

# Procurement Resource Abstract



<b>Title</b>	<b>State IT Procurement Practices</b>
<b>Sponsoring Organization(s)</b>	National Association of State Procurement Officials IT Procurement Work Group
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<b>Synopsis</b>	<p>In June 2010, the Information Technology (IT) Work Group of the National Association of State Procurement Officials (NASPO) surveyed the states regarding selected practices in IT procurements. This paper is a comparative review of state practices. This paper identifies and compares state practices in IT procurement regarding indemnification and limitation of liability, rights in intellectual property, warranty, use of performance bonds, and negotiation of vendor-proposed exceptions to standard terms and conditions.</p> <p>The survey was conducted because of the perception that in many cases qualified service providers were declining to bid because of onerous provisions in the legal requirements in place in many states thus reducing the access on the part of both state and local government to some of the best qualified providers</p> <p>The paper draws upon work from the states of Iowa and Oregon as well as a survey sent to all states. Twenty five states responded to the survey which asked specifically about:</p> <ol style="list-style-type: none"><li>1. Indemnification</li><li>2. Limitation of liability, including caps on liability and exclusion of damages e.g. consequential, indirect and incidental damages.</li><li>3. Intellectual property rights</li><li>4. Warranties and disclaimer of implied warranties.</li><li>5. Terminations for convenience or unavailability of funds.</li><li>6. Requirements for performance bonds</li></ol> <p>The survey obtained information regarding both statutory requirements as well as model practices. The survey also addressed legal limits on the ability of jurisdictions to negotiate procurements and reports extensively on both legal and procedural positions in several states</p> <p>The paper summarizes practices in place from the states responding to the survey, citing in many cases specific provisions of the state's legal requirements. The paper stops short of making recommendations for "best practices" in each of the surveyed areas. For a better understanding of NASPO's positions on many of these subject matters see National Association of State Procurement Officials, State and Local Government Procurement: A Practical Guide, (NASPO: 2008).</p> <p>Overall this paper provides a solid basis for appreciating in general both the legal and procedural requirements in the states surveyed that impact contracting for IT services.</p>

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Topic Areas	Procurement Surveys
Web Reference	<a href="http://www.naspo.org/dnn/portals/16/documents/NASPO_IT_Procurement_Whitepaperfinal2.pdf">http://www.naspo.org/dnn/portals/16/documents/NASPO_IT_Procurement_Whitepaperfinal2.pdf</a>