



MTAS Purchasing Policy Checklist

To Accompany the “MTAS Purchasing Guide” and “MTAS Sample Purchasing Procedures”

Introduction

Tennessee has many general laws that govern purchasing by municipalities. Because there are so many provisions within the Tennessee Code that govern purchasing, the *MTAS Purchasing Guide* was developed to provide a general overview and citations for those general laws. Accompanying the *MTAS Purchasing Guide* are the *MTAS Sample Purchasing Procedures* that contain best practices for implementing the state and federal regulations.

This document, the *MTAS Purchasing Policy Checklist*, was developed to provide municipalities in the process of drafting or amending a purchasing policy with a resource that may be referenced to ensure that the most important laws, processes, and required authorizations related to procurement are included in the municipality's purchasing policy. References to the *MTAS Purchasing Guide* and the *MTAS Sample Purchasing Procedures* are included, where applicable, as follows:

Document	Reference
<i>MTAS Purchasing Guide</i>	<i>Guide: Page Number – Section Title</i>
<i>MTAS Sample Purchasing Procedures</i>	<i>SP: Page Number – Section Title</i>

Competitive Sealed Bids

Charter Review

- Reviewed charter and determined whether the municipality is subject to the Municipal Purchasing Law of 1983. (*Guide: Pg 3 – Municipal Purchasing Law of 1983*)
- Reviewed charter and determined whether the municipality’s charter sets the bid threshold.¹ (*Guide: Pg 3 – Municipal Purchasing Law of 1983*)

Municipal Code and/or Purchasing Policy Review

- Competitive sealed bid and public advertisement threshold set by ordinance.¹ (*Guide: Pg 3 – Competitive Sealed Bids*)

¹ T.C.A. § 12-3-1212 preempts most other language establishing bid thresholds. The bid threshold may be increased by the governing body through an ordinance to not more than \$25,000 in municipalities without centralized purchasing authority or not more than \$50,000 in municipalities with a full-time purchasing agent and centralized purchasing authority. If the limit is increased as provided above, at least 3 written quotations are required, when possible, when the purchase costs less than the bid threshold, but is more than 40% of the threshold or some lower amount established by the governing body.

- The following processes included:
 - Creating and distributing invitations to bid and bid packages.² *(SP: Pg 22 - Sealed Bids)*
 - How, where, and when bids will be advertised. *(SP: Pg 24 - Sealed Bids)*
 - Establishing and maintaining an active vendor identification list. *(SP: Pg 23 - Sealed Bids)*
 - Receiving, securing, and opening bids. *(SP: Pg 22 - Sealed Bids)*
 - Determining the winning bidder for tie bids. *(SP: Pg 23 & 24 - Sealed Bids)*
 - Late bids, noncompliant bids, mistakes in bids by bidders, and unsigned bids. *(SP: Pg 23 & 24 - Sealed Bids)*
 - Canceling an invitation to bid. *(SP: Pg 24 - Sealed Bids)*
 - Rejecting any and all bids. *(SP: Pg 23 & 24 - Sealed Bids)*
 - Addressing non-performance, delivery, trade-ins, and warranties. *(SP: Pg 28 & 29)*
- Requirements for bid bonds and performance bonds included. *(SP: Pg 24 - Sealed Bids)*
- Additional factors that will be considered in bid awards included. *(SP: Pg 25 - Other Factors to Consider in Bid Awards)*
- Acknowledgements and certification required for bid packages included.
- Requirement that the appropriate municipal official(s) and the successful bidder sign a written agreement after the contract is awarded included. *(SP: Pg 28 - Contractual Purchases)*

Purchases That Do Not Meet the Bid Threshold

- The threshold for obtaining quotations when the bid threshold is not met included. *(Guide: Pg 4 - Competitive Sealed Bids)*
- Process for obtaining quotations included. *(Guide: Pg 5 - Competitive Sealed Bids)*
- Process for making purchases below the competitive sealed bid and quotations threshold included.

Competitive Sealed Proposals (T.C.A. § 12-3-1207)

- A procurement code has been adopted by ordinance authorizing the use of competitive sealed proposals. *(Guide: Pg 6 - Competitive Sealed Proposals)*
- Statement included that competitive sealed proposals may only be used when approved by the governing body, qualifications, experience, or competence are more important than price in making the purchase, and:
 - 1) there is more than one (1) solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution; or
 - 2) there is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one (1) or more solutions.

(Guide: Pg 6 & 7 - Competitive Sealed Proposals)

Professional Service Contracts (T.C.A. §§ 12-3-1209 & 12-4-107)

- 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

² Any charges, including shipping and taxes, should be included in the bid package.

“high ethical standards.” Engineers and Architects are also procured through professional services contract. *(Guide: Pg 8 & 9 - Professional Services)*

- Criteria for when professional service contracts are to be used included.
- Person or position that will prepare the request for qualifications included.
- Evaluation, selection, and negotiation processes included.
- Person or position that will prepare and sign the written contract included.
- Required content in a contract included, or at a minimum, referenced.

Request for Proposals (RFPs)

- Statement included that this purchasing method should only be used under specific circumstances as authorized in state statute. *(Guide: Pg 9 - Request for Proposals)*
- Process for issuing RFPs when procuring the following included, if applicable:
 - Construction Management Services
 - Information Management Services in Davidson County
 - Multi-Year Contracts for Maintenance of Water Storage Tanks
 - Banking Services

(Guide: Pg 9 & 10 - Request for Proposals)

Statutory Exceptions

- Statutory exceptions for purchasing referenced with instructions to review before determining how to procure goods and services. *(Guide: Pg 11 & 12 - Exceptions) | (SP: Pg 5 & 6 - Exceptions)*

Emergency Purchases

- Statement included that emergency purchases are only to be made by departments when:
 - 1) actual emergencies arising from unforeseen causes occur, including delays by contractors, delays in transportation, and unanticipated volume of work; and
 - 2) when property, equipment, or life are endangered through unexpected circumstances; and
 - 3) materials, services, etc., are needed immediately. *(SP: Pg 20 & 21 - Emergency Purchases)*
- Designation of person or position authorized to make emergency purchases included. *(SP: Pg 20 & 21 - Emergency Purchases)*
- Process for making emergency purchases included. *(SP: Pg 20 & 21 - Emergency Purchases)*

Sole Source Purchasing

- Definition for what constitutes sole source purchasing included.

For a company to be a “sole source,” its product or service must be unique; the uniqueness must be substantially related to the intended purpose, use, and performance of the good or service sought; and the supplier seeking to be declared a sole source must show that other similar goods or services cannot perform the government’s desired objectives. § 29:37. Applicability to particular contracts—“Sole source” bids, 10 McQuillin Mun. Corp. § 29:37 (3d ed.) (citing General Elec. Co. v. City of Mobile, 585 So. 2d 1311 (Ala. 1991)). *(Guide: Pg 28 & 29 - Interest of Officer in Municipal Contracts)*

- Criteria for using sole source purchasing included and must specify who makes the determination that a purchase qualifies as sole source and the documentation required to justify the determination.
- Process for making the required report to the legislative body or chief executive when using sole source purchasing included.

Leases and Lease-Purchase Agreements

- Requirement that legislative body approve any lease-purchase contracts that extend beyond the current fiscal year included. *(SP: Pg 5 - Purchasing Procedures)*
- Process for obtaining approval from the Comptroller's Office for lease purchases when required, included. *(SP: Pg 5 - Purchasing Procedures)*

Purchase Requisitions

- Process for determining when a purchase requisition is required included. *(SP: Pg 8 - Purchase Requisition)*
- List of supporting documentation required included. *(SP: Pg 8 - Purchase Requisition)*
- Designation of the person or position authorized to prepare the purchase requisition included. *(SP: Pg 8 - Purchase Requisition)*
- Statement requiring approval of requisitions by department heads or designee(s) included. Department heads should provide an approved list of designees to the purchasing agent. *(SP: Pg 8 - Purchase Requisition)*
- Process for how requisitions are handled included. *(SP: Pg 8 - Purchase Requisition)*

Purchase Orders

- Requirement that pre-numbered purchase orders must be used when purchases exceed a predetermined amount included.
- Description of when purchase orders are to be used included. *(SP: Pg 12 - Purchase Order)*
- Requirement that the finance officer or designee must approve the use of a purchase order to determine if the purchase is appropriate for municipal purpose and if money is budgeted for the purchase. *(SP: Pg 12 - Purchase Order)*
- Designation of the person or position that is authorized to issue purchase orders included. *(SP: Pg 12 - Purchase Order)*
- Process for how purchase orders are handled included. *(SP: Pg 12 - Purchase Order)*
- Process for canceling purchase orders included. *(SP: Pg 13 - Purchase Order)*

Purchasing Cards (P-cards) or Credit Cards

- Individuals authorized to make purchasing card or credit card purchases designated.
- Instructions on when p-cards or credit cards may be used included.
- Process for reviewing purchases and reconciling statements, submitting required documentation, and obtaining approvals, included.

Electronic Bidding, Records, and Signatures

- Authorization to receive bids, proposals, and other offers electronically included. *(Guide: Pg 22 - Electronic Bidding, Records, and Signatures)*
- Prohibition against requiring small businesses and minority-owned businesses to receive or respond to invitations to bid, request for proposals or other solicitations electronically included. *(Guide: Pg 22 - Electronic Bidding, Records, and Signatures)*
- Authorization for contracts to be executed electronically with electronic signatures included. *(Guide: Pg 22 - Electronic Bidding, Records, and Signatures)*

Conflicts of Interest

- Language prohibiting conflicts of interest included. *(Guide: Pg 28 - Interest of Officer in Municipal Contracts)*

Local Preference

- Language prohibiting the procurement of goods and services based on local preference included.

Records Retention

- A statement that all records related to purchasing must be maintained in accordance with the municipality's adopted records retention policy included.