

**States Buying Smarter:
Lessons in Purchasing and Contracting from
Minnesota and Virginia**

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ABOUT THIS REPORT

Pew Center on the States

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Pew Government Performance Project

The Government Performance Project (GPP), a project of the Pew Center on the States (PCS), improves service to the public by strengthening government policy and performance. The Project evaluates how well states manage employees, budgets and finance, information and infrastructure. A focus on these critical areas helps ensure that states' policy decisions and practices actually deliver their intended outcomes.

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This report showcases successful strategies for reforming how state governments purchase goods and services. Two case studies are presented, highlighting procurement practices that hold promise for all states. The research for this report was conducted with financial support from the Pew Center on the States' Government Performance Project.

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Executive Summary

States spend more than \$200 billion annually purchasing goods and services, paying for everything from building roads and bridges to buying desks and computers.¹ Conservative estimates suggest that reform of government procurement practices could save 5 to 10 percent of that total spending.²

In an effort to help all states ensure that their procurement systems are delivering the best value for their purchasing dollars—especially during the current economic climate—the Pew Center on the States’ Government Performance Project (GPP) explored ways that states can effectively capture cost savings through smarter purchasing and contracting practices. For example, over the past year, GPP staff worked with a leadership team in the state of Georgia to develop a cutting-edge analytic tool that will enable state leaders to better analyze spending data from all state financial systems and achieve significant cost savings. This work builds upon more than a decade of examining management practices—including purchasing systems—by *Grading the States*, a periodic report card published by Pew’s Government Performance Project.

Procurement was once regarded as a rote administrative task. Today, improved business practices offer states significant opportunities to cut costs and improve service quality.

In order to further explore policies and practices that could help state leaders target their reform efforts, the GPP commissioned these case studies of procurement reform initiatives in Minnesota and Virginia. Through different approaches, leaders in each state have worked to enhance their procurement systems to improve not only what they buy and how much they spend, but also *how* they purchase goods and services and from whom. In addition to describing effective policies and practices, these case studies identified potential barriers to reform and policy levers for success.

Procurement Reform Goals

This array of activities—from hands-on technical assistance to in-depth research—and conversations with dozens of state policymakers, agency managers, and business leaders, have helped Pew to identify several strategies that states can employ to achieve better procurement results.

To begin, state agency heads can move quickly to identify the major categories where most state spending occurs, using basic financial information available through current state accounting systems. States with solid enterprise-wide information systems can push such a spend analysis even further. The next step is to simplify purchasing categories, reduce the number of vendors and consolidate purchasing volumes to secure the best price for goods and services.

These initial steps can generate significant cost reductions. But states can achieve even greater benefits when they pursue the following five interrelated procurement reform goals. Examples of key management practices from Minnesota and Virginia illustrate how each of the goals can be accomplished.

1. Set targets for procurement cost reduction and increase the dollar volume of statewide contracts for goods and services.

- *Aggregate demand.*—Minnesota, which acquires more than \$2.4 billion in goods and services annually,³ has aggregated demand by developing multiple enterprise contracts for goods and services. Virginia’s central procurement agency, which oversaw the purchase of \$4.6 billion in goods and services in Fiscal Year (FY) 2008,⁴ promotes the use of state term contracts and cooperative purchasing agreements.
- *Promote innovation.*—Minnesota’s most innovative practices have included focusing on price, developing statewide product standards, and negotiating with vendors throughout the procurement process. Taken together, such practices have resulted in *\$246 million in actual and projected cost savings* since December 2005. Other benefits have included higher quality goods and services delivered in a shorter period of time.

2. Initiate or expand cooperative purchasing across state agencies.

- *Leverage agency expertise*—Minnesota’s commissioner of administration collaborates with agency leaders to assess their needs, identify enterprise contracting opportunities and empower multi-agency steering committees to lead and oversee contract planning and management. Virginia leaders have worked to build contract administration capacity at the agency level.
- *Balance centralization and delegation*—Minnesota’s centralized purchasing office focuses on opportunities for significant savings and improved quality through standardization and statewide contracting, while delegating relatively low-dollar, low-risk procurement to agencies. Virginia’s central purchasing agency has the authority to make nearly all state government purchases; make, alter, amend and repeal administrative policies and procedures; and audit state agency practices. However, it also engages in extensive delegation of procurement authority, with most small purchases made directly by agencies.

3. Engage other state entities (such as public universities, colleges and school districts), jurisdictions (such as cities and counties), and other states in cooperative purchasing arrangements to expand buying power.

- *Expand buying power*—Minnesota law provides the Department of Administration with broad authority to allow governments in localities and in other states, as well as some nonprofit organizations, to participate in its cooperative purchasing programs, which increases cost savings.
- *Promote common use of state contracts and cooperative purchasing agreements*—Minnesota’s central procurement agency negotiated or managed more than 1,400 master contracts in 2009. State and local agencies purchased more than \$850 million

in goods and services off of these contracts.⁵ Minnesota is a leader in regional and national purchasing consortia, including the Minnesota Multi-state Contracting Alliance for Pharmacy and the Western States Contracting Alliance. Virginia has created more than 300 long-term contracts to reduce prices paid for goods and services and administrative costs.⁶ The state's cooperative purchasing contracts include: those issued by a consortium of Virginia state colleges and universities; intra-state cooperative procurement agreements among state government and localities; inter-state cooperative contracts (such as those offered by the US Communities group, which includes state and local governments across the country); and inter-state cooperative purchasing arrangements among peer state agencies (such as the Interstate Corrections Compact).

4. Initiate or expand the volume of e-Procurement activities and simplify procurement rules and regulations to reduce the cost of buying.

- *Streamline procurement processes*—Minnesota and Virginia promote the widespread use of purchase charge cards for small purchases, thereby reducing the number of invoices processed by the state. Through its eVA e-procurement system, Virginia also has moved most state purchasing online, eliminating numerous costly steps in the acquisition process.
- *Commit to price*—Minnesota has set minimum requirements for weighting price when evaluating proposals to make purchasing award decisions. *State officials estimate that requiring at least a 30 percent weighting of price has saved nearly \$1 million over three and a half years* by ensuring that both state purchasing officials and vendors focus on the bottom line.⁷
- *Harness technology*—Virginia's eVA system serves as a single point of contact for state government and vendors. The system benefits state agencies by enabling them to submit requisitions and solicit bids electronically, as well as analyze purchasing and spending data. It also benefits vendors by enabling them to register once with all state agencies, automatically receive solicitations for bids and respond to solicitations electronically. Use of eVA also has increased the number of bids for goods and services. *One estimate suggests that the state saved \$114 million* from 2001 to 2004 by securing lower prices on selected goods and services through improved contracting practices.⁸
- *Emphasize negotiation*—Minnesota focuses on negotiation throughout its RFP processes.⁹ The state also empowers its purchasing staff to conduct strategic sourcing analyses and to negotiate both new contract terms and contract renewal terms, including price. *State officials estimate that Minnesota will save more than \$90 million* through its active negotiation strategy.¹⁰

5. Recalibrate and update the skills of procurement staff.

- *Provide training*—Virginia has created a road map for strategic training and hiring needs and provided extensive procurement training, especially related to its eVA system, to state officials at all levels through the Virginia Institute of Procurement. The state also provides vendors with onsite, telephone and online training including how to register to conduct business with the state; respond to solicitations for bids and proposals; and conduct queries on eVA to determine what goods and services are being purchased by state agencies. Minnesota has a comprehensive training program and educational requirements for agency personnel that purchase goods and services. Also, Minnesota has committed to enhancing staff negotiation skills, by enabling staff to lead, provide assistance with, and train agency personnel on how to conduct effective negotiations and undertake strategic sourcing.

Challenges to Reform—and Policy Levers for Success

Along the way to reforming their procurement policies and systems, Minnesota and Virginia faced significant practical and political challenges.

Minnesota's primary practical challenges were related to capacity- and relationship-building. Virginia's practical challenges included developing, deploying and integrating its e-procurement system. Both states also had to overcome political opposition to procurement reform from various stakeholders, including some industry groups, agency personnel, other government bodies—including local governments and public universities—and legislators.

In both Minnesota and Virginia, state leaders developed a vision for change and deployed an array of strategic management practices to build on their strengths and overcome internal and external resistance.

Minnesota's key policy levers included:

- Statutory authority for procurement reform
- A robust and independent central procurement agency
- Strong joint powers agreement authority
- A statutory commitment to ethics and whistle-blowers

Virginia's key policy levers included:

- Standardization of procurement rules and practices
- Extensive delegation of procurement authority
- Policies for promoting small business participation in state procurement
- Continuously improving staff training

Common Principles in Diverse States

Minnesota and Virginia are two very different states that have taken diverse approaches to procurement reform, ranging from leadership to strategy.

- Minnesota’s policymakers established a chief procurement officer (CPO) with substantial independent power who could work around the politics of the state to create best value business deals—while Virginia’s leaders created the position as a senior-level gubernatorial appointee.
- While Minnesota concentrated on collaborative cross-state contracts with broad and inclusive governance structures, Virginia focused on automating and modernizing processes and setting up optional contracts for state entities to use.
- Finally, Minnesota primarily managed its reforms in-house while Virginia built its reforms around an outsourced solution that relied on substantial initial investment by a support contractor.

But from this diverse array of policies, strategies, and tactics emerge a variety of best practice solutions. Furthermore, while the policy contexts and tactical approaches of the two states were substantially different, the core principles of their approaches—innovation, negotiation, measurement, collaboration, and persistence—were consistent and replicable.

Every state can begin employing the broad strategies that launched and sustained the Virginia and Minnesota reforms and brought savings and better business practices to these states. The diversity of approaches taken in these two states show that other states have a wide array of business improvement opportunities through which to achieve substantial savings for their citizens.

Introduction

Recognizing the importance of purchasing and contracting as firmly entrenched core functions of government, many states have embarked on efforts to reform their procurement systems. Historically, public purchasing and contracting—the acquisition by governments of goods and services from private firms, nonprofit organizations and other governments—was seen as a staid back-office function, with little room for improvement or innovation. Now the revamping of these functions is central to many states’ efforts to reduce costs and improve performance for their citizens. During the past two decades, procurement reform largely has focused on streamlining the processes and rules that govern acquisition. Such reforms have given public purchasers and contract managers the flexibility to pursue “best value”—the balance between quality, cost and delivery that best serves the purchasing government’s mission and objectives.¹¹ In addition, procurement deregulation and decentralization across the states have stimulated innovative technologies and management practices.¹² Although some such innovations brought risks and trade-offs, many new practices have delivered cost savings, better acquisition performance and improved quality of services.

Two states—Minnesota and Virginia—are notable for their comprehensive procurement reform efforts in the pursuit of high performance and good governance. Both states have followed the same basic path of streamlining their procurement systems by simplifying procurement rules; decentralizing smaller, less complex purchases; and using technological advances to make it easier to do business with the government. Each state, however, has focused on somewhat different innovations to achieve “best value.” Specifically, Minnesota has lowered costs by aggregating demand through innovative cooperative purchasing approaches and by focusing on negotiation throughout the acquisition process. Virginia has enhanced purchasing flexibility and lowered costs by moving the bulk of purchasing online, resulting in the elimination of numerous costly steps in the acquisition process.

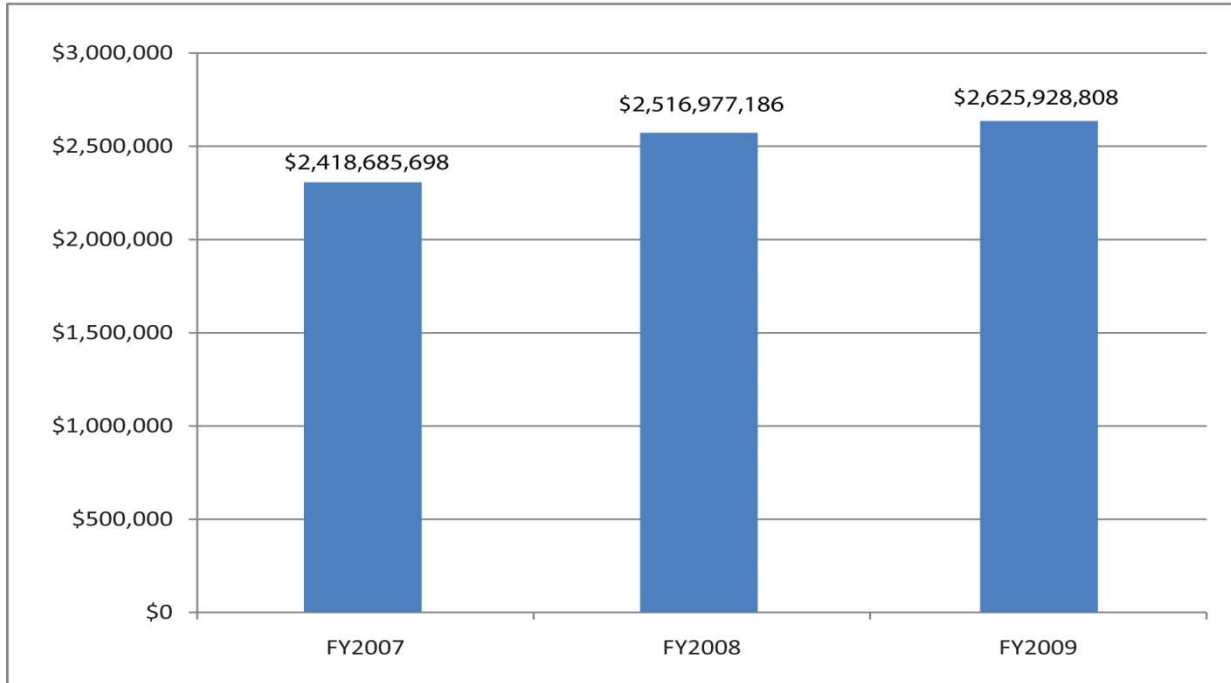
This report highlights signature elements of each state’s procurement reform efforts and presents the estimated cost savings and other benefits these reforms have generated. Key management practices and policy levers each state implemented to pursue reform are identified, as well as the organizational and political challenges each state faced along the way. The report is based on two in-depth case studies conducted in the fall of 2009. The case studies draw upon reviews of the major legal and regulatory documents that govern procurement in Minnesota and Virginia, onsite and phone interviews with key actors in the procurement system, and assessments of spending and performance data.

State Spending on Goods and Services

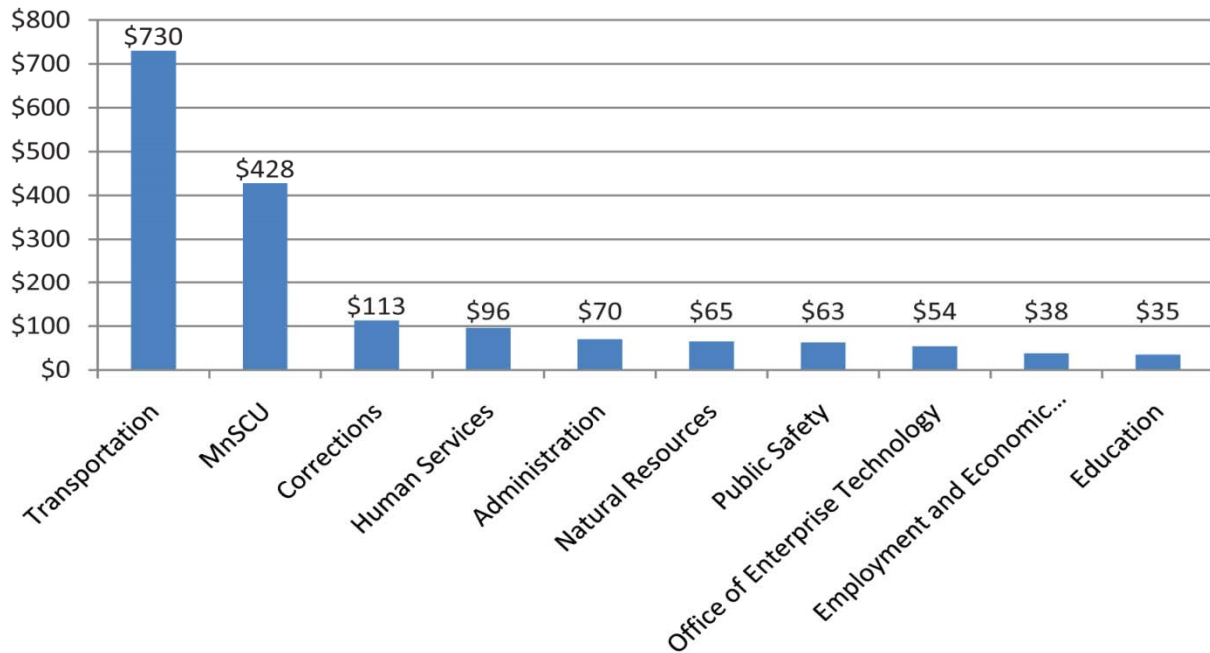
State Spending on Goods and Services in Minnesota¹³

In fiscal year (FY) 2008, Minnesota state agencies purchased approximately \$2.5 billion in goods and services of all types from private vendors. Exhibit 1 shows total state spending on goods and services for FY 2007 through FY 2009, which remained fairly steady during the three-year period. Total purchases from private vendors have exceeded \$2.4 billion during the past three years and topped more than \$2.6 billion in FY 2009. Exhibit 2 shows the top 10 state agencies in terms of spending on goods and services during FY 2008. These 10 agencies accounted for nearly 70 percent of the \$2.5 billion spent that year. The Transportation Department alone accounted for nearly 30 percent of total state spending on goods and services of all types in FY 2008. The top two state agencies—the Transportation Department and Minnesota’s State Colleges and Universities (MnSCU)—together accounted for nearly half of all spending. Finally, Exhibit 3 reports the top 10 goods and services purchased by state government in FY 2008. These goods and services accounted for about 79 percent of the \$2.5 billion procured that year. Health care and highway (roads and bridges) and airport construction and maintenance spending accounted for 43 percent of all purchases.

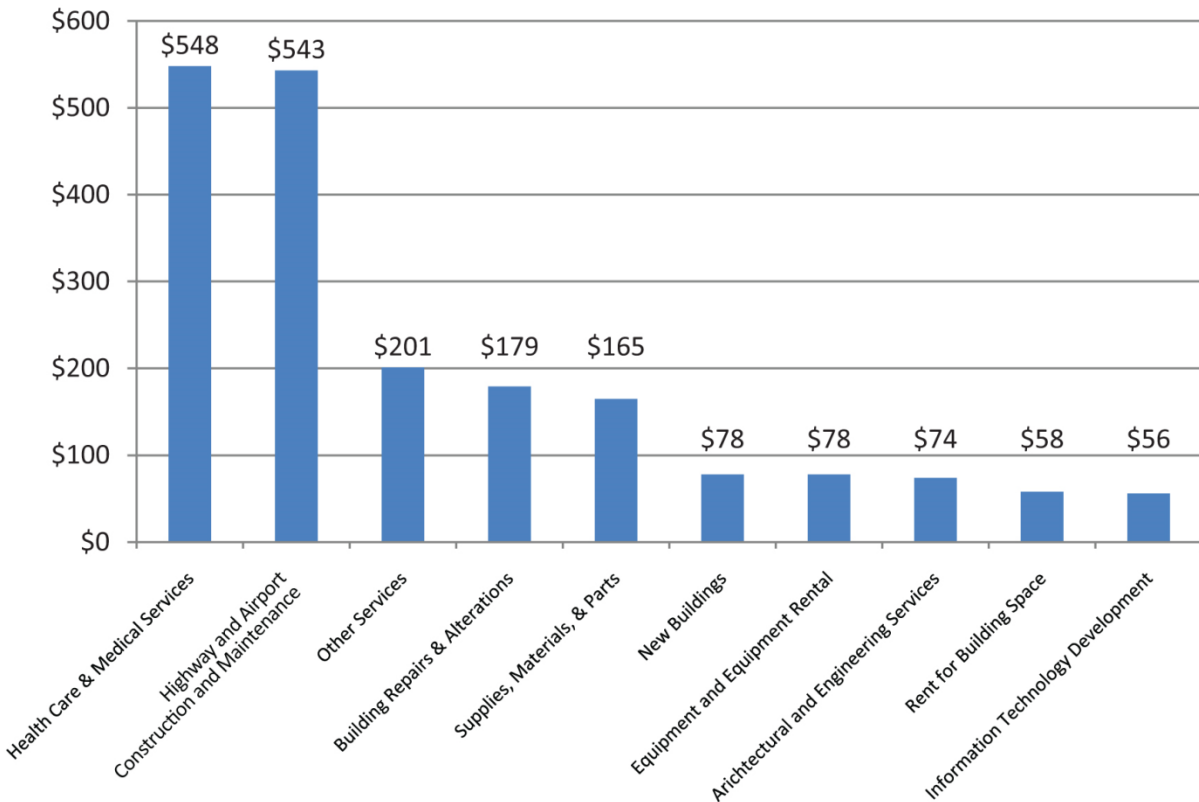
Exhibit 1: Total Purchase Order Dollars in Minnesota, All Businesses, FY2007–FY2009



**Exhibit 2: Top 10 Minnesota Agencies in Purchase Order Dollars, FY 2008
(in \$ Millions)**



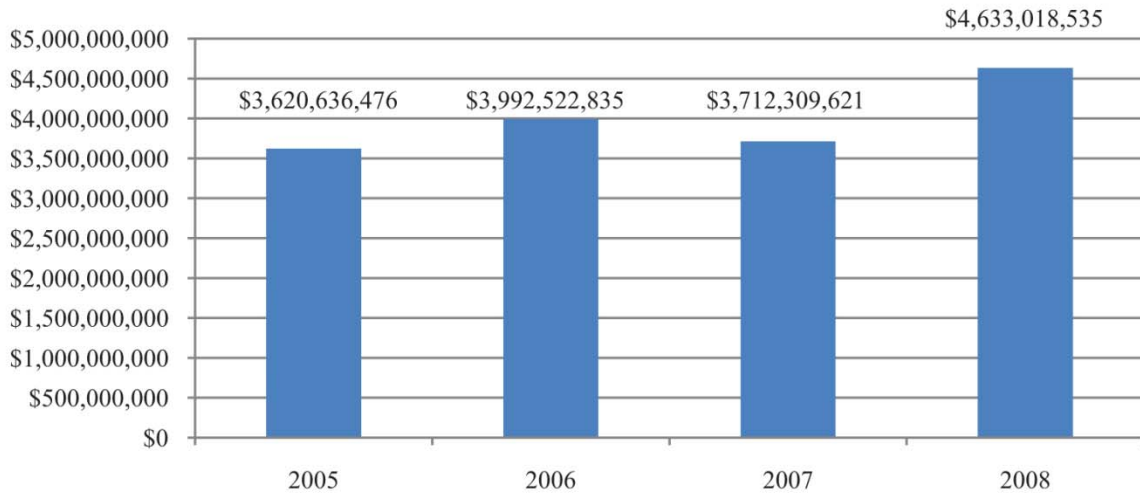
**Exhibit 3: Top 10 Expenditure Categories in Purchase Order Dollars in Minnesota, FY 2008
(in \$ Millions)**



State Spending on Goods and Services in Virginia

In FY 2008, the Commonwealth of Virginia purchased approximately \$4.6 billion in goods and services. Exhibit 4 shows total state spending on goods and services for FY 2005 through FY 2008. Total spending remained fairly steady from 2005 to 2007, but 2008 witnessed an increase of almost 25 percent from the previous year. Exhibit 5 shows the top 10 state agencies in terms of spending on goods and services during FY 2008. These 10 agencies accounted for approximately 78 percent of the \$4.6 billion spent that year. Seven of the top 10 agencies were state colleges and universities. The Department of Transportation alone accounted for 34 percent of total state spending on goods and services in FY 2008. The top three state agencies—the Department of Transportation; Department of Corrections; and Department of Behavioral Health and Developmental Services—together accounted for nearly half (42 percent) of all spending. Finally, the top 10 goods and services purchased by state government in FY 2008 are shown in Exhibit 6. These goods and services accounted for about 51 percent of the \$4.6 billion spent on procurement that year. Eight of the top 10 goods and services are related to building and road design, construction and maintenance.

Exhibit 4: Total Purchase Order Dollars in Virginia, All Businesses, FY2005–FY2008



**Exhibit 5: Top 10 Virginia Agencies in Purchase Order Dollars, FY 2008
(in \$ Millions)**

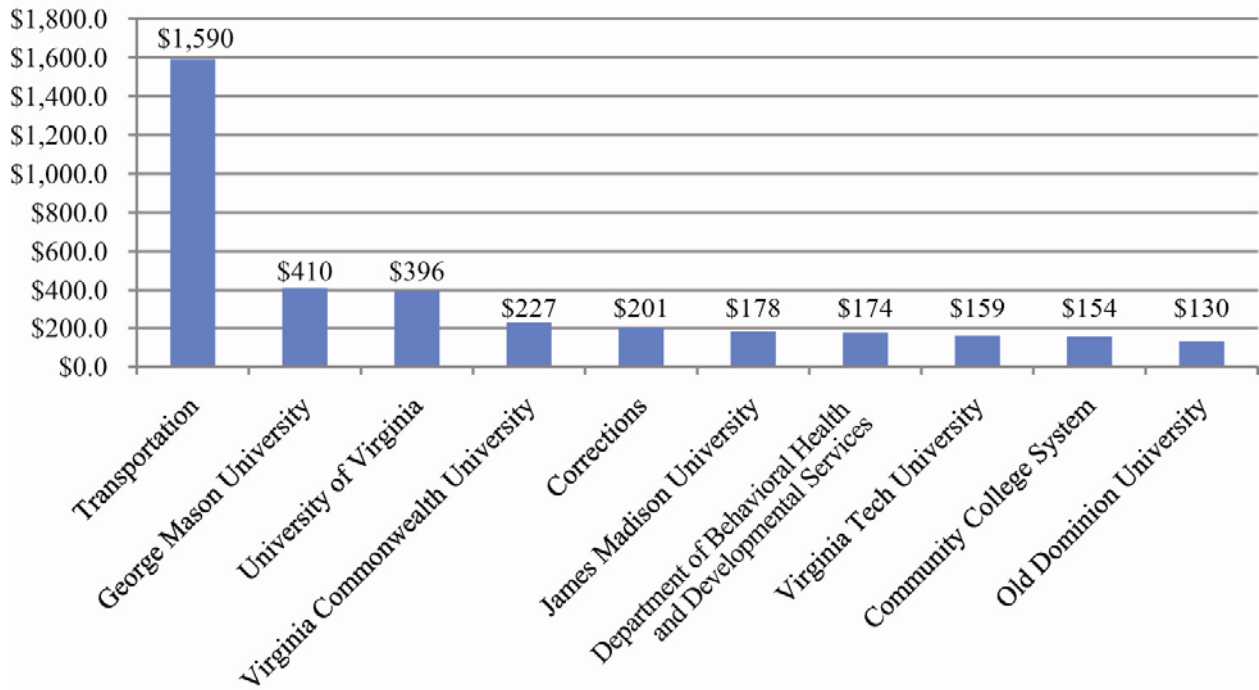
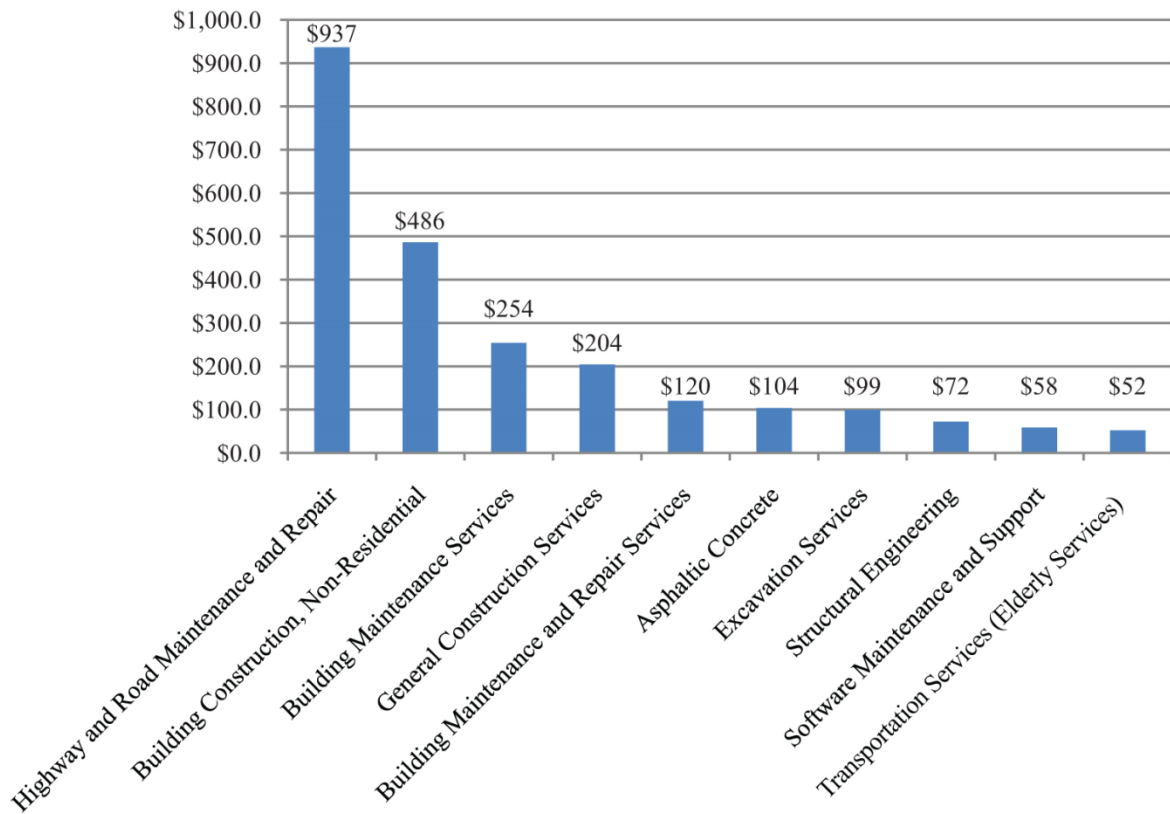


Exhibit 6: Top 10 Goods and Services in Purchase Order Dollars in Virginia, FY 2008
 (in \$ Millions)



Key Management Practices

As noted in the introduction, each state has pursued changes by reforming the overall procurement system; centralizing high-value and high-risk purchases; decentralizing small, less complex transactions; and harnessing information technology. However, each state has emphasized different innovations within this overall effort. This section summarizes the key management practices used by Minnesota and Virginia in pursuit of “best value” purchasing.

Key Management Practices in Minnesota

Streamline Procurement Processes

Minnesota’s procurement approach emphasizes obtaining best value in procurement through strategic sourcing. Minnesota’s Materials Management Division’s (MMD) leadership and purchasing staff professionals continually examine how procurement can be made more efficient and effective. This goal has been accomplished primarily by delegating relatively low-dollar, low-risk procurement responsibilities (particularly purchasing of regular goods and services) to individual agencies, while MMD focuses on opportunities for savings and improved quality through enterprise contracting. Minnesota state law defines enterprise procurement as a method of contracting that leverages “economies of scale of multiple end users to achieve cost savings and other favorable terms in contracts for goods and services.”¹⁴

Aggregate Demand

The clearest evidence of the “best value” approach is Minnesota’s innovative use of multiple award enterprise or “master contracts” for both goods and services. Minnesota continually works to aggregate demand and reduce the costs of procurement by developing enterprise contracts for goods and services not normally considered viable for enterprise contracting. For example, Minnesota developed standards to facilitate enterprise contracting for information technology (IT) consulting services such as Web site development and goods such as cell phones and office chairs.¹⁵ Such multiple award enterprise contracts have several key benefits:

- *Acquiring goods and services at the lowest price by pooling the buying power of many government units.* Minnesota achieves savings by increasing purchasing volume through cooperative programs that are truly national in scope. As of June 2009, Minnesota’s primary cooperative purchasing program had a total of 716 members, 56 of which were state or local government entities located in other states.¹⁶ Minnesota also is the lead state for the Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP). MMCAP provides a full range of pharmaceuticals and related health care products to participating facilities located in 46 states.
- *Developing statewide product and service standards to facilitate enterprise purchasing.* By employing standards, Minnesota can increase purchase volumes for products and services that meet those standards, while also ensuring minimum product and service quality levels and reducing the total cost of ownership for standard products such as computers.

- *Enabling future cost savings by fostering ongoing market competition.* Multiple awards allow multiple winners on contracts and make it more likely that small and local businesses will remain competitive for state contracts in the future.
- *Facilitating best value acquisition by giving participating units a choice of vendors to solicit and negotiate with under the terms of the master contract.* As a result, agencies still enjoy the flexibility to acquire goods or services in a way that best meets their needs.

Negotiate throughout the Procurement Process

Minnesota also has enhanced its efforts to conduct best value purchasing effectively by emphasizing negotiation within request for proposals (RFP) processes (when allowed by law). This emphasis is made viable by having staff that lead, provide assistance with, and train agency personnel on how to conduct effective negotiations. MMD also empowers its purchasing staff to conduct strategic sourcing analyses and to negotiate both new contract terms and contract renewal terms, including price. Without this commitment to develop negotiation capacity, Minnesota would not have been as successful in pursuing a best value approach. This focus on capacity building is coupled with requirements that agencies report on their negotiation efforts throughout the procurement process.

Leverage Agency Expertise

Minnesota's success in enterprise contracting has been facilitated by the state's ongoing effort to collaborate with agencies to assess their needs, identify enterprise contracting opportunities and constitute multi-agency steering committees to develop enterprise standards and conduct solicitations. Minnesota has successfully leveraged agency professional expertise and knowledge about individual agency needs and processes and combined it with MMD's procurement expertise to develop an ongoing structure for effective strategic sourcing.

Balance Centralization and Delegation

Minnesota's procurement approach also has been marked by the ability to strike the proper balance between providing agencies' with the authority to make low-dollar, low-risk purchases while maintaining centralized oversight, control and standardization of procurement. Allowing agency personnel to take responsibility for high-volume, but low-dollar and low-risk, transactions is critical for effective enterprise contracting and strategic sourcing. Without such delegation, staff members in the chief procurement office primarily become clerks and cops who process paperwork and police agency activities rather than functioning as purchasing professionals who have the resources and time to perform the data collection (including obtaining customer feedback) and analysis necessary to achieve best value and enterprise procurement.

With the acquisition of regular goods and services, this balance is facilitated by a well-designed system of delegating purchases valued at \$50,000 or less to certified purchasers trained by MMD and who must be recertified and audited every three years.¹⁷ With professional and technical (P&T) acquisitions, this accountability is achieved through a formal approval process that must be followed for P&T solicitations.¹⁸ Such a balance in P&T acquisitions, however, might emphasize centralized control too much and could be improved by raising approval thresholds, at least for larger agencies with professional purchasing staffs. Perhaps a training and certification

program similar to the program that Minnesota has instituted for regular goods and services could be developed for P&T services, although this would require legislative change.¹⁹

Commit to Price

Minnesota also has helped ensure effective best value procurement by setting minimum price weighting requirements when making awards using RFP solicitations. Such weighting requirements help ensure that price remains a significant factor in making procurement decisions. Minnesota found that without such requirements agencies often gave so little weight to price that they were not ensuring good stewardship of taxpayer funds.²⁰

Harness Technology

Minnesota also makes effective use of e-procurement technology to automate solicitation processes and routine contract management and monitoring of agency purchases; facilitate customer friendly use of cooperative purchasing programs for buyers and sellers nationwide; and enable the analysis necessary to perform smart strategic sourcing. In large part, Minnesota has developed in-house many of its databases and IT tools to facilitate procurement. Generally, this has been a positive approach because it has increased Minnesota's internal capacity to manage procurement in a sustained and cost-effective way. New technology, tools and approaches, however, are beneficial only so far as policies and procedures are adapted properly and state personnel trained to use them effectively. Given its in-house development approach, Minnesota has not always benefited from private sector expertise and technology. As a result, Minnesota's efforts to improve its procurement practices have been relatively incremental, which has enabled the changes to be productive and sustainable.

Key Management Practices in Virginia

Use Advanced e-Procurement Technology

Virginia state agencies and universities are required to process most of their purchases through eVA, the state's e-procurement system, which serves as a single point of contact between the whole state government and vendors. eVA offers state agencies various functionalities, including the ability to electronically submit requisitions; search state contracts, catalogs and other sources of goods and services; electronically solicit bids and proposals; electronically transmit other procurement documents, such as contract award notices and invoices; and compile, retrieve and analyze large amounts of purchasing and spending data. For vendors, eVA offers the ability to register at once with all state agencies, post online catalogs of goods and services, automatically receive solicitations for bids and electronically respond to them, and prepare historical spending reports to identify potential buyers and competitive prices.

Increase Procurement Flexibility

State procurement law and administrative policies and procedures allow agencies the flexibility to use five different procurement methods, which are summarized in Exhibit 7.

Empower the Central Procurement Agency

Virginia's Department of General Services, Division of Purchases and Supply (DGS/DPS) has the statutory authority to make all state government purchases for goods and services (with the exception of procurement of information technology and telecommunications goods and

services). It also has authority to make, alter, amend and repeal administrative policies and procedures and to audit state agency practices to ensure compliance and integrity of the state procurement system. DGS/DPS's Policy, Consulting and Review (PCR) Bureau undertakes frequent audits of agency compliance with procurement laws, policies and procedures. Data provided by DGS/DPS indicate that the general level of agency compliance is fairly high. In FY 2008, 48 percent of the agencies that were audited received a grade of "satisfactory," 35 percent received a grade of "needs improvement," and only 17 percent received a grade of "unsatisfactory." The PCR Bureau has the authority to make recommendations and request corrective action in cases of noncompliance.

Build Contract Administration Capacity at the Agency Level

Based on guidance provided by DGS/DPS, state agencies follow a sound approach to contract administration that emphasizes pre-award planning, comprehensive monitoring, dispute resolution and renewals based on performance. Multiple aspects of performance are taken into account when monitoring contractors, including quality, timeliness, responsiveness to requests for corrective action and customer satisfaction.²¹ DGS/DPS staff indicated that agency contract administrators routinely review their contracts depending on the complexity of the contract and its pricing structure. High-risk contracts are reviewed on a quarterly basis, and regular auditing techniques are used to check for pricing compliance and delivery. When deciding whether or not to renew state term contracts, DGS/DPS conducts a survey of agencies to gather feedback on the value and effectiveness of the contract. DGS/DPS staff reported that the majority of contractors performed well and that action rarely was taken to terminate a contract due to poor performance. Finally, state agencies can establish their own contract dispute resolution process, including the use of alternative dispute resolution (ADR).²²

Provide Extensive Training for State Officials and Vendors

DGS/DPS offers a broad range of training courses to state officials and vendors. eVA provides state officials with onsite as well as online training on how to use eVA to prepare requisitions, shop online vendor catalogs (e-Mall) and obtain quotations from vendors. Through its Virginia Institute of Procurement (VIP), DGS/DPS offers state officials training for three levels of certification:

1. Virginia Contracting Associate (VCA)—certification focusing on employees making smaller purchases of up to \$50,000
2. Virginia Contracting Officer (VCO)—certification focusing on complex procurements of more than \$50,000
3. Virginia Contracting Master (VCM)—the capstone training program focusing on strategic skills needed for managing procurement at a senior level

VCA training is offered nearly every month and VCO training is offered twice a year. Data provided by DGS/DPS indicate that more than 1,600 professionals have received VIP training since 1990. DGS/DPS also provides vendors with frequent onsite, telephone and online training. Vendor training consists of how to register to do business with the state, create vendor catalogs, receive and respond to solicitations for bids and proposals, and conduct queries on eVA to track which products and services are being procured by state agencies.

Exhibit 7: Virginia Procurement Processes

Method of Procurement	Value of Procurement	Details	eVA Requirement
Small Purchase Method	\$50,000 or less	Purchases of \$5,000 or less must be set aside exclusively for state-certified small businesses. Only one quote is needed. If multiple quotes are obtained, the award shall be made to the lowest responsive and responsible state-certified small business submitting a quote. Purchases between \$5,001 and \$50,000 must be set aside for state-certified small businesses if there is a reasonable expectation that at least two will submit quotes. A minimum of four bids—preferably from state-certified small businesses—is required, with the award going to the lowest responsive and responsible bidder.	Quotes do not have to be solicited through eVA for purchases of \$5,000 or less. Purchases between \$5,001 and \$50,000 require using the Quick Quote option in eVA to solicit bids; the solicitation must be advertised for a minimum of one day.
Competitive Sealed Bidding (Invitation to Bid)	Greater than \$50,000	Items procured “must be capable of being described so that bids submitted by potential contractors can be evaluated against the description in the Invitation for Bids.” ²³ Narrow specifications that unduly limit competition are to be avoided. At least six sources should be solicited, including four state-certified small businesses. Bids are received until the pre-announced due date and then publically opened and announced. Awards are generally made to the lowest responsive and responsible bidder(s).	Invitations-to-Bid must be advertised on eVA for a reasonable length of time to allow for competition.
Competitive Negotiations (Request for Proposals)	Greater than \$50,000	A Request for Proposal (RFP) is issued describing the good or service in general terms. Vendors are requested to respond by providing a technical proposal explaining how the good or service is to be provided along with a price. Proposals must be solicited from at least six vendors, including four state-certified small businesses. Proposals are evaluated and ranked in terms of a set of weighted criteria—including but not limited to price—that must be described in the RFP. Two or more vendors determined to be fully qualified are selected for negotiating the terms of the proposal. The vendor deemed to have provided the best proposal is typically offered the award, although the award can be made to a state-certified small business that submitted a “reasonably ranked” proposal. ²⁴	The Request-for-Proposal must be posted on eVA and a newspaper with wide circulation for at least 10 days to allow interested vendors the opportunity to respond to the solicitation.
Emergency Procurement	No limit	Used during emergencies, defined as “an occurrence of a serious and urgent nature that demands immediate action.” ²⁵ Purchases can be “only that which is necessary to cover the requirements of the emergency.” ²⁶ Requires competition when practicable. Agency head of designee must justify in writing the need for an emergency procurement.	A Notice of Award must be posted on eVA.
Sole Source Procurement	Those more than \$50,000 must be approved by DGS/DPS.	Allows agencies to purchase non-technical goods and services when they are practicably available from only one vendor (i.e., there is no competition for the non-technical good or service). The agency must establish through market research that only one vendor is available. The agency is required to negotiate the most favorable contract terms for the state.	A Notice of Intent to Award or a Notice of Award on eVA must be posted on eVA.

Promote Common Use of State Term Contracts and Cooperative Purchasing Arrangements
DGS/DPS has created more than 300 long-term contracts to reduce prices paid for goods and services and administrative costs.²⁷ State agencies and universities also are involved in a variety of cooperative purchasing arrangements within the state as well as across state boundaries.²⁸ Such arrangements include cooperative purchasing contracts issued by a consortium of Virginia state colleges and universities; intra-state cooperative procurement agreements among state government and localities; inter-state U.S. Communities cooperative contracts involving many state and local governments across the country; and inter-state cooperative purchasing arrangements among peer state agencies (e.g., Interstate Corrections Compact created by state correctional departments). The state agency or university that initiated the cooperative purchasing arrangement is required to serve as the lead agency responsible for contract administration.²⁹

Encourage Small Business Participation in State Procurement

Virginia has developed policies and programs to increase small business participation in state procurement. Most purchases of \$50,000 or less are set aside for state-certified small businesses.³⁰ Agencies have a goal of awarding 40 percent of their procurement dollars to state-certified small businesses, and they must develop annual plans for facilitating small business and women- and minority-owned business participation in government procurement.³¹ These policies and programs help to increase employment in the state—nearly 55 percent of private sector employees work for small businesses. Small business participation also promotes competition for goods and services. In FY 2008, approximately \$2.6 billion of goods and services were procured from small businesses, about 57 percent of the total of \$4.6 billion procured by state government.³²

Promote Widespread Use of Purchase Charge Cards

The Commonwealth of Virginia two purchase charge card programs for procuring and paying for small purchases: the Small Purchase Charge Card (SPCC) and the Gold Card. Charge cards reduce the number of invoices processed by state agencies as well as the costs associated with processing those invoices. Vendor payments are consolidated into one monthly payment made directly to the vendor by the charge card company within three business days. The charge card company offers state agencies various reports to help them keep track of and maintain control over purchases made by their employees using purchase cards. Procurement officials in five state agencies and universities interviewed for this study indicated that the purchasing card programs generally work well.

Cost Savings and Other Evidence of Success

Both Minnesota and Virginia have pursued procurement reform to drive costs down and acquire better quality goods. Both states can point to relatively sound evidence that some of their key management reforms have led to significant cost savings. In addition, procurement reform has created other benefits, including higher-quality goods and services delivered in a shorter period of time.

Cost Savings and Other Evidence of Success in Minnesota

The financial benefits of Minnesota's procurement practices have been relatively well documented. As a part of the Drive to Excellence (DTE) program, the state's Administration department regularly reports to the governor's office the estimated savings that have been achieved through procurement practices initiated under DTE.³³ Exhibit 8 shows the actual and projected savings since December 2005 as a result of Minnesota's most innovative procurement practices. These innovative practices include the following.

Using Statewide Product Standards

Minnesota estimates saving nearly \$155 million from the use of standard-setting in conjunction with enterprise contracting to purchase computers, multi-function devices, cell phones, chairs and office supplies. MMD estimates standards savings based upon market analysis and comparison with other state contract prices before standards were adopted.³⁴ The estimated savings are calculated at the time the standards are adopted into contracts and are extrapolated out for a five-year period (which usually is the length of the contract) with purchasing volumes based on historical quantities. Also, MMD has found that agencies are more satisfied with the procurement process since the standard setting initiatives have been implemented. By working collaboratively with agencies in developing standards, drafting solicitations and evaluating responses, agencies seem to take a higher level of ownership for procurement. As a result, MMD receives fewer requests for exceptions to using state contracts for purchases.

Encouraging Assertive Negotiations with Vendors

Minnesota has saved more than \$90 million by using an assertive and active approach to negotiation with vendors. Negotiation savings are calculated as the difference between the original contract offer of the top-ranked vendor or renewal price quote by the vendor and the final price achieved through negotiation.

Emphasizing Price in Making in RFP Solicitation Rankings

A formal policy to require at least 30 percent weighting for price, depending upon the type of solicitation, has produced savings of nearly \$1 million.³⁵ Price emphasis savings represent the savings achieved in cases where the price weight requirement resulted in a different vendor winning the contract than would have occurred without the weighting requirement. The estimate assumes the contracting agency would have continued to weight price at its average weight prior to the policy change, which for many agencies was 10 percent or less.

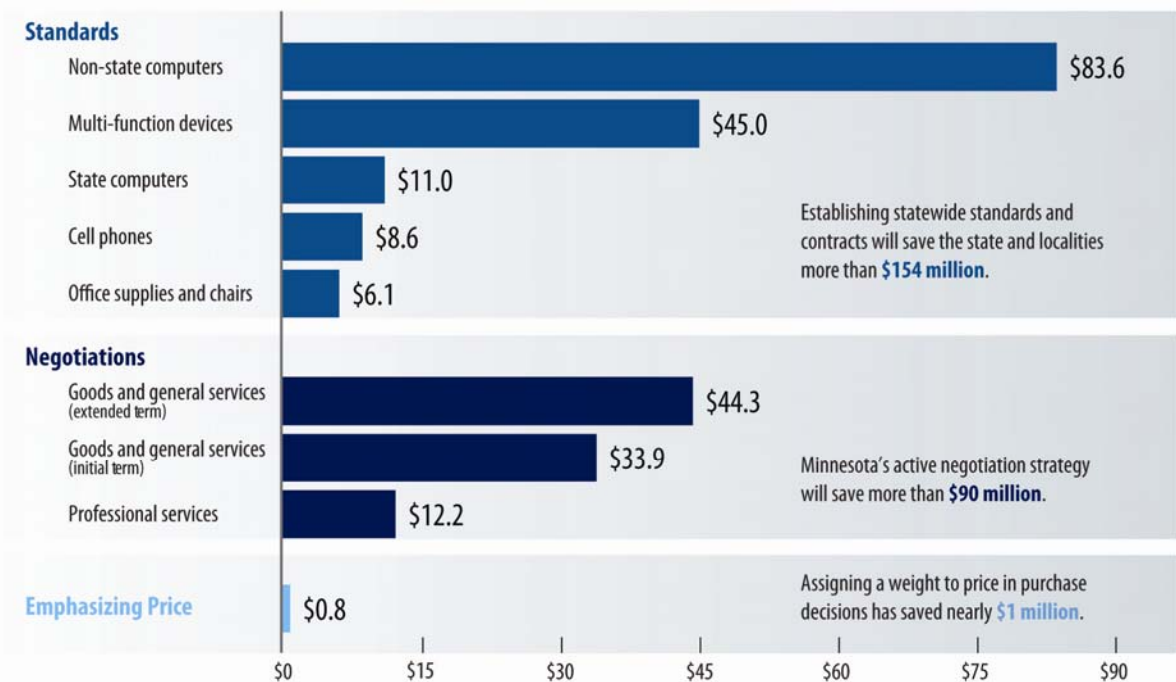
As Exhibit 8 shows, Minnesota estimates that it has saved nearly \$246 million in actual and projected costs since December 2005 as a result of its innovative procurement practices

implemented under the DTE. More than \$162 million of this total was saved by state agencies. Most of the savings were achieved in purchases for general goods and services by standard setting combined with enterprise contracting. Combing standard setting with enterprise contracting potentially can double the savings achieved from enterprise contracting alone. With overall purchases in the state overseen by the Administration department averaging \$1.8 billion annually, Minnesota is achieving savings of at least 2.5 percent of the value of all its purchases and contracts with private vendors.

Although they are significant, the savings achieved under DTE initiatives are just a portion of the savings Minnesota has achieved from its all its procurement reform efforts. For example, much of its enterprise contracting is not accounted for in the DTE savings estimates. Also, the estimates for savings arising from negotiation and the emphasis on pricing are based, in part, on reports from agencies. For contracts not negotiated by the Administration department, MMD relies on agencies to submit reports on any savings achieved through weighting price in RFPs and through negotiating price with vendors. Every agency does not comply with these reporting requirements. Additionally, cost savings would be underestimated if contract spending increased beyond previous levels due to improved prices or other incentives.

EXHIBIT 8: ESTIMATED PROCUREMENT SAVINGS IN MINNESOTA

Actual and Projected Cost Savings and Avoidance in Millions since December 2005



SOURCE: Data from the State of Minnesota

In addition, many of the benefits of best value, e-procurement, and other innovative procurement practices simply are not reflected in a lower purchase price. In other words, many of the state's

enhanced procurement practices produce benefits that are less tangible, more long-term, and not immediately obvious or easily measurable. Such benefits include:

- higher quality goods and services
- beneficial contract terms
- time savings for staff
- improved relationships with vendors
- cost avoidance
- lower overall costs of service or ownership

Better contract language can result in cost avoidance by reducing delays and lawsuits and by increasing of the quality service. Better communication and interaction with vendors can result in better solutions to problems and better service. For example, establishing statewide standards for computers not only facilitates significant cost savings through enterprise purchasing, but also has the potential to reduce costs (including time costs) to service and maintain the computers. All of the desktops are configured the same and they all have the same components and operating systems, thereby lessening the time needed to install agency-specific software.

Cost Savings and Other Evidence of Success in Virginia

Virginia created eVA with the intent of streamlining the procurement process, increasing competition and reducing prices paid for goods and services. Evidence suggests the state has made progress in reaching all three objectives. Procurement officials in five state agencies and universities who were interviewed for the case study agreed that eVA has allowed them to rapidly reach a far greater number of vendors than before, in large part through eVA's "Quick Quote" option. Some of the same officials mentioned eVA's rapid reporting and auditing functions and a reduction in paperwork as important enhancements compared with previous systems.

Regarding administrative costs, DGS/DPS estimates that eVA reduces such costs by about \$11 million annually.³⁶ This estimate is derived using figures of 400,000 purchases made in a year by Virginia state government and a cost savings of \$27.50 per purchase. The estimated cost savings of \$27.50 per purchase is based on a 2003 IBM Endowment for the Business of Government report, which states that "costs for manually processing a purchase order can range from \$125 to \$175. E-procurement can reduce those costs to \$10 to \$15 by eliminating faxes, phone calls, document preparation, and approvals."³⁷ DGS/DPS assumed that these estimated cost savings were high and adopted a more conservative estimate based on one quarter of the difference between \$125 for a manually processed purchase and \$15 for an electronically processed one. It is unclear how the authors of the IBM report derived their own estimates of the costs of processing purchases. Their estimate is similar to that given by another analyst, Gary Lambert, who calculated that governments spend about \$100 to \$150 to manually process a purchase and that by using e-procurement technology, that cost could be reduced to \$20 per purchase.³⁸

In addition, DGS/DPS reports increased competition since the state introduced eVA, with double the number of bids received for purchases of \$50,000 or less.³⁹ Such increased competition may have helped to reduce the price of goods and services purchased by state agencies. DPS/DGS staff together with a private consultant conducted a study comparing prices paid for a select bundle of goods and services before and after the introduction of eVA. The study results

indicated cost savings of \$114 million for the period starting in 2001 when eVA was first introduced through 2004.⁴⁰ None of the purchasing officials interviewed for this study, however, could confirm that using eVA has resulted in lower prices paid for goods and services. Purchasing officials in three of these agencies and universities stated that using eVA has had no apparent effect on prices, while those in two state agencies and universities reported slightly higher costs due to the registration and transaction fees charged to vendors, who add these costs to their bid prices.

Increasing small business participation in state procurement has been another important goal for Virginia. Nearly 99 percent of businesses in Virginia meet the state's definition for small businesses.⁴¹ The impact of eVA on small businesses is, therefore, of primary concern to members of the General Assembly and other state officials. From FY 2005 to FY 2008, the number of purchases made from small businesses through eVA increased dramatically from 197,298 purchases (less than 20 percent of all purchases) to nearly 334,829 purchases (nearly 60 percent of all purchases).⁴² During the same period, the number of small businesses doing business with state government increased from about 1,300 to more than 6,800. These numbers, however, represent a very small percentage of all small businesses in Virginia (only 4 percent in FY 2008). Virginia's Joint Legislative Audit and Review Commission has cited a number of barriers to eVA registration and participation in state procurement by small businesses, including lack of awareness about eVA, inadequate efforts to certify and register small businesses, inadequate vendor training on how to register with and use eVA, a complicated eVA registration process for vendors and reluctance among vendors to pay the vendor registration and transaction fees.⁴³

In addition to the cost savings already mentioned, Virginia's procurement improvement efforts have encouraged agencies to undertake regular contract auditing and monitoring. The majority of contractors perform well, with action rarely taken to terminate a contract due to poor performance. In addition, DGS/DPS's audits of agencies reveal fairly high levels of compliance with procurement laws, policies and procedures. Finally, procurement officials interviewed for this study generally agreed that the purchasing charge card programs work well, although one state agency noted that the requirement for recording charge card purchases in eVA discouraged some state employees from using the cards and increased procurement lead time.

Challenges to Implementing Procurement Reform

Minnesota and Virginia both have had to overcome a series of practical and political challenges to implement the key management practices needed to reform their procurement systems. In Minnesota, the practical challenges concerned capacity- and relationship-building, while in Virginia the obstacles have involved the development, deployment and integration of eVA.

In terms of politics, successful procurement reform is contingent on establishing a clear vision of the changes needed and securing sufficient resources to carry out the plan. Although both Minnesota and Virginia generally have been successful in passing the policies necessary to improve procurement practices, both have faced political challenges that other states trying to reform procurement are likely to face. Both states had to overcome opposition to procurement reform from various political actors, including industry groups, agency personnel, other government bodies (e.g., local governments, universities) and politicians within the respective legislatures.

Political Challenges to Reforming Procurement in Minnesota

Resistance from Industry Groups

Resistance from industry groups often is one of the major challenges to instituting best value procurement practices. Vendors currently doing business with a state may fear any changes will impact them negatively. Extensive use of best value and enterprise contracting can give larger firms, which often are large out-of-state companies, an advantage in winning state contracts, much to the dismay of smaller businesses and local companies. In-state companies argue that, partly because they pay state taxes, they should be awarded the lion's share of state contracts. In addition, efforts to include local governments in enterprise contracts also can meet resistance if local officials perceive an effort to mandate the use of particular vendors.

Initially, Minnesota attempted to address such concerns by excluding construction from the major procurement reform legislation passed in 1998.⁴⁴ Best value for building and highway construction were later added to the law as best value was seen in practice and gained support from elected officials, vendors and interest groups. This support has in part resulted from ongoing efforts to engage and educate vendors and other stakeholders about the procurement process.

Internal Opposition to Procurement Centralization

Agency personnel also may be concerned that more centralized enterprise purchasing will result in reductions to agency purchasing staff or budget cuts based upon promised savings from such procurement practices. In fact, some agency budgets were cut in Minnesota based upon savings achieved from reverse auctions. Agencies also may not want to lose the autonomy and flexibility inherent in more decentralized purchasing practices. Employee unions also may oppose best value practices for similar reasons.

In Minnesota, the move to reform was not coupled with a call for outsourcing of jobs, which minimized agency and employee union concerns. In fact, public employee unions have become advocates of the best value approach, because they believe union workers will fare better when

quality criteria are part of the basis for procurement decisions. DTE and MMD's collaborative approach to delegation and enterprise contracting also have helped overcome this challenge.

Resistance from Elected Officials

Another significant challenge to procurement reform can come from elected officials. In the beginning, most legislators are unfamiliar with procurement issues and how changes will impact the state. In Minnesota, the Administration department identified key legislators, who understood procurement issues and supported the changes, to lead the effort in the legislature.

Administration officials also worked to educate legislators about the best value approach and how it would benefit the state. The credibility of the Administration department, particularly MMD leadership, was critical to making the case to legislators.

Another challenge to the best value approach is that it may give legislators an opportunity to influence the weighting factors in the best value selection process. As one Minnesota official said, elected officials see more opportunities to advance their "social and personal agendas" when lowest price is no longer the sole factor for choosing a vendor. MMD has actively worked with legislators to educate them about the potential impact of such proposals and to develop workable approaches to addressing their interests. Again, having credible and professional agency officials has been critical to successfully working with legislators.

Political Challenges to Reforming Procurement in Virginia

Cultivating Leadership and Vision for Change

Executive leadership has been an essential ingredient for successful procurement reform in Virginia. In October 1998, Gov. Gilmore issued an executive order creating the Commonwealth of Virginia Procurement Assessment Task Force (VPPA), a group commissioned to identify best procurement practices in the private sector, develop a procurement strategic plan with goals and performance measures and propose revisions to the VPPA. Based on the Task Force's February 2000 recommendations, another executive order was issued directing the DGS to adopt and implement a statewide e-procurement system. In October of that year, the state awarded a contract to American Management Systems (AMS) (later renamed CGI) to develop such a system. Although development and implementation was expected to take three to five years, Gov. Gilmore pushed for a speedier timeline, so that some functionalities of the new e-procurement system were available within five months of the signing of the contract. When usage of the system languished throughout 2001, Gilmore issued a memo "mandating online procurement and utilization of the eVA system." Incoming Gov. Warner continued to promote usage of eVA by committing additional resources to sustain its implementation and by creating initiatives such as the Small, Women, or Minority Owned Business (SWAM) Certification Service to promote vendor usage and registration.

Winning Support from the Bureaucracy

Virginia's Procurement Assessment Task Force painstakingly and systematically studied the state's need for procurement reform for nine months before making any conclusions or recommendations. The task force included a diverse set of actors and interests in its deliberations, among them state procurement officials and other representatives from state agencies, local government officials, academics and e-procurement professionals. This

participative process helped to improve the quality of decisions and recommendations for improving the state's procurement system. Moreover, the task force began building support for change among the agency officials affected most by the reforms and responsible for their implementation.

Securing Sufficient Resources

Virginia dedicated significant amounts of human and financial resources to sustain its reform efforts. The initial task force had ample time, information and staff to study the need for procurement reform and to make well informed recommendations. DGS/DPS, CGI, other state agencies and the Department of Accounts then came up with several millions of dollars to cover the start-up costs required for the design of eVA. eVA eventually became a self-funded initiative, with the costs of statewide implementation and subsequent system modifications and maintenance funded through user fees collected from vendors and state agencies.⁴⁵ The state also has made extensive efforts to promote usage and train users of the system.

Practical Challenges to Implementing Procurement Reform in Minnesota

Growing Organizational Capacity

One of the most profound challenges facing Minnesota was the need to develop the necessary organizational capacity to implement procurement reforms. The state needed to hire skilled professionals and provide training and technical assistance to existing staff to successfully implement many practices, from negotiating with vendors, to performing spending analyses for strategic sourcing, to delegating purchase authority to agencies. For example, a major challenge to obtaining the benefits of assertive contract negotiations was that most employees were initially reluctant to negotiate with vendors, or they lacked the appropriate skills, and often both. Employees needed training in how to effectively negotiate both from an interpersonal perspective and from a technical perspective as it relates to the legal and practical impact of contract language. Employees also likely want or need direct assistance when undertaking their first efforts at negotiating, and they often benefit from the availability of ongoing support and pre-developed boiler plate contract language.

Overcoming Collaboration Barriers

Creating inter-organizational structures to facilitate collaboration, decision-making, and support for enterprise efforts is critical to success. In Minnesota, the Governor's DTE initiative and key executive orders⁴⁶ have provided the incentives and structure for the Administration department to effectively engage agency leadership to work together to develop and implement cross cutting enterprise initiatives. Administration also has used multi-agency task forces to develop product and service standards and RFP solicitations and then conduct the solicitation process. Such collaborative efforts result in best value for the state by drawing on the expertise of agency personnel and by building support for enterprise contracting within the state. Administration's approach to delegating purchasing authority, using agency procurement coordinators, and other efforts to promote ongoing communication also have also been critical to the state's ongoing procurement reform efforts.

Building Vendor Relationships

Maximizing the benefits from best value procurement and enterprise contracting also requires educating vendors and engaging in dialogue with them. Vendors have provided valuable information for developing product and service standards and best value solicitations. Also, maximizing competition requires active efforts to educate vendors both about how to do business with the state and how to effectively bid on best value projects. There often is a learning curve for vendors when shifting from lowest best bid to best value bid standards, and some vendors may not be prepared to compete for contracts. The Administration department has also worked to make the process for buying off enterprise contracts relatively easy and efficient so that agencies and vendors will want to participate. For example, under Minnesota's IT services enterprise contracting program, agencies can submit a request for services electronically, which is sent to participating vendors that have been certified by the state. Based upon responses submitted by the vendors, the agency may select a vendor. In addition, the program agencies (or local governments) may acquire IT services within as little as 48 hours. According to state officials, this expedited process is faster than that of most private sector firms.

Practical Challenges to Implementing Procurement Reform in Virginia

Learning from Previous e-Procurement Efforts

When Gov. Jim Gilmore created a task force to explore the issue of procurement reform in Virginia, nearly half of the state agencies and institutions had their own electronic accounting and procurement systems. The total accumulated expenditures on these existing systems exceeded \$350 million.⁴⁷ Virginia's previous experience with e-procurement technology influenced the course of procurement reform and the design of eVA. As a result, eVA was designed not to replace the existing e-procurement and accounting systems but rather to integrate with and complement them.

Achieving Systems Integration

Because eVA was not designed to replace existing electronic accounting and procurement systems, the main goal and challenge was to create effective interfaces among existing systems and eVA. Beginning in November 2001, DGS/DPS began to hold regular meetings with agency officials to design and implement these interfaces. At first, progress was slow. A year after eVA came online, less than 10 percent of all purchases made by state agencies and universities were processed through eVA. By 2008, however, many state agencies were issuing close to 100 percent of their purchase orders through eVA.⁴⁸

Overcoming a Steep Learning Curve

A common complaint about eVA has been that the system's many functionalities make it challenging for new users to master the technology. DGS/DPS and state agencies and universities have persisted in training state officials and vendors on how to use the system, resulting in widespread use of eVA. Despite the progress made, additional efforts are needed to provide eVA training to some state officials, particularly those who are not technologically savvy and who have been slow to adopt the system. Vendors also need additional training and outreach regarding the use of eVA. DGS/DPS should increase its efforts to inform small businesses of the advantages eVA offers for doing business with state government, which should result in additional vendor registration with eVA and increased competition for goods and services.

Upgrading e-Procurement System Functionalities

Procurement officials in several state agencies and universities praised DGS/DPS for enhancing eVA's usability and capabilities and for being receptive to their suggestions for modifying eVA. DGS/DPS officials indicated that technological developments have necessitated further upgrading of the system, including Web 2.0 functionalities for e-Mall shopping, reverse auctioning and reporting. Additional work is needed to more seamlessly integrate eVA with existing as well a future electronic accounting and procurement systems used by state agencies and universities.

Cultivating Effective Public-Private Partnerships

Virginia has succeeded in cultivating an effective long-term relationship with CGI, a private-sector provider of information technology and business processing. CGI, which incurred an initial capital outlay burden for eVA, designed, owns and maintains the system. CGI has been flexible in its dealings with DGS/DPS, negotiating a number of modifications to the initial scope of work, to the reimbursement scheme, and to the division of responsibilities between itself and DGS/DPS. CGI's initial success in designing eVA and its subsequent ability to increase the system's functionality led to a contract renewal in 2006 and an extension in 2009 that could lengthen the relationship to 2016.

Policy Levers for Procurement Success

Minnesota and Virginia both used key management practices based on legislation and administrative policies and procedures that serve as the foundation for the procurement system in each state. In both states, freeing procurement personnel from constraining rules (e.g., giving purchasers the flexibility to pursue “best value”) required significant changes to the existing body of law and administrative code. In addition, efforts to reform and streamline processes required a legal basis. Signature procurement management reforms in each state—best value strategic sourcing in Minnesota and the development and implementation of eVA in Virginia—required legislative action as a precursor to reform.

Policy Levers for Procurement Success in Minnesota

Statutory Authority for Procurement Reform

Minnesota has effectively designed its procurement policies and practices to provide the necessary legal authority for its Administration department to carry out best value and enterprise contracting. Policies also ensure that best value selection criteria are clearly defined and quantitatively weighted in the RFP and systematically and properly applied in the evaluation process. There will likely be legal challenges from vendors to the results of early best value selection processes within a state. For example, contractors not awarded a major bridge project in Minnesota using a best value approach (called design build) sued the state to overturn the award.⁴⁹ Strong legal authority and a systematic application of clear selection criteria can serve as the basis to defeat legal challenges to best value procurement.

Robust and Independent Central Procurement Agency

An important institutional factor that has facilitated successful collaboration with various elected officials is the position of the CPO within Minnesota government, which is held by the Director of MMD. The CPO, a position that is occupied by a career civil servant, is protected by civil service laws and cannot be removed by the governor or commissioner without cause. As a result, the CPO is viewed primarily as an independent and impartial expert rather than as a partisan politico seeking to advance the agenda of the current governor or his or her political party. Also, because the CPO is not a political appointee, there is not continual turnover in the position with each new governor. As a result of the nature of the CPO position, the CPO has had the protection, authority and longevity necessary to pursue a long-term and professional vision for procurement policy. In large part this has been accomplished by cultivating and sustaining relationships with elected officials and agency personnel.

Also, a large portion of the CPO’s operations are self-funded through program user fees and reimbursements, an arrangement that provides more flexibility in managing procurement in a professional manner that can be sustained.⁵⁰

Strong Joint Powers Agreement Authority

Minnesota law establishes broad authority for the Administration department to allow governments in Minnesota and nationwide (and even some not-for-profit organizations) to participate in its cooperative purchasing programs.⁵¹ The state has used the strong joint powers

agreement authority to expand participation in cooperative purchasing programs and increase purchase volume in these programs, which increases cost savings.

Statutory Commitment to Ethics and Whistle-Blowers

Strong ethics policies and employee protections also provide an important legal foundation for Minnesota's procurement policies. Best value solicitation presents more subjectivity in the procurement process, making it more important that proper ethics and accountability policies are followed. Minnesota has a strong law against conflicts of interest and the acceptance of gifts. The law states, "Employees in the executive branch in the course of or in relation to their official duties shall not directly or indirectly receive or agree to receive any payment of expense, compensation, gift, reward, gratuity, favor, service or promise of future employment or other future benefit from any source, except the state for any activity related to the duties of the employee unless otherwise provided by law."⁵²

The law also states, "An employee in the executive branch shall not use confidential information to further the employee's private interest, and shall not accept outside employment or involvement in a business or activity that will require the employee to disclose or use confidential information."⁵³ According to an Administration department official, Minnesota law could be improved by clearly defining when elected or appointed officials should not be permitted to be involved in the procurement process.

Minnesota law also provides strong whistle-blower protections for employees who report violations of procurement laws, including protection from legal liability and retaliation from employers when making claims in good faith. With exceptions, the statute also provides for maintaining the privacy of whistle-blowers.⁵⁴

Requirements for legislative audits and audits by the state's independently elected attorney general also help maintain the integrity of the system.

Policy Levers for Procurement Success in Virginia

Standardization of Procurement Rules and Practices

Before 1982, Virginia's procurement was governed by a tapestry of agency-specific statutes, resulting in considerable heterogeneity in practice and procedure.⁵⁵ As a result, there was little coordination of procurement activities among state agencies. In 1982, the General Assembly passed the Virginia Public Procurement Act (VPPA), which codified into statute a uniform set of public procurement rules governing how state agencies and institutions procure goods and services from non-governmental sources.⁵⁶ Administrative policies and procedures developed by DGS/DPS provide additional consistency and clarity to the rules stated in VPPA. This comprehensive set of legislative regulations and administrative policies and procedures is impressive in its scope and specificity, covering nearly all phases of the procurement process, from initial planning to contract termination and close out. Importantly, the rules appear to be "enabling" rather than "coercive" in nature.⁵⁷ That is, instead of being designed to tightly circumscribe the behavior of state officials, the rules provide officials with guidance regarding the best methods for performing the various procurement tasks; they also afford sufficient flexibility to tailor the procurement process to meet extant conditions. Virginia's standardization

of procurement rules and practices facilitated the development and adoption of a single e-procurement system that all agencies could use and integrate into their daily operations.

Extensive Delegation of Procurement Authority

Although DGS/DPS remains Virginia's central procurement agency, it engages in extensive delegation of procurement authority. The vast majority of purchases by state government—more than 98 percent—are made directly by state agencies and institutions. In general, purchases of goods and services of \$50,000 or less can be handled locally by state agencies and universities.⁵⁸ Statutory exemptions allow agencies and universities to purchase directly a variety of items, including books and periodicals, perishable items and financial services.⁵⁹ Authority also is granted to agencies and universities to make bulk purchases, use state term contracts and purchase items for resale. DGS/DPS reviews and approves, on a case-by-case basis, requests for additional delegated authority. Finally, four universities (College of William & Mary University of Virginia, Virginia Commonwealth University and Virginia Tech) have agreements with DGS/DPS granting them autonomy over their procurement activities, although they are still required to process most purchases through eVA.⁶⁰

Policies for Promoting Small Business Participation in State Procurement

Small business participation in state procurement can increase competition by enlarging the pool of bidders. Virginia's General Assembly granted the governor the authority "to require state agencies to implement appropriate enhancement and remedial measures" aimed at increasing the use of small businesses and women- and minority-owned businesses for procuring goods and services.⁶¹ Administrative policies and procedures were then developed to require state agencies to set aside purchases of \$50,000 or less to state-certified small businesses and to develop a plan for awarding 40 percent of their procurement dollars to such businesses.

Conclusion: State Procurement Reform Challenges and Opportunities

Practical and Political Challenges to Reform

Along the way to reforming their procurement policies and systems, Minnesota and Virginia faced significant practical and political challenges.

Minnesota's primary practical challenges were related to capacity- and relationship-building. The state's leaders systematically address issues such as staffing and organizational capacity to undertake significant change, building new relationships with vendors, and tackling barriers to collaboration.

Virginia's practical challenges included developing, deploying and integrating its e-procurement system. To this day, state leaders continue to learn from past experiences in order to strengthen business processes and achieve system integration. State officials overcame a steep learning curve in constructing and continuously upgrading such a system, and developing effective public-private partnerships.

Both states also had to overcome political opposition to procurement reform from various stakeholders, including some industry groups, agency personnel, other government bodies—including local governments and public universities—and legislators. Minnesota's leaders faced resistance from industry groups and elected officials, along with internal agency opposition to procurement centralization. Overcoming resistance to change in Virginia required cultivating leadership and developing a vision for change, winning support from the incumbent workforce and securing sufficient resources to implement its vision.

Policy Levers for Success

In both Minnesota and Virginia, state leaders developed a vision for change and deployed an array of strategic management practices to build on their strengths and overcome internal and external resistance.

Modernizing the states' statutory and administrative frameworks was essential to laying the foundation for improvement. Freeing procurement personnel from constraining rules—such as giving purchasers the flexibility to make decisions based on the best value of an offering rather than merely the lowest bid—necessitated significant changes to the existing body of law and administrative code. In addition, efforts to streamline, deregulate and decentralize processes required new regulatory and oversight approaches.

Minnesota's key policy levers included:

- Statutory authority for procurement reform
- A robust and independent central procurement agency
- Strong joint powers agreement authority
- A statutory commitment to ethics and whistle-blowers

Virginia's key policy levers included:

- Standardization of procurement rules and practices
- Extensive delegation of procurement authority
- Policies for promoting small business participation in state procurement
- Continuously improving staff training

Common Principles in Diverse States

Minnesota and Virginia are two very different states that have taken diverse approaches to procurement reform, ranging from leadership to strategy.

- Minnesota's policy makers established a chief procurement officer with substantial independent power to implement best value procurement—while Virginia's leaders created the position as a senior-level gubernatorial appointee.

While Minnesota concentrated on collaborative cross-state contracts with broad and inclusive governance structures, Virginia focused on automating and modernizing processes and setting up a large number of term contracts for state entities to use.

- Finally, Minnesota primarily managed its reforms in-house while Virginia built its reforms around an outsourced solution that relied on substantial initial investment by a support contractor.

But from this diverse array of policies, strategies, and tactics emerge a variety of best practice solutions. Furthermore, while the policy contexts and tactical approaches of the two states were substantially different, the core principles of their approaches—innovation, negotiation, measurement, collaboration, and persistence—were consistent and replicable.

- *Innovation* – Leaders in both states only gained substantial traction for their reforms when they introduced and passed legislation to give them authority to do business differently and upgrade the professionalism and product expertise of their staffs. They expanded the toolbox of possible contracting approaches set the stage for experimentation, continued improvement and breakthrough approaches.
- *Negotiation* – Both states moved away from traditional low-price-sealed-bid thinking by bringing detailed data and buying leverage to bear in negotiations with their vendors. They negotiated from a position of power and knowledge, lowering prices and improving value for their states.
- *Measurement* – A key component of Virginia's eVA system was to provide details on what was being bought and who was buying it. Both states have a good sense of what they are spending and where they are spending it—and are holding managers accountable for achieving measurable results.
- *Collaboration* – Each state's leaders have worked within their unique social, political and managerial contexts to craft approaches that work. The results: consolidated enterprise

- *Persistence* – Although the governor and the executive branch were in each case the initial sponsors of reform, both states have managed to garner continuing bipartisan support for reform. They have institutionalized the change they launched and made it the accepted way of doing business. They have built institutions and procedures that demonstrate value to whoever leads the state. They have moved their reforms from the political realm to managerial realm.

As more state leaders move to improve and modernize their purchasing and contracting practices, these broader principles can help inform their road map to success.

Strong Results

Successful procurement innovation is contingent on states' ability to establish a clear political vision for needed changes, secure sufficient resources to implement the new practices and execute a systematic plan to integrate new processes with existing systems.

As noted above both Minnesota's and Virginia's procurement reform investments have resulted in cost savings or cost avoidance on the purchase of goods and services. In addition, Virginia's system improvements have reduced administrative costs by an estimated \$11 million per year. Beyond cost effects, Virginia's reforms have increased small business participation in state procurement, and Minnesota's efforts have resulted in higher-quality goods and services, more beneficial contract terms, time savings for staff, and improved relationships with vendors.

This analysis demonstrates that there are clear and compelling strategies to achieving successful reform. The Virginia and Minnesota examples also illustrate that there are a wide variety of tactics that can be employed.

Despite the many challenges they faced, Minnesota and Virginia persevered to achieve these goals, and they are seeing a return on their investments. Moreover, both states serve as examples of how other states can achieve similar or even better results by carefully examining their own procurement practices and systems.

Every state can begin employing the broad strategies that launched and sustained the Virginia and Minnesota reforms and brought savings and better business practices to these states. The diversity of approaches taken in these two states show that other states have a wide array of business improvement opportunities through which to achieve substantial savings for their citizens.

Appendix: Background on Minnesota and Virginia Procurement

Overview of Minnesota Procurement

The state of Minnesota acquires more than \$2.4 billion in goods and services annually. The legal structure governing the acquisition of goods and services in Minnesota is a combination of state statutes, regulations and agency-level policies. Specifically, contracting is governed by:

- Minnesota Statutes (MS) 16B & 16C Administrative Rule 1230
- Minnesota Administration Department (Administration) policies, namely regulations specified in the *Authority for Local Purchase Manual* and the *State Contracting* manual

Minnesota law gives the Commissioner of Administration central authority for managing state procurement and establishing purchasing rules for state agencies.⁶² Administration oversees the procurement practices of all state agencies and departments, except the University of Minnesota and Minnesota's State Colleges and Universities (MnSCU). Administration is headed by a commissioner appointed by the governor, but the commissioner typically delegates operational responsibility for procurement to the chief purchasing procurement officer (CPO), who is the director of the Materials Management Division (MMD) within Administration.⁶³ The CPO position is filled by a career civil servant and reports to the commissioner, who reports directly to the governor.

The state's primary approach to acquiring goods and services emphasizes obtaining the "best value" through "strategic sourcing." In Minnesota, best value acquisition focuses vendor selection criteria on a combination of factors—the quality, price and total cost of goods and services—rather than making purchasing decisions based primarily on lowest purchase price.⁶⁴

Generally, state law requires that all acquisition decisions "be based on best value, which includes an evaluation of price and may include other considerations including, but not limited to, environmental considerations, quality, and vendor performance."⁶⁵

Best value acquisition typically is accomplished using a request-for-proposal (RFP) selection process by which the various evaluation criteria are identified and given a weight that reflects the importance of the criterion in the scoring of vendor proposals. However, for many simple goods and services best value may be achieved using a traditional request-for-bid (RFB) type process in which the contract is awarded based solely on price to any vendor that meets detailed specifications regarding the minimum acceptable quality of the good or service.

Additionally, state law identifies the use of enterprise contracts as an important strategic sourcing tool for achieving best value in procurement and, in some cases, requires the use of enterprise procurement "to the fullest extent practicable."⁶⁶ State law defines enterprise procurement as a method of contracting that leverages "economies of scale of multiple end users to achieve cost savings and other favorable terms in contracts for goods and services."⁶⁷

Overview of Virginia Procurement

Public procurement in the Commonwealth of Virginia is governed by two sets of rules. The first set consists of the regulatory requirements based on the *Code of Virginia*, including the Virginia Public Procurement Act (VPPA).⁶⁸ The VPPA requires state agencies to pursue multiple and sometimes competing policy goals, including:

- obtaining high-quality goods and services at reasonable cost
- ensuring fairness and impartiality in government procurement
- promoting competition
- furthering small business participation in government procurement
- granting agencies flexibility in how they purchase goods and services

The second set of rules includes administrative policies and procedures, published in the *Agency Procurement and Surplus Property Manual (APSPM)*, that are intended to “inject consistency and clarity in understanding and applying the regulatory requirements” and to represent “what is widely viewed in the purchasing profession as the application of sound, generally accepted good purchasing practices.”⁶⁹

The Commonwealth of Virginia’s central procurement agency—the Department of General Services, Division of Purchases and Supply (DGS/DPS)—oversaw the acquisition of approximately \$4.6 billion in goods and services from non-governmental businesses in FY 2008. DGS/DPS has authority to standardize goods and services, develop procurement regulations, monitor compliance with state procurement law and regulations and train government procurement professionals and vendors. Importantly, all state agencies are required to purchase goods and services (except for information technology and telecommunications goods and services) through DGS/DPS. However, as a result of extensive delegation of procurement authority, the vast majority of purchases (more than 98 percent) are made directly by state agencies and universities.⁷⁰

Purchases generally are processed through eVA, a statewide e-procurement system developed to streamline the procurement process, increase vendor participation in government procurement opportunities, and leverage the state’s purchasing power to reduce costs. Virginia uses five principal procurement methods to purchase goods and services:

- the small purchase method
- competitive sealed bidding
- competitive negotiations
- sole source procurement
- emergency procurement

Agencies also make frequent use of long-term state contracts, purchase charge cards and cooperative purchasing arrangements within and between states.

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¹ Pew Center on the States analysis of U.S. Department of Commerce Bureau of Economic Affairs data. The calculation summed state and local government consumption of "intermediate goods and services" (<http://bea.gov/national/nipaweb/TableView.asp?SelectedTable=104&ViewSeries=NO&Java=no&Request3Place=N&3Place=N&FromView=YES&Freq=Year&FirstYear=2007&LastYear=2009&3Place=N&Update=Update&JavaBox=no>) and "equipment and software,"

(<http://bea.gov/national/nipaweb/TableView.asp?SelectedTable=98&ViewSeries=NO&Java=no&Request3Place=N&3Place=N&FromView=YES&Freq=Year&FirstYear=2007&LastYear=2009&3Place=N&Update=Update&JavaBox=no>) then estimated that 33 percent of the combined state and local spending figure reflects state spending.

² Research on public and private sector organizations produces a wide range of estimated cost savings or cost avoidance resulting from improved procurement practices. Bartolini and Dwyer (2008) found that "enterprises have been able to achieve a 5 percent to 20 percent cost savings for each new dollar of spend brought under management," while Husted and Reinecke (2009) observed that "improved purchasing yields an average of 15 percent savings, with projects in the public sector delivering the highest savings—an average of 28 percent."

Because the amounts that states are able to save will vary depending on the maturity and type of reforms implemented, as well as the spend categories targeted, this analysis focuses on the more conservative five to 10 percent savings range.

³ This figure was developed using data from MAPS provided by MMD and obtained by the author from the Transparency and Accountability Minnesota Web site (www.mmb.state.mn.us/tap). The figure does not include data for the University of Minnesota, which is constitutionally a separate political subdivision.

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⁵ Minnesota Management and Budget Office, FY 2010-2011 Governor's Budget Recommendations, Agency Level Narrative for the Administration Department, <http://www.mmb.state.mn.us/gov-bud-10>

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¹⁰ See Minnesota Drive to Excellence web site

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¹¹ Steve Kelman, "Achieving Contracting Goals and Recognizing Public Law Concerns: A Contracting Management Perspective", in *Government by Contract: Outsourcing and American Democracy*, ed. Jody Freeman and Martha Minow (Cambridge, MA: Harvard University Press, 2009).

¹² Matthew Potoski, "State and Local Government Procurement and the Winter Commission," *Public Administration Review*, Supplement to Volume 68 (2008): 58-70.

¹³ The figures presented in this subsection were developed using data from MAPS provided by MMD and obtained by the author from the Transparency and Accountability Minnesota Web site (www.mmb.state.mn.us/tap). The figures do not include data for the University of Minnesota, which is constitutionally a separate political subdivision.

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¹⁵ Multiple award contracts authorize more than one vendor, so agencies have some choice, even under the master contract.

¹⁶ See membership at <http://www.mmd.admin.state.mn.us/process/cpv/cpvmemberdownload.asp>

¹⁷ MMD, *State Contracting Manual*

¹⁸ Professional and technical services are defined in Minnesota law as "services that are intellectual in character, including consultation, analysis, evaluation, prediction, planning, programming, or recommendation, and result in the production of a report or the completion of a task." <https://www.revisor.mn.gov/statutes/?id=16C.08> SECTION 16C.08

¹⁹ *Authority for Local Purchase Manual* and the *State Contracting manual*, <http://www.mmd.admin.state.mn.us/alp.htm>

²⁰ Yarkin 2007

²¹ Department of General Services, Division of Purchases and Supply, *Agency Procurement and Surplus Property Manual* (Richmond, VA: DGS/DPS, 2009), Chapter 10. AVAILABLE here: <http://www.eva.state.va.us/aspm-manual/aspm-manual.htm>

²² Ibid, Section 11.4.

²³ Ibid, Section 6.1.

²⁴ Ibid, Section 7.4.

²⁵ Ibid, Section 9.0.

²⁶ Ibid.

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- ²⁸ *Virginia Code* 2.2-4304. AVAILABLE HERE: <http://leg1.state.va.us/000/cod/2.2-4304.HTM>
- ²⁹ Department of General Services, Division of Purchases and Supply, *Agency Procurement and Surplus Property Manual* (Richmond, VA: DGS/DPS, 2009), Section 10.21.
- ³⁰ *Ibid*, Sections 5.1 and 5.3.
- ³¹ *Ibid*, Section 3.10.
- ³² Joint Legislative Audit and Review Commission. *Impact of eVA on Small Virginia Businesses*. (Richmond, VA: Author, 2009), AVAILABLE HERE: <http://leg2.state.va.us/DLS/h&sdocs.nsf/6f70d2f6f7bfeb2785256ebe0069ba89/c46975dd4859649785257428006cab37?OpenDocument>
- ³³ Minnesota Drive to Excellence web site <http://www.state.mn.us/portal/mn/jsp/home.do?agency=Excellence>
- ³⁴ Determining cost savings from cooperative purchasing is particularly difficult because the cost of a good or service is determined by so many factors and can fluctuate widely over time. This makes comparing prices from cooperative purchase programs with historical data or other more recent data to assess cost savings problematic. Nevertheless, Minnesota has made reasonable efforts to periodically assess the savings from its cooperative purchasing programs.
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- ⁵¹ Minnesota Statute 471.59. AVAILABLE HERE: <https://www.revisor.mn.gov/statutes/?id=471.59>
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- ⁶⁰ Information gathered from interviews with procurement officials at state universities.
- ⁶¹ *Code of Virginia* 2.2-4310. AVAILABLE HERE <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-4310>
- ⁶² Minnesota Statutes 16B.04 and 16C.03.
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- ⁶⁴ The concept of “total cost” refers to the ongoing operational expenses that must be incurred after purchase. For example, when purchasing a car, one brand may have a lower purchase price but the total cost of ownership is greater because the cheaper car breaks down more frequently, causing the owner to incur greater maintenance costs and costs for alternative transportation and/or lost productivity.
- ⁶⁵ Minnesota Statute 16C.03. AVAILABLE HERE <https://www.revisor.mn.gov/statutes/?id=16C.03>
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