



Client Advisory

NEW POLITICAL CONTRIBUTION REPORTING REQUIRED IN NEW JERSEY

September 2007

The deadline for a new report required to be filed by most companies doing business with public entities within New Jersey is fast approaching.

The New Jersey Election Law Enforcement Commission ("ELEC") has promulgated new regulations requiring all business entities with agreements or contracts of \$50,000 or more with public entities in the State of New Jersey to complete a filing with ELEC. The filing will require the disclosure of all reportable political contributions in excess of \$300 and the listing of all contracts with governmental entities during each calendar year. The report for calendar year 2006 is due by September 28, 2007. All reportable contributions made after January 1, 2007, will need to be reported to ELEC by March 30, 2008.

This disclosure requirement is very broad. It covers all individuals, business corporations, including non-profits, professional service corporations, limited liability companies, partnerships, limited partnerships, business trusts, associations or any other legal commercial entity organized under the laws of the state of New Jersey, which have contracts or agreements with public entities which in the aggregate exceed \$50,000 in a calendar year. "Public entities" include: any State agency, including the principal departments of the Executive Branch of the State and any divisions, boards, bureaus, offices, commissions, or other instrumentalities within or created by such departments; the Legislature of the State and any offices, boards, bureaus or commissions within or created by the Legislative Branch; any independent State authorities, commissions, instrumentalities or agencies; and any local governmental unit, including, all counties, municipalities, agencies, or instrumentalities of a county or municipality, independent authorities, boards of education or fire districts.

The contributions that must be reported go beyond contributions made by the business entity. Business entities, such as corporations, LLC's, partnerships and non profits, must also report contributions made by: (i) any person or other business entity having control of 10% or more of the profits or assets or 10% or more of the stock in the business entity; (ii) all principals, partners, officers, directors, or trustees of the business entity; (iii) the spouses of all principals, partners, officers, directors or trustees of the business entity; (iv) a subsidiary directly or indirectly controlled by the business entity; and (v) a continuing political committee organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity.

For the purposes of reporting to ELEC:

- "Director" means any member of the governing board of a corporation, including nonprofit corporation, whether designated as a director, trustee, manager, governor or by another title.
- "Principal" means a natural person or other entity which owns or controls more than 10 percent of the stock, profits or assets of a business entity.
- "Partner" means two or more joint owners of a general partnership, limited partnership, limited liability partnership, limited liability company, limited partnership association, or other such form of business.
- "Officer" means a president, vice president with senior management responsibility, secretary, treasurer, chief executive officer, or chief financial officer of a corporation, including a nonprofit corporation, or any person routinely performing such functions for a corporation.

The disclosure will require setting forth contributions made to candidate committees or joint candidate committees for or holders of the office of the Governor, State Senate, General Assembly, county executive freeholder, sheriff, clerk, surrogate, members of a municipal, school board or fire district governing body, political party committees, legislative leadership committees and continuing political committees. In addition, business entities will be required to disclose for each reporting calendar year, the name of the each public entity with which the business entity has a contract or agreement, the amount received under the contract or agreement, the date of each contract and a description of the goods or services provided or property sold under the agreement or contract.

Even if a business entity has not made any political contributions, the entity is still required to file an annual statement with ELEC stating that no contributions were made in the reporting calendar year, if it has received at least \$50,000 during the year from agreements or contracts with public entities. Failure to file a Business Entity Annual Statement may result in ELEC imposing a fine in an amount based upon the amount that the business entity failed to report. Business entities may choose to file online at <https://wwwnet1.state.nj.us/lpd/elec/ptp/Form.aspx>.

If you have any questions concerning this filing, do not hesitate to call your principal contact at Archer & Greiner (856.795.2121), or contact Frances A. McElhill (fmcelhill@archerlaw.com), or David A. Weinstein (dweinstein@archerlaw.com).

DISCLAIMER: This client advisory is for general information purposes only. It does not constitute legal advice, and may not be used and relied upon as a substitute for legal advice regarding a specific legal issue or problem. Advice should be obtained from a qualified attorney licensed to practice in the jurisdiction where that advice is sought.