

APOC Staff Proposed Informal Guidance

Requested By: Mr. Parker Conover, Godfrey Kahn LLC
Prepared By: Kim Stone, Campaign Disclosure Coordinator
Date Issued May 28, 2026
Subject: How an IE group should rank its top three contributors where contributions come through an intermediary federal hybrid PAC via true sources

Commission Decision:

I. BACKGROUND FACTS

This Informal Guidance concerns the activities of an intermediary federal hybrid PAC (“Intermediary”)¹ that sponsors independent expenditure communications related to state and local elections in Alaska. The Intermediary solicits and receives general purpose contributions from various sources.

The genesis of this Informal Guidance is the Intermediary’s earlier request for an advisory opinion. In its advisory opinion request, the Intermediary asked how an independent expenditure (IE) group should comply with AS 15.13.090(a)(2)(C), which requires the IE group to identify its top three contributors on communications. The Intermediary perceived uncertainty because under some circumstances the strict wording of the statute could result in *an Intermediary’s* contributor being listed as one or all of the top three contributor to the IE group, even where the IE group’s contributors donated a greater amount.²

¹ In its original request for advisory opinion, the organization requested its name be kept confidential pursuant to AS 15.13.374(f).

² AS 15.13.090(a)(2)(C) (requiring identification of top three contributors as determined under AS 15.13.040(e)(5)); AS 15.13.040(d)-(e) (requiring those making independent expenditures to disclose their contributors); AS 15.13.040(q) (applying “true source” rule to AS 15.13.040(e)(5)’s disclosure of contributions and contributors); AS 15.13.400(19) (defining “true source” as the “person or legal entity whose contribution is funded from wages, investment income, inheritance, or revenue generated from selling goods or services; a person or legal entity who derived funds via contributions, donations, dues, or gifts is not the true source, but rather an intermediary for the true source” subject to an exception not relevant here).

The Commission declined the Intermediary’s advisory opinion request because it concerned the activity of a third party – an IE group – rather than the Intermediary itself.³ In its Order, however, the Commission requested that staff “propose regulations or other guidance” to consider at its next regular meeting to address how IE groups should determine their top three contributors where true source contributions to an intermediary are involved. APOC staff proposes this Informal Guidance herein.

II. ISSUE PRESENTED

How an IE group should identify its top three contributors on communications when it receives contributions from a second group, specifically an intermediary federal hybrid PAC, which itself receives contributions from true sources.

III. PROPOSED GUIDANCE

Where an IE group receives contributions from an intermediary, it should rank its top three contributors under AS 15.13.090(a)(2)(C) according to the amount it directly received from a contributor, regardless of amounts contributed by individual true sources to the intermediary.

IV. LAW AND ANALYSIS

AS 15.13.090(a)(2)(C) requires a group to identify and rank its three largest contributors on all communications.⁴ Application of the rule is straightforward where a group receives contributions from individuals. For example, the paid-for-by ranking for a fictitious group **Alaskans for Health** that received \$40,000 total in individual contributions would list **#1 Individual Contributor A (\$20,000)**, **#2 Individual Contributor B (\$10,000)**, and **#3 Individual Contributor C (\$1,000)**, assuming other smaller individual contributions made up the remainder.

³ Exhibit 1, Final Order Affirming Staff Decision Not to Issue an Advisory Opinion; AS 15.13.374(b)(4).

⁴ AS 15.13.090(a)(2)(C) (requiring identification of top three contributors as determined under AS 15.13.040(e)(5)). The rule applies to “(a)ll communications.”

Application of the rule becomes less clear, however, where a group also receives contributions from a federal hybrid PAC,⁵ because AS 15.13.040(q) defines “contributor” as “the true source of the funds, property, or services being contributed.”⁶ A PAC’s contribution to an IE group typically is a conglomeration of contributions the PAC itself has received from its own true sources. The amount received by the IE group is typically independent of the true source contributions to the PAC.

To illustrate: The above IE group Alaskans for Health receives a **\$2,000** contribution from **Americans for Better Food**, a federal hybrid PAC which conglomerates its funding to make contributions to many different groups. Mary Jackson, John Chu, and Taylor Smith each contributed \$50,000 to Americans for Better Food.

Here, applying the “true source” rule of AS 15.13.040(q) – that a “contributor” to the IE group is the true source of the funds – would require the IE group Alaskans for Health to list Mary Jackson, John Chu, and Taylor Smith as its top three contributors, even though the Alaskans for Health group *received* only \$2,000 from the federal PAC Americans for Better Food. Alaskans for Better Health also wouldn’t list the federal PAC as a top three contributor, despite receiving a ranking contribution from it, because the federal PAC’s \$2,000 contribution to the IE group still is less than any of the \$50,000 individual contributions from Jackson, Chu, and Smith.

In short, under AS 15.13.090(a)(2)(C), the IE group Alaskans for Better Health must describe Jackson, Chu, and Smith as its top three contributors on its paid-for-by communications due to the \$2,000 contribution it received from intermediary federal PAC Americans for Better Food, even though the IE group actually received its largest contributions Individual Contributor A (\$20,000), Individual Contributor B (\$10,000), and the \$2,000 contribution from the federal hybrid PAC.

APOC staff believes this disjointed result was neither intended nor contemplated. The true source provisions of Alaska Campaign disclosure law were promulgated via the

⁵ While the second group in this matter is a PAC, this advice would similarly apply to an IE group contributing to another IE group.

⁶ AS 15.13.040(q): For purposes of (b)(e), and (j) of this section, “contributor” means the true source of the funds, property, or services being contributed (applying “true source” rule to AS 15.13.040(e)(5)’s disclosure of contributions and contributors).

ballot measure process⁷ and thus were not subject to the legal review and consideration typical of the standard legislative process. But the findings and intent of Ballot Measure 2 emphasized the right of Alaskans to understand the “source, quantity, timing, and nature of resources used to influence candidate elections.”⁸ Applying a rule that disregards the actual, largest contributions in an IE group’s paid-for-by communications directly contradicts the goal of transparency in campaign disclosure law.

Alaskans are better able to understand the source, quantity, timing, and nature of resources used to influence candidate elections when an IE group’s ranking of top three contributors reflects the amount it receives and from whom, rather than what an entity who contributes to that IE group received from that entity’s own donors. And the language of AS 15.13.090 at subsection (e) – “in no case shall a person be required to identify more than three contributors under (a)(2)(C)” – conveys a distinct intent to make identifying the top three contributors a straightforward process for groups to comply with and for Alaskans to understand. The more understandable approach would require an IE group to list its top three contributors according to the amount it received rather than the amount its contributor received before contributing some fraction of that amount to other groups.

APOC staff believes this Proposed Guidance strengthens rather than weakens campaign disclosure law. By ranking its three largest contributors by the amounts it received (as opposed to the intermediary’s individual true sources), the IE group offers the public more usable information. This is particularly true where the intermediary itself is one of the top three contributors, as an intermediary’s name typically is more recognizable to the public (for example, the Sierra Club or the National Rifle Association) than names of individual true sources, particularly non-resident individuals. Even where an intermediary organization is less well known, public information generally is more available on it through basic internet searching than on individual true sources who made contributions. And under APOC’s online filing system, the public has more access to information concerning a listed intermediary than its individual true source contributors

⁷ Provisions of Ballot Measure 2 became effective on February 28, 2021.

⁸ *Meyer v. Elections*, 465 P.3d 477, 497-98 (Alaska 2020) (quoting the measure’s finding and intent section).

because intermediaries contributing to IE groups making independent expenditures in candidate elections must report under AS 15.13.040(r), whereas the intermediary's true sources may have no such reporting requirement.

As a final note, the Intermediary noted that its request for clarification is based partly upon its need to notify its own true source contributors if their names will appear publicly on an IE group's paid-for-by identifiers. It is important to note the Intermediary's individual donor names will be publicly disclosed regardless of whether the IE group lists them on their paid-for-by messaging, as the Intermediary must list them as true sources in its APOC reports. APOC's online reporting system is, of course, available to and searchable by the public. APOC staff also emphasizes that an intermediary PAC always has the option to create a political activities account to segregate contributor funds that will not be used to influence Alaska elections, thereby eliminating any identification of contributors whose funds are not used to influence Alaska elections and who do not wish to be named in Alaska disclosure documents.⁹

⁹AS 15.13.052; 2 AAC 50.270(e); [AO 22-03-CD Unite America PAC](#), pp. 5-7.

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

In Re: Request for)
Advisory Opinion by)
Confidential Intermediary)
)
)
_____)



**FINAL ORDER AFFIRMING STAFF DECISION
NOT TO ISSUE AN ADVISORY OPINION**

The Intermediary¹ sought an advisory opinion from the Alaska Public Offices Commission about how an independent expenditure group should comply with the rule requiring identification of its top three contributors on communications, which may include naming the true sources of the Intermediary’s contribution to the group.² Commission staff declined to issue an advisory opinion because the question concerned a third party’s paid-for-by disclaimers, rather than the requestor’s. The Intermediary appeals this denial to the Commission.³ At its February 28, 2024, meeting, the Commission heard from the staff and the Intermediary’s counsel. The Commission

¹ The Intermediary requested that its name and the names of its officers and agents be kept confidential under AS 15.13.374(f); it described itself as a federal hybrid PAC registered and reporting to the Federal Elections Commission.

² AS 15.13.090(a)(1)(C) (requiring identification of top three contributors as determined under AS 15.13.040(e)(5)); AS 15.13.040(d)-(e) (requiring those making independent expenditures to disclose their contributors); AS 15.13.040(q) (applying “true source” rule to AS 15.13.040(e)(5)’s disclosure of contributions and contributors); AS 15.13.400(19) (defining “true source” as the “person or legal entity whose contribution is funded from wages, investment income, inheritance, or revenue generated from selling goods or services; a person or legal entity who derived funds via contributions, donations, dues, or gifts is not the true source, but rather an intermediary for the true source” subject to an exception not relevant here).

³ 2 AAC 50.831(a).

affirms staff’s decision declining to issue an advisory opinion.

Alaska Statute 15.13.374(b)(4) provides that a request for an advisory opinion “may not concern . . . the activity of a third party.” Here, the Intermediary asked how another party—an independent expenditure group—should determine its top three contributors, when the group receives a large contribution from the Intermediary whose true sources exceed the Intermediary’s contribution to the group.⁴ Commission staff declined to answer this question in an advisory opinion because the Intermediary was not asking about its own paid-for-by disclaimer or reporting obligations but rather those of a third party, the independent expenditure group.⁵

The Intermediary appealed the denial.⁶ The Intermediary argues that it is not a third party because it and its true sources are directly affected by the paid-for-by identifier requirement. It wants clarity so that it may inform its true sources whether their names will appear on an independent expenditure group’s paid-for-by identifier in Alaska, explaining that “Alaska law does not instruct an Alaska group on how to allocate its intermediaries’ true sources to each intermediary’s contribution to calculate its top three contributors for its paid-for-by identifier.” The Intermediary argues that the lack of

⁴ The Intermediary offered the following example: The Intermediary gives \$50,000 to the group, an amount large enough to qualify as a top three contribution to the group. The Intermediary’s contribution comes out of an account with five true sources who have each given \$100,000 to the Intermediary over the immediately preceding two years. Which true source or sources would be identified as top contributors on the group’s paid-for-by identifiers?

⁵ See 2 AAC 50.840(a); AS 15.13.374(b)(4).

⁶ 2 AAC 50.831(a).

clarity risks noncompliance and litigation, particularly given the upcoming Anchorage municipal election.

The Commission agrees with staff that AS 15.13.374(b) prohibits addressing the Intermediary’s question in an advisory opinion because the question concerns “the activity of a third party.” The campaign disclosure statutes do not define “third party,” so the Commission construes the term according to its “common and approved usage.”⁷ Dictionaries define “third party” as “a third person or organization less directly involved in a matter than the main people or organizations that are involved,”⁸ “a person other than the principals,”⁹ or “[s]omeone who is not a party to a lawsuit, agreement, or other transaction but who is usu. somehow implicated in it; someone other than the principal parties.”¹⁰ Under these definitions, the Intermediary is a third party. The Intermediary is “less directly involved in a matter”¹¹ or “somehow implicated in it”¹² by its contribution, which may affect the independent expenditure group’s identification of top three contributors on paid-for-by disclaimers. But the Intermediary is not issuing its own election-related communications, and so it not “the main . . . organization[] that [is]

⁷ AS 01.10.040(a).

⁸ *Third party*, Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/third-party> (last visited March 5, 2024).

⁹ *Third party*, Merriam-Webster Online, <https://www.merriam-webster.com/dictionary/third-party> (last visited March 5, 2024).

¹⁰ *Third party*, Black’s Law Dictionary (11th ed. 2019).

¹¹ *Third party*, Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/third-party> (last visited March 5, 2024).

¹² *Third party*, Black’s Law Dictionary (11th ed. 2019).

involved”¹³ or the “principal”¹⁴ entity with the obligation to determine and identify the top three contributors. Thus, the Commission affirms staff’s denial.

The Commission, however, recognizes that the true source rules, which took effect three years ago as part of Ballot Measure 2, are not always clear as applied to a particular situation. Although the Intermediary may not request an advisory opinion about the paid-for-by identifier when it is not issuing the communications, the independent expenditure group making the communications may do so.¹⁵ The Commission also requests that staff propose regulations or other guidance for its consideration at its next regular meeting to address how groups should apply the true source rule in determining the top three contributors for paid-for-by identifiers under AS 15.13.090(a)(2)(C). And finally, even without guidance, nothing precludes the independent expenditure group from telling the Intermediary who will be named on the group’s paid-for-by identifiers before the group issues communications, which would allow the Intermediary to notify its affected donors.

This is a final Commission decision and may be appealed to the superior court within 30 days.¹⁶ A request for the Commission to reconsider this order must be made

¹³ *Third party*, Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/third-party> (last visited March 5, 2024).

¹⁴ *Third party*, Merriam-Webster Online, <https://www.merriam-webster.com/dictionary/third-party> (last visited March 5, 2024); *Third party*, Black’s Law Dictionary (11th ed. 2019).

¹⁵ AS 15.13.374(b); 2 AAC 50.840(a) (permitting rejected requests to be corrected and refiled).

¹⁶ AS 44.62.560; 2 AAC 50.831(c); Alaska R. App. P. 602.

within 15 days after issuance of this order.¹⁷

Dated: March 6, 2024

BY ORDER OF THE ALASKA PUBLIC OFFICES COMMISSION¹⁸

Certificate of Service: I hereby certify that on this date, I served, by certified mail and email a true and correct copy of the foregoing in this proceeding on the following:	
Godfrey Kahn Attn: Mike B. Wittenwyler 500 New Jersey Ave. SW, Suite 375 Washington, DC 20001-2072 wittenwyler@gklaw.com pconover@gklaw.com	and by email to: Heather Hebdon Executive Director Alaska Public Offices Commission heather.hebdon@alaska.gov


Paralegal II

3.6.24
Date

¹⁷ AS 44.62.540; 2 AAC 50.891(g).

¹⁸ Commissioners Richard Stillie, Lanette Blodgett, Suzanne Hancock, Eric Feige, and Dan LaSota participated in this matter. The decision was made on a 5-0 vote.