
Appendix A

Earmarked Contributions

An earmarked contribution is one which the contributor directs (either orally or in writing) to a clearly identified candidate or the candidate's authorized committee through an intermediary or conduit. Earmarking may take the form of a designation, instruction or encumbrance and may be direct or indirect, express or implied, written or oral. 110.6(b)(1). Earmarked contributions require additional disclosure, as summarized below.

In addition, under the provisions of the *Honest Leadership and Open Government Act of 2007* (HLOGA), Pub. Law No. 110-81, 121 Stat. 735, signed into law September 14, 2007, certain "bundled" contributions may trigger additional disclosure of the identity of the person who raised the bundled contribution as summarized in section 6 of this Appendix. See also Appendix F, "Lobbyist Bundled Contributions" for further information.

1. Earmarked Contributions

Conduit/Intermediary

Anyone who receives and forwards an earmarked contribution to a candidate or candidate's authorized committee is considered a conduit or intermediary. 110.6(b)(2). (The terms "conduit" and "intermediary" are interchangeable; "conduit" will be used in the remainder of this appendix.)

Individuals, political committees, unregistered committees and partnerships may act as conduits for earmarked contributions.

Persons Not Considered Conduits

For the purposes of the earmarking rules, certain individuals and organizations are not considered conduits even though they may participate in activities to raise money for a candidate. These persons include:

- An employee or full-time volunteer working for a candidate committee;
- An individual who occupies a significant position in a candidate's campaign and who is expressly authorized to raise money on behalf of the candidate;
- A committee affiliated with the candidate committee; and
- A commercial fundraising firm retained by the candidate committee. 110.6(b)(2)(i).

Prohibitions Apply

No corporation, labor organization or other entity prohibited from making contributions in connection with federal elections may act as a conduit for an earmarked contribution. A nonconnected committee or a separate segregated fund (SSF), however, may act as a conduit. 110.6(b)(2)(ii) and 114.2(f)(3)(ii).

Furthermore, no individual may receive a contribution on behalf of a candidate (as a conduit or otherwise) while acting as the representative of a corporation, labor organization or other entity prohibited from making contributions. 110.6(b)(2)(i)(A) and (E) and 114.2(f).

2. Effect on Contribution Limits

Contributor's Limit

An earmarked contribution counts against the contributor's contribution limit for the recipient candidate. 110.6(a).¹

¹ In AO 2008-08, the Commission ruled that an earmarked contribution sent by an individual through a nonconnected political action committee (PAC) is considered "made" when the contributor gives the money to the nonconnected PAC, not when the committee eventually forwards the contribution to the final recipient. Thus, a contribution earmarked through a nonconnected PAC in 2011 will be subject to the 2011 calendar-year contribution limit and count against the contributor's 2011-2012 biennial limit, even if the contribution is not forwarded to the intended recipient until a later election cycle.

Conduit's Limit

Direction or Control

The conduit's limit is affected when the conduit exercises direction or control over the contributor's choice of recipient candidate (see "Contributions Earmarked Through SSF;" below). In that case, the full amount of the contribution counts against the limits of both the original contributor and the conduit, even though the candidate receives only one check. 110.6(d). For examples of how the Commission has viewed the "direction or control" rule in specific situations, see AOs 2003-23, 1986-04, 1981-57 and 1980-46.

Effect on Unregistered Organization

An unregistered organization acting as a conduit should be aware that conduit activity could result in a contribution by the organization, under the circumstances described above. In such a case, the activity may trigger registration requirements for the unregistered organization.

Contributions Earmarked Through SSF

Unsolicited

As discussed in Section 1, a corporation or labor organization may never act as a conduit for earmarked contributions. A corporation or labor organization's SSF, however, may collect and forward earmarked contributions. An unsolicited earmarked contribution, transmitted to a candidate through the SSF, counts against the original contributor's contribution limits, but it does not count against the limits on the SSF's own contributions to the candidate. 110.6(d)(1).

Solicited

If, however, the earmarked contribution was solicited from the restricted class by a communication from the SSF's connected organization, under 114.3, and was collected by the SSF, it is considered a contribution to both the SSF and the candidate, and from both the individual contributor and the SSF. As such, the earmarked contribution counts against several contribution limits. Note that, under these circumstances, the contribution automatically counts against the SSF's contribution limits regardless of whether

the SSF exercised direction or control over the choice of recipient. 114.2(f)(2)(iii) and (f)(4)(iii).

3. Forwarding Earmarked Contributions

10-Day Limit

The conduit must forward an earmarked contribution, along with a report (see below) to the recipient candidate committee within 10 days of receiving the contribution. 102.8(a) and (c) and 110.6(c)(1)(iii).

4. Transmittal to Campaign

Along with the funds, the conduit must forward to the recipient candidate committee a transmittal report containing information that the candidate's campaign committee will need for its own records and reports. 110.6(c)(1).

Contributions Exceeding \$50

When an earmarked contribution exceeds \$50, the accompanying transmittal report must contain the name and mailing address of the original contributor, the date the contribution was received by the conduit and the amount. 102.8(a) and 110.6(c)(1)(iv)(A). The report should also state the election designated by the contributor, if any. 110.1(b)(2).

Contributions Exceeding \$200

When an earmarked contribution exceeds \$200, the accompanying report must contain the name and mailing address of the contributor, the contributor's occupation and name of employer, the date the contribution was received by the conduit and the amount. 102.8(a) and 110.6(c)(1)(iv). The report should also state the election designated by the contributor, if any. 110.1(b)(2)(i).

5. Reporting Earmarked Contributions

An earmarked contribution must be reported by both the conduit (political committee or unregistered entity) and the recipient authorized committee. The conduit must comply with special reporting rules, which vary depending on whether the contribution was deposited in the conduit's bank account or was passed on directly to the campaign in the form of the original contributor's check. 110.6(c)(1)(v).

Reports by Political Committee Conduit

A political committee that serves as a conduit of an earmarked contribution must disclose the earmarked contribution, regardless of amount, on two separate reports: the committee's next regularly scheduled FEC report, and a special transmittal report (mentioned above) sent to the recipient authorized committee. 110.6(c)(1).

Next Regular FEC Report

The conduit's next regularly scheduled report must indicate whether the earmarked contribution was:

- Transmitted through the conduit's account, in which case each contribution must be reported on the reporting schedules for itemized receipts and disbursements (Schedules A and B); or
- Transmitted in the form of the original contributor's check, in which case each earmarked contribution must be reported as a memo entry on Schedules A and B.

110.6(c)(1)(iv) and (v). For more information, see Appendix D of the *Campaign Guide for Nonconnected Committees* and Appendix D of the *Campaign Guide for Corporations and Labor Organizations*.

Reports by Unregistered Conduit

A conduit that is not a registered political committee (that is, the conduit is an individual, a partnership or a group) must, within 30 days of forwarding the contribution, file a report by letter with the Federal Election Commission (not the Secretary

of the Senate) and must, when the contribution is forwarded, file a transmittal report by letter with the recipient authorized committee. 110.6(c)(1)(ii).

Contents of Reports by Conduit

The above reports filed by a conduit must contain the following information:

- The name and mailing address of the original contributor and, if the contribution is from an individual and exceeds \$200, the contributor's occupation and employer;
- The amount of the earmarked contribution;
- The date the contribution was received by the conduit;
- The recipient of the contribution, as designated by the contributor;
- The date the contribution was forwarded to the recipient; and
- Whether the contribution was passed on in cash, by the contributor's check or by the conduit's check. Note that if the conduit is an individual, he or she may deposit earmarked contributions into a personal bank account. See 110.6(c)(1)(iv). However, contributions may not be commingled with the personal funds of any individual. 102.15.

Report by Recipient Committee

The recipient of an earmarked contribution also has a reporting obligation if the earmarked contributions received from a single conduit exceed \$200 in an election cycle. In that case, on Schedule A, the authorized committee must:

- Identify the conduit by name and address (and occupation and employer if the conduit is an individual);
- Report the date of receipt and total amount of earmarked contributions received from that conduit; and
- Itemize the original contributions from each individual whose total contributions to the committee aggregate over \$200 per election cycle (including the full name, mailing address, occupation and employer of the contributor, the amount earmarked and the date the

conduit received the contribution). 110.6(c)(2). (See example at right.) If appropriate, the campaign must report whether the conduit's limit was affected. See 110.6(d)(2).

6. Contributions Bundled by Lobbyists/Registrants and Lobbyist PACs

Under the provisions of HLOGA, additional disclosure is required for certain “bundled contributions.” Bundled contributions include contributions collected and forwarded by a lobbyist/registrant or lobbyist PAC either physically or electronically, as well as contributions for which the lobbyist/registrant or lobbyist PAC receives credit from the recipient authorized committee, through record, designation or other form of recognition. See Appendix F, “Lobbyist Bundled Contributions” for further information.

EARMARKED CONTRIBUTION

SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS		FOR LINE NUMBER: (check only one)	PAGE OF
Use separate schedule(s) for each category of the Detailed Summary Page		<input checked="" type="checkbox"/> 11a	<input type="checkbox"/> 11b
		<input type="checkbox"/> 11c	<input type="checkbox"/> 11d
		<input type="checkbox"/> 12	<input type="checkbox"/> 13a
		<input type="checkbox"/> 13b	<input type="checkbox"/> 14
		<input type="checkbox"/> 15	
Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.			
NAME OF COMMITTEE (In Full) Doe for Congress Committee			
Full Name (Last, First, Middle Initial) A. Levi-Strauss, Claude		Date of Receipt 03 / 13 / 2012	
Mailing Address 5739 Totem St. City: Alexandria State: VA Zip Code: 00000		Amount of Each Receipt this Period 1,000.00	
FEC ID number of contributing federal political committee. C		Earmarked through AnthroPAC	
Name of Employer: Alexandria University Occupation: Anthropologist		Election Cycle-to-Date 1,000.00	
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) _____			
Full Name (Last, First, Middle Initial) B. Anthropologists Association PAC (AnthroPAC)		Date of Receipt 03 / 15 / 2012	
Mailing Address 2321 Origin St. City: Alexandria State: VA Zip Code: 00000		Amount of Each Receipt this Period 1,150.00	
FEC ID number of contributing federal political committee. C		MEMO Total earmarked through conduit. PAC limit not affected.	
Name of Employer		Election Cycle-to-Date 1,150.00	
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) _____			