# ACT 44 DISCLOSURE FORM FOR ENTITIES PROVIDING PROFESSIONAL SERVICES TO THE BOROUGH OF WALNUTPORT'S PENSION SYSTEM

CHAPTER 7-A OF ACT 44 OF 2009 MANDATES the annual disclosure of certain information by every entity (hereinafter **"Contractor"**) which is a party to a professional services contract with one of the pension funds of **BOROUGH OF WALNUTPORT** (hereinafter the "**Requesting Municipality**"). Act 44 disclosure requirements apply to ***Contractors*** who provide professional pension services and receive payment of any kind from the **Requesting Municipality**'s pension fund. The **Requesting Municipality** has determined that your company falls under the requirements of Act 44 and must complete this disclosure form. You are expected to submit this completed form, to the Requesting Municipality below, **by December 14th, 2012.** If, for any reason you believe that Act 44 does not require you to complete this disclosure form, please provide a written explanation of your reason(s) **by December 14, 2012**.

**RETURN COMPLETED DISCLOSURE TO:**

**Borough of Walnutport**
**Attn: Annette Lacko (CAO)**
**417 Lincoln Avenue**
**Walnutport, PA 18088**
**610-767-1322**
**alacko@walnutportpa.org**

## REQUIRED UPDATES:

Where noted, information in this form must be updated in writing as changes occur.

## DEFINITIONS FOR DISCLOSURE

| TERM: | DEFINITION: |
|---|---|
| CONTRACTOR | Any person, company, or other entity that receives payments, fees, or any other form of compensation from a municipal pension fund in exchange for rendering professional services for the benefit of the municipal pension fund. |
| SUBCONTRACTOR OR ADVISOR | Anyone who is paid a fee or receives compensation from a municipal pension system – directly or indirectly from or through a contractor. |
| AFFILIATED ENTITY | Any of the following:<br>1. A subsidiary or holding company of a lobbying firm or other business entity owned in whole or in part by a lobbying firm.<br>2. An organization recognized by the Internal Revenue Service as a tax-exempt organization under section 501(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501 (c) ) established by a lobbyist or lobbying firm or an affiliated entity. |
| CONTRIBUTIONS | As defined in section 1621 of the act of June 3rd, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code |
| POLITICAL COMMITTEE | As defined in section 1621of the act of June 3rd, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code |
| EXECUTIVE LEVEL EMPLOYEE | **Any employee or person or the person's affiliated entity who:**<br>1. Can affect or influence the outcome of the person's or affiliated entity's actions, policies, or decisions relating to pensions and the conduct of business with a municipality or a municipal pension system; or<br>2. Is directly involved in the implementation or development policies relating to pensions, investments, contracts or procurement or the conduct of business with a municipality or municipal pension system. |
| MUNICIPAL PENSION SYSTEM | Any qualifying pension plan, under Pennsylvania state law, for any municipality within the Commonwealth of Pennsylvania; includes the Pennsylvania Municipal Retirement System.<br>*Example: the Police Pension Plan for the Borough of Winchesterville* |
| MUNICIPAL PENSION SYSTEM OFFICIALS AND EMPLOYEES; MUNICIPAL OFFICIALS AND EMPLOYEES | **Specifically,** those listed in **TABLE 2** titled: *"List of Pension System and Municipal Officials and Employees"* on the next page. Where applicable, includes any employee of the **Requesting Municipality**. |
| PROFESSIONAL SERVICES CONTRACT | A contract to which the municipal pension system is a party that is: (1) for the purchase of professional services including investment services, legal services, real estate services, and other consulting services; and, (2) not subject to a requirement that the lowest bid be accepted. |

# List of Municipal Officials for the Requesting Municipality

Certain requests for information in this form will refer to a **"List of Municipal Officials."** To assist you in preparing your answers, you should consider the following names to be a complete list of pension system and municipal officials and employees. Throughout this Disclosure Form, the below names will be referred to as the ***"List of Municipal Officials."***

## Elected Officials

Henry Kline, Mayor

William Turk, Councilman

Michael Gaston, Borough Council Vice-President

Joan Rehrig, Councilwoman

Harold Greene, Councilman

Lamar Lauer, Councilman

Matthew Newhard, Borough Council President

David Stankovic, Councilman

Robert Treskot, Tax Collector

## Appointed Officials or Employees

Annette S. Lacko, Secretary/Treasurer, CAD non-uniform plan, CAD Police Plan

Michael Corriere, Solicitor

## IDENTIFICATION OF CONTRACTORS & RELATED PERSONNEL

**CONTRACTORS:** (See **"Definitions"** – page 2) Any entity who currently provides service(s) by means of a Professional Services Contract to the Municipal Pension System of the **Requesting Municipality**, please complete all of the following:

**Identify the Municipal Pension System(s) for which you are providing information:**

**Indicate all that apply with an "X":** ☐ **Non- Uniform Plan** ☐ **Police Plan**

☐ **Fire Plan**

****NOTE:** For all that follow, you may answer the questions / items on a separate sheet of paper and attach it to this Disclosure if the space provided is not sufficient. Please reference each question / item you are responding to by the appropriate number. **(example: REF – Item #1.)**

1. Please provide the names and titles of all individuals providing professional services to the **Requesting Municipality**'s pension plan(s) identified above. Also include the names and titles of any advisors and subcontractors of the Contractor, identifying them as such. After each name provide a description of the responsibilities of that person with regard to the professional services being provided to each designated pension plan.

2. Please list the name and title of any ***Affiliated Entity*** and their ***Executive-level Employee(s)*** that require disclosure; after each name, include a brief description of their duties. **(See: Definitions)**

3. Are any of the individuals named in **Item 1 or Item 2** above, a current or former official or employee of the **Requesting Municipality**?

➡ **IF "YES",** provide the name and of the person employed, their position with the municipality, and dates of employment.

4. Are any of the individuals named in **Item 1 or Item 2** above a current or former registered Federal or State lobbyist?

➡ **IF "YES",** provide the name of the individual, specify whether they are a state or federal lobbyist, and the date of their most recent registration /renewal.

**NOTICE: All information provided for items 1- 4 above must be updated as changes occur.**

5. Since December 17th 2009, has the ***Contractor*** or an ***Affiliated Entity*** paid compensation to or employed any third party intermediary, agent, or lobbyist that is to directly or indirectly communicate with an official or employee of the ***Municipal Pension System*** of the **Requesting Municipality** (OR), any municipal official or employee of the **Requesting Municipality** in connection with any transaction or investment involving the ***Contractor*** and the Municipal Pension System of the **Requesting Municipality?**
**This question does not apply** to an officer or employee of the ***Contractor*** who is acting within the scope of the firm's standard professional duties on behalf of the firm, including the actual provision of legal, accounting, engineering, real estate, or other professional advice, services, or assistance pursuant to the professional services contact with municipality's pension system.

➡ **IF "YES",** identify: **(1)** whom (the third party intermediary, agent, or lobbyist) was paid the compensation or employed by the ***Contractor*** or ***Affiliated Entity***, **(2)** their specific duties to directly or indirectly communicate with an official or employee of the ***Municipal Pension System*** of the **Requesting Municipality** (OR), any municipal official or employee of the **Requesting Municipality, (3)** the official they communicated with, and **(4)** the dates of this service.

6. **Since December 17th 2009**, has the ***Contractor,*** or any agent, officer, director or employee of the ***Contractor*** solicited a contribution to any municipal officer or candidate for municipal office in the **Requesting Municipality,** or to the political party or political action committee of that official or candidate?

➡ **IF "YES",** identify the agent, officer, director or employee who made the solicitation and the municipal officials, candidates, political party or political committee who were solicited (to whom the solicitation was made).

7. **Since December 17th, 2009:** Has the ***Contractor*** or an ***Affiliated Entity*** made any contributions to a municipal official or any candidate for municipal office in the **Requesting Municipality?**

➡ **IF "YES",** provide the name and address of the person(s) making the contribution, the contributor's relationship to the Contractor, The name and office or position of the person receiving the contribution , the date of the contribution, and the amount of the contribution.

8. Does the ***Contractor*** or an ***Affiliated Entity*** have any direct financial, commercial or business relationship with any official identified on the ***List of Municipal Officials***, of the **Requesting Municipality?**

➡ **IF "YES",** identify the individual with whom the relationship exists and give a detailed description of that relationship.

**NOTE:** A written letter is required from the **Requesting Municipality** acknowledging the relationship and consenting to its existence. The letter must be attached to this disclosure. Contact the **Requesting Municipality** to obtain this letter and attach it to this disclosure before submission.

9. Has the ***Contractor*** or an ***Affiliated Entity*** given any gifts having more than a nominal value to any official, employee or fiduciary – specifically, those on the ***List of Municipal Officials*** of the **Requesting Municipality?**

➡ **IF "YES",** Provide the name of the person conferring the gift, the person receiving the gift, the office or position of the person receiving the gift, specify what the gift was, and the date conferred.

10. Disclosure of contributions to any political entity in the Commonwealth of Pennsylvania

**Applicability:** A "yes" response <u>is required</u> and full disclosure is required **<u>ONLY WHEN ALL</u>** of the following applies:

**a)** The contribution was made within the last 5 years (specifically since: December 18th 2004)

**b)** The contribution was made by an officer, director, executive-level employee or owner of at least 5% of the ***Contractor*** or ***Affiliated Entity.***

**c)** The amount of the contribution was at least $500 and in the form of:

1. A single contribution by a person in (b.) above, **<u>OR</u>**
2. The aggregate of all contributions all persons in (b.) above;

**d)** The contribution was for

1. Any candidate for any public office or any person who holds an office in the Commonwealth of Pennsylvania;
2. The political committee of a candidate for public office or any person that holds an office in the Commonwealth of Pennsylvania.

➡ **IF "YES",** provide the name and address of the person(s) making the contribution, the contributor's relationship to the ***Contractor***, The name and office or position of the person receiving the contribution (or the political entity / party receiving the contribution), the date of the contribution, and the amount of the contribution.

11. With respect to your provision of professional services to the Municipal Pension System of the **Requesting Municipality:**

Are you aware of any apparent, potential or actual conflicts of interest with respect to any officer, director or employee of the ***Contractor*** and officials or employees of the **Requesting Municipality?**

**<u>NOTE:</u> If, in the future,** you become aware of any apparent, potential, or actual conflict of interest, you are expected to update this **Disclosure Form** immediately in writing by:

- Providing a brief synopsis of the conflict of interest (and);
- An explanation of the steps taken to address this apparent, potential, or actual conflict of interest.

➡ **IF "YES",** Provide a detailed explanation of the circumstances which provide you with a basis to conclude that an apparent, potential, or actual conflict of interest may exist.

12. To the extent that you believe that **Chapter 7-A of Act 44 of 2009** requires you to disclose any additional information beyond what has been requested above, please provide that information below or on a separate piece of paper.

Please provide the name(s) and position(s) of the person(s) participating in the completion of this Disclosure. **One of the individuals** identified by the ***Contractor*** in ***Item #1*** above must participate in completing this Disclosure and must sign the below verification attesting to the participation of those individuals named below.

| | |
|---|---|
| **Name:** | **Name:** |
| **Position:** | **Position:** |
| **Name:** | **Name:** |
| **Position:** | **Position:** |
| **Name:** | **Name:** |
| **Position:** | **Position:** |

_____
SIGNATURE

_____
TITLE

_____
DATE

# VERIFICATION

I, _____, hereby state that I am _____ for
(Name) (Position)

_____and I am authorized to make this verification.
(Contractor)

I hereby verify that the facts set forth in the foregoing Act 44 Disclosure Form for Entities Providing Professional Services to **Borough of Walnutport** Pension System are true and correct to the best of my knowledge, information and belief. I also understand that knowingly making material misstatements or omissions in this form could subject the responding Contractor to the penalties in Section 705-A(e) of Act 44.

I understand that false statements herein are made subject to the penalties of 18 P.A.C.S. § 4904 relating to unsworn falsification to authorities.

_____
Signature

_____
Date

## INSTRUCTIONS FOR MUNICIPALITY:

**DO NOT** INCLUDE THIS INSTRUCTION PAGE WITH THE DISCLOSURE

You will need to prepare and send one of these disclosure forms to **each Contractor** that you have a contract for providing services to your pension plan (AND) a separate set of disclosures for each type of plan – fire, police, etc. IF ONE CONTRACTOR services two or more plans, then only one disclosure is required, but the contractor must indicate he / she is completing the disclosure for more than one plan....**PAGE 4, Question One.**
You should also prepare a brief cover letter explaining the reason you are sending this disclosure out.

- **Who should receive this disclosure?**

  Generally there are 5 primary service providers for each pension plan but it is not limited to just these:
  **Actuarial** Services **Investment** Services **Administration** Services **Advisory** Services
  **Legal Advisory** Services – usually performed by the municipal solicitor

**IF some** of these services are combined through one service provider **or Contractor**, then you only need to send this to that one entity. **For Example,** your administrative services and actuarial services are conducted through ***Robert Smith and Associates*** and your contract is with this company. However, ***Robert Smith and Associates*** subcontracts certain portions of these services to two other companies. You need only send one disclosure to ***Robert Smith and Associates***, and one to any other entity that provides specific services – other than administrative and actuarial.

- **PLEASE CHECK WITH YOUR SOLICITOR**....as a precaution regarding whom you should send this disclosure to.

**Every place you see this:** **[ ENTER NAME OF MUNICIPALITY ]** Enter the name of the municipality. Change the Font color to Black and remove the brackets.

Pages 1, 3, and 8 are the only pages that require modification and reprinting by the Municipality.

### Instructions for the "Requesting Municipality" for completion of PAGE 3:

Under the header, prepare a list of Names and Positions of all personnel that are a party to ANY Pension Plan the municipality has. This should include: every Elected Official, Municipal Manager or equivalent position, Municipal Finance Director or equivalent position, Chief Administrative Officer for each plan , The Solicitor, Any Pension Advisory Committee or Pension Board Members (not listed above)

**SAMPLE Municipal List:**

**Elected Officials**
Bobby Jeffries - Mayor
Clyde J. Smith - Borough Council President
Edith Moniker - Borough Council Vice-President / Police Pension Committee Chair
Janie Whitehead - Council Member
Tonya Gray - Council Member and Non-Uniformed Pension Committee Chair
Walter Doorstop – Council Member
Walter Special, Esq. – Solicitor

**Appointed Officials or Employees**
Sammy Special - Borough Manager / CAO, Non-Uniform Plan / CAO, Police Plan
Alice Victory - Borough Secretary and Non-Uniformed Pension Committee Member
Michael Gunn – Chief of Police / Police Pension Committee Member

**Pension Committee(s)**
Jeffery Right – Non-Uniform Committee Member
Patty Wrong – Non-Uniform Committee Member
Fred Albright – Police Pension Committee Member
John Duggan (Retired Police Officer) / Police Pension Committee Member