

WEST VIRGINIA CODE: §64-8-2

§64-8-2. Division of Highways.

(a) The legislative rule filed in the State Register on July 31, 2023, authorized under the authority of §17-2A-8 of this code, modified by the Division of Highways to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2023, relating to the Division of Highways (construction and reconstruction of state roads, 157 CSR 03), is authorized with the amendment set forth below:

On pages 15 and 16, by striking out all of subdivision 5.5.a. and inserting in lieu thereof a new subdivision 5.5.a. to read as follows:

“5.5.a. The successful bidder has the option of submission of the bond in an amount equivalent to either 102 percent or 100 percent of the contract price.”;

And,

On page 16, by adding 4 new subdivisions, designated 5.5.b., 5.5.c., 5.5.d., and 5.5.e., all to read as follows:

“5.5.b. The submission of the aforementioned bond in an amount equivalent to 102 percent of the contract price by the successful bidder is the standard expectation of the division in order to comply with the current special provision for subcontractor prompt payment and does not necessitate the withholding of retainage by the division from monies due on future progress voucher estimates payable under the terms of the contract. Further, the decision by a particular contractor to submit a bond in an amount equivalent to 102 percent of the contract price shall be consistent and applicable throughout the duration of the contract for which the bond is being submitted and shall be consistent and applicable to all contracts executed between the Division and that particular contractor.

5.5.c. If the successful bidder elects to submit the bond in an amount equivalent to 100 percent of the contract price, it is necessary that the bidder notify the Contract Administration Division in writing prior to the submission of the bond. Submission of a bond in an amount equivalent to 100 percent of the contract price requires the withholding of retainage by the Division from monies due on future progress voucher estimates payable under the terms of the contract and as set forth in 11.6 of this rule. Further, the decision by a particular contractor to submit a bond in an amount equivalent to 100 percent of the contract price shall be consistent and applicable throughout the duration of the contract for which the bond is being submitted and shall be consistent and applicable to all contracts executed between the division and that particular contractor.

5.5.d. As an alternate, the successful bidder may deposit with the State Treasurer cash

bond, United States Treasury Bonds, United States Treasury Certificates of Indebtedness, United States Treasury Bills or West Virginia Road Bonds in the amount of either 102 percent or 100 percent of the contract amount. A safe keeping receipt from a bank located in the State of West Virginia may be deposited with the State Treasurer in lieu of any of the definitive securities.

5.5.e. The State Treasurer shall, on a regular basis, collect all interest or income on the obligations so deposited and pay same, when and if collected, to the contractor who deposited the obligations. If the deposit is in the form of coupon bonds, the State Treasurer shall deliver each coupon as it matures to the contractor."

(b) The legislative rule filed in the State Register on July 26, 2023, authorized under the authority of §17-2A-8 of this code, modified by the Division of Highways to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 8, 2023, relating to the Division of Highways (traffic and safety rules, 157 CSR 05), is authorized with the amendments set forth below:

On page 14, Subdivision 7.4.h. by striking out the words "Vehicle speed shall not exceed 35 miles per hour" and inserting the following:

"Vehicle speed shall not exceed the posted or statutory speed limit in effect and shall not exceed the recommended speed on all warning signs when passing through the area of concern (curve, intersection, etc.).";

On page 14, Subdivision 7.4.j. by striking out the words "or main highway";

And,

On page 14, Subdivision 7.4.j., after the word "measures.", by inserting the following:

"When approaching an intersecting roadway, vehicles shall obey any traffic control devices such as stop signs, yield signs, and traffic lights."