

Sec. 2-487. Prohibited campaign contributions by vendors.

A. General.

(1) (a) No vendor shall give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. Commencing on the effective date of this ordinance, all proposed city contracts, as well as requests for proposals (RFP), requests for qualifications (RFQ), requests for letters of interest (RFLI), or bids issued by the city, shall incorporate this section so as to notify potential vendors of the proscription embodied herein.

(b) No candidate or campaign committee of a candidate for the offices of mayor or commissioner, shall deposit into such candidate's campaign account any campaign contribution directly or indirectly from a vendor. Candidates (or those acting on their behalf) shall ensure compliance with this code section by confirming with the procurement division's city records (including City of Miami Beach website) to verify the vendor status of any potential donor.

(2) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of giving or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.

(3) (a) Disqualification from serving as vendor.

1. A person or entity other than a vendor who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from serving as a vendor with the city.

2. i. A vendor who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from serving as a vendor with the city for a period of 12 months from a final finding of violation, or from action on a waiver request by the Miami Beach City Commission (per subsection B herein below) in the event a waiver of said violation is sought.

ii. In the event such waiver request for a particular transaction is granted, the affected vendor shall nonetheless be disqualified from serving as a vendor with the city as to all other vendor projects for the stated 12-month period. In the event such waiver request is denied for a particular transaction, the 12-month disqualification period shall apply to both the particular transaction which was the subject of the waiver request, as well as all other vendor projects during that 12-month period.

(b) Definition. For purposes of this section, the term "disqualified" shall be defined to include:

1. Termination of a donor/vendor's existing contract with the city, subject to the waiver provisions of subsections B(1)(d) and B(2) herein; and

2. Disqualification of a donor's response to solicitation requests for prospective vendor contracts with the city, subject to the waiver provisions of subsections B(1)(a), (b) and (c) herein.

(4) As used in this section:

(a) 1. A "vendor" is a person and/or entity who has been selected by the city as the successful bidder on a present or pending bid for goods, equipment or services, or has been approved by the city on a present or pending award for goods, equipment or services, prior to or upon execution of a contract, purchase order or standing order.

2. "Vendor" shall include natural persons and/or entities who hold a controlling financial interest in a vendor entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm. The term "firm" shall mean a corporation, partnership, business trust or any legal entity other than a natural person.

3. For purposes of this section, "vendor" status shall terminate upon completion of the agreement for the provision of goods, equipment or services.

(b) For purposes of this section, the term "services" shall mean the rendering by a vendor through competitive bidding or otherwise, of labor, professional and/or consulting services to the city.

(c) The term contribution shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented (copies available in city clerks office).

B. Waiver of prohibition.

(1) Conditions for waiver. The requirements of this section may be waived by a five-sevenths vote for a particular transaction by city commission vote after public hearing upon finding that:

(a) The goods, equipment or services to be involved in the proposed transaction are unique and the city cannot avail itself of such goods, equipment or services without entering into a transaction which would violate this section but for waiver of its requirements; or

(b) The business entity involved in the proposed transaction is the sole source of supply as determined by the city's procurement director in accordance with procedures established in subsection 2-367(c) of this Code; or

(c) An emergency contract (as authorized by the city manager pursuant to section 2-396 of this Code) must be made in order to protect the health, safety or welfare of the citizens of the city, as determined by a five-sevenths vote of the city commission; or

(d) A contract for the provision of goods, equipment or services exists which, if terminated by the city, would be adverse to the best economic interests of the city.

(2) Conditions for limited waiver. Notwithstanding the denial by the city commission of a waiver request regarding an existing contract per subsection B(1)(d) above, upon a five-sevenths vote of the city commission at a public hearing, a limited waiver may be granted on an existing contract upon a finding that in order to protect the health, safety and welfare of the citizens of the city, continuation of said contract for a limited period of time (not to exceed six months) is necessary in order for the city to obtain a replacement vendor.

(3) Full disclosure. Any grant of waiver by the city commission must be supported with a full disclosure of the subject campaign contribution.

C. Applicability. This section shall be applicable only to prospective transactions, and the city commission may in no case ratify a transaction entered into in violation of this section.

(Ord. No. 2000-3244, § 1, 5-10-00; Ord. No. 2003-3389, § 1, 1-8-03; Ord. No. 2004-3446, § 1, 5-26-04; Ord. No. 2005-3486, § 1, 6-8-05)