
Alternative Procurement Methods



Presented by:
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Objectives

- Discuss **Emergency Procurement** requirements, including pre-approvals, bids, and documentation
- Provide an overview of **Direct Award** procurements, including market research, advertisement, and award of a contract
- Highlight the Purchasing Division's List of Commodities and Services Identified as **Impossible to Bid** and requirements of the agency and vendor when such a purchase is made
- Discuss the **Fast Track** option and what agencies need to know before considering this route



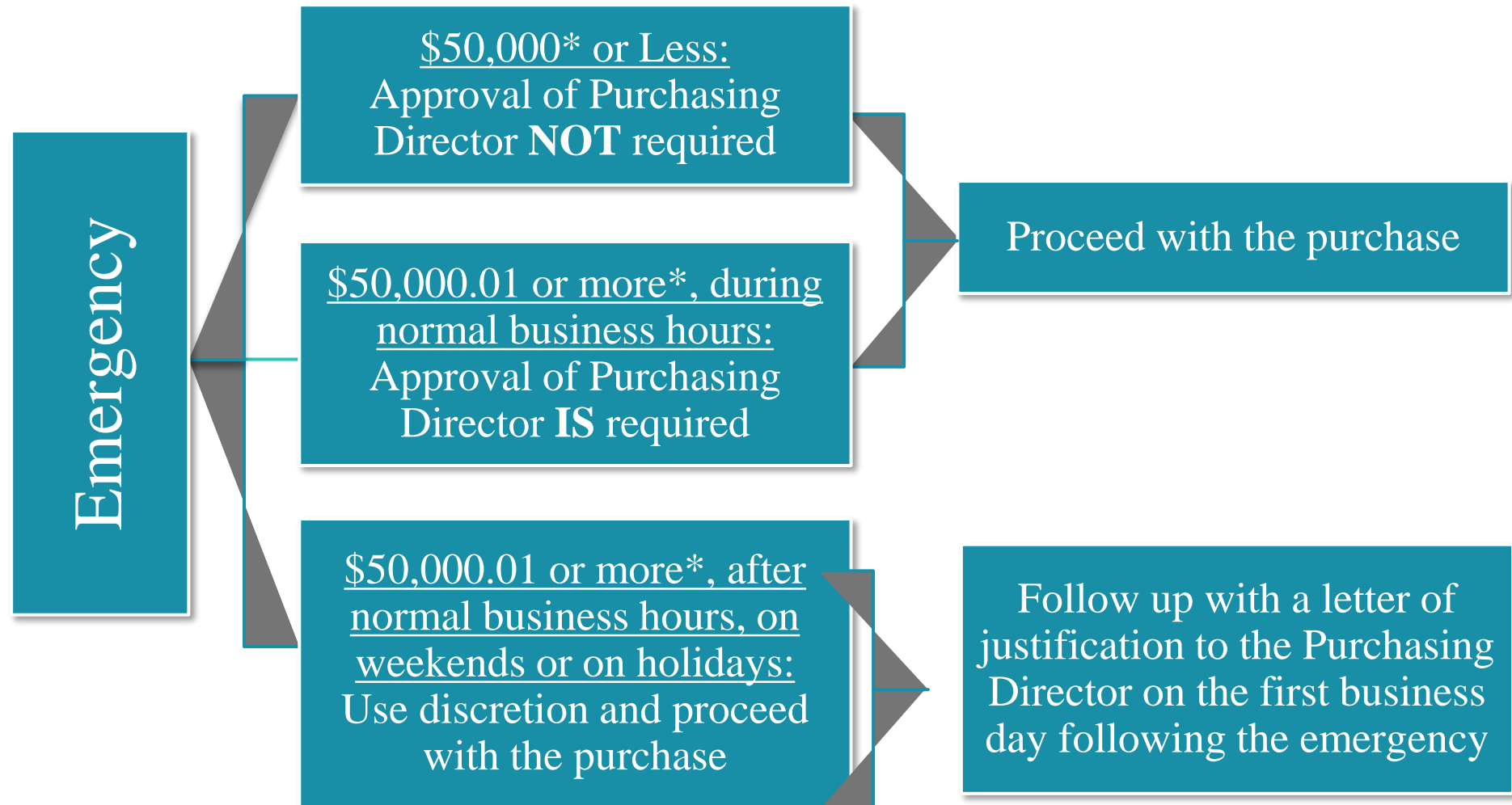
What is an Emergency Purchase?

- Purchase necessary when unforeseen causes arise
 - Delays by contractors
 - Delays in transportation
 - Unanticipated volume of work
- Short-term solution to a problem until it can be properly bid
- Emergencies are not a result of neglect, poor planning, or lack of organization by the spending unit

Lack of planning is not an emergency, but lack of planning can put you in an emergency!



An Emergency Occurs: *What happens next?*



* Or \$100,000 if the agency an increased delegated threshold

In All Cases

Pre-Approvals

- Obtain pre-approvals, when applicable (such as CTO approval)

Obtain Bids

- If less than \$50,000*, include original written bids in the agency file
- If \$50,000.01 or more*, include with the requisition sent to Purchasing
- If three bids cannot be obtained, include an explanation of the agency's attempt to get three bids

Provide Justification

- If low bid not the selected vendor, include agency justification in the file or with the documentation submitted to the Purchasing Division

Required Documentation

- Verification of vendor property registered with the Purchasing Division
- Verification of vendor in good standing with requirements of other state agencies
- Certification of Non-Conflict of Interest signed by agency procurement officer and other appropriate staff
- Insurance if applicable



Terms and Conditions in Emergency Situations

- Emergency contracts are subject to the same terms and conditions as traditional contracts.
- Notify vendors of the requirements contained in the terms and conditions as early in the process as possible.
- Certain emergency situations do not allow time for written bid requests; in those situations, the terms and conditions should be addressed immediately after the emergency situation has been resolved.




Posting of Emergency Purchase Approvals

- For transparency purposes, the Purchasing Division began posting all emergency purchase request approvals from Jan. 1, 2019, forward.
- These can be viewed online at www.state.wv.us/admin/purchase/emergencyrequests.html

WEST VIRGINIA PURCHASING DIVISION

EMERGENCY PURCHASE REQUESTS



[WV.gov](#) | [Administration](#) | [Purchasing](#) | [Transparency](#) | [Emergency Purchase Requests](#)

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Emergency Purchase Requests

To provide transparency in the state procurement process, the West Virginia Purchasing Division is posting below all emergency purchase requests approved from state agencies as of January 1, 2019.

In accordance with *West Virginia Code* §5A-3-15, state agency purchases may be necessary when unforeseen causes arise; however, emergency purchases are not used for hardship resulting from neglect, poor planning, or lack of organization by the spending unit. An emergency purchase can only be made if the state agency-designated procurement officer, exercising sound judgment and discretion, concludes in good faith and upon reasonable and sufficient grounds that some unforeseen or unexpected circumstance has suddenly created a situation requiring that commodities or services be immediately purchased by a state spending unit. A record of competitive bids must be maintained in the agency file.

FY2023 Reporting Period

State Agency	Request	Description	Date
Division of Highways	Emergency Purchase	Contract electrical-repair services to restore power following failure at main power feed coming into headquarters building in Huntington, District 2.	11/28/2022
Division of Highways	Emergency Purchase	Pre-stressed concrete box beams and accessories for Romance Bridge, Jackson County, following a lack of response to the advertised competitive solicitation for the Bridge Department, District 3.	11/21/2022
Division of Highways	Emergency Purchase	Following material defects in previously-delivered shipments, procure replacement 6" x 24" x 69" concrete lagging in order to stabilize already-failing embankments for the Heavy Maintenance Division, District 10.	11/18/2022
Workforce West Virginia	Emergency Purchase	One-year contract for fiscal and program monitoring, auditing, and updating of guides for the seven WorkForce development boards who receive Workforce Innovation and Opportunity Act (WIOA) funding from the U.S. Department of Labor in accordance with their mandates and deadlines.	11/03/2022
		Removal of loose and spalling mortar and stabilization of adjacent area	

The information below is a checklist of agency responsibilities in processing an Emergency Purchase. Please note that while this information is accurate in most cases, there may be occasion where additional information may be needed or required.

CHECKLIST FOR EMERGENCY PURCHASES

√	DESCRIPTION
	Obtain Written Agency Justification for Emergency Purchase, Approved by Purchasing Director
	Agency submits Electronic Requisition and include copy of approval from Purchasing Director
	Pre-approvals , when applicable (such as Attorney General, Chief Technology Officer/IS&C, Capitol Building Commission, Surplus Property, Statewide Interoperability Executive Committee)
	Emergency Bids (at least three bids or explanation of efforts to obtain bids if three cannot be obtained) and master terms and conditions
	Signed and Dated Quote from Selected Vendor (written agency justification required if low bid is not selected). The Purchasing Master Terms and Conditions should be included with emergency bids to the extent that the emergency permits.
	Verification of Vendor Properly Registered with the Purchasing Division
	Proof of Insurance , if applicable.
	Verification of Vendor in Good Standing (with all laws and requirements of the state, including Secretary of State, Insurance Commission, Federal and State Debarment, and Workers Compensation).
	Certification of Non-Conflict of Interest (signed by Agency Procurement Officer and other appropriate staff).
	WV-96 Agreement Addendum (or WV-96A for Software) signed by vendor and agency, if applicable.

Revised July 1, 2022

This Checklist can be found at <http://www.state.wv.us/admin/purchase/handbook/checklist.html>.



Questions about Emergency Procurements?

What is a Direct Award Procurement?

- A procurement method that facilitates a contract being directly awarded to a vendor without competitive bidding.
- A direct award cannot be utilized unless the agency can show:
 - It's in the best interest of the State
 - Either competition is not available or no other source would be willing or able to replace the existing source without a detrimental effect on the spending unit.



Direct Award Procurement

Keep in mind...

- Complete WV-65 in its entirety
- Have dates correct on WV-65
- Have all required documents - the Purchasing Division should have a complete packet when request is made
- There is no Blackout Period with Direct Award

4. Other Information Required for Direct Award Posting:

- A. A time-period by which delivery must be made or performance must occur:
10/1/2021-9/30/2022

Reference: 20210528-131131638


Quote created: May 28, 2021

Quote expires: October 2, 2021



Direct Award Procurements: *\$50K or less*

Complete Direct Award Request for Consideration (WV-65A); procurement officer must approve this form




Agency Sole Source Determination (ASSD/Agency-Level Direct Award); must be published in wvOASIS for a minimum of 10 business days



Agency Purchase Order (APO, ACT, or AMA)



A written, signed quote from the vendor for procurements over \$20,000, including a specific description, Agency Master Terms and Conditions, FOB point of shipment, and price; faxed or electronic quotes are acceptable



Written documentation in the agency file certifying that no other sources are available and that the spending unit exhausted all attempts to secure competition

Direct Award Procurements: *\$50,000.01 or more*

Submit to the Purchasing Division for approval a completed and detailed Direct Award Posting: Agency Request and Public Notice Form (WV-65)



Centralized Sole Source Determination (CSSD; formal-level direct award); must be published in *wvOASIS* for a minimum of 10 business days



Once CSSD is advertised, submit the Non-Conflict of Interest Certification, the Purchasing Master Terms and Conditions, as well as any documentation from the vendor



Centralized Purchase Order (CPO, CCT, or CMA)

CHECKLIST FOR DIRECT AWARD

√	DESCRIPTION
	Direct Award for Consideration (WV-65) to be completed by Agency and submitted to Purchasing Division with signed and dated vendor letter/price quote*, written justification** and pre-approvals***, when applicable
	*Signed and Dated Vendor Letter / Price Quote (may be electronic and must include specific description, master terms and conditions, FOB shipping point, and price)
	**Written Agency Justification (describing market research to determine suggested vendor is only known source; or describing how item or service is of unique or special nature; and the request is not an attempt to circumvent the normal bid process)
	*** Pre-approvals , when applicable (such as Attorney General, Chief Technology Officer/IS&C, Capitol Building Commission, Surplus Property, Statewide Interoperability Executive Committee)
	If WV-65 is approved , provide the Purchasing Division with Direct Award Determination, including signed Purchasing Master Terms and Conditions and <i>Purchasing Affidavit</i> , signed and dated by vendor
	Advertisement in the West Virginia Purchasing Bulletin
	If no vendors respond to advertisement , Agency submits Electronic Requisition (CRQS/CRSM). If vendors do respond and Purchasing Division determines there is competition, the Agency must follow process for a Request for Quotation
	Verification of Vendor Properly Registered with the Purchasing Division (check for suspension or debarment), and ensure Taxpayer Identification Number (TIN) in wvOASIS matches the TIN on the bid
	Verification of Vendor in Good Standing within wvOASIS (with all laws and requirements of the state, including Insurance Commission, Federal and State Debarment and Workers Compensation)
	Verification of Vendor in Good Standing with Secretary of State (check the Secretary of State's database)
	Certification of Non-Conflict of Interest (signed by Agency Procurement Officer and other appropriate staff)
	WV-96 Agreement Addendum (or WV-96A for Software) signed by vendor and agency, if applicable

In cases where other vendors respond to the direct award posting and it is determined competition is available, the agency is required to develop specifications and pursue the competitive bid process.



West Virginia Purchasing Division

DIRECT AWARD POSTING: Agency Request and Public Notice Form

Public Notice Instructions

Statutory Authority: Pursuant to *West Virginia Code* §5A-3-10c, a state agency may request, and the Director of Purchasing may award, a contract directly to a vendor without competitive bidding if certain requirements are met. Those requirements include providing the Purchasing Division with justification to support the Direct Award, along with providing certain information to the vendor community for a period of no less than 10 business days.

Agency Request: The agency identified below has requested that the Purchasing Division make a Direct Award to the vendor identified below to provide the commodity or service identified below. The support for the Direct Award, and any additional documentation has been included in this form or as an attachment.

Vendor Interest: Any vendor interested and able to provide the commodity or service in question must make their interest known, prior to the deadline published in wvOASIS, by expressing such interest in writing to the Purchasing Division Buyer identified as the appropriate contact in wvOASIS. If interest is expressed and deemed to be valid by the Purchasing Division, this Direct Award will be converted to a competitive bid.

Direct Award Information

Agency / Department: _____

Procurement Officer: _____

Date of Request: _____

1. Provide description of commodity or service (Include a copy of any proposed contract documents):

If requesting software as a sole source, is this software as a service?

Yes No

2. Justification showing that the direct award is in the best interest of the state:

3. **Basis for Direct Award:** Please select one of the following and provide details and documentation sufficient to confirm the basis.

Competition is not available from any other source: (If this item is selected answer the question below)

A. The agency attempted to identify other sources by:

No other source would be willing or able to replace the existing source without a detrimental effect on the spending unit (Please describe the detrimental effect in detail):

4. **Other Information Required for Direct Award Posting:**

A. A time-period by which delivery must be made or performance must occur:

B. The price that will be paid for the commodity or service (include vendor quote):

C. Any limitations that a competing vendor would need to satisfy:

Agency Procurement Officer Signature

Date: _____

For Purchasing Division's Use Only

- Request to Advertise Direct Award Denied
 Request to Advertise Direct Award Approved

Purchasing Director / Designee Signature

Date: _____



West Virginia Purchasing Division

DIRECT AWARD POSTING: Justification and Public Notice Form (Delegated Procurements \$2,500.01 to \$25,000)

Public Notice Instructions

Statutory Authority: Pursuant to *West Virginia Code* § 5A-3-10c, a state agency may award a contract directly to a vendor without competitive bidding if certain requirements are met. Those requirements include documenting justification to support the Direct Award, along with providing certain information to the vendor community for a period of no less than 10 business days.

Agency: The agency identified below Intends to make a Direct Award to the vendor identified below to provide the commodity or service identified below. The support for the Direct Award, and any additional documentation has been included in this form or as an attachment.

Vendor Interest: Any vendor interested and able to provide the commodity or service in question must make their interest known, prior to the deadline published in wvOASIS, by expressing such interest in writing to the procurement officer identified as the appropriate contact in wvOASIS. If interest is expressed and deemed to be valid by the procurement officer, this Direct Award will be converted to a competitive bid.

Direct Award Information

Agency / Department: _____

Procurement Officer: _____

Date of Request: _____

1. Provide description of commodity or service (Include a copy of any proposed contract documents):

If requesting software as a sole source, is this software as a service?

Yes No

2. Justification showing that the direct award is in the best interest of the state:

3. Basis for Direct Award: Please select one of the following and provide details and documentation sufficient to confirm the basis.

Competition is not available from any other source: (If this item is selected answer the question below)

A. The agency attempted to identify other sources by:

No other source would be willing or able to replace the existing source without a detrimental effect on the spending unit (Please describe the detrimental effect in detail):

4. Other Information Required for Direct Award Posting:

A. A time-period by which delivery must be made or performance must occur:

B. The price that will be paid for the commodity or service (include vendor quote):

C. Any limitations that a competing vendor would need to satisfy:

Agency Procurement Officer Signature

Date:

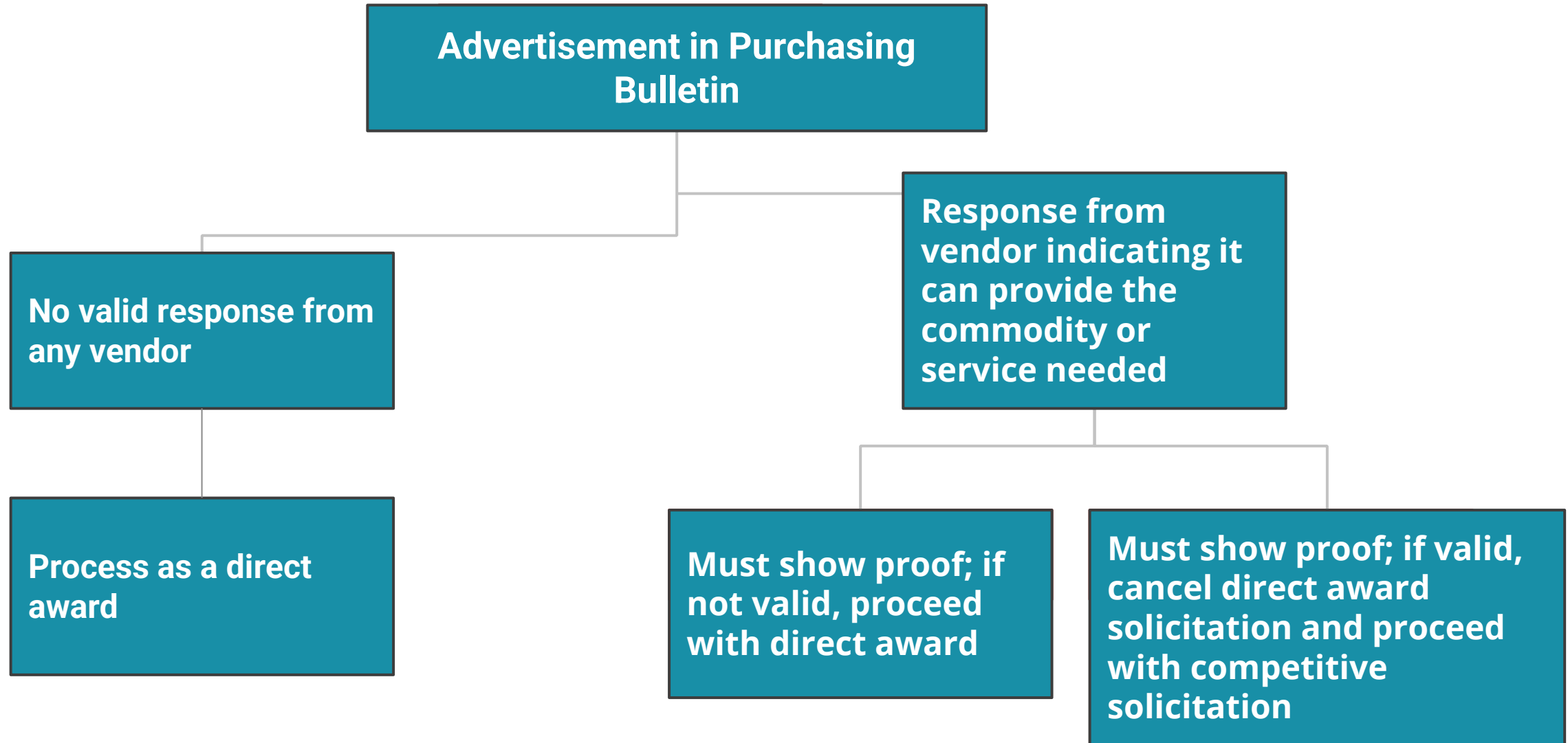
For Procurement Officer Use Only

Request to Advertise Direct Award Denied
 Request to Advertise Direct Award Approved

Agency Procurement Officer

Date:

Direct Award Procurement Advertisement



Things to Consider:

1. Conduct market research prior to submitting a Direct Award Posting request for formal purchases.
2. Have a process in place to determine whether a vendor is considered the only source for agency-delegated purchases, and if so, what is it?
3. If a vendor tells you they are the only vendor who can supply a needed commodity or service, what should you do? Trust but verify.
4. Remember to document your file for agency-delegated direct award procurements.





Questions about Direct Award Procurements?

Impossible to Bid Purchases

- List of Commodities and Services Identified as Impossible to Bid
 - List is reviewed and approved each year by Purchasing Director
 - Not possible to obtain certain commodities and services through the competitive bidding process
- Purchasing Division approval not required for these procurements, unless specifically noted
- Vendor registration and all other requirements for the dollar amount of the purchase still apply.
- In wvOASIS on the Header document must include the Section 9 exemption number (i.e. #11 – Postage)



Impossible to Bid Purchases

Documentation and award procedures are still required. All that is different with Impossible to Bid procurement is that bidding is exempt.

The Director of the Purchasing Division has the authority to exempt transactions from competitive bidding requirements provided that the director determines such exemptions to be in the best interest of the state. The Director is also authorized to recognize that certain commodities and services are impossible to obtain through competitive bidding and make a list of those commodities and services.

**Section 9 in the Purchasing Division Procedures Handbook*



Impossible to Bid Purchases

Spending units purchasing from vendors under the Exempt List must continue to observe the standard purchasing procedure associated with a normal (non-exempt) purchase of the same dollar amount

- Examples:
 - Purchase order is required on all purchases over \$5,000
 - Spending units must continue to submit contracts to the Attorney General's office for approval as to form



Section 9 New Exemption Request Forms

36. Section 9 Exemption Opinion Request Form (WV-68): Section 9 Exemption Opinion Request Form for Purchasing Division (WV-68)

37. Section 9 New Exemption Request Form: Form used to request a new exemption for the list of non-competitive, exempt commodities or services under Section 9 of the Purchasing Division Procedures Handbook.

Reminder: Be sure to always get your forms from the Forms page on the Purchasing Division website at <http://www.state.wv.us/admin/purchase/forms.html>



Exempt Purchases

Section 9 Exemption Opinion Request Form

- Allows an agency to formally inquire about whether or not a transaction is included in one of the enumerated categories of the Section 9 Exempt List
- Should only be used when the applicability of a Section 9 exemption is questionable or unclear
- Agencies remain authorized to utilize a Section 9 exemption without Purchasing Division approval when there is no question that the transaction qualifies

Agency Requesting Opinion: _____

Commodity or Service Under Consideration: _____

Name of Vendor Providing Commodity or Service: _____

Provide Relevant Details about the Transaction: _____

Details about Prior Contracts for the Commodity or Service:

1. Has the Agency previously conducted a competitive bid or sole source for the commodity or service in question and if so, what was the result? If not, how has the commodity or service been obtained previously?

2. Is the Agency aware of any other agency that has competitively bid or completed a sole source for the commodity or service?

Section 9 Item(s) Agency Believes may be Applicable:

1. _____
2. _____
3. _____

Section 9 New Exemption Request Form (WV-67)

Section 9 New Exemption Request Form

- All forms must be received by June 1st to be considered for the following fiscal year

WV-67
Rev. 07/01/19



West Virginia Purchasing Division
SECTION 9 ADDITION REQUEST FORM

This is the official form used by the Purchasing Division to consider possible additions to the List of Commodities and Services Identified as Impossible to Bid that are currently approved and posted as Section 9 of the **Purchasing Division Procedures Handbook**. All requests for consideration must be submitted to the Purchasing Division no later than June 1st to be considered during the review for the following fiscal year.

Requested Addition:

Does your agency utilize the commodity/service described above?

Yes No

How often within one year does your agency use commodity/service?

Provide an explanation of why competitive bids for the commodity/service are not possible:

What suppliers do you use for the commodity/service?



**Questions about
Impossible to Bid
procurements?**

What is a Fast Track Purchase?

A Fast Track Purchase can be made under the following circumstances:

- Has to be highly-commoditized
- There has to be a sophisticated vendor group or network, which means they don't have to ask questions
- There has to be complete agency buy-in to review quickly
- Can only be used with vendors who know what they are doing





**Questions about
Fast Track
procurements?**

References

- West Virginia Code § 5A-3-1
- Code of State Rules 148CSR1
- Purchasing Division Procedures Handbook

**Code allows for other procurement methods. Contact the Purchasing Division with questions
purchasing.help@wv.gov.**



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