

Pursuant to 40 CFR 1506.9

### Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search>.

*EIS No. 20230062, Draft, USA, AK, Draft Legislative Environmental Impact Statement for the Public Law 106–65 Land Withdrawal Extension, Comment Period Ends: 07/11/2023, Contact: Grant Sattler 907–353–6701*

*EIS No. 20230063, Final, USFS, AK, Mendenhall Glacier Visitor Facility Improvements, Review Period Ends: 06/26/2023, Contact: Monique Nelson 907–209–4090*

### Amended Notice

*EIS No. 20230005, Draft, BLM, ND, North Dakota Resource Management Plan Revision, Comment Period Ends: 05/22/2023, Contact: Kristine Braun 701–227–7725*

Revision to FR Notice Published 01/20/2023; Extending the Comment Period from 04/20/2023 to 05/22/2023.

Dated: May 8, 2023.

**Cindy S. Barger,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2023–10161 Filed 5–11–23; 8:45 am]

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## FEDERAL ELECTION COMMISSION

[Notice 2023–07]

### Reports Analysis Division Legal Question Resolution Program

**AGENCY:** Federal Election Commission.

**ACTION:** Agency procedure.

**SUMMARY:** The Federal Election Commission (“Commission”) adopted a program in 2011, which was last revised in 2019, providing for a means by which persons may have a legal question considered by the Commission earlier in both the report review process and the audit process. Because the Commission is separately adopting a new audit process, it is revising the policy for the legal question program to narrow its scope to encompass only legal questions arising from requests for corrective action made by the Commission’s Reports Analysis Division.

**FOR FURTHER INFORMATION CONTACT:** Jessica Selinkoff, Assistant General Counsel, Policy Division, or Joshua Blume, Attorney, 1050 First Street NE,

Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** On August 1, 2011, the Commission adopted a program providing for a means by which persons may have a legal question considered by the Commission earlier in both the report review process and the audit process (“Legal Question Resolution Program”).<sup>1</sup> Because the Commission is separately adopting a new audit process for committees that do not receive public funds, effective June 1, 2024, for audits that begin after that date, the Commission will be terminating the Legal Question Resolution Program for legal questions arising in the course of audits. The Legal Question Resolution Program will remain in full effect with respect to audits commenced before June 1, 2024. At the conclusion of the last audit to be commenced before June 1, 2024, the Legal Question Resolution Program will no longer apply for any purpose. The program announced here and set forth below (“RAD Legal Question Resolution Program”) will take effect on June 1, 2024, and will apply only to legal questions arising from the Reports Analysis Division’s (“RAD”) review process.<sup>2</sup>

### I. Procedures

Within 15 business days of a determination by RAD that a person remains obligated to take corrective action to resolve an issue that has arisen during the report review process, the person may seek Commission consideration if a material dispute on a question of law exists with respect to the recommended corrective action.<sup>3</sup> A “determination” for purposes of triggering the 15 business days is the notification to the person of legal guidance prepared by the Office of General Counsel (“OGC”) at the request of RAD recommending the corrective action.

Any request for consideration by a person during the report review process shall be limited to questions of law on

<sup>1</sup> 76 FR 45798 (Aug. 1, 2011). The Commission has revised the program three times since 2011, as explained in the last revision. See Policy Statement Regarding a Program for Requesting Consideration of Legal Questions by the Commission, 84 FR 36602 (July 29, 2019).

<sup>2</sup> This superseding RAD Legal Request Program will not be available in the course of audits of committees that receive public funding. Audits of such committees are governed by extensive regulations set forth in 11 CFR, subchapters E and F that, in the Commission’s judgment, provide sufficient opportunity to present legal questions to the Commission.

<sup>3</sup> Many disputes involving corrective action requests hinge on questions of fact rather than questions of law, and thus are not appropriate for this procedure.

material issues, when: (1) the legal issue is novel, complex, or pertains to an unsettled question of law; (2) there has been intervening legislation, rulemaking, or litigation since the Commission last considered the issue; or (3) the request to take corrective action is contrary to or otherwise inconsistent with prior Commission matters dealing with the same issue. The request must specify the question of law at issue and why it is subject to Commission consideration. It should discuss, when appropriate, prior Commission matters raising the same issue, relevant court decisions, and any other analysis of the issue that may assist the Commission in its decision making. The Commission will not consider factual disputes under this procedure, and any requests for consideration other than on questions of law on material issues will not be granted.

All requests, including any extension requests, must be received by the Commission within 15 business days of the determination of corrective action. All requests must be directed to the attention of the Commission Secretary via email at [LegalRequestProgram@fec.gov](mailto:LegalRequestProgram@fec.gov).<sup>4</sup> Upon receipt of a request, the Commission Secretary shall forward a copy of any request to each Commissioner, the General Counsel, and the Staff Director.

Any request for an extension of time to file a RAD Legal Question Resolution Program request will be considered on a case-by-case basis and will only be granted if good cause is shown, and the Commission approves the extension request by four or more affirmative votes within five business days of receipt of the extension request. Within five business days of notification to the Commissioners of a request for consideration of a legal question, if two or more Commissioners agree that the Commission should consider the request, OGC may, at that time, attempt to resolve the matter informally over the course of five business days. Within 15 business days from the date upon which RAD and OGC conclude that the matter cannot be resolved informally, or from the expiration of the five-business day period, whichever occurs first, OGC will prepare and circulate a recommendation in accordance with all applicable Commission Directives. If the matter is resolved informally, RAD and OGC will notify the Commission that the matter has been resolved and notify the

<sup>4</sup> Requestors are advised that if they submit a request, electronically or otherwise, to a different address than designated in this Procedure, the processing of the request may be delayed.

Requestor in writing of the notification to the Commission. Informal resolution of a matter does not prevent the Requestor from seeking Commission consideration, in an additional or subsequent determination, subject to the requirements of this program.

After the recommendation is circulated for a Commission vote, in the event of an objection, the matter shall be automatically placed on the next meeting agenda consistent with the Sunshine Act, 5 U.S.C. 552b(g), and applicable Commission regulations in 11 CFR part 2. However, if within 60 business days of the filing of a request for consideration, the Commission has not resolved the issue or provided guidance on how to proceed with the matter by the affirmative vote of four or more Commissioners, RAD may proceed with the matter. After the 60 business days have elapsed, any requestor will be provided a copy of OGC's recommendation memorandum and an accompanying vote certification, or if no such certification exists, a cover page stating the disposition of the memorandum. Confidential information will be redacted as necessary.

After the request review process has concluded, a copy of the request for consideration, as well as the recommendation memorandum and accompanying vote certification or disposition memorandum, will be placed with the Committee's filings on the Commission's website within 30 days. These materials will also be placed on the Commission's web page dedicated to legal questions considered by the Commission under this program.

This procedure is not intended to circumvent or supplant the Advisory Opinion process provided under 52 U.S.C. 30108 and 11 CFR part 112. Accordingly, any legal issues that qualify for consideration under the Advisory Opinion process are not appropriate for consideration under this procedure.

## II. Annual Review

No later than July 1 of each year, the Office of Compliance and OGC shall jointly prepare and distribute to the Commission a written report containing a summary of the requests made under the program over the previous year and a summary of the Commission's consideration of those requests and any action taken thereon. The annual report shall also include the Chief Compliance Officer's and the General Counsel's assessment of whether, and to what extent, the program has promoted efficiency and fairness in both the Commission's report review process, as

well as their recommendations, if any, for modifications to the program.

On behalf of the Commission.

**Dara S. Lindenbaum,**

*Chair, Federal Election Commission.*

[FR Doc. 2023-10111 Filed 5-11-23; 8:45 am]

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## FEDERAL ELECTION COMMISSION

[Notice 2023-06]

### Audit Process for Committees That Do Not Receive Public Funds

**AGENCY:** Federal Election Commission.

**ACTION:** Agency procedure.

**SUMMARY:** The Federal Election Commission is revising its procedures for how it conducts audits of political committees that do not receive public funds.

#### FOR FURTHER INFORMATION CONTACT:

Dayna C. Brown, Assistant Staff Director, Audit Division, or Jessica Selinkoff, Assistant General Counsel, Policy Division, 1050 First Street NE, Washington, DC 20463, (202) 694-1200, (202) 694-1650, or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that the Federal Election Commission (the "Commission") "may conduct audits . . . of any political committee required to file a report under section 30104 [of the Act]." 52 U.S.C. 30111(b).<sup>1</sup> The Commission previously set forth its audit process for committees that do not receive public funds, in part, in Directives 69 and 70, Policy Statement Regarding a Program for Requesting Consideration of Legal Questions by the Commission, 84 FR 36602 (Jul. 19, 2019) (the "Legal Question Resolution Program"), and Procedural Rules for Audit Hearing, 74 FR 33140 (Jul. 10, 2009), as amended, 74 FR 79535 (Aug. 7, 2009) (collectively, the "Previous Procedural Documents").

The audit procedures set forth herein will take effect June 1, 2024, and will apply to all audits that begin after this

<sup>1</sup> The Commission also has the statutory authority to conduct an audit in instances which, based upon a complaint, "the Commission determines by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation" of the Act. 52 U.S.C. 30109(a)(2). The procedures set forth here do not apply to audits conducted under 52 U.S.C. 30109 after finding reason to believe a violation has occurred, which are instead governed by the Act's enforcement provisions. See generally 52 U.S.C. 30109; 11 CFR part 111; Guidebook for Complainants and Respondents on the FEC Enforcement Process, available at [https://www.fec.gov/resources/cms-content/documents/respondent\\_guide.pdf](https://www.fec.gov/resources/cms-content/documents/respondent_guide.pdf).

date. An audit begins when committees receive an audit notification;<sup>2</sup> thus, any committee that receives an audit notification on or after June 1, 2024 will be audited under these new audit procedures. Audits that began before these procedures went into effect—*i.e.*, a committee received an audit notification before June 1, 2024—will continue to be conducted according to the processes set forth in the Previous Procedural Documents.

The Previous Procedural Documents are hereby sunset as follows. Directive 70, The Legal Question Resolution Program,<sup>3</sup> and the Procedural Rules for Audit Hearings will remain in full effect with respect to audits commenced before June 1, 2024.<sup>4</sup> At the conclusion of the last audit to be commenced before June 1, 2024, Directive 70, the Legal Question Resolution Program, and the Procedural Rules for Audit Hearings will no longer apply.

On January 9, 2023, the Commission published a notice of public hearing and request for public comments on its policies and procedures regarding the auditing of political committees that do not receive public funds.<sup>5</sup> On February 14, 2023, the Commission held a hearing.<sup>6</sup> In adopting the process set forth below, the Commission took into consideration the comments and testimony received during that process.<sup>7</sup>

The goal of the new audit process is to strike the appropriate balance, within the constraints of the Act, among efficiency, procedural protections for audited committees, orderly development of the law, transparency, and the Commission's statutory authority to seek voluntary compliance with the Act.

## I. Revised Audit Process

### A. Overview

The audit process begins with a review of a committee's reports by the Commission's Reports Analysis Division ("RAD"). If RAD determines that a committee's reporting errors exceed Commission-approved compliance thresholds, RAD will refer the

<sup>2</sup> See *infra*, Section I.C (explaining the audit notification).

<sup>3</sup> The Commission is publishing in the **Federal Register** a new version of the Legal Question Resolution Program that will not apply to questions from audited committees.

<sup>4</sup> Directive 69, which concerns, among other things, staff deadlines in audits, is being amended.

<sup>5</sup> Notice of Public Hearing and Request for Public Comments, 88 FR 1228 (Jan. 9, 2023).

<sup>6</sup> For the recording of the hearing, as well as witness testimony, see <https://www.fec.gov/updates/february-14-2023-public-hearing/>.

<sup>7</sup> For a complete list of comments, see <https://www.fec.gov/legal-resources/policy-other-guidance/>.