

# ANNUAL REPORT FROM THE CONTRACTING AND PURCHASING ADVISORY COUNCIL

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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 FY2018, the My Marketplace (MMP) team received and posted 478 solicitations, which represents a 3.9% increase from the 460 FY2017 solicitations received from various agencies but essentially equivalent to 556 solicitations in FY2016 and 473 solicitations in FY2015. However, reviewing all other active bid posts, which include addenda and any other documents posted to active bid, there were 1,034 processed items separately reviewed and posted items; up from 1,042 items in FY2017. Looking at the aggregated numbers, the MMP team posted 1,512 separate items, up 0.6% from the 1,502 aggregate items posted in FY2017.

As of the end of FY2018, there were 783 awarded contracts posted to the MMP site. This represents a 12% decrease from the 889 FY17 awarded contracts posted. And in FY2016 there were 556 awarded contracts posted to MMP.

Vendor Outreach communication performed in FY2018, by the Central Contracting team of Government Support Services (GSS), totaled 100,657 notices sent to individual firms and represents a 18% increase from FY2017. 1,553 Outreach notifications were directly to Delaware businesses, an increase of 44% over the previous year period.

As of the end of FY2018, there were 10,092 vendors signed up to receive notification from the State of Delaware's Bid Notification system. This represents an increase of 1,109 or a 11% increase compared to 8,983 unique vendors signed up at the end of FY2017.

Through the end of FY2018, spend with GSS central contracts increased approximately 8% to \$254,144,585, which compares with \$234,776,798 in FY2017. Of the reported FY2018 central contract spend, approximately 17% was spent by school districts at \$41,934,499.

For FY2018, GSS realized savings of \$175,650 for agencies through the I Found It Cheaper review process; an increase of 18% from savings of \$144,637 for agencies in FY2017.

In FY2018, the State of Delaware spent \$314.9Million with the Supplier Diversity and Small Business communities. This is an increase of 9.7% over FY2017.

## **I. Overview of 2018 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 2018, both the Director of Government Support Services and the Executive Director of the Office of Supplier Diversity made presentations to participants at DPPA's conference.

In 2018, the GSS Deputy Director, the Executive Director of Office of Supplier Diversity, and a Contract Officer attended the NASPO Exchange meeting, in New York City, where vendors have a direct opportunity to engage and discuss business and future opportunities 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 July 2018 Delaware sent (6) team members to the first ever held NASPO REACH (Regional Education and Connection Hub) conference in New Orleans, LA. The REACH event was attended by 47 states and the District of Columbia.

GSS sent two (2) representatives to the 2018 NASPO Annual Conference in Long Beach, California, with the GSS Deputy Director and State Contract Procurement Supervisor attending. The GSS Deputy Director, as Chair of the Annual Conference Committee, also served as emcee for the event.

In November 2018, the state was able to send two Deputy Attorney Generals to the NASPO sponsored Law Institute, a conference focused on legal concepts and connections in state government procurement. Additionally, GSS Contracting sent two representatives to attend the National Procurement Institute to receive the 2018 Achievement of Excellence in Procurement Award.

During the past year, the GSS Deputy Director has served in as the NASPO Eastern Region Chair, and will continue on as Vice Chair through 2019, will serve on the 2019 NASPO Board of Directors, and serve as the organization's Professional Development Champion. 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 support in fulfillment of their mission to advance the public procurement profession.)

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 – DTI (CPPB and CPPO)
- 1 – DeIDOT (CPPO)

## State Training and Professional Development

Over the past three 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. To date, GSS has presented the following agency programs:

- Procurement Basics – seventeen (17) classes with 545 attendees
- Formal Procurements 1 – ten (10) classes with 320 attendees
- Formal Procurements 2 – nine (9) classes with 256 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.

The Vendor Day presentations are vendor centric events. Chambers of Commerce across the State continue to recognize the value of these trainings host the majority of events. To date, GSS has presented Vendor Day 30 times to 947 attendees from 835 businesses, In CY2018, GSS presented Vendor Day four (4) times to a total of 153 attendees from 115 businesses.

School District Supply Chain is an educational event that additionally allows vendors one-to-one time with K12 business managers. To date, GSS has orchestrated 10 events with 306 total vendors in attendance. GSS organizes these efforts in the interest of promoting visibility for central contract advantages with specific application to the K12 needs.

Contracts to Watch, a new government to business educational opportunity initiated by GSS in August of 2017 has continued to be a positive engagement platform throughout CY2018.

Contracts to Watch is an opportunity for both GSS Contracting and the business community at large to benefit from open, candid discussion related to specific market sectors. The opportunity for such informational exchange is extremely restricted while a product or service need is being solicited due to the nature of government procurement. Through Contracts to Watch, information exchange is scheduled well in advance of a Request or Proposal or Invitation to Bid being publicly advertised so as to keep the procurement process pure. In CY2018 GSS engaged 210 individuals from 161 businesses.

The positive impact of Vendor Day, School District Supply Chain, and Contracts to Watch on the local business community is considerable. As tracked and reported by the Delaware

Procurement Technical Assistance Center, a federally funded program operating within the University of Delaware, prior to the implementation of the GSS education program in 2013 only 20 DE PTAC clients held contracts with the State of Delaware. As of August 31, 2016, there were 311 DE PTAC clients holding a contract with the State. By August 31, 2018 that number had further grown of 425 clients holding a contract with the State.

The central contracting team continues to provide educational assistance to any agency that has questions about contracting policy or procedures. In FY2018, Government Support Services provided over 312 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.

GSS procurement training is a service in high demand, having trained to date, 1,121 agency employees, and 1,366 vendors. Currently managed as an additional responsibility for a GSS State Contract Procurement Supervisor, the increased demand now requires assistance from an additional State Contract Procurement Officer as an assistant trainer. In addition, all other State Contract Procurement Officers rotate through the training delivery schedule. This is a significant time demand on the procurement staff, but this regular activity educates the state buyers, and promotes interest in state bids, represents an on-going business development opportunity, and shares certification information for small and diverse owned and operated business enterprises.

Since FY2014, 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 providing 638 business networking, development, and opportunity messages in FY2018. An average of 53 messages were shared per month; a 26.7% increase over FY2017 when 42 messages per month were distributed. In FY2018, each sent OSD message were delivered to an average of 1,998 recipients.

In CY2018, GSS nominated five individuals to participate in national cooperative contracting efforts; including 4 individuals from GSS Contracting and one from the Department of Technology and Information. The individuals contributed towards contracts for computers, child safety seats, equipment rental services, IT vendor management, and first safety equipment and services. The goal is to not only allow the participant to learn from the experience but allow them to bring back ideas with which to suggest additional teaching to co-workers and/or process improvements for Delaware's best practices.

## **Vendor and Constituent Education**

GSS has shown continued commitment to delivering Vendor Day presentations and has delivered four separate trainings in FY2018. These trainings are aimed at expanding the number of vendors that attempt to sell to the State and 153 people 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 FY2018, GSS has presented the following vendor programs:

- Vendor Day – four (4) classes with 153 attendees from 115 vendors in attendance

- School District Supply Chain – 1 class with 47 attendees from 37 businesses
- Open For Business seminars – with one (1) event for each county and held each month
- Division of Libraries – Inspiration Space presentations by Contracting and OSD to business owners
- Contracts to Watch – thirteen (13) classes with 210 attendees from 161 businesses. GSS Contracting, in advance of contract expiration to best determine an appropriate path forward, invites vendors to discuss and provide input on the expiring contract and/or scope of work. This provides vendor engagement and increases the GSS Contracting connection with the vendor community.

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.

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

In 2018, GSS conducted three customer surveys to both internal and external customers. The value of services was sought from a best practices survey and an agency survey sent to 1,155 members active in the procurement process. Vendors with active contracts and those that submitted bid responses (both successful and unsuccessful), 913 in all, were also asked about

the services provided by GSS and quality of solicitations. Of the agencies, 63% found needed resources in the procurement portal, MyMarketplace.delaware.gov, and 65% of vendors found the same site a useful source for business intelligence.

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 always a requested participant and 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 former 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 FY2018 the state spent \$31.9M with the diverse and small business community. Of that spend amount \$109.2M was to the certified diversity community, the balance was under threshold and Tier II spend.

During FY2018 OSD shared information through the Open Data Portal at <https://data.delaware.gov/> under the Economic Development section.

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, previously served on the NASPO Board of Directors in 2016, and Eastern Region Chair for 2016-2018, and continues as the NASPO Eastern Region Vice Chair for the 2019 terms. In August 2018, Peter was re-appointed to serve on the NASPO Board of Directors through the end of the 2019 term.

Numerous other staff participate in the NASPO organization, including the Contract Supervisors, several Contract Officers, the Executive Director of the OSD, and Deputy Attorneys General. Participation of the GSS team at this national level includes NASPO Eastern Region meetings, the Green Purchasing Committee, NVP contract sourcing teams, the Professional Development Committee and the Strategic, Best Practices Committee, Procurement University, Intergovernmental Relations Committee, and the Annual National Conference. There also continues to be engagement opportunities in the daily communications between and among all

state members through the NASPO Network and Director's Community portals where members share knowledge regularly. In late 2017 and into 2018, two members of the central contracting section began serving on the State and Local Government Procurement, A Practical Guide editorial team; intended to serve as a quick reference insight guide into proper contracting processes. In 2018, all editorial work on the guide was completed, and it will be published and distributed in early 2019.

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

	As of December 31, 2018	
	# of Contracts	FY2018 Spend
Contracts	777	
Agency Contracts	539	
Central Contracts	238	\$253,950,893
Total # of Professional Service Contracts	358	
Total # of Material/Non-Professional Service Contracts	296	
Total # of Public Works Contracts	123	
# of Cooperative Contracts *	53	\$67,226,723
# of Delegated Contracts *	6	
# of Set-Aside Contracts *	5	\$7,230,578
School Spend on Central Contracts		\$41,635,839

\* 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 FY2018	% of Contracts
Total # of Contracts Active During FY2018	1,332	
# of Agency Contracts Active During FY2016	1,045	78.5%
# of Central Contracts Active During FY2016	287	21.5%

For FY2018, GSS received and/or reviewed 123 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 \$180,407.

GSS operates the Copier Resource Management Program. For CY2018, this program saved \$1,024,217 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 \$8.9M in

savings. Further, a new copier/multi-function contract entered in 2016 with more favorable toner allowances and servicing standards has saved even more money for the state.

In FY2018 the State of Delaware spent \$314.9M 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). All OSD reporting for FY2018 is posted on the OSD website at: <https://business.delaware.gov/wp-content/uploads/sites/118/2019/08/fy18-osd-annual-report.pdf> . Newly included in OSD reporting since FY2016 is the Delaware State Housing Authority (DSHA) spend. DSHA has their own checkbook, and their reporting was not previously captured.

	<b>FY2018</b>
Direct spend with OSD Certified firms + W9	\$166,579,120
Indirect spend. Tier II	\$31,575,594
Total Supplier Diversity spend (include W9, OSD & Tier II)	\$198,154,714
Direct Small Business spend with W9 + SBF Certified firms	\$116,760,612
<b>TOTAL (all diverse &amp; small)</b>	<b>\$314,915,326</b>

You can review more detail about spend with the Supplier Diversity and Small Business Focus community in the OSD quarterly and Annual Reports at the [Division of Small Business](#), by searching for OSD reporting.

## Process Improvements

GSS has provided recommended boilerplate solicitation documents 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 early 2019, GSS will complete comprehensive updates to 13 different standard boilerplate templates, which are updated based on changes in Delaware Code, regulation and/or policy. Agencies surveyed in 2018 identified positively 87% of the time to GSS responsiveness for their procurement questions or concerns.

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 2018.

Throughout FY2018, 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 2018, the eMarketplace contained 108 vendor catalogs and held 4 million separately identified hosted catalog items and processed over \$14.2 Million in purchases.

## **Recognition**

In 2018, three (3) public entities located outside the State of Delaware sought 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. This brings to twenty-one (21), the number of non-Delaware public entities that have been given authority to procure from GSS, State of Delaware awarded contracts since 2011.

Government Support Services has been awarded the Annual Achievement of Excellence in Procurement for 2018 from the National Procurement Institute (NPI). This is the third year in a row that Government Support Services has received this award. 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 past October in Ft. Worth, Texas.

## **III. Moving forward**

### **Establishing Standards**

GSS previously created, posted and continues to update and 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.

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, and other maintenance related service contracts. 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. As part of these efforts, the DFM Chief of Engineering and GSS Deputy Director attended meetings with local architectural and engineering firms to hear critical feedback and engage local participants.

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,
- Establish a GSS database for Sole Source Procurements and publish on state's central contract publication portal, <sup>1</sup>
- 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

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<sup>1</sup> 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)).*"

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.

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 FY2016, GSS began and currently continues to hold 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 FY2018, with input, review and comment from GSS Contracting, the Legislature moved forward with additions to the Delaware Code. This included:

- Electronic bidding modifications to 29 Del C 69 via [HB355](#) – As identified in the Legislative synopsis – This Act allows an agency, as defined in § 6902 of Title 29, (“agency”) to accept electronic bid submissions and on-line bidding for contracts procuring material and nonprofessional services. This Act also expands the use of electronic bid submission and on-line bidding to be used for large public works contracts and large professional service contracts by the Office of Management and Budget or an agency. This Act also makes the Section of Government Support Services in the Office of Management and Budget responsible for administering the State's centralized contract development, solicitation, evaluation, and contract administration system on behalf of all agencies. Finally, this Act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.
- Subchapter VII – Pay for Success Contracts via [SB242](#) – As identified in the Legislative synopsis – This Act creates Pay for Success contracts. A Pay for Success contract is an agreement between a State agency and either a program intermediary or an investor under which an investor will provide upfront capital to fund a service, program, or economic development initiative. The State agency agrees to repay the program intermediary or investor if the service, program, or economic development initiative meets the performance measures and outcomes agreed to in the contract. An independent evaluator will determine if the performance measures and outcomes are met. If the State agency contracts with a program intermediary, the program intermediary will manage all aspects of the project, including identifying the investor and the entity or entities that will provide the service, program, or economic development initiative. In other situations, a State agency will contract directly with the investor, who will contract directly with the entity or entities that will provide the service, program, or economic development initiative.

## Training for Contracting Teams

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

- CPPB,
- CPPO,
- Six Sigma (allowing for Yellow, Green or Black Belt training(s)),
- Leadership in Energy and Environmental Design (LEED),
- Certified Professional in Supply Management (CPSM)

In FY2017, eight contract office personnel received authorization to begin Six Sigma training, with several personnel receiving their Green Belt certifications. 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. In FY2018, 72 unique training events were completed by the procurement staff. Further, in 2018, each GSS procurement professional has obtained membership in the National Contract Management Association (NCMA). Access to NCMA information and materials provides the central contracting team with another resource to improve Contract Management and Administration for central contracts and disseminate training to state agencies.

The central contract team will continue to conduct and promote the Vendor and Formal Procurement presentations, and as demonstrated in FY2018, 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.

## Communication

GSS continues to promote vendors to register with the free Vendor Notification System. At the end of FY2018, the MMP team had 10,092 vendors signed up to receive notification from the State of Delaware's Bid Notification system. This represents an increase of 1,109 vendors, or 12.3%, increase compared to FY2017, versus 7,830 unique vendors signed up at the end of FY2016.

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 FY2018, the central contracting team continued 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 5 times in CY2018. An example to a template created in FY2018 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 FY2017 OSD shared 506 individual information sharing blasts, a 56% increase over FY2016.

### **Generate Savings and Create Efficiencies**

Post the eMarketplace "Go Live" event in FY2015, 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, partnering with DeIDOT, DHSS, and DTI, GSS will seek to obtain an alternative service provider with a planned RFP release in FY2018

Post the eMarketplace "Go Live" in FY2015, the online state contract shopping platform now includes 108 unique vendor catalogs, over 4 million individual items, and has processed over \$14.2M in purchases since inception. Shoppers using state contracts can now shop comparing items across awarded competitive contract awards for best price and value in a matter of seconds. Orders can be processed through financial and accountability workflow processes and electronically approved at the supervisory level before purchasing as a single transaction through an ecommerce platform.

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 25.0% of aggregated spend for FY2018, increase from 24.5% in FY2017 as seen at: [Aggregated Contract Spend](#). The central contract team ensures agencies outside the state are informed 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, 2015, 2016 and 2017 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, 2015, 2016 and 2017 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 States previously revealed that 20 states require this type of publication prior to awarding a sole source contract.

## III. (Holdover from 2014, 2015, 2016 and 2017 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](http://www.bids.delaware.gov) shall satisfy the public notice and advertisement.”*

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

#### IV. Extend Purchases Using Federal Contracts (holdover from 2015 and 2016 Reports)

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