

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Acceptance of Surety Bonds from Developers

**Policy
Number**

I-108

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Purpose

To provide a policy for County departments to use when surety bonds are offered by developers as security for required public improvements.

Background

Government Code Section 64999 allows a local agency to accept surety bonds from developers as security for required public improvements. It has been the practice of the Department of Public Works and other County departments to accept such bonds only from surety companies listed in the Department of Treasury, Financial Management Service Circular, published annually in the Federal Register. These companies have applied to the Treasury Department's bonding office, been found in compliance with Federal requirements, and approved as sureties or reinsurers for federally funded projects. The Circular indicates each company's bonding limit. Generally, a company is not accepted for the Federal list until it has established a stable, multi-year record.

The State of California publishes an annual list of companies licensed as sureties. It does not, however, indicate each company's bonding limit. Occasionally, developers request that the County accept bonds from surety companies licensed in California, but not on the Federal list.

County departments have, on occasion, accepted surety bonds from State licensed companies as security for completion of construction projects (non-Federal). In these instances, the contractor provided copies of the surety's financial statements for review and analysis by the County's Department of Human Resources, Risk Management Division. The Department of Human Resources determined the company's acceptability as a surety, its bonding limit, and the need for reinsurance. There are two competing interests to be balanced here: (1) The interest served by creating opportunities for small local surety companies to participate in this sector of the economy, and (2) The public interest to be preserved by protecting the County against the possibility of default, should a demand be made on the developer's surety bond. This policy provides a mechanism to serve both these interests.

General Policy

It is the policy of the Board of Supervisors that:

The County will accept surety bonds from developers as security for public improvements when such bonds are issued by a company in good standing with and listed in the Federal Register, Department of Treasury, Financial Management Service Circular, up to the limit indicated therein.

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Alternative Procedure

A developer may submit bonds from a surety licensed by the State, but not on the Federal list, subject to approval by the County's Department of Human Resources, Risk Management Division. The acceptance of such bonds is pendent upon a review and analysis of the proposed surety's financial position.

In all cases under this alternative, the burden will be on the developer to submit the necessary financial statements of the surety company at least 10 days prior to the deadline for submitting the bonds. The financial statements will be reviewed by the Risk Management Division of the Department of Human Resources to determine acceptability of the surety, its bonding limit, and the need for reinsurance. The developer should contact the Planning & Development Services Plan Reviewer to ascertain which financial documents must be submitted.

If a determination is made that a company does not meet the financial requirements for the required bond, the developer is responsible for providing other acceptable security by the final date for submittal. The decision of the Department of Human Resources, Risk Management Division, as to acceptability and bonding limits is final.

The responsibility for meeting all deadlines remain with the developer. The County shall not be responsible for delays or missed deadlines resulting from use of this alternative procedure.

Sunset Date

This policy will be reviewed for continuance by 12-31-20.

Board Action

07-15-86 (64)
12-16-86 (39)
07-26-88 (43)
12-12-89 (49)
07-14-99 (4)
06-23-04 (12)
12-09-08 (33)
12-04-13 (13)

CAO Reference

1. Department of Public Works
2. Department of Human Resources
3. Department of Planning & Development Services