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County Financial Management System of 1981-Conflict of Interest

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

The University of Tennessee
County Technical Assistance Service
226 Capitol Blvd. Suite 400
Nashville, TN. 37219
615-532-3555 phone
615-532-3699 fax
ctas@tennessee.edu
www.ctas.tennessee.edu

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Reference Number: CTAS-628

The County Financial Management System of 1981 contains the most stringent conflict of interest provisions. *Tenn. Code Ann.* § 5-21-121 provides:

(a) The director, purchasing agent, members of the committee, members of the county legislative body, or other officials, employees, or members of the board of education or highway commission shall not be financially interested or have any personal beneficial interest, either directly or indirectly, in the purchase of any supplies, materials, equipment or contractual services for the county.

(b) No firm, corporation, partnership, association or individual furnishing any such supplies, materials, equipment or contractual services, shall give or offer, nor shall the director or purchasing agent or any assistant or employee accept or receive directly or indirectly from any person, firm, corporation, partnership or association to whom any contract may be awarded, by rebate, gift or otherwise, any money or other things of value whatsoever, or any promise, obligation or contract for future reward or compensation.

In addition to county officials and officers, this statute includes county employees within its prohibition. Further, the statute makes no distinction as to whether the interested person has any authority over the purchasing decision. The broad language of this statute prohibits county officials, officers and employees from having any interest in a contract for the purchase of supplies, materials, equipment or contractual services.

The statute does not define the term "interest." However, the Attorney General, when discussing this statute, has adopted the definition of "interest" contained in T.C.A. § 12-4-101. See Op. Tenn. Atty. Gen. 00-181 (November 22, 2000) (opining that the sale of items by the spouse of an employee of the school board to that same school system would give rise to a prohibited conflict of interest under T.C.A. § 5-21-121). Nor does the statute define the term, "personal beneficial interest." In *State v. Whitehead*, 43 S.W.3d 921, 929 (Tenn.Crim. App. 2000) the Court of Criminal Appeals found that a similar statute prohibited a county official "from having any *personally favorable interest* in a county contract, regardless of whether that interest is direct or circuitous."

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