

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: WV State Treasurer TITLE NUMBER: 112CSR6

CITE AUTHORITY W.Va. Code 12-1-2

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11³CSR³0

TITLE OF RULE BEING AMENDED: Selection of State Depositories for Disbursement
Accounts Through Competitive Bidding

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

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE
MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT
BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE
FILED WITH THE SECRETARY OF STATE.

John D. Perdue

Authorized Signature

TITLE 112
LEGISLATIVE RULE
STATE TREASURER'S OFFICE

FILED

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SERIES 6
SELECTION OF STATE DEPOSITORIES FOR DISBURSEMENT
ACCOUNTS THROUGH COMPETITIVE BIDDING

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§112-6-1. General.

1.1. Scope. -- This rule implements the provisions of W.Va. Code §12-1-2, which requires the Treasurer's Office to select depositories for disbursement accounts through competitive bidding by banks in this State.

1.2. Authority. -- W.Va. Code §12-1-2.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. General Purpose. -- The purpose of this rule is to carry out the legislative intent as stated in W.Va. Code §12-1-2, so that the required competitive bidding will enable the State to obtain the most efficient service at the lowest possible cost.

§112-6-2. Definitions.

For purposes of this rule, unless a different meaning is clearly required by the context:

2.1. "Compensating balance" means the cash balance which the State shall maintain with a depository to compensate the depository for its services;

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

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

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

§112-6-3. Procedures for Bidding

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

3.2. Notice to Bidders - At least twenty-five (25) days prior to the date on which bids for a

disbursement account will be opened, the Treasurer shall mail, to every eligible depository within this state, notice that bids will be invited on one or more designated disbursement accounts. Any depository within this state interested in bidding on an account shall then make written request to the Treasurer's office for copies of the formal invitation to bid, and the Treasurer's office upon receipt of the request, shall transmit the copies, including all necessary specifications and forms, to the depository. The Treasurer's office shall maintain a record noting the date of receipt of requests for formal invitations to bid and the date on which it mailed the invitations.

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

3.4. Submission of Bids - Depositories within the state shall submit bids on forms provided by the Treasurer's office in duplicate, in a sealed envelope addressed to the Treasurer, and conspicuously marked "Sealed Bid for Disbursement Account". The bidder shall also note on the envelope the account number as designated in the invitation to bid. Bidders may not commingle bids for more than one account in the same envelope. Immediately upon receipt of bids, the Treasurer shall time stamp the envelope, and retain all the sealed bids in the Treasurer's office until the time set for the bid opening.

3.5. Bid Opening - On the date and time set for the bid opening, the Treasurer the bids shall publicly open and read aloud the bids. The Treasurer shall promptly analyze the bids and make awards as provided in Section 4 of this rule.

3.6. Conditions of Bidding - All bids are subject to the following conditions:

3.6.1. Bids received after the date and time stated in the invitation may not be considered;

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

3.6.3. Prior to the bid opening, bids may be withdrawn after receipt in the Treasurer's office upon written request made by an authorized bank officer; or

3.6.4. The Treasurer may reject any and all bids if that action is considered to be in the best interests of the State.

§112-6-4. Award and Compensation.

4.1. Criteria for Award - Depending on the service to be performed, the Treasurer shall invite bids in terms of the price per transaction or per item processed. Accordingly, subject to the Treasurer's right to reject any and all bids, the contract shall be awarded in each case to the bidder who submits the lowest responsible bid in terms of price per transaction or per item

processed. The bid price will be the basis for the compensating balance as provided in Subsection 4.2 of this section.

4.2. Method of Compensation –

4.2.1. Compensation to the depository's for its services shall be made by means of either compensating balances computed by the Treasurer on a monthly basis or by a State warrant. To determine the monthly compensating balances, the Treasurer shall multiply the depository's within the state's bid price per transaction or per item processed, times the number of transactions or items processed during the preceding month (the "computation month"). The product obtained shall be converted to the compensating balance by using the average 90-day U. S. Treasury bill rate (bond equivalent yield) for the computation month. The average 90-day U. S. Treasury bill rate shall be the rate as computed by the Federal Reserve System. The following example illustrates how the compensating balance shall be computed and applied:

Under this example, it is assumed that:

4.2.1.a. The computation month is January;

4.2.1.b. The average 90-day U. S. Treasury bill rate for the computation month (January) was .05;

4.2.1.c. The multiplier for annualization is 12;

4.2.1.d. The bid price per item was three cents (\$.03); and

4.2.1.d. The number of items processed in the computation month (January) was 50,000. Accordingly, the compensating balance to be maintained in the bank during February is \$360,000, derived as follows:

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

4.2.2. The Treasurer shall appropriately adjust the compensating balance if any overcompensation or undercompensation occurs during a given month by adjusting the balance for the following month in order to fairly compensate the depository for services rendered. The Treasurer shall perform a settlement monthly if any overcompensation or undercompensation occurs. The Treasurer and the depository within the state shall agree upon a method of account settlement and include the account settlement as part of the negotiated contract for the Disbursement Account.

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

amount sufficient to compensate the depository for the direct cost of furnishing the ancillary services plus a reasonable amount determined by the Treasurer for the overhead attributable to furnishing the services. The amount to be allowed for the overhead shall be specified in the invitation to bid.



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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

State Capitol - Room MB-49
Charleston, West Virginia 25305
(304) 347-4840

Senator: Mike Ross, Co-Chairman
Delegate: Mark Hunt, Co-Chairman
Counsel: Debra A. Graham

September 15, 1997

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Audrey R. Ross, Admin. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Anoop K. Bhasin
State Treasurer's Office
State Capitol Complex
Building I, Room E-122
Charleston, WV 25303

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: *Selection of State Depositories for Disbursement Accounts through Competitive Bidding (112CSR6)*

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency X
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
- 5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.