Draft Final Audit Report of the Audit Division on the Hawaii Democratic Party

(January 1, 2011 - December 31, 2012)

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 Hawaii Democratic Party[2] is a state party committee headquartered in Honolulu, Hawaii. For more information, see the chart on the Committee organization, p. 2.

Financial Activity

• **Receipts**	
o Contributions from Individuals	$ 210,653
o Contributions from Party and Political Committees	290,032
o Transfers from Affiliates	111,387
o Loans Received	30,000
o Transfers from Non-federal and Levin Funds	122,196
o Other Receipts	563,137
Total Receipts	**$1,327,405**
• **Disbursements**	
o Operating Expenditures	$ 621,546
o Coordinated Party Expenditures	129,725
o Loan Repayments Made	10,000
o Refunds of Contributions	20,227
o Other Disbursements	247,249
o Federal Election Activity	272,159
Total Disbursements	**$1,300,906**
• **Levin Receipts**	**$23,564**
• **Levin Disbursements**	**$23,564**

Findings and Recommendations (p. 4)

- Misstatement of Financial Activity (Finding 1)
- Receipt of Contributions that Exceed Limits (Finding 2)
- Receipt of Apparent Impermissible Funds (Finding 3)
- Reporting of Debts and Obligations (Finding 4)
- Recordkeeping for Employees (Finding 5)
- Failure to Properly Report Media Related Expenditures (Finding 6)
- Allocation of Expenditures (Finding 7)

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[1] 52 U.S.C. §30111(b).

[2] On October 4, 2016, the Hawaii Democratic Party changed its name to the Democratic Party of Hawaii.

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(January 1, 2011 - December 31, 2012)

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Part I
Background

Authority for Audit
This report is based on an audit of the Hawaii Democratic Party (HDP), 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 rep[illegible] under 52 U.S.C. §30104. Prior to conducting any audit under this subsection, the Commissi[illegible] perform an internal review of reports filed by selected committees to determine if t[illegible]orts filed by a particular committee meet the threshold requirements for substantial c[illegible] ith the Act. 52 U.S.C. §30111(b).

Scope of Audit
Following Commission-approved procedures, the [illegible] staff e[illegible]ated vari[illegible] factors and as a result, this audit examined:
1. the receipt of excessive contributions and loans;
2. the receipt of contributions from proh[illegible]ed sources;
3. the disclosure of contributions receiv[illegible]
4. the disclosure of disbursements, debt[illegible]s;
5. the disclosure of expenses allocated between [illegible] non-[illegible]eral accounts;
6. the consistency between [illegible]d figures a[illegible]nk re[illegible]
7. the completeness of re[illegible]
8. the disclosure of independent [illegible]nditures; and
9. other committee opera[illegible] nec[illegible]ry to the re[illegible].

Commission Guidance

Reque[illegible] [illegible]arly Commi[illegible] Consideration of a Legal Question
Pursuant to [illegible]mmission [illegible]olicy Statement Establishing a Program for Requesting Consideration [illegible] Quest[illegible] by the Commission," several state party committees unaffiliated with [illegible]quested early consideration of a legal question raised during audits covering the 2010 e[illegible] cycle. Specifically, the Commission addressed whether monthly time logs under 11 CFR §1[illegible](1) were required for employees paid with 100 percent federal funds.

The Commission concluded, by a vote of 5-1, that 11 CFR §106.7(d)(1) does require committees to keep a monthly log for employees paid exclusively with federal funds. Exercising its prosecutorial discretion, however, the Commission decided it will not pursue recordkeeping violations for the failure to keep time logs or to provide affidavits to account for employee salaries paid with 100 percent federal funds and reported as such. The Audit staff informed HDP representatives of the payroll requirement and the Commission's decision not to pursue recordkeeping violations for failure to keep payroll logs for salaries paid and correctly reported as 100 percent federal. This audit report does not include any findings or recommendations with respect to HDP employees paid with 100 percent federal funds and reported as such.

Part II
Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	December 17, 1986
• Audit Coverage	January 1, 2011 - December 31, 2012
Headquarters	Honolulu, [illegible] aii
Bank Information	
• Bank Depositories	One
• Bank Accounts	Four Federal [illegible] Three Non-Federal
Treasurer	
• Treasurer When Audit Was Conducted	Yuriko J. Sugi[illegible] 0/94 – 08/20/14); Florence Kong Kee [illegible] /14 – 07/09/16); [illegible] Young (07/[illegible] – Present)
• Treasurer During Period Covered by Audit	[illegible] J. Sugimura
Management Information	
• Attended Commission Campaign Finan[illegible] Seminar	Yes
• Who Handled Accounting and Recordkeepin[illegible] Tasks	[illegible] d Staf[illegible]

Overview of Financial Activity
(Audited Amounts)

Click here to enter a date.	
Cash-on-hand @ January 1, 2011	**$ 8,365**
Receipts	
o Contributions from Individuals	210,653
o Contributions from Party and Political Committees	290,032
o Transfers from Affiliates	111,387
o Loans Received	30,000
o Transfers from Non-federal and Levin Funds	122,196
o Other Receipts	563,137
Total Receipts	**$ 1,327,405**
Disbursements	
o Operating Expenditures	[illegible]46
o Coordinated Party Expenditures	[illegible]725
o Loan Repayments Made	10,000
o Refunds of Contributions	20,227
o Other Disbursements	247,249
o Federal Election Activity	272.159
Total Disbursements	**$ 1,300,906**
Cash-on-hand @ December 31. 2012	**$ $34.864**
Levin Cash-on-hand @ October [illegible]1. 2012	**$ 0**
Total Levin Receipts	**23,564**
Total Levin Disbursements	**23,564**
Levin Cash-on-hand @ December 31. 2012	**$ 0**

Part III
Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of HDP's bank activity with its most recent amended reports filed prior to the audit revealed material misstatements in both 2011 and 2012. In response to the Interim Audit Report (IAR) recommendation, HDP filed amended disclosure reports for 2011 and 2012 which material[illegible] corrected the misstatements. Also, in response to the IAR recommendation, HDP Counsel (Counsel) stated that HDP did not believe the Convention Account (CA) should be included in the misstatement finding.

After consideration of Counsel's response and [illegible] with our Office of General Counsel, the Audit staff determined, based on [illegible] information, that the CA is not a federal account since its activity is non-federal. Consequently, the Audit staff excluded the CA and its activity from the misstatement finding [illegible]. However, since HDP originally disclosed the CA activity o[illegible] federal rep[illegible] the beginning cash for 2011[3] and receipts and disbursements for 2[illegible] need to be corrected. The Audit staff recommends that HDP amen[illegible] re[illegible]ts to correct the misstatements and reconcile its cash balance.

In addition, a comparison of [illegible]'s bank activity with its original reports filed for 2011 and 2012 also reve[illegible] material misstatement [illegible] disbursement activity. HDP made no comments in its respo[illegible] IAR [illegible] no fur[illegible] action is required. The removal of the CA and [illegible] [illegible] the finding. (For more detail, see p. 7)

Finding 2. Receipt of Contributions that Exceed Limits

During a[illegible] fieldwork, [illegible] Audit [illegible] identified contributions from two political action committ[illegible] exceeded the limitation by $20,000. Both of the excessive contributions were untime[illegible] nded. However, documentation was not provided to demonstrate that one refund totali[illegible] ,000 had cleared the bank. In response to the IAR recommendation, [illegible] provided documentation demonstrating the refund for $5,000 had cleared the bank. The Audit staff concludes that HDP untimely resolved excessive contributions totaling $20,000. (For more detail, see p. 11)

Finding 3. Receipt of Apparent Impermissible Funds

During audit fieldwork, the Audit staff identified 75 receipts, totaling $169,586, deposited into HDP's federal accounts during 2012 that appeared to be from impermissible sources. In response to the IAR recommendation, HDP Counsel stated

[3] The beginning cash misstatement amount flows through to cause an additional misstatement in ending cash for 2011 and beginning cash for 2012.

that a majority of the impermissible contributions were received in connection with HDP's state convention; and therefore, Counsel believes that the CA should be removed from the impermissible funds analysis. Counsel stated that state convention activity should not be considered federal activity. Also, Counsel believes that amounts transferred from HDP's federal account[4] to its CA for non-federal purposes (convention fundraising) should mitigate other impermissible funds. In addition, HDP showed that $5,080 of receipts were permissible, $27,000 of receipts were untimely refunded, and filed amended reports for $115,000 of impermissible receipts from corporations on Schedule D (Debts and Obligations).

After consideration of Counsel's response and consultation with [illegible] Office of General Counsel, the Audit staff determined, based on available information, that the CA is not a federal account since its activity is non-federal. Consequen[illegible] Audit staff concluded that $22,006 in receipts deposited into the CA were not [illegible] and excluded this amount from the finding. In addition, the calculated amount of [illegible] ssible contributions was reduced by $10,959 for transfers [illegible] within [illegible] timeframes from one of the federal accounts to the CA leaving an impermissible bal[illegible] $104,451.

The Audit staff recommends that HDP file an amend[illegible] ort to reduce the debt amount for impermissible receipts on Schedule D to $104,541. [illegible] he Audit staff recommends that HDP provide documentation that [illegible] w the Aud[illegible] to determine if and to what extent impermissible receipts we[illegible] n with [illegible] ral election. (For more detail, see p. 13)

Finding 4. Reporting of Debts and Obligations

During audit fieldw[illegible] the Audit staff identified debts and obligations from 17 vendors, totaling $115,967, w[illegible] nized or were under reported on Schedules D (Debts and Obligations) [illegible] recommendation, HDP filed amended disclosure[illegible] 12 correctly reporting and disclosing these debts and oblig[illegible] s on Sche[illegible] ([illegible] detail, see p. 19)

Finding 5. Recordkeeping for Employees

During au[illegible] work, th[illegible] dit staff determined that HDP did not maintain any monthly pay[illegible] as required, to document the percentage of time each employee spent in connect[illegible] federal election. For 2011 and 2012, the Audit staff identified payments to HDP [illegible] ees totaling $60,923 for which HDP did not maintain monthly payroll logs. This consisted of $48,510 for which payroll was allocated between federal and non-federal funds, and $12,413 for which payroll was exclusively paid with non-federal funds. The IAR recommended payroll logs be provided or in their absence that a plan be implemented to maintain payroll logs in the future. Counsel stated that the payroll logs could not be located but that HDP has implemented procedures to maintain the necessary documentation for payroll. (For more detail, see p. 21)

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[4] There were two federal accounts that made transfers to the CA.

Finding 6. Failure to Properly Report Media Related Expenditures

During audit fieldwork, the Audit staff identified disbursements totaling $30,148, which appeared to be media related independent expenditures requiring disclosure on Schedule E (Itemized Independent Expenditures), that HDP disclosed on Schedule B, Line 30b (Federal Election Activity) and Schedule F (Coordinated Party Expenditures). Of the $30,148, HDP did not file the required 24-hour reports for those items that should have been reported on Schedule E totaling $29,725.

In response to the IAR recommendation, Counsel stated these expenditure were coordinated (and amended reports were filed showing these expenditure as coordinated on Schedule F) and not independent expenditures. Counsel [illegible] that, although the expenditures exceeded HDP's coordinated expenditure limit, [illegible] occurred as a result of an administrative oversight, a failure to contact the Dem[illegible] Senatorial Campaign Committee (DSCC) to obtain a higher spending authority.

As a result of HDP's response to the IAR recommendation, the Audit sta[illegible]ined HDP made coordinated expenditures totaling $129,[illegible] only had coordinated spending authority for $102,600. Therefore, HDP ex[illegible]d its spending limit by $27,125. The Audit Staff recommend[illegible] [illegible]ek a refund [illegible] Hirono for Congress for the excessive amount. (For more deta[illegible])

Finding 7. Allocation of Expenditures

During audit fieldwork, the [illegible] of disbursements m[illegible] from the federal and non-federal accounts identified an apparent non-federal overfunding of activity in the amount of $82,722. In res[illegible] the IAR recommend[illegible]n, HDP filed amended reports and submitted additional d[illegible] [illegible]ertain [illegible]enditures. Based on the new documenta[illegible] Audi[illegible] [illegible]ulation and concludes the non-federal account d[illegible] th[illegible] account. (For more detail, see p. 28)

Part IV
Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of HDP's bank activity with its most recent amended reports filed prior to the audit revealed material misst...nts in both 2011 and 2012. In response to the Interim Audit Report (IAR) recon...tion, HDP filed amended disclosure reports for 2011 and 2012 which mate... ...rrected the misstatements. Also, in response to the IAR recommendation, HDP ...unsel (Counsel) stated that HDP did not believe the Convention Acc... (CA) shou... ...cluded in the misstatement finding.

After consideration of Counsel's response and con... tion with our Office ... General Counsel, the Audit staff determined, based on ava... ...ormation, that the CA is not a federal account since its activity is non-federal. Cons... ...ly, the Audit staff excluded the CA and its activity from the missi... finding calcu... ...n. However, since HDP originally disclosed the CA activity on ...eral reports, ...beginning cash for 2011[5] and receipts and disbursements for 2012 were ... ...isstated and need to be corrected. The Audit staff recommends that HDP amend its ... ...reports to correct the misstatements and reco... ...h balance.

In addition, a comp... of HDP's bank activi... with its original reports filed for 2011 and 2012 also reveale... ...nent ... ...lisbursement activity. HDP made no comments ... ...nse ... ...further action is required. The removal of the CA ... portion of the finding.

Legal Standard

Contents of Reports. E... ...eport must disclose:

- The amo... cash-on ...and at the beginning and end of the reporting period;
- The total ... ...t of rec...pts 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).

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[5] See footnote 3.

Facts and Analysis

A. Misstatement of Financial Activity– Most Recent Reports Filed Prior to the Audit

1. Facts

The Audit staff reconciled HDP's reported financial activity with its bank records for calendar years 2011 and 2012. The following charts outline the discrepancies between HDP's disclosure reports and its bank records. The succeeding paragraphs explain why the discrepancies occurred.

2011 Committee Activity			
	Reported	Bank [illegible]	Discrepancy
Beginning Cash-on-Hand @ January 1, 2011	$ 44,653	$ 8,[illegible]	$36,288 Overstated
Receipts	$282,712	$295,136	$12,424 [illegible]stated
Disbursements	$278,375	[illegible]0,981	12,606 Understated
Ending Cash-on-Hand @ December 31, 2011	$ 48,990	$ 12,520	$36,470 Overstated

The beginning cash-on-hand was ove[illegible] [illegible]88 and the discrepancy is unexplained, but likely resulted from prior [illegible] discrepancies.

The understate[illegible] of receipts resulted from the following:

- Unreporte[illegible] contributions[6] $12,156
- Return deposit [illegible] disbursements in[illegible] on Schedule A (50)
- [illegible]xplained [illegible]eren[illegible] 318

[illegible]t Understatement of Receipts **$12,424**

The u[illegible]ement of [illegible]bursements resulted from the following:

- Unr[illegible] [illegible]n-kind [illegible]ntributions[7] $12,156
- Disburs[illegible] reported 4,890
- Disbursem[illegible] [illegible]rted but not in bank activity (4,269)
- Disbursement amounts reported incorrectly 157
- Return deposit items reported as disbursements instead of a negative entry on Schedule A (50)

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[6] All unreported in-kind contribution discrepancies during calendar years 2011 and 2012 were for disbursements paid by the Democratic National Committee (DNC) on behalf of HDP for voter file updates and maintenance. The DNC reported these transactions as in-kind contributions made to HDP. To help assure the correct cash balance is reported, these amounts should be disclosed as in-kind contributions on Schedules A and B.

[7] See footnote 6.

- Unexplained difference (278)

  Net Understatement of Disbursements **$12,606**

The overstatement of $36,470 of the ending cash-on-hand was a result of the reporting discrepancies described above.

2012 Committee Activity			
	Reported	**Bank Records**	**Discrepancy**
Beginning Cash-on-Hand @ January 1, 2012	$ 48,990	$ 12,520	$ 36,470 Overstated
Receipts	$875,660	$1,032,269	$156,609 Understated
Disbursements	$895,253	[illegible]	$114,672 Understated
Ending Cash-on-Hand @ December 31, 2012	$ 29,397	$ 34,86[illegible]	$ 5,467 Understated

The overstatement of beginning cash-on hand [illegible] was a result of the reporting discrepancies noted for 2011 above.

The understatement of receipts re[illegible] the following:

- Unreported in-kind contributio[illegible] $ 16,208
- Receipts over-reported (25,937)
- Receipts under-r[illegible] 179,118
- Over-reported [illegible] receipts (21,774)
- Return dep[illegible] ns r[illegible] ed as disbursements instead of a neg[illegible] ent[illegible] on Schedule [illegible] (1,665)
- Unexplained di[illegible] 10,659

  Net [illegible] nderstatement of Receipts **$156,609**

[illegible] nderstatemen[illegible] [illegible]bu[illegible]nts resulted from the following:

- [illegible] ted in-ki[illegible] ntributions $ 16,208
- Di[illegible] ents not [illegible]ported 101,152
- Disbu[illegible]ents rep[illegible]ed but not in bank activity (2,497)
- Disburseme[illegible]rted as memo entry clearing bank 5,000
- Inter-account transfer reported (4,205)
- Disbursement amounts reported incorrectly 679
- Return deposit items reported as disbursements instead of a negative entry on Schedule A (1,665)

  Net Understatement of Disbursements **$114,672**

The $5,467 understatement of the ending cash-on-hand was a result of the 2012 reporting discrepancies noted above.

2. Interim Audit Report & Audit Division Recommendation
The Audit staff discussed this matter at the exit conference and provided HDP representatives a schedule of the misstated amounts. HDP representatives stated they would amend their reports in response to the IAR.

The IAR recommended that HDP amend its disclosure reports to correct the misstatements and reconcile the cash balance on its most recent report to identify any subsequent discrepancies that could affect the recommended adjustments. The IAR also recommended that HDP adjust the cash-on-hand balance, as necessary, on its most recent report, noting that the adjustment is the resul[illegible] prior period audit adjustments.

3. Committee Response to Interim Audit Report
In response to the IAR recommendation, HDP fi[illegible] amended dis[illegible] reports for 2011 and 2012 that corrected the misstatements. The amended 201[illegible] disclosure reports also added Levin activity that was [illegible] previously [illegible] reported. In addition, Counsel stated that the HDP did not believe th[illegible] should have been included in this finding,[8] but decided not to rem[illegible] account from its federal reports when it filed amendments; however, it ackno[illegible]ed that it had inadvertently and incorrectly included some of [illegible]y of this a[illegible] its federal reports After consideration of Counsel's response [illegible] consultati[illegible] our Office of General Counsel, the Audit staff determine[illegible] available information, that the CA is not a federal a[illegible] since its activity is [illegible]ral. Consequently, the Audit staff excluded the [illegible] activity from the misstatement finding calculation which resulted [illegible]visi[illegible] the misstated amounts as show below:[9]

- Beginn[illegible] for 2[illegible]1 was overstated by $37,313.
- Ending cash [illegible] cash for 2012 were overstated by [illegible]
- Receipt[illegible] 12 [illegible] overstated by $64,465.
- Disbursemen[illegible] 201[illegible]e overstated by $107,427.

The Aud[illegible] ff recom[illegible]ds that HDP amend its disclosure reports to correct the misstateme[illegible]d rec[illegible]ile the cash balance on its most recent report to identify any subsequent [illegible]s that could affect the recommended adjustments. The Audit staff further re[illegible]nds that HDP adjust the cash-on-hand as necessary on its most recent report, noting that the adjustment is the result of prior period audit adjustments.

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[8] Further explanation of Counsel's response is contained under the Committee's Response to the Interim Audit Report, Finding 3, Receipt of Apparent Impermissible Funds.

[9] The amounts that need to be removed from the amended reports reflect the balances and activity of the CA. The CA beginning and ending cash balance for 2011 and the beginning cash balance for 2012 was $1,025 (the CA had a zero ending cash balance for 2012), the 2012 receipts activity was $221,074, and the disbursement activity was $222,098.

B. <u>Misstatement of Financial Activity – Original Reports Filed</u>

1. Facts

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

The Audit staff calculated that HDP understated disbursements on the original reports filed by $358,942 over the two-year period (2011-2012). This figure includes the $12,606 and $114,672 understatement of disbursements from 2011 and 2012 discussed in Section A. above (Misstatement of Financial [illegible]ivity – Most Recent Reports Filed Prior to the Audit).

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the understatement of [illegible]ursements on its original reports during the exit conference and provided H[illegible] representatives a cop[illegible] relevant schedule. HDP representatives had no sp[illegible] [illegible]mme[illegible] at the time.

The IAR recommended that HDP provide any add[illegible]al comments it deemed necessary with respect to this matter.

3. Committee Response to Interim Audit Report

HDP did not provide any additional comments [illegible] the understatement of disbursements on its original report and no furthe[illegible] s required. The removal of the CA and its acti[illegible] [illegible] this portion of the finding.

Finding 2. Receipt of Contributions that Exceed Limits

Summary

During audit fieldwor[illegible] A[illegible] [illegible]dentified contributions from two political action com[illegible] that exce[illegible] lim[illegible] by $20,000. Both of the excessive contributions were un[illegible]ly refunded. [illegible]vever, documentation was not provided to demonstrate that one refund [illegible] $5,00[illegible] [illegible]d cleared the bank. In response to the IAR recommendat[illegible] [illegible]unsel provided documentation demonstrating the refund for $5,000 had cleared the ba[illegible] [illegible] Audit staff concludes that HDP untimely resolved excessive contributions totali[illegible] [illegible],000.

Legal Standard

A. **Party Committee Limits.** A state, district or local committee of a political party may not receive more than a total of $5,000 per calendar year from a multicandidate political committee. 52 U.S.C. §30116(a)(2)(C) and 11 CFR §110.2(d).

   A state, district or local committee of a political party may not receive more than a total of $10,000 per calendar year from a non-multicandidate political committee. 52 U.S.C. §30116(a)(1)(D) and 11 CFR §110.1(c)(5).

B. Handling Contributions That Appear Excessive. If a committee receives a contribution that appears to be excessive, the committee must either:

- Return the questionable check to the donor; or
- Deposit the check into its federal account and:
  - Keep enough money in the account to cover all potential refunds;
  - Keep a written record explaining why the contribution may be illegal;
  - Include this explanation on Schedule A if the contribution has to be itemized before its legality is established;
  - Seek a reattribution or redesignation of the excessive portion, following the instructions provided in the Commission regulations; and
  - If the committee does not receive a proper reattributi[illegible] redesignation within 60 days after receiving the excessive contrib[illegible]on, refund the excessive portion to the donor. 11 CFR §103.3(b)(3), (4) [illegible]

Facts and Analysis

A. Facts

HDP accepted contributions from two politica[illegible] committees that exc[illegible]d the limitation by $20,000. One contribution from a [illegible] multi[illegible]date politica[illegible] action committee was received on March 15, 2012 for $25[illegible] [illegible]sulting in an excessive contribution of $15,000. HDP untim[illegible] [illegible]funded the e[illegible] portion on September 28, 2012 (197 days later).

The second contribution from a multicandidate [illegible] committee was received on October 19, 2012 fo[illegible], resulting [illegible] exce[illegible] [illegible]ntribution of $5,000. HDP reported an untimely [illegible] [illegible] excessive [illegible]ortion on June 19, 2013 (243 days later); however, documen[illegible] was [illegible] provided tha[illegible] demonstrated the refund check had cleared the bank.

B. Interi[illegible] [illegible]udit Re[illegible]rt & [illegible]udit Di[illegible]ision Recommendation

The Au[illegible] staff dis[illegible] at the exit conference and provided HDP repr[illegible] ives a sche[illegible] the [illegible] excessive contributions. HDP representatives had no sp[illegible] commen[illegible] [illegible]e ti[illegible].

The IAR rec[illegible]nded th[illegible] [illegible]DP provide documentation demonstrating that the refund, totaling $5,000, re[illegible]rted [illegible] June 19, 2013, had cleared the bank. Absent that documentation, it [illegible] [illegible]mmended that HDP void the original refund check and issue another refund for th[illegible] excessive portion, or if funds were not available to make the necessary refund, disclose the excessive portion on Schedule D until funds became available to satisfy the obligation.

C. Committee Response to Interim Audit Report

In response to the IAR recommendation, HDP provided documentation demonstrating that the refund, totaling $5,000, had cleared the bank. The Audit staff concludes that HDP untimely resolved excessive contributions totaling $20,000.

Finding 3. Receipt of Apparent Impermissible Funds

Summary

During audit fieldwork, the Audit staff identified 75 receipts, totaling $169,586, deposited into HDP's federal accounts during 2012 that appeared to be from impermissible sources. In response to the IAR recommendation, HDP Counsel stated that a majority of the impermissible contributions were received in connection with HDP's state convention; and therefore, Counsel believes that the CA should be removed from the impermissible funds analysis. Counsel stated that state convention activity should not be considered federal activity. Also, Counsel believes that amounts transferred from HDP's federal account[10] to its CA for non-federal purposes (convention fundraising) should mitigate other impermissible funds. In [illegible]ion, HDP showed that $5,080 of receipts were permissible, $27,000 of receipts we[illegible]ely refunded, and filed amended reports for $115,000 of impermissible receipts f[illegible]rporations on Schedule D (Debts and Obligations).

After consideration of Counsel's response an[illegible]ultation with our O[illegible] General Counsel, the Audit staff determined, based on available information, that th[illegible] is not a federal account since its activity is non-federal. C[illegible]ntly, the Audit staff concluded that $22,006 in receipts deposited into the CA were n[illegible]rmissible and excluded this amount from the finding. In addition, [illegible]alculated amo[illegible]f impermissible contributions was reduced by $10,959 [illegible]sfers made wi[illegible]propriate timeframes from one of the federal accounts to the CA lea[illegible]mperm[illegible]le balance of $104,451.

The Audit staff recommends [illegible]HDP file an amended report to reduce the debt amount for impermissible [illegible] on S[illegible]dule D to $104,541. Also, the Audit staff recommends that HDP provide do[illegible]ould allow the Audit staff to determine if and to what extent impermissib[illegible]nection with a federal election.

Legal Standard

A. Receipt of Prohibited Contributions – General Prohibition. Candidates and comm[illegible]es may not accept contributions (in the form of money, in-kind contributions or loans) from the following prohibited sources:

- Corp[illegible]ons organized by authority of any law of Congress;
- Labor [illegible]ations;
- National [illegible]s (except a loan made in accordance with the applicable banking laws and regulations and in the ordinary course of business);
- Federal Government Contractors (including partnerships, individuals, and sole proprietors who have contracts with the federal government);
- Foreign Nationals (including individuals who are not U.S. citizens and not lawfully admitted for permanent residence); foreign governments and foreign political parties; and groups organized under the laws of a foreign country or groups whose principal place of business is in a foreign country, as defined in 22 U.S.C. §611(b); and

[10] See footnote 4.

- In the name of another. 52 U.S.C. §§30118, 30119, 30121, and 30122.

B. Definition of Limited Liability Company. A limited liability company (LLC) is a business entity recognized as an LLC under the laws of the State in which it was established. 11 CFR §110.1(g)(1).

C. Application of Limits and Prohibition to LLC Contributions. A contribution from an LLC is subject to contribution limits and prohibitions, depending on several factors, as explained below:

1. LLC as Partnership. The contribution is considered a contribution from a partnership if the LLC chooses to be treated as a partnership under Internal Revenue Service (IRS) tax rules, or if it makes no choice at all about its tax status. A contribution by partnership is attributed to each [illegible] his or her share of the partnership profits. 11 CFR §110.1 (e)(1) and (g)([illegible]
2. LLC as Corporation. The contribution is con[illegible] a co[illegible]ontribution-and is barred under the Act-if the LLC chooses [illegible] treated as a [illegible]ation under IRS rules, or if its shares are traded publicly. 11 CFR § 110.1([illegible].
3. LLC with Single Member. The contri[illegible]s con[illegible]ed a contr[illegible] from a single individual if the LLC is a single-m[illegible] [illegible]at has not chosen to be treated as a corporation under IRS rules. 11 [illegible] 10.1 (g)(4).

D. Limited Liability Company's Responsibility to Notify Recipient Committee. At the time it makes a contribution, an [illegible] [illegible]tify the [illegible]nt committee:

- That it is eligible to make the contribut[illegible]
- In the case of an [illegible] t considers itself a partnership (for tax purposes), how the contributio[illegible] attributed among the LLC's members. 11 CFR §110.1(g [illegible]

E. Questionable Contribution[illegible] [illegible]ee receives a contribution that appears to be proh[illegible] [illegible]ontri[illegible]), it must follow the procedures below:

1. Within 1[illegible] t[illegible]rer receives the questionable contribution, the [illegible]mittee mu[illegible]:
   - R[illegible]urn the co[illegible]ution to the contributor without depositing it; or
   - [illegible]osit the cor[illegible]oution (and follow the steps below). 11 CFR §103.3(b)(1).
2. If the [illegible]ttee de[illegible]sits the questionable contribution, it may not spend the funds an[illegible] prepared to refund them. It must therefore maintain sufficient funds to ma[illegible] refunds or establish a separate account in a campaign depository for possibly illegal contributions. 11 CFR §103.3 (b)(4).
3. The committee must keep a written record explaining why the contribution may be prohibited and must include this information when reporting the receipt of the contribution. 11 CFR §103.3(b)(5).
4. Within 30 days of the treasurer's receipt of the questionable contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal or an oral explanation that is recorded by the committee in a memorandum. If the contribution cannot be determined to be legal, the treasurer shall, within thirty

days of the treasurer's receipt of the contribution, refund the contribution to the contributor. 11 CFR §103.3(b)(1).

F. **Contributions to delegate and delegate committees.** Funds received for the purpose of furthering the selection of a delegate to a national nominating convention are contributions for the purpose of influencing a federal election. 11 CFR §110.14(c).

G. **Federal v. Nonfederal Account.** The federal account may contain only those funds that are permissible under the federal election law; the nonfederal account may contain funds that are not permitted under the federal law (but are legal under state law), such as contributions that exceed the limits of the federal law and contributions from prohibited sources, such as corporations and labor organizations. 11 CFR §102.5 (a)(1)(i) and (a)(3).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff identified [illegible] totaling $169,586 deposited into HDP's federal account during 2012 that appeared [illegible] from impermissible sources. The sources of these receipts were as follows:

Source	Number of Transactions	Total
Labor Unions	8	$6,871
Corporations	20	$141,005
Limited Liability Companies	13	$10,455
Unregistered Organizations[11]	4	$11,255
Total	75	$169,586

The purposes of these receipts were mostly for:

- Contributions[12] [illegible] transactions totaling $96,421;
- State party convention fees (i.e. registration fee, convention booth fee) – 49 transactions totaling $15,085; and
- Democratic National Convention Credentials – 4 transactions totaling $58,000.

Four of the receipts from corporations, totaling $27,000, were untimely refunded. However, documentation was not available demonstrating the refund checks had cleared the bank. The remaining 71 receipts totaling $142,586 remain unresolved.

Hawaii state campaign finance statutes permit the acceptance of funds by a party from labor unions, domestic corporations,[13] and limited liability companies in an aggregate

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[11] An unregistered organization is a political committee that has not registered with the Federal Election Commission.

[12] Three corporate contributions were erroneously disclosed as political action committees and two were erroneously disclosed as individuals.

amount no greater than $25,000 in any two-year election period. However, federal regulations prohibit such contributions to be deposited into a federal account or used to influence federal elections.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter at the exit conference and provided HDP representatives a schedule of the apparent impermissible receipts. HDP representatives stated they would review the schedule.

The IAR recommended that HDP submit documentation demonstrating that these receipts were refunded in a timely matter, were timely transferred to a no[illegible]eral account, or were not from prohibited sources. Absent this documentation, [illegible] recommended that HDP refund the impermissible receipts or if funds were [illegible] ailable to make the necessary refunds, disclose the impermissible receipts on Sche[illegible] until funds become available to satisfy the obligation. In addition, with [illegible] to rec[illegible] eceived for the Hawaii state party convention, the IAR recommended [illegible] HDP sul[illegible] documentation demonstrating that these receipts were not obtained in connection with [illegible] ing convention that nominated candidates for fede[illegible] [illegible]e.

C. Committee Response to Interim Audit Report

In response to the IAR recommendati[illegible] Counsel stated [illegible] majority of the impermissible contributions were rece[illegible] nnection w[illegible]'s state convention, and that these contributions were mer[illegible] contri[illegible] s used to underwrite the state convention.[14] Counsel explained that [illegible] established for the sole purpose of administerin[illegible] HDP's biennial c[illegible] ntion [illegible] Commission regulations specifically permit state [illegible] to exclusively use non-federal funds to pay for convention expen[illegible] all funds deposited into this account were used solely for that purpose. Accordi[illegible] Counsel argued that no reimbursement to the non-federal account should be required bec[illegible] [illegible] enses are payable with non-federal funds (11 C.F.R [illegible])) [illegible] re paid immediately. Also, that a transfer of funds, $56,000[illegible] from its [illegible] ac[illegible] to the CA had occurred to cover a convention fun[illegible] shortfall t[illegible] uld [illegible] sidered a mitigating factor when considering the amount [illegible] misdeposits. [illegible] unsel [illegible] o stated, that subsequent to the 2012 convention, HDP ha[illegible] y paid for [illegible] nvention expenses directly from non-federal accounts, and had done so previously. Fi[illegible] ly, Counsel pointed out that state convention contributions included contribu[illegible] from unregistered candidates for local office and that HDP believed these co[illegible] s had sufficient permissible funds to make contributions under 11 C.F.R. §102.5(b)[illegible].[16]

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[13] Foreign corporations, including a domestic subsidiary of a foreign corporation, a domestic corporation that is owned by a foreign national, or a local subsidiary where administrative control is retained by the foreign corporation are prohibited under Hawaii state campaign finance statutes.

[14] Counsel reiterated his response to Finding 1, Misstatement of Financial Activity, that stated the CA should not be considered a federal account, and that state convention expenses are payable with non federal funds.

[15] Transfers from other federal accounts into the CA totaled $78,164.

[16] The Audit staff was not provided documentation to support this contention; the unresolved amount is $500.

The Audit staff disagrees with Counsel that a majority of the impermissible contributions were received in connection with HDP's state convention. Of the $169,586 in impermissible receipts identified in the IAR, only $22,006 (or 13%) were deposited into the CA.[17] The remaining $147,580 (or 87%) were not identified as state party convention related and were deposited into other federal accounts.

The Audit staff agrees with Counsel that the CA receipts and expenditures were used for administering HDP's biennial convention. However, the Audit staff notes that as part of the initial audit process, bank account information was gathered, and this information included confirmation from HDP's Executive Director that the CA was a Federal account. As such, during the 2011 and 2012 audit period, the C . treated as a federal account by HDP. All receipts, expenses and account balances of this account were reported as federal activity on its disclosure reports and [illegible] activity was disclosed on its state reports filed with the State of Hawaii C[illegible] Spending Commission.[18] Because HDP reported activity for the CA as a fe[illegible] ccount and confirmed to the Audit staff it was a federal account, [illegible] Audit staff [illegible] it as such. As a federal account, these receipts were subject t[illegible] prohibitions of the [illegible]

In response to Counsel's statement that HDP pro[illegible] convention expenses prior to and subsequent to the 2012 election cycle, the Audit s[illegible] id not audit HDP for these coverage periods and cannot speak to [illegible]ther HDP prop[illegible] paid for these state convention expenses. However, the A[illegible] noted th[illegible] previous four state conventions, beginning in 2004, that state par[illegible]ention f[illegible]re reported as receipts and the state party convention expenses report[illegible] ents on its federal reports, but none of this activity [illegible] closed on its state r[illegible] with the State of Hawaii Campaign Spending C[illegible][19]

The selection of HD[illegible] the DNC convention occurs, per its constitution and bylaws, at its state conven[illegible] [illegible] recommendation requested documentation that would [illegible] HDP [illegible] im[illegible] funds that were used for a nominating convention that n[illegible] c[illegible] tes for federal office. No additional documentation abo[illegible] sage of impermissibl[illegible] [illegible]ts was provided. Lacking this information, and with the [illegible] nation available to date, the Audit staff cannot determine if and to what extent im[illegible] ble rece[illegible] were in connection with a federal election. After consideratio[illegible] unsel's response and consultation with our Office of General Counsel, the Audit staff [illegible] ne[illegible] based on available information, that the CA is not a federal account and its act[illegible] not federal. Consequently, the Audit staff concluded that $22,006 in receipts deposited into the CA were not impermissible and excluded this amount from the finding.

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[17] These deposits consisted of $19,021 (or 11%) reported as state party convention fees and $2,985 (or 2%) not reported as state party convention related.

[18] HDP did not report transfers from other federal accounts, which corresponds to the account being treated as Federal. Also, as mentioned in the Misstatement Finding (Finding 1), the Committee had an opportunity, in response to the IAR, to file amended reports to exclude the CA, but did not.

[19] Some other convention expenses, such as county convention expenses, were reported on HDP's state reports.

[20] 2012 By-Laws of the Democratic Party of Hawaii and the 2012 Constitution of the Democratic Party of Hawaii.

Also, in response to the IAR recommendation, HDP filed amended reports disclosing ten impermissible receipts from corporations, totaling $115,000, on Schedule D. Counsel stated that the impermissible funds will be refunded to the donors, if and when funds become available. Counsel reiterated his statement that HDP should be allowed to reduce the impermissible amount based upon transfers of Federal funds to its CA (as mentioned earlier in this section). However, most of the transfers ($67,205 of the $78,164) were not related to the impermissible receipts as the transfers were made prior to the receipt of the impermissible contributions. Accordingly, the Audit staff reduced the finding amount by $10,959 for transfers made within the permissible timeframes.[21]

Other items addressed in Counsel's response were as follows: that $80 in receipts were for two vendor refunds; documentation demonstrating that [illegible] receipt for $5,000 was from an LLC having non corporate tax status; and documentation [illegible] nstrating that four receipts from corporations, totaling $27,000, were [illegible] refu [illegible] that the refunds had been deposited by the contributor.

The Audit staff reviewed Counsel's response and [illegible] documentation prov[illegible] and determined that the $80 in receipts were vendor re[illegible] and the contribution of $5,000 from the LLC was a permissible receipt, both of wh[illegible] finding amount was reduced. Also, that $27,000 was untimely refu[illegible] to four corp[illegible] tities.

The chart below shows the description [illegible] f impermissible receipts after adjustments for information provided in HDP[illegible] IAR.

Description	Number of Transactions	Total
IAR Impermissible Receipts	**75**	**$169,586**
Impermissible R[illegible] de[illegible] ention Account	(57)	($22,006)
Corporate [illegible] Schedule D reduced by Federal transfers occ[illegible] ith[illegible] sible timeframes.	(0)[22]	($10,959)
Vendor [illegible] ds	(2)	($80)
LLC taxe[illegible] rtnership	(1)	($5,000)
Amount of Impermissible Receipts before Refunds	**15**	**$131,541**
Less: Amount U[illegible] ely Refunded	(4)	($27,000)
Remaining Impermissible Funds (Schedule D)	**11**	**$104,541**

The Audit staff concludes that HDP accepted 15 impermissible receipts totaling $131,541. However, HDP untimely refunded $27,000, so that $104,541 needs to be reported on Schedule D ($500 remains unresolved). The Audit staff recommends that

[21] 11 C.F.R. §103.3(b) allows 30 days for refunds of impermissible receipts.

[22] The amount of an impermissible corporate contributions to which the transfer of $10,959 was applied only partially reduced the impermissible contribution amount, as such, the number count of impermissible contributions did not change.

HDP file an amended report to reduce its disclosure of impermissible receipts on Schedule D to $104,541. Also, the Audit staff recommends that HDP provide documentation that would allow the Audit staff to determine if and to what extent impermissible receipts were in connection with a federal election.

Finding 4. Reporting of Debts and Obligations

Summary

During audit fieldwork, the Audit staff identified debts and obligations from 17 vendors, totaling $115,967, which were not itemized or were under reported on Schedules D (Debts and Obligations). In response to the IAR recommendation, HDP filed amended disclosure reports for 2011 and 2012 correctly reporting and disclosing these debts and obligations on Schedule D.

Legal Standard

Reporting of Debts and Obligations.

A. **Continuous Reporting Required.** A political committee must [illegible] the amount and nature of outstanding debts and obligations until those debts are [illegible]ished. 52 U.S.C. §30104(b)(8) and 11 CFR §§104.[illegible] 04.[illegible]

B. **Separate Schedules.** A political committee mus[illegible] [illegible]parate schedules for debts owed by the committee and debts [illegible] the comm[illegible] [illegible]gether with a statement explaining the circumstances and [illegible] under wh[illegible] debt and obligation was incurred or extinguished. 11 CFR §1[illegible]

C. **Itemizing Debts and [illegible]tions.**
   - A debt of $5[illegible] or le[illegible] [illegible]st be reported once it has been outstanding 60 days from the date in[illegible] the date of the transaction); the committee reports it on the next regularly sche[illegible]
   - A de[illegible] [illegible]ding [illegible] [illegible]sed in the report that covers the date on which [illegible] [illegible]as [illegible]l. 11 CFR §104.11(b).

D. **[illegible] by Committee Staff and Other Individuals.**
   1. **Scope.** This secti[illegible] applies to individuals who are not acting as commercial vendo[illegible] [illegible]dividuals who are acting as commercial vendors shall follow the requir[illegible]s of 11 CFR §§116.3 and 116.4.
   2. **The treatment as contributions.** The payment by an individual from his or her personal funds, including a personal credit card, for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of, a candidate or political committee is a contribution unless the payment is exempted under 11 CFR 100.79, it shall be considered a contribution by the individual unless-
      a) The payment is for the individual's transportation expenses incurred while traveling on behalf of a candidate or political committee of a political party or for usual and normal subsistence expenses incurred by an individual, other than a volunteer, while traveling on behalf of a candidate or political committee of a political party; and

b) The individual is reimbursed within sixty days after the closing date of the billing statement on which the charges first appear if the payment was made using a personal credit card, or within thirty days after the date on which the expenses were incurred if a personal credit card was not used. For purposes of this section, the closing date shall be the date indicated on the billing statement which serves as the cutoff date for determine which charges are included on that billing statement. In addition, "subsistence expense" includes only expenditures for personal living expenses related to a particular individual traveling on committee business, such as food or lodging. 11 CFR §116.5(b).

3. **Treatment as debts.** A political committee shall treat the obligation arising from a payment described in paragraph (b) of this section as an outstanding debt until reimbursed. 11 CFR §116.5(c).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff used a[illegible] disbu[illegible]ment recor[illegible] [illegible]oncile the accounts[23] of 17 HDP vendors. This review [illegible] debts and obligations from these vendors, totaling $115,967 that were not itemi[illegible] under reported on Schedules D. Of this amount, $68,744 were de[illegible]t reported, an[illegible] 223 were debts that were under reported. These vendors provi[illegible] HDP with servic[illegible] s office space, polling, accounting, database accounting soft[illegible] [illegible]sting, p[illegible], insurance, telephone, copier lease, and staff reimb[illegible]

B. Interim Audit Re[illegible] Audit Division Recommendation

The Audit staff di[illegible] this [illegible]er at the exit conference and provided HDP representatives a schedu[illegible] of the [illegible]ebts and obligations that were not itemized or were under reported. HDP r[illegible] would review the schedule of debts and obligations.

The IAR recommen[illegible] HDP [illegible]de additional documentation demonstrating that these tra[illegible]ons were not obligations which required reporting on Schedule D. Absent such docu[illegible]ion, the A[illegible]t staff recommended that HDP amend its reports to correctly re[illegible] disclos[illegible] these debts and obligations on Schedule D.

C. Committee Response to Interim Audit Report

In response to the IAR recommendation, HDP filed amended disclosure reports for 2011 and 2012 that correctly reported and disclosed these debts and obligations on Schedule D.

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[23] The reconciliation consisted of calculating invoiced and paid amounts for each reporting period in the 2011-2012 election cycle. The Audit staff then determined whether any outstanding debts were correctly disclosed on Schedule D. Each debt amount was counted once, even if it required disclosure over multiple reporting periods.

[24] Staff reimbursements consisted of three individuals with debts not reported totaling $10,768 and debts under reported totaling $1,998.

Finding 5. Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff determined that HDP did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent in connection with a federal election. For 2011 and 2012, the Audit staff identified payments to HDP employees totaling $60,923 for which HDP did not maintain monthly payroll logs. This consisted of $48,510 for which payroll was allocated between federal and non-federal funds, and $12,413 for which payroll was exclusively paid with non-federal funds. The IAR recommended payroll logs be provided or in their absence that a plan be implemented to maintain payroll logs in the future. Counsel stated that the payroll logs could not be located but that HDP has implemented procedures to maintain the necessary documentation for payroll.

Legal Standard

Maintenance of Monthly Logs. Party committees must keep a mo[illegible] log of the percentage of time each employee spends in c[illegible]ction with a federal ele[illegible]. Allocations of salaries, wages, and fringe bene[illegible] to be undertaken as [illegible]:

- Employees who spend 25 percent or less [illegible] [illegible]pensated time in a given month on federal election activities must be paid [illegible]er from the federal account or be allocated as administrati[illegible];
- Employees who spend more than [illegible] [illegible]heir com[illegible]ensated time in a given month on federal election activities must [illegible] from a federal account; and
- Employees who [illegible] [illegible]e of their compensated time in a given month on federal elec[illegible] activi[illegible] [illegible]ay be paid entirely with funds that comply with state law. 11 CFR [illegible].7(d)[illegible]

Facts and Analysis

1. Fa[illegible]

Dur[illegible] [illegible] fieldwork, th[illegible] [illegible]udit [illegible] reviewed disbursements for payroll. HDP did not maintai[illegible] [illegible]onthly pay[illegible] logs or equivalent records to document the percentage of time each e[illegible]yee spent [illegible] connection with a federal election. These logs are required to document th[illegible]r all[illegible]tion of federal and non-federal funds used to pay employee salaries and wag[illegible] [illegible]011 and 2012, HDP did not maintain monthly logs for $60,923 in payroll.[25] This amount includes payroll paid as follows to HDP employees:

1. Employees reported on Schedule H4 (Disbursements for Allocated Federal/Nonfederal Activity) and paid with federal and non-federal funds during the same month (totaling $48,510); and
2. Employees paid exclusively with non-federal funds in a given month and not reported by HDP (totaling $12,413).

[25] This total does not include payroll for employees paid with 100 percent federal funds and reported as such (see Part I, Background, Commission Guidance, Request for Early Commission Consideration of a Legal Question, Page 1). Payroll amounts do not include fringe benefits.

2. Interim Audit Report & Audit Division Recommendation
The Audit staff discussed this matter at the exit conference and provided HDP representatives a schedule of the disbursements for payroll lacking monthly payroll logs. HDP representatives had no specific comments at the time.

The IAR recommended that HDP provide evidence that it maintained monthly time logs to document the percentage of time an employee spent in connection with a federal election; or implement a plan to maintain monthly payroll logs in the future.

3. Committee Response to Interim Audit Report
In response to the IAR recommendation, HDP stated that it could not locate the time logs requested in the IAR, but has implemented procedures that will [illegible] tain the necessary documentation in connection with payroll and fringe ber [illegible] t exp[illegible]s in the future. As such, HDP has complied with the Interim Audit Report [illegible] mm[illegible] by implementing a plan to maintain monthly payroll logs. The Audit s[illegible] [illegible]cludes that HDP did not maintain monthly logs for payroll totaling $60,923.

Finding 6. Failure to Properly Report Media Related Expenditures

Summary
During audit fieldwork, the Audit staff iden[illegible] [illegible]sements totaling $30,148, which appeared to be media related independent expe[illegible] [illegible] [illegible]ring disclosure on Schedule E (Itemized Independe[illegible] [illegible]tures), that HDP disc[illegible] on Schedule B, Line 30b (Federal Election A[illegible]ity) an[illegible] [illegible]edule F (Coordinated Party Expenditures). Of the $30,148, HDP did[illegible] [illegible] the [illegible] red 24-hour [illegible]orts for those items that should have been reported on [illegible] totaling $29,725.

In respon[illegible] [illegible] [illegible]omm[illegible] ation, Counsel stated these expenditure were coor[illegible]d (and [illegible] ep[illegible] [illegible]filed showing these expenditure as coordinated on S[illegible] F) and not [illegible]ende[illegible]enditures. Counsel added that, although the expendit[illegible] [illegible]ceeded H[illegible]s coordinated expenditure limit, this only occurred as a result of an a[illegible]strativ[illegible]ersight, a failure to contact the Democratic Senatorial Campaign Co[illegible] (DSCC) to obtain a higher spending authority.

As a result of HDP's response to the IAR recommendation, the Audit staff determined HDP made coordinated expenditures totaling $129,725, but only had coordinated spending authority for $102,600. Therefore, HDP exceeded its spending limit by $27,125. The Audit Staff recommends HDP seek a refund from Hirono for Congress for the excessive amount.

Legal Standard
A. Definition of Independent Expenditures. An independent expenditure is an expenditure made for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert

with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party or its agents.

A clearly identified candidate is one whose name, nickname, photograph or drawing appears, or whose identity is apparent through unambiguous reference, such as "your Congressman," or through an unambiguous reference to his or her status as a candidate, such as "the Democratic presidential nominee" or "Republican candidate for Senate in this state."

Expressly advocating means any communication that:

- Uses phrases such as "vote for the President" or "re-elect your Congressman" or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge election or defeat of one or more clearly identified candidates; or
- When taken as a whole and with limited references to external events, such as proximity to the election, could be interpreted by a reasonable person only as advocating the election or defeat of one or more clearly identified candidates. 11 CFR §§100.16(a), 100.17 and 100.22.

B. Disclosure Requirements – General Guidelines. An independent expenditure shall be reported on Schedule E if, when added to other independent expenditures made to the same payee during the same calendar year, it exce[illegible] Independent expenditures made (i.e., publicly dis[illegible] prior to [illegible] it should be disclosed as memo entries on Schedule E and as a de[illegible] D. Independent expenditures of $20[illegible] need not be itemiz[illegible] the committee must report the total of those ex[illegible] on line (b) on Schedule E. 11 CFR §§104.3(b)(3)(vii), 104.4(a) and 10[illegible]

C. Last-Minute Independent Expenditure Reports (24-Hour Reports). Any independent expenditures aggregating $1,000 or more, with respect to any given election, and [illegible] 20th day but more than 24 hours before the day of an election, must be r[illegible]ed a[illegible] report must be received by the Commission within 24 hours after the expenditure is made. A 24-hour report is required each time additi[illegible]ependent expenditures aggregate $1,000 or more. The 24-hour report must be [illegible] a Schedule E. The date that a communication is publicly disseminate[illegible]s as the date that the committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of $1,000. 11 CFR §§104.4(f) and 104.5(g)(2).

D. Independent Expenditure Reports (48-Hour Reports). Any independent expenditures aggregating $10,000 or more with respect to any given election, at any time during a calendar year, up to and including the 20th day before an election, must be disclosed within 48 hours each time the expenditures aggregate $10,000 or more. The reports must be filed with the Commission within 48 hours after the expenditure is made. 11 CFR §§104.4(f) and 104.5(g)(1).

E. Requirements for Maintaining Records. Reporting committees are required to maintain records which provide, in sufficient detail, the information from which the filed reports may be verified. 11 CFR §104.14(b)(1).

F. Coordinated Party Expenditures. National party committees and state party committees are permitted to purchase goods and services on behalf of candidates in the general election—over and above the contributions that are subject to contribution limits. Such purchases are termed "coordinated party expenditures." They are subject to the following rules:

- The amount spent on "coordinated party expenditures" is limited by statutory formulas that are based on the Cost of Living Adjustmen [illegible]LA) and the voting-age population.
- Party committees are permitted to coordinate the [illegible] with the candidate committees.
- The parties may make these expenditures onl[illegible] connecti[illegible] the general election.
- The party committees—not the candidates—are responsible for [illegible] these expenditures.
- If the party committee exceeds the limits [illegible] party expenditures, the excess amount is considered an in-kind contri[illegible], subject to the contribution limits. 52 U.S.C. §30116(d) [illegible] CFR §§109.[illegible] 109.32.

G. Assignment of Coordinated Party Expenditure Limit. [illegible] political party may assign its authority to make coordinated party [illegible] to another political party committee. Such a[illegible]ent must be made in [illegible], state the amount of the authority assigned and [illegible]ived by the assignee before any coordinated party expenditure is [illegible] rsu[illegible]o the assignment. The political party committee that is assigned authority [illegible]nated pa[illegible]nditures must maintain the written assignme[illegible] lea[illegible] §§104.14 and 109.33(a) and (c).

Facts and Analysis

A. Rep[illegible] of Indep[illegible] Expenditures

1. Facts

During audit [illegible] the Audit staff reviewed disbursements to ensure the reporting completeness and accuracy of independent expenditures. The Audit staff noted that HDP made media-related expenditures totaling $30,148 and disclosed them as Federal Election Activity or Coordinated Party Expenditures that may be considered independent expenditures. A breakdown of the analysis for these expenditures is as follows:

Apparent Independent Expenditures Reported as Coordinated Party Expenditures and Federal Election Activity (Copy of Communication Made Available)

HDP made 18 apparent independent expenditures totaling $30,148 for which it provided supporting documentation such as invoices, scripts, ads, etc.

i) For apparent independent expenditures totaling $18,226, the communications contained language expressly advocating the election or defeat of a clearly identified candidate as defined under 11 CFR §100.22(a). This amount consisted of costs associated with 16 radio advertisements and one newspaper advertisement containing express advocacy.[26] The radio advertisements included the statement: "And on November 6th, let's furlough Linda Lingle!", and included the disclaimer, "Paid for by the Democratic Party of Hawaii, which is responsible for the content of this advertising".

The 16 radio advertisements were disclosed on Schedule F as Coordinated Party Expenditures. Aside from being rep[illegible] Coordinated Party Expenditures, no documentation was avai[illegible]strating coordination. Also, Counsel for HDP [illegible] ed th[illegible] enditures were not coordinated. Given these reasons, [illegible] Audit sta[illegible] es the communications should have been reported as Indepen[illegible] Expenditures. However, should HDP continu[illegible] maintain that these radi[illegible] advertisements were not coordin[illegible] mmittee would have exceeded its spending limit by $15,203.

The newspaper advert[illegible] cluded the [illegible]t: "Vote Democrat in the General Election" with [illegible] ow of B[illegible] Obama, Joe Biden, Mazie Hirono, and Tulsi Gabba[illegible] ertisement included the disclaime[illegible] for by Paid for by [illegible] Hawaii 2012,[27] Not authorized by any cand[illegible] ididate committee". Given the content and the dis[illegible], the [illegible] it staff believes the communication should have been rep[illegible] In[illegible] endent Expenditure.

ii) [illegible] xpenditure totaling $11,922, the production an[illegible] cos[illegible] ciated with a television advertisement were paid by HDP. The televi[illegible] ertisement depicted the Hawaii Senatorial candidate, [illegible] la Li[illegible], making a speech at the 2008 Republican National convention. While this depiction continued, the narrator stated the candidate, "L nda Lingle, was wrong then, about a lot of things, and she's wrong for Hawaii now." The Audit staff believes the phrase, "she's wro[illegible] Hawaii" was express advocacy because it had the same meaning as "defeat" and therefore could have no other meaning than to urge the defeat of the Candidate. The television advertisement was disclosed on Schedule B, Line 30(b) as Federal Election Activity and included the disclaimer, "Paid for by Vote Hawaii 2012, not authorized by any candidate or candidate's committee". Given the content and the disclaimer, the Audit staff believes the cost associated with the communication should be reported as an Independent Expenditure.

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[26] The newspaper advertisement was not itemized on the FEC report (cost, $423).
[27] This newspaper advertisement was paid for by the Democratic Party of Hawaii.

2. Interim Audit Report & Audit Division Recommendation
The Audit staff discussed this matter at the exit conference and provided HDP representatives a schedule of disclosure errors for independent expenditures. HDP representatives stated they would review the schedule.

The IAR recommended that HDP provide documentation and evidence that apparent independent expenditures totaling $30,148 did not require reporting as independent expenditures. Absent such evidence, the IAR recommended that HDP amend its reports to disclose these disbursements as independent expenditures on Schedule E and submit revised procedures for reporting independent expenditures.

3. Committee Response to Interim Audit Report
In response to the IAR recommendation, Counsel stated that these apparent independent expenditures were coordinated (and amended reports were filed showing these expenditure as coordinated on Schedule F and not independent expenditures. Counsel also noted that, although the total coordinated expenditures exceeded HDP's coordinated limit, it was only because of an administrative oversight (i.e. failure to contact DSCC to obtain a higher spending authority).[28] The response also included a letter from the DSCC Counsel stating that $5,0[illegible] [illegible]ordinated spending authority was transferred to HDP on November 1, 2012; and [illegible] HDP requested additional spending authority, he knew of no [illegible] why spendi[illegible] [illegible]ity would have been withheld. Also, the letter provides [illegible] coordinated spending authority to DSCC in the amount of $92,097.

The Audit staff a[illegible]s characterization of these communications as coordinated expenditures and not as independent expenditures. However, the Audit staff notes that the 16 radio advertisements, totaling $17,803, included disclaimer wording for a comm[illegible] [illegible] by a candidate ("Paid for by the Democratic Party of Hawaii which is responsible for the content of this advertising"). Similarly, the [illegible]ment, totaling $11,922, included disclaimer wording for communicat[illegible] aut[illegible]ed by a candidate ("Paid for by Vote Hawaii 2012, not authorized by any candidate or candidate's committee").

After further review, the newspaper advertisement classified by the Audit staff as an apparent independent expenditure, totaling $423, was determined to be federal election activity correctly reported on Schedule B, Line 30(b).

Amended reports, filed in response to the IAR, disclosed the16 radio advertisements and the television advertisement on Schedule F as coordinated expenditures. This was in addition to a television advertisement, totaling $100,000, previously reported as a coordinated expenditure on Schedule F. One television advertisement supported the democratic senatorial candidate for general election. The radio advertisements and

[28] As part of its response, HDP requested that the Final Audit Report reflect that the HDP's spending limit did not exceed the combined coordinated expenditure limit for the 2012 Hawaii Senate election.

second television advertisement opposed the republican senatorial candidate for general election. Coordinated expenditures reported on Schedule F totaled $129,725.

The Audit staff disagrees with HDP's application of the DSCC's coordinated expenditure authority after HDP made coordinated party expenditures. Neither HDP nor the DSCC could locate a record authorizing additional spending authority. 11 CFR §109.33(a) requires that an assignment must be made in writing, state the amount of the authority assigned, and be received by the assignee before any coordinated party expenditure is made pursuant to the assignment.

In similar cases, the Commission has rejected assignments o[illegible] ıding authority after the fact, but did acknowledge in one of the cases that the Committee had not exceeded its combined coordinated expenditure limit,[29] [illegible] would be the case for HDP.

In response to Counsel, the Audit staff revised its schedule of coo[illegible]ed expenditures to include $30,148 of media related expenses that we[illegible]viously thought to be independent expenditures. The [illegible]ised s[illegible]lule of coordinated expenditures totals $129,725 but HDP had co[illegible]ed [illegible]nding authority of only $102,600.[30] The Audit staff determined HDP ex[illegible]ed its coordinated spending limit by $27,125, and recommends that [illegible]P obtain a re[illegible]m Hirono for Congress for this amount.

B. Failure to File 24/48-Hour Reports for Independent Expenditures

1. Facts

The Audit sta[illegible]wed t[illegible]pparent independent expenditures noted above to determine whe[illegible]eporting of a 24/48-hour report was required.[31] The Audit staff determi[illegible] not file 24-hour reports, as required for ind[illegible]aling $[illegible].

2. Interim Audit Report & Audit Division Recommendation

The [illegible] staff discus[illegible] this matter at the exit conference and provided HDP repre[illegible]ves a sche[illegible] of 24-hour reports that were not filed. HDP representa[illegible] stated [illegible] would review the schedule.

Absent docum[illegible]n and evidence that apparent independent expenditures totaling $30,148 did not [illegible]uire reporting as independent expenditures (per Part A. above),

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[29] Final Audit Report of the Commission on the Democratic Executive Committee of Florida (2008 cycle), Report of the Audit Division on California State Republican Party (1998 cycle), Report of the Audit Division on Missouri Democratic State Committee (1998 cycle).

[30] This amount consists of the coordinated party expenditure limit (2012 Senate General Election for Hawaii), $97,600, and $5,000 in coordinated spending authority transferred by DSCC.

[31] The date the expenditure is publicly distributed serves as the date that the independent expenditure is made for purposes of the additional 24/48-hour report filing requirement. In the absence of a known date for public dissemination, the Audit staff used the invoice date or date of incurrence to determine if a 24/48-hour report was required.

the IAR recommended that HDP provide any comments it deems necessary with respect to the 24-hour reports that were not filed.

3. Committee Response to Interim Audit Report

In response to the IAR recommendation, Counsel provided no additional comments. However, since the expenditures noted above in Part A. were coordinated communications and not independent expenditures, no 24-hour reports were required.

Finding 7. Allocation of Expenditures

Summary

During audit fieldwork, the review of disbursements made f... he federal and non-federal accounts identified an apparent non-federal overfun... ctivity in the amount of $82,722. In response to the IAR recommendation, H... filed ...ed reports and submitted additional documentation for certain expenditures. Ba... ... e new documentation, the Audit staff revised its calculation and concludes ... -federal account did not overfund the federal account.

Legal Standard

A. **Paying for Allocable Expenses.** The Commissio ... ations offer party committees two ways to pay for allocable, sha... ...leral/non-fe... xpenses.
   - they may pay the entire amoun... shared expense ... the federal account and transfer funds from the non-fede... ... the ...ral account to cover the non-federal share of that expenses; or
   - They may establish separate, federal allocation account into which the committee deposits fun... from both its federal and non-federal accounts solely for the pur... ... payin... e allocable ...enses. 11 CFR §106.7(b).

B. **Transfer...** G...rall... ... ...mmittee may not transfer funds from its non-federal ... fe... ...ount, except when the committee follows specific rules for payin... ...ared ... ...on-federal election activity. 11 CFR §§1... ...a(1)(i) and 1... (f).

C. **Reporti... llocable I ...penses.** A political committee that allocates federal/no... l expenses must report each disbursement it makes from its federal account (or s... llocation account) to pay for a shared federal/non-federal expense. Comm... report these kinds of disbursements on Schedule H4 (Joint Federal/Non-federal Activity Schedule). 11 CFR §104.17(b)(3).

D. **Allocation Ratio for Administrative & Generic Voter Drive Costs.** State and local party committees must allocate their administrative expenses and generic voter drive costs dependent upon which federal offices appear on the ballot for the election year. The minimum percentage of federal funds would be at least:
   - 36 percent if both a Presidential candidate and a Senate candidate appear on the ballot;

- 28 percent if a Presidential candidate but not a Senate candidate appears on the ballot;
- 21 percent if a Senate candidate, but not a Presidential candidate, appears on the ballot; and,
- 15 percent if neither a Presidential nor a Senate candidate appears on the ballot. 11 CFR §106.7(d)(2) and (3).

E. **Salaries and Wages.** Committees must keep a monthly log of the percentage of time each employee spends in connection with a Federal election. Employees who spend 25 percent or less of their compensated time in a given month on Federal election activity or on activities in connection with a Federal election [illegible]t either be paid only from the Federal account or have their salaries allocated as [illegible] administrative cost. 11 CFR §106.7(d)(1).

F. **Definition of Federal Election Activity.** Fede[illegible] [illegible]ection ac[illegible] FEA) is a specifically defined term of art for activity by [illegible]tate, district or lo[illegible] [illegible]ty committees that triggers special payment and reportin[illegible] uirements. As a ge[illegible] FEA must be paid for with federal funds. No[illegible] [illegible]eral [illegible] may be use[illegible] FEA. There are four types of FEA:

- Voter registration activity during the period 12[illegible]days before a regularly scheduled federal election including the [illegible]n day itself;
- Voter identification, get-out-th[illegible] [illegible] generic cam[illegible] activity conducted in connection with an election in wh[illegible] for [illegible] office appears on the ballot;
- A public comm[illegible] that refers [illegible] clearly identified candidate for federal office and tha[illegible]promo[illegible]attacks, supports or opposes (PASOs) a candidate for that office. [illegible] [illegible]ommunication need n[illegible] expressly advocate the election or defeat of the [illegible] [illegible]date to qualif[illegible] FEA; and
- Serv[illegible] [illegible]endar month by an employee of a state, dis[illegible] [illegible] [illegible]art[illegible] [illegible]ittee who spends more than 25 percent of his or her [illegible]mpensate[illegible] uri[illegible] [illegible]onth in activities in connection with a federal [illegible]ection, includ[illegible] [illegible]A n[illegible]ned above. 11 CFR §100.24(b).

G. **Requir[illegible] [illegible]ccounts for Federal Election Activity.** Each State, district, and local party organ[illegible] n or committee that has receipts or makes disbursements for Federal election activi[illegible] [illegible]blish two separate accounts in depositories as follows: One or more Federal accounts, and an account that must function as both a Non-Federal account and a Levin account. If such an account is used, the State, district, and local party must demonstrate through a reasonable accounting method approved by the Commission that whenever such organization makes a disbursement for activities undertaken pursuant to 11 CFR 300.32(b), that organization had received sufficient contributions or Levin funds to make such disbursement. 11 CFR §300.30(c)(3).

H. **Receipt of Levin Funds.** Levin funds expended or disbursed by any state committee must be raised solely by the committee that expends or disburses them. Each donation must be lawful under the laws of the state in which the committee is organized and the funds solicited must not aggregate more than $10,000 in a calendar year. Consequently, funds from national party committees, other state, district and local committees, and from federal candidates or officeholders, may not be accepted as Levin funds. 11 CFR §300.31.

I. **Disbursements of Levin Funds.** A State, district, or local committee of a political party may spend Levin funds on the following types of activity:
   - Voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;
   - Voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candid [illegible] for State or local office also appears on the ballot);
   - The Federal election activity for which the disbursement [illegible] de must not refer to a clearly identified candidate for Federal offi[illegible]
   - The disbursement must not pay for any part of the costs of a[illegible]broadcasting, cable, or satellite communication, other than a communication [illegible] solely to a clearly identified candidate for Stat[illegible] offi[illegible] 11 CFR §3[illegible])(1) and (c).

J. **Reporting Federal Election Acti[illegible].** If a state, dist[illegible]or local party committee's combined annual receipts and dis[illegible] for feder[illegible]n activity (FEA) total $5,000 or more during the calendar ye[illegible]ittee m[illegible] disclose receipts and disbursements of federal funds and Levin fu[illegible] FEA. 11 CFR §300.36 (b)(2).

K. **Contents of Levin Report[illegible].** [illegible]ach report must disclose:
   - the amount of [illegible] Levin funds at the beginning and end of the rep[illegible]d;
   - the [illegible] and receipts for the reporting period and the calendar year;
   - [illegible]otal amount [illegible]evin [illegible] disbursements for the reporting period and the [illegible] year; an[illegible]
   - cer[illegible] transactions that require itemization on Schedule L-A (Itemized Receipts of Lev[illegible]nds) or Schedule L-B (Itemized Disbursements of Levin Funds). 11 CFR §300[illegible]).

Facts and Analysis

A. Facts

During audit fieldwork, the review of disbursements made from the federal and non-federal accounts identified an apparent non-federal overfunding of activity in the amount of $82,722.

1. **Expenses reported as allocated on Schedules H4.** The Audit staff calculated the non-federal share of expenditures required to be disclosed on Schedules H4 and compared that to the amount transferred from the non-federal account for the

period between 2011 and 2012. The non-federal portion of shared activity for this period was $110,092. However, the non-federal account transferred a net amount of $160,083, resulting in an overfunding of allocable expenses totaling $49,991.

a) Below is a breakdown of the Audit staff's calculation of overfunding of allocable expenses totaling $49,991. The following expenses were disclosed on Schedule H4 but, based on available documentation, were not allocable and should have been paid with 100 percent federal funds:

   i) Payroll and Associated Costs: HDP paid expenses from a federal account but disclosed these as allocable administrative ex[illegible]s on Schedule H4. HDP did not provide monthly logs, timesheets, [illegible] affidavits demonstrating that these costs were solely non-federal or all[illegible] expenses (see Finding 5).

   ii) Generic Voter Drive (GVD) Expenses. HDP paid ex[illegible] from a federal account that appeared to be GOTV activity during the F[illegible] period, but disclosed these as allocable [illegible] ses on Schedule H4. [illegible] on of these expenses were disclosed as [illegible] eric Voter D[illegible] expenses on Schedule H4. The remaining were [illegible] osed as shared administrative expenses on Schedule [illegible] Based upon [illegible] es and purpose of the disbursements and [illegible] cumentati[illegible] led, it appears these disbursements should ha[illegible] with 10[illegible] nt federal funds and not disclosed as shared expense[illegible] H4.[32]

   iii) Miscell[illegible] xpenses. H[illegible] disclosed expenses on Schedule H4 that we[illegible] ufficiently documented to allow the Audit staff to determine wh[illegible] co[illegible] be shared. Included in this total were disbursements for rent[illegible] entation to support these disbursements [illegible] determine[illegible] these expenses were made to support the headq[illegible] temporary campaign office locations.

2. **Expenses paid from the non-federal account.** HDP paid certain expenses di[illegible] om the non-federal account that appeared to represent 100 percent feder[illegible] ity or allocable activity that should have been disclosed on Schedules H4, res[illegible] overfunding of expenses totaling $32,731.

   a) Below is a breakdown of the Audit staff's calculation of overfunding of expenses paid from the non-federal account totaling $32,731. Based on available documentation, these expenses should have been paid with 100 percent federal funds or allocated on Schedules H4:

[32] For the 2012 election cycle, a candidate for federal office appeared on the ballot in the state of Hawaii. For HDP, the FEA Voter ID, Generic Campaign Activity and GOTV period was June 5, 2012 through November 6, 2012. Further, the FEA voter registration period was November 8, 2011 through March 13, 2012 and April 13, 2012 through November 6, 2012.

i) Federal Election Activity Expenses. HDP paid expenses totaling $30,576 from its non-federal account that appeared to be FEA Type II (GOTV) activity that should have been paid with 100% federal funds. Based on available documentation, it appeared these expenses pertained to various GOTV rallies. These costs included consulting services, facility and equipment rentals, food and beverages, entertainment and transportation expenses.

ii) Miscellaneous Administrative Expenses. HDP paid expenses from its non-federal account that, based on available documentation, appeared to be expenses that should have been allocated betw [illegible] the federal and non-federal accounts. The federal share of these expenses totaled $2,155. These expenses pertained to office rent, bank [illegible] office vehicle repairs and accounting services.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter at the exit conference and provid[illegible] HDP representatives schedules identifying the trans[illegible] causing the non-fede[illegible] overfunding. HDP representatives stated they w[illegible] king on getting thre[illegible] former staff to sign payroll affidavits for disbursements disclose[illegible] [illegible]ocable administrative expenses on Schedule H4.

The IAR recommended that HDP prov [illegible] tion de[illegible]ating that the expenditures above did not cause an over[illegible]fund[illegible] non-federal account of $82,722 ($49,991 + $32,7[illegible]). Absent such [illegible] IAR recommended that HDP reimburse the non-fe[illegible]t $82,722 or disclose the non-federal overfunding on Schedule D as a deb[illegible] fund[illegible] become available to satisfy the obligation.

C. Committee Respon[illegible] to Interim Audit Report

In respon[illegible] IAR re[illegible]ndation, [illegible] provided a declaration that stated several staff payroll paymen[illegible] to individuals who worked less than 25% percent of time [illegible] iven mont[illegible] tivi[illegible] tion with federal elections and federal election [illegible]ity. The Au[illegible] staff a[illegible] owledges that these payroll expenditures are allocable [illegible] Schedule H4, and adjusted the calculation for overfunding accordingly.

HDP also provi[illegible] eclaration that asserted that several expenses disallowed by the IAR were in fact [illegible] operating costs. The Audit staff acknowledges that these expenses are allocable on Schedule H4, and adjusted the calculation for overfunding accordingly.

In addition, HDP filed amended disclosure reports in response to the IAR recommendation that moved $38,251 in federal election activity expenses disclosed on Schedule H4 to Schedule H6 (allocated Levin & federal expenses). HDP provided Schedules L for Levin activity and have moved the necessary portion of allocation transfers to Schedule H5 so that these activities are properly disclosed as allocable federal election activity. The Audit staff acknowledges that the expenditures moved from Schedule H4 are expenditures for federal election activity allocable on Schedule H6, and adjusted the calculation for overfunding accordingly.

Finally, HDP objected to the inclusion of non-federal bank charges as allocable expenses. The Audit staff agrees that the non-federal bank charges are not an allocable administrative expense, and adjusted the calculation for overfunding accordingly. Based on the documentation provided in response to the IAR recommendation, the Audit revised its funding analysis and concludes the non-federal account did not overfund the federal account.