

ELECTIONEERING COMMUNICATIONS GUIDE

WAC 390-18-060
Electioneering
Communication
Reporting Threshold
And Sponsors

Examples and Illustrations

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Washington state law requires sponsors of electioneering communications to disclose within 24 hours who is paying for the communications and their cost.

An electioneering communication is an advertisement that has all of these characteristics:

- The communication clearly identifies at least one candidate for state, local, or judicial office;
- Appears within 60 days of an election in the candidate's jurisdiction*;
- Appears through one or more of the following media—radio, television, postal mailing, billboard, newspaper, or periodical; and
- Either alone, or in combination with other communications by the sponsor identifying the candidate, has a fair market value of \$5,000 or more.

Advertisements that do not qualify as electioneering communications may be independent expenditures. See the last page for a chart comparing electioneering communications and independent expenditures.

WHO MUST REPORT

Any sponsor of an electioneering communication regardless of whether the sponsor paid all or a portion of the cost(s) associated with the communication.

*For the 2009 primary election, the ad(s) appears between June 19 and August 17, 2009, inclusive. For the 2009 general election, the ad(s) appears between September 3 and November 1, 2009, inclusive.

	Independent Expenditure	Electioneering Communication
<i>Definition</i>	<ul style="list-style-type: none"> • Political advertisement that supports or promotes the defeat of a clearly identified candidate for state, local, or judicial office; • Paid for by someone other than a candidate, a candidate's committee, or agent; • Sponsor does the advertising completely independently of any candidate supported in the ad (or the opponent of the candidate opposed), or a candidate's committee or agent; • Sponsor did not receive the candidate's encouragement or approval to do the ad; • May appear at any time, any where (note special reporting deadline when appearing within 21 days of an election and fair market value is \$1,000 or more; • May appear in any format or medium; • May include non-advertising expenditures, e.g., paid door-belling supporting a candidate or ballot measure; and • May support or oppose just ballot measures. 	<ul style="list-style-type: none"> • Communication that clearly identifies at least one candidate for state, local, or judicial office; • Paid for by someone other than a candidate, a candidate's committee or agent; • Sponsor does the advertising completely independently of any candidate or a candidate's committee or agent; • Sponsor did not receive the candidate's encouragement or approval to do the ad; • Appears within 60 days of an election in the candidate's jurisdiction; • Appears through one or more of the following media—radio, television, postal mailing, billboard, newspaper, or periodical; • Either alone, or in combination with other communications by the sponsor identifying the candidate, has a fair market value of \$5,000 or more; and • Does not include communications relating to just ballot measures.
<i>Reporting Deadline</i>	<p>24 hours of, or on the first working day after, the date the ad was first published, mailed, or otherwise presented to the public for ads with fair market value of \$1,000 or more and appearing within 21 days of an election.</p> <p> </p> <p>Within 5 days of making the expenditure for ads appearing more than 21 days before an election valued at \$100 or more.</p>	<p>24 hours of, or on the first working day after, the date the ad was broadcast, mailed, erected, or published.</p>
<i>Electronic Reporting</i>	Optional.	Required.
<i>Report Donors</i>	Not on the C-6 form unless ad also qualifies as an electioneering communication.	Yes, if contribution was more than \$250 in the aggregate.
<i>Retro Reporting</i>	None required. File the initial report and continue reporting if additional independent expenditures of any amount are made.	Required if the \$5,000 or more reporting threshold is reached by aggregating the fair market value of multiple political ads—report the triggering ad as well as each of the earlier ads whose fair market value is included in the aggregate total.

A sponsor of an advertisement that does not meet the definition of electioneering communication should review the chart on the next page that compares independent expenditures and electioneering communications to determine if the advertisement is an independent expenditure.

The sponsor of an advertisement that meets the definition of independent expenditure *and* electioneering communication must complete the entire C-6 form, including sections 4 and 5.

When a contribution ...

An electioneering communication made in cooperation, consultation, or concert with, or at the request or suggestion of 1) a candidate, a candidate's authorized committee, or agents or 2) a political committee or its agents is an in-kind contribution to the candidate or the political committee and is not reported on PDC Form C-6. Instead, the sponsor immediately notifies the benefited candidate or committee of the communication's fair market value so that the recipient can report receiving the contribution. An electioneering communication that is a contribution is subject to any applicable contribution limit or other restriction.

If an electioneering communication is a contribution and the sponsor is a political committee, lobbyist, or lobbyist employer required to file PDC reports, the sponsor must report making the contribution.

REPORTING REQUIREMENTS

Once the electioneering communication definition is met, a sponsor is required to file an Electioneering Communication Report (PDC Form C-6).

The C-6 report must be filed:

- within 24 hours of, or on the first working day after, the date the communication was broadcast, mailed, erected, or published, and
- electronically—the PDC's electronic C-6 filing application is available at <http://www.pdc.wa.gov/filers/advertise/default.aspx>.

No reporting is required if the fair market value of an electioneering communication, alone or in combination with other communications by the same sponsor identifying the same candidate, is less than \$5,000.

If an electioneering communication identifies multiple candidates, prorate the fair market value of the communication among the candidates identified, and report only the portions that meet the threshold of \$5,000 or more.

If, however, a person continues to sponsor electioneering communications and the aggregate prorated fair market value for one or more candidates identified in those communications reaches the \$5,000 threshold, ALL of the electioneering communications whose fair market values were a part of the aggregate must be reported.

Step 1 ... Ask yourself these questions.

The questions and their answers will help you determine if an advertisement meets the electioneering communication threshold.



Question #1:

Is the fair market value of the advertisement(s) \$5,000 or more?

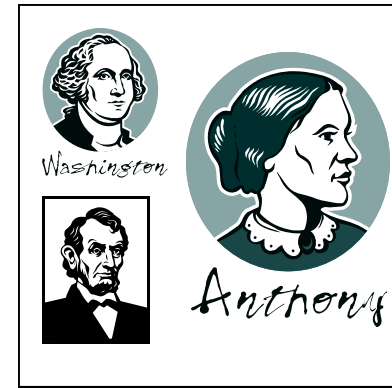
- A Yes → If one candidate is identified, sponsor reports within 24 hours.
- A Yes → If more than one candidate is identified, go to the next question.
- A No → Stop here.

Question #2:

Is the prorated fair market value of the advertisement(s) for one or more of the candidates \$5,000 or more?

- A Yes → If the answer is “yes” for all candidates, sponsor reports for all candidates within 24 hours.
- A Yes → If the answer is “yes” for some candidates, sponsor reports for those candidates within 24 hours.
- A No → Stop here.

Second Ad—TV



+ \$15,000 Ad

Ad space divided as follows:
25% (\$3,800) for Candidate 1
25% (\$3,800) for Candidate 2
50% (\$7,600) for Candidate 3

[Second of 2 ads identifying Candidates 1, 2, & 3]

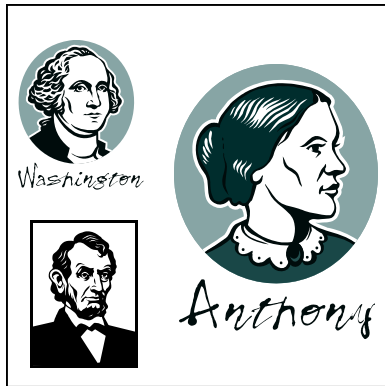


Both ads become reportable within 24 hours of when second ad runs (\$5,000 threshold is met for all candidates when second ad runs):

Sponsors A, B, & C each report their own portion of the funding for the ads for each candidate (each sponsor reports 1/3—their portion—of funding for each candidate in both ads, assuming each sponsor provided 1/3 of the total cost).

Multiple Joint Sponsors
Multiple Candidates
Multiple Ads

First ad—mailed flier



\$4,800 Ad

Ad space divided as follows:
25% (\$1,200) for Candidate 1
25% (\$1,200) for Candidate 2
50% (\$2,400) for Candidate 3



Sponsor A &
Sponsor B &
Sponsor C

Candidates
1, 2, & 3

[First of 2 ads
identifying
Candidates 1,
2, & 3]

Ad not reportable at time it runs.



Step 2 ... Review these examples.

The examples are found in WAC 390-18-060. They depict scenarios involving single and multiple electioneering communications by one or more sponsors. An explanation of when the activity must be reported follows each example along with an explanatory illustration.

Single sponsor, single ad. Sponsor A pays for an electioneering communication identifying Candidate 1 and the communication has a fair market value of \$5,000 or more. The electioneering communication is reportable by Sponsor A.

Single Sponsor
Single Ad
Single Candidate



Sponsor A

Candidate 1

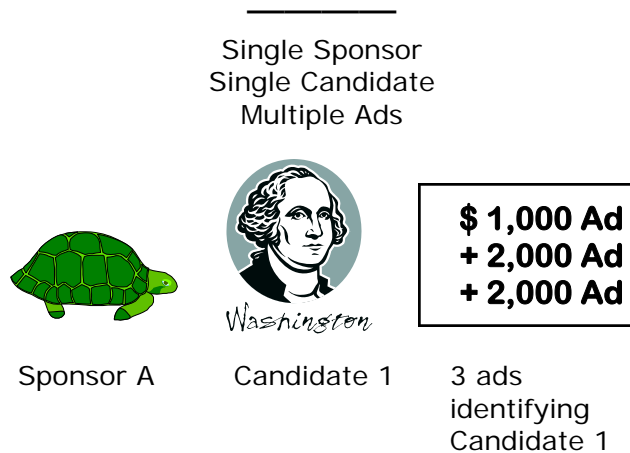
Single ad
identifying
Candidate 1



Sponsor A reports within 24 hours of when ad runs.

Single sponsor, multiple ads. Sponsor A pays for three electioneering communications identifying Candidate 1, and the communications have an aggregate fair market value of \$5,000 (\$1,000 for the first, \$2,000 for the second, and \$2,000 for the third). All three communications are reportable within 24 hours of the third communication being first broadcast, transmitted, erected, distributed or otherwise published.

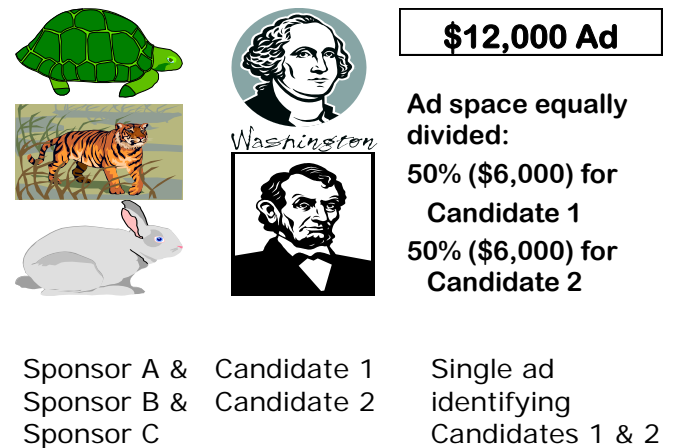
All subsequent electioneering communications by Sponsor A identifying Candidate 1 are reportable.



Sponsor A reports all ads within 24 hours of when 3rd ad runs.

Prorating an ad. If 80% of one or more electioneering communications with a fair market value of \$7,000 relates to a message or messages about Candidate 1, and the remaining 20% relates equally to two ballot propositions, the communication is reportable by the sponsor or sponsors because the \$5,000 threshold has been met. All subsequent electioneering communications identifying Candidate 1 are reportable.

Multiple Joint Sponsors
Multiple Candidates
One Ad

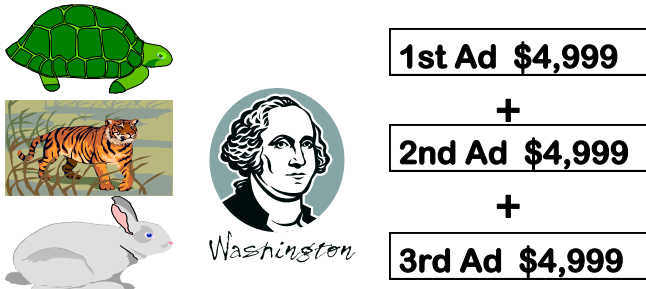


Ad is reportable within 24 hours of when it runs. Sponsors A, B, and C each report their own portion—\$2,000 for each candidate (because there are two candidates and each sponsor provided \$4,000 for the ad).

Multiple sponsors, multiple ads. Sponsors A, B, and C jointly plan and agree to pay for a series of electioneering communications identifying Candidate 1. They decide that Sponsor A will pay for the first ad, Sponsor B will pay for the second ad, and Sponsor C will pay for the third ad. Each ad has a fair market value of \$4,999. Because A, B, and C are acting in concert as one sponsoring entity for the electioneering communications, upon the publishing of the second ad the \$5,000 threshold is met and A, B, and C have an obligation to report the electioneering communications within 24 hours. Likewise, A, B, and C have an obligation to report the third electioneering communication within 24 hours of its publication.

All subsequent electioneering communications by sponsors A, B, and/or C identifying Candidate 1 are reportable.

Multiple Joint Sponsors Dividing Costs by Ad \ Single Candidate
Multiple Ads



Sponsor A & Sponsor B & Sponsor C

Candidate 1

Jointly sponsor 3 ads identifying Candidate 1

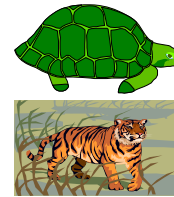


Sponsor A reports 1st ad and Sponsor B reports 2nd ad within 24 hours of when 2nd ad runs. Sponsor C reports 3rd ad within 24 hours of when it runs.

Multiple sponsors, multiple ads. Sponsors A and B jointly agree to pay for three electioneering communications identifying Candidate 1, and the communications have a total fair market value of \$5,000 (\$1,000 for the first, \$2,000 for the second, and \$2,000 for the third).

All three communications become reportable when the third communication is sponsored.

Multiple Joint Sponsors
Single Candidate
Multiple Ads



**\$ 1,000 Ad
+ 2,000 Ad
+ 2,000 Ad**

Sponsor A & Sponsor B

Candidate 1

3 ads identifying Candidate 1

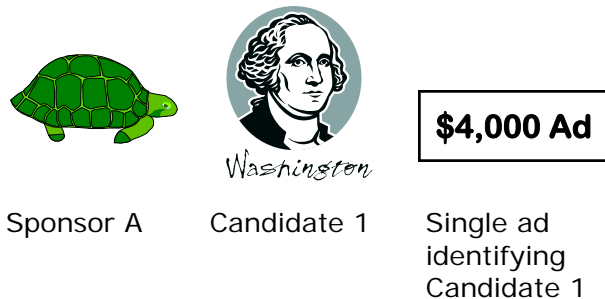


Sponsor A and Sponsor B each report own portion of all ads within 24 hours of when 3rd ad runs.

Multiple sponsors, multiple ads. Sponsors A and B have separately paid for an electioneering communication identifying Candidate 1, and each communication has a fair market value of \$4,000. Those communications are not reportable because they have not yet reached the \$5,000 threshold. Sponsors A and B then jointly agree to pay for another electioneering communication identifying Candidate 1, and the communication has a fair market value of \$1,000. Now the \$5,000 reporting threshold has been reached and within 24 hours of the jointly sponsored communication being published, that communication and prior separately sponsored communications identifying Candidate 1 are reportable by Sponsors A and B.

All subsequent electioneering communications by Sponsors A and/or B identifying Candidate 1 are reportable.

Multiple Joint Sponsors
Separately & Jointly Sponsored Ads
Single Candidate
Multiple Ads



Not reportable when ad runs.



\$4,000 Ad

Sponsor B

Candidate 1

Single ad identifying Candidate 1



Not reportable when ad runs.



\$1,000 Ad

Sponsor A & Sponsor B

Candidate 1

Single ad identifying Candidate 1



Sponsor A reports its \$4,000 ad and its portion of \$1,000 ad within 24 hours of when jointly sponsored ad runs

and

Sponsor B reports its \$4,000 ad and its portion of \$1,000 ad within 24 hours of when jointly sponsored ad runs.