CITY OF SAN ANTONIO

Administrative Directive	**AD 8.11 Financial Management of Surety Documents (bid/proposal guarantees, performance guarantees or payment bonds)**
Procedural Guidelines	Guidelines to ensure consistent citywide processing and treatment of surety documents required by City contracts and ordinances.
Department/Division	Finance Department, Accounting Division
Effective Date	July 1, 2010
Project Managers	Melanie Seale, Controller Tom Schmidt, General Ledger Manager

Purpose

The purpose of this administrative directive (AD) is to establish policies and procedures for use by departments in the financial management of surety documents (bid/proposal guarantees, performance guarantees or payment bonds) received by the City as required by revenue and expenditure contracts, to ensure construction of site improvements, or comply with various City ordinances. This AD will outline the duties and responsibilities of departments who require any of the following: contract solicitations that require bid/proposal guarantees; performance and payment bonds; or other forms of performance guarantees, whether for a contract or to meet other City requirements.

Policy

In order to protect the interest of San Antonio taxpayers, the City requires bid/proposal guarantees, payment bonds and/or performance guarantees (surety documents) on various bids and contracts in connection with construction, alteration, repairs, and revenue contracts. The City may also elect to require surety documents for other contracts, to ensure construction of site improvements, or to meet other requirements in the City Code. The objective of this AD is to ensure that these surety documents are accurately received, recorded, monitored over the life of the contract and released at the completion of the contract in a timely manner, as applicable.

Policy Applies To

This administrative directive applies to all employees who are responsible for performing fiscal operations described herein. This may include, but is not limited to, staff who request, receive, monitor or release surety documents required by City contracts, ordinances and charter; lead departmental fiscal staff; management of the Finance Department; and other departmental staff deemed necessary by the lead fiscal staff.

Definitions

Bid/Proposal Guarantee	This financial guarantee operates to ensure that a party who submits a bid or proposal will enter into the contract, if awarded. If the awarded party fails to enter into the contract, the amount of the security is forfeited to the City. The security is typically in the form of a cashier's check, certified check, or bid/proposal bond. Usually five percent (5%) of the bid/proposal value, the amount of the surety may vary depending on the specifics provided in the solicitation document.

Cash Deposit/Cashier's Checks/Certified Checks/Bank Drafts	A sum deposited with the City by a third party, frequently as a bid/proposal guarantee. Cash will be in United States currency. Cashier's checks will be issued by a licensed Banking institution. Certified checks and bank drafts are guaranteed by a bank and are considered cash and must be issued by a bank in United States currency. Cashier's checks, certified checks and bank drafts are also known as Negotiable instruments.
Letter of Credit (LOC)	An engagement by a bank or other person made at the request of a customer that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the LOC. A LOC may be either revocable or irrevocable. In an irrevocable LOC, the issuer guarantees that it will not withdraw the credit or cancel the letter before the expiration date. Irrevocable LOC are sometimes used as a means of performance guarantee.
Payment Bond	A form of guarantee that the contractor will pay his/her subcontractors who supply labor and his/her suppliers of materials or equipment. Typically used on Capital Projects, the City may also elect to require payment bonds for other types of contracts. This form of guarantee is also known as a type of Surety Bond.
Performance Guarantee	A form of guarantee that the contractor will perform the work in accordance with the plans, specifications and contract documents. A performance guarantee may be made in various forms, such as a performance bond (also known as a type of Surety Bond), a LOC, a Trust Agreement, or a Fidelity Bond.
Trust Agreement	A formal written agreement through which a trustee vests the ownership rights (title) of one or more assets to one or more trustees for conservation and protection on behalf of one or more beneficiaries of the Trust. Trust agreements are sometimes used as performance guarantees.
Log	A document required to be created by city departments which record the requesting department, bid/proposal numbers, bid event description, surety document type, bidder/respondent, amount, forwarded to (Finance or Bidder/Respondent) and sign off receipt, if forwarded to bidder/respondent.
Bid Bonds and/ or Certificates of Insurance Documents	A form of guarantee for taxi cabs that are required to be obtained and filed per Chapter 33 of the City's Municipal Code of Ordinances.

Policy Guidelines

The City will comply with all local, state and federal statues, laws and regulations that are applicable to the recording of liabilities and processing of surety instruments, including their prompt recording within the City's general ledger and timely release in accordance with contract terms, City charter, ordinances and statutes.

For sureties and bid bonds and/or certificates of insurance that are required, the collecting, processing and accounting mandated by the City is described below:

Roles & Responsibilities

I. **Bid/Proposal Guarantee:**

(a) Cash & Negotiable Instruments:

All City Departments	1. Department opens bid documents and logs all cash and/or negotiable instruments received. a. For unsuccessful bids/proposals, (where it is immediately clear that the bidder/respondent will not be eligible for contract award) the cash and/or negotiable instrument can either be returned by the department to the bidder/respondent that day, or forwarded to the Finance Department to be deposited by the City. i. Department is required to document on the log the receipt and release of the cash and/or negotiable instrument, as noted by the bidder/respondent's signature. b. Any remaining cash and/or negotiable instrument held at the end of the day for either unsuccessful or successful bidders/respondents, along with the log, must be sent to Finance – Billings & Accounts Receivable for recording in SAP and deposited, in accordance with the City's Cash Handling AD 8.1. 2. Departments are required to provide to Finance – General Ledger a release of funds request form for remaining unsuccessful bidders/respondents anytime subsequent to the date funds were sent to Finance for deposit. (See Attachment B for Release/Record Request Form).
Finance Department	3. Finance – Billings & Accounts Receivable receives cash, negotiable instruments and the log from departments and establishes the bidder/respondent in SAP (City's system of record). a. Finance – Billings & Accounts Receivable will forward all cash and negotiable instruments to Finance - Treasury for processing in SAP and to deposit in the City's bank account after the bidder/respondent is established. b. Finance – Billings & Accounts Receivable will forward the log to Finance – General Ledger for monitoring and review. 4. Finance – Treasury receives cash and negotiable instruments from Finance – Billings & Accounts Receivable, records value of instruments in SAP by bidder/respondent, and includes the cash and negotiable instruments in its daily deposits. 5. Finance – General Ledger reviews the listing of bid/proposal guarantees recorded in SAP against the log prepared by departments. Variances are followed up on and resolved within two business days of receipt/recording in SAP. 6. Finance – General Ledger receives the release of funds requests from departments and compares that request against the deposit log to approve the release of funds. a. Once approved, Finance - General Ledger signs off on the release form and sends it to Finance - Accounts Payable for payment. b. If variances exist in the request, Finance - General Ledger will coordinate with the requesting department to resolve the variance prior to release of funds. If the variance cannot be resolved, the request will be denied and sent back to the department with an explanation. Denials are reviewed and signed off by the Finance - General Ledger Manager. 7. Finance - Accounts Payable processes the payment request to refund a cashier's or certified check and mails the reimbursement to the bidder/respondent.

	8. Finance - General Ledger reviews that the payment has been processed and the bidder/respondent's deposit has been properly removed from the City's records. 9. Finance - General Ledger balances the individual deposits to the summary and to SAP monthly.
(b)	Other Forms (e.g. bid bonds):
All City Departments	1. Department opens bid/proposal documents and logs all bid/proposal guarantees received. 2. The original bid/proposal guarantee (other than cash or negotiable instruments) is retained within the department until the contract is awarded. 3. At the time of contract award, the department submits to Finance – General Ledger the awarded bidder/respondent's **original** bid/proposal guarantee along with the Release/Record Request Form (see Attachment B). a. The department may copy or scan the bid/proposal guarantee documents for their files prior to submission to Finance – General Ledger. 4. The unsuccessful bid/proposal guarantee is retained by the department in the bidder's file in accordance with City document retention policies. Electronic copies meeting records retention guidelines may be retained and **originals** released to the surety who furnished the guarantee.
Finance Department	5. Finance - General Ledger reviews the bid/proposal guarantees received and agrees them to the logs prepared by the departments adding the non-cash or negotiable instrument guarantees to those previously received documents in binders maintained in Central Finance. Finance - General Ledger adds the bid/proposal log listings to its master file. The bid/proposal guarantees are secured in locked filing cabinets in Finance – General Ledger.
II.	**Performance Guarantee/Payment Bonds:**
All City Departments	1. After receipt, the department submits to Finance – General Ledger the surety instruments (e.g., payment bonds, performance bonds, LOC, trust agreements) along with the Release/Record Request Form (see Attachment B). a. The department may copy or scan the surety documents for their files prior to submission to Finance – General Ledger. 2. When notified by Finance – General Ledger or the City Attorney's Office (CAO) that a surety instrument has been cancelled by the issuer, inform Finance – General Ledger and the CAO whether the cancelled original surety has to be retained by the CAO due to potential claims against the guarantee. 3. Project Mangers identify all bonds or other performance guarantees which have expired and notifies the department for project closure or bond or guarantee renewal. 4. Obtain renewed guarantees from the principal and provide the new surety instruments, along with another Release/Record Request Form, to Finance – General Ledger to record in SAP. 5. Ensure that the bidder/respondent has successfully completed all work outlined in the performance of the awarded contract, and all outstanding administrative items have been resolved or, in the case of non-contract performance guarantees, that all conditions precedent to release have been met, prior to authorizing a release of the surety instrument. Submit a Release/Record Request Form (Attachment B) to Finance – General Ledger. 6. Retain a copy of the Release/Record Request Form (Attachment B) authorizing release of

	surety document(s). Place copy of release form in the contract file or other appropriate department file in the case of non-contract guarantees, in accordance with City document retention policies. Electronic copies meeting records retention guidelines may be retained and **originals** released to the surety who furnished the guarantee.
Finance Department	7. Finance - General Ledger reviews the surety documents received and agrees them to the log, adds the non-cash or negotiable instrument surety documents to those previously received documents in binders maintained in Central Finance. Finance - General Ledger adds the surety log listings to its master file. 8. Finance - General Ledger notifies the department which submitted the surety instrument and the CAO when a cancellation notice has been received from the issuer of the surety instrument. 9. Finance - General Ledger forwards the **original** cancelled surety documents to the CAO at the request of the department who submitted the surety instrument. 10. Finance - General Ledger reviews master file for closure of contract and release of surety or renewal documents on expired guarantees. Finance – General Ledger notifies department of outstanding items. 11. Finance - General Ledger receives the release of surety requests from departments and compares that request against the master file log to approve the release. a. Once approved, Finance - General Ledger signs off on the release form and sends the surety documents back to the originating department. b. If variances exist in the request, Finance - General Ledger will coordinate with the requesting department to try and resolve the variance. If the variance cannot be resolved, the request is denied and sent back to the department with an explanation. Denials are reviewed and signed off by the Finance - General Ledger Manager.
III. Bid Bonds and/or Certificates of Insurance:	
All City Departments	1. Continue to follow Municipal Code Chapter 33. Departments will provide the City Clerk's Office with the applicable bid bonds and/or certificates of insurance. 2 City Clerk's Office will record the Surety Bonds on the log and forward the log and Bonds to Finance – General Ledger in accordance with this AD.
Finance Department	3. Finance – General Ledger will review the Bid Bonds and/or Certificates of Insurance received and agree them to the logs prepared by the City Clerk's Office. The Bid Bonds and/or Certificates of Insurance will be maintained with any other Chapter 33 Bonds received, and the log added to the master file maintained in Finance – General Ledger. The Bid Bonds and/or Certificates of Insurance are secured in locked filing cabinets in Finance – General Ledger.

Resources

City procedures for soliciting, monitoring and defaulting on bonded projects.	http://www.sanantonio.gov/contracts/Presentations/Surety Bonds.pdf

Purchase Department: Procurement Policy and Procedures Manual	http://www.sanantonio.gov/pgs/
UDC City Charter Codes	http://www.sanantonio.gov/dsd/resources.asp
City's Municipal Code of Ordinances	http://www.municode.com/resources/gateway/asp?pid=11508&sid=43

Attachments

Acknowledgment Form	Attachment A
Release/Record Request Form	Attachment B
Surety Document Log	Attachment C

This directive supersedes all previous correspondence on this subject.

Information and/or clarification may be obtained by contacting the Finance Department, Accounting Division at 207-5734.

CITY OF SAN ANTONIO

EMPLOYEE ACKNOWLEDGMENT FORM
FOR

ADMINISTRATIVE DIRECTIVE 8.11
Financial Management of Surety Documents (bid/proposal guarantees, performance guarantees or payment bonds)

Employee:

I acknowledge that on _____, 20___, I received a copy of Administrative Directive 8.11 Financial Management of Surety Documents (bid/proposal guarantees, performance guarantees or payment bonds). I understand if I should have any questions I should contact my Human Resources Generalist.

_____	_____
Employee Name (Print)	Department
_____	_____
Employee Signature	SAP Employee ID Number

Finance/ AD 8.11
(As of July 1, 2010)
Attachment A

201 File (original)
Field Folder Copy
Employee Copy

CITY OF SAN ANTONIO
DEPARTMENT NAME
INTERDEPARTMENTAL CORRESPONDENCE

TO:
FROM:

COPIES: File
SUBJECT: **[Guarantee Type] [Release/Record]**
DATE:

[___] Attached for safekeeping is the [___] bid/proposal guarantee, [___] performance guarantee, and/or [___] payment bond associated with the contract or ordinance described below. If you have any questions or concerns regarding the bond during the period of your custody, please contact the office and position in the sending department identified below. Please hold the bond until requested to release them back to the sending department for final disposition upon completion of the associated project.

[___] Please release the [___] bid/proposal guarantee, [___] performance guarantee, and/or [___] payment bond associated with the contract or ordinance described below to the requesting party for release to the bidder/respondent and filing in accordance with City document records retention policies.

Contact Information:

Division/Section of the Sending Department:	
Title of Contact Position:	
Current Incumbent's Name:	
Telephone Number:	

Contract / Ordinance Information:

Project Name:	
Contractor Name:	
Ordinance No.:	
Ordinance Date:	
Contract Effective Date:	
Contract Expiration Date or Anticipated Project Completion Date:	
Renewal Terms: (Briefly Describe)	
No. of Bonds Required:	

Guarantee Information:

Type:	
Surety Company:	
Surety Bond No.:	
Guarantee Amount:	
Address:	
Phone Number:	

Finance / AD 8.11
(As of July 1, 2010)
Attachment B

Surety Document Log

[Department]

Surety Bid Event Description	Surety Document Number	Surety Doc. Type	Bidder/ Respondent	Date Rec'd	Amount	Released to Finance	Released to Bidder/ Respondent	Bidder/Respondent Signoff of Receipt

This log is a complete and accurate representation of surety documents received, released and remaining in the City's possession as of the end of today _____, 20___.

_____	_____	_____
Print Name	**Title**	**Signature**

Finance / AD 8.11
(As of July 1, 2010)
Attachment C