

## **731-005-0550**

### **Bid or Proposal Security**

(1) Security Amount. If ODOT requires Bid security, it shall be 10% of the Offeror's Bid. If ODOT requires Proposal security, it shall be in an amount that ODOT determines to be reasonably necessary or prudent to protect the interests of ODOT, and such amount shall be stated in the Solicitation Document. ODOT shall not use Bid or Proposal security to discourage competition. ODOT shall clearly state any Bid or Proposal security requirements in its Solicitation Document. The Offeror shall forfeit Bid or Proposal security after Award if the Offeror fails to execute the Contract and promptly return it with any required performance bond, payment bond and any required proof of insurance. See ORS 279C.365(5) and 279C.385.

(2) Requirement for Bid Security (Optional for Proposals). Unless ODOT has otherwise exempted a solicitation or class of solicitations from Bid security pursuant to ORS 279C.390, ODOT shall require Bid security for its solicitation of Bids for Public Improvements. This requirement applies only to Public Improvement Contracts with a value, estimated by ODOT, of more than \$50,000. See ORS 279C.365(6). ODOT may require Bid security even if it has exempted a class of solicitations from Bid security. ODOT may, at its option, require Proposal security that serves the same function with respect to Proposals that Bid security serves with respect to Bids. See ORS 279C.365(5) and ORS 279C.400(5).

(3) Form of Bid or Proposal Security. ODOT may accept only the following forms of Bid or Proposal Security:

(a) A surety bond from a surety company authorized to do business in the State of Oregon. If a surety bond is submitted, ODOT's standard Bid or Proposal bond form must be used, which is included with the Bid or Proposal booklet. The original bond must be submitted with the surety company's seal affixed, or in the case of an Electronic Offer, an electronic version of the bid bond may be submitted.

(b) An irrevocable letter of credit issued by an insured institution as defined in ORS 706.008; or

(c) A cashier's check or Offeror's certified check made out to the Oregon Department of Transportation.

(4) Return of Security. ODOT shall return or release the Bid or Proposal security of all unsuccessful Offerors after a Contract has been fully executed and all required bonds and insurance have been provided, or after all Offers have been rejected. ODOT may return the Bid or Proposal security of unsuccessful Offerors prior to Award if the return does not prejudice Contract Award and the security of at least the Bidders with the three lowest Bids, or the Proposers with the three highest scoring Proposals, is retained pending execution of a Contract.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 and 279A.065

Stats. Implemented: ORS 279C.365, 279C.380, 279C.385, 279C.390, and 279C.400.