

**BOROUGH OF OAKLAND
BERGEN COUNTY, NEW JERSEY
ORDINANCE 12-CODE-669**

**ORDINANCE ESTABLISHING REGULATIONS AND RESTRICTIONS
FOR ENTITIES AND INDIVIDUALS CONTRACTING WITH THE
BOROUGH OF OAKLAND**

WHEREAS, Pay-to-Play reform initiated by the State Legislature in 2005; and

WHEREAS, the Borough of Oakland deems it necessary to follow suit and adopt legislation dealing with Pay-to-Play issues for professional service contracts; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality is authorized to adopt such ordinances, regulations, rules and by laws as necessary and proper for good government, as well as the public, health, safety and welfare; and

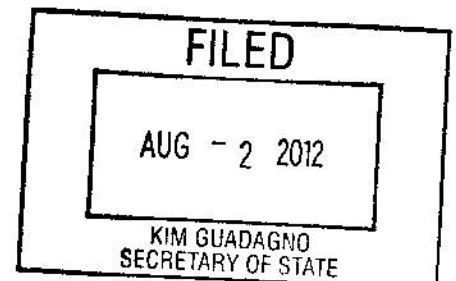
WHEREAS, the Council of the Borough of Oakland takes notice of the State of New Jersey's Best Practices list which includes an adoption of a comprehensive Pay-to-Play Ordinance as a Best Practice; and

WHEREAS, large political contributions from those seeking or performing contracts with a municipality raise reasonable concerns on the part of taxpayers and residents as to their trust in government and its business practices; and

WHEREAS, in the interest of good government, the people and the Council of the Borough of Oakland desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections; and

WHEREAS, it is the policy of the Borough of Oakland to create such an ordinance which states that an entity which makes political contributions to municipal candidates and municipal political parties, committees and PAC's in excess of certain thresholds shall be limited in its ability to receive public contracts from the Borough of Oakland; and

WHEREAS, pursuant to N.J.S.A. 40A:11-51, a municipality is authorized to adopt by ordinance, measures limiting the awarding of public contracts to entities that have made political contributions and limiting the contributions that the holders of a contract can make during the term of the contract.



NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Oakland, Bergen County, and State of New Jersey, as follows:

Section I: Prohibition on Awarding Public Contracts to Certain Contributors

A. Any other provision of law to the contrary notwithstanding, the Borough of Oakland or any of its purchasing agents or agencies, departments, instrumentalities or its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure:

- Professional, banking, insurance coverage or any other consulting services in any amount.
- Any and all other services not previously mentioned, including, but not limited to the provision of goods in an amount in excess of \$17,500.00.

including those awarded pursuant to a "fair and open process"

if that entity has solicited or made any contribution of money, or pledge of a contribution, including loans, assumptions of liabilities and in-kind contributions, to any:

- candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Borough of Oakland or any person serving in an elective municipal office in the Borough of Oakland, or
- Borough of Oakland political committee or political party committee, or
- continuing political committee or political action committee that engages in or engaged in the support of Borough of Oakland elections and/or Borough of Oakland candidates, candidate committees, joint candidate committees, political committees, political parties, or political party committees, (hereinafter collectively "PAC"),

in excess of the thresholds specified in Subsection (D) within one (1) calendar year immediately preceding the date of the contract or agreement.

B. No entity which enters into negotiations for, or agrees to or enters into, any contract or agreement with the Borough of Oakland or any department or agency thereof or of its independent authorities for the rendition of:

- Professional, banking, insurance coverage or any other consulting services in any amount.
- Any and all other services not previously mentioned, including, but not limited to the provision of goods in an amount in excess of \$17,500.00.

including those awarded pursuant to a "fair and open" process shall solicit or make any contribution of money, or pledge of a contribution, including loans, assumptions of liabilities and in-kind contributions, to any:

- a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Borough of Oakland or any person serving in an elective municipal office in the Borough of Oakland, or
- Borough of Oakland political committee or political party committee, or
- "PAC", which meets the requirements set forth in Subsection (A) above,

in excess of the thresholds specified in Subsection (D) between the time of first communication between that entity and the Borough of Oakland or any of its departments, instrumentalities, purchasing agents or any independent authorities 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 "entity" means:

- an individual or person acting on behalf of an individual, including the individual's spouse, if any, and any child or children; or other person directed by the individual,
- person,

- firm;
- corporation;
- professional corporation;
- partnership;
- sole proprietorship;
- limited liability company;
- limited liability partnership;
- trade or labor union; trade or labor organization; trade or labor association; union; organization; association;
- any political organization organized under 26 U.S.C. § 527 that is directly or indirectly controlled by the entity, person or individual, other than a candidate committee, election fund, or political party committee;
- any other legal commercial entity organized under the laws of the State of New Jersey or of any other state or foreign jurisdiction.

The definition of an entity includes all principals who own 10% or more of the equity, profits, assets, shares, stocks, ownership or income interests in the corporation, partnership, firm, or company or business trust, partners, shareholders and officers in the aggregate employed by the entity as well as any subsidiaries directly or indirectly controlled by the entity, person or individual.

D. The monetary thresholds of this Ordinance are:

- a maximum of \$300 per calendar year each for any purpose to any candidate or candidate committee for elective municipal office in the Borough of Oakland or any holder of elective municipal office in the Borough of Oakland, or \$500 per calendar year to any joint candidates committee for elective municipal office in the Borough of Oakland, or \$300 per calendar year to any political committee or political party committee of the Borough of Oakland; and

- \$500 maximum per calendar year to any “PAC” which meets the requirements set forth in Subsection (A) above.

However, any individual or group of persons meeting the definition of entity provided in Subsection (C) above shall not annually contribute for any purpose in excess of \$2,500 to all Borough of Oakland candidates, candidate committees, joint candidates committees, and holders of elective municipal office, and all Borough of Oakland political committees and political party committees and all “PAC’s” which meet the requirements set forth in Subsection (A)) above, combined without violating Subsections (A) and/or (B) above.

Section II: Anti-Circumvention Provisions. It shall be a material breach of the terms of the Borough's professional service agreement or agreement for goods or services for an entity to:

- make or solicit a contribution in violation of this Ordinance;
- knowingly conceal or misrepresent a contribution given or received;
- make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- make or solicit any contribution on the condition or with the agreement that it will be re-contributed to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Borough of Oakland, or any holder of elective municipal office in the Borough of Oakland, or any Borough of Oakland political committee or political party committee, or any “PAC”;
- 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 entity itself, would subject that entity to the restrictions of this Ordinance;
- fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- engage in any exchange of contributions to circumvent the intent of this Ordinance; or

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.

Section III: Contributions Made Prior to the Effective Date. No Contribution or solicitation of contributions made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of this Ordinance.

Section IV: Contribution Statement by Entity. Prior to awarding any contract or agreement to procure professional, banking, insurance coverage, or any other consulting services in any amount or any and all other services not previously mentioned, including, but not limited to the provision of goods in an amount in excess of \$17,500.00 with any entity, the Borough or any of its purchasing agents or agencies, departments, instrumentalities, or independent authorities, as the case may be, shall receive a sworn contribution disclosure statement from the entity detailing all reportable political contributions made within the immediately preceding 12 months and certifying under penalty of perjury that all reportable political contributions are set forth and that he/she/it has not made a contribution in violation of Section I of this Ordinance.

The Borough of Oakland or its employees, agents, or authorities shall be responsible for informing the Mayor and Borough Council, and simultaneously posting said contribution disclosure statement on the Borough website, informing all that the entity is not in violation of this Ordinance, . The entity shall have a continuing duty to report any violations of this Ordinance that may occur during the negotiation or duration of a contract.

Section V: Penalty. Any entity which violates any of the provisions of this Ordinance shall be disqualified from eligibility for any and all future contracts with the Borough of Oakland, its departments, instrumentalities, purchasing agents or any independent authority created thereby for a period of five (5) calendar years from the date of the violation.

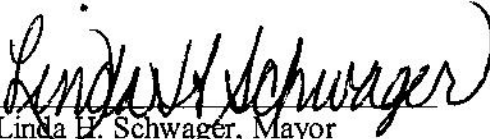
Section VI: Exemptions. The contribution limitations applicable under this Ordinance shall not apply to contracts which are awarded to the lowest responsible bidder after public advertising for bids and bidding therefor within the meaning of N.J.S.A. 40A:11-4, or are awarded in the case of emergency under N.J.S.A. 40A:11-6.

Section VII. 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. Any ordinance inconsistent with the terms of this Ordinance is hereby repealed to the extent of such inconsistency.

Section VIII. Effective Date. This Ordinance shall become effective immediately upon passage and publication in accordance with law.


Linda H. Schwager, Mayor

ATTEST:


Lisa M. Duncan, Borough Clerk

This is to certify that this is a true copy
as adopted by the Mayor and Council
of the Borough of Oakland at a meeting
held on July 11, 2012

Borough Clerk 