

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PURCHASING.
6. PROCUREMENT POLICY.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depository for town funds.
- 5-102. Absentee by mail ballot voting procedures for non-resident property owners.

5-101. Official depository for town funds. The following financial institutions are hereby designated for municipal funds:

- (1) American City Bank;
- (2) Citizens Community Bank;
- (3) First Vision Bank of Tennessee;
- (4) Citizens Tri-County Bank;
- (5) SunTrust Bank;
- (6) Traders National Bank;
- (7) US Bank. (1997 Code, § 5-101, modified)

5-102. Absentee by mail ballot voting procedures for non-resident property owners. All persons residing outside the corporate limits of the Town of Estill Springs who own real property within the corporate limits of the Town of Estill Springs and who are entitled to vote in Town of Estill Springs municipal elections pursuant to *Tennessee Code Annotated*, § 6-53-102, and other general law requirements, shall cast their ballot in Town of Estill Springs municipal elections by absentee by mail ballots. (Ord. #14-402, March 2014)

¹Charter references

For specific charter provisions on depositories of municipal funds, see *Tennessee Code Annotated*, § 6-4-402.

Municipal code reference

Litigation tax: § 3-208.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

5-201. When due and payable.¹ Taxes levied by the municipality against real property shall become due and payable annually on the first Monday of October of the year for which levied. Taxes shall be paid directly to the Town of Estill Springs. (1997 Code, § 5-201, modified)

5-202. When delinquent--penalty and interest.² All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to a one (1) time ten percent (10%) penalty and one percent (1%) interest per month assessed on the first day of each month until paid.³ (1997 Code, § 5-202)

¹State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

²Charter and state law reference

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of one-half of one percent (1/2 of 1%) and interest of one percent (1%) shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

³Charter and state law references

A municipality has the option of collecting delinquent property taxes any one (1) of three (3) ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under *Tennessee Code Annotated*, §§ 6-55-201 to 6-55-206.
- (3) By the county trustee under *Tennessee Code Annotated*,

(continued...)

CHAPTER 3**PRIVILEGE TAXES****SECTION**

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (*Tennessee Code Annotated*, § 67-4-701, *et seq.*) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the municipality at the rates and in the manner prescribed by the act. (The minimum payment shall be fifteen dollars (\$15.00.) (1997 Code, § 5-301)

5-302. License required. No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1997 Code, § 5-302, modified)

³(...continued)
§ 67-5-2005.

CHAPTER 4**WHOLESALE BEER TAX****SECTION**

5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in *Tennessee Code Annotated*, title 57, chapter 6. (1997 Code, § 5-401, modified)

CHAPTER 5

PURCHASING

SECTION

- 5-501. Purchase orders required.
- 5-502. Department head approval.
- 5-503. Alderman approval.
- 5-504. Mayoral approval.
- 5-505. Mayor and aldermen approval.
- 5-506. Quotes required.
- 5-507. Public advertisement required.
- 5-508. Re-occurring purchases.
- 5-509. Emergency purchases.

5-501. Purchase orders required. All purchases over one hundred dollars (\$100.00) must be accompanied by a purchase order number. (Ord. #15-415, Jan. 2016)

5-502. Department head approval. All department heads are hereby authorized to approve, by signing a purchase order, any expenditure not to exceed five hundred dollars (\$500.00). (Ord. #15-415, Jan. 2016)

5-503. Alderman approval. All aldermen are hereby authorized to approve, by signing a purchase order, any purchase not to exceed one thousand five hundred dollars (\$1,500.00). (Ord. #15-415, Jan. 2016)

5-504. Mayoral approval. The mayor is hereby authorized to approve, by signing a purchase order, any purchase over one thousand five hundred dollars (\$1,500.00) up to five thousand dollars (\$5,000.00). (Ord. #15-415, Jan. 2016)

5-505. Mayor and aldermen approval. Any nonemergency purchase over five thousand dollars (\$5,000.00) up to ten thousand dollars (\$10,000.00) must be brought before a quorum of the board of mayor and aldermen for approval. (Ord. #15-415, Jan. 2016)

5-506. Quotes required. Whenever possible, at least two (2) quotes are required for purchases over one thousand dollars (\$1,000.00) up to ten thousand dollars (\$10,000.00); public advertisement or competitive bidding is not required. (Ord. #15-415, Jan. 2016)

5-507. Public advertisement required. Public advertisement and competitive bidding is required for all purchases of goods and services exceeding ten thousand dollars (\$10,000.00). (Ord. #15-415, Jan. 2016)

5-508. Re-occurring purchases. Re-occurring purchases such as gasoline, diesel, water treatment chemicals/supplies and other ordinary purchases of supplies and maintenance materials will not be included in the limits listed above as they are required for daily operation of the town. (Ord. #15-415, Jan. 2016)

5-509. Emergency purchases. Emergency purchases exist when there is a threat to public health, welfare or safety and are exempt from the competitive bid and quote process. In the event of an emergency, any alderman that is readily available would be authorized to approve a purchase no matter which department is affected. (Ord. #15-415, Jan. 2016)

CHAPTER 6

PROCUREMENT POLICY

SECTION

- 5-601. Introduction and purpose.
- 5-602. Code of conduct.
- 5-603. Procurement requirements and considerations.
- 5-604. Procurement methods.
- 5-605. Procurement procedures.
- 5-606. Contract provisions.
- 5-607. Documentation.
- 5-608. Compliance with this policy.

5-601. Introduction and purpose. In keeping with its commitment to maintaining the highest standards of conduct and ethics, Town of Estill Springs ("FFR") has adopted this procurement policy ("policy") to ensure that goods and services purchased by FFR are obtained in a cost-effective manner and in compliance with applicable federal and state laws.

The acquisition processes described in this policy apply to all purchases made by

- (1) FFRs purchasing department, and
- (2) FFR programs independent of the purchasing department by employees, directors, officers, or agents (together, "FFR purchasers").

Purchases may also be subject to prior funding source approval and additional requirements imposed by grants or contracts. Program directors are responsible for reviewing any such additional requirements, bringing them to the attention of the purchasing department, and ensuring that contractors and vendors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-602. Code of conduct. (1) FFR purchasers shall not participate in the selection, award, or administration of a contract if they have a real or apparent conflict of interest. Such a conflict arises when:

(a) The FFR purchaser; any immediate family member (spouse, child, parent, parent-in-law, sibling, or sibling-in-law); partner; or an organization that employs, or is about to employ, any of the above has a direct or indirect financial or other interest in or will receive a tangible personal benefit from a firm or individual considered for the contract award.

(b) An "organizational "conflict of interest" is created because of a relationship FFR has with a parent, affiliate, or subsidiary

organization that is involved in the transaction such that FFR is or appears to be unable to be impartial in conducting a procurement action involving the related organization.

(2) FFR purchasers shall not solicit or accept gifts, money, gratuities, favors, or anything of monetary value, except unsolicited items or services of nominal value from vendors, prospective vendors, parties to subcontracts, or any other person or entity that receives, or may receive, compensation for providing goods or performing services for FFR.

(3) All FFR purchasers shall review and comply with the FFR's procedures for disclosing, reviewing, and addressing actual and potential conflicts of interest.

(4) Failure to adhere to the code of conduct may result in disciplinary action taken against the FFR employee, including removal from procurement activities and if necessary, termination. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-603. Procurement requirements and considerations.

(1) Competition. All procurements shall be conducted in a manner that provides, to the maximum extent practical, full and open competition. Procurements shall:

(a) Avoid noncompetitive practices that may restrict or eliminate competition, including but not limited to:

(i) Unreasonable qualification requirements;

(ii) Unnecessary experience and excessive bonding requirements;

(iii) Noncompetitive pricing practices between firms or affiliated companies;

(iv) Noncompetitive contracts to consultants on retainer contracts.

(v) Organizational conflicts of interest;

(vi) Specifying "brand name" only instead of allowing "an equal to" product; and/or

(vii) Arbitrary actions.

(b) Not intentionally split a single purchase into two (2) or more separate purchases to avoid dollar thresholds that require more formal procurement methods.

(c) Exclude contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for a proposal from competing for such procurement.

(d) Include in any prequalified list an adequate number of current, qualified vendors, firms, or products.

(e) Not preclude potential bidders from qualifying during the solicitation period.

(f) Not use any geographic preferences (state, local or tribal) in the evaluation of bids or proposals, except where expressly mandated or encouraged by applicable federal statutes.

(2) Profit. For sole source procurements or when cost analysis is used, profit must be negotiated as a separate element of the procurement price.

(a) To establish a fair and reasonable profit, consider: complexity of work performed, risk borne by contractor, contractor's investment, amount of subcontracting, quality of contractor's record and past performance, and industry profit rates in surrounding geographical area for similar work.

(b) FFR may not use either the cost plus a percentage of cost, or percentage of construction cost methods of contracting.

(3) Minority owned, women owned, and small business vendors. FFR is committed to taking all necessary affirmative steps to assure that minority business, women's business enterprises and labor surplus area firms ("MWSB vendors") are used whenever possible. Such steps include:

(a) Placing qualified MWSB vendors on solicitation lists;

(b) Soliciting MWSB vendors whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by MWSB vendors;

(d) Establishing delivery schedules, where requirement permits, which encourage participation by MWSB vendors;

(e) Using services and assistance, as appropriate, of such organizations as Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(f) Requiring the prime contractor, if subcontracts used, to take affirmative steps listed in paragraphs (a) through (e) of this section.

(4) Domestic preference. To the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States.

(5) Procurement of recovered materials. The FFR will procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, such as transportation, construction, landscaping, and non-paper office products in accordance with the regulations provided in that part. Specifically, the FFR will procure designated materials that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds ten thousand dollars (\$10,000.00) or the value of the quantity acquired during the preceding fiscal year exceeded ten thousand dollars (\$10,000.00). Further, any solid waste management services will be procured in a manner that maximizes energy and resource recovery.

(6) Minimum bonding requirements. For construction or facility improvement contracts or subcontracts exceeding two hundred fifty thousand dollars (\$250,000.00), the requirements for bonding shall, at a minimum, be as follows:

(a) A bid guarantee from each bidder is equivalent to five percent (5%) of the bid price.

(b) A performance bond on the part of the contractor is for one hundred percent (100%) of the contract price.

(c) A payment bond on the part of the contractor is for one hundred percent (100%) of the contract price.

(d) All bonds required in this section are obtained from companies holding certificates of authority as acceptable sureties pursuant to the surety requirements for companies doing business with the United States (31 CFR part 223).

(7) Solicitations. All solicitations shall incorporate a clear and accurate description of the technical requirements for products or services to be procured. Descriptions:

(a) Must not contain features which unduly restrict competition.

(b) May include a statement of the qualitative nature of the material, product or service to be procured.

(c) When necessary, must set forth minimum essential characteristics and standards necessary to satisfy its intended use.

(d) Must avoid detailed product specifications if at all possible.

(e) May use a "brand name or equivalent" description to define performance or other salient requirements when impractical or uneconomical to make a clear and accurate description of technical requirements. Specific named brand features required to be met must be clearly stated.

(f) Must identify all requirements which offerors must fulfill and all other factors to be used in evaluating bids and proposals.

(8) Considerations. FFR Purchasers should consider taking the following actions when procuring goods and services:

(a) Conduct a lease vs. purchase analysis, when appropriate, including for property and large equipment.

(b) Consolidate or break out procurements to obtain a more economical purchase, if possible.

(c) Use state and local intergovernmental or inter-entity agreements, or common or shared goods and services, where appropriate.

(d) Use federal excess and surplus property in lieu of purchasing new equipment and property, if feasible and reduces project costs.

(e) Use value engineering clauses to offer reasonable opportunities for cost reductions in construction contracts for projects of sufficient size.

(f) Use time and materials contracts only if no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at their own risk. If such contract is negotiated and awarded, FFR must assert a high degree of oversight to obtain reasonable assurance that contractor using efficient methods and effective cost controls. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-604. Procurement methods. (1) All procurements. All procurements made under this policy shall:

(a) Be necessary, at a reasonable cost, documented, not prohibited by law or the applicable funding source, and made in accordance with this policy.

(b) Avoid acquiring unnecessary or duplicative items.

(c) Engage responsible vendors who possess the ability to perform successfully under the terms and conditions of a proposed procurement. FFR Purchasers shall consider: vendor integrity, public policy compliance, past performance record and financial and technical resources.

(2) Standard methods. For transactions meeting the specifications set forth in Appendix 1,¹ FFR purchasers shall follow the applicable procurement method set forth therein.

(3) Exceptions to standard methods. (a) Sole source. Procurement by solicitation of a proposal from a single source may only be used if one (1) of the following apply and are documented:

(i) Item is only available from a single source;

(ii) Public exigency or emergency will not permit any delay;

(iii) Federal awarding agency or pass-through expressly authorizes in response to a FFR request; or

(iv) After soliciting a number of sources, competition is determined inadequate.

(4) Intergovernmental agreements preferred. To foster greater economy and efficiency, the FFR is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(5) Use of federal surplus property. The FFR will consider the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

¹Appendixes to the procurement policy are in the office of the recorder.

5-605. Procurement procedures. (1) Frequency of procurement.

(a) Procurement period is the period of time after the initial procurement procedure, i.e., a quote or request for proposals, and before FFR must conduct a new procurement process.

(b) Unless otherwise stated, procurement periods can vary in length.

(c) Factors to consider when setting a procurement period: length of funding source contract, complexity of funding source requirements, type of service to be provided, customization needed.

(2) New procurements. (a) FFR purchaser determines the applicable and appropriate procurement method.

(b) If micro-purchase or small purchase methods are appropriate, conduct procurement as outlined in this policy and retain appropriate documentation of quotes and vendor selection, etc. If prior approval is required for the purchase, refer to step 2.

(c) If sealed or competitive bid methods are required, complete steps 2 through 5 .

(d) If funding source approval is required, work with finance director and/or mayor to obtain. Depending on the procurement method used, FFR purchaser completes bid form and submits to finance director and/or mayor as part of the approval process.

(e) Finance director and/or mayor, FFR purchaser, formalizes the bid packet and submits it to local newspaper.

(f) Depending on thresholds set for board of director's approval, finance director and/or mayor either makes the procurement decision or presents all bid responses to the finance committee of the board of directors.

(g) If the finance committee is involved, it makes a recommendation on awarding the bid to the board of directors. Bid award is reviewed and voted on by the board of directors and noted in board minutes.

(3) Extending/modifying existing contracts. (a) For procurements greater or less than two hundred fifty thousand dollars (\$250,000.00), if the procurement period has not expired, FFR purchaser may amend or renew an existing contract/purchase order to extend its term for the remainder of the procurement period if any adjustment in price is deemed reasonable pursuant to a cost analysis, and all other terms remain the same.

(b) Example, if the competitive procurement covered a five (5) year period and the initial contract/purchase order was for two (2) years, FFR purchaser may extend the term of the initial contract/purchase order for up to three (3) years so long as the price is deemed reasonable pursuant to a cost analysis and all other terms remain the same.

(c) For procurements greater or less than two hundred fifty thousand dollars (\$250,000.00), if the procurement period has not expired, FFR purchaser may amend or renew an existing contract/purchase order to extend its term for the remainder of the procurement period if any adjustment in price is deemed reasonable and all other terms remainder the same.

(4) Records of procurements. FFR employees will maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-606. Contract provisions. All FFR procurement contracts shall contain the applicable contract provisions contained in 2 CFR part 200 Appendix II¹ - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. The provisions are described in Appendix 4² of this policy. Additionally, all procurement contracts will provide for the FFR right to maintain adequate oversight and ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-607. Documentation. (1) Debarment. FFR shall either:

(a) Confirm and document that the vendor is not excluded from doing business with the federal government (see www.sam.gov/SAM/) before entering into a contract; or

(b) Obtain a signed debarment certificate substantially in the form of App. 2.³

(2) Lobbying certificate. FFR shall obtain signed lobbying certificates substantially in the form of Appendix 3⁴ for procurements greater than one hundred thousand dollars (\$100,000.00).

(3) Records. FFR shall maintain records sufficient to detail history of each procurement transaction. These records must include, but are not limited to:

(a) A description and supporting documentation showing rationale for procurement method (e.g., cost estimates);

(b) Selection of contract type;

(c) Written price or rate quotations (such as catalog price, online price, email or written quote), if applicable;

(d) Copies of advertisements, requests for proposals, bid sheets or bid proposal packets;

^{1,2,3,4}Appendixes to the procurement policy are in the office of the recorder.

- (e) Reasons for vendor selection or rejection, including finance committee and board minutes, rejection letters and award letter; and
- (f) The basis for the contract price. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)

5-608. Compliance with this policy. Program directors and, where applicable, the purchasing department, shall maintain oversight to ensure that contractors and vendors perform in accordance with the terms, conditions, and specifications of contracts or purchase orders. Violations of this policy may result in disciplinary action, up to and including termination. (as added by Ord. # 22-464, Nov. 2022 *Ch1_12-01-22*)