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# Cooperative Purchasing

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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# Cooperative Purchasing

Reference Number: CTAS-934

The National Institute of Governmental Purchasing defines cooperative purchasing as “the combining of requirements of two or more political entities in order to obtain the benefits of volume purchases and/or reduction in administrative expenses.”<sup>1</sup>

Cooperative purchasing requires individual purchasing units in multiple government environments to have a willingness to look beyond individual preferences with regard to detailed specifications, preferred product brand names, etc.<sup>2</sup> A variety of arrangements can be used whereby two or more units purchase from the same supplier using a single IFB/RFP as the basis of the contract documents or cooperative pricing agreements.<sup>3</sup> Some possible objectives of cooperative purchasing are:

- Lower prices from competition for larger volumes.
- Reduced administrative costs—one organization handles bidding process.
- Combined expertise of many purchasing professionals.
- More favorable terms and conditions (e.g., possible lower freight costs)

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<sup>1</sup>National Institute of Governmental Purchasing, *The Dictionary of Purchasing Terms*, 8.

<sup>2</sup>National Institute of Governmental Purchasing, *Advanced Public Procurement*, (Herndon, VA: 2001) 16-17.

<sup>3</sup>*ibid*, 16.

# Forms of Cooperative Purchasing

Reference Number: CTAS-935

Joint-Bid Cooperatives—The authors of “*Advanced Public Procurement*” assert that joint bid arrangements are a more formal type of intergovernmental cooperative purchasing in which two or more public procurement agencies agree on specifications and contract terms and conditions for a given item or items of common usage and combine their requirements for this item in a single request for competitive sealed bids.<sup>1</sup> Once the bids have been received and discussed by the participants, each public procurement agency issues and administers its own purchase order(s) and/or contract.<sup>2</sup> A sponsoring entity or “lead agency” must be determined. Usually it is the government entity with the most expertise with the technology or commodity being contracted.<sup>3</sup>

Piggyback Cooperatives—The authors of “*Advanced Public Procurement*” maintain that piggyback cooperatives are a less formal type of intergovernmental cooperative purchasing in which a large purchaser requests competitive sealed bids, enters into a contract, and arranges, as part of the contract, for other public procurement units to purchase from the selected vendor under the same terms and conditions as itself.<sup>4</sup> The members of the cooperative simply order from contracts awarded by the sponsoring agency. Members choose to participate independently after the award by the sponsoring entity and place their orders with the consenting supplier.<sup>5</sup> Purchases by local governments from the Tennessee state-wide purchasing contracts or agreements entered into by the Tennessee Department of General Services (TDGS) are examples of a piggyback cooperative.

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<sup>1</sup>National Institute of Governmental Purchasing, *Advanced Public Procurement*, (Herndon, VA: 2001), 17.

<sup>2</sup>*ibid*, 17.

<sup>3</sup>*ibid*, 17.

<sup>4</sup>*ibid*, 19.

<sup>5</sup>*ibid*, 19.

# Legal Authority for Cooperative Purchasing

Reference Number: CTAS-936

T.C.A. § 12-3-1201 (formerly § 12-3-1001). This statute authorizes counties, without public advertisement and competitive bidding, to purchase under the provisions of contracts or price agreements entered into by the Tennessee Department of General Services (TDGS) Central Procurement Office (CPO). This procedure is commonly known as "buying under state contract."

County governments may purchase goods, except motor vehicles (other than those manufactured for a special purpose as defined in T.C.A. § 12-3-1208), under federal General Services Administration (GSA) contracts, but only to the extent permitted by federal law or regulations. Op. Tenn. Att'y Gen. 04-121 (July 22, 2004). For more information about purchasing goods under GSA contracts, visit GSA's website at State and Local Governments | GSA.

T.C.A. § 12-3-1203 (formerly § 12-3-1004). This statute authorizes in-state "piggyback" contracts whereby cities, counties, utility districts, and other local governments in Tennessee may purchase supplies, goods, equipment, and services under the same terms as contracts or price agreements entered into by any other local governmental unit of this state. New motor vehicles (except special purpose vehicles such as school buses and ambulances) and purchases related to transportation infrastructure projects are excluded.

This statute also authorizes local education agencies (LEAs) to purchase equipment under the same terms of a legal bid initiated by another LEA in Tennessee. The LEA may purchase directly from the vendor the same equipment, at the same price, and under the same terms provided in the contract entered into by any other LEA in Tennessee.

This statute also authorizes counties and other governmental entities to make purchases on behalf of each other as long as the statutory requirements are met.

T.C.A. § 12-3-1205 (formerly § 12-3-1009). This statute authorizes both in-state and out-of-state cooperative purchasing agreements. A city, county, utility district, or other local government may participate in, sponsor, conduct or administer an in-state cooperative purchasing agreement for procurement of any supplies, services, or construction.

A city, county, utility district, or other local government also may participate in, sponsor, conduct, or administer a cooperative purchasing agreement with one or more other governmental entities outside Tennessee, including authorized federal agencies, for the purchase of goods, supplies, services and equipment. The master agreement for out-of-state cooperatives must be approved by the local legislative body and the items must be purchased by a governmental entity in accordance with its purchasing procedures and made available for use by other governmental entities. Out-of-state cooperatives cannot be used for purchasing motor vehicles other than special purpose vehicles; construction, architectural, and engineering services; construction materials; or fuel, fuel products and lubricating oils. Note that the definition of "motor vehicle" for purposes of this exemption does not include farm tractors, mowers, earth-moving machinery, construction machinery, or other similar machinery or equipment, so these items may be purchased using out-of-state cooperatives. However, construction machinery cannot be purchased using joint purchasing with federal agencies.

T.C.A. § 12-3-512 (formerly § 12-3-216). This statute authorizes the state's central procurement office to enter into cooperative purchasing agreements with local governments, provided that each contract is established through full and open competition and pursuant to policies approved by the state procurement commission.

T.C.A. § 12-9-101 et seq. The Interlocal Cooperation Act permits any local government of this state to enter into joint agreements to exercise any legitimate governmental function (including purchasing) with any other local government, in Tennessee or in any other state. Participating local governments in another state must have the same authority under that state's own laws. See Op. Tenn. Att'y Gen. 09-55 (April 9, 2009).

T.C.A. § 7-86-129. This statute allows any emergency communications district to purchase equipment under the same terms of a legal bid initiated by any other district, and to purchase directly from a vendor the same goods and equipment at the same price and under the same terms as provided in a contract for equipment entered into by any other district.

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