

# 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

## 2016 Annual Agency Purchasing Conference Exceeds Expectations

The West Virginia Purchasing Division hosted its annual statewide Agency Purchasing Conference at Canaan Valley Resort on August 23-26, 2016. More than 225 state agency purchasers representing approximately 44 state agencies, boards and commissions attended the conference, which offered 55 workshop sessions on 25 different procurement-related topics, ample networking opportunities, and pertinent resources for attendees to reference upon returning to their offices. Nearly 30% of attendees were first-time participants.

The agenda offered two educational tracks (i.e. beginners and advanced), as well as several new workshop topics, including construction purchases, technical purchases, purchasing ethics, and a certification study group. "I'm always excited to meet and discuss related issues and topics with our state agency purchasers," said Purchasing Director Dave Tincher. "Doing so gives me an idea of what we're doing right and where we can stand to improve our processes."

Following the conference in late August, the Purchasing Division e-mailed all attendees a link to an evaluation on *SurveyMonkey*.



**The 2016 Agency Purchasing Conference brought together more than 225 state agency purchasers to provide training on the laws and rules that govern the state purchasing process.**

Conference attendees are encouraged to take a few minutes to complete the evaluation if they have not already done so. Be sure to check back in next month's issue of *The Buyers Network* for a complete breakdown of the conference statistics based on those evaluations and pictures from the conference training sessions and events.

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- 2016 Agency Procurement Officer of the Year Announced
- Agencies Need to Plan Accordingly In Anticipation of Moving into the Renovated Building 3

## Purchasing Receives NPI Award for Fourth Consecutive Year

The Purchasing Division is proud to share that it has been awarded the 2016 Annual Achievement of Excellence in Procurement (AEP) Award. Managed by the National Procurement Institute (NPI), this is the fourth consecutive year in which the Purchasing Division has achieved this competitive standard of excellence in procurement.

The Purchasing Division is the only agency in West Virginia and one of only 13 state agencies in the United States and Canada to receive the 2016 award. Public and

**For the fourth consecutive year, the National Procurement Institute awarded the Purchasing Division the Annual Achievement of Excellence in Procurement Award.**



Please see NPI AWARD, page 5

# West Virginia Procurement Certification Program Officially Recognized as Part of DOP's Pay Plan Policy

By Purchasing Director Dave Tincher

I am proud to announce that the West Virginia Division of Personnel (DOP) has officially recognized, as part of its Pay Plan Policy, the West Virginia Procurement: Basic and Advanced Certifications as formal certifications eligible for salary adjustments. Pending each agency's approval, this means that eligible state agency purchasers who successfully complete either level of our state procurement certification program may receive a pay increase for this accomplishment.

I have been closely working with the Division of Personnel since 2011 to provide the necessary documentation and assurance in order to recognize our program. Because this certification program was in its infancy stage at that time and we had just certified our first agency purchaser, we were still working to improve and clarify our program requirements, as with any new program. We are confident that since that time, we have molded our certification program into one that demonstrates an individual's experience, knowledge, and expertise in the public procurement function. Since its inception, we have certified 55 individuals at the basic level and 13 at the advanced level.

In late 2015, we re-submitted our request to DOP with all supporting documentation and data. Together, we worked with their staff to answer any outstanding questions. Earlier this year, we were pleased to receive notification from the Division of Personnel that they agreed that our certification program had the proper foundation to be recognized by their agency.

It is our understanding that the Division of Personnel will consider any requests for salary adjustments for any individual who has obtained his or her certification in the last year, but will not recognize those who were only being re-certified, which is required every three years to maintain that certification. The Purchasing Division recently reached out to all individuals who were certified more than a year ago but still hold the certification.

I would encourage each of you to review the state procurement certification program requirements, and if eligible, consider participating in this worthwhile program. While the salary adjustment is an added benefit of the program, obtaining the certification means much more than that.

The state purchasing process is a complex process, governed by complex laws and rules. Obtaining this certification demonstrates your commitment to maintaining the integrity of the state by ensuring our taxpayers dollars are spent efficiently and ethically, while maintaining transparency.

To view the requirements of the **West Virginia Procurement: Basic and Advanced Certification Programs**, visit [www.state.wv.us/admin/purchase/training/Certification](http://www.state.wv.us/admin/purchase/training/Certification). Additional questions may be directed to Communication and Professional Development Manager Samantha Knapp at [Samantha.S.Knapp@wv.gov](mailto:Samantha.S.Knapp@wv.gov) or 304.558.7022.



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## Common Contract Drafting Mistakes and Best Practices

*This is the second part of a three-part series on contract drafting, which will address some of the most common contract drafting mistakes. The third part to this series will highlight best practices to follow when drafting a contract. In the first part of this series on contract drafting, General Counsel Jimmy Meadows outlined contract formation and key components when drafting a contract. Please refer to the August 2016 issue of The Buyers Network for the first part of this series.*

All agency procurement officers should strive to draft a contract that is clear, accurate and meets the letter of the law, but often, we find there are some common mistakes from which we can all learn. According to Purchasing Division General Counsel Jimmy Meadows, the most common contract drafting mistakes to avoid include: statements that provide no clear meaning, contradictions within the contract, ambiguity in meaning, and inconsistency leading to confusion and illegibility. Examples are

the easiest way to illustrate these issues.

The following is an example of language that has no clear meaning:

*"Any late changes from the indicated delivery schedule without prior approval by the Agency may be cause for cancellation."*

In this sentence, "late changes" is not clear. The intended meaning was probably closer to a penalty for late delivery. The provision actually seems to imply, however, that a delivery that is changed from its original schedule without enough notice, regardless of whether or not it is late, is problematic. A better way to capture the intended meaning would be to state:

*"Any late delivery without prior approval from the Agency may be cause for cancellation of this contract."*

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Please see **CONTRACT DRAFTING**, page 5

# Division of Juvenile Services' Darlene Hovatter Named 2016 Agency Procurement Officer of the Year

The West Virginia Purchasing Division is pleased to recognize Darlene Hovatter, who serves as the primary designated procurement officer for the Division of Juvenile Services (DJS), as its **2016 Agency Procurement Officer of the Year**.

Employed by DJS since 1998, Hovatter started as an Accounting Technician II. She was later promoted to Accounting Technician III in 2001, Business Manager of the Donald R. Kuhn Center in 2002, and later to Procurement Manager in the Division's central office in 2012.

Purchasing Director Dave Tincher announced Hovatter as the recipient during an awards ceremony at the Agency Purchasing Conference and presented her with a framed picture of the state Capitol with the notation of this prestigious award. In addition, she received a certificate of recognition signed by Gov. Earl Ray



Purchasing Director Dave Tincher (left), Darlene Hovatter (center) and Deputy Director of Juvenile Services Denny Dodson (right) pose for a picture at the West Virginia Agency Purchasing Conference. During the conference, Hovatter was recognized at the **2016 Agency Procurement Officer of the Year**.

Tomblin, Department of Administration Acting Cabinet Secretary Mary Jane Pickens, and Tincher.

"Darlene not only emphasizes an adherence to proper purchasing procedures but also successfully balances the agency's needs with *West Virginia Code*, the *Code of State Rules*, and Purchasing Division

requirements," stated one peer who nominated her. "Darlene also stresses the value of team collaboration in order to produce the best product possible."

Hovatter has obtained both the West Virginia Procurement: Basic and Advanced Certifications and is an active member of the West Virginia Chapter of the National Institute of Governmental Purchasing. She has worked tirelessly to ensure that DJS employees understand the importance of the procurement process, specifically by hosting an annual statewide financial training. "Darlene always seems to be in a 'train' or 'learning' mode," stated another peer.

"It has been a pleasure working with agency staff to help them learn and understand the proper purchasing procedures," shared Hovatter. "I work with a wonderful group of people who want to do things the right way and appreciate the help and guidance to do things correctly."

In its 21st year, the *Agency Procurement Officer of the Year* award program was created by the Purchasing Division to recognize and honor individuals who have demonstrated high levels of performance and professionalism. Nomination criteria includes tenure, performance, communication, internal training, professional development, cost-saving ideas, cooperation with Purchasing Division and other state agency personnel, creating a positive image for the organization, establishing and following good purchasing practices, and participating in professional purchasing organizations.

For a list of past winners, visit <http://intranet.state.wv.us/admin/purchase/Recognition/POYAward.html>.

## wvOASIS Procurement Tip: How to Renew an Agency Master Agreement with a "Not to Exceed" Amount

A popular feature of the Agency Master Agreement (AMA) is a field called the Not to Exceed Amount. The field appears on the Thresholds tab of the AMA header and is useful because it allows agency purchasers to set the maximum dollar amount of all orders referencing the master agreement. When used properly, the Not to Exceed Amount can help an agency procure items without exceeding delegated purchasing authority.

When the AMA is renewed, be sure to properly update the Not to Exceed Amount field to avoid any errors. As a general rule, if you increase the Expiration Date by renewing the agreement, then you also need to increase the Not to Exceed Amount. To determine how much to increase the Not to Exceed field, use the following formula when processing the renewal:

Total Ordered Amount + Annual Dollar Limit = new Not to Exceed Amount

Refer to the right as an example. During the first year, the Total Ordered Amount was \$16,774.86 and the applica-

ble annual dollar limit is \$25,000.00. So, the new Not to Exceed Amount for the renewal should be \$41,774.86.

General Information	Contract Details	Modification
Extended Description	Default Shipping/Billing	Report
Tracking Number:		
Document Name: OPEN END CONTRACT FOR MEAT PROCESSING SERVICES		
Record Date:	02/19/2015	
Budget FY:	2015	
Fiscal Year:	2015	
Period:	8	
Document Description: OPEN END CONTRACT FOR MEAT PROCESSING SERVICES		
Calculated Document Total: \$0.00		
Total Ordered Amount: \$16,774.86		
Total Expended Amount: \$7,536.25		
Available Amount: \$8,225.14		
Replaces Award Doc Code:		

# Purchasing Recognizes its Latest Basic Certification Recipients

The Purchasing Division is pleased to announce Laura Hooper, Melanie Lopez and Larry McDonnell as the latest recipients in its West Virginia Procurement: Basic Certification program. All three recipients are employed by the Office of Technology.

Hooper, an Information Systems Consultant III, has six years of experience in procurement from her time in the private and public sectors. She has been employed with the State of West Virginia since 2013.

“It feels good to have taken the first step in public procurement recognition by obtaining the Purchasing Division’s basic certification,” shared Hooper.

Lopez also began working for the State in 2013 and transferred to procurement in 2014. She is currently a Procurement Manager.

“It is an honor to be recognized by the Purchasing Division through their certifi-

cation program,” stated Lopez. “I would encourage others to actively seek these credentials for their individual professional growth in procurement.”

McDonnell, an Information System Consultant II, began working in procurement in 2010 at the Kanawha County Commission. He joined the OT staff in 2014 as an Information System Consultant I and worked his way up to his current position.

“Getting this certification is the first step for me in having a career in procurement,” said McDonnell. “It is no longer a job—it is a field in which I can contribute.”

State agency procurement officers interested in participating in the basic and/or advanced certification programs may review the requirements at [www.state.wv.us/admin/purchase/training/Certification](http://www.state.wv.us/admin/purchase/training/Certification). Additional questions regarding the certification program may be



**Office of Technology employees Melanie Lopez, Larry McDonnell and Laura Hooper (l-r) recently earned their Basic Certifications through the West Virginia Procurement program.**

directed to Communication and Professional Development Manager Samantha Knapp at [Samantha.S.Knapp@wv.gov](mailto:Samantha.S.Knapp@wv.gov) or 304.558.7022.

The Purchasing Division would like to congratulate Hooper, Lopez and McDonnell on this noteworthy accomplishment!

## Purchasing Division Welcomes Two New Employees to its Staff

Pam Duncan serves as an Office Assistant I, while Courtney Sisk Johnson serves as a Public Information Specialist II, both within the Communication and Technical Services section.

Pam grew up in Pineville and now lives in St. Albans with her husband David and two sons – 12-year-old Nolan and 9-year-old Gavin. She previously worked as a dental hygienist and as a substitute teacher in Kanawha County schools and made the move to Purchasing to have full-time employ-



**Pam Duncan**  
Office Assistant I

ment. Pam has a degree in dental hygiene and a certificate in office technology, both from WVU Tech. She likes to read, go to ball games and participate in

Scout activities with her boys.

Originally a native of Beckley, Courtney is a graduate from Marshall University with a degree in broadcast journalism. She comes to Purchasing after almost six years in the Marketing and Communications Division of the Department of Commerce. Prior to that position, she was a news producer at WSAZ for 16 years. Courtney lives in Nitro with her husband, Aaron, and son, Andrew, who is a junior in high school. She enjoys boating, skiing, reading, movies, shopping, and especially cheering for the Herd.

Welcome Pam and Courtney!



**Courtney Sisk Johnson**  
Public Information  
Specialist II

## Agencies Should Plan Accordingly when Anticipating a Move

With Building 3 anticipated to be completed later this year and the recent completion of the Greenbrooke Building, the Purchasing Division would like to remind state agencies planning a move to plan early about the logistics. With no statewide contract for moving services, any agency interested in hiring a moving vendor needs to allow time to write the specifications, allow vendors to bid and complete the award process for the contract.

While an agency may require some new contracts as a result of the move, some existing contracts may also need to be adjusted—this includes, but is not limited to, contracts dealing with janitorial services and copiers. For example, shipping and billing information for a copier contract may need changed in order to reflect the move to a new location. It is the individual agency’s responsibility to review such contracts and plan accordingly.

In the event that your agency is anticipating a move, please allow ample time for all contracts to be processed and completed. You may direct any questions regarding contracts to your designated Purchasing Division buyer.

Buyers Network

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## NPI AWARD

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nonprofit organizations are evaluated on criteria such as innovation, professionalism, e-procurement, productivity and leadership attributes of the procurement function.

“The West Virginia Purchasing Division works hard to cultivate a state purchasing process that ensures competency, productivity, transparency and good customer service,” said Purchasing Director Dave Tincher. “Obtaining this award for

four consecutive years demonstrates not only our commitment to improving our processes but also to continually seeking ways to improve our procedures and develop best practices that guarantee that our state dollars will be used in a manner satisfactory to all.”

Founded in 1986, NPI promotes the achievement of excellence in governmental and institutional procurement and establishes cooperative relationships among

its members. Through education, certifications, and its member networks, NPI facilitates professional development of its members.

The Purchasing Division will be recognized in October at the NPI’s 48th Annual National Conference and Products Exposition and the 21st Annual Presentation of the Achievement of Excellence in Procurement Awards in Colorado Springs, Colorado.

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## CONTRACT DRAFTING

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The key is to write in a clear manner exactly what you mean, Meadows explained.

Another common mistake is contradiction within a contract. An example of this error is to note in the specifications that the “Buyer pays freight” on one page but then state that all shipments are to be “FOB Destination” on another. As all agency procurement officers should know, “FOB Destination” requires that the vendor pay for freight charges and is a direct contradiction of “Buyer pays freight.” These types of contradictory statements can cause confusion among those vendors bidding on the solicitation and ultimately a failure of the solicitation since pricing cannot be compared on an apples-to-apples basis.

The mistake of ambiguity is drafting in such a way that two or more meanings are possible for a single statement or word. The easiest way to illustrate this is with delivery time and location. If an Agency requires delivery prior to 5:00, there are numerous meanings possible. Each day has two periods of time designated as 5:00 and each time zone involved represents another potential meaning. Delivery location also provides an easy example. If the agency specifies “delivery to the agency warehouse” but has 10 warehouses in various locations, the term is ambiguous. In the event of a dispute over an ambiguous provision, the court will always rule in favor of the party that did not draft the contract. In other words, the State will lose any case in which ambiguity is the issue.

Of the issues previously mentioned, in-

consistency and unreadable language are the final common mistakes that should be avoided. To maintain consistency, use the same descriptive terms that have the same meaning throughout the specifications. For example, if you use “Agency” to mean your government entity, do not use “State” or “Government Entity” later in the document to reference your agency. To do so would illustrate inconsistency within your solicitation, causing confusion to the vendor community.

To make your specifications readable, use correct spelling, proper grammar and do not use legalese. The following statements containing grammatical errors or legalese can cause confusion and make a solicitation difficult to understand.

Grammatical errors:

“Widgets must sizes ten inches to 15” in diameter. Vendors failure will cause agency to return widgets with in three (5) business days.”

Legalese:

“As heretofore stated and notwithstanding anything else to the contrary, the precedent condition relating to grouping and removal of organic waste from the premises shall be fulfilled prior to contract holder’s endeavor to recover compensation for completion of the designated achievable outcomes.”

According to Meadows, the second sentence containing legalese actually means:

“Vendor shall ensure that all grass clippings have been bagged and re-

moved from the lawn prior to seeking payment for cutting the grass.”

These common issues often cause confusion and may affect a vendor’s response, whether they increase their bid amount(s) to account for the unknown or whether they don’t bid at all. Agency procurement officers should be cognizant of these common errors when drafting their specifications and finalizing their solicitation. For a list of best practices which may be used when drafting a contract, check back in next month’s issue of *The Buyers Network*.

### THE BUYERS NETWORK

Purchasing Division  
State Capitol Complex  
2019 Washington Street, East  
Charleston, WV 25305-0130  
Telephone: 304.558.2306

**Earl Ray Tomblin**  
Governor

**Mary Jane Pickens**  
Acting Cabinet Secretary  
Department of Administration

**David Tincher**  
Director, Purchasing Division

Editors  
**Diane Holley-Brown**  
**Samantha Knapp**

Contributing Reporters  
**Jessica Chambers**  
**Courtney Sisk Johnson**

# Current Statewide Contract Update

(As of August 16, 2016)

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](http://www.state.wv.us/admin/purchase/swc). For more information, please contact the buyer assigned to the specific statewide contract.

## New Contracts

<u>Contract</u>	<u>Vendor</u>	<u>Commodity</u>	<u>Effective Date</u>
EPORTAL16	WV Interactive LLC	e-Government Portal	07/01/16 - 06/30/21

## Contract Extensions

<u>Contract</u>	<u>Vendor</u>	<u>Commodity</u>	<u>Effective Date</u>
BPH14023	Allstate Tower, Inc.	Self-Supporting and Guyed Communication Towers	01/01/16 -12/31/16
DPS16*1	MorphoTrust USA	Applicant Fingerprint Services	08/01/16 - 07/31/17

## Miscellaneous Actions

<u>Contract</u>	<u>Vendor</u>	<u>Commodity</u>	<u>Description of Change</u>
DIGCOP12A	Komax LLC	Digital Copiers	To replace the Band 4 color due to product discontinuation

PBKCRIOB	Enterprise Rent A Car	Enterprise Car Rental	To publish updated NASPO Valuepoint Price Sheet and add the WV user number
PBKCR10A	Hertz Corporation	Automobile Rentals	To publish updated NASPO Valuepoint Price Sheet
MV16B	I-77 Auto Group	MotorVehicles	To update the vendor's company name from "I-77 Ford Mercury" to "I-77 Auto Group"

## FOR MORE INFORMATION

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

<b>BUYER</b>	<b>E-MAIL</b>	<b>PHONE</b>
<i>Supervisors</i>		
Tara Lyle	Tara.L.Lyle@wv.gov	558-2544
Guy Nisbet	Guy.L.Nisbet@wv.gov	558-2596
Frank Whittaker	Frank.M.Whittaker@wv.gov	558-2316
<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
Misty Delong	Misty.M.Delong@wv.gov	558-8802
Stephanie Gale	Stephanie.L.Gale@wv.gov	558-8801
Linda Harper	Linda.B.Harper@wv.gov	558-0468
Melissa Pettrey	Melissa.K.Pettrey@wv.gov	558-0094
Crystal Rink	Crystal.G.Rink@wv.gov	558-2402
<i>Buyers</i>		
Charles Barnette	Charles.D.Barnette@wv.gov	558-2566

## Childers Promoted Within Purchasing's Buying Team

The Purchasing Division would like to congratulate Michelle Childers on her recent transition into the role of Senior Buyer within its Acquisition and Contract Administration Section (ACA).

Childers, previously a buyer for ACA, assumed her new duties on July 25, 2016. As a Senior Buyer, Childers is the designated buyer for all agencies which fall under the Departments of Revenue, and Education and the Arts, as well as a variety of boards and commissions.

"I'm blessed to work with a good group of people. It is a very supportive work environment," shared Childers, who has been employed at the Purchasing Division for nine months. "I learn something new every day."

Congratulations and good luck to Michelle in her new role!



**Michelle Childers**  
Senior Buyer