

West's Tennessee Code Annotated
Title 12. Public Property, Printing and Contracts
Chapter 3. Public Purchases (Refs & Annos)
Part 10. Local Governments

T. C. A. § 12-3-1007

§ 12-3-1007. Competitive bidding

Effective: August 5, 2011
Currentness

(a) As used in this section, "municipality," "county," and "metropolitan government" apply only to municipalities, counties, and metropolitan governments with a population greater than one hundred fifty thousand (150,000), according to the latest federal census.

(b) In any municipality, county, or metropolitan government, notwithstanding any charter provision, private act, or other provision of law, a purchase, lease, or lease-purchase must be preceded by competitive bidding or competitive proposals only if the purchase, lease, or lease-purchase exceeds ten thousand dollars (\$10,000).

(c) When the charter of a metropolitan government requires that purchases be made on the basis of competitive bidding, notwithstanding subsection (b), "competitive bidding" for the metropolitan government means:

<u>Dollar amount of purchase</u>	<u>Requirement</u>
\$1,000.00 to \$3,999.99	Three (3) verbal (including telephone) quotations when possible.
\$4,000.00 to \$9,999.99	Three (3) written (including fax) quotations when possible.
\$10,000.00 and above	Competitive sealed bids or proposals for non-emergency and non-proprietary product purchases.

(d) Any municipality, county, or metropolitan government may retain present competitive bidding requirements and retains the right to establish, in accordance with charter amendment or private act, whichever is applicable, different dollar amount thresholds and different requirements for competitive bids and competitive proposals from those established in this section.

(e) Nothing in this section shall be deemed to expressly or impliedly repeal § 7-52-117, or any part of that section.

(f) This section shall not supersede or be construed to supersede § 12-3-1001.

Credits

1995 Pub.Acts, c. 176, § 1, eff. May 5, 1995.

LIBRARY REFERENCES

Key Numbers

Counties Ⓢ116.

Municipal Corporations Ⓢ236.

Westlaw Key Number Searches: 268k236; 104k116.

Corpus Juris Secundum

C.J.S. Counties § 165.

C.J.S. Municipal Corporations § 918.

T. C. A. § 12-3-1007, TN ST § 12-3-1007

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T. C. A. § 12-3-1008

§ 12-3-1008. County government; purchasing; pricing discounts; competitive bidding

Effective: May 10, 2012

Currentness

When purchasing supplies and equipment, any county government is authorized to utilize pricing discounts obtained by the National Association of Counties Financial Services Center Cooperative Purchasing Alliance (NACo Purchasing Alliance), its successor organization, or other national or regional governmental cooperative purchasing program, hereinafter referred to as purchasing program. When any general law, charter or private act requires that a county purchase by competitive bidding, either formal or informal, the procuring government unit may consider the price under any contract or price agreement obtained under a purchasing program authorized pursuant to this section in the same manner as a formal bid or informal quotation obtained under such general law, charter or private act.

Credits

1997 Pub.Acts, c. 29, § 1, eff. April 1, 1997; 2012 Pub.Acts, c. 914, § 1, eff. May 10, 2012.

T. C. A. § 12-3-1008, TN ST § 12-3-1008

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T. C. A. § 12-3-1009

§ 12-3-1009. Cooperative purchasing agreement

Effective: May 5, 2011

Currentness

(a) Any municipality, county, utility district, or other local government of the state may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any supplies, services or construction with one (1) or more other local governments in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between local governments. Where the participants in a joint or multi-party contract are required to advertise and receive bids, it shall be sufficient for those purposes that the purchasing entity comply only with its own purchasing requirements.

(b)(1) Any municipality or municipal agency may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies or any services other than construction, engineering or architectural services or construction materials with one (1) or more other local governments outside this state, to the extent the laws of the other state permit the joint exercise of purchasing authority, in accordance with an agreement entered into between or among the participants. A municipality may participate in a master agreement by adopting a resolution accepting the terms of the master agreement. If a participant in a joint or multi-party agreement is required to advertise and receive bids, then it will be deemed sufficient for those purposes that the purchasing entity or the entity that procured the bid complied with its own purchasing requirements. When any general law, charter or private act requires that a municipality or municipal agency purchase an item or a service by competitive bidding, either formal or informal, the municipality or municipal agency may consider the price for the same item or service under any contract or agreement pursuant to this section in the same manner as one of the formal bids or informal quotations required under such general law, charter or private act.

(2) The powers conferred by this subsection (b) are in addition and supplemental to the powers conferred by any other law and without regard to the provisions, requirements or restrictions of any other law, and the limitations imposed by this subdivision (b)(2) shall not affect powers conferred by any other law.

Credits

1999 Pub.Acts, c. 382, § 4, eff. June 14, 1999; 2010 Pub.Acts, c. 1067, § 1, eff. June 21, 2010; 2011 Pub.Acts, c. 152, § 1, eff. May 5, 2011.

HISTORICAL AND STATUTORY NOTES

1999 Pub.Acts, c. 382, §§ 1 and 2, provide:

“This act may be cited as the ‘State and Local Purchasing Act of 1999.’

“It is the intent of the General Assembly that this act:

“(1) Enable state agencies and local governments to reduce the cost of the purchasing process by distributing their solicitations and receiving bids, proposals, and other offers electronically.

“(2) Promote the most efficient use of staff resources and the best possible pricing by simplifying the process for the joint bidding of purchases and contracts by two (2) or more entities.

“(3) Ensure on an ongoing basis that state law enables state agencies and local governments to apply the best available technology by creating a standing advisory group to keep the General Assembly advised of needed statutory changes.”

T. C. A. § 12-3-1009, TN ST § 12-3-1009

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T. C. A. § 12-3-1010

§ 12-3-1010. Fire protection assets; transfer to volunteer fire departments

Effective: August 14, 2008

Currentness

(a) Notwithstanding any other provision of law, a county, municipality and metropolitan government may transfer the ownership of assets for fire protection purchased through or with the proceeds of federal, state or local grants to volunteer fire departments within such county, municipality or metropolitan area; provided, that such volunteer fire departments are registered as non-profit organizations with the office of the secretary of state.

(b) This section shall have no effect in a county, municipality or metropolitan area unless it is approved by the appropriate legislative body.

Credits

2000 Pub.Acts, c. 604, § 1, eff. March 21, 2000.

NOTES OF DECISIONS

Construction and application 1

1 Construction and application

A county may transfer fire equipment purchased with county funds to a non-for-profit volunteer fire service that is registered as a non-profit organization with the Secretary of state; such donations may not be made to privately chartered non-for profit fire services. Op.Atty.Gen. No. 07-087, June 5, 2007.

T. C. A. § 12-3-1010, TN ST § 12-3-1010

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T. C. A. § 12-3-1011

§ 12-3-1011. Competitive sealed proposals; emergency purchases;
procurement code; public notice; awards; government utility board

Effective: August 14, 2008

Currentness

(a) Any municipality may use competitive sealed proposals to purchase goods and services rather than competitive sealed bids when the municipal governing body, acting under the restrictions and requirements of this section and a procurement code adopted by the governing body, determines that the use of competitive sealed bidding is either not practicable or not advantageous to the municipality. In actual emergencies caused by unforeseen circumstances, such as natural or human-made disasters, delays by contractors, delays in transportation, or unanticipated volume of work, purchases through competitive sealed proposals may be made without specific authorizing action of the municipal governing body. A record of any emergency purchase shall be made by the person or body authorizing the emergency purchase, specifying the amount paid, the items and services purchased, from whom the purchase was made, and the nature of the emergency. A report of the emergency purchase through competitive sealed proposals containing all relevant information shall be made as soon as possible by the person or body authorizing the purchase to the municipal governing body.

(b) In the decision to use competitive sealed proposals, the governing body shall follow a procurement code, which shall be adopted by the municipality by ordinance before purchases may be made under this section. The code shall contain criteria for purchasing through competitive sealed proposals and procedures consistent with this section for doing so.

(c) The procurement code shall provide that competitive sealed proposals may be used only when qualifications, experience, or competence are more important than price in making the purchase and:

(1) When there is more than one solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution; or

(2) When there is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one (1) or more solutions.

(d) The municipal technical advisory service of the University of Tennessee's institute for public service, in conjunction with the comptroller of the treasury's office, shall develop a model procurement code that may be adopted by any municipality to guide the governing body and purchasing agent in making purchases through requests for competitive sealed proposals. The model procurement code shall contain provisions allowing an aggrieved proposer to protest the intended award to another proposer if the protest is filed within seven (7) days after the intended award is announced. The protest shall be filed with and decided by the municipal governing body.

(c) Adequate public notice of the request for competitive sealed proposals shall be given in the same manner provided for competitive sealed bids.

(f) Competitive sealed proposals shall be opened in a manner that avoids disclosure of contents to competing proposers during the negotiation. The proposals shall be open for public inspection after the intent to award the contract to a particular proposer is announced.

(g) The request for competitive sealed proposals shall state the relative importance of price and other evaluation factors.

(h) As provided in the request for competitive sealed proposals and in the procurement code, discussions may be conducted for clarification to assure full understanding of, and responsiveness to, the solicitation requirements with responsible proposers who submit proposals determined by the purchasing agent to be reasonably susceptible of being selected. These proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before the intent to award to a particular proposer is announced to obtain the best and final offers. In conducting discussions, the purchasing agent and other municipal personnel may make no disclosure to any proposer of any information derived from proposals submitted by competing proposers.

(i) The award shall be made to the responsible proposer whose proposal the governing body determines is the most advantageous to the municipality, taking into consideration price and the evaluation factors set out in the request for competitive sealed proposals. No other factor may be used in the evaluation. The purchasing agent shall place in the contract file a statement containing the basis on which the award was made.

(j)(1) A governmental utility board shall have the same rights and be subject to the same restrictions and requirements as apply to a municipal governing body under this section. The governmental utility board shall adopt a procurement code by resolution before purchases may be made under this section.

(2) For purposes of subdivision (j)(1), a “governmental utility board” includes a board of public utilities created under title 7, chapter 52, and shall also include any other county, metropolitan government or municipal utility board or supervisory body created by private act, home rule charter or local ordinance or resolution.

(3) Nothing in this subsection (j) shall otherwise modify or impair any limitations on the contracting power of the governmental utility boards as the powers may exist under applicable law.

Credits

2007 Pub.Acts, c. 583, § 1, eff. June 28, 2007.

T. C. A. § 12-3-1011, TN ST § 12-3-1011

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T. C. A. § 12-3-1012

§ 12-3-1012. Purchase of goods or services; reverse auction process; purchasing agents

Effective: June 9, 2009

Currentness

(a)(1) As used in this section, "local governmental unit" means and includes a county, city, municipality, special district, utility district, school district, authority or any other entity created or appointed by a local governmental unit of the state.

(2) For a purchase of goods or services, any local governmental unit 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 pricing during a specified time period.

(3) This section shall not apply to:

(A) Construction services, other than those relating to maintenance, repairs and renovations, the cost of which is less than twenty-five thousand dollars (\$25,000);

(B) Architectural or engineering services;

(C) New or unused motor vehicles, unless the motor vehicles are manufactured for a special purpose. "Manufactured for a special purpose" includes, but is not limited to, school buses, garbage trucks, fire trucks or ambulances; or

(D) New or unused construction equipment.

(b) The purchasing agent of the local governmental unit shall solicit bids 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. If the county in question has no newspaper with countywide circulation, the purchasing agent shall post notices on a public bulletin board in the county courthouse. The purchasing agent may also solicit bid requests by mail to prospective bidders or by distributing invitations to bid electronically via email or by posting on the entity's web site. All invitations to bid shall include a general description of the goods or services to be purchased and information related to the time and place of opening bids.

(c) In order to assure the fullest possible participation of small business and minority owned businesses, a local governmental unit shall provide a mechanism either through the local governmental unit itself or through a third party, 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.

(d) All bid responses received shall be made available publicly at the time and place identified in the invitation to bid. An award shall be made to the offeror determined to be the lowest responsible and responsive bidder at the close of the specified bid period. 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.

(e) Prior to the initial utilization of a reverse auction, the local governmental unit shall file a plan with the comptroller of the treasury. The plan shall indicate the technology to be utilized, whether a third party source will be utilized to conduct a reverse auction or auctions, a description of policies and procedures related to the implementation of the reverse auction process and documentation of internal controls that will ensure the integrity of the process; furthermore, the plan shall indicate whether such a process will be implemented within the existing operating resources of the local governmental unit or indicate prior approval of the governing body of the local governmental unit if additional operating resources are needed.

Credits

2009 Pub.Acts, c. 399, § 1, eff. June 9, 2009.

T. C. A. § 12-3-1012, TN ST § 12-3-1012

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T. C. A. § 12-3-1201

§ 12-3-1201. Supplies and equipment; purchases and advice by department of general services

Effective: July 1, 2013
Currentness

(a) The central procurement office may, upon request, purchase goods and services for any county, city, municipality, special district, school district, other local governmental unit of the state, or quasi-governmental entity organized under a city, municipality, or county. The purchases shall be made on the same terms and under the same rules and regulations as now provided for the purchase of goods and services by the central procurement office. The cost of any purchase made pursuant to this section shall be borne by the local governmental unit concerned. The central procurement office has the power to promulgate all rules and regulations necessary for the operation of this section, subject to the approval of the procurement commission.

(b) It is the intent of this section that the central procurement office advise local governments of the benefits to be derived from the use of the purchasing procedures authorized herein. Where any local or private act, charter, or general law requires that a local governmental unit purchase by competitive procurement method, the local unit of government may, notwithstanding the local or private act, charter, or general law, purchase, without public advertisement or competitive soliciting, under the provisions of contracts or price agreements entered into by the central procurement office.

(c) To the extent permitted by federal law or regulations, local governments may make purchases of goods, except motor vehicles, or services included in federal general service administration contracts or other applicable federal open purchase contracts either directly or through the appropriate state agency; provided, that no purchase under this section shall be made at a price higher than that which is contained in the contract between the general services administration and the vendor affected.

(d)(1) Except as provided in subdivision (d)(5), when any local or private act, charter, or general law requires that a local governmental unit purchase by competitive soliciting, the local unit of government may, notwithstanding the local or private act, charter, or general law, purchase, without public advertisement or competitive soliciting, any item from local sources if such item is available for purchase under the provisions of contracts or price agreements entered into by the central procurement office, and such item is available at the same or lower cost from such local sources. This subsection (d) shall apply only in cases where the local governmental entity is not permitted to purchase from an existing contract established by the central procurement office. Any item purchased locally must be of equal or better specifications than the item under the competitive contract.

(2) The legislative body of a county by resolution or a municipality by ordinance may establish and adopt a program to encourage participation in government purchasing programs by minority-owned businesses. Such programs may include set-aside provisions which conform to federal law.

(3) This subsection (d) shall be permissive relative to sellers of motor vehicles.

(4) This subsection (d) shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the local legislative body and such approval is filed with the comptroller of the treasury.

(5) This subsection (d) does not apply in a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), or in a county having a population in excess of eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census.

Credits

1970 Pub.Acts, c. 410, §§ 1, 2; 1972 Pub.Acts, c. 571, § 1; modified; 1985 Pub.Acts, c. 400, § 1; 1997 Pub.Acts, c. 246, § 1, eff. May 22, 1997; 1997 Pub.Acts, c. 335, §§ 1 to 6, eff. May 30, 1997; 2010 Pub.Acts, c. 1098, § 2, eff. April 1, 2012; 2011 Pub.Acts, c. 295, § 5, eff. May 27, 2011; 2013 Pub.Acts, c. 403, § 68, eff. July 1, 2013.

Formerly § 12-338; § 12-3-401; § 12-3-1001.

HISTORICAL AND STATUTORY NOTES

2011 Pub.Acts, c. 295, § 5, provides:

“SECTION 5. Sections 4 and 6 of Chapter 1098 of the Public Acts of 2010 are amended by deleting the date ‘October 1, 2011’ and by substituting instead the date ‘April 1, 2012’.”

2013 Pub.Acts, c. 403, § 83, provides:

“SECTION 83. This act shall take effect upon July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on and after such date.”

Former Section:

Former § 12-3-1201 was transferred to § 12-3-1211 by 2013 c. 403, § 70, eff. July 1, 2013.

CROSS REFERENCES

Counties, county purchasing law application, see § 5-14-202.

Department of General Services, powers and duties, see § 4-3-1105.

Municipalities, municipal purchasing law application, see § 6-56-302.

Utility districts, purchasing procedures, excluded purchases, see § 7-82-803.

LIBRARY REFERENCES

Key Numbers

Municipal Corporations ¶236.

Westlaw Key Number Search: 268k236.

Corpus Juris Secundum

C.J.S. Municipal Corporations § 918.

T. C. A. § 12-3-1201, TN ST § 12-3-1201

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T. C. A. § 12-3-1202

§ 12-3-1202. Secondhand articles or equipment; purchases by municipalities

Effective: July 1, 2013

Currentness

(a) Notwithstanding any charter, private act, or general law requirements, any municipality or any county may purchase used or secondhand articles consisting of goods, equipment, materials, supplies, or commodities from any federal, state, or local governmental unit or agency without public advertisement and competitive soliciting.

(b) Notwithstanding any charter, private act, or general law requirements, any municipality or any county may purchase used or secondhand articles consisting of goods, equipment, materials, supplies, or commodities from any private individual or entity without public advertisement and competitive soliciting as long as the purchasing government documents the general range of value of the purchased item through a listing in a nationally recognized publication or through an appraisal by a licensed appraiser, and the price is not more than five percent (5%) higher than the highest value of the documented range.

Credits

1984 Pub.Acts, c. 765, § 7; 2007 Pub.Acts, c. 383, § 1, eff. June 8, 2007; 2010 Pub.Acts, c. 955, § 1, eff. May 26, 2010; 2013 Pub.Acts, c. 403, § 69, eff. July 1, 2013.

Formerly § 12-3-1003.

HISTORICAL AND STATUTORY NOTES

2013 Pub.Acts, c. 403, § 83, provides:

“SECTION 83. This act shall take effect upon July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on and after such date.”

Former Section:

Former § 12-3-1202 was transferred to § 12-3-1211 by 2013 c. 403, § 70, eff. July 1, 2013.

T. C. A. § 12-3-1202, TN ST § 12-3-1202

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T. C. A. § 12-3-1203

§ 12-3-1203. Purchases for other government units upon request

Effective: July 1, 2013

Currentness

(a) Any municipality, county, utility district, or other local governmental unit of the state may, upon request, purchase supplies, equipment, and services for any other municipality, county, utility district, or other local governmental unit.

(1) The purchases shall be made on the same terms and under the same rules and regulations as regular purchases of the purchasing entity.

(2) The cost of the purchase shall be borne by the local government for which the purchase was made.

(3) Where the local government making the request is required to advertise and receive bids, it shall be sufficient for those purposes that the purchasing entity comply only with its own purchasing requirements.

(b)(1) Any local education agency (LEA) may purchase equipment under the same terms of a legal bid initiated by any other LEA in Tennessee.

(2)(A) Any LEA may purchase directly from a vendor the same equipment at the same price and under the same terms as provided in a contract for such equipment entered into by any other LEA.

(B) Any LEA which purchases equipment under this subsection (b) shall directly handle payment, refunds, returns, and any other communications or requirements involved in the purchase of the equipment without involving the LEA which originated the contract. The originating LEA shall have no liability or responsibility for any purchases made by another LEA under a contract which the originating LEA negotiated and consummated.

(c)(1) Any municipality, county, utility district, or other local governmental unit of this state may purchase supplies, goods, equipment, and services under contracts or price agreements entered into by any other local governmental unit of this state. Such purchases shall be made on the same terms and under the same rules and regulations as regular purchases of the purchasing entity. Any local governmental unit that purchases supplies, goods, equipment, or services under this section shall directly handle payment, refunds, returns, and any other communication or requirements involved in the purchase without involving the local governmental unit that originated the contract. The originating local governmental unit shall have no liability or responsibility for any purchases made by another local governmental unit under a contract that the originating local governmental unit negotiated and consummated. Where any local or private act, charter, or general law requires that a local governmental unit

purchase by competitive bidding, the local governmental unit may, notwithstanding the local or private act, charter, or general law, purchase without public advertisement or competitive bidding in accordance with this section.

(2) This subsection (c) shall not apply to:

(A) Purchases of new or unused motor vehicles, unless the motor vehicles are manufactured for a special purpose as defined in § 12-3-1208; and

(B) Purchases related to any transportation infrastructure project, including, but not limited to, projects for the construction or improvement of streets, highways, bridges, tunnels, or any roadway related facility.

Credits

1984 Pub.Acts, c. 765, § 7; 2003 Pub.Acts, c. 228, § 1, eff. June 2, 2003; 2010 Pub.Acts, c. 1067, § 2, eff. June 1, 2010; 2012 Pub.Acts, c. 600, § 1 to 3, eff. March 21, 2012; 2013 Pub.Acts, c. 403, § 70, eff. July 1, 2013.

Formerly § 12-3-1004.

HISTORICAL AND STATUTORY NOTES

2013 Pub.Acts, c. 403, § 83, provides:

“SECTION 83. This act shall take effect upon July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on and after such date.”

T. C. A. § 12-3-1203, TN ST § 12-3-1203

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T. C. A. § 12-3-1204

§ 12-3-1204. Competitive bidding

Effective: July 1, 2013

Currentness

(a) As used in this section, “municipality,” “county,” and “metropolitan government” apply only to municipalities, counties, and metropolitan governments with a population greater than one hundred fifty thousand (150,000), according to the 1990 federal census or any subsequent federal census.

(b) In any municipality, county, or metropolitan government, notwithstanding any charter provision, private act, or other provision of law, a purchase, lease, or lease-purchase must be preceded by competitive solicitation only if the purchase, lease, or lease-purchase exceeds ten thousand dollars (\$10,000).

(c) When the charter of a metropolitan government requires that purchases be made on the basis of competitive bidding, notwithstanding subsection (b), “competitive soliciting” for the metropolitan government means:

Dollar Amount of Purchase	Requirement
\$1,000.00 to \$3,999.99	Three (3) verbal (including telephone) quotations when possible.
\$4,000 to \$9,999.99	Three (3) written (including fax) quotations when possible.
\$10,000 and above	Competitive sealed bids or proposals for non-emergency and non-proprietary product purchases.

(d) Any municipality, county, or metropolitan government may retain present competitive soliciting requirements and may retain the right to establish, in accordance with charter amendment or private act, whichever is applicable, different dollar amount thresholds and different requirements for competitive bids and competitive proposals from those established in this section.

(e) Nothing in this section shall be deemed to expressly or impliedly repeal § 7-52-117, or any part of that section.

(f) This section shall not supersede or be construed to supersede § 12-3-1201.

Credits

1995 Pub.Acts, c. 176, § 1, eff. May 5, 1995; 2013 Pub.Acts, c. 403, § 70, eff. July 1, 2013.

Formerly § 12-3-1007.

HISTORICAL AND STATUTORY NOTES

2013 Pub.Acts, c. 403, § 83, provides:

“SECTION 83. This act shall take effect upon July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on and after such date.”

LIBRARY REFERENCES

Key Numbers

Counties [§§116](#).

Municipal Corporations [§§236](#).

Westlaw Key Number Searches: 268k236; 104k116.

Corpus Juris Secundum

C.J.S. Counties § 165.

C.J.S. Municipal Corporations § 918.

T. C. A. § 12-3-1204, TN ST § 12-3-1204

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T. C. A. § 12-3-1205

§ 12-3-1205. Cooperative purchasing agreement

Effective: July 1, 2013
Currentness

(a) Any municipality, county, utility district, or other local government of the state may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any supplies, services or construction with one (1) or more other local governments in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between local governments. Where the participants in a joint or multi-party contract are required to advertise and receive bids, it shall be sufficient for those purposes that the purchasing entity comply only with its own purchasing requirements.

(b)(1) Notwithstanding any other law to the contrary, any municipality, county, utility district, or other local government of the state may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any goods, supplies, services, or equipment with one (1) or more other governmental entities outside this state, to the extent the laws of the other state permit the joint exercise of purchasing authority, in accordance with an agreement entered into between or among the participants; provided, such goods, supplies, services, or equipment were procured in a manner that constitutes competitive bidding and were advertised, evaluated, and awarded by a governmental entity and made available for use by other governmental entities.

(2) A municipality, county, utility district, or other local government of the state may participate in a master agreement by adopting a resolution accepting the terms of the master agreement. If a participant in a joint or multi-party agreement is required to advertise and receive bids, then it will be deemed sufficient for those purposes that the purchasing entity or the entity that procured the bid complied with its own purchasing requirements. The participant shall acquire and maintain documentation that the purchasing entity or entities that procured the bid complied with its own purchasing requirements.

(3) The powers conferred by this section are in addition and supplemental to the powers conferred by any other law, and any limitations imposed by this section shall not affect powers conferred by any other law.

(4) This subsection (b) shall not apply to:

(A) Purchases of new or unused motor vehicles, unless the motor vehicles are manufactured for a special purpose as defined in § 12-3-1208; or

(B) Purchases of construction, engineering or architectural services, or construction materials.

(c) The chief procurement officer may collect information from municipalities, counties, utility districts, or any other local government unit concerning the type, cost, quality, and quantity of commonly used goods, supplies, services, or equipment being procured under cooperative purchasing agreements. The chief procurement officer may make available all such information to any municipality, county, utility district, or other local government unit upon request.

Credits

1999 Pub.Acts, c. 382, § 4, eff. June 14, 1999; 2010 Pub.Acts, c. 1067, § 1, eff. June 21, 2010; 2011 Pub.Acts, c. 152, § 1, eff. May 5, 2011; 2013 Pub.Acts, c. 329, § 3, eff. May 13, 2013; 2013 Pub.Acts, c. 403, § 70, eff. July 1, 2013.

Formerly § 12-3-1009.

HISTORICAL AND STATUTORY NOTES

1999 Pub.Acts, c. 382, §§ 1 and 2, provide:

“This act may be cited as the ‘State and Local Purchasing Act of 1999.’

“It is the intent of the General Assembly that this act:

“(1) Enable state agencies and local governments to reduce the cost of the purchasing process by distributing their solicitations and receiving bids, proposals, and other offers electronically.

“(2) Promote the most efficient use of staff resources and the best possible pricing by simplifying the process for the joint bidding of purchases and contracts by two (2) or more entities.

“(3) Ensure on an ongoing basis that state law enables state agencies and local governments to apply the best available technology by creating a standing advisory group to keep the General Assembly advised of needed statutory changes.”

2013 Pub.Acts, c. 403, § 83, provides:

“SECTION 83. This act shall take effect upon July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on and after such date.”

T. C. A. § 12-3-1205, TN ST § 12-3-1205

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Title 12. Public Property, Printing and Contracts
Chapter 3. Public Purchases (Refs & Annos)
Part 12. Local Governments

T. C. A. § 12-3-1206

§ 12-3-1206. Used or surplus personal property; transfer between government units

Effective: July 1, 2013

Currentness

(a) Notwithstanding any other law, a county, municipality and metropolitan government may transfer the ownership of assets for fire protection purchased through or with the proceeds of federal, state or local grants to volunteer fire departments within such county, municipality or metropolitan area; provided, that such volunteer fire departments are registered as non-profit organizations with the office of the secretary of state.

(b) This section shall have no effect in a county, municipality or metropolitan area unless it is approved by the appropriate legislative body.

Credits

2000 Pub.Acts, c. 604, § 1, eff. March 21, 2000; 2013 Pub.Acts, c. 403, § 70, eff. July 1, 2013.

Formerly § 12-3-1010.

HISTORICAL AND STATUTORY NOTES

2013 Pub.Acts, c. 403, § 83, provides:

“SECTION 83. This act shall take effect upon July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on and after such date.”

NOTES OF DECISIONS

Construction and application 1

I Construction and application

A county may transfer fire equipment purchased with county funds to a non-for-profit volunteer fire service that is registered as a non-profit organization with the Secretary of state; such donations may not be made to privately chartered non-for profit fire services. Op.Atty.Gen. No. 07-87, June 5, 2007. 2007 WL 1876289.

T. C. A. § 12-3-1206, TN ST § 12-3-1206

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Part 12. Local Governments

T. C. A. § 12-3-1207

§ 12-3-1207. Competitive sealed proposals; emergency purchases;
procurement code; public notice; awards; government utility board

Effective: July 1, 2013

Currentness

(a) Any municipality may use competitive sealed proposals to purchase goods and services rather than competitive sealed bids when the municipal governing body, acting under the restrictions and requirements of this section and a procurement code adopted by the governing body, determines that the use of competitive sealed bidding is either not practicable or not advantageous to the municipality. In actual emergencies caused by unforeseen circumstances, such as natural or human-made disasters, delays by contractors, delays in transportation, or unanticipated volume of work, purchases through competitive sealed proposals may be made without specific authorizing action of the municipal governing body. A record of any emergency purchase shall be made by the person or body authorizing the emergency purchase, specifying the amount paid, the items and services purchased, from whom the purchase was made, and the nature of the emergency. A report of the emergency purchase through competitive sealed proposals containing all relevant information shall be made as soon as possible by the person or body authorizing the purchase to the municipal governing body.

(b) In the decision to use competitive sealed proposals, the governing body shall follow a procurement code, which shall be adopted by the municipality by ordinance before purchases may be made under this section. The code shall contain criteria for purchasing through competitive sealed proposals and procedures consistent with this section.

(c) The procurement code shall provide that competitive sealed proposals may be used only when qualifications, experience, or competence are more important than price in making the purchase and:

(1) When there is more than one (1) solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution; or

(2) When there is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one (1) or more solutions.

(d) The municipal technical advisory service of the University of Tennessee's institute for public service, in conjunction with the comptroller of the treasury's office, shall develop a model procurement code that may be adopted by any municipality to guide the governing body and purchasing agent in making purchases through requests for competitive sealed proposals. The model procurement code shall contain provisions allowing an aggrieved respondent to protest the intended award to another respondent if the protest is filed within seven (7) calendar days after the intended award is announced. The protest shall be filed with and decided by the municipal governing body.

(e) Adequate public notice of the request for competitive sealed proposals shall be given in the same manner provided for competitive sealed bids.

(f) Competitive sealed proposals shall be opened in a manner that avoids disclosure of contents to competing respondents during the negotiation. The proposals shall be open for public inspection after the intent to award the contract to a particular respondent is announced.

(g) The request for competitive sealed proposals shall state the relative importance of price and other evaluation factors.

(h) As provided in the request for competitive sealed proposals and in the procurement code, discussions may be conducted for clarification to assure full understanding of, and responsiveness to, the solicitation requirements with responsible respondents who submit proposals determined by the purchasing agent to be reasonably susceptible of being selected. These respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before the intent to award to a particular respondent is announced to obtain the best and final offers. In conducting discussions, the purchasing agent and other municipal personnel may make no disclosure to any respondent of any information derived from proposals submitted by competing respondents.

(i) The award shall be made to the responsible respondent whose proposal the governing body determines is the most advantageous to the municipality, taking into consideration price and the evaluation factors set out in the request for competitive sealed proposals. No other factor may be used in the evaluation. The purchasing agent shall place in the contract file a statement containing the basis on which the award was made.

(j)(1) A governmental utility board shall have the same rights and be subject to the same restrictions and requirements as apply to a municipal governing body under this section. The governmental utility board shall adopt a procurement code by resolution before purchases may be made under this section.

(2) For purposes of subdivision (j)(1), a "governmental utility board" includes a board of public utilities created under title 7, chapter 52, and shall also include any other county, metropolitan government or municipal utility board or supervisory body created by private act, home rule charter or local ordinance or resolution.

(3) Nothing in this subsection (j) shall otherwise modify or impair any limitations on the contracting power of the governmental utility boards as the powers may exist under applicable law.

Credits

2007 Pub.Acts, c. 583, § 1, eff. June 28, 2007; 2013 Pub.Acts, c. 403, § 70, eff. July 1, 2013.

Formerly § 12-3-1011.

HISTORICAL AND STATUTORY NOTES

2013 Pub.Acts, c. 403, § 83, provides:

"SECTION 83. This act shall take effect upon July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on and after such date."

T. C. A. § 12-3-1207, TN ST § 12-3-1207

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Part 12. Local Governments

T. C. A. § 12-3-1208

§ 12-3-1208. Purchase of goods or services; reverse auction process; purchasing agents

Effective: July 1, 2013
Currentness

(a)(1) As used in this section, "local governmental unit" means and includes a county, city, municipality, special district, utility district, school district, authority or any other entity created or appointed by a local governmental unit of the state.

(2) For a purchase of goods or services, any local governmental unit 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 pricing during a specified time period.

(3) This section shall not apply to:

(A) Construction services, other than those relating to maintenance, repairs and renovations, the cost of which is less than twenty-five thousand dollars (\$25,000);

(B) Architectural or engineering services;

(C) New or unused motor vehicles, unless the motor vehicles are manufactured for a special purpose. "Manufactured for a special purpose" includes, but is not limited to, school buses, buses with capacity exceeding twenty-two (22) passengers used to provide public transportation, garbage trucks, fire trucks or ambulances; or

(D) New or unused construction equipment.

(b) The purchasing agent of the local governmental unit shall solicit bids by public notice inserted at least once in a newspaper of countywide circulation five (5) calendar days prior to the first day bids can be submitted. If the county in question has no newspaper with countywide circulation, the purchasing agent shall post notices on a public bulletin board in the county courthouse. The purchasing agent may also solicit bid requests by mail to prospective bidders or by distributing invitations to bid electronically via email or by posting on the entity's web site. All invitations to bid shall include a general description of the goods or services to be purchased and information related to the time and place of opening bids.

(c) In order to assure the fullest possible participation of small businesses and minority-owned businesses, a local governmental unit shall provide a mechanism either through the local governmental unit itself or through a third party, 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.

(d) All bid responses received shall be made available publicly at the time and place identified in the invitation to bid. An award shall be made to the offeror determined to be the lowest responsible and responsive bidder at the close of the specified bid period. 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 sixty (60) months.

(e)(1) Prior to the initial utilization of a reverse auction, the local governmental unit shall file a plan with the comptroller of the treasury. The plan shall indicate the technology to be utilized, whether a third party source will be utilized to conduct a reverse auction or auctions, a description of policies and procedures related to the implementation of the reverse auction process and documentation of internal controls that will ensure the integrity of the process;

(2) The plan shall also indicate whether such a process will be implemented within the existing operating resources of the local governmental unit or indicate prior approval of the governing body of the local governmental unit if additional operating resources are needed.

Credits

2009 Pub.Acts, c. 399, § 1, eff. June 9, 2009; 2013 Pub.Acts, c. 329, § 6, eff. May 13, 2013; 2013 Pub.Acts, c. 403, § 70, eff. July 1, 2013.

Formerly § 12-3-1012.

HISTORICAL AND STATUTORY NOTES

2013 Pub.Acts, c. 403, § 83, provides:

“SECTION 83. This act shall take effect upon July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on and after such date.”

T. C. A. § 12-3-1208, TN ST § 12-3-1208

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T. C. A. § 12-3-1209

§ 12-3-1209. Contracts for professional services

Effective: July 1, 2013
Currentness

(a) Contracts by counties, cities, metropolitan governments, towns, utility districts and other municipal and public corporations of the state, for legal services, fiscal agent, financial advisor or advisory services, educational consultant services, and similar services by professional persons or groups of high ethical standards, shall not be based upon competitive solicitations, but shall be awarded on the basis of recognized competence and integrity. The prohibition against competitive soliciting in this section shall not prohibit any entity enumerated from interviewing eligible persons or entities to determine the capabilities of such persons or entities.

(b) Any person providing fiscal agent, financial advisor or advisory services to any county, city, metropolitan government, town, utility district or other municipal or public corporation shall perform such services only pursuant to a written contract, specifying the services to be rendered, the costs therefore, and the expenses to be covered under such contract.

(c) Any person providing fiscal agent, financial advisor or advisory services to any county, city, metropolitan government, town, utility district or other municipal or public corporation of this state who desires to bid, directly or indirectly, on any bonds, notes or other obligations of such entity sold pursuant to public, competitive sale shall receive in writing prior to the sale the permission of such entity to respond either directly or indirectly on the obligations.

(d) For the purposes of this section, "providing fiscal agent, financial advisor or advisory services" means a relationship that exists when a person renders or enters into an agreement to render financial advisory or consultant services to or on behalf of an issuer with respect to a new issue or issues of municipal securities, including advice with respect to the structure, timing, terms and other similar matters concerning such issue or issues, for a fee or other compensation or in expectation of such compensation for the rendering of such services. Notwithstanding the foregoing provisions of this subsection (d), a financial advisory relationship shall not be deemed to exist when, in the course of acting as an underwriter, a municipal securities dealer renders advice to an issuer, including advice with respect to the structure, timing, terms and other similar matters concerning a new issue of municipal securities.

(e)(1) Contracts by counties, cities, metropolitan governments, towns, utility districts and other municipal and public corporations of the state for information management services, including, but not limited to, computer program analyst services shall, upon approval by a two-thirds ($\frac{2}{3}$) vote of the governing body, be procured through a request for proposals process. The request for proposals process will invite prospective respondents to participate and will indicate the service requirements and the factors used for evaluating the proposals. Such factors shall include cost, the vendor's qualifications and any additional factor or factors deemed relevant by the procuring entity for the procurement of the service. Cost shall not be the sole criterion for evaluation. The contract for such services will be awarded to the best evaluated, responsive respondent.

(2) This subsection (e) shall only apply in counties having a population of not less than four hundred seventy thousand (470,000) nor more than four hundred eighty thousand (480,000), according to the 1980 federal census or any subsequent federal census.

Credits

2013 Pub.Acts, c. 403, § 70, eff. July 1, 2013.

HISTORICAL AND STATUTORY NOTES

2013 Pub.Acts, c. 403, § 83, provides:

“SECTION 83. This act shall take effect upon July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on and after such date.”

NOTES OF DECISIONS

Construction and application 1

1 Construction and application

A local governmental entity in Tennessee may only purchase liability insurance without the necessity of any legally required public bidding if the liability insurance is purchased through a plan authorized and approved by any organization of governmental entities representing cities and counties. Op.Atty.Gen. No. 13-65, Aug. 23, 2013, 2013 WL 4713482.

T. C. A. § 12-3-1209, TN ST § 12-3-1209

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T. C. A. § 12-3-1210

§ 12-3-1210. Tennessee board of regents and the University of Tennessee system

Effective: July 1, 2013
Currentness

Notwithstanding any law to the contrary, the Tennessee board of regents system and the University of Tennessee system are authorized to:

(1) Develop procedures to apply the policy of § 12-3-701 to their constituent institutions, including procedures describing the circumstances in which limitations below two (2) times the value of the contract are permitted and procedures for obtaining permission from the appropriate official of the Tennessee board of regents or the University of Tennessee;

(2) Purchase software for use restricted solely to academic teaching or research upon terms that may limit the contractor's liability or warranties; provided, that in no event, shall the liability of the contractor be limited for intentional torts, criminal acts or fraudulent conduct; and

(3) Acquire software or services, materials, supplies and equipment free or at nominal cost upon terms that may limit the contractor's liability or warranties; provided, that in no event, shall the liability of the contractor be limited for intentional torts, criminal acts or fraudulent conduct.

Credits

2013 Pub.Acts, c. 403, § 70, eff. July 1, 2013.

HISTORICAL AND STATUTORY NOTES

2013 Pub.Acts, c. 403, § 83, provides:

“SECTION 83. This act shall take effect upon July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on and after such date.”

T. C. A. § 12-3-1210, TN ST § 12-3-1210

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T. C. A. § 12-3-1211

§ 12-3-1211. Contracts for computers and related devices; teachers; personal purchase and ownership

Effective: July 1, 2013
Currentness

(a) The central procurement office may establish contracts for the purchase of personal computers and related devices by public school teachers for use outside the classroom. The computers and related devices shall not be purchased with public funds, but shall be paid for and owned by teachers individually. The contracts shall be established in accordance with this chapter.

(b) The central procurement office shall promulgate rules to regulate the purchases authorized in this section. The rules shall be approved by the procurement commission.

Credits

2001 Pub.Acts, c. 207, § 1, eff. May 10, 2001; 2010 Pub.Acts, c. 1098, § 2, eff. April 1, 2012; 2011 Pub.Acts, c. 295, §§ 5, 19, eff. May 27, 2011; 2013 Pub.Acts, c. 403, § 70, eff. July 1, 2013.

Formerly § 12-3-1201; § 12-3-1202.

HISTORICAL AND STATUTORY NOTES

2013 Pub.Acts, c. 403, § 83, provides:

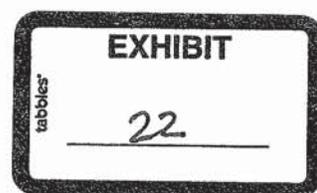
“SECTION 83. This act shall take effect upon July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on and after such date.”

T. C. A. § 12-3-1211, TN ST § 12-3-1211

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September 2014 PIA letter



FY 2013 E-rate Application Information Request

Date: 9/2/2014

Larry Stein
Sweetwater City School District
Phone: 423-337-7051
Fax: 423-337-6773
E-mail: larry.stein@scstn.net

Application Number(s): 917099 & 919406

Response Due Date: 9/17/2014

Dear Applicant,

1. When and how did you determine the total point value for each of the subset requirements listed in your RFP? Why was this information not disclosed in your RFP?
2. The RFP and evaluation worksheet indicates maximum points of 25 would be awarded to the lowest bidder for eligible service and a maximum of 5 points for lowest cost of ineligible services for sum of 30 points related to Price. AT&T received the full 25 points for having the lowest price for eligible service, whereas you awarded 16.2 points for ENA. ENA was awarded the maximum 5 points for not listing any ineligible costs in their quote while AT&T was given a zero because it listed \$82K in ineligible costs. Although the overall cost savings to Sweetwater, should they select AT&T would be approximately \$3 million, there was only a 3.8 total point differential between AT&T and ENA in the pricing category. It appears that AT&T was significantly penalized for including minimal cost for ineligibles in comparison to the overall cost savings. Please explain and provide supporting documentation.
3. FCC rules and their Ysleta Order requires that applicants select cost-effective offerings. USAC's review of the service indicates that the bids from AT&T and ENA are both offering the services. The AT&T bid, at \$6.1M, was significantly less expensive than the ENA bid at \$9.3M. Therefore, In light of this significant cost difference please explain how you determined that the ENA bid ENA met the FCC's requirement to be cost-effectiveness. Your response should include an explanation of the factors and special circumstances that drove you to this more expensive solution.
4. Free Services Question-
The bid from ENA states "Based on recent FCC action, ENA is offering a bundled handset with each applicable purchase of VOIP service for a thirty-six month time frame (consistent with this RFP term) at no additional cost."

Response due: 9/17/2014

1. Please explain to what extent the bundled headsets were part of your evaluation process in determining your selection of ENA. Provide any supporting documentation.
2. Please provide vendor documentation which supports that this offer was available to some segment of the public or class of users as was outlined in the FCC Order 6th Report and Order clarifications. Please keep the following tips in mind when submitting such documentation:
 - i. If you do not have this documentation, contact your service provider for assistance to secure the documents.
 - ii. Such documentation that indicates compliance with FCC rules may include, but is not limited to, screen shots of the vendor's website or vendor promotional material.

We are providing you with an opportunity to submit further documentation and/or any special circumstances that we should consider during the review.

Lastly, please complete, sign, and date the attached certification and return with your response.

Response Reminders

Please fax or email the requested information to my attention. If you have any questions or you do not understand what we are requesting, please feel free to contact me.

It is important that we receive all of the information requested **within 15 calendar days** so we can complete our review. **Failure to respond may result in a reduction, denial, or rescinding of funding.** If you need additional time to prepare your response, please let me know as soon as possible.

Thank you for your cooperation and continued support of the Universal Service Program.

Fabio Nieto
Associate Manager, Special Compliance
30 Lanidex Plaza West | Parsippany, NJ 07054
T: 973.581.5045 | F: 973.599.6552
Fabio.Nieto@sl.universalservice.org

Special Compliance Information Request Certification

Complete and return the enclosed Certification to the Schools and Libraries Division (SLD). If the applicant's authorized representative completed the information in this document, please *attach a copy of the letter of agency or other agreement* between the applicant and consultant authorizing them to act on the school or library's behalf.

Please note that if an authorized representative signs this form, an authorized school or library official is also required to sign in the space provided below.

Note: If a consultant was used, a school official MUST sign below.

CERTIFICATION	
<p>I certify that I am authorized to make the representations set forth in the responses to the inquiry on behalf of Sweetwater City School District the entity represented on and responding to the inquiry, and am the most knowledgeable person with regard to the information set forth therein. I certify that the responses and supporting documentation to the inquiry are true and correct to the best of my knowledge, information and belief. I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I acknowledge that false statements can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.</p> <p>I declare under penalty of perjury that the foregoing is true and correct. Executed on _____ day of _____, 2014 at _____ [city], _____ [state].</p>	
Signature	Date
Print Name	Title
Employer	
Telephone Number	Fax Number
Email Address	
Address	
Authorized School or Library Official's Signature and Title	Date
Print Name of Authorized School or Library Official Named Above	