

**Whereas**, professional business entities are exempt from public bidding requirements, and

**Whereas**, it has become common for professional business entities to make substantial political contributions to the election campaigns of Board trustees who are ultimately responsible for awarding professional service contracts or other contracts or agreements which are not subject to public bidding, and

**Whereas**, substantial local political contributions from professional business entities receiving discretionary contracts from the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers as to their trust in the process of local government, if not the quality or cost of services received,

**Whereas**, pursuant to N.J.S.18A:18A “Public Schools Contracts Law,” the board has the right to establish rules and procedures for contracting with professional business entities,

**Now therefore**, be it resolved, that the policy of the Board of Education of the City of Hoboken will be to set maximum amounts professional business entities may contribute politically beyond which they become ineligible to receive a professional service contract from the Board.

**Section 1. Prohibition on awarding public contracts to certain contributors.**

(a) Any other provision of law to the contrary notwithstanding, the Board or any of its purchasing agents shall not enter into an agreement or otherwise contract to procure services, including banking services/relationships, legal or insurance coverage, or any other no-bid consulting services, from any professional business entity, if that entity has solicited or made any contribution of money; or pledge of a contribution, including in-kind contributions, to a campaign committee of any Hoboken candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any Hoboken or Hudson County party committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting Hoboken candidates or municipal officeholders in excess of the thresholds specified in Subsection (d) within two (2) calendar years immediately preceding the date of the contract or agreement.

(b) No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the Board for the rendition of professional, banking or insurance coverage services or any other no-bid consultants shall knowingly solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any Hoboken candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any Hoboken or Hudson County party committee, or to any PAC that is organized for the primary purpose of promoting or supporting Hoboken candidates or officeholders between the time of first communications between that business entity and the Board of Hoboken regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.

(c) For purposes of this policy, a "professional business entity" seeking a public contract means an individual including the individual's spouse, if any, and any children; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.

- (d) Any individual meeting the definition of “professional business entity” under this section may contribute annually a maximum of \$400 each for any purpose to any candidate for the Hoboken Board of Education or \$500 to the Hoboken or Hudson County party committee or to a PAC referenced in this resolution, without violating subsection (a) of this section. However, any group of individuals meeting the definition of “professional business entity” under this section, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all Hoboken candidates and officeholders with ultimate responsibility for the award of the contract, and all Hoboken or Hudson County political parties and PACs combined, without violating subsection (a) of this section.
- (e) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be the Board.

## **SECTION 2 - Contributions Made Prior to the Effective Date**

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any Board candidate or municipal candidate or county party committee or PAC referenced in this ordinance shall be deemed a violation of this section, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this section.

## **SECTION 3 - Contribution Statement by Professional Business Entity**

- (a) Prior to awarding any contract or agreement to procure services, including banking services/relationships and legal or insurance coverage services or any other no-bid consulting service, with any professional business entity, the Board shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offer or has not made a contribution in violation of Section 1 of this policy;
- (b) The professional business entity shall have a continuing duty to report any violations of this policy that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Board and shall be in addition to any other certifications that may be required by any other provision of law.

## **SECTION 4 - Return of Excess Contributions**

A professional business entity or Board or municipal candidate or officeholder or municipal or county party committee or PAC referenced in this ordinance may cure a violation of Section 1 of this Act, if, within 30 days after the general election, the professional business entity notifies the Hoboken Board of Education in writing and seeks and receives reimbursement of a contribution from the Board or municipal candidate or municipal or county political party or PAC referenced in this ordinance.

## **SECTION 5 – Penalty**

(a) All Board professional service agreements shall provide that it shall be a material breach of the terms of the government contract for a professional business entity as defined in Section 1 (c) to violate, or to aid or abet a violation of Section 1 (b) or 1 (d) or to knowingly conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

(b) Any professional business entity as defined in Section 1(c) who knowingly fails to reveal a contribution made in violation of this policy, or who knowingly makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Board contracts for a period of four (4) calendar years from the date of the violation.

#### **SECTION 6 - Severability**

If any provision of this policy, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this policy to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this policy are severable.

#### **SECTION 7 – Effective Date**

This resolution will take effect May 1, 2006.