

ESCROW PROCEDURES

CESP	CAEP	Topic/Issue
		ESCROW DEFINED
X		<ul style="list-style-type: none"> Two or more owners of valuable things (money and documents) deposit them with a third party “fiduciary” together with written instructions regarding holding and disbursing
X		<ul style="list-style-type: none"> Definition of “fiduciary”
		GENERALLY ACCEPTED ESCROW PRINCIPLES
X		<ul style="list-style-type: none"> Escrow Funds must be kept separate from operating funds – not comingled
X		<ul style="list-style-type: none"> Each escrow transaction must be accounted for separately
X		<ul style="list-style-type: none"> An overdraft of an escrow account creates an escrow receivable, a situation prohibited by State law
X		<ul style="list-style-type: none"> Escrow accounts must be reconciled timely and – on a regular basis <ul style="list-style-type: none"> 3-Way Reconciliation <ul style="list-style-type: none"> A reconciled bank balance, A checkbook (or cash ledger) balance and A trial balance listing all open individual escrow ledger record balance
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		TYPES OF ESCROW ACCOUNTS
		<ul style="list-style-type: none"> Standard Escrow Account <ul style="list-style-type: none"> Should be established in a federally insured institution Must be established in the name of the agent with Escrow, Trust or Settlement Account included in the style of the account and preprinted on all forms Investment Account (Interest-bearing) <ul style="list-style-type: none"> May be established at the specific request of a party to the escrow Specific signed authorization from all parties is required Instructions must be explicit as to the type of investment and the party for whom interest is to accrue A signed Form W-9 Payers Request for Taxpayer Identification Number and Certification should be obtained and retained in the escrow file for the party for whose benefit the interest will accrue.
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		MINIMUM ESCROW ACCOUNTING PROCEDURES IN TEXAS
		<ul style="list-style-type: none"> Monthly Trial Balances and Reconciliation <ul style="list-style-type: none"> A monthly escrow trial balance for each individual escrow bank account must be prepared which, at a minimum, lists all open escrow balances. Each month’s escrow trial balance must be completed no later than the end of the next month. A three-way reconciliation of bank balance, book balance and escrow trial balance for each individual escrow bank account shall be performed monthly. Each three-way reconciliation must be completed within forty-five (45) days from the closing date of the bank statement of the account.
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X		<ul style="list-style-type: none"> ○ Each reconciliation should be approved by a manager or supervisor. If this is not possible or practical, each reconciliation shall be reviewed by another employee.
X		<ul style="list-style-type: none"> ○ Each reconciliation should be prepared by someone not associated with the receipt and disbursement function. Where size does not permit this, each reconciliation shall be reviewed by the manager or owner.
		<ul style="list-style-type: none"> • Escrow Bank Account Requirements
X		<ul style="list-style-type: none"> ○ All accounts must be styled as "Escrow" or "Trust". "Escrow account" or "trust account" must appear on the bank statement, the signed bank agreement, disbursement checks and deposit tickets.
		<ul style="list-style-type: none"> • Individual Escrow Account Management
X		<ul style="list-style-type: none"> ○ Accounts open for longer than six months should be thoroughly investigated. Disbursements from these accounts should not be allowed without management approval.
X		<ul style="list-style-type: none"> ○ Management approval should be required for any transfers of funds between guaranty files or escrow accounts and transfers between guaranty files must be documented in both files.
		<ul style="list-style-type: none"> • GF Number Requirements
X	X	<ul style="list-style-type: none"> ○ Each guaranty file must be assigned a unique number. Name identification is not acceptable.
X		<ul style="list-style-type: none"> ○ All escrow checks and deposit tickets must display related guaranty file numbers directly on the document to provide a clear and direct connection between the document and related guaranty file.
		<ul style="list-style-type: none"> • Check Requirements
X		<ul style="list-style-type: none"> ○ Two signatures are required on all escrow checks. Only one signature must be that of a licensed escrow officer. This requirement is waived if the escrow agent has four or fewer employees or if the escrow agent is a sole proprietorship and the owner signs the escrow checks.
X		<ul style="list-style-type: none"> ○ Voided checks should have their signature blocks removed or otherwise rendered ineffective.
		<ul style="list-style-type: none"> • Guaranty File Requirements
X		<ul style="list-style-type: none"> ○ Each guaranty file must contain a complete current disbursement sheet which lists the date, source and type of all receipts; date, check number, item description, payee and amount of all checks; date, amount, and type of any other disbursements (i.e.: outgoing wire-transfers) and any remaining balance. Voided checks which have been canceled where funds have been credited back to the account shall be shown on the disbursement sheet.
X		<ul style="list-style-type: none"> ○ Invoices substantiating or sufficient evidence to support all disbursements shall be kept in the guaranty files.
X		<ul style="list-style-type: none"> ○ If a settlement statement requires changes, a new statement must be prepared or pen-and-ink changes must be initialed by all parties affected by the changes, or sufficient evidence to support the changes must be maintained in the guaranty file.
		<ul style="list-style-type: none"> • Earnest Money "Hot" Checks. If after the escrow agent has received and deposited an earnest money check, and the check is returned to the escrow agent by a financial institution due to insufficient funds, the escrow agent shall

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X		<ul style="list-style-type: none"> ○ Notify the seller by written notice deposited in the mail and addressed to the seller's address as shown in the escrow agent's file relating to the transaction within seven business days after the returned check is received by the escrow agent unless the check is replaced by collected funds within the seven-day time period.
X		<ul style="list-style-type: none"> ○ The escrow agent shall retain copies of written notices
X		<ul style="list-style-type: none"> • Cash Receipts - A signed, pre-numbered receipt must be issued for any escrow funds received in cash.
X		<ul style="list-style-type: none"> • Defalcation
		"GOOD FUNDS" - P-27
		<ul style="list-style-type: none"> • Definitions -
X		<ul style="list-style-type: none"> ○ "Good funds" means - Types
X		<ul style="list-style-type: none"> ○ "Received and deposited" means
		<ul style="list-style-type: none"> • General Provisions
X		<ul style="list-style-type: none"> ○ Good funds in an amount equal to all disbursements must be received and deposited before any disbursement may be made. Partial disbursements, prior to the receipt and deposit of good funds, are not permitted. If a party to the transaction submits too much money, that overage which will not ultimately be a part of the transaction may be refunded at or prior to settlement.
X		<ul style="list-style-type: none"> ○ An Immediately Available Funds Procedure Agreement (Form T-37 or T-37A) must be fully executed by the Financial Institution, the Federally-insured Lender (and "Agent," if applicable) and the title agent prior to issuance of checks intended to qualify as "good funds."
		FORM 8300 CASH IN EXCESS OF \$10,000 - IRS REPORTING REQUIREMENTS
		<ul style="list-style-type: none"> • What Is Cash?
X		<ul style="list-style-type: none"> ○ Currency
X		<ul style="list-style-type: none"> ○ Cash equivalents, such as cashier's checks, traveler's checks, money orders in amounts less than \$10,000, but which aggregate more than \$10,000 in the same or related transactions
		UNCLAIMED PROPERTY
X		<ul style="list-style-type: none"> • "Dormant" Definition
X		<ul style="list-style-type: none"> • Requirements for reporting to the State