



450 Main Street ♦ Metuchen ♦ NJ ♦ 08840 ♦ (732) 548-9798

## CONTENTS OF THE “PAY TO PLAY” CITIZEN PRESENTATION KIT

All of these contents are samples, and need to be tailored to your specific situation (IE: your town name, your name, the date, etc. all need to be replaced in specific places)

1. A **checklist** that provides steps that will help to make your presentation a success
2. A **sample presentation** that you can use word-for-word, or tailor your own speech from
3. A **letter to be sent to your town councilmembers, mayor & town attorney** to make them aware of your proposal & the date that you’ll be making a presentation
4. A **sample media release** to build support from the local media. Heather Taylor can guide you on this process – (732) 548-9798 x1
5. **Background information** on the issue of “pay to play” model ordinance
6. The **model “pay to play” ordinance**



## CHECKLIST FOR PRESENTING AN ORDINANCE

We have prepared a checklist of steps for you to take in order to increase your chances of success with your presentation. Remember, not only do we want citizens to stand up and urge their councilmembers to restore integrity to the political process...but we'd love to see these ordinances pass as well!

- Read through your *Citizens' Presentation Kit*. **Review the background information and model ordinance.** If you have any questions about the details, please call Heather Taylor @ (732) 548-9798 x1.
  
- Find out when your town council meeting dates are, and pick one that you will be able to make your presentation at.** If you need a staff member to accompany you, please call Lauren @ (732) 548-9798 x6 as soon as you identify your council meeting date.
  
- In most cases, it would be very beneficial to **send a copy of the ordinance to each council member, mayor, and the township attorney in advance, along with the council meeting date where you plan to make your presentation.** This can increase the dialogue and the chance of success for your ordinance. You can **use the sample letter to town officials as a cover sheet.** Just make sure that you insert the correct information (IE: date, your name, etc. on the cover sheet, and the name of the municipality, etc. within the ordinance)
  
- Review the sample presentation** and tailor it to sound more like you. Practice it to make sure that you feel comfortable with the language and information that you are presenting.
  
- The morning of your presentation, **send the sample media release to your local papers** by email & fax if available. This will help to inform them about your issue, and possibly get a reporter to cover the meeting. If you do not have a relationship with any of your local reporters, or do not have access to email or a fax machine, please call Heather @ (732) 548-9798 x1, and she can send the release out from our office.
  
- Get to your council meeting about 15 minutes early,** to speak to any reporters &/or council members. Remember to **“campaign” for your issue.** The more you make folks aware of your issue, the more success you are going to have.
  
- Make your presentation,** and ask the council members for a commitment of when you will hear back from them about their consideration of the ordinance.
  
- Follow up** a week after your presentation to make sure that the council has seriously considered the adoption of your ordinance is also needed. And call Lauren or Heather to let us know how it went!

## **SAMPLE PRESENTATION FOR “Pay-to-Play” Model Ordinance**

Honorable council members and fellow citizens, good evening. My name is \_\_\_\_\_, I live at \_\_\_\_\_.

I am here tonight to present the township council a model public contracting reform. More commonly called “Pay-to-play” reform, this ordinance has been prepared by a team of top legal experts, and advanced by the Citizens’ Campaign to effectively end pay to play.

For those who are not familiar pay to play is the practice in which large campaign contributions are traded for lucrative government contracts. We have read too many news articles about pay to play happening around the state. We don’t need to read about it in  (Municipality) , that’s why I am presenting this ordinance tonight, so that we can be proactive in preventing pay to play from ever happening here.

The model ordinance I am presenting this evening would sever the link between contracts and contributions and would ensure that merit and cost effectiveness drive the contracting process.

This model ordinance has been adopted by more than 30 municipalities, 1 county, and our Governor recently signed a state pay to play law very similar to this model. I believe it is now our turn.

This ordinance limits contributions by professionals who wish to do business with the town to \$300 to candidates, \$500 to political parties, and \$2500 in aggregate from a professional firm. No contributions may be made from beginning of negotiations through the completion of the contract. The ordinance provides for effective enforcement by making the penalty for violating the ordinance a breach of contract. Furthermore, if a contractor tries to get around the law, then a contractor is barred from future contracts for 4 years.

I respectfully submit copies of the model pay to play reform ordinance for your consideration, I hope that the council would be able to place this ordinance on first reading at the next council meeting. By doing so  (Municipality)  will put in place important safeguards and send a message to state leaders that now is time to end pay-to-play and restore integrity to a broken public contracting system

I respectfully ask that you take a leadership role and adopt this important reform.

I thank you in advance for consideration of this ordinance.



450 Main Street ♦ Metuchen ♦ NJ ♦ 08840 ♦ (732) 548-9798

(Date)

Name

Address

City, State, Zip Code

Dear Mayor/Councilperson\_\_\_\_\_:

The Center for Civic Responsibility's Legal Task Force has developed several model laws for adoption at the municipal level, which are designed to encourage constructive citizen participation in local government. These model laws are being advanced by citizens across the state as part of a broader Citizens' Campaign.

As a citizen of \_\_\_(town)\_\_\_, I am proposing such an ordinance at the next council meeting on \_\_\_(date)\_\_\_\_\_.

The model "Pay to Play" reform ordinance sets limits on political contributions to local candidates and political parties from professionals seeking town contracts. The main purpose of the law is to ensure that merit and cost-effectiveness drive the contracting process—not political contributions.

I've enclosed a copy of the model "Pay to Play" reform ordinance for your consideration.

If you would like more information about this ordinance or possibly sponsor this ordinance please call me at \_\_\_\_\_.

Respectfully yours,

(Name)

## MEDIA RELEASE

For Immediate Release:  
(Date)

Contact: (Name)  
(Phone #)

### **(MUNICIPALITY) CITIZENS TO URGE COUNCIL ON PASSAGE OF PAY-TO-PLAY REFORM ORDINANCE**

(MUNICIPALITY) — (Municipality) citizens and members of the Citizens’ Campaign will present a model “pay-to-play” reform ordinance to the town council at tonight’s council meeting.

(Municipality) resident (Your Name) said, “The ordinance we are presenting to the council members tonight will allow (Municipality) to decide whether they want business as usual or honest and fair local government.”

(Municipality) resident (Another Resident’s Name) said, “If passed by the Council, citizens will know that their government contracts are awarded based on merit and cost-effectiveness rather than large political contributions.”

The ordinance would limit contributions from professionals who wish to do business with (Municipality) for one year prior to negotiations, and prohibit contributions from negotiations through the performance of the contract. This is a significant reduction in the amount professionals doing business with (Municipality) can contribute.

Over fifty municipalities and two counties have enacted “pay-to-play” reform, such as Mercer and Cumberland Counties, Hoboken, Asbury Park, Woodbridge, and Hamilton.

This model law was developed by a team of top legal experts, and is advanced by the Citizens’ Campaign. Across the state, members of The Citizens’ Campaign are presenting legislation similar to this in their hometowns.

The Citizens’ Campaign is an organized force of citizens dedicated to empowering regular people on how to more effectively advocate for their own issues within their hometowns by providing them with legal tools and model laws. The Citizens’ Campaign is based on the values of personal civic responsibility and civic community. Allied organizations include: the Center for Civic Responsibility, Common Cause New Jersey, NJ Chamber of Commerce, League of Women Voters, AARP, and more.

## **MODEL LAW FOR PUBLIC CONTRACTING (“PAY-TO-PLAY”) REFORM**

Absent of proper controls, public contracting is increasingly dominated by “pay-to-play” practices where large campaign contributions are traded for lucrative government contracts. In the process, taxpayers pay more for lower quality services and local elections become too costly for everyday Americans to contemplate running. Public contracting reform severs the link between campaign contributions and government contracts, ensuring that merit and cost effectiveness drive the contract process while leveling the playing field to run for political office.

### **Key Components:**

- ✓ Sets limits on contributions from professionals, such as attorneys, auditors, and engineers in the year prior to negotiations.
- ✓ Bans all political contributions by contractors from the beginning of negotiations through the performance of the contract.
- ✓ Limits contributions to \$300 to town candidates, \$500 to local and county political parties, and limits professional firm to \$2,500 in aggregate.
- ✓ Individuals who break the law, or try to circumvent it are banned from receiving no-bid contracts for 4 years.

## WHAT IS PAY-TO-PLAY?

“Pay-to-play” is the all too common practice in which large campaign contributions are traded for lucrative government contracts.

Unfortunately, the people who really pay are not the contractors who give the big political contributions, but New Jersey’s taxpayers.

For in a public contract system driven by political contributions, merit and cost-effectiveness fall by the wayside. The result is that taxpayers pay more for lower quality services.

Recently, the state paid more than \$100 million in cost overruns for an auto emissions system that failed because the state hired a company with a history of over-billing and no proven track record. The company’s major qualification for the job was the \$500,000 in political contributions.

And there are more stories of the taxpayer waste caused by pay-to-play—at the State, County, & Municipal level. The simple and cost-efficient solution is public contracting reform — which severs the link between campaign contributions and government contracts. Citizens can help put an end to pay-to-play by presenting a model public contracting, pay-to-play reform law to their town council.

## Q & A

### **What about a person’s 1<sup>st</sup> amendment right to contribute?**

Our pay-to-play law is constitutional because municipalities have the power to set the conditions of contracts for professional services. In other words, this is not broad campaign finance reform, but public contract reform.

### **Can the town limit contributions to the county party committee?**

No, towns can’t dictate what county parties accept in contributions. But municipalities can set their own standards and refuse to do business with professionals who contribute to the county.

### **Why are only professional contracts included?**

Professional Service contracts are “no-bid” contracts. This means that municipalities can set their own standards for hiring professionals- like attorneys, engineers, and auditors. Contracts for such things as snow removal automatically go to the lowest bidder. A town doesn’t necessarily want the lowest bid professional, therefore the council has broad discretion.

### **Can we include developers?**

No, regulations pertaining to developers fall under the NJ Land Use law. A separate ordinance would need to be crafted.

### **What towns have passed pay to play reform?**

As of December 2005, over 60 municipalities & counties have adopted the model ordinance, they are: *Asbury Park, Atlantic Highlands, Barnegat Twp, Belmar, Berkeley Twp, Bradley Beach, Cape May City, Cinnaminson, Cumberland County, Dover Twp, East Windsor, Evesham, Edison Twp, Franklin Twp, Freehold Twp, Hamilton, Hazlet, Hightstown, Hillsdale, Hoboken, Holmdel Twp, Hopewell Twp, Lawrence Twp, Little Egg Harbor, Long Beach Twp, Long Branch, Lower Twp, Manchester, Mansfield Twp, Margate, Marlboro, Medford, Mercer County, Millstone Twp, Monroe Twp (Middlesex & Gloucester), Montgomery, Mount Olive Twp, New Providence, North Brunswick, Ocean City, Oceanport, Ocean Twp, Old Bridge, Pt. Pleasant Borough, Ramsey, Red Bank, Sayreville, South Brunswick, Spring Lake, Spring Lake Heights, Stafford Twp, Swedesboro, Tinton Falls, Upper Freehold, Vineland, Washington, Washington Twp, West Deptford, West Windsor, Woodbridge.*

### **Should towns wait for the State legislation?**

No, Pay-to-play reform is a simple first-step to reducing the municipal portion of property taxes. Towns have the authority to control how professional service contracts are awarded. By passing this ordinance, contracts would be awarded on merit and cost-effectiveness, and the result is likely to be significantly lower costs.

### **Who wrote this ordinance?**

Constitutional law experts from the Brennan Center for Justice and members of the Legal Task Force.

## **REFORM AT THE LOCAL LEVEL**

Municipalities across New Jersey have begun passing local public contracting laws in order to protect the town's contracting from political contribution influence and to send a message to state leaders. The main purpose of the law is to ensure that merit and cost-effectiveness drive the contracting process—not political contributions.

The local model pay-to-play law would set limits on political contributions to local candidates and political parties from professionals seeking town contracts.

Here are some major components:

1. Sets limits on contributions from professionals, such as attorneys, auditors, and engineers in the year prior to negotiations.
2. Limits contributions to \$300 to town candidates, \$500 to local & county political parties, and limits professional firm to \$2,500 in aggregate.
3. Bans all political contributions by contractors from the beginning of negotiations through the performance of the contract.
4. Individuals who break the law, or try to circumvent it are banned from receiving no-bid contracts for 4 years.

## ADVOCATING FOR REFORM

1. **Research.** Find out if your town has already considered or adopted a model pay-to-play ordinance. A good place to start is at the Town Clerk's Office.
2. **Communicate.** Write a letter to your local officials asking them to consider adopting the ordinance—attach a copy of the model ordinance to the letter, and send a copy to the township attorney. Make sure to provide the specific date and time of the council meeting that you will be presenting the ordinance.
3. **Follow-Through.** Make follow-up calls to confirm they received the letter & ordinance. While making the calls you may even ask a council member to offer to sponsor it for you.
4. **Contact Media.** Before the council meeting call the local newspapers to let them know you will be making a presentation. This way they can assign the story to one of their reporters.
5. **Show Respect.** Speak politely and dress professionally.
6. **Be Early.** Show up to the council meeting 15 minutes early. This will give you an opportunity to talk to the council members and reporters.
7. **Public Presentation.** Make sure you know the rules for citizen input at council meetings. Sometimes you must sign up before hand. When making the presentation, speak loudly and clearly, you want not only the council, but the reporters and other citizens to hear what you have to say.
8. **Get a Commitment.** Be sure to ask for the date by which the council might introduce the pay-to-play reform law. If the law is referred to the town attorney, ask when they will report back their findings.
9. **Keep up the pressure.** It's important to keep attending the council meetings. First, you can make sure the council is following through on their commitment. Or, if they're not, it shows them that you are committed and not letting the issue die.
10. **Win or lose -** Keep going to council meetings.



# A MODEL ORDINANCE FOR PUBLIC CONTRACTING ("PAY-TO-PLAY") REFORM

Be it Ordained by the Mayor and Council of \_\_\_\_\_, County of \_\_\_\_\_, and State of New Jersey, as follows.

## Preamble

**WHEREAS**, professional business entities are exempt from public bidding requirements, and

**WHEREAS**, it has become common for professional business entities to make substantial political contributions to the election campaigns of the local government elected officers who are ultimately responsible for awarding professional service contracts or other contracts or agreements which are not subject to public bidding; and

**WHEREAS**, substantial local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers as to their trust in the process of local government, if not the quality or cost of services received, and

**WHEREAS**, pursuant to NJSA 40A: 11-5 and NJSA 40:48-2, municipalities have the right to establish rules and procedures for contracting with professional business entities,

**THEREFORE**, be it resolved, that the policy of (Municipality) will be to set maximum amounts that professional business entities may contribute politically beyond which they become ineligible to receive a public professional service contract from (Municipality).

## Section 1: Prohibition on Awarding Public Contracts to Certain Contributors

- (a) Any other provision of law to the contrary notwithstanding, the municipality or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure professional, banking, insurance coverage services or any other consulting services, from any professional business entity, if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to any (Municipality) municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or

to any (Municipality) or (County) party committee, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties in excess of the thresholds specified in subsection (d) within one calendar year immediately preceding the date of the contract or agreement.

- (b) No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the municipality or any department or agency thereof or of its independent authorities for the rendition of professional, banking or insurance coverage services or any other consulting services shall solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any (Municipality) municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any (Municipality) or (County) party committee, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties between the time of first communications between that business entity and the Township regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.
- (c) For purposes of this ordinance, a “professional business entity” seeking a public contract means an individual including the individual's spouse, if any, and any child living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.
- (d) Any individual meeting the definition of “professional business entity” under this section may annually contribute a maximum of \$300 each for any purpose to any candidate, for mayor or council, or \$500 to the (Municipality) or (County) party committee, or to a PAC referenced in this ordinance, without violating subsection (a) of this section. However, any group of individuals meeting the definition of “professional business entity” under this section, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all (Municipality) candidates and officeholders with ultimate responsibility for the award of the contract, and all (Municipality) or (County) political parties and PACs referenced in this ordinance combined, without violating subsection (a) of this section.
- (e) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:
  - (1) The (Municipality) Council and the Mayor of (Municipality), if the contract requires approval or appropriation from the Council.
  - (2) The Mayor of (Municipality), if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.

## **Section 2: Contributions Made Prior to the Effective Date**

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any municipal candidate for Mayor or Council, or municipal or county party committee or PAC referenced in this ordinance shall be deemed a violation of this section, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this section.

## **Section 3: Contribution Statement by Professional Business Entity**

- (a) Prior to awarding any contract or agreement to procure services, including banking or insurance coverage services, with any professional business entity, the township or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offeror has not made a contribution in violation of Section 1 of this Act;
- (b) The professional business entity shall have a continuing duty to report any violations of this Act that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the township and shall be in addition to any other certifications that may be required by any other provision of law.

## **Section 4: Return of Excess Contributions**

A professional business entity or township candidate or officeholder or municipal or county party committee or PAC referenced in this ordinance may cure a violation of Section 1 of this ordinance, if, within 30 days after contribution, the professional business entity notifies the Township Council in writing and seeks and receives reimbursement of a contribution from the township candidate or municipal or county political party or PAC referenced in this ordinance.

## **Section 5: Penalty**

- (a) It shall be a breach of the terms of the (Municipality) professional service agreement for a business entity to: (i) make or solicit a contribution in violation of this ordinance; (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 of any candidate or holder of the public office of (Municipality); (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 if made or solicited by the business entity itself, would subject that entity to the restrictions of this ordinance; (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 this ordinance; 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 this ordinance.

- (b) Furthermore, any professional business entity who violates (a) ii-viii shall be disqualified from eligibility for future (Municipality) contracts for a period of four calendar years from the date of the violation.

**Section 6. Severability and Effectiveness Clause:**

- (a) If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.
- (b) And any ordinance inconsistent with the terms of this ordinance is hereby repealed to the extent of such inconsistency.

**Section 7. Effective Date:**

This ordinance shall become effective on \_\_\_\_\_.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Municipal Clerk

Introduced:

Adopted:

Veto or Approval:

Final Publication: