

ED GAINNEY
MAYOR



LEANNE DAVIS
EXECUTIVE DIRECTOR

CITY OF PITTSBURGH
ETHICS HEARING BOARD
CITY-COUNTY BUILDING

OPINION OF THE BOARD

December 3, 2024

To the Requester:

Confidential, Outside Professional Services Contractor
Via electronic mail

RE: 24-A-026 Confidential Opinion, Campaign Contribution Limits – Prof. Svc. Contractor

Dear Requester:

Issues: You ask what Ethics Hearing Board (“EHB” or “Board”) campaign finance regulations apply to contractors performing City of Pittsburgh (“City”) work through a professional services agreement.

Short Answer: We recommend limiting personal contributions to \$100 for the employees working on the professional services contract, and \$200 for director-level and above employees and owners.

Statement of Facts: Advice is issued based on the facts submitted, with no independent investigation as to facts presented or potentially omitted. [City of Pittsburgh Code of Ordinances \(“Code”\) § 197.13](#). It is the burden of each requesting party to truthfully disclose all material facts relevant to the inquiry. The facts as given are:

You work for the [REDACTED] (“Contractor”) as its [REDACTED]

- Contractor has been selected to provide professional services to the City.
- The nature of these professional services are not yet fully defined and expect to include on-call services.
- You are an authorized representative to inquire on behalf of the Contractor and its employees.
- You ask whether you and your colleagues are required to file disclosures or subject to any regulations if you wish to donate to a candidate for City of Pittsburgh elective office.

Relevant Law: Our City Code regulates campaign finance contributions. Those sections under our jurisdiction include Chapter 198 and Section 197.04(e). These laws are listed at the end of this letter. We also append the referenced FEC limits table and news article.

Legal Analysis

Personal Jurisdiction:

The Board has the codified duty to perform its core functions of advice, education, enforcement and disclosures, for all parties covered by the ethics rules under our jurisdiction. For example, a partial list of our personal jurisdiction includes “current and former officials and employees (and those who, although acting under contract, appear to act as government officials and employees), consultants, applicants, candidates, contributors to campaigns for City elected office, and persons and entities who do or seek business with the City (including the owners and officers of such entities, and subcontractors).” [Code § 197.11](#). There are no substantive restrictions throughout our Code which reference those who appear to act as officials and employees. [Code § 197.00, et seq.](#)

We find that the express inclusion of those who “appear to act as government officials and employees,” combined with the lack of references to such parties elsewhere in our Code, to require a reading and interpretation whereby references to officials and employees are intended to include professional service contractors who “appear to act” as officials and employees. [Code § 197.11](#).

There are many different types of professional services utilized in municipal government. If the City were to hire a plumber or lawyer, it is unlikely that the public would confuse a such a contractor, who has many other clients, as a government official or employee. Conversely, a full-time temporary employee whose salary is paid from our public coffers routed through a third-party hiring agency would clearly appear to act as an employee. Between these contrasts is where your situation likely lies, among many fact-dependent variants. More facts are needed to distinguish your status and accordant restrictions.

Campaign Finance:

Donors to campaigns for City of Pittsburgh elective office are subject to contribution limits. The amount of the limit depends on your status in relation to the City. Individual

contributors to City of Pittsburgh campaigns generally must comply with FEC limits, now \$3,300, unless the donor is, or appears to act as, a City official or employee.

Our national and our specific local history necessitate the ban of no more than a nominal amount of \$100/200 in contributions from officials and employees. Tiglio, Order 866; Pugh, Order 867; Com. v. Orie, 2014 PA Super 44 (Pa. Super. Ct. 2014); Com. v. Melvin, 2014 PA Super 181 (Pa. Super. Ct. 2014).

As more facts are needed to identify whether your professional services would categorize you and/or your colleagues as employees, and as our function is to provide protective advice, we hereby recommend limiting personal contributions to \$100 for Contractor employees, and \$200 for Contractor's director-level employees and owners.

Finally, for a full response, we note it is unlawful to offer or give a campaign donation or anything else of value with the understanding it will influence a public servant or candidate for office. 65 Pa.C.S. § 1103(b). We also append recent media coverage of a disclosure requirement relating to individuals affiliated with no-bid contracts – a provision administered by the Department of State. <https://www.wesa.fm/politics-government/2024-11-03/pennsylvania-no-bid-contracts-campaign-finance-donations>. This disclosure is outside the Board's jurisdiction, and we make no assertion as to whether it would be applicable in this matter.

Please feel free to contact us in the new year or when you have additional information relating to the specifics of your professional services contract.

Reliance: This advice is based on the facts summarized in this opinion letter. [Code §§ 197.13 and 197.16\(a\)](#). Please contact our staff if these facts are inaccurate or incomplete – or if the facts change in the future. Advice can be appealed or amended. [Code § 197.13](#). Requests for reconsideration must be in writing, describe the error in fact or law, and be received within thirty days from the date of this letter.

The Ethics Hearing Board works from the City's Code of Conduct, which adopts the State Ethics Act, along with portions of the City Code and Home Rule Charter. [Code § 197.01](#). The State Ethics Commission is the authority on the Act. If the State Ethics Commission provides a more restrictive view than this writing, the State's position will govern. [65 Pa.C.S. §§ 1107, and 1109](#). In complement, the Board and its staff adopt or exceed State Ethics Commission interpretations of the Act. [65 Pa.C.S. § 1111](#). Legal issues can be multi-faceted, and you may have rights or obligations beyond the ethics laws within the EHB's jurisdiction.

Conclusion: We recommend limiting personal contributions to campaigns for City elective office to that of \$100 for the employees working on the professional services contract, and \$200 for director-level and above employees and owners.

Thank you again for contacting our office regarding this inquiry, please contact our staff with any questions or when you receive additional information regarding the conduct at issue.

Sincerely,

Maryann Herman

Maryann Herman, Chair

Relevant Governmental Ethics Provisions:

Code § 198.02 - CONTRIBUTION LIMITATIONS.

(1.) No person, except the candidate, shall make political contributions to a candidate or candidate committee per covered election for the office that the committee has been established to seek, that exceeds the limitations that are in effect and published by the Federal Election Commission as of the first day of that same calendar year. In instances where the donation limits increase in the middle of an election cycle, a candidate or candidate committee may seek donations equal to the difference between the total contribution made by a person to their candidate committee during that election cycle and the newly adopted campaign finance limits. Political contribution limits for donations made by a person to a candidate committee shall be the same as the federal contribution limit for "individuals" who make contributions to "candidate committees."

Code § 197.11 - POWERS AND DUTIES OF THE BOARD.

(a) The Ethics Hearing Board may only act with respect to current and former officials and employees (and those who, although acting under contract, appear to act as government officials and employees), consultants, applicants, candidates, contributors to campaigns for City elected office, and persons and entities who do or seek business with the City (including the owners and officers of such entities, and subcontractors). The Ethics Hearing Board may also act with respect to those who induce, encourage, or aid anyone to violate any provision of this Code, give gifts to officials and employees or their relatives, or are otherwise covered by the provisions of this Code.

Code § 197.04 - USE OF AUTHORITY AND PUBLIC PROPERTY.

(e) No City employee shall contribute in excess of one hundred dollars (\$100.00) during any consecutive four-year period to any political campaign of his or her employer or to any political campaign of his or her employing authority; provided, however, that with respect to Directors of Departments, the Mayor's Executive Secretary Officer and the Chief Administrative Officer such amount shall be two hundred dollars (\$200.00) for any four-year period.

For purposes of this section, "employer" means the following:

- (1) The Mayor is employer of the Executive Branch;
- (2) The City Controller is employer of the City Controller's Office; and
- (3) Members of Council are employers of their personal staffs, the City Clerk and all City Clerk employees.

For purposes of this section, "employing authority" means any City employee who supervises, oversees or directs the work of another City employee.

State Ethics Act § 1103 (b) and (c) Improper Influence

(b) Seeking improper influence.--No person shall offer or give to a public official, public employee or nominee or candidate for public office or a member of his immediate family

or a business with which he is associated, anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment based on the offeror's or donor's understanding that the vote, official action or judgment of the public official or public employee or nominee or candidate for public office would be influenced thereby.

(c) Accepting improper influence.--No public official, public employee or nominee or candidate for public office shall solicit or accept anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment, based on any understanding of that public official, public employee or nominee that the vote, official action or judgment of the public official or public employee or nominee or candidate for public office would be influenced thereby.

FEC Contribution Limits Table and WESA Article Appended