



8-31-2010

Technical Bulletins: Changes to the Cooperative Purchasing Agreement Law

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Recommended Citation

Whitehead, Rick, "Technical Bulletins: Changes to the Cooperative Purchasing Agreement Law" (2010).

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August 31, 2010

CHANGES TO THE COOPERATIVE PURCHASING AGREEMENT LAW

Rick Whitehead, Municipal Management Consultant

During the 2010 legislative session, the General Assembly amended the state’s purchasing law to give cities limited authority to enter into cooperative purchasing agreements with local governments that are located out of state.

Public Chapter No. 1067, which amends *Tennessee Code Annotated* § 12-3-1009, authorizes municipalities, with some exclusions, to participate in cooperative purchasing agreements with local governments outside of Tennessee for the procurement of supplies and services. The act specifically excludes construction materials, engineering services and architectural services from being procured by such agreements.

To participate in, sponsor, conduct or administer a cooperative purchasing agreement, interested cities should comply with the requirements set out in the act. According to the act, the laws of the other state must permit the joint exercise of authority. If the other participating local governments are authorized to do so, the agreement may be entered

into by adopting an appropriate resolution. Among other provisions, the resolution should include an acceptance of the terms of the master agreement.

Also according to the act, in those situations where a participating municipality is required to advertise and receive bids, it is sufficient that the purchasing entity that procured the bid complied with its own purchasing requirements. Also note that where a municipality is required to purchase via competitive bidding, the price obtained via the cooperative purchasing agreement may be considered as one of the required bids.

Before the adoption of this act, the law in T.C.A. § 12-3-1009 only allowed municipalities to participate in cooperative purchasing agreements with other local governments within the state. That language, now designated as subsection (a), was not changed. The law was amended to give limited authorization to cities to enter into agreements with out of state governmental entities.

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MTAS1500 • E14-1050-000-009-11