



This document aims to capture key questions or action items from the most recent Senior Procurement Advisory Group (SPAG) meeting. Items may include questions that were not answered live, or perhaps required updates, adjustments, or additional research. To ensure clarity, this document is distributed to all SPAG participants who attended the respective meeting. *For questions specifically related to reciprocal preference, please refer to the updated presentation slides.*

As always, should you have any questions, concerns, or further information to share related to procurement, please email central.procurement@maryland.gov. If you need to update your registration or add staff to the SPAG meetings, please complete the [online form](#).

February 2026:

1. **Feedback:** Who pays the 1% fee and how is it collected?

Response: The fee is paid by contractors and only under contracts that include the applicable clause. The application and collection of the fee will be automated through eMMA, and will not require manual intervention by procurement officers. Please review the recently updated Appendix 9 and Attachment Z solicitation templates, available on the OSP website.

2. **Feedback:** When an agency is entering a contract award in eMMA that uses an existing DGS statewide contract like COTS Software Master Contract (i.e. PORFP or TORFP), should we check the 1% fee box?

Response: The Master Contract would denote if the 1% eMMA fee is included, not the task orders.

3. **Feedback:** Regarding the 1% administrative fee, I pulled the procurement manual and it stops at 4.1.9. I searched for DGS fees and it did not come up. Can someone send out the information on how this works as it is showing in EMMA the 1% fee?

Response: The 1% administrative fee information was shared in an earlier DGS newsletter.

4. **Feedback:** Are there any restrictions in terms of what can be shared as part of market research to the potential vendors, as they may become bidders when the solicitation is released?

Response: During market research, you should avoid sharing finalized scope details, evaluation criteria, budget information, or anything that could give a vendor a competitive advantage or create the appearance of favoritism. Information shared should remain



high-level, exploratory, and consistent if repeated to others.

5. **Feedback:** For IT products, can an agency request the potential vendors to provide a sandbox to get a look/feel and operation view of the product?

Response: Yes, an agency may request sandbox or demo access during market research, provided it is for informational purposes only and handled fairly. It is essential to clearly communicate to vendors upfront that the access is exploratory and does not signal preference or competitive advantage. If one vendor is given the opportunity, similarly situated vendors should be afforded the same chance where feasible, and the engagement must not allow any vendor to shape the scope or gain insight into internal evaluation strategy.

6. **Feedback:** This (market research) is a slippery slope because in order to obtain accurate market information, vendors will expect some accuracy and not vague responses.

Response: Your concerns are valid. However, we have successfully gathered useful, actionable insight using high-level descriptions and category-based questions. Many vendors are accustomed to this stage of engagement and can provide information about capacity and participation feasibility without needing exact specifications. If a particular vendor insists on fully defined scope details before engaging, that may simply mean they are not positioned to participate at the exploratory stage. We can move on to other vendors. The purpose of market research is to test the market broadly, not to satisfy every vendor's preferred level of specificity.

7. **Feedback:** Give examples of market research questions for CSBs please -- it will be difficult to ask questions about procurements of supplies and equipment without disclosing the identity of those supplies and equipment and quantities needed.

Response: Examples of market research questions for CSB's to determine SBR designation appropriateness include:

- a.) Are you currently supplying [broad category of goods, e.g., roadway cones, lab equipment, laptops] to public-sector clients?
- b.) What is your general capacity to fulfill orders within this category?
- c.) Do you maintain inventory, or are items typically ordered through distributors?
- d.) What are typical lead times for goods in this category?

If quantities are relevant, you can speak in ranges rather than exact numbers (e.g., periodic fulfillments" versus "large-scale deployment") to gauge capacity without disclosing precise procurement details.



8. **Feedback:** Will MSAA ensure that all media products meet state accessibility requirements?
Response: Yes, MSAA ensures all media products meet state accessibility requirements.
9. **Feedback:** Would the MSAA process be applicable when using federal funds?
Response: Yes. State resources should be considered prior to any procurement.
10. **Feedback:** Is the 2/17 Memo to Agency Heads (re: MSAA process) available somewhere for reference?
Response: An email blast to procurement staff was sent on Monday, February 23rd for added awareness.
11. **Feedback:** Does the in-state preference apply to all solicitations regardless of category?
Response: No, the “Reciprocal Preferences” apply only to Supplies and Services as defined in COMAR 21.05.01.04, and to Architecture and Engineering per COMAR 21.05.01.04-1.
12. **Feedback:** What is the difference between cancellation and failed procurements?
Response: A **procurement cancellation** requires approval from the control agency under COMAR 21.06.02.02. The cancellation may occur before opening bids or proposals, or all bids or proposals may be rejected for reasons related to the State's needs or lack thereof. A **failed procurement** occurs when each bid or proposal is *rejected individually based on its submission* (COMAR 21.06.02.03), leaving all bids or proposals rejected and no bid or proposal to award. The procurement is complete. If the goods or services are still needed, a new procurement would need to be conducted. Approval from the control agency is not required for a failed procurement.
13. **Feedback:** In an RFP scenario, would these preferences stack for MD bidders? If there are preferences from multiple localities (e.g. bidders from PA and DC that each have applicable preferences) and we are discounting MD bids, would the MD businesses get multiple reductions?
Response: No, the reciprocal preference only applies to the “**responsible bidder or offeror whose principal office or principal base of operations is in another state submits the lowest responsive bid or the most advantageous offer**”, and only if the Maryland resident business is a responsible Bidder, Offeror, or Provider, per COMAR 21.05.01.04. A preference under this regulation shall be identical to the preference that the other state, through law, policy, or practice, gives to its residents.



14. Feedback: Do we reference and apply the NASPO state preference calculation for small procurements as well?

Response: The preference applies to a Bidder under a competitive sealed bid; an Offeror under a competitive sealed proposal; or a Provider of architectural or engineering services.

15. Feedback: What is an example of individually unreasonable in price?

Response: This could happen when you have several bids, each with an issue that causes it to be rejected as not responsive or the bidder not responsible, and then the next bid is too high and exceeds the agency's budget.

16. Feedback: When writing the PO determination, which price do we list: bid or evaluated bid?

Response: The price used for an award recommendation POD is the evaluated bid price. However, the prices used for the contract are the actual bid or proposed prices.

17. Feedback: If we reject all bids on an individual basis (for not responsive or not responsible), resulting in a failed procurement, does it get reported as a cancellation on PAAR?

Response: No, a failed procurement is not a cancellation. Only cancellations need to be approved by DGS OSP and reported on the PAAR. This is to provide the BPW with the reason that the State had to cancel the procurement - changes to the requirements or specifications as a result of no bids or proposals being acceptable.

18. Feedback: Does reciprocal preference apply to PORFP's as well?

Response: The preference applies to a Bidder under a competitive sealed bid; an Offeror under a competitive sealed proposal; or a Provider of architectural or engineering services. This would be considered at the master contract level. It is not required for secondary competition.

19. Feedback: When giving preference, how are we finding this information? What website should we utilize?

Response: The BPW [procurement](#) webpage has a link to the [State Preference Repository - NASPO](#) under "Procurement Resources" on the left side of the page.



20. Feedback: What happens if you have non-Maryland firms submitting bids? If there are multiple non-MD states, do you apply the preference against all of the non-MD states?

Response: No, the reciprocal preference only applies to the **“responsible bidder or offeror whose principal office or principal base of operations is in another state submits the lowest responsive bid or the most advantageous offer”**, and only if the Maryland resident business is a responsible Bidder, Offeror, or Provider, per COMAR 21.05.01.04. A preference under this regulation shall be identical to the preference that the other state, through law, policy, or practice, gives to its residents.

21. Feedback: Does the preference requirement apply to PORFP bid evaluations?

Response: The preference applies to a Bidder under a competitive sealed bid; an Offeror under a competitive sealed proposal; or a Provider of architectural or engineering services. This would be considered at the master contract level. It is not required for secondary competition.

22. Feedback: Are there any updates on the revisions to the MBE/VSBE forms?

Response: Not at this time.

23. Feedback: How do we inform the out-of-state bidder that their bid has now changed? Do you need to notify the out-of-state of why they are not considered the lowest bidder?

Response: The reciprocal preference only applies to the **“responsible bidder or offeror whose principal office or principal base of operations is in another state submits the lowest responsive bid or the most advantageous offer”**, and only if the Maryland resident business is a responsible Bidder, Offeror, or Provider, per COMAR 21.05.01.04. A preference under this regulation shall be identical to the preference that the other state, through law, policy, or practice, gives to its residents. The best way is to apply the preference to the Maryland resident business to show that the Maryland bidder’s evaluated bid is lower than the out-of-state bidder’s bid. The evaluated bid price would change the order of the bids.

24. Feedback: Is preference based on their parent residency or their local office?

Response: The reciprocal preference only applies to the **“responsible bidder or offeror whose principal office or principal base of operations is in another state submits the lowest responsive bid or the most advantageous offer”**, and only if the Maryland resident business is a responsible Bidder, Offeror, or Provider, per COMAR 21.05.01.04. A preference under this regulation shall be identical to the preference that the other state, through law, policy, or practice, gives to its residents.



25. Feedback: Does the department need to formally cancel the published solicitation in eMMA and post a cancellation due to 21.06.02.02.C if all bids are rejected?

Response: Yes. Additionally, the department/agency must submit the cancellation request to DGS OSP for approval prior to cancelling.

26. Feedback: How do you decide whether to reject all bids or individual bids when both list the price as unreasonable as a reason to reject/cancel?

Response: If the lowest bid is too high, then all bids are too high, so you have to reject all bids per COMAR 21.06.02.02. If you have several bids, each with an issue that causes it to be rejected as not responsive or because the bidder is not responsible, and the next bid is too high and exceeds the agency's budget, that bid would be rejected for the price being unreasonable.

27. Feedback: Has the reciprocal preference program been challenged in any bid protests?

Response: It is unknown if the application of reciprocal preference to a Maryland resident bidder or offeror has led to a protest. However, the protest would be denied under the Maryland statute and regulations, which are being applied appropriately.

28. Feedback: In the event both MD vendors are not responsible, do we still apply that 5% to the DC vendor?

Response: No, the reciprocal preference only applies to the **“responsible bidder or offeror whose principal office or principal base of operations is in another state submits the lowest responsive bid or the most advantageous offer”**, and only if the Maryland resident business is a responsible Bidder, Offeror, or Provider, per COMAR 21.05.01.04. A preference under this regulation shall be identical to the preference that the other state, through law, policy, or practice, gives to its residents.

29. Feedback: Will agencies that use the services provide input when the statewide contract process begins?

Response: When DGS OSP conducts a procurement for a statewide contract, we consult with end-user agencies to gather input on the specifications and requirements for the new contract. We also rely on agency users to provide usage data from current contracts or internal usage data to ensure we include the appropriate historical data for potential bidders or offerors to know how best to price the contract.

30. Feedback: Where in SFP are the requirements for the reciprocal preference utilization program set out?

Response: Maryland State Finance and Procurement Article § 14-401 – Reciprocal Preference for Resident Bidders/Offerors, and Maryland State Finance and Procurement Article § 14-401.1 – Reciprocal Preference for Resident Firms.



31. Feedback: Do I have to change the SOW when rebidding from a failed solicitation?

Response: Maybe; it depends on the reasons for the failed procurement and whether you received any “No Bid” forms from other potential bidders or offerors that raised concerns about the scope of work (SOW) or other requirements warranting an update to the SOW. However, if the procurement is cancelled, changes to the SOW are usually necessary to clarify the issues that led to the cancellation.

32. Feedback: Can the contact information for HBCU representatives be shared?

Response: Absolutely! We’re working on a handy one-page directory for HBCU representatives and we’ll be sure to send that out via email in the coming days.