

general solicitations on behalf of host committees or municipal funds that are section 501(c) organizations, provided the solicitations do not specify how the funds will or should be spent and provided that the solicitations are otherwise permitted by 2 U.S.C. 441i(e)(4)(A).⁹

Other Convention-Related Issues

A. Goods and Services Provided to Convention Committees by Commercial Vendors

The NPRM also sought comment on proposed changes to the rule on convention committees receiving goods and services from commercial vendors, 11 CFR 9008.9. Some commenters argued that nothing in BCRA should change the conclusion that the provision of these goods and services is permissible. In contrast, a different commenter argued that this exception violates both FECA and BCRA, citing many of the same reasons some commenters used to argue that the Commission's current host committee and municipal regulations are contrary to FECA and BCRA. For the same reasons stated above regarding the host committee and municipal fund exception, the Commission has determined that no change to 11 CFR 9008.9 is required by BCRA.

B. Offsets

The NPRM sought comment on whether BCRA required any reevaluation of the practice of permitting convention committees to "offset" in-kind contributions received from host committees that are deemed impermissible in post-convention audits. Under this practice, rather than require repayment of 100% of these receipts, the convention committee is permitted to offset the impermissible in-kind contributions with convention committee expenditures that could have been paid by the host committee. The Commission has concluded that under BCRA convention committees may continue to receive in-kind donations from host committees and municipal funds provided the in-kind donations are in accordance with 11 CFR 9008.52

and 9008.53. See new 11 CFR 9008.55(a). Therefore, the Commission has also determined that convention committees may offset host committee or municipal fund impermissible in-kind contributions. Accordingly, no revisions need be made in the final rules.

C. Private Hospitality Events

The NPRM also sought comment on whether BCRA requires regulation of private hospitality events held by corporations, labor organizations, and other groups in the convention city during the convention. Such events are typically held in locations outside the convention venue, but often in close proximity to it. Convention attendees including delegates, Federal candidates and officeholders, and political party officials are often invited to these events, and such individuals frequently speak or are recognized at such events.

Four commenters addressed this issue, and they all agreed that BCRA does not require regulatory language regarding these hospitality events. One of the commenters noted that these events could be subject to regulation on some other basis, if, for example, the events were also fundraisers for a political committee under the Act.

The Commission has concluded that BCRA does not change the determination that the temporal and geographic proximity of these events to Presidential nominating conventions does not subject the events to regulation under FECA solely because of that proximity. The Commission notes that FECA regulation could be triggered nonetheless by such events if, for example, a Federal political committee holds a fundraising event.

D. Host Committee Audits

The NPRM sought comment on whether the examination and audit authority set forth in current 11 CFR 9008.54 has an adequate statutory basis under FECA or the Fund Act. This section mandates audits of all host committees. The Fund Act gives the Commission the authority "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 (the Commission) by this chapter." 26 U.S.C. 9009(b).

When the predecessor to the current version of 11 CFR 9008.54 was promulgated in 1979, the Commission determined it was necessary to audit host committees because host committees are allowed to accept donations to defray convention

expenses and, therefore, the Commission had a responsibility to insure that such donations "were properly raised and spent." *Explanation and Justification for Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions*, 44 FR 63036, 63038 (Nov. 1, 1979).

Two commenters argued that the Commission does not have statutory authority to conduct routine audits of host committees. In their view, the Commission's routine audit authority is limited to candidates and committees that receive public funds, and is meant to ensure that such candidates and committees do not misspend those public funds. One commenter stated that routine audits of host committees are unwarranted because host committees do not receive public funds. Both commenters favored repealing 11 CFR 9008.54.

After considering the comments, the Commission has concluded that it possesses authority to audit host committees on a routine basis. The Commission notes that the audit authority in 26 U.S.C. 9009(b) is broad. That section grants the Commission the power "to conduct such examinations and audits" as it deems necessary to carry out the responsibilities with which the Commission has been charged. Unlike 26 U.S.C. 9007(a), which requires the Commission to conduct routine audits of publicly-financed candidates and convention committees, section 9009(b) does not require the Commission to audit host committees. It does, however, grant the Commission the discretion to do so. Given the increasingly vital role that host committees play in financing the national nominating conventions, the Commission continues to find it necessary to conduct routine host committee audits to ensure that such entities do not provide "anything of value" to convention committees, except as expressly permitted in 11 CFR 9008.52(b).

E. Municipal Fund Audits

While the NPRM proposed to eliminate many of the discrepancies in the manner that the Commission's regulations applied to host committees and municipal funds, it did not propose extending the routine audit provision applicable to host committees, 11 CFR 9008.54, to municipal funds as well.

While the NPRM did not propose to conduct routine audits of municipal funds, it indicated that the Commission retains the authority to conduct a detailed and thorough review of municipal fund transactions if such an

⁹ The new regulations at 11 CFR 300.52 and 300.65 could be read to restrict a broader range of general solicitations made on behalf of 501(c) organizations than does the related provision of BCRA, 2 U.S.C. 441(e)(4)(A). Specifically, the regulations appear to bar general solicitations on behalf of 501(c) organizations for any election activity, including certain types of Federal election activity; section 441(e)(4)(A), however, bars only those general solicitations on behalf of 501(c) organizations whose principal purpose is to conduct these specified types of Federal election activity. The regulations should be read as barring only those solicitations covered by the statute.