

REPORTING REQUIREMENTS FOR INDEPENDENT EXPENDITURES IN MUNICIPAL ELECTIONS: NOVEMBER 5, 2019

Important Notice: Effective October 15, 2015, the reporting requirement for independent expenditures has changed (P.L. 2015, c. 350). The new threshold for reporting an independent expenditure is now more than \$250 per candidate. It is no longer more than \$100 per candidate. The \$250 threshold applies throughout the election cycle, including the 13-day period before an election. After an independent expenditure for a candidate has been reported, any subsequent independent expenditure for that candidate only has to be reported if it is also over \$250. Smaller expenditures do not need to be included in an independent expenditure report.

Please note: If the person making the independent expenditure is registered and files campaign finance reports with the Commission, all expenditures to support or oppose a candidate, regardless of amount, must also be included in a regularly scheduled campaign finance report.

These instructions are intended to provide information about how to report independent expenditures. 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 amount of a single expenditure spent per candidate for the election that matters in determining whether an independent expenditure has to be reported. 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 5	Expenditures over \$250 per candidate	60-Day Pre-Election Report due September 6 by 5:00 p.m.
From September 6 through October 22 (60 days before the election)	Expenditures over \$250 per candidate	Within 2 calendar days of making the expenditure
From October 23 through November 5 (13 days before the election)	Expenditures over \$250 per candidate	Within 1 calendar day of making the expenditure

WHAT IF THE COST OF A COMMUNICATION IS \$250 OR LESS PER CANDIDATE?

If the person making the communication did not spend or obligate more than \$250 per candidate to design, produce, or disseminate the communication, no Independent Expenditure report is necessary.

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.

WHAT ARE THE SPECIAL REQUIREMENTS FOR COMMUNICATIONS DISSEMINATED CLOSE TO THE ELECTION?

If you disseminate a communication that names or depicts a clearly identified candidate from October 1, 2019 through election day, 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

HOW DO I REPORT INDEPENDENT EXPENDITURES?

If you or your organization makes an independent expenditure, you must file the attached report with the municipal clerk. The filer 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 the expenditure was made in support of or in opposition to each candidate. The Election Law requires the report to contain a notarized statement disclosing whether the expenditure was made in cooperation or consultation with a candidate, so please locate a notary public in advance of the filing deadline.

Independent Expenditure reports can be filed in person at the municipal clerk’s office during regular business hours. Filers should contact the municipal clerk for the procedure for filing a report by fax or e-mail, if available. If a report is filed by fax or e-mail, the original report must be received by the municipal clerk within five calendar days. If the deadline falls on a weekend or holiday, the report must be filed on that day by fax or e-mail. Please contact the municipal clerk for the procedure for filing a report by fax or e-mail.

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

INDEPENDENT EXPENDITURE REPORT – NOVEMBER 5, 2019 MUNICIPAL ELECTION

Name of Person/Committee Making Expenditure(s): _____

Mailing Address: _____

City, State, 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 Saturday or Sunday. If that is when they are due, please contact the municipal clerk's officer for the procedure for filing by fax or e-mail. The municipal clerk must receive the signed original report within 5 days after the preliminary report was filed.

Check here if this report is an amendment to a previously filed report. Date of original report: _____

Independent Expenditures of more than \$250 per candidate must reported according to the schedule below.

Report	Expenditure Made	Report Due Date
<input type="checkbox"/> 60-Day Pre-Election Report	On or before September 5, 2019	September 6, 2019
<input type="checkbox"/> 2-Day Report	Between September 6 - October 22, 2019	Within 2 calendar days of making the expenditure
<input type="checkbox"/> 1-Day Report	Between October 23 - November 5, 2019	Within 1 calendar day of making the expenditure

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

INDEPENDENT EXPENDITURE REPORT – 2019 MUNICIPAL 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 _____ 2019

(Notary Public/Attorney at Law)

My commission expires: _____

Schedule B-IE-1
CANDIDATE(S) SUPPORTED/OPPOSED

- Please list all candidates that were the subjects of independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates.

Office sought by candidate (including district # or county)	Candidate's Name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
Total expenditures for all candidates this reporting period. This amount should equal the total independent expenditures listed on Schedule B-IE-2, Line C. ⇒			

**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 MHS PHO POL POS	Printing and graphics (flyers, signs, palmcards, etc.) Mail house (all services purchased) Phone banks, automated telephone calls Polling and research survey Postage for U.S. Mail and mail box fees	PRT RAD TVN WEB OTH	Print media ads only (newspapers, magazines) Radio ads, production costs TV or cable ads, production costs Website design, registration, hosting, maintenance, etc. Other (include description)	
Date of Expenditure	Payee, Address, Zip Code	Expenditure Type	✓	Amount
A. Expenditures for this page ⇒				
B. Total for all other Schedule B-IE-2 pages (if any) ⇒				
C. Total independent expenditures for this reporting period (A+B). <i>This amount should equal the total amount for all candidates listed on Schedule B-IE-1. ⇒</i>				