



Wisconsin Ethics Commission

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DATE: For the October 10, 2016 Commission Meeting

TO: Members, Wisconsin Ethics Commission

FROM: Ethics Commission Staff

SUBJECT: Proposed Campaign Finance Auditing Schedule

I. Introduction

Following the implementation of the Campaign Finance Information System (CFIS) database in the fall of 2008, and Eye on Lobbying Database in 2012, Government Accountability Board staff developed procedures for regular audits of common campaign finance violations and lobbying activity. Those procedures were updated on a regular basis based on court decisions and legislative changes. Staff seeks to update and clarify these procedures for future audit activity. Staff is seeking comments, clarifications, and recommendations on the future handling of audits under the Commission's jurisdiction.

II. Overview of Statutory Requirements

Audit Procedures

The Commission is required to audit campaign finance reports to check for violations under WIS. STAT. § 19.49(2g). The statute requires making note of the possible violation, and informing the committee of the issue, but does not detail procedures for resolving the possible violations.

(2g) AUDITING. In addition to the facial examination of reports and statements required under s. 11.1304 (9), the commission shall conduct an audit of reports and statements which are required to be filed with it to determine whether violations of ch. 11 have occurred. The commission may examine records relating to matters required to be treated in such reports and statements. The commission shall make official note in the file of a committee, as defined in s. 11.0101 (6), of any error or other discrepancy which the commission discovers and shall inform the person submitting the report or statement. The board [commission] may not audit reports, statements, or records beyond the 3-year period for which a committee must retain records under ch. 11.

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

Administrator
Brian M. Bell, MPA

III. Restrictions on Release of Records

The Commission is prohibited from releasing or allowing inspection of certain records including, information related to an investigation or prosecution under Ch. 11, subch. III of Ch. 13, or subch. III of Ch. 19 or any other law specified in WIS. STAT. § 978.05(1) or (2).¹ Records not subject to inspection include anything obtained or prepared by the Commission in connection with an investigation, including the full text of any complaint received by the Commission.² While audits are separated from the confidentiality provisions that specifically apply to complaints, they still may result in an investigation or prosecution, so past practice of the staff has been to release only very general information, such as the number of possible violations identified in an audit. Information identifying a committee, individual, violation, or settlement amount was released only if contained within a signed settlement agreement.

IV. Overview of Audit Procedures

1. Staff will initiate an audit based on the schedule listed below. Some audits, like timely filing of campaign finance reports or payment of filing fees, will occur shortly after a report or payment is due. Others require more data analysis, and will occur as time permits.
2. When conducting an audit, staff will perform a global analysis of all committees or individuals subject to a particular law – for example, all committees required to report cash balances will be audited for cash balance discrepancies, and all candidates on the ballot during the previous election cycle will be audited for contribution limits violations.
3. Most data will be pulled from the CFIS database. For lobbying audits, data is also pulled from the Eye on Lobbying website, and for audits of contribution limit violations, staff will pull a list of candidates on the ballot in a specific election from WisVote.
4. Audit data and documents for each committee or person contacted will be saved in the Ethics H: drive.
5. When possible violations are identified, staff will send out an initial communication to the committee or individual with a request to respond within 30 days. The initial communication will identify the issue and request that it be fixed, or that the committee or person admit that the violation occurred. The initial communication may mention recommended settlement amounts but will not include settlement agreements.
6. On an ongoing basis, staff will work with committees to correct erroneous reports. If a mistake is corrected, staff will close the audit for that committee or person.

¹ [WIS. STAT. § 19.50\(1\)](#)

² [WIS. STAT. § 19.55\(3\)](#)

7. Committees and persons admitting that a violation occurred will be added to the agenda for the next Commission meeting. Committees that wish to appear before the Commission through a written submission, by phone, or in person will be added to the agenda for the next Commission meeting.
8. Once 30 days have passed since the initial communication:
 - a. If the committee or person has not responded, staff will send a second communication with a reminder of the issue.
 - b. Staff will add the audit item to the audit database for tracking.
 - c. Staff will add the item to the agenda of the next Commission meeting to ask the Commission to issue a settlement agreement for the recommended settlement amount.
9. The Commission, at its next meeting, may direct staff to issue a settlement agreement or close the audit as appropriate for each committee or person. If the Commission has not already considered their case, the committee or person may request to appear before the Commission. Once a settlement offer is issued, the committee or person shall have 30 days to pay the settlement offer.
10. If the registrant or individual refuses to accept the Commission's settlement offer or does not respond, the Commission may direct staff counsel to commence a civil action to collect a forfeiture of at least the amount of the settlement offer.
11. The Commission may place some registrants on administrative suspension rather than pursue civil action. This will generally apply to registrants with little activity that cannot be contacted. When staff believes a registrant should be placed on administrative suspension, staff will present the situation for the Commission's approval. If a registrant on administrative suspension wishes to become active again, staff will seek all incurred penalties and all reports, and may request the Commission to initiate a civil action if the registrant does not comply.
12. Commission staff will inform the Commission of all late reports, settlement offers, paid settlements and administrative suspensions, and will compile a yearly summary for each calendar year.

V. Audit Planning for 2016 -2017

- 1) Campaign Finance Reports
Period: Each Required CF Report
Start Date: Each Filing Deadline

Notices to file campaign finance reports are sent by email approximately one month before the report is due, and reminder emails are sent one week and one day before the deadline. Committees that have not filed are contacted the day after the deadline (for election related reports) or within a few days of the deadline (for continuing reports). The settlement amounts for late reports are documented in sections one and two of the Campaign Finance Settlement Schedule.

- 2) Campaign Finance Filing Fees
Period: Yearly
Start Date: January 15

Annual filing fees are due the same date the January Continuing campaign finance report is due, between the 15th and 17th of January. Notices are sent by email approximately one month before the fee is due, and reminder emails are sent one week and one day before the deadline. Committees that have not paid are contacted within a few days of the deadline. The settlement amounts for late filing fees are documented in section three of the Campaign Finance Settlement Schedule.

- 3) Pending Transactions Audit
Period: Yearly
Start Date: February

Committees have the ability to save transactions in the CFIS website, and file them all together when a continuing report or election related report is due. If a committee saves a transaction but does not file it, it is visible to staff, but not visible on the official report available to the general public. Staff generally does an audit of pending transactions as soon as all reports are official filed in the CFIS database, since unfiled transactions may impact all of the other audit results. Committees are given 30 days to respond to the initial staff contact and file the pending transactions, or delete them if they are duplicates. Committees that fail to respond could be penalized under section six of the Campaign Finance Settlement Schedule (Cash Balance Discrepancies), but in practice, no committee has yet been penalized for pending transactions. In 2016, this audit was run in August, and 19 committees were contacted by August 30th. The deadline for response was September 30th.

- 4) Cash Balance Audit
Period: Yearly
Start Date: March

If a committee has a discrepancy of \$100 or more within a report, or between the ending balance and beginning balance of subsequent reports, staff will contact the committee and ask for a resolution within 30 days. Committees that fail to respond could be penalized under section six of the Campaign Finance Settlement Schedule. In 2016, this audit was run in September, and 87 committees were contacted by September 16th. The deadline for response was October 17th.

5) Lobbyist Contribution Audit

Period: Yearly
Start Date: March

Once a year, staff compares a list of campaign contributions to partisan candidates with a list of registered lobbyists. If any matches are found, staff checks to see if the contribution was given before the lobbyist registered or after they surrendered their license. Staff also checks for returned contributions and attempts to eliminate false matches based on people with the same name from different cities. Lobbyists who appear to have made unlawful contributions are contacted and asked to respond within 30 days. Lobbyists that fail to respond, or who have made unlawful contributions, could be penalized under section nine of the Campaign Finance Settlement Schedule. In 2016, this audit was run in September, and 30 lobbyists were contacted by September 16th. The deadline for response was October 17th.

6) Corporate Contribution Audit

Period: Yearly
Start Date: March

Once a year, staff audits CFIS for contributions to candidates, party committees, legislative campaign committees, or PACs from businesses to check for unlawful corporate contributions. We also audit for contributions labeled as coming from individuals containing business identifiers like "Corp" or "Inc." Committees that appear to have received unlawful contributions are contacted and asked to respond within 30 days. Committees that fail to respond or that have accepted unlawful contributions, and the businesses that have contributed, could be penalized under section eight of the Campaign Finance Settlement Schedule. In 2016, this audit was run in September, and 15 committees were contacted by September 30th. The deadline for response was October 31st.

7) Employer Information Audit

Period: 2015 Only
Start Date: Waived

In past years, staff conducted a yearly audit of contributions over \$100 to ensure committees had reported the required employer information. Committees were still required to report this information in 2015, but staff recommends that since this information is no longer required as of 1/1/2016, the regular audit for employer information reported in 2015 should be cancelled.

8) Name/Address/Occupation Information Audit

Period: Yearly
Start Date: April 2018

The new law effective 1/1/2016 requires committees collecting non-anonymous contributions of any amount report the name and address of the contributor. Committees must also report the occupation of any contributor giving more than \$200 in a calendar year. Staff suggests

that this audit not be run until 2018 (covering calendar year 2017); to give committees time to adjust to the new reporting requirements.

9) Contribution Limits Audit – Spring/Fall

Period: Yearly/Biannual

Start Date: Following April after April Election/August after November Election

The campaign period for spring 2016 candidates (judges) ran until July 31, 2016. Therefore, the final report of the campaign period is not due until January 16, 2017. The campaign period for fall 2016 candidates runs until January 2, 2017. Therefore, the final report of the campaign period is not due until July 17, 2017. After all reports from those periods are entered, and yearly audits have been started, staff will audit the campaign period for each office for violations of the contribution limits by individuals or committees. Staff recommends that we run a yearly audit of the \$12,000 annual contribution limit to parties and segregated funds at the same time as the audit of the spring election cycle from the previous year. Any violations would be penalized under section seven of the Campaign Finance Settlement Schedule.

10) Independent Expenditure Reporting/72 Hour Reporting Audit

Period: Yearly/Biannual

Start Date: September after April Election/May after November Election

For spring elections, after the July report is filed, the 72-hour reporting by candidates and parties can be compared to the committees' regular reports. For fall elections, this would be possible after the January report is filed.

This audit has not been run regularly in the past. It may be a good idea to implement in 2017, to ensure compliance with the new statutes requiring 72-hour reporting of independent expenditures in the 60 days before a primary or election. In the past, audits covered only large contributions to candidate committees in the two weeks before Election Day. A more ambitious audit would cover reporting of independent expenditures in the 60 days before an election. This would involve collecting information from TV stations, radio stations, and newspapers, and comparing that spending to the reports from registered committees and reports from unregistered IEs of over \$2,500 in expenses. Any violations would be penalized under section four of the Campaign Finance Settlement Schedule.

11) Termination Audits

Period: From three years before present through Termination

Start Date: April/October (twice a year)

Termination audits cover a number of issues, such as whether the committee has \$0 cash on hand, and \$0 in outstanding debts and loans, if there is an outstanding filing fee, whether there are cash balance discrepancies, and other issues. These should be performed on a regular basis, but can be postponed as necessary so staff can concentrate on more pressing projects.