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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

**September 8, 2020**

Kevin Foreman, Director  
Division of Protective Services  
Building 1, Room 152-A  
1900 Kanawha Boulevard  
Charleston, West Virginia 25301

Dear Director Kevin Foreman:

This is to transmit the final copy of the Purchasing Review of the West Virginia Division of Protective Services.

A preliminary copy of this report was submitted to your agency for comment. Where significant comments were returned by your agency, we have included those as part of this final review report.

A Corrective Action Plan Request will follow requesting your response to all the compliance issues identified in this report.

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: Paula Totten, Administrative Assistant, Division of Protective Services  
Jeff Sandy, Cabinet Secretary, Department of Military Affairs and Public Safety

# WV PURCHASING DIVISION INSPECTION REPORT

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*Department of Military Affairs and Public Safety*

*West Virginia Division of Protective Services*

FISCAL YEAR  
2019

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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 Division of Protective Services for the period of July 1, 2018 through June 30, 2019. Notice of the inspection was provided on June 18, 2020 and the inspection commenced on July 6, 2020. The results of the inspection are contained within this report.

## SCOPE

The scope of the inspection was focused on determining whether the Division of Protective Service's procurement transactions for the period of July 1, 2018 through June 30, 2019 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) Internal resources not utilized,
- (3) Statewide contract not utilized,
- (4) Failure to bid at delegated level,
- (5) Vendor registration unverified and wrong vendor fee exemption code utilized
- (6) Failure to verify compliance checks
  - a. Unemployment
  - b. Workers' compensation
  - c. Vendor status with Secretary of State's office
  - d. Debarred vendor list
- (7) Failure to include notarized Purchasing Affidavit,
- (8) Failure to issue wvOASIS procurement award document,
- (9) Lack of compliance with fixed asset requirements (asset tags),
- (10) Failure to include Certification of Non-Conflict of Interest form,
- (11) 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 360 procurement transactions with a value of \$227,539.81 (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 25 for review which represents approximately 4% of the total. This inspection of 25 selected transactions yielded 46 findings associated with 16 of the selected transactions. This means that approximately 64% 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 11 occasions, the spending unit failed to obtain competitive bids as required by the applicable dollar level of spend. That number is comprised of 11 instances of failing to bid at the delegated level and 0 instances of failing to bid at the central level (also known as stringing). Any instances of failure to bid at the central level will be reported to the Legislature as required by the West Virginia Code.

It has been determined by the Secretary of the Department of Military Affairs and Public Safety that the Division of Protective Services may purchase equipment as necessary to maintain security at the Capitol Complex and other state facilities. The provisions of §5A-3-3 of this code does not apply to purchases made pursuant to this subdivision. This amendment was passed on February 21, 2019 and was in effect on May 22, 2019. This amendment does not apply to the inspection period because no transactions were selected for review from May 22, 2019 to the end of the inspection period, which was June 30, 2019 that would be covered under this exemption.

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 48.8% F on the inspection and there was a pattern of findings, 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

### Division of Protective Services FY2019 Statistics

Transactions Reviewed 25

Non-Conformance Rate (See Summary Page) 64.0%

Conformance Rate 36.0%

#### Findings Summary

<i>Finding Category</i>	<b>Number of Findings</b>	<b>Finding Percentage</b>	<b>Points possible</b>	<b>Points Received</b>
Stringing	0	0.00%	30	30
Statewide Contract	1	4.00%	15	9
Internal Resources	0	0.00%	15	15
Failure to Bid	11	44.00%	15	0
Vendor Registration	4	16.00%	5	2
Verification Searches	8	32.00%	5	0
Affidavit	4	16.00%	5	2
wvOasis Award Document	8	32.00%	3	0
Asset Tag/Number	0	0.00%	3	3
Certification of Non-Conflict of Interest	7	28.00%	3	0
Miscellaneous Issue	3	12.00%	1	0.6
<b>Total</b>	<b>46</b>		<b>100</b>	<b>61.6</b>

#### Overall Agency Score

Non-Conformance & Findings Average

# 48.8%

Overall Letter Grade

# F

#### **Scale (See Weight Application\*)**

91.66 -- 100 = A  
 83.33 -- 91.65 = B  
 75 -- 83.32 = C  
 66.66 -- 74.99 = D  
 <66.65 = F

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

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## EXHIBIT A: DETAILED INSPECTION FINDINGS

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### 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: (0 Instances)**

#### **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: Internal Resource Not Utilized**

**Authority:** W. Va. Code §§ 25-7-5 and 5A-3-10; Procedures Handbook Section 3.6.1

**Explanation:** State law mandates that certain social welfare programs be utilized prior to a spending unit obtaining commodities and services in the open market. Those programs include the Sheltered Workshops established to assist disabled individuals in finding employment, and the Correctional Industries program that provides prison inmates with meaningful work. The transactions listed below should have been obtained from one of these programs, or a waiver should have been obtained. The inspection revealed that the transactions were outside of the internal programs and no waiver was granted.

**Transactions in Violation: (0 Instances)**

### **Purchasing Division Recommendation:**

1. The Purchasing Division recommends that the spending unit personnel become familiar with what is available from internal sources and either procure those commodities and services from internal sources 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.

### 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: (1 Instance)  
(Grouped)**

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>	<u>SW Contract</u>
01/04/2019	Electric door entry	Lowes #00675	\$390.92	PRCC,19*50455	INDEQP
06/25/2019	Bolt cutters	Lowes #00675	\$276.66	PRCC,20*02270	INDEQP

**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.

**Issue 4: 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, and above \$2,500.01. For those transactions listed below, the spending unit has failed to obtain and document competitive bids as required.

**Transactions in Violation: (11 Instances)**

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
10/11/2018	Access Card System upgrade and maintenance	Electronic Specialty Company	\$10,812.70	PRCC,19*28682
01/09/2019	Camera installation for governor's driveway	K and M Electric LLC	\$20,661.00	GAX,19*72924
05/19/2019	CCTV equipment	Progressive Electric	\$24,750.00	GAX,19*07360

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
01/29/2019	Uniforms	Galls	\$3,528.97	PRCC,19*56382

**Additional Detail:** Although the individual transaction listed above may fall below the written bid limit, the agency aggregate spend for the vendor exceeded the bid threshold.

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
06/11/2019	Office and computer maintenance	Logston Contracting	\$1,562.50	GAX,19*13442

**Additional Detail:** Although the individual transaction listed above may fall below the written bid limits, the agency entered into an agreement with the vendor for \$24,999.00.

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
07/26/2018	Bicycles and accessories	Charleston Bicycle Center	\$4,628.79	PRCC,19*11236
12/05/2018	Metal detector calibration	Hamco X Ray Inc.	\$4,800.00	GAX,19*56984
11/02/2018	Repair of leaking hoses	MH Equipment	\$2,975.38	PRCC,19*36376

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/27/2019	Proximity cards	ID Card Group	\$1,362.57	PRCC,19*84872
05/29/2019	Medical supplies	Moore Medical LLC	\$117.81	PRCC,19*00378
05/22/2019	Dry cleaners	Peter Pan Cleaners	\$472.50	PRCC,20*00079

**Additional Detail:** Although the individual transactions listed above may fall below the verbal bid limit, the agency aggregate spend for the vendor exceeded the bid threshold.

**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 5: 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: (4 Instances)**

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
12/05/2018	Metal detector calibration	Hamco X Ray Inc.	\$4,800.00	GAX,19*56984
01/09/2019	Camera installation for governor's driveway	K and M Electric LLC	\$20,661.00	GAX,19*72924
06/11/2019	Office and computer maintenance	Logston Contracting	\$1,562.50	GAX,19*13442
05/19/2019	CCTV equipment	Progressive Electric	\$24,750.00	GAX,19*07360

**Additional Detail:** Due to this being a GAX payment, the standard Oasis verification searches were not completed.

**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 6: 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: (8 Instances)**

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
07/26/2018	Bicycles and accessories	Charleston Bicycle Center	\$4,628.79	PRCC,19*11236
10/11/2018	Access Card System upgrade and maintenance	Electronic Specialty Company	\$10,812.70	PRCC,19*28682
01/29/2019	Uniforms	Galls	\$3,528.97	PRCC,19*56382
12/05/2018	Metal detector calibration	Hamco X Ray Inc.	\$4,800.00	GAX,19*56984
01/09/2019	Camera installation for governor's driveway	K and M Electric LLC	\$20,661.00	GAX,19*72924
11/02/2018	Repair of leaking hoses	MH Equipment	\$2,975.38	PRCC,19*36376
05/19/2019	CCTV equipment	Progressive Electric	\$24,750.00	GAX,19*07360

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
06/11/2019	Office and computer maintenance	Logston Contracting	\$1,562.50	GAX,19*13442

**Additional Detail:** Although the amount of the transaction is \$1,562.50, the Agreement is for \$24,999.00.

**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 7: 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: (4 Instances)**

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
10/11/2018	Access Card System upgrade and maintenance	Electronic Specialty Company	\$10,812.70	PRCC,19*28682
01/09/2019	Camera installation for governor's driveway	K and M Electric LLC	\$20,661.00	GAX,19*72924
05/19/2019	CCTV equipment	Progressive Electric	\$24,750.00	GAX,19*07360

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
01/29/2019	Uniforms	Galls	\$3,528.97	PRCC,19*56382

**Additional Detail:** Although the amount of the transaction is \$3,528.97, the aggregate amount spent is over \$15,000.00

**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 8: 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: (8 Instances)**

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
07/26/2018	Bicycles and accessories	Charleston Bicycle Center	\$4,628.79	PRCC,19*11236
10/11/2018	Access Card System upgrade and maintenance	Electronic Specialty Company	\$10,812.70	PRCC,19*28682
01/29/2019	Uniforms	Galls	\$3,528.97	PRCC,19*56382
12/05/2018	Metal detector calibration	Hamco X Ray Inc.	\$4,800.00	GAX,19*56984
01/09/2019	Camera installation for governor's driveway	K and M Electric LLC	\$20,661.00	GAX,19*72924
11/02/2018	Repair of leaking hoses	MH Equipment	\$2,975.38	PRCC,19*36376
05/19/2019	CCTV equipment	Progressive Electric	\$24,750.00	GAX,19*07360

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
06/11/2019	Office and computer maintenance	Logston Contracting	\$1,562.50	GAX,19*13442

**Additional Detail:** Although the amount of the transaction is \$1,562.50, the Agreement is for \$24,999.00.

**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 9: 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: (0 Instances)**

#### **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 10: 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: (7 Instances)**

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
07/26/2018	Bicycles and accessories	Charleston Bicycle Center	\$4,628.79	PRCC,19*11236
10/11/2018	Access Card System upgrade and maintenance	Electronic Specialty Company	\$10,812.70	PRCC,19*28682
01/29/2019	Uniforms	Galls	\$3,528.97	PRCC,19*56382
12/05/2018	Metal detector calibration	Hamco X Ray Inc.	\$4,800.00	GAX,19*56984
01/09/2019	Camera installation for governor's driveway	K and M Electric LLC	\$20,661.00	GAX,19*72924
11/02/2018	Repair of leaking hoses	MH Equipment	\$2,975.38	PRCC,19*36376
05/19/2019	CCTV equipment	Progressive Electric	\$24,750.00	GAX,19*07360

**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 11: Miscellaneous

### **Total Transactions in Violation: (3 Instances)**

**Authority:** Procedures Handbook Section 3.7.1.2

**Explanation: (No Delivery Order Issued)** The Purchasing Division Procedures Handbook requires that a delivery order must be issued for all statewide contracts and agency open-end contracts unless otherwise stated in the contract ordering instructions. This requirement is a written order to the contractor against a master agreement authorizing quantities of commodities and/or services to be delivered all in accordance with the terms, conditions and prices stipulated in the original contract.

### **Transactions in Violation: (2 Instances)**

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
04/22/2019	Sump pump	Fastenal Company	\$164.75	PRCC,19*81823
05/28/2019	Ink	Officemax/Officedept	\$598.77	PRCC,19*00378

**Additional Details:** The agency did not use an ADO when making a purchase from the applicable statewide contract.

### **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.

**Authority:** Procedures Handbook Section 7.2

**Explanation: (Office of Technology Approval)** The Purchasing Division’s Procedures Handbook states All telecommunications systems, upgrades and expansions, regardless of cost, must be approved prior to bidding by the Information Services and Communications Division. All telecommunications purchases must be approved by the Chief Technology Officer. This policy is vitally important to maintain the integrity and compatibility of the state’s massive voice and data telecommunications system.

**Transactions in Violation: (1 Instance)**

<u>Date</u>	<u>Description</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice</u>
07/27/2018	Office phones	Paypal Atlasphones	\$598.77	PRCC,19*11236

**Additional Detail:** Office of Technology approval was not found in the file.

**Purchasing Division Recommendation:**

1. The Purchasing Division recommends that the agency apply for and receive Office of Technology approval prior to the purchase of any telecommunication products. Failure to do so could cause issues with the state’s voice and data telecommunications system. Approval memo must be maintained and kept in the procurement file.
2. The Purchasing Division recommends that the agency reference West Virginia Office of Technology CTO Policy # CTO-19-001 for guidance, which can be found at <https://technology.wv.gov/security/Pages/policies-issued-by-thecto.aspx>.
3. 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.

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## EXHIBIT B: COMPARISON WITH PRIOR INSPECTIONS

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A previous inspection of the West Virginia Division of Protective Services was conducted in February of 2017. The review consisted of 22 selected transactions from an approximate 317 total transactions from July 1, 2015 through June 30, 2016. This review resulted in 12 findings associated with 5 of the selected transactions. This indicated that 23% 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 2016 to the current 2019 inspection, below is a summary of the issues identified during the 2016 inspection, as compared to the findings from the current inspection.

<b>Summary of Problem Transactions</b>		
<b><i>Findings</i></b>	<b>2016</b>	<b>2019</b>
Failure to Bid at Central Level (Stringing)	0	0
Internal Resources not utilized	0	0
Statewide Contract not utilized	0	1
Failure to Bid at Delegated Level	4	11
Vendor Registration unverified/wrong Fee Code	0	4
Failure to verify Compliance Checks	0	8
Purchasing Affidavit not included	3	4
wvOasis Award Document not issued	1	8
Asset Tag/Number not affixed	0	0
Cert. of Non-Conflict of Interest not included	4	7
Miscellaneous Issue	0	3
<b><i>Total</i></b>	<b>12</b>	<b>46</b>

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

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## EXHIBIT C: AGENCY TRAINING REPORT

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**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:

*There were no Purchasing Conference attendees from the Division of Protective Services.*

**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.

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**EXHIBIT D: Division of Protective Services Exemption  
West Virginia Code §15-2D-3**

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West Virginia Legislature

2019 regular session

Enrolled

Senate Bill 358

By Senators Weld, Clements, Cline, and Swope

[Passed February 21, 2019; in effect 90 days from passage]

AN ACT to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, relating to exempting from the Purchasing Division purchases made by the Director of the Division of Protective Services for equipment to maintain security at state facilities.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2D. DIVISION OF PROTECTIVE SERVICES.



§15-2D-3. Duties and powers of the director and officers.

(a) The director is responsible for the control and supervision of the division. The director and any officer of the division specified by the director may carry designated weapons and have the same powers of arrest and law enforcement in Kanawha County as members of the West Virginia State Police as set forth in §15-2-12(b) and §15-2-12(d) of this code. The director and designated officers shall also have such powers throughout the State of West Virginia in investigating and performing law-enforcement duties for offenses committed on the Capitol Complex or related to the division's security and protection duties at the Capitol Complex and throughout the state relating to offenses and activities occurring on any property owned, leased, or operated by the State of West Virginia when undertaken at the request of the agency occupying the property: *Provided*, That nothing in this article shall be construed as to obligate the director or the division to provide, or be responsible for providing, security at state facilities outside the Capitol Complex.

(b) Any officer of the division shall be certified as a law-enforcement officer by the Governor's Committee on Crime, Delinquency, and Correction or may be conditionally employed as a law-enforcement officer until certified in accordance with the provisions of §30-29-5 of this code.

(c) The director may:

(1) Employ necessary personnel, all of whom shall be classified exempt, assign them the duties necessary for the efficient management and operation of the division, and specify members who may carry, without license, weapons designated by the director;

(2) Contract for security and other services;

(3) Purchase equipment as necessary to maintain security at the Capitol Complex and other state facilities as may be determined by the Secretary of the Department of Military Affairs and Public Safety. The provisions of §5A-3-3 of this code do not apply to purchases made pursuant to this subdivision;

(4) Establish and provide standard uniforms, arms, weapons, and other enforcement equipment authorized for use by members of the division and shall

provide for the periodic inspection of the uniforms and equipment. All uniforms, arms, weapons, and other property furnished to members of the division by the State of West Virginia is and remains the property of the state;

(5) Appoint security officers to provide security on premises owned or leased by the State of West Virginia;

(6) Upon request by the Superintendent of the West Virginia State Police, provide security for the Speaker of the House of Delegates, the President of the Senate, the Governor, or a justice of the Supreme Court of Appeals;

(7) Gather information from a broad base of employees at and visitors to the Capitol Complex to determine their security needs and develop a comprehensive plan to maintain and improve security at the Capitol Complex based upon those needs; and

(8) Assess safety and security needs and make recommendations for safety and security at any proposed or existing state facility as determined by the Secretary of the Department of Military Affairs and Public Safety, upon request of the secretary of the department to which the facility is or will be assigned: *Provided*, That records of such assessments, and any other records determined by the Secretary of the Department of Military Affairs and Public Safety to compromise the safety and security at any proposed or existing state facility, are not public records and are not subject to disclosure in response to a Freedom of Information Act request under §29B-1-1 et seq. of this code.

(d) The director shall:

(1) On or before July 1, 1999, propose legislative rules for promulgation in accordance with the provisions of §29A-3-1 et seq. of this code. The rules shall, at a minimum, establish ranks and the duties of officers within the membership of the division.

(2) On or before July 1, 1999, enter into an interagency agreement with the Secretary of the Department of Military Affairs and Public Safety and the Secretary of the Department of Administration, which delineates their respective rights and authorities under any contracts or subcontracts for security personnel. A copy of the interagency agreement shall be delivered to the Governor, the President of the

Senate, and the Speaker of the House of Delegates, and a copy shall be filed in the office of the Secretary of State and shall be a public record.

(3) Deliver a monthly status report to the Speaker of the House of Delegates and the President of the Senate.

(4) Require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol Complex, or who have access to sensitive or critical information, to have its employees submit to a fingerprint-based state and federal background inquiry through the state repository, and require a new employee who is employed to provide services on the grounds or in the building of the Capitol Complex to submit to an employment eligibility check through E-verify.

(i) After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol Complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol Complex for purposes of verifying compliance with this section.

(ii) All current service providers shall, within 90 days of the amendment and reenactment of this section by the 80th Legislature, ensure that all of its employees who are providing services on the grounds or in the buildings of the Capitol Complex or who have access to sensitive or critical information submit to a fingerprint-based state and federal background inquiry through the state repository.

(iii) Any contract entered into, amended, or renewed by an agency or entity of state government with a service provider shall contain a provision reserving the right to prohibit specific employees thereof from accessing sensitive or critical information or to be present at the Capitol Complex based upon results addressed from a criminal background check.

(iv) For purposes of this section, the term "service provider" means any person or company that provides employees to a state agency or entity of state government to work on the grounds or in the buildings that make up the Capitol Complex or who have access to sensitive or critical information.

(v) In accordance with the provisions of Public Law 92-544 the criminal background check information will be released to the Director of the Division of Protective Services.

(5) Be required to provide his or her approval prior to the installation of any and all electronic security systems purchased by any state agency which are designed to connect to the division's command center.

(e) Effective July 1, 2017, the Director of Security and security officers of the Department of Arts, Culture, and History shall be made part of, and be under the supervision and direction of, the Division of Protective Services. Security for all Capitol Complex properties of the Department of Arts, Culture, and History shall be the responsibility of the Division of Protective Services.

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**EXHIBIT E: AGENCY RESPONSE TO INSPECTION FINDINGS**

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**DIVISION OF PROTECTIVE SERVICES  
CAPITOL POLICE**

**Building 1, Room 152-A  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305  
Telephone: 304-558-9911  
Fax: 304-558-5604**

**KEVIN J. FOREMAN  
DIRECTOR**

**JACK C. CHAMBERS  
DEPUTY DIRECTOR**

**July 27, 2020**

**Greg Clay, Contracts Manager  
West Virginia Purchasing Division  
2019 Washington Street, East  
Charleston, West Virginia 25305**

**Dear Mr. Clay:**

**This correspondence is directed to address findings within your Purchasing Review of the West Virginia Division of Protective Services, from July 1, 2018 - June 30, 2019. As mentioned in your letter dated July 24, 2020 it is not mandatory that we respond unless we had a finding of stringing, but I would like to attempt to offer a response to the findings within your review.**

**First, I take seriously the findings identified in your report, and will make every effort to correct our deficiencies. As Director of the division I have every desire to obey laws, comply with rules, and follow the policies and procedures of your division. Upon review of the information provided, I can say without hesitation, that no employee of the Division of Protective Services intentionally violated any law, rule, or policy. However, it appears that we have failed to comply with some Purchasing Division Policies, which I believe can be corrected with proper training and appropriate personnel handling future purchasing transactions.**

**As far as the findings are concerned I'm hopeful that my explanation will help you understand that we desire to do things correctly, but have obviously experienced shortfalls. I will address each finding by the same manner identified in your review.**

**ISSUE # 1      No finding**

**ISSUE # 2      No finding**

### ISSUE # 3

I agree that the division should always attempt to purchase from a statewide contract, but the bolt cutter purchase was made due to the need of the same, after the complex experienced a power outage from a Tornado that went through Charleston, WV, on June 24, 2019. The bolt cutters became a necessary purchase to ensure chains could be removed from doors and gates, that had to be secured due to loss of power at several state buildings, including Building 1. It would have been difficult to obtain a waiver, as the Purchasing Division was affected and closed due to loss of power in Building 15.

### ISSUE # 4                      October 11, 2018              Access Card System

This finding was from four (4) purchases totaling \$10,812.70. Three of the purchases were for \$10,570.00, and were made to add or upgrade controllers utilized in our card access system. The division's card access system is a stand alone network and cannot be maintained, serviced, or upgraded by just anyone. The server for this system was upgraded in 2017, during the Building 3 renovation, and initiated a new statewide Lenel card access software. This system controls security and access for twenty-five (25) state office buildings. Therefore, any additions and upgrades to this system must be compatible and serviced by Lenel authorized representatives. Additionally, the vendor that we used for these projects, Electronic Specialty Company, is the only certified regional (VAR) Value Added Reseller of Lenel products in West Virginia. Electronic Specialty is a locally owned company and is responsive to emergency maintenance requests.

### January 9, 2019              Camera installation for Governor's Drive

This project was bid. The division faxed specifications for this project to K&M Electric, State Electric, and Progressive Electric on October 23, 2018. Both K&M Electric and Progressive Electric responded with quotes. State Electric chose not to bid. K&M Electric was the low bidder and was awarded the contract.

### May 19, 2019              CCTV Equipment

This project was bid. The division faxed specifications for this project to K&M Electric, Electronic Specialty Company, Key Telephone & Security, and Progressive Electric on March 28, 2019. The only vendor that offered a quote was Progressive Electric. K&M Electric, Electronic Specialty Company, and Key Telephone & Security chose not to bid. Progressive Electric was awarded the contract.

### January 29, 2019              Uniforms    (Galls)

These purchases were made off of the West Virginia State Police, Division of Natural Resources, and Capitol Police Uniform Contract. However, the finding indicates the division exceeded aggregate spend limits, which I didn't realize existed when purchasing goods from a contract. The effective dates of the contract were 09/21/2015 – 03/31/2020.

June 11, 2019            Office and Computer Maintenance    (Logston)

The division signed a WV-48 purchasing agreement for \$24,999.00 with Logston Contracting for computer services, which we have done for years. This vendor provides Information Technology services to the division's three (3) networks. We have contracted with this vendor since 2001 and cannot solicit other vendors to perform this service due to the knowledge and experience they have with the division. Additionally, there are confidentiality and security concerns regarding allowing an unknown vendor into these systems.

July 26, 2018            Bicycles and accessories                    (Charleston Bicycle Center)

The division purchased two (2) bicycles to initiate a bicycle patrol in 2018, which were less than the \$2,500 competitive bid threshold. During this same year the division refurbished additional bicycles that were given to the same from other departments, and purchased other equipment and maintenance items. None of these purchases met the threshold to require competitive bidding, but the aggregate amount required the same. We were not aware that aggregate spending with a particular vendor had to be considered. Additionally, the division saved a considerable amount of funding by refurbishing used bicycles and not purchasing new bicycles. The quickest and easiest way to obtain the number of bicycles needed for the unit, and have them operational, would have been to purchase new bicycles through the bid process. However, with the donation of the bicycles from other departments, we were able to realize a cost savings that would not have been possible if we purchased all new bicycles.

December 5, 2018      Metal Detector Calibration                (Hamco X Ray)

This project was bid in 2012. The specifications for this preventive service was forwarded to three (3) vendors and the contract was awarded to the low bidder, Hamco Xray. The division has continued to utilize this award until 2020, when it was rebid. This service is not provided by many vendors, and upon forwarding specifications for this service to three (3) vendors in 2020, no bids were received. The division currently does not have a contract with a vendor for this service, and will only procure necessary equipment replacement.

November 2, 2018      Repair of leaking hoses                      M&H Equipment

This purchase was for repair of leaking bollard hoses. When these hoses leak the bollards become inoperable, and hydraulic fluid spills onto the ground and into the housing cavity. These bollards are utilized as a security barrier to keep unauthorized vehicles off of the Governor's Drive and Capitol Complex. When operational these bollards are under approximately 2,000 lbs. of pressure, and require a knowledgeable and experienced technician to repair the same. It is difficult to find a qualified service company that will work on these bollards, and M&H Equipment, has been the only company the division has found that is willing to repair them. Additionally, M&H Equipment's prior work has been timely and satisfactory, which is important when the bollards are leaking and security is compromised.



April 27, 2019

Proximity Cards

ID Card Group

These proximity cards are utilized as a key to allow employees access into buildings and offices. The division purchases these cards from the vendor(s) that provides the best price. These individual purchases are below the required bid threshold, but apparently the aggregate purchase for the year exceeded the same. The division was not aware that this was a violation of the purchasing procedures. Additionally, the division does not know year to year whether we would purchase the amount of cards that would exceed the threshold. They are purchased strictly on an as needed basis.

May 29, 2019

Medical Supplies

Moore Medical

These medical supplies are utilized for the "Doc for the Day Program", that operates out of the division dispensary during legislative sessions, and daily by the division's nurse. The division purchases these supplies from vendors that provide the best price. These individual purchases are below the required to bid threshold, but apparently the aggregate purchase for the year exceeded the same. The division was not aware that this was a violation of the purchasing procedures.

May 22, 2019

Dry cleaners

Peter Pan

This service was bid previously, but the division failed to bid the same for the review period.

ISSUE # 5, 6, 7, 8, 10, and 11

These were verification and compliance checks, and failing to complete certain requirements. The division will correct these deficiencies.

ISSUE # 9 No finding

As I mentioned, I believe that training and appropriate personnel will allow the division to perform at a higher level and meet expectation. The division has new Procurement and backup Procurement Officers, both of which will enhance our ability to be meet expectation and be more efficient. The Procurement Officer, Paula Totten, and backup Sherry Mynes, are registered to attend the Purchasing Card Program Seminar, in Canaan Valley, WV, and have identified several online and webinar training opportunities. Both individuals are focused on correcting our deficiencies and establishing the division as a model for adherence to the rules and policies of the Purchasing Division.

If I can be of further assistance, please let me know.

Respectfully,



Kevin J. Foreman  
Director