

**STATE OF WEST VIRGINIA**

**UPDATE OF THE FULL PERFORMANCE EVALUATION  
OF THE**

**PURCHASING DIVISION  
Within The  
DEPARTMENT OF ADMINISTRATION**

**The Purchasing Division is In Compliance with  
Recommendations 1 and 3  
Planned Compliance with Recommendation 2**

**OFFICE OF LEGISLATIVE AUDITOR  
Performance Evaluation and Research Division  
Building 1, Room W-314  
State Capitol Complex**

**CHARLESTON, WEST VIRGINIA 25305  
(304) 347-4890**

**December 2001**

**PE01-27-226**

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**December 2001**

**WEST VIRGINIA LEGISLATURE**  
*Performance Evaluation and Research Division*

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John Sylvia  
Director

December 9, 2001

The Honorable Edwin J. Bowman  
State Senate  
129 West Circle Drive  
Weirton, West Virginia 26062

The Honorable Vicki V. Douglas  
House of Delegates  
Building 1, Room E-213  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting an Update of the Full Performance Evaluation of the *Purchasing Division Within the Department of Administration* which will be presented to the Joint Committee on Government Operations on Sunday, December 9, 2001. The issues covered herein are "The Purchasing Division is In Compliance with Recommendations 1 and 3;" and "Planned Compliance with Recommendation 2".

We transmitted draft copies of the Update to the Department of Administration and the Purchasing Division on November 28, 2001. We conducted an exit conference with the Department of Administration and the Purchasing Division on November 30, 2001. We received the agency response on November 30, 2001.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/wsc



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## Executive Summary

This report is an update of the Full Performance Evaluation of the Purchasing Division August 2000 report. It is conducted in accordance with the West Virginia Sunset Law, West Virginia *Code*, Chapter 4, Article 10, Section 5a. The purpose of the update is to determine whether or not the agency has complied with recommendations made in the original evaluation.

The August 2000 report identified the following issue:

**Issue 1: Two of 25 contracts were awarded to the wrong vendors causing the state to pay over \$360,000 more for services.**

This update examines issue 1. It uses the following designations of levels of compliance.

<b>Table 1: Levels of Compliance</b>
<u>In Compliance</u> - The Purchasing Division has corrected the problems identified in the 2000 report.
<u>Partial Compliance</u> - The Purchasing Division has partially corrected the problems identified in the 2000 report.
<u>Planned Compliance</u> - The Purchasing Division has not corrected the problem but has provided sufficient documentary evidence to find that the Commission will do so in the future.
<u>In Dispute</u> - The Purchasing Division does not agree with either the problem identified, or the solution.
<u>Non-compliance</u> - The Purchasing Division has not corrected the problem identified in the 2000 audit report.
<u>Requires Legislative Action</u> - The recommendation was intended to call the attention of the Legislature to one or more statutory issues.

The Purchasing Division is **In Compliance** with Recommendations 1 and 3, and **Planned Compliance** for Recommendation 2.





## **Background**

The Legislative Auditor issued a full performance evaluation of the Purchasing Division in January 1999 which stated that two out of nine Request for Proposal (RFP) contracts reviewed were found to be in error, and an unnecessarily high risk existed of state contracts being awarded to the wrong vendor. A later report, issued in August 2000, reviewed 25 RFPs and found that six were not evaluated according to Purchasing Division guidelines. Two of the six were actually awarded to the wrong vendors, costing the state over \$364,002. One contract was incorrectly awarded because the agency applied the West Virginia Resident Vendor Preference inconsistent with the statute. A second contract was awarded incorrectly because bids were included from vendors who should have been disqualified.

The Purchasing Division uses the Request for Proposal procedure when agencies need to make certain complex, high dollar purchases which require a high level of technical expertise on the part of the vendor. While the RFP process is used infrequently, it amounts to millions of dollars awarded to vendors each year.

The Purchasing Division is responsible for clearly defining the RFP process, training state agencies' evaluation committees, and providing oversight to the entire award process, including reviewing the agencies' evaluation to ensure accuracy. The problems identified in the 2000 report occurred because of the following reasons:

1. The staff of state agencies had an inadequate understanding of how to evaluate competing vendor RFP proposals. This was the result of the Purchasing Division's inadequate performance in ensuring that state agencies had current, clearly defined guidelines, and educating agency evaluators in the proper application of these guidelines, through training and oversight of the process.
2. The Purchasing Division inadequately reviewed the State agency's evaluation criteria before requests for proposals were made, and it inadequately reviewed for accuracy the Award Justification documents before the apparent winning vendor was awarded the contract.



**Issue 1: Two of 25 Contracts were Awarded to the Wrong Vendors  
Causing the State to Pay Over \$360,000 More For Services.**

**Recommendation 1:**

*The Purchasing Division needs to implement a formal review process for every RFP to ensure accuracy before and after the agency evaluation committee award. Awards should not be finalized until after Purchasing has carefully reviewed the agency's selection method.*

**Level of Compliance: In Compliance**

Following the calendar year 2000 evaluation, the Purchasing Division made several changes. Prior to the release of the Request For Proposal (RFP) to solicit bids, all members of the agency evaluation committee must be approved by the Purchasing Division. Evaluation committee members must receive RFP evaluation training. This is part of Best Value Purchasing now offered twice each month by the Purchasing Division. The Purchasing Division Buyer meets with the agency committee at the first evaluation meeting after the bid opening, and provides committee training and general review of the proposals. An agency's Procurement Officer is required to participate in all RFP evaluations as a full voting member of the evaluation committee. On a pilot basis, the Buyer is also required to observe the committee evaluation, answer procedural issues, and provide general process oversight. The Request for Proposal Standard Evaluation Process is detailed, and written with specific steps for the committee to follow.

In January 2001, the Purchasing Division created an internal RFP evaluation committee to review all agency evaluation committee recommendations *in draft form* prior to the final bid award. The Review Committee meets as needed and is composed of the Purchasing Division Director, Assistant Director, and Assistant General Counsel to the Department of Administration. The Director of Purchasing stated that "*the purpose of this review is to ensure accuracy and completeness of the documentation before the award is made.*" Both the Buyer, and the Review Committee calculate the technical and cost points to determine that no arithmetic errors have been made. **The Legislative Auditor reviewed all (22) RFP's that were prepared under the new guidelines. No problems or risks of errors were found in the review.**

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**Recommendation 2:**

*The Purchasing Division RFP guidelines must be clear, and the Purchasing Division must ensure that agencies have the current guidelines. Training for agency committees must provide emphasis on common areas where mistakes occur. Application of the West Virginia Resident Vendor Preference procedure needs to be included clearly in the guidelines.*

## Level of Compliance: Planned Compliance

The West Virginia Resident Vendor Preference is clearly defined in the Purchasing Division Policies and Procedures Handbook in Section 7, with an example of how the resident vendor preference is calculated.

When the Performance Evaluation and Research Division Purchasing update was being prepared, the Purchasing Division provided materials to the research analyst that indicated that the application of the West Virginia Resident Vendor Preference was not clear because the **application procedure** was not included in the handbook, the written training outlines of Best Value Purchasing and Standard Evaluation Process of the RFP evaluation committee, the General Information Section of the RFP format or the Vendor Preference Certificate. The agency evaluation committee's role was not clear, and the role of the Purchasing Division's Buyer was not clear in applying the Resident Vendor Preference. **However, following the preparation of the update draft report, the Purchasing Division revised all five documents to clarify the role of the Buyer, and agency committee in applying the Resident Vendor Preference.** At the time this update was issued, the revisions were still in draft form.

The RFP guidelines were re-written for clarification on June 1, 2001. All previous recipients of the 325 copies of the handbook received the revision. The revision is specific in terms of the role of the committee, the process to be followed and the timing of the process. The language is clear and detailed. Training is available at the annual purchasing conference and also twice monthly at the Purchasing Division in Charleston.

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### Recommendation 3:

*Contracts awarded in error should be re-awarded to the correct vendors for the remaining renewal periods.*

## Level of Compliance: In Compliance

The Director of Purchasing concurred with this recommendation and states that *"the Purchasing Division follows the recommendation offered during this performance audit."* The August 2000 performance evaluation found that two contracts using the Request For Proposal process had been awarded in error, with a cost to the state of over \$360,000. Both contracts were awarded by the Department of Health and Human Resources. One contract was for child care resource and referral services, and the other contract was for accounting services to develop recommendations to restructure the reimbursement system for intermediate care facilities for the mentally retarded in non-state owned facilities. Following the 2000 report, the Purchasing Division contacted the Department of Health and Human Resources regarding the recommended changes. **Despite communication from the Purchasing Division to re-award both contracts, DHHR kept both contracts in place for separate reasons.**

DHHR was concerned about continuity of service with the child care contract, and felt that cancellation of the contract could leave a number of children at risk. An October 30, 2000 memo from the DHHR Director of Contracts, Grants and Agreements stated:

*“It is extremely important that this change order be processed to renew the services for one additional year because the Department does not have staff to provide the services to low income working families. An interruption in services will be drastic on a number of families and their children.”*

In February 2001, DHHR requested a further extension (through August 2001) to bid and award a new child care services contract using redefined grant procedures. This service is now covered by a grant rather than a request for proposal bid for services.

In regard to the second contract, DHHR was notified in January [2001] that the Department of Purchasing would not process any additional change orders [to this contract] due to the findings from the legislative audit. The DHHR Assistant Secretary for Operations stated:

*“The only feasible solution is to continue the services with [the vendor] due to the financial, statistical information and completed work that has been performed. If we change vendors, the process must be initiated from the beginning. It has taken the Department 27 months to arrive at this point. The indirect cost of starting over would require the State plan to be revised, the vendor community reinitiated to the previous payment process, additional projected costs to the citizens of West Virginia and a tremendous amount of DHHR staff time.”*

The Legislative Manager was informed of this problem, and the contract remained in force. The cost to the State of re-awarding this contract would be significant. The other contract could not be re-awarded because DHHR could not provide services while the contract was re-bid, and DHHR subsequently paid for these services using redefined grant procedures.

## **Conclusion**

The Purchasing Division has made significant changes in order to comply with the Legislative Auditor’s recommendations from the 2000 performance audit. Oversight and review of the RFP process before and after the agency award have substantially reduced the risk of contracts being awarded to the wrong vendor. RFPs examined by the Legislative Auditor’s Office for this update were accurate in their arithmetic calculations and the committee’s bid award justifications followed proper procedures. Re-written RFP guidelines are clear, and the Purchasing Division has ensured that agencies receive current guidelines. Training for agency committees is required and the training is consistent as a result of written training materials. The Purchasing Division made an appropriate effort to re-award both contracts, but because of separate considerations, the agency indicated that this was not possible.



**APPENDIX A:**  
**Transmittal Letter to Agency**





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John Sylvia  
Director

November 28, 2001

Gregory Burton, Secretary  
Department of Administration  
Building 1, Room E-119  
1900 Kanawha Blvd., East  
Charleston, West Virginia

Dear Secretary Burton:

This is to transmit a draft copy of the Division of Purchasing Update. This report is scheduled to be presented at the Sunday, December 9, 2001 interim meeting of the Joint Committee on Government Operations. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have. We would like to schedule an exit conference to discuss the report with you Friday, November 30, 2001 if this is convenient with you. We would appreciate your written response by Thursday, December 6, 2001 in order for it to be included in the final report.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/mhm

c: Dave Tincher

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*Joint Committee on Government and Finance*

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**APPENDIX B:**  
**Agency Response**





BOB WISE  
GOVERNOR

STATE OF WEST VIRGINIA  
**DEPARTMENT OF ADMINISTRATION**  
**PURCHASING DIVISION**  
2019 WASHINGTON STREET, EAST  
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CHARLESTON, WEST VIRGINIA 25305-0130

GREGORY A. BURTON  
CABINET SECRETARY

DAVID TINCHER  
DIRECTOR

November 29, 2001

Mr. John Sylvia  
Performance Evaluation and Research Division  
West Virginia Legislature  
Building 1, Room W-314  
1900 Kanawha Boulevard East  
Charleston, WV 25305

**R E C E I V E D**  
NOV 30 2001

**PERFORMANCE EVALUATION AND  
RESEARCH DIVISION**

Dear Mr. Sylvia:

Thank you for the opportunity to review the draft copy of the Purchasing Division Update. The Purchasing Division concurs with the findings and recommendations of this document and we are pleased to be in compliance with recommendations 1 and 3, and in planned compliance with Recommendation 2.

To supplement information provided in support of findings relative to Recommendation 2, please be aware that we have revised the documents mentioned to assure they clearly and consistently address the application of the Resident Vendor Preference. These revised documents are attached for your perusal and once approved will be distributed to all state agencies.

Additionally, you should know that we recently completed a videotape presentation of the training class for our Best Value Purchasing process. This tape will be used in conjunction with our existing committee training sessions offered by the Purchasing Division. We plan to explore the possibility of using the tape as a basis for computer training by making it available via the intranet for any interested state employee. Finally, our records indicate we have trained over 500 employees in the past year.

If you have questions or need additional information, please let me know.

Sincerely,

Dave Tinchler, CPPO, Director  
West Virginia Purchasing Division

ATTACHMENT

DT:dh

