



Legislation Text

File #: 29977, Version: 2

Fiscal Note

No appropriation is required. City staff will monitor compliance and file the appropriate disclosures with the City Clerk as part of their regular work duties.

Title

SUBSTITUTE Creating Section 4.28 of the Madison General Ordinances to require certain City contractors to disclose contributions to advocacy organizations.

Body

DRAFTER'S ANALYSIS: This ordinance creates a new required disclosure for persons or entities entering into a contract with the City where the City's payments are in excess of \$25,000. These entities will be required to disclose contributions made to certain advocacy organizations, including the contracting party itself, any so-called super-pacs or advocacy organizations under sec. 501(c)(4) of the Internal Revenue Code, operating within Wisconsin within the past two years. Failure to disclose results in a one-year disbarment from contracting with the City. The information on contributions is not a standard for and may not be used in the award of any City contract. A number of contracts, including public works contracts, are excluded from the disclosure requirement. In its decision in *Citizens United v. Federal Elections Commission*, 558 U.S. 310 (2010), the U.S. Supreme Court struck down, as violating the First Amendment, restrictions on the amount of expenditures for election or political related advertising. In the same decision, the Court held that the First Amendment does not restrict mandatory disclosure of political or election related expenditures, and upheld the disclosure requirements in the federal election law. This ordinance shall be effective January 1, 2014.

The Common Council of the City of Madison do hereby ordain as follows:

Section 4.28 entitled "Required Disclosures" of the Madison General Ordinances is created to read as follows:

"4.28 REQUIRED DISCLOSURES.

- (1) Findings. Information on the political and advocacy expenditures of organizations is essential to the operation of a democracy, informing voters and governments about the activities of those attempting to influence the operations of government. Such disclosures further the end of halting corruption or the appearance of corruption. Significant political contributions and expenditures need not be disclosed under existing law. The City of Madison desires to further the ends of sunshine and information by requiring the disclosure of such information not otherwise available to the public.
- (2) Definitions. As used in this subsection:
 - (a) "Advocacy Organization" is any person or organization, including the Contracting Party, operating within Wisconsin within the prior two years and qualifying under sec. 501(c)(4) of the Internal Revenue Code..
 - (b) "Contracting Party" is any person or entity with a contract with the city under which the person or entity will be paid more than twenty-five thousand dollars (\$25,000) excluding the following contracts: public works contracts, sole source contracts, contracts purchased through State of Wisconsin purchasing, CSC contracts, CDBG contracts, City manager contracts, and any contract where State or Federal regulations do not allow the disclosures in this ordinance.
 - (c) "Contribution" is a voluntary contribution and does not include payments made for goods or services received, nor does it include contributions to campaign committees or other organizations that are reported to the federal, state or local government, and available to the public. It does include contributions to 501(c)(4) organizations.

- (3) Any Contracting Party shall, as a condition of doing business with the City, disclose whether it, or any person with an ownership interest of ten percent (10%) or greater in the Contracting Party, has made Contributions to an Advocacy Organization within the prior two (2) calendar years and, if so, the name of the Advocacy Organization and amount of the Contribution. Disclosure shall be made within thirty (30) days of entry into the contract with the City. Failure to make the disclosure within thirty (30) days of the time of entry into the contract means the Contracting Party is ineligible for any other City contracts of any value, other than those excluded from this ordinance, for the balance of the calendar year and the next succeeding year. Any challenge to such ineligibility shall be heard under Sec. 9.49, MGO.
- (4) The disclosure required by this section shall be in addition to any other disclosures required elsewhere in these Ordinances or other applicable law. The disclosures required by this section may not be used in or constitute a standard for the award of a City contract.
- (5) Each City Department or Division shall monitor compliance with this section for any contracts under its authority, shall notify all Department and Division heads of non-compliance by any contractor and the duration of any disbarment, and shall file the disclosures with the City clerk, which are available to the public. Language reflecting the requirements of this ordinance shall be included in all contracts covered by this ordinance.
- (6) This ordinance shall be effective January 1, 2014."