




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 1, 2004

MEMORANDUM

TO: ROBERT W. BIERSACK
PRESS OFFICER
PRESS OFFICE

FROM: JOSEPH F. STOLTZ 
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE AUDIT REPORT ON THE SERVICE
EMPLOYEES INTERNATIONAL UNION POLITICAL CAMPAIGN
COMMITTEE (A01-31)

Attached please find a copy of the audit report on the Service Employees International Union Political Campaign Committee (A01-31), which was approved by the Commission on October 20, 2004.

The report may be released to the public on November 1, 2004.

Attachment as stated

cc: Office of General Counsel
Office of Public Disclosure
Reports Analysis Division
FEC Library
Web Manager

Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Changes to the Law	1
Part II. Overview of Committee	
Committee Organization	2
Overview of Financial Activity	2
Part III. Committee Receipt Records	3
Part IV. Summaries	
Findings and Recommendations	4
Part V. Findings and Recommendations	
Finding 1. Failure to Maintain Contributor Payroll Deduction Authorizations	6
Finding 2. Untimely Transmittal of Contributions	8
Finding 3. Apparent Prohibited Contributions	9
Finding 4. Disclosure of Transfers from Affiliated Committees	10
Finding 5. Disclosure of Independent Expenditures	11
Finding 6. Reporting of Debts and Obligations	12

Part I

Background

Authority for Audit

This report is based on an audit of the Service Employees International Union Political Campaign Committee (SEIU), 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

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.

Changes to the Law

On March 27, 2002, President Bush signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA). The BCRA contains many substantial and technical changes to the federal campaign finance law. Most of the changes became effective November 6, 2002. The period covered by this audit pre-dates these changes. Therefore, the statutory and regulatory requirements cited in this report are those that were in effect during the audit period.

Part II

Overview of Committee Committee Organization

Important Dates	SEIU
• Date of Registration	April 17, 1972
• Audit Coverage	January 1, 1999 – December 31, 2000
Headquarters	Washington, DC
Bank Information	
• Bank Depositories	1
• Bank Accounts	2
Treasurer	
• Treasurer When Audit Was Conducted	Anna Burger
• Treasurer During Period Covered by Audit	Patricia Ford
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	No
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 1999	\$ 144,162
○ From Individuals	1,969,770
○ From Affiliated Committees	3,102,432
○ Refunds and Other Receipts	48,816
Total Receipts	\$5,121,018
○ Operating Expenditures	10,832
○ To Affiliated Committees	327,408
○ Contributions to Federal Candidates	2,335,150
○ Independent Expenditures	1,049,715
○ Refunds and Other Disbursements	489,389
Total Disbursements	\$4,212,494
Cash on hand @ December 31, 2000	\$1,052,686

Part III

Committee Receipt Records

Contributions received by SEIU were made through payroll deduction, fundraisers, or one-time donations from members. Union locals transmitted these contributions either bi-weekly, quarterly, semi-annually, etc. Each member was given a check-off form to complete, in which they could choose whether or not to contribute by payroll deduction. The payroll deduction amount per member usually was \$3 or less per pay period. The local unions (with the exception of individuals employed at the national office) maintained all receipt records including payroll deduction records and payroll deduction authorizations (PDA's). The contributions, from approximately 300 local unions, were transmitted to SEIU by check ("transmittals").

Our initial review indicated that SEIU's records for contributions from individuals received by transmittals from local unions were incomplete. Fieldwork was suspended. A list of certain transmittals was provided and SEIU was requested to produce records for those transmittals, including the contributor's name, contribution date, amount and the respective payroll deduction authorization. SEIU contacted the local unions in order to obtain the requested documentation. The Audit staff resumed fieldwork and determined that a substantial number of local unions did not provide any relevant materials. Payroll deduction authorizations or check-off pledge forms that were submitted were not presented in an auditable state. Fieldwork was again suspended.

This matter was then considered by the Commission and SEIU was notified that it was required to:

- Maintain PDAs for each member who made contributions via payroll deduction. If SEIU choose to maintain those records at the various local unions, it was necessary to assemble the PDAs at a central location and in an auditable state for Audit staff review; and,
- Provide documentation to demonstrate that contributions that were transmitted by employers and collecting agents were timely transmitted and deposited.

The Commission also advised that failure to comply may necessitate the issuance of subpoenas and/or the initiation of a compliance action by the Commission.

Fieldwork again resumed shortly after expiration of the time permitted for SEIU to gather the necessary records.

Part IV

Summaries

Findings and Recommendations

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. (For more detail, see p. 6)

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. (For more detail, see p. 8)

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. (For more detail, see p. 9)

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. (For more detail, see p. 10)

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. (For more detail, see p. 11)

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. (For more detail, see p. 12)

Part V

Findings and Recommendations

Finding 1. Failure to Maintain Contributor Payroll Deduction Authorizations

Summary

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.

Legal Standard

Recordkeeping. Each political committee or other person required to file any report or statement under this subchapter shall maintain all records relevant to such reports and statements. Records to be maintained with respect to the matters required to be reported, include bank records, vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness. The Commission has determined that, under 11 CFR §104.14(b)(1), separate segregated funds established pursuant to Part 114 of the Commission's rules must maintain copies of Payroll Deduction Authorizations for each individual who makes any contributions(s) via automatic payroll deduction. *See, e.g.* MUR 4955 (Metropolitan Life). 11 CFR §104.14(b)(1)

Facts and Analysis

The Audit Staff conducted a sample review of the 3,671 transmittals (\$1,670,018) from local unions received during the audit period. The sample results projected that transmittals totaling \$470,997 had no documentation or incomplete documentation.

For transmittals supported by contributor lists, the Audit staff sampled contributors to determine if the respective PDA was available. This review indicated that for approximately 50% of the sample items tested, the related PDA was missing.

At the exit conference, the Audit staff advised SEIU representatives of this matter. Subsequent to the exit conference, SEIU submitted copies of revised procedures that it indicated were sent to all local unions. The procedures were designed to insure that all required information as well as PDAs would be maintained and available upon request.

Interim Audit Report Recommendations

The Audit staff recommended that SEIU demonstrate that its new procedures have been implemented. Once these procedures are in place, the Audit staff noted that it would verify that they are adequate to assure compliance via follow-up audit work. Though not required, it was recommended that the national office maintain copies of all PDAs.

Committee's Response to Recommendations and the Audit Staff's Assessment

As previously stated, SEIU submitted copies of revised procedures designed to insure all PDAs are maintained. According to SEIU, the procedures were sent to all locals and SEIU has scheduled training to insure that all procedures were understood and in place. Therefore, it is the opinion of the Audit staff that SEIU has complied with the interim audit report recommendations.

However, SEIU questioned whether there is affirmative obligation to keep and maintain PDAs for each member who made contributions via payroll deduction. Although SEIU acknowledged the Commission's determination with respect to this issue in MUR 4955 (MetLife), it pointed out factual differences between MetLife and SEIU. SEIU noted that MetLife was not only the sponsor of the separate segregated fund (SSF) but the employer of the SSF's contributors, whereas, neither SEIU nor the Union is the employer of its SSF contributors. Further, SEIU contended that the most important difference between the two was the question of best efforts. SEIU believes that MetLife was given an opportunity by the Audit staff to demonstrate its used "best efforts" to obtain the missing PDAs. SEIU is apparently referring to a passage in a document that was generated as part of the compliance action which followed the audit. In that passage it was simply noted that no follow-up request was made. In the MetLife case all of the PDAs executed prior to a certain date had been lost. It was left up to MetLife to determine which contributors needed to submit replacement PDAs. In the instant case SEIU was asked to produce PDAs for specific transmittals. No evidence was provided that SEIU made any follow-up requests for missing PDAs or any efforts to determine which PDAs were missing within the transmittals evaluated by the Audit staff or in SEIU's files in general. Although no specific request to demonstrate best efforts was included in either audit recommendation, SEIU had ample opportunity to demonstrate that it had attempted to obtain replacement PDAs from those members whose forms were missing.

Although it is true that in the MetLife case the SSF and the contributors' employer were much more closely connected than is the case with SEIU and its contributors' employers, the Commission determined that the requirement to maintain PDAs, applies equally to both SEIU and MetLife. The fact that half of the tested contributors' forms were on file suggests that the need to maintain PDAs is understood.

Nevertheless, as stated, SEIU has instituted improved procedures including revised forms, training programs, and materials that address, among other topics, the maintenance of PDAs and the timely transmittal of contributions.

Finding 2. Untimely Transmittal of Contributions

Summary

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.

Legal Standard

A. Definition of Collecting Agents. A collecting agent is an organization or committee that collects and transmits contributions to one or more separate segregated funds to which the collecting agent is related. 11 CFR §102.6(b)(1).

B. Transmittal of Contributions. The full amount of each contribution collected by a collecting agent, or any other person, on behalf of a separate segregated fund shall be transmitted to that fund within 10 days of receipt if the amount of the contribution exceeds \$50; and, within 30 days of receipt if the amount of the contribution is \$50 or less. Finally, date of receipt is the date such person takes possession of the contribution. 11 CFR §§102.6(c)(4) and 102.8(a) & (b).

C. Separate Segregated Fund Responsible for Acts of Collecting Agent. The separate segregated fund is responsible for ensuring that the recordkeeping, reporting and transmittal requirements are met and is responsible for the acts of a collecting agent. 11 CFR §102.6(c)(1).

Facts and Analysis

The Audit staff conducted a sample review of the 3,671 transmittals totaling \$1,670,018 received during the audit period. The projected dollar value of contributions that were not forwarded timely from the union locals to SEIU was \$383,588. The untimely contributions were forwarded up to 712 days late. Many transmittals represented contributions collected bi-weekly over a six month period; hence, the earlier contributions in the transmittal were late while others were timely. There were other instances where contributions were collected prior to the audit period (1999 – 2000) but not transmitted until late in calendar year 2000.

At the exit conference, SEIU representatives were advised of this matter. They had questions regarding the method used by the Audit staff to determine which transmittals were not forwarded timely. The Audit staff provided workpapers which detailed how the untimely transmittals had been determined.

Subsequent to the exit conference, SEIU submitted copies of revised procedures that it indicated were sent to all local unions. The procedures required that contributions to SEIU be transmitted in a timely manner.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that SEIU demonstrate that contributions were transmitted timely, and provide any comments it may have relative to these matters. It is also recommended that SEIU demonstrate that its new procedures have been implemented. Once these procedures are in place, the Audit staff noted that it would verify that they are adequate to assure compliance via follow-up audit work.

In response, SEIU stated that it had developed a guide for the handling of political funds which has been distributed to every SEIU local union. SEIU explained further that it had conducted extensive training of local union/collecting agent staff regarding the proper handling and transmission of SEIU contributions. The training emphasized the importance of timely transmittal and provided staff with specific advice on how this goal could be achieved. It has implemented procedures to document the date of receipt by the collecting agent and to screen each transmittal by staff at SEIU. SEIU further stated that contributions identified as untimely will not be deposited in its federal account.

Finding 3. Apparent Prohibited Contributions

Summary

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.

Legal Standard

A. Receipt of Prohibited Contributions – General Prohibition. Candidates and committees may not accept contributions (in the form of money, in-kind contributions or loans):

1. In the name of another; or
2. From the treasury funds of the following prohibited sources:
 - Corporations (this means any incorporated organization, including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative);
 - Labor Organizations;
 - National Banks;
 - Federal Government Contractors (including partnerships, individuals, and sole proprietors who have contracts with the federal government); and

- 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)). 2 U.S.C. §§441b, 441c, 441e, and 441f.

B. Receipt of Prohibited Contribution from Labor Organizations. Political campaigns may not accept contributions made from the general treasury funds of labor organizations. 2 U.S.C. §441b.

Facts and Analysis

As previously stated, SEIU was requested to obtain documentation for a number of transmittals selected for review. Upon receipt of the documentation, SEIU determined that certain transmittals from local unions were intended for its treasury account, but inadvertently deposited into its federal account. As a result, SEIU either made refunds to local unions or transfers to its treasury account in the amount of \$46,733. These sample errors, when used to determine the dollar value of contributions in the population received from prohibited sources, resulted in a projection of \$59,322.

Interim Audit Report Recommendation and Committee Response

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 (copy of the front and back of the negotiated check or copy of the debit/credit advice). In response to the interim audit report SEIU stated that it accepted the finding as stated and had 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

Summary

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.

Legal Standard

A. When to Itemize. Political committees must itemize:

- Every contribution from any political committee, regardless of the amount.
- Every transfer from another political party committee. 2 U.S.C. §434(b)(3)(A), (B) and (D).

B. Definition of Itemization. Itemization of contributions received means that the recipient committee discloses, on a separate schedule, the following information:

- The amount of the contribution;

- The date of receipt (the date the committee received the contribution);
- The full name and address of the contributor;
- The calendar year-to-date total of all contributions from the same contributor. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C. §434(b)(3)(A) and (B).

Facts and Analysis

The Audit staff reviewed all transfers from affiliated committees. Although all transfers were included in the amounts reported on Line 11.a.ii., of the Detailed Summary Page, SEIU failed to itemize forty-five transfers from affiliated committees totaling \$565,370.

Interim Audit Report Recommendation and Committee Response

In response to the recommendation in the interim audit report, SEIU filed amended Schedules A (Itemized Receipts) for Line 12 itemizing these transfers.

Finding 5. Disclosure of Independent Expenditures

Summary

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.

Legal Standard

Reporting Independent Expenditures. A political committee must disclose the name and address of each person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee. 2 U.S.C §434(b)(6)(B)(iii).

Facts and Analysis

The Audit staff identified 11 independent expenditures, totaling \$1,037,568, that were incorrectly disclosed as operating expenditures on Schedules B. The documentation demonstrated that the independent expenditures were for mailings, phone banks and media, in support of or against eleven federal candidates. Reporting of independent expenditures on Schedule E requires additional disclosure information as well as certifications by SEIU.

Interim Audit Report Recommendation and Committee Response

In response to the recommendation in the interim audit report, SEIU filed amended reports itemizing the expenditures on Schedules E for Line 24.

Finding 6. Reporting of Debts and Obligations

Summary

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.

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. 2 U.S.C §434(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 it 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

The Audit staff's review of all disbursements identified two debts, totaling \$359,322, which were outstanding over several reporting periods but not reported. In order to derive the total debts not reported, each outstanding debt was counted only once, even if it was outstanding for several periods.

SEIU's representatives were informed of the unreported debts at the exit conference and provided schedules detailing these debts. They indicated that the appropriate amended reports would be filed.

Interim Audit Report Recommendation and Committee Response

In response to the recommendation in the interim audit report, SEIU filed amended disclosure reports including Schedules D to disclose the debts and obligations addressed above.