

Political Law Update

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Legal Considerations When Supporting and Participating in National Party Conventions

The 2024 presidential nominating conventions are only a few months away and both host cities — Milwaukee, where Republicans will gather in July, and Chicago, which welcomes Democrats in August — are hoping for returns to pre-COVID levels of attendance. Conventions are expensive events, and corporations have increasingly become an important source of support.

The conventions are primarily financed by convention committee accounts of the Republican National Committee (RNC) and Democratic National Committee (DNC) (convention committees) and by separate host committees, which are nonprofit organizations established to promote commerce in the convention location and project a favorable image of the city to attendees (host committees). The host committee for the Democratic National Convention is Development Now for Chicago, a 501(c)(6) organization, while the Republican National Convention's host committee is 170 Freedom Milwaukee 2024 Host Committee Inc., organized as a 501(c)(3).

Limited Support for Convention Committees

The convention committees are responsible for paying the costs of producing the conventions and federal law treats them the same way it does other accounts of the national parties in terms of prohibited sources of support. Accordingly, contributions by corporations, foreign nationals, federal contractors and nationally chartered organizations are prohibited.

These sources also are not allowed to pay for expenses such as travel and accommodations for convention speakers. There are, however, certain limited interactions that corporations may have with the convention committees, including providing:

- Goods and services to the committees in exchange for promotional consideration.
- Certain items of *de minimis* value, such as samples, pens, tote bags or other items to be distributed to convention attendees.

Individuals and PACs may contribute to convention committees, but are subject to limits — \$123,900 per year for individual contributors and \$45,000 per year for multi-candidate PACs. However, companies subject to strict liability pay-to-play laws should be mindful that their contributions may be governed by those laws if solicited by or linked to state or local candidates or officeholders.

Support for Host Committees

The cities' host committees, on the other hand, may accept unlimited monetary or in-kind contributions from corporations that are limited to paying costs associated with a city bidding for and, subsequently, hosting the convention. The types of expenses that a host committee may pay for include those that involve promoting the city and its commerce, as well as certain "behind the scenes" infrastructure and logistical needs for the convention.

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If a corporation provides in-kind contributions to a host committee, the resources furnished must be used exclusively for purposes that are appropriate and permissible for the committee, such as:

- Security and construction services (*e.g.*, camera platforms, lighting and electrical systems and press tables).
- Welcome booths for convention attendees.
- Accommodations for host committee members.

Please note that permissible host committee expenses generally do *not* include paying for items that appear on the broadcast of the convention (*e.g.*, the balloons and confetti that are dropped in the venue) or the cost of travel and accommodations for convention speakers. It is a best practice to memorialize any agreement in writing with the host committee to ensure in-kind contributions will be used in a permissible fashion.

Please note that since each host committee is required to register and file reports with the Federal Election Commission (FEC), the identity of contributors and the amounts of their contributions are publicly disclosed after the convention.

Additionally, to the extent a host committee contribution is solicited by a state or local official, it should be determined whether there are any prohibitions, restrictions or reporting requirements under applicable state or local laws regarding contributions solicited by such officials. For example, certain jurisdictions treat donations to a charity or another third party solicited by an official as a gift to the official themselves and therefore subject to the restrictions of the applicable gift law.

Finally, given the host committees' different organizational statuses, contributions to each of the Democratic and Republican committees have different tax implications. Accordingly, a contribution to the Republican host committee, a 501(c)(3) charity, will generally be deductible as a charitable expense. In contrast, a contribution to the Democratic Host Committee, a 501(c)(6) trade association, will only be deductible if it can be properly characterized as an ordinary and necessary business expense in the conduct of the donor's business. For example, if a company conducts business in Chicago, 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.

Private Events During the Conventions

In addition to supporting the convention and host committees as outlined above, companies sometimes consider hosting or supporting parties and other private events during the conventions. If the event — even if organized by a third party — is coordinated with, or held for the purpose of benefiting, a candidate's campaign, party committee or political committee, financial support of the event may constitute an in-kind contribution.

Such a contribution may be impermissible or subject to limits under campaign finance law and also could trigger an automatic ban on government contracts if the relevant jurisdiction maintains a strict liability pay-to-play law.

Even if such laws are not a concern, given the likely attendance of public officials at these events, companies that sponsor or support private events also should vet potential implications under federal, state and local gift laws. Indeed, the Senate Select Committee on Ethics and the House Ethics Committee historically have issued guidance reminding members of their ethical obligations while attending the conventions.

Employees Attending Conventions

Companies also should be mindful that their employees' convention-related activities could create legal implications for the company if an employee uses corporate resources in connection with certain types of activity. 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 in which the employee will engage while attending.

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 participate 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 in-kind contribution to that campaign or committee, thereby implicating campaign finance and pay-to-play laws. These concerns can arise even if the employee supplements their delegate or political activities with nonpolitical business-related activities while at the convention.

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