

SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

FILED

AUG 10 1 56 PM '00

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AGENCY: WV STATE AUDITOR Administration TITLE NUMBER: 148

CITE AUTHORITY 12-3-10A

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

TITLE OF RULE BEING AMENDED: PURCHASING CARD PROGRAM

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature



State of West Virginia
OFFICE OF THE STATE AUDITOR
CHARLESTON 25305

GLEN B. GAINER, III
STATE AUDITOR

August 8, 2000

PAUL S. MOLLOHAN
CHIEF CLERK

Judy Cooper
Director
Administrative Law Divisions
Secretary of State
Charleston. WV 25305

Dear Ms. Cooper

I am submitting the notice of rule modification of a proposed rule, title 148, series 7, "Purchasing Card Program", for the State Auditor's Office.

The effect of this change is to add agency-wide contracts to the eligible list for purchases by use of the purchasing card.

The rule was filed for public comment on June 29, 2000 with the period expiring on July 31, 2000. No public comments were received during the thirty day period.

Sincerely,

A handwritten signature in cursive script that reads "Paul S. Mollohan".

Paul S. Mollohan
Senior Deputy State Auditor

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: PURCHASING CARD PROGRAM

Type of Rule: **Legislative** **Interpretive** **Procedural**

Agency WV STATE AUDITOR

Address

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

3. Objectives of these rules:

TO CLARIFY THE USE OF THE CARDS FOR STATEWIDE AND AGENCY OPEN-ENDED CONTRACTS

Rule Title: PURCHASING CARD PROGRAM

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NA

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

NA

C. Economic Impact on Citizens/Public at Large.

NA

Date: 8/10/00

Signature of Agency Head or Authorized Representative

Paul Mollohan

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 8/10/00

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV STATE AUDITOR'S OFFICE

W-100

(304) 558-2251

LEGISLATIVE RULE TITLE: PURCHASING CARD PROGRAM

1. Authorizing statute(s) citation 12-3-10A

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

6/29/00

b. What other notice, including advertising, did you give of the hearing?

NONE

c. Date of Public Hearing(s) or Public Comment Period ended:

7/31/00

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received 0

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:
(be exact)

8/10/00

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

PAUL S. MOLLOHAN

SENIOR DEPUTY STATE AUDITOR

W-100

(304) 558-2251/558-5200/PAULM@WVAUDITOR.COM

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a

hearing for the taking of evidence and a general description of the issues to be decided.

NA

b. Date of hearing or comment period:

NA

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

NA

d. Attach findings and determinations and reasons:

Attached NA

**TITLE 148
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION AND STATE AUDITOR**

FILED

AUG 10 1 56 PM '00

**SERIES 7
STATE PURCHASING CARD PROGRAM**

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§148-7-1. 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.** — May 2, 2000

1.4. **Effective Date.** — May 2, 2000

§148-7-2. 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.

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:

(a) Goods the cost of which do not exceed the Transaction Limit;

(b) Services as follows:

(i) Maintenance— Annual Transaction Limit of \$15,000.00 for all colleges and universities and \$10,000.00 for all other spending units in accordance with state purchasing guidelines.

(ii) Utilities—no Transaction Limit; and

(iii) Any other Services not exceeding the Transaction Limit which are not tax reportable.

(c) Association dues and registration fees for institutions or for individuals where the dues or fees are required for the performance of the employee's job; and

(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:

(a) For the period beginning July 1, 2000, the maximum dollar amount is \$2,500.00, except as provided in subdivision 2.18(c) of this subsection.

(b) Cumulative purchases including maintenance forseen to exceed \$15,000.00 annually for all colleges and universities and \$10,000.00 annually for all other spending units in accordance with state purchasing guidelines are not eligible for purchase by the purchasing card; and

(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.

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

§148-7-3. 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.

§148-7-4. Power and Authority.

4.1. The Director may:

- (a) Allow card purchases of Transactions not exceeding Transaction Limits;
- (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;
- (c) Prohibit use of the card for cash advances;
- (d) Ensure goods and services purchased are received in advance of or simultaneously with use of the Purchasing Card;

(e) Ensure cards are used for official state purchases only;

(f) Review spending unit records of card purchases;

(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;

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

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

(j) Maintain a current cardholder list;

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

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

(m) Maintain coordinator listing with the Auditor;

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

(o) Authorize cardholder renewals;

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

(q) In joint effort with the Auditor, research new applications for the Purchasing Card;

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

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

(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:

(a) Establish procedures for documenting, reconciling and paying invoices for card purchases;

(b) Establish the manner of inspecting all records and reconciling documents involving card purchases;

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

(d) Approve the format of Purchasing Card Provider invoices;

(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;

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

(g) Receive cardholder maintenance forms reflecting cancellations or other changes to cardholder information; and

(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

(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.

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

§148-7-5. 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.

§148-7-6. 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.

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 exception of orders against statewide contracts, the card cannot be used as a payment method for purchases forseen to exceed \$15,000.00 annually for all colleges and universities and \$10,000.00 annually for all other spending units in accordance with state purchasing guidelines.

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

§148-7-7. 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.

§148-7-8. 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.