

RESOLUTION 09-06

Resolution to Adopt SMRSA Pay-To Play Policy and Procedures

WHEREAS the South Monmouth Regional Sewerage Authority is an independent regional authority governed by eight Commissioners that are appointed by the elected officials of their respective member municipalities; and

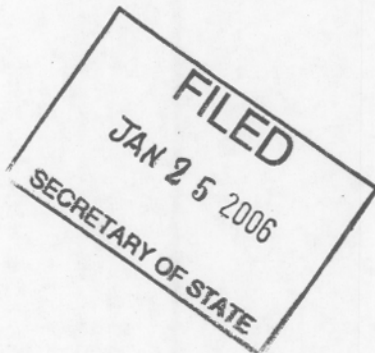
WHEREAS the South Monmouth Regional Sewerage Authority must comply with P.L. 2004, Chapter 19, (as amended by P.L. 2005, c 51,) N.J.S.A. 19:44-20.4 et seq., known as the "New Jersey Local Unit Pay-to-Play" law; and

WHEREAS the Commissioners believe that it is in the best interests of the Authority to accept a "Non-Fair and Open" procedure, as defined in law, for the award of professional services contracts that are not publicly bid and exceed \$17,500 annually or during the life of the contract; and

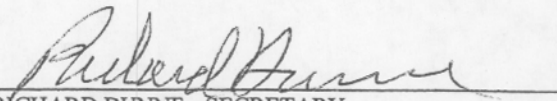
WHEREAS the Commissioners believe that contracts for goods and services, from a single vendor, with a value greater than \$17,500 and less than the Local Public Bidding Threshold should be decided on a case-by-case basis; and

WHEREAS the Commissioners require contracts for Goods and services, from a single vendor, except professional contracts, with a value greater than the Local Public Bidding Threshold will be bid according to the Local Public Bidding requirements.

NOW THEREFORE BE IT RESOLVED that the Commissioners do hereby adopt the attached Pay-To-Play Policy and Procedures as the official purchasing policy for contracts covered under the above-mentioned statutes.



CERTIFIED TO BE A TRUE COPY OF A RESOLUTION
DULY ADOPTED BY THE SOUTH MONMOUTH
REGIONAL SEWERAGE AUTHORITY AT ITS REGULAR
MEETING ON 1/12/2006.


RICHARD DUNNE - SECRETARY

S. M. R. S. A. PAY-TO-PLAY POLICY AND PROCEDURES

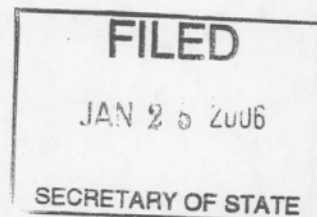
INTRODUCTION

The South Monmouth Regional Sewerage Authority is an independent regional authority governed by eight Commissioners that are appointed by the elected officials of their respective member municipalities. As such, the Authority must comply with P.L. 2004, Chapter 19, (as amended by P.L. 2005, c 51,) N.J.S.A. 19:44-20.4 et seq., known as the "New Jersey Local Unit Pay-to-Play" law.

The Commissioners approved Resolution XX-06 to comply with the Pay-To-Play regulations. The provisions to award professional and other vendor contracts are:

- To accept a "Non-Fair and Open" procedure, as defined in law, for the award of professional services contracts that are not publicly bid and exceed \$17,500 annually or during the life of the contract.
- Goods and services, from a single vendor, with a value greater than \$17,500 and less than the Local Public Bidding Threshold will be decided on a case-by-case basis.
- Goods and services, from a single vendor, with a value greater than the Local Public Bidding Threshold will be bid according to a "Fair and Open" procedure and the Local Public Bidding requirements.

This manual documents the S. M. R. S. A. policy regarding the law and the procedures that must be followed for compliance.



S. M. R. S. A. PAY-TO-PLAY POLICY
FOR "NON-FAIR AND OPEN" CONTRACTS

The S. M. R. S. A. policy requires that for a non-fair and open contract to be awarded, the following requirements must be met:

- a. The contractor may not have made a "reportable contribution" to a local political party committee or candidate's political committee in the previous year, notwithstanding those statutorily approved exceptions of calendar year 2005 as provided for in the law.
 - A "contribution" to a committee is either one that is reportable by the recipient under the New Jersey Campaign Contributions and Expenditures Reporting Act, (N.J.S.A, 19:44A-1 et seq.), administered by the Election Law Enforcement Commission. The election law defines a "reportable contribution as one in excess of \$300, or the sum of multiple contributions to any and all political party committees or candidates' political committees that either hold office or govern within the jurisdictional service area of the SMRSA.
 - The contractor may not make a reportable contribution during the term of the contract.
- b. The contractor must certify that no reportable contributions were made during the one year preceding the award of the contract.

The requirements are met and documented in the following manner:

- The governing body has a written determination that a contract has an anticipated value in excess of \$17,500.
- The business entity files a separate Business Entity Disclosure form for each of the eight municipalities in the S. M. R. S. A. service area certifying that no reportable contributions were made during the previous year. NOTE: that the sum of all contributions from each of the eight forms cannot exceed the aggregate value of \$300.
- The contract contains a requirement prohibiting reportable contributions from being made during the term of the contract.
- The Commissioners pass a resolution awarding the contract.

The completed Business Entity Disclosure Forms must be provided to the S. M. R. S. A. prior to the Commissioners approving a contract. The Commissioners cannot award a contract without having the completed certifications on file.

The S. M. R. S. A. policy requires that a contractor "shall not make a contribution, reportable by the recipient under P.L. 1973, c.83 (C.19:44A-1 et seq.), to any municipal committee of a political party of any municipality in the S. M. R. S. A. service area 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, during the term of the contract."

The prohibition on donations starts at the time of the award, not when the contract is executed. Contributions are prohibited for one-year prior to the award.

FAIR AND OPEN CONTRACTS

The "Fair and Open Contract" process may be used for any contract that exceeds \$17,500 but is less than the Local Public Contracts Threshold. This process has four minimum requirements.

- Publicly advertised (either conventionally in newspapers or posted on the Authorities website) with "sufficient time" to give notice, and
- Awarded under "a process that provides for public solicitation of proposals or qualifications," and
- Established on the basis of an award and disclosure process documented in writing prior to any solicitation, and
- Publicly opened and announced when awarded.

Under the "Fair and Open Contract" process, a contract can be awarded to a contractor that made reportable contributions as described above.

S. M. R. S. A. PAY-TO-PLAY PROCEDURES

FOR NON-FAIR AND OPEN CONTRACTS

1. After the November General Election, the Business Manager will provide a Municipal Elected Officials Pay-to-Play Survey form (Attachment A) to the Clerks of the Member Municipalities to be completed and returned by December 10th of each year.
2. The Business Manager will make multiple copies of each Pay-To Play Survey form and provide a set of eight copies with a blank Business Entity Disclosure Certification form (Attachment B) to prospective professionals, all special service contractors and any vendor that exceeds the statutory requirements for Pay-To-Play. The Business Manager will obtain the completed disclosure certifications before any contracts are awarded.
3. The Purchasing Manager, Financial Coordinator or Executive Director will provide a "Value Determination and Certification" form (Attachment C) to the governing body, certifying that a professional contract has an anticipated value in excess of \$17,500. A "Value Determination and Certification" form will be provided for a contract for goods and services that has an anticipated value in excess of \$17,500 but less than the Local Public Bidding Threshold.
4. The vendor must sign a South Monmouth Regional Sewerage Authority Non-Fair and Open Contract Political Contribution Disclosure, (Attachment D), and return it to the business manager at least ten days prior to the contract award.
5. The Commissioners will pass a resolution awarding the contract to the vendor. (Attachment E)
6. The Business Manager shall have the proper notice of award published in the official newspaper or on the S. M. R. S. A. website. (Attachment F)
7. Copies of the contract, Business Entity Disclosure Certifications, the S. M. R. S. A. Non-Fair and Open Contract Political Contribution Disclosure, back up documentation along with a copy of the resolution of award will be filed in the Business Entity Disclosure files.
8. The original resolution of award, original signed contract and the original SMRSA Non-Fair and Open Contract Political Contribution Disclosure will be filed in the official resolution file.
9. The Financial Coordinator will monitor vendors and notify the Business Manager and other appropriate managers when purchases to any vendor exceeds \$12,000. Thereafter purchases from vendors who have exceeded \$12,000 will require prior administrative approval.

10. The Business Manager will provide the appropriate paperwork to obtain the required disclosure forms to the managers if needed.

FOR FAIR AND OPEN CONTRACTS

1. The contract will be publicly advertised in the Authority's official newspapers or on the Authority's website with "sufficient time" to give notice; and
2. The contract will be awarded under a process that provides for public solicitation of proposals or qualifications; and
3. Criteria will be established for the basis of an award and the disclosure process documented in writing prior to any solicitation; and
4. The proposals will be publicly opened and announced when awarded.

Municipal Elected Officials Pay-to-Play Survey for the SMRSA

Member Municipality

	Elected Officials and Candidate's Name	Office	Term in Office	Political Party Affiliation	Municipal Political Committee Name	County Political Committee Name	Candidate's Election Committee Name
1							
2							
3							
4							
5							
6							
7							

**BUSINESS ENTITY DISCLOSURE CERTIFICATION
FOR NON-FAIR AND OPEN CONTRACTS
Required Pursuant To N.J.S.A. 19:44A-20.8
SOUTH MONMOUTH REGIONAL SEWERAGE AUTHORITY**

Part I – Vendor Affirmation

The undersigned, being authorized and knowledgeable of the circumstances, does hereby certify that the _____ has not made and will not make any reportable contributions pursuant to N.J.S.A. 19:44A-1 et seq. that, pursuant to P.L. 2004, c. 19 would bar the award of this contract in the one year period preceding **January 1, 2006** to any of the following named candidate committee, joint candidates committee; or political party committee representing the elected officials of the _____ as defined pursuant to N.J.S.A. 19:44A-3(p), (q) and (r).

Part II – Ownership Disclosure Certification

I certify that the list below contains the names and home addresses of all owners holding 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business entity:

- Partnership
 Corporation
 Sole Proprietorship
 Subchapter S Corporation
 Limited Partnership
 Limited Liability Corporation
 Limited Liability Partnership

Name of Stock or Shareholder	Home Address

Part 3 – Signature and Attestation:

The undersigned is fully aware that if I have misrepresented in whole or part this affirmation and certification, I and/or the business entity, will be liable for any penalty permitted under law.

Name of Business Entity: _____

Signed: _____

Title: _____

Print Name: _____

Date: _____

Subscribed and sworn before me this ____ day of _____, 2__.

My Commission expires:

_____ (Affiant)

_____ (Print name & title of affiant) (Corporate Seal)

**South Monmouth Regional Sewerage Authority
Pay-To-Play Vendor Value Determination and Certification**

The anticipated value of the professional contract with _____
for _____ is expected to exceed \$17,500 during the life of the
contract.
Name of Professional
Type of Service

The anticipated value of the contract with _____ for goods
and services is expected to exceed \$17,500 but be less than the Local Public Bidding
Threshold.
Vendor Name

Signature

Date

Title

**South Monmouth Regional Sewerage Authority
Non-Fair and Open Contract
Political Contribution Disclosure**

If awarded to CONTRACTOR, this contract will be based on the merits and abilities of CONTRACTOR to provide the goods or services as described herein. This contract will not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. As such, the undersigned does hereby attest that CONTRACTOR, it's subsidiaries, assigns or principals controlling in excess of 10% of the company has neither made a contribution, in excess of \$300, that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the contract that would, pursuant to P.L. 2004, c.19, affect its eligibility to perform this contract, nor will it make a reportable contribution during the term of the contract to any political party committee in the any municipality of the Authority service area 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.

Name

Date

Official Position

RESOLUTION # XX-06

RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND
OPEN CONTRACT FOR _____

Name of contractor

WHEREAS, the Authority has a need to acquire _____ as a
good or services described
 non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 and,

WHEREAS, the Purchasing Agent, Finance Coordinator or Executive Director has determined and certified in writing that the value of the acquisition will exceed \$17,500; and,

WHEREAS, name of business entity, hereinafter referred to as contractor, has submitted a proposal *<date of proposal>* indicating they will provide the *<description of goods and services>* for the *<insert price proposal>*; and

WHEREAS, the contractor has completed and submitted a Business Entity Disclosure Certification which certifies that the contractor has not made any reportable contributions to a political or candidate committee in any municipality in the S. M. R. S. A. Service Area in the previous one year, and that the contract will prohibit the contractor from making any reportable contributions through the term of the contract, and

WHEREAS, The Finance Officer has certified that there are sufficient funds available to pay the compensation for said services according to – N.J.A.C. 5:30-5.4.

NOW THEREFORE, BE IT RESOLVED that the Commissioners of the South Monmouth Regional Sewerage Authority authorizes the Executive Director to enter into a contract with the contractor as described herein; and,

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution. and,

Below for professional contracts or Fair and Open Contract awards.

BE IT FURTHER RESOLVED that public notice of the award of said contract shall be published in the Authority's Official Newspaper, as required by law.

 THOMAS NICOL-SECRETARY

Professional Services - Local

Notice of Contract Award

The South Monmouth Regional Sewerage Authority has awarded a contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a)(i). The contract and the resolution authorizing it are on file and available for public inspection in the office of Authority.

Awarded to: _____

Duration: _____

Nature and type of contract: _____

Amount of Contract*: _____

**Indicate by dollar value of contract, per hour/per occurrence, pursuant to schedule of rates/fees contained in the contract*