

**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: March 26, 2004

Summary

This ordinance will establish campaign finance regulations for candidates for election to the San Antonio City Council, to be enforced by the Ethics Review Board. The code will set limits on campaign contributions that may be accepted by a candidate for mayor or city council. The code also regulates campaign contributions made by individuals seeking "high-risk" contracts with the City of San Antonio. Candidates will also be required to provide monthly campaign account statements to the Ethics Review Board; and the ordinance provides for the development and implementation of a municipal electronic campaign finance system.

Procedural Background

On October 23, 2003, 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 its 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, 9, 24, and March 17, 2004. The recommendations of the Subcommittee in the form of a draft municipal campaign finance code are attached.

Summary of Proposed Municipal Campaign Finance Code

1) Limits on Contributions to Candidates for Mayor or City Council. A candidate for District Office on the City Council may not accept more than \$500 from any individual or single entity (e.g. Political Action Committee) per election cycle. A candidate for Mayor may not accept more than \$1000 from any individual or single entity (e.g. Political Action Committee) per election cycle. The following constitutes the proposed definition of the three separate election cycles during which a candidate may accept contributions:

- 1) for all candidates, beginning July 1 of the 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, 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 June 30 of the 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 campaign contribution or officeholder-account contribution in cash greater than \$50, including tickets to events.

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

5) Time Limits to Accept Donations. Candidates may not accept or deposit contributions after 5:00 PM on the fourth calendar day before the election or run-off election date. Contributions received during that time could be deposited during the next election cycle.

6) Limitation of Candidate Loans to Campaign Account. The Council Subcommittee recommends either setting a limit on the amount of loans a candidate may accept during an election cycle or setting a limit on the amount of campaign funds a candidate may use to repay loans. The Subcommittee has referred the amount of the limits to the full Council.

7) Single Campaign Account. Candidates will 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.

8) Declaration of Candidacy. If a candidate seeks municipal office, he or she shall note which municipal office is being sought on the Appointment of Campaign Treasurer form filed under Texas Election Code Section 252.001. If the candidate subsequently decides to seek a different office, the candidate shall file an amended Appointment of Campaign Treasurer declaring the new office sought.

9) Transfer of Campaign Funds. If, after declaring a candidacy for any elected office, the candidate subsequently declares for an elected municipal position, he or she may maintain the same campaign finance account. However, if the candidate seeks a municipal office which is subject to lower contribution limits than the previously sought office, the candidate shall return all contributions in excess of the limits for the municipal office sought

10) Electronic Campaign Finance Filing. The Code will establish as a City goal the implementation of an electronic filing system for candidates and political action committees as soon as practicable. Representatives of the Information Technology Services Department (ITSD) advised the Subcommittee that development and implementation of a municipal electronic campaign finance system would cost approximately \$15,000 to \$20,000. If approved, development could be completed during the summer of 2004 for use during the July 1 – December 31, 2004 reporting period under the Texas Election Code.

11) Additional Contribution Reports. Upon implementation of the electronic campaign finance filing system, candidates will also, in addition to submitting finance reports required by the Texas Election Code, electronically report all contributions within five business days of filing the monthly campaign finance account statement. Further, by 5:00 PM on the third calendar day before an election or a run-off election, candidates will electronically update all contributions received through that election cycle.

12) 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

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?

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 five business days after learning of contribution made in violation of this provision to return the contribution.

13) Enforcement Authority. This ordinance would establish the Ethics Review Board as the authority to enforce the campaign finance regulations.

14) 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.

The Subcommittee has deferred consideration of sanctions and rules of civil procedure to a later time.

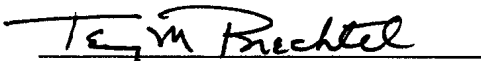
Financial Impact

This ordinance will result in additional personnel costs to the City Clerk's Office, which will serve as the repository for reports filed with the campaign finance enforcement authority. The development of a municipal campaign finance electronic filing system by ITSD will cost \$15,000 to \$20,000.



Andrew Martin
City Attorney

APPROVED:



Terry M. Brechtel
City Manager