



STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION  
2019 WASHINGTON STREET, EAST  
CHARLESTON, WEST VIRGINIA 25305-0130

W. MICHAEL SHEETS  
DIRECTOR

November 30, 2018

Cameron McKinney, Acting Director  
Human Rights Commission  
1321 Plaza East, Room 108  
Charleston, West Virginia 25301

Dear Cameron McKinney:

This is to transmit the final copy of the Purchasing Review of the West Virginia Department of Health and Human Resources Human Rights Commission. Based on the results of the inspection, no further action is required at this time. Should you feel a response is warranted; your comments will become part of the Inspection Report file.

Thank you for your cooperation and that of your staff during this review.

Respectfully,

W. Michael Sheets, CPPO  
Director  
West Virginia Purchasing Division

Enclosure:

cc: Nicole Russell, Accountant II, Human Rights Commission  
Rhoda L. Withrow, Administrative Services Assistant I, Human Rights Commission  
Bryan Rosen, Director of Purchasing, Department of Health and Human Resources  
Bill J. Crouch, Cabinet Secretary, Department of Health and Human Resources

# WV PURCHASING DIVISION INSPECTION REPORT

*Department of Health and Human Resources*

*Human Rights Commission*

FISCAL YEAR  
2018

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## **INTRODUCTION**

We conducted a review of the internal procurement policies and procedures of Human Rights Commission. Our review was conducted on November 13, 2018 and was made under the authority provided by West Virginia Code §5A-3-4(a) (5) and the Code of State Rules §148-1-4.14.

The review was directed principally to determine whether agency purchasing transactions for the period under review were, in all material respects, in compliance with statute, rules and procedures

Our review indicated that, for the period of July 1, 2017 through June 30, 2018, the agency processed 380 procurement transactions with a value of \$123,264.51 (These amounts are approximate, subject to reporting limitations from WWOASIS (including possible data entry error) and errors caused by elimination of duplicate results).

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## SCOPE

We conducted our review in accordance with applicable provisions of Code and Rule; the Purchasing Division's Procedures Handbook; and guidelines, procedures and processes that govern the purchasing process. Our review encompassed an analysis of the internal procurement operating procedures of the spending unit and its related policies to the extent we deemed necessary to formulate an opinion on the adequacy of the system to properly manage procurement transactions.

For the stated period, we selected a judgmental sample of procurement transactions for compliance testing and performed other procedures that we considered necessary to formulate this opinion. Specifically, the scope of our review included, but was not limited to, an examination of the following:

- (1) Proper award (lowest responsible bidder meeting specifications),
- (2) Use of Statewide Contracts,
- (3) Use of internal resources,
- (4) Failure to Bid at Delegated Level,
- (5) Verification of vendor registration,
- (6) Verification of unemployment and workers' compensation, vendor status with Secretary of State's office, debarred vendor list,
- (7) Presence of signed notarized Affidavit,
- (8) Issuance of wvOASIS procurement award document,
- (9) Fixed Asset transactions,
- (10) Certification of Non-Conflict,
- (11) Evidence of stringing, and
- (12) Attendance of Purchasing Division training conferences.

## RESULTS OF REVIEW

### Issue 1      (Three Findings)

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/11/18	Promotional items	4Imprint Inc.	\$174.33	GAX,18*21586

#### **Summary:**

Although the amount of the transaction is \$174.33, the aggregate amount spent is \$6,098.17.

- **Finding – A**

Documentation showed no evidence of competitive bidding and no justification for a sole-source purchase.

- **Requirement**

See Attachment A, point #3 – Failure to Bid at Delegated Level.

- **Recommendation**

*We recommend maintaining purchasing files with all documentation, including, but not limited to: specifications used when making the purchase, listing of bids, all correspondence and any justification/explanation required for the transaction.*

- **Finding – B**

The listed purchase did not include documentation showing that vendor registration had been verified.

- **Requirement**

See Attachment A, point #4 – Vendor Registration.

- **Recommendation**

*We recommend verifying, prior to award, that successful bidders are registered with the Purchasing Division and retaining that documentation with the purchasing file.*

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- **Finding – C**

The listed file did not include the required purchasing "Affidavit."

- **Requirement**

See Attachment A, point #6 – Affidavit.

- **Recommendation**

*We recommend maintaining purchasing files with all documentation including the Affidavit.*

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**Issue 2 (One Finding)**

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
08/28/17	Printing	Central Printing Co.	\$885.00	GAX,18*33288

- **Finding – A**

Internal resources were not used to procure the listed service, which is available from a mandatory contract with Correctional Industries. No explanation was given for purchasing this item off contract, nor was there evidence of a waiver.

- **Requirement**

See Attachment A, point #2 – Internal Resources.

- **Recommendation**

*We recommend investigating internal resources before proceeding with the procurement. Specific information concerning internal resources can be found in Section 3.6.1.3 of the Purchasing Division Handbook.*



**Issue 3 (Two Findings)**

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/19/18	Hospitality	THS WVSU Unit 61	\$2,941.50	PRCC,18*84887

**Summary:**

Although the spending unit is declaring this transaction as an exemption under Section 9, the file still must contain all required documentation for that dollar amount.

- **Finding – A**

There was no indication that an wvOASIS Procurement award document was issued.

- **Requirement**

See Attachment A, point #8 – wvOASIS Procurement Award Document.

- **Recommendation**

*We recommend that an approved document be used to make an award*

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- **Finding – B**

The listed file did not include the required Certification of Non-Conflict of Interest.

- **Requirement**

See Attachment A, point #10 – Certification of Non-Conflict of Interest.

- **Recommendation**

*We recommend maintaining purchasing files with all documentation including the Certification of Non-Conflict of Interest (where applicable).*

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## SUMMARY

This review of 15 selected transactions from an approximate 380 total transactions yielded 6 finding associated with 3 of the selected transactions. This indicates that approximately 20% of the transactions reviewed had one or more problems of potential nonconformity with Purchasing Division laws, rules and/or regulations.

In October of 2017, the Purchasing Division conducted our annual purchasing conference for agency procurement officers at Canaan Valley State Park Resort. At this conference, attendees were offered the opportunity to attend 11 workshops focusing on more than 30 different topics.

Listed below, you will find the names of your Agency employees who participated in our conference and the number of classes they attended:

*There were no attendees from the Human Rights Commission.*

Based on the findings contained in this report, we strongly suggest that Human Rights Commission comply with all recommendations and take appropriate action as required.

At this time, we do not believe that further action is required.

## COMPARISON WITH PRIOR INSPECTION

A previous inspection of the Human Rights Commission was conducted in April of 2011. The review consisted of 45 selected transactions from an approximate 363 total transactions from July 1, 2009 through June 30, 2010. This review resulted in 5 findings associated with 5 of the selected transactions. This indicated that 11% of the transactions reviewed during the inspection had one or more problems of potential nonconformity with Purchasing Division laws, rules, and/or regulations.

When comparing the statistics from 2010 to the current 2018 inspection, below is a summary of the issues identified during the 2010 inspection, as compared to the findings from the current inspection.

<b>Summary of Problem Transactions</b>		
<b><i>Findings</i></b>	<b>2010</b>	<b>2018</b>
Stringing	0	0
Statewide Contract	1	0
Internal Resources	1	1
Failure to Bid	0	1
Vendor Registration	2	1
Unemployment/Workers' Compensation	1	0
Affidavit	0	1
wvOASIS Procurement Award Document	0	1
Asset Tag/Number	0	0
Certification of Non-Conflict of Interest	0	1
Miscellaneous Issue	0	0
<b><i>Total</i></b>	<b>5</b>	<b>6</b>

There are multiple training resources available from the Purchasing Division in-house training program, as well as, through on-line training modules. These training resources would assist in educating procurement staff in purchasing procedures/requirements. Additional information can be obtained by contacting Samantha Knapp, Staff Development Specialist, at (304) 558-7022 or by visiting the Purchasing Division's website <http://www.state.wv.us/admin/purchase/training/default.html>.

## Inspection Report – Attachment A

Requirements from the West Virginia Purchasing Division Procedures Handbook (Issuance Date: July 1, 2015), the West Virginia Code, the West Virginia Code of State Rules (148 CSR 1) and the West Virginia State Travel Policy (July 1, 2015).

### **1. Statewide Contract Availability:**

Section 3.6.2.1 of the Handbook states:

*"No agency may be exempt from using statewide contracts without prior written approval from the Purchasing Director."*

Section 5.1 of the Handbook states:

*"Prior to seeking competitive bids, agencies must first check the following mandatory contracts or internal resources: statewide contract or agency open-end contract existing for the commodity or service. . . ."*

### **2. Internal Resources:**

Section 5.1 of the Handbook states:

*"Prior to seeking competitive bids, agencies must first check the following mandatory contracts or internal resources. . . Surplus Property, Correctional Industries and the West Virginia Association of Rehabilitation Facilities."*

Section 3.6.1.2 of the Handbook states:

*"In accordance with West Virginia Code, §25-7-5, all offices, departments, institutions and agencies of the state which are supported in whole or in part by this state shall purchase, and all political subdivisions of this state may purchase, all articles or products which they require from the commissioner, if those articles or products are produced or manufactured by correctional industries, as provided by article 7 of Chapter 25 of the West Virginia Code. No state office, department, institution or agency may purchase an article or product which correctional industries produces from any other source, unless specifically excepted from the provisions of §25-7-5 pursuant to §25-7-6."*

Section 3.6.1.3 of the Handbook states:

*"All state agencies are required by West Virginia Code, §5A-3-10, to purchase commodities and services from sheltered workshops whenever such commodities and services are available and meet certain quality and price standards which are comparable to open-market sources."*

### **3. Failure to Bid at Delegated Level:**

Section 5.1.2 of the Handbook states:

*"Purchases \$2,500.01 to \$5,000.00: A minimum of three (3) verbal bids are required, when possible, and the lowest bid meeting specification must be awarded the purchase order/contract. All bids must be present in the file. Bids shall be documented and recorded for public record."*

Section 5.1.3 of the Handbook states:

*"Purchases \$5,000.01 to \$25,000.00: A minimum of three (3) written bids are required, when possible, and the lowest bid meeting specification must be awarded the purchase order/contract. All bids must be present in the file."*

*"An Agency Request for Quotation or a Centralized Request for Quotation should be used for documenting and making these requests. In all cases, state agencies must attempt to obtain at least three (3) written bids for a product or service. A "no bid" is not considered a bid."*

### **4. Vendor Registration:**

Section 5.2.3 of the Handbook states:

*"Prior to an award, a vendor must be in compliance with the following and the agency shall retain documentation in the file:*

*Vendor registration process (must be registered and the fee paid if applicable)."*

### **5. Verification Searches:**

Section 5.2.3 of the Handbook states:

- **Workers' Compensation/Unemployment Compensation:**

*"In accordance with the West Virginia Code §21A-2-6, verification of current unemployment fee status and Workers' Compensation coverage is required to ensure the vendor is not in default with Workers' Compensation and Employment Compensation." wvOASIS automatically verifies compliance prior to award*

- **State/Federal Debarment:**

*"Verification that the vendor is not debarred by the federal government. wvOASIS automatically verifies this federal compliance prior to award."*

- **Vendors licensed and in good standing – Secretary of State's Office**

*"In accordance with the **Code of State Rules** 148 CSR 6.1.7, the vendor must be licensed and in good standing with any and all state and local law and requirements, including proper registration and good standing with the Secretary of State's office and the State Tax Department, regardless of payment method, To search for a business or corporation with the Secretary of*

State's office, visit <http://apps.sos.wv.gov/business/corporations>. **Agencies must verify this compliance prior to award.**"

## **6. Affidavit:**

Section 5.2.3 of the Handbook states:

*"Purchasing Affidavit (required on all contracts exceeding \$5,000);"*

## **7. Agreement Addendum: (WV-96)**

Section 5.2.3 of the Handbook states:

*"Required when vendors submit alternate terms and condition with their bid"*

## **8. wvOASIS Procurement Award Document:**

Section 5.1.2 of the Handbook states (for purchases \$2,500.01 to \$5,000.00)

*"A wvOASIS procurement award document is required for purchases exceeding \$2500. Awards are to be made only to vendors who are properly registered with the Purchasing Division."*

Section 5.1.3 of the Handbook states (for purchases of \$5,000.01 to \$25,000.00):

*"An Agency Request for Quotation or a Centralized Request for Quotation should be used for documenting and making these requests."*

## **9. Asset Number Required:**

Section 5.5 of the Handbook states:

*"Fixed Assets: After payment has been made to the vendor, reportable property must be added to the Fixed Assets module of wvOASIS."*

## **10. Certificate of Non-Conflict of Interest:**

Section 5.2.3 of the handbook states:

*"A public record of all purchasing transactions must be kept on file at the agency location. . . This file must also include a Certificate of Non-Conflict of Interest."*

## **11. Receiving:**

Section 5.3 of the handbook states:

*"In accordance with the West Virginia State Auditor's receiving report requirements (Code of State Rules, §155-1-4), materials must be opened and inspected within 24 hours of receipt. . . Agencies must verify the shipment against the specifications in the purchase order and retain a copy of the receiving report prepared for the Auditor's office with the purchasing file. For receipt of services, a receiving report similar in form to that required by the Auditor's office shall be completed, signed and retained with the purchasing file."*

"

*"spending units may include a memorandum to file in the purchasing file indicating the storage location of the receiving reports. The actual reports shall be produced on demand, in accordance with the Code of State Rules, §148-1-14"*

## **12. Stringing:**

According to the Purchasing Division's Procedures Handbook, the definition for "stringing" is "issuing a series of requisitions or purchase orders to circumvent competitive bidding or to defeat the State purchasing card transaction or delegated purchasing limit."

The West Virginia Code, §5A-3-10 states:

*(a) A purchase of and contract for commodities, printing and services shall be based, whenever possible, on competitive bids.*

*(b) The director shall solicit sealed bids for the purchase of commodities and printing which is estimated to exceed twenty-five thousand dollars. No spending unit shall issue a series of requisitions or divide or plan procurements to circumvent this twenty-five thousand dollar threshold or otherwise avoid the use of sealed bids. Any spending unit which awards multiple contracts for the same or similar commodity or service to an individual vendor over any twelve-month period, the total value of which exceeds twenty-five thousand dollars, shall file copies of all contracts awarded to the vendor within the twelve preceding months with the director immediately upon exceeding the twenty-five thousand dollar limit, along with a statement explaining how the multiple contract awards do not circumvent the twenty-five thousand dollar threshold. If the spending unit does not immediately report to the director, the director may suspend the purchasing authority of the spending unit until the spending unit complies with the reporting requirement of this subsection. The director may conduct a review of any spending unit to ensure compliance with this subsection. Following a review, the director shall complete a report summarizing his or her findings and forward the report to the spending unit. In addition, the director shall report to the Joint Committee on Government and Finance on the first day of January and July of each year the spending units which have reported under this subsection and the findings of the director. . . .*

Additionally, the Legislative Rule §148-1 states that the Director shall:

*7.2.b If an agency fails to comply with the procedures and requirements established for purchases of \$25,000 or less, the Director has the ability to:*

*7.2.b.1 Suspend or reduce purchasing authority for that spending unit,*

*7.2.b.2 Require the spending to provided additional reports and documentation relating to purchases of \$25,000 or less for Purchasing Division review,*

*7.2.b.3 Require the agency to submit to additional oversight tht the Director deems appropriate, or*

*7.2.b.4 Require that the agency personnel responsible for purchases of \$25,000 or less participate in remedial training provided by the Purchasing Division*

### **13. Travel:**

Section 5.2.2.1, 5.2.2.2 of the State Travel Policy states:

*"Privately-owned vehicles may be used for state travel with agency approval when agency owned or leased vehicles are unavailable. A privately-owned vehicle should not be used when reimbursement costs are expected to exceed \$50.00 per day or mileage reimbursement is expected to cost more than the cost of commercial travel (air, rental car, etc.). Milage allowance for privately owned vehicles engaged in State business will be based on the GSA rate in effect at the trime of the travel. The rate covers all operating costs such as fuel, maintenance, insurance, etc., and no additional reimbursement will be made for such expenses."*

Section 5.2.4.1 of the State Travel Policy states:

*A commercial rental vehicle should only be used when a temporary need arises, a state vehicle is unavailable and the cost will be less than the reimbursement associated with a privately-owned vehicle. Only the Traveler renting the commercial rental vehicle is permitted to operate the vehicle. If state employees are traveling together it must be noted on the rental agreement if they will operate the vehicle.*





STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION  
2019 WASHINGTON STREET, EAST  
CHARLESTON, WEST VIRGINIA 25305-0130

W. MICHAEL SHEETS  
DIRECTOR

November 29, 2018

Cameron McKinney, Acting Director  
Human Rights Commission  
1321 Plaza East, Room 108  
Charleston, West Virginia 25301

Dear Cameron McKinney:

The attached documentation following this letter is a grading system which the West Virginia Purchasing Division has developed as a mechanism for evaluating agency conformance to purchasing policies and procedures. This tool has been created with the intent of assessing the progress of those directly responsible for agency procurement related transactions to identify areas which are deficient. Several agencies were selected as a test case for review of this system.

The following is an explanation of the grading system:

“Transactions Reviewed” is the number of transactions under examination for the given fiscal year.

“Non-Conformance Rate” as found in the draft and final report summary pages, is the overall agency error-rate, as a percentage, in which the agency is not in compliance with purchasing policies and procedures. This figure is determined by summing the number of problem transactions then dividing that total by the number of transactions under review.

“Conformance Rate” is the percentage of overall agency compliance with purchasing policies and procedures.

“Finding Summary” is the collection of issues (i.e. “findings”) discovered during the inspection of agency transactions. The finding categories are a weighted points system. Findings deemed to be more serious are allotted a larger possible point deduction than those of a more administrative nature. Deductions are based on the percentage of findings in relation to the number of transactions reviewed. See attached weight application chart.

As an example: If under the “Finding Category” of “Stringing” the “Number of Findings” were 6, and the number of “Transactions Reviewed” were 635, the “Finding Percentage” would be .94%. This percentage would yield a point deduction of -6 (as explained in the weight application chart). This number is then reduced from the “Points Possible” column.

"Overall Agency Score" is the total number of the "Findings Summary" "Points Received" column averaged with "Non-Conformance Rate" as determined by the following equation: ("Findings Summary - Points Received" column + "Non-conformance Rate") / 200))

"Overall Letter Grade" is the global result of inspection report.

Should you have any questions or require further clarification, please contact Greg Clay, at (304) 558-5780. Your assistance is greatly appreciated.

Respectfully,

A handwritten signature in blue ink that reads "Greg Clay". The signature is cursive and stylized, with the first name "Greg" and the last name "Clay" clearly distinguishable.

Greg Clay, Contracts Manager  
West Virginia Purchasing Division

Enclosure

cc: Nicole Russell, Accountant II, Human Rights Commission  
Rhoda L. Withrow, Administrative Services Assistant I, Human Rights Commission  
Bryan Rosen, Director of Purchasing, Department of Health and Human Resources  
Bill J. Crouch, Cabinet Secretary, Department of Health and Human Resources

## Human Rights Commission FY2018 Statistics

Transactions Reviewed	15
Non-Conformance Rate (See Summary Page)	20.0%
Conformance Rate	80.0%

Findings Summary				
Finding Category	Number of Findings	Finding Percentage	Points possible	Points Received
Stringing	0	0.00%	30	30
Statewide Contract	0	0.00%	15	15
Internal Resources	1	6.67%	15	12
Failure to Bid	1	6.67%	15	9
Vendor Registration	1	6.67%	5	4
Verification Searches	0	0.00%	5	5
Affidavit	1	6.67%	5	4
wvOasis Award Document	1	6.67%	3	2.4
Asset Tag/Number	0	0.00%	3	3
Certification of Non-Conflict of Interest	1	6.67%	3	2.4
Miscellaneous Issue	0	0.00%	1	1
<b>Total</b>	<b>6</b>		<b>100</b>	<b>87.8</b>

Overall Agency Score	
Non-Conformance & Findings Average	Overall Letter Grade
<b>83.9%</b>	<b>B</b>

Scale (See Weight Application*)
91.66 --100 = A
83.33 --91.65 = B
75 -- 83.32 = C
66.66 -- 74.99 = D
<66.65 = F

The Finding Summary and Number of Findings does not directly correlate with the Transactions Reviewed and Non-Conformance Rate because each transaction can yield multiple findings, and findings like stringing can include multiple transactions in a single finding.