

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR 8022

DATE COMPLAINT FILED: 07/05/2022

DATE OF NOTIFICATIONS: 07/06/2022

DATE OF LAST RESPONSE: 08/22/2022

DATE ACTIVATED: 10/12/2022

EXPIRATION OF SOL:

Earliest: 03/17/2027

Latest: 05/17/2027

ELECTION CYCLE: 2022

COMPLAINANT:

Campaign Legal Center

RESPONDENTS:

MEI Services, Inc.
 Patriots PAC, LLC, and Melvin Johnson
 in his official capacity as treasurer

**RELEVANT STATUTE
AND REGULATION:**

52 U.S.C. § 30119(a)

11 C.F.R. § 115.2

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint in this matter alleges that MEI Services, Inc. (“MEI”), a business specializing in the provision of medical supplies, made a prohibited \$90,000 contribution to Patriots PAC, LLC and Melvin Johnson in his official capacity as treasurer (“Patriots PAC”), a non-connected hybrid committee, while MEI was a federal government contractor in March 2022, and raises questions as to whether Patriots PAC may have violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by soliciting a prohibited contribution from MEI.¹ A review of Patriots PAC’s FEC disclosure reports also reflects that MEI made three

¹ Complaint (“Compl.”) at 1, MUR 8022 (MEI Services) (July 2, 2022).

1 additional contributions to the committee, totaling \$49,500, in May 2022.² The Act prohibits
2 federal contractors from making, and any person from knowingly soliciting such contributions.

3 MEI and Patriots PAC filed a two-page Joint Response stating that Patriots PAC was
4 unaware of the federal contractor status of MEI at the time of the receipt of the \$90,000
5 contribution and failed to identify a problem with the contribution.³ Further, the Joint Response
6 states that Patriots PAC has taken action to rectify the issues noted in the Complaint, including
7 refunding the \$90,000 contribution and instituting compliance measures to prevent future
8 issues.⁴ The disclosure reports filed by Patriots PAC, however, do not reflect the alleged refund
9 referred to in the Joint Response, nor does the Joint Response specify the internal controls that
10 the PAC has allegedly put in place. The Joint Response also states that the PAC is in the process
11 of winding down, thereby making it unlikely that there would be future violations of the Act.⁵

² See Patriots PAC, LLC 2022 July Quarterly Report at 7 (“July 2022 Quarterly Report”) (July 15, 2022), <https://docquery.fec.gov/pdf/236/202207159521481236/202207159521481236.pdf>. On September 13, 2022, RAD sent a RFAI to Patriots PAC in reference to its July 2022 Quarterly Report, noting among other issues, the receipt of the \$49,500 in contributions from MEI, an entity not registered with the Commission, that may constitute prohibited contributions. See Patriots PAC RFAI at 2 (Sept. 13, 2022), <https://docquery.fec.gov/pdf/369/202209130300153369/202209130300153369.pdf>. The RFAI instructed Patriots PAC to notify the Commission of its method of remedy regarding the potential prohibited contributions. *Id.* To date, Patriots PAC has not responded to the RFAI or refunded the subsequent contributions to MEI. Further, the PAC was scheduled to file its October 2022 Quarterly Report by October 15, 2022. On November 2, 2022, RAD sent a RFAI to Patriots PAC in connection with its failure to file the disclosure report. See Patriots PAC RFAI at 1 (Nov. 2, 2022), <https://docquery.fec.gov/pdf/039/202211020300159039/202211020300159039.pdf>. To date, the PAC has not filed the October 2022 Quarterly Report. On December 22, 2022, RAD sent a RFAI to Patriots PAC in connection with its failure to file a 2022 Post-General Report. See Patriots PAC RFAI at 1 (Dec. 22, 2022), <https://docquery.fec.gov/pdf/799/202212220300165799/202212220300165799.pdf>. To date, the PAC has not filed the 2022 Post-General Report.

³ MEI Services & Patriots PAC Joint Response (“Joint Resp”), generally, MUR 8022 (MEI Services) (Aug. 31, 2022).

⁴ *Id.* at 2.

⁵ *Id.* at 3.

1 Respondents request that the Commission consider their cooperation and corrective action in
2 resolving the matter.⁶

3 Respondents' request that the Commission consider what they characterize as the prompt
4 refund of the contribution, and the internal controls put in place by Patriots PAC are more
5 appropriately viewed as arguments for mitigation. Further, Patriots PAC's disclosure reports do
6 not show that the \$90,000 contribution was refunded, nor has Patriots PAC provided any
7 information regarding the internal controls allegedly implemented after the Complaint filing. In
8 addition, it appears that there were three subsequent prohibited federal contractor contributions,
9 totaling \$49,500, reported as being made by MEI to Patriots PAC in May 2022.⁷ There is no
10 indication that these additional prohibited contributions were ever refunded.

11 Accordingly, we recommend that the Commission find reason to believe that MEI
12 violated 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2(a) by making prohibited contributions and
13 that the Commission enter pre-probable cause conciliation ("PPCC") with MEI. There is
14 insufficient information available to assess whether Patriots PAC knowingly solicited the
15 contribution. We therefore recommend, consistent with past matters in which there was no
16 available information regarding the solicitation, that the Commission take no action as to Patriots
17 PAC at this time, pending development of additional information through the PPCC process with
18 MEI.

⁶ *Id.*

⁷ *See* July 2022 Quarterly Report at 7.

1 II. FACTUAL BACKGROUND

2 MEI is a company located in Atlanta, Georgia specializing in provision of medical
3 supplies.⁸ Between August 14, 2021 and August 13, 2022, MEI had a Federal Supply Schedule
4 (“FSS”) contract administered by the U.S. Treasury Department (“Treasury Department”) to
5 provide intravenous products and other related services.⁹ FSS contracts are “indefinite
6 delivery/indefinite quantity type contracts,” meaning that sales are not guaranteed; instead, once
7 an FSS contract is awarded, a vendor is added to a list of approved suppliers from which multiple
8 agencies may choose to make purchases.¹⁰ MEI has been awarded \$3.9 million total in federal
9 contracts from a variety of federal departments and agencies, including the Treasury Department,
10 U.S. Department of Defense, U.S. Department of Justice, and U.S. Department of Veterans
11 Affairs since 2011.¹¹

12 On March 17, 2022, MEI, while holding the above-referenced FSS contract, made a
13 \$90,000 contribution to Patriots PAC, a non-connected hybrid committee.¹² The Joint Response

⁸ MEI SERVICES, INC, NPI 1295174407, <https://npiprofile.com/npi/1295174407> (last viewed Dec. 16, 2022); see About NPI Profile, <https://npiprofile.com/> (last viewed Dec. 16, 2022).

⁹ See https://www.usaspending.gov/award/CONT_AWD_20342321F00012_2036_20342320D00001_2036 (last visited December 16, 2022).

¹⁰ See U.S. Dep’t of Veterans Affairs, *VA Federal Supply Schedule Service*, <https://www.fss.va.gov/> (last visited Dec. 16, 2022).

¹¹ USAspending.gov, Recipient Profile MEI Services Inc., <https://www.usaspending.gov/recipient/b512b8c2-eb3c-ca04-b3ee-cea9caf94e5c-C/latest> (last visited Dec. 16, 2022).

¹² Patriots PAC, 2022 April Quarterly Report at 6 (“April 2022 Quarterly Report”) (Apr. 19, 2022), <https://docquery.fec.gov/pdf/156/202204199500048156/202204199500048156.pdf>. On its Amended Statement of Organization, the Committee notified the Commission of its intent to operate as a hybrid committee and that it would maintain a separate “non-contribution” account in accordance with the stipulated order and consent judgment in *Carey v. FEC* for the purpose of making independent expenditures. Patriots PAC, LLC, Amended Statement of Organization (May 17, 2022). The Committee’s notice further indicated that “[t]he funds maintained in this separate account will not be used to make contributions, whether direct, in-kind, or via coordinated communications, or coordinated expenditures, to federal candidates or committees. During the 2022 election cycle, Patriots PAC also made two independent expenditures, totaling \$31,418, supporting Vernon Jones, a candidate for the U.S. House of Representatives in Georgia’s 10th Congressional district. See April 2022 Quarterly Report at 8.

1 does not describe any details on whether or how the contribution was solicited.¹³ Respondents
2 state that the contribution was refunded by Patriots PAC.¹⁴ However, a review of the most
3 recent disclosure reports for Patriots PAC reflects no such refund to MEI.¹⁵

4 A review of FEC disclosure reports listing MEI as the contributor also shows three
5 additional contributions, totaling \$49,500, made to Patriots PAC, that fall within the same period
6 of time that MEI held the FSS contract: \$10,000 on May 4, 2022, \$9,500 on May 5, 2022, and
7 \$30,000 on May 17, 2022.¹⁶ No additional information is available about the circumstances of
8 these contributions.

9 III. LEGAL ANALYSIS

10 The Act and the Commission's regulations prohibit contributions to political committees
11 by any person who enters into a contract with the United States or its departments or agencies for
12 "furnishing any material, supplies, or equipment," if payment on such contract "is to be made in
13 whole or in part from funds appropriated by Congress."¹⁷ Such contributions are barred for the
14 period between (1) the earlier of commencement of negotiations or when requests for proposal
15 are sent out, and (2) the later of the completion of performance on or termination of negotiations

¹³ See generally Joint Resp.

¹⁴ *Id.* at 1.

¹⁵ See April 2022 Quarterly Report (Disbursements); July 2022 Quarterly Report (Disbursements). On June 7, 2022, the Reports Analysis Division ("RAD") sent a Request for Additional Information ("RFAI") to Patriots PAC in connection with its April 2022 Quarterly Report, noting among issues, the receipt of the \$90,000 contribution from MEI, an entity not registered with the Commission, that may constitute a prohibited contribution. See Patriots PAC, LCC RFAI at 1 (June 7, 2022), <https://docquery.fec.gov/pdf/962/202206070300144962/202206070300144962.pdf>. The RFAI instructed Patriots to PAC to notify the Commission of its method of remedy for the potentially prohibited contribution. *Id.* at 2. To date, Patriots PAC has not responded to the RFAI or refunded the \$90,000 contribution to MEI.

¹⁶ See July 2022 Quarterly Report.

¹⁷ 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.2(a).

1 for the contract.¹⁸ The prohibition covers contributions to any political party, political
2 committee, federal candidate, or “any person for any political purpose or use.”¹⁹ The Act also
3 bars any person from knowingly soliciting a contribution from a federal contractor during the
4 prohibited period.²⁰

5 **A. The Commission Should Find Reason to Believe that MEI**
6 **Violated the Federal Contractor Prohibition**

7 MEI does not deny that it was a federal contractor at the time it made the \$90,000
8 contribution to Patriots PAC in March 2022. Further, federal spending data confirms that MEI
9 also had federal contractor status at that time, as well as when it made the additional \$49,500 in
10 contributions to Patriots PAC in May 2022. Specifically, at the relevant times MEI held an FSS
11 contract to provide medical supplies to the Treasury Department.²¹ The Joint Response requests
12 that the Commission take into consideration the cooperation and swift action taken by Patriots
13 PAC when resolving the matter.²² Although the Joint Response claims that MEI received a
14 \$90,000 contribution refund from Patriots PAC, this refund was not disclosed by Patriots PAC
15 and MEI has not provided any information to demonstrate that the refund took place.²³ Even if
16 MEI could demonstrate that it had received a refund of the contribution as claimed in the Joint
17 Response, the partial refund would not excuse the violations, but rather be considered as
18 mitigation.

¹⁸ 11 C.F.R. § 115.1(b).

¹⁹ *Id.* § 115.2(a).

²⁰ 52 U.S.C. § 30119(a)(2); 11 C.F.R. § 115.2(c).

²¹ USAspending.gov, Recipient Profile MEI Services Inc., <https://www.usaspending.gov/recipient/b512b8c2-eb3c-ca04-b3ee-cca9caf94e5c-C/latest> (last visited Dec. 16, 2022).

²² Joint Resp. at 2.

²³ *See* April 2022 Quarterly Report; July 2022 Quarterly Report; Joint Resp., generally.

1 The Commission has exercised prosecutorial discretion to dismiss allegations under the
2 federal contractor ban in certain unique circumstances, but those conditions are not met here. In
3 MUR 6403 (Alaskans Standing Together, *et al.*), the Commission exercised its prosecutorial
4 discretion when the relevant contractors did not ordinarily contract with the government, such
5 that their officers responsible for the contributions were not aware of the contracts; the
6 companies did not seek the contracts but were approached by the federal government because it
7 had no other options in the geographic area; the contracts primarily benefitted the public — for
8 example, one agreement was for hosting a Federal Aviation Administration beacon; and the
9 amounts paid for the contracts were relatively small considering the contractors' other income
10 and assets.²⁴

11 While MEI does not specifically argue that dismissal is appropriate because of its receipt
12 of a refund after being notified of the Complaint, it does ask “that the FEC consider the
13 cooperation and swift action taken by the Respondents in its ultimate decision.”²⁵ In some
14 previous matters, the Commission has based dismissals in part on the relatively modest amounts
15 at issue (\$1,000 in one case and approximately \$1,700 in the other).²⁶ Here, however, the
16 amount in violation is significantly higher (\$139,500, of which \$90,000 is alleged in Complaint
17 and an additional \$49,500 per disclosure reports),

²⁴ Factual & Legal Analysis (“F&LA”) at 4, 10, MUR 6403 (Ahtna, Inc. and NANA Regional Corp., Inc.); F&LA at 8, MUR 6403 (Arctic Slope Regional Corp.). *But see* F&LA at 4, MUR 7099 (Suffolk Construction Co., Inc.) (concluding that respondent’s argument that its federal contract work represented a “small fraction” of its business did not negate the company’s status as a federal contractor, and noting that “[w]hile Suffolk may consider its federal contract work a “*de minimis*” portion of its overall work, its \$200,000 in contributions to the Committee are not *de minimis*”).

²⁵ Joint Resp. at 2.

²⁶ F&LA at 3-4, MUR 7394 (O’Donnell for Congress, *et al.*) (dismissal citing the modest amount in violation and “remedial actions taken”); F&LA at 3, MUR 7338 (Rick for Congress, *et al.*) (same).

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 2 Further, in prior federal contractor matters involving a refunded contribution, the Commission
 3 has consistently found reason to believe but also considered the refund as a mitigating factor in
 4 calculating the penalty.²⁸

5 As noted above, MEI made an additional \$49,500 in contributions to Patriots PAC while
 6 holding the same FSS contract. To date, these contributions have not been refunded and were
 7 not discussed in the Joint Response.

8 Accordingly, we recommend that the Commission find reason to believe that MEI
 9 violated 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2(a) by making prohibited contributions
 10 totaling \$139,500 to Patriots PAC.

11 **B. The Commission Should Take No Action at this Time as to Patriots PAC**

12 As noted above, the Act also prohibits any person from knowingly soliciting a federal
 13 contractor contribution.²⁹ The Complaint in this matter does not expressly allege that Patriots
 14 PAC knowingly solicited such a contribution. Patriots PAC generally asserts that it had no

²⁸ First Gen. Counsel's Report at 12, MUR 7886 (*Astellas et al.*); Certification ¶ 4 (Jan. 22, 2022), MUR 7886 (*Astellas et al.*) (approving conciliation agreement recommended in the First Gen. Counsel's Report); First Gen. Counsel's Report at 5-6, MUR 7568 (*Alpha Marine Services Holdings, LLC, et al.*) ; Certification ¶ 5 (Aug. 19, 2019), MUR 7568 (*Alpha Marine Services Holdings, LLC, et al.*) (approving conciliation agreement recommended in First Gen. Counsel's Report); First Gen. Counsel's Report at 8 & n.33, MUR 7099 (*Suffolk Construction Co., Inc., et al.*) Certification ¶ 4 (May 23, 2017), MUR 7099 (*Suffolk Construction Co., Inc., et al.*) (approving conciliation agreement recommended in First Gen. Counsel's Report). The Commission has found reason to believe in a federal contractor matter even when the contractor represented that it proactively sought the refund. F&LA at 1, MUR 7451 (*Ring Power Corp.*). The available information indicates that there has been no refund of any portion of the \$139,500 in prohibited contributions.

²⁹ 52 U.S.C. § 30119(a)(2); *see also* 11 C.F.R. § 115.2 (c).

1 knowledge that MEI may have been a federal contractor at the relevant time.³⁰ Yet Patriots PAC
2 provides no information regarding whether or how Patriots PAC might have solicited MEI for
3 the contribution, or the circumstances under which MEI came to receive a contribution from
4 Patriots PAC, such as a declaration or documentation of the contribution.³¹

5 The available information is not sufficient to assess whether Patriots PAC knowingly
6 solicited the contribution. However, discussion toward a possible resolution of this matter
7 during PPCC with MEI may reveal additional information about the circumstances of the
8 contribution, including any solicitation efforts by Patriots PAC. In similar circumstances in
9 other federal contractor matters, the Commission has taken no action against the recipient
10 committee.³² Accordingly, we recommend that the Commission take no action at this time as to
11 Patriots PAC regarding the allegation that it knowingly solicited a prohibited federal contractor
12 contribution.

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³⁰ Joint Resp. at 1 (Patriots PAC, in the Joint Response, states that “it did not identify the problem with accepting the \$90,000 contribution from MEI at the time it was received.”).

³¹ *Id.* at 1-2.

³² *E.g.*, First Gen. Counsel's Report at 5, MUR 7568 (Alpha Marine Services Holdings, LLC, *et al.*) (“[T]he available record does not include information regarding the making of the contribution, and the Committee's denial is unsworn and did not include [the contractor's] signed attestation.”); Certification ¶ 2 (Aug. 19, 2019), MUR 7568 (Alpha Marine Services Holdings, LLC, *et al.*) (taking no action as to the recipient committee).

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14 **V. RECOMMENDATIONS**

- 15 1. Find reason to believe that MEI Services, Inc. violated 52 U.S.C. § 30119(a) and
16 11 C.F.R. § 115.2(a) by making prohibited federal contractor contributions;

- 1 2. Enter into pre-probable cause conciliation with MEI Services, Inc. prior to a
- 2 finding of probable cause to believe;
- 3 3. Take no action at this time as to Patriots PAC, LLC and Melvin Johnson in his
- 4 official capacity as treasurer;
- 5 4. Approve the attached Factual and Legal Analysis;
- 6 5. Approve the attached proposed Conciliation Agreement; and
- 7 6. Approve the appropriate letter.

8 Lisa J. Stevenson
9 Acting General Counsel

10
11 January 10, 2023

12 _____
13 Date

12 *Charles Kitcher*
13 _____
14 Charles Kitcher
 Associate General Counsel for Enforcement

15
16 *Mark Shonkwiler*
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19 Assistant General Counsel

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22 *Kimberly D. Hart*
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24 Kimberly D. Hart
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