

SUMMARY STATEMENT

Amended 12/12/2012

ITEM NO.: DRPA-10-045/113

SUBJECT: Requirement that All Vendors of the Authority Disclose Contributions (Replaces 10-045 and 10-113)

COMMITTEE:

Unfinished Business

COMMITTEE MEETING DATE:

December 5, 2012

BOARD ACTION DATE:

December 12, 2012

PROPOSAL:

That the Board adopts the attached Vendor Political Contributions Policy (“the Policy”) and Political Contribution Disclosure and Certification Forms requiring that all vendors of the Authority, including current and prospective vendors, submit disclosures of all political contributions made in PA and/or NJ in accordance with the Policy and Certifications prior to the award of any contract or agreement, award, extension or renewal and enhance application and enforcement of that Policy by adopting the procedures in the Policy.

Prospective vendors must submit disclosures of political contributions and certifications when providing any form of submission to provide services or goods to the Authority. The requirement to disclose political contributions is intended to address the perception of political influence and to eliminate any potential for political influence in the award of contracts by obtaining vendor certification that explicit guidelines and restrictions relating to contracting with vendors who make political contributions, as set forth in the attached Vendor Political Contributions Policy, were followed.

PURPOSE:

To adopt the Vendor Political Contributions Policy and Political Contribution Disclosure and Certification Forms which requires vendors and prospective vendors of the Authority to provide disclosure of political contributions made in PA and/or NJ in order to prevent such contributions from influencing the Authority’s contract selection process.

The Vendor Political Contributions Policy defines explicit guidelines and restrictions relating to contracting with vendors who make political contributions and requires vendors to certify that it has not made a contribution that would bar the award of the contract pursuant to the provisions set forth in the attached Vendor Political Contributions Policy.

BACKGROUND:

In its continuing effort to conduct business in an open, transparent, and ethical manner, and to enhance public trust in the process, the Authority has made a number of changes to its business practices to ensure that contracts of the Authority are awarded through an open and competitive process which is based on merit, qualifications and cost-effectiveness. Toward that goal, in 2010 the Authority adopted Resolutions DRPA 10-045 and DRPA 10-113 to require contractors and consultants of the Authority

to disclose political contributions and to certify that their contributions are made in accordance with applicable law and Authority policy. This Resolution replaces both Resolutions DRPA 10-045 and DRPA 10-113.

To further enhance the transparency of the process, the Authority seeks to strengthen and clarify the policy and procedure for the requirement and use of the disclosures and certifications by adopting the attached policy and procedure. This Policy and procedure restricts Authority business with contractors and consultants who make certain political contributions and requires contractors and consultants to affirmatively certify their compliance with law. Further, the policy empowers the Authority's Office of Inspector General to regulate and enforce the application of the Policy to ensure transparency and openness in the procurement process in accordance with the policy.

The Board has reviewed the proposed Vendor Political Contributions Policy and the Political Contributions Disclosure and Certification Forms requiring all Authority vendors to disclose political contributions and has considered the advice and analysis of its staff, the Inspector General (IG), and General Counsel with regard to the proposed policy and form and has determined that the proposed language represents the best interests of the Authority and the public it serves.

The Office of the Inspector General (OIG) will review the Political Contribution Disclosure and Certification Forms for compliance. The OIG will also advise Board members of potential conflicts prior to a vote. The OIG will conduct conflict interviews of Authority staff assigned to evaluate technical proposals, bids, quotes, statement of qualifications submitted by vendors. Whenever applicable, the IG will recommend the replacement/removal of a staff member when a conflict or perceived conflict exists.

The IG will also review the disclosure forms for possible conflicts of interest or potential conflicts on the part of commissioners. The IG, in consultation with the General Counsel, will advise the commissioner of the conflict or potential conflict and discuss options to include recusal.

SUMMARY:

Amount:	N/A
Source of Funds:	N/A
Capital Project #:	N/A
Operating Budget:	N/A
Master Plan Status:	N/A
Other Fund Sources:	N/A
Duration of Contract:	N/A
Other Parties Involved:	N/A

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RESOLUTION

RESOLVED: That the Board adopts the attached Vendor Political Contributions Policy and the Political Contribution Disclosure and Certification Forms and hereby requires all current and prospective vendors of the Authority to complete such requirements in accordance with that Policy prior to the award, extension or renewal of any contract or agreement, including the disclosure of all contributions made during the term of any contract or agreement; and that any prospective vendor of the Authority complete the form disclosing political contributions made in PA and/or NJ in conjunction with submitting a bid for providing services or goods to the Authority and certify that it has not made a contribution that would bar the award of the contract or agreement pursuant to the attached Vendor Political Contributions Policy and be it further

RESOLVED: That the Board adopts explicit restrictions relating to contracting with vendors who make political contributions as set forth in the attached Vendor Political Contributions Policy and be it further

RESOLVED: That the Board directs the Office of the Inspector General to ensure compliance with this resolution and to promulgate rules for the further implementation of the policy in accordance with the Policy and with this Resolution.

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Amount:	N/A
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OGC

VENDOR POLITICAL CONTRIBUTIONS POLICY

PURPOSE: The following policy is established by the Board of Commissioners (Board) to ensure the Delaware River Port Authority (DRPA) and Port Authority Transit Corp. (PATCO) is conducting business in an open, transparent, and ethical manner. This policy pertains to all bids, proposals, quotes, and/or statements of qualifications submitted to the DRPA and PATCO.

SCOPE: Defines the circumstances under which the Authority shall be prohibited from contracting with vendors who make certain political contributions.

POLICY:

1. All current and/or prospective vendors seeking to enter into an agreement or otherwise contract to provide any material, supplies or equipment to the Authority, or to acquire, sell, or lease any land or building from the Authority, if such contract or agreement is in excess of \$25,000 in value, the vendor will be required to submit a Political Contribution Disclosure Form and a Certification Form prior to the execution of an agreement or contract with the Authority. The business entity shall have a continuing duty to report any contribution it makes during the term of the contract. The political contributions to be disclosed are limited to those made on the local, county, and state levels in Pennsylvania and New Jersey.

2. If a business entity makes a contribution during the term of the contract or agreement, the entity must disclose the contribution within 30 days of the contribution. The entity will be required to disclose the candidate, date of contribution and the amount of the contribution within 30 days of contribution.

3. Definitions

"Contribution" means a contribution which is a reportable contribution in accordance with either 25 P.S. §3241 et. seq. or N.J.S.A. 19:44A-1 et. seq., as applicable, made on or after the date hereof.

“Business entity” means:

- i. a for-profit entity as follows:
 - A. in the case of a corporation: the corporation, any officer of the corporation, and any person or business entity that owns or controls 10% or more of the stock of the corporation;
 - B. in the case of a general partnership: the partnership itself and any partner controlling 10% or more of the partnership interest;

- C. in the case of a limited partnership: the limited partnership and any partner controlling 10% or more of the limited partnership interest;
 - D. in the case of a limited liability company: the limited liability company and any member controlling 10% or more of the limited liability company;
 - E. in the case of a limited liability partnership: the limited liability partnership and any partner controlling 10% or more of the limited liability partnership;
 - F. in the case of a sole proprietorship: the proprietor; and
 - G. in the case of any other form of entity organized under the laws of this State or any other state or foreign jurisdiction: the entity and any principal, officer, or partner thereof;
- ii. any subsidiary directly or indirectly controlled by the business entity;
 - iii. any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and
 - iv. with respect to an individual who is included within the definition of business entity, that individual's spouse or civil union partner, and any child residing with the individual, that, this policy shall not apply to a contribution made by such spouse, civil union partner, or child to a candidate for whom the contributor is entitled to vote or to a political party committee within whose jurisdiction the contributor resides unless such contribution is in violation of Section 6 of this policy.
4. It shall be a breach of the terms of any contract with the Authority for a business entity to: (i) knowingly conceal or misrepresent a contribution given or received; (ii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iii) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of this policy; (iv) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (v) engage in any exchange or contributions to circumvent the intent of this policy, or (vi) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this policy.
5. A business entity which is determined by the Authority to have willfully and intentionally made a contribution or failed to reveal a contribution in violation of this

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policy shall be barred by the Authority from contracting with the Authority for up to five years.

6. Notwithstanding anything contained herein to the contrary, nothing contained herein shall prohibit the Authority from contracting with a vendor where the Chief Executive Officer is authorized to act pursuant to the Emergency Powers provisions under the By-laws.

7. Nothing contained in this policy shall be construed as affecting the eligibility of any business entity to perform a contract with the Authority because that entity made a contribution during the two-year period immediately preceding the effective date of this policy. This policy shall be effective as of January 1, 2011.

PROCEDURE: Vendors are required to submit a Political Contribution Disclosure Form and a Certification Form on all bids, proposals, quotes, and/or statements of qualifications for contracts in the amount of \$25,000 or more.

The requested forms must be submitted in a separate sealed envelope from the rest of the proposal. These forms shall not be submitted in the Technical Proposal or Cost Proposal.

The Political Contribution Disclosure Form and Certification Form will be forwarded to the OIG for review. OIG will determine whether the Vendor is in compliance with DRPA policy. OIG will also review the Political Contribution Disclosure Form for any potential conflict or direct conflict of interest with members of the Board. OIG will address any potential conflict or actual conflict with the Board member pursuant to OIG guidelines.

Failure to submit these forms may result in the disqualification of the Vendor's bid, proposal, quote, or statement of qualification.

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**CERTIFICATION
PROHIBITION ON CONTRACTING
WITH VENDORS WHO MAKE CERTAIN POLITICAL CONTRIBUTIONS**

The Proposer hereby certifies that it has not made a contribution that would bar the award of the Contract pursuant to the Prohibition on “Contracting with Vendors who Make Certain Political Contributions” Policy and shall report any contribution it makes during the term of the Contract.

Date _____

Signature _____

Company Name _____

Title _____