

Contracts for Professional Services

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

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 municipal 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 MTAS website material.

Sincerely,

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Contracts for Professional Services

Reference Number: MTAS-2007

Professional services include legal services, fiscal agent, financial advisor or advisory services, educational consultant services, architectural services, engineering services, and similar services by professional people or groups with “*high ethical standards*.” Only contracts for services performed within the professional’s field of expertise are to be considered professional service contracts. For example, leasing office space from an attorney or purchasing computer services from an accountant are not professional services and will require competitive bids.

T.C.A. § 12-3-1209 requires a contract to be awarded on the basis of recognized competence and integrity, rather than on competitive solicitations. This does not stop a municipality from requesting proposals from eligible service providers and deciding the capabilities of each. Although cost must be considered in choosing the service provider, it must not be the sole factor.

When the service provider is chosen, the municipality and the provider must enter into a written contract specifying 1) the service and 2) the cost and expenses covered under the contract.

Any fiscal agent, financial advisor or advisory service that serves a municipality must meet the requirements of the Comptroller’s Office of State and Local Finance regarding conflict of interest in purchasing municipal debt.

T.C.A. § 12-4-107 includes additional requirements for governmental entities in the procurement of architectural and engineering professional services.

The municipality may seek qualifications from any firm or firms licensed in the state and interview any or all. The qualifications and experience of all firms under consideration will be evaluated. The successful firm deemed most qualified will meet with the municipality in an attempt to negotiate a contract, the compensation of which is fair and reasonable to the government. Should the municipality and the firm be unable to negotiate a contract with a satisfactory price, negotiations will continue with other qualified firms until a satisfactory agreement is reached.

In the event a municipality has an existing satisfactory relationship with a qualified firm, the government may continue to exercise that relationship without seeking qualifications from other licensed firms.

For local construction projects or additions to existing buildings, a local government may contract for a construction management agent or advisory services or construction manager at-risk services. Construction management services may be performed by a qualified person licensed under the Contractors Licensing Act of 1994 or by a licensed architect or engineer.

Construction management services are to be procured for each project through a written request for proposals (RFPs) process through advertisement. RFPs will indicate the service requirements and the factors used for evaluating the proposals. A governing body may perform work on the project with its own employees and may include the coordination and oversight of this work as part of the services of a construction manager agent or advisor.

All construction work under the coordination and oversight of the construction manager shall be procured through competitive bid.

The T.C.A. citations for this topic are T.C.A. § 12-3-1209 and § 12-4-107.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

Source URL (retrieved on 08/19/2019 - 2:06am): <http://www.mtas.tennessee.edu/reference/contracts-professional-services>

