

GUIDELINES FOR REQUESTING 5G COSTS VARIANCE FROM THE WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

The procurement of engineering services by the State of West Virginia and its political subdivisions is governed by Chapter 5G of the Code of West Virginia, 1931, as amended (the “Act”). The Act establishes steps a political subdivision must follow in selecting and retaining engineering services for a proposed project. Procurement of engineering services for projects estimated to cost \$250,000 or more is controlled by Section 3 of the Act. In 2009, the West Virginia Legislature amended Section 3 by limiting the costs that a project sponsor may pay for certain engineering services for water and wastewater projects:

“That for any water or wastewater construction project the engineering design and construction inspection costs may not exceed the amount calculated pursuant to the compensation curves for consulting engineering services based upon project construction costs published by the American Society of Civil Engineers manual of practice, unless granted a variance by the Infrastructure and Jobs Development Council...”

If the proposed engineering costs exceed the amounts established by the Act, then the political subdivision must obtain a variance from the West Virginia Infrastructure and Jobs Development Council (the “Council”). The Council has determined to establish guidelines for the submission and review of requests from political subdivisions for variances for estimated engineering costs for water and wastewater construction projects as required by Section 3 of the Act.

The ASCE manual provides two curves: one for design fees and one for total fees. The manual does not contain a curve for “construction inspection costs.” Until ASCE adds a “construction inspection costs” curve or the Act is amended, the Council shall consider the following when requested to approve a variance from the curve(s) for design and/or total construction engineering services:

A. Design. The ASCE curve for design fees covers preliminary and final design services only. The request for a variance must include the proposed preliminary design cost and the proposed final design cost with a comparison to the ASCE curve. If the cost exceeds from the ASCE curve then the political subdivision must provide a detailed written explanation of the reason for the cost differential. The political subdivision should also detail all other preliminary [pre-construction] costs not included within the preliminary design cost or the final design cost and provide the proposed tasks and hours to achieve material provided by the consulting engineer.

B. Total Fees. The ASCE curve for total fees includes investigation, studies, preliminary design, final design, construction services and all other services. The request for a variance must include all proposed engineering related cost components for the project including those items deemed to be “inspection.” If the total fees exceed the curve, then the political subdivision should provide a detailed written explanation of the reason for the difference in costs.

Adopted this 2nd day of June, 2010.

*ASCE

Executive Secretary