



EARL RAY TOMBLIN
GOVERNOR

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

ROSS TAYLOR
ACTING CABINET SECRETARY

DAVID TINCHER
DIRECTOR

July 3, 2012

The Honorable Jeffrey Kessler
President of the State Senate
Room 227M, Building 1
State Capitol Complex
Charleston, WV 25305

The Honorable Rick 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

Senator Kessler and Delegate Thompson
July 5, 2012
Page Two

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 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, 2012 through June 30, 2012, no spending units have 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." However, our division inspectors discovered findings relating to three (3) different spending units during their reviews as stipulated in this section of the Code. The spending units were the West Virginia Division of Tourism; Department of Health and Human Resources / Office of Chief Medical Examiner; and the Division of Homeland Security and Emergency Management. A summary of these findings is attached.

Pursuant to this requirement, my next report will be submitted to you in January of 2012. 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:dhb

cc: Aaron Allred, Legislative Auditor
Ross Taylor, Acting Cabinet Secretary of Administration

SUMMARY OF STRINGING ACTIVITIES

(January 1, 2012 - June 30, 2012)

West Virginia Division of Tourism:

- 1) During the fiscal year under review, the Division of Tourism spent a total of \$37,419.71 for promotional items with Corporate Identity. In their response to the inspection report, the agency stated that:

The Corporate Identity finding was very much unintentional. The Division of Tourism does various promotions throughout the year and it is never known what is needed nor how much for these types of events. Promotional items are a majority of what is bought through Corporate Identity. The quantity is always changing as well as the product. We follow the proper internal procurement steps for these individual purchases but never realized we should have been looking at the total purchases in aggregate for this vendor or any vendor. Moving forward, we will look at internal processes to track purchases made through any one vendor and work with the Division of Purchasing staff for suggestions on correcting this particular finding.

Department of Health and Human Resources Office of the Chief Medical Examiner:

- 1) During the fiscal year under review, the agency spent a total of \$27,836.95 with Fisher Scientific for autopsy supplies. In their response to the inspection report, the agency stated that:

During the fiscal year under review, monitoring and tracking OCME Purchasing Card transactions was difficult. The Bureau for Public Health's (BPH) Purchasing Coordinator for OCME was located offsite at the Office of Laboratory Services where she provided purchasing support for both offices. Further, three additional BPH Purchasing Card holders located at the OCME were also authorized to purchase various supplies. Since then the OCME Purchasing Coordinator has been relocated to BPH's Office of Central Finance and receives all autopsy supply purchase requests for OCME resulting in monitoring and tracking these types of purchases being less problematic.

West Virginia Division of Homeland Security and Emergency Management:

- 1) During the fiscal year under review, the agency spent a total of \$33,402.85 with Kroger for hoses, rakes, wheelbarrows, etc.

- 2) During the fiscal year under review, the agency spent a total of \$54,332.15 with Aggreko for generator rentals.
- 3) During the fiscal year under review, the agency spent a total of 72,633.52 with Sunbelt Rentals for generator rentals.

In their response to the inspection report for all three stringing incidents, the agency stated that:

The purchases were made during Governor and Presidential declared state of emergencies due to the multiple winter storms and flooding in 2009 and 2010. Necessity and costs were supported and subsequently reimbursed by FEMA. During disasters, immediate needs are identified at the local level and relayed to the DHSEM Emergency Operation Center (EOC) via E-Team where the appropriate response based upon the need is approved by the Director of DHSEM and/or his designee. Because needs are ongoing and throughout the affected area, response is also ongoing and related to the affected area. This results in multiple orders for the same items over the course of the emergency. It is unrealistic to estimate the amount of disaster response supplies and purchase to avoid the perception of "stringing". The needs of West Virginia's citizens are met first and foremost. Stringing as defined is making multiple purchases to avoid imposed limits and/or rules. At no time were multiple purchases made to avoid limits or rules. Multiple purchases were made as the needs developed in direct response to the emergency. Disaster response requires immediate attention in order to minimize loss of property and more importantly life. Disaster response is also necessary to maintain critical services (i.e. water, power). This will always result in multiple purchases for the same items, due to the needs of the citizens of West Virginia.