

OFFICE OF POLICY AND MANAGEMENT
Memorandum

To: Heads of Executive Branch State Agencies
From: Robert L. Genuario, Secretary
Date: December 20, 2006
Subject: New Contracting Requirements Pursuant to C.G.S. § 9-333n

The Connecticut General Assembly recently enacted new legislation that establishes a system of public financing for election campaigns. The purpose of this memorandum is to advise you of important provisions of the legislation (now codified in Section 9-333n of the Connecticut General Statutes) that come into effect at the end of this year.

Beginning December 31, 2006, the State statute prohibits the principals¹ of state contractors and prospective state contractors (including those contractors who hold a valid Prequalification Certificate issued by the Commissioner of Administrative Services) from making or soliciting campaign contributions in connection with legislative or statewide election campaigns. The prohibition applies to state contractors and prospective state contractors with the State of Connecticut who meet certain financial criteria.²

The State Elections Enforcement Commission (SEEC) is primarily responsible for enforcing the ban on campaign contributions and solicitations. To ensure that the prohibitions are not violated, current and prospective contractors must meet certain requirements. For each **current contract** that your agency has in effect having a value of \$50,000 or more, the individual, or chief executive officer of the nonprofit organization, or chief executive officer of the business entity having the contract must complete and return to your agency the SEEC Form SC 3 certifying compliance with C.G.S. § 9-333n(g).

¹ A “principal” means (A) an individual who is a member of the board of directors of, or has an ownership interest in, a state contractor or prospective state contractor, which is a business entity, except for an individual who (i) owns less than five per cent of the shares of any such state contractor or prospective state contractor that is a publicly traded corporation, or (ii) is a member of the board of directors of a nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding Internal Revenue Code of the United States, as from time to time amended, (B) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive or senior vice president, (C) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, (D) an employee of any state contractor or prospective state contractor who has managerial or discretionary responsibilities with respect to a state contract, (E) the spouse or a dependent child of an individual described in this subparagraph, or (F) a political committee established by or on behalf of an individual described in this subparagraph, or as this definition may otherwise be modified by Title 9, Chapter 150 of the C.G.S. concerning campaign financing.

² The prohibition applies to any current and prospective state contractor who has an agreement or contract with a State agency valued at \$50,000 or more in a fiscal year, or a combination of contracts or agreements with more than one agency that is valued at \$100,000. For additional details, see Section 9-333n of the Connecticut General Statutes (attached).

Additionally, the individual who executes the SEEC Form SC 3 must also submit to SEEC a completed SEEC Form SC 3A (also attached), which lists the principals of the business entity.

As part of its enforcement efforts, the SEEC has collaborated with the Office of the Attorney General (OAG), Department of Administrative Services (DAS), and Office of Policy and Management (OPM) to develop standard language for inclusion in all State contracts. The standard language is attached for your review and information. (See "Campaign Contribution Restriction Provision.") Further, the standard language must be incorporated verbatim into each **new contract** or **amended contract** having a start date on or after December 31, 2006.

Below is a summary of the new contracting requirements. All executive branch agencies must comply with these requirements.

New Contracting Requirements

- (1) Each agency must incorporate the new standard contract language concerning the ban on campaign contributions and solicitations into all new and amended contracts having a start date on or after December 31, 2006.

NOTE: Part II of the contract used for the purchase of service (POS) will be updated by OPM.

- (2) Each agency must require current contractors and prospective contractors who submit proposals in response to a Request For Proposals (RFP) solicitation to:
 - (a) complete a "*State Contractor or Prospective State Contractor Affidavit*" (SEEC Form SC 3) and return the form to the agency.
 - (b) complete a "*List of Principals*" form (SEEC Form SC 3A) and return the form to the SEEC, 20 Trinity Street, Campaign Finance Disclosure Unit, Third Floor, Hartford, CT 06106.

NOTE: The list must be updated if any change in principals occurs.

- (3) If a state contractor or prospective state contractor fails to report and update its list of principals, the SEEC will notify the State agency in writing. The State agency must then determine if the failure to report or update the list of principals constitutes a breach of contract. If the agency so determines, the agency must follow the procedures prescribed in the new standard contract language.
- (4) A State agency may void an existing contract if a state contractor or a principal of a state contractor makes or solicits a campaign contribution or solicitation prohibited by statute. No state agency shall award the state contractor a state contract or an extension or an amendment to a state contract for one year after the prohibited contribution is made or solicited.

Additional information is available on the SEEC's website at www.ct.gov/seec, under the "State Contractor Contribution Ban" hyperlink. If you have questions about the campaign contribution and solicitation ban or the forms, please contact the following SEEC staff: (1) Brenda Lou Mathieu, 860-566-1776 Ext. 307, brendalou.mathieu@ct.gov, or (2) Dianna Kulmacz, 860-566-1776 Ext. 318, dianna.kulmacz@ct.gov.

Where applicable, the requirements of the campaign finance reform statute will be incorporated into OPM's standards for personal service agreements. The updated document will be available on OPM's website at <http://www.opm.state.ct.us/finance/psa/standards.htm> not later than January 5, 2007. Executive branch agencies are directed to update their written procedures for personal service agreements so that they conform to OPM's updated standards. If you have any questions about OPM's standards for PSAs, please contact Wanda Dupuy, 860-418-6261, wanda.dupuy@po.state.ct.us.

cc: Anne Gnazzo, Deputy Secretary
Gareth Bye, Director of Legal Affairs
Gale Mattison, Executive Financial Officer
Chief Fiscal Officers

Attachments:

C.G.S. Section § 9-333n. Other contributions by individuals
Campaign Contribution Restriction Provision [12-06-06]
SEEC Form SC 3, State Contractor of Prospective Contractor Affidavit
SEEC Form SC3A, List of Principals