



New Jersey Election Law Enforcement Commission

Pay-to-Play

February 2017



What is Pay-to-Play?

- The pay-to-play law addresses political contributions made by business entities that are party to or are attempting to enter or receive contracts with New Jersey government entities
- The law also mandates the reporting of contracts and any political contributions

What contracts are subject to Pay-to-Play restrictions?

- Any *State* contract in excess of \$17,500
- Any redevelopment agreement with a State redevelopment
- Any *Legislative* contract requiring approval by a presiding officer of either or both Houses in excess of \$17,500 that is not awarded through a Fair and Open Process
- Any *County or Municipal* contract in excess of \$17,500 that is not awarded through a Fair and Open Process
- Note: A business entity should consult the contracting government entity as local ordinances may differ from State law, this includes school board and fire district contracts (N.J.S.A. 19:44A-20.2-22)

What is a reportable contribution?

- Any amount in currency
- Any other monetary or in-kind (goods or services) contributions in excess of \$300 in the aggregate from one source
 - Per election made to a candidate committee or election related committee
 - Per calendar year made to a political party committee or legislative leadership committee

Contracts and Contributions

- A contribution may disqualify a business entity from obtaining a contract
- The business entity should consult with the contracting government entity for disqualification information
- ELEC has no authority regarding the awarding of contracts or details of contracts
- Federal and out-of-state contracts as well as contributions made to federal and out-of-state candidates are not included

What is prohibited before entering and during the terms of a contract?

- Prohibits entering a contract that is greater than \$17,500 if reportable contributions were made unless the contract is FAIR and OPEN
- Prohibits reportable contributions to a candidate for Governor or to any State or County PPC within 18 months prior to entering a State contract and 12 months prior to county and local contracts
- Prohibition of reportable contributions exists regardless of whether Fair and Open or Non-Fair and Open with respect to State contracts
- Prohibits reportable contributions during the term of a contract

Reportable Contributions Prohibited **during the Term of a Contract** **State Contracts**

- To a candidate for or holder of the office of Governor and Lieutenant Governor
- To a State, County, or Municipal Political Party Committee
- To a Legislative Leadership Committee

(N.J.S.A. 19:44A-20.15, Executive order 117, 9/24/2008 Governor Corzine)

Reportable Contributions Prohibited during the Term of a Contract

Legislative Contracts

(Non-Fair and Open)

- To a candidate or joint candidates committee of the presiding officer
- To a Legislative Leadership Committee established by the presiding officer
- To a State Political Party Committee of the political party of which the presiding officer is a member

(N.J.S.A. 19:44A-20.3)

Contributions Attributable to a Business Entity under Pay-to-Play Laws

State Contracts

- Any natural person or other business entity having an **INTEREST** in the business entity
- Any subsidiary and any political organization organized under §527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity
- Any professional corporation and any shareholder or officer
- Officers of corporations and any person or business entity that owns or controls 10% or more of the stock
- Limited liability companies, partnerships, limited liability partnerships, partners, principals, and all of their members
- Business trust or association
- Any other legal commercial entity organized under the laws of New Jersey or of any other state or foreign jurisdiction: the entity and any principal, officer or partner
- If the business entity is a natural person, that person's resident spouse or child – also any spouse, civil union partner, or child residing with officers, partners, etc.

Contributions Attributable to a Business Entity under Pay-to-Play Laws

Legislative, County, and Municipal Contracts

- Any natural person or other business entity having an **INTEREST** in the business entity
- If the business entity is a natural person, that person's resident spouse or child

How is “INTEREST” defined?

“**Interest**” means the ownership or control of:

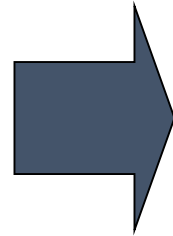
- More than 10% of the profits or assets of a business entity or
- More than 10% of the stock in the case of a business entity that is a for profit corporation

Refunds of Contributions

A business entity can request a refund of a prohibited contribution within the timeframe specified below

STATE

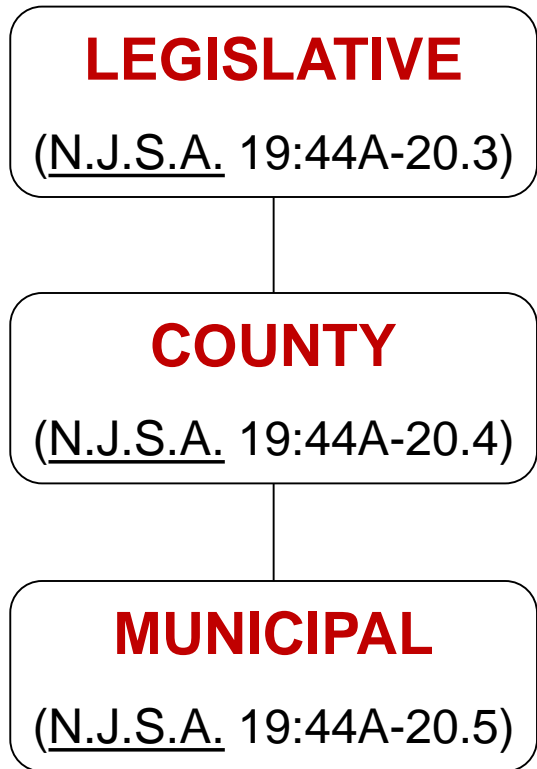
(N.J.S.A. 19:44A-20.15)



- Business entity must make a written request for a return within **30** days of making the contribution
- Business entity must receive a refund within **30** days from the date of the contribution
- No cure for contributions made within **60** days of a gubernatorial primary or general election

(N.J.S.A. 19:44A-20.20)

Refund Timeframe



- Business entity must make a written request for a return within **60** days of making the contribution
- Business entity must receive a refund within **60** days of the date of the contribution

(N.J.S.A. 19:44A-20.9)

Pay-to-Play Disclosure Law Requirements

- Annual disclosure to ELEC of political contributions and contract information if the business entity has received \$50,000 or more, in the aggregate, through government contracts within the preceding 12-month period
(*Business Entity Annual Statement: **Form BE***)

Note: A County, Municipality, Independent Authority, Board of Education, or Fire District may have its own additional pay-to-play requirements. Contact the entity awarding the contract.

ELEC's Business Entity Annual Statement

- Required to be filed by any business entity that has received \$50,000 or more in the aggregate through government contracts in a calendar year
- Statements are due no later than March 30th immediately following the calendar year for which activity is being disclosed
- The statement is required to be filed electronically on ELEC's website

Information Required to be Reported on ELEC's Business Entity Annual Statement

State Contracts

All reportable political contributions made during the 12-month period preceding the date of the execution of the contract to any:

- Political Party Committee
- Legislative Leadership Committee
- Candidate committee or joint candidates committee of a candidate for or holder of a State elective office (Governor, State Senate, and General Assembly)

(N.J.A.C. 19:25-26.2)

Information Required to be Reported on ELEC's Business Entity Annual Statement

Local Contracts

All reportable political contributions made during the 12-month period preceding the date of the resolution awarding the contract to any:

- Political Party Committee
- Legislative Leadership Committee
- Candidate committee or joint candidates committee of a candidate for or holder of an elective office of:
 - the local unit (a county, municipality, agency or instrumentality of a county or municipality, independent authority, board of education, or fire district) awarding the contract
 - the county in which that local unit is located
 - another local unit within that county
 - the legislative district in which that local unit is located or, when the local unit is a county, any legislative district which includes all or part of the county

(N.J.A.C. 19:25-26.3)



BUSINESS ENTITY ANNUAL STATEMENT
NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION
 (800) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)
THIS FORM MUST BE ELECTRONICALLY FILED AT:
www.elec.state.nj.us

FORM BE

FOR STATE USE ONLY

This statement is required to be filed by a business entity which has received \$50,000 or more in the aggregate during a calendar year through agreements or contracts with a public entity or public entities.

Part 1: General Information

Date of Statement Activity for Calendar Year Check if Amendment

Part 2: Business Entity Information

Business Name

Business Type

Address 1

Address 2

City State Zip

*(Area Code) Telephone Number

ACKNOWLEDGEMENT

I have been authorized by the above named business entity to complete the annual statement, and certify that the statements and/or information contained herein are true. I am aware that if any of the statements or information are willfully false, I may be subject to punishment.

First Name Last Name

Title/Position Date

*(Area Code) Telephone Number

Check this box to certify the above acknowledgement.

A business entity which has received \$50,000 or more in the aggregate during a calendar year through agreements or contracts with a public entity or public entities, but has made no contributions to candidates or committees, shall file the business entity annual disclosure statement with the Commission to report that no contributions were made during the calendar year.

Check this box if the business entity has not made any reportable contributions during the calendar year.

Part 3: Summary of Amounts (Totals will be automatically calculated)

Total Amount Received through Agreements or Contracts in 2015

Total of Reportable Contributions Made to Candidates or Committees in 2015

Part 4: Contracts Received

Contract ID#	<input type="text"/>	Contract Date	<input type="text"/>
Name of Contracting Public Entity	<input type="text"/>		
Public Entity Type	<input type="text"/>		
Address 1	<input type="text"/>		
Address 2	<input type="text"/>		
City	<input type="text"/>	State	New Jersey <input type="text"/>
		Zip	<input type="text"/>
Description of the goods, services, equipment provided or property sold :			
<input type="text"/>			
<input type="checkbox"/>	Check this box if the contract was awarded pursuant to a fair and open process.	Contract Amount Received	<input type="text"/>
		<i>(Enter numbers only)</i>	

Add a Contract

Part 5: Contributions Made (Please provide each contributor's information followed by all related contributions)

Contributor Information

Name	<input type="text"/>	Type	<input type="text"/>
Address 1	<input type="text"/>		
Address 2	<input type="text"/>		
City	<input type="text"/>	State	New Jersey <input type="text"/>
		Zip	<input type="text"/>
Recipient Name <input type="text"/>			
Political Office or Committee Type	<input type="text"/>	Contribution Type	<input type="text"/>
Contribution Date	<input type="text"/>	Contribution Amount	<input type="text"/>
		<i>(if Refund, Enter a Negative Number -) (Enter numbers only)</i>	

Add a New Contribution

Add a Contributor

Legal References

- N.J.S.A. 19:44A-20.3 through 20.27
- N.J.A.C. 19:25 subchapters: 24, 25, and 26
- Executive Order #134 (9/22/2004 Governor McGreevey)
- Executive Order #117 (9/24/2008 Governor Corzine)
- Executive Order #118 (9/24/2008 Governor Corzine)
- Executive Order #7 (1/20/2010 Governor Christie)



If you have any questions please contact
ELEC

- **1-888-313-ELEC (toll free in NJ)**
- **(609) 292-8700**

Remember to visit our website at
www.elec.nj.gov for additional Pay-to-Play information.

