security deposits in the form of coupon bonds must have attached thereto all coupons that are unmatured at the time such bonds are delivered to Canada. Canada may, from time to time detach matured coupons and send them to the bidder at the address noted on the bid, unless advised otherwise by the Contractor.
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E0007T (13/12/02) Contract Financial Security

Effective 30/05/03, this clause is superseded by E0007T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in conjunction with E0004T, E0005C and E0007T.

E0008D (21/06/99) Contract Financial Security

In this clause,

"security deposit" means

- (a) a bill of exchange
 - (1) that is payable to the Receiver General for Canada, and
 - (2) that is certified by an approved financial institution or drawn by an approved financial institution on itself; or
- (b) a Government guaranteed bond; or
- (c) an irrevocable standby letter of credit, or
- (d) such other security as may be deemed appropriate by the Contracting Authority (Department of Public Works and Government Services) and approved by Treasury Board;

"approved financial institution" means

- (a) any corporation or institution that is a member of the Canadian Payments Association;
- (b) a corporation that accepts deposits that are insured by the Canada Deposit Insurance Corporation or the "Régie de l'assurance-dépôts du Québec" to the maximum permitted by law;
- (c) a credit union as defined in the *Income Tax Act*; or
- (d) a corporation that accepts deposits from the public, if repayment of the deposits is guaranteed by Canada in right of a province.

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"Government guaranteed bond" means a bond of the Government of Canada or a bond unconditionally guaranteed as to principal and interest by the Government of Canada that is:

- (a) payable to bearer; or
- (b) accompanied by a duly executed instrument of transfer of the bond to the Receiver General for Canada in accordance with the Domestic Bonds of Canada Regulations; or
- (c) registered in the name of the Receiver General for Canada.

"irrevocable standby letter of credit" means any arrangement, however named or described, whereby a financial institution (the "Issuer"), acting at the request and on the instructions of a customer (the "Applicant"), or on its own behalf, is to make a payment to or to the order of Canada, as the beneficiary, or is to accept and pay bills of exchange drawn by Canada, or authorizes another financial institution to effect such payment, or accept and pay such bills of exchange, or authorizes another financial institution to negotiate, against written demand(s) for payment provided that the terms and conditions of the letter of credit are complied with.

The letter of credit shall:

- (a) state the face amount which may be drawn against it;
- (b) state its expiry date;
- (c) provide for sight payment to the Receiver General for Canada by way of the financial institution's draft against presentation of a written demand for payment signed by the authorized departmental representative identified in the letter of credit by his/her office;
- (d) provide that more than one written demand for payment may be presented subject to the sum of those demands not exceeding the face amount of the letter of credit;
- (e) provide that it is subject to the International Chamber of Commerce (ICC) Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICC Publication No. 500;
- (f) clearly specify that it is irrevocable or deemed to be irrevocable pursuant to article 6c) of the ICC Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICC Publication No. 500; and
- (g) be issued or confirmed, in either official language, by a financial institution which is a member of the Canadian Payments Association and is on the letterhead of the Issuer or Confirmer. The format is left to the discretion of the Issuer or Confirmer.

"completion of warranty period" means the later of the date upon which the warranty period expires by the passage of time or the date upon which the obligation of the Contractor related to the warranty provisions of the Contract have been fulfilled.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in contracts which provide for a performance bond as contract financial security.

E5000C (01/06/91) Performance Bonds

In order to ensure that funds will be available to complete the Work according to the terms of the Contract, the Contractor shall, within _____ days after the date of this agreement, furnish the Minister with a duly executed performance bond substantially in the form of Annex B hereto; such bond shall be in the amount of \$_____ being _____ percent of the Contract Price on the date of this agreement; the surety to such bond shall be a company approved by or on behalf of the Treasury Board of Canada.

Full compliance by the Contractor with this requirement shall be a condition precedent to the payment of any monies to the Contractor which, by the terms of the Contract, would otherwise be payable by or on behalf of Canada.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in contracts which provide for a labour and material payment bond as contract financial security.

E8000C (01/06/91) Labour and Material Payment Bond

1. In order to provide funds for unpaid labour, material and service subcontractors, the Contractor shall, within _____ days after the date of this agreement, furnish the Minister with a duly executed labour and material payment bond substantially in the form of Annex C hereto; such bond shall be in the amount of \$_____ being _____ percent of the amount of the Contract Price on the date of this agreement; the surety to such bond shall be a company approved by or on behalf of the Treasury Board of Canada.

2. The Contractor shall post a copy of the bond that is plainly visible where any of the Work is performed.

Full compliance by the Contractor with the requirements set out in paragraphs 1 and 2 shall be a condition precedent to the payment of any monies to the Contractor which, by the terms of the Contract, would otherwise be payable by or on behalf of Canada.
