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Conflict of Interest Laws

By Rebecca Otto, State Auditor

Town supervisors are sometimes more than just supervisors on their town boards. There are supervisors who provide services for their towns, such as tree or snow removal, and are paid for their work. Because of their official capacity as town supervisors, these elected officials need to be mindful of Minnesota's conflict of interest laws to ensure the situation is handled properly and to avoid the appearance of impropriety.

The Law

In general, Minnesota's conflict of interest laws prohibit a public officer authorized to make a sale, lease, or contract in an official capacity from having a personal financial interest in that sale, lease, or contract, or personally benefitting financially from it. There are a number of exceptions to this rule. For example, a town board, 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.

To use this exception, however, the town board and the interested officer must follow certain procedures. First, the town board must authorize the contract in advance of its performance by officially 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. The contract should identify the significant terms of the agreement for both parties, including the services to be performed and conditions for payment.

Second, before claims are paid on the contract, the interested officer must file with the town clerk an affidavit stating:

- (a) The name of the officer and the office held by the officer;
- (b) An itemization of the commodity or services furnished;
- (c) The contract price;
- (d) The reasonable value;
- (e) The interest of the officer in the contract; and

(f) 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

Samples of the required resolution and affidavit are available on the Minnesota Association of Townships' website in Information Library Document No. C6000: Statutory Conflicts of Interest.

In an emergency situation, when a contract for the needed goods or services cannot be authorized in advance, a town supervisor must not be paid for providing such services or goods until a resolution is passed that describes the emergency, and records the town board's determination that the contract price is as low as or lower than the price at which the goods or services could be obtained elsewhere.

Conclusion

A town supervisor may work for a town when competitive bidding is not required and the proper resolutions and affidavits are used. However, if the proper steps are not followed, the contract with the supervisor is void. In addition, possible penalties for a violation of the conflict of interest law include prosecution for a misdemeanor or gross misdemeanor, and/or removal from office. By using the proper procedures, residents of the town are assured that contracting with a town supervisor is both transparent and in the town's best interests.