



Enhancing Strategic Value

**An Executive
Guide to Public
Procurement**

I. Enhancing Strategic Value - An Executive Guide to Public Procurement

Today, procurement has a much greater role than the traditional mission of obtaining high-quality goods and services for the lowest possible cost, or best-value, and awarding contracts and then handing off to the end users to manage. Instead, it has become a strategic, proactive function within the enterprise with the potential for contributing as much as, or more than, other government functions to the efficient and effective operation of state and local government.

This executive guide, prepared by the National Association of State Procurement Officials (NASPO), examines the strategic value-add of public procurement in state government at an enterprise-wide level. It is intended for government leaders, particularly those in executive functions, who seek an understanding of how the expertise of procurement professionals can be leveraged to benefit citizens and add strategic value at the enterprise level.

While NASPO recognizes the importance of a centralized procurement office, the organizational structure varies from state to state. A centralized procurement office consists of one Chief Procurement Official (CPO) who carries the responsibility for all procurement within the state under their authority. The CPO may delegate his or her purchasing authority to agency heads, such as facilities management or information technology depending on the dollar value, complexity, or category under the parameters of the law. In a decentralized procurement structure, each agency or set of agencies holds the authority for procurement. There are also structures that combine a centralized and decentralized structure by exempting only a portion of agencies or functions from centralized authority. Examples of exemptions may include highways, higher education, and elementary and secondary education.

A successful centralized procurement office can achieve “greater cost savings, lower personnel costs, increased agency control, reduced risk of fraud and improved data management.” With a single elevated CPO, states are able to operationalize statewide policies and create an environment that sees procurement as one unified function with increased efficiencies, transparency, accountability and positive results from vendor competition.

“It is not overstating the point to note that almost all matters in government eventually lead to the contracting process. Procurement needs to be elevated to a strategic function in government, as it is in industry. Lead time is the greatest ally that procurement professionals have in developing good contracting solutions for any agency.”

- State and Local Government Procurement
A Practical Guide, second edition





II. Strategic Value of Procurement

Competition

What is fair and open competition?

Fair and open competition occurs when all vendors in the market have equal access and opportunity to state bidding opportunities. Each response is evaluated independently and impartially against the solicitation and without preconceived judgments on ability, performance or merit.

Value of competition

By engaging in fair and open competition, states can maximize the number of bids, thus driving the market to provide the lowest price with the highest quality. Competition also encourages innovation, fuels efficiencies in manufacturing and delivery in delivery, optimizes performance and service delivery, and drives the economy.

Impartiality

Fairness of process for equal access to bid opportunities

As gatekeepers of the competitive process, the state procurement office operationalizes the state's legal requirements for competition by developing policies and procedures that protect the integrity of the process for all vendors. Procurement staff assures that vendors are notified of opportunities in a timely fashion, allows for questions to ensure that the best bids are received, and pledge to handle the evaluation process in a fair and equitable manner.

Best goods/services to run the services of government

It is natural to have preferences for certain providers of goods and services. However, through competition, the state procurement office assures the state receives the best goods and services to effectively run state government while also maintaining fair and open competition. Any product, service or vendor

that can meet the needs of the state is given the opportunity to be considered for an award. Most state laws require contract awards be based on the lowest cost or highest score of those vendors who meet the requirements.

Ethics

State procurement professionals are bound to the highest level of ethical standards, as even the perception or appearance of impropriety can have negative impacts to the state. Ethical standards such as accountability, transparency and avoiding conflicts of interest are of paramount consideration to procurement offices. Many states have adopted even stricter guidelines for their procurement professionals beyond those required by statute. As a part of their credentialing process, practitioners of public procurement must adopt a strict set of ethical standards and uphold those standards in practice.

Legal Considerations

Like all executive leaders, procurement officers must take laws into consideration when making decisions for their state. A procurement law will generally establish the standard for award of a contract; that is, tell the procurement officer or other entity which bid proposal must be accepted to meet the requirements. Understanding the legal standard for an award is important for many reasons, specifically because taxpayer dollars are involved and abiding by legal standards may ensure fewer protests and more successful contracts.

Transparency

By embracing transparent business practices and through regulations, oversight and use of eProcurement systems, procurement offices can ensure the procurement process remains fair, open and honest. The public has access to how a contract was bid, how and to whom it was awarded, and how the contract will be managed throughout its life. This level of transparency

assures the appropriate expenditure of taxpayer funds and reduces risks for vendors seeking to maximize their offerings at the lowest cost to win awards. The results are lower prices and enhanced accountability over the expenditure of taxpayer funds.

Effective Use of Public Funds

Delivery of Service

It is the government's charge to provide services to the public and provide a method by which government can effectively obtain goods and services needed to execute the functions of government. Procurement is an ally to agencies in the delivery of their service missions and fulfilling state strategic goals. Procurement is responsible for acquiring these goods and services in an effective and efficient manner to assure timely delivery of state operative functions. As state budgets shrink, procurement becomes a more vital strategic resource for executive leaders to maximize quality and minimize cost. Procurement can assist all facets of government in the most effective use of public funds and assures the public that these funds are being spent in accordance with the law.

Economy

State procurement is responsible for billions of dollars of spend per year and is one of the largest economic drivers of the U.S. economy. In many states, it is also one of the key drivers of the state's economy, providing a market for local businesses and stimulating economic growth and development. Short of consumer spending, small business is the second most important component of national and local economies. State procurement assures market access for all businesses through fair and open competition and encourages small business participation in state contracts. The safeguards of the procurement process support the economy through tailored processes that maximize diversification and provide stable market opportunities.



Job Creation

In addition to the jobs created by government itself, some businesses (large and small) are dependent upon state contracts to generate cash flow and create or sustain jobs. As a reliable source of income, government bidding opportunities are relied upon by the private sector to provide a stable stream of revenue and business growth. Cooperative procurement sustains jobs by engaging local businesses in contract fulfillment at both the state and national levels. These contracts provide statewide and national opportunities to local vendors as prime bidders or by partnering with other vendors as sub-contractors. Regional distribution is often key in cooperative fulfillment, providing opportunities for regionalized vendors to provide goods and services in their areas and stimulate local economic growth.

Innovation and Flexibility

Procurement professionals monitor the market conditions affecting goods and services. This intelligence can help government during the planning process make the most effective buying decisions and capitalize on market innovation and best practices. Benchmarking against the private sector, other governmental entities and national cooperatives provides valuable insight in the acquisition process and negotiation of best value for the state.

By pairing the best-in-class procurement method tailored to the market conditions with the specificity of the state's needs, procurement can find the most nimble and flexible strategic approach to acquisition. Through early engagement, procurement can foster innovation and support agency objectives to evaluate vendors based on the best fit and cost for expenditure of state dollars. This early involvement expedites the process by reducing review time, minimizing returns, and increasing communication between stakeholders to optimize the efficiency of the process.



III. Enterprise Approach

Strategic Mission

Procurement is a strategic, proactive function within the state government enterprise, and contributes to the efficient and effective operation of state government. Procurement is inherently connected to the entire government enterprise mission and to the supply chain marketplace that provides the goods and services needed to accomplish that mission. When executive decisions are made concerning the acquisition of goods and services, procurement offices can determine the best supply chain opportunities to satisfy enterprise requirements and goals.

Early Engagement

Engaging the procurement office early in the process will ensure that procurement becomes a help to state government leaders. Having to repeat steps in the process or revise solicitation parameters can be time consuming. By turning to procurement officers for advice and consultation, this hindrance can often be avoided. Procurement has strategic and practical roles to play and should be involved early on at the highest level of government operational decisions to accomplish important objectives, such as creating or sustaining private sector jobs to bolster the state's economy or uncovering revenue and savings to strengthen the state's budget.

Value Add

Public procurement professionals add value to every government program by providing efficient delivery of products and services, obtaining best value through competition, offering fair and equitable competitive contracting opportunities for suppliers, and maintaining public confidence through ethical and transparent procurement practices.

Procurement is a service organization ready, willing, and able to support innovation and flexibility while maintaining the integrity of the procurement process within the confines of the law. As partners in the acquisition process, procurement is available to educate and provide consultation to agencies to help them achieve their service delivery objectives. Establishing early and routine engagement by procurement can help agencies plan a project, conceptualize acquisition strategies, develop meaningful specifications, research the market, facilitate negotiations and support contract administration.

Relationship Management

One of the key skills of today's procurement professional is the ability to develop and maintain strong relationships with executive leadership, agencies, vendors and the public. These relationships are critical for procurement success. As government evolves technologically and takes an enterprise-wide look at service delivery, the need for



transactional professionals decreases and the need for skilled relationship managers becomes imperative for the fulfillment of the needs of the public. By balancing fund expenditure with quality service delivery, strategic procurement becomes critical in meeting that need and creating the new and innovative services demanded by today's taxpayer. By focusing on maximizing the relationships between all operational services, the government paradigm also shifts from the old status quo expectation of traditional service models to a solution-based dynamic capable of solving the complex challenges facing states today.

Increased Success in Goods and Service Delivery to Taxpayers

The best way to promote contract success is the consistent involvement of procurement in the planning, bidding, execution and management of the contract. Procurement practices are designed to keep the state in lockstep with the law while maximizing outcomes and transparency. With their deep knowledge of the law and practices, procurement professionals can help reduce protests and legal actions relating to procurement. While no practice can fully eliminate

protests or legal action, using solid procurement practices throughout the process can minimize the risk involved and increase the speed at which such issues can be addressed. The expenditure of public funds carries a large financial risk. However, procurement can help mitigate risks in contract delivery and achievement of intended service delivery to the public, compliance with state and federal laws, and safeguarding the public trust.

Additionally, the procurement office can increase the likelihood of success and reduce risk of failure on an individual contract basis. Contract success is often dependent upon comprehensive specifications and project requirements. The procurement office can promote vendor understanding of the project by providing education, facilitating pre-specification engagement with industry experts, effectively using bid meetings, managing question and answer periods, holding open contract negotiations, and overseeing contract management practices, while simultaneously maintaining accountability and transparency, maximizing competition, and promoting best-in-class procurement practices.

IV. Procurement Process

Legislation

Procurement offices are a valuable resource in the creation of legislation, administrative rules and policies. Procurement staff can assist in clarifying, simplifying and modernizing procurement laws to help governments contract in a more effective manner; offer insights on resources required for implementation; help troubleshoot potential issues; and be a critical support to executive leaders in understanding and complying with procurement laws and requirements. Involving the procurement office early in any phase of the legislative process is ideal to save time and address the actual issues at hand. NASPO can assist members by providing resources that examine state government best practices nationwide.

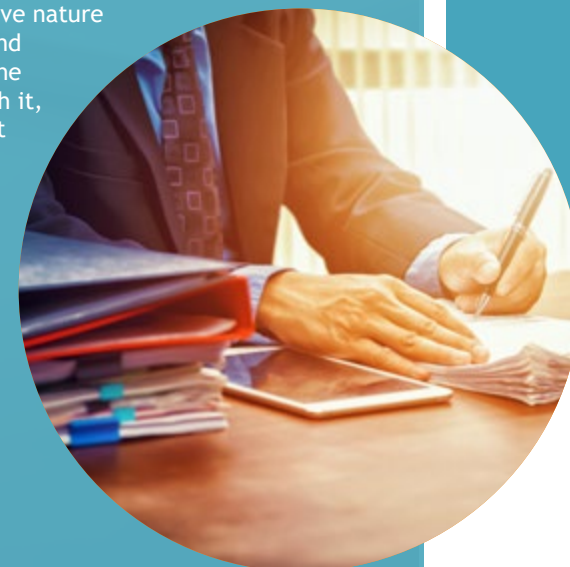
Understanding the procurement laws, as well as any issued rules and policies, is important for government entities to assure compliance. The procurement office typically has oversight responsibility for procurement transactions under the office's statutory authority and often provides regular education to agency procurement personnel. Additionally, the CPO is available to executive

leaders to provide information and resources on the procurement function, as well as offer insights into new project goals and objectives to assure the greatest opportunity for contracting success.

Best Value vs. Low Bid

Traditional procurement methods examine cost as the primary factor in determining contract awards. The lowest bid meeting the state's specifications received the contract award. However, in recent years, states have also turned to examining other criteria in determining the best value that a vendor can provide to the state. Vendor selection is based on criteria that supports more flexibility and allows vendors to propose a solution to a problem or propose variants that will maximize the value of the proposal. Typically evaluated by a committee, the proposals are scored against the criteria and the highest score is awarded the contract. In the best-value model, cost is only a portion of the overall selection process and allows the state to consider other elements—such as innovation, quality, creativity and team composition—along with the price. This method of evaluative purchasing aims to obtain better value, and has an added advantage of providing incentives for manufacturers and bidders to improve quality and services.

Because of the subjective nature and often high-dollar and high-profile nature of the projects associated with it, best-value procurement must be handled in a fair, transparent and consistent manner. Procurement offices should be engaged early in the planning process and should work closely with the agency to assure that the specifications fully support the best-value process.



Sole Source

Non-competitive or sole source procurement is a sensitive topic in the public sector. While competition is the preferred method of performing a procurement process, non-competitive procurements, such as sole source procurements, may be the most appropriate tool under certain circumstances. Competition is unavailable in a sole source procurement situation because there is only a single source for the procurement or no reasonable alternative source exists. Conducting a sole source procurement for reasons of self-interest or monetary gain are prohibited and do not adhere to the American Bar Association's Model Procurement Code for State and Local Governments. For this reason, many states opt to post all sole source procurements publicly, allowing vendors an opportunity to review the opportunity and gauge if competition is available. Additionally, some states are required by law to report all sole source activity to their legislatures.

Preference Laws

Preference laws are state policies that influence the procurement function to implement and achieve socioeconomic objectives. A preference is any advantage given to offerors in a

competition for contract award, which may be granted based on pre-established criteria. The law may identify the preference used as either mandatory or discretionary. Some examples of preference laws include local preference; small, women-owned and minority businesses (SWAM) vendor preference; or sustainable purchasing preference. Some preference laws also include "set-asides" for specific groups such as organizations that employ disabled individuals or veterans.

Protests

For most states that have a formal bid protest process, a protest refers to an objection or challenge to a solicitation, the award of a contract, or the intended award of a contract. In most states, protests must be filed in writing to the head of the procuring agency or the central procurement office. In some states, vendors may also have the option of an administrative hearing to review the protest's merit. Depending on the jurisdiction's process, some states do not proceed further with the solicitation or award and suspend performance until a final decision is made regarding the protest, unless a determination is made that the award or performance of the contract without delay is in the best interest of the state. The decision to stay lies with the chief procurement officer or senior executive who can make an override determination that the award of the contract without delay is necessary to protect the state's interest or a protest is clearly without merit.

Contract Management

Contract management has been a top focus for state procurement offices for the past decade and has also risen to the attention of executive leadership and state legislatures as a way to improve the outcomes of contracting. Contract management is the overarching process that a procurement office will use to ensure that a contractor has performed in accordance with the requirements in the statement of work and specifications. Procurement offices communicate with stakeholders—both agency personnel and vendors—to oversee the execution of a contract from inception to completion. Through contract management practices, procurement offices consider potential risks,

assign contract administration staff, and determine reporting methods and frequency among many other tasks that must happen to effectively manage a government contract.

Procurement offices also provide education to not only agency procurement professionals, but also end users on how to work with the vendor in managing the contract. This includes guidance on assuring contract deliverables are met in a timely and efficient manner, as well as how disputes will be handled, change orders will be executed, and how to document unresolved contract issues.

Cooperative Procurement

Cooperative purchasing involves sharing procurement contracts between governments, and is defined by the ABA Model Procurement Code as a procurement conducted by, or on behalf of, one of more public procurement units. Cooperative purchasing may also include shared procurement programs and resources, including advice and assistance. Cooperative purchasing is popular because it can save considerable time and money in contract production, lower contract prices through the power of aggregation, and achieve more favorable terms and conditions. States involved in cooperative contracts benefit from the reduced administrative costs of processing solicitations by leveraging the expertise of staffs across state boundaries. Instead of many states soliciting for the same goods or services, one state (or cooperative entity) takes the lead for the solicitation and other states (or entities) may choose to utilize the contract. Cooperative contracting also can benefit

local vendors in providing a larger market for their goods and services or providing opportunities for subcontracting with larger national firms for regionalized delivery.

Several types of cooperative purchasing entities exist and not all state laws support the use of all types of cooperatives. An example of a cooperative purchasing entity is NASPO ValuePoint, the wholly owned, nonprofit cooperative procurement subsidiary of NASPO. By leveraging the leadership and expertise of all states with the purchasing power of their public entities, NASPO ValuePoint offers valuable, reliable and competitively sourced contracts. Facilitated by a lead state, the contract is bid and awarded by the lead state with other states agreeing either initially or after the award to participate on the contract. To accommodate differing state laws, states are permitted to execute a participating addendum to the contract outlining the state's specific needs with the vendor(s) on the contract. NASPO ValuePoint serves as the additional facilitative support mechanism, but the contract is owned by the lead state.





Vendor Relationship Management

Vendors are essential for the supply of goods and services needed for government to function properly.

The competitive bid process is designed to give all vendors who can provide goods and/or services the opportunity to do so. Assuring that vendors are treated fairly and comply with all the required laws, rules and best practices for contracting are some of the key responsibilities of the procurement office. Understanding the bid process, award criteria, and contracting procedures require that the procurement office provide regular vendor education and guidance to instruct supplies on how to conduct business with the state. Procurement officers continually meet and communicate with vendors to ensure contracts are progressing in accordance with state regulations and requirements.

Vendors are valuable resources for industry expertise that helps inform the bidding process when handled in a fair and equitable

manner. Procurement monitors vendor exchanges through open communication with all vendors collectively. Examples include pre-bid meetings, question and answer periods, notice of negotiations, notice of award, etc. By being open and transparent in all communication, procurement safeguards against the risk of protest and assures that all vendors receive equitable treatment.

Examples of Innovative Procurement Methods

Public Private Partnerships (P3s) are a procurement model for supporting large-scale government projects requiring start-up capital to complete the project. While historically seen in the transportation sector, P3s can have wider applicability in government procurement. P3s bring together private investors and government in a partnership agreement, often sharing the resulting revenue and/or resources for the mutual benefit of both parties. P3s have risen in popularity in the last few years as state budgets have been stretched thin. Typically legislated and used with a specific project in mind, governments that have leveraged this procurement vehicle have assessed usage against other traditional models to determine the long-range impacts to the state prior to entering into such an agreement. Governments wishing to pursue P3s should involve the procurement office early and provide time for a full feasibility study prior to engagement, as this method carries both benefits and risks that should be addressed to maximize the chance of success.

Pay for Success Contracting (PFS) is an innovative contracting model that brings together investors, procurement officers and service-providers with the shared goal of improving social outcomes. In

this contracting model, procurement officers oversee and manage contract effectiveness studies on behalf of the government. The government repays the investors only if the pre-determined social outcomes are achieved. It is often the responsibility of the procurement office to either measure these outcomes or contract an independent analyst to determine program effectiveness.

Construction Manager at Risk (CMAR) is a project-specific delivery model for large-scale capital projects that selects a construction manager to consult on and manage the project from inception through completion, with the commitment to deliver the project within a guaranteed maximum price. The construction manager offers technical assistance during the design phase and is engaged prior to the completion of the design documents. Additionally, the construction manager carries the primary responsibility for the project and contracts directly with subcontractors and material suppliers. This model decreases state risk, but may also decrease state control over the project.

V. Operations

Data Management

Effective management and the increased efficiency of the procurement process is a critical success area for all procurement offices. Some key performance indicators (KPIs) of effective management and increased efficiency include regularly tracking and measuring key qualitative and quantitative functions and processes from requisition to vendor payment; using eProcurement systems to automate processes and generate savings; performing data analytics to make evidence-based decisions on sourcing and contract awards; achieving measurable cost savings; and achieving efficient procurement cycle times. Procurement Action Lead Time (PALT) specifically measures the efficiency of the procurement process. Procurement offices measure RFP cycle times from inception to execution, purchase order cycle times, new contract cycle times, and percentages of solicitations or contracts completed within the agreed upon or projected timeline. By measuring processes and collecting KPIs, the procurement office assists executive leaders such as Chief Administrators, Chief Budget Officers or the Governor in operationalizing the overall strategic goals of their state.



ERP/E-Procurement Systems

eProcurement has an almost immediate return on state investment evident through its benefits and savings. eProcurement systems provide purchase transparency and government accountability, leveraged buying power, increased administrative efficiency, reduced cost of goods and services, increased opportunities and competition, improved access to business opportunities for SWAM businesses, faster delivery times and reduction in duplication of systems and unnecessary investments.

Procurement professionals use eProcurement software to accomplish many things, such as posting solicitations, performing reverse auctions, managing contracts, and producing electronic invoices to speed up the payment process. Many states integrate their eProcurement system within the statewide ERP system to increase statewide adoption and ease of use.

Workforce

Statistically speaking, a large percentage of the state procurement workforce is approaching retirement age, which may rapidly drain the procurement workforce of experienced procurement professional. Another loss in the professional workforce can be attributed to the large percentage who move to private sector industry jobs, only staying in public procurement for an average of 3-7 years. To address this challenge, many procurement offices are focusing on the recruitment and retention of the millennial generation, defined as individuals born between 1980 and 2000. Procurement offices emphasize professional development and advancement opportunities in their recruitment efforts and are “generating awareness of the procurement profession early on in young Millennials’ education and careers.” Public procurement has taken the initiative to recruit and retain the workers of this generation, ensuring the stability and longevity of the procurement profession. For example, NASPO now sponsors internships in public procurement offices and educates millennials about a future career in public procurement.



“The future of government hinges on the ability to serve the public in new and innovative ways. Through thinking beyond traditional transaction-based ideology, an effective enterprise-wide strategy for running government can be established. Procurement is the key to unlocking that innovation and providing cost-effective solutions to the issues facing government today and meeting the challenges of tomorrow.”

-The National Association of State Procurement Officials (NASPO)

This resource serves as an introduction to the skills and value a procurement office adds to the overall strategic goals of your state. For more information and resources, NASPO encourages you to reach out to your state's procurement leader(s) or visit NASPO.org.

What is NASPO?

The National Association of State Procurement Officials (NASPO) Inc. was formally established on January 29, 1947, in Chicago, Illinois.

NASPO is a nonprofit association dedicated to advancing public procurement through leadership, excellence and integrity. It is made up of the directors of the central purchasing offices in each of the 50 states, the District of Columbia and the territories of the United States. NASPO is an organization that helps its members achieve success as public procurement leaders through promotion of best practices, education, professional development, research and innovative procurement strategies.

Visit www.naspo.org for more information about the association, our values and goals, and the many resources available as you become more knowledgeable about the strategic value-add of public procurement in your state.

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