

## 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)

### 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.)

**Note:** Individuals and other persons 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 through the facilities of a television or radio station or cable televi-

sion 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). See also, “Interpretive Rule on When Certain Independent Expenditures are ‘Publicly Disseminated’ for Reporting Purposes,” 76 FR 61254 (2011).

**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 “selfemployed.”

**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

Each calendar year is divided into quarterly reporting periods. Reports for independent expenditures are due on April 15, July 15, October 15 and January 31 of the following year and must include all reportable contributions received and independent expenditures made from the closing date of the last report filed through the end of the calendar quarter for which the report is submitted. 11 CFR 109.10(b).

File reports of independent expenditures made during the 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 for that election of any amount are made.

In addition to this quarterly reporting of independent expenditures, more timely reports are required for independent expenditures with respect to the same election that either: 1) aggregate \$10,000 or more and are made more than 20 days before the election (“48-hour reports”); or 2) aggregate \$1,000 or more and are made

less than twenty days before the election (“24-hour reports”). See below.

### 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) or electronic mail (to 2022190174@fec.gov). All filers may submit reports online at [www.fec.gov](http://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 12:01 a.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 on the day following the date on which an independent expenditure is publicly distributed or disseminated. 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) or electronic mail (to 2022190174@fec.gov). All filers may submit reports online at [www.fec.gov](http://www.fec.gov).

### Special election reporting

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

### Where To File

File all reports using this Form with the Federal Election Commission, 1050 First Street, N.E., Washington, DC 20463. Reports shipped via FedEx, UPS or DHL should use the ZIP code 20002. Filers other than electronic filers may submit reports by fax (to 202-219-0174) or electronic mail (to 2022190174@fec.gov). All filers may submit reports online at [www.fec.gov](http://www.fec.gov).

For reports of independent expenditures supporting or opposing a candidate in Guam, Northern Mariana Islands 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, Northern Mariana Islands 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 2013, 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. 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 and, if so, what report it amends.

LINE 5. Covering Period. For quarterly reports, enter the report coverage dates. Include all activity from the ending coverage date of the last report filed or from the date of the filer's initial receipt or disbursement, as appropriate. When submitting multiple forms for a single period, indicate the current page number and total pages submitted for the period. Coverage dates are not required on 24- and 48-hour reports. Filers that nevertheless choose to enter a covering period may use the first and last dates on which the communication airs. For communications that are paid entirely in advance and run indefinitely, the filer may enter the date on which the communication first airs through the date of the applicable election.

Additional 24- or 48-hour reports are required each time subsequent independent expenditures reach the applicable \$1,000 or \$10,000 threshold.

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. For purposes of determining whether 24- and 48-hour Reports must be filed, calculate the aggregated amount of expenditures (including enforceable contracts obligating funds for disbursement) as of the first date on which a communication which constitutes an independent expenditure is publicly distributed or otherwise publicly disseminated, and as of the date that any such communication with respect to the same election is subsequently publicly distributed or otherwise publicly disseminated. 11 CFR 104.4(f). See also, “Interpretive Rule on When Certain Independent Expenditures are ‘Publicly Disseminated’ for Reporting Purposes,” 76 FR 61254 (2011).

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 each disbursement by providing a category/type code, such as the example listed below. Note that the category/type code is 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.