



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 1, 2023

MEMORANDUM

To: The Commission

Through: Alec Palmer
Staff Director *AP*

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Dayna C. Brown *DCB*
Assistant Staff Director
Audit Division

Kendrick Smith *KDS*
Audit Manager

By: Camilla Reminsky *CR*
Lead Auditor

Subject: Audit Division Recommendation Memorandum on Latinos for America First (A21-12)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presented the Draft Final Audit Report (DFAR) to Latinos for America First (LFAF) on February 8, 2023 (see attachment). LFAF did not request an audit hearing.

This memorandum provides the Audit staff's recommendation for each finding outlined in the DFAR.

In response to the DFAR, LFAF provided additional comments for Finding 1, Misstatement of Financial Activity, as noted below.

Finding 1. Misstatement of Financial Activity

In response to the DFAR, LFAF requested that the Audit staff clarify its explanation for why the \$76,172 in contributions from individuals were not reported. LFAF stated "[t]he errors were obviously not intentional, but ... due to lack of experience from our volunteer treasurer." In addition, LFAF stated that it has "implemented measures and best practices to remain in compliance moving forward."

The Audit staff recommends that the Commission find that LFAF understated its reported receipts, disbursements, and ending cash on hand by \$75,776, \$52,650, and \$23,037, respectively, in calendar year 2020.

Finding 2. Increased Activity

The Audit staff recommends that the Commission find that LFAF understated its receipts and disbursements by \$152,815 and \$183,369, respectively, on the original reports filed, prior to audit notification, over the two-year reporting period ending December 31, 2020.

Finding 3. Disclosure of Occupation and/or Name of Employer

The Audit staff recommends that the Commission find that LFAF failed to disclose or inadequately disclosed occupation and/or name of employer information for 130 contributions from individuals, totaling \$39,590.

The Office of General Counsel has reviewed this memorandum and concurs with the recommendations.

If this memorandum is approved, the Proposed Final Audit Report will be prepared and circulated within 30 days of the Commission's approval.

If this Audit Division Recommendation Memorandum is not approved on a tally vote, Directive No. 70 states that the matter will be placed on the next regularly scheduled open session agenda.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Camilla Reminsky or Kendrick Smith at 694-1200.

Attachment:

- Draft Final Audit Report of the Audit Division on Latinos for America First

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on Latinos for America First

(January 1, 2019 - December 31, 2020)

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)

Latinos for America First is a non-qualified, non-connected political action committee headquartered in Pasadena, Texas. For more information, see the chart on the Committee Organization, p.2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 308,783
○ Offsets to Operating Expenditures	22
Total Receipts	\$ 308,805
• Disbursements	
○ Other Federal Operating Expenditures	\$ 237,540
○ Contributions to Federal Candidates/Committees and Other Political Committees	5,500
Total Disbursements	\$ 243,040

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Increased Activity (Finding 2)
- Disclosure of Occupation and/or Name of Employer (Finding 3)

¹ 52 U.S.C. §30111(b).



Draft Final Audit Report of the Audit Division on Latinos for America First

(January 1, 2019 - December 31, 2020)

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Part I

Background

Authority for Audit

This report is based on an audit of Latinos for America First² (LFAF), 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 shall 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.

² During the election cycle, LFAF was initially named Latinos for Trump PAC and then changed its name to Latinos for the President before changing its name to Latinos for America First on March 5, 2021.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	August 21, 2018
• Audit Coverage	January 1, 2019 - December 31, 2020
Headquarters	Pasadena, Texas
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Two federal checking accounts
Treasurer	
• Treasurer When Audit Was Conducted	Moni Casarez
• Treasurer During Period Covered by Audit	Moni Casarez
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Who Handled Accounting and Recordkeeping Tasks	Treasurer and Volunteer Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2019	\$ 622
Receipts	
○ Contributions from Individuals	308,783
○ Offsets to Operating Expenditures	22
Total Receipts	\$ 308,805
Disbursements	
○ Other Federal Operating Expenditures	237,540
○ Contributions to Federal Candidates/Committees and Other Political Committees	5,500
Total Disbursements	\$ 243,040
Cash on hand @ December 31, 2020	\$ 66,387

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of LFAF's most recent reported financial activity, filed prior to audit notification, with its bank records revealed a misstatement of receipts, disbursements, and ending cash on hand for calendar year 2020. Specifically, LFAF understated receipts by \$75,776, disbursements by \$52,650, and ending cash on hand by \$23,037. In response to the exit conference, LFAF filed amended disclosure reports materially correcting the public record for receipts and disbursements. The ending cash on hand in calendar year 2020 remained misstated. In response to the Interim Audit Report recommendation, LFAF corrected the public record by amending its cash on hand balance on its most recently filed report (2022 30 Day Post-General Report). Additionally, LFAF stated that it has "...implemented procedures and reorganized to help [it] remain compliant moving forward." (For more detail, see p. 4.)

Finding 2. Increased Activity

A comparison of LFAF's bank records with its originally filed reports revealed that receipts were understated by \$152,815 and disbursements were understated by \$183,369 for calendar years 2019 and 2020. In response to the Interim Audit Report recommendation, LFAF stated that it has "...implemented procedures and reorganized to help [it] remain compliant moving forward." (For more detail, see p. 6.)

Finding 3. Disclosure of Occupation and/or Name of Employer

During audit fieldwork, a review of all contributions from individuals, requiring itemization, indicated that 130 contributions, totaling \$39,590, lacked or inadequately disclosed the required occupation and/or name of employer information. LFAF did not sufficiently demonstrate "best efforts" to obtain, maintain and submit the required information. In response to audit fieldwork, LFAF provided some documentation of "best efforts," however, the efforts were made untimely. In response to the exit conference, LFAF filed amended disclosure reports that materially corrected the public record. In response to the Interim Audit Report recommendation, LFAF stated that it has "...implemented procedures and reorganized to help [it] remain complaint moving forward." (For more detail, see p. 7.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of LFAF's most recent reported financial activity, filed prior to audit notification, with its bank records revealed a misstatement of receipts, disbursements, and ending cash on hand for calendar year 2020. Specifically, LFAF understated receipts by \$75,776, disbursements by \$52,650, and ending cash on hand by \$23,037. In response to the exit conference, LFAF filed amended disclosure reports materially correcting the public record for receipts and disbursements. The ending cash on hand in calendar year 2020 remained misstated. In response to the Interim Audit Report recommendation, LFAF corrected the public record by amending its cash on hand balance on its most recently filed report (2022 30 Day Post-General Report). Additionally, LFAF stated that it has "...implemented procedures and reorganized to help [it] remain compliant moving forward."

Legal Standard

Contents of (Federal) Reports. Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the calendar year;
- The total amount of disbursements for the reporting period and for the calendar year; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 52 U.S.C. §30104(b)(1), (2), (3), (4), and (5).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reconciled LFAF's most recent reported financial activity, filed prior to audit notification, with its bank records for calendar years 2019 and 2020. The reconciliation determined that LFAF misstated receipts, disbursements, and ending cash on hand for 2020. The following chart details the discrepancies between LFAF's disclosure reports and bank activity. The succeeding paragraphs explain why the discrepancies occurred.

2020 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash on hand @ January 1, 2020	(\$5,656)	(\$5,746)	\$90 Understated
Receipts	\$216,598	\$292,374	\$75,776 Understated
Disbursements	\$167,591	\$220,240	\$52,650 Understated
Ending Cash on hand @ December 31, 2020	\$43,351	\$66,387	\$23,037 Understated

The 2020 understatement of receipts resulted from the following:

• Contributions from individuals not reported	\$76,172
• Contributions from individuals reported, not supported by bank deposits	(469)
• Contributions reported net of PayPal processing fees	34
• Unexplained differences	<u>39</u>
Net Understatement of Receipts	<u>\$75,776</u>

The 2020 understatement of disbursements resulted from the following:

• Disbursements not reported	\$54,282
• Disbursements reported that did not clear bank	(2,667)
• Contribution to political committee not reported	1,000
• PayPal fees not reported	<u>35</u>
Net Understatement of Disbursements	<u>\$52,650</u>

LFAF provided no specific explanation for why the \$76,172 in contributions from individuals were not reported.

The disbursements not reported, totaling \$54,282, consisted of disbursements for bank charges, postage, travel expenses, bookkeeping, printing, mailing list rental, direct mail, and a contribution refund.

The \$23,037 understatement of the ending cash on hand was a result of the reporting discrepancies described above.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with the LFAF representatives during the exit conference and provided schedules detailing the misstatements. In response to the exit conference, LFAF stated, “[t]he errors were obviously not intentional, but ... due to lack of experience from our volunteer treasurer.” Additionally, LFAF filed amended disclosure reports which materially corrected its misstated receipts and disbursements, however, its ending cash on hand remained misstated.

The Interim Audit Report recommended that LFAF amend its most recently filed disclosure report to correct the cash on hand balance with an explanation that the change

resulted from a prior period adjustment. It was further recommended that LFAF reconcile the ending cash on hand balance of its most recent report to identify any subsequent discrepancies that may have affected the adjustment recommended by the Audit staff.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, LFAF corrected the public record by amending its cash on hand balance on its most recently filed report (2022 30 Day Post-General Report). In addition, LFAF stated that it has "...implemented procedures and reorganized to help [it] remain compliant moving forward."

Finding 2. Increased Activity

Summary

A comparison of LFAF's bank records with its originally filed reports revealed that receipts were understated by \$152,815 and disbursements were understated by \$183,369 for calendar years 2019 and 2020. In response to the Interim Audit Report recommendation, LFAF stated that it has "...implemented procedures and reorganized to help [it] remain compliant moving forward."

Legal Standard

A. Reporting Requirements. All political committees other than authorized committees of a candidate shall file either:

- Quarterly reports. 52 U.S.C. §30104(a)(4)(A); or
- Monthly reports in all calendar years shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with 52 U.S.C. §30104(2)(A)(i), a post-general election report shall be filed in accordance with 52 U.S.C. §30104(2)(A)(ii), and a year-end report shall be filed no later than January 31 of the following calendar year. 52 U.S.C. §30104(a)(4)(B).

B. Contents of Reports. Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the calendar year;
- The total amount of disbursements for the reporting period and for the calendar year; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 52 U.S.C. §30104 (b)(1),(2),(3),(4) and (5).

Facts and Analysis

A. Facts

During audit fieldwork, in addition to examining LFAF's most recent reports, filed prior to audit notification, the Audit staff compared LFAF's originally filed disclosure reports with its bank records. The purpose of this additional reconciliation was to identify the degree to which LFAF had misstated its original filings.

The Audit staff calculated that LFAF understated its receipts and disbursements by \$152,815 and \$183,369, respectively, on the original reports filed over the two-year period ending December 31, 2020. LFAF amended its disclosure reports, prior to audit notification, disclosing some of the receipts and disbursements not included in its original reports. The remaining \$75,776 and \$52,650 understatement of receipts and disbursements, respectively, for 2020 are included above in Finding 1, Misstatement of Financial Activity.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with LFAF representatives during the exit conference and provided the relevant schedule. In response to the exit conference, a LFAF representative stated, "[t]he errors were obviously not intentional, but ... due to lack of experience from our volunteer treasurer."

The Interim Audit Report recommended that LFAF provide any additional comments it deemed relevant to this matter.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, LFAF stated that it has "...implemented procedures and reorganized to help [it] remain compliant moving forward."

Finding 3. Disclosure of Occupation and/or Name of Employer

Summary

During audit fieldwork, a review of all contributions from individuals, requiring itemization, indicated that 130 contributions, totaling \$39,590, lacked or inadequately disclosed the required occupation and/or name of employer information. LFAF did not sufficiently demonstrate "best efforts" to obtain, maintain and submit the required information. In response to audit fieldwork, LFAF provided some documentation of "best efforts," however, the efforts were made untimely. In response to the exit conference, LFAF filed amended disclosure reports that materially corrected the public record. In response to the Interim Audit Report recommendation, LFAF stated that it has "...implemented procedures and reorganized to help [it] remain compliant moving forward."

Legal Standard

- A. Itemization Required for Contributions from Individuals.** A political committee other than an authorized committee must itemize any contribution from an individual if it exceeds \$200 per calendar year, either by itself or when combined with other contributions from the same contributor. 52 U.S.C. §30104(b)(3)(A).
- B. Required Information for Contributions from Individuals.** For each itemized contribution from an individual, the committee must provide the following information:
- The contributor’s full name and address (including zip code);
 - The contributor’s occupation and the name of his or her employer;
 - The date of receipt (the date the committee received the contribution);
 - The amount of the contribution; and
 - The calendar year-to-date total of all contributions from the same individual. 52 U.S.C. §30104(b)(3)(A) and 11 CFR §§100.12 and 104.3(a)(4).
- C. Best Efforts Ensures Compliance.** When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee’s reports and records will be considered in compliance with the Act. 52 U.S.C. §30102(i) and 11 CFR §104.7(a).
- D. Definition of Best Efforts.** The treasurer and the committee will be considered to have used “best efforts” if the committee satisfied all of the following criteria:
- All written solicitations for contributions included:
 - A clear request for the contributor's full name, mailing address, occupation, and name of employer; and
 - The statement that such reporting is required by Federal law.
 - Within 30 days after the receipt of the contribution, the treasurer made at least one effort to obtain the missing information, in either a written request or a documented oral request.
 - The treasurer reported any contributor information that, although not initially provided by the contributor, was obtained in a follow-up communication or was contained in the committee’s records or in prior reports that the committee filed during the same two-year election cycle. 11 CFR §104.7(b).
- E. Reporting Missing Information.** If any of the contributor information is received after the contribution has been disclosed on a regularly scheduled report, the political committee shall either:
- File with its next regularly scheduled report, an amended memo Schedule A listing all contributions for which contributor identifications have been received and an indication of the previous report(s) to which the memo Schedule A relates; or
 - File amendments which include the contributor identifications together with the dates and amounts of the contributions. 11 CFR §104.7(b)(4)(i).

Facts and Analysis

A. Facts

LFAF did not disclose or inadequately disclosed the required occupation and/or name of employer information for contributions requiring itemization on its FEC reports, as of the date of the audit notification letter.

Contributions Requiring Itemization – Missing or Inadequate Occupation and/or Name of Employer	
Number of Contributions	130
Dollar Value of Contributions	\$39,590
Percent of Contributions	73%

1. Contributor Information Obtained but Not Disclosed:

During audit fieldwork, LFAF provided the Audit staff with the required occupation and/or name of employer information for some of its contributors; however, LFAF did not disclose the information on its reports as required for the following:

Contributor Information Obtained but Not Disclosed	
Contributor Information Obtained from <i>Untimely</i> “Best Efforts” Letters Dollar Value of Contributions	7 \$4,235
Contributor Information in LFAF’s records (no record of when the information was obtained) Dollar Value of Contributions	6 \$775
Total Number of Contributions Dollar Value of Contributions	13 \$5,010

2. Best Efforts Not Demonstrated:

LFAF did not provide the Audit staff with records to demonstrate timely “best efforts” for the following:

Best Efforts Not Demonstrated	
Best Efforts Letters Sent to Contributors <i>Untimely</i> (contributor information NOT obtained) Dollar Value of Contributions	52 \$16,700
Best Efforts Documentation Not Provided by LFAF Dollar Value of Contributions	65 \$17,880
Total Number of Contributions Dollar Value of Contributions	117 \$34,580

3. Additional Information:

LFAF disclosed the following unacceptable entries on Schedule A (Itemized Receipts):

- “NA” or no occupation and/or name of employer information for 127 contributions totaling \$38,990, and
- Inadequate occupation and/or name of employer for three contributions totaling \$600.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with LFAF representatives during audit fieldwork and at the exit conference and provided the schedule detailing these disclosure errors. In response to the exit conference, LFAF filed amended disclosure reports that materially corrected the public record. LFAF’s amended disclosure reports included the occupation and name of employer information for all the contributions included in the *Contributor Information Obtained but Not Disclosed* chart above. In addition, of the 117 contributions included in the *Best Efforts Not Demonstrated* chart above, LFAF included the occupation and name of employer information for 93 contributions, totaling \$27,560, in its amended reports.

The Interim Audit Report recommended that LFAF provide any additional comments it deemed relevant to this matter.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, LFAF stated that it has “...implemented procedures and reorganized to help [it] remain compliant moving forward.”