



COUNTY ADVISORY BULLETIN

CAB

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37 West Broad Street, Suite 650 • Columbus, Ohio 43215-4195

Phone: 614-221-5627 • Fax: 614-221-6986 • www.ccao.org

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JOINT AND COOPERATIVE PURCHASING OPTIONS FOR COUNTIES

INTRODUCTION

Counties are constantly looking for ways to save money through purchasing and procurement practices. A recent change in state law provides additional options for counties that may save money when acquiring equipment, materials, supplies and services.

Am. Sub. SB 62, which became effective on November 5, 1997 enacted section 9.48 of the Revised Code. This section allows a county to participate in contracts of other counties or townships if the contract has been competitively bid by the other jurisdiction.

The new law also specifically permits a county to participate in a joint purchasing program operated by or through a state or national association. This provision permits Ohio counties to participate in the National Association of Counties (NACo) Cooperative Purchasing Alliance, which has been endorsed by CCAO.

The purpose of the CAB is to review ORC 9.48 as contained in SB 62. It will also review various other provisions of Ohio law related to purchasing.

PURCHASING THROUGH CONTRACTS OF OTHER COUNTIES OR TOWNSHIPS

ORC 9.48 allows any county to participate in contracts of other counties or townships in the acquisition of equipment, materials, supplies or services.

For example let's assume that county A wants to purchase an item under a contract executed with a vendor by county B. In this case, county A can obtain the item under county B's contract without competitive bidding provided that county B awarded the contract pursuant to competitive bidding under ORC 307.86. County B may also charge county A a reasonable fee to cover any additional costs of participation in the contract.

County A is not required to competitively bid the item. If county A, however, chooses to put the item out for competitive bids, then county A can not purchase the item under county B's contract unless county A can acquire the item from county B upon the same terms, conditions, and specifications and at a lower price.

ORC 9.48 also allows a county to participate in contracts of townships. Likewise, it allows townships to participate in county contracts. In some counties, this may allow the county to develop a joint bid with townships which may result in better pricing for both the county and participating townships.

It should be noted that ORC 9.48 only includes counties and townships. It does not include municipalities or other political subdivisions. While some feel that such joint purchases may be possible under the ability to contract with other political subdivisions pursuant to ORC 307.15, counties should receive an opinion from the county prosecutor before proceeding under this section.

JOINT PURCHASING PROGRAMS THROUGH STATE OR NATIONAL ASSOCIATIONS

ORC 9.48 also specifically allows counties to participate in a joint purchasing program operated by or through a state or national association of political subdivisions if the county is eligible for membership.

A county may participate in such a joint purchasing program without the necessity of competitive bidding if the association joint purchasing program employs a competitive selection procedure substantially similar to ORC 307.86

This statute will allow counties to purchase under the NACo Cooperative Purchasing Alliance that has been endorsed by CCAO. Such purchases are thus probably exempt from competitive bidding because the NACo program has used competitive selection procedures that are essentially equivalent to ORC 307.86. CCAO is now in the process of providing documentation that shows that the competitive selection procedure used by NACo meets this statutory requirement.

OTHER JOINT AND COOPERATIVE PURCHASING LAWS

While ORC 9.48 as enacted by SB 62 specifically allows for counties to purchase under contracts competitively bid by other counties or townships, certain other sections of state law provide for other cooperative purchasing opportunities. The following table summarizes other purchasing related laws that may be of interest to counties.

TITLE	TYPE OF PURCHASES AUTHORIZED	ORC
Participation in Department of Administrative Services Contracts	Supplies Services	125.04 (B)
Participation in Department of Transportation Contracts	Machinery Materials Supplies Other Articles	5513.01 (B)
Cooperative Purchasing by Regional Planning Commissions	Supplies Services Materials Equipment Liability Insurance	713.23 (D)
Cooperative Purchasing by Regional Councils of Government	Any Commodity or Service Provided by Contract	167.03 (C) 167.08 OAG 69-013
State Committee for Purchase of Products and Services Provided by Persons with Severe Disabilities ("State Use Committee")	Products & Services on "State Use Committee" Procurement List. Under certain circumstances and fair market price guidelines counties must purchase from the list	4115.31 - 4115.35

CONCLUSION

SB 62 gives additional options to counties and townships engaged in joint or cooperative purchasing programs. First, the new law allows counties to participate in purchasing contracts that have been competitively bid by another county or township. Second, the bill authorizes counties to participate in a joint purchasing program operated by or through a state or a national association like the NACo Cooperative Purchasing Alliance if the association program follows a competitive selection procedure that is essentially equivalent to ORC 307.86.

As it relates to the NACo program, three such contracts are presently available. One contract is for office supplies through Office Depot. Other contracts are for computer equipment, software and supplies and for office furniture and systems. CCAO is in the process of reviewing these contracts which have been let by Los Angeles County, California and Fairfax County, Virginia on behalf of NACo. It is our intent to review these contracts and provide counties with information on whether in our opinion these contracts conform with the statutory requirement that these contracts followed a competitive selection procedure that is essentially equivalent to ORC 307.86. We will also be working with the State Auditor's Office in this regard.