

# Federal Contractors May Be Told to Disclose Donations

In an end run around the “Citizens United” Supreme Court decision it disliked, the Obama administration is considering having all federal contractors disclose their political donations.

By Emily Badger

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The White House has been trying for the past year to figure out how to blunt the impact of the *Citizens United v. Federal Election Commission* Supreme Court decision, a controversial ruling that opened a flood of corporate money into political campaigns, often with little disclosure. The president tried publicly scolding the Supreme Court justices in his State of the Union last year. His allies in Congress tried passing a law requiring companies to own up to their newly unrestricted political spending.

Failing all that, the White House is mulling another idea — forcing at least those companies that want to bid for work from the federal government to disclose their donations. That plan, now in the form of a draft executive order, would have a surprisingly wide impact.

Everyone from Boeing to Exxon Mobil to Dow Chemical does business with the government. Defense contractors obviously do. So do pharmaceutical companies that work with Uncle Sam through Medicaid and Medicare programs. The Sunlight Foundation has counted that 33 of the 41 companies among the top 100 campaign contributors over the last 20 years have all been government contractors of some kind.

In this sense, the idea is sort of clever, with the government using its authority over the federal procurement process to push back against a Supreme Court decision on campaign finance. But, as with all else tying back to Citizens United, this thread is deeply controversial, too. The White House says the idea is fundamentally about transparency — and who’s opposed to that?

Critics, though, say the proposal is just another attempt to stifle the political speech of Obama’s opponents. (Or, to sum up the differing perspectives in the words of Glenn Beck’s news site The Blaze: “Obama’s proposed new executive order: Transparency, or a boot on the throat?”)

“This specific proposal, at least in outline, was introduced in a stronger form in Congress right after Citizens United in 2010, and it did not come out of Congress, it was not passed into law, it was not signed, it failed basically and had a great deal of resistance,” said John Samples, director of the Center for Representative Government at the libertarian Cato Institute. “So, you’ve gone through the process, and essentially this is the president resolving this political struggle by fiat, or at least trying to.”

The proposal looks to opponents like a political struggle, and not a fundamental good-governance idea, because of the perception that much of the political giving that flowed after Citizens United flowed to Republicans and not Democrats. Obama’s disclosure requirements would include independent expenditures to groups like Crossroads GPS, the nonprofit allied with Karl Rove that spent more than \$15 million in the midterm election (much of it donated from undisclosed sources) to defeat Democratic candidates.

“I think the real problem is Democrats were, from the moment the decision was decided, afraid this would open up a fundraising gap,” Samples said.

Republican politicians object to the idea that companies would have to disclose political giving to bid for government contracts, suggesting such a demand would lead to exactly the type of pay-to-play corruption the executive order says it seeks to prevent. Out of fear of retaliation, critics suggest, the requirement would also discourage companies and their officers from participating in political speech in the first place — unconstitutionally closing some of that gap Samples mentioned.

“The other side has argued that this is an infringement on the First Amendment and that it is politically designed to target certain entities that don’t agree with the administration,” said Gary Bass, executive director of OMB Watch. “I think that’s just silliness. This is really a disclosure system. You’re going to have contractor bidders that are from all ideological backgrounds: Democrats, Republicans, progressives, there will be libertarians, there will be conservatives. This is disclosure for everybody.”

Requiring it, Bass said, would be a courageous move on Obama’s part. And he sees no problem with the government establishing the rules by which companies may do business with taxpayer dollars.

But for organizations concerned about the influence of money in politics, this idea is at best a partial solution — and one that, established



*The White House is mulling the idea of forcing companies that want to bid for work from the federal government to disclose their donations.*  
(Juanmonino/istockphoto)

through an executive order, could easily be discarded by a future administration. Both OMB Watch and the Project On Government Oversight would prefer an outright ban on independent political expenditures in elections, and not simply disclosure that they exist. POGO would also like the executive order to target all groups that receive federal funds, and not just contractors.

“The other major conceptual problem with this draft is that it’s only looking at part of the question in terms of undue influence of contractors on the federal government,” said Angela Canterbury, director of public policy for POGO. “Looking at campaign contributions is only one piece. We really need full disclosure of lobbying, we need to know every time someone walks in a door of a government office or contacts a federal employee about any sort of acquisition — that needs to be reported regularly. That’s the full picture.”