



*Township of Washington
PC/Codebook for Windows*

Chapter 48, POLITICAL CONTRIBUTIONS

[HISTORY: Adopted by the Township of Washington by Ord. No. 2002-7 (§ 2-58 of the 2001 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policies -- See Ch. 43.

§ 48-1. Prohibition on awarding public contracts to certain contributors. [Amended by Ord. No. 2002-10]

- A. Any other provision of law to the contrary notwithstanding, Washington Township shall not enter into a professional service agreement or otherwise contract to procure services from any professional business entity, if that entity has made any contribution of money, or pledge of a contribution, including in-kind contributions, to a campaign committee of any candidate for governing body, or an incumbent governing body member, or to any Washington Township municipal or Mercer County party committee, in excess of the threshold specified in Subsection D within one calendar year immediately preceding the date of the award of the contract or agreement.
- B. For purposes of this section, a "professional business entity" seeking a public contract means an individual including the individual's spouse, if any, and any child living at home; person, firm, corporation, professional corporation, partnership or 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 in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.
- C. Any professional business entity under this chapter may annually contribute a maximum of \$250 to any candidate for governing body, or \$500 to any municipal or county party committee without violating Subsection A of this section. However, any group of individuals meeting the definition of professional business entity under this chapter, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all candidates for governing body and all Washington Township municipal or Mercer County political parties combined, without violating Subsection A of this section.
- D. No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the municipality or any department or agency thereof, or of its independent authorities for the rendition of professional services shall knowingly solicit or make any

contribution of money, or pledge of a contribution, including in-kind contributions, to any candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any Washington Township municipal or Mercer County party committee, between the time of first communications between that business entity and the Township regarding a specific professional services agreement and the conclusion of negotiations.

§ 48-2. Contributions made prior to effective date of chapter.

No contributions of money or any other thing of value, including in-kind contributions, made by a professional business entity to any municipal candidate for governing body, municipal party committee, or county party committee shall be deemed a violation of this chapter, 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 chapter.

§ 48-3. Contribution statement by professional business entity.

- A. Prior to awarding any contract or agreement to procure services with 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 the bidder or officer has not made a contribution in violation of § 48-1.
- B. The professional business entity shall have a continuing duty to report any violation of this chapter that may occur during the negotiations or duration of a contract. The certification required under this section shall be made prior to entry into the contract or agreement with the Township.

§ 48-4. Return of excess contributions.

A professional business entity or Township candidate or officeholder or municipal or county party committee may cure a violation of § 48-1 if, within 30 days after the general election, the professional business entity notifies the governing body in writing and seeks and receives reimbursement of a contribution from the Township candidate or municipal or county political party.

§ 48-5. Content of agreements; failure to reveal contribution.

- A. All Washington Township professional service agreements shall provide that it shall be a

breach of the terms of the government contract for a professional business entity as defined in § 48-1B to violate § 48-1 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 as defined in § 48-1B who knowingly fails to reveal a contribution made in violation of this chapter, 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 Township contracts for a period of four calendar years from the date of the violation.

§ 48-6. Award of professional service contracts. [Added 11-7-2006 by Ord. No. 2006-35]

- A. Purpose and intent. It is the purpose of this section that, notwithstanding that professional service contracts and certain other contracts for goods and services are exempt from the competitive bidding requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., the Township Council deems it appropriate, and consistent with the provisions of the Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.3 to 20.12, to henceforth award such contracts through a competitive, quality-based, open and fair process, unless a specific determination to the contrary is made by the Township Council.
- B. Process for award of professional services. The Township of Washington, or any agency or instrumentality thereof, shall not enter into a contract exempt from public bidding requirements, having an anticipated value in excess of \$17,500 as determined by the municipality, agency or instrumentality, with a business entity if, during the preceding one-year period, that business entity has made a contribution that is reportable by the recipient pursuant to N.J.S.A. 19:44A-1 et seq., to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elected public office of that municipality when the contract is awarded, except through a contract that is awarded pursuant to a fair and open process as set forth herein. The fair and open process shall be quality-based, and shall be as follows:
- (1) Professional services may be awarded by virtue of a publicly advertised request for qualifications ("RFQ") and/or request for proposals ("RFP") which will be issued as one document for those appointments which are made on an annual basis.
 - (2) For said positions, no contract shall be awarded unless and until the positions are:
 - (a) Publicly advertised in newspapers or on the internet website maintained by the Township for at least 10 calendar days in advance of the solicitation for the

contracts. The notice must include the following information:

- [1] A description of the requested goods or services;
- [2] The time, date, and place proposals must be submitted;
- [3] Contact information for obtaining the proposal document;
- [4] The name of the government unit requesting the proposal;
- [5] A statement containing the following language:

This proposal is being solicited through a fair and open process in accordance with N.J.S.A. 19:44A-20.5.

- (b) Awarded under a process that provides for public solicitation of proposals and qualifications, including experience and quality of services;
 - (c) Awarded and disclosed under criteria established in writing by the Township of Washington prior to the solicitation of proposals or qualifications as set forth in this section; and
 - (d) Publicly announced when awarded.
- (3) For contracts which arise on an occasional basis, professional service contracts may be awarded without following the foregoing provisions, so long as:
- (a) The anticipated value does not exceed the threshold of \$17,500 set forth above; and
 - (b) The Township Administrator makes every effort to solicit at least two proposals for said work.
- C. Exemptions. Notwithstanding the foregoing, should a situation arise, and time does not permit resort to this procedure, and the immediate performance of services is necessary, then an award for same may be made in accordance with the provisions of the Local Public Contracts Law relating to extraordinary unspecified services, and such rules and regulations as may be promulgated, from time to time, by the Township Council with regard to same. No such emergency contracts, however, may be awarded without submission to the Township Clerk of a certification establishing a basis for the deviation from the procedures outlined herein.