

Addendum of Specific Concerns

Based on feedback from our foundation members, we would like to highlight five aspects of the proposed legislation that are of significant concern. The primary concern is if every foundation that funds any work in China, even a one-time grant, is required to comply with the dual management system, a large portion of international exchanges and contacts will fall within the scope of this law.

Several of the Council's members have also submitted comments outlining their concerns with the proposed legislation, and we encourage you to also consider their analysis of the impact of the law on their grantmaking and operations in China.

1. **The law is ambiguous as to which foreign organizations are required to register and comply with the law, and for what types of activities.** Many definitions in the law, including “NGO,” are expansive, yet NGO “activities” are not clearly defined. It is also not clear how the law applies to foreign grantmaking organizations that only offer funding support within China and do not conduct any other activities on the mainland. Our foundation members would benefit from a better understanding of when the registration and supervision requirements in the law are triggered.
2. **The dual-management system will require foreign organizations to obtain sponsorship and registration with a professional supervisory unit, and also be monitored by public security agencies.** For non-mainland organizations, establishing a relationship with a professional supervisory unit is difficult even when the organization and unit have a history of working together. The dual layers of registration and supervision including submission of work plans, annual reports, audits, bank account information, personnel information, and much more will create an increased burden on foreign grantmakers seeking to fund work within China, particularly organizations who do not have preexisting relationships within the country. Furthermore, this dual system of enforcement suggests an emphasis on policing and security, rather than meaningful cooperation between Chinese and U.S. entities.
3. **The assignment of the public security agencies to be in charge of registering and managing nonprofit organizations signals an inherent skepticism of foreign organizations.** Non-mainland grant-making organizations carrying out activities within China recognize their duty to comply with China's laws and regulations, and public security agencies already play an appropriate role in investigating suspected violations of law. Giving public security agencies the additional role of registering and managing foreign nonprofits sends a clear message that these organizations are especially suspect. This will deter foreign grant-makers from making grants to Chinese organizations, such as research institutes or universities, and will chill Chinese citizens' willingness to interact with them. Non-mainland grantmakers will also be reluctant to provide police with proprietary business information that the law requires, again impacting the flow of philanthropic dollars into China.
4. **The requirement for foreign organizations conducting activities within the mainland for less than one year to obtain a professional supervisory unit, a**

Chinese partner unit, and a temporary activity permit, is overly burdensome.

The law seems to require all non-mainland NGOs to work through several processes before beginning work in China, even for one-time activities. Many of our foundation members do not plan to open a mainland office or have more than a temporary presence in the country, but they still seek to contribute meaningfully to China's cultural, educational, and economic interests by offering occasional funding support. This law would make it extremely challenging to offer this type of temporary support, often in response to particular needs identified by Chinese partners, given the layers of approval and registration that an organization would first be required to navigate.

5. **The requirement for annual approval of an organization's work plan by a professional supervisory unit will make it very difficult for foreign organizations to respond to time-sensitive needs like natural disasters.** Following a disaster, foundations and other organizations play vital roles in aiding affected communities and can have an equally critical role in building long-term community resilience, often by working with local institutions and trusted local partners. U.S. foundations have significant experience responding to natural disasters and providing immediate and long-term relief in China. By requiring advance approval of the activity that a foreign organization plans to undertake in China over the course of the year, the law seems to preclude activity that would be conducted in response to unanticipated, emergency needs.