

**From:** Sheets, Mike - Purchasing  
**Sent:** Monday, August 19, 2019 10:31 AM  
**To:** Harding, Malena <[mharding@psc.state.wv.us](mailto:mharding@psc.state.wv.us)>  
**Cc:** Chambers, Jessica S <[Jessica.S.Chambers@wv.gov](mailto:Jessica.S.Chambers@wv.gov)>  
**Subject:** RE: [External] Emergency request

Malena,

Your emergency is approved. Please follow emergency purchasing procedures as found in the Handbook and follow up with documentation within 30 days.

Regards,  
Mike

**From:** Harding, Malena <[mharding@psc.state.wv.us](mailto:mharding@psc.state.wv.us)>  
**Sent:** Monday, August 19, 2019 10:13 AM  
**To:** Sheets, Mike - Purchasing <[William.M.Sheets@wv.gov](mailto:William.M.Sheets@wv.gov)>  
**Cc:** Chambers, Jessica S <[Jessica.S.Chambers@wv.gov](mailto:Jessica.S.Chambers@wv.gov)>  
**Subject:** RE: [External] Emergency request  
**Importance:** High

Hi Mike,

Thank you for the quick response. Attached is the grant agreement and the budget page. The actual grant document itself is very large so we are attaching the relevant sections to support our request.

I would like to add that to my knowledge the PSC is not seeking an exemption from Purchasing. During informal discussions at the agency level we have discussed the fact that because our Enforcement Officers work so closely with the State Police and are required to use the same equipment in their duties that it would be nice if we had an exemption just to be able to use the State Police's equipment contracts. Although, I don't believe that those discussions have went outside the agency and when mentioned to Purchasing staff were just a "wish list" discussion as something our folks might look into at some point. I apologize for any misunderstanding regarding this issue and it was never our intention to circumvent any processes or laws to procure these items. The PSC tries to be mindful of the rules and processes and we do our very best to follow them.

Please let me know if you require any additional information to further consider our urgent request.

Malena

**From:** Sheets, Mike - Purchasing [<mailto:William.M.Sheets@wv.gov>]  
**Sent:** Friday, August 16, 2019 5:22 PM  
**To:** Harding, Malena  
**Cc:** Chambers, Jessica S  
**Subject:** FW: [External] Emergency request

Malena,

Your agency recently requested that the Purchasing Division approve a request to purchase from the State Police contract for radios. In order to authorize such a request, the Purchasing Division is mandated by state law to ensure that the contract being utilized and is "valid, properly awarded, financially advantageous, and comparable to what can be obtained through competitive bidding." The Purchasing Division was unable to confirm this given that the contract documents had several notable deficiencies. First, the State Police is exempted from Purchasing Division oversight and was not given a statutory mandate to competitively bid. Second, if the contract did result from a competitive bid, it appears that the State Police failed to provide an estimate of the needed quantity for any item and instead listed a quantity of 1 for each. Given that quantity discounts cannot be obtained without actually including a valid quantity, the financial advantage is in question. Third, the award methodology used by the State Police was not readily apparent in the documentation provided. For these reasons, the Purchasing Division could not approve your agency's request.

I understand that this may cause your agency to seek an exemption in the next legislative session. The Purchasing Division will have no choice but to oppose the exemption and inform interested parties that the denied cooperative procurement giving rise to the exemption request was neither legal nor appropriate under the circumstances presented. Perhaps a better alternative would be to work with the Purchasing Division to draft legislation that would alter the cooperative procurement requirements. Additionally, we would be glad to work with the PSC to bid and award a statewide contract for compliant radios.

With all of that said, we have received and reviewed the attached request for an emergency purchase citing both this recently awarded State Police contract and the imminent loss of funds. While we believe that competitive bidding under applicable laws will yield the best result, the state is left with little choice other than an emergency purchase at this late date. Please provide any additional information that you can relating to the funds. The grant documentation stipulating how the funds must be used and when they expire would be ideal if that is readily available.

If you have any questions, please let me know.

Regards,  
Mike

W. Michael Sheets  
Director  
WV Purchasing Division  
2019 Washington Street, East  
Charleston, WV 25305

Phone: (304) 558-0492  
Fax: (304) 558-4115

**From:** Chambers, Jessica S <[Jessica.S.Chambers@wv.gov](mailto:Jessica.S.Chambers@wv.gov)>

**Sent:** Friday, August 16, 2019 1:52 PM

**To:** Sheets, Mike - Purchasing <[William.M.Sheets@wv.gov](mailto:William.M.Sheets@wv.gov)>; Whittaker, Frank M <[Frank.M.Whittaker@wv.gov](mailto:Frank.M.Whittaker@wv.gov)>

**Cc:** Nisbet, Guy L <[Guy.L.Nisbet@wv.gov](mailto:Guy.L.Nisbet@wv.gov)>

**Subject:** FW: [External] Emergency request

Please review the attached request for an emergency purchase from PSC.

Thanks!

# Public Service Commission of West Virginia

201 Brooks Street, P.O. Box 812  
Charleston, West Virginia 25323



Phone: (304) 340-0300  
Fax: (304) 340-0325

August 16, 2019

West Virginia Purchasing Division  
Jessica S. Chambers  
2019 Washington Street, E.,  
P.O. Box 50130  
Charleston, WV 25305

Re: EMERGENCY PURCHASE

Ms. Chambers:

The Public Service Commission (PSC) is requesting permission to proceed with an **Emergency Purchase** of dual band radios. The PSC has grant funds expiring September 30, 2019 and this grant money is to be used for this safety equipment. Time is of the utmost importance to procure these items. If the PSC encounters any delays in awarding a traditional contract it would cause the PSC to lose grant funding of \$88,000. Our Enforcement Officers use these radios to communicate with other public safety agencies in order to ensure WV highways remain safe for the public, that PSC officers are safe on the roads by being able to communicate with State Police and other safety agencies, and for officers to respond to any other roadway emergency issue, etc.

Motorola provides the required equipment and has agreed to charge the PSC the same rates as provided on the current WV State Police dual band radio contract. We will not be spending more than \$88,000.

Further justification:

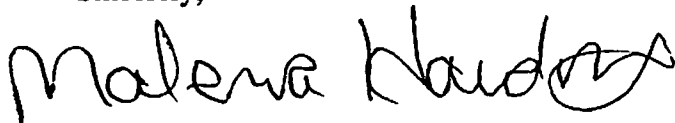
1. The radios we are required to have must meet the standards and requirements of the WV Statewide Interoperable Radio Network (SIRN). The Statewide Interoperability Executive Committee (SIEC) is responsible for system integrity and proper operation of Homeland Security's SIRN. The SIEC tests and maintains a list of radios approved for operation on the SIRN. The SEIC will update the list when new radios are added or reevaluated. Radios not listed as "Approved Equipment" will not be activated on the network. These Motorola devices already meet the SIEC standards.
2. Another potential cost borne by the PSC is that of testing and approving radios because of the existence of different options available from various manufacturers. Using these

Motorola devices will ensure the radio is properly configured for operation on the SIRN and will alleviate this redundant expense and time if the SIEC must rest the devices before a traditional contract award.

3. Our staff is already certified on Motorola devices. Recertifying staff on a different brand of equipment is not cost effective and would be time consuming.

In summary, PSC staff must purchase radios for our Enforcement Officers. Staff received an email from the SIRN network representative advising us of the specific type of radio equipment we are required to have in order to be compliant with the SIRN network. We are requesting permission to make an emergency purchase of this necessary equipment. These Motorola devices meet the requirements of the SIRN network and the contract. We will be adding these items to our existing inventory and as stated our staff is already certified on these types of Motorola devices.

Sincerely,

A handwritten signature in black ink that reads "Malena Harding". The signature is written in a cursive style with a large, stylized initial "M".

Malena Harding  
Procurement Officer  
Public Service Commission  
304-340-0333  
[mharding@psc.state.wv.us](mailto:mharding@psc.state.wv.us)



U.S Department of Transportation

Federal Motor Carrier Safety Administration

Grant Agreement

1. RECIPIENT NAME AND ADDRESS Public Service Commission of West Virginia 201 Brooks St Enforcement Charleston, WV 25301-1803	2. AGREEMENT NUMBER: FM-MCG-0413	3. AMENDMENT NO. 1		
	4. PROJECT PERFORMANCE PERIOD:	FROM 10/01/2017	TO 09/30/2019	
	5. FEDERAL FUNDING PERIOD:	FROM 10/01/2017	TO 09/30/2019	
1A. IRS/VENDOR NO. 556000795	6. ACTION Incremental Funding			
1B. DUNS NO. 926944976				

7. CFDA#: 20.218	<b>TITLE</b>	<b>FEDERAL</b>	<b>NON-FEDERAL</b>	<b>TOTAL</b>
8. PROJECT TITLE Implementation of the FY 2018 MCSAP Commercial Vehicle Safety Plan	9. PREVIOUS AGREEMENTS	469,686.00	82,886.00	552,572.00
	10. THIS AGREEMENT	1,710,023.00	301,769.00	2,011,792.00
	11. TOTAL AGREEMENT	2,179,709.00	384,655.00	2,564,364.00

12. INCORPORATED ATTACHMENTS  
THIS AGREEMENT INCLUDES THE FOLLOWING ATTACHMENTS, INCORPORATED HEREIN AND MADE A PART HEREOF:  
  
Standard Terms and Conditions are unchanged and remain in effect. Please refer to the Standard Terms & Conditions attached in the FY18 MCSAP Phase I NGA.

13. STATUTORY AUTHORITY FOR GRANT/ COOPERATIVE AGREEMENT  
49 U.S.C. §§ 31102(a)-(k), and 31104 (2016), as amended by the FAST Act, Pub. L. 114-94, §§ 5101(a) and (c) (2015), Federal Grant and Cooperative Agreement Act of 1977.

14. REMARKS  
See enclosed Special Award Provisions.

<b>GRANTEE ACCEPTANCE</b>		<b>AGENCY APPROVAL</b>	
15. NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Mr. Robert Blankenship		17. NAME AND TITLE OF AUTHORIZED FMCSA OFFICIAL Mr. Thomas Martin	
16. SIGNATURE OF AUTHORIZED GRANTEE OFFICIAL Electronically Signed	16A. DATE 06/11/2018	18. SIGNATURE OF AUTHORIZED FMCSA OFFICIAL Electronically Signed	18A. DATE 06/11/2018

**AGENCY USE ONLY**

19. OBJECT CLASS CODE: 41000      20. ORGANIZATION CODE: M600000000

21. ACCOUNTING CLASSIFICATION CODES		BY	BPAC	AMOUNT
DOCUMENT NUMBER	FUND			
FM-MCG-0413-18-01-00	17X05718MC	2018	0905710MCG	1,710,023.00

## AWARD CONDITIONS

1. This action is to add funding to the initial incremental FY18 2018 MCSAP NGA issued earlier in this fiscal year. The full annualized award amount authorized is in Block 11 to implement the FY 2018 Motor Carrier Safety Assistance Program (MCSAP) Commercial Vehicle Safety Plan (CVSP). The FMCSA will only make reimbursements under this grant agreement for the amount up to the value indicated in Block 11 of this notice of grant award.

If the recipient is requesting indirect costs, the recipient may not request these costs for reimbursement until it has submitted a current approved indirect cost rate agreement to the FMCSA Division Office, and the GMO mailbox below.

FMCSA\_ESC\_GMO\_HelpDesk  
FMCSA\_SSC\_GMO\_HelpDesk  
FMCSA\_MSC\_GMO\_HelpDesk  
FMCSA\_WSC\_GMO\_HelpDesk

Within thirty (30) days upon execution of the NGA, the Recipient agrees to adjust the line item budget and project plan (if applicable) to reflect the final full FY2018 formula award amount in block 11 and provide the revisions to the FMCSA Division Office through the eCVSP system.

The recipient and any sub-recipient must also comply with the applicable FMCSA general terms and conditions attached to this NGA. Failure to comply with the terms and conditions attached and any additional provisions directly reflected in this NGA may result in enforcement actions as outlined in 2 CFR §§ 200.338 and 200.339.

**5 - Equipment**

Equipment is tangible property. It includes information technology systems having a useful life of more than one year, and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the non-Federal entity (i.e., the State) for financial statement purposes, or \$5,000.

- If your State's equipment threshold is below \$5,000, check the box below and provide the equipment threshold amount. See §§200.12 Capital assets, 200.20 Computing devices, 200.48 General purpose equipment, 200.58 Information technology systems, 200.89 Special purpose equipment, and 200.94 Supplies.

Show the total cost of equipment and the percentage of time dedicated for MCSAP related activities that the equipment will be billed to MCSAP. For example, you intend to purchase a server for \$5,000 to be shared equally among five programs, including MCSAP. The MCSAP portion of the total cost is \$1,000. If the equipment you are purchasing will be capitalized (depreciated), you may only show the depreciable amount, and not the total cost (2 CFR §200.436 and 2 CFR §200.439). If vehicles or large IT purchases are listed here, the applicant must disclose their agency's capitalization policy.

Provide a description of the equipment requested. Include how many of each item, the full cost of each item, and the percentage of time this item will be dedicated to MCSAP activities.

The Total Project Costs equal # of Items x Full Cost per Item x Percentage of Time Dedicated to MCSAP.

Equipment Project Costs						
Item Name	# of Items	Full Cost per Item	% Time Dedicated to MCSAP	Total Project Costs	Federal Share	State Share
Computers and Accessories	48	\$979.17	90	\$42,300.14	\$35,955.12	\$6,345.02
Vehicle Emergency Equipment	8	\$3,500.00	90	\$25,200.00	\$21,420.00	\$3,780.00
Hand-held radios	42	\$2,100.00	100	\$88,200.00	\$74,970.00	\$13,230.00
<b>TOTAL: Equipment</b>				<b>\$155,700.14</b>	<b>\$132,345.12</b>	<b>\$23,355.02</b>
Equipment threshold is \$1,000						
<b>Planned MOE: Equipment</b>	<b>\$75,000.00</b>					

**Enter detailed explanation of how you came up with the equipment costs.**

**Computers and Accessories:** The estimated expense of \$42,300.14 is necessary for the purchase of computers and coordinating accessories. This will allow for the purchase of approximately 48 computers that will equip our Enforcement Officers with the capability to conduct roadside inspections, New Entrant Safety Audits as well as office staff to manage the MCSAP program. The 48 computers will be used for the following: 31 officers, 7 supervisors, 3 managers, 1 MCSAP grant coordinator/paralegal and 6 support staff.

**Vehicle Emergency Equipment:** With replacing older vehicles with new vehicles per the state's acquisition process it is anticipated 8 vehicles will be replaced in FY2018 and the equipment necessary will cost approximately \$25,200.00. This will result in a need to update outdated safety equipment with new equipment on said vehicles. It is anticipated that this equipment can include exterior lighting, speakers and mounts, siren and light controller, cb radios, consoles, laptop mounts, cell boosters, dashlights, rear directional mounts and other items to be determined as necessary.

**Hand-Held Radios:** The budgeted amount of \$88,200 will be used to supply the 42 officers currently assigned to the MCSAP program with new radios enabling greater communication capabilities allowing for officer safety and enhancement of our inspection program. The anticipated cost of each radio is approximately \$2,100.00.

**Note - 10-12-2017:** All PSC personnel are 100% dedicated to the MCSAP Program except for the Director. All MCSAP eligible activities with the exception of weight enforcement without an inspection are billed to the grant. MCSAP grant equipment, uniforms and computers are 100% dedicated to the MCSAP program.

**Note - 8-14-2018:** We have moved the "Maintenance of Leased Vehicles" as well as "Fuel for Leased Vehicles" which were both



previously referenced in this section of the budget, Equipment, to the "Other" section of this budget. As referenced in the note above from 10-12-2017 all PSC personnel are 100% dedicated to the MCSAP program except for the Director. All MCSAP eligible activities with the exception of weight enforcement without an inspection are billed to the grant. MCSAP grant equipment, uniforms and computers are 100% dedicated to the MCSAP program.