



Ohio Revised Code

Section 1716.08 Contracting with professional solicitors.

Effective: November 7, 1990

Legislation: House Bill 486 - 118th General Assembly

(A) Every contract entered into by any professional solicitor with any charitable organization shall be in writing, shall clearly state the respective obligations of the professional solicitor and the charitable organization, and shall contain the percentage of the gross revenue from the solicitation campaign that the charitable organization will receive. That percentage shall be either a fixed percentage of the gross revenue or a reasonable estimate of the percentage of the gross revenue, subject to and in accordance with divisions (A)(1), (2), and (3) of this section.

(1) If the compensation of the professional solicitor is contingent upon the number of contributions or the amount of revenue received from the solicitation campaign, the stated percentage of the gross revenue that the charitable organization will receive shall be a fixed percentage of the gross revenue.

(2) If the compensation of the professional solicitor is not contingent upon the number of contributions or the amount of revenue received from the solicitation campaign, the stated percentage of the gross revenue that the charitable organization will receive shall be a reasonable estimate of the percentage of the gross revenue, and the contract shall include the following:

(a) The assumptions upon which the estimate is based, which assumptions shall be based upon all of the relevant facts known to the professional solicitor regarding the solicitation to be conducted and the past performance of the solicitation campaigns conducted by the professional solicitor;

(b) A provision that the charitable organization is guaranteed a percentage of the gross revenue that is not less than ninety per cent of the amount of the reasonable estimate of that percentage.

(3) The stated percentages prescribed in divisions (A)(1) and (2) of this section shall exclude any amount that the charitable organization, pursuant to the contract entered into with the professional solicitor, will pay as expenses of the solicitation campaign, including the costs of merchandise or services sold or events staged.



(B) A professional solicitor shall comply with, and shall be responsible for complying or causing compliance with each of the following requirements:

(1) Prior to verbally requesting a contribution, or contemporaneously with and accompanying a written request for a contribution, the following shall be clearly and conspicuously disclosed at the point of solicitation:

(a) The name of the professional solicitor as it is on file with the attorney general and a statement that the solicitation is being conducted by the person as a professional solicitor;

(b) The name and address of each charitable organization on behalf of which all or any part of the contribution collected will be used. If the charitable organization has not received from the internal revenue service a determination letter that is currently in effect, stating that the organization is exempt from federal income taxation under section 501(a) and described in section 501(c)(3) of the Internal Revenue Code, the particular charitable purpose or purposes to be advanced with the funds raised shall be disclosed.

(2) If requested by the person being solicited, the professional solicitor shall inform that person of the fixed percentage of the gross revenue or the reasonable estimate of the percentage of the gross revenue, as prescribed in division (A) of this section, that the charitable organization will receive as a benefit from the solicitation campaign.

(C) A professional solicitor shall not represent that any part of the contributions received will be given or donated to any other charitable organization unless that charitable organization has given its written and signed consent pursuant to division (D)(2)(g) of section 1716.07 of the Revised Code.

(D)(1) A professional solicitor shall not represent that tickets to any event will be donated for use by another person, unless the following requirements are complied with:

(a) The professional solicitor shall have the written commitments from persons stating that they will accept donated tickets and specifying the number of tickets they are willing to accept.

(b) The written commitments are filed with the attorney general prior to any solicitation.



(2) The contributions solicited for donated tickets shall not be more than the amount representing the number of ticket commitments received from persons and filed with the attorney general pursuant to division (D)(1) of this section.

(3) Not later than seven calendar days prior to the date of the event, the professional solicitor shall give all donated tickets to each person that made the written commitment to accept them.

(E) The attorney general shall prepare an annual report setting forth the activities of all professional solicitors and all fund-raising counsel that at any time have custody of contributions from a solicitation who are required to comply with the provisions of this chapter and any rules adopted under the provisions of this chapter. The report is a public record open to public inspection under section 149.43 of the Revised Code.

(F) The attorney general shall maintain a file for each registered professional solicitor and fund-raising counsel that at any time has custody of contributions from a solicitation. In that file, he shall place all information received by him from those registered professional solicitors or fund-raising counsel and any letters received from citizens and charitable organizations regarding the work of the professional fund raiser or fund-raising counsel. The files are public records open to public inspection under section 149.43 of the Revised Code.