

**BOROUGH OF NORTHVALE**  
**County of Bergen**  
**State of New Jersey**

**ORDINANCE #842-2007**

**AN ORDINANCE ADOPTING THE FAIR AND OPEN PROCESS  
PURSUANT TO N.J.S.A. 19:44A-20.5 FOR AWARDING  
PROFESSIONAL SERVICE CONTRACTS**

**WHEREAS**, as of January 1, 2006, N.J.S.A. 19:44A-20.4 et seq., commonly known as the "State Pay to Play" law, enacted by the New Jersey State Legislature became effective; and

**WHEREAS**, pursuant to N.J.S.A. 19:44A-20.5 et seq., a municipality may not award contracts with a value in excess of \$17,500.00 to a business entity which has made reportable contributions in excess of \$300.00, in the aggregate, to the said municipality's political parties or to any candidate's committee of any person serving in an elective public office of the said municipality when such contract was awarded, unless said business entity is awarded a contract under a "fair and open process" pursuant to N.J.S.A. 19:44A-20.5 et seq.; and

**WHEREAS**, a "fair and open" process constitutes the following: (i) public advertisement of a Request for Qualifications ("RFQ") with ten (10) calendar days notice prior to the receipt of responses to the RFQ; (ii) award of contract under a process that provides for public solicitation of

qualifications; (iii) award of contract under publicly disclosed criteria established, in writing, by the municipality prior to the solicitation of qualifications; and (iv) the municipality shall publicly open and announce the qualifications when awarded; and

**WHEREAS,** the Borough of Northvale recognizes that it is in the best interest of the Borough to utilize the fair and open process as described herein in order to address the concerns of the taxpayers regarding political contributions, to engender trust in the process of local government and to insure that quality services are received by the Borough;

**NOW, THEREFORE,** be it ordained by the Mayor and Council of the Borough of Northvale, County of Bergen and State of New Jersey as follows:

1. The Borough of Northvale does hereby adopt the faar and open process pursuant to N.J.S.A. 19:44A-20.1 et seq., as the same may be amended from time to time. Any professional service entity providing services to the Borough of Northvale shall be subject to a fair and open process, the criteria as is set forth in this Ordinance.

2. No contracts for professional services, as that term is defined in the Local Public Contracts Law N.J.S.A. 40A:11-2,

shall be awarded after the date of the adoption of this section, unless the following competitive, quality based, fair and open process is followed:

(a) Professional services shall be awarded by virtue of a publicly advertised request for qualifications made on an annual basis, such as, but not limited to: Borough Attorney, Borough Engineer, Special Tax Appeal Attorney, Joint Planning Board/Board of Adjustment Attorney, Joint Planning Board/Board of Adjustment Engineer, Environmental Engineer, Borough Auditor and such similar public positions.

(b) For said positions, no contract shall be awarded, unless and until the positions are:

(i) advertised in the official newspaper of the Borough in sufficient time to give notice in advance of the solicitation for the contracts;

(ii) awarded under a process that provides for public solicitation of qualifications;

(iii) awarded and disclosed under criteria established in writing by the Borough prior to the solicitation of qualifications; and

(iv) publicly announced when awarded, and as to those RFQs which do not receive response, the Municipal Clerk

shall retain a copy of same on file for a period of not less than sixty (60) days.

3. The Borough clerk is authorized to advertise for RFQs in the official newspaper of the Borough and to post same on the Borough's website. The criteria to be established as the basis for the award need not be set forth in the public notice but shall be set forth in the document requesting proposals. The public notice shall (i) provide at least ten (10) calendar days' notice prior to the designated date for receipt of responses to the RFQs; (ii) include the date, time and place and manner of receipt of responses to the RFQs; (iii) include a description of the good or services, contact information for obtaining the RFQ document; and (iv) a statement that the proposal or qualifications are being solicited in a fair and open process in accordance with N.J.S.A. 19:44a-1 et seq.

4. The Applicant's qualifications shall consist of, but not be limited to, the following:

(a) In the event that the Applicant is a professional acquiring licensure in the State of New Jersey, the Applicant shall be licensed for a period not less than five (5) years.

(b) The Applicant shall, at the request of the Governing Body, submit a "Certificate of Good Standing" or other

similar document evidencing that the professional's license is not presently suspended or revoked.

(c) The Applicant shall submit a resume, which shall set forth information including, but not limited, to the following (as applicable to a business entity or individual professional):

(i) full name and business address;

(ii) a listing of post-high school education of the Applicant;

(iii) dates of licensure in the State of New Jersey and/or any other State;

(iv) a listing of any professional affiliations or memberships in any professional societies or organizations, with an indication as to any offices held therein;

(v) the number of licensed professionals employed by/affiliated with the business entity or the business entity which employs the Applicant;

(vi) a listing of special accreditations held by the individual licensed professional or business entity; and

(vii) a listing of previous public entities served by the business entity or licensed professional, including the dates of services and positions held.

(d) The Applicant shall submit in its response to an RFQ, such other information as may be requested by the Governing Body in the RFQ.

5. Emergency exceptions. Notwithstanding the foregoing, the Borough 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. Accordingly, should such a situation arise, and time does not permit resort to the procedure set forth above, 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 any such rules and regulations as may be promulgated, from time to time, by the Borough, without submission to the Borough Clerk of a certification establishing the basis for the deviation from the procedures outlined herein.

6. All contracts awarded pursuant to this Ordinance shall be by resolution which shall include a statement that the contract was awarded pursuant to the fair and open process.

7. If any section, sentence, clause or phrase of this Ordinance is, for any reason whatsoever, held to be

unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

8. All Ordinances or any provision of any Ordinance inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies and not otherwise.

9. This Ordinance shall become effective upon final passage and publication as required by law.

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JOHN S. HOGAN, MAYOR

ATTEST:

Wanda A. Worner  
Borough Clerk

Introduced: February 28, 2007

Passed: April 11, 2007