

## Working Draft of "Issues"

Pay-to-play rules generally prevent businesses from receiving government contracts (the "play") if executives and employees have made campaign contributions to, or raised money for, certain candidates (the "pay"). Various proposals intend to reduce corruption and the appearance of corruption/perception that government gives favors in exchange for contributions.

Proposal: Limits on Non-Competitive Bids – legislation from Mr. Mazziotti – legislation introduced by Council, currently legislation has not been introduced at the County.

Bill 58 prohibits individuals or businesses that make a contribution in excess of \$250 from applying or entering into any non-competitive bid, to be a subcontractor, or to receive financial assistance. The solicitor's office reviewed the bill and made some recommendations based on the Philadelphia code that were not put in the legislation but can be discussed.

Individuals or businesses that contribute more than \$250 to any candidate would be prohibited from getting non-competitive bid contracts in excess of \$2500 – the meaning of a non-competitive bid means any time a decision is made for a service that is other than the lowest price.

### Concerns:

- Threshold
- Solicitor Concerns/suggestions for a waiver based on Philadelphia Code: Give Purchasing agenda the ability to waive requirements of pay to play in following circumstances: 1) in case where compliance with provisions may lead to loss of federal, state or similar grant funding; 2) where the purchase is for unique articles that can't be obtained in the open market; 3) where a delay in the award of a contract would pose a threat to public safety (emergency situation); 4) where the Solicitor certifies that a contract must be awarded immediately to avoid material damage to the legal interest of the city; 5) in the case of a contract with a government agency
- Solicitor suggests rather than contract being voided, there be an appeal process before a designated forum.
- Apply cap to city employees

District of Columbia: looks at a few bills ranging from removing council in the approval process to banning contributors from getting contracts one year from the contribution

Statutory Control/Ethics Amendment – it has been suggested that you introduce statutory controls relating to contracts, here are some provisions that you might mull on:

- What caps, if any, exist on current employees contributions (political activity)
- Accepting gifts from vendors
- What is the appropriate cap – what would courts uphold – could you go to \$100 rather than \$250

Elected Officials shall maintain the highest ethical standards – any elected official or someone running for office:

- Shall not receive, ask for or in any direct or indirect way receive any contributions from any individual, business or social agency doing business with the City.
- Shall not interfere in the competitive awarding of contracts or service engagement.
- Shall not receive any gifts, favors or in-kind services from the same.

- Shall not engage the same for any private work'
- Make more secure whistleblower law – making it clear elected officials can't interfere/politicize work environment – retaliation
- Penalty – what are the range of penalties?

Any individual, business, social agencies or entity that has a contacts with the city shall be prohibited from providing campaign contributions to any elected official or official running for office in the City of Allentown.

- Penalties – what are the range of penalties?

#### Campaign Limits – County Executive Proposal

Wants to cap how much candidates can raise from individual donors and cap campaign expenditures; candidates would not be able to accept more than \$2,500 from a single person or \$7,500 from an individual political action committee; the county executive would face a \$125,000 limit and commissioners \$7,500 (spending limits at this time are legally questionable).

Prohibit Gifts – Bethlehem was in the news on this – the city does have a 'gift' and other prohibitions in the ethics ordinance, the section in your ethics code relating to gifts is copied below, the full text is below.

#### C. Gifts and Favors

No official or employee or associate of either of them shall accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm, corporation or association which to his knowledge is interested, directly or indirectly, in any manner whatsoever, in business dealings with the City; nor shall such official or employee or associate of either of them accept any gift, regardless of value, favor or thing of value that may tend to influence him in the discharge of his duties or grant in the discharge of his duties any improper favor, service or things. (11821 9/1/70)

(Officials that fill our financial interest statements must claim any gift over \$250.)

## Ethics Stuff:

- Enhance whistleblower protection

Although a complicated patchwork of federal, state, and local pay-to-play laws, regulations, and policies exists, the Securities and Exchange Commission's pay-to-play rule is the most consequential. Under the rule, if an investment company executive makes just one political contribution to a covered candidate, the company could potentially lose out on lucrative contracts to manage the investments of public pension funds and university endowments. Candidates are typically considered "covered" if their current office or the office they seek has authority to directly or indirectly influence the award of the state or local investment contract.

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## General Notes:

To avoid inadvertently sacrificing the income from major contracts—or being rendered ineligible for a contract in the first place—financial institutions generally put in place rigorous compliance programs, typically including pre-clearance of political contributions and solicitations. Because the overlapping web of pay-to-play laws is riddled with ambiguity, it is often easier and cheaper to decline to make a contribution or solicitation that is arguably legal than to deal with the fallout if a watchdog group takes a different view.

The rules therefore cause potentially covered candidates to miss out on massive amounts of hard money contributions from the rolodexes of politically active Wall Street donors. The net result is that, all things being equal, candidates not covered by the pay-to-play rules have a better shot at raising funds and winning than those who are covered.

Take, for example, presidential elections. Sitting governors, state treasurers and comptrollers, and big-city mayors are often covered by the rules because they can influence contracting decisions. U.S. Senators and Representatives, business leaders, and former government officials, in contrast, are not covered. As a consequence, it will be easier for candidates like Marco Rubio and Hillary Clinton to raise finance industry funds than it will be for Chris Christie and Martin O'Malley. The rules may also disadvantage presidential candidates from certain states. Candidates from northeastern states, many of which have their own complex state level pay-to-play rules, would be disadvantaged against candidates from regions lacking state-level pay-to-play rules. Even if both candidates are covered by pay-to-play rules, executives may decide they can deal with potential lost contracts in smaller states but not in more populous states. This would give Colorado Governor John Hickenlooper, for example, an advantage over New York Governor Andrew Cuomo.

Pay-to-play rules are also changing how campaigns operate. Most famously, pay-to-play considerations reportedly factored into the Romney campaign's decision not to ask Chris Christie to join the ticket. Similar considerations will almost certainly weigh on future presidential candidates as they make their own Vice Presidential picks.

On the day-to-day level, the necessity of complying with pay-to-play rules can also complicate fundraising structures. Political committees increasingly team up with parties and leadership PACs to form joint fundraising committees that host high-dollar fundraisers. The inclusion, in a joint fundraising committee, of candidates or parties covered by the pay-to-play rules, however, can amount to a poison pill. Hedge fund and other financial industry professionals may avoid joint fundraising committee events altogether if one of the joint fundraising committee members is subject to pay-to-play rules. Indeed, these concerns reportedly threw a wrench into the Romney campaign's original plans to include various state parties potentially subject to pay-to-play issues within its joint fundraising committee.

These pay-to-play challenges are by no means insurmountable for covered candidates. Covered candidates may, for example, end up having to rely more on outside Super PACs (which are generally not covered by the SEC pay-to-play rules) than they otherwise would. Nevertheless, the often overlooked obstacles pay-to-play rules impose on covered candidates are real. In a world where the slightest fundraising advantage can make the difference between winning and losing, these rules matter.

Parks and Glandon are lawyers at Covington & Burling's election and political law practice, advising corporations, trade associations, campaigns, political parties, and high-net worth individuals on election and political law challenges.

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#### Current City Contract Procedures:

The procedures currently in place were put together and approved by City Council after working with the administration in late 2008, early 2009. Centralized purchasing (a best practice) had been in place for many years. Council at this time included professional services in the RFP process (they are not included under bidding provisions of the 3<sup>rd</sup> Class Code). The general procedures the city follows are laid out below; they are laid out in detail in the City's Code. The Council at this time pressed the administration on outsourcing work previously done by the city – this requires council approval by resolution. Currently only the leasing or sale of land (a specific purchase of land is not approved) require council approval by resolution.

(Provisions covering contracts and purchases can be found in the City Charter and Administrative Code, Article 130.16 are below. There is a question to legal as to whether provisions of the 3<sup>rd</sup> class city code apply to the city).

1. \$1-3,999.99 – 1 quote is required – written documentation preferred – a requisition is required that references a written quote, no contract required.
2. \$4,000 – \$9,999.99 – two quotes required, same process as above.
3. \$10,000- 39,999.99 – three written quotes, documentation same as above.
4. \$40,000 plus – formal solicitation is mandated for purchase of commodities and professional services - via newspaper ads, website postings, etc. and formal evaluation of the response; can do invitation to bid (lowest responsible bidder based on costs) or request for proposal. With RFP looking at best qualified vendor.

Generally the rfp asks for a technical proposal which is evaluated; and a cost proposal that is evaluated after the technical proposal. You are not required to go with lowest cost – committee looks at qualifications. Staff needs to provide evaluation criterion with RFP specs– generally a 10 point system is used on rfp criterion – they have been doing this since 2012. An evaluation committee (made up of staff and evaluation committee) scores the technical and cost proposals. The points are averaged and documents are sent to Purchasing. This becomes part of a file and is subject to review by the auditors that council hires.

#### Certain exemptions

- piggybacking off of co-op contracts
- Co-Stars – register with the state and agree to provide services and you can negotiate – say a certain % on market value – those vendors don't need contract – try to get people into bidding process.
- Letters of engagement for legal services and other consultants fall outside this
- Charter prohibits council approval of the hiring legal counsel/temporary solicitors – (Council did not have to approve the Solicitor's hiring of outside council when investigation began)
- Exceptions related to public debt offerings or borrowing, and emergencies

New contract module, applying to contracts going forward, would allow members of council to search contracts – can enter contracts – should uniform. Have a power point presentation that council can look at; will go on SharePoint.

#### Options:

##### Contract Process in other municipalities:

Follow somewhat similar procedures in the RFP process for large contracts, except that professional services are not covered in the rfp process (this is not a requirement in the 3<sup>rd</sup> class city code).

Pa. law does not require municipalities to engage in competitive bidding for contracts for goods and services if the amount of goods and services to be acquired does not exceed \$19,100. Piecemeal purchases would violate the law – violation of the law could result in a surcharge being placed against the official and it is also considered a misdemeanor of the third degree. With some exceptions, if the contract price is between 10,300 and 19,100, municipalities must obtain written or telephone price quotations from qualified contractors. Records of written or telephone contracts must be kept for three years. If fewer than three qualified contractors exist in the market area, the municipality must keep a memo on file with an explanation.

Bethlehem – all purchases of goods and service over 19,400 are formally bid using the PennBid electronic bidding service; they are advertised in Express Times and placed on website. Council approves hiring/engagement for professional services (consultant, attorneys, engineers, etc.) – Professional services are not included in this process.

Easton – Contracts above 19,400 must be competitively bid; council approves professional service contracts, they are not included in this process.

Reading –all purchases above \$10,000 are formally bid – advertised in local newspaper, listed on website.

Lancaster – Purchasing department oversees the procurement and bidding of purchases in excess of \$19,100

##### Bill 39: Council Approve Contracts - introduced

Legislation is based on Bethlehem procedures – requires Council approval of professional services, contracts over \$40,000, and change orders above a 10% threshold.

- Any award for contracts for or the engagement of professional services by be approved by resolution prior to contract or engagement award.

- For awards of contracts over \$40,000 recommendation of the lowest responsible bidder by the Department of Administration and approval by Resolution by council prior to contract execution are required.
- File with the Clerk a list by Department of each executed purchase order, identifying the vendor, product or service purchased and amount of each purchase order.
- Administration needs to maintain monitoring function.

Impact: In terms of contracts over \$40,000 – based on information provided us, you are looking at the following numbers:

Contracts over \$40,000

2015 – 23	2014-35	2013-29	2012-50	2011-30	2010-41	2009-55
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This might be seen as a continuum of involvement – ranging from actual participation in the evaluation process (becoming part of the interviewing and scoring procedure) to a public approval based on information relayed to council – in the case of Bethlehem an interdepartmental correspondence with is part of your information.

Purchase Orders: looking at about 2,000 purchase orders a year

No Known number on letters of engagement or professional services at this time – in a review of 2015 and 2014 ‘contracts’ this is an area, that while appropriations exists in 46 accounts, there is a lack of information or oversight on this practice – i.e., Administration and legal hiring consultants.

No known number on change orders over a 10% threshold – currently a change order committee must approve any change order to the contract (at one time the Clerk sat on this committee).

Review of Contracts last two years: In a review of the contracts, Council ‘touched’ the general parameters of the contract via an ordinance or resolution.

Solicitor Review Issues: The office notes the legislation is legally permissible – they suggest you make sure it would not have a dampening effect on vendors submitting bids. Oversight could not apply to legal counsel - the charter provides that the administration the power to hire outside/temporary solicitors who are engaged for specific legal matters – a charter change would need to be made to control this. Council could approve letters of engagement for professionals outside legal counsel/temporary solicitors.

Outstanding Issues Raised on Legislation:

- Carve out solicitor exception – add that council receives information on legal counsel hired – who, at what price, and what was the issue
- Attestation from someone in regard to compliance to ethics laws on bidding procedures
- Change bid specs to require council approval
- Change language to reflect Department of Finance
- Make PO, contract, letter of engagement list available for review by council and council staff – via computer system

Limits on Non-Competitive Bids – legislation from Mr. Mazziotti – legislation introduced last meeting

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- Suggestion that threshold be looked at.

Statutory Control/Ethics Amendment – it has been suggested that you introduce statutory controls relating to contracts, here are some provisions that you might munch on:

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## Section 815 BIDDING PROCESS

### A Competition Principle

All purchases of materials, supplies, equipment and services by the City government shall be made through competitive processes, with evidence available to demonstrate broad solicitation of suppliers and opportunities for participation in the acquisition process; and the value received for the money paid.

### B Competitive Policies Code

Consistent with applicable Federal and State laws, the Council shall adopt and may amend, by Ordinance, a Code for the establishment, regulation, and maintenance of a competition system, governing the policies necessary to effectively administer a system of competitive purchasing for the City government. This code may include but is not limited to: 1) establishing varied procedures for types of services or materials to be acquired; 2) setting the dollar limits which would require: a) verbal solicitation of price quotes with a written record; b) written price quotes after informal solicitation; and c) formal public solicitation of written price quotes after public advertising; 3) establishing procedures for determining sole source contract awards; 4) policies regarding minority or local resident preference; and 5) policies and procedures to encourage the use of contemporary purchasing techniques such as reverse auctioning and electronic commerce. (14601 §1 7/17/08)

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## 130.16 CONTRACTS

### A. Administration

1. Contract administration for the City including but not limited to authority as to preparation of specifications, letting of bids, award of contracts and payment of bills, shall be vested in the Mayor and the Department of Finance to be exercised in accordance with procedures adopted by the Mayor and consistent with the requirements set forth herein. (12497 §1 1/20/82).

2. Every contract shall specifically state that the vendor agrees not to hire City personnel who may exercise discretion in the awarding, administration or continuance of that vendor's contract. The prohibition shall be in force for up to and including one year following the termination of the employee from City service. A vendor's failure to abide by this provision shall constitute a breach of the contract, and the agreement shall so state. (14407 §1 7/31/06)

### B. Bidding Process

1. *Whenever the estimated cost of any construction, erection, installation, completion, alteration, repair of, or addition to, any project subject to the control of the City shall exceed Forty Thousand (\$40,000) Dollars; it shall be the duty of the City to have such work performed pursuant to a contract awarded to the lowest responsible bidder, after advertisement for bids. Every such contract shall contain a provision obligating the contractor to the prompt payment of all material furnished, labor supplied or performed, rental for equipment employed, and services rendered by public utilities in or in connection with the prosecution of the work, whether or not the said material, labor, equipment or service enter into and become component parts of the work or improvement contemplated. Such provision shall be deemed to be included for the benefit of every person, partnership, association or corporation who, as subcontractor or otherwise, has furnished material, supplied or performed labor, rented equipment or services in or in connection with the prosecution of the work as aforesaid, and the inclusion thereof in any contract shall preclude the filing by any such person, partnership, association or corporation of any mechanics' lien claim for such material, labor or rental of equipment. (Art. VIII, §815; 13596 §1 8/21/9; 14684 §1 2/23/09)*

2. *Whenever the estimated costs of any purchase of supplies, materials or equipment or the rental of any equipment, whether or not the same is to be used in connection with the construction, erection, installation, completion, alteration, repair of, or addition to, any project subject to the control of the City, shall exceed Forty Thousand (\$40,000) Dollars, it shall be the duty of the City to have such purchase or rental made pursuant to a contract awarded to the lowest responsible bidder, after advertisement for bids, such advertisement including but not limited to any of the following: newspaper advertisements, internet and trade publications, and shall be posted on the City Website. The City shall make every effort to use available resources to secure the most cost effective responsible bid and this shall include but not be limited by the internet, buying groups, co-ops, consortiums, e-commerce, and reverse auctions. (Art. VIII, §815; 13596 §1 8/21/97; 14684 §1 2/23/09)*



a. The City shall not evade the provisions of subsection (a) or (b) as to advertising for bids by purchasing materials or contracting for services piecemeal for the purpose of obtaining prices under Forty Thousand (\$40,000) Dollars upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than Forty Thousand (\$40,000) Dollars. This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts, each for less than the advertising requirement price, or by making several simultaneous purchases or contracts, each below said price, when, in either case, the transactions involved should have been made as one transaction for one price. (Art. VIII, §815; 13596 §1 8/21/97; 14684 §1 2/23/09)

b. Written or telephonic price quotations from at least three (3) qualified and responsible contractors or vendors shall be requested for all contracts that exceed Ten Thousand (\$10,000) Dollars but are less than the amount requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three (3) qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations and written records of telephonic price quotations and memoranda shall be retained for a period of three (3) years. (Art. VIII, §815; 14684 §1 2/23/09)

3. The City shall require as a condition of the award of any contract, pursuant to Subsection (a) or (b) of this section, that the contractor give to the City any bond or Letter of Credit (including bonds for the performance of the contract, and for the prompt payment by the contractor for material, supplies, labor, services and equipment) which are prescribed by law for contracts awarded by cities of the Third Class. (Art. VIII, §815)

4. All contracts, change orders and leases shall be on file in the office of the City Controller and shall be available for public inspection during normal business hours. (Art. VIII, §815; 13596 §1 21/8/97; 14684 §1 2/23/09)

5. Resident Preference:

a. For the purposes of this section, "Resident Business" means one which maintains its principal place of business in the City of Allentown or maintains an office which employs at least five (5) employees in the City of Allentown.

b. When bids are received from both non-resident and resident businesses, or for a product manufactured in Allentown or manufactured by an entity headquartered in Allentown, and products which are not, and the lowest responsible bid is from a non-resident business or not manufactured in Allentown or by an entity headquartered in Allentown, the contract shall be awarded to the responsible resident business or the product manufactured in Allentown or manufactured by an entity headquartered in Allentown, whose responsible bid is nearest to the bid price of the otherwise low non-resident bidder, if the bid price of the resident bidder is made lower than the bid price of such non-resident business when multiplied by a factor .95. (Residence Preference provision was approved in a Charter Referendum, November 4, 1997)

c. In order to qualify for the preference set forth in Subsection B., above, the resident business or manufacturer must be properly licensed to do business in the City of Allentown and in compliance with all City Ordinances and regulations.

d. This section shall not apply to bids for the construction of public improvements in excess of \$50,000, or where the difference between the lowest non-resident bid and the lowest resident bid is in excess of \$2,500, or where otherwise prohibited by law or state or federal regulation. (13650 §1 3/5/98)

C. Emergency Purchases. The bidding requirements of this section shall not apply to emergency purchases. An emergency purchase shall mean a purchase necessary for the public safety or to avoid a significant financial loss to the City. 14684 §1 2/23/09)

Emergency purchases shall be determined by the Mayor, Managing Director, or designee and within one week after the purchase of any goods, equipment or services described in the above, the Finance Director shall submit to the City Controller a report detailing the justification for excluding said purchase from advertised bidding requirements, the vendor selected for the purchase, the price paid for the goods, equipment or services purchased, and any additional information as the City Controller may require. (13596 §2 8/21/97; 14684 §1 2/23/09)

D. Sweatshop Prohibition: The City is prohibited, to the extent possible, from purchasing, leasing, renting or taking on consignment goods produced under sweatshop conditions. (13591 §1 7/17/97)

The City is directed to notify the City's suppliers of this policy in writing.

Vendors or suppliers must authorize a statement verifying they have made a good faith effort to ascertain such information about the factories which manufacture their products.

To the extent possible, goods from suppliers who will not state that their products are not made under sweatshop conditions will not be purchased.

The criterion spelled out below shall be included in every City purchase as part of the contract stipulating that said vendor has made a good faith effort to ascertain such information about the factories which manufacture their products.

Such a compliance form must also be submitted from each vendor that desires to go on any bidding list.

The following criterion shall be used to qualify goods as not being procured under sweatshop conditions:

1. Child Labor. The factory does not employ anybody younger than the legal age for children to work in the country in which the factory is located, and regardless of the legal age, does not employ anybody younger than age 15.
2. Forced Labor. The factory does not use forced labor of any kind -- prison labor, indentured labor or bonded labor.
3. Wages and Benefits. The factory pays a wage which enables its employees to meet their basic needs for food, shelter, clothing and medical care and to set aside money for future purchases. The factory also provides all benefits required by law in their country and compensates workers for overtime.
4. Hours of Work. Employees are not required to work more than 48 hours per week or less if the law of the country in which the factory is located sets a shorter work week.
5. Workers' Rights. The factory is a workplace free from physical, sexual or verbal harassment. Employees have the right to speak up about conditions in the factory without fear or retaliation and have the right to form unions of their own choosing without employer intimidation.
6. Health and Safety. The factory provides a safe and healthy working environment. (13591 §1 7/17/97)

#### E. Purchase of Professional Services

1. Unless otherwise prescribed or superseded by the City Charter, any purchase of professional services (excluding those related to public debt offerings or other borrowing) in any amount that exceeds Forty Thousand (\$40,000) Dollars shall be made by written contract and shall be conducted as follows (12497 §1 1/20/82; 13351 §1 9/22/95; 13351 §1 9/22/95; 13445 §1 5/20/98; 14684 §1 2/23/09)

Requests for professional consulting services (excluding those related to public debt offerings or other borrowing) shall be advertised in any of the following: Newspaper advertisements, internet and trade publications, and shall be posted on the City website. The City shall make every effort to use available resources to secure the most cost effective responsible bid, and this shall include but not be limited by the internet, buying groups, co-ops, consortiums, e-commerce, and reverse auctions. 14684 §1 2/23/09)

a. The advertisement shall be in one of two alternative formats. First, it may simply serve notice that a Request for Proposal (RFP) is available for review listing all basic information necessary to elicit responses. Second, the advertisement may briefly summarize the nature of the requested services and solicit statements of qualifications from firms interested in providing the requested services to the City. As a result of the information provided in this phase, selected qualified firms will be asked to respond to a detailed RFP. 14684 §1 2/23/09)

b. The Request for Proposal shall clearly describe the desired services and shall include, but not be limited to the following information:

1. General background information pertinent to the requested services.
2. Nature and scope of requested services including minimum tasks and activities to be performed together with prescribed completion schedule.
3. Methodology and technical approach to be used in accomplishing the requested work.
4. Description of reports required.

5. Documentation of qualifications and experience in similar work and resumes of staff members to be assigned to the engagement.

6. Compensation information including detailed cost information itemizing hours and rates of each class of staff to be utilized, overhead and profit (if not included in such rates), and out-of-pocket expenses such as travel, telephone, publication and duplication.

7. Estimated utilization of City resources necessary to complete the engagements.

8. Information on the City's evaluation and selection process. (12432 §1 10/1/80; 13351 §1 9/22/95)

2. The selection process shall be based on the objective criteria contained in the RFP and shall be conducted by a Selection Committee composed of the Director of Finance, Department Head, Bureau Manager, and any other staff deemed appropriate. (12497 §1 1/20/82)

3. Unless otherwise prescribed or superseded by the City Charter, whenever fewer than three (3) proposals are received from qualified and responsible vendors for professional services of more than Ten Thousand (\$10,000) Dollars but less than the amount requiring advertisement and competitive bidding Forty Thousand (\$40,000) Dollars, the administrative documentation that requests execution of any resulting contract shall provide the reason(s) for not obtaining three (3) proposals. The contract and the administrative documentation shall be kept on file at the City Controller's Office. (14684 §1 2/23/09)

F. Policy and Procedures for Engineering By Consultants For State and Federally Funded Projects (15013 §1 8/15/12)

The following procedures shall be used for the orderly determination of the need to use consulting engineering firms, the qualifications and selection of firms, and general administration and monitoring of engineering agreements.

Upon being notified of the need to initiate engineering services on a project, the City Engineer shall analyze the City of Allentown forces to determine if the services of a consulting firm are necessary. The analysis regarding the need to engage consultants will be documented in the project file.

A detailed scope of work describing the project, its location, and services required, will be prepared. An engineering cost estimate will be prepared to compare with the consultant's proposal. A Disadvantaged Business Enterprise (DBE) Goal Request will be submitted to PennDOT's Consultant Agreement Section. The request for letters of interest from consulting firms interested in performing the required engineering services will be advertised in the following: Newspaper advertisements, internet and trade publications, and shall be posted on the City Website. The request for letters of interest must appear in at least two newspapers, of wide local circulation, for one advertisement cycle as required by municipal codes, other statutes or home rule charters. The City of Allentown will submit their advertisements for approval and publishing in Engineering and Construction Management System (ECMS) to either:

Paper copy

Electronically

Department of Transportation  
Bureau of Project Delivery  
Highway Delivery Division  
Contract Management Section  
400 North Street, 7<sup>th</sup> Floor  
Harrisburg, PA 17120

or

ECMS\_Local\_Advertisements@pa.gov

The City shall make every effort to use available resources to secure the most cost effective responsible bid and this shall include but not be limited by the internet, buying groups, co-ops, consortiums, e-commerce, and reverse auctions.

The advertisement will include the following information:

- a) Location and brief description of the required engineering services.
- b) Indication of the method of procurement as competitive negotiations;
- c) A statement that the City of Allentown encourages responses from small firms, minority firms, and firms who have not previously performed work for the City.

- d) The Disadvantaged Business Enterprise Goal, if any, or nondiscrimination provisions to encourage the prime to notify DBE subconsultants of contracting opportunities associated with the agreement and solicit their participation, if DBE Goals are not required for the agreement.
- e) A statement that indicates whether the modified or standard selection method will be used.
- f) A list, in order of importance, of the selection criteria against which the letters of interest will be reviewed.
- g) A request for special requirements U.S. General Services Administration (GSA) Form 330.
- h) Contact information for project discussions.
- i) Cut-off time for response to the advertisement (minimum of two weeks).

Three consultants will be selected from those consultants who submit letters of interest. A qualification selection committee, consisting of a minimum of three people:

- a. Director of Public Works or designee,
- b. Utility Engineer or designee,
- c. Assistant City Engineer or designee,
- d. Construction Manager or designee

shall review the qualifications of consultants who submit letters of interest as well as their responsiveness to the requirements of the advertisement. Documentation of consultants considered and the committee's recommendation shall be maintained in the project file. The committee shall document the reasons for their recommendations.

For selecting a consultant to perform bridge inspection, construction inspection agreements, or non- complex or selected moderately complex projects as defined in DM1, or for selecting a consultant as a Municipal Engineer a modified process may be used, and a ranking will be determined based on a review of the statements of interest.

For all other Agreements the normal selection method will be used. The Director of Public Works shall review the recommendations of the qualification committee and select three firms to be recommended to the Pennsylvania Department of Transportation (herein after called the Department) as the consultants to prepare a proposal. Upon receipt of the approval of the consultants from the Department, a technical proposal shall be requested from the consultants.

The request for technical proposals shall include a brief written scope of work. The consultants will be invited to a scope of work meeting at which time the project will be explained in detail. Representatives from the Department will be invited to the meeting. The consultants will be advised of the applicable Federal regulations, review procedures, contract format, and administration. A copy of the Department's Publication 442 will be supplied that the specifications will be made a part of the contract. The City of Allentown's limitations of profit, wages, etc. will be explained. The consultants will be given a name and phone number to contact in case they would have any questions during the preparation of their proposal.

Upon receipt of the technical proposals from the consultants, the qualification committee shall review the technical proposals and make a recommendation for the ranking of the shortlisted consultants for the purpose of negotiating an engineering agreement. The committee shall document the reasons for their recommendation.

The City of Allentown shall conduct discussions with the firms to consider anticipated concepts and compare alternative methods for furnishing services.

For both modified and standard methods of selection, the Director of Public Works shall review the recommendation of the qualification committee and in order of preference, rank the firms. The ranking will be recommended to the Department for approval. Documentation supporting the ranking of the consultants shall be forwarded to the Department when requesting approval of the consultant's ranking. The Department shall approve and/or comment on the municipalities recommended ranking.

The City of Allentown will request a price proposal from the approved first ranked firm and submit the appropriate number of copies to the Department.

The Department will conduct the pre-award evaluation and schedule and hold negotiations, if necessary.

The agreement will be prepared by the Department and circulated for signatures.

It is understood that the consultant cannot begin work until the Federal authorization has been obtained, and both the engineering Agreement and the Reimbursement Agreement have fully executed, and notification of this fact has been received by the City of Allentown.

The City Council designates the Public Works Director to perform liaison activities between the City of Allentown, the Department,

and the consultant.

The City of Allentown will enter into a reimbursement agreement with the department setting forth the methods for reimbursing the federal funds to the City of Allentown. The reimbursement agreement will be prepared by the Department.

During the life of the engineering agreement, monthly (or at other appropriate times) meetings will be held with the consultant and the designated liaison person. The Department will be invited to attend these meetings. Documentation of these meetings will be included in the project file.

Partial payment invoices for work performed will be processed as provided by Publication 442. After review of the invoices by the Public Works Director, or his designee, it will be paid. The invoice will in turn be forwarded to the Department with recommendation for reimbursement of the Federal and/or State share.

Prior to termination of services and payment of the final invoice, a joint review will be made by the Department and the City of Allentown to insure the propriety of claims and that all terms and conditions of the contract have been satisfied. Documentation of these findings will be submitted to the Department with the final invoice.

The City of Allentown's designated liaison person will complete copies of the Form D-429, "Past Performance Report for Consultant Engineers", see Appendix 7G or Form D-429 CI, "Past Performance Report for consultant Engineers Construction Inspection", see Appendix 7H.

It is understood and made part of these procedures that the employees of the City of Allentown will neither solicit nor accept gratuities, favors, or anything of monetary value from consultants or contractors or potential consultants or contractors. Violators of said standards will be subject to dismissal from their employment with the City of Allentown by order of the City Council. City Council. (15013 8/21/2012)

#### G. List of Subcontractors Required

Contractors that are awarded a bid shall provide a list of all subcontractors if they will engage in any work on the project. The list shall be part of the contract that shall be on file in the Controller's Office. (14428 §1 10/6/06)

### **130.17 OUT-SOURCING**

City Council must approve, by Resolution, all contracts for service, to do work or provide City services, which is currently being performed or provided for by City workers as of the effective date of this Ordinance except for temporary emergency service assistance of a duration not to exceed one week. (13355 §1 9/28/95; 13655 §1 3/4/98)(13655 was vetoed by the Mayor and Resolution 27396 was passed on 3/18/98 to override the Mayor's veto.)

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## **ARTICLE 171 CODE OF ETHICS**

- 171.01 Declaration of Policy
- 171.02 Conflict of Interest
- 171.03 Use of Public Employees for Personal Benefit
- 171.04 Use of Position or Prestige for Personal Benefit
- 171.05 Intervening of Behalf of Constituents and Friends
- 171.06 Disclosure of City Interests
- 171.07 Political Activity
- 171.08 Criminal Convictions
- 171.09 Activities Prohibited Under the Charter
- 171.10 Board of Ethics
- 171.11 Initiative of Violator for Remedial Action
- 171.12 Rules and Regulations
- 171.13 Reports
- 171.14 Filing and Posting of Campaign Finance Reports
- 171.98 Severability
- 171.99 Penalties

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### **171.01 DECLARATION OF POLICY**

Public office demands the highest respect of the public and consequently there is an incumbent duty upon all public officials and employees to fulfill that trust.

The operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a Code of Ethics for all officials and employees whether elected or appointed, paid or unpaid, and a Board of Ethics to administer the Code and further its objectives. The purpose of this Code is to establish ethical standards of conduct for all such officials and employees of the City, its agencies and authorities, whether elected or appointed, by setting forth those acts or actions which are incompatible with the best interests of the City and by directing disclosure by officials and employees of private, financial or other interests in matters affecting the City. The provisions and purpose of this Code and such rules, regulations and opinions as may be promulgated by the Board pursuant hereto are hereby declared to be in the best interest of the City. (11821 9/1/70)

For purposes of this Code of Ethics, the following definitions shall apply:

1. **Official** means any elected or appointed member of the City government, its authorities, boards or commissions.
2. **Employee** means any other personnel in the City government.
3. **Associate**, where used to indicate a relationship with any person, means any relative or spouse of such person, or any relative of such spouse, who has the same home as such person.
4. **Agency** means any department, bureau, authority, commission, board or other governmental unit of or established by the City. (11821 §1 9/1/70)

Words in the singular number shall include the plural number, and words in the plural number shall include the singular number. The masculine gender shall include the feminine, and the feminine gender shall include the masculine. Wherever the word "he" appears read "he or she". (13137 7/1/92)

#### **171.02 CONFLICT OF INTEREST**

No official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have any financial or other private interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or which would impair his independence of judgment or action in the performance of his official duties unless full disclosure is made in writing to the Board of Ethics. Such disclosure shall be a public record. (11821 9/1/70)

The following conflicts of interest are expressly prohibited whether or not disclosed:

##### **A. Business or Professional Conflict**

No official or employee shall participate in any decision-making process affecting himself or any entity in which such official or employee or associate of either of them is a director, official, or partner or in which such official or employee has a financial interest in excess of five (5%) percent, but such official or employee shall not be precluded from participating in any decision-making process where the matter involved affects the general populace or a large segment of the community. (11821 9/1/70)

No City official or employee shall discuss, vote on, decide or take part in, formally or informally, any matter proposed or pending before any agency or other City official or employee in which he has a pecuniary interest. This provision shall not apply to any City official or employee whose interest in the proposed or pending matter is minimal, provided that these procedures are followed strictly: (13137 7/1/92)

1. The City official or employee shall identify his interest, that is, the benefit or advantage that would be gained or lost if the City acts on the matter in various ways, and the underlying basis of it, such as ownership, an investment, a contract or claim, employment, or a relationship, if any. (13137 7/1/92)

2. The City official or employee shall completely and specifically describe and disclose his interest and its underlying basis, if any, in writing to his immediate superior and the chairperson of the Board of Ethics, in advance of his participation in the matter. (13137 7/1/92)

3. If either the City official or employee, or his immediate superior, or the chairperson of the Board of Ethics thinks that the disclosure reasonably raises a question whether the interest is minimal, the question shall be submitted to the Board of Ethics for an opinion, prior to which the official or employee shall not participate in the matter. (13137 7/1/92)

Failure to disclose properly, or abide by the opinion of the Board of Ethics, shall make any participation of the official or employee in the matter null and void and may also subject the official or employee to appropriate disciplinary action. (13137 7/1/92)

No City official or employee shall own in person or through an agent or broker, or be a principal in any corporation, partnership or other business entity which owns, any real property within the City of Allentown that is in violation of City or state laws or regulations. Property shall be deemed to be in violation when a reasonable and proper notice and order to correct violations duly issued has not been obeyed in a timely manner. (13137 7/1/92)

No City official or employee privy to non-public information regarding the allocation of City funds, or having direct influence or control over the allocation of City funds, shall be a director, official or trustee of any organization which receives from or through the City funds that constitute ten (10%) percent or more of the organization's annual operating and capital budget, except where appointment to such position is required by law and except where that interest is construed as being in the best interest of the City. (13137 7/1/92)

No City official or employee shall have or enter into any contract with the City which would result in personal gain unless:

1. The contract between the person and the City is awarded pursuant to the competitive bidding procedures of the General Municipal Law; or (13137 7/1/92)

2. The contract between the person and the City is one with respect to which the City official or employee (a) has no interest, (b) has no duties or responsibilities, or, if the contract with the person is one which the City official or employee entered into prior to becoming a City official or employee, he abstains from any performance of duties or responsibilities, and (c) exercises or attempts to exercise no influence. (13137 7/1/92)

#### B. Confidential Information

No official or employee shall without proper authorization disclose confidential information concerning the property, government or affairs of the City, including confidential information gained in the discharge of his official duties relating to any private person, firm, corporation or association. Nor shall he use such information to advance the financial or other private interest of himself or others. (11821 9/1/70)

#### C. Gifts and Favors

No official or employee or associate of either of them shall accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm, corporation or association which to his knowledge is interested, directly or indirectly, in any manner whatsoever, in business dealings with the City; nor shall such official or employee or associate of either of them accept any gift, regardless of value, favor or thing of value that may tend to influence him in the discharge of his duties or grant in the discharge of his duties any improper favor, service or things. (11821 9/1/70)

#### D. Use of Public Property

No official or employee shall request or permit the use of City-owned vehicles, equipment, materials, services or property for the convenience or profit of himself or any associate except when such are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business. (11821 9/1/70)

#### E. Representing Private Interests

No official or employee whose salary is paid in full or in part by the City shall appear on behalf of private interests before any agency of the City. He shall not represent private interests in any action or proceeding against the interests of the City in any litigation to which the City is a party. An elected official or employee may appear before agencies on behalf of constituents in the course of his duties as a representative of the electorate or in performance of public or civic obligations. However, no compensation, remuneration or gift of any kind whatsoever shall be accepted for such activity. (11821 9/1/70)

No City official or employee who serves the City without compensation shall represent any person before the agency he serves, or before any other City official or employee who regularly serves the agency he serves, or before any other agency on matters directly involving the agency he serves. (13137 7/1/92)

No former City official or employee shall at any time after he leaves the agency he served represent a person before any agency on a specific matter with which he was directly involved or of which he has special knowledge, if the representation would be adverse to the position of the City on the matter. (13137 7/1/92)

F. Favoritism

No City official or employee, acting in the performance of his official duties, shall treat, whether by action or omission to act, any person more favorably than it is the custom and practice to treat any member of the general public. (13137 7/1/92)

**171.03 USE OF PUBLIC EMPLOYEES FOR PERSONAL BENEFIT**

No official or employer shall use public employees on government time for private benefit. Public employees should refuse to perform improper personal tasks on government time. (13137 7/1/92)

**171.04 USE OF POSITION OR PRESTIGE FOR PERSONAL BENEFIT**

No official or employee shall use, nor allow others to use, the authority, title or prestige of public office for the attainment of private financial, social or political benefits in any manner that is inconsistent with public interests. (13137 7/1/92)

A. Use for Commercial Purposes

No official or employee shall permit their names or official titles to be used by a non-public enterprise in any manner which would lead reasonable observers to believe that those who deal with the enterprise may receive special treatment or advantages as a result of a formal association with the official or employee. (13137 7/1/92)

B. Use for Public Advantage

No official or employee shall use official letterhead or refer to their public position as a means of inducing or intimidating persons to resolve disputes more favorably, provide preferential treatment, or give free tickets, discounts, favors or other advantages. (13137 7/1/92)

**171.05 INTERVENING ON BEHALF OF CONSTITUENTS AND FRIENDS**

Public officials shall be cautious about directly or indirectly intervening with normal decision making, investigatory or adjudicative processes of governmental bodies on behalf of constituents or friends because such intervention can threaten the ability of government administrators to exercise independent objective judgment on the merits. (13137 7/1/92)

A. General Rule

Intervention on behalf of constituents or friends is proper only if it is strictly limited to assuring fairness and equity of treatment of the procedures and the intervener consciously avoids seeking to unduly influence the decision-making process. Those who intervene should firmly, explicitly and unambiguously convey their limited purposes to reduce the possibility of direct or indirect pressure on administrators which could reasonably appear to influence the substantive decision. (13137 7/1/92)

B. Sharing of Compensation

No person rendering professional services to the City shall, in any form or guise, share or agree to share the compensation received by him for such services with any City employee. Nor shall any City employee share or agree to share in the compensation received from the City by any other person for rendering professional services to the City. (12180 4/7/76)

A "person" for purposes of this section shall be a natural person, partnership, or a corporation. (12180 4/7/76)

Notwithstanding anything contained herein to the contrary, this section shall not prohibit a general partner in a professional partnership from sharing or agreeing to share his compensation with other general partners in the partnership; nor shall the other general partners in the partnership be prohibited from sharing in any such compensation. (12180 4/7/76; 13137 7/1/92; 13742 §1 3/18/99)

**171.06 DISCLOSURE OF CITY INTERESTS**

The Department of Administration and Finance shall annually publish a list of all persons, firms, corporations, associations or other business entities doing in excess of Five Hundred (\$500.00) Dollars in business with the City during the past year. All officials, department directors, bureau heads and such other employees of the City as the Board of Ethics, Mayor or City Clerk may enumerate shall indicate any offices or employment in such businesses or any financial interest in such businesses which he or any associate of his may have and the amount of such interest. (11821 9/1/70; 13137 7/1/92)

Such enumerations shall be returned to the Board of Ethics and become public record. (11821 9/1/70)



#### **171.07 POLITICAL ACTIVITY**

No appointed official or employee of the City shall use the prestige, power or influence of his position on behalf of any political party. (11821 9/1/70)

No appointed official or employee, other than temporary summer employees, shall orally, by letter or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution to any political party. Such appointed officials and employees, or those seeking office on their own behalf, excluding temporary summer employees and elected officials, shall not take an active part in political campaigns for candidates for City office. No official or employee, whether elected or appointed, shall promise an appointment to any municipal position as a reward for any political activity nor remove or threaten the removal of another official or employee for failure to participate in political activity. (11821 9/1/70; 12192 7/7/76; 13137 7/1/92)

#### **171.08 CRIMINAL CONVICTIONS**

A conviction for a felony which constitutes a knowing and deliberate breach of the law shall be considered a breach of the public trust and a knowing and deliberate violation of this Code of Ethics. (13137 7/1/92)

#### **171.09 ACTIVITIES PROHIBITED UNDER THE CHARTER**

##### **A. Activities Prohibited**

1. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial executive of such provisions, rules and regulations. (Art. XI, 1102)

2. No person who seeks appointment or promotion to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion. (Art. XI, 1102)

3. No elected City official shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any City election from any City employee. (Art. XI, 1102)

B. Penalties. Any person found in violation of this section, by the Board of Ethics, and confirmed by Council, shall immediately forfeit his or her office or position. City Council shall establish, by ordinances, such further penalties as it may deem appropriate. (Art. XI, §1102)

#### **171.10 BOARD OF ETHICS**

A. Board of Ethics. The Mayor, with the approval of City Council, shall establish an independent Board of Ethics consisting of five (5) City residents holding terms of three (3) years, to administer and enforce the conflict of interest provisions of this Charter (Section 1101) and the prohibition sections of this Charter. No member of the Board may hold elective or City office in the City or any other government or hold any political party office. Insofar as possible under state law, the Mayor shall authorize the Board to issue binding opinions, conduct investigations on its own initiative and on referral or complaint, refer cases for prosecution, impose administrative fines, and to consult with independent counsel. City Council shall appropriate reasonably sufficient funds to the Board of Ethics to enable it to perform the duties assigned to it. Members of the Board of Ethics may be removed by the Mayor with the consent of City Council. (Art. XI, §1101) At least one of the members shall be an attorney. No more than three of the members shall be members of the same political party. The initial members of the Board shall have staggered terms and any member of the Board shall be eligible to succeed himself. The members of the Board shall serve without compensation, but shall be entitled to reimbursement of expenses incurred by them in the performance of their duties. The Office of the City Clerk shall provide administrative support services to the Board. (11821 9/1/70; Art. XI, 1102)

B. Each member shall serve until his successor has been appointed and qualified. The Board shall annually select a chairperson. (11821 9/1/70)

C. The Board shall adopt the necessary rules which will enable it to carry out its powers, duties and functions. Meetings of the Board shall be held at the call of the chairman, and the affirmative vote of a majority of the entire membership shall be necessary to take any action. The Board shall have the power to administer oaths. (11821 9/1/70)

D. The Board shall render written advisory opinions at any time at the request of any official or an employee of the City involving possible conflicts of interest on the part of such official or employee. Requests shall be filed with the City Clerk who shall forward a copy to each Board member by the following working day. (11821 9/1/70; 13137 7/1/92 § 14999 6/20/12)

E. The Board shall also render written advisory opinions in circumstances where there is alleged to be a conflict of interest or unethical conduct on the part of any official or employee of the City within the scope of the Code of Ethics. Requests shall be filed with the City Clerk who shall forward a copy to each Board member by the following working day. Such request for an advisory opinion shall state the provision or provisions of the Code of Ethics which the complainant alleges have been violated. (11821 9/1/70; 13137 7/1/92 § 14999 6/20/12)

F. The Board may for good cause refuse to entertain a request for an advisory opinion. Without limiting the generality of the foregoing, the Board may refuse to entertain a request where the request is speculative or purely hypothetical and does not involve an actual situation or where the request is frivolous. In no case shall the Board entertain a request that is not in writing and not signed by the person making the request. Such request may be filed by fax or email with the signed request attached. Such request shall contain a telephone number and street address of the person making the request. (11821 9/1/70 § 14999 6/20/12)

G. The Board shall acknowledge the receipt of a request in writing to the person submitting the request. If the request involves an employee or official and the request is made by a person other than such employee or official, a copy of the request shall be sent to the employee or official so involved, with the name of the person making the request deleted so that his name will not be disclosed. (11821 9/1/70; 14999 6/20/12)

H. Every City employee or official shall provide such information to the Board as it may deem necessary for the Board to perform its responsibilities under this Code. The employee or official involved in the request shall have the opportunity within fifteen (15) days after receipt of the request to respond in writing, to make a written request for a hearing or to do both. (11821 9/1/70; 14999 6/20/12)

I. The Board shall upon receipt of a request for a hearing within the period above referred to by the official or employee involved set a time and place for the hearing for the purpose of determining the facts. The person making the allegations and the employee or official involved shall have the opportunity to appear at the hearing by himself or by counsel and to present any and all evidence including testimony and exhibits which are relevant to the issue involved. No testimony shall be excluded except for irrelevancy. (11821 9/1/70)

J. All hearings before the Board involving an alleged conflict of interest of an employee or official shall be held in executive session; provided, however, that a public hearing may be held where such official or employee alleged to have conflict of interest consents thereto. (11821 9/1/70)

K. The Board shall render its opinion in writing (a) within thirty (30) days after a request for an opinion is filed with the City Clerk or within forty-five (45) days after a hearing on any request shall have been concluded, whichever is later unless otherwise extended to a specified date upon the written consent of the official, employee or complainant. All opinions rendered by the Board shall be in such form and with such deletions as would prevent the disclosure of the identity of the official or employee involved. (11821 9/1/70 § 14999 6/20/12)

L. If the request for an opinion involves an employee or official and the request is made by a person other than such employee or official, then after an opinion has been reached, the Board shall in the case of an appointed official or employee notify the Mayor and the appointing authority of the official or employee involved of its decision. The appointing authority shall take whatever action is deemed necessary and shall report the action to the Board within fifteen (15) days after receiving the decision of the Board. If it is the majority decision of the Board that the action taken is not satisfactory then the Board shall so notify the Mayor and all members of Council. In the case of an elected official, the Board shall notify the Mayor and all members of Council. A copy of the written opinion with identifying names deleted shall be filed with the City Clerk. (11821 9/1/70; 13137 7/1/92 § 14999 6/20/12)

#### **171.11 INITIATIVE OF VIOLATOR FOR REMEDIAL ACTION**

Violation of any provision of this Code of Ethics should raise conscientious questions for a councilperson or other official or employee concerned as to whether voluntary resignation or other action is indicated to promote the best interests of the City. (13137 7/1/92)

#### **171.12 RULES AND REGULATIONS**

The Mayor may issue rules and regulations governing officials and employees subject to his jurisdiction consistent with and in furtherance of the requirements set forth in this Code, and may require such disclosure, financial and otherwise, as he deems appropriate or necessary. Any rules and regulations or amendments thereto shall be filed with the City Clerk and formally communicated to the City Council, appropriate officials and City employees and the Board of Ethics. (13137 7/1/92)

#### **171.13 REPORTS**

When appropriate, the Ethics Board shall annually prepare a written report for Council and the Mayor, and shall present in a meeting with City Council, recommendations concerning policies and procedures that ensure that city

officials and employees maintain the highest degree of trust with the public using a template provided by City Council. (14800 §4 06/02/10)

#### **ARTICLE 171.14 FILING AND POSTING OF CAMPAIGN FINANCE REPORTS**

On or before the due dates for the campaign finance reporting schedule as mandated by Pennsylvania law requires such reports to be filed with the County of Lehigh, candidates for the offices of Mayor, Controller and Council shall file a copy of their campaign finance report with the City Clerk's Office and receive a receipt for such deposit. The Clerk's Office shall have the campaign reports forwarded to the Information and Technology Bureau which shall post such reports on the City Website. The Campaign Finance Reports shall be posted no later than five (5) days after the reporting deadlines mandated by state law and as required by this ordinance. (14826 §1 12/3/2010)

#### **171.98 SEVERABILITY**

Any ordinance or part of any ordinance which conflicts with the provisions of this ordinance is hereby repealed insofar as the same affects this ordinance or is inconsistent with this ordinance. (13137 7/1/92)

#### **171.99 PENALTIES**

The doing of any act prohibited, or the failure to do any act required, by the Code of Ethics or rules and regulations issued pursuant thereto shall constitute grounds for disciplinary action, and any City official or employee subject to the Mayor's jurisdiction who violates the Code of Ethics shall be disciplined in the manner provided by law and administrative policy. Any elected City official or employee or one subject to the City Council's jurisdiction who violates a material provision of the Code of Ethics shall be subject to disciplinary action up to and including removal from office in the manner provided by law. (13137 §1 12/3/92)

## LOWER MERION, PA PURCHASING PROCEDURES

- Primary Purchases Exempt from Bidding Requirements
  - Local Piggyback Purchasing
  - Professional Services (legal, engineers, etc.)
  - Intergovernmental Contracts (with other political entities)
  - Public Works Repair and Maintenance
  - Insurance Policy Purchases
  - Public Utility Purchases
  - Purchases under Emergency Conditions
- Purchasing Thresholds Requirements
  - Purchases below \$1,000 (Exceeds State Requirements) Bidding or Price Quotations
  - Purchases between \$1,000 - \$10,000 (Exceeds State Requirements) Quotations
  - Purchases over \$10,000 (Meets State Requirements) Bidding
- Township Manager's Authority Under Township Code
  - Approve all contracts/purchases under \$25,000
  - Approve all Public Works maintenance and repair contracts/purchases under \$50,000
  - Reported through the "Weekly Operations Report"

General Purchasing  
No Advertising, Competitive  
Written or Telephone Price  
Advertising and Competitive

## Pennsylvania Purchasing Law Changes (First Class Township Code) Effective January 1, 2012

- Pennsylvania First Class Twp. Code new Purchasing Thresholds
  - Purchases below \$10,000 (Increased from \$4,000) Bidding or Price Quotations
  - Purchases between \$10,000 - \$18,500 (Increased from \$4,000 - \$10,000) Quotations
  - Purchases over \$18,500 (Increased from \$10,000) Competitive Bidding

General Purchasing  
No Advertising, Competitive  
Written or Telephone Price  
Advertising and

Thresholds will be increased by the CPI in 2013 and beyond

## BETHLEHEM, PA - PURCHASING BUREAU

### ARTICLE 122

#### Municipal Purchasing Policy

#### 122.01 Purpose.

#### 122.02 Procurement Criteria.

#### 122.03 Purchase Of Motor Vehicles.

#### 122.04 Exceptions.

#### 122.05 Contract Materials.

#### 122.06 Power To Void Contract.

#### 122.07 Applicability.

#### 122.08 Severability.

#### 122.01 PURPOSE.

This Article is hereby adopted because it has been the policy of the City of Bethlehem to aid and support the development and expansion of domestic industry through the purchase of American-made products. Further, this Article is adopted because the purchase of American-made products by the City of Bethlehem contributes to the economic well-being and general welfare of the United States and the Commonwealth of Pennsylvania, and to the citizens of the Lehigh Valley and the City of Bethlehem in particular.

#### 122.02 PROCUREMENT CRITERIA.

The City of Bethlehem shall not purchase or obligate funds for the procurement of equipment or material by way of any purchase order or contract for equipment or material, the total value of which is in excess of \$5,000.00, unless such equipment or material is manufactured, assembled or otherwise produced in the United States.

#### 122.03 PURCHASE OF MOTOR VEHICLES.

For the purchase of Motor Vehicles, the provisions of this Article are extended to include North American made products (United States and Canada) in compliance with the Motor Vehicle Procurement Act (Act No. 1984-40) of the Commonwealth of Pennsylvania, effective May 16, 1985.

'Motor Vehicle' is defined as self-propelled vehicles such as automobiles, trucks, motorcycles and vehicles designed primarily for use in construction, agriculture or road maintenance, such as tractors and earth moving equipment.

#### 122.04 EXCEPTIONS.

The provisions of Section 122.02 shall not apply where the City of Bethlehem, through the Director of Purchasing or any other employee of the City finds:

(a) That such equipment or material is not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality; or

(b) That the purchase of equipment or material produced in the United States would increase the overall cost of the contract by more than twenty-five (25%) percent. Where such a finding is made, a public record shall be made of the reasons for the exception.

#### 122.05 CONTRACT MATERIALS.

Every contract for public work shall contain a provision that in the performance of the work the contractor and all subcontractors shall use only material produced in the United States. If the City finds that with respect to any material one of the factors in Section 122.04 exists, an exception shall be noted in the specifications as to that material, and a public record shall be made of the reasons for the exception.

#### 122.06 POWER TO VOID CONTRACT.

If the City finds that in the performance of any contract there has been a willful failure to comply with the requirements of this Article, as set forth in the contract, that contract shall be void (and the contractor shall be prohibited from submitting bids for contracts with the City of Bethlehem for a period of one (1) year).

#### 122.07 APPLICABILITY.

This Article shall not apply to any contract awarded pursuant to an invitation for bids issued on or before the date of passage of this Article.

#### 122.08 SEVERABILITY.

If any sentence, clause, or sectional part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections or parts of this Article. It is hereby declared the intent of the City Council of the City of Bethlehem that this Article would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 3021. Passed 10/1/85.)

The City Purchasing Bureau procures quality goods and services that are utilized by all City Departments. All purchases over \$19,400 are formally bid using the [PennBid electronic bidding service](#). Bids are advertised in the Express Times and on this Web site.

**To contact Purchasing:**

**Phone:** (610) 865-7017

**Fax:** (610) 865-7019

**E-mail:** [purchasing@bethlehem-pa.gov](mailto:purchasing@bethlehem-pa.gov)

<http://www.pennbid.net/welcome.php>

Apex Bid Programs deliver on the promise of paperless bid management!

Imagine investing just minutes for an entire bid solicitation, from document distribution and vendor communication to bid tabulation and award while gaining better bid pricing.

The Apex Bid Programs makes this a reality.

Every so often technology radically changes the way we work. What hasn't changed in decades is how most public agencies and private firms manage bids and solicitations — until now.

**Value Delivered**

Apex Bid Programs dramatically lower the overall cost of bids and contracts by removing waste, streamlining communications, attracting large, qualified vendor pools and receiving aggressive prices through the use of technology. Provided at *absolutely no cost* to public agencies and private firms, our Programs have opened doors in the states of Delaware, Massachusetts, Maryland New Jersey & Pennsylvania for many to take advantage of electronic procurement tools generally not available due to high cost and system complexity.

**Every RFP and RFQ**

Every Request-for-Proposal (RFP) and Request-for-Quotation (RFQ), from individual product purchases, maintenance contracts to professional services and large multi- prime engineering projects, can quickly and efficiently be managed through the Apex Bid programs open architecture.

**Independence - Security - Transparency - Confidentiality**

Each public agency and private firm maintains full independence and control of all aspects for each solicitation, within their given state's bid program, from vendor qualifications to award decisions through a secure pass-code protected sealed bid platform. Confidentiality of each solicitation, along with detailed record logs are retained to provide transparency and auditability that is demanded for public solicitations.

**Experience and Leadership**

With over 200,000 clients and vendors and over \$10 Billion in transactions, Apex's technology engine is a proven and recognized leader in e-procurement and electronic bid management. This experience is a testimonial for the system's robustness and ease of use.

**Straightforward - No Strings Attached**

Public agencies, private firms, and vendors can all enjoy the time and cost savings benefits of the Apex Bid Programs without initial or recurring costs or any subscription fees. A capped fee is assessed *only* to vendors who are issued awards. See Vendor Agreement for complete details. **That's it, no strings attached.**

**It's your move - schedule an online demonstration today.**

Participating in our online demo you will discover how our Bid Programs best benefit you and your needs. Schedule a 30 min. online demo today and ***Start Saving on your Next Bid!***

**City of Easton, PA – Purchasing**

- A. All central purchasing procedures of the City, which have been placed in effect on November 1, 1972, and remain on file in the office of the Director of Finance, are hereby approved.  
[Amended 2-11-2009 by Ord. No 5153]
- B. The Department of Administration is hereby authorized to promulgate supplementary and amendatory rules and regulations governing central purchasing procedures, as the Department may deem advisable from time to time. Notice of the content of such amendatory and supplementary rules and regulations shall be served on the Mayor

and all department heads at least 14 days prior to consideration thereof Council, which may thereupon approve the same by resolution.

- C. A copy of the central purchasing procedures and all supplements and amendments thereto certified by the Director of Finance shall remain on file in the office of the Director of Finance subject to public inspection.

[Amended 2-11-2009 by Ord. No. 5153]

In all cases of contracts or purchases other than the kind mentioned in § 1901(d)(1) to (5), inclusive, of the Third Class City Code (Act of June 28, 1951, P.L. 662, as amended), from \$10,000 to an amount equal to the current maximum expenditure as set forth in § 1901(d) of the Third Class City Code, or as may be amended, whether made by Council or by an officer or appointee of the City, written bids shall be solicited therefor, and no such contract or purchase shall be made for the City except upon at least two such written bids. The specifications upon which such bids are solicited shall be uniform insofar as possible to afford equal opportunity for bidding. Catalogues and circulars of firm prices shall be acceptable as bids upon the contracts or purchases herein regulated. All such bids shall be retained in the proper department or office for a period of at least two months. The members of Council and the City Controller shall have access to the bids in all departments and offices of the City for the enforcement of this section.

The City of Easton maintains a central purchasing office under the Department of Administration. The purchasing office is responsible for all contracts and purchase orders issued by the City of Easton. Orders for supplies and services must be authorized by the purchasing office and accompanied by a signed contract or purchase order to be valid.

#### Advertised Bids

This section will display bids and documents for bids that are currently advertised. Please check back regularly for newly listed bid items.

#### Chemicals for Wastewater Treatment Plant

If you are interested in bidding, you **MUST** email your intent to [sklabunde@easton-pa.gov](mailto:sklabunde@easton-pa.gov) or call 610-250-6682. This will allow us to update you on any revisions to the original bid and provide answers to all inquiries.

### **City of Reading, PA – Purchasing**

City of Reading – Purchasing Policy Changes (June 2014)

#### **Purchasing Threshold Changes**

##### Construction & Commodities

- Purchases up to \$4,000.00 – Purchases in this category require one (1) verbal quote
- Purchases of \$4,000.01 to \$9,999.99 – Purchases in this category require three (3) verbal or written quotes
- Purchases of \$10,000.00 and up– Purchases in this category require a formal solicitation. Professional Services
- Purchases up to \$4,000.00 – Purchases in this category require one (1) verbal quote.
- Purchases of \$4,000.01 to \$9,999.99 – Purchases in this category require three (3) verbal or written quotes.
- Purchases of \$10,000.00 to \$34,999.99 – Purchases in this category require at least three (3) written quotes. RFP optional.
- Purchases of \$35,000.00 and up - Requires a formal solicitation; vendors must submit sealed bids and surety

##### Process Changes

- City Solicitor Review - The City Solicitor shall provide final review for form & content and signature on the contract.
- Payment - Contracts without Solicitor signature will not be eligible for payment
- Bid Protest Fee - Entities initiating a bid protest must submit a cashier's check in the amount of five percent (5%) of the contract award amount; or \$1,250.00 if the award amount is not established to reimburse the City for administrative costs associated with the protest
- Public Notice Modification – Acceptable methods of public notice for purchasing includes: publication in a newspaper, posting the bid solicitation to the City website, posting to a specialty publication, or other methods deemed acceptable.
- Sole Source Purchases – Will be allowed if certain criteria are met

- Local Preference - Policy provides for local preference in vendor selection Purchasing Threshold Changes Process Changes

- Mayor and Managing Director Approval – Contracts of up to \$34,999.99 are approved by both the Mayor and MD

- Council Approval – Purchases and contracts of \$35,000.00 and higher must be approved by City Council

#### Documentation Changes

- Non-Collusion Affidavit (New) – City will require Certificate of Confidentiality & Non-Collusion Affidavit for all RFP Committee members and individuals that require confidential RFP information

- New Contract Language – The City will require the use of a standard contract template for all City contracts; provides increased protection for the City.

- Approved Contract Types – Policy lists type of contracts that the City may enter into (e.g. Firm Fixed Price, Established Price plus Incentive, etc.)

Phone: 610-655-6207

Email: [purchasing@readingpa.org](mailto:purchasing@readingpa.org)

The City of Reading Purchasing Division is dedicated to providing the highest quality goods and services for the City in a cost-effective manner. The City's purchasing process follows the Third Class City Code.

All purchases in excess of \$10,000 are formally bid. All formal bids are advertised in the local newspaper, **listed on this website**, and generally require a bid bond equal to 10% of the bid amount. All City of Reading bid documents can be acquired by contacting the Purchasing Division at the address or number listed above

If interesting in becoming a city vendor, please contact the Purchasing Division via the email address above.

### **City of Lancaster – Purchasing**

Except in cases of emergency, the Bureau shall not issue any order for delivery on a contract or open market purchase until the City Controller shall have certified that there is, to the credit of each of the using agencies concerned, a sufficient appropriation balance in excess of all unpaid obligations to defray the amount of such order.

The City Controller may act for and on behalf of the City in advertising for sealed bids or proposals for the purchase of supplies and materials and for the sale of personal property for its various departments.

#### **Procurement & Collection**

The Procurement and Collection Department is responsible for the billing and collection of all municipal taxes and services provided by the City. The department oversees the procurement and bidding of purchases in excess of \$19,100. The office also sources products and services in many categories.

### **City of Erie – Purchasing**

- Bidding specifications of the City shall contain fair and equitable standards in proposals seeking bids for materials, equipment and other items to provide the widest possible opportunity for suppliers to submit bids. In addition to advertising as required by law, the Purchasing Agent shall solicit sealed bids from all suppliers maintained on the official bid list which handle the commodity sought. The Purchasing Agent shall, if possible, also solicit bids from other responsible prospective suppliers whose names are obtained from publications, catalogues, etc. (Ord. 82 – 1976 1. Passed 10-27-76.)

- 121.12 NOTICE TO LOCAL VENDORS.

Every effort is undertaken to ensure that all bids, contracts or professional service with RFPs be first distributed to qualified vendors, suppliers or professional service providers who have their business address located in Erie County giving notice of work available through the City of Erie, thereby affording regional business the opportunity to perform work for the City of Erie before seeking such services from outside the Erie County area. (Ord. 14-2004. Passed 2-18-04.)



Purchasing Department

[View RFP's and Bids](#)

The City uses the [Find RFP](#) e-Purchasing online system.

This system brings together an extensive database of vendors and government agencies which enables us to improve our service to you.

<http://erie.pa.us/Portals/0/Content/Ordinances/Codified%20Ordinances/2015/B-Administrative%20Code.pdf>

