



QUINCY INSTITUTE
FOR RESPONSIBLE
STATECRAFT

Restoring Trust in the Think Tank Sector

May 2021 | QUINCY BRIEF NO. 12

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Executive Summary

Think tanks produce valuable research reports, opinion pieces, and expert commentary on television and radio; their research fellows and associates testify regularly before Congress. But their work can be compromised by their funders, a lack of transparency, and conflicts of interest. Given public distrust of the U.S. policymaking process, think tanks have a valuable opportunity to take tangible and necessary steps to help reestablish public confidence in the government's ability to address our nation's economic, health, environmental, and foreign policy challenges.

Embracing simple standards of funding transparency, complying with the Foreign Agent Registration Act, FARA, and identifying potential or apparent conflicts of interest are necessary steps for think tanks to bolster the credibility of their work and help restore public confidence in the policymaking process. The specific measures explored in this paper are three:

- Basic standards of donor disclosure and funding transparency must be more widely embraced. Think tanks should be transparent about their funding to preempt potential criticism of undisclosed conflicts of interest involving funders and research products. The long-term benefits of transparency far outweigh the short-term difficulties and publicity challenges that may result from disclosing sources of funding.
- Good-faith efforts to disclose activity that may require registration under FARA regulations are essential. This would demonstrate institutional commitments to transparency, avoid any impression of undisclosed conflicts of interest, and serve as endorsements of the Justice Department's efforts to limit foreign interference in the U.S. political system.

- Think tanks should proactively identify the appearance of potential conflicts of interest between sources of funding and staff doing work to be offered in the public sphere. Such measures would show that research institutions take seriously the potential for such conflicts and are disclosing when funders – even if funding is not directed to the research product in question – may stand to benefit directly or indirectly from a research product or policy proposal.

Taken together, these measures are essential to setting think tanks apart from a political system the public does not trust and sees as captured by special interests and dark money, money from opaque sources intended to influence political and policy outcomes. Rebuilding and maintaining credibility in an era increasingly marked by misinformation and public cynicism requires think tanks to actively address the areas in which they have often fallen short: donor transparency and conflict-of-interest avoidance.

Introduction

Think tanks play a powerful role in Washington and more generally in American democracy by operating as a bridge between academia and policymakers and by working to shape public debate about government policies via op-ed contributions and media appearances. Think tank experts often translate abstract concepts into government regulations, policies, or even new laws. They also testify regularly before Congress to offer commentary on the pressing issues of the day. Not least, think tanks serve as something of a holding tank for former, and perhaps even more important, future government officials; we have already seen the Biden administration add to its ranks with many policy experts from the think tank community.

A well-functioning and transparent think tank sector is essential to a healthy democracy. In the face of the Covid-19 pandemic, a potential cold war with China, and the global

challenge of climate change, the American public and policymakers need unbiased and rigorously researched policy proposals. Perhaps even more important, Americans are in need of a government and policymaking process that operates with transparency and integrity.

According to a 2020 Pew Research Center poll, just 20 percent of Americans, nearly a record low, “say they trust the federal government to do what is right just about always/most of the time.”¹ Opinion polls about think tanks are conducted less frequently, but a 2018 poll by a U.K. communications firm found that only one in two Americans knows what a think tank is and only 20 percent trust what think tanks have to say.²

Think tanks should stop operating under the assumption, made by many of them, that they can maintain their central role in the policy debate yet be exempt from the democratic standards of transparency.

But in the face of a crisis of confidence in the U.S. policymaking process, think tanks have a valuable opportunity to take tangible steps to help reinstall public confidence in the government’s ability to address our nation’s domestic and foreign policy challenges.

There are concrete steps that these institutions can take to help bolster the credibility of their work and help restore public confidence in the policymaking process. Most important, implementation of these measures would be an endorsement of the principle that transparency is crucial for a healthy democracy. Think tanks should stop operating under the assumption, made by many of them, that they can maintain their central role in the policy debate yet be exempt from the democratic standards of transparency.

¹ “America’s Views of Government: Low Trust, but Some Positive Performance Ratings.” *Pew Research Center*, September 14, 2020. https://www.pewresearch.org/politics/wp-content/uploads/sites/4/2020/09/PP_09.14.20_views_of_government_full_report.pdf.

² Hashemi, Tom, and Aidan Muller. “Forging the Think Tank Narrative USA.” *Cast from Clay*, March 21, 2018. <https://castfromclay.co.uk/forging-the-think-tank-narrative-perceptions-usa>.

Instances of think tanks producing research reports and op-eds and providing expert testimony before Congress that appear to benefit foreign and domestic funders, without disclosures of these potential conflicts of interest, are receiving increasing scrutiny from the media and good-governance groups. By adopting best practices for donor-disclosure, conflict-of-interest avoidance, and legal compliance with FARA, think tanks can make significant headway in addressing these ethical, legal, and reputational challenges. The best practices advocated in this paper are these:

- First, think tanks should acknowledge that the rush of dark money – funds intended to influence political outcomes when the source of the money is opaque – into the U.S. political system erodes public trust and is antithetical to the principles of democratic governance. Unfortunately, opaque funding is still too common in the think tank community, where disclosure of funding sources is not legally required. Basic standards of donor disclosure and funding transparency must be more widely embraced. All think tanks should be transparent about their funding, first as a matter of principle, and additionally to preempt potential criticism of undisclosed conflicts of interest. The long-term benefits of transparency far outweigh the short-term inconvenience and publicity challenges that may result from disclosing sources of funding.
- Second, the Department of Justice should provide clear, public guidance as to what think tank activities necessitate registration under FARA and fairly and justly enforce the act. This would help create a level playing field and provide safeguards against the use of FARA as a political weapon via selective enforcement. For think tanks, making good-faith efforts to disclose activity that may potentially require registration under FARA would demonstrate institutional commitments to transparency, avoid undisclosed conflicts of interest, and serve as endorsements of the Justice Department’s efforts to limit foreign interference in the U.S. political system.

- Finally, think tanks should proactively identify the appearance of potential conflicts of interest involving sources of funds and work products. Identifying a potential conflict of interest does not, in and of itself, undermine the credibility of research products, nor does it mean there is a quid pro quo between a research institute and those who fund it. It does, however, show that research institutions take seriously the potential for such conflicts and are disclosing when funders – even if funding is not directed to the research product in question – may stand to benefit directly or indirectly from a research product or policy proposal. Much as journalists consider it a professional standard to disclose relationships with entities covered in reporting, think tanks should implement similar best practices to maintain the trust of the general public and policymakers.

A New York Times investigation published in 2016 found that some think tanks have embraced opacity in funding and engaged in pay-for-play research. “[In] the chase for funds, think tanks are pushing agendas important to corporate donors, at times blurring the line between researchers and lobbyists,” the Times reported. “And they are doing so while reaping the benefits of their tax-exempt status, sometimes without disclosing their connections to corporate interests.”³ In October 2020, a report released by one of the authors of this paper, Ben Freeman, found that nearly a quarter of the top U.S. think tanks don’t publicly disclose their donors.⁴

It is in the interest of all think tanks to adopt best practices for transparency and conflict-of-interest avoidance.

Taken together, these measures will lead to an improved standard of disclosure, conflict-of-interest avoidance, and legal compliance that ultimately benefits the

³ Lipton, Eric, and Brooke Williams. “How Think Tanks Amplify Corporate America’s Influence.” *The New York Times*, August 7, 2016. https://www.nytimes.com/2016/08/08/us/politics/think-tanks-research-and-corporate-lobbying.html?_r=0.

⁴ Freeman, Ben. “U.S. Government and Defense Contractor Funding of America’s Top 50 Think Tanks.” *The Center for International Policy*, October 2020. https://3ba8a190-62da-4c98-86d2-893079d87083.usfiles.com/ugd/3ba8a1_c7e3bfc7723d4021b54cbc145ae3f5eb.pdf.

American public and acknowledges the distrust in Washington that permeates political discourse.

Donor disclosure

The rush of dark money into the U.S. political system – particularly after the Supreme Court’s Citizens United decision in 2010, which opened the floodgates for anonymous political giving – casts doubt on the objectivity of public institutions and politicians. Think tanks have not been immune from this problem, and pay-to-play research by think tanks is increasingly reported in the media. As previously mentioned, just one in five Americans trust what think tanks have to say.⁵ This distrust can be attributed in large measure to the fact that most Americans are increasingly cynical about the financial motivations of their leaders and those active in the policymaking process. In the think tank community, where public disclosure of funding sources is not legally required, revelations of previously undisclosed funding sources have led to questions about the objectivity of think tank work.

Fortunately, there is a growing trend among think tanks to disclose their funders. This is the critical first step in regaining public trust.

Stories of undisclosed donors influencing think tank work have continued to make headlines.⁶ In 2019, leaked internal documents exposed the United Arab Emirates’ funding relationship with the Center for American Progress, raising questions about whether this support influenced CAP’s response to the murder of Jamal Khashoggi, the Saudi journalist (and Washington Post columnist) assassinated in Istanbul in 2018. CAP subsequently ended its funding relationship with the UAE.⁷ As documented by one of this paper’s authors, Eli Clifton, from 2007 to 2015 the Heritage Foundation received at least \$5.8 million from a Korean weapons manufacturer whose autonomous weapons

⁵ Hashemi and Muller, March 21, 2018.

⁶ Lipton, Eric, Brooke Williams, and Nicholas Confessore. “Foreign Powers Buy Influence at Think Tanks.” *The New York Times*, September 6, 2014. <https://www.nytimes.com/2014/09/07/us/politics/foreign-powers-buy-influence-at-think-tanks.html>.

⁷ Siddiqui, Sabrina. “Leading Liberal Thinktank Will No Longer Accept Funds from UAE.” *The Guardian*, January 25, 2019. <https://www.theguardian.com/us-news/2019/jan/25/united-arab-emirates-funding-center-for-american-progress>.

system was promoted by Heritage experts.⁸ While the failure of think tanks to disclose potential conflicts of interest of this sort continues to make news – and while some think tanks still choose to not disclose any of their donors – recent research suggests the overall trend in the field has been toward transparency; most of the nation’s prominent think tanks now disclose their top funders.⁹

Transparency, however, is a scale, not a binary. Think tanks have taken a variety of approaches to disclosing their donors, and these differing approaches can lead to different impacts on public confidence in an organization's work.

Fortunately, there is a growing trend among think tanks to disclose their funders – the critical first step in regaining public trust.

Some think tanks, for example, disclose their donors in annual reports or “honor rolls” of financial supporters, while others have dedicated pages on their websites to donor information. Though both approaches accomplish the basic goal of publicly disclosing donor identities, the latter method increases ease of access to donor information much more than the former. Think tanks could strengthen this practice, too, by proactively calling attention to their donor lists, urging readers of reports to visit donor-disclosure webpages, and prominently linking to them on their websites’ “about” pages or homepages.

Think tanks have also taken different approaches to the level of detail they provide about their funders. Some, for example, simply list the names of their major donors, while others, such as the Center for Global Development, provide detailed information on all their donors and the exact amount of funding they receive from each.¹⁰ The most common approach, however, is for think tanks to provide a list of all major donors

⁸ Clifton, Eli. “Pay for Play? Heritage’s Cozy Ties With Foreign Weapons Maker Raises Concerns.” *The American Conservative*, July 14, 2020.

<https://www.theamericanconservative.com/articles/pay-for-play-heritages-cozy-ties-with-korean-weapons-maker-raises-concerns/>.

⁹ Freeman, October 2020.

¹⁰ “How We’re Funded.” *Center for Global Development*, <https://www.cgdev.org/section/funding>.

grouped into categories based on the size of the financial contribution each donor makes. For example, the Center for Strategic and International Studies has donor categories of \$5,000 to \$99,999, \$100,000 to \$499,999, and \$500,000 and above.¹¹ As with how a think tank discloses its funders, the more information a think tank discloses about its funders, the less cause the public has to question that funding.

Knowing that funding sources will be disclosed will lead institutions to carefully examine real or perceived conflicts of interest and reputational harm that certain funders may cause before choosing to accept or decline their support. Moreover, funding transparency offers the general public and policymakers the opportunity to determine if a think tank's sources of funding present potential conflicts of interest. As it increasingly becomes the standard for think tanks to disclose funders, something of a virtuous cycle will be created, whereby think tanks that fail to meet this new norm will stand out and face increased scrutiny.

Indeed, think tanks may face increasing requirements to disclose their funders and potential conflicts of interest with the expansion in January 2021 of Truth in Testimony rules, which require disclosures on the part of people who testify before Congress. This was the first amendment of the disclosure requirement in five years.¹² The new rules require witnesses to report grants from foreign sources dating back 24 months and disclose if they are a fiduciary of any entity with an interest in the subject matter of the hearing. These disclosures must be publicly available 24 hours before a witness delivers his or her testimony.

The strengthening of Truth in Testimony rules should serve as a warning to the think tank community, given that it provides many of the expert witnesses who testify before Congress. If think tanks choose not to disclose their funders voluntarily, the continued expansion of Truth in Testimony rules may require ever more detailed disclosures about financial interests. Further, committee members and staff, who clearly have an interest

¹¹ "Government Donors." *Center for Strategic and International Studies*, 2021. <https://www.csis.org/government-donors#5>.

¹² "Porter, McGovern Announce New Disclosure Requirements for Congressional Witnesses." *Katie Porter Putting Orange County Families First*, January 4, 2021. <https://porter.house.gov/news/documentsingle.aspx?DocumentID=225>.

in tightening Truth in Testimony rules, may begin to seek tighter enforcement of the rules, potentially causing reputational harm to think tanks whose employees have not fully complied.

As Congress continues to address this issue and as dark money continues to flood the political system, think tanks would be wise to ensure that their funding is fully in the light.

Additionally, Lance Gooden (R-TX) recently introduced the Think Tank and Non-profit Foreign Influence Disclosure Act in the House, which would require think tanks to publicly disclose their donors.¹³

As Congress continues to address this issue and as dark money continues to flood the political system, think tanks would be wise to ensure that their funding is fully in the light. Doing so will promote the legitimacy of think tanks' research products and reduce the corrupting influence of hidden donors undermining the objectivity of research. In short, increasing funding transparency is an important first step in distancing think tanks – in fact or in image – from the dark-money universe that has contributed to the erosion of public trust in government.

Foreign funding of think tanks

For the reasons already stated, think tanks have an ethical obligation to voluntarily disclose their donors. But in some cases donor disclosure may not be optional: It might be legally required. Specifically, when think tanks accept foreign money they may have a legal obligation to register under FARA regulations and report the exact amount of foreign funding they are receiving and the work they are doing in exchange for that money. Some think tanks are, in fact, already registered as foreign agents.¹⁴ As the

¹³ United States Congress. "Think Tank and Non-profit Foreign Influence Disclosure Act." *117th Session of Congress*, March 4, 2021. <https://gooden.house.gov/sites/gooden.house.gov/files/Think%20Tank%20and%20Nonprofit%20Act-Text.pdf>.

¹⁴ United States Department of Justice. "Exhibit A to Registration Statement Pursuant to the Foreign Agents Registration 1938, as Amended." FARA filing, June 16, 2020. <https://efile.fara.gov/docs/6836-Exhibit-AB-20200616-1.pdf>.

authors of this report have noted elsewhere, many more American think tanks are awash with foreign money and doing work that might require registration under FARA.¹⁵ For all these reasons, the Department of Justice should enforce FARA for think tanks and make it perfectly clear how they will do so.

When should think tanks register under FARA?

The Foreign Agents Registration Act was enacted in 1938 in response to Nazi propagandists operating in the U.S. to rouse support for Hitler's Germany. After this initial focus on propaganda, later revisions to the statute shifted the focus toward traditional lobbying activities. From its enactment until today, FARA has been a transparency statute that does not, of itself, limit what anyone can say or do on behalf of a foreign entity.

While the statute has historically focused primarily on lobbying and public relations-type organizations, it can apply, and indeed has applied, to think tanks. Despite some misconceptions, there is no exemption from FARA registration explicitly for think tanks. In lieu of this, when questions of FARA registration arise, think tanks have pointed to an exemption for scholastic activities. Title 22, Section §613(e) of the act exempts "[a]ny person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts."¹⁶ Thus, think tanks, even those that accept funding from foreign governments, could be considered exempt from FARA registration if their work is only for the objective, scientific work that think tanks often do.

This exemption fits well with how think tanks have historically operated, filling the gap between academia and government. Or, as the University of Pennsylvania's "2019 Global

¹⁵ Freeman, Ben. "Foreign Funding of Think Tanks in America." *The Center for International Policy*, January 2020. https://static.wixstatic.com/ugd/3ba8a1_4f06e99f35d4485b801f8dbfe33b6a3f.pdf; Eli Clifton. "Taiwan Funding of Think Tanks: Omnipresent and Rarely Disclosed." *Quincy Institute for Responsible Statecraft*, June 17, 2020. <https://responsiblestatecraft.org/2020/06/17/taiwan-funding-of-think-tanks-omnipresent-and-rarely-disclosed/>.

¹⁶ United States Department of Justice. "Title 22 – Foreign Relations and Intercourse, § 601-672. 256ff." <https://www.govinfo.gov/content/pkg/USCODE-2009-title22/pdf/USCODE-2009-title22-chap11-subchapII.pdf>.

Go To Think Tank Index Report” explains, think tanks are conducting, “exceptional work to help bridge the gap between knowledge and policy.”¹⁷

This, however, is a narrow and antiquated notion of all work done at think tanks today. The think tank landscape has changed markedly in recent decades; many think tanks do far more than purely scholastic or academic work. It is not at all uncommon now for think tanks to employ lobbyists, pursue decidedly partisan policies, and even draft legislation. This shift in the scope and type of work think tanks conduct is critical when it comes to the question of foreign funding, because once the work of an organization extends beyond “scholastic, academic, or scientific pursuits,” an organization could be subject to registration under FARA if it is determined it is working as the “agent of a foreign principal.”¹⁸

For many think tanks that receive funding from foreign governments, the principal-agent determination is rather straightforward. FARA has an extremely broad definition of what constitutes a foreign principal: It can include nearly any person or entity outside the United States. However, the first example of a foreign principal in the statute is “a government of a foreign country.”¹⁹ Similarly, FARA has a very broad definition of what constitutes an agent under the statute – including even those who do work at the “request” of a foreign principal without compensation.

The DOJ, in a May 2020 memo, “The Scope of Agency Under FARA,” clarified that the person or organization must also be conducting “activities within the United States [that] may be fairly attributed to a foreign principal.”²⁰ This could include foreign governments funding specific reports, events, or other activities at think tanks. As an example, the department includes “a U.S. organization that received 30–50% of its

¹⁷ McGann, James G. “2019 Global Go To Think Tank Index Report.” TTCSP Global Go To Think Tank Index Reports. *University of Pennsylvania*, June 18, 2020. https://repository.upenn.edu/cgi/viewcontent.cgi?article=1018&context=think_tanks.

¹⁸ Title 22, U.S.C. § 613(e).

¹⁹ Title 22 U.S.C. § 611(a).

²⁰ United States Department of Justice. “The Scope of Agency Under FARA.” May 2020. <https://www.justice.gov/nsd-fara/page/file/1279836/download>.

funding from a foreign government [which] was advised to register when its advocacy targeted the interests of Americans from that foreign country.”

The FARA statute itself explains that the agent must be doing actual work of benefit to the foreign principal, which most notably includes “political activities.” These are defined as:

any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.²¹

For many think tanks, if not most, influencing the government and the public in regard to U.S. policies is the overarching goal. This is not an offshoot or an afterthought of their work: This is their entire purpose.

FARA has an extremely broad definition of what constitutes a foreign principal: It can include nearly any person or entity outside the United States.

In short, while there isn’t specific direction from the DOJ regarding think tanks’ FARA registration obligations, it is clear that think tanks engaging in political activities at the behest of foreign governments — from which they are receiving sizable financial contributions — should be registered under FARA if they wish to be in compliance with the statute.

²¹ Title 22 U.S.C. § 611(o).

‘Foreign agent’ is not a scarlet letter

The argument that think tanks receiving sizable contributions from foreign governments should be registered under FARA isn’t new. Seven years ago, after a 2014 New York Times exposé on foreign funding of think tanks, Frank Wolf, at the time a Republican congressman from West Virginia, asked the Justice Department to investigate whether think tanks should be registered under FARA.²²

The DOJ didn’t publicly respond to Wolf’s letter, and think tanks continued to fly under the FARA radar until May 2020, when the department offered better guidance on “The Scope of Agency Under FARA” and began asking some think tanks to register under the statute.²³ Following Russia’s interference in the 2016 presidential election, FARA became a term of common use in press reports, and enforcement of the statute – which had been nearly nonexistent during the previous 50 years – soared, with indictments for FARA violations of high-profile political operatives, including Michael Flynn and Paul Manafort, two figures active in Donald Trump’s presidential campaign.²⁴ Think tanks have not been immune from this increased enforcement regime, and at least two think tanks – the National Wildlife Federation and the Center for International Policy – have since registered under the act. The latter employs Ben Freeman, a co-author of this brief, and receives funding from the government of Norway.²⁵ The department’s advisory opinions to these organizations explain the rationale for the department’s recommendations that they register under the act and may be of benefit to other think tanks considering their own registration obligations.²⁶

²² “Letter Sent by Representative Frank R. Wolf.” *The New York Times*, October 9, 2014. <http://www.nytimes.com/interactive/2014/10/10/us/10thinktank.html>.

²³ United States Department of Justice. “The Scope of Agency Under FARA.” May 2020. <https://www.justice.gov/nsd-fara/page/file/1279836/download>.

²⁴ United States Department of Justice. “Recent FARA Cases.” February 26, 2021. <https://www.justice.gov/nsd-fara/recent-cases>.

²⁵ United States Department of Justice. FARA filing, June 16, 2020; United States Department of Justice. “Exhibit A to Registration Statement Pursuant to the Foreign Agents Registration Act of 1938, as Amended.” FARA filing, August 23, 2019. <https://efile.fara.gov/docs/6710-Exhibit-AB-20190823-1.pdf>.

²⁶ U.S. Department of Justice National Security Division. “Advisory Opinion Pursuant to 28 C.F.R. § 5.2,” July 10, 2019. https://www.justice.gov/nsd-fara/page/file/1213261/download?mc_cid=e99e00d24b&mc_eid=568350cd6e; U.S. Department of Justice National Security Division. “Advisory Opinion Pursuant to 28 C.F.R. § 5.2,” March 13, 2020. <https://www.justice.gov/nsd-fara/page/file/1287616/download>.

Registration under FARA has not inhibited these organizations from conducting their work. It has simply made the funding of that work, and the activities connected to it, more transparent to the public.

In some cases, there are clear paper trails from foreign governments providing funds to think tanks whose work influences U.S. policy changes that benefit the foreign funders.

Unfortunately, in an area where evenhandedness is key, the Justice Department's enforcement of FARA for think tanks has been uneven, to say the least. While the two think tanks mentioned here have registered under the act, the DOJ's inconsistent enforcement has effectively allowed other think tanks to engage in activities that appear, at least according to the terms of the statute, to require FARA registration without actually registering.²⁷ In some cases, there are clear paper trails from foreign governments providing funds to think tanks whose work influences U.S. policy changes that benefit the foreign funders.

For example, in the summer of 2016 the Center for a New American Security received \$250,000 from the UAE to produce, among other things, a report on exporting military-grade unmanned aerial vehicles, UAVs, commonly known as drones. According to *The Intercept*, which first reported this story, when given a draft of the report in February 2017 the UAE's ambassador to the U.S. wrote an email thanking Michèle Flournoy, then CNAS' president, for the report – which, he explained, “will help push the debate in the right direction.” The ambassador elaborated, “Some of the UAV manufacturers are pushing for a similar conclusion, so this report might reaffirm their arguments.”²⁸

²⁷ The Justice Department does not publicly reveal proactive efforts to enforce FARA, apart from releasing advisory opinions, but we are aware that DOJ is telling some think tanks they have to register while ignoring others doing similar work for similar funders.

²⁸ Jilani, Zaid, and Alex Emmons. “Hacked Emails Show UAE Building Close Relationship with D.C. Think Tanks that Push Its Agenda.” *The Intercept*, July 30, 2017. <https://theintercept.com/2017/07/30/uae-yousef-otaiba-cn-as-american-progress-michele-flournoy-drone/>.

CNAS then released a public report, “Drone Proliferation: Policy Choices for the Trump Administration,” which, perhaps unsurprisingly, recommended the U.S. export military drones to the UAE and other countries.²⁹ In August of 2020 the Trump administration announced plans to sell armed drones to the UAE.³⁰

CNAS is not the only think tank that has produced reports paid for by a foreign government and advocated for that government’s interests. As noted earlier, the UAE was by this time also involved in a questionable relationship with the Center for American Progress. But it should not require leaked correspondence and investigative journalism to expose these links. FARA provides a clearer path to achieve more uniform outcomes across the think tank space.

But the Justice Department’s limited guidance as to when think tanks are obligated to register under FARA creates an uneven playing field wherein accusations of FARA violations can be used as political weapons. As an example, Republican members of Congress have called for FARA compliance investigations of several environmental groups whose work they oppose.³¹

The Justice Department should evenhandedly enforce FARA for think tanks and make it perfectly clear how they will enforce the law. A given think tank may be just as obliged to register under the act as a lobbying or public relations firm does, and the Justice Department should not make exceptions for any think tank when none exists in the statute. The department should couple proper enforcement of the act with clear and well-publicized guidelines for think tanks concerned about their registration obligations. This will create a level playing field and help to ensure that foreign actors are not exploiting think tanks as a means to covertly influence U.S. politics and policy.

²⁹ Ewers, Elisa Catalano, Lauren Fish, Michael C. Horowitz, Alexandra Sander, and Paul Scharre. “Drone Proliferation — Policy Choices for the Trump Administration.” *Center for a New American Security*, June 2017.

<http://drones.cnas.org/wp-content/uploads/2017/06/CNASReport-DroneProliferation-Final.pdf>.

³⁰ Mazzetti, Mark, and Edward Wong. “Trump Administration Pushes Arms Sale to U.A.E. Despite Israeli Worries.” *The New York Times*, August 19, 2020. <https://www.nytimes.com/2020/08/19/world/middleeast/trump-netanyahu-israel-uae.html>.

³¹ “House Committee Expands Use of Foreign Agent Registration Act to Target Environmental Advocacy Groups.” *Charity and Security Network*, June 25, 2018. https://charityandsecurity.org/news/house_investigations_use_fara_target_enviro/.

Avoiding conflicts of interest

Many think tanks have put considerable thought into crafting, implementing, and enforcing conflict-of-interest policies addressing actual or potential conflicts that may exist between the organization and employees undertaking outside work. These address one important area of potential ethical entanglement but ignore others, including potential conflicts of interest between an institution's donors and its research products and potential conflicts between staff undertaking outside political work and their obligations at a think tank.

Many institutions identify whether a specific funder has directed funds to support the research and authorship of specific reports or research products. Yet many other think tanks still do not do this, which points to a glaringly obvious first guideline when it comes to avoiding conflicts of interest: Do not engage in pay-to-play research. That is to say, think tanks should not accept money from a funder for research when the funder has a say in the outcome of the research. Pay-to-play research, such as taking funding to write a report that promotes a Gulf dictatorship's drone agenda, crosses a line from conducting objective, scholastic research to effectively acting as a public relations or lobbying firm while operating under the guise of a think tank.

But in an era when the American political system is increasingly defined by dark money and the questioning of fact-based research, think tanks must do more than avoid pay-to-play research. Clearly, most cases of undue donor influence don't come through explicit pay-for-play agreements. Accordingly, research institutions must also inoculate themselves against the potential or appearance of conflicting interests between institutional funders and those turning out research products.

The easiest and most effective way to address potential conflicts of interest is to follow a second important guideline, this one as simple as the first: Proactively identify instances in which a funder may appear to benefit from policies endorsed in research

work by staff. Transparency alone will not eliminate every instance of pay-for-play research emerging from think tanks. But such disclosure can serve as a valuable opportunity to preempt charges that undisclosed conflicts of interest are benefiting donors and/or influencing research. Disclosure also offers think tanks an opportunity to assert the independence of their research from funder influences before their independence might be called into question.

Research institutions must inoculate themselves against the potential or appearance of conflicting interests between institutional funders and those turning out research products.

Unfortunately, many avoidance efforts at think tanks have focused on actual conflicts of interest in which employees may find themselves compromised by outside financial incentives. At the same time, think tanks making these efforts commonly neglect the important issue of the appearance of conflicts of interest (or perceived conflicts of interest) altogether. Harvard political theorist Dennis F. Thompson, weighing in on a debate on journalistic conflicts of interest in a New York Times letter to the editor,³² warned of the “confused and mischievous distinction between the appearance of a conflict of interest and an actual conflict.” The distinction made by those “who try to defend themselves against the charge of a conflict of interest by claiming that they are not actually influenced by financial gain,” Thompson asserted, is “beside the point.” He continued:

The purpose of conflict-of-interest rules is precisely to avoid an inquiry into the motives of individual reporters (and other professionals). The rules are meant to maintain the trust of readers, who are not in a position to investigate the motives of reporters.

³² Thompson, Dennis F. “Conflicts and Appearances.” *The New York Times*, October 1, 2011. <https://www.nytimes.com/2011/10/02/opinion/sunday/conflicts-and-appearances.html>.

U.S. think tanks, which typically present many of their research products and analyses as objective research motivated by the pursuit of the best policy outcomes for all Americans, regularly face the appearance of conflicting interests when receiving funding from foreign governments or individuals and corporations with competing or narrower interests. Acknowledging this potential conflict is the best mechanism for avoiding a charge of pay-for-play influence over policy proposals and analysis. Ignoring the appearance of a conflict of interest between donors and those conducting research, even if proper firewalls are in place to prevent any undue influence, fails to address the outward appearance of a conflict. This has the potential to undermine even valuable research by exposing it to unverified rumor or misperceptions.

Think tanks can assist their researchers in identifying the appearance of such conflicts by urging staff to consult the donor list, ideally with the potential financial and political interests of major donors identified by the institution before research work is published. If a conflict of interest might appear to exist, the author and institution should disclose and address the potential conflict, keeping in mind that donors whose support is directed to unrelated projects can still pose a potential conflict of interest for projects that do not receive the funding. Money is fungible, and an institution's funders, directly or indirectly, support all work products.

Indeed, base-line policies covering conflict-of-interest disclosure and avoidance are the norm in other industries, including journalism. National Public Radio, explaining the minimum action it takes when a potential conflict of interest is identified, states, "In minor cases, we might satisfy an apparent conflict by prominently disclosing it, and perhaps explaining to the public why it doesn't compromise our work." Institutions offering policy analysis and prescriptions should hold themselves to no lower a standard.³³

Acknowledging the potential for pay-for-play practices won't end them, but transparency in funding and acknowledging the potential for the undue influence of funders over

³³ "Independence." National Public Radio. <https://www.npr.org/about-npr/688405012/independence>.

research will increase public confidence, prompt think tanks to consider the reputational costs of potential conflicts of interests, and reinforce democratic norms of transparency and good governance.

Finally, think tanks and their staffs should develop and publicize policies for when and how to disclose political work undertaken by staff in their personal capacities, particularly when staff members serve on advisory groups for political campaigns. This work poses a conflict of interest if their work might be interpreted to benefit a candidate or campaign they are advising.

Identifying potential conflicts of interest between institutional funders and think tank staff, and between staff doing outside political work and their institutional research products, would signal a serious effort by the think tank community to address the potential for significant conflicts of interest in its work.

Transparency in funding and acknowledging the potential for the undue influence of funders over research will increase public confidence, prompt think tanks to consider the reputational costs of potential conflicts of interests, and reinforce democratic norms of transparency and good governance.

Shifting the conversation away from deflecting charges of conflict of interest (real or perceived) and combating the steady drumbeat of charges that think tanks are captured by special interests and foreign governments and serve as an extension of dark money politics requires a commitment to transparency and proactive conflict-of-interest disclosure and avoidance.

Making regular public acknowledgments of the potential for conflicts of interest – via rigorous disclosure of potential conflicts – is an important first step for shielding

research institutions against eroding public trust in government and the political process.

Conclusion

As we have explained here, there are concrete steps think tanks can undertake to help bolster the credibility of their work.

The rise of dark money has, not by chance, coincided with rising distrust in government. For think tanks, the first step is to separate themselves from the pernicious impact of dark money in the American political system and embrace a policy of donor transparency.

Most think tanks are not yet legally required to comprehensively disclose information about their donors. However, many think tanks, commendably transparent about their funders, are voluntarily disclosing such information. This helps distance think tanks from dark money political groups and preempts accusations that a think tank's work is driven by unacknowledged financial interests.

In some cases, funder transparency may be legally required. Many think tanks are conducting work on behalf of foreign governments and other foreign entities that would appear to require registration under the Foreign Agents Registration Act. While FARA registration has been seen as a mark against them, it shouldn't be. At its heart, FARA is a disclosure statute, and some think tanks are already FARA registrants. Registration as foreign agents has not prevented these organizations from conducting their work. It has simply made the funding of that work, and the activities connected to it, more transparent to the public. To help think tanks better navigate the often murky FARA waters, the Justice Department should provide much clearer public guidance as to when think tanks should register, while also striving to enforce the law more evenly and equitably.

In addition to funder transparency, to further reclaim public trust, think tanks should actively avoid clear conflicts of interest and the appearance of conflicts of interest. Combating the steady drumbeat of charges that think tanks are captured by special interests and foreign governments and serve as an extension of dark-money politics requires a cultural shift toward transparency about their funders and their relationships with those funders. Think tanks must move the conversation away from deflecting charges of conflict of interest (real or perceived) and towards proactive conflict-of-interest disclosure and avoidance.

First and foremost, think tanks should not conduct pay-to-play research by accepting money from a funder for research that will provide a specific and tangible benefit, financial or otherwise, to that funder. Additionally, think tanks should publicize conflict-of-interest policies and proactively identify the appearance of conflicts of interest between institutional funders, or staff conducting outside political work, and a think tank's institutional research products.

These steps are essential to set think tanks apart from a political system the public does not trust and sees as captured by special interests and dark money. In a political environment rife with disinformation, think tanks are needed – arguably more so than ever – and must be seen as trusted providers of factual, objective analyses of the world's pressing problems.

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QI is committed to improving the standards for think tank transparency and potential conflict-of-interest avoidance. QI's conflict-of-interest policy can be viewed at quincyinst.org/coi and its list of donors is at quincyinst.org/about.

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