

TO: Public Purchasing Units in Kentucky

FROM: Sourcing Office

RE: Ability of public purchasing units in Kentucky 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 public procurement units in Kentucky authorized to join Sourcing Office and piggyback on Sourcing Office contracts?*

Please review with your legal counsel whether Title VI Chapter 45A of the State of Kentucky Statutes authorizes your type of entity to a) join Sourcing Office, and b) participate in Sourcing Office's cooperative purchasing agreements without having to conduct your own bid or Request for Proposal (RFP) process.

**Title VI Financial Administration
Chapter 45A Kentucky Model Procurement Code
Kentucky Model Procurement Code**

45A/295. Definitions for terms used in KRS 45A.295 to 45A.320.

As used in KRS 45A.295 to 45A.320:

"State public purchasing unit" shall mean the Finance and Administration Cabinet and any other purchasing agency of this Commonwealth.

**** 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 public purchasing units in Kentucky 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.

"Local public purchasing unit" shall mean any county, city, governmental entity and other subdivision of the Commonwealth or public agency thereof, public authority, public educational, health, or other institution, any other entity which expends public funds for the acquisition or leasing of supplies, services, and construction, and any nonprofit corporation operating a charitable hospital.

"Public purchasing unit" shall mean either a local public purchasing unit or a state public purchasing unit.

"Foreign purchasing activity" shall mean any buying organization not located in this Commonwealth which, if located in this Commonwealth, would qualify as a public purchasing unit. An agency of the United States government is a foreign purchasing activity.

"Cooperative purchasing" shall mean purchasing conducted by, or on behalf of, more than one (1) public purchasing unit, or by a public purchasing unit with a foreign purchasing activity.

45A.300. Cooperative purchasing.

Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. This cooperative purchasing may include, but is not limited to, joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.

Nothing in this code shall limit any public purchasing unit from selling to, acquiring from, or using any property belonging to another public purchasing unit or foreign purchasing activity independent of the requirements of KRS 45A.070 to 45A.180.

Nothing in this code shall limit or restrict any public purchasing unit from entering into an agreement, independent of the requirements of KRS 45A.045(5) and KRS 45A.070 to 45A.165, with any other public purchasing unit or foreign purchasing activity for the cooperative use of supplies or services.

Any public purchasing unit may enter into an agreement for the joint or common use of warehousing facilities or the lease or common use of capital equipment or facilities with any other public purchasing unit or a foreign purchasing activity subject to the terms as may be agreed upon between the parties.

Nothing in this code shall limit or restrict the ability of local school districts to acquire supplies outside of the public purchasing agreements when the supplies and equipment meeting the same specifications as the contract items are available at a lower price elsewhere and the purchase does not exceed two thousand five hundred dollars (\$2,500).

Nothing in this code shall limit any public purchasing unit from receiving notice of or accepting a price reduction on supplies or equipment when the supplies or equipment are being offered by the vendor with whom a price agreement has been made; the supplies or equipment are being offered in accordance with all terms and conditions that are specified in the price agreement, except those relating to price; and the price reduction is offered to all of the participants in the price agreement. Public purchasing units may accept special price reductions under this subsection even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement. Price reductions under this subsection shall not be considered to permanently alter the price of the supplies or equipment under the price agreement with the Commonwealth, except where the price reductions are to be made permanent under the express terms of the price agreement and where the purchasing agency which solicited the price agreement determines that the enforcement of those terms serves the best interest of the Commonwealth.

Please review with your legal counsel whether Sourcing Office meets the Kentucky criteria of a foreign purchasing activity because it is a Council of Governments under Ohio Revised Code, it is a unit of local government and political subdivision in Ohio, it is a 501 (c)(3) not-for-profit organization, and it is a buying organization. Sourcing Office develops cooperative purchasing agreements.

**** 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 public purchasing units in Kentucky 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.

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 cooperative purchasing agreements available to local and state governmental agencies within and outside of Ohio such as public purchasing units in Kentucky.

Please review with your legal counsel whether Kentucky public purchasing units including the Finance and Administration Cabinet, other purchasing agencies of the Commonwealth, counties, cities, governmental entities, subdivisions of the Commonwealth or public agencies thereof, public authorities, public educational, health, or other institutions, any other entity which expends public funds for the acquisition or leasing of supplies, services, and construction, and any nonprofit corporation operating a charitable hospital may participate in cooperative purchasing agreements with a foreign purchasing activity such as Sourcing Office. Please also review with your legal counsel whether a) such purchasing activities must be conducted in accordance with cooperative purchasing agreements between the public purchasing unit and Sourcing Office, and b) your entity is eligible under Kentucky statutes to join Sourcing Office through its Affiliate Membership Agreement, which is a cooperative purchasing agreement that governs the relationship between the parties.

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.

**** 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 public purchasing units in Kentucky 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 cooperative purchasing contracts.



Your Partner in Governmental Collaboration

5422 East 96th Street, Cleveland, OH, 44125 • 216.581.6200 • sourcingoffice.org

**** 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 public purchasing units in Kentucky 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.