October 1, 2020

The Honorable Larry Hogan
Governor

The Honorable Paul G. Pinsky
Chair, Senate Education, Health, & Environmental Affairs Committee

The Honorable Shane E. Pendergrass
Chair, House Health & Government Operations Committee

Reference: Report of the Chief Procurement Officer
House Bill 1021 Chapter 590, Laws of 2017, Section 2, page 42

Dear Governor Hogan, Chairs Pinsky and Pendergrass:

In accordance with House Bill 1021 Chapter 590, Laws of 2017 attached is the Chief Procurement Officer’s report on:

- The development of performance metrics and the implementation of strategic sourcing;
- Recommendations for consolidating and deleting reporting requirements;
- Recommendations for reporting requirements for units exempt from the oversight of the Board of Public Works, including procurements for which the Maryland Department of Transportation and the University System of Maryland are exempt;
- Whether the policy of the State as provided by § 13–102 of the State Finance and Procurement Article, which requires the use of competitive sealed bids unless another procurement method is specifically authorized, should be changed and how;
- Whether the small procurement dollar thresholds established under § 13–109 of the State Finance and Procurement Article should be raised and to what amount; and
- Recommendations on what exemptions from State procurement laws and obsolete programs should be repealed, including the Small Business Preference Program.
Please feel free to contact Robert Gleason, DGS Chief Procurement Officer at 410-260-3910 or Robert.Gleason@Maryland.gov, if you have any questions.

Sincerely,

Ellington E. Churchill, Jr.
Secretary

Enclosure

c: Sarah Albert, DLS Library
Robert Gleason, DGS Chief Procurement Officer
Ellen Robertson, DGS Legislative Liaison
INTRODUCTION:

The Maryland Department of General Services (DGS), Office of State Procurement (OSP) is pleased to present this report following a three-year statewide, executive branch procurement transformation and reorganization effort, with its operations commencing October 1, 2019. This was possible through the dedicated support of many procurement officers and leaders who serve our State agencies, OSP and DGS leadership, and Administration leaders. Beginning with the 2016 Governor’s Commission to Modernize Procurement and its Final Report, continuing with House Bill 1021, Chapter 590 (2017) Laws of Maryland (Chapter 590), effective October 1, 2017, and followed then by submission of the Administrative Work Plan on October 1, 2018, this has all led to our achieving the goal of a initiating a centrally managed state procurement system in the form of the DGS Office of State Procurement on October 1, 2019.

With DGS OSP established, the Chief Procurement Officer (CPO) and DGS leadership present this report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee. As prescribed in the law, this report covers the following topic areas:

(A) Development of performance metrics and the implementation of strategic sourcing;

(B) Recommendations for consolidating and deleting reporting requirements;

(C) Recommendations for reporting requirements for units exempt from the oversight of the Board of Public Works, including procurements for which the Maryland Department of Transportation and the University System of Maryland are exempt;

(D) Whether the policy of the State as provided by § 13–102 of the State Finance and Procurement Article, which requires the use of competitive sealed bids unless another procurement method is specifically authorized, should be changed and how;

(E) Whether the small procurement dollar thresholds established under § 13–109 of the State Finance and Procurement Article should be raised and to what amount; and

(F) Recommendations on what exemptions from State procurement laws and obsolete programs should be repealed, including the Small Business Preference Program.

Reforms and changes resulting from Chapter 590 did not occur in isolation and many were often interconnected. When and where a change occurred in one area, we often discovered one or more changes were required in other areas. Because of this, DGS OSP believes it is important to provide context as to how all changes, when combined, impact the overall procurement system, many in positive ways, in addition to the above areas necessary for reporting.
SUMMARY OF THE DISPOSITION AND STATUS OF OTHER CRITICAL ELEMENTS OF CHAPTER 590

For context, the following information is provided, which has an impact on the topics above. Critical to success of the procurement modernization effort was the creation of the CPO position and consolidation of procurement units, activities, and oversight from four control agencies: the Departments of General Services, Budget and Management, Information Technology, and Public Safety and Correctional Services (for construction). By centralizing procurement authority, it became less challenging to harmonize a standardized system of delegated procurement authority, policies, practices, training, and management to provide greater consistency and uniform applicability than possible before the change. As of October 1, 2019, DGS OSP officially began operations, and the CPO was appointed and confirmed early in 2020.

In addition to those fundamental changes, DGS and the Department of Budget and Management (DBM) worked to eliminate multiple procurement career classifications in the State’s system in order to create one central procurement career group, consisting of four procurement officer levels, four procurement manager levels and one procurement trainee classification. The idea and purpose of this structure is to provide a clear career path for individuals who choose procurement as their profession. As of the writing of this report, all individuals performing procurement as the primary function of their job on behalf of the State of Maryland at agencies that fall under the control authority of the DGS OSP have been migrated into the new classifications.

With the State’s procurement workforce in their proper classifications, the attention of DGS OSP turned to establishing the Maryland Procurement Academy (Academy), another change ushered in under Chapter 590, and one that is expected to have a huge impact on public procurement in Maryland. This is a signature step of the professionalization of the State’s procurement workforce to accomplish more advanced, complex enterprise-wide contracts at the state level. The Academy comprises a comprehensive plan to train and certify the procurement workforce based in 21st century adult learning and human performance theory. The Academy will eventually be issuing Maryland-specific certifications based on nationally recognized procurement standards: the Certified Maryland Procurement Associate (CMPA), the Certified Maryland Procurement Officer (CMPO), and the Certified Maryland Procurement Master (CMPM).

While these changes were happening, on a parallel track but being led by the same members of leadership/procurement experts, the State was developing specifications for, soliciting and ultimately awarding a contract for a new statewide multijurisdictional e-procurement platform, commonly referred to as eMaryland Marketplace Advantage or “eMMA”. While procuring an e-procurement solution was outside the scope of Chapter 590, it was strongly recommended in the Report from the Governor’s Commission to Modernize Procurement, and, from a practical perspective, was needed to replace the Periscope platform, the contract for which was scheduled to terminate in July 2019. By law, all public bodies are required to post solicitations and/or awards on one publicly accessible system, therefore a replacement had to be in place when the previous platform was taken off line. The initial roll-out of eMMA was released successfully before the Periscope contract expiration and provided an equivalent functionality to that of the previous system; however, eMMA was procured with a promise of many advanced features, most of which were impossible on the previous platform, that other states have enjoyed for many years. The configuration and implementation of subsequent modules has been underway since the initial roll out.
The onset of the unprecedented and ongoing COVID-19 Pandemic presented scheduling and budgetary challenges that required and likely will continue to require adjustments to the roll-out of the remaining modules of eMMA. Ultimately, eMMA will be a state-of-the-art, eProcurement system that integrates with the State’s financial management information system to provide a full procure-to-pay solution and allow for transparency in all aspects of the e-procurement process that is vital to the State’s procurement modernization effort.

Lastly, Chapter 590 called for the reinvention of the Procurement Advisory Council, overseen by the Board of Public Works’ staff, as the Procurement Improvement Council (PIC) chaired by the newly created CPO. The statutory mandate for the new PIC also ensures that innovation, transparency and accountability remain at the forefront of any effort undertaken in the name of procurement reform and modernization.

Individually, each of these changes would have been seen as significant steps forward in the State’s effort to modernize public procurement; however, Chapter 590 and the support of this Administration acted as a catalyst for all of the changes to essentially happen at once. This had a dual-edged effect as it propelled the State forward faster than ever imagined towards our modernization goal, but brought with it an awareness of the interconnectedness of each component - a ripple effect - and an awareness of how a change made to one aspect of procurement can impact a dozen other aspects further along in the process, essentially requiring DGS OSP to tear down the existing procurement infrastructure and establish a new and better foundation for how procurement is conducted in Maryland.

TOPIC AREAS REQUIRED UNDER CHAPTER 590 2017 LAWS OF MARYLAND

A. The development of performance metrics and the implementation of strategic sourcing.

1. **Performance Metrics**

Before the creation of DGS OSP, performance metrics that were tracked were primarily those included in and related to the Managing for Results (MFR) performance indicators overseen by DBM and linked solely to the DGS budget. Discussion of further performance metrics was begun after October 1, 2019, but those efforts have been delayed by all hands pivoting to deal with the onset of Pandemic-related procurements. This has delayed our transformation efforts, as well as day-to-day procurement activities, as DGS OSP staff has been assisting MEMA and MDH in responding to emergency sourcing efforts.

Because of the many changes made under Chapter 590, we had to re-engineer many operations as new processes. As such, there are few pre-existing baseline measures. New leadership, new centralized authority, new delegations, a newly re-classified workforce, a new statewide eProcurement solution, and new statewide central procurement management processes have all required DGS OSP to review our business activities inside and out and model and adapt leading industry standards and activities used in other states. As we continue to transform, DGS OSP intends to identify and use meaningful data and practical reporting, much of which will be provided through technology and eMMA, and as we implement the planned Advanced Reports and Analytics module within the solution. We are still heavily engaged in and have not yet completed our technology transformation so these new eProcurement processes are still on our project roadmap.
Following implementation of eMMA’s 2.0 release, we plan to establish a full 12-month baseline, followed by a second year to assess whether a measure is effective and useful. Indicators DGS OSP will track will be intended to be dynamic, so overall procurement system measures can evolve to enable continuous improvement. By this we intend to add, modify and/or remove indicators, based on deliberative decisions of the CPO, in collaboration with procurement leaders, the PIC, other State priorities, and any factors essential to high-value outcomes and high-performance processes.

Based on this perspective, DGS OSP has identified the core areas we deem essential for measure. Each tier is linked to different aspects of the overall procurement system, and the benefits and remedies that reflect the overall goals of a) effectiveness, through procurement results or outcomes tied to value, followed by b) efficiencies, through procurement process and operational output tied to performance, and then c) system health, through intrinsic benefits to support confidence in the state’s procurement system to deliver value in managing the public’s commercial business both effectively and efficiently. These have proven effective elsewhere and are adapted from various sources, such as the National Procurement Institute (NPI). NPI prescribes various measures which are used when evaluating their annual Award for Excellence in Procurement, so while providing beneficial and critically needed data, also strategically positions Maryland for future recognition. The overall areas of measure DGS OSP intends to track fall into the three high-level tiers, to ensure an overall procurement “system” perspective over all key activities:

a) **Strategic Performance Measures**: SPMs are program effectiveness indicators. They are designed to assess overall outcomes expected of an enterprise procurement activity. Results- or outcome-based measures reflect value delivered to the strategic enterprise activity. This represents the highest level of value achievement for State procurement to support state goals and objectives. They also reflect joint and mutual accountability for success or failure between both the State and its established contractors. Examples may include alignment of key contracts to Managing for Results program goals, spend under management (SUM), addressable spend within eMMA, proportion of applicable discretionary spend acquired through formal procurement processes, number and percentage of professional procurement officers formally trained and certified; number of statewide functional and/or commodity category contracts under the influence or management of a strategic sourcing business plan, number of contracts with measurable environmental benefits, or socio-economic, or economic development, etc. These and other measures can be developed, prioritized, implemented, and managed as part of our policy for ongoing business plans.

b) **Key Performance Indicators**: KPIs are process efficiency indicators. They are designed to reflect processes, and following SPMs, measure how well or efficient key processes are. Each method of procurement is accompanied by its own set of timelines, resources, and requirements, necessary to accomplish a procurement. They can be unique to the commodity, service, or solution that procurement must achieve. To the extent each is enhanced or inhibited by law, regulation, policy, process, or technology is measurable for efficiency, or inefficiency. Many new contract models have emerged over time and are deemed highly effective in the private sector, but are unknown in Maryland. Cycle-
time metrics (from needs identification through contract award), increased delegated authority to agencies and procurement officers, state, local and higher education spend against statewide contracts, number of statewide contracts, prompt payment percentage for contract spend, number of contracts addressing functional or commodity spend categories, are examples we intend to help demonstrate improved process efficiency.

c) **System Health Indicators:** SHIs represent indicators of the overall integrity of the procurement system; elements of people, processes and technology. These are often not linked to any extrinsic money or value, but are intrinsic benefits that accrue to all and the public body, by providing a level or standard of confidence in delivering both effectiveness (Outcomes) and efficiency (Output) of the overall procurement system to achieve confidence in delivering results to meet state and public needs. Examples may include number of public bodies using all eMMA tools to its full system potential, number of public bodies accessed in eMMA, number of agency procurement reviews conducted with satisfactory results, proportion or number of contract disputes, proportion or number of no-bid or single-bid responses, number of retroactive term agreements reported. These help drive to describe the overall health of the procurement system and all of its elements.

As we continue to build and evolve DGS OSP and fully implement eMMA, the details of the SPMs, KPIs and SHIs will be developed for an overall system-level procurement perspective to ensure all people, technology and process changes are managed to their full potential.

2. **Strategic Sourcing**

Strategic sourcing is described as an organized, and collaborative way of identifying competitive suppliers with whom to develop high-value, long-term framework agreements and is considered a fundamental procurement principle for statewide application. State and local jurisdiction users can acquire common materials and services for essential mission purposes. It is an ongoing and deliberative statewide procurement process, the intent of which is to regularly review and incorporate new sourcing tools and approaches, new contract models, and innovation opportunities resulting from market, supplier, and technological developments.

The Maryland Strategic Sourcing Initiative (MSSI), when established, will be an effective strategic sourcing strategy to ensure Maryland organizes and improves its fiscal stewardship to achieve the best value for the public funds expended. Learning from other state’s models, DGS OSP plans to create high value statewide multiple award schedules which will include a cost-recovery strategy and will be centered on eMMA-enabled contract catalogs.

There are a number of commodity and service categories that Maryland will consider. The following are some examples of those categories:

- Computer Hardware
- Software
- Office Supplies
- Janitorial Supplies
- Travel Services
- Vehicles and Maintenance
- Maintenance, Repair, and Operating Supplies
- Lab Supplies
The nature of this program is that it requires our new e-procurement system, eMMA, to be fully functioning and we are able to capture sufficient data to identify and validate the spend categories. This will allow OSP to identify and leverage economies of scale. Initial planning is currently under discussion as we begin to develop policies, processes, and business plans encompassing the MSSI program.

OSP plans to work collaboratively with other states to ensure alignment of our program needs to national, state, and local cooperative procurement efforts. These opportunities will enhance our leverage in our strategic sourcing efforts, as collectively we are able to leverage our combined purchasing power and integrate minority and small business opportunities.

Put quite simply, strategically sourced, statewide contracts provide high-volume, low-cost, convenient contracts that allow the State as well as political subdivisions to purchase from those contracts instead of expending resources and time performing repetitive small procurements.

B. Recommendations for consolidating and deleting reporting requirements.

Note: See attached Appendix A - Report Chart.xls which shows all procurement-related reports DGS OSP must fulfill on an annual basis.

Upon review of the current reporting requirements that DGS OSP must comply with - approximately 26 separate reports - it becomes apparent that there is no organized approach to what is being required to report upon, nor is there any input from DGS OSP on what data is being collected, how that data is processed, the relevancy of the data to the intent of the report or the program supported by the data, or how the data is ultimately presented to the end-user or stakeholder. As such, DGS OSP would recommend the following actions be taken in relation to the current reporting requirements:

1. Procurement Forecasting Reports: There are two reports that fall under this category. The first is a report that other agencies are required to send to DGS OSP regarding planned purchases for the upcoming fiscal year. Currently, the reports are submitted annually to DGS OSP by all of the agencies and departments that are subject to Division II of the State Finance and Procurement Article. This is meant to provide advanced notice about equipment and products that are budgeted for by these agencies. However, the reality is that the reports rarely provide accurate information due to shifting budget priorities and the annual push to encumber funds prior to year-end close out - since the amount of funds remaining unencumbered is variable, the decision of what to spend it on is often made last minute. The second report is one provided by agencies and departments to GOSBA, in order for GOSBA to place it on their website for MBE and SBR firms to see the upcoming projects for which they might want to bid, or partner with a prime contractor on for those companies not yet able to bid as a prime.

While in the past these reports may have been useful, with the implementation of strategic sourcing and eMMA, where the ability for vendors to not only easily search for opportunities, DGS OSP can dashboard upcoming opportunities on the DGS and DGS OSP web pages where they are updated as contracts are advertised, therefore eliminating the need to compile and place a static list on the GOSBA website that is rarely updated once it has been posted for the year. For these various reasons, DGS OSP recommends that these reports should no longer be required.
2. MBE and SBR Reports - Currently, there are five separate annual reports due related to the MBE and SBR programs. The MBE Annual Report, the MBE Strategic Plan, the MBE Waiver Request Report, the SBR Annual Report and the SBR Strategic Plan, each submitted as a separate report, and with three different deadlines for submission. Additionally, the MBE and SBR annual reports are structured in a way that requires an extraordinary amount of manual manipulation of data pulled from FMIS, which is not only time consuming and tedious, but also increases the risk of “human error” and ultimately the possible reporting of incorrect or incomplete information.

DGS OSP recommends that the five reports noted above be combined into two reports: 1) an Annual MBE Report that includes the numbers for the previous fiscal year, a strategic plan that addresses the numbers being reported, and any waivers requested as well; and, 2) an Annual SBR Report that includes the numbers and statistics for the previous fiscal year and a strategic plan addressing the numbers being reported. It makes sense from a planning and resource allocation standpoint to combine the reports, and have them due during that period of the calendar year - it allows the agencies to close out the previous fiscal year and have complete information for inclusion in the reports and the complete information allows for a more focused and effective strategic plan.

3. DGS OSP recommends combining the following reports: Protests and Appeals, Contracts for Services Greater than $100K, Sole Source, Emergency, Expedited, Non-competitive Negotiated Awards, Contracts Performed outside the State of Maryland, Small Business Preference and Hiring Agreements. The combined report would be considered a comprehensive annual report on procurement activities. Again, combining the use of new technologies available and through better planning and resource allocation, information would still be made available but in a more logical and connected fashion.

4. DGS OSP recommends that at a minimum the two Preference Provider reports currently required, be combined into a single report, unless they are eliminated completely. The Preferred Provider Forecast and Strategies for Improvement Report attempts to broadcast any large upcoming contracts as well as strategies for increasing the use of preferred providers, and the Preferred Provider Annual Report gives the numbers and statistics for contracts and work awarded to Preferred Providers during the previous fiscal year. Given the strict policies and processes around the use of Preferred Providers the time and resources to prepare the reports when compared to the uses to which the report is put once prepared would indicate that these reports should no longer be required. However, if the desire for the reports still exists, at the very least these two reports should be combined into a single report.

C. Recommendations for reporting requirements for units exempt from the oversight of the Board of Public Works, including procurements for which the Maryland Department of Transportation and the University System of Maryland are exempt.

Response: No recommendations at this time, but DGS OSP intends to address this topic in the future through the PIC.
D. Whether the policy of the State as provided by § 13–102 of the State Finance and Procurement Article, which requires the use of competitive sealed bids unless another procurement method is specifically authorized, should be changed and how.

Response: SF&P § 13-102 was amended to allow the use of various procurement methods at the discretion of the procurement officer.

E. Whether the small procurement dollar thresholds established under § 13–109 of the State Finance and Procurement Article should be raised and to what amount.

Response: DGS OSP recommends the small procurement dollar threshold be examined in light of the improvements and advances made within the procurement system with the threshold raised to either One Hundred Thousand Dollars ($100,000) or a level recommended and supported by research conducted by a work group with oversight provided by the PIC. This recommendation shall be in keeping with nationally recognized public procurement standards used universally, threshold standards used by other states and aligned to the time and resource costs of procure goods and services.

Additionally, OSP has established the Procurement Review Program to have Account Executives conduct Agency Procurement Reviews to confirm agencies are following Maryland law, regulations, policies, procedures and best practices. Based on the results of a review, an agency that consistently meets established standards could seek and obtain additional procurement delegation from OSP. Once an agency has trained and certified procurement officers and the agency has received a successful Agency Procurement Review, the agency could request increased delegation for its agency-specific procurements. One of the ripple effects of having trained and certified procurement officers within an agency focusing on the agency-specific procurements is that OSP can focus on strategic sourcing strategies and develop leveraged statewide contracts for use by all public bodies, benefiting the entire State.

F. Recommendations on what exemptions from State procurement laws and obsolete programs should be repealed, including the Small Business Preference (SBP) Program.

Response: DGS OSP, upon due consideration, recommends the SBP Program be repealed. The primary consideration for this being that as the law is currently written state agencies report on SBR awards, but only when designated as an SBR solicitation prior to publication. The reporting for SBP Program contracting has been eliminated, but when it was required did not have the capability to show the financial impact of the program, if any, on the small business vendor community. Relatively few agencies of the already short list of agencies authorized to use the SBP Program actually use it, as any awards made to a small business through a solicitation containing the SBP would not count towards the State’s annual SBR goal of 15%.

At this time, DGS OSP makes no other recommendations for repealing obsolete laws or programs; however, we intend to revisit the topic once DGS OSP has had time to establish itself, so as the procurement system in Maryland evolves, our laws and programs will advance with it, based on informed and deliberative decision-making with statewide systemic and technological improvements.
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<th>Appendix A</th>
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<td>Annually</td>
<td>6/28</td>
<td>GOSBA</td>
<td>OSP</td>
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<td>Annually</td>
<td>6/28</td>
<td>MSDE, Local Boards of Ed</td>
<td>OSP</td>
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<td>Annually</td>
<td>8/30</td>
<td>Secretary DGS</td>
<td>OSP</td>
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<td>7</td>
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<td>Annually</td>
<td>9/30</td>
<td>Governor, President, Speaker</td>
<td>OSP</td>
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<td>8</td>
<td>Sole Source Procurements</td>
<td>Annually</td>
<td>9/30</td>
<td>OSP</td>
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<td>9</td>
<td>Emergency Procurements</td>
<td>Annually</td>
<td>9/30</td>
<td>OSP</td>
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<td>Expedited Procurements</td>
<td>Annually</td>
<td>9/30</td>
<td>OSP</td>
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<td>Annually</td>
<td>9/30</td>
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<td>Annually</td>
<td>9/30</td>
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<td>OSP</td>
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<td>Annually</td>
<td>9/30</td>
<td>BPW, GOSBA</td>
<td>OSP</td>
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<td>Annually</td>
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<td>OSP</td>
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<td>17</td>
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<td>Annually</td>
<td>9/30</td>
<td>GOSBA, Jt. Comm. Fair Practices</td>
<td>OSP</td>
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<tr>
<td>18</td>
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<td>Annually</td>
<td>7/31</td>
<td>BPW, GOSBA</td>
<td>OSP</td>
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<td>Report Green Purchasing Activities &amp; Progress</td>
<td>Annually</td>
<td>9/30</td>
<td>Governor, President, Speaker</td>
<td>GPC</td>
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<td>Green Purchasing Committee Report</td>
<td>Annually</td>
<td>9/30</td>
<td>President, Speaker</td>
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<td>21</td>
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<td>Annually</td>
<td>11/1</td>
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<td>22</td>
<td>Preferred Provider Forecast &amp; Strategies for Improvement Report</td>
<td>Annually</td>
<td>11/29</td>
<td>BPW, EHEA, HGO, LPC</td>
<td>OSP</td>
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<tr>
<td>23</td>
<td>Preferred Provider Report</td>
<td>Annually</td>
<td>11/29</td>
<td>BPW, EHEA, HGO, LPC</td>
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<tr>
<td>25</td>
<td>Procurement Improvement Council Report</td>
<td>Annually</td>
<td>12/31</td>
<td>General Assembly</td>
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