

U. S. House of Representatives
Washington, D. C. 20515

April 26, 2012

The Honorable Barack Obama
President of the United States
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Obama,

On July 28, 2011, many Members of the House wrote to you about the need to secure greater political disclosure from companies doing business with the federal government, and urged you to issue an Executive Order to accomplish this. Since that time the election season has reached a fever pitch, and unfortunately, our gravest concerns about the outsize role of corporate money in politics have proven to be justified.

As the enclosed March 18, 2012, article in the *Los Angeles Times* describes, our election system's disarray in the wake of *Citizens United* has led to widespread disregard for the 36-year old ban on political contributions by federal contractors. While it was settled law prior to the Supreme Court's disastrous ruling that federal contractors could not contribute to federal candidates or political committees, even a cursory review of the available disclosures indicates a widespread disregard for that ban in the case of new independent expenditure-only committees, or "Super PACs," which now play such a dominant role in election spending.

The *Los Angeles Times* reports that while many of the leading presidential Super PACs maintain the traditional disclaimer prohibiting contractor contributions, one leading Committee has foregone the disclaimer and accepted some \$890,000 from companies with federal contracts. The PAC and its contributors calculate little risk of enforcement, given the utter failure of the Federal Election Commission to promulgate meaningful rules of the road so far.

In this climate, the proposed *Executive Order on Contractors*, dated April 13, 2011, is more important than ever. Existing contractor rules were enacted after Watergate in 1976 to protect taxpayers from patronage spending and undue corporate influence. There is little doubt that Congress must comprehensively rewrite our election laws to once again protect voters from the excesses of a new Gilded Age. Until we do, your Executive Order would send a clear message to the American people that they deserve maximum transparency and complete information before they vote.

We once again urge you to issue the proposed Executive Order as quickly as possible. We believe that with public funds come public responsibilities, and any company receiving federal tax dollars should comply with the requirement to comprehensively disclose that spending in an accessible manner.

Sincerely,



Anna G. Eshoo
Member of Congress

Eleanor H. North

Janice Ash

Maureen Hill

Rosa DeLauro

Abel Haskins

Barbara Lee

Lynn Woolsey

George Miller

Ruth Elin

Steve Cohen

Louise M. Slaughter

Bob Filner

Gene Stacks on

Jewell Nadler

Jan Rosten

Jois Capps

Doug L. Ackerman

Marcy Kaptur

Aud DeLoach

John W. Olver

Joe M. Ny

Zoe Lopez

Michael H. Michael

Niki Vargas

Rail M. Hijabra

Janice / Rom

Boris O. Matsui

Dr. Jaramedi

Jake Sp

Michael Capran

Peter Welch

Billy McEllen

Jared Peli

Paul Stomba

Donot F. Edwards

Miley Stomyn

Pete Kent

Sam Tan

Signatories, Alphabetically

1. Ackerman, Gary
2. Capps, Lois
3. Capuano, Mike
4. Cohen, Steve
5. DeLauro, Rosa
6. Deutch, Ted
7. Edwards, Donna
8. Ellison, Keith
9. Eshoo, Anna G.
10. Farr, Sam
11. Filner, Bob
12. Garamendi, John
13. Grijalva, Raul
14. Hahn, Janice
15. Hastings, Alcee
16. Hinchey, Maurice
17. Jackson, Jr., Jesse
18. Kaptur, Marcy
19. Lee, Barbara
20. Lofgren, Zoe
21. Matsui, Doris
22. McCollum, Betty
23. McGovern, Jim
24. McNerney, Jerry
25. Michaud, Mike
26. Miller, George
27. Nadler, Jerrold
28. Norton, Eleanor Holmes
29. Olver, John
30. Polis, Jared
31. Schakowsky, Jan
32. Slaughter, Louise
33. Speier, Jackie
34. Stark, Pete
35. Thompson, Mike
36. Tonko, Paul
37. Tsongas, Niki
38. Welch, Peter
39. Woolsey, Lynn

Los Angeles Times

Federal contractors donate to 'super PAC' backing Romney

It's unclear whether a ban on such giving is still valid after the Supreme Court ruling that freed up independent political spending.

By Ian Duncan and Matea Gold, Washington Bureau

March 18, 2012 7:17 p.m.

Reporting from Washington—A "super PAC" that has spent more than \$35 million on behalf of Republican presidential hopeful [Mitt Romney](#) has accepted donations from federal contractors despite a 36-year-old ban against such companies making federal political expenditures.

At least five companies with government contracts gave a combined \$890,000 to Restore Our Future, the pro-Romney super PAC, a review of federal contracting records and campaign finance data shows.

Other super PACs, including Republican-allied American [Crossroads](#), and Priorities USA Action, which backs [President Obama](#), have language on their websites warning that federal contractors are not allowed to make donations.

Restore Our Future does not list the prohibition on its website.

Several contributors — including a Florida aerospace company that has contracts with the [Defense Department](#), and a Boston-based construction company that is helping build a Navy base — are taking advantage of a legal gray area created by the Supreme Court's 2010 ruling in the Citizens United case, which said that independent political expenditures could not be regulated based on who was making them.

Federal courts and the [Federal Election Commission](#), which is responsible for enforcing the federal contractor ban, have yet to decide whether it is still valid. That leaves the legality of such contributions in question, though several election law experts believe the ban will be found unconstitutional.

"It's a risk judgment that clients need to make," said Robert Kelner, a Washington lawyer who advises corporations on political law compliance.

A veteran election law attorney, Jan Baran, said he advised companies with federal contracts not to give to super PACs until the FEC or the courts formally ruled on whether the ban was still valid.

"We just think it ought to be cleared up," he said.

Restore Our Future referred all queries to its treasurer, Charlie Spies, an election law attorney who served as Romney's campaign counsel in his failed 2008 presidential bid. Spies, based in Washington, declined comment.

One company that was apparently unaware of the potential risk says it will ask for its

donation back.

M.C. Dean, a Virginia-based electrical engineering company that has a \$43-million contract with the Department of Homeland Security to help construct office buildings, gave Restore Our Future \$5,000 in October.

The company relied on a letter from Spies, who wrote that the super PAC could accept unlimited corporate contributions, according to an M.C. Dean official who requested anonymity to discuss the decision. The letter did not mention the federal contractor ban, but it assured potential donors that their contributions would not interfere with their ability to obtain state or local contracts.

After an inquiry by the Los Angeles Times/Tribune Washington Bureau, M.C. Dean consulted its lawyers "and out of an abundance of caution and to stay compliant, on Monday we will be requesting the contribution back and will be changing our corporate policy to make sure it doesn't happen again," the company official said.

One federal contractor who gave to the super PAC says it is confident the contribution is legal.

Oxbow Carbon, a major coal and petroleum company, gave \$750,000 to Restore Our Future last year. The private company has sold more than \$10 million worth of coal over the last 13 years to the Tennessee Valley Authority, a federally owned corporation created by Congress.

Oxbow's founder, Palm Beach, Fla., billionaire William Koch, gave the super PAC another \$250,000 personally, a donation that is not prohibited by the ban. His twin brother, David, and older brother, Charles, are famous for their lavish support for conservative causes.

"Oxbow believes it has a 1st Amendment right under the U.S. Constitution to make political contributions to independently support candidates who will best address the deep economic issues facing this country," spokesman Brad Goldstein said.

The current confusion shows how a deadlocked FEC has been unable to keep up with tens of millions of dollars of outside money that has flooded the system since the Citizens United ruling legalized political spending by corporations and unions.

Two years after the ruling, the six commissioners are split along party lines, and they cannot agree on how to bring campaign finance regulations in line with the decision.

That includes the federal contractor ban, which was originally passed by Congress in 1940 and made it illegal for individuals and companies with government contracts to make federal contributions. It also barred solicitation of such contributions. An FEC regulation passed in 1976 expanded the law to ban federal contractors from making expenditures in support of candidates for federal office.

"What we have is many FEC regulations that are on the books today but are clearly unconstitutional," Kelner said. "So in that environment, it is not surprising to me that some companies will decide to forge ahead.... What's the enforcement risk?"

An FEC spokeswoman declined to comment. But the commission is defending the ban in a case filed in federal court in Washington in October by several contractors, indicating that the agency still views the law as constitutional. And at a House oversight hearing last year, a Democratic member of the commission, Cynthia L. Bauerly, testified that the prohibition still holds.

Federal contracting records and campaign finance data provided by the Sunlight Foundation, a nonpartisan group that promotes transparency in government, show that three other companies with federal contracts made contributions to Restore Our Future:

- B/E Aerospace, a publicly traded corporation in Florida that gave the super PAC \$50,000 in June 2011, provides rivets and other components to the Department of Defense and other parts of the government. It has won more than \$8.2 million in federal contracts since January 2011. Its chief executive and chief financial officer each gave Romney's campaign \$2,500, the maximum allowed in the primary.
- Florida- and Puerto Rico-based Clinical Medical Services, which provides medical supplies to the Department of Veterans Affairs, donated \$25,000 on Jan. 4. It has won government contracts worth almost \$4.3 million since the start of last year.
- Boston-based Suffolk Construction Co., which holds a \$20-million building contract for a Rhode Island naval base, made three donations to the super PAC totaling \$60,000. The firm is headed by Obama bundler John Fish, who has given to [Democrats](#) and [Republicans](#).

The three companies did not respond to requests for comment.