



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 11, 2011

**MEMORANDUM**

To: The Commission

Through: Alec Palmer  
Staff Director

From: Patricia Carmona *AC for PC*  
Chief Compliance Officer

Thomas Hintermister *[Signature]*  
Assistant Staff Director  
Audit Division

Alex Boniowicz *[Signature]*  
Audit Manager

By: Marty Kuest *[Signature]*  
Lead Auditor

Subject: Audit Division Recommendation Memorandum on Obama for America  
(A09-06)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff's recommendation is presented below and the finding is discussed in the attached Draft Final Audit Report (DFAR). Please note OFA did not request an audit hearing and only provided written comments in response to the DFAR.

The Office of General Counsel has reviewed this memorandum and concurs with the recommendation. The Office of General Counsel has also suggested the following edits on page 4 section B, paragraph 2 of the DFAR to improve clarity regarding the OFA's 48-hour notice submissions.

"Subsequent to the exit conference, OFA provided printouts of contributions that it believed had been reported on its 48-hour notice submissions. There were numerous contributions on the printouts that were not found on the public record. The difference between the sum of the printout totals and the total for all 48-hour notices appearing on the public record was approximately \$1,020,000. Records regarding these submissions indicate that the Commission placed all the data transmitted by OFA on the public record. Further, there are no filters in place that would restrict any data submitted."

The edits suggested by the Office of General Counsel will be incorporated into the finding as presented in the Proposed Final Audit Report.

**Apparent Failure to File 48-Hour Notices**

The Audit staff recommends that the Commission find that Obama for America failed to file required 48-hour notices in 2008.

If this memorandum is approved, a Proposed Final Audit Report will be prepared within 30 days of the Commission's vote.

Should an objection be received, Directive No. 70 states that the Audit Division Recommendation Memorandum 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 Marty Kuest or Alex Boniewicz at 694-1200.

**Attachment:**

- Draft Final Audit Report on Obama for America.

**cc: Office of General Counsel**



# Draft Final Audit Report of the Audit Division on Obama for America

(January 16, 2007 - December 31, 2008)

## Why the Audit Was Done

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

## Future Action

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

## About the Campaign (p. 2)

Obama for America (OFA) is the principal campaign committee for Barack Obama, a candidate for the Democratic Party's nomination for the office of President of the United States. OFA is headquartered in Chicago, Illinois. For more information, see the chart on the Campaign Organization, p. 2.

## Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 664,642,527
○ Contributions from Other Political Committees	14,075
○ Transfers from Authorized Committees	86,950,000
○ Offsets to Operating Expenditures	25,131,132
○ Other Receipts	1,675,373
<b>Total Receipts</b>	<b>\$ 778,413,107</b>
• Disbursements	
○ Operating Expenditures	\$ 706,559,330
○ Contribution Refunds	5,756,081
○ Other Disbursements	47,944,663
<b>Total Disbursements</b>	<b>\$ 760,260,074</b>

## Finding and Recommendation (p. 3)

- Apparent Failure to File 48-Hour Notices

<sup>1</sup> 2 U.S.C. §438(b).

# **Draft Final Audit Report of the Audit Division on Obama for America**

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(January 16, 2007 - December 31, 2008)

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# Part I

## Background

### Authority for Audit

This report is based on an audit of Obama for America (OFA), 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 risk factors and as a result, this audit examined:

1. the receipt of excessive contributions;
2. the receipt of contributions from prohibited sources;
3. the disclosure of contributions received;
4. the disclosure of individual contributors' occupation and name of employer;
5. the consistency between reported figures and bank records;
6. the completeness of records; and
7. other committee operations necessary to the review.

## Part II

### Overview of Campaign

#### Campaign Organization

<b>Important Dates</b>	
• Date of Registration	January 16, 2007
• Audit Coverage	January 16, 2007 - December 31, 2008
<b>Headquarters</b>	Chicago, Illinois <sup>2</sup>
<b>Bank Information</b>	
• Bank Depositories	Four
• Bank Accounts	Sixteen
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Marvin H. Nesbitt May 10, 2007 - Present
• Treasurer During Period Covered by Audit	Robert R. Bauer January 16, 2007 - May 9, 2007, Marvin H. Nesbitt May 10, 2007 - Present
<b>Management Information</b>	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

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

<b>Cash-on-hand @ January 16, 2007</b>	\$	0
<b>Receipts</b>		
○ Contributions from Individuals		664,642,527
○ Contributions from Other Political Committees		14,075
○ Transfers from Authorized Committees		86,950,000
○ Offsets to Operating Expenditures		25,131,132
○ Other Receipts		1,675,373
<b>Total Receipts</b>	<b>\$</b>	<b>778,413,107</b>
<b>Disbursements</b>		
○ Operating Expenditures		706,559,330
○ Contribution Refunds		5,756,081
○ Other Disbursements		47,944,663
<b>Total Disbursements</b>	<b>\$</b>	<b>760,260,074</b>
<b>Cash-on-hand @ December 31, 2008</b>	<b>\$</b>	<b>18,153,033</b>

<sup>2</sup> Originally registered as the Obama Exploratory Committee, headquartered in Washington, DC; the committee's name was changed to Obama for America and the headquarters was relocated to Chicago, Illinois, according to an amended statement of organization filed on February 12, 2007.

## **Part III Summary**

### **Finding and Recommendation**

#### **Apparent Failure to File 48-Hour Notices**

Based on audit fieldwork, OFA did not file required 48-hour notices for 1,312 contributions totaling \$ 1,972,266 received prior to the general election. In response to the Interim Audit Report, OFA stated that it had no further information to add at this time.

(For more detail, see page 4.)

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## Part IV

# Finding and Recommendation

### Apparent Failure to File 48- Hour Notices

#### Summary

Based on audit fieldwork, OFA did not file required 48-hour notices for 1,312 contributions totaling \$ 1,972,266 received prior to the general election. In response to the Interim Audit Report, OFA stated that it had no further information to add at this time.

#### Legal Standard

**Last-Minute Contributions (48-Hour Notice).** Campaign committees must file special notices regarding contributions of \$1,000 or more, received less than 20 days but more than 48 hours before any election in which the candidate is running. This rule applies to all types of contributions to any authorized committee of the candidate. 11 CFR §104.5(f).

#### Facts and Analysis

##### A. Facts

During audit fieldwork, a comparison was made of OFA's 48-hour notices filed to contributions of \$1000 or more which had been reported received during the 48-hour notice filing period.<sup>3</sup> This review identified 1,312 contributions totaling \$1,972,266 for which OFA failed to file the required notices. A majority of the missing 48-hour notices arose from a transfer reported on October 24, 2008 from the Obama Victory Fund (OVF), a joint fundraising committee whose participants were OFA and the Democratic National Committee (DNC). Contributions attributed to the October 24 transfer were traced to the disclosure reports filed by OVF to verify that they had been received between October 16 and October 23.

##### B. Interim Audit Report & Audit Division Recommendation

Prior to the end of audit fieldwork, and again at the exit conference, Audit staff provided OFA with schedules of contributions for which 48-hour notices were not filed. At the exit conference, the OFA representative stated that the schedule was being reviewed and that comments or corrections would be forthcoming.

Subsequent to the exit conference, the OFA provided copies of what it believed were the complete batches for each of its seventeen 48-hour notice submissions. Some of the batches contained contributions not found among the contributions listed on the public record. The difference between the sum of the batch totals and the total for all 48-hour notices appearing on the public record was approximately \$1,020,000. Records regarding

<sup>3</sup> The 48-hour report period ran from October 16<sup>th</sup> through November 1<sup>st</sup>.

these submissions indicate that the Commission placed all the data transmitted on the public record. Further, there are no filters in place that would restrict any data submitted.

Since the Audit staff has been assured that all data submitted is routinely posted to the public record, OFA was asked whether some filter might have been inadvertently applied by its data processing vendor. No response to this query has been received from OFA to date.

The Audit staff recommended that OFA provide:

- documentation to demonstrate that the 48-hour notices were filed for the contributions in question; or,
- documentation establishing the contributions were not subject to 48-hour notification; and/or,
- any written comments it considers relevant.

**C. Committee Response to Interim Audit Report**

In response to the Interim Audit Report, OFA stated that it had no further information to add at this time.

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