



## Political Law Alert

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

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### Considerations When Supporting and Participating in National Party Conventions

Now that the calendar has flipped to 2020, planning and fundraising efforts are intensifying in advance of this summer's national party conventions. Each convention is supported by both a convention committee, established as an account of the respective national party, and a separate host committee, a nonprofit organization whose purpose is the encouragement of commerce in the convention city and the projection of a favorable image to convention attendees.

The host committee for the Democratic National Convention (to be held in Milwaukee July 13-16) is The Good Land Committee, Inc., a 501(c)(6) trade association, whereas for the Republican National Convention (to be held in Charlotte August 24-27), it is CLT Host 2020, Inc., a 501(c)(3) charity.

While federal law prohibits corporate contributions to convention committees, there are several ways for corporations to support convention activities, including by contributing to the host committees. The following provides a brief summary as to the legal concerns companies should keep in mind regarding conventions.

#### Support for Convention Committees

Federal law treats contributions to convention committees in the same manner regarding prohibited sources as any other contributions to the national party committees (*e.g.*, the Republican National Committee or the Democratic National Committee). Accordingly, contributions to convention committees by corporations, foreign nationals, federal contractors and nationally chartered organizations are prohibited. Please note that such prohibited sources also are prohibited from paying for expenses, such as travel and accommodations, for convention speakers and delegates.

Individuals and PACs may contribute to convention committees subject to limits — \$106,500 per year for individual contributors and \$45,000 per year for multicandidate PACs.

#### Support for Host Committees

While they are prohibited from contributing to convention committees, corporations may make unlimited contributions to host committees. When making an in-kind contribution to a host committee, one should confirm that the in-kind facilities or services

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will be used solely for purposes that are appropriate and permissible for the host committee, such as assisting with the logistics of hosting the convention (*e.g.*, providing security and construction services for the convention, defraying administrative expenses of the host committee or providing accommodations for committee members of the hosting party and the press). It would be prudent to document the intended use of the in-kind contribution with the host committee through a memorandum of understanding.

If a host committee contribution is solicited by a state or local official, you should consider if there are any prohibitions, restrictions or reporting requirements under applicable state or local laws regarding contributions solicited by such officials. For example, New York state prohibits lobbyists and lobbyist employers from contributing to charities or other third parties if the contribution is solicited by a state or local official.

Given their different tax status, contributions to the Democratic and Republican host committees have separate tax implications. A contribution to the Republican host committee will generally be deductible as a charitable expense because it is a 501(c)(3) charity. In contrast, a contribution to the Democratic host committee, a 501(c)(6) trade association, will only be deductible if it can properly be characterized as an ordinary and necessary business expense in the conduct of the donor's business. For example, if a company conducts business in Milwaukee, its contribution to the Democratic host committee could, depending on the circumstances, be characterized as such a business expense. This also is the case if some other bona fide business purpose can be ascribed to the donation.

Please note that because each host committee is required to register and file reports with the Federal Election Commission, the identity of contributors and the amounts of their contributions will be publicly disclosed after the convention.

## Employees Attending Conventions

Before allowing an employee to attend a convention during working hours or paying for related travel expenses, a company

should consider the type of activity the employee will engage in while there. For example, as noted above, corporations (and other prohibited sources) may not pay expenses, such as travel and lodging, for convention delegates or allow employees to serve as delegates during compensated working hours. Similarly, to the extent the employee will be participating in a political campaign or other political committee event while at the convention, doing so during compensated working hours or providing payment for travel costs could result in an impermissible in-kind contribution to that campaign or committee. Please note that these concerns are relevant even if the employee supplements the aforementioned delegate or political activities with nonpolitical business-related activities while at the convention.

## Private Events

Corporations also may want to hold or support parties or other private events during the conventions. In planning such an event, one should first consider whether it could result in a prohibited in-kind contribution to a political campaign, party committee or other political committee. This includes events organized by third parties, such as event planners, to which corporations are asked to contribute, as any contribution may be viewed as an in-kind contribution if the event is coordinated with, or held for the purpose of benefitting, such campaign, party committee or political committee.

In addition to in-kind contribution concerns, it is important to keep in mind that federal, state and local gift laws apply to convention events. The Senate Select Committee on Ethics and the House Ethics Committee historically issue guidance reminding members of their ethical obligations while attending the conventions. As always, sponsors and other supporters of events should consider and vet potential gift law implications if federal, state or local government officials or employees may attend. We recommend vetting all such events in advance to ensure compliance with these laws.

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