

**SOUTH HARRISON TOWNSHIP
GLOUCESTER COUNTY**

PUBLIC CONTRACTING REFORM ORDINANCE

WHEREAS, professional business entities are exempt from public bidding requirements, and

WHEREAS, it has become common for professional business entities to make substantial political contributions to the election campaigns of the local government elected officers who are ultimately responsible for awarding professional service contracts or other contracts or agreements which are not subject to public bidding; and

WHEREAS, substantial local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers as to their trust in the process of local government, if not the quality or cost of services received, and

WHEREAS, pursuant to P.L.2005, c.271, a municipality is authorized to adopt by ordinance measures limiting the awarding of public contracts to business entities that have made political contributions and limiting the contributions that the holders of a contract can make during the term of a contract; and

WHEREAS, pursuant to NJSA 40A: 11-5 and NJSA 40:48-2, municipalities have the right to establish rules and procedure for contracting with professional business entities,

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of South Harrison Township, County of Gloucester, State of New Jersey, that the policy of South Harrison Township will be to set maximum amounts that professional business entities may contribute politically beyond which they become ineligible to receive a public professional service contract from South Harrison Township, as follows:

SECTION 1

Prohibition on Awarding Public Contracts to Certain Contributors

(a) Any other provision of law to the contrary notwithstanding, the municipality or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure professional, banking, insurance coverage services or any other consulting services, including those awarded pursuant to a "fair and open" process, from any professional business entity, if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to any South Harrison Township municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any South Harrison Township or Gloucester County party committee, or to any political action committee (PAC) or candidate committee that regularly engages in, or who's primary purpose is the support of municipal elections and/or municipal parties in excess of the thresholds specified in subsection (d) within three calendar years immediately preceding the date of the contract or agreement.

(b) 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, banking or

insurance coverage services or any other consulting services, including those awarded pursuant to a "fair and open" process, shall solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any South Harrison Township municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any South Harrison Township or Gloucester County party committee, or to any political action committee (PAC) or candidate committee that regularly engages in, or who's primary purpose is the support of municipal elections and/or municipal parties between the time of first communications between that 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) For purposes of this ordinance, 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; organization; or association. The definition of a 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.

(d) Any individual meeting the definition of "professional business entity" under this section may annually contribute a maximum of \$1 each for any purpose to any candidate, for Township Committee, or \$1 to a Township of South Harrison political party or candidate committee, or \$500 to the Gloucester County political party committee, or to a PAC referenced in this ordinance, without violating subsection (a) of this section. However, any group of individuals meeting the definition of "professional business entity" under this section, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of \$1 to all South Harrison Township candidates and officeholders with ultimate responsibility for the award of the contract, and all South Harrison Township political parties, candidate committee, and PACs referenced in this ordinance combined, without violating subsection (a) of this section.

(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 South Harrison Township Committee, if the contract requires approval from the Committee.

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

SECTION 2

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 Township Committee, or municipal or county party committee or PAC or candidate committee referenced in this ordinance 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 section.

SECTION 3

Contribution Statement by Professional Business Entity

(a) Prior to awarding any contract or agreement to procure services, including banking or insurance coverage 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 offeror has not made a contribution in violation of Section 1 of this Act;

(b) The professional business entity shall have a continuing duty to report any violations of this Act 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.

SECTION 4

Return of Excess Contributions

A professional business entity or township candidate or officeholder or municipal or county party committee or candidate committee or PAC referenced in this ordinance may cure a violation of Section 1 of this ordinance, if, within 30 days after the date on which the applicable ELEC Report is published, the professional business entity notifies the Township Committee in writing and seeks and receives reimbursement of a contribution from the township candidate or municipal or county political party or candidate committee or PAC referenced in this ordinance.

SECTION 5

Penalty

(a) It shall be a breach of the terms of the Township of South Harrison professional service agreement for a business entity to: (i) make or solicit a contribution in violation of this ordinance; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of South Harrison Township; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of this ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this ordinance; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this ordinance.

(b) Furthermore, any professional business entity who violates (a) ii-viii shall be disqualified from eligibility for future South Harrison Township contracts for a period of four calendar years from the date of the violation.

SECTION 6

Severability and Effectiveness Clause:

(a) If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

(b) And any ordinance inconsistent with the terms of this ordinance is hereby repealed to the extent of such inconsistency.

SECTION 7

Effective Date

This Ordinance shall take effect upon adoption and publication according to law.

TOWNSHIP OF SOUTH HARRISON

Robert S. Campbell, Deputy Mayor

ATTEST:

Nancy E. Kearns, RMC
Municipal Clerk

CERTIFICATION

The foregoing Ordinance was introduced at a Regular Meeting of the Township of South Harrison held on the 12th day of November 2008 and will be considered for final passage and adoption at a meeting to be held on the 10th day of December 2008, at 7:30P.M., at the South Harrison Township Municipal Building, 664 Harrisonville Road, Harrisonville, NJ 08033, at which time any person interested therein will be given an opportunity to be heard.

Nancy Kearns, RMC
Municipal Clerk

NOTICE

NOTICE is hereby given that the foregoing Ordinance O-08-29 was finally adopted at a meeting of the South Harrison Township Committee held on the 10th day of December 2008 at 7:30 pm in the South Harrison Township Municipal Building, 664 Harrisonville Road, Harrisonville, New Jersey.

Celeste Keen, RMC
Deputy Clerk