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AGENDA ITEM

For meeting of February 29, 2024

February 15, 2024

MEMORANDUM

To: The Commission

Through: Alec Palmer *AP*
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Zuzana O. Pacious *ZOP*
Acting Assistant Staff Director
Audit Division

Nicole Burgess *NB*
Audit Manager

By: Robert Morcomb *RM*
Lead Auditor

Subject: Audit Division Recommendation Memorandum on the 1199 SEIU United Healthcare Workers East Federal Political Action Fund (A21-10)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presented the Draft Final Audit Report (DFAR) to the 1199 SEIU United Healthcare Workers East Federal Political Action Fund (1199 SEIU) on January 9, 2024 (see attachment). 1199 SEIU did not request an audit hearing.

This memorandum provides the Audit staff's recommendation for each finding outlined in the DFAR.

In response to the DFAR, the committee provided additional information, as noted below.

Finding 1. Misstatement of Financial Activity

In response to the DFAR, 1199 SEIU filed amended disclosure reports that corrected the public record.

The Audit staff recommends that the Commission find that, in 2019, 1199 SEIU overstated its beginning and ending cash on hand balances by \$161,025. In 2020,

1199 SEIU overstated beginning and ending cash on hand balances by \$161,025 and \$96,649, respectively.

Finding 2. Reporting of Apparent Independent Expenditures

In response to the DFAR, 1199 SEIU agreed with the DFAR’s conclusion pertaining to the amended disclosure reports which corrected the disclosure of independent expenditures on Schedule E. 1199 SEIU further stated it withdrew its “[r]eference following the audit exit conference to a figure of \$2.5 million of reported independent expenditures, because it does not reflect either the public record or the Committee’s internal records...”

A. Reporting of Apparent Independent Expenditures

The Audit staff recommends that the Commission find that 1199 SEIU failed to properly disclose apparent independent expenditures, totaling \$1,075,248, on Schedule E (Independent Expenditures).

B. Failure to File 24/48-Hour Reports for Apparent Independent Expenditures

The Audit staff recommends that the Commission find that 1199 SEIU failed to file 24/48-hour reports for apparent independent expenditures, totaling \$75,500.

Finding 3. Recordkeeping for Communications

In response to the DFAR, 1199 SEIU stated it had no further records of communications beyond those previously provided as acknowledged by the DFAR. As a result of this document submission, 1199 SEIU demonstrated that it maintained records in sufficient detail, to verify the proper reporting for communication disbursements. Finally, 1199 SEIU reiterated its resolve in securing “all available information from its vendors” should it undertake independent expenditures again, in order to comply with the recordkeeping requirements.

The Audit staff now recommends that the Commission find that 1199 SEIU materially complied with the recommendation to maintain records, in sufficient detail, to verify the proper reporting for communication disbursements.

The Office of General Counsel has reviewed this memorandum and concurs with the recommendations.

If this memorandum is approved, the Proposed Final Audit Report will be prepared and circulated within 30 days of the Commission’s approval.

If this Audit Division Recommendation Memorandum is not approved on a tally vote, Directive No. 70 states that the matter will be placed on the next regularly scheduled open session agenda.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Robert Morcomb or Nicole Burgess at 694-1200.

Attachment:

- Draft Final Audit Report of the Audit Division on the 1199 SEIU United Healthcare Workers East Federal Political Action Fund

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on the 1199 SEIU United Healthcare Workers East Federal Political Action Fund¹

(January 1, 2019 - December 31, 2020)

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.² The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

About the Committee (p. 2)

The 1199 SEIU United Healthcare Workers East Federal Political Action Fund is a separate segregated fund – labor organization of 1199 SEIU United Healthcare Workers East and is headquartered in New York, New York. For more information, see the chart on the Committee Organization, p.2.

Financial Activity (p. 2)

• Receipts

○ Contributions from Individuals	\$ 13,153,782
○ Other Federal Receipts	4
Total Receipts	\$ 13,153,786

• Disbursements

○ Transfers to Affiliated/Other Party Committees	\$ 10,807,053
○ Other Disbursements	1,623,242
○ Contributions to Federal Candidates/Committee and Other Political Committees	337,250
○ Refund of Contributions to Individuals	203,833
○ Operating Expenditures	96,694
Total Disbursements	\$ 13,068,072

¹ On January 24, 2023, the committee filed a Statement of Organization changing its name from 1199 Service Employees Int'l Union Federal Political Action Fund to 1199 SEIU United Healthcare Workers East Federal Political Action Fund.

² 52 U.S.C. §30111(b).

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Reporting of Apparent Independent Expenditures (Finding 2)
- Recordkeeping for Communications (Finding 3)

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**Draft Final Audit Report of the
Audit Division on the
1199 SEIU United Healthcare
Workers East Federal Political
Action Fund**

(January 1, 2019 - December 31, 2020)

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Part I

Background

Authority for Audit

This report is based on an audit of the 1199 SEIU Service United Healthcare Workers East Federal Political Action Fund (1199 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 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 shall 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 consistency between reported figures and bank records;
2. the disclosure of individual contributors' occupation and name of employer;
3. the disclosure of independent expenditures;
4. the disclosure of disbursements, debts and obligations;
5. the completeness of records; and
6. other committee operations necessary to the review.

Records Obtained Through Subpoena

Following numerous written and verbal attempts by the Audit staff to obtain the records required to perform the audit, on June 1, 2022, the Commission issued a Subpoena to Produce Documents and Order to Submit Written Answers to 1199 SEIU.³ The subpoena contained a request for a database of receipts, bank statements, sample documentation for donor payroll deductions authorizations, copies of negotiated checks, copies of records and media and the completed Internal Control Questionnaire provided by the Federal Election Commission. In response the subpoena request, 1199 SEIU submitted records on July 1, 2022.

³ See *supra* footnote 1.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	September 1, 1999
• Audit Coverage	January 1, 2019 - December 31, 2020
Headquarters	
New York, New York	
Bank Information	
• Bank Depositories	One
• Bank Accounts	One checking account
Treasurer	
• Treasurer When Audit Was Conducted	Helen Schaub (11/9/2021 – Present) Timothy Foley (5/3/2017 – 11/8/2021)
• Treasurer During Period Covered by Audit	Timothy Foley
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, 2019	\$ 1,570,822
Receipts	
○ Contributions from Individuals	13,153,782
○ Other Federal Receipts	4
Total Receipts	\$ 13,153,786
Disbursements	
○ Transfers to Affiliated/Other Party Committees	10,807,053
○ Other Disbursements	1,623,242
○ Contributions to Federal Candidates /Committees and Other Political Committees	337,250
○ Refund of Contributions to Individuals	203,833
○ Operating Expenditures	96,694
Total Disbursements	\$ 13,068,072
Cash on hand @ December 31, 2020	\$ 1,678,278⁴

⁴ The 2020 ending cash on hand does not equal the beginning cash on hand plus reported receipts minus reported disbursements. The difference is due to voided checks that were outstanding, some as old as 13 years or more.

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of 1199 SEIU's reported financial activity with its bank records revealed a misstatement of beginning and ending cash on hand balances for calendar years 2019 and 2020. Specifically, for 2019, 1199 SEIU overstated its beginning and ending cash on hand balances by \$161,025. For 2020, 1199 SEIU overstated its beginning cash on hand balance by \$161,025 and overstated its ending cash on hand balance by \$96,649. In response to the Interim Audit Report recommendation, 1199 SEIU did not correct the public record by amending its cash on hand balance on its most recently filed disclosure report. In addition, 1199 SEIU has not filed a Form 99 with an explanation that the cash on hand change resulted from a prior period adjustment. Absent the filing of its most recently filed disclosure report with the amended cash on hand balance and a Form 99 to explain the cash on hand change, 1199 SEIU's cash on hand balance remains misstated. (For more detail, see p. 5.)

Finding 2. Reporting of Apparent Independent Expenditures

During audit fieldwork, the Audit staff reviewed expenditures, totaling \$825,663, that 1199 SEIU disclosed on Schedule B, Line 29 (Other Disbursements). These appear to be independent expenditures that contain express advocacy and should have been disclosed on Schedule E, Line 24 (Itemized Independent Expenditures). Additionally, of the apparent independent expenditures totaling \$825,663, the Audit staff identified two disbursements, totaling \$75,500, for which 1199 SEIU may have been required to file 24-hour reports depending on the date of public dissemination.

In response to the Interim Audit Report recommendation, 1199 SEIU filed amended disclosure reports that disclosed on Schedule E, Line 24, \$1,075,248 in apparent independent expenditures. In addition, 1199 SEIU acknowledged that the two disbursements, totaling \$75,500, were independent expenditures attributed to Joseph Biden for President and were disseminated between October 6th and November 3rd, 2020. As such, 1199 SEIU should have filed 24-hour reports for the two independent expenditures totaling \$75,500. (For more detail, see p. 6.)

Finding 3. Recordkeeping for Communications

During audit fieldwork, the Audit staff reviewed disbursements for communications to verify the accuracy of the information and proper classification of transactions disclosed on 1199 SEIU's reports. The Audit staff identified 17 transactions on 1199 SEIU's 24/48-Hour Reports of Independent Expenditures, totaling \$1,025,299, with purposes including, "digital ads," "digital ads set up," "projected digital ad buy" and "projected

staff compensation for phone banking.” Documentation provided by 1199 SEIU was insufficient to verify proper reporting. In response to the Interim Audit Report recommendation, 1199 SEIU stated it has exhausted the available efforts to locate and provide all the documentation requested by the Audit staff. In a follow-up request for clarification, 1199 SEIU provided a schedule of costs per media device per geographic location that demonstrated that the total cost for digital media advertising for federal candidates was \$1,377,080. Further, 1199 SEIU provided documentation for independent expenditures totaling \$253,327 (see Finding 2 – Reporting of Apparent Independent Expenditures). The Audit staff concludes 1199 SEIU did not provide documentation for digital media ads, totaling \$575,651, supporting Joseph Biden for President as reported on amended Schedule E. (For more detail, see p. 11.)

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Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of 1199 SEIU's reported financial activity with its bank records revealed a misstatement of beginning and ending cash on hand balances for calendar years 2019 and 2020. Specifically, for 2019, 1199 SEIU overstated its beginning and ending cash on hand balances by \$161,025. For 2020, 1199 SEIU overstated its beginning cash on hand balance by \$161,025 and overstated its ending cash on hand balance by \$96,649. In response to the Interim Audit Report recommendation, 1199 SEIU did not correct the public record by amending its cash on hand balance on its most recently filed disclosure report. In addition, 1199 SEIU has not filed a Form 99 with an explanation that the cash on hand change resulted from a prior period adjustment. Absent the filing of its most recently filed disclosure report with the amended cash on hand balance and a Form 99 to explain the cash on hand change, 1199 SEIU's cash on hand balance remains misstated.

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 for 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

During audit fieldwork, the Audit staff reconciled 1199 SEIU's most recent reported financial activity, filed prior to the audit notification, with its bank records for calendar years 2019 and 2020. The reconciliation determined that 1199 SEIU's 2019 beginning and ending cash on hand balances were overstated by \$161,025. In 2020, 1199 SEIU overstated beginning and ending cash on hand balances by \$161,025 and \$96,649, respectively. The cash on hand discrepancies for 2019 and 2020 resulted primarily from prior period adjustments as well as minor misstatements for disbursements during calendar year 2020.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the misstatements for 2019 and 2020 with 1199 SEIU representatives during the exit conference and provided schedules detailing the misstatements. During the exit conference, 1199 SEIU representatives inquired if the Audit staff was able to determine the cause of the discrepancies. The Audit staff

explained that the misstatements stemmed from discrepancies that occurred prior to the audit period. In response to the exit conference, 1199 SEIU acknowledged the discrepancies between the beginning and ending cash on hand balances on its reports and the corresponding amounts on 1199 SEIU's bank records for 2019 and 2020. Additionally, 1199 SEIU explained that these discrepancies have persisted for the past 10 years, and it has no reason to believe that the discrepancies were due to wrongdoing. Lastly, 1199 SEIU stated it would file a Form 99, "...that corrects these misstatements and explains a one-time adjustment of the cash balance on a subsequent periodic report in order to reconcile that report, and so future reports as well, with the cash balance."

The Interim Audit Report recommended that 1199 SEIU amend its most recently filed disclosure report to correct the cash on hand balance. Further, it was recommended that 1199 SEIU file a Form 99⁵ (Miscellaneous Electronic Submission) with an explanation that the cash on hand balance change resulted from a prior period adjustment.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, 1199 SEIU stated it was amending its most recent report to make a one-time prior period adjustment and that it would file a Form 99. As of the date of this report, 1199 SEIU did not correct the public record by amending its cash on hand balance on its most recently filed disclosure report. In addition, 1199 SEIU has not filed a Form 99 with an explanation that the cash on hand change resulted from a prior period adjustment. However, 1199 SEIU did file amended disclosure reports for the October Quarterly 2020, Pre-General 2020, Post-General 2020 and Year- End 2020 that increased the amount reported on Line 11a(i) (Contributions from Individuals Unitemized) and Line 11a(ii) (Contributions from Individuals Itemized), by a total of \$77,860. The amended ending cash on hand balance difference increased from \$96,649 to \$174,510.

Absent amending the cash on hand balance on its most recently filed disclosure report and including an explanation of the cash on hand change on a Form 99, 1199 SEIU's cash on hand balance remains misstated.

Finding 2. Reporting of Apparent Independent Expenditures

Summary

During audit fieldwork, the Audit staff reviewed expenditures, totaling \$825,663, that 1199 SEIU disclosed on Schedule B, Line 29 (Other Disbursements). These appear to be independent expenditures that contain express advocacy and should have been disclosed on Schedule E, Line 24 (Itemized Independent Expenditures). Additionally, of the apparent independent expenditures totaling \$825,663, the Audit staff identified two

⁵ 1199 SEIU was advised by the Audit staff if it chose to file a Form 99, instead of amending its disclosure reports, the form must contain all pertinent information that is required on each schedule.

disbursements, totaling \$75,500, for which 1199 SEIU may have been required to file 24-hour reports depending on the date of public dissemination.

In response to the Interim Audit Report recommendation, 1199 SEIU filed amended disclosure reports that disclosed on Schedule E, Line 24, \$1,075,248 in apparent independent expenditures. In addition, 1199 SEIU acknowledged that the two disbursements, totaling \$75,500, were independent expenditures attributed to Joseph Biden for President and were disseminated between October 6th and November 3rd, 2020.⁶ As such, 1199 SEIU should have filed 24-hour reports for the two independent expenditures totaling \$75,500.

Legal Standard

A. Definition of Independent Expenditures. An independent expenditure is an expenditure made for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party or its agents.

A clearly identified candidate is one whose name, nickname, photograph or drawing appears, or whose identity is apparent through unambiguous reference, such as "your Congressman," or through an unambiguous reference to his or her status as a candidate, such as "the Democratic presidential nominee" or "Republican candidate for Senate in this state."

Expressly advocating means any communication that:

- Uses phrases such as "vote for the President" or "re-elect your Congressman" or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge election or defeat of one or more clearly identified candidates; or
- When taken as a whole and with limited references to external events, such as proximity to the election, could be interpreted by a reasonable person only as advocating the election or defeat of one or more clearly identified candidates. 11 CFR §§100.16(a), 100.17 and 100.22.

B. Disclosure Requirements – General Guidelines. An independent expenditure shall be reported on Schedule E if, when added to other independent expenditures made to the same payee during the same calendar year, it exceeds \$200. Independent expenditures made (i.e., publicly disseminated) prior to payment should be disclosed as memo entries on Schedule E and as a debt on Schedule D. Independent expenditures of \$200 or less need not be itemized, though the committee must report the total of those expenditures on Line (b) on Schedule E. 11 CFR §§104.3(b)(3)(vii)(C), 104.4(a) and 104.11.

⁶ In absence of the specific date of dissemination, the invoice dates of October 23rd and October 26th, 2020, were used by the Audit staff.

- C. 24-Hour Independent Expenditure Reports.** Any independent expenditures aggregating \$1,000 or more, with respect to any given election, and made after the 20th day but more than 24 hours before the day of an election must be reported and the report must be received by the Commission within 24 hours after the expenditure is made. A 24-hour report is required for each additional \$1,000 that aggregates. The 24-hour report must be filed on a Schedule E. The date that a communication is publicly disseminated serves as the date that the Committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$1,000. 11 CFR §§104.4(f) and 104.5(g)(2).
- D. 48-Hour Independent Expenditure Reports.** Any independent expenditure aggregating \$10,000 or more for an election in any 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. The reports must be filed with the Commission within 48 hours after the expenditure is made. The date that a communication is publicly disseminated serves as the date that the Committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$10,000. 11 CFR §§104.4(f) and 104.5(g)(1).
- E. Allocation of Expenses Between Candidates.** Expenditures made on behalf of more than one clearly identified federal candidate shall be attributed to each such candidate according to the benefit expected to be derived. In the case of a publication or broadcast communication, the attribution shall be determined by the proportion of space or time devoted to all candidates. This method shall be used to allocate payments involving both clearly identified federal candidates and one or more clearly identified non-federal candidates. 11 CFR §106.1(a).

Facts and Analysis

A. Reporting of Apparent Independent Expenditures

1. Facts

During audit fieldwork, the Audit staff reviewed disbursements to ensure proper reporting. The Audit staff noted that 1199 SEIU did not disclose these apparent independent expenditures on Schedule E, rather the disbursements, totaling \$825,663, were disclosed on Schedule B, Line 29 and appear to be media related. These expenditures were for 12⁷ digital ads, one mailer, one text script and one phone script which contain express advocacy. An analysis for these expenditures is as follows:

⁷ There were 12 distinct digital ads, which referenced various early voting periods and the November 3rd general election date.

Apparent Independent Expenditures Reported as Other Disbursements (Associated Digital Ads, Mailer, Phone and Text Scripts Invoices Provided under 11 CFR §100.22(a))

The purposes on the invoices provided to the Audit staff for these expenditures were: paid media campaigns, service fees for campaigns, call hub dialers and text tools, and card print for card stock. The digital ads provided to the Audit staff contained phrases such as, “Vote Biden-Harris Nov.3,” “Vote Early for Biden-Harris Oct.12-30,” “Vote Early for Biden-Harris Oct. 15-31,” “Vote Early for Biden-Harris Oct.13 – 30,” “Vote Siegel Nov 3,” and “Vote Ortiz Jones Nov 3.” All of these communications contained language expressly advocating the election or defeat of a clearly identified candidate, as defined under 11 CFR §100.22(a).

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with 1199 SEIU representatives during the exit conference and provided a schedule detailing these expenditures. During the exit conference, 1199 SEIU representatives requested that the Audit staff explain the finding, including how the finding total was derived. The Audit staff explained the schedule and the various amounts identified. In response to the exit conference, 1199 SEIU stated that, “as the result of an administrative error the Committee appears to have disclosed its independent expenditures on line 29.” In addition, 1199 SEIU stated that, with the exception of two payments to its phone bank vendor, all expenditures were disclosed on its 24/48-hour reports. 1199 SEIU further stated that, as recommended by the Audit staff, it would amend its reports to disclose all applicable expenditures on Schedule E.

The Interim Audit Report recommended that 1199 SEIU provide documentation that apparent independent expenditures, totaling \$825,663, did not require reporting as independent expenditures. Absent such documentation, the Interim Audit Report recommended that 1199 SEIU amend its reports to disclose these disbursements as independent expenditures on Schedule E.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, 1199 SEIU filed the 2020 Pre-General and the 2020 Post-General amended disclosure reports which disclosed, on Schedule E, Line 24, \$1,075,248 in apparent independent expenditures. In addition, 1199 SEIU acknowledged that two disbursements, totaling \$75,500, were independent expenditures attributed to Joseph Biden for President and were disseminated between October 6th and November 3rd, 2023. In response to a request for clarification, 1199 SEIU provided updated documentation that increased the amount of apparent independent expenditures by \$253,327, that were not previously reported on Schedule E, Line 24, from \$821,921⁸, to \$1,075,248. 1199 SEIU stated the amendments were filed, “to

⁸ 1199 SEIU stated one mailer, totaling \$3,742, was a member communication and was disseminated only to the restricted class of the it’s organization. As a result, the Audit staff deducted \$3,742 from the total. (\$825,663 - \$3,742).

correct the misattributions to Line 29 of disbursements that should have been disclosed on Schedule E, and to update the estimates reflected on the 48-Hour and 24-Hour reports submitted during October and November 2020 with information ascertained since.”

The Audit staff concludes that 1199 SEIU did not disclose apparent independent expenditures that contain express advocacy, totaling \$1,075,248, on Schedule E, Line 24.

B. Failure to File 24-Hour Reports for Apparent Independent Expenditures

1. Facts

In addition to not reporting the apparent independent expenditures during the audit period, 1199 SEIU did not file two 24-hour reports, totaling \$75,500.⁹ The two disbursements were reported on Schedule B, Line 29, for phone bank scripts that contained express advocacy.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with 1199 SEIU representatives during the exit conference and provided the relevant schedules. During the exit conference, 1199 SEIU representatives questioned whether 1199 SEIU filed 48-hour reports for the two apparent independent expenditures, totaling \$75,500, and the Audit staff confirmed that such reports were not filed. In response to the exit conference, 1199 SEIU stated that, apart from two payments to its phone bank vendor, all expenditures were disclosed on its 24/48-hour reports.

The Audit staff reviewed all 24/48-hour reports filed by 1199 SEIU and maintained that 24-hour reports were not filed for the two apparent independent expenditures, totaling \$75,500.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, 1199 SEIU stated that the two payments were attributed to independent expenditures supporting Joseph Biden for President via telephone calls. These calls were part of a campaign and were disseminated between October 6 and November 3, 2020.¹⁰ 1199 SEIU stated it believed the volume of calls were evenly spaced throughout the period.

The Audit staff concludes that 1199 SEIU did not file 24-hour reports for the two independent expenditures, totaling \$75,500.

⁹ The date the expenditure is publicly distributed serves as the date that the independent expenditure is made for the purposes of the additional 24/48-hour filing requirements. In the absence of a known date for public dissemination, the Audit staff used the invoice date to determine if a 24/48-hour report was required.

¹⁰ See *supra* footnote 6.

Finding 3. Recordkeeping for Communications

Summary

During audit fieldwork, the Audit staff reviewed disbursements for communications to verify the accuracy of the information and proper classification of transactions disclosed on 1199 SEIU's reports. The Audit staff identified 17 transactions on 1199 SEIU's 24/48-Hour Reports of Independent Expenditures, totaling \$1,025,299, with purposes including, "digital ads," "digital ads set up," "projected digital ad buy" and "projected staff compensation for phone banking." Documentation provided by 1199 SEIU was insufficient to verify proper reporting. In response to the Interim Audit Report recommendation, 1199 SEIU stated it has exhausted the available efforts to locate and provide all the documentation requested by the Audit staff. In a follow-up request for clarification, 1199 SEIU provided a schedule of costs per media device per geographic location that demonstrated that the total cost for digital media advertising for federal candidates was \$1,377,080.¹¹ , 1199 SEIU provided documentation for independent expenditures totaling \$253,327 (see Finding 2 – Reporting of Apparent Independent Expenditures). The Audit staff concludes 1199 SEIU did not provide documentation for digital media ads, totaling \$575,651¹², supporting Joseph Biden for President as reported on amended Schedule E.

Legal Standard

- A. Formal Requirements Regarding Reports and Statements.** Each political committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 11 CFR §104.14(b)(1).
- B. Preserving Documents.** Committees must preserve these records for 3 years after a report is filed. 52 U.S.C §30102(d).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed disbursements for communications to verify the accuracy of the information and proper classification of transactions disclosed on the reports. 1199 SEIU disclosed 17 transactions, totaling \$1,025,299, for which documentation was insufficient to make a determination pertaining to whether these disbursements were correctly reported.

The Audit staff's analysis resulted in the following:

¹¹ 1199 SEIU filed Schedule Es for the digital media vendor totaling \$1,377,350.

¹² Total independent expenditures reported on amended Schedule Es from the digital media vendor, \$1,377,350, less total independent expenditures that 1199 SEIU provided documentation for, \$801,699, (\$1,377,350 - \$801,699 = \$575,651).

Disbursements – Insufficient Documentation (\$1,025,299)

1199 SEIU reported 17 transactions, totaling \$1,025,299, on 24/48-Hour Reports of Independent Expenditures with purposes including, “digital ads,” “projected digital ad buy,” and “digital ads setup.” The 17 transactions include one 48-hour report that 1199 SEIU disclosed with an amount of \$0 and a purpose of, “projected staff compensation for phone banking” and the vendor as 1199 SEIU United Healthcare Workers East. Without sufficient documentation, the Audit staff was unable to verify the reporting of these transactions as filed on the 24/48-Hour Reports of Independent Expenditures. The Audit staff requested copies of the communications, invoices and supporting documentation for the 17 transactions, totaling \$1,025,299. As of the date of this report, 1199 SEIU has not provided documentation that would allow the Audit staff to verify whether the transactions were reported correctly.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with 1199 SEIU representatives during the exit conference and provided a schedule of the transactions for which further records were necessary to verify the accuracy of 1199 SEIU’s reporting. During the exit conference, 1199 SEIU representatives inquired about the documentation provided for the identified amounts, totaling \$1,025,299. The Audit staff explained that 1199 SEIU did not provide any documentation to show which ads were run and the costs associated with the ads. 1199 SEIU representatives also inquired about the identified discrepancy between the amount reported for one media vendor and the actual amount that cleared the bank. The Audit staff explained that 1199 SEIU over-reported the 24/48-hour reports to one vendor by \$176,720¹³.

In response to the exit conference, 1199 SEIU stated that, during the 2020 election cycle, it filed 24/48-hour reports “disclosing over \$2.5 million in projected and actual expenditures to [its digital media vendor] for setup placement of digital advertising.” 1199 SEIU stated that this amount was consistent with the digital media vendor’s invoices and the payments made to this vendor. 1199 SEIU also stated its digital media vendor tracked the projected and ultimate cost for the 24/48-hour reports and that it relied on the digital media vendor “...to maintain updated, detailed breakdowns of its ad spending.” 1199 SEIU stated that it has inquired with the digital media vendor about additional documentation supporting the reported allocation of costs for the digital ads and was told that the digital media vendor had none of the requested documentation. Should the media vendor produce documentation for the ads, 1199 SEIU stated that it would forward the documentation to the Audit staff.

In response to 1199 SEIU’s assertion that it filed 24/48-hour reports disclosing over \$2,500,000 in “projected and actual expenditures” to its digital media vendor, the Audit staff reviewed the 24/48-hour reports filed by 1199 SEIU for the 2020 election cycle and maintains that 1199 SEIU filed 24/48-hour reports, totaling \$1,777,962, for the 2020 election cycle. As of the date of this report, 1199 SEIU did not provide the

¹³ 1199 SEIU reported \$1,691,721 in transactions on its 24/48-hour reports to its digital media vendor; however, only \$1,515,000 cleared its bank account, which is an overreported difference of \$176,721.

Audit staff with documentation that supported its assertion that \$2,500,000 in 24/48-hour reports were filed for the 2020 election cycle.

The Interim Audit Report recommended that 1199 SEIU provide, in sufficient detail, documentation that allowed for verification of proper reporting for the communication disbursements, totaling \$1,025,299. In addition, the Interim Audit Report recommended that, 1199 SEIU provide documentation to support the 48-hour report from 1199 SEIU United Healthcare Workers East filed on October 9, 2020, totaling \$0.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, 1199 SEIU stated it has exhausted the available efforts to locate and provide the documentation requested by the Audit staff. In a follow-up request for clarification, 1199 SEIU provided a schedule of costs per media device and per geographic location that demonstrated that the total cost for digital media advertising for federal candidates totaled \$1,377,080. 1199 SEIU stated that on November 18, 2020, this information was provided to 1199 SEIU by its digital media vendor in a post-election report and includes final figures for 1199 SEIU's independent expenditures in the jurisdictions, including states supporting Mr. Biden, six congressional candidates and two senatorial candidates. In addition, 1199 SEIU filed an amended Schedule D to report a debt owed to 1199 SEIU United Healthcare Workers East and on an amended Schedule E, 1199 SEIU included an independent expenditure, for \$118,049¹⁴ that it previously filed a 48-hour report totaling \$0. Finally, SEIU stated "...in the event it again undertakes independent expenditures it will contemporaneously secure all available information from its vendors in order for the Committee both to prepare its reports and to ensure compliance with its recordkeeping requirements..." In summary, 1199 SEIU provided documentation for independent expenditures, totaling \$253,327, however, it was unable to provide documentation for the remaining \$575,651 in digital media ads supporting Joe Biden for President.

¹⁴ This amount is now included in the \$253,327 see Finding 2 – Reporting of Apparent Independent Expenditures.