

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 FY16, the My Marketplace (MMP) team received and posted 556 solicitations, which represents a 17.5% increase from the 473 FY15 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 769 separately reviewed and posted items; up from 551 items in FY15. Looking at the aggregated numbers, the MMP team posted 1,325 separate items, up 29.4% from the 1,024 aggregate items posted in FY15.

As of the end of FY16, there were 860 awarded contracts posted to the MMP site. This represents a 10.3% increase from the 780 FY15 awarded contracts posted. And in FY14 there were 631 awarded contracts posted to MMP.

Vendor Outreach communication performed in FY16, by the Central Contracting team of Government Support Services (GSS), totaled 68,513 notices sent to individual firms and represents a 33% increase from FY15 with 51,519 individual contacts.

As of the end of FY16, there were 7,830 vendors signed up to receive notification from the State of Delaware's Bid Notification system. This represents an increase of 1,469 or a 23.1% increase compared to 6,361 unique vendors signed up at the end of FY15.

Through the end of FY16, spend with GSS central contracts increased 20.2% to \$253,657,117. This compares with \$211,067,228 in FY15. Of the FY16 central contract spend, approximately 13.9% was spent by school districts at \$35,361,733.

For FY16, GSS realized savings of \$200,704 for agencies through the I Found It Cheaper review process; a decrease slightly down 2.4% from savings of \$205,654 for agencies in FY15.

For FY16, government spend within the state's diversity vendor community accounted for \$142.07M, which represents an 8.62% increase from FY15, which was \$130.79M.

I. Overview of 2016 Contracting and Procurement Activities

Professional Development of Contracting Personnel

The GSS team members belong to the National Institute of Government Procurement (NIGP), National Association of State Procurement Officials (NASPO), the National Procurement Institute (NPI), 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 markets, 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 Department of Safety and Homeland Security (DSHS), Department of Correction (DOC) and the New Castle County government.

In 2016, the GSS Deputy Director and Contract Administrator attended the NASPO Marketing to the States meeting, where vendors have a direct opportunity to engage and discuss business with primary state agents. This also allows the state to promote opportunities and identify procedures for doing business with the state and its agencies.

In 2016, and at no cost to the State, Delaware sent (6) team members to the NASPO Eastern Region conference in Providence, RI. The GSS Deputy Director, served as the host throughout the event and also served as a session moderator to learn about the challenges confronting state participants in a session called, "What's Your Solution?" Additionally the Executive Director of the Office of Supplier Diversity (OSD) co-presented a discussion about Customer Service in State Procurement, focusing on diversity vendor engagement.

GSS sent representatives to the NASPO National Conference, where both the GSS Deputy Director and Executive Director of the OSD participated in a national supplier diversity panel forum. The GSS Contract Administrator also attended the NASPO Annual Conference. And, in December 2016, the state was able to send two Deputy Attorney Generals to the NASPO sponsored Legal Symposium to discuss legal concepts related to procurement. The GSS Deputy Director attended the legal conference and was able to join two other state's CPO's and discuss challenges as seen from the procurement office, and how best to leverage legal resources.

During the past year, the GSS Deputy Director has served in as the NASPO Eastern Region Chair, and will continue on through 2017. The NASPO representation further demonstrates the State of Delaware's leadership position within the public procurement arena. (All conference attendance expenses are covered by the national organization.)

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 on procurement Code, processes, templates, methodologies, use of the transparent sharing of contracts and related utilization data, and the state's checkbook and procurement card spend information. Trainings created and delivered include Vendor Day, "How To Do Business With The State of Delaware", Procurement Basics and Formal Procurements presentations. In FY16, GSS has presented the following agency programs:

- Procurement Basics – one (1) class with 37 attendees
- Formal Procurements 1 – one (1) class with 31 attendees
- Formal Procurements 2 – two (2) classes with 68 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. On request, GSS will hold events at other locations; by example, 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. FY15 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. During FY16 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 FY16, Government Support Services has provided over 79 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.

In FY16, through 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 then able to offer simultaneous vendor education in Dover, Wilmington, and Georgetown, and looks to continue leveraging this resource in 2017.

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. 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, represents an on-going business development opportunity outreach to the local business community, and shares certification information for small and diversely owned and operated business enterprises.

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 2,018 businesses and sales representatives for each outreach occasion in FY16.

In FY16, GSS selected a State Contract Procurement Officer to participate in the creation, publication, and award selection of a national cooperative contract effort. Pam Barr will serve as a contract procurement resource for the projects duration. The goal is to not only allow the SCPO learn from the experience, but she has been directed to bring back ideas with which to suggest additional teaching to co-workers and/or process improvements for Delaware's best practices.

In FY16, GSS Supervisor and Trainer, Bruce Krug, participated in the NASPO State Training Coordinators Conference in Birmingham, Alabama and collaborated with other state level trainers on effective procurement training.

Vendor and Constituent Education

GSS has shown continued commitment to delivering Vendor Day and School District Supply Chain presentations and has delivered six separate trainings in FY16. These trainings are aimed at expanding the number of vendors that attempt to sell to the State and over 200 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 FY16, GSS has presented the following vendor programs:

- Vendor Day – three (3) classes with 102 vendors in attendance
- School District Supply Chain – three (3) classes with 93 vendors in attendance
- Open For Business seminars – with one (1) event for each county and held each month
- Dealing with Contract Vendors (at DPPA meeting)
- Division of Libraries – Inspiration Space presentations to business owners

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.

In FY16, GSS Contracting partnered with the Division of Libraries / Inspiration Space to present workshops on eProcurement and Smaller State Procurements as part of the Inspiration Space's entrepreneur program. This eProcurement workshop was offered three times and Smaller State Procurements was offered twice.

The perceived value of the School District Supply Chain to the OSD and small business focus (SBF) community has been substantial with numerous diverse and small business 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 and small business communities, 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. In FY2016 the combined DOE spend accounted for 25.29% of the total diversity spend. While that indicates a decrease for FY16 over FY15, this is due to the conclusion of capital improvement and construction of new schools, and remains an increase over FY13, which was the year pre-these capital projects. DOE and School spend with the small business community has been measured only in FY15 and FY16 and has been the highest as compared to all other agencies, accounting for 36.73% and 39.06% of the total small business 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.

GSS continues to broadcast information and its procurement presentation via an on-site video screen installed at its 100 Enterprise Place office in the reception space and waiting area. As GSS conference and training rooms are frequently utilized by many agencies beyond OMB. The flat screen displays a spooling look of the Vendor Day training material slide deck and other GSS information.

By providing this information, GSS believes it is promoting 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 a policy directive with Executive level support, a requirement that all Agencies produce this information in a standardized and consistent format to improve the overall procurement processes of the State and to promote economic transparency and opportunities.

As referenced in the Vendor Day and Open for Business activities, the OSD is frequently engaged. The OSD Executive Director has consistently co-facilitated 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 and inclusion. 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; this activity is included in each Agency's Supplier Diversity Plan, and the GSS formal procurement trainings educate officers and buyers that they are part of the state inclusion team for under-threshold activities. It is important to note that these under-threshold activities are not advertised opportunities. In FY16 the state spent \$253M with the diverse and small business community. Of that spend amount only \$27M was to the certified diversity community from formal GSS contracts, the balance was under threshold and Tier II spend.

In March 2016, Government Support Services and Office of Supplier Diversity participated in the Alliance Mid-Atlantic Small Business Procurement Fair, a regional event for businesses that is in its 16th year. There were approximately 350 business owners and leaders in attendance, which included 50 matchmaking tables and 63 Exhibitors. Bruce Krug, GSS Supervisor of My Marketplace and Procurement Trainer, was a panelist for the topic "How do Government Contracting Officers Make Decisions?" with other government procurement experts from other mid-Atlantic states and the federal government. Michelle Morin, Executive Director of OSD, moderated a panel for the topic "Doing Business with Bid Business" with Supplier Diversity Managers from DuPont, AstraZeneca, Novartis, and Dell Services Federal Government, Inc. GSS and OSD offered matchmaking tables, where business owners and leaders could meet with them one-on-one for 15 minute time periods to learn about how to do business with the State of Delaware and find access to opportunity points. Additionally, a Delaware GSS and OSD resource table was set up to provide materials to interested vendors who did not secure matchmaking meetings.

Public works opportunities are posted monthly to the My Marketplace website, Results Delaware tab, under Public Works Opportunities, accessible through at this link: [Public Works Opportunities](#). 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

Chief Procurement Officer and GSS Director, Dean Stotler, previously served as the President of the NASPO Board of Directors, and remains active on the national level. His prior leadership has provided a roadmap for the national organization's future. Peter Korolyk, GSS Deputy Director, served on the NASPO Board of Directors in 2016 and as the NASPO Eastern Region Chair for the 2016 term. In October 2016, Peter was re-elected to serve as the NASPO Eastern Region Chair for the 2017 term.

The GSS Deputy Director will serve as the Vice Chair of the NASPO Best Practices committee, where state members research and produce educational resources on recommended practices for the general public procurement community. He will also serve as the Chair for the NASPO Annual Conference Committee, which guides the creation of the agenda for the national conference. The 2017 NASPO Annual Conference will highlight the 75th anniversary of the organization.

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, and the Annual National Conference, and in the daily communications between and among all state members through the NASPO portal where members share knowledge regularly.

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 Acting President and elected Secretary for the National Association of State Minority, Women, and Disadvantaged Business Enterprise Directors (NASMWDD). DelDOT's DBE Program Manager is also a member of NASMWDD. OSD is also active in the region and participates with corporate and governmental business development organizations to engage to find opportunities for OSD and SBF certified business enterprises.

II. Contracting by the Numbers and Efficiency of Operations

	As of December 31, 2016	
	# of Contracts	FY16Spend
Contracts	802	
Agency Contracts	585	
Central Contracts	217	\$253,657,117
Total # of Professional Service Contracts	378	
Total # of Material/Non-Professional Service Contracts	294	
Total # of Public Works Contracts	130	
# of Cooperative Contracts *	50	\$78,265,433
# of Delegated Contracts *	10	
# of Set-Aside Contracts *	6	\$3,321,897
School Spend on Central Contracts		\$35,361,733

* 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 FY16	% of Contracts
Total # of Contracts Active During FY16	1,115	
# of Agency Contracts Active During FY16	845	75.8%

# of Central Contracts Active During FY16	270	24.2%
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For FY16, GSS received and/or reviewed 90 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 \$200,704.

GSS operates the Copier Resource Management Program. For CY16, this program saved \$1,776,863 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 \$6.66M 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 FY16 the State of Delaware spent \$253.8M 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 on GSS Contracts as well as inclusive of DeIDOT certified DBEs. This is the second fiscal year that OSD has tracked spend with the small business community (SBF). January 2017 will have all OSD reporting for FY16 is posted on the OSD website at: <http://gss.omb.delaware.gov/osd/newsroom.shtml> . Newly included in OSD reporting in FY16 is the Delaware State Housing Authority (DSHA) spend. DSHA has their own checkbook, and their reporting was not previously captured.

	FY15
Direct spend with OSD Certified firms (including DSHA)	\$86,144,974
Total Supplier Diversity spend (include W9, OSD & Tier II)	\$142,066,745
Direct spend with SBF Certified firms	\$6,341,8306
Total spend with W9 small firms (include SBF)	\$111,039,818
TOTAL (all diverse & small)	\$253,830,137

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 2016, GSS has completed at least 27 different updates to the standard boilerplate templates, which are updated based on changes in Delaware Code, regulation and/or policy.

By example, 29 Del. C. §6987 was amended to allow for Section approval of cooperative contract when seeking to obtain professional services bid by an outside public entity. This creates a uniform review and oversight by GSS, allowing central procurement to guide agencies, aggregate contract utilization and to use the information obtained for future bid opportunities. Government Support Services then provided a template for agency use when

seeking approval and asks questions that requires the agency to complete a suitable amount of due diligence prior to receiving Section approval.

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 2017.

Throughout FY16, GSS worked toward the improving utilization of the state's eMarketplace solution. The portal offers a streamlined sort, shop and compare experience for users, and will also have more accurate tracking for contract utilization. As of late 2016, the eMarketplace contained catalogs from 57 vendors and held 4.63M separately identified hosted catalog items.

Recognition

In 2016, the GSS team submitted a nomination for the George Cronin Award for Procurement Excellence, which allows submissions by 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 a single awarded submission for the Cronin Award.

The one nomination submitted was for the GSS portfolio of the Delaware eLearning system contract that support both agency and statewide training initiatives. The submission, *Delaware Learning Center - Statewide Training Efficiently and Effectively*, was recognized with an Honorable Mention for its excellence.

In 2016, five (5) public entities located outside the State of Delaware have sought for and received permission to utilize the GSS centrally managed 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.

Government Support Services has been awarded the 21st Annual Achievement of Excellence in Procurement for 2016 from the National Procurement Institute (NPI). NPI is recognized as the public sector affiliate of purchasing for federal, state, county, and municipal government entities, public school systems, universities, and other public and nonprofit institutions in the United States. This award recognizes public and non-profit organizations that obtain the highest standards of innovation, professionalism, e-procurement, productivity, and leadership at the national level. As an award recipient, GSS' success will be nationally recognized by the procurement community at the NPI Annual Conference this October in Colorado Springs, Colorado

In March 2016, 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."

In June 2016, Government Support Services was recognized and received the Gold Star of Innovation Award at the 2016 National Joint Powers Alliance H2O Conference in Minnesota. The award recognizes an NJPA member entity that leads by example and demonstrates innovative business, contracting and procurement strategies. This honors a member entity's leadership and commitment to develop and embrace new business concepts, and persistence to a way of business that can be followed by other government and education entities to streamline purchases and achieve procurement efficiencies. Receipt of the award follows recent recognition of the State of Delaware's central contracting team, which was ranked #3 nationally for Sourcing by Governing Magazine.

In 2016, the Office of Supplier Diversity was recognized by the New Castle County Chamber of Commerce and was awarded as the Entrepreneurial Advocate of the Year for the on-going work of the OSD to certify eligible diverse and small business vendors, engage business in access to opportunity both in a business-to-government arena but also in the business-to-business realm.

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.

As previously disclosed GSS has provided recommended boilerplates and posted them to the GSS MMP website. 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 process and/or wording has been developed and accepted by policy and/or legal review, GSS will continue to update these boilerplate 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

GSS has continued to work 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.

In October 2016, Government Support Services attended a school facilities manager meeting at the request of the Department of Education. In conjunction with DFM, GSS presented a guide for posting public works bids to the state’s bids site repository. Post meeting comments have identified the need for on-going communications with DFM, GSS and OSD to assist school personnel and meeting their public procurement needs.

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,
- Advertise Sole Source Procurements,
- Establish a GSS database for Sole Source Procurements and publish on state’s central contract publication portal, ¹
- 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,
- Advertise intent to participate in cooperative contracts,
- Advertise under threshold opportunities.

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.

¹ As identified in the Division of Accounting Policies and Procedures Manual, page 8, item 2, “A contract may be awarded without competition if the agency head, prior to the procurement, determines in writing there is only one source for the required contract. Sole source procurement shall not be used unless there is sufficient evidence there is only one source for the required contract, and no other type of goods or service will satisfy the requirements of the agency. The agency shall examine cost or pricing data prior to an award under this subsection. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A written determination by the agency for the sole source procurement shall be included in the agency’s contract file. (29 Del. C. §6904(i)) *A copy of any such declaration shall also be forwarded to GSS with the contract documents for publication on the central contract portal. GSS serves as a clearinghouse for procurement information for materiel and services for both agencies and vendors (29 Del. C., §6908(a) (4)).*”

Active GSS participation implementing a SaaS solution for the eProcurement solution, 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. In FY16, GSS began regularly scheduled meetings with DTI to ensure that future needs are considered with sufficient time to allow for the appropriate procurement to meet the state's technology needs. Further, the meetings also allow for advances in technology and the terms and conditions can be managed on a proactive basis.

In FY16, at the recommendation of GSS, the Delaware Code was modified to allow for the acquisition of professional services by an awarded vendor authorized by the General Services Administration. As was noted in the 29 Del. C. § 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.

The new section of the Delaware Code now includes:

§ 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.

Additionally, as noted in the 29 Del. C. § 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, the Delaware Code was modified so that cooperative procurement was vetted and approved in a uniform manner and leveraged for State-wide aggregated needs. The GSS Director has oversight authority for cooperatively procured Professional Services, and to this end, GSS published a newly created form for agency use to its site at: [Agency Cooperative Contract Request](#)

Training for Contracting Teams

GSS should continue to promote a variety of professional certifications for team members including, but not limited to:

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

In FY16, eight contract office personnel received authorization to begin Six Sigma training. Additionally, all central contracting staff receive membership in the National Institute of Government Procurement so they have access to on-going training. As part of the Section's NASPO membership, staff receive access to trainings on Procurement U, NASPO's procurement oriented training resource site.

The central contract team will continue to conduct and promote the Vendor and Formal Procurement presentations, and as demonstrated in FY16, has continued to add off-site presentations to regular schedule.

GSS has created and waits for final executive authority before 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. In FY16, Government Support Services was able to obtain funding for additional individual licenses for the Delaware Learning Center from NASPO, in advance of a planned procurement training program.

Communication

GSS continues to promote vendors to register with the free Vendor Notification System. At the beginning of FY17, the MMP team had 7,830 registered vendors in the system, which is 1,469 more than the 6,361 separate vendors registered at the beginning of FY16. As of the end of the CY16, there were 8,462 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. The GSS team continues to look to improve email communications, which ensures a unified messaging; making the central contract team more efficient and professional.

In FY17, 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.

Through internal tracking of changes made to Agency templates, the Government Support Services team modified various agency use templates 12 times in FY16. An example to a template update planned for FY17 is a new template aimed at improving the procurement process of qualification based professional services; primarily focused on architectural and engineering procurement.

The eMarketplace announcement have been and will continue to be, on 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.

The OSD also communicates with the business vendor community on a regular weekly basis. OSD shares various business networking, development, education, opportunity, conferences and convention information to the community. In FY16 OSD shared 325 individual information sharing blasts, reaching an average of 2,018 business owners or leaders for each blast.

Generate Savings and Create Efficiencies

Post the eMarketplace “Go Live” event in FY15, GSS has partnered with the eMarketplace vendor to begin the development of a Sourcing Director module that could streamline contract bid opportunities, allow for posting of under threshold opportunities, accept electronic collection of bid/quote responses, and speed the time to formal contract award. This effort was intended 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. After months of planning, the resulting solution was determined to not meet the needs identified nor to be as flexible as necessary within the federated State of Delaware environment. Moving forward, a new approach for an enterprise solution is being sought with DTI and/or with an alternative service provider.

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 22.8% of aggregated spend for FY16, as seen at: [Aggregated Contract Spend](#). 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.

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 and 2015 Reports)

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.”

It is recommended that these variances in the code be corrected to eliminate independent interpretations of the FOIA response standard as it relates to bids competed through § 6962 and § 6981.

II. Sole Source Procurement (Holdover from 2014 and 2015 Reports)

Under 29 Del. C. [§ 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. 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 and 2015 Reports)
29 Del. C. [§ 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 29 Del. C. [§6902](#).

- IV. Extend Purchases Using Federal Contracts (holdover from 2015)

As noted in the 29 Del. C. § 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.

As previously noted, 29 Del. C. § 6987 and § 6988 were modified to allow for the changes requested, but updates to § 6935 were omitted.

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

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