WEST VIRGINIA CODE: §5a-3-4

§5A-3-4. Rules of director.

(a) The director shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code to:

(1) Authorize a spending unit to purchase specified commodities and services directly and prescribe the manner in which such purchases shall be made;

(2) Prescribe the manner in which emergency purchases made under § 5A-3-1(d) shall be reported to the director;

(3) Prescribe the manner in which commodities and services shall be purchased, delivered, stored and distributed;

(4) Prescribe the time for making requisitions and estimates of commodities and services, the future period which they are to cover, the form in which they shall be submitted and the manner of their authentication;

(5) Prescribe the manner of inspecting all deliveries of commodities, and making chemical and physical tests of samples submitted with bids and samples of deliveries to determine compliance with specifications;

(6) Prescribe the amount and type of deposit or bond to be submitted with a bid or contract and the amount of deposit or bond to be given for the faithful performance of a contract;

(7) Prescribe a system whereby the director shall be required, upon the payment by a vendor of an annual fee established by the director, to give notice to such vendor of all bid solicitations for commodities and services of the type with respect to which such vendor specified notice was to be given, but no such fee shall exceed the cost of giving the notice to such vendor, nor shall such fee exceed the sum of $125 per fiscal year nor shall such fee be charged to persons or entities seeking only reimbursement from a spending unit or to persons or entities only seeking to accept moneys granted by a spending unit under a grant agreement;

(8) Prescribe that each state contract entered into by the Purchasing Division shall contain provisions for liquidated damages, remedies or provisions for the determination of the amount or amounts which the vendor shall owe as damages, in the event of default under such contract by such vendor, as determined by the director;

(9) Prescribe contract management procedures for all state contracts except government construction contracts including, but not limited to, those set forth in §5-22-1 *et seq*. of this code;

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(10) Prescribe procedures by which oversight is provided to actively monitor spending unit purchases, including, but not limited to, all technology and software commodities and services exceeding $1 million, approval of change orders and final acceptance by the spending units;

(11) Prescribe that each state contract entered into by the Purchasing Division contain provisions for the cancellation of the contract upon 30 days' notice to the vendor;

(12) Prescribe procedures for selling surplus commodities to the highest bidder by means of an Internet auction site;

(13) Provide such other matters as may be necessary to give effect to the foregoing rules and the provisions of this article; and

(14) Prescribe procedures for encumbering purchase orders to ensure that the proper account may be encumbered before sending purchase orders to vendors.

(b) A person may not be employed as a state buyer unless he or she at the time of employment fulfills either of the following requirements:

(1) A graduate of an accredited college or university in a field determined relevant by the director; or

(2) Has at least two years' experience in purchasing for any unit of government or for any business, commercial or industrial enterprise.

Persons serving as State buyers are subject to the provisions of §29-6-1 *et seq*. of this code. Any director of the Purchasing Division hired after July 1, 2022, shall serve at the will and pleasure of the secretary and may not be subject to the provisions of §29-6-1 *et seq*. of this code.

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