Final Audit Report of the Commission on the Democracy Engine, Inc., PAC
(January 1, 2017 - December 31, 2018)

Why the Audit Was Done
Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.[1] The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action
The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)
The Democracy Engine, Inc., PAC is a separate segregated fund - corporation. It is a non-qualified committee and is headquartered in Washington, DC. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 2)
- **Receipts**
  - Contributions from Individuals $ 5,922,872
  - Offsets to Operating Expenditures 284,717

  Total Receipts **$ 6,207,589**

- **Disbursements**
  - Contributions to Federal Candidates/Committees $ 5,921,334
  - Operating Expenditures 284,717

  Total Disbursements **$ 6,206,051**

Additional Issues (p. 3)
- Failure to Maintain a Bank Depository (Issue 1)
- Inaccurate Disclosure of Statement of Organization (Issue 2)
- Failure to Maintain Records Sufficient to Verify Reported Activity (Issue 3)

[1] 52 U.S.C. §30111(b).

Final Audit Report of the Commission on the Democracy Engine, Inc., PAC

(January 1, 2017 - December 31, 2018)

Table of Contents

Part I
Background

Authority for Audit

This report is based on an audit of the Democracy Engine, Inc., PAC (DEI), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 52 U.S.C. §30111(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 52 U.S.C. §30104. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 52 U.S.C. §30111(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the disclosure of individual contributors' occupation and name of employer;
2. the consistency between reported figures and bank records;
3. the completeness of records; and
4. other committee operations necessary to the review.

Limitations

The Audit staff was not able to perform a reconciliation of DEI's bank records to its disclosure reports filed with the Commission because the DEI did not deposit funds nor make disbursements from a committee depository (see Issue 1 – Failure to Maintain a Bank Depository). Without bank records, the Audit staff was unable to verify the accuracy and completeness of the DEI disclosure reports filed during the audit period (see Issue 3 – Failure to Maintain Records Sufficient to Verify Reported Activity). In addition, because DEI filed amended reports of its financial activity during this election cycle, the Audit staff sought to perform an analysis of the original reports as compared to the bank records but was unable to do so.

Audit Hearing

DEI requested a hearing before the Commission. The request was granted and the hearing was held on December 2, 2021. At the hearing, DEI asked that the Commission consider updating its bundling regulations and give more guidance to the regulated community regarding online fundraising. Lastly, DEI requested that the Commission resolve this audit.

Part II
Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	October 13, 2009
• Audit Coverage	January 1, 2017 - December 31, 2018
Headquarters	Washington, DC
Bank Information	
• Bank Depositories[2]	None
• Bank Accounts[2]	None
Treasurer	
• Treasurer When Audit Was Conducted	Jonathan Zucker
• Treasurer During Period Covered by Audit	Jonathan Zucker (10/13/2009 – Present)
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Who Handled Accounting and Recordkeeping Tasks	Treasurer

Overview of Financial Activity
(Audited Amounts)[3]

Cash on hand @ January 1, 2017	**$ 276**
Receipts	
○ Contributions from Individuals	5,922,872
○ Offsets to Operating Expenditures	284,717
Total Receipts	**$ 6,207,589**
Disbursements	
○ Contributions to Federal Candidates/Committees	5,921,334
○ Operating Expenditures	284,717
Total Disbursements	**$ 6,206,051**
Cash on hand @ December 31, 2018	**$ 1,814**

[2] See Issue 1 – Failure to Maintain a Bank Depository.
[3] The amounts are as reported on DEI's disclosure reports. The Audit staff was not able to verify the accuracy and completeness of the amounts given DEI's lack of a bank depository and corresponding bank records. See Limitations in Part I and Issue 1 – Failure to Maintain a Bank Depository.

Part III
Summaries

Additional Issues

Issue 1. Failure to Maintain a Bank Depository

DEI failed to maintain a committee bank depository (depository). DEI also failed to deposit receipts received and disbursements made, as required by federal statute, using a committee-maintained depository. Instead, all DEI's receipts and disbursements were processed through the depository of Democracy Engine, LLC[4] (DELLC). DEI's activity was processed through DELLC's transfer account (Transfer Account) along with the activity of other DELLC clients, thus combining DEI's federal activity with the activity of other political and non-political entities.

During audit fieldwork, DEI provided bank statements showing that DEI established its own depository on September 18, 2019 and provided an April 2020 bank statement demonstrating that DEI now processed activity through this depository. In response to the Interim Audit Report recommendation, DEI stated that it was filing amendments to "correctly characterize [its] activity as non-depository bundled contributions for which [DEI] served as a conduit." DEI amended all its reports for the 2018 cycle to reflect all activities as "memo entries." In response to the Draft Final Audit Report, DEI acknowledged that the Commission regulations appear to require that each political committee must maintain a depository account and asked that the Commission determine that the maintenance of an account without any funds by a committee which has no receipts or disbursements is unnecessary and impractical. DEI stated, "it has been our experience that banks are less willing to allow their clients to maintain dormant or empty accounts and will force close the account after a period of inactivity." DEI requested a hearing before the Commission to discuss this matter. (For more detail, see Audit Hearing, p.9.)

The Commission did not approve, by the required four votes, the Audit staff's recommendation that DEI failed to maintain a bank depository for earmarked contributions and disbursements. Pursuant to Commission Directive 70,[5] this matter is discussed in the "Additional Issues" section of this report. (For more detail, see p. 5.)

Issue 2. Inaccurate Disclosure of Statement of Organization

DEI disclosed a closed depository on its amended Statements of Organization during the audit period. DEI filed an amended Statement of Organization on September 19, 2019,[6] disclosing Amalgamated Bank as its committee depository. In response to the Interim

---

[4] Democracy Engine, LLC (DELLC) is the sole stockholder of Democracy Engine, Inc. Democracy Engine, Inc. PAC (DEI), the subject of this audit report, discloses Democracy Engine, Inc. as a connected organization on its Statement of Organization.

[5] Available at https://www.fec.gov/resources/cms-content/documents/directive_70.pdf

[6] DEI filed this amended Statement of Organization prior to the October 2, 2019, audit notification.

Audit Report recommendation, DEI acknowledged that it should have filed a "miscellaneous disclosure" with the Commission that its depository institution had forced closed its account due to inactivity. However, DEI believed that no additional information was required until a new depository account was established in September 2019, at which time it filed an amendment to its Statement of Organization. DEI provided no formal response to the Draft Final Audit Report.

The Commission did not approve, by the required four votes, the Audit staff's recommendation that during the audit period, DEI inaccurately disclosed as its depository of record, a depository which was closed in 2012. Pursuant to Commission Directive 70,[7] this matter is discussed in the "Additional Issues" section of this report. (For more detail, see p. 9.)

Issue 3. Failure to Maintain Records Sufficient to Verify Reported Activity

DEI failed to maintain sufficient records, specifically bank records (see Issue 1 - Failure to Maintain a Bank Depository), to provide sufficient detail that would allow its reports filed with the Commission to be reconciled and verified for accuracy and completeness. As a part of standard audit procedures, total reported receipts and disbursements, as well as reported cash balances, are verified through a review of bank records. However, since DEI did not maintain its own depository and its activity was processed with other DELLC clients, reported receipts totaling $6,207,589 and reported disbursements totaling $6,206,051, could not be verified for accuracy and completeness. In response to the Interim Audit Report recommendation, DEI stated that "it objects to this finding [issue] and characterization that it failed to maintain sufficient records to verify reported activity." By filing the amendments described in Issue 1, DEI believes that this issue is "moot and that sufficient records have been provided by DELLC to verify the conduit activity." In response to the Draft Final Audit Report, DEI objected to the Draft Final Audit Report's assertion that it failed to maintain accounts sufficient to verify reported activity. Further, DEI stated DELLC has provided the Audit Division with substantial documentation to document the transactions that have been disclosed as conduit activity. DEI requested a hearing before the Commission to discuss this matter. (For more detail, see Audit Hearing, p. 15.)

The Commission did not approve, by the required four votes, the Audit staff's recommendation that DEI failed to maintain records, including bank records, to provide sufficient detail that would allow its reports filed with the Commission to be reconciled and verified for accuracy and completeness. Pursuant to Commission Directive 70,[8] this matter is discussed in the "Additional Issues" section of this report. (For more detail, see p. 12.)

---

[7] *See supra footnote 5.*

[8] *See supra footnote 5.*

Part IV
Additional Issues
Issue 1. Failure to Maintain a Bank Depository

Summary
DEI failed to maintain a committee bank depository (depository). DEI also failed to deposit receipts received and disbursements made, as required by federal statute, using a committee-maintained depository. Instead, all DEI's receipts and disbursements were processed through the depository of Democracy Engine, LLC[9] (DELLC). DEI's activity was processed through DELLC's transfer account (Transfer Account) along with the activity of other DELLC clients, thus combining DEI's federal activity with the activity of other political and non-political entities.

During audit fieldwork, DEI provided bank statements showing that DEI established its own depository on September 18, 2019 and provided an April 2020 bank statement demonstrating that DEI now processed activity through this depository. In response to the Interim Audit Report recommendation, DEI stated that it was filing amendments to "correctly characterize [its] activity as non-depository bundled contributions for which [DEI] served as a conduit." DEI amended all its reports for the 2018 cycle to reflect all activities as "memo entries." In response to the Draft Final Audit Report, DEI acknowledged that the Commission regulations appear to require that each political committee must maintain a depository account and asked that the Commission determine that the maintenance of an account without any funds by a committee which has no receipts or disbursements is unnecessary and impractical. DEI stated, "it has been our experience that banks are less willing to allow their clients to maintain dormant or empty accounts and will force close the account after a period of inactivity." DEI requested a hearing before the Commission to discuss this matter. (For more detail, see Audit Hearing, p.9.)

The Commission did not approve, by the required four votes, the Audit staff's recommendation that DEI failed to maintain a bank depository for earmarked contributions and disbursements. Pursuant to Commission Directive 70,[10] this matter is discussed in the "Additional Issues" section of this report.

Legal Standard
A. Depositories. Each political committee shall designate one or more state banks, federally chartered depository institutions (including a national bank), or depository institutions, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. Each political committee shall maintain at least one checking account or transaction account at one of its depositories. 52 U.S.C. §30102(h)(1) and 11 CFR §103.2.

---

9 *See supra footnote 4.*
10 *See supra footnote 5.*

B. Deposit of Receipts and Disbursements. All receipts by a political committee shall be deposited in account(s) established pursuant to 11 CFR §103.2, except that any contribution may be, within 10 days of the treasurer's receipt, returned to the contributor without being deposited. The treasurer of the committee shall be responsible for making such deposits. All deposits shall be made within 10 days of the treasurer's receipt. A committee shall make all disbursements by check or similar drafts drawn on an account at its designated campaign depository, except for expenditures of $100 or less made from a petty cash fund maintained pursuant to 11 CFR §102.11. Funds may be transferred from the depository for investment purposes but shall be returned to the depository before such funds are used to make expenditures. 11 CFR §103.3(a).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff learned that DEI did not maintain its own bank depository (see Limitations, p.1.), as the Citi[bank] account, disclosed as the depository of record on Statements of Organization filed between October 13, 2009, and September 18, 2019, was closed in January 2012.[11] DEI's financial activity was instead processed through the depository (the Transfer Account) of Democracy Engine, LLC (DELLC). DELLC is a for-profit limited liability company whose principal business is the processing and distribution of web-based donations to charities, non-profits and political committees, including candidate committees at the local, state and federal level. DELLC's Transfer Account processed DEI's activity, as well as the activity of its other clients, thus combining DEI's federal activity with the activity of other political and non-political entities.

During audit fieldwork, DEI's representative indicated, in a notarized affidavit, that "effective on or around March 1, 2020, earmarked donations to [DEI] will be processed by DELLC via a [DEI] owned merchant account and deposited to a [DEI] owned bank account (the Amalgamated Bank account on [DEI's] current Form 1); distributions will be made from the [DEI] owned account in the form of checks and ACH transfers. DELLC will still serve as a vendor to the PAC, but the funds will now be segregated from other DELLC donation volume." DEI's representative submitted an April 2020 bank statement demonstrating that effective that month, DEI processed its activity through this bank account.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the lack of a committee depository with DEI's representative during the exit conference.

In response to the exit conference, DEI representatives submitted a response indicating that it had no expenditures other than those directly related to earmarked contributions after January 2012. DEI representatives stated that 11 CFR §100.6 does not require that

[11] As noted on a bank statement provided to Audit staff by a DEI representative, this account was closed in January 2012.

earmarked contributions, for which a committee serves as a conduit or intermediary, pass through the committee's depository account. As such, the contributions were processed and distributed by DELLC in accordance with the services agreement between DELLC and DEI. The representatives also noted it was their understanding that it was common practice for political committees, without financial activity, but which remain active and file reports with the Commission, not to maintain a depository account with a zero balance, given the practice of financial institutions to assess fees even on zero balance accounts. Further, if it intended to receive any contributions or make any expenditures that required a depository account, it would have immediately reopened its account at Citibank or opened a new account and amended its Statement of Organization as it did in September 2019 in anticipation of expenditures for merchant account fees from a new merchant processor. DEI representatives noted that the Amalgamated Bank account was opened prior to any notice of the audit.

Although DEI cited 11 CFR §100.6, which pertains to connected organizations, the Audit staff noted that Democracy Engine, Inc. is DEI's connected organization, as disclosed on each Statement of Organization DEI has filed, whereas DEI itself is a political committee, registered with the Commission since October 2009. The statute and regulations for political committees require the use of a campaign depository as cited above. The Audit staff further noted that DEI's disclosure reports filed during the audit period disclosed earmarked contributions on Schedules A (*Itemized Receipts*) and B (*Itemized Disbursements*) as though the contributions passed through its depository. DEI did not report the earmarked contributions as memo entries per 11 CFR § 110.6(c)(1)(iv).

The Interim Audit Report recommended that DEI provide any additional comments it deemed necessary with respect to this matter.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, DEI stated, "although the Commission's regulations at 11 C.F.R. § 103.2 appear to "require" the maintenance of a campaign depository, such requirement should not be placed upon a dormant committee that has no receipts or disbursements and no cash on hand. DEI further stated that, since none of its conduit activities passed through a committee depository account, DEI should have disclosed all such activities during the 2018 election cycle as memo entries in accordance with 11 CFR § 110.6(c)(1)(v). DEI amended all its disclosure reports for the 2018 cycle to reflect all its activity as "memo entries" with $0 in receipt or disbursement activity.

The Interim Audit Report did not recommend that DEI amend its reports; however, DEI indicated that it did so to correctly characterize its activity as "non-depository bundled contributions for which DEI served as conduit." DEI amended its reports to change its entries from deposited earmarked contributions to undeposited earmarked contributions (memo entries).

Commission regulations require that conduits must comply with special reporting rules, which vary depending on whether the contribution was deposited in the conduit's bank account or was passed on directly to the recipient committee. In accordance with 11 CFR § 110.6(c)(1)(v), if the committee deposits the earmarked contribution, the committee reports the earmarked contributions on Schedules A (*Itemized Receipts*) and B (*Itemized Disbursements*). If the committee forwards the contribution without depositing it first, the committee must itemize the same information in memo entries on Schedules A and B. In the case of DEI, the earmarked contributions were not merely forwarded to recipient committees, but were first deposited, not in a DEI depository as required by 11 CFR §103.2, but instead in the DELLC depository. This was done, as noted by DEI in its notarized affidavit, in accordance with its service agreement. In addition, DEI's response to the Interim Audit Report recommendation, stated that, "All funds received and disbursed in connection with this conduit activity was done through credit card processing and DEI utilized a third-party vendor, [DELLC], to process the credit card contributions to each benefiting committee that received contributions in connection with its conduit fundraising activities."

The Audit staff did not agree with DEI's assessment of its reporting requirements. The original reporting of the earmarked contributions as *deposited* earmarked contributions was a more accurate representation of DEI's financial activity. As currently disclosed on the amended reports filed in response to the Interim Audit Report recommendation, it appears that the earmarked contributions were not deposited and processed by a depository, when in fact they were, albeit by DELLC's depository rather than a DEI depository. The Audit staff maintained that DEI failed to maintain a bank depository for earmarked contributions and disbursements. DEI is a separate segregated fund, and therefore a political committee under the Act and is required to maintain at least one campaign depository and deposit all receipts and issue disbursements through such account, including earmarked contributions received in DEI's capacity as an intermediary or conduit, as required by the Act and Commission regulations. 52 U.S.C. § 30102(h)(1); 11 C.F.R. §§103.2 and 103.3.

D. Draft Final Audit Report

The Draft Final Audit Report concluded that DEI failed to maintain a bank depository for earmarked contributions and disbursements.

E. Committee Response to the Draft Final Audit Report

DEI acknowledged that Commission regulations appear to require that each political committee must maintain a depository account and asked that the Commission determine, "in its discretion," that the maintenance of an account without any funds by a committee which has no receipts or disbursements is unnecessary and impractical. DEI stated, "it has been our experience that banks are less willing to allow their clients to maintain dormant or empty accounts and will force close the account after a period of inactivity." Further DEI stated, "it makes no sense to require DEI to reopen an account until and unless it has funds to deposit or spend." DEI noted that it reopened an account in 2019 and has been depositing funds into and making expenditures from that account. With regard to its 2018 cycle activity, DEI indicated that it amended its reports to "properly reflect the activities as memo entries since none of the earmarked contributions passed through a bank account of DEI" and stated that, "[i]n hindsight, even this level of reporting may have been more than necessary since DEI never 'handled' any of the contributions and donors used a for-profit vendor to process and forward the contributions to the candidates."

F. Audit Hearing
During the Audit Hearing, the Treasurer stated that "through 2018, the PAC has never made a contribution to a candidate independently of an earmark and the only funds the PAC has had that were for its own use was an initial $5,000 donation deposited into the Citibank account to cover a handful of operating expenses." The Treasurer further stated the funds were exhausted by 2012, and sometime after that the bank forcibly closed the account.

The Audit staff noted during the Audit Hearing that DEI received contributions during the audit period for potential nominees and, as such, the nominee funds should have been deposited into a DEI bank account and not a DELLC bank account. The Treasurer acknowledged that it was factually correct that DEI received limited contributions for nominee funds. In a response subsequent to the audit hearing, counsel for DEI detailed that DEI received nominee funds totaling approximately $377,000.[12]

Commission Conclusion
On January 27 and February 17, 2022, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that DEI failed to maintain a bank depository for earmarked contributions and disbursements.

On February 17, 2022, the Commission did not approve, by the required four votes, the Audit staff's recommendation. Some Commissioners voted to approve the Audit staff's recommendation. Other Commissioners did not vote to approve the Audit staff's recommendation, stating that terminating the audit would be the best use of Commission resources.

Pursuant to Commission Directive 70,[13] this matter is presented as an "Additional Issue."

Issue 2. Inaccurate Disclosure of Statement of Organization

Summary
DEI disclosed a closed depository on its amended Statements of Organization during the audit period. DEI filed an amended Statement of Organization on September 19, 2019,[14] disclosing Amalgamated Bank as its committee depository. In response to the Interim Audit Report recommendation, DEI acknowledged that it should have filed a "miscellaneous disclosure" with the Commission that its depository institution had forced

[12] This amount could not be verified by the Audit staff, see Issue 3.
[13] *See supra footnote 5.*
[14] DEI filed this amended Statement of Organization prior to the October 2, 2019, audit notification.

closed its account due to inactivity. However, DEI believed that no additional information was required until a new depository account was established in September 2019, at which time it filed an amendment to its Statement of Organization. DEI provided no formal response to the Draft Final Audit Report.

The Commission did not approve, by the required four votes, the Audit staff's recommendation that during the audit period, DEI inaccurately disclosed as its depository of record, a depository which was closed in 2012. Pursuant to Commission Directive 70,[15] this matter is discussed in the "Additional Issues" section of this report.

Legal Standard

A. Registration. A separate segregated fund must file a Statement of Organization no later than 10 days after establishment. 52 U.S.C. §30103(a).

B. Contents. The Statement of Organization shall include a listing of all banks, safety deposit boxes, or other depositories used by the committee. 52 U.S.C. §30103(b)(6).

Facts and Analysis

A. Facts

DEI disclosed a closed depository on its Statements of Organization. DEI filed its original Statement of Organization with the Commission in October 2009, disclosing its depository as Citi[bank]. As previously noted in Issue 1 above, the Citibank depository was closed in January 2012.

From February 2012 through September 18, 2019, DEI continued to disclose Citibank as its depository.[16] DEI filed an amended Statement of Organization on September 19, 2019, to report Amalgamated Bank as its committee depository. Amalgamated Bank is also the depository used by DELLC.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with DEI's representative during the exit conference.

In response to the exit conference, DEI representatives submitted a response stating that as of January 2012, its depository account had a zero balance and while it had no specific recollection of requesting that the account be closed, noted that it may have made such a request after being informed that Citibank would continue to assess fees on the account. DEI representatives stated it was their understanding that it was common practice for political committees without financial activity, but which remain active and file reports with the Commission, not to maintain a depository account with a zero-balance given the practice of financial institutions to assess fees, even on zero balance accounts.
As noted above, 52 U.S.C. §30103(b)(6) requires that committees disclose all bank accounts, safety deposit boxes, or other depositories used. The Audit staff noted that

---

[15] *See supra footnote 5.*

[16] DEI filed two amended Statements of Organization during the audit period with the incorrect disclosure.

from February 2012 through September 18, 2019, including two amended Statements of Organization filed during the 2017-2018 election-cycle, DEI incorrectly disclosed Citibank as the depository it was using, although this depository was closed in January 2012.

The Interim Audit Report recommended that DEI provide any additional comments it deemed necessary with respect to this matter.

C. Committee Response to Interim Audit Report
In response to the Interim Audit Report recommendation, DEI acknowledged that it should have filed a "miscellaneous disclosure" to notify the Commission that its depository institution had forced closed its account due to inactivity. Further, DEI stated it believed that no additional information was required until a new depository account was established in [September] 2019, at which time it filed an amendment to its Statement of Organization.

D. Draft Final Audit Report
The Draft Final Audit Report acknowledged that DEI disclosed a closed depository on its amended Statements of Organization during the audit period.

E. Committee Response to the Draft Final Audit Report
DEI provided no formal response to the Draft Final Audit Report on this issue.

F. Audit Hearing
DEI did not address this issue during the Audit hearing.

Commission Conclusion

On January 27 and February 17, 2022, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that DEI inaccurately disclosed as its depository of record, a depository which was closed in 2012.

On February 17, 2022, the Commission did not approve, by the required four votes, the Audit staff's recommendation. Some Commissioners voted to approve the Audit staff's recommendation. Other Commissioners did not vote to approve the Audit staff's recommendation, stating that terminating the audit would be the best use of Commission resources.

Pursuant to Commission Directive 70,[17] this matter is presented as an "Additional Issue."

---

[17] *See supra footnote 5.*

Issue 3. Failure to Maintain Records Sufficient to Verify Reported Activity

Summary

DEI failed to maintain sufficient records, specifically bank records (see Issue 1 - Failure to Maintain a Bank Depository), to provide sufficient detail that would allow its reports filed with the Commission to be reconciled and verified for accuracy and completeness. As a part of standard audit procedures, total reported receipts and disbursements, as well as reported cash balances, are verified through a review of bank records. However, since DEI did not maintain its own depository and its activity was processed with other DELLC clients, reported receipts totaling $6,207,589 and reported disbursements totaling $6,206,051, could not be verified for accuracy and completeness. In response to the Interim Audit Report recommendation, DEI stated that it "objects to this finding [issue] and characterization that it failed to maintain sufficient records to verify reported activity." By filing the amendments described in Issue 1, DEI believes that this issue is "moot and that sufficient records have been provided by DELLC to verify the conduit activity." In response to the Draft Final Audit Report, DEI objected to the Draft Final Audit Report's assertion that it failed to maintain accounts sufficient to verify reported activity. Further, DEI stated DELLC has provided the Audit Division with substantial documentation to document the transactions that have been disclosed as conduit activity. DEI requested a hearing before the Commission to discuss this matter. (For more detail, see Audit Hearing, p. 15.)

The Commission did not approve, by the required four votes, the Audit staff's recommendation that DEI failed to maintain records, including bank records, to provide sufficient detail that would allow its reports filed with the Commission to be reconciled and verified for accuracy and completeness. Pursuant to Commission Directive 70, [18] this matter is discussed in the "Additional Issues" section of this report.

Legal Standard

Contents of Reports. Each political committee required to file any report or statement shall maintain all records as follows:

- Maintain records, including bank records, with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified and checked for accuracy and completeness;
- Preserve a copy of each report or statement required to be filed under 11 CFR parts 102 and 104, and all records relevant to such reports or statements; and
- Keep all reports required to be preserved under this section available for audit, inspection or examination by the Commission or its authorized representative(s) for a period of not less than 3 years after the report or statement is filed. 11 CFR §104.14(b)(1), (2) and (3).

---

[18] *See supra footnote 5.*

Facts and Analysis

A. Facts
The Audit staff could not verify the reported receipts and disbursements totaling $6,207,589 and $6,206,051, respectively, for accuracy and completeness, due to DEI's failure to maintain sufficient records, specifically bank records.[19] Although DEI maintained an accounting of receipts and disbursements processed by DELLC, the Audit staff notes the regulations go beyond simple documentation requirements and specifically require that committee records provide information sufficient to verify, explain and check for accuracy and completeness of reports, in addition to the requirement to use a campaign depository as cited above. Use of a campaign depository ensures a clear financial trail of records linking receipts and disbursements to a third-party financial institution and provides a complete and verifiable disclosure history for audit purposes.

B. Interim Audit Report & Audit Division Recommendation
The Audit staff discussed the recordkeeping issue with the DEI representative during the exit conference. The DEI representative noted that DEI's practice of using the DELLC bank account predated the audit period and offered to provide further detailed information related to the reported transfers to candidates. However, DEI's representative stated that DEI would not be able to provide further information regarding receipts.

In response to the exit conference, DEI representatives provided the Audit staff with additional disbursement data files from DELLC. The data files contained information regarding the gross disbursement amounts paid to candidates and the portion of the disbursements attributed to DEI, as DEI's activity was often a subset of gross amounts paid to candidates/committees. The Audit staff was able to trace gross DEI transfer amounts and gross DEI check amounts on the DELLC bank statements. However, the Audit staff was not able to verify that the data files contained the entire population of DEI records since its activity was processed with other DELLC clients on the bank statements.

The Interim Audit Report recommended that DEI provide any additional comments it deemed necessary with respect to this matter.

C. Committee Response to Interim Audit Report
In response to the Interim Audit Report recommendation, DEI stated that it "objects to this finding [issue] and characterization that it failed to maintain sufficient records to verify reported activity." By filing the amendments described in Issue 1, DEI believes that this issue is "moot and that sufficient records have been provided by DELLC to verify the conduit activity."

The Audit staff noted that DEI provided no additional documentation to verify the conduit activity. As noted in Issue 1, DEI filed amendments to change the characterization of its activity from deposited earmarked contributions (non-memo

---

[19] See Limitations, p. 1.

entries) to earmarked contributions forwarded directly to recipients without first being deposited (memo entries). The Audit staff reviewed these amendments and noted that, in addition to changing the entries from non-memo entries to memo entries, the amended reports also reflect the following changes:

- DEI reduced the total receipt and disbursement activity reported by $107,049 and $584,339, respectively.

  The decrease in total reported receipts was due to the following:

2017 - 2018	Amendments filed March 23, 2021	Audited Reports	Difference
Contributions from Individuals Schedule A, Line 11(a)	$6,006,306	$5,922,872	$83,434 Increase
Offsets to Operating Expenditures (Refunds) Schedule A, Line 15	$0.00	$284,717	($284,717) Decrease
Refunds of Federal Contributions Schedule A, Line 16	$94,234	$0.00	$94,234 Increase
Net Decrease in Total Reported Receipts			**($107,049) Decrease**

  The decrease in total reported disbursements was due to the following:

2017 - 2018	Amendments filed March 23, 2021	Audited Reports	Difference
Operating Expenditures Schedule B, Line 21(b)	$0.00	$284,717	($284,717) Decrease
Contributions to Federal Candidates Schedule B, Line 23	$5,535,578	$5,921,334	($385,756) Decrease
Refunds of Contribution s to Individuals/Persons other than Political Committees Schedule B, Line 28(a)	$86,134	$0.00	$86,134 Increase
Net Decrease in Total Reported Disbursements			**$584,339**

  DEI did not provide an explanation for the change in disclosure amounts.

- Prior to the audit, DEI reported earmarked contributions from individuals received and forwarded totaling $5,922,872 and $5,921,334, respectively, a difference of $1,538 ($5,922,872 less $5,921,334). The amended reports now reflect, via memo entries, that the earmarked contributions from individuals received and forwarded were $6,006,306 and $5,535,578,[20] respectively, a difference of $470,728 ($6,006,306 less $5,535,578). DEI did not provide an explanation for the change in disclosure amounts.

Since DEI's financial activity was processed through the depository of DELLC and combined with DELLC's other activity,[21] the Audit staff could not verify the total original reported receipts and disbursements totaling $6,207,589 and $6,206,051, respectively. In addition, the Audit staff was also unable to verify the total reported amounts of the receipt and disbursement memo entries totaling $6,100,540 and $5,621,712, respectively, that DEI disclosed in the amended reports filed in response to the Interim Audit Report. The Audit staff maintained that DEI failed to maintain records, including bank records, to provide sufficient detail that would allow its reports filed with the Commission to be reconciled and verified for accuracy and completeness.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that since DEI's financial activity was processed through the depository of DELLC and combined with DELLC's other activity, the Audit staff could not verify the total original reported receipts and disbursements totaling $6,207,589 and $6,206,051, respectively. The Audit staff was also unable to verify the total reported amounts of the receipt and disbursement memo entries totaling $6,100,540 and $5,621,712, respectively, that DEI disclosed in the amended reports filed in response to the Interim Audit Report.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, DEI objected to the Draft Final Audit Report's assertion that it failed to maintain accounts sufficient to verify reported activity. Further, DEI stated that DELLC provided the Audit staff with substantial documentation to document the transactions that were disclosed as conduit activity.

F. Audit Hearing

During the Audit Hearing, the Treasurer stated that DEI provided everything that was requested by the Audit staff, from detailed reports by DELLC of every donor transaction processed and disbursed, to the DELLC bank statements through which the donor funds flowed.

Commission Conclusion

On January 27 and February 17, 2022, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that DEI failed to maintain records, including bank records, to provide sufficient detail that would allow its reports filed with the Commission to be reconciled and verified for accuracy and completeness.

---

[20] Recipient committees disclosed on FEC reports approximately $4.5 million from DEI as the conduit committee, per the Data Disclosure database. Without DEI bank records, the Audit staff is not able to determine if the material discrepancy is DEI's error.

[21] DELLC had bank receipt and disbursement activity of approximately $71 million and $68 million, respectively.

On February 17, 2022, the Commission did not approve, by the required four votes, the Audit staff's recommendation. Some Commissioners voted to approve the Audit staff's recommendation. Other Commissioners did not vote to approve the Audit staff's recommendation, stating that terminating the audit would be the best use of Commission resources.

Pursuant to Commission Directive 70,[22] this matter is presented as an "Additional Issue."

[22] *See supra footnote 5.*