



# The Strategic Value of Procurement Officials

## A Summary for Governors' Chiefs of Staff

### Introduction

State procurement is more than simply signing a contract. Procurement touches all facets of state government and can be leveraged to provide the strategic resources necessary for success. From routine purchases to high-dollar complex projects, today's senior procurement professionals successfully address various challenges and opportunities arising from a constantly evolving procurement environment. Often an untapped resource, procurement officials can be instrumental in offering guidance and input, which can assist in making the procurement process timely, successful, and in accordance with laws, rules, and policies. Procurement officials, when engaged early in the process, can also offer education on procurement processes, to provide every opportunity to maximize results. This involvement can decrease acquisition time, reduce cost, minimize the risk of failed procurements, and assist in capitalizing on emerging trends and technology as well as helping to meet the challenges of procurement.

### Executive Summary

Procurement officials can add strategic value through:

- Early engagement in policy and legislative objectives
- Involvement in strategic planning
- Cost savings strategies
- Higher contract success rates and decreased instances of protest
- Knowledge of process, market, and economy
- Working toward innovative strategies in a changing marketplace

### Policy and Legislative Objectives

Procurement encompasses the cradle-to-the-grave life of goods and services. From the definition of need to the planning, acquisition, award, contract management, and eventual disposal of obsolete or no longer needed assets, a procurement transaction must include all the components and factors that can be affected during that lifecycle. However, procurement doesn't simply begin when a need for goods and services arises. Procurement, like so many other functions of government, begins with the legislative process. The law establishes the powers, duties, and responsibilities of the designated procurement professional(s) by defining how goods and services must be solicited, evaluated, and awarded. Laws require that states contract for goods and services in a fair and competitive manner, providing an equal opportunity to all vendors who can meet the state's need. Laws also create a system of checks and balances and transparency to assure that procurement professionals meet the requirements for competition.

Often thought of as roadblocks, these laws provide the framework by which the government is protected and ensures the integrity of the bid process. The chief procurement official is a valuable resource in the creation of these laws, administrative rules, and policies. Procurement officials 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 state policy makers in understanding and complying with procurement laws and requirements. Additionally, early involvement in the conceptual and draft phases of the legislative process can yield great benefit to research, best practices, and emerging issues in procurement. This level of involvement can also decrease procurement, increase the rate at which contracts are successful, and even reduce the number of protests and legal action.

### Value of Procurement

Procurement officials are key strategic partners in helping government entities stretch limited budgets and save time in the sourcing, bidding, and awarding of contracts. Procurement officials leverage the state's collective spend, strategize cost avoidance, and provide leadership and education to maximize results. With the evolution of e-Procurement platforms, state procurement offices have greater ability for transparency as well as the business intelligence for data analysis to look for even greater efficiencies and cost-saving opportunities.

The procurement office offers value to government through cost-saving initiatives, such as the establishment of statewide master agreements and participation in cooperative procurement contracts. These types of contracts leverage the buying force of the entities together to drive the cost down for the collective whole. Political subdivisions and other government entities may also utilize and take advantage of the cost savings generated.

However, cost saving is not the only objective. Procurement officials monitor the market and help support the economy. Many local small businesses rely on government contracts to sustain and grow their businesses. Government contracts stimulate and sustain jobs and drive the economy. Additionally, government contracts create local economic opportunities to nationalize markets through advertisement of the cooperative contracts.

Engagement of the state procurement official is the best way to avoid unsuccessful or contended procurements. Procurement experts are a key component in navigating complex procurement policies to assure compliance with legal requirements. As guardians of the public trust, state procurement officials protect the integrity of the bidding process itself by creating an open and competitive environment where suppliers have equal access to bid opportunities. A fair and open procurement process increases competition and reduces constituent concerns. Any breakdown in the process integrity can result in vendor protests, legal action and media coverage costing the state in terms of money, efficiency, and taxpayer trust as well as impacting local business and the economy.

## Partners in Change

As procurement needs change, chief procurement officials and state officials must partner to determine innovative approaches to meet those needs. While many products can be procured through the low bid approach, complex procurements may be better suited to other solicitation vehicles. For example, 77 percent of states have developed alternative competitive procurement practices, including Requests for Qualifications (RFQ), Requests for Proposals (RFP), invitations to negotiate, best value bids, and reverse auctions, and have even awarded contracts based on return on investment (NASPO, 2014). It is logical to conclude that, as needs evolve, procurement must also evolve and new approaches must be considered to maximize quality and minimize cost.

The state procurement official's oversight, however, may be limited. Not all procurement services are consolidated under the central procurement office. Exemptions for higher education, K-12 education, highway construction, and building construction are common and can be challenging as procurement officials are often called upon to defend or provide guidance on exempt contracts despite their lack of oversight authority. According to the *2014 Survey of State Procurement Practices*, 95 percent of all states exempt highway construction, 88 percent exempt higher education, and 71 percent exempt building construction from the central procurement authority and oversight (NASPO, 2014). Exemptions of this nature are inconsistent with sound public policy and business practices. Exemptions reduce the state's leveraged buying power, which results in higher prices for goods and services and also potentially creates two differing sets of expectations and standards.

With the vast array of needed knowledge and expertise, education is critical for procurement professionals and those who engage in procurement-related activities. Often the state itself is required to perform this function and develop professional development and training programs to educate procurement professionals and to train critical skills necessary for success. Additionally, procurement officials can help to educate the public and other governmental partners and assist in best procurement practice. The National Association of State Procurement Officials (NASPO) is an additional resource for states in the development of best practices and education.

## Challenges and Failed Procurements

Protests and other forms of appeal are most prevalent on high-profile and/or high-dollar contracts. As a part of the checks and balances system, vendors are afforded the right of protest of a contract award under most state codes (41 out of 46 responding states). Additionally, 33 states also have legislation which gives a vendor the right to appeal the outcome of the protest and 29 states the ability to file a claim in a higher court (NASPO, 2014). While protests and appeals cannot be completely eliminated, there are steps that can be taken to reduce them. By adhering to established procurement policies and procedures, states can reduce opportunities for protest/appeal and increase the probability that a protest/appeal will be successful.

Unfortunately, even with the best planning and expertise, some procurements will fail due to poor vendor performance. Most states include standard contract provisions addressing non-performance and include provisions for contract cancellation. Additionally, some types of procurement require the submission of a performance bond from the vendor. If the vendor fails to perform, the state may collect on the performance bond. Additionally, vendors who have obtained the contract through illegal

methods such as collusion or fraud may be debarred from continuing to do business with the state. By engaging procurement officials early in the process not only when a challenge arises, high-profile and large dollar contracts can maximize the chances of being successful.

## Emerging Issues

In our ever-changing world, procuring cutting-edge products and services can prove a daunting task for procurement officials. As the market moves away from IT as a product and into the world of IT as a service, procurement officials are reexamining how IT is procured. Emerging trends in cloud-based technology and the replacement of outdated legacy systems make procurement of these technologies difficult when combined with rigid procurement laws and the need to negotiate terms and conditions that are mutually acceptable. Procurement officials must remain impartial while seeking out products and services which are innovative, market-tested, and affordable.

Another emerging area is public access to information and services through personal mobile devices and the governance of data. With innovative technology comes the need to mitigate the risks involved in security and applicability of such technological conveniences. Additionally, procurement officials will need to examine ways to protect the state's interests while allowing flexibility in terms and conditions to allow for innovative technological advancements.

In the future, procurement officials will continue to be asked to do more with even less, and the need for enhanced procurement methods will be instrumental in achieving that success. Design-build; construction manager at risk; and private-public partnerships, which increase the vendor's responsibility and role in the total procurement process; are a few of these emerging tools. Additionally, with this new challenge comes the need for better project management and oversight as well as the ability to attract and retain qualified procurement professionals.

## Conclusion

Aside from salary dollars spent, every public policy issue is impacted by or results in a procurement action to implement. More and more often, states are recognizing the criticality of procurement professionals in every aspect of public policy. By working together and engaging early in legislation drafting, policy decisions, and procurement planning, chief procurement officials and State Chiefs of Staff can work together to maximize the value and impact of procurement.

### References:

Source: 2011-2012 Survey of State Procurement Practices (NASPO, 2012)

### Additional Resources:

The National Association of State Procurement Officials: <http://www.naspo.org/>

NASPO 2014 Survey of State Procurement Practices

*\*\*The 2014 Survey of State Procurement Practices is scheduled for release in Mid-July. Please contact NASPO at 859-514-9150 or visit [www.naspo.org](http://www.naspo.org) for more information.*