

Prohibiting Contracts to be Awarded to Certain Contributors

Prohibitions

- A. Any other provision of law to the contrary notwithstanding, the Township, its purchasing agent or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure, without a fair and open process, any service which the Township would be permitted to procure on a "no bid" basis pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and 40A:11-5(1)(m) (the "statute") from any professional business entity if that entity has solicited on behalf of, or made any contribution of money, or pledged a contribution, including in-kind contributions, to a campaign committee of any Aberdeen Township municipal candidate or municipal office holder seeking reelection, who would have, or has, ultimate responsibility for the award of the contract, or to any Aberdeen Township or Monmouth County party committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting any Aberdeen Township municipal candidate or municipal office holder seeking reelection, in excess of the thresholds specified in Subsection C, within 12 consecutive months immediately preceding the date of the award of the contract.
- B. No professional business entity which enters into negotiations for, or agrees to, any contract or agreement not the subject of public bidding or a fair and open process with the Township or its independent authorities for the rendition of services described in Subsection A shall knowingly solicit on behalf of, or make any contribution of money, or pledge of a contribution, including in-kind contributions, in excess of the thresholds specified in Subsection C below to any Aberdeen Township municipal candidate or municipal office holder seeking reelection, who would have, or has, ultimate responsibility for the award of the contract, or to any Aberdeen Township or Monmouth County party committee, or to any PAC that is organized for the primary purpose of promoting or supporting any Aberdeen Township municipal candidate or municipal office holder seeking reelection, between the time of first communications between the professional business entity and the Township regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.
- C. Contribution limits.
- (1) Subject to the limitation in Subsection C(2), of this subsection, any individual meeting the definition of "professional business entity" under this article may make a contribution up to the amount that is reportable by the recipient under P.L. 1973, c.83 (N.J.S.A. 19:44A-1 et seq.), currently in excess of \$300, to each candidate for Mayor or Council, Aberdeen Township or Monmouth County party committees, or to a PAC referenced in this article, for each election, without violating Subsection A or B of this section; however.
 - (2) Any entity meeting the definition of "professional business entity" under this section, including such principals, partners and officers of the entity, may not contribute in the aggregate in excess of a total of \$2,500 for each election to all Township municipal candidates and municipal office holders seeking reelection who have, or if elected would have, ultimate responsibility for the award of the no bid contract, and to all Aberdeen Township or Monmouth County political parties and PACs referenced in this article without violating Subsection A or B of this section.
- D. For purposes of this article, a professional business entity is any entity seeking or performing without competitive bidding a public contract for services permissible under the statute and which includes an individual, including the individual's spouse, if any, and any child living at home; a person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a "professional business entity" includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers employed by the entity as well as any subsidiaries directly controlled by the business entity.
- E. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:
- (1) The Township of Aberdeen Council, if the contract requires approval or authorization from the Council.

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- (2) The Mayor of the Township of Aberdeen, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of contract is appointed by the Mayor.

Contributions made prior to the effective date.

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any municipal candidate for Mayor or Council, or Township municipal office holder seeking reelection, or county party committee or PAC referenced in this article shall be deemed a violation of this section, nor shall an agreement for property, goods, or services of any kind whatsoever be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this article.

Contribution statement by professional business entity.

- A. Prior to awarding any contract or agreement without public bid, any service which the Township would be permitted to procure on a "no bid" basis pursuant to the statute to any professional business entity, the Township or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that it has not made a contribution in violation of § 110-1 of this article.
- B. The professional business entity shall have a continuing duty to report any violations of this article that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Township and shall be in addition to any other certifications that may be required by any other provision of law.

Return of excess contributions.

A professional business entity or Township municipal candidate or municipal office holder seeking reelection, or municipal or county party committee or PAC referenced in this ordinance may cure a violation of Section 1 of this order, if, within 60 days after the general election, the Professional Business Entity notifies the Township Council in writing and seeks and receives reimbursement of a contribution from the entity to whom the contribution was made.

Violations and penalties.

- A. All Aberdeen Township agreements with professional business entities shall provide that it shall be a material breach of the terms of the government contract for a professional business entity to violate, or to aide or abet a violation, of B or C or to knowingly conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.
- B. Any professional business entity who knowingly fails to reveal a contribution made in violation of this article, or who knowingly makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Aberdeen Township contracts for a period of 48 months from the date on which the violation is finally determined.