

# BEST PRICE INSURANCE CONTRACTING REFORM



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## Thank you for Answering the Call to Service!

The non-partisan Citizen Campaign gives you the power to lead and to get results without having to be an elected official.

***"This is the real deal."- The Star Ledger***

\* This step-by-step guide will increase your chances of success. After all, your overall goal is to get this Reform adopted!



## STEP 1: Getting Started – File an OPRA Request with the clerk of your town or the secretary of your school board.

*This will inform you on how **your town or school board** currently obtains insurance coverage.*

### **Sample public records request:**

1. Copies of any local procedures or administrative policies for the solicitation of a minimum number of proposals for:
  - a. health insurance, property and casualty insurance, and workers compensation insurance;
  - b. brokers to obtain such insurance coverages; and
  - c. any other professionals or consultants providing insurance-related services.
2. Copies of resolutions or ordinances requiring a minimum number of proposals for:
  - a. procurement of health insurance, property and casualty insurance and workers compensation insurance;
  - b. selection or hiring of an insurance broker; and
  - c. selection or hiring of other professionals or consultants providing insurance-related services.
3. The identity of the insurer and dates of expiration for the current Health Insurance Policies, Property & Casualty Policies, and Workers Compensation Insurance Policies.
4. Names of the individuals (both brokers and school district/municipal staff) responsible for contracting for the (School District/or Municipal) Health Insurance Policies, Property and Casualty Insurance Policies, and Workers Compensation Insurance Policies, and the resolution authorizing the choice of the broker or brokers.
5. The identity of the (school district/municipality)'s current brokers or "brokers of record", all fees and commissions received by them from the (school district/municipality) **or insurers** on account of the (school district/municipality)'s insurance policies for the past three (3) years and the current terms (i.e. dates of expiration) of any broker or broker of record designations.



## STEP 2: Get insider tips to increase chances of adoption.

*Free online class & coaching will prepare you to make your proposal*

While you are waiting for the OPRA request to be compiled, take the free "Citizen Legislator" class which teaches you how to successfully gain adoption of a law at [thecitizenscampaign.org/classes](http://thecitizenscampaign.org/classes). When you are ready, contact Renee at The Citizens Campaign for coaching and assistance: [Renee@thecitizenscampaign.org](mailto:Renee@thecitizenscampaign.org) or (732) 548-9798 x9.



## STEP 3: Organize and Empower!

*Recruit others & build support*

Invite your friends, family, and colleagues to join you in the effort to cut wasteful spending. Organize a meet-up, coffee klatch, or conference call and The Citizens Campaign team will teach you and your friends best practices for making a "Best Price Insurance Contracting Reform" presentation to your town council or school board that gets results.

## STEP 4: Make a Proposal

*Suggested Presentation Statement*

Once you've received the OPRA response you are ready to make a presentation. Pick a date and notify the media you are making a proposal. Send an email to the Business Administrator for your town or school board, to your mayor and council members, or school board members and their legal counsel with a copy of the model "Best Price Insurance Reform" & The Citizens Campaign memo (both attached in this guide), as well as the date you will be making the presentation. Make sure to CC the media and The Citizens Campaign on this email.



### Sample Presentation at a Public Meeting.

Hello, my name is \_\_\_\_\_ and I live at \_\_\_\_\_.

I am a volunteer with The Citizens Campaign, a statewide, non-partisan movement to empower regular citizens to exercise a no-blame approach and offer constructive solutions to help their towns and school districts work better and cost less.

I am here tonight to present a model ordinance developed by citizens with the help of The Citizens Campaign's Legal Task Force, to reduce the cost of insurance in town governments and school districts. I have sent all the members of the Governing Body/School Board a copy of the model ordinance/resolution, as well as a memorandum written by The Citizens Campaign Legal Task Force, which describes how the ordinance/resolution works. I will provide copies for members of the press and public as well.

The model law for "Best Price Insurance Contracting" that I am presenting tonight provides municipalities/school districts seeking the services of an insurance broker or consultant to hire their insurance broker or consultant in an open competition to work exclusively for the town/school district, with a contractual agreement that the consultant will be paid a flat fee & not receive any payments from any other source other than the town/school district. Commissions, bonuses and other fees paid by insurance companies to brokers are often a hidden cost included in the premium but largely unknown to the public entity and the taxpayers.

By entering into an exclusive contract with the insurance broker or consultant, the town/school district removes the inherent conflict of interest where the town's /school district's chosen "broker of record" appears to be representing the town/school district in obtaining the best coverage at the best price, when in fact all financial incentives to the broker come from the insurance company. Towns and school districts that have adopted this

model law have retained brokers who get insurance companies to compete on the basis of lower cost and greater premium savings for taxpayers and employees of towns/school districts.

This ordinance/resolution also provides for a robust competitive process for contracting with insurance companies requiring solicitation of a minimum of three proposals, including inviting a proposal from the State Health Benefits Plan, and a regional joint insurance fund (JIF).

The model law ensures our town/school district benefits from complete transparency and aggressive competition in order to maximize the savings of our tax dollars and lower costs for our employees.

I believe that this model for Best Price Insurance Reform is the best way to save money. The New Jersey State Comptroller and the Department of Community Affairs have cited it for this reason. I hope that the Council/School Board will consider adopting this very important taxpayer-friendly measure immediately. Some municipalities and school districts have already adopted our proposal and have gained or are projecting substantial savings, including Camden at over \$5,000,000; Perth Amboy at over \$3,000,000; and Cherry Hill at over \$6,000,000.



## Frequently Asked Questions

*Understanding some basic concepts of the Best Price Insurance Contracting Proposal*

While The Citizens Campaign can lend an expert to talk with the Business Administrator, school board or governing body members to discuss the details of the proposal and their current process, there are a few basic questions that you can prepare yourself to answer, if needed.

### **1. Q) How can we control whether or not a broker can be paid directly by the insurance company or not?**

A) The short answer is, every municipality is provided with broad discretion in the awarding of contracts under the Local Public Contracts Law. For a more detailed answer I suggest you read the memo prepared by the Citizens' Campaign's Legal Task Force. I should note that two other towns, South Plainfield and Toms River recently adopted this strategy for obtaining brokers, and it resulted in South Plainfield saving \$225,000 and Toms River is estimating their savings at \$ 1.2 million just on broker's commissions (not including insurance).

### **2. Q) We already use a competitive process, why do we need to adopt an ordinance.**

A) It is important to officially adopt a robust, competitive process, so that it is permanently on the books. Then brokers and insurance companies know that the process is open and competitive and transparent.

### **3. Q) The State Health Benefits Plan is bound to go up, we don't want to consider joining.**

A) This ordinance in no way binds you to entering into one plan or another, rather it ensures an open and transparent process which will allow you to compare plans and select the best package at the best price.

### **4. Q) We self-insure, so there is no need for this ordinance.**

A) Sometimes the "best price" is from an outside insurer instead of self-insurance and this process just guarantees the best price. Besides, you may also need to purchase excess coverage beyond your self-insurance and may need insurance for some other things like workman's compensation from insurance companies. I will not pretend to be an expert in insurance procurement, but please see the memo prepared by The Citizens Campaign Legal Task Force that I have shared with you and the media previously, it explains the current process for obtaining insurance and its shortcomings better than I ever could.

### **5. Q) Our policy doesn't expire for another 2 years, we don't need this now.**

A) Delay is only a recipe for inaction. We ask that you adopt this ordinance now, so that this important taxpayer friendly reform isn't sidelined and forgotten about. It is still important to officially adopt a competitive process now so that our town/school district is prepared when the contracts are up for renewal.

## MEMO

Re: Best Price Insurance Contracting Reform

By: The Citizens Campaign Law and Policy Task Force

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**Problem:** One of the most substantial and growing costs for public entities, like any other employer, is the cost of health, drug and other insurance coverages. Premium increases in virtually all coverages, and especially health insurance, have been rising at an alarming rate above inflation. In addition to health coverage for employees and retirees, public entities need to obtain various insurance coverages to protect against the highly specialized risks they are exposed to:

- General liability insurance
- Workers Compensation Insurance
- Law Enforcement/Police and prison liability insurance
- Property insurance
- Construction Programs (project-wide wrap-up insurance for the entity and its contractors)

At present, public entities have four options:

- buy insurance from the insurance markets through a broker, agent or producer;
- establish and fund a self insurance program, hiring private consulting firms (risk managers, third party administrators, benefits consultants, actuaries, and the like) to estimate projected claims and administer claims, and brokers to procure excess coverage for catastrophic (less frequent but large) claims;
- join a joint insurance fund of other like public entities that self insures the participating public entities, which typically is run by a small dedicated staff using private consulting firms to administer the program, and brokers to procure excess coverage; and/or
- with respect to health and prescription drug coverage, public entities may choose to join the State Health Benefits Plan (SHBP), a self-insured fund administered by the State that insures most State employees and retirees. The State procures the services of a private company (currently Horizon BCBS) to administer most aspects of the SHBP program via a competitive Request for Proposals (RFP) process.

Public entities often find it desirable to use a combination of these strategies to satisfy their various insurance needs. For example they may buy insurance for certain risks, they may self insure other risks directly or through a joint insurance fund, and they may obtain health insurance via the SHBP.

To obtain insurance or to set up a self-insurance program, the public entity must access the insurance market for primary or excess insurance through third party intermediaries: insurance brokers and consultants. That is, New Jersey insurance regulations generally require the use of a broker or licensed producer to sell insurance coverage.

Virtually all insurers require the use of brokers and agents to procure a price quote and coverage details. Presently, there is no direct writing of insurance by carriers, (e.g., an equivalent to Geico or Progressive in the auto and homeowners insurance markets, which maintain licensed producers on their staff, avoiding the need to pay third party brokers a commission and thus saving consumers that additional expense). This means a public entity cannot call an insurer directly to get a price quote

and avoid the additional cost of a broker. A public entity must use a State-licensed insurance broker, agent or producer to get a price quote and to bind insurance coverage.

There is nothing inherently evil in requiring the use of such intermediaries; procuring insurance is sufficiently complex that the State requires the licensing of those who advise buyers on the costs and virtues of competing insurance products.

As a consequence, public entities must hire an insurance broker to obtain quotes for coverage from the insurance markets. The problem is that these brokers today are typically compensated by the payment of commissions and fees by the insurers, rather than the public entity to whom their loyalty should run. This poses the risk of conflicting loyalties for the broker advising the public entity which insurance to procure, especially when the broker's compensation will increase as premium costs rise. Worse still, public entities generally do not know how much their brokers and other consultants are being paid by the insurers and how much the brokers' services are adding to their premium cost.

Presently, the procurement of insurance coverage, as well as insurance broker and other insurance consultant services, is exempt from requirements of public bidding under N.J.S.A. 40A:11-5(a)(ii) and (m), as an "extraordinary unspecifiable service." Contracts resulting from such a selection may be made for a period of up to three years. N.J.S.A. 40A:11-15(6).

As a result, brokers, insurers, and other insurance consultants can be selected without any competitive process whatsoever. Though some New Jersey public entities may use competitive processes to select their brokers, consultants, and insurers, competition is not required by law, and we have observed that informal practices vary greatly from town to town.

Though many public entities nevertheless do advertise but don't require a minute of 3 proposals when they seek to hire a broker or other insurance consultant, more often than not the selection is made at the annual reorganization meeting of the public entity each January with little or very abbreviated notice of the opportunity or the availability of an RFP, giving potential competitors little or no opportunity to offer better or cheaper coverages or services. The opportunity for favoritism, corruption and abuse are obvious.

Significantly, in most cases the broker and other insurance consultants may receive all or most of their compensation for their services for a public entity via commissions or other forms of compensation paid by the insurance company ultimately selected by the public entity, rather than being compensated by the public entity itself. And in addition to traditional commissions, insurers have other methods of compensating brokers for securing their clients' business, such as processing fees, incentives and bonuses.

Commission rates vary by the type of insurance and the size of the premium. In virtually all cases, the amount of the commission an insurer pays a broker is a highly guarded trade secret neither is inclined to disclose publicly.

Experience demonstrates that when an insurer or a broker perceives their business at risk, they do have the ability to lower the cost of insurance to the public entity. This is often accomplished when a broker agrees to accept a lower commission or other compensation from the insurer, allowing the insurer to reduce the premium charged to the public entity.

The Citizens Campaign believes a system in which the broker's compensation rises as premium costs charged by insurers rise, and relies on those insurers to pay those incentives, establishes all the wrong incentives.

For example, a broker whose commission rises as the premiums rise has little incentive to hold the line on premium increases during annual renewal processes.

If a broker makes more by recommending one insurer that pays it a higher commission than others, the public entity cannot be confident it is receiving fair and impartial guidance from its broker as to whether it is purchasing the best and most cost effective insurance available.

And as noted above, to the extent a broker relies on insurers, and not the public entity, to pay for its services, an inherent conflict in the broker's loyalties to insurers and public entities arises, even for the most conscientious broker.

### **Solution:**

To lower the cost of all insurance coverages, but especially in the runaway field of health insurance, public entities must as a matter of formal policy and practice require competition among brokers and insurers for their business. With a little diligence, both insurance and insurance broker services can be competitively contracted -- if the public entity chooses to do so and plans ahead.

Accordingly, The Citizens Campaign recommends that public entities enact ordinances and policies requiring staff to use the competitive contracting process, N.J.S.A. 40A:11-4.1 or its equivalent, to select their insurance providers and professionals.

Essential provisions for an insurance procurement ordinance include:

- ✓ Require that all insurance consulting services and insurance coverages be competitively procured based on a publicly advertised request for proposals that defines the entity's insurance current and projected requirements, and that obtains at least three proposals for consideration.
- ✓ Require that the availability of such RFPs be advertised at least two and no more than four months in advance of the proposal date on the entity's 1) website, 2) its newspapers of record, and 3) statewide newspapers, to allow the broadest field of proposers ample notice of opportunities and time to compete meaningfully for insurance or insurance consulting services.
- ✓ Require that all proposers be provided the same information on which to base their proposals, and prohibiting the sharing of information with one proposer to the exclusion of others, to assure a level playing field and avoid favoritism.
- ✓ Require that proposals by insurers and insurance consultants be submitted at least one month before commencing services, to allow the public entity and the public ample time to review and consider same.
- ✓ Assess JIF and SHBP Options: In any procurement for insurance coverage, the public entity shall consider available JIF and SHBP options for coverage, and offer such JIFs and/or the SHBP a meaningful opportunity to quote the requested coverage. Any such quotation shall be included in the evaluation of options and in the ultimate selection of insurance coverage.
- ✓ Require that public entities establish and disclose their award criteria (i.e., scoring system) before proposals are received and fully document the reasons for selecting a particular broker or insurer by requiring the use of the competitive contracting process authorized by the Local Public Contracts Law. Under this process, a selection committee reviews the competing proposals according to previously disclosed award criteria and recommends to the governing body the insurer, broker or consultant providing the best value to the entity, price and other factors considered. The selection recommendation is required to provide a detailed explanation of the proposed award adequate to allow the governing body and public to understand the respective costs and benefits of each proposal, including JIF and SHBP options, and the reason(s) for selecting a particular proposal over others received.

In addition to requiring full and fair competition, it is equally essential public entities change the current compensation system to better align their brokers' interests with the public entity's interests in reducing premiums and ancillary costs, by:

- Paying their brokers and other insurance consultants directly for their services.

- Prohibiting insurers from paying, and their brokers and other insurance consultants from receiving, commissions and other forms of compensation for securing or servicing business from a public entity.
- Requiring appropriate certifications from all insurers and insurance consultants at contract inception and periodically thereafter certifying under penalty of law, loss of contract, and disgorgement of compensation, that no compensation has been paid by an insurer to the broker or other insurance consultant on account of securing or servicing a public entity's insurance business.

This prohibition, certification and disclosure approach is easy to understand, comply with, and enforce.

Finally, The Citizens Campaign strongly recommends that public entities adopt a flat, fixed fee approach to compensating its brokers and other insurance consultants so that its cost for such services are known up front. However, we recognize that some services may be more appropriately charged on an hourly or other basis, and public entities should retain the flexibility to select their preferred compensation model in their RFP documents.

The key to holding insurance costs down is to subject both insurance policies and insurance consultants to meaningful and periodic competition, and to eliminate conflicting incentives and interests. This proposal helps public entities hold their insurance costs down by requiring a periodic and transparent competitive contracting process to select insurance coverages, brokers, and consultants.

The Citizens Campaign has asked experts in the fields of insurance and procurement to develop a model ordinance and resolution incorporating these key provisions for consideration by municipalities and school boards, copies of which are attached. Either can be readily adapted for use by other types of public entities, like municipal and county authorities, such as parking, housing, improvement and similar authorities.

As always, The Citizens Campaign staff is available to assist in your efforts to establish more competitive practices in public entity insurance.



**“BEST PRICE INSURANCE CONTRACTING”**  
**A Model Resolution For School Boards**

**WHEREAS**, the Public School Contracts Law, *N.J.S.A. 18A:18A-1 et seq.* provides that insurance, including health insurance, property and casualty insurance, and workers compensation, is not subject to the bidding requirements of that law, *N.J.S.A. 18A:18A-5.*; and

**WHEREAS**, the (Board of Education) finds that open competition for the School District's insurance business would assure that the lowest available pricing for the School District's insurance needs would be obtained,

**WHEREAS**, the (Board of Education) finds that open competition for its insurance and insurance consulting business will assure that the lowest available pricing for its insurance needs can be obtained, and

**WHEREAS**, the Local Public Contracts Law authorizes local contracting units to require the use of competitive contracting practices to procure specified goods and services otherwise exempt from bidding by virtue of *N.J.S.A. 18:18A-5*; and

**WHEREAS**, the (Board of Education) finds that requiring its insurance consultants be compensated solely by (Board of Education) and not by commissions or fees, direct or indirect, paid by insurance carriers or other organizations providing insurance alternatives, and prohibiting any third party from paying any commission or fee to such consultants for securing business with (Board of Education), will ensure the fidelity and loyalty of such consultants to (Board of Education), and eliminate or reduce conflicting loyalties such consultants might otherwise have to any third parties;

**NOW, THEREFORE, BE IT RESOLVED** by the (Board of Education) that it shall be the policy of the Board of Education to:

1. For purposes of this Resolution, the term “insurance” shall include the purchase of insurance coverages, alternatives to insurance such as self-insurance programs, as well as participation in a joint self-insurance fund, risk management program or related services provided by a contracting unit insurance group, or participation in an insurance fund established by a local unit pursuant to *N.J.S.A. 40A:10-6*, or a joint insurance fund established pursuant to *N.J.S.A. 40A:10-36 et seq.* The term “insurance consulting services” shall include all services associated with procuring, evaluating and administering insurance, including but not limited to brokerage, risk management or administrative services, and claims processing or administration services, including such services provided by a contracting unit insurance group, or an insurance fund established by a local unit pursuant to *N.J.S.A. 40A:10-6*, or a joint insurance fund established pursuant to *N.J.S.A. 40A:10-36 et seq.*

2. Prior to entering into any contract to obtain insurance or insurance consulting services, the Board shall secure full and open competition among insurers, and insurance consulting service providers, for the Board's business. The Board is hereby authorized, and directed, to use the competitive contracting process set forth in *N.J.S.A. 18:18A-4.3, -4.4 and -4.5*, to secure such competition, except to the extent this Resolution requires additional measures to better ensure maximum competition and fairness to all interested parties.

3. This open competition shall provide that at least 60, but not more than 120 days prior to the contract commencement date, the Board shall advertise in the newspapers authorized to print legal notices for the Municipality, and in a newspaper circulated in at least 5 counties in the State, and on the Board's website, a "Request for Proposals" to provide insurance and insurance consulting services. The notice shall advise the reader that details of the Board's insurance requirement are available from the Municipal Clerk on request and shall include the phone number of the Clerk.

4. The request for proposals shall be designed and drafted by the Administrator or Manager, or his designee, and shall set forth such detailed information as may be required for all proposers to understand and possess equal information concerning the Board's insurance or insurance consulting services needs, including the current terms of, and fees or premiums paid for, such coverages or services, current coverages, loss experience and anticipated or desirable needs with respect to the relevant coverages or services sought. All request for proposal information, including claims, expense and loss data, shall be made available to all proposers in both written and electronic format.

5. Responses to the request for proposal shall be submitted to the Board at least 30 days prior to the anticipated commencement of the contract.

6. At no time during the proposal solicitation process shall any official or employee of the Board, or any officer, employee or representative of any provider of insurance consulting services to the Board, convey information, including price, to any potential proposer which could confer an unfair advantage upon that proposer over any other potential proposer.

7. A provider of insurance consulting services to the Board shall be compensated for its services to or on behalf of the Board solely by the Board. Compensation shall be set on a fixed fee or hourly basis, or on such other common and readily comparable basis applicable to all proposers and set forth in the request for proposal documents, provided that compensation shall not be determined as a percentage of premium costs.

8. No provider of insurance or of insurance consulting services to the Board shall pay to any insurance consulting service provider to the Board, or to any other third party, any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, in consideration of obtaining the Board's insurance or insurance consulting business.

9. No provider of insurance consulting services to the Board shall accept any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, from any provider of insurance, other insurance service provider, or any other third party, in consideration of obtaining or servicing the Board's insurance or insurance consulting business.

10. Any person or entity proposing to provide insurance or insurance consulting services to the Board shall certify in its proposal that it shall neither pay nor accept any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, in consideration of obtaining or servicing the Board's insurance or insurance consulting business from any party other than the Board.

11. Any person or entity selected to provide insurance or insurance consulting services to the Board shall certify at least annually and prior to any renewal of its contract, that it has not paid nor accepted any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, in consideration of obtaining or

servicing the Board's insurance or insurance consulting business from any party other than the Board.

12. Any provider of insurance consulting service that assists the Board in soliciting, evaluating, or selecting any provider of insurance or other insurance consulting services to the Board shall disclose to the Board the aggregate compensation, including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, it has received in each of the prior three years from each provider of insurance or insurance consulting services solicited or evaluated by the Board. Such disclosure shall be made as soon as practicable, but in no event later than the date of the evaluation report recommending an award by the governing body.

13. The request for proposals for any insurance or insurance consulting services for the Board shall clearly establish the compensation restrictions and the certification and disclosure requirements established by this Resolution as mandatory, nonwaivable terms, the violation of which shall be grounds for (i) terminating any contract resulting therefrom, and (ii) requiring the insurer or insurance service provider to disgorge to the public entity any compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, paid or received in violation of this Resolution, and a commensurate reduction in premiums to be paid by the public entity for the affected coverage(s) in the future.

14. Whenever soliciting quotations for insurance coverage, the Administrator or Manager or his designee shall obtain at least three quotations and shall submit the request for proposals to at least one joint insurance fund, and with respect to health insurance, to the State Health Benefits Plan, at the same time it is published, and shall determine if the SHBP and/or joint insurance fund can provide the same or similar coverages. The evaluation report shall include an analysis and discussion of the availability, terms and price of comparable coverage from such joint insurance fund and the SHBP as part of its award recommendation.



## **“BEST PRICE INSURANCE CONTRACTING”**

**A Model Ordinance for Municipal and County Governments**

**WHEREAS**, the Local Public Contracts Law, *N.J.S.A. 40A:11-1 et seq.* provides that the purchase of insurance including health, property and casualty, and workers compensation insurance, and insurance consulting services, are not subject to the bidding requirements of that law, *N.J.S.A. 40A:11-5(m)*; and

**WHEREAS**, the governing body of (MUNICIPALITY) finds that open competition for its insurance and insurance consulting business will assure that the lowest available pricing for its insurance needs can be obtained; and

**WHEREAS**, the Local Public Contracts Law authorizes local contracting units to require the use of competitive contracting practices to procure specified goods and services otherwise exempt from bidding by virtue of *N.J.S.A. 40A:11-5*; and

**WHEREAS**, the governing body of (MUNICIPALITY) finds that requiring its insurance consultants be compensated solely by (MUNICIPALITY) and not by commissions or fees, direct or indirect, paid by insurance carriers or other organizations providing insurance alternatives, and prohibiting any third party from paying any commission or fee to such consultants for securing business with (MUNICIPALITY), will ensure the fidelity and loyalty of such consultants to (MUNICIPALITY), and eliminate or reduce conflicting loyalties such consultants might otherwise have to any third parties;

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of (MUNICIPALITY): that the Municipal Code be amended to provide:

1. For purposes of this Ordinance, the term “insurance” shall include the purchase of insurance coverages, alternatives to insurance such as self-insurance programs, as well as participation in a joint self-insurance fund, risk management program or related services provided by a contracting unit insurance group, or participation in an insurance fund established by a local unit pursuant to *N.J.S.A. 40A:10-6*, or a joint insurance fund established pursuant to *N.J.S.A. 40A:10-36 et seq.* The term “insurance consulting services” shall include all services associated with procuring, evaluating and administering insurance, including but not limited to brokerage, risk management or administrative services, and claims processing or administration services, including such services provided by a contracting unit insurance group, or an insurance fund established by a local unit pursuant to *N.J.S.A. 40A:10-6*, or a joint insurance fund established pursuant to *N.J.S.A. 40A:10-36 et seq.*

2. Prior to entering into any contract to obtain insurance or insurance consulting services, the (Municipal form) shall secure full and open competition among insurers, and insurance consulting service providers, for the (Municipal form)’s business. The (Municipal form) is hereby authorized, and directed, to use the competitive contracting process set forth in *N.J.S.A. 40A:11-4.3, -4.4 and -4.5*, to secure such competition, except to the extent this Ordinance requires additional measures to better ensure maximum competition and fairness to all interested parties.

3. This open competition shall provide that at least 60, but not more than 120 days prior to the contract commencement date, the (Municipal form) shall advertise in the newspapers authorized to print legal notices for the Municipality, and in a newspaper circulated in at least 5 counties in the State, and on the (Municipal form)'s website, a "Request for Proposals" to provide insurance and insurance consulting services. The notice shall advise the reader that details of the (Municipal form)'s insurance requirement are available from the Municipal Clerk on request and shall include the phone number of the Clerk.

4. The request for proposals shall be designed and drafted by the Administrator or Manager, or his designee, and shall set forth such detailed information as may be required for all proposers to understand and possess equal information concerning the (Municipal form)'s insurance or insurance consulting services needs, including the current terms of, and fees or premiums paid for, such coverages or services, current coverages, loss experience and anticipated or desirable needs with respect to the relevant coverages or services sought. All request for proposal information, including claims, expense and loss data, shall be made available to all proposers in both written and electronic format.

5. Responses to the request for proposal shall be submitted to the (Municipal form) at least 30 days prior to the anticipated commencement of the contract.

6. At no time during the proposal solicitation process shall any official or employee of the (Municipal form), or any officer, employee or representative of any provider of insurance consulting services to the (Municipal form), convey information, including price, to any potential proposer which could confer an unfair advantage upon that proposer over any other potential proposer.

7. A provider of insurance consulting services to the (Municipal form) shall be compensated for its services to or on behalf of the (Municipal form) solely by the (Municipal form). Compensation shall be set on a fixed fee or hourly basis, or on such other common and readily comparable basis applicable to all proposers and set forth in the request for proposal documents, provided that compensation shall not be determined as a percentage of premium costs.

8. No provider of insurance or of insurance consulting services to the (Municipal form) shall pay to any insurance consulting service provider to the (Municipal form), or to any other third party, any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, in consideration of obtaining the (Municipal form)'s insurance or insurance consulting business.

9. No provider of insurance consulting services to the (Municipal form) shall accept any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, from any provider of insurance. other insurance service provider, or any other third party, in consideration of obtaining or servicing the (Municipal form)'s insurance or insurance consulting business.

10. Any person or entity proposing to provide insurance or insurance consulting services to the (Municipal form) shall certify in its proposal that it shall neither pay nor accept any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, in consideration of obtaining or servicing the (Municipal form)'s insurance or insurance consulting business from any party other than the (Municipal form).

11. Any person or entity selected to provide insurance or insurance consulting services to the (Municipal form) shall certify at least annually and prior to any renewal of its contract, that it has not paid nor accepted any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, in consideration of obtaining or servicing the (Municipal form)'s insurance or insurance consulting business from any party other than the (Municipal form).

12. Any provider of insurance consulting service that assists the (Municipal form) in soliciting, evaluating, or selecting any provider of insurance or other insurance consulting services to the (Municipal form) shall disclose to the (Municipal form) the aggregate compensation, including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, it has received in each of the prior three years from each provider of insurance or insurance consulting services solicited or evaluated by the (Municipal form). Such disclosure shall be made as soon as practicable, but in no event later than the date of the evaluation report recommending an award by the governing body.

13. The request for proposals for any insurance or insurance consulting services for the (Municipal form) shall clearly establish the compensation restrictions and the certification and disclosure requirements established by this Ordinance as mandatory, nonwaivable terms, the violation of which shall be grounds for (i) terminating any contract resulting therefrom, and (ii) requiring the insurer or insurance service provider to disgorge to the public entity any compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, paid or received in violation of this Ordinance, and a commensurate reduction in premiums to be paid by the public entity for the affected coverage(s) in the future.

14. Whenever soliciting quotations for insurance coverage, the Administrator or Manager or his designee shall obtain at least three quotations and shall submit the request for proposals to at least one joint insurance fund, and with respect to health insurance, to the State Health Benefits Plan, at the same time it is published, and shall determine if the SHBP and/or joint insurance fund can provide the same or similar coverages. The evaluation report shall include an analysis and discussion of the availability, terms and price of comparable coverage from such joint insurance fund and the SHBP as part of its award recommendation.