

PERFORMANCE GUARANTEES AND DEPOSITS POLICY

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Section 1 - Background

For contracts valued over \$75,000, the University requires bidders to provide a bid bond or contractors to provide a performance guarantee to protect AUB in case the bidder or contractor fails to adhere to the terms of the bid or contract documents.

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Section 2 - Policy

1. Contract Language

In all cases where AUB requires a bidder to provide a bid bond or a contractor to provide a performance guarantee, the terms and conditions of such bond or guarantee shall be clearly stated in the bid and contract documents. In the case of construction works, the language should follow the standard terms and conditions adopted by the Facilities Planning and Design Unit.

2. Bid Bonds

Are required in the case of construction or service contracts valued over \$75,000 in the amount of 2.5 percent of the bid price. Bid bonds may also be required in the case of contracts of lesser value. The bid bond must be in the form of a certified check payable to AUB, or an irrevocable and unconditional bank guarantee payable at first demand and issued by a bank acceptable to AUB.

AUB will cause the bidder to forfeit the bond if the bidder who is awarded the contract fails to enter into a contract.

3. Performance guarantees

Performance guarantees in the amount of 10 percent of the contract value are required for construction contracts valued at more than \$75,000. In the case of contracts of lesser value, or in the case of service contracts when there is a risk that if the contractor fails to perform in accordance with the terms of the contract AUB will suffer financial loss, a performance guarantee may be required. The performance guarantee must be in the form of a certified check payable to AUB, or an irrevocable and unconditional bank guarantee payable at first demand and issued by a bank acceptable to AUB.

AUB may, in accordance with the terms of the contract, call upon the performance guarantee in order to recover any financial losses incurred as a result of the contractor's failure to perform in accordance with the terms of the contract. The text of the guarantee shall clearly state that AUB's decision as to any such financial losses and amount thereof shall be final and binding. All bid and contract documents shall reflect the relevant provisions of this Policy.

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Section 3 - Procedures

1. Every tender or request for proposal (RFP) that requires the bidders to submit a bid bond or contractors to provide a performance guarantee shall clearly describe the type and amount of bond or guarantee required and the text thereof.
2. The conditions under which AUB may require forfeiture of the bid bond or call upon the performance guarantee shall be clearly set out in the tender or RFP and in the contract documents.
3. Upon opening the bids or proposals, the senior administrator present shall be responsible for tabulating any bid bonds received.
4. All bid bonds, whether in the form of a bank guarantee or certified check, shall be submitted to the Office of the Comptroller, Cashier's Section.
5. Certified checks shall be deposited upon receipt for clearance by the bank, and the value received credited to the appropriate liability account in the general ledger. The comptroller will maintain a record of the amounts constituting the balance of bonds.
6. Bank guarantees will be placed in the vault for safekeeping, and the cashier will maintain a register of guarantees.
7. Bank guarantees may only be released to the department from which they were received against the signature of the department head or other authorized approval, in accordance with the [Signing Authorities Policy](#).
8. The head of the department responsible for the contract shall equally be responsible for ensuring that performance bonds are maintained current.
9. Repayment of bid bonds shall be made against a payment voucher authorized by the relevant department head or other required approval. If the amount exceeds \$5,000 (the limit of signing authority for department heads), the payment request must be signed by a person with the requisite authority, in accordance with the provisions of the [Signing Authorities Policy](#).
10. The cashier shall keep a logbook of all deposited and released bid bonds and performance guarantees.
11. No interest or commission is payable on bonds cashed by the University.
12. Similar procedures apply to the receipt, recording, and safekeeping of performance guarantees.
13. Performance guarantees will be released based on written instructions by the contract signing authority, i.e., director of unit, VP, etc., in accordance with the provisions of the [Signing Authorities Policy](#).

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