

Bill No. 3-04
Concerning: Procurement—Use of
County Funds
Revised: 9/17/04 Draft No. 3
Introduced: March 2, 2004
Enacted: September 21, 2004
Executive: October 7, 2004
Effective: January 5, 2005
Sunset Date: None
Ch. 21, Laws of Mont. Co. 2004

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Knapp, Denis, Floreen, Leventhal, and Perez

AN ACT to:

- (1) prohibit the use of County Government funds appropriated for a ~~[[contract for services]]~~ service contract or ~~[[a]]~~ grant award to ~~participate in a County-funded~~ program from being used to assist, promote, ~~[[or]]~~ deter or otherwise influence union activity or organizing;
- ~~[[2]]~~ provide exceptions for certain contractors, grantees, and activities;
- ~~[[3]]~~(2) require a contractor or grantee to affirm that County funds will not be used to assist, promote, ~~[[or]]~~ deter or otherwise influence union activity or organizing;
- ~~[[4]]~~(3) require a contractor or grantee to maintain certain records;
- ~~[[5]]~~(4) provide enforcement and penalty provisions; and
- ~~[[6]]~~(5) generally amend the law governing procurement.

By adding:

Montgomery County Code
Chapter 11B, Contracts and Procurement
Section 11B-33B

Boldface
Underlining
[Single boldface brackets]
Double underlining
[[Double boldface brackets]]
* * *

Heading or defined term.
Added to existing law by original bill.
Deleted from existing law by original bill.
Added by amendment.
Deleted from existing law or the bill by amendment.
Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

1 **Section 11B-33B is added as follows:**

2 **11B-33B. Use of County Funds.**

3 **(a)** *Purpose.* Sound fiscal management requires vigilance to ensure that
 4 County funds appropriated for a ~~[[contract for services]]~~ service contract or
 5 a grant award to participate in a County-funded program are expended
 6 solely for the public purpose for which they are appropriated. If County
 7 funds are appropriated for a ~~[[contract for services]]~~ service contract or a
 8 grant award to participate in a County-funded program, and those funds are
 9 instead used to encourage, discourage, or otherwise influence union activity
 10 or organization, the proprietary interests of the County are adversely
 11 affected. The use of County funds to encourage, discourage, or otherwise
 12 influence employees from union activity or organizing constitutes a misuse
 13 of County resources.

14 **~~[[a]]~~ (b)** *Use of Funds.* County funds appropriated for a ~~[[contract for services]]~~
 15 service contract or a grant award to participate in a County-funded
 16 program must not be encumbered or used to assist, promote, ~~[[or]]~~ deter, or
 17 otherwise influence union activity or organizing. Nothing in this Section
 18 shall be construed to prohibit the expenditure of County funds appropriated
 19 for a ~~[[contract for services]]~~ service contract or a grant award ~~[[on the~~
 20 negotiation or administration of a collective bargaining agreement]] from
 21 being used to perform another act required by law.

22 **~~[[b]]~~ (c)** *Exceptions to Coverage.* This Section does not apply to a contractor or
 23 grantee, who at the time a contract is signed, has received less than \$50,000
 24 from the County in a 12-month period.]]

25 **(c)** *Specific Restrictions.* County funds for a service contract or a grant award
 26 to participate in a County-funded program must not be used to:

- 27 (1) prepare, mail, or otherwise distribute materials related to union
28 activity or organizing;
- 29 (2) hire an attorney or a consultant to assist, promote, ~~for~~ deter, or
30 otherwise influence union activity or organizing;
- 31 (3) encourage, discourage, or otherwise influence an employee from
32 taking a position on union organizing in the workplace;
- 33 (4) prevent or facilitate access to ~~[[a labor organization or its~~
34 representatives from accessing]] an employer's facilities or property
35 by a labor organization or its representatives;
- 36 (5) encourage or discourage a program manager, policy council,
37 committee, or community or parent group from assisting or
38 participating in a union activity or organizing.

39 (d) *Enforcement.*

- 40 (1) The Chief Administrative Officer must require each contractor or
41 grantee to:
- 42 (A) Certify that the contractor or grantee will not expend County funds
43 to assist, promote, ~~for~~ deter, or otherwise influence union
44 activity or organizing and will comply with the requirements of
45 this Section.
- 46 (B) Keep and submit any records associated with County funds
47 received for a ~~contract for services or all~~ service contract or a
48 grant award to participate in a County program necessary to show
49 compliance. A contractor or grantee must provide these records to
50 the County upon request. ~~These records must be made available~~
51 to the public at a reasonable time.]]
- 52 (2) The Chief Administrative Officer must enforce this Section and
53 investigate any complaint of a violation.

54 (e) *Penalty.* A contractor or grantee must pay the County the amount of
55 funds expended in violation of this Section II. and a reasonable attorney's
56 fees.

57 *Approved:*


58

59 
Steven A. Silverman, President, County Council

SEPT. 23 2004
Date


60

61 *Approved:*

62 
Douglas M. Duncan, County Executive

10/14/04
Date

63 *This is a correct copy of Council action.*

63 
Mary A. Edgar, CMC Clerk of the Council

10/8/04
Date