

## SECTION 3— IMPLEMENTATION PLAN

The CORE Team’s implementation plan utilizes a proven methodology for identifying, prioritizing, and executing the numerous recommendations identified in our findings and recommendations. The Implementation Plan consists of three parts:

1. Initiative Definition Worksheets (IDW) – contains the initiative name, description, major tasks, required resources, and dependencies.
2. Initiative Categories vs. Findings and Recommendations Matrix (Implementation Matrix) – identifies the relationship between the specific IDWs and the individual recommendations from the Findings and Recommendations section, thereby, ensuring that each recommendation is addressed by at least one IDW.
3. High-level Project Plan - provides an illustration of the dependencies and durations of the IDWs.

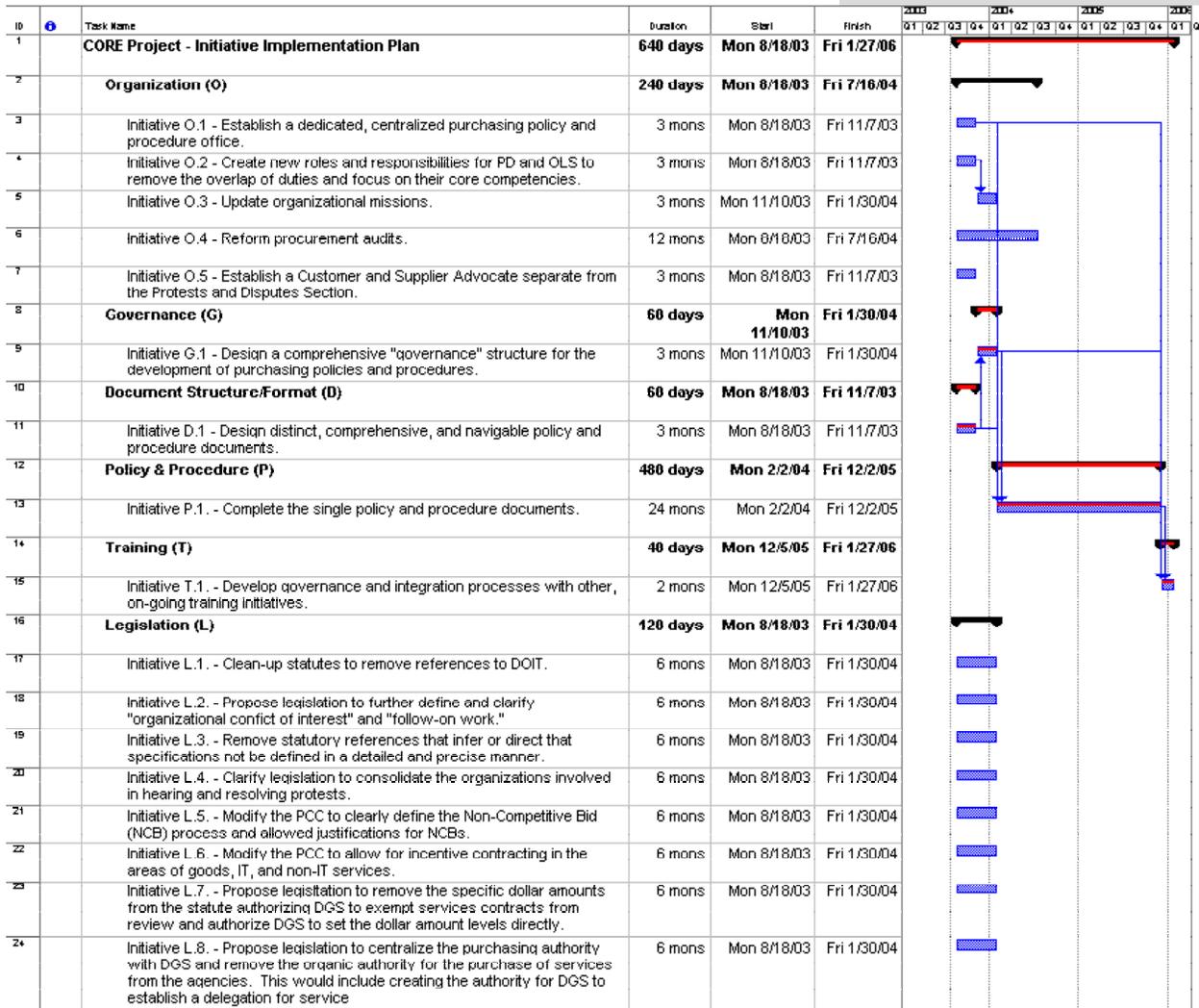
The individual recommendations were grouped based upon their similarities and relationships, and subsequently categorized into one of the six Initiative Categories (Organization, Governance, Document Structure/Format, Policy and Procedure, Training, and Legislation).

Within each of the Initiative Categories, the CORE Team began the creation of individual IDWs. As a means of tracing the relationship between each IDW and the addressed recommendations, the Initiative Definition Worksheet Matrix was generated and is included in [Appendix I](#).

For ease of reference a unique naming convention was followed, for example, IDW number 1 within the category of Organization (O) is identified by “O.1”, and IDW number 2 within the same category would be designated “O.2”. Each IDW may be found in the section immediately following, for reference the following table lists each IDW.

Initiative Category Reference and IDW Title
Initiative O.1 – Establish a dedicated, centralized purchasing policy and procedure office.
Initiative O.2 – Create new roles and responsibilities for PD and OLS to remove the overlap of duties and focus on their core competencies.
Initiative O.3 – Update organizational missions.
Initiative O.4 – Reform procurement audits.
Initiative O.5 – Establish a Customer and Supplier Advocate separate from the Protests and Disputes Section.
Initiative G.1 – Design a comprehensive “governance” structure for the development of purchasing policies and procedures.
Initiative D.1 – Design distinct, comprehensive, and navigable policy and procedure documents.
Initiative P.1 – Complete the single policy and procedure documents.
Initiative T.1– Develop governance and integration processes with other, on-going training initiatives.
Initiative L.1 – Clean-up statutes to remove references to DOIT.
Initiative L.2 – Propose legislation to further define and clarify “organizational conflict of interest” and “follow-on work.”
Initiative L.3 – Remove statutory references that infer or direct that specifications not be defined in a detailed and precise manner.
Initiative L.4 – Clarify legislation to consolidate the organizations involved in hearing and resolving protests.
Initiative L.5 – Modify the PCC to clearly define the Non-Competitive Bid (NCB) process and allowed justifications for NCBs.
Initiative L.6 – Modify the PCC to allow for incentive contracting in the areas of goods, IT and non-IT services.
Initiative L.7 – Propose legislation to remove the specific dollar amounts from the statute authorizing DGS to exempt services contracts from review and authorize DGS to set the dollar amount levels directly.
Initiative L.8 – Propose legislation to centralize the purchasing authority with DGS and remove the organic authority for the purchase of services from the agencies. This would include creating the authority for DGS to establish a delegation for services.

Upon completion of the IDWs, a High-level Project Plan was created to illustrate the dependencies and durations of the entire implementation effort as depicted in the following chart.



The Implementation Plan presented in this section represents one approach to achieve the goal of implementing the recommendations set forth in this report. Other, alternative approaches are feasible and may be undertaken after careful consideration by the DGS, its business partners, and staff.

The overall approach to change management advocated in this plan, incorporates aspects of several proven process improvement methodologies including John Kotter's "Leading Change," and Michael Hammer's "The Reengineering Revolution."

The implementation of the policy, procedure, organization, and legislative changes will require a marked attention to the organization's appetite for change. To move too quickly risks the changes being rejected. To move too slowly risks the credibility of the department in terms of follow-through. For these reasons it is important for the DGS Director, PD Deputy Director, OLS Deputy Director, and the leader of the Policy and Procedure Office to maintain their commitment to implementing positive change. Each of these key leaders must communicate their support for the implementation both internally and externally. There are many stakeholders including DGS employees, other State procurement officials, and vendors who anxiously await the first results of this effort.

Initiative Definition Worksheets are provided on the pages that follow.

## Initiative Definition Worksheets

### **Initiative O.1 – Establish a dedicated, centralized purchasing policy and procedure office.**

#### Overview

In conjunction with the creation of a single source for purchasing policy and procedure (Initiative D.1), a dedicated, centralized purchasing policy and procedure office (PPO) with responsibility for developing and managing purchasing policy and procedure, ensures that statewide purchasing policy and procedure is well documented and current.

#### Major Tasks

- ◆ Establish PPO:
  - ◆ Reports to DGS executive-level (Director, Chief Deputy Director).
  - ◆ Staffed with sufficient personnel resources (3-5 FTE) utilizing “rotational” positions plus part-time participants from DGS and other agencies (e.g., OLS legal counsel, DOF, etc.).
- ◆ Identify training for staff (policy development/writing, procedure writing, process analysis).
- ◆ Develop PPO “mission” statement, charter, goals, and objectives.

#### Resources

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
3 months	<ul style="list-style-type: none"> <li>▪ Policy &amp; Procedure Office (PPO) Manager.</li> <li>▪ PPO Staff (3-5 FTE).</li> <li>▪ Subject Matter Experts as needed.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Dedicated PPO responsible for both development and management of policy and procedure.</li> <li>▪ “Rotational” staff positions maintain current procurement experience in PPO allows for cross fertilization between policy and operations.</li> <li>▪ Organizational level of PPO provides visibility and professional recognition of manager(s) and staff.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Organizational change may disrupt day-to-day operations.</li> <li>▪ May require Human Resource policy changes to enact “rotational” positions.</li> <li>▪ Staff openings may not attract qualified candidates.</li> <li>▪ PPO authority and ability to enforce compliance is insufficient to overcome resistance to change.</li> </ul>

## Initiative Dependencies/Relationships

- ◆ Initiative O.1 (this initiative) must be completed prior to “P.1-Complete the single policy and procedure documents.”

**Initiative O.2 – Create new roles and responsibilities for PD and OLS to remove the overlap of duties and focus on their core competencies.**

## Overview

Currently, DGS splits the contracting and procurement oversight function between OLS and PD respectively. For non-IT services, OLS performs oversight in the form of contract approval. For goods and IT, PD performs oversight through the delegation system. There are no statutes requiring this split of duties and it is counter to procurement industry best practices.

The DGS OLS should provide advice and review on procurements and contracts according to risk (e.g., high risk procurements warrant legal review). Their role on the oversight team ought to be that of a legal counsel to the procurement official. Presently many procurements and contracts are conducted without legal involvement while OLS concentrates its resources on performing reviews and approvals of non-IT services contracts that do not require the skills and training of an attorney to perform. These non-legal reviews should be conducted by adequately trained procurement officials.

## Major Tasks

- ◆ Change the duty assignments in DGS to assign the services contract review function to PD.
- ◆ Task OLS to serve as the legal counsel to the Procurement Division for all types of procurements.
- ◆ Create standards for requiring legal examination and advice on a procurement and the resulting contract/order.
- ◆ Develop detailed roles and responsibilities for the procurement office and OLS that support a collaborative work environment.
- ◆ Increase the legal role in reviewing all contract types based on the risk to the State and/or other criteria, such as deviation from standard contract language or unusual contract types like revenue sharing agreements.

## Resources

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
3 months	<ul style="list-style-type: none"> <li>▪ DGS Director.</li> <li>▪ Agency Secretary.</li> <li>▪ Deputy Director of OLS.</li> <li>▪ Deputy Director of PD.</li> <li>▪ Governance participants, as necessary.</li> <li>▪ Subject Matter Experts as needed.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Enables the review function for all contracts to be uniform.</li> <li>▪ Focuses legal resources on legal issues and procurement officer resources on procurement issues.</li> <li>▪ Creates a more understandable division of duties and allows a single interface point for all procurements without regard to type.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Transition period could cause performance decrease and confusion if not managed well.</li> </ul>

## Initiative Dependencies/Relationships

- ◆ Although this initiative would result in a much clearer division of organizational duties and would enhance many of the policies and procedures developed, there is no absolute dependency on or with the other initiatives.
- ◆ The development of new missions for OLS and PD, as per Initiative “O.3-Update organizational missions,” is directly related to the implementation of this initiative.

**Initiative O.3 – Update organizational missions.**

**Overview**

The organizational missions of DGS, PD, and OLS are in need of improvement. The missions ought to reflect the main purpose and responsibilities of each unit. If Initiative O.2 is undertaken, this initiative should take into context these new roles and responsibilities.

**Major Tasks**

- ◆ Craft missions.

**Resources**

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
3 months	<ul style="list-style-type: none"> <li>▪ DGS Director’s Office.</li> <li>▪ OLS Leadership Team.</li> <li>▪ PD Leadership Team.</li> <li>▪ Subject Matter Experts as needed.</li> </ul>

**Rationale**

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Creates the clear missions for each unit.</li> <li>▪ Promote unity of culture and purpose.</li> <li>▪ Guides strategy, planning, resource allocation, decision making, and actions.</li> </ul>	<ul style="list-style-type: none"> <li>▪ None.</li> </ul>

**Initiative Dependencies/Relationships**

- ◆ This initiative should be coordinated with “O.2-Create new roles and responsibilities for PD and OLS to remove the overlap of duties and focus on their core competencies.” The organization’s duties are directly reflective of their missions.

**Initiative 0.4 – Reform procurement audits.**

**Overview**

In performing the Department’s control agency functions, DGS performs various audits and compliance reviews. The legislature uses the word “audit” in several places in the Public Contracting Code, most notably, in PCC 10333 where DGS is required to perform an audit of each delegation holder once per three-year period. *Audit* is a term-of-art and has a specific meaning regarding the use of professional, trained auditors following generally accepted audit standards. DGS should apply the appropriate resources in performing audits.

**Major Tasks**

- ◆ Decide which organization within DGS, Purchasing Authority Management Section (PAMS) or Office of Audit Services (OAS), will be responsible for performing audits of delegated agencies.
- ◆ Add the necessary process rigor, skills, and resources to the chosen delegation auditing organization (PAMS or OAS) for them to perform actual audits on every delegated agency once per three-year period.

**Resources**

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
12 months	<ul style="list-style-type: none"> <li>▪ DGS Director.</li> <li>▪ PAMS and OAS management.</li> </ul>

**Rationale**

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Meets the intent of the statute.</li> <li>▪ Adds rigor and skill to the audit function.</li> <li>▪ Enables the increase of the audit function as a control as delegations are increased.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Resource constraints and personnel issues may restrict the ability to accomplish this.</li> <li>▪ An alternate would be to increase the resources and rigor of the current “compliance reviews”.</li> </ul>

**Initiative Dependencies/Relationships**

- ◆ None.

## **Initiative O.5 – Establish a Customer and Supplier Advocate separate from the Protests and Disputes Section.**

### Overview

The role of Customer and Supplier Advocate is referred to by PCC §10300. Currently this role is assigned to the Protests and Disputes Section. The role should be separated due to an organizational conflict. The Customer and Vendor Advocate is aligned with the vendor while the Protests and Disputes Section is in some cases aligned with DGS.

Both roles are of such importance that they warrant placement high in the organization. The Customer and Vendor Advocate should report to the DGS executive level while the Protests and Disputes Section should report to the executive level of PD.

### Major Tasks

- ◆ Change the organizational structure to elevate the Protests and Disputes Section to the executive level of PD.
- ◆ Separate the Customer and Vendor Advocate function from the Protests and Disputes function.
- ◆ Create a new Customer and Vendor Advocate function at the DGS executive level, for example, reporting under the Public Affairs Office or as a peer to that Office.
- ◆ Create a mission or charter for the Customer and Vendor Advocate that complies with the requirements of PCC §10300.

### Resources

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
3 months	<ul style="list-style-type: none"> <li>▪ DGS Director.</li> <li>▪ PD Director.</li> <li>▪ HR resources.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"><li>▪ Removes organizational conflict between the two roles.</li><li>▪ More executive visibility into the protest and disputes process.</li></ul>	<ul style="list-style-type: none"><li>▪ The change may cause some confusion for vendors to know whom to call with questions.</li><li>▪ Staffing the new ombudsman position may be difficult because the skills required to help vendors are specialized.</li></ul>

## Initiative Dependencies/Relationships

- ◆ None.

**Initiative G.1 – Design a comprehensive “governance” structure for the development of purchasing policies and procedures.**

## Overview

In order to successfully implement many of the changes undertaken by DGS related to uniform policy and procedure, a formalized “governance” process is necessary. The “governance” process ensures that the Department’s policy and procedure decisions are evaluated, analyzed, vetted, and approved by the effected stakeholders. This level of involvement will maximize the acceptance of these changes, as well as provide a mechanism to gather feedback and incorporate positive improvements.

## Major Tasks

- ◆ Design a process for the evaluation, analysis, creation, and approval of new policies.
- ◆ Establish a stakeholder participation process.
- ◆ Identify stakeholders in procurement policy and procedure.
- ◆ Ascertain stakeholder participation expectations in “governance” process.
- ◆ Enlist support and assistance for continued “buy-in.”
- ◆ Develop feedback mechanism for process improvement recommendations and updates.
- ◆ Establish communication channels for the dissemination and continuous support and feedback with regard to policies and procedures.
- ◆ Leverage the DGS Internet and intranet sites as tools to enable the governance process.

## Resources

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
3 months	<ul style="list-style-type: none"> <li>▪ PPO Manager.</li> <li>▪ PPO Staff.</li> <li>▪ Governance participants, as necessary.</li> <li>▪ PD Deputy Director.</li> <li>▪ OLS Deputy Director.</li> <li>▪ DGS Director.</li> <li>▪ Subject Matter Experts as needed.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Makes visible the procurement policy and procedure development process.</li> <li>▪ Ensures affected parties are aware of, and can plan for, upcoming changes.</li> <li>▪ Provides mechanism to vet policies prior to adoption or change.</li> <li>▪ Changes to policies can occur more frequently due to acting upon feedback and process improvement.</li> </ul>	<ul style="list-style-type: none"> <li>▪ May slow the policy development process due to increased outside involvement.</li> </ul>

## Initiative Dependencies/Relationships

- ◆ “D.1-Design distinct, comprehensive, and navigable policy and procedure documents” establishes the single source document for policies and procedures. The governance process must assign ownership of these documents and govern their update and publication both electronic and physical.

## **Initiative D.1 – Design distinct, comprehensive, and navigable policy and procedure documents.**

### Overview

The primary initiative involves establishing a single source for procurement policy, as well as a single source for procurement procedure. Each of these documents must be well designed to ensure their ease of use and longevity.

### Major Tasks

- ◆ Clarify the distinctions between *policy* and *procedure*.
- ◆ Consolidate all procurement policy and procedure into single source documents.
- ◆ Declare SAM the single source for policy and SCM the single source for procedure.
- ◆ Design a structure to promote ease of use.
- ◆ Design document update mechanisms to ensure timely incorporation of changes to both on-line and hard copies.
- ◆ Develop training and education program.

### Resources

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
3 months	<ul style="list-style-type: none"> <li>▪ PPO Manager.</li> <li>▪ PPO Staff.</li> <li>▪ Governance participants, as necessary.</li> <li>▪ Various procurement program managers.</li> <li>▪ Subject Matter Experts as needed.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Provides a single, authoritative source document for procurement policy and one for procedure.</li> <li>▪ Promotes ease of use and compliance.</li> <li>▪ Simplifies the update/change process.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Radical change from current practice of multiple sources for policy and procedure.</li> <li>▪ During the transition period, the existence of both “old” and “new” policy and procedures may cause confusion if not properly managed.</li> </ul>

## Initiative Dependencies/Relationships

- ◆ The design, creation, and ongoing maintenance of these primary source documents is the cornerstone of the policy and procedure reform effort. The governance program, “G.1-Design a comprehensive “governance” structure for the development of purchasing policies and procedures,” and the policy development, “P.1-Complete the single policy and procedure documents,” initiatives depend on the existence of a single source, D.1 (this initiative).

**Initiative P.1 – Complete the single policy and procedure documents.**

## Overview

A significant level of effort is required to populate the newly designed single sources for procurement policy and procedure. Specifically, all existing procurement policy and procedure must be gathered, analyzed and re-developed into the new document structure. As the PPO develops and publishes new policy and procedure, changes/updates will only occur in the “new” document resulting in a uniform and consistent policy and procedure reference.

## Major Tasks

- ◆ Gather all existing procurement policy and procedure according to the sections of the newly designed single source documents.
- ◆ Analyze the material to identify implementable units of policy and procedure.
- ◆ Order the units by dependencies.
- ◆ Prioritize the units of policies.
- ◆ Analyze individual units of policy to address inconsistencies, overlaps, and omissions.
- ◆ Create the “strawman” new policies.
- ◆ Execute the governance process to review and approve the new policies.
- ◆ Once approved, create the procedures and tools for the unit of policy.
- ◆ Populate single policy and procedure documents with the new policies and procedures.
- ◆ Utilize communications process to notify affected parties of upcoming changes.
- ◆ Develop and conduct training on the new policies and procedures.

## Resources

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
24-36 months	<ul style="list-style-type: none"> <li>▪ PPO Manager.</li> <li>▪ PPO Staff.</li> <li>▪ Governance participants, as necessary.</li> <li>▪ Subject Matter Experts as needed.</li> <li>▪ Various procurement program managers.</li> <li>▪ Publishing personnel (web, OSP, etc.).</li> <li>▪ Trainers.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Ensures a single, authoritative source for policy and one for procedure.</li> <li>▪ Iterative development delivers updated policy on a regular basis allowing immediate improvement.</li> </ul>	<ul style="list-style-type: none"> <li>▪ During the transition, the new documents will necessarily add another source to the already confusing set of source policy documents. Over time the impact of this issue will decrease as the single source documents grow to contain the majority (and eventually all) of the procurement policies and procedures.</li> <li>▪ The transition will require extensive communications and training.</li> </ul>

## Initiative Dependencies/Relationships

- ◆ The creation of the new policies must be conducted in accordance with the new governance processes as per “G.1-Design a comprehensive ‘governance’ structure for the development of purchasing policies and procedures.”
- ◆ The new policies must be populated into the new single source documents as per “D.1-Design distinct, comprehensive, and navigable policy and procedure documents.”
- ◆ The development of new uniform policies and procedures require the establishment of a policies unit as per “O.1-Establish a dedicated, centralized purchasing policy and procedure office.”
- ◆ Some of the specific policies will require legislative changes enabling uniformity, clarity, and compliance with best practices, such as L.2-Propose legislation to further define and clarify ‘organizational conflict of interest’ and ‘follow-on work’.”
- ◆ As policies are developed it will be necessary to incorporate the new policies into the State’s procurement training program. This integration is the topic of “T.1-Develop governance and integration processes with other, on-going training initiatives.”

**Initiative T.1– Develop governance and integration processes with other, on-going training initiatives.**

**Overview**

Training is an important consideration when developing policies and procedures. The coordination and continuous two-way communications and feedback between the training unit and the Policies and Procedures Office is essential to successful procurement operations in the State. The governance of the integration of these two key functions must be designed and implemented.

**Major Tasks**

- ◆ Develop a detailed governance process for policies and procedures to feed into the State’s procurement training program.
- ◆ Develop a feedback loop for the training program to give input into the development and maintenance of policies and procedures.

**Resources**

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
2 months	<ul style="list-style-type: none"> <li>▪ PPO Staff.</li> <li>▪ Training Program leaders.</li> </ul>

**Rationale**

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ As new policies are created, the procurement officials throughout the State will have the training to support their use.</li> </ul>	<ul style="list-style-type: none"> <li>▪ If the coordination fails it could cause negative perceptions of the new policies.</li> </ul>

**Initiative Dependencies/Relationships**

- ◆ “P.1-Complete the single policy and procedure documents.”
- ◆ “G.1-Design a comprehensive ‘governance’ structure for the development of purchasing policies and procedures.”
- ◆ “O.1-Establish a dedicated, centralized purchasing policy and procedure office.”

## Initiative L.1 – Clean-up statutes to remove references to DOIT.

### Overview

The Code specifically references the now defunct Department of Information Technology (DOIT). In order to eliminate confusion, DGS should work with the Department of Finance (DOF) to initiate clean-up legislation. Additionally, this legislation should be used to further clarify and define the specific roles and responsibilities of the DOF, who has assumed the duties of DOIT, and DGS with respect to information technology procurements.

### Major Tasks

- ◆ Create well delineated roles and responsibilities for both DOF and DGS.
- ◆ Craft legislation removing references to DOIT and clarifying the roles and responsibilities of DOF and DGS.

### Resources

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
6 months	<ul style="list-style-type: none"> <li>▪ Legislative Analyst.</li> <li>▪ Office of Legal Services (OLS).</li> <li>▪ PPO Staff.</li> <li>▪ Program managers.</li> <li>▪ Governance participants, as necessary.</li> </ul>

### Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Removes confusing references to DOIT from Code.</li> <li>▪ Clarifies duties, roles and responsibilities of both DGS and DOF for IT procurements.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Legislation may not be adopted.</li> <li>▪ Policy would have to address statutory deficiencies in lieu of statutory change.</li> <li>▪ Unanticipated and undesired changes may be incorporated during the legislative process.</li> </ul>

### Initiative Dependencies/Relationships

- ◆ None.

**Initiative L.2 – Propose legislation to further define and clarify “organizational conflict of interest” and “follow-on work.”**

**Overview**

The existing Code specifying the appropriateness of “follow-on work” does not reflect best practices from other states or the federal government and does not serve the State’s best interests. DGS should initiate legislation to deal with situations leading to organizational conflicts of interest that are inherent in vendor participation in the pre-solicitation activities. Additionally, the state should broaden the application of the “follow-on work” definition to apply to all contracting and procurement transactions, and not limit it to only consulting services. Also, “follow-on work” should not be limited to only those instances where the initial work is performed under contract or for fee.

**Major Tasks**

- ◆ Craft legislation addressing organizational conflict of interest and follow-on work for all procurements within the State.

**Resources**

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
6 months	<ul style="list-style-type: none"> <li>▪ Legislative Analyst.</li> <li>▪ Office of Legal Services (OLS).</li> <li>▪ PPO Staff.</li> <li>▪ Program managers.</li> <li>▪ Governance participants, as necessary.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Protects the best interests of the State.</li> <li>▪ Reflects best practices in other states and the federal government.</li> <li>▪ Applies more broadly to all procurement areas, not just consulting.</li> <li>▪ Maximizes fairness, openness, and competition.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Legislature defers decision on changes until the impacts of the latest changes, effective July, 2003, are analyzed.</li> <li>▪ Unanticipated and undesired changes may be incorporated during the legislative process.</li> </ul>

## Initiative Dependencies/Relationships

- ◆ None.

**Initiative L.3 – Remove statutory references that infer or direct that specifications not be defined in a detailed and precise manner.**

Overview

The term “specification” has multiple meanings, especially in the area of information technology (e.g., design specifications, performance specifications). The undefined, unspecific use of this term in the Code introduces confusion into the development of specifications. The various references in Code may be construed to mean that business requirements need only be described in a generalized and not detailed fashion. Whereas, in fact, a necessity when building large-scale integrated systems, the business requirements need to be specified in detail to ensure that each bidder has a clear understanding of the solicitation requirements.

Major Tasks

- ◆ Craft legislation defining and applying the identified types of “specifications.”
- ◆ Upon passing of legislation, update policies.

Resources

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
6 months	<ul style="list-style-type: none"> <li>▪ Legislative Analyst.</li> <li>▪ Office of Legal Services (OLS).</li> <li>▪ PPO Staff.</li> <li>▪ Program managers.</li> <li>▪ Governance participants, as necessary.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Increases the likelihood that procurements meet the business needs.</li> <li>▪ Protects the best interests of the State.</li> <li>▪ Reflects best practices in private industry.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Legislation may not be adopted.</li> <li>▪ Policy would have to address statutory deficiencies in lieu of statutory change.</li> <li>▪ Unanticipated and undesired changes may be incorporated during the legislative process.</li> </ul>

## Initiative Dependencies/Relationships

- ◆ None.

### **Initiative L.4 – Clarify legislation to consolidate the organizations involved in hearing and resolving protests.**

#### Overview

For each type of procurement, the Code defines a protest process by which the State receives, processes, and decides on bidder protests:

- ◆ For goods and information technology (IT) goods and services, protests are heard by the Victim Compensation and Government Claims Board (VCGCB).
- ◆ For non-IT services, protests are heard by the DGS.
- ◆ For those procurements utilizing the Alternative Protest Pilot, protests are heard by the Office of Administrative Hearings.

For each protest hearing body, the processes differ significantly. This structure presents a challenge to both the buyer and vendor community in effectively utilizing and managing the protest-related processes.

In consideration of the large number of protests heard by the various units each year, the Code should be modified to deter frivolous protests. As reflected in the best practices of other states, protests can have a multi-tiered review process. For example, the initial protest is heard internally to DGS by an appropriate person who may rule the protest valid or frivolous. If the initial protest is found frivolous, the protester may elevate the protest to the hearing body outside of DGS in consideration of a “protest bond” that may be forfeited if the protester “loses.”

#### Major Tasks

- ◆ Analyze the workload, capabilities, and other attributes of each of the protest hearing units including the relevant processes.
- ◆ Craft legislation to consolidate the protest hearing units to a minimal number and define standardized processes for announcing intent to awards and other milestones of the protest process.
- ◆ Create legislation allowing DGS to make initial findings on protests including the ability of the protester to appeal in lieu of a protest bond.

## Resources

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
6 months	<ul style="list-style-type: none"> <li>▪ Legislative Analyst.</li> <li>▪ Office of Legal Services (OLS).</li> <li>▪ PPO Staff.</li> <li>▪ Program managers.</li> <li>▪ Governance participants, as necessary.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Creates a consistent, uniform approach to all protests.</li> <li>▪ Allows DGS to pass initial judgment on protests.</li> <li>▪ Ensures that the vendor community has a fair and open protest mechanism.</li> <li>▪ Protects the best interests of the State and reflects best practices in other states.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Complex changes effecting vendor community and existing State organizations.</li> <li>▪ Unanticipated and undesired changes may be incorporated during the legislative process.</li> </ul>

## Initiative Dependencies/Relationships

- ◆ There may be an impact on the DGS protest facilitator and ombudsman that are addressed in “O.5-Establish a Customer and Supplier Advocate separate from the Protests and Disputes Section.”

**Initiative L.5 – Modify the PCC to clearly define the Non-Competitive Bid (NCB) process and allowed justifications for NCBs.**

**Overview**

The use of non-competitively bid (NCB) procurements is inconsistent due to a lack of clarity in the law. The Public Contract Code ought to include a clear set of rules guiding the applicability and conduct of the NCB process.

Non-competitively bid contracts do not have the built-in protections on value that are present in a free-market competition based procurement. The lack of such protections requires extra diligence on part of the State procurement official to conduct analysis and enter into negotiations with the single supplier. The requirement for negotiation in this situation is so compelling as to justify a legal requirement for this activity.

**Major Tasks**

- ◆ Craft legislation to define the applicability and conduct including the negotiation process of the NCB process.

**Resources**

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
6 months	<ul style="list-style-type: none"> <li>▪ Legislative Analyst.</li> <li>▪ Office of Legal Services (OLS).</li> <li>▪ PPO Staff.</li> <li>▪ Program managers.</li> <li>▪ Governance participants, as necessary.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"><li>▪ Creates a consistent, uniform and clear set of rules for using an NCB.</li><li>▪ Ensures that the vendor community has a fair and open procurement mechanism wherever possible.</li><li>▪ Protects the best interests of the State and reflects best practices in other states.</li></ul>	<ul style="list-style-type: none"><li>▪ Unanticipated and undesired changes may be incorporated during the legislative process.</li></ul>

## Initiative Dependencies/Relationships

- ◆ None.

**Initiative L.6 – Modify the PCC to allow for incentive contracting in the areas of goods, IT and non-IT services.**

**Overview**

The use of performance incentives is a practice that could be expanded to lower risk, increase value, and maximize potential savings. The use of such contracts is limited to specific revenue sharing or share-in-savings contracts. Incentives could be expanded to include a much wider range of contracts. Because the authority for incentive contracts is not explicit in the PCC other than in the State Contract Act sections related to public works contracts, it would be in the State of California’s interest to craft such legislation specifically authorizing the use of incentives in all contracting (i.e., goods, IT, and non-IT services) when appropriate.

**Major Tasks**

- ◆ Craft legislation to authorize the wide and creative use of incentives in procurements and contracts.

**Resources**

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
6 months	<ul style="list-style-type: none"> <li>▪ Legislative Analyst.</li> <li>▪ Office of Legal Services (OLS).</li> <li>▪ PPO Staff.</li> <li>▪ Program managers.</li> <li>▪ Governance participants, as necessary.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Creates the clear authority for the use of incentives in contracting.</li> <li>▪ Realize increased value, cost savings and lower risk in State contracting.</li> <li>▪ Protects the best interests of the State and reflects best practices in other states.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Unanticipated and undesired changes may be incorporated during the legislative process.</li> </ul>

## Initiative Dependencies/Relationships

- ◆ None.

**Initiative L.7 – Propose legislation to remove the specific dollar amounts from the statute authorizing DGS to exempt services contracts from review and authorize DGS to set the dollar amount levels directly.**

**Overview**

In order to create a more consistent system of delegations, the approval levels for contracts ought to be standardized. DGS is authorized to set these levels in the case of goods and IT delegations. It is restricted, in the non-IT services area, to a \$75,000 level set in PCC 10351. This specific dollar amount should be removed and replaced with a clause allowing DGS to set the amount as is the case with goods and IT procurements.

**Major Tasks**

- ◆ Craft legislation to remove the specific dollar amount (\$75,000) listed in PCC 10351 and replace with a clause allowing DGS to set the levels for services contract approval exemptions.

**Resources**

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
6 months	<ul style="list-style-type: none"> <li>▪ Legislative Analyst.</li> <li>▪ Office of Legal Services (OLS).</li> <li>▪ PPO Staff.</li> <li>▪ Program managers.</li> <li>▪ Governance participants, as necessary</li> </ul>

**Rationale**

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Creates a uniform system of delegations without regard to procurement type.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Unanticipated and undesired changes may be incorporated during the legislative process.</li> </ul>

**Initiative Dependencies/Relationships**

- ◆ None.

**Initiative L.8 – Propose legislation to centralize the purchasing authority with DGS and remove the organic authority for the purchase of services from the agencies. This would include creating the authority for DGS to establish a delegation for services.**

## Overview

In order to create a uniform system of delegations, the authority for conducting procurements in the State must be standardized. DGS has the organic authority to conduct both goods and IT related purchases. In the case of non-IT services, DGS does not delegate the authority but rather the authority resides in the individual agencies. This inconsistency impedes the creation of a uniform system of delegation. A legislative change is required to remove the inconsistency.

## Major Tasks

- ◆ Craft legislation to remove the organic authority that State agencies possess to procure non-IT services.

## Resources

<i>Estimated Timeframe</i>	<i>Resource Requirements</i>
6 months	<ul style="list-style-type: none"> <li>▪ Legislative Analyst.</li> <li>▪ Office of Legal Services (OLS).</li> <li>▪ PPO Staff.</li> <li>▪ Program managers.</li> <li>▪ Governance participants, as necessary.</li> </ul>

## Rationale

<i>Benefits</i>	<i>Risks/Issues</i>
<ul style="list-style-type: none"> <li>▪ Creates a uniform system of delegations.</li> <li>▪ Eases administration of the delegation program.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Unanticipated and undesired changes may be incorporated during the legislative process.</li> </ul>

## Initiative Dependencies/Relationships

- ◆ None.

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