

Cooperative Purchasing 10,000 Foot View

Southwestern Ohio Educational Purchasing Council March 10, 2026

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Typical Cooperative Purchasing Organizations Encountered by School Districts

- I. Revised Code 125.04: State of Ohio/Department of Administrative Services
- II. Revised Code Chapter 167: Councils of Government
- III. Revised Code 9.48(B)(1) and (2): Contracts of other political subdivisions or of a joint purchasing program of a national or state association of political subdivisions

- I. Revised Code 125.04: State of Ohio/Department of Administrative Services
 - Purchases under a DAS contract are exempt from competitive bidding requirements
 - Purchases that beat State pricing exempt from competitive bidding requirements

II. Revised Code 167: Councils of Government

- RC 167.03 and 167.08 –
 - » COG may perform functions on behalf of its members
 - » Applicable competitive purchasing requirements must be followed (Attorney General Opinions 69-013 and 82-103)

- RC 167.081(Effective September 29, 2011)
 - » COG may enter into a contract that establishes unit pricing for the repair, enlargement, improvement or demolition of a building or structure
 - » purchases by members under such a contract are exempt from competitive bidding if the contract was awarded pursuant to a competitive bidding procedure of (i) a county, municipal corporation, township, special district, school district, or other political subdivision that is a council member; (ii) a statewide consortium of which the council is a member; or (iii) a multistate consortium of which the council is a member.

- III. Revised Code 9.48(B)(1) and (2): Contracts of other political subdivisions or joint purchasing program of a national or state association of political subdivisions
 - May be used for the purchase of equipment, materials, supplies, or services
 - Purchases are exempt from competitive bidding if the underlying contract was awarded pursuant to a publicly solicited request for proposal or a competitive selection procedure of another political subdivision within this state or in another state

Attorney General Opinion 2019-028

- Contracts under Revised Code 9.48 cannot be used for the purchase of construction services
- RC 167.081 only applies to existing buildings or structures and does not allow for the construction of a new building or structure
- Unit prices under RC 167.081 may be expressed in any reasonable manner

Attorney General Opinion 2004-003

- Attorney General Affirmed its 2019 Opinion
- RC 9.48 does allow for the installation of items that can be purchase under a RC 9.48 contract (equipment, materials, supplies)
- Installation services purchase under RC 9.48 cannot cross the line into construction

Architect/Engineer/Criteria Architect

- Provides design services, not the construction – prepares drawings, specifications and/or design criteria
- Provides oversight during construction
- Qualifications based selection process
 1. Request for Qualifications
 2. Rank the firms
 3. Negotiate agreement, including fees, with top ranked firm

Design-Build Selection Process (Summary)

1. Hire Criteria Architect/Engineer
2. Issue Requests for Qualifications to Design-Build Firms
3. Receive Statements of Qualifications
4. Shortlist Firms (no particular order of preference)
5. Issue Proposal Requests to Shortlisted Firms
6. Receive Pricing and Technical Proposals

Members:

1. Rank the Shortlisted Firms
2. Negotiate and Enter into Contract with Top Ranked Firm



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Practice Focus

- Public Finance
- Construction & Engineering
- Local Government
- Ohio K-12 Public School Finance
- Real Estate

Education

- Capital University, J.D., 1994
- The Ohio State University, B.A., cum laude, 1991

Admissions

- Ohio, 1994
- U.S. Ct. of App., Sixth Circuit
- U.S. Dist. Ct., S. Dist. of Ohio

Matthew Sagone focuses his practice on construction and securities matters. He advises owners, including school districts, municipalities, counties and townships, on construction projects. As construction counsel, his responsibilities include negotiating architect, design-build and construction management contracts, drafting construction bidding documents, advising on matters arising during bidding and award, and advising on resolution of disputes that may arise during the construction phase. In addition, he is experienced in negotiating and reviewing real estate purchase agreements and leases.

Early in his legal career, Matt served as an assistant attorney general in the Business and Government Regulation Section of the Office of the Attorney General of Ohio. His work included competitive bidding matters, construction, real estate and personal services contracts, and litigating administrative and civil matters.

He is a regular presenter on topics addressing compliance with public construction requirements, construction reform, acquisition and disposition of property, and compliance with Ohio public records and open meeting requirements for the Ohio Association of School Business Officials, Ohio School Boards Association and the Buckeye Association of School Administrators.

Matt reviews, revises and updates chapters of the *Baldwin's Ohio School Law* handbook addressing the acquisition and disposition of school property, the construction and repair of school buildings, and the management and use of school property. He was also instrumental in drafting the language of Ohio Revised Code 167.084, which expanded the cooperative purchasing powers of Ohio councils of government.

He is a member of the Ohio State Bar Association, the Construction Law Committee of the Columbus Bar Association and is a past member of the board of trustees of Inner City Catholic Parishes, Inc. where he served as the board vice president and chair of the Strategic Planning Committee.

REPRESENTATIVE EXPERIENCE

- Advising Ohio political subdivisions on construction matters, including projects funded by the Ohio School Facilities Commission. Includes hiring and negotiating agreements with architects, construction managers as advisor, construction managers at risk and design-builders; drafting construction bidding documents; advising on matters arising during bidding and award of contracts; resolution of contractor claims; and litigation assistance.
- Drafting complex cooperative agreements among political subdivisions for the development, construction and joint use of public property and facilities.
- Advising on and drafting agreements for the acquisition and disposition of real and personal property in compliance with bidding requirements, including drafting request for proposal and bidding documents, and drafting and negotiating contracts.
- Drafting and negotiating leases for real and personal property, including leases for the redevelopment of vacant public facilities, cell tower leases, oil and gas leases, and equipment leases.
- Advising on compliance with state and federal prevailing wage requirements.
- Acting as co-counsel on behalf of a successful client in a landmark prevailing wage matter before the Ohio Supreme Court, *Northwestern Ohio Bldg. & Constr. Trades Council v. Ottawa County Improvement Corporation*, 122 Ohio St.3d 283.
- Drafting and negotiating agreements for the installation of energy conservation improvements, including contracts providing for guaranteed energy savings and for the installation of wind turbine facilities.
- Preparing resolutions and legislation for public sector governing boards involving purchasing and bidding matters.
- Advising political subdivisions on compliance with requirements of Ohio public records and open meeting requirements.
- Advising on cooperative purchasing through contracts of the state of Ohio and contracts of political subdivisions.