Frequently Asked Questions

Form 15-6
Report of Independent Expenditures

I. General

Q: What was the purpose of recent legislative changes to independent expenditures (SB 284)?

A: As a result of the U.S. Supreme Court's decision in Citizens United v. Federal Election Commission, 588 U.S. ___, 130 S.Ct. 876 (2010), corporations and labor unions are now able to make independent expenditures in support of or in opposition to a candidate or ballot proposition or question. SB 284 created reporting requirements in the form of disclosures and disclaimers designed to provide the public with transparency about the persons funding these new expenditures.

Q: What is the definition of "person"?

A: The word "person" is defined to mean a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person. AS 01.10.060(8). It also includes a labor union, nongroup entity, and a group. AS 15.13.400(14).

Q: What is the definition of "individual"?

A: According to campaign disclosure law, an "individual" is a natural person. AS 15.13.400(11). A natural person may be referred to as either a person or an individual.

Q: What is the definition of "independent expenditure"?

A: An "independent expenditure" is an expenditure that is made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with the prior consent of, a candidate, a candidate's campaign treasurer or deputy campaign treasurer, or another person acting as a principal or agent of the candidate. AS 15.13.400(10).

Q: What is the definition of "expenditure"?

A: An "expenditure" is a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of:

(i) influencing the nomination or election of a candidate or of any individual who files for nomination at a later date and becomes a candidate;
(ii) use by a political party;
(iii) the payment by a person other than a candidate or political party of compensation for the personal services of another person that are rendered to a candidate or political party; or
(iv) influencing the outcome of a ballot proposition or question;

This definition of "expenditure" includes an express communication and an electioneering communication, but does not include an issues communication (see definitions of electioneering communication and issues communication). "Expenditure" does not include a candidate's filing fee or the cost of preparing reports and statements required for compliance with campaign disclosure law. AS 15.13.400(6).

Q: What is the definition of "electioneering communication"?

A: An "electioneering communication" is a communication that: (A) directly or indirectly identifies a candidate; (B) addresses an issue of national, state, or local political importance and attributes a position on that issue to the candidate identified; and (C) occurs within the 30 days preceding a general or municipal election. AS 15.13.400(5).

Q: What is the definition of "issues communication"?

A: An issues communication is a communication that: (A) directly or indirectly identifies a candidate; and (B) addresses an issue of national, state, or local political importance and does not support or oppose a candidate for election to public office. AS 15.13.400(12).

Q: Who may make an "independent expenditure"?

A: All persons (see definition of "person"). However, every person that makes an independent expenditure is subject to reporting requirements with the Commission, unless the person is exempt from reporting. AS 15.13.040(d).

Q: Who is exempt from the reporting requirements of making an independent expenditure?

A: Individuals (natural persons) acting independently of any other person ***if the expenditures* (1) *cumulatively do not exceed $500 during a calendar year, <u>and</u>* (2) *are made only for billboards, signs, or printed material concerning a ballot proposition*** as defined by AS 15.13.065(c). AS 15.13.040(h).

Q: Who may make an "expenditure"?

A: Only the candidate, an individual, a group that has registered under AS 15.13.050, and a nongroup entity that has registered under AS 15.13.050 may make an expenditure in an election for candidates for elective office. AS 15.13.067.

II. <u>Impact on Groups</u>

Q: What is the definition of a "group"?

A: Campaign disclosure law defines a "group" as:

1. Every state and regional executive committee of a political party; and
2. Any combination of 2 or more individuals acting jointly who organize for the principle purpose of influencing the outcome of one or more elections, **<u>and</u>** who

take action the major purpose of which is to influence the outcome of an election. AS 15.13.400(8).

Q: Does SB 284 change requirements for filing group reports?

A: No. Groups are required to file Form 15-6 reports of independent expenditures made. This is an ongoing requirement and was not due to recent changes in legislation. AS 15.13.040(d), AS 15.13.040(e).

III. Impact on Individuals

Q: Does SB 284 change reporting requirements for individuals?

A: No. Individuals, or "natural persons," are still exempt from filing a Form 15-6 Report of Independent Expenditures ***if the expenditures made cumulatively do not exceed $500 in a calendar year*** **and** "are made only for billboards, signs, or printed material concerning a ballot proposition as that term is defined by AS 15.13.065(c)." AS 15.13.040(h).

IV. Political Activities Account Provision

Q: When is a political activities account required?

A: A political activities account is required prior to making an independent expenditure: (1) in support of or in opposition to a candidate or (2) in support of or in opposition to a ballot proposition or question. AS 15.13.052.

Q: Are political activities accounts required of all groups, persons, etc. who make independent expenditures?

A: No. Individuals, candidates, and nongroup entities with an annual operating budget of $250 or less are not required to establish a political activities account. All other persons, including labor unions, corporations, companies, partnerships, business trusts, and societies, etc., must have a political activities account. AS 15.13.052. (See definition of person.)

Q: What is the definition of "nongroup entity"?

A: Under campaign disclosure law, a "nongroup entity" is a non-natural person (see definition of "person") that takes action, the major purpose of which is to influence the outcome of an election, and that: (A) cannot participate in business activities; (B) does not have shareholders who have a claim on corporate earnings; and (C) is independent from the influence of business corporations. For example, the Alaska Conservation Voters political action committee is a nongroup entity. AS 15.13.400(13).

Q: Does APOC monitor the political activities account?

A: Yes. AS 15.13.052(b) requires that all persons who are required to keep political activities accounts make them "available for inspection by the commission" such that APOC can verify compliance with the law. APOC will monitor the political activities accounts to ensure compliance with the laws.

Q: May a person who is required to have a political activities account use funds separate from that account to make an independent expenditure?

A: No. All funds must be drawn from the person's political activities account. 15.13.052(a).

Q: How long must political activities account records be preserved?

A: The political activities account records must be preserved for six years. AS 15.13.052(c).