

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
425 Fifth Avenue North
NASHVILLE, TENNESSEE 37243-0497

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Opinion No. 04-121

Local government use of federal general service administration contracts; Tenn. Code Ann. § 12-3-1001(c)

QUESTION

May local governments legally make purchases through federal general service administration (“GSA”) contracts pursuant to Tenn. Code Ann. § 12-3-1001(c)?

OPINION

Yes, but only to the extent permitted by federal law or regulations.

ANALYSIS

Your question seeks to determine whether local governments may purchase through federal GSA contracts pursuant to Tenn. Code Ann. § 12-3-1001(c). Tenn. Code Ann. § 12-3-1001(c) states as follows:

(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 department or 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 service administration and the vendor affected.

One of the most basic principles of statutory construction requires the interpreter to ascertain and give effect to the intention and purpose of the legislature. That intent and purpose is to be ascertained primarily from the natural and ordinary meaning of the language used, eschewing any forced or subtle constructions that might artificially limit or extend the meaning of the language.¹ Where the statutory language is plain, clear, and unambiguous, one must avoid any interpretation or

¹See, e.g., *Tuggle v. Allright Parking Systems, Inc.*, 922 S.W.2d 105, 107 (Tenn. 1996); *National Gas Distributors, Inc. v. State*, 804 S.W.2d 66, 67 (Tenn. 1991); *Worrall v. Kroger Co.*, 545 S.W.2d 736, 738 (Tenn. 1977).

construction that departs from the words of the statute.²

Under a plain reading of Tenn. Code Ann. § 12-3-1001(c), local governments may purchase goods or services, other than motor vehicles, through federal GSA contracts. The statute does clarify, however, that such purchases may be made “to the extent permitted by federal law or regulations.”³ Additionally, even if permitted under federal law and regulations, a local government may not purchase through a GSA contract if the price of the good or service is cheaper under a contract between the Tennessee Department of General Services and a vendor.

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

EUGENIE B. WHITESELL
Senior Counsel

²*Tuggle v. Allright Parking Systems, Inc.*, 922 S.W.2d at 107.

³The issue whether federal law or regulation allows local governments to use GSA contracts is beyond the scope of this opinion. It appears, however, that federal law permits only limited purchases through GSA contracts. *See e.g.*, 40 U.S.C.A. § 502(c) (stating that GSA Administrator may provide for use by state or local governments of GSA/federal supply schedules for automated data processing equipment, software, supplies, support equipment and services); 10 U.S.C.A. § 381 (state and local governments authorized to purchase law enforcement equipment through Federal procurement channels, including GSA, provided that the equipment is used in the performance of “counter-drug activities”).

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Requested by:

Senator Bill Ketron
305 War Memorial Building
Nashville, TN 37243-0201