

# DC Council Passes Pay-to-Play Legislation; Lays in Front of Congress

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In early December 2018, the District of Columbia Council passed extensive campaign finance legislation that includes significant pay-to-play provisions. In January, Mayor Bowser let the legislation become law without her signature. The law now lays before Congress for 30 legislative days (during which it could be struck down by Congress). Assuming no issues, the pay-to-play provisions would become effective November 4, 2020, which is after the next DC general election.

The legislation targets contractors holding and seeking government contracts and agreements valued in the aggregate at \$250,000 or more. The contracts and agreements targeted go beyond the normal contracts for goods and services and include certain real estate transactions with the District, licensing agreements, tax exemptions, tax abatements, and loans. Like many similar laws around the country, the law would not be applicable to DC employees or to unions with collective bargaining agreements.

For normal contracts for goods or services, the legislation prohibits covered contributions during the procurement process, during the contract, and for one year after the termination of the contract. There are different time limits for other types of agreements.

The contributions banned are those made to the Mayor and mayoral candidates for contractors with agencies that report to the Mayor (with a separate provision affecting AG contributions for AG agencies). The ban extends to contributions to political committees affiliated with the Mayor or mayoral candidates and to constituent-service programs affiliated with the Mayor. Moreover, if a contract must come before the City Council or approved by the Council

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legislatively to take effect (such as with a tax abatement or tax exemption), then the contribution ban would apply to Councilmembers, candidates for the Council, political committees affiliated with Councilmembers and candidates, and affiliated constituent-service programs.

DC permits corporate contributions, so the pay-to-play ban would apply to contributions by the entity (including corporations) holding the contract. In addition, principals of the contract or agreement holder would also have their contributions banned by the legislation. Such principals include senior officers such as the president, executive director, CEO, COO, CFO, and, for educational institutions, deans.

The legislation would also add a series of reporting and certification obligations, including the provision of a list of covered principals as well as a certification that a bidder has not violated the pay-to-play law.

Violation of the law would be considered a breach of contract, which could lead to termination of the contract and/or disqualification for four calendar years from future contracts, at the discretion of the relevant contracting authority.