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Policy 9 - Purchasing Policy for Utility Districts

ADOPTION DATE: OCTOBER 4, 1995

REVISION #1 DATED: DECEMBER 1, 1999

REVISION #2 DATED: SEPTEMBER 7, 2001

REVISION #3 DATED: APRIL 1, 2011

REVISION #4 Dated: JUNE 2, 2017

RESPONSIBLE FOR ADMINISTERING POLICY:

District Manager, Board of Commissioners

BACKGROUND AND PURPOSE:

Purchasing practices by utility districts in Tennessee are governed by a specific section of the code that is unique in its application and content. Utility practices as relates to purchasing are monitored by the Office of the Comptroller of the Treasury.

POLICY STATEMENT:

Competitive bidding is required for all purchases, leases, and lease-purchases (hereinafter collectively referred to as purchases) by the district that exceeds the State regulation of \$10,000.

PURCHASES NOT REQUIRING COMPETITIVE BIDS

The district shall NOT be required to seek competitive bids on the following:

- a) Items or groups of items costing less than \$10,000.00.

- b) Contracts to provide a CONTINUOUS work force through independent contractors for the maintenance, installation and repair of the system;
- c) Assets sold or disposed of by the district;
- d) Purchase of goods or services for which there is a single source of supply;
- e) Purchases for immediate delivery in actual emergencies arising from unforeseen causes;
- f) Purchases of real property (permanent, immovable property such as land, buildings and improvements);
- g) Purchases from any federal, state or local government unit or agency;
- h) Purchases from non-profit corporations whose primary purpose is to provide goods or services to various local governments;
- i) Purchases of items for resale;
- j) Contracts for professional services as set forth in [TCA 12-4-106]:
 - 1. legal services;
 - 2. fiscal agent;
 - 3. financial advisor or advisory services;
 - 4. similar services by professional persons or groups of high ethical standards.

Various legal authorities have declared that the following can be included in this list of professional services and shall not be based on competitive bids:

- 1. engineering services;

2. architectural services;
3. accounting services.

k) Purchases in the open market, including fuel and fuel product purchases.

[Open market purchases include any purchase of a product or service which is customarily purchased by the public from retail establishments subject to competition.]

PURCHASES NOT REQUIRING COMPETITIVE BIDS

Open market purchases are restricted, as follows:

When the district makes an open market purchase for any product other than fuel and fuel products, an authorized check, credit card or money from the district's petty cash fund may be used, if authorized by the District Manager.

In the event the individual item purchase is over \$500, the purchase will be assigned a requisition number.

All purchases of fuel and fuel products will be made from a service station or other supplier selected by the District Manager.

Each district employee who obtains fuel or fuel products from the selected vendor will sign a charge slip for the product purchased. The district will pay the vendor for fuel or fuel products purchased as evidenced by charge slips sent to the district office or other designated address.

COMPETITIVE BID PROCESS

1 ... Before the district requests a competitive bid from a vendor, the request must be approved by the District Manager.

2 ... The district may request bids by any of the following methods:

- a) Telephone
- b) Writing
- c) Newspaper advertisement

3 ... The district may choose, as an alternative to open public bids, vendors listed in the Tennessee Association of Utility Districts (TAUD) Official Purchasing Guide, which the district receives on a periodic basis from TAUD. [The district may add the name of a reputable potential bidder to the TAUD Official Purchasing Guide by writing the association at P.O. Box 2529, Murfreesboro, TN 37133. The district is free to use that vendor as soon as the communication is received by the association.]

4 ... The district will obtain at least three bids from vendors whenever possible.

5 ... Vendors may submit their bids to the district by telephone with a written confirmation or by means of a written bid, at the discretion of the District Manager.

6 ... When the district requests bids from vendors, the bids will contain the following:

a) Date the bid (whether WRITTEN CONFIRMATION of telephone bids or WRITTEN BID) must be received by the district;

b) Notice that all bids must be mailed to the district's office or other designated address.

7 ... The district will make its decision on which bid to accept after the bid submission deadline.

8 ... Any bids submitted after the deadline may be rejected by the district.

9 ... The district reserves the right to reject all bids.

10 ... The winner of the bid shall be the lowest QUALIFIED AND RESPONSIBLE bidder. In determining the lowest qualified and responsible bidder, the district may consider the following factors in addition to the price quoted:

a) Apparent ability to perform;

b) Quality of the company, product or service;

c) Purpose or use of the product or service;

d) Discount for prompt payment provided by the vendor;

e) Freight method and cost;

f) Delivery date;

- g) Past performance;
- h) Other pertinent factors such as experience in providing products or services to similar utilities, references on similar jobs, and compatibility with existing utility equipment.

11 ... The district is not obligated to purchase a product or service from the bidder with the lowest price.

12 ... When the district accepts a bid, it will notify the vendor IN WRITING of its acceptance.

BID AND PERFORMANCE BONDS

1 ... The district may require vendors to submit a bid bond with their bids under the following guidelines:

- a) The bid bond must be issued by a surety company licensed to do business in the State of Tennessee;
- b) Bid bonds submitted by unsuccessful vendors will be returned upon award to contract;
- c) Personal or vendor company checks are not acceptable in the place of bid bonds; however, bank cashier's checks will be accepted.

2 ... The district may require vendors to submit a performance bond under the following guidelines:

- a) A performance bond must be issued by a surety company licensed to do business in the State of Tennessee;
- b) When required, the amount of the bond will be stated by the district in writing;
- c) The vendor must file a performance bond with the district within ten (10) working days after receipt of the request for bid;
- d) Personal or vendor company checks are not acceptable in the place of performance bonds; however, bank cashier's checks will be accepted;

e) An irrevocable letter of credit (LOC) or a certificate of deposit (CD) from a state or national bank or a state or federal savings and loan association having its principal office in Tennessee may be acceptable in lieu of a performance bond. The terms and conditions of the LOC or CD are subject to the approval of the district, and any CD must be assigned to the district and be accompanied by the issuing bank's agreement to subordinate its claim to the district's claim.

THE DISTRICT'S COMPLIANCE REQUIREMENTS

When a purchase requires competitive bidding, the district shall create a file for this purchase transaction which shall include the following:

- a) Written requests for bids
- b) Written notation of bid deadlines that the district requests by telephone
- c) Written bids received from vendors
- d) Any vendor's written confirmation of telephone bids
- e) All written contracts that relate to competitive bids
- f) Other related written materials
- g) If a bid is awarded to someone other than the lowest bidder, a notation shall be placed on the non-winning bid(s), as to why the bid was not selected. The person responsible for placing this documents in the file is the District Manager.

OMISSIONS:

In the absence of specific rules or policies, the disposition of purchasing procedures shall be made by the Board of Commissioners in accordance with its usual and customary practices.