



**Policy Title:** Performance Security  
**Report Number:** ELT2021-0688  
**Adopted by:** Executive Leadership Team  
**Effective Date:** June 1, 2021  
**Last Amended:** N/A  
**Policy Owner(s):** Finance - Treasury

**Category: Administration Policy**

**1. PURPOSE**

*1.1. The purpose of this administration policy is to:*

- a. Establish the governance structure of Performance Security at The City, including assigning the responsibility for Performance Security Requirements and administration, thus mitigating the risks associated with decentralized management and enabling the benefits of central administration; and
- b. Establish a framework under which business areas may establish standards for how and when The City utilizes Performance Security as a risk management tool.

**2. POLICY STATEMENT**

- 2.1. The City may exercise its authority to require Performance Security for agreements where it is a project owner or requires specific performance from other parties.
- 2.2. The City shall establish the Performance Security Requirements when it enters into agreements where Performance Security is required.
- 2.3. The City shall establish requirements with respect to the acceptable issuer, form and administration of Performance Security.
- 2.4. All Performance Security received by The City shall be administered in accordance with this Policy and its standards.

**3. DEFINITIONS**

*3.1. In this administration policy:*

- a. **"Effective Date"** means the date upon which agreements are considered to take effect, which may be a past, present or future date;
- b. **"Letter of Credit"** means a letter issued by a bank guaranteeing payment;
- c. **"MGA"** means the Municipal Government Act, R.S.A. 2000 c. M-26, including all amendments and regulations thereto;

- d. **"Performance Bond"** means a bond issued by a surety company that guarantees a party's performance or maintenance of its obligations under an agreement;
- e. **"Performance Security"** means a monetary or financial guarantee to be furnished by a party for due performance of the agreement placed on it. Performance Security applicable to this Policy includes Letters of Credit and Performance Bonds, but does not include cash deposits, parent company guarantees, or other forms of performance security that may be available in the market from time to time; and
- f. **"Performance Security Requirements"** mean the specific terms and conditions of a Performance Security agreement, including its inclusion, timing, and amounts.

#### **4. APPLICABILITY**

- 4.1. This Policy shall apply to all new and existing Performance Security in which The City is the beneficiary.
- 4.2. If an existing executed agreement between The City and its parties is in conflict with this Policy, the Business Unit will use reasonable efforts to negotiate with the applicable contractor to amend the agreement to meet the requirements of this Policy at the next available opportunity.

#### **5. LEGISLATIVE AUTHORITY**

- 5.1. The City has passed bylaws, including but not limited to bylaws 43M99 and 8M2001, as amended or replaced from time to time, to ensure compliance with the provisions of the MGA when executing agreements.
- 5.2. Performance Security requirements will be set out in various agreements and must be authorized by the MGA, or by individuals to whom authority has been delegated.

#### **6. ROLES AND RESPONSIBILITIES**

- 6.1. *Finance is responsible for:*
  - a. Establishing and maintaining the minimum standards required in a Letter of Credit, including requirements around form and issuer;
  - b. Reviewing the content of Letters of Credit in the event template deviations are requested;
  - c. Administering Letters of Credit through a centralized system, including receipt of all original documentation;
  - d. Administering amendments to Letters of Credit; and
  - e. Advising Business Units on the Performance Security Requirements relating to Letters of Credit in an agreement, as required.
- 6.2. *Law is responsible for:*
  - a. Establishing and maintaining the minimum documentation standards required in a

- Performance Bond, including requirements around form and issuer;
  - b. Reviewing the content of Performance Bonds in the event template deviations are requested;
  - c. Administering Performance Bonds, receiving and maintaining Performance Bond documentation, except where this responsibility is delegated to a Business Unit for a specific category of Performance Bond under this Policy's standards;
  - d. Administering amendments to Performance Bonds; and
  - e. Advising Business Units on Performance Security Requirements relating to Performance Bonds in an agreement, as required.
- 6.3. *Business Units are responsible for:*
- a. Seeking advice from Finance and Law to develop the terms and conditions of Performance Security Requirements for any non-routine or major agreement;
  - b. Establishing and amending the commercial terms and Performance Security Requirements of agreements entered into by The City;
  - c. Monitoring the underlying agreements and advising Finance or Law if amendments or enforcement of Performance Security is required; and
  - d. Liaising with Finance or Law where applicable, to execute, amend or cancel Performance Security.

## **7. CONSEQUENCES OF NON-COMPLIANCE**

- 7.1. Failure to adhere to this Policy and its associated standards and procedures may result in disciplinary action up to and including termination.

## **8. HISTORY**

<b>Policy Action</b>	<b>Date</b>	<b>Report Number</b>	<b>Description</b>
<b>New Policy</b>	<b>June 1, 2021</b>	<b>ELT2021-0688</b>	<b>New policy approved by ELT</b>