Ethics and Conflict of Interest

2016 Newly Elected Officials Training
Carl Ericson
ICRMP Risk Management Legal Counsel

ETHICS/CONFLICT OF INTEREST

- Idaho Ethics in Government Act—Idaho Code Title 74 Ch. 4

- What is a conflict of interest?
  - Any official action, decision or recommendation by a public official (elected, appointed or staff), which would be to the private financial benefit of the individual or a member of their household, or a business with which the person or a member of their household is associated.
31-807A Commissioners
Disinterested

- No member of the BOCC
  - must be interested, directly or indirectly
  - in property purchased for the use of the county,
  - in any purchase or sale of property belonging to the county

ETHICS/CONFLICT OF INTEREST

- Prohibition on Contracts with Officers
  - Idaho Code 74-501
    “Members of the legislature, state, county, city, district and precinct officers, must not be interested in any contract made by them in their official capacity, or by any body or board of which they are members.”
ETHICS/CONFLICT OF INTEREST

■ Self-Interested Contracts

■ Idaho Code 18-1361
  ■ Less than 3 suppliers of goods or services within 15 mile radius;
  ■ Public servant or relative within 2nd degree may contract to respond to a disaster;
  ■ Contract competitively bid; and
  ■ Public servant or relative did not participate in the preparation of contract or specifications.

Prohibition on Purchasing Surplus Property

■ Idaho Code 74-503:
  ■ “State, county, district, precinct and city officers must not be purchasers at any sale nor vendors at any purchase made by them in their official capacity.”

■ County policies may also prohibit purchase of city surplus property.
CRIMINAL ACTIONS

- Bribery & Corrupt Influence Act—Idaho Code Title 18, Chapter 13
  - Prohibited Acts
    - Bribery, Threats & Improper Influence
    - Compensation/Retaliation for Past Actions
    - Compensating Public Servants
    - Buying/Selling Political Endorsement or Influence
    - Using city funds or property for economic benefit without specific authorization from the city.
    - Using or disclosing confidential information for economic benefit.
  - No defense: Not in office yet, or lacked jurisdiction.

Employing Relatives (General)  
Idaho Code 18-1359

No public official may:
- (1)(e) Appoint or vote for the appointment of any person related to him by blood or marriage within the second degree, to any clerkship, office, position, employment or duty, when the salary, wages, pay or compensation of such appointee is to be paid out of public funds ----
Employing Relatives (Specific)
Idaho Code 18-1359

(4) No person related to a county commissioner by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty with the commissioner's county when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

Employing Relatives
.....continued

If a relative holds a position when the official is elected, that relative retains his/her position and continues getting general and merit pay increases, bonuses and promotions just like all other employees. I.C. § 18-1359(5)

*Just don’t treat the relative preferentially!*
CRIMINAL ACTIONS

- Bribery & Corrupt Influence Act—Idaho Code
  Title 18, Chapter 13

  ■ Penalties for Violation

  ■ Any public servant violating the Bribery & Corrupt
    Influence Act is guilty of a misdemeanor and may be
    punished by a fine up to $1,000 and incarceration in the
    county jail for up to 1 year, or both.

18-5702. Punishment for misuse of funds

  ■ Stealing less than $300:
    ■ Not in charge of money - $1000 fine 1yr in jail.
    ■ In charge of money – felony, $5000 and 5yrs.

  ■ More than $300:
    ■ felony punishable by a fine up to $10,000, or by
      imprisonment in the state prison for not less than
      one (1) year nor more than fourteen (14) years, or by
      both.
    ■ And repay including retirement!
Planning & Zoning Conflicts of Interest—Idaho Code 67-6506

- Strict prohibition on participation by commissioner when the individual, their employer, business partner or associate, or any relative within the 2nd degree has an economic interest in the action or proceeding.

- “Participation”—engaging in activities that constitute deliberation in the OMA.

- Any actual or potential conflict of interest must be disclosed at a meeting on the record before the proceedings begin.

- The decision whether to participate is made by the individual with the assistance of the prosecuting attorney.

- Violation is a misdemeanor punishable by a fine of up to $1,000, 6 months imprisonment or both.

Thanks for your time & attention!

Please don’t hesitate to call ICRMP if you have questions.