

# THE BUYERS NETWORK

APRIL 2020

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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.

## Planning for Annual Agency Conference Underway

While the Purchasing Division's annual conference is still months away, staff members are already hard at work preparing for the Agency Purchasing Conference scheduled to take place at Glade Springs Resort in Daniels, WV, from August 25-28, 2020. This three-day training opportunity will provide attendees with a closer look at the state purchasing process while also allowing them to connect with their peers.

The Purchasing Division will again offer six concurrent classes. This year's conference will feature two new classes, Contract Release Orders and *WV*OASIS Tips and Tricks. Other classes returning from last year include Office of Technology Requirements, Managing Your Vendor, Fraud in Public Procurement, and Payment Process. The Boards and Commissions class will remain a two-hour session to allow for more discussion and time for questions, and staff members with the Board of Risk and Insurance Management will again present on insurance requirements after a conflict prohibited their participation last year.



*Photo courtesy of Glade Springs*

**The 2020 Agency Purchasing Conference is scheduled to be held August 25-28, 2020 at Glade Springs Resort in Daniels, WV. Any changes to this conference due to the COVID-19 pandemic will be shared as they occur, but at this time, planning will proceed as normal.**

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## Purchasing Division Shares Important Information Amid the COVID-19 Pandemic

During this time of heightened concern over COVID-19, the Purchasing Division is taking precautions to ensure the safety and well-being of its staff, our agency customers, and vendors doing business with the state of West Virginia. The Division had limited operations during the last two weeks of March, with some staff members working entirely from home and others alternating days in the office and at home.

To share pertinent information related to changes in its operations and other guidance, the Purchasing Division created a page on its website. Among the information posted is the Purchasing Division's emergency purchasing procedures, the state employee travel ban issued by the Governor's Office, a temporary pre-bid meeting policy issued by the Purchasing Division, and log in information for the Purchasing Division's scheduled public bid openings, which have been moved online. Agencies are encouraged to review this information and follow proper

Please see **COVID-19**, page 4

## Agencies Made Aware of New Legislation, Upcoming Event and Future Amazon Business Prime Service

Each year, the Legislative Session takes a front seat to the many daily operations of state government. For the Purchasing Division, that means responding to legislative inquiries, drafting fiscal notes, and attending committee meetings. While there were very few bills introduced this session that would significantly impact the purchasing process, there are a couple that completed legislation that your agency should be aware of.

The first allows for open-ended construction contracts during states of emergency. For more information on this bill, see the article on page 3. The second bill that was passed and signed by Gov. Jim Justice will require agencies that are exempt in part or in full from the Purchasing Division's authority to promulgate their own purchasing rules, which will be linked from the Purchasing Division's website. More on this new law can be found in the article below.

Switching focus from the Legislative Session, the Purchasing Division is excited to announce its upcoming webinar for state-employed attorneys. The webinar, titled Legal Seminar for State Procurement Practices, is scheduled for April 30, 2020, and will offer attorneys free Continuing Legal Education credits. Among the topics to be presented include the legislative process, privacy, Freedom of Information Act requests, CTO review, and trends in public procurement. Guest speakers will include House Clerk Steve Harrison, Purchasing Division General Counsel James Meadows, Department of Administration General Counsel Bob Paulson, and more. If

you are a state-employed attorney or know of any within your agency who would be interested in participating in this webinar, please contact us at ***Purchasing.Training@wv.gov***.

Over the last couple of months, the Purchasing Division has been working with Amazon to facilitate a direct award purchase for the provision of Amazon Business Prime on behalf of all state agencies.

While this service will not replace the competitive bidding process, it will provide several benefits to the state, including but not limited to free two-day shipping on eligible items, additional reporting of commodity purchases made from Amazon, and guaranteeing Amazon as a registered vendor within *wvOASIS*.

Before agencies may begin utilizing this service, user accounts will need to be created. The Purchasing Division has provided Amazon with a list of designated procurement officers, who will serve as the administrator(s) for each agency. These individuals can create additional administrative and user accounts within their respective agencies.

Please be patient as we work through this process. We will share additional information with state agency purchasers once agencies are permitted to begin using this service.



## Purchasing Division Provides Guidance to Exempt Agencies on Developing Rules

The recent 2020 Legislative Session saw the passing of House Bill 4042, which requires all agencies exempt in part or in full from the Purchasing Division's authority to adopt their own procurement rules. The law, which goes into effect on May 7, 2020, requires those agencies to adopt and file their rules with the Secretary of State's Office by September 1, 2020. Any agency that fails to do so will be required to follow the Purchasing Division's rules until such time that their rules are filed.

To assist agencies in developing their procurement rules, the Purchasing Division distributed a memorandum in late March that provided guidance on what factors should be considered when developing the rules.

Those factors include the following:

- **Processing Issues** (e.g. the threshold above which written bids/contracts are required, dealing with late bids, the receiving and opening of bids, etc.)

- **Procurement Methods** (e.g. the process for award, dealing with emergency situations, etc.)
- **Evaluation** (e.g. how to handle bid rejections and conflicts of interest, why an award might not go to the lowest bid, etc.)
- **Public Records** (e.g. requiring the bids/contracts be available to the public after opening/award, etc.)
- **Protest/Challenge** (e.g. review policies, detail the time vendors have to protest, etc.)
- **Enforcement/Penalties** (e.g. the process for auditing compliance and enforcement of penalties for violation, etc.)

A detailed copy of this memo can be found at [www.state.wv.us/admin/purchase/PurchasingExemptions/ExemptRules202003.pdf](http://www.state.wv.us/admin/purchase/PurchasingExemptions/ExemptRules202003.pdf). To view the Purchasing Division's rules as an example, visit [www.state.wv.us/admin/purchase/rules.html](http://www.state.wv.us/admin/purchase/rules.html).

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# New Legislation Affects Government Construction Contracts Resulting from a State of Emergency

Devastating flooding ravaged parts of West Virginia in 2016. During the 2020 Legislative Session, following years of rebuilding, lawmakers passed and the Governor signed into law House Bill 4130 to help speed up the recovery process after natural disasters.

The bill amends state code and adds a new article, designated as §5-22-1a, which allows construction contracts related to a declared state of emergency to be procured through competitive bidding on an open-ended basis with regard to quantity or by unit pricing based on estimated quantities; allows the establishment of multiple award construction contracts; eliminates the need for emergency construction contracts to specify the exact location of construction involved in the solicitation for bids; makes discretionary the requirement for the entity to whom the contract is awarded to furnish payment or performance bonds; and makes the award of such contracts subject to other competitive bidding requirements of this code.

The goal of the legislation is to streamline the contract award process and allow home construction to be more quickly assigned to a vendor once an eligible recipient has

been vetted and cleared for participation in the program. Additionally, the law was drafted broadly enough to allow for this open-ended construction approach to apply in other emergency circumstances.

“The Purchasing Division worked very closely with the Governor’s Office, the Department of Commerce, the National Guard, and the Legislature to make this legislation a reality,” said Purchasing Division General Counsel Jimmy Meadows. “We spent a lot of time and effort in making sure that this bill addressed not only the housing issue, but the potentially larger future emergency needs outside of housing.”



## Tell Me More: How to Handle Terms and Conditions

In our daily lives, we often click “accept” on terms and conditions for new software, an app or service without ever reading the fine print. However, for the state of West Virginia, blindly accepting a vendor’s proposed alternate terms and conditions is not an option. Procurement officers play an important role in reviewing terms and conditions, identifying potential problematic terms, and ensuring the state does not agree to anything contrary to the solicitation, state regulations, or laws.

When processing a procurement, the general rule is to never accept terms and conditions offered by a vendor unless you have carefully read and agree with them. Purchasing Division General Counsel Jimmy Meadows said, “First and foremost, the agency must review all of the terms and conditions to ensure that from an operations perspective, the terms and conditions are acceptable. This includes determining that nothing contained in the terms and conditions violates a mandatory requirement of the solicitation. The Buyers Network

agency, as the specification drafter, is more suited to this type of review than anyone else in state government.”

Additional considerations in the review of terms and conditions are privacy and security issues, as well as all of the items listed on the *State of West Virginia Addendum to Vendor’s Standard Contractual Forms (WV-96)*. The WV-96 is a form that was developed jointly by the Purchasing Division and the Attorney General’s Office to help eliminate most issues related to terms and conditions. Meadows said if the agency finds a privacy/security concern, the agency should immediately notify their agency’s privacy officer and the Purchasing Division.

Conversely, if the agency during an agency-delegated procurement finds a term that is counter to the items listed on the WV-96, the agency should ask the vendor to sign the WV-96. In most cases, doing so will resolve the issue. If the vendor refuses, or asks for changes to that form, agencies should involve the Purchasing Division.

“The WV-96 is a great tool to use when dealing with terms and conditions issues, but it is really important to recognize its limitations,” said Meadows. “Remember that it only comes into play when the vendor has presented alternate terms and conditions. It is not something that should be included with a solicitation during the initial publication. Additionally, the WV-96 is not a cure-all. It does not address privacy concerns like protected health information, nor does it address any mandatory specification requirement that the vendor has attempted to modify.

“In the thousands of negotiations we’ve conducted through the Purchasing Division, only two vendors have walked away,” continued Meadows. “We are here to help.”

For a copy of the WV-96, see the forms section at [WVPurchasing.gov](http://WVPurchasing.gov). The *Purchasing Master Terms & Conditions*, located at [www.state.wv.us/admin/purchase/TCP.pdf](http://www.state.wv.us/admin/purchase/TCP.pdf), begin on page seven of that document.

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## CONFERENCE

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“Holding our conference in a place that is conducive for the learning experience of our attendees is of the utmost importance to us,” said Acting Assistant Purchasing Director Samantha Knapp. “We considered all feedback offered as part of last year’s conference evaluation and are pleased that this year’s location is not only closer to Charleston, but the meeting and lodging facilities are top notch, all at the best price possible.”

Due to limited space, both regarding the number of lodging units available for reservation and the capacity within the meeting rooms themselves, Purchasing Division staff will closely monitor incoming registrations during the early registration period for designated procurement officers, which runs from June 15-July 10, 2020. Registration will open for all others on July 13, 2020.

“Lodging will be a bit tricky this year,” continued Knapp. “While there are many rooms that can be reserved individually, others must be reserved in groups of two and three. If your agency would be interested in reserving rooms that share a common space, please let us know. However, understand that there will be no guarantee of lodging until we are able to identify those qualified individuals who register during the early registration period and ensure space is adequately available for additional attendees.”

This year’s early registration period will also be open to individuals who currently hold the basic and/or advanced certification, even if those individuals do not serve in a designated capacity. Please note that any procurement officer whose basic and/or advanced certification is expected to expire within the next year is required to attend this year’s conference if that individual did not attend one of the last two Agency Purchasing Conferences. For information regarding this requirement, please visit [www.state.wv.us/admin/purchase/training/certification](http://www.state.wv.us/admin/purchase/training/certification).

For more information regarding this year’s conference, visit [www.state.wv.us/admin/purchase/Conference/Agency/2020](http://www.state.wv.us/admin/purchase/Conference/Agency/2020).



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## COVID-19

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protocols, as outlined. The page will continue to be updated as the need arises and can be accessed here [www.state.wv.us/admin/purchase/covid.html](http://www.state.wv.us/admin/purchase/covid.html).

Until further notice, agencies are required to follow this revised policy on pre-bid meetings:

1. Prebid meetings must be removed from solicitations as a requirement, wherever possible, and replaced with publication of written materials conveying the needed information.
2. In instances where site inspections are necessary for bidders to have a full understanding of the project, the Purchasing Division recommends that pre-bid meetings (and the underlying solicitation) be delayed until this period of heightened concern has ended. If delaying the solicitation is not possible or would cause an undue hardship on the spending unit, the pre-bid meeting should be conducted in a manner that minimizes the risk of COVID-19 transmission to the greatest extent possible. For more information, please consult the CDC website at [www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html](http://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html).
3. Under no circumstances is a spending unit to conduct a pre-bid meeting that violates a policy or declaration of the Governor’s Office.

For existing central solicitations, the spending unit should work with its designated Purchasing Division buyer to issue addenda to modify pre-bid meeting requirements where necessary. On agency delegated solicitations, the spending unit should make the necessary adjustments under their delegated authority.

All public bid openings since March 16, 2020, have been conducted by WebEx Meeting and will continue until further notice.

ducted by WebEx Meeting and will continue until further notice.

Also during this time, the Purchasing Director issued a blanket waiver from the HOUSE18 statewide contract to ensure agencies could continue to obtain needed cleaning supplies in a timely fashion as long as the following criteria are met:

1. The agency has first checked the HOUSE18 statewide contract for available inventory of the item(s) needed; and
2. The agency has properly documented in its contract file that sufficient inventory was not available from the HOUSE18 statewide contract.

Agencies must keep in mind that they should purchase at normal quantity levels and that the public purchasing procedures for declared emergency situations still apply.

Agencies should also be aware that products may be available from vendors holding both the OFFICE and FASTENAL statewide contracts. Both of those entities have indicated that they are stocking items that would otherwise be obtained from the HOUSE18 contract. Purchases from the OFFICE and FASTENAL contracts for out of stock HOUSE18 items will not be considered contract purchases for spend aggregation purposes. Therefore, emergency approval/competitive bidding may still be required, depending on total spend.

Additionally, all official state business travel outside of West Virginia is suspended for state employees until further notice. All large meetings (including Purchasing Division training sessions) have been rescheduled or will be conducted by webinar.

Please continue to monitor this page for new announcements and further Purchasing Division guidance during this time.


# WVSASP Set to Host Free Webinar on Services to Eligible Organizations including State Agencies in May

From the Division of Natural Resources' recent boat acquisition (see the March 2020 issue of *The Buyers Network*) to the Division of Forestry's semi-truck, the West Virginia State Agency for Surplus Property (WVSASP) can help state agencies obtain a wide variety of assets at a considerable savings. To educate state agencies on its offerings and the services available to them, WVSASP will be hosting a free webinar on May 7, 2020, from 10 a.m. to 11 a.m.

"While WVSASP is responsible for the ethical retirement of state property, we also help eligible organizations obtain needed items," explained WVSASP Manager Elizabeth Cooper. "Many assets can be obtained at a reduced price or for a nominal fee."

In addition to items retired by the state of West Virginia, WVSASP is also authorized to administer the transfer of donated federal surplus property through the U.S. General Services Administration. Available federal property includes medical equipment, industrial machinery, office equipment, trailers, and more.

During the webinar, WVSASP staff members



West Virginia State Agency  
for Surplus Property  
[WVSurplus.gov](http://WVSurplus.gov)

## WV SURPLUS WEBINAR FOR ELIGIBLE ORGANIZATIONS

MAY 7, 2020 10 A.M. TO 11 A.M.  
[WVSURPLUS.GOV](http://WVSURPLUS.GOV)

will present information on how to register with WVSASP, the benefits of being registered, how to view federal property, and share success stories. In addition to state agencies, local municipalities and nonprofit organizations (501(C)3) are also invited to attend.

If you or an organization you know is interested in attending, please register at <http://wvsurplus.eventbrite.com>. Additional information, including the *Application for Eligibility*, can be found at [WVSurplus.gov](http://WVSurplus.gov). Questions regarding this event should be sent to [Jessica.L.Chambers@wv.gov](mailto:Jessica.L.Chambers@wv.gov).

## Purchasing Division Recognizes Latest Basic Certification Recipient

The Purchasing Division is pleased to announce Larry Workman as the latest recipient in its West Virginia Procurement: Basic Certification program.

Workman, a Procurement Specialist Senior for the Department of Environmental Protection, has worked for the state for nearly four years.

"This whole process has been a wonderful experience," he said. "Spending two days at the Purchasing Division really gave me a better understanding of the entire purchasing process. I'm very thankful for the opportunity to obtain the basic certification."

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). Questions regarding the certification program may be directed to Courtney Johnson at [Courtney.S.Johnson@wv.gov](mailto:Courtney.S.Johnson@wv.gov) or 304.558.4213.

Individuals who earn their basic or advanced certification will receive free registration for that year's agency purchasing conference. Details regarding the 2020 Agency Purchasing Conference can be found on page 1 on this newsletter or at [www.state.wv.us/admin/purchase/Conference/Agency/2020](http://www.state.wv.us/admin/purchase/Conference/Agency/2020).

The Purchasing Division would like to congratulate Workman on this noteworthy accomplishment!

## THE BUYERS NETWORK

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Charleston, WV 25305-0130

Telephone: 304.558.2306  
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# Current Statewide Contract Update

(As of March 16, 2020)

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 statewide contracts.

## New Contracts

<b>Contract</b>	<b>Vendor</b>	<b>Commodity</b>	<b>Effective Date</b>
FIRETRK20C	Kovatch Mobile Equipment Corp	Firefighting equipment	02/15/20 -08/31/21

## Contract Renewals

<b>Contract</b>	<b>Vendor</b>	<b>Commodity</b>	<b>Effective Date</b>
CENTREX19	Frontier	Telecomm	03/01/20 -02/28/21
FUELTT17A	Harris Oil Co Inc	Fuel	04/01/20 -03/31/21
FUELTT17B	Woodford Oil Co	Fuel	04/01/20 -03/31/21
FUELTT17C	R T Rogers Oil	Fuel	04/01/20 -03/31/21
MSMENTPRZ	Microsoft	Software	02/24/20 -03/31/21
SECSVS19	G4s Secure Solutions USA Inc	Security guard	05/01/20 -04/30/21
SWC*58	All American Poly	Trash bags	05/20/20 -05/19/21

## Miscellaneous Actions

<b>Contract</b>	<b>Vendor</b>	<b>Commodity</b>	<b>Description of Change</b>
LDPHONE19	TouchTone	Long distance telephone services	To update name change
LDPHONE19A	TouchTone	Long distance telephone services	To update name change
MV20A	Stephens Auto	Motor Vehicles	To remove the Class 2 Ford Fusion Hybrid from the contract
NTIRE18	Goodyear	Tires	To publish an agreement to sell tires at contract price through ARI
SYSFURN19	Capitol Business Interiors	Workstations	To publish the corrected catalog

## 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
Linda Harper	Linda.B.Harper@wv.gov	558-0468
<i>Senior Buyers</i>		
Mark Atkins	Mark.A.Atkins@wv.gov	558-2307
Jessica Chambers	Jessica.S.Chambers@wv.gov	558-0246
Josh Hager	Joseph.E.Hageriii@wv.gov	558-8801
Crystal Hustead	Crystal.G.Hustead@wv.gov	558-2402
Brittany Ingraham	Brittany.E.Ingraham@wv.gov	558-2157
Melissa Pettrey	Melissa.K.Pettrey@wv.gov	558-0094
<i>Buyers</i>		
Dusty Smith	Dusty.J.Smith@wv.gov	558-2063
John Estep	John.W.Estep@wv.gov	558-2566

## WORKING REMOTELY?

Consider taking advantage of the Purchasing Division's online training modules! With three mini modules (0.25 hours) and 10 full modules (0.50 hours), this is a great way to review procurement procedures and for designated procurement officers to earn the 10 hours of training required by the Code of State Rules. To view these trainings, visit [WVPurchasing.gov](http://WVPurchasing.gov).