



EARL RAY TOMBLIN
GOVERNOR

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

DAVID TINCHER
DIRECTOR

January 5, 2012

The Honorable Jeffrey Kessler
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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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, 2011 through December 31, 2011, 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 potential findings relating to four (4) different spending units during their reviews as stipulated in this section of the Code. The reports to these four spending units have not been finalized; however, I expect that they will be finalized by the time of my next report, at which time, I will submit the results.

Pursuant to this requirement, my next report will be submitted to you in July of 2012. 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:dhb

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