

Comments of Commissioner Trey Trainor on Revised Audit Process for Committees That Do Not Receive Public Funds – May 4, 2023

In 1986, during a press conference, President Ronald Reagan quipped that the nine most terrifying words in the English language are “I’m from the government and I’m here to help.” In my time here on the Commission I have struggled to understand the current audit procedures and have been frustrated with various aspects of the process, and I have the advantage of being here in the mothership; I can only imagine the confusion, fear, and frustration experienced by those who find themselves going through the process.

It is important to remember whom the Commission is dealing with when audits are conducted. More often than not, especially in the case of inexperienced candidates and treasurers, and state parties, we are dealing with individuals who have volunteered to participate in our political process. Obviously, compliance with the law is important, but donors expect their contributions to go towards a candidate’s election, or a committee’s advertisements, not on payments to fancy DC lawyers who are well-versed in the intricacies of the Commission’s audit process. And nor should they have to – the process should not be a penalty. Therefore, it is incumbent upon the Commission to provide a process that protects the rights of participants in the political process, does not discourage their future participation in our system of governance, but also promotes compliance and transparency.

Before the Commission today is a new audit process that strikes the appropriate balance between efficiency, procedural protections for audited committees, orderly development of the law, transparency, and encouraging voluntary compliance with the Federal Election Campaign Act. This new process is the result of extensive public input, both from commentators and a public hearing on the matter, and much back and forth amongst the staff and my fellow Commissioners to reach agreement on how to improve our processes. Part of that negotiation is that these new procedures will not go into effect until next cycle. I would have preferred that these new procedures take effect immediately, but such is the way of these things. I intend to work with my colleagues to implement some of the ideas encompassed in this new procedure into this cycle’s audits.

I would like to highlight for the American people some of the new procedures that I believe are critical to making this audit process better. First, the public will now know what to expect at every stage of the process, including the scope, legal theories behind each proposed finding, how document disputes will be overseen, and specific deadlines. Second, this new process will be more expeditious with early document disclosures and quick resolution of legal questions. Third, the process promotes transparency with the publication of non-confidential documents related to any findings at the conclusion of the audit and ensures consistency in results across audits raising similar legal issues. Finally, this new process retains the legal question resolution program for questions arising from the Reports Analysis Division while terminating it for audits because committees can now meaningfully challenge legal theories put forth in the audit process. And I would be remiss if I did not mention that as we work to compliment this new process, we welcome feedback from committees going through the process, as well as the public, about how it is or is not working well.

Until now, the audit process has been long, inefficient, and shrouded in secrecy. The Commission and committees have expended a great deal of resources to complete audits while often losing activity to the five-year statute of limitations. The new process established here will

expedite audits, provide meaningful and significant legal protections, and, hopefully, not sour people on the process of exercising their right to participate in politics.