

TO: Public Procurement Units in Montana

FROM: Sourcing Office

RE: Ability of public procurement units in Montana to join Sourcing Office and utilize Sourcing Office's publicly procured contracts for products and/or services

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## **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.

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## **Are public procurement units in Montana authorized to join Sourcing Office and piggyback on Sourcing Office contracts?\***

Please review with your legal counsel whether Title 18 of the State of Montana 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 18 Public Contracts  
Chapter 4 Montana Procurement Act  
Part 4 Cooperative Purchasing**

*18-4-401. Definitions*

*As used in this part, the following definitions apply:*

- 1. "Cooperative purchasing" means procurement conducted by or on behalf of more than one public procurement unit.*

**\*\* 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 Montana 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.

2. "Local public procurement unit" means a county, city, town, or other subdivision of the state or a public agency of any such subdivision; public authority; educational, health, or other institution; to the extent provided by law, any other entity that expends public funds for the procurement of supplies and services; and any non-profit corporation operating a charitable hospital.
3. "Public procurement unit" means a local or state public procurement unit of this or any other state, including an agency of the United States, or a tribal procurement unit.
4. "State public procurement unit" means a state department, agency, or official that expends public funds for the procurement of supplies and services.
5. "Tribal procurement unit" means a tribal government, tribal entity, or official of a tribal government located in Montana that expends tribal funds or funds administered by a tribe for the procurement of supplies and services to the extent provided by tribal or federal law.

#### 18-4-124. Local government adoption of procurement provisions

A political subdivision or school district may adopt any or all parts of this chapter and the accompanying rules promulgated by the department.

#### 18-4-402. Cooperative purchasing authorized

The department may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies or services with one or more public procurement units in accordance with an agreement entered into between the participants independent of the requirements of part 3. Cooperative purchasing may include purchasing through federal supply schedules of the United States general services administration, joint or multiparty contracts between public procurement units and open-ended state public procurement unit contracts that are made available to local public procurement units.

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Please review with your legal counsel whether Sourcing Office meets the Montana criteria of a public procurement unit 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.

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 local public procurement units and state agencies in Montana.

Please review with your legal counsel whether Montana local public procurement units may enter into contracts with an external public procurement unit 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 procurement unit and Sourcing Office, and b) your entity is eligible under Montana statutes to join Sourcing Office through its Affiliate Membership Agreement, which 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.



Your Partner in Governmental Collaboration

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