Information on Disclosure Requirements

Q1. What kinds of information must I disclose?

For each opportunity, you must disclose:

- Any campaign contributions your business or any affiliated entity/persons made if you are applying as a business or any campaign contributions you or any immediate family member made if you are applying as an individual (see attribution information in Q49 – Q53);
- The name of any consultant(s) you used to help in obtaining the contract;
- Any campaign contributions the consultant(s) made;
- Any subcontractors you are planning to use if awarded the contract;
- Whether a City employee asked you to give money, services, or any other thing of value to any person or entity; and
- Whether a City employee gave you any advice on how to satisfy any minority, women, disabled or disadvantaged business participation goals.

More information on the rules regarding campaign contribution disclosure, including the definition of terms, can be found in the next section.

New December 2009: The recent enactment of Pennsylvania Act 44 of 2009, imposes additional disclosure requirements and eligibility thresholds for applicants to contract opportunities with municipal pensions systems. For the City of Philadelphia, the new requirements apply to contract opportunities with the Board of Pensions and Retirement and the Sinking Fund Commission. Please see Q51 for more details.

Q2. What happens if my subcontractor makes contributions?

Subcontractors are required to comply with the same eligibility rules as primary contractors. If a subcontractor makes campaign contributions that would make them ineligible to be a primary contractor, then they are not permitted to be a subcontractor on a contract. The City will require every primary contractor to certify that each subcontractor is eligible to work on a non-competitively bid city contract.

Q3. Do I have to report whether a City official or employee, not in their official capacity (e.g. as a board member of a non-profit), asks me or my organization for a donation of time, money, or other thing of value?

Yes.

Q4. Do I have to disclose if I donate money or services to a City initiative as providing time, money, or other thing of value to another person or business?

If you were directly solicited by a City official to provide the services or money, yes. If your donation is in response to general plea for donations or made without any type of solicitation, then you do not have to disclose your donation of money or services.

Q5. I contacted the Office of Economic Opportunity ("OEO") and an employee gave me advice on how I could satisfy participation goals for disadvantaged businesses on a particular contract opportunity. Do I have to disclose this?

Yes.

Q6. Who gets to see my disclosures?

Once a contract for which you applied is executed (signed), your application (including the disclosure forms related to that contract opportunity) will be publicly accessible through the City's official website, regardless of whether you were awarded the contract.

Q7. Once a contract has been awarded, are there any additional disclosure requirements?
Yes, vendors who have been awarded contracts will be required to update disclosure forms during the term of the contract and for one year afterward. These updates must be made within five days of the reportable activity. The following information must be maintained:

1. Whether the contractor or consultant(s) made any campaign contributions;
2. Whether a City employee asked the contractor to give money, services, or any other thing of value to any person or entity; and
3. Whether the contractor received any advice on how to satisfy any minority, women, disabled or disadvantaged business participation goals (this must be maintained only for the term of the contract).

Q8. How do I know how long the contract term is for?
As many of the City of Philadelphia's contract General Provisions allow for three options to renew for additional year-long terms, the City defines the term of the contract as the base contract term plus any additional renewal terms. For a typical contract, this means that the contractor is responsible for updating its disclosure forms for up to **five years**. For more specifics on your contract, please contact your point of contact or you may request assistance through econtractphilly@phila.gov or 215-686-4914.

You can also determine your contract term by going to your Vendor Record, selecting Professional Services Contracts, and looking for the contract in which you are interested. The full term, from the initial start date to the current end date, will be displayed in the table. The end date may change if the City decides to exercise one of its options to renew and the contractor must update its disclosure forms for another year after the end date that is displayed on this table. It is the contractor's responsibility to know the end date of its contracts and to update its disclosure forms as necessary.

Q9. What happens if the City finds out that a contractor does not meet the eligibility requirements?
Any covered contract with that contractor is voidable by the City.

Q10. Do contractors have any way to appeal if they are being fined or debarred from entering into a non-bid contract?
Yes, there is a debarment process that includes an opportunity to appeal and request a formal hearing.

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Campaign Contribution Disclosures, Attribution Rules, and Eligibility Restrictions

Q11. Do these new rules change existing campaign finance laws? Does this limit the contributions that individuals and businesses can give?
No. The legislation that produced these changes (Chapter 17-1400 of The Philadelphia Code, or "the Code") dictates that individuals and businesses may be temporarily ineligible from receiving certain City contracts, based on political contributions that they, or others closely identified with them, make. But it does not prohibit contributions. Direct limitations on certain campaign contributions are contained within Chapter 20-1000 of The Philadelphia Code. Information regarding those limitations can be found at http://www.phila.gov/ethicsboard.

Q12. What is considered a contribution?
For the purposes of disclosure for eContract Philly, the word "contribution" means any payment, gift, loan, etc., of money or any other thing of value made for the purpose of influencing an election. A fuller definition of contribution can be found on the eContract Philly website in the Disclosure Definitions.

Q13. What campaign contributions are required to be disclosed?
Any campaign contributions of money or in-kind assistance to:

1. Any candidate for nomination or election to any public office in the Commonwealth of Pennsylvania or to any incumbent in such office (this includes state officials);
2. Any political committee (including political action committees) or state party in the Commonwealth of Pennsylvania; and
3. Any group, committee, or association (including political action committees) organized in support of any candidate, incumbent, political committee, or state party in the Commonwealth of Pennsylvania,

An "incumbent" is an individual who currently holds an elective office.

Q14. Do I have to disclose contributions I make to candidates for, or incumbents in, federal offices or offices in other states, or to national parties or political committees?
No.

Q15. What amount of contributions prohibits the receipt of contracts?
Contributions by an individual in excess of $2,900 in the aggregate in a calendar year to an incumbent or to a candidate for City office (who has since been elected to office) would make the applicant ineligible for a City contract over $10,000.

Contributions by a business (a corporation, partnership, or any other legal entity) in excess of $11,500 in the aggregate in a calendar year to an incumbent, or to a candidate for City office (who has since been elected to office) would make the business ineligible for a City contract over $25,000.

"In the aggregate" means all the contributions to a particular recipient made by or attributed to the applicant during the calendar year.

It is important to note that some contributions made by immediate family members of the individual or affiliated entities or persons of the business will be attributed to the individual or business. These "attribution rules" are somewhat different for individuals and businesses (corporations, partnerships, and other legal entities). For more information on attribution rules, see Q49 – Q53.

If a candidate for any City elective office contributes $250,000 or more from his or her personal resources to his or her campaign (regardless of the time period over which such contribution is made), then the maximum eligibility thresholds for individuals and businesses shall double with respect to contributions to candidates for that same elective office (i.e. $5,800 for individuals and $23,000 for businesses).

For contract opportunities with the Board of Pensions and Retirement and the Sinking Fund Commission, an applicant is not eligible to receive a contract under Pennsylvania Act 44 of 2009 if the applicant or an affiliated

entity has made any contributions within the last two (2) years (applies to contributions made since December 17 2009) to an incumbent or candidate for City elective office. An "affiliated entity" is defined in Chapter 7-A of Pennsylvania Act 44 of 2009 as "any of the following: 1) a subsidiary or holding company of a lobbying firm or other business entity owned in whole or in part by a lobbying firm; 2) an organization under section 501(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S. §501(c)) established by a lobbyist or a lobbying firm or an affiliated entity."

Q16. What contributions are considered contributions to an incumbent or candidate?

1. A contribution to a political committee that lists the name of a candidate or incumbent on a registration statement filed pursuant to State law is considered a contribution to the candidate or incumbent.
2. A contribution that is not made directly to an incumbent or candidate, but that is made with the intent that the contribution will be made available to the incumbent or candidate is counted as a contribution to the incumbent or candidate.
3. A contribution to a political committee which, during the calendar year in which the contribution was made, itself makes contributions in excess of fifty percent of the committee's total receipts for the calendar year to a particular incumbent or candidate is counted as a contribution to that incumbent or candidate.

Q17. For which elective offices do the eligibility restrictions outlined in the Code apply?

The Code restricts eligibility based on contributions to incumbent City elected officers and contributions to candidates for City office who subsequently are elected to City office. The elective City offices are Mayor, Member of City Council, District Attorney, Controller, Sheriff, City Commissioner, and Clerk of Quarter Sessions.

Q18. When do contributions start counting for the eligibility rules outlined in the Code?

Although applicants and contractors have to disclose contributions for the two years prior to the application deadline for a contract opportunity, only those contributions made on or after January 1, 2006, will be considered for determining eligibility.

Q19. What kinds of contracts might an individual or business (meaning any legal entity other than an individual) be barred from receiving based on campaign contributions?

The eligibility restrictions apply to City contracts that are non-competitively bid, meaning City contracts for the purchase of goods or services for which the lowest responsible bidder requirements of Section 8-200 of the Philadelphia Home Rule Charter do not apply.

In the case of contributions made by individuals, the eligibility restrictions for non-competitively bid contracts apply to contracts in excess of $10,000. In the case of contributions made by businesses, meaning any legal entity other than an individual, the eligibility restrictions apply to contracts in excess of $25,000.

Q20. What are the attribution rules for individuals?

In addition to contributions made directly by the individual, the following contributions are attributed to the individual.

1. Contributions in excess of $2,900 made by a member of the individual's immediate family, defined as (1) a spouse who lives in the individual's household, (2) a life partner, or (3) a minor dependent child of the individual; are counted as contributions of the individual. Note that only the amount over $2,900 is attributed and required to be disclosed.
2. Any contribution to an incumbent or candidate that is solicited from another person or entity by the individual is counted as a contribution by the individual. This includes the hosting of a fundraising event. Any contributions made at a fundraising event are attributed to the host of the event (as well as to the person or entity who made the direct contribution). Similarly, if an individual serves as an intermediary for the contribution of another person or entity, the contribution is attributed to that individual.
3. Any contribution to an incumbent or candidate in excess of $2,900 per year that is solicited by a member of the applicant's immediate family (or for which an immediate family member serves as an intermediary) is counted as a contribution by the individual. Again, only the amount over $2,900 is attributed to the individuals and is required to be disclosed.

Q21. What are the attribution rules for businesses (corporations, partnerships and other legal entities other than individual people)?

In addition to contributions made directly by the business, the following contributions are attributed to the business:

1. A contribution made by a parent, subsidiary or otherwise "affiliated" entity of a business is counted as a contribution of the business.
2. A contribution from any officer, director, controlling shareholder or partner of a for-profit business is counted as a contribution of the business.
3. A contribution of any officer, director, controlling shareholder or partner of an affiliated entity of a for-profit business is counted as a contribution of the business. (Although contributions of the officers and directors of a non-profit are not attributed to the non-profit, contributions by the officers, directors and controlling shareholders of a for-profit affiliated entity of a non-profit are attributed to the non-profit.)
5. Any contribution to an incumbent or candidate that is solicited by the business, or that is solicited by any person or entity whose own contribution would be attributed to the business, is counted as a contribution by the business. This includes the hosting of a fundraising event. Any contributions made at a fundraising event are attributed to the host of the event (as well as to the person or entity who made the direct contribution). *Contributions raised at an event hosted by a person or entity whose own contributions would be attributed to a business are also attributed to the business. Similarly, if a business serves as an intermediary for the contribution of another person or entity (or if any person or entity whose own contribution would be attributed to the business, serves as an intermediary for the contribution of another person or entity), the contribution is counted as a contribution by the business.*
6. A contribution by a person or entity that is reimbursed by the business is counted as a contribution of the business.
7. A contribution by a political action committee that is controlled by the business (or that is controlled by any of the people or entities whose individual contributions would be attributed to the business) is counted as a contribution by the business.

Direct and indirect contributions attributed to an immediate family member of an officer, director, controlling shareholder, or partner of the for-profit business or the for-profit affiliate of the business must be disclosed. Only the amount above $2,900 will be attributed to the officer, director, controlling shareholder, or partner (and, by extension, the business). Indirect contributions would include:

- ✓ Contributions not directly given to a candidate, incumbent, or political committee but made with the intent that the contribution will benefit the candidate, incumbent, or political committee;
- ✓ Solicitation of contributions on behalf of a candidate, incumbent, or political committee, including the hosting of or solicitation at fundraising events (required to disclose details regarding the date of event and amount raised); and
- ✓ Contributions not made directly by the individual/business to a candidate, incumbent, or political committee but furnished by the individual / business as an "intermediary".

Q22. What are the additional disclosures required by Pennsylvania Act 44 of 2009? (New December 2009)

For contract opportunities with the Board of Pensions and Retirement and the Sinking Fund Commission, applicants must disclose, in addition to the above, all contributions over $500 made within the last five years by the applicant or an affiliated entity (term defined below) and all contributions over $500 made by officers, directors, executive-level employees (term defined below), and owners of at least 5% of the applicant or affiliated entity. Note that applicants are not eligible to receive a contract with the Board of Pensions and Retirement or the Sinking Fund Commission if the applicant or an affiliated entity has made any contributions within the last two (2) years (applies to contributions made since December 17, 2009) to an incumbent or candidate for City elective office.

An "affiliated entity" is defined in Chapter 7-A of Pennsylvania Act 44 of 2009 as any of the following: 1) a subsidiary or holding company of a lobbying firm or other business entity owned in whole or in part by a lobbying firm; 2) an organization recognized by the Internal Revenue Services as a tax-exempt organization under section 501(c) of the Internal Revenue Cord of 1986 (Public Law 99-514, 26 U.S. §501(c)) established by a lobbyist or a lobbying firm or an affiliated entity.

An "executive-level employee" is defined in Chapter 7-A of Pennsylvania Act 44 of 2009 as an employee of a business or the businesses affiliated entity who: 1) can affect or influence the outcome of the business's or affiliated entity's actions, policies, or decisions relating to pensions and the conduct of business with a municipality or a municipal pension system; or 2) is directly involved in the implementation or development of policies relating to pensions, investments, contracts or procurement or to the conduct of business with a municipality or a municipal pensions system.

Q23. Pennsylvania Act 44 of 2009 only requires the disclosure of contributions of $500 or more. Do I still have disclose contributions of $500 or less when applying for contract opportunities with the Board of Pensions and Retirement or the Sinking Fund Commission?
Yes. You are required to disclose all contributions, regardless of amount per the requirements under Chapter 17-1400 of the Philadelphia Code.

Whenever the requirements of Chapter 17-1400 of the Philadelphia Code and Pennsylvania Act 44 of 2009 differ, you must follow the stricter law. If you have any questions, please contact eContract Philly helpline at econtractphilly@phila.gov or 215-686-4914.

Q24. Are there special attribution rules applicable to non-profit businesses?
Non-profit businesses are subject to the same eligibility requirements as for-profit businesses. Certain attribution rules that apply to for-profit businesses, however, do not apply to non-profit businesses. Specifically, the contributions of officers, directors, controlling shareholders or partners of a non-profit business, or of non-profit affiliates of the non-profit business, are not counted as contributions of the non-profit business.

Q25. Are there any contract eligibility restrictions based on consultant contributions?
No.

Q26. Are there any contract eligibility rules for subcontractors?
Yes, subcontractors at any tier have the same eligibility restrictions as primary contractors. If the individual or business would not be eligible to serve as a primary contractor, it cannot be a subcontractor at any tier. Primary contractors are responsible for making sure their subcontractors are eligible to work on a City contract. A template for gathering information to ensure subcontractor eligibility to work on a City contract can be under the Disclosure/Eligibility link on the top navigation bar of the eContract Philly website.

Q27. For how long would an individual or business remain ineligible to receive a non-bid contract?
For contributions to incumbents, during the remainder of the incumbent's term of office. For contributions to a candidate, during the term of the office to which the candidate is elected.

Q28. Once a contract is awarded, do the contribution limitations continue to apply?
Yes. In contracts awarded after February 1, 2006, individuals and businesses have to agree that they will not make any contributions during the term of the contract that would render the contractor ineligible to enter into a contract under the Code.

Q29. Are individuals eligible for City contracts if a business reimburses them for their contributions? Who is attributed those contributions?
The contribution is attributed to both the individual and the business.

If, based on the attribution rules, the individual contributes more than $2,900 to a candidate (who subsequently wins elective City office) or to an incumbent in elective City office, the individual will not be eligible for a contract with the City over $10,000 – regardless of whether a portion of that contribution is reimbursed by a business.

Q30. If a business gave $9,000 to the Democratic candidate and $9,000 to the Republican candidate running for the same office, is that business prohibited from entering into City contracts?
No. The business is still eligible to be awarded a contract, regardless of who wins the election. Contributions made to different candidates for the same office are not added together; only contributions made to the same candidate are aggregated.

Q31. If contributions made by members of the immediate family are attributed to individuals only when in excess of $2,900, does that mean the individual is attributed $500 if a member of his/her immediate family contributes $3,400 to an incumbent or winning candidate?
Yes.

Q32. If a $100 contribution is made to a political committee that gives 51% of its total receipts to a particular incumbent, does the entire $100 count as a contribution to that incumbent, or only $51?
The entire $100 counts as a contribution to the candidate.

Q33. If a candidate for a City office has contributed more than $250,000 of his/her own resources to his/her campaign, what is the eligibility threshold with respect to contributions made to that candidate and other candidates for that office?
If a candidate has contributed more than $250,000 of his/her own resources to his/her campaign for a City office, the eligibility thresholds double with respect to contributions made to candidates for that same office. Therefore, if this threshold has been met, individuals may contribute up to $5,800 in one calendar year and businesses may contribute up to $23,000 in one calendar year and still remain eligible to be awarded a non-bid contract during that candidate's term of office. Attribution rules still apply. Information regarding contributions that have triggered this rule (and a related campaign contribution limit rule) for the Mayor's race in 2007 can be found at http://www.phila.gov/ethicsboard/pdfs/Advisory_Opinion_2006-001.pdf.

Q34. What happens in the following scenario: a business gives more than $11,500 to a candidate running for City office in January, the business is awarded a contract in April, the candidate wins office in November?
Since the contribution was made, and the contract awarded, prior to the candidate winning elective office, the business will be allowed to finish that contract term. The City, at its option, may decide to exercise its option to renew for an additional three years, which does not constitute the award of a "new" contract under the terms of the Code. The business, however, will be prohibited during the term of the contract from making any contributions above the eligibility threshold. The business will also be ineligible to receive any new contracts from the City during the term of office of the candidate to whom the business made its contribution.

Q35. Can I submit campaign contribution information as an attachment to my application rather than entering it into the online disclosure form, e.g. attach a Microsoft Excel document?
No. Completion of the online forms is mandatory.