

EXECUTIVE ORDER NO. 81

WHEREAS, the residents of New Jersey are entitled to a government that is effective, efficient, and free from corruption, favoritism, and waste; and

WHEREAS, in pursuit of those goals, the New Jersey government has taken a series of actions through legislation, executive order, and regulation to protect the integrity of government contractual decisions and increase the public's confidence in government; and

WHEREAS, those actions included the enactment of P.L.2005, c.51 (C.19:44A-20.13 et seq.), known as "Chapter 51," which has significantly reduced the influence of contractor contributions in the process of awarding State government contracts and has proven to be an effective method of ensuring that merit and cost-effectiveness drive the government contracting process; and

WHEREAS, this Administration is committed to ensuring the highest ethical standards in government contracting and rooting out corruption, favoritism, and waste; and

WHEREAS, the State of New Jersey has to date not adopted rules governing how the State may award a contract based upon merit and cost-effectiveness to a business entity that seeks to provide legal services on a pro bono basis, which is legal work performed without cost to the government client; and

WHEREAS, the New Jersey Court Rules and Rules of Professional Conduct, and in particular Court Rule 1:21-11, establish that lawyers may provide legal services to "governmental entities" on a pro bono basis; and

WHEREAS, the ability to retain business entities to provide legal services on a pro bono basis will enable State agencies to further their missions while safeguarding the public fisc; and

WHEREAS, measures must still be taken to combat the influence of contractor contributions in the process of awarding State government contracts, even those where the relevant legal services are provided on a pro bono basis; and

WHEREAS, measures must also be taken to prevent the risk or appearance that business entities will seek to gain an advantage in obtaining State government contracts for compensated legal services by providing a State agency with legal services on a pro bono basis;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. For the purposes of this Order, the term "business entity" has the same meaning as under N.J.S.A. 19:44A-20.17, and the term "contribution" has the same meaning as under N.J.S.A. 19:44A-20.16.

2. Any Executive Branch department, agency, authority, or independent State authority that is authorized to retain a business entity to provide legal services may retain that business entity for legal services on a pro bono basis.

3. Any Executive Branch department, agency, authority, or independent State authority charged with implementing and enforcing Chapter 51 shall apply those same provisions to a business entity seeking to provide legal services to the State on a pro bono basis.

a. In assessing the eligibility of a business entity to represent the State on a pro bono basis, the Executive Branch department, agency, authority, or independent State authority shall treat contributions made to a legislative leadership committee or a municipal political party committee in the same manner as those provisions apply to a contribution to any candidate committee, election fund, or political party committee identified in Chapter 51.

b. In assessing the eligibility of a business entity to represent the State on a pro bono basis, the Executive Branch department, agency, authority, or independent State authority shall treat a contribution made to a candidate committee or election fund of any candidate for or holder of the office of Lieutenant Governor in the same manner as those provisions apply pursuant to Chapter 51 to a contribution to any candidate committee or election fund of any candidate for or holder of the office of Governor.

4. To prevent the appearance of impropriety, any business entity providing legal services on a pro bono basis to the State is disqualified from providing legal services to the State for remuneration throughout the duration of that pro bono representation and for a period of six months thereafter.

5. The rules governing conflicts of interest that are provided in the Attorney General's May 15, 2019 letter to Chief Counsel Matthew Platkin, "Identifying Government Clients for Purposes of Conflicts of Interest," apply to any business entity providing legal services on a pro bono basis to the State.

6. This Order shall take effect immediately.

[seal] GIVEN, under my hand and seal this
3rd day of September,
Two Thousand and Nineteen,
and of the Independence of
the United States, the Two
Hundred and Forty-Fourth.

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor