

# ANNUAL REPORT FROM THE CONTRACTING AND PURCHASING ADVISORY COUNCIL

---

The following is provided in adherence with Title 29 [§ 6913](#) (d) (2) which requires an annual report to the Governor by December 31st of each year concerning the effectiveness of the State's procurement processes. This report shall include recommended changes to the State's procurement laws as may be necessary to improve the State's overall effectiveness.

## Summary of Results

Through the end of FY14, the My Marketplace (MMP) team received and posted 472 solicitations from various agencies. This represents a 12% reduction from solicitations posted through the end of FY13 at 537 solicitations.

As of the end of FY14, there were 631 awarded contracts posted to the MMP site, which represents a 21.8% increase from FY13 at 518 awarded contracts.

Vendor Outreach communication performed in FY14, by the Central Contracting team of Government Support Services (GSS), totaled 53,142 notices sent to individual firms and represents a 3% decrease from FY13 with 54,790 individual contacts.

As of the end of FY14, there were 4,983 unique vendors signed up to receive notification from the State of Delaware's Bid Directory.

Through the end of FY14, spend with GSS central contracts increased 10.5% to \$221,666,788. This compares with \$200,582,957 in FY13. Of the FY14 central contract spend, approximately 15% was spent by school districts at \$33,879,531.

For FY14, GSS realized savings of \$424,494 for agencies through the I Found It Cheaper review process.

In 2014, GSS saved school districts more than \$1.8MM by aggregating a school computer purchase program.

## I. Overview of 2014 Contracting and Procurement Activities

### Professional Development of Contracting Personnel

All of the GSS team members belong to the National Institute of Government Procurement (NIGP), National Association of State Procurement Officials (NASPO), and the National Contract Management Association (NCMA). These organizations promote the professional development of procurement individuals and provide access to other procurement personnel and resources. These resources include professional forums in which to query and learn about

market and procurement issues and challenges and provide educational resources including access to conferences as well as live and/or electronic training webinars. They also provide access to participate in the development and award of cooperative contracts that allow Delaware to take advantage of greater volume discounts due to national aggregation of spend across all participating members.

Personnel from several agencies belong to the Delaware Public Procurement Association (DPPA). Agencies represented within the organization include GSS, Department of Safety and Homeland Security (DSHS), Department of Correction (DOC) and New Castle County.

In 2014, and at no cost to the State, Delaware sent five (5) team members to the NASPO Eastern Region conference in Atlantic City, NJ and the GSS Director and a Contract Supervisor participated in forum panel discussions. GSS also sent representatives to the NASPO Marketing to the States conference where vendors can market to the public procurement personnel directly. GSS also sent representatives to the NASPO National Conference, and the GSS Director participated in several panel forums, further demonstrating the State of Delaware's leadership position within the public procurement arena. (All conference attendance expenses are covered by the national organization.)

During the year, 3 GSS team members received nationally recognized professional procurement certifications. Currently, the GSS staff is represented by personnel with the following certifications:

- 1 – Certified Professional Public Buyer (CPPB)
- 3 – Certified Public Procurement Officer (CPPO)

Further, personnel from other agencies with professional certification include representatives from the following:

- 1 – DeIDOT (CPPB and CPPO)

## **State Training and Professional Development**

Over the past two years, GSS has established and continues to deliver training aimed at educating both Agencies and Vendors. Trainings established include Vendor Day, Procurement Basics and Formal Procurements presentations. In FY14, GSS has presented the following agency programs:

- Procurement Basics – three classes with 85 attendees
- Formal Procurements 1 – two classes with 73 attendees
- Formal Procurements 2 – one class with 32 attendees

Agency-level trainings consist of the Procurement Basics, Formal Procurements 1 and Formal Procurements 2. The Vendor Day presentations are vendor centric events and are typically held at 100 Enterprise Place in Dover. In 2014, GSS held two events in New Castle County which included Department of Health and Social Services (DHSS) personnel to respond to vendor questions. GSS also initiated the K12 Vendor Day presentations, which are held at off-site locations and in coordination with school district personnel

Further, the central contracting team provides educational assistance to any agency that has questions about contracting policy or procedures. In FY14, Government Support Services has provided over 65 unique and in-depth assistance efforts to agencies; ranging from procedural questions to solicitation reviews. This agency assistance number is in addition to the hundreds of individual questions that are directed at GSS on an annual basis.

Although GSS had only one primary trainer on the team, all of the GSS staff has begun to rotate through the training delivery schedule of the above referenced modules. Otherwise, central contract personnel are encouraged to participate in the regular Open for Business meetings held monthly within each of Delaware's counties. This regular activity promotes interest in state bids and represents an on-going business development opportunity outreach to the local business community.

As of March 2014, GSS has awarded a Learning Management contract which will be used as a tracking mechanism for a formal training program for all authorized state contract agents. Working through a development group which included GSS, HRM, and other OMB resources, the program will provide required training and tracking for all personnel that will have contract signature authority.

The GSS team has completed individual presentations to departments to explain what, how and why the central contract (GSS) team is working towards. In 2014 GSS completed presentations to the following groups:

- Delaware Economic Development Office
- Internet Resource Management Council, and
- BDPA

The GSS team manages standard bid solicitation templates for use by agency personnel. The standard boilerplates are available on the [www.mymarketplace.delaware.gov](http://www.mymarketplace.delaware.gov) website along with contract process flow charts to ensure all contract personnel are well versed. Templates are regularly updated to ensure that the most recent regulation and code changes have been incorporated, thereby limiting state liability.

## Vendor and Constituent Education

GSS has shown continued commitment to delivering Vendor Day presentations and has delivered eight separate trainings in FY14. These trainings are aimed at expanding the number of vendors that attempt to sell to the State and over 300 people have attended. While these presentations are aimed at formal procurements and response to bid solicitations, vendors are also shown how to market and seek under threshold sales to agencies. Further, resources are provided that show businesses how to utilize the free information provided through the MMP website to evaluate business intelligence and make better business decisions.

In FY14, GSS has presented the following vendor programs:

- Vendor Day – five classes with 155 vendors in attendance
- K12 Vendor Day – three classes with 50 vendors in attendance

In general, these trainings have several primary goals:

1. Vendor participation and engagement,
2. Economic Business Development,
3. Education,
4. Transparency in Government (as it relates to Contracting), and
5. OSD Training and Education.

Each of the Vendor Day presentations is demonstrated in participation with the Office of Supplier Diversity (OSD). The educational training provides information on how to access

resources with the GSS and OMB websites, including [www.mymarketplace.delaware.gov](http://www.mymarketplace.delaware.gov), the OSD website, and individual agency websites. By using OSD participation, the central contract team is always looking to expand the diversity of vendors bidding on contracts, demonstrate opportunity and meet goals that benefit the business community without requiring mandates or quotas. This activity is in support of the Governor's Executive Order 44.

GSS also makes these same resources available through the MMP website by providing a copy of the Vendor Day presentation. Other resources are also provided including contract identification and awarded vendors, contract utilization, procurement thresholds, GSS FAQ's, Environmental Reporting and more.

By providing this information, GSS believes that it is presenting transparency to the vendor community and any citizen interested in learning about operations and/or contracting. This same transparency has generated some cost avoidance for GSS. If the information is already public and available, there is no need to complete some Freedom of Information Act requests presented by vendors and/or constituents. This frees up valuable resources to keep advancing the GSS and contracting directives.

Upon contract award, GSS provides a structured Award Notice which includes vendor information, pricing, ordering, contract utilization and contract specific terms. GSS would like to institute through Governor's Office policy a requirement that all Agencies produce this information in a standardized and consistent format to improve the overall procurement processes of the State.

GSS has made appearances at more than 20 "Open for Business" meetings around the state in FY14. While this is an informal environment, this presence continues to promote the GSS initiatives of building business interest in doing business with the state as well as generating interest in the OSD.

As referenced in the Vendor Day and Open for Business activities, the OSD is frequently engaged. The OSD Executive Director frequently co-facilitates the Vendor Day presentation and will be present for other events. Besides promotion of the OSD and vendor OSD certification, there is a regular commitment to promoting the Governor's Executive Order 44 which promotes vendor diversity. Additionally, the OSD identifies for the business community that there is a commitment to completing one OSD bid participant for every three bid participants when making under threshold purchases.

Public works opportunities are posted monthly to the My Marketplace website using this link: [www.mymarketplace.delaware.gov/topics/public-works.shtml](http://www.mymarketplace.delaware.gov/topics/public-works.shtml). Minor Capitol Improvement funding managed by the Office of Management & Budget by the Division of Facilities Management (DFM) is identified by fiscal year, as well as number of construction projects currently underway.

## **Inclusion on a National Level**

In 2014, GSS worked closely with the Department of Technology and Information (DTI) in review of the technical standards required for SaaS and cloud-based contracts. Delaware's DTI team has been at the leading edge of creation of some standards. With support from the GSS Director, the contract terms and conditions were elevated to the national level for discussion amongst several states' procurement and technology teams with inclusion of the vendor community. This partnership at the local and national level allows for the creation of collective

better practices. To review an in-depth summary of the process, solution and standards identified please refer to: <http://www.govtech.com/library/papers/Best-Practice-Guide-for-Cloud-and-As-A-Service-Procurements.html>

In September 2014, after his one year elected term, Dean Stotler stepped down as the President of the NASPO organization and now serves as immediate past president on the NASPO Board of Directors. His leadership has provided a roadmap for the organizations future. Peter Korolyk, State Contract Administrator was elected as the NASPO Eastern region Vice Chair for the 2014-2015 term.

Numerous other staff participate in the NASPO organization, including the GSS Deputy Director, Contract Administrator, both Contract Supervisors, and several Contract Officers. Participation of the GSS team at this national level includes NASPO Eastern Region meetings, the Green Purchasing Committee, the Professional Development Committee and the Strategic and Intergovernmental Relations Committee.

Besides inclusion within NASPO at the organizational level, several agencies have participated in NASPO sponsored events, including:

- GSS – Contract Officer – providing evaluation resource for Public Communication Equipment and Mailroom Equipment contracts
- GSS – Sponsoring survey for future Cooperative Trailer contract
- DelDOT – Providing a User Group participant for the national Vehicle Lift and Related Garage Equipment contract.

## II. Contracting by the Numbers and Efficiency of Operations

	<b>As of June 30<sup>th</sup>, 2014</b>	
Total # of Contracts	631	
# of Agency Contracts	421	
# of Central Contracts	210	\$222,008,521
# of Professional Service Contracts	223	
# of Material/Non-Professional Service Contracts	328	
# of Public Works Contracts	80	
# of Cooperative Contracts *	47	\$66,277,599
# of Delegated Contracts *	6	
# of Set-Aside Contracts *	7	\$14,661,405
School Spend on Central Contracts		\$33,888,454

- \* The # of Central Contracts includes the Cooperative Contracts, Delegated Contracts and Set-Aside Contracts. Further, each of these Contracts is split between Professional Services and Material/Non-Professional Services.

	<b>Active During FY14</b>
Total # of Contracts Active During FY14	1028
# of Agency Contracts Active During FY14	749
# of Central Contracts Active During FY14	279

For FY14, GSS received and/or reviewed 117 total I Found It Cheaper (IFIC) requests. Through the process of waiving the contract or negotiating with a current vendor to accept a lower price, the state realized savings of \$424,494.

Beginning the process in September and culminating in January 2014, GSS received, consolidated, negotiated and processed computer orders for at least 10 different school districts and 19 different charter schools. By aggregating the order and utilizing a separately bid Master Municipal Lease Purchase Agreement, versus accepting computer company financing, it is estimated that GSS saved \$1.8MM on an order which, after savings, amounted to \$5.746MM. This would equate with a savings rate of 23.9%.

The success and savings generated from this first school computer purchase has demonstrated the value from aggregation. In July, GSS began the second school computer purchase program, and this second iteration generated over \$890K in savings.

GSS operates the Copier Resource Management Program. For FY14, this program saved \$2.2MM dollars. This savings was generated by “right-sizing” current equipment, blocking unnecessary requests, and generating income from selling inventory through surplus. Since the program began in 2011, GSS has been able to realize over \$3.6MM in savings. Further, a new copier/multi-function contract with more favorable toner allowances and servicing standards has saved even more money for the state.

## Process Improvements

GSS has provided recommended boilerplates that have been posted to the GSS MMP website. These boilerplates are regularly evaluated and updated to ensure stated terms are protecting best interests of the State. In 2014, GSS has completed at least 20 different updates to the standard boilerplate templates, which are updated based on changes in Delaware Code, regulation and/or policy.

Although some agencies operate independent contracting teams (i.e. DeIDOT, DOC, DHSS, K12 – Data Service Center), not all agencies operate or are familiar with current contract terms, conditions and boilerplates. By making these documents available, GSS is protecting the best interest of the State and attempting to ensure unnecessary exposure to liability. It is GSS’s intent to have all Agencies use the statewide templates as best practice templates to eliminate redundancy of effort for maintaining statutory changes and best practice language but also to provide the vendor community a standardized format to work with when dealing with any Agency of the State. GSS will be seeking Governor’s Office policy support to require the use of these templates in 2015.

In FY14, GSS has continued to assume responsibility from DSHS for all contract assignments and as of July 2014 is providing contracting resource and guidance to the new Division of Forensic Science.

In FY14, the Governor formally signed for the authorization of the State Point of Contact (SPOC) to allow participation in the Department of Defense’s 1122 program. The program affords State and local governments the opportunity to take advantage of the purchasing power of the Federal Government. The statute specifies that any equipment to be used for homeland security activities may be procured from the Defense Logistics Agency, Army Materiel Command or the General Services Administration. Currently, the GSS Deputy Director is the assigned SPOC.

In early FY15, GSS finalized award for an eProcurement Services contract which will be implemented over the next 12 to 18 months and create a streamlined shopping experience for users which is a known deficiency in existing offerings to contract users and contributes to non-compliant spend that would otherwise benefit from the negotiated terms and awards. The solution which will allow for a more user friendly shopping experience will also have more accurate tracking for contract utilization.

In FY14, the central contract team identified a need to include the BDPA group in some enterprise wide contracts. As costs are spread across agencies, rather than from one agency, it has been identified to include budget personnel in the initial phases of contract development, and continue throughout the contract lifecycle implementation. This insight was seen with the implementation of a newly awarded Time and Attendance solution contract, intended to reduce time keeping tracking costs across the state agencies. However, since each individual agency is required to pay for their 'share' of the implementation, the budget team will help to ensure the agencies have sufficient resources to the effort.

A realignment of the MMP team within the Contracting team earlier this year, placing this function under the direct supervision of the Contract Administrator, ensures a more efficient use of personnel resources. Additionally, the MMP Supervisor reviews all postings prior to publication to ensure compliance with code and allows for insight into contract consolidation and aggregation efforts.

In 2014, GSS has begun (and should award) a contract for Employment Verification. This new contract will directly benefit the PHRST team, Agency HR and Fiscal Staff and will direct responsibility from using in-state employee resources to an outside vendor in order to fill these needs for employees and interested parties

In 2014, the state realized the completion of a Design/Build project - a new Delaware Motor Vehicle facility in Delaware City, DE. This project was completed by DFM and DeIDOT under previous authority given to DeIDOT for Design/Build projects through the Bond Bill. The FY15 Bond Bill includes this same authority for OMB to authorize its use by DFM or other State agencies. Design/Build was previously used by DFM to build the State Veterans' Home in Milford, DE.

## Recognition

In 2014, the GSS team submitted two nominations for the George Cronin Award for Procurement Excellence which is open to all states and the District of Columbia. This award is sponsored by the NASPO, which also identifies a committee to review and select the single awarded submission.

One nomination was for the Statewide Training that GSS has developed and delivers. This nomination received an Honorable Mention.

The second nomination, for the state's Copier Resource Management Program, was selected as a top five finalist for the award.

In 2014, three municipalities located outside the State of Delaware have sought for and received permission to utilize our contracts. This is a confirmation of the value of the award offered, but is also of value to the awarded vendor as there is more opportunity to sell products through a

competitively awarded offering. Although this is something GSS has only focused on recently, it has become part of standard vendor communication; GSS will identify this opportunity to vendors to encourage their participation in the central contract procurement process.

### **III. Moving forward**

#### **Establishing Standards**

GSS has created, posted and continues to update a Policies and Procedures manual which is accessible to any agency engaged in contracting activities.

As previously disclosed GSS has provided recommended boilerplates and posted them to the GSS MMP website. In late 2014, GSS began a project to review and compare known agency boilerplates. The goal is to ensure that all pertinent and required clauses have been captured and included in one set of standard boilerplates. By providing a standard series of boilerplates across agencies, GSS hopes to minimize duplication of efforts for individual contracting and legal teams. While some language may be different between different types of procurements, the form and format of the boilerplates could be similar. Vendors would see a consistent standard utilized by all contracting agencies which should improve their acceptance and 'comfort' with standard documents across the state agencies.

Once a standard has been developed and accepted, GSS will continue to update these documents and continue to 'broadcast' these changes to agencies. Further, GSS will continue to provide assistance to agencies that do not regularly contract for material and/or services.

A continuous and on-going effort is the aggregation of contract responsibility. GSS previously assumed contract responsibility for DSHS contracts, and has now accepted the Division of Forensic Science under the same structure. Additionally, previously delegated contracts (i.e., Heavy Duty Trucks), have been incorporated back under GSS responsibility and the department will continue to look for other opportunities in the future.

The MMP Supervisor will continue to review and prescreen all solicitations submitted for posting to the state's Bids Directory. The goal is to make sure that each agency has correct requisite language and code references for their procurements and thereby, limit their liability and protect against protest.

#### **Process Improvement**

In FY15, the GSS team, having funded an eProcurement contract from within their budget will begin a multiple stage implementation of the eMarketplace program. The resulting solution is intended to make frequently purchased goods and materiel items available electronically in a user friendly environment. The solution will allow for the sorting by vendor, price, location, and/or business certification. Additional modules will include better reporting standards, under threshold quick bids easier to disseminate to registered vendors, and longer term, with approval from the financial team, could link with the current FSF infrastructure. This effort will make purchasing easier, more transparent, and save money from more efficient personnel utilization.

Begun, in FY14, the central contracting team will continue to collaborate with DTI to standardize a contract process tracking platform. This solution, currently used to track the IT business case approval flow, will mirror the GSS checklist utilized for central procurement tracking, will

standardize the process and will be made available to all interested agencies. Additional considerations such as DTI's business case process review will be integrated to allow for more efficient workflow and uniformity in procurement. Since the solution will be electronic, and move the central contract team from a paper tracking environment, standardized boilerplates can be built into the program. This will ensure standardized processes and allow for up-to-the-minute status reports for high profile procurement efforts.

GSS working with the Division of Facilities Management will continue to recommend and promote the adoption of "Best Value" in public works. As GSS has advanced best value procurement for IT related contracts, the leadership team hopes to make this same concept applicable to the Public Works arena. Additionally, the efforts will also focus on making the Prime Contractor responsible for key target dates and adherence to contractual terms. This effort should reduce the state's exposure to cost overruns and allow for more efficient and timely construction efforts.

The central contracting team will move to have some deficiencies in Delaware Code and/or regulation clarified through policy, regulation or law. Topics to be included are:

- Clarifying FOIA limitations in Professional Services and Public Works,
- Advertisement of Sole Source Procurements,
- Requirement for agencies to advertise in electronic format; moving direction from Epilogue language to DE Code.

As previously referenced, the success by DFM to utilize the Design/Build process for Public Works should be more widely considered. Design/Build can be an effective and efficient contract delivery method when the project scope is clearly defined and there is lump-sum funding available at project onset (no phased funding). The decision to previously limit this construction process in the past was due to unequal market access by select contractors which prevented fair access for all vendors to bid opportunities. This negatively impacted the state's bargaining position and it was determined to limit this construction process, and only with Legislative approval. The demonstrated success by the Division of Facilities Management to obtain efficient and cost effective construction for Design/Build projects should encourage re-examination of the limits to this construction process.

The Department is also exploring the use of other contract forms for public works. Currently, DFM uses a modified version the American Institute of Architects (AIA) contract forms, which is widely used throughout the building industry. The use of other contract forms, such as the Consensus-Docs, a group of contracts developed by various construction industry groups, is also being explored. Additionally, local contract forms, such as New Castle County, are being reviewed.

## **Training for Contracting Teams**

GSS should continue to promote a variety of professional certifications for team members including:

- CPPB
- CPPO
- Leadership in Energy and Environmental Design (LEED)
- Certified Professional in Supply Management (CPSM)

The central contract team will continue to conduct and promote the Vendor and Formal Procurement presentations, and as demonstrated in FY2014, has already begun to add off-site presentations to regular schedule.

GSS plans to move forward with state-wide training for any and all agencies that have contract signing authority. This will make use of the Learning Management award, ensure standardization of procurement methodology and ultimately, look to limit liability for the state in its procurement efforts.

## Communication

GSS should continue to promote vendors to register with the free Vendor Notification System. At the beginning of FY15, the MMP team had 4,983 separate vendors registered.

Through continued promotion of the contracting efforts, GSS will continue to provide Vendor and Agency trainings, make presentations and promote the use of best in class procurement standards. Further, the contracting team will make vendors and agencies aware of the value of vendor diversification and promote the OSD certification process.

Within the GSS team, contracting personnel are looking for ways to standardize email communications, which ensures a unified messaging and makes the central contract team more efficient and professional.

In FY15, the central contracting team will look to create additional electronic templates to promote the contracting and procurement efforts, trainings and education available to vendors and agencies. This will include the creation of pre-recorded webinar or PowerPoint presentations that can be accessed in an on demand environment.

## Generate Savings and Create Efficiencies

The GSS leadership team will continue to promote contract aggregation with agencies and school districts to obtain better value. Contract officers will be encouraged to plan for outside agency utilization of contracts, including state counties and municipalities. The central contract team will make efforts to make sure the agencies outside the state know that Delaware contracts can be utilized with prior state agency permission and vendor approval.

The contract leadership team should continue its efforts to let authorized 501(c) (3) and Grant-in-Aid agencies know they have the ability to utilize state contracts. The contract officers shall continue to educate the awarded vendor community of this accessibility to contract usage.

GSS will continue to promote contracts, procurements and efficiencies for agencies not frequently engaged in central procurement contracts. Some efforts may include:

- Alternate (Homeless) Student Transportation
- Aggregated Textbook Procurement
- Department of Education aggregated computer purchasing program; intended for standardized school testing.

## IV. Recommended Statutory Amendments in Support of Contracting Initiatives

29 Del. C., §6913 (d) (2) requires the Council to "...include recommended changes to the State's procurement laws as may be necessary to improve the State's overall effectiveness..." in the annual report. The Council has reviewed existing procurement statutes contained in Chapter 69 of Title 29, Delaware Code and offers the following recommendations for consideration pursuant to this requirement:

### I. Freedom of Information Act

Currently, the handling of Freedom of Information requests is dependent on type of procurement as identified under Title 29, Chapter 69.

Under [§ 6923](#), the disclosure of information other than the name(s) of bidder(s), is at the discretion of the procuring agency, including prices, until the responsiveness of each bid has been determined. Bids shall not be available for public inspection before receipt of a fully executed contract.

Under [§ 6924](#), other than the name of each offeror and other relevant information being disclosed at bid opening, all other information contained in the proposals shall be confidential during the negotiation process.

- 1) Disclosure of 1 offeror's price to another and any information derived from competing proposals is prohibited.

Under [§ 6962](#), there are no restrictions on the disclosure of information in Public Works Contracting or Professional Services Contracting. Therefore, it is recommended that [§ 6962](#) be amended to add:

*"(e) Disclosure of Information.* - The disclosure of information other than the name(s) of bidder(s) is at the discretion of the procuring agency, including prices, until the responsiveness of each bid has been determined. Bids shall not be available for public inspection before receipt of a fully executed contract."

Under [§ 6981](#), there are no restrictions on the disclosure of information in Professional Services. While GSS maintains as a matter of policy, consistent with § 6923 and § 6924, that all information except bidder's names at the time of opening will remain confidential until such time as an awarded vendor shall be selected, other agencies have discretionary power to determine how to handle FOIA requests. It is thereby recommended that [§ 6981](#) be amended to add:

*"(j) Disclosure of Information.* - The disclosure of information other than the name(s) of bidder(s) is at the discretion of the procuring agency, including prices, until the responsiveness of each bid has been determined. Bids shall not be available for public inspection before receipt of a fully executed contract."

## II. Sole Source Procurement

Under Title 29 [§ 6925](#), [§ 6965](#) and [§ 6985](#), sole source procurements (SSP) do not contain a requirement for public notice prior to award. Although the code is specific to the requirements associated with a SSP, the interpretation is agency dependent. By example, GSS tends to have a stricter interpretation of what creates a sole source than do agencies.

This discrepancy between how agencies interpret the Delaware Code could have a significant economic cost for the State; if an agency is allowed to loosely interpret the statute. Therefore, to ensure that a SSP is in fact an actual and appropriate sole source situation, GSS recommends that all intended SSP be publically advertised. The recommendation:

All sole source procurements must be posted on the bid opportunities website at <http://mymarketplace.delaware.gov/> for 14 days before the execution of a contract. The purpose of this posting is to advertise to the vendor community the desire to enter into a sole source contract. Under appropriate circumstances, agencies may obtain an exemption from advertising from the Director.

The sole source public notice shall include a brief but descriptive summary of the good and/or service to be purchased, the identity of the sole source supplier and instructions to interested suppliers to submit alternative procurement options to the sole source determination.

The published sole source notice shall serve as the Agency's notice of intent to award.

The purpose of publicizing the sole source notice is to offer other possible suppliers an opportunity to respond and to provide an opportunity to demonstrate best value to the requesting agency. Should an agency receive no sole source notice counter proposals, the agency could move forward with the execution of an agreement for the SSP waiver. If an alternate vendor should provide a SSP response, the agency would be expected to evaluate the response and make a determination, documented for the procurement file, if the SSP was still appropriate, or if the commodity and/or service to be procured should be competitively bid. Since sole source procurements are not emergency procurements there should be no negative impact to the acquisition of goods or services from a timing perspective and should increase the transparency of this effort to the public and vendor community. The 2014 NASPO Annual Survey of the State's revealed that presently 20 states require this type of publication prior to awarding a sole source contract.

- III. Title 29 [§ 6923](#), [§ 6924](#), [§ 6962](#), and [§ 6981](#) contain requirements to advertise solicitations that exceed the [thresholds](#) established by this Council for formal bidding. Each Budget Bill for the last few years has contained an epilog section that

*"For the purposes of meeting the public notice and advertising requirements of 29 Del. C. c. 69, the announcement of bid solicitations and associated notices for the required duration on [www.bids.delaware.gov](http://www.bids.delaware.gov) shall satisfy the public notice and advertisement."*

It is recommended that similar allowances be codified to allow for the requirements for the public notice and advertising requirement be met by an electronic notification system, to be established and maintained by OMB for all Agencies as defined in Title 29 [§6902](#).

**NOTE:**

The report has been generated by summarizing activities, accomplishments, recommendations and awards for the following agencies:

- Government Support Services,
- Department of Health and Social Services,
- Department of Transportation,
- Department of Correction. and
- Department of Services for Children, Youth and their Families.
- School Districts/K-12

DRAFT