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June 15, 2011

*Open Letter to the President:*

The Hon. President Barack Obama  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

*Contact:*

Angela Bradbery (202) 588-7741  
Dorry Samuels (202) 588-7742

## **Pay-to-Play Corruption Thrives in the Shadows**

### ***Proposed Executive Order Gives the Public the Means to Assess Merit of Government Contracts***

Public Citizen strongly supports the proposed Executive Order of the Obama Administration to require federal contractors to disclose all of their campaign contributions and expenditures in federal elections.

The proposed Executive Order has come under criticism by the same voices of those who last year opposed the DISCLOSE Act, which fell just one vote short of the 60 votes needed to survive a senate filibuster. This latest criticism of disclosure of money in politics is that requiring federal contractors to open the books on their campaign spending would “politicize” the government contracting process.

Nothing could be further from the truth. Federal contractors have traditionally spent a great deal on political candidates. As the attachment to this letter documents, among the 50 largest contractors, nearly all contractor political spending was disclosed to the public until 2010, when a Federal Election Commission (FEC) loophole and a Supreme Court decision combined to permit unlimited secret spending in elections. Now, contractors can still spend money to elect certain officials, but they can do it in a manner that allows government officials to know where much of their financial support is coming from but leaves the American public in the dark. This means the contracting process will become not just more political, but likely more corrupt.

#### **The Problem of Pay-to-Play Contracting Corruption**

Pay-to-play corruption, in which government contractors use campaign contributions and expenditures to curry favor with politicians in an effort to win lucrative government contracts, has long plagued the government contracting process at the federal, state and local levels. Some contractors simply know how to “grease the wheels” with campaign money in cultivating valuable political contacts – contacts with government officials who can play a decisive role in

allocating government contracts and official favors. One recent example is military contractor Brent Wilkes, who in the 1990s and early 2000s allegedly gave more than \$800,000 in cash and favors to 32 congressional candidates and officeholders to help land more than \$80 million in federal contracts. This may seem like an extreme example but Wilkes is not alone.

In most cases, pay-to-play influence peddling falls short of bribery but is nevertheless designed to rig the bidding process for government contracts. As former U.S. Attorney Christopher Christie (now New Jersey governor) described the situation of campaign contributors routinely winning government contracts in New Jersey, which led to that state's law restricting campaign contributions from government contractors: "Contracts are being given for work that isn't needed. Or second, contracts are given to people who aren't qualified to do the job, so the job isn't done right and they have to come back and do the work again."<sup>1</sup>

Pay-to-play abuse is by far most pervasive when the cash-for-favors schemes stay out of the public's eye. When contractors can make campaign contributions and expenditures that are not subject to public disclosure, the contracting process is harmed in ways such as the following:

- Government officials provide campaign contributors inside information to give them unfair advantages in the bidding process.
- Government officials design contract specifications to favor specific campaign contributors.
- Honest firms are discouraged from attempting to bid on contracts.
- Contractors who make campaign contributions are rewarded with subsequent amendments to, and continuations of, their contracts.

What is evident is that pay-to-play abuses are most likely to spread in jurisdictions that hamper public disclosure of campaign money by government contractors. The timing and targeting of campaign contributions demonstrates that contractors seek access to politicians with oversight of contracting,<sup>2</sup> and interviews with contractors reveal that they believe this access helps them win contracts.<sup>3</sup>

### **Solutions to Pay-to-Play Abuses**

A first step for dealing with the problem of pay-to-play abuse is to ensure full disclosure of campaign spending by contractors so that the public may discern when contracts are being awarded based on money rather than merit. Moreover, disclosure of campaign spending by government contractors is nothing new; it was largely the status quo until 2010.

In fact, more than a dozen jurisdictions already address pay-to-play corruption through *enhanced* campaign finance disclosure for government contractors beyond the regular campaign finance reports filed by political committees. These jurisdictions include California (for contractors with

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<sup>1</sup> Associated Press, "Officials' Crimes Cost N.J., Taxpayers," *Trenton Times* (August 19, 2003).

<sup>2</sup> Roland Zullo, "Public-Private Contracting and Political Reciprocity," *Political Research Quarterly* (2006) at 273-281.

<sup>3</sup> Kimberly Palmer, "Schmooze or Lose," *Government Executive* (2005) available at: [www.govexec.com/features/1205-01/1205-01s4.htm](http://www.govexec.com/features/1205-01/1205-01s4.htm)

the California Public Employees Retirement System, State Teachers Retirement System, California State Lottery, and Los Angeles County Transportation Authority); Connecticut; Illinois; Maryland; New Jersey; New Mexico; Pennsylvania; Rhode Island; Los Angeles City; Philadelphia and San Diego County.

The objective of these pay-to-play policies is to reduce corruption and favoritism in the awarding of government contracts and thereby enhance fair and competitive bidding for taxpayer-funded projects. Government officials and politicians already know who is financing their campaigns. In order to avoid favoritism in awarding government contracts, the public needs to be just as well informed of the campaign spending by contractors.

### **The Proposed Executive Order: Preserving Disclosure to Prevent Politicization and Corruption in the Contracting Process**

Opponents of the Obama Administration's proposed Executive Order to mandate disclosure argue that informing the public of campaign spending by federal contractors will open the contracting process up to politicization. The implausible suggestion is that keeping the public in the dark about the political activities of contractors will somehow result in contracts being awarded based on merit rather than money. Not only does recent experience throughout the states sharply contradict this argument; it is not at all consistent with the realities of campaign finance disclosure in federal, state and local campaigns. This reform would preserve disclosure requirements, rather than permit a rash of secret spending by contractors.

Regular reporting requirements under the Federal Election Campaign Act (FECA) mandate that businesses that choose to make campaign contributions in federal elections form PACs and disclose their campaign spending. Of the 50 largest federal contractors in 2010, 34 of these contractors have made campaign contributions through their PACs since the 2000 election cycle. These 34 contractors have contributed \$114 million to candidates, party committees and leadership PACs; cumulatively, they received \$203.1 billion in federal revenue in 2010 (*see* Appendix A). Though PAC disclosures do not readily identify federal contractors from other business interests for the public, this information is part and parcel of the electoral relationship between special interests and government officials.

FEC loopholes and the Supreme Court's 2010 decision in *Citizens United v. FEC* have undermined this strong disclosure policy. Although businesses still must disclose direct campaign spending on independent expenditures or electioneering communications, they may readily sidestep the disclosure requirement by laundering their money through a third party group, such as the Chamber of Commerce, to spend on their behalf. As Public Citizen documented in the 2010 elections following the *Citizens United* decision, there was a 247 percent increase in outside spending over the 2006 election cycle, while public disclosure of where that money came from fell from nearly 100 percent in 2006 to about 50 percent in 2010.<sup>4</sup>

The campaign spending behavior of today's federal contractors is no real secret to candidates, government officials and party leaders – federal contractors who support government officials

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<sup>4</sup> Public Citizen, 12 Months After: The Effects of Citizens United on Elections and the Integrity of the Legislative Process (Jan. 12, 2011), available at: <http://www.citizen.org/12-months-after>

want them to know who is supporting them. The primary gap in knowledge of campaign spending by contractors and who wins federal contracts is among the public. *This dichotomy between what politicians know and what the public knows about contractor campaign money is the greatest single recipe for pay-to-play abuse in federal contracting.*

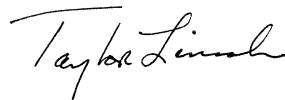
The proposed Executive Order would merely require federal contractors to continue disclosing to the public their support of political candidates.

In the strongest terms possible, Public Citizen encourages the President to sign the disclosure Executive Order. Full disclosure of money in politics is overwhelmingly supported by the American public, and it is one of the most effective means to ensure that the integrity of the government contracting process is not being compromised by the campaign money of “insider” influence peddlers.

Sincerely,



Craig Holman, Ph.D.  
Government Affairs Lobbyist,  
Public Citizen



Taylor Lincoln,  
Research Director,  
Public Citizen's Congress Watch

## Appendix A

### Contributions to Candidates, Party Committees and Leadership PACs from the PACs of the Top 50 Federal Contractors, 2000-2010 Election Cycles

Contractor	2010 Federal Contracting Revenue	Contributions to Candidates	Contributions to Party Committees and Leadership PACs	Total Contributions
<b>FedEx Corp</b>	\$1,447,106,532	\$7,288,830	\$3,792,400	\$11,081,230
<b>Lockheed Martin</b>	\$35,828,421,341	\$8,582,233	\$2,157,256	\$10,739,489
<b>General Electric</b>	\$3,134,833,213	\$7,109,245	\$3,003,140	\$10,112,385
<b>Honeywell International</b>	\$2,432,045,145	\$7,789,276	\$2,253,000	\$10,042,276
<b>Boeing Co</b>	\$19,486,294,256	\$6,977,173	\$1,688,556	\$8,665,729
<b>Raytheon Co</b>	\$15,245,234,507	\$5,894,350	\$2,023,670	\$7,918,020
<b>Northrop Grumman</b>	\$16,797,921,451	\$5,835,410	\$2,070,350	\$7,905,760
<b>General Dynamics</b>	\$15,249,055,812	\$6,003,611	\$1,781,200	\$7,784,811
<b>United Technologies</b>	\$7,721,459,649	\$3,337,950	\$707,500	\$4,045,450
<b>BAE Systems</b>	\$6,561,185,113	\$2,241,249	\$836,500	\$3,077,749
<b>Textron Inc</b>	\$2,216,419,551	\$2,349,500	\$705,500	\$3,055,000
<b>Jacobs Engineering Group</b>	\$2,059,889,624	\$1,844,540	\$1,095,764	\$2,940,304
<b>General Atomics</b>	\$1,862,745,579	\$2,213,274	\$386,500	\$2,599,774
<b>McKesson Corp</b>	\$4,601,060,052	\$2,326,000	\$0	\$2,326,000
<b>Fluor Corp</b>	\$1,905,633,027	\$1,423,248	\$828,140	\$2,251,388
<b>SAIC Inc</b>	\$6,796,280,362	\$1,506,750	\$719,500	\$2,226,250
<b>Bechtel Group</b>	\$3,939,025,644	\$1,775,200	\$222,500	\$1,997,700
<b>Humana Inc</b>	\$3,248,780,848	\$1,560,671	\$296,500	\$1,857,171
<b>Hewlett-Packard</b>	\$1,767,768,234	\$1,371,150	\$468,650	\$1,839,800
<b>L-3 Communications</b>	\$7,445,106,575	\$1,508,850	\$249,500	\$1,758,350
<b>Harris Corp</b>	\$3,301,564,466	\$1,470,239	\$240,500	\$1,710,739
<b>Alliant Techsystems</b>	\$2,197,273,708	\$1,372,107	\$129,499	\$1,501,606
<b>Computer Sciences Corp</b>	\$4,372,553,085	\$959,885	\$94,000	\$1,053,885
<b>Finmeccanica SpA</b>	\$1,500,809,379	\$721,700	\$285,000	\$1,006,700
<b>ITT Industries</b>	\$2,814,320,312	\$895,101	\$30,000	\$925,101
<b>URS Corp</b>	\$3,947,003,913	\$545,000	\$358,500	\$903,500
<b>Health Net Inc</b>	\$3,224,143,073	\$567,000	\$211,750	\$778,750
<b>Cerberus Capital Mgmt.</b>	\$4,768,901,698	\$427,600	\$217,000	\$644,600
<b>Dell Inc</b>	\$1,714,725,489	\$484,084	\$115,498	\$599,582
<b>Oshkosh Corp</b>	\$7,243,489,906	\$243,500	\$35,000	\$278,500
<b>Navistar International</b>	\$1,888,875,972	\$241,281	\$22,000	\$263,281
<b>KBR Inc</b>	\$3,625,557,556	\$113,100	\$0	\$113,100
<b>Triwest Healthcare Alliance</b>	\$2,721,404,316	\$26,400	\$1,250	\$27,650
<b>Totals</b>	<b>\$203,066,889,388</b>	<b>\$87,005,507</b>	<b>\$27,026,123</b>	<b>\$114,031,630</b>

Source: Public Citizen analysis of data provided by the Center for Responsive Politics ([www.opensecrets.org](http://www.opensecrets.org)) and the Federal Procurement Data System.