Resources & Strategies



Bart Lemmon NASPO Director of International Initiatives



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Greetings,

The US Gross Domestic Product (GDP) in 2022 produced an estimated \$25.4 trillion. The US has the largest consumer market representing ¼ of all household income worldwide. Every year approximately 17% of the GDP figure is public spend that runs through the state and local government markets. In the United States there are 50 states, 6 territories, 3033 counties, over 4000 institutions of higher learning, and over 90,000 political subdivisions that make up the US State and Local public procurement markets.

One of the great challenges faced by a foreign, non-based US company, is understanding and navigating markets that are far away. Understanding the dimensions and moving parts of US public procurement markets is key to enhancing trade opportunities and building resiliency in the supply chain.

The purpose of this guide to provide tools and resources to make the most of your export journey. The level of success, for any supplier considering the US public procurement markets, is linked to understanding market structures, tendering fundamentals, and building a solid plan to engage in public procurement market opportunities.

Of course, building a good strategic plan takes time and dedication. You will get the most out of this guide by thinking carefully through each section and how you can use this material to help you achieve your goals. What's important is not how fast you cover the material rather how thoroughly you understand these resources and integrate them into your overall game plan. We can provide the tools to be successful but how you use this information will be entirely up to you.

We thank you for your efforts and for being willing to use your resources to serve the public procurement community!!

Bart Lemmon NASPO Director of International Initiatives





II. US STATE PROFILES & PRACTICES

NATIONAL ASSOCIATION OF STATE PROCUREMENT OFFICIALS

The National Association of State Procurement Officials (NASPO), Inc. was formally established on January 29, 1947, in Chicago, Illinois. NASPO is a non-profit association dedicated to advancing public procurement through leadership, excellence, and integrity. It is made up of the directors of the central purchasing offices in each of the 50 states, the District of Columbia, and the territories of the United States. NASPO is an organization that helps its members achieve success as public procurement leaders through promotion of best practices, education, professional development, research, and innovative procurement strategies. The official website, <u>www.naspo.org</u>, contains several resources helpful to gaining a deeper understanding about the US State Procurement markets. This <u>link</u> provides a video of the 75-year history of NASPO.



State Profiles

NASPO is made up of the directors and staff of the central procurement offices in each of the 50 states, the District of Columbia, and the territories of the United States. Select a state from the map shown in this site to learn more about that state's State Procurement Official, the procurement staff in their office, select procurement programs and a guide of how to do business with that state.

Relationships are very important in every form of business and certainly in public procurement. We encourage you to reach out to state procurement offices and build a respectful relationship. Procurement officials many times will turn to the private sector to receive market information and gain a deeper understanding of how industry dynamics work.

Texas Comptroller of Public Accounts Statewide Procurement DivisionPO Box

Below is an example from the State of Texas:

TEXAS



Bobby Pounds State Chief Procurement Officer (512) 463-4941 Robert.Pounds@cpa.texas.gov Procurement Contracting

HOW TO DO BUSINESS WITH THE STATES

13186.

Austin, Texas,

78711. United States



Director Biography

Bobby Pounds was appointed Director of the Texas Comptroller's Statewide Procurement Division (SPD) and State Chief Procurement Officer in May 2020. He has almost 29 years of experience in state government, including previous work in compliance with the Texas Education Agency and subsequently as a program administrator in Operations and Contract Management with the Texas Workforce Commission. He came to SPD in 2008 as the manager of the Contract Management Office and was promoted to SPD Assistant Director in April 2014. As Director, Bobby oversees the operations of Statewide Procurement and Contract Management, Procurement Policy and Outreach, Training and Certification, the statewide HUB program, Data Management & Analytics, the Texas SmartBuy Membership program, and statewide Fleet, Travel and Mail Operations. He holds a bachelor's degree in Economics from The University of Texas at Austin and is a Certified Texas Contract Developer (CTCD) and Certified Texas Contract Manager (CTCM). He has provided a number of speeches, trainings and Q&A sessions regarding statewide procurement to his customer agencies and enjoys interactive communication with both internal and external customers. As Director, he maintains a focus on collaboration, transparency, excellent customer service and acquiring and retaining exceptional procurement talent.



Repository of State Practices

The Repository of State Practices ("RSP") is a database of state procurement statutes, regulations, and policies. NASPO's Research and Innovation team continually update the RSP. However, upon your review, if you believe an update should be made, please contact research@naspo.org.

Procurement statutes, regulations, and policies can be accessed by either state or category. To browse a state's procurement practices, click on the state interactive map. There are sixteen categories of state practices identified. Selecting a category displays information about every state's practices.

States are like people each having their own personality. Though there are similarities in tendering practices there are also differences in the way states approach procurement.

The RSP resource will provide guidance on the procurement nuances that exist between states. If you wish to do business with the states, then understand how the states do business. Below is a listing of categories:



Browse by Category

Existing Contract Vehicles

Prior to scheduling a call with a public procurement official, it is suggested that you analyze current agreements that they are utilizing to procure the goods or services that you offer. If the state does not currently maintain an agreement for such goods or services, be ready to offer reasons why it is in the best interest of the procurement office to consider establishing an agreement and how this will benefit their



constituents. Procurement officers are public servants and motivated to consider procurement solutions they believe will serve their customer base.

- What does the procurement office need that we can help with?
- How do they view contract performance delivered by the current set of suppliers?
- Are there special circumstances that need to be considered such as minority or women owned business enterprises?
- Are there other local business involvement initiatives that they support?

Pre-call Checklist

An effective call strategy includes thoughtful pre-call preparation and being ready to fully engage the customer. Without a well-thought-out strategy you simply will not reach your goals and the selling process will become stalled. Below is a list of topics to consider prior to your meeting.

- What are the interests of the procurement office?
- Are their needs being met?
- Why is it in the best interest for the customer to consider our company and what we offer?
- Have I solicited the perspective of other internal and external stakeholders?
- Have I performed enough research to conduct a valuable call?

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2024 TOP 10 PRIORITIES for State Procurement





NASPO is a nonprofit association dedicated to advancing public procurement through leadership, excellence, and integrity. **WWW.Naspo.org**



NASPO ValuePoint Cooperative Procurement

Started in 1992, NASPO ValuePoint (NVP) is the cooperative purchasing arm of the National Association of State Procurement Officials, or NASPO. NVP is a cooperative purchasing program facilitating public procurement solicitations and agreements using a lead-state model.

In the United States, and in other international markets, cooperative procurement has grown substantially in the last ten years in both contract usage and in number of contract solutions offered. This upward trend will continue globally as public sector end users increasingly turn to utilize cooperative procurement solutions to solve their procurement needs.

By working with a cooperative purchasing organization, public entities leverage their spending through a single solicitation with the best value and superior contract terms. NVP contracts focus on price, quality, reliability, warranties, and service while attempting to achieve favorable terms and conditions.

Public entities benefit from the lower administrative costs of processing solicitations by leveraging the expertise of staffs across state boundaries. This division of labor allows procurement departments to share their resources and more efficiently achieve their business goals. NVP reimburses the lead state entity for the costs of leading and administrating a NVP, as well as for participating in sourcing teams.

Contractors also benefit considerably by avoiding the repetitive bid preparation expenses, eliminating the need for repetitive bids on the same solicitations for different jurisdictions. Contractors can factor in greater volumes for multiple jurisdictions when determining their pricing. These savings are then passed along to the states.

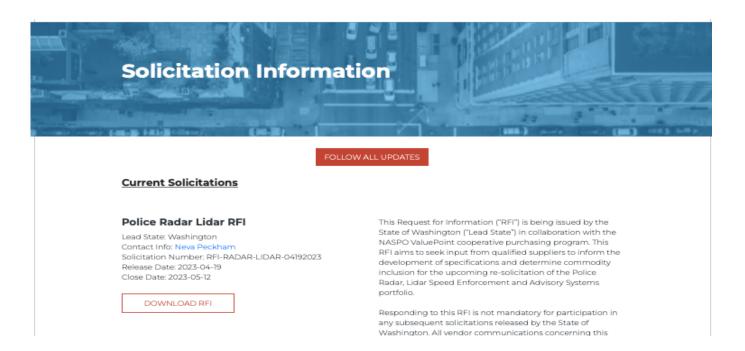
There are **seven** general NVP portfolio categories which are shown below:

Explore NASPO ValuePoint Contracts by Category



Contract Portfolios and Tenders

Request for information documents, tenders, current contract updates are posted on the Valuepoint site. We suggest that you examine all contract portfolios and follow contracting activities. The documents on the NVP website are for informational/ convenience purposes only. Official documents are maintained by the lead state or participating entity in the case of participating addenda.



Emerging Markets Initiative

The **Emerging Markets initiative** was designed specifically to encourage a high-level dialogue between private and public sectors by offering a structure to consider innovative ideas. The overarching goal of the initiative is to broaden the perspective of the procurement community by proactively exploring ideas from the private sector.

As the international procurement community considers a spectrum of innovative concepts, we encourage private industry to offer their ideas as to which contract solutions should be developed and made available to government markets.

- What contract solutions should the procurement community produce for use by the public sector?
- What is the market potential for this solution/service?
- Why will adoption of a proposed solution benefit the public sector community?
- How does an innovative idea lead to more efficiency and increased productivity?

For us to consider your ideas, please submit a paragraph summarizing the concept and include a whitepaper outlining the essential aspects of the innovative solution. Please indicate a suggested scope and include any supporting market research demonstrating potential customer usage.

The procurement community seeks data driven ideas which may necessitate the sharing of proprietary and confidential data. Vendors should clearly mark all information which it deems proprietary and confidential prior to providing that information.

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Overview

There are over 450,000 tenders issued in the US market each year by State and Local government procurement offices. Suppliers that understand how to effectively analyze tenders, provide substantive input at the Q&A stage, and then respond effectively are in a much better position to achieve success then those with less refined skills.

Procurement offices understand there is a "cost of tendering" associated with any procurement. Tendering many times is complex and complicated with many moving parts. The larger the tender, the more nuance and challenges associated with that procurement. An issuing entity will need to address all steps of the bidding cycle (outlined below) when issuing an RFP. It takes time, effort, and resources to go through the process. Various studies have been conducted attempting to place a cost on this activity.

The key question here is "Does a government entity gain a benefit by issuing a solicitation that exceeds the cost associated with the procurement?"

General Tendering Guidelines

The purpose of competitive tendering is to secure the public objectives in the most effective manner and avoid the possibilities of graft, fraud, and collusion. Competitive bidding is primarily designed to benefit the public body and is not for the benefit of the bidders. The process is administered to accomplish its purposes with sole reference to the public interest. It is based upon full and free bidding to satisfy specifications, and acceptance by the issuing entity of the most effective solution to the stated requirements, as determined by the evaluation criteria contained in the RFP.

General procurement standards have formed, due in part, from a compendium of post award protest rulings. From such decisions, the following general guidelines have emerged among others:

- 1. Request for Proposals must provide a basis for full and fair competitive bidding among bidders on a common standard, free of restrictions tending to stifle competition.
- 2. The issuing entity may modify the RFP, prior to the date fixed for Contract Award, by issuance of an addendum to all parties who are bidders. Consequently, potential bidders must closely monitor the website used to publish solicitations.

- 3. To have a valid bid, the bid must respond and conform to the solicitation, including all the documents which are incorporated therein. A bid response which does not literally comply may be rejected.
- 4. Issuing entities usually have the express or implied right to reject all bids in the best interests of the State. Bids cannot, however, be selectively rejected without cause.
- 5. Bids cannot be changed after the time designated for receipt and opening thereof. Other than allowed by law, no negotiation as to the scope of the work, amount to be paid, or contractual terms is permitted unless expressly allowed for in an RFP. However, this does not preclude the Issuing entity from clarifying the bidder's intent by asking questions and considering answers.
- 6. A competitive bid, once opened and declared, is an irrevocable option and a contract right of which the public agency cannot be deprived without its consent, unless the requirements for rescission are present. All bids become public documents.
- 7. Bids cannot be accepted "in part," unless the solicitation specifically permits such an award.
- 8. Contracts entered through the competitive bidding process cannot later be amended, unless the Invitation for Bids includes a provision, to be incorporated in the contract awarded, providing for such amendments. Most do, but amendments typically must be in the general scope of the contract.
- 9. For a variance between the solicitation and the bid to be such as to preclude acceptance (the bid must be rejected), the variance or deviation must be material; materiality may be defined differently in invitations for bids and requests for proposals where proposal revisions may be permitted.

Analyzing the tender document

Winning government tenders can be an arduous process and difficult as outcomes can turn on a single concept or a single word. It requires insight into the objectives of public acquisition, knowledge of competitive procurement standards, and an acute awareness of your own business model and risk profile.

Once the tender is issued you will need to analyze and break it apart into various sections. Broadly speaking, you need to determine whether the tender should be modified to warrant a response. Bid departments only have so much time and energy to respond to tender opportunities so initially you need to decide whether the tender is worth pursuing. You do this by analyzing the tender document in a thoughtful manner and making suggestions to the procurement officer to improve the tender.

Should the procuring agency consider changes? Do the terms and conditions need refinement? Are the technical specifications in line with industry standards or are they too narrowly written? We suggest that the tender be evaluated by internal departments and other interested stakeholders prior to drafting questions at the Q&A stage.

It is helpful to see the tender through three different lenses (1) Fit and Feasibility (2) Risk Management and System Burden (3) Financial Management and Contract Administration.

Fit & Feasibility – Through this lens you are trying to determine whether the tender fits the goods and/or services you offer. Also, given the requirements outlined, is it feasible to perform the agreement? If you are not able to perform, then wait for a tender that is more in line with what you offer. As you consider the tender, the questions below will help you determine Fit and Feasibility of this opportunity.

- Does the scope of the solicitation need to be altered or widened?
- Are the technical specifications standard or does it limit, stifle, or frustrate competition?
- Are delivery mandates in line with industry standards?
- Are there special invoicing requirements?
- Are there special challenges that impact resellers or subcontractors?

Risk Management & System Burden – Performing an agreement will add an additional weight on your company system. Every government contract contains some elements of risk. Are risk elements these acceptable? If not, what alterations to the tender do you suggest so that you can respond appropriately? As you analyze the tender asking yourself the questions below will help you form good questions you can submit at the Q&A stage.

- Can performance requirements be performed without placing an undue burden on our system?
- Can we fully comply with the products & services requested or is beyond our capability?
- Are the service level agreement requirements inconsistent with industry standards?
- Are there challenges with Limitation of Liability, Indemnification, or Warranty Obligations?
- Does proposed contract termination language pose challenges?
- Are non-performance penalties & cure periods acceptable?

Financial Management & Contract Administration – Finally, through this lens you will determine if there are financial or contract administration aspects of the tender that need to be addressed.

- Are all available acquisition methods addressed?
- Are there ways to maintain acceptable contract margins and remain competitive?
- If leasing is an option, does the tender embody the necessary leasing language?
- Are there considerations impacting the accounting department or order management?
- Is there investment required to perform?
- Are all issues impacting end of term outlined?

Constructing questions at the Q&A phase

Sufficient time and thought should have been given in preparing the tender to attract competition and to reduce or avoid any problems that might arise after the responses are opened. Supplier bid departments have limited resources to devote to bid preparation hence suppliers are unlikely to invest the effort should they become discouraged due to perceived problems that exist in the tender such as perceived gaps in tender language or perhaps requirements that are unclear.

Constructing questions, for the procurement officer, addressing some aspect of the tender is an important part of the tendering process. Very similar to batting in baseball, some are just better at the skill of drafting questions than others.

During this stage, unfortunately many supplier questions that are submitted fail in reaching their objective, not because questions fail in raising valid points, rather because the question is poorly written.

To enhance the **overall quality and precision** of the questions submitted, we suggest you consider the following and apply these principles to questions you write.

- 1. **Question Purpose** The question needs to advance a specific objective. This is not a time to write a question that simply annoys the public buyer. Be thoughtful as you consider your point and make sure your question contains a clear purpose.
- 2. **Framing** Questions need to be well-reasoned and easy to answer. If it is too difficult to answer the issue you have raised you will not receive the consideration you are looking for.
- 3. **Customer Interest** Questions are normally better received if the question is couched in such a way to advance a customer interest or promote competition. In other words, why is it in the customer interest to support your request or conclusion not why is this in your interest?
- 4. **Foundational Support** You will achieve a higher success rate if you offer industry standards or some other reference point as a supporting element of the question.
- 5. **Refinement** Attempt to make the question short and succinct. If there are multiple issues identified in the question, then break the issues into additional questions as opposed to one question containing multiple dimensions. Questions that are easy to answer will always achieve greater success.
- 6. **Question Editing** Your question will always improve if others are able to offer editing suggestions. Though the question may make sense to you as the author, it needs makes sense to a first-time reader. An editor can give you something you cannot give yourself, a fresh perspective.



Many organizations utilize an **indirect or reseller model** to distribute goods and services. For prime contractors that use this approach a whole host of additional support considerations need to be addressed that will impact contract performance of you contract award. Beyond simply fulfilling an order, some states allow supplier resellers the option to invoice and collect payment on a contract held by the prime contractor.

To properly manage these interconnected relationships prime contractors should develop a reseller participation agreement, establish proper conduits for reporting, and provide training for their reseller partners.

Below is a summary of how seasoned prime contractors address this topic when involving resellers or subcontractors in the performance their government contract award.

Common prime contractor reseller considerations

- Authorized Provider in Good Standing
- Threshold amount established of previous Public-Sector Sales demonstrating experience
- Commitment to establish internal training
- Completion of supplier public-sector training
- Minimum number of dedicated public-sector sales reps
- Submission of business plan outlining the reseller approach to the market and commitment to promote the agreement

Common elements in reseller participation agreements

- Commitment by reseller to follow contract guidelines
- Acceptance to be bound by contract award terms and conditions
- Commitment to submit mandatory reports as required under the master agreement
- Commitment to assign single point of contact responsible to furnish reports and ensure compliance
- Parameters established ensuring proper order management
- Customer PO's will note proper contract numbers and will not include non-approved items
- Reseller documentation (orders, invoices) are subject to audit by the Prime contactor
- Reporting process subject to ongoing review and process improvement



- Registration with Secretary of State office
- Reseller must be in current standing with the State and approved
- State vendor registration
- Physical Presence in the State

Subcontractors

Almost every prime contractor at some point will involve subcontractors. Especially for large-scale projects. Subcontractors may, in turn, hire their own subcontractors to do part of the work that they have contracted to perform. Of course, contracting parties are generally free to allocate the risks of a contract as they see fit. If you are utilizing subcontractors to perform ongoing duties, you may consider gathering their input during the tendering phase.

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Overview

There are 50 state markets, and they all act a little differently. You will discover that each state not only differs slightly in the way the approach the tendering process, but they also differ in buying patterns. In other words, buying patterns in California will be different than in Florida.

One helpful exercise is to perform a SWOT (Strengths, Weaknesses, Opportunity, Threats) analysis for each individual state market. The essence of the SWOT is to discover what you do well, what you can do to improve, whether you are making the most of your opportunities, and how you should adapt to the marketplace. The value of the analysis is to give you suggestions to improve and ameliorate your marketing plans and maximize your opportunities.

Below is a list of questions for each SWOT category. Answering these questions will help you determine how to position your award and reach your goals. The end game here is to develop thoughtful and winning strategies for your company resulting in the most effective return possible on your time invested in the marketplace.

STRENGTHS

- What advantage does your company have in each marketplace considering the competition?
- What do you do better than others and how do you communicate that?
- What are your unique resources?
- What do customers in your marketplace view as your strengths?

WEAKNESSES

- Are there things you can improve that impact contract performance?
- What perceptions or activities should you avoid?
- What would your customers say are your weaknesses and how are you addressing this?

OPPORTUNITIES

- What trends have emerged in your marketplace that result in opportunities to expand?
- How are you furthering your relationships with your current customers?
- Are there customers willing to provide your testimonials for delivering superior service?

THREATS

- What are your obstacles to maximizing your sales?
- How is your competition beating you and what are you doing about it?
- How are changes in the market threatening your position?
- Are you experiencing challenges processing business that is resulting in a negative customer experience?

2017 Census of Governments

The U.S. Census Bureau conducts a census of governments taken at 5-year intervals. The most recent Census was taken in 2017. Governmental services in the United States are provided through a complex structure made up of numerous public bodies and agencies. In addition to the federal government and the 50 state governments, the Census Bureau recognizes basic types of local governments.

The "Individual State Descriptions" provides information about the organization of state and local governments. There is a separate summary for each state which are divided into basic types of local governments recognized for the U.S. Census Bureau's classification of government units— county, municipal, township, school district, and special district governments. Each government type is described in detail in the report. Source: "Individual State Descriptions: 2017: 2017 Census of Governments."

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Overview

To increase your chances of winning government tenders, the value of continued learning cannot be overstated. Understanding procurement principles, how tenders are developed, and knowing how to effectively engage the procurement process are critical to success. **Simply put, suppliers that know the most will do the best.**

This skill of securing government contracts is inseparably tied to grasping the entire picture of contracting options available to a Procurement Officer. Like any picture there is depth, nuance, varying shades, and subtleties. Familiarizing yourself with various options available in a marketplace will better equip you as you prepare for future sales calls.

Providing a training curriculum for your field staff, is one of the most critical aspects of a successful supplier strategy. It takes training for salespeople to acquire tools be more effective with existing and potential accounts. With sound training, those representing the organization gain a base understanding of the dynamics at work and will develop successful strategies to navigate and focus their engagement efforts.

It has been said to be successful, salespeople must possess at least the average knowledge base and skill level of other members in their profession but to excel their skills must surpass those of their colleagues. Learning is the key!!!

Supplier Academy

Supplier Academy was developed as a learning platform for suppliers. It contains courses that address the importance of business planning once an award is granted, understanding how to effectively engage in the bidding process, and general tips on the skill of selling. These courses shed light on the many nuances associated with this marketplace. Supplier Academy is a resource to help YOU become more productive. We encourage you to take full advantage of this FREE resource in your business development efforts.



Procurement University

NASPO's Procurement University is a multi-faceted education platform provided to members of the National Association of State Procurement Officials and other government procurement professionals. Procurement U provides professional development opportunities, training, resources, publications and more that are specifically tailored to meet the needs of public procurement officials and staff.

Whether you are looking for procurement specific training, a focus on building your professional skills, or a bit of both, we've got you covered! Procurement U courses are currently available for FREE.



Procurement Toolbox

This is a tremendous resource as it addresses fundamental topics of the public procurement process and provide a high-level introductory overview with additional links to NASPO resources for deeper understanding.



State and Local Government Procurement Guide

"Whether you're a career procurement professional, a student seeking to learn about procurement, a supplier doing business with government or an educator teaching a procurement course, the Practical Guide is a valuable resource," said NASPO President Lisa Eason, of Georgia. "This guide should be on the bookshelves of all procurement staff—from seasoned procurement professionals to those just entering the workforce or new to the field of procurement."

Each chapter of the 2019 edition includes a comprehensive list of recommended best practices for that specific chapter topic. Enhanced cross-referencing within each chapter is also used to demonstrate the interrelationships among all the subject matters addressed.

Also, the Practical Guide contains a glossary of commonly used terms, as well as a directory of frequently used acronyms and abbreviations in the procurement field.

Suppliers greatly benefit from the information offered through this resource. This is a resource you should think about investing in. With more knowledge comes more success!!!!

NASPO-INTERNATIONAL.US

We have developed a website that contains many links to resources mentioned in this guide. We will continue to update this website to contain additional resources and tools helpful to any supplier wishing to understand state and local government markets. Website address is <u>www.naspo-international.us</u>.

VIII. ADDITIONAL TOOLS



NASPO Supplier Toolbox

The US State and Local Public Market is a decentralized environment. This market includes procurement departments from 50 states, 6 territories, 3033 counties, 1600 universities, and over 90,000 political sub-divisions. Their combined procurement activity generates over 450,000 tenders issued annually and results in contract awards worth hundreds of billions in US Dollars

To help demystify this marketplace we have assembled useful tools and relevant resources separated into four primary categories (1) US State Procurement (2) US Cooperative Procurement (3) Study & Learn (4) Podcasts & Blogs. If you wish to receive ongoing information from NASPO or want to pose a question, please fill out the registration form at the bottom of this page.

Market Engagement Events

For suppliers, the most powerful and useful event to attend is the annual NASPO Exchange conference. This annual meeting is a MUST for Suppliers who wish to expand their footprint into the US State Government marketplace. The conference is a place where partnering, networking, and learning come together to develop business relationships which support public procurements that are effective, efficient, transparent, and fair.

This meeting should be attended by all those who support the agreement and want to garner a better and deeper understanding how to move the ball forward with their marketing plans.

The event normally occurs in March or April each year. You can find the location of this yearly meeting by visiting the NASPO website (www.naspo.org) and clicking on the link for "Future Events".