

STATE OF WEST VIRGINIA
OFFICE OF THE TREASURER

LARRIE BAILEY
TREASURER



ROOM E-147 STATE CAPITOL
CHARLESTON, WEST VIRGINIA 25305
304/348-2281

June 10, 1983

Honorable A. James Manchin
Secretary of State
State Capitol
Charleston, West Virginia

Re: Notice of Filing of Temporary Rules
Under Emergency Procedure

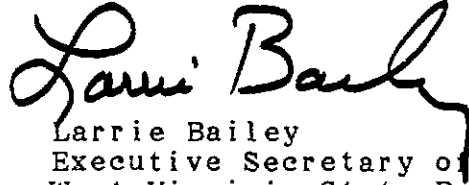
Dear Mr. Manchin:

Herewith submitted for filing in your office are a "Notice of Filing of Temporary Rules and Statement of Facts Constituting the Emergency" and three copies of the Proposed Amendments to Rules of the Board of Investments designated Chapter 12-1, Series III (1979-Amendments 1983; Sections 3(Deleted), 4.01, 4.02, and 4.03), which the Board is declaring immediately effective today pursuant to West Virginia Code section 29A-3-15.

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE June 10, 1983
Administrative Law Division

I am sending fifteen copies of this letter complete with enclosures to the Legislative Rule-Making Review Committee in accordance with subsection (a) of said section.

Sincerely,

A handwritten signature in cursive script that reads "Larrie Bailey". The signature is written in black ink and is positioned above the typed name and title.

Larrie Bailey
Executive Secretary of the
West Virginia State Board of Investments
and West Virginia State Treasurer

Enclosures

cc: Legislative Rule-Making Review Committee, /attachments

Honorable John D. Rockefeller IV
Governor, w/attachments

Honorable Glen B. Gainer, Jr.,
Auditor, w/attachments

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WEST VIRGINIA STATE BOARD OF INVESTMENTS

NOTICE OF FILING OF TEMPORARY RULES AND
STATEMENT OF FACTS CONSTITUTING THE EMERGENCY

June 10, 1983

Pursuant to the provisions of Chapter 29A, Article 3, Section 15 of the West Virginia Code of 1931, as amended, the West Virginia State Board of Investments hereby files the attached Administrative Rules designated Chapter 12-1, Series III (1979-Amendments 1983; Sections 3(Deleted), 4.01, 4.02, and 4.03), and declares said rules effective immediately.

The facts and circumstances constituting the emergency are as follows: House Bill No. 2023, enacted at the 1983 Regular Session of the West Virginia Legislature, no longer requires that selection of depositories for disbursement accounts through competitive bidding be restricted to banks of three classes based on asset size (under \$25 million, \$25 million to \$50 million, and over \$50 million). Under the new law, bidding is still required but shall be now open to banks of all sizes. Because of the expiration date of existing disbursement account contracts, it is necessary that new bids be obtained no later than July 20, 1983. Thus it is necessary to have new rules in order to conform to the statutory changes which go into effect July 1, 1983. Language to be deleted is struck through and any new language is underscored. The Board has set July 20, 1983 as the date for opening of bids for the state's disbursement processing since the current contract for the state's disbursement processing expires October 31, 1983. Because of the time periods which necessarily elapse in following the Administrative Procedure Act, permanent amendments to the current rules cannot become effective until after the bid opening date. In order that rules with amendments will be in effect prior to the bid opening and the award of the contract to the winning bidder, it is necessary to place rules into effect immediately under these emergency provisions.

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE June 10, 1983

Administrative Law Division

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-1
Series III
(1979-Amendments 1983; Sections 3 (Deleted),
4.01, 4.02, 4.03)

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 - Amendment 1981; Section 2.01, 3.01,
3.02, and 3.03)~~

(1979 - Amendments 1983; Sections 3 (Deleted),
4.01, 4.02, 4.03)

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

Section 1. General

1.01. Scope - These ^{legislative} 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 aforementioned 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 aforementioned Code section so that the competitive bidding required thereby will enable the State to obtain the most efficient service at the lowest possible cost.

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE June 10, 1983

Administrative Law Division Page 1

1.04 Effective Date - These regulations are promulgated on the 5th day of June, 1981, and become effective the 8th day of July, 1981.

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 West Virginia Code of 1931, 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;

"Securities" means all bonds, notes, debentures or other evidences of indebtedness; and

"Treasurer" means the Treasurer of the State of West Virginia.

~~Section 3. -- Disbursement of Disbursement Accounts Among
Depositories.~~

~~3.01. -- Classification of Depositories According to Size -- For
purposes of apportioning funds in disbursement accounts for bid-
ding, 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.~~

~~3.02. -- Apportionment of Disbursement Accounts for Bidding --
The board shall apportion funds in disbursement accounts for bid-
ding 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 4.05 of these rules,
then the bidding for such account shall be open to all eligible
depositories in the State.~~

Section ~~4.~~ 3. Procedures for Bidding.

~~-4.01.~~ 3.01. 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~~ the state's disbursement 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.

~~-4.02.~~ 3.02. 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~~ contract 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.

~~4.03.~~ 3.03 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.

~~4.04.~~ 3.04 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 5 of these rules.

~~4.05.~~ 3.05 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 5.~~ 4. Award and Compensation.

~~5.01~~ 4.01. Criteria for Reward - 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 5.02.

~~5.02~~ 4.02 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 50,000.00

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

$$\begin{array}{r} \underline{(50,000) \times (.03) \times (12)} \\ .05 \qquad \qquad \qquad = \$360,000 \end{array}$$

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 overcompen-

sation 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.

~~-5.03-~~ 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 services 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.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-1
(1979 - Amendments 1983; Sections 1.03, 3 (Deleted),
4.01, 4.02, 4.03)

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