



## OFFICE OF THE STATE AUDITOR

# *E-Update*

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State Auditor  
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### **1. 2006 TIF Reporting Forms Due August 1**

The 2006 TIF Reporting Forms are due in the Office of the State Auditor by **August 1, 2007**. The penalty for failure to file the required reports was changed by the Legislature in 2006. For those TIF authorities that have not filed the required TIF reports with the Office of the State Auditor by **October 1, 2007**, the law requires our office notify the applicable county auditor that 100% of the tax increment from a TIF district for which a report has not been filed be withheld until the completed reports are filed with our office.

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### **2. 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:

1. elected officers;
2. town supervisors and town board members;
3. county officials, county deputies, county clerks, and employees of such officials; and
4. 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 the League of Minnesota Cities' website at:

<http://www.lmnc.org/pdfs/LMCResearchMemos/OfficialConflictofInterest.pdf> (see pages 39-41), and on the Minnesota Association of Townships' website at:

<http://www.mntownships.org/vertical/Sites/{D45B3299-B0BE-4D08-8A42-B7053B4AE74F}/uploads/{1499DB52-6F53-4246-9062-BD408939B163}.PDF> (see pages 9-11).

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### **3. Pension Reminder – Fidelity Bonds**

State law prohibits the treasurer of a volunteer fire relief association from assuming the duties of the office until the treasurer has given the association a good and sufficient bond in an amount equal to at least ten percent of the assets of the relief association; however, the amount of the bond need not exceed \$500,000. The Pension Division has become aware of relief association treasurers that are covered by a bond that is subject to a deductible. Because the statutory requirement specifies that the bond must be in an amount equal to at least ten percent of the assets of the relief association, the bond should not be subject to a deductible. The officer and

employee coverage offered through the League of Minnesota Cities is subject to a general deductible, although the city can specify that the deductible does not apply to bond coverage. Relief association treasurers should review their fidelity bond and make changes as necessary to ensure that it is not subject to a deductible.

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