

PHILADELPHIA BOARD OF ETHICS

ADVISORY ALERT

September 26, 2007

To: All Hosts and Sponsors of Political Fundraising Events and Persons Who Solicit Contributions for City Elective Office Candidates

The purpose of this Advisory Alert is to inform fundraisers for City office candidates that their fundraising activities may disqualify them or their business from receiving certain City contracts or certain types of “financial assistance” from the City.

Hosting or sponsoring a political fundraising event, or soliciting contributions for City candidates¹, may affect the hosts’, sponsors’ or solicitors’ (“fundraisers”) eligibility to receive certain non-competitively bid City contracts² or to receive certain types of financial assistance³ from the City. These political fundraising activities by individuals may also affect the eligibility of a business if the fundraisers are directors, officers, controlling shareholders or partners of the business that seeks non-competitively bid City contracts or financial assistance from the City.

In February 2006, a new City law (Chapter 17-1400 of the Philadelphia Code), went into effect that imposes disclosure and eligibility requirements to be eligible for non-competitively bid City contracts over a certain value (more than \$25,000 for businesses or more than \$10,000 for individuals), and for “financial assistance” from the City. The law is designed to eliminate

¹ “City candidates” includes candidates for the following offices: Mayor; City Council; District Attorney; Controller; Sheriff; Clerk of Quarter Sessions; and City Commissioner.

² To learn more about which City contracts are covered, please visit the City’s contracting website, located at: <http://www.phila.gov/contracts/> .

³ Including any grant, loan, tax incentive, bond financing subsidy for land purchase or otherwise, or other form of financial assistance valued at more than \$50,000 that is either approved or authorized by the City.

favoritism in City contracts by breaking the real or perceived link between large political contributions and lucrative City contracts or “financial assistance” from the City (often referred to as “pay-to-play”).

Perhaps the least understood but most critical aspect of the law is the requirement that applicants for non-competitively bid City contracts disclose certain information, including all political contributions in the Commonwealth made by the applicant ***and by persons whose political contributions are “attributed” to the applicant under the law.***

Under the attribution rules, contributions from officers, directors, controlling shareholders or partners of a business are attributed to the business. In addition, ***all contributions raised at a fundraising event for a City candidate, for example, are considered to be contributions from the hosts and sponsors of that event.*** Similarly, contributions that are solicited by a person on behalf of a City candidate ***are considered to be contributions from the person who solicited the contribution.***⁴

If a fundraiser is an officer, director, controlling shareholder or partner of a business that applies for a non-competitively bid City contract, then ***all contributions attributed to the fundraiser are attributed to the business,*** and the business would be required to disclose the contributions raised by the fundraiser in its application. Failure to disclose any contributions attributed to the business in an application for a non-competitively bid contract would constitute a material omission that would subject the applicant to monetary fines issued by the Philadelphia Board of Ethics.

Under the law’s eligibility requirements that apply to non-competitively bid contracts and “financial assistance” from the City, if a business makes contributions to a City candidate in excess of \$10,000 (\$20,000 for Mayoral candidates only in the current election cycle) in the aggregate during a calendar year, then that business or firm is not eligible to enter into any non-competitively bid City contracts over \$25,000 or to receive “financial assistance” from the City during the candidate’s term of office. Similarly, if an individual contributes more than \$2,500 (\$5,000 for Mayoral Candidates

⁴ There are other attribution rules that apply to businesses and individuals under the law in addition to the attribution rules that address political fundraising activities described in this Advisory Alert. This Advisory Alert does not address all attribution rules under the law. Instead, its scope is limited to a discussion of the attribution rules that apply to certain fundraising activities. To read and learn more about the law, please visit the City’s contracting website, located at: <http://www.phila.gov/contracts/> .

only in the current election cycle) in the aggregate during a calendar year to a City candidate, then that individual is not eligible to enter into any non-competitively bid City contracts over \$10,000 or to receive “financial assistance” from the City during the candidate’s term of office.

For example, if a partner in a law firm hosts a political fundraising event for a City candidate that raises \$25,000 from dozens of individuals, then the entire \$25,000 in contributions are attributed to the partner and to his or her law firm. If there is more than one host for the fundraising event, then the entire \$25,000 generally would be attributed to each of them as well. In this example, the contributions from the fundraising event alone would make the law firm ineligible to enter into a non-competitively bid City contract during the candidate’s term of office.

If you have questions about the disclosure and eligibility requirements, or want to learn more about Chapter 17-1400, please visit the City’s contracting website, located at: <http://www.phila.gov/contracts/> . You may also call 215 686-4914, or send an email to: econtractphilly@phila.gov. If you have questions about this Advisory Alert, you may contact the Ethics Board at 215 686-9450.

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