

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.

Technology, Entering into Other Contracts Easier with New Law Placing WV-96 Terms into Code

The Purchasing Division proposed, and the West Virginia Legislature passed, a bill this year that will make negotiating contracts, particularly those of a technological nature, less time consuming. The new law, W. Va. Code § 5A-3-62, went into effect immediately upon passage (April 2, 2021) and automatically voids various contract terms often found in vendors' boilerplate documents, even if a vendor's document has been signed by a state official. Fundamentally, the bill codified the terms contained in the *Agreement Addendum* (WV-96).

"The end result will hopefully be that we no longer have to negotiate the 18 terms contained in the statute. Time spent attempting to contact the vendor, passing documents and revisions back and forth, and sending legal proof of the State's inability to agree to the terms can be either dispensed with or greatly reduced," said Purchasing Division General Counsel Jimmy Meadows. "This should save significant time."

Meadows said the law would have an impact primarily in two scenarios. The first is small-dollar purchases from smaller tech companies that don't respond to negotiation efforts, likely



Photo courtesy of the Governor's Office

The 2021 Legislative session saw the introduction and passing of a new bill, which was presented from the Purchasing Division. This new law went into effect immediately and will automatically void various contract terms in a vendor's document.

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State Agency Purchasing Conference Goes Virtual

There is a new normal we have all had to adjust to in the wake of the COVID-19 pandemic. Many family gatherings and work meetings have gone virtual, and the annual Agency Purchasing Conference is no different.

Scheduled for Aug. 23-27, 2021, the conference will feature online workshops on privacy and cybersecurity, forms and documentation, statewide contracts, managing vendors, and more. The full schedule and additional information regarding registration can be found online at www.state.wv.us/admin/purchase/Conference/Agency/2021.

"Although we opted not to meet in person this year, that doesn't lessen the quality and importance of the annual conference," said Assistant Purchasing Director Samantha Knapp. "Conference is an opportunity for us to offer topics we don't

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2021 State Legislative Session Comes to an End, While Purchasing Division Looks Ahead

We have made it through another Legislative Session, and while it may have looked a little different this year with limited committee meetings and virtual streaming for those that were conducted, the model for the session remained as it has always been: introduce bills, discuss and vote on them within both houses of the Legislature, and send those that successfully pass to the governor for signature. And just as we do this time each year, I want to inform our agency procurement officers of a bill that successfully completed legislation that will help streamline future procurements.

This year, Senate Bill 587 was introduced (adding a new section to W. Va. Code, 5A-3-62), which would automatically void common contract terms that are contained in statute. This means that even if an agency signs a contract with these terms, the terms would be considered void. The passage of this bill will be particularly helpful for the state when negotiating contract terms with technology vendors, which typically result in a tedious back-and-forth between a vendor's legal counsel and the state, particularly when third-party terms come into play. We believe this successful piece of legislation will help streamline the contracting process and expedite negotiations. Agencies should be aware the new law does not address certain issues like privacy, security, or cloud services, and they should continue to handle those issues through the state's existing contract documents.

The Legislative Session is not the only thing that looked a little different this year. We have posted our training schedule for the second half of 2021. While these sessions will be offered as webinars, we sent a survey last month gauging the interest of individuals wishing to attend training sessions in person. With masks and social distancing, we are taking a hybrid approach to these webinars, allowing just a few to attend in person, while others will participate remotely. If you are interested in attending in person but did not respond to the survey that was emailed last month, please email us at Purchasing.Training@wv.gov.

Our staff is also hard at work planning a virtual conference

for late August. While the conference will entail a series of one-hour webinars utilizing WebEx, offering a total of 20 different topics, we are planning to incorporate some activities to make it a cohesive and interactive offering. Participation will be limited to 100 individuals per session, and a copy of the schedule will be shared in an upcoming issue of *The Buyers Network*. For additional information regarding this conference, see page 1.

On May 13, 2021, we will co-present the biannual high-level officials' Purchasing Procedures and P-Card Rules webinar, alongside the State Auditor's Office. While the session is currently full, it will be recorded and posted in CourseMill under **PUR400E** for later viewing. Any high-level official who has not yet participated in or viewed the **PUR400** training this fiscal year will have until June 30, 2021, to do so.

Lastly, I would like to mention that we'll be reaching out to agency procurement officers later this month with the *Fiscal Year 2022 Procurement Officer Designation Form*. The Code of State Rules requires each agency head to designate a person responsible for the procurement function within that agency. Therefore, we require one primary designee per spending unit, but agency heads may elect to designate as many backups as necessary. Agencies will be required to submit this form, even if the designated procurement officer will remain the same. Watch for an email in the coming weeks from Purchasing.Training@wv.gov, and please be sure to submit your form(s) by the assigned deadline.

As always, don't hesitate to reach out to us if we can be of assistance in any way.



New Webinar for Vendors Now Available Online

The Purchasing Division hosted its biannual vendor webinar, titled *Doing Business with West Virginia*, in March. Approximately 45 vendors participated.

The webinar provided information and training to current and potential vendors wishing to conduct business with the state of West Virginia. The webinar was recorded and will be used as an on-demand training for any vendor who wishes to learn more about the state purchasing process. A copy of this webinar recording is contained on our website's Vendor Resource Center (VRC) at www.state.wv.us/admin/purchase/vrc. Information regarding other vendor training opportunities can

also be found on the VRC.

The Purchasing Division implemented these webinars several years ago as part of an initiative to reach out to the vendor community to educate them on how to participate in the competitive bid process. During the webinar, vendors receive guidance on how to capitalize on the opportunities to bid and perform work for state government, how to register their company with the Purchasing Division, and how to submit bids for solicitations.

Questions regarding this training may be sent to Purchasing.Training@wv.gov.

What Do They Do? Inspectors Keep Agencies on Track

The Purchasing Division's Contract Management Unit serves an important role in state procurement. A team of five inspectors, along with Contracts Manager Greg Clay, is responsible for ensuring state agencies comply with all state laws, rules, and procedures for purchases.

"Our goal when we visit an agency for an inspection is to review purchasing documents that were issued the previous year by that agency to ensure those delegated purchases were completed accurately," Clay said.

The COVID-19 pandemic changed the Inspection Unit's practices last year. The inspectors have not made a site visit since March 2020. Instead, the work is done through electronic communication.

"A lot of our inspection work was done at the agency," said Inspector Shane Hall. "We would send the agency information telling them what we wanted to look at and they would get it ready, then we would go conduct the inspection. That way, if they had any questions, they could ask and we were right there."

Pandemic or not, an inspector is always working on inspections. At any given time, they are working with multiple agencies, each at a different stage of the inspection process.

Agencies are inspected every three years. The first step is to notify the agency that a purchasing inspector has been assigned to visit their agency for an inspection. About two weeks before the visit, inspectors provide the agency with a list of purchasing transactions



The Contract Management Unit is made up of Manager Greg Clay (top left) and inspectors Shane Hall (top middle), Mitzie Howard (top right), Melissa Skiles (lower left), Jason Thompson (lower middle), and Leslie Gwinn (lower right).

retrieved from wvOASIS for a specific time frame. The list will represent approximately 4% of the agency's transactions.

Clay said the inspectors provide additional assistance during their visits by offering one-on-one training to the agency to make sure the individuals processing purchasing transactions are knowledgeable of the state purchasing procedures in place.

During their visit, the inspectors look for documentation related to the use of internal resources, if applicable; use of statewide contracts, when applicable; proper

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WVSASP Webinar for Eligible Organizations Attracts Views from Around the State

The West Virginia State Agency for Surplus Property (WVSASP) hosted a webinar on Tuesday, April 13, 2021, that provided information on the state and federal surplus property programs to eligible organizations, including public agencies and nonprofit organizations. The webinar was attended by 38 number individuals from more than 35 organizations, including Four-H Clubs of Webster County, Berkeley Springs Volunteer Fire Company, and several Habitat for Humanity organizations.

"Each year WVSASP reaches new individuals and organizations that are unfamiliar with our services," shared WVSASP Manager Elizabeth Cooper. "West Virginia eligible organizations provide great services to our state, and we are pleased we can support them in their efforts."

A post-event survey revealed that 40% of the respondents were "Very Unfamiliar" or "Somewhat Unfamiliar" with WVSASP

prior to attending the webinar.

The post-event survey also revealed the following information:

- 69% of respondents were "Extremely Satisfied" with the webinar.
- 40% of respondents said they completed an *Application for Eligibility* form as a direct result of the webinar.
- 88% of respondents indicated they were "Highly Likely" or "Somewhat Likely" to recommend WVSASP to other organizations.

A copy of the webinar was made available to registered participants. State agencies are also invited to view this webinar at https://youtu.be/_IjwNtAzqPU. Questions regarding the state and federal surplus programs should be directed to WVSASP at 304.766.2626.

Purchasing Division to Take Hybrid Training Approach During Second Half of 2021

As we move into life after COVID-19, the Purchasing Division will be re-introducing training sessions in a manner that continues to follow health and safety guidelines. While all but one of the Purchasing Division training sessions during the remainder of 2021 will be presented via webinar, a hybrid model has been put into place to allow a limited number of attendees to participate in person.

Procurement officers were sent a survey in April asking which, if any, training sessions they would be interested in attending in person. Nearly half of respondents expressed interest in attending in person. The Purchasing Division will reach out to those who indicated interest in each session and will allow 10 people to attend in person. Participants will be selected at random. Masks and social distancing will be required, regardless of vaccination status.

A day-long, fully in-person training session will be offered on July 14, 2021 in the Capitol Room of Building 7. Attendance for this session will be limited.

Participation will still be available via webinar for all sessions (except July 14) to those who are not interested in attending in person.

Date	Webinar Title	Catalog ID	Time
July 14	Intro to WV Purchasing	PUR102	9 – 11 a.m.
July 28	EOIs and Construction Purchases	PUR302	9 – 11 a.m.
Sept. 29	Contracting and Fraud	PUR308	9 – 11 a.m.
Oct. 13	wvOASIS Tips and Tricks	PUR120	10 – 11 a.m.
Oct. 27	wvOASIS Procurement	PUR208	9 – 11 a.m.
Nov. 3	Vendor Registration	PUR111	9 – 11:30 a.m.
Nov. 17	Agency Delegated Purchasing	PUR218	10 – 11 a.m.
Dec. 1	Forms and Docs/Inspection Services	PUR309	9 – 11 a.m.
Dec. 15	Managing Your Vendor	PUR214	10 – 11 a.m.

Registration for each webinar will be limited to the first 100 individuals and given on a first-come, first-served basis. No training sessions will be offered during the month before and following the virtual conference, which is planned for Aug. 23-27, 2021. To view a copy of the 2021 Second Half Semester Training Program schedule or to register for these training sessions, visit www.onlinelearning.wv.gov and log in with your User ID (i.e. your A, B, or E number) and password. Once logged in, click on the Course Catalog tab and search for the courses that begin with the ID “PUR” or simply type the Catalog ID for the course you’re interested in into the Catalog ID field. If you have not logged into CourseMill previously, your password should be “password.” You will be prompted to change it once logging in. If you cannot remember your password, simply click on the “Forgot your User ID or Password?” button and you will receive an email to reset your password.

Regardless of participation preference (in-person or remote), participants will need to register via CourseMill. Email questions to Purchasing.Training@wv.gov.

Veterans Who Own Small Businesses Receive Insight on How to Acquire Federal Property with WVSASP

With the passing of the Veterans Small Business Enhancement Act of 2018, veteran-owned businesses now have access to retired federal property. The West Virginia State Agency for Surplus Property (WVSASP) presented information to West Virginia veterans on this program last month in an online webinar.

“Since this law was made official in 2019, WVSASP has received numerous phone calls and emails regarding this program,” shared WVSASP Manager Elizabeth Cooper. “I am very thankful for everyone’s patience while we waited for instructions from the Small Business Administration on how to manage the program. This webinar let us finally

share these procedures and the steps veterans need to take to utilize this opportunity.”

During the course of the presentation, WVSASP offered information on how individuals can confirm their registration with the U.S. Department of Veterans Affairs, how to screen for property, and what compliance requirements they will need to follow when property is obtained.

A copy of this webinar has been posted to YouTube at <https://youtu.be/t2unlx7S2oA>. For more information on this program and how West Virginia veterans can participate, visit WVSurplus.gov and select “Veterans” from the left side menu.

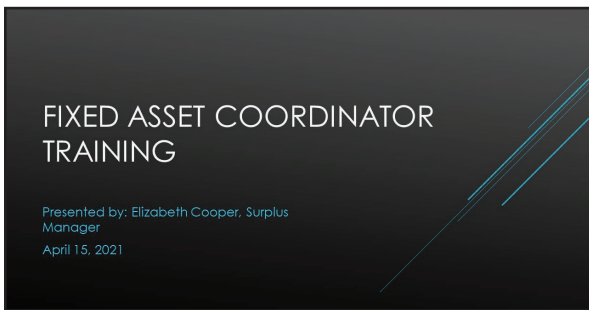
Fixed Asset Webinar Provides Guidance to Novice and Experienced Coordinators

Last month, the West Virginia State Agency for Surplus Property (WVSASP) hosted its annual Agency Asset Coordinators training. This training, which was presented as a webinar on April 15, 2021, was attended by 50 individuals from more than 40 agencies, including the Public Service Commission and WorkForce West Virginia.

“While this is not a required training, we are always pleased when our fixed asset coordinators express an interest in learning more,” shared WVSASP Manager Elizabeth Cooper. “This year we had a mix of new fixed asset coordinators and those who are more experienced.”

During the event, attendees learned the basic requirements of maintaining their agency’s inventory, including the agency’s responsibilities related to entry requirements for the *wvOASIS* Fixed Asset System and proper retirement procedures.

A copy of this training is available online at www.online-learning.wv.gov under the code **PUR305E**. For more information on the fixed assets program, please visit WVSurplus.gov and select “Inventory Management.”



CONFERENCE

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otherwise get to offer throughout the year, and it’s an opportunity for procurement officers to attain their required training hours.”

The Purchasing Division last had an online conference in 2014, when procurement officers were introduced to *wvOASIS*. The Purchasing Division went virtual with all of its training sessions in March 2020 because of the COVID-19 pandemic.

Conference registration opens July 12, 2021. Additional information will be shared as it becomes available.

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 only participated in one of the last two Agency Purchasing Conferences. For information regarding this re-certification requirement, please see the guidelines at www.state.wv.us/admin/purchase/training/Certification.

INSPECTIONS

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bid documentation; vendor registration; verification searches; purchase orders issued; asset tags on property; certification of non-conflict of interest; and possible stringing activity. Stringing is issuing a series of requisitions or dividing or planning procurements to circumvent the \$25,000 threshold or otherwise avoid the use of competitive bidding.

“We look at the inspection as a learning tool to eliminate findings in future inspections,” Clay said.

A grading system assigns agencies with an “A” to “F” based on the findings. The grading system was implemented in 2015 to assess the compliance of those individuals directly responsible for agency delegated transactions and to identify areas that are deficient.

Once the inspection of the documents is complete, a draft report is prepared and sent to the agency for its review and comments. The agency is given two weeks to agree or disagree with the findings.

“The agency comments are included in the final report, along with my response, with reference to the Handbook for required documentation,” Clay said.

Along with the final report, the agency is required to complete a Corrective Action Plan Request within 60 days of the final report date, which is monitored by the Contract Management Unit.

Once the final report is completed, the inspection report is posted to the Purchasing Division’s website at www.state.wv.us/admin/purchase/Inspection/inspectReports.html.

“The most rewarding part of the job is posting an inspection’s final report that shows improvement from the previous inspection,” Clay said. “It gives me pleasure when an agency asks questions in our procurement training or contacts us for guidance when in doubt. It shows that they want to do things correctly and are concerned about the state’s rules and regulations.”

THE BUYERS NETWORK

Purchasing Division
State Capitol Complex
2019 Washington St., East
Charleston, WV 25305-0130

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

Jim Justice
Governor

Mike Sheets
Director
Purchasing Division

Editors
Courtney Johnson
Samantha Knapp

Contributing Reporters
Jessica Chambers
Teresa Cutlip

Current Statewide Contract Update

(As of April 14, 2021)

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 statewide contracts.

New Contracts

Contract	Vendor	Commodity	Effective Date
FUELTT21	R T Rogers Oil Co	Fuels	04/01/21 -03/31/22
FUELWT21A	Harris Oil Co	Fuels	04/01/21 -03/31/22
FUELWT21B	R T Rogers Oil Co	Fuels	04/01/21 -03/31/22
FUELWT21C	Bruceston Petroleum	Fuels	04/01/21 -03/31/22
FUELWT21D	Tri State Petroleum	Fuels	04/01/21 -03/31/22
PAINT21	Sherwin Williams Co	Paints	04/01/21 -03/31/22

Contract Renewals

Contract	Vendor	Commodity	Effective Date
LAR20	Shi International	Software	04/07/21 -01/07/22
SWC*56	Liberty Distributors Inc	Floor Cleaners	05/01/21 -04/30/22

Miscellaneous Actions

Contract	Vendor	Commodity	Description of Change
ITCONSULT20	Gartner Inc	Tech Research	To incorporate updating the contract pricing pages
SWC*2	Verizon Business	Telecomm	To incorporate updating the contract pricing pages

TECHNOLOGY CONTRACTS

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don't have a legal department, and don't understand government restrictions on procurement terms. "These companies aren't familiar with working with government contracts and don't realize that their boilerplate language violates state law in a lot of cases," Meadows said. "They don't have experience with government so they don't realize that we are bound by the constitution, statutory laws, and regulations, prohibiting us from agreeing to the same terms that the private sector does - no state can."

The second scenario is the protracted negotiations with larger, more sophisticated companies. Meadows explained that these companies push their boilerplate terms and attempt to negotiate the state's terms as long as they can in an effort to enter into an agreement that ends up being only slightly more beneficial for them. "The hope is that this law will help to short circuit the delay and negotiation tactics often used by those larger firms," Meadows said.

While the law will certainly be beneficial, it is important to keep in mind that this law does not address specific issues like privacy, security, or cloud services. Terms related specifically to these issues will continue to be handled through the state's existing contract documents and the state officials responsible for them.

The terms and conditions were updated to reflect these changes, and updates to the Handbook are underway.

FOR MORE INFORMATION

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

BUYER	E-MAIL	PHONE
<u>Supervisors</u>		
Tara Lyle	Tara.L.Lyle@wv.gov	558-2544
Linda Harper	Linda.B.Harper@wv.gov	558-0468
<u>Senior Buyers</u>		
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
Melissa Pettrey	Melissa.K.Pettrey@wv.gov	558-0094
David Pauline	David.H.Pauline@wv.gov	558-0067
<u>Buyers</u>		
John Estep	John.W.Estep@wv.gov	558-2566
Dusty Smith	Dusty.J.Smith@wv.gov	558-2063
Toby Welch	Toby.L.Welch@wv.gov	558-8802