

TOWNSHIP OF HOPEWELL  
MERCER COUNTY, NEW JERSEY

ORDINANCE NO. 02-1255

AN ORDINANCE AMENDING AND SUPPLEMENTING  
CHAPTER II, ENTITLED "ADMINISTRATION", OF  
THE "REVISED GENERAL ORDINANCES OF THE  
TOWNSHIP OF HOPEWELL, NEW JERSEY (1978)",  
IN ORDER TO ESTABLISH A TOWNSHIP POLICY FOR THE  
AWARDING OF PUBLIC PROFESSIONAL SERVICE CONTRACTS

WHEREAS, New Jersey Statute permits a governing body to enter a professional service agreement and exempts such agreements from public bidding requirements; and

WHEREAS, it has become common for professional service providers to make substantial political contributions to the election campaigns of the local government elected officials who are ultimately responsible for awarding professional service contracts; and

WHEREAS, substantial local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions may 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 *N.J.S.A. 40A:11-5* and *N.J.S.A. 40:48-2*, municipalities have the right to establish rules and procedures for contracting with professional business entities.

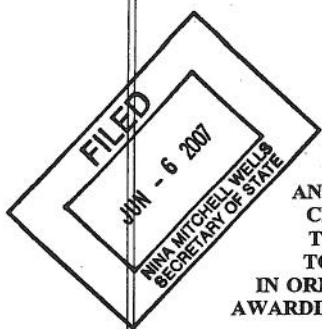
NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Hopewell, in the County of Mercer and State of New Jersey, that the policy of the Township of Hopewell will be to create such a regulation which states that a professional business entity which makes political contributions to elected officials who are responsible for awarding professional services contracts shall be ineligible to receive a public professional service contract from the Township of Hopewell.

BE IT FURTHER ORDAINED, that Chapter II, entitled "Administration", of the "Revised General Ordinances of the Township of Hopewell, New Jersey (1978)", is hereby amended and supplemented in order to establish a Township policy for the awarding of public professional services contracts as follows:

**2-34 Professional Service Contracts.**

**2-34.1 Prohibition on Awarding Public Contracts to Certain Contributors.**

- a. Any other provision of law to the contrary notwithstanding, the Township 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 services 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 a campaign committee of any Hopewell Township candidate or holder of the public office within the Township having ultimate responsibility for the award of the contract, or to any Hopewell Township or Mercer County party committee within one (1) calendar year 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 Township or any department or agency thereof or of its independent authorities for the rendition of professional services shall knowingly solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any Hopewell Township candidate or holder of the public office within the Township having ultimate responsibility for the award of the contract, or to any Hopewell Township or Mercer County party committee, 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 section, 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 ten percent (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. For purposes of this Section, the office that is considered to have ultimate responsibility for the award of the contract shall be:

The Hopewell Township Committee, if the contract requires approval or appropriation from the Committee.

**2-34.2 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 Hopewell Township candidate for Mayor or Township Committee, or Hopewell Township or Mercer County party committee 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.

**2-34.3 Contribution Statement by Professional Business Entity.**

- a. Prior to awarding any contract or agreement to procure 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 Subsection 2-34.1 hereof.
- b. The professional business entity shall have a continuing duty to report any violations of this Section 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.

**2-34.4 Return of Excess Contributions.** A professional business entity, or Hopewell Township candidate or officeholder, or Hopewell Township or Mercer County party committee may cure a violation of Subsection 2-34.1, if, within thirty (30) days after the general election, the professional business entity notifies the Township Committee in writing and seeks and receives reimbursement of a contribution from the Township candidate or Hopewell Township or Mercer County political party.

**2-34.5 Penalty.**

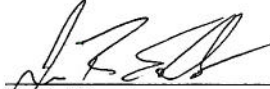
- a. All Township of Hopewell professional service agreements shall provide that it shall be a breach of the terms of the government contract for a professional business entity, as defined in Subsection 2-34.1c, to violate Subsection 2-34.1b or to knowingly conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.
- b. Any professional business entity, as defined in Subsection 2-34.1c, who knowingly fails to reveal a contribution made in violation of this Section, or who knowingly makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Township contracts for a period of four (4) calendar years from the date of the violation.

**BE IT FURTHER ORDAINED** that the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.


**BE IT FURTHER ORDAINED** that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.


**BE IT FURTHER ORDAINED** that this Ordinance shall take effect immediately upon final passage and publication in accordance with the law, and shall govern all contracts and professional service agreements commencing on or after January 1, 2003.

Date Introduced: October 17, 2002  
Date Advertised: October 24, 2002  
Date Adopted: November 7, 2002

  
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Jon R. Edwards  
Mayor

Attest:

  
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Annette C. Bielawski  
Municipal Clerk

**CERTIFICATION**  
I HEREBY CERTIFY THE FOREGOING TO BE  
A TRUE COPY OF A *W* Ordinance ADOPTED  
BY THE HOPEWELL TOWNSHIP COMMITTEE  
AT A MEETING HELD  
November 7, 2002  
DATE  
  
ANNETTE C. BIELAWSKI, MUNICIPAL CLERK