



U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS
1139 LONGWORTH HOUSE OFFICE BUILDING
Washington, DC 20515

August 14, 2023

Request for Information: Understanding and Examining the Political Activities of Tax-Exempt Organizations under Section 501 of the Internal Revenue Code

The Committee on Ways and Means has jurisdiction over tax policy under Rule X of the Rules of the U.S. House of Representatives, which includes entities that are tax-exempt under Title 26, Section 501 of the United States Code (U.S.C.).¹ Public reporting has raised questions about whether tax-exempt sectors are operating in a manner consistent with the laws and regulations that govern such organizations and whether foreign funds are flowing through these organizations to influence American politics.² For example, the Committee has learned that a Super Political Action Committee (PAC) recommended donations to 501(c)(3) organizations as “the single most effective tactic for ensuring Democratic victories”³ and that large donations from a wealthy donor to state election offices in 2020 may have been done in a manner that helps one political party over another.⁴ Additionally, the Committee has also found that significant amounts of foreign money is flowing through 501(c)(3) and 501(c)(4) organizations to influence elections.⁵ There have even been reports that some organizations have used funds in a

¹ Rules of the House of Representatives, One Hundred Eighteenth Congress, <https://ethics.house.gov/sites/ethics.house.gov/files/documents/118-House-Rules-Clerk.pdf> (Jan. 10, 2023).

² Kenneth P. Vogel, *Short of Money to Run Elections, Local Authorities Turn to Private Funds*, THE NEW YORK TIMES (updated Sep. 26, 2020), <https://www.nytimes.com/2020/09/25/us/politics/elections-private-grants-zuckerberg.html>; Brian Slodysko, *Group steers Swiss billionaire’s money to liberal causes*, THE ASSOCIATED PRESS (Apr. 4, 2023), <https://apnews.com/article/dark-money-democrats-wyss-politics-elections-601d40cd01569190559d545418afe396>; Kenneth P. Vogel, *Swiss Billionaire Quietly Becomes Influential Force Among Democrats*, THE NEW YORK TIMES (May 3, 2021), <https://www.nytimes.com/2021/05/03/us/politics/hansjorg-wyss-money-democrats.html>.

³ Mind the Gap, *Overview of Mind the Gap*, <https://capitalresearch.org/app/uploads/Mind-The-Gap-Internal-memo.pdf> (last accessed May 24, 2023); Theodore Schleifer, *Inside the secretive Silicon Valley group that has funneled over \$20 million to Democrats*, VOX (Jan. 6, 2020), <https://www.vox.com/recode/2020/1/6/21046631/mind-the-gap-silicon-valley-democratic-donors-stanford>; Federal Election Commission, Statement of Organization, Mind the Gap, <https://docquery.fec.gov/cgi-bin/forms/C00683649/1602737/> (signed on June 16, 2022).

⁴ Priscilla Chan and Mark Zuckerberg Commit \$300 Million Donation to Promote Safe and Reliable Voting During COVID-19 Pandemic, Center for Tech and Civic Life and Center for Election Innovation & Research (Sep. 1, 2020), <https://s3.documentcloud.org/documents/7070695/CTCL-CEIR-Press-Release-9-1-20-FINAL.pdf>; Parker Thayer and Hayden Ludwig, *UPDATED: Shining a Light on Zuck Bucks in the 2020 Battleground States*, CAPITAL RESEARCH CENTER (Jan. 18, 2022), <https://capitalresearch.org/article/shining-a-light-on-zuck-bucks-in-key-states/>; Kenneth P. Vogel, *Short of Money to Run Elections, Local Authorities Turn to Private Funds*, THE NEW YORK TIMES (updated Sep. 26, 2020), <https://www.nytimes.com/2020/09/25/us/politics/elections-private-grants-zuckerberg.html>.

⁵ Kenneth P. Vogel, *Swiss Billionaire Quietly Becomes Influential Force Among Democrats*, THE NEW YORK TIMES (May 3, 2021), <https://www.nytimes.com/2021/05/03/us/politics/hansjorg-wyss-money-democrats.html>; Wyss Foundation, Form 990-PF – Return of Private Foundation, available at

questionable manner to support personal expenses, such as travel, for executives rather than for the true purpose for which the organization receives a tax-exemption.⁶

Given these concerning reports, we are issuing this Request for Information (RFI) to solicit information from stakeholders and the public to help the Committee better understand and evaluate the activities of certain organizations that are tax-exempt under Internal Revenue Code (IRC) Sections 501(c)(3) and Section 501(c)(4). Please submit your responses to the questions below to waysandmeansRFI@mail.house.gov by September 4, 2023.

Request for Information and Input

1. Would it be helpful to 501(c)(3) and 501(c)(4) organizations for the Internal Revenue Service (IRS) to issue updated guidance on how to define “political campaign intervention” and the extent to which 501(c)(4) organizations can engage in “political campaign intervention” be helpful to 501(c)(3) and 501(c)(4) organizations? If yes, why?
2. Does the IRS’s current guidance on the definition of “political campaign intervention” properly account for new forms of political advocacy? If not, what should be included in updated guidance from the IRS to account for forms of political advocacy that are currently not covered?
3. Are there any tax-exempt organizations whose voter education or registration activities you suspect might have had the effect of favoring a candidate or group of candidates which would constitute prohibited participation or intervention? If yes, please describes those activities?
4. Are there changes to Form 990 – which is used by tax-exempt organizations to file their tax returns– that would help clarify how contributions are being used by 501(c) organizations? Especially regarding contributions that are used to fund political activities by 501(c)(4) organizations or nonpartisan voter education activities that 501(c)(3) organizations are allowed to engage in such as voter registration activities, public forums, and publishing voter education guides?
5. Should Congress consider policy changes to address money from foreign nationals –who are prohibited from contributing directly to political campaigns, candidates, and super PACs—flowing through 501(c)(3) and 501(c)(4) organizations to influence U.S. elections? If so, what specific policy changes should be considered?

<https://www.documentcloud.org/documents/20695496-the-wyss-foundations-2019-tax-filing-shows-assets-of-25-billion> (fiscal year ending December 2019); Berger Action Fund, Form 990 – Return of Organization Exempt from Income Tax, <https://www.documentcloud.org/documents/20695495-the-berger-action-funds-2019-tax-filing-shows-35m-donated-to-the-sixteen-thirty-fund> (fiscal year ending Mar. 2020); Brian Slodysko, *Group steers Swiss billionaire’s money to liberal causes*, THE ASSOCIATED PRESS (Apr. 4, 2023), <https://apnews.com/article/dark-money-democrats-wyss-politics-elections-601d40cd01569190559d545418afe396>.

⁶ Brody Mullins, Chamber CEO’s Rare Washington Perk: Private Jet Service, Even for Vacations, WALL STREET JOURNAL (JUNE 6, 2019) <https://www.wsj.com/articles/chamber-ceos-rare-washington-perk-private-jet-service-even-for-vacations-11559825503>.

6. Does the IRS collect information from 501(c)(3) and 501(c)(4) organizations that would aid the Federal Election Commission (FEC) in enforcing the foreign national prohibition under the Federal Election Campaign Act of 1971 (FECA)?
7. According to a U.S. Government Accountability Office (GAO) report, IRS examiners “do not review the national origin of sources of donations reported” by tax-exempt organizations on the Form 990, “and do not assess an organization’s compliance with FECA provisions during audits.”⁷ Given concerns over foreign influence in our elections, should IRS examiners review the national origin of sources of donations reported by a tax-exempt organization on the agency’s IRS Form 990-series?
8. Are there additional disclosures by 501(c)(3) and 501(c)(4) organizations engaged in “political campaign intervention” that would help prevent illegal contributions made by foreign nationals to influence U.S. elections?
9. Are you aware of organizations under Section 501(c) that are tax-exempt but have the true purpose of influencing elections in favor of one political party? If so, please provide a description of how such organizations achieve that goal.
10. Are you aware of organizations under Section 501(c) that are tax-exempt but have misused donor funds for the personal benefit of organization executives or have misused donor funds outside the stated purpose of the donor? If so, please provide a description of those organizations and the relevant conduct.

Section 501(c)(3) Organizations and the Law

To qualify for tax-exempt status⁸ under Section 501(c)(3), “an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual.”⁹ Those include charitable, religious, or educational purposes, among others.¹⁰ In accordance with IRC Section 170, organizations registered under Section 501(c)(3) “are eligible to receive tax-deductible contributions,” with the exception of “testing for public safety organizations.”¹¹

Under IRC Section 501(c)(3), organizations are strictly prohibited from participating in or intervening in any political campaign on behalf of or in opposition to any candidate for public office.¹² The IRS may revoke an organization’s tax-exempt status or assess excise taxes for

⁷ U.S. Government Accountability Office, Campaign Finance: Federal Framework, Agency Roles and Responsibilities, and Perspectives (Feb. 2020), <https://www.gao.gov/assets/710/705927.pdf>.

⁸ Internal Revenue Service, Exemption Requirements - 501(c)(3) Organizations, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-501c3-organizations#:~:> (last accessed May 24, 2023).

⁹ *Id.*; 26 U.S.C. § 501(c)(3).

¹⁰ *Id.*

¹¹ 26 U.S.C. § 170; Internal Revenue Service, Exemption Requirements - 501(c)(3) Organizations, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-501c3-organizations#:~:> (last accessed May 24, 2023).

¹² 26 U.S.C. § 501(c)(3).

certain types of violations if it determines noncompliance related to political campaign intervention.¹³ Organizations under Section 501(c)(3) are permitted to lobby for or against legislation, but Section 501(c)(3) and Section 501(h) restrict the amount of lobbying these organizations may conduct.¹⁴

In certain circumstances, 501(c)(3) organizations may engage in nonpartisan activities or expenditures related to elections.¹⁵ For instance, the IRS states that certain nonpartisan voter education activities, including public forums and publishing voter education guides, do not constitute prohibited political campaign activity.¹⁶ The IRS also states that activities that are intended to “encourage people to participate in the electoral process” such as voter registration and get-out-the-vote efforts are not considered political campaign activity if they are conducted in a nonpartisan manner.¹⁷ To help clarify and ensure compliance with the prohibition on political activity under Section 501(c)(3), the IRS published Fact Sheet 2006-17 in February 2006, and Revenue Ruling 2007-41 in June 2007.¹⁸ Each contains 21 examples of how the prohibition on political campaign activity is applied.¹⁹

Section 501(c)(4) Organizations and the Law

Under IRC Section 501(c)(4), civic leagues or organizations that operate exclusively for the promotion of social welfare and local associations of employees may qualify for tax-exempt status.²⁰ To qualify for tax-exempt status as a social welfare organization described in Section 501(c)(4), the organization must not be organized for profit and must be operated exclusively to promote social welfare.²¹ The earnings of these organizations may not inure to the benefit of any private shareholder or individual and if the organization engages in an excess benefit transaction with a person having substantial influence over the organization, an excise may be imposed on the person and any managers that agree to the transaction.²²

Section 501(c)(4) organizations may engage in political campaign intervention, so long as it continues to be primarily engaged in activities that promote social welfare.²³ The promotion of social welfare does not include direct or indirect participation or intervention in political

¹³ Internal Revenue Service, The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations, <https://www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501c3-tax-exempt-organizations> (last accessed May 24, 2023).

¹⁴ Internal Revenue Service, Charities and Nonprofits, Lobbying, <https://www.irs.gov/charities-non-profits/lobbying> (last accessed May 24, 2023); 26 U.S.C. § 501(c)(3); 26 U.S.C. § 501(h).

¹⁵ Internal Revenue Service, The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations, <https://www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501c3-tax-exempt-organizations> (last accessed May 24, 2023).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Internal Revenue Service, Fact Sheet 2006-17 (Feb. 2006), <https://www.irs.gov/pub/irs-news/fs-06-17.pdf>;

Internal Revenue Service, Revenue Ruling 2007-41 (June 2007), https://www.irs.gov/irb/2007-25_IRB#RR-2007-41.

¹⁹ *Id.*

²⁰ 26 U.S.C. § 501(c)(4).

²¹ Internal Revenue Service, Social Welfare Organizations, <https://www.irs.gov/charities-non-profits/other-non-profits/social-welfare-organizations> (last accessed May 25, 2023).

²² *Id.*

²³ 26 C.F.R. § 1.501(c)(4)-1(a)(2)(ii).

campaigns on behalf of or in opposition to any candidate for public office.²⁴ Following the Supreme Court’s ruling in *Citizens United v. Federal Election Commission* and the U.S. Court of Appeals for the District of Columbia’s ruling in *SpeechNow.org v. Federal Election Commission*, tax-exempt social welfare organizations under Section 501(c)(4) could make independent expenditures, electioneering communications, and contributions to Super PACs.²⁵ In practice, this means that although Section 501(c)(4) organizations are subject to some narrow restrictions, they can disperse their funds to a wide range of political activities that influence American politics.

Government Accountability Office Report on 501(c)(3) and (c)(4) Organizations

In February 2020, the GAO published a report on the roles, responsibilities, and perspectives of federal agencies that oversee campaign finance.²⁶ Since the IRS oversees compliance with tax laws governing the permissible levels of political campaign intervention by tax-exempt organizations, GAO reviewed information and data provided by the IRS.²⁷ Sources told GAO that the IRS has not “in its guidance, clarified what constitutes political campaign intervention, which is prohibited for 501(c)(3) organizations, and issue advocacy, which is generally allowed for such organizations.”²⁸ GAO was also informed that the IRS’s lack of clarity caused confusion among 501(c)(3) organizations attempting to comply with the law.²⁹ According to the report, the current guidance’s complexity and the lack of clarity from the IRS can make it costly for organizations to ensure they stay in compliance.³⁰

Sources informed GAO that 501(c)(4) organizations also need updated guidance on how to define political campaign intervention and clarity regarding the extent to which 501(c)(4) organizations can engage in political campaign intervention.³¹ Under the IRC, organizations that operate “exclusively for the promotion of social welfare” are eligible for tax-exempt status under Section 501(c)(4).³² An IRS regulation on 501(c)(4) organizations defines “exclusively” in a lenient matter, stating that 501(c)(4) organizations may engage in political campaign intervention as long as that organization continues to be “primarily engaged” in activities that promote social welfare.³³ Some sources believe that the IRS has not clearly defined what constitutes being “primarily engaged” in social welfare activities.³⁴ Due to this lack of clarity, GAO was told that “some 501(c)(4) organizations have taken advantage of the vague major purpose and primary

²⁴ *Id.*

²⁵ *Id.*; *Citizens United v. Federal Election Comm’n*, 558 U.S. 310 (2010); *SpeechNow.org v. Federal Election Comm’n*, 599 F.3d 686 (2010).

²⁶ U.S. Government Accountability Office, Campaign Finance: Federal Framework, Agency Roles and Responsibilities, and Perspectives (Feb. 2020), <https://www.gao.gov/assets/710/705927.pdf>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² 26 U.S.C. § 501(c)(4).

³³ 26 C.F.R. § 1.501(c)(4)-1(a)(2)(ii).

³⁴ U.S. Government Accountability Office, Campaign Finance: Federal Framework, Agency Roles and Responsibilities, and Perspectives (Feb. 2020), <https://www.gao.gov/assets/710/705927.pdf>.

purpose criteria to avoid registering as political committees and being subject to disclosure requirements.”³⁵

In addition to the issues surrounding the definition and extent of permissible political campaign intervention, GAO found that the lack of information 501(c)(4) organizations are required to publicly disclose impacts enforcement activities.³⁶ Historically, 501(c)(4) organizations have not been required to publicly disclose the identities of their donors except in limited cases. The current disclosure requirements have negatively impacted enforcement, with sources telling GAO that the lack of reported information limits the U.S. Department of Justice’s (DOJ) ability to detect and prosecute prohibited contributions and expenditures, including those that come from corporations and foreign entities.³⁷ Officials at DOJ told GAO that they can only obtain donor information reported to the IRS with a court order.³⁸

Due to the lack of disclosure requirements, corporations and foreign entities seeking to keep their political donations private may use 501(c) contributions to contribute to Super PACs. Super PACs are required to disclose the names of the 501(c) organizations that donate to them, but this does not include the original sources of funds, such as contributors to the 501(c) organizations.³⁹ Since the 2010 Supreme Court’s decision in *Citizen’s United vs. Federal Election Commission*, which allowed corporations and unions to spend freely on political advertisements, 501(c)(4) organizations have been the focus of political activity by tax-exempt groups.⁴⁰ Critics commonly refer to 501(c)(4) organizations as “dark money” groups because they are permitted to accept unlimited contributions from any source and are not required to disclose their donors.⁴¹ In addition, 501(c)(4) organizations are permitted to contribute unlimited funds to Super PACs, which can directly support a candidate through independent expenditures.⁴² Reports indicate that some traditionally organized 501(c)(3) activist groups have converted to or created spin off 501(c)(4) organizations to have greater freedom to engage in lobbying and partisan political activities.⁴³

From fiscal years (FY)s 2010 to 2017, the IRS conducted and closed 226 examinations related to non-compliant political campaign intervention by tax-exempt organizations, according to GAO’s report.⁴⁴ Of those, 127 examinations resulted in an organization being issued a written advisory without impacting the organization’s tax-exempt status, while 77 examinations resulted in no change to an organization’s exempt status or tax liability without any issue for which a

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Citizens United v. Federal Election Comm’n*, 558 U.S. 310 (2010).

⁴¹ Campaign Legal Center, PACs, Super PACs & Dark Money Groups: What's the Difference?, <https://campaignlegal.org/update/pacs-super-pacs-dark-money-groups-whats-difference> (June 20, 2018).

⁴² *Id.*; Federal Election Commission, Registering as a Super PAC, <https://www.fec.gov/help-candidates-and-committees/filing-pac-reports/registering-super-pac/> (last accessed May 25, 2023).

⁴³ David Pozen, *The Tax-Code Shift That’s Changing Liberal Activism*, THE ATLANTIC (Nov. 27, 2018), <https://www.theatlantic.com/ideas/archive/2018/11/501c3-501c4-activists-and-tax-code/576364/>.

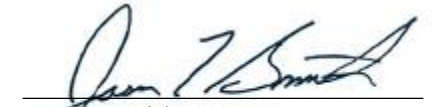
⁴⁴ U.S. Government Accountability Office, Campaign Finance: Federal Framework, Agency Roles and Responsibilities, and Perspectives (Feb. 2020), <https://www.gao.gov/assets/710/705927.pdf>.

written advisory was required.⁴⁵ This represents 90 percent of examinations that were conducted and closed that resulted in no change to the tax-exempt status or tax liability of an organization. From FYs 2010 to 2017, only 22 examinations of tax-exempt organizations resulted in further action from the IRS.⁴⁶


Potential Need for Legislative Action

The expansion of politics into almost all aspects of life means that activities that were previously considered nonpartisan have been made partisan—legislation and regulation have not kept up. Congress may need to consider closing growing loopholes that allow the use of tax-exempt status to influence American elections. Additionally, we are concerned about the political activities that 501(c)(3) organizations may be engaging in, the relationships between 501(c)(3) and 501(c)(4) organizations, and the role of Super PACS in this financial ecosystem. One significant concern comes from the flow of massive sums of money from foreign sources through tax-exempt organizations in the U.S., and ultimately into other organizations aiming to influence American politics and elections. These concerns require the Committee to seek information from stakeholders and the public that could help inform policymaking related to these issues.

Sincerely,



Jason Smith
Chairman
Committee on Ways and Means



David Schweikert
Chairman
Subcommittee on Oversight
Committee on Ways and Means

⁴⁵ *Id.*

⁴⁶ *Id.*

Appendix A: Super PAC suggests that donating to 501(c)(3)s is the “most effective tactic for ensuring Democratic victories”

Despite the attention that 501(c)(4) organizations receive for their political spending, recent evidence suggests that 501(c)(3) organizations played a role during the 2020 election cycle. For example, Mind the Gap, a Democrat Super PAC, stated in a 2020 donor memo that “the single most effective tactic for ensuring Democratic victories – 501(c)(3) voter registration focused on underrepresented groups in the electorate”⁴⁷ The memo also said that “[b]ecause 90 percent of the contributions we are recommending for voter registration and GOTV efforts will go to 501(c)(3) organizations and hence are tax deductible, on an after-tax basis such programs are closer to 4 to 10 times more cost-effective than the next best alternative.”⁴⁸

One of the 501(c)(3) organizations that Mind the Gap recommends donors contribute to is the Voter Participation Center (VPC), which is a group that conducts voter registration efforts.⁴⁹ VPC paid Mission Control, Inc. over \$1.5 million for printing and production services, according to its 2019 Form 990.⁵⁰ According to their website, Mission Control, Inc. has “become the most successful direct mail firm working in Democratic politics today.”⁵¹ In addition, the VPC paid Catalist more than \$490,000 for their mailing list.⁵² Catalist describes itself as “the longest running data trust in progressive politics.”⁵³

It is concerning that a Super PAC encourages donations to a 501(c)(3) organization that is described as “the single most effective strategy for ensuring Democratic victories” while highlighting the tax-deductible contributions that 501(c)(3) organizations receive.⁵⁴ The prohibition of political activity is one of the requirements for organizations to qualify for tax-exempt status under Section 501(c)(3) and the suggestion by a Super PAC that donations to these organizations are helpful in securing victories for a particular political party raises questions about whether their voter education activities are nonpartisan. In addition, the fact that the 501(c)(3) organization subsequently used vendors that are openly affiliated with a particular political party raises the question of whether this constitutes political campaign activity.

⁴⁷ Mind the Gap, *Overview of Mind the Gap*, available at <https://capitalresearch.org/app/uploads/Mind-The-Gap-Internal-memo.pdf> (last accessed May 24, 2023); Theodore Schleifer, *Inside the secretive Silicon Valley group that has funneled over \$20 million to Democrats*, VOX (Jan. 6, 2020), <https://www.vox.com/recode/2020/1/6/21046631/mind-the-gap-silicon-valley-democratic-donors-standford>; Federal Election Commission, Statement of Organization, Mind the Gap, <https://docquery.fec.gov/cgi-bin/forms/C00683649/1602737/> (signed on June 16, 2022).

⁴⁸ Mind the Gap, *Overview of Mind the Gap*, <https://capitalresearch.org/app/uploads/Mind-The-Gap-Internal-memo.pdf> (last accessed May 24, 2023).

⁴⁹ *Id.*; Voter Participation Center, *Who is VPC?*, <https://www.voterparticipation.org/about-us/>.

⁵⁰ Voter Participation Center, Form 990 – Return of Organization Exempt from Income Tax, PROPUBLICA, https://projects.propublica.org/nonprofits/display_990/550889748/02_2021_prefixes_52-56%2F550889748_201912_990_2021022417754673 (fiscal year ending Dec. 2019).

⁵¹ Mission Control, *Why Our Clients Win*, <https://www.missioncontrolinc.net/why-our-clients-win> (last accessed May 24, 2023).

⁵² Voter Participation Center, Form 990 – Return of Organization Exempt from Income Tax, PROPUBLICA, https://projects.propublica.org/nonprofits/display_990/550889748/02_2021_prefixes_52-56%2F550889748_201912_990_2021022417754673 (FY ending Dec. 2019).

⁵³ Catalist, *Who We Are*, available at <https://catalist.us/> (last accessed May 24, 2023).

⁵⁴ Mind the Gap, *Overview of Mind the Gap*, available at <https://capitalresearch.org/app/uploads/Mind-The-Gap-Internal-memo.pdf> (last accessed May 24, 2023).

Appendix B: “Zuckerbucks” – Hundreds of Millions of Dollars Donated to Democrat-Aligned Organizations

In September 2020, Mark Zuckerberg, the Chief Executive Officer (CEO) of Meta, and his wife announced a \$300 million donation to “promote safe and reliable voting in states and localities during the COVID-19 pandemic.”⁵⁵ Of the \$300 million, \$250 million was committed to the Center for Technology and Civic Life (CTCL), a 501(c)(3) organization, and \$50 million was committed to the Center for Election Innovation & Research (CEIR), which is also a 501(c)(3).⁵⁶

In October 2020, Mark Zuckerberg and his wife donated an additional \$100 million to the CTCL, bringing their total donation to \$328 million.⁵⁷ The donation from the Chan Zuckerberg Initiative, the Zuckerberg’s foundation, was used to provide grants to local municipalities and counties to support election infrastructure and expand voter access.⁵⁸ During the 2020 election cycle, CTCL awarded tens of millions of dollars in grants to local election offices, including several that were located in key politically competitive states.⁵⁹ One analysis indicates that in several of those states, the majority of CTCL grants were awarded to counties that voted for President Biden.⁶⁰

According to a report from *The New York Times*, the five largest cities in Wisconsin “which are a major source of Democratic votes in a key swing state” were granted \$6.3 million from CTCL to pay for election infrastructure in 2020.⁶¹ One month later, the CTCL announced that it donated \$10 million to Philadelphia, which had the effect of “drastically expanding the election budget of the biggest Democratic stronghold in one of the biggest swing states.”⁶²

After initially committing \$50 million to the CEIR, it was later announced that the Zuckerbergs donated an additional \$19.5 million to the group which brought the total donation to

⁵⁵ Priscilla Chan and Mark Zuckerberg Commit \$300 Million Donation to Promote Safe and Reliable Voting During COVID-19 Pandemic, Center for Tech and Civic Life and Center for Election Innovation & Research (Sep. 1, 2020), <https://s3.documentcloud.org/documents/7070695/CTCL-CEIR-Press-Release-9-1-20-FINAL.pdf>.

⁵⁶ *Id.*

⁵⁷ Michael Scherer, *Mark Zuckerberg and Priscilla Chan donate \$100 million more to election administrators, despite conservative pushback*, THE WASHINGTON POST (Oct. 13, 2020), https://www.washingtonpost.com/politics/zuckerberg-chan-elections-facebook/2020/10/12/0e07de94-0cba-11eb-8074-0e943a91bf08_story.html; Chan Zuckerberg Initiative, *Grants*, <https://chanzuckerberg.com/grants-ventures/grants/> (last accessed May 24, 2023).

⁵⁸ See Priscilla Chan and Mark Zuckerberg Commit \$300 Million Donation to Promote Safe and Reliable Voting During COVID-19 Pandemic, Center for Tech and Civic Life and Center for Election Innovation & Research (Sep. 1, 2020), <https://s3.documentcloud.org/documents/7070695/CTCL-CEIR-Press-Release-9-1-20-FINAL.pdf>.

⁵⁹ The Center for Technology and Civic Life, Form 990 – Return of Organization Exempt from Income Tax, PROPUBLICA, <https://projects.propublica.org/nonprofits/organizations/472158694/202240249349300769/full> (FY ending Jan. 2020).

⁶⁰ Parker Thayer and Hayden Ludwig, *UPDATED: Shining a Light on Zuck Bucks in the 2020 Battleground States*, CAPITAL RESEARCH CENTER (Jan. 18, 2022), <https://capitalresearch.org/article/shining-a-light-on-zuck-bucks-in-key-states/>.

⁶¹ Kenneth P. Vogel, *Short of Money to Run Elections, Local Authorities Turn to Private Funds*, THE NEW YORK TIMES (updated Sep. 26, 2020), <https://www.nytimes.com/2020/09/25/us/politics/elections-private-grants-zuckerberg.html>.

⁶² *Id.*

\$69.5 million.⁶³ Most of the grants awarded by CEIR went to Secretary of States or statewide election offices as opposed to the grants from CTCL which mostly went to municipal and county election offices.⁶⁴

The Michigan Center for Election Law and Administration, which in 2020 received an \$11.9 million grant from CEIR, reported paying \$9.8 million to Waterfront Strategies and \$2.1 million to Alper Strategies LLC for media strategy services.⁶⁵ Waterfront Strategies is the ad-buying arm of GMMB, which is a consulting firm aligned with Democrats.⁶⁶ In addition, Alper Strategies LLC is a Democrat-aligned consulting firm founded by the former political director of the Democratic National Committee.⁶⁷

Mr. Zuckerberg's massive donations to 501(c)(3) organizations that subsequently awarded grants to local and statewide government entities to fund their election operations have raised serious concerns. *The Wall Street Journal's* editorial board has stated that "even under the purest motives, private election funding is inappropriate and sows distrust."⁶⁸ A senior fellow at the Cato Institute, often cited as an expert in elections, has also voiced his concern saying that "it's perfectly legitimate to have a debate about restricting" private donations to public election agencies and noted that even though the impact "might have proved generally benign this time," these types of donations might allow ideologically committed donors to influence local elections policy.⁶⁹ State capitols across the country have also taken notice of donations to election offices and, as of now, 24 states have voted to restrict or ban the use of private funds for election offices.⁷⁰ Although Mr. Zuckerberg did not make any donations to U.S. election offices during the 2022 election, what transpired during the final weeks of the 2020 presidential election cycle raises serious concerns about the participation of 501(c)(3) organizations in our political system.

⁶³ Priscilla Chan and Mark Zuckerberg Increase Support for Safe and Reliable Voting by \$19.5 Million, Center for Election Innovation & Research (last accessed May 24, 2023), <https://electioninnovation.org/press/chan-zuckerberg-increase-2020-election-support/>; Chan Zuckerberg Initiative, *Grants*, <https://chanzuckerberg.com/grants-ventures/grants/> (last accessed May 24, 2023).

⁶⁴ Center for Election Innovation & Research, Form 990 – Return of Organization Exempt from Income Tax, available at <https://projects.propublica.org/nonprofits/organizations/813815137/202201329349306200/full> (fiscal year ending June 2021); The Center for Technology and Civic Life, Form 990 – Return of Organization Exempt from Income Tax, PROPUBLICA, <https://projects.propublica.org/nonprofits/organizations/472158694/202240249349300769/full> (fiscal year ending Jan. 2020).

⁶⁵ Center for Election Innovation & Research, Form 990 – Return of Organization Exempt from Income Tax, PROPUBLICA, <https://projects.propublica.org/nonprofits/organizations/813815137/202201329349306200/full> (FY ending June 2021); Michigan Center for Election Law and Administration, Form 990 – Return of Organization Exempt from Income Tax, PROPUBLICA, https://projects.propublica.org/nonprofits/display_990/263393063/05_2021_prefixes_26-27%2F263393063_202012_990_2021052418178365 (fiscal year ending Dec. 2020).

⁶⁶ Lachlan Markay, *Consulting firms double-dipping in political candidates rake in more than \$1B*, AXIOS (Jan. 12, 2022), <https://www.axios.com/2022/01/13/consultants-double-dip-campaign-spending>.

⁶⁷ Jill Alper, *Jill Alper's Bio*, <http://www.jillalper.com/> (last accessed May 24, 2023).

⁶⁸ The Editorial Board, *Zuckerbucks Shouldn't Pay for Elections*, THE WALL STREET JOURNAL (Jan. 3, 2022), <https://www.wsj.com/articles/zuckerbucks-shouldnt-pay-for-elections-mark-zuckerberg-center-for-technology-and-civic-life-trump-biden-2020-11640912907>.

⁶⁹ Walter Olson, *"Zuckerbucks" Didn't Throw the 2020 Election*, CATO INSTITUTE (Sep. 12, 2022), <https://www.cato.org/blog/zuckerbucks-didnt-throw-2020-election>.

⁷⁰ National Conference of State Legislatures, *Prohibiting Private Funding of Elections*, <https://www.ncsl.org/elections-and-campaigns/prohibiting-private-funding-of-elections> (updated Jan. 24, 2023).

**Appendix C: Contributions from Foreign Nationals and the Untraceable Flow of Money
Within the Networks of Nonprofit Groups**

In May 2021, *The New York Times* reported that the nonprofit and the foundation of Swiss billionaire Hansjörg Wyss donated \$208 million to three nonprofit organizations from 2016 through early 2020 that subsequently sent money to groups that backed progressive causes “and helped Democrats in their efforts to win the White House and control of Congress last year.”⁷¹ The Wyss Foundation is registered under Section 501(c)(3), which means it is subject to a strict prohibition on political campaign intervention.⁷² Mr. Wyss’ nonprofit—the Berger Action Fund—is registered under Section 501(c)(4) meaning that it may engage in some political campaign intervention, so long as it continues to be primarily engaged in activities that promote social welfare.⁷³ The Wyss Foundation and the Berger Action Fund share facilities and staff in Washington, D.C.⁷⁴

Mr. Wyss’ donations to the Wyss Foundation and the Berger Action Fund, and what those funds were subsequently used for is noteworthy because Mr. Wyss is a foreign national. Foreign nationals are prohibited from directly or indirectly donating to political candidates or political committees under 52 U.S.C. § 30121 and 11 CFR § 110.20.⁷⁵ As *The Associated Press* has reported, even though Mr. Wyss is a foreign national, “his influence is still broadly felt through millions of dollars routed through a network of nonprofit groups that invest heavily in the Democratic ecosystem.”⁷⁶ *The Associated Press* also noted that Mr. Wyss’ nonprofits “don’t have to disclose the source of their funding—or many details about how they spend it” and despite the assurances from Wyss’ representatives that they are complying with laws governing the giving of foreign nationals and that the organization has policies to limit the use of donations to issue advocacy and not partisan political activities, “the fact that the money cannot be publicly traced highlights the difficulty of putting such assertions to the test.”⁷⁷

In addition, from 2007 through 2020, the Wyss Foundation reported granting a total of \$56.5 million to the New Venture Fund.⁷⁸ The New Venture Fund is a 501(c)(3) organization that

⁷¹ Kenneth P. Vogel, *Swiss Billionaire Quietly Becomes Influential Force Among Democrats*, THE NEW YORK TIMES (May 3, 2021), <https://www.nytimes.com/2021/05/03/us/politics/hansjorg-wyss-money-democrats.html>.

⁷² Wyss Foundation, Form 990-PF – Return of Private Foundation, *available at* <https://www.documentcloud.org/documents/20695496-the-wyss-foundations-2019-tax-filing-shows-assets-of-25-billion> (fiscal year ending December 2019); 26 U.S.C. § 501(c)(3).

⁷³ Berger Action Fund, Form 990 – Return of Organization Exempt from Income Tax, <https://www.documentcloud.org/documents/20695495-the-berger-action-funds-2019-tax-filing-shows-35m-donated-to-the-sixteen-thirty-fund> (fiscal year ending Mar. 2020); 26 C.F.R. § 1.501(c)(4)-1(a)(2)(ii).

⁷⁴ Wyss Foundation, Form 990-PF – Return of Private Foundation, <https://www.documentcloud.org/documents/20695496-the-wyss-foundations-2019-tax-filing-shows-assets-of-25-billion> (fiscal year ending Dec. 2019).

⁷⁵ 52 U.S.C. § 30121; 11 C.F.R. § 110.20

⁷⁶ Brian Slodysko, *Group steers Swiss billionaire’s money to liberal causes*, THE ASSOCIATED PRESS (Apr. 4, 2023), <https://apnews.com/article/dark-money-democrats-wyss-politics-elections-601d40cd01569190559d545418afe396>.

⁷⁷ *Id.*

⁷⁸ Wyss Foundation, Form 990-PF – Return of Private Foundation, <https://www.documentcloud.org/documents/20695496-the-wyss-foundations-2019-tax-filing-shows-assets-of-25-billion> (fiscal year ending Dec. 2019).

is part of the Arabella Advisors network of organizations.⁷⁹ Arabella Advisors is a for-profit philanthropy and nonprofit management consulting company that *The Atlantic* has described as “the progressive movement’s empire of political cash.”⁸⁰ Arabella Advisors was founded in 2005 by a former Clinton administration staffer and has been described by *The New York Times* as a leading vehicle for “dark money” on the left.⁸¹ As they describe it, the firm “has funneled hundreds of millions of dollars through a daisy chain of groups supporting Democrats and progressive causes” through a “system of political financing, which often obscures the identities of donors. . . .”⁸² In December 2021, Open Secrets, a nonprofit organization that tracks data on campaign finance and lobbying, reported that Arabella Advisors has taken in around \$158 million from the four main nonprofits it operates since 2015.⁸³

Wyss’ 501(c)(4) organization, the Berger Action Fund, has also received scrutiny recently for the grants it has awarded.⁸⁴ According to *The Associated Press*, of the \$72.7 million donated in 2021 by the Berger Action Fund, \$62.7 million went to two groups that were “focused on building public support for Biden’s agenda.”⁸⁵ These two groups, the New Venture Fund and the Sixteen Thirty Fund, have received \$245 million from Mr. Wyss’ organizations from 2016 to 2022.⁸⁶ In addition to these two organizations, the Berger Action Fund also provided the majority of the funding for the Fund for a Better Future from 2016 through 2020.⁸⁷ In 2020, the Fund for a Better Future led a campaign that helped finance millions of dollars in ads backing Biden’s Build Back Better agenda.⁸⁸

The Sixteen Thirty Fund is a 501(c)(4) organization within the Arabella Advisors network that has been described by *The Atlantic* as “the indisputable heavyweight of Democratic dark

⁷⁹ New Venture Fund, Form 990 – Return of Organization Exempt from Income Tax, PROPUBLICA, <https://projects.propublica.org/nonprofits/organizations/205806345/202113169349310971/full> (fiscal year ending Dec. 2020); Kenneth P. Vogel and Katie Robertson, *Top Bidder for Tribune Newspapers Is an Influential Liberal Donor*, THE NEW YORK TIMES (updated Apr. 17, 2021), <https://www.nytimes.com/2021/04/13/business/media/wyss-tribune-company-buyer.html>.

⁸⁰ Arabella Advisors, Areas of Expertise, available at <https://www.arabellaadvisors.com/areas-of-expertise/>; Emma Green, *The Massive Progressive Dark-Money Group You’ve Never Heard Of*, THE ATLANTIC (Nov. 2, 2021), <https://www.theatlantic.com/politics/archive/2021/11/arabella-advisors-money-democrats/620553/>.

⁸¹ Kenneth P. Vogel and Katie Robertson, *Top Bidder for Tribune Newspapers Is an Influential Liberal Donor*, THE NEW YORK TIMES (updated Apr. 17, 2021), available at <https://www.nytimes.com/2021/04/13/business/media/wyss-tribune-company-buyer.html>.

⁸² *Id.*

⁸³ Anna Massoglia, *Liberal ‘dark money’ groups’ revenue soared ahead of 2020 elections*, OPEN SECRETS (Dec. 23, 2021), available at <https://www.opensecrets.org/news/2021/12/liberal-dark-money-groups-revenue-soared-ahead-of-2020-elections/>.

⁸⁴ Brian Slodysko, *Group steers Swiss billionaire’s money to liberal causes*, THE ASSOCIATED PRESS (Apr. 4, 2023), available at <https://apnews.com/article/dark-money-democrats-wyss-politics-elections-601d40cd01569190559d545418afe396>.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Kenneth P. Vogel, *Swiss Billionaire Quietly Becomes Influential Force Among Democrats*, THE NEW YORK TIMES (May 3, 2021), available at <https://www.nytimes.com/2021/05/03/us/politics/hansjorg-wyss-money-democrats.html>.

⁸⁸ Brian Slodysko, *Group steers Swiss billionaire’s money to liberal causes*, THE ASSOCIATED PRESS (Apr. 4, 2023), available at <https://apnews.com/article/dark-money-democrats-wyss-politics-elections-601d40cd01569190559d545418afe396>.

money.”⁸⁹ In 2020, the Sixteen Thirty Fund donated more than \$63 million to Super PACs backing Democrats or opposing Republicans, including pro-Biden groups Priorities USA Action, Unite the Country, and the Lincoln Project.⁹⁰ Both the Sixteen Thirty Fund and the New Venture Fund have helped create and fund dozens of groups, including some that have worked to block nominees of former President Trump and push progressive appointments of President Biden.⁹¹

As *The New York Times* has reported, money in the Arabella Advisors network flows from the large nonprofits that serve as the parent structures for a range of different groups and then those groups disburse some of the funds along to other nonprofit groups or Super PACs.⁹² A spokesperson for Mr. Wyss’ two operations has said that the Berger Action Fund had a policy barring any of its funding from being used to support or oppose candidates for office or electoral activities.⁹³ The spokesperson also responded to a question about donations being passed through to other organizations by saying that the Berger Action Fund has recently placed a greater emphasis on supporting other nonprofit or grant-making organizations such as the Sixteen Thirty Fund.

Even though the New Venture Fund, the Fund for a Better Future, and the Sixteen Thirty Fund have denied spending donations from Mr. Wyss’ organizations on partisan campaign efforts, the lack of disclosure requirements for 501(c) organizations makes these denials impossible to confirm by means of disclosure reports.⁹⁴ As *The New York Times* reported, “[t]ax filings by the Sixteen Thirty Fund and New Venture Fund do not indicate how they spent the funds from Mr. Wyss’s groups, nor do tax filings submitted by the Sacramento-based Fund for a Better Future, which passes money from donors to groups that push to shape the political process in a way that helps Democrats.”⁹⁵ We are concerned about the possibility that foreign nationals are influencing our elections by indirectly donating millions of dollars to organizations that spend on behalf of or against candidates for public office without concern about disclosure requirements that would shed light on how exactly their funds are being used.

⁸⁹ Kenneth P. Vogel, *Swiss Billionaire Quietly Becomes Influential Force Among Democrats*, THE NEW YORK TIMES (May 3, 2021), available at <https://www.nytimes.com/2021/05/03/us/politics/hansjorg-wyss-money-democrats.html>; Emma Green, *The Massive Progressive Dark-Money Group You’ve Never Heard Of*, THE ATLANTIC (Nov. 2, 2021), <https://www.theatlantic.com/politics/archive/2021/11/arabella-advisors-money-democrats/620553/>.

⁹⁰ Kenneth P. Vogel, *Swiss Billionaire Quietly Becomes Influential Force Among Democrats*, THE NEW YORK TIMES (May 3, 2021), available at <https://www.nytimes.com/2021/05/03/us/politics/hansjorg-wyss-money-democrats.html>.
⁹¹ *Id.*

⁹² Kenneth P. Vogel and Katie Robertson, *Top Bidder for Tribune Newspapers Is an Influential Liberal Donor*, THE NEW YORK TIMES (updated Apr. 17, 2021), <https://www.nytimes.com/2021/04/13/business/media/wyss-tribune-company-buyer.html>.

⁹³ Kenneth P. Vogel, *Swiss Billionaire Quietly Becomes Influential Force Among Democrats*, THE NEW YORK TIMES (May 3, 2021), <https://www.nytimes.com/2021/05/03/us/politics/hansjorg-wyss-money-democrats.html>.

⁹⁴ *Id.*

⁹⁵ *Id.*