

## FEDERAL ELECTION COMMISSION

## Instructions for Preparing FEC FORM 9 (24 Hour Notice of Disbursements for Electioneering Communications)

### Who Must File

Every person, group of persons, qualified nonprofit corporation or organization that makes disbursements for electioneering communications aggregating in excess of \$10,000 during a calendar year must report these disbursements by submitting FEC Form 9. For purposes of these notices “disbursements” includes actual disbursements and the execution of contracts creating an obligation to make disbursements for electioneering communications. The Commission must receive the notice by 11:59 p.m. of the day following the date of the first public disclosure of the electioneering communication that triggers the reporting requirement. Each time subsequent disbursements for electioneering communications made by the same person or entity aggregate in excess of \$10,000, another notice must be submitted. (Note: Political committees that make disbursements for such communications must report such disbursements on FEC Form 3X as expenditures or independent expenditures, as appropriate.)

Qualified Nonprofit Corporations that make disbursements for or execute contracts obligating them to make disbursements for electioneering communications must also certify that they fit the criteria for exemption from the prohibition on corporations making electioneering communications under 11 CFR 114.10.

### Definitions

**Electioneering Communication** means any broadcast, cable or satellite communication that (1) refers to a clearly identified candidate; (2) is publicly distributed; (3) is distributed within 60 days prior to a general election or 30 days prior to a primary election; and (4) can be received by 50,000 or more people in the House District or State that the candidate seeks to represent, or in the case of

Presidential primaries, the State holding a Presidential primary within 30 days of the date of public distribution. 11 CFR 100.29.

**Public Distribution** of an electioneering communication means the airing, broadcast, cablecast or other dissemination of such a communication through the facilities of a television station, radio station, cable television system or satellite system.

**Date of Public Distribution** refers to the “**Disclosure Date**” under 11 CFR 104.20(a)(1). That regulation defines the date that triggers disclosure of an electioneering communication. The first reportable date of public distribution in a calendar year is the date that an electioneering communication is publicly distributed when the maker of the communication has also surpassed the \$10,000 disbursement threshold. Counting toward the \$10,000 threshold are disbursements made for the direct costs of producing or airing the communication aired on the first reportable date plus the direct costs of any previously unreported electioneering communications. After the first disclosure date, subsequent disclosure notices must be filed on the day following each date on which an electioneering communication is publicly distributed, provided that the direct costs for any electioneering communications since the last Form 9 was filed aggregate in excess of \$10,000.

**Direct Costs of Producing or Airing Electioneering Communications** means (1) costs charged by a vendor (e.g., studio rental time, staff salaries, costs of video or audio recording media and talent) or (2) costs of airtime on broadcast, cable and satellite radio and television stations, studio time, material costs and the charges for a broker to purchase the airtime. 11 CFR 104.20(a)(2).

**Qualified nonprofit corporation** is a corporation that either (i) has the

following characteristics: **(a)** Its only express purpose is the promotion of political ideas (i.e., issue advocacy, election influencing activity and research, training or educational activity expressly tied to its political goals); **(b)** It cannot engage in business activities; **(c)** It does not have (1) shareholders or persons (other than employees and creditors) who are affiliated in a way that could allow them to make a claim on its assets or earnings; or (2) persons who receive a benefit that is a disincentive for them to disassociate themselves with the corporation on the basis of the corporation’s position on a political issue; **(d)** It was not established by a business corporation or labor organization, does not accept donations from business corporations or labor organizations; and if unable, for good cause, to demonstrate that it has not accepted such donations, has a written policy against accepting donations from business corporations or labor organizations; and **(e)** It is described in 26 U.S.C. § 501(c)(4). (See 11 CFR 114.10); or (ii) has been deemed entitled to qualified nonprofit corporation status by a court in competent jurisdiction in a case in which the same corporation was a party. (See 11 CFR 114.10(e)(1)(i)(B).)

**Donation** as used on this Form means any gift, subscription, loan, advance or deposit of money or anything of value given to any person that is used to finance an electioneering communication.

**Name of Employer** means the organization or person by whom an individual is employed, rather than the name of his or her supervisor. Individuals who are self-employed should indicate “self-employed.”

**Occupation** means the principal job title or position of an individual.

**Purpose** means a brief statement or description of why the disbursement was made.

## When to File

The Commission must receive notices of electioneering communications no later than 11:59 p.m. Eastern Standard/Daylight Time of the day following the date on which an electioneering communication is publicly distributed for the first time, provided that the \$10,000 threshold has been reached. The Commission must receive notices of subsequent disbursements for additional airings of the same electioneering communication and/or for other electioneering communications by 11:59 p.m. Eastern Standard/Daylight Time of the days that follow the dates of public distribution of later electioneering communications, whenever the costs of such communications bring subsequent aggregate disbursement totals to more than \$10,000. These later aggregations must include any previously unreported disbursements for electioneering communications that have been publicly distributed since the most recent notice was filed.

Notices of electioneering communications may be filed by fax to (202)219-0174 by electronic mail to 2022190174@fec.gov or by online webform available on the Commission's web site at <http://www.fec.gov/elecfil/online.shtml>.

## Where To File

File all notices of electioneering communications with the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463.

For notices of electioneering communications referencing a candidate for the House in Guam or Puerto Rico, submit a copy to the territory in which the candidate seeks election.

For notices of electioneering communications made in Guam or Puerto Rico referencing a candidate for President or Vice President, submit a copy to the territory in which the expenditure is made. As of March 2006, those territories had not qualified for the Commission's state filing waiver program.

Persons filing notices of electioneering communications must retain copies of their notices for a period

of not less than 3 years from the date of filing.

## Line By Line Instructions

**LINE 1. Individual, Organization or Qualified Nonprofit Corporation Making the Disbursements/Obligations.** Provide the requested information. Individual filers: provide the name of your employer and your occupation.

**LINE 2. FEC Identification Number.** First time filers—leave this line blank. Previous filers with an identification number—enter that number.

**LINE 3. New or Amended.** Check "Amended" if you are filing an amendment to a previous notice. Otherwise, check "New."

**LINE 4. Covering Period.** Enter the first and last dates of financial activity covered by the statement; these dates should begin with the date of the first related disbursement and end with the date of public distribution.

**LINE 5. a) Date of Public Distribution.** Enter the public distribution date of the electioneering communication for which disbursements have exceeded \$10,000 or whose related costs together with earlier disbursements for electioneering communications have exceeded \$10,000, thereby triggering the 24-hour notice requirement. If this is the first notice filed with regard of a particular electioneering communication by the maker, enter the date that the communication was first publicly distributed. If this is not the first notice filed with regard to a particular electioneering communication by the maker, enter the date on which the previously reported electioneering communication was publicly distributed an additional time, provided that costs related to the additional public distribution have exceeded \$10,000 or the costs of the additional distribution plus disbursements related to other electioneering communications aired since the last notice was filed have exceeded \$10,000. For subsequent, new electioneering communications, enter the date on which the communication

was first aired whenever related and/or aggregated costs exceed \$10,000. See the definitions above and under 11 CFR 104.20(a) of "Date of Public Distribution" and "Direct Costs of Producing or Airing Electioneering Communications."

b) Communication title. List the title of the communication as named by the media vendor or producer of the communication. (Titles of individual communications should remain the same throughout their various public distributions unless the content changes.)

**LINE 6. Qualified Nonprofit Corporations.** If the filer is a qualified nonprofit corporation as defined above and under 11 CFR 114.10, check "Yes." Otherwise, check "No."

**LINE 7. Account for Donations.** All filers: Check "Yes" if the disbursements for the electioneering communication were made exclusively from donations to a segregated bank account that contains only funds donated by individuals who are United States citizens, United States nationals or who are lawfully admitted for permanent residence under 8 U.S.C. § 1101(a)(20), and that was set up expressly under 11 CFR 114.14(d)(2) for the purpose of financing electioneering communication(s). Otherwise, check "No."

**LINE 8. Name of Custodian of Records.** Provide the requested information about the individual who controls the books and records that support this filing.

**LINE 9. Total Donations This Statement.** Provide the sum total of donations itemized on Schedule 9-A.

**LINE 10. Total Disbursements/Obligations This Statement.** Provide the sum total of disbursements itemized on Schedule 9-B.

**LINE 11. List of Persons Sharing/Exercising Control.** Provide the requested information for each person who shared or exercised control of making the disbursement/obligation for the electioneering communication. This

means officers, directors, executive directors or their equivalents, partners, and, in the case of unincorporated organizations, owners of the entity or persons making disbursements for the electioneering communication. The senior staff position in an organization, whatever its title, that functions as an executive director is the equivalent of an executive director.

### Verification

FEC Form 9 must be signed by the person making the electioneering communication, who is making a verified certification under penalty of perjury that the statement is correct and, if the communications were made by a corporation, that it is a qualified nonprofit corporation under the Commission's regulations.

## INSTRUCTIONS FOR SCHEDULE 9-A (DONATIONS RECEIVED)

**Donations Made to Segregated Account.** If the disbursements for the electioneering communication were made exclusively from donations to a segregated bank account that contains only funds donated by individuals who are United States citizens, United States nationals or who are lawfully admitted for permanent residence under 8 U.S.C. § 1101(a)(20), and that was set up expressly under 11 CFR 114.14(d)(2) for the purpose of financing electioneering communication(s), provide the requested information for those donors who donated an amount aggregating \$1,000 or more since the first day of the preceding calendar year. 11 CFR 104.20(c)(7).

**Donations Made to Non-Segregated Account.** If the disbursements/obligations for the communication were made from an account that is not segregated as described above, provide the requested information for all donors who donated an amount aggregating \$1,000 or more since the first day of the preceding calendar year to the person or entity making the disbursement.

After itemizing the donations, subtotal each Schedule 9-A. (You may use multiple pages.) Add the subtotals on the last page of Schedule 9-A, and carry the total to Line 9 of Form 9.

## INSTRUCTIONS FOR SCHEDULE 9-B (DISBURSEMENT(S) MADE OR OBLIGATIONS)

For each disbursement made or contract executed, including each disbursement made or contract executed prior to exceeding the \$10,000 threshold, provide the requested information. If the payee is an individual, list that individual's occupation and employer. Additionally, list each federal candidate clearly identified in the communication, including the office sought and the election that the disbursement/obligation is made for. Along with listing the specific purpose of the disbursement (e.g., radio ad, television ad), list the title of the communication as named by the media vendor or producer of the communication. (Titles of individual communications should remain the same throughout their various public distributions unless the content changes.) Also list the communication date for the electioneering communication. In most instances, this date will be the Date of Public Distribution. If the maker of the electioneering communication is also required to report disbursements related to other electioneering communications (e.g., electioneering communications with costs below the \$10,000 threshold), the disbursements listed on Schedule 9-B must indicate the other electioneering communication's title in the purpose line, the date the electioneering communication was publicly distributed and the federal candidate that was clearly identified in the communication.

After itemizing the disbursements/obligations, subtotal each Schedule 9-B. (You may use multiple pages.) Add the subtotals on the last page of Schedule 9-B, and carry the total to Line 10 on Form 9.

This form may be duplicated.