New Horizons for Procurement
5 Initiatives That Are Shaping Our Profession

PLUS:
Green Resolutions for 2014
Privity and Third-Party Beneficiaries
Is Negotiation a Lost Art?
Avoiding IT Procurement Risks
TCPN helps turn wish lists into check lists.

Computers – check. Office supplies – check. Public safety equipment – check. The Cooperative Purchasing Network (TCPN) helps simplify your steps and reduce your costs. TCPN’s contracts leverage the purchasing power of over 37,000 actively engaged government entities. All contracts are competitively bid and awarded by a single governmental entity – Region 4 Education Service Center. TCPN monitors contracts through third party audits and regular reviews to ensure vendor accountability. You can rely on TCPN’s lead agency's ISO certified processes, 100+ combined years of government purchasing experience and 50+ combined years of auditing experience – we know what it takes to keep a county running.

Reevaluate your check list. Go to www.tcpn.org and sign up today.
IN DEPTH

18 Review and Forecast

5 INITIATIVES SHAPING OUR PROFESSION
A look at initiatives under way by NIGP to advance the procurement profession to the next level of professionalism.

BY BRENT MAAS

22 Green Purchasing

HAPPY GREEN YEAR 2014!
It’s time to reflect back on 2013 and look forward to the new year. For purchasing professionals interested in green purchasing, here are 10 resolutions to serve as a source of inspiration.

BY SCOT CASE

22 NIGP Position Paper

SUCCESSFUL NEGOTIATION ELEVATES PROCUREMENT
Negotiation enables procurement to achieve best-value solutions while supporting the public mandate for a lean, cost-conscious government. Far from becoming a lost art, negotiation is a core competency and a key element in the sourcing process.
Governments Spreading Kindness

By Gary C. Smith

Government programs face tight budgets and dwindling resources. But gifts-in-kind organizations enable municipalities to obtain free merchandise that can benefit recipients in a big way.

A gifts-in-kind organization such as the National Association for the Exchange of Industrial Resources solicits donations of valuable, new merchandise from American corporations and redistributes the merchandise to their members free of charge. Municipalities and related agencies can include housing authorities, police and fire departments and social service programs.

Families that have fallen on hard times often look to housing authorities to find affordable places to live. In many instances, these families are also in need of vital supplies such as cleaning products, blankets or adequate clothing.

With the wide variety of goods available, police departments can find items for the communities they serve. They may order toys that police officers could use to calm children in stressful situations or gift items that could serve as incentives for Drug Abuse Resistance Education or Shop with a Cop programs.

Fire departments can use the program as a way to support local families in need. By collecting clothing, personal care items and other crucial supplies, people who have lost everything in a fire can get basic necessities to help them through the immediate after-effects of a crisis.

In today’s economy, many families are forced to look to government agencies for assistance. This means the call for supplies and materials is great. Thankfully, membership in gifts-in-kind organizations allows government services to obtain top-notch merchandise for free.

Companies like Microsoft, Stanley Tools, 3M, Rubbermaid, Rand McNally, Reebok, Gillette, Xerox, Hallmark and thousands of others make such contributions, supporting charitable causes while at the same time taking advantage of tax deductions, reducing storage costs, clearing warehouse space and avoiding hassles with liquidators.

Items donated include office supplies, classroom materials, clothing and shoes, maintenance items, tools and hardware, toys and games, computer software, sporting goods, books, tapes, CDs, arts and crafts, personal care items, holiday and party items, janitorial supplies and more.

Organizations that participate are required to use the merchandise in accordance with Internal Revenue Service IRC section 170(e)(3). This states that the merchandise must be used for the care of the ill, needy or minors and cannot be bartered, traded or sold. The merchandise can be given directly to the qualifying individuals served by an organization, or used in the administration of the organization.

GARY C. SMITH is the president and chief executive officer of the Galesburg, Ill.-based National Association for the Exchange of Industrial Resources (NAEIR), the oldest and largest gifts-in-kind organization in the country, according to NAEIR. Government agencies can call 1-800-562-0955 for more information.
why reinvent the WHEEL?

Why go out to bid... when we’ve done it for you?

Our proven competitively bid "WHEELS" have found traction in the government world. NJPA is a government agency that helps you save time and money in the procurement process. We go out to bid for you and provide competitively bid, nationally-leveraged contracts. A no cost, liability or obligation membership is all you need to avoid reinventing the wheel.

Your first step? Join today at www.njpacoop.org!

www.njpacoop.org  888-896-3950

Competitively Bid National Cooperative Contract Solutions
Pondering a Real-Life Procurement Dilemma

By Stephen B. Gordon

One of the great things about working in public procurement is that our work – including the decisions and determinations we make, the actions we take or don’t take and our results – are open fully to public review and discussion. And, on more than one occasion for most of us, when a high-profile project whose success depended on one or more contractors fell short, either we or one or more of our staff was thrown under the bus by the higher-ups – whether we or they were fully deserving, only partly deserving or not deserving at all.

In the space usually devoted to “Procurement ponderable,” let’s take a break from pondering disguised dilemmas this author has faced in his career in public procurement. Let’s instead look at a failed federal government project that is very much in the public view and conversation right now: the failure of the Affordable Care Act enrollment process to work as it should, and all the consequences – political, personal and otherwise – that accompany this failure. My goal is to provide us all with some thoughts and insights that, together, we can use to improve how procurement by government serves the public interest.

Not all the details of why this project went south are yet known. However, we do know enough from what we have read and heard to at least frame an analysis that we as strategic public procurement professionals can use to (hopefully) avoid future calamities of this type and their effects on the participants and stakeholders in our procurement programs. As one of my mentors, the late John Short of Wisconsin used to tell me, it is not enough to avoid re-inventing the wheel; it is equally important to avoid re-inventing the flat tire.

Let’s each of us, based on what we know about this project, ask ourselves questions such as:

- Were detailed required measurable results – including those related to quality, availability, schedule, and cost – formulated by anyone in the federal government in the beginning; and, if so, were those results accurately communicated from the top down to contracting staff and, in turn, to the prospective contractors?

- Why was there seemingly an absence of regular, complete, accurate, timely, open, honest, and otherwise useful communication among all the government participants in the process?

- What was done – and what was not done – to assure required results, such actions potentially including verification that the contractors selected were qualified to produce the required results; had the capacity to produce the required results; and produced a plan acceptable and agreeable to the government for producing the required results?

- Was the past performance of the contractors selected considered in their selection? (The failure rate of government technology projects is alarmingly high.)

- What was done – and what was not done – to assure that the contractors actually produced the results they were required to produce?

Continues on page 31
One less paper you have to push.

Lowe’s can save you time and money on your everyday MRO supplies or building materials for your next big purchase. Through our TCPN, WSCA and GSA contracts, you remain compliant, and save time and money with our pre-qualified pricing. For more information visit LowesForPros.com/Government.
A leading technology analyst firm has concluded that integration of e-procurement solutions into an organization’s existing financial systems is not only supported, but also well-known and relatively simple. According to the firm’s report, e-procurement solutions can be configured with practically any financial system. The conclusion confronts concerns by potential clients about integration, highlighting that integration with modern technologies is typically not difficult because the data points are well defined. By not integrating, organizations risk lowering productivity by wasting countless hours re-entering data.

Further, the analyst’s report provides a substantial supporting argument for e-procurement solutions in the battle over funding against Enterprise Resource Planning (ERP) systems and debunks the ongoing myth that suite integration with an ERP system is superior to best-of-breed integration with e-procurement.

Michigan’s Chief Procurement Officer, Jeff Brownlee, agrees with the message behind the report. “Streamlining processes across the industry in connection with integrations generated by XML, cXML, and the like has enabled the state to leverage valuable procurement tools in order to make better product selections that fit our unique business requirements,” Brownlee says. “I would not recommend sacrificing public sector-specific capabilities in my e-procurement platform because of a fear of integrating to my financial system.” Michigan began its journey toward procurement revitalization in May 2013, when it launched the initial phase of its new BuySpeed e-procurement system, Buy4Michigan.

“It is incredibly important that public sector entities choose a partner who is both knowledgeable about and truly interested in the integration process,” says Brian Utley, Periscope Holdings President and CEO. “Periscope makes integration easy, not only because we know how to do it, but because we understand how critical it is to a successful, widely adopted e-procurement project.”

PERISCOPE HOLDINGS, INC. is a privately-held technology company headquartered in Austin, Texas. Periscope works with public entities to achieve best practices in procurement through its comprehensive software solution BuySpeed, the NIGP Code and consulting services. BuySpeed clients include the states of Arizona, Maryland, Massachusetts, Michigan, and New Jersey; as well as Fort Lauderdale, Fla., Baltimore, New Orleans and Tucson, Ariz.; as well as Harris, Texas., Knox, Tenn., and San Bernardino, Calif, as well as Virginia Beach Public Schools, Alaska Department of Transportation, and Events D.C.
In the world of government procurement, resource constraints are an everyday challenge. Whether you’re short on people, time or capital, Caterpillar can help build efficiencies into the acquisition process. Count on us for:

- Cooperative purchasing agreements crafted specifically to save time, cut costs and reduce risk
- A broad selection of new, used and rebuilt equipment options, built to accommodate any budget
- Financing plans, maintenance contracts and other services that control costs and increase uptime

It’s all part of our commitment to deliver the best equipment at the lowest total cost—quickly and efficiently. Let us help you invest confidently and build enduring success. Learn more at govbidspec.com/govpro.
In the spring of 2013, NIGP’s strategic partner, Spikes Cavell, developed a Guide to Procurement Savings designed to show public sector procurement teams how they can use spend data to understand, change and measure their procurement function. The last issue of Government Procurement included parts one through three of “Step 2: Identifying Opportunities for Savings and Efficiencies.” They included searching spend data for ways to improve terms with existing suppliers, identifying categories with too many vendors where demand could be aggregated, and how to monitor and correct maverick spending.

This issue’s installment looks at collaboration with other public organizations and the efficiencies that can be realized through invoice consolidation and better management of the statistical long tail of vendors.

COOPERATION, COMMON VENDORS
The use of Purchasing Cooperatives is one way to save time and money; piggybacking on neighboring organizations’ contracts is another way. Having clean spend data provides a third option through which multiple organizations can pull their expenditure data together into a consistent dataset. They can subsequently use that information to answer this question: Where is everyone in the group already spending money with the same vendor but under completely different contracts, and probably at different prices? The vendors identified represent a potential opportunity to streamline contracts so that each organization doesn’t have to go through a similar competitive process individually, and the needs of all participants can be addressed.

Another opportunity is to negotiate better pricing based on a known, aggregated demand, and also use the buying power of multiple organizations as leverage during the RFP process in price negotiations. Access to spend data across multiple organizations helps to determine whether Purchasing Cooperatives, piggybacking or cooperative procurement is the most appropriate approach.

INVOICE CONSOLIDATION
If you are spending time processing overwhelming numbers of invoices and dealing with administrative tasks, you won’t have the time to take a step back and focus on more strategic projects. Of course the administrative work needs to be done, but using spend and transaction data can help public procurement and accounts payable (AP) teams identify ways to be more efficient.

There are various methods to reduce the administrative burden of high volume and/or low value transactions: increased use of p-cards,
e-procurement tools, or simply calling a vendor and asking if they offer consolidated billing options. Most organizations are already using p-cards to some degree, but do you know what the effect would be on raising the transaction limit from $500 to $1,000? In many organizations, that increased limit would mean a 10 percent or greater reduction in invoice volumes, but less than a 1 percent increase in spend through those cards.

If you knew the categories of spend that typically come with large volumes of invoices that aren’t handled by p-cards already (catering and food services, book distributors, telecommunications and utilities) you could specify billing arrangements during the RFP process rather than trying to make them more efficient after the contract award. Spend and transaction data can help the AP and purchasing teams become more efficient, and more importantly, free them to focus on more strategic tasks.

LONG TAIL CONSOLIDATION

In a similar vein to invoice consolidation, most public organizations spend considerable time and resources creating, managing and maintaining vendor registrations for companies with whom the organization spends very small amounts of money every year. These vendors represent the statistical long tail. At the typical public organization, less than $1,000 is spent with half of all the vendors used in any one year. And the total amount of money spent with those 50 percent of vendors represents less than 1 percent of total goods and services expenditure.

When you factor in the cost of setup and maintenance of the vendor in the AP system, collecting a W-9, getting an insurance certificate, signing other paperwork, routine communication with the vendor community, and processing invoices from those vendors, the costs and inefficiencies quickly stack up. Using spend data can help identify which departments spend a small amount of money with a lot of suppliers where reducing the size and administrative impact of the long tail is going to yield more time for strategic priorities.

The next article in this series will go into detail about using spend data to create a detailed category analysis from which many other savings projects can be initiated.

JONATHAN WHITE, is 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.
We are taught that the only parties to a contract are the signatories. The term “privity” is used to describe the direct contractual relationship between these parties. Usually suppliers or subcontractors cannot file a claim arising from a dispute between the prime contractor and public entity because the supplier or subcontractor is not in “privity” with the public entity. But sometimes a supplier or subcontractor can overcome the hurdle of not being in “privity” with the government entity by arguing that it is a “third-party beneficiary” to the contract between the government entity and the prime contractor.

**Federal Approach to Third-Party Beneficiaries**

A typical example of an unsuccessful third-party beneficiary claim in the federal contracting context can be found in a 2005 case from the Federal Circuit Court of Appeals [Flexfab, L.L.C. v. United States, 424 F.3d 1254 (Fed. Cir. 2005)]. Flexfab, an air-duct hose manufacturer, argued that it was a third-party beneficiary to a contract between Capital City Pipes, Inc. and The Defense Logistics Agency, Defense Supply Center Columbus (DSCC), a federal agency. Capital City became a DSCC supplier under the Small Business Administration’s section 8(a) program, a contracting program that promotes small business development for eligible firms. When DSCC approached Capital City about the procurement of air-duct hose, Capital City asked Flexfab to manufacture the hose. Flexfab agreed to provide the hose, but only if DSCC paid Flexfab directly through an escrow account. However, the contract between DSCC and Capital City listed Capital City’s address as the remittance address, and Capital City provided its own electronic fund transfer (EFT) information in the Central Contractor Registration (CCR) database rather than Flexfab’s.

Flexfab delivered air-duct hose to DSCC several times. After each delivery, DSCC paid Capital City electronically, using the EFT information for Capital City listed in the CCR database. Capital City became insolvent after being paid in full under the contract. Flexfab was not paid for any of the hose and eventually demanded payment from DSCC. DSCC refused to pay, and Flexfab sued DSCC in the Court of Federal Claims, claiming that it was owed the money as a third-party beneficiary to the contract between Capital City and DSCC. The Court of Federal Claims rejected Flexfab’s argument, and Flexfab appealed to the Federal Circuit Court of Appeals. The Court of Appeals agreed with the Court of Federal Claims. The court first observed that a third party to a government contract can only recover as a third-party beneficiary if (1) the party can demonstrate that the contract reflects an intention to benefit the third party directly, and (2) the government representative whose conduct reflects the intention to benefit the third party directly has actual authority to bind the government. The court found that Flexfab did not show that a government representative with actual authority to bind the government was aware that Flexfab wanted to be paid directly. Consequently, Flexfab could not recover as a third-party beneficiary to the contract.

But there can be exceptions to the general rule that suppliers and subcontractors cannot recover as third-party beneficiaries. Another person can be a third-party beneficiary, and able to enforce contract rights, where the contract language shows that the contract was made for the direct, not incidental, benefit of the third party. Federal court decisions have found third-party beneficiary status when authorized modification of a payment remittance clause gave a subcontractor control over payments from the government. Federal court decisions have found third-party beneficiary status when authorized modification of a payment remittance clause gave a subcontractor control over payments from the government.

**Hot Topics**

**Privity and Third-Party Beneficiaries**

By Richard Pennington and Eileen Youens

Federal court decisions have found third-party beneficiary status when authorized modification of a payment remittance clause gave a subcontractor control over payments from the government.
THIRD-PARTY BENEFICIARIES IN CONSTRUCTION BOND CASES

This rule was illustrated during the past year in two cases involving payment bonds on construction projects. In one case, two subcontractors on a public construction contract for Union, S.C., were not paid by the general contractor [Shirley’s Iron Works, Inc. v. City of Union, 743 S.E.2d 778 (S.C. 2013)]. A state statute required the City to require the general contractor to have a payment bond. But no payment bond was secured. When the general contractor failed to pay the two subcontractors, the subcontractors filed suit against the city. The appellate court clarified that when a payment bond is required by state statute on a government contract, subcontractors are direct third-party beneficiaries to such contracts. Accordingly, the court held that the subcontractors could recover as third-party beneficiaries to the contract between the city and the general contractor.

In an Illinois case, this line of reasoning was pushed even further [Lake County Grading Co. v. Village of Antioch, 985 N.E. 2d 639 (Ill. App. 2013)]. Antioch, Ill., had contracted for construction of housing units. A state statute required local governments to obtain two kinds of bonds: one to guarantee performance of the work (performance bond) and another to guarantee payment owed to subcontractors (payment bond). Antioch received only one type of bond: a performance bond.

The grading company furnished grading services and was not paid. The general contractor went bankrupt.

The grading company filed a suit against Antioch. It argued that the statutory requirement for the bond was intended to provide protection against nonpayment, making the underlying contract a third-party beneficiary contract that the village breached by not requiring a payment bond.

The village countered that the statutory payment bond should have been read into the performance bond provided. Illinois’ statute includes language prescribing minimum terms and conditions for bonds with public entities. The appellate court interpreted those provisions as establishing minimum terms when payment bonds were specified contractually, but the court held that the statute did not turn a performance bond into a payment bond when none had been specified.

The court accepted the grading company’s argument that it was a third-party beneficiary of the contractual payment bond requirement. The village failed to obtain the bond and was liable.

In a judicial double whammy, the village lost on a second argument. The bond statute required filing of a certified claim within 180 days of providing the subcontracted services, and the plaintiff had missed that deadline. The village argued that even if the grading contractor had a claim against the village under a third-party beneficiary theory, the 180-day rule barred recovery. The appellate court held that since the claim was not based on a bond, but on an obligation to obtain a payment bond, the 180-day period was inapplicable. The appellate court held that the four-year statute of limitations for contract actions applied.

THE LESSONS

In general, government entities need only be concerned about facing breach of contract claims from contractors because of the general rule that only signatories to the contract can enforce it. Sometimes contract language is used in government contract templates to reinforce the intent that any services or benefits that third parties receive as a result of the contract are incidental and do not create any rights for such third parties.

Still, when a third party such as a subcontractor or supplier can demonstrate that the government intended to benefit it directly – either through conduct by a government official with actual authority or through legislation (such as a statute requiring payment bonds on public projects) – it may be able to successfully claim third-party beneficiary status.

Even in construction cases at the state and local government level, the application of third-party beneficiary principles will depend on state law. One clear lesson from these recent cases is to comply with statutory payment bond requirements. This means requiring payment bonds before work begins, verifying the validity of payment bonds when received, and monitoring the adequacy of the bond throughout contract performance.
Although there are numerous headaches associated with IT procurement, one challenge – risk management – can be particularly difficult to tackle.

According to a survey conducted by the National Association of State Chief Information Officers (NASCIO) in 2012, 46 percent of state CIOs expressed “some dissatisfaction” with their state’s current procurement system. The main reason given is that, often, a state’s standard procurement methods do not address the complexities and subtleties of IT systems.

Risk management is one particular challenge associated with IT procurement that a state’s standard practices may not directly address. In a brief, NASCIO offers several methods CIOs can use to solve the IT procurement problem.

Sources of procurement-related risk are highly situational. It can come from creation of a request for proposal (RFP) that embodies novel technology or from the inability to fully articulate requirements. Other sources of risk include internal processes and procedures, and contract terms and conditions. A diverse team is needed to identify risks, and to assess the likelihood that a risk will occur and the potential severity of its impact. A risk matrix can help to identify each risk along with its probability and impact. An often overlooked source of risk is associated with the application size, including large ERP implementations and complex and multifaceted systems that states need to support federal programs.

After potential risks have been identified and analyzed, states can avoid IT setbacks by implementing the following steps:

> Contact IT staff in other areas that have worked with similar situations before issuing a (RFP).
> Write contracts with clear deliverables, itemizing milestones with payments made upon completion.
> Prohibit the use of smaller, inexperienced vendors in critical governmental infrastructures.
> Require independent verification of work as it is performed by an independent vendor.

Figure 1

Source: Alex Pettit, CIO, State of Oklahoma
If risk cannot be avoided, it must be transferred, mitigated or accepted. Risk transfer focuses on providing financial protection against the quantitative impacts of an event, such as with insurance. NASCIO supports providing vendors, partners and suppliers with clear and reasonable liability provisions. However, in an effort to level the playing field between large and small vendors, more procurement contracts include requests for limitations of liability clauses. In some state IT contracts, there is boilerplate language to address risk management. A state may also adhere to a set of terms for limitations of liability on a case-by-case basis. The state may require costly insurance or the purchase of a performance bond. The vendor may decide not to pursue a contract that doesn’t offer limitations of liability. Risk transfer approaches should be clearly understood by both the contractor and the state.

Risk mitigation involves reducing the negative consequences should an event occur. Mitigation can come through identifying likely outcomes and codifying policies or procedures to detect, notify and mitigate the negative consequences.

If a disruptive event occurs, NASCIO recommends several elements that should be in place for risk mitigation:

> Construct contracts that define arbitration processes
> Implement clear definitions of a solution’s required functionality
> Include associated penalties for performance failures

Risk acceptance is possible only after successful execution of risk identification, avoidance, transfer and mitigation strategies have been implemented. Risk can be accepted for hardware, for software or for services (even various levels of service). Walking through possible scenarios with business leadership can allow them to shape the decision to accept risk. The process also promotes buy-in, support and understanding.

An example of illustrating risk and gaining acceptance is Oklahoma’s “beach ball” chart (Figure 1), depicting the state’s IT consolidation portfolio in the form of colored balls. The size of the ball indicates the investment required, defined as the first year cost of the project. The vertical axis (Y) represents the measurement of potential risk. The horizontal axis represents the Net Present Value (NPV) for the project. Only projects with a positive NPV based on cost reduction are recommended to be undertaken. Using this process, the IT governing board reviews the risk in context of the estimated return to the state for each project and decides if it is worth pursuing.

The best way to minimize risk is through good governance, shared expectations and realistic goals from the start. CIOs should keep conversations going in their own states and collaborate with state procurement officials and the private sector to ensure the best possible outcomes.

---

**EDITOR’S NOTE:** This article is based on *Procurement: Avoiding Risky Business*, a brief in the NASCIO IT Procurement Modernization Series. NASCIO represents state chief information officers and information technology executives and managers from state governments across the United States. For more information, visit nascio.org.
Ten years ago, there were reports that Mayor Michael Bloomberg may have stepped in to fund key municipal and community projects in New York City. These were projects critical to NYC, but unfortunately they were falling off the city budget. Even worse - NYC’s budget woes were being experienced in other cities from Tucson, Ariz., to St. Louis to Atlanta.

Fast forward to the height of the recession when many of America’s 19,000 municipalities faced devastating fiscal deficits – highlighted by a handful of high profile bankruptcies in California. Police forces were slashed, teachers were furloughed and fire companies were closed. Again, Mayor Bloomberg’s Fund to Advance NYC was able to forge public-private partnerships to prop up local programs when citizens needed it most.

Mayor Bloomberg’s model has revolutionized the way city managers think about funding public projects, but without the deep pockets and notoriety of a figurehead like Bloomberg, this model has been hard to replicate in other municipalities – until now.

Crowdfunding technology is bringing together community members, nonproﬁts, socially-minded businesses and private foundations to ﬁnance critical projects that municipalities struggle to fund. This model is changing the game for four primary reasons:

1. Virtual Public-Private Partnerships – Because crowdfunding platforms bring businesses, foundations and citizens together, they’re essentially virtual public-private partnerships. What used to require hours of phone calls, town hall meetings and networking, now takes place in a matter of days on a single website.

2. Transparency – Citizens continually desire deeper transparency and openness in government, particularly during tough economic times. Crowdfunding lets the sunshine in by detailing individual donations, business sponsorships and foundation contributions. Many of these platforms are integrating social media, taking transparency from a buzzword to a friendly and engaging public standard.

3. Funding Power – Crowdfunding is Internet-based, mobile accessible and socially shareable, allowing populations to participate in real-time with friends, neighbors and colleagues. We’ve seen the power this type of online interaction can have in recent international revolutions and natural disaster relief efforts. Crowdfunding may not cause a citizen protest, but it will harness the passions and pocketbooks of thousands of community members in a very viral way.

4. Idea Exchange – At their core, crowdfunding platforms are highly searchable. Concerned citizens can locate new projects that warrant their attention, businesses can ﬁnd programs worthy of their support and foundations can identify projects that complement their mission. Crowdfunding lets municipal leaders see how other cities are innovating their communities and how their own neighborhoods are tackling hyperlocal issues. Essentially, crowdfunding platforms become communities in and of themselves where ideas ﬂourish.

Crowdfunding will increasingly support local governments as the nation recovers from the recession and revitalize our locales in the future. Perhaps it’s coincidence that as Mr. Bloomberg retires from the NYC mayor’s ofﬁce, crowdfunding platforms are picking up steam and strengthening communities across the nation.

A former investment and real estate executive, Mark Feinberg is co-founder and CEO of Uruut, a collaborative community crowdfunding platform.
When your customers want more from you, this is the van that can deliver.

The all-new 2014 Transit Connect will offer exactly the kind of smart solutions you need. It will be totally customizable, both inside and out, to help fit the needs of your business. So you can make the most out of every mile. Find out how to get even more out of your vehicles at fleet.ford.com.
WEB PORTAL PROVIDES NATIONAL ENERGY DATA

Policy makers and energy analysts have a new tool with which to interpret national, state and local energy data. The new utility, developed by The U.S. Energy Information Administration (EIA) offers an interactive, comprehensive view of each state’s energy resources and infrastructure. The information will be of use to local leaders who want to assess present energy consumption/processes and possibly adopt new policies/procedures.

“The EIA state energy portal raises the bar for visually segmenting state-level energy data. It provides a wealth of energy information to a wide variety of uses, including state officials wanting detailed information on the mix of energy resources in their state, analysts assessing a state’s energy sustainability, or government officials seeking the most comprehensive energy information to help develop energy policy,” says EIA Administrator Adam Sieminski.

The portal was developed with a range of users in mind, and will help individuals locate and compare state energy data and rankings using customizable maps and charts in addition to a variety of interactive tools. Its 30-layer mapping feature provides a visual representation of energy infrastructure and resources at the national, state, congressional district or county level.

Available for comparison are each state’s rankings in energy production, consumption, prices and more. Users will find information on crude oil and natural gas production, renewable resources, natural gas and electricity prices and carbon dioxide emissions. Users will be able to compare this data to other districts, states and national averages.

Visit the web portal at www.eia.gov/state.
GET IT SOLD RIGHT NOW

✔ No fees to sell
✔ Huge buyer base
✔ 10+ years experience
✔ Support you can count on

Auctions By Gov can help you make a significant improvement to your agency’s used/surplus asset selling program.

CONTACT US TODAY to learn how our unique online marketplace can shift your selling operation into high gear.

www.auctionsbygov.com
Customer Care: 866-469-7383

Equipment and vehicles co-listed on
What makes a profession “a profession?” What are the expectations of a “professional” versus a “non-professional” practitioner in my field? How is a standard of professional practice identified? How is its integrity maintained?

Busy procurement professionals often don’t have time to think about defining their profession. For most, day-to-day responsibilities supersede any inclination to evaluate the forces that shape how the profession is perceived. Yet, advancing a professional society requires that ongoing attention be paid to such forces in order to protect the interests of its members and enable their success. Such is the intent of professional associations, including NIGP: The Institute for Public Procurement.

The fundamental elements of the profession – a code of ethics, singular Body of Knowledge (BOK), common terminology and practice, prescribed curriculum, a recognized credentialing standard, a professional body monitoring professional practice - remain in the Institute’s cross-hairs as the critical components to determine success for this stage of our profession’s journey. The challenge for every professional body is to create a critical mass of capacity (knowledge, funding, volunteers and staff) to concurrently support and strengthen all foundational elements. The reality of limited resources may make any gains measured over just a year or two seem minimal and painfully slow to come. Still, doing the most with the resources that are available, experience, patience and perseverance eventually pay off.

So it is that after 15 years of development focused on individual education, certification and formalizing the Values, Guiding Principles and 20 Public Procurement Practices, the Institute is on the verge of realizing substantial change for the public procurement profession.

Let’s take a look at five initiatives underway to advance the profession toward a “next level” paradigm characterized by defined, referenceable practices; a commonly accepted body of knowledge; a field of study offered by higher education institutions; and a rationalized framework that supports ongoing professional development and assesses organizational behavior.

1. COMMONLY ACCEPTED BODY OF KNOWLEDGE

Thanks to Wikipedia we know that “Body of Knowledge is a term used to represent the complete set of concepts, terms and activities that make up a professional domain, as defined by the relevant professional association.” When there are multiple organizations supporting a practitioner community and each association independently defines and promotes its variant Body of Knowledge, the lack of an immediately recognizable standard BOK dilutes claims by the practitioner community that it is, in fact, a profession. Overcoming this threat to professional status legitimacy is as relatively simple as the interested parties coming together to agree that protecting the “profession” is preeminently important to everyone’s interests. From this common ground, collectively comparing and contrasting BOKs with a goal of normalization is a relatively straight-forward (if labor-intensive) process.

While this threat may seem esoteric, it may be helpful to keep in mind that it is the BOK against which individuals are assessed in their quest for professional credentialing and recognition. When several BOKs exist, what distinguishes the value of one certification credential over the other? Without commonality and recognition, how transferable is the credential? How easy is it for an outsider to recognize...
During its 1984 restoration, scaffolding rising 240 feet was erected around the **Statue of Liberty**; just one of the products procurement professionals purchase every day.

Like the Statue of Liberty, **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.

Join us and discover the time-saving resources, collaborative peer-to-peer communities, and innovative best practices our members enjoy. **Visit nigp.org/membership or call.**
the professional credential, what it signifies or its associated profession? (Figure 1 illustrates the interdependency of recognition, transferability, credibility and value.)

As that adage goes, “United we stand, divided we fall.” In 2014, NIGP will build upon its relationships with many collegial organizations to pursue a collaborative solution toward a commonly recognized BOK for the public procurement profession.

2. ACADEMIA AND HIGHER EDUCATION CURRICULUM

Establishing a public procurement-centric path of study in the university setting has been a long-time goal of the Institute and one shared with a growing community of academicians.

At the NIGP Forum in Orlando this past year, NIGP and academic leaders came together to garner broader interest in undertaking a coordinated curriculum development and proliferation initiative. A conceptual model for such an effort has been identified, incorporating contributions from practitioners, academics, and associations that support the public procurement and public administration professions.

Figure 2 illustrates the curriculum development cycle. The first phase of the three-phase model (A.1. Development: Define Baseline Curriculum) focuses on identifying and building consensus around the topics and course concepts that should be required at each level of academic study. Contributing to this effort are academics, practitioners and current graduate and executive certificate student representatives. Given the existing body of public procurement courseware available from universities and associations, this need not be a wholly “from the ground up” effort. Undertaking an evaluation, comparison-contrast, and gap analysis during this initial period is akin to the effort necessary to recognize a common BOK. Indeed, the two are in many ways co-dependent.

Once agreed upon, the curriculum becomes operational and promoted by the contributing academics through their university networks (B. Adoption/Proliferation). Shortly thereafter, to gain curriculum awareness and support across public administration and related professional associations, these bodies will be called upon by leaders from the key stakeholders community to review and validate the public procurement curriculum for alignment with their educational programs and university relationships. Feedback received throughout the adoption and validation periods (C. Validation) will contribute to ongoing re-assessment and adjustment as needed. (A.2. Monitor-review-revise over time)

This ambitious effort is viewed as a long-term
undertaking. Completing the A-B-C cycle for the first time is anticipated to require anywhere from seven to 10 years although good and bad fortune along the way may affect the timeline. Much as the need to formalize our profession’s Values, Guiding Principles and Practices was critical to its legitimacy, a recognized academic curriculum will further substantiate claims of a public procurement profession while promoting it to students pursuing political science and public administration fields of study.

3. PUBLIC PROCUREMENT MATURITY FRAMEWORK

Would you know when your department has achieved the best it can be? That’s a loaded question, of course, begging for qualification. What is the benchmark for evaluation? What makes that benchmark reference credible?

The Public Procurement Maturity Framework (PPMF), established from the academic work of Dr. Guy Callender and publicly announced in the spring of 2013, provides the cognitive filter for understanding the behavior of a government procurement organization in context of its operating environment. The framework recognizes six models of procurement practice and assesses behavior across 20 themes.

For NIGP, the PPMF will be the reference against which it will develop and enhance its assessment and performance improvement resources going forward. The first PPMF-based assessment tools, Public Procurement Profiler-Essentials and Public Procurement Profiler-Self Assessment, are available now from www.globalpublicprocurement.org. In 2014, the Institute will begin integrating the PPMF into its consulting and accreditation programs.

4. PUBLIC PROCUREMENT PRACTICES

Formal codification of our profession’s practices has been an area of focus for the Institute for over three years. Though not a new initiative, the development of practices remains a strategically important program with substantial long-term value. Working in partnership with the Chartered Institute of Purchasing and Supply since 2011 to define practices that are relevant to practitioners around the world, the partnership recently celebrated completion of 20 Public Procurement Practices. This is a significant achievement as a body of practical reference for the practitioner community as well as for its importance as a required element of a vocation that would enjoy professional status.

In 2014, NIGP and CIPS have set an aggressive of goal of 50 total Practices by this time next year. Draft practices, as well as final versions, are posted for public review and comment at www.principlesandpractices.org.

5. GOVERNANCE EVOLUTION AND LEADERSHIP TRAINING

The four initiatives featured thus far have been principally outward-facing, meaning the programs are intended to directly support the profession and practitioner. By contrast, the fifth and last initiative looks more toward the long-term effectiveness of the Institute itself. Governance of an organization is not often a topic of great interest to most but, for its leadership, periodic self-assessment of its structure and effectiveness is important to sustained organizational health.

In November 2013, NIGP’s Board of Directors made a historic decision to delegate some of its decision-making authority to three Councils and reduce the number of members of the governing board while also diversifying its composition to include stakeholder voices. Diversification of perspectives and experience from related sectors intends to offer more frequent identification of opportunities to expand the reach and effectiveness of NIGP programs. As an immediate example, imagine the improved likelihood of academic curriculum development and adoption if that initiative were championed by a board member who was also a university dean of a public administration school. (Details of the board’s actions were highlighted in the October-November 2013 issue of Government Procurement, page 6.)

NIGP’s transition to the new governance structure begins with the 2014 New Year. Yet, greater governance effectiveness does not end with this Board initiative. Succession planning is a critical aspect of fiduciary responsibility. To advance the number and the development of Institute leaders is supporting an expanded chapter leadership program. In January 2014, the Institute will convene a two-day conference for incoming chapter leaders as they, too, make important transitions in their chapter roles. The conference will provide facilitated opportunities to enhance personal and association leadership skills and an environment for the NIGP confederation of chapters to coalesce around common goals and opportunities for coordinated efforts.

AMBITION GOALS

Given the breadth and magnitude of the ambitious initiatives under way, 2014 is well positioned to become a watershed year for the profession and Institute.

An underlying theme in these programs is to establish a recognizable professional standard derived from a coordinated system of education, guidance, assessment, and sustained development. Such a standard is the enabling catalyst that will guide us and garner for us our long-desired recognition as “highly regarded members of a respected professional order.”

James M. Barrie, the turn-of-the-century Scottish dramatist and novelist, quipped that “ambition...is the last infirmity of noble minds.” Let us not deny the ambitious and noble nature of our aspirations. However, could we please hold off judgment on the “infirmity” part?

BRENT MAAS is Executive Director, Business Strategy and Relationships for NIGP: The Institute for Public Procurement. Email bmaas@nigp.org.
Happy Green Year!

10 Environmental Resolutions for the Purchasing Professional in 2014

By Scot Case

The dawn of each new year creates a natural opportunity to reflect on the previous year, look forward to the next, and think about personal and professional priorities. For purchasing professionals interested in green purchasing, the following 10 resolutions can be a good source of inspiration.

1. REVIEW YOUR ORGANIZATION’S GREEN PURCHASING POLICIES.

Almost every state or province and many large cities, counties, and agencies have green purchasing policies in place. Many were originally written in the early 1990s with a focus on buying recycled-content products and expanded later to include additional human health, environmental, and social considerations. Some of the policies are very prescriptive, defining under what circumstances purchasing professionals have to apply environmental criteria as part of the purchasing process. Others are more aspirational and outline goals for improving the environmental performance of the purchasing process.

Take the time to dig out and review your organization’s green purchasing policy. Does it seem overly narrow by today’s standards? Is it focused only on recycled content or energy efficiency? Does it need to be refreshed to reflect modern understandings of the connection between purchasing decisions and human health, environmental, and social issues? Or is it perhaps more expansive than you realized when you last reviewed it? Are you able to incorporate additional considerations into the purchasing process? Maybe the policy remains strong and your organization’s improved understanding of the importance of buying more sustainable products and services, combined with wider availability and improved performance of greener products, can make it possible to expand green purchasing activities.

2. GREEN AT LEAST ONE CONTRACT.

Purchasing professionals are among the most overworked government employees. Every year, purchasing departments are asked to do more with less. Despite the increasing volume of work, make the pledge in the near year to include additional human health, environmental, or social conditions into at least one contract.
3. SPECIFY GREENER CLEANING.

Hundreds of thousands of government buildings around the world are cleaned with greener cleaning products as part of a concerted effort to reduce the adverse human health and environmental impacts of toxic cleaning products. Some contracts still permit the use of the older, riskier cleaning products simply because no one has reviewed and updated the specification language. Take the time to review the relevant contracts to make sure they are appropriately protective of human health and the environment.

There are hundreds of cleaning products that have been certified as meeting ECOLOGO or Green Seal cleaning product standards or registered by EPA's Design for the Environment program. This makes it very easy to specify the use of greener cleaning products for any building. Purchasers only need to require that products be properly certified as part of the specification requirements.

4. SPECIFY GREENER FURNITURE.

Office furniture can be one of the largest sources of indoor air pollution with a variety of pollutants – including chemicals known to cause cancer – being released by the foams, adhesives, particleboard, and other materials within the furniture. Purchasers interested in protecting indoor air quality can require products to be certified by GREenguARD or GREenguARD Gold, which sets limits on more than 350 chemicals that can be emitted by office furniture. Purchasers that want to go beyond GREenguARD's human health focus can also specify that products be certified to the ANSI/BIFMA e3 Furniture Sustainability Standard.

5. SPECIFY GREENER ELECTRONICS.

All electronic equipment found in a modern office – cell phones, computers, photocopiers, printers – have environmental impacts because of the electricity they consume, the materials they contain, and the emissions they create. Purchasers can specify greener, more energy-efficient, and less hazardous products by requiring that they be certified to an environmental leadership standard. UL Environment certifies cell phones to its UL 110 standard and certifies computers and other electronic devices to the IEEE 1680 series of standards. At the very least, purchasers should ensure electronic products are listed on the EPEAT registry (www.epeat.net).

6. LOOK FOR GREEN STANDARDS.

While standards do not yet exist for every product category government purchasers manage, they are increasingly available for the most commonly purchased items. Before finalizing a contract, review the standards published by UL Environment (ECOLOGO and GREenguARD) or Green Seal. The Responsible Purchasing Network identifies other standards relevant for specific purchases on its website at www.responsiblepurchasing.org.
7. ASK FOR PROOF OF GREEN CLAIMS.

Many suppliers now offer greener products and services along with their more traditional offerings. While this is great news for purchasers interested in buying greener products, some suppliers are unable to provide proof to substantiate the environmental claims they make. The U.S. Federal Trade Commission has caught a variety of companies making false claims. As a result, it is important to ask suppliers to provide proof to support any environmental claim.

8. ASK FOR MORE INFO.

As the market for greener products has continued maturing, many companies are now providing additional information beyond a recycled content claim or certification to an environmental leadership standard. Some are beginning to provide Environmental Product Declarations (EPDs), a summary of environmental impacts in a full report and summary format that is structured like a detailed nutrition label found on a box of cereal. The U.S. Green Building Council, which manages the LEED green building rating system, included incentives in the most recent version of LEED for building products companies to provide EPDs. Other industries are likely to follow suit, which means government purchasers can access even more information to make more informed decisions.

9. GET INVOLVED.

There are several organizations that help government purchasers and other large institutional purchasers buy greener products and services. The Sustainable Purchasing Leadership Council (SPLC) (www.purchasingcouncil.org) and the Responsible Purchasing Network (RPN, www.responsiblepurchasing.org) both provide purchasing professionals with valuable resources. The National Institute of Governmental Purchasers (NIGP, www.nigp.org) and the National Association of State Procurement Officials (www.naspo.org) also have significant green purchasing resources. All of the organizations are seeking purchasing professionals with an interest in or experience with buying greener products so they can help others make better purchasing decisions.

10. SPREAD THE WORD.

Despite 20 years of success stories, there are still some purchasers who are not aware that it is possible to buy greener products and services. Use an example from your personal experience or one you have found to be inspiring and let people know that it is possible to buy a better future.

Have a great, green New Year.

SCOT CASE has been researching and promoting responsible purchasing since 1993. He is the Market Development Director for UL Environment. Contact him via email at scot.case@ul.com or in Reading, Pa., at 610-779-3770. This article represents the views of the author only and do not necessarily reflect the views of UL Environment or its affiliates or subsidiaries. This article is for general information purposes only and is not meant to convey legal or other professional advice.
Govalytics is a new product that provides local government insights. Find important historical and budgetary data to help you build a comprehensive analysis of your government counterparts around the country and streamline your processes. Features include:

- **Budgetary Data Analytics**
- **Capital Projects Information**
- **Government Official Contact Information**
- **Area Key Statistics**
- **Population Growth**
- **Coming Soon Procurement Information**
- **Coming Soon Contract End Dates**
- **Muni-Bond Ratings**
- **Revenue Sources**
- **Recent News**

**Dear Subscriber:**

A high level of performance has always been the goal for local government officials, but now you can benchmark your operations against other local governments across the country.

Please allow me to introduce the newest addition to our Public Infrastructure Group – Govalytics – the one and only product that has mined data from budgets and capital projects from local governments across the nation.

It also lists government officials’ contact information, revenue sources and muni-bond ratings, for starters. You will also see Government Procurement publishing data from Govalytics, such as efficiency rankings.

I invite you to visit govalytics.com for more details. You also can contact Brand Director Ben Walker (ben.walker@penton.com) with questions.

Best Regards,

Bill
Successful negotiation increases the role and value of the procurement department in an organization. In a new position paper, NIGP: The Institute for Public Procurement contends that the procurement official should be the entity’s lead negotiator and is in the best position to achieve the overall objective of the negotiation. Keeping a record of savings achieved through negotiation is a notable measure of procurement success. It also provides evidence of the role negotiation plays in helping an organization achieve best value solutions while supporting the public mandate for a lean, cost-conscious government. Far from becoming a lost art, negotiation continues to be a core competency and a key element in the sourcing process.

Based on NIGP’s position paper, this article will highlight the use of negotiation as a well-established practice in public procurement at all levels of government. The ways negotiation is defined and used across the spectrum of government agencies reflect the grounding principles and intended outcomes that should guide the negotiating behavior of public procurement professionals.

**FEDERAL GOVERNMENT**

The United States’ Federal Acquisition Regulations (FAR) defines a contract awarded using other than sealed bidding procedures as a negotiated contract. In federal procurements, negotiation may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract. Per FAR 15.405(b): “The contracting officer’s primary concern is the overall price the Government will actually pay. The contracting officer’s objective is to negotiate a contract of a type and with a price providing the contractor the greatest incentive for efficient and economical performance.” This implies the contractor is entitled to a fair and reasonable price. After all, it is in the best interest of the government to negotiate contracts that contribute to the contractor’s survival and thereby support the long-term success of government contracting. The term typically applied to this relationship is win-win negotiation.

Roger Fisher and William Ury, authors of the seminal text on negotiation, *Getting to Yes*, assert that “you look for mutual gains whenever possible, and that where your interests conflict, you should insist that the result be based on some fair standards independent of the will of either side.” As stated in NIGP’s text, *Developing and Managing Requests for Proposals in the Public Sector*, “Win/win is the goal of a principled negotiation, whereby the interests of both parties are satisfied.”

The Internet may increase the visibility of pricing in the marketplace, and public procurement professionals can use this information to help build their bargaining position. But a good contract consists of more than simply a good price.

**STATE AND LOCAL GOVERNMENT**

State and local governments authorize public bodies to award contracts using competitive negotiation in lieu of the more traditional competitive sealed bidding process. Competitive negotiation is more flexible than sealed bidding, allowing an agency to make an award based on factors other than or in addition to price.

In Virginia, for example, competitive negotiation is an authorized method of procurement for both professional and other than professional services. When procuring professional services in Virginia, a “public body shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the
proposed project, as well as alternative concepts.”

The California Public Contract Code §6611 grants the Department of General Services (DGS) broad authority to use negotiation to acquire goods, services (not including architectural and engineering related services), information technology, and telecommunications. For new contracts, DGS may engage in negotiations when doing so would enable the state to:
> Better define its business purpose or need,
> Identify different types of solutions to meet its business need,
> Ensure a “best value” or “most cost-effective” solution, or
> When the state’s business purpose or need is complex and bidder’s cost to respond is high,
> The terms and conditions and/or scope of work of existing contracts may also be negotiated where doing so is “in the best interest of the state.”
[California Public Contract Code §6611 (a-b)]

In addition to competitive negotiation being authorized by code in certain states and jurisdictions, public procurement officers may use negotiation as a tool in other aspects of public procurement. Contracts established through a sole source or emergency may also be negotiated agreements.

Procurement professionals must ensure they are familiar with their jurisdiction’s policies and regulations applicable for negotiation. Failure to take advantage of negotiating opportunities may deprive the organization of the most effective, “best value” solutions.

NEGOTIATING FOR BEST VALUE

Negotiation enables public bodies to realize best value, which might not be the lowest cost. For example, the North Carolina General Assembly established best value as “The selection of a contractor based on a determination of which proposal offers the best trade-off between price and performance, where quality is considered an integral performance factor.” In Canada, the Treasury Board establishes national procurement policy in alignment with national objectives. As such, an annual procurement strategic plan must maximize the potential benefits of government resources, taking into account how proposed procurement plans will impact industrial, regional and aboriginal development; grow industrial investment; promote international competitiveness; and impact the proposed strategy beyond the life of the procurement itself.

Negotiations can clarify price, terms and conditions, quality, performance of the contract or any other aspect of the procurement. In addition to best value results, a negotiated approach allows for situations where the “ideal solution” is not clear at the outset of the solicitation process. As such, it facilitates competition and avoids “no bid” and “one bid” outcomes. Through a negotiation process, there may be greater opportunity to anticipate contract management issues and identify solutions that would mitigate the possible future need for contract amendments, additional funding or lengthy delays, according to Robert S. Metzger and Lauren B. Kramer [The Procurement Lawyer, Spring 2013]. Finally, negotiation provides a format to realize greater value to the agency through contractor concessions or no-cost extras.

WIN-WIN NEGOTIATION

Negotiation, like other procurement practices, is a means to an end. When that end is a best value solution, part of the best value equation includes assessing the risk to service continuity over time, evaluating the relative burden of contract management and maintaining an appropriate supplier relationship. Consistent with the FAR’s sensitivity toward outcomes that reflect a balance of both agency interests and supplier economic viability, NIGP embraces the win-win approach to negotiating practice.

Win-win negotiating is the idea that maximizing fulfillment of each other’s interests gains more for either party than trying to make sure one’s position ends up better than the other party’s. It is a purposeful drive to maximize all possible benefits (not just purchase price) as much as the parties can think of. They explore all creative options and alternatives to expand the “available pie.” Only when they can’t think of or agree on any more benefits are they done.

After all is said and done, the initial negotiation is only as effective as the results produced by the contract. Critical to obtaining a win-win solution in negotiation is effective advance preparation and an agreed commitment to good faith bargaining.

As part of negotiation preparation, contracting officers should know the strengths and weaknesses of both sides, develop the negotiation approach, and develop an overall plan. 11 FAR 15.406-1(b) states, “The contracting officer shall establish pre-negotiation objectives before the negotiation of any pricing action. The scope and depth of the analysis supporting the objectives should be directly related to the dollar value, importance, and complexity of the pricing action.”

Good faith bargaining means the parties come to the negotiating table with positive attitudes. To achieve win-win solutions, the parties must exercise sincere efforts to work through issues and solve problems. Some basic win-win negotiation characteristics include: avoiding Deception, being persuasive, being respectful and polite, winning agreements instead of arguments, and using common sense. [Negotiation Characteristics of Win/Win Outcomes, Defense Acquisition University ACQuipedia]

IMPORTANCE OF PROFESSIONAL DEVELOPMENT

Consistent across levels of government is recognition of the benefits that negotiation can bring to a public entity. Inherent to the nature of a negotiating process is flexibility: flexibility to consider scope; consider a variety of solutions; to balance...
multiple risk factors; to define solution-appropriate terms and conditions; and, to ultimately determine the solution that is of best value, a.k.a. “best interest,” to the state.

Flexibility means that there is no one prescription for negotiating success, therefore, the negotiating process cannot be adequately defined through a simple how-to, administrative guide. Rather, part of the burden of being a procurement professional is that it requires a mastery of relevant ordinances, an understanding of entity needs and resources, and a sensitivity throughout a negotiation event to issues that may be viewed as an opportunity or threat by either party. Applying judgment that integrates and balances these many factors in the best interest of the entity is one of the key differentiating skills that elevate the value of procurement professionals and the role of procurement beyond an administrative function.

The importance of training and professional development by procurement leaders to gain and strengthen this core competency to be confident, adept negotiators in the service of their agencies cannot be overstated. Professional judgment is acquired over time through training and practical experience. Without training, the pathway to professional practice is substantially prolonged – if not closed. And that is to the detriment of the agency.

**NEGOTIATING SKILLS CAN BE LEARNED**

Procurement professionals need to know how to prepare and plan for negotiation to achieve win-win solutions. Skilled negotiation can improve outcomes for the government. Improved pricing is just one potential benefit. Negotiation can improve the overall combination of quality, service and other elements required for successfully meeting the organization’s requirements.

NIGP’s view of negotiation as a core competency of procurement professionalism demands a commitment to professional development. While some individuals have seemingly innate negotiation abilities, negotiating skills are developed and enhanced through training and practice. Procurement professionals should gain the knowledge and capacities necessary to conduct well-planned and effective negotiations.

**EDITOR’S NOTE:** This article is excerpted from *Negotiation: Lost Art or Core Competency?*, a new position paper from NIGP: The Institute for Public Procurement. The complete text of the position paper is available at nigp.org.
2014 NIGP Online Course Schedule

**JANUARY**
Contract Administration in the Public Sector Online
Jan. 13 - March 17
Contact hours: 24
Contracting for Public Sector Services Online
Jan. 15 - March 11
Contact hours: 16
Legal Aspects of Public Procurement Online
Jan. 21 - March 25
Contact hours: 24
CPPB Prep Online
Jan. 29 - March 24
Presented by Jennie E. Readey, CPPO, CPPB
Contact hours: 16

**FEBRUARY**
Developing and Managing Requests for Proposals Online
Feb. 18 - April 22
Contact hours: 24

**MARCH**
CPPB Prep Online
March 21 - May 7
Contact hours: 16
Strategic Procurement Planning in the Public Sector Online
March 31 - June 2
Contact hours: 24

**APRIL**
Fundamentals of Leadership and Management Online
April 28 - June 19
Contact hours: 16

**MAY**
Contract Administration in the Public Sector Online
May 5 - July 7
Contact hours: 24

**JUNE**
Legal Aspects of Public Procurement Online
June 1 – Aug. 15
Contact hours: 24
Contracting for Public Sector Services Online
June 5 – July 29
Contact hours: 16

**JULY**
CPPB Prep Online
July 2 – Aug. 18
Contact hours: 16

**AUGUST**
Contract Administration in the Public Sector Online
Aug. 4 – Oct. 6
Contact hours: 24

**SEPTEMBER**
CPPB Prep Online
July 31 – Sept. 17
Contact hours: 16
CPPPO Prep Online
July 7 – Aug. 21
Contact hours: 16

**OCTOBER**
CPPO Prep Online
July 31 – Sept. 17
Contact hours: 16

**NOVEMBER**
CPPB Prep Online
July 31 – Sept. 17
Contact hours: 16

**DECEMBER**
CPPB Prep Online
July 31 – Sept. 17
Contact hours: 16

---

**RESOURCES**
[calendar of events]

---

**COMMUNICATIONS TECHNOLOGY ON THE GO**

- Access the latest news articles, feature stories, commentary and analysis
- Save your favorite articles for future use
- Share stories with colleagues via email, Facebook or Twitter
- Read anywhere! After synching, articles are available offline.

To download IWCE’s Urgent Communications’ App, search for Urgent Communications in the App Store or visit www.urgentcomm.com/app.
Successful completing UPPCC certification exams in May 2013 were 340 individuals, including 240 who earned the Certified Professional Public Buyer (CPPB) certification and 100 who earned the Certified Public Purchasing Officer (CPPO). To date, 9,325 CPPB and 2,309 CPPO certifications have been awarded by the UPPCC. (See complete list of May certificants in the August/September 2013 issue of Government Procurement)

The CPPO and CPPB are globally recognized credentials offered exclusively by the Universal Public Purchasing Certification Council (UPPCC). The certification programs systematically raise the level of professionalism within the public procurement profession by offering recognition to those individuals who meet an established standard of competency for public procurement demonstrated through a rigorous application process and superior examination performance.

Obtaining either UPPCC certification requires the candidate to demonstrate, through an application process, that they meet specific requisites, which include education, procurement-related coursework/training and public procurement employment experience. A comprehensive written examination (specific to each certification) is required to confirm the candidate’s mastery of a variety of public procurement concepts found in the UPPCC Body of Knowledge.

The Certified Public Purchasing Officer (CPPO) and Certified Professional Public Buyer (CPPB) are globally recognized credentials offered exclusively by the Universal Public Purchasing Certification Council (UPPCC).

**THE UPPCC HAS RELEASED KEY PERFORMANCE DATA FROM THE MAY 2013 EXAMINATIONS:**

**Overall Scoring/Passing Rates.** 70 percent of the 142 total candidates who tested for the CPPO passed, while 66 percent of the 362 candidates who tested for the CPPB passed. Mean passing scores for CPPB candidates were 22 points higher than for CPPO.

**Testing Time.** The total testing time permitted for both examinations is 3.5 hours. This equates to a total of 210 minutes for 190 questions (175 operational or scored and 15 pre-test questions), or on average 1 minute and 10 seconds for each test question. For CPPO, the average completion time was 2.79 hours with a range from 3.5 hours maximum to 1.23 hours minimum. For the CPPB, the average completion time was 2.64 hours with a range from 3.5 hours maximum to 0.83 hours minimum.

**Strengths and weaknesses of candidates** (Table I.)

<table>
<thead>
<tr>
<th>STRENGTHS</th>
<th>WEAKNESSES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CPPPO</strong></td>
<td><strong>CPPB</strong></td>
</tr>
<tr>
<td>Domain 6</td>
<td>Domain 6</td>
</tr>
<tr>
<td>Domain 10</td>
<td>Domain 6</td>
</tr>
<tr>
<td>Domain 6</td>
<td>Domain 2</td>
</tr>
<tr>
<td>Domain 6</td>
<td>Domain 5</td>
</tr>
</tbody>
</table>

**Estimated time preparing for the exam** (Table II.)

<table>
<thead>
<tr>
<th>Exam</th>
<th>6 months</th>
<th>3-6 months</th>
<th>1-3 months</th>
<th>&lt; 1 month</th>
<th>no study</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>13.73%</td>
<td>34.32%</td>
<td>39.59%</td>
<td>11.44%</td>
<td>0.92%</td>
</tr>
<tr>
<td>CPPO</td>
<td>10.32%</td>
<td>35.71%</td>
<td>44.45%</td>
<td>7.93%</td>
<td>1.59%</td>
</tr>
<tr>
<td>CPPB</td>
<td>15.11%</td>
<td>33.76%</td>
<td>37.62%</td>
<td>12.86%</td>
<td>0.65%</td>
</tr>
</tbody>
</table>
Exam Content. Content for both the CPPO and CPPB examinations are dictated by the 2008 UPPCC Body of Knowledge (BOK). A total of 10 domain areas comprise the BOK:

1. Administration Aspects of Purchasing
2. Procurement Requests
3. Solicitation and Evaluation of Bids/Proposals
4. Supplier Analysis
5. Negotiation Process
6. Contract Award and Administration
7. External/Internal Relationships
8. Materials Management
9. Human Resources/Personnel
10. Forecasting and Strategies

The UPPCC reports that for both CPPO and CPPB, candidates performed the best in Domain 6: Contract Award and Administration. CPPO candidates performed the poorest in Domain 2: Procurement Requests. Conversely, CPPB candidates had the most difficulty in Domain 5: Negotiation Process. (see Table I).

Candidate Preparation. UPPCC reports that most candidates indicated, via a post examination survey, spending between one and three months preparing for their respective examinations (see Table II). The organization also reports that CPPO candidates who indicated spending three to six months preparing experienced the highest rates of passing compared to other timeframes of preparation; however, in evaluating CPPB candidate performance, preparation times of one month or less, as indicated by high passing rates, appeared to be the optimal timeframe.

Passing Rates and Public Entity Types. UPPCC reports that when comparing passing rates for both examinations with various entity types; candidates employed by K-12 Schools experienced the highest rates of passing at 72 percent, followed by Counties at 70 percent.

Testing for both credentials is offered via a network of professional testing centers twice annually in May and October. The UPPCC will continue to accept applications for the May 5-17, 2014 testing window under the current certification eligibility requirements through Dec. 31, 2013. Applications submitted after Jan. 1, 2014, through the application deadline of Feb. 3, 2014 (Feb. 18 with a $50 late fee) will be evaluated under the new eligibility requirements.

The UPPCC is an independent entity formed to govern and administer the CPPO and CPPB certification programs. The CPPO and CPPB programs are highly regarded and respected among procurement professionals and employers involved in the public sector. To date, the UPPCC has certified well over 10,000 professionals primarily within the U.S. and Canada as well as in other nations around the globe.
A gentleman named R. C. Jensen from Queensland University in Australia has rightfully touted the power of the procurement professional. In a theory he terms the “purchasing multiplier,” Jensen contends that no other business unit within an organization has the same opportunity to impact the bottom line as procurement. Not engineering, not accounting, and not human resources.

This certainly seems to hold true in the private sector when procurement and supply management can contribute to corporate profitability, but what about public procurement?

Paul Thomas is a contracting officer for Portland State University. He works on a variety of commodity assignments, including the recent acquisition of laboratory equipment for a new life sciences facility. After issuing a competitive RFP for this high level equipment, he conducted a best and final offer (BAFO) negotiation with the top ranked proposers.

The firm that ultimately won the contract saw the need to “sweeten the deal” and offered up additional equipment options, software, and maintenance services worth over $30,000. Due to Paul’s efforts, the final purchase amount was less than the project budget, and the university was able to reallocate the dollars to other needed items for the new facility. All in a day’s work? Perhaps, but these are real dollars saved.

Not convinced?

Naperville, Ill., implemented a new spend management tool this past year. The online system allowed the city to better track its spend and identify key areas for cost savings. Initial reports by Mike Bevis, chief procurement officer, identify a savings of $120,000. He firmly believes “there’s more where that came from”. This represents a significant budget impact to Illinois’ 5th largest city.

One of the best examples I’ve seen of public procurement and its ability to impact the budget is Rockland County, NY. I have viewed their annual report, including a P/L (profit and loss) statement, and was very impressed. When factoring in the negotiated contract savings, avoided costs, revenue generating contracts, and surplus property sales, the purchasing department netted over $500,000.

I could go on all day with examples of other NIGP colleagues that have achieved significant savings for their agency. But since I try and keep my columns to one page, I will stop there.

It is all too easy for public procurement practitioners to get caught up in policies and politics. You couple this with an over-burdened workload and we often forget the value we deliver day in and day out. Make no mistake; we have the opportunity (if not the obligation) to save public funds through our efforts. It is this writer’s opinion that we deliver on this challenge and provide tremendous value, including real-dollar cost savings to our agencies.

Is this what Jensen had in mind when he developed the purchasing multiplier? You better believe it!

Do you have a procurement action that has saved significant dollars? I would love to hear about more of our procurement colleagues and their positive impact to the bottom line.
A NO-BRAINER THAT’LL HAVE YOU LOOKING LIKE A GENIUS.

THE ALL-NEW 2014 COROLLA

CONTEMPORARY STYLING • HIGH-TECH AMENITIES • RENOWNED DURABILITY

Look smart with the all-new 2014 Corolla. With everything it has to offer, choosing the right fleet vehicle has never been easier. For more information, visit fleet.toyota.com.
Imagine more of you to go around.

Government fleet managers are asked to do a lot. Just imagine how much you could get done if you had a little help. ARI’s Government Fleet Team has specialized experience working with the public sector to complement existing processes – from supply chain management to garage management to fuel management and more – to find efficiencies, fill the gaps and develop best practices that lower the total cost of fleet ownership. Someday, science may discover a way to clone fleet managers. Until then, there’s ARI.

Call 1.800.477.4715 to see if you qualify for our pilot program.

Visit www.arifleet.com

Driven fleet professionals. Driving results.™

SPECIALIZING IN THE COMPLEX NEEDS OF GOVERNMENT FLEETS.