

- Confirm the legality of the contribution; or
- Refund the contribution. 103.3(b)(1).

Disgorge Prohibited Contribution Discovered Late

If a committee deposits a contribution that appears to be legal and later discovers that it is prohibited (based on new information not available when the contribution was deposited), the committee must disgorge the contribution within 30 days of making the discovery. 103.3(b)(2). This situation might arise, for example, if the committee learned that a past contributor was a foreign national or had a contract with the federal government. As another example, the committee might find out that a corporation reimbursed employees for their contributions to the committee (and had thus made corporate contributions and contributions in the name of another).

Contributor Known

If the identity of the original contributor is known, the committee must refund the funds to the source of the original contribution. 103.3(b)(2). Alternatively, the committee may pay the funds to the U.S. Treasury. AO 1996-05; but see *Fireman v. United States*, 44 Fed. Cl. 528 (1999).⁶ To do so, send the funds to:

U.S. Department of the Treasury
Financial Management Services
Credit Accounting Branch
3700 East-West Highway
Hyattsville, MD 20782

The committee should include a cover letter that explains that the funds being sent represent potential violations of the *Federal Election Campaign Act* and requests that the funds be placed in the “general fund account.”

Contributor Unknown

If, however, the identity of the original contributor cannot be determined or is in question, the committee may disburse the funds to a governmental entity (federal, state or local), or to a qualified charitable organization described in 2 U.S.C. §170(c). AOs 1995-19 and 1991-39.

Prohibited In-kind Contribution

If the prohibited contribution was an in-kind contribution, the committee should disgorge an amount equal to the value of the contribution to the appropriate party as determined above.

Insufficient Funds

If the committee does not have sufficient funds to disgorge the contribution when the illegality is discovered, the committee must use the next funds it receives. 103.3(b)(2).

⁶ In *Fireman*, the Court of Federal Claims suggested that a contributor of illegal contributions might have a right to have the contributions refunded to him rather than disgorged to the U.S. Treasury