



## Under What Legal Authority Can Minnesota Governmental Units, Municipalities, and the Commissioner of Administration Utilize Equalis Group Master Agreements?

[Equalis Group](#) is an interlocal cooperative purchasing program operated through a national association of political subdivisions and state agencies. Governmental units, municipalities, and the Commissioner of Administration in Minnesota are eligible to [join](#) Equalis Group by executing the Equalis Group Master Intergovernmental Cooperative Purchasing Agreement. Equalis Group Master Agreements are competitively solicited by Equalis Group Lead Agencies, which are considered governmental units under Minnesota Statutes.

1. Minnesota Statutes authorize two or more governmental units **(such as a Minnesota governmental unit and an Equalis Group Lead Agency)** whether in Minnesota or outside Minnesota to jointly or cooperatively exercise any power **(such as procurement and contracting)** common to the contracting parties through an agreement **(such as the Equalis Group Master Intergovernmental Cooperative Purchasing Agreement)** entered into through action of their governing bodies.
2. Minnesota Statutes authorize Minnesota municipalities to contract for the purchase of [supplies, materials, or equipment](#) without regard to the competitive bidding requirements of [§ 471.345](#) if the purchase is through a cooperative **(such as Equalis Group)** created by a joint powers agreement **(such as the Equalis Group Master Intergovernmental Cooperative Purchasing Agreement)**.
3. Minnesota Statutes authorizes the Minnesota Commissioner of Administration to enter into a cooperative purchasing agreement **(such as the Equalis Group Master Intergovernmental Cooperative Purchasing Agreement)** with states or governmental units **(such as Equalis Group Lead Agencies)** in Minnesota and outside of Minnesota for the provision of [goods, services, construction, and utilities](#) **(such as the goods, services, construction, and utilities available through Equalis Group Master Agreements)**.

### What is an Equalis Group Lead Agency?

Equalis Group Lead Agencies are public sector entities (e.g., state agencies, municipalities, counties, school districts, public colleges and universities, councils of governments, or special districts) lawfully established and operating under the applicable statutes of their respective states. They are authorized by state statutes to conduct public sector procurement processes, award and enter into Master Agreements with winning suppliers under applicable procurement guidelines (e.g., the responsible offeror whose proposal is most advantageous, with price and other factors considered), and make those Master Agreements available to public agencies nationwide through Equalis Group. See **The Legal Authority of Equalis Group Lead Agencies**, posted [here](#), for additional information regarding each Equalis Group Lead Agency and its authority to procure and enter into Master Agreements.

### 1. Under Minnesota Law, are Minnesota Governmental Units Eligible to Join Equalis Group & Utilize Equalis Group's Publicly Procured, Competitively Solicited Master Agreements?

[Chapters 471 - 472B, Chapter 471 § 471.59](#) of Minnesota Statutes authorizes two or more governmental units **(such as a Minnesota governmental unit and an Equalis Group Lead Agency)** whether in Minnesota or outside Minnesota to jointly or cooperatively exercise any power **(such as procurement and contracting)** common to the contracting parties through an agreement **(such as the Equalis Group Master Intergovernmental Cooperative Purchasing Agreement)** entered into through action of their governing bodies.

**Minnesota Statutes**  
**Chapters 471 - 472B – Municipalities**  
**Chapter 471 – Municipal Rights, Powers, Duties**

**Minnesota Statutes § 471.59 – Joint Exercise of Powers.**

*Subdivision 1. Agreement.*

- (a)** Two or more governmental units, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised. The agreement may provide for the exercise of such powers by one or more of the participating governmental units on behalf of the other participating units.
- (b)** The term "**governmental unit**" as used in this section includes every city, county, town, school district, service cooperative under [section 123A.21](#), independent nonprofit firefighting corporation, other political subdivision of this or another state, another state, federally recognized Indian Tribe, the University of Minnesota, the Minnesota Historical Society, historic preservation corps under paragraph (c), nonprofit hospitals licensed under [sections 144.50](#) to [144.56](#), rehabilitation facilities and extended employment providers that are certified by the commissioner of employment and economic development, day and supported employment services licensed under [chapter 245D](#), and any agency of the state of Minnesota or the United States, and includes any instrumentality of a governmental unit. For the purpose of this section, an instrumentality of a governmental unit means an instrumentality having independent policy-making and appropriating authority.

**2. Under Minnesota Law, are Minnesota Municipalities Eligible to Join Equalis Group & Utilize Equalis Group's Publicly Procured, Competitively Solicited Master Agreements without Competitive Bidding?**

[Chapters 471 - 472B, Chapter 471 § 471.345 Subdivision 15](#) of Minnesota Statutes authorizes Minnesota municipalities to contract for the purchase of [supplies](#), [materials](#), or [equipment](#) without regard to the competitive bidding requirements of [§ 471.345](#) if the purchase is through a cooperative ([such as Equalis Group](#)) created by a joint powers agreement ([such as the Equalis Group Master Intergovernmental Cooperative Purchasing Agreement](#)).

**Minnesota Statutes**  
**Chapters 471 - 472B – Municipalities**  
**Chapter 471 – Municipal Rights, Powers, Duties**

**Minnesota Statutes § 471.345 – Uniform Municipal Contracting Law.**

*Subdivision 1. Municipality defined.* For purposes of this section, "**municipality**" means a county, town, city, school district or other municipal corporation or political subdivision of the state authorized by law to enter into contracts.

*Subd. 2. Contract defined.* A "**contract**" means an agreement entered into by a municipality for the sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property.

*Subd. 3. Contracts over \$175,000.* If the amount of the contract is estimated to exceed \$175,000, sealed bids shall be solicited by public notice in the manner and subject to the

requirements of the law governing contracts by the particular municipality or class thereof. With regard to repairs and maintenance of ditches, the provisions of [section 103E.705, subdivisions 5, 6, and 7](#), apply.

Subd. 3a. **Contracts over \$175,000; best value alternative.** As an alternative to the procurement method described in subdivision 3, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [section 16C.28, subdivision 1, paragraph \(a\), clause \(2\), and paragraph \(c\)](#).

Subd. 4. **Contracts exceeding \$25,000 but not \$175,000.** If the amount of the contract is estimated to exceed \$25,000 but not to exceed \$175,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof.

Subd. 4a. **Contracts exceeding \$25,000 but not \$175,000; best value alternative.** As an alternative to the procurement method described in subdivision 4, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [section 16C.28, subdivision 1, paragraph \(a\), clause \(2\), and paragraph \(c\)](#).

Subd. 13. **Energy efficiency projects.** The following definitions apply to this subdivision.

**(a) "Energy conservation measure"** means a training program or facility alteration designed to reduce energy consumption or operating costs and includes:

- (1)** insulation of the building structure and systems within the building;
- (2)** storm windows and doors, caulking or weatherstripping, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
- (3)** automatic energy control systems;
- (4)** heating, ventilating, or air conditioning system modifications or replacements;
- (5)** replacement or modifications of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;
- (6)** energy recovery systems;
- (7)** cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;
- (8)** energy conservation measures that provide long-term operating cost reductions; and

**(9)** water metering devices that increase efficiency or accuracy of water measurement and reduce energy use.

**(b) "Guaranteed energy-savings contract"** means a contract for the evaluation and recommendations of energy conservation measures, and for one or more energy conservation measures. The contract must provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time, but not to exceed 20 years from the date of final installation, and the savings are guaranteed to the extent necessary to make payments for the systems.

**(c) "Qualified provider"** means a person or business experienced in the design, implementation, and installation of energy conservation measures. A qualified provider to whom the contract is awarded shall give a sufficient bond to the municipality for its faithful performance.

Notwithstanding any law to the contrary, a municipality may enter into a guaranteed energy-savings contract with a qualified provider to significantly reduce energy or operating costs.

Before entering into a contract under this subdivision, the municipality shall provide published notice of the meeting in which it proposes to award the contract, the names of the parties to the proposed contract, and the contract's purpose.

Before installation of equipment, modification, or remodeling, the qualified provider shall first issue a report, summarizing estimates of all costs of installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, or debt service, and estimates of the amounts by which energy or operating costs will be reduced.

A guaranteed energy-savings contract that includes a written guarantee that savings will meet or exceed the cost of energy conservation measures is not subject to competitive bidding requirements of [section 471.345](#) or other law or city charter. The contract is not subject to [section 123B.52](#).

A municipality may enter into a guaranteed energy-savings contract with a qualified provider if, after review of the report, it finds that the amount it would spend on the energy conservation measures recommended in the report is not likely to exceed the amount to be saved in energy and operation costs over 20 years from the date of final installation if the recommendations in the report were followed, and the qualified provider provides a written guarantee that the energy or operating cost savings will meet or exceed the costs of the system. The guaranteed energy-savings contract may provide for payments over a period of time, not to exceed 20 years.

A municipality may enter into an installment payment contract for the purchase and installation of energy conservation measures. The contract must provide for payments of not less than 1/20 of the price to be paid within two years from the date of the first operation, and the remaining costs to be paid monthly, not to exceed a 20-year term from the date of final acceptance.

A municipality entering into a guaranteed energy-savings contract shall provide a copy of the contract and the report from the qualified provider to the commissioner of commerce within 30 days of the effective date of the contract.

Guaranteed energy-savings contracts may extend beyond the fiscal year in which they become effective. The municipality shall include in its annual appropriations measure for each later fiscal year any amounts payable under guaranteed energy-savings contracts during the year. Failure of a municipality to make such an appropriation does not affect the validity of the guaranteed energy-savings contract or the municipality's obligations under the contracts.

Subd. 15. **Cooperative purchasing.**

**(a)** Municipalities may contract for the purchase of supplies, materials, or equipment by utilizing contracts that are available through the state's cooperative purchasing venture authorized by [section 16C.11](#). For a contract estimated to exceed \$25,000, a municipality must consider the availability, price and quality of supplies, materials, or equipment available through the state's cooperative purchasing venture before purchasing through another source.

**(b)** If a municipality does not utilize the state's cooperative purchasing venture, a municipality may contract for the purchase of supplies, materials, or equipment without regard to the competitive bidding requirements of this section if the purchase is through a national municipal association's purchasing alliance or cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or competitive quotations.

### **3. Under Minnesota Law, is the Commissioner of Administration and Finance Authorized to Join Equalis Group and Utilize Equalis Group's Publicly Procured, Competitively Solicited Master Agreements?**

[Chapters 16A - 16E, Chapter 16C § 16C.03 Subdivision 10](#) of Minnesota Statutes authorizes the Minnesota Commissioner of Administration to enter into a cooperative purchasing agreement (*such as the Equalis Group Master Intergovernmental Cooperative Purchasing Agreement*) with states or governmental units (*such as Equalis Group Lead Agencies*) in Minnesota and outside of Minnesota for the provision of goods, services, construction, and utilities (*such as the goods, services, construction, and utilities available through Equalis Group Master Agreements*).

#### **Minnesota Statutes Chapters 16A - 16E – Administration and Finance Chapter 16C - State Procurement**

#### **Minnesota Statutes § 16C.03 – Commissioner's Authority; Powers and Duties.**

Subd. 3. **Acquisition authority.** The commissioner shall acquire all goods, general services, building construction, and utilities needed by agencies. The commissioner shall make all decisions regarding acquisition activities. The commissioner shall conduct all contracting by, for, and between agencies and perform all contract management and review functions for contracts, except those functions specifically delegated to be performed by the contracting agency, the attorney general, or as otherwise provided for by law.

Subd. 3a. **Acquisition authority; best value construction contracts.** The commissioner is authorized to award construction contracts based on best value pursuant to [section 16C.28](#).

Subd. 10. **Cooperative purchasing.** The commissioner is authorized to enter into a cooperative purchasing agreement for the provision of goods, services, construction, and utilities in accordance with [section 16C.105](#).



[Chapters 16A - 16E, Chapter 16C § 16C.105](#) authorizes the commission to enter into cooperative purchasing agreements with various types of entities (*such as Equalis Group Lead Agencies*) in accordance with [section 16C.03, subdivision 10](#).

**Minnesota Statutes § 16C.105 – Cooperatives Authorized.**

The following entities are authorized to enter into cooperative purchasing agreements with the commissioner in accordance with [section 16C.03, subdivision 10](#):

- (1) one or more other states or governmental units, as described in [section 471.59, subdivision 1](#);
- (2) entities defined in [section 16B.2975, subdivision 1](#);

[Chapters 16A - 16E, Chapter 16C § 16C.02](#) defines terms utilized in the cooperative purchasing statutes.

**Minnesota Statutes § 16C.02 – Definitions.**

Subdivision 1. **Applicability.** For purposes of this chapter, the following terms have the meanings given them, unless the context clearly indicates otherwise.

Subd. 2. **Agency.** "Agency" means any state officer, employee, board, commission, authority, department, entity, or organization of the executive branch of state government.

Subd. 4. **Best value.** "Best value" describes a result intended in the acquisition of all goods and services. Price must be one of the evaluation criteria when acquiring goods and services. Other evaluation criteria may include, but are not limited to, environmental considerations, quality, and vendor performance. In achieving "best value" strategic sourcing tools, including but not limited to best and final offers, negotiations, contract consolidation, product standardization, and mandatory-use enterprise contracts shall be used at the commissioner's discretion.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of administration.

Subd. 5a. **Competitive proposal.** "Competitive proposal" means a response to a request for proposal in which the evaluation criteria upon which an award is based consists of price and other factors such as vendor qualifications.

Subd. 5b. **Construction.** "Construction" means building construction, alteration improvements, or repair. Construction does not mean highway construction.

Subd. 6. **Contract.** "Contract" means any written instrument or electronic document containing the elements of offer, acceptance, and consideration to which an agency is a party.

Subd. 7a. **General services.** "General services" means any nonprofessional or technical services. General services does not include construction.

Subd. 8. **Goods.** "Goods" means all types of personal property including commodities, materials, supplies, and equipment.

Subd. 17. **Services.** "Services" means, unless otherwise indicated, both professional or technical services and service performed under a general service contract.

**Legal Disclaimer**

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*Equalis Group encourages political subdivisions, units of local government, state agencies, other public agencies, and supplier partners to have appropriate legal counsel review the applicable articles under State Statutes to determine their eligibility to utilize Equalis Group's competitively solicited contracts.*