

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

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WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: School Building Authority of WV TITLE NUMBER: 164

RULE TYPE: Procedural CITE AUTHORITY: \$18-9D

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Procedural Handbook for the School
Building Authority of WV

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON September 27, 2002 AT 4:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

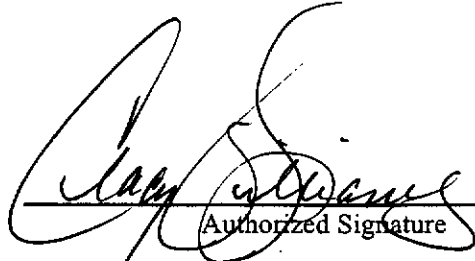
Mary M. Blashford

School Building Authority of WV

2300 Kanawha Blvd., E

Charleston, WV 25311-2306

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

TITLE 164
PROCEDURAL RULES
SCHOOL BUILDING AUTHORITY OF WEST VIRGINIA

SERIES 1
PROCEDURAL HANDBOOK FOR THE SCHOOL BUILDING
AUTHORITY OF WEST VIRGINIA

§164-1-1. General.

1.1. Scope. -- This legislative rule establishes the procedures related to the operations of the School Building Authority of West Virginia.

1.2. Authority. -- W. Va. Code §18-9D-1-16.

1.3. Filing Date. --

1.4. Effective Date. --

§164-1-2. Incorporation of School Building Authority of West Virginia Revised Policy and Procedures Handbook.

2.1. The Revised Policy and Procedures Handbook of the School Building Authority of West Virginia is hereby incorporated into this rule by reference.

ED. NOTE: A COPY OF THE HANDBOOK MAY BE REVIEWED OR OBTAINED FROM THE SECRETARY OF STATE'S OFFICE.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Procedural Handbook for the School Building Authority of WV

Type of Rule: _____ Legislative _____ Interpretive XX Procedural

Agency: School Building Authority of WV

Address: 2300 Kanawha Blvd., E

Charleston, WV 25311-2306

1. Effect of Proposed rule:

| | ANNUAL FISCAL YEAR | | | | |
|----------------------------------|---------------------------------|----------|---------|------|------------|
| | INCREASE | DECREASE | CURRENT | NEXT | THEREAFTER |
| ESTIMATED TOTAL COST | \$7,000,000 per high school* | | | | |
| PERSONAL SERVICES | | | | | |
| CURRENT EXPENSE | | | | | |
| REPAIRS & ALTERATIONS | | | | | |
| EQUIPMENT | | | | | |
| OTHER | \$7,000,000 | | | | |

2. Explanation of Above Estimates:

The estimate of \$7,000,000 per High School is based on a new Vocational Center and an Auxiliary Gym.

3. Objectives of These Rules:

To implement Senate Bill 32 & 247.

Rule Title: Procedural Handbook for the School Building Authority of WV

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

Effect will be on school construction costs and funding dollars available.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

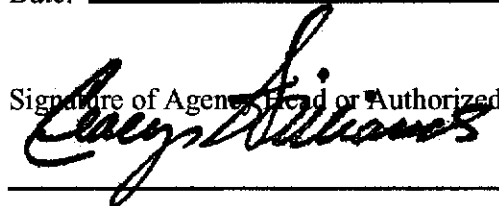
Effect on County Boards of Education will be the same as under 4A.

C. Economic Impact on Citizens/Public at Large.

None.

Date: August 27, 2002

Signature of Agency Head or Authorized Representative:



The attached changes are being proposed to allow the SBA Procedural Handbook to include the following:

1. Requirements of Senate Bill 32 regarding Indoor Air Quality;
2. Requirements of Senate Bill 247 regarding Auxiliary Gymnasiums and Vocational Centers;
3. New limitation guidelines regarding Emergency Grant Funds; and
4. Value engineering on SBA projects.

GUIDELINES AND PROCEDURES OF THE SCHOOL BUILDING AUTHORITY OF WEST VIRGINIA

The West Virginia Legislature passed Article 18-9D of the West Virginia Code in 1988 which created the School Building Authority of West Virginia (SBA). A major revision was completed in 1989 that redefined the objectives and membership of the Authority and in 1994 redefining funding sources and programs. During the August 31, 1989 SBA organizational meeting, the Authority adopted the following mission and goals statement:

MISSION

It is the mission of the School Building Authority of West Virginia to facilitate and provide state funds for the construction and maintenance of school facilities to meet the needs of the people of West Virginia in an efficient and economical manner.

GOALS

1. To make all funding determinations in accordance with the provisions of law in Article 18-9D of the West Virginia Code.
2. To assess existing school facilities and each facility plan in relation to the needs of the individual student, the general school population, the communities served by the facilities and statewide facility needs.
3. To adopt guidelines that will assure the prudent and resourceful expenditure of state funds. These guidelines shall state the manner, time line, and process for submission of plans to the Authority, project specifications, and indicators relating how the specific project furthers the overall goals of the Authority.
4. To expeditiously implement the programs of the School Building Authority of West Virginia by making funds available to counties for the purpose stated in the mission of the Authority.

Each county board of education has the responsibility to maintain a sufficient number of suitable school facilities to provide a thorough and efficient system of education and equal educational opportunities for its public school students. Each county's ten year Comprehensive Educational Facility Plan (CEFP) was submitted to the State Board of Education (SBE) for review and approval in April 1990 and must be updated annually. A new CEFP will be developed and submitted to the SBA and the SBE in the year 2000 and each successive ten-year span thereafter. Any new school construction project to be completed as part of an approved CEFP must be reviewed and approved by the SBA at the design development phase of the planning prior to preparation of final bid documents in accordance with WV Code 18-9E-3. The schedule for submission of projects to be considered for available state funding will be determined by the SBA. Projects chosen for funding by the SBA will be part of a plan approved by the SBE.

In order to facilitate the approval process for state funded projects, the SBA requires that all county plans be approved by the SBE, and meet the guidelines of SBE Policy 6200 prior to submission to the SBA. These guidelines are reflected in the West Virginia Department of Education's "Handbook on Planning School Facilities, Chapter 1" (Appendix A). State Board of Education approval of a county's plan does not assure the plan's approval by the SBA for funding purposes. The following guidelines and procedures of the SBA were initially adopted November 4, 1991, and revised June 1992, November 1994, and June 1997.

100.00 SBA REQUIREMENTS FOR COMPREHENSIVE EDUCATIONAL FACILITY PLANS

100.10

- A. County plans will have been developed in accordance with SBE Policy 6200, the "Handbook on Planning School Facilities", and approved by the SBE prior to any consideration by the SBA.
- B. Each county plan will identify specific projects that are being presented for competitive SBA funds. These plans will include how the project will effectively address the following issues:
 - 1. Student Health and Safety.
 - 2. Economies of Scale (Appendix D)--economies of scale based on minimum allowable enrollments are as follows:
 - a. Elementary schools with an enrollment of 300 students in grades 1-6, 200 in grades 1-4, or a minimum of 2 classes (25 each) per grade level, are recommended to achieve the economy of scale. Early childhood, kindergarten and exceptional students may increase this minimum standard.
 - b. Middle and junior high schools with an enrollment of 450 students in grades 7-9 or 6-8, 5-8 schools with 600 students, or schools with 150 students per grade level minimum are recommended to achieve the economy of scale at the intermediate level.
 - c. High schools with an enrollment of 600 students in grades 10-12, 800 students in grades 9-12 or 200 students at each grade level are recommended to achieve the economy of scale.
 - d. These enrollments will be considered in determining eligibility for all SBA funding for early childhood, intermediate and adolescent facilities.
 - e. Geographic or other considerations may require exceptions to be considered. Regional planning across county lines should also be considered to achieve these minimum enrollment standards where population centers warrant.

3. Reasonable Travel Time and other Demographics.
 4. Multi-County and Regional Planning.
 5. Curricular Improvements and Diversifications.
 6. Innovations in Education
 7. Adequate Space for Projected Student Enrollment.
 8. A history of the county's efforts to propose and/or adopt local school bond issues or special levies for capital improvements.
- C. A ten-year time line for the implementation of the total plan indicating when each proposed facility action is to be taken and each project is to begin.
 - D. A completed Facility Classification Report (SBA/WVDE Form 116) that classifies each facility in the county. (Appendix B)
 - E. Narratives on each existing school facility describing future use and scheduled improvements.
 - F. Completed building evaluation forms on each facility in the county using the SBA School Facilities Evaluation and Inventory Instrument including cost summaries indicating the cost to upgrade to meet current standards. (Appendix C)
 - G. An assurance that the county is in compliance with the SBE order regarding housing of Special Education programs in segregated facilities.
 - H. A Major Improvement Plan (MIP) which addresses the requirements established by the SBA. (Appendix M)

100.20 Inter-County Feasibility Studies

- A. Each county shall submit to the SBA/SBE a list of grouped, inter-county attendance areas where potential exists for cooperative utilization of a facility between or among adjacent counties. (May include multi-county facilities, i.e., magnet school, area vocational centers, etc.)
- B. A planning study is to be completed to assure that an efficient and effective instructional delivery system will be utilized addressing each of the items indicated in SBE Policy 6200, "Handbook on Planning School Facilities", 100.01 (A-J) as well as the issues 1 thru 8 in 100.10-B of this handbook.
- C. A detailed analysis of the results of this study and a facility recommendation based on its conclusions shall be included.

100.30 Synopsis of Public Comment

Prior to submitting the CEFP to the SBE and the SBA, one or more public hearing(s) must be held to provide broad-based community input into the plan. Notice of such hearings shall be published as a Class I legal advertisement in compliance with the provisions of 59-3-1 et seq.

of the Code of West Virginia. As an addendum to the CEFP, sufficient documentation, including verification of public notices from the local newspapers and a synopsis of all comments received during the hearings must be included.

100.40 Objective Evaluation of Implementation

As part of the total CEFP, the county shall include an objective means to be utilized in evaluating implementation of the overall plan and each project included therein (Appendix S). The evaluation shall measure:

- A. How each project furthers the quality educational goals of the SBA as defined in WV Code 18-9D-16. This shall include: student health and safety, economies of scale, travel time and other demographics, achievement of effective and efficient instructional delivery system, curricular improvements, innovations in education, adequate space for projected student enrollments and local effort in funding school facility improvements.
- B. How the overall success of any project has related to the facilities plan of the county and the overall goals of the SBA.
- C. Prior to submission of a new ten year CEFP, an evaluation report shall be completed and submitted to the SBA and the SBE. (In addition to the evaluation criteria included in your plan the report shall include the issues designated in Appendix C of this handbook).
- D. Amendments that initiate major revisions of the CEFP within the ten year planning cycle shall include how the existing plan no longer meets the goals and needs of the county and the goals of the SBA.

100.50 Additional Requirements and Administrative Assurances

A statement of assurance by the county superintendent that the county plan includes all requirements in Section 100 of this handbook.

100.60 CEFP Management - Amendments

- A. Amending the County CEFP Plan - Because the CEFP is a living document that may be updated periodically based on approved amendments and the continually changing needs of the county, it is necessary to formally update the plan annually. (Appendix P)
 - 1. Major revisions to the CEFP including the MIP, are to be submitted to the SBE and the SBA by December 1 each year.
 - 2. Major revisions include the addition of new schools, school closures that have been approved by the SBE and reclassification of all existing schools.

3. Final approval of all closures remains the responsibility of the SBE. The CEFP will be amended by the SBA to reflect school closures only after SBE action.
 4. The county CEFP is to be maintained as a working document and is to be updated as amendments or actions to implement the plan are completed.
 5. Amendment requests that make major revisions prior to the end of the ten year planning period shall be submitted with an evaluation of the current approved plan in accordance with Section 100.40.
- B. Budget Amendments to CEFPs
1. Routine amendments on projects using partial or full SBA funding or any federal funds must be amended through the SBE and the SBA.
 2. SBA/SDE Form 106 must be completed fully and submitted to the SBE and SBA for approval in order to institute an SBA budget amendment. SBA Needs and MIP Funds cannot be transferred from one project to another. (Appendix E)
 3. SBA/SDE Form 106 must also be used to initiate budget amendments to both the SBE and SBA for all projects regardless of the funding source if the instructional square footage is altered, or the work exceeds \$25,000.

200.00 FUNDING SCHOOL BUILDING AUTHORITY PROJECTS

- 200.10 Matching Funds - No matching local funds shall be required to obtain SBA funds, however, each facility plan shall address the history of efforts taken by the county board of education to propose or adopt local school bond and/or special levies for capital improvements.
- 200.20 Federal Funds - Expenditure of any federal funds designated for construction and/or capital improvements of school facilities shall be approved by the SBA. SBA/SBE Form 106 and/or SBA Exhibit C is/are to be utilized for approval request if funds are to be approved initially for use on a new project or if federal funds are to be amended into an existing project budget. (Appendix E)
- 200.30 Eligibility and Distribution of Funds - It is the intent of the legislature that the SBA fund the improvement and construction of school facilities to meet the needs of the people of West Virginia in an efficient and economical manner. To be eligible for funding, educational agencies must have on file in the SBA office an approved CEFP and all required pre-qualification data for any particular funding category from which funding is being requested. Failure to provide this information or project proposals by the deadlines established by the Authority will eliminate the submitted project from consideration. These funds shall be distributed as follows:

- A. **Three Percent (3%) Statewide Grants** - Three percent (3%) of the total funds available to the Authority for distribution from the school construction fund during any funding cycle may be utilized for projects:
1. That serve the statewide educational community, or
 2. That are utilized to operate educational programs under the jurisdiction of the SBE.
- Grant funds shall expire based on a three year contractual agreement between the SBA and the grantee.
- B. **Emergency Grants** - Funds amounting to no more than two percent (2%) of the total funds available for distribution from school construction funds shall be set aside as an emergency fund to be distributed in emergency situations as defined by the Authority. Application for such funds shall be in accordance with SBA procedures (Appendix N). Grant funds shall expire based on a three year contractual agreement between the SBA and the grantee.
- C. **Planning Grants** - Effective and efficient use of resources can best be assured through appropriate development of the ten-year Comprehensive Educational Facilities Plan required in SBE Policy 6200. Therefore, if funds are deemed available, the SBA may provide grants to assist counties with the development of their CEFP for the successive ten-year planning period. These grants will be made available only during the final two years of each ten-year planning period. Planning grants will be used to provide for 50% of the costs of a consultant firm to assist the county, but may not exceed \$20,000 total per county.
- D. **School Construction Grants "Need"** - The remaining monies determined by the Authority to be available for distribution from school construction funds shall be allocated and expended on the basis of needs and efficient use of resources. The SBA shall make funding determinations in accordance with the provisions of the Code of West Virginia and shall assess existing school facilities and each facilities plan in relation to the needs of the individual student, general school population, the communities served by the facilities, and facility needs statewide. Grant funds shall expire based on a three year contractual agreement between the SBA and the grantee and may be extended up to two years at the discretion of the SBA.
- E. **Major Improvement Program Grants** - Funds appropriated by the legislature to the school major improvement fund shall be distributed by the School Building Authority on the basis of need. These funds are for major renovation or rehabilitation of existing facilities and for additions to existing schools. Grants to counties from the major improvement fund are for projects of at least \$50,000 but not exceeding \$500,000. A county may be eligible for major improvement funds provided:
1. The county has an approved Major Improvement Plan (MIP). (Appendix M)

2. The county is ready to expend the funds in the fiscal year monies are distributed to them.
3. The county has spent, in the previous year, an amount in maintenance of their schools equal to the average of the lowest three of the past five years maintenance budget.
4. The county has budgeted in their current maintenance budget an amount equal to or greater than the average determined in item three above.

200.40 Awarding of Funds

Any project for which funds are being requested from the SBA must be part of an approved CEFP identified either as a major need or major improvement.

- A. Three Percent (3%) Statewide Grants
 1. Projects eligible for three percent (3%) statewide funds include any facility that serves the educational community statewide or houses educational programs that are under the jurisdiction of the SBE, including regional vocational-technical centers.
 2. Projects submitted for competitive funding from the three percent (3%) designation must include information regarding the following areas as described in the "Handbook on Planning School Facilities" wherein applicable:
 - a. An analysis of the community being served.
 - b. A study of the population and enrollment.
 - c. The educational plan.
 - d. An evaluation of the existing facility.
 - e. The financing plan for the project.
 - f. Translation of educational needs into facility needs.
 - g. A School Construction Fund Project ("Needs") Executive Summary. (Appendix G)
 - h. An explanation of how the project relates to the major items presented in 100.10 B (1 thru 8) of this guidelines handbook.
 3. Schools or programs under the jurisdiction of the SBE will submit project applications to the SBE for review, evaluation, prioritization and recommendation to the SBA for potential funding.
 4. The SBA reserves the right to consider projects they deem meritorious for 3% funding as well as final approval of all projects recommended for funding.
- B. "Emergency Funds"
 1. The Emergency Fund is available at the discretion of the Authority to assist where emergency situations endanger a safe and healthful environment for students.

2. To qualify for a grant from the emergency fund:
 - a. Need must have been generated by an unforeseeable catastrophic event (i.e., fire, wind, earthquake, flood, storm, etc.), general disaster or Act of War.
 - b. Funds from federal, state and local sources for emergency repairs and replacements must have been identified and included in the project budget.
 - c. All insurance claims must have been filed and amount of settlement determined. Insurance coverage of a facility should be equal to the cost of replacement.
3. Because of limited resources in the Emergency Fund, and to encourage local boards of education to appropriately insure their facilities, grants from the Emergency Fund shall be limited to an amount not to exceed two million dollars for any and all damage to schools incurred during any given catastrophic event.
4. Application shall be made within ten days after said emergency to the SBA and in accordance with adopted SBA procedures. (Appendix N)

C. CEFP Planning Grants

1. It is the responsibility of each county to develop and implement a ten-year Comprehensive Educational Facilities Plan (CEFP) in accordance with SBE Policy 6200 beginning with the year 1990 and for each successive ten-year planning period thereafter.
2. The School Building Authority may provide a one time grant during the allotted planning period to attain professional consultation in the development of said county-wide CEFP. (Appendix R)
3. The planning/grant period shall include the final two years of the existing ten-year planning period and shall be available during each successive ten-year planning period as funds are determined available for distribution by the Authority.
4. The effective date for new CEFPs is September 2000. Therefore, the current grant period shall incorporate both fiscal year 1999 and fiscal year 2000. Availability of funds shall begin on July 1, 1998 and expire on June 30, 2000. Any monies remaining in the fund shall be expired to the construction fund.
5. Grants shall not exceed 50% of a county's cost for said consulting services and shall be limited to no more than \$20,000 per county.
6. Professional consultants shall be selected in a manner approved by the SBA. (Appendix R)
7. The SBA and SBE may monitor the planning process and set submission deadlines for portions of the CEFP

- D. School Construction Funds "Needs" Grants
1. Each county in West Virginia who has an approved CEFP is eligible for capital improvement funds from the SBA based on the needs of the facilities in their district.
 2. Each county is responsible for determining in their facilities plan the specific project(s) for which SBA School Construction Fund ("Needs") will be requested. This individual project will be fully developed in regard to the issues indicated in 100.10 in this guidelines handbook and have an SBA School Construction Fund Project ("Needs") - Executive Summary completed. (Appendix G)
 3. Proposals for School Construction Fund projects must be part of an approved CEFP, and submitted at the request of the Authority based upon the availability of funds for distribution.
 4. The Authority will review and evaluate the projects based upon criteria set forth in WV Code 18-9D-16(d) and 100.10 of this guidelines handbook. A priority list of projects to be funded equal to the amount of the funds available during the specific funding phase will be developed by the Authority.
 5. The SBA will appoint a plan review team that will utilize the "Procedure for Review of School Construction Fund-Needs Projects" to assist in the rating of each project submitted by the counties. The Authority reserves the right to request review of any or all projects submitted to them that they feel has special merit or extenuating circumstances. (Appendix H)
- E. Major Improvement Funds
1. Each county or educational agency that has an approved Major Improvement Plan (MIP) as part of an approved CEFP and meets the criteria in Section 200.30 of this handbook is eligible for capital improvement funds from the SBA's major improvement fund.
 2. Major Improvement Plans (MIPs) are developed by each county or educational agency in accordance with the guidelines in Appendix M and approved by the SBA. The MIP shall address how the proposed plan, and any project in it, meet the following goals and objectives as established by the SBA in Appendix M.
 3. Each county shall submit as part of their annual CEFP Update a prioritized list of MIP projects for SBA approval. The most needed project shall be further developed to address the criteria of the SBA as indicated in Appendix M.
 4. The SBA shall review and rate the projects for funding each year in the manner prescribed in Appendix M.
 5. MIP Funds shall expire based on a two year contractual agreement between the SBA and the grantee. An extension of funds will not be granted.

200.50 Utilization of Funds - Authorized Expenditures

- A. Bond Retirement
 - 1. With approval of the funding agency, SBA funds may be dedicated to the payment of local bonds that were used for the purposes defined in an approved facility plan.
 - 2. With SBA approval, state funds may be used for the repayment of local bonds issued by the Authority for the benefit of the county, but are in addition to bond monies made available by the Authority.
- B. Construction Costs - SBA funds may be used for capital improvement projects including new construction, additions or renovations to existing facilities, provided, such projects meet the SBA guidelines and are approved by the SBA. Allowable costs of construction are included in Section 300 of this guidelines manual. SBA funds can not be transferred from one project to another.
- C. Major Improvement Funds - MIP Grants awarded to an agency for projects from their MIP must be for projects of at least \$50,000 but not exceeding \$500,000. It is intended that each county's routine maintenance budget be responsible for general repairs and upkeep of school facilities. Projects designed to supplant these county funds will not be considered as fundable from the major improvement fund.

200.60 SBA Funds Accounting

- A. Treasurers' Report
 - 1. A separate account shall be set up within the fiscal records of the individual county to account for all SBA funds. All records shall be maintained pending a final project audit. (Appendix F)
 - 2. Funds expended for a multi-county project shall be distributed to the county designated as the fiscal agent for the project.
- B. Budget Coding
 - 1. County budgets must be supplemented when a grant transfer letter is received from the SBA. This letter will accompany the Grant Agreement and will inform the county that monies will be transferred from the state account to the county's account at the custodial bank at the time the signed contract is received by the SBA.
 - 2. Monies must be supplemented into the general current expenditure funds (Fund 1).

3. All funds to be utilized for capital improvement, regardless of the source, are to be coded in project 25 utilizing the following code numbers:
 - 25X1X - All SBA Funds
 - 25X3X - Local Funds
 - 25X4X - Federal Funds
 - 25X5X - Better School Amendment Funds
 - 25X9X - Other Funds

200.70 Reimbursement Procedures

- A. Funds will be distributed through a requisition process wherein:
 1. Original invoices are submitted to the SBA offices and to the trustee of the account (bank) before the fifth (5th) day of each month. Submission to both entities is required to transact payment to the county.
 2. Invoices for each project code will be grouped together with one requisition cover sheet for each project code. (Appendix F)
 3. Each requisition sheet must be signed by the superintendent of schools with certification that the previous month's invoices were paid to the vendors (Item C on Exhibit B).
 4. Invoices are reviewed in the SBA Offices between the fifth (5th) and the tenth (10th) of each month.
 5. Checks are written to reimburse the counties for approved expenditures on the fifteenth (15th) of the invoice month unless additional data is requested by the SBA.
 6. Should clarification of a specific invoice or the status of a specific project be required, payment may be delayed until support data to verify the expenditure is provided to the SBA.
 7. A BP-13-A or SBA Certificate of Contract Completion for Multiple Prime Project (SBA 139) form to verify completion of a contract must be submitted prior to the request for final payment on every contract. A retainage equal to five percent (5%) of the total contract construction cost will be held by the SBA until the contract is officially closed by submission of the completed BP-13-A, and signed by a representative of the SBA. (Appendix J- Attachment 11)
 8. No educational facility shall be occupied without prior approval from the Authority and the appropriate state and county regulatory agencies.

300.00 FUNDING SPECIFIC FACILITY PLANS

300.10 Building Gross Areas

A. Allowable gross square foot building areas shall be reflective of the student population and the educational program. The building design shall maintain a minimum program utilization of 85%. The actual maximum square footage approved for construction may or may not be equal to the maximums indicated in the schedule below.

B. Maximum gross area allowances shall be computed as the product of the design capacity times the square foot allowance per pupil as hereinafter scheduled.

1. Elementary Schools

| | |
|---------------------|------------|
| Up to 240 students | 125 Sq.Ft. |
| 241 to 265 students | 120 Sq.Ft. |
| 266 to 290 students | 115 Sq.Ft. |
| 291 to 315 students | 110 Sq.Ft. |
| 315 to 340 students | 105 Sq.Ft. |
| 341 to 389 students | 100 Sq.Ft. |
| 390 to 440 students | 95 Sq.Ft. |
| 441 to 490 students | 90 Sq.Ft. |
| 491 to 540 students | 85 Sq.Ft. |
| 541 to 590 students | 80 Sq.Ft. |
| 519 to 640 students | 80 Sq.Ft. |
| Over 641 students | 80 Sq.Ft. |

2. Junior High/Middle Schools

| | |
|----------------------|------------|
| Up to 500 students | 150 Sq.Ft. |
| 501 to 550 students | 145 Sq.Ft. |
| 551 to 600 students | 140 Sq.Ft. |
| 601 to 650 students | 135 Sq.Ft. |
| 651 to 700 students | 130 Sq.Ft. |
| 701 to 750 students | 125 Sq.Ft. |
| 751 to 800 students | 120 Sq.Ft. |
| 801 to 850 students | 115 Sq.Ft. |
| 851 to 925 students | 110 Sq.Ft. |
| 926 to 1000 students | 105 Sq.Ft. |
| Over 1000 students | 100 Sq.Ft. |

3. Senior High Schools

| | |
|-----------------------|------------|
| Up to 500 students | 230 Sq.Ft. |
| 501 to 550 students | 220 Sq.Ft. |
| 551 to 600 students | 215 Sq.Ft. |
| 601 to 650 students | 210 Sq.Ft. |
| 651 to 700 students | 195 Sq.Ft. |
| 701 to 750 students | 185 Sq.Ft. |
| 751 to 825 students | 175 Sq.Ft. |
| 825 to 900 students | 165 Sq.Ft. |
| 901 to 1000 students | 160 Sq.Ft. |
| 1001 to 1150 students | 155 Sq.Ft. |
| 1151 to 1300 students | 150 Sq.Ft. |
| 1301 to 1500 students | 145 Sq.Ft. |
| Over 1500 students | 140 Sq.Ft. |

300.20

Design Capacity

- A. Design Capacity shall be defined as the 8th year projected enrollment of students expected to attend a school facility as indicated by the ten year enrollment projection.
- B. Where facility enrollment has fallen below 85% of the design capacity in existing facilities, consideration of consolidation is recommended.

300.30

Allowable Construction Costs for New Construction

- A. SBA funded allocations for the construction of each facility will be limited through use of the maximum gross area allowance times (X) the most current SBA approved Sq.Ft. cost for elementary, junior/middle, and senior high schools.
- B. Construction cost per square foot may be adjusted by the SBA to reflect regional cost factors. State construction cost will be reviewed annually and may be adjusted upwardly or downwardly for inflation or actual cost of projects constructed.
- C. Construction costs allowance may include site work, building furnishings and equipment, architectural and engineering fees, construction manager or clerk-of-the-works, survey work, geotechnical studies, radon testing and advertisements.
- D. In compliance with WV Code 18-9D-19(c) and beginning with FY-2004 projects, auxiliary gyms are to be included as allowable construction costs in high schools that meet the minimum SBA efficiency enrollments:
 - 1. Auxiliary gym spaces shall be a maximum total of 6,000 square feet and 144,000 cubic feet.
 - 2. Spectator seating within the allowable 6,000 square feet may be up to 1,000 square feet.
 - 3. Approved costs for auxiliary gyms do not include spaces for additional locker, restroom, dressing room or office spaces.
 - 4. SBA funds for auxiliary gyms may not be used in conjunction with local funds to increase the size and/or spectator capacity of an auxiliary gym to create a second spectator gym.
- E. In compliance with WV Code 18-9D-19(b) and beginning with FY-2004, comprehensive vocational facilities may be constructed in new high schools or existing high schools that meet the minimum SBA efficiency enrollments. The following criteria will be considered to determine the feasibility of construction of these spaces:
 - 1. The distance of existing vocational facilities from the new or existing high school location.
 - 2. The current demand of secondary students for vocational programs and/or the condition of the existing facilities must justify the need for additional/replacement spaces or the renovation of existing spaces.

3. The construction of a vocational component at a new comprehensive high school or at an existing high school must not create an adverse effect on other county vocational students or vocational students from other counties. The SBA does not deem the construction of any additional vocational spaces feasible:
- a. If it could result in the reduction of available vocational programs at the existing school.
 - b. If it results in the inefficient use of existing or new vocational space.
 - c. If it adversely reduces existing vocational center operational budgets.
 - d. If it could result in the closure of any existing county or multi-county vocational center currently serving the student population of two or more feeder schools.

F. Construction costs allowance does NOT include:

- 1. Cost of issuance for local bonds or other indebtedness.
- 2. Site acquisition, unusual utility extensions, unusual site preparation cost, access highways, repaving of existing parking lots or athletic facilities.
- 3. Construction or renovation of athletic facilities, computer equipment, instructional supplies and equipment.
- 4. County employees should not be utilized to work on SBA funded construction projects. SBA funds cannot be used for the reimbursement of salaries for county employees.
- 5. Legal fees associated with any court proceeding or property acquisition cost.
- 6. Costs associated with defense or award of an arbitration action.

G. Contingency allowance for each new construction project shall be established as two percent (2%) of the construction budget.

300.40

Renovations

A. For renovation work within an existing building, the computation is the product of the approved gross square footage of the project times (X) the percentage of the state building construction cost per square foot.

B. The percentage is defined as the percentage of the cost of replacement of the facility. The percentage criteria is based upon the age of the existing building in which renovation work is scheduled. An older facility that has specific value to the community cannot be funded for more than the percentage indicated. Restoration or renovation beyond these funding levels must be addressed by local initiative.

| | |
|------------------|-----|
| 40 years or more | 60% |
| 25 to 39 years | 50% |
| 16 to 24 years | 40% |
| 0 to 15 years | 10% |

- C. For a project with renovation work and an addition, the computation is the product of the approved square footage using the percentage of the building cost per square foot for renovation work added to the cost for the addition whose combined total must not exceed 65% of the cost of a new replacement building to qualify for SBA funding.
- D. Contingency allowance for each renovation project shall be established as four percent (4%) of the renovation budget.

400.00 PROJECT ADMINISTRATION AND REVIEW

400.10 Each educational agency receiving funding from the SBA shall appoint an administrator for the construction/funding program. This administrator shall be responsible for acting as the liaison to the SBA and for submitting the financial and project reports required by the SBA.

400.20 The educational agency shall be required to employ architectural/engineering firms in compliance with WV Code 5G-1-3. The list of architect/engineers responding to the county's Request for Proposal shall be submitted to the SBA for review and evaluation prior to selection of the finalists by the educational agency. Services shall be rendered under standard AIA contracts or the SBA Architectural - Engineering Services Agreement. (Appendix O)

400.30 The educational agency shall be required to employ a clerk-of-the-works to monitor all construction projects in excess of \$100,000 unless waived by the SBA. Candidates for professional services or clerks-of-the-works shall be submitted for SBA review and evaluation prior to final selection by the educational agency. (Appendix J - Attachment 7)

A clerk-of-the-works employed by the county through contracted services shall minimally be paid an amount equal to the basic hourly prevailing wage rate of a Journeyman Carpenter as determined by the West Virginia Department of Labor for the project location.

400.40 The SBA reserves the right to review any SBA funded project at intervals deemed necessary before, during or after construction begins. The architects, engineers and county administrators are responsible for including the SBA in the decision-making process during all phases of planning, design and construction beginning with the development of educational specifications. The SBA must be notified by the county of any meetings related to the planning of the project. (Appendices I,J &K)

400.50 Geotechnical

The educational agency shall be required to perform a geo-technical survey on any potential school construction site. The survey shall include a complete soil and substrata report to determine suitability of the site for the construction.

- 400.60 The SBA reserves the right to review all applications for payment or other invoices submitted against any SBA project. Completion of proper documentation by the educational agency and/or the company requesting payment shall be a prerequisite to any invoice being honored by the SBA.
- 400.70 The SBA reserves the right to review all county, clerk-of-the-works, project architect/engineer, and construction manager files related to an SBA funded project.
- 400.80 Occupancy of New Educational Facilities
- 400.81 Teachers and other employees shall be informed of the operation of the building, particularly fire escape routes, heating, ventilating and air conditioning systems and communication systems.
- 400.82 No educational facility shall be occupied without prior approval from the State Department of Education, School Building Authority of West Virginia, state and county regulatory agencies. (Appendix J - Attachment 13)
- 400.83 Training of Custodians and County Maintenance Staff
- At the conclusion of all construction projects, the contractor shall be responsible for providing pertinent product information including warranty and maintenance instruction to county officials, as well as provide training for county staff regarding the operation and maintenance of the building systems and materials. It is the responsibility of the county board of education to assure that staff is present and has sufficient in-service training to properly maintain the new or renovated facility.
- 400.84 Within the first year of occupancy of any new SBA funded school facility the county is responsible for testing for the presence of radon in accordance with the guidelines and procedures of the West Virginia Bureau of Public Health in the facility. A follow-up radon test is mandatory every successive five years. Test results shall be filed at the school and with the West Virginia Bureau for Public Health.
- 400.90 Evaluation of Maintenance and Custodial Care of New SBA Funded Schools
- In accordance with WV Code 18-9D-16(h) et.al., all new schools constructed with any funds from the School Building Authority shall be evaluated annually by the staff of the State Department of Education

(SDE) to preserve the physical integrity and extend the useful life of the facilities. The SBA shall provide professional assistance in the development of and follow-up on Facility Action Programs designed to help correct citations. (Appendix Q)

- A. The SDE shall annually conduct evaluation visits of all schools constructed with funds from the SBA. Evaluation is to include verification of post-occupancy testing of radon during the first school year and every five years thereafter.
- B. The SBA shall conduct on-site evaluations of those facilities which have been cited by the SDE as having significant custodial and/or maintenance care problems.
- C. The SBA staff shall, during their on-site evaluation, review the SDE citations, inspect for other needed improvements, and determine the need for action by the local board to correct citations. The SBA shall work cooperatively with county officials to develop a Plan of Action to effectively address improvements necessary to remediate facility related problems. Appendix Q
- D. The Action Plan shall set forth the time frame in which corrections shall be completed and an SBA follow-up visitation scheduled.
- E. At the time of the SBA follow-up visit, if adequate progress to correct the problems has not been made, the SBA is to file a report within 30 days to the State Board of Education notifying them of said lack of progress.
- F. Upon such notification, the State Board of Education shall restrict the use of the necessary funds or otherwise allocate funds from moneys appropriated by legislature in West Virginia Code 18-9A-9 to contract for such services or repairs.

500.00 SCHOOL BUILDING AUTHORITY CONTRACTS AND AGREEMENTS

500.10 Grant Agreement

- A. In order for SBA funds to be utilized for any project, a grant agreement between the educational agency and the SBA must be enacted. (Appendix I)
- B. This agreement sets forth the maximum amount and conditions of the grant and, in Exhibit A-1 of the contract, specifies the facility or facilities where the work is to be done, the scope of the work to be done and the estimated cost at each site location. (Appendix F)
- C. Should the desired building design costs exceed the total construction funds available, the county, must reduce the scope of the project and/or value engineer the facility to the satisfaction of the Authority prior to proceeding to the next project development phase. Failure to do so may be interpreted by the SBA as a Breach of Contract resulting in negation of the grant agreement between the local board and the SBA.
- D. The grant agreement must be signed by the Executive Director of the SBA, the superintendent or chief administrator of the agency receiving the grant and the chief elected official of the governing board of the agency in order to engage the agreement.

- A. Bid documents for any SBA construction project shall be prepared by qualified architectural or engineering firms in accordance with the "Supplemental, General and Special Conditions" of the Authority. (Appendix K)
- B. All new school designs in West Virginia shall meet the current, accepted standards of the American Society of Heating, Refrigerating and Air-Conditioning Engineers Handbook (ASHRAE), the National Fire Protection Association Code (NFPA) and the Code of the Building Officials and Code Administrators (BOCA). (Appendix XIII)
- C. Qualified contractors bidding on SBA projects will present acceptable liability insurance levels and a completed "Contractor's Qualification Statement" to the county for review prior to the award of the construction contracts. These documents are to be treated in highest confidentiality and are to be reviewed only by those involved with the selection of the contractor. A financial statement shall be required of the lowest qualified bidder(s) being considered for award of the contract. The agency receiving bids or the SBA may request "Contractor Qualification Statements" including financial statements on subcontractors. (Appendix K - Attachment 2)
- D. All bid documents prepared shall require that the lowest qualified bidder(s) submit a completed form SBA 123, List of Subcontractors and Major Equipment and Material Suppliers. (Appendix K - Attachment 1) This information must be submitted to the agency receiving the bids within two hours after the completion of the bid opening. The agency receiving the bids shall fax the completed form SBA 123 to the SBA Office within two hours after the completion of the bid opening. Bid openings shall not occur after 2:00 p.m. local prevailing time.

SCHOOL BUILDING AUTHORITY REPORT PROCEDURES

Financial Reports

- A. SBA 103B - Semi-Annual Finance Reports - SBA Form 103B has become WVDE 103B, a semi-annual financial report due on January 31 and July 31. It is a cumulative report beginning January 1990 and includes every facility in the county where capital improvements have been made regardless of the funding source. (Appendix L)
- B. SBA Exhibit A-1- Project Description and Finance Plan - This form, included in the Grant Agreement, is used to identify the specific project location, the scope of the work to be done, an estimate of the cost of the work and the amount of the grant approved by the SBA. (Appendix F)

- C. SBA Exhibit B - Requisition Form (Rev. 10/94) -
This form is the cover for invoices sent to the SBA offices and the trustee to transact payment to the county. One form is used for each project code. Several invoices from various vendors may be combined as long as they relate to the same school project code. Requisitions must be submitted to the SBA for review. Failure to submit invoices to the SBA will result in delay of payment until appropriate submittals have occurred. (Appendix F)
- D. SBA Project Finance Plan Amendment Form - Exhibit C - This form is to amend a project budget and must accompany an SBA/SBA 106 CEFPP amendment in order to amend the finance plan of an SBA project to coincide with the actual budget of the project. (Appendix F)

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Construction Related Reports

- A. SBA 105 - Contractor's Qualification Statement - The lowest qualified bidder(s) on construction or renovation projects must complete a qualification statement. This form is to be used in the screening and selection of contractors to assure the stability and reputability of the company. A copy of each of these reports is to be retained in the project file at the county board office and is to be regarded as highly confidential (Appendix K - Attachment 2) (500.20 B of this guidelines manual regarding bid documents)
- B. SBA/SBE 106 - Application for Amendment (Rev. 10/94)
This form is to amend the CEFPP. It is used to alter the budgets or scope of approved projects for SBA funding once the plan has been submitted. The revised version of this form must be used and the signature of the superintendent must be affixed.
(Appendix E)
- C. SBA 113 - Construction Observation Report - This report is to be completed weekly by the clerk-of-the-works or the county administrator responsible for the SBA building program. It is designed to report the progress of construction and to report to the county board of education highlights or concerns regarding the construction's progress. These reports are to be attached to the project's daily logs for the corresponding week and be made available to the SBA's project representative during site visits.
(Appendix J- Attachment 10)
- D. WVDE P-1 - Application for Project Approval (Rev. 2/28/92) -
This report is to be submitted twice by the county, initially with the preliminary drawings when they are submitted to the SBE and the SBA for review. Preliminary review documents required with the P-1 form are: (1) educational specification or education program; (2) preliminary drawings (design development drawings are preferred); (3) outline specifications, and (4) first estimate of probable construction costs. A final P-1 is to be submitted to both agencies at the completion of the project with a BP-13-A completion report prior to requisition for final payment. When a

project does not require a design review, it is the responsibility of the county facility administrator to initiate the P-1 form to both the SBE and the SBA. (Appendix J - Attachment 1)

- E. WVDE BP-13-A- Certificate of Project Completion (Rev.10/94)
A certificate of completion is submitted to the SBE and the SBA upon completion of a project in order to effectuate a close-out of the project. Final payment to the county for a specific project is dependent upon acceptance of the project and sign off of the BP-13-A by the SBA. The architect or project administrator shall arrange an inspection tour with the appropriate officials. Projects utilizing multiple prime contractors shall complete the SBA 139 to designate completion of each contractors responsibility and trigger final payment of SBA funds. No occupation of a new facility or renovated facility shall occur until a certificate of occupancy is provided by the fire marshal and final approval to occupy the facility is granted by the SBA. (Appendix J - Attachment 11 & 12)
- F. Evaluation of Performance - The county board of education is responsible for completing evaluations on each contractor and architectural/engineering firm that has performed work on a SBA funded project using the appropriate SBA evaluation form and submitted with the BP-13-A or SBA 139 project completion forms. (Appendix P)
1. Contractor Evaluation Report (SBA 124) - Attachment 8
 2. Architect/Engineering Evaluation Report (SBA 125) - Attachment 9
- G. The grant recipient shall provide the School Building Authority a copy of the final certified testing, adjusting, balancing (TAB) report for new HVAC systems installed in schools. The report must be prepared by an independent agent, directly representing the building owner and qualified to perform testing, adjusting and balancing of HVAC systems in accordance with the requirement of WV Code 18-9(e)-3 and those requirements found in SBA Appendix J - Architectural and Construction Regulations. The report will include the findings of the TAB contractors evaluation of the new HVAC system and final HVAC performance data. The TAB contractor will perform the duties as described in the project construction documents in cooperation with the design engineer and building contractors.

Revised 8/02
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