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GOVERNOR

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
Purchasing Division  
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ROBERT W. FERGUSON, JR.  
CABINET SECRETARY

DAVID TINCHER  
DIRECTOR

January 20, 2009

The Honorable Earl Ray Tomblin  
President of the State Senate  
Room 227M, Building 1  
State Capitol Complex  
Charleston, WV 25305

The Honorable Rick Thompson  
Speaker of the House  
Room 234M, Building 1  
State Capitol Complex  
Charleston, WV 25305

SUBJECT: Legislative Reporting Requirement §5A-3-10(b)

Dear Sirs:

In accordance with **West Virginia Code** §5A-3-10(b), as director of the West Virginia Purchasing Division, I am required to submit in January and July of each year to the Joint Committee on Government and Finance a report summarizing our division's findings of any spending unit which awarded multiple contracts for the same or similar commodity or service to an individual vendor over any 12 month period with a value exceeding \$25,000.

This section of the Code reads:

**§5A-3-10. Competitive bids; publication of solicitations for sealed bids; purchase of products of nonprofit workshops; employee to assist in dealings with nonprofit workshops.**

*(b) The director shall solicit sealed bids for the purchase of commodities and printing which is estimated to exceed twenty-five thousand dollars. No spending unit shall issue a series of requisitions or divide or plan procurements to circumvent this twenty-five thousand dollar threshold or otherwise avoid the use of sealed bids. Any spending unit which awards multiple contracts for the same or similar*

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*for the same or similar commodity or service to an individual vendor over any twelve-month period, the total value of which exceeds twenty-five thousand dollars, shall file copies of all contracts awarded to the vendor within the twelve preceding months with the director immediately upon exceeding the twenty-five thousand dollar limit, along with a statement explaining how the multiple contract awards do not circumvent the twenty-five thousand dollar threshold. If the spending unit does not immediately report to the director, the director may suspend the purchasing authority of the spending unit until the spending unit complies with the reporting requirement of this subsection. The director may conduct a review of any spending unit to ensure compliance with this subsection. Following a review, the director shall complete a report summarizing his or her findings and forward the report to the spending unit. In addition, the director shall report to the Joint Committee on Government and Finance on the first day of January and July of each year the spending units which have reported under this subsection and the findings of the director.*

For the period of July 1, 2008 through December 31, 2008, no spending units have reported to our division the award of any multiple contracts for “the same or similar commodity or service to an individual vendor over any 12-month period, the total value of which exceeds twenty-five thousand dollars.” However, our division inspectors discovered findings relating to four (4) different spending units during their reviews as stipulated in this section of the Code. The spending units were Miner's Health, Safety and Training; the Office of the Adjutant General; the State Armory Board; and the John Manchin, Sr. Health Care Center. A summary of the findings is attached.

Pursuant to this requirement, my next report will be submitted to you in July of 2009. Should you have any questions regarding this correspondence, please feel free to contact me at your convenience at (304) 558-2538 or via e-mail at **David.Tincher@wv.gov**.

Sincerely,



David Tincher, Director  
West Virginia Purchasing Division

DT:dmh

cc: Aaron Allred, Legislative Auditor  
Robert W. Ferguson, Jr., Cabinet Secretary of Administration

Attachment

## SUMMARY OF STRINGING ACTIVITIES (July 1, 2008 – January 1, 2009)

### **Miners' Health Safety and Training:**

- 1) The agency, during the fiscal year under review, spent a total of \$34,441.35 with United Central Supply for equipment for inspectors. In their response to the inspection report, the agency stated that, among other actions, they are:

*. . .working with your office, (WV State Purchasing Division) to obtain a statewide contract with vendors (including United Central Supply) that can provide the equipment and clothing that is necessary for equipping our inspection staff and supply the necessary gases for calibrating our detectors, used in the administration of examinations and certification testing.*

### **Office of the Adjutant General:**

- 1) The agency, during the fiscal year under review, spent a total of \$25,383.40 with Drummond for household and cleaning supplies. No documents were found to show that the items had been bid, nor did the file contain justification for a non-competitive award.
- 2) The agency, during the fiscal year under review, spent a total of \$45,085.00 with BNA Heating and Air Conditioning. A single request for quotation, dated August 15, 2006, was issued to: ". . . obtain HVAC replacement on three Chalet type buildings and the Stone Cottage" at Camp Dawson. Award was made to the vendor on three separate purchase orders and the total was paid on three separate State warrants.
- 3) The agency, during the fiscal year under review, spent a total of \$31,700.00 with Reeves Mountain State Fence, LLC for a fence project at Camp Dawson. The single scope of work was divided between two purchase orders and paid on two separate State warrants.
- 4) The agency, during the fiscal year under review, spent \$26,843.60 with Alfax Wholesale Furniture, LLC for "wall lockers for cadets in barracks" at the Mountaineer Challenge Academy. The single order of goods was paid on two separate State warrants.
- 5) The agency, during the fiscal year under review, spent a total of \$42,769.00 with Seneca Designs for various items of clothing, mostly for the Mountaineer Challenge Academy. No documents were found to show that the items had been bid, nor did the file contain justification for a non-competitive award.
- 6) The agency, during the fiscal year under review, spent a total of \$31,480.85 with Pro Chem, Inc. for various chemical products. Purchases were made for various locations statewide. No

documents were found to show that the items had been bid, nor did the file contain justification for a non-competitive award.

The agency has requested training from the Purchasing Division. The logistics of this training is currently being coordinated.

**State Armory Board:**

- 1) The Board, during the fiscal year under review, spent a total of \$39,516.26 with Pro Chem, Inc. for various chemical products. No documents were found to show that the items had been bid, nor did the file contain justification for a non-competitive award.
- 2) The Board, during the fiscal year under review, spent a total of \$50,048.20 with Drummond for household and cleaning supplies. No documents were found to show that the items had been bid, nor did the file contain justification for a non-competitive award.
- 3) The Board, during the fiscal year under review, spent a total of \$39,927.35 with SIP State Industrial for household and cleaning supplies. No documents were found to show that the items had been bid, nor did the file contain justification for a non-competitive award.

The Office of the Adjutant General issued a response to the inspection reports of the Adjutant General and State Armory Board and further discussion of the issues presented are pending.

**John Manchin, Sr. Health Care Center:**

- 1) The agency, during the fiscal year under review, spent a total of \$31,800.07 with Gulf South Medical Supply for various hospital supplies. No documents were found to show that the items had been bid, nor did the file contain justification for a non-competitive award.

The agency issued a response to the inspection report and further discussion of the issues is pending.