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Written Testimony of the
National Institute of Governmental Purchasing (NIGP)

Submitted to
The U.S. House Committee on Oversight and Government Reform Hearing on
"Preventing Stimulus Waste and Fraud: Who Are The Watchdogs?"

Mr. Chairman and members of the committee, the National Institute of Governmental Purchasing (NIGP) is pleased to submit testimony regarding "Preventing Waste and Fraud: Who Are The Watchdogs?"

NIGP is the largest professional, not-for-profit association serving exclusively the federal, state and local public procurement community in the United States, Canada, and globally. Since our inception in 1944, NIGP has developed, supported and promoted public procurement practices through education, research, technical resources, standards, and networking. Throughout our history, we have assisted countless public entities, large and small, in developing sound procurement practices based on the common principles of transparency, ethical integrity, maximized competition, consistency, and the fair and equitable treatment of suppliers. Today, over 16,500 public procurement practitioners rely on the Institute as the foremost authority on public procurement practices.

We believe that there are three inter-related components for preventing waste and fraud as stimulus dollars are distributed to state and local governments through the American Recovery and Reinvestment Act (ARRA):

1. Ensure that standards of practice currently in place within state and local governments are utilized to acquire goods and services to the greatest extent possible;

2. Ensure that state and local governmental entities have the workforce capacity and capability to achieve the goals of ARRA; and

3. Ensure that transparency is pervasive within each step in the acquisition and contracting function.
Standards of Practice

Every state and local public entity targeted to receive grants from the federal government should have regulations, statutes, ordinances and/or rules already in place that govern its procurement practices. And these regulations should be consistent with the basic guidelines outlined in the Model Procurement Code for State and Local Governments.

As a point of reference, the Model Procurement Code is published by the American Bar Association and its Section of Public Contract Law in collaboration with major stakeholders including the National Institute of Governmental Purchasing and our colleagues at the National Association for State Procurement Officials (NASPO). The Code has been in place since 1979 and has been revised periodically to keep pace with emerging best practices in public procurement. The most recent edition was revised in 2000. The Code includes several key provisions that exemplify standards of practice that are integral to good government:

- Establishment of a centralized procurement organization and the specific authority of the procurement office and its Chief Procurement Officer (CPO)
- Specific, acceptable methods for sourcing goods and services
- Development of specifications that identify expectations and results while allowing for maximized competition
- Provisions for contract execution, modification, remedy, and termination to include the inspection and auditing functions
- Effective cost and price principles
- Ethical conduct

At the expense of creating another layer of approvals, the federal government may wish to consider requiring grant recipients to certify that their current public procurement regulations address these standards of practice. The Recovery Accountability and Transparency Board could administer this certification; thereby holding the grant recipient accountable for compliance with their own regulations.

The bottom line is this: we believe that the federal government should be able to rely on the effective procurement models that are already in place within state and local governments. While the specific acquisition and contracting methods may vary based on the total spend of the public entity, demographics, and/or socio-economic factors, the basic principles of public procurement remain the same: transparency, ethical integrity, maximized competition, consistency, and the fair and equitable treatment of suppliers. As diverse as these public
institutions are, they all share a universal principle: the very best value for the tax dollar.

Accordingly, we believe that the Recovery Act will be most successful if state and local governments are authorized to utilize their existing procurement rules to the fullest extent possible when acquiring goods and services in conjunction with the Recovery Act. This would enable the state or local public entity to maximize competition – an essential component of transparency – while holding each entity accountable for compliance with its own prescribed rules.

The use of existing procurement practices will also ensure that transparency measures already in place on the state and local level will be applied to the Recovery Act. As examples:

- Coordinating high-dollar, complex procurements through a centralized authority to ensure accountability.
- Accessing existing vendor/bid lists to solicit goods and services under the Recovery Act to ensure inclusion.
- Accessing electronic bid distribution systems and adhering to requirements for public announcements on solicitations to ensure openness.
- Adhering to state and local dollar thresholds on formal solicitations to ensure competition.
- Providing suppliers adequate time to respond to a solicitation to ensure fairness and accuracy.

Equally important, we believe that existing best practices, which are prominent in state and local procurement, should be maximized when spending stimulus dollars under the Recovery Act. These best practices include provisions on:

- Leveraging the competitive proposal process that enables suppliers to offer solutions consistent with best pricing and value for money. The competitive Request For Proposal (RFP) process is pervasive in state and local governments and offers an excellent alternative to the sealed bid process when complex services or system solutions are being solicited. The RFP process engages the supplier community as key stakeholders in determining the best solutions for government in the delivery of goods and services.

- Leveraging existing cooperative purchasing arrangements that enable governments to purchase goods and services through contracts already secured by other public entities through competitive means. The significant cost savings of a national or regional cooperative purchasing
program is well documented. For example, NIGP has joined with the Association of School Business Officials, the National Association of Counties, the National League of Cities, and the U.S. Conference of Mayors in co-founding a non-profit national cooperative purchasing alliance known as U.S. Communities – a national program that generates more than $200 million in savings to local, regional, state and higher educational entities annually. Additionally, since the buying entity does not need to secure its own pricing, the entity is able to save valuable time while mobilizing its purchase requests effectively. The U.S. Communities program is one of several national cooperatives available to public purchasers in their quest to save significant time and dollars.

- Leveraging total cost principles. This method of sourcing enables the public entity to assess the best value based not only on the acquisition price but also on maintenance and operational costs during the life of the equipment.

- Leveraging performance based contracts principles. This method of sourcing establishes pre-described results and holds suppliers accountable for achieving the intended results. This method also creates a more intentional partnership with the supplier in achieving mutual goals.

Naturally, there are federal agency mandates that may supersede state and local laws; and these federal requirements should be respected. However, if these mandates can be minimized, it will also minimize any confusion on which rules to follow when acquiring goods and services in conjunction with the Recovery Act.

It is our understanding that each federal agency involved in the ARRA has its own procurement regulations that require compliance. Many of these regulations are little known in state and local governments. Therefore, we are deeply concerned that, without clarity and knowledge on the rules of engagement, state and local governments will unknowingly fail to comply with federal agency mandates; leading ultimately to audit and transparency problems.

To minimize this potential problem, NIGP offers to serve as a conduit of information between the federal government and the state and local procurement organizations through our web site, educational webinars, informative sessions during our annual conference, and other communications mechanisms. The close coordination of activities between federal, state and local entities provides unity of purpose – and we all have a steadfast desire to ensure that our tax dollars are spent wisely, transparently, and purposefully.
One final thought on the public procurement standards of practice as they relate to the expedient nature of the federal stimulus program. We realize that there is a common mission to spend ARRA dollars as quickly as possible in order to maximize the impact on our national and global economies. At times, expediency is translated to mean emergency which, by its very nature, could exclude some or all of the public procurement process and its commitment to transparency. Most assuredly, the timeline for implementing public procurement practices could be shortened as long as the critical steps in the process are not eliminated.

Workforce Capacity

While it is essential to ensure that acceptable standards of practice are in place to support the aggressive goals of the Recovery Act, these standards are only as good as the professional workforce that is responsible for implementing the rules. We strongly believe that the capacity and capability of the public procurement workforce is paramount to our nation’s economic recovery – and we are equally concerned that an inadequate workforce will result in fraud and waste.

While the public spend in federal, state and local governments continues to grow, the acquisition workforce has not kept pace with the demand. Equally serious, many of those currently in the practice have not attained the knowledge and/or developed the technical skills necessary to effectively manage an aggregate public spend that now hovers at $6.8 trillion for all levels of government. As state and local governments face difficult budget decisions, they have systematically reduced the procurement workforce – either through attrition or layoffs.

Further, governments are eliminating opportunities for professional development, training and professional certification. Prior to the recent economic crisis, almost half of public entities surveyed by NIGP were spending no dollars to train and educate their procurement workforce (2007 NIGP Benchmarking Survey). Today, the situation is much more severe. This comes at a time when there are limited dollars to prepare candidates for attaining their professional certification such as the Certified Public Purchasing Officer (CPPO) or the Certified Professional Public Buyer (CPPB) designations. These certification programs examine the candidate’s understanding and application of the public procurement body of knowledge and therefore, should be the benchmark for an educated and skilled workforce.

In early 2009, our biennial compensation survey concluded that 73% of all respondents would consider professional certification a valuable attribute when hiring and promoting public procurement professionals; a strong indication of its
value and recognition. At a time when our nation demands cost savings and containment, it is illogical to eliminate the educational opportunities needed to learn the best practices that are essential to achieving these cost savings.

NIGP strongly believes that it is incumbent on the public sector to adequately fund education, training, and professional certification for stewards who spend public dollars. Accountants are educated to produce audits and physicians are skilled in performing surgery. Similarly, government must give its procurement professionals the tools they need to be successful in managing this significant $6.8 trillion annual spend. We are deeply concerned that, if these capacity and capability gaps in the public procurement workforce are not closed in the near future, this gap will have a negative impact on implementing the procurement requirements of the ARRA, which is crucial to our nation’s economy.

Accordingly, we strongly recommend that a reasonable portion of the administrative fees allowed under federal grants be dedicated to the hiring and training of an effective public procurement workforce. We are hopeful that the final rules and guidelines established by the U.S. Office of Management and Budget will include provisions that ensure the capacity and capability of public procurement.

Transparency

Transparency has become a commonly-used term that describes the level of trust, confidence and assurance that citizens and elected officials have in fair and equitable practices. Long before transparency became a buzz word however, the public procurement community considered transparency the cornerstone of the profession; we simply called it integrity.

The principles of integrity are not new concepts. The procurement official has always been governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served. It is a critical component of our Code of Ethics. Therefore, when President Obama demanded that spending under the Recovery Act be transparent, we certainly understood his call. And we applaud his efforts to establish Recovery.gov as a primary vehicle for ensuring transparency.

However, based on preliminary discussions, it appears that Recovery.gov will simply capture the *end result* of the competitive solicitation process by informing the public of where the money was spent. In our opinion, this is inadequate. To be fully transparent, the *initiation* of the procurement process also needs to be
posted in Recovery.gov. The website should serve as a repository of programs receiving stimulus funding; and it should identify those competitive solicitations currently available that support the program. In this way, citizens and suppliers can be informed when any level of government is seeking competitive solicitations; and suppliers will have the opportunity to participate in the bid or proposal process if eligible and qualified.

As a common standard of practice, many public entities already make their bid solicitations available on their respective websites or through a third-party bidding system. The replication of this data into Recovery.gov will be a daunting challenge; so the mechanics for building an effective website should be entrusted to those with expertise in technology. However, there are some basic principles that should be available through Recovery.gov:

- There should be full disclosure on the entire procurement process – from the point of solicitation to the point of contract award
- There should be minimum dollar thresholds established for posting contract awards so that the database is not inundated with small purchases
- The additional requirements imposed on grant recipients for posting contract information in Recovery.gov must not outweigh the value of transparency
- Citizens and suppliers must be able to intuitively navigate Recovery.gov in order to achieve the intended results of transparency

Concluding Remarks

On behalf of our Board of Directors and the 16,500 professionals who hold membership in the National Institute, I applaud your efforts to provide oversight and government reform for public procurement. We extend our collective support as you seek to eliminate fraud and waste in the procurement of goods and services related to the ARRA. And we share a common mission to strengthen the responsible, effective use of taxpayer dollars.

NIGP representatives would be deeply honored and privileged to discuss these and any other issues related to oversight, accountability, and procurement reform with your Committee. We have extended a similar invitation to President Obama and to Dr. Orszag at the U.S. Office of Management and Budget. Our membership comprises the best minds in state and local government
procurement; leaders with strategic vision, wisdom, experience, and a commitment to make a difference. As responsible leaders in public procurement, it has always been our civic duty to work for the common goals of good government. We are eager and ready to serve you.

Respectfully yours,

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