

# 10

## ADVOCACY AND THE CHALLENGES IT PRESENTS FOR NONPROFITS

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**A**mericans have a long-standing tradition of association and expression on political issues (Barber 2002; Reid 2003). Today, they largely organize their voices through a variety of nonprofit organizations—for example, large membership organizations, unions, locally based civic action groups, political organizations, issue-oriented lobbies, and social service organizations. In fact, nonprofit organizations are a familiar institutional force in American politics on almost every side of every issue. They promote the interests, values, and preferences of a diverse civic culture that includes the mainstream and minority, social service providers and their clients, businesses and employees, and the religious and secular. Indeed, nonprofits themselves have become a well-organized lobby on policy issues affecting the nonprofit sector.

Along with elected officials and formal institutions of government, nonprofits are part of the system of representation in American

democracy (Boris and Krehely 2002; Reid 2000, 2003; Reid and Montilla 2001, 2002). They monitor policy, put forward policy positions, agree and disagree with government, and support and challenge public officials. Their influence is not limited to the legislative process, but includes court and executive appointments and agency rule-making. Nonprofits are also part of broader social movements that mobilize volunteers and resources to voice widespread social concerns and push for government reforms (Reid and Montilla 2001; Zald and McCarthy 1987). They educate and mobilize voters during elections (Green and Gerber 2004; Magleby 2000) and often play significant roles in the initiation and advancement of ballot initiatives (Reid 2003). Many look beyond government to address issues of corporate responsibility both here and abroad and to improve accountability of international financial institutions and multilateral organizations.

Until recently, government regulation of nonprofit advocacy was primarily concerned with charitable lobbying expenditures. New organizational practices by nonprofits and recent changes to federal campaign finance laws have created a need for additional clarification of current regulations and have stimulated discussion about additional reform. The Internal Revenue Service (IRS), the federal agency charged with oversight of tax-exempt organizations, remains concerned that charitable donations not be diverted to partisan purposes. However, clarifying the proper role for regulation and defining the boundaries between public education and political intervention is challenging for tax regulators when nonprofits use sophisticated media messages to influence voter behavior, skirting the traditional definitions of partisanship. Complex organizational structures and a lack of detailed reporting on political activities make it difficult to understand the full extent of political engagement by groups.

Additionally, the Federal Election Commission (FEC), charged with oversight of the financing of federal elections, wants individuals, political parties, and political organizations, including nonprofits, to reveal sources and amounts of partisan contributions and stay within appropriate election spending limits. Recent passage of federal campaign reforms raised public awareness about the extent of soft money<sup>1</sup> in the political system, banned its use by national political parties in federal elections, and limited its use for certain types of highly partisan broadcast advertising close to election days. However, the law did not address the use of soft money expenditures for a range of election-oriented activity by nonprofit organizations, generating questions about the adequacy of current FEC regulation and reporting standards to capture the full extent of partisan campaign activity and expenditures in federal elections.

Nonprofits face organizational challenges in this changing regulatory environment. Most nonprofit organizations occasionally engage gov-

ernment on issues and find lobbying and political regulations at best confusing and at worst a deterrent to political engagement (Berry with Arons 2003). Generally speaking, nonprofits frequently resist proposed regulatory and reporting reforms as a form of government overreaching, potentially threatening their autonomy to openly exchange ideas, overburdening their organizations administratively, and impinging on their right to freely associate and speak with one voice. Charitable organizations concerned about protecting donor anonymity, a major incentive for charitable giving, are cautious of the potential impact on organizational funding from calls for greater financial transparency. Nonprofit-sector advocates fiercely protect the right of individuals to associate privately and of their organizational leaders to speak freely on policy issues and on the performance of public officials. Issue-oriented membership organizations, labor unions, and trade associations with voting members and elected leaders are particularly sensitive to constraints on their organization's ability to represent member interests.

This chapter updates topics on advocacy practices and lobbying regulation of nonprofits introduced in the first edition of *Nonprofits and Government* (Boris and Steuerle 1999). During the last 10 years, the Internet has transformed communications, government priorities have shifted, and nonprofits have developed new organizational forms and strategic capacities that make them prominent actors in elections. Regulation of nonprofit advocacy is in flux as groups take on new political roles and practices. These changes and others have occurred during a period of heightened partisanship, federal campaign finance reform, and greater public scrutiny of nonprofit practices. The chapter discusses these conditions and identifies areas needing greater accountability in organizational governance and advocacy practices and greater clarity in regulatory policies. Better accountability and clarity can engender public confidence in nonprofits, build public engagement in democratic processes, and improve the relationship among citizens, civil society organizations, and government.

## **NONPROFIT ADVOCACY IN A HIGHLY CHARGED POLITICAL ENVIRONMENT**

Even the best prepared organizations recognize the limits of their influence in the political system. Nonprofit advocacy efforts can influence the speed at which the political system addresses problems, and, by framing issues, the way in which policies are designed and attract support. Advocacy can also shape democratic procedures, such as voting rules, legislative procedures, or nonprofit political regulation, sometimes increasing and encouraging greater civic participation.

Advocacy can shape how policy is implemented by influencing the approaches and mechanisms used to put new policy into practice. And advocacy can increase voter engagement, animating constituencies on issues that increase registration rates and voter turnout during elections.

### **Organizations and Their Structures**

The array of nonprofit organizations shaping public understanding of issues and attempting to influence government policy is diverse in size and scope. Nonprofits referred to as interest groups are large organizations and highly visible in Congress and state legislatures as they try to shape budget and policy priorities in areas such as taxes, reproductive health, the environment, health care, education, and human services. Smaller civic-minded organizations tend to be more intermittent in their policy advocacy, becoming active when decisions at the state and local level of government affect, for example, public services, development, jobs, or education (Minkoff 2002).

Civil rights and civil liberties organizations have advocated for federally guaranteed nondiscrimination, establishing norms that have broadened the social contract between government and its citizens (Axelrod 2002; Skrentny 2002). Think tanks bring information to bear on policy choices and approach policy engagement from a range of tactical perspectives, some as impartial technical experts, others as ideologues (Rich 2004). Many nonprofit organizations are global in reach and advocate before national and foreign governments and multilateral institutions on issues such as environmental degradation, human rights, trade, peace and security, and foreign aid (Florini 2000; Keck and Sikkink 1998; Lindenberg and Bryant 2001).

Organizations use a variety of organizational arrangements and structures to align support and enlarge resources for their advocacy campaigns. They form policy networks and coalitions as a way to coordinate scarce resources and reduce political competition (Hula 1999). Organizational affiliations are particularly important for small organizations that lack the capacity to wage policy campaigns on their own. Coalitions and networks coordinate media expertise, mobilize constituencies, and build political connections into unified campaigns for change. Policy entrepreneurs and skilled organizational leaders expand the exchange of information on and resources for policy influence (Kingdon 1995).

Nonprofits structure and govern themselves in a variety of ways to carry out their political roles. Large interest groups may employ multiple tax-exempt entities to deal with different tax and political regulations and permit a wider range of political activity (Reid and Kerlin

2003), a trend discussed in the next section of this chapter. Board structures may also facilitate advocacy activity. Board members may work on political affairs committees or take responsibility for moving forward resolutions on policy positions, prioritizing policy issues, budgeting for advocacy, coordinating community input, and shaping staffing for policy action (De Vita et al. 2004).

Scholars examining structures, membership, and democratic practices in organizations note how democratic processes and communication structures inside of organizations in turn shape the character of civic voice in the political system (Barakso 2005; Rosenblum 1998; Shaiko 1999; Skocpol 2003; Warren 2000). Some nonprofits are membership organizations and weigh member interests and opinions before advocating organizational positions in public and before elected officials, acting more or less as a conveyor of constituency interests. Others have few ties with members or constituencies and act independently, attracting donors and employing experts to seed new policy ideas, promote policy positions, or monitor program performance. Some have paid professional staff with political skills, whereas others rely primarily on board members and community leaders and volunteers to generate interest and support for policy initiatives.

Some nonprofit forms are more controversial. "Astroturf" organizations are commonly run by political consulting firms and act as conduits for fundraising and use market techniques to generate support or opposition on policy issues from niche constituencies. Some charities are closely connected with elected officials, raising questions about whether they operate in the interest of the charity or the politicians (Reid and Montilla 2001).

### **Nonprofit Advocacy Activities**

Nonprofits use a wide range of advocacy activities to affect how policy is made (Reid 1999). Many are familiar activities in the nonprofit toolbox, such as public education, media exposure, and lobbying, but advocacy activities have also been changing in recent years in response to corporate practices, globalization, technology, political pressure, close elections, and regulatory reforms. A popular way for groups to bring issues directly before voters is for citizens organizations to place initiatives on the ballot. Partisans, who initially saw ballot initiatives as citizen challenges to officials and political parties, are increasingly viewing ballot initiatives as useful for mobilizing voters. For example, in 1996 the Republican Party infused Americans for Tax Reform with \$4.5 million to sponsor antitax initiatives and paycheck protection in California to increase conservative voter turnout in elections, which, if passed, would have affected the political voice of unions and other

nonprofit organizations, such as the United Way, that are reliant on paycheck deductions (Smith and Tolbert 2004).

In the face of government reluctance to regulate, nonprofit campaigns for greater corporate responsibility focus on corporate accountability to shareholders on fiscal matters, greater responsibility in social and environmental matters, and improved labor practices with living wages and health benefits. Some groups have made strides in urging corporations to adopt voluntary industry standards on social and environmental issues. For example, a broad coalition of faith organizations, the Interfaith Center on Corporate Responsibility, raised concerns with corporations about the inappropriate marketing of violent video games to youth and urged retailers, game developers, and marketers to conform with standards that limit the exposure of youth to videos with violence and strong sexual content.

Globalization has widened the scope of activities and issues in which U.S. nonprofits are involved (Reid and Kerlin 2005). U.S. nonprofits or nongovernmental organizations have always played a strong role in delivering development and assistance services, but globalization has increased awareness about the consequences across borders of national government action or inaction on environmental, trade, and human rights issues, spawning nongovernmental organization growth and action around the world (Anheier, Glasius, and Kaldor 2002; Brinkerhoff and Brinkerhoff 2002). To be effective advocates, U.S. nonprofits have become active in networks with nongovernmental organizations from other countries, with foreign governments and multilateral institutions. The International Campaign to Ban Landmines, for example, is based in the United States but works on a global problem. Although 464 of the 1,300 member organizations that signed onto the campaign to ban landmines are U.S. religious and civil society organizations, the U.S. government does not support the Mine Ban Treaty. To leverage the support needed for the ban, the organization secures endorsements for the ban and financial and volunteer support from foreign governments, organizations, and individuals from around the globe.

From a tactical point of view, new communication technologies have transformed the ability of advocates to find new recruits and money, communicate quickly, and inspire action toward specific ends (Bennett and Fielding 1999). The Internet has become an indispensable tool for nonprofit advocates, expanding their capacity for information dissemination to the public and contact with elected officials; providing improved fundraising opportunities; facilitating networking with allies; deepening the reach of organizations to unaffiliated individuals; and strengthening communication among staff, boards, members, and donors. In the health subsector, for example, new Internet-based advocacy organizations stress individual rights in the health system, trans-

forming an institutional landscape once populated by organizations that focused on health services, funding, and research for specific diseases. Using the Internet as a flexible tool for advocacy, these new health nonprofits spread their messages broadly and adapt their communications quickly to changing conditions (Brainard and Siplon 2002).

### **The Policy Environment**

In a positive model for civil society and democracy, nonprofits would anchor representative government in the values and interests of the citizenry. Civic organizations would affiliate citizens and deliberate public issues so that government could glean a broad spectrum of views and experiences from civil society to construct responsive public policy. Organizational affiliations would motivate citizens to engage in politics by participating in parties and other political organizations, voting in primaries and elections, shaping candidates for public office, and running for office themselves. Nonprofits would open democratic processes to new voices and voters—for example, by promoting the inclusion in policy deliberations of underrepresented voices of immigrants or the poor. In short, organizations would contribute to keeping American democracy popular, open, and just, and their advocacy would serve to enlarge the public consensus for the general welfare.

In reality, nonprofits face a fragmented consensus about the extent of the roles and responsibilities of government, business, civil society, and individual citizens in providing for the general welfare. Nonprofits must work hard to be heard and to strike political bargains with governments that are partisan, divided, and often stalemated. They must operate in an environment where private interests, including the funding of nonprofits, may trump common interests. Political dollars may outweigh civic voice, bureaucracies may stifle expression and action, and government priorities—such as defense, terrorism prevention, and deficit reduction—may overshadow other pressing public concerns. Sometimes nonprofits, like other institutions, can be faulted for fragmenting and polarizing the electorate on policy issues.

Nonprofits working in challenging political environments are faced with adapting their advocacy to policy shifts. Established nonprofits must navigate the ascent and descent from power of politicians and parties during political transitions. Policy priorities shift with the party in power, pressing events, and budgets. New groups form; some rise to prominence with the development of new policy; other groups live on to resist, adapt, or reorganize; and others disappear (Minkoff 1999; Reid and Montilla 2002). In the past 25 years, nonprofits have helped build and unravel liberal majorities and policy priorities and now play prominent roles in the conservative majority and its issue agenda.

On the one hand, an era of conservatism has meant a sea change in political conditions for many nonprofits that were formerly ascendant, diminishing opportunities for action and funding. Some social service groups, environmental organizations, reproductive rights organizations, minority rights groups, labor unions, women's organizations, and others have been put on the defensive about the values underpinning policies they promote and the availability of public resources for these policy priorities. The federal system, where substantial authority rests with states and localities, encourages policy innovation and change at all levels of government, but constant shifts in government priorities, spending reductions, and federal and state budget deficits have created organizational crises, particularly for charitable, social service organizations that built a presence on policy issues when government grants and spending on social services were increasing or stable. They must answer hard questions: What strategies will build long-term public and political support for programs that serve their constituents when priorities change? How can innovative programs and reforms be brought to scale?

On the other hand, nonprofits advancing conservative social and economic values—such as limited government and reduced taxation, education reform, tort reform, right-to-life issues, conservative court appointments, and faith-based social services—have used political openings to advance their ideas, policies, and programs and have helped build conservative majorities in Congress and on the courts. Religious organizations, think tanks, foundations, businesses, and trade organizations illustrate the power of organizations to coalesce for policy and electoral gains and collaborate with coordinated research, public messages, political donations, and constituency mobilization to elect majorities (Micklethwait and Wooldridge 2004).

The contested 2000 presidential election and 2001 federal campaign finance reform, the first federal reform in 25 years, were grounds for nonprofits from both ends of the political spectrum to evaluate their contributions to voter engagement and operate under a new regulatory framework (Boatwright et al. 2003). In anticipation of the federal elections, nonprofits coalesced and launched issue campaigns. They revamped their operations to inform voters about candidate positions, to improve election laws and procedures, and to register voters and generate voter turnout that would benefit candidates they favored. Charitable organizations adhered to strict nonpartisan outreach strategies required by law. Other types of nonprofits under more liberal political regulations—such as 501(c)(4) membership organizations, unions, and trade associations—made political endorsements and sent partisan messages to members to motivate them to act as a voting bloc.

Large nonprofit interest groups, such as the National Rifle Association or the Sierra Club, often favor one party over another as the



standard-bearer for their cause. More recently, observers have come to understand the key role of think tanks and foundations in shaping the agenda for policy change that is then more aggressively pursued by interest groups. Several studies have examined ideological preferences and partisan alignment in think tanks and foundations to discover the nexus between funding and the promotion of ideas that gain popular currency and are advanced through the political system (Krehely, House, and Kernan 2004; Rich 2004).

Conservative and liberal preferences can be discerned in patterns of foundation support for nonprofits. The National Committee for Responsive Philanthropy, an outspoken critic of underspending by liberal foundations for groups engaged in advocacy, has documented patterns of giving among conservative foundations that benefit the advancement of conservative policy agendas (Krehely, House, and Kernan 2004). A recent study found the largest U.S. foundations provided about 11 percent of their grant dollars to support structural changes aiding those least well off economically, socially, and politically by promoting economic development in distressed areas; ensure access to health care for disadvantaged populations; and encourage diversity in education (Independent Sector and The Foundation Center 2005).

Though policy advocacy is often portrayed as adversarial, collaborative arrangements between government and nonprofits based on shared ideology and mutual self-interest also shape government-nonprofit relations in the policy process, particularly at the state and local levels of government. The T.E.A.C.H. (Teacher Education and Compensation Helps) Early Childhood Project exemplifies how partnership with government can facilitate change (Kerlin, Reid, and Auer 2003). This model program, initiated in North Carolina, provides financial support for training and improves certification standards and compensation for child care workers. Once the idea for T.E.A.C.H. spread throughout the nonprofit community, groups lobbied to have it funded. Often nonprofits were able to gain the support of key state legislators and agency administrators to facilitate funding. Once funded, nonprofits partnered with agencies and community colleges to make sure child care workers would take advantage of the program's benefits.

### **Government Funding and Advocacy**

Scholars and nonprofit managers often differ as to whether financial interdependency with government is a plus or minus for advocates. Advocacy organizations with government grants and contracts can face criticism as self-interested organizations when calling for policy

reform. In some instances, groups forgo government funding altogether, as is the case with Oxfam America, to maintain independence of action.

Many groups report a dampening effect on advocacy when they are entwined with government through grants and programs. Yet some research suggests otherwise. One study suggests that financial support by government does not necessarily constrain political activity (Chaves, Stephens, and Galaskiewicz 2004). Organizational size may be a factor. Nonprofit lobbying expenditures reported on the IRS Form 990 indicate government grants and lobbying appear to be compatible, at least for large organizations. Forty-two percent of lobbying organizations receive government grants, and 64 percent of the lobbying organizations with government grants are large (National Center for Charitable Statistics 2002).

### **Organizational Capacity**

Given the political challenges advocates face in promoting their causes, it is not surprising that many nonprofits, especially small charitable organizations, opt out of politics altogether. With narrowly defined service missions and competing organizational priorities, they are unlikely to dedicate precious resources to advocacy. For example, advocacy to improve client conditions through better public policy may take a back seat to daily obligations to clients and donors. Deficits in organizational capacity, such as a lack of money, time, and leadership, can discourage organizations from pursuing advocacy activities. When they advocate, organizations must contend with tax and political regulations about the permissibility of legislative and political activities and expenditures. In fact, many nonprofits do not lobby on policy issues even though they are permitted to lobby under current regulations (National Council of Nonprofit Associations 2005).

In spite of the political and organizational obstacles, advocates often persist and sometimes succeed (Reid and Montilla 2001). Strategies for surmounting difficulties include training organizations to be advocates (and providing incentives or funding for participating in the training); building strategic cooperation among potential allies; engaging organizational entrepreneurs with political networks; and developing sound policy information and dissemination strategies.

Organizational preparation and resources, the execution of an influential political strategy, and a clear regulatory framework can help groups enter politics and shape public outcomes in ways that are transparent and accountable to citizens and democratic processes. And groups that use their collective voice to strengthen public awareness,

policy development, program implementation, and voter participation rightly stake a claim in the initiatives they have helped to advance.

Organizational successes in a political system with multiple opportunities for influence mean groups see their impacts through a different lens. Success is sometimes elusive, for example, in long-standing campaigns to eradicate AIDS (Chambre 1997) or in the ongoing campaign to alleviate poverty in the United States and abroad. Sometimes success is defensive, when groups are able to prevent budget cuts, tax increases, or legislation they deem harmful to their constituencies. Sometimes success is small and targeted to specific constituencies—for example, cajoling local government for basic neighborhood services or preventing a damaging cut in an essential social service program for children (De Vita and Mosher-Williams 2001). Sometimes success is large and the effects of change widespread, such as when groups align in broad political coalitions that can ultimately alter policy approaches, political parties, and the terms of the social contract between government and citizens.

To summarize, nonprofits that advocate are a diverse group of organizations with a variety of structures, capacities, resources, tactics, constituencies, and alliances. To be successful advocates, they must overcome four organizational challenges: securing sufficient organizational capacity; devising a strategic direction that will advance their cause in a crowded and changing political environment; using resources in efficient, effective, and accountable ways; and navigating a complex regulatory framework. In the next section, we turn to the regulatory framework.

## **NONPROFIT ADVOCACY IN A COMPLEX AND FLUCTUATING REGULATORY FRAMEWORK**

Nonprofit advocates must abide by regulations from multiple authorities, depending on the advocacy activities and tax status of their organizations. Lobbying by charities and some political expenditures are subject to IRS limits, taxation, and reporting requirements. Federal election contributions and expenditures are subject to federal election law, reviewed by the FEC, with the sources and amounts of contributions and expenditures disclosed regularly to the FEC. Nonprofits that lobby and engage in election-related activities at the state and local levels face additional regulations from states in which they operate. Further, nonprofits that receive government grants and contracts are subject to oversight by the Office of Management and Budget (OMB), are not permitted to use federal funds for lobbying, and may face additional restrictions by agencies responsible for the specific programs.

Finally, regulations in some areas, such as Internet lobbying and issue advocacy, are changing, so nonprofits need to keep a close eye on new regulatory developments.

In this section, I examine some prominent areas of federal regulation for policy and electoral advocacy activities of charitable and other types of exempt organizations, such as social welfare organizations, unions, and trade associations, along with related Section 527 political organizations. The discussion focuses on the interaction between nonprofit advocacy practices and advocacy regulations. Table 10.1 provides a brief overview of lobbying and election regulation for 501(c)(3), social welfare 501(c)(4) organizations, and Section 527 political organizations. The following discussion is not intended to be a guide for advocates.<sup>2</sup>

### Regulation of Lobbying by Charities

The IRS limits lobbying of charitable organizations to approximately 20 percent of their annual expenditures. The rationale for limits on lobbying expenditures stems from the revenue forgone by the government when donors deduct their charitable contributions from their income taxes. This tax subsidy benefits charitable organizations by providing an incentive for donors to contribute. This rationale was articulated in *Regan v. Taxation with Representation of Washington* when the Supreme Court, in upholding advocacy limits, ruled that free speech does not mean subsidized speech. The IRS collects financial information on lobbying expenditures, defined narrowly as expenditures on direct or grassroots contact with elected officials on specific legislation or judicial appointments, and levies financial penalties on organizations that exceed the expenditure limits.

Most nonprofit advocates accept the logic in *Regan* but still argue that lobbying limitations and other restrictions are infringements on fundamental First Amendment rights of speech and association. (See the argument by Brody in Reid [2003].) Given the low level of lobbying engagement overall, they question whether the subsidy rationale has had the unintended consequence of further suppressing engagement in a democracy that espouses popular expression and action as a centerpiece of legitimate government. Rates of lobbying in the nonprofit sector and some recent studies may give credence to their concerns.

With IRS Form 990 data from the NCCS Guidestar National Nonprofit Research Database (National Center for Charitable Statistics 2002), it is possible to approximate the scope of lobbying by charitable organizations and to observe some variation in lobbying by size and type of tax-exempt organization. These data indicate that few charitable organizations report lobbying on federal or state legislation. In FY 2002, 1.9 percent of charitable organizations with more than \$25,000 in annual

revenues reported lobbying expenditures. The percentage has remained steady at around 2 percent for the past 10 years. In FY 2002, a higher percentage of environmental groups and civil rights and liberties organizations lobbied than did other categories of nonprofits.

These data also confirm the important role of financial resources among lobbying organizations. Thirty-two percent of lobbying organizations were small, with less than \$500,000 in annual revenue; 19 percent are medium sized, with \$500,000 to \$2 million in annual revenue; and 48 percent were large organizations, with more than \$2 million in annual revenue. Large or small, most organizations that lobby do not spend up to their permissible expenditure limits for lobbying. Only 1 percent of the lobbying organizations had spent between 15 and 20 percent of their total expenditures on lobbying, though small organizations were more likely to reach or exceed their lobbying limits.

To determine effects of existing regulations on charitable lobbying and advocacy, Jeff Berry with David Arons (2003) studied more than 2,000 groups and found that nonprofits viewed the rules as overly complex and that reporting requirements were a deterrent to action. Berry and other nonprofit sector watchdog organizations make the case for full implementation of simplified reporting of lobbying expenditures, or the 501(h) election,<sup>3</sup> as a way to remove a regulatory barrier to lobbying by charitable organizations.

Several organizations help charitable organizations become more engaged in lobbying. Independent Sector and OMB Watch provide training for nonprofits on what is permissible activity and how to report it. They have also sponsored campaigns to urge foundations to remove restrictive language on lobbying from their grant agreements with organizations. Alliance for Justice, a coalition of politically active nonprofits, trains groups about the most strategic and efficient ways to structure and finance their organizations within the tax-exempt legal framework and trains lawyers and accountants that represent nonprofits in the Advocacy Lawyers and Accountants Network (Alliance for Justice 2005). These nonprofit-sector trade organizations and coalitions represent a formidable lobby on behalf of the nonprofit sector, defending the advocacy of nonprofits as critical public input to developing policies responsive to communities and opposing government regulation that might further dampen nonprofit advocacy activity.

Whether or not the limits are appropriate, constraints on the political activities of public benefit organizations are becoming more common around the world. As they become more integrated into legal and tax systems, public benefit organizations are increasingly subject to registration, reporting, and political restrictions.<sup>4</sup> Lester Salamon makes the point in chapter 12, however, that in most countries there are fewer legal constraints on nonprofit advocacy and lobbying than in the United States.

Attempts to further constrain advocacy, such as the discourse and hearings over the proposed Istook amendment, and IRS investigations of advocacy activities by certain groups have not produced convincing evidence of the need for further regulation of charitable lobbying. Nonprofit organizations often consider more restrictive measures to be politically motivated efforts to eliminate resistance to policy change. At a time when social service organizations were lobbying against federal budget cuts, proponents of the Istook amendment argued that the government was subsidizing the lobbying of charitable organizations with political interests and moved, unsuccessfully, to draw a line between advocacy and charitable activity.

A report by OMB Watch has documented how restrictive rule-making and revenue cuts can be used to target certain kinds of social service programs, most recently family planning, health assistance for AIDS, and housing (Bass, Guinane, and Turner 2003). In 2005, a group of conservative House members persuaded the sponsors of the Federal Housing Finance Reform Act (a bill designed to reform certain government-sponsored housing enterprises), such as Fannie Mae and Freddie Mac, to add provisions that would bar organizations that lobby or engage in nonpartisan election-related activities from applying for grants from the new fund.

### **Nonprofit Election-Related Advocacy and Regulation**

Elections provide citizens the opportunity to exercise their fundamental and sovereign right to vote to constitute their government. One way or another, nonprofits are taking advantage of their connections with citizens and their knowledge of the issues to influence voter preferences through raising and spending private dollars for broadcast ads during elections, voter information on candidate positions, candidate forums, and coordinated, targeted voter turnout operations. Competitive national elections in 2000 and 2004 brought to light the important roles that different forms of tax-exempt organizations play in elections.

Charitable organizations, though mindful of their need to remain nonpartisan in their outreach to voters, have nevertheless found highly strategic ways to provide information to their members and constituents at election time. In 2004, the Center for Community Change partnered with 53 organizations in 26 states to launch the Community Voting Project to make a difference in community awareness on issues and to increase voter turnout among low turnout populations, such as the poor, immigrant, and Native American communities throughout the country (Bhargava 2004). Churches and religious organizations also joined in the chorus of organized expression, with moral issues front

**Table 10.1. Lobbying and Election Regulation for Tax-Exempt Organizations**

	<i>501(c)(3) charitable organizations</i>	<i>501(c)(4)–(6)</i>	<i>Section 527 political organizations</i>
<b>Key tax rules</b>	<p>Tax-exempt and contributors may deduct contributions</p> <p>No federal gift tax on contributions</p>	<p>Tax-exempt, but contributors do not receive deduction</p> <p>Federal gift tax on donors for contributions over \$10,000</p> <p>Tax on investment income to the extent of electioneering expenditures</p>	<p>No tax on contributions spent on permitted political activity</p> <p>Business and investment income is taxed</p> <p>No federal gift tax</p>
<b>General permitted activities and reporting</b>	<p>Charitable and educational activities, including all forms of public education on policy issues</p> <p>Files IRS Form 990 annually; indicates lobbying expenses; no public disclosure of donors</p>	<p>Activities primarily for social welfare, including any activities permitted by charitable organizations, plus any activity that serves public purposes</p> <p>Lobbying and election-related advocacy permitted</p> <p>Files IRS Form 990; indicates political expenditures; no public disclosure of donors</p>	<p>Must be primarily involved in activities to influence elections. Electioneering activities include all forms of partisan-oriented voter influence except express advocacy</p> <p>Nonpolitical activities may give rise to tax</p> <p>If 527 is PAC or political committee conducting express advocacy on behalf of candidates or donating to campaigns and parties, it reports financial transactions and donors to FEC</p> <p>If 527 is a political organization engaged in electioneering, it reports to IRS; also reports BCRA-defined broadcast electioneering communications to the FEC</p>

(continued)

**Table 10.1. Lobbying and Election Regulation for Tax-Exempt Organizations (cont.)**

	<i>501(c)(3) charitable organizations</i>	<i>501(c)(4)–(6)</i>	<i>Section 527 political organizations</i>
<p><b>Lobbying activity and reporting</b> Defined by IRS as direct or grassroots support for or against specific legislation</p>	<p>Lobbying is allowed to a limited extent. May not be “substantial,” generally interpreted to be approximately 20% of expenditures. Or may be defined by 501(h) election limits for simplified reporting. Report expenditures on Schedule A of IRS Form 990</p> <p>Register and report state lobbying as required by state law</p> <p>No lobbying by private foundations</p>	<p>May lobby without restriction, so lobbying may be the exclusive activity of the organization</p> <p>No separate reporting of lobbying required on IRS Form 990, but combined lobbying and political expenditures are reported</p> <p>Register with House clerk and secretary of Senate; report semi-annual lobbying expenses</p> <p>Register and report state lobbying as required by state law</p>	<p>For IRS, lobbying is not an exempt function (i.e., not a political activity) and may give rise to tax</p>
<p><b>Nonpartisan election-related activity and reporting</b> IRS regards communications on issues that do not promote, support, attack, or oppose a federal candidate as nonpartisan issue advocacy. Uses six part “facts and circumstances” test to determine if activity is nonpartisan or partisan. Nonpartisan activities financed by soft money</p>	<p>IRS permits nonpartisan voter registration, voter education, candidate forums and candidate education, and get-out-the-vote activities. Permits nonpartisan issue advocacy. No reporting required for nonpartisan election-related activity</p>	<p>IRS permits same activities as 501(c)(3)</p> <p>IRS permits nonpartisan issue advocacy. No reporting required for nonpartisan election-related activity</p>	<p>Issue advocacy, as defined by the IRS, is a nonexempt activity</p> <p>Nonpartisan activities may give rise to tax</p>

(continued)



**Table 10.1. Lobbying and Election Regulation for Tax-Exempt Organizations (cont.)**

	<i>501(c)(3) charitable organizations</i>	<i>501(c)(4)–(6)</i>	<i>Section 527 political organizations</i>
<p><b>Partisan activity or express advocacy and reporting</b>                      Defined as use of language for or against a candidate for elected office</p> <p>Must be financed through hard money</p>	<p>Outright prohibition on campaign intervention, including endorsing or opposing a candidate—implicit or explicit; coordinating activities with a candidate; contributing money, time, or facilities to a candidate; setting up, funding, or managing a PAC. Partisan communications and expenditures prohibited by IRS</p>	<p>IRS permits express advocacy communications with members, but not with public</p> <p>Political expenditures reported to IRS, but must not be a primary organizational activity</p>	<p>Permitted and unlimited for 527s that are not political committees, provided organization registers and files disclosure reports with FEC</p> <p>527 PACs and political parties, subject to FEC limits for hard money contributions and expenditures.</p>
<p><b>Other electioneering activity and reporting</b>                      Evolving area of law and regulation.</p> <p>In BCRA, FEC defines electioneering communications as broadcast ads directed at a candidate's constituents and distributed for a fee that <i>refer to</i> a candidate for federal office aired within 30 days of a primary or 60 days of a general election</p>	<p>IRS generally prohibits issue advocacy that promotes or criticizes particular candidates by prohibiting issue advocacy that is electioneering or partisan activity.</p>	<p>Electioneering may not be a primary organizational activity</p> <p>Reported to the IRS as a political expenditure when activity promotes or criticizes particular candidates. No donor disclosure required</p> <p>When electioneering is consistent with FEC definition of broadcast electioneering, no corporate or union financing is permitted and organizations must report donors, contributions, and expenditures to FEC</p>	<p>All forms of electioneering permitted</p> <p>527s regularly disclose donors, contributions, and expenditures to IRS</p> <p>Broadcast electioneering communications regularly disclosed to FEC</p> <p>Qualified state and local organizations report to state campaign finance agencies</p>

(continued)

**Table 10.1. Lobbying and Election Regulation for Tax-Exempt Organizations (cont.)**

	<i>501(c)(3) charitable organizations</i>	<i>501(c)(4)–(6)</i>	<i>Section 527 political organizations</i>
<b>Federal campaign contributions and reporting</b> Donations and expenditures to candidates for federal office and national political parties.  State laws vary for state and local campaigns and parties	Prohibited	FEC prohibits campaign expenditures directly from organization, but permitted by a connected PAC  May solicit members for contributions to the PAC and pay for administration of PAC and PAC solicitations.  FEC limits on size of individual donations to PACs and parties and expenditures to campaign or party  Donors and expenditures reportable to FEC	Restrictions on size of individual donations to PACs and parties and expenditures to campaigns and parties

BCRA = Bipartisan Campaign Reform Act; FEC = Federal Election Commission; IRS = Internal Revenue Service; PAC = political action committees

and center in the 2000 and 2004 presidential elections. Republican activists, nonprofit leaders, and religious organizations backed citizens' initiatives to ban gay marriage in 11 states, conducting intense voter contact campaigns. The issue of abortion was further highlighted when some Catholic bishops professed their unwillingness to allow 2004 presidential candidate John Kerry to participate in communion because of his pro-choice platform (Hillygus and Shields 2005). Many political observers consider moral issues to have had a positive influence on Republican victories, though scholars of voter behavior have questioned the real impact of voter value preferences on election outcomes (Smith 2005).

Social welfare organizations (501[c][4]), unions (501[c][5]), and professional and trade organizations (501[c][6]) may lobby without restriction and engage in issue advocacy and some forms of electioneering as long as it is not the primary focus of their organizational operation (Reid 2004). Further, many are structured as membership organizations and are permitted to have partisan communication with members and solicit donations from them for hard money contributions to their connected political action committees (PACs). These more liberal rules

make the 501(c)(4) social welfare organization a popular organizational form for public interest, environmental, tax, pro-choice, pro-life, gun, and other advocacy organizations with regular lobbying and political operations.

Section 527 organizations are the most partisan of the tax-exempt organizations. They are chartered as tax-exempt organizations and report to either the IRS or the FEC, depending on the nature of their activities. The more traditional form of the Section 527 political organizations are PACs and political parties that raise and expend money in election campaigns. Federal campaign finance reforms in the 1970s required nonprofit organizations to form separate segregated accounts, or connected PACs, and defined limits on donations to PACs and their contributions to campaigns and national political parties. Connected PACs report donations and expenditures to an oversight authority, the FEC. Initially, the definition of partisanship or express advocacy was elaborated on in *Buckley v. Valeo*, establishing a bright-line test for partisan communications as those using the specific words “for or against” a named candidate.

A hybrid Section 527 organization came to public attention in the 2000 presidential election, with practices that challenged existing regulation of political activity. Initially, hybrid Section 527 organizations fell between the regulatory cracks, with neither the IRS nor the FEC having jurisdiction or mechanisms to provide for a public accounting of their finances. The new tax-exempt form was used for electioneering in the form of paid broadcast communications and voter contact campaigns. During the 1990s, issue advertising financed by individuals and soft money contributions became a regular part of elections. Political parties and groups used issue advertising to gain support for candidates favorable to their causes or to tarnish opponents. The ads provided information on candidates, using highly suggestive language linking policy issues to candidates, often in a negative light, and left no doubt in the voters’ minds about who to support or defeat.

Some Section 527 political organizations were highly influential in launching broadcast advertising in the last two national elections. In a close 2000 presidential primary in South Carolina, the defeat of Senator John McCain was credited to last-minute negative advertising financed by a Section 527 organization backed by two wealthy brothers interested in securing a primary victory for George W. Bush. After the 2000 presidential election, Congress sought to remedy regulatory shortcomings, passing legislation to provide for regular disclosure of donors to Section 527 organizations and reporting of their electioneering expenditures to the IRS. Then, in 2001, Congress moved to control soft money in federal elections, passing the first substantial federal campaign finance reform legislation in 25 years.

Reform organizations, such as Common Cause, Public Citizen, and Center for Responsive Politics, had long pressed for campaign finance reform, concerned that huge infusions of soft money into the political system were fueling negative advertising, violating prohibitions on partisan activity by corporations and unions. With voter turnout lagging and the public wary of special interests, negative advertising, and unchecked money in elections, Congress passed the Bipartisan Campaign Reform Act (BCRA). BCRA sought to control soft money from the treasuries of nonprofits and businesses by prohibiting its use by national political parties and for electioneering broadcast advertising just prior to federal elections. In doing so, it created a working definition of electioneering as broadcast advertising near elections and required that the sponsors of these ads be clearly identified and that their financing be reported to the FEC.

Regulation and disclosure notwithstanding, new Section 527 organizations blossomed and increased their activity in the 2004 election, reporting to the IRS under the new disclosure guidelines and to the FEC under new broadcast electioneering guidelines. Again, Section 527 organizations proved flexible enough to organize and influence elections. For example, Swift Boat Veterans for Truth financed messages designed to create public doubt about Democratic presidential nominee John Kerry's leadership role as a combat veteran in Vietnam, and MoveOn.org raised millions of dollars to air ads attacking the record of George W. Bush. More reform of Section 527 organizations is likely as reformers argue that it is necessary to define electioneering with more rigor, bring Section 527 groups fully under the jurisdiction of the FEC, and further rein in soft money donations used to influence federal elections.

Another nonprofit practice, the use of multiple tax-exempt organizations, has become a common way of structuring organizations to conduct policy advocacy and electoral activity. Stand-alone tax-exempt organizations can run up against regulatory limits on permissible activities due to their tax status. If structured with multiple tax-exempt entities, the organization has more opportunities to compete for scarce resources and build political leverage. One of the more familiar arrangements is a combination of a 501(c)(3) charity, a 501(c)(4)–(6) lobbying arm, a connected PAC, and a 527 organization. The Sierra Club, for example, is a 501(c)(4) membership organization and the main governance and lobbying body for the national environmental organization. The Sierra Club Foundation is its charitable, educational arm, whereas the Sierra Club PAC is its connected PAC for political contributions. The Sierra Club Voter Education Fund is another related Section 527 that conducts electioneering get-out-the-vote activity. These complex organizations can conduct nonstop political operations and are

equipped to stay up and running during legislative and election cycles. They are legal, efficient, and flexible operations.

Individual tax-exempt organizations that are part of a complex organizational structure cannot share control of day-to-day activities, but they can have overlapping boards, share advocacy goals, collaborate on strategies of action, and manage their resources in ways to best achieve their political ends. When social welfare advocacy organizations team up with charitable organizations, limited advocacy activities engaged in at the greatest tax benefit can be combined with the most aggressive advocacy activities to obtain the broadest menu of advocacy tactics at presumably the most efficient cost (Reid and Kerlin 2003). This efficiency in funding advocacy activities can be achieved through the transfer of organizational resources from one nonprofit to another as long as resources are not used to subsidize activities elsewhere that the nonprofit itself cannot conduct.

Complex organizational arrangements may be legal, efficient ways to work within the regulatory framework, but their operations lack transparency under current regulation and reporting requirements by the IRS and the FEC. It is difficult to determine which organizations are related to each other and how money moves between organizations for various political purposes. Insufficient information on IRS Form 990 creates concerns about who is really behind an organization and how individual tax-exempt entities are related to one another for political purposes (Weissman 2003). Organizational donors and members may be concerned about whether their contributions are going for intended purposes and organizational leaders may face concerns about fiscal and operational accountability among organizations. Further, regulators may have a difficult time determining whether funds have been diverted to purposes not consistent with tax status or whether political activities have been financed with improper donations.

To conclude, nonprofit organizations use many organizational forms and strategies of action in the political system, and the regulations and reporting they must abide by are specific to their tax status and advocacy activities. Lobbying by charitable organizations with occasional interests in budget and policy issues contrasts with the complex organizational structures of large advocacy organizations with regular, visible, and strategic political operations. Charitable organizations face tax regulation that requires they spend most of their charitable donations on charitable activities, and as a whole, they show little inclination to lobby legislatures. For them, regulation can be an additional barrier to political engagement.

Large, politically active nonprofits with multifaceted political operations face more regulation but navigate the system by building organizational structures that provide opportunities to raise, spend, and

transfer deductible and nondeductible donations among related entities for use on a range of regulated and unregulated influential activities, including public education, lobbying, issue advertising, and electioneering. As nonprofits become more visible players in policymaking and elections, they face greater scrutiny by the public and regulators interested in a full accounting of their political roles, and a clearer picture of how organizational finances are used in policymaking and elections emerges, to which this chapter now turns.

### *Organizational Practices and Public Accountability*

Nonprofit advocacy practices are changing in a host of ways; the financial structuring of political activity into legally separate but coordinated exempt organizations, the use of nonprofit organizations by politicians and parties, new technologies for political action, new venues for political action, and the restructuring of campaign finance laws at the federal level all pose new challenges for government regulators and nonprofit organizations. These practices test current regulatory definitions of political activity, expose conflicts and loopholes in the authority of regulating agencies, reveal the complex interface of tax and political regulation, generate questions about disclosure and transparency of current reporting standards, and expose contradictions in representational claims by organizations with purportedly public purposes.

In the past several years, federal campaign finance reform created new dynamics in election advocacy that forced nonprofits into the public spotlight. Campaign finance reformers and the media tried, with limited success, to keep watch on social welfare organizations, trade and professional organizations, unions, and Section 527 organizations in the 2002 and 2004 elections to determine whether soft money, now prohibited in national political parties, would flow to nonprofit organizations for partisan purposes, particularly in instances where nonprofits were not required to disclose their donors or political expenditures. After the 2004 election, the Campaign Finance Institute concluded that Section 527 organizations have thus far replaced part, but not the majority, of soft money banned by the McCain-Feingold law. Of \$591 million in 2002 party soft money, \$337 million was not replaced by 527 contributions in 2004. Democrats, hoping to stay financially competitive in a system increasingly reliant on hard money, have favored Section 527 groups; they received nearly four times as much 527 money as Republicans in 2004—\$321 million to \$84 million (Weisman and Hassan 2005).

In contrast, hard money<sup>5</sup> became the most traded political currency of the 2004 election, dominated by business donations and favored by Republicans who took advantage of higher limits allowed under BCRA

to raise record amounts of it, outpacing the Democrats in party and candidate hard money contributions. The Center for Responsive Politics, which tracks campaign spending, calculated that business interests were responsible for 74 percent of the PAC and individual contributions to candidates in the 2004 federal election, with nearly every sector of the economy favoring Republicans. Nonprofit labor organizations were responsible for 3 percent and heavily favored Democrats, whereas ideological groups were responsible for 3.6 percent and slightly favored Democrats (Center for Responsive Politics 2005).<sup>6</sup>

The BCRA solved some problems, opened awareness about others, and left many unresolved issues for the courts, Congress, and agency regulations to address. Organizations in the nonprofit sector are divided over the proper role for regulation in a post-BCRA environment. Concerned about the impact on social welfare organizations, conservative and liberal nonprofit organizations and their trade associations have stood firmly behind the notion that intrusive restrictions, enhanced disclosure, or reporting by 501(c)(4)s to the FEC or the IRS could violate basic speech and privacy rights of members and donors and impede the ability of organizations to represent their members and the public to the fullest. In contrast, reform-minded campaign finance advocates have questioned whether there is sufficient rigor in the definition of electioneering and sufficient transparency of organizational donations to permit monitoring of attempts to influence federal elections.

The definition of electioneering activity and appropriate levels of reporting and disclosure are thorny issues for nonprofits. Currently, a lack of transparency of soft money in and out of these nonprofits obscures the role of soft money in social welfare organizations, unions, and trade associations. Contributions from businesses, individuals, and other nonprofits are consolidated as private revenue in one line on the IRS Form 990, so it is not possible to determine sources of soft money. Further, the line between public education and partisan electioneering is not clear, except in BCRA, which more narrowly defines it as broadcast electioneering communications and requires disclosure and reporting of those expenditures to the FEC, making it impossible to decipher how groups are spending their finances for lobbying and political activity. The IRS attempts to capture electioneering expenses as political expenditures on Form 990, but its guidance on calculating expenditures includes a broad range of election-related activities that must meet a series of confusing tests to distinguish expenditures that are political from those that are for public education. Even if activities meet the test and groups report political expenditures, no additional disclosure of organizational donors is required.

At the same time, some groups fear that more of their activities, now considered to be public education, will fall under the BCRA definitions

of electioneering and trigger additional disclosure and reporting. One of the most controversial practices is issue advertising, and some nonprofits want to insure that interpretations of BCRA do not further constrain nonprofits' communication by narrowing the definition of public education or grassroots lobbying communications in favor of a more rigorous definition of electioneering. For example, a coalition of 35 charities from across the political spectrum have joined an amicus brief in *Wisconsin Right to Life v. the Federal Election Commission*, a case yet to be decided. The coalition argues that the BCRA electioneering communications rule—which bans corporations, both nonprofit and for-profit, from running broadcast ads that refer to a candidate for federal office within 30 days of a primary or 60 days of a general election—unconstitutionally restricts nonprofit grassroots lobbying ads. The coalition stresses the importance of allowing the full participation of nonpartisan voices in the public debate of important policy issues. The case involved ads run in 2004 by Wisconsin Right to Life that urged Senators Russ Feingold (D-WI) and Herb Kohl (D-WI) to oppose filibusters of judicial nominees. At the time, Senator Feingold was campaigning for reelection, but the ads did not refer to his candidacy or the elections (Independent Sector 2006).

In coming years, regulators will likely seek to clarify the disparity between the need for public transparency in elections and the right to associate in private nonprofit organizations with political ends without disclosure of individual members or donors. The Supreme Court has recognized the need to disclose individual donors to PACs and political campaigns, holding that disclosure is constitutional if “narrowly tailored” to advance a “compelling public interest.” In key cases such as *Buckley v. Valeo*, *Nixon v. Shrink*, and *Missouri Government PAC and Colorado Republican Party v. FEC*, the Court found that combating “corruption or the appearance of corruption” was compelling enough to limit contribution levels and in some cases require public disclosure of contributor information.

Still, the issue is complicated. Member privacy or the right to associate without disclosing the names of members to government authorities is also a protected element of civic participation, valued as the right of citizens to associate to place demands on government without fear of retribution (Reid 2003). The Supreme Court in *NAACP v. Alabama* held that the State of Alabama could not require NAACP to disclose its members as a condition for registering as a corporation under state law. Contributor anonymity, nonprofit sector leaders have argued, has allowed individuals and institutions to give substantial sums of private money to tax-exempt organizations without incurring public notoriety.

In conclusion, institutional legitimacy and organizational accountability are necessary for nonprofits that engage in politics. Advocacy



organizations can expect to have their public missions, tax benefits, and organizational practices questioned if these functions are not sufficiently transparent to the public, lawmakers, and regulators. Nonprofit sector umbrella organizations have defined and promoted best practices for organizations, but proposals for formal accreditation standards and oversight by government generate debate within the nonprofit sector about whether additional government oversight will result in improved public trust or government overreaching, as well as more or less politicization of the sector. Some nonprofits have opted for voluntary disclosure of donors and activities to assure the public and their donors that their organizational activities and finances are representative of civic interests and that their political messages are rooted in the preferences and sentiments of their members and consistent with their missions. Voluntary disclosure is a step that will begin to isolate those who find organizational opacity, not civic participation, the most attractive feature of the nonprofit forms they are adapting for their own uses.

Increased media, congressional, and agency scrutiny of nonprofits has created an aura of uncertainty for nonprofits about the risks associated with advocacy, including greater demands on nonprofits to justify their tax privileges. In some cases, the oversight is justified, but government scrutiny of organizational affairs and the threat of sanction, either real or perceived, can chill political engagement and political criticism. For example, the IRS—convinced a speech by NAACP CEO Kweisi Mfume that criticized President Bush was evidence of overstepping—opened an investigation of the NAACP in the waning days of the 2004 election. In the end, the investigation could not substantiate the charges, provided little clarification or precedent for nonprofit organizations, and left many to suggest, fairly or not, that political harassment was the motivation for the investigation (Hill 2005). Undeterred, the IRS has promised to step up its controversial Political Intervention Program with renewed investigations of nonprofits and religious organizations during the 2006 election. Nonprofits are concerned that the distinction between political criticism and political intervention are not clear enough to prevent politically motivated harassment by officials.

In the future, nonprofit organizations will need to examine their advocacy practices in light of new opportunities, perceptions, and constraints. The demand for greater private sector accountability will continue to draw public attention to politically active nonprofits. Response to demands for financial accountability will likely require greater transparency of organizational finances to better inform the public about sources of money influencing the political system. Tax accountability will require that organizations favored by subsidies apply resources for a clear public benefit that includes a balance

between their historic role as advocates and their charitable purposes. Organizational accountability will challenge groups to govern themselves with sufficient internal checks and balances and in ways that lend legitimacy to their representational roles in politics. Ideally, the principles can guide advocacy practices and shape interaction between government institutions and nonprofits that will be reflected in a higher level of public discourse, a more informed electorate, and sounder public policy.

## NOTES

1. Soft money refers to unregulated expenditures by political parties and organizations in conjunction with elections.

2. Readers new to the subject matter should consult official government websites, such as the Internal Revenue Service and the Federal Election Commission, and watchdog organizations, such as OMB Watch, Independent Sector, Alliance for Justice, National Council of Nonprofit Associations, and Center for Responsive Politics, for more detailed descriptions and definitions of terms.

3. The 501(h) election permits charitable organizations to use a formula to calculate the limit for lobbying expenditures instead of relying on the indefinite “not substantial” criterion. Total lobbying limits are currently set at 20 percent for the first \$500,000 of exempt-purpose expenditures for organizations that make the 501(h) election. After 20 percent of the first \$500,000, lobbying limits are then calculated on a sliding scale based on total exempt-purpose expenditures, up to a cap of \$1 million for total lobbying expenditures. See Alliance for Justice (2003) for a discussion of the 501(h) election.

4. International Center for Not-for-Profit Law web site, <http://www.icnl.org>.

5. Hard money refers to contributions that are made directly to political candidates from individuals, organizations (especially PACs), and political parties.

6. The remaining amount was split between “Others” at 12.9 percent and “Unknown” at 6.5 percent.

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