

TO: Public Agencies in Maine

FROM: Sourcing Office

RE: Ability of public agencies in Maine 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 agencies in Maine authorized to join Sourcing Office and piggyback on Sourcing Office contracts?*

Please review with your legal counsel whether the State of Maine revised statutes authorize intergovernmental cooperation between a) public agencies in Maine with each other, and b) with public agencies and political subdivisions in other states on the basis of mutual advantage.

State of Maine Statutes

Maine Revised Statutes

Title 30-A Municipalities and Counties

Part 2 Municipalities

Subpart 2 Organization and Interlocal Corporation

30-A M.R.S.A. § 2201. Purpose

It is the purpose of this chapter to permit public agencies, as defined in section 2202, including, but not limited to, municipalities, counties, school administrative units and state agencies, to make the most efficient use of their

** 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 agencies in Maine 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.

powers by enabling them to cooperate on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of communities.

30-A M.R.S.A. § 2202. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Public agency. "Public agency" means:

A. Any political subdivision of the State, as defined in section 2252, or any adjoining state; or

B. Repealed.

C. Any agency of State Government or the Federal Government.

30-A M.R.S.A. § 2252. "Political subdivision" defined

"Political subdivision" means any municipality, plantation, county, quasi-municipal corporation and special purpose district, including, but not limited to, any water district, sanitary district, hospital district, municipal transmission and distribution utility and school administrative unit. "School administrative unit" has the same meaning as found in Title 20-A, section 1, subsection 26.

30-A M.R.S.A. § 2203. Joint exercise of powers

Any power or powers, privileges or authority exercised or capable of exercise by a public agency of the State may be exercised and enjoyed jointly with any other public agency of this State, or of the Federal Government to the extent that federal laws permit the joint exercise. When acting jointly with any public agency, any agency of State Government may exercise all of the powers, privileges and authority conferred by this chapter upon a public agency.

1. Agreement. Any 2 or more public agencies may enter into agreements with one another for joint or cooperative action under this chapter. The governing bodies of the participating public agencies must take appropriate action by ordinance, resolution or other action under law before any such agreement may become effective.

Sourcing Office is an Ohio-based Council of Governments and is considered both a unit of local government and a political subdivision. Please review with your legal counsel whether Sourcing Office constitutes a "public agency" in accordance with Maine statute as described above.

The Sourcing Office Affiliate Membership Agreement serves as the basis for establishing a legal relationship between Sourcing Office and public agencies. Please review with your legal counsel whether the Sourcing Office Affiliate Membership Agreement constitutes an "agreement for joint or cooperative action" as described in 30-A M.R.S.A. § 2203.

Please review with your legal counsel whether public agencies in Maine may engage with public agencies and political subdivisions in other states, such as Sourcing Office, to exercise any power, privilege, or authority which both agencies share in common and might exercise separately. Please also review with your legal counsel whether public agencies in Maine are empowered to enter into a contract with public agencies in other states for the purpose of utilizing that public sector agency's competitively procured contracts without your organization having to conduct your own bid or Request for Proposal process.

Under the Ohio Revised Code, 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 public agencies in Maine.



Your Partner in Governmental Collaboration

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