

*GUIDEBOOK FOR  
NONCANDIDATE COMMITTEES*

*2010 Elections*



*State of Hawaii  
Campaign Spending Commission*

*August, 2009*

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*This guidebook is provided as a reference and informational source. It should not be construed to constitute legal advice or authority. Readers should consult the Hawaii Revised Statutes and other sources for a complete and legal basis of the law or seek assistance from the Commission or a Hawaii licensed attorney.*

## THE NONCANDIDATE COMMITTEE

The Hawaii Campaign Spending Commission (“Commission”) has prepared this guidebook to assist noncandidate committees in complying with the requirements of the campaign spending laws.<sup>1</sup> This Guidebook and other publications are intended to provide general guidance only; all chairpersons and treasurers and other persons assisting the noncandidate committee should review the campaign finance laws and rules.<sup>2</sup>

Any organization, association, or individual that accepts or makes a contribution or makes an expenditure that amounts to more than \$1,000, in the aggregate, in a two-year election period, must register as a noncandidate committee and file reports with the Commission.

“Noncandidate committee” means a committee as defined in Hawaii Revised Statutes section 11-191, that has the purpose of making contributions or expenditures to influence the nomination for election, the election of any candidate to political office, or for or against any issue on the ballot.

A noncandidate committee does not include an individual when making a contribution or expenditure of the individual’s own funds or anything of value that the individual originally acquired for the individual’s own use.

Disclosure reports of contributions and expenditures are filed before and after each election in an election year, and supplemental reports are filed every six months in a non-election year.

### GETTING HELP

#### Oahu Noncandidate Committees:

The office of the Commission is open from 7:45 a.m. to 4:30 p.m., Monday through Friday. The office is closed on regular state holidays. If there are “furlough” days in which the office is closed, a link to a calendar will be posted on our website homepage.

If there are any questions regarding the law or the Noncandidate Committee Filing System, please visit our website or contact our office:

Website: [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign)

Campaign Spending Commission  
Leiopapa A Kamehameha Building  
235 South Beretania Street, Room 300  
Honolulu, Hawaii 96813

Telephone: (808) 586-0285

Fax: (808) 586-0288

#### Neighbor Island Noncandidate Committees:

The Commission can be reached by calling the applicable toll-free number and entering the extension **60285**:

Kauai 274-3141

Maui 984-2400

Hawaii 974-4000

Molokai 1-800-GOV-INHI (486-4644)

Lanai 1-800-GOV-INHI

<sup>1</sup> The Commission (five volunteer citizens appointed by the Governor) and its five staff members administer the law.

<sup>2</sup> The laws and rules take precedence over any provisions in this guidebook. Moreover, each campaign is different; a noncandidate committee may be faced with issues and factual circumstances that differ from or are not addressed in this guidebook.

## **Comprehensive Public Funding for Elections to the Hawaii County Council** (Voluntary pilot project for three election cycles beginning with the 2010 election)

Noncandidate Committees making contributions or expenditures (including independent expenditures) for or against candidates for the Hawaii County Council should refer to the "Guidebook for Hawaii County Council Comprehensive Public Funding Project" for information regarding additional required reporting.

### **Public Inspection and Copies of Reports**

All reports filed with the Commission are available for public inspection on the Commission's website at [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign). Copies of reports may be printed and/or downloaded from the Noncandidate Committee Filing System public site, or may be purchased in-person from the Commission's office or requested via telephone, fax, or mail at five cents per copy. Neighbor Island residents must make their requests for copies directly to the Commission, rather than to the County Clerk's office. Call the Commission at (808) 586-0285 for inquiries regarding reports filed prior to 2008.

### **Restrictions**

The campaign spending law prohibits anyone from selling or using information from noncandidate committee reports for the purpose of soliciting contributions or for any commercial purpose.

## **I. REGISTRATION**

The registration process begins by completing the "Application for Electronic Filing Password-Noncandidate Committee" form and mailing or delivering the form to the Commission's office at 235 South Beretania Street, Room 300, Honolulu, Hawaii 96813. The form is available on the Commission's website at [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign), under "File Reports," by clicking on "Noncandidate Committees" and printing the form. The Chairperson and Treasurer must sign the form. The Commission will e-mail the username and password to the e-mail address provided on the form.

Register the committee by clicking on "Noncandidate Committees" under "File Reports" and clicking on "Noncandidate Committee Filing System ("NCFS") Login." Enter the Administrator username and password and complete and electronically file the Organizational report on the Noncandidate Committee Filing System within ten days of qualifying as a committee.

A noncandidate committee shall file an Organizational Report **within ten days** of receiving contributions or making expenditures that amount to more than \$1,000, in the aggregate, in a two-year election period; except that within the thirty day period prior to an election, a noncandidate committee shall file an Organizational Report **within two days** of receiving contributions or making expenditures that amount to more than \$1,000, in the aggregate, in a two-year election period.

### **Organizational Report**

The electronic filing of the Organizational Report is a one-time requirement, unless there are amendments, and is effective until the noncandidate committee terminates. The information provided on the Organizational Report must be kept current, and any amendments must be electronically filed within ten calendar days of the change.

- Name and Mailing Address of the Noncandidate Committee  
The noncandidate committee's name and mailing address are required on the Organizational report. Any name is acceptable, but it must incorporate the name of the sponsoring entity, if any, and it may not include the name of a candidate. An acronym or abbreviation may be used in other communications if the acronym or abbreviation is commonly known or clearly recognized by the general public. This mailing address will be used by the Commission to mail all correspondence and notices to the noncandidate committee. If a Post office box is used, it should be checked frequently for notices, reminders, etc., from the Commission.

The noncandidate committee must also disclose the following information: the date the committee was organized, whether the committee is a political party or not, who the committee is sponsored by, and the area, scope, or jurisdiction of the committee. The area, scope, or jurisdiction will be selected from a drop-down menu on the Noncandidate Committee Filing System.

- Amended Organizational Report  
Amended Organizational Reports must be electronically filed no later than 11:59 p.m. Hawaii Standard Time on the tenth calendar day after the change is brought to the attention of the committee chairperson or treasurer.

- Chairperson and Deputy Chairperson  
The noncandidate committee must appoint at least one chairperson. The chairperson may also serve as the treasurer. The chairperson's name, mailing address, phone number, occupation, and principal place of business must be provided. Also provide the business phone number. The chairperson must sign the "Application for Electronic Filing Password-Noncandidate Committee" form to certify acceptance of the appointment.

A deputy chairperson may be appointed but is not required. If a deputy chairperson is appointed, the candidate must provide the name, mailing address, phone number, occupation, and principal place of business of the deputy chairperson. Also provide the business phone number.

- Campaign Treasurer and Deputy Campaign Treasurer  
The noncandidate committee must appoint at least one campaign treasurer. The treasurer's name, mailing address, phone number, occupation, and principal place of business must be provided. Also provide the business phone number. The treasurer must sign the "Application for Electronic Filing Password-Noncandidate Committee" form to certify acceptance of the appointment.

A deputy treasurer may be appointed but is not required. Up to five deputy treasurers may be appointed. If a deputy treasurer is appointed, the noncandidate committee must provide the name, mailing address, phone number, occupation, and principal place of business of the deputy treasurer. Also provide the business phone number.

Only an appointed treasurer or deputy treasurer is authorized to receive contributions and make expenditures on behalf of the noncandidate committee. In case of death resignation, or removal of the treasurer, the noncandidate committee shall promptly appoint a successor. During the period the office of treasurer is vacant, the chairperson shall serve as treasurer. Once the appointment has been made, an amended Organizational Report must be electronically filed with the Commission within ten days of the appointment. If the chairperson and treasurer is the same person, the committee must immediately appoint successors and file an amended Organizational Report with the Commission.

- Custodian of Books and Accounts  
The noncandidate committee must also appoint at least one custodian of books and accounts and provide the same information that is required of the treasurer. This custodian of books and accounts may be the treasurer.
- Committee Depository (e.g. Bank)  
The noncandidate committee may open a committee depository to maintain contributions and for making expenditures. If a committee depository is opened, it must be at a depository institution duly authorized to do business in the State, such as a bank, savings bank, savings and loan association, depository financial services loan company, credit union, intra-Pacific bank, or similar financial institution. The depository's name and address must be provided. Also fill in the account number, which will not be visible on the public site.

### **Terminating Registration with the Commission**

The termination process begins by manually filing a "Request for Registration Termination" form. The form is available at [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign), under "Forms," click on "Noncandidate Committees." The termination form may be manually filed at any time if:

- The noncandidate committee will no longer be receiving any contributions or making any expenditures reportable to the Commission under law;
- The balance of the noncandidate committee's campaign fund is zero (no surplus);
- There are no unpaid expenditures to be paid (no deficit).

If there are durable assets, the noncandidate committee must sell or otherwise dispose of the assets as permitted by law and report that in "Schedule E-Durable Assets" on the NCFS. The filing of the termination form is only a request to terminate registration with the Commission. Termination of the committee occurs only upon approval by the Commission and after all outstanding fines and penalties, if any, are paid.

### **Handling a Surplus**

Noncandidate committees must continue filing reports with the Commission until all surplus funds have been lawfully disbursed.

### **Handling Deficits**

Noncandidate committees with unpaid expenditures must continue reporting with the Commission until all creditors have been paid.

## **II. KEEPING RECORDS**

Complete records of contributions and expenditures must be maintained for at least five years and the "[r]ecords shall include vouchers, worksheets, and receipts which shall provide in sufficient detail the necessary information and data, from which the reports and statements may be verified, explained, or clarified, and checked for accuracy and completeness."

### **Recording Contributions (Monetary and Non-monetary)**

A noncandidate committee must establish and maintain an itemized record showing the amount of each monetary contribution and the description and fair market value of each non-monetary contribution of more than \$25. The Commission recommends the establishment and maintenance of itemized records of all contributions including those that are \$25 or less, to assure compliance with the requirement that a candidate report all contributions aggregating more than \$100 during the election period.

The law requires that records be kept as follows:

- For contributions that are \$25.01 to \$100 – date of receipt, date of deposit, contributor's full name and address, and the amount.
- For contributions of more than \$100- either by itself or when added to the contributor's previous contributions made during the same election period, records must identify contributions by:
  - Date of receipt and deposit;
  - Contributor's full name and address;
  - Contributor's employer and occupation; and
  - Contribution amount.

The amount of a non-monetary contribution is the fair market value at the time of the non-monetary contribution.

**If all the information required above is not on file, the contribution shall be returned to the contributor within thirty days of deposit.**

### **Recording Expenditures**

Records of each expenditure must be kept as follows:

- Date of the expenditure;
- Payee's full name and address;
- Purpose of the expenditure (a brief description of why the expenditure was made); and
- Amount of the expenditure.

### **Detailed Reporting of Expenditures**

Noncandidate committees must itemize all payments to consultants, advertising agencies and similar firms, credit card expenditures, and salaries to permit a reasonable person to determine the ultimate intended recipient of the expenditures and its purpose.

Expenditures reported under vague purposes or consolidated into categories such as petty cash, Visa, Master Card, reimbursement to employee, or ad agency, will not meet the requirements of the campaign spending law. All expenditures made, incurred, or authorized by or for a noncandidate committee must be reported, including the name and address of each payee and the amount, date, and purpose of each expenditure. Expenditures are to be reported based on the date that the goods are delivered or the service is provided to the noncandidate committee. Financial institutions, individuals reimbursed for expenses, lump sum cash payments, and ad or employment agencies are viewed as intermediaries of expenditures. Any use of intermediaries that would have the result of concealing the true and complete nature of the expenditure will not meet the requirements of the campaign spending law.

Reports that describe the purpose in vague terms or fail to include the ultimate payee of the expenditure are defective.

### **Recording Contributions to Candidates**

Noncandidate committees must keep records that identify contributions to candidates as follows:

- ◆ Date of the contribution;
- ◆ Candidate's full name and address; and
- ◆ Contribution amount.

### III. REPORTING

All noncandidate committee reports shall be filed electronically on the web-based Noncandidate Committee Filing System. There are no exceptions or waivers. For information on filing disclosure reports, consult the Noncandidate Committee Filing System Administrator's User Manual that is available on-line at [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign), under "File Reports," click on "Noncandidate Committees," then under "NCFS Guidebooks," click on "Administrator User Guide." The "User Guide" selection is for data entry only clerks/volunteers, not report filers.

Disclosure Reports must be certified as true and correct. This certification requirement for electronically filed reports is met when the "Application For Electronic Filing Password - Noncandidate Committee" form with the original signatures of the Chairperson and Treasurer is mailed or delivered to the Commission.

Whenever a report is required to be "filed", this means the report shall be filed on the Noncandidate Committee Filing System by the date and time specified for the filing of the report. When any reporting day falls on a holiday or weekend, the deadline shall be the first working weekday after the date the report is due. Failure to file the required report by the applicable deadline will result in large monetary fines.

#### Disclosure Report

The Disclosure Report is a summary of contributions, expenditures, and loans for the applicable reporting periods that are reported on the Schedules listed below.

All applicable Schedules listed below must be filled out and will provide the data summarized in the Disclosure Report:

- |                |                              |
|----------------|------------------------------|
| ◆ Schedule A   | Contributions Received;      |
| ◆ Schedule B-1 | Contributions to Candidates; |
| ◆ Schedule B-2 | Expenditures Made;           |
| ◆ Schedule C   | Other Receipts;              |
| ◆ Schedule D   | Unpaid Expenditures; and     |
| ◆ Schedule E   | Durable Assets               |

#### First Supplemental Report

The Commission places emphasis on the first Supplemental Report as it is the first report for the new "election period" for noncandidate committees who were registered during an election and are required to continue reporting due to a surplus or deficit.

The first Supplemental Report is "zero based" meaning aggregate contributions and expenditures for the election period begin at zero. The first Supplemental Report includes the following:

- ◆ Carryover cash on hand; and
- ◆ Any contributions, expenditures and other campaign financial activity occurring from the day after the general election through the last day of the election year; and
- ◆ Unpaid expenditures from the previous election period.

#### Reporting Cash on Hand

##### Election Period

The Noncandidate Committee Filing System will show the cash on hand at the beginning of the applicable election period.

### Reporting Period

The Noncandidate Committee Filing System will also show the cash on hand at the beginning of the applicable reporting period. The closing cash on hand for the current reporting period will appear on the next report as the beginning cash on hand. Ascertain that your closing cash matches your beginning cash for the next reporting period.

### **When to Itemize Contributions**

Monetary and non-monetary contributions of \$100 or less are not required to be itemized on Schedule A. Only an aggregate total for the reporting period is reported on the Disclosure Report. However, once a contributor contributes an aggregate of more than \$100 for the election period, the noncandidate committee must itemize that contribution on Schedule A.

For example, a contributor makes two contributions to a noncandidate committee during the same election period. The contributor contributes \$50 during the first month of the election period. Because the contribution does not exceed \$100, the contribution is not required to be itemized. Instead, the \$50 is reported in the aggregate total of contributions of \$100 or less. Subsequently, the same contributor makes an additional contribution of \$100 during the same election period. This contribution must be itemized, since the aggregate total of \$150 for the election period now exceeds the \$100 threshold.

Therefore, we strongly recommend that all contributions be entered on Schedule A, regardless of whether amounts are \$100 or less, because the Noncandidate Committee Filing System will aggregate all contributions for you. Additionally, even though you enter all contributions into Schedule A, only those contributors of contributions aggregating more than \$100 will show on the public site.

### **Reporting Contributions Received - Schedule A**

#### Monetary Contributions

A noncandidate committee should use Schedule A for reporting contributions received by the committee of more than \$100.

Information to be reported on Schedule B-1 includes the following:

- ◆ Date of the deposit;
- ◆ Contributor's full name and address;
- ◆ Contributor's employer and occupation;
- ◆ Contribution amount.

The employer and occupation information is required for all contributions that aggregate more than \$100 during the election period.

#### Non-Monetary Contributions

A noncandidate committee uses Schedule A for reporting non-monetary contributions received of more than \$100 in the same manner as monetary contributions.

In addition, the amount of a non-monetary contribution must be recorded on Schedule B-2, as an off-setting expenditure to avoid inflating the reported cash on hand.

### **Reporting Contributions to Candidates - Schedule B-1**

A noncandidate committee uses Schedule B-1 for reporting contributions to candidates.

Information to be reported on Schedule B-1 includes the following:

- ◆ Date of the contribution;
- ◆ Candidate's full name and address;
- ◆ Amount of contribution.

All contributions to candidates must be reported on Schedule B-1 regardless of amount.

Noncandidate committees specify on Schedule B-1 whether the contribution is a non-monetary contribution by checking a box and provide a description of the non-monetary contribution. Additionally, if the non-monetary item was purchased and reported on Schedule B-2 as an expenditure, it must also be reported on Schedule C, "Other Receipt," as an off-setting entry for the expenditure, e.g. contribute \$100 rice reported on Schedule B-1, purchase of \$100 rice reported on Schedule B-2, \$100 off-set of purchase of rice reported on Schedule C, so cash-on-hand balance is correct.

### **Reporting Expenditures - Schedule B-2**

An expenditure, for the purpose of influencing the nomination for election, or election, of any candidate to office whether or not the candidate has filed nomination papers, includes the following:

- ◆ Any purchase or transfer of money or anything of value;
- ◆ A promise or agreement to purchase or transfer money or anything of value;
- ◆ Payment incurred or made; and
- ◆ The use or consumption of a non-monetary contribution.

Such expenditures include payments for normal operating expenses, rent, advertising, office supplies, office equipment, contributions to other noncandidate committees, and contributions to political parties.

Information to be reported on Schedule B-2 by a noncandidate committee includes the following:

- ◆ Date of the expenditure;
- ◆ Payee's full name and address;
- ◆ Purpose of the expenditure (a brief description of why the expenditure was made); and
- ◆ Amount of the expenditure.

Expenditures are reported on Schedule B-2 regardless of amount. If non-monetary contributions are made, an off-setting expenditure must be entered on Schedule B-2 to provide the correct cash-on-hand.

An expenditure is made or incurred when the services are rendered or the product is delivered. (Accrual basis)

### **Reporting Other Receipts - Schedule C**

A noncandidate committee uses Schedule C for reporting other receipts. Information to be reported on Schedule C includes the following:

- ◆ Date of the deposit;
- ◆ Source's full name and address;
- ◆ Description of the other receipt;
- ◆ Amount of the other receipt.

Other receipts are reported on Schedule C regardless of amount, and include interest, returns, refunds, and rebates.

## Reporting Unpaid Expenditures – Schedule D

A noncandidate committee uses Schedule D for reporting unpaid expenditures. When the unpaid expenditure is paid, it is noted on Schedule D by checking the box “Expenditure pay off?” Unpaid expenditures, and later paid unpaid expenditures are not reported on Schedule B-2.

## Reporting Durable Assets – Schedule E

A noncandidate committee uses Schedule E to report and track durable assets. Information reported on Schedule E includes the following:

- ◆ Date durable asset was acquired;
- ◆ Source’s full name and address;
- ◆ Description of the durable asset; and
- ◆ Acquisition amount of the durable asset.

Durable assets are automatically reported after the initial filing until the assets are sold or donated. Donations are subject to limits. The sale or donation is reported as follows:

- ◆ Name of the person receiving the durable asset;
- ◆ Disposition amount; and
- ◆ Date the durable asset was disposed.

Durable assets sold must also be reported on Schedule C (Other Receipts).

## Late Contributions Report

The Late Contributions Report is for reporting contributions received from any person that aggregates more than \$500 and for reporting contributions made to candidates that aggregates more than \$500 during the period of fourteen calendar days through four calendar days prior to the primary or general election. The report is required to be electronically filed no later than three calendar days prior to the applicable election. Late Contributions will also be reported on the applicable Disclosure Reports. The report is not required if there are no Late Contributions.

The report requires the following information:

- Date the contribution was received or made, whichever is applicable;
- Name and address of the contributor or candidate the contribution is made to, whichever is applicable;
- Employer and occupation of the contributor; and
- Contribution amount.

## Short Form Report

The Disclosure Report also serves as the Short Form Report for noncandidate committees with limited activity. The Short Form Report may be used when the noncandidate committee’s contributions and expenditures for the reporting period each total \$2,000 or less. After entering contributions and expenditures into the Noncandidate Committee Filing System schedules, the Noncandidate Committee Filing System will create the Disclosure Report Short Form when you click on “Preview/Print Report”. You must then click on “File Report” to file the report. The public will not be able to view your Schedules.

## Filing Amendments

The noncandidate committee must electronically file an amended report if the noncandidate committee:

- ◆ Discovers that an earlier report contained erroneous information; or
- ◆ Is ordered to amend the report by the Commission.

An amended report is filed by clicking on "Amend Mode" in the Noncandidate Committee Filing System, going to the relevant Schedules and making the applicable changes, validating and then filing the report. Each report previously filed after the period covered in the amended report, will need to be amended following the process described above.

### **Nonelection Year Reporting**

Nonelection years are odd-numbered years in which there are no regularly scheduled state and local elections.

During a nonelection year, all noncandidate committees who are registered with the Commission are required to file two Supplemental reports.

- ◆ The first Supplemental report, covering campaign financial activity through June 30<sup>th</sup>, must be filed no later than 11:59 p.m. Hawaii Standard Time on July 31<sup>st</sup>.
- ◆ The second Supplemental report, covering financial activity through December 31<sup>st</sup>, must be filed no later than 11:59 p.m. Hawaii Standard Time on January 31<sup>st</sup>.

### **Filing Confirmation**

When your report is filed electronically, a "Filing Confirmation Page" will appear on your Noncandidate Committee Filing System screen. You may print this page as a receipt. The "Filing Confirmation" page confirms that the Commission has received the report. We advise that you also double-check that your report is properly filed by clicking on "Noncandidate Committees" under "View Report" at [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign) and type in your committee name to ascertain the report is there.

Neither the acknowledgment nor the receipt of the report constitutes expressed or implied approval, or in any manner indicates that the contents of the report fulfill the requirements of the campaign spending laws and rules.

## **IV. CONTRIBUTIONS**

This section examines the limits on **contributions to a noncandidate committee** and limits that noncandidate committees are subject to when making **contributions to candidates and other noncandidate committees**.

### **Contribution Limits**

#### Contributions to a Noncandidate Committee

No person or any other entity shall make contributions to a noncandidate committee in an aggregate amount greater than \$1,000 in an election (primary, general).

The 2010 primary election is from November 5, 2008, through September 18, 2010, and the general election is from September 19, 2010 through November 2, 2010. A person may contribute an aggregate amount of \$1,000, for each of these elections, to a noncandidate committee.

A monetary contribution may be made to a noncandidate committee by check, debit card, credit card and/or cash. Cash contributions of more than \$100 shall not be accepted by the committee without issuing a receipt to the contributor.

Contributions to a Political Party

No person or any other entity other than political committees established and maintained by a national political party shall make contributions to a political party in an aggregate amount greater than \$25,000 in any two-year election period. No political committee established and maintained by a national political party, shall make contributions to a political party in an aggregate amount greater than \$50,000 in any two-year election period.

“Political committees established and maintained by a national political party” means the National Committee, the House Campaign Committee and the Senate Committee.

Political parties are also noncandidate committees but contributions to political parties have larger contribution limits.

Contributions to a Ballot Issue Committee

A ballot issue committee is a type of noncandidate committee that has the exclusive purpose of making or accepting contributions or expenditures for or against any issue appearing on the ballot. Ballot Issue Committees cannot make contributions to candidates and candidate committees.

There is no limit on contributions to ballot issue committees.

Contributions from a Noncandidate Committee to a Candidate

The contribution limits vary according to the office that a candidate is seeking. The contribution limits that apply to the three types of offices are as follows:

- ◆ A candidate seeking nomination or election to a two-year office- aggregate contributions not to exceed \$2,000 during an election period;
- ◆ A candidate seeking nomination or election to a four-year nonstatewide office - aggregate contributions not to exceed \$4,000 during an election period;
- ◆ A candidate seeking nomination or election to a four-year statewide office - aggregate contributions not to exceed \$6,000 during an election period.

Noncandidate committees shall not make contributions to candidates in excess of these limits.

The following is a list of offices and their respective contribution limits per election period:

Two-Year (\$2,000)	State House of Representative County Council (Hawaii, Maui, Kauai)
Four-Year Nonstatewide (\$4,000)	State Senate Mayor Prosecuting Attorney City Council (Honolulu) Board of Education
Four-Year Statewide (\$6,000)	Governor Lt. Governor Office of Hawaiian Affairs

Election Period

“Election period” means the two-year period between general election days if a candidate is seeking nomination or election to a two-year office and the four-year time period between general election days if a candidate is seeking nomination or election to a four-year office. The current election periods are as follows:

- ◆ Two-year office (2010 Election Period) - November 5, 2008, through the day of the next general election which is November 2, 2010;
- ◆ Four-year office (2010 Election Period) - November 8, 2006, through the day of the next general election which is November 2, 2010.

## **Spouse and Dependent Minor Contributions**

A husband and wife are treated as separate persons for contribution limit purposes. A person may not make a contribution on behalf of a spouse or any other individual. Any contribution by check will be attributed to the spouse that signs the check.

A contribution by a dependent minor must be reported in the name of the minor but is counted against the contribution limit of the minor's parent or guardian. Therefore, you must obtain the parent's name and enter it into the Noncandidate Committee Filing System.

### **Contributions to be Promptly Deposited; Acknowledgment.**

The date a contribution is deposited into a financial institution is the date used for reporting that contribution. A contribution must be deposited no later than seven days after a noncandidate committee or any individual authorized to receive contributions on behalf of the noncandidate committee has received a contribution.

Failure to timely deposit a contribution shall not obviate the requirement to disclose and report the contribution. The Commission recommends that the noncandidate committee devise a workable method to ensure that contributions are deposited in a timely manner.

## **V. EXCESS CONTRIBUTIONS, PROHIBITED CONTRIBUTIONS and LOANS**

### **Excess Contributions**

An excess contribution is any contribution over the legal limit. If an excess contribution is returned within 7 days of receipt, the excess contribution is not required to be reported. If you miss the 7 day return, the excess contribution must be reported on the applicable disclosure report and returned to the original contributor within thirty days of receipt of the excess contribution. Any excess contribution not returned to the original contributor within thirty days shall escheat to the Hawaii election campaign fund. The contributor is still subject to a fine even if the contribution is returned within thirty days.

### **Prohibited Contributions**

#### False Name Contributions

A contribution made in the name of another person is prohibited. Contributions to noncandidate committees must be from a person's own money and in the name of the same person. A contribution by a person that is reimbursed or in any way compensated (e.g. given a bonus) by a person for that contribution is prohibited.

All contributions made in the name of a person other than the owner shall escheat to the Hawaii Election Campaign Fund.

#### Anonymous Contributions

No noncandidate committee shall knowingly receive, accept, or retain an anonymous contribution, or enter or cause such contribution to be entered in the noncandidate committee's account as an anonymous contribution. If a noncandidate committee receives an anonymous contribution and the contributor cannot be identified, the contribution shall escheat to the Hawaii election campaign fund.

Noncandidate committees can retain anonymous contributions that aggregate less than \$500 when obtained through multiple contributions made by ten or more persons at the same political function (e.g., calabash bowl). Detailed records must be retained of the political function.

#### Foreign National Contributions

No contributions or expenditures shall be made to or on behalf of a noncandidate committee by a foreign national or foreign corporation, including a domestic subsidiary of a foreign corporation, a domestic corporation that is owned by a foreign national, or a local subsidiary where financial control is retained by the foreign corporation.

An individual is eligible to make a contribution to a noncandidate committee if the individual has a "green card" indicating that he or she has been lawfully admitted for permanent residence, and the source of the funds are generated locally.

#### Contractor Contributions

Contributions from any person with certain contracts with the state, any of its counties, or any department or agency thereof, are prohibited. These are contracts for the rendition of personal services, the buying of property, or furnishing any material, supplies, or equipment to the state, any of its counties, department or agency thereof, or for selling any land or building to the State, any of its counties, or any department or agency thereof, if payment for the performance of the contract or payment for material, supplies, equipment, land, property, or building is to be made in whole or in part from funds appropriated by the legislative body, at any time between the execution of the contract through the completion of the contract.

#### **Loans**

Loans may not be accepted or made by noncandidate committees.

## **VI. EXPENDITURES**

#### **Expenditure Defined**

An expenditure, when made or incurred for the purpose of influencing the nomination for election, or election, of any candidate to office whether or not the candidate has filed nomination papers, includes the following:

- ◆ Any purchase or transfer of money or anything of value;
- ◆ A promise or agreement to purchase or transfer money or anything of value;
- ◆ Payment incurred or made; and
- ◆ The use or consumption of a non-monetary contribution.

An expenditure is made or incurred when the services are rendered or the product is delivered. (Accrual basis)

#### **Prohibition**

No expenditure shall be made for personal expenses.

#### **Durable Assets**

Durable assets are supplies and equipment purchased by the noncandidate committee with a purchase value of at least \$250 and a useful life of twelve months or more. Durable assets include, but are not limited to computer equipment, digital cameras, televisions, or a refrigerator, to be used while the noncandidate committee is registered.

The acquisition of any durable asset is reported on the Noncandidate Committee Filing System on Schedule E "Durable Assets". Durable assets are automatically reported by the NCFS after the initial filing until the assets are sold or donated. The disposition of a durable asset is also reported on Schedule E.

## VII. ADVERTISEMENTS

An advertisement means:

- (1) Any communication, exclusive of bumper stickers or other sundry items, that:
  - (A) Identifies a candidate either directly or by direct implication;
  - (B) Advocates or supports the nomination for election of the candidate;
  - (C) Advocates or supports the election of the candidate; or
  - (D) Advocates or supports the candidate's defeat.
- (2) Any communication, exclusive of bumper stickers or other sundry items, that:
  - (A) Identifies an issue or question that will appear on the ballot at the next applicable election; or
  - (B) Advocates or supports the passage or defeat of the question or issue.

All advertisements shall contain the name and address of the noncandidate committee paying for the advertisement. Additionally, the advertisement shall contain a notice in a prominent location that the advertisement is published, broadcast, televised, or circulated either "with the approval and authority of the candidate", or "without the approval and authority of the candidate". Audio advertisements will provide the above disclaimers in audio.

The penalty for not complying with the requirements above is a fine not to exceed \$25 for each advertisement that lacks the required disclaimer and no more than \$5,000 aggregate, e.g. one newspaper is one advertisement, 1,000 newspapers is 1,000 advertisements.

## VIII. AUDIT and ENFORCEMENT

The law authorizes audits of committees. The Commission also has enforcement authority. The Commission may issue an order affecting any person violating any laws in the Hawaii Revised Statutes Contributions and Expenditures Subpart and may assess an administrative fine in the manner prescribed as follows:

- (1) If a natural person, an amount not to exceed \$1,000 for each occurrence or an amount equivalent to three times the amount of an unlawful contribution or expenditure, whichever is greater; or
- (2) If a corporation, organization, association, or labor union, it shall be punished by a fine not exceeding \$1,000 for each occurrence; and
- (3) Whenever a corporation, organization, association, or labor union violates this subpart, the violation shall be deemed to be also that of the individual directors, officers, or agents of the corporation, organization, association, or labor union, who have knowingly authorized, ordered, or done any of the acts constituting the violation.