Section 100.175 Audit Findings for Political Committees

a) The Board may order a political committee to conduct an audit of its financial records based upon criteria outlined in Section 9-13(b) of the Election Code. These criteria are limited to a situation in which:

1) there is a discrepancy between the committee's ending and beginning balances contained in 2 or more successive reports;

2) there is a failure to account for a previous investment or loan in a subsequent report or reports; and

3) there is a willful pattern of nonreconciliation of contributions received from or expenditures made from one political committee to another political committee, such that the reported amounts of the one committee do not correspond with the reported amounts of the other committee.

b) Conditions Precedent to Requirement for an Audit

1) Prior to ordering an audit, the Board will send to the committee address, the committee chairman, the committee treasurer, and any candidate designated on the Form D-1 Statement of Organization as being supported by the committee a notice in the form of a pre-audit letter stating that the Board intends to order the committee to conduct an audit based upon reasons outlined in the letter.

2) Prior to conducting an audit, the committee will be afforded an opportunity for a closed preliminary hearing to give reasons why the committee should not be ordered to conduct an audit, and the committee will be given an opportunity to correct the deficiencies or omissions that gave rise to the issuance of the pre-audit letter. At the conclusion of the closed preliminary hearing, a recommendation will be issued stating whether grounds exist to order the audit.
3) If, after the closed preliminary hearing, the Board determines that there are insufficient grounds upon which to order an audit, no further action will be taken.

4) If, after the closed preliminary hearing, the Board determines that there are sufficient grounds upon which to order an audit, the committee will be ordered to conduct an audit as provided in Section 9-13 of the Election Code.

5) The procedures contained in 26 Ill. Adm. Code 125, Subparts A and B shall apply to the closed preliminary hearing to the extent that they are not inconsistent with the provisions of Section 9-13.

c) Selection of Committees for Auditing

1) In each calendar year, the Board shall randomly select no more than 3% of the registered political committees to conduct an audit. No later than December 31 of the year preceding the selection, the Board will decide, based on staff recommendations, what percentage of political committees will be selected for audits in the year of the selection. The selection:

A) shall be made no later than the first business day in February; and

B) shall be made from all political committees on file with the Board whose status is active at the time of the random selection.

2) The method of selection shall be the same method that the Board uses to select the 5% of the total number of precincts in a given election authority jurisdiction for the purposes of conducting a post-election retabulation as provided in Sections 24A-15, 24B-15 and 24C-15 of the Election Code. Once a committee has been selected to conduct an audit based on the random selection provided in subsection (c)(1), the Board shall send to the committee address, the committee chairman, the committee treasurer, and any candidate designated on the Form D-1 as being supported by this committee, a notice that the committee has been selected to conduct an audit. The provisions in subsection (b) relating to the closed preliminary hearing shall not apply to committees that have been randomly selected to conduct an audit; however, the committee may be excused from conducting an audit pursuant to subsection (h).

d) Auditor

1) A political committee that has been ordered to conduct an audit pursuant to subsection (a) shall hire an entity qualified to perform the audit, i.e., a licensed certified public accountant (CPA) or other person qualified to perform an audit. The auditor shall:

A) have the proper training and experience to perform a financial analysis of campaign finance committees. Such training may be the
result of possession of a CPA license, possession of a degree in accounting from an accredited accounting or business school and/or experience as an accountant gained from past employment; and

B) not have contributed to the political committee during the 4 year period immediately preceding the order of the audit.

2) If the person selected by the committee to perform an audit is not a CPA, the committee shall, prior to the person conducting the audit, submit to the Board for approval the person selected. The committee shall include with the submission any information regarding the qualifications of the person to perform an audit that would inform the Board of the qualifications. The committee may appear before the Board to argue the selected person's qualifications. The Board shall provide written notice to the committee stating whether the selected person is approved and, if not approved, the reasons for denial of approval. If the Board does not approve of the person selected, the committee shall, within 10 business days after the date of the nonapproval notice, select another person to conduct the audit and submit that person for Board approval in accordance with this subsection (d).

e) Any audit ordered by the Board shall include and cover all financial records required to be maintained by the committee as provided in Section 9-7 of the Election Code. The audit shall be conducted in such a way as to ensure compliance with the contribution limitations set forth in Section 9-8.5 and the reporting requirements set forth in Sections 9-3 and 9-10. The records shall include any and all financial records in the possession or under the control of the committee or the financial institution in which the committee's funds are held, including, but not limited to:

1) Bank statements;

2) Deposit slips;

3) Internal registers or ledgers; and

4) Records maintained and stored in any type of electronic medium.

f) The audit shall only cover the 2 year period immediately preceding the order of the audit or the period of time since the committee was last ordered to conduct an audit, whichever is shorter. However, if any portion of these time periods covers a time in which the contribution limits provision of Article 9 of the Election Code was not in effect, those limits shall not be included in the scope of the audit.

g) If the Board determines that the committee is in violation of Sections 9-3, 9-8.5 or 9-10, it may assess a penalty for non-compliance consistent with the penalty provisions contained in those Sections and 26 Ill. Adm. Code 125.425. However, no additional penalty shall be imposed by the Board for any violation found as a result of a Board ordered audit if the Committee has previously been assessed a penalty for that violation.
h) Excused from Audit

1) Any political committee, other than a state central committee or a county central committee, ordered by the Board to conduct an audit whose chairman, treasurer or candidate on whose behalf the committee was formed, that states under oath, in a signed and notarized affidavit, that the committee lacks the financial means to hire a CPA or other qualified person may, in lieu of conducting an audit, dissolve as a political committee and file a final report with the Board within 10 business days following the date of the notice of audit. The committee must remain dissolved for a period of at least 4 years.

2) If the committee fails to dissolve within 10 business days after the date of the notice of audit, the Board staff shall contact the committee within 2 business days and inform it that the option of excusing itself from conducting an audit will not be available to the committee unless it dissolves within 5 business days after being informed. If the committee does not dissolve within the 5 business days, the committee shall be required to conduct the audit under the provisions of Section 9-13 of the Code and Section 100.175 of this Part.

3) In order to be excused from conducting an audit, the committee must have a funds balance that does not exceed the cost of hiring a CPA or other qualified person, such cost being typical for the county in which the committee is located. The committee must submit with its affidavit a written cost estimate from at least one CPA or other qualified person located in the county in which the chairman, treasurer or candidate resides. The provisions of subsection (d) pertaining to restrictions on CPAs or other qualified persons chosen to conduct an audit shall also apply to the CPA or other qualified person whose fee is used as a basis to determine the financial ability of the committee to pay the cost of a CPA or other qualified person.

4) If a political committee dissolves as a result of its financial inability to conduct an audit, as provided in subsection (h)(1), and then reactivates during the 4 year period it was required to remain dissolved, as a condition of its reactivation, within 60 days after reactivation, the committee must conduct an audit covering the 2 year period immediately prior to the committee's dissolution.

(Source: Added at 35 Ill. Reg. 2295, effective February 4, 2011)