WEST VIRGINIA CODE: §5a-3-10C

§5A-3-10c. Direct award procurement.

(a) The director may make a direct award of a contract without competitive bidding if:

(1) The spending unit requests a direct award in writing;

(2) The spending unit provides written justification showing that the direct award is in the best interest of the state;

(3) The spending unit provides written confirmation that competition is not available because there is no other source for the commodity or service, or that no other source would be willing or able to replace the existing source without a detrimental effect on the spending unit, the existence of a detrimental effect being determined by the director in his or her sole discretion;

(4) The director publicly advertises a notice of intent to make a direct award without competition in the state's official bid notification system, as well as any other public advertisement that the director deems appropriate, for no less than 10 business days; and

(5) No other vendor expresses an interest in providing the commodity or service in question.

(b) If a vendor expresses an interest in providing the commodity or service described in the notice of intent to make a direct award, then the spending unit must convert the direct award to a competitive bid, unless the director determines that the interest expressed by a vendor is unreasonable. The competitive bid may, at the discretion of the director, be either a request for quotation or request for proposal.

(c) The notice of intent to make a direct award shall contain the following information:

(1) A description of the commodity or service for which a direct award will be made;

(2) A time period by which delivery must be made or performance must occur;

(3) The price that will be paid for the commodity or service;

(4) Any limitations that a competing vendor would need to satisfy;

(5) An invitation to all vendors interested in providing the commodity or service to make that interest known; and

(6) Contact information for the director or his or her designee, and instructions to submit a statement of interest to the director or his or her designee.

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(d) The director may refuse a spending unit's request to utilize a direct award procurement if the commodities or services have previously been obtained through competitive bidding.

(e) On or before December 1, 2018, and annually thereafter, the director shall report to the Governor and the Joint Committee on Government and Finance on the spending units that have requested a direct award for their commodities or services, the type of commodity or service, and results of the direct award process.

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