

AGENDA DOCUMENT NO. 11-54-A



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2011 OCT 20 A 9 58

MEMORANDUM

AGENDA ITEM

TO: The Commission

FROM: Cynthia L. Bauerly *CB*
Chair

Caroline C. Hunter *CCH*
Vice Chair

DATE: August 20, 2011

RE: Proposed Final Audit Report on the Service Employees International Union
Committee on Political Education (SEIU COPE) (A09-28)

For Meeting of 10-20-11

SUBMITTED LATE

Attached for the Commission's consideration at today's Open Meeting is a revised document.



Proposed Final Audit Report on SEIU COPE (Service Employees International Union Committee on Political Education)

January 1, 2007 – December 31, 2008

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

About the Committee (p. 2)

The SEIU COPE (Service Employees International Union Committee on Political Education) is a separate segregated fund of the Service Employees International Union (SEIU) headquartered in Washington, DC. For more information, see chart on the Committee Organization, p 2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$15,973,115
○ Transfers from Affiliated Committees	12,873,571
○ Refunds from Federal Candidates	13,500
○ Other Receipts	2,359,327
Total Receipts	\$31,219,513
• Disbursements	
○ Operating Expenditures	\$ 1,819,586
○ Contributions to Federal Candidates	2,868,450
○ Independent Expenditures	35,191,683
○ Other Disbursements	7,525,177
Total Disbursements	\$47,404,896

Additional Issue (p. 3)

¹ 2 U.S.C. §438(b).

Proposed Final Audit Report on SEIU COPE (Service Employees International Union Committee on Political Education)

January 1, 2007 – December 31, 2008



Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Limitations	1
Part II. Overview of Committee	
Committee Organization	2
Overview of Financial Activity	2
Part III. Summaries	3
Part IV. Additional Issue	4

Part I

Background

Authority for Audit

This report is based on an audit of the Service Employees International Union Committee on Political Education (SEIU COPE), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

Following Commission approved procedures, the Audit staff evaluated various 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 obligations.²
5. The consistency between reported figures and bank records.
6. The completeness of records.
7. Other committee operations necessary to the review.

² SEIU COPE complied with the recordkeeping requirements of 11 CFR §102.9(b). The Audit staff's testing for the adequacy of reporting was limited for those independent expenditures made by SEIU on behalf of SEIU COPE (See Additional Issue).

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	April 17, 1972
• Audit Coverage	January 1, 2007 – December 31, 2008
Headquarters	
	Washington, DC
Bank Information	
• Bank Depositories	2
• Bank Accounts	4
Treasurer	
• Treasurer When Audit Was Conducted	Anna Burger/Gerald Hudson
• Treasurer During Period Covered by Audit	Anna Burger
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2007	\$18,191,099
○ Contributions from Individuals	15,973,115
○ Transfers from Affiliated Committees	12,873,571
○ Refunds from Federal Candidates	13,500
○ Other Receipts	2,359,327
Total Receipts	\$31,219,513
○ Operating Expenditures	1,819,586
○ Contributions to Federal Candidates	2,868,450
○ Independent Expenditures	35,191,683
○ Other Disbursements	7,525,177
Total Disbursements	\$47,404,896
Cash on hand @ December 31, 2008	\$ 2,005,716

Part III

Summaries

On May 5, 2011, the Commission considered a Proposed Final Audit Report which included a finding that based upon a limited examination of the statements and reports filed and the records presented by SEIU COPE, the Audit staff did not discover any material non-compliance.

There were not the required four affirmative votes among the Commissioners to approve the finding. Pursuant to Directive 70, the discussion of this matter was included in the “Additional Issue” section of this audit report.

Some Commissioners concluded that that additional reporting of certain funds was necessary. Other Commissioners concluded that SEIU COPE was in material compliance.

Part IV

Additional Issue

Summary

On May 5, 2011, the Commission considered a Proposed Final Audit Report which included a finding that based upon a limited examination of the statements and reports filed and the records presented by SEIU COPE, Audit staff did not discover any material non-compliance.

There were not the required four affirmative votes among the Commissioners to approve the finding. Pursuant to Directive 70, the discussion of this matter was included in the “Additional Issue” section of this audit report.

Some Commissioners concluded that that additional reporting of certain funds was necessary. Other Commissioners concluded that SEIU COPE was in material compliance.

Legal Standard

A. Reporting Independent Expenditures. Every political committee that makes independent expenditures must report all such independent expenditures on Schedule E in accordance with 11 CFR § 104.3(b)(3)(vii). Political committees and other persons that make independent expenditures at any time during a calendar year—up to and including the 20th day before an election—must disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more. Political committees and other persons who make independent expenditures during the last 20 days—up to 24 hours—before an election, must disclose this activity within 24 hours each time that the expenditures aggregate \$1,000 or more. 11 CFR § 104.4(a), (b) and (c).

B. Itemization of Independent Expenditures. When independent expenditures to the same person exceed \$200 in a calendar year, the committee must report the:

- Amount of the expenditures;
- Date when the expenditures were made;
- Name and address of the payee; and
- Purpose of the expenditures. 2 U.S.C. § 434(b)(5)(A) and 104.3(b)(3)(vii).

Facts and Analysis

On May 5, 2011, the Commission considered a Proposed Final Audit Report which included a finding that based upon a limited examination of the statements and reports filed and the records presented by SEIU COPE, Audit staff did not discover any material non-compliance.

Commission Conclusion

On May 5, 2011, at an Open Meeting, the Commission considered the Audit Division's Proposed Final Audit Report. There were not the required four affirmative votes among the Commissioners to approve the finding of the Audit Division.

In the cover memorandum to the Audit Division's Proposed Final Audit Report, the Audit Division explained that during the 2008 election cycle, SEIU COPE transferred \$14,427,267 to SEIU, its connected organization, which subsequently disbursed the funds to various payees on behalf of SEIU COPE. SEIU COPE reported the transfers as independent expenditures with the purpose of door-to-door voter ID and get-out-the-vote efforts on behalf of Barack Obama or opposing John McCain. Records sufficient to support the disposition of the transferred funds were not reviewed by the Audit staff. In its analysis of this information, the Office of General Counsel considered the reporting to be adequate.

Some Commissioners concluded that additional itemization and reporting of the ultimate payees of the independent expenditures was necessary, since the lack of itemization of these independent expenditures limited the Audit Division's ability to verify the dates of the public dissemination for the independent expenditures, the timeliness of any 24-hour or 48-hour notices filed, or the use of any proper disclaimers for any public communications contained in those expenditures. These Commissioners voted to reject the finding of the Audit Division.

Other Commissioners concluded that SEIU COPE was in material compliance. Consistent with the recommendation of the Audit Division and advice of the Office of General Counsel, they concluded that SEIU COPE complied with the applicable recordkeeping requirements, and that the Audit Division's examination of the statements and reports filed and the records presented by SEIU COPE was sufficient to support its recommendation. These Commissioners voted to approve the finding of the Audit Division, except with respect to the assertion that the Audit Division's examination of SEIU COPE's statements and reports was subject to a limitation.

Pursuant to Directive 70, the discussion of this matter was included in the "Additional Issue" section of this audit report.