

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
**PURCHASING DIVISION**

DOING BUSINESS  
WITH THE STATE OF  
**WEST VIRGINIA**  
*A VENDOR PROCUREMENT GUIDE*

WVPURCHASING.GOV



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## West Virginia Purchasing Division **DOING BUSINESS WITH THE STATE OF WEST VIRGINIA**

### ***INTRODUCTION***

The West Virginia Purchasing Division developed this guide, ***Doing Business with the State of West Virginia***, to serve as a resource for vendors wishing to do business with West Virginia state agencies that fall under the authority of the Purchasing Division.

There are some state agencies which are statutorily exempt from the Purchasing Division's authority, including but not limited to the Legislative and Judicial branches of state government; Division of Highways (*road construction only*); and state colleges and universities. This Guide does not pertain to doing business with those entities.

Each section of this guide offers specific information and instructions which should prove helpful to our vendor community. The purpose of this reference guide is to clarify the state's procurement process and to focus on procedures and issues related to our vendor community.

The Purchasing Division was created and its duties defined in W.Va. Code § 5A-3-1 *et seq.* According to the Code, the Purchasing Division is "to serve as a source of expertise in procurement methods and practices for the various state agencies, and to assist and facilitate state agencies in procurement matters, including for travel services."

The Purchasing Division offers many other services to state agencies, political subdivisions, and the vendor community.

The state of West Virginia acquires a variety of products and services to operate its programs effectively. Purchasing laws, regulations and procedures have been implemented to protect the interest of all parties, including taxpayers, state agencies, and businesses participating in the procurement process. The Purchasing Division encourages vendors to participate in the competitive bidding process within West Virginia state government.

The Purchasing Division is bound by the W.Va. Code § 5A-3 and the W.Va. 148 C.S.R. 1, not by the information contained in this publication. All information contained herein is supplemental to the W.Va. Code § 5A-3 *et seq.* as it pertains to the Purchasing Division.

For additional informational, visit the links contained within **Appendix A** for quick access to vendor resources.



## West Virginia Purchasing Division **DOING BUSINESS WITH THE STATE OF WEST VIRGINIA**

### **SECTION 1** **What Does the State Buy?**

Each year, the state of West Virginia purchases millions of dollars in products and services from thousands of vendors. From paper clips to construction projects, the Purchasing Division has the overall responsibility to ensure that taxpayers' dollars are being spent in an ethical and cost-efficient manner.

For purchases of \*\$50,000 or less, state agencies have been delegated the authority by the Director of Purchasing to acquire the products and/or services necessary to meet their operational needs. This authority, termed *Agency Delegated Purchasing Authority*, has established procedures for state agencies to follow when procuring products and services within this dollar threshold. The Purchasing Division maintains a State Procurement Officer listing, which is updated regularly and can be found as **Appendix E**. For more information, see **Section 2**.

All purchases expected to exceed \*\$50,000 are processed through the Purchasing Division. A team of buyers is assigned to purchase goods and services on behalf of state agencies (see **Appendix B**).

The Purchasing Division encourages competitive bidding for transactions of all amounts by eliminating restrictions and limitations which could unfairly reduce competition.

*\*Or \$100,000 if an agency has been granted increased delegated authority*



## West Virginia Purchasing Division **DOING BUSINESS WITH THE STATE OF WEST VIRGINIA**

### **SECTION 2**

#### **How Can Vendors Market Products and Services to the State?**

Vendors interested in marketing their products and services to West Virginia state government should do so the same way they would with other customers. State government has similar needs as a private sector business.

It is important for vendors to discuss and demonstrate their products or services with agency procurement officers or Purchasing Division buyers. Descriptive literature and full product specifications are also helpful. To ensure that the Purchasing Division or agency representative is available, you should call in advance to schedule an appointment.

The Purchasing Division posts the contact information for all agency procurement officers on its website at [www.state.wv.us/admin/purchase/vrc/agencyli.html](http://www.state.wv.us/admin/purchase/vrc/agencyli.html) (see **Appendix E**). This listing will assist vendors in reaching the individuals responsible for procuring goods and services within state agencies.

For bidding opportunities expected to be \*\$50,000 or less, vendors should market directly to state agencies since they are delegated the authority to purchase up to that dollar threshold. For purchases exceeding \*\$50,000, the Purchasing Division processes the transactions for those agencies under its statutory authority. For these higher dollar purchases, agencies are encouraged to provide suggested vendors to the Purchasing Division when submitting their requisition for needed products or services. This enables the Purchasing Division to notify these vendors directly about published solicitations for the goods or services they provide. By vendors marketing their products and services to agency procurement officers, they may be added as a suggested vendor.

To ensure transparency and fairness in the procurement process, there is a communication blackout period between state agencies and vendors. Once an agency submits its requisition to the Purchasing Division until an award is made, state agency personnel are not permitted to communicate with vendors about the solicitation without prior approval from the Purchasing Division. All communication regarding the solicitation is handled by the Purchasing Division until an award has been made.

Vendors should continually check the *West Virginia Purchasing Bulletin* through the Vendor Self Service (VSS) portal within wvOASIS for all bid opportunities exceeding \$20,000. (see **Section 5**)

*\*Or \$100,000 if an agency has been granted increased delegated authority*



## West Virginia Purchasing Division

# DOING BUSINESS WITH THE STATE OF WEST VIRGINIA

### **SECTION 3**

## **How Does the State Buy?**

The West Virginia Purchasing Division utilizes various procurement methods to solicit bids and proposals for products and services needed by state agencies. The procurement methods used in the state purchasing process are outlined in more detail below:

#### Request for Quotation

A Request for Quotation (RFQ) is an "invitation to bid" on state purchases and should be used to acquire all tangible property (i.e. equipment, supplies, etc.). This process is required for all purchases unless another method has been approved by the Purchasing Division or mandated by law.

An RFQ consists of:

- A detailed description of, or specification for, the item(s) being purchased;
- Delivery date, if required;
- Bid price per unit of the item(s);
- Any applicable maintenance; and
- Quantities of all items.

The RFQ has an established date and time for the bid opening, after which bids will no longer be accepted. All bids are stamped with the date and time of receipt. Prices cannot be altered after bids are opened.

In the RFQ process, competitive bids are received, properly evaluated, and an award is made to the lowest responsible bidder who meets all mandatory specifications.

#### Request for Proposals

Requests for Proposals (RFP) are a best value procurement method used to acquire services where the specifications or scope of work may not be well-defined and cost is not the sole factor in determining the award. An RFP is limited to procurements with an estimated value of \$100,000 or more and is used to solicit proposals from potential bidders, taking into consideration criteria and scoring methods as defined in the RFP. Such criteria factors may include the vendors' ability, resources, experience, staffing, and proposed methods to furnish the required services.

All RFPs use a standard format, which addresses required areas and the scope of work to meet the agency's needs. The evaluation of proposals is based on a 100-point total score (or a score up to 1,000 points with a 70/30 split) and includes a technical and cost proposal. The cost portion must be sealed in a separate envelope and is not opened until after the technical evaluation is complete.

The Purchasing Division opens only the technical proposals on the date and time specified in the RFP, at which time the representative reads aloud the names of those who responded to the solicitation and confirms that the original package contains a separately sealed cost proposal. Please note that electronic RFPs responses are not permitted. The proposals are then reviewed by an agency evaluation committee to determine if they meet all mandatory requirements. Once it is established which proposals meet all mandatory requirements, the proposals are evaluated for the non-mandatory qualifications, experience, and goals and objectives as outlined in the RFP. In addition, vendors may be required to conduct an oral presentation as part of the RFP, which is included in the technical score.

All proposals begin with the maximum score. Deficiencies are noted through point deductions. No partial points are applied except for cost. The agency evaluation committee then provides its formal technical recommendation with its scores for each technical proposal to the Purchasing Division.

Vendors must score a minimum of 70%, known as the minimum acceptable score (MAS), of the total technical points possible to have their cost proposal considered. Vendors not attaining the MAS are disqualified and removed from further consideration. Upon approval of the technical evaluation by the Purchasing Division, a date and time is scheduled to publicly open and read aloud all cost proposals, including those proposals from vendors not meeting MAS. The agency and vendors are notified of this date.

The agency evaluation committee will then review the cost proposals, assign appropriate points and make a final consensus recommendation to the Purchasing Division. The contract award is made to the highest scoring vendor, which combines the score from both the technical and cost proposals.

Once approved by the buyer, the contract is signed in the Purchasing Division, forwarded to the Attorney General's Office for approval as to form, encumbered, and emailed to the appropriate parties.

### Expression of Interest

Expressions of Interest (EOI) are used in the selection of architectural and engineering services. Special procedures in the selection of architectural and engineering services are required in accordance with W.Va. Code §5G.

In the procurement of these services, there are two separate processes for projects expected to cost \$250,000 or less and those expected to exceed \$250,000. These dollar thresholds include construction costs and architectural fees. Below is a high-level overview of the EOI process. However, there are specific requirements for each of these levels included in the solicitation.

EOI solicitations expected to cost \$250,000 or less are initiated and negotiated at the agency level; however, the Purchasing Division must approve and execute the award document. EOI solicitations exceeding \$250,000 are processed completely by the Purchasing Division. The EOI, which must be announced by public notice, will include a statement of qualifications and performance data as well as anticipated concepts and proposed methods of approach to the project.

During the EOI process, the agency reviews and ranks a minimum of three firms which, in their opinion, are best qualified to perform the desired service. For EOIs expected to exceed \$250,000, discussions with the three highest-ranked firms are conducted, addressing anticipated concepts and proposed methods of approach to the assignment, as well as clarification of qualifications and performance data, the scope of services offered, and needed time to complete project.

Negotiations commence with the highest ranked firm, at which time price will be discussed. If negotiations fail to result in a satisfactory contract, the agency may commence negotiations with the next ranked firm in the same manner, continuing until a satisfactory contract is negotiated. For EOI solicitations expected to cost \$250,000 or less, the discussion and negotiation processes may be conducted as one.

In all cases regardless of the dollar threshold, the Purchasing Division is responsible for executing the final contract, which includes the Purchasing Master Terms and Conditions.

### *Request for Information*

A Request for Information (RFI) is a document used in an informal manner to solicit information, data, comments or reactions from possible suppliers preceding the issuance of a Request for Quotation and/or a Request for Proposal. This process is only utilized when appropriate expertise or information is lacking to develop adequate specifications. The RFI is for informational purposes only and no award is made.

### *Cooperative Contracts*

Cooperative contracting is a term utilized to describe an agency's use of and/or adoption of an existing contract of another public entity. Language is included in the specifications of the original solicitation allowing for its use by other entities. W.Va. Code § 5A-3-19 provides authority for the use of cooperative contracts while the W. Va. 148 C.S.R. 1-7.8 provides further guidance and restrictions on the use of this procurement method.

### *Emergency Purchases*

W.Va. Code §5A-3-15 grants the Purchasing Director authority to make emergency procurements without completing the more formal bidding process. That authority has been delegated to agencies, and Purchasing Division approval is not required if the emergency falls within the agency's delegated authority.

### *Direct Awards*

In a direct award situation, competition is not available for the product or service. When an agency submits a request to the Purchasing Division to use this type of procurement, the Purchasing Director has the authority to reject that request whenever competition is believed to be available. Agencies are always encouraged to seek competition first.

All direct award procurements expected to exceed \$10,000 are advertised in the **West Virginia Purchasing Bulletin** within the wvOASIS Vendor Self-Service portal. Vendors may respond indicating whether they can provide the product or service. If no vendor responds to the direct award advertisement, the direct award transaction is processed. However, if competition is available, the direct award is canceled, and a new solicitation is advertised competitively.

### *Reverse Auctions*

A reverse auction is a procurement type in which the Purchasing Division uses an auction method to obtain the lowest bid. In an ordinary auction, bidders compete to obtain goods or services by offering increasingly higher prices. In a reverse auction, vendors compete to obtain business from the state by underbidding one another.



### Prequalification Agreement and Delegated Prequalification Bidding

The prequalification agreement and delegated prequalification bidding allows the Purchasing Division to award a contract to all vendors meeting qualifications outlined in a solicitation for a product. Agencies may then use the delegated prequalification bidding process by requesting bids from the qualifying vendors to determine the lowest price. No single order under this process is permitted to exceed \$1,000,000 for products, unless a written request to exceed these limits is approved by the Purchasing Director in writing.

### Standardization

Agencies are permitted to standardize upon certain commodities by utilizing the process described in W.Va. Code §5A-3-61. Standardization allows the agency to specify a brand of product for competitive bidding or other appropriate procurement method without the need to consider other brands.



## West Virginia Purchasing Division **DOING BUSINESS WITH THE STATE OF WEST VIRGINIA**

### **SECTION 4**

#### **How Can Vendors Register with the Purchasing Division?**

All vendors selling products and services to the state of West Virginia are required to register with the Purchasing Division prior to receiving a purchase order or contract. W.Va. Code § 5A-3-12 and the Purchasing Division require the disclosure of information, including ownership, all names under which a vendor is doing business, its physical address, its corporate officers, bank information and the payment of the annual fee, when applicable. A vendor is not required to register to submit a bid.

There are some exceptions to the registration requirement, including the following:

- Purchasing card vendors providing travel related services,
- Purchasing card vendors receiving an aggregate total yearly payment of less than \$25,000.00 from a spending unit, and
- Any company or corporation, or subsidiary of the company or corporation, listed on any nationally recognized stock exchange.

Vendors are encouraged to register through the Vendor Self-Service (VSS) portal within the wvOASIS system at wvOASIS.gov. At this site, vendors may view advertised bidding opportunities in the *West Virginia Purchasing Bulletin*, review their account information, and more. Although the VSS is the preferred method of registration, vendors may also register by completing a *Vendor Registration & Disclosure Statement and Small, Women, & Minority-Owned Business Certification* (WV-1 or WV-1A) form. See **Appendix C**.

All vendors doing business with the state must be in good standing with other local and state entities, such as the Secretary of State's office, the West Virginia Insurance Commission and the State Tax Department, in addition to being registered with the Purchasing Division.

According to the W. Va. 148 C.S.R. 1, all vendors must pay an annual registration fee of \$125 to the Purchasing Division in order to receive purchase orders or contracts exceeding an aggregate amount of \$2,500. The registration year begins at the time the Purchasing Division processes the vendor's registration and receives the fee.

Companies, corporations or persons having multiple outlets for their products or services and are all operating under the same TIN (Taxpayer Identification Number) must pay one \$125 annual fee.

West Virginia Code provides circumstances in which vendors may be exempt from the fee requirement, as listed below:

- Purchasing card vendors providing travel related services.
- Purchasing card vendors receiving an aggregate total yearly payment of less than \$25,000.00 from a spending unit.
- Vendors receiving orders for products or services in aggregate of \$2,500 or less, regardless of payment method.

- Vendors providing a product or service under a direct award solicitation. The fee is considered waived by the Purchasing Director for all direct award providers.
- Any vendor can be exempted from paying the registration fee if the Purchasing Director determines that waiving the registration fee would be in the best interest of the state of West Virginia. Currently, the two instances in which the fee has been waived are outlined below.

*Vendors Offering Products and Services Under Section 9:* The **Purchasing Division Procedures Handbook** contains a list of products and services within Section 9 that have been determined by the Purchasing Director to be exempt from the competitive bidding process, in accordance with W.Va. Code § 5A-3-10 and the W. Va. 148 C.S.R. 1-4. This list is referred to as the Non-Competitive/Exempt List of Products and Services. A vendor may provide products or services on a transactional basis under Section 9; however, should the same vendor be awarded a contract/purchase order through the competitive bid process, the registration fee would then be required of that vendor.

*State Government Entities:* Requiring state government entities to pay the vendor registration fee would simply be processed as an intergovernmental transfer of funds from one agency to another. Doing so would incur additional costs for the state. Therefore, the Purchasing Director has determined this is not in the best interest of the state.

### **Small, Women-, and Minority-owned Business Certification**

As required by W.Va. Code § 5A-3-59, the West Virginia Purchasing Division incorporated the Small, Women-, and Minority-Owned (SWAM) Businesses Certification Application as part of the Vendor Registration and Disclosure Statement. As a result, vendors may apply to become SWAM-certified if they fall within the business categories defined as small, women-, or minority-owned. Vendors are encouraged to add this information through the Vendor Self-Service portal in the “Business Type” portion of their wvOASIS vendor/customer account and must recertify every two years.

To learn more about the SWAM categories or for more information on vendor registration and SWAM requirements, visit [www.state.wv.us/admin/purchase/VendorReg.html](http://www.state.wv.us/admin/purchase/VendorReg.html).



## **SECTION 5**

### **How Does the Bid Process Work?**

To help prepare vendors in participating in the competitive bid process, this section will detail the spending thresholds, how bids are solicited and evaluated and vendor responsibilities.

#### **Spending Thresholds**

Bidding requirements have been established for the purchase of products and services at a variety of spending dollar thresholds. Those requirements are noted below:

<b>\$0.00 to \$5,000.00</b>	No Competitive Bids Required <i>(But recommended)</i>
<b>\$5,000.01 to \$20,000.00</b>	Three Verbal Bids Required
<b>\$20,000.01 to *\$50,000.00</b>	Three Written Bids Required
<b>Exceeding *\$50,000.00</b>	Formally processed through the West Virginia Purchasing Division

*\*Or \$100,000 if an agency has been granted increased delegated authority*

State agencies have been delegated the authority to process procurements of less than \*\$50,000. Any procurement expected to exceed that amount is processed by the Purchasing Division and require three written bids, if applicable.

All solicitations exceeding \$20,000 are published in the West Virginia Purchasing Bulletin in the Vendor Self-Service (VSS) portal within wvOASIS, which the state uses to process procurements and payments. State agencies may advertise solicitations under this amount but are not required to do so.

#### **Checklist for Vendors Submitting Bids/Proposals Exceeding \*\$50,000**

The Purchasing Division has developed a checklist for vendors wishing to submit a bid/proposal for solicitations expected to exceed \*\$50,000. This checklist may also be used for agency-delegated solicitations exceeding \$20,000. Failure to successfully complete these steps may result in disqualification of a bid/proposal.

- ☐ Did you sign your bid/proposal, if submitting a paper bid/proposal?
- ☐ Did you include the required bid bonds, if applicable?
- ☐ If offering an alternate as an “or equal” option, did you clearly follow the specification instructions?
- ☐ Did you meet the mandatory requirements stated in the bid?
- ☐ Did you attend the mandatory pre-bid conference, if applicable, and sign the sign-in sheet?

- ☐ Did you respond appropriately to the mandatory addenda (i.e. changes to the original solicitation), if applicable?
- ☐ Did you respond by the date and time established for the bid opening?

## **How are Bids Solicited?**

All bid opportunities expected to exceed \$10,000 are advertised in the West Virginia Purchasing Bulletin which is updated continuously in the Vendor Self-Service portal within **wvOASIS.gov**. Vendors can receive email notifications when any solicitation is posted containing commodity codes for which they have registered. Vendors must have an accurate email address associated with its account to receive these notifications. Vendors are encouraged to check the West Virginia Purchasing Bulletin frequently to ensure they stay apprised of all solicitations.

All solicitations include terms and conditions to express the intent of the state of West Virginia. Purchasing Master Terms and Conditions are a part of every written solicitation issued and awarded by the Purchasing Division, while Agency Master Terms and Conditions are available for use by state agencies in delegated purchases. These terms and conditions may be found within the Vendor Resource Center of the Purchasing Division's website at **[www.state.wv.us/admin/purchase/vrc](http://www.state.wv.us/admin/purchase/vrc)** (see **Appendix A**).

### *Submitting Bids/Proposals*

The vendor is responsible for submitting a correct and accurate bid to the Purchasing Division by the specified bid opening date and time. Vendors are encouraged to submit bids electronically through the Vendor Self-Service (VSS) portal within wvOASIS; however, paper and faxed bids are acceptable. Submission of the bid on the vendor's part constitutes a binding offer. Upon receipt of a vendor's bid, the Purchasing Division becomes the custodian of the bid and cannot return the bid to the vendor for any reason. Should the vendor wish to change the bid, the vendor must submit an additional bid that supersedes the original bid (see upcoming subsection on Changes and Withdrawals).

The Purchasing Division will not accept bids, modification of bids or addendum acknowledgment forms by email transmission. Acceptable delivery methods include electronic submission via the VSS, hand-delivery, delivery by courier and fax. All faxed bids are sealed upon receipt of the bid but only those in which all pages of the bid are received prior to the bid opening date and time will be considered. Any bonds submitted via fax should be followed by an original bond received by the Purchasing Division within two business days.

Any vendor who submits a bid and any subsequent changes, either electronically or by paper form, accepts full responsibility for that bid. The state makes no guarantee of confidentiality of a bid and accepts no responsibility for the unsuccessful or incomplete transmission of bids by electronic transmission.

W.Va. Code § 5A-3-11 requires the bid to be received by the Purchasing Division prior to the specified date and time of the bid opening. The failure to deliver or the non-receipt of the bid by the Purchasing Division, prior to the appointed date and hour, must result in the rejection of the bid. The Purchasing Division will not accept bids, modification of bids or addendum acknowledgment forms by email transmission. Acceptable delivery methods include hand-delivery, delivery by courier or fax.

### *Pre-Bid Conferences*

When appropriate, agencies may conduct pre-bid conferences on major acquisitions early in the solicitation cycle to

provide emphasis and clarification on critical aspects of the solicitation, eliminate misunderstandings, and encourage vendor questions. These conferences are conducted by the state agency with potential bidders when solicitations for complex, large dollar requirements are specified.

As described in the solicitation, vendor attendance at conferences may be optional or mandatory. If mandatory attendance is required, only bids or proposals from those vendors represented at the conference and included on the sign-in sheet will be accepted. Teleconference attendance is prohibited unless specified in the solicitation.

### Addenda

There may be situations that require a change to the original solicitation. In these cases, a formal addendum is necessary to add, delete, or change specifications or attachments; provide a copy of the pre-bid attendee list; answer technical questions, requests for clarification or requests for product substitutions (on construction projects); extend or alter bid schedule dates/times; or any other such change to the issued bidding documents. These changes must be acknowledged by the vendor utilizing the Addendum Acknowledgement Form.

### Changes and Withdrawals

Vendors may submit changes to their original bid prior to the bid opening and must submit these changes electronically in wvOASIS or in writing to the Purchasing Division. The corrected bid should state, "this bid supersedes any and all bids received previously." A bidder may submit changes electronically through the VSS, by fax or by paper; however, the state of West Virginia accepts no responsibility for the unsuccessful and/or incomplete transmission of bids by electronic transmission. Bids submitted via fax may not be sealed until receipt by the Purchasing Division. The Purchasing Division makes no guarantee of confidentiality and accepts no responsibility for completeness of bids or transmission.

A bid may be withdrawn from consideration at any time prior to the bid opening if requested in writing by the vendor. All bids submitted become the property of the state of West Virginia and no bid, revised or canceled, may be physically removed from the Purchasing Division after being submitted.

### Bid Opening

It is the vendor's responsibility to ensure that the bid arrives to the Purchasing Division prior to the established bid opening date and time (referred to in wvOASIS as the "Bid Closing"), regardless of delivery method. Failure to do so will result in rejection of the bid and no extension of time will be granted for any reason. Vendors should allow adequate time for the successful delivery of bids/proposals to the Purchasing Division. Bids that are not received by the date and time of the bid opening will be noted as "Bid Received Late" and maintained with the official solicitation file.

Any solicitation inadvertently scheduled to open on any day that is not a regularly scheduled business day of the Purchasing Division will be opened at the same hour on the next regularly scheduled business day unless an addendum is issued with a different bid opening date and time.

Bid openings that are conducted by the Purchasing Division are located at 2019 Washington Street, East, in Charleston, West Virginia, and are open to the public, though vendors are not required to attend. At the bid opening, all bids/proposals are opened and read aloud by a Purchasing Division buyer. No discussion or decision regarding the

bids/proposals submitted will be made at that time. Information related to all bid openings, including those for solicitations under agency delegated authority and from exempt agencies, are listed in the *West Virginia Purchasing Bulletin in the Vendor Self Service (VSS)* portal within wvOASIS. Following the bid opening, any individual attending the bid opening may review the opened bids/proposals.

After the bid opening, copies of any bid/proposal may be requested through the Freedom of Information Act. Additionally, all bids/proposals, including late bids, are posted on the Purchasing Division's website at **[www.state.wv.us/admin/purchase/bids](http://www.state.wv.us/admin/purchase/bids)**.

### Alternate "or Equal" Bids

The West Virginia Purchasing Division may issue specifications that include a brand name to adequately describe a needed product or service. When this occurs, the brand or vendor name must be followed by the phrase "or equal" to promote and encourage competition, except in instances where a standard has been established by the agency, pursuant to W.Va. Code § 5A-3-61. See the following information on Standardization.

If a vendor chooses to bid an alternate product to that which is specified in the solicitation, he or she is required to quote a product of "equal or better" quality, provided that the deviations between the items are minor and do not affect the use or suitability for the needs of the state. Minor deviations from detailed specifications may be waived by the Purchasing Director. All necessary literature, technical data, certification and/or samples should be supplied to verify the equal quality of the alternate.

Vendors should identify the product being bid by brand name, model, style and/or other necessary information. All items bid must be new and/or currently being produced unless otherwise specified. When an "or equal" specification is used, the Purchasing Division is ultimately responsible for the determination of what products and services are considered "equal."

### Standardization

Agencies are provided the authority to standardize certain products by utilizing a pre-determined process, in accordance with W. Va. Code § 5A-3-61. In these cases, standardization allows the agency to specify a brand of product for competitive bidding or other appropriate procurement method without the need to consider other brands.

This process is limited to products that: (1) represent a core function of the spending unit's mission; (2) would yield a savings of time and money if standardized; and (3) either require testing or evaluation to determine accuracy or consistency or require interoperability in a larger system or network.

### Vendor Input on Specifications

While there may be instances in which a vendor may provide information to assist state agencies during their market research, any individual, corporation, or firm paid to custom design or write specifications are not permitted to competitively bid on the solicitation for which they developed the specifications. This removes the possibility of the vendor developing specifications that only that vendor can meet or restricting other vendors from meeting. This also prevents the appearance of any impropriety, thereby protecting the integrity of the competitive bid process.

During market research, agencies may request information from vendors regarding products and services without jeopardizing the vendor's ability to bid but will not be compensated or receive any form of favoritism for this information.

## **Special Requirements**

### Bonds

The Purchasing Division may require a bond as part of the bidding process. This requirement is mandatory for construction contracts expected to exceed \$25,000. The Purchasing Director has the authority to establish the amount of bonds required of a vendor, if, in his or her judgment, the security is necessary to safeguard the state from undue risk or potential loss.

The four most common types of bonds used in the state purchasing process are bid, performance, labor and material and maintenance bonds.

- Bid bonds
  - A bid bond is a security in which a third party agrees to be liable to pay a certain amount of money in the event the vendor fails to accept the contract as bid. This bond is usually required for five percent of the total bid amount. Vendors who submit faxed bids that contain a bid bond, or any other bond, should provide the original bond(s) within two business days of the bid opening date.
- Performance bonds
  - A performance bond is provided by a vendor in which the surety agrees to be liable to pay a certain amount of money in the event the vendor fails to perform a contract as bid. This bond is usually for the full amount of the contract.
- Labor and material bonds
  - A labor and materials bond is submitted by the apparent successful vendor upon request of the state. This bond ensures payment of labor and materials purchased or contracted for on behalf of the state in a construction project.
- Maintenance bonds
  - A maintenance bond is provided by the successful vendor as a warranty, which is required on most roofing and other maintenance projects.

### Liquidated Damages

Liquidated damages may be included as a contract provision which entitles the state to demand a set monetary amount determined to be a fair and equitable repayment to the state for contract breach.

### Samples

In some instances, the Purchasing Director may require sample products to be submitted with bids which must be



submitted at no charge to the state. If the samples are to be returned, instructions must be submitted for returning the samples at the vendor's own expense. Any samples left more than 30 days after the date of bid opening, without return instructions, will be disposed of by the Purchasing Division.

### Additional Requirements

In addition to the requirements noted previously, others may be contained within the specifications. In most cases, vendors who are awarded a contract must show proof of adequate public liability and property damage insurance, and of workers' compensation coverage. In construction solicitations, the state may require the successful vendor to furnish a Certificate of Builder's Risk Insurance providing coverage for 100% of the actual cash value of the project until it is complete and accepted by the state agency. Total compliance is necessary before a purchase order can be issued.

Other special requirements are clearly defined in the solicitation. For example, certain health care contracts are subject to HIPAA and require the inclusion of a Business Associate Addendum, while construction contracts require contractors' licenses, drug free workplace compliance, certificates of insurance, Workers' Compensation coverage, unemployment compensation and bonds.

### **Vendor Responsibilities**

The West Virginia Purchasing Division is a strong proponent of ethical conduct throughout the state procurement process. The same level of conduct is expected of vendors doing business with the state of West Virginia. A Vendor Code of Conduct has been developed by the Purchasing Division, which may be found as **Appendix C**. Additional information vendors should be aware of can be found in this section, including information related to privacy, contract management, compliance with specifications, and forms and documentation.

### Responsible Bidder

The Purchasing Division can only award contracts to responsible bidders. As defined in W.Va. Code §5A-1-1, a responsible bidder has the capability to fully perform the contract requirements, and the integrity and reliability which will assure good faith performance.

### Privacy Notice

All bids/proposals submitted by vendors to the West Virginia Purchasing Division are stored in a secure environment until the established bid opening date and time. Unless specifically protected under state law, information provided to the Purchasing Division may be inspected by or disclosed to the public. Vendors are also required to submit various documentation related to the vendor registration and competitive bid processes, as required by West Virginia Code. This information is generally obtained by the Purchasing Division through the Vendor Self-Service portal within wvOASIS or through submitted vendor responses to solicitations but may be obtained in other forms and formats.

For additional information on privacy, visit [www.state.wv.us/admin/purchase/privacy](http://www.state.wv.us/admin/purchase/privacy) or see **Appendix A**.

### Contract Management

Contract management provides assurance that the state receives products and/or services meeting requirements

before payment is made. Except for government construction contracts, the agency may establish payment benchmarks and conduct regular meetings with the vendor for products and/or services in the amount of \$1 million or less. For contracts expected to exceed \$1 million, the agency must also require post award conferences and status and activity reports to help the agency monitor compliance with contract requirements.

### Compliance with Specifications

Vendors must demonstrate that they meet the mandatory requirements established within the solicitation. Failure to meet the mandatory requirements will result in disqualification.

### Forms and Documentation

The vendor is required to submit various forms and documentation with their bid and/or prior to award. These forms include but are not limited to the *Addendum Acknowledgement Form*, if applicable; a completed pricing page, which should include a firm, fixed price per unit; and more. To learn more about our forms, see **Appendix B**.

### **Evaluation Period**

After bids are opened, a review and evaluation of received bids is required. The agency will ensure compliance with all specifications and determine the lowest responsible bidder meeting all mandatory specifications for Requests for Quotations (RFQ). Bidder information and bid amounts are available for public inspection at this time. For evaluation processes for solicitations other than RFQs, visit **Section 2**.

### Bid Rejection at Vendor's Request

Vendors may request the Purchasing Division to reject an erroneous bid after the bid opening if all of the conditions outlined in W.Va. 148 C.S.R. 1-6.3. f. exists and can be proven.

### **Information Prior to Award**

If you desire to review copies of bids prior to the award of a contract/purchase order, you may do so by visiting the Purchasing Division website at **[www.state.wv.us/admin/purchase/bids](http://www.state.wv.us/admin/purchase/bids)** where copies of the bids received are posted.



## **SECTION 6**

### **How is an Award Made?**

All purchase orders/contracts must be awarded in accordance to the procurement method utilized. For award processes for solicitations utilizing a procurement method other than Requests for Quotations, visit **Section 3**. The successful bidder must meet or exceed the requirements contained within the solicitation. Awards for a solicitation cannot be made at a higher price for additional quality above what was established in the specifications.

The Purchasing Division evaluates bids and makes awards which are in the best interest of the state. If the Purchasing Division determines that no bid meets the specifications, all bids will be rejected, and the specifications rewritten, clarified and the solicitation rebid.

In addition, the Purchasing Division may only do business with a responsible bidder, which is defined in W.Va. §5A-1-1, as having the capability to fully perform the contract requirements, and the integrity and reliability which will assure good faith performance.

When awarding a purchase order/contract to a successful vendor, the Purchasing Division also takes into consideration the quantity and quality of the product or service needed, its conformity to specifications, the delivery terms and other requirements as stated in the solicitation. The Purchasing Division also utilizes best value procurement methods. For more information on the evaluation and award process for these methods of procurement, see **Section 3**.

In addition, other factors considered to determine the responsibility of a vendor are listed below:

- Facilities
- Financial ability
- Organizational background
- Experience with similar work
- Workforce
- Scheduling procedures
- Quality control
- Ability to furnish securities

Prior to an award, a vendor must be in compliance with the following requirements:

- Vendor registration with the Purchasing Division, and fee payment, if applicable;

- Current unemployment fee status and Workers' Compensation coverage to ensure the vendor is not in default with Workers' Compensation and Employment Compensation, in accordance with W. Va. Code § 21A-2-6;
- Verification that the vendor is not debarred by the state and/or federal government. *vvOASIS* automatically verifies this federal compliance prior to award. The Purchasing Division maintains a list of vendors debarred by the state of West Virginia, which may be accessed at [www.state.wv.us/admin/purchase/debar.html](http://www.state.wv.us/admin/purchase/debar.html).
- Licensed and in good standing with any and all state and local law and requirements, including but not limited to the Secretary of State's Office and Tax Department, in accordance with the W. Va. § 148 C.S.R. 6.1.e;

## **Life of Contract**

The standard life of a contract is one year (i.e. a consecutive 12-month period) but may be for a longer period if the Purchasing Division deems necessary. The Purchasing Division has the option to include renewal language in the contract. Renewal of a contract is usually limited to three successive one-year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed 36 months in total.

Automatic renewal of any contract is prohibited. Both the state and the vendor must agree to the renewal period, which must be processed in accordance with the terms and conditions of the original contract. Unless specific provisions are stipulated in the contract document, the terms, conditions and pricing established are firm for the life of the contract.

## **Contract Price Adjustments**

The pricing set forth in the purchase order/contract is firm for the life of the contract, unless specified elsewhere within the solicitation/contract by the state. A vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the state in the solicitation to do so, may result in a bid disqualification.

## **Multiple Awards**

Any time a solicitation contains more than one item, the state reserves the right to award each item separately. However, if in the best interest of the state, a single award may be made based on the low total bid of all items.

When the state awards a purchase order, the normal process is to award one purchase order for all items bid. However, in some instances, there are significant differences in the amounts quoted for individual items. If these differences are significant, the state may award a purchase order to two or more vendors to take advantage of the potential cost savings.

A vendor may submit a bid under the qualification that "all or none" be accepted. Please note, however, this stipulation could result in the disqualification of the entire bid when substantial savings can be achieved by awarding a purchase order to multiple vendors.

## **Tie Bids**

Regardless of the dollar amount, when tie bids are received, the Purchasing Director must break the tie by allowing

the tied vendors to make a best and final offer. If the tie remains, then a flip of a coin, draw of the cards or any other impartial method may be used to determine the final award.

## **Contract Commencement/Change Orders**

Vendors should not perform any work until an encumbered contract/purchase order or Notice to Proceed has been issued. Additionally, no work related to a change order should be completed until the change order has been formally approved by the Purchasing Division and the Attorney General's office, encumbered by the Purchasing Division and mailed to the vendor. This subsection related to timing of work does not apply to government construction contracts executed pursuant to W.Va. Code § 5-22-1, et seq.

## **Local Government Purchases**

Most statewide contracts are available to local government entities, including counties, local and municipal governments, boards of education, urban mass transportation authorities, volunteer fire departments and other governmental bodies in West Virginia.

## **Information after Award**

After an award has been made, the successful vendor is notified by issuance of the purchase order/contract, and all unsuccessful vendors will receive notification via fax that they did not obtain the award.

All records maintained by the Purchasing Division pertaining to purchase orders/contracts are available at the Purchasing Division's office during normal business hours, Monday through Friday. Under the Freedom of Information Act, these public documents are available, although the timing of the release of certain documents may vary. Potential exemptions from the broad disclosure requirements are listed in the W. Va. Code § 29B-1-4.



## **SECTION 7**

### **How are Products Inspected and Processed for Payment?**

Contained within this section is information on how products and services are received and inspected by the agency for compliance. Additionally, a general overview of the payment process is provided.

#### **Inspection Process**

All products and services purchased by the state are subject to inspection. The state agency inspects the products and services upon delivery or performance to ensure compliance with the purchase order/contract. The agency checks the materials only for major apparent discrepancies and damages.

The acceptance and use of the product or service does not relieve the vendor from the responsibility for latent defects. When necessary, samples may be taken from shipments for testing to assure that adequate levels of quality are being maintained. If any shipment is found defective, it is the vendor's responsibility to replace the entire shipment at no cost to the state.

In accordance with W. Va. § 155 C.S.R. 1-5, agencies must open and inspect materials within 24 hours of receipt and verify the shipment against the specifications of the contract/purchase order. For receipt of services, a similar receiving report must be completed.

#### **Payment Process**

To promote good business relations, state agencies establish internal procedures to process payment of vendor's invoices. Please contact the West Virginia State Auditor's Office at 304.558.2261 for all questions regarding invoice processing.

The state utilizes a State Purchasing Card Program and an electronic funds transfer (EFT) payment system. Vendors, who accept the Purchasing Card, receive their payment directly from the credit card company currently contracted for this program. Acceptance of the Purchasing Card is required as a condition of the bid for all statewide contracts.

The State Auditor's office encourages all vendors doing business with the state to visit **[wvsao.gov](http://wvsao.gov)** to learn more about these payment methods.



## West Virginia Purchasing Division **DOING BUSINESS WITH THE STATE OF WEST VIRGINIA**

### **SECTION 8**

#### **What Remedies are Available to Vendors and to the State?**

In the purchasing process, there are steps which may be taken by a participating party (i.e. the West Virginia Purchasing Division, state agencies, and registered vendors) regarding the specifications for a solicitation, the contract award or the delivered product or service rendered. The following procedures focus on complaints, protests and suspensions.

##### **Vendor Performance**

If a state agency is dissatisfied with the products or services provided by a vendor, the procurement officer may contact the vendor in an attempt to find a resolution. Vendors should respond to the agency with clarification or possible solutions. If all attempts to resolve this issue are unsuccessful, the state agency may notify the West Virginia Purchasing Division as a last attempt to resolve the issue. The Purchasing Division will review all necessary documentation to determine the appropriate course of action.

##### **Vendor Protests**

Vendors are provided the ability to protest specifications and purchase order/contract awards. Protests based on specifications must be submitted no later than five business days prior to bid opening. Protest of purchase order/contract awards must be submitted no later than five business days after the award. The vendor is responsible for knowing the bid opening and award dates.

All protests must be submitted in writing to the West Virginia Purchasing Division and contain the following information:

- (a) the name and address of the protestor;
- (b) the requisition, purchase order or contract numbers;
- (c) a statement of the grounds of protest;
- (d) supporting documentation (if necessary); and
- (e) the resolution or relief sought.

Failure to submit this information must be grounds for rejection of the protest by the Purchasing Director.

The Purchasing Division will review the matter of protest and issue a written decision. Continuation or delay of the purchase order/contract award while the protest is considered is at the discretion of the Purchasing Director, who may refuse the protest when the matter involved is the subject of litigation before a court of competent jurisdiction;

if the merits have previously been decided by a court of competent jurisdiction; or if it has been decided in a previous protest by the Purchasing Division.

The Purchasing Director has the authority to issue a cease and desist, which requires the vendor to stop any additional work until the issue is resolved. Additionally, a hearing may be conducted at the discretion of the Purchasing Director or his/her assigned designee.

### **Suspension/Debarment of Vendors**

The Purchasing Director has the authority to suspend a vendor's right to bid on state solicitations and/or debar a vendor for a period of time when the Director has reason to believe that the vendor has violated any provision of purchasing law or rules and regulations.

The Purchasing Director may suspend the vendor when he or she believes one or more of the following conditions exist:

- A vendor has exhibited poor performance in fulfilling his contractual obligations to the state in more than one purchase order or contract.
- A vendor has willingly breached any purchase order or contract entered into pursuant to the provisions of the Code or the Purchasing regulations.
- A vendor has violated any provisions of the Purchasing laws or regulations.
- A vendor has been convicted of any federal, state or local law punishable as a felony, which conviction arises from the vendor's acts or omissions directly related to the performance of the purchase order or contract entered into pursuant to W. Va. Code § 5A-3-1 et seq.

Further explanation of the suspension process may be found in W. Va. § 148 C.S.R. 1-5.3, which is available at the West Virginia Purchasing Division's website at ***WVPurchasing.gov***.

In extreme cases, the Purchasing Director may debar a vendor based on one or more grounds contained in W. Va. Code §§ 5A-3-33c and 33d or if the vendor has been declared ineligible to participate in procurement-related activities under federal laws and regulation.

The state of West Virginia and its political subdivisions may not solicit offers from, award contracts to, or consent to subcontract with a debarred vendor during the debarment period.

For a current list of debarred vendors declared by the Purchasing Division, please see ***[www.state.wv.us/admin/purchase/debar.html](http://www.state.wv.us/admin/purchase/debar.html)***.

### **Cancellation of Contract**

If a vendor fails to honor any contractual term or condition, or violate any provision of federal, state or local law, regulation or ordinance, the Purchasing Director may request the vendor remedy the contract breach or legal violation within a time frame the Director determined to be appropriate. If that vendor then fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.





## **SECTION 9**

### **Frequently Asked Questions**

This section addresses questions most frequently asked by vendors interested in the state purchasing process.

#### **What should I do first if I wish to bid on state business?**

- Vendors should create an account in the Vendor Self-Service portal within wvOASIS. Within this portal, vendors may view bid opportunities through the *West Virginia Purchasing Bulletin* for products and/or services expected to cost \$20,000 or more with West Virginia state agencies. However, agencies may advertise opportunities for lesser amounts. Vendors are responsible for marketing their products and services directly to state agencies for products and/or services costing \$50,000 or less.

#### **Who should I market my products and services to?**

- The Purchasing Division lists all agency designated procurement officers on its website at <http://www.state.wv.us/admin/purchase/vrc/agencyli.html>. See **Appendix E**.

#### **How can I become an approved vendor, or make changes to my existing vendor record, with the West Virginia Purchasing Division?**

- The preferred method for vendors registering, updating or renewing their registration with the West Virginia Purchasing Division is online through the Vendor Self-Service portal within wvOASIS. To become an approved vendor with the state, West Virginia Code requires the vendor to disclose certain information and pay a registration fee, if applicable. Any vendor unable to access wvOASIS may instead submit a paper registration form (see **Appendix B**) directly to the Purchasing Division.

#### **How often do I need to renew my approved vendor registration with the West Virginia Purchasing Division?**

- Registration is in effect for one year.

#### **How do I know when it is time to renew my company's vendor registration?**

- Vendors may check their registration expiration date through the Vendor Self-Service (VSS) portal within wvOASIS and will receive an email notification if an email address is provided. Vendors will also receive a letter within 30 days of their registration expiration from the West Virginia Purchasing Division.

### **How do I add a branch if my company is already registered?**

- Vendors may add an address to their vendor/customer record through the Vendor Self-Service (VSS) portal at **wvOASIS.gov**, which is the preferred method, or by submitting a completed *Vendor Registration & Disclosure Statement and Small, Women-, & Minority-Owned Business Certification* (WV-1) to the Purchasing Division. A second annual fee is not required if a branch sharing the same tax identification number has already paid for the year.

### **Do I need to provide an email address when I register with the Purchasing Division?**

- It is in the best interest of a vendor to provide an email address so that notifications from wvOASIS may be received for upcoming bid opportunities as well as information on the vendor's registration status. It is recommended to enter an email address that is monitored frequently, such as a company email account rather than an individual's account, so that information is received regularly through this delivery method.

### **Do all vendors have to pay the \$125 fee?**

- No. Only vendors providing competitive products and services are required to pay the fee when receiving a contract/purchase order exceeding \$2,500. Some exceptions apply. For more information on these exemptions, you may view W. Va. 148 C.S.R. Additionally, there is no fee for a vendor to participate in the Small, Women-, and Minority-Business Certification Program.

### **How can I pay the \$125 annual vendor registration fee?**

- The preferred method of payment is through the Vendor Self-Service portal within **wvOASIS.gov**. Alternatively, vendors may pay by check, money order, U.S. currency (in exact change), or credit card (Visa, MasterCard, American Express, or Discover).

### **Can the West Virginia Purchasing Division provide an invoice to my company for the \$125 vendor registration fee?**

- No. The annual vendor registration fee is not a bill. Therefore, we cannot provide any invoice related to this fee. If requested, a vendor registration status letter can be provided.

### **What if my tax identification number changes?**

- A new account must be completed in the Vendor Self-Service portal within wvOASIS.

### **How can I view bids submitted to the West Virginia Purchasing Division, request a bid package or view solicitations currently out for bid?**

- This information is available on the West Virginia Purchasing Division's web site at **[www.state.wv.us/admin/purchase/bidinfo.html](http://www.state.wv.us/admin/purchase/bidinfo.html)**.

### **Where can I find vendor-related information?**

- The West Virginia Purchasing Division's Vendor Resource Center (see **Appendix A**) is designed as an informational resource for vendors.

### **How often do I need to renew my small, women-, and minority-owned business (SWAM) certification?**

- SWAM certification must be updated every two years. It is the responsibility of the SWAM vendor to update prior to the expiration to ensure no interruption in the SWAM status.

### **How will I know when my small, women-, and minority-owned (SWAM) business certification has been reviewed and its status?**

- Once the SWAM certification request has been received and reviewed, vendors will receive a letter from the West Virginia Purchasing Division indicating whether this request has been approved or denied. If approved, the effective date and the type of designation will be included in the letter.

### **Does the West Virginia Purchasing Division maintain a list of certified small, women-, and minority-owned (SWAM) businesses?**

- Yes. The Purchasing Division publishes a list of all certified small, women-, and minority-owned businesses at [www.state.wv.us/admin/purchase/VendorReg.html](http://www.state.wv.us/admin/purchase/VendorReg.html). This list is updated daily.

### **What should I do if I do not understand the specifications?**

- Questions related to the intent of the specifications or any other aspect of the solicitation should be directed to the buyer responsible for purchasing the product or service. The buyer can be found listed in the solicitation within the *West Virginia Purchasing Bulletin*.

### **What are pre-bid conferences?**

- Pre-bid conferences are often mandatory for high-dollar or complex projects solicited by the state of West Virginia. These conferences give the vendors an opportunity to ask questions and allows the state agency to provide clarification for the vendor questions about the specifications or process.

### **May I bid if I do not provide the brand listed in the solicitation?**

- Yes, if a standard has not been established pursuant to W.Va. Code §5A-3-61. Some solicitations specify a brand name. In these cases, the words "or equal" will follow. Vendors that do not offer the specified brand are encouraged to submit a bid for an item of equal or higher quality.

In some instances, the Purchasing Division may work with state agencies using established procedures to identify a standardized brand for certain products for a specified period. In these cases, only bids for that brand will be accepted.

### **What happens if I make a mistake in my bid?**

- Mistakes discovered prior to the bid opening may be remedied by submitting a corrected bid to the West Virginia Purchasing Division prior to the bid opening. Any corrected bid should clearly indicate that it replaces a prior bid and is the only bid to be considered. Mistakes discovered after the bid opening should be brought to the attention of the buyer immediately. For more information, see **Section 4**.

### **If I am the low bidder, will I receive the contract?**

- The award of the contract is made to the lowest responsible bidder, taking into consideration the quality of the items to be supplied, their conformity to the specifications and the delivery terms. Therefore, the low bidder will receive the award if all those conditions are met, except in instances where a best value procurement method is used, and cost is not the sole determining factor for award.

### **How can I find what happened on a particular solicitation?**

- If you desire to review copies of bids before an award is made or before the issuance of a contract, you may do so by visiting the West Virginia Purchasing Division's website at **[www.state.wv.us/admin/purchase/bids](http://www.state.wv.us/admin/purchase/bids)**, where copies of all bids received are posted. After the award is made, all records are maintained by the Purchasing Division and are available at the Purchasing Division's office during normal working hours. A Freedom of Information Act (FOIA) request may be submitted to the Purchasing Division for any public records.

### **How can I submit a Freedom of Information Act (FOIA) request?**

- All FOIA requests should be submitted in writing to the West Virginia Purchasing Division at 2019 Washington Street, East, Charleston, WV 25305 or via email at ***Purchasing.Division@wv.gov***.

### **What can I do if I perceive a problem with a specification or the purchase order/contract award?**

- Vendors wishing to protest a specification or contract award may do so by writing a letter of protest to the West Virginia Purchasing Director. The letter protesting the specification must be submitted no later than five working days prior to the bid opening, while the letter protesting the contract award must be submitted no later than five working days after the award has been made. The protest will be reviewed, and the vendor will be notified of the final decision. For more information, see **Section 8**.

### **What happens if the receiving agency will not accept my product after I have received a contract?**

- The vendor must deliver the required items in compliance with the contract specifications. State agencies are authorized to make a preliminary inspection upon delivery and reject all items that do not comply with the terms and conditions of the contract. The agency and vendor should work together to resolve any issue with the products and/or services.

### **Can the state cancel contracts?**

- The Purchasing Director reserves the right to cancel any purchase order/contract upon written notice to the vendor under any one of the following conditions including, but not limited to:
  - a) The vendor agrees to the cancellation;
  - b) The vendor has obtained the contract by fraud, collusion, conspiracy, or in conflict with any statutory or constitutional provision of the state of West Virginia;
  - c) Failure to conform to contract requirements or standard commercial practices;
  - d) The existence of an organizational conflict of interest is identified; or
  - e) Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.
  - f) Violation of any federal, state, or local law, regulation or ordinance.

Notwithstanding other provisions of this subsection, the Director may cancel a contract/purchase order for any reason or for no reason, upon 30 days' notice to the vendor.

### **Can changes be made to existing contracts?**

- Occasionally, it becomes necessary to amend, clarify, change or cancel purchase orders/contracts. A contract change order is required whenever the change affects the payment provision, time for completion of the work and/or the scope of the work. Change orders to original purchase orders/contracts exceeding \*\$50,000 are approved by the Purchasing Division and the Attorney General's office. Vendors should not initiate any work proposed until the officially approved change order is received.

*\*Or \$100,000 if an agency has been granted increased delegated authority*



# APPENDICES

Appendix A ..... Vendor Resources

Appendix B..... West Virginia Purchasing Division Staff

Appendix C.....Purchasing Forms

Appendix D ..... Vendor Code of Conduct

Appendix E..... Agency Procurement Officers Listing

Appendix F .....Statewide Contracts

Appendix G ..... Definitions, Abbreviations and Acronyms



## West Virginia Purchasing Division **DOING BUSINESS WITH THE STATE OF WEST VIRGINIA**

### **APPENDIX A** **VENDOR RESOURCES**

To assist businesses interested in participating in the competitive bid process with the state of West Virginia, below are several resources which will provide helpful information.

#### **Vendor Resource Center**

The Purchasing Division maintains a collection of reference materials for vendors wishing to do business with the state of West Virginia. This Vendor Resource Center, which includes information on bid opportunities, terms and conditions, training, publications and other valuable guidance, may be accessed at [\*\*\*www.state.wv.us/admin/purchase/vrc\*\*\*](http://www.state.wv.us/admin/purchase/vrc).

#### **Vendor Registration FAQs**

Frequently asked questions related to the vendor registration process are available at [\*\*\*www.state.wv.us/admin/purchase/VendorRegFAQ.html\*\*\*](http://www.state.wv.us/admin/purchase/VendorRegFAQ.html).

#### **Small, Women-, and Minority-Owned (SWAM) Business Certification FAQs**

Frequently asked questions related to the SWAM program are available at [\*\*\*www.state.wv.us/admin/purchase/VendorRegFAQ.html\*\*\*](http://www.state.wv.us/admin/purchase/VendorRegFAQ.html).

For a current listing of West Virginia-certified SWAM vendors, visit [\*\*\*www.state.wv.us/admin/purchase/WVSWAM.pdf\*\*\*](http://www.state.wv.us/admin/purchase/WVSWAM.pdf).

#### **State Surplus Property Program**

The West Virginia State Agency for Surplus Property operates a state surplus property program that may benefit your business.

The State Property Program consists of property no longer needed within state government agencies which is made available to the general public through daily sales at the warehouse and online auctions.

For more information, visit [\*\*\*WVSurplus.gov\*\*\*](http://WVSurplus.gov).

#### **West Virginia Code and Code of State Rules**

The West Virginia purchasing process is governed by W. Va. Code 5A-3 and W. Va. 148 C.S.R. 1. These

sites may be accessed below:

- West Virginia Code: [\*\*http://wvlegislature.gov/\*\*](http://wvlegislature.gov/)
- Code of State Rules: [\*\*www.state.wv.us/admin/purchase/rules.html\*\*](http://www.state.wv.us/admin/purchase/rules.html)

### **Vendor Payment Options**

To learn more about the preferred payment methods for vendors, the electronic funds transfer and the State Purchasing Card, visit the West Virginia State Auditor's Office's website at [\*\*www.wvsao.gov\*\*](http://www.wvsao.gov).

### **State Privacy**

The West Virginia Purchasing Division maintains information on privacy and confidentiality on its website. As required by West Virginia Code, the Purchasing Division collects certain documentation from vendors as part of the purchasing process. This information can be found at [\*\*www.state.wv.us/admin/purchase/privacy\*\*](http://www.state.wv.us/admin/purchase/privacy).





## ***APPENDIX B***

### **WEST VIRGINIA PURCHASING DIVISION STAFF**

#### Purchasing Division Directory

- ***[www.state.wv.us/admin/purchase/directory.html](http://www.state.wv.us/admin/purchase/directory.html)***

#### Organizational Chart

- ***[www.state.wv.us/admin/purchase/orgchart.pdf](http://www.state.wv.us/admin/purchase/orgchart.pdf)***

#### Buyer Assignments

- ***[www.state.wv.us/admin/purchase/byrassign.pdf](http://www.state.wv.us/admin/purchase/byrassign.pdf)***



## ***APPENDIX C*** **PURCHASING FORMS**

Vendors may download various forms that may be required during the state purchasing process, including but not limited to:

- Vendor Registration and Disclosure Statement (WV-1/WV-1A)
- Bond Forms
- Disclosure of Interested Parties

These and additional forms may be found online at ***[www.state.wv.us/admin/purchase/forms.html](http://www.state.wv.us/admin/purchase/forms.html)***.



West Virginia Purchasing Division

**DOING BUSINESS WITH THE STATE OF WEST VIRGINIA**

## ***APPENDIX D***

### **VENDOR CODE OF CONDUCT**

The West Virginia Purchasing Division is a strong proponent of ethical conduct throughout the state procurement process. Its agency procurement officers abide by the National Institute of Governmental Purchasing, Inc. (NIGP) Code of Ethics. Similarly, the same level of conduct is expected of the vendors who do business with the state of West Virginia.

The Purchasing Division developed a Vendor Code of Conduct, which can be found online at ***[www.state.wv.us/admin/purchase/vrc/VendorConduct.pdf](http://www.state.wv.us/admin/purchase/vrc/VendorConduct.pdf)***.



West Virginia Purchasing Division

**DOING BUSINESS WITH THE STATE OF WEST VIRGINIA**

## ***APPENDIX E***

### **AGENCY PROCUREMENT OFFICER LISTING**

In accordance with the *West Virginia Code of State Rules*, every spending unit is required to designate a procurement liaison with the Purchasing Division each fiscal year. This liaison is responsible for the procurement function for that agency.

The Purchasing Division maintains this listing on its website at [www.state.wv.us/admin/purchase/vrc/agencyli.html](http://www.state.wv.us/admin/purchase/vrc/agencyli.html).



West Virginia Purchasing Division

**DOING BUSINESS WITH THE STATE OF WEST VIRGINIA**

## ***APPENDIX F*** **STATEWIDE CONTRACTS**

The West Virginia Purchasing Division has established statewide contracts mandatory for use by state agencies and available to political subdivisions. Statewide contracts are issued for many frequently-used products and services. These contracts provide economies of scale for agencies throughout the state.

For a list of the current statewide contracts, visit ***[www.state.wv.us/admin/purchase/swc](http://www.state.wv.us/admin/purchase/swc)***.

## **APPENDIX G**

### **DEFINITIONS, ABBREVIATIONS AND ACRONYMS**

**Agency** – An agency includes any department, bureau, division, office, board, commission, authority, agency, or institution of state government for which an appropriation is requested by the Governor, or to which an appropriation is made by the Legislature, unless a specific exemption from W. Va. Code § 5A-1 is provided.

**Agency Delegated Purchase Order** - A transaction which may be used by an agency to procure items within its delegated purchase authority up to \*\$50,000.

**Award Date** - For purchases over \*\$50,000, the award date is the date of encumbrance by the Purchasing Division.

**Best Value Procurement** - Purchasing methods used in awarding a contract based on evaluating and comparing all established quality criteria where cost is not the sole determining factor in the award. This includes Requests for Proposals and Expressions of Interest.

**Bid** – A response submitted by a vendor to a solicitation that constitutes an offer to the state which includes, but is not limited to, documents submitted in response to Request for Quotation, proposals submitted in response to a Request for Proposal or proposals submitted in response to an Expression of Interest.

**Bid Bond** - A bond in which a third party agrees to be liable to pay a certain amount of money in the event a selected bidder fails to accept the contract as bid. This bond is usually five percent (5%) of the total bid amount.

**Bid Opening** - A firmly established date and time for the public opening of responses to a solicitation.

**Buyer** - An employee of the Purchasing Division whose primary assignment is purchasing products or services on behalf of the state.

**Change Order** - A document used when it becomes necessary to amend, clarify, change or cancel purchasing documents issued by the Purchasing Division.

**Commodity** - Supplies, materials, equipment and any other articles or things used by or furnished to a department, agency or institution of state government.

**Competitive Bidding** - The process by which individuals or firms compete for an opportunity to supply specified products and services by submitting an offer in response to a solicitation.

**Contract** - An agreement between a state spending unit and a vendor relating to the procurement of products or services, or both.

**Cooperative Contracting** - Utilizing any existing open-end contract of the federal government, agencies of other states, other public bodies or other state agencies to which the requesting agency was not an original party. Cooperative contracting requires prior approval by the Purchasing Director.

**Delivery Order** - A written order to the contractor authorizing quantities of products and/or services to be delivered all in accordance with the terms, conditions, and prices stipulated in the original contract.

**Direct Award** - A procurement method that allows for the direct purchase of products or services when it is believed that only one vendor can supply the needed product or service under the circumstances.

**Electronic Transmission** - Any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval and reproduction of information by the recipient.

**Emergency** - A purchase made when unforeseen circumstances arise, including delays by contractors, delays in transportation and unanticipated volume of work.

**Encumbrance** - A process which ensures that funding is available for the payments relating to a specific purchase order or contract. No work should begin prior to the issuance of an encumbered contract received by the vendor.

**Evaluation of Bids** - After the bid opening, the process of examining all offers in order to determine the bidder's responsibility, responsiveness to requirements, conformance to specifications and other characteristics important to the recommendation or selection for award.

**Expression of Interest (EOI)** - A best value procurement method used for architectural and engineering services which is defined in W. Va. Code § 5G-1, as "those professional services of an architectural or engineering nature as well as incidental services that members of those professions and those in their employ may logically or justifiably perform."

**General Terms and Conditions** - Standard clauses and requirements developed by the Purchasing Division and incorporated into solicitations and resulting contracts. Purchasing Master Terms and Conditions are used for solicitations expected to exceed \*\$50,000, while Agency Master Terms and Conditions are used for agency delegated solicitations (less than \*\$50,000).

**Labor and Materials Payment Bond** - A bond submitted by the apparent successful vendor upon request of the state to ensure payment of labor and materials purchased or contracted for on behalf of the state in a construction project.

**Lease** - A written agreement between the owner of equipment (lessor) and a state agency (lessee) by which the owner agrees to give the agency permission to use the equipment for a predetermined fee (rental) for a period exceeding 30 days. Title does not pass from the lessor to the lessee.

**Lease Purchase** - A written agreement in which the lease payments are applied, in whole or in part, as installment payments for equity or ownership upon completion of the agreement. Title transfers with the last installment payment to the lessee.

**Maintenance Bond** - A bond provided as a warranty of normally two years, which is required on roofing projects.

**Mandatory Terms** - All terms and conditions in the written specification which are absolute and the compliance with cannot be waived. Failure to comply with mandatory terms must require the vendor to be disqualified. Mandatory terms are indicated by the use of the terms *must*, *will* or *must*.

**Non-Mandatory Terms** - All terms and conditions in the written specification which are not absolute. Non-mandatory terms are indicated by the use of the terms *may*, *should*, *preferred* or *could*, and are understood to be permissive and must not be used to disqualify any vendor.

**Notice to Proceed** - A formal written communication most often used in construction contracts to establish the date for work to commence and determines the date for completion.

**Open-End Contract** - A legal and binding contract that covers a specific period in which all terms, conditions and prices are specified except for quantity. These contracts are established for products and services that are frequently purchased that are not on a statewide contract. Open-end contracts expected to cost \*\$50,000 or less are processed by the agency, while open-end contract expected to exceed \*\$50,000 are processed by the Purchasing Division.

**One-Time or Single Purchases** – A procurement method used to purchase products or services that are not considered repetitive.

**Performance Bond** - A bond in which a surety agrees to be liable to pay a certain amount of money in the event a vendor fails to perform a contract as bid. This bond is usually for the full amount of the contract.

**Pre-bid Conference** - A meeting between vendors and agency personnel which offers an opportunity to emphasize and clarify critical aspects of a solicitation, eliminates misunderstanding and permits vendor input. Vendor attendance may be mandatory or voluntary as specified in the bid document.

**Procurement** - The buying, purchasing, renting, leasing or otherwise obtaining of products or services.

**Protest** - A formal, written complaint filed by a vendor regarding specifications or an award

**Purchase Order** - A document issued by the Purchasing Division used to execute a purchase transaction with a vendor. It serves as notice to a vendor that an award has been made.

**Purchasing Card Vendor** - A vendor providing products or services to the state that only accepts payment via the State Purchasing Card.

**Renewal** - When an existing contract is renewed for an additional time period in accordance with the terms and conditions of the original contract.

**Request for Information (RFI)** - A document used to solicit information to assist in preparing specifications for a Request for Quotation or Request for Proposal. No award can be made from an RFI.

**Request for Quotation (RFQ)** - A document, containing the specifications or scope of work and all contractual terms and conditions, which is used to solicit written bids. Conformity to specifications and price are the only factors used in the evaluation process.

**Request for Proposals (RFP)** - A best value procurement method used to acquire professional and other services where the scope of work may not be well-defined, and cost is not the sole factor in determining the award. All criteria by which the bidders will be evaluated must be contained within the bid document.

**Requisition** - An electronic request in wvOASIS by an agency for the purchase of products and services.

**Services** - The furnishing of labor, time, expertise or effort, not involving the delivery of a specific end commodity or product other than one that may be incidental to the required performance.



**Solicitation** - A written or oral attempt made by the state to obtain bids or proposals for the purpose of entering into a contract. Requests for Quotation, Requests for Proposal, telephone calls or other documents may be used.

**Spending Unit** - A department, bureau, division, office, board, commission, authority, agency or institution of state government for which an appropriation is requested by the Governor, or to which an appropriation is made by the Legislature, unless a specific exemption from W. Va. Code § 5A-1 is provided.

**Statewide Contract** - An open-end contract issued by the Purchasing Division and made available to all state agencies to purchase frequently used products and services.

**Tie Bid** - When two or more bids of equal terms and amount or score are received in response to a solicitation.

**Unit Price** - The cost per unit of the product or service.

**Vendor** - Any person or entity that may, through contract or other means, supply the state or its subdivisions with products and services, and lessors of real property.

**Vendor Self-Service (VSS) Portal** - This feature incorporates the vendor registration function as well as the *West Virginia Purchasing Bulletin*, which includes products and services currently out for bid. The VSS portal also allows vendors to receive solicitation notifications by email based on products and services noted at the time of registration; review awarded contracts; perform inquiries pertaining to awards; view payment status and update company contact information, including mail and e-mail addresses.

**West Virginia Purchasing Bulletin** - An electronic publication made available on the Vendor Self-Service portal as part of the wvOASIS system is used to advertise purchases expected to exceed \$10,000 for all agencies in West Virginia's state government. However, agencies may advertise opportunities for lesser amounts.

**wvOASIS** – An enterprise resource planning (ERP) system used by the state of West Virginia to process all financial transactions, including procurement.