



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Purchasing

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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

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

Sincerely,

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Purchasing

Private Acts of 1975 Chapter 23

SECTION 1. Short title. - This Act shall be known as the "County Purchasing Law of Carroll County, Tennessee."

SECTION 2. County Purchasing Agent. - The Purchasing Agent shall be the duly elected County Judge of Carroll County, Tennessee, who shall serve during his elected term. Before assuming his duties, he shall execute a corporate surety bond; the amount of which shall be Twenty Five Thousand Dollars (\$25,000.00). Said bond shall be approved by the Quarterly Court and shall be recorded in the office of the Register of Deeds in the same manner as are the bonds of all county officials. The premium for such bond shall be paid from the County General Fund.

The compensation of such clerks and assistants as may be needed, and the other necessary expenses of this office shall be provided for by an annual appropriation made by the Quarterly County Court from the County General Fund.

The Purchasing Agent shall have power, in accordance with such regulation as may be established by the Purchasing Commission to appoint and remove his assistants, to prescribe their duties, and to fix their salaries within the limits of the annual appropriation made therefor.

SECTION 3. Office of Purchasing Agent. - Necessary office space and equipment for the use of the Purchasing Agent shall be provided and maintained at the county seat of such county. Such office shall be open for business during the usual hours observed by other officials of the county government.

SECTION 4. Duties and powers of Purchasing Agent. - The County Purchasing Agent shall have exclusive power and it shall be his duty:

- (a) To contract for and purchase all supplies, material, equipment and contractual services required by each and every official of the County Highway Department and Department of Transportation of Carroll County Schools and all administrative offices under the control of the county government which expends or encumbers any of the county funds. No other official, employee, or agent of the county or of any of its departments or agencies so named shall be authorized to contract for or purchase any such materials, supplies, equipment or contractual services, except that nothing in this act shall prevent or be construed as preventing the Carroll County Highway Department and Department of Transportation of Carroll County Schools from contracting for or purchasing any materials, supplies, equipment or contractual services wherein the amount of the expenditure is not in excess of two hundred fifty (\$250.00) dollars.
- (b) 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 as described in sub-section (a) and no other official, employee or agent of the county shall have the right or power to make any contract for such rental, except that nothing in this act shall prevent or be construed as preventing the Carroll County Highway Department and Department of Transportation of Carroll County Schools from arranging for the rental of machinery, buildings, or equipment wherein the amount of such rental expenditure is not in excess of two hundred fifty (\$250.00) dollars.
- (c) 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 upon approval of the Purchasing Commission and agencies involved: [sic]
- (d) To have charge of any central storeroom or central mailing room or similar services which may hereafter be established for the efficient and economical handling of the county's business.
- (e) To arrange for an inventory of all county property and equipment in each department, such inventory to be kept current and coded for immediate public inspection. The County Purchasing Agent shall report quarterly to the County Purchasing Commission the inventory of each county department.
- (f) To perform such other duties and powers as the purchasing commission shall from time to time prescribe.

As amended by: Private Acts of 1981, Chapter 15

SECTION 5. County Purchasing Commission. - A County Purchasing Commission is hereby created. The commission shall consist of five (5) members, including the County Court Clerk, the County Trustee, and three (3) elected members of the Quarterly Court to be elected by the County Court.

The commission shall meet from time to time as it may deem necessary for the discharge of its duties and it shall be the duty of the County Purchasing Commission to approve the overall purchasing policies of the county and to establish and promulgate, in accordance with this Act, the rules, regulations and procedures to be followed in the making of purchases and contracts for purchase for the county, but the actual administration of such activities shall be the responsibility of the Purchasing Agent.

SECTION 6. Rules and regulations - Promulgation - Scope. - The County Purchasing Commission, with the assistance of the County Purchasing Agent in an advisory capacity, 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:

- (a) Authorizing in writing, any department, official or agency of the county government, governed by this Act 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;
- (b) Prescribing the manner in which supplies, materials and equipment shall be required, purchased, delivered, stored, and distributed; and providing that such shall be conducted in accordance with the provisions of this Act;
- (c) Prescribing the dates for submitting requisitions and estimates, the future period that 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 physical tests of samples submitted with bids and samples of deliveries to determine compliance with specifications;
- (e) 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;
- (f) Providing for the transfer to or between county departments and agencies of supplies and equipment on hand, which are declared 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;
- (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; and [sic]
- (i) Authority to contract with State Auditors or Certified Public Accountant Firm to set up the proper record keeping system for each department and shall make periodic audits to see that all records are being kept according to standard accounting practices.
- (j) Providing for all other such matters as may be necessary to give effect to the foregoing rules and to the provisions of this Act.

SECTION 7. Purchases and sales - Contracts for services - Competitive bids. - All purchases of and contracts for purchases of supplies, materials, equipment and contractual services, and all sales of county-owned property which has become surplus, obsolete, or unusable, shall be based wherever possible on competitive bids; but 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; provided further that bids need not be required for services for which the rate or price is fixed by a public authority by law to fix rates or prices.

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

If the amount of the expenditure or sale is estimated to exceed ten thousand dollars (\$10,000), sealed bids shall be solicited. The County Purchasing Agent shall solicit sealed bids by public notice inserted at least once in a newspaper of countywide circulation five (5) days prior to the final date for submitting bids and by posting notices on a public bulletin board in the county courthouse. The County Purchasing Agent shall also, when deemed necessary or desirable, solicit sealed bids by sending requests by mail to

prospective suppliers. 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. The County Purchasing Agent shall also, when deemed necessary or desirable, solicit sealed bids by sending requests by mail to prospective suppliers and by posting notices on a public bulletin board in the county courthouse.

All purchases or sales of less than ten thousand dollars (\$10,000) in amount may be made by the County Purchasing Agent in the open market without newspaper notice, but shall wherever possible be based upon at least three (3) competitive bids. Requisitions for items estimated to cost more than ten thousand dollars (\$10,000) shall not be subdivided in order to circumvent the requirement for public newspaper notice herein provided for. All sales by the Purchasing Agent shall be made to the highest responsible bidder.

As amended by: Private Acts of 1996, Chapter 128
Private Acts of 2008, Chapter 68

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; provided, further, that the Purchasing Commission shall have the authority to exclude non-biddable items from the provisions of this Act and the determination of the Purchasing Commission that an item is non-biddable shall be conclusive and final.

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 to any or all bids may be rejected for good cause.

All bids taken under the requirements of this Act 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.

If all bids received on a pending contract are for the same unit price or total amount, the County Purchasing Agent shall have the authority to reject all bids and to purchase the required supplies, materials, equipment or contractual services in the open market, provided the price paid in the open market does not exceed the bid price.

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.

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 Court Clerk.

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.

The County Purchasing Agent is authorized to purchase and contract to purchase materials, supplies, equipment and contracts [sic] services on a fiscal year basis, but no commitment shall be made which extends beyond the end of the current fiscal year for which appropriations have been made by the County Court, except such commitments as are authorized by resolution of the County Court. In the determination of the county's annual needs of certain commodities and/or services, 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.

The Highway Commission of Carroll County and Department of Transportation of Carroll County Schools are authorized to purchase and contract to purchase materials, supplies, equipment and contract services and to arrange for the rental of machinery, buildings or equipment wherein the amount of the expenditure for such purchase or rental does not exceed the sum of two hundred fifty (\$250.00) dollars. In all such cases involving expenditures of two hundred fifty dollars (\$250.00) or less, the Highway Commission and Department of Transportation of Carroll County Schools, shall solicit wherever possible at least three (3) competitive bids. The Highway Commission and Department of Transportation of Carroll County Schools shall issue a purchase order for each such expenditure and deliver that purchase order to the office of the county purchasing agent before the close of the next working day following the date of such purchase or rental.

As amended by: Private Acts of 1981, Chapter 15

Private Acts of 1988, Chapter 128

SECTION 8. Balance sufficient to cover order or contract required - Exception. - 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 governed by this Act shall be awarded unless it shall be first certified by the County Judge, 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.

SECTION 9. Emergency purchases. - The County Purchasing Agency [sic] 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. Such direct emergency purchases, however, may only be made by department or agency head 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 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. Such reports shall be kept on file and shall be open to public inspection.

SECTION 10. Written order evidencing purchases and contracts. - Each purchase order or contract issued or executed pursuant to the provisions of this Act shall be evidenced by a written order signed by the County Purchasing Agent, which shall give all significant details respecting such order or contract; however, in all cases involving purchases or rental expenditure not exceeding two hundred fifty (\$250.00) dollars, wherein the Highway Commission and Department of Transportation of Carroll County Schools are authorized to purchase and contract to purchase materials, supplies, equipment and contract services and to arrange for the rental of machinery, buildings or equipment, each purchase order or contract issued or executed shall be evidenced by a written order signed by a Highway Commissioner of the Carroll County Highway Department and School Superintendent of the Department of Transportation of Carroll County Schools. Copies of such orders or contracts shall be furnished and supplied to various parties in accordance with appropriate policies and regulations established by the County Purchasing Commission.

As amended by: Private Acts of 1981, Chapter 15

SECTION 11. Classification and standards of purchases. - It shall be the duty of the County Purchasing Commission to classify the requirements of the county government for supplies, materials and equipment; to 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 to prepare; [sic] adopt and promulgate written specifications describing such standards.

In the preparation and revision of such standards the County Purchasing Commission shall seek the advice, assistance, and cooperation of the county departments and agencies concerned, to ascertain their precise requirements; and each specification adopted for any commodity shall, insofar as possible, satisfy the requirements of the majority of the county departments and agencies which use the same.

SECTION 12. 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.

SECTION 13. Interest, rebates and gifts prohibited - Felony - Neither the County Purchasing Agent, nor members of the County Purchasing Commission, 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.

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. Any violation of this Section shall be deemed a felony and shall be punishable by fine or imprisonment or both.

SECTION 14. Chapter 55 of the Private Acts of 1937 and Section 10 of Chapter 133 of the Private Acts of 1959 are repealed. Such other Sections of Private Acts which are in conflict with the provisions of this Act are also repealed.

SECTION 15. Approval of County Court. - This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Quarterly County Court of Carroll County on or before September 1, 1975. Its

approval or non-approval shall be proclaimed by the presiding officer of the court and certified by him to the Secretary of State.

SECTION 16. Effective Date. - For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming law, the public welfare requiring it. For other purposes this Act shall be fully implemented on or before June 30, 1976.

Adopted: March 24, 1975.

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