

FILED

2002 JUL -1 A 9:23

Secretary of State's Office
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

State of West Virginia
Joe Manchin, III
Secretary of State

Telephone: (304) 558-6000
Toll Free: 1-866-SOS-VOTE
Corporations: (304) 558-8000
FAX: (304) 558-0900
www.wvsos.com

June 10, 2002

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: West Virginia State Auditor's Office

RULE: Amendments, 155CSR1, Standards for Requisitions for Payment Issued by State Officers on the Auditor

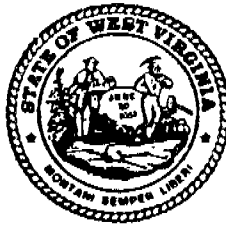
DATE FILED AS AN EMERGENCY RULE: June 6, 2002

DECISION NO. 13-02

Following review under W. Va. Code §29A-3-15a, it is the decision of the Secretary of State that the above emergency rule is **approved**. A copy of the complete decision with required findings is available from this office.


JOE MANCHIN, III
Secretary of State

SCANNED



FILED

JUN 11 - 1 A 0:23

Secretary of State's Office
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

State of West Virginia
Joe Manchin, III
Secretary of State

OFFICE OF THE SECRETARY OF STATE
Telephone: (304) 558-6000
Toll Free: 1-866-SOS-VOTE
Corporations: (304) 558-8000
FAX: (304) 558-0900
www.wvsos.com

EMERGENCY RULE DECISION
(ERD 13-02)

AGENCY: West Virginia State Auditor's Office
RULE: Amendments, 155CSR1, Standards for Requisitions for Payment
Issued by State Officers on the Auditor
FILED AS AN EMERGENCY RULE: June 6, 2002

- par. 1 The West Virginia State Auditor's Office (State Auditor) has filed the above amendments to an existing rule as an emergency rule.
- par. 2 W. Va. Code 29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [§29A-3-15a].
- par. 4 (A) Procedural Compliance: W. Va. Code §29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

- par. 6 The State Auditor filed this emergency rule with supporting documents with the Secretary of State June 6, 2002 and with the LRMRC June 6, 2002.
- par. 7 It is the determination of the Secretary of State that the State Auditor has complied with the procedural requirements of W. Va. Code §29A-3-15 for adoption of an emergency rule.
- par. 8 (B) Statutory Authority -- W. Va. Code §12-3-10f reads in part:

The state auditor shall propose rules for legislative approval in accordance with provisions of §29A-3 of this code, to implement the provisions of this section.
- par. 9 It is the determination of the Secretary of State that the State Auditor has not exceeded its statutory authority in promulgating this emergency rule.
- par. 10 (C) Emergency -- W. Va. Code §29A-3-15(f) defines "emergency" as follows:

(f) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.
- par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.
- par. 12 The facts and circumstances as presented by the State Auditor are as follows:

Amendments to this rule were mandated in HB 3034 which becomes effective June 7, 2002, and pertains to Receiving Reports that are required for commodities received.
- par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(f).

par. 14

This decision shall be cited as Emergency Rule Decision 13-02 or ERD 13-02 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the West Virginia State Auditor's Office, the Attorney General and the Legislative Rule Making Review Committee.



JOE MANCHIN, III
Secretary of State

Entered _____

FILED

2002 JUL - 1 A 8:23
OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

Form #7 □

Do Not Mark In This Box
Filing Date

FILED

2002 JUN -6 P 4:18

WEST VIRGINIA
Effective Date SECRETARY OF STATE

NOTICE OF AN EMERGENCY RULE

AGENCY: WV State Auditor's Office TITLE NUMBER: 155

CITE AUTHORITY: WV Code 12-3-10 and 12-3-10f

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: "Standards for Requisitions for Payment Issued by State Officers on the Auditor"

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Amendments to this rule were mandated in HB 3034 which becomes effective June 7, 2002, and pertains to Receiving Reports that are required for commodities received.

Use additional sheets if necessary

Carrie J. Chambers

Authorized Signature

13-



State of West Virginia

Office of the State Auditor
Building 1, Room W-100
Charleston, West Virginia 25305

Glen B. Gainer III
State Auditor

Telephone: (304) 558-2251
FAX: (304) 558-5200
Internet: <http://www.wvauditor.com>

June 6, 2002

Ms. Judy Cooper
Director
Administrative Law Division
Secretary of State's Office
Capitol Complex
Charleston, West Virginia 25305

RE: 155CSR1 - "Standards for Requisitions for Payment Issued by State Officers on the Auditor"

Dear Ms. Cooper:

This letter will serve as my approval to file the above-referenced rule with your office as "Notice of an Emergency Rule" authorized by the West Virginia Legislature in HB 3034, §12-3-10f (attached).

If you should have any questions concerning the above, please call Carrie Chambers in my office at 558-2251. Your assistance in this filing is very much appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen B. Gainer III".

Glen B. Gainer III
State Auditor

cc: Lisa Hopkins
Lisa Comer
Carrie Chambers

1 receiving report shall be an internally-generated document, either
2 written or prepared using electronic media, that identifies
3 commodities received. Commodities as defined in this section
4 include, but are not limited to, the following: Materials,
5 equipment, supplies, printing and automated data processing
6 hardware and software.

7 The state officer or employee acting as head of each spending
8 unit is responsible for the completion and timely submission of the
9 receiving reports, which shall be prepared at the original point of
10 receipt of the commodities at the spending unit by employees
11 designated by the head of the spending unit to receive the
12 commodities and prepare the receiving reports. The receiving
13 reports shall include, but not be limited to, the following
14 information: Vendor name, description and quantity of commodities
15 received, whether date commodities are received, commodities are
16 acceptable for payment, and a signed acknowledgment of receipt by
17 the employees receiving the commodities. The receiving reports
18 required by this section shall be prepared within twenty-four hours
19 of the receipt of the commodities.

20 The head of a spending unit may not issue a requisition on the
21 state auditor in payment of a claim for commodities received by the
22 spending unit unless the receiving report required by this section
23 accompanies the claim for payment. The spending unit is liable for
24 a debt improperly incurred or for a payment improperly made if the

1 receiving report was not filed with the state auditor as set forth
2 in this section.

3 The state auditor shall propose rules for legislative approval
4 in accordance with provisions of article three, chapter
5 twenty-nine-a of this code, to implement the provisions of this
6 section.

7 No provision of this section shall apply to the West Virginia
8 Legislature.



EMERGENCY RULE QUESTIONNAIRE

DATE: June 6, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV State Auditor's Office - Capitol Complex

Building 1, Room W-100, Charleston, WV 25305

EMERGENCY RULE TITLE: 155CSR1-Stds. for Req. Payments Issued by State Off. on Audit

1. Date of filing June 6, 2002

2. Statutory authority for promulgating emergency rule:

N/A

3. Date of filing of proposed legislative rule: June 6, 2002

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? Amends a current Legislative Rule

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.

HB 3034, which becomes effective June 7, 2002, mandates that rules be filed to

implement the provisions of 12-3-10f

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

N/A

**BRIEF SUMMARY OF PROPOSED EMERGENCY RULE AND STATEMENT OF
CIRCUMSTANCES CONSTITUTING THE EMERGENCY**

155CSR1 – “Standards for Requisitions for Payment Issued by State Officers on the Auditor”

This proposed emergency rule establishes standards for the form and content of requisitions for payment issued by state officers on the Auditor. The proposed emergency amendments relate to receiving reports that are to be submitted to the State Auditor verifying the receipt of commodities by a state spending unit. These amendments were mandated in HB 3034, 12-3-10f, passed during the 2002 Legislative Session and effective June 7, 2002.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 155CSR1 - "Stds. for Requis. for Payment Issued by State Officers on Auditor"

Type of Rule: Legislative Interpretive Procedural

Agency: WV State Auditor's Office

Address: Capitol Complex, Room W-100

Charleston, West Virginia 25305

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$127,675.00				
PERSONAL SERVICES	\$111,025.00				
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT	\$16,650.00				
OTHER					

2. Explanation of Above Estimates:

The estimated cost set forth above is based upon the cost of additional personal services time involved in the Auditing Division of the Auditor's Office and the estimated cost of computer purchases to upgrade existing equipment in order to handle electronic receiving reports that will be submitted by various agencies. PLEASE SEE ATTACHED.

3. Objectives of These Rules:

The objective of these proposed emergency rules is to provide a clear and concise manner in which all state agencies can comply with the provisions of HB 3034, and insure that proper receiving reports are attached to invoices submitted to the Auditor's Office for payment of goods and services.

Rule Title: 155CSR1 - "Stds. for Requisition for Payment Issued by State Officers on Audit

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

As stated above, we estimate that the receiving report will cost the State Auditor's Office \$127,675 in increased personal services and computer upgrades. We do not have sufficient information to estimate the cost of implementing the receiving reports for other state agencies.

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

This Office does not have access to the necessary information to provide this information.

C. Economic Impact on Citizens/Public at Large.

This Office does not have access to the necessary information to provide this information.

Date: June 6, 2002

Signature of Agency Head or Authorized Representative:

Mark E. Parron

RECEIVING REPORT COST ESTIMATE

NAME	SALARY	HOURLY	5 MIN.	15 MIN.
Norma Rawlings	21,012	10.78	0.90	2.69
Sherry Hodges	18,000	9.23	0.77	2.31
Stephen Sparks	18,000	9.23	0.77	2.31
Ellen Bailey	24,000	12.31	1.03	3.08
Sonny Crowder	24,036	12.33	1.03	3.08
Sharlene Cooley	18,000	9.23	0.77	2.31
Charlie Adkins	22,344	11.46	0.95	2.86
Bobby Rhodes	27,900	14.31	1.19	3.58
Linda Coleman	23,196	11.90	0.99	2.97
	196,488		8.40	25.19
	AVERAGE		0.93	2.80

TOTAL INVOICES FOR FY-01		108,477		
Normal Procedure (5 Minutes)		103,054	.93	95,840
Rejected Receiving Reports (5%) (15 Min.)		5,423	2.80	15,184
Current Rejection Rate is 1.8%				
TOTAL PERSONAL SERVICES COST		108,477		111,025

EQUIPMENT				
Computer Upgrade to Handle Electronic Receiving Reports:				
9 computers @ \$1,850		16,650		

TITLE 155
EMERGENCY LEGISLATIVE RULE
WEST VIRGINIA STATE AUDITOR

SERIES 1
STANDARDS FOR REQUISITIONS FOR PAYMENT ISSUED
BY STATE OFFICERS ON THE AUDITOR

§155-1-1. General.

1.1. Scope. -- This emergency rule establishes standards for the form and content of requisitions for payment issued by state officers on the Auditor.

1.2. Authority. -- W. Va. Code §12-3-10.

1.3. Filing Date. -- ~~May 2, 2000.~~

1.4. Effective Date. -- ~~May 2, 2000.~~

§155-1-2. Definitions.

2.1. Auditor. -- The Auditor of the State of West Virginia.

2.2. Authorized signature. -- The written or electronic authorization of a person authorized by the Department of Administration to certify that state agency funds are available to process the relevant transaction.

2.3. Certify. -- To authenticate or verify that pertinent information is true and accurate by affixation of an authorized signature.

2.4. Change order. -- An amendment to an original purchasing contract.

2.5. Commodities. -- defined in 5A-1-1 of the West Virginia Code as supplies, material, equipment, contractual services and any other articles or items used by or furnished to a department, agency or institution of State government. Also, as defined in HB 3034, commodities include but are not limited to: Materials, equipment, supplies, printing and automated data processing hardware and software.

2.5. Coversheet. -- A printed or electronic document initiated by WVFIMS to be included with all requisitions submitted to the Auditor for payment.

2.6. Invoice. -- Written, printed or electronic documentation issued by a vendor reflecting the merchandise or service delivered or provided and the cost of the merchandise or service.

2.7. Open-end contract. -- A contract that has no determined quantity or encumbrance.

2.8. Purchasing Card (Card). -- A credit card issued in the name of an individual employee of the State of West Virginia for official state use.

the invoice.

3.2. "Miscellaneous" itemization. -- Invoices indicating "miscellaneous" as itemization are not acceptable for payment.

3.3. Credits. -- Invoices including credits shall not require credit memos if the credit is identified on the invoice.

3.4. Previous balances. -- Invoices including a previous balance require documentation before the previous balance may be paid. Metered utilities are excluded from the provisions of this subsection.

3.5. Vendor information. -- All invoices submitted to the Auditor shall have an invoice coversheet containing the same vendor name as that contained on the invoice. If the vendor name on the coversheet and the invoice are not the same, then the invoice shall indicate that the vendor name on the invoice is that of a division, branch, subsidiary, or is a doing business as (DBA) name of the vendor name contained on the invoice coversheet. The Auditor shall accept letters of assignment for payments made in care of financial institutions.

3.6. Original invoice. -- All invoices submitted to the Auditor shall be an original or a certified original. The following are considered original invoices:

3.6.a. Wholly original invoices;

3.6.b. Invoices in which the body is wholly original; the body being that section of the invoice which contains the itemization, quantity and price of the goods or services;

3.6.c. Invoices reflecting that the invoice is an original, customer copy, remittance copy or billing copy, and in which the body is wholly original;

3.6.d. Computer generated invoices;

3.6.e. Original invoices which are handwritten, typewritten or created in whole, or in part, by a manual stamping device; and

3.6.f. Wholly original debt service documents, court orders, electronic funds transfer documents, and liens.

3.7. Original invoice certification. -- Any invoice requiring original certification may be certified by the agency receiving the invoice. These invoices require two original certifications, one of which must be the Chief Financial Officer, Department/Agency Administrator, or as determined by the Auditor in emergency situations, are:

3.7.a. Electronically reproduced invoices sent by the invoicing vendor;

3.7.b. Invoices which reflect that they are revised, duplicate or second billing invoices; and

3.7.c. Non-original invoices which are typewritten, handwritten, or created in whole, or in part, by a manual stamping device.

3.8. Coversheet/Invoice certification. -- All requisitions submitted to the Auditor shall have an authorized

signature on the face of the document.

3.9. Invoice date stamp requirement. -- In order to comply with W. Va. Code § 5A-3-54, the Prompt Pay Act of 1990, the Auditor shall require that all invoices be date stamped, either manually or electronically, upon receipt by the state agency. If goods are received prior to the receipt of an invoice for the goods, the affixation of a date stamp on the invoice indicating the date the invoice was received meets the requirement of this rule. The state agency shall date stamp invoices received prior to the receipt of the relevant goods a second time indicating the date the goods were received. In the absence of a second date stamp indicating that the goods were received after receipt of the invoice, the Auditor shall determine the interest due the vendor by referring to the date of receipt of the invoice. Invoices for services shall not require a second date stamp insofar as the date of service reflected on the invoice constitutes prima facie proof of the date the services were received.

§155-1-4. Receiving Report Requirements.

4.1. Time of preparation. -- All receiving reports must be prepared within 24 hours after the receipt of the commodities.

4.2. Form. -- Receiving report must be in a format approved by the Auditor.

4.3. Itemization. -- All receiving reports submitted to the Auditor shall contain the following:

4.3.a. An item description for each type of commodity received along with the quantity of each type received in sufficient detail to match the itemization with the vendor invoice and/or contract.

4.3.b. The date commodities are received. -- The actual date on which the commodities were received by the authorized individual.

4.4. Vendor information. -- All receiving reports submitted to the Auditor shall have the same vendor name as is contained on the invoice and WVFIMS coversheet. If the vendor name on the receiving report is not the same, then the receiving report shall indicate that the vendor name on the receiving report is that of a division, branch, subsidiary, or is a doing business as (DBA) name of the vendor name contained on the invoice and coversheet.

4.5. Signed Acknowledgment. -- All receiving reports must contain the original signature of an employee designated by the head of the spending unit to receive commodities and prepare receiving reports. This signature acknowledges both receipt and the fact that the commodities received are acceptable for payment.

4.6. Receiving Report certification. -- All requisitions to the Auditor for payment of commodities that do not include a receiving report must be certified by the Chief Financial Officer, or Department/Agency Administrator, or as determined by the Auditor in emergency situations.

4.7 Refer to State Purchasing Card Policies and Procedures for acceptable form(s) of receiving report for commodities procured using the card.

§155-1-5. Contract Invoice Requirements.

5.1. Itemization. -- All invoices submitted to the Auditor for payment against a contract shall contain the following:

5.1.a. An item description, including, but not limited to, model number, quantity and unit price, indicating the type of materials, supplies or service. The materials, supplies or service shall be of the type covered under the contract and the description of the materials, supplies or service shall not conflict with the description contained in the contract; and

5.1.b. The date of service, if the item to be paid is service. The date shall fall within the contract period.

5.2. Vendor information. -- All invoices submitted to the Auditor for payment against a contract shall have an invoice coversheet containing the same vendor name as that contained on the invoice. If the vendor name on the coversheet and the invoice are not the same, then the state agency shall submit either a change order reflecting the change in vendor name or a statement from the vendor indicating that the vendor name on the invoice is that of a division, branch, subsidiary, or is a doing business as (DBA) name of the vendor name contained on the invoice coversheet. The name of the state agency on the invoice and invoice coversheet shall be the same as the name of the state agency on the contract.

5.3. Funding information contract requirements. -- All contracts and change orders submitted to the Auditor shall include complete WVFIMS financial code component information, excluding statewide and open-end contracts. Complete WVFIMS financial code component information includes the components listed and defined in sub section 2.10 of this rule. All contracts with encumbered monies shall indicate funding information and the amount allotted to each fund, if more than one is indicated. Statewide and open-end contracts need only indicate "VARIOUS" or "MULTIPLE". All coversheets shall include the funding information indicated on the contract.

5.4. Building leases. -- All building leases are audited in accordance with the Department of Administration's Leasing Division's Guidelines. Time periods are required on all invoices to verify that the time is within the lease period.

5.5. Contract and Change order approvals. -- All contracts and change orders shall be approved by the following:

5.5.a. The Department of Administration Purchasing Division or an authorized procurement officer, if a Higher Education agency;

5.5.b. The Attorney General, as to form, if the contract exceeds the dollar limits established by the Department of Administration or Higher Education statutes for delegated purchasing authority, or is for the provision of legal services; and

5.5.c. The Attorney General, as to form, if changes are made to contract terms and conditions.

§155-1-6. Travel Reimbursement.

6.1. All state employee travel reimbursements submitted to the Auditor shall comply with state travel regulations or Higher Education Travel Guidelines. In-state travel reimbursement shall be processed in accordance with those regulations or guidelines.