

FILED
JAN 23 2006
SECRETARY OF STATE

ORDINANCE NUMBER 22-2005

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

WHEREAS, Professional entities are exempt from established New Jersey Public bidding laws, specifically said exception being set forth under N.J.S.A. 40A:11-5; and

WHEREAS, Washington Township has recognized that there is a need for a fair and open process for the awarding of professional service contracts where other contracts and agreements which are not subject to public bidding, in order to address the concerns of taxpayers regarding political contributions and to engender trust in the process of local government and to insure that quality public services are received;

WHEREAS, the State of New Jersey has enacted N.J.S.A. 19:44A-20.5 which bars any municipality, agency or instrumentality thereof from entering into a contract in excess of \$17,500.00 (See N.J.S.A. 40:A:11-3) with a business entity that has made a political contribution reportable 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 elective 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 RESOLVED, by the Township Council of the Township of Washington, County of Gloucester and State of New Jersey, that the Township of Washington enact an Ordinance to be known as an Ordinance Establishing a Fair and Open Process for the Award of Professional Service Agreements, and said Ordinance shall read as follows:

Chapter 178 An Ordinance Establishing a Fair and Open Process for the Award of Professional Service Agreements

178-1 Prohibition Awarding Certain Public Contracts

A. Any other provision of the law to the contrary notwithstanding, the Township, or any agency or instrumentality thereof, shall not enter into a contract having an anticipated value in excess of \$17,500.00 (See N.J.S.A. 40A:11-3) as determined in advance and certified in writing by the Township, agency or

1 instrumentality with a business entity that has made political contribution that is
2 reportable by the receipt under N.J.S.A. 19:44A-1 et seq. to any municipal committee
3 of a political party in that municipality if a member of that political party is serving
4 in an elective public office of that municipality when the contract is awarded or to
5 any candidate committee of any person serving in an elective public office of that
6 municipality when the contract is awarded; and

7 A business entity that has entered into a Contract having an anticipated value
8 in excess of \$17,500.00 (See N.J.S.A. 40A:11-3) with the Township or any agency or
9 instrumentality thereof, except a contract that is awarded pursuant to a fair an open
10 process, shall not make such a contribution reportable by the recipient under N.J.S.A.
11 19:44A-1 et seq., to any municipal committee of a political party in the Township if a
12 member of that political party is serving in an elective public office of the Township
13 when the Contract is awarded or to any candidate committee of any person serving in
14 an elective public office of the Township when the Contract is awarded, during the
15 term of that Contract.

16 B. When evaluating whether or not a person or business entity has made a
17 contribution the following will be considered: If made by a natural person, a
18 contribution by that person's spouse or child shall be deemed to be a contribution by
19 that person; made by a business entity, a contribution by any person or other business
20 entity having an interest in said business entity shall be deemed to be a contribution
21 by the business entity.

22 C. When using the terms "business entity" and "interest" the following
23 definitions shall be utilized:

24 (1) The term "business entity" shall mean any natural or legal person,
25 business corporation, professional services corporation, limited liability company,
26 partnership, limited partnership, business trust, association or any legal commercial
27 entity organized under the laws of this State or any other State or foreign jurisdiction.

28 (2) The term "interest" shall mean the ownership or control of more than
29 1% of the stock, assets, or profits of any public held company and any percentage
30 interest of a privately held or closed corporation.

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3 **178-2 Fair and Open Process**

4 **A.** Any professional service entity or other business entity providing
5 services to the Township of Washington shall be subject to a fair and open process.
6 That fair and open process shall be set forth in subsection B below which shall
7 establish a criteria for the fair and open process.

8 **B.** The fair and open process established by the Township of Washington
9 shall require the following:

10 (1) Any professional position or service contract not subject to bidding that shall
11 expire as of December 31 of that calendar year shall be advertised by the Mayor's
12 office, appointing authority or Board as the case may be, in the official newspaper of
13 the Township of Washington for publication of notices, and published on the
14 Township's website, not later than December 10. The published notice shall set forth
15 the name of the position or contract which is to become open, and set forth the criteria
16 to be considered and materials required to be submitted by the applicant.

17 (2) Should the applicant be a professional requiring licensure in the State of New
18 Jersey, said applicant shall be licensed for a period not less than five (5) years.

19 (3) The applicant shall submit a "Certificate of Good Standing" or other similar
20 document evidencing that the professional's license is not presently suspended or
21 revoked.

22 (4) The applicant shall submit a resume which shall set forth information
23 including, but not limited to the following (as applicable to a business entity or
24 individual professional):

25 (a) Full name and business address;

26 (b) A listing of all post high school education of the applicant;

27 (c) Dates of licensure in the State of New Jersey and any other State;

28 (d) A listing of any professional affiliations or memberships in any
29 professional societies or organizations, with an indication as to any offices held
30 therein;

1 (e) The number of licensed professionals employed by/affiliated with the
2 business entity or the business entity which employs the applicant;

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

5 (g) A listing of all previous or current public entities served by the
6 business entity or licensed professional, indicating the dates of services and position
7 held.

8 C. The Mayor, appointing authority or Board shall thereafter select the
9 professional or business entity for the position so advertised which shall thereafter be
10 confirmed or approved as required by law or Ordinance.

11 **178-3 Limitations of Certain Contributors**

12 A. Notwithstanding the above establishing a fair and open process, the
13 municipality, any of its Boards or independent authorities shall not enter into an
14 agreement or otherwise contract to procure professional, banking, insurance coverage
15 services or any other consulting services from any business entity if said business
16 entity has made any contribution of money or a pledge of a contribution, including in-
17 kind contributions, to any Washington Township candidate or holder of a public
18 office having ultimate responsibility to award a contract, or to a campaign committee
19 supporting such candidate or office holder, or to any Washington Township Party
20 Committee, or to any political action committee (PAC) that regularly engages in the
21 support of municipal elections or municipal parties in excess of the thresholds
22 specified in section B below within one (1) calendar year immediately proceeding the
23 date of the contract or agreement.

24 B. Any business entity may annually contribute a maximum of \$400.00
25 each for any purpose to any candidate for Mayor or Council, or any other elected
26 office that serves the citizens of Washington Township, or \$500.00 to the Washington
27 Township Party Committee or to a PAC referenced in this Ordinance without
28 violating section A of this subsection above. However, any group of individuals
29 meeting the definition of a business entity under this section, including principals,
30 partners and officers of the entity in the aggregate may not annually contribute for
31 any purpose in excess of \$2,500.00 to all Washington Township candidates and office

1 holders with ultimate responsibility for the award of the contract, and all Washington
2 Township political parties and PAC's referenced in this Ordinance combined, without
3 violating section A of this subsection.

4 C. For the purpose of this section, the office that is considered to have
5 ultimate responsibility for the award of the contract shall be:

6 (1) The Township Council if the contract requires approval or
7 appropriation from Council; or

8 (2) The Mayor of Washington Township, if the contract requires approval
9 of the Mayor, or if a public officer who is responsible for the award of the Contract is
10 appointed by the Mayor; or

11 (3) A Planning Board or Zoning Board if the contract requires approval or
12 appropriation by the Board since Council would be required to approve an
13 appropriation, and the Mayor appoints members of said Boards.

14 D. It shall be deemed a breach of the terms of the Washington Township
15 Professional Services Agreement for a business entity to make or solicit a
16 contribution in violation of this Ordinance, directly or indirectly through any third
17 parties, intermediaries, or lobbyists. Any business entity found to violate this
18 Ordinance shall be disqualified from being awarded any Washington Township
19 Municipal Contracts for a period of one (1) calendar year from the date of the
20 violation, or the date that the violation is discovered.

21 E. It shall be the obligation of each business entity executing a public
22 services agreement, that an authorized representative of said business entity sign a
23 certification representing that the individual or business entity, as defined by this
24 Ordinance, has not made a contribution in violation of this Ordinance. This provision
25 is enacted so as to make the business entity responsible to the Township for such
26 disclosure.

27 F. **Due Process Hearing.**

28 Should it be determined that a violation of this Ordinance has occurred, the
29 person or business entity as defined herein shall receive written notice of the violation
30 as provided under Article IIA of Chapter 1 of the Washington Township Code,
31 General Provisions. However, should the violator request a hearing as provided under

1 Article IIA, the hearing officer as provided under § 1-10 shall be a retired judge of the
2 Superior Court of the State of New Jersey, designated by Township Council in the
3 case of non-township employees as set forth under § 1-10, or by the Mayor in the
4 case of township employees as provided under § 1-18.

5 **178-4 Severability**

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

9 **178-5 Effective Date**

10 Nothing in this Ordinance shall be construed as effecting the ability of any
11 business entity to perform a public contract if that entity made a contribution to any
12 committee during a period of one (1) year immediately proceeding the effective date
13 of this Ordinance.

14 **BE IT FURTHER ORDAINED**, that this Ordinance will take effect after
15 adoption and publication according to law.

16 This Ordinance shall take effect thirty (30) days after final passage by Council
17 or twenty (20) days after approval by the Mayor, whichever comes first.

18 Introduced: October 13, 2005

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	MARTIN	SCARPATO	LAPIERRE	ALTAMURO	LYONS
YES		✓	✓	✓	✓
ABSTAIN					
NO					
ABSENT	✓				

20 Public Hearing held October 27, 2005

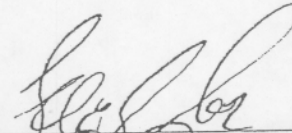
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	MARTIN	SCARPATO	LAPIERRE	ALTAMURO	LYONS
YES	✓	✓	✓	✓	✓
ABSTAIN					
NO					
ABSENT					

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TOWNSHIP OF WASHINGTON

BY: 
FRANK P. SCARPATO, III
Council President

ATTEST:

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Jennica Bileci
JENNICA BILECI, Township Clerk

On this 7 day of November 2005 I hereby approve the
above Ordinance.

Paul Moriarty

PAUL MORIARTY, MAYOR

I HEREBY CERTIFY THIS TO BE
A TRUE COPY OF ORIGINAL DOCUMENT
Jennica Bileci, MC
TOWNSHIP CLERK