



Cyngor Sir CEREDIGION County Council
Cyllid a Chaffael a Priffyrdd a
Gwasanaethau Amgylcheddol | Finance and
Procurement and Highways and
Environmental Services

Policy and Procedures

Bonds and Sureties

June 2022

Version Control

Version	Date	Author	Comment
1.0	June 2022	Finance	Legal & Governance Services and Highways and Environmental Services input

Contents

Policy	4
1. Introduction	4
2. Purpose of this Policy	4
Procedure	6
3. Introduction	6

Policy

1. Introduction

- 1.1 In order to ensure that there is a clear approach taken for the approval of a bondsman Ceredigion County Council intend this policy to be applied by officers to minimise the risk for the Council and ensure that a fair and consistent approach is taken in all cases.

2. Purpose of this Policy

2.1 The purpose of this policy is to ensure that the Council follows the correct procedure when the Council requires a Performance Bond (sometimes known as a Construction Guarantee Bond) from a contractor with regard to contracts awarded by the Council in accordance with its Contract Procedure Rules. The bond provides protection to the Council against any losses and damages sustained as a result of the contracting party failing to perform its contractual obligations.

2.2 The policy will apply to any bond required by the Council including, but not limited to, contract bonds as referred to in point 4 above, bonds relating to s.38/278 Agreements and Sustainable Drainage Systems (SuDS) Agreements as detailed below.

2.3 The Council enters into Section 38/278 Agreements (Highways Act 1980) with a developer when that developer wants to construct a new estate road for industrial, residential or general traffic and wishes to offer that road to the Council for adoption as a public highway. A surety/bondsman enters into the S.38/278 Agreement alongside the developer so that if the developer fails to meet their contractual requirements then the Council can utilise the bond to ensure that work is undertaken to complete estate roads to the appropriate standard.

2.4 The Council enters into SuDS Agreements (Schedule 3 Flood and Water Management Act 2010 and subsequent legislation made thereunder) with a developer when that developer must construct sustainable drainage systems as part of their development that are adoptable by the Council as the SuDS Approving Bondy (SAB). Similar to S.38/278 Agreements, a surety/bondsman enters into the SuDS Agreement alongside the developer so that if the developer fails to meet

their contractual requirements under the agreement, the Council can call in the bond and utilise it to undertake the works up to adoptable standard.

2.5 The Council will be responsible for specifying the value of the Bond required (and any yearly inflationary or other set increase as considered appropriate by the Council) and also specifying the value and timing of any part release throughout the duration of the contract/agreement which relates to the bond.

Procedure

3. Introduction

Prior to the Council entering into any contract/agreement which has a bond provided by a 3rd party except for cash backed bonds), the officer(s) dealing with the contract/agreement shall refer the details of the proposed surety/bondsman and the bond amount to Finance and Procurement Services for a due diligence check. Following the due diligence check the Finance and Procurement Service shall confirm to the relevant officer(s) whether the surety/bondsman is approved under the provisions of this policy. The types of bonds and surety/bondsman acceptable to the Council are detailed below.

3.1 **Cash Backed Bonds**

The Council's preference is to accept a bond paid in 'cash'. Any cash bond would be paid to the Council in accordance with the terms of the contract/agreement the bond relates to. When the contractual requirements are met the bond will be repaid, with interest added, to the contractor or developer – this might happen in staged payments depending on the agreement in place. If the contractor or developer does not meet the contractual requirements then the Council can use the bond together with the interest to ensure the requirements are fulfilled. The cash based bond is the easiest and most secure way for the Council to ensure funds are readily available which will result in works being completed.

3.2 **Non Cash Backed Bonds**

If a cash backed bond is not available the Council will accept a bond secured by a third party – these are commonly referred to as surety bonds and are entered into at the same time as the contract/agreement with the Council. The contractor or developer pays a premium to a 'bondsman' to underwrite the cost of providing a bond. The 'bondsman' assumes the responsibility of paying the Council money if the contractor or developer defaults or is unable to make payments subject to the contractual agreement with the Council.

An acceptable 'bondsman' must have an appropriate long term credit rating. The three recognised credit rating agencies are Moody's, Standard & Poor's and Fitch. Therefore an acceptable 'bondsman' must have a credit rating with Moody's of A3 or a credit rating with Standard & Poor's or Fitch of A-.