

# Title 253 WAC

## HIGHER EDUCATION FACILITIES AUTHORITY

### Chapters

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### Chapter 253-02 WAC

#### ORGANIZATION, OPERATIONS AND PROCEDURES

#### WAC

253-02-010	Purpose.
253-02-050	Operations and procedures.

**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 34.05 RCW.

[Statutory Authority: RCW 28B.07.040(1), 10-13-080, § 253-02-010, filed 6/15/10, effective 7/16/10. Statutory Authority: RCW 28B.07.040, 84-24-012 (Order 3), § 253-02-010, filed 11/27/84.]

**WAC 253-02-050 Operations and procedures.** (1) Uniform procedure rules: Practice and 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 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, fax or electronic 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 all 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. Members participating in a meeting through the

use of any means of communication by which all members participating can hear each other during the meeting shall be deemed to be present in person at the meeting for all purposes.

(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.

(6) Rules of order: The authority shall generally follow *Robert's Rules of Order*, newly revised, in conducting its business meetings.

(7) Form of authority action: The authority may act on the basis of a motion except when authorizing issuance of bonds pursuant to WAC 253-16-070 and when otherwise taking official and formal action with respect to the creation of special funds and the issuance and sale of bonds for a project of a participant, in which case the authority shall act by resolution. Such resolutions shall be adopted upon the affirmative vote of four or more members of the authority and shall be signed by a majority of the members of the authority. Motions shall be adopted upon the affirmative vote of a majority of a quorum of members present at any meeting. All bonds and coupons shall bear either the manual or the facsimile signatures of the governor and executive director.

(8) Public participation. The presiding officer may grant permission to any person or organization to make a presentation at any of the authority's public meetings. The presiding officer may limit any remarks addressed to the authority.

[Statutory Authority: RCW 28B.07.040(1), 10-13-080, § 253-02-050, filed 6/15/10, effective 7/16/10. Statutory Authority: RCW 28B.07.040, 95-19-025, § 253-02-050, filed 9/11/95, effective 10/12/95; 84-24-012 (Order 3), § 253-02-050, 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.
253-16-040	Fees.
253-16-050	Processing of application.
253-16-090	Selection of investment banking firms as underwriters.

#### 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 253-16-040 Fees.** (1) 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. 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.]