

THE BUYERS NETWORK

OCTOBER 2018

VOL. 28, ISSUE 10

THE BUYERS NETWORK
is Published Monthly
by the Purchasing Division
of the West Virginia Department
of Administration to Promote
Better Value in Public Purchasing

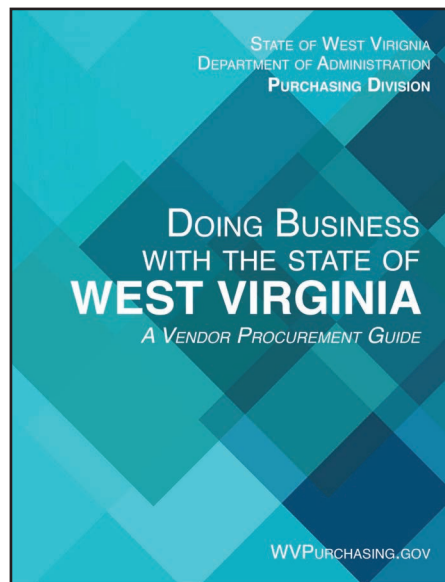
Purchasing Publishes New *Doing Business with the State of West Virginia Vendor Procurement Guide*

Vendors are now offered a new educational resource to assist them with registering, participating in the competitive bid process and understanding other aspects of the public procurement process.

The Purchasing Division recently published "Doing Business with the State of West Virginia: A Vendor Procurement Guide" to its website.

Topics included in this publication are as follows:

- What the state buys;
- How vendors can market products and services to the state;
- How the state buys;
- How vendors can register with the Purchasing Division;
- How the bid process works;
- How an award is made;
- How products are inspected and processed for payment;



Vendors interested in making West Virginia state government agencies one of their customers now have a new valuable resource available to inform them of the competitive bid process and other helpful information relating to procurement. The "Doing Business with the State of West Virginia: A Vendor Procurement Guide" may be accessed at www.state.wv.us/admin/purchase/vrc/VPG.

Please see **VENDOR GUIDE**, page 4

INSIDE...

- **Director's Comments:**
Gearing Up for the 2018 Agency Purchasing Conference
- **Maximum Budgeted Amount Serves Vital Purpose when Vendors' Bids Exceeds Agency Budget**
- **Purchasing Ethics are Vital to Ensuring Proper Expenditure of Taxpayers' Dollars**

Purchasing Program Recently Recognized with National Award

The National Association of State Procurement Officials (NASPO) recognized one of West Virginia's state procurement programs with an honorable mention as part of its 2018 George Cronin Awards for Procurement Excellence.

The state's submission was "Incorporating Professional Continuing Education Credits into Training Offerings." During 2018, the Purchasing Division offered approved Continuing Professional Education credits to Certified Public Accountants as part of its In-House Training Program and at the Agency Purchasing Conference. Additionally, attorneys employed by West Virginia state government received Continuing Legal Education credits for attending the Purchasing Division's first Legal Seminar on State Procurement Practices in May 2018.

The credits were free of charge for participants and assisted them in

Please see **CRONIN AWARD**, page 3

DIRECTOR'S COMMENTS

Gearing Up for the 2018 Agency Purchasing Conference

By Purchasing Director Mike Sheets

The West Virginia Purchasing Division is excited to kick off this month by meeting many of our agency purchasing partners at Camp Dawson, beginning October 2, 2018, for the 2018 Agency Purchasing Conference.

A great deal of planning has been underway for many months to make this year's training event the most educational, engaging and informative by offering more opportunities to learn and network. To provide more selection in terms of topics, we expanded the concurrent classes from five to six.

Additionally, representatives from other state agencies that affect the state procurement process, including the Ethics Commission, Board of Risk and Insurance Management, Correctional Industries, Secretary of State, State Privacy Of-

fice, Office of Technology and *wvOASIS*, graciously accepted our invitation to join us in presenting workshop sessions on their requirements.

When conference plans were initially discussed, the goal was to go back to the basics of state procurement and to engage our attendees at whatever level they may be at in their procurement careers. We are continuing our beginner's track for those agency purchasers with two years or less of experience and the advanced track for the more experienced agency designated procurement officers.

But there are many other classes for those who either do not wish to go through one of these established tracks or have specific classes they may want to take. We strive to meet the needs of all of the participants and I feel that this year's schedule will do just that. For those who plan to attend, I urge you to gain as much information as possible, ask questions of the presenters and of your colleagues, and after the conference when you return to your office, share the information that gained so that others in your organization are knowledgeable of the state procurement procedures that are required to be followed. The Purchasing Division staff will be available to our participants throughout and after the conference.

For your agency's leadership, the mandatory training for high-level officials on purchasing procedures and state purchasing card program is scheduled for Thursday, November 1, 2018. For additional information, see [page 4](#).



Maximum Budgeted Amount Serves Valuable Purpose when Vendors' Bids Exceed Budget

A primary goal of the Purchasing Division is to reduce costs to the state. The Purchasing Division requires several key pieces of information during the competitive bid process to ensure state agencies obtain the best value for its state taxpayer dollars. One of these required pieces of information is the maximum budgeted amount.

The maximum budgeted amount is the amount that state agencies expect not to exceed when paying for a specific good or service. If all bids received for a solicitation exceed the budgeted amount, the Purchasing Division has the opportunity to negotiate a lower price with the lowest bidder.

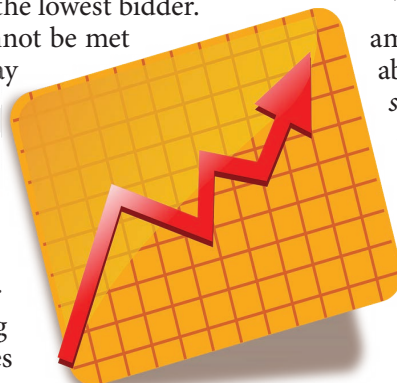
If the maximum budgeted amount cannot be met by that bidder, the Purchasing Director may proceed with negotiations with the next lowest bidder and continue on until the budgeted amount can be met or until it is determined that the solicitation needs to be rebid.

"It is vital that all incoming requisitions state the maximum budgeted amount for the transaction," said Assistant Purchasing Director Frank Whittaker. "This includes

any open-end contracts an agency may be seeking. We are unable to negotiate with vendors for any requisition that does not include the maximum budgeted amount prior to the bid opening."

It is important to note that the maximum budgeted amount cannot be changed after bid opening. Also, on requisitions in *wvOASIS*, the maximum budgeted amount field does not pre-empt or reserve funds in any way. It is primarily used to determine whether negotiations are allowed (i.e. when all bids exceed available funds).

To learn more about the maximum budgeted amount and negotiation when all bids exceed available funds, specific sections of the *Purchasing Division Procedures Handbook* provide helpful guidance. For information on the maximum budgeted amount, see Section 3.4.2 (Acquisition Planning) of the *Purchasing Division Procedures Handbook*. For details on negotiation when all bids exceed available funds, visit Section 6.2.1.10 (Formal Acquisition Procedures) of the *Purchasing Division Procedures Handbook*.



Purchasing Ethics are Vital to Ensuring the Proper Expenditure of State Taxpayers' Dollars

According to the Merriam-Webster dictionary, ethics is defined as the discipline dealing with what is good and bad and with moral duty and obligation. In the world of public purchasing, procurement officers are responsible for ensuring the proper use of state taxpayers' dollars. It is understandable then that one's ethics especially come into play.

Purchasing Division General Counsel Jimmy Meadows explains that many of the laws and rules currently in place serve as safeguards against misuse of public funds through procurement. "Fraud and unethical behavior can and do happen everywhere. Regrettably, West Virginia's procurement history has examples of both," Meadows said. "Some

examples include bribes, kickbacks, extortion, collusion in bidding, conflict of interest, false or inflated invoices, overly restrictive specifications, personal use of state contracts... and the list goes on. It is the responsibility of the procurement officer to be aware of these potential legal and ethical violations and ensure that those in their agency understand the rules and laws guiding the state procurement transactions."

Another example of "ethics gone wrong" is change order abuse. This occurs when a procurement officer solicits bids for a base product and then submits a change order(s) to vastly expand the original intent of the purchase. Photographs often illustrate better than words; therefore, *see the photograph to the left* of the original contract (i.e. a small dinghy) and what ultimately was acquired through a change order(s) (i.e. the yacht).

Meadows stated that the laws governing public procurement processes are strict and demand the highest degree of discretion and ethical behavior. West Virginia state law clearly outlines in various sections of W. Va. Code §5A-3-1 et seq. the penalties associated with violations of procurement laws. Similarly, the State's ethics laws contained in W. Va.



Please see **PURCHASING ETHICS**, page 6

CRONIN AWARD Continued from Page 1

meeting the required procurement training as specified by the laws and rules, as well as meeting the mandatory hourly training requirements for their respective professional fields of study.

Offering these credits not only saved attendees money by not having to pay for additional training to obtain their needed hours, but also reached a whole new audience for the Purchasing Division's training program who would not have been reached previously, broadening the scope of understanding among state employees directly and indirectly involved in the procurement process.

The Cronin submission by the Purchasing Division highlighted the innovation, transferability, service improvement and cost reduction of this program. In terms of cost savings, the National Business Institute estimates that the average cost for Certified Public Accountants (CPA) attending an in-person seminar for Continuing Pro-

fessional Education (CPE) is \$50 per hour. Similarly, the Institute estimates the same cost per hour for attorneys attending seminars offering Continuing Legal Education (CLE) credits.

The Purchasing Division calculated that if a state employee who has a CPA took all of the available courses offered through the In-House Training Program and the Agency Purchasing Conference, the total savings realized would total \$2,650 annually.

For state attorneys attending the *Mandatory Training for High-Level State Officials* and the legal seminar this year, the savings would total \$375 per attorney. These amounts can generate great savings for state government employees.

NASPO received a record number of entries this year. Nominations were scored based on the criteria of innovation and initiative, transferability, service improvement, and cost reduction.

West Virginia's entries will be added to the NASPO website to showcase the state's work. The entries will help NASPO staff identify potential panelists or conference session topics, as well as case studies and examples for research projects.

The George Cronin Awards for Procurement Excellence are recognized as a premier achievement for innovative public procurement and pay tribute to a founder and the first president of NASPO for his devotion to improving governmental purchasing.



FY 2019 Mandatory Training for High-Level Officials Scheduled for Nov. 1

Registration is now open for the State Officials' Purchasing Procedures and Purchasing Card Training, co-presented by the West Virginia Purchasing Division and the State Auditor's Office. This two-hour session is scheduled for Thursday, November 1, 2018, and will be available online as a webinar via WebEx. This training, offered twice per year, is mandatory for high-level state officials as indicated in W. Va. Code §5A-3-60.

The Code requires all high-level state officials, including "executive department secretaries, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads, and assistant department heads" to annually complete two hours of training on purchasing procedures and purchasing card processes.

Space is limited to the first 100 people to register. To register for this live online training, complete the online form post-

ed at www.state.wv.us/admin/purchase/training/mandatory.html. Only individuals in the positions stated above are required to attend this training.

The training is required once per fiscal year. The content of this training is updated each fall to reflect the most up-to-date purchasing rules and regulations, as well as any changes in the law. Specifically, the Purchasing Division will outline its purchasing decision path from the time an agency determines its need to the award of a contract, as well as discuss the procurement methods utilized in the West Virginia state purchasing process.

For those individuals who are unable to attend this live online training, a video recording of this training will be posted on the Purchasing Division's website following the event. The next live webinar will be offered in spring 2019. To meet the requirements for Fiscal Year 2019, high-level officials must attend one of the webinars or view the online recording. Individuals who view the online video recording to meet the requirement must submit the Certificate of Completion to the West Virginia Purchasing Division by email to Purchasing.Training@wv.gov or by fax to 304.558.6026.

Verification of participation in this online training or viewing the online recording is required to meet the stipulations mandated by the law.

For more information on this training or this requirement, please email Purchasing.Training@wv.gov.

Statewide Contract for WVARF Awarded

All agency procurement officers are required to purchase certain commodities and services, if available, from internal sources such as sheltered workshops. The West Virginia Association of Rehabilitation Facilities (WVARF) currently serves as the central nonprofit agency that oversees all commodities and services from sheltered workshops.

A statewide contract for these WVARF commodities and services was recently awarded, which includes cleaning supplies, both medical and non-medical clothing, floor care, and grounds maintenance. Additional products or services may be added as approved throughout the life of the contract.

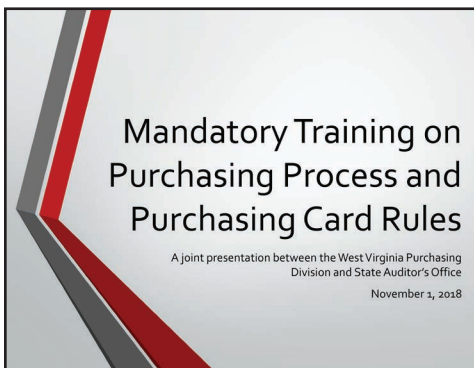
A copy of this contract (WVARF19), including ordering instructions and pricing pages, can be found at www.state.wv.us/admin/purchase/swc/WVARF.htm.

Questions regarding this contract should be directed to WVARF via the following information:

Phone: 304.205.7970

Fax: 304.205.7915

For all questions related directly to the contract, please contact Senior Buyer Mark Atkins at Mark.A.Atkins@wv.gov.



VENDOR GUIDE

Continued from Page 1

- Remedies available to vendors and to the state; and
- Frequently asked questions.

"After all of the changes that occurred this year with the passage of Senate Bill 283 and procedural changes made, we decided it was a good time to update our communication with the vendor community," said Assistant Purchasing Director Diane Holley-Brown. "We wanted to provide a simple, straight forward approach to educating businesses that may wish to do business with the state on what they can expect when doing business with the state. Basically, it is similar to how they market the private sector. Our goal is to continue to increase competition for the products and services the state

Buyers Network

solicits to administer its programs and services."

Additional information may be found in the appendices of the Vendor Procurement Guide, which include vendor resources, information on the West Virginia Purchasing Division staff, purchasing forms, Vendor Code of Conduct, Agency Procurement Officer Listing, statewide contracts and commonly used terms, abbreviations and acronyms.

The West Virginia Purchasing Division encourages its agency purchasing officers to share this valuable resource with vendors during their discussions. A direct link to this guide can be found at www.state.wv.us/admin/purchase/vrc/VPG.

Post-Engagement Monitoring Performed for Vendor Outreach

Beginning in the fall of 2017 and throughout 2018, the West Virginia Purchasing Division staff has traveled around the state conducting seminars for local governments and vendors on the programs and services it provides to each of these audiences. As a result of these seminars, the staff has received several questions as well as registered numerous vendors who are interested in participating in the competitive bid process.

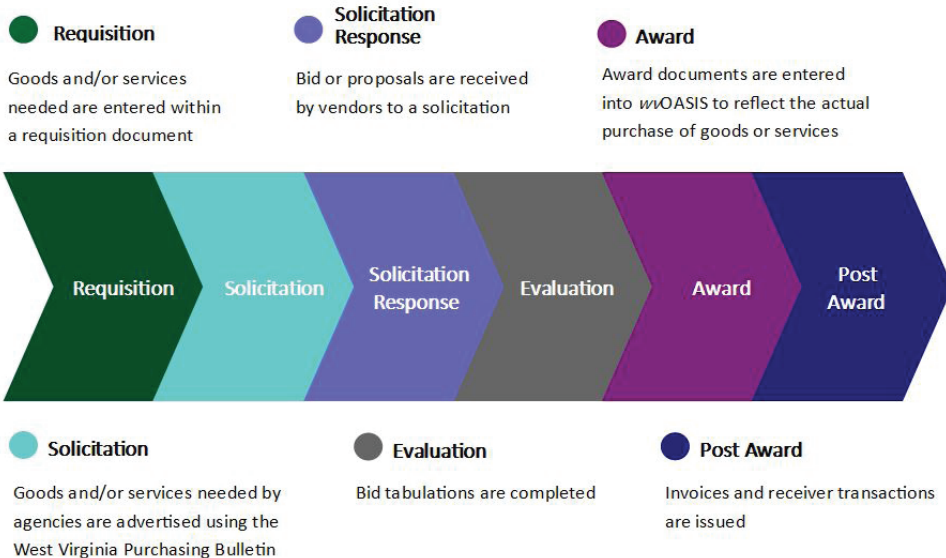
To assist the Purchasing Division in monitoring the post-engagement of these businesses, we need your help. Have you heard from any vendors who may have mentioned they attended one of the vendor seminars? If so, please email Purchasing.Division@wv.gov with the following information (if available):

- Name of the representative who attended
- Business/Organization
- Contact information
- Event location attended
- If they didn't attend, were they referred to you by someone who did attend?
- Date of contact
- Method of Communication
- Discussion
- Additional information

Helping the Purchasing Division track these post-seminar engagements allows us to plan for future events as well as measure our success.

For information regarding upcoming seminars, please visit the Purchasing Division website at WVPurchasing.gov or the event registration page at WVPurchasing.eventbrite.com.

Are You Aware of the Six States of the Procurement Process?



Upcoming Dates to Remember

Agency Purchasing Conference
October 2-5, 2018

Technical & Special Purchases Class
Oct. 24, 2018 | 9 a.m. – 11 a.m.

EOIs & Construction Purchases Class
Oct. 31, 2018 | 10 a.m. – 11 a.m.

FY19 High-Level Officials Training
Nov. 1, 2018 | 9 a.m. – 11 a.m.

Developing Specifications & Contracting – *Webinar*
Nov. 14, 2018 | 9 a.m. – 11 a.m.

Seminars for Local Governments and Vendors – *Logan*
Nov. 15, 2018 | 10 a.m. and 1:30 p.m., respectively

THE BUYERS NETWORK

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Telephone: 304.558.2306
8:15 a.m. to 4:30 p.m. (M-F)

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PURCHASING ETHICS
Continued from Page 3

Code §6B-2-5 come into play in many procurement transactions. And finally, there are federal statutes such as wire fraud, mail fraud, and other anti-corruption laws that may be used to prosecute procurement wrongdoing. Penalties noted in W. Va. Code §5A-3-17 address the personal liability of the spending officer and others within an agency when a violation is made. "The actions must be knowing and willful," Meadows clarified.

W. Va. Code §5A-3-29 states that violations may result in a misdemeanor conviction of no less than 10 days or more than one year in prison. Fines can range from \$10 to \$500.

During training sessions, Meadows often offers the audience various scenarios and asks "What would YOU do?" A couple of these scenarios are noted below:

Scenario: Two agency employees arrive onsite to conduct a pre-bid conference. After it is over, one agency employee is requested to return to Charleston and the other is needed elsewhere. A friendly, familiar bidder offers one of the agency employees a ride back to Charleston. What would YOU do?

Meadows explained that perception really is reality, so even if you wouldn't talk about the solicitation, there is an appearance of impropriety and other bidders could, and most likely would, presume there would be favoritism or special treatment. "It is important to remember the potential blackout period violation as well, which prohibits communication between the agency and any potential bidders about the solicitation in question." Meadows adds that you should not get in that car with the vendor. "Do whatever is necessary to avoid that situation."

Scenario: A salesman for a company bidding on a solicitation has obtained many state contracts over the years and believes that he has developed a good working relationship with the agency buyer. The salesman calls and offers two free tickets to an upcoming college football game. What would YOU do?

Meadows said the best practice is to just say "no, thank you!" W. Va. Code §6B-2-5(c) states that "no official or employee may knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows or has reason to know: Is doing or seeking to do business of any kind with his or her agency."

The same refusal should be given for any gift, whether it is lunch, dinner, or an actual tangible item. Although the State Ethics Law provides some exceptions, Meadows explained that those exceptions are not absolute and can be rebutted with enough evidence of bias. In regard to the Purchasing Division staff, even those exceptions do not apply. The Purchasing Division has a complete prohibition against receiving any gift, in accordance with W. Va. Code §5A-3-28.

"As your agency's procurement officer, it is your responsibility to follow all state laws, rules and procedures to ensure that the taxpayers' money is used properly," Meadows reiterated. "It is your duty to spend tax dollars in accordance with statutory and regulatory requirements."

Current Statewide Contract Update

(As of September 17, 2018)

This page includes a listing of current changes made to statewide contracts issued by the Purchasing Division. Information and dates listed in this **Current Statewide Contract Update** are subject to change.

All statewide contracts are available online at www.state.wv.us/admin/purchase/swc. For more information, please contact the buyer assigned to the specific statewide contract.

New Contracts

Contract	Vendor	Commodity	Effective Date
WVARF19	WV Assoc. of Rehab Facilities	Workshop Services / Commodities	08/15/18 -08/14/19

Renewal Contracts

Contract	Vendor	Commodity	Effective Date
AIRFARE17	Delta	Discount Airfare	10/01/18 -09/30/18
DIGCOP17A	Komax LLC	Digital Copies	08/23/18 -08/23/19
FASTEN16	Grayson Industries, Inc.	Fasteners and Fastening Devices	10/01/18 -09/30/18

FOR MORE INFORMATION

Below is a list of Purchasing Division buyers assigned to specific state agencies.

BUYER	E-MAIL	PHONE
<i>Supervisors</i>		
Tara Lyle	Tara.L.Lyle@wv.gov	558-2544
Guy Nisbet	Guy.L.Nisbet@wv.gov	558-2596
Linda Harper	Linda.B.Harper@wv.gov	558-0468
<i>Senior Buyers</i>		
Mark Atkins	Mark.A.Atkins@wv.gov	558-2307
April Battle	April.E.Battle@wv.gov	558-0067
Jessica Chambers	Jessica.S.Chambers@wv.gov	558-0246
Michelle Childers	Michelle.L.Childers@wv.gov	558-2063
Stephanie Gale	Stephanie.L.Gale@wv.gov	558-8801
Brittany Ingraham	Brittany.E.Ingraham@wv.gov	558-2157
Melissa Pettrey	Melissa.K.Pettrey@wv.gov	558-0094
Crystal Rink	Crystal.G.Rink@wv.gov	558-2402
<i>Buyer</i>		
Heather Bundrage	Heather.D.Bundrage@wv.gov	558-2566