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# **A View from the Marketplace:**

What They Say About State IT Procurement

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**2018**

# A View from the Marketplace: What They Say About State IT Procurement

In 2016, the National Association of State Chief Information Officers (NASCIO) launched an information technology (IT) procurement reform campaign because of the consistent negative outlooks on the current process from state and private sector members. Since then NASCIO has worked with the National Association of State Procurement Officials (NASPO) on several projects, most recently in September 2017 when NASCIO and NASPO released a joint roadmap for state information technology procurement reform and process transformation ([www.nascio.org/itprocurement](http://www.nascio.org/itprocurement)). The report, [State IT Procurement Negotiations: Working Together to Reform and Transform](#) is a product of the NASPO-NASCIO Task Force on IT Procurement *Negotiations*, and includes 18 joint recommendations for IT procurement improvement in relationship building, procurement processes, centralization and legislation and policy.

Many of NASCIO and NASPO's recommendations focus on internal state relationships and processes, but there are also recommendations where the private sector can play a significant role. That is why, in 2018, NASCIO convened the NASCIO Roundtable on IT Procurement Innovation. NASCIO invited the following associations to participate in the Roundtable:

- National Association of State Procurement Officials (NASPO)
- National Association of State Chief Administrators (NASCA)
- Computing Technology Industry Association (CompTIA) SLED Council
- IT Alliance for Public Sector (ITAPS)

One goal of the Roundtable was to determine which of the recommendations from the 2017 NASPO-NASCIO publication are most applicable to the private sector and to scale the value and feasibility of the most applicable recommendations. The Roundtable agreed that the following four recommendations warranted further review:

- Work with all parties—including those from the private sector—to establish a process that increases flexibility and communication.
- Use iterative/non-waterfall procurement methodologies when appropriate to improve procurement cycles, add flexibility and reduce risk.
- Leverage cooperative purchasing, master service agreements and pre-qualified vendor pools, when appropriate, to achieve the best value for state IT procurements.
- Craft requests for information (RFIs) and requests for proposals (RFPs) in a manner that encourages solutions from the private sector rather than focusing on overly prescriptive specifications.

Further, the following implementation methods listed in the 2017 NASPO-NASCIO report are also relevant to the work of the Roundtable:

- Be aware of and consider the cost to a vendor to participate in the procurement process, including the costs of submitting an RFP, RFI, etc.
- Review and improve the pre-bid meeting process.
- Maintain or improve relationships with the private sector and consider appropriate interaction with private sector thought leaders.

## Effectiveness of Current Process—Private Sector View

First, in order to more closely explore how the private sector can play a role, the Roundtable surveyed NASCIO's corporate members (referred to here as private sector members), who represent 150 private companies serving the state government IT market. We first asked private sector members a question that had been asked in the NASPO-NASCIO Task Force on IT Procurement Negotiations 2017 publication [State IT Procurement Negotiations: Working Together to Reform and Transform](#) about the effectiveness of the state IT procurement process.

**How effective would you say the current state IT procurement process is at the following:**

- Getting the most *cost-savings* for states?
- Getting the *best value* for states?
- Getting the *most innovative technology available* for states?

**State CIOs and CPOs** answered the question in the following manner:

effectiveness of current IT procurement process CIO/CPO response					
	Very Ineffective	Ineffective	Neither	Effective	Very Effective
Getting the most cost-savings for your state?	0	12%	20%	58%	10%
Getting the best value for your state?	0	8%	24%	53%	15%
Getting the most innovative technology for your state?	0	15%	31%	44%	10%

Most CPOs and CIOs agree that current procurement processes are effective when it comes to cost-savings and best value, but as the graph illustrates, there is some debate about whether the current process is leading to the acquisition of the most **innovative** technology for the state. NASCIO and NASPO members agreed that this could be an issue of semantics—that CIOs and CPOs mean different things when they say something is “innovative”—or that the current processes are not structured in a way that ensures that the most innovative solutions are brought to the states. This is one of the reasons we wanted to ask the private sector the same question. Here is that result:

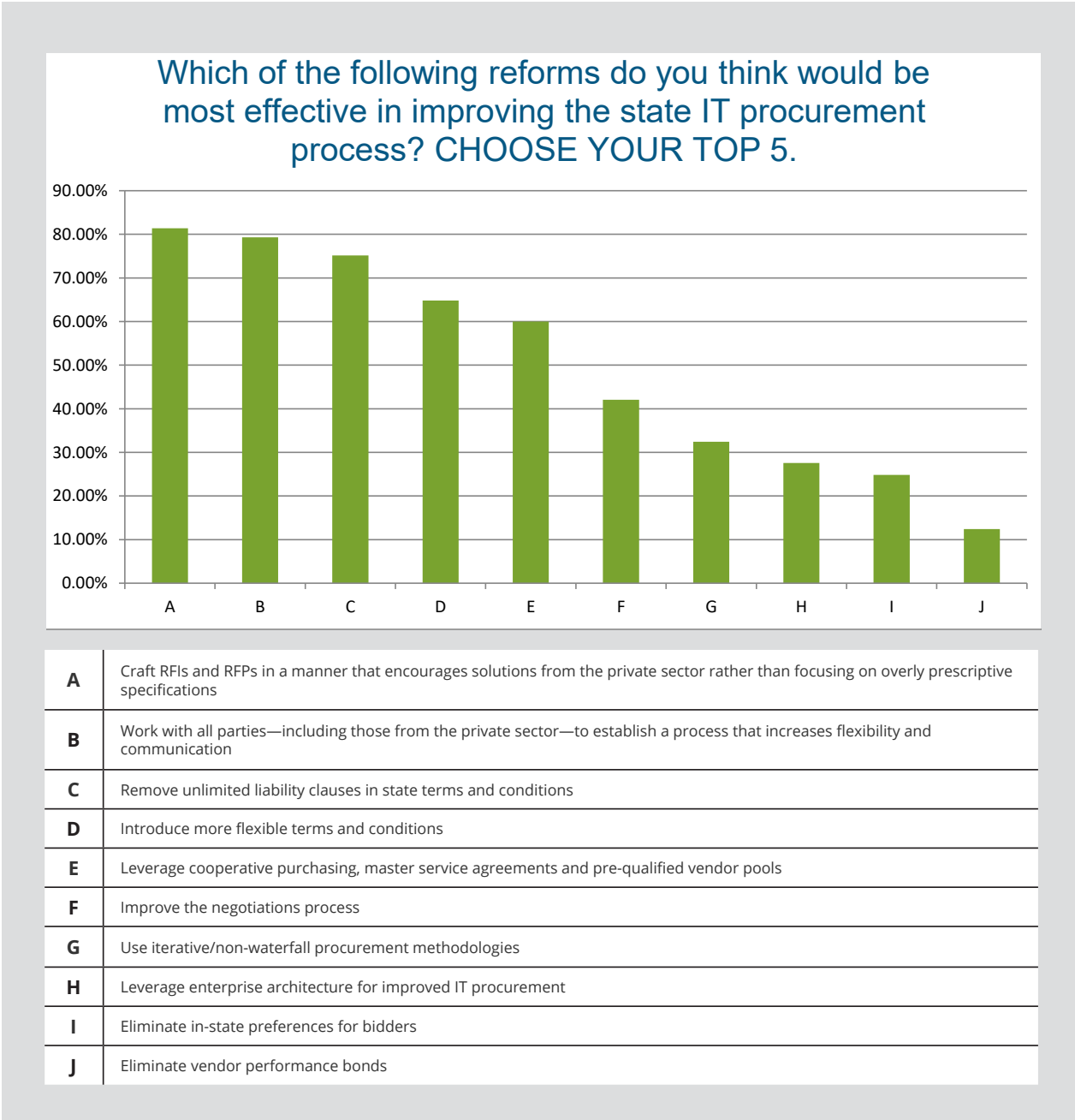
effectiveness of current IT procurement process private sector response					
	Very Ineffective	Ineffective	Neither	Effective	Very Effective
Getting the most cost-savings for states?	12%	30%	28%	28%	3%
Getting the best value for states?	22%	42%	21%	14%	.69%
Getting the most innovative technology for states?	28%	51%	16%	6%	0%

NASCIO’s private sector members rated the current state IT procurement process as ineffective in getting the most cost savings, best value and most innovative technology for states. Why was there such a discrepancy in the perspective of state CIOs and CPOs versus NASCIO’s private sector members? As one respondent said, in the private sector it’s “innovate or die” but it’s not the same in government, nor should it be. “When the ground shakes, you want the government to be solid.”

Most Effective Reforms

We also surveyed NASCIO’s private sector members about which reforms would be most effective in improving the state IT procurement process. NASCIO’s private sector members ranked the choices in the following manner:

NASCIO’s private sector members were also given the opportunity to provide



additional comments about the above rankings.

## Improving the RFP/RFI process

Specifically, private sector members would like RFPs to have increased flexibility to negotiate. They would also like to see clearly defined terms and conditions, an accurate statement of work and cybersecurity requirements included in the RFP for clearly defined contracting roles. Private sector members also included the following specific quotes:

**“Lumping together solutions and prescriptive specifications in RFPs significantly decreases many innovative tech companies from bidding and providing their solutions to government agencies.”**

“Too often prescriptive specifications are designed to force customization and feature creation to map often inefficient government processes, as opposed to procuring software that can create savings and efficiencies in government workflows.”

“When it comes to complex IT procurements, states that engage with vendors early in the process on describing the business problems they are looking to solve, rather than jumping into a detailed list of requirements too soon, stand a better chance of finding a solution which best suits their set of circumstances, which in some ways may be unique.”

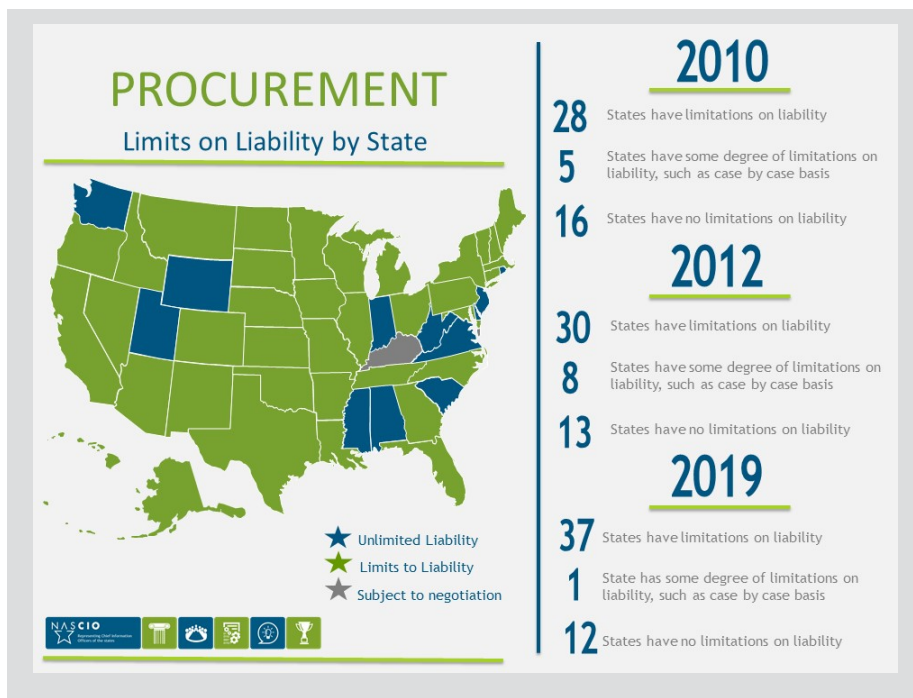
**Work with all parties—including those from the private sector—to establish a process that increases flexibility and communication**

“IT, or technology, is now part of every aspect of state business and opportunity. Working more inclusively - cross functionally and strategically - will enhance the value states can see in procurements. Using limited resources most efficiently and effectively.”

“State procurements are expensive to pursue and only vendors of a certain size will take that risk. And this means that states become even more risk-adverse because after investing all that time they cannot afford procurement failure.”

## Remove unlimited liability clauses in state terms and conditions

NASCIO has consistently called for eliminating limitations on liability ([www.nascio.org/procurement](http://www.nascio.org/procurement)) and, according to NASPO's state survey, only 12 states still have unlimited liability.



As state CIOs continue to deploy IT solutions, it is important to recognize the fiscal benefits of transforming the procurement process to meet the needs of a smaller workforce, budget constraints, and consolidation efforts. States who have eliminated unlimited liability have also experienced an increased innovative and competitive contract culture. Additionally, NASCIO's private sector members said:

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**“Unlimited Liability is one major constraint where established players are forced to stay out from bidding. This leads to most states not getting the best of possible solutions.”**

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“A few states which still employ unlimited liability clauses are either excluding the largest vendors from competing altogether, thus lowering the competition, or forcing them to engage in risk mitigation tactics by getting smaller risk tolerant vendors to take on most if not all the risk, thus undermining the point of liability in the first place.”

As an alternative, states have implemented risk management strategies for state IT contracts. For more information, please see NASCIO's publication [Procurement: Avoiding Risky Business.](#)

#### Introduce More Flexible Terms and Conditions

“As customers migrate to managed service or service related contracts, including infrastructure, states need to have more flexible terms and not apply traditional hardware terms to items they do not belong with.”

“Standardized terms and conditions for all states could be very helpful and could save time and money.”

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**“Mandatory and non-negotiable terms and conditions are the biggest obstacle for us as a cloud provider.”**

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The Center for Digital Government's [Best Practice Guide for Cloud and As-A-Service Procurements](#) states the following:

While technology service options continue to evolve, however, procurement processes and policies have remained firmly rooted in historical practices that are no longer effective. In order for governments of all sizes to take advantage of the best the market now has to offer, a more flexible and agile procurement process must be identified and implemented. Effective procurement achieves timely results and good outcomes and protects the public's interest. That is all still possible through a more flexible, services-centric approach.

#### Leverage Cooperative Purchasing, Master Service Agreements and Pre-qualified Vendor Pools

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**“Increased use of other states' vehicles could improve flexibility in procurement.”**

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“With the rise of regional coalitions in the smart communities developments, states could again take a leadership role in providing a flexible state contract enabling local jurisdictions to purchase Internet of Things (IoT) related solutions.”

The [NASCA 2018 State Chief Administrators Survey in Strategy, Procurement and Digitization](#) states:

“Survey responses show that about 60 percent of procurement is done through standard RFP processes, and the rest is split between cooperatives, reverse auction, managed service provider (MSP) and other processes, which mainly consist of direct solicitation and sole source. However, modernizing one’s channel strategy entails more than simply deciding when to use an RFP versus a cooperative purchasing vehicle; it is about using each channel to maximize effectiveness.”

### Improve the Negotiations Process

Improving the negotiations process by implementing rules for using competitive negotiations helps facilitate “give-and-take” between buyer and seller (i.e. state and vendor).

The 2017 NASPO-NASCIO Task Force on IT Procurement Negotiations publication [State IT Procurement Negotiations: Working Together to Reform and Transform](#) focused in part on this very issue.

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**“Penalizing vendors for taking exception to inflexibility during negotiations has a potential to create adversarial relationships between clients and vendors and increase the likelihood of contract disputes.”**

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“Conduct reasonable negotiations without issuing demands or ultimatums and look to achieve mutual benefit by identifying areas of importance and allowing vendors to do the same.”

“In general, we’ve seen an increasing disconnect between IT and their procurement teams which makes negotiating the best price/solution difficult.”

In 2016 NASCIO participated in a procurement reform task force, led by the IJIS Institute, which produced a set of recommendations, [Strategies for Procurement Innovation and Reform](#). The report states the following:

“As the costs of procurement and subsequent contract negotiations within the public sector continue to rise, it becomes critically important to examine ways to introduce reform and innovation rather than to simply accept the status quo. Since the increased costs have not lead to a commensurate increase in performance, delivery, or completion of projects, there is certainly an opportunity to examine ways to improve the procurement process, from both the buyer and seller perspectives.”

### Explore Increased Use of Iterative/Non-Waterfall Procurement Methodologies

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**“[current] procurement for iterative/incremental/ Agile projects is terrible.”**

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The private sector expressed a concern that states aren't understanding iterative procurement or using it properly. As one private sector member put it, "states are approaching a legacy procurement to an agile environment." Still one private sector member said that iterative procurement and the risk associated with it "makes the hair on the back of the neck of state government stand up."

In the 2018 State CIO Survey, 48 percent of CIOs reported that they were already using modular procurement and contracting in legacy modernization projects. Sixteen percent said the modular procurement was in the works and another 24 percent said they were considering using it. One CIO said, "taking a modular approach allows for better targeting of 'best of breed' for every element of the overall solution."

For more information on iterative procurement, see the NASPO publication, [Modular Procurement: A Primer](#)

### [Leverage Enterprise Architecture for Improved IT Procurement](#)

NASCIO describes enterprise architecture (EA) as a technique for developing the necessary repository for an enterprise approach to state IT. EA should articulate the desired direction of state government, including business process modernization. EA is critical because it contains the blueprint for integration of information and services at the design-level across agency boundaries. When state governments stray from a holistic view of the state, silos are soon created and gaps in communication and alignment spread across agencies.

The procurement process should be adjusted to recognize and align with enterprise IT strategies, architecture and standards-based acquisitions—all of which can be used to improve and lower costs of state IT procurement and support wise investments. By finding synergies that exist, both disciplines and stakeholders will benefit from the higher levels of value, strategic conformity, and more sensible IT investment decisions.

The NASCIO publication [Leveraging Enterprise Architecture for Improved IT Procurement](#) provides suggestions for successful enterprise IT procurement.

### [Eliminate In-state Preferences for Bidders](#)

Restrictions to a wide market of potential bidders only limits the competition in the market, leading to disadvantages based on geography. This may lead to the most innovative or best fitting product not in fact winning a bid, which isn't ultimately delivering the best solution to government.

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 **"In-state/status preference creates barriers to entry that increase prices of software for governments."**

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"I have found challenges identifying in-state partners with the proper skill sets to provide more than supplemental project management hours to bids in order to gain the in-state preference."

### [Eliminate Vendor Performance Bonds](#)

Though once easily attainable, the surety market has significantly changed the availability of performance bonds because of a wave of factors external to



the IT industry. The amount of readily available performance bonds has become a challenge, and, in some instances, bond companies have begun to require companies to partially or fully collateralize performance bonds with bank letters of credit.

In order for states to lower costs and create a competitive procurement pool, states need to consider finding ways of leveraging existing protections and adjusting performance bond requirements if necessary.

The NASCIO publication [Leaving Performance Bonds at the Door](#) provides extensive background information on the disadvantages of performance bonds.

## **What Do Roundtable Members Say?**

To discuss the results of the private sector survey and the larger issues at hand further, the NASCIO Roundtable on IT Procurement Innovation met in person in August 2018. At this event, a lot of insight emerged. First and foremost, it was agreed upon by the group that what we are working on revamping should be called the “IT acquisition process” instead of simply the “procurement process.”

The IT acquisition process starts with discovering a need and ends with final implementation; the procurement process is but one part. While Roundtable members agreed that the IT acquisition process casts a wider and more accurate net, they also agreed that it is more inclusive. i.e. “we are all in this together and we all have a part to play.” Along those same lines, Roundtable members also stressed that everyone have a seat at the table and do so early and often. As one private sector member said, “the earlier we know some of the those challenges we will be up against, the earlier we can find a resolution to move forward.”

Two viewpoints that merit mentioning are from chief procurement officers and the private sector community. One reason why we agreed to say the “IT acquisition process” is because simply saying the “procurement process” can be interpreted as pointing fingers at state procurement teams as if they are to blame. Not the case, said one CIO present: “procurement is my best friend” when going through this process. No need to point fingers; the intention is to improve the process as one team.

Further, the private sector Roundtable members present described what they called a distrust they sense from the state community. There is the perception of some type of adversarial relationship between governments and the private sector when, in fact, they often work as a team with one common goal. As one private sector member said, “we are automatically distrusted and that’s why we aren’t called partners.” One CPO said, “we need to be okay with partners and not just vendors.” CPOs also stressed the need to have a professional and partner relationship with vendors that maintains transparency and fairness in the procurement process.

So, what is the difference between a partner vs. a vendor? A vendor is transactional, litigates or politicizes the procurement process and creates a feeling of distrust. A partner is a trusted advisor, shares risk, goes the extra mile and will work together when something goes wrong. One private sector member said, “it’s technology, so things happen – if there isn’t that partnership, it hurts both sides.” And, as one chief administrator suggested, both IT and procurement teams should spend time building relationships with private sector teams to make the process less transactional.

Also, what constitutes a partnership between CIO and CPO teams? One CIO said he wanted procurement to be a coach rather than an umpire. That way both the CIO and CPO can carry the same message and be trusted advisors for each other. As one CPO asked, if procurement is brought in so late in the game, “how is it a collaborative process?”

Finally, the Roundtable produced the following recommendations for all involved in the IT acquisition process.

## Recommendations

### Work together to shorten the IT acquisition process

- The IT acquisition process starts with discovering a need and ends with final implementation; the procurement process is but one part.
- Craft RFIs and RFPs in a manner that encourages solutions from the private sector rather than focusing on overly prescriptive specifications.
- Track the time it takes to complete the IT acquisition process to determine which part of the process takes the longest and which type of acquisition takes the longest.

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**“The delay in making award decisions or in executing contracts after award is killing industry capabilities. While the slow process may be ok for goods and commodity services, the cost and delays make it very difficult to align proposals and implementation activities.”**

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**“During one sales cycle I had two children. True story.”**

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### Build relationships and improve communication and transparency

- The IT team, the procurement team and private sector partners make up the acquisition process ecosystem—make sure everyone has a seat at the table.
- Look for partners and not just vendors or suppliers. If you are in the private sector, be a partner instead of simply a vendor or supplier.
- State teams should define what success looks like, measure it, mention and report it frequently.

### Modernize IT acquisition strategies to enable innovation

- Ensure that IT acquisition strategies can respond to the rapid pace of change of technology.
- Use iterative/non-waterfall procurement methodologies when appropriate.
- Explore cross boundary relationships and public/private sector partnerships.

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**“How can a state procure an innovative technology if they will only purchase technologies that have been implemented elsewhere and before them? That, by its very definition, is not innovative.”**

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### Cross-educate state and private sector teams

- State IT, state CPOs, state legislatures, state budget directors and executive and private sector teams should all be educated on the importance of the role they play in the IT acquisition process.
- Build the proper state government and private sector teams to partner on the IT acquisition process.
- Educate teams on the evolving state CIO as broker service model.

## **Where Do We Go from Here?**

During the in-person meeting all Roundtable members stressed the importance of getting other stakeholders involved to:

- Replicate our conversation to foster engagement with other states and private sector partners who weren't present; and
- Ensure state legislatures, governors, state budget directors and other key state executives are aware of and supportive of our efforts to improve the IT acquisition process.

The group also stressed the importance of documenting improvements that we see in the state IT acquisition process, which will be key for what we do moving forward. To that extent, NASCIO is committing to recognizing excellence in state IT acquisition through its State IT Recognition Awards ([www.nascio.org/awards](http://www.nascio.org/awards)).

For their parts, each association who participated in the Roundtable vowed to continue participating in ways to improve the IT acquisition process.

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**“We’re not saying the rules have to go. We are saying that, in the interest of broadening and protecting a competitive base of vendors, some of them need rethinking and possible pruning.”**

–Commentary by Barrett and Greene, Governing, September 2018.

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## NASCIO Roundtable on IT Procurement Innovation

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### Members

#### **Roundtable co-chairs, representing NASCIO ([www.nascio.org](http://www.nascio.org))**

Jim Smith (ret), Maine CIO  
Greg Zickau, Idaho CIO  
NASCIO staff: Meredith Ward

#### **NASCIO National Corporate Leadership Council (CLC) co-chairs ([www.nascio.org](http://www.nascio.org))**

Corky Allen, Dell-EMC  
Debra Cammer-Hines, EY

#### **NASPO ([www.naspo.org](http://www.naspo.org))**

Sarah Hilderbrand, Idaho CPO  
Ferris Barger, Oklahoma CPO  
(Oregon CPO Debbie Dennis also attended the in-person meeting and contributed to this publication)  
NASPO staff: Megan Smyth

#### **NASCA ([www.nasca.org](http://www.nasca.org))**

Sarah Shipman, Kansas Secretary of Administration  
NASCA staff: Sarah Razor and Jamie Giles Rodgers

#### **CompTIA SLED Council ([www.comptia.org](http://www.comptia.org))**

Josh Nisbet, Deloitte  
Regina Kunkle, SAP  
CompTIA staff: Jennifer Saha

#### **ITAPS ([www.itaps.itic.org](http://www.itaps.itic.org))**

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#### **About NASCIO**

Founded in 1969, the National Association of State Chief Information Officers (NASCIO) represents state chief information officers (CIOs) and information technology (IT) executives and managers from the states, territories and District of Columbia. NASCIO's mission is to foster government excellence through quality business practices, information management and technology policy. NASCIO provides state CIOs and state members with products and services designed to support the challenging role of the state CIO, stimulate the exchange of information and promote the adoption of IT best practices and innovations. From national conferences to peer networking, research and publications, briefings and government affairs, NASCIO is the premier network and resource for state CIOs. For more information, visit [www.NASCIO.org](http://www.NASCIO.org).