



## REPORTING REQUIREMENTS FOR INDEPENDENT EXPENDITURES: GENERAL ELECTION – NOVEMBER 6, 2012

*These instructions are intended to provide information about how to report independent expenditures. For detailed information about independent expenditures, including information on express advocacy, special requirements if a Maine Clean Election Act candidate is affected by an independent expenditure, membership communications, and other topics, please refer to the Commission staff's guidance memo, "Advice Regarding Independent Expenditures for the 2012 Election," or contact the Commission staff at (207) 287-4179. The statute and rules governing independent expenditures are 21-A M.R.S.A. § 1019-B and Commission Rules, Chapter 1, Section 10 (94-270 CMR Chapter 1, Section 10).*

### WHEN DO INDEPENDENT EXPENDITURES HAVE TO BE REPORTED?

It is important to note that it is the total or aggregate amount spent per candidate for the election that matters in determining whether an independent expenditure has to be reported, not simply the amount of a single expenditure. When an independent expenditure report has to be filed depends on the amount and the timing of the expenditure. The table below shows the reporting periods and the applicable thresholds and deadlines for reporting expenditures.

REPORTING PERIOD	THRESHOLD FOR REPORTING EXPENDITURE	REPORT AND DUE DATE
Anytime on or before September 6	Expenditures over \$100 per candidate	60-Day Pre-Election Report due September 7 by 5:00 p.m.
From September 7 through October 23	Expenditures over \$100 per candidate but not over \$250	11-Day Pre-Election Report due October 26 by 5:00 p.m.
From September 7 through October 23 (60 days before the election)	Expenditures over \$250 per candidate	Within 2 calendar days of making the expenditure
From October 24 through November 5 (13 days before the election)	Expenditures over \$100 per candidate	Within 1 calendar day of making the expenditure

An independent expenditure report filed after October 29, 2012 is required to include additional information on Schedule B-IE-3.

### HOW DO I REPORT INDEPENDENT EXPENDITURES?

If you or your organization makes an independent expenditure, you must report the date, amount, payee, and purpose of the expenditure, and must allocate the cost among the different candidates affected by the expenditure, indicating whether it was made to support or oppose the candidate. A notarized statement disclosing whether the expenditure was made in cooperation or consultation with a candidate is also required. So please locate a notary public in advance of the filing deadline.

*Filing in person:* Independent expenditure reports can be filed at the Commission's office during regular business hours (Monday through Friday from 8:00 a.m. to 5:00 p.m.). The Commission office is also open and staffed from 8:00 a.m. to 5:30 p.m. on the weekend before an election.

*Filing by fax or e-mail:* Filers may also submit completed reports anytime by fax to (207) 287-6775 or by e-mailing a scanned copy of the report to [ethics@maine.gov](mailto:ethics@maine.gov), provided that the Commission receives the original report within 5 calendar days.

If the deadline falls on a weekend or holiday, the report must be filed on that day by fax or e-mail. Independent expenditure reports cannot be filed electronically on the Commission's website because they must be notarized.

## WHAT ARE THE SPECIAL REQUIREMENTS IF A MAINE CLEAN ELECTION ACT CANDIDATE IS IN THE RACE?

If you disseminate a communication that names or depicts a clearly identified candidate during the 35 days before the general election (from October 3 through November 6) and there is a Maine Clean Election Act candidate in the race, any expenditure made for the design, production, or dissemination of the communication will be presumed to be an independent expenditure. This presumption applies even if the communication does not expressly advocate for the election or defeat of a candidate.

## DOES THE PRESUMPTION EVER APPLY TO EXPENDITURES THAT ARE MADE BEFORE THE PRESUMPTION PERIOD BEGINS?

Yes. If the expenditure to design, produce or disseminate the communication is made before the presumption period and the communication itself is disseminated or is intended to be disseminated within the presumption period, the expenditure is presumed to be an independent expenditure and must be reported.

## IMPORTANT INFORMATION ABOUT EXPENDITURES

The legal definition of expenditure includes not just the making of a payment but also “[a] contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure.” (21-A M.R.S.A. §§ 1012(3)(A)(3) & 1052(4)(A)(3)) The Commission views this as requiring the reporting of an unpaid obligation as an independent expenditure.

### What is an expenditure?

- any obligation to pay for a good or service
- the placement of an order for goods and services
- a promise or agreement (even an implied one) that payment will be made
- the signing of a contract for a good or service
- the delivery of a good or service even if payment has not been made
- the payment for a good or service

### When is an expenditure made?

The earliest of the following events:

- the placement of an order for a good or service
- a promise or an agreement to pay
- the signing of a contract for a good or service
- the delivery of a good or service
- the making of a payment for a good or service

## WHAT IF THE COST OF A COMMUNICATION IS LESS THAN \$100 PER CANDIDATE?

If the person making the communication did not spend or obligate more than \$100 per candidate to design, produce, or disseminate the communication, no independent expenditure report is necessary. However, once the aggregated costs for any candidate exceed \$100, a report must be filed for independent expenditures regarding that candidate.

Please note that if an organization uses materials produced by another entity (e.g., a legislative scorecard), the cost of producing that material must be included in the total amount for that communication.

***If you have any questions about whether an expenditure for a communication has to be reported as an independent expenditure, please contact the Commission staff at (207) 287-4179.***



## INDEPENDENT EXPENDITURE REPORT – 2012 GENERAL ELECTION

Name of Person/Committee Making Expenditure(s) \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, Zip Code \_\_\_\_\_ Telephone \_\_\_\_\_

*Please check the appropriate box for the report you are filing and complete the notarized affidavit and attached schedules. Reports must be filed on a weekend or holiday if that is when they are due by faxing the report to the Commission (287-6775). The Commission must receive the signed original report within 5 days after the fax was received.*

Check here if this report is an amendment to a previously filed report? Date of original report: \_\_\_\_\_

### INDEPENDENT EXPENDITURES OVER \$250 MADE FROM SEPTEMBER 7 THROUGH OCTOBER 23, 2012

- Independent expenditures made from September 7 through October 23, 2012 that total more than \$250 per candidate must be reported within 2 calendar days of making the expenditure.

Report of Independent Expenditure over \$250 per Candidate

### INDEPENDENT EXPENDITURES OVER \$100 MADE AFTER OCTOBER 23, 2012

- Independent expenditures made after October 23, 2012 that total more than \$100 per candidate must be reported within one calendar day of making the expenditure.

Report of Independent Expenditure over \$100 per Candidate

### OTHER INDEPENDENT EXPENDITURES (SELECT ONE REPORT BELOW)

Report (select one)	Due Date	What Gets Reported
<input type="checkbox"/> 60-Day Pre-Election Report	September 7, 2012 by 5:00 p.m.	Expenditures totaling more than \$100 per candidate made on or before September 6, 2012
<input type="checkbox"/> 11-Day Pre-Election Report	October 26, 2012 by 5:00 p.m.	Expenditures totaling more than \$100 but not more than \$250 made from September 7 through October 23, 2012

**I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.**

\_\_\_\_\_  
 Signature of PAC or Party Treasurer, or  
 Other Authorized Person Making Expenditure(s)

\_\_\_\_\_  
 Date



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## INDEPENDENT EXPENDITURE REPORT – 2012 GENERAL ELECTION

### AFFIDAVIT

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, being duly sworn, attest that I made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate, authorized committee or agent of a candidate in a race affected by any expenditure listed in this report.

\_\_\_\_\_  
Signature of Affiant

Sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_ 2012

\_\_\_\_\_  
(Notary Public/Attorney at Law)

My commission expires: \_\_\_\_\_



Schedule B-IE-2

PAYMENTS AND OBLIGATIONS

- Please indicate the date, payee, expenditure type, and amount of each expenditure.
- If you are reporting an agreement or obligation to make a future payment, please check (✓) the box next to the expenditure type.

Expenditure Types			
LIT	Printing and graphics (flyers, signs, palmcards, etc.)	PRT	Print media ads only (newspapers, magazines)
MHS	Mail house (all services purchased)	RAD	Radio ads, production costs
PHO	Phone banks, automated telephone calls	TVN	TV or cable ads, production costs
POL	Polling and research survey	WEB	Website design, registration, hosting, maintenance, etc.
POS	Postage for U.S. Mail and mail box fees	OTH	Other (include description)

Date of expenditure	Payee, address, zip code	Expenditure type	✓	Amount
<b>A. Expenditures for this page ⇒</b>				
<b>B. Total for all other Schedule B-IE-2 pages (if any) ⇒</b>				
<b>C. Total independent expenditures for this reporting period (A+B).</b> <i>This amount should equal the total amount for all candidates listed on Schedule B-IE-1. ⇒</i>				

**Schedule B-IE-3**

**EXPENDITURE DETAILS**

- **If you file an independent expenditure report after October 29, 2012 for the General Election, you must provide the following information.**

<p>1. The date on which the person making the expenditure placed the order with the vendor for the goods or services</p>	
<p>2. The approximate date when the vendor began providing design or any other services in connection with the expenditure</p>	
<p>3. The date on which the person making the expenditure first learned of the total amount of the expenditure</p>	
<p>4. A statement why the expenditure could not be reported by the eighth day before the election</p>	