

STATE OF TENNESSEE
OFFICE OF THE
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July 29, 2005

Opinion No. 05-120

Purchasing Requirements Under Municipal Charters and Private Acts

QUESTION

Does the Clarksville City Charter Art. VI § 3 satisfy the provisions of Tenn. Code Ann. § 6-56-302(1) sufficiently to make the remaining provisions of that part¹ inapplicable to the City of Clarksville (City) when the only requirement contained in the Clarksville Charter regarding competitive bidding is that an ordinance may be passed to set purchasing requirements?

OPINION

Yes, the City is exempt from the Municipal Purchasing Law of 1983 under Tenn. Code Ann. § 6-56-302(1).

ANALYSIS

The Municipal Purchasing Law of 1983 reads, in pertinent part as follows:

This part shall apply to all purchases by authorized officials in all municipalities using or encumbering municipal funds, except as follows:

(1) This part shall not apply to purchases by authorized officials in municipalities having charter provisions or private act requirements governing² competitive bidding and purchasing.

¹ See The Municipal Purchasing Law of 1983, Tenn. Code Ann. §§ 6-56-301, *et seq.*

²The Act does not define the word “governing.” In interpreting statutes and determining legislative intent, courts will normally apply the plain meaning of a term or phrase. *Eastman Chem. Co. v. Johnson*, 151 S.W.3d 503, 507 (Tenn. 2004). *Black’s Law Dictionary* defines “govern” to mean “to direct and control the actions or conduct of, either by established laws or by arbitrary will; to direct and control, rule, or regulate by authority. To be a rule, precedent, law or deciding principle for.” *Black’s Law Dictionary* (6th ed. 1990).

Tenn. Code Ann. § 6-56-302(1). The Act does not have any additional requirements or criteria. It does not, for example, say that the charter provision or private act must mirror the Act or set specific levels at which competitive bidding would be required.

The Clarksville City Charter, 1957 Priv. Act ch. 292, as amended, says the following about competitive bidding and purchasing:

Section 3 [Article VI] SEALED BIDS FOR PURCHASES. [T]he city council shall by ordinance establish such bidding and purchasing regulations or procedures, or both, as it determines to be necessary.

1993 Priv. Acts, ch. 49. Under this provision, the City has the authority to set the dollar amount over which municipal purchases must be competitively bid. The City must establish this amount by ordinance and has. Clarksville Ordinance § 6-102 is specific and covers, among other things, requirements of competitive bidding by dollar range, sets records retention requirements and details instances in which exemption from the competitive procurement process is permitted (copy attached).

The private act requires the city council to establish bidding and purchasing regulations and procedures by ordinance. The City of Clarksville has complied. We believe, therefore, that the City is exempt under Tenn. Code Ann. § 6-56-302(1).

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Requested by:

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