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Sales Offices are listed on page 4.
More local governments are entering long-term relationships with private providers in public-private partnerships. The arrangements can cover a variety of activities, from building and/or operating infrastructure assets (like turnpikes and parking concessions) to running all city services.

Transportation infrastructure projects come to mind when one thinks of typical public-private partnerships, but energy-saving performance contracts also offer a lot of bang for the buck. The contracts deliver massive energy savings in schools and municipal buildings, with a short payback time frame. Richard Norment, executive director of the Arlington, Va.-based National Council for Public-Private Partnerships, in fact, predicts that public-private partnerships tied to energy generation and conservation projects will be a huge growth area in 2013.

Public-private partnerships in 2013 will share a close connection between challenges and revenue, especially as communities face more urgent needs. Some of those challenges include: aging infrastructure, shrinking economy and government budgets, and growing populations. To more smoothly ride out fiscal hiccups, city administrators are putting greater emphasis on risk management and stable revenue streams.

Look for more creativity as public-private partnerships are formulated and discussed in 2013, especially in the use of social media and other tools to reach out to future generations. Partnerships often involve building infrastructure that will serve a community’s needs for a century or more. Today’s voters will help fund, design and deliver a community’s new infrastructure asset produced by a public-private partnership, but they may not be around to use it.

Creative use of online tools, including social media, will play a bigger role. Through the creative use of online tools and social media, governments can elicit direct input from all members of the community, thereby giving citizens a voice in shaping the municipal future, says Terry Bennett, senior industry program manager for Autodesk, a San Francisco design software firm. A city, for instance, could use an online video game tied into a redevelopment project to give tomorrow’s generations and community members a say in how their neighborhood will look.

Public-private partnerships have been a viable option for many cities and counties over the past several decades. However, considering the substantial needs of America’s infrastructure alone, it’s a safe bet that the role of such partnerships will continue to evolve as communities face their most important problems.

MICHAEL KEATING is senior editor for Government Product News, a sister publication of Government Procurement. He can be reached at michael.keating@penton.com.

Editor’s Note: The article beginning on page 20 provides additional insights into public-private partnerships.
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The goal of Government Procurement is to stimulate thought and discussion on significant issues in the profession, to foster collaboration and community, and to encourage creative solutions to common challenges. In that spirit, this issue of Government Procurement presents a hypothetical scenario describing a challenge that procurement professionals might face in the course of their careers.

The following scenario was written by a group of graduate students in the PADM 718 Public Sector Contract Administration class taught at Old Dominion University during the Spring 2013 semester:

The City of Crystal Beach Public Schools is constructing a new school in the Landfall area of the city. Construction of the new school must be completed in three months, when the new school year is scheduled to begin.

The out-of-town general contractor for the job has subcontracted the installation of the heating, ventilation and air conditioning system for the facility to a local HVAC company. This subcontractor has done the HVAC maintenance and repair work for the Public Schools through four sequential contracts during the past 20 years.

Yesterday, the HVAC subcontractor submitted a formal request to the Schools’ Purchasing Agent, asking that the design of the ductwork system for the new building be completely re-done. The subcontractor asserted in its request that the design for the ductwork – specifically with regard to framing – renders it impossible for the proposed ductwork to be installed as specified in the contract.

> Did the HVAC subcontractor proceed as it should have when it communicated its concern to the Schools’ Purchasing Agent?

> As the schools’ Purchasing Agent, what is your next step (or set of steps)?

> What step or steps could you have taken to prevent the alleged problem or at least decrease the likelihood of the design being an issue? (Think broadly.)

> What could be the potential consequences if this issue is not resolved in a timely manner and as well as it can be?

> What must you learn/confirm to lead to the best possible resolution of this matter?
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EMBRACING THE FLEXIBILITY OF NEW FEDERAL ACQUISITION SYSTEMS

By Evan McDonnell

Federal IT failures are often caused by force-fitting commercial off-the-shelf (COTS) applications to make them fit government needs. This is particularly true with the acquisition and contract writing systems in use throughout the Federal government.

Today, some companies have created flexible platforms for Federal acquisition and contract writing systems. The components of these platforms are:

**Business Process Management (BPM) Platform**
- These new solutions offer a codeless development environment with drag-and-drop icons to create software functionality. Application users and designers communicate through flow diagrams that build program logic. This leaves software engineers free to focus on new capabilities like social and mobile instead of writing specific application logic.

**Acquisition “Framework”**
- Implementation of these new systems starts from a framework with common acquisition process elements already in place. This framework is a project accelerator, lowering implementation costs, shortening the go-live time, and increasing initial functionality.

**Native Mobile Clients**
- When the BPM platform is extended with native mobile clients, agencies can offer mobile acquisition process participation without investing in mobile development.

**Integrated Social Communication**
- Social media is becoming a common business tool. Tying it directly to process events greatly increases its utility, which is a built-in capability with these types of platforms.

Following are the most important steps to ensure this new generation of solutions is included as part of RFIs and RFPs for a new acquisition and contract writing system:

**Ask for “COTS-based,” Not “COTS”** – Limiting your search to COTS products will exclude the new generation of systems. These highly flexible solutions technically aren’t off-the-shelf – although the platforms they are built upon are.

**Rethink the Long Functionality Check List**
- COTS products are not flexible, so you need to test them for hundreds of specific capabilities. New software products focus on flexibility, so you can add capabilities with little cost or effort.

Be sure to balance existing functionality with the ability to easily add or modify later.

**Evaluate and Score Architecture** –Unlike COTS products, the new options are built on open, flexible architectures so an explicit evaluation is necessary.

**Require Demonstrations of Core Logic Changes** – COTS vendors won’t demonstrate a core logic change during an evaluation because it’s complicated and costly. New architectures make rapid changes possible, so a demonstration of a core change is warranted to understand the options.

**Require Scoping for an Incremental Build Out** – Next generation systems built on BPM platforms can be extended for related functionality such as responding to a congressional inquiry on a specific procurement. Be sure vendors state how they would meet such a request and its cost.

**Require Native Mobile Clients and Social Communications**
- We’ve already seen specific “Cloud First,” “Shared First,” and “Future First” guidelines. It won’t be long before “Mobile First” and “Social First” initiatives come out. Get ahead of the wave by including evaluations for mobile and social technology.

Finally, evaluate end user license agreements from potential vendors early in the process. Restrictions may substantially increase the total cost of software ownership. Look for items like a requirement to purchase upgrades in order to stay on maintenance, ownership rights of any customizations you pay them to create, and other restrictions.

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Evan McDonnell (evan.mcdonnell@appian.com) is vice president at Reston, Va.-based Appian, a supplier of business process management software.
With GSA’s Cooperative Purchasing Program, state and local governments can get what they need... for less.

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To learn more about GSA’s Cooperative Purchasing program and other programs supporting state and local governments, call 703-605-9155 or visit interact.gsa.gov/stateandlocal.
PERISCOPE TO MANAGE NIGP CONSULTING PROGRAM

Periscope Holdings Inc. expanded its partnership with the NIGP: The Institute for Public Procurement, and will now provide managed services to support the continued growth and success of the NIGP Consulting program.

NIGP Consulting services provide procurement management support in areas of strategic procurement planning, procurement process and organizational reviews, contract management and administration, technology reviews, e-procurement readiness assessments, energy market evaluations, and policy reviews and development.

Since it formed in 1995, the NIGP Consulting program has been a successful venture for NIGP. The institute recently elected to outsource the marketing and management of the program and executed an agreement with Periscope Holdings to assume these new responsibilities. Periscope also holds the exclusive license to maintain, enhance and market the NIGP Commodity/Services Code on behalf of NIGP.

To extend the capacities of NIGP Consulting, Periscope Holdings will leverage its expertise in project management, report and deliverable production, relevant benchmarking, identification of best practices, and analysis. The company plans changes aimed at evolving the program, including consulting methodology and additional resources to assist NIGP consultants, development of an effective sales and marketing approach, in-depth consulting training for the program’s procurement subject matter experts, and partnerships with other consulting organizations that can provide supplemental expertise as needed.

“Periscope has achieved a considerable amount of success in maintaining the NIGP Code over the years, and we believe that this new concentration on the NIGP Consulting program will integrate well with our existing coding services, training programs, and inventory analysis and rationalization capabilities,” said Matt Walker, Periscope’s President of NIGP Code Services.

“Periscope’s focus on the government sector, commitment to the success of public agencies and close alignment with NIGP’s core values makes them a unique and ideal partner for NIGP,” said Rick Grimm, CEO of NIGP. “Through their expertise, we believe we can broaden the reach of NIGP Consulting to more effectively meet the needs of procurement agencies at all levels of government and educational institutions.”
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What Is ‘Spend’?
CLARIFYING DEFINITIONS THE FIRST STEP TO PRECISE DISCUSSIONS ABOUT PROCUREMENT

By Jonathan White

What is your spend? At face value, the question is simple, but the answer rarely is. Do you know the answer off the top of your head, or might it take you a few minutes to find it in your files? Maybe you don’t really know because getting that information has never been easy. Or maybe your first response is: “What exactly do you mean by ‘spend’?” It’s hard to have a conversation about anything before defining the basic terms of the discussion.

Imagine you want to quantify the value your procurement team brings to the organization in hopes of increasing your head count next year. To do so, you report that you saved the organization 2.5 percent of spend. But what spend do you mean? The actual dollar value of 2.5 percent can vary wildly depending on whether you mean 2.5 percent of the organization’s total expenditures or 2.5 percent of the spend that the procurement team can influence. When talking about spend – or money in any context – it’s important to be precise.

There is no single definition of spend that will be universally understood, even within the confines of public sector finance and procurement. The word by itself isn’t specific enough and doesn’t tell the whole story. Based on years of discussions with hundreds of public sector procurement directors, managers, supervisors and officers, this article seeks to clarify what we mean when we talk about spend, and how we can use that clarified meaning to discuss spend more effectively both inside and outside procurement.

OVERALL SPEND
The best place to start is at the top. Any organization will complete thousands, if not millions, of transactions each year, some that are spend in a procurement sense, and others that are not. Getting to the “overall spend” figure first involves excluding transactions that relate more to the movement of money than spending on goods, services or staff. Examples of these transactions include cross charging between departments, transfers to other public sector organizations, financial investment transactions and legal settlements paid. There may be other similar exclusions unique to an organization, but transactions for any category of goods, services or staff costs should remain in overall spend.

With those exclusions applied, overall spend should represent the organization’s expenditure on staff costs as well as the purchase of goods and services from external suppliers. Overall spend will always be less than the total value of all financial transactions, and should be relatively straightforward to calculate. Often this figure will be the same as, or similar to, the organization’s operating budget.

NON-PAYROLL SPEND
Now let’s narrow down and further define spend. “Non-payroll spend” is overall spend minus direct staff costs such as payroll, retirement contributions and other costs that are paid to, or on behalf of, a staff member, and which are not directly for the purchase of goods and services from third parties. For example, while payroll and employee retirement contributions should be excluded at this stage, health insurance costs could go either way. This is because the organization usually has some choice and influence as to how health coverage is provided and through which vendor, but it may not be a type of spend that procurement can influence. Another exclusion local governments typically make at this stage is for any social service direct aid payments to individuals, or to individuals who provide social care such as foster parents.

Non-payroll spend is typically 25 to 40 percent of an organization’s overall spend and is the figure that really begins to resemble what procurement professionals would recognize as spend. With the exclusions applied in the steps above, non-payroll spend should include only the organization’s transactions with third party creditors for the purchase of goods and services.

INFLUENCEABLE SPEND
This is the level at which the spend figure becomes very open to manipulation and interpretation, and with good reason. “Influenceable spend” is the subset of non-payroll spend that the procurement team can actually influence and is always either equal to or less than non-payroll spend. To calculate influenceable spend, some or all of the following
are excluded from the non-payroll spend figure because the procurement team has little or no control in these areas, or because other category experts who are not in the procurement team manage procurement in an area:

- construction and facilities maintenance,
- capital projects,
- utilities,
- healthcare and other insurances, and
- transactions less than a specific dollar amount, which is often the same as the organization’s competitive solicitation threshold.

Consider an example of two cities, close to each other, serving similar populations and having a similar non-payroll spend. The procurement team at the city with a centralized procurement function is likely to have a much higher influenceable spend than the team at the city with a completely decentralized procurement function.

Influenceable spend can also be an important figure when comparing staff levels and reporting savings. It stands to reason that the greater the influenceable spend, the more staff or more highly qualified (and possibly more highly paid) staff are required to manage it. When reporting delivered savings, it is reasonable that the procurement team report their savings as a percentage of the influenceable spend, rather than non-payroll or overall spend, much of which they have no control over.

The influenceable spend figure should reflect the spend that the procurement team has the authority to influence, even if the team isn’t actively doing so right now. When discussing influenceable spend, the procurement professional should be ready to explain what was included, what was excluded, and why.

**MANAGED SPEND**

A final level of granularity of spend is “managed spend.” This figure will be equal to or less than influenceable spend and represents the categories and vendors that the procurement team is actively managing on an ongoing basis, often through a contract or category manager. Another often used description is “contract spend,” but this description is ambiguous. Usually, contract spend is used to describe the value of transactions with a vendor where a formal contract is in place and was either let by the organization or utilizes a cooperative purchasing agreement. But there could quite easily be spend with a contracted supplier that isn’t managed by the procurement team yet, but probably should be. In order to actually be considered managed spend, the procurement team should be involved in the letting and/or management of the contract.

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Finalists will be contacted directly and the winner will be profiled in the August issue.

We are down to the final few weeks for accepting nominations.

**Nominations will close on June 3, so don’t delay.**

Please help us continue to recognize the outstanding people and projects in local government.

---

**Bill Wolpin**

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WHERE IS SPEND DATA CAPTURED?
When trying to determine any of the above types of spend, data usually comes from multiple sources. It is extremely important to make sure that all sources are included. The main sources of data are the organization’s accounts payable (AP) system (which may be a module within an ERP system) and a p-card system. If payments are made to third parties other than through the AP or p-card systems (such as a voucher system, direct pay system or travel and expense system) they should also be included.

If you have them, you may find the following systems useful in determining your organization’s overall, non-payroll, influenceable, and managed spend because they include additional information about your organization’s financial transactions:

**E-procurement systems.** For many organizations, spend managed by an e-procurement system has gone through an approval process and/or through a catalog (whether hosted or punch-out) and is more likely to be managed spend than other methods of buying.

**Contract management systems.** These systems can provide information on which vendors and goods have a contract in place and are therefore likely to be influenceable or managed spend.

**Vendor management systems.** They contain additional information about the vendors to help determine what transactions should be influenceable and which are not.

YOUR OWN DEFINITION OF SPEND
It’s crucial in the business of public sector finance and procurement to make sure that everyone in any given discussion understands what kind of spend they all talking about. You may have your own set of words to describe spend at your organization which everyone already understands. If not, this article can help clarify the question so you can hopefully provide a precise and consistent answer the next time you’re asked about your organization’s procurement spend, or your total savings as a percentage of spend.

JONATHAN WHITE, territory director for Spikes Cavell, Inc., which equips decision makers in the public sector with the business intelligence, online tools and analytical insight to transform the way they procure goods and services. The Spikes Cavell Observatory is an online platform that facilitates delivery of spend and contract visibility quickly, affordably and with little effort on the agency’s or institution’s part.
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A LEGACY EVOLVES: RESPONSIBILITY MEETS RESPONSIVENESS

By Richard Pennington

“A broad discretion in the selection among bidders is included within a reasonable construction of the statute as to ‘responsible’ bidders. The word ‘responsible’ is not limited to the meaning of pecuniary liability or responsibility, but includes as well skill, experience, and integrity...” – Colorado Court of Appeals

This language was penned the year the federal income tax was signed into law, stainless steel was invented, the British House of Commons rejected a woman’s right to vote, and Confederate veterans reenacted Pickett’s Charge at the Great Reunion ... 1913.

Contractor responsibility is a bedrock legacy in public procurement. This past year, two cases showed how issues of responsibility have evolved.

HOW DOES PREQUALIFICATION AFFECT RESPONSIBILITY DETERMINATIONS?

Contractor responsibility typically is determined at the time of contract award. Does a prequalification process preclude an awarding entity’s conducting additional responsibility investigations? In Massachusetts, the answer is no. [Barr Inc. v. Town of Holliston, 967 N.E.2d 106 (Mass. 2012)]

Barr bid on a project in the town of Holliston: the construction of a new police station. In Massachusetts, the commonwealth’s Department of Capital Asset Management (DCAM) had policymaking authority with respect to some construction by local governments. DCAM used a contractor certification process that looked at representative samples of a contractor’s public sector projects. The process considered experience in the various trades – e.g. masonry, plumbing, electrical and roofing – that the contractor expected to perform.

Barr had been certified by DCAM and was eligible to bid on Holliston’s project. Barr was the low bidder. The town, however, uncovered unfavorable information about Barr’s past performance. The town asked a detective in its police department to conduct an investigation. Eventually, the town determined that Barr was not responsible and awarded the contract to the next lowest bidder. Barr sued and sought injunctive relief, claiming that the town had acted arbitrarily and capriciously.

The court rejected arguments that the comprehensive contractor certification process precluded independent investigations related to contractor responsibility. The court noted that while DCAM controlled the certification process, municipalities ultimately made the award decision. The court found no statutory prohibition on the independent investigation and held that an awarding authority may consider additional information bearing on a bidder’s responsibility outside that contained in DCAM’s bidder certification records.

The holding is consistent with others I have seen in my practice. In a sense, the certification or prequalification serves as a filter, usually to ensure that the contractor – or in some cases subcontractors – have requisite experience in the construction trades or projects they are undertaking.

The court ruled that despite comprehensive systems to winnow out unqualified bidders, there still is room for investigation and responsibility determinations up until the time of award. A Washington court considered contractor responsibility from a different perspective: How are matters of responsibility related to responsiveness and contract formation?

DO RESPONSIBILITY AND RESPONSIVENESS INTERSECT?

If there is one case to talk about with your counsel, Washington’s Skyline Contractors is it. The case has elements of contract law (formation), availability of injunctive relief versus monetary damages, and entitlement to attorney fees. [Skyline Contractors, Inc. v. Spokane Housing Authority, 289 P.3d 690 (Wash. Ct. App. 2012)] The case involves issues of both responsibility and responsiveness.

In February 2010, the Spokane Housing Authority issued an invitation for bids for a federally-funded project to furnish and install windows in homes. The invitation for bid (IFB) required window installers to have a minimum of five years of documented experience. Skyline – who had been incorporated as a business for only three years – submitted a timely bid, but the housing authority did not consider Skyline a responsible bidder because the company did not satisfy the experience requirement. Skyline protested. Skyline pointed out that its bid identified a
subcontractor with 20+ years of window installation experience. The Authority canceled the original award and granted Skyline’s request for reevaluation.

During that reevaluation, the housing authority asked questions about how the work would be performed by Skyline and its subcontractors. In its responses, Skyline stated that it had “full intention of subcontracting all installation of the windows in the bid documents,” and “Skyline . . . does not intend to self-perform installation of the windows. All contract documents will be followed as they were bid.” After considering the additional information, the housing authority notified Skyline that it “shall be awarded the contract.” The IFB instructions stated that written award to the successful bidder “shall result in a binding contract without further action by either party.”

Here’s where the tale gets interesting. At the preconstruction meeting, the authority again asked Skyline about the subcontractors. The identity of the subcontractors remained unclear, so the authority asked to see the subcontracts. Skyline explained that because the owner-contractor agreement had not been executed, Skyline did not yet have subcontracts. Skyline further implied that the listed subcontractor might not be able to do all the work. Skyline maintained, however, that listing subcontractors on a bid proposal did not mean those subcontractors had to be used.

Apparently not satisfied, the housing authority’s lawyer notified Skyline that its bid was “not responsive” to the invitation for bids. The authority awarded to the next bidder in line, and Skyline sued for injunctive relief. When Skyline could not post the bond (usually required in injunctive relief cases), Skyline persisted with its lawsuit seeking damages for breach of contract.

The Washington appellate court found that, based on Washington judicial precedent, a contract existed at the time of the award notice. But the court found for the authority on very narrow grounds: monetary damages for alleged breach by a government are not available in Washington courts under these circumstances.

The Skyline case provides an excellent case study regarding timing of awards and the effect of that timing on an agency’s ability to consider matters of contractor responsibility. The housing authority’s attorney transformed Skyline’s failure to adequately answer questions about subcontractor identity into a matter of responsiveness, although the court found the contract existed at the time of the award notice. The court’s rationale for finding in favor of the housing authority stopped short of ruling on the relationship between matters of responsibility, responsiveness, and contract formation. But what was clear from the holding is this: In the state of Washington, an award notice that says the bidder “shall be awarded the contract” creates a contract.

SOME SUGGESTIONS
So what lessons can one take from these two cases in terms of recommended practices? As I have noted in previous columns, laws differ among jurisdictions. Contractor responsibility, however, is one of the foundational procurement principles shared by most governments. Absent specific statutory/regulatory requirements or judicial precedent to the contrary, consider using these practices:

> So there is no doubt about agency authority, include notices in prequalification packages that inform contractors about the entity’s right to conduct further investigation of contractor responsibility on individual projects.

> In solicitations using prequalification, also include a similar statement regarding the agency’s right to conduct additional inquiry regarding contractor responsibility before award.

> Include language in solicitations that requires bidders to respond to inquiries or risk a determination of nonresponsibility. The ABA Model Procurement Code provides that “[t]he unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror.”

> If your laws permit, consider using “intent to award” notices, rather than award notices that create a contract. Public announcement of intent to award should start the clock running in agencies extending protest rights within a prescribed number of days of award. The intent to award preserves the right to make a responsibility determination up until contract execution or purchase order issuance. Moreover, the intent to award avoids the issue of breach of contract damages if a protest is granted and the contract with the awardee cancelled.

> Include language in the solicitation and model contract that conditions any financial obligation on bilateral execution of the agreement or issuance of a purchase order. <

RICHARD PENNINGTON, J.D., LL.M., CPPO is an NIGP Individual Member and NIGP Instructor. After federal procurement law practice as an Air Force judge advocate, he served as an assistant attorney general (procurement and contract law and litigation) and State Purchasing Director for Colorado. He now serves as general counsel to WSCA-NASPO Cooperative Purchasing Organization LLC.

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When do I use cooperative purchasing?

New primer from NIGP shows how to maximize the value of coop programs.
By the NIGP Task Force on the Use of Cooperative Programs

Cooperative procurement is a proven, effective model for saving taxpayer dollars and a viable alternative to conventional, independent procurement processes. However, as with any versatile tool, cooperative solutions may not be appropriate for every circumstance. Cooperative procurements are undertaken to meet specific needs and realize their full value when applied with an understanding of their appropriate use, and their limitations.

What is cooperative procurement? As defined in the NIGP Dictionary of Procurement Terms, cooperative procurement is “the combining of requirements of two or more public procurement entities to leverage the benefits of volume purchases, delivery and supply chain advantages, best practices and the reduction of administrative time and expenses.”

NIGP supports the use of cooperative procurement, asserting that its practice should be consistent with a thorough understanding of its many forms and a deliberate assessment and application of the procurement methodology that best supports an agency’s needs. NIGP recommends the best practices outlined in this article to evaluate and use cooperative solutions, and emphasizes the responsibility of the procurement professional to ensure that cooperative solutions are employed consistent with local legislation, competitive requirements, and consideration for the broadest possible participation of all vendor types.

COOPERATIVE PROCUREMENT MODELS

> Joint Solicitation Model. A procurement is conducted by, or on behalf of, one or more public entities that have combined and standardized their requirements. The participating organizations make an advance commitment to use the resultant contract.

> “Piggyback” Model. One or more public entities solicit their requirements and include an option for other organizations to access, or “piggyback,” the contract as awarded [Source: National Association of State Procurement Officials (NASPO)]. This method may include a state or national cooperative affiliate. The use of this form of cooperative procurement is elective.

> Third Party Aggregator or Broker Model. An external organization establishes a cooperative program, working with one or more public entities to establish one or more contracts designed to appeal to a broad base of potential user agencies and provides the portal through which the contracts will be accessed [Source: Cliff McCue and Eric Prier in Journal of Public Procurement, 2008]. Aggregators facilitate identification of the competitor pool, consolidation of the buyer market and promotion of the contracts under their program auspices. The use of this form of cooperative procurement is elective.

> Multiple Award Schedules (MAS). Contracts are awarded by a public entity, particularly the federal government and some states, for similar or comparable goods or services with more than one supplier at varying prices. Generally, MAS contracts are considered non-competitive or less than fully competitive. While some of these contracts may be available to local government, public entities considering use of an MAS should ensure it complies with applicable competition requirements. The use of this form of cooperative procurement is elective.

ADVANTAGES AND LIMITATIONS OF COOPERATIVE PROCUREMENT

Advantages. Cooperative procurement is a form of strategic sourcing; that is, combining or “aggregating” the spend of several public bodies with competitively sourced suppliers to maximize buying power. Cooperative contracts leverage value-added pricing, vendor service levels, and advantageous contract terms.

Typically, larger entities serve as a lead public body, and all participating entities
realize reduced transaction and administrative costs, workload, and processing time. With the large, aggregate volume represented by the potential users, cooperative contracts provide the governmental purchaser access to quality products at competitive, “most favored” prices, while also offering beneficial delivery and contract terms.

**Limitations.** The limitations of engaging in cooperative procurement include: contract pricing that may not be optimal due to the inability of the public body to accurately predict order quantity and timing; less flexibility in the requirement to conform to the specifications and material terms of the base contract; possible decline in opportunities for local, small or disadvantaged suppliers; and the temptation to “shop” or be influenced by brand familiarity rather than the product’s inherent capacity to meet the defined requirements. Finally, purchasers may find that a single large purchase by their own entity can be more aggressively priced than a cooperative contract. For these reasons, market research and due diligence should be performed, on a case-to-case basis, before deciding to use a cooperative contract.

**EVALUATING THE OPTIONS**

In situations where two or more government entities have identified a mutual product or service and have resolved to satisfy their need through a joint solicitation model, the agencies retain immediate control throughout the solicitation-evaluation-award-contract management process. Retaining control throughout the process is often seen as an advantage of joint (as well as independent) solutions over piggyback-based cooperative purchases. However, the decision to engage in a joint procurement, and the subsequent process requires a level of advance planning and effort. A commitment to use the resultant contract may be impractical or burdensome for one or more of the agencies. In these cases, the ease of accessing a favorable contract that has already been awarded may be most advantageous for the public entity.

The efficiencies and value available through piggybacking make it an attractive alternative to independent procurement initiatives and may largely explain the rise of third-party aggregators, a.k.a. “cooperative programs,” at the national, regional and local level. Given the many programs and contracts available, a methodical, diligent process is necessary for procurement professionals to determine the programs that operate in a manner consistent with their entity’s requirements, and the contract(s) that deliver best value. The choice among joint cooperative, piggybacking or traditional independent procurement requires a weighing of the benefits, risks and shortcomings associated with each procurement model.

There are numerous national and regional cooperative programs across the United States offering a variety of contract choices for the same products or services. For example, office products and maintenance repair and operations (MRO) products are available on several cooperative contracts. As a result, the analysis has become more complicated as public purchasers attempt to determine the “best” cooperative contract to use. In such cases, an agency may narrow down to a “finalist group” of specific contracts and suppliers to compare pricing using the agency’s unique product use history.

**EVALUATING COOPERATIVE PROGRAMS AND CONTRACTS**

**Step 1: Internal Review**

- Assess the impact of using either an independent or aggregator solution for the requirement:
  - identify foreseeable demands on procurement operations;
  - identify human and budgetary resources available to meet those demands;
  - analyze all costs associated with conducting an independent source solicitation;
  - identify human resources available to meet ongoing contract administration demands (if independent source solicitation method is used);
  - analyze all costs associated with using a cooperative solution; and
  - evaluate the quality, price and availability of cooperative contract opportunities for the requirement.

**Step 2: Cooperative Program Review**

- Review a cooperative program’s business model, legal business type and business practices for compliance with local cooperative purchasing legislation and policy.
- Assess the cooperative program’s ease of use and access; ongoing contract management and administration practices; regular program and/or contract audits.
- Determine whether the cooperative contract was competitively awarded.

**Step 3: Cooperative Contract Review**

- Evaluate whether the use of an aggregator cooperative contract is appropriate:
  - compare available cooperative contracts for the required product or service; and
  - conduct market research.
- Analyze specifications, price, terms and conditions, and other factors such as:
  - contract utilization fees;
  - shipping terms;
  - distribution availability in the local area;
  - minimum quantity or spend requirements; and
  - volume discounts or rebates
- Review the cooperative contract for conformance with all applicable laws and best practices, with sensitivity to local preference and small, women, minority (SWMBE) programs.
- Determine whether the requirement is consistent with the material terms of the contract and the scope of the contract award.
> If any additional local terms and conditions are required, ensure they do not conflict with the scope of the contract award, and incorporate them through an addendum or purchase order properly approved by both parties.
> Contact the cooperative lead government agency to verify contract application and eligibility.

Step 4: Fiduciary Responsibility and Contract Compliance

> Regularly audit invoices to ensure pricing and specification compliance with the cooperative contract, notifying supplier of any discrepancy.
> Notify lead agency and cooperative program representatives of any ongoing supplier deficiencies or contract discrepancies.

CONCLUSION

Cooperative procurement can be an effective procurement tool when utilized deliberately and with understanding of its strengths and limitations. Cooperative procurement does not automatically benefit the purchaser. Government entities must have a systematic process to assess the value of a particular cooperative purchasing program, as well as the particular cooperative contract. Comparison of specifications, pricing, terms and conditions should be factored into the decision. Expediency alone is a flawed rationale.

Purchasers should refer to the Public Procurement Practice, Use of Cooperative Contracts for Public Procurement, as a best practice guide when considering use of a cooperative contract. Due diligence must be performed, taking into consideration legal authority, suitability of contract, and compliance with other local requirements. Further growth is likely in the number and type of cooperative agreements. Public purchasers must use this tool to optimize its best attributes and not mistakenly assume it is “the right tool for every job.” Such an approach will help agencies realize the full value of cooperative procurement solutions and the savings and efficiencies intrinsic to them.

Editor's Note: This article is excerpted from NIGP, The Institute for Public Procurement’s recently published third position paper, “Cooperative Procurement: Great Value (Great Confusion).” The complete paper is available at nigp.org in the Resource Center/Publications/NIGP Papers section.
Partnering with the Private Sector

NIGP Business Council members share insights from the supplier's perspective

Public-private partnerships are a common approach to serving a wide variety of needs in the state and local government sector, but executing such arrangements can present challenges as well as opportunity. It’s understandable that government purchasing professionals generally view these arrangements from the “public” perspective, but what can they learn about the value of public-private cooperation from those on the other end of the partnership – the suppliers?

We asked members of the NIGP Business Council, representing some of the largest suppliers to the government market sector, to share their insights into the evolving role of public-private partnerships and how the parties involved can work together to maximize the benefit for everyone.

Q. Describe how your company has been involved in a public-private partnership, either as a partner or as a supplier.

Paul T. Murphy, director, strategic contract support, Canon Solutions America, Inc.: For the most part, Canon Solutions America’s partnerships with public entities have been based on providing services and/or solutions beyond the original scope of the initial agreement and then providing the education to those entities on how to procure a value-add agreement. The outcomes of those relationships include defining business objectives and achieving them, identifying measurable sustainability goals and proving systems to track/achieve, and creating a work environment that fosters change. An example: creating curriculum development, providing resources, providing industry experts to conduct training, and then hiring some of the program graduates.

Cynde Beedle, industry development, government, HD Supply Facilities Maintenance: HD Supply Facilities Maintenance is in the industrial MRO (maintenance, repair and operations) wholesale industry. We have seen public-private partnerships occur in the form of property and facilities management services. In one scenario, a private entity performs one or more non-core business functions like building maintenance, janitorial service or landscape maintenance. Another scenario is a long-term lease agreement with a private entity to manage government facilities. The private entity typically assumes all responsibilities associated with managing the facility and its operations. HD Supply has been involved as a supplier to both public and private entities that have entered into public-private partnerships.

Matt Walker, President, NIGP Code Services, Periscope Holdings, Inc.: Our primary objective is to provide a solution that increases efficiency in the public sector and to develop long-term relationships when we engage with our public procurement clients. Two good recent examples include Maryland and Arizona. In these partnerships, we are doing much more than implementing eProcurement software – we are partnering with the public entity to help develop a funding mechanism and financing their cash flow, facilitating stronger vendor relationships through outreach efforts, and promoting the new solution to the broader community.

Jason Walker, governmental sales support consultant, Caterpillar Inc.: We partner with cooperative contracting agencies. Our expertise in product capability and application combined with the agencies’ in-depth understanding of procurement regulations, customer needs and budgetary challenges allow us to work together to provide a solution that benefits everyone.

Rob Bezjak, Graybar vice president, government sales: We work with public agencies to manage their facilities by combining the latest in technology with an eye toward improving energy efficiency. The U.S. Communities program is a cornerstone to many of these efforts, speeding procurement time by leveraging cooperative purchasing. This process reduces expense and allows agencies access to the materials they seek without soliciting a quotation for each individual transaction. By making the process more efficient, we address the ongoing challenge of staff reductions and increased workloads, which have impacted some public sectors.

Scott Matthews, Home Depot’s pro business director: Home Depot has partnered with state and local government agencies for their procurement needs primarily through the competitively awarded U.S. Communities cooperative purchasing agreement, administered through Maricopa...
‘Open communication and collaboration between the public and private sectors are essential. A successful public-private partnership is one where there is a true relationship between both parties that results in a win-win.’ — Cynde Beedle, HD Supply Facilities Maintenance

‘Related to road maintenance and repair contracts, instead of specifying equipment to be used, the agency is specifying the finished product. This removes a large amount of project management requirements and frees up limited agency resources to address other jobs.’ — Jason Walker, Caterpillar Inc.

‘Key elements include shared risk and long-term relationships. The partnership’s success can’t be measured in a matter of a few months, nor will it survive if only one party is bearing all of the financial and political risk.’ — Matt Walker, Periscope Holdings

‘We work with public agencies to manage their facilities by combining the latest in technology with an eye toward improving energy efficiency.’ — Rob Bezjak, Graybar

‘In some cases, it’s about breaking old habits, for both parties, and moving towards a common mutually beneficial goal. Many procurement practices from 20 to 30 years ago don’t have as much functionality in today’s world for public agencies.’ — Scott Matthews, Home Depot

County, Ariz. This purchasing vehicle supports government agencies’ needs to procure under a contract, while still having the convenience of utilizing their local Home Depot stores. We recognize that a good partnership starts at the local level. The U.S. Communities cooperative purchasing agreement allows local government public agencies to procure through our local stores which employ local residents.

Q. HOW CAN A GOVERNMENT ENTITY DETERMINE IF A PUBLIC-PRIVATE PARTNERSHIP IS APPROPRIATE FOR THEM?

Matt Walker: It is essential for any public entity contemplating a public-private partnership to assess its willingness to work very closely with a private entity and to have that private entity represent it. A successful partnership requires a long-term view, and success is typically built on a shared risk arrangement — so you have to be willing to put some “skin in the game,” while your private partner does likewise.

Beedle: The applicability of a public-private partnership may vary by function. Leveraging a private sector partner may be a good fit for some functions or services. Potential questions to aid in the evaluation and decision making process include: Does this align with my agency’s strategy, goals and objectives? Is the solution cost-effective? Will we maintain quality service to the public?

Bezjak: These relationships should provide transparency, competitive solutions and should be documented to ensure fair and reasonable practices are in place.

Beedle: The applicability of a public-private partnership may vary by function. Leveraging a private sector partner may be a good fit for some functions or services. Potential questions to aid in the evaluation and decision making process include: Does this align with my agency’s strategy, goals and objectives? Is the solution cost-effective? Will we maintain quality service to the public?

Murphy: Generally, successful partnerships require the elected and executive leadership of the public entity to drive the initiatives. Mid-management and procurement often identify the potential opportunities; however, without the executive engagement, the required changes to structure and employee behavior are generally overlooked and create systemic problems. For entities that are looking to accelerate public-private partnerships, an internal task force can be developed to define, review and put forth recommendations. The task force should include major departments, sourcing and leadership.

Matthews: First we want to help them ensure it is legal through their procurement procedures and laws to use our U.S. Communities cooperative purchasing agreement. Occasionally, as requested, we support public agencies’ needs for a variety of documentation, calls, and meetings to provide the data they need to document their participation in an agreement such as U.S. Communities. It is also in our best interest to show them that this cooperative purchasing arrangement consists of the best value proposition for their needs from a broad-based retailer like Home Depot. Occasionally, a government entity determines they do not want to use a cooperative purchasing agreement. We then work with them through other areas to ensure they get the support they need.

Q. WHAT ARE THE ESSENTIAL ELEMENTS OF A SUCCESSFUL PUBLIC-PRIVATE PARTNERSHIP?

Beedle: Open communication and collaboration between the public and private sectors are essential. A successful public-private partnership is one where there is a true relationship between both parties that results in a win-win.

Matt Walker: Key elements include shared risk and long-term relationships. The partnership’s success can’t be measured in a matter of a few months, nor will it survive if only one party is bearing all of the financial and political risk.

Jason Walker: As with any relationship, communication is key. Just as important is establishing a foundation of trust.

Murphy: The private entity has to perform better than the public has in the past or would have done if they still had the project. The public entity needs to assign the appropriate staff to manage and oversee the outcomes, with reviews conducted consistently and frequently. The public constituents should be informed regularly of the progress.
and outcomes. True partnership means that both parties are benefiting in ways that they could not have achieved without the other and without the fluid exchange of information.

Matthews: Trust – and a mutually beneficial arrangement [are essential]. It is inherent upon a provider like Home Depot to show why partnering with us is beneficial to a public government agency.

Q. WHAT BENEFITS HAVE YOU OBSERVED FROM PUBLIC-PRIVATE PARTNERSHIPS?
Matthews: The main benefit is the information we have gained from thousands of public government agencies nationwide. No two are exactly alike, but there are often major similarities in procurement practices that cross many agencies. As we have gained this knowledge we have been able to demonstrate our value to these customers in the areas that are important to them. Those items do vary in importance – some look at the total value proposition, some at price, some at environmental initiative, some at employment information, etc... If we support the tactical information needs of the public agency that is requesting that employment information, etc... If we support the tactical information of the public agency that is requesting that type of information, it provides a benefit to both parties.

Murphy: Benefits we have seen include cost/expense reductions, transference of business intelligence, better knowledge of the requirements for public entity’s employees education/training, and broader understanding of the external challenges on public entities.

Beedle: Benefits we have observed from public-private partnerships include leveraging the expertise, efficiencies, capabilities and core competencies of private sector companies that specialize in a particular service such as property and facilities management. Another benefit is allowing the public sector to focus on the core mission of their agency.

Matt Walker: Our clients have benefited from financial savings, increased revenue generation, better promotion of their solution to key constituents and stakeholders, and an enhanced degree of collective industry expertise across the organizations.

Jason Walker: Related to road maintenance and repair contracts, instead of specifying equipment to be used, the agency is specifying the finished product. This removes a large amount of project management requirements and frees up limited agency resources to address other jobs. Additionally, it allows the agency to leverage the expertise and efficiencies of industry-specific professional(s) that understand to a greater degree the dynamics associated to the task at hand.

The benefits are real, and key beneficiaries include the public entity’s stakeholders and, oftentimes, the larger public community that our clients serve. A lack of promotion or visibility of the solution to these parties would therefore only serve to minimize the potential value; we believe the solutions should be aggressively promoted and made available as open records.

Murphy: Do not be afraid to market the success of projects to the public. When there are issues, address them early and with clarity. The public entity is still responsible for the management and spending of the public’s money. The public-private partnerships should be designed for measurable improvement, and the public should know the value that they are receiving. Additionally, the public entity should expect to be recognized by the private entity for its contributions and accomplishments.

Q. HOW SHOULD THE PUBLIC SECTOR AND THE PRIVATE SECTOR COME TOGETHER TO THINK DIFFERENTLY?
Murphy: Not all projects are suited for public-private partnership. Not all public-private partnerships work on the first attempt. The public sector needs to have the forum for the private sector to make recommendations. The format will vary from entity to entity. These forums should be regularly scheduled, transparent and with a desired outcome. Additionally, public entities can make great strides by holding formal “Business Reviews” with their present top-20 expenditure agreements.

Beedle: The public and private sector can work to form strategic relationships that can result in an enhanced and mutually beneficial partnership. A forum for public and private sector to have open communication, dialogue, collaboration and information sharing can create value and enable creative solutions. This allows for the public sector to share their long-term vision, strategies and initiatives and for the private sector to share best practices, new products and the latest technologies. This type of collaboration can result in enhanced and cost-effective solutions that are in line with goals of both the public sector and taxpayers.

Matthews: In some cases it’s about breaking old habits, for both parties, and moving towards a common mutually beneficial goal. Many procurement practices from 20 to 30 years ago don’t have as much functionality in today’s world for public agencies, and likewise rigid adherence to singular sales practices is not a benefit to a supplier.
Completed in 1965, the exterior skin of the Gateway Arch consists of 886 tons of stainless steel; just one of the products procurement professionals purchase every day.

Like the Gateway Arch, NIGP is a landmark. Since 1944, the Institute has been providing ground-breaking professional development programs to government procurement professionals throughout the world. It’s a legacy we are proud of.

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Government purchasers helped launch the green building movement 20 years ago by being among the first to embrace the U.S. Green Building Council’s (USGBC’s) Leadership in Energy and Environmental Design (LEED) standard. Over time, the LEED green building standard made it easy to specify greener, high performance buildings. Today, government projects account for 27 percent of the more than 13,500 LEED-certified buildings in the United States.

With green building more commonplace, the standards governments use to define greener buildings are facing greater scrutiny. As a result, government purchasers, led by the U.S. General Services Administration (GSA), again are taking the lead in advancing greener, high-efficiency buildings by working with others to improve LEED and other green building standards.
REVIEWING GREEN BUILDING STANDARDS
An early adopter of green building standards, GSA’s continued leadership was mandated by a 2009 Presidential Executive Order, which requires that 15 percent of its buildings meet a green standard by 2015. The agency also must show annual progress towards 100 percent of GSA buildings meeting the standard. As a result, GSA is reviewing the standards and specifications it uses to buy and lease its portfolio of greener buildings.

In addition, the Energy Independence and Security Act of 2007 required GSA’s Office of Federal High-Performance Green Buildings to identify the most comprehensive and environmentally sound approach to certify green buildings. After reviewing dozens of green building rating systems created around the world since LEED was launched in 1993, GSA identified three critical components of a successful green building program for its use:

- The approach must address the entire building, including design and operation.
- It must be available and used within the United States.
- It must include independent, third party certification that the building meets the certification requirements.

In particular, the certification must come from an organization unaffiliated with designing or constructing the building. (see “GSA’s Potential Green Building Certification Systems.”)

GSA identified only three green building standards meeting its initial screening requirements — the Green Building Initiative’s Green Globes, the International Living Institute’s Living Building Challenge, and USGBC’s LEED. (see table at right for an overview of the programs.)

GSA assessed the three programs against a more detailed list of 27 Federal requirements drawn from GSA’s internal green building principles, relevant federal legislation, and presidential Executive Orders. None of the three systems meet all of the federal government’s requirements, but each was deemed to be a credible approach with Green Globes meeting 25 of the 27 requirements, Living Building Challenge meeting 14, and LEED meeting 20.

While other green building rating systems have emerged, more than 200 federal agencies, states, and cities in the United States now require LEED certification for new public buildings. GSA owns or leases 641 LEED certified buildings with an additional 3,954 buildings at some stage of the LEED certification process.

LEED is a rating system for buildings that consists of required elements like energy and water efficiency and optional credits that total up to 110 points. Buildings scoring at least 40 points are certified with silver; gold and platinum designations are available for higher point totals.

REVISIONS TO LEED
LEED currently is revising its standard for the fourth time. The revisions being proposed are designed to address lessons learned from existing LEED...
The proposed changes to LEED, which should be finalized later this year, include:

> Covering additional building types such as warehouses, distribution centers, data centers, and renovations for schools and retail.
> Increasing the technical rigor of the standard to include additional emphasis on building performance.
> Adjusting credit ratings to reflect the significance of key building performance indicators, such as an increased weighting for energy efficiency and the expansion of the innovation category to better reflect the benefits of rapidly evolving green building technologies.

In addition, the proposed revisions promote sharing of additional information about the environmental costs and benefits of the products used in building projects. The new point structure rewards products with third party-verified Environmental Product Declarations (EPDs). They are similar to an environmental nutrition label for products. It is a summary of a far more in-depth lifecycle assessment (LCA), which identifies all the relevant environmental impacts of a product or service. An EPD summarizes the LCA and provides purchasers additional information about the specific environmental impacts.

The U.S. Green Building Council’s proposed revisions to the LEED standard will reward manufacturers that have completed an EPD. The intent of the requirement is to encourage manufacturers to learn more about the environmental impacts of their products so they can continue improving environmental performance.

Government construction and renovation projects launched the green building movement 20 years ago. They continue to play a significant role with government purchasers specifying green standards and actively participating in the development and revision of those standards. Even though the next generation of green building space guidelines are currently being written, government purchasers are busy specifying it.

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When a government entity passes an ordinance creating a Small Local Business Enterprise (SLBE) program, it can completely change the bid and RFP solicitation requirements for acquisition of goods and services. The purchasing department is then tasked with implementing these changes as quickly as possible. Purchasing policies...
and procedures that have been in place for years are altered to meet the requirements of the ordinance. If these changes are not managed effectively, an entity can suffer delays in obtaining goods and services, increased costs, and a strain on inter-departmental working relationships. The changes must be managed in a consistent, systematic matter.

In 2008, the City of Tampa passed an ordinance establishing an SLBE program and specifically delineating procedures for operating an SLBE program. The ordinance gave the City’s Minority Business Development (MBD) office responsibility to oversee the program. The city’s purchasing department is responsible for incorporating any requirements of the program into solicitations for goods and services. As a senior procurement analyst in the city’s purchasing department, I have developed and issued many bid and RFP solicitations that included SLBE requirements.

The purpose of this article to define the roles a purchasing agent undertakes in administering an entity’s SLBE program requirements. Defining these roles is important. The more a purchasing agent understands his or her role in the process, the greater the chance for success of the acquisition process and of the SLBE program.

UNDERSTAND THE ENABLING LEGISLATION

The purchasing agent must fully understand all the provisions in the enabling SLBE program legislation pertaining to procurement. The purchasing agent needs to know the legislation well enough to explain it to end-user departments and able to be conversant with the entity’s SLBE specialists.

The purchasing agent must know the dollar thresholds as stated in the enabling legislation. These thresholds will guide the determination of the type of procurement solicitation the entity issues. For the City of Tampa, any goods or services with estimated annual expenditure of under $300,000 are candidates for sheltered-market bid solicitations. That means the available city-certified SLBE vendor list may be examined by an SLBE committee to determine if a minimum of three SLBE companies can provide the specified goods or services. If so, the SLBE committee will designate the solicitation a sheltered-market bid. Then, only bid responses from certified SLBE companies can be considered.

The enabling legislation also may address requirements for subcontracting to SLBE companies, bid discounts and RFP ratings preferences. The purchasing agent will want to understand completely the legislation in these areas in order to best guide the SLBE specialist and SLBE committee in selecting the applicable SLBE requirements for each solicitation.

THE IMPORTANCE OF COMMUNICATION

To illustrate the communication roles the Purchasing Agent plays, consider the example below of a bid solicitation under $300,000. Let’s look at the type of dialog the purchasing agent should initiate with each party in the acquisition process. This dialog begins even before the bid solicitation is written and occurs with the following parties:

The SLBE Specialist decides whether a solicitation is sheltered for only SLBE companies or is an open-market bid available to any interested company. Therefore, the information the purchasing agent provides the SLBE specialist is critical to determining the appropriate type of market solicitation.

The purchasing agent will send to the SLBE specialist a draft of the technical specification, estimated value of the
award, and a brief narrative of the scope of the solicitation. The purchasing agent should also provide the SLBE specialist with as much information as possible about the history of previous solicitations for this item or service. Which companies bid the last time? How many of those companies are SLBE-certified? Of the SLBE companies who bid last time, what background is available on those companies’ capabilities?

The purchasing agent should also provide as much information as possible about the current marketplace and providers for this service. The City of Tampa recently issued a solicitation for property maintenance and trash/debris removal. This service includes some grounds maintenance, but the majority of the work involves debris clearing and hauling. I conveyed to the SLBE specialist that smaller grounds maintenance companies would not have the vehicles or experience to handle this type of work. The qualified companies would likely specialize in construction clean-up and debris hauling. That is the type of information the SLBE specialist needs in order to determine if enough qualified SLBE companies exist to justify a sheltered-market bid designation.

**The End-User Department Technical Specification Writer.** The end-user department may be unaware of the SLBE program and the related requirements that govern the bid process. The department should be advised that a sheltered-market bid could reduce the number of companies bidding, may eliminate the current service provider from bidding (if they are not SLBE-certified), and may result in higher cost. This is not the type of information that a department on a fixed budget, with pressing need for goods or services, wants to hear. Nevertheless, the department needs to hear it before the bid process begins. The purchasing agent should emphasize that these requirements are not arbitrary or optional; they are law.

The purchasing agent’s objective should be to enlist the cooperation and assistance of the technical specification writer to communicate with the SLBE specialist. The technical specification writer is the expert on what is needed and is invaluable in explaining this need to the SLBE specialist. This will help the SLBE specialist understand the solicitation requirements. Then the SBE specialist can better determine if there are at least three qualified SLBE companies available for a particular acquisition.

**The Vendors.** When the SLBE specialist and SBE committee designate an SLBE sheltered-market solicitation, the current bid awardee may not be an SLBE company. In that case, the purchasing agent should reach out to the current awardee and inform them that the re-bid will be only available to certified SLBEs. In that outreach, it is important to convey that the reason for sheltered-market determination is not in any way based on the awardee’s performance under the current bid. Instead, it is strictly driven by changes in the local ordinance as it pertains to competitive bidding.

The purchasing agent should also encourage the current awardee to consider applying for SLBE certification in order to participate in the re-bid. Based on size or location, the company may not qualify for SLBE certification. However, it doesn’t hurt to ask. If the current awardee can become SLBE-certified, it reduces or eliminates a number of potential issues (i.e., pricing, finding a qualified company you know can do the work). Also, expanding the vendor base with the current service provider or any local qualified provider is good for the SLBE program and the competitive bid process.

**RECORDKEEPING AND ANALYSIS**

The purchasing agent will naturally retain records of each bid solicitation. These records will include bid lists, bid tabulations, bid award recommendations, and awardee performance evaluations. This information can be used, as noted above, to assist in determining whether a competitive, qualified SLBE vendor base exists for a sheltered market bid. Moreover, this information can be used to conduct a comparative analysis of sheltered market solicitations vs. open market solicitations.

Tampa has issued numerous sealed, advertised bids for landscape improvement projects. Based on the estimated amount of the project, some of these bids were issued as open market bids; others were issued as sheltered market bids. In comparing the bid responses of the two solicitation types, two patterns emerged: (1) more bid responses were received on the open-market bid solicitations (2) no SLBE company won an open-market solicitation. The sample size is too small to have statistical significance but demonstrates the differences in outcomes that can occur on these different bid solicitation types. Such comparative data is critical as upper management and lawmakers weigh the costs and benefits of an SLBE program. Thus, collecting and organizing bid response information in the bid file has importance beyond that of purchasing’s standard audit requirements.

**BE PROACTIVE IN THE PROCESS**

SLBE programs create an added variable in the acquisition process outside the realm of traditional purchasing practices. By understanding his or her role in the process, the purchasing agent can meet the SLBE program requirements without sacrificing the needs of the end-user department. The key to achieving that is for the purchasing agent to be proactive in guiding the process, beginning at the time.

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> Delaware Valley Regional Planning Commission, Pa.
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> City of Lakewood, Ohio
> City of Annapolis, Md.
> City of Danville, Va.
> Clark County, Wash.
> College of Charleston, S.C.
Online Courses
Contracting for Public Sector Services  
Date: June 13 – Aug. 5  
Presented by: Joyce D. Foster, CPPO, CPPB  
Registration Deadline: Thursday, June 6

CPPB Prep  
Date: July 8 – Aug. 21  
Presented by: Robin Rickard, CPPO, OPBC  
Registration Deadline: Monday, June 3

Webinars
Contract Administration: Closing the Deal!  
Date: Thursday, June 6  
Time: 1 p.m. – 2:30 p.m. (Eastern)  
Presented by: Robin Rickard, CPPO, OPBC  
Registration Deadline: Wednesday, June 5

How Transparent Is Your Organization?  
Date: Thursday, June 27  
Time: 1 p.m. – 2:30 p.m. (Eastern)  
Presented by: Robin Rickard, CPPO, OPBC  
Registration Deadline: Wednesday, June 26

JULY
Legal Aspects of Public Procurement  
Date: July 8-10  
Location: Norristown, Pa.  
Hosted by: Pennsylvania Public Purchasing Association Chapter of NIGP  
Instructor: T. Suzette Moore, CPPO, CPPB

Project Management for Workgroups  
Date: July 9-10  
Location: Wilsonville, Ore.  
Hosted by: Columbia Chapter of NIGP  
Instructor: Richard L. Florey, CPPO

Presentation Skills for Procurement Officials  
Date: July 11-12  
Location: San Marcos, Texas  
Hosted by: San Antonio Public Purchasing Association Chapter of NIGP  
Instructor: Alan H. Culpepper, CPPO, VCO

Introduction to Public Procurement  
Date: July 15-17  
Location: Reading, Pa.  
Hosted by: Pennsylvania Public Purchasing Association Chapter of NIGP  
Instructor: John Zeyer, CPPO, CPPB

Warehousing and Inventory Control  
Date: July 15-16  
Location: Hagerstown, Md.  
Hosted by: Maryland Public Purchasing Association, Inc. Chapter of NIGP  
Instructor: Darin Matthews, FNIGP, CPPO, C.P.M.

AUGUST
Contract Administration  
Date: July 17-19  
Location: Washington, D.C.  
Hosted by: Metropolitan Washington Chapter of NIGP  
Instructor: Steven Updike, CPPB, FCMA, FCN

Developing and Managing Requests for Proposals in the Public Sector  
Date: July 24-26  
Location: Orlando, Fla.  
Hosted by: Central Florida Chapter of NIGP  
Instructor: Angela Mastandrea, CPPO

CPPB Prep  
Date: Aug. 8-9  
Location: Miami, Fla.  
Hosted by: Greater Miami Chapter of NIGP  
Instructor: Tony Reed, CPPO
Closing thoughts before I go

Frank Pantangeli (Frankie Five Angeles to those of you who don’t live in Brooklyn) once told Michael Corleone to let him deal with an area of their family business because it was “a street thing.” He meant that Frank knew his area of expertise and markets, and he knew how to get things done efficiently. I’m not saying that you should use the same methods as Frankie, but just take a lesson from his attitude.

The next time someone accuses you of paying $500 for a toilet seat, or makes a smart remark about a low bidder, and before your face freezes into a smile and your left eyebrow begins to twitch, explain how intense the bid process is and how we vet prospective bidders. It’s a question of education.

Sadly, the news media almost never reports how well we do, mostly because it’s not attention-getting.

I have tried to use the words “professionalism” and “education” in each of my articles. I have always felt the words set a leader apart from the groundlings. There are many skills we need to master in order to be effective for our organizations, but these two are at the top of the list. They are difficult to master, and there is a long learning curve.

I would put technology as an important third skill to master. We have to know not only how to purchase or rent it, but we have to keep up with the latest developments to make it work more effectively. I see people with their smart phones and various pads and tablets working while they talk. I’m still trying to figure out how to speed-dial my friends on my 10-year-old phone. I would appreciate if someone could tell me how to take a picture with it and explain what a pixel has to do with me.

All of this is my long-winded way of saying that I am going to take several steps back from writing this column. I started writing the column in April 2006, and I think at this juncture, I have said all that I want to say. The guys at Government Procurement magazine, my editor and publisher, have been more generous in their attitude towards me than I could have reasonably expected when I first started. They have allowed me to write as if I were teaching a master’s class in our profession, and my gratitude toward them is unending.

It’s time for others to take up the keyboard (“take up the pen” is a much more worthwhile phrase, but sadly, nobody does that anymore). We need new ideas from new leaders and thinkers. The articles in Government Procurement show creative and innovative solutions to problems that didn’t exist when I worked. The thought processes are still much the same, but the devil is in the details.

I will still remain active in the NIGP organization and in its chapters. My Chapter, VAGP, extended their geographical limits approximately 300 miles north and allowed me to join. Their members are some of the best we have.

I’ll be the guy sitting in the lobby of the hotel at conferences and forums, talking about our profession, hockey and fishing. Stop off, say hello, and let me know that you are thriving.

Thank you all for your comments and ideas about my articles.

It’s been the most fun I’ve had with my clothes on.
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