



Draft Final Audit Report of the Audit Division on the Utah Republican 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. The Commission determines if a committee complied with the limitations, prohibit disclosure 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 Utah Republican Party is a state party committee headquartered in Salt Lake City, Utah. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

| | |
|---|---------------------|
| • Receipts | |
| ○ Contributions from Individuals and Political Committees | \$ 753,650 |
| ○ Transfers from Affiliated and Political Committees | 1,119,025 |
| ○ Non-Federal | 880,121 |
| ○ Other Receipts | 114,894 |
| Total Receipts | \$ 2,867,690 |
| • Disbursements | |
| ○ Administrative Expenditures | \$ 2,388,485 |
| ○ Federal Election Activity | 390,806 |
| ○ Transfers to Affiliated and Other Political Committees | 9,152 |
| ○ Other Disbursements | 38,475 |
| Total Disbursements | \$ 2,826,918 |

Findings and Recommendations (p. 3)

- Receipt of Prohibited Contributions (Finding 1)
- Receipt of Contributions that Exceed Limits (Finding 2)
- Misstatement of Financial Activity (Finding 3)
- Recordkeeping for Employees (Finding 4)
- Reporting of Debts and Obligations (Finding 5)
- Apparent Excessive Contribution – Staff Advance (Finding 6)

¹ 52 U.S.C. §30111(b).

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(January 1, 2011 - December 31, 2012)



Table of Contents

| | Page |
|--|-------------|
| Part I. Background | |
| Authority for Audit | 1 |
| Scope of Audit | 1 |
| Commission Guidance | 1 |
| Part II. Overview of Committee | |
| Committee Organization | 2 |
| Overview of Financial Activity | 2 |
| Part III. Summaries | |
| Findings and Recommendations | 3 |
| Part IV. Findings and Recommendations | |
| Finding 1. Receipt of Prohibited Contributions | 5 |
| Finding 2. Receipt of Contributions that Exceed: | 8 |
| Finding 3. Misstatement of Financial Activity | 10 |
| Finding 4. Recordkeeping for Employees | 13 |
| Finding 5. Report of Debts and Obligations | 14 |
| Finding 6. Apparent Excessive Contributions in Advance | 18 |

Part I Background

Authority for Audit

This report is based on an audit of the Utah Republican Party, 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 receipt of excessive contributions and loans;
2. the receipt of contributions from prohibited sources;
3. the disclosure of contributions received;
4. the disclosure of disbursements, debts and liabilities;
5. the disclosure of expenses allocated between federal and non-federal accounts;
6. the consistency between reported figures and affidavits;
7. the completeness of recordkeeping;
8. other committee activities necessary to the review.

Commission Guidance

Request for 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 the Utah Republican Party (URP) 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 Audit staff informed URP 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 URP employees paid with 100 percent federal funds and reported as such.

Part II

Overview of Committee Committee Organization

| | |
|--|---|
| Important Dates | |
| • Date of Registration | March 16, 1978 |
| • Audit Coverage | January 1, 2011 - December 31, 2012 |
| Headquarters | Salt Lake City, Utah |
| Bank Information | |
| • Bank Depositories | One |
| • Bank Accounts | Four Federal and Two Non-Federal |
| Treasurer | |
| • Treasurer When Audit Was Conducted | Dave Crittenden (9/20, /05/14) Cameron Robinson (5/0 sent) |
| • Treasurer During Period Covered by Audit | Mike Guley |
| Management Information | |
| • Attended Commission Campaign Finance Seminar | Yes |
| • Who Handled Accounting and Recordkeeping Tasks | Off and Treasurer |

Overview of Financial Activity (Audited Amounts)

| | |
|--|--------------------|
| Cash-on-hand @ January 1, 2011 | \$ 421 |
| Receipts | |
| o Contributions from Individuals and Political Committee | 753,650 |
| o Transfers from Related and Other Political Committees | 1,119,025 |
| o Transfers from Non-Federal Accounts | 880,121 |
| o Other Receipts | 114,894 |
| Total Receipts | \$2,867,690 |
| Disbursements | |
| o Operating Expenditures | 2,388,485 |
| o Federal Election Activity | 390,806 |
| o Transfers to Affiliates and Other Political Committees | 9,152 |
| o Other Disbursements | 38,475 |
| Total Disbursements | \$2,826,918 |
| Cash-on-hand @ December 31, 2012 | \$ 41,193 |

Part III

Summaries

Findings and Recommendations

Finding 1. Receipt of Prohibited Contributions

During audit fieldwork, a review of contributions revealed that URP deposited five apparent prohibited contributions totaling \$23,600 into its federal account. URP transferred \$23,600 into a non-federal account, albeit in an untimely manner, to correct this matter. In response to the Interim Audit Report recommendation, URP did not provide any documentation to demonstrate the funds were transferred within thirty days of the date on which it discovered the contributions were prohibited. URP's counsel stated that URP has long since remedied the issue identified for this finding. The Audit staff concludes that URP untimely resolved prohibited contributions totaling \$23,600. (For more detail, see p. 5)

Finding 2. Receipt of Contributions That Exceeds Limits

During audit fieldwork, the Audit staff identified apparent excessive contributions from three individuals that exceeded contribution limits by \$42,925. These errors occurred as a result of URP not resolving the excessive portion of contributions by issuing a refund to the contributor or making a transfer to a non-federal account in a timely manner. Subsequently, URP transferred the excessive portion of the contributions to a non-federal account, albeit untimely. In response to the Interim Audit Report recommendation, URP did not provide any documentation to demonstrate the funds were transferred within sixty days of the date on which it discovered the excessive contributions. URP's counsel stated that URP has long since remedied the issue identified for this finding. The Audit staff concludes that URP untimely resolved excessive contributions totaling \$42,925. (For more detail, see p. 6)

Finding 3. Misstatement of Financial Activity

During audit fieldwork, a comparison of URP's reported financial activity with its bank records revealed a misstatement of financial activity for receipts in 2011 totaling \$107,013 and an understated ending cash-on-hand balance totaling \$10,028. In addition, URP had a misstatement of receipts and disbursements for 2012. In 2012, URP understated its receipts and disbursements by \$114,582 and \$96,176, respectively. In response to the Interim Audit Report recommendation, URP amended its disclosure reports to materially correct the misstatements for both 2011 and 2012 reports. (For more detail, see p. 10)

Finding 4. Recordkeeping for Employees

During audit fieldwork, the Audit staff identified that URP 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 URP employees totaling \$285,242 for which URP did not maintain monthly payroll logs. This consisted of \$269,776 for which payroll was allocated with federal and non-federal funds, and \$15,466 for which payroll was exclusively paid with non-federal funds. In response to the Interim Audit Report recommendation, URP's counsel stated that URP has long since remedied the issue identified for this finding. URP has complied with the Interim Audit Report recommendation by implementing a plan to maintain monthly payroll logs in the future.

(For more detail, see p. 13)

Finding 5. Reporting of Debts and Obligations

During audit fieldwork, the Audit staff noted that URP failed to disclose debts and obligations to five vendors and one staff member totaling \$205,323 on Schedule D (Debts and Obligations). In response to the Interim Audit Report recommendation, URP filed amended reports to disclose debts and obligations regarding the vendors totaling \$101,710.79. However, URP did not disclose the debt totaling \$94,132 for the staff member because it disagrees that these items should be considered as debts. As a result, URP did not materially correct the reporting of debts and obligations.

(For more detail, see p. 14)

Finding 6. Apparent Excessive Contribution-Staff Advance

One URP staff member received reimbursements for credit card expenditures totaling \$46,904 that appear to have been reimbursed untimely. URP did not provide the staff member's credit card billing statements to support that reimbursements were made within 60 days after the closing of the billing statement. In response to the Interim Audit Report recommendation, URP stated it strongly disagrees with this assertion because URP was not aware of the reimbursable expenses when they were incurred. URP did not provide any documentation to demonstrate the reimbursements were made within the proper time limitations. As a result of the \$46,904 untimely reimbursements to the staff member, the Audit staff considered \$28,637 as excessive contributions from the staff member until the staff member was reimbursed. No further action will be taken since the staff member was eventually reimbursed for the expenses.

(For more detail, see p. 18)

Part IV

Findings and Recommendations

Finding 1. Receipt of Prohibited Contributions

Summary

During audit fieldwork, a review of contributions revealed that URP deposited five apparent prohibited contributions totaling \$23,600 into its federal account. URP transferred \$23,600 into a non-federal account, albeit in an timely manner, to correct this matter. In response to the Interim Audit Report recommendation, URP did not provide any documentation to demonstrate the funds were transferred within thirty days of the date on which it discovered the contributions were prohibited. URP's counsel stated that URP has long since remedied the issue identified for this finding. The Audit staff concludes that URP untimely resolved prohibited contributions totaling \$23,600.

Legal Standard

- A. Receipt of Prohibited Corporate Contributions.** Political committees may not accept contributions from the general treasury funds of corporations. This prohibition applies to any type of corporations including a non-stock corporation, as incorporated membership organization, and an unincorporated membership organization, and an incorporated cooperative. 52 U.S.C. §30114.
- B. Receipt of Prohibited Contributions – General Prohibition.** Candidates and committees may not accept contributions (in any form of money, in-kind contributions or loans):
1. In-kind contributions;
 2. From the following prohibited sources:
 - Corporations (includes any incorporated organization, including a non-stock corporation, an unincorporated membership organization, and an incorporated cooperative);
 - Labor Organizations; or
 - National Banks;
 3. Federal Government Contractors (including partnerships, individuals, and sole proprietors who have contracts with the federal government); and
 4. 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)). 52 U.S.C. §§30118, 30119, 30121, and 30122.
- C. Questionable Contributions.** If a committee receives a contribution that appears to be prohibited (a questionable contribution), it must follow the procedures below:

1. Within 10 days after the treasurer receives the questionable contribution, the committee must either:
 - Return the contribution to the contributor without depositing it; or
 - Deposit the contribution (and follow the steps below). 11 CFR §103.3(b)(1).
2. If the committee deposits the questionable contribution, it may not spend the funds and must be prepared to refund them. It must therefore maintain sufficient funds to make the 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 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. 11 CFR §103.3(b)(1).
5. Within these 30 days, the committee must:
 - Confirm the legality of the contribution; or
 - Refund the contribution to the contributor. If the committee does not make the refund on the report covering the period of the receipt of the contribution, the committee must make the refund within 30 days of the receipt of the contribution. 11 CFR §103.3(b)(1).

D. Federal v. Nonfederal Account. The federal account may contain only those funds that are permitted 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 from prohibited persons, organizations, and labor organizations. 11 CFR 102.5 (a)(1)(i) and (a)(1)(ii).

E. Discovery of Prohibited Contribution. If the treasurer in exercising his or her responsibilities under 11 CFR 103.3(b) determined that at the time a contribution was received it did not appear to be made by a corporation, labor organization, national or Federal contractor, or made in the name of another, but later discovered that it is illegal based on new evidence not available to the political committee at the time of receipt and deposit, the treasurer shall refund the contribution to the contributor within thirty days of the date on which the illegality is discovered. If the political committee does not have sufficient funds to refund the contribution at the time of the illegality is discovered, the political committee shall make the refund from the next funds it receives. 11 CFR 103.3(b)(2).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed contributions to URP from other political committees and identified five contributions totaling \$23,600 from apparent prohibited sources. Each of these contributions appeared to be from corporations; however, the Audit staff could not verify the corporate tax status with the Utah Secretary of State. It is noted that the state of Utah allows unlimited contributions from corporations. In accordance with 11 CFR §103.3(b)(4), URP deposited these questionable funds into its federal account and maintained sufficient federal funds to refund them.

Prior to notification of the audit, URP realized the questionable contributions were in fact prohibited contributions that were mistakenly deposited into the federal account and subsequently transferred \$20,000 of the \$23,600 in prohibited contributions to a non-federal account. The transfer was made more than thirty days from disclosure of the contributions were prohibited pursuant to 11 CFR §103.3(b)(4). Therefore, at the conclusion of audit fieldwork, the \$20,000 transfer was considered untimely resolved and the amount of prohibited contributions totaling \$3,600 remained unresolved for two of the contributors.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with URP representatives during the exit conference and provided a list of prohibited contributions identified in the review. URP representatives stated that one of the prohibited contributions had already been resolved and that supporting documents have already been provided to the Audit staff.

In response to the Audit staff's recommendation, URP representatives reiterated that a \$20,000 transfer had already been made to a non-federal account to resolve three prohibited contributions. For the remaining prohibited contributions, URP stated it would disgorge the \$3,600 at its earliest opportunity to comply with the Audit staff's recommendation. URP transferred the remaining \$3,600 prohibited contributions from the federal account to a non-federal account on August 11, 2015. The transfers, totaling \$23,600, were untimely.

The Interim Audit Report recommended URP demonstrate that transfers totaling \$23,600 to resolve the impermissible contributions were made within thirty days of the date on which it discovered the contributions were prohibited. Absent such a demonstration, the Audit staff would conclude that URP transferred the prohibited contributions totaling \$23,600 in an untimely manner.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, URP's counsel stated that URP has long since remedied the issue identified for this finding. URP did not provide any documentation to demonstrate the funds were transferred within thirty days of the date on

which it discovered the contributions were prohibited. The Audit staff concludes that URP untimely resolved prohibited contributions totaling \$23,600

Finding 2. Receipt of Contributions that Exceeds Limits

Summary

During audit fieldwork, the Audit staff identified apparent excessive contributions from three individuals that exceeded contribution limits by \$42,925. These errors occurred as a result of URP not resolving the excessive portion of the contributions by issuing a refund to the contributor or making a transfer to a non-federal account in a timely manner. Subsequently, URP transferred the excessive portion of the contributions to a non-federal account, albeit untimely. In response to the Internal Control Report recommendation, URP did not provide any documentation to demonstrate the funds were transferred within 60 days of receiving the excessive contributions. URP's counsel stated that URP has long since remedied the issue identified for this finding. The Audit staff concludes that URP untimely resolved excessive contributions totaling \$42,925.

Legal Standard

A. Party Committee Limits. For the 2012 election cycle, a party committee may not receive more than a total of \$10,000 per year from any one contributor. 52 U.S.C. §30116(a)(1)(D) and 11 CFR §110.9.

B. Handling Contributions That Appear Excessive.

If a contribution that appears excessive, the committee must either:

1. Return the questionable check to the donor; or
2. Deposit the check into its federal account and:
 - Keep enough money in the account to cover all potential refunds;
 - Keep the contribution until the contribution may be illegal;
 - Include the contribution on Schedule A if the contribution has to be itemized before its legal establishment;
 - Seek a reattribution of the excessive portion, following the instructions provided in Commission regulations (see below for explanation of reattribution); and
 - If the committee does not receive a proper reattribution within 60 days after receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §§103.3(b)(3),(4) and (5) and 110.1(k)(3)(ii)(B).

C. Joint Contributions. Any contribution made by more than one person (except for a contribution made by a partnership) must include the signature of each contributor on the check or in a separate writing. A joint contribution is attributed equally to each donor unless a statement indicates that the funds should be divided differently. 11 CFR §110.1(k)(1) and (2).

D. Reattribution of Excessive Contributions. Commission regulations permit committees to ask donors of excessive contributions whether they had intended their contribution to be a joint contribution from more than one person and whether they would

like to *reattribute* the excess amount to the other contributor. The committee must inform the contributor that:

1. The reattribution must be signed by both contributors;
2. The reattribution must be received by the committee within 60 days after the committee received the original contribution; and
3. The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper reattribution or refund the excessive portion to the donor. 11 CFR §§103.3(b)(3) and 110.1(k)(3)(ii)(B). Further, a political committee must retain written records concerning the reattribution in order for it to be effective. 11 CFR §110.1(l)(5).

Facts and Analysis

A. Facts

The Audit staff's review of contributions indicated that URP deposited an excessive contributions from three individuals totaling \$42,925 into its federal account. These excessive contributions were a result of URP not funding or transferring the excessive portion to a non-federal account in a timely manner. URP did maintain sufficient funds in its federal accounts to make the refund during the audit cycle. The three individuals each made the contributions in 2012 with checks imprinted with single account numbers. It is unclear if the contributors intended their contributions to be for the URP's federal or non-federal accounts.

Prior to notification of the audit, URP realized the contributions were excessive. URP reported the \$42,925 federal contributions on Schedules A as well as debt to the non-federal account on Schedule B. To resolve the excessive portions, URP subsequently transferred the \$42,925 to a non-federal account in January and April 2014. The transfers were required to be made within 60 days of receipt of the contributions and were considered untimely.

B. Internal Audit Report and Audit Division Recommendation

The Audit staff discussed this matter at the exit conference and provided URP representatives with a schedule of the apparent excessive contributions. URP representatives stated the contributions were deposited into the federal account but should have been deposited into a non-federal account. Once discovered, URP reported the transactions as debt owed to a non-federal account until the transfers were made. URP representatives added that documentation had already been provided to the Audit staff.

In response to the exit conference, URP representatives stated they have already taken corrective action and do not believe any further remedial measures are needed at this time. Supporting documentation was also provided. The Audit staff acknowledges the subsequent transfers totaling \$42,925 to a non-federal account as a remedy for the excessive amount was made in an untimely manner.

The Interim Audit Report recommended URP demonstrate that the funds were transferred timely (within 60 days of receiving the excessive contribution). Absent such a demonstration, the Audit staff would conclude that URP transferred the \$42,925 excessive contributions in an untimely manner.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, URP's counsel stated that URP has long since remedied the issue identified for this finding. URP did not provide any documentation demonstrating the funds were transferred within 60 days of receiving the excessive contributions. The Audit staff concludes that URP untimely resolved excessive contributions totaling \$42,925.

Finding 3. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of URP's reported financial activity with its bank records revealed a misstatement of financial activity receipts in 2011 totaling \$107,013 and an overstated ending cash-on-hand balance totaling \$10,028. In addition, URP had a misstatement of receipts and disbursements for 2012. In 2012, URP understated its receipts and disbursements by \$14,582 and \$6, respectively. In response to the Interim Audit Report recommendation, URP updated its disclosure reports to materially correct the misstatements for 2011 and 2012 reports.

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 during 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 URP's reported financial activity with its bank records for 2011 and 2012. For the 2011 bank reconciliation, the Audit staff identified a misstatement of receipts and of the ending cash-on-hand balance. For the 2012 bank reconciliation, URP understated both its receipts and disbursements. The following charts detail the discrepancies between URP's disclosure reports and its bank records, and the succeeding paragraphs explain why the discrepancies occurred.

| 2011 Committee Activity | | | |
|---|-----------------|---------------------|------------------------|
| | Reported | Bank Records | Discrepancy |
| Beginning Cash Balance @ January 1, 2011 | \$183 | \$421 | \$238 Understated |
| Receipts | \$542,049 | \$532,991 | \$9,058 Overstated |
| Disbursements | \$537,131 | \$538,339 | \$1,208 Understated |
| Ending Cash Balance @ December 31, 2011 | \$5,101 | (\$4,927) | \$10,028 Overstated |

Receipts in 2011 were overstated by \$9,058. However, when evaluating the identified errors, regardless of whether the errors were positive or negative (absolute value), the receipts were misstated by \$107,013. In addition, the \$10,028 overstatement of ending cash-on-hand balance resulted from the following adjustments that should be made to correct the reporting of receipts totaling \$107,013:

| | |
|--|--------------------------|
| • Transfers from non-federal accounts, over reported | \$36,301 |
| • Transfers from non-federal accounts, not reported | 49,026 |
| • Contributions from individuals, not reported | 25 |
| • Contributions over reported (not supported) | 15,500 |
| • Unitemized contributions, over reported | 6,161 |
| Sum of Reporting Adjustments | <u>\$ 107,013</u> |

| 2012 Committee Activity | | | |
|---|-----------------------|---------------------|-------------------------------------|
| | Reported | Bank Records | Discrepancy |
| Beginning Cash Balance @ January 1, 2012 | \$5,101 | (\$4,927) | \$10,028 Overstated |
| Receipts | \$2,220,117 | \$2,334,699 | \$114,582 Understated |
| Disbursements | \$2,192,403 | \$2,288,579 | \$96,176 Understated |
| Ending Cash Balance @ December 31, 2012 | \$32,816 ² | \$41,193 | \$8,377 ³ Understated |

The understatement of receipts resulted from the following:

| | |
|---|----------|
| • Transfers from non-federal accounts, over reported | (20,584) |
| • Transfer from non-federal accounts, not reported | 133,058 |
| • Contributions from political committees, individuals & refunds not reported | 66,758 |
| • Contributions from individuals and political committees | |

² This total does not foot due to dollar amount rounding.

³ This total does not foot due to dollar amount rounding.

| | |
|---|--------------------------|
| over reported | (15,668) |
| • Unitemized contributions, over reported | (11,351) |
| • Unexplained differences | (37,631) |
| Net Understatement of Receipts | <u>\$ 114,582</u> |

The understatement of disbursements resulted from the following:

| | |
|--|------------------------|
| • Payroll and payroll taxes, not reported | \$48,105 |
| • Bank fees, not reported | 1,387 |
| • Vendor payments, transfers to the non-federal account, and other disbursements, not reported | 75,201 |
| • Bank fees, over reported | (5,887) |
| • Operating disbursements, over reported | (2,695) |
| • Federal Election Activity, over reported | (1,173) |
| • Transfers to affiliated/other party committees, over reported | (904) |
| • Unexplained differences | (17,858) |
| Net Understatement of Disbursements | <u>\$96,176</u> |

The \$8,377 understatement of the ending cash-on-hand balance resulted from the misstatements described above.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with URP representatives at the exit conference and provided supporting schedules of the misstatements. Representatives asked questions for clarification and stated they may amend their reports if they determine the supporting schedules provided by the Audit staff are correct.

In response to the exit conference, URP representatives stated they will amend the reports "at a time the Commission instructs" in accordance with the Audit Division's instructions.

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

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, URP amended its disclosure reports to materially correct the misstatements for both 2011 and 2012 reports.

Finding 4. Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff identified that URP 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 URP employees totaling \$285,242 for which URP did not maintain monthly payroll logs. This consisted of \$269,776 for which payroll was allocated with federal and non-federal funds, and \$15,466 for which payroll was exclusively paid with non-federal funds. In response to the Interim Audit Report recommendation, URP's counsel stated that URP has long since remedied the issue identified for this finding. URP has complied with the Interim Audit Report recommendations by implementing a plan to maintain monthly payroll logs in the future.

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 must 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 from the federal account or be allocated as administrative expenses;
- 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 more than 25 percent of their compensated time in a given month on federal election activities must be paid entirely with funds that comply with state law. 11 CFR §106.7(a)

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed disbursements for payroll. URP did not maintain 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 allocation of federal and non-federal funds used to pay employee salaries and wages. For 2011 and 2012, URP did not maintain monthly logs for \$285,242⁴ in payroll. This amount includes payroll paid as follows to URP employees.

1. Employees reported on Schedule H4(Shared Federal/Non-Federal Activity) and paid with a mixture of federal and non-federal funds during the same month (totaling \$269,776);
2. Employees reported on Schedule H4 and also paid with both a mixture of federal and non-federal funds and exclusively non-federal funds during the same month (totaling \$962); and

⁴ 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.

3. Employees paid exclusively with non-federal funds in a given month and not reported by URP (totaling \$14,504).

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the recordkeeping requirement with URP representatives during the exit conference. URP representatives stated they believed the payroll was allocated correctly. URP has not located any payroll logs and noted that the plan moving forward is to keep payroll logs.

In response to the exit conference, URP representatives stated that the “[p]arty undertook efforts to ensure that staff time and other expenses were properly allocated between its federal and non-federal accounts. The Party did not however maintain monthly payroll logs during the 2012 election cycle.” URP representatives stated they intend to maintain such payroll logs in the future.

URP submitted an affidavit from the executive director during 2011-2012 election cycle stating that identified employees did not spend more than 25 percent of compensated work time on activities in connection with the federal election. The affidavit further states that the executive director also did not spend more than 25 percent of his time on activities in connection with a federal election.

The affidavit provided by URP does not constitute a recordkeeping finding because it does not document the time an employee spent on activities in connection with a federal election.

The Interim Audit Report recommended that URP provide evidence that it maintained monthly time logs to determine the percentage of time an employee spent in connection with a federal election. URP intended a plan to maintain monthly payroll logs in the future.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, URP’s counsel stated that URP has had the issue remedied and is satisfied for this finding. Again, in response to the exit conference, URP representatives stated they did not maintain monthly payroll logs but intend to maintain monthly payroll logs in the future. As such, URP has complied with the Interim Audit Report recommendation by implementing a plan to maintain monthly payroll logs.

Finding 5. Report of Debts and Obligations

Summary

During audit fieldwork, the Audit staff noted that URP failed to disclose debts and obligations to five vendors and one staff member totaling \$205,323 on Schedule D (Debts and Obligations). In response to the Interim Audit Report recommendation, URP filed amended reports to disclose debts and obligations regarding the five vendors totaling \$101,710.79. However, URP did not disclose the debt totaling \$94,132 for the staff

member because it disagrees that these items should be considered as debt. As a result, URP did not materially correct the reporting of debts and obligations.

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) and 11 CFR §§104.3(d) and 104.11(a).

B. Separate Schedules. A political committee must file separate schedules for debts owed by the committee and debts owed to the committee, together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).

C. Itemizing Debts and Obligations.

- A debt of \$500 or less must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports 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(d)

D. Advances by Committee Staff and Other Individuals

- 1. Scope.** This section applies to individuals who are acting as commercial vendors. Individuals who are acting as vendors shall follow the requirements of 11 CFR §§116.3 and 116.5.
- 2. The treatment of 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 political committee is a contribution unless the amount of the payment is \$100.79, it shall be considered a contribution if the individual unless-
 - a) 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).
4. **Settlement or forgiveness of the debt.** The individual and political committee may agree to the total forgiveness of the debt (see 11 CFR §116.8) or settlement of the debt if less than the entire amount owed (See 11 CFR §116.7), provided that the requirements of 11 CFR §116.7 or §116.8, as appropriate, including the submission of the information specified in these sections and Commission review, are satisfied. The provision of this part shall not be construed to require the individual to forgive or settle the debt for less than the entire amount owed.
5. **Reporting.** The political committee shall continue to report the obligation arising from the payment as a debt in accordance with 11 CFR §116.7(f) or until the Commission has completed a review of the debt pursuant to 11 CFR §116.8, or until the political committee forgives the debt, whichever occurs first. 11 CFR §116.7(f)

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed URP's disclosure records and reports for proper reporting of debts totaling \$205,323⁵ that URP failed to report during the audit period concerning five vendors and one staff member⁶. This review identified debts totaling \$111,191 provided during the audit period concerning catering, mailings/printing services, software, equipment rental and miscellaneous expenses. The Audit staff calculated the debts to the vendors based on the date of incurrence and the subsequent payment date. Most of the debts were greater than \$500 and had delinquent periods ranging from 31 to 416 days.

The debt totaling \$94,132, was for reimbursements for committee expenses paid with a staff member's personal credit card. Most reimbursements were made more than 60 days from the date of the expense per the reimbursement form. The total amount for the staff member was calculated based on provided documentation consisting of an expense reimbursement form submitted by the staff member, and invoices. The Audit staff used the individual dates of incurrence listed on the expense reimbursement form. The Audit staff did not use the date the reimbursement form was submitted because this date was unknown. Documentation such as the staff member's credit card billing statements, requested by the Audit staff, was not provided. URP provided one credit card statement with the closing billing date during fieldwork.

⁵ Each debt in this amount was counted once even if it is a required disclosure over multiple periods. In order for URP to correctly file amended reports, schedules were provided that included the amount of each debt required to be reported for each reporting period.

⁶ The staff member is also discussed in Finding 6 for possible violation of 11 CFR §116.5(b), advances by committee staff considered a contribution.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed the reporting of debts and obligations with URP representatives and provided a schedule detailing the transactions requiring disclosure on Schedule D. URP representatives acknowledged they understood the schedules for vendors. They further stated the staff member turned in the expense reports late so URP did not know when the expenses needed to be reimbursed or that the expenses had been incurred. Therefore, the expenses could not be reported correctly.

In response to the exit conference, URP representatives noted that most of the debt items were related to expense reimbursements paid to the staff member. URP representatives questioned the Audit staff's date calculation and stated they were unaware of the staff member's expenses until after receipts and/or expense reports were presented to the treasurer, which frequently occurred well after the underlying expenses were incurred. URP representatives added the regular practice was to issue reimbursements to the staff member within a calendar week of receipt of the expense reimbursement form. URP feels that the Audit staff should not consider these expenses as debt items from the date they were incurred since, generally, URP was unaware of the expense until after the date of incurrence.

The Audit staff acknowledges that providing this individual credit card statements with the billing cycle closing date could have avoided some of the debt disclosure omissions for the staff member. However, unless credit statements are provided to show the closing date of the billing cycle, the Audit staff's analysis would remain unchanged. URP offered no further comment on the five vendors representing \$111,191 of the undisclosed debt and obligations.

The Interim Audit Report recommended URP provide documentation demonstrating the expenditures totaling \$205,323 on Schedule D; or provide the staff member's credit card statements with the closing date of the billing cycle. The Interim Report further recommended absent such documentation, URP amend its report to disclose debts and obligations totaling \$205,323 on Schedule D.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, URP filed amended reports to disclose \$101,711 of the \$111,191 in debts for the five vendors. However, URP did not disclose any of the staff member's debt totaling \$94,132. URP restated they were not aware of the staff member's expenses until after receipts and/or expense reports were presented to the treasurer. The regular practice was to issue reimbursements within a calendar week of receipt of the expense reimbursement form. Therefore, URP does not think these expenses are debt.

It is noted URP did not provide any documentation demonstrating the date it received the expense reimbursement forms from the staff member. Nor did URP provide the staff member's credit card billing statements with the closing date of the billing cycle. Without this information to document alternative dates, the Audit staff's debt calculation continues to be based on the individual date of incurrence listed on the expense

reimbursement forms provided during fieldwork. The total debt not reported is now \$103,612 (\$94,132 + \$9,480). As such, URP did not materially correct the reporting of debts and obligations.

Finding 6. Apparent Excessive Contribution- Staff Advance

Summary

One URP staff member received reimbursements for credit card expenditures totaling \$46,904 that appear to have been reimbursed untimely. URP did not provide the staff member's credit card billing statements to support the reimbursements were made within 60 days after the closing date of the billing statement. In response to the Interim Audit Report recommendation, URP stated it strongly disagrees with this assertion because URP was not aware of the reimbursable expenses when they were incurred. URP did not provide any documentation to demonstrate the reimbursements were made within the proper time limitations. As such, of the \$46,904 untimely reimbursements to the staff member, the Audit staff considers \$28,637 as excessive contributions from the staff member until the expenses were reimbursed. No further action will be taken since the staff member was eventually reimbursed for the expenses.

Legal Standard

A. Advances by Committee Staff and Other Individuals.

1. **Scope.** This section applies to individuals not acting as commercial vendors. Individuals who are acting as commercial vendors shall follow the requirements 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 that are used by a political committee is a contribution unless the payment is made under 11 CFR 100.79, it shall be considered a contribution by the individual unless-
 - i) 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 the 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).
4. **Settlement or forgiveness of the debt.** The individual and political committee may agree to the total forgiveness of the debt (see 11 CFR §116.8) or settlement of the debt if less than the entire amount owed (See 11 CFR §116.7), provided that the requirements of 11 CFR §116.7 or §116.8, as appropriate, including the submission of the information specified in these sections and Commission review, are satisfied. The provision of this part shall not be construed to require the individual to forgive or settle the debt for less than the entire amount owed.
5. **Reporting.** The political committee shall continue to report the obligation arising from the payment as a debt in accordance with 11 CFR §116.7(f) until the Commission has completed a review of the request to forgive the debt pursuant to 11 CFR §116.8, or until the political committee pays the debt, whichever occurs first. 11 CFR §116.5.

B. Travel Expenses Exceeding \$2,000 Exemption. Payments for transportation expenses⁷ that exceed the \$2,000 travel exemption are considered contributions unless the committee reimburses them:

- Within 60 days⁸, if the payment was made on a credit card; or
- Within 30 days, if the payment was made with cash or check. 11 CFR §116.5(b) and 100.79(a)(2):

C. Party Committee Limitation. A political committee may not receive more than a total of \$10,000 a year from any one contributor. 52 U.S.C. §30116(a)(1)(D).

Facts and Analysis

A. Facts

During the audit fieldwork, the Audit staff reviewed individuals who received reimbursement payments from the Union Review Committee. One member received reimbursements totaling \$197,850 throughout the audit cycle for expenditures paid mostly with the employee's personal credit card.⁹ Of the reimbursements, \$46,904 was more than 60 days from the date of the expense through the reimbursement form. The Audit staff calculated the days outstanding by using the individual dates of incurrence listed on the expense

⁷ Including usual and normal subsistence expenses (such as food and lodging) incurred while traveling on behalf of the candidate.

⁸ Sixty days after the closing date of the credit card billing statement where the charge first appeared.

⁹ Based on the documentation provided, the Audit staff could not verify if five transactions were paid using the employee's personal credit card versus cash or check.

reimbursement form. Of the \$46,904 untimely reimbursements, \$28,637 (\$46,904 - \$18,267) is considered an excessive contribution from the staff member, pursuant to 11 CFR §116.5(b).¹⁰

URP provided invoices, receipts, and expense reimbursement forms to support the expenditures but provided only one credit card statement with the closing billing date during audit fieldwork. None of these untimely reimbursements were for travel expenses that were reimbursed within 60 days from the date of the expense per the reimbursement form, or within 30 days if paid with cash or check, per 11 CFR§116.5(b) and 100.79(a)(2).

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed the reimbursements for the one staff member and provided a schedule detailing the transactions (with the discussion of debts and obligations at Finding 5 above). URP representatives stated that the staff member turned in the expense reports late so URP did not know when the expenses needed to be reimbursed or that the expenses had been incurred.

In response to the exit conference, URP representatives questioned the Audit staff's date calculation and stated they were not aware of the staff member's expenses until after receipts and/or expense reports were provided to the treasurer, which frequently occurred well after the underlying expenses were incurred. URP representatives added the regular practice was to issue reimbursements to the staff member within a calendar week of receipt of the expense reimbursement form.

The Audit staff acknowledged that providing this individual's credit card statements with the billing cycle closing date could have reduced the amount considered to be an excessive contribution from the employee. However, unless copies of the credit card statements with the closing date are provided to demonstrate the reimbursement was timely, the Audit staff's analysis would remain unchanged. The \$28,637 is considered an excessive contribution from the staff member until reimbursed.

The Interim Audit Report recommended URP provide documentation, such as the employee's credit card statement with the closing billing date, to demonstrate the reimbursement was timely.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, URP stated it strongly disagrees with this finding. URP restated they only became aware of the staff member's reimbursable expenses after he presented receipts and/or expense reports to the treasurer, which frequently occurred after the underlying expenses were incurred. In addition URP

¹⁰ The untimely staff reimbursements totaled \$50,904. The amount was adjusted to \$46,904 after applying the \$4,000 travel allowance per 11 CFR §100.79(a)(2). The amount was further adjusted because an individual may contribute up to \$10,000 per year to a state party. The staff member contributed \$1,733 in 2011 and did not make a contribution to URP in 2012. Therefore the staff member could have contributed \$18,267 (\$20,000 - \$1,733).

said the regular practice was to issue staff reimbursements within a calendar week of presentation. Given this practice, URP feels the Commission should not consider these expenses as in-kind contributions as of the date they were incurred.

The Audit staff maintains the closing date on the billing statement is important because it is used as the trigger date to determine if the expenses initially paid for by the staff member will result in a contribution to URP. Specifically, the Commission's regulations require payments by a committee staff member to be treated as contributions, unless the payments are exempt from the definition of contribution as unreimbursed transportation and subsistence expenses under 11 CFR §100.79 and 11 CFR §116.5(b). If the payments are not exempt, they are contributions unless (1) the payments are for a staff member's travel expense or subsistence expenses incurred while traveling on behalf of the committee, and (2) the committee reimburse the staff member within 60 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 which the expenses were incurred if a personal credit card was not used". 11 CFR §116.5(b)(1) & (2).

URP provided one credit card statement with a billing closing date. Given that most credit card statements are 30 days or one month in length, the Audit staff was to infer the other closing dates based on the one credit card statement that was available with a closing date in lieu of the actual billing date. The amount of excessive contributions from the staff member would no longer be known, however, inferring the closing date is not as precise as using the actual billing date. Without all the necessary credit card billing statements, the staff cannot verify that the staff member was reimbursed within sixty days of the closing date of the billing statement.

The Audit staff notes that all the necessary credit card statements of the staff member were not provided. URP did not provide documentation to demonstrate the expense reimbursement form. Without this documentation to show that reimbursements were made within the proper time limitations, URP received excessive contributions totaling \$28,637 from the staff member until the expense reimbursement process was completed. No further action will be taken since the staff member was eventually reimbursed for these expenses.

¹¹ If the inferred billing date is used in lieu of the actual billing closing dates from the credit card statements as provided by the committee, the total amount of debts and obligations not disclosed for the staff member reduces from \$94,132 to \$50,259. See Finding 5-Report of Debts and Obligations, page 14.