

ORDINANCE
TOWNSHIP OF FRANKLIN
ORDINANCE ESTABLISHING A FAIR AND OPEN PROCESS FOR THE AWARD OF
PROFESSIONAL SERVICE AGREEMENTS
O-3-15

WHEREAS, Professional entities are exempt from established New Jersey Public bidding laws, specifically said exception being set forth under N.J.S.A. 40A:11-5; and

WHEREAS, Franklin Township has recognized that there is a need for a fair and open process for the awarding of professional service contracts where other contracts and agreements which are not subject to public bidding and to insure that quality public services are received;

WHEREAS, the State of New Jersey has enacted N.J.S.A. 19:44A-20.5 which bars any municipality, agency or instrumentality thereof from entering into a contract in excess of \$17,500.00 (See N.J.S.A. 40:A:11-3) with a business entity that has made a political contribution reportable pursuant to N.J.S.A. 19:44A-1 et. seq. to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elective public office of that municipality when the contract is awarded unless said contract is awarded pursuant to a fair and open process.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Franklin, County of Gloucester and State of New Jersey, that the Township of Franklin enact an Ordinance to be known as an Ordinance Establishing a Fair and Open Process for the Award of Professional Service Agreements, and said Ordinance shall read as follows:

Chapter _____ An Ordinance Establishing a Fair and Open Process for the Award of Professional Service Agreements

_____-1 Prohibition Awarding Certain Public Contracts

A. Any other provision of the law to the contrary notwithstanding, the Township, or any agency or instrumentality thereof, shall not enter into a contract having an anticipated value in excess of \$17,500.00 (See N.J.S.A. 40A:11-3) as determined in advance and certified in writing by the Township, agency or instrumentality with a business entity that has made political contribution that is reportable by the receipt under N.J.S.A. 19:44A-1 et seq. to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate

committee of any person serving in an elective public office of that municipality when the contract is awarded; and

A business entity that has entered into a Contract having an anticipated value in excess of \$17,500.00 (See N.J.S.A. 40A:11-3) with the Township or any agency or instrumentality thereof, except a contract that is awarded pursuant to a fair and open process, shall not make such a contribution reportable by the recipient under N.J.S.A. 19:44A-1 et seq., to any municipal committee of a political party in the Township if a member of that political party is serving in an elective public office of the Township when the Contract is awarded or to any candidate committee of any person serving in an elective public office of the Township when the Contract is awarded, during the term of that Contract.

B. Notwithstanding the provisions of Paragraph A above, although New Jersey Statutes address contracts with an anticipated value in excess of \$17,500.00, all other licensed professionals who are subject to appointment either annually or for a time period as otherwise set forth by statute that may enter into a contract having an anticipated value of less than \$17,500.00 shall also be subject to the fair and open process as set forth herein so as to provide the Township with uniformity in both time frames to receive request for proposal as well as documentation required to be submitted.

C. When using the terms “business entity” and “interest” the following definitions shall be utilized:

(1) The term “business entity” shall mean any natural or legal person, business corporation, professional services corporation, Limited Liability Company, partnership, limited partnership, business trust, association or any legal commercial entity organized under the laws of this State or any other State or foreign jurisdiction.

(2) The term “interest” shall mean the ownership or control of more than 10% of the stock, assets, or profits of any public held company and any percentage interest of a privately held or closed corporation.

-2 Fair and Open Process

A. Any professional service entity or other business entity providing services to the Township of Franklin shall be subject to a fair and open process. That fair and open process

shall be set forth in subsection B below which shall establish criteria for the fair and open process.

B. The fair and open process established by the Township of Franklin shall require the following:

(1) Any professional position or service contract not subject to bidding that shall expire not later than December 23 of that calendar year shall be advertised by the Township Clerk's office, appointing authority or Board as the case may be, in the official newspaper of the Township of Franklin for publication of notices, and published on the Township's website, not later than December 3. The published notice shall set forth the name of the position or contract which is to become open, and set forth the criteria to be considered and materials required to be submitted by the applicant.

(2) Should the applicant be a professional requiring licensure in the State of New Jersey, said applicant shall submit the applicant's number of years of experience in the profession and any other professional experience.

(3) The applicant shall submit a "Certificate of Good Standing" or other similar document evidencing that the professional's license is not presently suspended or revoked.

(4) The applicant shall submit a current New Jersey Business Registration Certificate.

(5) The application shall submit an Affidavit/Certification that the applicant is a compliant Equal Employment Opportunity Employer.

(6) The applicant shall submit a resume which shall set forth information including, but not limited to the following (as applicable to a business entity or individual professional):

(a) Full name and business address;

(b) A listing of all post high school education of the applicant;

(c) Dates of licensure in the State of New Jersey and any other State;

(d) A listing of any professional affiliations or memberships in any professional societies or organizations, with an indication as to any offices held therein;

(e) The number of licensed professionals employed by/affiliated with the business entity or the business entity which employs the applicant;

(f) A listing of all special accreditations held by the individual licensed professional or business entity;

(g) A listing of all previous or current public entities served by the business entity or licensed professional, indicating the dates of services and position held.

C. The applications received from professionals will be received and opened by the Township Clerk on a designated date not later than December 23 of the year prior to the Reorganization Meeting. The Township Clerk shall open the applications for the advertised positions and prepare a summary report listing each person or business entity that submitted an application/proposal and will further indicate whether the professional or business entity met the criteria as outlined in the Ordinance herein.

D. The summary report shall be prepared by the Township Clerk and provided to the Governing Body within five (5) days of the deadline date set for the receipt of applications/proposals.

E. The Mayor, appointing authority or Board shall thereafter select the professional or business entity for the position so advertised which shall thereafter be confirmed or approved as required by law and to ensure compliance with the requirements of this Ordinance.

 -3 **Severability**

If any of the provisions of this Ordinance or the application of this Ordinance shall be found invalid, the remainder of this Ordinance, to the extent that it can be given effect or application, shall remain in full force and effect.

BE IT FURTHER ORDAINED, that if any section, sentence, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of the competent jurisdiction, such holdings shall not effect or impair any other section, sentence, clause, provision or portion of this Ordinance.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect immediately upon its final passage, adoption and publication provided by law.

Attest:

Township of Franklin

Barbara Freijomil, Clerk

Edward Leopardi, Mayor

CERTIFICATION

The foregoing ordinance was introduced on first reading at a meeting of the Township Committee of the Township of Franklin, County of Gloucester, State of New Jersey, held on, February 10, 2015 and will be read and considered for final passage at a meeting to be held by the Franklin Township Committee at the Municipal Building, 1571 Delsea Drive, Franklinville,

New Jersey 08322 at 7:00 p.m. on March 10, 2015 at which time and place any and all interested persons will be given an opportunity to be heard.

Barbara Freijomil, Clerk

Notice is hereby given that the foregoing Ordinance O-3-15 was finally adopted at a meeting of the Franklin Township Committee held on the March 10, 2015 at 7:00 in the Township of Franklin Municipal Building, 1571 Delsea Drive, Franklinville, NJ.

BARBARA FREIJOMIL, CLERK

	Yes	No	Abstain	Absent
Ms. Vassallo				
Mr. Krevetski				
Mrs. Neely				
Mr. Gonzalez				
Mayor Leopardi				