



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: School Building Authority Of WV

TITLE-SERIES: 164-04

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Project Administration and Review

CITE STATUTORY AUTHORITY: 18-9D-20

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) Senate Bill 672

Section 18-9D-21(d) Passed On 3/7/2019 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2019

This rule shall terminate and have no further force or effect from the following date:

April 30, 2029

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Benjamin Ashley -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 164
LEGISLATIVE RULE
SCHOOL BUILDING AUTHORITY OF WEST VIRGINIA

SERIES 4
SCHOOL BUILDING AUTHORITY
PROJECT ADMINISTRATION AND REVIEW

§164-4-1. General.

1.1. Scope. -- This legislative rule establishes the guidelines and procedures related to requirements for project administration and review.

1.2. Authority. -- §18-9D-20.

1.3. Filing Date. -- April 30, 2019

1.4. Effective Date. -- April 30, 2019

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of April 30, 2029.

§164-4-2. Project Administration and Review.

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

2.2. The educational agency shall be required to employ architectural/ engineering firms in compliance with W. Va. Code §5G-1-3. The SBA can assist with sample advertisements and Statement of Qualifications should the educational agency desire this assistance.

2.3. Unless a lump sum fee arrangement is used, design fees shall be calculated based on a percentage of the construction cost. Construction costs are calculated based on the lowest acceptable qualified bid for constructing the building. Design fees for alternative designs requested by the grant recipient that are not constructed shall be born by the grant recipient unless approved by the SBA prior to bidding. Construction cost does not include fees for construction management, preconstruction services, clerk-of-the-works, construction analyst (paid for under additional services), legal fees, site acquisition cost or other project costs not directly associated with the construction of the building. Architectural and engineering fees may also be applied to the cost of furniture and equipment only if the architect prepared the bid packages and/or has direct administration over the contract for the installation of the furniture and equipment. Without approval of the SBA, architectural and engineering fees shall not exceed the SBA fee schedule established for new or renovated school construction. Reimbursable expenses for agency review document printing and distribution may be paid from grant funds as a reimbursable cost for printing and distributing.

2.4. The educational agency shall be required to employ a clerk-of-the-works to monitor all construction projects in excess of \$750,000 unless waived by the SBA. Candidates for professional services or clerks-of-the-works shall be reviewed by the SBA for comment prior to final selection by the educational agency.

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

§164-4-3. Construction Management.

3.1. The local education agency shall work with the design professional to develop a project management strategy for all projects based on the scope of the work and the county's ability to manage the project. If a construction manager is involved the grant recipient will be required to follow local policies regarding the procurement of professional construction management services. The construction management contract must be reviewed by the SBA staff.

§164-4-4. Geotechnical.

4.1. For projects funded by the SBA, the educational agency shall be required to perform a geotechnical survey on any potential school construction site prior to the purchase of the site. The survey shall include a complete soil and substrata report to determine the suitability of the site for the construction. A copy of the report must be provided to the SBA office for review and approval of the cost impact on each site being considered prior to the purchase of the site. The report shall provide site preparation and building footings and foundation design information for the proposed site(s) specific to each site being considered for the project.

4.2. The SBA reserves the right to review all applications for payment or other invoices submitted against any SBA project. Completion of proper documentation by the educational agency and/or the company requesting payment shall be a prerequisite to any invoice being honored by the SBA.

4.3. The SBA reserves the right to review all county, clerk-of-the-works, project architect/engineer, and construction manager files related to an SBA funded project.

§164-4-5. Occupancy of New Educational Facilities.

5.1. Teachers and other employees shall be informed of the operation of the building, particularly fire escape routes, heating, ventilating and air conditioning systems and communications systems.

5.2. No educational facility shall be occupied without prior approval from the State Fire Marshal.

§164-4-6. Training of Custodians and County Maintenance Staff.

6.1. At the conclusion of all construction projects, the contractor shall be responsible for providing pertinent product information including warranty and maintenance instruction to county officials, as well as provide training for county staff regarding the operation and maintenance of the building systems and materials. It is the responsibility of the county board of education to assure that staff is present during the training and has sufficient in-service instruction on all equipment in order to properly maintain the new or renovated facility. At the conclusion of the training, the local board shall provide assurances to the SBA that the training has been provided.

§164-4-7. Radon Testing of SBA Funded Schools.

7.1. Within the first year of occupancy of any new SBA funded school facility the county is responsible for testing for the presence of radon in accordance with the guidelines and procedures of the West Virginia Bureau of Public Health in the facility. A follow-up radon test is mandatory every

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successive five years. Test results shall be filed at the school and with the West Virginia Bureau for Public Health.