

**ORDINANCE ESTABLISHING A FAIR
AND OPEN PROCESS FOR THE
AWARD OF PROFESSIONAL SERVICE AGREEMENTS**

WHEREAS, Professional Entities and persons are exempt from the provisions of the "Local Public Contracts Law" as set forth at NJSA 40A:11-5; and

WHEREAS, in our representative form of government, it is essential that individuals who are elected to public office have the trust, respect, and confidence of the citizenry; and

WHEREAS, all individuals, businesses, associations, and other persons have a right to participate fully in the political process of New Jersey, including making and soliciting contributions to candidates, political parties and holders of public office; and

WHEREAS, when a person or business interest makes or solicits major contributions to obtain a Contract awarded by a government agency or independent authority, this constitutes a violation of the public's trust in government and raises legitimate public concerns about whether the Contract has been awarded on the basis of merit; and

WHEREAS, the Township of South Harrison has recognized that there is a need for a fair and open process for the award of Professional Service Contracts in order to address the concerns of tax payers regarding political contributions and to engender trust in the process of local government and to insure that quality public services are received by public entities; and

WHEREAS, the State of New Jersey has enacted NJSA 19:44A-20.5 which bars any municipality, agency or instrumentality thereof from entering into a contract in excess of Seventeen Thousand Five Hundred (\$17,500.00) Dollars with a business entity that has made a political contribution reportable pursuant to NJSA 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 unless said contract is awarded pursuant to a fair and open process;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of South Harrison, County of Gloucester and State of New Jersey, as follows:

SECTION I: PURPOSE. It is the intent and purpose of this Ordinance to establish a fair and open process for the award of certain professional service agreements for the Township of South Harrison.

SECTION II: ADOPTION.

A. Prohibition on Award of Certain Public Contracts. Any other provision of the law or Ordinances to the contrary notwithstanding, the Township, or any agency, Board or instrumentality thereof, shall not enter into a contract having an anticipated value in excess of Seventeen Thousand Five Hundred (\$17,500.00) Dollars as determined in advance and certified in writing by the Township, agency or instrumentality with a business entity, except a Contract awarded pursuant to a fair and open process, that has made a political contribution that is reportable by the receipt under NJSA 19:44A-1, et seq. to any Municipal

committee of a political party in the Township 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 elective public office of the Municipality when the Contract is awarded; and

A business entity that has entered into a Contract having an anticipated value in excess of Seventeen Thousand Five Hundred (\$17,500.00) Dollars with the Township or any agency or instrumentality thereof, except a Contract that is awarded pursuant to a fair and open process, shall not make such a contribution reportable by the recipient under NJSA 19:44A-1, et seq. to any Municipal Committee of a political party in the Township if a member of that political party is serving in an elected public office of the Township when the Contract is awarded or to any candidate committee of any person serving in an elective public office of the Township when the Contract is awarded, during the term of that Contract.

B. Fair and Open Process: Any professional service entity or other business entity providing services to the Township of South Harrison shall be subject to a fair and open process subject to the criteria established by NJSA 19:44A-20.4, et seq. The fair and open process shall be as set forth in Subsection B below which shall establish a criteria for same.

C. The fair and open process established by the Township of South Harrison shall require the following:

1. Any professional position or service contract not subject to bidding that shall expire as of December 31 of that calendar year shall be advertised in the official newspaper of the Township or published and posted on the Township's website not later than December 16th of each year. The Notice shall set forth the name of the position or Contract which is subject to appointment and set forth the minimum criteria to be considered and the submission of qualification statements to be submitted by any Applicant. The Notice published in the official newspaper of the Township or posted on the Township's website shall occur in sufficient time to give notice in advance of the Contract's solicitation.

2. If the Applicant is a professional requiring licensure by the State of New Jersey, said Applicant shall be licensed for a period of not less than five (5) years;

3. The Applicant shall submit a "Certificate of Good Standing" or other similar document evidencing that the professional's License is not presently suspended or revoked;

4. The Applicant shall submit a qualification statement in the format of a resume' which shall include, but not be limited to the following (as applicable to any business entity or individual professional):

- (a) Full name and business address;
- (b) Listing of all post-high school education of the Applicant;
- (c) Date of licensure in the State of New Jersey;
- (d) A listing of any professional affiliations or memberships in any professional societies or organizations;
- (e) The number of licensed professionals employed by or affiliated with the business entity or the business entity which employs the Applicant;

(f) A listing of all special accreditations held by the individual licensed professional or business entity;

(g) A listing of all previous public entities served by the business entity or licensed professional indicating the position held.

D. The Mayor, Township Committee or other agency or instrumentality of the Township of South Harrison shall select the professional or business entity for the position so advertised, which selection shall thereafter be confirmed or approved as required by law or Ordinance.

E. Publication. The awarded Contract shall be publicized in the official newspaper of the Township for publication of Notices in accordance with N.J.S.A.40A:11-5.

F. Consistent with the provisions of N.J.S.A.19:44A-20.7, the Township's determination of what constitutes a fair and open process shall be final. Fair and open may necessarily be implemented differently for different categories of procurement depending upon the subject matter of the procurement, and the nature and nuances of the industry providing the services or products, but in every instance, the principles of fair and open shall be maintained.

G. The purpose of this Ordinance is to comply with the provisions of N.J.S.A.19:44A-20.5, et seq. The definitions as set forth in the Statute are referred to an incorporated into this Ordinance.

SECTION III: SEVERABILITY. If any of the provisions of this Ordinance, or the application of this Ordinance shall be found invalid, the remainder of this Ordinance, to the extent that it can be given effect or application, shall remain in full force and effect.

SECTION IV: REPEALER. All prior Ordinances or parts of Ordinances inconsistent with this Ordinance be and the same are hereby repealed to the extent of such inconsistency.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect after adoption and publication according to law.

TOWNSHIP OF SOUTH HARRISON

By: _____
JAMES McCALL, MAYOR

ATTEST:

NANCY E. KEARNS, RMC,
TOWNSHIP CLERK

NOTICE

The foregoing Ordinance was introduced at a Regular Meeting of the Mayor and Township Committee of the Township of South Harrison conducted on the 9th day of November 2011, and will be considered for final hearing and adoption at a meeting to be held on the 14th day of December 2011, at 8:00 P.M., at which time any objections hereto may be heard.

NANCY E. KEARNS, RMC
TOWNSHIP CLERK

NOTICE

**ORDINANCE ESTABLISHING A FAIR
AND OPEN PROCESS FOR THE
AWARD OF PROFESSIONAL SERVICE AGREEMENTS**

NOTICE is hereby given that the foregoing Ordinance O-11-17 was finally adopted at a regular meeting of the South Harrison Township Committee held on the 14th day of December 2011 at 8:00 p.m. in the South Harrison Township Municipal Building, 664 Harrisonville Road, Harrisonville, New Jersey.

Nancy E. Kearns, RMC
Municipal Clerk

Information Only