

EXECUTIVE ORDER NO. 333

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, a series of actions have been taken in New Jersey over the course of decades - through legislation, executive order, and regulation - to protect the integrity of government contractual decisions and increase the public's confidence in government by prohibiting the awarding of government contracts to business entities that make certain political contributions; and

WHEREAS, among those actions were the issuance of Executive Order No. 134 (2004) and the codification of its provisions into statute in P.L.2005, c.51 (C.19:44A-20.13 et seq.) ("Chapter 51"), which prohibited State departments, agencies and authorities from entering into contracts exceeding \$17,500 with individuals or entities making, soliciting, or pledging certain political contributions, including certain contributions to a State or county political party committee; and

WHEREAS, Executive Order No. 117 (2008) imposes additional restrictions on State departments, agencies, and authorities to prevent dilution of the protections provided by Chapter 51 and to ensure compliance with its provisions; and

WHEREAS, among other restrictions, Executive Order No. 117 (2008) instructs any Executive Branch department, agency, authority, or independent State authority charged with implementing and enforcing Chapter 51 to apply its provisions to a contribution 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; and

WHEREAS, application of Chapter 51's provisions to legislative leadership committees and municipal political party committees was considered appropriate because the ability of such committees to transfer contributions to political committees subject to Chapter 51's contracting restrictions could dilute the effectiveness of the restrictions in Chapter 51; and

WHEREAS, Executive Order No. 117 (2008) further provides that any Executive Branch department, agency, authority, or independent State authority charged with implementing and enforcing Chapter 51 must apply its provisions to 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; and

WHEREAS, although many State government contractors, particularly those that provide professional services, are business entities whose form of business organization and ownership structure are such that the political contribution limits in Chapter 51 apply to few if any of the individuals who own or control the entity, the purposes of Chapter 51 are advanced by applying the statute's contribution limits to such individuals, as required by Executive Order No. 117 (2008); and

WHEREAS, Executive Order No. 7 (2010) extended to labor unions and labor organizations the contracting restrictions that prior statutes and Executive Orders had applied to business entities that made certain political contributions, and reiterated that

such restrictions were applicable to contributions to legislative leadership committees; and

WHEREAS, the provision of Executive Order No. 7 (2010) concerning labor unions and labor organizations was declared unconstitutional and vacated by the Appellate Division of the Superior Court in Communications Workers of America, AFL-CIO v. Christie, 413 N.J. Super. 229 (App. Div. 2010); and

WHEREAS, the Legislature has amended Chapter 51 since the issuance of Executive Order No. 117 (2008), including amendments to codify the application of Chapter 51 to contributions made to a candidate committee or election fund of any candidate for or holder of the office of Lieutenant Governor; and

WHEREAS, the Legislature most recently amended Chapter 51 in P.L.2023, c.30 which, among other things, removed contributions to State and county political party committees from the list of contributions that may disqualify a contractor from covered State contracts -- amendments that reflect the Legislature's determination that contributions to such political party committees should not trigger the same public contracting restrictions as contributions to candidates and office holders -- and exempted from the requirements of Chapter 51 State contracts and agreements awarded pursuant to a fair and open process; and

WHEREAS, Executive Order No. 117 (2008) must be updated to reflect legislation adopted since its issuance, including to implement the Legislature's intent in P.L.2023, c.30, while reaffirming aspects of the Executive Order that have not been affected by intervening legislation and that continue to serve the important purposes of effectuating Chapter 51 and ensuring that decision-making regarding State contracts is insulated from

political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof; and

WHEREAS, Executive Order No. 134 (2004) and Executive Order No. 7 (2010) should be rescinded due to inconsistencies between these Orders and intervening legislation and judicial rulings;

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:

a. "Business entity" means:

i. a for-profit entity as follows:

- A. in the case of a corporation: the corporation, any officer of the corporation, and any person or business entity that owns or controls 10% or more of the stock of the corporation;
- B. in the case of a general partnership: the partnership and any partner;
- C. in the case of a limited partnership: the limited partnership and any partner;
- D. in the case of a professional corporation: the professional corporation and any shareholder or officer;
- E. in the case of a limited liability company: the limited liability company and any member;

- F. in the case of a limited liability partnership: the limited liability partnership and any partner;
 - G. in the case of a sole proprietorship: the proprietor; and
 - H. in the case of any other form of entity organized under the laws of this State or any other state or foreign jurisdiction: the entity and any principal, officer, or partner thereof;
- ii. any subsidiary directly or indirectly controlled by the business entity;
 - iii. any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and
 - iv. with respect to an individual who is included within the definition of business entity, that individual's spouse or civil union partner, and any child residing with the individual, provided, however, that, this Order shall not apply to a contribution made by such spouse, civil union partner, or child to a candidate that the contributor is entitled to vote for unless such contribution is in violation of section 9 of P.L.2005, c.51 (C.19:44A-20.13 et seq.) ("Chapter 51").

b. "Contribution" means a contribution reportable by the recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.).

2. Any Executive Branch department, agency, authority, or independent State authority charged with implementing and enforcing Chapter 51 shall apply its provisions to a "business entity" as defined in Paragraph 1(a) of this Order in the same manner as those provisions apply to a "business entity" as defined in section 5 of Chapter 51.

3. Executive Order No. 134 (2004) and Executive Order No. 7 (2010) are hereby rescinded.

4. Executive Order No. 117 (2008) is hereby superseded.

5. This Order shall take effect immediately.

GIVEN, under my hand and seal this
15th day of June,
Two Thousand and Twenty-
three, and of the
Independence of the United
States, the Two Hundred and
Forty-Seventh.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Berns

Deputy Chief Counsel to the Governor