

**REQUEST FOR PROPOSAL & QUALIFICATIONS
FOR
PLANNING BOARD &
ZONING BOARD OF ADJUSTMENT
PROFESSIONALS**

**Issued by the
The Township of Evesham**



**Date Issued:
May 3, 2024**

**Responses RFP/RFQ Due by:
2:00 P.M. Wednesday, June 19, 2024**

**RFP/RFQ Opening:
2:30 P.M. Wednesday, June 19, 2024
Conference Room B**

REQUEST FOR PROPOSAL & QUALIFICATIONS FOR PLANNING BOARD & ZONING BOARD OF ADJUSTMENT PROFESSIONALS

I. PURPOSE AND INTENT

Through this Request for Proposal & Qualifications, the Township of Evesham (hereinafter the “Township”) seeks to engage a vendor as (position) for the 2024-2025 Township year commencing July 1, 2024 or upon appointment, whichever is later, until June 30, 2025. This contract will be awarded through a fair and open process pursuant to NJSA 19:44A-20.4 et seq. and Chapter 27 of the Code of the Township of Evesham.

II. PROPOSAL SUBMISSION

The Township requires the proposal be submitted in the following format:

One (1) original, hard copy, plus one (1) copy of the full proposal in PDF File Format on a Flash Drive, shall be submitted in sealed envelopes and must be marked with the “NAME OF POSITION AND PLANNING BOARD or ZONING BOARD,” and addressed to:

Rebecca Andrews, Acting Township Clerk
Township of Evesham
984 Tuckerton Road
Marlton, New Jersey 08053

Proposals must be submitted to the office of the Clerk by 2:00 P.M. on Wednesday June 19, 2024 and will be publicly opened in Conference Room B of the Evesham Township Municipal Complex, 984 Tuckerton Road, Marlton, New Jersey 08053 on Wednesday, June 19, 2024 at 2:30 P.M.

Faxed proposals will NOT be accepted

Any inquiry concerning this RFP/RFQ should be directed in writing to:

Lavon Phillips
Acting Township Manager
Township of Evesham
984 Tuckerton Road
Marlton, New Jersey 08053

All documents/information submitted in response to this solicitation shall be available to the general public as required by the New Jersey Open Public Records Act N.J.S.A. 47:1A-1 et seq. The Township will not be responsible for any costs associated with the oral or written and/or presentation of the proposals. The Township reserves the right to reject any and all proposals, with or without cause, and waive any irregularities or informalities in the proposals. The Township further reserves the right to make such investigations as it deems necessary as to the qualifications of any and all vendors submitting proposals. In the event that all proposals are rejected, the Township reserves the right to re-solicit proposals.

III. GENERAL INFORMATION ON THE TOWNSHIP OF EVESHAM

The Township of Evesham operates under a Council-Manager Form of Government pursuant to NJSA 40:69A-83. The Township is approximately 32 square miles, has an estimated population of 48,225, an annual operating budget of \$29 million, approximately 300 employees (210 who are full time, the remainder part-time or seasonal) and the township owns an 18-hole golf course and Country Club (Indian Spring Country Club). The Township Planning Board meets the first and third Thursday of each month as well as special meetings on an as needed basis.

IV. MINIMUM QUALIFICATIONS

See Exhibit A

V. MANDATORY CONTENTS OF PROPOSAL

In addition to demonstrating an ability to meet all minimum qualifications, the firm must also include and address the following:

- 1) Contact Information: Provide the name and address of the firm; the name, telephone number, fax number, and e-mail address of the individual responsible for the preparation of the proposal.
- 2) A fee proposal for the **2024-2025** Township year.
- 3) An executive summary of not more than two pages, identifying and substantiating why the vendor is best qualified to provide the requested services.
- 4) A staffing plan listing those persons who will be assigned to the engagement if the vendor is selected, including the designation of the person who would be the vendor's officer responsible for all services required under the engagement. This portion of the proposal should include the relevant resumé information for the individuals who will be assigned. This information should include, at a minimum, a description of the person's relevant professional experience, years and type of experience, and number of years with the vendor.

- 5) A description of the vendor's experience in performing services of the type described in this RFP. Specifically identify client size and specific examples of work within the scope of services required under this RFP in similarly sized municipalities. It is imperative to show experience in similarly sized towns.
- 6) The location of the office, if other than the vendor's main office, at which the vendor proposes to perform services required under this RFP. Describe your presence in New Jersey and any familiarity your firm has with the Burlington County area.
- 7) Five references, including three current clients for whom services have been provided for at least three years and two former clients for whom services have been provided within the past seven years. Provide the contact names, titles and phone numbers.
- 8) If the vendor or any principal therein has been engaged as a defendant in any litigation involving a sum of \$100,000 or more and/or has been subject to any professional disciplinary action over the last three years, the bidder must provide a description of the litigation and/or disciplinary action.
- 9) A description of any ongoing investigations and/or litigation matters involving the applicant, its directors, officers and principals and any individuals employed by the applicant since January 1, 2010.
- 10) In its proposal, the vendor must identify any existing or potential conflicts of interest, and disclose any representation of parties or other relationships that might be considered a conflict of interest with regard to this engagement, or the Township.

VI. INTERVIEW

The Planning/Zoning Boards reserve the right to interview any or all of the applicants submitting a proposal. Although interviews may take place, the proposal should be comprehensive and complete on its face. The Township reserves the right to request clarifying information subsequent to submission of the proposal.

VII. SELECTION PROCESS

All proposals will be reviewed by the Planning/Zoning Board Chairman or their designee to determine responsiveness. Non-responsive proposals will be rejected without evaluation. For vendors that satisfy the minimum requirements, the Township will evaluate proposals based on the following evaluation criteria, separate or combined in some manner, and not necessarily listed in order of significance:

- (a) The vendor's general approach to providing the services required under this RFP.
- (b) The vendor's documented experience in successfully completing contracts of a similar size and scope to the engagement addressed by this RFP.
- (c) The qualifications and experience of the vendor's management, supervisory or other key personnel assigned to the engagement, with emphasis on documented

- experience in successfully completing work on contracts of similar size and scope to the services required by this RFP.
- (d) The overall ability of the vendor to mobilize, undertake and successfully complete the scope of work in a timely fashion. This criterion will include, but not be limited to, the following factors: the number and qualifications of management, supervisory and other staff proposed by the vendor to perform the services required by this RFP; the availability and commitment to the engagement of the vendor's management, supervisory and other staff proposed.

VIII. SELECTION AND CONTRACT

The Township will select the vendor deemed most advantageous to the Township, price and other factors considered. The resulting contract will include this RFP, any clarifications or addenda thereto, the selected vendor's proposal, and any changes negotiated by the parties.

Exhibit A

Township of Evesham

Request for Proposal & Qualifications for Municipal Professionals

Minimum Qualifications

Applicant vendors **must** establish that they meet the following minimum qualifications:

**PLANNING BOARD ATTORNEY,
PLANNING BOARD ENGINEER,
PLANNING BOARD PLANNER,
PLANNING BOARD TRAFFIC ENGINEER,
PLANNING BOARD ENVIRONMENTAL SCIENTIST,
PLANNING BOARD CONFLICT SOLICITOR,
PLANNING BOARD CONFLICT ENGINEER,
PLANNING BOARD CONFLICT PLANNER,**

**ZONING BOARD ATTORNEY,
ZONING BOARD ENGINEER,
ZONING BOARD PLANNER,
ZONING BOARD TRAFFIC ENGINEER,
ZONING BOARD ENVIRONMENTAL SCIENTIST,
ZONING BOARD CONFLICT SOLICITOR,
ZONING BOARD CONFLICT ENGINEER,
ZONING BOARD CONFLICT PLANNER.**

Township of Evesham Planning Board & Zoning Board of Adjustment Minimum Requirements

Attorney:

- A. Law firm (and or attorney) with at least five (5) years experience in Municipal Land Use Law (MLUL), with at least three of those years being from a similarly sized municipality. Experience must include attending and participating at Planning and/or Zoning Board meetings on behalf of the municipality.
- B. The applicant also must demonstrate a high degree of knowledge, experience and ability with the following:

- (1) The operation of local governmental units in New Jersey
- (2) Master Plan Updates
- (3) Drafting or amending land use ordinances for consideration
- (4) Experience with Affordable Housing requirements and process of approvals and compliance
- (5) Experience working in a town located in the Pinelands and interacting with the Pinelands Commission
- (6) Municipal Land Use Law & Local Redevelopment and Housing Law
- (7) Knowledge of Local Public Contracts Law
- (8) Experience with towns approaching build out

The applicant must be licensed to practice law in the State of New Jersey and be a member of the Bar in good standing. Include a list of any other professional qualifications; experience and/or credentials you feel are relevant to this RFP/Q.

Planner:

- A. Planning firm with at least five (5) years experience in Municipal Land Use, with at least three of those years being from a similarly sized municipality. Experience must include attending and participating at Planning and/or Zoning Board meetings to advise the Boards on conformance with all applicable regulations.
- B. The applicant also must demonstrate a high degree of knowledge, experience and ability with the following:
 - a. NJ MLUL
 - b. Master Plan Updates.
 - c. Drafting or amending land use ordinances for PB consideration
 - d. Experience with Affordable Housing requirements and compliance
 - e. Experience working in a town located in the Pinelands and interacting with the Pinelands Commission
 - f. Experience with towns approaching build out
 - g. Plan Review
 - h. Zoning conformance, positive and negative criteria for variances.

The applicant must be a NJ licensed Professional Planner with certification from the American Institute of Certified Planners. Include a list of any other professional qualifications; experience and/or credentials you feel are relevant to this RFP/RFQ.

Engineer:

- A. All applicable licenses to perform engineering in NJ. Applicant must have at least five (5) years experience as an engineer in land use related areas. Experience in a similarly sized municipality is a plus. Firm must have experience doing plan review, attending applicant work sessions and advising the PB/ZB with respect to how the application complies with local ordinances, state law, DEP regulations and Pinelands Commission requirements.
- B. In addition, the applicant must be knowledgeable in:
 - a. Stormwater Management Act
 - b. Site Plan Review
 - c. Subdivision Review
 - d. Subdivision Plans
 - e. Drafting technical ordinances and amendments to ordinances for the Board's consideration

Traffic Engineer:

- A. All applicable licenses to perform traffic engineering in NJ. Firm must have at least five (5) years experience working with Planning and/or Zoning Boards. Experience in a similarly sized municipality is a plus. Must have experience doing plan review and making recommendations on a myriad of issues, including but not limited to:
 - a. Reviewing the impact of the applicant's project on area traffic
 - b. Traffic calming devices
 - c. Bike trails/routes
 - d. Providing recommendations on failing intersections
 - e. Providing recommendations to relieve traffic congestion

Must be familiar with the Burlington County, Rt. 73/70 area and its unique traffic patterns and problems.

Environmental Scientist:

- A. All applicable licenses to practice in NJ. Firm must have at least five (5) years experience working with Planning and/or Zoning Boards. Experience in a similarly sized municipality is a plus. Must have experience doing plan review and making recommendations on a myriad of issues, including but not limited to:
 - a. Reviewing conformance of the application to all applicable rules and regulations
 - b. Environmental Impact Statements
 - c. Phase I Environmental Studies
 - d. Advising the respective Board of any and all environmental impacts of the proposed development
 - e. Attending public meetings and advising Planning and Zoning Boards with respect to environmental impact

EVALUATION, REVIEW AND SELECTION PROCESS

1. RFP responses shall remain open for a period of ninety (90) calendar days from the stated submittal date. The Township will either award the contract within the applicable time period or reject all proposals.
2. The Township may extend the decision to award or reject all proposals beyond the ninety (90) calendar days when the proposals of any respondents who consent thereto may, at the request of the Township, be held for consideration for such longer period as may be agreed.
3. The Township reserves the right to reject any or all proposals, or to reject any proposal if the evidence submitted by, or investigation of such respondent fails to satisfy the Township that such respondent is properly qualified to carry out the obligations of the RFQ and to complete the work contemplated therein. The Township reserves the right to waive any minor informality in the RFP.
4. An evaluation team will review all proposals to determine if they satisfy the Proposal Requirements, determine if a proposal should be rejected and evaluate the proposals based upon the Evaluation Criteria. The highest-ranking respondent will then be recommended to the governing body for award of contract.
5. The criteria considered in the evaluation of each proposal is as follows:
 - A. Proposal conforms to format provided.
 - B. Resume and qualifications of professional.
 - C. Qualifications of team.
 - D. References and record of success in similar sized municipal organizations.
 - E. Ability to respond to the Scope of Services previously outlined.
 - F. Competitiveness of Fee Proposal.
6. Non-compliance with significant instructions will be grounds for disqualification of proposals.

Statement of Compliance with Chapter 27
of the Code of the Township of Evesham

The undersigned being authorized and knowledgeable of the circumstances, does pursuant
to Chapter 27 hereby swear under penalty of perjury that

(firm name)

is in compliance with the aforesaid Chapter 27 of the Code of the Township of Evesham.

I further acknowledge our continuing duty to report any violations of said ordinance during
the term of our contract.

Signature

Name and Title

Date



CERTIFICATION OF NON-INVOLVEMENT IN PROHIBITED ACTIVITIES IN RUSSIA OR BELARUS

Pursuant to N.J.S.A. 52:32-80.1, et seq. ([L. 2022, c. 3](#)) any person or entity (hereinafter "Vendor"¹) that seeks to enter into or renew a contract with a State agency for the provision of goods or services, or the purchase of bonds or other obligations, must complete the certification below indicating whether or not the Vendor is identified on the Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons list, available here: <https://sanctionssearch.ofac.treas.gov/>. If the Department of the Treasury finds that a Vendor has made a certification in violation of the law, it shall take any action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

I, the undersigned, certify that I have read the definition of "Vendor" below, and have reviewed the Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons list, and having done so certify:

(Check the Appropriate Box)

- ☐ A. That the Vendor is not identified on the [OFAC Specially Designated Nationals and Blocked Persons list on account of activity related to Russia and/or Belarus](#).

OR

- ☐ B. That I am unable to certify as to "A" above, because the Vendor is identified on the [OFAC Specially Designated Nationals and Blocked Persons list on account of activity related to Russia and/or Belarus](#).

OR

- ☐ C. That I am unable to certify as to "A" above, because the Vendor is identified on the [OFAC Specially Designated Nationals and Blocked Persons list](#). However, the Vendor is engaged in activity related to Russia and/or Belarus consistent with federal law, regulation, license or exemption. A detailed description of how the Vendor's activity related to Russia and/or Belarus is consistent with federal law is set forth below.

(Attach Additional Sheets If Necessary.)

Signature of Vendor's Authorized Representative	Date
Print Name and Title of Vendor's Authorized Representative	Vendor's FEIN
Vendor's Name	Vendor's Phone Number
Vendor's Address (Street Address)	Vendor's Fax Number
Vendor's Address (City/State/Zip Code)	Vendor's Email Address

¹ Vendor means: (1) A natural person, corporation, company, limited partnership, limited liability partnership, limited liability company, business association, sole proprietorship, joint venture, partnership, society, trust, or any other nongovernmental entity, organization, or group; (2) Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act, 22 U.S.C. 262r(c)(3); or (3) Any parent, successor, subunit, direct or indirect subsidiary, or any entity under common ownership or control with, any entity described in paragraph (1) or (2).

STANDARD BID DOCUMENT REFERENCE						
Name of Form	DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN					
Statutory Reference	N.J.S.A. 52:32-55 et seq. N.J.S.A. 40A:11-2.1 N.J.S.A. 18A:18A-49.4					
Applicability		Y/N		Mandatory	Optional	N/A
	LPCL	Y	Goods and Services	X		
	PSCL	Y	Construction			X
Instructions Reference						
Description	P.L. 2012, c.25 prohibits the awarding of State and local public contracts for goods and services with persons or entities engaging in certain investment activities in energy or finance sectors of Iran. Prior to contract award, vendors and contractors must certify that neither they nor any parent entity, subsidiary, or affiliate is listed on the New Jersey Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List").					

The Certification form requires the insertion of contracting unit identification information which should be filled in (in italics on the form) prior to its use.

Disclosure of Investment Activities in Iran

Person or Entity

Part 1: Certification

COMPLETE PART 1 BY CHECKING EITHER BOX.

Pursuant to Public Law 2012, c. 25, any person or entity that is a successful bidder or proposer, or otherwise proposes to enter into or renew a contract, must complete the certification below to attest, under penalty of perjury, that neither the person or entity, nor any parent entity, subsidiary, or affiliate is identified on the State Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. The list is found on Treasury's website at www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf.

The Chapter 25 list must be reviewed prior to completing the below certification. If a vendor or contractor is found to be in violation of law, action may be taken as appropriate and as may provided by law, rule or contract, including but not limited to imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.



I certify, pursuant to Public Law 2012, c. 25, that neither the person or entity listed above, nor any parent entity, subsidiary, or affiliate thereof is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. I will skip Part 2 and sign and complete the Certification below.

OR



I am unable to certify as above because the person or entity and/or a parent entity, subsidiary, or affiliate thereof is listed on the N.J. Department of the Treasury's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities in Part 2 below sign and complete the Certification below.

Part 2: Additional Information

PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN.

You must provide a detailed, accurate and precise description of the activities of the person or entity, or a parent entity, subsidiary, or affiliate thereof engaging in investment activities in Iran below and, if more space is needed, on additional sheets provided by you.

Part 3: Certification of True and Complete Information

I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments there to the best of my knowledge are true and complete. I attest that I am authorized to execute this certification on behalf of the above-referenced person or entity.

*I acknowledge that the **Name of Contracting Unit** is relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the **Reference to Contracting Unit** to notify the **Reference to Contracting Unit** in writing of any changes to the answers of information contained herein.*

*I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the **Name of Contracting Unit** and that the **Reference to Contracting Unit** at its option may declare any contract(s) resulting from this certification void and unenforceable.*

Full Name (Print)		Title	
Signature		Date	

Chapter 27

PROFESSIONAL SERVICES CONTRACTS

ARTICLE I

Award of Professional Services Contracts

- § 27-1. Purpose and intent.
- § 27-2. Process for award of professional services contracts.
- § 27-3. Review of RFPs/RFQs by Departmental Review Committee.
- § 27-4. Emergency exceptions.

ARTICLE II

Political Contributions by Professional Business Entities; Transfer of Contributions

- § 27-5. Statement of Township policy.
- § 27-6. Definitions.
- § 27-7. Prohibition on awarding public contracts to certain contributors.

- § 27-8. Contributions made prior to effective date.
- § 27-9. Acknowledgement statement by Township of Evesham municipal candidates or municipal officeholders.
- § 27-10. Contribution statement by professional business entity.
- § 27-11. Return of excess contributions.
- § 27-12. No wheeling.
- § 27-13. Violations and penalties.
- § 27-13.1. Filing with Secretary of State.

ARTICLE III

Contract Award Exemptions

- § 27-14. Professional contracts under \$17,500.
- § 27-15. Contracting powers in declared emergencies.

[HISTORY: Adopted by the Township Council of the Township of Evesham as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Joint bidding and purchasing — See Ch. 13.

ARTICLE I

Award of Professional Services Contracts [Adopted 6-21-2005 by Ord. No. 8-6-2005]

§ 27-1. Purpose and intent.

It is the purpose of this article that, notwithstanding that professional services contracts and certain other contracts for goods and services are exempt from the competitive bidding requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., the Township Council deems it appropriate, and consistent with the provisions of recently enacted New Jersey legislation, now codified at N.J.S.A. 19:44A-20.1 et seq., to henceforth award such contracts through a competitive, quality-based, fair and open process.

§ 27-2. Process for award of professional services contracts.

The Township of Evesham, or any agency or instrumentality thereof, shall not enter into a contract, including a professional services contract, or such other contract which is exempt from public bidding requirements, having an anticipated value in excess of \$10,000 as determined by the municipality, agency or instrumentality, with a business entity, except a contract that is awarded pursuant to a fair and open process if, during the preceding one-year period, that business entity has made a contribution that is reportable by the recipient under N.J.S.A. 19:44A-1 et seq., to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elected public office of that municipality when the contract is awarded. The fair and open process shall be quality-based and shall be as follows:

- A. Professional services maybe awarded by virtue of a publicly advertised request for qualifications ("RFQ") and/or request for proposals ("RFP") which will be issued as one document for those appointments which are made on an annual basis, such as, but not limited to, the positions of Township Attorney, Township Engineer, Township Planner, Planning Board Attorney, Planning Board Engineer, and such similar statutory and/or ordinance public positions.
- B. For said positions, no contract shall be awarded, unless and until the positions are:
 - (1) Publicly advertised in newspapers in sufficient time to give notice in advance of the solicitation for the contracts;
 - (2) Awarded under a process that provides for public solicitation of proposals and qualifications;
 - (3) Awarded and disclosed under criteria established in writing by the Township of Evesham prior to the solicitation of proposals or qualifications; and
 - (4) Publicly announced when awarded; and as to those RFQs and RFPs which prove to be unsuccessful, the Municipal Clerk shall retain a copy of same on file for a period of not less than 60 days.
- C. For contracts which arise on an occasional basis, such as appraisals needed for the acquisition of farmland and/or open space, as well as title searches, surveying, and similar work associated with same; and comparable assignments, such planning services needed for Master Plan updates, appraisals, special counsel, special project engineer contracts, etc., professional services contracts may be awarded without following the foregoing provisions, so long as:
 - (1) The anticipated value does not excess the threshold of \$17,500 set forth above; and **[Amended 3-18-2014 by Ord. No. 4-3-2014¹]**
 - (2) The Township Manager makes every effort to solicit at least two proposals for said work.

1. Editor's Note: This ordinance also stated that the threshold value was amended in accordance with N.J.S.A. 19:44A-1 et seq., the Campaign Contributions and Expenditures Reporting Act (CCERA).

§ 27-3. Review of RFPs/RFQs by Departmental Review Committee.

A Departmental Review Committee shall be established by the Township Manager, consisting of not less than two persons, to prepare, process and evaluate any RFQ and/or RFP issued pursuant to the professional services contracting procedures set forth above. Each Departmental Review Committee must prepare, prior to a request for proposals, a written cost estimate in order to allow for proper evaluation of the fee aspect of proposals. Moreover, said Committee shall evaluate the respective qualifications and/or proposals, taking into consideration the designated qualifications and/or performance criteria, experience, reputation of vendor, quoted fee and other relevant factors in making a recommendation of award to the Township Manager and Township Council; and the Township Manager may, in his/her sole discretion, conduct negotiations with qualified vendors after receipt of proposals, in order to achieve the best possible contract terms and conditions for the Township and its taxpayers. No Contract shall be awarded, however, unless same is authorized by resolution duly adopted in public session by the Township Council.

§ 27-4. Emergency exceptions.

Notwithstanding the foregoing, the Township Council recognizes that the New Jersey Legislature has provided for the occurrence of certain emergencies, and further recognizes that, therefore, the procedure outlined above might not be capable of being achieved in the event of an emergency or similar time constraints. Thus, should a situation arise, and time does not permit resort to this procedure, and the immediate performance of services is necessary, then an award for same may be made in accordance with the provisions of the Local Public Contracts Law relating to emergency contracts, and such rules and regulations as may be promulgated, from time to time, by the Township Council with regard to same. No such emergency contracts, however, may be awarded without submission to the Township Clerk of a certification establishing a basis for the deviation from the procedures outlined herein.

ARTICLE II

Political Contributions by Professional Business Entities; Transfer of Contributions
[Adopted 12-21-2010 by Ord. No. 32-12-2010²]

§ 27-5. Statement of Township policy.

The Township of Evesham reaffirms the policy of the Township to set maximum dollar amounts that professional business entities may contribute politically, beyond which they become ineligible to receive a public professional service contract from the Township of Evesham, as well as the Township's policy to prohibit professional business entities which are performing or being paid under existing contracts with the Township from making political contributions in amounts that exceed the Township's limits on political contributions by professionals. The Township also hereby establishes a policy prohibiting the transfer or

2. Editor's Note: This ordinance also superseded former Art. 11, Political Contributions by Entities Seeking Public Services Contracts, adopted 9-11-2007 by Ord. No. 20-9-2007, and provided that it be enforced in addition to the "Fair and Open" provisions in Ch. 27.

"wheeling" of political contributions by professionals to candidates or municipal political committees who are not affiliated with the Township of Evesham.

§ 27-6. Definitions.

For purposes of this article, the terms used herein shall be given the broadest possible meaning in order to effectuate the policy objectives stated and adopted. Certain specific terms used shall have the following meanings:

CONTRIBUTING — The act of giving money or providing in-kind contributions to aid a municipal political candidate or any of the political committees or political entities otherwise referenced in this article.

CONTRIBUTING POLITICALLY — Shall have the same meaning as "contributing."

CONTRIBUTIONS — Shall be given the same meaning and use generally utilized by the Election Law Enforcement Commission of the State of New Jersey under the statutes and regulations governing that agency. The term shall include but not be limited to payments or donations of money and in-kind contributions.

PAC or PACS — The terms "PAC" or "PACs" are abbreviations for "political action committee" or "political action committees," respectively. The terms refer to organizations that regularly engage in, or whose primary purpose is, the support of municipal elections and/or municipal parties in excess of the thresholds specified in this article. The foregoing shall be limited to organizations and entities which support or oppose Evesham Township candidates for Mayor or Township Council, or which engage in political activities in support or opposition to candidates for Evesham Township Mayor or Evesham Township Council.

POLITICAL CONTRIBUTIONS — Has the same definition as "contributions," hereinabove.

PROFESSIONAL BUSINESS ENTITIES — A "professional business entity" seeking a public contract means individuals and firms engaged in the rendering of legal services, engineering services, survey work, architectural services, planning services, design services, financial consulting and other consulting work, auditing, accounting, appraisal services, insurance services and banking. If a professional business entity is an individual, the definition includes the individual and the individual's spouse, if any, and any child living at home. "Professional business entities" also include firms, corporations, professional corporations, partnerships, business organizations, and/or business associations who provide professional services, where those professional services are exempt from public bidding for public contracts pursuant to the Local Public Contracts Law.³ As it relates to corporations, business trusts, partnerships, and subsidiaries directly controlled by a business entity, the definition of a business entity includes all principals who own 10% or more of the equity in the corporation or business trust, and includes all partners and officers in the aggregate employed by the entity and by any subsidiaries directly controlled by the business entity.

3. Editor's Note: See N.J.S.A. 40A:11-1 et seq.

§ 27-7. Prohibition on awarding public contracts to certain contributors.

The following prohibitions are imposed upon those individuals or entities seeking professional, banking or insurance contracts with the Township of Evesham:

- A. Notwithstanding the provisions of any other law to the contrary, Evesham Township, its purchasing agents, boards, commissions or committees or agencies or those of its independent authorities, as the case may be, shall not enter into a professional services contract having an anticipated value in excess of \$17,500, as determined in advance and certified in writing by the municipality, agency or instrumentality, with a business entity, except a contract that is awarded pursuant to a fair and open process, if, during the preceding one-year period, that business entity has made a contribution to any campaign committee of any Township of Evesham candidate or candidates or holder of public office having the ultimate responsibility for awarding of the contract or to any Evesham political party committee or to any municipal political action committee as defined in § 27-6 in excess of the threshold specified in Subsection D. **[Amended 3-18-2014 by Ord. No. 4-3-2014]**
- B. No professional business entity that has entered into a contract having an anticipated value in excess of \$17,500 with Evesham Township, its purchasing agents, boards, commissions or committees or agencies or those of its independent authorities, as the case may be, except a contract that is awarded pursuant to a fair and open process, shall make a contribution to any campaign committee of any Township of Evesham candidate or candidates or holder of public office having the ultimate responsibility for awarding of the contract, or to any Evesham political party committee or to any municipal political action committee as defined in § 27-6 in excess of the threshold specified in Subsection D during the term of that contract. **[Amended 3-18-2014 by Ord. No. 4-3-2014]**
- C. For purposes of this article, 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 "professional business entity" under this section may contribute a maximum of \$2,600 per election for any purpose to each candidate for Mayor and Council. Said entity may also contribute \$7,200 annually to each Evesham Township political party committee and to any political action committees, as defined in this chapter, without violating Subsections A and B of this section. The figures identified herein shall mirror the contribution limits established by Title 19 of the Revised Statutes as may be amended from time to time by the state. When and if the state adjusts contribution limit figures, Evesham limits shall automatically adjust to remain consistent and legally compliant. **[Amended 3-18-2014 by Ord. No. 4-3-2014]**
- E. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be the Township Council of the Township of Evesham, if the contract requires approval or appropriation from the Council.

§ 27-8. Contributions made prior to 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 party committee or PAC referenced in this article 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.

§ 27-9. Acknowledgement statement by Township of Evesham municipal candidates or municipal officeholders.

All Township of Evesham municipal candidates or municipal officeholders shall sign an acknowledgement statement at the time of submission of candidacy petitions to the Township of Evesham Clerk that they have received a copy of the Township of Evesham's Ordinance for Public Contracting ("Pay-to-Play") Reform.

§ 27-10. 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 or boards, commissions or committees, as the case may be, shall receive a certification from the professional business entity made that the bidder or offer or has not made a contribution in violation of § 27-5 of this article;
- B. The professional business entity shall have a continuing duty to report any violations of this article 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.

§ 27-11. Return of excess contributions.

A professional business entity or Township candidate or officeholder or municipal or county party committee or PAC referenced in this article may cure a violation of § 27-5 of this article; if, within 30 days after the general election, the professional business entity notifies the Township Council in writing and seeks and receives reimbursement of a contribution from the Township candidate or municipal political party or PAC referenced in this article.

§ 27-12. No wheeling.

A candidate for Mayor or Council shall not make a contribution to any other candidate committee or municipal party committee not affiliated with the Township of Evesham; nor shall any such candidate accept a contribution from any other candidate committee or municipal party committee not affiliated with the Township of Evesham.

§ 27-13. Violations and penalties.

- A. It shall be a breach of the terms of the Evesham Township professional service agreement for a business entity to:
- (1) Make or solicit a contribution in violation of this article;
 - (2) Knowingly conceal or misrepresent a contribution given or received;
 - (3) Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
 - (4) 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 Evesham Township;
 - (5) 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 article;
 - (6) Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
 - (7) Engage in any exchange of contributions to circumvent the intent of this article; or
 - (8) Directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this article.
- B. Furthermore, any professional business entity who knowingly and willfully violates Subsection A(2) to (8) shall be disqualified from eligibility for future Evesham Township contracts for a period of five calendar years from the date of the violation.

§ 27-13.1. Filing with Secretary of State.

This article shall be filed by the Township Clerk with the Secretary of State in compliance with N.J. S.A. 40A:11-51(c).

ARTICLE III**Contract Award Exemptions**

[Adopted 10-9-2007 by Ord. No. 23-10-2007]

§ 27-14. Professional contracts under \$17,500. [Amended 3-18-2014 by Ord. No. 4-3-2014]

- A. The Township of Evesham does hereby ratify and clarify that any contract having a price or consideration at or under the threshold of \$17,500 shall continue to be exempt from the fair and open award provisions of Evesham Code Chapter 27.
- B. Notwithstanding any provisions of Ordinance No. 20-9-2007 or Chapter 27 of the Code of the Township of Evesham to the contrary, upon request of the Township Manager and

his or her filing of a certification of reasonable investigation as required below, a contract having a price or consideration at or under the threshold of \$17,500 may be awarded by the Township Council to any professional business entity if such professional business entity has not otherwise received an aggregate or cumulative amount of contracts from the Township of Evesham in the calendar year of the award exceeding \$17,500. The Township Manager of the Township of Evesham shall recommend such an award to the Township Council only after investigating the availability of professional business entities to do the work which are or would be in compliance with the "pay to play" restrictions contained in Ordinance No. 20-9-2007 and only upon determining that compliance with the "pay to play" restrictions would increase the cost or interfere with the delivery of quality services. The Township Manager shall certify his or her findings to the Township Council in a written document filed with the Township Clerk. Such document shall be available for public inspection and copying.

§ 27-15. Contracting powers in declared emergencies.

The provisions of Evesham Code § 27-4, which allow for the exemption from fair and open contract award procedures in the case of a declared emergency, shall apply with equal force to the "pay to play" restrictions contained in Ordinance No. 20-9-2007.⁴ In the case of a lawfully declared emergency, the Township may award contracts in the same fashion and to the same extent provided in Code § 27-4 notwithstanding the provisions of Ordinance No. 20-9-2007.

4. Editor's Note: See Ch. 27, Art. II.