



ALLAN MCVEY
CABINET SECRETARY

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
2019 WASHINGTON STREET, EAST
CHARLESTON, WEST VIRGINIA 25305-0130

W. MICHAEL SHEETS
DIRECTOR

July 6, 2021

The Honorable Craig Blair
President of the State Senate
Room 229M, Building 1
State Capitol Complex
Charleston, WV 25305

The Honorable Roger Hanshaw
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 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

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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 January 1, 2021, through June 30, 2021, there were no spending units that 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 exceeded \$25,000. However, Purchasing Division inspectors discovered nine cases of stringing related to five spending units during their inspections, as stipulated in this section of the Code.

The spending units with a finding of stringing included the West Virginia Library Commission (two cases totaling \$100,793.62), the Department of Environmental Protection (two cases totaling \$79,122.11), the West Virginia Division of Rehabilitation Services (one case totaling \$26,087.66), the West Virginia Racing Commission (one case totaling \$31,600.00), and the Department of Homeland Security's Emergency Management Division (three cases totaling \$373,665.49). A summary of these findings is attached.

Pursuant to this requirement, my next report will be submitted to you in January of 2022. Should you have any questions regarding this correspondence, please feel free to contact me at your convenience at (304) 558-0492 or via email at ***William.M.Sheets@wv.gov***.

Sincerely,



W. Michael Sheets, CPPO, Director
West Virginia Purchasing Division

WMS:ssk

West Virginia Purchasing Division
SUMMARY OF STRINGING ACTIVITIES
(JANUARY 1, 2021- JUNE 30, 2021)

Department of Education & the Arts, West Virginia Library Commission:

- 1) During the fiscal year under review, the West Virginia Library Commission spent a total of \$61,493.27 in 71 transactions for audiobooks from Findaway, Overdrive Distributors, and Recorded Books.

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

The Library Commission will work with the Purchasing Division to add these resources to Section 9 Impossible to Bid List to assist with lending to the statewide consortia.

- 2) During the fiscal year under review, the West Virginia Library Commission spent a total of \$39,300.34 in 3 transactions for Voyager Maintenance from Ex Libris USA, Inc.

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

The Library Commission will work with the Purchasing Division to update its Voyager Maintenance Contract. We were not aware that the contract had expired.

Department of Environmental Protection:

- 1) During the fiscal year under review, the Department of Environmental Protection spent a total of \$50,914.11 for truck accessories from 14 selected vendors.

In the agency's response to the inspection report, the Department of Environmental Protection stated that:

The Department of Environmental Protection has implemented reporting and distribution of reports that detail the aggregate spend on commodity and vendors prior to making purchases

to help catch incidents of stringing. Implementation of monthly reporting and distribution that are being reviewed and looking at commodity and vendor spend to help determine areas where contracts are needed.

- 2) During the fiscal year under review, the Department of Environmental Protection spent a total of \$28,208.00 for lab filtering supplies with Preiser Scientific, Inc.

In the agency's response to the inspection report, the Department of Environmental Protection stated that:

*The Department of Environmental Protection staff are currently doing market research and specification research for lab filtering and testing supplies so that a contract can be put out to bid. DEP has performed market research, reviewed expenditures, and developed specifications to have a contract in place. It is currently on VSS - CRFQ DEP21*32 for Lab Testing Equipment and Supplies and hope to have the contract in place soon.*

Department of Commerce, West Virginia Division of Rehabilitation Services:

- 1) During the fiscal year under review, West Virginia Division of Rehabilitation Services spent a total of \$26,087.66 in 3 transactions for vending machine parts from Automated Merchandising.

In the agency's response to the inspection report, the West Virginia Division of Rehabilitation Services stated that:

*The Procurement Manager became aware of the stringing issue with this vendor and informed the spending unit that a sole source posting was required for additional business with them. During the time of gathering the needed documentation for the posting, additional critical parts were needed to repair in-use vending machines which were part of the Randolph Sheppard Blind Vendor Program. Failing to repair the machine(s) would have resulted in loss of revenue for the blind vendor. The Program is mandated by the Federal government to keep the machines operational so there is no impact on the vendor's stream of revenue. The Procurement Manager allowed these additional small purchases for this reason while we were working with the vendor for acceptable paperwork. Automated Merchandising Systems is a West Virginia vendor that manufactures the vending machines installed at the Blind Vendor locations throughout the State. As the manufacturer of the machines and their replacement parts, there was no question in the Procurement Managers mind that no other vendor could provide the same parts. When we finally received usable documentation from the vendor, it was sent to Purchasing for sole source posting, resulting in the award of CMA DRS21*1, effective 10/17/2020.*

Department of Revenue, West Virginia Racing Commission:

- 1) During the fiscal year under review, West Virginia Racing Commission spent a total of \$31,600.00 in 18 transactions for Veterinarian Services from Howard J. Weir Jr. and Bruns Equine and Veterinary.

In the agency's response to the inspection report, the West Virginia Racing Commission stated that:

The Racing Commission, in an effort to carryout our statutory duties, have several Veterinarians available under Vendor Agreements should a need arise for services due to illness, vacation, etc. of a State Employee. Because these veterinarians have other jobs/vet practices, it is necessary to have the ability to contact several individuals to fill-in. The vendor agreements are, in may instances, under the \$2,500 threshold. However, the Racing Commission has now been made aware that there is a method to facilitate this type of "open" contract through the purchasing division. The Racing Commission will work with the Purchasing Division to properly enter into a contract based multi-bid arraignment for the future services.

Department of Homeland Security, Emergency Management Division:

- 1) During the fiscal year under review, West Virginia Department of Homeland Security, Emergency Management Division spent a total of \$60,233.39 in 12 transactions for frequencies for use in the Statewide Interoperable Radio Network (SIRN) from AV Luttamus Holdings, Inc.

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

These transactions were payments as per a standing lease agreement which was entered into on September 1, 2014, between the State of West Virginia and Luttamus Holdings, Inc., for frequencies for use in the Statewide Interoperable Radio Network (SIRN). These frequencies, while regulated by the Federal Communications Commission, are owned by Luttamus Holding, Inc., and are not available to be obtained from any other entity. This is a lease payment which has been approved by the West Virginia Attorney General's Office.

- 2) During the fiscal year under review, West Virginia Department of Homeland Security, Emergency Management Division spent a total of \$36,782.10 for Uninterrupted Power Supplies (UPS) for use in the Statewide Interoperable Radio Network (SIRN) from State Electric Supply Company.

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

This purchase of Uninterrupted Power Supply (UPS) units was an Emergency Purchase made to keep the West Virginia Statewide Interoperable Radio Network (SIRN) operational as the UPS units for the SIRN site had failed. These UPS units are necessary to maintain equipment operation from the time of a power loss until the generator starts to provide power. In the absence of these UPS units when power is interrupted, the equipment powers down and on average the power-up cycle averages 20-minutes. This is a lifetime to a first responder in the field of not having communications to their lifeline of a dispatch center. This emergency purchase was made according to West Virginia Code §5A-3-3a, "The provision of subdivision nine, section three, chapter five-a do not apply to construction or repair contracts entered into by the state for the emergency construction or repair of the Statewide Interoperable Radio Network created by article fourteen chapter fifteen of this code."

- 3) During the fiscal year under review, West Virginia Department of Homeland Security, Emergency Management Division spent a total of \$276,650.00 for Radio Equipment Upgrade for the Statewide Interoperable Radio Network (SIRN) from Motorola Solutions Inc.

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

This contract payment was made while the agency (West Virginia Division of Homeland Security and Emergency Management) was placed under the West Virginia National Guard - Military Authority by Governor's Executive Order. The West Virginia Military Authority is an exempt agency from the West Virginia State Purchasing Division. DHSEM Director Michael Todorovich negotiated this contract under the West Virginia Military Authority's exemption. This payment was made according to the contract's Payment Terms and Conditions.