

STATE OF WEST VIRGINIA

AUDIT REPORT

OF

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

FOR THE PERIOD

JULY 1, 1996 - JUNE 30, 1999



OFFICE OF THE LEGISLATIVE AUDITOR

CAPITOL BUILDING

CHARLESTON, WEST VIRGINIA 25305-0610

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

FOR THE PERIOD

JULY 1, 1996 - JUNE 30, 1999

WEST VIRGINIA LEGISLATURE

Joint Committee on Government and Finance

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Legislative Post Audit Division
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To the Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have examined the accounts of the Purchasing Division of the West Virginia Department of Administration.

Our examination covers the period July 1, 1996 through June 30, 1999. The results of this examination are set forth on the following pages of this report. However, only the financial statements for the years ended June 30, 1999 and June 30, 1998 are included in this report. The financial statements for the year ended June 30, 1997 are included in our workpapers.

Respectfully submitted,

A handwritten signature in black ink that reads "Theford L. Shanklin".

Theford L. Shanklin, CPA, Director
Legislative Post Audit Division

TLS/jdb

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

TABLE OF CONTENTS

Exit Conference1

Introduction.....2

Administrative Officers and Staff.....8

Summary of Findings, Recommendations and Responses9

General Remarks.....21

Independent Auditors’ Opinion72

Statement of Cash Receipts, Disbursements
and Changes in Fund Balances74

Notes to Financial Statement76

Supplemental Information78

Certificate of Director
Legislative Post Audit Division.....88

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

EXIT CONFERENCE

We held an exit conference on November 30, 2000 with the Secretary of the West Virginia Department of Administration and the Director of the Purchasing Division of the West Virginia Department of Administration. All findings and recommendations were reviewed and discussed. The above officials' responses are included in bold and italics in the Summary of Findings, Recommendations and Responses and after our recommendations in the General Remarks sections of this report.

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

INTRODUCTION

The Office of the Secretary of the Department of Administration was created under Chapter 3, Acts of the Legislature, First Extraordinary Session, 1989, as one of seven departments in the Executive Branch of State Government. The Secretary of Administration serves as the Chief Executive Officer of the Department and Director of the Budget. The Secretary is appointed by the Governor, with the advice and consent of the Senate.

The Department of Administration is responsible for implementing fiscal and administrative policies in the Executive Branch Agencies. The Secretary is to exercise general supervision of, and make rules and regulations for the government of the Department of Administration. Also, the Secretary is to serve the Governor in the consideration of requests for appropriations and in the preparation of the budget document.

In addition, the Secretary is also responsible for administering the budget, for making a continuous study of state expenditures and eligibility for federal matching dollars, and for making recommendations to the Governor for the more economical use of state funds. Also, the Secretary is to render assistance to spending officers with respect to the fiscal affairs of spending units. The Secretary serves as the Executive Director of the State Building Commission, Chairman of the Council of Finance and Administration, and Administrator of the Records Management and Preservation Advisory Committee.

In addition, the Secretary also serves as a member on the following boards and commissions: the Consolidated Public Retirement Board, the Governor's Mansion Advisory

Committee, the Regional Jail and Correctional Facility Authority, the Design-Build Board, and the Employee Suggestion Award Board.

The Secretary oversees all divisions within the Department of Administration. The divisions include a Finance Division, Purchasing Division, Insurance and Retirement Division, Information Services and Communication Division, Personnel Division, and General Services Division.

Finance Division

The Finance Division, consisting of an Accounting Section, Budget Section, and Financial Accounting and Reporting Section (FARS), is responsible for providing improved financial management of the resources of the state through implementation of improved financial and budgetary accounting information systems, and through the preparation of a Comprehensive Annual Financial Report (CAFR).

The Accounting Section is responsible for providing centralized accounting services for the Department of Administration to ensure compliance with Generally Accepted Accounting Principles (GAAP), along with state and federal rules and regulations.

The Budget Section is responsible for providing budgetary information and control to all branches of state government in order to assist in making accurate budget decisions and to assure compliance with department and government policies.

The Financial Accounting and Reporting Section (FARS) is responsible for establishing and maintaining the centralized accounting system required in accordance with Generally Accepted Accounting Principles (GAAP).

Purchasing Division

The Purchasing Division, consisting of an Acquisition and Contract Administration Section, an Administrative Services Section, and Operations Section, is responsible for providing purchasing, travel, printing, inventory, and records management services to all state agencies to assure ethical and cost-conscious expenditure of public funds, while providing quality, efficient, and effective service.

The Acquisition and Contract Administration Section is responsible for administering the formal competitive bid process for acquisition of all goods and services more than \$10,000.00 for state agencies in an efficient and ethical manner that will reduce cost, maximize competition, and promote good customer and vendor relations.

The Administrative Services Section is responsible for providing professional services and training to the Purchasing Division staff, agencies, and vendors. In addition, the Administrative Services Section is responsible for administering the Governor's Travel Regulations, the State's Purchasing Card, records management, inventory control, vendor registration and parking problems.

The Operations Section is responsible for providing a central source of printing and paper supplies for all state agencies. As of November 1999, the Operations Section was discontinued, and its responsibilities were transferred to Prison Industries.

Insurance and Retirement Division

The Insurance and Retirement Division, consisting of the Consolidated Public Retirement Board, the Public Employees Insurance Agency (PEIA), and the Board of Risk and

Insurance Management is responsible for providing and administering the insurance and retirement systems of the state.

The Consolidated Public Retirement Board is responsible for effectively and efficiently administering the various state retirement systems for the benefit of members and retirees of the system.

The Public Employees Insurance Agency (PEIA) is responsible for administering health, life, and optional benefit programs to eligible state employees, their dependents, retirees, and others eligible to participate in the plan.

The Board of Risk and Insurance Management is responsible for providing comprehensive risk management programs to qualifying participants assuring customer satisfaction by the ethical and cost-conscious expenditure of public funds.

Information Services and Communications Division

The Information Services and Communication Division (IS&C) is responsible for providing technical services and assistance to the various state spending units with respect to developing and improving data processing and telecommunications functions. Also, the division may provide training and direct data processing services to the various state agencies.

Personnel Division

The Personnel Division is responsible for providing personnel management, training, and development for state government agencies and employees in order to create an environment that engenders trust and confidence at all levels and promotes personal and professional growth.

General Services Division

The General Services Division is responsible for providing a positive, safe, secure, and comfortable environment for the visiting public and the state employees at all buildings owned and operated by the State of West Virginia and the State Building Commission.

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

ADMINISTRATIVE OFFICERS AND STAFF

AS OF JUNE 30, 1999

Joseph E.Marcus Secretary
David Tincher Director

Acquisition and Contract Administration

Harold CurtissAssistant Director
Ronald Price..... Buying Team One Leader
Pam Jones..... Senior Buyer
Charlyn Miller..... Senior Buyer
John Johnston.....Buyer
Evan Williams..... Buying Team Two Leader
Jim Jackson Senior Buyer

Administration - Vendor Registration

Jo Ann Dunlap Manager

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

SUMMARY OF FINDINGS, RECOMMENDATIONS AND RESPONSES

Lack of Effective System of Internal Controls

1. During the course of our examination, it became apparent to us, based on the observed noncompliance with the West Virginia Code, the Purchasing Division did not have an effective system of internal controls in place to ensure compliance with applicable State laws, rules and regulations. We believe an effective system of internal controls would have alerted management to these violations at an earlier date and allowed more timely corrective action.

Auditors' Recommendation

We recommend the Purchasing Division comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, and establish a system of internal controls.

Agency's Response

No response by the Purchasing Division. (See pages 23-25).

No Formal Procedures in Effect for Review of Contract Change Orders

2. We believe the Purchasing Division does not have adequate mechanisms in place for the effective review of Contract Change Orders. During our audit, we noted several contracts where change orders were approved, by the Purchasing Division; including, an increase of \$2,447,375.00 for construction of Pod E of the new

Eastern Regional Jail in Martinsburg, West Virginia, which was part of a total of \$3,399,309.00 in change orders related to the construction of the Eastern Regional Jail.

Auditors' Recommendation

We recommend the Purchasing Division comply with Chapter 5A, Article 3, Sections 3 and 4 of the West Virginia Code and establish policies and procedures for the effective review of contract change orders.

Agency's Response

The Purchasing Division will establish policies and procedures for the effective review of contract change orders. (See pages 25-35).

Procedures in Effect for Soliciting, Evaluating and Rewarding of Contracts Involving Federal Funds

3. The Purchasing Division does not have any specific procedures in place for the establishment of guidelines for soliciting, evaluating and awarding of procurement contracts involving Federal funds. So, the Purchasing Division could inadvertently restrict or limit competition involving projects paid for using Federal funds and risk the possibility of the Federal government requesting a refund of those Federal funds or limit the awarding of future Federal funds to the State.

Auditors' Recommendation

We recommend the Purchasing Division adopt all needed procedures to establish guidelines for the soliciting, evaluating and awarding of contracts which involve Federal funds to ensure that all Federal procurement guidelines are being followed.

Agency's Response

The Purchasing Division will review federal procurement requirements and ensure that all Federal Procurement guidelines are being followed. (See pages 35-37).

West Virginia Code Reference for Wages for Public Improvements Included in the Solicitation of Bids is Not Correct

4. The Purchasing Division has been citing Chapter 21, Article 5, Section 1, et. seq. in construction contracts which deals with the requirement for certain employers to post a Wage Payment Bond rather than Chapter 21, Article 5A, Section 1, et. seq. which requires employers to pay the “prevailing wage” in contracts involving public improvements which means the possibility exists that contractors could believe they may be exempt from paying the “prevailing wage” in carrying out these State contracts.

Auditors' Recommendation

We recommend the Purchasing Division comply with Chapter 21, Article 5A, Section 3 of the West Virginia Code, as amended, and ensure the correct West Virginia Code reference regarding prevailing wages is included in any future public improvement contracts administered by the Purchasing Division.

Agency's Response

The Purchasing Division will ensure the correct West Virginia Code reference regarding prevailing wages is used in public improvement contracts. The

correction of the typographical error in our automated system (TEAM) has been made. (See pages 37-39).

TEAM Vendor Preference Certificate Not In Conformity with Statute

5. The Vendor Preference Certificate included in any requisition/contract issued by the Purchasing Division’s automated purchasing system “TEAM” (Team Effort for Acquisition Management) does not include all available resident vendor preferences set out in Chapter 5A, Article 3, Section 37 of the West Virginia Code.

Auditors’ Recommendation

We recommend the Purchasing Division comply with Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended, by updating their automated system to include the correct vendor preference certificate.

Agency’s Response

The Purchasing Division has corrected the automated system (TEAM) to include complete and correct reference to Chapter 5A, Article 3, Section 7 of the West Virginia Code. (See pages 40-42).

Office Supplies State-Wide Contract Award Not Based on “Request for Quotation” Specifics

6. The Office Supplies State-Wide Contract was not awarded based on the “Method of Award” specified in the Request for Proposal (RFQ) sent to vendors. In addition, no consideration was given to resident vendor preferences or specifications required by the Purchasing Division’s own policies and procedures to ensure that prospective bidders were bidding on the same, or equal to, items.

Auditors' Recommendation

We recommend the Purchasing Division, when evaluating and awarding contracts, comply with the stated methodology as described in the "Request for Proposal". Also, we recommend the Division comply with their own policies and procedures as described in the Purchasing Division's Agency Purchasing Manual in establishing specifications for "Request for Proposals".

Agency's Response

The Purchasing Division will comply with stated methodology and specifications during the evaluation and award of contracts. (See pages 42-46).

Purchase Orders Not Fully Advertised

7. We noted the Purchasing Division is rarely using newspapers as an advertising medium by which to notify prospective vendors of the solicitation of bids which could result in the possibility of competitive bidding being reduced leading to increased cost of purchases to the State.

Auditors' Recommendation

We recommend the West Virginia Legislature consider amending the provisions of Chapter 5A, Article 3, Section 10 of the West Virginia Code to specify those circumstances under which the Director of the Purchasing Division must use newspapers as an advertising medium to enhance the concept of competitive bidding.

Agency's Response

The Purchasing Division does not object to the West Virginia Legislature specifying circumstances under which newspapers are used as an advertising medium. Current code requirements were followed on all purchases requiring advertising. The error in the Purchasing Manual has been corrected. (See pages 46-49).

**Incorrect Awarding of State-Wide Contracts
Based on Incorrect Application of Vendor Preference**

8. Our review of the Purchasing Division's ten top dollar value State-Wide contracts awarded during fiscal years 1998 and 1999 indicated the Division incorrectly awarded specific sections of two State-Wide contracts to the wrong bidder based on an incorrect application of the resident vendor preference.

Auditors' Recommendation

We recommend the Purchasing Division comply with Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended.

Agency's Response

The Purchasing Division will comply with Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended. (See pages 50-54).

Special Revenue Account Not Authorized by Statute

9. The Purchasing Division operates a special revenue account known as the Seminars and Classes Fund (2039) for the receipt and disbursement of participant fees derived from Purchasing and State-Wide Vendor Teleconference Conferences;

however, we could find no statutory authority for the Purchasing Division to maintain this account or to charge participants a fee for attending the conferences.

Auditors' Recommendation

We recommend the Purchasing Division seek statutory authority to enable the Division to charge participants for attending purchasing conferences and to maintain the Seminars and Classes Fund (2039).

Agency's Response

The Purchasing Division will seek statutory authority to enable the Division to charge participants for attending purchasing conferences and to maintain the Seminars and Classes Fund. (See pages 54 and 55).

Excessive Fees Charged

10. The Purchasing Division is authorized to operate three special revenue accounts where the amounts charged are designed by State law to cover the Division's cost of providing services; however, the accounts appear to be accumulating excess balances which would indicate excess charges. Also, we noted disbursements from each of these accounts which we believe are not in conformity with the purposes for which the accounts were authorized.

Auditors' Recommendation

We recommend the Purchasing Division comply with Chapter 5A, Article 3, Sections 4(a) (7) and 8 and Chapter 17, Article 2A, Section 13 of the West Virginia Code and limit the disbursements from the DOH Procurement Expense Reimbursement Fund; the Local Government Reimbursement Fund; and, the

Vendor Registration Payment Fund to only their intended purposes. We also recommend the Purchasing Division reevaluate the assessed fees in each of these accounts and assess such fees in an amount needed to cover the cost of services provided.

Agency's Response

The Purchasing Division will reevaluate the assessed fees in each of the accounts listed and assess such fees in an amount needed to cover the cost of services provided. (See pages 56-62).

Conflict of the West Virginia Code and an Interpretive Rule of the West Virginia Department of Tax and Revenue

11. The Interpretive Rule of the West Virginia Department of Tax and Revenue concerning the granting of resident vendor preferences is in apparent conflict with the provisions of Chapter 5A, Article 3, Section 37 of the West Virginia Code.

Auditors' Recommendation

We recommend the Purchasing Division contact the Secretary of the Department of Tax and Revenue and request the Secretary to amend his Interpretive Rule Title 110, Series 12C to agree with the provisions of Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended.

Agency's Response

The Purchasing Division will contact the Secretary of the Department of Tax and Revenue and request the Secretary to amend his Interpretive Rule Title 110, Series 12C to agree with the provisions of Chapter 5A, Article 3, Section 37 of the West Virginia Code. (See pages 62-64).

Transfer of Expenses

12. We noted expense transfers totaling \$16,206.99 in fiscal year 1999 and \$5,007.26 in fiscal year 1998 where the expenses were transferred from general revenue accounts to special revenue accounts on the last day of the fiscal year apparently to prevent the general revenue appropriations from expiring.

Auditors' Recommendation

We recommend the Purchasing Division comply with Chapter 12, Article 3, Section 12 of the West Virginia Code, as amended.

Agency's Response

The Purchasing Division will comply with Chapter 12, Article 3, Section 12 of the West Virginia Code, as amended. (See pages 64-66).

Attendance Reports And Leave Request Forms

13. The Purchasing Division is not requiring all employees to complete "Attendance Reports" and in some instances employees are not completing the required reports.

Auditors' Recommendation

We recommend the Purchasing Division comply with Chapter 21, Article 5C, Section 5 of the West Virginia Code, as amended, Title 42, Series 8, Section 4.2 of the Division of Labor's Legislative Rules and the Director of the Purchasing Division's memorandum of September 9, 1997 requiring the "Attendance Report". Also, we recommend the Purchasing Division reconcile their DOP-L1 forms to the Attendance Reports to ensure their accuracy.

Agency's Response

The Purchasing Division will comply with all legal requirements, but will refer this issue to the Division of Personnel for appropriate guidance and advice and consistency with other state agencies. (See pages 66-69).

File Maintenance Inadequate

14. We noted the purchase order files maintained by the Purchasing Division did not always contain all the necessary documentation needed for an adequate review.

Auditors' Recommendation

We recommend the Purchasing Division comply with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code, as amended.

Agency's Response

The Purchasing Division will comply with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code, as amended. (See pages 69-71).

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

GENERAL REMARKS

INTRODUCTION

We have completed a post audit of the Purchasing Division of the West Virginia Department of Administration. The audit covered the period July 1, 1996 through June 30, 1999.

GENERAL REVENUE ACCOUNTS

The Purchasing Division of the West Virginia Department of Administration (Purchasing Division) was appropriated funds for the general operations of the Purchasing Division in the following accounts during the period of examination:

<u>Account Number</u>	<u>Description</u>
0210-001	Personal Services
0210-004	Annual Increment
0210-010	Employee Benefits
0210-097	Unclassified
0210-099	Unclassified
0210-711	Purchasing Card Program

SPECIAL REVENUE ACCOUNTS

During the audit period, the Purchasing Division operated from the following special revenue accounts:

<u>Account Number</u>	<u>Description</u>
Division of Highways Procurement Expense Reimbursement Fund:	
2031-099	Unclassified

<u>Account Number</u>	<u>Description</u>
2031-640	Departmental and Miscellaneous Income

Local Governmental Reimbursement Fund:

2034-099	Unclassified
2034-640	Departmental and Miscellaneous Income

Vendor Registration Payment Fund:

2035-099	Unclassified
2035-640	Departmental and Miscellaneous Income

Seminars and Classes Fund:

2039-099	Unclassified
2039-640	Departmental and Miscellaneous Income

Purchasing Card Administration Fund:

2260-640	Departmental and Miscellaneous Income
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Natural Gas Refund Fund:

2261-099	Unclassified
2261-640	Departmental and Miscellaneous Income

COMPLIANCE MATTERS

Chapter 5A, Articles 3 and 3A of the West Virginia Code generally govern the Purchasing Division. We tested applicable sections of the above, plus the Purchasing Division's rules and regulations, as well as, general State regulations and other applicable chapters, articles

and sections of the West Virginia Code as they pertain to fiscal matters. Our findings are discussed below.

Lack of Effective System of Internal Controls

During the course of our examination, it became apparent to us, based on the observed noncompliance with the West Virginia Code, the Purchasing Division did not have an effective system of internal controls in place to ensure compliance with applicable State laws.

Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, states in part:

“The head of each agency shall:
. . . (b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities....”

This law requires the agency head to have in place an effective system of internal controls in the form of policies and procedures set up to ensure the agency operates in compliance with the laws, rules and regulations which govern it.

During our audit of the Purchasing Division, we found the following noncompliance with State laws or other rules and regulations: **(1)** The Purchasing Division does not have adequate mechanisms in place for the effective review of Contract Change Orders. **(2)** The Purchasing Division does not have any specific procedures in place for the establishment of guidelines for soliciting, evaluating and awarding of procurement contracts involving Federal funds. **(3)** Contracts developed by the Purchasing Division do not specifically require successful vendors on Construction contracts to pay the "prevailing wage" as mandated by State law. **(4)** The Vendor Preference Certificate included in any requisition/contract issued through the Purchasing Division’s automated purchasing system known as "TEAM" (Team Effort for

Acquisition Management) does not contain all resident vendor preferences allowed by the West Virginia Code. (5) The Office Supplies State-Wide Contract awarded during fiscal year 1999 was awarded without Consideration of resident vendor preferences or specifications required by the Purchasing Division own policies and procedures to ensure that prospective bidders would be bidding on the same, or equal to, items. (6) The Purchasing Division rarely uses newspapers as an advertising medium by which to notify prospective vendors of the solicitation of bids which means purchase orders are not fully advertised. (7) Sections of two State-Wide contracts were incorrectly awarded to the wrong bidder based on an incorrect application of the resident vendor preference. (8) The Purchasing Division operates a special revenue account known as the Seminars and Classes Fund (2039) for receipt and disbursement of participant fees derived from Purchasing and State-Wide Vendor Teleconference Conferences; however, the account is not authorized by State law. (9) The Purchasing Division operates three special revenue accounts designed to receive funds for services provided by the Division; however, we believe the Division may be charging excessive fees or being reimbursed for more than the cost of the services provided. (10) The Department of Tax and Revenue Interpretive Rule governing resident vendor preference is in conflict with the West Virginia Code. (11) The Purchasing Division made transfers designed to reimburse special revenue accounts from general revenue appropriations, therefore, failing to expire the proper amount of general revenue appropriations. (12) The Purchasing Division is not requiring all employees to complete "Attendance Reports" and in some instances employees are not maintaining the reports for each period. (13) The purchase order files maintained by the Purchasing Division did not always contain all the necessary documentation needed for review.

We recommend the Purchasing Division comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, and establish a system of internal controls.

Agency's Response

No response by the Purchasing Division.

No Formal Procedures in Effect for Review of Contract Change Orders

During our audit, we noted several contracts where change orders were approved, by the Purchasing Division; including, an increase of \$2,447,375.00 for construction of Pod E of the new Eastern Regional Jail in Martinsburg, West Virginia which was part of a total of \$3,399,309.00 in change orders related to the construction of the new Eastern Regional Jail.

The Purchasing Division does not have adequate mechanisms in place for the effective review of Contract Change Orders. Change orders are required whenever it becomes necessary to amend, clarify, change or cancel purchasing documents. Chapter 5A, Article 3, Section 3 of the West Virginia Code, states in part:

“The director, under the direction and supervision of the secretary, shall be the executive officer of the purchasing division and shall have the power and duty to: . . .

(9)Examine the provisions and terms of every contract entered into for and on behalf of the state of West Virginia that imposes any obligations upon the state to pay any sums of money for commodities or services and approve each such contract as to such provisions and terms; . . .”

Also, Chapter 5A, Article 3, Section 4 of the West Virginia Code states in part:

(a) The director shall adopt and amend rules and regulations to: . . .

(9)Provide for such other matters as may be necessary to give effect to the foregoing rules and regulations and the provisions of this article. . . .”

The only formal written procedures regarding change orders are included in the Purchasing Division's Agency Purchasing Manual under Section 8.7 "Changes and Reinstatements". This Section simply explains the type of changes, applicable change forms to be used and the sequential numbering thereof. When asked about written change order procedures or the lack thereof, the Director of the Purchasing Division stated the Division did not have any set procedures or formal State rules and regulations concerning change orders; however, as a general rule of thumb, if the increase in the dollar amount of the change order is no more than 10% of the original contract, the Division would generally approve the change order if the Division has the approval of the State agency seeking the change and applicable architect on construction contracts.

In some cases, change orders can amount to significant amounts of monies as evidenced in the schedules which follow below. Based on our review of the change orders involving the contracts included in the schedules, the audit evidence indicates that once a contract is approved by the Purchasing Division, change orders concerning the contract get blanket approval, meaning once submitted, approval is very likely. Change orders appear to be submitted and approved without the Purchasing Division sufficiently examining whether or not the Change Order may be for goods or services already included in the original contract. Reviews of the bid files and discussions with Purchasing Division personnel revealed little evidence or justification in the bid file explaining why the change orders were approved. We also noticed that in some instances, the supporting documentation that accompanies some change orders contained errors in addition and duplicate invoices.

We reviewed all contracts totaling \$5,000,000.00 and above processed through the Purchasing Division for the period July 1, 1997 through June 30, 1999 including all change orders through August 31, 2000 relating to these contracts. We found 12 of these contracts which involved many different State agencies, some of which are listed in the following schedule showing the original contract amount, dollar value of change orders, final contract amount and the percentage of increase in the contract.

**Department of Military Affairs and Public Safety -
Regional Jail and Correctional Facilities Authority**

<u>Contract Number</u>	<u>Description</u>	<u>Original Amount</u>	<u>Total Change Orders</u>	<u>Final Amount</u>	<u>Percentage of Increase</u>
RJC9014	Construction of Eastern Regional Jail (7 Change Orders)	\$ 6,543,000.00	\$3,399,309.00	\$ 9,942,309.00	51.95%
RJC9008	Construction of Potomac Highlands Regional Jail (11 Change Orders)	\$ 7,225,200.00	\$ 439,222.19	\$ 7,664,422.19	6.08%
RJC9021	Construction of North Central Regional Jail (6 change orders)	\$10,959,000.00	\$ 265,378.16	\$11,224,378.16	2.42%
RJC9001	Construction for Renovations at Huttonsville Correctional Center (10 Change Orders)	\$ 7,117,600.00	\$ 205,614.00	\$ 7,323,214.00	2.89%
RJC9105	New Construction and Renovations at the Industrial Home for Youth (5 Change Orders)	\$10,262,000.00	\$ 127,603.00	\$10,389,603.00	1.24%

Department of Military Affairs and Public Safety - Armory Board

DEF99037	Construction at Camp Dawson of a Single Storage Structure (5 Change Orders)	\$6,499,883.00	\$ 184,820.00	\$6,684,703.00	2.84%
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Department of Administration

PUR80094	Construction of Parking Garage (2 Change Orders)	\$5,648,500.00	\$ 176,610.00	\$5,827,110.00	3.13%
GSD86401	Construction of a chilled water plant (4 Change Orders)	\$5,515,000.00	\$ 397,620.46	\$5,912,620.46	7.21%

Bureau of Employment Programs

<u>Contract Number</u>	<u>Description</u>	<u>Original Amount</u>	<u>Total Change Orders</u>	<u>Final Amount</u>	<u>Percentage of Increase</u>
BEP9987	<u>Backfile Conversion System</u> (6 Change Orders)	<u>\$6,029,200.00</u>	<u>\$ 530,981.36</u>	<u>\$6,560,181.36</u>	<u>8.81%</u>

We also noted change orders we reviewed that contain items which we believe were included as a part of the original contract and thus would not warrant additional monies being paid to the contractor. The following section includes a brief description of such change orders, followed by (in italics) language from the original contract and/or our questions to the Purchasing Division concerning each change order.

Contract RJC9014 - Eastern Regional Jail

Change order #4 - Add \$16,100.00 to provide two 4-inch PVC conduit underground from the existing emergency generator location to the existing telephone pedestal. It was discovered that there will be no spare communication conduit to enter either building--existing or new unless conduit is added as described.

Sketch sk2 of addendum #2 of the original contract shows the contractor was to provide two 4"PVC conduits in the utility trench for the telephone line.

Change order #6 - Add \$100,065.00 for misc. changes to the parking lot to revise grading for positive drainage at the front entrance, add curbing around edges of parking lot, reseal parking

lot, restripe parking lot, re-seed disturbed areas, and removal and replacement of settled concrete sidewalk because of underground water.

Section 2200 3.17B of the Project Manual states: "Site grading: Slope grades to direct water away from buildings and to prevent ponding."

Change order #6 continued - Add \$28,400.00 to provide two fire hydrants for Berkeley County Public Water District standards as requested by the State Fire Marshall.

Auditors' Concerns

Pages 8 and 12 of section 2668 of the Project Manual indicates the contractor is to provide and install fire hydrants. Why is the contractor being paid additional funds to provide and install these fire hydrants?

Contract RJC9121 - North Central Regional Jail

Change order #3 - Add \$46,427.00 to provide labor, material, and equipment necessary to install approximately 5,000 linear feet of gas pipe, gas meter and regulator for new gas service to the building.

Section 2553 3.8A of the Project Manual states: "Connect the gas distribution piping to natural gas source and extend to service to service-meter assemblies . . ."

Auditors' Concerns

Why wasn't the contractor responsible for installing the gas lines, meters, and regulators from the gas main to the building?

Contract RJC9105 - Industrial Home for Youth

Change order #2 - Deduct \$310.00 for window modifications.

Auditors' Concerns

Based on the total adds and deducts on a credit memorandum from a vendor for requested window modifications, the Regional Jail and Correctional Facility Authority should have received a \$2,910.00 credit for the window modifications but instead were given a credit of \$310.00. The \$2,600 difference was apparently due to an error in addition.

Another reason supporting comprehensive reviews of change orders is that in some cases, the change orders increase the total cost of a project to the point that in many

instances the total cost of the project increases above the cost of the next lowest bidder on the project. In these situations, the Purchasing Division has to be cognizant of the fact that an awarded vendor may have omitted something from the original bid amount in hopes of getting the bid and then try to recoup those additional costs through a change order. **Of the eight construction contracts we reviewed, total cost, which includes change order costs, of three contracts exceeded the next lowest bid of the original contract as shown in the table below:**

<u>Contract Number</u>	<u>Original Bid Amount</u>	<u>Total Change Orders</u>	<u>Final Amount</u>	<u>Next Lowest Bidder</u>
RJC9014	\$ 6,543,000.00	\$3,399,309.00	\$ 9,942,309.00	\$ 6,597,500.00
RJC9008	\$ 7,225,200.00	\$ 439,222.19	\$ 7,664,422.19	\$ 7,318,000.00
RJC9121	\$10,959,000.00	\$ 265,378.16	\$11,224,378.16	\$10,978,000.00

The Director of the Purchasing Division is charged by statute to ensure the process of competitive bidding. Chapter 5A, Article 3, Section 3(2) of the West Virginia Code states in part:

“ . . . Ensure that the purchase of or contract for commodities and printing shall be based, whenever possible, on competitive bid; . . . ”

In light of, the Purchasing Division appearing to routinely approve contract change orders, the Division could be accused of trying to limit the competitive bid process, specifically on contracts involving change orders that completely alter the original intention of the contract. One such contract previously mentioned is the Regional Jail and Correctional Facilities Authority’s contract (RJC9014) to construct the new Eastern Regional Jail at Martinsburg, West Virginia. Once the jail was nearing completion, the Purchasing Division approved a \$2,340,000.00 change order solely for the construction of an additional building known as Pod E, plus other changes totaling \$107,375.00 needed to place Pod E in service for a

total of \$2,447,375.00. The facts and circumstances surrounding the initiation and approval of the change order for construction of Pod E are more fully explained in our separate post audit report of the Eastern Regional Jail for the period July 1, 1997 through December 31, 1999.

We recommend the Purchasing Division comply with Chapter 5A, Article 3, Sections 3 and 4 of the West Virginia Code and establish policies and procedures for the effective review of contract change orders.

Agency's Response

The Purchasing Division has a staff of six buyers who are responsible for the purchase of all commodities and services for all state agencies under the authority of the Purchasing Division. These six buyers are experts in purchasing and contracting rather than construction, management consulting, food service, vehicles, medical supplies, and the other commodities and services for which they are responsible.

The Purchasing Division agrees that no official, written procedures exist for the review and approval or denial of Change Orders; however, all Change Orders are examined in detail through a multi-step process by several persons.

Eleven of the twelve contracts cited for this audit were for construction services. It is common within the industry for Change Orders to be requested and approved for construction services. This fact would be supported by the vendors, trade associations, labor unions and others in the construction industry.

The first step in contracting for construction services is for the agency to hire an architect to design the specifications and manage the construction phase of the contract in conjunction with the agency. The architect reviews all requested Change Orders with the

contractor and agency. If those three parties agree that a Change Order is needed, approval is then sought from the Purchasing Division.

(In some cases, the agency has staff with expertise in construction. Such is the case with the Regional Jail and Correctional Facility Authority who employs staff with professional experience in construction. Five of the twelve contracts cited in this audit were for this agency).

The Purchasing Division Buyer reviews the documentation and recommendation and, if the change appears to be reasonable and in the best interest of the State, will recommend approval to his/her supervisor. The Buyer's supervisor will review the same information and if he concurs, will approve the Change Order and forward it to the Attorney General's Office for approval. If approved by that office, the Change Order is returned to the Purchasing Division for encumbrance of funds. Subsequent to verifying funds are available, the approved Change Order is mailed to the vendor and agency.

During this audit, detailed explanation was provided on each of the individual items on this report. While the auditors, may disagree with the decisions to approve the Change Orders, justification was provided that satisfied the architect, agency, Purchasing Division Buyer, Purchasing Division Buyer's supervisor and the Attorney General's Office.

The Purchasing Division does not believe that competition was limited or that the State approved change orders for items covered in the original contract as the report suggests. It should be noted that the Purchasing Division has not received any complaints from any vendors regarding the approval of these Change Orders. Competing vendors are

regularly the best watchdogs of the process to assure it is operating within legal and administrative limits.

Finally, the West Virginia Legislature has unsuccessfully considered on more than one occasion, a bill requiring Change Orders in excess of ten percent of the original value to be approved by a joint committee prior to approval. Eleven of the twelve contracts cited in this audit would not fall into that category.

The Purchasing Division will establish policies and procedures for the effective review of contract change orders.

**Procedures in Effect for Soliciting, Evaluating and Awarding
Of Contracts Involving Federal Funds**

The Purchasing Division does not have any specific procedures in place for the establishment of guidelines for soliciting, evaluating and awarding of procurement contracts involving Federal funds. Procedures involving such contracts must conform with guidelines set forth in the United States Office Of Management and Budget Circular No. A102 paragraph 883M, section__36. Procurement which states in part:

"(a) *States.* When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurement from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. . . ."

The Director of the Purchasing Division told us there is no distinction made in contracts processed through the Purchasing Division, as to whether or not those contracts involve Federal funds. In actuality, the Division would not know if a contract involves the use of Federal funds unless the spending unit submitting the contract would tell them. The spending unit is also

expected to tell the Purchasing Division if any specific guidelines need to be followed in the soliciting, evaluating and awarding of a contract.

Because the Purchasing Division does not have specific procedures for contracts involving Federal funds designed to ensure compliance with applicable Federal Guidelines, the Purchasing Division could inadvertently restrict or limit competition involving projects paid for using Federal funds and risk the possibility of the Federal government requesting a refund of those Federal funds or limit the awarding of future Federal funds to the State.

We recommend the Purchasing Division adopt all needed procedures to establish guidelines for the soliciting, evaluating and awarding of contracts which involve Federal funds to ensure that all Federal procurement guidelines are being followed.

Agency's Response

The Purchasing Division would not know if any contracts involve the use of federal funds unless so advised by the agency. Furthermore, the Purchasing Division would not know of the additional guidelines required by the use of federal funds unless so advised by the agency.

The Purchasing Division does not believe that competition was restricted or that the refund of any federal funds were requested or made due to the non-inclusion of any federal fund requirements in the bid specifications. The Purchasing Division believes that additional requirements that may have been imposed by federal fund contracts may limit or reduce competition rather than increase competition as the report suggests. To the best of our knowledge, no state agency has faced federal sanctions on this issue.

The Purchasing Division will review federal procurement requirements and determine whether any changes are needed.

West Virginia Code Reference for Wages for Public Improvements Included in the Solicitation of Bids is Not Correct

Chapter 21, Article 5A of the West Virginia Code entitled “Wages For Construction Of Public Improvements” requires all contracts involving the construction of a public improvement to include as part of the contract specifications that the vendor agrees to pay the fair minimum rate of wages of the locale, commonly referred to as the “prevailing wage” where the construction will be occurring. In our review of construction contracts, we noted the West Virginia Code reference which the Purchasing Division is using in the contract specifications with respect to this issue is incorrect. The Purchasing Division has been citing Chapter 21, Article 5, Section 1, et. seq. entitled “Wage Payment and Collection” which deals with the requirement for the posting of a Wage Payment Bond by employers in certain industries. With the West Virginia Code reference contained in the contract documents being incorrect, the possibility exists that contractors could believe they may be exempt from paying the “prevailing wage” for these contracted public improvements.

Chapter 21, Article 5A, Section 3 of the West Virginia Code, as amended, states in part:

“Any public authority authorized to let to contract the construction of a public improvement, shall, before advertising for bids for the construction thereof, ascertain from the state commissioner of labor, the fair minimum rate of wages, including fair minimum overtime and holiday pay, to be paid by the successful bidder to the laborers, workmen or mechanics in the various branches or classes of the construction to be performed; and such schedule of wages shall be attached to and made a part of the specifications for the construction and shall be printed on the bidding blanks when

approved by the commissioner of labor where the construction is to be performed by contract. The “fair minimum rate of wages,” for the intents and purposes of this article, shall be the rate of wages paid in the locality in this State as hereinbefore defined to the majority of workmen, laborers or mechanics in the same trade or occupation in the construction industry. . . .”

We brought this situation to the attention of the Purchasing Division and they agreed with our observation and told us they would correct it immediately. However, Purchasing Division representatives told us they do not believe there has been or would be any substantial effects from the incorrect West Virginia Code citation due to the fact that a listing of the “prevailing wage” rates as determined by the West Virginia Division of Labor for a specific locale is also included as a part of any public improvement bid solicitation.

We recommend the Purchasing Division comply with Chapter 21, Article 5A, Section 3 of the West Virginia Code, as amended, and ensure the correct West Virginia Code reference regarding prevailing wages is included in any future public improvement contracts administered by the Purchasing Division.

Agency’s Response

The Purchasing Division admits to a typographical error with respect to the proper West Virginia Code citation in the automated purchasing system (TEAM). This incorrect code cite reference reference was immediately corrected when brought to our attention. In addition to the code cite reference in the bid specifications, the Purchasing Division physically attached a full copy of these wage rate listings. Since these wage rate listings were included, no substantial effects were realized.

The Purchasing Division will ensure the proper reference to prevailing wage rates is used in TEAM.

TEAM Vendor Preference Certificate Not In Conformity With Statute

The Vendor Preference Certificate included in any requisition/contract issued by the Purchasing Division's automated purchasing system "TEAM" (Team Effort for Acquisition Management) established July 15, 1991, is not in conformity with Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended. Under the "Jobs for West Virginians Act of 1990", a vendor preference system was established to grant vendors, meeting certain requirements, "resident vendor" status which provided vendors with a mechanism to be awarded a contract over nonresident vendors if the resident vendor's bid did not exceed the lowest qualified nonresident vendor's bid by more than two and one-half percent.

Initially, the resident vendor preference system only applied to construction contracts with an estimated cost to exceed \$50,000.00, which was effective July 1, 1990 through June 30, 1994. Beginning July 1, 1992, the resident vendor preference system was amended to apply only to contracts for the purchase of commodities or printing. Our review showed all the Requests for Quotations issued through the Purchasing Division's TEAM system did not include the proper language for resident vendor preferences as set out in the West Virginia Code. Apparently, the TEAM system was not updated to reflect Legislative changes which had occurred since inception of the TEAM system. The provisions of the following portions of Chapter 5A, Article 3, Section 37 of the West Virginia Code were omitted from the TEAM language:

“ . . .(3) From a nonresident vendor, which employs a minimum of one hundred state residents or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principle place of business within West Virginia and which employs a minimum of one hundred state residents, if, for purposes of producing or distributing the commodities or completing the

project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years . . . ; or
(4) From a vendor who meets either the requirements of both subdivisions (1) and (2) of this subsection or subdivisions (1) and (3) of this subsection, if the bid does not exceed the lowest qualified bid from a nonresident vendor by more than five percent of the latter bid, and if the vendor has certified the residence requirements above and made written claim for the preference at the time the bid was submitted. . . .”

If vendors are not supplied with the correct information on “Request for Quotations” and “Request for Proposals” concerning available resident vendor preferences, vendors may not be aware of their eligibility for certain preferences or may believe they are eligible for a preference when in fact they are not. More importantly, the Purchasing Division may not award a contract to a vendor who is actually the low bidder. The Purchasing Division believes that when the Preference Certificates were updated following the amendment of the West Virginia Code in 1993, the Division failed to update the TEAM system to reflect the amendments. We understand the Purchasing Division is in the process of updating the TEAM system to correct the oversight.

We recommend the Purchasing Division comply with Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended, by updating their automated system to include the correct vendor preference certificate.

Agency's Response

The Purchasing Division admits to a typographical error with respect to the complete requirements described by Chapter 5A, Article 3, Section 37 of the West Virginia Code. This incomplete reference was immediately corrected when brought to our attention.

The Purchasing Division will ensure proper and complete reference to the resident vendor preference.

Office Supplies State-Wide Contract Award
Not Based on “Request for Quotation” Specifics

Early in fiscal year 1999, the Purchasing Division awarded an Office Supplies State-Wide contract to a vendor to provide office supplies and related items to five geographical areas of the State. The awarding of this contract was not based on the “Method of Award” specified in the Request for Proposal(RFQ) sent to vendors. The award was also awarded without consideration of resident vendor preferences or specification required by the Purchasing Division’s own policies and procedures to ensure that prospective bidders would be bidding on the same, or equal to, items. The contract was awarded to the bidder who offered the highest percentage discount from the list price. The methodology for awarding the bid is stated on page ten of the RFQ, which states in part:

“ . . . It is the intent of the State to award a contract for ALL items in the vendor’s prices list/catalog a discount from list price. The vendor **shall** identify by number and date the published catalog or price list which is being bid and **must** provide the catalog or price list quoted **at the time of bid**. . . Each category will be independently evaluated according to the items identified in the bid schedule. The list price quoted will be verified in the catalog/price list provided with the bid and the discount deducted to arrive at a net cost. The net cost for each item will be multiplied by the estimated usage, and the sum total net cost of all items listed shall be determined. The process will be repeated for all categories to determine the lowest net cost.
. . . It is the intent of the State to award all items listed in the catalog/price list in addition to the items listed in the bid document. The award will be made as a discount from list. . . ”

According to the bid justification, the award was made to the bidder which offered the highest percentage discount from list prices as evidenced by an attachment to the bid

justification form which only listed each vendor's percentage off list by category by area. By awarding the contract under this methodology, we believe the Purchasing Division did not consider the variances in "list" prices provided by the vendors who submitted bids for the contract. The variances in list prices among the bidders in many cases were quite significant sometimes having a variance of 300% between the lowest and highest list price among the various vendors. Based on the estimated usage provided in the RFQ, the award of the Office Supplies State-Wide contract could cost the State approximately \$262,000.00 more per year because the Purchasing Division based the award on which vendor gave the largest percentage discount from list price.

The Office Supplies RFQ also did not indicate specific brand names or quality levels ("or equal") of merchandise to be bid in order to indicate to vendors that they were bidding on the same or equivalent items. Section 13.1 of the Purchasing Division's Agency Purchasing Manual states in part:

“. . . A specification is a concise statement explaining the type of product or service, the quality level, special requirement in design, performance, delivery and usage. Specifications must not be restrictive, which locks in a specific vendor, thus, limits competition, or be so vague as to allow a vendor to provide a lower than acceptable quality level product or service. . . .”

Section 13.2.1 states:

“as a **‘Brand Name(s) or Equal’ Specification** is based upon **one or more** manufacturer's commodity description(s), model number(s) and quality level. The manufacturer's commodity numbers must be easily identified in a current publication that is available to most vendors. Commodity descriptions must be sufficiently detailed, and specify only the required features needed for the application.”

Prior to the Purchasing Division's release of the RFQ for Office Supplies, the Division sent out a draft of the RFQ to various State spending units as well as to several vendors for their comments. One of the concerns of the vendors was that the proposal be written so that vendors would be bidding "apples for apples" thus allowing all vendors to bid equally.

We recommend the Purchasing Division, when evaluating and awarding contracts, comply with the stated methodology as described in the "Request for Proposal". Also, we recommend the Division comply with their own policies and procedures as described in the Purchasing Division's Agency Purchasing Manual in establishing specifications for "Request for Proposals".

Agency's Response

The Purchasing Division awarded the contact based on the intent of the "Method of Award" specified in the Request for Quotation and in consideration of the resident vendor preference. Although an exact "apples to apples" comparison may not have been used by the Buyer, the discount offered by the awarded vendor was far in excess of any other discount offered. It should be noted that catalogs used by the bidders were similar. The Buyer has reviewed bid prices during this audit and is convinced that the award was made to the lowest bidder meeting specifications taking into consideration the resident vendor preference.

The Purchasing Division will comply with stated methodology and specifications during the evaluation and award of contracts.

Purchase Orders Not Fully Advertised

In our review of the 12 top dollar value contracts processed through the Purchasing Division, during fiscal years 1998 and 1999, we noted the Division is rarely using newspapers as an advertising medium by which to notify prospective vendors of the solicitation of bids.

Chapter 5A, Article 3, Section 10 of the West Virginia Code, states in part:

“ . . . Bids shall be obtained by public notice. The notice may be published by any advertising medium the director deems advisable. The director may also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notice on a bulletin board in his office. . . .”

Section 8.1 **Purchases Over \$10,000.00** of the Purchasing Division's Agency

Purchasing Manual states in part:

“ . . . The Purchasing Division will . . . advertise twice in the West Virginia Purchasing Bulletin, . . .”

The Division primarily uses their own publication, the West Virginia Purchasing Bulletin as a means to notify vendors. The Bulletin is a semi-monthly publication of the Purchasing Division and contains information on purchasing requirements in excess of \$10,000.00. This publication is mailed to approximately 6,500 registered vendors who have paid the required \$45.00 annual fee.

We also noted that in one instance, a purchase order was not advertised twice in the Division's publication as required prior to holding a mandatory pre-bid meeting for prospective vendors. The Division evidently did not consider if advertising requirements could be met before setting the date of the pre-bid meeting.

The Purchasing Division believes that with the magnitude mailing of the Bulletin and utilization of other means of advertising such as sources available on the Internet, the Division is receiving widespread coverage of notifications for solicitation of bids.

During the two-year period July 1, 1997 through June 30, 1999 the Purchasing Division processed approximately 3,900 purchase orders. With insufficient advertising for solicitation of bids in all 12 of the purchase orders we reviewed, the number of purchase orders with insufficient advertising could be significant. This situation could result in the possibility of competitive bidding being reduced leading to increased cost of purchases to the State.

Also, insufficient advertising usually results in fewer bids being received thereby reducing the level of bid competitiveness. Less bid competitiveness could compromise one of the Director's powers and duties mandated by Statute concerning competitive bids. Chapter 5A, Article 3, Section 3 of the West Virginia Code states in part:

“The director, under the direction and supervision of the Secretary, shall be the executive officer of the purchasing division and shall have the power and duty to: . . .
(2) Ensure that the purchase of or contract for commodities and printing shall be based, whenever possible, on competitive bid;...”

We recommend the West Virginia Legislature consider amending the provisions of Chapter 5A, Article 3, Section 10 of the West Virginia Code to specify those circumstances under which the Director of the Purchasing Division must use newspapers as an advertising medium to enhance the concept of competitive bidding.

Agency's Response

The Purchasing Division advertises bids in most cases once in the West Virginia Purchasing Bulletin which complies with the Chapter 5A, Article 3, Section 10 of the

West Virginia Code. The Purchasing Manual reference to advertising twice in the West Virginia Purchasing Bulletin was erroneous and had not been updated to reflect current practice. That update has occurred in the newest edition of the Purchasing Manual scheduled for release this month.

It should be noted that in addition to advertising in the West Virginia Purchasing Bulletin, vendors receive notice by other methods.

Vendors regularly call on agency personnel to market their products and services. The agency submitting a requisition to the Purchasing Division regularly requests the Purchasing Division to send a copy of the requisition directly to these vendors. The Purchasing Division always complies with this request.

Vendors also call on Purchasing Division Buyers to market their products and services. The Purchasing Division Buyer keeps a record of interested vendors and directly sends requisitions to these vendors.

The Purchasing Division maintains a copy of all requisitions in the Purchasing Division reception room where interested vendors regularly visit and receive copies of requisitions.

The Purchasing Division internet site provides public notice and offers vendors an opportunity to request bid documents.

Construction bids are advertised by various trade groups such as the West Virginia Contractors Association, Society of Architects and Engineers and F. W .Dodge Reports.

The Purchasing Division believes that bids are fully advertised, an appropriate number of bids are received, the level of bid competitiveness is more than adequate, and the price the State pays is fair and reasonable.

The Purchasing Division will comply with any advertising requirement established by the West Virginia Legislature.

**Incorrect Awarding of State-Wide Contracts
Based on Incorrect Application of Vendor Preference**

Our review of the Purchasing Division's ten top dollar value State-Wide contracts awarded during fiscal year 1998 and 1999 indicate the Division incorrectly awarded specific sections of two State-Wide contracts to the wrong bidder based on an incorrect application of the resident vendor preference. In the award of "Fuel99" State-Wide contract for tank-transport delivery of fuel to a Division of Highway's district garage, the award was made to a vendor after applying a two and one-half percent resident vendor preference to the vendor's bid without the vendor specifically requesting the vendor preference. Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended, specifically requires a vendor to make a written claim for a preference at the time a bid is submitted. Section 37 states in part:

“. . . if such resident vendor has written claim for such preference at the time the bid was submitted: . . .”

The vendor in question signed the vendor preference certificate without indicating which preference, if any, the resident vendor was applying for. The vendor was granted a two and one-half percent resident vendor preference of the possible five percent after the Director of the Purchasing Division decided it was obvious, that by signing the preference certificate form, the vendor had intended to check at least one of the boxes. The awarding of this specific section

of the motor fuel contract to the preference vendor will cost the State approximately \$2,100.00 more per year.

For the "FINEPAP98" State-Wide contract, four contracts were awarded that appear to have been awarded in error. The first contract was awarded based on a five percent resident vendor preference being applied to a nonresident vendor's bid, thus eliminating the nonresident vendor from being considered for the award. However, after reviewing this transaction, the non-resident vendor's proposed amount was misread by the Buyer by \$1,000.00 and the five percent was applied to the higher misread bid. The bid was read by the Buyer as \$8,608.00 not \$7,608.00 as it actually was. If the bid had been read correctly, this vendor still had the low bid even with the application of the five percent preference. The error in awarding of this contract will cost the State approximately \$1,300.00 more per year. In the other three instances, an incorrect resident vendor preference was applied to the low bid of the nonresident vendor after which the nonresident vendor still had the low bid. With the awarding of the other three contracts, the State has actually benefitted with an additional savings of approximately \$1,500.00 per year.

We recommend the Purchasing Division comply with Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended.

Agency's Response

The Purchasing Division awarded the FUEL99 contract in accordance with standard practice regarding the resident vendor preference. The audit report described as an incorrect award, a situation in which a resident vendor was granted the resident vendor preference without specifically requesting that such preference be applied.

The Department of Tax and Revenue Legislative Interpretive Rule Title 110, Series 12C requires, “...preference shall not be applied as between or among West Virginia vendors, but shall be applied as between or among resident vendors and non-resident vendors”.

This resident vendor preference effected the award of one of the ten Division of Highways Districts. In District Six, the award was made to Belmont Petroleum, Wheeling, West Virginia, who requested the preference, but did not check either of the two 2.5% preference boxes.

The low bidder was Petroleum Traders, Fort Wayne, Indiana, a non resident vendor. The second low bidder was Belmont Petroleum who bid but had not requested resident vendor preference. The third low bidder was Guttman Oil, Elkins, West Virginia who requested and received the 2.5% resident vendor preference.

The bid of Petroleum Traders, which was increase to \$92,909, was lower than the bid of Guttman, \$94,895, but higher than the bid of Belmont, \$92,759.

In the evaluation, the Buyer recognized that a West Virginia vendor requested and received the 2.5% resident vendor preference which increased, for evaluation purposes, the bid of Petroleum Traders. The Buyer also recognized that the resident vendor preference could not be applied between resident vendors. The award was then made to the lowest resident vendor, Belmont Petroleum.

The Purchasing Division believes this award is in compliance with the spirit and intent of the law and rules as approved by the West Virginia Legislature. The additional cost (estimated to be \$2100 annually) is recognized and approved by Chapter 5A, Article 3,

Section 37 of the West Virginia Code, as amended will more than be offset in tangible and intangible benefits by awarding the contract to a West Virginia company over an Indiana company.

The Purchasing Division agrees that three of two hundred and five items on the fine paper contract, FINEPAP98 were awarded in error. The net result of this action resulted in an estimated annual savings to the state of \$200 per year on a contract with an estimated value of nearly \$4,000,000.

The Purchasing Division will comply with Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended.

Special Revenue Account Not Authorized by Statute

The Purchasing Division operates a special revenue account known as the Seminars and Classes Fund (2039) for the receipt and disbursement of participant fees derived from Purchasing and State-Wide Vendor Teleconference Conferences. In addition, fees from the sale of the Purchasing Division’s Agency Purchasing Manual are also deposited in this account. We could find no statutory authority for the Purchasing Division to maintain this account or to charge participants a fee for attending the conferences. The recent financial activities of this account are presented below:

<u>Fiscal Year</u>	<u>Beginning Balance</u>	<u>Receipts</u>	<u>Disbursements</u>	<u>Ending Balance</u>
1997	\$15,552.40	\$58,010.00	\$37,224.94	\$36,337.46
1998	\$36,337.46	\$29,663.00	\$35,555.69	\$30,444.77
1999	\$30,444.77	\$27,838.00	\$44,190.40	\$14,092.37

The funds disbursed from this account are primarily for expenses related to the purchasing conferences and include hospitality, staff lodging and travel, advertising by means of favors for participants, conference speakers and printing costs. However, we did notice disbursements from this account for registration fees of staff members to attend other conferences.

Conference fees are determined by staff of the Purchasing Division and are based on an estimate of anticipated attendance and the cost of conducting the conference. For fiscal year 1998, the cost was \$75.00 per participant and \$100.00 per participant during fiscal year 1999.

We were told by the Director of the Purchasing Division, the account was established years ago prior to him becoming Director and he had just continued the practice. He further commented that the account was intended to cover only the cost of providing services. Staff members of the Department of Administration's Finance Division agreed there was no statutory authority for the account, but stated the account was established years ago for legal classes and expanded to include the transactions of the purchasing conferences.

We recommend the Purchasing Division seek statutory authority to enable the Division to charge participants for attending purchasing conferences and to maintain the Seminars and Classes Fund (2039).

Agency's Response

The Purchasing Division will seek statutory authority to enable the Division to charge participants for attending purchasing conferences and to maintain the Seminars and Classes Fund.

Excessive Fees Charged

The Purchasing Division is authorized to operate three special revenue accounts: Fund 2031 - Division of Highways (DOH) Procurement Expense Reimbursement Fund; Fund 2034 - Local Government Reimbursement Fund; and, Fund 2035 - Vendor Registration Payment Fund. Revenues for all three accounts are derived from fees charged or agency reimbursements for services provided by the Purchasing Division. Our review of the transactions within these accounts indicate the Purchasing Division may be charging excessive fees or being reimbursed for more than the cost of the services provided. The statutory section of each account appears to reflect that any fee charged or any reimbursement received shall not exceed the cost of the services being provided by the Purchasing Division. As can be seen in the schedules below, each account appears to have an excess balance at the end of the fiscal year, in some cases, the balances are large enough to provide operating costs for several months or possibly even an entire fiscal year based on prior expenditure patterns. We also noted disbursements from these accounts for items that were unrelated to the criteria of the program which we believe is another indication of excess monies being available in the accounts. Specifically, our findings with respect to each account were as follows:

Fund 2031 - DOH Procurement Expense Reimbursement Fund

Chapter 17, Article 2A, Section 13 of the West Virginia Code, as amended, dealing with the Division of Highways states in part:

“ . . . The director of purchases [director of purchasing division] shall make available the facilities and services of his department [division] to the commissioner in the purchase and acquisition of materials, supplies and equipment and shall cooperate with the commissioner in all such purchases and acquisitions upon request of the commissioner. **The actual expenses incurred by the director of purchases [director of purchasing division] in all**

such cases shall be paid by the commissioner.” (Emphasis added)

Based on the above statute, the Division of Highways and the Department of Administration annually sign a Memorandum of Understanding which sets out the Purchasing Division will provide the necessary staff to carry out the provisions of the statute and the Division of Highways will reimburse the Purchasing Division \$10,000.00 per month. Financial activities for fiscal years 1998 and 1999 in the DOH Procurement Expense Reimbursement Fund are summarized below:

<u>Fiscal Year</u>	<u>Beginning Balance</u>	<u>Receipts</u>	<u>Disbursements</u>	<u>Ending Balance</u>
<u>1998</u>	<u>\$19,599.53</u>	<u>\$120,000.00</u>	<u>\$113,788.35</u>	<u>\$25,811.18</u>
<u>1999</u>	<u>\$25,811.18</u>	<u>\$120,000.00</u>	<u>\$104,177.20</u>	<u>\$41,633.98</u>

We noted two disbursements paid from the DOH Procurement Expense Reimbursement Fund that do not appear to be related to the function of the account. One disbursement in fiscal year 1999 for \$2,948.25 was for the printing of a book which we were told was the Office Supply Price List for the State-Wide contract for Office Supplies. The other disbursement was in fiscal year 1998 for \$237.60 for business cards for ten staff member of the Purchasing Division. We believe both of these disbursements should have been paid from the Purchasing Division’s General Revenue - Unclassified Account.

Fund 2034 - Local Government Reimbursement Fund

Chapter 5A, Article 3, Section 8 of the West Virginia Code states in part:

“The director shall make available the facilities and services of his division to counties, county schools, municipalities, urban mass transportation authorities, created pursuant to article twenty-seven [§ 8-27-1 et seq.], chapter eight of this code, mass transportation divisions of county and municipal governments, volunteer fire departments, and other local governmental bodies within this state.

The actual expenses incurred thereby shall be paid by the local governmental body.” (Emphasis added)

The financial activities of the Local Government Reimbursement Fund for fiscal years 1998 and 1999 are summarized as follows:

<u>Fiscal Year</u>	<u>Beginning Balance</u>	<u>Receipts</u>	<u>Disbursements</u>	<u>Ending Balance</u>
1998	\$17,877.98	\$10,129.47	\$ 289.08	\$27,718.37
1999	\$27,718.37	\$ 9,654.13	\$11,388.72	\$25,983.78

Currently, the Purchasing Division charges users of this service a minimum annual fee of \$100.00 which entitles the user copies of ten State-Wide contracts. A charge of \$5.00 is levied for each additional contract. We also noted disbursements from this account that do not appear to be related to the function of the account. In fiscal year 1999, a disbursement of \$2,000.00 was paid to an interaction group to provide facilitation and written reports for five focus groups within the Purchasing Division and \$1,772.39 was reimbursed to the Director of the Purchasing Division for travel expenses. We believe both of these disbursements should have been paid from the Purchasing Division’s General Revenue - Unclassified Account.

Fund 2035 - Vendor Registration Payment Fund

Chapter 5A, Article 3, Section 4(a)(7) of the West Virginia Code states:

“Prescribe a system whereby the director shall be required, upon the payment by a vendor of an annual fee established by the director, to give notice to such vendor of all bid solicitations for commodities of the type with respect to which such vendor specified notice was to be given, **but no such fee shall exceed the cost of giving the notice to such vendor, nor shall such fee exceed the sum of forty-five dollars per fiscal year, nor shall such fee be charged to persons seeking only reimbursement from a spending unit;**” (Emphasis added)

The financial activities of the Vendor Registration Payment Fund for fiscal years 1998 and 1999 are summarized as follows:

<u>Fiscal Year</u>	<u>Beginning Balance</u>	<u>Receipts</u>	<u>Disbursements</u>	<u>Ending Balance</u>
1998	\$159,307.67	\$287,263.99	\$215,220.84	\$231,350.82
1999	\$231,350.82	\$287,350.82	\$332,573.36	\$186,712.21

The Purchasing Division charges the maximum fee of \$45.00 allowed by the West Virginia Code for the registration of vendors. This account appears to be the primary funding source for the Purchasing Division. We also noted disbursements from this fund which appear to be unrelated to its statutory purpose. **In September 1998, \$100,000.00 was transferred from this account to another section of the Purchasing Division, the Consolidated Publishing Facility (CPF).** We were told the CPF was experiencing severe financial difficulties at the time. The Vendor Registration Payment Fund is also one of the major funding sources for the Purchasing Division's automated purchasing system TEAM (Team Effort for Acquisition Management).

We recommend the Purchasing Division comply with Chapter 5A, Article 3, Sections 4(a)(7) and (8) and Chapter 17, Article 2A, Section 13 of the West Virginia Code and limit the disbursements from the DOH Procurement Expense Reimbursement Fund; the Local Government Reimbursement Fund; and, the Vendor Registration Payment Fund to only their intended purposes. We also recommend the Purchasing Division reevaluate the assessed fees in each of these accounts and assess such fees in an amount needed to cover the cost of services provided.

Agency's Response

Responding to the audit findings of charging excessive fees and payment of a few invoices not obviously related to the purpose of the account requires the knowledge that the Purchasing Division, as a small agency, has multiple employees working on projects spread over various accounts. The Purchasing Division has never been aware of the need to track employee time dedicated to accounts or special projects.

Fund 2031 - DOH Procurement Expense Reimbursement Fund

The Purchasing Division contracts with the Division of Highways annually to make available to the Division of Highways the services of staff dedicated to the Division of Highways purchases for an annual sum of \$120,000. The Division of Highways requisitions processed by the Purchasing Division comprise 33% of the total number of requisitions processed by the Purchasing Division. The \$120,000 represents far less than 33% of the total Purchasing Division budget. The Purchasing Division believes this amount should be increased rather than decreased.

Fund 2034 - Local Government Reimbursement Fund

The Purchasing Division charges political subdivisions the fees described in the audit report for copies of statewide contracts. Invoices were paid from this account that do not directly relate to the purpose of this account for the general reasons described above.

Fund 2035 - Vendor Registration Payment Fund

The Purchasing Division paid invoices from this account that do not directly relate to the purpose of this account for the general reasons described above.

The specific transfer of \$100,000 to the Consolidated Publishing Facility (CPF) was done to assure employees were paid while the decision to close the facility and transfer the employees and responsibility to the Division of Corrections was being made. The transfer of responsibility was suggested by the Performance Audit Division several years ago for financial reasons.

Conflict of the West Virginia Code and an Interpretive Rule of the West Virginia Department of Tax and Revenue

We found an apparent conflict between Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended, and Title 110, Series 12C, Interpretive Rule of the West Virginia Department of Tax and Revenue. Specifically, Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended, grants resident vendors bidding preference(s) over non-resident vendors on the bidding of commodities or printing, which is subject to the competitive bid process of this article.

Our review showed Title 110, Series 12C, Interpretive Rule of the West Virginia Department of Tax and Revenue, titled “Preference for Determining Successful Bids,” contained different residency criteria than those set forth in Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended. Primarily, the difference amounts to the West Virginia Code requiring **75%** of a vendor’s employees to have been residents of West Virginia continuously for the two years immediately preceding submission of a bid to receive a two and one-half percent resident vendor preference, whereas, the Department of Tax and Revenue Interpretive Rule states the required percentage to be **60%** of a vendor’s employees must have been residents of West

Virginia continuously for the two years immediately preceding submission of a bid to receive a two and one-half percent resident vendor preference.

The Secretary of the Department of Tax and Revenue has the statutory responsibility for ensuring compliance with the residency requirements of 5A-3-37 of the West Virginia Code, as amended; however, with the Secretary's Interpretive Rule being in conflict with the provisions of the West Virginia Code, the Secretary's enforcement decisions could be in error. Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended, states in part:

“. . . The secretary of the department of tax and revenue shall promulgate any rules and regulations necessary to: (i) Determine that vendors have met the residence requirements described in this section; (ii) establish the procedure for vendors to certify the residency requirements at the time of submitting their bids; (iii) establish a procedure to audit bids which make a claim for preference permitted by this section and to reject noncomplying bids; and (iv) otherwise accomplish the objectives of this section. **In prescribing the rules and regulations, the secretary shall use a strict construction of the residence requirements set forth in this section. . . .**" (Emphasis added)

The Purchasing Division is aware of the conflict between the West Virginia Code and the Interpretive Rule of the West Virginia Department of Tax and Revenue and they told us the Department of Tax and Revenue is responsible for correcting the error.

We recommend the Purchasing Division contact the Secretary of the Department of Tax and Revenue and request the Secretary to amend his Interpretive Rule Title 110, Series 12C to agree with the provisions of Chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended.

Agency's Response

The Purchasing Division has one of the most complex vendor preference laws in the country. Most states have abandoned preference in favor of reciprocity or no preference.

The Purchasing Division will contact the Secretary of the Department of Tax and Revenue and request the Secretary to amend his Interpretive Rule Title 110, Series 12C to agree with the provisions of chapter 5A, Article 3, Section 37 of the West Virginia Code, as amended.

Transfer of Expenses

In our review of expenditures made by the Purchasing Division, we noted two expense-to-expense transfers totaling \$16,206.99, one for 11,299.73 made on July 31, 1998 and one for 5,007.26 made on July 30, 1999. Both of these transfers moved the expense from a special revenue account to a general revenue appropriated account in which funds were set to expire. The transfers were made on the last day of the fiscal year in which expenditures are permitted to be made from the ongoing fiscal year's appropriations before unexpended balances will expire. By making these transfers, the Purchasing Division was able to prevent the expiration of any funds and reappropriate their fiscal years 1998 and 1999 general revenue funds into fiscal years 1999 and 2000, respectively.

Chapter 12, Article 3, Section 12 of the West Virginia Code, as amended states in part:

“Every appropriation which is payable out of the general revenue, or so much thereof as may remain undrawn at the end of the year for which made, shall be deemed to have expired at the end of the year for which it is made, and no warrant shall thereafter be issued upon it: . . .”

The expenditures, for printing cost in fiscal year 1998 and computer services during fiscal year 1999, were initially paid from the Purchasing Division's Division of Highways' Procurement Expense Reimbursement Fund on September 4, 1997 in the amount of \$11,436.59 and on November 9, 1998 in the amounts of 3,851.71 and \$3,657.72. The reason given for the transfers was to reallocate funds for an expense-to-expense shutdown and to close out the fiscal year. In both instances, the total amount of the expenditures were not transferred, only to the amount of funds remaining in the appropriated general revenue fund.

We recommend the Purchasing Division comply with Chapter 12, Article 3, Section 12 of the West Virginia Code, as amended.

Agency's Response

The Purchasing Division transferred funds for the reasons described.

The Purchasing Division will comply with Chapter 12, Article 3, Section 12 of the West Virginia Code, as amended.

Attendance Reports And Leave Request Forms

The Purchasing Division is not requiring all employees to complete "Attendance Reports" and in some instances employees are not maintaining the reports for each period. This report, signed by the employee and approved by a supervisor, details the hours worked each day, leave taken (Annual, Sick, Family Sick, Holiday, etc.) and any approved overtime. The Department of Administration implemented the use of an "Attendance Report" effective September 15, 1997 to better document personnel activities and their hours worked. On September 9, 1997, the Director of the Purchasing Division issued a memorandum to all

Supervisors in the Purchasing Division notifying them of this new requirement, followed-up by another memorandum on November 21, 1997 reinforcing the requirement after it was brought to his attention that the reports were not being submitted in a timely manner.

We tested 12 employees of the Purchasing Division's 22 employees. Of these 12 employees, none of the attendance reports were complete and in some instances the employees had never been instructed to keep one.

Chapter 21, Article 5C, Section 5 of the West Virginia Code, as amended, dealing with record-keeping requirements for employees as set by the Division of Labor, states in part:

“... Every employer subject to the provisions of this article shall make or cause to be made, and shall keep and preserve at his place of business for a period of two years, a written record or records of the name and address of each of his employees as herein defined, his rate of pay, hours of employment, payroll deductions, and amount paid him for each pay period....”

Title 42, Series 8, Section 4.2 of the Division of Labor Legislative Rules states in part:

“Content of records.--The written record or records with respect to each and every employee shall contain:
(g)Hours worked each workday and total hours worked each work week...”

Also, the Purchasing Division could not provide us with the "Application For Leave With Pay" forms for the period July 1, 1997 to January 31, 1998. These forms are submitted to the Payroll Section of the Department of Administration's Accounting Section. It has been the policy of the Accounting Section to keep these forms for only one year.

Chapter 5A, Article 8, Section 9, as amended, states in part:

“The head of each agency shall:
. . .(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions

procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities..."

Due to these records not being maintained, we were unable to verify the accuracy of the leave records and hours worked. We could not determine whether leave accruals and employee leave balances were administered in accordance with applicable provisions of the West Virginia State Code and Sections 15.03 and 15.04 of the West Virginia Department of Administration's Division of Personnel's Administrative Rule. The possibility exists for employees to be compensated before service are rendered and employees could be over/under compensated for overtime pay if overtime is worked.

We recommend the Purchasing Division comply with Chapter 21 Article 5C, Section 5 of the West Virginia Code, as amended, Title 42, Series 8, Section 4.2 of the Division of Labor's Legislative Rules and the Director of the Purchasing Division's memorandum of September 9, 1997 requiring the "Attendance Report". Also, we recommend the Purchasing Division reconcile their DOP-L1 forms to the Attendance Reports to ensure their accuracy.

Agency's Response

The Purchasing Division does not require employees to complete "Attendance Reports" as reported in the audit. Although the memoranda described in the audit were issued, no supporting documentation could be located. After consultation with the Division of Personnel, it was the understanding of the Division that "Attendance Reports" were not required as long as employees completed "Leave Slips", which meet the laws and rules of the Division of Labor and is the same type of reporting used by many other divisions and agencies.

The Purchasing Division will refer this issue to the Division of Personnel in writing for clarification and guidance and follow procedures as do other divisions and agencies.

File Maintenance Inadequate

Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, state in part:

“The head of each agency shall:
. . .(b) Make and maintain records containing adequate proper documentation of the organization, functions, policies, decisions, procedures and essential transaction of the agency designed to furnish information to protect the legal and financial rights of the State and of persons directly affected by the agency’s activities...”

We noted the purchase order files maintained by the Purchasing Division did not always contain all the necessary documentation for an adequate review. Missing in many instances were blank Request for Quotations (RFQ’s) forms, addenda acknowledgment forms and various other pieces of documentation specifically required by an individual RFQ.

Of the 12 purchase orders we reviewed, six did not have a blank RFQ form included in the file and four did not have addenda acknowledgment forms in their file. Without a blank RFQ, we were unable to determine what was exactly expected of a vendor, or if the RFQ submitted by a vendor may have been modified by the vendor. Without addenda acknowledgment forms on file, we were unable to determine if the vendor had considered addenda when submitting a proposal. In one RFQ for physician services at a State hospital, there was a requirement that the vendor submit proof of insurance for most of its proposed staff. There was no evidence of proof of insurance in the vendor’s file upon awarding or renewal of the purchase order. In another purchase order, the base bids of two other bidders were not on file, therefore, not available for our review making us unsure the purchase order was awarded to the lowest bidder. All the purchase orders mentioned above were each in excess of \$5,000,000.00.

We recommend the Purchasing Division comply with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code, as amended.

Agency's Response

Standard procedure for the Purchasing Division is to include all appropriate documentation in all purchase order files. The Purchasing Division microfilms all purchase orders immediately upon completion and places the hard copy in the public files where they are available for review by any interested party as required by statute. The Purchasing Division was aware of only one instance of a blank Request for Quotation form not in the public file during the audit. Considering the volume of purchase order review by interested parties we do not believe this to be a major problem.

The Purchasing Division will comply with Chapter 5A, Article 8, Section 8 of the West Virginia Code, as amended.

INDEPENDENT AUDITORS' OPINION

The Joint Committee on Government and Finance:

We have audited the statement of appropriations/cash receipts, expenditures/disbursements and changes in fund balances of the Purchasing Division of the West Virginia Department of Administration for the years ended June 30, 1999 and June 30, 1998. The financial statement is the responsibility of the management of the Purchasing Division of the West Virginia Department of Administration. Our responsibility is to express an opinion on the financial statement based on our audit.


We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance as to whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note A, the financial statement was prepared on the cash and modified cash bases of accounting, which are comprehensive bases of accounting other than generally accepted accounting principles.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the appropriations and expenditures and revenues collected and expenses paid of the Purchasing Division of the West Virginia Department of Administration for the years ended June 30, 1999 and June 30, 1998 on the bases of accounting described in Note A.

Our audit was conducted for the purpose of forming an opinion on the basic financial statement taken as a whole. The supplemental information is presented for purposes of additional analysis and is not a required part of the basic financial statement. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statement and, in our opinion, is fairly stated in all material respects in relation to the basic financial statement taken as a whole.

Respectively submitted,



**Theodor L. Shanklin, CPA, Director
Legislative Post Audit Division**

October 30, 2000

Auditors: Michael E. Sizemore, CPA, Supervisor
Charles L. Lunsford, Auditor-in-Charge
Stanley D. Lynch, CPA
Peter J. Maruish, Jr., CPA
Melanie L. Nuckols, CPA
Noah E. Cochran, CPA
Amanda L. Poff
Charles B. Thompson

**WEST VIRGINIA DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
STATEMENT OF APPROPRIATIONS/CASH RECEIPTS, EXPENDITURES/
DISBURSEMENTS AND CHANGES IN FUND BALANCES**

	<u>Year Ended June 30, 1999</u>		
	<u>General Revenue</u>	<u>Special Revenue</u>	<u>Combined Totals</u>
Appropriations/Cash Receipts:			
Appropriations	\$1,031,405.00	\$ 0.00	\$1,031,405.00
Supplemental Appropriations	0.00	0.00	0.00
Secretary Transfer	0.00	0.00	0.00
Copying Fees	0.00	9,654.13	9,654.13
Vendor Registration Fees	0.00	287,934.75	287,934.75
Purchasing Conference Registration Fees	0.00	27,040.00	27,040.00
Sales-Purchasing Manuals	0.00	798.00	798.00
Purchasing Card Revenues	0.00	0.00	0.00
Transfer from the Division of Highways - Fund 9017	0.00	120,000.00	120,000.00
Transfer from the Central Mailroom Fund	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
	1,031,405.00	445,426.88	1,476,831.88
Expenditures/Disbursements:			
Personal Services	581,287.10	48,523.44	629,810.54
Employee Benefits	180,203.35	26,141.04	206,344.39
Current Expenses	202,257.42	293,803.72	496,061.14
Repairs and Alterations	0.00	450.63	450.63
Equipment	382.97	23,410.85	23,793.82
Transfer to the Central Mailroom Fund	0.00	3,446.00	3,446.00
Transfer to Revolving Fund - Fund 2320	0.00	100,000.00	100,000.00
Transfer to Natural Gas Contract DOA Office of the Secretary Refund Fund - Fund 2040	0.00	0.00	0.00
Revenue Refund	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
	<u>964,130.84</u>	<u>495,775.68</u>	<u>1,459,906.52</u>
Appropriations/Cash Receipts Over/(Under)			
Expenditures/ Disbursements	67,274.16	(50,348.80)	16,925.36
Expirations and Expenditures After June 30	(67,274.16)	0.00	(67,274.16)
Beginning Balance	<u>0.00</u>	<u>324,610.25</u>	<u>324,610.25</u>
Ending Balance	<u>\$ 0.00</u>	<u>\$ 274,261.45</u>	<u>\$ 274,261.45</u>

See Notes to Financial Statement

Year Ended June 30, 1998

<u>General Revenue</u>	<u>Special Revenue</u>	<u>Combined Totals</u>
\$ 903,228.00	\$ 0.00	\$ 903,228.00
400,000.00	0.00	400,000.00
50,292.00	0.00	50,292.00
0.00	10,129.47	10,129.47
0.00	287,263.99	287,263.99
0.00	29,113.00	29,113.00
0.00	550.00	550.00
0.00	5,839.11	5,839.11
0.00	120,000.00	120,000.00
0.00	3,446.00	3,446.00
1,353,520.00	456,341.57	1,809,861.57
557,360.94	8,363.48	568,498.02
168,835.89	12,421.99	181,257.88
61,646.68	327,853.24	389,499.92
375,287.42	846.15	376,133.57
21,509.18	15,342.85	36,852.03
0.00	0.00	0.00
0.00	0.00	0.00
0.00	277,058.12	277,058.12
0.00	26.25	26.25
1,184,640.11	641,912.08	1,829,325.79
168,879.99	(185,570.51)	19,464.22
(168,879.89)	0.00	(166,106.29)
0.00	510,180.76	510,180.76
\$ 0.00	\$ 324,610.25	\$ 324,610.25

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

NOTES TO FINANCIAL STATEMENT

Note A - Accounting Policies

Accounting Method: The modified cash basis of accounting is followed for the General Revenue Fund. The major modification from the cash basis is that a 31-day carry-over period is provided at the end of each fiscal year for the payment of obligations incurred in that year. All balances of the General Revenue Fund appropriations for each fiscal year expire on the last day of such fiscal year and revert to the unappropriated surplus of the fund from which the appropriations were made, except that expenditures encumbered prior to the end of the fiscal year may be paid up to 31 days after the fiscal year-end; however, appropriations for buildings and land remain in effect until three years after the passage of the act by which such appropriations were made. The cash basis of accounting is followed by all other funds. Therefore, certain revenue and related assets are recognized when received rather than when earned, and certain expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the financial statement is not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

Expenditures paid after June 30 in the carry-over period and expirations were as follows:

	<u>Expenditures</u>		<u>Expirations</u>	
	<u>Paid After June 30,</u>		<u>July 31, July 31,</u>	
	<u>1999</u>	<u>1998</u>	<u>1999</u>	<u>1998</u>
Personal Services	\$ 0.00	\$ 0.00	\$ 29.40	\$3,668.06
Employee Benefits	1,591.44	6,275.05	429.56	3,466.62
Unclassified	56,212.34	98,146.21	0.00	0.00
Purchasing Card Program	<u>9,011.42</u>	<u>57,323.95</u>	<u>0.00</u>	<u>0.00</u>
TOTAL	<u>\$66,815.20</u>	<u>\$161,745.21</u>	<u>\$458.96</u>	<u>\$7,134.68</u>

Combined Totals: The combined totals contain the totals of similar accounts for the various funds. Since the appropriations and cash receipts are restricted by various laws, rules and regulations, the totaling of the accounts is for memorandum purposes only and does not indicate that the combined totals are available in any manner other than that provided by such laws, rules and regulations.

Note B - Pension Plan

All eligible employees are members of the West Virginia Public Employees' Retirement System. Employees' contributions are 4.5% of their annual compensation and employees have vested rights under certain circumstances. The Department of Administration's Purchasing Division matches contributions at 9.5% of the compensation on which the employees made contributions. The Purchasing Division's pension expenditures were as follows:

	<u>Year Ended June 30,</u>	
	<u>1999</u>	<u>1998</u>
General Revenue	\$55,091.63	\$52,958.23
Special Revenue	<u>8,218.12</u>	<u>3,600.65</u>
	<u>\$63,309.75</u>	<u>\$56,558.88</u>

SUPPLEMENTAL INFORMATION

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

STATEMENTS OF APPROPRIATIONS AND EXPENDITURES

GENERAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1999</u>	<u>1998</u>
<u>Personal Services - Fund 0210-001</u>		
Appropriations	\$570,000.00	\$555,184.00
Expenditures:		
Personal Services	541,970.60	515,515.94
Agency Transfer to Unclassified Fund 0210-99	<u>28,000.00</u>	<u>36,000.00</u>
	<u>569,970.60</u>	<u>551,515.94</u>
	29.40	3,668.06
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 29.40</u>	<u>\$ 3,668.06</u>
 <u>Annual Increment - Fund 0210-004</u>		
Appropriations	\$ 14,982.00	\$ 14,329.00
Expenditures	<u>14,982.00</u>	<u>14,329.00</u>
	0.00	0.00
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 0.00</u>	<u>\$ 0.00</u>

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

STATEMENTS OF APPROPRIATIONS AND EXPENDITURES

GENERAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1999</u>	<u>1998</u>
<u>Employee Benefits - Fund 0210-010</u>		
Appropriations	\$193,051.00	\$162,158.00
Agency Transfer from Unclassified Fund 0210-099	<u>0.00</u>	<u>15,179.00</u>
	193,051.00	177,337.00
Expenditures:		
Employee Benefits	175,221.44	166,870.38
Agency Transfer to Unclassified Fund 0210-099	<u>17,400.00</u>	<u>7,000.00</u>
	<u>192,621.44</u>	<u>173,870.38</u>
	429.56	3,466.62
Transmittals Paid After June 30	<u>1,591.44</u>	<u>6,275.05</u>
Balance	<u>\$ 2,021.00</u>	<u>\$ 9,741.67</u>
 <u>Unclassified - Fund 0210-097</u>		
Supplemental Appropriations	\$ 0.00	\$400,000.00
Expenditures:		
Current Expenses	0.00	4,403.40
Repairs and Alterations	0.00	375,287.42
Equipment	<u>0.00</u>	<u>20,309.18</u>
	<u>0.00</u>	<u>400,000.00</u>
	0.00	0.00
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 0.00</u>	<u>\$ 0.00</u>

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

STATEMENT OF APPROPRIATIONS AND EXPENDITURES

GENERAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1999</u>	<u>1998</u>
<u>Unclassified - Fund 0210-099</u>		
Appropriations	\$131,584.00	\$ 51,557.00
Secretary Transfer from the Grievance Board		
Personal Services - Fund 0219-001	0.00	50,292.00
Agency Transfer from Personal Services - Fund 0210-001	28,000.00	36,000.00
Agency Transfer from Employee Benefits - Fund 0210-010	<u>17,400.00</u>	<u>7,000.00</u>
	176,984.00	144,849.00
Expenditures		
Current Expenses	176,089.92	128,035.50
Repairs and Alterations	147.95	434.50
Equipment	746.13	1,200.00
Agency Transfer to Employee Benefits - Fund 0210-010	<u>0.00</u>	<u>15,179.00</u>
	<u>176,984.00</u>	<u>144,849.00</u>
	0.00	0.00
Transmittals Paid After June 30	<u>56,212.34</u>	<u>98,146.21</u>
Balance	<u>\$ 56,212.34</u>	<u>\$ 98,146.21</u>

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

GENERAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1999</u>	<u>1998</u>
<u>Purchasing Card Program -</u>		
<u>Fund 0210-711</u>		
Appropriations	\$121,788.00	\$120,000.00
Expenditures:		
Personal Services	24,334.50	27,516.00
Employee Benefits	6,573.35	8,520.00
Current Expenses	90,880.15	83,547.57
Repairs and Alterations	0.00	122.43
Equipment	0.00	294.00
	<u>121,788.00</u>	<u>120,000.00</u>
	0.00	0.00
Transmittals Paid After June 30	<u>9,011.42</u>	<u>57,323.95</u>
Balance	<u>\$ 9,011.42</u>	<u>\$ 57,323.95</u>

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1999</u>	<u>1998</u>
<u>DOH Procurement Expense Reimbursement Fund - Fund 2031-640/099</u>		
Cash Receipts:		
Transfer from the Division of Highways - Fund 9017	\$120,000.00	\$120,000.00
Transfer from the Postage Fund - Fund 2032		
	<u>0.00</u>	<u>3,446.00</u>
	120,000.00	123,446.00
Disbursements:		
Personal Services	31,437.00	4,110.00
Employee Benefits	20,855.01	11,189.00
Current Expenses	50,441.51	91,388.22
Repairs and Alterations	0.00	415.90
Equipment	1,443.68	6,685.23
Transfer to the Postage Fund - Fund 2032	<u>3,446.00</u>	<u>0.00</u>
	<u>107,623.20</u>	<u>113,788.35</u>
Cash Receipts Over Disbursements	12,376.80	9,657.65
Beginning Balance	<u>29,257.18</u>	<u>19,599.53</u>
Ending Balance	<u>\$ 41,633.98</u>	<u>\$ 29,257.18</u>

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1999</u>	<u>1998</u>
<u>Local Governmental Reimbursement Fund –</u>		
<u>Fund 2034-640/099</u>		
Cash Receipts:		
Copy Fees	\$ 9,654.13	\$10,129.47
Disbursements:		
Current Expenses	4,409.46	289.08
Equipment	<u>6,979.26</u>	<u>0.00</u>
	<u>11,388.72</u>	<u>289.08</u>
Cash Receipts (Under)/Over Disbursements	(1,734.59)	9,840.39
Beginning Balance	<u>27,718.37</u>	<u>17,877.98</u>
Ending Balance	<u>\$25,983.78</u>	<u>\$27,718.37</u>

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1999</u>	<u>1998</u>
<u>Vendor Registration Payment Fund -</u>		
<u>Fund 2035-640/099</u>		
Cash Receipts:		
Vendor Registration Fees	\$287,934.75	\$287,263.99
Disbursements:		
Personal Services	17,086.44	4,253.48
Employee Benefits	5,286.03	1,232.99
Current Expenses	195,362.35	200,620.25
Repairs and Alterations	450.63	430.25
Equipment	14,387.91	8,657.62
Revenue Refund	0.00	26.25
Transfer to Revolving Fund - Fund 2320	<u>100,000.00</u>	<u>0.00</u>
	<u>332,573.36</u>	<u>215,220.84</u>
Cash Receipts (Under)/Over Disbursements	(44,638.61)	72,043.15
Beginning Balance	<u>231,350.82</u>	<u>159,307.67</u>
Ending Balance	<u>\$186,712.21</u>	<u>\$231,350.82</u>

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

STATEMENTS OF CASH RECEIPTS AND DISBURSEMENTS

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1999</u>	<u>1998</u>
<u>Seminars and Classes Fund -</u>		
<u>Fund 2039-640/099</u>		
Cash Receipts:		
Purchasing Conference Registration Fees	\$27,040.00	\$29,113.00
Purchasing Manual Sales	<u>798.00</u>	<u>550.00</u>
	27,838.00	29,663.00
Disbursements:		
Current Expenses	43,590.40	35,555.69
Equipment	<u>600.00</u>	<u>0.00</u>
	<u>44,190.40</u>	<u>35,555.69</u>
Cash Receipts (Under) Disbursements	(16,352.40)	(5,892.69)
Beginning Balance	<u>30,444.77</u>	<u>36,337.46</u>
Ending Balance	<u>\$14,092.37</u>	<u>\$30,444.77</u>
 <u>Purchasing Card Administration Fund</u>		
<u>Fund 2260-640/099</u>		
Cash Receipts:		
Purchasing Card Revenues	\$ 0.00	\$ 5,839.11
Disbursements	<u>0.00</u>	<u>0.00</u>
Cash Receipts Over Disbursements	0.00	5,839.11
Beginning Balance	<u>5,839.11</u>	<u>0.00</u>
Ending Balance	<u>\$ 5,839.11</u>	<u>\$ 5,839.11</u>

WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1999</u>	<u>1998</u>
<u>Natural Gas Refund Fund -</u> <u>Fund 2261-640/099</u>		
Cash Receipts:	\$0.00	\$ 0.00
Disbursements:		
Transfer to Natural Gas Contract - DOH Office of Secretary Refund Fund - Fund 2040	<u>0.00</u>	<u>277,058.12</u>
Cash Receipts (Under) Disbursements	0.00	(277,058.12)
Beginning Balance	<u>0.00</u>	<u>277,058.12</u>
Ending Balance	<u>\$0.00</u>	<u>\$ 0.00</u>

STATE OF WEST VIRGINIA

OFFICE OF LEGISLATIVE AUDITOR, TO WITT:

I, Thedford L. Shanklin, CPA, Director of the Legislative Post Audit Division, do hereby certify that the report of audit appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 4th day of December 2000.



**Thedford L. Shanklin, CPA, Director
Legislative Post Audit Division**

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the Purchasing Division of the West Virginia Department of Administration; Governor; Attorney General; and State Auditor.