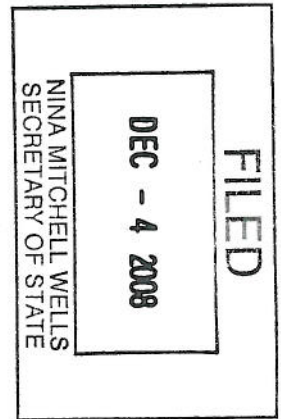


**TOWNSHIP OF SOUTH ORANGE VILLAGE**

AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF SOUTH ORANGE VILLAGE, CHAPTER 27 BY THE ADDITION OF A SECOND ARTICLE, PROHIBITING CERTAIN SOLICITATIONS FOR POLITICAL CONTRIBUTIONS, PROHIBITING THE MAKING OF POLITICAL CONTRIBUTIONS BY PERSONS SEEKING CERTAIN NO-BID CONTRACTS AND ESTABLISHING A FAIR AND OPEN PROCESS FOR SUCH CONTRACTS.



**BE IT ORDAINED**, by the Board of Trustees of the Township of South Orange Village, a municipal corporation of New Jersey located in Essex County thereof, as follows:

**Section 1.**

Chapter 27 of the Code of the Township of South Orange Village is amended by the addition of a second article to provide as follows:

**Section 2.**

**ARTICLE II**

**§27-6 Findings/Legislative Intent.**

- A. The following findings are made in support of this Article II:
1. It has become commonplace for persons and business entities seeking no-bid contracts to make political contributions to persons and campaign organizations associated with contracting units of government; and
  2. The practice of making such contributions has a corrosive effect upon the political process and erodes the confidence of the public in government; and
  3. The state legislature has enacted N.J.S.A. 19:44A-20.5 (the so-called "Pay-to-Play" statute) in order to address these findings.
- B. It is the intent of the Board of Trustees of the Township of South Orange Village to not only address the requirements of Pay-to-Play, but to also exceed such requirements. More specifically, it is the intention to require a "fair and open process" as provided for in N.J.S.A. 19:44A-20.7, while also prohibiting all political contributions in connection with "Covered Contracts", as defined in Section 27-7 herein.

**§27-7 Definitions.**

**BUSINESS ENTITY** - For purposes of this Article, a "Business Entity" means any person or business entity, including, but not limited to any, firm, corporation, professional corporation, partnership, limited liability company, organization, or association. The definition of a Business Entity includes all principals who own

one percent (1%) or more of the equity of any Business Entity, and officers employed by the entity as well as any subsidiaries directly controlled by the Business Entity.

**COVERED CONTRACT** - For the purpose of this Article, Covered Contract shall mean any contract for professional service as defined in N.J.S.A. 40A:11-2(6), regardless of dollar value, and all contracts which exceed the bid threshold of N.J.S.A. 40A:11-3, as such may be amended from time to time, and do not require bidding pursuant to any state statute.

**POLITICAL CONTRIBUTION** - For the purpose of this Article, Political Contribution shall mean any contribution of money, or pledge of a contribution, including in-kind contributions, any of which are in excess of Three Hundred Dollars (\$300.00) in any twelve (12) month period to any Township of South Orange Village candidate or holder of public office having any responsibility for the awarding of contracts, or for appointing officials with any responsibility for the awarding of contracts or to any Township of South Orange Village party committee, or to any PAC that is organized for the primary purpose of promoting or supporting Township of South Orange Village municipal candidates or municipal officeholders.

**SOLICIT/SOLICITATION** - The act of asking or encouraging, by any means, third parties to make political contributions.

**§27-8 Prohibition Against Awarding Public Contracts to Certain Business Entities.**

Notwithstanding any other provision of law to the contrary, neither the Township of South Orange Village nor any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall enter into any Covered Contract with any Business Entity which has made a Political Contribution, or a solicitation for such a contribution, during the twelve (12) month period immediately preceding the advertisement of a Covered Contract, all as defined in section 27-7.

**§27-9 Prohibition Against Solicitation by Township Officials.**

No elected or appointed official of the Township of South Orange Village shall Solicit Political Contributions from any Business Entity which may have a contract with the Township of South Orange Village or with any other board, agency or public entity whereon such elected or appointed official may serve.

**§27-10 Certification by Professional Business Entity.**

- A. Prior to awarding any Covered Contract to any Business Entity, the Township of South Orange Village and any purchasing agents or agencies, as the case may be, shall receive a certification from the Business Entity, in the form set forth in Schedule I (section 27-14), made under penalty of law, that the bidder or offeror has not made a contribution in violation of Section 27-8 of this Article.
- B. The Business Entity shall have a continuing duty to report any violations of this Article that may occur during the negotiations 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 of South Orange Village and shall be in addition to any other certifications that may be required by any other provision of law.

**§27-11 Penalty.**

- A. All Township of South Orange Village Covered Contracts shall provide that it shall be a material breach of the terms of the contract for a Business Entity to violate, or to aid or abet a violation of Section 27-8 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 Business Entity which knowingly fails to reveal a contribution made in violation of this Article, or who knowingly makes or solicits contributions directly or through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future contracts for a period of four (4) years from the date of the violation.
- C. In addition to being subject to the provisions set forth above, any Business Entity which violates any provision of this Article II shall be subject to the general penalty provisions set forth in Section 1-20, General Penalty.

**§27-12 Contributions Made Prior to the Effective Date.**

No Political Contribution made by a Business Entity prohibited by this Article shall be deemed a violation of this Article, nor shall Covered Contract be disqualified thereby, if that Political Contribution was made by the Business Entity prior to the effective date of this Article II.

**§27-13 Fair and Open Process.**

In addition to the prohibition against Political Contributions provided for in this Article II, every Covered Contract shall be advertised and awarded pursuant to a Fair and Open Process as described in this section.

- A. No Covered Contract shall be awarded unless it is based upon a public solicitation for qualifications and/or proposals.
- B. solicitations for qualifications and/or proposals shall be advertised on the Township's internet website and in at least one newspaper or professional publication appropriate for the subject of the Covered Contract, in sufficient time to permit a full response.
- C. Solicitations for qualifications and/or proposals shall at least contain the following:
  - 1. The criteria pursuant to which an award will be made.
  - 2. The time and place where submissions will be received.
  - 3. A copy of Article II, Chapter 27 of the Code of the Township of South Orange Village.

- D. All submissions of qualifications and/or proposals shall be publicly opened and publicly awarded.
- E. All submissions of qualifications and/or proposals shall have attached thereto the certification set forth in Schedule I (section 27-14), fully completed and signed. Failure to provide the certification as required, shall render the submission incomplete and ineligible for consideration.

**§27-14 Certification.**

(Schedule I)

**CERTIFICATION**

To the Township of South Orange Village:

\_\_\_\_\_ being of full age certifies as follows:  
(Name of individual signing certification)

1. I submit this Certification in support of the submission of:  
 \_\_\_\_\_ (name of proposer) (the "Proposer")  
 with respect to a solicitation for a no-bid contract (the "No-Bid Contract").
2. I am the \_\_\_\_\_ (title or position) of the proposer.
3. I have been provided with a copy of Chapter 27, Article II, of the Code of the Township of South Orange Village, which I have read and understand.
4. During the preceding twelve (12) months, and thereafter during the term of the No-Bid Contract, neither I nor any member of my family or officers or one percent equity owners of the Proposer or affiliates of the Proposer, or persons associated with such affiliates, have made or will make contributions defined in Chapter 27, Section 27-7 of the Code of the Township of South Orange Village, or have been so solicited.
5. I shall promptly notify the Township of South Orange Village should any Political Contribution, as defined in Section 27-7 of Chapter 27 of the Code of the Township of South Orange Village, be made during the negotiation for or the term of the No-Bid Contract which is the subject of this Certification.

I understand that I am subject to punishment pursuant to law for any false statements made in this certification.

Date: \_\_\_\_\_ (sign here)

**Section 3.**

Severability.

If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision, and the remainder of this ordinance shall be deemed valid and effective.

**Section 4.**

Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 5.**

This ordinance shall take effect upon final passage and publication as required by law.