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CABINET SECRETARY

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

W. MICHAEL SHEETS
DIRECTOR

June 30, 2021

Thomas Kirk, Director
Financial and Administration
Department of Homeland Security
1201 Greenbrier Street
Charleston, West Virginia 25311

Dear Director Kirk:

This is to transmit the final copy of the Purchasing Review of the West Virginia Department of Homeland Security Emergency Management Division.

A preliminary copy of this report was submitted to your agency for comment. We appreciate your feedback and have included the significant responses as part of this final review report.

We understand that SB 429 modified W.Va. Code § 5A-3-3a which exempts your Division from Purchasing Division oversight effective July 1, 2021. For this reason, we are not requiring either a Corrective Action Plan or remedial training.

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

Respectfully,

A handwritten signature in blue ink, appearing to read "W. Michael Sheets".

W. Michael Sheets, CPPO
Director
West Virginia Purchasing Division

Enclosure

cc: Tina Desmond, ASM III, Division of Administrative Services
Jeff Sandy, CAMS, CFE, Cabinet Secretary, Department of Homeland Security

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WVPurchasing.gov

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WV PURCHASING DIVISION INSPECTION REPORT

West Virginia Department of Homeland Security

West Virginia Emergency Management Division

FISCAL YEAR
2020

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INTRODUCTION

The Purchasing Division is broadly charged with the development and oversight of the procurement functions of state spending units under its authority. That authority is found in Chapter 5A, Article 3 of the West Virginia Code, and Title 148, Series 1, of the West Virginia Code of State Rules. That mandate requires that the Purchasing Division “appoint inspectors to review and audit spending unit requests and purchases and other transactions and performance.” W. Va. CSR § 148-1-4.14. The Purchasing Division’s Inspection Services Unit performs this function by regularly conducting inspections of all spending units subject to Purchasing Division oversight.

The Purchasing Division Inspection Services Unit conducted a remote inspection of the West Virginia Emergency Management Division for the period of July 1, 2019 to June30, 2020. Notice of the inspection was provided on January 14, 2021, and the inspection commenced on February 11, 2021. The results of the inspection are contained within this report.

SCOPE

The scope of the inspection was focused on determining whether the West Virginia Emergency Management Division's procurement transactions for the period of July 1, 2019 to June 30, 2020 were, in all material respects, in compliance with applicable provisions of the West Virginia Code, the Code of State Rules and the Purchasing Division Procedures Handbook in effect during that time period.

Inspectors utilized spending unit payment transactions to identify potential violations with a primary focus on those transactions processed at the spending unit level without Purchasing Division involvement. Those transactions included, but were not limited to, agency delegated procurements, Section 9 procurements, agency delivery orders, General Accounting Expenditure ("GAX") payments, and P-Card payments. Notwithstanding this general focus, however, Inspectors can review any transaction or internal procurement operating procedures that they deem relevant.

As noted above, the transaction review was conducted to ensure compliance with applicable provisions of the West Virginia Code, the Code of State Rules and the Purchasing Division Procedures Handbook. More specifically, the scope of the inspection included, but was not limited to, an examination to determine if any of the following infractions had been committed:

- (1) Failure to bid at central level (Stringing)[Required to be reported to the Legislature twice annually]
- (2) Failure to bid at delegated level,
- (3) Statewide contract not utilized,
- (4) Vendor registration unverified and wrong vendor fee exemption code utilized
- (5) Failure to verify compliance checks
 - a. Unemployment
 - b. Workers' compensation
 - c. Vendor status with Secretary of State's office
 - d. Debarred vendor list
- (6) Failure to include notarized Purchasing Affidavit,
- (7) Failure to issue wvOASIS procurement award document,
- (8) Lack of compliance with fixed asset requirements (asset tags),
- (9) Failure to include Certification of Non-Conflict of Interest form,
- (10) Miscellaneous Issues
 - a. Improper award (Unjustified award to other than lowest responsible bidder meeting specifications),
 - b. Leases exceeding six months not processed centrally
 - c. Other as needed

SUMMARY

During the period under review, the spending unit processed 1,230 procurement transactions with a value of \$3,267,899.60. (These amounts are approximate, subject to reporting limitations from wvOASIS (including possible data entry error) and errors caused by elimination of duplicate results). Of those transactions, the Inspector selected 67 for review which represents approximately 4% of the total. This inspection of 67 selected transactions yielded 89 findings associated with 33 of the selected transactions. This means that approximately 49% of the transactions reviewed had one or more instances of noncompliance with applicable provisions of the West Virginia Code, the Code of State Rules and the Purchasing Division Procedures Handbook. The findings are further illustrated in the attached Findings Grid and Grading Sheet.

The inspection also revealed that on 21 occasions, the spending unit failed to obtain competitive bids as required by the applicable dollar level of spend. That number is comprised of 3 instances of failing to bid at the central level (also known as stringing), and 18 instances of failing to bid at the delegated level. Any instances of failure to bid at the central level will be reported to the Legislature as required by the West Virginia Code.

Based on the findings contained in this report, the Purchasing Division recommends the spending unit work to improve any areas of noncompliance. Given that the agency received a score of 42% F on the inspection and there was a pattern of findings or one or more cases of stringing, the first step must be the completion of a Corrective Action Plan. A request for which will be provided to you after this inspection is finalized.

Grading Sheet

West Virginia Emergency Management Division FY2020 Statistics

Conformance Rate & Score (100 Points Possible)

Transactions Reviewed	67	Points Possible	100
Non-Conformance Rate (See Summary Page)	49.0%	Points Deducted	49
Conformance Rate	51.0%	Points Received (Conformance Score)	51

Findings Summary & Score (100 Points Possible)

Finding Category	Number of Findings	Finding Percentage	Points possible	Points Received (Finding Score)
Failure to Bid at Central Level (Stringing)	3	4.48%	30	0
Failure to Bid at Delegated Level	18	26.87%	20	5
Statewide Contract not utilized	7	10.45%	15	9
Vendor Registration unverified/wrong fee code	0	0.00%	5	5
Failure to verify Compliance Checks	17	25.37%	5	0
Purchasing Affidavit Not Included	8	11.94%	5	3
Wvoasis Award Document Not Issued	11	16.42%	5	2
Asset Tag/Number not affixed	4	5.97%	5	4
Certification of Non-Conflict of Interest not included	17	25.37%	5	1
Miscellaneous Issue	4	5.97%	5	4
Total	89		100	33

Overall Agency Score

Conformance & Findings Average	Overall Letter Grade
42.0%	F

Scale (See Weight Application*)

91.66 -- 100 = A
 83.33 -- 91.66 = B
 75 -- 83.33 = C
 66.66 -- 75 = D
 <66.66 = 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.

EXHIBIT A: DETAILED INSPECTION FINDINGS

Issue 1: Failure to bid at central level (Stringing)

Authority: W. Va. Code § 5A-3-10; Procedures Handbook Section 6

Explanation: State law mandates that the Purchasing Division competitively bid for the purchase of commodities and services estimated to exceed twenty-five thousand dollars. The law also prohibits a spending unit from issuing a series of requisitions or divide or plan procurements to circumvent this twenty-five-thousand-dollar threshold. The transactions listed below violated this legal mandate and will be reported to the West Virginia Legislature as required by law.

Transactions in Violation: (3 Instances)

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
06/30/2020	UHF channel lease	AV Luttamus communications	\$4,633.33	PRCC,21*00587

Additional Detail: The agency spent \$60,233.39 with the listed vendor during the fiscal year under review.

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/09/2020	UPS units	State Elec Supply 112	\$12,260.70	PRCC,20*27803

Additional Detail: The agency spent \$36,782.10 with the listed vendor during the fiscal year under review.

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/15/2020	Radio equipment upgrade for SIRN	Motorola Solutions Inc.	\$276,650.00	PRM,20*62293

Additional Detail: This is not exempt under the legislative SIRN purchasing exemption and

should have come through Central Purchasing.

Purchasing Division Recommendation:

1. The Purchasing Division recommends that the spending unit establish central contracts through the Purchasing Division for each of the items included above and any other commodities or services that will exceed \$25,000 in a rolling 12 month period.
2. The Purchasing Division recommends that the spending unit utilize wvOASIS to create reports that will allow the spending unit to track spend and determine when spending is closing to exceeding the \$25,000 limit.
3. The Purchasing Division recommends that the spending unit forecast future needs for its commodities and services to determine in advance what should be procured at the central level.
4. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

Issue 2: Failure to bid at delegated level

Authority: W. Va. Code § 5A-3-11(a); W. Va. CSR § 148-1-7.2; Procedures Handbook Section 5

Explanation: The Purchasing Division has established competitive bidding requirements that spending units must follow when procuring commodities and services below \$25,000.01, and above \$2,500.00. For those transactions listed below, the spending unit has failed to obtain and document competitive bids as required.

Transactions in Violation: (18 Instances)

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/09/2020	Adobe subscription	Adobe Acropro Subs	\$4,454.64	PRCC,20*29133
06/17/2020	2 HVAC units	Air Mechanical Sales	\$8,966.40	PRCC,21*00204
04/02/2020	Recorder maintenance	CRS LLC	\$2,995.00	PRCC.20*27803
03/30/2020	Communication network	Everbridge Inc	\$6,000.00	PRCC,20*26990
08/07/2019	Garage door	Garage Door Operators	\$4,978.87	PRCC,20*20600
10/09/2019	Satellite internet	IP Access International	\$3,000.00	PRCC,20*49930
06/15/2020	Cargo trailer	Leonard Building & Truck	\$5,030.00	PRCC,21*00205
10/01/2019	Printed merchandise	LJ Art LLC	\$8,067.36	PRCC,20*49160

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
07/31/2019	HVAC units installed	Casto Technical Service	\$21,294.86	PRCC,20*0600
08/09/2019	Radiation monitors	IN Laco Inc	\$20,883.00	PRCC,20*20600
12/09/2019	Emergency kits for radiation	IN Laco Inc	\$12,937.61	PRCC,20*87442
02/10/2020	Web server host	IN Onerain Incorporated	\$12,000.00	PRCC,20*06859
04/02/2020	Switches & routers	SP Tritondatacom	\$17,735.00	PRCC,20*27803

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
03/05/2020	Generator repair	Cummins Inc – S1	\$2,091.79	PRCC,20*19688
06/04/2020	Filling of propane tanks	Ferrellgas LP	\$1,270.74	PRCC,20*42369
03/02/2020	Propane	SSC – Elkins Service	\$705.43	PRCC,20*19688

Additional Detail: Although the individual transactions listed above falls below the verbal bid limit, the agency aggregate spent for each vendor exceeded \$2,500.00 for the fiscal year under review.

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/15/2020	Accounting service	Matheny & Company	\$3,516.25	PRCC,20*56777
05/26/2020	Power supplier repairs	Two Way Radio Inc	\$5,992.00	PRCC,20*41395

Additional Detail: Although the individual transactions listed above falls below the bid limit, the agency aggregate spent for each vendor exceeded \$10,000.01 for the fiscal year under review.

Purchasing Division Recommendation:

1. The Purchasing Division recommends that the spending unit follow the requirements associated with each delegated spending limit.
2. The Purchasing Division recommends that the spending unit utilize wvOASIS to create reports that will allow the spending unit to track spend and determine when spending is closing to exceeding spending limits.
3. The Purchasing Division recommends that the spending unit forecast future needs for its commodities and services to determine in advance what should be competitively bid at delegated verbal and written bid levels.
4. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

Issue 3: Statewide Contract Not Utilized

Authority: W. Va. CSR § 148-1-7.4.c.; Procedures Handbook Section 3.6.2

Explanation: The Purchasing Division has authority to establish contracts at a statewide level to secure economies of scale that would not be possible on an agency by agency basis. Once established, the Purchasing Division can mandate that spending units utilize those statewide contracts. For the transactions listed below, the spending unit has obtained the commodity or service in question outside of an available statewide contract without a valid waiver.

Transactions in Violation: (7 Instances)

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>	<u>SW Contract</u>
08/25/2019	Security cameras	Amzn Mktp Us	\$515.39	PRCC,20*30575	INDEQP
12/10/2019	Rekeying kit	Clksupplies	\$263.00	PRCC,20*87642	INDEQP
03/03/2020	Fuel tank & pump	Cross Lanes Rural King	\$555.95	PRCC,20*19688	INDEQP
12/16/2019	Padlocks	Grainger	\$418.26	PRCC,20*95348	INDEQP
08/31/2019	Protective cases	Pelican Products Inc	\$273.85	PRCC,20*30576	INDEQP
03/04/2020	Lock supplies	SQ Clk Supplies	\$2,329.01	PRCC,20*19688	INDEQP
03/24/2020	Office furniture	Office Depot	\$1,830.00	PRCC,20*26378	SYSFURN

Additional Detail: Applicable items were not purchased from the Statewide Contract and no waiver from the Purchasing Division was present.

Purchasing Division Recommendation:

1. The Purchasing Division recommends that the spending unit personnel become familiar with what is available from statewide contracts and either procure those commodities and services from statewide contracts or obtain a waiver from the Purchasing Division.
2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

3. Agencies should issue a delivery order to obtain goods or services from central open-end contracts unless the West Virginia State Auditor's Office has approved an alternate ordering and payment method.
4. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

Issue 4: Vendor Registration Unverified/Wrong Vendor Fee Exemption Code Utilized

Authority: W. Va. CSR § 148-1-6.1; Procedures Handbook Section 4

Explanation: The agency must verify that the vendor is registered, and the registration fee paid, if applicable. The registration process includes having the proper disclosure of information in the wvOASIS vendor/customer account. Certain vendors are exempted from paying the vendor registration fee mandated by the authority referenced above. wvOASIS has created fee exemption codes that allow the spending unit to designate the appropriate exemption code on a transactional basis.

Transactions in Violation: (0 Instances)

Purchasing Division Recommendation:

1. The Purchase Division recommends that the spending unit only utilize vendor fee exemption codes for transactions that would allow a vendor to avoid paying the vendor registration fee.
2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.
3. The Purchasing Division recommends that the spending unit contact the Vendor Registration section within the Purchasing Division if there is uncertainty about when and how to apply a vendor fee exemption code.

Issue 5: Failure to Verify Compliance Checks

(Workers Comp, Unemployment, Sec. of State, Debarment)

Authority: W. Va. CSR § 148-1-6.1.e.; Procedures Handbook Section 5.3.1.6.

Explanation: The authority cited above requires that a vendor be licensed and in good standing in accordance with all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or other state agencies or political subdivisions prior to being awarded a contract. The mandated compliance checks were not included in the transactions listed below.

Transactions in Violation: (17 Instances)

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/09/2020	Adobe subscription	Adobe Acropro Subs	\$4,454.64	PRCC,20*29133
06/17/2020	2 HVAC units	Air Mechanical Sales	\$8,966.40	PRCC,21*00204
07/31/2019	HVAC units installed	Casto Technical Service	\$21,294.86	PRCC,20*0600
04/02/2020	Recorder maintenance	CRS LLC	\$2,995.00	PRCC.20*27803
11/01/2019	Hospitality	Deployed Resources	\$3,329.48	PRCC,20*76734
03/30/2020	Communication network	Everbridge Inc	\$6,000.00	PRCC,20*26990
08/07/2019	Garage door	Garage Door Operators	\$4,978.87	PRCC,20*20600
08/09/2019	Radiation monitors	IN Laco Inc	\$20,883.00	PRCC,20*20600
12/09/2019	Emergency kits for radiation	IN Laco Inc	\$12,937.61	PRCC,20*87442
02/10/2020	Web server host	IN Onerain Incorporated	\$12,000.00	PRCC,20*06859
10/09/2019	Satellite internet	IP Access International	\$3,000.00	PRCC,20*49930
06/15/2020	Cargo trailer	Leonard Building & Truck	\$5,030.00	PRCC,21*00205
10/01/2019	Printed merchandise	LJ Art LLC	\$8,067.36	PRCC,20*49160
04/15/2020	Accounting service	Matheny & Company	\$3,516.25	PRCC,20*56777
04/02/2020	Switches & routers	SP Tritondatacom	\$17,735.00	PRCC,20*27803
05/26/2020	Power supplier repairs	Two Way Radio Inc	\$5,992.00	PRCC,20*41395

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
02/19/2020	Truck topper	West Virginia Public Safe	\$10,826.00	PRCC,20*18068

Purchasing Division Recommendation:

1. The Purchasing Division recommends that the spending unit perform all compliance checks mandated by the Handbook and properly document those compliance checks in the contract file.
2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

Issue 6: Purchasing Affidavit Not Included

Authority: W. Va. Code §§ 5A-3-10a and 5-22-1; Procedures Handbook Section 5.3.1.6.

Explanation: West Virginia law has several restrictions against awarding a contract to a vendor that owes a debt to the State or its political subdivisions. The Purchasing Affidavit must be signed by the vendor prior to contract award to obtain assurance that the vendor is in compliance with the statutory mandates.

Transactions in Violation: (8 Instances)

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
07/31/2019	HVAC units installed	Casto Technical Service	\$21,294.86	PRCC,20*0600
08/09/2019	Radiation monitors	IN Laco Inc	\$20,883.00	PRCC,20*20600
12/09/2019	Emergency kits for radiation	IN Laco Inc	\$12,937.61	PRCC,20*87442
02/10/2020	Web server host	IN Onerain Incorporated	\$12,000.00	PRCC,20*06859
04/02/2020	Switches & routers	SP Tritondatacom	\$17,735.00	PRCC,20*27803
02/19/2020	Truck topper	West Virginia Public Safe	\$10,826.00	PRCC,20*18068

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/15/2020	Accounting service	Matheny & Company	\$3,516.25	PRCC,20*56777
05/26/2020	Power supplier repairs	Two Way Radio Inc	\$5,992.00	PRCC,20*41395

Additional Detail: Although the individual transactions listed above falls below \$10,000.01, the agency aggregate spend for each vendor exceeded the threshold.

Purchasing Division Recommendation:

1. The Purchasing Division recommends that the spending unit obtain a properly completed Purchasing Affidavit and maintain a copy in the contract file for all transactions exceeding \$10,000.00 (the threshold for obtaining written bids).
2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

Issue 7: wvOASIS Award Document Not Issued

Authority: Procedures Handbook Section 5.2.2

Explanation: The Purchasing Division Procedures Handbook requires that a procurement award document be issued for all purchases exceeding \$2,500 in value. This requirement ensures that the transaction is recorded in wvOASIS in a way that allows it to be easily identified and tracked and helps to prevent spending in violation of procurement laws, rules, and procedures.

Transactions in Violation: (11 Instances)

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/09/2020	Adobe subscription	Adobe Acropro Subs	\$4,454.64	PRCC,20*29133
06/17/2020	2 HVAC units	Air Mechanical Sales	\$8,966.40	PRCC,21*00204
04/02/2020	Recorder maintenance	CRS LLC	\$2,995.00	PRCC.20*27803
11/01/2019	Hospitality	Deployed Resources	\$3,329.48	PRCC,20*76734
08/07/2019	Garage door	Garage Door Operators	\$4,978.87	PRCC,20*20600
12/09/2019	Emergency kits for radiation	IN Laco Inc	\$12,937.61	PRCC,20*87442
02/10/2020	Web server host	IN Onerain Incorporated	\$12,000.00	PRCC,20*06859
10/09/2019	Satellite internet	IP Access International	\$3,000.00	PRCC,20*49930
10/01/2019	Printed merchandise	LJ Art LLC	\$8,067.36	PRCC,20*49160
04/02/2020	Switches & routers	SP Tritondacom	\$17,735.00	PRCC,20*27803
05/26/2020	Power supplier repairs	Two Way Radio Inc	\$5,992.00	PRCC,20*41395

Purchasing Division Recommendation:

1. The Purchasing Division recommends that the spending unit issue a purchase order through wvOASIS and maintain a copy in the contract file for all transactions exceeding \$2,500.00.
2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

Issue 8: Asset Tag Not Affixed

Authority: W. Va. Code § 5A-3-34; Surplus Property Operations Manual, Part II, Section 1.4

Explanation: The Surplus Property Operations Manual requires that all reportable assets must have a numbered identification tag affixed to the asset. Agencies are responsible for obtaining and placing the proper tags on the assets. This method of tagging assets helps to easily identify state assets during physical inspection and to guard against asset theft.

Transactions in Violation: (4 Instances)

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
08/09/2019	Radiation monitors	IN Laco Inc	\$20,883.00	PRCC,20*20600
12/09/2019	Emergency kits for radiation	IN Laco Inc	\$12,937.61	PRCC,20*87442
06/15/2020	Cargo trailer	Leonard Building & Truck	\$5,030.00	PRCC,21*00205
02/19/2020	Truck topper	West Virginia Public Safe	\$10,826.00	PRCC,20*18068

Purchasing Division Recommendation:

1. The Purchasing Division recommends that the spending unit obtain a properly affix asset tags to all reportable assets. In conjunction with this, the spending unit must maintain accurate inventory records in wvOASIS.
2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

Issue 9: Cert. of Non-Conflict Not Included

Authority: W. Va. Code §§ 5A-3-31 and 6B-2-5; Procedures Handbook Section 3.7.7.

Explanation: The Purchasing Division requires all evaluators, advisors, and the agency procurement officer, despite the type of transaction, to sign a Certification of Non-Conflict of Interest form prior to contract award to ensure compliance with W. Va. Code § 5A-3-31 and § 6B-2-5 by affirming that they do not have a conflict of interest and did not communicate with the vendor during the solicitation, evaluation, and award period.

Transactions in Violation: (17 Instances)

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/09/2020	Adobe subscription	Adobe Acropro Subs	\$4,454.64	PRCC,20*29133
06/17/2020	2 HVAC units	Air Mechanical Sales	\$8,966.40	PRCC,21*00204
07/31/2019	HVAC units installed	Casto Technical Service	\$21,294.86	PRCC,20*0600
04/02/2020	Recorder maintenance	CRS LLC	\$2,995.00	PRCC,20*27803
11/01/2019	Hospitality	Deployed Resources	\$3,329.48	PRCC,20*76734
03/30/2020	Communication network	Everbridge Inc	\$6,000.00	PRCC,20*26990
08/07/2019	Garage door	Garage Door Operators	\$4,978.87	PRCC,20*20600
08/09/2019	Radiation monitors	IN Laco Inc	\$20,883.00	PRCC,20*20600
12/09/2019	Emergency kits for radiation	IN Laco Inc	\$12,937.61	PRCC,20*87442
02/10/2020	Web server host	IN Onerain Incorporated	\$12,000.00	PRCC,20*06859
10/09/2019	Satellite internet	IP Access International	\$3,000.00	PRCC,20*49930
06/15/2020	Cargo trailer	Leonard Building & Truck	\$5,030.00	PRCC,21*00205
10/01/2019	Printed merchandise	LJ Art LLC	\$8,067.36	PRCC,20*49160
04/15/2020	Accounting service	Matheny & Company	\$3,516.25	PRCC,20*56777
04/02/2020	Switches & routers	SP Tritondatacom	\$17,735.00	PRCC,20*27803
05/26/2020	Power supplier repairs	Two Way Radio Inc	\$5,992.00	PRCC,20*41395
02/19/2020	Truck topper	West Virginia Public Safe	\$10,826.00	PRCC,20*18068

Purchasing Division Recommendation:

1. The Purchasing Division recommends that the spending unit include a properly completed Certification of Non-Conflict of Interest form prior to contract award for all transactions exceeding \$2,500.00 and maintain a copy in the contract file.
2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on this topic offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

Issue 10a: Miscellaneous (No WV-96)

Authority: Procedures Handbook Section 3.10.2.3

Explanation: The *Agreement Addendum* WV-96 is a document that can be utilized to counter a vendor's submission of alternate terms and conditions. It is only utilized after it is clear from the vendor's bid that alternate terms and conditions have been proposed.

Transactions in Violation: (1 Instance)

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
03/30/2020	Communication network	Everbridge Inc	\$6,000.00	PRCC,20*26990

Additional Detail: Due to having vendor terms and conditions located in the file, the WV-96 Agreement Addendum form is needed. The form was not located in the file.

Purchasing Division Recommendation:

1. The Purchasing Division recommends that the spending unit utilize the WV-96 to counter alternate terms and conditions when submitted with the vendor's bid.
2. The Purchasing Division recommends that the spending unit's procurement officer participate in training on the topics listed herein that are offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

Issue 10b: Miscellaneous (Not following Statewide Contract Ordering Requirements)

Authority: Procedures Handbook Section 3.7.1.2.1

Explanation: Agencies should always refer to the ordering instructions, if present, on all open-end or statewide contracts for proper instructions prior to attempting to issue a delivery order.

Transactions in Violation: (3 Instances)

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
11/05/2019	New Tires	Glotfelty Tire Center	\$486.52	PRCC,20*77578
01/13/2020	New Tires	Mr Tire 1514	\$623.76	PRCC,20*96951
01/30/2020	New Tires	S&S Tire #302	\$651.16	PRCC,20*06597

Additional Detail: Spending Units(s) must issue a wvOASIS Agency Delivery Order (ADO) to the Goodyear Tire & Rubber Company for all contract items. The ADO must reference the approved Authorized Dealer with the Dealer location (address) in the Extended Description field. The agency must not pay the authorized dealer at any time.

Purchasing Division Recommendation:

1. The Purchasing Division recommends that the agency should always refer to the ordering instructions, if present, on all open-end or statewide contracts for proper instructions prior to attempting to issue a delivery order.
2. The Purchasing Division recommends the agency process an Agency Delivery Order (ADO) directly to the vendor to obtain goods or services in the amount of \$250,000 or less from these contracts, unless ordering instructions contained in the contract require Purchasing Division approval.
3. The Purchasing Division recommends the agency process a delivery order on an existing Central Master Agreement (i.e. open-end contract) that exceeds \$250,000 as a *Central Delivery Order (CDO)*.
4. The Purchasing Division recommends that the spending unit's procurement officer participate in training on the topics listed herein that are offered by the Purchasing Division and ensure that all procurement staff understand how to comply with this requirement moving forward.

EXHIBIT B: COMPARISON WITH PRIOR INSPECTIONS

A previous inspection of the West Virginia Emergency Management Division was conducted in March of 2015. The review consisted of 84 selected transactions from an approximate 1,282 total transactions from July 1, 2013 through June 30, 2014. This review resulted in 58 findings associated with 42 of the selected transactions. This indicated that 50% 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 2014 to the current 2020 inspection, below is a summary of the issues identified during the 2014 inspection, as compared to the findings from the current inspection.

Summary of Problem Transactions		
<i>Findings</i>	2014	2020
Failure to Bid at Central Level (Stringing)	2	3
Failure to Bid at Delegated Level	15	18
Statewide Contract not utilized	2	7
Vendor Registration unverified/wrong Fee Code	10	0
Failure to verify Compliance Checks	10	17
Purchasing Affidavit not included	10	8
wvOasis Award Document not issued	3	11
Asset Tag/Number not affixed	4	4
Cert. of Non-Conflict of Interest not included	2	17
Miscellaneous Issue	0	4
<i>Total</i>	58	89

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>.

EXHIBIT C: AGENCY TRAINING REPORT

Importance of Training: The Purchasing Division has found that training in procurement significantly improves the ability of the spending unit to comply with applicable provisions of the West Virginia Code, the Code of State Rules and the Purchasing Division Procedures Handbook.

Statutory Requirements:

- W. Va. Code § 5A-3-60 requires that All executive department secretaries, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads are hereby required to take two hours of training on purchasing procedures and purchasing cards annually.
- W. Va. CSR § 148-1-3.2 mandates that all designated procurement officers receive 10 hours of procurement training annually.

Available Training: The Purchasing Division has implemented a very robust training program that is available to all procurement officers subject to Purchasing Division oversight. That training includes:

- Online Modules
- Webinars
- Live Training Sessions
- Annual conferences
- Basic and Advanced Procurement Certification Programs
- Agency Specific Targeted Training

Training: The Purchasing Division records indicate that during the inspection period the following individuals within the spending unit have obtained training at our annual Purchasing Conference as shown below:

Individual Name: Kelli Batch

Attended 7 workshops (11 available)

Individual Name: Susan Kuhn

Attended 10 workshops (11 available)

Individual Name: Andrew Lore
Attended 11 workshops (11 available)

Individual Name: Marti Sigmon
Attended 8 workshops (11 available)

Individual Name: Ellen Sparks
Attended 10 workshops (11 available)

Individual Name: Christine Watson
Attended 10 workshops (11 available)

Purchasing Division Recommendations:

The Purchasing Division recommends that all procurement officers, regardless of their status as designated or undesignated, participate in at least 10 hours of training annually and that all officials subject to the training requirements in W. Va. Code § 5A-3-60 take the required 2 hours of Purchasing and P-Card Training.

EXHIBIT D: AGENCY RESPONSE TO INSPECTION FINDINGS

Response to the Fiscal Year 2020 Inspection Report

Agency Name: West Virginia Emergency Management Division
Agency Address: 2403 Fairlawn Avenue, Dunbar, WV 25064
Agency Contact: G.E. McCabe, Director
Tina Desmond, Agency Designated Procurement Officer

Issue 1: Failure to bid at central level (Stringing)

Finding:

A. State law mandates that the Purchasing Division competitively bid for the purchase of commodities and services estimated to exceed twenty-five thousand dollars.

B. Transactions in Violation: (3 Instances)

a. AV Luttamus Communications (\$4,633.33) – Agency spent \$60,233.39 with the listed vendor during the fiscal year under review.

Note: These transactions were payments as per a standing lease agreement which was entered into on September 1, 2014, between the State of West Virginia and Luttamus Holdings, Inc., for frequencies for use in the Statewide Interoperable Radio Network (SIRN). These frequencies, while regulated by the Federal Communications Commission, are owned by Luttamus Holding, Inc., and are not available to be obtained from any other entity. This is a lease payment which has been approved by the West Virginia Attorney General's Office.

b. State Electric Supply Company (\$12,260.70) – Agency spent \$36,782.10 with the listed vendor during the fiscal year under review.

Note: This purchase of Uninterrupted Power Supply (UPS) units was an Emergency Purchase made to keep the West Virginia Statewide Interoperable Radio Network (SIRN) operational as the UPS units for the SIRN site had failed. These UPS units are necessary to maintain equipment operation from the time of a power loss until the generator starts to provide power. In the absence of these UPS units when power is interrupted, the equipment powers down and on average the power-up cycle averages 20-minutes. This is a lifetime to a first responder in the field of not having communications to their lifeline of a dispatch center.

This emergency purchase was made according to West Virginia Code §5A-3-3a, "The provision of subdivision nine, section three, chapter five-a do not apply to construction or repair contracts entered into by the state for the

emergency construction or repair of the Statewide Interoperable Radio Network created by article fourteen chapter fifteen of this code.”

- c. Motorola Solutions, Inc. (\$276,650.00) – Detail states this is not exempt under the legislative SIRN purchasing exemption and should have come through Central Purchasing.

Note: This contract payment was made while the agency (West Virginia Division of Homeland Security and Emergency Management) was placed under the West Virginia National Guard – Military Authority by Governor’s Executive Order. The West Virginia Military Authority is an exempt agency from the West Virginia State Purchasing Division. DHSEM Director Michael Todorovich negotiated this contract under the West Virginia Military Authority’s exemption. This payment was made according to the contract’s Payment Terms and Conditions.

Issue(s): 2, 3, 4, 5, 6, 7, 8 9, 10a, and 10b

Note: The Agency acknowledges these issues and are implementing training programs to adhere to policy and procedures as recommended by the West Virginia State Purchasing Division.