

# TRACE BACK DISCLOSURE: GETTING TO THE SOURCE OF SECRET SPENDING

## THE PROBLEM: THE FLOOD OF SECRET SPENDING

For our democracy to work, the financing of our elections must be transparent. Voters must have the information they need to evaluate candidates for public office and hold elected officials accountable. But today, wealthy special interests are spending vast sums of money to support their preferred candidates, all while hiding their involvement behind anonymous shell corporations and entities. As a result, **voters are increasingly kept in the dark about who supports various candidates** and who candidates will be responsive to once in office.

Ever since the Supreme Court opened the door to unlimited campaign spending in *Citizens United*, secret spending by outside groups in our elections has skyrocketed. Existing law requires people or corporations that directly buy campaign ads to put their names on the ads. But when wealthy special interests game the system by transferring their money through other entities to indirectly finance ads, **voters are left in the dark about who is funding the ads and denied the information necessary to make informed choices at the ballot box.**

## THE SOLUTION: ENDING THE SHELL GAME

Effective legislative solutions will put an end to this deception and restore transparency to our elections. **Such legislation should require spenders to reveal the source of their funds**, focusing on funds used for “independent campaign spending” — that is, spending not coordinated with a political party, official political committee, or candidate.

Strong policy solutions share **three main components**:

1. **They trace big money:** effective legislation will require anyone acting as a conduit for significant independent campaign spending in an election cycle to track the sources of its large donations and disclose how this money is spent;
2. **They promote big donor disclosure:** good trace back policy would require any ad run by a super PAC or outside group to include a disclaimer disclosing its top three donors;
3. **They protect donors:** strong legislation will ensure that donors who do not want their money spent on election ads won't have their money spent against their wishes.

Critically, this is **disclosure** policy — it creates **transparency** without picking winners or losers, and without limiting what people can spend.

## TRACING BACK BIG MONEY

No more “Russian doll” games that keep voters in the dark. If money is passed from one entity to another before it is spent — a common secret spending trick — each entity handling a large sum must track these transfers and trace the amounts back to their original source.

- Anyone who spends significant amounts of money in an election cycle on independent campaign spending must keep “transfer records” that track how the spender received and spent its funds.
- The spender must also file public reports disclosing contributors who gave significant amounts for election purposes, the original source of these contributions and any conduits the money passed through along the way.
- Anyone who gives significant amounts of money in an election cycle for independent campaign spending must maintain similar transfer records.

## TOP THREE DONOR DISCLOSURE

If an ad is run by an outside group or super PAC, it must disclose on the face of the ad the top three donors who helped pay for it.

- **Shell games aren’t allowed.** For example, if one of these top three donors (say, Donor A) received more than half of its own funds from someone else (say, Donor B), then Donor B must be identified as one of the spender’s top three donors instead of Donor A. If Donor B in turn got 80% or more of its funds from someone else (say, Donor C), then Donor C must be identified as the top three donor instead of either Donor A or B. This 80% rule applies successively until the true top three donors are identified.

## PROVIDING DONORS NOTICE

When a spender raises money for independent campaign spending, it **must notify potential contributors** that:


- contributions it receives may be used for independent campaign spending,
- information about the contributors may need to be publicly disclosed, and
- if the contributors themselves spend significantly on independent campaign spending, they may have to create their own transfer records (and provide adequate notice to their own donors).

If such notice was not provided when a contribution was initially solicited or received, but the spender later wants to use the contribution for independent campaign spending, the spender must **notify the relevant donor** and allow them to **opt out** from having their money used for independent campaign spending.

## TAKE ACTION

Here are three ways you can build support for measures to prevent the flood of dark money:

- ❖ Learn about the threats of dark money and how to counteract it at [www.campaignlegal.org/](http://www.campaignlegal.org/).

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- ❖ Connect with advocacy groups and individuals in your community who are already organizing for campaign finance reform.
  - ❖ Identify potential champions in government. This means elected officials who support campaign finance reform, as well as elections and/or ethics officials who would be excited to promote these efforts.

Questions? Contact Campaign Legal Center (CLC) at [info@campaignlegal.org](mailto:info@campaignlegal.org). CLC is a nonpartisan, non-profit organization based in Washington, D.C. CLC holds candidates and government officials accountable regardless of political affiliation.