

by civic pride, not by political considerations. They contended that many businesses that do not maintain an office in or near the convention city nevertheless have a legitimate commercial interest in supporting large-scale events such as conventions in the host city, such as developing business in the convention city or showcasing their products to a prominent national audience. They pointed out that many corporations also make sizeable donations to host committees for other large-scale events such as host committees for the Super Bowl and the Olympics. One commenter suggested that the motive of those making donations to host committees is irrelevant because such donors have no control over how the host committee spends the funds.

On the other hand, a different commenter opposed the Commission's proposal to delete the locality requirement in 11 CFR 9008.52(c)(1) and 11 CFR 9008.53(b)(1), expressing the view that the locality restriction already was too permissive and should not be eliminated.

After careful consideration of the viewpoints expressed by the commenters on this issue, the Commission has decided to eliminate the locality requirement from 11 CFR 9008.52 and 11 CFR 9008.53. The Commission is persuaded that this restriction no longer serves a meaningful purpose because the disbursements that host committees and municipal funds are permitted to make are consistent with the narrow purpose of promoting commerce in, and the suitability of, the convention city. The Commission notes that the requirement that donors be local has resulted in reliance on Metropolitan Areas to draw difficult and seemingly arbitrary distinctions in specific cases. Accordingly, under the revised rules at 11 CFR 9008.52(b) (host committees) and 11 CFR 9008.53(a) (municipal funds), businesses, labor organizations, other organizations, and individuals are permitted to donate funds or make in-kind donations to host committees and municipal funds, regardless of their geographic locations.

11 CFR 9008.53—Receipts and Disbursements of Municipal Funds

As discussed in greater detail above, the NPRM proposed to eliminate many of the differences in the manner that the Commission's regulations treat host committees and municipal funds. (See Explanation and Justification for 11 CFR 9008.50, above.) One of these differences was that municipal funds were subject to certain fundraising

requirements that did not apply to host committees. Former 11 CFR 9008.53(b)(1)(i) and (ii) provided that neither the municipal fund itself nor the donations the municipal fund received or solicited could be restricted to use in connection with a particular convention. Host committees were not subject to these fundraising restrictions.

These disparate requirements limited the ability of host committees and municipal funds to raise funds in concert with one another. The NPRM acknowledged that the restrictions on municipal fund fundraising were based on Commission decisions in Advisory Opinion ("AO") 1982-27 and AO 1983-29. Comment was sought on deleting these requirements on municipal funds. In the alternative the NPRM proposed retaining the restrictions and clarifying the appropriate standard for determining whether a municipal fund itself, or the funds it receives, are impermissibly restricted to the Presidential nominating convention.

No commenters addressed this topic. The Commission has concluded that the former restrictions serve little or no purpose, while, at the same time, they unnecessarily hamper the ability of host committees and municipal funds to undertake joint fundraising activities. Accordingly, the Commission has decided to eliminate the restrictions on municipal fund fundraising in former 11 CFR 9008.53(b)(1)(i) and (ii).

The NPRM also proposed eliminating the requirement, in 11 CFR 9008.53(b)(1), that only "local" businesses, labor organizations, other organizations, and individuals are permitted to make donations to municipal funds. For the reasons stated above, the Commission has decided to eliminate this limitation on donations to municipal funds as well as host committees. See Explanation and Justification for 11 CFR 9008.52.

11 CFR 9008.55—Funding for Convention Committees, Host Committees and Municipal Funds

The Commission is adopting a new §9008.55 to explain the application of BCRA to convention committees, host committees, and municipal funds. This new regulation should be viewed in the overall context of the legal structure of public financing and the development of the Commission's regulatory approach regarding the role of host committees and municipal funds.

The national committees of both major and minor political parties are entitled to receive public funds to defray their expenses incurred in connection with a Presidential nominating convention under 26 U.S.C.

9008(b). Major party committees may receive an inflation-adjusted payment from the Presidential Election Campaign Fund for their national nominating conventions. 26 U.S.C. 9008(b)(1).⁴ For the 2004 conventions, the major party committees received \$14,880,000 in July 2003 and are entitled to receive an additional payment in 2004 for an inflation adjustment, subject to all applicable requirements.⁵ A national committee of a major 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 that accept public funding 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 Federal payment.

Development of Commission Rules on Host Committees and Municipal Funds

As mentioned in the discussion of 11 CFR 9008.50, above, the Commission has historically allowed host committees and municipal funds to raise and spend money for activities related to conventions. The NPRM provided a detailed history of the development of the Commission's policy in this area. Although a convention committee is precluded from receiving contributions, the Commission has held that host committees and municipal funds may solicit and receive funds because such funds "are not politically motivated but are undertaken chiefly to promote economic activity and good will of the host city." *Explanation and Justification for 1977 Amendments to the Federal Election Campaign Act of 1971*, H.R. Doc. No. 95-44, 136 (1977).

Similarly, the Commission has allowed donations to these entities from sources prohibited from making contributions under 2 U.S.C. 441b, because such donations are "sufficiently akin to commercial transactions to fall outside the scope of that prohibition." *Explanation and Justification of Presidential Election Campaign Fund and Federal Financing of Presidential*

⁴ Minor party committees may 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). No candidate (other than the major party candidates) received a sufficient number of votes in the 2000 presidential general election to provide his or her party with minor party status in 2004.

⁵ In 2000, the Democratic and Republican National Committees each received \$13,512,000 for their national nominating convention.