

EXECUTIVE ORDER NO. 1-94, AS AMENDED

VOLUNTARY CONTRIBUTION PROGRAM

WHEREAS, nonprofit institutions play a vital role in the City of Philadelphia's economy by providing high quality health care, education, human services, arts and culture, and religious expression to our citizens and visitors; and

WHEREAS, the nonprofit sector is the single fastest growing segment of the U.S. economy; and

WHEREAS, nonprofit institutions own 25.2% of the City's total property assessment and the assessed value of nonprofit property in the City has risen from \$1.2 billion in 1963, to \$2.4 billion in 1979, to \$3.1 billion in 1993; and

WHEREAS, non-governmental nonprofit institutions are currently afforded tax-exempt status resulting in exemptions from the payment of \$45.6 million in property taxes that would otherwise be due to the City, and \$55.1 million in property taxes that would otherwise be due to the School District, thereby placing additional burdens on Philadelphia's remaining taxpayers; and

WHEREAS, 52% of the City's General Fund Budget and 64% of local taxes and fees are used to support essential services which are provided to nonprofit institutions to the same extent as to tax-paying entities; and

WHEREAS, recent Pennsylvania Supreme Court interpretations of the Pennsylvania Constitution strictly limit the eligibility for tax exemption to "purely public charities," thereby calling into question the tax-exempt status of many nonprofit institutions; and

WHEREAS, the City of Philadelphia recognizes the many valuable contributions made by nonprofit institutions and yet requires reimbursement for only a fraction of the cost of providing essential services to nonprofit institutions that do not qualify as "purely public charities";

NOW, THEREFORE, by the powers vested in me in accordance with the Philadelphia Home Rule Charter, it is hereby ORDERED that:

1. It is the policy of the City of Philadelphia that:

(a) Nonprofit, non-governmental institutions in the City should contribute their fair share for the municipal services and benefits they receive.

(b) All institutions currently afforded tax exempt status that do not qualify as "institutions of purely public charity" under applicable legal precedent should forfeit their tax exemptions. In lieu of such forfeiture, and in settlement of any potential legal challenge to its exemption, a currently tax-exempt institution whose exemption status is legally unclear may instead remit to the City Voluntary Contributions, a portion of which may be in the form of Services.

2. There is hereby created in the Office of the Mayor a Nonprofit Contributions Advisory Board, whose members shall be as follows:

- (a) Mayor, or his/her designee;
 - (b) City Council President, or his/her designee;
 - (c) Finance Director, or his/her designee;
 - (d) Budget Director, or his/her designee;
 - (e) Commerce Director, or his/her designee;
 - (f) Revenue Commissioner, or his/her designee;
 - (g) Health Commissioner, or his/her designee;
 - (h) City Solicitor, or his/her designee;
 - (i) President of the Board of Education; or his/her designee;
 - (j) Chairman of the Board of Revision of Taxes ("BRT");
 - (k) Chairman of the BRT's Abatement and Exemption Unit;
- and
- (l) Four citizens to be appointed by the Mayor.

3. The duties of the Nonprofit Contributions Advisory Board (the "Board") shall be as follows:

(a) To advise the Mayor, the BRT, and the Law Department as to which nonprofit institutions the Board believes are truly institutions of purely public charity and, therefore, should be exempt from payment of taxes and/or Contributions. In making its recommendation, the Board shall rely on the factors set forth by the Pennsylvania courts in making determinations of tax exemptions.

(b) To develop a proposed menu of Services acceptable to the City and the School District of Philadelphia as substitutes for monetary Contributions, and establish a value for such Services.

(c) To negotiate, subject to the approval of the Law Department and the Board of Revision of Taxes, a Voluntary Contribution agreement with each nonprofit institution whose status as an institution of purely public charity is legally unclear, which agreement shall constitute a settlement of a potential challenge to the institution's tax exemption. Each such agreement shall:

(i) Obligate the institution to remit to the City, on an annual basis for the duration of the agreement, monetary Contributions in an amount equal to 40% of the amount of real estate taxes that would be owing to the City but for the institution's tax exemption; however, any agreement executed on or before December 1, 1994 shall obligate the institution to pay 33% of the amount of real estate taxes that would be owing to the City but for the institution's tax exemption. The annual payment amount shall not change over the term of the agreement, regardless of any changes in assessments or tax rates.

(ii) Allow the institution to substitute Services for up to 33% of the monetary Contributions. The agreement shall specify the Services to be provided by the institution and the amount of the monetary Contributions intended to be defrayed thereby, pursuant to the Services menu established by the Board. Such Services may include services already performed voluntarily by the institution, but may not include any services otherwise required by law.

(iii) Covenant, on behalf of the City and the BRT, not to challenge the institution's tax exemption or to attempt to collect taxes from the institution for the duration of the agreement, except with respect to properties not used in the furtherance of the institution's charitable purpose.

(d) To negotiate a comparable agreement on behalf of the School District.

(e) To negotiate a comparable agreement on behalf of the Center City District and any other special service district that may be created, where applicable.

(f) To monitor compliance with each Voluntary Contribution agreement, and to refer any non-compliance to the Law Department, the BRT, and the School District.

(g) To take such other steps as may be necessary to implement a fair and uniform Voluntary Contribution program.

4. In the event the Board is unable to enter into a Voluntary Contribution agreement with a nonprofit institution whose status as an institution of purely public charity is legally unclear, the Board shall refer the matter to the Law Department, the BRT, and the School District, with a recommendation to institute a challenge to the institution's tax exemption.

May 10, 1995
DATE

Edward G Rendell
EDWARD G. RENDELL, Mayor

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Note: Please notify Hal Fichandler (686-2129) of any corrections or changes to this list.