



RE: Support Transparent Procurement and Real Estate Processes

To Whom It May Concern:

Common Cause Georgia has always stood for upholding the core values of American democracy and we are constantly working to create an open, honest, and accountable government. We believe that Ethics and Accountability should be upheld at every level in government.

It has become common for professional business entities to make substantial political contributions to campaigns of local elected officials and candidates who are or could be responsible for awarding professional services contracts. This type of behavior can easily be construed as "Pay-to-Play" and it should be prohibited. Voters should be able to trust that elected officials are acting in their constituents' interests and are not being influenced by campaign contributions, gifts or other payments. In the interest of good government, the Mayor and Councilmembers should establish a policy or ordinance that will avoid the appearance of improper influence in local elections to the extent that it is not inconsistent with state or federal law.

Such an ordinance would ensure that purchasing agents, departments or instrumentalities of the municipality shall not enter into any agreement or contract to procure services from any professional business entity if that professional business has solicited or made any contributions of money or in-kind contribution to a candidate, a campaign, or a re-election campaign to any public officer having the responsibility of awarding a contract within a calendar year preceding the date of the elected officer taking office. It would also ensure that any such agreement or contract would be terminable for cause if the vendor made any payments to the public officials while the contract was in force.

Political contributions have a profound impact on decision-making at all levels of government – and voters know this. Restricting contributions and other gifts from professional entities that do business with the City would avoid conflicts of interest and other distractions. Voters will be able to have more trust in a fair, honest, and transparent procurement process.

Respectfully we are asking candidates and councilmembers to pledge to support the end of pay to play politics in Atlanta and support the ordinance to amend the procurement and real estate code of the city of Atlanta.

In Service and Community,

Aunna Dennis
Executive Director
Common Cause Georgia

Proposed Amendment to the City of Atlanta
Procurement and Contracting Code

AN ORDINANCE TO Amend the Procurement and Real Estate Code of the City of Atlanta (Article X of the Atlanta City Code) to: (1) ensure high ethical standards and safeguard the integrity of the award and performance contracts with the City of Atlanta, (2) prescribe eligibility qualifications of persons (as defined herein) submitting bids or proposals to perform contracts for, with or on behalf of the City of Atlanta, (3) to provide for and require the disqualification of any bid or proposal submitted in violation of the provisions of this ordinance, (4) to provide for and require the termination of any contract with a person who makes any contributions, expenditures or payments during the term of the contract that are prohibited by this ordinance, (5) to provide remedies for violations of this ordinance and for other purposes.

The Procurement and Real Estate Code of the City of Atlanta, Article X of the Atlanta City Code, is hereby amended to add a new Section 2-1102 under Division I of Article X, which shall apply, without exception, to all purchases and contracts for the procurement of goods, supplies, services, construction, professional and consultant services and real estate contracts, solicited or entered into by the City of Atlanta after this ordinance is enacted into law. The ordinance shall read as follows:

Paragraph 1 Qualifications of Persons Bidding for or Performing City Contracts.

(a) *Pre-award Qualifications* No person (as defined herein) shall be eligible to submit any bid or proposal to the City of Atlanta or to be awarded or to perform any contract with, for or on behalf of the City of Atlanta, if that person has, within one year prior to the date of the submission of any bid or proposal to the City of Atlanta, or the award of any contract to such person by the City of Atlanta:

(1) made any contribution or expenditure in excess of \$250 in the aggregate to the campaign of or to any political committee that acts on behalf of a candidate for or holder of the offices of Mayor of Atlanta, President of the Atlanta City Council, or member of the Atlanta City Council;

(2) made, directly or indirectly, any payment, gift or other contribution to or for the benefit of any holder of elective office of the City of Atlanta or to any employee;

(b) *Post-Award Disqualification* No person (as defined herein) who has been awarded a contract by the City of Atlanta shall, during the term of that contract, make any contribution or expenditure to or on behalf of candidate or holder of elective office of the City of Atlanta or to any political committee that acts on behalf of a candidate, or any gift or other payment to any candidate for or holder of any elective office of the City of Atlanta, or to any employee of the City of Atlanta.

Paragraph 2 Required Certifications.

(a) *At the Time of Bidding* Any person who submits a bid or proposal to the City of Atlanta, shall include as a part of the bid or proposal, and any resulting contract awarded by the City a written certification under penalties for perjury that the person has not made, either directly or indirectly, any contributions or expenditures in excess of the amount permitted in Paragraph 1(a), and is not disqualified or ineligible to submit the bid or proposal and is fully qualified to bid or perform the contract.

(b) *During Performance of a Contract* Any person who has been awarded a contract by the City of Atlanta shall submit with every request for payment, and no less frequently than annually, a written certification under penalties for perjury, that the person has not made any contributions, expenditures, gifts or other payments prohibited by Paragraph 1(b) to any candidate or holder of any elective office of the City of Atlanta, or to any employee of the City.

Paragraph 3 Definitions:

(a) *Person* For purposes of Paragraph 1 of this Ordinance, "person" shall mean (1) an individual or natural person or (2) a legal entity (including a business, professional or non-profit corporation, a general or limited liability partnership, a joint venture, a limited liability company, trust or association);

(b) *Aggregation* For purposes of determining the total amount of a person's contributions or expenditures under Paragraph 1, (1) if the prospective bidder or contracting party is an individual or natural person, all contributions and expenditures made by that person, by members of that person's immediate family (parents, siblings, spouses, or children) and by any legal entity in which that person or members of his or her immediate family own or control more than 10% of the stock or other beneficial interests, shall be aggregated; (2) if the prospective bidder or contracting party is a legal entity, all contributions or expenditures made by or on behalf of the entity itself, its officers, directors, partners, or salaried employees of the entity, and of any affiliated or subsidiary entities, shall be aggregated.

Paragraph 4 Violations and Remedies:

(a) *Disqualification of Bids or Proposals* Any bid or proposal submitted by or on behalf of a person who is ineligible to bid under Paragraph 1(a) shall be void and shall not be considered by the City and no contract may be awarded and no payments made by the City to such person pursuant to any contract awarded to such person in violation of this provision.

(b) *Termination for Breach* Any contract between the City of Atlanta and any person who makes a contribution, expenditure, gift or other payment to any candidate or elected official of the City of Atlanta, or to any employee, of the City of Atlanta in violation of Paragraph 1(b), shall be terminable by the City for cause, and the person shall be liable to compensate the City for the full amount of any damages caused sustained by the City as a result of the termination of the contract, just as in the case of any other material breach of the contract.

(3) *Standing* The City of Atlanta and any qualified competing bidder shall each have standing to enforce the provisions of this Ordinance.

Paragraph 5 Repeal of Inconsistent Ordinances.

All ordinances and parts of ordinances and all code sections and parts of code sections that are inconsistent with the provisions of this ordinance are hereby repealed.

Paragraph 6 Effective Date.

This ordinance shall become effective upon the Mayor's signature.

Paragraph 7 Contributions Made Prior to the Effective Date

No contribution of money or any other thing of value, including in-kind contributions, made by persons seeking to obtain contracts or conducting contract work with the City of Atlanta prior to the enactment of this ordinance shall be deemed a violation of this ordinance, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made prior to the effective date of this ordinance.

Paragraph 8 Severability

In the event that any portion of this ordinance shall be declared invalid by a final judgment of a court of competent jurisdiction, the invalid portions of the ordinance shall be severed from the remainder of the ordinance, and the remainder of the ordinance shall remain in full force and effect.