



State Auditor  
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# OFFICE OF THE STATE AUDITOR

## *E-Update*

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January 13, 2017

1. Meeting: Volunteer Fire Relief Association Working Group
2. Revised: Statement of Position
3. Avoiding Pitfalls: Contracts and Conflicts of Interest

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### **1. Meeting: Volunteer Fire Relief Association Working Group**

The Working Group will meet on Tuesday, January 17 from 11:00 a.m. to 1:00 p.m. at our 525 Park Street office in Saint Paul. Meetings are open to the public. Meeting agenda and materials are available on the OSA website at:

<http://www.auditor.state.mn.us/default.aspx?page=reliefworkinggroup>.

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### **2. Revised: Statement of Position**

The Statement of Position entitled County Commissioner Per Diem Payments has been revised for clarity. To view the complete Statement, go to:

<http://www.auditor.state.mn.us/default.aspx?page=20110607.010>.

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### **3. Avoiding Pitfalls: Contracts and Conflicts of Interest**

Generally, a public officer authorized to make a sale, lease, or contract in an official capacity must not have a personal financial interest in that sale, lease, or contract, or personally benefit financially from it. See [Minn. Stat. § 471.87](#). A “public officer” includes at least:

- Elected officers;
- Town supervisors and town board members;
- County officials, county deputies, county clerks, and employees of such officials; and
- School board members.

For the complete scope of who is included in this prohibition, consult with your legal counsel.

Under an exception to the general rule, a governing body, by unanimous vote, may contract for goods or services with an interested public officer if the contract is one for which competitive bids are not required by law. [Minn. Stat. § 471.88, subs. 1 and 5](#).

To use this broad exception, however, the governing body and the interested officer must follow the procedures set forth in [Minn. Stat. § 471.89](#). First, the governing body must authorize the contract in advance of its performance by adopting a resolution setting out the essential facts and determining that the contract price is as low as or lower than the price at which the commodity or services could be obtained elsewhere. Second, before claims are paid on the contract, the interested officer must file with the clerk of the governing body an affidavit providing, among other things, an itemization of the commodity or services furnished, the interest of the officer in the contract, and a statement that to the best of the officer's knowledge and belief the contract price is as low as, or lower than, the price at which the commodity or services could be obtained from other sources. [Minn. Stat. § 471.89](#) also describes the steps that must be taken in an emergency, when the contract cannot be authorized in advance.

Sample resolutions and affidavits may be found on (1) the League of Minnesota Cities' website at <http://www.lmc.org/media/document/1/officialconflictinterest.pdf>; and (2) the Minnesota Association of Townships' website at [http://www.mntownships.org/vertical/sites/%7BD45B3299-B0BE-4D08-8A42-B7053B4AE74F%7D/uploads/2016 - Chapter 9\(1\).pdf](http://www.mntownships.org/vertical/sites/%7BD45B3299-B0BE-4D08-8A42-B7053B4AE74F%7D/uploads/2016%20-%20Chapter%209(1).pdf).

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