

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

Do Not Mark In this Box

FILED
NOV 29 1990

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Board of Investments TITLE NUMBER: 113

RULE TYPE: Legislative; CITE AUTHORITY 12-1 - 2 et seq WV Code

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: III

TITLE OF RULE BEING PROPOSED: Selection of State Depositories for Disbursement Accounts through competitive bidding.

DATE OF PUBLIC HEARING: November 29, 1990 TIME: 9:30 AM

LOCATION OF PUBLIC HEARING: State Capitol Complex Conference Center,
Building 7, Room D, Charleston, WV

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: State Treasurer's Office

State Capitol Building

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

Charleston, WV 25305

Attn: Jerry Simpson

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL _____

2.70

The general purpose of these rules is to aid in the implementation of the legislative finding and purpose set forth in Section Two, Article One, Chapter Twelve of the Code, wherein the Board is required to select depositories for disbursement accounts through competitive bidding by banks in this state.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Selection of State Depositories for Disbursement Accounts through competitive bidding.

Type of Rule: Legislative Interpretive Procedural

Agency Board of Investments Address _____
State Capitol - Charleston, WV 25305

1. Effect of Proposed Rule:	FISCAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

N/A

2. Explanation of above estimates:

These rules repeals and replaces the original rules filed in 1989. It is not anticipated that these rules will require the expenditure of any additional funds.

3. Objectives of these rules:

The general purpose of these rules is to aid in the implementation of the legislative finding and purpose set forth in Section Two, Article One, Chapter Twelve of the Code, wherein the Board is required to select depositories for disbursement accounts through competitive bidding by banks in this state.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

These proposed rules will continue to allow the State to receive payment at the best bid when selecting a bank to process the checks issued by the State.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

N/A

C. Economic Impact on Citizens/Public at Large.

See 4A.

Date:

10/29/90

Signature of Agency Head or Authorized Representative

A handwritten signature in black ink, appearing to be "H. J. [unclear]", written over a horizontal line.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-1
Series III

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

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-1
Series III
(1979-Amendments 1990; Sections 2.01, 3.01,
3.02, and 3.03)

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

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 - West Virginia Code §12-1-2.

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.

1.04. Filing Date -

1.05. Effective Date -

1.06. Repeal of Former Rule - This Legislative Rule repeals and replaces West Virginia 113 CSR3 "Selection of State Depositories for Disbursement Accounts through Competitive Bidding" effective March 10, 1989.

Section 2. 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 cash 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;

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

Section 3. Procedures for Bidding

3.01. Eligibility for Bidding - Only those banks that have been designated to serve as depositories for State funds are eligible to bid for the disbursement account.

3.02. 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 Board of Investments for copies of the formal invitation to bid, and the Board of Investments upon receipt of such request, shall transmit such copies, including all necessary specifications and forms, to such depository. The Board of Investments shall maintain a record noting the date of receipt of requests for formal invitations to bid and the date on which it mailed the invitations.

3.03. 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 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 accounts for which bids are being sought, and such other information as the Board deems necessary.

3.04. Submission of Bids - Bids shall be on forms provided by the Board of Investments and shall be submitted in

duplicate in a sealed envelope addressed to the State Board of Investments. 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 may not commingle bids for more than one account in the same envelope. Immediately upon receipt of bids by the Board of Investments, the time of receipt shall be noted on the envelope and the sealed bids shall be kept in the State Board of Investment's offices, together with all other bids, until the time set for the bid opening.

3.05. 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 4 of these rules.

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

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

(b) Bids may 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 Board's office upon written request made by an authorized bank officer. Such written request shall 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 4. Award and Compensation

4.01. Criteria for Award - Depending on the service to be performed, the Board will invite 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 4.02.

4.02. Method of Compensation - Compensation to the depository for its services shall be made by means of either compensating balances computed by the Board on a monthly basis or by a State warrant. To determine the monthly compensating balances, the Board 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 Board at their 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.

4.03. 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 Board 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.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-1

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