

ALERT

Your First Post-Election Compliance Concern: DC's New Pay-to-Play Law Operational November 9

November 2022

With the 2022 general election behind us, it is very important to remember that the District of Columbia's new pay-to-play law became operational the day after the election on November 9, 2022. Unless your company, partnership, LLC, or other entity wants to breach contracts with the District and be disqualified for up to four calendar years from other DC contracts, you will need to establish and maintain a pay-to-play preclearance program to avoid violating DC's new law.

Although DC generally permits corporate contributions and has a full campaign finance regime with contribution limits, candidate reporting, etc., the new pay-to-play law is an anticorruption effort aimed at contractors and potential contractors. Moreover, the law extends beyond just corporate contributions to ban contributions from certain senior officers as well.

Starting on November 9, business entities seeking or awarded a contract or contracts with the District of \$250,000 or more in the aggregate are prohibited from making contributions to certain elected officials in the District. For contracts with agencies that fall under the purview of the Mayor, the contribution ban is with respect to the Mayor and candidates for the Mayor. For contracts with the Attorney General's office, the ban is with respect to the AG and candidates for AG. For contracts that are with the City Council or otherwise approved by the Council, the ban is with respect to Council members and candidates for the Council. For all of the covered candidates, the contribution ban extends beyond the candidate committees to political committees affiliated with the candidates and,

Authors

D. Mark Renaud
Partner
202.719.7405
mrenaud@wiley.law

Practice Areas

Election Law & Government Ethics
Federal & State Pay-to-Play Compliance
Government Contracts

in certain situations, to affiliated constituent-service programs.

Generally, the contribution ban applies during the procurement process through one year after the termination of the contract for those awarded the contract, although the statute contains very specific details for each type of contract covered. Covered contracts, including some that only come about through District legislation, mean those for:

- The rendition of services;
- The furnishing of any goods, materials, supplies, or equipment;
- The construction, alteration, or repair of any District government-owned or District government-leased property;
- The acquisition, sale, lease, or surplus and disposition of any land or building;
- A licensing arrangement;
- A tax exemption or abatement; or
- A loan or loan guarantee, not including loans made for non-commercial purposes, such as educational loans or residential mortgage loans.

Prospective contractors are required to provide the District with a list of their covered principals and certify current and ongoing compliance with the rules.

Wiley is at the forefront of helping corporations, partnerships, nonprofits, law firms, and others navigate the patchwork of state and local pay-to-play laws around the country. Wiley held a webinar on Tuesday, November 15. Please email Mark Renaud at mrenaud@wiley.law if you would like a copy of the recording. If you are interested in compliance around the country, see our Pay-to-Play survey [here](#).