WEST VIRGINIA CODE CHAPTER 6D ARTICLE 1

WV Legislature

§6D-1-1. Definitions.

For purposes of this article:

(a) “Applicable contract” means a contract of a state agency that has an actual or estimated value of at least $1 million: Provided, That this shall include a series of related contracts or orders in which the cumulative total exceeds $1 million.

(b) “Business entity” means any entity recognized by law through which business is conducted, including, but not limited to, a sole proprietorship, partnership, limited liability company, or corporation. For purposes of this article, “business entity” does not include publicly traded companies listed on a national or international stock exchange.

(c) “Disclosure” shall mean a form prescribed and approved by the Ethics Commission pursuant to §6D-1-3 of this code.

(d) “Interested party” or “interested parties” means: (1) A business entity performing work or service pursuant to, or in furtherance of, the applicable contract, including sub-contractors; (2) any person who has an ownership interest equal to or greater than 25 percent in the business entity performing work or service pursuant to, or in furtherance of, the applicable contract; and (3) the person or business entity, if any, that served as a compensated broker or intermediary to actively facilitate the applicable contract or negotiated the terms of the applicable contract with the state agency: Provided, That §6D-1-1(d)(3) of this code shall not include persons or business entities performing legal services related to the negotiation or drafting of the applicable contract.

(e) “State agency” means a board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government, including publicly funded institutions of higher education: Provided, That for purposes of this article, the West Virginia Investment Management Board shall not be deemed a state agency nor subject to the requirements of this article.

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§6D-1-2. Disclosure of interested parties to a public contract; supplemental disclosure.

(a) A State agency may not allow a vendor to perform work on an applicable contract that has been awarded to a business entity unless and until the business entity submits to the state agency a disclosure of interested parties to the applicable contract.

(b) The business entity shall submit the disclosure to the State agency prior to commencing work on an applicable contract award.

(c) Within 30 days following the completion or termination of the applicable contract, the business entity shall submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract.

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§6D-1-3. Filing with Ethics Commission.

(a) The disclosure of interested parties must be submitted on a form prescribed and approved by the Ethics Commission that includes:

(1) A list of each interested party to the contract that is known or reasonably anticipated by the contracting business entity; and

(2) The signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.

(b) Not later than the fifteenth day after the date the state agency receives an initial or supplemental disclosure of interested parties required under this section, the state agency shall submit a copy of the disclosure to the Ethics Commission.

(c) The Ethics Commission shall make copies of the disclosures received from state agencies publicly available. To the extent possible under existing technology or upon obtaining sufficient technology, the Ethics Commission shall post copies of the disclosures on the commission's website.

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§6D-1-4. Higher Education Compliance.

(a) The provisions of section two and three of this article do not apply to applicable contracts of a state institution of higher education, as defined in section two, article one, chapter eighteen-b, if the state institution of higher education complies with the requirements of this section and has a policy in place that provides as follows:

(1) For business entities that are not registered to do business with the State of West Virginia, at the time of registration of a business entity seeking to enter into an applicable contract with a state institution of higher education, the state institution of higher education requires the business entity to disclose in writing the interested parties of the business entity before any applicable contracts are executed;

(2) For business entities that are already registered to do business with the State of West Virginia, and a business entity is seeking to enter into an applicable contract with a state institution of higher education, the state institution of higher education requires the business entity to disclose in writing the interested parties of the business entity before any applicable contract is executed;

(3) Business entities are required to update any changes to the list of interested parties of the business entity on a periodic basis; and

(4) The disclosures required by this section are made in writing, by an authorized agent under oath and under penalty of perjury.

(b) The state institution of higher education shall provide a report to the ethics commission on or before December 31 of each year listing all business entities that received more than one-hundred thousand dollars from the institution of higher education during the previous fiscal year, with an accompanying list of interested parties provided by each such business entity.

(c) For purposes of this section, the term “interested parties” shall not include any sub-contractors receiving less than $50,000 under an applicable contract.

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