

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

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WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: WV State Auditor's Office TITLE NUMBER: 155

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

TITLE OF RULE BEING AMENDED: "State Purchasing Card Program"

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 299

SECTION 64-9-2, PASSED ON March 11, 2006/Gov Signed April 5

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: April 11, 2006

Carrie J. Chambers
Authorized Signature

#3.80

PROMULGATION HISTORY

155CSR7 – “State Purchasing Card Program”

June 29, 2005	Filed as Notice of a Comment Period on a Proposed Rule with Secretary of State’s Office and Legislative Rule-Making Review Committee
July 29, 2005	Notice of Agency Approval of a Proposed Rule and Filing with the Secretary of State’s Office and Legislative Rule-Making Review Committee
December 21, 2005	Notice of Rule Modification of a Proposed Rule
March 11, 2006	Governor Passed SB 299
April 5, 2006	Governor Signed SB 299 Authorizing Amendments to 155CSR7
April 11, 2006	Final Filed with Secretary of State’s Office with Effective Date of April 11, 2006

TITLE 155
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION AND STATE AUDITOR

SERIES 7
STATE PURCHASING CARD PROGRAM

FILED
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WEST VIRGINIA
CLERK OF STATE

(EDITOR'S NOTE: 148CSR HAS BEEN MOVED TO 155CSR7. TECHNICAL CLEANUP
WILL BE MADE AT A LATER DATE)

§155-7-1. General.

1.1. Scope. -- This Legislative Rule is an explanation and clarification of operative procedures for the State Purchasing Card Program. This program provides an alternative process for the purchase of and payment for goods and services in Transactions which do not exceed the Transaction Limit.

1.2. Authority. -- W. Va. Code §12-3-10a.

1.3. Filing Date. -- April 11, 2006

1.4. Effective Date. -- April 11, 2006

§155-7-2. Definitions.

2.1. "Auditor" means the Auditor of the State of West Virginia.

2.2. "Cardholder" means the individual responsible for and named on the purchasing card.

2.3. "Director" means the Director of the Purchasing Division of the Department of Administration and/or program administrator for the Auditor's office.

2.4. "Emergency management or response personnel" means all persons acting under color of authority of state law engaged in rescue efforts, emergency or disaster relief recovery or coordination of emergency services, and are identified as such by the Governor, set forth in

subsection 3.2 of this rule.

2.5. "Goods" means commodities, supplies, materials, printing, equipment, and any other articles or items used by or furnished to a spending unit.

2.6. "Maintenance" means services to maintain an item of equipment or computer software, including parts incidental to providing the service.

2.7. "Point of Sale Vendor" means the point of sale or supplier of goods or services purchased with the Purchasing Card, not the State Purchasing Card Provider.

2.8. "Purchasing card" or "card" means the charge card authorized by the Director to provide payment for Transactions.

2.9. "Purchasing Card Authorization Administrator" or "Authorization Administrator" means the individual designated by the Director to coordinate the Purchasing Card Program.

2.10. "Purchasing Card Coordinator" or "Coordinator" means the individual designated by the spending officer to coordinate the State Purchasing Card Program.

2.11. "Purchasing Card Provider" or "Provider" means the entity providing the State with Purchasing Card services.

2.12. "Services" means the furnishing of labor, time or effort by a contractor, not

involving the delivery of a specific end product other than reports which are merely incidental to the required performance. Services include maintenance and utilities, but do not include tax reportable services.

2.13. "Spending officer" means the executive head of a spending unit, or a person designated by him or her.

2.14. "Spending unit" means a department, agency or institution of State government for which an appropriation is requested, or to which an appropriation is made by, the Legislature.

2.15. "State Purchasing Card Program" or "program" means the purchase of and payment for Transactions which do not exceed the Transaction Limit through use of the Purchasing Card.

2.16. "Statewide Contract" means a legally binding instrument competitively bid, awarded and maintained by the Purchasing Division to provide services or tangible goods to all state spending units at a specified price. Statewide contract usage is mandatory for all agencies under the jurisdiction of the Purchasing Division and available (upon mutual consent) to agencies not under the jurisdiction of the Purchasing Division.

2.17. "Transactions" means the purchase of and payment for:

2.17.a. Goods the cost of which do not exceed the Transaction Limit;

2.17.b. Services as follows:

2.17.b.1. Maintenance;

2.17.b.2. Utilities---no Transaction Limit; and

2.17.b.3. Any other Services not exceeding the Transaction Limit which are not tax reportable.

2.17.c. Registration fees for institutions or for individuals where the fees are required for the performance of the employee's job;

2.17.d. Tuition for seminars, academic courses, or other education, continuing or otherwise as are required for the performance of an employee's job duties and authorized by law or Attorney General opinion;

2.17.e. Travel for Higher Education, not to exceed \$5,000 for any purchase, except where approved by the Auditor, where the travel is required for the performance of the employee's job; provided that, except for West Virginia University and Marshall University, the purchasing card shall not be used to pay for the purchase of food or fuel costs associated with the travel; and

2.17.f. Routine, regularly scheduled payments of Higher Education not to exceed \$5,000 for any purchase unless approved by the Auditor. Routine, regularly scheduled payments of Higher Education means all payments which have either received Attorney General approval in accordance with statute or do not require such approval, and are made on a regular, predictable and routine basis whether weekly, monthly, annually, or on any other regular schedule. The routine, regularly scheduled payments are limited to the following: association dues; accreditation fees; contracts; software licenses and maintenance fees; resale merchandise; maintenance contracts; temporary space rentals; inter-library loan charges; inter/intra-institutional charges; contracts for artists, entertainers, and speakers; open end contracts; license fees of all types; utilities of all types; Federal, State and Municipal fees and assessments; real property rental fees; postage; books and related items, including those for libraries and bookstores; hospitality expenses; travel expenses;

shipping, handling, and freight charges; advertising; subscriptions; periodicals, and publications; athletic and academic team related expenses; and necessary job related medical or drug testing and treatment.

2.18. "Transaction Limit" means the maximum dollar amount permitted in any single Transaction as follows:

2.18.a. For the period beginning July 1, 2000, the maximum dollar amount is \$2,500, except as provided in subdivisions 2.17.e, 2.17.f, and 2.18.c, d, and e of this subsection;

2.18.b. Cumulative purchases including maintenance not foreseen to exceed state purchasing or higher education guidelines are eligible for payment by the purchasing card;

2.18.c. For specified emergency cards, in the event of a state of emergency as defined in Chapter 15, the transaction limit is the credit limit associated with the card and as provided in WV Code 18B-5-9, the transaction limit for Higher Education is the credit limit associated with the card, where approved by the Auditor;

2.18.d. For specified cards, the transaction limit may be \$5,000 for institutions of higher education; and

2.18.e. For specified regular, routine payments of Higher Education as set forth in WV Code 18B-5-9, the transaction limit is the credit limit associated with the card where approved by the Auditor.

2.19. "Utilities" means electricity, gas, heating oil, telephone, television cable, water, sewage, garbage collection, and similar services.

§155-7-3. Applicability.

3.1. This legislative rule applies to all spending units of State government except

those statutorily exempted. Exempted spending units may elect to follow the provisions of this rule.

3.2. In the event of a state or federally declared emergency, public necessity, rescue relief or disaster, the Governor or his or her designee may authorize the use of the purchasing card for use by emergency management or response personnel. Emergency management and response personnel may use the purchasing card for all transactions permitted by this rule as well as for travel, lodging, meals and the purchase of immediate goods and services following the applicable law or rule relating to the Purchasing Division: Provided, That the Governor or his or her designee shall provide to the Authorization Administrator a list containing the names of persons designated as emergency management and response personnel, and any other information required for the issuance of a state purchasing card. An emergency terminates thirty (30) days from the date of proclamation, unless previously extended or terminated by written proclamation by the governor: Provided, however, That use of the purchasing card is permitted only during the emergency, public necessity, rescue relief or disaster, to which the emergency management or response personnel are responding, and that upon the proclamation of the termination of the emergency, public necessity, rescue relief or disaster by the Governor, or the passage by the legislature of a concurrent resolution terminating such emergency, public necessity, rescue relief or disaster, the privilege of use terminates: Provided, further, That emergency management and response personnel have an additional thirty days after the termination of the emergency to pay invoices for goods and services rendered during the state of emergency.

3.3. In the event of an emergency affecting an institution of Higher Education, declared by the president of the institution and approved by the chancellor, the

president or his or her designee may authorize the use of an emergency purchasing card by a designated representative: Provided, That the president or his or her designee shall provide to the Authorization Administrator a list containing the names of designated emergency purchasers, and any other information required for the issuance of a state purchasing card. An emergency terminates thirty (30) days from the date of proclamation, unless previously extended or terminated by written proclamation signed by the president and approved by the chancellor: Provided, however, That use of the purchasing card is permitted only to pay for goods and services rendered during the emergency: Provided, further, That the institution shall have an additional thirty days after the termination of the emergency to pay for goods and services rendered during the emergency.

§155-7-4. Power and Authority.

4.1. The Director may:

4.1.a. Allow card purchases of Transactions not exceeding Transaction Limits;

4.1.b. Establish the manner in which spending units may purchase supplies directly from the State's central storerooms or other spending units using the program;

4.1.c. Prohibit use of the card for cash advances;

4.1.d. Ensure goods and services purchased are received in advance of or simultaneously with use of the Purchasing Card;

4.1.e. Ensure cards are used for official state purchases only;

4.1.f. Review spending unit records of card purchases;

4.1.g. In joint effort with the Auditor, resolve questions and conflicts regarding procedural matters related to the implementation and administration of the card; questions that relate to significant policy changes require joint approval with the Auditor;

4.1.h. Revoke authority to use a card at any level of use if Director determines a spending unit is in violation of this rule;

4.1.i. In joint effort with the Auditor, draft letters and memorandum concerning purchasing card policies and procedures and changes in the program;

4.1.j. Maintain a current cardholder list;

4.1.k. In joint effort with the Auditor, coordinate contractual agreements between the Provider and the State of West Virginia;

4.1.l. Review and approve new card application forms and cardholder maintenance forms reflecting cancellations or other changes to cardholder information;

4.1.m. Maintain coordinator listing with the Auditor;

4.1.n. In joint effort with the Auditor, advise and train coordinators and cardholders in correct business usage of the card;

4.1.o. Authorize cardholder renewals;

4.1.p. Approve all limit changes for cardholders and spending units as requested by the coordinators;

4.1.q. In joint effort with the Auditor, research new applications for the Purchasing Card;

4.1.r. In joint effort with the Auditor, assist spending units with establishing purchasing card programs;

4.1.s. In joint effort with the Auditor, assist point of sale vendors who wish to participate in the purchasing card program; and

4.1.t. Direct the Purchasing Card Provider to restrict the Point of Sale Vendor from using the program when the restriction is in the best interest of the State.

4.2. The Auditor may:

4.2.a. Establish procedures for documenting, reconciling and paying invoices for card purchases;

4.2.b. Establish the manner of inspecting all records and reconciling documents involving card purchases;

4.2.c. Establish the manner in which spending units document purchases and reconcile invoices prior to submission of the invoices to the Auditor for payment;

4.2.d. Approve the format of Purchasing Card Provider invoices;

4.2.e. In cooperation with the State Treasurer, assess and collect penalty fees against spending units for failing to use the card for Transactions that qualify for the program, and deposit the fees in the Technology Support and Acquisition Fund. The Auditor and Treasurer shall set the fee in a legislative rule;

4.2.f. In joint effort with the Director, market the program to spending units, the general public and other states and municipalities;

4.2.g. Receive cardholder maintenance forms reflecting cancellations or other changes to cardholder information; and

4.2.h. Monitor available credit by spending unit on a daily basis, and, when necessary, intervene with the Provider and/or spending unit to prevent a spending unit from exceeding the maximum credit level.

4.3. Purchasing Card Coordinators:

4.3.a. Each spending unit's procurement administrator or his or her designee shall serve as the spending unit Purchasing Card Coordinator and shall determine to whom cards will be issued based upon the purchasing authority of each individual.

4.3.b. Purchasing Card Coordinators may restrict usage of the card consistent with the needs of the spending unit.

§155-7-5. Point of Sale Vendor Participation.

5.1. Each Point of Sale Vendor desiring to participate in the program is solely responsible for contracting or enrolling with the Purchasing Card Provider under the terms and conditions set forth in the agreement between the Purchasing Division and Purchasing Card Provider.

§155-7-6. Purchasing Methods.

6.1. The provisions of W. Va. Code §5A-3-1 et seq., and the Purchasing Division Purchasing Rules, 148 CSR 1, apply to purchases made with the card, except where exempt by statute.

6.2. The cards are to be used in the State's best interest.

6.3. The card may be used as a payment method for releases (orders) against statewide contracts, in accordance with the transaction limit as set forth in subsection 2.18 of this rule, excluding those

requiring advance approval of the Purchasing Division. There is no annual limit for payments against statewide contracts.

6.4. With the written approval of the Auditor and the Director to the department head or chief fiscal officer of an agency, an agency may use the card as a payment method on agency open-ended contracts.

§155-7-7. Itemizing Claims for Payment.

7.1. A spending unit is not required to submit individual itemized vendor invoices for purchases made with the card that do not exceed the Transaction Limit.

7.2. The Purchasing Card Provider shall provide a consolidated multiple vendor invoice to the spending officer of each spending unit, as required by the Auditor. A spending officer may consolidate payments into one monthly payment to the Purchasing Card Provider. Each spending unit may require changes in the format of invoices to meet its needs, with the approval of the Auditor.

§155-7-8. Violations.

8.1. Any person who authorizes or approves a purchase or contract payment in a manner in violation of this rule or the West Virginia Code is guilty of a felony, pursuant to W. Va. Code §12-3-10b.



State of West Virginia

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Glen B. Gainer III
State Auditor

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April 11, 2006

Ms. Judy Cooper
Director
Administrative Law Division
Secretary of State's Office
Capitol Complex
Charleston, West Virginia 25305

RE: 155CSR7 – "State Purchasing Card Program"

Dear Ms. Cooper:

This letter will serve as my approval to file the above-referenced rule with your office as "Notice of Final Filing and Adoption of a Legislative Rule Authorized by the West Virginia Legislature."

If you should have any questions concerning the above, please call Carrie Chambers in my office at 558-2251. Your assistance in this filing is very much appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen B. Gainer III".

Glen B. Gainer III
State Auditor

GBGIII:cc

Attachment

c: Carrie Chambers