WEST VIRGINIA CODE: §5a-3-3

§5A-3-3. Authority of Director of Purchasing.

The director, under the direction and supervision of the secretary, is the executive officer of the Purchasing Division and has the authority to:

(1) Direct the activities and employees of the Purchasing Division;

(2) Ensure that the purchase of or contract for commodities and services are based on competitive bid, except when another method of procurement is determined to be in the best interest of the state;

(3) Purchase or contract for, or assist and facilitate the purchase or contract for the spending units of the state government, in the name of the state, the commodities, services, and printing required by the spending units of the state government;

(4) Apply and enforce standard specifications established in accordance with §5A-3-5 of this code as hereinafter provided;

(5) Transfer to or between spending units or sell commodities that are surplus, obsolete, or unused as hereinafter provided;

(6) Have charge of central storerooms for the supply of spending units as the director considers advisable;

(7) Establish and maintain a laboratory for the testing of commodities and make use of existing facilities in state institutions for that purpose as hereinafter provided as the director considers advisable;

(8) Suspend the right and privilege of a vendor to bid on state purchases when the director has evidence that the vendor has violated any of the provisions of the purchasing law or the rules and regulations of the director;

(9) Timely provide guidance to and assist any spending unit in the development of the provisions and terms of contracts entered into for and on behalf of the State of West Virginia that impose any obligation upon the state to pay any sums of money for commodities or services and approve contracts as to such provisions and terms; and the duties of providing guidance and assistance and approval herein set forth do not supersede the responsibility and duty of the Attorney General to approve the contracts as to form; *Provided*, That the provisions of this subdivision do not apply in any respect whatever to construction or repair contracts entered into by the Division of Highways of the Department of Transportation or to construction or reclamation contracts entered into by the Department of Environmental Protection; *Provided, however*, That the provisions of this subdivision do not apply in any respect whatsoever to contracts entered into by the University of West Virginia Board of

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Trustees or by the board of directors of the state college system, except to the extent that such boards request the facilities and services of the director under the provisions of this subdivision: *Provided further*, That the provisions of this subdivision do not apply to the West Virginia State Police and the West Virginia Office of Laboratory Services: *And provided further*, That the provisions of this subdivision shall not apply to contracts for any natural disaster recovery activities entered into by the West Virginia State Conservation Committee or the West Virginia Conservation Agency;

(10) Timely provide guidance to and assist any spending unit in the development of the specifications and descriptions in solicitations to be prepared so as to provide all potential suppliers-vendors who can meet the requirements of the state an opportunity to bid and to assure that the specifications and descriptions do not favor a particular brand or vendor; If the director determines that any such specifications or descriptions as written favor a particular brand or vendor or if it is decided by the relevant spending unit, in consultation with the director, either before or after the bids are opened, that a commodity or service having different specifications or quality or in different quantity can be acquired to better achieve the ends sought by the relevant spending unit, the solicitation may be rewritten and the matter shall be rebid or another procurement method pursued, where determined appropriate;

(11) Issue a notice to cease and desist to a spending unit when the director has credible evidence that a spending unit has violated the requirements of this article and the rules promulgated hereunder. Failure to abide by the notice may result in penalties set forth in §5A-3-17 of this code; and

(12) Exempt particular transactions, or particular categories of transactions, from the requirements of this article; provided that the director, in consultation with any relevant spending unit, shall determine such exemption to be in the best interest of the state.

(13) Make the resources and expertise of the division available to spending units exempted from the requirements of this article: *Provided*, That the director may, in consultation with the relevant spending unit, assess an exempt spending unit for the division’s reasonable costs in order to ensure sufficient staffing and other resources to timely provide all necessary or requested assistance to the various spending units of the state.

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