# WEST VIRGINIA CODE: §18B-19-7

**§18B-19-7. Capital project management.**

(a) The commission, council and governing boards, as responsibility is otherwise assigned herein, shall ensure that capital funds are spent appropriately and that capital projects are managed effectively. Project management shall be conducted in all respects according to sound business practices and applicable laws, and rules.

(b) The commission shall employ a sufficient number of competent facilities staff experienced in capital project development and management that is suitable for the number, size and complexity of the capital projects being managed. By December 31, 2011, and continuing thereafter, at least one employee shall be Leadership in Energy and Environmental Design (LEED) certified.

(c) A governing board under the jurisdiction of the commission is exempt from the provisions of subsections (e) and (f) of this section seven of this article, and its capital projects management shall be governed by the provisions of subsection (d) of this section regardless of the rolling five year construction expenditures, if it meets each of the following criteria:

(1) Employs at least one Leadership in Energy and Environmental Design (LEED) certified administrator; and

(2) Employs at least one Certified Facilities Manager (CFM) as credentialed by the International Facility Management Association or employs at least one Project Management Professional (PMP) as certified by the Project Management Institute.

(d) An institution that has entered into construction contracts averaging more than $50 million over the most recent rolling five-year period is responsible for capital project management at that institution if it meets the following additional conditions:

(1) The governing board shall employ a facilities staff experienced in capital project development and management that is suitable for the number, size and complexity of the capital projects being managed and, by December 31, 2011, and continuing thereafter, at least one of these employees shall be Leadership in Energy and Environmental Design (LEED) certified;

(2) The governing board shall promulgate and adopt a capital project management rule in accordance with section six, article one of this chapter. The capital project management rule shall include at least the following items:

(A) Delineation of the governing board’s responsibilities with respect to capital project management and the responsibilities delegated to the institution’s president;

WV Legislature

(B) A requirement for the use of standard contract documents for architectural, engineering, construction, construction management and design-build services as appropriate to a particular project;

(C) The governing board's requirements for the following procedures:

(i) Monitoring and approving project designs to ensure conformance with the state and system goals, objectives and priorities and the governing board's master plan, compact and campus development plan;

(ii) Approving project budgets, including a reasonable contingency reserve for unknown or unexpected expenses and for bidding;

(iii) Approving architectural, engineering and construction contracts exceeding an amount to be determined by the governing board;

(iv) Approving contract modifications and construction change orders; and

(v) Providing a method for project closeout and final acceptance of the project by the governing board.

(3) The institutional capital project management rule shall be filed with the commission no later than one hundred eighty days following the effective date of the rule required of the commission and council in section seventeen of this article.

(4) The commission may review or audit projects greater than $5 million periodically to ascertain that appropriate capital project management practices are being employed.

(e) For institutions that have entered into construction contracts averaging at least $20 million, but not more than $50 million, over the most recent rolling five-year period:

(1) The governing board, with assistance as requested from the commission, shall manage all capital projects if the governing board meets the following conditions:

(A) Employs at least one individual experienced in capital project development and management; and

(B) Promulgates and adopts a capital project management rule in accordance with section six, article one of this chapter that is approved by the commission. The capital project management rule may be amended at the discretion of the governing board, but amendments shall be submitted to the commission for review and approval before becoming effective.

(2) The capital project management rule of the governing board shall include at least the following items:

WV Legislature

(A) Delineation of the governing board's responsibilities with respect to capital project management and the responsibilities delegated to the institution's president;

(B) A requirement for the use of the state's standard contract documents for architectural, engineering, construction, construction management and design-build services as appropriate to a particular project; and

(C) The governing board's requirements for the following procedures:

(i) Monitoring and approving project designs to ensure conformance with the state and system goals, objectives and priorities and the governing board's master plan, compact and campus development plan;

(ii) Approving project budgets, including a reasonable contingency reserve for unknown or unexpected expenses and for bidding;

(iii) Approving architectural, engineering, construction and other capital contracts exceeding an amount to be determined by the governing board;

(iv) Approving contract modifications and construction change orders; and

(v) Providing a method for project closeout and final acceptance of the project by the governing board.

(3) If an institution does not meet the provisions of this subsection, the commission shall manage all capital projects exceeding $1 million.

(4) The commission staff shall review and audit periodically all projects greater than $1 million to ascertain that appropriate project management practices are being employed. If serious deficiencies are identified and not addressed sufficiently within ninety days, commission staff may assume management of all projects.

(f) For institutions that have entered into construction contracts averaging less than $20 million over the most recent rolling five-year period and for all community and technical colleges, the commission and council shall manage capital projects exceeding $1 million. In the rule required by section seventeen of this article, the commission and council, as appropriate, shall adopt procedures to afford participation by the governing boards and staff in the planning, development and execution of capital projects.

WV Legislature