

Conflict of Interest and Confidentiality Policy for the Economic Development Corporation of Clark County

The directors, officers and employees of the Economic Development Corporation of Clark County recognize the potential for conflicts of interest and the need to maintain confidentiality of sensitive matters concerning EDCCC's operation and efforts to secure industry and development for Clark County. This policy shall apply to all directors, officers, and employees of the EDCCC. All persons governed by this policy shall become familiar with the laws relating to ethics for public employees, prohibiting conflicts of interest and promoting confidentiality for state and county employees. These laws include, but are not limited to:

Arkansas Code Annotated § 14-14-1202;

Arkansas Code Annotated § 19-11-704;

Arkansas Code Annotated § 19-11-705;

Arkansas Code Annotated § 19-11-706;

Arkansas Code Annotated § 19-11-707.

All persons governed by this policy shall comply with the objectives and spirit of these statutes relating to ethics and potential conflicts of interest. In addition to the aforementioned statutory provisions, each director, officer and employee of the EDCCC shall disclose any potential conflict of interest. He or she shall also avoid the appearance of any conflict of interest and shall refrain from participating in decisions which affect that individual, his or her immediate family members, or any business entity in which he or she derives financial gain.

In addition to the foregoing statutory provisions, each director, officer and employee of the EDCCC also agrees to maintain strict confidentiality of all sensitive matters which come before the EDCCC and shall not disclose any confidential or sensitive information unless appropriate or unless required by applicable law, such as the Arkansas Freedom of Information Act.

14-14-1202. Ethics for county government officers and employees.

(a) Public Trust. (1) The holding of public office or employment is a public trust created by the confidence which the electorate reposes in the integrity of officers and employees of county government.

(2) An officer or employee shall carry out all duties assigned by law for the benefit of the people of the county.

(3) The officer or employee may not use his or her office, the influence created by his or her official position, or information gained by virtue of his or her position to advance his or her individual personal economic interest or that of an immediate member of his or her family or an associate, other than advancing strictly incidental benefits as may accrue to any of them from the enactment or administration of law affecting the public generally.

(b) Officers and Employees of County Government Defined. (1) For purposes of this section, officers and employees of county government shall include:

(A) (i) All elected county and township officers;

(ii) All district judicial officers serving a county; and

(iii) All members of county boards, advisory, administrative, or subordinate service districts; and

(B) All employees thereof.

(2) Officials who are considered to be state officers or deputy prosecuting attorneys are not covered by this subsection.

(c) Rules of Conduct. (1) No officer or employee of county government shall:

(A) (i) Be interested, either directly or indirectly, in any contract or transaction made, authorized, or entered into on behalf of the county or an entity created by the county, or accept or receive any property, money, or other valuable thing for his or her use or benefit on account of, connected with, or growing out of any contract or transaction of a county.

(ii) (a) If in the purchase of any materials, supplies, equipment, or machinery for the county, any discounts, credits, or allowances are given or allowed, they shall be for the benefit of the county.

(b) It shall be unlawful for any officer or employee to accept or retain them for his or her own use or benefit;

(B) Be a purchaser at any sale or a vendor of any purchase made by him or her in his

or her official capacity;

(C) Acquire an interest in any business or undertaking which he or she has reason to believe may be directly affected to its economic benefit by official action to be taken by county government;

(D) (i) Perform an official act directly affecting a business or other undertaking to its economic detriment when he or she has a substantial financial interest in a competing firm or undertaking.

(ii) Substantial financial interest is defined for purposes of this section as provided in Acts 1971, No. 313, § 7 [Repealed].

(2) (A) (i) If the quorum court determines that it is in the best interest of the county, the quorum court may by ordinance permit the county to purchase goods or services directly or indirectly from quorum court members, county officers, or county employees due to unusual circumstances.

(ii) The ordinance permitting the purchases must specifically define the unusual circumstances under which the purchases are allowed and the limitations of the authority.

(B) Any quorum court member having any interest in the goods or services being considered under these procedures shall not be entitled to vote upon the approval of the goods or services.

(C) If goods or services are purchased under these procedures, the county judge must file an affidavit, together with a copy of the voucher and other documents supporting the disbursement, with the county clerk certifying that each disbursement has been made in accordance with the provisions of the ordinance.

(3) (A) No person shall simultaneously hold office and serve as an elected county justice of the peace and hold office and serve as an elected city council member.

(B) This subdivision (c)(3) shall not cut short the term of any office holder serving as such on September 1, 2005, but shall be implemented during the next election cycle of each office.

(d) Removal from Office or Employment. (1) Court of Jurisdiction. Any citizen of a county or the prosecuting attorney of a county may bring an action in the circuit court in which the county government is located to remove from office any officer or employee who has violated the rules of conduct set forth in this section.

(2) Suspension Prior to Final Judgment. (A) Pending final judgment, an officer or employee who has been charged as provided in this section may be suspended from his or her office or position of employment without pay.

(B) Suspension of any officer or employee pending final judgment shall be upon order of the circuit court or judge thereof in vacation.

(3) Punishment. (A) Judgment upon conviction for violation of the rules of conduct set forth in this section shall be deemed a misdemeanor.

(B) Punishment shall be by a fine of not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000), and the officer or employee shall be removed from office or employment of the county.

(4) Acquittal. Upon acquittal, an officer or employee shall be reinstated in his or her office or position of employment and shall receive all back pay.

(5) Legal Fees. (A) Any officer or employee charged as provided in this section and subsequently acquitted shall be awarded reasonable legal fees incurred in his or her defense.

(B) (i) Reasonable legal fees shall be determined by the circuit court or Arkansas Supreme Court on appeal.

(ii) Such legal fees shall be ordered paid out of the general fund of the county treasury.

19-11-704. General standards of ethical conduct.

(a) (1) General Ethical Standards for Employees. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust.

(2) In order to fulfill this general prescribed standard, employees must also meet the specific standards set forth in § 19-11-705, which refers to employee conflict of interest; § 19-11-706, which refers to employee disclosure requirements; § 19-11-707, which refers to gratuities and kickbacks; § 19-11-708, which refers to prohibition against contingent fees; § 19-11-709, which refers to restrictions on employment of present and former employees; and § 19-11-710, which refers to use of confidential information.

(b) General Ethical Standards for Nonemployees. Any effort to influence any public employee to breach the standards of ethical conduct set forth in this subchapter is also a breach of ethical standards.

19-11-705. Employee conflict of interest.

(a) (1) Conflict of Interest. It shall be a breach of ethical standards for any employee to participate directly or indirectly in any proceeding or application, in any request for ruling or other determination, in any claim or controversy, or in any other particular matter pertaining to any contract or subcontract, and any solicitation or proposal therefor, in which to the employee's knowledge:

(A) The employee or any member of the employee's immediate family has a financial interest;

(B) A business or organization has a financial interest, in which business or organization the employee, or any member of the employee's immediate family, has a financial interest; or

(C) Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is a party.

(2) "Direct or indirect participation" shall include, but not be limited to, involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(b) Financial Interest in a Blind Trust. Where an employee or any member of the employee's immediate family holds a financial interest in a blind trust, the employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest if disclosure of the existence of the blind trust has been made to the Director of the Department of Finance and Administration.

(c) Discovery of Conflict of Interest, Disqualification, and Waiver. Upon discovery of a possible conflict of interest, an employee shall promptly file a written statement of disqualification with the director and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the director in accordance with § 19-11-715(b) for an advisory opinion as to what further application, if any, the employee may have in the transaction, or for a waiver in accordance with § 19-11-715(c).

19-11-706. Employee disclosure requirements.

(a) Disclosure of Benefit Received from Contract. Any employee who has or obtains any benefit from any state contract with a business in which the employee has a financial interest shall report such benefit to the Director of the Department of Finance and Administration. However, this section shall not apply to a contract with a business where the employee's interest in the business has been placed in a disclosed blind trust.

(b) Failure to Disclose Benefit Received. Any employee who knows or should have known of such benefit and fails to report the benefit to the director is in breach of the ethical standards of this section.

19-11-707. Gratuities and kickbacks.

(a) Gratuities. It is a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.

(b) Kickbacks. It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontract or order.