

TO: Political Subdivisions & Units of Local Government in Indiana

FROM: Sourcing Office

RE: Ability of political subdivisions in Indiana to join Sourcing Office and utilize Sourcing Office's publicly procured contracts for products and/or services

What is Sourcing Office's legal authority?*

Sourcing Office is an Ohio-based Council of Governments organized under Section 167 of the Ohio Revised Code.

Section 167.01:

That governing bodies of any two or more counties, municipal corporations, townships, special districts, school districts, or other political subdivisions may enter into an agreement with each other, or with the governing bodies of any counties, municipal corporations, townships, special districts, school districts or other political subdivisions of any other state to the extent that laws of such other state permit, for establishment of a regional council consisting of such political subdivisions.

Sourcing Office is a political subdivision and a unit of local government under Ohio law. It is legally empowered to enter into agreements such as the Sourcing Office Affiliate Membership Agreement with political subdivisions and units of local government in any state to the extent permitted by law in that other state.

Section 167.03:

(A) (2) Promote cooperative arrangements and coordinate action among its members, and between its members and other agencies of local or state governments, whether or not within Ohio, and the federal government;

(A) (4) Promote cooperative agreements and contracts among its members or other governmental agencies and private persons, corporations, or agencies;

Through this legal authority, Sourcing Office competitively procures contracts for products and/or services in accordance with applicable public sector procurement guidelines. Sourcing Office then makes these already-procured contracts available to its members and affiliates. Local and state governmental agencies within and outside of Ohio and Sourcing Office members and affiliates, including political subdivisions and units of local government in other states, are eligible to utilize Sourcing Office's competitively procured contracts to the extent permitted by law in those other states.

Are units of local government in Indiana authorized to join Sourcing Office through the Affiliate Membership Agreement?*

Please review with your legal counsel whether political subdivisions in Indiana that want to leverage authority that has been exercised by another political subdivision must enter into a written agreement under Section 3 or 9 of IC 36-1-7-1:

IC 36-1-7-3: Agreements; contents; powers under agreements

Sec. 3. (a) An agreement under this section must provide for the following:

Its duration.

Its purpose.

The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget therefor.

**** SOURCING OFFICE DOES NOT GIVE LEGAL OPINIONS**

The legal information provided herein is of a general nature and cannot substitute for the advice of a **licensed legal professional**. This is not intended to be legal advice or a legal opinion. Sourcing Office and its employees are not attorneys and are not responsible for any actions taken based upon the views provided herein. Sourcing Office encourages units of local government and other public agencies in Indiana to have their legal counsel review the applicable statutes to determine their eligibility to join Sourcing Office and utilize the Sourcing Office's competitively procured contracts.

The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination.

Administration through:

a separate legal entity, the nature, organization, composition, and powers of which must be provided

Under Ohio Revised Code, the Sourcing Office Affiliate Membership Agreement serves as the basis for establishing a legal relationship between Sourcing Office and public agencies and addresses items such as the duration, the purpose, the manner of financing, etc. Please review with your legal counsel whether the Affiliate Membership Agreement constitutes the written agreement that must be entered into by political subdivisions in Indiana in order to utilize Sourcing Office contracts in accordance with the terms of IC 36-1-7-1, Section 2.

Sourcing Office is a separate legal entity whose nature, organization, composition, and powers are readily available to any and all political subdivisions in Indiana. Please review with your legal counsel whether political subdivisions in Indiana must approve entering into an agreement, such as the Sourcing Office Affiliate Membership Agreement, with an entity such as Sourcing Office by either ordinance or resolution as described in IC 36-1-7-3.

Are units of local government in Indiana authorized to piggyback on Sourcing Office contracts?

Please review with your legal counsel whether the State of Indiana statutes authorize intergovernmental cooperation between political subdivisions in Indiana with political subdivisions in Indiana or in other states to exercise a power that may be exercised by an Indiana political subdivision.

**Title 36 Local Government
Article 1 General Provisions
Chapter 7 Interlocal Cooperation**

IC 36-1-7-1

Sec. 1. This chapter applies to the following:

- (1) The state.
- (2) All political subdivisions.
- (3) All state agencies.
- (4) Another state to the extent authorized by the law of that state.
- (5) Political subdivisions of states other than Indiana, to the extent authorized by laws of the other states.
- (6) Agencies of the federal government, to the extent authorized by federal laws.

IC 36-1-7-2

Please review with your legal counsel whether the interlocal cooperation guidelines in Indiana apply to political subdivisions within Indiana and to political subdivisions in states other than Indiana, to the extent authorized by laws of the other states. As a Council of Governments organized under the Ohio Revised Code, Sourcing Office is considered a political subdivision and a unit of local government in the State of Ohio.

Under Ohio Revised Code and through its Code of Regulations, Sourcing Office is specifically authorized to develop group purchasing programs through a publicly procured competitive solicitation process, establish contracts with winning suppliers, and make those contracts available to local and state governmental agencies within and outside of Ohio such as political subdivisions in Indiana.

Please review with your legal counsel whether the provisions of Title 36, Article 1, Chapter 7 regarding interlocal cooperation apply to activity between political subdivisions in Indiana and Ohio such as Sourcing Office.

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IC 36-1-7-2

Sec. 2. (a) A power that may be exercised by an Indiana political subdivision and by one (1) or more other governmental entities may be exercised:

(1) by one (1) or more entities on behalf of others; or

(2) jointly by the entities.

Entities that want to do this must, by ordinance or resolution, enter into a written agreement under section 3 or 9 of this chapter.

Under Ohio Revised Code, Sourcing Office is authorized to conduct publicly procured competitive solicitations to establish group purchasing programs with winning suppliers. These programs achieve improved pricing and contract terms and are made available to Sourcing Office participants across the country to the extent permit by law in each state. Please review with your legal counsel whether Indiana political subdivisions have the power to conduct competitive solicitation processes and establish contracts with winning suppliers for the purchase of goods and services.

Please review with your legal counsel whether this section of State of Indiana statutes, IC 36-1-7-1, Section 2, a) authorizes political subdivisions in Indiana to empower other governmental entities, such as Sourcing Office, to exercise powers on their behalf, such as conducting competitive solicitation processes and establishing contracts for goods and services, and b) that political subdivisions in Indiana are authorized to utilize those contracts without conducting their own competitive solicitation process.

Please contact Sourcing Office at 216.581.6200 with any questions about your entity's ability to join Sourcing Office and utilize our publicly procured contracts.



Your Partner in Governmental Collaboration

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