



Interim Audit Report of the Audit Division 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

Findings and Recommendations (p. 3)

- Failure to Maintain a Bank Depository (Finding 1)
- Inaccurate Disclosure of Statement of Organization (Finding 2)
- Failure to Maintain Records Sufficient to Verify Reported Activity (Finding 3)

¹ 52 U.S.C. §30111(b).



Interim Audit Report of the Audit Division on the Democracy Engine, Inc., PAC

(January 1, 2017 - December 31, 2018)

Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Limitations	1
Part II. Overview of Committee	
Committee Organization	2
Overview of Financial Activity	2
Part III. Summaries	
Findings and Recommendations	3
Part IV. Findings and Recommendations	
Finding 1. Failure to Maintain a Bank Depository	4
Finding 2. Inaccurate Disclosure of Statement of Organization	6
Finding 3. Failure to Maintain Records Sufficient to Verify Reported Activity	7

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 Finding 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. 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.

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 Finding 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 Finding 1 – Failure to Maintain a Bank Depository.

Part III

Summaries

Findings and Recommendations

Finding 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 of DEI's receipts and disbursements were processed through the depository of Democracy Engine, LLC⁴ (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. The Audit staff recommends that DEI provide any additional comments it deems necessary with respect to this matter. (For more detail, see p. 4.)

Finding 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, 2019⁵, disclosing Amalgamated Bank as its committee depository. The Audit staff recommends that DEI provide any additional comments it deems necessary with respect to this matter. (For more detail, see p. 6.)

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

DEI failed to maintain sufficient records, specifically bank records (see Finding 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. The Audit staff recommends that DEI provide any additional comments it deems necessary with respect to this matter. (For more detail, see p. 7.)

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

Part IV

Findings and Recommendations

Finding 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 of DEI's receipts and disbursements were processed through the depository of Democracy Engine, LLC⁶ (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. The Audit staff recommends that DEI provide any additional comments it deems necessary with respect to this matter.

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.

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).

⁶ 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.

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff learned that DEI did not maintain its own bank depository, as the Citibank account, disclosed as the depository of record on Statements of Organization filed between October 13, 2009 and September 18, 2019, was closed in January 2012⁷. 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 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.

⁷ As noted on a bank statement provided to Audit Staff by DEI representatives, this account was closed in January 2012.

Although DEI cites 11 CFR §100.6, which pertains to connected organizations, the Audit staff notes 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 notes 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 Audit staff recommends that, within 30 calendar days of service of this report, DEI provide any additional comments it deems necessary with respect to this matter.

Finding 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, 2019⁸, disclosing Amalgamated Bank as its committee depository. The Audit staff recommends that DEI provide any additional comments it deems necessary with respect to this matter.

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 Citibank. As previously noted in Finding 1 above, the Citibank depository was closed in January 2012. DEI continued to disclose the closed Citibank depository as its depository on two amended Statements of Organization filed with the Commission during the audit period.

From February 2012 through September 18, 2019, DEI continued to disclose Citibank as its depository. DEI filed an amended Statement of Organization on September 19, 2019,

⁸ DEI filed this amended Statement of Organization prior to the October 2, 2019 audit notification.

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 notes that 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 Audit staff recommends that, within 30 calendar days of service of this report, DEI provide any additional comments it deems necessary with respect to this matter.

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

Summary

DEI failed to maintain sufficient records, specifically bank records (see Finding 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. The Audit staff recommends that DEI provide any additional comments it deems necessary with respect to this matter.

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).

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. 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 linking receipts and disbursements to a third party financial institution and provides a complete 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; but stated that they would not be able to provide further information regarding receipts.

In response to the exit conference, DEI provided the Audit staff with additional disbursement data files from DELLC. The data files contained detail regarding the gross disbursement amounts to candidates and the DEI portion of the disbursements, as DEI's activity was often a subset of gross amounts transferred or checks written to candidates/committees. The Audit staff was able to identify 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 that of other DELLC clients in the bank statements.

The Audit staff recommends that, within 30 calendar days of service of this report, DEI provide any additional comments it deems necessary with respect to this matter.