

CFR 104.5(a)(1) to “paragraphs (a)(1) and (2) of this section”.

3. Private Contributions Received After DOI (11 CFR 9034.4(a)(3)(ii))

The Commission proposes to revise 11 CFR 9034.4(a)(3)(ii) to clarify the rules governing ineligible primary election presidential candidates who continue to campaign after their dates of ineligibility. Currently, paragraph (a)(3)(ii) provides that these candidates may use contributions received after the DOI to campaign. However, current 11 CFR 9034.5(a)(2)(i) provides that a candidate’s cash on hand on the NOCO Statement should include “all contributions dated on or before” the DOI, whether or not submitted for matching. Thus, the current rules do not make clear how contributions should be treated that are made or dated before the DOI but received after the DOI by a candidate who continues to campaign. The proposed rules would clarify that each contribution made, dated, and received after a candidate’s DOI may be used to continue to campaign.

In addition, the Commission proposes to delete the next sentence in section 9034.4(a)(3)(ii), which states: “The candidate shall be entitled to receive the same proportion of matching funds to defray net outstanding campaign obligations as the candidate received before his or her date of ineligibility.” In practice, each submission for matching funds is reviewed individually; thus, a candidate receives a different proportion of matching funds for each submission. The Commission proposes deleting the sentence to make clear that candidates would continue to receive matching funds based on the Commission’s review of each matching fund submission, rather than on the proportion of matching funds the candidate received for any previous submission.

4. Clarification of 11 CFR 9032.9(c)

Current 11 CFR 9032.9(c) states that expenditures incurred “before the beginning of the expenditure report period” are qualified campaign expenses if they meet the requirements of 11 CFR 9034.4(a), which addresses, *inter alia*, testing the waters expenses prior to the date an individual becomes a candidate. This wording is the same as the equivalent rule for general election candidates at 11 CFR 9002.11(c), and appears to be an error because the term “expenditure report period” applies to general election candidates. See 11 CFR 9002.12. To clarify this section, the Commission proposes changing this wording to “prior to the date the individual

becomes a candidate,” the same wording used in 11 CFR 9034.4(a)(2), governing testing the waters expenses.

5. Documentation of Disbursements

The current rules describe the requirements for the documentation of disbursements applicable to all committees in 11 CFR 102.9(b) and provide additional documentation requirements for publicly funded committees at 11 CFR 9003.5 (general election candidates), 9008.10 (convention committees) and 9033.11 (primary candidates). The Commission proposes to revise 11 CFR 9003.5, 9008.10 and 9033.11 to clarify that publicly funded candidates must comply with both the general rules at section 102.9(b) and the particular rules applicable to publicly funded primary or general election candidates governing the documentation of disbursements. The proposed rules would add new paragraphs 11 CFR 9003.5(b)(4) and 9033.11(b)(4) stating that the requirements of section 102.9(b) also apply to disbursements, and would revise the introductory language in section 9008.10 to state that the requirements in that section are in addition to the requirements of 11 CFR 102.9(b). Adding these proposed references to 11 CFR 102.9(b) would improve the ease of use of the rules for publicly funded committees.

National Nominating Conventions

The Commission is proposing a number of changes to its regulations concerning national nominating conventions, 11 CFR part 9008. Some of these proposed changes are necessary in order to give effect to BCRA’s ban on the use of non-Federal funds by national party committees. The rest of the proposed changes are designed to clarify certain requirements in light of the Commission’s experience in administering the public financing of national nominating conventions over the past several presidential election cycles.

I. Current Legal Structure of Convention Financing

Under 26 U.S.C. 9008(b), the national committees of both major and minor political parties are entitled to public funds to defray expenses incurred in connection with a presidential nominating convention. Major party committees receive an inflation-adjusted payment from the Presidential Election Campaign Fund for their national nominating conventions. 26 U.S.C. 9008(b)(1). Minor party committees receive a proportional amount of that payment based on the number of votes

the party’s candidate received in the last presidential election compared to the average number of votes received by the major party candidates. 26 U.S.C. 9008(b)(2). For the 2004 conventions, the major party committees will be entitled to receive \$14,880,000 in July 2003 and an additional payment in 2004 for an inflation adjustment, subject to all applicable requirements.² A national committee of a major or minor party may not make expenditures related to the convention that exceed the expenditure limitations, which are equal to the full amount of the payment to major parties. 26 U.S.C. 9008(d). Thus, the major party convention committees may not receive *any* contributions, as defined in 2 U.S.C. 431(8), that would count towards their expenditure limit if they accepted the full payment. Any such contributions would combine with the public funds to make total expenditures exceed the limit.

In addition to the public funds provided to the national committees of both major and minor political parties in connection with a presidential nominating convention, “host committees” and “municipal funds” may defray certain expenses incurred in connection with hosting these conventions. A host committee is defined as any local organization, such as a local civic association, business league, chamber of commerce, real estate board, board of trade, or convention bureau (1) which is not organized for profit; (2) whose net earnings do not inure to the benefit of any private shareholder or individual; and (3) whose principal objective is the encouragement of commerce in the convention city, as well as the projection of a favorable image of the city to convention attendees. 11 CFR 9008.52(a). Host committees may provide the convention committees with certain services and facilities, as specified in 11 CFR 9008.52(c). Any host committee expenditures that comply with 11 CFR 9008.52 do not constitute convention committee expenditures and do not count toward the convention committee’s expenditure limit. 11 CFR 9008.8(b)(1).

“Municipal fund” is the term that has come to apply to local government agencies and the separate funds or accounts established by them to receive and disburse funds in order to defray

² In 2000, the Democratic and Republican National Committees each received \$13,512,000 for their national nominating convention, while the Reform Party received \$2,522,690. No candidate received a sufficient number of votes in the 2000 presidential general election to provide his or her party with minor party status in 2004.