



WEST VIRGINIA PURCHASING DIVISION
PROCEDURES HANDBOOK

SECTION 9: EXEMPT PURCHASES

West Virginia Purchasing Division
Non-Competitive / Exempt List of Commodities and Services

In accordance with §5A-3-10 of the *West Virginia Code*:

“...a purchase of and contract for commodities, printing and services shall be based, whenever possible, on competitive bids.”

In accordance with the Code of State Rules 148CSR1-4,

The Director shall:

(a) Ensure that purchases and contracts for commodities, services or printing are based on competitive bid where possible. The Director may establish a list of commodities and services that are not possible to submit for competitive bid. The Director shall approve the list before the beginning of each fiscal year and shall make the list available for public review. Spending unit may purchase the commodities and services on the list directly from the vendor and are not required to have contracts for purchase of those items approved by the Purchasing Division. A spending unit’s request to add commodities and services to the list must be accompanied by written justification and an explanation of why competitive bids are not possible. Nothing in this section supersedes or replaces the Attorney General’s authority to approve contracts as to form.

In accordance with *West Virginia Code* §5A-3-10 and the *West Virginia Code of State Rules* §148-1-4, the Director has determined that it is not possible to obtain certain commodities and services through the competitive bidding process. The Director has identified those items that cannot be competitively bid in the Non-Competitive/Exempt List of Commodities and Services (hereinafter “Exempt List”) shown below.

Purchasing Division approval is not required for these Exempt List procurements, unless specifically noted. Vendor registration and all other requirements for the dollar amount of the purchase are mandatory for contracts for these commodities and services.

Except as outlined in the preceding paragraph, spending units purchasing from vendors under the Exempt List must continue to observe the standard purchasing procedure associated with a normal (non-Exempt List) purchase of the same dollar amount. For

example, the use of a purchase order is required on all purchases over \$2,500. Similarly, spending units must continue to submit contracts to the Attorney General's office for approval, as to form.

Vendors providing commodities and services under the Exempt List must complete the necessary vendor registration forms.

The following items comprise the non-competitive/exempt list of commodities and services that may be purchased directly by spending units without advertisement or bid.

1. **Advertising:** This exemption includes Class II advertisements and any other advertisement placed directly with newspapers, trade magazines, internet publications. It does not include any indirect placement, promotional items, advertising consultant services, broadcast of Lottery prize drawings, etc.
2. **Aviation Fuel:** This exemption includes the purchase of aviation fuel, but excludes bulk purchases for delivery to state dispensing stations.
3. **Government Agencies and Entities:** This exemption only includes: (1) contracts between government agencies and entities that are specifically required by law (any contract or purchase order issued must cite the law and maintain copy on file); (2) regulatory fees legally imposed by government agencies and entities.
4. **Court Ordered Placements:** This exemption includes when placing children at various educational and/or behavioral centers when ordered by West Virginia courts or the West Virginia Department of Health and Human Resources.
5. **Postage:** This exemption includes stamps and other mailing services from the United States Postal Service, but this does not include services available from statewide contracts.
6. **Railroad Car Hire Fees:** This exemption includes national association fees required from all railroads to monitor the location and use of railroad cars for the owners. Bar codes on railroad cars are scanned into a computer database which in turn notifies the owner of the location and remits the user fees to the appropriate owner.
7. **Utilities Regulated by the Public Service Commission:** This exemption includes natural gas, water, sewage, electric, telephone, garbage, cable television service, connection fees, trash hauling and dumpster rental [if only one **PSC** approved hauler is in the area]. This exemption does not include propane gas, coal, and satellite television, all of which must be competitively bid.

8. **Court Ordered Payments:** This exemption includes court order payment. A copy of the court order must be maintained in the agency file, unless sealed and restricted by the respective judge. If the order is sealed and restricted, an explanation must be maintained in the agency file referencing the court order. Court order payments are exempt from the vendor registration requirement.