

# Chapter 253-16 WAC

## PROCEDURES AND FEES FOR PREPARATION AND PROCESSING OF APPLICATIONS FOR AUTHORITY ASSISTANCE

### WAC

253-16-010	Purpose.
253-16-020	Definitions.
253-16-030	Applications for financial assistance.
253-16-040	Fees.
253-16-050	Processing of application.
253-16-090	Selection of investment banking firms as underwriters.
253-16-100	Selection of bond counsel.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

253-16-060	Priorities regarding applicant funding. [Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-16-060, filed 11/27/84.] Repealed by 10-13-080, filed 6/15/10, effective 7/16/10. Statutory Authority: RCW 28B.07.040(1).
253-16-070	Authority action on applications. [Statutory Authority: RCW 28B.07.040. 87-01-035 (Order 1), § 253-16-070, filed 12/12/86; 84-24-012 (Order 3), § 253-16-070, filed 11/27/84.] Repealed by 10-13-080, filed 6/15/10, effective 7/16/10. Statutory Authority: RCW 28B.07.040(1).

**WAC 253-16-010 Purpose.** The purpose of this chapter shall be to set forth the principles governing the authority's financing process and the designation of underwriters and bond counsel. In addition, the authority shall adopt policies to provide guidance to applicants, authority staff and finance team.

[Statutory Authority: RCW 28B.07.040(1). 10-13-080, § 253-16-010, filed 6/15/10, effective 7/16/10. Statutory Authority: RCW 28B.07.040. 95-19-025, § 253-16-010, filed 9/11/95, effective 10/12/95; 84-24-012 (Order 3), § 253-16-010, filed 11/27/84.]

**WAC 253-16-020 Definitions.** (1) "Applicant" means a participant which submits an application to the authority.

(2) "Application" means a formal request for the providing of bonds for the financing of a higher education institution by the authority, in a format and containing such information as the authority shall specify in these rules or in the application instructions and which is signed and sworn to by a representative designated by formal action of the applicant's governing board or equivalent.

[Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-16-020, filed 11/27/84.]

**WAC 253-16-030 Applications for financial assistance.** Authority staff will notify applicants of what information they should provide. Applicants who have questions about the application process should contact authority staff.

[Statutory Authority: RCW 28B.07.040. 95-19-025, § 253-16-030, filed 9/11/95, effective 10/12/95; 84-24-012 (Order 3), § 253-16-030, filed 11/27/84.]

**WAC 253-16-040 Fees.** (1) The authority, pursuant to chapter 28B.07 RCW, shall require applicants to pay fees and

(6/15/10)

charges to the authority to provide it with funds for expenses of issuance and sale of bonds, and other charges for services provided by the authority in connection with projects undertaken, as well as the operating and administrative expenses of the authority. The annual service fee shall be based on the outstanding and unredeemed bonds of each applicant. The initial annual fee shall be paid to the authority on the date of closing of each tax exempt note or bond issue and annually thereafter. The authority shall set fee schedules and may waive or credit all or any part of the annual or application fee by motion. Authority fee schedules shall be contained in the authority's policies.

(2) All the costs and expenses of the authority shall be paid from fees assessed pursuant to this section. No moneys of the state of Washington shall be expended for such purposes.

[Statutory Authority: RCW 28B.07.040(1). 10-13-080, § 253-16-040, filed 6/15/10, effective 7/16/10. Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-16-040, filed 11/27/84.]

**WAC 253-16-050 Processing of application.** An application will be reviewed and accepted by the executive director and such authority staff as he or she determines. Such review will be based upon the stated legislative intent to enable the building, providing, and utilization of modern, well-equipped, efficient and reasonably priced higher educational facilities, as well as the improvement, expansion, and modernization of such facilities, in a manner that will minimize the capital cost of construction, financing and use of such facilities. Proposed facilities should improve and ensure the quality and range of educational services available to the citizens of this state. The authority will adopt policies to implement this intent and will review applications based on such policies.

[Statutory Authority: RCW 28B.07.040(1). 10-13-080, § 253-16-050, filed 6/15/10, effective 7/16/10. Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-16-050, filed 11/27/84.]

**WAC 253-16-090 Selection of investment banking firms as underwriters.** (1) The authority shall create and maintain a roster of underwriters who the authority believes possess the requisite special expertise and professional standing to provide bond marketing services which would be accepted by bondholders and other members of the financial community, and which would be in furtherance of the public interest in marketing the authority's bonds at the lowest possible costs in Washington state as well as nationally.

(2) Any underwriter may apply to have its name placed on the roster. Each underwriter placed on the roster must be able to demonstrate current competence and experience in the

structuring and sale of higher educational facility bond financing by demonstrating, among other things:

(a) The firm or its key underwriting personnel have either managed or comanaged two higher educational facility bond issues within the last three calendar years; and

(b) The firm meets other criteria as the authority may adopt from time to time which establish a firm's ability to prepare for issuance, underwrite and market bonds to be issued by the authority.

(3)(a) As permitted by RCW 28B.07.130(2), the authority may adopt rules permitting applicants to select an underwriter in lieu of the authority. Whenever the applicant decides that it needs the services of an underwriter, it shall provide all underwriters on the roster with a notice of its intentions and shall invite each of them to submit to the applicant an itemization of its fees and other charges for providing underwriting services on the issue. The applicant shall have wide discretion in selecting the underwriter it considers to be most appropriate to provide the services, but in the exercise of this discretion the applicant shall consider the underwriter's fees and other charges and the public interest in achieving issuance of bonds on terms most favorable to the authority and the applicant.

The applicant shall supply the authority with written verification that it has complied with the provisions of this subsection and the applicant shall obtain the authority's prior approval of the actual selection of the underwriter.

(b) Whenever an applicant intends to select an underwriter pursuant to competitive bidding, the applicant, with the consent of the executive director, shall solicit bids notifying each underwriter on the roster of underwriters.

(4) Whenever an applicant intends to privately place bonds, the applicant may select a firm as placement agent for its proposed financing, subject to review and approval by the executive director of the authority. The placement agent selected must be able to demonstrate a familiarity with, and competence and experience in, the structuring and sale of higher education facility bonds.

[Statutory Authority: RCW 28B.07.040(1), 10-13-080, § 253-16-090, filed 6/15/10, effective 7/16/10. Statutory Authority: RCW 28B.07.040, 95-19-025, § 253-16-090, filed 9/11/95, effective 10/12/95. Statutory Authority: Chapter 28B.07 RCW, 95-01-007, § 253-16-090, filed 12/8/94, effective 1/8/95. Statutory Authority: RCW 28B.07.040, 87-01-035 (Order 1), § 253-16-090, filed 12/12/86; 84-24-012 (Order 3), § 253-16-090, filed 11/27/84.]

**WAC 253-16-100 Selection of bond counsel.** The authority will establish a roster of bond counsels whom the authority believes possess the requisite special expertise and professional standing to provide bond counsel opinions which would be accepted by the underwriters, bond holders, rating agencies and other members of the financial community, and which would be in furtherance of the public interest in obtaining the lowest possible interest rates on bonds issued by the authority.

Law firms or attorneys may submit to the authority at any time the request to be included on the roster of approved bond counsel.

At least once every two calendar years, the authority shall select anew an attorney or attorneys to serve as bond counsel. However, the authority may retain an attorney for longer than two years when necessary to complete work on a

particular bond issue. An attorney previously selected may be selected again, but the authority will provide other attorneys or bond counsel on the roster with an opportunity to be selected prior to this action being taken. The authority also reserves the right to appoint bond counsel with respect to only a particular bond issue or issues.

[Statutory Authority: RCW 28B.07.040, 95-19-025, § 253-16-100, filed 9/11/95, effective 10/12/95; 87-01-035 (Order 1), § 253-16-100, filed 12/12/86; 84-24-012 (Order 3), § 253-16-100, filed 11/27/84.]

