WEST VIRGINIA CODE: §5a-3-61

§5A-3-61. Standardization.

(a) Notwithstanding any provision in this article to the contrary, a spending unit may utilize the process described in this section to standardize purchases of commodities used by the spending unit on a repeated basis. Such standardization may result in a determination that only a specific brand name for the commodity in question will be used.

(b) Standardization is limited to commodities that represent a core function of the spending unit's mission; would yield a savings of time and money if standardized; and either require testing or evaluation to determine accuracy or consistency or require interoperability in a larger system or network. Savings of time and money must be shown without considering the traditional procurement process or the standardization process.

(c) Any standardization established under this section shall be valid for no more than four years. Upon expiration, the spending unit establishing the standardization may either take no action, which would allow the standardization to end, or undertake the process outlined in this section to establish a new standard.

(d) A spending unit desiring to establish a standard must use the following procedure:

(1) The head of the spending unit must identify the commodity to be standardized and request approval from the director to establish a standard. The head of the spending unit shall provide to the director written certification and supporting evidence verifying that the requirements for standardization have been met.

(2) The spending unit must identify the individual or individuals that will be evaluating the commodity for standardization. Each individual must certify that he or she has no conflict of interest and can evaluate the information used to standardize without favoritism or bias. At least one individual involved in the standardization evaluation must be the spending unit's procurement officer. If the spending unit has no procurement officer, the individual responsible for the spending unit's procurement must participate in the evaluation.

(3) The spending unit must advertise the intent to standardize as a request for information in the system used at that time to solicit competitive bids. The spending unit should also identify all known entities that would have an interest in providing a commodity for evaluation and ensure that they receive notice of the request for information. The request for information must be advertised and allow for responses for no less than 30 calendar days. The request for information must notify the vendor community of the following:

(A) That the spending unit is attempting to standardize state procurements for the commodity in question;

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(B) That any entity interested in having its products considered for standardization should provide information on the benefits and drawbacks of that entity's products;

(C) Any evaluation criteria that the spending unit will use in the standardization decision;

(D) The date and time by which documentation must be provided; and

(E) The approximate date and time by which a decision will be made.

(4) If the spending unit desires to conduct product testing, it must notify vendors in the request for information and establish a time period during which tests will be performed. Vendors may provide commodities for demonstration, testing, and evaluation so long as such items are provided at no cost and no risk to the state. A written record describing the nature of the testing performed and a written record of the results of that testing shall be produced pursuant to any testing conducted on all the commodities being considered. The written record of testing and results shall be provided to the Purchasing Division and preserved.

(5) The spending unit will evaluate the information received in response to the request for information, information the spending unit has obtained from its own research, the results of any product testing, and anything else the spending unit finds relevant to establish a pending standardization.

(6) The spending unit must advertise the pending standardization as a request for information in the system used at that time to solicit competitive bids for a minimum of 15 calendar days. The request for information must notify the vendor community and any vendor who has participated in the standardization evaluation process of the following:

(A) The pending decision to standardize, including any brand name that has been tentatively selected the standard;

(B) The rationale for the selection made in the pending standardization;

(C) That comments may be submitted for review for a period of 15 calendar days from the date of the advertisement;

(D) The date and time by which a final decision will be made, which will be no less than three days after the comment period has ended; and

(E) The location where the final decision will be posted.

(7) The spending unit must review the comments submitted in response to the pending standardization advertisement and make any adjustments that it deems necessary.

(8) The head of the spending unit shall notify the director of a selection of the standard commodity, and the director shall post the results of the standardization decision on the

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Purchasing Division's website. The spending unit shall also specifically notify any vendor who participated in the standardization evaluation process of the results in writing, within five business days of the final standardization selection.

(e) Any vendor that participated in the standardization process may appeal the standardization decision to the head of the spending unit. The head of the spending unit shall consider the appeal in accordance with the administrative procedures established in chapter 29A of this code.

(f) Once a standard has been established, the Purchasing Division is authorized to solicit competitive bids on behalf of the spending unit in the form of a request for quotation for the standardized commodity.

(g) The director may develop any necessary forms and reporting templates for use in standardization approval, testing, reporting, or any other forms necessary to carry out the provisions of this section. Such forms and reports shall be maintained by the Purchasing Division.

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