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January 23, 2002

Anthony M. Cancro, Acting Director
Division of Local Government Services
Department of Community Affairs
101 South Broad Street
P.O. Box 803
Trenton, New Jersey 08625

Re: 02-0018 - Whether N.J.S.A. 52:25-24.2 applies to limited partnerships, limited liability corporations, limited liability partnerships and Subchapter S corporations

Dear Acting Director Cancro:

You have requested advice regarding the interpretation of N.J.S.A. 52:25-24.2. This statute provides that no corporation or partnership shall be awarded any contract by the State, or any county, municipality or school district, or any subsidiary or agency thereof, unless, prior to the receipt of the bid of the corporation or the partnership for the contract, there is submitted to the public contracting unit a statement setting forth the names and addresses of all individuals who own 10% or more of the stock or interest in the corporation or partnership. Your specific inquiry concerns whether the provisions of N.J.S.A. 52:25-24.2, which specifically refer to corporations and partnerships, apply to limited partnerships, limited liability corporations, limited liability partnerships and Subchapter S corporations. For the reasons set forth below, you are advised that the provisions of N.J.S.A. 52:25-24.2 do apply to limited partnerships, limited liability corporations, limited liability partnerships and Subchapter S corporations.

N.J.S.A. 52:25-24.2 was enacted as L. 1997, c. 33 on March 8, 1997. The statute provides in relevant part as follows:

No corporation or partnership shall be awarded any contract nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or



supplies, the cost of which is to be paid with or out of any public funds, by the State, or any county, municipality or school district, or any subsidiary or agency of the State, or of any county, municipality or school district, or by any authority, board, or commission which exercises governmental functions, unless prior to the receipt of the bid or accompanying the bid of said corporation or said partnership, there is submitted a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own 10% or more of its stock, of any class or of all individual partners in the partnership who own a 10% or greater interest therein, as the case may be.

The legislative purposes underlying the requirements of N.J.S.A. 52:25-24.2 were discussed in George Harms Construction Co. v. Borough of Lincoln Park, 161 N.J. Super. 367 (Law Div. 1978). In that case, the court noted that the Legislature, in enacting N.J.S.A. 52:25-24.2, expressed its clear intent to ensure that all members of a governing body and the public would be made aware of the real parties in interest with whom they are asked to contract. George Harms Construction Co. v. Borough of Lincoln Park, *supra*, 161 N.J. Super. at 372-373. The court went on to note that, by virtue of the requirements of N.J.S.A. 52:25-24.2, the public, as well as public officials, can identify any real or potential conflicts of interest arising out of the award of public contracts and can further identify those bidders who lack the requisite responsibility to properly fulfill the requirements of the awarded contract. George Harms Construction Co. v. Borough of Lincoln Park, *supra*, 161 N.J. Super. at 372-373. In light of these significant public purposes, the court in the George Harms Construction Co. case concluded that the disclosure requirements set forth in N.J.S.A. 52:25-24.2 were an integral part of the overall process for competitive bidding under the Local Public Contracts Law and were designed to further the integrity of that process.

It is clear that the legislative purposes intended to be served by compliance with the provisions of N.J.S.A. 52:25-24.2 warrant application of those requirements to limited partnerships, limited liability corporations, limited liability partnerships and Subchapter S corporations. To the extent that the purposes of N.J.S.A. 52:25-24.2 are to enable public officials, as well as the public generally, to be aware of the real parties in interest with whom they are asked to contract and further to enable the public, as well as public officials, to identify any real and potential

January 23, 2002


Page 3

conflicts of interest arising out of the award of public contracts and also to identify those bidders who may lack the requisite responsibility to perform such contracts, the proper implementation of these purposes would require that the disclosure requirements set forth in N.J.S.A. 52:25-24.2 apply to all forms of corporations and partnerships including limited partnerships, limited liability corporations, limited liability partnerships and Subchapter S corporations.

In conclusion, for the reasons set forth above, you are advised that the provisions of N.J.S.A. 52:25-24.2, in referring to corporations and partnerships, are intended to apply to all forms of such corporations and partnerships including limited partnerships, limited liability corporations, limited liability partnerships and Subchapter S corporations.

Sincerely yours,

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