

Information Guide for Salt Lake City Code 2.46.050(H), Accepting Contributions from those under Contract or Seeking to Contract with the City

This informational guide is intended to answer questions regarding Salt Lake City Code 2.46.050(H). The explanations and examples given are merely for illustration, and are not intended to interpret the law or cover every possible situation. Any further questions should be directed to the Salt Lake City Recorder's Office, 801-535-6225 or elections@slcgov.com.

2.46.050: CONTRIBUTIONS TO CANDIDATES; LIMITATIONS:

H. It shall be unlawful for any person:

1. Who enters into any contract or seeks to enter into any contract with the City either for the rendition of personal services or furnishing any material, supplies, or equipment to the city or for selling any land or building to the city, if payment for the performance of the contract is to be made in whole or in part from city funds, at any time between the commencement of negotiations for the contract and the later of: a) the completion of performance under the contract, or b) the termination of negotiations for the contract, directly or indirectly to make any contribution to a candidate or personal campaign committee; or

2. Knowingly to solicit a contribution from any such person during any such period.

FREQUENTLY ASKED QUESTIONS:

Q: Does section 2.46.050H apply only to business entities?

A: No. The prohibition applies to "persons," which the city code defines to include "individuals," "business organizations," and other kinds of groups. Therefore, if a contract is between the City and an individual, then that individual would not be allowed to contribute under the provision.

Q: Can an individual contribute to a campaign if a business entity they are affiliated with, or that employs them has a contract with the City?

A: Yes, a person may contribute in their individual capacity even if their business entity, or an entity that employs them has a contract with the City.

Q: During what period of time does the prohibition apply?

A: The prohibition applies between the beginnings of negotiations for the contract and ends when the performance of the contract is complete or the negotiations terminate, whichever happens first.

Q: What kinds of contracts does the prohibition not apply to?

A: The prohibition applies only to contracts for the rendition of personal services to the City, the furnishing of materials, supplies, or equipment to the City, of the selling land or a building to the City. It doesn't apply to other kinds of contracts such as donation agreements, leases, or utility services provided by the City.

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Q: If a proposal is submitted in response to an RFP, can a candidate or campaign accept a contribution from them?

A: Yes, up to the point that the City awards the contributor the contract and negotiations begin.

Q: Candidates and campaigns can't knowingly solicit contributions prohibited by 2.46.050(H)(1). Will a candidate or campaign violate 2.46.050(H)(2) if they unknowingly solicits a contribution that is prohibited by 2.46.050(H)(1)?

A: Contributors who are contractors with the City violate 2.46.050(H)(1), even if they are unaware of that section. Therefore, candidates and campaigns would do potential contributors a favor if they refused those contributions and educated the contractor about the restriction in 2.46.050(H)(1). Also, a candidate or campaign who receives (but didn't solicit) such a contribution might have a defense that they did so unknowingly, but candidates and campaigns should not put on blinders and accept contributions that they could, with reasonable diligence, have determined were from City contractors.

Q: What is the legal consequence of violating the ordinance?

A: A City contractor who makes a contribution prohibited by 2.46.050(H)(1) breaks the law, and the City Attorney would decide how to deal with that violation, depending on the facts. If a candidate or campaign violated 2.46.050(H)(1), the City Recorder must report the violation to the Mayor, the City Council and the City Attorney. The violation is a criminal offense, and the City Attorney would decide how to deal with that violation, depending on the facts. The candidate or campaign probably would be wise to return the prohibited contribution to the contributor.

It cannot be predicted how the City Attorney would deal with any particular violation, especially if the City Attorney perceived that the candidate or committee took the prohibition and knowingly solicited unlawful contributions, figuring that, if caught, they could solve the problem by simply repaying the money.

Q: How would a campaign know who has an applicable contract with the City?

A: Candidates/campaigns can ask the contributor if they are in contract negotiations with the City or are in contract with the City. Also, a summary of executed City contracts can be found online at www.slcnfobase.com, click the first information bar, "Ordinances, Policies & Procedures, General City"; on the right, under "General City," click "Executive Action Report 2011 to Current"; at the top left of the next screen, click the search tab and enter the search criteria. Tip: when searching more than one word, use quotations around the words, for example "ACME Company," the search result will be the words in consecutive order. To obtain a copy of an executed contract, please contact the Recorder's Office at 801-535-7671 or by email at elections@slcgov.com.