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County Financial Management System of 1981

Dear Reader:

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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 CTAS website material.

Sincerely,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

County Financial Management System of 1981 3
Department of Finance 3
Financial Management Committee 3
Director of Finance 4
Purchasing System 4
Competitive Bidding under the 1981 Law 5
Checks and Balances under the 1981 Law 5
Conflict of Interest under the 1981 Law 6
Penalties for Violation of the Act 6

County Financial Management System of 1981

Reference Number: CTAS-904

The County Financial Management System of 1981 (CFMS of 1981) is one of the two optional general law statutes of local application that a county may adopt to centralize the county's purchasing functions. The system is similar to the 1957 acts; however, under this act the county operates under one act rather than three separate acts. Furthermore, unlike the 1957 acts, the school funds are managed under this system just like all other county funds. The commissioner of education may remove the school department if records are not maintained properly and timely. T.C.A. § 5-21-124. The County Financial Management System of 1981—

- Is found in T.C.A. §§ 5-21-101 through 5-21-130.
- Provides for the consolidation of financial functions and establishment of a financial management system for all county funds operated through the county trustee.
- Creates a department of finance to administer the finances of the county and all funds handled by the trustee, in conformance with generally accepted principles of governmental accounting and rules and regulations established by the state comptroller of the treasury, state commissioner of education and state law. T.C.A. § 5-21-103.
- Allows the county to choose between **two organizational options for purchasing**.
- Must be installed within 13 months, beginning on July 1 of the fiscal year after its adoption. T.C.A. § 5-21-127.
- Requires approval by a two-thirds vote of the county legislative body or a majority of the voters in a referendum in order to be effective in any county. T.C.A. § 5-21-126.

Applicability to the Department of Education. School funds are managed centrally under this system just like all other county funds. The commissioner of education may remove the school department if records are not maintained properly and timely. T.C.A. § 5-21-124.

Department of Finance

Reference Number: CTAS-905

This act creates a department of finance to administer the finances of the county for all funds handled by the county trustee. The department of finance is under the supervision of a director of finance and subject to the policies and regulations adopted by a county financial management committee. Generally the finance department is responsible for purchasing, accounting, budgeting, payroll, cash management, and other fiscal matters of the county. T.C.A. § 5-21-103. The specific provisions setting out the functions of the finance department can be found in the following statutes:

- Budgeting—T.C.A §§ 5-21-110 through 5-21-114.
- Accounting and Fiscal Procedures— T.C.A. §§ 5-21-115 and 5-21-116.
- Payroll Account—T.C.A. § 5-21-117.
- Purchasing—T.C.A. §§ 5-21-118 through 5-21-120.
- Conflict of Interest/Improper Gifts—T.C.A. § 5-21-121.
- Compensation of Committee Members—T.C.A. § 5-21-122.

Financial Management Committee

Reference Number: CTAS-906

Under this system there is a county financial management committee. The committee consists of the county mayor, supervisor of highways, director of schools, and four (4) members elected by the county legislative body. The four elected members need not be members of the county legislative body. T.C.A. § 5-21-104 (b). The financial management committee establishes and approves policies, procedures, and regulations implementing a sound and efficient financial system for administering the funds of the county. T.C.A. § 5-21-104 (e). The county legislative body, by resolution, either may create the following committees or it may authorize the financial management committee to assume functions of any or all of the following special committees: (1) budget committee, (2) investment committee, and (3) purchasing committee. T.C.A. §§ 5-21-104 (e) and 5-21-105.

Director of Finance

Reference Number: CTAS-907

The finance director oversees the operation of the department of finance and installs and maintains a purchasing, payroll, budgeting, accounting, and cash management system for the county. T.C.A. § 5-21-107.

Appointment/Dismissal—The finance director is appointed by the financial management committee (no approval required), and is considered for all purposes an employee of the county. The financial management committee may dismiss the director, subject to the approval of the county legislative body. T.C.A. § 5-21-106.

Qualifications—The finance director must have a minimum of a bachelor of science degree, with a minimum of 18 quarter hours in accounting; however, the committee may select a person who does not have the foregoing qualifications if the person has at least two years of acceptable experience in a related position or an equivalent number of related courses. T.C.A. 5-21-106.

Surety Bond—The finance director must have a blanket bond in the amount not less than \$100,000 for the faithful performance of the director's duties and of the employees of the department. The premium for this bond is paid from funds appropriated to the finance department for this purpose. T.C.A. § 5-21-109.

Compensation of Director of Finance—The financial management committee establishes the compensation of the director of finance with the approval of the county legislative body T.C.A. § 5-21-106(c).

Personnel—The finance director is authorized to hire personnel for the finance department within the amounts provided in the budget. Written job requirements for department personnel are to be recommended by the director and approved by the financial management committee. T.C.A. § 5-21-107(d). A person employed by the finance department is to be recommended by the finance director and approved by the financial management committee to serve as deputy director of finance. The person employed for this position performs the duties and responsibilities that are assigned by the finance director. T.C.A. § 5-21-108.

Duties of the Director of Finance—The following are duties of the finance director which are related to purchasing and which apparently are to be performed by the finance director regardless of whether a separate purchasing agent is appointed under the act:

- Accepting requisitions by the department, agency, or official and if such supplies are not currently on hand, transmitting the requisition to the purchasing agent. T.C.A. § 5-21-119(b)(6).
- Verifying budget appropriations before authorizing a purchase. T.C.A. § 5-21-119(b)(6).
- Approving invoices for payment that are properly authorized and do not exceed the unencumbered balance of the allotments or appropriations against which they are chargeable. T.C.A §§ 5-21-115(b)(2) and 5-21-119(b)(6).
- Paying invoices and obligations of the county as provided by the statutes. T.C.A. § 5-21-119(b)(6).
- Issuing disbursement warrants for approved obligations. T.C.A. § 5-21-115(b)(3).
- Establishing a system of preaudit of invoices, purchase orders, or other documents, including a comparison with any encumbrance document previously posted or filed authorizing the obligation. T.C.A § 5-21-115(b)(2).

Purchasing System

Reference Number: CTAS-908

All county purchasing is handled centrally under the County Financial Management System of 1981. The specific provisions regarding purchasing under the CFMS of 1981 are found in T.C.A. §§ 5-21-118 through 5-21-120. The financial management committee, with the assistance of the purchasing agent, is to establish a purchasing system for the county. The system must provide among other procedures the following:

1. The purchasing agent shall review all contracts or purchases for biddable supplies, materials, equipment, and other needs of the county;
2. No purchase or contract can be made when the bid prices exceed the current market price

- for the same merchandise or service;
- 3. Purchases and contracts must be awarded based on the lowest and best bid; and
- 4. Specifications development shall be made by the department, agency, or official to receive the merchandise, construction or service. T.C.A. § 5-21-119.

Purchasing Agent. The finance director or a deputy appointed by him or her serves as the county purchasing agent unless the county legislative body establishes a separate purchasing department and appoints a purchasing agent. If the county legislative body approves a separate purchasing department and a purchasing agent is hired, all duties and responsibilities relative to purchasing are removed from the finance director. T.C.A. § 5-21-118.

Duties of the Finance Director/Purchasing Agent. The duties related to county purchasing are performed by the finance director or his or her designee (unless a separate purchasing department is created and a purchasing agent is appointed). The purchasing agent's duties are as follows:

- Contracting, purchasing, or obligating the county for supplies, material, equipment, contractual services, rental of machinery, buildings, or equipment. T.C.A. § 5-21-118(b)(1).
- Transferring materials, supplies, and equipment between county offices or agencies. T.C.A. § 5-21-118(b)(1).
- Supervising the storeroom or warehouse. T.C.A. § 5-21-118(b)(2).
- Contracting for building construction and purchase of land. T.C.A. § 5-21-118(b)(3).
- Public sale of all surplus materials, equipment, buildings, and land. T.C.A. § 5-21-118(b)(4).
- Reviewing all contracts and purchases for biddable supplies, materials and equipment, and other needs of the county. T.C.A. § 5-21-119(b)(1).
- Reviewing specifications and changes to allow for maximum competition. T.C.A. § 5-21-119(b)(5).
- Preparing formal and informal bids. T.C.A. § 5-21-119(b)(5).
- Collecting sealed bids and opening bids publicly. T.C.A. § 5-21-119(b)(5).
- Evaluating bids (and submitting bids for approval by the financial management committee if required by the committee). T.C.A. § 5-21-119(b)(5).

Competitive Bidding under the 1981 Law

Reference Number: CTAS-909

The rules concerning bidding under the County Financial Management System of 1981 are set out in T.C.A. § 5-21-120, and do not provide the level of detail as is found in the County Purchasing Law of 1957. The details for the competitive bidding process under this act must be set out in the policies and procedures established by the financial management committee with the assistance of the purchasing agent.

Bid Thresholds—The financial management committee sets the dollar limitation over which formal competitive bids are required. This amount is not to exceed the amount authorized under state law for the highway and education departments or other such amounts as established by law. T.C.A. § 5-21-120(a).

Biddable Items—"Biddable items" means any need of the county where more than one bidder or contractor in the county's trade area can provide the material or service. Specifications cannot be written to exclude vendors and contractors or limit the bidding to a specific bidder or contractor. T.C.A. § 5-21-120(b).

Specifications Development—The development of specifications is to be made by the department, agency, or official to receive the merchandise, construction, or service. The specifications must be reviewed by the purchasing agent and changed as necessary to allow for maximum competition of prospective bidder. T.C.A. § 5-21-119(b)(4) and (5).

Sale of Surplus Property—Under this act, the finance director/purchasing agent is responsible for the public sale of all surplus materials, equipment, buildings, and land. T.C.A. § 5-21-118(b)(4).

Checks and Balances under the 1981 Law

Reference Number: CTAS-910

The County Financial Management System of 1981 contains the following provisions which are designed to ensure the integrity of the purchasing system:

- The finance director must verify budget appropriations before authorizing a purchase. T.C.A § 5-21-119(b)(6)(B).
- The finance director must establish a system of preaudit of invoices, purchase orders, or other documents, including a comparison with any encumbrance document previously posted or filed authorizing the obligation. T.C.A § 5-21-115(b)(2).
- The finance director approves for payment only those invoices that are properly authorized and do not exceed the unencumbered balance of the allotments or appropriations against which they are chargeable. T.C.A § 5-21-115(b)(2).
- Before any obligation against the county can be paid or any disbursement warrant or voucher issued, a detailed invoice, receivable copy of the purchase order, or other document indicating receipt of the merchandise or service is to be approved by the head of the office, department, or agency for which the obligation was made and be filed with the finance director. T.C.A § 5-21-115(b)(1).
- The county is liable for payment of all purchases and supplies, materials, equipment and contractual service made in accordance with the provisions of the CFMS of 1981, but is not liable for payment of such purchases made contrary to it unless such item is specifically approved by the financial management committee. T.C.A § 5-21-120(c).
- The director of finance is required to make a report showing the condition of the budget at the end of each month and present the report to the county legislative body. Each department head, elected official, and board member is furnished copies of monthly reports for their respective departments as soon as they are available. T.C.A § 5-21-114(a).

Conflict of Interest under the 1981 Law

Reference Number: CTAS-911

In 2021, the Legislature enacted Public Chapter 472, effective May 18, 2021. The County Financial Management System of 1981 now contains a conflict of interest provision much like Tenn. Code Ann. § 12-4-101, the general conflict of interest statute.

Tenn. Code Ann. § 5-21-121 now provides in part:

(a) The director, purchasing agent, members of the committee, members of the county legislative body, other officials of the county, members of the board of education, members of the highway commission, and employees of the finance department and purchasing department shall not have a direct interest in the purchase of 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.

"Direct interest" means a contract with a person personally or with a business in which the person is the proprietor, a partner, or the person having the controlling interest in the business. "Controlling interest" means sufficient ownership in a business or company to control policy and management, including the ownership or control of the largest number of outstanding shares owned by any single individual in a business or company.

In addition to direct interests, those individuals named in the statute can not have an indirect interest in the purchase of supplies, materials, equipment, or contractual services for the county unless the person publicly acknowledges the interest. A person who is not a member of a governing body and who is required to publicly acknowledge an indirect interest must do so by reporting the interest to the office of the county mayor to be compiled into a list that must be maintained as a public record. As used in this statute, "indirect interest" means a contract in which a person is interested, but not directly so, and includes contracts where the person is directly interested and is the sole supplier of goods or services in the county.

Penalties for Violation of the Act

Reference Number: CTAS-912

Any official or employee of the county who fails or refuses to perform the duties required by the County Financial Management System of 1981 or who otherwise fails to conform to the requirements of the act commits a Class C misdemeanor and is subject to removal from office or position. T.C.A. § 5-21-125.

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