WAC 253-02-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington higher education facilities authority with the provisions of chapter 42.17 RCW (Initiative 276), and chapter 34.04 RCW.

WAC 253-02-020 Rules of interpretation. (1) All adjectives and adverbs, including but not limited to the words "adequate," "approved," "qualified," "reasonable," "reputable," "satisfactory," "sufficiently," and "suitable," as used in this title to qualify a person, procedure, process or otherwise shall be as determined by the authority or its designee.

(2) Where the word "shall" is used in this title, the subject rule or action to which the word relates is mandatory.

(3) Where the word "should" is used in this title, it indicates suggestion or recommendation but not a requirement.

(4) Where the word "may" is used in this title, the action or rule to which the word relates is permissive or discretionary.

(5) Words importing the singular number may also be applied to the plural of persons and things; words importing the plural may be applied to the singular; and words importing the masculine gender or relating to a man may also be extended to the feminine gender and be considered to relate equally to a woman.

WAC 253-02-030 Definitions. (1) "Act" means chapter 169, Laws of 1983, and chapter 28B.07 RCW.

(2) "Washington higher education facilities authority" and "authority" each mean the corporate and politic public body created by the act and also refer to the staff and employees of the authority.

The terms defined in the act shall have the same meaning when used in this title.

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deposit all such moneys forthwith in such banks as the authority may designate from time to time.

(5) Administrative office: The administrative office of the authority shall be located at 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, telephone: (206) 464-7139, which office shall be open each day for the transaction of business from 8:30 a.m. to 5:00 p.m. (Saturdays, Sundays and legal holidays excepted, and except for business relating to public records, which is governed by WAC 253-12-050).

(6) Address for communications: All communications with the authority, including but not limited to the submission of materials pertaining to its operations and these rules, requests for copies of the authority's decisions and other matters, shall be addressed as follows: Washington Higher Education Facilities Authority, 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046.

WAC 253-02-050 Operations and procedures. (1) Uniform procedure rules: Practice in procedure in and before the authority are governed by the uniform procedural rules codified in the Washington Administrative Code, WAC 1-08-005 through 1-08-590, as now or hereafter amended, which rules the authority adopts as its own, subject to any additional rules the authority may adopt as its own, subject to any additional rules the authority may add from time to time. The authority reserves the right to make whatever determination is fair and equitable should any question not covered by its rules come before the authority, said determination to be in accordance with the spirit and intent of the law.

(2) Authority meetings: The meetings of the authority shall all be "regular" or "special meetings" as those designations are applied in chapter 42.30 RCW. They may be called at any time and place by the chairman or a majority of the members of the authority. Notice of all special meetings shall be given by delivering personally or by mail to each member a written notice specifying the time and place of the meeting and a copy of the agenda prepared by the executive director in consultation with the chairman, and by giving such notice to the public as may be required by law. If an emergency is deemed to exist, the chairman may shorten the notice period to not less than twenty-four hours. An executive session may be called by the chairman or by a majority of the members of the authority to consider the appointment, employment or dismissal of an officer or employee, and such other matters as are permitted by RCW 42.30.110.

(3) Quorum: Four members shall constitute a quorum, and the act of a majority of the members present at any meeting, if there is a quorum, shall be deemed the act of the authority except as specified hereafter in subsection (7) of this section.

(4) Chairperson's or secretary's voting rights: The chairperson or the chairperson's designee and the secretary shall have the right to vote on all matters before the authority, just as any other authority member.

(5) Minutes of meetings: Minutes shall be kept of the proceedings of the authority.


WAC 253-12-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington higher education facilities authority with the provisions of RCW 42.17.250 through 42.17.340, dealing with public records.

WAC 253-12-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency, regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication or representation, including letters, words, pictures, sounds or symbols, or any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Washington higher education facilities authority" and "authority" each refers to that state agency described in WAC 247-02-030.

Chapter 253-12 WAC PUBLIC RECORDS
WAC 253-12-030 Public records available. All public records of the authority are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310.

[Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-12-030, filed 11/27/84.]

WAC 253-12-040 Public records officer. The authority's public records shall be under the charge of the public records officer designated by the executive director of the authority. The person so designated shall be located in the administrative office of the authority. The public records officer shall be responsible for implementing the authority's rules and regulations regarding release of public records, coordinating the staff of the authority in this regard and generally ensuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

[Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-12-040, filed 11/27/84.]

WAC 253-12-050 Office hours. Public records shall be available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-12-050, filed 11/27/84.]

WAC 253-12-060 Requests for public records. In accordance with the requirements of chapter 42.17 RCW that agencies prevent unreasonable invasion of privacy, that they protect public records from damage or disorganization and that they prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained by members of the public upon compliance with the following procedures:

A request shall be made in writing upon a form prescribed by the authority, which form shall be available at its administrative office. The form shall be presented by the public records officer, or to any member of the authority's staff if the public records officer is not available, at the administrative office of the authority during the office hours specified in WAC 253-12-050. The request shall include the following information:

(1) The name of the person requesting the record;
(2) The time of day and calendar date on which the request was made;
(3) The nature of the request;
(4) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index;
(5) If the requested matter is not identifiable by reference to the authority's current index, an appropriate description of the record requested.

[Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-12-060, filed 11/27/84.]

WAC 253-12-070 Copying. No fee shall be charged for the inspection of public records. The authority shall charge a fee of twenty-five cents per page of copy for providing copies of public records and for use of the authority's copying equipment. This charge is the amount necessary to reimburse the authority for its actual costs incident to such copying.

[Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-12-070, filed 11/27/84.]

WAC 253-12-080 Exemptions and denials of requested public records. (1) The authority reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 253-12-060 is exempt under the provisions of RCW 42.17.310.

(2) In addition, pursuant to RCW 42.17.260, the authority reserves the right to delete identifying details when it makes available or publishes any public record in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-12-080, filed 11/27/84.]

WAC 253-12-090 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the executive director of the authority. The executive director may request that a special meeting of the authority be called as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the authority has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-12-090, filed 11/27/84.]

WAC 253-12-100 Protection of public records. In order that public records maintained on the premises of the authority may be protected from damage or disorganization as required by chapter 42.17 RCW, the following procedures and practices are hereby instituted:

(1) Upon receipt of a request by a member of the public for a public record, the public records officer or the staff member in the authority's office receiving the request shall review the request for a public record and the requested public record to determine whether deletions from such record should be made or the request for such record should be denied pursuant to WAC 253-12-080.

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(2) Only after a determination has been made that all or such portion of a public record as is not deleted may be inspected shall such public record or portion thereof be made available for inspection by a member of the public.

(3) Only the staff and members of the authority may open authority files to gain access to authority records for either authority business or to respond to a request for a public record.

(4) No public record of the authority may be taken from the premises of the authority by a member of the public.

(5) Public inspection of authority records shall be done only in such locations as are approved by the public records officer, which locations must provide an opportunity for authority staff members to ensure that no public record of the authority is damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public.

(6) Public records of the authority may be copied only on the copying machines of the authority unless other arrangements are authorized by the public records officer.

[Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-12-100, filed 11/27/84.]

WAC 253-12-101 Records index. (1) The authority shall establish a current index which provides identifying information as to the following records issued, adopted or promulgated since its inception:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy statute and the constitution which have been adopted by the authority;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultants' reports and studies, scientific reports and studies, and reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the commission relating to any regulatory, supervisory or enforcement responsibilities of the authority whereby the authority determines, or opines upon, or is asked to determine or opine upon the rights of the state, the public, a subdivision of state government or any private party.

(2) The current index promulgated by the authority shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Statutory Authority: RCW 28B.07.040. 84-24-012 (Order 3), § 253-12-101, filed 11/27/84.]

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.
253-16-060 Priorities regarding applicant funding.
253-16-070 Authority action on applications.
253-16-090 Selection of investment banking firms as underwriters.
253-16-100 Selection of bond counsel.

WAC 253-16-010 Purpose. The purpose of this chapter shall be to establish fees for the authority's operations and to set forth procedures relating to the financing process and the designation of underwriters and bond counsel.

[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.

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. 84-24-012 (Order 3), § 253-16-020, filed 11/27/84.]

WAC 253-16-040 Fees. (1) Authorization to charge fees: The authority, pursuant to chapter 28B.07 RCW, shall require applicants to pay fees and 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. In accordance with this authorization, an applicant shall pay to the authority such fees and charges as are necessary to meet any and all expenses incurred by the authority in connection with the processing of the application of the applicant, together with an annual service fee to defray expenses of the authority in administering and servicing the financing provided to the applicant and other allocable expenses of the authority. The authority shall assess an annual fee of one-tenth of one percent of 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 in every anniversary date thereafter: Provided, however, That the authority by an adopted motion may set a different fee schedule and may waive or credit all or any part of the annual or application fee.

(2) Fee obligations of the applicants: An applicant shall submit with its application an initial remittance of: (a) A three thousand seven hundred fifty dollar fee which shall accompany each application for a bond anticipation note; or (b) a seven thousand five hundred dollar fee which shall
accompany all other applications for assistance. The author-
ity shall, in its discretion make the final determination
whether any application is for a bond anticipation note. The
applicant shall pay such fees and charges as they are billed to
it from time to time by the authority. These expenses may be
reimbursed to the applicants from the bond proceeds if financ-
ing is consummated. In addition, the application shall
contain an appropriate legal commitment to indemnify the
authority against any expenses or costs incurred by it in con-
nection with the processing of the applicant's application and
the completion of any project or plan and system subse-
quently approved and undertaken by the authority, as well as
to pay the authority an annual service fee to defray expenses
of the authority in administering and servicing the financing
provided to the applicant and other allocable expenses of the
authority, which annual fee shall be imposed so long as
financing is being provided by the authority to the applicant.

(3) Refund of excess fees: The authority may from time
to time, at its discretion refund any surplus fees paid or
deposited by an applicant or participant which the authority
believes exceeds the actual application-processing expenses
and authority-determined pro rata administrative and operat-
ing costs of the authority.

(4) 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 pur-
poses.

[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 appli-
cation will be reviewed by the executive director and such
authority staff as he or she determines. Upon completion
of authority staff analysis and recommendations, such staff
analysis and recommendations and the application shall be
presented to the authority for appropriate action.

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

WAC 253-16-060 Priorities regarding applicant
funding. The authority will process higher educational facili-
ty applications for assistance in the order of their date of
receipt. The date of receipt shall be the date the higher educa-
tion facility application together with the application fee is
received by the authority at its office.

The authority reserves the right to change priorities and
scheduling when the authority determines that a "first come,
first served" priority scheduling is detrimental to the sale of
another higher educational facility bond issue or when condi-
tions of health and safety or public benefit require a differ-
ent priority.

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

WAC 253-16-070 Authority action on applications.

(1) The authority shall meet to review and consider the staff
analysis and recommendations and the application.

(2) The authority may approve an application and adopt
a resolution authorizing the issuance of bonds for the
requested financing where it determines:

(a) It is necessary or advisable for the benefit of the
higher education system for the authority to provide financ-
ing for the proposed project;

(b) The applicant can reasonably be expected to achieve
successful completion of the higher education facilities to be
financed by the authority;

(c) The proposed project and the issuance of bonds by
the authority for such project are economically feasible and
can be undertaken on terms economically satisfactory to the
authority;

(d) The proposed higher education facility, if completed
as described in the application, will carry out the purposes
and policies of the act;

(e) The applicant has reasonably satisfied the require-
ments of the act and these regulations; and

(f) Other criteria that the authority has determined are
appropriate factors in its decision-making process have been
met.

(3) The authority may approve an application on a condi-
tional basis where the criteria of subsection (2) of this section
have been met and pending satisfaction of such other condi-
tions or requirements as the authority shall determine to be
reasonable and necessary in order to carry out the purposes,
policies and requirements of the act and these regulations.
The applicant shall be notified in writing of such conditions
or requirements, which may include, but need not be limited
to, the amendment of an application or proposed bond resolu-
tion in order to meet the availability of funds, changes in
costs, or other purposes or circumstances which may enhance
the ability of the authority or the applicant to complete the
project or better serve the purposes and policies of the act.
Upon the satisfaction of such additional conditions or
requirements, the application shall be deemed approved pur-
suant to subsection (2) of this section.

(4) The authority may also deny an application; in such
event, it shall notify the applicant of such action, specifying
in writing the reasons for its denial.

[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.]

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 stand-
ing 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 pos-
sible 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. In addition the underwriter must meet the follow-
ing minimum standards:

(a) The firm must currently possess the competence and
ability to underwrite a higher education facility bond issue by
demonstrating, among other things, that the firm or its key
underwriting personnel have either managed or comanaged

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two higher educational facility bond issues within the last three calendar years; or

(c) The firm has served as a credit facility for a higher education facility within the past three years; or

(d) 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) Whenever the authority 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 authority an itemization of its fees and other charges for providing underwriting services on the issue. The authority 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 authority 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.

(b) The applicant may, at its option, exercise the notice and selection procedures regarding underwriters set forth in (a) of this subsection. In such circumstances the applicant shall supply the authority with written verification that it has complied with the provisions of (a) of this subsection and the applicant shall obtain the authority's prior approval of the actual selection of the underwriter.

(4)(a) To provide balanced management knowledge and sale distribution and to assure the most realistic bond terms and interest, the authority reserves the right to name investment banking firms as co-managers of any authority bond issue(s) in the same manner that a senior manager is selected.

(5) For private placements the applicants may select a firm as placement agent for its proposed financing, subject to review and approval by the authority. In every instance, 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. The applicant shall notify the authority in writing of its proposed placement agent selection fifteen days prior to the date it intends to enter into a formal contractual agreement. The authority will notify the applicant of its acceptance or rejection of the applicant's placement agent selection no later than ten days after receipt of the applicant's notification. If rejected, the authority will set forth the reasons for rejection, and the applicant will then propose another placement agent subject to authority approval in the same manner. The authority shall, in its discretion, make the final determination whether an issue is a private placement.

[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.]

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.]