

# **Bid Bond Forfeiture of Surety Bond, Cash or Other Security Instrument**

**UDOT 08B-27**

Effective: August 26, 1983

Revised: June 11, 2013

## **Purpose**

To establish a policy for the Utah Department of Transportation (Department) to recognize there are certain instances when it would be inequitable to require prospective bidders to forfeit amounts posted as security to guarantee a bid. Such security is usually posted in the form of a surety bond but may be in cash or other security instrument. This policy is for the purpose of defining the conditions that will justify relieving a bidder from the requirement to forfeit a bid security deposit.

## **Policy**

The Department will to provide a procedure where a prospective bidder can be relieved of the requirement to forfeit the bid security posted to guarantee a highway contract bid with the Department.

## **Definitions**

### **Materially Different**

Anything exceeding three percent of the intended total contract bid.

## **Procedures**

### **Bid Bond Forfeiture of Surety Bond, Cash, or Other Security Instrument**

**UDOT 08B-27.1**

**Responsibility:** Prospective Bidder

#### **Actions**

1. Apply to the Department in writing and specify in detail the reason for seeking relief from bid security forfeiture.
2. Submit a written request to the Department no later than 24 hours from the date bids were opened to establish the following items as a minimum:
  - a. The proposed bid contains a significant mistake. The mistake must be administrative or procedural in preparing or in filling out the proposed bid and not due to an error in judgment or to carelessness in inspecting the site of the work, or in reading the plans or specifications.
  - b. The mistake made the bid materially different than it was intended to be.

**Responsibility:** Director of Construction and Materials

3. Review the written request for relief
4. Verify the information provided.
5. Decide to accept the request or forfeit the bid security based on the information provided by the Prospective Bidder.
6. Notify in writing the Prospective Bidder, the Department Deputy Director, and the Attorney General's Office of the decision.
7. Follow administrative procedures in Utah Administrative Code, Rule R-907-1, Appeal of Departmental Actions.
8. Return bid security, if appropriate.

**Responsibility:** Prospective Bidder

9. Accept the decision of the Engineer of Construction and Materials or

10. Appeal the decision, in writing, to the Deputy Director.

**Responsibility:** Deputy Director

11. Assign hearing officer to hear case.
12. Schedule a hearing with the Prospective Bidder
13. Make a ruling based on the information provided by the Prospective Bidder and the Engineer of Construction and Materials.
14. Provide written notice of the ruling to the Prospective Bidder.