

Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Philip H. Mendelson
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: September 19, 2012

SUBJECT: Fiscal Impact Statement – “Comprehensive Campaign Finance Reform Amendment Act of 2012”

REFERENCE: Draft bill shared with the Office of Revenue Analysis on September 5, 2012

Conclusion

Funds are sufficient in the FY 2013 through FY 2016 budget and financial plan to implement the bill.

Background

The bill amends the campaign finance laws of the District of Columbia. The salient features of the bill are the following:

- Prohibits lobbyists and any persons acting on behalf of lobbyists from bundling contributions.¹ Under current law, lobbyists are not prohibited from this practice.²
- Includes money orders among contributions that are limited at \$25.³ Current law applies this limit to legal tender only.
- Requires that the overall limitations on all types of contributions to any one political committee be applied to an entity and any of its related parties *combined*.⁴

¹ The bill amends D.C. Official Code § 1-1162.31.

² The bill defines bundling as “forwarding or arranging to forward one or more contributions from one or more persons (other than oneself) to an elected public official, a candidate for elected office, a political party, or a political committee.”

³ This section amends D.C. Official Code § 1-1163.33 (Contribution limitations, under Campaign Finance laws).

⁴ The bill defines related party a person controlling, controlled by, or in common control with, the entity; if the entity is an organization, an officer or director of, or a person performing similar functions with respect

- Includes political action committees among entities that are subject to rules of organization set by the Office of Campaign Finance, reporting requirements for receipts and expenditures, and contribution limits.⁵
- Includes political action committees among entities on which the Director of Campaign must report biennially.⁶ Additionally, requires that when an expenditure and receipt report is filed within 30 days of an election, the Director of Campaign Finance posts the said report on its website, within 24 hours of receiving the said report.
- Includes in the reporting requirements separate disclosure reports for each political committee affiliated with a candidate, additional information on bundled contributions that exceed \$15,000, and the source of such contributions, such as the list persons who have provided two or more contributions.
- Requires political committees and political action committees to identify all related parties, and certify that any contributions it receives and expends are not under the control of a public official, candidate, or campaign or legal defense committees associated with an official or a candidate.
- Clarifies the description of political candidates or entities that can seek advisory opinions from the Elections Board, and includes among those who can seek advisory opinions political action committees and actual or potential government contractors and grant recipients and their subsidiaries.^{7,8}
- Specifies the following restrictions on contractors and grant recipients (typically known as pay-to-play rules):
 - Bans District government and its purchasing agents and agencies from contracting with, or procuring goods from, or providing grants to a contractor who has solicited or made any contribution or expenditure to a prohibited recipient when actively seeking the contract, so long as the said contractor seeks or hold contracts or grants with a cumulative value of \$250,000 or more.
 - Bans actual and potential contractors from soliciting or making any contribution or expenditure to a prohibited recipient when actively seeking a contract, so long as the said contractor seeks or hold contracts or grants with a cumulative value of \$250,000 or more.
 - These limitations apply to any related party to such contractors, including trusts, limited liability corporations, general partners of such limited liability corporations,

to, the organization; or an officer or director of, or a person performing similar functions with respect to, a person controlling, controlled by or in common control with the entity.

⁵ The bill also includes a hardship clause to the requirement that campaign finance reports to be filed electronically.

⁶ The bill defines political action committees as "any committee, club, association, organization, or other group of individuals that is (a) organized for the purpose of, or engaged in, promoting or opposing the nomination or election of a person to public office; (b) a political party; or (c) any initiative, referendum, or recall; and not controlled by or coordinated with any public official or candidate, or controlled by or coordinated with anyone acting on behalf of a public official or candidate."

⁷ The bill labels such contractors as "covered contractors" and defines them as any individual or sole proprietor, business, corporation, firm, partnership or association seeking or holding a contract to provide goods or services to the District of Columbia, or seeking or holding a grant from the District of Columbia, as well as any subsidiaries, political committees, section 527 organizations, or other entities controlled by the person seeking or holding a contract or grant.

⁸ The bill also provides some protections to individuals or entities that seek and, in good faith, comply with the recommendations of the advisory opinion.

political committees, and any officer or director of the corporation, or to any principal who has a controlling interest in the corporation.

- Limits contributions and expenditures that can be made by immediate family members a contractor and its related parties to \$300 per person per election.
- Strengthens the scope of the oath or affirmation of the person filing reports and statements with Office of Campaign Finance. Also requires that government contractors and grant recipients provide a sworn statement that the recipient of contract or grant, or any of its subsidiaries covered by campaign finance laws of the District of Columbia, is in compliance with such laws.
- Makes violation of campaign finance laws subject to the civil penalties described in D.C. Official Code § 1-1163.35, in addition to prosecution by the United States Attorney for the District of Columbia. Current law requires that such violations are referred to the United States Attorney.
- Provides guidelines and limitation on civil penalties that can be imposed on those who violate campaign finance laws. It also sets limits on criminal penalties that could be brought against persons who violate such laws. The bill also authorizes the Attorney General to bring civil charges against violators of campaign finance laws and sets the statute of limitations at 6 years for both civil and criminal charges.
- Specifies the applicable civil penalties for contractors in violation of campaign finance laws, including termination of existing contracts, and banning from future solicitations for contracts or grants for up to four calendar years, at the discretion of the District.

Financial Plan Impact

Funds are sufficient in the FY 2013 through FY 2016 budget and financial plan to implement the bill. The implementation costs of the bill are \$61,000 in FY 2013, and will be covered by existing resources within the Government Direction and Support cluster. No other costs are expected in the out-years.

The bill will impose additional costs on the Office of Campaign Finance (OFC) because this office will have expanded oversight, audit, and reporting requirements. OFC can absorb the costs associated with audit and oversight in its FY 2013 personnel budget, but, *at a minimum*, it would have to make improvements and upgrades to its Electronic Filing and Disclosure System. The projected cost of these upgrades obtained from the vendor for this system is approximately \$61,000 in FY 2013. These costs cannot be absorbed in OFC's FY 2013 non-personnel budget, but will be covered through a reprogramming of funds within the Government Direction and Support cluster.

The bill will also likely increase the work load of the Office of Attorney General (OAG), but it is not possible to reliably estimate how this office's costs will increase. The campaign finance violations are more likely to result in civil and criminal cases for the OAG during election years, but the cases might continue into multiple fiscal years. OAG can absorb some additional costs, for example the costs of up to six additional criminal cases or twelve additional civil cases, but this is just a rough estimate since these cases would vary greatly in scope and resource needs.