

**CITY OF MADISON, WISCONSIN**

AN ORDINANCE \_\_\_\_\_

PRESENTED  
REFERRED

May 7, 2013  
BOE

Creating Section 4.26(6) of the Madison General Ordinances to require certain City contractors to disclose contributions to advocacy organizations.

Drafted by: Michael May

Date: April 29, 2013

SPONSOR: Mayor Soglin

DRAFTER'S ANALYSIS: This ordinance creates a new required disclosure for persons or entities entering into a contract with the City 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) or sec. 527 of the Internal Revenue Code. 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.

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

Subsection (6) entitled "Required Disclosures" of Section 4.26 entitled "City Purchasing" of the Madison General Ordinances is created to read as follows:

"(6) Required Disclosures.

(a) Definitions. As used in this subsection:

1. "Advocacy Organization" is any person or organization, including the Contracting Party or any organization qualifying under secs. 501(c)(4) or 527 of the Internal Revenue Code, that made expenditures within the prior two calendar years for the purpose of influencing any election or advocating on a political issue or on any matter before a legislative body.
2. "Contracting Party" is any person or entity with a contract with the city for 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.
3. "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.

**Approved as to form:**

- (b) 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. 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.
- (c) The disclosure required by this subsection (6) shall be in addition to any other disclosures required elsewhere in these Ordinances or other applicable law. The disclosures required by this subsection (6) may not be used in or constitute a standard for the award of a City contract.
- (d) Each City Department or Division shall monitor compliance with this section for any contracts under its authority, and the disclosures made shall be filed with the City clerk and are available to the public. Language reflecting the requirements of this ordinance shall be included in all contracts covered by this ordinance.”