



Purchasing Guide

Dear Reader:

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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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Purchasing Guide

Reference Number: MTAS-1627

City officials must stay up to date on changes in legislation that affect buying policies. For example, the 1983 Municipal Purchasing Law has been amended, and state legislation has been passed that directly affects other forms of municipal government. Purchasing is a tricky area, and mistakes can be costly.

There are four primary forms of municipal government in Tennessee: mayor-aldermanic, commission-manager, modified city manager-council, and those created by private act charters or home rule charters. The general laws addressed in this section apply to all forms of municipal government unless there is a specific exclusion, but purchasing requirements regulating metropolitan governments are not covered. Sample ordinances, resolutions and forms are included.

Sample procedures included in this section are adaptable to any form of government. Good purchasing methods are important to make sure taxpayers know how their money is being spent, city workers are adequately protected from unwarranted criticism, and vendors have equal opportunity to solicit city business, all of which allow the municipality to make the best use of its funds.

Mayor-Aldermanic (General Law) Charters

Reference Number: MTAS-1628

T.C.A. §§ 6-1-101 et seq.

There are no clear-cut purchasing requirements in the mayor-aldermanic (general law) charter. Since there are no provisions in the charter regulating competitive bidding and public advertisement, the 1983 Municipal Purchasing Law applies. However, the governing body of the municipality is authorized to increase or decrease the amount specified in the law concerning public advertising and competitive bidding.

All acquisitions made under this law must be purchased within the limits of the approved budget and appropriations for the department, office or agency for which the purchase is made.

Organizations Exempt from the Purchasing Law (Mayor-Ald.)

Reference Number: MTAS-1630

When a city buys from any of the following organizations, the purchase is exempt from the 1983 Municipal Purchasing Law:

- Agencies created by two or more cooperating governments such as those established under the Inter-local Cooperation Act (T.C.A. §§ 12-9-101 *et seq.*);
- Nonprofit corporations, such as the Local Government Data Processing Corporation, that provide goods or services specifically to municipalities; and
- Federal, state, and local governmental units or agencies when purchasing second-hand supplies, commodities and equipment.

Purchases Exempt by the Purchasing Law

Reference Number: MTAS-1631

The following city purchases are exempt from competitive bidding and public advertisement requirements according to the 1983 Municipal Purchasing Law:

- Products and services available only from a single source of supply and those of a proprietary nature (brand name products made and marketed by one having the exclusive right to manufacture and sell);

- Purchases, leases and lease-purchases of real property;
- Emergency purchases; however, there are certain reporting requirements when this exemption is used;
- Purchases, leases, and lease-purchases of \$1,000 or less in any fiscal year do not require public advertisement or competitive bidding. Although not required, it is recommended that you try to get the best deal by soliciting price quotes; and
- Purchases, leases, and lease-purchases of more than \$1,000 but less than \$2,500 do not require public advertisement but do require, whenever possible, at least three competitive quotes. The \$2,500 threshold may be lowered or increased up to \$10,000 by the municipality's governing body. ^[1]

[1] Cities with populations of not less than 40,000 nor more than 42,500 or populations over 150,000, according to the 2000 federal census or any subsequent census may increase the minimum dollar amount required for public advertisement and competitive bidding to \$25,000, provided that purchases between \$10,000 and \$25,000 are based upon three competitive bids (quotes).

Competitive Bids/Proposals (Mayor-Ald.)

Reference Number: MTAS-1632

According to the 1983 Purchasing Law, municipal purchases, leases, and lease-purchases that cost between \$1,000 and \$2,500, must be based on at least three competitive bids (quotes). ^[1]

However, the municipality may, by ordinance, increase the \$1,000 limit to a maximum of 40 percent of the amount established by the governing body as authorized by law for purchases requiring public advertisement and competitive bidding.

Purchases, leases, and lease-purchases totaling \$2,500 or more during the fiscal year must be competitively bid. This also includes purchases, leases, and lease-purchases of like or related items usually acquired by two or more buys during the fiscal year. The amount may be lowered or increased up to \$10,000 by the municipality's governing body. ^[1]

"Competitive sealed bids" generally include both sealed bids and sealed proposals. Sealed proposals should be used if the criteria for vendor selection can be clearly defined, the selection process will benefit the municipality, and the process is approved by the municipality. For more information see T.C.A. § 12-3-1207.

A city may exempt a purchase of perishable goods from competitive bidding requirements when the items are bought in the open market. The person or body authorizing the acquisition must prepare a record specifying the amount paid, the items purchased and the vendor. This purchase record must be reported at least monthly to the chief executive officer and governing body of the municipality.

Purchases of natural gas and propane for re-sale are exempt from competitive bidding.

[1] Cities with populations of not less than 40,000 nor more than 42,500 or populations over 150,000, according to the 2000 federal census or any subsequent census may increase the minimum dollar amount required for public advertisement and competitive bidding to \$25,000, provided that purchases between \$10,000 and \$25,000 are based upon three competitive bids (quotes).

Public Advertisement (Mayor-Ald.)

Reference Number: MTAS-1633

According to the 1983 Municipal Purchasing Law, purchases, leases and lease-purchases of less than \$2,500 do not have to be publicly advertised.

Municipal purchases, leases, and lease-purchases of more than \$1,000 but less than \$2,500 do not require public advertisement but do require, whenever possible, at least three competitive quotes. The municipal governing body may, by ordinance, increase this \$1,000 limit to a maximum of 40% of the amount established under TCA 6-56-306 for purchases requiring public advertisement and competitive bidding.

Unless specifically exempt, all purchases, leases, and lease-purchases of like or related items usually bought alone or by two or more purchases totaling \$2,500 or more during the fiscal year must be publicly advertised. The amount may be lowered or increased up to \$10,000 by the municipality's governing body. ^[1]

The municipality may exempt perishable goods from public advertisement requirements when the items are bought in the open market. Whoever authorizes the purchase must prepare a record specifying the amount paid, the items purchased and the vendor. This record must be provided at least monthly to the chief executive officer and the municipality's governing body.

The municipality also may exempt fuel and fuel products from advertising requirements when the items are bought in the open market. Fuel and fuel products may be bought from the state general services contract where available. Purchases of natural gas and propane for re-sale do not have to be advertised.

[1] Cities with populations of not less than 40,000 nor more than 42,500 or populations over 150,000, according to the 2000 federal census or any subsequent census may increase the minimum dollar amount required for public advertisement and competitive bidding to \$25,000, provided that purchases between \$10,000 and \$25,000 are based upon three competitive bids (quotes).

Emergency Purchases (Mayor-Ald.)

Reference Number: MTAS-1634

Purchases and leases of supplies, materials, or equipment may be made immediately in emergencies without competitive bidding and public advertisement. Emergencies, or unexpected trouble, might include delays by contractors, delays in transportation or an unexpected amount of work.

Once an emergency buy is made, the person or body who authorized it must prepare a record specifying the amount paid, the items purchased, the vendor and the nature of the emergency. As with other purchase records, this log must be provided as soon as possible to the chief executive officer and the municipality's governing body.

Authority of the Governing Body (Mayor-Ald.)

Reference Number: MTAS-1635

Under the 1983 Purchasing Law, a municipality has the power to set its own purchasing procedures. The city's governing body may lower the \$2,500 minimum required for competitive bidding and public advertisement or raise the requirement to a maximum of \$10,000. ^[1]

The city's governing body may also raise the \$1,000 competitive quote threshold up to 40% of the competitive bidding and public advertisement limit.

The municipality also may exempt perishable goods bought in the open market from competitive bidding and public advertisement. But remember, there are certain reporting requirements if this exemption is made.

[1] Cities with populations of not less than 40,000 nor more than 42,500 or populations over 150,000, according to the 2000 federal census or any subsequent census may increase the minimum dollar amount required for public advertisement and competitive bidding to \$25,000, provided that purchases between \$10,000 and \$25,000 are based upon three competitive bids (quotes).

City Manager-Commission (General Law) Charters

Reference Number: MTAS-1637

T.C.A. §§ 6-18-101 et seq.

The city manager-commission (general law) charter sets specific buying requirements for municipalities so governed. Purchasing and contract procedures not established by the charter or other general laws may be established by ordinance.

The city manager, or his or her designee, is responsible for all municipal purchasing and is authorized to act as purchasing agent for the community.

Before a municipality enters into a purchasing contract or agreement, the finance director must assure the board of commissioners that the funds are available. Until the finance director certifies that the money is available, the board must not authorize the expense by ordinance, resolution, or order.

Organizations Exempt by the Charter (CM-Comm.)

Reference Number: MTAS-1639

There are no vendor organizations exempt from competitive bidding requirements.

Purchases Exempt by the Charter (CM-Comm.)

Reference Number: MTAS-1640

The charter does not exempt any purchases and/or public improvements from competitive bidding.

Competitive Bids/Proposals (CM-Comm.)

Reference Number: MTAS-1641

Competitive prices for all purchases and public improvements must be obtained whenever possible in accordance with regulations established by ordinance. Acquisitions and contracts must be given to the lowest and best bidder, and a municipality may reject any bids.

Formal sealed bids must be taken in all transactions involving an expense amount to be set by ordinance. The amount must not be less than \$2,500 or more than \$10,000. A written contract must be entered into once the deal is made.

The charter authorizes the board of commissioners, upon written recommendation of the city manager and by unanimous resolution of those present at the meeting, to authorize noncompetitive contracts where it is clearly to the advantage of the municipality not to contract with competitive bidding.

The city manager may reject all bids and assign public improvements or any other municipal work to a municipal department.

"Competitive sealed bids" generally means both sealed bids and sealed proposals.

The charter authorizes the board of commissioners to delegate by ordinance to the city manager the authority to enter into binding contracts on behalf of the city, without specific board approval, in routine matters and matters not having substantial long-term consequences (fiscal year expenditures less than \$10,000).

Sealed proposals should be used if the criteria for vendor selection can be clearly defined, the selection process will benefit the municipality, and the process is approved by the municipality's board of commissioners.

Public Advertisement (CM-Comm.)

Reference Number:

MTAS-1642

The general law city manager-commission charter does not set any rules about public advertisement for purchases and public improvements. Regulations governing public advertisement should be established by ordinance.

Emergency Purchases (CM-Comm.)

Reference Number: MTAS-1643

The general law city manager-commission charter also doesn't address emergency purchases. Regulations governing emergency purchases should be established by ordinance.

Authority of the Governing Body (CM-Comm.)

Reference Number: MTAS-1644

According to the charter, the board of commissioners must set (by ordinance) regulations governing all purchases and public improvements. The board also must set the minimum cost of acquisitions and public improvements that triggers the requirement for formal sealed bids. The municipality may reject any bids.

Based on written recommendation of the city manager, and by unanimous resolution of those at the meeting, the board may authorize non-competitive contracts if it is clearly to the advantage of the city not to contract with competitive bidding.

The charter authorizes the board of commissioners to delegate by ordinance to the city manager the authority to enter into binding contracts on behalf of the city, without specific board approval, in routine matters and matters not having substantial long-term consequences (fiscal year expenditures less than \$10,000).

The board may establish (again, by ordinance) all purchasing and contract procedures not addressed in the charter or other legislation.

Modified City Manager-Council (General Law) Charters

Reference Number: MTAS-1646

T.C.A. §§ 6-30-101 et seq.

The modified city manager-council (general law) charter sets specific buying requirements for municipalities so governed. Purchasing and contract procedures not prescribed by charter or other general laws may be established by ordinance.

The city manager is responsible for preparing regulations governing the acquisition, custody, use, and disposal of all property and equipment. The city council must approve these rules.

The city manager, or his or her designee, is responsible for all purchasing for the municipality except for schools. The school superintendent must take care of purchasing for schools; however, purchases and contracts for schools are subject to provisions of this charter. No purchase, expenditure, or contract shall be made in excess of available school funds.

Centralized buying may be used where it is mutually agreed upon by the council and the board of education or their delegated representatives.

Organizations Exempt by the Charter (Mod. CM-Council)

Reference Number: MTAS-1648

According to the general law modified city manager-council charter, there are no vendor organizations exempt from competitive bidding requirements.

Purchases Exempt by the Charter (Mod. CM-Council)

Reference Number: MTAS-1649

The charter does not exempt any purchasing or public improvements from competitive bidding.

Competitive Bids/Proposals (Mod. CM-Council)

Reference Number: MTAS-1650

Competitive prices for all acquisitions and public improvements must be obtained whenever possible, in accordance with regulations, which must be established by ordinance. The lowest responsible bidder must receive contracts or purchases. The municipality may reject any and all bids.

Formal sealed bids must be taken in all transactions of \$10,000 or more. These transactions must be confirmed by written contract submitted to and approved by the council.

The charter authorizes the council, upon written recommendation of the city manager and by unanimous resolution of those present at the meeting, to authorize non-competitive contracts where it is clearly to the advantage of the municipality not to contract with competitive bidding.

The council may authorize public improvements or other municipal work to be done by any municipal department or agency without competitive bidding.

"Competitive sealed bids" generally means both sealed bids and sealed proposals. Sealed proposals should be used if the criteria for vendor selection can be clearly defined, the selection process will benefit the municipality, and the process is approved by the municipality's board of commissioners. See "Purchasing through Competitive Sealed Proposals [1]".

Public Advertisement (Mod. CM-Council)

Reference Number: MTAS-1651

The general law modified city manager-council charter contains no rules about public advertising for buying and public improvements. Regulations about public advertisement should be established by ordinance.

Emergency Purchases (Mod. CM-Council)

Reference Number: MTAS-1652

The charter also is silent on emergency purchases. Regulations about emergency purchases should be established by ordinance.

Authority of the Governing Body (Mod. CM-Council)

Reference Number: MTAS-1653

According to the charter, council must set by ordinance the regulations concerning all acquisitions and public improvements. The municipality may reject any and all bids.

If there is unanimous agreement of those present at the council meeting and the city manager has provided a written recommendation, council may authorize non-competitive contracts where it is clearly to the advantage of the municipality not to contract with competitive bidding.

The council may authorize public improvements or any municipal work done by a municipal department or agency without competitive bidding.

The council also may establish by ordinance all purchasing and contract procedures not addressed in the charter or other legislation.

The board of education and director of schools are subject to the conditions of the charter when making purchases and contracts for schools. The board of education stands in place of the council and the director of schools in place of the city manager.

The municipal administration and the schools may centralize buying when it is agreed upon by the council and board of education.

Private Act Charters or Home Rule Charters

Reference Number: MTAS-1655

Since private act charters and home rule charters are different, a great deal of careful reading is necessary to determine purchasing rules for each type of municipality. If the charter does not mention purchasing and competitive bidding, buying for the municipality is governed by the 1983 Municipal Purchasing Law.

Generally, if the charter has provisions governing competitive bidding and purchasing, the municipality is governed by the charter. However, due to the vagueness of some charter provisions, it may be difficult to know if a municipality is exempt from the 1983 Municipal Purchasing Law. Each municipality must make a decision about this.

Governed by the 1983 Municipal Purchasing Law

Reference Number: MTAS-1657

Refer to the requirements governing general law mayor-aldermanic charters [2]when the 1983 Municipal Purchasing Law is the controlling purchasing statute.

Governed by the Charter

Reference Number: MTAS-1658

Municipalities that have charter provisions dealing with competitive bidding and either establish bid limits in the charter itself or allow bid limits to be set by ordinance should operate under the charter provisions. Here, however, the municipality must establish via charter or ordinance general bid procedures, including public advertising, securing and opening bids, and any exemptions from competitive bidding.

For municipalities with charter provisions that deal with competitive bidding but set no bidding limits, the municipality may by ordinance set a limit not to exceed \$25,000 over which public advertisement and competitive bidding are required. These municipalities must also by ordinance set a dollar limit not exceeding 40 percent of this bid limit amount over which the municipality need not advertise but, when possible, must obtain three competitive bids and below which no advertisement or competitive bidding is required. The ordinance must also establish procedures for public advertising, securing and opening bids, and any exemptions from competitive bidding.

When private act charters or home rule charters control buying, it is important to know which organizations and purchases, if any, are exempt. Exemptions must be substantially similar to those found in T.C.A. § 6-56-304.

You must determine what authority the municipal governing body has concerning establishing policy and procedures for the buying process.

Other General Laws related to Purchasing

Reference Number: MTAS-2006

There are other general laws apart from the charter and the 1983 Municipal Purchasing Law that can influence purchasing policies and procedures. Following is a list of legislation which should be considered in the buying process of municipal governments.

Municipal Purchasing Law of 1983 Summary

Reference Number: MTAS-148

The Municipal Purchasing Law of 1983 establishes minimum requirements for all cities that do not have very specific charter provisions governing competitive bidding and purchasing.

Municipalities that have charter provisions dealing with competitive bidding and either establishing bid limits in the charter itself or allowing bid limits to be set by ordinance but setting a maximum may continue to operate under the charter provisions, but the municipality must by charter or ordinance establish general bid procedures, including public advertising, securing and opening bids, and any exemptions from competitive bidding. Exemptions must be substantially similar to those in T.C.A. § 6-56-304.

For municipalities with charter provisions that deal with competitive bidding but that set no bidding limits, the municipality may by ordinance set a limit not exceeding \$25,000 over which public advertisement and competitive bidding must precede purchases. These municipalities must also by ordinance set a dollar limit not exceeding 40 percent of this bid limit amount over which the municipality need not advertise but when possible must obtain three competitive bids and below which no advertisement or competitive bidding is required. The ordinance also must establish procedures for public advertising, securing and opening bids, and any exemptions from competitive bidding, which must be substantially similar to those in T.C.A. § 6-56-304.

T.C.A. § 6-56-306(a) allows municipalities with a population of 40,000 to 42,500 and municipalities with a population over 150,000 to set the dollar amount required for public advertisement and competitive bidding up to \$25,000 as long as purchases between \$10,000 and \$25,000, when possible, are based upon at least three competitive bids.

The act requires public advertising and competitive bids for all purchases, leases, and lease-purchases except:

- purchases through state contracts;
- investments in or purchases from the Local Government Investment Pool (LGLP);
- purchases from instrumentalities created by two or more cooperating governments;
- goods and services purchased from non-profit corporations formed to specifically serve municipalities;
- purchases, leases, or lease-purchases of real property;
- purchases, leases, or lease-purchases from other governments;
- when there is only one source of supply or proprietary product;
- emergency purchases (complete documentation and a report to the municipality's governing body and chief executive are required for each emergency purchase);
- leases or lease-purchase agreements requiring payments of less than \$2,500 during a fiscal year;
- purchases of perishable commodities when approved by the governing body and subject to certain documentation and reporting requirements;
- fuel and fuel products, which may be purchased on the open market;
- purchases, leases, or lease purchases of secondhand articles or equipment, etc., from federal, state, or local government units or agencies;
- any contract for purchasing natural or propane gas for resale; and

- purchases under \$2,500, although cities may adopt an ordinance increasing the purchase amount to \$10,000 before advertising and competitive bids are required.

Purchases between \$1,000 and the amount established for advertising and competitive bids may be made without advertising on the open market but "wherever possible" must be based on three competitive bids. This \$1,000 limit may be increased by ordinance to 40 percent of the amount established for purchases requiring advertisement and competitive bidding. Purchases of less than \$1,000 or the amount set by ordinance do not require advertising or competitive bidding. T.C.A. §§ 6-56-301, *et seq.* [3]

Ordinance to Increase Purchasing Limits

Reference Number: MTAS-1685

An Ordinance Establishing a Maximum Amount for Purchases Without Public Advertisement and Competitive Bidding

WHEREAS, the City/Town of _____ is subject to the provisions of the "Municipal Purchasing Law of 1983," and

WHEREAS, this law permits municipalities to increase the dollar amount of purchases requiring public advertisement and competitive bidding, and,

WHEREAS, the (*governing body*) has determined that it is in the best interest of the City/Town of _____ to increase said amount.

NOW THEREFORE, BE IT ORDAINED BY THE (*governing body*) of the City/Town of _____, THAT:

Section 1. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of _____ dollars (\$00,000) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983.

Section 2. Three written quotations are required whenever possible for purchases costing less than the _____ (\$00,000) bid threshold adopted for competitive bidding and public advertisement, but more than ____% of the threshold amount.

Section 3. This ordinance shall take effect from and after its final passage, the public welfare requiring it.

NOTES:

1. **Each municipality should add the appropriate provisions for readings or passages and signatures.**
2. **Municipalities subject to the Municipal Purchasing Law of 1983 that do not have a full time purchasing agent and centralized purchasing authority are authorized to increase the dollar amount required for complete bidding and public advertisement from two thousand five hundred dollars (\$2,500) to a maximum of ten thousand dollars (\$10,000), by ordinance. See exceptions in Tenn. Code Ann. Section 6-56-306.**
3. **Municipalities that are subject to the Municipal Purchasing Law of 1983 that do have a full time purchasing agent and centralized purchasing authority are authorized to increase the dollar amount required for competitive bidding and public advertisement from ten thousand dollars (\$10,000) to a maximum of twenty-five thousand dollars (\$25,000), by ordinance.**
4. **Three written quotations are required whenever possible for purchases that are less than the competitive bidding and public advertisement bid threshold, but more than forty percent (40%) of it. Municipalities may also require three written quotations whenever possible for purchases that are less than forty percent (40%) of the competitive bidding and public advertisement bid threshold.**

Laws Related to Purchasing in City Manager-Commission Charter

Reference Number: MTAS-1687

6-19-104. Purchasing and contract procedures —

(a) The city manager shall be responsible for all city purchasing, but the city manager may delegate the duty to make purchases to any subordinate appointed by the city manager.

(b) Competitive prices for all purchases and public improvements shall be obtained whenever practicable and in accordance with regulations established by ordinance, and the purchase made from or the contract awarded to the lowest and best bidder; provided that the city may reject any and all bids.

(c) Formal sealed bids shall be obtained in all transactions involving the expenditure of an amount to be set by ordinance. The amount set shall be equal to or greater than the amount set in chapter 56, part 3 of this title, but may not be greater than ten thousand dollars (\$10,000). The transaction shall be evidenced by written contract. In cases where the board indicates by unanimous resolution of those present at the meeting, based upon the written recommendation of the manager, that it is clearly to the advantage of the city not to contract with competitive bidding, it may authorize noncompetitive contracts.

(d) The city manager may reject all bids and authorize the making of public improvements or accomplishment of any other city work by any city department.

(e) Purchasing and contract procedures not prescribed by this charter or other law may be established by ordinance.

(f) The board of commissioners may by ordinance delegate to the city manager the authority to enter into binding contracts on behalf of the city, without specific board approval, in routine matters and matters having insubstantial long-term consequences. The ordinance shall enumerate the types of matters to which the city manager's authority extends and may place other limitations on the city manager's authority under this subsection (f). As used in this subsection (f) "routine matters and matters having insubstantial long-term consequences" means any contract for which expenditures during the fiscal year will be less than ten thousand dollars (\$10,000).

6-21-108. Powers and duties of manager — The powers and duties of the city manager are to:

(1) See that the laws and ordinances are enforced, and upon knowledge or information of any violation thereof, see that prosecutions are instituted in the city court;

(2) Except as otherwise provided in this charter, appoint, promote, demote, suspend, transfer, remove, and otherwise discipline all department heads and subordinate employees at any time, subject only to any personnel rules and regulations adopted by ordinance or resolution by the commission. Any hearings on, or appeals from, the city manager's personnel decisions provided for in the personnel rules and regulations shall be exclusively before the city manager or a hearing officer designated by the city manager;

(3) Supervise and control the work of the recorder, the chief of police, the city attorney, treasurer, and all other officers, and of all departments and divisions created by this charter or which hereafter may be created by the board of commissioners;

(4) See that all terms and conditions imposed in favor of the city or its inhabitants in any public utility or franchise are faithfully done, kept and performed, and, upon knowledge or information of any violation thereof, call the same to the attention of the city attorney, who is hereby required to take such steps as are necessary to enforce the same;

(5) Attend all meetings of the board, with the right to take part in the discussion, but not to vote;

(6) Recommend to the board for adoption such measures as the city manager deems necessary or expedient;

(7) Act as budget commissioner and keep the board fully advised as to the financial condition and need of the city;

(8) Act as purchasing agent for the city and to purchase all material, supplies and equipment for the proper conduct of the city's business as provided in §6-19-104;

(9) Execute contracts on behalf of the city when this authority is delegated to the city manager by ordinance; and

(10) Perform such other duties as may be prescribed by this charter or required of the city manager by resolution or ordinance of the board.

6-22-128. Certification of availability of funds to meet contract obligations — No contract, agreement, or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be passed by the board of commissioners or be authorized by any officer of the city, unless the finance director shall first certify to the board or the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure, is in the treasury or safely assured to be forthcoming and available in time to comply with, or meet such contract, agreement, obligation or expenditures, and no contract, agreement or other obligation involving the expenditure of money payable from the proceeds of bonds of the city, shall be entered into until the issuance and sale of such bonds have been duly authorized in accordance with the provisions of this charter in reference to city bonds.

Ordinance to Establish Purchasing Limits in City Manager-Commission Chartered Cities

Reference Number: MTAS-1688

AN ORDINANCE OF THE CITY OF _____ TO ESTABLISH PURCHASING LIMITS

WHEREAS, T. C.A. § 6-19-104 provides that competitive prices for all purchases and public improvements shall be obtained whenever practicable and in accordance with regulations established by ordinance, and that formal sealed bids shall be obtained in all transactions involving expenditures of an amount to be set by ordinance, provided that the amount set shall be equal to or greater than the amount set in T.C.A., Title 6, Chapter 56, part 3 (\$2,500) but not to exceed \$10,000;

WHEREAS, T.C.A. § 6-19-104 provides that the city manager shall be responsible for all city purchasing, and T.C.A. § 6-21-101 provides that one of the duties of the city manager is to act as the purchasing agent for the city and to purchase all material, supplies and equipment for the proper conduct of the city's business as provided in T.C.A. § 6-19-104;

WHEREAS, It is in the best interest of the city to authorize the purchase by the city manager, without formal sealed bid, of material, supplies and equipment costing in excess of the amount set by T.C.A., Title 6, Chapter 56, Part 3, (\$10,000) and to give the city manager flexibility to make purchases on behalf of the city;

NOW THEREFORE, BE IT ORDAINED BY THE (*governing body*), **as follows:**

Section 1. In accordance with T.C.A. § 6-19-104 the purchase of all material, supplies, equipment and services purchased under the authority of this ordinance shall, unless otherwise provided by law, be purchased in accordance with the following regulations:

(a) Purchases not exceeding (not to exceed \$10,000). The city manager is authorized to make the following purchases whose estimated costs do not exceed \$_____ without formal sealed bids and written specifications: commonly used items of material, supplies, equipment and services used in the ordinary course of maintaining and repairing the city's real or personal property; building or maintaining stocks of city material, supplies and equipment used in the ordinary course of city operations; and minor construction, repair or maintenance services. However a record of all such purchases shall be maintained describing the material, supplies, equipment or service purchased, the person or business from whom it was purchased, the date it was purchased, the purchase cost, and any other information from which the general public can easily determine the full details of the purchase. Each purchase shall be supported by invoices and/or receipts and any other appropriate documentation signed by the person receiving payment.

(b) Purchases in excess of (not to exceed \$10,000). The city manager is required to make purchases in excess of \$_____ based on written specifications, awarded by written contract let to the lowest responsive and responsible bidder following advertisement for, and the submission of, sealed bids.

(c) Exceptions to bidding requirement. The city manager is authorized to make the following purchases whose estimated cost is in excess of \$_____ (not to exceed \$10,000) without written specifications or bids:

(1) Emergency purchases of material, supplies, equipment or services. However, a report of the emergency purchase, including the nature of the emergency, the materials, supplies, equipment or services purchased, and the appropriate documentation similar to that required under the first subsection above shall be filed with the city commission at its next regular meeting.

(2) The purchase of unique, special, or proprietary material, supplies, equipment or services the city manager determines is in the best interest of the city to acquire. However, a report of the purchase, including a full description of the material, supplies, equipment or services purchased; the reason the same is unique, special or proprietary; the interest of the city served by the purchase; and from whom the purchase will be made shall be filed with the city commission at its regular meeting prior to purchase.

(3) Purchases of equipment which, by reason of training of city personnel or an inventory of replacement parts maintained by the city, are compatible with the existing equipment owned by the city. However, a full report of the purchase, including a full description of the equipment, an outline of the municipal training or parts inventory factors that made the purchase economically advantageous to the city, and from whom the purchase will be made shall be filed with the city commission at its regular meeting prior to purchase.

(4) Purchases that can be made only from a sole source. The minimum geography for determining the "sole source" shall be the municipal limits. However, the city manager shall have the discretion to enlarge the geography of the sole source to whatever extent he determines is in the economic interest of the city. A full report of the purchase, including a full description of the purchase, evidence that the purchase was made legitimately a sole source purchase, and from whom the purchase will be made shall be filed with the city commission at its regular meeting prior to purchase.

Section 2. This ordinance shall take effect from and after its final passage, the public welfare requiring it.

NOTE: City should add its appropriate provisions for readings or passages and signatures.

Laws Related to Purchasing in Modified City Manager-Council Chartered Cities

Reference Number: MTAS-1689

6-35-205. Purchasing —

(a) Except as provided in § 6-36-115, the manager shall be responsible for all city purchasing but he may delegate such duty to any subordinate appointed by the manager.

(b)

(1) Competitive prices for all purchases and public improvements shall be obtained whenever practicable and in accordance with regulations established by ordinance, and the purchase made from or the contract awarded to the lowest responsible bidder, provided that the city shall have the power to reject any and all bids.

(2) Formal sealed bids shall be obtained in all transactions involving the expenditure of ten thousand dollars (\$10,000) or more, and the transaction shall be evidenced by written contract submitted to and approved by the council; provided that in cases where the council indicates by formal unanimous resolution of those present at the meeting, based upon the written recommendation of the manager, that it is clearly to the advantage of the city not to contract with competitive bidding, it may authorize noncompetitive contracts.

(3) The council may also authorize the making of public improvements or the performing of any other city work by any city department or agency without competitive bidding.

(c) Purchasing and contract procedures not prescribed by this charter or other law may be established by ordinance.

6-35-206. Management of city property and equipment — Lease of property and equipment to contractors for city services —

(a) The management of all city property and equipment except school property and equipment shall be the responsibility of the city manager who shall prepare for the approval of the council regulations governing the acquisition, custody, use and disposal of all such property and equipment. Such

regulations shall provide for a regular inventory, appraisal and marking of all such property and shall require that the disposal of any city property and equipment valued at more than five hundred dollars (\$500), provided that any sale for more than one thousand dollars (\$1,000), or any sale of real estate shall be subject to the approval of the city council.

6-36-115. Purchases and contracts —

(a) All materials, supplies and equipment shall be purchased by the director of schools in accordance with procedures approved by the board of education, except that centralized purchasing with the city administration may be utilized where it is mutually agreed upon by the council and board or their delegated representatives.

(b) The board of education or director of schools, in making purchases and contracts, shall be subject to the provisions of this charter relating to purchases and contracts by the city council and city manager, with the board of education standing in the stead of the council and the director of schools standing in the stead of the city manager.

(c) No purchase, expenditure or contract shall be made in excess of available school funds.

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.

Energy-related Services

Reference Number: MTAS-2008

Contracts by local governments for energy-related services that include both engineering services and equipment for the purpose of reducing energy costs in public facilities shall award contracts on the same basis as contracts for professional services.

The T.C.A. citation for this topic is T.C.A. § 12-4-110.

Purchase of Certain Insurance Summary

Reference Number: MTAS-2026

Municipalities may purchase any of the insurance authorized and approved by any organization of governmental entities representing cities and counties without having to go through competitive bidding. This is true regardless of any public or private act or charter restrictions.

The T.C.A. citation for this topic is T.C.A. § 29-20-407.

Purchases Through State Contract Summary

Reference Number: MTAS-2027

The central procurement office may, upon request, purchase goods and services for any local governmental unit of this state. The cost of any purchase shall be borne by the local government unit concerned.

Local governments may, without public advertisement or competitive bidding, make purchases of goods or services included in federal general services administration contracts or other applicable federal open purchase contracts. Excluded from this authorization are motor vehicles other than those manufactured for a special purpose as defined in T.C.A. § 12-3-1208.

Municipalities may take advantage of so-called "state prices" regardless of any charter or general law requirements without public advertisement and competitive bidding.

Not all prices quoted to the state are available to local governments. Unless restricted by local or private act, charter or general law, municipalities may purchase any item from local sources if:

1. The item is available for purchase through contracts or price agreements entered into by the central procurement office;
2. The item must also be available at the same or lower cost from such local sources;
3. And the local government is not permitted to purchase from an existing contract established by the department.

The items, along with price and vendor information, are available electronically from the purchasing division of the Tennessee Department of General Services, Central Procurement Office.

The T.C.A. citation for this topic is T.C.A. § 12-3-1201.

Purchases from Other Governments and Private Entities Summary

Reference Number: MTAS-2028

Any municipality may buy secondhand items from any other government. These purchases may be made without competitive soliciting and public advertisement, regardless of charter requirements.

Any municipality may buy used or secondhand items from any private individual or entity without public advertisement and competitive soliciting if the municipality documents the general range of value of the purchased item through a nationally recognized publication or through an appraisal by a licensed appraiser. The price paid must be no more than 5 percent of the highest value of the documented range.

The T.C.A. citation for this topic is T.C.A. § 12-3-1202.

Purchases for Other Local Governments Summary

Reference Number: MTAS-2029

A municipality may buy supplies, equipment, and services for any other local government entity (i.e., other municipalities, counties, utility districts or other local government units). The purchase must be made on the terms of the purchaser. The cost of the purchase shall be borne by the local government for which the purchase was made. All competitive bidding and public advertisement requirements of the local government making the request are met if the purchasing government complies with its own purchasing requirements.

Any local education agency (LEA) may purchase equipment under the same terms of a legal bid initiated by any other LEA in Tennessee. Any LEA may purchase directly from a vendor the same equipment at the same price and under the same terms in a contract entered into by any other LEA. The originating LEA will have no liability or responsibility for any purchases made by another LEA and all payments, refunds, returns, and any other communications will be handled without involving the LEA originating the contract.

A municipality may purchase supplies, goods, equipment and services from a vendor under the same price and terms of a legal bid initiated by any other local government unit of this state. The purchase shall be made on the terms of the purchaser. The local government that purchases does so without involving the original purchasing entity. The original entity shares no liability or responsibility for any purchases made by another local government. Any local or private act, charter, or general law requirements for public advertisement or competitive bidding are met in accordance with this section. This subsection shall not apply to:

1. Purchases of new or unused motor vehicles unless the motor vehicles are manufactured for a special purpose as defined in T.C.A. § 12-3-1208; and
2. Purchases related to any transportation infrastructure project including, but not limited to, projects for the construction or improvements of streets, highways, bridges, tunnels, or any roadway related facility.

The T.C.A. citation for this topic is T.C.A. § 12-3-1203.

Cooperative Purchasing Agreements (State) Summary

Reference Number: MTAS-2030

This agreement authorizes the central procurement office to enter into cooperative purchasing agreements with other states or local governments, provided that each contract is established through the use of full and open competition and pursuant to policies or rules approved by the procurement commission.

The T.C.A. citation for this topic is T.C.A. § 12-3-512.

Cooperative Purchasing Agreements (Local) Summary

Reference Number: MTAS-2031

T.C.A. § 12-3-1205 (a) authorizes any local government of the state to participate in, sponsor, conduct, or administer a cooperative purchasing agreement with one or more other Tennessee local governments to procure supplies, services, or construction in accordance with an agreement entered into between the participants. This includes, but is not limited to, a multi-party contract. Where a city is required to advertise and receive bids, it is sufficient that the purchasing entity comply only with its own purchasing requirements.

T.C.A. § 12-3-1205 (b) (1) authorizes any local government of the state to participate in a cooperative purchasing agreement with one or more governmental entities outside this state to the extent allowed by the other state's laws for the procurement of goods, supplies, services, or equipment. Any local government of the state may participate in a cooperative purchasing agreement with an agency of the United States, to the extent allowed by federal law, in accordance with an agreement entered into between or among the participants. Such goods, supplies, services, or equipment must be procured in a manner that constitutes competitive bidding and were advertised, evaluated, and awarded by a governmental entity and made available for use by other governmental entities.

T.C.A. § 12-3-1205 (b) (2) authorizes any local government in this state to participate in a master agreement by adopting a resolution accepting its terms. If a participant to the master agreement is required to advertise and receive bids, it is sufficient that the purchasing entity complied with its own requirements. The participant is required to acquire and maintain documentation that the purchasing entity complied with its own purchasing requirements.

T.C.A. § 12-3-1205 (b) (4) lists the Items that are excluded under this authorization to include:

- 1) Purchases of new or used motor vehicles (unless manufactured for a special purpose as defined in TCA § 12-3-1208). Under this section, motor vehicle does not include farm tractor, mower, earth-moving machinery, construction machinery, or other similar machinery or equipment;
- 2) Purchases of construction, engineering or architectural services, construction materials. Construction materials does not include materials used in the operation of a municipal utility system;
- 3) Purchases of fuel or fuel products and lubricating oils.

T.C.A. § 12-3-1205 (b) (5) states that the authorization for exercising joint purchasing authority with an agency of the United States under T.C.A. § 12-3-1205 (b) (1) does not include the authority to purchase construction machinery utilized in construction or on construction sites.

T.C.A. § 12-3-1205 (c) states that the chief procurement officer may collect information from local governments concerning procurements acquired under cooperative purchasing agreements.

The T.C.A. citation for this topic is T.C.A. § 12-3-1205.

Interlocal Cooperation Act Summary

Reference Number: MTAS-2032

The Inter-local Cooperation Act permits any local government in Tennessee to enter into joint agreements to exercise any legitimate governmental function (including purchasing) with any other local government, in Tennessee or in any other state. Participating local governments in another state must have the same blanket authority under that state's own laws.

The T.C.A. citation for this topic is T.C.A. § 12-9-101.

Electronic Bidding Summary

Reference Number: MTAS-2033

Local governments may satisfy any requirement for mailing by distributing invitations to bid, requests for proposals, and other solicitation electronically. Local governments are authorized to receive bids, proposals, and other offers electronically.

Local governments are not authorized to require small businesses and minority-owned businesses to receive or respond to bids, proposals or other solicitations electronically.

The T.C.A. citation for this topic is T.C.A. § 12-4-116.

Recognition of Electronic Contracting Summary

Reference Number: MTAS-2034

This statute allows contracts to be executed electronically with electronic records and electronic signatures.

The T.C.A. citation for this topic is T.C.A. § 47-10-107.

Competitive Solicitation Summary

Reference Number: MTAS-2035

Municipalities with a population of greater than 150,000 have state-established regulations governing competitive solicitation.

The T.C.A. citation for this topic is T.C.A. § 12-3-1204.

Purchase of Property at Public Auctions Summary

Reference Number: MTAS-2036

This statute authorizes a municipality to establish written procedures governing purchases at publicly advertised auctions. It also establishes fixed reporting requirements for the purchasing official.

The T.C.A. citation for this topic is T.C.A. § 12-2-421.

Reverse Auctions by Local Governments Summary

Reference Number: MTAS-2037

A local government may purchase goods or services through a competitive reverse auction process that allows offerors to bid on specified goods or services electronically and adjust bid pricing during a specified time period.

This authorization shall not apply to:

- Construction services other than those relating to maintenance, repairs and renovations costing less than \$25,000;
- Architectural or engineering services;
- New or unused motor vehicles unless manufactured for a special purpose; or
- New or unused construction equipment.

Other rules and restrictions apply.

The T.C.A. citation for this topic is T.C.A. § 12-3-1208.

Purchase from State Industries Summary

Reference Number: MTAS-2038

Municipalities must buy all items produced, re-packaged, assembled, warehoused, or manufactured by the labor of inmates from the Tennessee Rehabilitative Initiative in Correction (TRICOR) program provided the articles have been certified pursuant to procedures as provided by the procurement commission as being in satisfactory quality, of reasonable cost, and available.

Municipalities may not evade the intent of the law by slightly changing the variations from standards adopted by TRICOR when articles have been certified. After notice from the governor, continued intentional violations by any municipality constitute wrongdoing in office and subject the officers or agents responsible for the violation to suspension or removal from office.

The T.C.A. citation for this topic is T.C.A. §§ 41-22-119–121.

"Buy America" Act Summary

Reference Number: MTAS-2039

Municipalities may not buy any materials used for highway or roadway construction, re-surfacing, or maintenance from any:

- Foreign government,
- Company wholly owned or controlled by a foreign government, or
- Agency of such foreign government or company.

Materials include, but are not limited to, asphalt cement, asphalt emulsion, rock, aggregate, liquid and solid additives, sealers, and oils.

This statute does not apply if materials made by American companies are considered in unsatisfactory quality, found unavailable in sufficient quantity, or priced at an amount that will increase the overall project cost by 5% more than the overall project costs using materials produced by foreign companies.

The T.C.A. citation for this topic is T.C.A. § 54-5-135.

Purchasing Motor Oil Summary

Reference Number: MTAS-2040

Standard specifications for buying lubricating motor oil must include re-refined or recycled lubricating motor oil, unless circumstances or equipment require specialized treatment. If specialized treatment is necessary, documented evidence to substantiate this exclusion must be submitted to the procurement commission or the appropriate purchasing agency of the political subdivision.

Municipalities may purchase re-refined or recycled lubricating motor oil through the central procurement office. This department compiles and publishes a list of businesses that commercially distribute re-refined or recycled lubricating motor oil. Prior to accepting competitive bids for a contract concerning lubricating motor oil, the municipality must notify each business entity on the list concerning such a proposed contract.

The T.C.A. citation for this topic is T.C.A. § 12-3-807.

Competitive Bidding with Centralized Purchasing Authority

Reference Number: MTAS-3004

Public advertisement and competitive bid thresholds are established as part of the Municipal Purchasing Law of 1983. However, with the passage of TCA § 12-3-1212 additional authority to raise the public advertisement and competitive bid limit is available only to those local government entities that have *centralized purchasing* authority and a *full-time purchasing agent*.

By ordinance, the threshold over which public advertisement and competitive sealed bids or proposals are required may be increased to an amount not to exceed \$25,000 for non-emergency proprietary purchases, regardless of language in a charter or private act to the contrary. For purchases costing less than the threshold but more than 40% of the threshold or some lower amount set by the governing body, three written quotations are required whenever possible. Purchases of like items are to be aggregated.

Life Cycle Cost and Procurement Act Summary

Reference Number: MTAS-2041

The state chief procurement officer will determine which commodities and products may be bought according to energy efficiency standards. The state must adopt rules and regulations relative to energy efficiency standards for major energy-consuming products. Life cycle costs are to be used in contracting for major energy-consuming products. In determining life cycle costs, the state may consider:

- Acquisition cost of the product,
- Energy consumption and projected cost of energy over the useful life of the product, and
- The expected re-sale or salvage value of the product.

Except where prohibited by private act or state law, the municipality must adopt the energy efficiency standards and life cycle costing employed by the state. The municipality may develop and adopt its own energy efficiency standards, provided they are more stringent than the state standards.

The T.C.A. citation for this topic is T.C.A. §§ 12-3-901 *et. seq.*

The Iran Divestment Act

Reference Number: MTAS-3003

With the passage of Public Chapter No. 817 and effective July 1, 2016, the General Assembly of the State of Tennessee added an additional chapter to the Tennessee Code Annotated cited as the “Iran Divestment Act”. Codified in T.C.A. §12-12-101 *et. seq.*, the General Assembly implemented the authority granted under federal law, specifically Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195).

This title requires the state chief procurement officer to publish a list of persons and entities determined to be engaged in investment activities with Iran on the state’s website. Those included on this list are prohibited from contracting with any political subdivision of this state and any contract entered into shall be void. The list adopted by the Tennessee Department of General Services, Central Procurement Office can be found at the link in Appendix A.

In addition, when competitive bidding is required, every bid or proposal made to a political subdivision of the state shall contain the following statement affirmed by the bidder as true under the penalties of perjury:

“By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to §12-12-106.”

The affirmation by each bidder may be submitted electronically. No bid shall be considered for award where this condition is not met, except under very narrow limitations stated in the act.

The T.C.A. citation for this topic is T.C.A. § 12-12-101 *et. seq.*

Purchasing from Certain Disabled Persons Summary

Reference Number: MTAS-2042

Municipalities must purchase services and commodities from qualified non-profit work centers for the blind or severely disabled if the commodities are available and that are certified pursuant to procedures approved by the state procurement commission. This is not mandatory if the service or commodity is available from any state agency or if the procurement commission determines that the service or item does not meet reasonable requirements.

The T.C.A. citation for this topic is T.C.A. § 71-4-701.

Purchase of Confiscated Property from the State Summary

Reference Number: MTAS-2043

A municipality may buy a motor vehicle that has been confiscated by the state by any city officer, employee, or agent. The motor vehicle must be purchased in the name of the city and acquired for municipal use.

The T.C.A. citation for this topic is T.C.A. § 12-2-201.

Multi-Year Contracts for Maintenance of Water Storage Tanks Summary

Reference Number: MTAS-2044

Multi-year contracts for painting and maintenance of water storage tanks may be purchased through a request for proposals process. The RFP document must include the categories used for evaluating the proposals and the relative weight given to each category. The categories should at least include factors such as:

- Qualifications
- Experience on similar projects
- Availability of workers
- Technical approach
- Minority participation
- Cost
- Any other factors deemed relevant by the procuring governmental entity

Cost is not the sole factor for evaluation. Proposers have at least thirty (30) days from public advertisement of the request for proposals to submit their proposals. The governmental entity may also require multi-year contracts to be competitively bid.

The T.C.A. citation for this topic is T.C.A. § 12-4-112.

Conveyance of Real or Personal Property Among Public Agencies Summary

Reference Number: MTAS-2045

Any municipality or other public agency or agencies may convey or transfer real or personal property to any other public agency or agencies by contract, regardless of any requirements in any budget or purchasing act. The transferring municipality is not required to declare the property surplus prior to the transfer. The receiving public agency or agencies must use the conveyed property for a public purpose. In addition, the governing body of every public agency involved in the conveyance or transfer must agree that the terms and conditions are appropriate.

The T.C.A. citation for this topic is T.C.A. § 12-9-110.

Transfer of Assets for Fire Protection Summary

Reference Number: MTAS-2046

A local government may transfer the ownership of assets for fire protection purchased through or with the proceeds of federal, state or local grants to volunteer fire departments within such county, municipality or metropolitan area if the volunteer fire departments are registered with the secretary of state as non-profit organizations.

The T.C.A. citation for this topic is T.C.A. § 12-3-1206.

Purchasing Through Competitive Sealed Proposals Summary

Reference Number: MTAS-2047

Municipalities may make purchases using competitive sealed proposals rather than competitive sealed bids when the governing body determines that competitive sealed bidding is either not practicable or not advantageous to the municipality. This act places these restrictions and requirements on purchasing through competitive sealed proposals:

- The governing body must adopt a procurement code by ordinance before purchases may be made through competitive sealed proposals. MTAS, in conjunction with the comptroller's office, will develop a code that municipalities may adopt.
- The governing body must follow the procurement code; this code must contain criteria and procedures for making purchases.
- Purchases using competitive sealed proposals may be made only in instances when qualifications, experience, and competence are more important than price.
- These purchases may be made only when there is either:
 - More than one solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution, or
 - No readily identifiable solution to a purchasing issue and competitive sealed proposals will assist in identifying one or more solutions.
- Adequate public notice must be given for the request for proposals in the same manner as for requests for competitive sealed bids.
- The request for proposals must state the relative importance of price and other factors.
- Proposals must be opened in a manner that avoids disclosure of contents to competing respondents during the later negotiations. Proposals must be open to public inspection when the intent to award the contract to a particular respondent is announced.
- Discussions for clarification may be conducted with responsible respondents who submit proposals that have been determined by the purchasing agent to be viable for selection. These respondents must be given fair treatment relative to discussion and revision of proposals. Revisions to submitted proposals are permitted before the intent to award to a particular respondent is announced.
- In the discussions, the purchasing agent and other municipal personnel may not disclose information derived from competing proposals.
- The award must be made to the responsible respondent whose proposal the governing body determines is most advantageous to the municipality. The purchasing agent must place in the file a statement containing the basis on which the award was made.

The T.C.A. citation for this topic is T.C.A. § 12-3-1207.

Interest of Officer in Municipal Contracts Summary

Reference Number: MTAS-2048

No one holding a municipal office, elected or appointed, can contract with the municipality for any work that is to be paid for out of the treasury. That same person cannot also hold or have any direct interest in such a contract. Direct interest is defined as any business in which the official is the sole proprietor, a partner, or the person who has the controlling interest. Controlling interest means the person with the ownership or control of the largest number of outstanding shares owned by any individual or corporation.

No municipal officer can be indirectly interested in any contract with the municipality unless the officer publicly acknowledges his interest. "Indirectly interested" is defined as any contract in which the officer is interested, but not directly. It includes contracts where the officer is directly interested, but is the sole supplier of goods or services in the municipality.

The T.C.A. citation for this topic is T.C.A. § 6-54-107.

Personal Interest of Officers Prohibited Summary

Reference Number: MTAS-2049

It is unlawful for any person whose duty is to vote for or to supervise any contract with a municipality to be directly interested in such a contract. No municipal officer or other person whose duty is to superintend any contract with a municipality shall be indirectly interested in any such contract unless the officer or person publicly acknowledges his interest.

The T.C.A. citation for this topic is T.C.A. § 12-4-101.

Ordinance Establishing Office Of Purchasing Agent

Reference Number: MTAS-1716

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING THE OFFICE OF PURCHASING AGENT AND PROVIDING FOR PURCHASING PROCEDURES FOR THE CITY OF _____, TENNESSEE AS PROVIDED BY THE MUNICIPAL PURCHASING LAW OF 1983 AS AMENDED (*Tennessee Code Annotated* 6-56-301, *et seq.*)

WHEREAS the governing body of the *(city)/(town)* of *(city or town)*, Tennessee desires to establish the position of purchasing agent and provide for the duties of said office;

NOW, THEREFORE, BE IT ORDAINED by the *(governing body)* of the *(city)/(town)* of _____, Tennessee as follows:

Section 1. As provided in T.C.A. § 6-56-301 *et seq.*, the office of purchasing agent is hereby created and the *(mayor, city manager, city administrator, city recorder or city clerk)* shall faithfully discharge the duties of said office or appoint an individual to make purchases for the *(city)/(town)*. Purchases shall be made in accordance with the Municipal Purchasing Law of 1983 and amendments thereto, this ordinance and purchasing procedures approved by the governing body.

Section 2. The purchasing agent, or designated representative, as provided herein, shall purchase materials, supplies, services and equipment, provide for leases and lease-purchases and dispose of surplus property in accordance with purchasing procedures approved by the governing body by resolution and filed with the *(city recorder)/(city clerk)*.

Section 3. After initial approval by resolution of the governing body of this *(city)/(town)*, changes or revisions to the purchasing procedures shall be made only by resolution by the governing body.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed and this ordinance shall be effective upon date of adoption.

NOTE: City should add its appropriate provisions for readings or passages and signatures.

NOTE: City attorney should review this ordinance for charter compliance.

Sample Invitation To Bid

Reference Number: MTAS-1717

INVITATION TO BID

Sealed bids will be received at the office of the (mayor, city manager, city administrator, purchasing agent, city recorder or city clerk, etc.), City Hall; River, Tenn.; 116 Creek Street; until 10 a.m. Friday; May 24, 2013, at which time they will be opened for the following:

One (1) Police Automobile

Specifications are available and on file at the office of the (mayor, city manager, city administrator, purchasing agent, city recorder or city clerk, etc.), City Hall, River, Tenn.

The (governing body) reserves the right to reject any and all bids and to waive formalities.

John Doe
Purchasing agent

NOTE: The purpose of this exhibit is to display the information normally required for advertising in a newspaper. Specifications don't have to be advertised, but a location where they may be found does. You should get a publisher's affidavit from the newspaper and keep it on file.

Purchasing Procedures Resolution

Reference Number: MTAS-1718

RESOLUTION NO. _____

**A RESOLUTION ADOPTING PURCHASING PROCEDURES
FOR THE CITY OF _____, TENNESSEE**

WHEREAS, the governing body of this (city)/(town) desires to establish methods to comply with said law and to provide for a more formal process for the procurement of equipment, services, and materials for the operation of municipal government,

WHEREAS, such action is required by the Municipal Purchasing Law of 1983, *Tennessee Code Annotated* 6-56-301 *et seq.*, now

THEREFORE, BE IT RESOLVED BY THE (governing body) OF THE (city)/(town) OF _____, TENNESSEE, AS FOLLOWS:

Section 1. The purchasing procedures attached hereto and made a part hereof are hereby adopted.

Section 2. The purchasing agent, as previously designated by Ordinance No. _____ shall be responsible for the enforcement of the procedures hereby adopted.

Section 3. Changes or revisions to the procedures hereby adopted shall be made only by resolution of the (governing body) of this (city)/(town).

NOTE: City should add its appropriate provisions for readings or passages and signatures.

Purchasing Procedures

Reference Number: MTAS-1683

One of the most important jobs of a municipality is choosing the person responsible for purchasing. In some cases the municipal charter specifies the buyer. If the charter doesn't, the governing body must

make the selection. The municipality should formally recognize the office of purchasing agent and the adoption of the purchasing procedures by ordinance. The buyer should be available to give input for creating and adopting purchasing procedures.

Using written, organized buying procedures is important because it lets taxpayers know their money is being spent carefully. Vendors know they will be treated fairly, and employees will have support, direction and protection from their highest superiors. Good purchasing policies should be developed around mandatory purchasing laws and regulations, common-sense business practices, and day-to-day practical experience.

The sample purchasing procedures contained in "Purchasing through Competitive Sealed Proposals" were selected as samples because they are comprehensive and practical. Some will be better than others for certain municipalities. In any case, the policies can easily be modified for most situations. According to these procedures, the municipality competitively bids everything costing \$1,000 or more and requires public advertisement and sealed bids for everything costing \$2,500 or more. To modify for another municipality, simply change the amounts. Changes in routing of paperwork can be modified in the same way.

The size of the municipality makes little difference in the need for good purchasing procedures. Some municipalities will want a more sophisticated system.

Sample Purchasing Procedures

Reference Number: MTAS-1719

With the help of this guide, our city can create the most efficient purchasing operation possible. By clarifying the procedures, both the using department and the Purchasing Department will benefit from time saved obtaining materials, equipment and services.

The main function of the purchasing department is to aid all departments within the city by securing the best materials, supplies, equipment, and service at the lowest possible cost, while maintaining high standards of quality. One purpose of this manual is to explain city buying policies and to serve as a general framework and guide for purchasing decisions. To have a good purchasing program, all city employees directly or indirectly associated with buying must work as a team to promote the city's best interests in getting the maximum value for each dollar spent.

As revisions or additions to this manual become necessary, new pages will be sent to all recipients, who are expected to keep the guide up to date.

If there are any questions, please contact the purchasing agent at city hall. Requests for additional copies should be addressed to the same office.

MAYOR _____

CITY OF _____

Purchasing Procedures (Sample)

Reference Number: MTAS-1720

CITY OF _____, TENNESSEE

As designated in Ordinance No. _____, the _____ shall act as purchasing agent for the city, with power, except as set out in these procedures, to purchase materials, supplies, equipment; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the city's business. All contracts, leases, and lease-purchase agreements extending beyond the end of any fiscal year must have prior approval of the governing body.

The purchasing agent shall have the authority to make purchases, leases, and lease purchases of more than \$1,000 and less than \$2,500* singly or in the aggregate during any fiscal year and, except as otherwise provided herein, shall require three competitive bids or quotations, either verbal or written,

whenever possible prior to each purchase. Competitive bids or quotations for the purchase of items that cost less than \$1,000 are desirable but not mandatory. All competitive bids or quotations received shall be recorded and maintained in the office of the purchasing agent for a minimum of seven years after contract expires. When requisitions are required, the competitive bids or quotations received shall be listed upon that document prior to the issuance of the purchase order. Awards shall be made to the lowest and best bid.

A description of all projects or purchases, except as herein provided, that require the expenditure of city funds of \$2,500* or more shall be prepared by the purchasing agent and submitted to the governing body for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the governing body may authorize the purchasing agent to advertise for bids or proposals. The award of purchases, leases, or lease-purchases of \$2,500* or more shall be made by the governing body to the lowest and best bid.

Purchases amounting to \$2,500* or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the governing body:

- Sole source of supply or proprietary products as determined after complete search by using the department and the purchasing agent, with governing body approval.
- Emergency expenditures with subsequent approval of the governing body.
- Purchases from instrumentalities created by two or more cooperating governments.
- Purchases from nonprofit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.
- Purchases, leases or lease-purchases of real property.
- Purchases, leases, or lease-purchases, from any federal, state, or local governmental unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.
- Investment in or purchases from the Local Government Investment Pool (LGIP).
- Purchases directed through or in conjunction with the state Department of General Services.
- Purchases of fuels, fuel products or perishable commodities.
- Purchases of natural gas and propane gas for re-sale.
- Purchases from Tennessee state industries (T.C.A. § 41-22-119 - -121).
- Professional service contracts (T.C.A. § 12-3-12019 & § 12-4-107).
- Energy-related service contracts (T.C.A. § 12-4-110).
- Any of the insurance as provided in (T.C.A. § 29-20-407).
- Purchases for other local governmental units (T.C.A. § 12-3-1203).
- Cooperative purchasing agreements (T.C.A. § 12-3-1205 & § 12-9-101 et. seq.).
- Purchases of property at public auctions (T.C.A. § 12-2-421).
- Reverse auctions (T.C.A. § 12-3-1208).
- Purchase of confiscated property from the State (T.C.A. § 12-2-201).

The purchasing agent shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports, as if they were set out herein and made a part hereof and within definitions of words and phrases from the law as herein defined.

**This limit may be lowered or increased to a maximum \$10,000 by the governing body.*

Relations Of Other Departments With The Purchasing Department (Sample)

Reference Number: MTAS-1721

The purchasing department is a service agency for all other departments of the city. The purchasing function is a service, and for the mutual benefits gained to go toward the good of the city, all departments must work in harmony. This manual is a guide to help the departments know their buying responsibilities.

Purchasing Department's Responsibilities

- To aid and cooperate with all departments in meeting their needs for operating supplies, equipment, and services.
- To process all requisitions with the least possible delay.
- To procure a product that will meet the department's requirements at the least cost to the city.
- To know the sources and availability of needed products and services and maintain current vendor files.
- To obtain prices on comparable materials after receipt of departmental requisition.
- To select vendors, prepare purchase orders, and process and maintain order and requisition files.
- To search for new, improved sources of supplies and services.
- To assist in preparation of specifications and to maintain specification and historical performance files.
- To prepare and advertise requests for bids and maintain bid files.
- To keep items in store in sufficient quantities to meet normal requirements of the city for a reasonable length of time within space availability.
- To investigate and document complaints about merchandise and services for future reference.
- To transfer or dispose of surplus property.

Using Department's Responsibilities

- To allow ample lead time for the purchasing department to process the requisition and issue the purchase order, while permitting the supplier time to deliver the needed items.
- To prepare a complete and accurate description of supplies, equipment or services to be purchased.
- To help the purchasing department by suggesting sources of supply.
- To plan purchases in order to eliminate avoidable emergencies.
- To initiate specification preparation on items to be bid.
- To inspect merchandise upon receipt, and complete a receiving report noting any discrepancies in types, numbers, condition, or quality of goods.
- To advise the purchasing department of defective merchandise or dissatisfaction with vendor performance.
- To advise the purchasing department of surplus property.

Purchasing Forms And Methods (Sample)

Reference Number: MTAS-1722

Purchase Requisition

Purpose

A purchase requisition lets the purchasing department know, in detail, what the using department

needs. A requisition is required for purchases, requesting price information, initiating a bid request, and for requesting governing body approval on major expenditures.

When Prepared

Requisitions shall be prepared far enough in advance that the purchasing department can obtain competitive prices and the vendor has enough time to make the delivery.

Who Prepares the Requisition

Requisitions shall originate in the using department and must be signed by the requisitioner and the department head. The department head shall file with the purchasing department a certified memorandum listing those who are authorized to sign a requisition.

How to Prepare

A properly processed purchase requisition must contain the following information:

- Date issued — The date the requisition is prepared.
- Date wanted — State a definite delivery date. "AT ONCE, ASAP, and RUSH" are vague instructions and don't give the purchasing department sufficient information. Prepare far enough in advance to avoid emergencies.
- Requisition number — Place the sequential number in this area if your department keeps a numerical requisition file.
- Department — The complete name of using department
- Requisitioner — Signature of the person initiating the purchase request
- Department head — Signature of the department head
- Suggested vendors — If there are more than three suggested vendors, the department head should list on a separate sheet.
- To be delivered to — Be specific. If vague or indefinite, confusion may result in costly delays.
- Item number — Numerical order of items listed.
- Quantity — The number required.
- Unit — Dozen, lineal feet, gallons, etc.
- Description — Give a clear description of the items, including size, color, type, etc. If the purchase is of a technical nature, specifications should be attached to the requisition. If the item cannot be described without a great amount of detail, a brief description should be given, followed by a trade name and model number of an acceptable item "or approved equal." Requisitions must not give specifications that will favor one supplier to the exclusion of any others.
NOTE: Incomplete information in this area will result in the requisition being returned to the using department for clarification.
- Account to be charged — Complete budgetary code.
- Unit price — Price for each individual item.
- Amount — A total of quantity times unit price.

Routing Requisitions

Prepare three copies of the purchase requisition. Send the original and one copy to the purchasing department and keep the third copy in departmental files. After the purchasing department has received at least three quotations or bids and has determined total cost of the merchandise, the cost will be listed on the original and one copy of the requisition. These copies shall then be forwarded to the finance officer. The finance officer shall certify, by signature, that the proper account has been charged and the availability of budgetary and cash funds. The original requisition must then be returned to the purchasing department and the copy filed in the office of the finance officer.

General Information

A requisition must be completed before a purchase is made, except when stated otherwise.

The purchasing department obtains prices for any needed item after receiving a departmental requisition. **All requests for prices will be processed in this manner.**

Suggested vendors will be of great assistance to the purchasing department and will be given full consideration. This information will allow the department to process the requisition quickly.

Approximate cost of items will help buyers know if bids are required.

If a requisition is incomplete or improperly prepared, the purchasing department shall return it to the using department for completion. An incomplete requisition can cause unnecessary delays.

The requisitioner shall not split orders to avoid any provision of the city code or charter, this manual, or any policy established by the city, nor shall requisitions be submitted for the sole purpose of using up budgetary balances.

Expediting Orders

If a company is waiting for a purchase order to process a rush job, write EXPEDITE IMMEDIATELY in the body of the requisition. The purchasing department will then contact the vendor and supply a purchase order number. This process will be the exception rather than the rule.

Insufficient Funds

If the finance officer says there is not enough in the budget account, it will be referred to the purchasing agent, who will notify the department head.

Requisition Form (Sample)

Reference Number: MTAS-1723

REQUISITION SAMPLE FORM

CITY OF _____, TENNESSEE

Requisition for Supplies

Date issued (date requisition prepared)
Date wanted (date delivery is needed)

Req. No.(department file number)

Department (name of using department)
Requisitioner (signature of requesting person)
Department Head (signature of department head)

To be purchased from:
(This area to be filled in by purchasing department unless there is only one supplier for items requested.)

Suggested vendors:

1. _____
2. _____
3. _____

To be delivered to:
Give specific delivery instructions, including name of person designated to receive the item(s), department and street address.

ITEM NUMBER	QUANTITY	UNIT	DESCRIPTION	ACCOUNT TO BE CHARGED	UNIT PRICE	AMOUNT

Competitive Prices: (To be filled in by purchasing)

Approved:

Finance Officer

Purchasing Agent

Purchase Order (Sample)

Reference Number: MTAS-1724

Purpose

A purchase order authorizes the seller to ship and invoice the materials and services as specified. Purchase orders shall be written in a clear, concise and complete manner. This will prevent confusion and unnecessary correspondence with suppliers.

When Prepared

Purchase orders are issued only after a requisition has been submitted and approved by the purchasing agent and the finance officer. No purchase order will be issued until the finance officer has certified adequate funds and cash balances to make the purchase, except as otherwise mentioned.

Who Issues the Purchase Order

The purchasing department issues purchase orders, except as otherwise provided herein. The using departments will not enter into negotiations with suppliers for the purchase of equipment, supplies, materials, services, or other items, except under the emergency purchase procedures and as otherwise provided herein.

How Purchase Orders Are Handled

The purchase order is made from the approved requisition. Copies should be distributed as needed to the following.

1. A copy is mailed to the vendor to be used as authority to furnish the city with the materials or services indicated.
2. A copy is sent to the finance officer and the account that handles the amount of the purchase order.
3. A copy is sent to the department head making the request, to be held until the goods or services are received. Upon completion of the order or contract, a copy will be signed and invoices and material receiving report attached. This copy is sent to the purchasing agent for discounting and processing for payment.
4. A copy is kept by the purchasing agent and filed as record of outstanding orders. When paid, the copy will be marked properly and put in a completed file in numerical order.
5. A copy should be kept in each department's file for reference.
6. A copy is the acknowledgment copy the vendor will sign and return to the purchasing agent, confirming the order.

Cancellations

The purchasing department must initiate all cancellations and will issue a purchase order to the next best vendor or renew the purchasing process.

Purchase Order Form (Sample)

Reference Number: MTAS-1725

PURCHASE ORDER SAMPLE FORM

CITY OF _____, TENNESSEE
Purchase Order

To: _____ Telephone: _____
 Purchase Order No.: _____ E-Mail: _____
 Ship To: _____ Date: _____
 _____ Department: _____
 Via: _____

ITEM NUMBER	QUANTITY	UNIT	DESCRIPTION	ACCOUNT TO BE CHARGED	UNIT PRICE	AMOUNT

Terms and Conditions:

Unless stated otherwise, all prices are free on board (F.O.B.) _____, Tennessee. City is exempt from federal, state, and local taxes. Exemption certificates will be furnished if necessary. Mark all shipments and invoices with purchase order number.

Purchasing Agent

I certify that the above materials or services have been received as ordered and in good condition, except as follows: _____

Date Received

Department Head

Material Receiving Report (Sample)

Reference Number:

MTAS-1726

Purpose

The material receiving report form is designed to let the purchasing agent and the finance officer know that an item(s) of a particular order has been received.

When Prepared

This form is completed immediately upon receipt of materials, supplies, or services.

Who Prepares

The person receiving the merchandise.

How to Prepare

A proper material receiving report must contain the following information:

- Purchase order number — The number from the purchase order on which the items were ordered
- From — Name of vendor
- Material received by — Person receiving the item
- Date received — Date the goods are received
- Quantity — Number of items received
- Description — Brief statement describing item(s)
- Price — Unit price from the purchase order
- Per — Unit measure (foot, lb., etc.)
- Amount — Amount equal to quantity times unit cost
- Freight charge — Amount (if any) charged for delivery

When any item(s) is not in satisfactory condition, a statement about the condition of the item(s) must be made in the description column. There is no need to write anything in this column if the item is undamaged.

Material Receiving Report Form (Sample)

Reference Number: MTAS-1727

SAMPLE MATERIAL RECEIVING REPORT FORM

CITY OF _____, TENNESSEE
 Material Receiving Report

Purchase Order No.: _____

From: _____

QUANTITY	DESCRIPTION	PRICE	per	AMOUNT

Freight Charge: _____

TOTALS: _____

MATERIALS RECEIVED

By: _____ Date Received: _____

Departmental Purchase Orders (Sample)

Reference Number: MTAS-1728

Purpose

Departmental purchase orders allow the using department to handle small purchases without having to process a requisition through the purchasing department.

When Used

Departmental purchase orders are to be used for buying items which cost * or less.

Who Prepares

The department head may fill out a departmental purchase order. The purchasing department must keep a list of people authorized to sign a departmental purchase order for a department head.

How to Prepare

A proper departmental purchase order will contain the following information:

- Number (No.) — Assigned by the purchasing department
- Date — The date the order was prepared
- Dept. — Ordering department
- Vendor — Firm or person from whom purchase is being made
- Vendor's address — Address of vendor
- Quantity — The amount ordered of each item described
- Description — Brief description of item(s) to be bought
- Account to be charged — Complete budgetary code of using department
- Price — Amount equal to quantity times unit cost
- Purchase authorized by — Signature and title of department head
- Articles or service received — Signature of person receiving articles or service and date received

Routing

A departmental purchase order should be distributed as follows.

- A copy to the vendor
- An acknowledgment copy returned signed from the vendor to the department head, confirming the order. This will be attached to the packing slip, delivery ticket, invoice, material receiving report, etc., by the receiving department and forwarded to the purchasing department. The purchasing agent will initial and forward to the finance officer for payment.
- A copy will be retained by the purchasing department for filing

General Information

The department head is responsible for keeping expenses within budgetary appropriations and must try to secure at least three quotes for those items which cost * or less.

These purchase orders will be numbered and issued to the using department by the purchasing department.

It is the responsibility of the department head, considering price and quality, to determine the best source of supply. All local sources should be considered before a purchase is made. The purchasing department will assist in vendor selection upon request.

If the purchase is above the dollar limit, under no circumstances may multiple forms be used in an effort to avoid filling out a purchase requisition.

* Amount to be established by the governing body.

Departmental Purchase Order Form (Sample)

Reference Number: MTAS-1729

SAMPLE DEPARTMENTAL PURCHASE ORDER FORM

CITY OF _____, TENNESSEE
Departmental Purchase Order

Vendor: _____ No.: _____

Vendor's Address: _____ Date: _____

Department: _____

The departmental purchase order is valid only for purchases of \$_____ or less. The original copy should be returned to the ordering department with your invoice or statement to make payment easier.

QUANTITY	DESCRIPTION	ACCOUNT TO BE CHARGED	AMOUNT

TERMS AND CONDITIONS:

The city is exempt from federal, state and local taxes.
Exemption certificates will be provided upon request.

TOTAL _____

This purchase authorized by:	Articles or service received by:
(Name) _____	(Name) _____
(Title) _____	(Title) _____

Date Received: _____

Request For Bid Form (Sample)

Reference Number: MTAS-1730

REQUEST FOR BID SAMPLE FORM

The request for bid form shall be used when the purchasing agent decides it is necessary. The bid number (#) shall be the number assigned to the firm or individual to which the request for bid is forwarded.

CITY OF _____, TENNESSEE

Request for Bid

IMPORTANT: THIS IS NOT AN ORDER

Sealed bids will be received until _____ a.m./p.m. (date), 20_____, in the office of the purchasing agent and will be opened the same day at _____ a.m./p.m.

Bid # _____

Date: _____

Purchasing Agent: _____

Terms: _____

Delivery: _____

NO BIDS RECEIVED AFTER CLOSING WILL BE ACCEPTED.

Quotations are requested for furnishing the items described below in accordance with the terms set forth herein. Failure of a bidder to execute a purchase order or contract awarded as a result of this bid or to comply with any terms or conditions therein may disqualify the bidder from receiving future orders. Bidders are cautioned to verify their bids before submission. No bid may be withdrawn or changed after it has been opened. If you do not quote, return this sheet and explain the reason. Otherwise your name may be removed from our mailing list.

ALL QUOTATIONS MUST BE FREE ON BOARD (F.O.B.) _____, TENNESSEE.

ITEM NUMBER	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT

Above items to be delivered to:

In submitting the above, the vendor agrees that acceptance of any or all quotations by the purchasing office within a reasonable period constitutes a contract.

Name of Firm: _____

By: _____

Phone: _____

Bids must be sealed and returned in envelope provided.

Summary Of Bids Form (Sample)

Reference Number:

MTAS-1731

SUMMARY OF BIDS SAMPLE FORM

The summary of bids form shall be used by the purchasing department to record quotations. This form must contain the bids for each purchase and be attached to the pink copy of the purchase order when filed.

CITY OF _____, TENNESSEE
Summary of Bids

Requisition No.: _____ Date: _____

Items	Quantity	Unit	NAMES OF BIDDERS					
			Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	
TERMS								

Reverse side must contain full explanation of awards not given to the lowest bidder.

Emergency Purchases (Sample)

Reference Number: MTAS-1732

Purpose

Emergency purchases are to be made by departments only when normal functions and operations of

the department would be hampered by submitting a requisition in the regular manner, or when property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., and are needed immediately.

Who Makes Emergency Purchases

Emergency purchases, either verbal or written, may be made directly by the using department without competitive bids, provided sufficient funds are available and necessary approvals have been secured.

Who Authorizes Emergency Purchases

The purchasing agent or the department head, if the purchasing agent is unavailable, may authorize an emergency purchase.

How to Make Emergency Purchases

After determining a true emergency exists, the following procedure should be followed:

1. Notify the purchasing department of the need and nature of the emergency. The department will give verbal approval and issue a purchase order number. This number will be put on the requisition referred to in number 4 below.
2. Using department must use sound judgment about prices when making emergency purchases of materials and supplies and for labor or equipment. Orders should be placed with vendors who have a good track record with the department.
3. Suppliers shall furnish sales tickets, delivery slips, invoices, etc., for the supplies or services rendered. Terms of the transactions, indicating price and other data, shall be shown.
4. As soon as the purchase is complete, on the same or following business day, the using department must:
 - Give the purchasing department a complete requisition with a description of the emergency and approval by the department head. "Confirming Emergency Purchase" must be marked plainly on the requisition, along with the purchase order number.
 - The sales ticket, delivery slips, invoices, and material receiving report confirming the purchase must be attached to the emergency requisition form.
 - The purchasing department will issue the vendor a purchase order marked "Confirmation."
5. If an emergency should occur during a time when the purchasing department normally is closed, the using department will follow the above procedure with the exception of the first step. The evidence of purchase, such as sales slip, counter receipt, delivery slip, invoice, etc., that the supplier normally furnishes, shall be attached to the completed and approved requisition form and be forwarded to the purchasing department, along with a material receiving report.
6. As soon as possible, the person authorizing the emergency purchase must prepare a report to the chief executive officer and the governing body specifying the amount paid, the item(s) purchased, from whom the purchase(s) was made, and the nature of the emergency.

General Information

Emergency purchases are costly and should be kept to a minimum. Avoiding emergency orders will save the city money.

Petty Cash Fund (Sample)

Reference Number: MTAS-1733

To buy items that cost less than (*amount to be established by governing body*) from businesses that don't issue invoices or have charge accounts, a petty cash fund must be set up by the finance officer.

The department head is solely responsible for any withdrawals from this account. All receipts or requests for monies from this fund must contain the departmental code and be signed by the department head.

This fund should be used only if other purchasing methods are not applicable.

The finance officer may establish more detailed procedures for the use of the petty cash fund.

Sealed Bids Or Proposals (Sample)

Reference Number: MTAS-1734

Sealed bids are required on purchases of \$2,500* or more. Bids must be advertised in a local newspaper of general circulation not less than five days before bid opening date.

Purchasing Department's Responsibilities

- Prepare bid requests.
- Establish date and time for bid opening.
- Select possible sources of supply.
- Prepare specifications (unless of a technical nature, such as architectural, engineering, etc.) using department's input and assistance.
- Mail bid requests and advertise as appropriate. If delivered by hand, a receipt of the bid request should be signed by the vendor.
- Receive and open bids.
- Evaluate bids using department's assistance.
- Prepare bids and make a recommendation on award to governing body for approval.
- Process purchase order after governing body approval.
- Maintain all specification and bid data files.

Using Department's Responsibilities

- Prepare requisition to begin bid process. This should contain specific information about items needed. For example, quantity, size, brand preferred, performance requirements, etc.
- Submit requisition to begin bid request to the purchasing department at least three weeks prior to the date bids are to be opened.
- Assist in specification preparation if needed.
- Assist in evaluation of bid results.

General Information

The following policies shall apply to sealed bids:

1. **Bid or Proposal Opening:** Bids will be opened at the time and date specified on the bid request. All bids are opened publicly and read aloud, with a tabulation provided to all vendors participating. Proposals for extensive systems, complicated equipment, or construction projects, with prior approval of the governing body, may be opened privately in cases where the disclosure of the contents of the proposal could not readily be evaluated and would have a negative impact on both the vendor and the city.
2. **Electronic Bids:** The invitation for bids shall be distributed electronically and bids shall be considered when they are received in hand at the designated office if by the time and date set for receipt of bids. Such electronic bids or proposals shall contain specific reference to the Invitation for Bids; the items, quantities, and prices for which the bid is submitted; the time and place of delivery; and a statement that the bidder agrees to all the terms, conditions, and provisions of the Invitation for Bids.
3. **Late Bids:** No bids received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened.
4. **Bid Opening Schedule:** The Purchasing department is responsible for setting bid opening dates and times.
5. **Telephone Bids:** The Purchasing department will not accept any bid by telephone.
6. **Bid Form:** The Purchasing department sends duplicate copies of bid request forms to each bidder, thereby enabling the bidder to return one and maintain a file copy. Bids will not be accepted on any vendor letterhead, vendor bid form, or other substitutions unless special permission is given by the purchasing department.

7. **Unsigned Bids:** Failure of a vendor representative to sign a bid proposal removes that bid from consideration. A typed official's name will not be accepted without that person's written signature.

8. **Acceptance of Bids:** The city reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept the bid (or bids) that in the judgment of the governing body is in the best interest of the city.

9. **Shipping Charges:** Bids are to include all shipping charges to the point of delivery. Bids will be considered only on the basis of delivered price, except as otherwise authorized by the governing body.

10. **Sample Product Policy:** The purchasing department may request a sample product as part of a bid. If this is stated on the bid proposal form, the vendor is required to comply with this request or have the bid removed from consideration.

11. **Approved Equal Policy:** Specifications in the request for bid are intended to establish a desired quality or performance level or other minimum requirements that will provide the city with the best product available at the lowest possible price. When a brand name or model is designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature and, if requested, a sample for testing. Brands or models other than those designated as "equal to" products shall receive equal consideration.

12. **Alternate Bids:** Should it be found, after bids have been opened, that a product has been offered with an alternative specification and that this product would be better for the city to use, all bids for that item may be rejected and specifications redrawn to allow all bidders an equal opportunity to submit bids on the alternate item.

13. **Vendor Identification:** Potential suppliers are selected from existing vendor files using department's suggestions and any and all sources available to locate vendors related to a specific product or service. New suppliers are added to the bid list as they are found.

14. **Tie Bids:** A tie bid is one in which two or more vendors bid identical items at the same unit cost. The winning bidder among tie bids may be determined by one of the following factors:

- Discount allowed
- Delivery schedule
- Previous vendor performance
- Vendor location
- Trade-in value offered

15. **Cancellation of Invitation for Bid or Request for Proposal:** An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may be specified in the solicitation when it is in the best interest of the city. The reasons shall be made a part of the bid or proposal file.

16. **Public Advertisement:** In addition to publication in a newspaper of general circulation as required by law, the purchasing agent may make any other efforts to let all prospective bidders know about the invitation to bid. This may be accomplished by delivery, verbally, mail, or by posting the invitation to bid in a public place. It is not required that specifications be included in the invitation to bid. However, this notice should state clearly the purchase to be made.

17. **Mistakes in Bids:** Mistakes in bids detected prior to bid opening may be corrected by the bidder withdrawing the original bid and submitting a revised bid prior to the bid opening date and time. Bidder mistakes detected by the bidder after the bids have been opened based on miscalculation may be withdrawn only with the approval of the purchasing agent. The purchasing agent shall determine if all or a portion of any bid bond shall be surrendered to the city as liquidated damages for any costs associated with the bid withdrawal.

18. **Bid Bond:** The purchasing agent may require that bidders submit a bid bond or other acceptable guarantee equal to 5 percent of the bid to ensure that the lowest responsible bidder selected by the board enters into a contract with the city. All or a portion of the bid bond shall be surrendered to the city as liquidated damages should the successful bidder fail to enter into a contract awarded by the board.

19. **Performance Bond:** The purchasing agent may require and then include in the bid documents a requirement for the successful bidder to post a performance bond or other guarantee satisfactory to the

city attorney that insures the faithful performance of all of the terms and conditions of the purchase contract.

*Unless lowered or increased to the maximum allowed by law by the governing body.

Other Aspects To Be Considered In Bid Awards (Sample)

Reference Number: MTAS-1735

In addition to price, the following points should be considered when awarding a bid:

- The ability of the bidder to perform the contract or provide the material or service required.
- Whether the bidder can perform the contract or provide the material or service promptly or within the time specified, without delay or interference.
- The character, integrity, reputation, experience and efficiency of the bidder.
- The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service.
- The ability of the bidder to provide future maintenance and service for the use of the subject contract.
- Terms and conditions stated in bid.
- Compliance with specifications or request for proposal.

Non-Performance Policy (Sample)

Reference Number: MTAS-1736

Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one or more of the following actions:

- Removal of a vendor from bid list for a period to be determined by the governing body.
- Allowing the vendor to find the needed item for the city from another supplier at no additional cost to the city.
- Allowing the city to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase.
- Allowing monetary settlement.

Delinquent Delivery (Sample)

Reference Number: MTAS-1737

Once the purchasing department has issued a purchase order, no follow-up work should be done unless the using department says the items have not been received. If this happens, the purchasing department will initiate action, either written or verbal as time allows, to investigate the delay. The using department will be advised of any further problems or a revised delivery date.

Contractual Purchases (Sample)

Reference Number: MTAS-1738

Materials, supplies, or services that are needed constantly for city operations will be taken on a formal bid and will be awarded by the governing body for a contract period determined to be in the best interest

of the city. This procedure shall be used in cases where the amount of the purchase of said materials, supplies, or services will be \$2,500* or more within the fiscal year. For amounts below \$2,500*, the award will be made by the purchasing agent.

*Limit may be lowered or increased to a maximum of \$10,000 by the governing body.

Items Covered By Warranty Or Guarantee (Sample)

Reference Number: MTAS-1739

The city buys many items that have a warranty or guarantee for a certain length of time, such as tires, batteries, water heaters, roofs, and equipment. Before these items are repaired or replaced, the purchasing agent should be consulted to see if the item is covered by such warranty or guarantee.

The purchasing agent shall maintain an active current file with complete information on such warranties or guarantees. All warranties must be remitted to the purchasing agent with the invoice indicating date of receipt.

Signatures (Sample)

Reference Number: MTAS-1740

Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by any city employee unless authorized in writing by the purchasing agent or by action of the governing body.

Trade-Ins (Sample)

Reference Number: MTAS-1741

List of equipment to be used as trade-in shall accompany the request and specifications. The list includes the model, year, serial and city tag numbers, and other pertinent data.

Sale Of Surplus Property (Sample)

Reference Number: MTAS-1742

When a department head decides there is excess equipment or material in the department, he or she shall notify the purchasing agent in writing. The purchasing agent will figure out the best way to dispose of items with an estimated value of less than \$100 and inform the department head. Items with an estimated value of more than \$100 shall be advertised for bidding, which will begin after the purchasing agent has received approval from the governing body. Such equipment or materials will be sold to the highest bidder.

However, the purchasing agent may transfer surplus equipment or material from one department to another. He or she must be sure the finance officer knows about the transfer or sales. With approval of the governing body, equipment or material also may be sold at public auction.

Inspection And Testing (Sample)

Reference Number: MTAS-1743

When necessary, the purchasing agent may have all deliveries of supplies, materials, equipment, or contractual services inspected to be sure their performance meets specifications made in an order or contract.

The purchasing agent also may require chemical and physical tests of materials submitted with bids and delivery samples or after products have been delivered. These tests may be necessary to be sure the quality of materials meets the desired standards. When performing such tests, the purchasing agent may use the facilities of any outside lab.

General Information (Sample)

Reference Number: MTAS-1744

Federal Excise Tax

The city is exempt from the payment of excise taxes imposed by the federal government, and suppliers should be requested to deduct the amount of such taxes from their bids, quotations, and invoices.

Standardization Requirements

Standardizing supplies and materials that can be bought in large quantities can save a great deal of money. Thus, department heads should adopt as standards the minimum number of quantities, sizes, and varieties of commodities consistent with successful operation. Where practical, materials and supplies should be bought on the basis of requirements for a six-month period.

Inspection of Deliveries

No invoices for supplies, materials, or equipment shall be accepted for payment until such supplies, materials, etc., have been received and inspected by the department head.

Correspondence with Suppliers

Copies of any correspondence with suppliers concerning prices, adjustments, or defective merchandise shall be forwarded to the purchasing agent. All invoices, bills of lading, delivery tickets, and other papers relating to purchases shall be sent to the purchasing agent.

Claims

The purchasing agent shall prosecute all claims for shortages, breakages, or other complaints against either shipper or carrier in connection with shipments.

Public Inspection of Records

The purchasing agent shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspection.

Designee

When a position such as purchasing agent, finance officer, or department head is mentioned, their assistants or designees are acceptable substitutes if they have written permission to do so.

Definitions

- **Customarily Purchased:** Items that are purchased regularly under specific circumstances considered reasonable and appropriate. (Example: After two consecutive years; then, not required for two consecutive years of not attaining the total amount of \$2,500*).
- **Like Items:** Items that are similar and may be bought at the lowest common denominator, such as size, color, etc.
- **Lot:** A single grouping of like items to be purchased at one time.
- **Single Source of Supply:** When only one vendor is available for a product or service within a reasonable marketable distance of the city.
- **Proprietary Product:** A brand-name product made and marketed by one having the exclusive right to manufacture and sell.
- **Within the Limits of the Approved Budget:** Purchases must stay within appropriation limits in funds requiring budgets either by law, regulation, or policy. Appropriation limits do not apply to nonexpendable funds not requiring budgets, such as enterprise funds, intra-governmental service funds, and nonexpendable trust funds.
- **Performance and Bid Bonds:** Performance and bid bonds as may be determined by the purchasing agent or the governing body.

- **Architect or Engineer Required:** T.C.A. § 62-2-107 (a) states that state and local governments shall not engage in the construction of public works projects involving architecture, engineering or landscape architecture without having plans, specifications, and estimates made by registered architects, registered engineer or registered landscape architect. This requirement does not apply to exceptions listed in T.C.A. § 62-2-107 (b) (1) (A), which states if the cost of the complete project does not exceed fifty thousand dollars (\$50,000), and the work does not alter the structural, mechanical, or electrical system of the project; or T.C.A. § 62-2-107 (b) (1) (B), the project cost does not exceed one hundred thousand dollars (\$100,000), the project is located in a a state park, and the work is solely maintenance, as defined in the state building commission policy and procedures.

*Limit may be lowered or increased to a maximum of \$10,000 by the governing body.

Sources (Sample)

Reference Number: MTAS-1745

Purchasing Policy

City of Hendersonville
City of Johnson City
City of Little Rock, Ark.
City of Tullahoma
and

The Model Procurement Code
for State and Local Governments
American Bar Association
February 1979

Model Purchasing Ordinance
Municipal Association of South Carolina
April 1983

Links:

- [1] <https://www.mtas.tennessee.edu/reference/purchasing-through-competitive-sealed-proposals>
[2] <https://www.mtas.tennessee.edu/reference/mayor-aldermanic-general-law-charters>
[3] <https://www.mtas.tennessee.edu/node/1686>

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