

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

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2007 SEP 27 PM 3:47

OFFICE OF THE
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: School Building Authority of WV TITLE NUMBER: 164

CITE AUTHORITY: §18-9D-20

AMENDMENT TO AN EXISTING RULE: YES NO

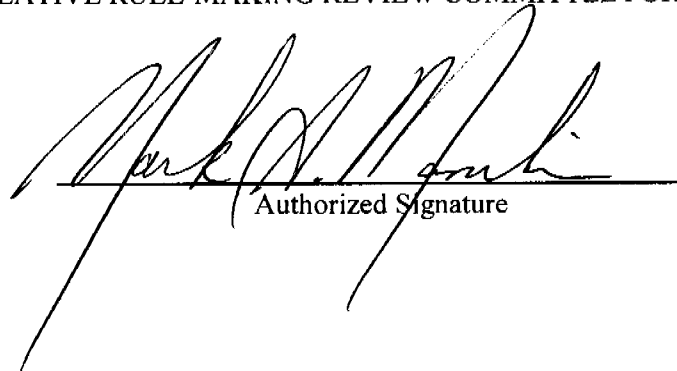
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 3

TITLE OF RULE BEING PROPOSED: School Building Authority School Planning and Design Criteria

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

**Brief Summary of the rule entitled
School Building Authority School Planning and Design Criteria**

This rule provides information regarding school planning and design criteria for School Building Authority construction projects. It also details the construction cost allowances for new and renovated schools

**TITLE 164
LEGISLATIVE RULE
SCHOOL BUILDING AUTHORITY OF WEST VIRGINIA**

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**SERIES 3
SCHOOL BUILDING AUTHORITY
SCHOOL PLANNING AND DESIGN CRITERIA**

OFFICE OF THE SECRETARY OF STATE

§164-3-1 General

- 1.1. Scope – This legislative rule establishes the guidelines and procedures related to requirements for School Building Authority school planning and design criteria.
- 1.2. Authority - §18-9D-20.
- 1.3. Filing Date – July 24, 2007
- 1.4. Effective Date –

§164-3-2 Incorporation by Reference

- 2.1. A copy of Appendix A from the School Building Authority Policies and Procedures Manual is attached and incorporated by reference into this policy. Copies may be obtained in the Office of the Secretary of State and in the office of the School Building Authority of WV.

§164-3-3 School Building Authority School Planning and Design Criteria

- 3.1 Building Gross Areas
 - 3.1.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% unless this requirement is waived by the SBA due to extenuating circumstances (ie., specialized classrooms in comprehensive high schools, declining or increasing student populations, middle school grade configurations and elementary school restrictive classroom enrollments). The actual maximum square footage approved for construction may or may not be equal to the maximums established by the SBA.
 - 3.1.B In order to encourage efficiency, yet continue to provide funding for small rural community schools that may be geographically isolated from other schools, those schools funded with enrollments below the SBA enrollment ranges (See Appendix A) shall be planned on an individual school basis. The actual square footage

shall be dictated by prior agreed upon design enrollments and space required to house the number of students and curricular offerings.

- 3.1.C With exception of the small school design procedure, all other schools maximum gross building area allowances shall be computed as the product of the design enrollment times the SBA approved square foot allowance per pupil. The SBA will annually publish on or before the June Quarterly meeting the maximum allowable square footages for elementary, middle/junior and high schools based on the latest requirements of State Board Policy 6200 and SBA Policy and Procedures Handbook.

§164-3-4 Prototypical School Design

- 4.1 To encourage efficiency in school design, SBA standardized building performance criteria will be used and where possible, proto-type designs for common academic spaces will be incorporated into new school designs. Local boards shall consider complete building design proto-typing for each project. The SBA will, in cooperation with the local board, determine if and when existing building designs may be duplicated for other projects within the county. The maximum amount of architectural and engineering (A&E) design fees that will be paid from project funds will be determined by the SBA and will be based on the size and complexity of the project. Additional fees above the SBA maximum are allowable. However, these fees must be paid by the local board as a separate project cost. A&E fees will be adjusted in new school designs where extensive proto-typing is incorporated into the design by the SBA or county board of education.
- 4.2 Prototypical school designs must be used when educational and design conditions exist that allow the reuse of a previous building design. The local board in cooperation with the SBA staff will review this option and determine if the proposed school design may be prototyped from other school designs immediately following SBA approval of a new school project.
- 4.3 Prototypical school design considerations include but are not limited to:
- School enrollment similarities
 - Educational Planning requirement similarities
 - Site and climatological conditions

§164-3-5 Design Capacity

- 5.1 Design capacity shall be defined as the 8th year projected enrollment of students expected to attend a school facility as indicated by historical enrollment trends and the ten year CEFPP enrollment projection.

- 5.2 Vocational space for new comprehensive high schools will be reviewed for each individual project and shall be included as part of the total design capacity.

§164-3-6 Allowable Construction Costs for New Construction

- 6.1 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 square foot cost for elementary, junior/middle and senior high schools.
- 6.2 Construction cost per square foot may be adjusted by the SBA to reflect regional cost factors. Statewide construction costs will be reviewed annually and may be adjusted upwardly or downwardly for inflation based on actual and projected costs of projects constructed. This information will be reviewed and the construction cost allowances published by July each year.
- 6.3. The construction costs allowance shall include site work, building construction cost, building furnishings and equipment, architectural and engineering fees, construction manager or clerk-of-the-works, survey work, geotechnical studies, radon testing, utility connections from the building to the property line and advertisements.
- 6.4. New elementary schools with design enrollments less than 400 students will be provided a combined art and music classroom. New elementary schools with design enrollments greater than 400 students will be provided separate art and music classrooms. All new elementary schools shall be designed with a physical education space separate from the cafeteria. The size of the physical education spaces will be based on the student enrollment of the school and will comply with State Board Policy 6200 Guidelines.
- 6.5 In compliance with WV Code 18-9D-19(c), auxiliary gyms are to be included as allowable construction costs in high schools that meet the minimum SBA efficiency enrollments of 800 students in grades 9-12.
- 6.5.A Auxiliary gym spaces shall be a maximum total of 6,000 square feet and 144,000 cubic feet.
- 6.5.B Spectator seating within the allowable 6,000 square feet may be up to 1,000 square feet.
- 6.5.C Approved costs for auxiliary gyms do not include spaces for additional locker, restroom, dressing room or office spaces.

- 6.5.D 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.
- 6.6 In compliance with WV Code 18-9D-19(b), 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:
- 6.6.A The distance of existing vocational facilities from the new or existing high school location.
- 6.6.B 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.
- 6.6.C 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:
1. If it could result in the reduction of available vocational programs at the existing school.
 2. If it results in the inefficient use of existing or new vocational space.
 3. If it adversely reduces existing vocational center operational budgets.
 4. 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.
- 6.7. SBA Grant Funds may not be used forth following
- 6.7.A Cost of issuance for local bonds or other indebtedness.
- 6.7.B Site acquisition, unusual utility extensions, unusual site preparation cost, access highways, repaving of existing parking lots or construction of athletic facilities.
1. Grant recipients are required to coordinate site selection for construction of new schools with the SBA prior to negotiations with seller or provider.

2. If it is determined by the SBA that extensive utility costs, special footings or foundations or other site preparation costs will consume a disproportionate amount of the building construction cost, an alternate site must be used. However, the Authority may consider approval of the proposed site if the grant recipient elects to provide additional local funding to pay the cost of developing the proposed site. At the conclusion of the site selection process, the SBA will provide a site acceptance letter to the local board that will allow the site acquisition process to begin.

6.7.C Construction or renovation of athletic facilities, computer equipment, instructional supplies and equipment.

6.7.D Reimbursement of salaries for county employees. (County employees should not be utilized to work on SBA funded construction projects).

6.7.E Legal fees associated with any court proceeding or property acquisition cost.

6.7.F Costs associated with defense or award of an arbitration action.

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

§164-3-7 Renovations

7.1 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.

7.2 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%

7.3 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.

- 7.4 Contingency allowance for each renovation project shall be established as four percent (4%) of the renovation budget.

Appendix A

STUDENT ENROLLMENT REQUIREMENTS TO MEET SCHOOL BUILDING AUTHORITY OF WEST VIRGINIA GUIDELINES FOR ECONOMIES OF SCALE

The following table indicates the enrollment needed for a school to be eligible for SBA funding. This size is based upon their grade structure. The recommended sizes to effectively meet economies of scale are as follows:

Kindergarten & Pre-kindergarten	Two classes – 20 students per class
Elementary Schools	Grade levels 1-8 – two classes per grade level – 25 students per class
Middle/Junior High Schools	Grade levels 5-9 – 150 students per grade level Grade levels 10-12 – 200 students per grade level

<u>Grades</u>	<u>100% Enrollment Required</u>	<u>Grades</u>	<u>100% Enrollment Required</u>
ELEMENTARY			
K only	40	K-9	590
K-1	90	K-12	1,590
K-2	140	1-3	150
K-3	190	1-4	200
K-4	240	1-5	250
K-5	290	1-6	300
K-6	340	1-7	350
K-7	390	2-5	200
K-8	440	2-6	250
		3-5	150
MIDDLE/JUNIOR HIGH			
3-6	400	5-8	600
3-8	700	5-9	750
4-5	200	6-8	450
4-6	350	7-8	300
4-9	800	7-9	450
5-6	300		
HIGH SCHOOL			
7-12	1,050		
8-12	900		
9-12	800		
10-12	600		
11-12	400		

- (1) Funding consideration will be given to enrollments that meet 85% of these EOS Guidelines.
- (2) Often there are factors such as distance, geographic barriers or financial limitations that will affect the ability of the school system to meet the economies of scale in regard to the enrollment of a school. Therefore, the Authority could waive this requirement in extraordinary circumstances.
- (3) If a pre-kindergarten program is located at the school, these additional students shall be included in the student enrollment counts and the economies of scale calculation will be adjusted based on the number of Pre-K students and a maximum of 20 students per classroom.

SCHOOL BUILDING AUTHORITY OF WEST VIRGINIA

PROVISION OF WAIVER FOR EXPENDITURE OF GRANTS ON SCHOOLS WITH ENROLLMENT UNDER THE ECONOMIES OF SCALE GUIDELINES

A waiver to the expenditure of SBA Funds may be requested for projects in schools where the enrollment is less than the Economies of Scale Guidelines as designated by the Authority and the State Board of Education. Information concerning the facility and the proposed project must be provided on SBA Form 131 Economy of Scale Waiver Request by the county board of education and the project must be in agreement with the county's ten year Comprehensive Educational Facilities Plan. Additionally, the request must be in accordance with one or more of the following:

1. A waiver may be granted to address specific fire, safety or health violations or conditions when the health and/or safety of students who must continue to be housed in the facility is jeopardized.
2. A waiver may be granted for a school project when the facility will, in accordance with the ten year Comprehensive Educational Facilities Plan, be receiving additional enrollments from other attendance areas in the near future.
3. A waiver may be granted for a school project when the specific school is determined to be geographically isolated from other school populations and eliminates the potential for attaining enrollment economies.
4. A waiver may be granted when a school is the only facility in the county that provides service to students in the particular grade levels included in the school. For example -- Is this the only middle school/high school or elementary school in the county?

A waiver for projects other than the correction of health and safety problems should not be granted to a school that is functional or scheduled for closure in the Comprehensive Educational Facilities Plan.

APENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: School Building Authority School Planning and Design Criteria

Type of Rule: Legislative Interpretive Procedural

Agency: School Building Authority of WV

Address: 2300 Kanawha Boulevard, East
Charleston, WV 25311

Phone Number: (304) 558-2541 Email: stella@wvsba.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The School Building Authority (SBA) is already operating under an existing procedural rule. Due to a provision of the School Access Safety Act, which was passed in the recent 2007 Legislative Session, all SBA policies, both current and new, must be filed with LOCEA and sent through the legislative review process. The approval of this legislative rule will have no impact on the costs and revenues of the state.

Fiscal Note Details

Show over-all effect in Item 1 and 2 and, in Item 3, give an example of Breakdown by fiscal year, including long-rang effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: School Building Authority School Planning and Design Criteria

Rule Title: School Building Authority School Planning and Design Criteria

3. Explanation of above estimates (including long-range effect):
Please include any increase or decrease in fees in your estimated total revenues.

The SBA does not anticipate any fiscal impact in either the immediate or long-range future as a result of the passage of this rule.

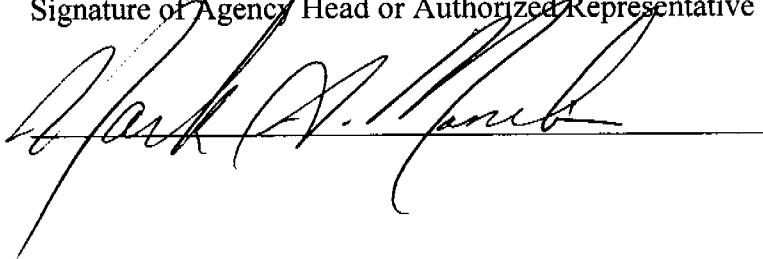
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

The SBA will not need any additional staff, office space, equipment or material to facilitate the requirements of the attached rule.

Date: September 27, 2007

Signature of Agency Head or Authorized Representative



Handwritten signature of Mark A. Smith over a horizontal line.

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

September 27, 2007

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Stella Gill - Executive Secretary, School Building Authority of West Virginia

2300 Kanawha Blvd. East, Charleston, WV 25311

Phone (304) 558-2541 Fax (304) 558-2539

e-mail stella@wvsba.state.wv.us

- g. **IF DIFFERENT FROM ITEM 'F'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Dr. Mark A. Manchin - Executive Director - School Building Authority of WV

2300 Kanawha Blvd. East, Charleston, WV 25311

Phone (304) 558-2541 Fax (304) 558-2539

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

Stella Gill

From: Bill Elswick [cwelswic@access.k12.wv.us]

Sent: Thursday, August 23, 2007 11:23 AM

To: Stella Gill

Cc: Dr. Jack McClanahan; pcain@access.k12.wv.us; Steve Paine; Mark Manchin; David Sneed

Stella,

Attached are the WVDE comments for the SBA Policy sections out for review. I believe most of these items were covered in the meeting with David Sneed earlier, which was a most useful and collaborative process. I fully appreciated the dialogue with this procedure.

If you should have questions, please contact me.

Bill Elswick
Executive Director, Office of School Facilities
West Virginia Department of Education
Phone: (304) 558-2969

9/27/2007

SBA Policy Review
SBA Policy Reference in Bold

- **SBA 1.6B Budget Amendments to CEFP:** require the counties to update the CEFP if the instructional square footage of a facility is altered or the work exceeds \$25,000.00 regardless of the funding source. The language in Policy 6200 indicates \$50,000.00. These dollar values should be aligned to avoid confusion at the county level.
- **SBA 2.31 HVAC Engineering Studies:** requires an engineering study and complete estimate of probable costs for the HVAC system being considered. This section of the policy should include language that allows the SBA, WVDE OSFAC, and WV State Fire Marshal to review and approve the studies.
- **2.4D4 CEFP Planning Grants & 5.1.D3:** indicates the SBA will determine the effective dates of the new CEFP's. Policy 6200 states that the CEFP's are to be re-written every 10 years thereafter with plan submitted in 1990. The CEFP effective date should require the approval of both the WVBOE and SBA. In addition the WVDE OSFAC only requires yearly updates to the CEFP if there are changes. This reduces unnecessary paper work at the county level. The new CEFP's should also include a narrative. The WVDE OSFAC should be included in the CEFP review process. CEFP's should also be submitted electronically in a format that is agreed upon by the SBA & WVDE. The electronic copies are to be accompanied by a hard copy of the document to accommodate reviews and amendments.
- **2.4E4 Awarding of Funds:** list the SBA in an advisory role during the review. A member representative of the WVDE should be included in the review process.
- **4.112 Occupancy of New Educational Facilities:** it appears that the SBA is the only approval agency. Policy 6200 requires SBA, WVDE, and State Fire Marshal to approve occupancy.
- **3.1B Building Gross Area:** This section should include language that a waiver from the WV SBOE is required to deviate from square footage allotments.
- **3.4 D Allowable Construction Costs for New Construction:** New elementary schools with design enrollments less than 400 students will be provided a combined art/music classroom. Policy 6200 has language that states art/music rooms are optional if design enrollment is below 400 students.
- **3.4 E Allowable New Const. Costs:** Auxiliary gyms are to be included as allowable construction costs in high schools that meet the minimum SBA efficiency enrollments of 800 students in grades 9-12 (max 6000ft²). Policy 6200 has conflicting language. Policy 6200 states auxiliary gyms are permitted if student population exceeds 1000 students. Policy 6200 also has the maximum allowable square footage of 5400ft². These two policies should be aligned so the student population and square footage requirements are the same.
- **4.110 Occupancy of New Educational Facilities & 4.113 Training of Custodians & Maint:** 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 system and materials. Policy 6200 & WV Code 18-9E-3-e7 require for major mechanical and electrical equipment and systems (including HVAC control systems) there shall be a minimum of 1 day of follow-up

training at 6 months after facility turnover. All training shall be videotaped and turned over to the county board of education. Designers shall specify the time duration of each specific training session required. Designers will be required to ensure that the integrated training of all manufacturers' components as a single HVAC system is provided.

- **6.1 C SBA Report Procedures:** this section should include the following language; Copies of educational specifications for any new facility shall be submitted to the WVDE and the SBA for review with the schematic design submission. The SBA educational specification guidelines and the WVDE Policies 6200 and 2510 must be used for all projects regardless of funding sources
- **Procedures for Design Build Project:** The WVDE should be included in this process.
- **Architectural & Const. Regulations D1:** Quality HVAC systems must be installed in all schools. These systems must be capable of providing efficient long term climate control, complying with the minimum standards established by the SBA performance criteria. There are design requirements more specific included in Policy 6200. A reference to Policy 6200 should be included in the SBA policy including the performance criteria. Policy 6200 also has language that indicates where there are conflicts between standards AHRAE will be the default standard.
- **Architectural & Const. Regulations D2:** The TAB agent shall directly represent and is under direct contract with the building owner and shall coordinate scheduling of TAB start up and completion work with the mechanical contractor, mechanical engineer, SBA, architect and construction manager. During the WVDE review process TAB work is often a source of problems. The WVDE, HVAC technicians should be involved in this process
- **Architectural & Const. Regulations F:** The SBA, County BOE, facilities planning team, and architect should be in agreement before proceeding from one phase to the next. The WVDE is a stake holder in this process. WVDE acceptance is required at the final stages of the project. It would be beneficial to have a WVDE representative involved in the phase to phase acceptance procedure.
- **Appendix I-G:** This section should include language to require Policy 6200 to be followed. The current language indicates it is optional.
- **Construction Project Submission:** The WVDE should be included in this review process. The components of this process should also comply with policy 6200
- **Standard of Quality and Codes:** This section should include a reference to Policy 6200 and the WV State Energy Code.
- **Project Job Signs & Bldg Signs:** These should include the State Superintendent of Schools
- **XXII SBA Project Observation:** This section should include language that allows the SBA and WVDE to observe the construction process/progress.
-

Note: any deviation from WVBOE Policy 6200, "*Handbook on Planning School Facilities*" must be approved by the Board.



School Building Authority of West Virginia

Dr. Mark A. Manchin, Executive Director

2300 Kanawha Boulevard, East • Charleston, West Virginia 25311-2306 • Office Number (304) 558-2541 • FAX Number (304) 558-2539

MEMORANDUM

TO: Bill Elswick, Executive Director

FROM: Dr. Mark A. Manchin, Executive Director

SUBJECT: WVDE Comments on SBA Policy Revision

DATE: September 13, 2007

We appreciate the WVDE comments on our revised Guidelines and Procedures Handbook. I felt the meeting of July 30, 2007 with David Sneed was very productive and based on the comments provided we feel a simple resolution can be provided for all of the recommendations you presented. We offer the following comments relative to your July 30, 2007 comments.

SBA Policy 1.6B – Budget Amendments to CEFP

Suggestion was made to increase the minimum of \$25,000 to \$50,000 as the threshold requiring an amendment. This change would match current Policy 6200 language.

We will recommend this change to the Authority in the final version of the Handbook. We have maintained this level in the past due to small roof projects being funded through our MIP program.

SBA Policy 2.31 – HVAC Engineering Studies

Suggestion was made that WVDE and SBA approve HVAC system types selected by the design engineer based on the engineer's study of various systems and each county board's preference for new HVAC systems.

The purpose of this policy is actually to require the use of design professionals by county boards when selecting HVAC system types and also to require professional estimates prior to submission of projects for SBA funding consideration. Before this policy was inserted into our Policy and

MEMO: Bill Elswick
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Procedures Handbook, county boards were using HVAC contractors for system selections and cost estimates. This created the possibility that the systems may not meet current ASHRAE standards and the estimates were not comprehensive covering all project costs. As we discussed at the meeting on July 30, 2007, we will be addressing this issue by way of our upcoming meetings scheduled this fall with a committee we are organizing to formulate SBA Building Component Quality Standards. Heating, Ventilating and Air Conditioning systems will be one of the main focuses of the committee. This effort will also address commitments made by the SBA regarding the development of building component performance criteria as a part of the prototypical school design effort suggested by the WV Senate in 2007.

SBA Policy 2.4 D-4 – CEFPP Planning Grants

Suggestion was made that annual updates only be required if changes were made at the WVDE and that the CEFPPs should be submitted electronically to the SBA and the WVDE. The question was also asked during our July 30 meeting regarding our opinion of previous 10 year CEFPPs.

The requirements for annual updates are defined in West Virginia Code 18-9D-2(5). A report is required annually that provides a summary of completed and proposed projects. Based on this and SBA Policy, we feel we need to continue our current procedure regarding annual updates. Additionally, the annual update information is used to prepare a report to the legislature regarding the short and long term needs of each county and the state regarding educational facilities. Regarding the submission of the CEFPPs in electronic format, this is already being considered for the 2010 CEFPP submission. We appreciate your suggestion. As we discussed in our meeting, previous CEFPPs prior to 1990 were not organized and did not always reflect consistent planning practices. Long term planning strategies were not followed and plans addressed only short term goals. SBA involvement and the funding provided by the SBA to counties for assistance from professional school planners and architect/engineers significantly improved the plans. The 2000 CEFPPs were improved from the 1990 plans and we are hopeful the 2010 CEFPPs will continue the trend. A well thought out plan allows for more SBA financial involvement and provides clear planning and funding strategies for local boards and the SBA.

SBA Policy 2.4 E-4 – Awarding of Funding

Suggestion was made that a WVDE representative be included on the review team for the awarding of needs funding.

MEMO: Bill Elswick
September 13, 2007
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Since 1989, a statewide review team has assisted the Authority with the review of needs projects annually. The review team is made up of superintendents and other school officials from all regions of the state and a representative from the Department of Education. We anticipate restructuring the committee's role with regards to needs project selection in the future based on our legislative audit recommendations. However, the make-up of the committee may continue as before. Mr. Ben Shew has served on the committee in the past.

Policy 2.7 A-8 and 4.11.2 – Occupancy of Educational Facilities

This policy was enacted in response to local boards attempting to occupy buildings prior to their completion and in some incidences counties were occupying buildings that were not safe for students and staff to occupy. We have encouraged the Department of Education to participate in the initial walk thru of the building at substantial completion to assist with the mechanical, electrical and plumbing reviews. To effectuate this procedure, we will require A/E firms and construction contractors to schedule the walk-thru 2 weeks in advance and we will notify the WVDE HVAC technicians of the dates and time of the punch-list walk-thru to allow participation. At the conclusion of the joint walk-thru, the A/E firm will compile the official walk-thru punch-list made up of owner, SBA/WVDE and contractor items and the list will be forwarded to the contractor for completion. This will provide input from the HVAC technicians during the latter stages of construction prior to the closeout of the construction contract. It will eliminate the 11th month punch list currently being compiled by the WVDE as there is no contractor's obligation to address punch list items identified after the official punch list has been compiled. The 11th month walk thru is used to address warranty issues. The 11th month walk thru will then become the warrantee review as it is contractually required to be.

Policy 3.1-B – Building Gross Areas

Suggestion was made that WVDE provide a waiver if square footage allotments are deviated from.

By practice we do not deviate from classroom square footage allotments suggested in State Board Policy 6200. Recently, two very small schools were planned with the involvement of the Department of Education. We will continue this practice in the future if significant changes to room sizes are being considered. We would, however, suggest that classroom areas not

MEMO: Bill Elswick
September 13, 2007
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be so rigid that county boards do not have flexibility to offer programs in larger or smaller spaces depending on their scheduling needs. We recommend continuing with our current cooperative process and not requiring State Board waiver approval every time counties desire to alter classroom sizes to accommodate curricular needs. Classroom sizes should be flexible and Policy 6200 should be considered to be recommended sizes as they have been since this document was originally approved. Additionally, the SBA will not allow inequity in room sizes based on special education enrollments.

Policy 3.4-D – Art/Music Spaces

We have established policy regarding space for art and music in elementary schools. The SBA has taken the position that art and music space should be provided and we have increased our building square foot allowance to allow for this space. Policy 6200 identifies this space as optional. Perhaps, the best option would be to review Policy 6200 and make revisions to reflect SBA Policy or leave Policy 6200 alone and we will continue to fund these spaces as per county requests and our current policy.

Policy 3.4E – Allowable New Construction Costs

We have established policy regarding space for auxiliary gyms in high schools. The SBA has taken the position that auxiliary gyms should be provided in new schools with enrollments of 800 students or greater. We have increased our building square foot allowance to allow for this space. Policy 6200 identifies this space as optional. Perhaps, the best option would be to review Policy 6200 make revisions to reflect SBA Policy or leave Policy 6200 alone and we will continue to fund these spaces as per county requests and our current policy.

Policy 4.110 – Contractor Training of Maintenance and Custodial Staff on New Building Equipment

This requirement is already in place under construction regulations in SBA Policy. We currently require verification from county boards that this training has occurred at the conclusion of every project. We will require by construction contract and grant contract that the WVDE be notified of the training dates to allow participation and follow up training of the maintenance and custodial staff as needed in the future by the HVAC technicians. Project specifications will require two weeks notice of the training dates to allow participation in the contractor training.

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Policy 5.1-B – Design Standards

SBA projects are currently being designed by professional architects and engineers charged with the responsibility of designing buildings within codes and standards. Currently, ASHRAE design standards are applied to school HVAC systems and when codes and standards conflict we are defaulting to ASHRAE 62 Ventilation Standards as the governing standard. The International Building Code reference language in our policy will be changed to read school designs will be performed using applicable codes and standards. Design professionals will be responsible for designing buildings using appropriate codes and standards as defined in WV Code 18-9E-3 or future code adoptions, when applicable.

Policy 6.1-C – Grant Agreement – Educational Specifications Submission to WVDE

This practice is already in place. We will provide assurance that the educational specifications will be included in the schematic design submission.

Procedure for Review of Construction Fund Project

This item was covered in previous comments. (2.4 E-4) Also, please understand that four members of the School Building Authority represent the State Department of Education and State Board of Education.

Procedures for Design/Build Projects

Suggestion is made that WVDE be included in this process.

Current code allows county boards to use this method of project delivery and the SBA has provided a policy to help counties navigate through the design-build process including oversight from the design-build board. The Department of Education will be a part of the project review process in the same manner you currently participate. Given the nature of design-build, we anticipate the need for some flexibility on the part of the WVDE and the SBA regarding the review process should a county board decide to use the design-build project delivery method.

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Procedures for Defining Quality HVAC Systems – Appendix D1

Current SBA policy requires that quality HVAC systems be provided in all schools that meet ASHRAE standards. We have increased our new school square foot cost allowance over \$20 per square foot in the past ten years to accommodate improved HVAC systems. We will continue to adjust our system design standards as new standards are adopted. We anticipate defining the quality standards further with the performance criteria development committee previously discussed.

Procedures for Testing, Adjusting and Balancing of HVAC Systems – Appendix D2

Suggestion is made to have an HVAC technician from the WVDE Office of School Facilities involved in this process.

We agree with this suggestion and will provide language in the bidding documents that requires notification of the SBA office as to the scheduled start date of testing, adjusting and balancing.

Architectural and Construction Regulations – Appendix J

Suggestion was made that a WVDE representative be involved in all phases of project acceptance procedures.

Given the SBA is by grant contract a co-owner in the facility we must use caution when we direct work or construction methods and means to limit our liabilities and work within the contractual agreements. We are by WV Code given the responsibility of oversight on the state construction program. We are willing to partner with the Department of Education in regards to design and construction reviews with the understanding that WVDE participation be organized through the SBA to prevent unnecessary liabilities that are always present during the school design review and construction process. We will be partnering with WVDE in areas of design reviews, HVAC training, testing, adjusting and balancing of HVAC systems, project closeout walk-thru, observing contractor training, providing follow up training and participating in the statewide review team reviews for needs projects submitted. This process will be periodically reviewed and adjustments made as required to insure appropriate participation during these, and future phases of the design and construction process.

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Construction Project Submission

Suggestion was made that WVDE be included in this process.

Our current procedures provide for involvement by the WVDE in the project submission process. Construction specifications will also provide for notification to allow further participation in the areas identified in Appendix F. The School Construction Project Development Flow Chart reflects WVDE involvement in the design and construction process where appropriate. Hopefully, this revised language will address your revised comment for Section I-G received August 23, 2007.

Standard of Quality and Codes

This design standards and codes issue is discussed in 5.1B. We will also clarify this further with the performance criteria development committee.

Project Job Signs

Suggestion was made that the State Superintendent of Schools name should be added to the project job signs and building plaque.

The State Superintendent is an ex-officio member of the Authority. As such his name is included on the job signs and building plaques.

SBA Project Observation

Suggestion was made that the WVDE also be allowed to observe construction.

The legislative intent in WV Code 18-9D-15 empowers the School Building Authority to facilitate and provide state funds and to administer all federal funds for the construction and major improvement of school facilities in the state. Additionally, in WV Code 18-9D-16, the legislature provided that the SBA establish guidelines and procedures to promote the intent and purpose of this program to assure the resourceful expenditure of state funds for projects and to provide guidelines and procedures for facility plans, and the manner, timeline and process for the submission of each plan, school major improvement plans and projects submitted in the furtherance of the plans. The School Building Authority is by grant contract a co-owner in each project. As such, we have certain contractual rights to observe construction and to approve plans, construction change directives and reserve the right to

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review and approve all contractor pay applications. WV Code 18-9D-16C also provides for the School Building Authority to prepare guidelines and procedures for project specifications and therefore contractually providing supplemental instruction to the construction contract and to require construction contractors to comply with SBA Supplemental instructions.

We have traditionally involved the HVAC technicians at the WVDE in various stages of the planning and construction of the school projects. Assuming we can cooperatively work together, we are proposing the use of the HVAC technicians in the areas of HVAC testing, adjusting and balancing observation, participation in contractor training of maintenance and custodial personnel and we would like to have the HVAC technicians participate in the project walk-thru punch list at the substantial completion stage of construction. This cooperative effort must be coordinated through the SBA office due to the contractual and legal liabilities we have accepted as co-owners of the buildings. We will require proper notification of the SBA in the construction contract documents and the SBA will notify the HVAC technicians when this involvement is scheduled.

We have attempted to address the comments raised by the WVDE regarding our revised Policy and Procedure Handbook. We feel we can work cooperatively through the school planning and construction process. We are hopeful the HVAC technicians at the Department of Education will continue their legislative mandate of training county maintenance staff and custodians on their new HVAC systems and controls as their first priority. We feel this HVAC training is extremely important to the overall health of students and staff in our schools and we will be mindful of the time you will need for training when we schedule our on-site reviews. Our new policy will be approved September 24, 2007. If you have any further questions or comments, please contact our office prior to this meeting. Thank you for your comments and continued cooperation.

DS:sg

cc: Dr. Steve Paine, State Superintendent of Schools
Dr. Pam Caine, Assistant State Superintendent
Dr. Jack McClanahan, Deputy State Superintendent