



# Municipal Technical Advisory Service

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The following document was created from the MTAS electronic library known as MORE. This online library is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MORE material.

Sincerely,

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## Municipal Purchasing Law of 1983

Reference Number: MTAS-1686

**6-56-301. SHORT TITLE** — This part shall be known and may be cited as the "Municipal Purchasing Law of 1983."

**6-56-302. APPLICATION OF PART** — This part shall apply to all purchases by authorized officials in all municipalities using or encumbering municipal funds, except as follows:

(1) This part shall not apply to purchases by authorized officials in municipalities that have a charter provision or private act that either establishes within the charter or act itself dollar limits over which competitive bidding is required, or authorizes the municipality to set a dollar limit by ordinance but establishes the maximum dollar limit over which competitive bidding is required, and the municipality has established either by charter, private act, or ordinance general bidding procedures that include, but are not limited to, public advertising, securing and opening bids, and any exemptions from competitive bidding. Any exemptions must be substantially similar to those listed in § 6-56-304, except that any dollar amounts listed must be established in accordance with the municipality's charter or private act;

(2) This part shall not apply to purchases by authorized officials in municipalities that have charter provisions relative to competitive bidding but that do not establish a dollar limit over which competitive bidding is required, as long as the municipality, by ordinance, establishes:

(A) A dollar limit over which competitive bidding is required, which may not exceed twenty-five thousand dollars (\$25,000);

(B) A dollar limit, which may not exceed forty percent (40%) of the amount established under subdivision (2)(A), over which the municipality need not advertise but must, when possible, obtain three (3) competitive bids and below which no advertisement or competitive bidding is required;

(C) Procedures for public advertising, securing, and opening bids; and

(D) Any exemptions from competitive bidding, which must be substantially similar to those listed in § 6-56-304, except that any dollar amounts listed must be in accordance with the municipality's ordinances;

(3) This part shall not apply to purchases made under the provisions of § 12-3-1001;

(4) This part shall not apply to investments in or purchases from the pooled investment fund established pursuant to title 9, chapter 4, part 7;

(5) This part shall not apply to purchases from instrumentalities created by two (2) or more cooperating governments such as, but not limited to, those established pursuant to the Inter-local Cooperation Act, compiled in title 12, chapter 9; and

(6) This part shall not apply to purchases from nonprofit corporations such as, but not limited to, the Local Government Data Processing Corporation, whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.

**6-56-303. LIMITS ON PURCHASES** — All purchases made from funds subject to the authority of this part shall be made within the limits of the approved budget, when required, and the appropriations, when required, for the department, office or agency for which the purchase is made.

**6-56-304. ADVERTISING AND BIDDING — EXCEPTIONS** — Except as hereinafter provided, all purchases and leases or lease-purchase agreements shall be made or entered into only after public advertisement and competitive bid, except as follows:

(1) Purchases costing less than two thousand five hundred dollars (\$2,500); provided that this exemption shall not apply to purchases of like items that individually cost less than two thousand five hundred dollars (\$2,500), but that are customarily purchased in lots of two (2) or more, if the total purchase price of such items would exceed two thousand five hundred dollars (\$2,500) during any fiscal year;

(2) Any goods or services that may not be procured by competitive means because of the existence of a single source of supply or because of a proprietary product. A record of all such sole source or proprietary purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such sole source or proprietary purchases shall be made as soon as possible to the municipal

governing body and the chief executive officer of the municipality and shall include all items of information as required for the record;

(3) Purchases or leases of any supplies, materials or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work. A record of any such emergency purchase shall be made by the person or body authorizing such emergency purchases, and shall specify the amount paid, the items purchased, from whom the purchase was made and the nature of the emergency. A report of any emergency purchase shall be made as soon as possible to the municipal governing body and the chief executive officer of the municipality, and shall include all items of information as required in the record;

(4) Leases or lease-purchase agreements requiring total payments of less than two thousand five hundred dollars (\$2,500) in each fiscal year the agreement is in effect, provided that, this exemption shall not apply to leases of like or related items that individually may be leased or lease-purchased with total payments of less than two thousand five hundred dollars (\$2,500) in any fiscal year, but which are customarily leased or lease-purchased in numbers of two (2) or more, if the total lease or lease-purchase payments for such items under a single agreement would be two thousand five hundred dollars (\$2,500) or more in any fiscal year;

(5) Purchases, leases, or lease-purchases of real property;

(6) Purchases, leases, or lease-purchases from any federal, state, or local governmental unit or agency of secondhand articles or equipment or other materials, supplies, commodities, and equipment;

(7) Purchases of perishable commodities, when such items are purchased in the open market. A record of all such purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such purchases shall be made, at least monthly, to the chief executive officer and the governing body, and shall include all items of information as required in the record. Fuel and fuel products may be purchased in the open market without public advertisement, but shall whenever possible be based on at least three (3) competitive bids. Fuel and fuel products may be purchased from the department of general services' contract where available; and

(8) Purchases, for resale, of natural gas and propane gas.

**6-56-305. ADVERTISING AND BIDDING — EXPENDITURES OF LESS THAN \$2,500** — All purchases, leases, or lease-purchase arrangements with expenditures of less than two thousand five hundred dollars (\$2,500) but more than one thousand dollars (\$1,000) in any fiscal year may be made in the open market without public advertisement, but shall, whenever possible, be based upon at least three (3) competitive bids. Purchases, leases, or lease-purchases of one thousand dollars (\$1,000) or less in any fiscal year shall not require any public advertisement or competitive bidding. Any municipal governing body may, by ordinance, increase the one thousand dollar (\$1000) limit in this section to a maximum of forty percent (40%) of the amount established as authorized under § 6-56-306 for purchases requiring public advertisement and competitive bidding.

**6-56-306. ADDITIONAL AUTHORITY OF MUNICIPAL GOVERNING BODY —**

(a) Municipal governing bodies are specifically authorized to lower the dollar amounts required in this part for public advertisement and competitive bidding to an amount to be set by the municipal governing body. Municipal governing bodies may by ordinance increase the dollar amount required in this part for public advertisement and competitive bidding from two thousand five hundred dollars (\$2,500) to a maximum of ten thousand dollars (\$10,000). Municipal governing bodies of any municipality having a population of not less than forty thousand (40,000) nor more than forty-two thousand five hundred (42,500) or any municipality with a population over one hundred fifty thousand (150,000), according to the 2000 federal census or any subsequent federal census, may increase the dollar amount required in this part for public advertisement and competitive bidding to a maximum not to exceed twenty-five thousand dollars (\$25,000); provided, that purchases of between ten thousand dollars (\$10,000) and twenty-five thousand dollars (\$25,000) shall, wherever possible, be based upon at least three (3) competitive bids. When the governing body does this, references in this part to two thousand five hundred dollars (\$2,500) shall be deemed a reference to the amount established by the municipal governing body in its ordinance.

(b) Municipal governing bodies are specifically authorized to adopt regulations providing procedures for implementing this part.

**6-56-307. BID SPECIFICATIONS FOR PURCHASES OF CHEMICAL PRODUCTS —**

(a) Bid specifications for purchases of chemical products pursuant to this chapter shall require that the manufacturer of the chemical products create and maintain a material safety data sheet (MSDS) for such chemical products on the national MSDSSEARCH repository or the manufacturer's web site so that the information can be accessed by means of the Internet. A site operated by or on behalf of the manufacturer or a relevant trade association is acceptable so long as the information is freely accessible to the public.

(b) The URL for MSDSSEARCH shall be posted on the web site of the department of general services as provided in § 12-3-217. In lieu of posting a MSDS on MSDSSEARCH, a bidder shall include the manufacturer's URL for their MSDS in the bid proposal or purchase order.

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