

## **CONDITIONS FOR APPROVAL OF PERFORMANCE BOND**

To satisfy the surety/financial assurance requirements of the Engineered Control (EC) Application, the Applicant must submit for the Commissioner's review and written approval the amount and format of the proposed financial instrument. Regulations of Connecticut State Agencies §22a-133k-2(f)(2)(B)(iv). The following instructions set forth the terms and conditions for demonstrating financial assurance by use of a Performance Bond (Bond) that will be acceptable to the Commissioner.

### Issuing Institution

The Surety(ies) issuing the Bond must, at a minimum, be among those companies listed as acceptable Sureties on Federal bonds in the most recent version of *Circular 570 of the U.S. Department of Treasury* and maintain a financial strength rating of B+ as rated by A.M. Best. Documentation of compliance with this requirement must be submitted to the Commissioner with the originally-signed duplicate of the Performance Bond.

### Performance Bond Requirements

1. The wording of the Bond must be identical to the wording specified in the DEEP Financial Assurance Performance Bond template.
2. The amount of the Bond must be at least equal to the amount determined in accordance with the Appendix C, *Guidance Document Engineered Controls, Financial Assurance Guidance, February 2009 (Rev. November 2010)*. The amount shall be in current dollars.

### Revised Cost Estimates

Any required revised cost estimate must be submitted no later than 30 days prior to the anniversary date of the Performance Bond in accordance with the applicable provisions of the above-noted Appendix C.

### Proof of Financial Assurance

The Performance Bond or an originally-signed duplicate of the Bond must be submitted to the Commissioner as proof of financial assurance in accordance with the schedule outlined in the approved EC and within 60 days of the Commissioner's approval of the revised cost estimates thereafter. The Commissioner shall act as beneficiary of the Bond and secure the original and subsequent riders or amendments in a fire-proof, locked cabinet or vault.

### Surety Liability

Under the terms of the Bond, the Surety(ies) will become liable on the Bond obligation when the Applicant fails to perform as guaranteed by the Bond.

### Terms of Performance Bond

1. Under the terms of the Bond, the Surety(ies) may cancel the Bond by sending notice of cancellation by certified mail to the Applicant and to the Commissioner. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the Applicant and the Commissioner, as evidenced by the return receipts. The Applicant will be required to submit another form of financial assurance for the Commissioner's approval within 90 days of receipt of the notice of cancellation.
2. If the Applicant does not establish alternate financial assurance and obtain written approval of such alternate assurance from the Commissioner within 90 days after receipt by both the Applicant and the Commissioner of a notice of cancellation from issuing institution, the Surety(ies) will place the funds in the amount guaranteed for the EC in a dedicated account as directed by the Commissioner.
3. Whenever the current cost estimate increases to an amount greater than the existing financial assurance, the Applicant shall within 60 days either cause the financial assurance to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Commissioner, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current estimate decreases, the financial assurance may be reduced to the amount of the current cost estimate following written approval by the Commissioner.

### Termination of Performance Bond

DEEP will give written consent to the Applicant that the Bond may be terminated when:

- (a) the Applicant receives the Commissioner's written approval of an alternate form of financial assurance; or
- (b) DEEP releases the Applicant from the requirements of the EC.