

# Legislative Barriers Related to Using Cooperative Purchasing

A cost-saving opportunity for our  
schools, towns and the state



### Regarding Cooperative Purchasing Issues

While municipalities are allowed by law to use Regional Educational Service Center (RESC) or Council of Governments (COG) cooperative purchasing programs, they are prohibited to using the programs when state funds are involved.

### Overview of CRECs Cooperative Purchasing Programs

CREC operates a cooperative purchasing program as a service to towns and schools, as a way to leverage local purchasing power and reduce costs. The program is available to any town and school in the state, who purchase \$30M annually through the program. The CREC program includes:

- CT Consortium – Statewide Invitation to Bid
- PEPPM – Invitation to Bid, operated by a RESC in PA, advertised in CT, supported by CREC
- AEPA – Nationally bid through ITB on behalf of 26 states, advertised in CT with state specific terms, specs and review done by bid committees, board approval, contract and support by CT

### MORE Commission Interest in Saving Towns and Schools Money

- CREC worked with the MORE Commission to find more ways to help schools and towns leverage purchasing power and to work together to save money
- Schools and towns are confused about whether they can use the cooperative purchasing programs or not because of the prohibition when state funds are involved
- To encourage regional cooperation, the legislature passed **Bill 5601** last session to provide clarification to municipalities that they can access RESC and COG cooperative programs
- Further legislation was passed in 2017 in support of shared services

### Remaining problem

Municipalities remain restricted from using RESC and COG cooperative purchasing programs when state funds are involved. The law states that bids can't be advertised prior to DAS review and approval, and requires that projects be advertised in a newspaper having circulation in the town doing the construction.

- Example: City of North Haven cannot use the CREC cooperative purchasing bid for a turf project. The city could save \$300,000 by using CREC's cooperative purchasing bid, and would get a better product. Now they will have to expend further money and time to go out to bid. It is a BSF project and they were told that State Unit Pricing is limited to the DAS website. (The DAS does not have a contract for turf, and DAS is **only** responsible for bidding on behalf of state agencies.)

While the city of North Haven cannot use the CREC Cooperative purchasing program for this project, the program is being used successfully by a number of towns who are not using state funds.



**Other examples**

The Capitol Region Council of Governments (CROG) is experiencing the same issues regarding the EZ-IQC program. This is a program offered by CRCOG that could save town's considerable money and time but have found that municipalities are also prohibited from using the program when state funds are involved because of the statutory requirement that each individual project be bid separately.

**Summary**

Both CREC and CRCOG cooperative programs are completely reviewed and supported by a RESC or a COG, which sets the programs apart from the national cooperatives. They are similar to the state's Department of Administrative (DAS) process. However, current law states that that bids can't be advertised prior to DAS review and approval, and requires that projects be advertised in a newspaper having circulation in the town doing the construction. As a result, municipalities cannot access the RESC or COG cooperative programs when state bids are used.

**Request**

Assistance in getting legislative changes made to allow municipalities to utilize RESC or COG cooperative purchasing contracts when state funds are used, and to allow state representatives the ability to support the use for projects they are involved in. See attached proposed changes.

Thank you for your assistance in addressing this issue.



OFFICE FOR REGIONAL EFFICIENCIES  
Cara Hart, Program Manager, Cooperative Services

**COOPERATIVE PURCHASING  
PROPOSED LEGISLATIVE AMENDMENTS**

***There are two pieces of legislation that continue to prohibit the use of cooperative purchasing contracts when using state reimbursement for construction projects. By removing these barriers, the State of CT and its schools and municipalities could save hundreds of thousands of dollars. As the State faces a \$2B deficit, and town budgets are squeezed as a result, these changes to outdated legislation could be a significant benefit.***

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Current CT law prevents districts and towns from fully utilizing RESC supported bids for roofing, athletic fields, FF&E, technology, and other items outfitting new construction. These are big ticket items, and schools and towns could save a lot of money by using these contracts.

The two major complications that need to be addressed legislatively are:

1. Connecticut General Statutes 10-287(b) requires that the invitation to bid be advertised in a newspaper having circulation in the town in which the construction is to take place. Many of these bids have been posted on the DAS Portal and in the Hartford Courant.
2. School construction projects receiving grant assistance from the state fall within the purview of Connecticut General Statutes Sec. 4b-91(a)(4), when a contract is estimated to cost more than five hundred thousand dollars and must be awarded to a bidder that is prequalified by the DAS pursuant to section 4a-100. The public agency, under these circumstances, shall invite bids for such contracts by posting notice on the Portal. As these contracts for the products and services have already bid, this statutory requirement is violated.

The statutory definition of public buildings is broad and includes any building owned by a town or city. See Conn. Gen. Stat. Sec. 1-1. (The statute makes specific reference to a "schoolhouse" and "other building generally used for literary instruction.") The definition of "public agency" includes towns and cities, their departments, bureaus, boards, commissions, and school districts. See Conn. Gen. Stat. Sec. 1-200(1)(A).

**Special note:** These statutes have also affected the willingness of DEEP to award STEEP grants to support projects, i.e. artificial turf fields.

Both of these limit the ability of districts to use cooperatively pre-bid contracts (other than those operated by the State DAS) which have the potential of significant savings. The State DAS bids on behalf of state agencies and schools, and not on behalf of towns and public schools, so not all of their purchasing needs are being addressed.

The proposed language is provided on the reverse.

**PROPOSED LANGUAGE:**

*Subsection (b) of section 10-287 of the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage):*

*(b) All orders and contracts for school building construction receiving state assistance under this chapter, including orders and contracts for architectural or construction management services, shall be awarded to the lowest responsible qualified bidder through a cooperative purchasing contract available through a regional educational service center or regional council of government, or after a public invitation to bid, which shall be advertised on the DAS site or in a Connecticut newspaper, [having circulation in the town in which construction is to take place,] except for (1) school building projects for which the town or regional school district is using a state contract pursuant to subsection (d) of section 10-292, and (2) change orders, those contracts or orders costing less than ten thousand dollars and those of an emergency nature, as determined by the Commissioner of Education, in which cases the contractor or vendor may be selected by negotiation, provided no local fiscal regulations, ordinances or charter provisions conflict.*

*Subdivision (4) of subsection (a) of section 4b-91 of the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage):*

*(4) Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by a public agency that is paid for, in whole or in part, with state funds and that is estimated to cost more than five hundred thousand dollars shall be awarded to a bidder that is prequalified pursuant to section 4a-100 after the public agency has invited such bids by posting notice on the State Contracting Portal, unless using a cooperatively bid contract offered through a regional educational service center or regional council of government, except for (A) a public highway or bridge project or any other construction project administered by the Department of Transportation, or (B) any public building or other public works project administered by the Department of Administrative Services that is estimated to cost one million five hundred thousand dollars or less. The awarding authority or public agency, as the case may be, shall indicate the prequalification classification required for the contract in such notice.*



## Legislative Barriers in CT

Current Connecticut legislation states that school construction projects must be advertised in a local newspaper, and that all related services and products must either be bid out or purchased through the State DAS contracts.

- ♣ Advertising in newspapers has become increasingly cost prohibitive, and the DAS offers a bid posting tool that alerts both local and national contractors of bid opportunities

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## Legislative Barriers in CT

The real barrier is that schools and towns are not allowed to purchasing off of any pre-bid contracts other than what has been bid by the DAS. This poses the following problems:

- ♣ The DAS is charged only with bidding on behalf of state agencies. They do not bid on behalf of schools or towns and, therefore, are not addressing their specific needs in their bids.
- ♣ Because the DAS is only bidding on behalf of state agencies and their needs, they don't offer all of the contracts that schools and towns need.

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## Economies of Scale

- ♣ DAS contract have been bid for a particular project or are limited in scope to a specific audience.
- ♣ National contracts are bid on behalf of school districts (towns and non-profits) across the country, so vendors are offering deeper discounts based on anticipated sales.

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## Nationally Bid, Locally Supported

- There are many national cooperatives, with different primary audiences and bidding standards.
- The cooperatives we are referring to are ones that are supported by educational service agencies or councils of government.
- They have a national sales scope, but local terms & conditions, and the support of a local agency.

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## Baby Steps

- sHB 5601 - § 1 — GOODS AND SERVICES CONTRACTS - The bill authorizes municipalities, notwithstanding state statutes, municipal charters . . . to purchase equipment, supplies, materials, or services from certain entities. These entities are persons that **have a contract with a regional educational service center (RESC) or regional council of governments (COG)** to sell such goods or services to the state, municipalities, nonprofits, or public purchasing consortia. **Existing law, unchanged by the bill, requires municipalities to use competitive bidding procedures for certain contracts funded in whole or in part by the state (e.g., school construction contracts).**

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## Cost Saving Opportunities Missed

- The City of XXX cannot use the CREC cooperative purchasing bid for a turf project. The city could save \$300,000 by using CREC's cooperative purchasing bid, and would get a better product. Now they will have to expend further money and time to go out to bid.
- It is a OSC project and they were told that State Unit Pricing is limited to the DAS website. (The DAS does not have a contract for turf, and DAS is only responsible for bidding on behalf of state agencies.)

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## Cost Saving Opportunities Missed

- ❖ Sales in 2014 through CREC's contract with Quill totaled \$1,598,146. Through the contract, the savings on those purchases was \$750,806. Similarly, sales in the calendar year 2014 through CREC's contract with CDW-G were \$2,446,195. Through the contract, the savings on those purchases were \$416,406.
- ❖ Savings under these two contracts would not be realized if the purchases were to outfit a new school.

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## Cost Saving Opportunities Missed

- ❖ A good example was when CREC purchased a total of 300 student desks. The company we bought from only offers an 18% discount through the State DAS, but they offer a 45% discount through CREC's National IPA program, which is a program endorsed through CREC's cooperative purchasing programs. This would have resulted in a substantial savings for the project.

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## States with No Regulations

- ❖ We all have to follow the state procurement code in New Mexico but we can do things, such as cooperative procurement, without any okay from the state or legislature.
- ❖ In Colorado we have no state statutes hindering our cooperative purchasing efforts for schools, but it would be helpful to have something that would force districts to utilize our efforts.

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## Legal Opinion in Kansas

One exception to the bidding requirements, specifically the language in K.S.A. 72-6760(b)(9)(C), allows school districts to participate in multi-state purchasing pools. The AEPA would appear to be this very type of multi-state purchasing pool that schools may participate in according to this exception. The contracts awarded under this cooperative purchasing system are facilitated by the service center, which is a local governmental entity. Therefore, as long as the vendors agree to honor the contract prices provided for in the contract between the SEKESC, and the vendors and the board approves of the expenditures, school boards are allowed to purchase the goods provided for under these contracts.



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## Success in Ohio

♣ **Sec. 167.081.** A regional council may enter into a contract that establishes a unit price for, and provides upon a per unit basis, materials, labor, services, overhead, profit, and associated expenses for the repair, enlargement, improvement, or demolition of a building or structure if the contract is awarded pursuant to a competitive bidding procedure of a county, municipal corporation, or township or a special district, school district, or other political subdivision that is a council member; **a statewide consortium of which the council is a member; or a multistate consortium of which the council is a member.**



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## Success in New Jersey

♣ Governor Christie enacted [P.L.2011,c.139](#) into law. This law affects public contracting laws for all government contracting agencies by **permitting agencies to use contracts awarded by "national" or "regional" cooperatives or other states that were competitively bid.** The law supplements existing law on the use of such contracts and is intended to provide additional flexibility to local government in the area of procurement.



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# Helping you save time and money.

The Capitol Region Education Council (CREC) is a member of the Association of Educational Purchasing Agencies. This group of 26 state educational service agencies bids nationally on behalf of the schools, municipalities, and non-profit organizations in their respective states. The following is a current list of contracts available through CREC in Connecticut, New York, and throughout New England.

Athletic Lighting	Techline Sports Lighting	
Athletic Surfaces – Tracks/Courts	FieldTurf USA	Hellas Construction
Athletic Surfaces – Turf Fields	FieldTurf USA	ProGrass
	Shaw Sports Turf	The Motz Group
Classroom & Office Supplies	Quill Corporation	
Copiers/Multifunction Machines	Konica Minolta	Kyocera Mita
Custodial, Rest Room, Break Room and Safety Supplies	Quill Corporation	
Digital Resources/Books	Mackin Educ. Resources	
Facility Management Software	SchoolDude for schools	FacilityDude for towns
Industrial Arts, Career and Tech Ed	Midwest Technology Products	
LED Lighting	Facilities Solutions Group	
Roofing	WTI/Tremco	
School Furniture	Nat'l Business Furniture	BioFit Engineered Prod
	SICO America	
Scoreboard & Marquis Signage	Daktronics	
Security – Metal Detectors	CEIA USA	
Technology Catalog	CDW-G	MNJ Technologies

For more information about these vendors, including contact information, visit our MarketPlace available at [www.crec.org/coop](http://www.crec.org/coop).

For more information about AEPA and the bid process, visit [www.aepacoop.org](http://www.aepacoop.org) or contact Cara Hart at 860-524-4021 or [chart@crec.org](mailto:chart@crec.org).



# Helping you save **time** and **money**.

The Association of Educational Purchasing Agencies (AEPA) is a nationwide group of educational organizations working collaboratively to save time and money for school districts, municipalities, and non-profit organizations. AEPA has more than \$350 million in annual protected purchases. We are currently 26 members strong, representing schools serving more than 25 million students.

Of the many advantages to this unique purchasing group are the combined human resources with purchasing experience, bidding expertise, vendor relationships, and overall vision with regard to the needs of the customers within each represented state. AEPA is unique in that each purchasing contract is awarded separately in each member state, in accordance with local bidding laws, resulting in state-specific bid protection. Local support from our member agencies sets up apart from other national cooperatives.



## Program Advantages:

- Leveraged purchase power benefits all schools, municipalities, and non-profit organizations, regardless of size, by providing the ability to purchase at equal buying levels
- Combining the potential needs of all schools, municipalities, and non-profit organizations creates an incentive for vendors to offer the best price and highest quality product
- Streamlined bidding and purchase process through a single legal purchasing solicitation recognized locally and nationally
- No expense of going through a bid process and no duplication of efforts
- Volume contracts based on 26-state participation
- Detailed and complete bid process through nationally experienced participants

Our mission is to cooperatively serve our customers through a continuous effort to explore and fulfill present and future purchasing needs. We will work on your behalf to secure multi-state, volume purchasing contracts that have benefits that are measurable, cost-effective and continuously exceed our membership's expectations.

**For more information, contact Cara Hart at 860-524-4021 or [chart@crec.org](mailto:chart@crec.org).  
Please see reverse side for a list of qualified vendor contracts.**

