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STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
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To All Agency Procurement Officers:

Recently, the Purchasing Division has become aware of the expedited requirements imposed on the use of SEP/ARRA Federal Stimulus funds. These funds provide an unprecedented opportunity to accomplish many state goals, but the requirements for use of the funds have also created an unanticipated volume of work for the state.

Because of this factor, I am authorizing the suspension of standard purchasing procedures for projects utilizing Federal Stimulus funds and invoking the emergency purchasing procedures as set forth in the **West Virginia Code §5A-3-15**, the **Code of State Rules §148-1-7.6** and Section 8.6 of the **Purchasing Division Procedures Handbook** (see attached).

Emergency purchasing procedures allow state agencies, after receiving approval from this office, to seek and obtain bids for the work as well as all other necessary approvals and then submit that information to the Purchasing Division for award of the contract.

We believe this emergency declaration will permit state agencies to use SEP/ARRA Federal Stimulus funds in the most expeditious manner to obtain maximum benefit for the state of West Virginia.

Below are general guidelines to follow in processing an emergency purchase using SEP/ARRA funds, **if you believe time will not allow for these purchases to move through the normal purchasing process:**

- 1) Submit a written request to the Purchasing Division via e-mail at ***purchasing.requisitions@wv.gov*** to attain emergency approval for your purchase. To identify that the solicitation is for an emergency stimulus project, please note in the subject line of the email the following: "Stimulus Project." This request **must** include the timelines imposed on the use of the funds – preferably through original documentation from the granting authority. Additionally, the request **must** provide the following information: agency name, project title, project

description, anticipated bid opening date, contact person, email address, and telephone number. Please note the Purchasing Division will confirm the bid opening date with the agency once emergency approval has been granted.

- 2) Once approval has been granted from the Purchasing Division to process the purchase as an emergency, the agency may solicit bids for the project.
- 3) The Purchasing Division will publicly post the project on a web page, www.state.wv.us/admin/purchase/stimulus.html, that has been established for these time-sensitive stimulus projects. This web page is accessible to all vendors, regardless of their vendor registration status. These solicitations must be advertised on this web page for a minimum of two weeks prior to the bid opening to give ample time for prospective vendors to respond.
- 4) It is important to consider conducting a pre-bid conference if you believe the project warrants this step. Pre-bid conferences are typically used with construction projects.
- 5) After receiving the bids for your project, the agency is to select the lowest bidder meeting specifications as the apparent successful vendor for the contract.
- 6) Necessary insurance, licenses, bond documents, and other required verifications and certifications should be requested from the apparent successful vendor. Many of the forms can be found at:
<http://www.state.wv.us/admin/purchase/vrc/pforms.htm>
- 7) Following the receipt of all necessary documentation, this information is to be forwarded to the Purchasing Division for processing and final approval. The documentation to be forwarded to the Purchasing Division includes all bids, insurance, licenses, bonds, other verification and certifications, and a letter of recommendation for award noting the apparent successful vendor.

Please note that if there is not an imminent deadline for use of the stimulus funds, these procurements should be handled through normal purchasing process.

The Purchasing Division is available to assist you in every step of this process. Please do not hesitate to contact your assigned buyer with any questions. Thank you.

Respectfully,



David Tincher, Director
Purchasing Division

Attachment

West Virginia Code § 5A-3-15

§5A-3-15. Emergency purchases in open market

The director may authorize, in writing, a state spending unit to purchase in the open market, without filing requisition or estimate, specific commodities for immediate delivery to meet bona fide emergencies arising from unforeseen causes, including delays by contractors, delays in transportation and unanticipated volume of work. A report of any such purchase, together with a record of the competitive bids upon which it was based, shall be submitted at once to the director by the head of the state spending unit concerned, together with a full account of the circumstances of the emergency: Provided, That the director may waive the need for the record of competitive bids. Such report shall be entered on a record and shall be open to public inspection.

Code of State Rules 148CSR1

7.6. Emergency Procurement

The Director or an appointed designee shall review a spending unit's written request and issue written approval or disapproval for emergency purchases exceeding \$25,000. An "Emergency Situation" requiring a purchase of commodities, services or printing must be the result of unforeseen events or circumstances, including delays by contractors, delays in transportation, or an unanticipated volume of work. Emergency purchases are not used for hardship resulting from neglect, poor planning, or lack of organization by the spending unit. Competitive bids shall be obtained if possible.

Purchasing Division Procedures Handbook

8.6 Emergency Purchases: In accordance with the *West Virginia Code* §5A-3-15, purchases may be necessary to be made when unforeseen causes arise; however, emergency purchases are not used for hardship resulting from neglect, poor planning or lack of organization by the spending unit.

An emergency purchase is a purchase which can be made only after the Purchasing Director, exercising sound judgment and discretion, concludes in good faith and upon reasonable and sufficient grounds that some unforeseen or unexpected circumstance has suddenly created a situation requiring that commodities or services be immediately purchased by a state spending unit and the Purchasing Director in writing authorizes such a purchase. A report of any such purchase, together with a record of competitive bids upon which it was based, is to be submitted to the Purchasing Director.

When an emergency situation occurs during normal business hours, **verbal** approval of the Purchasing Director or his/her designee must be obtained **prior** to making a purchase or execution of any work. A written explanation must be provided immediately

via facsimile which should include the estimated cost. If an emergency occurs after business hours, on a holiday or weekend, the state agency may proceed with the emergency purchase and provide immediate written justification of the action to the Purchasing Director on the first working day following the emergency.

A minimum of three (3) bids shall be obtained, if possible. **Original, signed written bids** shall be attached to the ***Purchase Requisition***, and submitted to the Purchasing Division with a letter of justification or a copy of the Director's or designee's written approval.

Agencies must first examine mandatory contracts and other internal sources for availability of the product or service and utilize such. For information on mandatory contracts and internal sources, see **Section 4: Acquisition Planning, 4.6 Define Sources**.