

July 17, 2024

MARK D. SCOTT CABINET SECRETARY **SAMANTHA WILLIS** PURCHASING DIRECTOR

Jane Shinn, Director of Fiscal & Administrative Management Workforce West Virginia 1900 Kanawha Blvd E. Suite 300, Building 3 Charleston, WV 25305

Dear Director Shinn:

This is to transmit the final copy of the Purchasing Review of Workforce West Virginia.

A preliminary copy of this report was submitted to your agency for comment. Where significant comments were returned by your agency, we have included those as part of this final review report.

A Corrective Action Plan Request will follow requesting your response to all the compliance issues identified in this report.

Thank you for your cooperation and that of your staff during this review.

Respectfully,

Frank Whittaker Assistant Director

West Virginia Purchasing Division

### **Enclosure**

cc: Debbie Morgan, Administrative Services Manager I, Workforce West Virginia

# WV PURCHASING DIVISION INSPECTION REPORT

West Virginia Department of Commerce

Workforce West Virginia

FISCAL YEAR 2023

# **TABLE OF CONTENTS**

1.	Introduction	2
2.	Scope of Inspection	3
3.	Inspection Summary	4
4.	Detailed Inspection Findings	Exhibit A
5.	Comparison with Prior Inspections	Exhibit B
6.	Agency Training Report	Exhibit C

# **INTRODUCTION**

The Purchasing Division is broadly charged with the development and oversight of the procurement functions of state spending units under its authority. That authority is found in Chapter 5A, Article 3 of the West Virginia Code, and Title 148, Series 1, of the West Virginia Code of State Rules. That mandate requires that the Purchasing Division "appoint inspectors to review and audit spending unit requests and purchases and other transactions and performance." W. Va. CSR § 148-1-4.14. The Purchasing Division's Inspection Services Unit performs this function by regularly conducting inspections of all spending units subject to Purchasing Division oversight.

The Purchasing Division Inspection Services Unit conducted a remote inspection of the Workforce West Virginia for the period of July 1, 2022, through June 30, 2023. Notice of the inspection was provided on April 24, 2024, and the inspection commenced on June 07, 2024. The results of the inspection are contained within this report.

## **SCOPE**

The scope of the inspection was focused on determining whether the Workforce West Virginia's procurement transactions for the period of July 1, 2022, through June 30, 2023 were, in all material respects, in compliance with applicable provisions of the West Virginia Code, the Code of State Rules and the Purchasing Division Procedures Handbook in effect during that time period.

Inspectors utilized spending unit payment transactions to identify potential violations with a primary focus on those transactions processed at the spending unit level without Purchasing Division involvement. Those transactions included, but were not limited to, agency delegated procurements, Section 9 procurements, agency delivery orders, General Accounting Expenditure ("GAX") payments, and P-Card payments. Notwithstanding this general focus, however, Inspectors can review any transaction or internal procurement operating procedures that they deem relevant.

As noted above, the transaction review was conducted to ensure compliance with applicable provisions of the West Virginia Code, the Code of State Rules and the Purchasing Division Procedures Handbook. More specifically, the scope of the inspection included, but was not limited to, an examination to determine if any of the following infractions had been committed:

- (1) Failure to bid at central level (Stringing)[Required to be reported to the Legislature twice annually]
- (2) Failure to bid at delegated level,
- (3) Statewide contract not utilized.
- (4) Vendor registration unverified and wrong vendor fee exemption code utilized
- (5) Failure to verify compliance checks
  - a. Unemployment
  - b. Workers' compensation
  - c. Vendor status with Secretary of State's office
  - d. Debarred vendor list
- (6) Failure to include notarized Purchasing Affidavit,
- (7) Failure to issue wvOASIS procurement award document,
- (8) Lack of compliance with fixed asset requirements (asset tags),
- (9) Failure to include Certification of Non-Conflict of Interest form,
- (10) Miscellaneous Issues
  - a. Improper award (Unjustified award to other than lowest responsible bidder meeting specifications),
  - b. Leases exceeding six months not processed centrally
  - c. Other as needed

### **SUMMARY**

During the period under review, the spending unit processed 4,983 procurement transactions with a value of \$27,590,381.84. These amounts are approximate, subject to reporting limitations from wvOASIS (including possible data entry error and errors caused by elimination of duplicate results). Of those transactions, the Inspector selected 207 for review which represents approximately 4% of the total. This inspection of 207 selected transactions yielded 25 findings associated 17 of the selected transactions. This means that approximately 8% of the transactions reviewed had one or more instances of noncompliance with applicable provisions of the West Virginia Code, the Code of State Rules and the Purchasing Division Procedures Handbook.

The inspection also revealed that on 1 occasions, the spending unit failed to obtain competitive bids as required by the applicable dollar level of spend. That number is comprised of 0 instances of failing to bid at the central level (also known as stringing), and 1 instances of failing to bid at the delegated level. Any instances of failure to bid at the central level will be reported to the Legislature as required by the West Virginia Code.

Based on the findings contained in this report, the Purchasing Division recommends the spending unit work to improve any areas of noncompliance. Given that there was a pattern of findings or one case of stringing, the first step must be the completion of a Corrective Action Plan, a request for which will be provided to you after this inspection is finalized.

### **EXHIBIT A: DETAILED INSPECTION FINDINGS**

### **Issue 1: Failure to bid at central level (Stringing)**

Authority: W. Va. Code § 5A-3-10; Procedures Handbook Section 6

**Explanation:** State law mandates that the Purchasing Division competitively bid for the purchase of commodities and services estimated to exceed fifty thousand dollars. The law also prohibits a spending unit from issuing a series of requisitions or divide or plan procurements to circumvent this fifty thousand dollar threshold. The transactions listed below violated this legal mandate and will be reported to the West Virginia Legislature as required by law.

**Transactions in Violation: (0 Instances)** 

- 1. The Purchasing Division recommends that the spending unit establish central contracts through the Purchasing Division for each of the items included above and any other commodities or services that will exceed \$50,000 in a rolling 12 month period.
- 2. The Purchasing Division recommends that the spending unit utilize wvOASIS to create reports that will allow the spending unit to track spend and determine when spending is closing to exceeding the \$50,000 limit.
- 3. The Purchasing Division recommends that the spending unit forecast future needs for its commodities and services to determine in advance what should be procured at the central level.
- 4. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

### Issue 2: Failure to bid at delegated level

Authority: W. Va. Code § 5A-3-11(a); W. Va. CSR § 148-1-7.2; Procedures Handbook Section 5

**Explanation:** The Purchasing Division has established competitive bidding requirements that spending units must follow when procuring commodities and services below \$50,000.01, and above \$5,000.00. For those transactions listed below, the spending unit has failed to obtain and document competitive bids as required.

### **Transactions in Violation: (1 Instances)**

<u>Date</u>	<u>Description</u>	Vendor	<u>Amount</u>	<u>Invoice</u>
2/1/2023	Televisions	BESTBUYDIRECT242982656	\$5,505.64	PRCC.PC23269002

- 1. The Purchasing Division recommends that the spending unit follow the requirements associated with each delegated spending limit.
- 2. The Purchasing Division recommends that the spending unit utilize wvOASIS to create reports that will allow the spending unit to track spend and determine when spending is closing to exceeding spending limits.
- 3. The Purchasing Division recommends that the spending unit forecast future needs for its commodities and services to determine in advance what should be competitively bid at delegated verbal and written bid levels.
- 4. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

### **Issue 3: Statewide Contract Not Utilized**

Authority: W. Va. CSR § 148-1-7.4.c.; Procedures Handbook Section 3.6.2

**Explanation:** The Purchasing Division has authority to establish contracts at a statewide level to secure economies of scale that would not be possible on an agency by agency basis. Once established, the Purchasing Division can mandate that spending units utilize those statewide contracts. For the transactions listed below, the spending unit has obtained the commodity or service in question outside of an available statewide contract without a valid waiver.

### **Transactions in Violation: (1 Instances)**

<u>Date</u>	Description	<u>Vendor</u>	Amount	<u>Invoice</u>	SW Contract
11/14/2022	Security Guard	ALLIED UNIVERSAL SECUR	\$1,435.50	PRCC,PC23165072	SECSVS

Additional Detail: Applicable items were not purchased from the Statewide Contract and no waiver from the Purchasing Division was present.

- 1. The Purchasing Division recommends that the spending unit personnel become familiar with what is available from statewide contracts and either procure those commodities and services from statewide contracts or obtain a waiver from the Purchasing Division.
- 2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.
- 3. Agencies should issue a delivery order to obtain goods or services from central open-end contracts unless the West Virginia State Auditor's Office has approved an alternate ordering and payment method.
- 4. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

### Issue 4: Vendor Registration Unverified/Wrong Vendor Fee Exemption Code Utilized

Authority: W. Va. CSR § 148-1-6.1; Procedures Handbook Section 4

**Explanation:** The agency must verify that the vendor is registered, and the registration fee paid, if applicable. The registration process includes having the proper disclosure of information in the wvOASIS vendor/customer account. Certain vendors are exempted from paying the vendor registration fee mandated by the authority referenced above. wvOASIS has created fee exemption codes that allow the spending unit to designate the appropriate exemption code on a transactional basis.

### **Transactions in Violation: (2 Instances)**

Date	Description	Vendor	Amount	<u>Invoice</u>
11/4/2022	Conference Center	CEDAR LAKES CAMP & CONFERENCE CENTER	\$5,145.00	GAX,2300042900
10/13/2022	Conference Center	OGLEBAY RESORT & CONF CTR	\$7,086.24	GAX,2300034266

- 1. The Purchase Division recommends that the spending unit only utilize vendor fee exemption codes for transactions that would permit a vendor to avoid paying the vendor registration fee.
- 2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.
- 3. The Purchasing Division recommends that the spending unit contact the Vendor Registration section within the Purchasing Division if there is uncertainty about when and how to apply a vendor fee exemption code.

### **Issue 5: Failure to Verify Compliance Checks**

(Workers Comp, Unemployment, Sec. of State, Debarment)

Authority: W. Va. CSR § 148-1-6.1.e.; Procedures Handbook Section 5.3.1.6.

**Explanation:** The authority cited above requires that a vendor be licensed and in good standing in accordance with all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or other state agencies or political subdivisions prior to being awarded a contract. The mandated compliance checks were not included in the transactions listed below.

### **Transactions in Violation: (6 Instances)**

<u>Date</u>	Description	Vendor	Amount	
1/17/2023	UPS	ALPHA TECHNOLOGIES INC	\$8,314.00	PRM,2300033366
2/1/2023	Televisions	BESTBUYDIRECT242 982656	\$5,505.64	PRCC,PC23269002
11/4/2022	Conference Center	CEDAR LAKES CAMP & CONFERENCE CENTER	\$5,145.00	GAX,2300042900
10/13/2022	Conference Center	OGLEBAY RESORT & CONF CTR	\$7,086.24	GAX,2300034266

**Additional Detail: Missing SOS Verification** 

<u>Date</u>	Description	Vendor	Amount	Invoice
10/19/2022	Auditing Services	Maher Duessel	\$1,117.50	PRM,2300027587
8/3/2022	Software	PREMIER VIRTUAL LLC	\$230.00	PRCC,PC23333081

Additional Detail: Although the above transactions fall below the limit requiring Verification Searches to be present, there were Award Documents for over \$5,000.00. All documents for that amount must be present in the file.

- 1. The Purchasing Division recommends that the spending unit perform all compliance checks mandated by the Handbook and properly document those compliance checks in the contract file.
- 2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

### **Issue 6: wvOASIS Award Document Not Issued**

**Authority:** Procedures Handbook Section 5.2.2

**Explanation:** The Purchasing Division Procedures Handbook requires that a procurement award document be issued for all purchases exceeding \$5,000 in value. This requirement ensures that the transaction is recorded in wvOASIS in a way that allows it to be easily identified and tracked and helps to prevent spending in violation of procurement laws, rules, and procedures.

### **Transactions in Violation: (3 Instances)**

<u>Date</u>	Description	Vendor	Amount	<u>Invoice</u>
2/1/2023	Televisions	BESTBUYDIRECT242982656	\$5,505.64	PRCC,PC23269002
11/4/2022	Conference Center	CEDAR LAKES CAMP & CONFERENCE CENTER	\$5,145.00	GAX,2300042900
10/13/2022	Conference Center	OGLEBAY RESORT & CONF	\$7,086.24	GAX,2300034266

- 1. The Purchasing Division recommends that the spending unit issue a purchase order through wvOASIS and maintain a copy in the contract file for all transactions exceeding \$5,000.00.
- 2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

### **Issue 7: Asset Tag Not Affixed**

Authority: W. Va. Code § 5A-3-34; Surplus Property Operations Manual, Part II, Section 1.4

**Explanation:** The Surplus Property Operations Manual requires that all reportable assets must have a numbered identification tag affixed to the asset. Agencies are responsible for obtaining and placing the proper tags on the assets. This method of tagging assets helps to easily identify state assets during physical inspection and to guard against asset theft.

### **Transactions in Violation: (1 Instances)**

<u>Date</u>	Description	Vendor	Amount	Invoice
6/19/2023	Server	SOURCE CODE LLC	\$23,186.00	PRCC,PC23136379

- 1. The Purchasing Division recommends that the spending unit obtain a properly affix asset tags to all reportable assets. In conjunction with this, the spending unit must maintain accurate inventory records in wvOASIS.
- 2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

### **Issue 8: Cert. of Non-Conflict Not Included**

**Authority:** W. Va. Code §§ 5A-3-31 and 6B-2-5; Procedures Handbook Section 3.7.7.

**Explanation:** The Purchasing Division requires all evaluators, advisors, and the agency procurement officer, despite the type of transaction, to sign a Certification of Non-Conflict of Interest form prior to contract award to ensure compliance with W. Va. Code § 5A-3-31 and § 6B-2-5 by affirming that they do not have a conflict of interest and did not communicate with the vendor during the solicitation, evaluation, and award period.

### **Transactions in Violation: (2 Instances)**

<u>Date</u>	Description	Vendor	Amount	<u>Invoice</u>
2/1/2023	Televisions	BESTBUYDIRECT2429826 56	\$5,505.64	PRCC,PC23269002
10/13/2022	Conference Center	OGLEBAY RESORT & CONF CTR	\$7,086.24	GAX,2300034266

- 1. The Purchasing Division recommends that the spending unit include a properly completed Certification of Non-Conflict of Interest form prior to contract award for all transactions and/or award documents exceeding \$5,000.00 and maintain a copy in the contract file.
- 2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

### Issue 9A: Miscellaneous (OT Approval)

Authority: Procedures Handbook Section 7.3

**Explanation:** (Office of Technology Approval) Chief Information Officer Requisition Review is required by West Virginia State Code 5A-6 to review all proposed IT acquisitions. This review includes research to determine a solution's viability, compliance with standards and strategic direction, compatibility with existing infrastructure or requirements for infrastructure adaptation, and cost savings opportunities. Please reference the CIO policy CIO-19-001 Appendix B for all software and hardware pre-approved under \$5,000.00.

### Transactions in Violation: (8 Instances)

<u>Date</u>	Description	Vendor	Amount	Invoice
9/24/2022	Software	ELIXER TECHNOLOGIES CORP	\$2,541.80	PRCC,PC23111152
9/9/2022	Software	IDM COMPUTER SOLUTIONS	\$79.95	PRCC,PC23073633
4/1/2023	Software	INTUIT QUICKBOOKS	\$374.49	PRCC,PC23342047
12/27/2022	Software	ISPRING SOLUTIONS, INC	\$1,740.00	PRCC,PC23214252
5/16/2023	Software	PLUS TECHNOLOGIES	\$1,443.00	PRCC,PC23383858
8/3/2022	Software	PREMIER VIRTUAL LLC	\$17,500.00	PRM,2300010809
4/4/2023	Software	PROGRESS SOFTWARE FORMERL	\$ 230.00	PRCC,PC23333081
3/28/2023	Software	SMARTSHEET INC.	\$2,490.00	PRCC,PC23306392

Additional Detail: Office of Technology approval was not found in the file.

### **Purchasing Division Recommendation:**

- 1. The Purchasing Division recommends that the agency apply for and receive Office of Technology approval prior to the purchase of any software or hardware not listed on the pre-approved list from the CIO-19-001 Policy. Approval memo must be maintained and kept in the procurement file.
- 2. The Purchasing Division recommends that the agency reference West Virginia Office of Technology CIO Policy # CIO-19-001 for guidance, which can be found at https://sites.google.com/wv.gov/othub/nonav/policies/cio-19-001.
- 3. The Purchasing Division recommends that the spending unit's procurement officer participate in training on the topics listed herein that are offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

-15-

### Issue 9B: Miscellaneous (No Documents Provided During Inspection)

**Authority:** Procedures handbook Section 1.8

**Explanation:** Agency delegated contracts and supporting documentation should be maintained until the agency obtains permission to destroy the documents from the Legislative Auditor's office pursuant to W. Va. Code §5A-3-11(h).

### **Transactions in Violation: (1 Instance)**

<u>Date</u>	Description	<u>Vendor</u>	Amount	Invoice
6/8/2023	Office Supplies	DNH GODADDY.COM	\$67.42	PRCC,PC23408129

Additional Detail: Documents not provided for review at time of inspection and were not subsequently provided.

- 1. The Purchasing Division recommends that the agency should maintain delegated contracts and supporting documentation until the agency obtains permission to destroy the documents.
- 2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on the topics listed herein that are offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

### **EXHIBIT B: COMPARISON WITH PRIOR INSPECTIONS**

A previous inspection of the Workforce West Virginia was conducted in March of 2021. The review consisted of 195 selected transactions from an approximate 4,570 total transactions from July 1, 2019 through June 30, 2020. This review resulted in 12 findings associated with 7 of the selected transactions. This indicated that 3.5% of the transactions reviewed during the inspection had one or more problems of potential nonconformity with Purchasing Division laws, rules, and/or regulations. When comparing the statistics from FY 2020 to the current FY 2023 inspection, below is a summary of the issues identified during the FY 2020 inspection, as compared to the findings from the current inspection.

Summary of Problem Transactions	5	
Findings	FY 2020	FY 2023
Failure to Bid at Central Level (Stringing)	0	0
Failure to Bid at Delegated Level	1	1
Statewide Contract not utilized	0	1
Vendor Registration unverified/wrong Fee Code	1	2
Failure to verify Compliance Checks	4	6
wvOasis Award Document not issued	2	3
Asset Tag/Number not affixed	0	1
Cert. of Non-Conflict of Interest not included	2	2
Miscellaneous Issue	2	9
Total	12	25

There are multiple training resources available from the Purchasing Division in-house training program, as well as, through on-line training modules. These training resources would assist in educating procurement staff in purchasing procedures/requirements. Additional information can be obtained by contacting Courtney Johnson, Administrative Service Manager 1, at (304) 558-4213 or by visiting the Purchasing Division's website

http://www.state.wv.us/admin/purchase/training/default.html.

### **EXHIBIT C: AGENCY TRAINING REPORT**

**Importance of Training:** The Purchasing Division has found that training in procurement significantly improves the ability of the spending unit to comply with applicable provisions of the West Virginia Code, the Code of State Rules and the Purchasing Division Procedures Handbook.

### **Statutory Requirements:**

- W. Va. Code § 5A-3-60 requires that All executive department secretaries, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads are hereby required to take two hours of training on purchasing procedures and purchasing cards annually.
- W. Va. CSR § 148-1-3.2 mandates that all designated procurement officers receive 10 hours of procurement training annually.

**Available Training:** The Purchasing Division has implemented a very robust training program that is available to all procurement officers subject to Purchasing Division oversight. That training includes:

- Online Modules
- Webinars
- Live Training Sessions
- Annual conferences
- Basic and Advanced Procurement Certification Programs
- Agency Specific Targeted Training

**Training:** The Purchasing Division records indicate that during the inspection period the following individuals within the spending unit have obtained training at our annual Purchasing Conference as shown below:

Individual Name: Debra Morgan

Training Attended: 10 of 11 Courses Attended

### **Purchasing Division Recommendations:**

The Purchasing Division recommends that all procurement officers, regardless of their status as designated or undelegated, participate in at least 10 hours of training annually and that all officials subject to the training requirements in W. Va. Code § 5A-3-60 take the required 2 hours of Purchasing and P-Card Training.

# **EXHIBIT D: AGENCY RESPONSE TO INSPECTION FINDINGS** See attached



Ross, Robert M <robert.m.ross2@wv.gov>

# **Purchasing Inspection for Workforce West Virginia FY23**

Morgan, Debra K <debra.k.morgan@wv.gov>
To: "Ross, Robert M" <robert.m.ross2@wv.gov>

Wed, Jul 3, 2024 at 8:57 AM

Good Morning Bob,

Please see the additional documents that we would like to be added for your review of the audited transactions. If you accept these please let me know. I will then ask Jane to respond to the draft letter. Thank you so much and have a safe and happy 4th!

[Quoted text hidden]

### 9 attachments

- Non Conflict for Alpha Tech PRM, 2300033366.pdf
- OT Approval WPY Activ PC23283633.pdf
- Non Conflict Uline PRM, 2300022960.pdf 93K
- Non-Conflict Maher Duessel.PDF 213K
- OT Approval PRCC, PC 23333081 Workforce 2023-8347.pdf 112K
- OT Approval Source Code Workforce 2023-7235.pdf
- Non-Conflict Marshall University Research Corp.PDF 212K
- Non Conflict for Premier Virtual PRM, 2300010809.pdf 91K
- Central Van & Storage PRM, 2300028406.pdf



Ross, Robert M <robert.m.ross2@wv.gov>

### PC23333081

1 message

Morgan, Debra K <debra.k.morgan@wv.gov>
To: Robert M Ross <robert.m.ross2@wv.gov>

Wed, Jul 3, 2024 at 9:20 AM

Bob the OT approval for the referenced PC was for Vendor SalesForce.Com service on 3-28-23.

There are no additional documentation that we will be submitting.

Thank you.

Debbie