

THE BUYERS NETWORK

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

Following Purchasing Procedures is the Key in Avoiding Future Vendor Protests



In state government, the purchasing process for a specific contract in most cases results in one successful vendor...and several unsuccessful vendors. Agency purchasers should realize that when issuing a solicitation that there may be a vendor who occasionally may protest the decision that is made.

The Purchasing Division's protest procedure is covered in the **Code of State Rules 148-1-8**. This rule provides vendors participating in the state's bid process with the right to protest specifications and/or purchase order awards. In terms of protests of purchase order awards, the Rule states:

"...Protest of a purchase order or contract awards must be submitted no later than five (5) working days after the award. The vendor is responsible for knowing the bid opening and award dates. Protests received after these dates may be rejected at the option of the Director. All protests shall be submitted in writing to the Purchasing Division and contain the following information: (a) the name and address of the protestor; (b) the requisition, purchase order or contract numbers; (c) a statement of the grounds of protest; (d) supporting documentation, if necessary; and (e) the resolution or relief sought. Failure to submit this information shall be

grounds for rejection of the protest by the Director."

The Purchasing Division stresses to agency purchasers the importance of following the appropriate statutory and regulatory requirements in order to protect the state from potential protests, although the frequency of protests is minimal.

Should a vendor submit a protest and request an administrative hearing, Purchasing Director Dave Tincher or his designee reviews the matter of the protests and issues his or her written decision. A hearing may be conducted at the option of the director. In addition, continuation or delay of a purchase order or contract award is also at the discretion of the director.

Conversely, according to the Rule, the Purchasing Division may refuse to review any protests when the matter involved is the subject of litigation before a court of competent jurisdiction; if the merits have previously been decided by a court of competent jurisdiction; or if it has been decided in a previous protest by the Purchasing Division.

Being aware of what takes place in a protest hearing is important for agency purchasers, said Assistant Director Karen Byrd of the Acquisition and Contract Administration Section of the Purchasing Division. At a protest hearing, testimony is taken and scrutiny is placed on the individuals directly involved in the decision-making process of that purchase. It is for this reason the Purchasing Division places great emphasis on following the purchasing procedures completely.

Recently, the Purchasing Division has participated, along with representatives at the agency level, in two recent administrative hearings. Substantial amount of time during these hearings is spent in detailing the decisions made, the processes followed and the reasons for all actions taken.

What is the best way to avoid a protest hearing? Byrd said the best

Continued on Page 2

INSIDE...

- **Director's Comments:** Focusing on Training Initiatives in 2008
- **Statewide Contract Spotlight:** Fenwick Technologies
- Education is Foundation of Purchasing Inspectors' Visit
- Purchasing Division Welcomes New Employees
- Statewide Contract Update

THE DIRECTOR'S COMMENTS

Focusing on Training Initiatives in 2008

By Dave Tincher
State Purchasing Director

When addressing the state procurement officers and their respective staff during last year's annual conference, I noted that one of the Purchasing Division's goals for the upcoming year was to enhance our training efforts. This goal is necessary due to the importance of the work that we do in public procurement and the legalities that are attached to the decisions we make on a daily basis.

We are the public servants with whom our state taxpayers have bestowed their trust. They do not just *hope* that we will ensure that their money is spent in the most

Vendor Protests

Continued from Page 1

advice is to simply follow the law. "We live by the Code, the Rule, and the handbook," she said.

At the 2007 Agency Purchasing Conference, each participant received a copy of the **West Virginia Code** and **Code of State Rules** to stress the importance and a better understanding of the statutory and regulatory requirements in public procurement.

According to a report prepared by the Purchasing Division, a total of 22 protests were filed during fiscal year 2007 against awards issued or specifications written, which were processed by the Purchasing Division. Of the 1,401 purchase orders issued during last fiscal year, 1.57 percent resulted in a protest, which is a small number in comparison to the amount of purchase orders/contracts processed.

cost-effective manner, but they *expect* it, as they should.

The best defense that the Purchasing Division has to ensure that each and every agency purchasing agent in state government will abide by the appropriate statutory and regulatory requirement is to educate. Our **Purchasing Division Procedures Handbook** is an excellent resource for agency purchasers; however, there needs to be more offered for assistance.

As noted below in a separate article in this issue of **The Buyers Network**, our upcoming 2008 Agency Purchasing Conference will offer a comprehensive blend of information on various purchasing methods and other procedures relating to public procurement, but also will address other programs which the division is responsible for administering, such as the fixed assets program and the Surplus Property Program.

In addition, we introduced in the previous issue of the newsletter our



Training Coordinator Brian Holmes, who is responsible for coordinating the annual conference, but also in-house training

and online training courses. He has been researching various methodologies currently being used by many of your agencies to determine what aspects can be used in our division to better inform and educate our agency partners.

During this year, you will begin to see some of our offerings, starting with training modules on specific processes. The training courses will grow as we become more knowledgeable of what mechanisms will best serve you.

I encourage you to share any training needs or ideas regarding the Purchasing Division's training initiative with Brian Holmes (558-7022 or Brian.J.Holmes@wv.gov) or Assistant Director Diane Holley (558-0661 or Diane.M.Holley@wv.gov).

2008 Purchasing Conference Set for October at Canaan Valley Resort

Mark your calendars! The 2008 Agency Purchasing Conference is on schedule to begin Tuesday, Oct. 14, through Friday, Oct. 17, at Canaan Valley Resort and Conference Center in Davis, West Virginia.

Information on room reservations, classes and events will be announced later this summer. The Purchasing Division has received many calls from agency purchasers wanting details on the date so they could plan for this annual training event.

The annual purchasing conferences offers state agency procurement officers and their respective staff the opportunity to learn and discuss information relating to the **West Virginia Code**, the **Code of State Rules** and procedures as it relates to state purchasing requirements.

For additional information or suggestions for this year's conference, please contact Brian Holmes at (304) 558-7022 (Brian.J.Holmes@wv.gov), or Diane Holley at (304) 558-0661 (Diane.M.Holley@wv.gov).



Statewide Contract Spotlight...

West Virginia-Based Fenwick Technologies Among the Most Active Vendors on ITECH06 Statewide Contract

The statewide contract for temporary personnel with technical expertise (**ITECH06**) has 22 qualified companies listed as available for agencies to use, making it one of the largest statewide contracts processed through the Purchasing Division. Such fact is of little surprise considering the numerous staffing categories listed in the **ITECH06** contract.

It is also of little surprise that Fenwick Technologies, Inc. of Charleston, West Virginia, is one of the most active statewide vendors on this contract.

Of the 20 categories listed in the "supplemental staffing" portion of **ITECH06**, Fenwick Technologies has been approved to fulfill the needs of 19 of those positions. In the 10 categories listed in "project-based technological services" portion of the statewide contract, Fenwick Technologies has been



approved for nine.

"That is one of the things we are most proud of. When the solicitations were evaluated, we were only one of a few companies to be approved in all but one category in each section of the contract," said Rich Edwards, president of Fenwick Technologies. "And we are the only West Virginia company to be approved in this many categories."

Edwards said that Fenwick Technologies is "owned and grown" by West Virginians. Brothers David and Keith Comstock founded the company in 1994 and named it after the Nicholas County town where they spent many summers visiting their grandparents. The company logo depicting green mountains and blue skies represents the Fenwick sur-

roundings near Richwood. The company now has just under 50 full-time employees.

"We know we are one of the largest information technology companies in West Virginia," Edwards said. "One of the more valuable assets we have is that we have some of the top information technology recruiters in the state. If we do not have an employee on board who has the specific skills needed to fulfill a portion of the statewide contract, we will go out and hire someone for the requirements. If we cannot find the people we need locally, we will hire from out of state and move them here."

Fenwick also has employees in Washington, PA and Arlington, VA

Continued on Page 7

*In each issue of **The Buyers Network**, the Purchasing Division will highlight one of our statewide contractors. Providing information about the company and the products offered on the statewide contract, this feature will help familiarize our agency purchasers with our business partners.*

West Virginia Code, §5A-3-5**, authorizes the Purchasing Director to promulgate and adopt standard specifications based on scientific and technical data for appropriate commodities and services. This establishes the quality to which commodities and services to be contracted for, by the state must conform. These standard specifications are used to establish statewide contracts for commodities needed on a repetitive basis. **No agency may be exempt from using statewide contracts without prior written approval from the Purchasing Director.



Rich Edwards, left, president of Fenwick Technologies, discusses the statewide ITECH06 contract with co-workers Human Resource Specialist Marc Becom and Administrator Angel Reed.

Education is the Foundation of Inspectors' Visits

More than a year has passed since the Inspection Unit of the Purchasing Division was re-established by legislation passed during the 2006 Regular Session of the Legislature. During this time, the Purchasing Division Inspectors have been busy performing their assigned duties.

The inspectors began carrying out their mandate in early 2007, starting with inspections of the Department of Administration agencies and many of the boards and commissions. Now, the inspectors are gradually moving on to the larger state agencies.

Agency procurement officers will be contacted by the inspection staff to prepare their visit. "First of all, it is important to note that our purpose is

more about education than it is enforcement," said Contract Manager Michael Sheets, who oversees the Inspection Unit. "We want to help procurement officers with learning the purchasing process more than anything else."

Prior to a visit, inspectors will conduct pre-work by examining an agency's spending data. Based on what is revealed in an agency's transactions, the inspectors will then compile a list of files to be reviewed. The agency procurement officer will receive a letter of request from the Purchasing Division with a list of files to be reviewed. Upon an agency visit, the inspectors will review the documents from beginning to completion.

"Many of the items the inspectors are reviewing relate to sections 4 and 6 of the **Purchasing Division Procedures Handbook**," Sheets said. Section 4 deals with Acquisition Planning and the steps needed to be taken prior to the actual bidding process for the commodity or service. Such steps include defining need, consideration of acquisition and delivery lead time, creating specifications, researching the market, exploring internal sources, considerations and approvals, checking mandatory sources, preparing the requisition and identifying possible vendors.

Section 6 targets Agency Delegated Acquisition Procedures for purchases of \$25,000 or less which are processed at the state spending unit level.

"Inspectors look at various aspects of an agency's procurement process, such as checking to see if agencies have utilized statewide contracts and internal resources first. We also check that bids were sought and documented and that the vendor was properly



The Purchasing Inspectors are pictured above: (l-r) Junior Blount, Susan King and Shane Hall.

registered with the Purchasing Division," Sheets said.

Sheets said one key element for a productive visit is for procurement officer to have the requested files ready upon an inspector's arrival. "People are welcome to ask questions of the inspectors. The inspectors may have additional questions themselves," Sheets said.

After an inspector completes a visit, the agency is sent a report from the Purchasing Division with its findings and recommendations. Agencies have the option to respond within two weeks.

"Nearly all of our visits so far have been good experiences," said Shirley "Junior" Blount, one of three inspectors with Susan King and Shane Hall. "The procurement officers take our visit as a learning experience to see what they are doing right and wrong and apply that to future transactions."

Hall agreed, "We are finding that some procurement officers are recent hires and may not be as well versed in purchasing guidelines as they need to be. Our visits help them understand where they are and where they need to be."

HIPAA Addendum Changes Noted on Division Web Site

The Purchasing Division has recently posted on its web site the latest addendum to the Health Insurance and Portability and Accounting Act's (HIPAA) Business Associate Addendum. The BAA deals with privacy language that the state of West Virginia is bound to adhere when dealing with an individual's personal information. The web site to review the updates to HIPAA's Business Associate Addendum is www.state.wv.us/admin/purchase/vrc/hipaa.htm.

The Purchasing Division forms, which deal with the conditions of protected information noted in the BAA, including the **Request for Quotation** and **Purchase Order**, will not change. These forms simply refer to the previously mentioned web site for individuals to review the latest terms and conditions.

Public Purchasers Often Speak a "Different Language" So, What DO Those Terms Mean?

One of the most difficult aspects for agency purchasers or vendors who are new in working or doing business with the state is learning the 'terminology.'

For many of us, we have been using these purchasing terms for years. However, for those individuals new to state government or doing business with state government, it is similar to visiting a foreign country where a different language is used.

Therefore, as part of our **Purchasing Division Procedures Handbook**, Section 2 on "Definitions, Abbreviations and Acronyms" is included. Let's see how well YOU know your purchasing terms!

What is the definition of an agency open-end contract? It is a legal and binding instrument between the state agency and a vendor to exclusively provide a commodity which was competitively bid, evaluated, and awarded by the Purchasing Division and maintained by the state agency. This contract may be for unlimited dollars and for commodities or services that are frequently purchased that are not on a statewide contract.

For some of you, that term may have been easy to define, but for others, you may have wondered what do you mean by open-end? For those who are new to the purchasing process, this section can assist you. An open-end contract is a generic term used for an instrument that is competitively bid and awarded in which all terms, conditions and prices are pre-determined with the exception of quantity.

Do you know what a bid bond is used for? A bid bond is an insurance agreement in which a third party

agrees to be liable to pay a certain amount of money in the event a selected bidder fails to accept the contract as bid. This bond is usually five percent (5%) of the total bid amount. For some state employees new to the purchasing field, perhaps we need to start at the beginning....what is a bid? A bid is defined as a competitive offer made by a seller.

Not only does this section define terms, it also provides the abbreviations which are often used to refer to various purchasing methods or processes, such as a RFP (a request for proposal) or a RVP (resident vendor preference). It was the intent of the Purchasing Division to define words in this section that were included throughout the procedures handbook that may not be understood by all.

The next time you are needing a quick reference tool to find out what a purchasing term means, visit Section 2 of the **Purchasing Division Procedures Handbook** at <http://www.state.wv.us/admin/purchase/Handbook/default.htm>.



What's State Government Buying?

*(This information is compiled from the **West Virginia Purchasing Bulletin**. The purpose is to provide an awareness of the variety of products and services being procured in state government. Only a small sample of solicitations are listed.)*

- ◆ **Office of Technology**
Request to provide mainframe storage capacity.
- ◆ **Department of Agriculture**
Request to provide processing for USDA commodity turkey into roasts, ham, bologna, salami and other turkey products.
- ◆ **Department of Health and Human Services**
Request to provide basic pharmacy services and supplies for residents of state-owned facilities administered by the Department of Health and Human Resources.
- ◆ **Division of Public Transit**
Request to provide a platform style transit bus lift complete with safety equipment, controls and accessories with capacity to lift up to 30,000 pounds.
- ◆ **Department of Environmental Protection**
Request to provide an open-end contract for auto/manual inflatable personal flotation devices.
- ◆ **Department of Education**
Request to provide court reporting services.

Current Statewide Contract Update

(As of February 15, 2008)

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 <http://www.state.wv.us/admin/purchase/swc>. For more information, please contact Senior Buyer **Jo Ann Adkins** at (304) 558-8802 or via e-mail at Jo.A.Adkins@wv.gov.

Contracts Awarded

<u>Contract</u>	<u>Description</u>	<u>Vendors</u>	<u>Effective Date</u>
SYMC07	Symantec Software	Carahsoft Technology	01/01/08
NTIRES08	New Tires	Goodyear Tire and Rubber	02/01/08
LDPHONE8	Local and Long Distance Telephone Services	Method One Communications	02/01/08
MA05SW08	Master Terms and Conditions	Oracle Corporation	12/01/07
PBKHP08	Computer Hardware, Servers and Storage	Hewlett Packard Co.	12/01/07
ENCRYPT08	Encryption Master License Agreement	Systems Design	02/01/08

Contracts Under Evaluation

<u>Contract</u>	<u>Description</u>	<u>Bid Opening</u>	<u>Under Evaluation</u>
WAN08	Wide Area Network Hardware	01/30/08	Yes
CLRM08	Classroom Furniture	02/06/08	Yes
CEREAL08	Cereals	02/13/08	Yes
ITECH07	Temporary Staffing IT Services	11/07/07	Yes
SIP2008	Servers and PC	02/27/08	Yes
CRENTAL08	Car Rentals	02/06/08	Yes
DFS08	Disposable Food Items	02/26/08	Yes

Contracts Extended

<u>Contract</u>	<u>Description</u>	<u>Vendor</u>	<u>Extension Date</u>
RSHEET05	Reflective Materials	3M Company	03/31/08
WAN04	Wide Area Network Integration	Verizon Network	03/31/08
LDPHONE [A]	Local and Long Distance Phone Services	Sprint Communications	06/30/08

Contracts Extended

<u>Contract</u>	<u>Description</u>	<u>Vendor</u>	<u>Extension Date</u>
DIGCOP04 [A, BA, D-H]	Copiers	[A] Sharp Electronics; [BA] Ricoh Americas; [D] Aaron's Products; [E] Ikon Office Solutions; [F] Kyocera Mita America Inc.; [G] Superior Office Service; [H] Xerox Corporation	03/07/08

Contracts Renewed

<u>Contract</u>	<u>Description</u>	<u>Vendor</u>	<u>Expiration Date</u>
LEXNEX06	Online Subscription	Lexis Nexis	12/31/08
DATA05 [A-B]	Data Circuits	[A] Verizon WV [B] Frontier Communications	06/30/08
ALCOHOL06 [A]	Ethyl Alcohol	Aaper Alcohol and Chemical	01/31/09
ERCYCL07	Recycle Electronics	PC Renewal	03/14/09
SYSFURN07 [H]	System Furniture	Franklin Interiors	10/31/08

Contracts Reviewed

Statewide contracts are reviewed approximately three months prior to the actual expiration date. During this review process, the state buyer examines the specifications and the products included in each contract.

MARCH

DIGCOP
Digital Copiers

APRIL

CANLINE
Plastic Trash Can Liners

ENTPRZ
Microsoft Enterprise Produces

FRMTIRE
Farm and Backhoe Tires

PURCHASING CONNECTION

Purchasing Division Welcomes Three New Employees to Staff

The Purchasing Division is pleased to welcome our newest employees: Joe Jones, Frank Whittaker and Chad Williamson.



Jones serves the division under the Communications and Technical Services Section as our mail runner. A native

of Elkview, Jones worked in construction prior to coming to the Purchasing Division.

Whittaker joins the Acquisition and Contract Administration Section as a senior buyer. A resident of South Charleston, Whittaker most recently was a procurement officer with the Department of Revenue prior to joining the Purchasing Division.

Whittaker is the assigned buyer for the Department of Transportation, Department of Commerce, Elected Officials and Legislative Offices, and miscellaneous boards and commissions.



Williamson is a public information specialist in the Communications and Technical Services Section. He will be assisting with the commu-

nication efforts with the Purchasing Division. A Charleston resident, Williamson has a journalism degree from Eastern Kentucky University and is currently pursuing a Masters degree in media studies from West Virginia State University.



Prior to joining the Purchasing Division, Williamson worked as a copy editor, reporter and photographer at several state newspapers.

Contact information, including telephone numbers and email addresses, for all of our employees is available on the Purchasing Division's web site at <http://www.state.wv.us/admin/purchase>.

Welcome Joe, Frank and Chad to the Purchasing Division family!

Statewide Contract Spotlight

Continued from Page 3

as the company works with federal contracts as well as the **ITECH06** contract, which is the company's first statewide contract.

State agencies needing services from the **ITECH06** contract coordinate their needs through the Office of Technology. "We have been very pleased with Fenwick Technologies," said Helen Wilson of the Office of Technology. "Fenwick has a lot of people with a great deal of experience in information technology and the caliber of work they provide has been excellent."

For more information about Fenwick Technologies, Inc., contact:

Rich Edwards
500 Virginia Street East, Suite 530
Charleston, WV 25301

304-720-5151

www.fentech.com

These contracts are available on the Purchasing Division's web site at: www.state.wv.us/admin/purchase/swc. Click on the statewide contract **ITECH06**. Prior to using any statewide contract, agencies are encouraged to check the web site for contract provisions that may apply.

MoneyWise...

Tips for the Thrifty

Finance...Nixing Stocks

A professor of finance offers this advice...Unless you are wealthy and changes in the stock market will not affect your future standard of living, stay away from stocks. Zvi Bodie, professor of finance at Boston University, says risk-free investments are better.

He recommends U.S. Treasury inflation-protected securities (TIPS), which can protect your money from inflation for 20 years. Series I bonds protect from inflation for 30 years and can be put in taxable accounts because taxes are deferred until the bonds are cashed in. With TIPS in your retirement account, you steer clear of paying taxes on accrued interest.

Questions?...Just Ask Us!

Are you unsure of certain purchasing procedures? Do you need information on the current state travel regulations? Do you have a question regarding travel requests? Would you want to know what surplus property is available?

If you need additional information concerning any function within the Purchasing Division, complete the form below and return to the address below. You also may forward your request via e-mail.

Diane Holley, Assistant Director
Communication and Technical Services Section
West Virginia Purchasing Division
State Capitol Complex
2019 Washington Street, East
P.O. Box 50130
Charleston, WV 25305-0130
E-Mail Address: Diane.M.Holley@wv.gov



Name _____

Organization _____

Address _____

Telephone Number _____

E-Mail Address _____

Need Information about _____

In This Issue... Did You Read About?

- How can you avoid a protest hearing? Follow the **West Virginia Code, Code of State Rules** and state purchasing procedures... **See Page 1.**
- Purchasing training initiatives gain momentum in 2008... **See Page 2.**
- Statewide Contract Spotlight:** Fenwick Technologies, a West Virginia-based technical personnel company... **See Page 3.**
- The Purchasing Division inspectors view visits as educational in nature... **See Page 4.**
- Current Statewide Contract Update... **See Page 6.**

STATE OF WEST VIRGINIA
Purchasing Division
State Capitol Complex
2019 Washington Street, East
P.O. Box 50130
Charleston, WV 25305-0130

Telephone: (304) 558-2306

Fax: (304) 558-4115

Joe Manchin III
Governor

Robert W. Ferguson, Jr.
Cabinet Secretary
Department of Administration

David Tincher
Director, Purchasing Division

Diane Holley
Editor

Tony O'Leary
Chad Williamson
Reporters

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