

Any person providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services.

*G. Effect of BCRA on Private Events in the Convention City*

Private events are often held in the city hosting a nominating convention during the convention. Corporations, labor organizations, and other groups can hold these events, which are frequently described as hospitality events, and often invite convention attendees including delegates, Federal candidates and officeholders, and party officials. These events are typically held in locations outside the convention venue, but often in close proximity to it. The temporal and geographic proximity of these events to nominating conventions has not previously subjected the events to regulation under FECA solely because of that proximity. Of course, FECA regulation could be triggered by such events if, for example, a Federal political committee holds a fundraising event. The Commission seeks comment on whether BCRA requires that private hospitality events held by corporations, labor unions, and other organizations in the convention city during the convention are subject to regulation and, if so, on what basis? Does it make any difference whether Federal candidates or officeholders or party officials or their agents (acting on their behalf) are invited to, appear, are recognized, or speak at such events?

**V. Definition of "Municipal Fund"**

Over time, host committees and municipal funds have come to play increasingly similar roles in convention funding. The Commission therefore seeks comment on whether these entities should be treated similarly under the Commission's rules. Under this approach, which is reflected in the proposed rules that follow, host committees and municipal funds would continue to be permitted to spend money for identical purposes. The rules would change, however, to make municipal funds subject to the same disclosure requirements that apply to host committees under 11 CFR 9008.51 and 9008.52. Current host committee disclosure rules would also be revised as described below and would apply to both host committees and municipal funds. More importantly, the Commission's description of "municipal funds" would be revised to remove provisions that operate as barriers to municipal funds raising money in conjunction with host committees.

While the Commission's rules define "host committee," *see* 11 CFR 9008.52(a), they do not currently define "municipal fund." The Commission is proposing to add the following definition, at new 11 CFR 9008.50(c): "A municipal fund is any separate fund or account of a government agency, municipality, or municipal corporation whose principal purpose is the encouragement of commerce in the municipality and whose receipt and use of funds is subject to control of officials of the State or local government." Under this definition, any organization operating under 11 CFR 9008.53 would be required to use a separate account for receipts and payments related to convention activities. Should the Commission adopt additional requirements for municipal fund status? Should municipal funds be limited to accounts subject to audit by State or local public agencies? Are there any other arrangements that would assure the funds received and disbursed by a municipal fund would be used for the promotion of the city and its commerce?

The proposed definition would eliminate the current provision in 11 CFR 9008.53(b)(1)(i) and (ii), requiring municipal funds to comply with two conditions: (1) The fund or account is not permitted to be restricted to use in connection with any particular convention; and (2) Donations to the fund or account must be unrestricted and shall not be solicited or designated for use in connection with any particular convention, event or activity. 11 CFR 9008.53(b)(1)(i) and (ii).

Host committees do not operate under similar limitations on fundraising. *See* 11 CFR 9008.52. These limitations complicate joint fundraising by a municipal fund and a host committee, and their utility has diminished as municipal funds have become functionally similar to host committees. Moreover, because hosting a national nominating convention is a significant undertaking even for large communities, organizations like municipal funds will necessarily devote substantial efforts toward their roles in hosting a convention. In these circumstances, little purpose is served by prohibiting municipal funds from engaging in fundraising devoted to a particular nominating convention or accepting donations accompanied by correspondence that refers to such a convention.

In the advisory opinions that formed the basis for this current rule, Advisory Opinions 1982–27 and 1983–29, the requesters assured the Commission that the undesignated nature of the donations received demonstrated the

civic, not political, motives of the municipal funds and their donors. Subsequently, the Commission promulgated the regulation with these same restrictions on municipal funds in an effort to ensure that both the donations and use of the donations arose from civic, not political, motives. The Commission seeks comment on whether this requirement is unnecessary. A municipal fund's references to the political party that intends to hold its national nominating convention in the host city may not necessarily betray a partisan political motivation, and insisting on no such reference in the solicitation materials and in the responses from donors may serve little or no purpose.

Consequently, the Commission proposes deleting from its definition of municipal funds the requirements that the fund itself, solicitations for donations to the fund, and the donations to the fund not be restricted to a particular convention. The Commission also proposes to restructure the municipal fund regulation, 11 CFR 9008.53, to follow the structure of the host committee regulation, 11 CFR 9008.52, and to use the name by which these funds have come to be known, "municipal funds." Alternatively, the Commission also seeks comment on whether it should retain the current distinction between municipal funds and host committees. Under the alternative approach, should the Commission clarify the prohibitions of 11 CFR 9008.53, namely that a municipal fund may not be restricted or accept or solicit restricted donations? What standard should the Commission adopt for when a municipal fund is "restricted to use in connection with any particular convention" contrary to 11 CFR 9008.53(b)(1)(i)? Under what circumstances is it appropriate to conclude that donations or solicitations restricted or designated for use in connection with a particular convention contrary to 11 CFR 9008.53(b)(1)(ii)?

The Commission seeks comment on whether the examination and audit authority of the Commission outlined in 11 CFR 9008.54, which mandates audits of convention host committees without cause, has an adequate statutory basis under FECA. In promulgating the predecessor to the current 11 CFR 9008.54, the Commission explained that: "This section provides for an examination and audit of each host committee. Such committees are permitted to receive donations to defray convention expenses. It is hence necessary for the Commission to audit them in order to insure that those donations were properly raised and