



JOE MANCHIN III
GOVERNOR

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
OFFICE OF THE CABINET SECRETARY

ROBERT W. FERGUSON, JR.
CABINET SECRETARY

July 6, 2009

The Honorable Earl Ray Tomblin
President of the State Senate
Room 227M, Building 1
State Capitol Complex
Charleston, WV 25305

Dear Mr. President:

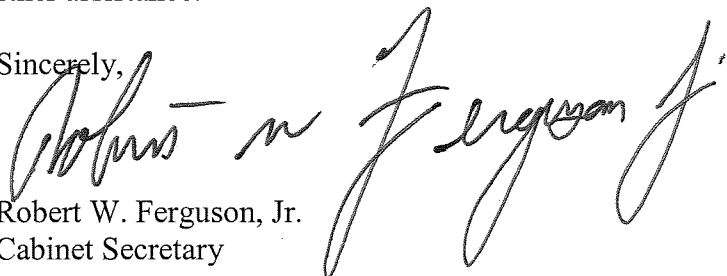
Please find enclosed a letter and report from Purchasing Director David Tincher regarding what is commonly referred to as "stringing activity" by state spending units. As you will see in the report, all agencies mentioned are proactively seeking remedies to ensure future compliance with state purchasing laws.

It is my belief that all instances of "stringing activity" in this report were unintentional in nature and a result of a lack of systemic safeguards in the state's management information system. Upon implementation of an ERP system, automatic systemic safeguards will be in place to prevent further instances of the items detailed in this report.

Like each of you and the members of your respective houses, I desire to spend taxpayers' in accordance with all appropriate state law. It is my intent to continue taking a proactive approach to ensure that our state purchasing system meets the needs of its customers, state agencies, in a transparent and accountable manner.

Please do not hesitate to contact me if I may be of further assistance.

Sincerely,


Robert W. Ferguson, Jr.
Cabinet Secretary

RWFJr:tma

Enclosures

cc: Aaron Allred, Legislative Auditor

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July 6, 2009

The Honorable Richard Thompson
Speaker of the House
Room 234M, Building 1
State Capitol Complex
Charleston, WV 25305

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Please do not hesitate to contact me if I may be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. Ferguson, Jr.", written over a printed name and title.

Robert W. Ferguson, Jr.
Cabinet Secretary

RWFJr:tma

Enclosures

cc: Aaron Allred, Legislative Auditor

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JOE MANCHIN III
GOVERNOR

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
2019 WASHINGTON STREET, EAST
P.O. BOX 50130
CHARLESTON, WEST VIRGINIA 25305-0130

ROBERT W. FERGUSON, JR.
CABINET SECRETARY

DAVID TINCHER
DIRECTOR

July 7, 2009

The Honorable Earl Ray Tomblin
President of the State Senate
Room 227M, Building 1
State Capitol Complex
Charleston, WV 25305

The Honorable Richard Thompson
Speaker of the House
Room 234M, 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 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

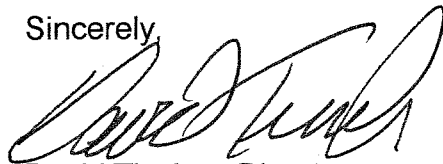
Senator Tomblin and Delegate Thompson
July 7, 2009
Page Two

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 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, 2009 through June 30, 2009, one spending unit (the Governor's Mansion) reported to our division the award of any multiple contracts for "the same or similar commodity or service to an individual vendor over any 12-month period, the total value of which exceeds twenty-five thousand dollars." This entry is noted in the attached report. In addition, our purchasing inspectors discovered findings relating to three (3) different spending units during their reviews as stipulated in this section of the Code. The three spending units were Division of Juvenile Services (Department of Military Affairs and Public Safety); the General Services Division (Department of Administration); and Workforce WV (Department of Commerce). A summary of all of these findings is attached.

Pursuant to this requirement, my next report will be submitted to you in January 2010. Should you have any questions regarding this correspondence, please feel free to contact me at your convenience at (304) 558-2538 or via e-mail at **David.Tincher@wv.gov**.

Sincerely,



David Tincher, Director
West Virginia Purchasing Division

DT:dmh

Attachments [2]

cc: Aaron Allred, Legislative Auditor
Robert W. Ferguson, Jr., Cabinet Secretary of Administration

SUMMARY OF STRINGING ACTIVITIES (January 1, 2009 – July 1, 2009)

1. STRINGING ACTIVITY RESULTING FROM PURCHASING INSPECTIONS

A. Division of Juvenile Services

i. Explanation

- a. The Vicki V. Douglas Juvenile Center, during the fiscal year under review, spent a total of \$43,858.82 with FoodPro Corporation for food products. No documents were found to show that the items had been bid, nor did the file contain justification for a non-competitive award. In their response to the inspection report, the Division stated that, since discovery of the issue, their internal auditor:

... contacted JoAnn Adkins of your office [Purchasing Division] and the issue was resolved promptly. It is my understanding that this issue has been corrected and will not be an issue in the future.

- b. The West Virginia Industrial Home for Youth, during the fiscal year under review, spent a total of \$35,470.50 with Morse Watchman, Inc. No documents were found to show that the items had been bid, nor did the file contain justification for a non-competitive award. The Division of Juvenile Services stated that these purchases:

... actually consisted of two separate improvement projects for the security of the facility. . .

and that:

Both projects were bid independently and awarded individually to the low bidder..

ii. Remedies

Discussions with the agency are on-going and additional information relating to the transactions has been requested. Purchasing Division offers online training modules on our web site in addition to our in-house training workshops offered throughout the year in Charleston and the annual agency purchasing conference for state procurement officers. Additionally, the Purchasing Division publishes a monthly online newsletter for state procurement officers to assist in educating and clarifying statutory and regulatory requirement of the state purchasing process.

B. General Services Division

i. Explanation

- a. The agency, during the fiscal year under review, spent a total of \$29,475.13 with Sunbelt Rentals for rental equipment. No documents were found to show that the items had been bid, nor did the file contain justification for a non-competitive award.
- b. The agency, during the fiscal year under review, spent a total of \$38,389.93 with HVAC and Industrial Controls. We reviewed 10 of the 25 transactions and no documents were found to show that the services had been bid nor did the file contain justification for a non-competitive award.
- c. The agency, during the fiscal year under review, spent a total of \$42,673.55 with SIP Stateindustrial. No documents were found to show that the items had been bid, nor did the file contain justification for a non-competitive award.
- d. The agency, during the fiscal year under review, spent \$152,778.46 with United Talent for temporary services. United Talent was not a Statewide Contract vendor for temporary services.

ii. Remedies

Cabinet Secretary Robert W. Ferguson has taken a direct involvement in the findings of the General Services Division. He has charged the Purchasing Division and the Office of Technology to work with this agency to find solutions to its procurement findings and to develop automated systems that would enable the agency to better track its procurement and business system needs.

The Purchasing Division has established a group of procurement professionals to review its current business practices and to make recommendations for improvement.

C. Workforce WV

i. Explanation

- a. The agency, during the fiscal year under review, spent a total of \$38,149.33 with AT&T for conference calling services. No documents were found to show that the services had been bid, or did the file contain justification for a non-competitive award. The agency responded that:

Procurement staff was unaware that the conference calling service with AT&T was being utilized until this audit brought the issue to light. Competitive bidding to properly procure these services will be initiated immediately.

ii. **Remedies**

Discussions with the agency are ongoing. Training is encouraged to ensure that the staff has a full understanding of the statutory and regulatory requirement of the state purchasing process.

2. STRINGING ACTIVITY RESULTING FROM AGENCY REPORTING TO THE PURCHASING DIVISION

A. Governor's Mansion

i. **Explanation**

a. Governor's Mansion staff reported to the Purchasing Division an instance of stringing purchase orders with Quality Woods, Inc., totaling \$30,699.73. Their staff contacted the Purchasing Division and relayed that an inadvertent error was discovered which they wished to report.

ii. **Remedies**

The Purchasing Division continues to work with the agency to help clarify the required procedures and the statutory and regulatory requirement of the state purchasing process.