

## Additional Information on Eligibility Restrictions, Attribution Rules, and Disclosure Requirements

### Eligibility Restrictions

If an **individual** makes campaign contributions totaling over \$2,900 in one calendar year to a candidate for City office or to an incumbent, the individual is not eligible to be a principal contractor or subcontractor for a non-competitively bid contract over \$10,000 during that candidate or incumbent's term of office.

If a **business** (i.e. corporation, limited liability company, partnership association, joint venture, or any other legal entity) makes campaign contributions totaling over \$11,500 in one calendar year to a candidate for City office or to an incumbent, the business is not eligible to be a principal contractor or subcontractor for a non-competitively bid contract over \$25,000 during that candidate or incumbent's term of office.

- If a candidate for any City elective office contributes \$250,000 or more from his or her personal resources to his or her campaign, then the eligibility thresholds for individuals and businesses shall double with respect to contributions to all candidates for that same elective office (i.e. \$5,800 for individuals and \$23,000 for businesses).
- **New December 2009:** 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 office.

### Attribution Rules

Chapter 17-1400 of the Philadelphia Code outlines certain attribution rules that are to be used in determining what contributions are counted as those of an applicant, consultant or contractor. What contributions are attributed to a respondent differ depending on whether the respondent is an individual or a business. Pennsylvania Act 44 of 2009 imposes additional disclosure requirements and different eligibility thresholds for contracts with municipal pensions systems. Please see page 2 for more details.

**Individuals** have to disclose contributions made by the following:

1. Applicant individual
2. Member of individual's immediate family (i.e., spouse, life partner, or dependent child living at home), when contributions are in excess of \$2,900

*Businesses must disclose contributions to candidates or incumbents which are attributed to an immediate family member of an officer, director, controlling shareholder, or partner of the for-profit applicant or the for-profit affiliate of the applicant. Only the amount above \$2,900 will be attributed to the officer, director, controlling shareholder, or partner (and, by extension, the applicant business).*

**Businesses** (i.e. corporation, limited liability company, partnership association, joint venture, or any other legal entity including non-profit organizations) have to disclose contributions made by the following:

1. Applicant business
2. Parent, subsidiary, or otherwise affiliated entity of the applicant business ("affiliate")
3. An individual or business that is then reimbursed by the applicant business or affiliate
- ➔ 4. Officers, directors, controlling shareholders, or partners of the for-profit applicant business or for-profit affiliate
5. Political action committee controlled by applicant business or affiliate
6. Political action committee controlled by officer, director, controlling shareholder, or partner of the for-profit applicant business or for-profit affiliate

## *Pennsylvania Act 44 of 2009*

Pennsylvania Act 44 of 2009 imposes additional disclosure requirements and different eligibility thresholds for contracts with municipal pensions systems. For the City of Philadelphia, this law affects all contract opportunities with the Board of Pensions and Retirement and the Sinking Fund Commission.

Specifically, applicants for these opportunities must disclose, in addition to the information required by Chapter 17-1400 of the Philadelphia Code (see page 1), all contributions over \$500 made within the last five years by the applicant or an affiliated entity and all contributions over \$500 made by officers, directors, executive-level employees, and owners of at least 5% of the applicant or affiliated entity.

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 Code 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.

## *DETAILS ON CONTRIBUTIONS*

For the purposes of completing the disclosure forms, “contribution” is defined as the provision of money, in-kind assistance, discounts, forbearance or any other valuable thing to any of the following:

- a candidate for nomination or election to any public office in the Commonwealth of Pennsylvania;
- an incumbent in any public office in the Commonwealth;
- a political committee or state party (including political action committees) in the Commonwealth; or
- a group, committee or association organized in support of any candidate, office holder, political committee or state party in the Commonwealth (including political action committees)

In addition to disclosing contributions given directly to a candidate, incumbent, or political committee, applicants must also disclose the following:

1. 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;
2. 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
3. Contributions not made directly by the individual/business to a candidate, incumbent, or political committee but furnished by the individual / business as an “intermediary”.

## Types of Disclosure

Only applicants and contractors are required to disclose certain information (described below), which they will do through their secure Vendor Record on the online system ([www.phila.gov/contracts](http://www.phila.gov/contracts), choose eContract Philly). Additional information, including definitions, is available on the eContract Philly website.

Disclosure	Description	Required Information
<b>Applicant Campaign Contribution</b>	Whether the applicant made any campaign contributions within the two years prior to the application deadline	<ul style="list-style-type: none"> <li>- Name of contributor</li> <li>- Name of recipient</li> <li>- Date of contribution</li> <li>- Amount of contribution</li> </ul>
	See above for rules determining what contributions made by other individuals or entities are attributed to the applicant.	
<b>Use of Consultant</b>	Whether the applicant used any consultants in the year prior to the application deadline to assist in procuring the contract	<ul style="list-style-type: none"> <li>- Consultant Name</li> <li>- Business Address</li> <li>- Phone Number</li> <li>- Amount paid or to be paid</li> </ul>
	Please read through definition of "consultant" prior to completing the "Use of Consultant" disclosure form.	
<b>Consultant Contribution</b>	Whether the consultant made any campaign contributions within the two years prior to the application deadline	<ul style="list-style-type: none"> <li>- Name of Contributor</li> <li>- Name of Recipient</li> <li>- Date of Contribution</li> <li>- Amount of contribution</li> </ul>
	See above for rules determining what contributions made by other individuals or entities are attributed to the consultant.	
<b>Proposed Use of Subcontractor</b>	Whether the applicant plans to use any subcontractors on the contract	<ul style="list-style-type: none"> <li>- Subcontractor Name</li> <li>- Business Address</li> <li>- Phone Number</li> <li>- Amount or percentage of contract to be paid</li> </ul>
<b>Employee Request</b>	Whether a City employee or officer requested money, services, or any other thing of value (other than a contribution) to be paid or provided to any person or entity (including direct solicitations to charities, organizations, or city-sponsored programs) within the two years prior to the application deadline	<ul style="list-style-type: none"> <li>- Name and title of employee</li> <li>- Date of request</li> <li>- Amount or nature of request</li> <li>- Whether/when request was fulfilled</li> <li>- Amount or nature of response</li> </ul>
<b>Employee Participation Advice</b>	Whether a City employee or officer provided advice within the two years prior to the application deadline regarding fulfilling minority, women, disabled or disadvantaged business participation goals for a contract opportunity	<ul style="list-style-type: none"> <li>- Name and title of employee</li> <li>- Date of advice</li> <li>- Name(s) of recommended business(es) or individual(s)</li> </ul>

## Initial Disclosure

Before a contract is executed, there are two ways in which disclosure information may be submitted; this depends on whether the contract was required to be posted through a notice of contract opportunity or was not required to be posted since it qualified for an exception (*unadvertised contracts*).

*Applicants for advertised contracts* have to submit their disclosure information as part of their online application before the application deadline. Applicants for advertised contracts who have not submitted their required disclosure information through the online system will not be considered for that contract opportunity.

*Contractors for unadvertised contracts* (those that were not required to have a posted notice of contract opportunity, Miscellaneous Purchase Orders or Contracts for under \$30,000, and Sole Source contracts) have to submit their disclosure information before their contracts are executed. The contracting department will notify vendors when they are able to submit their disclosure information for these unadvertised contracts. The vendor can then select their contract from the *Professional Services Contracts* list available on their secure *Vendor Record* and fill out the required disclosure forms. The contract will not be executed until the vendor submits the required disclosures.

## Ongoing Disclosure

Contractors will have to continue to update their disclosures throughout the term of the contract, and in some cases for one year after, **within five business days of any activity**.

- The contractor must disclose all campaign contributions made **during the entire term of the contract and for one year afterward** to any candidate, incumbent, state or local political committee in the Commonwealth of Pennsylvania made by the *contractor and individuals or entities* covered by the attribution rules outlined above.
- The contractor must disclose all campaign contributions made **during the entire term of the contract and for one year afterward** to any candidate, incumbent, state or local political committee in the Commonwealth of Pennsylvania made by the *consultant and individuals or entities* covered by the attribution rules outlined above.
- The contractor must disclose whether a City employee requested money, services, or any other thing of value to be paid or provided to any person, **during the entire term of the contract and for one year afterward**.
- The contractor must disclose whether a City employee provided advice **during the entire term of the contract** regarding fulfilling minority, women, disabled, or disadvantaged business participation goals for a contract opportunity.

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 within the department holding your contract or you may request assistance through [econtractphilly@phila.gov](mailto:econtractphilly@phila.gov) or 215-686-4914.