



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 10, 2005

MEMORANDUM

TO: Press Office

FROM: Joseph F. Stoltz
Assistant Staff Director
Audit Division

SUBJECT: Public Issuance of the Audit Report on the Republican Campaign Committee of New Mexico (03-34)

Attached please find a copy of the audit report on the Republican Campaign Committee of New Mexico, which was approved by the Commission on July 26, 2005.

The audit report may be released to the public on August 10, 2005.

Attachment as stated

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



Report of the Audit Division on the Republican Campaign Committee of New Mexico

January 1, 2001 - December 31, 2002

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.

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 Republican Campaign Committee of New Mexico is a state party committee headquartered in Albuquerque, New Mexico. For more information, see chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

- **Receipts**
 - From Contributors \$ 928,342
 - Transfers From Affiliates 1,218,674
 - Transfers From Non-federal 1,525,970
 - Other Receipts 23,056
 - **Total Receipts \$ 3,696,042**
- **Disbursements**
 - Operating Disbursements \$ 3,136,935
 - Transfers to Affiliates 356,695
 - Contributions to Federal Candidates 120,000
 - Other Disbursements 19,609
 - **Total Disbursements \$ 3,633,239**

Findings and Recommendations (p. 3)

- Disclosure of Occupation and Name of Employer (Finding 1)
- Allocation of Federal and Non-federal Expenses (Finding 2)

¹ 2 U.S.C. §438(b).

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Part I

Background

Authority for Audit

This report is based on an audit of the Republican Campaign Committee of New Mexico (RCNM) 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 disclosure of occupation and name of employer.
2. The disclosure of disbursements, debts and obligations.
3. The disclosure of expenses allocated between federal and non-federal accounts.
4. The consistency between reported figures and bank records.
5. The completeness of records.
6. Other committee operations necessary to the review.

It should be noted that the current Treasurer declined to sign the Statement of Availability of Records and the Statement of Bank Accounts and Cash-on-Hand, stating that he was not the Treasurer for the period under audit.

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. Except for the period November 6, 2002, through December 31, 2002, the period covered by this audit pre-dates these changes. Therefore, the statutory and regulatory requirements cited in this report are primarily those that were in effect prior to November 6, 2002.

Part II

Overview of Committee Committee Organization

Important Dates	Republican Campaign Committee of New Mexico
• Date of Registration	May 11, 1976
• Audit Coverage	January 1, 2001 – December 31, 2002
Headquarters	Albuquerque, NM
Bank Information	
• Bank Depositories	1
• Bank Accounts	6 Federal and 5 Non-federal
Treasurer	
• Treasurer When Audit Was Conducted	James White
• Treasurer During Period Covered by Audit	Laurie Fowler
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Volunteer and Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2001	\$ 59,665
Receipts	
○ From Contributors	928,342
○ Transfers From Affiliates	1,218,674
○ Transfers From Non-federal	1,525,970
○ Other Receipts	23,056
Total Receipts	\$ 3,696,042
Disbursements	
○ Operating Disbursements	3,136,935
○ Transfers to Affiliates	356,695
○ Contributions to Federal Candidates	120,000
○ Other Disbursements	19,609
Total Disbursements	\$ 3,633,239
Cash on hand @ December 31, 2002	\$ 122,468

Part III

Summaries

Findings and Recommendations

Finding 1. Disclosure of Occupation and Name of Employer

RCNM failed to disclose occupation and/or name of employer for 69 contributions from individuals totaling \$57,185. In addition, best efforts to obtain, maintain and submit the information were not documented by RCNM. The Audit staff recommended that RCNM provide either documentation that demonstrated best efforts were made to obtain, maintain and submit the missing occupation and/or name of employer information or contact each contributor and submit evidence of such contact and disclose any information received in amended reports. In response, RCNM provided copies of letters sent to each contributor and filed amended reports disclosing the contributor information received as a result of its efforts. (For more detail, see p. 4)

Finding 2. Allocation of Federal and Non-federal Expenses

The Audit staff's review of disbursements from both the federal and non-federal accounts indicated that the non-federal account potentially over funded its share of allocable expenses by \$460,557. For media buys totaling \$622,115, documentation such as scripts and copies of advertisements was not available to determine the shared nature of the expenses. Therefore, the non-federal portion of these expenditures was considered potentially federal. In addition, payments made directly from the non-federal account also contributed to the potential over funding. The Audit staff recommended that RCNM either demonstrate that there was no over funding by the non-federal account or reimburse the non-federal account \$460,557 and file amended Schedules H2 (Allocation Ratios) and H4 (Joint Federal/Non-Federal Activity) as appropriate. In response, RCNM provided the necessary documentation that demonstrated that the non-federal account did not over fund its portion of shared activity. (For more detail, see p. 5)

Part IV

Findings and Recommendations

Finding 1. Disclosure of Occupation and Name of Employer

Summary

RCNM failed to disclose occupation and/or name of employer for 69 contributions from individuals totaling \$57,185. In addition, best efforts to obtain, maintain and submit the information were not documented by RCNM. The Audit staff recommended that RCNM provide either documentation that demonstrated best efforts were made to obtain, maintain and submit the missing occupation and/or name of employer information or contact each contributor and submit evidence of such contact and disclose any information received in amended reports. In response, RCNM provided copies of letters sent to each contributor and filed amended reports disclosing the contributor information received as a result of its efforts.

Legal Standard

A. Required Information for Contributions From Individuals. For each itemized contribution from an individual, the committee must provide the contributor's occupation and the name of his or her employer. 2 U.S.C. §434(b)(3)(A) and 11 CFR §100.12.

B. Best Efforts Ensures Compliance. When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee's reports and records will be considered in compliance with the Act. 2 U.S.C. §432(h)(2)(i).

C. Definition of Best Efforts. The treasurer and the committee will be considered to have used "best efforts" if the committee satisfied all of the following criteria:

- All written solicitations for contributions included:
 - A clear request for the contributor's full name, mailing address, occupation, and name of employer; and
 - The statement that such reporting is required by Federal law.
- Within 30 days after the receipt of the contribution, the treasurer made at least one effort to obtain the missing information, in either a written request or a documented oral request.
- The treasurer reported any contributor information that, although not initially provided by the contributor, was obtained in a follow-up communication or was contained in the committee's records or in prior reports that the committee filed during the same two-year election cycle. 11 CFR §104.7(b).

Facts and Analysis

After reviewing contributions from individuals required to be itemized on Schedule A (Itemized Receipts), the Audit staff identified 69 contributions, totaling \$57,185, that did not have an occupation and/or name of employer reported properly. Of the 69 errors identified, the information was disclosed either as “information requested” and/or “best effort made.” However, RCNM did not present documentation that demonstrated that best efforts were exercised to obtain, maintain and submit the missing information.

The Audit staff presented this matter to RCNM representatives during the exit conference. RCNM agreed to contact contributors in an attempt to obtain the required information and file the amended disclosure reports, as appropriate.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that, RCNM take the following action:

- Provide documentation that demonstrated best efforts were timely made to obtain, maintain and submit the missing occupation and/or name of employer information; or,
- Contact each contributor whose occupation and/or name of employer were incorrectly disclosed, submit evidence of such contact, and disclose any information received in an amended report.

In response, RCNM provided copies of letters sent to each contributor and filed amended reports disclosing the contributor information received as a result of its efforts.

Finding 2. Allocation of Federal and Non-federal Expenses

Summary

The Audit staff’s review of disbursements from both the federal and non-federal accounts indicated that the non-federal account potentially over funded its share of allocable expenses by \$460,557. For media buys totaling \$622,115, documentation such as scripts and copies of advertisements was not available to determine the shared nature of the expenses. Therefore, the non-federal portion of these expenditures was considered potentially federal. In addition, payments made directly from the non-federal account also contributed to the potential over funding. The Audit staff recommended that RCNM either demonstrate that there was no over funding by the non-federal account or reimburse the non-federal account \$460,557 and file amended Schedules H2 (Allocation Ratios) and H4 (Joint Federal/Non-Federal Activity) as appropriate. In response, RCNM provided the necessary documentation that demonstrated that the non-federal account did not over fund its portion of shared activity.

Legal Standard

A. Accounts for Federal and Non-federal Activity. A party committee that finances political activity in connection with both federal and non-federal elections must establish two accounts (federal and non-federal) and allocate shared expenses -- those that simultaneously support federal and non-federal election activity - between the two

accounts. Alternatively, the committee may conduct both federal and non-federal activity from one bank account, considered a federal account. 11 CFR §102.5(a)(1)(i).

B. Paying for Allocable Expenses. Commission regulations offer party committees two ways to pay for allocable, shared federal/non-federal expenses.

- They may pay the entire amount of the shared expense from the federal account and transfer funds from the non-federal account to the federal account to cover the non-federal share of that expense; or
- They may establish a separate, federal allocation account into which the committee deposits funds from both its federal and non-federal accounts solely for the purpose of paying the allocable expenses of shared federal/non-federal activities. 11 CFR §106.5(g)(1)(i) and (ii)(A)

C. Reporting Allocable Expenses. A political committee that allocates federal/non-federal expenses must report each disbursement it makes from its federal account (or separate allocation account) to pay for a shared federal/non-federal expense. Committees report these kinds of disbursements on Schedule H4 (Joint Federal/Non-Federal Activity). 11 CFR §104.10(b)(4)

D. Allocation Ratio for Administrative & Generic Voter Drive Costs. State and local party committees must allocate their administrative expenses and generic voter drive costs according to the ballot composition method. Under this method, a committee determines the ratio of federal offices to the total number of federal and non-federal offices expected on the ballot in the next general election in the state or geographic area. 11 CFR §106.5(d)(1) and (2)

E. Allocation Ratio for Shared Fundraising Expenses. If a committee raises both federal and non-federal funds through the same fundraising program or event, it must allocate the direct cost of the fundraising event based upon the ratio of funds received by the federal account to the total amount raised for the event. 11 CFR §106.5(f)(1)

Facts and Analysis

RCNM maintained an allocation account to pay for shared federal/non-federal expenses and transferred funds from both federal and non-federal accounts to the allocation account for allocable expenses. It correctly utilized the ballot composition ratio of 25% federal and 75% non-federal for administrative and GOTV expenses. However, as noted below other adjustments are required.

Media expenditures, totaling \$622,115 were disclosed on Schedules H4 and allocated based on a 25% federal and 75% non-federal ratio. Documentation, such as copies of scripts and/or advertisements, was not made available to demonstrate the shared nature of these expenditures. The non-federal portion totals \$466,587 (\$622,115 x 75%) and was considered potentially federal.

Further, there was no documentation to demonstrate that expenditures, totaling \$42,790 made directly from the non-federal account were solely for non-federal purposes. Many of the vendors also received payments from the allocation account for shared expenditures. Absent documentation, the expenditures were considered potentially shared; the federal portion totaled \$10,698 ($\$42,790 \times 25\%$).

RCNM held seven fundraising events that benefited both the federal and non-federal accounts. The allocation ratios for all but two events were disclosed on Schedules H2. For the most part, the ratios disclosed were 50% federal and 50% non-federal. For the two events ratios that were not disclosed on Schedules H2, RCNM did not maintain any records detailing which contributions were received relative to those events.

With respect to the five fundraising events for which receipt records were maintained, the Audit staff determined that the allocation ratios disclosed on Schedules H2, which were used to allocate event expenditures, were incorrect. For the two events for which receipt documentation was not maintained, the Audit staff calculated a mean allocation ratio based on the documented receipts from the other five events. Applying the correct allocation ratios, as well as the calculated mean allocation ratio, to the respective event expenditures, the Audit staff determined that the federal account overpaid its share of the expenditures by \$21,650. This "credit" has been offset against the amount of shared expenditures overpaid by the non-federal account.

When these adjustments were combined with other needed corrections to the allocation calculations, at the time of the interim audit report it was concluded that the non-federal account had potentially over funded its share of expenses by \$460,557.

During the exit conference the Audit staff provided the RCNM representatives with a spreadsheet detailing the allocation of expenses between federal and non-federal activities. An RCNM representative stated she did not know how the over funding occurred.

Interim Audit Report Recommendation

The Audit staff recommended that RCNM:

- Provide documentation to include copies of video tapes or scripts to show that the media disbursements classified above as potentially 100% federal (\$622,115) by the Audit staff were shared expenses;
- Provide documentation to show that payments totaling \$42,790 made directly from the non-federal account did not represent expenditures for shared activity; or
- Absent such documentation, reimburse the non-federal account \$460,557 for the underpayment of the federal share of shared expenses and provide evidence of the reimbursement (copies of the front and back of the instrument used for the reimbursement);
- Provide amended memo Schedules H4 to disclose the payments made from the non-federal account for each reporting period;

- If funds were not available to make the necessary reimbursement, disclose the debt to the non-federal account on Schedule D (Debts and Obligations) until funds become available to make the reimbursement.

Committee Response to Recommendation and Audit Staff's Assessment

In response, RCNM provided documentation including copies of print ads as well as copies of scripts and video or audio tapes for television and radio that demonstrate the shared nature of the expenditures. RCNM also provided documentation that demonstrated payments made directly from the non-federal account were not for shared activity. As a result, it is concluded that RCNM's non-federal account did not over fund its portion of shared expenses. Therefore, RCNM was neither required to reimburse the non-federal account nor file amended disclosure reports.