

01 29 54 – RETAINAGE ESCROW INITIATION

PART 1 - GENERAL

1.01 BASIC REQUIREMENTS

- A. Reference Tennessee Code Annotated (TCA) § 66-34-104.
- B. In accordance with State law retainage shall be deposited into an interest-bearing escrow account if the original Contract Sum is \$500,000 or greater.
- C. Failure to have the escrow account operational by the time of the Contractor's second application for payment will result in delay of payment or inability of the Owner to make payment. Any such delay or inability to pay will not be grounds for relief under the prompt payment statutes.

1.01 BANKING INSTITUTION REQUIREMENTS

The banking institution handling the retainage escrow account must be in an appropriate custodial care agreement with the State Treasurer. If not already in such an agreement, a banking institution can request such an agreement from the State Treasurer, subject to meeting eligibility requirements of TCA §12-4-108(c).

1.03 PROCESS

- A. Shortly after award of contract, the Tennessee Department of Finance and Administration (F&A) will send the Contractor information for starting the account. This information typically includes the following:
 - 1. Procedural guide
 - 2. Forms including the basic application provided herein as Form A.
 - 3. List of banks that currently have agreements with the State to host retainage escrow accounts.
- B. The instructions from F&A will include a name and phone number to call for help if the Contractor needs help completing Form A or if the Contractor plans to use a lending institution that does not have a current agreement with the State for hosting retainage escrow.
- C. Immediately upon award of a contract with a Contract Sum of \$500,000 or greater, complete the Form A shown in this section, arrange for the completed Form A to be executed by the escrow bank, and instruct the bank to submit the original wet-signature Form A to the following address.

Retainage Escrow Coordinator
Tennessee Department of Finance and Administration
Office of Business and Finance
Suite 2000 William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue
Nashville TN 37243-0294

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FORM A
APPLICATION FOR THE SUBSTITUTION OF SECURITIES FOR ALL AMOUNTS
RETAINED ON STATE BUILDING COMMISSION CONSTRUCTION CONTRACTS

Date: _____

RE: Contract Number: _____
Project No.: _____
Location: _____

Dear State Building Commission:

Pursuant to the provisions of Tennessee Code Annotated, Sections 12-4-108,

Contractor's name and
address as appearing
on construction
Contract:

[Empty rectangular box for contractor information]

hereby requests that whenever payment for which certain amounts are retained by the State Building Commission as determined by the subject construction contract, the amount so retained be substituted for approved securities, as designated by the Tennessee State Treasurer.

The undersigned Contractor hereby appoints _____
(Name of Banking Institution)

located at _____ to be its
(Complete Address of Banking Institution)

agent and attorney-in-fact to receive all amounts retained by the State Building Commission under the provisions of the subject construction Contract and to purchase Retainage Securities of the following type: _____
(Description & Account Number)

The appointed Banking Institution, as indicated by the acceptance signature shown below, agrees to enter or has already entered into a Trust Agreement with the Tennessee State Treasurer to act as custodian and servicing agent of Retainage Securities and to perform all assigned duties and responsibilities with respect thereto as set forth in the Trust Agreement, which is herein incorporated by reference.

Very truly yours,

(Signature of Authorized Representative of Contractor) (Title)

ACCEPTED:

(Signature of Authorized Officer of Banking Institution) (Title)

CONTACT PERSON (BANK) _____ PLEASE PRINT

PHONE NUMBER _____

END OF SECTION