

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER

No. AN ORDINANCE ADDING SECTIONS 2-403 THROUGH 2-411 TO THE CODE OF ORDINANCES, ENTITLED: "PROHIBITION OF AWARDING PUBLIC CONTRACTS TO CERTAIN CAMPAIGN CONTRIBUTORS"

Approved

Be it ordained by the City of Providence:

Section 2 of the Code of Ordinances is hereby amended by adding the following:

§2-403. Definitions.

As used in sections 404-411 below, the following terms will have the following meaning:

- A. "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the provision or performance of goods or services that are original and creative in character in a recognized field of artistic endeavor.
- B. "Regulated Services" means "Professional Services" as defined above, and/or media, public relations, lobbying, parking garage management services, insurance coverage services or any other consulting and/or management service (hereinafter "Regulated Services").
- C. A "Business Entity" whose contributions are regulated by this ordinance means: (i) an individual including the individual's spouse, and any child/children; (ii) a firm; corporation; professional corporation; partnership; limited liability company; organization; association; and any other manner and kind of business entity; (iii) any person who owns 10% or more of the equity or ownership or income interests in a person or entity as defined in sections (i) and (ii) above and their spouses and child/children; (iv) all partners or officers of such an entity, in the aggregate, and their spouses and child/children; (v) any person, subcontractor, subsidiary, corporation, firm, partnership, limited liability company, organization or association who has received or indefeasibly acquired the right to receive, from a person described in subparagraph (i) above, more than \$100,000.00 in compensation or income of any kind (including, by way of illustration, and not limitation: wages, salaries, sums paid to independent contractors, benefits, dividends, profit-sharing, pension contributions, deferred contributions, stock, stock options or gifts), in any twelve (12) month period prior to the award of, or during the term of, a contract subject to this ordinance; and (vi) all persons who are an "affiliate" of a Business Entity as defined in sections (i), (ii) and (v) above, as such term is used in 11 U.S.C. 101(2).

- A. Any other provision of law to the contrary notwithstanding, the City 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 "Regulated Services" (as defined above), from any business entity if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to any City municipal candidate or holder of the public office having ultimate responsibility for the award of the contract or campaign committee supporting such candidate or officeholder or to any City party committee or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties in excess of the thresholds specified in Subsection D within one calendar year immediately preceding the date of the contract or agreement.
- B. No business entity which enters into negotiations for, or agrees to, any contract or agreement with the City or any department or agency thereof or of its independent authorities for the renditions of professional, banking or insurance coverage services or any other consulting services, including those awarded through the Board of Contract and Supply, shall solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any City municipal candidate or holder of the public office having ultimate responsibility for the award of the contract or campaign committee supporting such candidate or officeholder or to any City party committee or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties between the time of first communications between that business entity and the City regarding a specific professional services agreement and the latter of the termination of negotiations or the completion of the contract or agreement.
- C. Any individual meeting the definition of "business entity" under this section may annually contribute a maximum of \$200 each for any purpose to any candidate for Mayor or City Council or \$200 to the municipal party committee or \$500 to the City party committee or to a PAC referenced in this chapter without violating Subsection A of this section; provided, however, that if a group of individuals meeting the definition of "business entity" under this section, including such principals, partners, and officers of the entity in the contributes, as an aggregate group, a total contribution in excess of \$1,000 to all City candidates and officeholders with ultimate responsibility for the award of the contract, and all municipal political parties and PACs referenced in this chapter combined, this will be a violation of Subsection A of this section.
- D. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:
- (1) The City Council and the Mayor, if the contract requires approval or appropriation from the City Council.
 - (2) The Mayor, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.
- E. No person may be awarded a subcontract to perform under a contract subject to this Ordinance, if the subcontractor would be disqualified by paragraph (A) from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by subparagraph (A) from receiving the contract perform substantially all of obligations described in a contract for "Regulated Services" that is subject to this ordinance.

§ 2-405. Contributions made prior to effective date.

No contribution of money or any other thing of value, including in-kind contributions, made by a business entity to any municipal candidate for Mayor or City Council or municipal party committee or PAC referenced in this chapter 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 business entity prior to the effective date of this section.

§ 2-406. Contribution statement; duty to report violations.

A. Prior to awarding any contract or agreement to procure services, including banking or insurance coverage services, with any business entity, the City or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the business entity made under penalty of perjury that this entity or officer has not made a contribution in violation of §2-403 of this chapter.

B. The business entity shall have a continuing duty to report any violations of this chapter that may occur during the negotiation or duration of a contract. The certification required under this section shall be made prior to entry into the contract or agreement with the City and shall be in addition to any other certifications that may be required by any other provision of law.

§ 2-407. Reimbursement of contributions.

A business entity or municipal candidate or officeholder or municipal or county party committee or PAC referenced in this chapter may cure a violation of § 2-403 of this chapter if, within 30 days after contribution, the business entity notifies the City Clerk in writing and seeks and receives reimbursement of a contribution from the municipal candidate or municipal or county political party or PAC referenced in this chapter.

§ 2-408. Breach of professional service agreement.

- A. It shall be a breach of the terms of a professional service agreement for a business entity to:
- (1) Make or solicit a contribution in violation of this chapter;
 - (2) Knowingly conceal or misrepresent a contribution given or received;
 - (3) Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
 - (4) Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of City;
 - (5) 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 business entity itself, would subject that entity to the restrictions of this chapter;
 - (6) Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
 - (7) Engage in any exchange of contributions to circumvent the intent of this chapter; or
 - (8) Directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this chapter.
- B. Any business entity that violates Subsection A(1) through (8) shall be disqualified from eligibility for future City contracts for a period of four calendar years from the date of violation.

§ 2-409. Repealer.

All other ordinances of the City, or parts thereof, which are in conflict with this chapter are hereby repealed to the extent of such conflict.

§ 2-410. Severability.

If any section, subsection, paragraph, sentence, clause, phrase, or word contained in this chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect, and, to this end, the provisions of this chapter are hereby declared to be severable.

§ 2-411. When effective.

This chapter (sections 403 through 410) shall take effect one (1) year after passage.