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Mike DeWine, Richard Cordray may have favored contributors when awarding contracts

James McNair

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In 2014, news broke that campaign contributions appeared to influence the allocation of collections contracts. Ohio Attorney General Mike DeWine said such a connection did not exist.

In this November's election, voters will choose between two candidates for governor: DeWine and his predecessor as the state's top law enforcer, Richard Cordray. Public information suggests that both may have favored their contributors when awarding collections contracts.

An Eye On Ohio review of public records for the past 10 years found that firms in the top quarter of DeWine's campaign contributors averaged 425 percent more revenue than those in the bottom quarter. During Cordray's term, the top quarter of contributors earned 156 percent more, on average, than the bottom quarter of contributors.

Unlike neighboring states like Michigan and Indiana, Ohio does not select collections contractors based on a formal scoring system. There is no competitive bidding process.

DeWine and Cordray face each other in the election for Ohio governor in November. Both declined to be interviewed.

Lending a hand to the tax man

Every year, the government of Ohio hunts for millions of people who owe it money. Many didn't pay taxes. Others failed to pay state hospital bills or invoices for damaging state property, like guardrails. Some employers fall behind on unemployment insurance or workers' compensation obligations.

Going after those no-payers is challenging. Some hide, or lie, or go bankrupt.

DeWine, the state's chief collector, recovered about \$207 million of that money during the 2016-17 fiscal year with his own staff. A robust industry of about 70 private lawyers and 13 collection companies ran down another \$210 million.

Private collectors keep up to a third of what they recover. In fiscal 2017, they received a total of \$53 million.

Charles "Chuck" Mifsud of Dublin, Ohio, received \$17.6 million in collections commissions during DeWine's first six years in office, starting in 2011. Robert Schuerger of Columbus got \$14.1 million during that span. Keith Weiner of Cleveland and Bradley Smith's firm in Dayton each got \$12.7 million.

Officially, collections firms are chosen by meeting a dozen standards set by DeWine's office, including competence, staffing, computer system capabilities and compliance with privacy laws.

Are campaign contributions an unwritten 13th factor? The Ohio Center for Investigative Journalism examined contributions by the busiest debt collection firms under Cordray, who served as attorney general from January 2009 through January 2011, and DeWine, who has held the position since.

From 2009 through 2017, people affiliated with those firms -- and their family members -- made at least \$4 million in political contributions to DeWine, the Ohio Republican Party, the Summit County Republican Party and to Pat DeWine, the son of Mike DeWine and a current Ohio Supreme Court justice.

The attorney general's office paid \$301 million to those firms in DeWine's first six full years in office, or about \$75 worth of business for every dollar donated. Not all of that was profit to the firms; some share of it covered necessary expenses for collection.

During Cordray's two years as attorney general, firms donated \$1.3 million to Cordray and the Ohio Democratic Party and got \$69 million. That comes to \$54 for every dollar donated.

"All of this is your classic pay-to-play abuse," said Craig Holman, an expert on campaign finance and lobbying at Public Citizen, the Ralph Nader-founded advocacy group in Washington, D.C. "When you're talking 90 percent or more of these contractors making campaign contributions, it is a strong indication that these types of contributions are expected."

Trevor Burrus, a research fellow at the libertarian Cato Institute, said the situation was much more complex.

"In general, I don't immediately infer some sort of corruption when firms that stand to benefit from a certain person or party in power contribute to that person's campaign," he said.

"Businesses that benefit from getting contracts from the AG's office may contribute to AG candidates to try to make sure the AG is aware of their support," Burrus said.

"That's a little more shady, but nothing that rises to an offense. There are valid concerns, however, that the AG may give the contract to a company that gave him money rather than to the lowest bidder. That's one reason why government contracting rules exist."

A leaky law

In Ohio, anyone owning more than 20 percent in a company or their spouse can only give up to \$1,000 per year to a candidate, if that official has "ultimate responsibility" to award noncompetitive contracts of \$500 or more. However, it's perfectly legal to give to other organizations with much higher contribution limits. For example, donors can give up to \$38,123 to a political party's state candidate fund.

The \$1,000 limit doesn't apply to workers in the same firm, though. Hundreds of workers in the same company could each give \$1,000, as could their spouses, parents, and children.

A miniature version of that scenario played out in May 2013 at the Dayton law firm of Flanagan, Lieberman, Hoffman and Swaim. Eleven employees -- and 11 other people with matching last names and addresses -- gave \$1,000 each to the DeWine campaign.

"The window's open for family members and partners to make coordinated contributions," Holman said.

"That's why a good pay-to-play law goes way beyond just prohibiting the company itself from making campaign contributions but actually includes the partners, the senior executives, the spouses and the political action committees," he said. "It also requires a special disclosure system because if you're going to have that broad definition of who's restricted on making campaign contributions, it's almost impossible for an ethics agency to track those numbers."

Tracking dollars across campaign accounts borders on the impossible. Firms doing collections work for DeWine donated \$3.2 million to the Ohio Republican Party's state candidate fund between 2010 and 2017. Over the same span, that fund gave \$5.7 million to DeWine's campaign committee.

"It's a huge loophole in Ohio's pay-to-play law," Holman said.

Enforcement of the Ohio law falls to the Ohio Elections Commission. It can act only if it receives a complaint or referral, said its executive director, Phil Richter. He has led the elections commission since 1995. Only twice since then has the commission received complaints about violations of the pay-to-play law. Both, he said, were dismissed.

A continuing issue

In 2014, the Dayton Daily News published articles about the influence of politics in the hiring of outside collection agents, noting that more experienced firms were passed over for a friend's new agency. DeWine denied any improprieties.

Four years later, his office says contributions play no role in collections contracting.

"I would have absolutely no idea if somebody contributed to anybody in the state of Ohio," said Lisa Iannotta, DeWine's collections chief since 2013. "That's not something I ask or talk to someone about."

The Ohio Center for Investigative Journalism called the 10 special counsels who were paid the most money during the first six years of DeWine's term. Only three agreed to comment.

David Douglass of Cleveland said politics had nothing to do with getting the work.

"I make contributions to people all over the state, all over the country. I've been doing it my whole life. I contribute to people based on the merit of the candidate, not on their party," he said.

"We do the work we do, and it's assigned to us based on merit, based on how we do our work," said Douglass, whose firm has done state collections work in Ohio for 23 years, for attorneys general of both parties.

Sue Pohler, a special counsel in the Columbus suburb of Grandview Heights, said it is "absolutely not" necessary to make campaign contributions to receive collections work. She was collections chief under former Attorney General Jim Petro. She and two colleagues have donated \$189,425 in contributions since 2010, almost all to the Republican Party.

"If you look at my history, I've been donating to the party my entire life," she said.

"My contributions have gone up as my income has gone up, but it's not a direct correlation with Mike DeWine. I am friends with virtually every statewide office holder, which is part of the reason I just give to the party's state candidates fund."

Campaign finance records say Pohler made five contributions to the party between 1990 and 2010, for a total of \$775.

It's impossible to say whether the state has allowed donor firms to replace more effective contractors. DeWine's office says it doesn't keep such statistics.

Does performance matter?

Collections firms whose contracts were not renewed during the DeWine years were skeptical about the purity of the process.

Value Recovery Group subcontracted for five previous attorneys general, until DeWine's second year in office. "We were doing flawless work and were getting money back that they never would have had," said founder and chief executive Barry Fromm. "We handled a couple billion [dollars] at the peak. They were thrilled to death at us -- and then Mike DeWine ran for office."

Fromm said he got no explanation for his nonrenewal. He attributed it to his lack of financial support for the DeWine campaign.

"This is what they all do," he said. "This is their business, and they'll pay to play. I don't pay to play. I do good work."

Of 14 other dismissed collections vendors who spoke with Eye On Ohio, none said they were told that failure to pony up was the cause. Some, though, took it for granted.

"When you ask if there's a correlation between being a special counsel and contributions, I would tell you to follow the data," said Eleanor Haynes, who now practices law in Houston.

Tighter controls elsewhere

Another change took effect soon after DeWine's arrival. Under Cordray, applicants were assigned scores based on experience, information systems and other variables. DeWine ditched that program. He replaced it with the minimum requirements that are in use today.

"They were being asked to assign numbers to them," DeWine spokesman Dan Tierney said of the old process. "It wasn't like there was any objective analysis with computer numbers. It was basically staff being asked to put their recommendations into a numerical form."

A scoring system for competing bidders is still working for two neighboring states, Michigan and Indiana.

Michigan outsources the work through a competitive-bidding process that scores applicants on a broad range of qualifiers. It also involves multiple experts and agencies in the process. The state Department of Technology, Management & Budget recommends its choices. The State

Administrative Board, made up of the governor, the attorney general and five other high-ranking officials, makes the final decision to hire.

Michigan recently awarded five-year collections contracts to the two companies with the highest scores. The lowest-scoring firm is one of Ohio's biggest outside collectors, Cleveland-based Revenue Group. Its president, John Sheehan, gave \$78,844 to the Ohio Republican Party between 2012 and 2017. He did not respond to requests for comment.

Ron Leix, a spokesman for the Michigan agency, called the scoring system "a basic procurement best practice."

Other states have tried to separate contracting and donations.

New Jersey limits 10-percent owners of companies and their spouses to \$300 in contributions to the contracting officeholder. The limit starts 18 months before a contract and ends with its expiration.

A Connecticut law applies to board members, officers, managers and 5 percent owners of state vendors -- and their spouses and adult children. It bans contributions entirely to state officials and party committees, starting from the time contracts are negotiated through their termination.

Illinois regulates 7.5 percent owners of firms and their spouses. It bans contributions to contracting officials, from the time they receive a request for proposals to two years after the contract expires.

The Ohio legislature tried to bulk up the state's pay-to-play law in 2006 and 2007, after the "Coingate" scandal. A Franklin County judge invalidated the laws in 2007 and 2008 because they were improperly enacted. The weak original law remains in place. There is currently no effort to fortify it.