Town of Secaucus

Purchasing Department

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Important Notice Regarding New Jersey Pay-to-Play Compliance Requirements for Municipal Vendors

Thank you for your interest in providing goods and services to the Town of Secaucus. In order to protect the integrity of the municipal procurement process and ensure compliance with New Jersey's Pay-to-Play laws, we are providing this notice for all current and prospective vendors. The purpose of this letter is to help prevent any inadvertent political contribution that could disqualify your business from eligibility for municipal contracts.

Why This Matters

Under New Jersey law, **certain political contributions— even if made unintentionally—can disqualify a vendor from being awarded public contracts** or may invalidate an existing contract. Disqualification can occur even for relatively small contributions made by the vendor, its principals, or certain affiliated individuals or entities.

Overview of Applicable Laws

1. State Pay-to-Play Law (N.J.S.A. 19:44A-20.1 et seq.)
New Jersey's statewide pay-to-play statute imposes restrictions on political contributions made by **business entities** seeking or holding public contracts. Depending on the type of contract, certain political contributions to:

- Any continuing political committee (PAC); and
- Any candidate committee of a candidate for, or holder of, an elected office;
    - of the local unit;
    - of that county in which that local unit is located;
    - of another local unit within that county; and
    - of a legislative district in which that local unit is located (when the local unit is a county, this includes any legislative district that encompasses all or part of the county).

may result in *automatic disqualification* from receiving a contract or may void an existing contract.

Who Is Covered

Restrictions and disclosure requirements apply to your business entity**,** and also to:

- Principals, partners, members, officers, and directors;
- Owners of more than 10% of the business (if applicable);
- Certain subsidiaries or affiliated entities;
- In some cases, spouses or resident children of covered individuals.

Key Requirements for Vendors

A. Contribution Limitations
During the period preceding the award of a municipal contract—often the **12 months prior**, depending on the law or ordinance—vendors should **not** make political contributions to individuals or committees that could influence the award of the contract. Even small contributions may trigger disqualification. Contributions made during the life of a contract are also prohibited.

B. Disclosure Forms
Before awarding certain contracts, the municipality must obtain a fully completed **Business Entity Disclosure Certification (BED-C)** and **Political Contribution Disclosure Form (PCD)**, as required under **N.J.S.A. 19:44A-20.8** and **20.26**

C. Zero-Contribution Policies
Many vendors adopt internal controls—such as a "no political contributions in New Jersey without legal review" policy—to avoid inadvertent violations or accidental disqualification.

Steps You Should Take Now

To protect your eligibility for present and future contracts with **The Town of Secaucus**, we strongly encourage you to:

1. Review the New Jersey statewide statute (**N.J.S.A. 19:44A-20.1 et seq.**)
2. Review Local Finance Notice 2023-14 (Attached)
3. Implement internal compliance procedures for tracking and approving political contributions.
4. Ensure individuals associated with your business are aware of these restrictions.
5. Consult legal counsel before making any political contributions within New Jersey.
6. Notify the municipality immediately if you believe a contribution may affect your eligibility.

Important Disclaimer

This notice provides **informational only** and **is not legal advice**. Each vendor is responsible for ensuring their own compliance with New Jersey's statewide and municipal pay-to-play requirements. Please consult qualified legal counsel regarding your specific circumstances.

If you have questions regarding municipal procurement procedures or required forms, please contact:
Christine Smith, QPA ,RPPS
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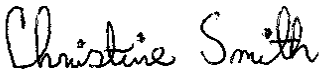
201.330.2000 ext.3093
CSmith@Secaucus.net

Thank you for your cooperation and your interest in doing business with the Town of Secaucus.

Respectfully,



Christine Smith, QPA, RPPS
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new jersey department of community affairs dca
people.places.progress
division of local government services dlgs

LFN 2023-14

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Local Finance Notice

Philip D. Murphy, *Governor*
Lt. Governor Sheila Y. Oliver, *Commissioner*
Jacquelyn A. Suárez, *Director*

Contact Information

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Procurement Officials
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Pay-to-Play Law Updates for Local Governments

P.L. 2023, c. 30, known as the "Elections Transparency Act," (the Act) made various significant changes to New Jersey's pay-to-play laws. This Notice identifies key changes relevant to local government pursuant to N.J.S.A. 19:44A-20.4 and 20.5.

The term "business entity," used in this Notice as an umbrella term for vendors or contractors, is defined by N.J.S.A. 19:44A-20.7 as "any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association, or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction."

Section 13 of the Act amended the definition of "fair and open process" in N.J.S.A. 19:44A-20.7 to expressly include contracts awarded under a public bidding or competitive contracting process pursuant to the Local Public Contracts Law.

Campaign Contribution Reporting Threshold; Non-Fair and Open Contract Awards

Although the statutory pay-to-play threshold remains in excess of $17,500, Section 4 of the Act amended N.J.S.A. 19:44A-8 to reduce the Election Law Enforcement Commission (ELEC) contribution reporting threshold from over $300 to over **$200.** Please note that cash contributions of any size by business entities are prohibited.

Pursuant to N.J.S.A. 19:44A-20.4 and 20.5, a county (or any agency or instrumentality thereof) may now award a non-fair and open contract over $17,500 to a business entity making reportable contributions under N.J.S.A. 19:44A-8 toward any county committee of a political party in that county. Likewise, a municipality (or any agency or instrumentality thereof) may now award a non-fair and open contract over $17,500 to a business entity making reportable contributions under N.J.S.A. 19:44A-8 toward any municipal committee of a political party in that municipality. Business entities being awarded non-fair and open contracts are no longer prohibited from making reportable contributions under N.J.S.A. 19:44A-8 toward a political party's county or municipal committee during the term of their contract.

The award of non-fair and open contracts to business entities making reportable contributions toward candidate committees remains **prohibited**, and business entities having been awarded non-fair and open contracts are still barred from making reportable contributions toward candidate committees during the contract term.

Here are some examples of permissible and non-permissible contributions in the context of a non-fair and open contract award:

Business entity contributes over $200 to the Democratic Party Committee of XX County during the preceding one-year period.	The County (or any agency or instrumentality thereof) is allowed to award a non-fair and open contract to the business entity.
Business entity contributes over $200 to the Republican Party Committee of XX Municipality during the preceding one-year period.	The Municipality (or any agency or instrumentality thereof) is allowed to award a non-fair and open contract to the business entity.
Business entity contributes over $200 to the Committee to Elect Smith & Jones to the Board of County Commissioners during the preceding one-year period.	The County (or any agency or instrumentality thereof) cannot award a non-fair and open contract to the business entity.
Business entity contributes over $200 to the Committee to Elect Smith & Jones to Borough Council during the preceding one-year period.	The Municipality (or any agency or instrumentality thereof) cannot award a non-fair and open contract to the business entity.

Section 20 of the Act further amends the Chapter 271 Political Contribution Disclosure (N.J.S.A. 19:44A-20.26) that is required of all business entities having been awarded a non-fair and open contract to eliminate the obligation to disclose reportable contributions made to any State, county, or municipal committee of a political party, or any legislative leadership committee. An updated model of the Political Contribution Disclosure Form can be found on the Division's Pay-to-Play webpage. The new form still requires business entities to disclose reportable contributions (i.e. over $200) made to:

- Any continuing political committee (PAC); and
- Any candidate committee of a candidate for, or holder of, an elected office of:
  - the local unit;
  - of that county in which that local unit is located;
  - of another local unit within that county; and
  - of a legislative district in which that local unit is located (when the local unit is a county, this includes any legislative district that encompasses all or part of the county).

The Business Entity Disclosure Certification (N.J.S.A. 19:44A-20.8) is required to be filed by business entities prior to the award of a non-fair and open contract, along with the model Non-Fair and Open Contract Award Resolution, Non-Fair and Open Contract Contribution Prohibition sample contract language and Lists of Agencies with Elected Officials Required for Political Contribution Disclosure (N.J.S.A.19:44A-20.26), which have been similarly updated to reflect the Act's changes. Broken down by county, updated agency lists are on the Division's Pay-to-Play webpage and the Appendix to this Notice. The Business Entity Annual Statement is available on the ELEC Pay-to-Play webpage.

"Window" Contracts between Pay-to-Play and Qualified Purchasing Agent Bid Thresholds

Sections 11 and 12 of the Act amend N.J.S.A. 19:44A-20.4 and 20.5, respectively, to clarify that the governing body of a municipality or county (or any agency or instrumentality thereof) may delegate the authority to award a contract having an anticipated value in excess of $17,500 but below the increased bid threshold of a Local Public Contracts Law contracting unit with a qualified purchasing agent (i.e. a "window contract") to the QPA. This delegation of authority should be incorporated into the resolution adopted pursuant to N.J.S.A. 40A:11-3 increasing the bid threshold.

State Pay-to-Play Law Now Preempts Local Pay-to-Play Restrictions

Local government entities are now prohibited from imposing pay-to-play provisions that are more restrictive than those in State law. Section 37 of the Act repealed N.J.S.A. 40A:11-51, the law that previously authorized counties, municipalities, independent authorities, fire districts, and boards of education to adopt additional local pay-to-play restrictions to further limit the award of public contracts to business entities making political contributions, and limited the contributions that individuals or entities awarded a contract can make during the term of the contract. The repeal is effective retroactive to January 1, 2023. As a matter of housekeeping, any local pay-to-play ordinances or resolutions originally authorized or grandfathered by N.J.S.A. 40A:11-51 that are currently in effect should be repealed.

Approved: Jacquelyn A. Suárez, Director

Document	Internet Address
Elections Transparency Act (P.L. 2023, c. 30)	https://pub.njleg.state.nj.us/Bills/2022/PL23/30_.PDF
DLGS Pay-to-Play webpage	https://www.nj.gov/dca/divisions/dlgs/programs/pay_2_play.html
ELEC Pay-to-Play webpage	https://www.elec.nj.gov/pay2play/p2p.html
c. 271 Political Contribution Disclosure Form	https://www.nj.gov/dca/divisions/dlgs/programs/lpcl_docs/polit_contrib_disc_form.doc
Business Entity Disclosure Certif.	https://www.nj.gov/dca/divisions/dlgs/programs/lpcl_docs/p2pbusentdisccert.doc
Non-Fair & Open Contract Award Resolution	https://www.nj.gov/dca/divisions/dlgs/programs/lpcl_docs/p2pnfoawardres.doc
Sample Contract Language - Non-Fair and Open	https://www.nj.gov/dca/divisions/dlgs/programs/lpcl_docs/p2pcontractlanguage.doc

List of Agencies with Elected Officials Required for Political Contribution Disclosure
N.J.S.A. 19:44A-20.26

County Name: Hudson

State: Governor

Legislative District #s: 32

State Senator and two members of the General Assembly per district.

County:

County Commissioners	County Clerk	Sheriff
County Executive	Surrogate	Registrar of Deeds

Municipalities (Mayor and members of governing body, regardless of title):

Bayonne City	Hoboken City	Secaucus Town
East Newark Borough	Jersey City	Union City City
Guttenberg Town	Kearny Town	Weehawken Township
Harrison Town	North Bergen Township	West New York Town

Boards of Education (Members of the Board):

East Newark Borough	Kearny Town	Weehawken Township
Guttenberg Town	North Bergen Township	
Hoboken City	Secaucus Town	

Fire Districts (Board of Fire Commissioners):

(None)