

**From:** Zipin, David  
**Sent:** Friday, May 18, 2007 10:33 AM  
**To:** @njnonprofits.org  
**Cc:** Valenti, Joe; Pfeiffer, Marc  
**Subject:** Re: Questions regarding pay-to-play laws

Ms. Czipo:

Thank you for contacting the Division of Local Government Services (DLGS) with your concerns about how the "pay-to-play" laws affect non-profit organizations. We are happy to provide with advisory guidance in response to your questions. Please keep in mind that we are not providing you legal advice and appropriate legal counsel should be consulted on the application of this guidance to specific circumstances.

The Division was given a mandate to provide guidance with regard to local contracting units, and therefore is unable to provide you with guidance concerning Chapter 51 and contracting with State agencies. For those issues (such as what is asked in Question 1), you should consult the [Division of Purchase and Property](#) or directly with the [Election Law Enforcement Commission](#).

We can provide you guidance on your concerns about a non-profit organization receiving non-fair and open contracts. This guidance would apply to the extent that a non-profit does not have any individuals that control ten percent (10%) of the assets of the organization, and if the non-profit is not legally authorized to make political contributions. In this case, there would be no reason that such a non-profit could meet the requirement of the law and file the required Business Entity Disclosure Certification (BED-C) indicating compliance with the law if a contracting unit were to award a non-fair and open contract to the organization.

The BED-C certifies that no prohibited reportable contributions have been in the prior twelve (12) months and stands as an agreement that no reportable contributions will be made by the organization during the term of the contract. Alternatively, Chapter 271 requires disclosure of contributions made by the board of the organization. ***This is not a prohibition or regulation on making contributions***; it is a disclosure to meet a public policy determined by the Legislature. Board members and spouses of the board members of a non-profit are obligated to make the required disclosure for a non-fair and open contract. It does not affect eligibility to accept a contract.

Thus, we advise you that the ability of a non-profit to receive ***a non-fair and open contract with a contracting unit is not imperiled by political contributors when the contributions are by a non-profits employees, trustees, officers or spouses***. We cannot, however, speculate on how those who view the disclosure will respond to individual, personal actions as represented by the contributions made by Board members.

David M. Zipin, Esq.  
Legal Affairs Officer  
Division of Local Government Services  
101 South Broad Street  
Trenton, NJ 08625