

**AGENDA DOCUMENT NO. 11-54**



THE FEDERAL ELECTION COMMISSION  
Washington, DC 20463

2011 AUG 22 P 12:14

August 19, 2011

**MEMORANDUM**

**AGENDA ITEM**

To: The Commission

Through: Alec Palmer  
Staff Director

From: Patricia Carmona  
Chief Compliance Officer

Tom Hintermister  
Acting Assistant Staff Director  
Audit Division

Marty Kuest  
Audit Manager

By: Jeffrey V. Spilizewski  
Lead Auditor

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

For Meeting of 10-20-11

Attached for your approval is the subject report. The SEIU COPE was audited once before, in the 2000 election cycle. Summaries of the findings in the previous audit report are also attached.

On May 5, 2011, the Commission discussed the Proposed Final Audit Report. There were not the required four affirmative votes among the Commissioners to conclude that SEIU COPE was in material compliance, or to conclude that additional reporting of certain independent expenditures may be necessary. Pursuant to Directive 70, the discussion of this matter has been included in the "Additional Issue" section of this audit report.

This report is being circulated on a 72-hour, no objection basis. Should an objection be received, it is recommended that the report be considered at the next regularly scheduled open session. If you have any questions, please contact Jeff Spilizewski at 694-1200.

Attachments:

Proposed Final Audit Report on the Service Employees International Union Committee on Political Education

Attachment 1- Summary of Previous Audit

## Summary of Previous Audit

**Service Employees International Union Political Campaign Committee (SEIU)**

**Election Cycle:** 2000

**Release Date of Final Audit Report:** November 1, 2004

### **Finding 1. Failure to Maintain Contributor Payroll Deduction Authorizations**

Based on a sample of transmittals for which detailed contributor information was provided, the Audit staff determined that payroll deduction authorization forms were not available for approximately 50% of the contributors sampled. SEIU made available new procedures designed to insure that all PDA's would be maintained. The Audit staff recommended that SEIU demonstrate that its new procedures have been implemented and provide any other comments it may have relative to this matter. SEIU has complied with the recommendations.

### **Finding 2. Untimely Transmittal of Contributions**

Transmittals were tested to determine if local unions transmitted contributions timely. The sample results projected that contributions, totaling \$383,588, made via payroll deduction were not transmitted timely. The Audit staff recommended SEIU demonstrate that such contributions were transmitted timely. SEIU stated it could not demonstrate that the transmittals were made timely. However, SEIU submitted copies of revised procedures that it indicated were sent to all local unions. It was also recommended that SEIU demonstrate that its new procedures have been implemented. SEIU has complied with the recommendations.

### **Finding 3. Apparent Prohibited Contributions**

The sample of transmittals also projected that contributions totaling \$59,322 had been received from prohibited sources. SEIU either made refunds to the local unions or transfers to its political education account (treasury account) for contributions totaling \$46,733. The Audit staff recommended that SEIU provide evidence demonstrating that the sample errors were not received from prohibited sources. Absent such a demonstration, the Audit staff recommended that SEIU transfer \$12,589 (\$59,322 - \$46,733) to its treasury account and provide evidence of such transfer. In response, SEIU stated that it accepted the finding and has transferred \$12,589 to its treasury account. A copy of the check was submitted with its response.

### **Finding 4. Disclosure of Transfers from Affiliated Committees**

SEIU failed to itemize forty-five transfers from affiliated committees totaling \$565,370. The Audit staff recommended that SEIU file amended disclosure reports itemizing these transfers. In response, SEIU filed amended disclosure reports itemizing the transfers from affiliated committees.

### **Finding 5. Disclosure of Independent Expenditures**

The Audit staff identified eleven independent expenditures, totaling \$1,037,568, that were not properly disclosed. SEIU disclosed these expenditures on Schedule B (Itemized Disbursements) rather than itemizing on Schedules E (Independent Expenditures) as required. In response to the interim audit report, SEIU filed amended reports itemizing the expenditures on Schedules E.

### **Finding 6. Reporting of Debts and Obligations**

SEIU failed to report debts owed to two vendors, totaling \$359,322, during calendar year 2000. The Audit staff recommended that SEIU file amended disclosure reports including Schedules D (Debts and Obligations) disclosing these obligations. In response, SEIU filed amended reports disclosing the debts and obligations.



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

January 1, 2007 – December 31, 2008

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## Why the Audit Was Done

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

## 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)

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

## Additional Issue (p. 3)

- Disclosure of Independent Expenditures

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<sup>1</sup> 2 U.S.C. §438(b).

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

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January 1, 2007 – December 31, 2008



# Table of Contents

	<b>Page</b>
<b>Part I. Background</b>	
Authority for Audit	1
Scope of Audit	1
Limitations	1
<b>Part II. Overview of Committee</b>	
Committee Organization	2
Overview of Financial Activity	2
<b>Part III. Summaries</b>	3
<b>Part IV. Additional Issue</b>	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.
5. The consistency between reported figures and bank records.
6. The completeness of records.
7. Other committee operations necessary to the review.

### **Limitations**

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

## Part II

### Overview of Committee

#### Committee Organization

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

#### Overview of Financial Activity (Audited Amounts)

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

## **Part III**

### **Summaries**

#### **Issue- Disclosure of Independent Expenditures**

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.

The cover memorandum to that report 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, but no further detail was provided. Further, records supporting the disposition of the transferred funds were not available. Based on research by the Office of General Counsel, the reporting was considered adequate.

There were not the required four affirmative votes among the Commissioners to conclude that SEIU COPE was in material compliance, or to conclude that additional reporting may be necessary. Pursuant to Directive 70, the discussion of this matter was included in the “Additional Issue” section of this audit report.

## Part IV

### Additional Issue

#### Issue- Disclosure of Independent Expenditures

##### 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, the Audit staff did not discover any material non-compliance.

The cover memorandum to that report 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, but no further detail was provided. Further, records supporting the disposition of the transferred funds were not available. Based on research by the Office of General Counsel, the reporting was considered adequate.

There were not the required four affirmative votes among the Commissioners to conclude that SEIU COPE was in material compliance, or to conclude that additional reporting may be necessary. Pursuant to Directive 70, the discussion of this matter was included in the “Additional Issue” section of this audit report.

##### 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 20<sup>th</sup> 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, the Audit staff did not discover any material non-compliance.

The cover memorandum to that report presented questions concerning SEIU COPE's reporting and recordkeeping for independent expenditures. It was noted that SEIU COPE itemized on its reports 38 independent expenditures totaling \$14,427,267 paid to SEIU. SEIU subsequently disbursed these funds on behalf of SEIU COPE to numerous entities. The reported purpose of the disbursements was door to door voter ID and get out the vote efforts on behalf of Barack Obama or opposing John McCain, but no further itemization of the payee and transaction information for the disbursements was included in SEIU COPE's reports. Records supporting disposition of the funds by SEIU were not available for most of these disbursements. Based on its research into previous Commission actions, the Office of General Counsel advised that the reporting and recordkeeping requirements with respect to these transactions had been satisfied. Specifically, the circumstances in AO 1983-25 (Mondale) and AO 1984-37 (AMA/AMPAC) and Matter Under Review 3847 (Stockman) were analyzed and it was concluded these precedents would not support requiring further itemization.

### **Commission Conclusion**

There were not the required four affirmative votes among the Commissioners to conclude that SEIU COPE was in material compliance, or to conclude that additional reporting may be necessary. Pursuant to Directive 70, the discussion of this matter was included in the "Additional Issue" section of this audit report.