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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 5, 2011

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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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, 2010 through December 31, 2010, the Division of Rehabilitation Services 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." These two (2) incidences are noted in the attached report. Additionally, our division inspectors discovered findings relating to three (3) different spending units during their reviews as stipulated in this section of the Code. The spending units were Department of Health and Human Resources – Lakin Hospital; Department of Health and Human Resources, Office of Maternal, Child and Family Health, Division of Research Evaluation & Planning; and Department of Transportation, Division of Highways, District 2. A summary of all of the findings is attached.

Pursuant to this requirement, my next report will be submitted to you in July of 2011. 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**.

Respectfully,



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, 2010 – December 31, 2010)**

Department of Health and Human Resources, Lakin Hospital:

- 1) During the fiscal year under review, Lakin Hospital spent a total of \$111,037.51 for medical supplies. These expenditures include the following vendors:
 - a. \$28,212.03 with Medical Equipment Resources,
 - b. \$12,009.22 with Briggs Corporation,
 - c. \$22,376.36 with Medline Industries,
 - d. \$48,439.90 with Seneca Medical, Inc.

In agency's response to the inspection report, the hospital stated that:

The items purchased from these vendors are medical supplies needed to provide care for our residents . . . a statewide contract has been put into place. . . we will make every effort to utilize the statewide contract for medical supply items needed.

Department of Health and Human Resources, Office of Maternal, Child and Family Health, Division of Research Evaluation & Planning:

- 1) During the fiscal year under review, the agency spent a total of \$38,212.59 with Abbott Ross Products to purchase metabolic formula for infants that have a genetic metabolic disorder. In their response to the inspection report, the agency stated that:

The agency did not attempt to circumvent the competitive bidding process or defeat purchasing card delegated purchasing limits. Attempts have been made to establish a contract for metabolic formula; however, given the time sensitive need for the product, the agency has not been successful. The agency is also unable to estimate the quantities needed and is not able to store the product because it has a very short shelf life. Abbott Ross is the only vendor that has consistently been able to meet the supply needs and deadlines for the agency.

Department of Transportation, Division of Highways, District 2:

- 1) During the fiscal year under review, spent a total of \$36,814.00 with Carrier Commercial Services. In their response to the inspection report, the agency stated that:

There were a total of 35 transactions to Carrier Commercial Services who inspected, maintained and provided replacement parts for the central heating and cooling unit of the Huntington District Headquarters Building. There was no intent by Highways

employees to deliberately string purchases for these services...District 2 procurement staff is currently working on the development of a contract for future HVAC maintenance services for this facility.

- 2) The agency, during the fiscal year under review, spent a total of \$115,981.27 for auto parts. These expenditures include the following vendors:
 - a. \$15,636.49 with Advanced Auto,
 - b. \$7,177.76 with Bill Spurlock Dodge,
 - c. \$12,334.25 with Carquest,
 - d. \$8,044.28 with Dutch Miller,
 - e. \$5,266.50 with Hamilton Chevrolet,
 - f. \$67,521.99 with NAPA Auto Parts

A total of \$115,981.27 worth of auto parts purchases made with (6) different vendors for the fiscal year 2009. Central Headquarters staff does not believe that there was deliberate intent to string these purchases. The DOH, District 2 location has more than 190 transportation-type vehicles...this generates the need for several thousand dollars of repair parts annually. The mission of the agency requires minimal down time of our equipment fleet...DOH has discussed the possibility of establishing parts contracts for each district, with local providers. Also, there has been discussion with the Purchasing Division concerning the possibility of a piggy back contract for auto parts.

Department of Education and the Arts, Division of Rehabilitation Services:

- 1) During the fiscal year under review, the agency reported in a letter to the Purchasing Division that, approximately \$124,705.07 with Nitro Electric. The agency indicated that:

The Nitro Electrical Supply is a local vendor that is familiar with the WVDRS Complex's high voltage electric system. There were four instances of power loss to the buildings located in the Complex, these were deemed Emergency Purchases. Power had to be restored as quickly as possible to allow agency employees to continue working to fulfill the agency's mission. Nitro Electric Supply was the only company willing to respond in a timely manner. A total of \$67,449.11 was issued as Emergency Purchases. The remaining transactions were processed with a Request for Quotes with Nitro Electric Supply being the lowest vendor meeting specifications.

- 2) During the fiscal year under review, the agency reported in a letter to the Purchasing Division that, approximately \$31,468.76 was spent with Architectural Interior Products for two unrelated projects at the WVDRS complex. The agency indicated that:

The vendor, Architectural Interior Products, was selected as the lowest vendor meeting specifications for two separate Request for Quotations (RFQ). The projects involved installation of rubber flooring in the Complex fitness center, and installation

of interior doors for Building A. The remaining transactions were for purchases associated with installation of exterior doors for Building A and the installation of door locks for Building E.