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ANNUAL PURCHASING PERFORMANCE AUDIT

INSTITUTIONS FOR HIGHER EDUCATION WVU-PARKERSBURG

AUDIT OVERVIEW

WVU-Parkersburg Directed Over \$1.2 Million in 178 Transactions in Just Over Two Years to One Florida Vendor in a Manner That Avoided Competitive Bidding

A Workforce Development Grant Issued By the Council for Community and Technical College Education Was Used in Part By WVU-Parkersburg to Have Equipment and Personnel Sent to Illinois, Oklahoma and California to Train a West Virginia Company's Out-of-State Workers



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EXECUTIVE SUMMARY

This purchasing performance review of WVU-Parkersburg is authorized and required by West Virginia Code §18B-5-4(r). The primary purpose of the review is to determine WVU-Parkersburg's compliance with applicable purchasing laws, rules, and best practices. The Legislative Auditor also examined the expenditure of workforce development grant monies. Two issues are contained in this review.

Issue 1: WVU-Parkersburg Directed Over \$1.2 Million in 178 Transactions in Just Over Two Years to One Florida Vendor in a Manner That Avoided Competitive Bidding.

Higher Education spending units are not subject to the State's Purchasing Division requirements but are required to follow the higher education purchasing manual which emphasizes competitive purchasing and participation in collaborative buying.

- Higher education spending units are supposed to encourage and foster effective and broad-based competition in purchasing. WVU-Parkersburg expended over \$1.2 million dollars with one Florida vendor for computers and computer peripherals without considering other vendors.
- Collaborative buying is possible through the use of State and Higher Education contracts. Comparable computer equipment was available for a better price on an existing State contract.

Issue 2: A Workforce Development Grant Issued By the Council for Community and Technical College Education Was Used in Part By WVU-Parkersburg to Have Equipment and Personnel Sent to Illinois, Oklahoma and California to Train a West Virginia Company's Out-of-State Workers.

Workforce development grants are issued to community colleges to develop training programs for the state's workers. Community colleges are restricted to a geographic responsibility area in the state and the intent of one of the grants is to train West Virginia workers.

- WVU-Parkersburg used thousands of dollars from a workforce development grant to train an in-state company's out-of-state workforce located in Illinois, Oklahoma and California.

- Although the incidence of training an out-of-state workforce with grant funds is rare, such requests from in-state companies could occur more frequently. Therefore, the Council for Community and Technical College Education should consider a policy that addresses grant proposals that involve training out-of-state workforces in out-of-state locations or through on-line services.

Recommendations

1. *WVU-Parkersburg should comply with the provisions of the Higher Education Purchasing manual that require institutions ensure that purchases be made competitively and emphasize providing in-state vendors an opportunity to participate in the institution's purchases.*
2. *Sole source purchases should comply with the requirements as stated in the Higher Education Purchasing manual §5.28.*
3. *The Legislature should consider amending the higher education statute to require institutions to mandate that vendors provide them with a copy of the business registration license issued by the State Department of Tax and Revenue and otherwise comply with the requirements found in the Division of Purchasing's legislative rule §148-1-6.1.7.*
4. *The Higher Education Policy Commission should incorporate into its higher education purchasing manual instructions to institutions on requiring vendors to substantiate that the vendor has registered with the Division of Purchasing, the Secretary of State and the Department of Tax and Revenue.*
5. *The Council for Community and Technical College Education should consider establishing policies or legislative rules for addressing workforce development training that physically takes place in out-of-state locations and the extent of appropriate reimbursement by the company.*
6. *The Council for Community and Technical College Education should consider establishing policies or legislative rules for online access of training for out-of-state locations and the extent of appropriate reimbursement by the company.*

ISSUE 1

WVU-Parkersburg Directed Over \$1.2 Million in 178 Transactions in Just Over Two Years to One Florida Vendor in a Manner That Avoided Competitive Bidding.

Issue Summary

A review by the Legislative Auditor's Office of WVU-Parkersburg's purchasing procedures makes the following conclusions:

- WVU-Parkersburg made 178 purchases in a two-year period totaling over \$1.2 million in computers and peripherals from a Florida computer vendor without giving another vendor a chance to compete for the business.
- The purchases avoided bid thresholds that would have required other vendors to be considered.
- The same computer brand could have been purchased from an existing state contract saving the State at least \$80,000.
- The Florida computer vendor was conducting business without a license in West Virginia.

Other vendors, in particular West Virginia vendors, were given no consideration to receive state business when WVU-P repeatedly ordered computers and related peripherals in a manner that circumvented the competitive bid process.

Interviews indicate that the Chief Information Officer requested using a Florida vendor due to his having experienced good service from the vendor in the past before he worked for WVU-Parkersburg.

Emphasis on Competitive Purchasing Lacking At WVU-Parkersburg

WVU-Parkersburg (WVU-P) made no obvious effort to look beyond one Florida computer vendor as it spent over \$1.2 million on computers and peripherals in about two years. Other vendors, in particular West Virginia vendors, were given no consideration to receive state business when WVU-P repeatedly ordered computers and related peripherals in a manner that circumvented the competitive bid process. As stated in the Higher Education Purchasing Manual 5.1.1,

Purchasing in higher education is a public trust. The authority to purchase and acquire materials, supplies, equipment, services and printing is granted to the Council, Commission and the Governing Boards by state law... This places an obligation on the institutions

to exercise responsible and responsive management of purchasing activities and to be good stewards of the public funds entrusted to them. In addition, the Council and Commission desire that the institutions provide the maximum opportunity to West Virginia vendors to conduct business with higher education institutions. [Emphasis Added]

According to WVU-P's Chief Information Officer (CIO), he began working for WVU-P in November 2008 with the understanding that the college's information technology system would need to be replaced. The CIO told the Legislative Auditor that WVU-P's computers were not standardized, the computers were long past their service life, the network was "up, down and sideways," wiring did not meet fire code specifications, and a full electronic mail system for 10,000 users needed to be created in short order. All computer and peripheral purchases were made from a vendor in St. Petersburg, Florida. The Legislative Auditor inquired of the CIO as to how this Florida vendor was known to him. He responded that he had been doing business with the vendor since 1993 and his hometown was St. Petersburg, Florida, the location of this vendor. The CIO had also worked for a college in St. Petersburg, Florida for a decade as that college's computer technology director. WVU-P's Chief Information Officer told the Legislative Auditor that he had been advised by WVU-P's then Chief Procurement Officer that purchases could be made from the Florida computer vendor **without bids** so long as a purchase fell beneath \$25,000. Higher education purchasing rules do not require an institution to purchase competitively when an order is less than \$25,000. While higher education does not require multiple prices to be sought, the Higher Education Purchasing Manual does encourage institutions to purchase competitively beneath this \$25,000 threshold. **The statement by the CIO suggests the college allowed the circumvention of competitive bidding.**

All of WVU-P's computer purchases were a part of a greater unified information technology system that WVU-P knew would be transformed.

Competitive Bidding Avoided By Breaking Up Purchases Over Time and With Separate Orders

Purchases under \$25,000 are considered "small" purchases. The intent of the law is to simplify purchasing procedures when acquiring goods and services costing beneath a set threshold. However, all of WVU-P's computer purchases were a part of a greater unified information technology system that WVU-P knew would be transformed. WVU-

P abused the “small” purchase process by repeatedly placing separate orders on multiple purchase cards and spacing orders over a period of days during a two-year period in a manner that avoided the competitive bid level. When purchases are made in this manner that circumvents competitive bidding, it is known as stringing. WVU-P made 178 payments to the Florida computer vendor from December 2008 to March 2011. The purchases were continuously stretched out over two years and among multiple purchase cards so that purchases fell below the competitive bid threshold. Essentially, WVU-P strung the 178 purchases.

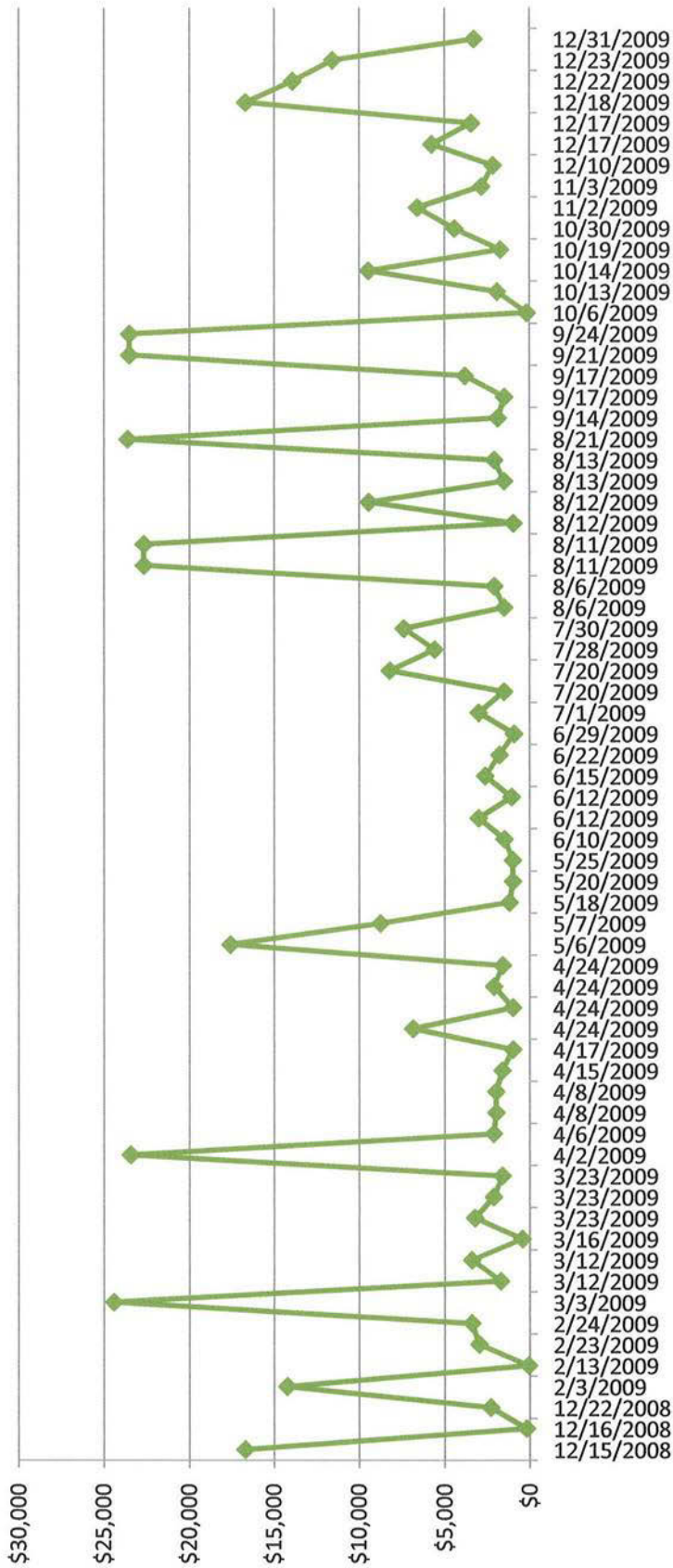
The West Virginia Department of Administration’s Agency Purchasing Manual defines stringing as,

Issuing a series of requisitions or purchase orders to circumvent competitive bidding or to defeat the State Purchasing Card transaction or delegated purchasing limit.

Figures 1 and 2 show WVU-P’s purchases for the computer system overhaul over the two-year period. Purchases were closely spaced in time, and because of this spacing, often reached the upper limits of non-competitive thresholds.

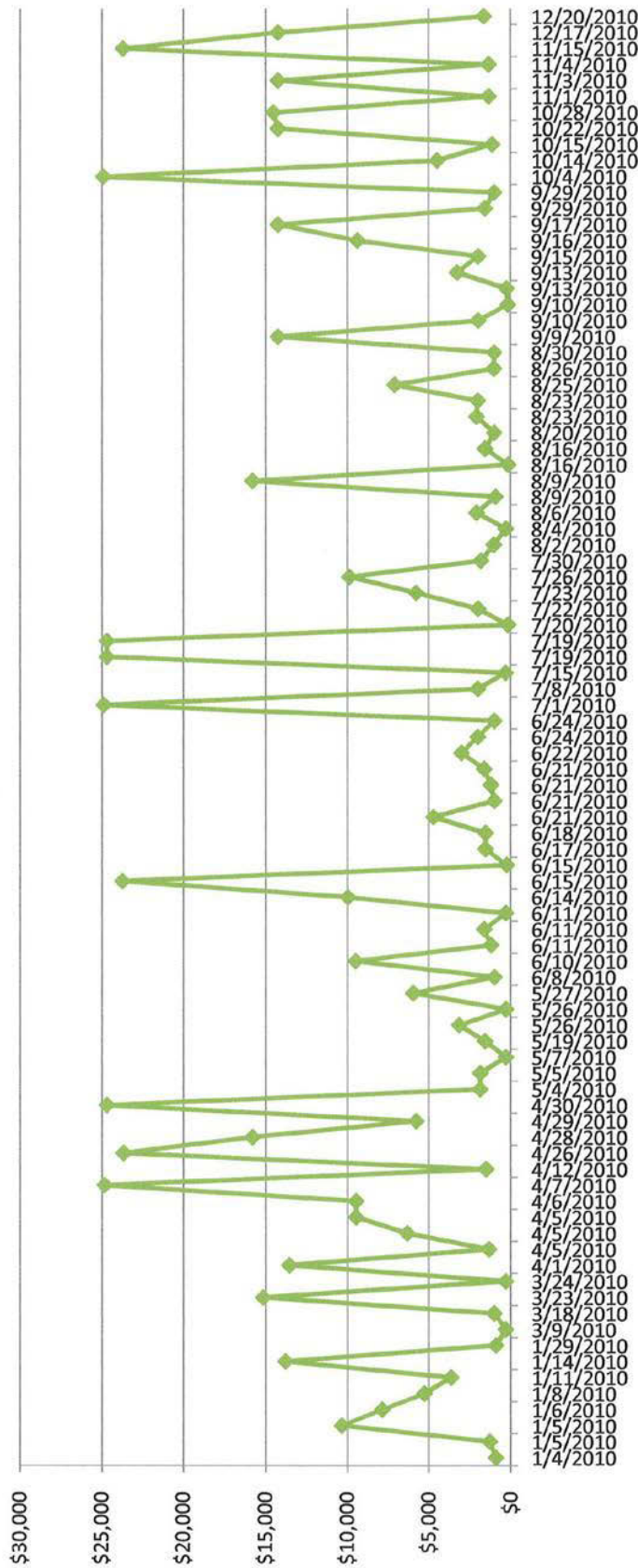
Purchases were continuously stretched out over two years and among multiple purchase cards so that purchases fell below the competitive bid threshold.

Figure 1
2008-2009 Information Technology Equipment Purchases from Same Vendor



Source: Legislative Auditor's analysis of WVU-Parkersburg data. ◆ 2008-2009 Transactions

Figure 2
2010 Information Technology Equipment Purchases From Same Vendor



—◆— 2010 Transactions

Source: Legislative Auditor's analysis of WVU - Parkersburg data.

Figure 3 details just one month of the purchases seen represented in Figure 2. In this month, April 2010, \$136,506 was expended on computers and peripherals from the one Florida vendor. In the early part of the month, the college expended nearly \$70,000 within four days and again at the end of month the college expended \$51,478 in three days. Three of the purchases made in April 2010 fell just beneath the \$25,000 competitive bid threshold; once just \$150 below the threshold.

Three of the purchases made in April 2010 fell just beneath the \$25,000 competitive bid threshold; once just \$150 below the threshold.

Figure 3
April 2010 Information Technology Equipment
Purchases From Same Vendor



*Total of three separate transactions on April 5 (\$1,348, \$6,320, and \$9,480.)

Source: Legislative Auditor's Analysis of WVU-Parkersburg data.

Other Purchasing Violations Were Committed in Order to Use the Florida Vendor Exclusively

Of the 178 purchases made by WVU-P, three actually exceeded the \$25,000 bid threshold. In order to avoid competitive bidding in these three cases, WVU-P effectively sole-sourced each to the Florida vendor. The Higher Education Purchasing Manual (5.28.1) states that sole-source and single-source procurement are not permissible unless the materials or equipment are available from only one supplier. According to the manual,

...single source procurement is permitted only when the goods and services are of such a unique nature that they cannot be acquired from any other source....

The computers and peripherals purchased did not have a unique nature. One of the three purchase orders had documentation attached that suggested the college was attempting to justify purchasing solely from this vendor. As stated in the Higher Education Purchasing Manual (5.28.2),

The computers and peripherals purchased did not have a unique nature.

The determination as to whether procurement shall be made as a sole/single source **shall be made by the Chief Procurement Officer**. Such determination and the basis therefore shall be in writing...**Any request that procurement be restricted to one potential supplier shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.** [Emphasis added]

The reasons WVU-P gave for why the purchase had to be sole sourced were as follows:

- the computers had to be ordered immediately,
- special pricing was available from the computer manufacturer for a limited time, and
- the vendor had the necessary quantity of computers available.

While the determination was improperly made by the chief information officer instead of the chief procurement officer, it is more important to note that the reasons given are not valid for sole-sourcing by higher education purchasing standards.

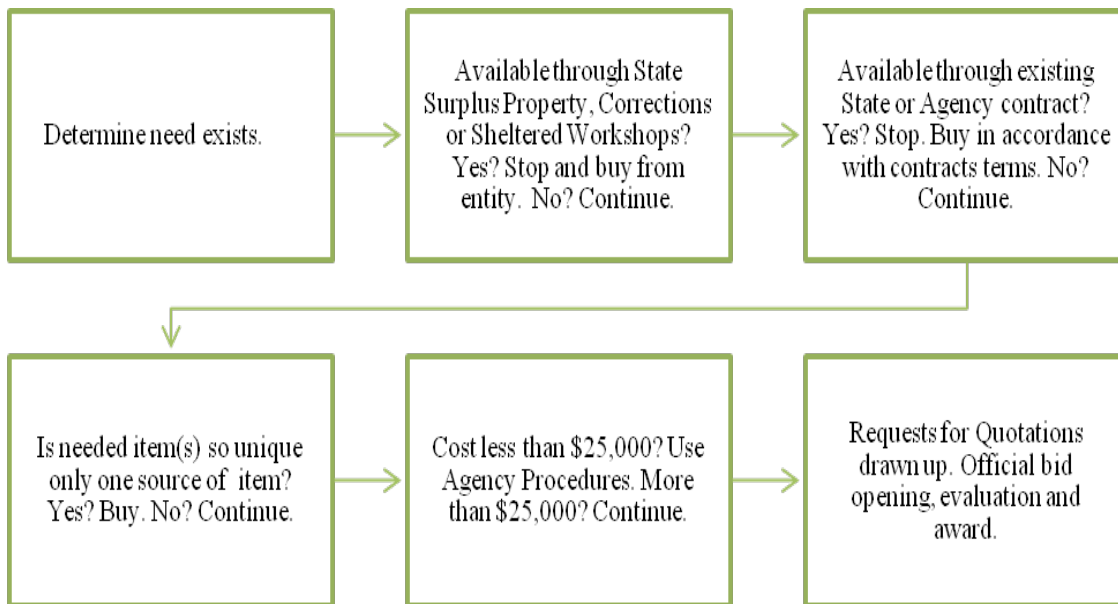
West Virginia Purchasing Division Has Established a “Best Practice” for Procurement

Unlike higher education institutions, when most state spending units make a purchase they are mandated to follow the Department of Administration’s Division of Purchasing (Purchasing) rules. WVU-P would have been well served to have considered the Purchasing Division’s spending unit decision path before buying from the Florida computer vendor. Figure 4 illustrates the detailed decision path used by other state spending units when planning any purchase, let alone a capital outlay to the extent expended by WVU-P.

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Figure 4

State Spending Unit Decision Path



Source: Division of Purchasing.

Higher education is not required to follow this decision path. The decision path WVU-P took as it began making purchases was to determine it needed computers and peripherals, select the Florida vendor based not on a request for quotation results or comparison shopping but on the WVU-P CIO’s 18-year business relationship with the vendor, then WVU-P either tried to justify sole sourcing purchases or make certain

that purchases cost less than \$25,000 so competitive bids did not have to be sought. As a result, three of 178 transactions WVU-P made with the Florida vendor were above \$25,000, the rest were below \$25,000. Yet, even in these three instances, WVU-P still violated higher education purchasing procedures.

WVU-P knew it would be expending considerable capital to overhaul its information technology system before it began to purchase the computers and peripherals. However, the community college did not go about planning for such purchases. It did not seek competitive bids, comparison shop or even determine whether the same brand and warranties were available on a state contract.

Comparable Computers Were Available on an Existing State Contract

As was shown in Figure 4, the State Spending Unit Decision Path, one step state agencies take is to determine if items needed are available through an existing state contract. If so, the agency is required to purchase from that contract. Higher education is allowed to purchase from the Purchasing Division's contracts but is not required to do so. One Purchasing Division contract available is for computers and related peripherals. The computer brand available through the Purchasing contract is the same as those purchased from the Florida computer vendor. The Legislative Auditor reviewed the computers available through the Purchasing Division's contract compared to WVU-P's computer purchases. Computer models available on the Purchasing contract were found to be comparable to those WVU-P purchased from the Florida computer vendor. In many cases the computers were less expensive from the statewide contract and the manufacturer would have paid corporate net income taxes to West Virginia.

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Florida Vendor Cost More for Some Computers and Peripherals

An analysis by the Legislative Auditor showed that if WVU-P had taken the time to examine the computers and equipment available on the statewide contract, it would have saved over \$82,000 compared to purchasing all the equipment through one vendor in Florida. This analysis is shown in Table 1.

Table 1
Total Cost Savings Not Realized Because
the Statewide Contract Was Not Used
December 2008 to March 2011

Purchase Category	Total Dollar Amount WVU-P Paid 12/08 to 3/011	Total Dollar Cost Under State Contract	Savings Not Realized
Keyboard/Mouse	\$1,989	\$0	\$1,989
Docking Station	\$9,400	\$7,324	\$2,076
Shipping	\$10,553	\$2,667	\$7,886
Laptops	\$101,576	\$92,611	\$8,965
Desktops	\$427,931	\$292,010	\$135,921
Monitors	\$42,747	\$116,820	(\$74,073)
Total	\$594,196	\$511,432	\$82,764

Source: Legislative Auditor's analysis of WVU-Parkersburg data and Purchasing Division data.

Florida Vendor Not Registered in West Virginia

The Legislative Auditor found that the Florida vendor used by WVU-P was not registered with the Department of Administration, the Secretary of State or the Department of Tax and Revenue at the time that it was transacting business with WVU-Parkersburg. Registration with all three of these state offices is required for different purposes.

All vendors selling products and services to the State of West Virginia are required to register with the Department of Administration's Purchasing Division **prior to receiving a purchase order**. WVU-P issued three purchase orders to the Florida vendor in the three cases where the transactions exceeded \$25,000; however, the computer vendor was not registered with the Purchasing Division. WVU-P did not comply with a requirement to make certain the vendor was registered with the Department of Administration. This provision is stated in West Virginia Code §18B-5-5:

- (a) Every person, firm or corporation selling or offering to sell to the commission or the governing boards, upon competitive bids or otherwise, any materials, equipment, services or supplies in excess of twenty-five thousand

All vendors selling products and services to the State of West Virginia are required to register with the Department of Administration's Purchasing Division prior to receiving a purchase order.

WVU-P did not make certain the vendor was registered with the Department of Administration.

dollars...(2) Shall file with the director of the purchasing division of the state of West Virginia the affidavit required herein...

This statutory requirement is also reflected in the Higher Education Purchasing Manual which **requires** the college's Chief Procurement Officer to ensure that the vendor be duly registered with the Purchasing Division **before** issuing a purchase order that exceeds \$25,000. WVU-P's CPO at the time did not make certain the vendor was registered with the Purchasing Division.

In an interview with the Higher Education Policy Commission's Chief Financial Officer (CFO) the Legislative Auditor learned that purchasing training provided to institutions discusses little in the way of vendor registration requirements. According to the CFO, the topic of vendor registration is not covered in every training session although training occurs twice a year. The Legislative Auditor was told that the topic of vendor registration has not been discussed in almost seven years. When asked to specifically detail what is covered in the way of vendor registration requirements, the Legislative Auditor was told that the only requirement is for registering with the Division of Purchasing when a single payment of \$25,000 or greater is required. Conferring with the Purchasing Division is a way to determine if a vendor is in good standing with the state and does not owe the state money or is under an obligation to complete any other work for the State of West Virginia

Purchasing training provided to institutions discusses little in the way of vendor registration requirements.

Topic of vendor registration has not been discussed in almost seven years.

Being a registered vendor with the Department of Administration's Division of Purchasing is **not** the same as being registered with the Secretary of State or obtaining a business license from the Department of Tax and Revenue. Another best practice of the Division of Purchasing requires state spending units to verify that vendors are duly licensed. As stated in the Purchasing Division's Legislative rule §148-1-6.1.7,

The vendor must be licensed and in good standing in accordance with any and 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...**[Emphasis added]**

Nothing precludes institutions of higher education from verifying vendors are licensed and in good standing. If WVU-P had sought verification of licensure and good standing it would have discovered the Florida vendor also had not registered with the Secretary of State or obtained a business license from the Department of Tax and Revenue.

As an out-of-state entity, **the Florida vendor was required to register with the Secretary of State's Office** in order to conduct business in West Virginia. Often a certificate of good standing or existence from the domestic state is also required. The Florida computer vendor did **not register with the Secretary of State** or submit to the Secretary of State a certificate of good standing or existence from Florida.

A business registration certificate from West Virginia's Department of Tax and Revenue is required by West Virginia Code to legally sell within the state. **The Florida computer vendor did not register with the Tax and Revenue Department before it commenced business activities in West Virginia.** The Legislative Auditor notified the Department of Tax and Revenue of the Florida vendor. The Department of Tax and Revenue has indicated that it will make certain the business license is obtained. As the vendor has no physical presence within the State it is apparently not obligated to pay corporate net income taxes or any other taxes to West Virginia. Tax and Revenue is permitted to fine a vendor \$100 a day for each day it operates without a license.

When the Legislative Auditor told WVU-P that the vendor was not registered with the appropriate agencies, WVU-P showed the Legislative Auditor that it had obtained a financial information management system (FIMS) number for the vendor. WVU-P was under the impression the FIMS number alone was sufficient, and that both the community college and the vendor had complied with all necessary registration requirements. However, the vendor had a FIMS number because it was being paid through the State Auditor's Office. The FIMS number is a number assigned to all vendors who receive payments from state spending units. It does not signify that a vendor has gone through the appropriate procedures to conduct business in the state.

Vendors are responsible for familiarizing themselves with applicable provisions of West Virginia Code. This computer vendor disregarded its responsibility and could be liable for fines, penalties and suspension from selling in West Virginia as a result of its failure to properly present itself to the State. As a vendor of long standing in

If WVU-P had sought verification of licensure and good standing it would have discovered the Florida vendor also had not registered with the Secretary of State or obtained a business license from the Department of Tax and Revenue.

Florida, where it is duly registered, the computer vendor should have been aware of its obligation to register with a state.

Conclusion

The Legislative Auditor concludes that WVU-Parkersburg violated the spirit of competitive bidding and procurement law. The Chief Information Officer's desire to use a vendor from whom he had received good service in the past, prior to his employment with WVU-P, is not justification for circumventing purchasing procedure. A significant effect of these purchasing violations is that West Virginia businesses and the West Virginia economy were denied the economic benefit of having over \$1.2 million in computer purchases. The State recognizes the importance of having state purchases made in-state when possible for the sake of local businesses, employment and state tax revenue. This policy is implied in the fact that the State gives in-state vendor preference for state purchases and by law the State is willing to provide as much as a five percent preference to a West Virginia vendor over an out-of-state vendor when awarding a competitively bid contract.

A significant effect of these purchasing violations is that West Virginia businesses and the West Virginia economy were denied the economic benefit of having over \$1.2 million in computer purchases.

Recommendations

- 1. WVU-Parkersburg should comply with the provisions of the Higher Education Purchasing manual that require institutions ensure that purchases be made competitively and emphasize providing in-state vendors an opportunity to participate in the institution's purchases.*
- 2. Sole source purchases should comply with the requirements as stated in the Higher Education Purchasing manual §5.28.*
- 3. The Legislature should consider amending the higher education statute to require institutions to mandate that vendors provide them with a copy of the business registration license issued by the State Department of Tax and Revenue and otherwise comply with the requirements found in the Division of Purchasing's legislative rule §148-1-6.1.7.*
- 4. The Higher Education Policy Commission should incorporate into its higher education purchasing manual instructions to institutions on requiring vendors to substantiate that the vendor has registered with the Division of Purchasing, the Secretary of State and the Department of Tax and Revenue.*

ISSUE 2

A Workforce Development Grant Issued By the Council for Community and Technical College Education Was Used in Part By WVU-Parkersburg to Have Equipment and Personnel Sent to Illinois, Oklahoma and California to Train a West Virginia Company's Out-of-State Workers.

Issue Summary

WVU-Parkersburg received a grant from the Council for Community and Technical College Education that was used not only to train an in-state company's in-state workers, but also to have equipment and personnel sent to locations in three states to train the company's out-of-state employees. The company paid to transport the community college's equipment and paid for the instructor's travel and lodging; however, the instructor's salary and the costs of the equipment were paid with state grant monies. The Legislative Auditor recognizes the need to address the workforce needs of companies that have a presence in the state. However, the Legislative Auditor concludes that the intention of workforce development initiatives is for the direct benefit of the state's workforce and economy. This intent is reflected in the legislative stipulation that training offered by community colleges is to take place within the college or in locations of statutorily specified counties of the state. The WVU-Parkersburg training involved training 32 workers in Illinois, Oklahoma and California. Some of the expenses were to be paid by the company, but WVU-Parkersburg has not provided how much the company has paid to date. At a minimum, at least \$34,000 was spent by the State to train out-of-state workforces, but the actual amount, which cannot be determined, is likely higher. Given that the State's community colleges could be requested to train out-of-state workforces in the future, a policy should be established to address such requests by in-state companies.

Workforce development training is intended to meet the immediate and long-term workforce needs of West Virginia employers and employees.

Legislature Intended Workforce Development Training for West Virginia Workers in West Virginia

The West Virginia community college system, with oversight and leadership provided by the Council for Community and Technical College Education (Council), is statutorily mandated to be the State's primary provider of workforce development training. Workforce development training is intended to meet the immediate and long-term workforce needs of West Virginia employers and employees according to

§18B-1-1a (e)(1)(B)(i). The Council distributes three state-funded grants to community colleges to promote workforce development training and the development of workforce programs. One of these three grants was statutorily created (Workforce Development Initiative Program), while the Advance grant and the Technical Program Development grant were created administratively by the Council. Although the Advance grant was used to fund the out-of-state workforce training, the Legislative Auditor determines that these administrative workforce development grants should be administered consistent with the Legislature’s intent as expressed in creating the Workforce Development Initiative Program.

The Workforce Development Initiative Program was intended to provide workforce training within districts or regions of the state.

In reviewing statutory references of the Legislature’s intentions for the Workforce Development Initiative Program (§18B-3D), the Legislative Auditor concludes that this grant initiative was intended to provide workforce training within districts or regions of the state. References to the West Virginia workforce and to the state economy in §18B-3D-1 include the following reasons for workforce development grants:

- to meet the changing needs of employers throughout the state,
- to maintain and strengthen the state economy, and
- to provide knowledge and skills to a workforce in West Virginia enabling businesses and communities to prosper.

Statute allows specific community colleges to train in specific locales within the state.

In addition, community colleges have limitations as to where training may occur. Statute allows specific community colleges to train in specific locales within the state. As stated in West Virginia Code (18B-2A-4(r)), community colleges may

Enter into contracts or consortium agreements with the public schools, private schools or private industry to provide technical, vocational, college preparatory, remedial and customized training courses **at locations either on campuses of the public institution of higher education or at off-campus locations in the institution’s responsibility district....[emphasis added]**

WVU-P’s responsibility district compromises Wood, Wirt, Tyler, Roane, Ritchie, Pleasants and Jackson counties.

West Virginia Code §18B-3C-4(c) defines a community college’s responsibility district as certain West Virginia counties. WVU-P’s responsibility district compromises Wood, Wirt, Tyler, Roane, Ritchie, Pleasants and Jackson counties. By law WVU-P legitimately provided

training to the company at its West Virginia facilities, but the training that was conducted in Illinois, Oklahoma and California exceeded the statutory authority of WVU-P as a community college.

Training Out-of-State Workforces Should Reasonably Be Precluded

The Advance grant is designated as “*Rapid Response Workforce Development*,” in that it can be approved solely by the Chancellor of the community college system, in a relatively short amount of time and without Council members’ awareness. The Chancellor approved an Advance grant proposal from WVU-P to provide workforce training for Simonton Windows, which is a West Virginia company located in WVU-P’s service district (Ritchie County). Simonton Windows was originally founded in West Virginia in 1946. However, Fortune Brands, Inc. acquired Simonton’s holdings in West Virginia, Illinois, Oklahoma and California in 2006, long before the Advance grant was issued in 2009. This made Simonton Windows a subsidiary of the Deerfield, Illinois-headquartered Fortune Brands, Inc. The out-of-state workers who were trained are employed by Fortune Brands. Simonton’s headquarters relocated to Columbus, Ohio in 2011.

The training that was conducted in Illinois, Oklahoma and California exceeded the statutory authority of WVU-P as a community college.

In a sub-section of WVU-P’s grant proposal titled “Employer Sector Served,” it is stated that:

While this comprehensive training program will initially serve Simonton’s West Virginia manufacturing facilities, it is hopeful that due to the online access and flexibility it will be adopted corporate-wide by the company, allowing WVU Parkersburg to serve Simonton workers in four additional states.

It is unclear from this statement whether it was understood that the service provided to out-of-state workers by WVU-P would involve more than online access to the training and also include training at out-of-state locations. In response to the Legislative Auditor’s inquiry concerning who approved the out-of-state training, the Chancellor stated:

It was not required that WVU at Parkersburg seek Council approval to train out-of-state employees for Simonton. Council staff assisted in developing the initial training for Simonton of West Virginia, but was not involved in the actual delivery of training. It is my understanding that in an effort to assist Simonton, WVU at Parkersburg agreed to conduct the out-of-state training.

WVU-P's decision to assist Simonton Windows by extending the training to the company's out-of-state workers is contrary to the basic policy of workforce development, which is to directly benefit the state's workforce. Although one can argue that assisting the company's out-of-state workforce may have an indirect benefit in maintaining the company's facilities in West Virginia, it is very difficult to determine and quantify if there is an indirect benefit or not. While it is understood that the state's community colleges are expected to develop a conducive relationship with West Virginia private industry, there needs to be a limit to the State's assistance that precludes training in out-of-state locations, or a requirement of full reimbursement for the out-of-state training by the company. Although the Council has no policy prohibiting colleges from expending workforce development grant monies beyond the college's responsibility district, statutory language clearly limits the location of training to occur within the state. Given the capabilities of technology, the Council may want to consider developing a policy on online access of training provided to out-of-state locations.

There needs to be a limit to the State's assistance that precludes training in out-of-state locations, or a requirement of full reimbursement for the out-of-state training by the company.

Out-of-State Training Costs Difficult to Quantify

WVU-Parkersburg was awarded Advance grant funds totaling \$146,470 exclusively to provide skills upgrades to Fortune Brands, Inc. workers. An amount of \$57,180 from another Advance grant purchased the equipment used to train these workers. As this equipment was also used to train Fortune Brand's workers, the Legislative Auditor calculates that costs were at least \$203,650 to provide training to all of the Simonton workers, located in and out of the state.

While some of the Advance grant monies were used to train West Virginia workers, access to an online software component was expended for the benefit of workers outside of West Virginia. The community

college’s equipment was out of state for five months and a portion of the instructor’s salary was also expended for training the out-of-state workforce. Apportioning the amount of the instructor’s salary expended for the benefit of the out-of-state workers is difficult because he was not out of state continuously during the five-month period. The Legislative Auditor knows that the instructor was located out-of-state at least 20 days. Furthermore, some of the instructor’s time was used to provide services to the out-of-state workforces while in West Virginia.

Dividing the costs for the equipment between the in and out-of-state training is also challenging because the equipment, unlike the instructor’s time and the software, can be used again. The Legislative Auditor knows that the purchase price of the equipment was \$57,180. The equipment was used for labs at all five training sites. Eighteen labs were held during the training at three sites out of state. The training could not have occurred without the commitment of the equipment. Table 2 shows definite known costs involved in this training program.

Table 2 Committed Expenses to Training Program		
Commitments	Overall	Out-of-State Benefit
Software	\$83,661	\$32,000*
Instructor’s Salary	\$2,000 per month for 24 months	\$2,000**
Equipment	\$57,180 purchase price	Used 3/5 of time
*32 workers at \$1000 per worker; **Minimum counting only time actually out of state, Source: Legislative Auditor analysis of WVU-Parkersburg invoices.		

When WVU-P received the Advance grant for training, the plan was that if the skills upgrade training was well received by Fortune Brands at its West Virginia facilities, WVU-P would take the training to Fortune Brand’s workers at its other Fortune Brands, Inc. facilities. Fortune Brands followed through with the plan to expand the training to other facilities.

Beginning in January 2011, Fortune Brands, Inc. transported WVU-P’s equipment to Illinois, Oklahoma and California. The community college’s equipment returned to West Virginia on May 17, 2011.

Beginning in January 2011, Fortune Brands, Inc. transported WVU-P’s equipment to Illinois, Oklahoma and California. The community college’s equipment returned to West Virginia on May 17, 2011. A WVU-P employee travelled to each of these states to provide the training. Map 1 marks the five locations the training occurred.

Map 1: Map of Out-of-State Training Locations



In December 2009, WVU-P and Simonton (for Fortune Brands, Inc.) entered into a training service agreement. According to the agreement, the training program is to be completed by October 30, 2011. The college informed the Legislative Auditor on May 27, 2011 that the portion of the training requiring use of the equipment has been completed for all locations.

A WVU-P employee physically provided the training to the out-of-state workers. The employee’s \$2,000 per month salary and benefits were paid for out of the workforce development grant monies. The instructor’s sole duty is to provide the training for Fortune Brands workers. While the physical out-of-state training took place over approximately a five-month period, the instructor was not out of state for the entire five months. The instructor would return to West Virginia upon completing hands-on training in one state and await the company to notify WVU-P it was ready for the instructor to come to another of its manufacturing sites. During part of the time of this five-month period, the instructor was also providing online training to West Virginia workers. After the physical out-of-state training concluded, the instructor continued to provide online training to the out-of-state workers. Since the amount of time the instructor spent on the out-of-state workers cannot be determined it is difficult to quantify how much salary went primarily to benefit Fortune Brand’s workers outside of West Virginia.

Since the amount of time the instructor spent on the out-of-state workers cannot be determined it is difficult to quantify how much salary went primarily to benefit Fortune Brand’s workers outside of West Virginia.

WVU-P used nearly 60 percent, or \$83,661 of the \$146,470 grant money to purchase software chosen by the manufacturer. As stated in the plan to provide the training, WVU-P would be delivering online training modules and provide an instructor to facilitate delivery and provide the hands-on training components. The purchased software training modules come by means of a virtual seat. Each seat can be used on a one-time only basis and the software training modules were selected by Fortune Brands because it specifically aligned with the apprenticeship program objectives of the company. According to invoices, WVU-P purchased a total of 84 seats, the first purchase was for 36 seats and the second for 48. At least seven seats appear not to have been used. The contract between the college and owner of the software training modules expires this fall. As WVU-P has told the Legislative Auditor all hands-on training is completed, it is unclear whether WVU-P will lose the cost of those seven seats. If each seat were prorated over the entire cost expended with the software training modules company, each seat would cost nearly \$1,000. This would amount to nearly \$7,000 in workforce development monies being expended with no benefit to either the State or Fortune Brands, Inc.

As the purchase of the online training modules was exclusively for the benefit of Fortune Brands, selected **by Fortune Brands to meet its own apprenticeship program objectives** and may not be used again by WVU-P for any other training program, the Legislative Auditor questions why the college made the purchase instead of Fortune Brands, Inc. A sizeable portion of this expenditure was used for workers in other states as the original number of out-of-state workers enrolled for training was over 40 percent of the total enrollees.

As the purchase of the online training modules was exclusively for the benefit of Fortune Brands, selected by Fortune Brands to meet its own apprenticeship program objectives and may not be used again by WVU-P for any other training program, the Legislative Auditor questions why the college made the purchase instead of Fortune Brands, Inc.

Liability to the State from Out-of-State Training

The wording of the training agreement between WVU-Parkersburg and Simonton/Fortune Brands did not address liability issues. The Legislative Auditor has concerns about the potential financial risks to which WVU-Parkersburg subjected itself, and the State. Specifically, these concerns are as follows:

- The equipment could have been damaged, destroyed or misplaced. The purchase cost of the equipment used out of state was \$57,180.
- The WVU-Parkersburg instructor could have provided improper training resulting in a claim of negligence against the college.

The Board of Risk and Insurance Management (BRIM) would have had to pay out any claims made in the event of loss of property and any lawsuits relating to training.

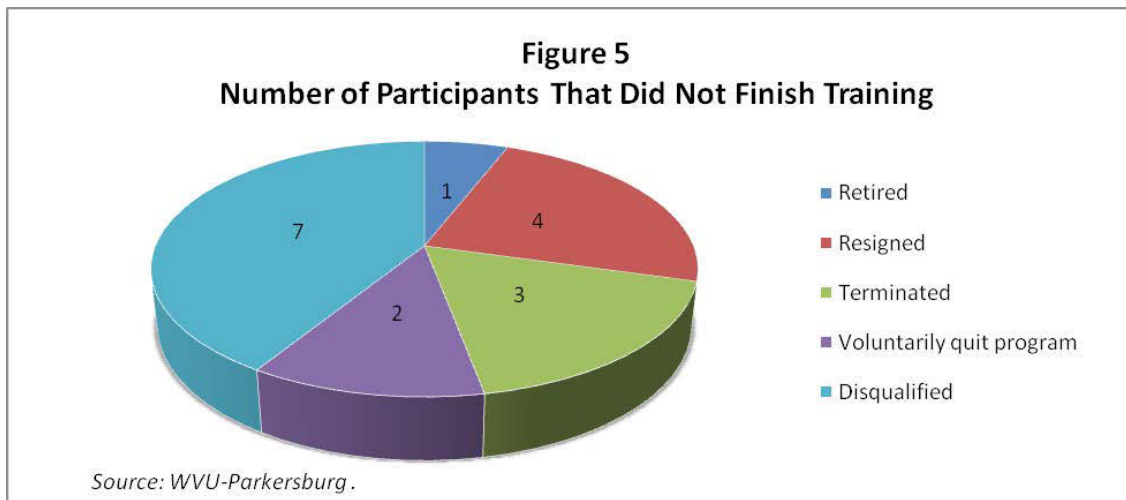
Out-of-State Workers Reported as West Virginia Workers Trained

Community colleges receiving any of the workforce development grants are required to report to the Council such information as number of participants enrolled in a workforce program, number of participants retained and completing the workforce program and number of participants retaining employment in West Virginia. No separate reporting line is included on the grant monitoring reports to represent number of participants retaining employment outside of West Virginia. The Chancellor told the Legislative Auditor that on workforce development grant reporting forms the out-of-state workers would be counted as West Virginia workers trained and West Virginia jobs retained. As now drawn up, these reporting forms make no distinction between in-state or out-of-state workers. The Council counts all training participants on its monitoring reports. Without specification of the location of the workers, the number of participants trained implies to a reader that the number reflects West Virginia workers trained and West Virginia jobs retained. This number cannot be used as a valid performance measure of the effectiveness of workforce development grants in West Virginia because it will be inflated with out-of-state workers.

The Chancellor told the Legislative Auditor that on workforce development grant reporting forms the out-of-state workers would be counted as West Virginia workers trained and West Virginia jobs retained.

WVU-P May Receive Limited Compensation for Training

The agreement between WVU-P and Fortune Brands allowed for the provision of services such as the transportation of the training equipment, and for the payment of travel expenses for the instructor while on the road. The Legislative Auditor has been told that the company has honored this agreement although no documents were shown to verify that this occurred. This is the only compensation for training the out-of-state workers that has been made to the college by Fortune Brands. In addition, there is a minimal amount of reimbursement that will take place if some of the workers to be trained drop out of training before completion. Seventy-seven of the Fortune Brands, Inc.'s workers started the program. As of June 3, 2011, 60 were enrolled. As can be seen in Figure 5, WVU-P separated the reasons the workers departed the program into five categories.



According to the agreement, the compensation that WVU-P receives from Fortune Brands, Inc. would be \$125 a month per worker if a worker did not complete the training. A stipulation in the contract stated Fortune Brands, Inc. would not have to pay this money to WVU-P if a worker retired or voluntarily dissolved employment.

WVU-P conducted a departure analysis of the 17 workers no longer participating in the program. The departure analysis provided to the Legislative Auditor did not detail the months in which each worker departed. As the analysis provided was ambiguous as to which categories would be considered as inactive and thus billable, the Legislative Auditor inquired of WVU-P as to how much money it would be reimbursed. WVU-P responded by stating it had not yet met with the Fortune Brands, Inc. to review and discuss the analysis. In order for the Legislative Auditor to provide an estimate of possible compensation to be received it would need to know the month of departure for each worker and how many workers will be considered as having left voluntarily. Table 3 shows the number of original enrollees and active participants as of June 3, 2011 by location.

The departure analysis provided to the Legislative Auditor was ambiguous as to which categories would be considered as inactive and thus billable.

**Table 3
Number of Training Participants
As of June 3, 2011**

Locale	Started	Finished
Paris, Illinois	15	11
McAlester, Oklahoma	12	10
Vacaville, California	5	3
Pleasants county, West Virginia	17	11
Ritchie county, West Virginia	28	25
Total	77	60
<i>Source: WVU-Parkersburg.</i>		

The Legislative Auditor notes that the State has not, and will not be totally reimbursed for the cost of the training provided to out-of-state employees of Fortune Brands. The State will not be able to reuse training materials such as software seats, and that the brand of software was selected by Fortune Brands for its own needs.

The Legislative Auditor notes that the State has not, and will not be totally reimbursed for the cost of the training provided to out-of-state employees of Fortune Brands.

Conclusion

The Legislative Auditor understands the need for community colleges to assist the state’s private industry workforce, and to be as cooperative with companies as possible. However, a line needs to be drawn on the extent to which the State will provide its assistance. There may be instances in which it can be demonstrated that assisting an out-of-state workforce may facilitate maintaining a company’s presence in West Virginia. However, this is difficult to determine. For this reason workforce development training should follow the statutory guidelines of being conducted for the benefit of West Virginia’s workforce. Given that technology allows for training to be made available out of state through online services, the Council should consider developing policy in this area and if some form of reimbursement is appropriate.

Recommendations

5. *The Council for Community and Technical College Education should consider establishing policies or legislative rules for addressing workforce development training that physically takes place in out-of-state locations and the extent of appropriate reimbursement by the company.*

6. *The Council for Community and Technical College Education should consider establishing policies or legislative rules for online access of training for out-of-state locations and the extent of appropriate reimbursement by the company.*

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

June 24, 2011

James L. Skidmore, Chancellor
Council for Community and Technical College Education
1018 Kanawha Blvd. East, Suite 700
Charleston WV 25301

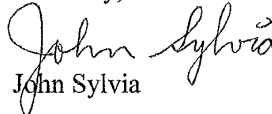
Dear Chancellor Skidmore:

This is to transmit a draft copy of a Purchasing Performance Review of WVU-Parkersburg. This report is scheduled to be presented during the July 11-13, 2011 interim meeting of the Joint Committee on Government Organization and the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any committee questions.

Please contact us by June 28, 2011 to schedule an exit conference to discuss any concerns you may have with the report. We need your written response by noon on Tuesday, July 5, 2011 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at (304) 340-3192 by Thursday, July 7, 2011 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,


John Sylvia

C: Dr. Vincent Mensah, Chief Financial Officer, WVU-Parkersburg
Sampath Nagaraj, Director of Procurement, WVU-Parkersburg

Joint Committee on Government and Finance

Appendix B: Objective, Scope and Methodology

Objective

The Legislative Auditor conducted a purchasing performance audit of higher education as required by §18B-5-4(r). In this report two findings at WVU-Parkersburg are reported. The primary purpose of this audit was to determine if purchasing functions and duties performed at the community college complied with applicable purchasing laws.

Scope

The scope of this audit is July 1, 2008 to June 2011. Until July 1, 2008 WVU-Parkersburg was a regional campus of West Virginia University. On this date legislation became effective separating WVU-Parkersburg from West Virginia University. WVU-Parkersburg opted to continue using the name West Virginia University but is an independent, stand-alone community college. WVU-Parkersburg is accredited separately and is governed by its own Board of Governors. The Legislative Auditor is not authorized by §18B-5-4(r) to conduct a purchasing performance audit of either Marshall University or West Virginia University. The Legislative Auditor examined WVU-Parkersburg's purchasing practices from July 1, 2008 through June 2011.

Methodology

This audit was developed from personal interviews and site visits to WVU-Parkersburg between January 6, 2011 and May 18, 2011. The Legislative Auditor compared actual purchasing practices in place at WVU-Parkersburg to applicable purchasing criteria. Purchasing requirements were taken from the Higher Education Policy Commission's purchasing manual, higher education purchasing law, applicable state purchasing law, rules and best practices of the Department of Administration's Division of Purchasing. Documents obtained from WVU-Parkersburg, the Council for Community and Technical College Education, the State Auditor's Office, the Department of Tax and Revenue, the Secretary of State's Office, and the Department of Administration's Division of Purchasing were examined. The Legislative Auditor interviewed staff from the Higher Education Policy Commission, the Council for Community and Technical College Education, the Board of Risk and Insurance Management, the Department of Tax and Revenue and the Department of Administration's Division of Purchasing. The total number of purchase card transactions

and purchase orders, as well as the total amount in expenditures paid to the Florida vendor, was obtained from the State Auditor's Office. Prices and specifications for comparable computers were taken from the Division of Purchasing statewide computer contract. Every aspect of this review complied with the Generally Accepted Governmental Auditing Standards (GAGAS) as set forth by the Comptroller General of the United States.

Appendix C: Photos of Equipment Used to Train Train Company



Hydraulic and Pneumatic trainers used to train Fortune Brand's Workforce



Pumps Training System used to train Fortune Brand's Workforce



Mechanical Training System used to train Fortune Brand's Workforce

Appendix D: Business Technology Center Purchase Card Transactions 7/08 to 03/11/11

Transaction Date	Transaction Post Date	Total Transaction Amount	Requesting Dept	Account billed
12/12/2008	12/15/2008	\$16,709.00	Computer Center	Computer Operations
12/15/2008	12/16/2008	\$198.00	Computer Center	Computer Operations
12/20/2008	12/22/2008	\$2,288.00	IT	Computer Operations
2/2/2009	2/3/2009	\$14,233.00	Computer Center	Computer Operations
2/12/2009	2/13/2009	\$74.00		Human Resources
2/20/2009	2/23/2009	\$2,976.00	Library	LRC office
2/23/2009	2/24/2009	\$3,406.00	IA/Graphics	Institutional Advancement
3/2/2009	3/3/2009	\$24,425.00	IT	Computer Lab
3/11/2009	3/12/2009	\$1,703.00	Humanities	English
3/11/2009	3/12/2009	\$3,406.00	President's Office	President's Office
3/13/2009	3/16/2009	\$441.00	IT	Computer Operations
3/21/2009	3/23/2009	\$3,226.00		
3/21/2009	3/23/2009	\$2,117.00	President's Office	President's Office
3/21/2009	3/23/2009	\$1,613.00	President's Office	President's Office
4/1/2009	4/2/2009	\$23,448.00	Journalism	Perkins Vocational Grant
4/3/2009	4/6/2009	\$2,117.00	Academic Affairs	Perkins Vocational Grant
4/7/2009	4/8/2009	\$1,974.00	Academic Dean	Perkins Vocational Grant
4/7/2009	4/8/2009	\$1,974.00	Student Affairs	Student Government
4/14/2009	4/15/2009	\$1,613.00	Criminal Justice	Criminal Justice
4/16/2009	4/17/2009	\$987.00	Career Services	Placement
				Advising Center, Career Testing, 1st yer initiative,
4/23/2009	4/24/2009	\$6,869.00	Student Services	Dean Students, Wellness
4/23/2009	4/24/2009	\$987.00	Student Services	Perkins Vocational Grant
4/23/2009	4/24/2009	\$2,097.00	Student Services	VISTA
4/23/2009	4/24/2009	\$1,593.00	Student Services	Perkins Vocational Grant
5/5/2009	5/6/2009	\$17,590.00	IT	Not Noted
5/6/2009	5/7/2009	\$8,770.00	IT	Perkins Vocational Grant
5/15/2009	5/18/2009	\$1,188.00	Disability Services	Disability Services
5/19/2009	5/20/2009	\$989.00	Business and Econ	Business Programs
5/23/2009	5/25/2009	\$989.00		Foundation
6/9/2009	6/10/2009	\$1,483.00		Child Care
6/11/2009	6/12/2009	\$3,006.00		
				Staff Council, President's Office
6/11/2009	6/12/2009	\$1,063.00	Staff Council	Office
6/12/2009	6/15/2009	\$2,625.00		
6/19/2009	6/22/2009	\$1,770.00		Learning Center
6/26/2009	6/29/2009	\$924.00	Student Services	Perkins Vocational Grant
6/30/2009	7/1/2009	\$3,006.00	Human Resources	HR Recruiting

7/18/2009	7/20/2009	\$1,503.00	Student Services	Perkins Vocational Grant
7/18/2009	7/20/2009	\$8,226.00	Student Services	Perkins Vocational Grant
7/27/2009	7/28/2009	\$5,590.00	IT	Human Resources
7/29/2009	7/30/2009	\$7,406.00	Education	Teach Quality Impvment 2009 grant
8/5/2009	8/6/2009	\$1,493.00		Chemical Process Tech Grant
8/5/2009	8/6/2009	\$2,076.00		Chemical Process Tech Grant
8/10/2009	8/11/2009	\$22,680.00	IT	Lab/Equip Upgrades
8/10/2009	8/11/2009	\$22,680.00	IT	Lab/Equip Upgrades
8/11/2009	8/12/2009	\$955.00	Business Office	Business Office
8/11/2009	8/12/2009	\$9,450.00	Computer Sci	Computer Lab
8/12/2009	8/13/2009	\$1,493.00	Computer Sci	Computer Lab
8/12/2009	8/13/2009	\$2,076.00	Computer Sci	Postage and Mail
8/20/2009	8/21/2009	\$23,625.00		Chemical Process Tech Grant
9/11/2009	9/14/2009	\$1,867.00	Academic Affairs	Perkins Vocational Grant
9/16/2009	9/17/2009	\$1,484.00		Chemical Process Tech Grant
9/16/2009	9/17/2009	\$3,800.00	JCC	Jackson Co Center
9/18/2009	9/21/2009	\$23,525.00	IT	JCC Computer Lab
9/23/2009	9/24/2009	\$23,525.00	IT	Perkins Vocational Grant
10/5/2009	10/6/2009	\$164.00	IT	Computer Operations
10/12/2009	10/13/2009	\$1,908.00	Student Services	Perkins Vocational Grant
10/13/2009	10/14/2009	\$9,470.00	Academic Affairs	Perkins (noted but no acct number)
10/16/2009	10/19/2009	\$1,723.00	Academic Dean	Nursing Access DOL Grant
10/29/2009	10/30/2009	\$4,422.00		Capital R & A
10/31/2009	11/2/2009	\$6,608.00	IT	Perkins Vocational Grant
11/2/2009	11/3/2009	\$2,832.00	IT	Perkins Vocational Grant
12/9/2009	12/10/2009	\$2,156.00	JCC	Foundation
12/16/2009	12/17/2009	\$5,765.00	IT	Computer Operations
12/16/2009	12/17/2009	\$3,432.00	IT	Computer Operations
12/17/2009	12/18/2009	\$16,700.00	IT	Computer Operations
12/21/2009	12/22/2009	\$13,932.00	IT	Computer Operations
12/22/2009	12/23/2009	\$11,600.00	IT	Computer Operations
12/30/2009	12/31/2009	\$3,276.00	IT	Computer Operations
12/31/2009	1/4/2010	\$919.00	Student Services	Perkins Vocational Grant
1/4/2010	1/5/2010	\$1,300.00	IT	Computer Operations
1/4/2010	1/5/2010	\$10,358.00	IT	Computer Operations
1/5/2010	1/6/2010	\$7,868.00	IT	Computer Operations
1/7/2010	1/8/2010	\$5,273.00	IT	Computer Operations

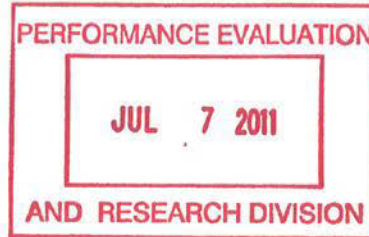
1/8/2010	1/11/2010	\$3,646.00	Education	Teach Quality Impvment 2009 grant
1/13/2010	1/14/2010	\$13,796.00	IT	Computer Operations
1/28/2010	1/29/2010	\$919.00	BEM	Entrepreneurialship Grant
3/8/2010	3/9/2010	\$314.00	Testing	ACT
3/17/2010	3/18/2010	\$1,023.00		JCC Student Services
3/22/2010	3/23/2010	\$15,160.00	Transition	Special Transition
3/23/2010	3/24/2010	\$311.00	IT	Computer Operations
3/31/2010	4/1/2010	\$13,566.00	IT	Computer Operations
4/2/2010	4/5/2010	\$1,348.00	IT	Computer Operations
4/2/2010	4/5/2010	\$6,320.00	IT	Dist Learning Fee Equipment
4/3/2010	4/5/2010	\$9,480.00	IT	Computer Operations
4/5/2010	4/6/2010	\$9,480.00	IT	Computer Operations
4/6/2010	4/7/2010	\$24,850.00	IT	Perkins Vocational Grant
4/9/2010	4/12/2010	\$1,514.00	Health Services	Nursing Access DOL Grant
4/23/2010	4/26/2010	\$23,675.00	IT	Computer Operations
4/27/2010	4/28/2010	\$15,808.00	IT	Telephone Foundation Staff
4/28/2010	4/29/2010	\$5,765.00	IT	Development
4/29/2010	4/30/2010	\$24,700.00	IT	Computer Lab
5/3/2010	5/4/2010	\$1,868.00	IT	Computer Lab
5/4/2010	5/5/2010	\$1,868.00		
5/6/2010	5/7/2010	\$304.99	IT	Partnership Grant 2008
5/18/2010	5/19/2010	\$1,574.00	Student Services	Career Testing and Transfer
5/25/2010	5/26/2010	\$3,148.00	Academic Dean	Perkins Vocational Grant
5/25/2010	5/26/2010	\$301.00	IT	Computer Operations
5/26/2010	5/27/2010	\$5,958.00	IT	Perkins Vocational Grant
6/7/2010	6/8/2010	\$998.00	IT	Perkins Vocational Grant
6/9/2010	6/10/2010	\$9,500.00	IT	JCC Computer Lab
6/10/2010	6/11/2010	\$1,207.00	IT	Computer Operations
6/10/2010	6/11/2010	\$1,619.00	IT	Computer Operations
6/10/2010	6/11/2010	\$301.00	IT	Computer Operations
6/11/2010	6/14/2010	\$9,980.00	IT	Perkins Vocational Grant
6/14/2010	6/15/2010	\$23,750.00	IT	Telephone
6/14/2010	6/15/2010	\$240.00	IT	Computer Operations
6/16/2010	6/17/2010	\$1,544.00	IT	Computer Operations
6/17/2010	6/18/2010	\$1,544.00	Ed and Humanities	Education
6/18/2010	6/21/2010	\$4,722.00	Advising Center	Advising Center
6/18/2010	6/21/2010	\$998.00	Bus and Econ Div	Business Programs
6/19/2010	6/21/2010	\$1,207.00	Bus and Econ Div	Entrepreneurialship Grant
6/19/2010	6/21/2010	\$1,619.00	Bus and Econ Div	Entrepreneurialship Grant

6/21/2010	6/22/2010	\$2,994.00	IT	JCC: Business and Humanities
6/23/2010	6/24/2010	\$1,996.00	SS & L	Journalism
6/23/2010	6/24/2010	\$998.00		Computer Lab & JCC
6/30/2010	7/1/2010	\$24,900.00	IT	Computer Lab
7/7/2010	7/8/2010	\$1,996.00		
7/14/2010	7/15/2010	\$311.00	IT	Computer Lab
7/16/2010	7/19/2010	\$24,700.00	IT	Computer Lab
7/17/2010	7/19/2010	\$24,700.00	IT	JCC Computer Lab
7/19/2010	7/20/2010	\$157.00	IT	Computer Operations
7/20/2010	7/22/2010	\$1,976.00	IT	Special Transition
7/21/2010	7/23/2010	\$5,765.00	IT	Computer Operations
7/23/2010	7/26/2010	\$9,880.00	IT	Computer Lab
7/28/2010	7/30/2010	\$1,817.00	IT	Computer Operations
7/29/2010	8/2/2010	\$1,028.00	IT	Perkins Vocational Grant
8/2/2010	8/4/2010	\$299.00	Health Services	Matching Nursing Access
8/4/2010	8/6/2010	\$2,074.98	IT	DOL
8/5/2010	8/9/2010	\$917.00	IT	JCC Computer Lab
8/6/2010	8/9/2010	\$15,808.00	IT	JCC Computer Lab
8/12/2010	8/16/2010	\$149.00	IT	Perkins Vocational Grant
8/13/2010	8/16/2010	\$1,564.00	IT	Computer Operations
8/18/2010	8/20/2010	\$998.00	Academic Affairs	NSF Ignite Grant
8/19/2010	8/23/2010	\$2,074.98	IT	Perkins Vocational Grant
8/20/2010	8/23/2010	\$2,001.00	IT	Computer Operations
8/23/2010	8/25/2010	\$7,089.00	Science	Computer Operations
8/24/2010	8/26/2010	\$1,024.00	Science	Lab/Equip Upgrades
8/26/2010	8/30/2010	\$998.00	IT	Lab/Equip Upgrades
9/7/2010	9/9/2010	\$14,250.00	IT	Dist Learning Fee Equipment
9/8/2010	9/10/2010	\$1,977.00	IT	Human Resources
9/8/2010	9/10/2010	\$164.00	IT	Computer Operations
9/9/2010	9/13/2010	\$239.00	Social Sci and Lang	Computer Operations
9/9/2010	9/13/2010	\$3,266.00	IT	Forensics Travel
9/13/2010	9/15/2010	\$1,977.00	IT	Computer Operations
9/14/2010	9/16/2010	\$9,384.00	IT	Dist Learning Fee Equipment
9/15/2010	9/17/2010	\$14,250.00	IT	Computer Operations
9/27/2010	9/29/2010	\$1,569.00	NSF Grant	NSF Ignite Grant
9/27/2010	9/29/2010	\$998.00	IT	Perkins Vocational Grant FY

9/30/2010	10/4/2010	\$24,927.00	Academic Affairs	Literacy & Tech Grant
10/12/2010	10/14/2010	\$4,485.00	Academic Affairs	Developmental Math Grant
			PACF & JCCF	PACF & JCCF Grant
10/13/2010	10/15/2010	\$1,133.00	Grant	Interactive Lessons
10/20/2010	10/22/2010	\$14,250.00	IT	Computer Operations
10/26/2010	10/28/2010	\$14,525.00	IT	Computer Operations
10/28/2010	11/1/2010	\$1,338.00	IT	Computer Operations
11/1/2010	11/3/2010	\$14,250.00	IT	Computer Operations
11/2/2010	11/4/2010	\$1,338.00	IT	Computer Operations
				Grant Changing the Equation,
11/11/2010	11/15/2010	\$23,712.00	Dev Ed	Dev Math Fee
12/15/2010	12/17/2010	\$14,250.00	IT	Computer Operations
12/17/2010	12/20/2010	\$1,638.00	IT	Computer Operations
12/30/2010	1/3/2011	\$1,996.00	IT	Computer Operations
12/30/2010	1/3/2011	\$820.00	IT	Computer Operations
				Perkins Vocational Grant FY
12/31/2010	1/3/2011	\$4,372.00	IT	11
1/11/2011	1/13/2011	\$824.00	IT	Computer Operations
				Perkins Vocational Grant FY
1/13/2011	1/17/2011	\$1,887.00	IT	11
				Perkins Vocational Grant FY
1/17/2011	1/19/2011	\$189.00	IT	11
1/19/2011	1/21/2011	\$14,250.00	IT	Computer Operations
1/20/2011	1/24/2011	\$3,204.00	IT	Computer Operations
1/21/2011	1/24/2011	\$1,648.00	IT	Computer Operations
1/24/2011	1/26/2011	\$14,250.00	IT	Computer Operations
1/25/2011	1/27/2011	\$2,047.00	IT	Computer Operations
1/26/2011	1/28/2011	\$567.00	IT	Computer Operations
2/3/2011	2/7/2011	\$14,250.00	IT	Computer Operations
2/14/2011	2/16/2011	\$14,235.00	IT	Computer Operations
2/18/2011	2/21/2011	\$3,886.00	IT	Capital R & A
3/7/2011	3/9/2011	\$6,801.00	IT	Computer Operations
		\$1,070,323.95		

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Appendix E: Agency Response



Issue 1: WVU-Parkersburg Directed Over \$1.2 Million in 178 Transactions in Just Over Two Years to One Florida Vendor in a Manner that Avoided Competitive Bidding.

Issue Summary

A review by the Legislative Auditor's Office of WVU-Parkersburg's purchasing procedures makes the following conclusions:

- WVU-Parkersburg made 178 purchases in a two-year period totaling over \$1.2 million in computers and peripherals from a Florida computer vendor without giving another vendor a chance to compete for the business.
- The purchases avoided bid thresholds that would have required other vendors to be considered.
- The same computer brand could have been purchased from an existing state contract saving the State at least \$80,000.
- The Florida computer vendor was conducting business without a license in West Virginia.

Interviews indicate that the Chief Information Officer requested using a Florida vendor due to his having experienced good service from the vendor in the past before he worked for WVU-Parkersburg.

Emphasis on Competitive Purchasing Lacking At WVU-Parkersburg

WVU-Parkersburg (WVU-P) made no obvious effort to look beyond one Florida computer vendor as it spent over \$1.2 million on computers and peripherals in about two years. Other vendors, in particular West Virginia vendors, were given no consideration to receive state business when WVU-P repeatedly ordered computers and related peripherals in a manner that circumvented the competitive bid process. As stated in the Higher Education Purchasing Manual 5.1.1,

Purchasing in higher education is a public trust. The authority to purchase and acquire materials, supplies, equipment, services and printing is granted to the Council, Commission and the Governing Boards by state law... This places an obligation on the institutions to exercise responsible and responsive management of purchasing activities and to be good stewards of the public funds entrusted to them. In addition, the Council and Commission desire that the institutions provide the maximum opportunity to West Virginia vendors to conduct business with higher education institutions. [Emphasis Added]

According to WVU-P's Chief Information Officer (CIO), he began working for WVU-P in November 2008 with the understanding that the college's information technology system would need to be replaced. The CIO told the Legislative Auditor that WVU-P's computers were not standardized, the computers were long past their service life, the network was "up, down and sideways," wiring did not meet fire code specifications, and a full electronic mail system for 10,000 users needed to be created in short order. All computer and peripheral purchases were made from a vendor in St. Petersburg, Florida. The Legislative Auditor inquired of the CIO as to how this Florida vendor was known to him. He responded that he had been doing business with the vendor since 1993 and his hometown was St. Petersburg, Florida, the location of this vendor. The CIO had also worked for a college in St. Petersburg, Florida for a decade as that college's computer technology director. WVU-P's Chief Information Officer told the Legislative Auditor that he had been advised by WVU-P's then Chief Procurement Officer that purchases could be made from the Florida computer vendor **without bids** so long as a purchase fell beneath \$25,000. Higher education purchasing rules do not require an institution to purchase competitively when an order is less than \$25,000. While higher education does not require multiple prices to be sought, the higher education purchasing manual does encourage institutions to purchase competitively beneath this \$25,000 threshold. **The statement by the CIO suggests the college allowed the circumvention of competitive bidding.**

Competitive Bidding Avoided By Breaking Up Purchases Over Time and With Separate Orders

Purchases under \$25,000 are considered "small" purchases. The intent of the law is to simplify purchasing procedures when acquiring goods and services costing beneath a set threshold. However, all of WVU-P's computer purchases were a part of a greater unified information technology system that WVU-P knew would be transformed. WVU-P abused the "small" purchase process by repeatedly placing separate orders on multiple purchase cards and spacing orders over a period of days during a two-year period in a manner that avoided the competitive bid level. When purchases are made in this manner that circumvents competitive bidding, it is known as stringing. WVU-P made 178 payments to the Florida computer vendor from December 2008 to March 2011. The purchases were continuously stretched out over two years and among multiple purchase cards so that purchases fell below the competitive bid threshold. Essentially, WVU-P strung the 178 purchases.

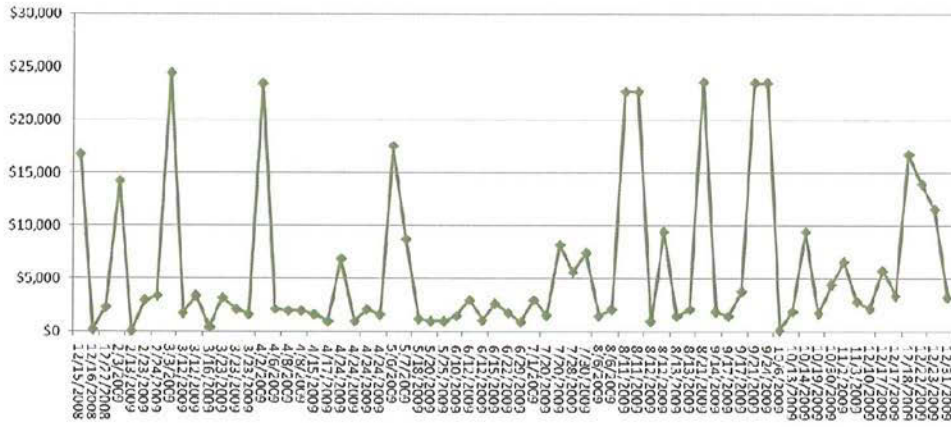
The West Virginia Department of Administration's Agency Purchasing Manual defines stringing as,

Issuing a series of requisitions or purchase orders to circumvent competitive bidding or to defeat the State Purchasing Card transaction or delegated purchasing limit.

In small higher education institutions, such as WVU at Parkersburg, money is spent as it is received from various sources (grants, donations, etc.). Many of these funds have start and completion dates attached to them. Purchasing may receive several requisitions for different items over a short period of time. This may appear to be "stringing", but it is really an attempt to meet the needs of the internal customer for the best price.

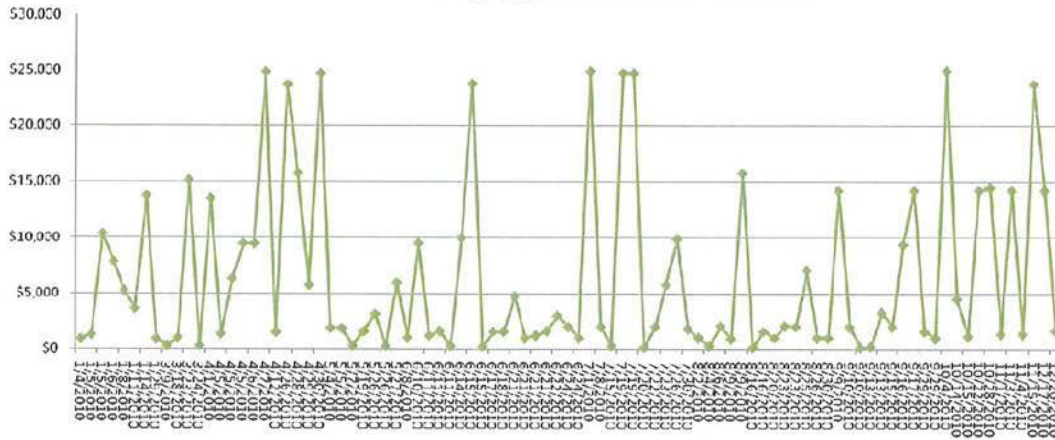
Figures 1 and 2 show WVU-P's purchases for the computer system overhaul over the two-year period. Purchases were closely spaced in time, and because of this spacing, often reached the upper limits of non-competitive thresholds.

Figure 1
2008-2009 Information Technology Equipment Purchases from Same Vendor



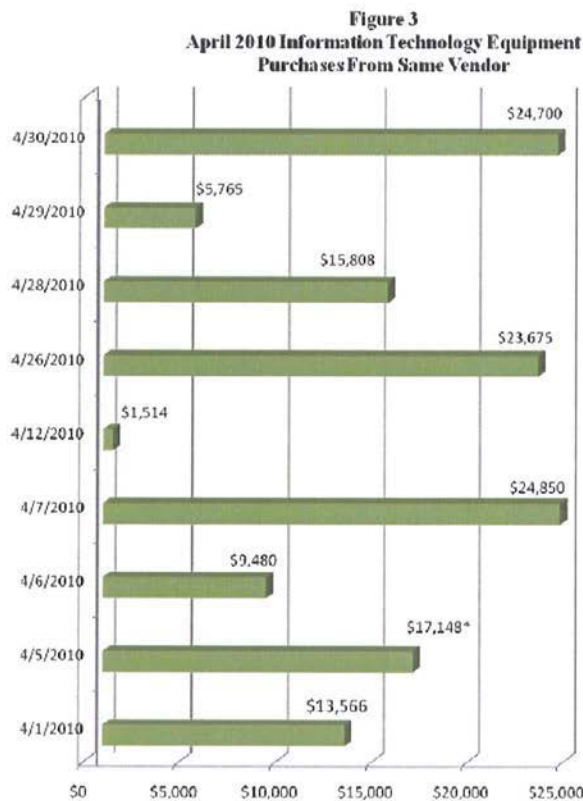
Source: Legislative Auditor's analysis of WVU-Parkersburg data. — 2008-2009 Transactions

Figure 2
2010 Information Technology Equipment Purchases From Same Vendor



Source: Legislative Auditor's analysis of WVU-Parkersburg data. — 2010 Transactions

Figure 3 details just one month of the purchases seen represented in Figure 2. In this month, April 2010, \$136,506 was expended on computers and peripherals from the one Florida vendor. In the early part of the month, the college expended nearly \$70,000 within four days and again at the end of month the college expended \$51,478 in three days. Three of the purchases made in April 2010 fell just beneath the \$25,000 competitive bid threshold; once just \$150 below the threshold.



*Total of three separate transactions on April 5 (\$1,348, \$6,320, and \$9,480)

Source: Legislative Auditor's Analysis of WVU-Parkersburg data.

Other Purchasing Violations Were Committed in Order to Use the Florida Vendor Exclusively

Of the 178 purchases made by WVU-P, three actually exceeded the \$25,000 bid threshold. In order to avoid competitive bidding in these three cases, WVU-P effectively sole-sourced each to the Florida vendor. The Higher Education Purchasing Manual (5.28.1) states that sole-source and single-

source procurement are not permissible unless the materials or equipment are available from only one supplier. According to the manual,

...single source procurement is permitted only when the goods and services are of such a unique nature that they cannot be acquired from any other source....

The computers and peripherals purchased did not have a unique nature. One of the three purchase orders had documentation attached that suggested the college was attempting to justify purchasing solely from this vendor. As stated in the Higher Education Purchasing Manual (5.28.2),

The determination as to whether procurement shall be made as a sole/single source **shall be made by the Chief Procurement Officer**. Such determination and the basis therefore shall be in writing...**Any request that procurement be restricted to one potential supplier shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.** [Emphasis added]

The reasons WVU-P gave for why the purchase had to be sole sourced were as follows:

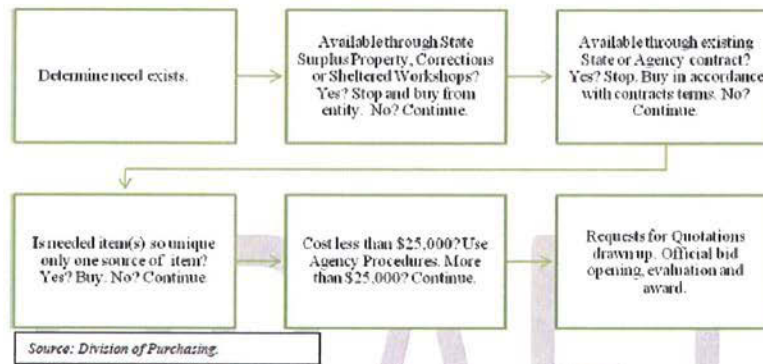
- the computers had to be ordered immediately,
- special pricing was available from the computer manufacturer for a limited time, and
- the vendor had the necessary quantity of computers available.

While the determination was improperly made by the chief information officer instead of the chief procurement officer, it is more important to note that the reasons given are not valid for sole-sourcing by higher education purchasing standards.

West Virginia Purchasing Division Has Established a “Best Practice” for Procurement

Unlike higher education institutions, when most state spending units make a purchase they are mandated to follow the Department of Administration’s Division of Purchasing (Purchasing) rules. WVU-P would have been well served to have considered the Purchasing Division’s spending unit decision path before buying from the Florida computer vendor. Figure 4 illustrates the detailed decision path used by other state spending units when planning any purchase, let alone a capital outlay to the extent expended by WVU-P.

Figure 4
State Spending Unit Decision Path



Higher education is not required to follow this decision path. The decision path WVU-P took as it began making purchases was to determine it needed computers and peripherals, select the Florida vendor based not on a request for quotation results or comparison shopping but on the WVU-P CIO's 18-year business relationship with the vendor, then WVU-P either tried to justify sole sourcing purchases or make certain that purchases cost less than \$25,000 so competitive bids did not have to be sought. As a result, three of 178 transactions WVU-P made with the Florida vendor were above \$25,000, the rest were below \$25,000. Yet, even in these three instances, WVU-P still violated higher education purchasing procedures.

WVU-P knew it would be expending considerable capital to overhaul its information technology system before it began to purchase the computers and peripherals. However, the community college did not go about planning for such purchases. It did not seek competitive bids, comparison shop or even determine whether the same brand and warranties were available on a state contract.

Comparable Computers Were Available on an Existing State Contract

As was shown in Figure 4, the State Spending Unit Decision Path, one step state agencies take is to determine if items needed are available through an existing state contract. If so, the agency is required to purchase from that contract. Higher education is allowed to purchase from the Purchasing Division's contracts but is not required to do so. One Purchasing Division contract available is for computers and related peripherals. The computer brand available through the Purchasing contract is the same as those purchased from the Florida computer vendor. The Legislative Auditor reviewed the computers available through the Purchasing Division's contract compared to WVU-P's computer purchases. Computer models available on the Purchasing contract were found to be comparable to those WVU-P purchased from the Florida computer vendor. In many cases the computers were less expensive from the statewide contract and the manufacturer would have paid corporate net income taxes to West Virginia.

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-Configurable- HP Compaq 8100 Elite Small Form Factor PC	AY032AV				Customize »
Genuine Windows® 7 Professional 32 bit	WV114AV#ABA				
Intel® Core™ i3-560 Processor (4M Cache, 3.33 GHz)	XP370AV				
Chipset Intel® Q57 Chipset integrated					
4GB DDR3 (PC3-1333) MHz non-ECC (2 x 2 GB DIMM)	VU064AV				
HP 500GB 3.5" 7200 rpm SATA 3.0 Gb/s NCQ, SMART IV	VU034AV				
Real-time data backup No Item Selected					
2nd hard drive cable No Item Selected					
HP SATA DVD-ROM Drive	VL508AV				
Graphics Intel® Graphics Media Accelerator HD					
HP USB Standard Keyboard	VL487AV#ABA				
HP PS/2 2-Button Optical Scroll Mouse	VL504AV				
HP Compaq 8100 Elite SFF 89% Chassis	AY035AV				
Power Efficiency Solution No Item Selected					
Single Unit (SEU) Packaging	AW173AV				

Single Unit (SU) Packaging			
3/3/3 SFF Warranty	W178AV#ABA			
HP Compaq 8100 Elite Country Kit (Includes a Quick Setup & Getting Started manual in English and a country-specific power cord)	W152AV#ABA			
» HP 4y NBD onsite coverage/Disk Retention DT Only SVC	Base	\$87.20	1	\$87.20 Remove »
4-year, 9x5 next business day on-site coverage with disk retention desktop-only service	UE333E			Customize »

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Single Unit (CMT) Packaging		
HP Compaq 8100 Elite CMT Business PC	\$ 602.00	SL978UC
HP Compaq 8100 Elite CMT Std Chassis		
Intel Core i3-560 Processor		
4GB PC3-10600 Memory (2x2GB)		
500GB SATA 3.5 1st Hard Drive		
ATI Radeon HD 4650 DP PCIe x16 Card		
HP USB Standard JB Keyboard		
HP USB Optical BLK Mouse		
SuperMulti Lightscribe DVD/RW Optical Drive		
HP Parallel Port Adapter		
HP Compaq 8100 Elite Country Kit		
<i>Make sure to include Warranty Part # on your order</i>	\$ 46.00	UE333E
4 Year Next Business Day Onsite Warranty with Disk Retention		
Cost per unit: W / 4 yr Warranty	\$ 648.00	

<u>Power Desktop (HARDWARE ONLY NO STATE IMAGE)</u>		
	<u>Cost</u>	<u>Part Number</u>
HP Elite 8100 Convertible Minifitower		
Single Unit (CMT) Packaging		
HP Compaq 8100 Elite CMT Business PC	\$ 590.00	SM411UP
HP Compaq 8100 Elite CMT Std Chassis		
Intel Core i3-560 Processor		
4GB PC3-10600 Memory (2x2GB)		
500GB SATA 3.5 1st Hard Drive		
ATI Radeon HD 4650 DP PCIe x16 Card		
HP USB Standard JB Keyboard		
HP USB Optical BLK Mouse		
SuperMulti Lightscribe DVD/RW Optical Drive		
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HP Compaq LA2306X LCD Monitor	\$ 300.00	XN375AA
HP LCD Speaker Bar	\$ 21.00	NQ576AA
Viewsonic VA703B 17" 1280x1024 (no spk) VGA 15-pin mini D-sub	\$ 182.00	A772222
Viewsonic 19" VG930M 1280x1024 (spkrs) VGA 15-pin mini D-sub/DVI-D	\$ 240.00	A652471
Viewsonic 19" VG1930WM 1440x900 (spkrs) VGA 15-pin mini D-sub/DVI-D	\$ 179.00	A775234

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1GB Memory (Not Installed)	\$ 32.00	AT023AA
2GB Memory (Not Installed)	\$ 61.00	AT024AA
4GB Memory (Not Installed)	\$ 214.00	VH638AA
<u>Extra Internal Hard Drives</u>		
8MB cache, 7,200 RPM, 3.0 GB/s, NCQ, Smart IV SATA	160GB \$ 64.00	PY277AA
8MB cache, 7,200 RPM, 3.0 GB/s, NCQ, Smart IV SATA	250GB \$ 93.00	PY278AA
8MB cache, 7,200 RPM, 3.0 GB/s, NCQ, Smart IV SATA	500GB \$ 116.00	KW347AA

<u>Custom Imaging on Standard Desktop</u>	<u>Cost</u>	<u>Part Number</u>
	\$ 15.00	DP010AV

<u>External Devices for Standard Desktop</u>	<u>Cost</u>	<u>Part Number</u>
USB Standard Keyboard ("New Item")	\$ 20.00	DT528A
USB 2 button Optical Mouse ("New Item")	\$ 15.00	DC172B
USB Keyboard and Mouse Bundle ("New Item")	\$ 33.00	RC465AA
Targus Wireless Laser Comfort Mouse	\$ 32.00	AMW51US
Targus Laser Presentation Remota	\$ 40.00	AMP13US
External USB Portable Drive	\$ 79.00	A806714
HP 1.44 USB Floppy Drive	\$ 21.00	A778637
Kingston 4GB USB 2.0 DataTraveler Fish Drive	\$ 8.00	A805464
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HP Probook 6550b Notebook PC with ATI Mobility Radeon HD 540v with 512MB dedicated video memory	VZ246AV				Customize »
Genuine Windows® 7 Professional 32	WN364AV#ABA				
Genuine Windows 7 Logo	VM939AV				
Intel® Core™ i3-370M Processor (2.40 GHz, 3 MB L3 cache, 1066 MHz FSB)	WT584AV				
Intel Core i3 Label	WC295AV				
Estar Label - if any Windows OS is selected, then label is required	WQ533AV				
no vPro Technology support	FG972AV				
15.6-inch diagonal LED-backlit HD anti-glare (1366 x 768)	VZ254AV				
Video/graphics ATI Mobility Radeon™ HD 540v with 512 MB dedicated video memory					
2 GB 1333 MHz DDR3 SDRAM	VZ258AV				
(1D)					
160GB 7200RPM SATA Hard Drive	WH147AV				
DVD±RW SuperMulti DL LightScribe Drive	VZ266AV				

160GB 7200RPM SATA Hard Drive	WH147AV
DVD±RW SuperMulti DL LightScribe Drive	VZ266AV
TouchPad Keyboard with Number Keypad US	WN299AV#ABA
Intel Centrino® Advanced-N 6200 (2x2)	VZ272AV#AC3
HP Integrated Module with Bluetooth® 2.1 Wireless Technology	VZ273AV
HP Mobile Broadband	
Built in HP Mobile Broadband not included	
56K v.92 High Speed Modem	WN331AV
No Integrated Fingerprint Reader	WH158AV
90W Hardware Kit US	WN302AV#ABA
HP 6-Cell 55 Wh Li-Ion Battery	VZ268AV
Limited 3-year Warranty 3/3/0	WN342AV#ABA

Note:
Additional accessories added from categories below will ship and invoice separately.

HP 90W Docking Station VB041AA#ABA \$165.24 \$165.24 [Remove »](#)

Purchase information

Purchase information is needed for this items in your cart. Please click on the "Edit" link before checking out.

[Edit »](#)

Cart Total: \$1,681.15

[Recalculate »](#) [View Special Pricing »](#)

Estimated Lease Cost/month: \$52.20

If you are a non-federal customer shipping to California, please check here.

[Continue Shopping »](#) [Printable View »](#) [Save Quote »](#) [Empty Cart »](#) [Checkout »](#)

If you know the HP part number, quickly add it to your cart.

Fast add: Part number Unit qty [Add to Cart »](#)

- * Customer is responsible for ensuring the value of Open Market items is consistent with their contract terms & conditions
- * Components of Built-For-You systems may not be ordered separately.
- * Prices in this quote are valid for 30 days from above date and are subject to change without notice.
- * Product availability is subject to change without notice
- * If you are submitting a hard copy purchase order, please include a **printed copy** of this quote with your purchase order.
- * If you have any problems with this site please call 1.800.607.3567 or email us at ebusinessSupport@hp.com
- * (#)Intel's numbering is not a measurement of higher performance
- * HP is not liable for pricing errors. If you place an order for a product that was incorrectly priced, we will cancel your order and credit you for any charges. In the event that we inadvertently ship an order based on a pricing error, we will issue a revised invoice to you for the correct price and contact you to obtain your authorization for the additional charge, or assist you with return of the product. If the pricing error results in an overcharge to you, HP will credit your account for the amount overcharged.
- * This quotation may contain open market products which are sold in accordance with HP's Standard Terms and Conditions. HP makes no representation regarding the TAA status for open market products Third party items that may

802.11 a/b/g/n 12 WLAN Card					
Bluetooth 2.1+ Module					
3/3/0 Warranty					
65W UMA Hardware Kit					
MS Windows 7 Logo Label					
Intel Core i3 Label					
Miscellaneous ESTAR Module					
4 Year Next Business Day Onsite Warranty with Defective Media Retention and Accidental Damage Protection				\$ 160.00	UL785E
Cost per unit: W / 4 yr Disk Retention (keep your hard drive) and Accidental Damage Protection Warranty				\$ 832.50	

Laptop Options

	Cost	Part Number
Laptop Cases		
Targus 16" Classic Clamshell Laptop Case	\$ 24.00	CN31US
Targus 15.6" CityLite Laptop Case	\$ 32.00	TBT053US
HP 16" Evolution Leather Plus Laptop Case	\$ 65.00	PA845A
HP 16" Executive Leather Laptop Case	\$ 43.00	RR316AA
Targus 16" Evolution Laptop Backpack	\$ 57.00	PE840A

	Cost	Part Number
Power Options		
HP 90w Docking Station (6540b and 6550b ONLY)	\$ 119.00	VB041AA
HP 120w Advanced Docking Station (All Units)	\$ 165.00	NZ222AA
HP Extended Life Battery (All Units)	\$ 89.00	AJ359AA
HP 12-cell Ultra-Capacity Battery (All Units)	\$ 104.00	AT486AA
HP 90W Smart AC Adaptor (All Units)	\$ 24.00	ED495AA
HP 180W Smart AC Adaptor (All Units)	\$ 85.00	AK875AA
HP 90W Smart Auto Adaptor (All Units)	\$ 65.00	ED493AA

	Cost	Part Number
Additional Memory		
1GB Memory (Not Installed)	\$ 37.00	AT911AA
2GB Memory (Not Installed)	\$ 67.00	AT912AA

Standard Notebook (INCLUDING CONSOLIDATED STATE AGENCY IMAGE)		
	Cost	Part Number
HP 6550b Notebook PC		
Microsoft Windows 7 Pro 32 Operating System	\$ 684.50	SM049UC
Intel Core i3-370M Processor		
Integrated 2.0 Webcam		
15.6" HD LED AG f/CAM 6550b Display		
2GB 1333DDR3 1 DIMM Memory		
160GB 7200RPM Hard Drive		
DP w/num keypad 6550b Keyboard		
DVD+/-RW SM DL Lightscribe Optical Drive		
6 cell 55Whr Battery		
V92 MDC Modem		
802.11 a/b/g/n 12 WLAN Card		
Bluetooth 2.1+ Module		
3/3/0 Warranty		
65W UMA Hardware Kit		
MS Windows 7 Logo Label		
Intel Core i3 Label		
Miscellaneous ESTAR Module		
4 Year Next Business Day Onsite Warranty with Defective Media Retention and Accidental Damage Protection	\$ 160.00	UL785E
Cost per unit: W / 4 yr Disk Retention (keep your hard drive) and Accidental Damage Protection Warranty	\$ 844.50	

Standard Notebook (HARDWARE ONLY NO STATE IMAGE)		
	Cost	Part Number
HP 6550b Notebook PC ← out dated Model		
Microsoft Windows 7 Pro 32 Operating System	\$ 672.50	SM413UP
Intel Core i3-370M Processor ← Lowest Performing Processor available for model		
Integrated 2.0 Webcam		
15.6" HD LED AG f/CAM 6550b Display		
2GB 1333DDR3 1 DIMM Memory		
160GB 7200RPM Hard Drive		
DP w/num keypad 6550b Keyboard		
DVD+/-RW SM DL Lightscribe Optical Drive		
6 cell 55Whr Battery		
V92 MDC Modem		



5355 Dr. MLK Street No.
St. Petersburg, FL 33703

727-209-4324

NAME / ADDRESS
WEST VIRGINIA UNIVERSITY
PARKERSBURG CAMPUS
300 CAMPUS DRIVE
PARKERSBURG, WV 26104

Ship To
A63309-WYW5CA

WORK ORDER

DATE	WORK ORDE...
8/12/2010	B19848

P.O. NO.	TERMS	SERVICED D...	REP	JOB	BUYER	
		8/12/2010		B19848		
ITEM CODE	DESCRIPTION	QTY	UNIT P...	SERIAL #	B / O	TOTAL
WZ241UT#A...	HP 6550b, Intel Core i5-450M CPU, 15.6 HD panel, 320 GB hard drive, DVD+-RW, Broadcom, Webcam, 4GB 1333DDR3 memory, Windows 7 Professional - Sea Freight, One Year, Parts and Labor, Mail In Warranty.	1	949.00			949.00T
VB041UT	90 WATT DOCKING STATION FOR PROBOOK 6540B	1	149.00			149.00T
AT912UT	2 GB DDR3 RAM FOR PROBOOK	1	69.00			69.00T
U4391E	HP Next Business Day Onsite HW Supp Exclude External Monitor 3 yr	1	169.00			169.00T
A4B-00007	MICROSOFT KEYBOARD AND MOUSE USB/PS2	1	39.00			39.00T
NK128A8#ABA	HP Promo LE2001w 20Inch wide LCD Monitor.	1	169.00			169.00T
Freight	Freight	1	20.00			20.00
Subtotal						\$1,564.00
Sales Tax (0.0%)						\$0.00
TOTAL						\$1,564.00

WV Contract
is not comparable to the models we purchase

SIGNATURE _____

Phone #
727/209-4324



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English

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Per WV State Contract Specs

Highlight rows with differences

HP

BTC

	Remove Product	Remove Product
Product Name	Intel® Core™ i3-370M Processor (3M cache, 2.40 GHz)	Intel® Core™ i5-2400S Processor (6M Cache, 2.50 GHz)
Code Name	Arrandale	Sandy Bridge
Essentials		
Status	Launched	Launched
Launch Date	Q3'10	Q1'11
Processor Number	i3-370M	i5-2400S
# of Cores	2	4
# of Threads	4	4
Clock Speed	2.4 GHz	2.5 GHz
Max Turbo Frequency		3.3 GHz
Cache	3 MB Intel® Smart Cache	6 MB Intel® Smart Cache
Bus/Core Ratio	18	25
Bus Type	DMI	DMI
System Bus	2.5 GT/s	5 GT/s
Instruction Set	64-bit	64-bit
Instruction Set Extensions	SSE4.1, SSE4.2	SSE4.1/4.2, AVX
Embedded Options Available	No	No
Lithography	32 nm	32 nm
Max TDP	35 W	65 W
Recommended Channel Price		\$195.00
Memory Specifications		
Max Memory Size (dependent on memory type)	8 GB	32 GB
Memory Types	DDR3-800/1066	DDR3-1066/1333
# of Memory Channels	2	2
Max Memory Bandwidth	17.1 GB/s	21 GB/s
Physical Address Extensions	36-bit	
ECC Memory Supported	No	No
Graphics Specifications		
Integrated Graphics	Yes	
Processor Graphics		Yes
Graphics Model		Intel® HD Graphics 2000

Graphics Base Frequency	500 MHz	850 MHz
Graphics Max Dynamic Frequency	667 MHz	1.1 GHz
Intel® Quick Sync Video		Yes
Intel® InTru™ 3D Technology,		Yes
Intel® Insider™		Yes
Intel® Wireless Display		No
Intel® Flexible Display Interface (Intel® FDI)	Yes	Yes
Intel® Clear Video HD Technology	Yes	Yes
Dual Display Capable	Yes	Yes
Macrovision* License Required	No	
Expansion Options		
PCI Express Revision	2.0	2.0
PCI Express Configurations	1x16	
# of PCI Express Ports	1	1
Package Specifications		
Max CPU Configuration	1	1
T _{CASE}		69.1°C
T _{JUNCTION}	90°C for rPGA, 105°C for BGA	
Package Size	rPGA 37.5mm x 37.5mm, BGA 34mm x 28mm	37.5mm x 37.5mm
Processing Die Size	81 mm ²	
# of Processing Die Transistors	382 million	
Graphics and IMC Lithography	45 nm	
Graphics and IMC Die Size	114 mm ²	
# of Graphics and IMC Die Transistors	177 million	
Sockets Supported	PGA988	LGA1155
Halogen Free Options Available	Yes	Yes
Advanced Technologies		
Intel® Turbo Boost Technology	No	2.0
Intel® vPro Technology	No	Yes
Intel® Hyper-Threading Technology	Yes	No
Intel® Virtualization Technology (VT-x)	Yes	Yes
Intel® Virtualization Technology for Directed I/O (VT-d)	No	Yes
Intel® Trusted Execution Technology	No	Yes
AES New Instructions	No	Yes
...	Yes	Yes

Intel® vPro™	Yes	Yes
Idle States	Yes	Yes
Enhanced Intel SpeedStep® Technology	Yes	Yes
Thermal Monitoring Technologies	Yes	Yes
Intel® Fast Memory Access	Yes	Yes
Intel® Flex Memory Access	Yes	Yes
Execute Disable Bit	Yes	Yes

*Trademarks

©Intel Corporation

Florida Vendor Cost More for Some Computers and Peripherals

An analysis by the Legislative Auditor showed that if WVU-P had taken the time to examine the computers and equipment available on the statewide contract, it would have saved over \$82,000 compared to purchasing all the equipment through one vendor in Florida. This analysis is shown in Table 1.

Table 1
Total Cost Savings Not Realized Because
the Statewide Contract Was Not Used
December 2008 to March 2011

Purchase Category	Total Dollar Amount Paid 12/08 to 3/011	Total Dollar Cost Under State Contract	Savings Not Realized
Keyboard/Mouse	\$1,989	\$0	\$1,989
Docking Station	\$9,400	\$7,324	\$2,076
Shipping	\$10,553	\$2,667	\$7,886
Laptops	\$101,576	\$92,611	\$8,965
Desktops	\$427,931	\$292,010	\$135,921
Monitors	\$42,747	\$116,820	(\$74,073)
Total	\$594,196	\$511,432	\$82,764

Source: Legislative Auditor's analysis of WVU-Parkersburg data and Purchasing Division data.

Thank you for providing your supporting documentation regarding the savings. As previously mentioned, we purchase the best tools with the funds granted, to help our students compete in the outside world. The attached examples show, while what is negotiated in the State Contract (IP08, change order 11) is close, the driving power of the model selected by WVU at Parkersburg is far superior and better serves our students needs. The current state negotiated models are either outdated or soon to be outdated. Thus the price comparison in Table 1 are somewhat skewed. Competitive pricing is now obtained from at least 3 vendors from their website, and attached to each purchase requisition.

HP dc5800 Desktop PC

	BTC	HP
Processor	E 8400 <small>(Page 4)</small>	E 7200 <small>(Page 2)</small>
Hard Drive	160 GB <small>(Page 4)</small>	80 GB <small>(Page 2)</small>
Memory	4 GB <small>(Page 4)</small>	2 GB <small>(Page 2)</small>
Warranty	4 YEAR <small>(Page 4)</small>	4 YEAR <small>(Page 2)</small>
Cost of PC	\$ 967.00	\$ 459.00
Monitor	22inch -Free-	19 inch - \$179 - <small>(Page 4)</small>
Total Cost	\$967.00	\$638.00

Upgrade Prices not Available

HP Product Line and Cost

4 GB max for XP Professional - The OS may report less than 4GB because graphics card has to be factored in for total usage. So may only show 3GB when 4GB is installed.

Standard Desktop		
Model	Cost	Part Number
Model HP DC5800 EPEAT Gold Vista Business 32 Bit License with Windows XP Professional downgrade - English	\$413.00	AR86USMABA
Intel Core 2 Duo E7200 Q33 Express Chip Set (2.53-GHz, 8 MB L2 cache, 1066-MHz FSB)		
80GB SATA HDD SMART IV 8M Cache, 7200RPM		
2GB PC2-6400 DDR2-800 (1 DIMM/3 Available) Max 8GB		
SATA 48x32x16x15x CD-RW/DVD combo		
Sonic/Roxio DigitalMedia Plus 7.2		
Intel Graphics Media Accelerator 3100 (DB15 VGA Only)		
Integrated High Definition audio with ADI1884 codec		
8 USB 2.0 (2) Front (6) Rear		
HP USB Keyboard / USB Optical Scroll Mouse		
(1) Serial Port (1) Parallel Port		
4 Year Next Business Day Onsite Warranty with Disk Retention	\$-46.00	UE333E
Make sure to include Warranty Part # on your order		
Cost per unit: W/1.4 yr. Warranty	\$469.00	

Peripherals for all Desktop Models		
Description	Cost	Part Number
Additional Memory		
1GB	\$ 32.00	AH058AA
2GB	\$ 61.00	AH060AA
4GB	\$214.00	FH977AA
Extra Internal Hard Drives		
80GB cache, 7,200 RPM, 3.0 GB/s, NCQ, Smart IV SATA	\$ 52.00	PY276AA
160GB cache, 7,200 RPM, 3.0 GB/s, NCQ, Smart IV SATA	\$ 64.00	PY277AA
250GB cache, 7,200 RPM, 3.0 GB/s, NCQ, Smart IV SATA	\$ 93.00	PY278AA
500GB cache, 7,200 RPM, 3.0 GB/s, NCQ, Smart IV SATA	\$116.00	KW337AA
Additional Parts		
LSI PCIe x1 High Speed 56K Internal soft modem	\$ 11.00	FH970AA

Power User Desktop		
Model	Cost	Part Number
HP DC7900 Convertible Minitorer EPEAT Gold Vista Business 32 Bit License with Windows XP Professional downgrade - English	\$590.00	AR860USMABA
Intel Core 2 Duo E8400 Processor Q45 Chipset		
3.0 GHz, 6 MB L2 cache, 1333 MHz FSB		
500GB SATA NCQ SMART IV 8M Cache, 7200RPM SATA 3.0		
4GB PC2-6400 (800MHz) DDR2 (2 DIMM/2 Available) Max 16GB		
SATA 16x SuperMulti LightScribe CD/RW/DVD/PRW		
Sonic/Roxio DigitalMedia Plus 7.2		
ATI Radeon HD 2400XT 256MB DR P-Clc x16 graphics card		
DMS-59 to Dual VGA DB15 Y-cable to support 1 or 2 displays		
Integrated High Definition audio with ADI1884 codec		
8 USB 2.0 (2) Front (6) Rear		
HP USB Keyboard / USB Optical Scroll Mouse		
(1) Serial Port (1) Parallel Port		
4 Year Next Business Day Onsite Warranty with Disk Retention	\$-46.00	UE333E
Make sure to include Warranty Part # on your order		
Cost per unit: W/1.4 yr. Warranty	\$636.00	

2

HP Response to State of West Virginia
July 29, 2008

Attachment I

OPTIONAL HARDWARE

- This equipment will be purchased at the option of the agency.

Vendor Specifications	Unit Cost	% Discount	Purchase Cost
HP L1910 19" LCD Monitor	279	38%	172
Viewsonic VG930M			240
Viewsonic VG1930WM			210
Viewsonic VA703B	189	52%	182
Mobile Port Replicator			90



Page-11
RFQ #IF08
Revised Attachments A-J

3



5355 Dr. MLK Street No.
St. Petersburg, FL 33703

727-209-4324

NAME / ADDRESS
WEST VIRGINIA UNIVERSITY PARKERSBURG CAMPUS 300 CAMPUS DRIVE PARKERSBURG, WV 26104

WORK ORDER

DATE	WORK ORDE...
2/26/2009	B16756

Ship To

P.O. NO.	TERMS	SERVICED D...	REP	JOB	BUYER	
A63309-WVW5CA		2/26/2009		B16756		
ITEM CODE	DESCRIPTION	QTY	UNIT P...	SERIAL #	B / O	TOTAL
KA435UT#ABA	Promo HP dc5800 Microtower, Intel Core 2 Duo E8400 Processor, 2GB PC2-6400 (DDR2-800) 2x1GB, 160GB, SATA 16X SuperMulti LightScribe Drive, 3-3-3 Warranty MT, Office Ready, Vista Downgrade to XP Pro, Vista Biness 32 bit Recovery.XP Pro Recovery CD.	25	967.00			24,175.00T
GX007A8#ABA	HP Promo L2208w LCD Monitor 22 Inch Wide. 1680 x 1050 optimum resolution, 300 nits brightness for clear viewing, High 1000:1 contrast ratio. Tilt, swivel, pivot, and height adjustment features enable customized user positioning.	25	0.00			0.00T
AH060AT	HP PROMO 2GB PC2-6400 (DDR2-800) DIMM.	25	0.00			0.00T
Freight	Freight	1	250.00			250.00
Subtotal						\$24,425.00
Sales Tax (0.0%)						\$0.00
TOTAL						\$24,425.00

SIGNATURE _____

Phone #
727-209-4324

4

Florida Vendor Not Registered in West Virginia

The Legislative Auditor found that the Florida vendor used by WVU-P was not registered with the Department of Administration, the Secretary of State or the Department of Tax and Revenue at the time that it was transacting business with WVU-Parkersburg. Registration with all three of these state offices is required for different purposes.

All vendors selling products and services to the State of West Virginia are required to register with the Department of Administration's Purchasing Division **prior to receiving a purchase order**. WVU-P issued three purchase orders to the Florida vendor in the three cases where the transactions exceeded \$25,000; however, the computer vendor was not registered with the Purchasing Division. WVU-P did not comply with a requirement to make certain the vendor was registered with the Department of Administration. This provision is stated in West Virginia Code §18B-5-5:

(a) Every person, firm or corporation selling or offering to sell to the commission or the governing boards, upon competitive bids or otherwise, any materials, equipment, services or supplies in excess of twenty-five thousand dollars... (2) Shall file with the director of the purchasing division of the state of West Virginia the affidavit required herein...

This statutory requirement is also reflected in the Higher Education Purchasing Manual which **requires** the college's Chief Procurement Officer to ensure that the vendor be duly registered with the Purchasing Division before issuing a purchase order that exceeds \$25,000. WVU-P's CPO at the time did not make certain the vendor was registered with the Purchasing Division.

In an interview with the Higher Education Policy Commission's Chief Financial Officer (CFO) the Legislative Auditor learned that purchasing training provided to institutions discusses little in the way of vendor registration requirements. According to the CFO, the topic of vendor registration is not covered in every training session although training occurs twice a year. The Legislative Auditor was told that the topic of vendor registration has not been discussed in almost seven years. When asked to specifically detail what is covered in the way of vendor registration requirements, the Legislative Auditor was told that the only requirement is for registering with the Division of Purchasing when a single payment of \$25,000 or greater is required. Conferring with the Purchasing Division is a way to determine if a vendor is in good standing with the state and does not owe the state money or is under an obligation to complete any other work for the State of West Virginia

Being a registered vendor with the Department of Administration's Division of Purchasing is not the same as being registered with the Secretary of State or obtaining a business license from the Department of Tax and Revenue. Another best practice of the Division of Purchasing requires state spending units to verify that vendors are duly licensed. As stated in the Purchasing Division's Legislative rule §148-1-6.1.7,

The vendor must be licensed and in good standing in accordance with any and 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...[**Emphasis added**]

Nothing precludes institutions of higher education from verifying vendors are licensed and in good standing. If WVU-P had sought verification of licensure and good standing it would have

discovered the Florida vendor also had not registered with the Secretary of State or obtained a business license from the Department of Tax and Revenue.

As an out-of-state entity, the Florida vendor was required to register with the Secretary of State's Office in order to conduct business in West Virginia. Often a certificate of good standing or existence from the domestic state is also required. The Florida computer vendor did not register with the Secretary of State or submit to the Secretary of State a certificate of good standing or existence from Florida.

A business registration certificate from West Virginia's Department of Tax and Revenue is required by West Virginia Code to legally sell within the state. The Florida computer vendor did not register with the Tax and Revenue Department before it commenced business activities in West Virginia. The Legislative Auditor notified the Department of Tax and Revenue of the Florida vendor. The Department of Tax and Revenue has indicated that it will make certain the business license is obtained. As the vendor has no physical presence within the State it is apparently not obligated to pay corporate net income taxes or any other taxes to West Virginia. Tax and Revenue is permitted to fine a vendor \$100 a day for each day it operates without a license.

When the Legislative Auditor told WVU-P that the vendor was not registered with the appropriate agencies, WVU-P showed the Legislative Auditor that it had obtained a financial information management system (FIMS) number for the vendor. WVU-P was under the impression the FIMS number alone was sufficient, and that both the community college and the vendor had complied with all necessary registration requirements. However, the vendor had a FIMS number because it was being paid through the State Auditor's Office. The FIMS number is a number assigned to all vendors who receive payments from state spending units. It does not signify that a vendor has gone through the appropriate procedures to conduct business in the state.

Vendors are responsible for familiarizing themselves with applicable provisions of West Virginia Code. This computer vendor disregarded its responsibility and could be liable for fines, penalties and suspension from selling in West Virginia as a result of its failure to properly present itself to the State. As a vendor of long standing in Florida, where it is duly registered, the computer vendor should have been aware of its obligation to register with a state.

Conclusion

The Legislative Auditor concludes that WVU-Parkersburg violated the spirit of competitive bidding and procurement law. The Chief Information Officer's desire to use a vendor from whom he had received good service in the past, prior to his employment with WVU-P, is not justification for circumventing purchasing procedure. A significant effect of these purchasing violations is that West Virginia businesses and the West Virginia economy were denied the economic benefit of having over \$1.2 million in computer purchases. The State recognizes the importance of having state purchases made in-state when possible for the sake of local businesses, employment and state tax revenue. This policy is implied in the fact that the State gives in-state vendor preference for state purchases and by law the State is willing to provide as much as a five percent preference to a West Virginia vendor over an out-of-state vendor when awarding a competitively bid contract.

Recommendations

1. WVU-Parkersburg should comply with the provisions of the Higher Education Purchasing manual that require institutions ensure that purchases be made competitively and emphasize providing in-state vendors an opportunity to participate in the institution's purchases.

2. Sole source purchases should comply with the requirements as stated in the Higher Education Purchasing manual §5.28.

3. The Legislature should consider amending the higher education statute to require institutions to mandate vendors provide them with a copy of business registration license issued by the State Department of Tax and Revenue and otherwise comply with the requirements found in the Division of Purchasing's legislative rule §148-1-6.1.7.

4. The Higher Education Policy Commission should incorporate into its higher education purchasing manual instructions to institutions on requiring vendors to substantiate that the vendor has registered with the Division of Purchasing, the Secretary of State and the Department of Tax and Revenue.

Issue 2: A Workforce Development Grant Issued By the Council for Community and Technical College Education Was Used in Part By WVU-Parkersburg to Have Equipment and Personnel Sent to Illinois, Oklahoma and California to Train a West Virginia Company's Out-of-State Workers.

Issue Summary

WVU-Parkersburg received a grant from the Council for Community and Technical College Education that was used not only to train an in-state company's in-state workers, but also to have equipment and personnel sent to locations in three states to train the company's out-of-state employees. The company paid to transport the community college's equipment and paid for the instructor's travel and lodging; however, the instructor's salary and the costs of the equipment were paid with state grant monies. The Legislative Auditor recognizes the need to address the workforce needs of companies that have a presence in the state. However, the Legislative Auditor concludes that the intention of workforce development initiatives is for the direct benefit of the state's workforce and economy. This intent is reflected in the legislative stipulation that training offered by community colleges is to take place within the college or in locations of statutorily specified counties of the state. The WVU-Parkersburg training involved training 32 workers in Illinois, Oklahoma and California. Some of the expenses were to be paid by the company, but WVU-Parkersburg has not provided how much the company has paid to date. At a minimum, at least \$34,000 was spent by the State to train out-of-state workforces, but the actual amount, which cannot be determined, is likely higher. Given that the State's community colleges could be requested to train out-of-state workforces in the future, a policy should be established to address such requests by in-state companies.

Legislature Intended Workforce Development Training for West Virginia Workers in West Virginia

The West Virginia community college system, with oversight and leadership provided by the Council for Community and Technical College Education (Council), is statutorily mandated to be the State's primary provider of workforce development training. Workforce development training is intended to meet the immediate and long-term workforce needs of West Virginia employers and employees according to §18B-1-1a (e)(1)(B)(i). The Council distributes three state-funded grants to community colleges to promote workforce development training and the development of workforce programs. One of these three grants was statutorily created (Workforce Development Initiative Program), while the Advance grant and the Technical Program Development grant were created administratively by the Council. Although the Advance grant was used to fund the out-of-state workforce training, the Legislative Auditor determines that these administrative workforce development grants should be administered consistent with the Legislature's intent as expressed in creating the Workforce Development Initiative Program.

In reviewing statutory references of the Legislature's intentions for the Workforce Development Initiative Program (§18B-3D), the Legislative Auditor concludes that this grant initiative was intended to provide workforce training within districts or regions of the state. References to the West Virginia workforce and to the state economy in §18B-3D-1 include the following reasons for workforce development grants:

- to meet the changing needs of employers throughout the state,

- to maintain and strengthen the state economy, and
- to provide knowledge and skills to a workforce in West Virginia enabling businesses and communities to prosper.

In addition, community colleges have limitations as to where training may occur. Statute allows specific community colleges to train in specific locales within the state. As stated in West Virginia Code (18B-2A-4(r)), community colleges may

Enter into contracts or consortium agreements with the public schools, private schools or private industry to provide technical, vocational, college preparatory, remedial and customized training courses **at locations either on campuses of the public institution of higher education or at off-campus locations in the institution's responsibility district[emphasis added]**

West Virginia Code §18B-3C-4(c) defines a community college's responsibility district as certain West Virginia counties. WVU-P's responsibility district comprises Wood, Wirt, Tyler, Roane, Ritchie, Pleasants and Jackson counties. By law WVU-P legitimately provided training to the company at its West Virginia facilities, but the training that was conducted in Illinois, Oklahoma and California exceeded the statutory authority of WVU-P as a community college.

Training Out-of-State Workforces Should Reasonably Be Precluded

The Advance grant is designated as "Rapid Response Workforce Development" in that it can be approved solely by the Chancellor of the community college system, in a relatively short amount of time and without Council members' awareness. The Chancellor approved an Advance grant proposal from WVU-P to provide workforce training for Simonton Windows, which is a West Virginia company located in WVU-P's service district (Ritchie County). Simonton Windows was originally founded in West Virginia in 1946. However, Fortune Brands, Inc. acquired Simonton's holdings in West Virginia, Illinois, Oklahoma and California in 2006, long before the Advance grant was issued in 2009. This made Simonton Windows a subsidiary of the Deerfield, Illinois-headquartered Fortune Brands, Inc. The out-of-state workers who were trained are employed by Fortune Brands. Simonton's headquarters relocated to Columbus, Ohio in 2011.

During the time this training request was finalized and the program was implemented, Simonton headquarters were located in Wood County, within the responsibility district of WVU Parkersburg.

In a sub-section of WVU-P's grant proposal titled "Employer Sector Served," it is stated that:

While this comprehensive training program will initially serve Simonton's West Virginia manufacturing facilities, it is hopeful that due to the online access and flexibility it will be adopted corporate-wide by the company, allowing WVU Parkersburg to serve Simonton workers in four additional states.

It is unclear from this statement whether it was understood that the service provided to out-of-state workers by WVU-P would involve more than online access to the training and also include training at out-of-state locations. In response to the Legislative Auditor's inquiry concerning who approved the out-of-state training, the Chancellor stated:

It was not required that WVU at Parkersburg seek Council approval to train out-of-state employees for Simonton. Council staff assisted in developing the initial training for Simonton of West Virginia, but was not involved in the actual delivery of training. It is my understanding that in an effort to assist Simonton, WVU at Parkersburg agreed to conduct the out-of-state training.

WVU-P's decision to assist Simonton Windows by extending the training to the company's out-of-state workers is contrary to the basic policy of workforce development, which is to directly benefit the state's workforce. Although one can argue that assisting the company's out-of-state workforce may have an indirect benefit in maintaining the company's facilities in West Virginia, it is very difficult to determine and quantify if there is an indirect benefit or not. While it is understood that the state's community colleges are expected to develop a conducive relationship with West Virginia private industry, there needs to be a limit to the State's assistance that precludes training in out-of-state locations, or a requirement of full reimbursement for the out-of-state training by the company. Although the Council has no policy prohibiting colleges from expending workforce development grant monies beyond the college's responsibility district, statutory language clearly limits the location of training to occur within the state. Given the capabilities of technology, the Council may want to consider developing a policy on online access of training provided to out-of-state locations.

Out-of-State Training Costs Difficult to Quantify

WVU-Parkersburg was awarded Advance grant funds totaling \$146,470 exclusively to provide skills upgrades to Fortune Brands, Inc. workers. An amount of \$57,180 from another Advance grant purchased the equipment used to train these workers. As this equipment was also used to train Fortune Brand's workers, the Legislative Auditor calculates that costs were at least \$203,650 to provide training to all of the Simonton workers, located in and out of the state.

While some of the Advance grant monies were used to train West Virginia workers, access to an online software component was expended for the benefit of workers outside of West Virginia. The community college's equipment was out of state for five months and a portion of the instructor's salary was also expended for training the out-of-state workforce. Apportioning the amount of the instructor's salary expended for the benefit of the out-of-state workers is difficult because he was not out of state continuously during the five-month period. The Legislative Auditor knows that the instructor was located out-of-state at least 20 days. Furthermore, some of the instructor's time was used to provide services to the out-of-state workforces while in West Virginia.

Dividing the costs for the equipment between the in and out-of-state training is also challenging because the equipment, unlike the instructor's time and the software, can be used again. The Legislative Auditor knows that the purchase price of the equipment was \$57,180. The equipment was used for labs at all five training sites. Eighteen labs were held during the training at three sites out of state. The training could not have occurred without the commitment of the equipment. Table 2 shows definite known costs involved in this training program.

Table 2 Committed Expenses to Training Program		
Commitments	Overall	Out-of-State Benefit
Software	\$83,661	\$32,000*
Instructor's Salary	\$2,000 per month for 24 months	\$2,000**
Equipment	\$57,180 purchase price	Used 3/5 of time
*32 workers at \$1000 per worker, **Minimum counting only time actually out of state, Source: Legislative Auditor analysis of WVU-Parkersburg invoices.		

When WVU-P received the Advance grant for training, the plan was that if the skills upgrade training was well received by Fortune Brands at its West Virginia facilities, WVU-P would take the training to Fortune Brand's workers at its other Fortune Brands, Inc. facilities. Fortune Brands followed through with the plan to expand the training to other facilities.

Simonton's decision to implement the Apprenticeship Program on a corporate-wide basis was based upon their effort to enhance the skill of maintenance technicians to address lapses in production, which negatively impacted the company as a whole.

Beginning in January 2011, Fortune Brands, Inc. transported WVU-P's equipment to Illinois, Oklahoma and California. The community college's equipment returned to West Virginia on May 17, 2011. A WVU-P employee travelled to each of these states to provide the training. Map 1 marks the five locations the training occurred.

Map 1: Map of Out-of-State Training Locations

In December 2009, WVU-P and Simonton (for Fortune Brands, Inc.) entered into a training service agreement. According to the agreement, the training program is to be completed by October 30, 2011. The college informed the Legislative Auditor on May 27, 2011 that the portion of the training requiring use of the equipment has been completed for all locations.

A WVU-P employee physically provided the training to the out-of-state workers. The employee's \$2,000 per month salary and benefits were paid for out of the workforce development grant monies. The instructor's sole duty is to provide the training for Fortune Brands workers. While the physical out-of-state training took place over approximately a five-month period, the instructor was not out of state for the entire five months. The instructor would return to West Virginia upon completing hands-on training in one state and await the company to notify WVU-P it was ready for the instructor to come to another of its manufacturing sites. During part of the time of this five-month period, the instructor was also providing online training to West Virginia workers. After the physical out-of-state training concluded, the instructor continued to provide online training to the out-of-state workers. Since the amount of time the instructor spent on the out-of-state workers cannot be determined it is difficult to quantify how much salary went primarily to benefit Fortune Brand's workers outside of West Virginia.

WVU-P used nearly 60 percent, or \$83,661 of the \$146,470 grant money to purchase software chosen by the manufacturer. As stated in the plan to provide the training, WVU-P would be delivering online training modules and provide an instructor to facilitate delivery and provide the hands-on training components. The purchased software training modules come by means of a virtual seat. Each seat can be used on a one-time only basis and the software training modules were selected by Fortune Brands because it specifically aligned with the apprenticeship program objectives of the company. According to invoices, WVU-P purchased a total of 84 seats, the first purchase was for 36 seats and the second for 48. At least seven seats appear not to have been used. The contract between the college and owner of the software training modules expires this fall. As WVU-P has told the Legislative Auditor all hands-on training is completed, it is unclear whether WVU-P will lose the cost of those seven seats. If each seat were prorated over the entire cost expended with the software training modules company, each seat would cost nearly \$1,000. This would amount to nearly \$7,000 in workforce development monies being expended with no benefit to either the State or Fortune Brands, Inc.

As the purchase of the online training modules was exclusively for the benefit of Fortune Brands, selected by **Fortune Brands to meet its own apprenticeship program objectives** and may not be used again by WVU-P for any other training program, the Legislative Auditor questions why the college made the purchase instead of Fortune Brands, Inc. A sizeable portion of this expenditure was used for workers in other states as the original number of out-of-state workers enrolled for training was over 40 percent of the total enrollees.

Liability to the State from Out-of-State Training

The wording of the training agreement between WVU-Parkersburg and Simonton/Fortune Brands did not address liability issues. The Legislative Auditor has concerns about the potential financial risks to which WVU-Parkersburg subjected itself, and the State. Specifically, these concerns are as follows:

- The equipment could have been damaged, destroyed or misplaced. The purchase cost of the equipment used out of state was \$57,180.
- The WVU-Parkersburg instructor could have provided improper training resulting in a claim of negligence against the college.

Other than increasing the number of individuals receiving training, this risk was not increased by virtue of location.

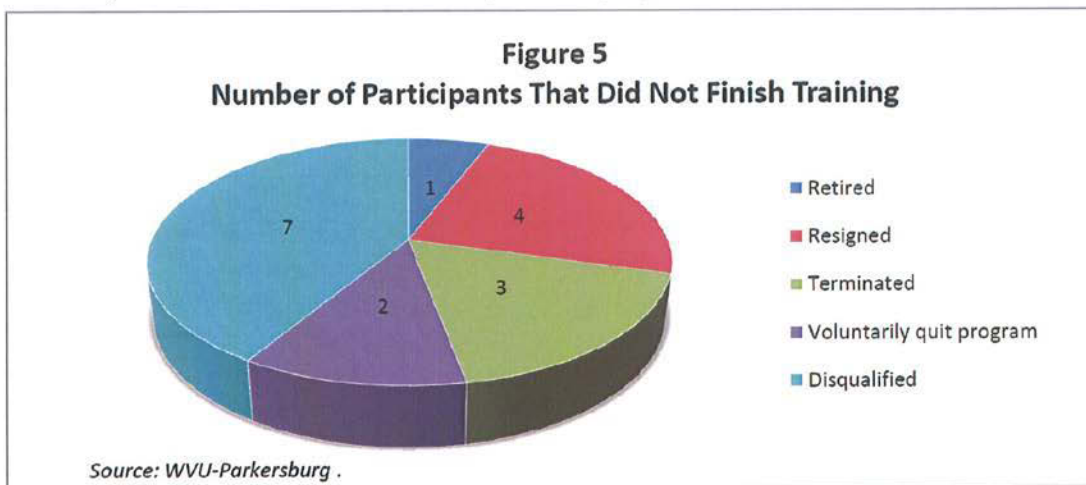
The Board of Risk and Insurance Management (BRIM) would have had to pay out any claims made in the event of loss of property and any lawsuits relating to training.

Out-of-State Workers Reported as West Virginia Workers Trained

Community colleges receiving any of the workforce development grants are required to report to the Council such information as number of participants enrolled in a workforce program, number of participants retained and completing the workforce program and number of participants retaining employment in West Virginia. No separate reporting line is included on the grant monitoring reports to represent number of participants retaining employment outside of West Virginia. The Chancellor told the Legislative Auditor that on workforce development grant reporting forms the out-of-state workers would be counted as West Virginia workers trained and West Virginia jobs retained. As now drawn up, these reporting forms make no distinction between in-state or out-of-state workers. The Council counts all training participants on its monitoring reports. Without specification of the location of the workers, the number of participants trained implies to a reader that the number reflects West Virginia workers trained and West Virginia jobs retained. This number cannot be used as a valid performance measure of the effectiveness of workforce development grants in West Virginia because it will be inflated with out-of-state workers.

WVU-P May Receive Limited Compensation for Training

The agreement between WVU-P and Fortune Brands allowed for the provision of services such as the transportation of the training equipment, and for the payment of travel expenses for the instructor while on the road. The Legislative Auditor has been told that the company has honored this agreement although no documents were shown to verify that this occurred. This is the only compensation for training the out-of state workers that has been made to the college by Fortune Brands. In addition, there is a minimal amount of reimbursement that will take place if some of the workers to be trained drop out of training before completion. Seventy-seven of the Fortune Brands, Inc.'s workers started the program. As of June 3, 2011, 60 were enrolled. As can be seen in Figure 5, WVU-P separated the reasons the workers departed the program into five categories.



According to the agreement, the compensation that WVU-P receives from Fortune Brands, Inc. would be \$125 a month per worker if a worker did not complete the training. A stipulation in the contract stated Fortune Brands, Inc. would not have to pay this money to WVU-P if a worker retired or voluntarily dissolved employment.

WVU-P conducted a departure analysis of the 17 workers no longer participating in the program. The departure analysis provided to the Legislative Auditor did not detail the months in which each worker departed. As the analysis provided was ambiguous as to which categories would be considered as inactive and thus billable, the Legislative Auditor inquired of WVU-P as to how much money it would be reimbursed. WVU-P responded by stating it had not yet met with the Fortune Brands, Inc. to review and discuss the analysis. In order for the Legislative Auditor to provide an estimate of possible compensation to be received it would need to know the month of departure for each worker and how many workers will be considered as having left voluntarily. Table 3 shows the number of original enrollees and active participants as of June 3, 2011 by location.

Locale	Started	Finished
Paris, Illinois	15	11
McAlester, Oklahoma	12	10
Vacaville, California	5	3
Pleasants county, West Virginia	17	11
Ritchie county, West Virginia	28	25
Total	77	60
<i>Source: WVU-Parkersburg.</i>		

The Legislative Auditor notes that the State has not, and will not be totally reimbursed for the cost of the training provided to out-of-state employees of Fortune Brands. The State will not be able to reuse training materials such as software seats, and that the brand of software was selected by Fortune Brands for its own needs.

Conclusion

The Legislative Auditor understands the need for community colleges to assist the state’s private industry workforce, and to be as cooperative with companies as possible. However, a line needs to be drawn on the extent to which the State will provide its assistance. There may be instances in which it can be demonstrated that assisting an out-of-state workforce may facilitate maintaining a company’s presence in West Virginia. However, this is difficult to determine. For this reason workforce development training should follow the statutory guidelines of being conducted for the benefit of West Virginia’s workforce. Given that technology allows for training to be made available

out of state through online services, the Council should consider developing policy in this area and if some form of reimbursement is appropriate.

Recommendations

5. The Council should consider establishing policies or legislative rules for addressing workforce development training that physically takes place in out-of-state locations and the extent of appropriate reimbursement by the company.

6. The Council should consider establishing policies or legislative rules for online access of training for out-of-state locations and the extent of appropriate reimbursement by the company



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