

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 6, 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

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<del>[Single boldface brackets]</del>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<del>[[Double boldface brackets]]</del>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*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)]]~~ 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, ~~[[or]]~~ 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, ~~[[or ]]~~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 a]]~~ 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.

