

# ROANE COUNTY PURCHASING MANUAL



**Approved  
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## **I. INTRODUCTION**

The Roane County Purchasing Department operates under the Purchasing Law of 1957, which can be found in Tennessee Code Annotated (TCA), §5-14-101 through §5-14-116. [Appendix I] The 1957 Purchasing Law was adopted by the Quarterly Court of Roane County on March 12, 1973 with the Honorable William A. Newcomb, Special County Judge presiding. Mr. Newcomb was the acting County Judge during the absence of County Judge Frank Qualls.

TCA §5-14-106 provides for the appointment of a County Purchasing Commission. One of the first, if not the first, Purchasing Commission for Roane County was appointed in early 1983. The members were John Thompson, William T. Mee, Ken Yager, Craig Money and Robert Peele, Chairman, which adopted what may have been the first purchasing manual. From the 1983 manual the Purchasing Commission and County Commission has not made any updates. By resolution, the County Commission approved changes in the formal and informal bid limits and has approved selling surplus property on the internet.

This manual shall not be in conflict with any State or Federal laws, but it will be used as a supplement by providing further detailed policies and procedures for the operations of the Roane County Purchasing Department.

This manual applies to materials, supplies or services purchased with funds appropriated by the Roane County Commission. The policies and procedures set forth in this manual may also be applied to internal school funds and any boards appointed by the Roane County Commission or the County Executive.

The County Purchasing Agent shall be responsible for seeing that these procedures are complied within all purchases made for Roane County.

For the purpose of this manual, the term Invitation to Bid (ITB) will also refer to Request for Proposals (RFP).

This manual has been approved by the Roane County Purchasing Commission and the Roane County Commission.

## **II. OBJECTIVES**

The County's objectives are:

1. To establish purchasing policies, rules and regulations that is consistent with, and acts as a supplement, to the TCA.
2. To assure full and free completion.
3. To procure the required supplies and/or services necessary for the continuous and efficient operation of the county.
4. To update the county financial records on a timely basis of the obligations of purchases, contracts and commitments made by the Purchasing Department and the County Commission.

### **III. POLICIES**

#### **A. PURCHASE ORDERS & PAYMENT OF INVOICES**

All purchases are authorized by purchase order prepared by the Purchasing Department based upon a requisition from the requisitioner and signed by the department head or their designee. All purchases for purchasable items are made in this manner. No invoice will be paid which is not designated by a properly executed purchase order. Any purchase made outside these provisions shall be flagged by receiving a "pink sheet" by the Accounting Department and routed to the Purchasing Agent for approval before the invoice is paid. A "pink sheet" is an internal control method in which the invoice is flagged indicating that the purchase was made outside purchasing policies. In instances where a county or school department is abusing this policy, the Purchasing Agent and/or County Executive may refer invoices to the Purchasing Commission, the Audit Committee and/or County Commission for approval before such invoices are paid.

Examples of purchases that are not considered to be purchasable items include: purchases less than the established purchase order threshold, dues and memberships, advertising, travel, postage, subscriptions and set fees by regulating agencies.

#### **B. SUPPLEMENTAL PURCHASING POLICIES**

As the need arises for supplemental, departmental and/or operational policies and procedures to this manual, the Purchasing Agent will draft the policy and submit it to the County Executive for review and approval. Upon the approval of the County Executive, the policy will be distributed for review and comment by the Purchasing Commission.

### **IV. FUNCTIONS & RESPONSIBILITIES**

#### **A. COUNTY PURCHASING COMMISSION**

It shall be the duty of the County Purchasing Commission to assist the Purchasing Agent in the determination of overall purchasing policies but the actual administration of all purchasing shall be the sole responsibility of the Purchasing Agent.

#### **B. COUNTY PURCHASING AGENT**

The County Purchasing Agent shall comply with Tennessee Laws, policies stated herein and best practices within the purchasing profession in all procurement activities made for the county. The County Purchasing Agent shall have exclusive power and it shall be his/her duty:

1. To contract for and purchase all supplies, materials, equipment and contractual services required by each and every official, agency, department or employee of the county government, or under control of the county government and which expends or encumbers any funds as reflected by the Roane County budget document, as approved by the Roane County Commission. No other official, employee or agent of the county or of any of its departments or agencies shall be authorized to contract for or purchase any such materials, supplies, equipment or contractual services except as otherwise noted herein.

2. To arrange for the rental of machinery, buildings or equipment when the rents are to be paid out of funds belonging to the county or any department, institution, or agency thereof; and no other official, employee or agent of the county shall have the right or power to make any contract for such rental authorized by the Roane County budget document as approved by the Roane County Commission.
3. To transfer materials, supplies and equipment to or between county departments and agencies as may be needed for the proper and efficient administration of the county government.
4. To have charge of any central storeroom, central mailing room or similar service that may be established for the efficient and economical handling of the county's business.
5. To handle the sale of surplus properties. [Appendix II]

### **C. APPLICATION TO INTERNAL SCHOOL FUNDS**

The provisions stated herein are not applicable for funds which are not appropriated by the County Commission.

### **D. APPLICATION TO APPROPRIATED SCHOOL FUNDS**

The County Purchasing Agent shall be responsible for all procurement activities of the Roane County School System from funds appropriated by the County Commission.

## **V. REGULATIONS**

The County Purchasing Agent, with the assistance of the County Purchasing Commission, shall adopt, promulgate and may from time to time amend the regulations for the purchase and/or sale of supplies, materials, equipment, contractual services and surplus equipment and property, specifically for the following purposes:

- A.** Authorizing in writing any department, official or agency of the county government to make purchases in the open market for immediate delivery in emergencies, defining such emergencies, describing the manner in which such emergency purchase shall be made and promptly afterward reported to the County Purchasing Agent.
- B.** Prescribing the manner in which supplies, materials and equipment shall be requisitioned, purchased, delivered, and distributed; and providing that such shall be conducted in accordance with these provisions.
- C.** Prescribing the dates for submitting requisitions and estimates, the future period they are to cover, the form in which they are to be submitted, the manner of their authentication and their revision by the County Purchasing Agent.
- D.** Prescribing the manner of inspecting all deliveries of supplies, materials and equipment and of making or procuring chemical and/or physical tests of samples submitted with bids and samples of deliveries to determine compliance with specifications.

- E. Requiring periodic and special reports by county departments, agencies and employees of stocks or surplus, unusable or obsolete supplies and equipment on hand and prescribing the form of such reports.
- F. Providing for the transfer to or between county departments and agencies of supplies and equipment on hand, which are surplus with one department or agency, but which may be needed by another or others; and for the disposal by sale, after receipt of competitive bids, of supplies, materials and equipment which are obsolete or unusable. [Appendix II]
- G. Determining whether a deposit or bond is to be submitted with a bid on a purchase contract or sale and, if required, prescribing the amount and form thereof, and providing that such surety shall be forfeited if the successful bidder refuses to enter into contract ten (10) days after the award.
- H. Prescribing the manner in which invoices for supplies, materials, equipment and contractual services delivered to any and all departments, agencies and offices of the county shall be submitted, examined and approved.
- I. Providing all other such matters as may be necessary to give effect to the foregoing rules and to the provisions of these regulations.

**VI. GRATUITIES**

- A. Purchases of all supplies, materials, and equipment, contracts for labor or services and leases are void if the Purchasing Agent, County Commissioners, County Officials or other county employees have an interest in said purchases, contracts or leases. The County shall not be liable for any such purchase, contract or lease.
- B. TCA §5-14-114 provides that *“...neither the County Purchasing Agent, nor members of the County Purchasing Commission, nor members of the County Legislative Body, nor other officials of the county, shall be financially interested, or have any personal beneficial interest, either directly or indirectly, in any contract or purchase order for any supplies, materials, equipment of contractual services used by or furnished to any department or agency of the County Government”*.
- C. Nor shall any such persons accept or receive, directly or indirectly, from any person, firm or corporation to which any contract or purchase order may be awarded, by rebate, gift or otherwise, any money or anything of value whatsoever, or any promise, obligation or contract for future reward or compensation.

**VII. PURCHASING PROCESSES**

All purchases shall be made in accordance with the State of Tennessee Purchasing Act of 1957. Requisitions are not to be subdivided in order to circumvent the requirement for competitive procurement.

**A. FORMAL BIDS**

Formal sealed bids will be solicited for purchases of goods and services of \$10,000 or greater for all County Departments and the Roane County School System [as amended in House Bill 1823, TCA §54-7-113]. [County Commission resolution 07-07-12] [Appendix III]

1. All purchases or sales of more than \$10,000 in amount will require a formal bid, which includes the following essential elements.
  - a. Preparation of Invitations to Bids (ITB), containing clear specifications permitting competition.
  - b. Solicitation of such number of representative bidders as is deemed necessary to assure such full and free competition as is consistent with the procurement of the required supplies or services.
  - c. Provision of adequate time for submission of bids consistent with size and type of procurement.
  - d. Posting of the invitation in a place open to the public in the courthouse, inserting at least once in a newspaper of county-wide circulation or posting the advertisement and/or bid specifications on the county's website at least five days prior to the bid closing date.
  - e. Mailing the ITB to the vendors on the bid list is not required of the Purchasing Agent; however, notices may be sent so as to increase participation in the bid process.
  - f. Public opening of the bids.
  - g. Award to that responsible bidder whose bid, conforming to the invitation to bid, will be most advantageous to the county, price and other factors considered.
  - h. Technical evaluation shall be made by the requisitioner as to the acceptability of the bids. Such recommendation made by the requisitioner will be evaluated by the Purchasing Agent who will make the final award based on criteria established in this manual.

## **B. INFORMAL BIDS**

1. All purchases or sales between the dollar amounts of \$2,500 & \$10,000 require informal bids and does not require advertisement or public notice. Informal bids will be sought whenever possible. [Appendix III] Informal bids may be obtained by telephone, the internet, soliciting informal quotations from vendors, consulting catalogs, routine calls from sales representatives or other methods deemed necessary by the Purchasing Agent. The purchase will be awarded to the lowest, responsive vendor. Requisitions for items estimated to cost between \$2,500 & \$10,000 shall not be subdivided in order to circumvent the requirement for competitive procurement.
2. Purchases estimated to cost less than \$2,500 do not require informal bids and may be made in the open market. Informal bids may be sought whenever possible.

### **C. PURCHASES FROM FEDERAL, STATE OR LOCAL GOVERNMENTS**

The County Purchasing Agent may purchase materials, supplies, commodities and equipment from any federal, state or local government units or agencies without conforming to the advertised procurement requirements stated herein. The County Purchasing Agent may sell or transfer property to other government agencies with the approval of a resolution by County Legislative Body.

### **D. SOLE SOURCE PURCHASES**

Sole source procurement is any action that limits the Purchasing Agent to one source of supply. This action can be initiated by a sole source justification letter, by specifying a brand name or particular model number without specifying "or equal" characteristics, by means of a restrictive specification written around a particular product, or by specifying "no substitution" on the requisition. The fact that an item has been used satisfactorily is not justification for its procurement to the exclusion of others of similar or equal performance, quality or design. Personal preference will not justify the purchase of an item to the exclusion of others that would serve the purpose. The determining factor in preparing specifications shall be requirements of the county, not personal preferences of county employees. Sole source justification letters shall accompany the requisition giving reasons justifying the particular source for the procurement. Reasons given must be factual, not opinions, beliefs or personal preferences.

### **E. SECOND HAND ARTICLES OR EQUIPMENT**

Any county may purchase used or second hand articles from any private individual or entity without public advertisement and competitive bidding as long as the purchasing government documents the general range of value of the purchased item through a listing in a nationally recognized publication or through an appraisal by a licensed appraiser, and the price is not more than five percent (5%) higher than the highest value of the document range. [Appendix IV]

### **F. EMERGENCY PURCHASES**

Emergency purchases are made to protect the public health, welfare or safety of citizens or when immediate repair is necessary to prevent further damage to public property, machinery or equipment. Poor planning, overlooked requirements and inadequate forecasting will not be considered an emergency purchase situation.

The Purchasing Department will handle the emergency purchase if needed during regular courthouse business hours. The County Purchasing Agent may authorize the department head to make emergency purchases after regular courthouse hours or on weekends or holidays when actual emergencies arise. Such direct emergency purchases, however, may only be made at times when the office of the County Purchasing Agent is closed. At all other times, only the County Purchasing Agent shall make these purchases.

A report of such emergency purchases, including a justification requisition, and delivery ticket or packing slip shall be sent to the Purchasing Department before the end of the next working day. The Purchasing Department will then write a confirming purchase order. Abuse of this procedure will be investigated and if necessary the use of emergency purchasing procedures may be revoked by the Purchasing Commission.

## **G. COOPERATIVE PURCHASING AGREEMENTS**

As authorized by TCA §12-3-1008 - 12-3-1009, any municipality, county, utility district or other local government of the state may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any supplies, services or construction with one (1) or more other local governments in accordance with an agreement entered into between the participants. All such purchases must be advertised, bids received and awarded in accordance with the Purchasing Law of 1957. [Appendix V]

Purchases may also be made using Purchasing Cooperatives, e.g. U. S. Communities or other established cooperatives of similar type.

## **H. PRODUCTS WITH EXCLUSIVE RIGHTS & LICENSES**

These are products or services in which only one vendor holds the exclusive distribution rights and/or the exclusive distribution license by law to a particular product. Vendors must be able to document this to the satisfaction of the Purchasing Agent. Examples are software licenses, curriculum or specialty equipment.

## **I. BLANKET/OPEN PURCHASE ORDERS**

Blanket or open purchase orders can be used for those vendors where small, routine purchases are made. Blanket or open purchase orders should be reviewed on a quarterly basis to make sure that the purchase order is still needed. Blanket or open purchase orders typically should be for projected expenditures from a particular vendor for a three (3) month period. Blanket orders should not exceed the \$2,500 quote limit. Situations may occur when a blanket order is appropriate and the amount may exceed the \$2,500 quote threshold. Orders of this type will be evaluated on an individual basis by the Purchasing Agent. Blanket orders would typically be used at hardware stores, auto parts stores, electrical/plumbing supply, etc. All blanket or open orders will be deleted prior to the end of the fiscal year and will not be allowed to carry over from one year to the next.

## **J. CONTRACTUAL PURCHASES**

Contractual purchases are those that are done as a result of a bid or quote. Contractual purchase orders may also be done for disbursements to agencies receiving donations authorized by County Commission, service contracts, etc. All contracts are to be encumbered with a purchase order.

Contractual purchase orders may be done to encumber funds for fiscal year if the bid or quote pricing received is firm for the fiscal year. These bids are referred to as Annual Bids, and they are bids for a specific products or services needed on an annual basis. Annual Bids are used to combine purchases that may be needed by all departments or groups of departments to try and obtain more competitive pricing. Annual Bids may also have the option of additional contract terms and may be extended upon annual review of the contract by the Purchasing Agent. The options for extensions/renewals must be clearly identified in the ITB. Multi-year contracts may only be awarded by approval of a resolution by the County Legislative Body. Examples of annual bids are pest control, fuel, food for the schools and jail, copy paper, etc.

## **K. PURCHASING CARD PURCHASES**

Purchases may be made using the county's purchasing cards (p-cards) in accordance with County Commission Resolution #03-05-08 and with the Roane County Purchasing Card Policy. [Appendix VI)

## **L. COUNTY OBLIGATIONS OF PURCHASE ORDERS & OTHER CONTRACTS**

It is the goal and objective of the Purchasing Department to update the county's financial records regarding the county's obligations of funds in a timely manner. The policy for the timely posting of obligations is that the requisition, generating a purchase order, should be posted within three (3) business days, however, it is not a violation of purchasing policy if the posting occurs within five (5) days. Only those taking greater than five (5) days for generating a purchase order are considered violations.

Requisitions/Purchase Orders shall be used on all purchasable items which will be an obligation to the county in a thirty (30) day period of greater than \$500.00. While it is recommended that purchases in excess of \$100.00 be encumbered on a purchase order, there will be no violation of policy should this occur.

## **VIII. PROCEDURES – PURCHASING CYCLE**

**A.** The following sets forth the essential elements of an Invitation to Bids (ITB) and procedures for its preparation.

1. Invitation Number – Bid numbers are assigned numerically and a log of the bid numbers is maintained by the Purchasing Agent. The bid numbers should include the fund number, fiscal year and indication of whether it is a bid, proposal or renewal.
2. Identification – In addition to the invitation number, ITB shall include: number assigned, item being bid, date hour and place of bid opening.
3. Terms & Conditions – Terms & conditions included in the ITB are to be standard and may be updated by the Purchasing Agent with concurrence of the County Executive and the County Attorney as needed without the approval of the Purchasing Commission. However, the Purchasing Commission should be notified when such updates are made.
4. Time Allowed for Submission of Bids – Normally fourteen (14) days should be allowed between the issuance of ITB and the date of opening. A period of less than ten days shall not be set. The opening time stated in the invitation may be any time during regular business hours after 10:00 a.m., except openings shall not be set for any day following a county observed holiday.
5. Point of Delivery – ITB shall state that quotations are to be submitted on the basis of f.o.b. destination.
6. Items and Schedules – Items of like nature, or related in assembly or having like freight characteristics should be grouped together in separate schedules. There may be several groupings of similar items in an invitation. In such instances, each grouping should be set forth in the invitation as a separate schedule.

7. Alternate Items or Schedule – Bids may be invited on alternate item of schedules. Alternate items shall be so designated and shall be limited in number. The invitation shall specify the manner of evaluating alternate items unless this is self-evident. Alternate bids will not be considered unless authorized by the invitation.
8. Delivery – All ITB shall specify the time of delivery or performance requirements.
9. Addendum – Changes, including additions, modifications and omissions in the information supplied prospective bidders and interpretations and explanations of this information shall be issued in the form of an addendum to the ITB, receipt of which must be acknowledged in the bid. The addendum shall be sent to each bidder to whom an ITB has been furnished.
10. Cancellation – ITB should not be cancelled unless cancellation is clearly in the County's interest, such as, where there is no longer a requirement for the material or service or where amendments would be of such magnitude that a new invitation is desirable. After a cancellation, bids which have been received shall be retained unopened for a period of five (5) years.

## **B. BONDS**

Requirements relating to bid, performance and payment bonds shall be in accordance with the policies set forth.

1. Bid Bond/Deposits of Good Faith – In case of large bids or contracts of \$25,000 or more, the Purchasing Agent may require a bid bond not to exceed 5% of the total bid. A certified check, cashier's check or properly executed bond shall accompany the bid proposal. The check shall be made payable to Roane County. Deposits of the bidders are held until award of the order or contract and the deposit of the successful bidder is held until he has completed delivery or services or if required, provided a performance bond is received.
2. Performance Bond – The performance bond is used to insure performance of contracts in the time and manner prescribed and to save, indemnify and keep harmless the County against loss. In cases of construction contracts, bid proposals may require 100% performance bonds.
3. Payment Bond – The payment bond is used to insure that subcontractors or suppliers of the bidder are paid for the services and/or supplies.

## **C. SOLICITATION OF BIDS**

1. General Requirements – Bids shall be solicited from all qualified sources deemed necessary to assure such full and free competition as is consistent with the procurement of the required supplies or service.
2. Method of Soliciting Bids – The Purchasing Agent may mail or deliver invitations for bids to prospective bidders and shall also display copies of the invitations or notices.

3. Paid Newspaper Advertising – TCA §5-14-108 requires either the posting of an ITB on a public bulletin board in the county courthouse or submittal of ITB be inserted as paid advertisements in newspapers only when the amount exceeds \$10,000. A copy of the publisher's affidavit shall be kept in the bid file.
4. Internet Advertisement – Announcement of ITB along with the bid specifications should be posted on the county's website.
5. Copy of Invitation to Requisitioning Office – A copy of each ITB shall be furnished to the requisitioner for inspection and appraisal.
6. Record of Distribution – A record shall be kept of the distribution of invitations.

#### **D. SIGNING & SUBMISSIONS OF BIDS**

1. General Requirements – In order to receive consideration, bids shall be filled out, executed and submitted in accordance with the instructions accompanying the bid form and in sufficient time to reach the designated office at or before the time fixed for the opening of bids.
2. Signing of Bids – Bids shall be signed by bidders prior to submission. Signatures in lead pencil are not acceptable. Corporate names, trade names or partnership titles may be stamped or typewritten, but the actual signature of the authorized representative of the bidder shall be followed by the title of the signer. Any incomplete business name or signature deficiency shall be questioned by the Purchasing Agent.
3. Bids Submitted in Envelopes – Bids and addenda of bids shall be required to be submitted in sealed envelopes. Unsealed bids will not be accepted.
4. Telegraphic, Telephone or Faxed Bids – Telegraphic, telephone or faxed bids shall be prohibited.
5. Bids Not on Standard Forms – Bids not on standard forms may not be considered.

#### **E. RECEIPT & CARE OF BIDS**

1. General Requirements – Bids shall be received, handled and protected in a manner that will prevent fraud and preserve the integrity of the competitive bidding system.
2. Bid Depository – As bids are received, they are to be noted with the date and time of receipt. Bids will then be deposited into a locked file until the date and time of the opening.
3. Bids Not to be Opened – Bids shall not be opened, read or in any manner made public until the time set for opening, except for the reason set forth in item four.

4. Identification of Bids – A bid received without proper identification on the envelope of the invitation under which it has been submitted may be opened for identification purposes. The bid shall be resealed immediately and no information obtained from the bid shall be disclosed. An explanation of why the bid was opened, signed by the person who opened it, shall be placed on the envelope.
5. Date of Receipt Marked on Envelope – Each bid envelope shall be time stamped, or have written on it in ink, the date and hour of actual receipt. The notation shall be signed by the person entering the information of the envelope.
6. Modifications – Modifications by telephone shall not be permitted.
7. Withdrawals – Bids may be withdrawn at any time up to the time of the award. Bids may not be withdrawn after award.
8. Late Bids – Bids received past the stroke of the hour appointed for opening will not be accepted. If the bid opening is set for 2:00 p.m., when the clock in the Purchasing Department strikes 2:00 p.m., no more bids will be accepted. If a bid is received late and the bidder has used express mail and can prove that it is of no fault of the bidder that the bid arrived late, the Purchasing Agent may accept the bid. There must be compelling evidence of such a claim.
9. Notification to Late Bidder – When it is clear from available information that a late bid cannot be considered, the Purchasing Agent shall promptly notify the bidder that the bid was received late and will not be considered.
10. Disposition of Late Bids – A late bid which is not for consideration shall be held unopened in the bid file.
11. Records – The following shall, if available, be included in the County office files with respect to each late bid.
  - a. A statement of the date and hour of mailing or filing.
  - b. A statement of the date and hour of receipt.
  - c. The determination of whether or not the late bid was considered for award, with supporting facts.
  - d. A statement of the disposition of the late bid.
  - e. The envelope, or other covering, if the late bid was considered for award.

## **F. OPENING BIDS**

1. General Requirements – At the time fixed for opening, all bids received shall be publicly opened and read aloud by the official designated to open the bids. The official may only read the bottom line price if there is a large quantity of items in the ITB. If the solicitation is an RFP, the official opening the bids may only announce the names of the vendors proposing.
2. Numbering Bids – As each bid is opened, it shall be numbered.

3. Date to be Read – Generally only the following data should be read aloud.
  - a. Name of bidder.
  - b. Discount terms
  - c. Delivery terms.
  - d. Quantity offered.
  - e. Price on each item and/or totals (depending on the quantity of items on the ITB).
  - f. Any bid conditions or qualifications.
4. Bidders Not to Handle Bids – Bidders, their representatives or any spectators in the bid room shall not be allowed to handle the bids after they have been opened. They may be allowed to inspect such bids when in the hands of a county representative. This representative will answer any questions asked as to the contents of any bid received.
5. Discussing Merits of Bids – The relative merits of bids shall not be discussed by the person opening the bids. No statements shall be issued by the bid opener at a bid opening bearing on the award, the possibility of a rebid, mistakes in bids, etc. No oral instructions shall be given to bidders any time during the opening.

#### **G. ABSTRACTING BIDS**

1. General Requirements – After the bids have been opened and read, an abstract of bids shall be prepared. To the extent applicable, the abstract shall show invitation number, opening date, services or supplies being purchased, assigned bid numbers, names of bidders, quantities, item numbers as they appear in the bid form, number of days allowed for acceptance, shipping, delivery or work location points, shipping weights, cash discount rates, days required to make delivery or shipment, prices by items in groups, or by totals shown in the invitation, every bid condition, qualification or exception necessary to be considered when evaluating bids, etc.
2. Unsigned Bids – If any bid is unsigned, a statement to that effect shall be made on the abstract of bids.
3. Abstracting Price Information – Extensions of unit prices shall be checked for accuracy. In case of error, the unit price shall govern, and the correct extension thereof shall be entered on the abstract. Where a few items of major equipment are involved, the total price shall be shown on the abstract. For a long list of miscellaneous items, unit prices shall be abstracted, except when the Purchasing Agent requires that the abstract contain extensions of unit prices for broader comparison purposes.
4. Public Inspection of Abstract – After bids have been evaluated and the award made, the abstract shall be made available for public inspection.

## **H. CANCELLATION OF INVITATION AFTER OPENING**

1. Preservation of the integrity of the competitive bid system dictates that after the bid has been opened an award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is a compelling reason to reject all bids and cancel the invitation. Every effort shall be made to anticipate changes in the requirement prior to the date of the opening and to notify all prospective bidders via an addendum of any resulting modification or cancellation, thereby permitting bidders to change their bids and preventing unnecessary exposure of bid prices. As a general rule, after opening, an ITB should not be cancelled or rebid due solely to increased requirements for the items being procured. Award should be made on the initial ITB. If there is a need for additional quantity of the exact items, the Purchasing Agent is allowed to negotiate the additional stock with the low bidder.
2. Invitations for bids may be cancelled after opening but prior to award, and all bids rejected, where such action is consistent with the above, and the Purchasing Agent determines that cancellation is in the best interest of the county for reasons such as the following:
  - a. Inadequate, ambiguous or otherwise deficient specifications were cited in the ITB.
  - b. The supplies or services are no longer required.
  - c. The ITB did not provide for consideration of all factors of cost to the county, such as cost of transporting county furnished property to bidders' plants.
  - d. Bids received indicate that the needs of the county can be satisfied by a less expensive article differing from that on which bids were invited.
  - e. All otherwise acceptable bids received are at unreasonable prices.
  - f. The bids were not independently arrived at in open competition, appeared collusive or were submitted in bad faith.
  - g. The bids received did not provide competition which was adequate to insure reasonable prices.
3. Should administrative difficulties be encountered after bid opening which may delay award beyond bidders' acceptance periods, the several lowest bidders should be requested, before expiration of their bids, to extend the bid acceptance period (with consent of sureties, if any) in order to avoid the need for a rebid.

## **I. REJECTION OF INDIVIDUAL BIDS**

1. Any bid which fails to conform to the essential requirements of the ITB, such as specifications, delivery schedule or permissible alternates thereto shall be rejected as nonresponsive.

2. Ordinarily, a bid shall be rejected where the bidder imposes conditions which would modify requirements of the ITB or limits their liability to the county so as to give the vendor an advantage over other bidders. For example, bids may be rejected in which the bidder:
  - a. Attempts to protect himself against future changes in conditions such as increased costs, if total price to the county cannot be determined for bid evaluation.
  - b. Fails to state a price and in lieu thereof, states that price shall be "price in effect at time of delivery."
  - c. States a price but qualifies such price as being subject to "price in effect at time of delivery."
  - d. Where not authorized by the ITB, conditions or qualifies his bid by stipulating that the bid is to be considered only if, prior to date of award, bidder receives (or does not receive) award under a separate procurement.
  - e. Limit rights of the county under any purchase order clause. However, a low bidder may be requested to delete objectionable conditions from his bid if these conditions do not go to the substance, as distinguished from the form of the bid. A condition goes to the substance of a bid where it affects prices, quantities or delivery of the items offered.
3. Bids received from any person or concern debarred or ineligible shall be rejected if the period of debarment has not expired. A vendor shall be debarred from bidding for up to a three (3) year period of time when serious or repeated failure to meet conditions of purchase agreement(s) has been demonstrated.
4. Low bids received from firms determined to be not responsible shall be rejected.
5. Where a bid guarantee is required and bidder fails to furnish it in accordance with the requirements of the invitation for bids, the bid shall be rejected.
6. The originals of all rejected bids, any written findings with respect to such rejections, shall be preserved with the papers relating to the procurement.
7. After submitting a bid, if a bidder transfers all of his assets or that part of his assets relating to the bid during the period between the bid opening and the award, the transferee may not take over the bid. Accordingly the Purchasing Agent shall reject the bid.

#### **J. NOTICE TO BIDDERS OF REJECTION OF ALL BIDS**

When it is determined to reject all bids, the Purchasing Agent shall notify each bidder that all bids have been rejected, stating the reason for such action.

## **K. MINOR INFORMALITIES OR IRREGULARITIES IN BIDS**

Bids shall not be rejected because they contain minor informalities or irregularities. A minor informality or irregularity is one which is merely a matter of form and not of substance or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the ITB, the correction or waiver of which would not be prejudicial to other bidders. The defect or variation in the bid is immaterial and inconsequential when its significance as to price, quantity, quality or delivery is trivial or negligible when contrasted with the total cost or scope of the supplies or service being procured. The Purchasing Agent shall either give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive such deficiency, whichever is to the advantage of the county. Examples of minor informalities or irregularities include:

1. Failure of bidder to return the number of copies of signed bids required by the ITB.
2. Failure of bidder to sign his/her bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid document, such as the submission of a bid guarantee or a letter signed by the bidder with the bid referring to and clearly identifying the bid itself; or the firm submitting a bid has formally adopted or authorized, before the date set for opening of bids, the execution of documents by typewritten, printed or stamped signature and submits evidence of such authorization and the bid carries such a signature.
3. Failure of bidder to acknowledge receipt of an addendum to the ITB, but only if:
  - a. The bid received clearly indicates that the bidder received the addendum, such as where the addendum added another item to the ITB and the bidder submitted a bid thereon.
  - b. The addendum involves only a matter of form or is one which has either no effect or merely a trivial or negligible effect on price, quantity or delivery of item bid upon.

## **L. EVALUATION OF BIDS**

1. General Requirements – Bids shall be evaluated to determine the lowest responsive bid. Because various factors in addition to price may have to be considered in determining the lowest bidder, the evaluation of bids calls for the exercise of good judgment, the making of fair and impartial decisions and a knowledge of basic rules and regulations by the Purchasing Agent.
2. Responsible Bidder – Broadly, a responsible bidder is a bidder who possesses the financial, technical and management abilities necessary to perform the contract and is otherwise eligible under applicable laws and regulations. Administrative discretion rests with the county in its determination of the lowest responsible bidder. This determination must be adequately supported by facts in each case.

3. Acceptance Period – At the outset of bid evaluation, the acceptance time specified in each bid should be noted to avoid losing an advantageous bid through lapse of the acceptance period. Bids shall be accepted within the acceptance time specified by the bidder. If no period is specified, the county is entitled to a reasonable time (fourteen days) within which to accept the bid. If there is insufficient time to make the award prior to the expiration of the acceptance period, an extension shall be requested in writing. Care shall be taken in phrasing the request to make it clear that it is not award of contract.
4. Cash Discounts – In evaluating bids, the Purchasing Agent shall make certain that all discounts have been properly and accurately deducted from the bid prices under the assumption that the discounts will be taken.
5. Shipping Charges – Shipping charges shall be considered applicable in determining the lowest destination price to the county. All bids shall be put on an equal basis for comparison.
6. Time of Completion of Delivery – The time of completion of the delivery date shall be considered in evaluating bids. When the ITB specifies that completion or delivery shall be by a certain date, and the bidder offers delivery at a later date, the bid shall be rejected, except where monetary evaluation of delivery time is provided for in the ITB.
7. Evaluation Based on Quality – Quality should be inherent in the specifications. Therefore, quality is not a factor to be considered when the product offered meets specifications.
8. Evaluation by Schedule, Item or Group of Items – A purchase order should not ordinarily be awarded to a bidder on the basis of his total bid for all items, or his total bid for a group of items, if such combination bid exceeds the aggregate of bids for the same item on an individual item basis. When, however, an award under such circumstances would be clearly advantageous to the county, as for example, when the cost of preparing additional purchase orders to make the award on an individual item basis would exceed the amount of the savings, such award may be made. In such instances, the order file shall set forth the basis upon which it was determined that acceptance of the total bid would result in a lower overall cost to the county.
9. Equal Low Bids – In the case of acceptable equal bids, the award shall be determined by lottery.
10. Basis for Award – The basis for award shall be shown by the Purchasing Agent on the bid tabulation. In most cases it will be sufficient to state that two or more bids in the competitive range have been evaluated and determined responsive, responsible bidder. Any nonresponsive bid(s) lower than the recommended awardee's bid shall be shown as nonresponsive and the reason(s) for such determination stated on the bid comparison sheet or elsewhere in the file.

#### **M. MISTAKE IN BID**

The Purchasing Agent shall permit the withdrawal of bids upon a showing of clear and convincing evidence of the alleged mistake (the amount of the mistake need not be proved).

In a case where both unit prices and total bid price is given and a mistake is found when verifying the unit prices multiplied by the requested quantity, unit prices will determine the total bid price.

#### **N. PURCHASING AGENT RESPONSIBILITY UPON DISCOVERY OF MISTAKE**

If the Purchasing Agent suspects that a bidder may have made a mistake in his bid, the Purchasing Agent must notify the bidder of the suspected mistake and the reason for such suspicion (for example, that the bid is significantly out of line with the next low bid or a reasonable estimate). If appropriate, the agent should also draw the bidder's attention to unusual features of the specifications or changes in requirements from previous purchases of similar items. If the bidder confirms the bid, is awarded an order and thereafter alleges a mistake, relief cannot ordinarily be granted.

#### **O. AWARD OF BID**

1. Award shall be made with reasonable promptness to that responsible bidder whose bid, conforming to the ITB, will be most advantageous to the county, price and other factors considered. Notices of award may be done either in writing or posted on the county's website.
2. After an award has been made, an unsuccessful bidder, supplier or other responsible person having reason for access to award information shall, at his request, be furnished with the name of the successful bidder and the amount of the award; or he shall be informed that a copy of the abstract or record of bids is available for inspection at the office of the Purchasing Agent.

#### **P. BID PROTEST**

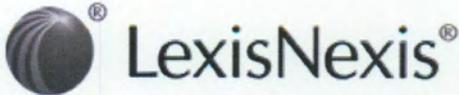
1. If a prospective vendor does not agree with the bid award, they have the right to protest. Disputes arising from the award of this bid must be submitted in writing to the Roane County Purchasing Department no later than seven (7) days from date of bid award. The steps for dispute resolution may include:
  - a. A meeting with the Purchasing Agent, the requisitioning department's manager and representatives from the disputing party to discuss and resolve the complaint.
  - b. Information from the aforementioned meeting will be forwarded to the County Attorney for review.
  - c. A written decision letter stating the reasons for the decision will be prepared by the Purchasing Agent and submitted in writing to the protestor and all parties involved.
  - d. Purchases will not be allowed under this procurement until a final decision is rendered.
  - e. In the event that purchases must be made before a final decision is rendered, the emergency purchase procedures will be used.

## **APPENDIX**

- I. County Purchasing Law of 1957 [TCA § 5-14-101-116]
- II. Sale of Surplus Property – Public Chapter 122; SB0750 – HB1500 & County Commission Resolutions 07-07-11 & 12-08-18
- III. County Bid Limits – Public Chapter 135; SB0319 – HB 0216 & County Commission Resolution #07-07-12
- IV. Purchase of Second Hand Articles [TCA § 12-3-1003]
- V. Cooperative Purchasing [TCA § 12-3-1008 & TCA § 12-3-1009]
- VI. Purchasing Card Policy & Card Holder Agreement [County Commission Resolution 03-05-08]

# **APPENDIX I**

## **COUNTY PURCHASING LAW OF 1957**



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*Tenn. Code Ann. § 5-14-101 (2011)*

**5-14-101. Short title.**

This part shall be known and may be cited as the "County Purchasing Law of 1957."

**HISTORY:** Acts 1957, ch. 312, § 1; T.C.A., § 5-1401.

**NOTES: Cross-References.**

Applicability to county election commission, administrator of elections, or any county election official, § 2-12-210.

Centralized purchasing procedure to be utilized, § 8-22-107.

County financial management system, purchasing provisions, §§ 5-21-118 -- 5-21-120.

Public contracts, title 12, ch. 4.

**Section to Section References.**

This chapter is referred to in §§ 7-57-503, 49-2-1261.

This part is referred to in §§ 5-14-202, 49-2-1261.

**Textbooks.**

Tennessee Jurisprudence, 8 *Tenn. Juris., Counties*, § 27.

**Comparative Legislation.**

County purchasing laws:

*Ala. Code* § 11-12-1 et seq.

*Ark. Code* § 14-22-101 et seq.

*Ga. O.C.G.A.* § 50-5-100 et seq.

*Ky. Rev. Stat. Ann.* § 66.470.

*Mo. Rev. Stat.* § 50.753 et seq.

*N.C. Gen. Stat. § 143-128.*  
*Va. Code § 15.2-1543 et seq.*

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**Cited:**

*State v. Whitehead*, 43 S.W.3d 921, 2000 Tenn. Crim. App. LEXIS 742 (Tenn. Crim. App. 2000).

**NOTES TO DECISIONS**

1. In General.

**1. In General.**

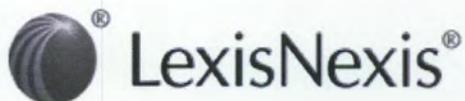
Title 5, chapter 14, part 1 contains what the general assembly clearly regards as the essentials of competitive bidding applicable to county governing entities and county officials. *State ex rel. Leech v. Wright*, 622 S.W.2d 807, 1981 Tenn. LEXIS 496 (Tenn. 1981).

**Collateral References.**

*56 Am. Jur. 2d Municipal Corporations, Counties, and Other Political Subdivisions § 423 et seq.*

20 C.J.S. Counties § 185 et seq.

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*Tenn. Code Ann. § 5-14-102 (2011)*

**5-14-102. Local approval.**

(a) This part shall be local in effect and shall become effective in a particular county upon the contingency of a two-thirds (2/3) vote of the county legislative body or other governing body of the county approving this law, or upon the contingency of the majority of the voters casting votes in any election held for this purpose approving this law.

(b) (1) The procedure for elections held for the purpose of approving this law shall be that the county election commission shall call and conduct an election within thirty (30) days after receiving a petition signed by ten percent (10%) of the qualified voters of the county, stating that they favor this law and requesting that an election be held in the county on the subject.

(2) The number of qualified voters in the county is deemed to be the total number of votes cast for all candidates for governor in the last general election, or upon a resolution of the county legislative body, or other governing body, duly certified to the election commission, requesting such an election.

(3) In such an election, the propositions to be voted upon shall be stated on the ballot on separate lines in the following manner: "For the County Purchasing Law of 1957" and "Against the County Purchasing Law of 1957."

**HISTORY:** Acts 1957, ch. 312, § 2; impl. am. Acts 1972, ch. 740, § 7; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 5-1402.

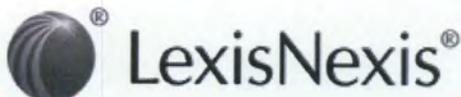
**NOTES:**

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**Cited:**

*State v. Whitehead*, 43 S.W.3d 921, 2000 Tenn. Crim. App. LEXIS 742 (Tenn. Crim. App. 2000).



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*Tenn. Code Ann. § 5-14-103 (2011)*

**5-14-103. Purchasing agent -- Appointment -- Compensation -- Staff.**

(a) The county mayor of any county that has adopted the provisions of this part shall appoint, with the approval of the county legislative body or other governing body, a purchasing agent who shall be a county employee.

(b) A purchasing agent shall be qualified by training and experience to perform the purchasing agent's duties in a proficient manner and in accordance with generally recognized principles of governmental purchasing and in accordance with the provisions of this part.

(c) (1) Before assuming the purchasing agent's duties, a purchasing agent shall execute a corporate surety bond, the amount of which shall be established by the county mayor at not less than ten thousand dollars (\$10,000) nor more than twenty-five thousand dollars (\$25,000).

(2) The bond shall be prepared in accordance with the provisions of title 8, chapter 19, approved by the county legislative body, recorded in the office of the county register of deeds and transmitted to the comptroller of the treasury for safekeeping.

(3) The premium for such bond shall be paid from the county general fund.

(d) The compensation of the purchasing agent, which shall not be in excess of compensation allowed county officials in accordance with §§ 8-24-101 and 8-24-102, shall be set annually by the county legislative body or other governing body; and the amount of such compensation, the compensation of such clerks and assistants as may be needed, and the other necessary expenses of this office shall be provided for by annual appropriation made by the county legislative body or other governing body from the county general fund.

(e) The purchasing agent has the power, in accordance with such regulations as may be established by the county mayor, to appoint and remove the purchasing agent's assistants, to prescribe their duties, and to fix their salaries within the limits of the annual appropriation made therefor.

**HISTORY:** Acts 1957, ch. 312, § 3; impl. am. Acts 1978, ch. 934, §§ 7, 16, 36; T.C.A., § 5-1403; Acts 1998, ch. 677, § 4; 2003, ch. 90, § 2.

**NOTES: Compiler's Notes.**

Acts 2003, ch. 90, § 2, directed the code commission to change all references from "county executive" to "county mayor" and to include all such changes in supplements and replacement volumes for the Tennessee Code Annotated.

**Cross-References.**

County financial management system, finance director as purchasing agent, § 5-21-118.

Option to redesignate county mayor as county executive by private act, § 5-6-101.

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*Tenn. Code Ann. § 5-14-104 (2011)*

**5-14-104. Purchasing agent -- Office.**

(a) Necessary office space and equipment for the use of the purchasing agent shall be provided and maintained at the county seat of such county.

(b) Such office shall be open for business during the usual hours observed by other officials of the county government.

**HISTORY:** Acts 1957, ch. 312, § 14; T.C.A., § 5-1404.

**NOTES:**

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*Tenn. Code Ann. § 5-14-105 (2011)*

**5-14-105. Purchasing agent -- Powers and duties.**

The county purchasing agent has exclusive power and it is the purchasing agent's duty to:

(1) Contract for and purchase all supplies, materials, equipment and contractual services required by each and every official, agency, office, department or employee of the county government, or that is supported by, or under control of, the county government and that expends or encumbers any of the county's funds. No other official, employee or agent of the county or of any of its departments or agencies shall be authorized to contract for or purchase any such materials, supplies, equipment or contractual services;

(2) Arrange for the rental of machinery, buildings or equipment when the rents are to be paid out of funds belonging to the county or any department, institution or agency thereof; and no other official, employee or agent of the county shall have the right or power to make any contract for such rental;

(3) Transfer materials, supplies and equipment to or between county departments and agencies as may be needed for the proper and efficient administration of the county government; and

(4) Have charge of any central storeroom or central mailing room or similar services that may hereafter be established for the efficient and economical handling of the county's business.

**HISTORY:** Acts 1957, ch. 312, § 4; T.C.A., § 5-1405.

**NOTES: Attorney General Opinions.**

Authority of juvenile court to assess fees for services provided to the juvenile, OAG 99-147 (7/30/99).

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*Tenn. Code Ann. § 5-14-106 (2011)*

**5-14-106. County purchasing commission.**

(a) A county purchasing commission is hereby created.

(b) (1) The commission shall consist of five (5) members, one (1) of whom shall be the county mayor; the remaining four (4) shall be appointed by the county mayor with the approval of the county governing body.

(2) The members of the commission need not be members of the county governing body.

(c) Such commission shall elect its own chair and shall meet from time to time as it may deem necessary for the discharge of its duties.

(d) It is the duty of the commission to assist the purchasing agent in the determination of overall purchasing policies and in the establishment and promulgation, in accordance with this part, of rules, regulations and procedures to be followed in the making of purchases and contracts for purchase for the county. The actual administration of such activity shall be the sole responsibility of the purchasing agent.

**HISTORY:** Acts 1957, ch. 312, § 5; impl. am. Acts 1978, ch. 934, §§ 16, 36; T.C.A., § 5-1406; Acts 2003, ch. 90, § 2.

**NOTES: Compiler's Notes.**

Acts 2003, ch. 90, § 2, directed the code commission to change all references from "county executive" to "county mayor" and to include all such changes in supplements and replacement volumes for the Tennessee Code Annotated.

**Cross-References.**

Option to redesignate county mayor as county executive by private act, § 5-6-101.

**Attorney General Opinions.**

*T.C.A. § 45-2-405* authorizes any officer, director, or employee of any bank to serve in any local office, including on the county commission, the county budget committee, or the county purchasing commission, so long as he or she discloses the position to the bank and the local government, OAG 07-141 (10/10/07).

A shareholder of a bank that conducts business with the county is prohibited from serving as a county commissioner, or as a member of the county budget committee or the county purchasing commission, OAG 07-141 (10/10/07).

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*Tenn. Code Ann. § 5-14-107 (2011)*

**5-14-107. Rules and regulations.**

The county purchasing agent, with the assistance of the county purchasing commission, shall adopt, promulgate, and may from time to time amend, rules and regulations for the purchase of supplies, materials, equipment and contractual services and specifically for the following purposes:

- (1) Authorizing in writing any department, official or agency of the county government to make purchases in the open market for immediate delivery in emergencies, defining such emergencies, describing the manner in which such emergency purchases shall be made and promptly afterward reported to the county purchasing agent;
- (2) Prescribing the manner in which supplies, materials and equipment shall be requisitioned, purchased, delivered, stored and distributed, and providing that such shall be conducted in accordance with the provisions of this part;
- (3) Prescribing the dates for submitting requisitions and estimates, the future period they are to cover, the form in which they are to be submitted, the manner of their authentication, and their revision by the county purchasing agent;
- (4) Prescribing the manner of inspecting all deliveries of supplies, materials and equipment, and of making or procuring chemical and physical tests of samples submitted with bids and samples of deliveries to determine compliance with specifications;
- (5) Requiring periodical and special reports by county departments, agencies, and employees of stocks of surplus, unusable or obsolete supplies and equipment on hand and prescribing the form of such reports;
- (6) Providing for the transfer to or between county departments and agencies of supplies and equipment on hand, that are surplus with one (1) department or agency, but that may be needed by another or others, and for the disposal by sale, after receipt of competitive bids, of supplies, materials and equipment that are obsolete or unusable;

(7) Determining whether a deposit or bond is to be submitted with a bid on a purchase contract or sale, and if required, prescribing the amount and form thereof, and providing that such surety shall be forfeited if the successful bidder refuses to enter into contract ten (10) days after the award;

(8) Prescribing the manner in which invoices for supplies, materials, equipment and contractual services delivered to any and all departments, agencies and offices of the county shall be submitted, examined and approved;

(9) Providing for all other such matters as may be necessary to give effect to the foregoing rules and to the provisions of this part; and

(10) Prescribing the manner in which public auctions for the sale of county-owned property, real or personal, that has become surplus, obsolete or unusable shall be conducted.

**HISTORY:** Acts 1957, ch. 312, § 4; T.C.A., § 5-1405; Acts 1984, ch. 647, § 1.

**NOTES: Textbooks.**

Tennessee Jurisprudence, 8 *Tenn. Juris., Counties*, § 27.

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*Tenn. Code Ann. § 5-14-108 (2011)*

**5-14-108. Purchases, sales, etc. -- Bidding, auctions.**

(a) (1) All purchases of and contracts for purchases of supplies, materials, equipment and contractual services, and all contracts for the lease or rental of equipment, and all sales of county-owned property that has become surplus, obsolete or unusable, shall be based wherever possible on competitive bids.

(2) Contracts for legal services, auditing services by certified public accountants, and similar services by professional persons or groups of high ethical standards shall not be based upon competitive bids but shall be awarded on the basis of recognized competence and integrity.

(3) Bids need not be required for services for which the rate or price is fixed by a public authority authorized by law to fix such rates or prices.

(4) The prohibition in this subsection (a) against competitive bidding shall not prohibit the county from interviewing eligible persons or groups to determine the capabilities of such persons or groups.

(b) The county may purchase materials, supplies, commodities and equipment from any federal, state or local governmental unit or agency, without conforming to the competitive bidding requirements of this part.

(c) (1) If the amount of the expenditure or sale is estimated to exceed five hundred dollars (\$500), sealed bids shall be solicited, unless the county legislative body by resolution establishes a higher amount not to exceed ten thousand dollars (\$10,000).

(2) The county legislative body by resolution may exempt perishable commodities from the requirements of sealed or competitive bidding when such items are purchased in the open market.

(3) The county purchasing agent shall solicit sealed bids by public notice inserted at least once in a newspaper of county-wide circulation, five (5) days prior to the final date for submitting bids or by posting notices on a public bulletin board in the county courthouse.

(4) The county purchasing agent shall also, when deemed necessary or desirable, solicit sealed bids by sending requests by mail to prospective suppliers.

(5) All such notices shall include a general description of the commodities or contractual services to be purchased or property to be sold, and shall state where bid blanks and specifications may be obtained and the time and place of opening bids.

(d) (1) All purchases or sales in amounts that do not require bid solicitation pursuant to subsection (c) may be made by the county purchasing agent in the open market without newspaper notice, but shall whenever possible be based upon at least three (3) competitive bids.

(2) Requisitions for items estimated to cost an amount such as to require public newspaper notice shall not be subdivided in order to circumvent the requirement for public newspaper notice as herein provided.

(3) All sales by the purchasing agent shall be made to the highest responsible bidder.

(e) Bids on purchases shall in all cases be based on such standards as may be adopted and promulgated by the county purchasing agent and approved by the county purchasing commission.

(f) All open market purchase orders or contracts made by the county purchasing agent or in extreme emergencies by any county department or agency shall be awarded to the lowest and best bidder, taking into consideration the qualities of the articles to be supplied, their conformity with specifications, their suitability to the requirements of the county government, and the delivery terms. Any or all bids may be rejected for good cause.

(g) All bids taken under the requirements of this part, and all other documents, including purchase orders, pertaining to the award of contracts on such bids, shall be preserved for a period of five (5) years.

(h) If all bids received on a pending contract are for the same unit price or total amount, the county purchasing agent shall have authority to reject all bids and to purchase the required supplies, materials, equipment or contractual services in the open market; provided, that the price paid in the open market does not exceed the bid price.

(i) All sealed bids received shall be opened publicly at the time and place fixed in the advertisement. Each bid, with the name and address of the bidder, shall be entered on a record, and each record with the names of the bidders, the amounts of their bids, and the name of the successful bidder indicated thereon, shall, after the award or contract or order, be open to public inspection.

(j) All contracts shall be approved as to form by the county attorney, and the original copy of each long-term contract shall be filed with the county clerk.

(k) No purchase shall be made or purchase order or contract of purchase issued but in consequence of a written requisition for the supplies, materials, equipment or contractual services required, which requisition shall be signed by the head of the department, office or agency of the county requiring such articles or services. Original copies of all such requisitions shall be kept on file in the office of the county purchasing agent.

(l) No purchase shall be made or purchase order or contract of purchase issued for tangible personal property or services by county officials or employees, acting in their official capacity, from any firm or individual whose business tax or license is delinquent.

(m) (1) The county purchasing agent is authorized to purchase and contract to purchase materials, supplies, equipment and contractual services on a fiscal year basis, but no commitment shall be made that extends beyond the end of the current fiscal year for which appropriations have been made by the county legislative body, except such commitments as are authorized by resolution of the county legislative body.

(2) In the determination of the county's annual needs of certain commodities or services, or both, the county purchasing agent may request the various departments, offices and agencies of the county government to anticipate their needs for the remainder of the fiscal year and to issue their requisitions based upon such estimates.

(n) (1) Perishable commodities, at the election of the local governing body, may be exempted from the requirements of public advertisements and competitive bidding when such items are purchased in the open market.

(2) A record of all such purchases shall be made by the purchasing agent and shall specify the amount paid, the items purchased, and from whom the purchase was made.

(3) A report of such purchases shall be made to the county mayor and the governing body of the county at frequencies specified by the governing body.

(4) Fuel and fuel products may be purchased in the open market without public newspaper notice, 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.

(5) This subsection (n) shall apply to any county having a population of not less than seventy-seven thousand seven hundred (77,700) nor more than seventy-seven thousand eight hundred (77,800), according to the 1980 federal census or any subsequent census, if it is approved by a two-thirds (2/3) vote of the county legislative body of any county to which it may apply.

(o) (1) All sales of county-owned property, real or personal in nature, that has become surplus, obsolete or unusable shall be made by public auction or by sealed bid under this section, in the discretion of the purchasing agent or responsible official. "Public auction" includes sale by Internet auction.

(2) The county purchasing agent shall give public notice of such auction by inserting at least once in a newspaper of county-wide circulation or by posting on a public bulletin board in the county courthouse at least five (5) days prior to the date of such auction, a notice specifying the auction date, time, place, property to be sold and terms of such auction.

(3) The provisions of this subsection (o) do not apply to any books, recordings, or other material previously in general circulation at a county public library; provided, however, that the county public library shall conduct a public sale of surplus, obsolete or otherwise unusable books, recordings or other materials previously in general circulation at the county public library and shall give public notice of such sale by inserting at least once in a newspaper of county-wide circulation, by posting such sale on a Web site maintained by the county, or by posting on a public bulletin board in the county courthouse and at the county public library at least five (5) days prior to the date of such sale, a notice specifying generally that such a sale shall occur, including the dates, times, places, and terms of such sale.

(p) In any county having a population of not less than one hundred seven thousand one hundred (107,100) nor more than one hundred seven thousand two hundred (107,200), according to the 2000 federal census or any subsequent federal census, the county may purchase and enter into contracts for group health insurance for county employees and officials without conforming to the competitive bidding requirements of this part. The provisions of this subsection (p) shall only be implemented in any county to which this subsection (p) applies upon the adoption of a resolution by a two-thirds (2/3) vote of the county legislative body of such county.

**HISTORY:** Acts 1957, ch. 312, § 7; 1963, ch. 367, § 1; 1975, ch. 53, § 1; 1977, ch. 119, §§ 1, 2; 1977, ch. 288, § 1; impl. am. Acts 1978, ch. 934, §§ 7, 22, 36; modified; T.C.A., § 5-1408; Acts 1984, ch. 604, § 1; 1984, ch. 647, §§ 2-5; 1984, ch. 822, § 1; 1984, ch. 895, §§ 1, 2; 1988, ch. 770, §§ 1, 2; 1995, ch. 179, § 1; 2004, ch. 500, § 1; 2006, ch. 509, § 1; 2007, ch. 122, § 1; 2007, ch. 135, § 1; 2007, ch. 415, § 1; 2009, ch. 173, §§ 1, 2; 2010, ch. 974, § 1.

**NOTES: Code Commission Notes.**

Acts 1977, ch. 288, § 1 amended this section as it applies to any county of 63,500 to 65,000 (Blount County only).

**Compiler's Notes.**

For table of U.S. decennial populations of Tennessee counties, see Volume 13 and its supplement.

**Cross-References.**

Advisory committee for use of the Internet, title 12, ch. 3, part 11.

Electronic bidding, invitations to bid, requests for proposals and other solicitations, § 12-3-704.

Purchases of lubricating motor oil, § 12-3-531.

**Textbooks.**

Tennessee Jurisprudence, 8 *Tenn. Juris., Counties*, § 27.

**Attorney General Opinions.**

Authorization of the county commission is required for the sale of property of the county board of hospital directors; unless the county has adopted the County Purchasing Law of 1957, *T.C.A. §§ 5-14-101*, et seq., or the County Financial Management System of 1981, *T.C.A. §§ 5-21-101*, et seq., the commission may authorize sale of the property without advertising for bids, OAG 03-131 (10/03/03).

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Government Procurement of Goods

**NOTES TO DECISIONS**

1. In General.

**1. In General.**

Title 5, chapter 14, part 1 contains what the general assembly of this state clearly regards as the essentials of competitive bidding applicable to county governing entities and county officials. *State ex rel. Leech v. Wright*, 622 S.W.2d 807, 1981 Tenn. LEXIS 496 (Tenn. 1981).



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**GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY**

*Tenn. Code Ann. § 5-14-109 (2011)*

**5-14-109. Purchases -- Certification of adequate funding.**

Except in emergencies, no order for delivery on a contract or open market order for supplies, materials, equipment or contractual services for any county department or agency shall be awarded unless it shall be first certified by the director of accounts and budgets, or other county official or employee in charge of the central accounting records of the county that the unencumbered balance in the appropriation chargeable with such purchase in excess of all unpaid obligations, is sufficient to defray the entire cost of such order or contract.

**HISTORY:** Acts 1957, ch. 312, § 8; T.C.A., § 5-1409.

**NOTES:**

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*Tenn. Code Ann. § 5-14-110 (2011)*

**5-14-110. Emergency purchases.**

(a) The county purchasing agent may authorize any department or agency of the county government to purchase in the open market, without filing requisition or estimate, 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; but such emergencies shall not include conditions arising from neglect or indifference in anticipating normal needs.

(b) (1) Such direct emergency purchases, however, may only be made by department or agency heads at times when the office of the county purchasing agent is closed.

(2) At all other times, only the county purchasing agent shall make these purchases.

(3) A report of such emergency purchase, when made by a department or agency head, together with a record of the competitive bids secured and upon which it was based, shall be submitted in writing to the county purchasing agent before the close of the next working day following the date of such purchase, by the head of the county department or agency concerned, together with a full and complete account of the circumstances of such emergency.

(4) Such report shall be kept on file and shall be open to public inspection.

**HISTORY:** Acts 1957, ch. 312, § 9; T.C.A., § 5-1410.

**NOTES:**

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*Tenn. Code Ann. § 5-14-111 (2011)*

**5-14-111. Written orders and contracts.**

(a) Each purchase order or contract issued or executed pursuant to the provisions of this chapter shall be evidenced by a written order signed by the county purchasing agent, which shall give all significant details respecting such order or contract.

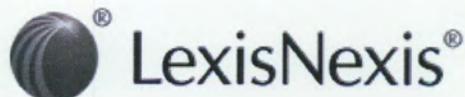
(b) A copy of such order shall be furnished the vendor, one (1) copy shall be furnished to the county accounting department, and at least two (2) copies shall be retained in the office of the county purchasing agent, one (1) of such copies to be filed in numerical order and the other alphabetically.

**HISTORY:** Acts 1957, ch. 312, § 11; T.C.A., § 5-1411.

**NOTES:**

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*Tenn. Code Ann. § 5-14-112 (2011)*

**5-14-112. Purchasing standards and specifications.**

(a) It is the duty of the county purchasing agent to:

- (1) Classify the requirements of the county government for supplies, materials and equipment;
- (2) Adopt as standards the smallest number of quantities, sizes and varieties of such supplies, materials and equipment consistent with the successful operation of the county government; and
- (3) Prepare, adopt and promulgate written specifications describing such standards.

(b) (1) In the preparation and revision of such standards, the county purchasing agent shall seek the advice, assistance and cooperation of the county departments and agencies concerned, to ascertain their precise requirements.

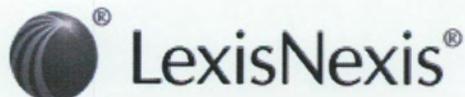
(2) Each specification adopted for any commodity shall, insofar as possible, satisfy the requirements of the majority of the county departments and agencies that use the same.

**HISTORY:** Acts 1957, ch. 312, § 12; T.C.A., § 5-1412.

**NOTES:**

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*Tenn. Code Ann. § 5-14-113 (2011)*

**5-14-113. Liability of county.**

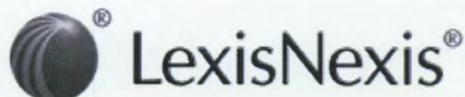
The county shall be liable for the payment of all purchases of supplies, materials, equipment and contractual service made in accordance with the provisions of this chapter, but shall not be liable for the payment of such purchases made contrary to its provisions.

**HISTORY:** Acts 1957, ch. 312, § 13; T.C.A., § 5-1413.

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*Tenn. Code Ann. § 5-14-114 (2011)*

**5-14-114. Conflicts of interest -- Illegal payments.**

(a) Neither the county purchasing agent, nor members of the county purchasing commission, nor members of the county legislative body, nor other officials of the county, shall be financially interested, or have any personal beneficial interest, either directly or indirectly, in any contract or purchase order for any supplies, materials, equipment or contractual services used by or furnished to any department or agency of the county government.

(b) Nor shall any such persons accept or receive, directly or indirectly, from any person, firm or corporation to which any contract or purchase order may be awarded, by rebate, gift or otherwise, any money or anything of value whatsoever, or any promise, obligation or contract for future reward or compensation.

(c) A violation of this section is a Class D felony.

**HISTORY:** Acts 1957, ch. 312, § 10; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 5-1414; Acts 1989, ch. 591, § 18.

**NOTES: Cross-References.**

Penalty for Class D felony, § 40-35-111.

**Textbooks.**

Tennessee Jurisprudence, 8 *Tenn. Juris., Counties*, § 27.

**Attorney General Opinions.**

Acceptance of gifts from contracting companies, OAG 94-73 (6/16/94).

*T.C.A. § 5-14-114(a)* does not prohibit county commissioners from being directly or indirectly interested in a spouse's full-time employment contract with the county because such a contract is not a "contract or purchase order ... for contractual services" within the meaning of the statute, OAG 00-152 (10/6/00).

A county commissioner who works part-time as an independent contractor for a department of county government is prohibited from being directly or indirectly interested in county supply and service contracts, OAG 00-152 (10/6/00).

A shareholder of a bank that conducts business with the county is prohibited from serving as a county commissioner, or as a member of the county budget committee or the county purchasing commission, OAG 07-141 (10/10/07).

## **LexisNexis 50 State Surveys, Legislation & Regulations**

### Government Procurement of Goods

#### **NOTES TO DECISIONS**

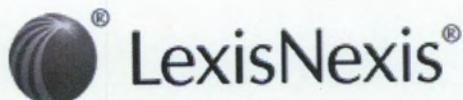
##### 1. Constitutionality.

###### **1. Constitutionality.**

While *T.C.A. § 5-14-114* is not unconstitutionally vague, it is violative of equal protection guaranties. *State v. Whitehead*, 43 S.W.3d 921, 2000 Tenn. Crim. App. LEXIS 742 (Tenn. Crim. App. 2000).

There is no fundamental right to a financial or "personal beneficial" interest in county contracts; moreover, the class of citizens to which *T.C.A. § 5-14-114* applies is not discrete, and in consequence, is not suspect. *State v. Whitehead*, 43 S.W.3d 921, 2000 Tenn. Crim. App. LEXIS 742 (Tenn. Crim. App. 2000).

The legislature's classification of a county official's conflict of interest with regard to a county contract as a Class D felony in only those counties adopting the County Purchasing Law of 1957 was purely arbitrary and could not withstand the defendant's equal protection challenge. *State v. Whitehead*, 43 S.W.3d 921, 2000 Tenn. Crim. App. LEXIS 742 (Tenn. Crim. App. 2000).



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*Tenn. Code Ann. § 5-14-115 (2011)*

**5-14-115. Application to schools.**

(a) The provisions of this part shall not apply to county school funds for any purpose, the county board of education and the county director of schools, unless approved by the commissioner of education.

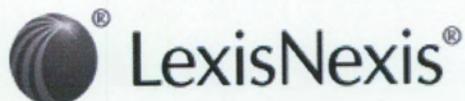
(b) Upon request by a majority vote of the local board of education and with the approval of the commissioner of education, applicability of the provisions of this part as it applies to county school funds shall cease to be effective.

**HISTORY:** Acts 1957, ch. 312, § 14a; T.C.A., § 5-1415; Acts 1982, ch. 809, § 1.

**NOTES:**

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*Tenn. Code Ann. § 5-14-116 (2011)*

**5-14-116. Construction of part.**

This part is not exclusive and shall not prevent the adoption of amendments to existing special or local purchasing laws, or the enactment of special or local purchasing acts.

**HISTORY:** Acts 1957, ch. 312, § 15; T.C.A., § 5-1416.

**NOTES:**

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## **APPENDIX II**

# **SALE OF SURPLUS PROPERTY**

**PUBLIC CHAPTER NO. 122**

**SENATE BILL NO. 750**

**By McNally**

**Substituted for: House Bill No. 1500**

**By Winningham, Maddox**

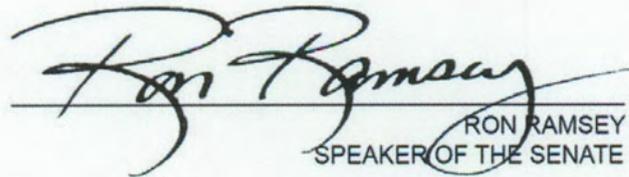
AN ACT to amend Tennessee Code Annotated, Section 5-14-108, relative to the sale of certain surplus county property.

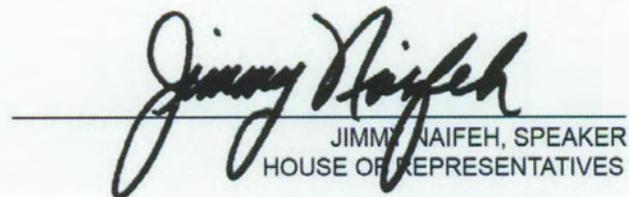
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 5-14-108(o)(1), is amended by deleting the language "as defined in §§ 47-2-328 and 62-19-101".

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: April 30, 2007**

  
\_\_\_\_\_  
RON RAMSEY  
SPEAKER OF THE SENATE

  
\_\_\_\_\_  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 10th day of May 2007**

  
\_\_\_\_\_  
PHIL BREDESEN, GOVERNOR

**RESOLUTION # 07-07-11**

**IN THE COUNTY COMMISSION FOR ROANE COUNTY, TENNESSEE**

**A RESOLUTION authorizing the County Executive to execute an agreement with county surplus property.**

**WHEREAS**, the General Assembly of the State of Tennessee has passed legislation (Public Chapter 122, SB 0750 & HB 1500) to authorize counties under the County Purchasing Law of 1957 to conduct sales of surplus property by internet auction or other public auction, and

**WHEREAS**, internet auctions will benefit Roane County by allowing surplus property to be sold immediately upon becoming surplus and will eliminate the need for long-term storage of surplus property, and

**WHEREAS**, typically the income from internet auctions is higher than that of a traditional sealed bid or public auction due to a broader base of customers, and

**WHEREAS**, GovDeals is the current vendor for the State of Tennessee and numerous other municipalities and government agencies throughout the State, and

**WHEREAS**, the Roane County Purchasing Commission has met and recommends the use of internet auctions and the contract with GovDeals.

**NOW, THEREFORE, BE IT RESOLVED** the County Executive is hereby authorized to execute an agreement with GovDeals to provide the service of internet auctions for surplus property.

Motion to adopt was made by **Commissioner Harmon** with second by **Commissioner Olsen**.

Motion **Passed** upon voice vote.

**THEREUPON**, the County Chairman announced to the Commission that said resolution had received a constitutional majority and ordered same spread of record.

Troy Beets  
County Chairman

The foregoing resolution was submitted to the County Executive for his consideration the 25th day of July, 2007.

ATTESTED:

Barbara J. Anthony BT  
County Clerk

I hereby approve X / veto \_\_\_\_\_ the foregoing resolution this the 26<sup>th</sup> day of July, 2007.

[Signature]  
County Executive

STATE OF TENNESSEE  
COUNTY OF ROANE  
Attest  
Barbara J. Anthony, Clerk

Certified a true and correct copy

January 17, 2008  
Month Day Year  
By Barbie Lipton D.C.

RESOLUTION # 12-08-18

IN THE COUNTY COMMISSION FOR ROANE COUNTY, TENNESSEE

A RESOLUTION TO GIVE THE COUNTY EXECUTIVE AND/OR THE COUNTY PURCHASING AGENT THE AUTHORITY TO DISPOSE OF PERSONAL PROPERTY WITH AN ESTIMATED VALUE OF LESS THAN \$300.00.

WHEREAS, it is the responsibility of the County Purchasing Department to transfer materials or equipment between departments or agencies and/or dispose of surplus equipment, and

WHEREAS, the county is doing auctions on GovDeals and the approval of this resolution will expedite the sale of surplus equipment, and

WHEREAS, often times equipment is broken to the point of being unsafe or completely unusable and should be thrown away rather than sold, and

WHEREAS, often times it would be more beneficial to the county to recycle the equipment at the County's Recycling Center rather to sell it,

NOW, THEREFORE, BE IT RESOLVED that the County Executive and/or the County Purchasing Agent is granted the authority to dispose of Roane County personal property that is estimated to have a value of less than \$300.00.

SECTION 1. All resolutions in conflict herewith be and the same are repealed insofar as such conflict exists.

SECTION 2. This resolution shall become effective upon passage, the public welfare requiring it.

Motion to adopt was made by Commissioner Tedder with second by Commissioner Brummett.

Motion Passed upon voice vote.

THEREUPON, the County Commission Chairman announced to the Commission that said resolution had received a constitutional majority and ordered same spread of record.

APPROVED:

*Troy Beets*  
County Commission Chairman

The foregoing resolution was submitted to the County Executive for his consideration the 11<sup>th</sup> day of December, 2008.

ATTESTED:

*Barbara J. Anthony*  
County Clerk

I hereby approve X / veto \_\_\_\_\_ the foregoing resolution this the 11<sup>TH</sup> day of December, 2008.

*Miley J*  
County Executive

STATE OF TENNESSEE  
COUNTY OF ROANE  
Attest  
Barbara J. Anthony, Clerk

Certified a true and correct copy

May 04, 2011  
Month Day Year

By Bobbie Lipton D.C.

## **APPENDIX III**

### **COUNTY BID LIMITS**

**PUBLIC CHAPTER NO. 135**

**HOUSE BILL NO. 216**

**By Representatives Odom, Ford**

**Substituted for: Senate Bill No. 319**

**By Senators Henry, Tracy**

AN ACT to amend Tennessee Code Annotated, Title 5, Chapter 14, relative to county government purchasing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 5-14-108(c)(1), is amended by deleting the language "five thousand dollars (\$5,000)" and substituting instead the language "ten thousand dollars (\$10,000)".

SECTION 2. Tennessee Code Annotated, Section 5-14-202, is amended by deleting the language "five thousand dollars (\$5,000)" in subdivision (4) and substituting instead the language "ten thousand dollars (\$10,000)".

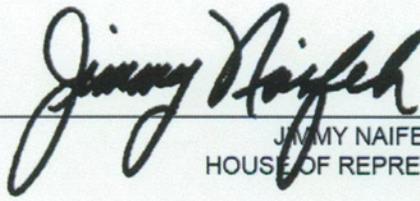
SECTION 3. Tennessee Code Annotated, Section 5-14-204, is amended by deleting the language "five thousand dollars (\$5,000)" wherever it appears and substituting instead the language "ten thousand dollars (\$10,000)".

SECTION 4. Tennessee Code Annotated, Section 5-14-205, is amended by deleting the language "five thousand dollars (\$5,000)" and substituting instead the language "ten thousand dollars (\$10,000)".

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

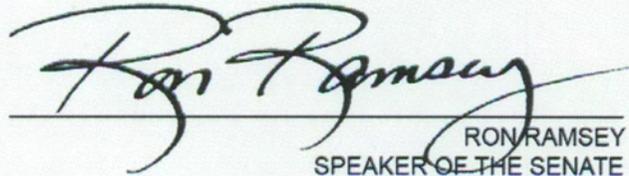
SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: April 26, 2007**



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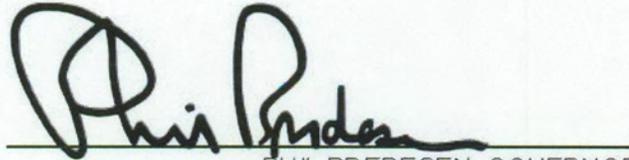
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES



---

RON RAMSEY  
SPEAKER OF THE SENATE

APPROVED this 10th day of May 2007



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PHIL BREDESEN, GOVERNOR

**RESOLUTION # 07-07-12**

**A RESOLUTION approving the increase of the bid and quote threshold for purchases made for all Roane County Departments.**

**WHEREAS**, the General Assembly of the State of Tennessee has passed legislation (Public Chapter 135, SB 0319 & HB 0216) that amends T.C.A. 5-14-108 and 5-14-202, -204 and -205 to increase the maximum amount over which sealed competitive bids are required for purchasing from \$5,000 to \$10,000, and

**WHEREAS**, the current bid threshold is \$5,000 and the quote threshold is \$500 which has not been increased for eight years and the cost of supplies and materials have consistently increased in price, and

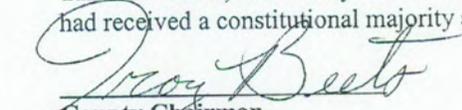
**WHEREAS**, raising the bid and quote threshold will allow for more productivity in the Purchasing Department and will allow purchases to be made in a more expeditious manner, and

**WHEREAS**, the Roane County Purchasing Commission has met and recommends raising the bid threshold to \$10,000 and the quote threshold to \$2,500.  
**NOW, THEREFORE, BE IT RESOLVED** that the County Commission does hereby approve raising the bid threshold to \$10,000 and the quote threshold to \$2,500.

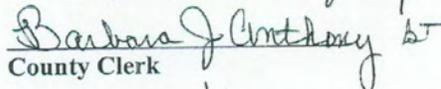
Motion to adopt was made by **Commissioner Harmon** with second by **Commissioner Hooks**.

Motion **Passed** upon voice vote.

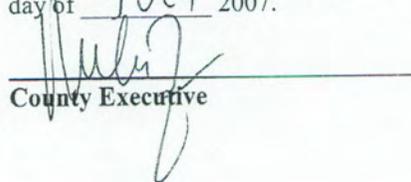
**THEREUPON**, the County Chairman announced to the Commission that said resolution had received a constitutional majority and ordered same spread of record.

  
\_\_\_\_\_  
County Chairman

The foregoing resolution was submitted to the County Executive for his consideration the 25<sup>th</sup> day of July, 2007

  
\_\_\_\_\_  
County Clerk

I hereby approve  / veto \_\_\_\_\_ the foregoing resolution this the 26<sup>th</sup> day of JULY 2007.

  
\_\_\_\_\_  
County Executive

STATE OF TENNESSEE  
COUNTY OF ROANE

Attest  
Barbara J. Anthony, Clerk

Certified a true and  
correct copy

May 04 2011  
Month Day Year

By Barbara Lepton D.C.

## **APPENDIX IV**

### **PURCHASE OF SECOND HAND ARTICLES**



1 of 3 DOCUMENTS

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\*\*\* CURRENT THROUGH THE 2011 REGULAR SESSION \*\*\*  
\*\*\* ANNOTATIONS CURRENT THROUGH APRIL 29, 2011 \*\*\*

Title 12 Public Property, Printing And Contracts  
Chapter 3 Public Purchases  
Part 10 Local Governments

**GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY**

*Tenn. Code Ann. § 12-3-1003 (2011)*

**12-3-1003. Purchase of secondhand articles or equipment by municipalities or counties.**

(a) Notwithstanding any charter, private act, or general law requirements, any municipality or any county may purchase used or secondhand articles consisting of goods, equipment, materials, supplies, or commodities from any federal, state, or local governmental unit or agency without public advertisement and competitive bidding.

(b) Notwithstanding any charter, private act, or general law requirements, any municipality or any county may purchase used or secondhand articles consisting of goods, equipment, materials, supplies, or commodities from any private individual or entity without public advertisement and competitive bidding as long as the purchasing government documents the general range of value of the purchased item through a listing in a nationally recognized publication or through an appraisal by a licensed appraiser, and the price is not more than five percent (5%) higher than the highest value of the documented range.

**HISTORY:** Acts 1984, ch. 765, § 7; 2007, ch. 383, § 1; 2010, ch. 955, § 1.

**NOTES:**

**LexisNexis 50 State Surveys, Legislation & Regulations**

Government Procurement of Goods

## **APPENDIX V**

# **COOPERATIVE PURCHASING**



2 of 3 DOCUMENTS

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\*\*\* CURRENT THROUGH THE 2011 REGULAR SESSION \*\*\*  
\*\*\* ANNOTATIONS CURRENT THROUGH APRIL 29, 2011 \*\*\*

Title 12 Public Property, Printing And Contracts  
Chapter 3 Public Purchases  
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**GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY**

*Tenn. Code Ann. § 12-3-1008 (2011)*

**12-3-1008. Purchasing by county governments.**

When purchasing supplies and equipment, county governments are authorized to utilize pricing discounts obtained by the National Association of Counties Financial Services Center Cooperative Purchasing Alliance (NACo Purchasing Alliance). When any general law, charter or private act requires that a county government purchase by competitive bidding, either formal or informal, the county government may consider the price under any contract or price agreement obtained by the NACo Purchasing Alliance in the same manner as a formal bid or informal quotation obtained under such general law, charter or private act.

**HISTORY:** Acts 1997, ch. 29, § 1.

**NOTES: Collateral References.**

Authority of state, municipality, or other governmental entity to accept late bids for public works contracts. *49 A.L.R.5th 747.*

**LexisNexis 50 State Surveys, Legislation & Regulations**

Government Procurement of Goods



3 of 3 DOCUMENTS

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\*\*\* CURRENT THROUGH THE 2011 REGULAR SESSION \*\*\*  
 \*\*\* ANNOTATIONS CURRENT THROUGH APRIL 29, 2011 \*\*\*

Title 12 Public Property, Printing And Contracts  
 Chapter 3 Public Purchases  
 Part 10 Local Governments

**GO TO THE TENNESSEE ANNOTATED STATUTES ARCHIVE DIRECTORY**

*Tenn. Code Ann. § 12-3-1009 (2011)*

**12-3-1009. Cooperative purchasing agreements.**

(a) Any municipality, county, utility district, or other local government of the state may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any supplies, services or construction with one (1) or more other local governments in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between local governments. Where the participants in a joint or multi-party contract are required to advertise and receive bids, it shall be sufficient for those purposes that the purchasing entity comply only with its own purchasing requirements.

(b) (1) Any municipality or municipal agency may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies or any services other than construction, engineering or architectural services or construction materials with one (1) or more other local governments outside this state, to the extent the laws of the other state permit the joint exercise of purchasing authority, in accordance with an agreement entered into between or among the participants. A municipality may participate in a master agreement by adopting a resolution accepting the terms of the master agreement. If a participant in a joint or multi-party agreement is required to advertise and receive bids, then it will be deemed sufficient for those purposes that the purchasing entity or the entity that procured the bid complied with its own purchasing requirements. When any general law, charter or private act requires that a municipality or municipal agency purchase an item or a service by competitive bidding, either formal or informal, the municipality or municipal agency may consider the price for the same item or service under any contract or agreement pursuant to this section in the same manner as one of the formal bids or informal quotations required under such general law, charter or private act.

(2) The powers conferred by this subsection (b) are in addition and supplemental to the powers conferred by any other law and without regard to the provisions, requirements or restrictions of any other law, and the limitations imposed by this subdivision (b)(2) shall not affect powers conferred by any other law.

**HISTORY:** Acts 1999, ch. 382, § 4; 2010, ch. 1067, § 1; 2011, ch. 152, § 1.

**NOTES: Compiler's Notes.**

Acts 1999, ch. 382, § 1 provided that the act may be cited as the "State and Local Purchasing Act of 1999."

**Amendments.**

The 2011 amendment substituted "local governments outside this state" for "local governments within this state or outside this state" in the first sentence of (b)(1).

**Effective Dates.**

Acts 2011, ch. 152, § 2. May 5, 2011.

**Cross-References.**

Electronic bidding, invitations to bid, requests for proposals and other solicitations, § 12-3-704.

Advisory committee for use of the Internet, title 12, ch. 3, part 11.

**LexisNexis 50 State Surveys, Legislation & Regulations**

Government Procurement of Goods

## **APPENDIX VI**

# **PURCHASING CARD POLICY**

**ROANE COUNTY  
PURCHASING CARD POLICY**

The use of purchasing cards is strictly limited to Roane County officials and employees. All purchasing cards must be approved in advance by the Roane County Purchasing Agent. Roane County officials and employees must receive prior approval to use a purchasing card and must sign a Cardholder Agreement before using the purchasing card.

Applications for purchasing cards must be submitted to the Roane County Purchasing Agent. The appropriate county official or department head under whose direction the applicant works must sign all applications for issuance of any purchasing cards.

All purchasing cards will be issued in the name of the department head, official or employee that is responsible for the use of the card. Each purchasing card to be used will be issued under a separate name, billing and account number. The card will also have the County's name and tax-exempt number embossed on the card. The department head, official or employee is responsible for ensuring that all purchases made using that card are in accordance with all policies, rules and regulations of Roane County.

The person who signs the Cardholder Agreement will be held personally liable for any unauthorized purchases made with the card, including purchases exceeding the approved purchasing limits.

All purchasing card purchases must comply with normal purchasing procedures. Purchases made using a purchasing card must be approved by submitting a requisition to the Purchasing Department and receiving a purchase order number.

All purchases will be reconciled monthly by the department head, official or employee. Monthly reconciliations for all cards issued to the office or department, with the appropriate county official or department head's signature will be submitted monthly to the Accounts Payable clerk. Each receipt and packing slip must be coded with the appropriate purchase order and account number.

The Roane County Purchasing Agent shall adopt such rules and regulations, as the Purchasing Agent deems necessary to implement the policy.

Purchasing cards which are used in any manner inconsistent with this policy are subject to immediate revocation by the Roane County Purchasing Agent.

**ROANE COUNTY PURCHASING CARD PROGRAM  
CARD HOLDER AGREEMENT**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Purchasing Card Number

As part of your employment with Roane County, you are being entrusted with a purchasing card to enable you to make purchases on behalf of Roane County. You are authorized to use this card **ONLY** upon the terms and conditions stated below.

1. The card is issued in my department's name, and I am the only person authorized to use this card. I will not allow anyone else to use the card without written authorization from the Purchasing Agent. A list of authorized card users must be on file in the Purchasing Department.
2. I understand that I will be making financial commitments on behalf of Roane County and I will strive to obtain the best value for Roane County.
3. I have read and will follow the Purchasing Card Policy for Roane County.
4. Under no circumstances will I allow this card to be used to make personal purchases, either for others or myself. I understand that personal purchases using this card will be considered misappropriation of Roane County funds. If this card is used to make personal purchases, I agree that I am financially responsible for payment of those charges and any fees related to the collection of those charges. If I do not pay for personal charges, I authorize the County to deduct the charges from my payroll check.
5. This card is the property of your department and Roane County.
6. If the card is lost or stolen, I will notify the Roane County Purchasing Department immediately by telephone at 865-376-4317.
7. I will obtain receipts and maintain detailed information for each card transaction. It is my responsibility to match receipts to each transaction on the monthly statement. Each receipt and packing slip will be coded with the appropriate purchase order and account number.
8. I will receive a monthly statement reporting all purchasing activity with the card during the statement period. I will review the statement for accuracy and sign the statement to certify that all charges are appropriate and in conformance with Roane County policies and procedures. I will be responsible for resolving any discrepancies on the statement by contacting the merchant/supplier.
9. I understand that I may be subject to disciplinary action, up to and including termination of my employment, for any violation of this Agreement.

**I HAVE READ AND UNDERSTAND THE FOREGOING, AND I AGREE TO THESE TERMS AND CONDITIONS.**

\_\_\_\_\_  
EMPLOYEE NAME (PRINT)

\_\_\_\_\_  
DEPARTMENT HEAD OR OFFICIAL

\_\_\_\_\_  
EMPLOYEE SIGNATURE

\_\_\_\_\_  
DATE

MAR 02 2005

# 03-05-08

A RESOLUTION to approve the use of a Commercial Credit Card Account with SunTrust BankCard, N. A. in conjunction with the County's Credit Card Policy and to authorize the County Mayor to enter into an agreement for same.

WHEREAS, the County has taken proposals for a Purchasing Card program and,

WHEREAS, SunTrust Bank submitted the most responsive proposal to the Request for Proposal, and

WHEREAS, SunTrust Bank requires that the County Legislative Body approve a resolution authorizing the use of a Commercial Credit Card Account,

NOW, THEREFORE, BE IT RESOLVED that Roane County may enter into a Commercial Credit Card Account relationship with SunTrust BankCard, N. A. ("Bank"); that the County Mayor is hereby authorized to enter into, execute and deliver in the name of and on behalf of the County, documents or other instruments deemed reasonable or necessary to establish the Commercial Credit Card Account relationship with Bank; and that the County shall be bound by the terms and conditions of said agreement, documents or other instruments.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the County shall furnish to the Bank a certified copy of this resolution, which shall remain in full force and effect until written notice of the rescission or modification of the same has been received by Bank.

SECTION 1. All resolutions in conflict herewith be and the same are repealed insofar as such conflict exists.

SECTION 2. This resolution shall become effective upon passage, the public welfare requiring it.

Upon motion of Commissioner Wicks, seconded by Commissioner Olsen, the following Commissioners voted Aye:

Motion to adopt Passed upon voice vote.

The following Commissioners Passed:

The following Commissioners voted No:

THEREUPON, the County Commission Chairman announced to the Commission that said resolution had received a constitutional majority and ordered same spread of record.

APPROVED:

Una Coffman  
County Commission Chairman

The foregoing resolution was submitted to the County Mayor for his consideration the 17th day of March, 2005.

ATTESTED:

Dorothy M. Marshall  
County Clerk

I hereby approve / veto the foregoing resolution this the 17 day of March, 2005.

Ken Yager  
County Mayor

STATE OF TENNESSEE  
COUNTY OF ROANE  
Clerk

Certified a true and correct copy

Month Sept Day 07 Year 2011

By Gracie J. D.C.

SUBMITTED BY: County Mayor, Ken Yager