

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 FY15, the My Marketplace (MMP) team received and posted 473 solicitations, which represents a nominal increase of 0.6%, from the 470 FY14 solicitations received from various agencies. However, reviewing all other active bid posts, which include addenda and any other active bid postings, this number of processed items represents 551 separately reviewed and posted items. Looking in aggregated, the MMP team posted 1,024 items. Comprehensive MMP tracking statistics were not tracked in FY14. (The MMP team is responsible for the public/agency facing portal, www.mymarketplace.delaware.gov, which includes, but is not limited to, current active solicitations, awarded contracts, as well as vendor and agency resources.)

As of the end of FY15, there were 780 awarded contracts posted to the MMP site. This represents a 23.1% increase from the 631 FY14 awarded contracts posted. And in FY13 there were 518 awarded contracts posted to MMP.

Vendor Outreach communication performed in FY15, by the Central Contracting team of Government Support Services (GSS), totaled 51,519 notices sent to individual firms and represents a 3.1% decrease from FY14 with 53,142 individual contacts.

As of the end of FY15, there were 6,361 vendors signed up to receive notification from the State of Delaware's Bid Notification system. This represents an increase of 1,378 or a 27.7% increase compared to 4,983 unique vendors signed up at the end of FY14.

Through the end of FY15, spend with GSS central contracts decreased 4.8% to \$211,067,228. This compares with \$221,666,788 in FY14. Of the FY15 central contract spend, approximately 15.6% was spent by school districts at \$32,959,591.

In FY15 the State of Delaware spent \$213.8MM with the Supplier Diversity and Small Business communities.

For FY15, GSS realized savings of \$205,654 for agencies through the I Found It Cheaper review process.

In 2015, GSS saved school districts more than \$890,000 by aggregating a school computer purchases program.

I. Overview of 2015 Contracting and Procurement Activities

Professional Development of Contracting Personnel

The entire 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. They 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.

During the past year, the GSS Deputy Director has served in as the NASPO Eastern Region Vice Chair and in 2016 will begin his one year term to serve as the Eastern Region Chair and as an appointed member of the NASPO Board of Directors. The NASPO representation further demonstrates the State of Delaware's leadership position within the public procurement arena.

Currently, 3 GSS team members hold nationally recognized professional procurement certifications as:

- 1 – Certified Professional Public Buyer (CPPB)
- 2 – 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 created and delivered include Vendor Day, Procurement Basics and Formal Procurements presentations. In FY15, GSS has presented the following agency programs:

- Procurement Basics – two classes with 36 attendees
- Formal Procurements 1 – two classes with 53 attendees
- Formal Procurements 2 – one class with 33 attendees

Agency-level trainings consist of the Procurement Basics, Formal Procurements 1 and Formal Procurements 2 and are typically held at 100 Enterprise Place in Dover. In FY15 one Procurement Basics class was held at a Department of Agriculture facility in Camden, DE, at the specific request of the Agency.

The Vendor Day presentations are vendor centric events. FY015 brought a notable change in the venue for these events as Chambers of Commerce across the State recognized the value of these trainings and looked to host the events. Partnering with the Milton Chamber of Commerce, Middletown Chamber of Commerce, New Castle Chamber of Commerce and the

Delaware State Chamber of Commerce, GSS offered Vendor Day in the cities of Wilmington, New Castle, Middletown and Milton. GSS also continued the K12 focused presentations initiated in FY14. During FY15 the events, restructured and renamed School District Supply Chain, were held in each county of the State. The new format allowed vendors one-to-one time with K12 business managers with both sides acknowledging the value of such an opportunity.

The central contracting team continues to provide educational assistance to any agency that has questions about contracting policy or procedures. In FY15, Government Support Services has provided over 47 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.

Additionally FY15 brought a new training partnership with the Division of Libraries. GSS was able to successfully leverage the video-conferencing capabilities managed by the Inspiration Space within key libraries across the State. GSS was able to offer simultaneous vendor education in Dover, Wilmington, and Georgetown, and looks to continue leveraging this resource in 2016.

In October of 2014, the cumulative GSS training program was recognized by the National Association of State Procurement Officials (NASPO) for excellence in procurement via Honorable Mention in the George Cronin Award and continues to serve as a resource for other states looking to emulate Delaware's training successes.

Since FY14, The Office of Supplier Diversity (OSD) has participated with GSS Trainer to share in the delivery of the Vendor Day and School District Supply Chain trainings. Additionally OSD shares the offering of these training events through the OSD List Serve which reached an average of 2,075 businesses and sales representatives in FY15.

The GSS team also manages standard bid solicitation templates for use by agency personnel. The standard boilerplates are available on the 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 and School District Supply Chain presentations and has delivered ten separate trainings in FY15. 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 FY15, GSS has presented the following vendor programs:

- Vendor Day – seven classes with 200 vendors in attendance
- School District Supply Chain – three classes with 111 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),
5. OSD Training and Education and
6. Community Building.

The perceived value of the School District Supply Chain to the OSD and SBF community has been substantial with numerous diversity vendor participants expressing appreciation. The training efforts along with access to procurement personnel, made possible by the OSD, GSS contracting and K12 teams, has been frequently commented on as identifying and advancing business opportunities. To put in context why this type of targeted outreach is important; the Department of Education (DOE), including the School Districts, has continued to show the highest spend with the Supplier Diversity community, as compared to all other agencies over the period encompassing these trainings. During the past two fiscal years the combined DOE spend has contributed a third of state spend with the supplier diversity community in both FY14 and FY15. This accounts for 39.3% and 31.6% of the total diversity spend respectively.

Each of the Vendor Day and School District Supply Chain presentations is demonstrated in partnership 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, 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.

Since FY14 GSS Contracting and OSD have made appearances at the "Open for Business" meetings that occur once each month and in each county, new in FY15 was OSD participation in a Latin Open for Business event. While this is an informal environment, this presence continues to promote the GSS initiatives of building vendor 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 and SBF 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 and one SBF 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. 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

GSS Director, Dean Stotler, now serves as immediate past president on the NASPO Board of Directors, and his tenure will end as of January 2016. Peter Korolyk, now the GSS Deputy Director, has been serving as the NASPO Eastern region Vice Chair for the 2014-2015 term. In September 2015, Peter was elected to serve as the NASPO Eastern Region Chair for the 2015-16 term, and was appointed to the NASPO Board of Directors for the same term.

Numerous other staff participate in the NASPO organization, including the Contract Supervisors, several Contract Officers, and the Executive Director of the OSD. 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, Procurement University and Intergovernmental Relations Committee.

OSD is involved nationally as well, and continues to leverage the unique relationship experience in Delaware. GSS Contracting and OSD work collaboratively for inclusion at the procurement table, creating access to opportunity through training, and community building to make the procurement opportunities reachable by businesses. OSD Executive Director, Michelle Morin, is on the Board of Directors to, and is elected to the Executive Board currently serving as the national Secretary for, the National Association of State Minority, Women, and Disadvantaged Business Enterprise Directors (NASMWDD). DeIDOT's DBE Program Manager is also a member of NASMWDD.

II. Contracting by the Numbers and Efficiency of Operations

	As of June 30 th , 2015	
	# of Contracts	FY15 Spend
Contracts	780	
Agency Contracts	556	
Central Contracts	224	\$211,067,228
Total # of Professional Service Contracts	368	
Total # of Material/Non-Professional Service Contracts	302	
Total # of Public Works Contracts	110	
# of Cooperative Contracts *	48	\$64,164,488
# of Delegated Contracts *	8	
# of Set-Aside Contracts *	6	\$8,563,253

School Spend on Central Contracts		\$32,959,591
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* 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.

	Active During FY15	% of Contracts
Total # of Contracts Active During FY15	929	
# of Agency Contracts Active During FY15	677	72.9%
# of Central Contracts Active During FY15	252	27.1%

For FY15, GSS received and/or reviewed 115 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 \$205,654.

The success and savings generated from a prior FY K12 computer purchase has demonstrated the value from the GSS aggregation efforts. In July 2014, GSS began the second school computer purchase program, and this second iteration generated over \$890K in savings which was finalized in January 2015

GSS operates the Copier Resource Management Program. For FY15, this program saved \$415,537 dollars. This savings was generated by “right-sizing” current equipment, blocking unnecessary requests, and generating income from selling unnecessary inventory through surplus. Since the program began in 2011, GSS has been able to realize over \$4.47MM 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.

In FY15 the State of Delaware spent \$213.8MM with the Supplier Diversity and Small Business communities. This is inclusive of the OSD and SBF certified businesses, W9 self-identified businesses, and awarded contract Tier II spend inclusive of DeIDOT certified DBEs. This is the first fiscal year that OSD has tracked spend with the small business community as it was the first full year of the Small Business Focus (SBF) Program certification and inclusion activities. As of 11/03/2015 all OSD reporting for FY15 is posted on the OSD website at:

<http://gss.omb.delaware.gov/osd/newsroom.shtml>

	FY15
Direct spend with OSD Certified firms	\$78,984,438
Total Supplier Diversity spend (include W9, OSD & Tier II)	\$122,005,400
Direct spend with SBF Certified firms	\$6,284,706
Total spend with W9 small firms (include SBF)	\$91,798,462
TOTAL (all diverse & small)	\$213,803,862

You can review more detail about spend with the Supplier Diversity and Small Business Focus community in the OSD quarterly and Annual Reports at:

<http://gss.omb.delaware.gov/osd/newsroom.shtml>

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 2015, 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.

By example, using § 6908 (a) (6), GSS provided recommendation and input for a drug testing regulation for large cap public works contracts. Once regulations were authorized and executed, GSS updated boilerplates to account for the new drug testing program which will take effect January 1, 2016. The Section also worked with DFM, OMB and legal representation to ensure that public works documents were updated in a timely fashion to account for the same. Once all documents were reviewed, approved and posted, GSS worked with DFM to outreach to interested agency and vendor representatives and announce the upcoming regulation effective date.

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 2016.

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. In FY15, the responsibilities were transitioned to the new GSS Deputy Director representing Delaware as the assigned SPOC.

Throughout FY15, GSS worked toward the successful implementation of the eProcurement Services contract. In September 2015, GSS launched the first phase of the contract, making the State of Delaware's eMarketplace available to all eligible agencies. The portal offers a streamlined sort, shop and compare experience for users, and will also have more accurate tracking for contract utilization.

The eMarketplace launch was a successful collaboration consisting of multiple units from within the state, including several GSS sections and OMB IT. Other agencies such as, but not limited to, DHSS, DSHS, DeIDOT, OMB and K12 provided representatives to participate in program development sessions and in preparation for the training and change management plans that GSS finally implemented.

FY15 was the first full year after a realignment of the MMP team within the Contracting team, placing this function under the direct supervision of the Contract Administrator, which ensures a

more efficient use of personnel resources. The MMP Supervisor reviews all postings prior to publication to ensure compliance with code and allows for insight into contract consolidation and aggregation efforts. Further, the centralized oversight and close working relationship with the central contracting team allows for dissemination of best practices and templates to agencies that do not often complete contracts.

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 DelDOT under previous authority given to DelDOT 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 2015, the GSS team submitted a nomination for the George Cronin Award for Procurement Excellence, which is open to all states and the District of Columbia. This nationally recognized award is sponsored by the NASPO, which also identifies a committee to review and select the single awarded submission.

The one nomination was for the GSS portfolio of automotive materiel and services contracts that support the Fleet Services and other fleet teams. The submission, Maximizing Fleet Resources and Streamlining Operations, was recognized for its excellence and placed in the top five nationally.

In 2015, six (6) 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.

In March 2015, Governor Jack A. Markell, provided a statement in observance and recognition of Procurement Month, which recognized "the vital role that procurement specialists play in ensuring good stewardship of public funds on a local, statewide, and national level."

III. Moving forward

Establishing Standards

GSS previously created, posted and continues to maintain a Policies and Procedures manual which is accessible to any agency engaged in contracting activities. In 2015, GSS created User Group Participation guide to further assist agencies in oversight of their efforts.

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, and this effort continued into 2015. 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 continues 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. In September 2015, Government Support Services launched the State of Delaware eMarketplace. The resulting solution makes frequently purchased goods and materiel items available electronically in a user friendly environment. The solution allows for the sorting by vendor, price, location, and/or business certification. Additional modules begun in mid FY15 and continued into FY16 will include better reporting standards, under threshold quick bids easier to disseminate to registered vendors. Longer term, this eProcurement solution, with approval from the financial team, could link with the current FSF infrastructure. This effort will make purchasing easier, more transparent, and will look to realize savings from more efficient personnel utilization.

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,
- Address GSA limitation to materiel only, and look to include access to services,

- Clarify agency use of Cooperative contracts for Professional Services.

GSS is an active participant implementing a SaaS (Software as a Service) solution for the eProcurement solution, and GSS has first-hand knowledge of the limitations for funding and XaaS (anything as a Service) solutions. This knowledge will allow for a more collaborative partnership with DTI and agency project managers to create a more comprehensive implementation strategy for large IT programs and contracts.

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 FY15, has continued to add off-site presentations to regular schedule.

GSS has created state-wide training for any and all agencies that have contract signing authority. Once a GSS tested solicitation management system is developed and implemented that allows limited changes to best practice and legally vetted and defensible templates, GSS will look to implement state-wide system use. With executive level approval, all agencies will be required to be trained and then use a centralized procurement solicitation creation and tracking system. Individual training will make use of the Learning Management award, to track personnel certification(s), to ensure standardization of procurement methodology and ultimately, look to limit liability for the state in its procurement efforts.

Communication

GSS continues to promote vendors to register with the free Vendor Notification System. At the beginning of FY16, the MMP team had 6,361, which is 1,378 more than the 4,983 separate vendors registered at the beginning of FY15.

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 has standardized and continues to look to improve email communications, which ensures a unified messaging and makes the central contract team more efficient and professional.

In FY16, the central contracting team will continue to create additional electronic templates and modify existing 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.

The eMarketplace communications have been and will continue to be, both state-wide email messaging, individual messaging and small group trainings within agencies from GSS. Additionally, our GSS Trainer has taken on a new methodology for communication including short training videos utilizing Articulate Storyteller 2 software. These short, topic specific training videos help engage agency users at their desk, with in the moment knowledge sharing to increase efficiency and maximize learning opportunities for 'off hour' eMarketplace registered users.

Generate Savings and Create Efficiencies

In FY15, the GSS team worked toward a September 2015 launch of the State of Delaware eMarketplace. The expected efficiencies associated with this new system, include providing agencies with advance search, sort and information on frequently used GSS centrally managed materiel contracts. Further, reporting and data analytics will provide greater visibility into procurement activities for agency personnel. To make this launch a reality, GSS requested and partnered with over a dozen covered agencies and all school districts.

Post eMarketplace "Go Live", GSS has partnered with the eMarketplace solution vendor to begin the development of a Sourcing Director module that could streamline contract bid opportunities, allow for electronic collection of responses, and speed the time to formal contract award. This effort can also be used to advance best practice initiatives to agencies that do not have the familiarity with contracts, provide better contract development audit trails, and further bolsters GSS' agency procurement training initiatives.

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, which represents 8.9% of aggregated spend as seen at: <http://mymarketplace.delaware.gov/documents/aggregate-contract-usage-fy13-fy16.pdf?ver=1119> . The central contract team 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 shall continue its efforts to let authorized 501(c) (3) and Grant-in-Aid agencies know they have the ability to utilize state contracts. Similarly, the contract officers continue to educate the awarded vendor community of this accessibility to contract usage. This access to centrally awarded contracts has led some entities to seek access to the new eMarketplace solution and leverage the improved shopping experience.

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 (Holdover from 2014 Report)

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 (Holdover from 2014 Report)

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.

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. Further, this notice of intent to award as sole source is demonstrable documentation of market research required before an Agency head might make a sole source determination. 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. (Holdover from 2014 Report)

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 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](#).

IV. Extend Purchases Using Federal Contracts

As noted in the Title 29 § 6935 language, the Director of GSS is allowed to approve the use of GSA contracts to procure materiel. It is recommended that this language be modified as highlighted below [in blue](#), and allow for the procurement of services.

§ 6935 Purchases using federal contracts.

The Director may enter into negotiations with various manufacturers or distributors and award contracts which will enable agencies and local governments to purchase materiel [and/or services](#) at prices approved by the General Services Administration of the United States government or its successor.

In furtherance of the suggested language for Title 29 § 6935, GSS is seeking to allow and add a new section to the Professional Services section of the Delaware Code, in Title 29, Chapter 69, Subchapter VI as follows:

§ 6988 Purchases using federal contracts.

[The Director may enter into negotiations with various manufacturers or distributors and award contracts which will enable agencies and local governments to purchase professional services at prices approved by the General Services Administration of the United States government or its successor.](#)

V. Modify Professional Services Cooperative Procurement Language

As noted in the Title 29 § 6987 language, there is no limit to an agency's ability to cooperatively procure a Professional Service. This is inconsistent with the previously approved language identified § 6933 which allows the section, with written approval of the Director, participate in cooperative agreements. For consistency, and to ensure that all cooperative procurement is vetted in a uniform manner and leveraged for State-wide aggregated needs, it is suggested that the Director provide similar oversight for Professional Services. Please see the suggested modification to language as identified [in blue](#):

§ 6987 Cooperative procurement.

[The section may, with written approval by the Director, allow](#) an agency, to participate in, sponsor, conduct or administer a cooperative agreement for the procurement of professional services with 1 or more public procurement units either within this State, with or within another state, or with a consortium of other states in accordance with an agreement entered into between the participants. Such agreement may include material and/or nonprofessional services with professional services. The other provisions of this subchapter shall not apply when an agency participates in an existing cooperative agreement for the procurement of professional services with a contractor holding a current contract as part of such cooperative agreement.

VI. Standardized Award Structure

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.

VII. Expansion of Design Build Authorization

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.

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