# **PROCEDURES FOR PLACING OF SECURITIES IN LIEU OF CONTRACT RETENTIONS**

Section 10852 of the Public Contract Code states, in part, that:

*"At the request and expense of the contractor, and with the approval of the trustees, any amount withheld pursuant to Section 10851 may be deposited with the Treasurer as the escrow agent, who shall pay such moneys to the contractor upon the placing of securities eligible for the investment of state funds under Section 16430 of the Government Code or bank certificates of deposit into such escrow account by the contractor."*

Please note that only the Treasurer is empowered by the statute to act as escrow agent.

1. The Trustees' Escrow Agreement, Form 704.01, contains all the conditions that must be met prior to the release of any retention to the Contractor. The consent of the sureties who issued the performance and payment bonds must be certified in the same manner as the issuance of the bonds.

2. Three counterparts of the escrow agreement will be required, each signed by the Contractor, Escrow Agent and the Trustees, with the sureties' consent attached.

3. Each party to the Escrow Agreement will be furnished a fully executed, wet signature counterpart.

4. Contract retentions will be released after the completion of the Escrow Agreement by all parties, the filing of approved securities and their acceptance by the Escrow Agent.

5. Escrow Agreements will be established for five percent (5%) of the base contract award, rounded up to the next $10,000.00.

6. Securities may be deposited per Escrow Agreement Section 1-A(2); however, no contract retention will be released until adequate securities are on deposit with the Escrow Agent.

7. Escrow Agreement will not be established for projects with bad performance, poor progress and pending claims or litigation.

8. Monthly releases of the contract retention will be in accordance with the Escrow Agreement.

9. Specific instructions for the transfer of the securities will be issued to the Contractor by the Escrow Agent, i.e., State Treasurer’s Office, who may be contacted at the address and telephone number below:

State Treasurer’s Office

Securities Clearance Section

915 Capitol Mall, Room 117

Sacramento, California 95814

Telephone: (916) 653-4032

10. The State Treasurer's Office (STO) will not execute any securities transaction without the approval of the Trustees. Therefore, it will be necessary for the Contractor to submit a request in writing to the Trustees to deposit, exchange, or withdraw any securities with the STO. The Contractor must use “Request for Securities Transaction” form included with this package.

11. Escrows are to be established in accordance with the schedule of fees that the Escrow Agent and Trustees will charge the Contractor to offset their overhead costs. The Trustees will collect fees by deducting them from moneys payable on the contract at that time. The STO will bill the contractor separately for their fees.

12. Refer all questions related to issues other than the transfer of securities to the Trustees’ Construction Administrator, at telephone [insert phone number].

13. Refer all questions related to the transfer of securities to the Trustees’ Escrow Representative, at telephone [insert phone number].

Attachments:

 • Escrow Agreement, Form 704.01

 • Escrow Fee Schedule, Form 704.02

 • Request for Securities Transaction, Form 704.06 (refer to Item #10)

 • Request for Payment of Retention to Contractor, Form 702.12R