

Receipt of Apparent Prohibited Contribution

Summary

During audit fieldwork, a review of contributions revealed that TDP deposited an apparent prohibited contribution totaling \$15,000 into its federal account. This matter was discussed at the exit conference. TDP representatives provided no comments.

Legal Standard

A. Receipt of Prohibited Corporate Contributions. Political committees may not accept contributions from the general treasury funds of corporations. This prohibition applies to any type of corporations including a non-stock corporation, as incorporated membership organization, and an incorporated membership organization, and an incorporated cooperative. 52 U.S.C. §30118.

B. Receipt of Prohibited Contributions – General Prohibition. Candidates and committees may not accept contributions (in the form of money, in-kind contributions or loans):

1. In the name of another; or
2. From the treasury funds of the following prohibited sources:
 - Corporations (this means any incorporated organization, including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative);
 - Labor Organizations; or
 - National Banks;
3. Federal Government Contractors (including partnerships, individuals, and sole proprietors who have contracts with the federal government); and
4. Foreign Nationals (including individuals who are not U.S. citizens and not lawfully admitted for permanent residence; foreign governments and foreign political parties; and groups organized under the laws of a foreign country or groups whose principal place of business is in a foreign country, as defined in 22 U.S.C. §611(b)). 52 U.S.C. §§30118, 30119, 30121, and 30122.

C. Questionable Contributions. If a committee receives a contribution that appears to be prohibited (a questionable contribution), it must follow the procedures below:

1. Within 10 days after the treasurer receives the questionable contribution, the committee must either:
 - Return the contribution to the contributor without depositing it; or
 - Deposit the contribution (and follow the steps below). 11 CFR §103.3(b)(1).
2. If the committee deposits the questionable contribution, it may not spend the funds and must be prepared to refund them. It must therefore maintain sufficient funds to make the refunds or establish a separate account in a campaign depository for possibly illegal contributions. 11 CFR §103.3 (b)(4).
3. The committee must keep a written record explaining why the contribution may be prohibited and must include this information when reporting the receipt of the contribution. 11 CFR §103.3(b)(5).
4. Within 30 days of the treasurer's receipt of the questionable contribution, the committee must make at least one written or oral request for evidence that the

contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal or an oral explanation that is recorded by the committee in a memorandum. 11 CFR §103.3(b)(1).

5. Within these 30 days, the committee must either:

- Confirm the legality of the contribution; or
- Refund the contribution to the contributor and note the refund on the report covering the period in which the refund was made. 11 CFR §103.3(b)(1).

D. Federal v. Nonfederal Account. The federal account may contain only those funds that are permissible under the federal election law; the nonfederal account may contain funds that are not permitted under the federal law (but are legal under state law), such as contributions that exceed the limits of the federal law and contributions from prohibited sources, such as corporations and labor organizations. 11 CFR §102.5 (a) (1) (i) and (a) (3).

E. Late Discovery of Prohibited Contribution. If the treasurer in exercising his or her responsibilities under 11 CFR 103.3(b) determined that at the time a contribution was received and deposited, it did not appear to be made by a corporation, labor organization, foreign national or Federal contractor, or made in the name of another, but later discovers that it is illegal based on new evidence not available to the political committee at the time of receipt and deposit, the treasurer shall refund the contribution to the contributor within thirty days of the date on which the illegality is discovered. If the political committee does not have sufficient funds to refund the contribution at the time of the illegality is discovered, the political committee shall make the refund from the next funds it receives. 11 CFR §103.3(b)(2).

Facts and Analysis

During audit fieldwork, a review of contributions identified one contribution totaling \$15,000 from an apparent prohibited source. The contribution was from a corporation; the Audit staff verified the corporate status with the Virginia Secretary of State on July 9, 2018. It is noted that the state of Tennessee does not prohibit contributions from corporations. TDP maintained sufficient federal funds to refund the contribution.

This matter was discussed at the exit conference. In response, TDP representatives provided no comments.