

CYNGOR SIR CEREDIGION COUNTY COUNCIL

Report to: Cabinet

Date of meeting: 19 March 2024

Title: Corporate Bonds and Sureties Policy

Purpose of the report: To agree amendments to Corporate Bonds and Sureties Policy

For: Decision

Cabinet Portfolio and Cabinet Member:
Councillor Gareth Davies, Cabinet Member for Finance and Procurement

BACKGROUND

Cabinet approved the corporate bonds policy on 5 July 2022. The policy was introduced to allow officers to have a consistent approach to approving bonds with third parties.

The policy allows a contractor or developer to pay a premium to a 'bondsman' to underwrite the cost of providing a performance bond. The 'bondsman' then assumes the responsibility for paying the Council money if the contractor or developer defaults or is unable to make payments subject to the contractual agreement with the Council.

The current policy states 'bondsman' must have a minimum credit rating with one of the three credit rating agencies Moody's, Standard & Poor's and Fitch.

PROPOSAL

It is proposed to add AM Best as a fourth credit rating agency to the policy. AM Best are a global credit rating agency that specialises in the insurance industry. It is proposed that a minimum acceptable long-term rating of A- (Excellent) with AM Best will provide additional flexibility to contractors/developers seeking a 'bondsman' provider whilst not exposing the Council to any additional risk.

If agreed, the policy will therefore state that any proposed 'bondsman' must have a minimum credit rating with one of the four credit rating agencies below.

Credit Rating Agency	Minimum Long Term Credit Rating
Moody's	A3
Standard & Poor's	A-
Fitch	A-
AM Best	A-

The proposed amended policy is attached as Appendix 1.

It is also proposed that powers be delegated to the Section 151 Officer (Corporate Lead Officer: Finance & Procurement) to;

- make minor amendments to the Corporate Bonds and Sureties Policy and,
- accept a proposed 'bondsman' where one is unable to be procured with a suitable credit rating with one of the four credit rating agencies. Financial information available to the Council will be used to inform this decision on a case-by-case basis.

Wellbeing of Future Generations:

Has an Integrated Impact Assessment been completed? If, not, please state why.

No – amendment to existing policy.

Summary of Integrated Impact Assessment:

Long term: N/A
Collaboration: N/A
Involvement: N/A
Prevention: N/A
Integration: N/A

Recommendation(s):

It is recommended that Cabinet approves:

- a) The addition of AM Best as credit rating agency to the policy
- b) Delegate powers to the Section 151 Officer to;
 - i. make minor amendments to the Corporate Bonds and Sureties Policy
 - ii. accept a proposed 'bondsman' where one is unable to be procured with a suitable credit rating with one of the four credit rating agencies.

Reasons for decision:

To provide additional flexibility to contractors/developers seeking a 'bondsman' provider whilst not exposing the Council to any additional risk.

Overview and Scrutiny:

Original policy considered by the Corporate Resources Overview and Scrutiny Committee held on 21 June 2022

Policy Framework:

Corporate Bonds and Sureties Policy

Corporate Well-being Objectives:

Boosting the Economy

Finance and Procurement implications:

Maintains security of financial resources.

Enables a smoother procurement process by allowing more flexibility to contractors in procuring bondsmen.

Legal Implications:

None

Staffing implications:

None

Property / asset implications:

None

Risk(s):

Maintains security of financial resources.

Statutory Powers:

Local Government Finance Act 1972

Background Papers:

None

Appendices:

Appendix 1 – Updated Corporate Bonds and Sureties Policy

Corporate Lead Officer:

Duncan Hall, Corporate Lead Officer: Finance & Procurement

Reporting Officer:

Justin Davies, Corporate Manager: Core Finance

Date:

4th March 2024



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

March 2024

Version Control

Version	Date	Author	Comment
1.1	March 2024	Finance	Addition of AM Best as an acceptable Credit Rating agency for non-cash backed bonds.
1.0	June 2022	Finance	Legal & Governance Services and Highways and Environmental Services input

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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 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.

To be considered as an acceptable 'bondsman' they must have a minimum long term credit rating with at least one of the four credit rating agencies as shown in the table below,

Credit Rating Agency	Minimum Long Term Credit Rating
Moody's	A3
Standard & Poor's	A-
Fitch	A-
AM Best	A-