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STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
Purchasing Division
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DAVID TINCHER
DIRECTOR

January 1, 2016

The Honorable William P. Cole
President of the State Senate
Room 229M, Building 1
State Capitol Complex
Charleston, WV 25305

The Honorable Tim Armstead
Speaker of the House
Room 228M, 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, 2015 through December 31, 2015, one spending unit (West Virginia Division of Forestry) reported to our division the award of multiple contracts for “the same or similar commodity or service to an individual vendor over any 12-month period,” where the total value of which exceeds twenty-five thousand dollars. Additionally, the Purchasing Division inspectors discovered findings relating to five (5) different spending units during their reviews as stipulated in this section of the Code. The spending units were the Department of Military Affairs and Public Safety, Parkersburg Correctional Center; Department of Administration, Public Employees Insurance Agency; Department of Transportation, Division of Highways, District 1; Department of Transportation, Division of Highways, District 2; and the West Virginia Division of Homeland Security and Emergency Management. A summary of these findings is attached.

Pursuant to this requirement, my next report will be submitted to you in July of 2016. 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
Jason Pizatella, Secretary of Administration

West Virginia Purchasing Division
SUMMARY OF STRINGING ACTIVITIES
(July 1, 2015- December 31, 2015)

Department of Military Affairs and Public Safety, Parkersburg Correctional Center:

- 1) During the fiscal year under review, Parkersburg Correctional Center spent a total of \$25,094.99 for drug tests material with Redwood Toxicology. In their response to the Inspection report, the agency stated that:

We are in the process of obtaining a division wide contract for inmate drug testing.

Department of Administration, Public Employees Insurance Agency:

- 1) During the fiscal year under review, Public Employees Insurance Agency spent a total of \$34,672.78 for printing services. These expenditures include the following vendors:
 - a. \$ 1,095.30 with Chapman Printing Co. Inc.
 - b. \$ 9,215.00 with Morgantown Printing
 - c. \$24,362.48 with Printing Press LTD

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

PEIA has reviewed the transactions represented in this Issue and concurs, at face value, they could be construed as stringing as it is the same service, printing. However all projects were independently requisitioned because it is a more efficient and prudent methodology than a bulk print requisition. PEIA uses a bulk print contract on its predictable print jobs, and has attempted to do a blanket print contract in the past for the smaller, episodic mailing required throughout the plan year, but due to the unique characteristics of various print jobs in an annual period it resulted in less efficient, sometimes higher cost per unit print jobs.

- 2) During the fiscal year under review, Public Employees Insurance Agency purchased servers from a cancelled statewide contract (SIP2008A) in the total amount of \$44,592.00 with Advizex Technologies, Inc. The Cancellation date of SIP2008 was 06/30/2013 and the Release Order was dated 07/01/2013. This contract should have gone through the Purchasing Division due to the amount exceeding the formal bid limit of \$25,000.00. In the response to the inspection report, the agency stated that:

PEIA concurs and will comply with this recommendation with future server purchases.

- 3) The Purchasing Division met with representatives of the Public Employees Insurance Agency and discussed procurement recommendations to eliminate similar findings. PEIA agreed to conduct better methods of procurement for future purchases.

Department of Transportation, Division of Highways, District 1:

- 1) During the fiscal year under review, Division of Highways, District 1 spent a total of \$25,948.00 in 3 transactions for septic repairs with Stan's Backhoe & Septic. In their response to the Inspection report, the agency stated that:

This dealt with Stan's Backhoe and Septic Service. Within twelve months, we spent \$25,948.00 and this was considered to be stringing by the auditor. We are attaching the three invoices relating to the total charges of \$25,948.00. These invoices were for specific work that was not directly related to one another. There were two unique locations and the product purchased was similar only to the extent that it was a septic system to comply with Health Department regulations.

- 2) During the fiscal year under review, Division of Highways, District 1 spent a total of \$114,992.65 in 283 transactions for large truck parts with Heritage Cross Lanes. In their response to the Inspection report, the agency stated that:

These issues dealt with purchases from a number of vendors. The purchases were for parts for heavy equipment and automobiles. We have not developed and requested that a contract for heavy equipment and automobile parts be bid on a statewide basis. The primary reason for this is the variety of parts necessary for the maintenance of the fleet. Within District One, there are over 1,000 pieces of equipment with a value in excess of \$28,600,000. The equipment ranges from automobiles to complex specialized equipment. Each year, model, manufacturer would require different parts for maintenance and repair.

- 3) During the fiscal year under review, Division of Highways, District 1 spent a total of \$76,515.90 in 40 transactions for Hydraulic components and hydraulic repairs with Mountaineer Hydraulics. In their response to the Inspection report, the agency stated that:

This dealt with purchases from Mountaineer Hydraulics. The products purchased were hydraulic pumps and equipment. These products are primarily purchased for heavy equipment. We have not developed and requested a contract for hydraulic components and hydraulic repairs.

- 4) During the fiscal year under review, Division of Highways, District 1 spent a total of \$35,555.50 in 31 transactions for electrical parts from SQ Electronic Services. In their response to the Inspection report, the agency stated that:

These issues dealt with purchases from a number of vendors. The purchases were for parts for heavy equipment and automobiles. We have not developed and requested that a contract for heavy equipment and automobile parts be bid on a statewide basis. The primary reason for this is the variety of parts necessary for the maintenance of the fleet. Within District One, there are over 1,000 pieces of equipment with a value in excess of \$28,600,000. The equipment ranges from automobiles to complex specialized equipment. Each year, model, manufacturer would require different parts for maintenance and repair.

- 5) During the fiscal year under review, Division of Highways, District 1 spent a total of \$26,689.07 in 82 transactions for raw metal material from West Virginia Steel Corporation. In their response to the Inspection report, the agency stated that:

This dealt with the purchase of materials from West Virginia Steel Corporation. District One purchase a variety of products from this vendor. These purchases are made by various locations within District One. One of the major products purchased from this vendor is snow plow blades. The transaction reviewed was for a steel grate. The total transactions with this vendor were \$26,689.07 consisting of several different items for several locations. As noted in our general explanation, it was never the intent of District One to violate purchasing procedures.

- 6) During the fiscal year under review, Division of Highways, District 2 purchased auto parts with the nine vendors listed below. Total expenditures with these nine vendors indicate that a series of requisitions or purchase orders were issued for the same or similar commodity or service for the amount of \$164,788.10. These expenditures include the following vendors:
 - a. \$69,309.28 with Advanced Auto
 - b. \$14,227.62 with AutoZone
 - c. \$31,769.30 with Bert Wolfe
 - d. \$ 5,564.13 with Clendenin Parts
 - e. \$27,461.01 with Eleanor Auto Supply
 - f. \$ 1,717.17 with Fisher Auto Parts
 - g. \$ 2,810.44 with Joe Holland Chevrolet
 - h. \$ 2,747.13 with John Sang Ford
 - i. \$ 9,182.02 with Penn Auto

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

These issues dealt with purchases from a number of vendors. The purchases were for parts for heavy equipment and automobiles. We have not developed and requested that a contract for heavy equipment and automobile parts be bid on a statewide basis. The primary reason for this is the variety of parts necessary for the maintenance of the fleet. Within District One, there are over 1,000 pieces of equipment with a value in excess of \$28,600,000. The equipment ranges from automobiles to complex specialized equipment. Each year, model, manufacturer would require different parts for maintenance and repair.

- 7) The Purchasing Division responded to the agency's comments and instructed them that the appropriate purchasing method was utilizing an open-end contract. These types of contracts are convenient for recurrent purchases.

Department of Transportation, Division of Highways, District 2:

- 1) During the fiscal year under review, Division of Highways, District 2 purchased wrecker service with the five vendors listed below. Total expenditures with these five vendors indicate that a series of requisitions or purchase orders were issued for the same or similar commodity or service for the amount of \$39,780.84. These expenditures include the following vendors:
 - a. \$5675.00 with Cogan's Wrecker Service
 - b. \$15,998.00 with Gaylock Wrecker Service

- c. \$3,980.00 with Milton Wrecker and Towing
 - d. \$2,652.50 with Robbies Wrecker Service
 - e. \$6,022.84 with Southern WV Towing
- 2) During the fiscal year under review, Division of Highways, District 2, purchased hydraulic hoses with the two vendors listed below. Total expenditures with these two vendors indicate that a series of requisitions or purchase orders were issued for the same or similar commodity or service for the amount of \$37,401.22. These expenditures include the following vendors:
- a. \$ 7,567.10 with Belo Mine Supply
 - b. \$29,834.12 with Huntington Hose and Hydraulic
- 3) During the fiscal year under review, Division of Highways, District 2, purchased auto parts with the eight vendors listed below. Total expenditures with these eight vendors indicate that a series of requisitions or purchase orders were issued for the same or similar commodity or service for the amount of \$145,564.43. These expenditures include the following vendors:
- a. \$31,894.05 with Advance Auto Parts
 - b. \$2,929.09 with Coal City Auto and Truck
 - c. \$5,418.03 with Courts Motors
 - d. \$8,439.18 with Lincoln Auto Parts
 - e. \$8,562.13 with N & J Auto Parts
 - f. \$77,229.69 with Napa Auto Parts
 - g. \$1,146.09 with O'Reilly Auto
 - h. \$9,946.17 with Stephens Auto

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

I have read through our FY14 P Card Purchasing Audit for DOH District 2. It appears that a great many of the findings were due to:

- *Individual purchases below bid limits, but total spending for the FY above bid limits*
- *Lack of documentation proving coverage with Unemployment Security and Worker's Compensation*
- *Lack of Certification of Non-Conflict of Interest*

It seems that the solution to the first finding would be to have contracts in place to cover these purchases. I have been in communication with the District Storekeeper concerning this matter. Due to the remote areas in a few of our counties, the lack of availability of certain vendors poses a problem. We have a question regarding this issue. Is it possible to have individual contracts for different orgs? For example, Org. 0230-Mingo County purchases hydraulic hoses from Belo Mine Supply, Org. 0223-Logan County purchases hydraulic hoses from Smith Mine Supply, and Org. 0270-District Equipment Shop purchases them from Huntington Hose and Hydraulics. If a contract for hoses was in place with Huntington Hose and Hydraulics, traveling from the Mingo County to Huntington to buy a hose would be time consuming. I'm just wondering if there is a way to alleviate the situation.

- 4) The Purchasing Division responded to the agency's comments and instructed them that the appropriate purchasing method was utilizing an open-end contract for that commodity, including delivery, based on historic usage. These types of contracts are convenient for recurrent purchases.

West Virginia Division of Homeland Security and Emergency Management:

- 1) During the fiscal year under review, the Division of Homeland Security and Emergency Management spent a total of \$33,518.00 for APX 7500 radios and accessories with Motorola Solutions Inc.
- 2) During the fiscal year under review, the Division of Homeland Security and Emergency Management spent a total of \$32,215.00 with REI Consultants Inc. for water test material.

In their response to the inspection report, the agency indicated that it is still reviewing the Audit letter sent to its office and the documentation associated therewith. Once it has completed this review, the agency will provide a written response addressing the concerns that the Purchasing Division has raised with these emergency purchases.

SELF-REPORTING OF AGENCY STRINGING ACTIVITY

West Virginia Division of Forestry:

During the Fiscal Year 2015, the West Virginia Division of Forestry self-reported violation of procedures with **West Virginia Code** §5A-3-10(b). The West Virginia Division of Forestry purchased three tracts of land for conservation easement. Total expenditures of the three tracts were for the amount of \$29,925.00 with Miller, Long and Associates.

In their response to the stringing violation, the agency stated that:

The work for the three solicitations has been completed. I acknowledge where my errs [sic] lie and will pursue training relevant to aggregate spending above the \$25,000.00 threshold. Please be assured in the future that this will not happen again.