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Joan Claybrook, President

“Pay to Play” Restrictions on Campaign Contributions from Government Contractors 2008-2009

	SEC (MSRB Rule G-37)	CT	SC	OH	KY	WV	HI	NJ	IL	CO
What types of contracts are subject to “Pay to Play” limits?	Only no-bid contracts.	Both no-bid and competitive- bid contracts.	Only no-bid contracts.	Both no-bid and competitive-bid contracts.	Only no-bid contracts.	Both no-bid and competitive-bid contracts.	Both no-bid and competitive-bid contracts.	Both, except for highway contracts, and those involving eminent domain (New Jersey v. Mineta).	Both, <u>except for highway projects eligible for federal highway funds.</u>	Only no- bid contracts.
What is the minimum value of a government contract subject to “Pay to Play” limits?	No minimum value.	\$50,000.	No minimum value.	\$10,000.	No minimum value.	No minimum value.	No minimum value.	\$17,500.	\$50,000.	\$100,000.
Which officials are subject to “Pay to Play” limits?	Issuers of municipal securities.	State candidates and state and local party committees.	State and local candidates responsible for awarding the contract.	State and local officials ultimately responsible for rewarding the contract or appointing administrators who award the contract.	Gubernatorial candidates.	State and local candidates, parties, and committees.	State and local candidates, parties, and committees.	Gubernatorial candidates and State and county party committees.	State candidates and officials responsible for awarding contracts and their committees.	State candidates, parties and all political subdivisions of the state (counties, school districts, etc.)

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Which members of the contracting entity are subject to “Pay to Play” limits?	Brokers, dealers, and municipal securities dealers.	Board members, officers, managers, and individuals who hold at least 5% ownership interest, as well as their spouses and dependent children age 18 and older.	Just the contracting entity itself.	Business partners, shareholders, administrators, executors, trustees, and individuals with at least a 20% ownership interest, as well as their spouses and children age 7-17. The limits also cover collective-bargaining labor organizations.	Individuals and their immediate families who hold at least 10% ownership interest, alone or after adding the shares of their family members.	Just the contracting entity itself.	Just the contracting entity itself.	All the principals with at least 10% ownership interest, as well as spouses of individual contractors. The limits also cover subsidiaries and Section 527 organizations controlled by the business entity.	All members of the contracting entity including all of it’s subsidiaries and non-profit entities, persons with a 7.5% or more controlling interest in the contract entity, as well as their spouses and minor children.	All members of the contracting entity with more than a 10% ownership interest, officials, trustees, and their immediate family members. This includes collective-bargaining labor organizations
What are the “Pay to Play” limits for individual members of the contracting entity?	\$250 per election to officials in the dealers district 2 years before to 1 year after the contract.	Covered individuals in the “contracting entity” may not make contributions during the contract period.	No.	\$1,000 within 2 years of the award, and \$2,000 within 1 year of the termination of the contract, but no more than \$2,000 aggregate.	Of individuals with a 10% ownership interest-- \$1,000 per election for each individual and immediate family.	No.	No.	Covered individuals within the “contracting entity” \$300 per election from 18 months prior to contract without disqualifying entity.	No.	No.

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What are the aggregate “Pay to Play” limits for the contracting entity?	Same as for individuals, if permitted by state and local law.	\$0 from the negotiation to the December 31 st after the termination of the contract.	\$0 from the award to the termination of the contract, applies to individual contractors.	\$2,000 within 2 years of the award and \$2,000 within 1 year of the termination of the contract.	\$5,000 per election <u>bundled</u> from all officers and employees of business entity for no-bid contracts.	\$0 from the negotiation to the termination of the contract.	\$0 from the award to the termination of the contract.	\$300 aggregate per election from the entity 18 months or a full gubernatorial term before the award to the termination of the contract.	\$0 from the negotiation to the termination of the contract.	\$0 from the start of the contract to 2 years after termination.
What are the “Pay to Play” limits for PACs affiliated with the contracting entity?	\$250 per election to officials in the dealers district 2 years before to 1 year after the contract.	PACs fall within the aggregate limit for the business entity.	No.	PACs fall within the aggregate limit for the business entity, including electioneering communication expenditures.	PACs fall within the aggregate limit for the business entity.	No.	No.	PACs fall within the aggregate limit for the business entity.	PACs fall within the aggregate limit for the business entity.	No.
What are the Pre-negotiation limits?	2 Years.	None.	None.	2 Years.	Election prior to current term.	None.	None.	18 Months or a full gubernatorial term.	From the date of the RFP to the award of the contract.	None.

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Are there negotiation through termination “Pay to Play” limits?	Yes.	Yes.	Yes, from the award to the termination of the contract.	Yes. Covered officials may not even solicit contributions from <u>contractors</u> <u>for others</u> from award to 1 year after contract.	Through the current term of governor.	Yes.	Yes, from the award to the termination of the contract.	Yes.	Yes, either the term of office of the officeholder granting the award, or two years following the termination of the contract, whichever is longer.	Yes.
What are the post-Termination limits?	1 year.	December 31 st after termination.	No.	1 year.	Through the current term of governor.	None.	None.	None.	None.	2 Years.
What are the disclosure requirements for contractors?	<u>Quarterly contribution reports.</u>	Prequalification report <u>available online.</u>	Regular campaign reports.	<u>Signed compliance certifications</u> and campaign reports.	Regular campaign reports.	Regular campaign reports.	Regular campaign reports.	<u>Signed compliance certifications</u> and campaign reports.	Registration with the State Comptroller, and regular campaign reports.	A “Government Contract Summary” provided to the state by the contracting entity.
Are Cures allowed?	Yes.	Yes.	No.	Yes.	No.	No.	No.	Yes.	No.	No.

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What are the Penalties for “Pay to Play” violations for government contractors?	Government <u>contract cancellation</u> and <u>license suspension</u> .	Government <u>contract cancellation and eligibility suspension for 1 year</u> as well as fines for violating election laws.	Fines for violating election laws.	<u>Officials are subject to first-degree misdemeanor charges, and business entities are subject to contract cancellations. Fifth-degree felony charges, and fines for violating election laws. However, these penalties have never been levied.</u>	If found guilty of violating the “Pay to Play” limit for a gubernatorial candidate, the corporate entity <u>will not be eligible for a government contract for the governors term of office.</u> It will also be subject to fines for violating election laws.	Fines for violating election laws.	Fines for violating election laws.	Government <u>contract cancellation, ineligibility for additional contracts for four years,</u> as well as any additional penalties for violating contract and election laws.	Immediate contract cancellation, payment of money given to campaigns to the State, If there are more than 3 instances in a 36 month period, the business entity loses ALL State contracts, and cannot bid on new contracts for 3 years. In addition, offending business entities will be listed in the Illinois Register and the Procurement Bulletin.	Ineligibility for no-bid contracts for three years, ineligibility for holding public employment for three years, immediate restitution of money paid by the state, and costs of securing a new contract, if necessary. The Governor can suspend these remedies if a state of emergency is declared.

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Enforcement Agencies	Municipal Securities Rulemaking Board; Securities and exchange commission.	State Elections Enforcement Commission; Department of Administrative Services.	South Carolina Ethics Commission	Ohio Elections Commission.	Kentucky Registry of Election Finance; state procurement offices.	West Virginia Ethics Commission	Hawaii Campaign Spending Commission	Contracting agency in the Department of the Treasury; ELEC (for campaign reporting violations).	State Board of Elections, State Comptrollers Office	Secretary of State
Statutory Cites	MSRB Rule G-37	Conn. Gen. Stat. §9-612	S.C. Code Ann. §8-13-1342	ORC Ann. 3517.093, 3517.13, and 3517.992	KRS §121.056; §121.330	W. VA Code §3-8-12	HI Rev. Stat. §11-205.5	NJ Perm. Stat. §19:44A-20.13 et seq.	IL ST CH 30 § 500/50-37	CO Constitution, Title XXVIII Sections 15-17

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