

**CITY OF SAN ANTONIO
CITY ATTORNEY'S OFFICE
INTERDEPARTMENTAL CORRESPONDENCE**

TO: Mayor and City Council

FROM: Andrew Martin, City Attorney

COPIES TO: Terry M. Brechtel, City Manager

SUBJECT: Municipal Campaign Finance Code

DATE: February 20, 2004

Summary

This ordinance will create a municipal campaign finance code to be enforced by the Ethics Review Board. The code will set limits on campaign contributions that a candidate for mayor or city council may accept when running for municipal office. The code also imposes time restrictions on campaign contributions made by individuals seeking "high-risk" contracts with the City of San Antonio. Candidates will also be required to provide monthly statements from the campaign bank account to the Ethics Review Board. The Ethics Review Board will have authority to issue advisory opinions on the interpretation of this code and to enforce the code by the imposition of sanctions where candidates have committed knowing and willing violations.

Procedural Background

On October 23, 2002, Mayor Edward D. Garza convened the Mayor's Committee on Integrity and Trust in Local Government. The Committee was charged with providing specific recommendations to correct weaknesses in existing ethics ordinances and code, with the "goal of strengthening a culture of service, integrity, trust and accountability." From October 2002 through January 2003, the Committee interviewed city staff, current and former city officials, members of the business community, and citizen groups. On January 29, 2003, the Committee issued its report, which included specific recommendations for the development and implementation of municipal campaign finance regulations. On January 30, 2003, the Committee presented its report to the City Council.

On October 30, 2003, the City Council considered the recommendations of the Mayor's Integrity Committee. Subsequent to this council meeting, the Council Campaign Finance

Subcommittee was formed to further review and research campaign finance issues. The Subcommittee met on February 2, 2004 and February 9, 2004 and will meet once more on February 24, 2004. The Subcommittee will present its recommendations to the Governance Committee on February 25, 2004. These recommendations will be presented to the full City Council on February 26, 2004.

Summary of Proposed Municipal Campaign Finance Code

1) Limitation of Contributions to Candidates for Mayor or Council. A candidate for District Office on the City Council may not accept more than \$500 from any individual or single entity (e.g. a political action committee) per election cycle. A candidate for Mayor may not accept more than \$1,000 from any individual or single entity per election cycle. The proposed definition of separate election cycles during which a candidate may accept contributions is:

- 1) for all candidates, beginning one calendar year before the date of the regular municipal election, and ending on the date of the regular municipal election;
- 2) for a candidate in a run-off election after the regular municipal election, beginning the day after the regular municipal election, and ending on the date of the run-off election;
- 3) for all candidates, beginning either on the day after the regular municipal election or the day after the run-off election, as applicable, until one day before one calendar year before the next regular municipal election.

2) In-Kind Contributions. PACs, commercial entities, or campaign vendors cannot give "in-kind" contributions with a commercial value to candidates or officeholders beyond the \$500 or \$1000 limitations. Individuals may donate their personal time as volunteers to a campaign without reporting requirements.

3) Cash Contributions. A candidate for Mayor or City Council may not accept a campaign contribution or officeholder-account contribution in cash greater than \$50, including tickets to events.

4) Contributions by Minors. A minor may make a contribution only if done so knowingly and voluntarily with funds, goods, or services owned or controlled exclusively by the minor and not with proceeds of a gift where the purpose of the gift was to provide funds to be contributed. A minor shall submit a form with the contribution acknowledging his or her minor status, and that the contribution complies with this provision.

5) Time Limits to Accept Donations. Candidates may not accept or deposit contributions during a period starting three days before the regular municipal election date or run-off election date. Contributions received during that time, if accepted, must be deposited during the next election cycle.

6) Limitation of Candidate Loans to Campaign Account. The Council Subcommittee recommends setting a limit on the amount of loans a candidate may accept during an election cycle. The limit amount has not been set.

7) Single Campaign Account. Candidates must deposit all campaign contributions into one specified bank account. Candidates must use this one account for all campaign deposits and expenditures. A copy of the monthly account statement is to be provided to the campaign finance enforcement authority. A recommendation on the treatment of transfers of money from one campaign account to another is pending further review.

8) PAC's Must Register Campaign Expenditures. All PACs or groups spending money on campaign activity or advertising associated with a city candidate or measure election, (or specially designated City Council agenda item), must register with the city and report the contributions and expenditures connected with this campaign.

9) Electronic Campaign Finance Filing. The Code will establish the goal that the City will implement an electronic filing system as soon as is practicable.

10) Contractors' Contribution Restriction. Any person or company official, acting as a legal signatory for a proposed contractual relationship that applies for a "high-risk" discretionary contract, as defined by the contractual risk criteria¹, may not make a campaign or other contribution to any councilmember or candidate from the time a Request for Proposal (RFP) or Request for Qualifications (RFQ) is issued until 30 calendar days following the contract award. A candidate will have 10 days after learning of contribution was made in violation of this provision to return the contribution.

11) Enforcement Authority. The Ethics Review Board will have jurisdiction to enforce these local campaign finance regulations. The Texas Ethics Commission enforces state campaign finance laws.

12) Elections and Campaign Finance Website. The city will create and maintain an elections and campaign finance website which will contain information about filing, candidate training, deadlines, regulations, contribution and expenditure reports and findings by the enforcement authority.

¹ Contractual Risk Criteria:

- (1) Contract Value. Over the life of the contract, will the contract value exceed \$1 million?
- (2) Procurement Method. If the contract value exceeds \$25,000, will agreement be obtained without a competitive solicitation?
- (3) Contract Complexity. Is the service/good of a highly complex nature, or will the contract items be non-standard?
- (4) Community Interest. Will there be a high level of community or other exceptional interest in this agreement?

Financial Impact

This ordinance will require additional staff time and resources from the City Clerk and City Attorney's office to provide support to the Ethics Review Board and its enforcement of this ordinance. The amount of additional resources that may be needed will be refined and quantified through the budget process.



Andrew Martin
City Attorney

APPROVED:



Terry M. Brechtel
City Manager