

spent.” *Explanation and Justification for Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions*, 44 FR 63036, 63038 (Nov. 1, 1979). The Fund Act specifically authorizes the Commission “to conduct such examinations and audits (in addition to the examinations and audits required by section 9007(a)), . . . as it deems necessary to carry out the functions and duties imposed on it by this chapter.” 26 U.S.C. 9009(b). In addition, as authority for this requirement, the Commission currently cites 2 U.S.C. 437, which includes the statutory provisions requiring host committee reporting; 2 U.S.C. 438(a)(8), the Commission’s general regulation authority; 26 U.S.C. 9008, which provides for payments for presidential nominating conventions; and 26 U.S.C. 9009, which includes further regulation authority in addition to the provision cited above concerning audits additional to those required by 26 U.S.C. 9007.

Host committees are the only non-publicly funded committees that are subject to an automatic audit by the Commission. Convention committees are also subject to automatic audits under 11 CFR 9008.11 no later than December 31 of the year the convention was held and may, at any time, be subject to other examinations and audits as the Commission deems necessary. However, convention committees receive millions of dollars of public funds and the Commission’s audit authority helps insure that those public funds are lawfully spent. The audit authority provided to the Commission under 11 CFR 9008.11 is also statutorily based in 26 U.S.C. 9008 and 9009.

The Commission seeks comment on whether the host committees should be subject to automatic audits under 11 CFR 9008.54.

While the Commission is proposing to treat host committees and municipal funds the same in most respects (*i.e.*, permitted expenses, registration and reporting requirements), it does not propose to audit municipal funds as it currently audits host committees. Under the current rules, host committees are subject to a Commission audit pursuant to 11 CFR 9008.54, while municipal funds are not routinely subject to a Commission audit. The Commission, however, has conducted financial transaction examinations of municipal fund accounts, and it expects to continue to do so in the appropriate circumstances. The Commission believes that the governmental controls over municipal funds obviate the need to subject municipal funds to a routine audit like host committees are subject to

pursuant to 11 CFR 9008.54. Because municipal funds necessarily are separate accounts of a government agency or municipality, the municipal funds are subject to financial controls by the local authorities. Under these circumstances, the Commission does not believe routine audits are necessary. The Commission seeks comment on this approach and specifically whether the comity required between agencies of the Federal government and agencies at the State or local level counsels against routine audits of municipal funds.

The absence of routine audits should not be misconstrued to limit the Commission’s authority to examine municipal fund transactions related to conventions. Because municipal funds provide substantial in-kind donations to publicly funded convention committees, the Commission’s audit of convention committees under 11 CFR 9008.11 may require a detailed and thorough review of municipal fund transactions. Additionally, municipal funds are subject to Commission audit pursuant to 11 CFR 111.10.

Current 11 CFR 9008.50, entitled “Scope,” sets out the scope of subpart B of part 9008, “Host Committees Representing a Convention City; Convention Expenditures by Government Agencies and Municipal Corporations.” The Commission is proposing to change the title of this Subpart to “Host Committees and Municipal Funds Representing a Convention City.” The title of 11 CFR 9008.50 would be changed to “Scope and Definitions,” and the current provisions of this section would be revised with conforming changes and placed in new paragraph (a). The definition of “host committee” would be moved from 11 CFR 9008.52(a) to new 11 CFR 9008.50(b), and the new definition of “municipal fund” would appear at new 11 CFR 9008.50(c). Conforming changes using the newly defined term “municipal fund” would be made to 11 CFR 9008.8(b)(2) and 9008.12(b)(7).

#### **VI. Permissible Expenditures by Convention Committees, Host Committees and Municipal Funds**

Permissible expenditures by convention committees are currently set forth at 11 CFR 9008.7(a), while those by host committees and municipal funds are found at current 11 CFR 9008.52(c). *See also* 11 CFR 9008.53(b). As described above, these rules are intended to require convention committees to pay expenditures that are “political” in nature, while permitting host committees and municipal funds to pay commercially motivated expenses.

The intent of the existing rules is for the convention committee to pay expenses incurred in connection with nominating its party’s candidates, while the host committee and the municipal fund pay expenses incurred to make the convention city attractive to potential visitors and those seeking a site to hold future conventions or similar events. Some expenditures fit into both categories, which has caused confusion. Furthermore, the current rules do not state the types of expenditures that a host committee or municipal fund may *not* incur on behalf of a convention committee.

After the last several election cycles, some observers have raised questions about whether host committees and municipal funds continue to operate in the manner contemplated by the regulations. The Commission has encountered host committees and municipal funds that paid for expenses that the Commission determined were not for permissible host committee or municipal fund purposes. In an effort to provide additional guidance on the scope of expenses that may be paid by a host committee or municipal fund, the Commission noted that its “decisions regarding the audits of the 1996 convention and host committees serve to provide additional guidance for the 2000 election cycle.” *Explanation and Justification for Public Financing of Presidential Primary and General Election Candidates*, 64 FR 49355, 49358 (Sept. 13, 1999). The Commission therefore seeks comment on whether donations to host committees and municipal funds should be considered to stem from political motivations, at least in part. If so, what changes to the Commission’s rules should be made? Comment is also sought on whether the Commission should seek to limit the exception for host committee and municipal fund expenses to ensure that impermissible funds are not used in connection with the national nominating convention. If so, what measures should the Commission adopt? Is the total amount of expenses the appropriate measure, or should the Commission continue to focus on the purpose of the expenses?

Given the evolution in the operation of host committees and municipal funds, as well as the need to ensure, in light of BCRA, that a host committee or municipal fund’s non-Federal funds are not used to provide facilities or services that constitute an impermissible contribution to convention committees, the Commission is proposing to reorganize the types of permissible expenses listed in current 11 CFR 9008.7(a)(4) and 9008.52(c). The current