



Final Audit Report of the Commission on the Oklahoma Democratic Party¹

(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.² 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. 3)

The Oklahoma Democratic Party is a state party committee headquartered in Oklahoma City, Oklahoma. For more information, see the chart on Committee Organization, p. 3.

Financial Activity (p. 4)

• Receipts	
○ Contributions from Individuals	\$ 252,651
○ Contributions from Political Committees	144,946
○ Transfers from Affiliated/Other Party Committees	289,642
○ Offsets to Operating Expenditures	416
○ Transfers from Non-federal & Levin Funds	119,124
Total Receipts	\$ 806,779
• Disbursements	
○ Operating Expenditures	\$ 803,118
○ Transfers to Affiliated/Other Party Committees	7,000
○ Federal Election Activity	17,219
○ Other Disbursements	350
Total Disbursements	\$ 827,687
• Levin Receipts	\$54,222
• Levin Disbursements	\$63,754

Commission Findings (p.5)

- Misstatement of Financial Activity (Finding 1)
- Misstatement of Financial Activity - Levin Fund (Finding 2)
- Reporting of Debts and Obligations (Finding 3)

Additional Issue (p. 6)

- Recordkeeping for Employees

¹ On May 18, 2011, the Commission received a Statement of Organization from the Democratic Party of Oklahoma officially changing its name to Oklahoma Democratic Party.

² 52 U.S.C. §30111(b).

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Part I

Background

Authority for Audit

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

Scope of Audit

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

1. the disclosure of individual contributors' occupation and name of employer;
2. the disclosure of disbursements, debts and obligations;
3. the disclosure of expenses allocated between federal, non-federal, and Levin accounts;
4. the consistency between reported figures and bank records;
5. the completeness of records; and
6. other committee operations necessary to the review.

Commission Guidance

Request for Early Commission Consideration of a Legal Question

Pursuant to the Commission's "Policy Statement Establishing a Program for Requesting Consideration of Legal Questions by the Commission," several state party committees unaffiliated with ODP requested early consideration of a legal question raised during audits covering the 2010 election cycle. Specifically, the Commission addressed whether monthly time logs under 11 CFR §106.7(d)(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 Draft Final Audit Report of the Audit Division included a finding for Recordkeeping for Employees. During the audit, ODP materially corrected the matter by moving all payroll originally reported on Schedule H4 (Payments for Allocable expenses) to

Schedule B, Line 30b (Federal Election Activity Paid Entirely with Federal Funds) since the payroll was paid with 100 percent federal funds. The Commission did not approve by the required four votes the finding for Recordkeeping for Employees. As such, this matter is discussed in the "Additional Issue" section of the Final Audit Report of the Commission.

Audit Hearing

ODP declined the opportunity for a hearing before the Commission on the matters presented in this report.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	October 9, 1984
• Audit Coverage	January 1, 2011 - December 31, 2012
Headquarters	
Oklahoma City, Oklahoma	
Bank Information	
• Bank Depositories	One
• Bank Accounts	Three Federal; One Non-federal; One Levin
Treasurer	
• Treasurer When Audit Was Conducted	Donna Russell
• Treasurer During Period Covered by Audit	Donna Russell May 14, 2011 - Present Linda Gray Murphy March 20, 2008 - May 13, 2011
Management Information	
• Attended Commission Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity

(Audited Amounts)

Cash-on-hand @ January 1, 2011	\$ 28,041
Receipts	
○ Contributions from Individuals	252,651
○ Contributions from Political Committees	144,946
○ Transfers from Affiliated/Other Party Committees	289,642
○ Offsets to Operating Expenditures	416
○ Transfers from Non-federal & Levin Funds	119,124
Total Receipts	\$ 806,779
Disbursements	
○ Operating Expenditures	803,118
○ Transfers to Affiliated/Other Party Committees	7,000
○ Federal Election Activity	17,219
○ Other Disbursements	350
Total Disbursements	\$ 827,687
Cash-on-hand @ December 31, 2012	\$ 7,133
Levin Cash-on-hand @ January 1, 2011	\$10,705
Total Levin Receipts	\$54,222
Total Levin Disbursements	\$63,754
Levin Cash-on-hand @ December 31, 2012	\$1,173

Part III

Summaries

Commission Findings

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of ODP's reported financial activity with bank records revealed a misstatement for the beginning cash balance in 2011 and receipts and disbursements in 2011 and 2012. Beginning cash on January 1, 2011, was understated by \$7,537. For 2011, ODP understated its receipts by \$6,977 and its disbursements by \$12,759. In 2012, ODP understated its receipts by \$12,889 and its disbursements by \$10,450. Subsequent to the exit conference, ODP amended its reports which materially corrected the misstatements for 2011, but not for 2012. In response to the Interim Audit Report recommendation, ODP filed amended disclosure reports that materially corrected the misstatements for 2012.

The Commission approved a finding that ODP misstated its financial activity for calendar years 2011 and 2012. (For more detail, see p. 7.)

Finding 2. Misstatement of Financial Activity - Levin Fund

During audit fieldwork, a comparison of ODP's reported Levin activity with bank records revealed a misstatement of its cash balance, receipts and disbursements for 2011 and 2012 Levin activity. For 2011, ODP understated its Levin receipts by \$6,015 and its Levin disbursements by \$8,624. The beginning cash balance for the Levin account in 2011 was also understated by \$5,705. In 2012, ODP understated its Levin receipts by \$31,000 and its Levin disbursements by \$15,422. The ending cash balance for 2012 was overstated by \$3,984. In response to the Interim Audit Report recommendation, ODP filed amended reports; however, the amended reports did not materially correct the Levin misstatements. In response to the Draft Final Audit Report, ODP filed amended disclosure reports that materially corrected the Levin misstatements.

The Commission approved a finding that ODP misstated its Levin activity for calendar years 2011 and 2012. (For more detail, see p. 10.)

Finding 3. Reporting of Debts and Obligations

During audit fieldwork, the Audit staff determined that ODP failed to report debts and obligations owed to five vendors totaling \$56,387 on Schedule D (Debts and Obligations). Subsequent to the exit conference, ODP amended its reports which correctly disclosed \$17,953 in debts and obligations previously not reported on Schedule D. In response to the Interim Audit Report recommendation, ODP filed amended disclosure reports that materially corrected the debt reported on Schedule D.

The Commission approved a finding that ODP failed to disclose debts and obligations totaling \$56,387 on Schedule D. (For more detail, see p. 13.)

Additional Issue

Recordkeeping for Employees

During audit fieldwork, the Audit staff determined that ODP 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 originally identified payments to ODP employees totaling \$201,551, for which ODP did not maintain monthly payroll logs. This consisted of payroll which was allocated with federal and non-federal funds. There was no payroll paid exclusively with non-federal funds. Subsequent to the exit conference, ODP amended its reports to disclose \$79,437 of the employee salaries, previously reported as allocated expenses, as 100 percent federal expenses.

The Audit staff verified the change in ODP's amended reports, and in light of the Commission's guidance with respect to recordkeeping for employees paid with 100 percent federal funds and reported as such, the Audit staff concluded that no further action was necessary with respect to recordkeeping for the \$79,437 in employee salaries.

In response to the Interim Audit Report recommendation, ODP amended its reports to disclose \$111,603 of the employee salaries, previously reported as allocated expenses, as 100 percent federal expenses. The Audit staff could not identify the remaining employee salaries totaling \$10,511 (\$201,551 - \$79,437 - \$111,603) on the amended reports. ODP also stated it has implemented procedures to ensure that time sheets are maintained for any employee who is paid in whole, or in part, with non-federal funds. ODP complied with the Interim Audit Report recommendation by implementing a plan to maintain payroll logs in the future.

In response to the Draft Final Audit Report, ODP amended its reports to disclose the remaining \$10,511 of the employee salaries, previously reported as allocated expenses, as 100 percent federal expenses. As such, no further action was necessary with respect to the payroll totaling \$201, 551, reported as federal expenses and paid with 100 percent federal funds.

The Commission did not approve by the required four votes the Audit staff's recommended finding that ODP failed to maintain monthly payroll logs for the \$201,551 in payroll paid from a federal account but originally reported as allocated expenses. Pursuant to Commission Directive 70³, these expenses are discussed in the "Additional Issue" section, and the payroll expenditures of \$201,551 is not a finding. (For more detail, see p. 15.)

³ Available at http://www.fec.gov/directives/directive_70.pdf

Part IV

Commission Findings

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of ODP's reported financial activity with bank records revealed a misstatement for the beginning cash balance in 2011 and receipts and disbursements in 2011 and 2012. Beginning cash on January 1, 2011, was understated by \$7,537. For 2011, ODP understated its receipts by \$6,977 and its disbursements by \$12,759. In 2012, ODP understated its receipts by \$12,889 and its disbursements by \$10,450. Subsequent to the exit conference, ODP amended its reports which materially corrected the misstatements for 2011 but not for 2012. In response to the Interim Audit Report recommendation, ODP filed amended disclosure reports that materially corrected the misstatements for 2012.

The Commission approved a finding that ODP misstated its financial activity for calendar years 2011 and 2012.

Legal Standard

Contents of Reports. Each report must disclose:

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

Facts and Analysis

A. Facts

As part of audit fieldwork, the Audit staff reconciled ODP's reported financial activity with its bank records for 2011 and 2012. The reconciliation identified that ODP misstated its cash balance, receipts and disbursements for 2011 and 2012. The following charts outline the discrepancies between ODP's disclosure reports and its bank records, and the succeeding paragraphs explain why these discrepancies occurred.

2011 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2011	\$20,504	\$28,041	\$7,537 Understated
Receipts	\$305,062	\$312,039	\$6,977 Understated
Disbursements	\$310,126	\$322,885	\$12,759 Understated
Ending Cash Balance @ December 31, 2011	\$15,490 ⁴	\$17,195	\$1,705 Understated

The beginning cash balance was understated by \$7,537 and is unexplained but likely resulted from prior period discrepancies.

The understatement of receipts resulted from the following:

• Contributions from individuals not reported	+	\$1,765
• Transfers from Levin/Non-federal accounts not reported and amount incorrectly reported	+	5,602
• Reported contributions from individuals not supported by deposit	-	390
Net Understatement of Receipts	+	<u>\$6,977</u>

The understatement of disbursements resulted from the following:

• Bank fees, other disbursements and cash withdrawal not reported	+	\$2,443
• Payments for insurance, event expenses, phone, financial services, and taxes not reported	+	6,740
• Payments for salaries and wages not reported	+	1,591
• Contribution refunds not reported	+	5,010
• Reported payments for taxes, consultant, telephone services, and other disbursements not supported by a check or debit	-	3,025
Net Understatement of Disbursements	+	<u>\$12,759</u>

The \$1,705 understatement of the ending cash balance resulted from the misstatements described above.

2012 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2012	\$15,490	\$17,195	\$1,705 Understated
Receipts	\$481,851	\$494,740	\$12,889 Understated
Disbursements	\$494,352	\$504,802	\$10,450 Understated
Ending Cash Balance @ December 31, 2012	\$3,670 ⁵	\$7,133	\$3,463 Understated

⁴ ODP miscalculated its ending cash balance by reporting a beginning cash balance in one report different than the ending cash balance of the previous report. This created a mathematical discrepancy of \$50.

⁵ ODP miscalculated its ending cash balance by reporting a beginning cash balance in one report different than the ending cash balance of the previous report. This created a mathematical discrepancy of \$681.

The understatement of receipts resulted from the following:

• Contributions from individuals not reported	+	\$5,387
• Transfers from Non-federal account not reported	+	13,135
• Reported offsets not supported by deposit	-	6,005
• Unexplained differences	+	372
Net Understatement of Receipts	+	<u>\$12,889</u>

The understatement of disbursements resulted from the following:

• Bank fees and credit card payments not reported	+	\$4,112
• Payments for rent, insurance, event expenses, telephone services, taxes and other disbursements not reported	+	15,494
• Payments for salaries & wages not reported	+	6,272
• Contribution to a political party and travel reimbursement not reported	+	2,180
• Transfer to Non-federal account not reported	+	500
• Reported bank fees, credit card and tax payments not supported by a check or debit	-	5,495
• Reported payment for salaries and wages not supported by a check or debit	-	1,442
• Reported payments for office supplies, shipping, telephone, consulting services, and other disbursements not supported by a check or debit	-	11,171
Net Understatement of Disbursements	+	<u>\$10,450</u>

The \$3,463 understatement of the ending cash balance resulted from the misstatements described above.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the misstatements with ODP representatives at the exit conference. ODP representatives stated that they would respond after having time to review each issue. The Audit staff provided workpapers detailing all misstatements of financial activity to ODP representatives after the exit conference. Subsequent to the exit conference, ODP filed amended reports that materially corrected its financial activity for 2011. For 2012, ODP filed amended reports but did not materially correct its financial activity. The amended reports did not preclude this matter from the audit report because the amendments were filed after the notification of the audit.

The Interim Audit Report recommended that ODP amend its disclosure reports to correct the remaining misstatements noted above for 2012, and adjust the cash-on-hand balance as necessary on its most recent report, noting that the adjustment is the result of prior-period audit adjustments. The Interim Audit Report further recommended that ODP reconcile the ending cash-on-hand balance of its most recent report to identify any subsequent discrepancies that may affect the recommended adjustment.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, ODP filed amended disclosure reports for 2011 and 2012 that materially corrected the misstatements.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that ODP filed amended disclosure reports that materially corrected the misstatement of financial activity.

E. Committee Response to the Draft Final Audit Report

ODP's response to the Draft Final Audit Report provided no additional comments.

Commission Conclusion

On February 11, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended the Commission find that ODP misstated its financial activity for calendar years 2011 and 2012.

The Commission approved the Audit staff's recommendation.

Finding 2. Misstatement of Financial Activity - Levin Fund

Summary

During audit fieldwork, a comparison of ODP's reported Levin activity with bank records revealed a misstatement of its cash balance, receipts and disbursements for 2011 and 2012 Levin activity. For 2011, ODP understated its Levin receipts by \$6,015 and its Levin disbursements by \$8,624. The beginning cash balance for the Levin account in 2011 was also understated by \$5,705. In 2012, ODP understated its Levin receipts by \$31,000 and its Levin disbursements by \$15,422. The ending cash balance for 2012 was overstated by \$3,984. In response to the Interim Audit Report recommendation, ODP filed amended reports; however, the amended reports did not materially correct the Levin misstatements. In response to the Draft Final Audit Report, ODP filed amended disclosure reports that materially corrected the Levin misstatements.

The Commission approved a finding that ODP misstated its Levin activity for calendar years 2011 and 2012.

Legal Standard

Contents of Levin Reports. Each report must disclose:

- The amount of cash-on-hand for Levin funds at the beginning and end of the reporting period;
- The total amount of Levin fund receipts and disbursements (including allocation transfers) for the reporting period and for the calendar year;
- Certain transactions that require itemization on Schedule L-A (Itemized Receipts of Levin Funds) or Schedule L-B (Itemized Disbursements of Levin Funds). 11 CFR §300.36 (b)(2)(B).

Facts and Analysis

A. Facts

As part of the audit fieldwork, the Audit staff reconciled ODP's reported Levin fund financial activity with its Levin bank records for 2011 and 2012. The reconciliation identified that ODP misstated its cash balances, receipts and disbursements for 2011 and 2012. The following charts outline the discrepancies between ODP disclosure reports and its Levin bank records, and the succeeding paragraphs explain why these discrepancies occurred.

2011 Committee Levin Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2011	\$5,000	\$10,705	\$5,705 Understated
Receipts	\$17,207	\$23,222	\$6,015 Understated
Disbursements	\$20,583	\$29,207	\$8,624 Understated
Ending Cash Balance @ December 31, 2011	\$4,720 ⁶	\$4,720	\$0

The beginning cash balance was understated by \$5,705 and is unexplained but likely resulted from prior period discrepancies.

The understatement of receipts resulted from the following:

• Transfer from a Federal account not reported	+ \$1,015
• Contribution from an individual not reported	+ 5,000
Understatement of Levin-funds Receipts	+ \$6,015

The understatement of disbursements resulted from the following:

• Transfer to a Federal account not reported	+ \$5,600
• Transfer to the Non-federal account not reported	+ 2,009
• Payment to a vendor not reported	+ 1,015
Understatement of Levin-funds Disbursements	+ \$8,624

2012 Committee Levin Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2012	\$4,720	\$4,720	\$0
Receipts	\$0	\$31,000	\$31,000 Understated
Disbursements	\$19,125	\$34,547	\$15,422 Understated
Ending Cash Balance @ December 31, 2012	\$5,157 ⁷	\$1,173	\$3,984 Overstated

⁶ ODP miscalculated its ending cash balance by reporting a beginning cash balance in one report different than the ending cash balance of the previous report. This created a mathematical discrepancy of \$3,096.

⁷ ODP miscalculated its ending cash balance by reporting a beginning cash balance in one report different than the ending cash balance of the previous report. This created a mathematical discrepancy of \$19,562.

The understatement of receipts resulted from the following:

• Contributions from individuals not reported	+ \$30,000
• Receipt not reported	+ 1,000
Understatement of Levin-funds Receipts	+ <u>\$31,000</u>

The understatement of disbursements resulted from the following:

• Payments for event expenses and bank fees not reported	+ \$10,015
• Transfers to a Federal account not reported	+ 14,969
• Reported transfer to the Federal account reported twice and not supported by a check or debit	- 4,562
• Reported payment to a vendor reported twice and not supported by a check or debit	- 5,000
Net Understatement of Levin-funds Disbursements	+ <u>\$15,422</u>

The \$3,984 overstatement of the ending cash balance resulted from the misstatements described above.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the Levin fund misstatements with ODP representatives at the exit conference. ODP representatives stated that they would respond after having time to review each issue. The Audit staff provided workpapers detailing the misstatements of Levin fund financial activity to ODP representatives after the exit conference.

The Interim Audit Report recommended that ODP amend its disclosure reports to correct the Levin misstatements noted above, and adjust the Levin cash balance as necessary on its most recent report, noting that the adjustment is the result of prior-period audit adjustments. The Interim Audit Report further recommended that ODP reconcile the Levin cash balance on its most recent report to identify any subsequent discrepancies that could affect the recommended adjustment.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, ODP filed amended disclosure reports; however, ODP did not materially correct any Levin activity. The amended disclosure reports only included Schedule L (Aggregation Page: Levin Funds) with zero balances. ODP did not file any Schedule L-A (Itemized Receipts of Levin Funds) or Schedule L-B (Itemized Disbursements of Levin Funds), as required to correct the Levin misstatements. As such, ODP did not fully comply with the Interim Audit Report recommendation.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that ODP filed amended disclosure reports but did not materially correct the misstatement of the Levin activity.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, ODP filed amended disclosure reports that materially corrected the Levin misstatements.

Commission Conclusion

On February 11, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended the Commission find that ODP misstated its Levin activity for calendar years 2011 and 2012.

The Commission approved the Audit staff's recommendation.

Finding 3. Reporting of Debts and Obligations

Summary

During audit fieldwork, the Audit staff determined that ODP failed to report debts and obligations owed to five vendors totaling \$56,387 on Schedule D (Debts and Obligations). Subsequent to the exit conference, ODP amended its reports which correctly disclosed \$17,953 in debts and obligations previously not reported on Schedule D. In response to the Interim Audit Report recommendation, ODP filed amended disclosure reports that materially corrected the debt reported on Schedule D.

The Commission approved a finding that ODP failed to disclose debts and obligations totaling \$56,387 on Schedule D.

Legal Standard

A. Continuous Reporting Required. A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 52 U.S.C. §30104(b)(8) (formerly 2 U.S.C. §434(b)(8)), 11 CFR §§104.3(d) and 104.11(a).

B. Itemizing Debts and Obligations.

- Once it has been outstanding 60 days from the date incurred, a debt of \$500 or less must be reported on the next regularly scheduled report.
- A debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed disbursement records and disclosure reports for proper reporting of debts and obligations. This review identified debts owed to five vendors totaling \$56,387⁸ that ODP failed to report on Schedule D. Of these debts, \$24,848 was owed to a credit card company; \$17,953 was owed to two vendors relative to catering charges for a single event; \$7,188 was owed to a printing company; and \$6,398 was owed for the rental of a facility for an event in April 2012. These debts were outstanding for a range of 45 to 227 days from invoice to payment date. As of December 31, 2012, \$24,708 of this debt remained outstanding. ODP did not report any debt on Schedule D during the audit period.

⁸ Each debt in this amount was counted once, even if it required disclosure over multiple periods. In order for ODP to correctly file amended reports, schedules were provided that included the amount of each debt required to be reported for each reporting period.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the reporting of debts and obligations with ODP representatives and provided schedules detailing the transactions requiring disclosure. ODP representatives had no comments on this matter. Subsequent to the exit conference, ODP filed amended reports to correctly disclose \$17,953 in debts and obligations on Schedule D; thus leaving \$38,434 to be itemized on Schedule D. The amended reports did not preclude this matter from the audit report because the amendments were filed after notification of the audit.

The Interim Audit Report recommended that ODP provide documentation demonstrating that the remaining \$38,434 in debts and obligations discussed above did not require reporting on Schedule D.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, ODP filed amended disclosure reports that materially corrected the committee's disclosure of debts and obligations. ODP reported a total of \$43,490 of the \$56,387 in debts and obligations on Schedule D.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that ODP filed amended disclosure reports that materially corrected the debts and obligations.

E. Committee Response to the Draft Final Audit Report

ODP's response to the Draft Final Audit Report provided no additional comments.

Commission Conclusion

On February 11, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended the Commission find that ODP failed to disclose debts and obligations totaling \$56,387 on Schedule D.

The Commission approved the Audit staff's recommendation.

Part V

Additional Issue

Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff determined that ODP 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 originally identified payments to ODP employees totaling \$201,551, for which ODP did not maintain monthly payroll logs. This consisted of payroll which was allocated with federal and non-federal funds. There was no payroll paid exclusively with non-federal funds. Subsequent to the exit conference, ODP amended its reports to disclose \$79,437 of the employee salaries, previously reported as allocated expenses, as 100 percent federal expenses.

The Audit staff verified the change in ODP's amended reports, and in light of the Commission's guidance with respect to recordkeeping for employees paid with 100 percent federal funds and reported as such, the Audit staff concluded that no further action was necessary with respect to recordkeeping for the \$79,437 in employee salaries.

In response to the Interim Audit Report recommendation, ODP amended its reports to disclose \$111,603 of the employee salaries, previously reported as allocated expenses, as 100 percent federal expenses. The Audit staff could not identify the remaining employee salaries totaling \$10,511 (\$201,551 - \$79,437 - \$111,603) on the amended reports. ODP also stated it has implemented procedures to ensure that time sheets are maintained for any employee who is paid in whole, or in part, with non-federal funds. ODP complied with the Interim Audit Report recommendation by implementing a plan to maintain payroll logs in the future.

In response to the Draft Final Audit Report, ODP amended its reports to disclose the remaining \$10,511 of the employees salaries, previously reported as allocated expenses, as 100 percent federal expense. As such, no further action was necessary with respect to the payroll totaling \$201, 551, reported as federal expenses and paid with 100 percent federal funds.

The Commission did not approve by the required four votes the Audit staff's recommended finding that ODP failed to maintain monthly payroll logs for the \$201,551 in payroll paid from a federal account but originally reported as allocated expenses. Pursuant to Commission Directive 70⁹, these expenses are discussed in the "Additional Issue" section, and the payroll expenditures of \$201,551 is not a finding.

⁹ Available at http://www.fec.gov/directives/directive_70.pdf

Legal Standard

Maintenance of Monthly Logs. Party committees must keep a monthly log of the percentage of time each employee spends in connection with a federal election.

Allocations of salaries, wages, and fringe benefits are to be undertaken as follows:

- employees who spend 25 percent or less of their compensated time in a given month on federal election activities must be paid either from the federal account or be allocated as administrative costs;
- employees who spend more than 25 percent of their compensated time in a given month on federal election activities must be paid only from a federal account; and,
- employees who spend none of their compensated time in a given month on federal election activities may be paid entirely with funds that comply with state law. 11 CFR §106.7(d)(1).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed disbursements for payroll. ODP did not maintain any monthly payroll logs or equivalent records to document the percentage of time each employee spent in connection with a federal election. These logs are required to document the proper allocation of federal and non-federal funds used to pay employee salaries and wages. For 2011 and 2012, ODP did not initially maintain monthly logs for \$201,551¹⁰ in payroll.¹¹ This amount includes payroll for employees initially reported on Schedule H4 (Payments for Allocable Expenses) and paid with an allocation of federal and non-federal funds during the same month. There was no payroll paid exclusively with non-federal funds.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the recordkeeping requirement with ODP representatives during the audit fieldwork and at the exit conference. ODP representatives asked questions for clarification and said they would respond after having time to review this issue. Subsequent to the exit conference, ODP representatives responded that these payroll expenditures were erroneously reported as shared federal/non-federal activity, instead of federal activity only. Further, ODP representatives stated that they plan to correct this error by comprehensively amending ODP's reports and disclosing these expenditures as strictly federal activity. Subsequent to the exit conference, ODP filed amended reports to disclose \$79,437 in payroll on Schedule B, Line 30b (Federal Election Activity Paid Entirely with Federal Funds); thus, leaving \$122,114 still on Schedule H4. The Audit staff verified that ODP had not made the transfers from its non-federal account to cover the \$79,437 now reported as 100 percent federal election activity. As such, no further action was recommended with respect to the payroll totaling

¹⁰ This amount includes unreported salary payments totaling \$7,172 to employees that also received other salary payments during the audit period that were reported on Schedule H4. This amount is \$1,111 higher than the \$200,440 salary presented in LRA 978 due to calculations based on salary transactions reported on Schedule H4 rather than salary transactions in ODP's database.

¹¹ 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 are stated net of taxes and fringe benefits.

\$79,437 paid with 100 percent federal funds.¹² The amended reports did not preclude this matter from the audit report because the amendments were filed after notification of the audit.

The Interim Audit Report recommended that ODP 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 for the remaining \$122,114 in payroll reported on Schedule H4.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, ODP filed amended reports disclosing \$111,603 in employee salaries, previously reported as allocated, on Schedule B as 100 percent federal expenses. ODP's amended reports do not disclose the remaining \$10,511 (\$201,551 - \$79,437 - \$111,603) in salaries. This amount includes unreported salaries totaling \$6,272 for calendar year 2012 from Finding 1 on page 7, and \$4,239 in employee salaries that was previously reported on Schedule H4. ODP provided no additional explanation on the amended reports. The Audit staff verified that ODP had not made the transfers from its non-federal account to cover the payroll now reported as 100 percent federal election activity.

In addition, ODP stated that it has implemented procedures to ensure that time sheets are maintained for any employee who is paid in whole, or in part, with non-federal funds. As such, ODP has complied with the Interim Audit Report recommendation by implementing a plan to maintain monthly payroll logs in the future.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that ODP filed amended reports disclosing \$111,603 in payroll, paid with 100 percent federal funds, as 100 percent federal expenses. ODP also stated it implemented procedures for maintaining monthly time sheets for those employees paid in whole, or in part, with non-federal funds.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, ODP filed amended reports disclosing the entire payroll of \$201,551 as federal election activity, previously reported on Schedule H4. The Audit staff verified that ODP had not made the transfers from its non-federal account to cover the \$201,551 now reported as 100 percent federal election activity on Schedule B. As such, no further action was necessary with respect to the payroll totaling \$201,551 reported as federal expenses and paid with 100 percent federal funds.

Commission Conclusion

On February 11, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that ODP failed to maintain monthly payroll logs to document the percentage of time each employee spent in connection with a federal election totaling \$201,551.

¹² See Part I, Background, Commission Guidance, Request for Early Commission Consideration of a Legal Question, Page 1.

The Commission did not approve by the required four votes the Audit staff's recommended finding that ODP failed to maintain monthly payroll logs for the \$201,551 in payroll paid exclusively from a federal account but originally reported as allocated activity. Some Commissioners voted to approve the Audit staff's recommendation. Other Commissioners did not approve the Audit staff's recommendation, citing the November 28, 2012 Commission vote of 5-1 in which the Commission decided that 11 CFR §106.7(d)(1) does require committees to keep a monthly log for employees paid exclusively with federal funds, but exercising its prosecutorial discretion, the Commission decided not to pursue recordkeeping violations for employees paid only with 100 percent federal funds and reported as such.

These expenses are discussed in the "Additional Issue" section pursuant to Commission Directive 70.¹³

¹³ Available at http://www.fec.gov/directives/directive_70.pdf.