



Written by [Michael Tennant](#) on April 10, 2012

## Obama Won't Sign Order for Fed Contractors to List Political Contributions — For Now

The order itself was, in fact, an attempt by the administration to accomplish through executive order what congressional Democrats had been unable to accomplish through legislation. The DISCLOSE (Democracy Is Strengthened by Casting Light on Spending in Elections) Act “is a campaign finance bill that requires groups that run political advertisements to disclose their top donors,” [The New American](#) reported when the bill passed the House of Representatives in 2010. “It also bans companies with government contracts worth more than \$10 million from funding political advertisements. Likewise, it bars corporations that have received federal bailout money from financing political ads, as well as those with more than 20-percent foreign ownership.”



When that bill failed to pass the Senate, the Obama administration began considering an executive order to implement one of its provisions: requiring companies seeking federal contracts and their affiliates to disclose contributions to candidates, parties, or third-party political groups exceeding \$5,000 in the two years prior to submitting the bid.

“But roughly 12 months later,” writes *The Hill*, “no final order has been issued, and supporters and critics alike say they’ve seen no signs such a change is forthcoming.”

Craig Holman, a lobbyist for the liberal advocacy group Public Citizen, told the newspaper: “The executive order can potentially come back after the 2012 elections. But I don’t consider it still being contemplated [now].” Pointing to the fact that “Obama neglected to even mention it” during his last State of the Union address, Holman added, “I consider it not to be even on the agenda.”

The bill and the executive order are threats to free speech — which is, of course, their intention, given that they were created in response to the Supreme Court’s 2010 *Citizens United* decision, which held that as a matter of free speech corporations, unions, and nonprofit organizations have the right to spend unlimited amounts of money on political advocacy whenever and wherever they choose. Forcing potential federal contractors to reveal their political contributions, however, would undermine this ruling since those companies, knowing that their contributions will probably be taken into account when their bids are considered, would then have to be extremely careful about the candidates and causes to which they contribute.

“The draft order says it is necessary to ensure that politics are not allowed to impair the integrity of the procurement process,” Stan Soloway, president of the Professional Services Council, a trade coalition



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representing over 330 federal contractors, told the [Washington Post](#) last April. “But by force-feeding irrelevant information to government contracting officers, who would otherwise never consider such factors in a source selection, the rule would actually do precisely what it is intended to stop: inject politics into the source selection process.”

Most congressional Republicans opposed the order. “Even a few leading Democrats objected to the draft order,” observed *The Hill*. “House Minority Whip Steny Hoyer (D-Md.), for instance, said contracts should be awarded only ‘on the merits of the contractor’s application and bid and capabilities.’” (Hoyer is, however, “a strong supporter of the Disclose Act,” according to the paper.)

Unfortunately, even though the order appears to be off the agenda for the time being, Democrats have not given up on DISCLOSE. Rep. Chris Van Hollen (D-Md.) and Sen. Sheldon Whitehouse (D-R.I.) have reintroduced the bill in their respective chambers. It is expected to fail once more in the face of GOP opposition, which Democrats hope to exploit by “portray[ing] Republicans as hypocrites for supporting the idea of greater transparency but not the legislation that would bring it about,” according to *The Hill*.

Some Democrats, impatient with the constitutional process for enacting legislation, “are urging Obama to sidestep Congress and adopt the contractor order unilaterally,” says the paper.

“Any time is the right time for the president to sign an executive order to bring disclosure and transparency to those who do business with the federal government,” Rep. Anna Eshoo (D-Calif.) told *The Hill*. “Get your pen out, Mr. President.”

The White House declined to comment on the draft order but told the newspaper the President favors “a full disclosure law” passed by Congress.

The executive order may not be issued right now, and the DISCLOSE Act probably will not pass this year. But both remain options (of dubious constitutionality) for future administrations and Congresses; and if Obama is reelected and thus has nothing to lose by signing the order, he may very well do so. Friends of free speech will have to remain vigilant.

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