

Surety Bond Requirements for Third-Party Logistics Providers and Nonresident Third-Party Logistics Providers

Questions and Answers

Q. What documentation does our company need to provide to verify that our annual sales are less than \$10,000,000?

A. Please submit a copy of the companies tax return for the previous year.

Q. Our company is a manufacturer licensed by the FDA and appears to be exempt from the bonding requirement. Is that correct?

A. A licensed manufacturer who only distributes drugs of its own manufacture, all of which have an approved new drug manufacturing application on file with the FDA, are exempt from the surety bond requirement. (See Business and Professions Code sections 4162 and 4162.5)

Q. How do we communicate with the board that our business is exempt from the bonding requirement?

A. To document this exemption, please provide the board with a list of manufactured drugs, including the respective NDC number along with a statement certifying that the business only distributes its own products.

Q. We are a licensed third-party logistics provider that only distributes products to pharmacies with the same ownership. Are we required to comply with the surety bond requirement?

A Yes.

Q. We have a surety bond on file with the State of Florida. Will this bond satisfy California's requirement?

A. No. A surety bond must be on file with the California State Board of Pharmacy.

Q. We have checked the board's Web site, but are unable to locate the forms. Where are they?

A. The \$90,000 surety bond form, standby letter of credit form and cash deposit form are now available on the board's Web site.

Q. What sections of California law require third-party logistics provider to obtain a surety bond of other equivalent form of security?

A. Reference California Business and Professions Code section 4162 for third-party logistics provider and section 4162.5 for nonresident third-party logistics provider.

Q. I do not want to provide the board with evidence that our company's annual sales are less than \$10,000,000 to qualify for the \$25,000 bond. Will the board accept a \$25,000 bond without documentation of annual sales volume?

A. No. The bonding requirement is \$90,000 unless the third-party logistics provider provides the board with proof of its annual sales volume that it qualifies for the \$25,000 bond.

Q. We have four licensed third-party logistics provider sites. Do we need to obtain a separate bond for each location?

A. No. The owner of the sites needs to post a single \$90,000 bond for all third-party logistics provider sites that are commonly owned.

Q. We are a new company applying for a third-party logistics provider license and as such do not have documented proof of annual gross receipts? Are we able to secure a \$25,000 surety bond?

A. No. New businesses must obtain a \$90,000 bond. However, should the business in the future demonstrate annual gross receipts of \$10 million or less, a new surety bond of \$25,000 may be obtained in lieu of the higher amount.

Q. Our company owns several subsidiary companies reflected as the owners of third-party logistics providers. Are each of the subsidiary companies required to obtain their own respective bonds?

A. No, a single bond is required. Please provide the board with a copy of an organization chart documenting the ultimate owner of the subsidiary companies verifying the common ownership.

Q. I am a licensed wholesaler and want to apply for a third-party logistics provider license at the same location. Can I use my wholesale bond for both license types since my \$100,000 wholesale bond is more than the \$90,000 required for third-party logistics providers?

A. No. A wholesale license and a third-party logistics provider license issued to the same location must have a separate wholesale bond and third-party logistics provider bond.

Q. I have a wholesale license but my business is really a third-party logistics provider. Can I provide a copy of my existing wholesale bond when filing my third-party logistics provider application?

A. No. A third-party logistics provider applicant must submit a third-party logistics provider bond or other means of security.