INSPECTION SERVICES AND CONTRACT MANAGEMENT UNIT

- Greg Clay, State Purchasing Contracts Manager
- Shane Hall, Inspector
- Mitzie Howard, Inspector
- Melissa Hitt, Inspector
OBJECTIVES

• The Inspection Process
• Identify Issues and Findings
• The Inspection Grading System
• Corrective Action Plan Request
• Contract Management
• Better understanding of the Inspection Process, procedures, requirements, and the need for documentation.
AGENCY DELEGATED AUTHORITY

*West Virginia Code §5A-3-10, §5A-3-4, §5A-3-11
Code of State Rules 148-1-7.2*

- In accordance with West Virginia Code and the Code of State Rules, state agencies may make purchases in the amount of $25,000 or less for certain commodities and services.
INSPECTION SERVICES

*Code of State Rules Section 4.14*

- The Director shall appoint inspectors to review and audit spending unit requests and purchases and other transactions and performance that fall under the authority of the division.
- Inspectors may also provide relevant training for agency personnel.
- Inspectors shall have access at any and all times to personnel, records, reports, and other documents as needed.
- We inspect one year in arrears, however we can inspect any 12-month period.
**INSPECTION PROCESS**

- **First**
  - An inspector is assigned to an agency.

- **Next**
  - The agency receives a letter from the Purchasing Division advising of their assigned inspector and the date of the impending inspection.

- **Then**
  - The inspector will review any potential findings with the agency at the end of the inspection.

- **When Needed**
  - A draft report will be prepared and forwarded to the inspected agency for their review and comments.

- **Lastly**
  - The agency is given a **two week notice** to respond to the report.

- **Finally**
  - The agency response will become part of the final report. A corrective action request will follow the final report.
INSPECTION NOTIFICATION LETTER

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
2019 FISHPOND STREET EAST
CHARLESTON, WEST VIRGINIA 25315-0130

DATE

DIRECTOR NAME, Director
AGENCY
ADDRESS
CITY, STATE ZIP

Dear DIRECTOR NAME:

Pursuant to requirements found in the West Virginia Code, §§A-3-3(9), and the Code of State Rules, 14CSR, the Purchasing Division is required to review certain aspects related to the governmental purchasing function. Specifically, the Purchasing Division is required to:

- determine whether commodities delivered or services performed conform to contractual requirements (§5A-3-9), and,
- review and audit spending unit requests and purchases and other transactions and performance that fell under the authority of the division (CSR $145-1-4.54).

Accordingly, please be advised that a purchasing inspection of your agency is scheduled to begin DATE. We plan to review agency purchases, inspect the delivery of equipment and services, and verify that all purchasing laws, rules and procedures were followed. Upon completion of the inspection, we will review potential findings with a member of your staff and, subsequently, provide a written summary of our findings and recommendations. Should you have any questions, we will be happy to discuss any of the issues relating to the inspection and, if necessary, provide training to assist you and your staff. STAFF MEMBERS have been assigned to this review.

In order to minimize time on site, please have ready all records, bids, purchase orders, documentation and correspondence for the transactions listed on the attached pages by DATE.

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

Respectfully,

W. Michael Sheets, CPPO
Director
West Virginia Purchasing Division

Enclosure

cc: PROCUREMENT OFFICER

PHONE: (304) 558-2336
FAX: (304) 558-4115
WVPurchasing.gov E.E.O./AFFIRMATIVE ACTION EMPLOYER
INSPECTOR REVIEW

1. Use of Internal Sources (if applicable)
2. Use of Statewide Contracts
3. Failure to Bid at Delegated Level
4. Vendor Registration
5. Verification Searches
INSPECTOR REVIEW

6. Purchasing Affidavit
7. wvOASIS Award Document
8. Asset Tags (if applicable)
9. Certification of Non-Conflict of Interest
10. Stringing
Once your agency has determined a need, you must check internal sources first.

- Sheltered Workshops
- Correctional Industries
- Surplus Property (Optional)
STATEWIDE OR AGENCY CONTRACTS

• If the needed commodity or service is not available from an internal source or you have obtained the appropriate waiver, you must then check availability through statewide or agency contracts
  – Mandatory for use
  – Commonly used commodities and/or services
  – Lowest price possible for best quality
  – Saves time having to bid out contracts for similar commodities or services

• Examples of statewide contracts include:
  – HOUSE
  – MVAPRTS
  – OFFICE
FAILURE TO BID AT DELEGATED LEVEL

- Documentation must be on file at the agency location or in wvOASIS

<table>
<thead>
<tr>
<th>$0-$2,500</th>
<th>$2,500.01-$10,000</th>
<th>$10,000.01-$25,000</th>
<th>Greater than $25,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>No bids required</td>
<td>Three verbal bids required</td>
<td>Three written bids required</td>
<td>Formal acquisition process (Purchasing Division)</td>
</tr>
<tr>
<td>A wvOASIS Procurement Award Document is required for purchases exceeding $2,500</td>
<td>The RFQ is required for all purchases between $10,000.01 and $25,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
CSR 148-1-6. Registration, Bidding, and Award

• Except for purchasing card vendors providing travel-related services or receiving an aggregate total yearly payment less than $25,000 from a spending unit, all vendors shall register with the Purchasing Division.

• Vendors may register through the Vendor Self-Service or by completing the vendor registration and disclosure statement provided by the Purchasing Division.
NON-COMPETITIVE/EXEMPT PURCHASES

• In accordance with West Virginia Code § 5A-3-1(a)1, § 5A-3-3(2) and the West Virginia Code of State Rules § 148-1-4.1, the Director has determined that it is not possible to obtain certain commodities and services through the competitive bidding process

• The Director has identified those commodities and services in the Non-Competitive/Exempt List of Commodities and Services

• Vendor registration and all other requirements for the dollar amount of the purchase are mandatory for contracts for these commodities and services; however, the annual vendor registration fee is waived

• Spending units purchasing from vendors under the Exempt List must continue to observe the standard purchasing procedure associated with a normal (Non-Exempt List) purchase of the same dollar amount
TRANSACTIONAL EXEMPTION PROCESS

- VNREGEX table in wvOASIS
- $2,500 threshold related to $125 vendor registration fee
- Vendor registration fee exemption for specific transactions
TRANSACTIONAL EXEMPTION PROCESS

- Additional Handbook-related transactional exemption codes to vendor registration deployed to all Departments in 2016
- Code usage reviewed by Purchasing Division Inspection Unit

<table>
<thead>
<tr>
<th>Department</th>
<th>Unit</th>
<th>Vendor Registration Exemption Code</th>
<th>Vendor Registration Exemption Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0213</td>
<td>0213ADVERTISING</td>
<td>Advertising pursuant to the Purchasing Procedures Handbook Section 9.1 at WV Purchasing.gov</td>
<td></td>
</tr>
<tr>
<td>0213</td>
<td>0213ATTORNEY</td>
<td>Attorneys and law firms pursuant to the Purchasing Procedures Handbook Section 9.3 at WV Purchasing.gov</td>
<td></td>
</tr>
<tr>
<td>0213</td>
<td>0213AVIATIONFUEL</td>
<td>Aviation fuel pursuant to the Purchasing Procedures Handbook Section 9.4 at WV Purchasing.gov</td>
<td></td>
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<tr>
<td>0213</td>
<td>0213COURTORDER</td>
<td>Court-ordered payments pursuant to the Purchasing Procedures Handbook Section 9.20 at WV Purchasing.gov</td>
<td></td>
</tr>
<tr>
<td>0213</td>
<td>0213COURTPLACEMENT</td>
<td>Court-ordered placements pursuant to the Purchasing Procedures Handbook Section 9.6 at WV Purchasing.gov</td>
<td></td>
</tr>
<tr>
<td>0213</td>
<td>0213DUES</td>
<td>Professional association dues pursuant to the Purchasing Procedures Handbook Section 9.12 at WV Purchasing.gov</td>
<td></td>
</tr>
<tr>
<td>0213</td>
<td>0213EMERGENCYSVCS</td>
<td>Emergency services, non-construction, non-architectural, non-engineering pursuant to the Purchasing Procedures Handbook Section 9.13 at WV Purchasing.gov</td>
<td></td>
</tr>
<tr>
<td>0213</td>
<td>0213ENTERTAINER</td>
<td>Entertainers pursuant to the Purchasing Procedures Handbook Section 9.7 at WV Purchasing.gov</td>
<td></td>
</tr>
<tr>
<td>0213</td>
<td>0213HISTORICAL</td>
<td>Antiquities and historical items pursuant to the Purchasing Procedures Handbook Section 9.2 at WV Purchasing.gov</td>
<td></td>
</tr>
<tr>
<td>0213</td>
<td>0213HOSPITALITY</td>
<td>Hospitality pursuant to the Purchasing Procedures Handbook Section 9.8 at WV Purchasing.gov</td>
<td></td>
</tr>
</tbody>
</table>
TRANSACTIONAL EXEMPTION PROCESS

• Code input into the “Vendor Registration Exemption” field within the Header portion of the wvOASIS award document under the General Information tab.
Under the **Vendor/Customer** component, view the **Fee and Vendor Compliance Holds** tab.

- A blank box means there are no Holds and the Vendor is in compliance with that government entity.
- At this point in time, it is our understanding that state debarment and Secretary of State are the only verifications that must occur outside of the system.
SECRETARY OF STATE
VERIFICATION SEARCH

http://apps.sos.wv.gov/business/corporations/
Purchasing Affidavit

• Used to certify that bidders do not owe any debts to the state which would preclude them from receiving a purchase order

• Purchases or contracts exceeding $5,000 require a Purchasing Affidavit — A single purchase or aggregated totals (i.e. several purchases which exceed $5,000)

• Must be signed and dated by the vendor

• Must be notarized
Required for all purchases in excess of $2,500, regardless of payment method (warrant or P-card).

wvOASIS Procurement Award Document (APO, AMA, or ACT)

If vendor proposes alternate terms and conditions, add the Agreement Addendum (WV-96)
AGENCY PURCHASE ORDERS

Purchase Order (APO) should include the following:

• Detailed description of the item(s)/service(s) purchased
• Term of contract and/or cancellation right
• Delivery date (if required)
• Bid price per unit
• Quantity being purchased
• Total purchase price
• Other necessary information such as applicable maintenance, etc.
What is reportable inventory?

- An asset that costs $1,000 or more and has a useful life of one (1) year or more
- All computers (including laptops and central processing units [CPU]) with an acquisition cost of $500 or more
- All firearms regardless of the cost
CERTIFICATION OF NON-CONFLICT

- Form used by members or advisors of an evaluation committee to certify they have no conflict of interest with any of the participating vendors
- This form is required for agency delegated purchases exceeding $2,500. Agencies may adopt this policy at their discretion for purchases $2,500 or less
- This form is required for a single purchase or a contract when the amount exceeds $2,500

### CERTIFICATION OF NON-CONFLICT OF INTEREST

West Virginia Code § 5A-3-31: “It shall be unlawful for any person to corruptly combine, collude or conspire with one or more other persons in soliciting or supplying of commodities or printing to the state under the provisions of this article if the purpose or effect of such combination, collusion or conspiracy is either to (1) lessen competition among prospective vendors, or (2) cause the state to pay a higher price for such commodities or printing than would be or would have been paid in the absence of such combination, collusion or conspiracy, or (3) cause one prospective vendor or vendors to be preferred over one or more other prospective vendor or vendors. Any person who violates any provision of this section shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than one nor more than five years, and be fined not exceeding five thousand dollars.”

West Virginia Code § 6B-2-6(b)(1): “A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person.”

West Virginia Code § 6B-2-5(d)(1): “[No] elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control.”

The individual(s) listed below have been charged to evaluate or serve as members or advisors of an evaluation committee for the solicitation as specified __________.

By signing this form, each individual acknowledges that: (1) his or her service on the evaluation committee is not in violation of West Virginia Code § 5A-3-31, § 6B-2-5, or any other relevant code section; (2) his or her service on the evaluation committee does not create a conflict of interest with any of the participating vendors; and (3) he or she has not had or will not have contact relating to the solicitation identified above with any participating vendors between the time of the bid opening and the award recommendation without prior approval of the Purchasing Division.

<table>
<thead>
<tr>
<th>Name/Title</th>
<th>Agency</th>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
</table>

Revised February 8, 2016
“No agency shall issue a series of requisitions to circumvent the $25,000 threshold. Violation of the $25,000 threshold is commonly referred to as “stringing,” and is prohibited by law. Instances of stringing must be reported to the Legislature.”
STRINGING

Purchasing Division Procedures Handbook, Section 5.1:

- Amounts spent with vendors are viewed comprehensively.
- State agencies should continuously monitor their expenditures with vendors to ensure that the total amount spent with a given vendor, within any 12-month period, does not exceed an applicable bid threshold without the proper level of documentation and bidding.

<table>
<thead>
<tr>
<th>SIMILAR MATERIAL OR SERVICE EXAMPLE ONE</th>
</tr>
</thead>
<tbody>
<tr>
<td>I0X1X1X1X1     7/02/2011   FLOWERS BAKING CO</td>
</tr>
<tr>
<td>S006X1X1X1     8/19/2011   FLOWERS FOODS INC</td>
</tr>
<tr>
<td>S006X2X2X2     9/08/2011   FLOWERS FOODS INC</td>
</tr>
<tr>
<td>S007X3X3X3     01/17/2011  FLOWERS FOODS INC</td>
</tr>
<tr>
<td>S007X4X4X4     1/03/2011   FLOWERS FOODS INC</td>
</tr>
<tr>
<td>S007X5X5X5     2/01/2011   FLOWERS FOODS INC</td>
</tr>
<tr>
<td>S007X6X6X6     1/02/2011   FLOWERS FOODS INC</td>
</tr>
<tr>
<td>S007X7X7X7     2/06/2012   FLOWERS FOODS INC</td>
</tr>
<tr>
<td>S007X8X8X8     3/08/2012   FLOWERS FOODS INC</td>
</tr>
<tr>
<td>S007X9X9X9     4/30/2012   FLOWERS FOODS INC</td>
</tr>
<tr>
<td>S007Z1Z1Z2     5/09/2012   FLOWERS FOODS INC</td>
</tr>
<tr>
<td>S007ZZZZZZ     6/05/2012   FLOWERS FOODS INC</td>
</tr>
</tbody>
</table>

TOTAL TRANSACTIONS-12 $28,749.20
# INSPECTION GRADING SYSTEM

## (Agency's Name) FY2018 Statistics

<table>
<thead>
<tr>
<th>Category</th>
<th>Number of Findings</th>
<th>Finding Percentage</th>
<th>Points Possible</th>
<th>Points Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stringing</td>
<td>1</td>
<td>1.00%</td>
<td>30</td>
<td>20</td>
</tr>
<tr>
<td>Statewide Contract</td>
<td>1</td>
<td>1.00%</td>
<td>15</td>
<td>12</td>
</tr>
<tr>
<td>Internal Resources</td>
<td>1</td>
<td>1.00%</td>
<td>15</td>
<td>12</td>
</tr>
<tr>
<td>Bid Documentation</td>
<td>1</td>
<td>1.00%</td>
<td>15</td>
<td>12</td>
</tr>
<tr>
<td>Vendor Registration</td>
<td>1</td>
<td>1.00%</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Unemployment/Workers' Compensation</td>
<td>1</td>
<td>1.00%</td>
<td>15</td>
<td>12</td>
</tr>
<tr>
<td>Affidavit</td>
<td>1</td>
<td>1.00%</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Purchase Order Issued</td>
<td>1</td>
<td>1.00%</td>
<td>15</td>
<td>12</td>
</tr>
<tr>
<td>Asset Tag/Number</td>
<td>1</td>
<td>1.00%</td>
<td>3</td>
<td>2.4</td>
</tr>
<tr>
<td>Certification of Non-Conflict of Interest</td>
<td>1</td>
<td>1.00%</td>
<td>3</td>
<td>2.4</td>
</tr>
<tr>
<td>Miscellaneous Issue</td>
<td>1</td>
<td>1.00%</td>
<td>1</td>
<td>0.8</td>
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<tr>
<td><strong>Total</strong></td>
<td>11</td>
<td></td>
<td>76</td>
<td></td>
</tr>
</tbody>
</table>

**Overall Agency Score**

<table>
<thead>
<tr>
<th>Non-Conformance &amp; Findings Average</th>
<th>Overall Letter Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>83.0%</td>
<td>C</td>
</tr>
</tbody>
</table>

**Scale (See Weight Application):**

- 91.66 - 100 = A
- 83.33 - 91.65 = B
- 75 - 83.32 = C
- 66.66 - 74.99 = D
- <66.63 = F
CORRECTIVE ACTION PLAN

Corrective Action Plan
In response to the final report issued [Date]

Agency Name: ___________________________ Inspection Date(s):_________
Agency Address: ___________________________ Phone:_____________________
Agency Contact Name/Title: ___________________________ Email:_________________

Issue(s) # _____
1,4,5,10,15 etc.....

Finding:
________________________
________________________
________________________

Corrective Action: (Must include: Steps to correct the specific concerns identified by reviewers; steps to identify and correct similar issues which may be present within the agency but not specifically identified by the inspectors.)
________________________
________________________
________________________

Quality Assurance and Monitoring: (Must include steps to monitor status and prevent recurrence of similar problems in the future. Each corrective action step must have corresponding quality assurance/monitoring activity.)
________________________
________________________
________________________

Name and Title of Responsible Person:
________________________

Target Date for Completion: (Must be completed within 60 days of the final report date)
________________________
CONTRACT MANAGEMENT

Purchasing Division Procedures Handbook, Section 6.5

• For contracts of commodities and services exceeding $1 million, the following contract management procedures apply:
  – Post award conferences: Ensure a clear and mutual understanding of all contract terms and conditions and the respective responsibilities of all parties
  – Monitoring: Measure outcomes, monitor compliance with contract requirements, and assess contractor performance
  – Reports: Status reports and activity reports
PENALTIES

West Virginia Code §5A-3-17. Purchases or contracts violating article void; personal liability.

• If a spending unit purchases or contracts for commodities contrary to the provisions of this article or the rules and regulations made thereunder, such purchase or contract shall be void and of no effect.

• The spending officer of such spending unit, or any other individual charged with responsibility for the purchase or contract, shall be personally liable for the costs of such purchase or contract and, if already paid out of state funds, the amount thereof may be recovered in the name of the state in an appropriate action instituted therefor:

Provided, That the state establishes by a preponderance of the evidence that the individual acted knowingly and willfully.
PENALTIES

*West Virginia Code §5A-3-31:* Corrupt actions, combinations, collusions or conspiracies prohibited; penalties.

- (a) It shall be unlawful for any person to corruptly act alone or combine, collude or conspire with one or more other persons with respect to the purchasing or supplying of services, commodities or printing to the state under the provisions of this article if the purpose or effect of such action, combination, collusion or conspiracy is either to: (1) Lessen competition among prospective vendors; or (2) cause the state to pay a higher price for such services, commodities or printing than would be or would have been paid in the absence of such action, combination, collusion or conspiracy; or (3) cause one prospective vendor or vendors to be preferred over one or more other prospective vendor or vendors.

- (b) Any person who violates any provision of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one nor more than five years, and be fined not exceeding $10,000.
**PENALTIES**

*Code of State Rules 148 CSR Series 1 – Section 4.18*

- The Director of Purchasing may suspend or reduce purchasing authority for any spending unit that fails to report multiple contract awards that are deemed by the Director to circumvent the $25,000 threshold with a twelve (12) month period.

- In the event of suspension or reduction of purchasing authority, the Director shall prescribe revised procedures and limits which may require all spending unit purchases, regardless of amount, be made by the Purchasing Division.
INFORMATIONAL RESOURCES

Purchasing Division Procedures Handbook
www.state.wv.us/admin/purchase/handbook

Purchasing Division Website
WVPurchasing.gov

Inspection Services Unit
http://www.state.wv.us/admin/purchase/Inspection/default.html

Inspection Report Index
http://www.state.wv.us/admin/purchase/inspection/inspectReports.html
• Greg Clay
  – (304) 558-5780
  – Gregory.C.Clay@wv.gov

• Shane Hall
  – (304) 558-8803
  – Ryan.S.Hall@wv.gov

• Mitzie Howard
  – (304) 558-2037
  – Mitzie.D.Howard@wv.gov

• Melissa Hitt
  – (304) 558-3488
  – Melissa.J.Hitt@wv.gov