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Competitive Bidding under the 1957 Law

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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Reference Number: CTAS-900

The rules concerning bidding are set out in T.C.A. § 5-14-108. The general rule is that competitive bids are required for all purchases of and contracts for supplies, materials, equipment, and contractual services; all contracts for the lease or rental of equipment; and all sales of county-owned property which is surplus, obsolete, or unusable. All sales must be made to the highest responsible bidder. T.C.A. § 5-14-108(d)(3). All purchases and contracts 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 and all bids may be rejected for good cause. T.C.A. § 5-14-108(f). Bids on purchases are to be based on such standards as are adopted by the county purchasing agent and approved by the county purchasing commission. T.C.A. § 5-14-108(e).

Bid Thresholds—Sealed bids must be solicited after public advertisement if the amount of the expenditure or sale is expected to exceed the maximum applicable thresholds established in T.C.A. § 12-3-1212 (up to \$50,000 in counties with centralized purchasing and a full-time purchasing agent). Requisitions for items estimated to cost an amount requiring public notice and sealed bids cannot be split to avoid this requirement. T.C.A. § 5-14-108(d)(2).

Informal Bids—Purchases or sales that are below the county's bid threshold may be made without public advertisement and sealed bids, but should be based on at least three competitive bids whenever possible. T.C.A. § 5-14-108(d).

Formal Sealed Bids—For expenditures and sales above the county's bid threshold, the purchasing agent must solicit sealed bids by public notice inserted at least once in a newspaper of county-wide circulation five days prior to the final date for submitting bids, or by posting notices on a public bulletin board in the county courthouse. The purchasing agent also should solicit bids by mailing requests to prospective suppliers when necessary or desirable. All notices must include a general description of the commodities or contractual services to be purchased or property to be sold, and state where bid blanks and specifications may be obtained and the time and place for opening bids. T.C.A. § 5-14-108(c)(3), (4) and (5). All sealed bids must be opened publicly at the time and place fixed in the advertisement. Each bid must be recorded with the names of the bidders, amounts of their bids, and the name of the successful bidder, and shall, after the award of contract or order, be open to public inspection. T.C.A. § 5-14-108(I).

Sale of Surplus Property—All sales of county-owned property, real and personal, which has become surplus, obsolete or unusable must be made by public auction, or by sealed bid, in the discretion of the purchasing agent. The purchasing agent must give public notice of the auction by publishing at least once in a newspaper of countywide circulation or by posting on a public bulletin board in the county courthouse at least five days prior to the auction, specifying the date, time, place, property to be sold, and terms of the auction. T.C.A. § 5-14-108(o).

Exemptions from Competitive Bidding Requirements—Certain contracts and purchased items are exempt from the competitive bidding requirements. These exemptions are set out on T.C.A. § 5-14-108, as follows:

- Professional service contracts (legal services, auditing by certified public accountants, and similar services) are not to be based on competitive bids but instead must be awarded based on recognized competence and integrity; the county is not prohibited from interviewing eligible persons or groups to determine their capabilities.
- The county may purchase materials, supplies, commodities, and equipment from any federal, state, or local government unit or agency without conforming to the competitive bidding requirements.
- Competitive bids are not required for services for which the rate or price is fixed by a public authority authorized by law to fix such rates or prices.
- The county legislative body, by resolution, may exempt perishable commodities from sealed or competitive bidding requirements when they are purchased in the open market.
- Effective May 26, 2010 Public Chapter 974 authorizes Washington County, subject to a two-thirds vote of the county legislative body, to opt out of bidding requirements of the

county purchasing law for the purchase of group health insurance contracts for county employees and officials.

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