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Changes To the 1983 Purchasing Law

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MTAS Municipal Technical Advisory Service

In cooperation with the
Tennessee Municipal League

#128

HOT
topic

June 30, 2006

CHANGES TO THE 1983 PURCHASING LAW

Rick Whitehead, Municipal Management Consultant

The Municipal Purchasing Law of 1983, codified in T.C.A. § 6-56-301 and the following sections, provides the process by which a municipality makes purchases, leases, and lease-purchase agreements of like items when using or encumbering municipal funds. During the 2006 legislative session, the General Assembly amended this law to broaden its coverage and to authorize cities to increase the dollar amount for which advertising and competitive bidding is required.

Public Chapter No. 814, which amends T.C.A § 6-56-302 (1), effectively expands the applicability of the 1983 Purchasing Law. Section 6-56-302 (1) as amended in June 2006 reads:

(1) This part shall not apply to purchases by authorized officials in municipalities having charter provisions or private act requirements governing competitive bidding and purchasing, provided that the charter provision or private act at minimum establishes within the provisions of the charter or act itself dollar limits for which competitive bidding would be required, any exemptions from the competitive bidding process, and general bid process procedures which would include, but not be limited to procedures regarding public advertising, securing and opening of bids.

Before the adoption of this act the 1983 Purchasing Law did not apply to municipalities that had general charter provisions or private act requirements that governed competitive bidding and purchasing. However, beginning July 1, 2006, cities must have *within their charters or applicable private acts* specific provisions and requirements to be exempt from the 1983 Purchasing Law's requirements.

According to the act, to be excluded from the provisions of the 1983 Purchasing Law a municipality must have charter provisions or private act requirements that:

- Establish dollar limits for which competitive bidding would be required;
- List exemptions (if any) from the competitive bidding process; and
- Identify general bid process procedures that would include, among other things, procedures regarding public advertising and the securing and opening of bids.

If a city's enabling laws do not include these provisions, then it must comply with the Municipal Purchasing Law of 1983 as set out in chapter 56 of Title 6 of the *Tennessee Code Annotated*. Towns and cities that have not been operating under the 1983 Purchasing Law should contact either their city attorney or an MTAS legal consultant to determine whether it is applicable to their municipality.

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An additional change was made by the General Assembly to the 1983 Purchasing Law during the 2006 legislative session. With an effective date of May 4, 2006, Public Chapter No. 610, which amends T.C.A. § 6-56-305, allows municipalities, by ordinance, the flexibility to adjust the limits for purchases between \$1,000 and the local public advertising limit.

T.C.A. § 6-56-304, entitled “Advertising and Bidding—Exceptions,” requires municipalities, unless noted otherwise, to observe bidding thresholds in order to acquire like items and services over the course of the fiscal year. Acquisition of like items, the cost of which equals or exceeds \$2,500 in a fiscal

year, requires the municipality to publicly advertise and competitively bid the item(s) prior to purchasing.

However Public Chapter No. 610, the amendment to T.C.A. § 6-56-305, permits open market purchases of like items up to a dollar value of 40 percent of the local competitive bid and public advertising limit. Items purchased at or below this limit are unrestrained by law and require no bidding or advertisement at all. Items with a dollar value of more than 40 percent of the local competitive bid and public advertising limit should, whenever possible, be based upon at least three competitive bids.

LAW BEFORE ADOPTION OF CHAPTER NO. 610, PUBLIC ACTS, 2006

PURCHASE PRICE	REQUIREMENTS
\$0 to \$1,000	Does not require public advertisement. Does not require competitive bidding.
\$1,001 to \$2,500	Does not require public advertisement. Does require, whenever possible, at least three competitive bids.
More than \$2,500*	Requires public advertisement. Requires, whenever possible, at least three competitive bids.

*Governing bodies may by ordinance increase the dollar amount required for public advertisement and competitive bidding from \$2,500 to a maximum of \$10,000 (T.C.A. § 6-56-306).

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LAW AFTER ADOPTION OF CHAPTER NO. 610, PUBLIC ACTS, 2006

PURCHASE PRICE	REQUIREMENTS
Up to 40 percent of the local competitive bid and public advertising limit. (Requires action [adoption of ordinance] by governing body.)	Does not require public advertisement. Does not require competitive bidding.
More than 40 percent of the local competitive bid and public advertising limit to \$10,000.	Does not require public advertisement. Requires, whenever possible, at least three competitive bids.
More than \$10,000	Requires public advertisement. Requires, whenever possible, at least three competitive bids.

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