

**WILLIAMSON COUNTY
PURCHASING POLICIES AND PROCEDURES**

I. PREPARATION OF PURCHASE REQUISITIONS

Each department shall prepare a requisition of the materials or services that it needs and submit the requisition to the purchasing agent. In preparing the requisition, the department should include such pertinent facts as department name, date, the department's account to be charged, anticipated delivery date, delivery point, complete description of article, quantity of material requested, unit price quoted, and total price.

No purchase shall be made or contract of purchase issued but in consequence of a written requisition for the supplies, materials, equipment, or contractual services required. All requisitions 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.ⁱ

In the event that the head of the department, office, or agency of the county requiring articles or services is not available, there shall be a designee that may approve the requisitions.

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 which 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.ⁱⁱ

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.ⁱⁱⁱ

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.^{iv}

II. SOLICITING BIDS

Unless otherwise provided by Tennessee law, all purchases of and contracts for purchase of supplies, materials, equipment, and contractual services, and all contracts for the lease or rental of equipment, and all sales of county-owned property which have become surplus, obsolete or unusable, shall be based wherever possible on competitive bids.^v

In accordance with the 1957 Purchasing Act, the Williamson County Board of Commissioners established that purchases less than \$50,000.01 may be purchased without soliciting bids.^{vi} Items purchased at less than this limit should, whenever possible, be based upon at least three (3) competitive bids. All purchases in amounts less than the limit for sealed bids must follow the requisition and purchase order system as outlined herein. The lowest responsive and responsible bid should be sought in all cases.^{vii}

For purchases over \$50,000, a sealed bid must be initiated. State contracts and Cooperative Purchasing Agreements that have been approved by the Williamson County Board of Commissioners may be used in place of a sealed bid.

Bid specifications must be clear and accurate and must not, in competitive procurements, contain features that unduly restrict competition. "Brand name or equivalent" may be used when it is

impractical or uneconomical to make a clear and accurate description of the technical requirement. The specific features of the named brand which must be met must be clearly stated.

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.^{viii}

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.

a. Reverse Auctions.

A reverse auction is an auction in which an item is posted for a certain time period and bidders may bid on the item several times with the intent of driving the cost of items and services down. Pursuant to *Tenn. Code Ann. § 12-3-1012*, Williamson County may purchase goods or services through a competitive reverse auction process that allows offerors to bid on specified goods or services electronically and adjust bid prices during a specified time period. Prior to initiating a reverse bidding procedure, the County is required to file a plan with the comptroller of the treasury.^{ix}

The County may not use reverse auctions to purchase the following goods or services:

1. Any construction services which exceed \$25,000.00.^{x1} Construction services related to maintenance, repairs, or renovations that are less than \$25,000.00 may be obtained through a reverse auction;
2. Architectural or engineering services;
3. The purchase of new or unused motor vehicles unless the vehicle is manufactured for a special purpose such as school buses, garbage trucks, fire trucks or ambulances; and
4. New or unused construction equipment.

At the conclusion of the auction, an award may be made to the offeror determined to be the lowest responsible and responsive bidder.

Each bid, with the name and address of the bidder, shall be recorded and the names of the bidders, the amounts of their bids and the name of the successful bidder shall, after the award, be open to public inspection. All bids should be preserved for a period of five (5) years.

The County may contract with a private contractor to conduct the reverse bidding as long as the procedure meets the requirements contained in this policy and with the 1957 Purchasing Act. In order to assure the fullest possible participation of small business and minority owned businesses, a mechanism shall be provided through the third party contractor, if a third party source is utilized to conduct the reverse auction, to facilitate participation of small and minority owned businesses in a reverse auction.

b. Notice Requirements.

Sealed bids shall be solicited by public notice inserted at least once in a newspaper of county-wide circulation, 14 days prior to the date of submitting bids.

Reverse auctions shall be solicited by public notice inserted at least once in a newspaper of countywide circulation five (5) days prior to the first day bids can be submitted.^{x1}

c. Selection of Bidder.

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.^{xii}

All open market purchases or contracts made by the county purchasing agent shall be awarded to the lowest responsible and responsive bidder, taking into consideration the quality 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.^{xiii}

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.^{xiv}

III. INFORMAL BIDDING

All purchases in amounts that do not require bid solicitation 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. Competitive bids may be solicited by telephone, fax machine or email. If the purchase is \$20,000 to \$50,000, a record of these bids should be maintained and a copy submitted to the purchasing agent attached to the requisition at the time the purchase order is requested.

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.

IV. PREPARING PURCHASE ORDERS

All purchases of supplies, material, equipment, or contract for services must be evidenced by a written purchase order signed by the purchasing agent, which shall give all significant details respecting such order or contract.

A copy of such order shall be furnished to the vendor, one copy shall be furnished to the county department head, and at least two copies shall be retained in the office of the county purchasing agent, one filed in numerical order and one filed alphabetically.

All purchases shall be made within the limits of the approved budget and the appropriations made for the department, office, or agency for which the purchase is made.

V. INSPECTING AND TESTING RECEIVED GOODS

The department or agency receiving materials, supplies, or equipment that they have requested should inspect those items as received for damage, shortages, errors in items shipped, or other problems that need to be addressed before payment to the vendor.

Delivery documents such as packing slips, bills of lading, delivery tickets, or freight bills should be signed and dated by the department receiving the goods and notations of any shortages, damage, or other problems should be made on the receiving document including the copy that is retained by the delivery agent. Notations of these problems should also be signed and dated by the delivery agent.

In the case of damaged goods, all original packaging should be retained for possible inspection by delivery agent or claims adjusters.

In situations where goods are to be returned, be sure to follow vendors' instructions and request prior authorization before returning goods.

VI. MAKING PAYMENT FOR GOODS

Except in emergencies, no order for deliver 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 is first certified by the director of accounts and budgets, or other authorized 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.^{xv}

Every effort will be made to issue payment for supplies, materials, equipment, or services within the terms agreed to with the vendor. Special discount terms offered by vendors should be noted on the purchase order. Payments shall be made within discount terms whenever possible.

VII. EXCEPTIONS TO THE NORMAL PURCHASING PROCESS

a. Emergency Purchases.

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. Emergencies shall not include any situations or conditions arising from neglect or indifference in anticipating normal needs.^{xvi}

Only the county purchasing agent is authorized to make emergency purchases unless the office of the county purchasing agent is closed at which time the direct emergency purchase may be made only by the department or agency head.^{xvii}

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.^{xviii}

b. Professional Services.

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 on competitive bids but shall be awarded on the basis of recognized competence and integrity.^{xix} This exception to the competitive bidding requirement shall not prohibit the county from interviewing eligible persons or groups to determine the capabilities of such persons or groups.^{xx}

c. Fixed Price Items.

Bids are not required for services provided at a rate or price fixed by a public authority authorized by law to fix such rates or prices, such as utilities.^{xxi}

d. Sole Source Item.

Any goods or services which may not be purchased by competitive bids because of the existence of a single source of supply may be purchased without the requirement for competitive bidding. A record of such sole source purchases must be maintained by the person or agency authorizing such purchase.

A memorandum from the ordering department requesting sole source status and how it was determined that the item is available from only one source must be submitted with the requisition.

A "sole source" letter from the vendor must also be attached. This letter must indicate that the item(s) is/are not available from any other source. The letter will also document the quotation and the quotation must include any shipping charges. If the vendor will not supply the written documentation, the order will not be considered sole source and will be subject to bid.

e. Purchases Exempt from Purchase Orders.

The following purchases are exempt from purchase orders:

1. Utilities (water, telephone, electric, gas)
2. Postage and Shipping Charges
3. Travel Reimbursements
4. Seminars
5. Dues
6. Memberships
7. Subscriptions
8. Drug and Medical Costs for Inmates
9. Refunds
10. Payroll Costs
11. Court Costs, Legal Fees
12. Maintenance Agreements
13. Lease Payments (PO for 1st month lease only)
14. Professional fees and services

f. Purchasing Cards

A purchasing card may be used for specific goods and services that do not require a purchase order. This includes postage and shipping, travel expenses, including hotel, airfare, car rental and food. Gas for county purposes may be purchased if not in a county vehicle or if authorized fuel location is not available. Food for department training events, seminars, dues and memberships, subscriptions, advertising, professional fees and services and reservations for group events related to county business are also allowed. Please see the Williamson County Government Purchasing Cards Policies and Procedures for complete details.

During an Emergency Operations Center activation, the Department of Public Safety and the Sheriff's Office, as well as any other department that is responding to the event, may use the county purchasing cards for purchases where a purchase order cannot be utilized. Every effort must be made to purchase from a current vendor that accepts purchase orders. It is recommended to have annual purchase orders to vendors that provide items commonly needed during emergency events. All purchases made using the purchasing card during an activation must be documented with the purpose of the purchase, documentation that an attempt was made to use a purchase order, and for whom the purchase was made. This information should be included in the notes section when coding the transaction in the Suntrust website.

A detailed receipt must be submitted to the accounting department to document the purchase.

VIII. CONTRACTS

All county contracts shall be approved as to form by the county attorney prior to execution of the contracts. Failure to obtain the county attorney's approval may be considered an ultra vires act making the entire agreement void and of no effect.

General Bid Bond Requirements - Contractors.

a. When required. In the procurement of construction, a bid bond shall be required when the contract to be awarded under the solicitation is expected to exceed one hundred thousand dollars (\$100,000.00), and such bond may be provided by a surety company authorized to do business in this state or other form of bid guarantee satisfactory to the county. In extraordinary circumstances to be determined by the Purchasing Agent, a bid bond may be required when the contract to be awarded under the solicitation is expected to be one hundred thousand dollars (\$100,000.00) or less.

b. Amount. The Purchasing Agent shall, or the party responsible for carrying out the construction project shall determine the bid guarantee amount adequate to protect the county from loss should the successful bidder fail to execute and deliver such further contract documents and bonds as may be required; provided, however, the percentage or amount shall be no more than five percent (5%) of the bid price. If a bidder is permitted to withdraw his bid before award for mistake in the bid, no action shall be had against his bid bond.

c. Noncompliance. When the bid documents require that submitted bids be supported by a bid bond, noncompliance requires rejection of the bid for noncompliance.

Public Works Bond Requirements

a. Construction Managers. If required by the procurement documents, a bid bond equal to ten percent (10%) shall be required for construction managers bidding on a public works project. Failure to submit a bid bond with the bid response will cause the bid response to be rejected for noncompliance with the procurement documents. If a bid bond is not required in the procurement documents, then the construction manager shall provide a performance and payment bond at the time of contracting in an amount equal to the combined monetary value of the services to be provided by the construction manager and the value of the work to be managed.

b. Contractors. A contractor shall provide a good and solvent performance and payment bond of not less than twenty-five percent (25%) for any public works contract that exceeds one hundred thousand dollars (\$100,000.00). If required in the bid request, all subcontractors to the contractor who assist in the performance of the work shall also provide a bond in the same amount and in the same manner as the contractor. If an advertisement is required for the procurement of the services, the condition of the bond shall be stated in the advertisement.

c. Noncompliance. Failure to comply with the bond requirements shall be considered noncompliance with the procurement request and shall result in the rejection of the bid for noncompliance.

General Performance/Payment Bonds

a. Performance Bond. For all other contracts for construction services that are in excess of \$100,000.00 a performance bond in an amount equal to the contract price shall be provided by the Contractor to insure performance of the contract in the time and manner prescribed and to save, indemnify and keep harmless the county against loss.

b. Payment Bond. In the discretion of the Purchasing Agent, a contractor shall provide a payment bond equal to the contract price to insure that subcontractors or suppliers of the contractor are paid for the services and/or supplies:

Alternatives to Bonds. In lieu of the bond required in this subsection, the County Purchasing Agent may, in her sole discretion, allow the following securities or cash to be substituted:

(a) United States Treasury bonds, United States Treasury notes, or United States Treasury bills.

(b) General obligation bonds of the State of Tennessee.

(c) Certificates of deposits irrevocably pledged from a state or national bank having its principal office in the State of Tennessee.

(d) An irrevocable letter of credit from a state or national bank having its principal office in the State of Tennessee. The terms and conditions of any letter of credit shall be subject to the approval of the County Purchasing Agent. All letters of credit shall be accompanied by an authorization of the contractor to deliver retained funds to the bank issuing the letter.

(e) Cash, provided that if cash is posted, the County shall pay to the contractor interest at the same rate that interest is paid on funds invested in a local government investment pool established pursuant to Tennessee Code Annotated, Section 9-4-704 T.C.A. 9-4-704, for the contract period.

If the selected bidder elects to deposit a certified check, cashier's check, or bank draft, it will be security for full performance of all obligations referred to above in this section.

Construction or facility improvement projects that are between \$10,000.00-\$20,000.00 require a Williamson County small contractor purchase order document to be signed by the contractor and sent to Purchasing at the time of requisition. Construction or facility improvement projects that are over \$20,000 will require a contract that will be initiated by Purchasing. No work may begin until contracts are fully executed.

Other goods or services purchased may require a contract. Purchasing will discuss with attorney's office to determine if a contract is needed.

As part of an overall risk management program, Williamson County shall determine whether or not to include a liquidated damages provision for a specific purchase or contract. It is acknowledged by any party desiring to contract with Williamson County for the provision of goods or services that the county is a public entity and not formed for the purpose of achieving a profit, and therefore damages are difficult to determine at the time of the contract. The amount of liquidated damages shall be reasonably calculated to reflect the anticipated damages that Williamson County might suffer as the result of an inadequacy or delay in contract performance. Williamson County may access liquidated damages on an entire contract or impose the liquidated damages on identifiable milestones or deliverable. The solicitation documents shall clearly identify the conditions of which the liquidated damages will be imposed and the established damages that will be charged.

IX. GRANTS

Document that grant funds are being utilized when submitting requisitions or bid documents to Purchasing at beginning of process to ensure grant requirements for advertisements, quotes, etc., are met. State grants require any advertisement, bid document, etc. to contain the statement "This project is funded under an agreement with the State of Tennessee."

Purchases must be made using only current year grant funds.

Prior to purchasing, consult Sam.gov to determine if the proposed vendor has been debarred. This applies to both state and federal grants. Document the Sam.gov inquiry for the files.

Purchases using federal grant funds must follow Code 2 of Federal Regulations.. State of Tennessee requirements must be followed if state grant funds are being used. Review individual grant contracts to ensure compliance.

Williamson County Purchasing Policies and Procedures must also be followed in addition to the grant requirements.

Required contractual clauses must be included for grants.

Purchasing must be conducted in a manner providing full and open competition.

Grants require three (3) written quotes for small purchases between \$10,000 and \$50,000. The quotes must be submitted to Purchasing at time of requisition and a copy must be kept in the grant file. Any public notices and bid documents must be kept in the grant file.

Follow any requirements for contracting with socioeconomic contractors.

Contractors that help develop or draft specifications, Invitations to Bid, or Request for Proposals must be excluded from competing for procurement.

X. TECHNICAL ASSISTANCE

The county purchasing agent may request the assistance of any department head or other qualified county employee in purchasing specialized material or equipment. In cases where the purchase of specialized material or equipment requires a public notice for competitive bids, such assistance may include the writing of the specifications for the items to be bid.

In the specific area of computer hardware and software, all requests by department heads for purchase requisitions of computer equipment or software will first be reviewed by the Department of Information Technologies (DoIT) before the county purchasing agent will issue a purchase order for the requested equipment or software.

XI. CONFLICT OF INTEREST

It shall be unlawful for any County Commissioner, or other elected office-holder, or any administrative assistant, executive assistant, department head, or any other person employed by the county to vote for, let out, overlook, or in any manner to superintend any work or contract with the county for the sale of any land, materials, supplies, or services to, or by the county, or to a contractor supplying the county, where such person has a substantial financial interest, direct or indirect, as defined by *Tennessee Code Annotated, Section 12-4-101*, and any subsequent amendment thereto. Violation of this Section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the county shall render the contract void.

The vote of any member of the Commission having a conflict of interest who does not inform the Commission of such conflict shall be void if challenged by a member of the Commission in a timely manner and ruled to be a conflict of interest by the Chair of the Commission. As used in this Section, "timely manner" shall mean during the same meeting at which the vote was cast and prior to the transaction of any further business by the County Commission.

As of July 1, 2016, a member of the County Commission who is also an employee of the same county, regardless of when the Commissioner's employment began, or whose spouse is an employee of the county, may not vote on specific amendments to the budget or a specific appropriation or resolution that would increase the pay or benefits of the Commissioner or the Commissioner's spouse. A Commissioner who has a conflict of interest under this new statute can no longer declare the conflict and vote on the matter. If a conflict of interest exists, the Commissioner must abstain from voting on the matter. A County Commissioner who is an employee or who has a spouse who is an employee can vote on the budget, appropriation resolutions, tax rate resolutions, or certain amendments not benefiting the Commissioner or the Commissioner's spouse as provided herein.

XII. MISCELLANEOUS

All sales of county owned property, with an accumulative estimated value of more than \$1000, which has become surplus, obsolete, or unusable, shall be made by public auction or by sealed bid, in the discretion of the purchasing agent. Notice of all such auctions or sales shall be inserted in a newspaper of county-wide circulation at least five (5) days prior to the date of such auction. All sales by the purchasing agent shall be made to the highest bidder.

The purchasing agent, upon request of the county mayor, has the authority to declare county owned personal property with an accumulative estimated value of \$1000 or less surplus, obsolete, or unusable personal property and to dispose of the personal property, at the purchasing agent's discretion, by selling the personal property on the open market, or by gift, trade, or barter to a nonprofit or charitable organization properly incorporated under the laws of this state and in which no part of the net earnings of the organization inures or may lawfully inure to the benefit of any private shareholder or individual and that it provides service benefitting the general welfare of the residents of the county. Items having an accumulative estimated value that exceeds \$1000 shall not be subdivided in order to circumvent the requirement for public notice or receipt of sealed bid or selling the property through public or internet auction. The purchasing agent shall keep all records of transactions of the disposal of personal property under this subdivision for a minimum of five (5) years.

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, material, equipment, or contractual services used by or furnished to any department or agency of the county government.^{xxii}

Nor shall any 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.^{xxiii}

All purchasing procedures are based on and subject to the "County Purchasing Law of 1957".

End Notes

ⁱ *Tenn. Code Ann. § 5-14-108(k).*

ⁱⁱ *Tenn. Code Ann. § 5-14-108(m)(1).*

ⁱⁱⁱ *Tenn. Code Ann. § 5-14-108(d)(2).*

^{iv} *Tenn. Code Ann. § 5-14-108(l).*

^v *Tenn. Code Ann. § 5-14-108(a)(1).*

^{vi} See Resolution 11-07-9 as adopted by the Williamson County Board of Commissioners Adopted pursuant to *Tenn. Code Ann. § 5-14-108(c)(1).*

^{vii} *Tenn. Code Ann. § 5-14-108.*

^{viii} *Tenn. Code Ann. § 5-14-108*

^{ix} Williamson County submitted a plan to the Tennessee Comptroller of the Treasury in November 2009.

^x The reason for this exclusion is to ensure compliance with the contractor's licensing laws. Currently, a contractor is required to provide proof of licensing prior to submitting a price for projects over \$25,000.

^{xi} *Tenn. Code Ann. § 12-3-1012(b)*

^{xii} *Tenn. Code Ann. § 5-14-108(i).*

^{xiii} *Tenn. Code Ann. § 5-14-108(f).*

^{xiv} *Tenn. Code Ann. § 5-14-108(b).*

^{xv} *Tenn. Code Ann. § 5-14-109.*

^{xvi} *Tenn. Code Ann. § 5-14-110(a)*

^{xvii} *Tenn. Code Ann. § 5-14-110(b)*

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- xviii *Tenn. Code Ann. § 5-14-110(b)(3)*
 - xix *Tenn. Code Ann. § 5-14-108(a)(2)*.
 - xx *Tenn. Code Ann. § 5-14-108(a)(4)*.
 - xxi *Tenn. Code Ann. § 5-14-108(a)(3)*.
 - xxii *Tenn. Code Ann. § 5-14-114(a)*.
 - xxiii *Tenn. Code Ann. § 5-14-114(b)*.

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