



# Report of the Audit Division on Communications Workers of America - COPE PCC

January 1, 2005 – December 31, 2006

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## 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.<sup>1</sup> 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)

Communications Workers of America - COPE Political Contributions Committee is a separate segregated fund headquartered in Washington, DC. For more information, see chart on the Committee Organization, p. 2.

## Financial Activity (p. 2)

- **Receipts**
  - From Individuals \$ 6,720,647
  - Refunds from Federal Candidates & Other Political Committees 69,225
  - Other Receipts 4,014
  - **Total Receipts** \$ 6,793,886
- **Disbursements**
  - Contributions to Federal & Non-Federal Candidates and Committees \$ 5,654,187
  - Operating Expenditures 1,029,491
  - Transfers to Affiliated Committee: 300,000
  - Other Disbursements 15,800
  - **Total Disbursements** \$ 6,999,478

## Findings and Recommendations (p. 3)

- Transfers Made to AFL-CIO COPE PCC (Finding1)

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<sup>1</sup> 2 U.S.C. §438(b).

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# Part I

## Background

### Authority for Audit

This report is based on an audit of Communications Workers of America - COPE Political Contributions Committee (CWA-COPE PCC), 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 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. 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. 2 U.S.C. §438(b).

### Scope of Audit

Following Commission approved procedures, the Audit staff evaluated various risk factors and as a result, the scope of this audit was limited to the following:

1. The receipt and transfer of certain contributions.
2. The disclosure of certain disbursements, debts and obligations.
3. The consistency between reported figures and bank records.
4. The completeness of records.
5. Other committee operations necessary to the review.

## Part II Overview of Committee

### Committee Organization

<b>Important Dates</b>	<b>Communications Workers of America COPE PCC</b>
• Date of Registration	March 20, 1975
• Audit Coverage	January 1, 2005 – December 31, 2006
<b>Headquarters</b>	Washington, DC
<b>Bank Information</b>	
• Bank Depositories	One
• Bank Accounts	One Checking
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Barbara J. Easterling
• Treasurer During Period Covered by Audit	Barbara J. Easterling
<b>Management Information</b>	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

### Overview of Financial Activity (Audited Amounts)

<b>Cash on hand @ January 1, 2005</b>	<b>\$ 1,555,818</b>
○ From Individuals	6,720,647
○ Refunds from Candidates & Political Committees	69,225
○ Other Receipts	4,014
<b>Total Receipts</b>	<b>\$ 6,793,886</b>
○ Contributions to Federal & Non-Federal Candidates and Committees	5,654,187
○ Operating Expenditures	1,029,491
○ Transfers to Affiliated	300,000
○ Other Disbursements	15,800
<b>Total Disbursements</b>	<b>\$ 6,999,478</b>
<b>Cash on hand @ December 31, 2006</b>	<b>\$ 1,350,226</b>

## Part III Summary

### Finding and Recommendation

#### **Finding 1. Transfers Made to AFL-CIO COPE PCC**

CWA-COPE PCC made transfers totaling \$300,000 to AFL-CIO COPE PCC in 2005 and 2006. Based on the available information, CWA-COPE PCC has not met the transmittal and recordkeeping requirements of a collecting agent. CWA-COPE PCC contends the longstanding and current joint fundraiser/collecting agent arrangement between the two separate segregated funds is in accordance with Commission regulations. The Audit staff recommended CWA-COPE PCC amend past reports and implement new procedures to ensure the proper accounting, reporting, and recordkeeping requirements for these contributions and transfers. In response to the interim audit report, CWA-COPE PCC amended reports for the period covered by the audit as recommended and stated it would not implement the Audit staff's recommendation for future reports because it has no current plans to make further transfers of joint fundraising contributions to AFL-CIO COPE. CWA-COPE PCC also maintained that its current procedures for such contributions are in accordance with Commission regulations. (For more detail, see p. 4)

## Part IV

# Finding and Recommendation

### Finding 1. Transfers Made to AFL-CIO COPE PCC

#### Summary

CWA-COPE PCC made transfers totaling \$300,000 to AFL-CIO COPE PCC in 2005 and 2006. Based on the available information, CWA-COPE PCC has not met the transmittal and recordkeeping requirements of a collecting agent. CWA-COPE PCC contends the longstanding and current joint fundraiser/collecting agent arrangement between the two separate segregated funds is in accordance with Commission regulations. The Audit staff recommended CWA-COPE PCC amend past reports and implement new procedures to ensure the proper accounting, reporting, and recordkeeping requirements for these contributions and transfers. In response to the interim audit report, CWA-COPE PCC amended reports for the period covered by the audit as recommended and stated it would not implement the Audit staff's recommendation for future reports because it has no current plans to make further transfers of joint fundraising contributions to AFL-CIO COPE. CWA-COPE PCC also maintained that its current procedures for such contributions are in accordance with Commission regulations.

#### Legal Standard

**A. Affiliated Definition.** Established, financed, maintained or controlled by the same organization. Affiliated political committees are considered one political committee for purposes of contribution limits. Committees presumed to be affiliated include those established, financed, maintained or controlled by a single national or international union and/or its local unions or other subordinate organizations. Also committees established by an organization of national or international unions and/or all its State or local central bodies are presumed to be affiliated. Affiliation is not presumed between unions and organizations of national or international unions. 11 CFR §§100.5(g) and 110.3(a).

**B. Collecting Agent Definition.** A collecting agent is an organization or committee that collects and transmits contributions to one or more separate segregated funds to which the collecting agent is related. A collecting agent may be the separate segregated fund's connected organization, an organization or committee affiliated with the SSF, or a local, national, or international union collecting contributions on behalf of the separate segregated fund of any federation with which the local, national, or international union is affiliated. 11 CFR §102.6(b)(1).

**C. Requirements of Collecting Agent.** The separate segregated fund is responsible for ensuring that the recordkeeping, reporting, and transmittal requirements are met.

1. Collecting agent may solicit only those individuals who are eligible for solicitation under the law, and pay the expenses of soliciting.
2. Collecting agent may include a solicitation for contributions to an SSF in a bill for another payment.

3. Collecting agent may establish a separate transmittal account solely for the SSF's contributions or use its own account for the temporary deposit and transmittal of contributions to the SSF. The agent must keep separate records of all receipts and deposits that represent contributions to the SSF.
4. Collecting agent must transfer the funds within 10 days for all contributions over \$50 and within 30 days for contributions \$50 or less.
5. Collecting agent must forward the required recordkeeping information to the SSF along with the collected contributions, and maintain records of SSF contribution deposits and transmittals for three years.
6. The SSF is responsible for reporting the contributions collected through the collecting agent as contributions from the original donors rather than as a transfer from the collecting agent. 11 CFR §§102.6(c) and 102.8(b).

**D. When to Itemize.** Political committees other than authorized candidate committees must itemize:

- Any contribution from an individual if it exceeds \$200 per calendar year, either by itself or when aggregated with other contributions from the same contributor; and
- Every contribution from any political committee, regardless of the amount.
- Every transfer from another political party committee, regardless of whether the committees are affiliated. 2 U.S.C. §434(b)(3)(A), (B) and (D).

**E. Definition of Itemization.** Itemization of contributions received means that the recipient committee discloses, on a separate schedule, the following information:

- The amount of the contribution;
- The date of receipt (the date the committee received the contribution);
- The full name and address of the contributor;
- In the case of contributions from individual contributors, the contributor's occupation and the name of his or her employer; and
- The calendar year-to-date total of all contributions from the same contributor. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C. §434(b)(3)(A) and (B).

### **Facts and Analysis**

CWA-COPE PCC is the separate segregated fund of the international union Communications Workers of America (CWA). CWA is a collecting agent for CWA-COPE PCC and for AFL-CIO COPE PCC, the separate segregated fund of the federation of unions AFL-CIO. CWA-COPE PCC and AFL-CIO COPE PCC are not considered "affiliated" within the meaning of 11 CFR §110.3 and, therefore, are subject to separate contribution limitations and reporting.

CWA-COPE PCC received and deposited contributions for both organizations via contributor checks and payroll deduction authorizations. Based on available solicitation material, contributors were informed that an unspecified portion of their contribution would go to AFL-CIO COPE PCC. CWA-COPE PCC reported the receipt of the contributions primarily as unitemized contributions. CWA-COPE PCC and AFL-CIO COPE PCC periodically agreed on an amount to be transferred to AFL-CIO COPE PCC.



AFL-CIO COPE PCC reported this lump sum transfer without information regarding the individuals contributing the funds.

During the period covered by the audit, CWA-COPE PCC made four transfers to AFL-CIO COPE PCC totaling \$300,000 (\$100,000 in 2005 and \$200,000 in 2006). To fulfill the requirements as a collecting agent, CWA-COPE PCC must:

- Have a separate transmittal account solely for AFL-CIO COPE PCC contributions or keep separate records of all such receipts and deposits if using its own account;
- Transfer the funds within 10 days for all contributions over \$50 and within 30 days for contributions \$50 or less;
- Forward the recordkeeping information to AFL-CIO COPE PCC and maintain records of the deposits and transmittals for AFL-CIO COPE PCC for three years.

During audit fieldwork, CWA-COPE PCC did not demonstrate that the above requirements were met during calendar years 2005 and 2006. CWA-COPE PCC did not furnish the Audit staff with documentation that identified the individual contributions (or portions thereof) supporting the amounts transferred to AFL-CIO COPE PCC or any documentation that detailed the timing or calculation of the amounts transferred.

The Audit staff presented this matter to CWA-COPE PCC representatives during the exit conference. In response, counsel for CWA-COPE PCC challenged the conclusion of the Audit staff with the following arguments:

First, counsel addresses the timing of the transfers and argues that the requirements at 11 CFR §102.6(c)(4) (transfer of funds within 10 days for contributions over \$50, and 30 days for smaller contributions) are not applicable to the situation because of the joint fundraising arrangement that exists between CWA-COPE PCC and AFL-COPE PCC. No joint fundraising agreement was presented.

However, counsel contends that if 11 CFR §102.6(c)(4) was applicable the transfers did conform to the timing requirements. In support of his argument, counsel computed that CWA-COPE PCC received an average of \$90,000 in individual contributions every 10 days and \$270,000 every 30 days in 2005; and, \$100,000 every 10 days and \$300,000 every 30 days in 2006. Since CWA-COPE PCC received contributions that were predominately \$50 or less, counsel believes that, within the 30 days prior to each of the four transfers to AFL-CIO COPE PCC, CWA-COPE PCC received far more contributions from individuals than was transferred.

Based on its own analysis, the Audit staff concurs that CWA-COPE PCC received sufficient receipts within 30 days prior to each of the four transfers to fund the transfer. However, based on the available records, the Audit staff was not able to identify which contributions were included in the transfers. The Audit staff maintains that the requirements at 11 CFR §102.6(c)(4) and 11 CFR §102.8(b) are applicable and the amount of each contribution being transferred is required to be provided to AFL-CIO

COPE PCC within the appropriate time frame along with the required records supporting the contributions.

Second, counsel discusses the issue of having a separate account solely for AFL-CIO COPE PCC contributions. Counsel confirms that CWA-COPE PCC did not maintain a separate account solely for AFL-CIO COPE PCC contributions, did not keep separate records of contributions attributable to its transfers, or give that information to AFL-CIO COPE PCC. Again, counsel argues that such requirements are not applicable to CWA-COPE PCC since 11 CFR §102.6 does not recognize its dual role as a collecting agent for AFL-CIO COPE PCC and a separate segregated fund soliciting and receiving contributions for itself. According to counsel, CWA-COPE PCC records and reports all disclosure information for AFL-CIO COPE PCC contributions because the "contributors authorize the remittance of the contributions *only* to CWA-COPE PCC" via standard payroll deduction authorization cards. These cards also inform contributors of the joint fundraising arrangement between CWA-COPE PCC and AFL-CIO COPE PCC and acknowledge that contributions will be used for "political purposes."

Counsel further explains that reporting the transfers without detailing the associated individual contributors is sufficient under 11 CFR §102.3(a) and that the regulations do not plainly require a shift to AFL-CIO COPE PCC of the responsibility to report the individual contributors. According to counsel, the current practice "underscores that these transfers are most accurately viewed as composed of funds that are not attributable to any particular individual, but are comprised of the unitemized aggregate portion of all of them".

The Audit staff believes that 11 CFR §102.6(c)(4) requires CWA-COPE PCC to record the amount and details of each contribution on behalf of AFL-CIO COPE PCC. Such information is necessary in order to specifically track what amounts are contributed to the respective organizations, as well as to monitor itemization and limitation requirements. It is further noted that by viewing the transfer amount as being comprised of a portion of each contribution instead of the full amount of those contributions received prior to the transfer would likely not support the argument that the transfers were made timely.

Finally, counsel explains how the proposed changes would cause a significant administrative burden on both organizations and would ultimately result in a reduction of contributor information on the public record. According to counsel, the number of individual contributors itemized by CWA-COPE PCC would be fewer since a portion of their contributions would be attributed to AFL-CIO COPE PCC.

In summary, the Audit staff accepts that the CWA-COPE PCC can function as a collecting agent for AFL-CIO COPE PCC. However, as a collecting agent, CWA-COPE PCC must abide by the rules governing collecting agents at 11 CFR §102.6(c). During the period covered by the audit, CWA-COPE PCC did not have a separate transmittal account or keep separate records of all receipts and deposits that represent contributions to AFL-CIO COPE PCC, or distinguish these contributions at the individual level. Given

that these records were not kept, the arrangement between AFL-CIO COPE PCC and CWA-COPE PCC did not satisfy the requirements of the collecting agent regulations.

### **Interim Audit Report Recommendation and Committee Response**

The Audit staff recommended that, within 30 calendar days of service of the interim report, CWA-COPE PCC document that procedures have been implemented to ensure the proper accounting, reporting, and recordkeeping in accordance with 11 CFR §102.6(b)(1) and (c).

### **Past Reporting**

Reports covering the audit period should be corrected to reflect all amounts that have been forwarded to AFL-CIO COPE on Line 29 (Other Disbursements) instead of on Line 22 (Transfers to Affiliated/Other Party Committees). To clarify the public record, it was also suggested that reports for the period subsequent to the audit period be amended as well.

### **Future Reports**

On the next report due following the response to this interim audit report and for all reports thereafter; the following was recommended:

CWA-COPE PCC may choose to establish a separate transmittal account for AFL-CIO COPE PCC's contributions. If so, those contributions need not be reported by CWA-COPE PCC as long as the account is used solely for the deposit and transmittal of contributions collected on behalf of AFL-CIO COPE PCC. 11 CFR §102.6(c)(4)(ii)(A).

Alternatively, CWA-COPE PCC may choose to continue to use its own accounts to deposit AFL-CIO COPE PCC's contributions. CWA-COPE PCC should maintain a separate accounting of AFL-CIO COPE PCC contributions or portions thereof, being transferred.<sup>2</sup> CWA-COPE PCC should disclose contributions received for AFL-CIO COPE PCC on Line 17 (Other Receipts). The transfer of the funds to AFL-CIO COPE PCC should be reported on Line 29 (Other Disbursements), itemizing the transfer on Schedule B as a transfer of funds received on behalf of AFL-CIO COPE PCC in their role as collecting agent. Only contributions received by and intended for CWA-COPE PCC should be reported on Line 11(a) (Receipts from Individuals/Persons) and itemized on Schedule A as necessary.

Under either alternative, as a collecting agent, CWA-COPE PCC is required to forward the contributions and all contributor and date of receipt information to AFL-CIO COPE PCC within 10 or 30 days depending on the contribution amounts. Records for such contributions are required to be retained for three years. 11 CFR §§102.6(c)(5) and 102.8.

<sup>2</sup> CWA-COPE could apply any consistent accounting method to identify the individual contributions transmitted to AFL-CIO COPE including calculating a percentage of contributions transferred or assuming that the transferred contributions are those most recently received.

In response to the interim audit report, CWA-COPE PCC amended reports for the period covered by the audit to include all amounts that have been forwarded to AFL-CIO COPE on Line 29, (Other Disbursements) instead of on Line 22 (Transfers to Affiliated/Other Party Committees).

CWA-COPE PCC stated it would not comply with the Audit staff's recommendation for future reports because it has no current plans to make further transfers of joint fundraising contributions to AFL-CIO COPE PCC.

CWA-COPE PCC does agree with the Audit staff that CWA-COPE PCC can act as a collecting agent for AFL-CIO COPE PCC and that CWA-COPE PCC received sufficient funds within 30 days prior to each of the four transfers. However, CWA-COPE PCC does not concur that 11 C.F.R. §§102.6(c)(4) and 102.8(b) are applicable to funds transferred to AFL-CIO COPE PCC. CWA-COPE PCC stands firm on the position that the procedures "utilized for many years in both undertaking its joint fundraising program with AFL-CIO COPE PCC and in reporting the associated transactions to the Commission" complies fully with the Federal Election Campaign Act and the Commission's regulations.

**DRAFT**