



County Officials Orientation Program 2022

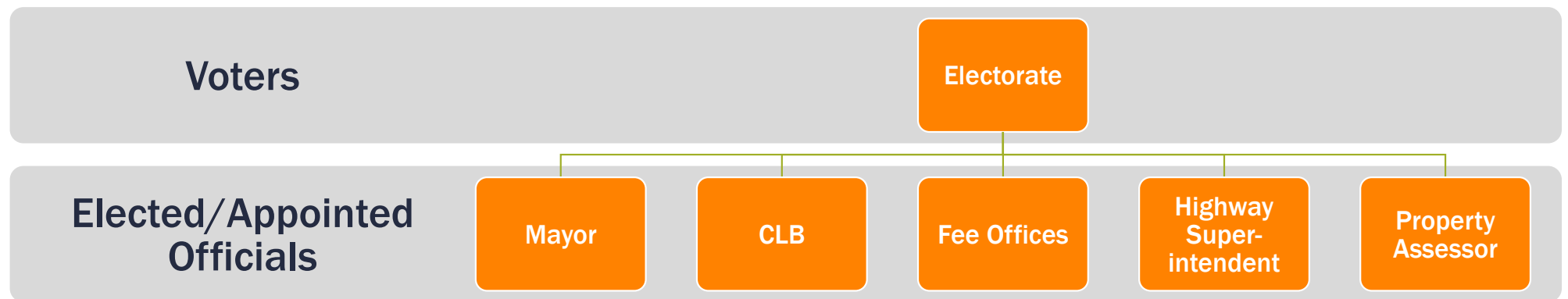
Hosted by University of Tennessee County Technical Assistance Service
in coordination with the Tennessee County Services Association and the
County Officials Association of Tennessee

REGISTER OF DEEDS

Duties and Responsibilities



COUNTY GOVERNMENT STRUCTURE



REGISTER OF DEEDS DUTIES

Primary function

Record various documents as required by law

Judgments
Military discharges
Deeds of trust
Mortgages
Deeds
Uniform
Plats
Liens
Code
Commercial
Leases
Wills
Court orders
Powers of attorney
Contracts



REGISTER OF DEEDS DUTIES



Public notice of property ownership, liens, contracts, etc., that affect the public interest

Register's office is in the county seat

Records and papers must remain in the office at all times



EXAMPLES OF DOCUMENTS

Affidavits of affixation
Affidavits of scrivener's error
Assignments
Deeds of trusts
Installment deeds
Plats
Warranty deeds and Quitclaim deeds
Wills
UCCs



REQUIREMENTS FOR ACCEPTANCE

Documents must:

- ☐ Be legible.
- ☐ Be authenticated.
- ☐ Have name and address of owner and taxpayer (deeds).
- ☐ Contain derivation clause (except releases of liens).
- ☐ Have name and address of preparer.
- ☐ Contain parcel identification number (deeds).
- ☐ Be accompanied by appropriate fees and transfer or mortgage tax (if due).



UCCS

UCCs do not have to be acknowledged in order to be filed in the register's office.

"Mortgage Tax", if due, must be paid before the register accepts the instrument.

Register's fee must also be paid before the UCC is accepted.

T.C.A. § 47-9-516 lists the reasons a register may refuse to accept and file or record a UCC record.

Filing a UCC record in the wrong office is NOT a reason to reject it.

Lack of a signature is NOT a reason to reject a UCC record.

Generally, if the register receives sufficient fees and taxes due and can properly index the UCC record, it is advisable to accept the record.



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PLATS

- RPC approval required. T.C.A. § 13-3-402.
- Seal of registered land surveyor who prepared the document required. T.C.A. § 66-24-116.
- All words and figures must be legible and provide sufficient clarity for reduction and/or reproduction. T.C.A. § 66-24-116.
- Each RPC approved plat must contain the most recent recorded deed book number and page number for each deed constituting part of the property being platted. T.C.A. § 13-3-402.
- Amendments must also be approved by the planning commission. Exception: An easement or survey attached to an easement is not considered to be a change to the plat when the grantee is the state, a county, municipality, metropolitan government, or any entity of such government.
- Plats and plans related to condominiums are treated differently under the Tennessee Condominium Act of 2008, codified in Title 66, chapter 27, parts 2-5.



PLATS

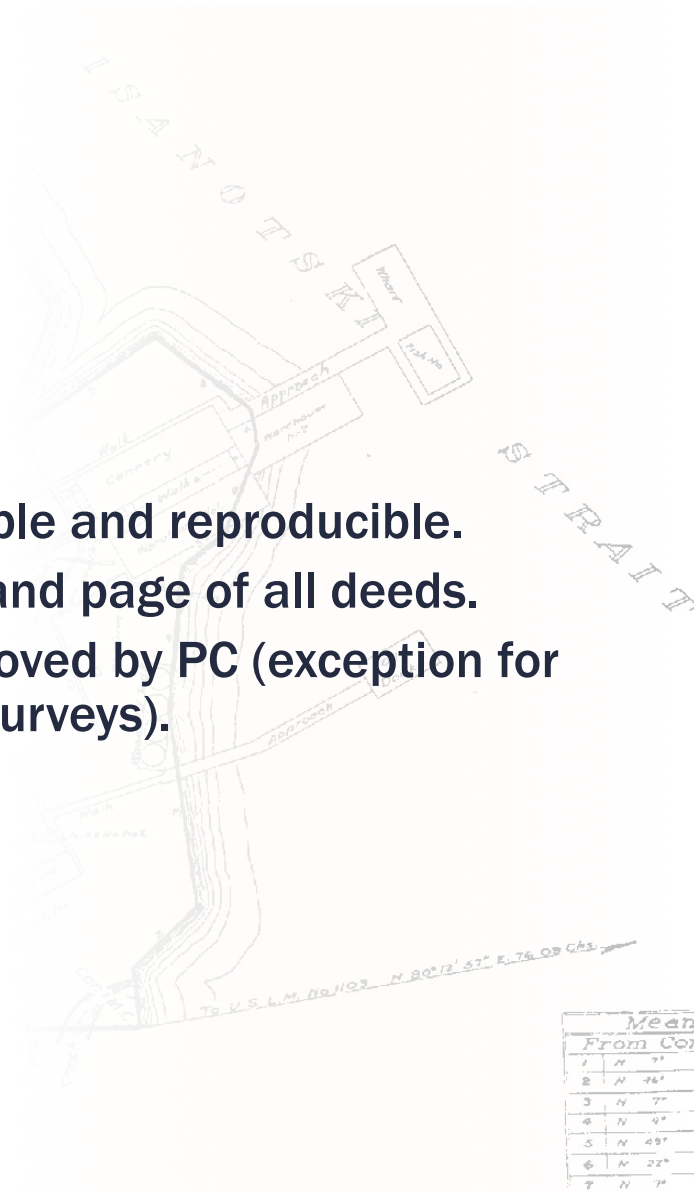
Must have RPC approval.

Must have surveyor seal.

Words/figures must be legible and reproducible.

RPC plats must have book and page of all deeds.

Amendments must be approved by PC (exception for governmental easements/surveys).



OF
U. S. SURVEY NO. 1558.
OF THE

S.A. Homestead Claim

BY
R.E. HARRIS & COMPANY

UNDER ACT OF CONGRESS APPROVED MAY 14, 1898
AMENDED MAR 2, 1908

WITNESSES
On Isanotski Strait, on the East Shore
of Unimak Island.

Latitude 54° 51' 19" N.
Longitude 163° 29' 36" W.
TERRITORY OF ALASKA

SCALE OF
DECLINATION 2.00 CHS. TO INCH
AREA 17.40 EAST
20.24 ACRES
AS

SURVEYED BY
CHARLES S. HUBBELL.
U. S. DEPUTY SURVEYOR

June 1-6 1898

CERTIFICATE OF APPROVAL

Public Survey Office,
Juneau, Alaska, July 10 1898

The original field notes of the survey of the
S.A. Homestead Claim of
R.E. Harris & Company
from which this plat has been made, have been examined
and approved, and are on file in this office, and I
hereby certify that they furnish such an accurate
description of said claim as will, if incorporated into a
patent, serve fully to identify the premises, and that such
reference is made therein to natural objects and permanent
monuments as will perpetuate and fix the locus thereof.

And I further certify that this is a correct plot of said
claim, made in conformity with said original field notes of
the survey thereof, and the same is hereby approved.

Charles S. Hubbell
Deputy Surveyor in Charge

DEPARTMENT OF THE INTERIOR

FILING AND INDEXING

Register may keep separate books:

Almost all instruments except those affecting land title, bankruptcies, and the UCC may be recorded with the deeds of trust.

Liens must kept in separate book.

T.C.A. § 8-13-108 requires a separate book known as record of bankruptcies, where certified copies of petitions in bankruptcy, decrees of adjudication of bankruptcy, and other orders of the bankruptcy court are recorded.

Corporate charters and related documents often have separate books and indexes.



FILING AND INDEXING



Plats and surveys are usually maintained as separate records.

- Plat = requires approval of planning commission
- Survey = does not require approval of planning commission

Statements of claim, declarations of interest and court decrees relating to mineral interests must be recorded in a book known as the Dormant Mineral Interest Record.

Registers also still may keep a miscellaneous book for entry of contracts, leases, powers of attorney and other instruments which do not fit into the other categories.

If a separate book is maintained for these records, then a separate direct and reverse index should also be kept.



FILING AND INDEXING

Registers may instead have continuous recording system:

Counties with county public records commissions are authorized to maintain one continuous recording of any and all instruments in one general series of books or film known as the “official record book.”

When a system of microphotography is used to record all instruments, the references may be to “book,” “film,” “reel,” or other such designation.

Registers are authorized to combine indexes into a general direct and reverse index.



ELECTRONIC RECORDINGS

Registers determine whether, and to what extent, they will send and accept electronic records.

Registers are not required to accept electronic transactions.

Under Uniform Real Property Electronic Recording Act, any original document requirement may be satisfied by an electronic document and any original signature requirement may be met by an electronic signature.

Any notary or acknowledgment requirement may be met if the electronic signature or digitized signature of the person notarizing or acknowledging the document is attached or logically associated with the document.

Also, a physical or electronic image of the notary stamp or seal does not have to accompany the electronic signature.



ELECTRONIC RECORDINGS

Registers may take an electronic copy of a paper document (as long as the proper certification is attached).

Registers may accept fees electronically.

Registers may convert recorded paper documents into electronic format.



REMOTE NOTARY ACKNOWLEDGEMENTS

- Persons can appear before a notary either in person or by two-way audio/video communications meeting specifications in rules promulgated by the SOS. The acknowledgment form will specify that the personal appearance was by audio/video communication.
- It is not the Register's responsibility to police this in any way. This is just something you may see and you need to be aware of what it will look like.
- These acknowledgments may also be accompanied by an electronic signature, which means "an electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document." Tenn. Code Ann. § 8-16-302.



MILITARY DISCHARGE RECORDS

Confidential for 75 years from the time recorded. T.C.A. § 10-7-513.

Only certain persons listed in statute may inspect or copy the records.

Statute also lists persons authorized to request removal or redaction of record. Record request if you can accommodate request for redaction, but otherwise, do not record request and issue written response as to why



EXTENSION OF CREDIT

Register is entitled to receive required fees before accepting an instrument for registration.

- Generally, no person or entity, governmental or private, is exempt from the fee requirement.

Register is required to extend credit to the State of Tennessee.

- Register submits bill for fees due from the State to the Commissioner of Finance and Administration.

Register must also extend credit to the United States for recording fees due on notices of federal liens.

- Register submits bill at end of month to district director of Internal Revenue Service or other appropriate federal official in order to obtain payment.



CREDIT/COPY ACCOUNTS

Register must adopt a policy setting out the procedure to be followed in cases where fees accompanying an instrument for recording exceed the required amount.

The procedure must include one (1) or more of the following:

Establishing a credit, debit or a copy account for individual customers;

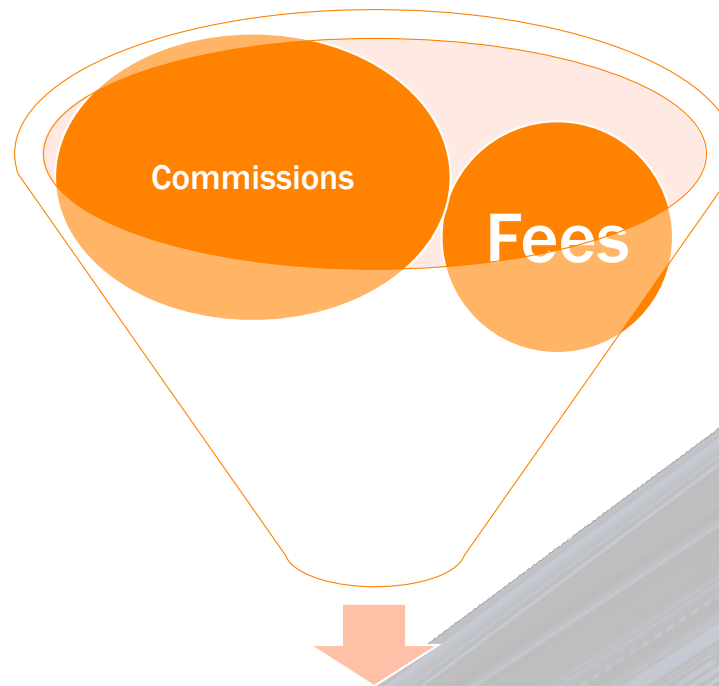
Contacting the person or entity tendering the instrument to get specific instructions regarding the excess fee;

Retaining as fees of the register's office a reasonable overage amount; or

Registering every eligible instrument and refunding excess fees, less a reasonable amount of the excess payments retained as fees of the office.



REGISTER'S REVENUES



Collections by Register of Deeds

REGISTER'S REVENUES - COMMISSIONS

Commissions = 5% of state taxes

52% of 5% commission:
Remitted to the state
general fund

48% of 5% commission:
Retained by the register &
treated as another fee of
the office



TRANSFER AND MORTGAGE TAX

The Register is responsible for the collection and transmittal to the Department of Revenue of two related privilege taxes: the state transfer tax, and the state “mortgage” tax (tax on the recording or filing of an instrument evidencing an indebtedness). Both taxes are levied by T.C.A. § 67-4-409.



REGISTER'S REVENUES – FEES



Register of Deeds can charge **\$1.00**
for issuing each receipt for state
taxes.



REGISTER'S REVENUES – FEES

Standard Fees
UCC Fees



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OFFICIAL BANK ACCOUNT

Required to maintain a bank account in name/title of Register of Deeds

Disbursements made by pre-numbered checks

Deposit all funds within 3 business days after receipt

Collateralization, if applicable

Class C misdemeanor if violated



FORM OF PAYMENT



Checks

Money orders

Credit or debit cards

CLB can waive credit/
debit card processing fees

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A low-angle, black and white photograph of a classical building's facade. The image shows the upper portion of several large, fluted columns supporting a heavy entablature. The perspective is looking up, creating a sense of grandeur and scale. The sky above is a deep, dark blue, providing a stark contrast to the light-colored stone of the building. The lighting highlights the textures of the columns and the architectural details of the pediment.

Receipts must be consecutively numbered & kept in a well-bound book or in a manner approved by the Comptroller of the Treasury



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COUNTY REPORTS



Register is required to keep a complete account of every fee collected

Must file an itemized statement monthly, under oath, with the County Mayor/Executive.

- Often called the “fee and commission” report.

Special reports may also be requested by the county legislative body.



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STATE REPORTS

Report of State Taxes Collected

Monthly reports of the state taxes collected submitted to Department of Revenue.

Reports are filed with the Department of Revenue.

Taxes collected are remitted by the 15th day of the month following the month in which funds were collected.



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LATE REPORTING

If the reports and remittances to the state are not made on time:

- Forfeiture of commission on delinquent amount
- Subject to payment of a penalty of 5% of the delinquent amount for each 30 days unpaid, up to a maximum of 25% of the delinquent amount



LATE REPORTING

When a report or return is delinquent, a minimum penalty of \$15.00 is imposed, regardless of the amount of tax due.

If the Commissioner of the Department of Revenue determines that the failure to report and pay is due to negligence, a penalty of 10% of the underpayment is imposed.



AUDITING

The records of all register of deeds must be audited on an annual basis.

Register of deeds must use the uniform chart of accounts.



QUICK BREAK



FINANCIAL ISSUES AFFECTING REGISTER OF DEEDS



FINANCIAL & ACCOUNTING DUTIES

Must keep a record of all funds received by the office

Must use a system of accounting approved by the Comptroller of the Treasury

Keep a cash journal (paper or electronic format)

- Date collected
- Name of the person or entity
- Amount collected
- Whether funds are a fee or tax



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FINANCIAL & ACCOUNTING DUTIES

Disbursements
from Register

County Trustee

State Dept. of
Revenue



FINANCIAL & ACCOUNTING DUTIES

County legislative body determines frequency of remittance

- Monthly – If under budget system & only disbursements sent to county trustee and Department of Revenue
- Quarterly - If under fee system & only remitting excess fees to the county trustee (could include items such as salary)



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BUDGETARY VS FEE SYSTEM

County commission decides whether fee offices are on Budgetary or Fee System:

Budgetary System

All fees are turned over to the general fund monthly

All expenses of the office are budgeted

Sheriff is always under budgetary system

Fee System

Only “excess” fees are turned over quarterly

Salaries and expenses are paid from fee account

Population exception for a few counties regarding fee remittance



FEE SYSTEM -AUTHORIZED RESERVE FUNDS

An amount equal to 3 times the monthly salaries of the register of deeds, deputies, & assistants



LEGAL AUTHORITY

Private Act

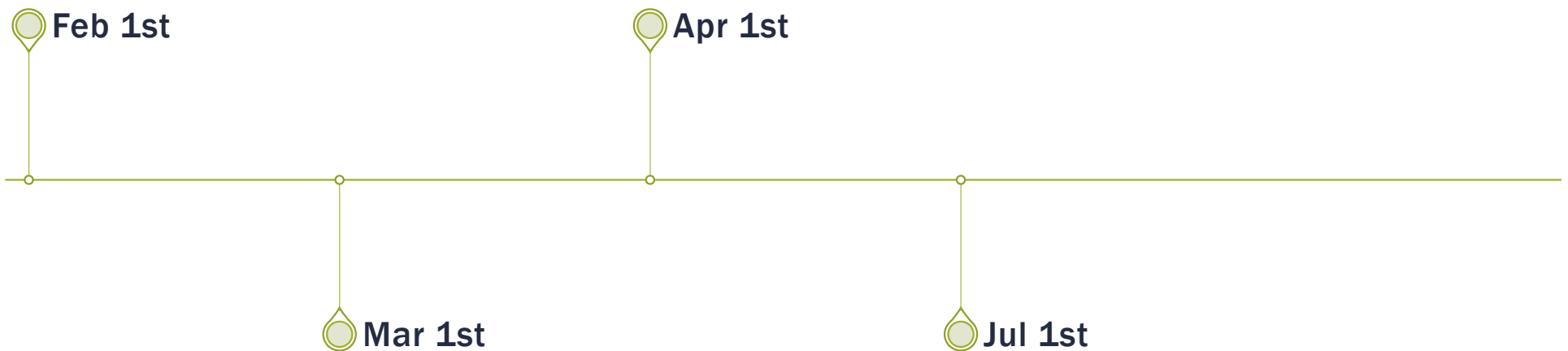
General Law

1981/1957
Acts

Charter/Metro



BUDGET TIMELINE



LETTER OF AGREEMENT/ SALARY SUIT

Agree with personnel budget?

Yes
Letter of Agreement

No
Salary Suit

Either must be done within 30
days of the budget's passing.

*Newly elected officials have 30 days from taking office (Sept 1) to sign letter of agreement or file a salary suit.

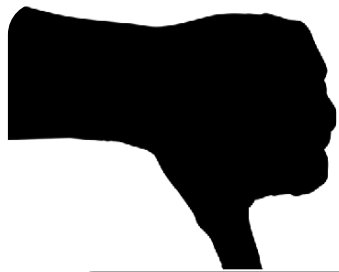


YOUR BUDGET – LETTER OF AGREEMENT

Generally, must have authority other than the county budget resolution before hiring employees.



YOUR BUDGET – SALARY SUIT



Official
disagrees
with
personnel
budget



Files salary
suit

- Mayor named Defendant
- Must answer within 5 days



Hearing



Order issued
determining
compensation



SAMPLE LETTER OF AGREEMENT

**LETTER OF AGREEMENT
COMPENSATION OF EMPLOYEES
_____ COUNTY, TENNESSEE**

Pursuant to Tennessee Code Annotated, Section 8-20-101, this agreement by and between _____ and _____
(Official/Office) (County Mayor)

is for the purpose of establishing the number of employees and the authorized salaries for the _____
(Office)

The parties named herein have agreed and do hereby enter into this agreement according to the provisions set forth herein:

A. The term of this agreement will be from _____ to _____
(Beginning Date) (Ending Date)

B. In order to ensure the efficient operation of the office, it is agreed that the official is authorized to employ the following employees at salaries not to exceed the specified amounts:

Number of Employees in Job Classification	Job Classification	Annual Salary for Each Employee in Job Classification Not to Exceed
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

C. It is further agreed that part-time help may be employed at a rate of up to \$ _____ an hour with a total cost not to exceed \$ _____ for the term of this agreement.

D. The parties agree to the following special provisions:

E. It is further agreed that in no event shall the amount of this agreement exceed \$ _____.

In witness whereof, the parties have set their signatures.

_____	_____
OFFICIAL	DATE
_____	_____
COUNTY MAYOR	DATE



BUDGET AMENDMENTS

Document
request

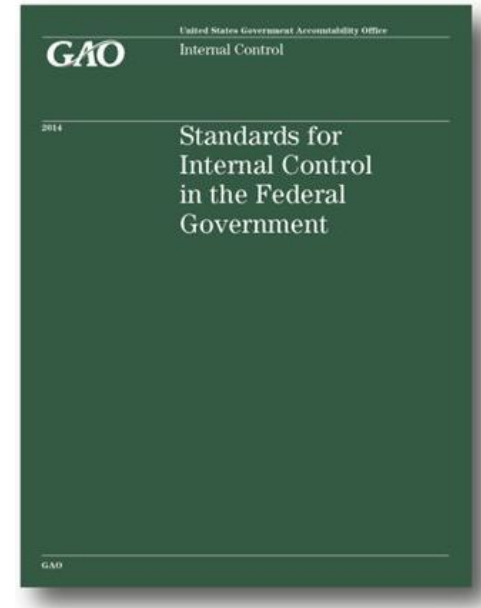
Present
request

CLB vote



WHAT ARE INTERNAL CONTROLS?

A process that provides reasonable assurance the objectives of an entity will be achieved.



T.C.A § 9-18-102(A)

Comply

Obligations and costs are in compliance with applicable law

Safeguard

Funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation;

Record

Revenues and expenditures are properly recorded and accounted for to permit the preparation of accurate and reliable financial and statistical reports and to maintain accountability over the assets.



Law went into effect June 30, 2016!

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WHY DO COUNTY GOVERNMENTS NEED INTERNAL CONTROLS?

1

Reduce fraud
& waste

2

Ensure legal,
regulatory, &
policy
compliance

3

Protect
county assets

4

Promote
transparency
&
accountability



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WHO IS RESPONSIBLE FOR ESTABLISHING INTERNAL CONTROLS?

County Management (elected/appointed officials) are responsible for:

**design, implementation and
maintenance**

of adequate internal controls over their office/department.



FRAUD DETECTION

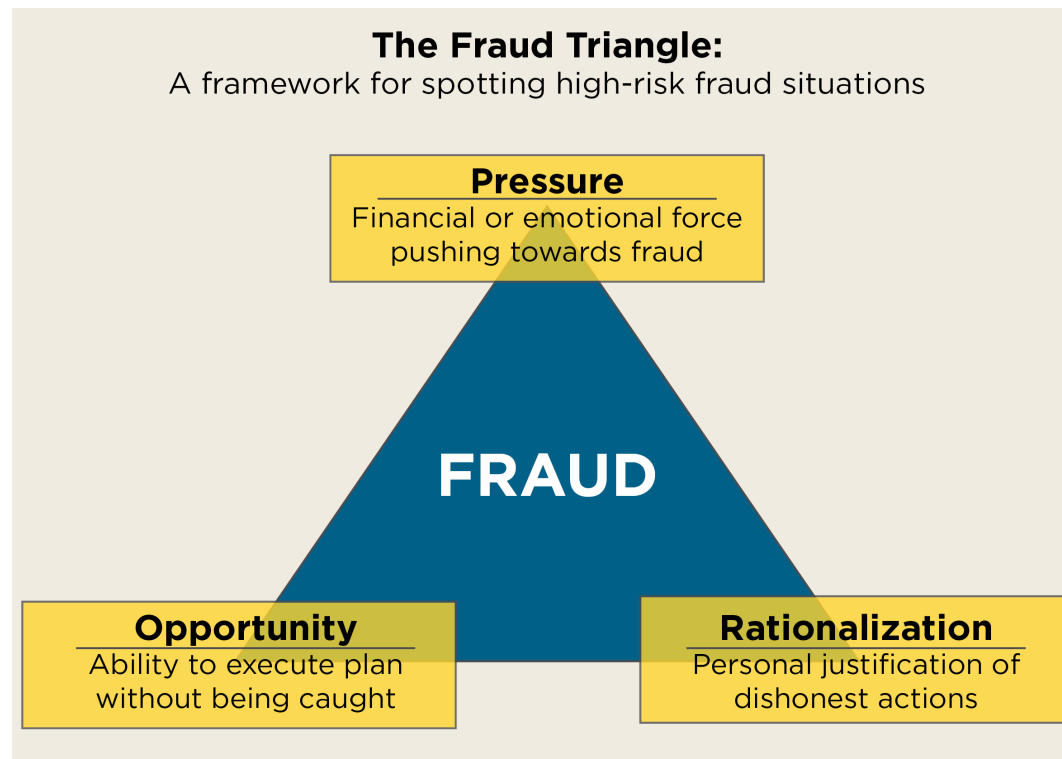


External auditors (performing routine annual audits) detect less than 5% of identified occupational fraud.

More fraud is identified by accident or through anonymous tips than by the external annual financial and compliance auditors.



POOR INTERNAL CONTROLS = OPPORTUNITY FOR FRAUD



SUMMARY OF AUDIT FINDINGS

Duties were not segregated adequately

Execution docket trial balances did not reconcile with the general ledger accounts

Multiple employees operating from the same cash drawer

Deficiencies in accounting records, reconciliations, timely deposits, and audit log reviews



COMPONENTS & PRINCIPLES OF INTERNAL CONTROLS

Components

Principles

Control Environment

1. Demonstrate Commitment to Integrity and Ethical Values
2. Exercise Oversight Responsibility
3. Establish Structure, Responsibility, and Authority
4. Demonstrate Commitment to Competence
5. Enforce Accountability

Risk Assessment

6. Define Objectives and Risk Tolerances
7. Identify, Analyze, and Respond to Risk
8. Assess Fraud Risk
9. Analyze and Respond to Change

Control Activities

10. Design Control Activities
11. Design Activities for the Information System
12. Implement Control Activities

Information & Communication

13. Use Quality Information
14. Communicate Internally
15. Communicate Externally

Monitoring Activities

16. Perform Monitoring Activities
17. Remediate Deficiencies



WHAT SHOULD I DO TO ENSURE COMPLIANCE?

Review your written internal control procedures/assessment and ask yourself...

- Is the written documentation accurate according to my office's current operations?
- Have I implemented new technology in my office?
- Have I hired new staff or changed any financial duties of my staff?
- Have I moved?



ONCE YOU HAVE REVIEWED YOUR WRITTEN PROCEDURES/POLICY...

Compare written documentation with office operations

- Are you comfortable with the comparison?

Assess staff abilities, particularly management team

- Is staff training needed?

Fill in missing documentation



WHAT YOU ARE LOOKING FOR IN YOUR RISK ASSESSMENT...

Identify specific risks

Consider risk factors

Understand that the elected official is ultimately responsible

- Tone is set at the top

Be sure to update your written procedures for any changes you deem necessary.



REDUCING RISKS TO TOLERABLE LEVELS...

Identify factors that may increase risk

- Lack of segregation of duties
- Computer passwords taped onto computers
- Employees operating out of same cash drawer, etc.

Determine the significance of risk and likelihood of fraud, waste, abuse and inaccurate financial reporting (think reducing risk vs. cost of control).

Develop specific actions to reduce the risk to an acceptable level.

A risk matrix is a very useful tool when you can't eliminate risk.



REMEMBER...

Once your internal controls are in place and you have assessed your risk

-

Ensure **CONTROL**

Keep
COMMUNICATING

Keep
MONITORING



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COUNTY PURCHASING



LEGAL FRAMEWORK FOR PURCHASING IN TN COUNTIES

Purchasing agents, buyers, department heads, and county officials should have an understanding of the laws that govern their purchasing system.

Purchasing laws for county government are codified in the Tennessee Code Annotated or a private act passed by the General Assembly for a particular county.



LEGAL FRAMEWORK FOR PURCHASING IN TN COUNTIES

Generally, the purchasing laws place an emphasis on control, price, openness, and accountability.

The laws regarding purchasing for county governments are not uniform and several options exist.



LEGAL FRAMEWORK FOR PURCHASING IN TN COUNTIES

There are many state laws of general application, as well as several local option laws which may apply.

Unless the county has adopted:

- one of the optional general laws
- or a private act to centralize purchasing, the county's purchasing functions are performed by several officials and are not handled through a single office.



Private Act

General Law

1981/1957
Acts

Charter/Metro



FORMAL BID THRESHOLDS IN COUNTIES

Public Chapter 1016 Amends T.C.A. §12-3-1212 to:

Counties with Centralized Purchasing Authority

Allow counties having centralized purchasing and a full-time purchasing agent, by resolution of the governing body, to increase the threshold amount over which public advertisement and sealed competitive bids or proposals are required to **\$50,000** for nonemergency, nonproprietary purchases.

Counties with Non-Centralized Purchasing or Without a Full-time Purchasing Agent:

Counties with non-centralized purchasing or counties without a full-time purchasing agent, by resolution of the governing body, may increase the threshold over which public advertisement and sealed competitive bids or proposals are required to **\$25,000** for nonemergency, nonproprietary purchases.



FORMAL BID THRESHOLDS IN COUNTIES

- Requires local governments to get at least three written quotes, when possible, for purchases costing less than the bid threshold but more than 40% of such bid threshold or a lower amount as may be established by the governing body in a resolution.
- The law provides that a full-time purchasing agent is someone that devotes 100% of the person's working time to purchasing.
- Effective May 11, 2022.



PURCHASING ABOVE BID THRESHOLD LIMIT

If you purchase something above your bid limit you must use one of the below methods:

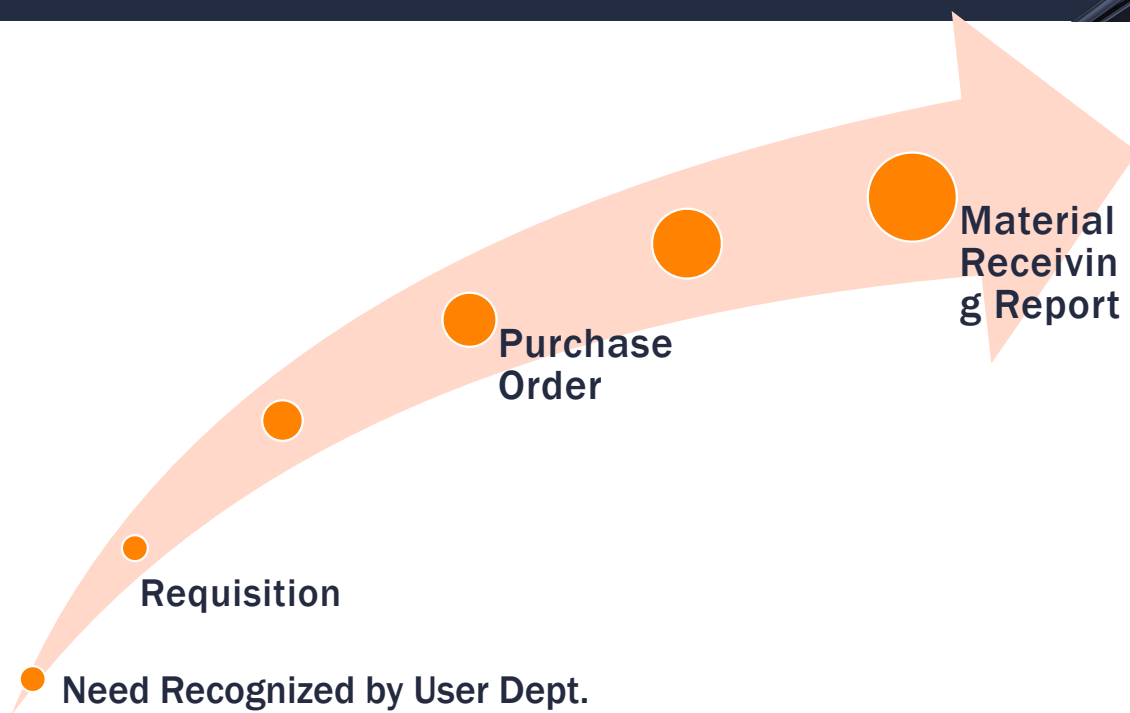
Competitive Sealed Bids

RFPs

RFQs



PURCHASING PROCESS



WRAP UP

Congratulations!

Welcome to county government!



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