

New Routes for Money to Sway Voters

501c Groups Escape Disclosure Rules

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In recent months, ads mocking Democratic presidential nominee John F. Kerry have been surfacing in battleground states and on national cable channels, paid for by a group called Citizens United.

In one television commercial playing off the MasterCard "Priceless" ads, the announcer describes Kerry's \$75 haircuts, \$250 designer shirts and \$30 million worth of summer and winter homes. As a picture of Kerry and Sen. Edward M. Kennedy (D-Mass.) appears on screen, the announcer concludes: "Another rich, liberal elitist from Massachusetts who claims he's a man of the people. Priceless."

The spot, more hard-edged than the ads run by the official Bush-Cheney '04 campaign, is in the same provocative vein as the controversial Swift Boat Veterans for Truth ads that have dominated much of the campaign since late August. There is one major difference, however: The Swift Boat group must disclose who is paying for its ads; Citizens United does not have to tell anybody where it got its money or how it is spent.

Neither does Project Vote, a group run by former Ohio Democratic Party chairman David J. Leland that hopes to register 1.15 million new voters in black, Hispanic and poor white communities. Nor do two major voter registration and turnout projects called "I Vote Values" and "The Battle for Marriage," backed by some of the largest organizations on the religious right that are coordinating a drive to register millions of evangelical Christians.

Unlike the campaigns of President Bush and Kerry, the two major parties, political action committees and the Swift Boat Veterans -- one of the "527" advocacy groups that have become part of the 2004 campaign lexicon -- Citizens United and Project Vote operate under the radar of regulation and public disclosure in what campaign finance expert Anthony Corrado of the Brookings Institution and Colby College described as "a real black hole."

Known as 501c groups, for a statute in the tax code, these tax-exempt advocacy and charitable organizations are conduits for a steady stream of secretive cash flowing into the election, in many respects unaffected by the McCain-Feingold legislation enacted in 2002. Unlike other political groups, 501c organizations are not governed by the Federal Election Commission but by the Internal Revenue Service, which in a complex set of regulations delineates a range of allowable activities that are subject to minimal disclosure long after Election Day.

A 501c (3) group can register voters, and donations to it are tax deductible, but it is

prohibited from engaging in partisan or electioneering work. A 501c (4), (5) or (6) group can be involved in elections, but the cost of doing so must be less than one-half the group's total budget. Public Citizen, in a report last week titled "The New Stealth PACs," contended that many of the politically active 501c (4) groups regularly spend more than half their budgets on political activities in violation of IRS rules.

IRS rules also stipulate that electioneering by 501c (4), (5) and (6) groups cannot be "express advocacy" -- that is, telling people to vote for or against specific candidates. But such groups can run ads that address public issues such as immigration or taxes and that refer to the stands of candidates in ways that help or hurt them.

In the 2004 campaign, these legal distinctions have translated into two specific roles for these groups. One is to mobilize voters for Election Day. The other is to articulate criticism and orchestrate attacks that candidates and their parties may not want to launch themselves. That is the role assumed by Citizens United, whose president, David N. Bossie, is no stranger to hardball conservative politics.

Asked whether he would provide the names of his donors, Bossie said, "No, we follow the rules that are in place for 501c groups."

The rapid emergence of 501c and 527 groups in this election cycle is a direct consequence of the changes in political spending brought about by McCain-Feingold. The groups have essentially emerged to do what the law prevents parties from doing: They raise and spend unlimited contributions of "soft money" from corporations, unions and wealthy donors to influence federal elections.

Kent Cooper, who has watched the intricate ways money gets into the political system, first as chief of public records at the FEC and now as co-founder of PoliticalMoneyLine, said there is a growing need for more stringent regulation of 501c groups.

In the wake of the ban on party-raised soft money, Cooper said, evidence is mounting that money "is slithering through on other routes," as organizations "maintain various accounts, tripping over each other, shifting money between 501c (3)s, c(4)s and 527s. . . . It's big money, and the pendulum has swung too far in their direction."

Until 2000, neither 527s nor 501c organizations were required to list donors or account for expenditures. Sen. John McCain (R-Ariz.), angered at smears aimed at his presidential campaign by a 527 group, succeeded that year in passing legislation requiring the IRS to report the spending activities of 527s throughout the election cycle. That left the 501c organizations as the only groups with virtually no disclosure requirements.

To arrive at a total expenditure figure for 501c groups is impossible, given their nondisclosure requirements. But, based on interviews and an examination of available records, it seems likely their total spending will be from \$70 million to \$100 million this election cycle, with expenditures by pro-Republican and pro-Democratic groups roughly equal.

There are huge unknowns, however. For example, the U.S. Chamber of Commerce's Institute for Legal Reform, a 501c (6) business organization, has an annual budget of more than \$40 million. The National Rifle Association, a 501c (4), has a budget of more than \$200 million, which the group's chief executive, Wayne LaPierre Jr., can tap to increase voter turnout among not only its 4 million members but also the 14 percent of the electorate that has a "very favorable" view of the NRA.

Equally difficult to track is the burst of money going to the network of hundreds of generally liberal and pro-Democratic turnout operations, including Project Vote, the NAACP Voter Education Fund and USAction, none of which discloses its contributors.

Some board members, consultants, lawyers and staff members of many of these nonpartisan 501c organizations are, in fact, active partisans, separately working for campaigns, political parties and groups.

Perhaps no one better illustrates the host of interlocking roles than Carl Pope, one of the most influential operatives on the Democratic side in the 2004 election. As executive director of the Sierra Club, a major 501c (4) environmental lobby, Pope also controls the Sierra Club Voter Education Fund, a 527. The Voter Education Fund 527 has raised \$3.4 million this election cycle, with \$2.4 million of that amount coming from the Sierra Club. A third group, the Sierra Club PAC, has since 1980 given \$3.9 million to Democratic candidates and \$173,602 to GOP candidates.

These activities just touch the surface of Pope's political involvement. In 2002-03, Pope helped found two major 527 groups: America Votes, which has raised \$1.9 million to coordinate the election activities of 32 liberal groups, and America Coming Together (ACT), which has a goal of raising more than \$100 million to mobilize voters to cast ballots against Bush. Finally, Pope is treasurer of a new 501c (3) foundation, America's Families United, which reportedly has \$15 million to distribute to voter mobilization groups.

"I am in this as deeply as I am," Pope said, "because I think this country is in real peril."

Although the McCain-Feingold law was generally a boon for 501c groups, one provision has tightened restrictions on the way they spend their money. The law's ban on the use of corporate and union funds to finance issue ads in the final 60 days before the general election has prompted such conservative groups as Americans for Job Security and the 60 Plus Association to move away from radio and television advertising and toward voter mobilization and non-broadcast advocacy, primarily through direct mail, newspaper ads and the Internet.

Although corporate-backed tax-exempt groups are struggling to comply with McCain-Feingold, liberal, pro-Democratic charitable and tax-exempt organizations are concentrating much of their time, money and effort on voter registration and turnout. These activities do not fall under the 60-day broadcasting ban and can be structured as nonpartisan work eligible for tax-deductible support.

For many groups doing voter mobilization, it is crucial to have a 501c (3) group to tap into what has become a multimillion-dollar commitment by a host of liberal foundations and wealthy individuals to increase turnout among minorities and poor people.

Among the foundations investing substantially in voter registration and turnout programs likely to benefit Democrats are the Proteus Fund, which, in addition to direct grants, set up the Voter Engagement Donor Network in 2003 as an information service to 130 other foundations and individual donors"; the Pew Charitable Trusts; and America's Families United, which was created in 2003 to channel about \$15 million to voter registration and turnout groups. Most of these foundations voluntarily identify the groups to which they make grants on their Web sites.

One of the best-funded organizations is Project Vote, a 501c (3) group that has an \$18 million fundraising goal and had raised, as of early September, \$13.2 million in tax-

deductible contributions. Similar work in registering and turning out urban voters, especially minorities, is being conducted by USAction Education Fund, the 501c (3) arm of USAction. Board members for America's Families United include not only Pope, but also Dennis Rivera, president of New York Local 1199 of the Service Employees International Union and a major figure in Democratic politics, and William Lynch Jr., who served as board secretary until he recently became deputy manager of the Kerry campaign.

The close connection between partisan activists and 501c groups is equally clear among conservative groups. Benjamin L. Ginsberg has been a lawyer for the Bush campaign, the Republican National Committee, Progress for America and the Swift Boat Veterans (both 527s) and Americans for Job Security, a 501c (4). Ginsberg was forced to resign as chief outside counsel to the Bush campaign during a controversy over his simultaneous involvement with the Swift Boat group. But he is one of the few activists whose involvement in multiple groups has come under scrutiny.

Researcher Alice R. Crites contributed to this report.