



State of West Virginia

Office of the State Auditor
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Glen B. Gainer III
State Auditor

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March 11, 2003

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

Dear Ms. Cooper:

The rules for the Purchasing Card Program are currently under the Department of Administration's Title 148, Series 7. However, the Auditor's Office has had the primary responsibility of maintaining and filing the rules.

Because this office has had the primary responsibility for these rules since the inception of the program, I am requesting that your office transfer these rules to our Title 155. Enclosed is an amended copy of the Purchasing Card Rule reflecting only the Title change from 148 to 155. The rule will be further amended to reflect the appropriate technical corrections during the Legislative Rule-Making timeframe in conjunction with the 2004 Legislative Session.

I have also enclosed a letter from Dave Tincher, Director of Purchasing in the Department of Administration, to Aaron Allred, Legislative Auditor, agreeing in principle to this request.

If you have any questions, please call Jack McDonald of my office at 558-2251, extension 191.

Sincerely,

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

Glen B. Gainer III
State Auditor

GBGIII:cc

cc: Debra A. Graham, Counsel
Legislative Rule-Making Review Committee

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**TITLE 155
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION AND STATE AUDITOR**

**SERIES 7
STATE PURCHASING CARD PROGRAM**

§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 18, 2002.

1.4. Effective Date. -- April 18, 2002.

§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.

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.

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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; and

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.

2.18. "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 \$2,500.00, except as provided in subdivisions 2.18.c and d 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 cards, the transaction limit is \$25,000.00 in the event of a state of emergency as defined in Chapter 15 of the West Virginia Code; and

2.18.d. For specified cards, the transaction limit may be \$5,000.00 for institutions of higher education.

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 rules 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; 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.

§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, 155 CSR 1, apply to purchases made with the card.

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.



BOB WISE
GOVERNOR

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
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P.O. BOX 50130
CHARLESTON, WEST VIRGINIA 25305-0130


GREGORY A. BURTON
CABINET SECRETARY

DAVID TINCHER
DIRECTOR

MEMORANDUM

Date: December 30, 2002

To: Aaron Alred
Legislative Manager

From: David Tinchler, Director
Purchasing Division 

Re: Proposed Purchasing Card Legislation

Thank you for the opportunity to review and provide suggestions to the proposed changes to Purchasing Card legislation found in West Virginia Code §12-3-10a.

The Purchasing Card program started as joint responsibility of the Auditor's Office and the Purchasing Division. In the beginning, it was beneficial to have two agencies working together to develop the program, with each having a distinct portion of the duties and responsibilities.

At the current maturity level of the program however, we believe it is time for one agency to assume control, provided there can be separation of the payment and purchasing functions. If the program, through statute and rule, can be structured in this manner, we are willing to support legislative change that would give the Auditor's Office authority over this payment program.

Generally, we believe that this program should be changed, by code, to reflect the intent and actual practice and offer the following:

1. **Change the name from "Purchasing Card" to "Payment Card".**
This change will more accurately describe the program, since most of the rules, procedures, etc. are related to payment and not purchasing. Many of the agency personnel involved in the program are more involved in the payment function than the purchasing function. The Auditor currently has staff in place and funding guaranteed via rebates to subsidize this program.

2. **Provide the Auditor's Office all authority over payments.**
Clearly state that the Auditor's Office has sole authority with regard to the payment of invoices in this program. Allow the Auditor's Office to impose penalties against agencies for violation of payment procedures. With regard to violation by vendors, the Auditor should be limited to suspension from the program, since existing law covers vendor problems.
3. **Provide the Purchasing Division with all authority over purchasing matters.**
Clearly state that the Purchasing Division has sole authority with regard to purchasing procedures. Since current statutes exist governing purchasing violations, require that only the Purchasing Division can impose penalties against agencies and/or vendors for non-compliance with purchasing procedures.
4. **Change the day to day responsibilities of the Purchasing Division in this program to the Auditor's Office.**
In practice, the Auditor's Office performs most of the day to day responsibilities. The Purchasing Division, in practice, performs approval of new card applications and changes related to card limits and cancellations. We believe the Auditor's Office could easily absorb this function.

Attached you will also find comments made to the December 12, 2002 draft provided by the State Auditor's Office to the Purchasing Card Advisory Committee meeting earlier this month. Comments and suggest made in this memorandum and those attached may not be all inclusive to support the intent of changing this program in the manner described.

If you have questions, or need additional information, please let me know.

cc: Gregory A. Burton, Cabinet Secretary