

The FEC Audit Process: What To Expect

Audit Division
Federal Election Commission
February 2012



FEDERAL ELECTION COMMISSION

Washington, D.C. 20463

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INTRODUCTION

The Audit Division is authorized by the Commission to conduct audits of federal political committees. These audits fall into three general categories: (1) all publicly financed Presidential campaigns and national party convention committees that receive public financing; (2) campaigns of federal candidates seeking election to a public office; and, (3) all other federal political committees including political action committees and party committees.

The material that follows provides an overview of the audit process and offers answers to frequently asked questions about the Federal Election Commission audit process. By answering these questions, the Commission hopes to help committees and the general public understand the basics of the process and what to expect when audited.

THE AUDIT PROCESS – AN OVERVIEW

1. Pre-Audit – First, the Audit staff will inform the Treasurer in writing that the Commission has authorized an audit of the committee. Then, Audit staff will request preliminary materials such as bank statements, bank account reconciliations and all accounting data maintained by campaign management and accounting software. After the preliminary records are received, an auditor will contact the committee to arrange a date and place for the audit. Most audits are conducted on-site at your office; however, if an appropriate space is not available, alternative locations (such as the committee's counsel's office) may be appropriate.

2. Fieldwork – The fieldwork portion of the audit begins with an entrance conference. During this meeting, the committee will be given an outline of the audit procedures and will be afforded an opportunity to explain how the records are organized and to ask questions. The Audit staff will conduct an inventory of the committee's records and, if the records are not complete, fieldwork may be suspended until such time as they are. Subpoenas may be issued by the Commission to obtain missing records.

Once the Audit staff determines that the records are substantially complete and well-organized, the Audit staff will:

- a. review the committee's disclosure reports to determine whether receipt and disbursement information was properly reported and mathematically accurate;
- b. conduct a reconciliation of bank account records as compared to the disclosure reports filed; and
- c. conduct other audit procedures as deemed necessary to determine whether the committee substantially complied with the *FECA*.

During fieldwork, Audit staff may request further information on matters identified during the audit.

At the end of fieldwork, an exit conference will be held. During this meeting, the Audit staff will explain the results of their work and identify any potential findings that they anticipate presenting to the Commission. These are Audit staff conclusions that will be reviewed by the Commission before the final audit report is issued. The Audit staff will also request any records that are still needed.

The length of time required for fieldwork depends on the volume of receipt and disbursement transactions during the audited period, the organization and completeness of committee records, the audit scope and the issues that develop during the audit. If the records are substantially complete, fieldwork typically takes two to three weeks.

3. Interim Audit Stage - The results from audit fieldwork will be reviewed and an Interim Audit Report will be drafted. In some cases, the Commission's Office of General Counsel

will perform a legal review of the report. If there are no proposed findings, the committee will receive a Final Audit Report from the Commission. If the Audit staff has identified potential findings, the committee will receive an Interim Audit Report of the Audit Division that addresses them.

4. Draft Final Audit Stage and Proposed Final Audit Stage – The Committee’s response (if any) to the Interim Audit Report will be reviewed by the Audit Division (and in some cases, the Office of General Counsel (“OGC”)), and a Draft Final Audit Report will be prepared. This report sets forth the recommended findings that the Audit staff intends to present to the Commission and will also include legal analysis, if any was provided by OGC. The Committee may submit a response, and may request an Audit Hearing (see below).

5. Final Audit Report - After the committee’s response to the Draft Final Audit Report and/or the hearing, the Commission will consider the recommendations of the Audit Staff, as well as any responses from the Committee and testimony during any audit hearing, and a Proposed Final Audit Report will be prepared for Commission approval. Once approved, the Final Audit Report of the Commission will be sent to the committee. Once this report is received by the committee, it will be placed on the Commission’s website along with Committee responses and other documents related to the audit.¹

FREQUENTLY ASKED QUESTIONS

WHY IS MY COMMITTEE BEING AUDITED?

Other than the mandatory audits of publicly financed Presidential campaigns and national party convention committees, Section 438(b) of the *Federal Election Campaign Act (FECA)* allows the Commission to audit a committee if its reports do not meet the threshold requirements for substantial compliance with the Act. Campaign Finance Analysts in the Commission’s Reports Analysis Division (“RAD”) review every report following detailed procedures approved by the Commission. If questions arise concerning a committee’s compliance with the FECA, the analyst may send the committee a Request for Additional Information (“RFI”) Letter which is made available to the public. Insufficient and/or untimely responses to these inquiries increase the likelihood of an audit. At least four Commissioners must approve the audit of any committee. In most election cycles, the Commission will conduct between 30 and 40 audits.

SHOULD MY COMMITTEE RETAIN LEGAL COUNSEL?

An attorney is not required under the Act; however, committees should feel free to retain legal counsel. A designation of counsel form will be provided to the Committee at the beginning of the audit, and may be submitted at any time during the process.

1 See FEC Directive on Processing Audit Reports at http://www.fec.gov/directives/directive_70.pdf

WHAT RECORDS ARE NECESSARY FOR THE AUDIT?

It depends on the type of committee and the scope of the audit. Not every category of records listed below is relevant to every type of committee. Examples of necessary records may include:

RECEIPTS

- Bank deposit records.
- Copies of contribution checks greater than \$50.
- Credit card merchant account statements and transaction processing records.
- Documentation for loans.
- Records for the redesignation and/or reattribution of contributions that would otherwise exceed contribution limits.
- Documentation to demonstrate follow-up efforts for contributions that are from questionable sources.
- “Best Efforts” documentation for follow-up communications with contributors who failed to provide complete information.

DISBURSEMENTS

- Any check registers that were not part of the electronic records provided at the start of the audit.
- Cancelled checks stored either on paper or electronically, along with documentation for any wire transfers or other debits to the committee’s accounts.
- Invoices, receipts and other supporting documentation for disbursements in excess of \$200. This would include disbursements for payroll and those made via committee credit card. If the committee uses credit cards to make disbursements, the credit card statements should also be provided for review.
- Documentation to support travel and other types of reimbursements to the candidate, staff and volunteers.
- Basis and calculations for the allocation of expenses between federal and non-federal accounts, as well as federal and Levin accounts. Also records for all reimbursements from the non-federal and Levin accounts.
- Copies of literature, media ads, poll questions and phone bank scripts.
- Records to support the classification of disbursements as operating expenditures, federal election activity, independent expenditures, coordinated expenditures, etc.
- Records for the non-federal and Levin accounts, if any, to allow for the verification of allocated expenses.
- Records to support any debts owed by or to the committee.

Although this listing is not exhaustive, it covers the common types of records needed for the audit.

WHAT TIME FRAMES ARE COVERED BY THE AUDIT?

Generally audits cover a two-year period beginning January 1 of the year before the election and ending December 31 of the election year. At times, records for activity before and after the audit period may be requested to establish the correct beginning and ending cash-on-hand balances. Contribution records from earlier years may also be requested for candidate committees.

WHAT ARE THE COMMITTEE'S OPPORTUNITIES TO RESPOND?

The audit process includes many opportunities for the committee to respond to any issues identified by the Audit staff. They are as follows:

- **During Audit Fieldwork**– Committees are encouraged to resolve as many issues as possible at this stage of the audit.
- **10 Day Response to Audit Fieldwork**– After the exit conference, committees have 10 business days to submit materials to the Audit staff to demonstrate that a potential finding is not warranted. If the committee demonstrates that a potential finding is not warranted, it will not appear in the audit report.
- **Response to the Interim Audit Report**– If the audit identifies material errors or instances of non-compliance, they will be included in the Interim Audit Report with recommendations for corrective action and/or a request that the committee explain why the report is incorrect. The committee has 30 calendar days to respond to the Interim Audit Report; however, extensions may be granted. The committee's response is provided to the Commission.
- **Response to the Draft Final Audit Report and/or Request a Hearing** – A Draft Final Audit Report will be prepared after consideration of the committee's response to the Interim Audit Report. The committee will have 15 calendar days to make any further response and/or request a hearing before the Commission. The Commission has separate guidance for the hearing process.²
- **Enforcement**– If any findings are referred to the Commission's Office of General Counsel or to the Office of Alternative Dispute Resolution (ADR) for further enforcement, the committee will have additional opportunities to respond to the issues raised.
- **Program for Requesting Consideration of Legal Questions**– In addition to the opportunities noted above, the Program for Requesting Consideration of Legal Questions by the Commission allows committees to request consideration of a staff decision directly to the Commission. Specifically, when the Audit Division requests that a committee take corrective action during the audit process, and the committee disagrees based upon a material dispute on a question of law, the committee may seek Commission consideration of the issue. The Committee will have 15 business days to seek Commission consideration of the issue. The 15 day time frame begins at the end of the committee's audit exit conference response period.³

² See Procedures for Audit Hearings (2009) at www.fec.gov/law/cfr/ej_compilation/2009/notice_2009-12.pdf

³ Program for Requesting Consideration of Legal Questions by the Commission (2011) at www.fec.gov/law/cfr/ej_compilation/2011/notice_2011-11.pdf

DOES THE COMMITTEE NEED TO RESPOND TO REQUEST FOR ADDITIONAL INFORMATION (“RFAI”) LETTERS WHILE BEING AUDITED?

Yes, while being audited, the committee should continue to respond to any RFAI Letters received from RAD by the indicated due dates. Also, the committee should continue to file reports as required. For more information, contact RAD at 202-694-1000 or go to www.fec.gov/rad/index.shtml.





If you have additional questions after reading the brochure,
please contact the FEC:

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999 E Street, NW
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(202) 694-1200 (local)

(800) 424-9530 (toll free)

(202) 219-3336 (for the hearing impaired)