

FEDERAL ELECTION COMMISSION

Instructions for Preparing FEC FORM 5 (Report of Independent Expenditures Made and Contributions Received to be Used by Persons (Other Than Political Committees) Including Qualified Nonprofit Corporations)

Who Must File

Every person, group of persons or organization, other than a political committee, that makes or contracts to make independent expenditures aggregating in excess of \$250 with respect to a given election in a calendar year must report these expenditures by submitting FEC Form 5 or a signed statement satisfying the requirements of 11 CFR 109.10. (Political committees that make independent expenditures shall report them on FEC Form 3X, Schedule E.)

Corporations that make independent expenditures must also submit these reports, and must certify that they are a qualified nonprofit corporation that is exempt from the prohibition on independent expenditures under 11 CFR 114.10.

Note: Individuals and other persons (including qualified nonprofit corporations) must file this form in an electronic format under 11 CFR 104.18 if they make independent expenditures in excess of \$50,000 in a calendar year, or if they have reason to expect that they will exceed this threshold during the calendar year. If you have reached this level of activity, you must file this form in an electronic format. Contact the FEC for more information on filing electronically.

Definitions

Contribution means any gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office.

Independent expenditure means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made with the cooperation or prior consent of, in consultation with, or at the request or suggestion of,

a candidate or an agent or authorized committee of a candidate or a political party committee or its agents. 11 CFR 100.16. For a definition of “expressly advocating,” see 11 CFR 100.22.

Publicly Distributed or Publicly Disseminated. “Publicly distributed” means aired, broadcast, cablecast or otherwise disseminated for a fee through the facilities of a television or radio station or cable television or satellite system. 11 CFR 100.29(b)(3). “Publicly disseminated” refers to communications made public via other media (e.g., newspapers, magazines, etc.) 11 CFR 104.4(f).

Qualified nonprofit corporation is a corporation with the following characteristics: (i)(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 from 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).)

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

File reports of independent expenditures made during a calendar quarter reporting period in which these expenditures aggregate in excess of \$250 with respect to a given election in the calendar year, and for any subsequent quarter that year in which additional independent expenditures of any amount are made. In addition to this quarterly reporting of independent expenditures, more timely reports are required for independent expenditures of \$10,000 or more made more than 20 days before the election (“48-hour reports”) and of \$1,000 or more made less than twenty days before the election (“24-hour reports”). See below.

Corporations must certify that they are qualified nonprofit corporations under 11 CFR 114.10 when they submit their first independent expenditure report.

Election year reporting

Election years are divided into quarterly reporting periods. There are also special reporting requirements (48-Hour Reports and 24-Hour Reports) for independent expenditures aggregating in excess of certain amounts within specific time frames prior to an election. (See “48-Hour Reports” and “24-Hour Reports,” below.) All quarterly independent expenditure reports must disclose all reportable contributions received

and independent expenditures made from the closing date of the last report filed through the end of the reporting period for which the report is submitted. Quarterly reports are due April 15, July 15 and October 15 of the election year and January 31 of the nonelection year, and must disclose all reportable activity through the end of the calendar quarter. 11 CFR 109.10(b).

48-Hour Reports

In addition to quarterly reports, any person that makes or contracts to make independent expenditures aggregating \$10,000 or more with respect to a given election during the calendar year up to and including the 20th day before an election must report these expenditures within 48 hours. The report must be received no later than 11:59 p.m. Eastern Standard/Daylight Time on the second day following the date on which an independent expenditure is publicly distributed or disseminated. The person must continue to file additional 48-hour reports every time subsequent independent expenditures reach the \$10,000 threshold with respect to the same election to which the first report related. The report must include all of the information required on Form 5 and by 11 CFR 109.10(e), including a statement indicating whether the independent expenditure was in support of, or in opposition to, a particular candidate and a verified certification under penalty of perjury as to whether such expenditure was made in cooperation, consultation or concert with, or at the request or suggestion of any candidate or authorized committee or agent or a political party committee or agents thereof. All 48-hour reports shall be filed with the Federal Election Commission. Filers other than electronic filers may submit 48-hour reports by fax (to 202-219-0174), electronic mail or on the Commission's web site at www.fec.gov.

24-Hour Reports

In addition to the quarterly reports and 48-Hour Reports, persons who make independent expenditures aggregating \$1,000 or more with respect to a given election after the twentieth day but more than 24 hours before 12:01A.M. of

the day of the election must file 24-Hour reports. The report must be received by 11:59 p.m. Eastern Standard/Daylight Time of the day following the date on which the \$1,000 threshold is reached during the final 20 days before the election. Note that, if a disbursement is made before the communication is distributed or disseminated, the filer voluntarily may use the earlier date of a disbursement, rather than the date of the public distribution or dissemination of the communication, to calculate when the independent expenditure is reported. These reports must contain all of the information required on Form 5 and by 11 CFR 109.10(e), including a statement indicating whether the independent expenditure was in support of, or in opposition to, a particular candidate and a verified certification under penalty of perjury as to whether such independent expenditure was made in cooperation, consultation or concert with, or at the request or suggestion of any candidate or authorized committee or agent or a political party committee or its agents. All 24-Hour reports shall be filed with the Federal Election Commission. Filers other than electronic filers may submit 24-Hour reports by fax (to 202-219-0174), electronic mail or on the Commission's web site at www.fec.gov.

Special election reporting

The Commission establishes separate reporting schedules for special elections. Contact the Commission for special election reporting dates.

Nonelection year reporting

Nonelection years are divided into quarterly reporting periods, due April 15, July 15 and October 15 of the nonelection year and January 31 of the election year, and must disclose all reportable activity through the end of the calendar quarter. 11 CFR 109.10(b).

Where To File

File all reports of independent expenditures supporting or opposing candidates for the U.S. House and President with the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. File reports of independent expenditures supporting or opposing only candidates for the U.S. Senate with the Secretary of the Senate, Office of Public Records, 232 Hart Senate Office Building, Washington, DC 20510 7116. Mail addressed to the Secretary of the Senate should read: "Office of Public Records, P.O. Box 77578, Washington, DC 20013-7578." Exception: 24-hour and 48-hour reports of expenditures supporting or opposing only candidates for the Senate must be filed with the Federal Election Commission.

For reports of independent expenditures supporting or opposing a candidate in Guam or Puerto Rico for the House, submit a copy of this form to the territory in which the candidate seeks election. For reports of independent expenditures made in Guam or Puerto Rico supporting or opposing a candidate for President or Vice President, submit a copy of this form to the territory in which the expenditure is made. As of August 2005, these territories had not qualified for the Commission's state filing waiver program.

Record retention. Persons filing independent expenditure reports must retain copies of their reports for a period of not less than 3 years from the date of filing.

Line By Line Instructions

LINE 1. Name of Individual, Organization or Corporation. Provide the name and mailing address of the filer.

LINE 2. Corporate filers—indicate if you are a qualified nonprofit corporation. Individual filers—provide the name of your employer and your occupation.

LINE 3. FEC Identification Number. First time filers—leave this line blank. Previous filers with an identification number—enter that number.

LINE 4. Type of Report. (a). Indicate the type of report being filed by checking the appropriate box. For “48-Hour” and “24-Hour” reports, check the box “48-Hour Report” or “24-Hour Report” as applicable.

(b). Indicate if the report is an amendment.

LINE 5. Covering Period. Enter report coverage dates. Include all activity from the ending coverage date of the last report filed. When submitting multiple forms for a single period, indicate the current page number and total pages submitted for the period.

LINE 6. Total Contributions. Enter total contributions received during the reporting period, including contributions of \$200 or less that were not itemized on Schedule 5-A. When submitting multiple forms for a single period, enter total on page 1.

LINE 7. Total Independent Expenditures. Enter the total amount of independent expenditures made during this reporting period. When submitting multiple forms for a single period, enter total on page 1.

Verification

FEC FORM 5 must be signed by the person making the independent expenditure, who must certify verifiably under penalty of perjury that the expenditure was not made in cooperation, consultation or concert with, or at the request or suggestion of any candidate or authorized committee or agent or a political party committee or its agents. 11 CFR

109.10(e)(1)(v) and (2). Electronic filers: Type the name of the person making the independent expenditure after the certification.

Instructions for Schedule 5-A (Itemized Receipts)

Provide the requested information for each contribution over \$200 that was made for the purpose of furthering the independent expenditures.

Instructions for Schedule 5-E (Itemized Independent Expenditures)

Once the total of independent expenditures made exceeds \$250 per election in a calendar year, provide the requested information about the payee, the date the independent expenditure was made and the amount.

Indicate under “Purpose of Expenditure,” the specific type of communication made (e.g., television ad, radio ad). Along with reporting the purpose of the expenditure, filers should also broadly characterize disbursements by providing the category/type code for each category of disbursement. Examples of the types of disbursements that fall within each of the broad categories are listed below. Use only one code for each itemized disbursement. In cases where the disbursement was for several purposes, assign one of the following codes according to the primary purpose of the disbursement. Note that some of the category titles are not acceptable as the “purpose” of the disbursement and that the categories are not intended to replace or to serve as a substitute for the “purpose of disbursement.”

004 Advertising Expenses -including general public political advertising (e.g., purchases of radio/television broadcast/cable time, print advertisements and related production costs)

Identify the candidate supported or opposed by the independent expenditure by indicating the candidate’s name, office sought and the election for which the disbursement was made. Also, list the total amount expended in the aggregate during the calendar year, per election, per office sought.

Subtotal the expenditures at the bottom of Schedule 5-E and add them to the subtotal of unitemized independent expenditures at the bottom of the last Schedule 5-E page. Carry the total forward to Line 7 of Form 5.