

## Key Pay-to-Play Provisions Regulating Government Contracts, By Jurisdiction, 2005

	Federal	SEC, Rule G-37 <sup>1</sup>	SC	OH	KY	WV	NJ <sup>ii</sup>
<b>Pre-Negotiation Period</b>	No	2 years	No	2 years	No	No	18 months or full term of governor.
<b>Contribution Limit During Pre-Negotiation Period</b>	Unlimited	\$250 Exemptions: good faith efforts to comply; entity is “primarily” in the securities business	Unlimited	\$1,000	Unlimited	Unlimited	\$300/yr from all persons in the aggregate associated with the business entity.
<b>Negotiations through Termination Period</b>	Yes	Yes	Awarding of contract through termination	Yes	No	Yes	Yes
<b>Post-Termination Period</b>	No	2 years	No	No	No	No	No
<b>Contribution Limits of Business Entity</b>	\$0	\$250, if permitted by state and local law.	\$0	\$0	\$0	\$0	\$300/yr altogether from commencement through termination of contract
<b>Contribution Limits of PAC Associated with Business Entity</b>	Unlimited	\$250	Unlimited	\$1,000	\$1,000	Unlimited	\$300/yr altogether from commencement through termination of contract
<b>Contribution Limits of Officers and Partners of the Business Entity</b>	Unlimited	\$250	Unlimited	Of individuals and their spouses with at least 20% ownership interest--\$1,000 contribution limit for each individual	Of individuals with a “substantial” ownership interest--\$1,000 contribution limit for each individual	Unlimited	All principals with at least 10% ownership interest; Section 527 under control of the entity; and spouses of an individual contractor—contributions are limited to \$300/yr for all such persons in the aggregate from pre-negotiation period through completion of contract

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<b>Aggregate Contribution Limits</b>	Unlimited	\$250 aggregate	Unlimited	\$1,000 aggregate	Unlimited	Unlimited	\$300/yr aggregate in pre-negotiation stage; through termination of contract.
<b>Entity/Officeholder Subject to Limit</b>	All Federal Candidates and Parties	Issuer of municipal securities	Candidates for pertinent state and local office.	Candidates for pertinent state office.	Gubernatorial candidates	All state candidates and parties	Candidates for governor and state and county parties.
<b>Disclosure Requirement</b>	Regular campaign reports	Investors must submit reports of all contributions by entities, PACs, and their executives	Regular campaign reports	Regular campaign reports	Regular campaign reports	Regular campaign reports	Contractors shall file annual reports of all contributions from the business and its officers and partners; and entities shall sign a sworn statement of no violations prior to awarding of contract.
<b>Cure</b>	No	Yes	No	No	No	No	Yes
<b>Back Door Prohibition</b>	Laundering of funds is prohibited	Soliciting, coordinating or laundering of funds are prohibited	Laundering of funds is prohibited	Laundering of funds is prohibited	Laundering of funds is prohibited	Soliciting and laundering of funds are prohibited	Soliciting, coordinating, earmarking and laundering of funds are prohibited.
<b>Enforcement Agency</b>	FEC	SEC	South Carolina Ethics Commission	Ohio Elections Commission	Kentucky Elections Commission	West Virginia Ethics Commission	Contracting agency in the Department of Treasury; ELEC for campaign reporting violations.

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<b>Penalties for Violations</b>	Fines for violating election laws.	Suspension of license; revocation of contract.	Fines for violating election laws.	Fines for violating election laws. No penalty has ever been levied.	Any person found guilty of violating contribution limits to a gubernatorial candidate shall not be eligible for a government contract for the governor's term of office.	Fines for violating election laws.	Revocation of contract; ineligibility for additional contracts for four years; and any other penalties for violations of contract and election laws.
<b>Statutory Cite</b>	2 USC §441(c)(a)	MSRB Rule G-37	S.C. Code Ann. §8-13-1342	ORC Ann. §3517.13	KRS §121.056	W.Va. Code §3-8-12	N.J. Perm. Stat. §19:44A-20.13

<sup>i</sup> Since Arthur Levitt's departure from the SEC, the Commission is debating amendments to its pay-to-play rule.

<sup>ii</sup> Hawaii had approved a strong pay-to-play bill in 2002, prohibiting contributions from potential contractors and their executives two years prior to negotiations of the contract through two years after the contract. A subsequent amendment to the bill by the legislature which exempted legislative candidates from its restrictions prompted a veto by the Governor.

*Source:* Craig Holman, Legislative Representative  
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