

TO: Public Procurement Units in South Carolina

FROM: Sourcing Office

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

Please review with your legal counsel whether § 11-35-4610 of the State of South Carolina Statutes defines the types of entities authorized to participate in cooperative purchasing activities and whether your entity meets those criteria.

State of South Carolina Statutes

Title 11 Public Finance

Chapter 35 South Carolina Consolidated Procurement Code

Article 19 Intergovernmental Relations

§ 11-35-4610. Definitions of terms used in this article.

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As used in this article, unless the context otherwise requires:

"Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit, or by a public procurement unit with an external procurement activity.

**** 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 South Carolina 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) "External procurement activity" means:

- (a) any buying organization not located in this State which would qualify as a public procurement unit;
- (b) buying by the United States government.

(3) "Local public procurement unit" means any political subdivision or unit thereof which expends public funds for the procurement of supplies, services, or construction.

(4) "Mandatory opting" is the requirement for a local procurement unit to choose whether to utilize a state contract before it is established as prescribed in regulation by the board.

(5) "Public procurement unit" means either a local public procurement unit or a state public procurement unit.

(6) "State public procurement unit" means the offices of the chief procurement officers and any other purchasing agency of this State.

Please review with your legal counsel whether Sourcing Office meets the South Carolina criteria of a public procurement unit and/or an external procurement activity because it is a Council of Governments under Ohio Revised Code, it is a unit of local government and political subdivision in Ohio, and it is a buying organization. Sourcing Office conducts cooperative public procurement activities through its external procurement activities.

§ 11-35-4810. Cooperative purchasing authorized.

Any public procurement unit may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public procurement units and open-ended state public procurement unit contracts which shall be made available to local public procurement units, except as provided in Section 11-35-4820 or except as may otherwise be limited by the board through regulations.

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

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

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