

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #4

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DEC 4 2 29 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia State Auditor TITLE NUMBER: 155

CITE AUTHORITY WV Code Section 12-3-10

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 NEW RULE BEING PROPOSED: Series 1

TITLE OF RULE BEING PROPOSED: Standards for Requisitions for Payment Issued by State

Officers on the Auditor

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.

Paul S. Mallock

155 CSR 1

TITLE 155
PROPOSED RULE
WEST VIRGINIA STATE AUDITOR

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

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§155-1-1. General.

1.1. Scope. -- This proposed 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. -- August 30, 1996.

1.4. Effective Date. -- _____.

§155-1-2. Definitions.

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

2.2. Authorized signature. -- The signature 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. Coversheet. -- A document initiated by WVFIMS to be included with all requisitions submitted to the Auditor for payment.

2.6. Invoice. -- 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. Requisition. -- A written demand or application for payment issued by a state officer on the Auditor consisting of a coversheet with authorized signature, an invoice and any other documentation required by law, rule or lawful discretion of the Auditor.

2.9. Statewide contract. -- A contract that is open to all state agencies and has no set encumbrance.

2.10. West Virginia Financial Information Management Systems (WVFIMS). -- The centralized accounting systems used by all state agencies for processing financial transactions and maintained by the Department of Administration and the Auditor.

2.11. WVFIMS financial code components. -- The accounting code scheme used in WVFIMS which provides financial information necessary for the processing of financial transactions. The code components are required on all coversheets submitted to the Auditor. The code components are:

2.11.a. FUND. -- A self-balancing set of accounts containing assets, liabilities, fund balance, revenue and expenditure accounts;

2.11.b. FISCAL YEAR (FY). -- Represents the fiscal year in which an appropriation was authorized by the Legislature;

2.11.c. ORGANIZATION (ORG). -- The organizational entity which has management responsibility for a fund;

2.11.d. ACTIVITY (ACT). -- Represents the activity code corresponding to budgetary line items in the Legislative Budget;

2.11.e. OBJECT (OBJ). -- Represents the object code indicating what commodity or service was acquired by the expenditure; and

2.11.f. SOURCE. -- For revenue accounts, the source code indicates the type of revenue.

§155-1-3. Invoice requirements.

3.1. Itemization. -- All invoices submitted to the Auditor for payment shall contain the following:

3.1.a. An item description indicating the type of materials, supplies or service provided;

3.1.b. An invoice or order date and the date(s) of service, if the item to be paid is a service; and

3.1.c. Any additional information required by the Auditor.

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 must reflect 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. Those invoices which require original certification are:

3.7.a. Faxed or photocopied invoices;

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 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(s) of service reflected on the invoice constitutes prima facie proof of the date(s) the services were received.

§155-1-4. Contract invoice requirements.

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

4.1.a. An item description, including, but not limited to, model number(s), 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

4.1.b. The date(s) of service, if the item to be paid is service. The date(s) shall fall within the contract period.

4.2. 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 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 reflected on the invoice and invoice coversheet shall be the same as the name of the state agency on the contract.

4.3. 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 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.

4.4. 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.

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

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

4.5.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.

§155-1-5. Travel reimbursement.

5.1. All state employée 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.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Auditor's Office

Subject: Standards for Requisitions for Payment Issued By State
Officers on the Auditor, 155CSR1

PERTINENT DATES

Filed for public comment: July 29, 1996
Public comment period ended: August 29, 1996
Filed following public comment period: August 30, 1996
Filed LRMRC: August 30, 1996
Filed as emergency: July 29, 1996

Fiscal Impact: None

ABSTRACT

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines terms.

Section 3 lists requirements for invoices. It specifies the information which must be itemized, prohibits miscellaneous itemization, requires documentation for invoices containing previous balances, requires that vendor name on the invoice coversheet match the vendor name in the invoice, requires that all submitted invoices be an original or a certified original, provides for the certification of an original invoice, requires an authorized signature on the face of all requisitions and requires invoices to be date stamped.

Section 4 sets forth the requirements for contract invoices, including itemization, vendor information, funding information, contract travel reimbursement, building leases, contract and change order approvals, change orders and accepted letters of change.

Section 5 requires that travel reimbursements be submitted and processed in accordance state travel regulations or Higher Education Travel Guidelines.

AUTHORITY

Statutory authority: W.Va. Code, §12-3-10, which provides, in part, as follows:

It is unlawful for any state officer to issue his or her requisition on the state auditor in payment of any claim unless an itemized account is filed in the office of the officer issuing the requisition. The auditor shall propose rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code, to govern the form and manner by which claims shall be itemized for payment...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Probably, however it is impossible to determine. The Auditor received several comments on the proposed rule, but failed to prepare a brief response to the comments as required under Secretary of State Rule, Standard Size and Format Rules and Procedures for Publication of the State Register or parts of the State Register, 153CSR6.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

Probably, however it is impossible to determine. The Auditor received several comments on the proposed rule, but failed to prepare a brief response to the comments as required under Secretary of State Rule, Standard Size and Format Rules and Procedures for Publication of the State Register or parts of the State Register, 153CSR6. Several commentors asked for language to be clarified, which the Auditor did not do.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

The filing did not contain a copy of the proposed rule, but rather a copy of the Emergency Rule.

VIII. OTHER.

Counsel has technical modifications to suggest.



FILED

Nov 22 10 41 AM '96

West Virginia Legislature
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Room NB47-State Capitol
Charleston, West Virginia 25305
(304) 347-4840

Senator Mike Ross, Co-Chair
Delegate Vicki Douglas, Co-Chair

Debra A. Graham, Counsel
Joe Altizer, Associate Counsel
Marie Nickerson, Adm. Assistant

November 20, 1996

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register
TO: Ms. Crystal Moody
State Auditor and Purchasing Division of the Dept. of Administration
Bldg. 1, Room E-119
State Capitol
FROM: Legislative Rule-Making Review Committee
PROPOSED RULE: Standards for Requisition for Payment Issued by State Officer
on the Auditor

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.