

DARK MONEY

TOOLKIT


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Dark Money Basics

What is Dark Money?

Political spending by a political nonprofit or a super PAC meant to influence the decision of a voter, where the donor is not disclosed and the source of the money is unknown.



When political nonprofits choose not to disclose their donors, they are considered Dark Money groups. Super PACs can also be considered Dark Money groups when they choose to accept unlimited contributions from political non-profits and “shell” corporations that may not have disclosed their donors.

Types of Election Spending

Hard money (traditional political spending):

Donors must be disclosed, contribution limits apply and organizations **are allowed** to coordinate their efforts to help elect a candidate.

Examples: candidate committees, political parties, and Political Action Committees (PAC)

Soft money (outside political spending):

Political expenditures made by organizations and individuals other than the candidate campaigns themselves. These organizations are **not allowed** to coordinate their spending with political candidates or parties. While some outside groups, like Super PACs, are required to disclose their donors, others are not.

These nondisclosing organizations are referred to as Dark Money groups.



Types of Dark Money Spending

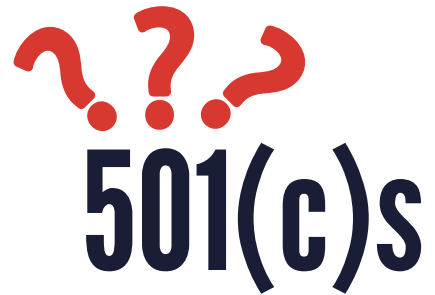
501(c) Groups / Political Nonprofits

These are nonprofit, tax-exempt groups. These groups cannot engage in political activity, with the exception of 501(c)(3)s that can engage in limited political activity, and are not required to disclose their donors.

Like super PACs, they cannot coordinate with political parties or candidates and therefore are allowed to raise unlimited sums of money.

One of the biggest problems with nondisclosure is that citizens may not be able to consider the credibility and possible motives of the wealthy corporate or individual funders behind those messages.

- 501(c)(3) groups: Operate for religious, charitable, scientific or educational purposes. Can engage in a small amount of political activity.
- 501(c)(4) groups: Social welfare organizations. May engage in political activities, as long as these activities do not become their primary purpose.
- 501(c)(5) groups: Labor and agricultural groups. May engage in political activities, as long as these activities do not become their primary purpose.
- 501(c)(6) organizations: Business leagues, chambers of commerce, real estate boards and boards of trade. May engage in political activity, as long as these activities do not become their primary purpose.



501(c)s

Super PACs

Technically known as independent expenditure committees, super PACs may raise and spend an unlimited amount of money and accept contributions from companies, nonprofits, unions and individuals. Since super PACs cannot give money directly to candidates, they are exempt from the limits on fundraising and spending that regular PACs must abide by.



Hybrid PACs (Carey Committees)

These organizations are not affiliated with a candidate and have the ability to operate both as a traditional PAC, contributing to a candidate's committee, and as a super PAC that makes independent expenditures, but must have a separate bank account for each purpose.



Limited Liability and Shell Companies

LLCs can be established to disguise the identity of a donor or source of money spent on behalf of a political candidate. LLCs are governed by state law, but minimal information is necessary to file the required articles of incorporation. This lack of accountability and transparency have helped disguise the source of millions of dollars in political spending each election cycle.



Dark Money Process

How do Dark Money groups work?

Most of what we know about spending by Dark Money groups is gathered from their annual IRS 990 forms, including their major vendors and the organizations to which they give grants.

Section B. Independent Contractors		
1 Complete this table for your five highest compensated independent contractors that received more than \$100,000 of compensation from the organization. Report compensation for the calendar year ending with or within the organization's tax year.		
(A) Name and business address	(B) Description of services	(C) Compensation
MAIN STREET MEDIA GROUP P.O. BOX 25093, ALEXANDRIA, VA 22313	MEDIA SERVICES	33,387,104.
MENTZER MEDIA SERVICES, INC., 600 FAIRMOUNT AVENUE, STE 306, TOWNSON, MD	MEDIA SERVICES	5,082,495.
TARGETED VICTORY, 1033 NORTH FAIRFAX ST, STE 400, ALEXANDRIA, VA 22314	MEDIA SERVICES	2,505,670.
CONNECTION STRATEGY LLC P.O. BOX 2192, ARLINGTON, VA 22202	MEDIA SERVICES	1,537,050.
OLSEN + COMPANY LP, 1609 SHOAL CREEK BLVD, STE 203, AUSTIN, TX 78701	MAIL PRODUCTION SERVICES	782,410.
2 Total number of independent contractors (including but not limited to those listed above) who received more than \$100,000 of compensation from the organization ▶		27

437008 11-07-14 Form 990 (2014)

Groups often submit only vague descriptions, such as "media services" or "consulting phone programs."

These organizations can spend money on direct political advocacy, but that cannot be their primary purpose, which is usually determined by how much the group spent on politics as a proportion of their overall expenditures. However, expenses earmarked as "educational" or "membership building" are considered part of the organization's primary purpose.

Educational Spending



In many cases, groups will spend considerable sums of money on advertising and classify this spending as educational because it does not directly advocate for any candidate. This broad interpretation of educational spending and narrow definition of political spending allows groups to spend considerable sums of money shaping voters' opinions about particular candidates, thus influencing the potential outcome of an election while keeping their official political expenditure percentage low.

Political Grantmaking




Dark money groups will also make large grants to like-minded groups, which are considered part of the organization's primary purpose budget. These grants allow for a group to spend a portion of money on political advocacy and they can help grow the overall budget of the group allowing them spend even more on political activity.


Go **HERE** to view an infographic that shows how \$10 million can legally be passed around a network of organizations to inflate budgets and allow the organizations to spend the entire \$10 million on political advocacy.

Timeline


Important Dark Money Milestones


2002  Placed new restrictions on nonprofit election spending.
Bipartisan Campaign Reform Act

Before 2007: Much of the outside spending consisted of communications to members with a little express advocacy, known as "independent expenditures," such as radio or TV ads.

2007  Supreme Court decision ruled that issue ads can be aired in the months leading up to an election.
Wisconsin Right to Life

2008 Election Cycle : Explosion in electioneering communications, which are issue ads made within certain pre-election and pre-convention time periods.

2010  Loosened restrictions on corporate spending and made it possible for Dark Money groups to ramp up their independent expenditures.
Citizens United V. FEC

SpeechNow V. FEC  Allowed unlimited contributions to a new kind of "independent-expenditure only" political action committees (PAC), now known as "super PACs"

2010 Election Cycle : Spending grew by 196% up to \$135.61 million.

2012 Election Cycle : The majority of the election spending by politically active nonprofits was in the form of direct appeals to vote for or against particular candidates, growing by 227% from the previous election cycle to \$308.7 million.

2014 Election Cycle : Reported spending increased yet again, from \$139 million in the 2010 midterms to \$178 million, and groups bought tens of thousands of ads outside of periods when the ads have to be reported to the FEC.

2016 Election Cycle : While the uncertainty and confusion of the presidential election led many donors and politically active groups to avoid the presidential election, spending in House and Senate races from dark money groups remained high.

Top Dark Money Groups

Who are the top Dark Money Donors?

By sifting through thousands of 990 tax forms, the Center for Responsive Politics has come up with this list of top dark money groups. Despite this effort, the sources of much of the money flowing to politically active nonprofits remain unknown.

Carolina Rising

The race between Republican Thom Tillis and then-Sen. Kay Hagan, a Democrat, was one of the most contentious and expensive of the 2014 cycle. Outside group, Carolina Rising, spent \$3.3 million in the race. It raised nearly all of its funds from a single \$4.8 million contribution, hired no employees, had no volunteers, had no office, and spent nearly all funds on "issue ads" in support of Thom Tillis who ultimately won the election.



Crossroads GPS

A brainchild of GOP political operatives, this 501(c)(4) social welfare organization was an early player in the post-Citizens United landscape. After languishing in limbo for nearly five-and-a-half years, Crossroads GPS's request for nonprofit status was granted giving an air of legitimacy to the more than \$330 million that it had raised and spent over the years, most of it on election-related ads and candidate support.





Koch Network

This extensive network, backed by billionaire industrialists Charles and David Koch, includes both tax-exempt groups and limited liability companies that are, in effect, subsidiaries of the tax-exempt corporations but go by different names, helping to mask how money moves around within the system. This network gave millions to GOP allies' outside groups.

Sixteen Thirty Fund

Demand Justice announced that it expects to spend in the mid-five figures on digital ad campaigns against Trump's picks to replace Supreme Court Justice Kennedy. Demand Justice was organized by a fiscal sponsor called the Sixteen

Thirty Fund. As a fiscal sponsor, the Sixteen Thirty Fund is an existing 501(c)(4) nonprofit organization that provides support for Demand Justice in addition to over 45 other initiatives active at the state and federal level that lack tax-exempt status or do not

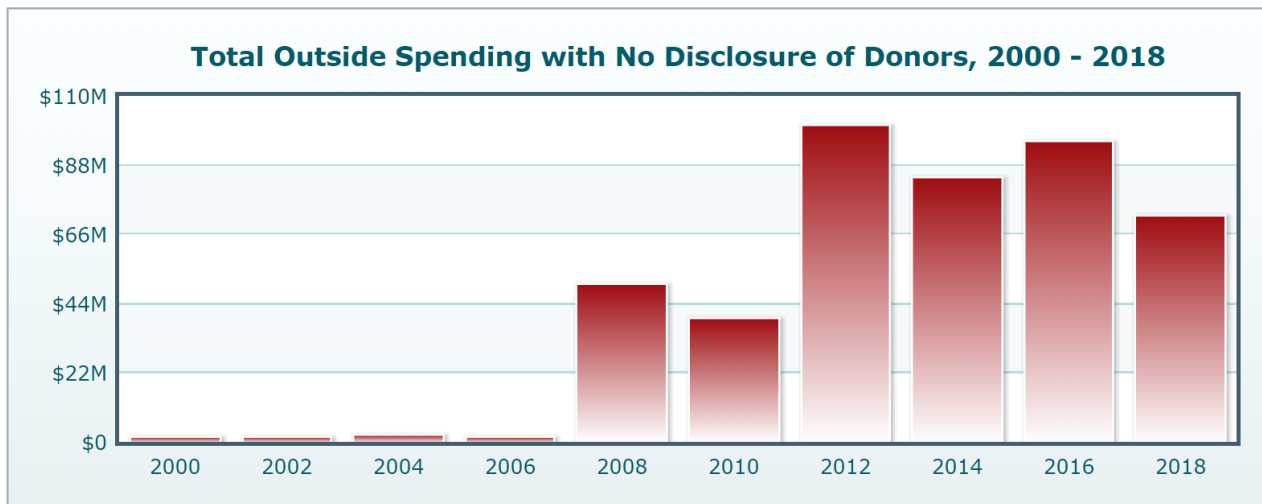
exist as separately incorporated entities. Because Sixteen

Thirty Fund consolidates all of its fiscally sponsored projects into a single tax return, information about the project's activities, funding, and spending remains hidden among its other projects.



Dark Money Growth

Outside Spending by Nondisclosing Groups, Cycle to Date, Excluding Party Committees

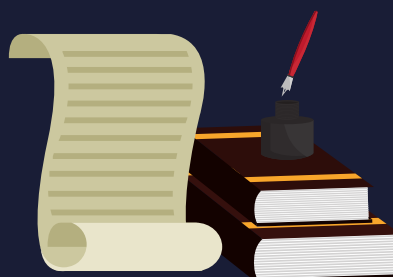


Dark Money groups account for staggering gaps in understanding exactly how each funding dollar is being spent during political elections. These gaps are becoming wider with every election cycle. Dark Money groups have reported spending more than \$750 million on independent expenditures since 2010 – the year the Supreme Court’s Citizens United decision came down – and even more on political activities framed as "issue" advocacy that may not be reported to the Federal Election Commission (FEC).

(Graph last updated 9/24/18)

Legislation to Fight Dark Money

Though dark money spending continues to increase, legislation has been proposed and is being discussed to limit the influence of these untraceable organizations and individuals. Two are listed below:



H.R. 1134: Disclose Act of 2017

This bill requires organizations spending money in elections –including super PACz and 501(c)(4) groups – to promptly disclose donors who have given \$10,000 or more during an election cycle. The bill includes robust transfer provisions to prevent political operatives from using complex webs of entities to hide donor identities. Additionally, the bill prohibits domestic corporations with significant foreign control from spending money in elections and cracks down on shell companies by requiring companies spending money in elections to disclose the true owner of the company, so officials and the public know who is behind the company.

Stop Secret Foreign Interference in Elections Act

This legislation would require 501(c) organizations (with the exception of 501(c)(3)s) that accept foreign donations to disclose their foreign donors if they engage in political spending, require senior executive and financial officers to certify on FEC forms that they have done their due diligence to ensure that no foreign money has been spent and that they have not spent any foreign money on campaign related disbursements, and require organizations spending money in elections to verify who their donors are and report suspicious donations.