

prohibited host committees and municipal funds from providing "anything of value" to a convention committee, national party committee, or other political committee, except those items that were expressly described in proposed 11 CFR 9008.52(b)(1) and (b)(5) through (b)(8). Proposed 11 CFR 9008.52(c)(2) would have prohibited host committees and municipal funds from defraying any expenses related to "creating, producing, or directing convention proceedings."

The NPRM also sought public comment on whether there was any need to continue to provide a list of permissible convention expenses, or whether the definition of "convention expenses," standing alone, gives sufficient guidance to convention committees regarding what they may or may not pay. Comment was also sought on whether to refine the current list of permissible convention expenses, by deleting some examples and/or adding others.

The Commission also sought comment on whether BCRA requires that the list of permissible host committee and municipal fund expenses in former 11 CFR 9008.52 must be modified to ensure that convention committees will not receive "a contribution, donation, or transfer of funds or any other thing of value * * * that are not subject to the limitations, prohibitions, and reporting requirements of (FECA)." 2 U.S.C. 441i(a)(1). In many of the transactions contemplated by 11 CFR 9008.52(c)(1), host committees provide something of value to convention delegates, other attendees, press, local businesses, and the local community, but in these transactions the convention committee is a bystander, not a recipient of something of value. When a host committee provides, for example, a shopping and dining guide, to convention attendees, it is difficult to conclude that the convention committee received anything of value. One commenter advocated a variation on this approach.

In addition to the proposed substantive revisions, the NPRM proposed two alternative locations for the revised list of permissible host committee and municipal fund expenses located in former 11 CFR 9008.52(c)(1). The list of permissible convention committee expenses in 11 CFR 9008.7(a)(4) would have been affected by the proposed reorganization as well. The NPRM proposed either deleting the non-exhaustive list of thirteen permissible convention expenses that may be paid by convention committees, or in the

alternative retaining the list of permissible convention expenses but moving them to a new section.

With respect to the proposed substantive and structural changes, a number of commenters believed that the current regulations work well and are not in need of additional clarification. These commenters expressed concern that any changes to the list of permissible expenses this close to the 2004 election would be extremely disruptive, would invite confusion, and would interfere with the obligations that host committees have already agreed by contract to undertake for the 2004 national nominating conventions. In their opinion, no deficiencies in the current list that warrant either of the proposed alternative changes had been identified. A number of the commenters also stated that there was no indication that Congress, in enacting BCRA, intended to restrict or modify the range of permissible convention committee, host committee, and municipal fund expenses prior to BCRA.

After carefully considering the concerns raised by these commenters, the Commission has decided not to adopt any of the proposed substantive or structural revisions to the list of permissible convention committee, host committee and municipal fund expenses. The Commission is mindful of the potentially disruptive effect of modifying existing regulations regarding the expenses that may be paid by convention committees, host committees, and municipal funds in such close proximity to the 2004 conventions. See *Explanation and Justification for Public Financing of Presidential Primary and General Election Candidates*, 64 FR 49355, 49358 (Sept. 13, 1999) (declining to modify the existing list of permissible convention committee and host committee expenses "given that the party committees have already entered into contractual agreements with the sites selected"). Accordingly, the list of permissible host committee and municipal fund expenses will remain in 11 CFR 9008.52. The list is substantively identical to that in current 11 CFR 9008.52(c)(1), however, as explained above, it will be re-designated as 11 CFR 9008.52(b) in light of other changes to section 9008.52.

With respect to the reorganization of permissible convention expenses in 11 CFR 9008.7(a)(4), the Commission is persuaded that it should retain the current non-exhaustive list of permissible convention expenses. In addition, rather than relocating the list to two different paragraphs in a new section, the Commission has decided to

keep the list intact in paragraph (a)(4) of 11 CFR 9008.7. The Commission concludes that the list of permissible convention expenses has worked reasonably well in practice. The Commission also concludes that the proposed changes would not add sufficient clarity or precision to justify the possible confusion and disruption they may engender at a time when preparations for the 2004 conventions are well advanced, and further concludes that none of the proposed changes are required by BCRA.

Definition of "Local" Businesses, Labor Organizations, Other Organizations, and Individuals

The NPRM proposed to eliminate the requirement, in former 11 CFR 9008.52(c)(1) and 11 CFR 9008.53(b)(1), that only "local" businesses, labor organizations, other organizations, and individuals are permitted to make donations to host committees and municipal funds.

The NPRM sought comment on whether eliminating that restriction would make it more feasible for smaller or mid-sized cities to host a Presidential nominating convention. Comment was also sought on two alternative proposals. Under the first alternative proposal, the locality requirements in former 11 CFR 9008.52(c)(1) and (c)(2) and former 11 CFR 9008.53(b)(1) and (b)(2) would have been retained, but modified to permit only those donations made by "individuals who maintain a local residence or who work for the local office of a business, labor organization, or other organization." Under the second alternative approach, the locality restrictions in both 11 CFR 9008.52(c)(1) and 11 CFR 9008.53(b)(1) would have been revised to permit donations only from those individuals who have a local residence.

Most of the commenters who addressed this issue favored deletion of the locality requirement. They pointed out that the physical location of a business is a poor indicator of the extent of a company's commercial interests in a particular geographic region, especially in light of the increasingly global nature of the economy. These commenters believed the restriction frustrated the ability of host committees to raise funds for the legitimate purpose of promoting the host city. They argued that deleting this restriction would make it easier for smaller cities, without large local business communities, to bid successfully for a future convention.

These commenters also maintained that donors to host committees and municipal funds are motivated by legitimate commercial considerations or