



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

JOHN A. MYERS
CABINET SECRETARY

W. MICHAEL SHEETS
DIRECTOR

July 1, 2018

The Honorable Mitch Carmichael
President of the State Senate
Room 229M, Building 1
State Capitol Complex
Charleston, WV 25305

The Honorable Tim Armstead
Speaker of the House
Room 228M, Building 1
State Capitol Complex
Charleston, WV 25305

SUBJECT: Legislative Reporting Requirement §5A-3-10(b)

Dear Sirs:

In accordance with *West Virginia Code* §5A-3-10(b), as acting director of the West Virginia Purchasing Division, I am required to submit in January and July of each year to the Joint Committee on Government and Finance a report summarizing our division's findings of any spending unit which awarded multiple contracts for the same or similar commodity or service to an individual vendor over any 12-month period with a value exceeding \$25,000.

This section of the Code reads:

§5A-3-10. Competitive bids; publication of solicitations for sealed bids; purchase of products of nonprofit workshops; employee to assist in dealings with nonprofit workshops.

(b) The director shall solicit sealed bids for the purchase of commodities and printing which is estimated to exceed twenty-five thousand dollars. No spending unit shall issue a series of requisitions or divide or plan procurements to circumvent this twenty-five thousand dollar threshold or otherwise avoid the use of sealed bids. Any spending unit which awards multiple contracts for the same or similar commodity or service to an individual vendor over any twelve-month period, the total value of which exceeds twenty-five thousand dollars, shall file copies of all contracts awarded to the vendor within the twelve preceding months with the director immediately upon exceeding the twenty-five thousand dollar limit, along with a statement explaining how the multiple contract awards do not circumvent the twenty-five thousand dollar threshold. If the spending unit does not immediately report to the director, the director may suspend the purchasing authority of the spending unit until the spending unit complies with the reporting requirement of this subsection. The director may conduct a review of any spending unit to ensure compliance with this subsection. Following a review, the director shall complete a report summarizing his or her findings and

President Carmichael and Speaker Armstead
July 1, 2018
Page Two

forward the report to the spending unit. In addition, the director shall report to the Joint Committee on Government and Finance on the first day of January and July of each year the spending units which have reported under this subsection and the findings of the director.

For the period of January 1, 2018, through June 30, 2018, there was one spending unit, Department of Veterans Assistance (West Virginia Veterans Home), that reported to our division the award of multiple contracts for "the same or similar commodity or service to an individual vendor over any 12-month period," where the total value of which exceeds twenty-five thousand dollars. However, the Purchasing Division inspectors discovered findings relating to one spending units during their reviews as stipulated in this section of the Code. The spending unit was the Department of Veterans Assistance (West Virginia Veterans Nursing Facility, Clarksburg). A summary of these findings is attached.

Pursuant to this requirement, my next report will be submitted to you in January of 2019. Should you have any questions regarding this correspondence, please feel free to contact me at your convenience at (304) 558-0492 or via e-mail at **William.M.Sheets@wv.gov**.

Sincerely,



W. Michael Sheets, CPPO, Director
West Virginia Purchasing Division

WMS:dhb

West Virginia Purchasing Division
SUMMARY OF STRINGING ACTIVITIES
(January 1, 2018- June 30, 2018)

Department of Veterans Assistance, West Virginia Veterans Nursing Facility. Clarksburg:

- 1) During the fiscal year under review, Veterans Nursing Facility, Clarksburg spent a total of \$840,934.25 in 12 transactions for meals from Louis A Johnson VA Medical Center.
- 2) During the fiscal year under review, Veterans Nursing Facility, Clarksburg spent a total of \$53,180.17 in 12 transactions for lab work from Louis A Johnson VA Medical Center.
- 3) During the fiscal year under review, Veterans Nursing Facility, Clarksburg spent a total of \$300,000.00 in 12 transactions for physician services from Louis A Johnson VA Medical Center.
- 4) During the fiscal year under review, Veterans Nursing Facility, Clarksburg spent a total of \$114,064.99 in 12 transactions for steam heating from Louis A Johnson VA Medical Center.
- 5) During the fiscal year under review, Veterans Nursing Facility, Clarksburg spent a total of \$278,175.57 in 12 transactions for prescription medications from Louis A Johnson VA Medical Center.

In the agency's response to the inspection report for finding 1 through 5, the agency stated that:

The Facility will complete the Noncompetitive/exempt list of commodities and service form for considerations by the purchasing division.

- 6) During the fiscal year under review, Veterans Nursing Facility, Clarksburg spent a total of \$44,071.80 in 12 transactions for rehabilitation therapy from Odyssey Rehabilitation.

In the agency's response to the inspection report, the agency stated that:

The WVNF missed approving this in the Oasis system. The Procurement Officer now has the security permissions to approve purchasing documents. The current Procurement Officer completed a back date justification and the contract is in place.

- 7) During the fiscal year under review, Veterans Nursing Facility, Clarksburg spent a total of \$29,727.88 in 5 transactions for medical supplies from McKesson Medical Surgical.

In the agency's response to the inspection report, the agency stated that:

The WVNF understands that stringing is a serious finding. The Procurement staff will be attending additional trainings to include the Certification classes through the Purchasing Division. The Procurement staff will be reviewing the AP 55 and AP 26 report from Business Intelligence to ensure that the facility has not over spent with a vendor/commodity.

In the Purchasing Division's response to the agency comments, the Purchasing Division referenced the **West Virginia Purchasing Procedures Handbook**:

The Purchasing Division referenced **West Virginia Code §5A-3-11** and the **West Virginia Purchasing Division Procedures Handbook** for review to ensure compliance with the laws, rules and procedures of the Purchasing Division and the State of West Virginia:

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.

Reference West Virginia Code §5A-3-10(b)

Reference Purchasing Handbook 3.7.1.2 Open-End Contracts: The Purchasing Division issues both statewide contracts and agency open-end contracts. The Purchasing Division, at its discretion or upon request of any state agency, may establish a contract for specific commodities and services required. These open-end contracts are convenient for recurrent purchases. For agency open-end contracts, the state agency determines its specific needs and submits a **Requisition** to the Purchasing Division for competitive bid. Open-end contracts are processed as master agreements in wvOASIS.

Reference Purchasing Handbook 6.2.17 When the Request for Quotation process is used, competitive bids are received, properly evaluated and an award is made to the **lowest responsible bidder** meeting specifications, in accordance with the **West Virginia Code §5A-3-11**.

Department of Veterans Assistance, West Virginia Veterans Home:

- 1) The West Virginia Veterans Home self-reported stringing as required under W.Va. Code §5A-3-10 (b). The agency notified the Purchasing Division during January 2018 and explained that personnel had created an Agency Master Agreement to pay past due invoices for temporary nursing services. The agency now has a properly bid and awarded contract for this service, is writing a policy to prevent this situation from happening in the future and is pursuing additional training.