

WEST VIRGINIA LEGISLATURE  
*Legislative Rule-Making Review Committee*

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August 28, 1979

Hon. A. James Manchin  
Secretary of State  
W-151 State Capitol  
Charleston, West Virginia 25305

Dear Mr. Manchin:

This is notification of approval of rules and regulations in accordance with Section 11, Article 3, Chapter 29A of the West Virginia Code.

On August 27, 1979, the Legislative Rule-Making Review Committee approved regulations submitted by the Department of Agriculture on West Virginia fairs, festivals and purebred consignment sales health requirements - 1979 and revised West Virginia liming materials regulations; by the Board of Examiners of Registered Nurses on readmission to state board test pool examination for registered nurses; by the State Board of Investments on rules for the administration of the consolidated pension fund by the West Virginia State Board of Investments and selection of state depositories for disbursement accounts through competitive bidding.

A copy of the approved regulations is attached.

Very truly yours,

*Robert M. Steptoe*

Robert M. Steptoe

*William E. Shingleton*

William E. Shingleton

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 8-28-79

Enclosures

WEST VIRGINIA ADMINISTRATIVE RULES  
West Virginia State Board of Investments

Chapter 12-1  
Series I  
(1979)

FILE IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 8-28-79

Subject: Selection of State Depositories for Disbursement  
Accounts Through Competitive Bidding.

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Section 1. General.

1.01. Scope - These rules implement the provisions of section two, article one, chapter twelve of the code of West Virginia, 1931, as amended, wherein the state board of investments is required to select depositories for disbursement accounts through competitive bidding by banks in this state.

1.02. Authority - These rules are issued under the authority of the above-mentioned code section which requires the state board of investments to promulgate rules and regulations prescribing the procedures and criteria for such bidding and selection.

1.03. General Purpose - The purpose of these rules is to carry out the legislative intent as stated in the above-mentioned code section, so that the competitive bidding required thereby will enable the state to obtain the most efficient service at the lowest possible cost.

Section 2. Definitions.

2.01. Definitions - For purposes of these rules, unless a different meaning is clearly required by the context:

"Board" means the West Virginia state board of investments;

"Code" means the 1931 code of West Virginia, as amended;

"Compensating balance" means the demand deposit balance which the state will maintain with a depository to compensate the depository for its services;

"Disbursement account" means those accounts from which are paid moneys due from the state of West Virginia or any official, department, board, commission, political subdivision or agency thereof to any political subdivision, person, firm or corporation except moneys paid from investment accounts;

"Eligible depository" means a bank which is eligible to receive demand deposits of state funds under section two, article one, chapter twelve of the code;

"Invitation to bid" means and includes requests for proposals, specifications, general information and other matter customarily included in the solicitation of bids;

"Loans in farms and single or multi-family residential units" means loans made to finance the construction, purchase or improvement of farms or single or multi-family housing;

"Treasurer" means the treasurer of the state of West Virginia.

### Section 3. Eligible Depositories for Disbursement Accounts.

3.01. Banks in Existence Less Than Five Years - Any state or national bank in this state which has been in existence less than five years is eligible to be awarded one or more disbursement accounts if such bank meets the requirements of chapter twelve of the code.

3.02. Banks In Existence More Than Five Years - Any state or national bank in this state which has been in existence more than five years is eligible to be awarded one or more disbursement accounts if such bank:

- (1) has a loan to deposit ratio of fifty percent or more;
- (2) has at least twenty-five percent of the dollar amount of its loans in farms and single or multi-family residential units; and
- (3) meets the other requirements of chapter twelve of the code.

Any calculations required to determine eligibility under items (1) and (2) above shall be made in accordance with the requirements of section two, article one, chapter twelve of the code.

3.03. Determining When Bank Commenced Existence - A bank shall be deemed to have commenced existence as of the date it first opened for business.

#### Section 4. Distribution of Disbursement Accounts Among Depositories.

4.01. Classification of Depositories According to Size - For purposes of apportioning funds in disbursement accounts for bidding, eligible depositories shall be classified according to size, as follows:

(a) Those whose total assets are not greater than twenty-five million dollars shall be "Group A."

(b) Those whose total assets are greater than twenty-five million dollars but not greater than fifty million dollars shall be "Group B"; and

(c) Those whose total assets are greater than fifty million dollars shall be "Group C."

Total assets shall be determined by reference to the most recent statistics obtained from the commissioner of banking.

4.02. Apportionment of Disbursement Accounts for Bidding -

The board shall apportion funds in disbursement accounts for bidding among the above three groups in the same proportion as the percentage which the total assets of all eligible depositories in each group bears to the total assets of all eligible depositories in the state.

If bids are solicited on a specified account from depositories of a given group, and no bids are received from any depositories in that group, or if all bids received from such depositories are rejected pursuant to Section 5.05 of these rules, then the bidding for such account shall be open to all eligible depositories in the state.

Section 5. Procedures for Bidding.

5.01. Notice to Bidders - At least twenty-five (25) days prior to the date on which bids will be opened, the board shall mail to every eligible depository notice that bids will be invited on one or more designated accounts. Any bank interested in bidding on an account shall then make written request to the treasurer for copies of the formal invitation to bid, and the treasurer, immediately upon receipt of such request, shall transmit such copies, including all necessary specifications

and forms, to such depository. The treasurer shall maintain a record noting the date of receipt of requests for formal invitations to bid and the date on which he mailed the invitations.

5.02. Contents of Invitations to Bid - The invitations shall state the time and place for submission of bids and shall include a description of the account and the service to be required, the approximate number of transactions or items to be processed monthly; the duration of contracts to be awarded, the designated account number of the account for which bids are being sought, and such other information as the board deems necessary.

5.03. Submission of Bids - Bids shall be on forms provided by the treasurer and shall be submitted in duplicate in a sealed envelope addressed to the State Treasurer, Room E-141, State Capitol, Charleston, West Virginia 25305. The envelope shall be conspicuously marked "Sealed Bid for Disbursement Account." The bidder shall also note on the envelope the account number as designated in the invitation to bid. Bidders shall not commingle bids for more than one account in the same envelope. Immediately upon receipt of bids in the treasurer's office, the time of receipt shall be noted on the envelope and the sealed bids shall be kept in a vault in said office, together with all other bids on the same account, until the time set for the bid opening.

5.04. Bid Opening - On the date and time set for the bid opening, the bids shall be publicly opened and read aloud. The board shall promptly analyze the bids and make awards as provided in Section 6 of these rules.

5.05. Conditions of Bidding - All bids shall be subject to the following conditions:

(a) Bids received after the date and time stated in the invitation will not be considered.

(b) Bids will not be considered unless signed by an authorized bank officer. For purposes of this section, an authorized bank officer may be either the president, a vice-president or the cashier.

(c) Prior to the bid opening, bids may be withdrawn after receipt in the treasurer's office upon written request made by an authorized bank officer. Such written request may be made by telegram.

(d) The board may reject any and all bids if such action is deemed to be in the best interests of the state.

#### Section 6. Award and Compensation.

6.01. Criteria for Award - Depending on the service to be performed, the board will invite base bids in terms of the price per transaction or per item processed. Accordingly, subject to the board's right to reject any and all bids, the contract will be awarded in each case to the bidder who submits the lowest responsible bid in terms of price per transaction or per item processed. The bid price will be the basis for the compensating balance as provided in the following Section 6.02.

6.02. Method of Compensation - Compensation to the depository for its services shall be made by means of compensating balances computed by the treasurer on a monthly basis. The treasurer shall multiply the depository's bid price per transaction or per item processed, times the number of transactions or items processed during the preceding month (hereinafter called the "computation month"). The product thus obtained shall be converted to the compensating balance by using the average 90-day U. S. Treasury bill rate (bond equivalent yield) for the computation month. The average 90-day U. S. Treasury bill rate shall be the rate as computed by the Federal Reserve System. The following example will illustrate how the compensating balance will be computed and applied:

Under this example, it is assumed that:

- (1) The computation month is January;
- (2) The average 90-day U. S. Treasury bill rate for the computation month (January) was 5%;
- (3) The multiplier for annualization is 12;
- (4) The bid price per item was three cents (\$.03); and
- (5) The number of items processed in the computation month (January) was 50,000.

Accordingly, the compensating balance to be maintained in the bank during February is \$360,000, derived as follows:

$$\frac{(50,000) \times ($.03) \times (12)}{.05} = \$360,000$$

If any overcompensation or undercompensation occurs during a given month, the compensating balance for the following month

shall be appropriately adjusted in order to fairly compensate the depository for services rendered. A settlement will be made at the expiration of the contractual period if the overcompensation or undercompensation in dollars worth of service (as distinguished from compensating balance dollars) exceeds five hundred dollars. The settlement shall be in the amount by which the overcompensation or undercompensation exceeds five hundred dollars.

The treasurer at his option may compute and apply the compensating balance for periods of less than a month. The computations shall be made in the same manner as above except for appropriate adjustments in the formula to allow for such lesser computation period. Adjustments and settlements for overcompensation or undercompensation shall also be applied in the same manner as in the case of monthly computation periods.

6.03. Compensation for Ancillary Services - The board may in its bid specifications require the depository to furnish certain named ancillary services in the course of providing the basic service for which bids are solicited. For example, the board may specify that a depository for disbursements shall furnish preprinted checks. The board may also specify that the depository shall be compensated for the cost of furnishing such ancillary services on a flow-through basis. In such event, the

treasurer shall increase the compensating balance in an amount sufficient to compensate the depository for the direct cost of furnishing such ancillary services plus a reasonable amount (as determined by the board) for the overhead attributable to furnishing such services. The amount to be allowed for such overhead shall be specified in the invitation to bid.

Adm. Rules 12-1  
Series I

WEST VIRGINIA ADMINISTRATIVE RULES  
West Virginia State Board of Investments  
Chapter 12-1  
(1979)

INDEX

References are to section numbers in West Virginia Administrative Rules 12-1, Series I.

---

Apportionment of disbursement accounts, 4.02

Authority, 1.02

Award, 6.01

    Criteria for award, 6.01

Bidding, procedures for, 5

    Bid opening, 5.04

    Conditions of bidding, 5.05

    Contents of invitations to bid, 5.02

    Notice to bidders, 5.01

    Submission of bids, 5.03

Classification of depositories according to size, 4.01

Compensating balance, 6.02

    Defined, 2.01

Compensation, method of, 6.02

    Ancillary services, 6.03

    Compensating balances, 6.03

    Computation and application of compensating balances, 6.02

Definitions, 2.01

Disbursement account, defined, 2.01

Adm. Rules 12-1  
Series I

Eligible depositories, 3

Banks in existence less than five years, 3.01

Banks in existence more than five years, 3.02

Defined, 2.01

Determining when bank commenced existence, 3.03

Invitation to bid, defined, 2.01

General purpose, 1.03

Scope, 1.01