

SECTION XII
State Contractor Political Contributions Compliance
Public Law 2005, Chapter 51
(Formerly Executive Order 134)

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, Executive Order 134 was signed on September 22, 2004 ("EO 134"). The Order is applicable to all State agencies, the principal departments of the executive branch, any division, board, bureau, office, commission within or created by a principal by a principal executive branch department, and any independent State authority, board, commission, instrumentality or agency. Executive Order 134 was superseded by Public Law 2005, c.51, signed into law on March 22, 2005. The Executive Order, and the subsequent legislation, contain additional restrictions and reporting requirements that will necessitate a thorough review of the provisions. Pursuant to the requirements of PL 2005, c.51, the terms and conditions set forth in this section are material terms of any OPS resulting from this RFEOI or RFP:

Definitions

For the purpose of this section, the following shall be defined as follows:

- a) **Contribution** – means a contribution reportable as a recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act." P.L. 1973, c. 83 (C.10:44A-1, et. seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1, et. seq. As of January 1, 2005, contributions in excess of \$300 during a reporting period are deemed "reportable" under these laws.
- b) **Business Entity** – means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other state or foreign jurisdiction. It also includes (i) all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate; (ii) any subsidiaries directly or indirectly controlled by the business entity; (iii) any political organization organized under 26 U.S.C.A. 527 that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (iv) if a business entity is a natural person, that person's spouse or child, residing therewith.

Violation of Terms of P.L. 2005, c.51

It shall be a violation of the terms of P.L. 2005, c.51 for the Business Entity to (i) make or solicit a contribution in violation of this Order; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or to any State or county party committee; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which is made or solicited by the business entity itself, would subject that entity to the restrictions of P.L. 2005, c.51; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of P.L. 2005, c.51; or (viii) directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of P.L. 2005, c.51.

Certification and Disclosure Requirements

The Authority shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor, or to any State or county political party committee during specified time periods as set forth in the P.L. 2005, c.51.

Accordingly, the Business Entity(s) shall submit a Certification(s) certifying no contributions prohibited by P.L. 2005, c.51 have been made by the Business Entity. A separate Certification is required for each person or organization defined above as a Business Entity.

Furthermore, prior to awarding any contract or agreement to any Business Entity, the Business Entity proposed as the intended awardee of the contract shall report all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C. 527 of the Internal Revenue Code that also meets the definition of a "continuing political committee" within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7, as set forth in the P.L. 2005, c.51. A separate Disclosure is required for each person or organization defined above as a Business Entity.

In order to further simplify the P.L. 2005, c.51 compliance process, a combined Certification and Disclosure Form can be utilized to satisfy the above requirements. It is to be submitted following a notice of intent to award or prior to contract award.

The intended awardee must also submit an Ownership Disclosure form and The Executive Summary of Procurement to be Awarded form.

All forms will be requested from the intended awardee only. The necessary forms will be transmitted to the intended awardee by the Authority via mail or fax. These documents will then be completed by the intended awardee and returned to the Authority within five business days.

State Treasurer Review

The State Treasurer or his/her designee, shall review all forms submitted pursuant to this P.L. 2005, c.51, as well as any other pertinent information concerning the contributions or reports thereof that may be requested of the intended awardee or contractor prior to award or during the term of the contract, respectively. If the State Treasurer determines that any contribution or action by the intended awardee or contractor violates the terms of the P.L. 2005, c.51, the State Treasurer shall disqualify the Business Entity from award of such contract or shall terminate the existing contract.