



### The Government Relations Practice of Sidley Austin Brown & Wood

Our Government Relations Practice advises clients including major corporations, lobbying organizations and trade associations on matters concerning campaign finance laws, lobbying laws, gift rules and other laws that regulate the conduct of public officials and the companies and individuals with whom they interact. The firm has represented Members of Congress, individual contributors, political action committees, Executive Branch employees and government contractors before the Federal Election Commission, House and Senate Ethics Committees, and state regulatory agencies in many jurisdictions throughout the United States.

For further information on the Government Relations Practice, please contact:

Michael Nemeroff  
mnemeroff@sidley.com  
202-736-8235

Colleen Lauerma  
clauerma@sidley.com  
202-736-8365

Sidley Austin Brown & Wood LLP  
1501 K St. NW  
Washington, D.C. 20005

To receive future copies of Government Relations Update via email, please email [mlockard@sidley.com](mailto:mlockard@sidley.com)

This **Government Relations Update** has been prepared by SIDLEY AUSTIN BROWN & WOOD LLP for informational purposes only and does not constitute legal advice. This information is not intended to create, and receipt of it does not constitute, an attorney-client relationship. Readers should not act upon this without seeking professional counsel. © Sidley Austin Brown & Wood 2003

## New Federal Election Commission Proposed Rules to Affect Upcoming National Party Conventions

The Federal Election Commission (the “FEC” or the “Commission”) recently released proposed rules implementing the Bipartisan Campaign Reform Act (“BCRA”) as it pertains to national party nominating conventions. See 68 Fed. Reg. 18484 (the proposed rules also cover publicly financed presidential candidates). These rules are sweeping and could have a profound impact on how conventions are conducted and the role, if any, non-federal funds will play. Comments on these proposed rules are due to the FEC by May 9, 2003 and a hearing will be held on May 19, 2003. The Commission has not set a date for promulgating final rules but hopes to complete its work by the end of June.

### A. Proposed Prohibition on Use of Non-Federal Funds

- The Commission is considering whether BCRA's ban on national parties soliciting, receiving, directing and using non-Federal funds might extend to host committees and municipal funds.<sup>1</sup>
- Are host committees and municipal funds “agents” of the national party committee or convention committee? If so, then they, like the national party committees, would be prohibited from soliciting, receiving, directing or spending non-Federal funds under BCRA.
- Are host committees and municipal funds directly or indirectly established, financed, maintained or controlled by a national party committee? If so, then they would be subject to the same prohibition on the use of non-Federal funds that the national committees are.
- The FEC states that convention committees are agents of the national committees and is considering whether, as a result, they are prohibited from accepting many of the in-kind contributions typically provided them by host committees. The FEC proposes to tighten restrictions that prohibit host

(see reverse)

<sup>1</sup> A “municipal fund” is any separate fund or account of a government agency, municipality or municipal corporation whose principal purpose is the encouragement of commerce in the municipality.

committees from paying expenses that have primarily a political rather than commercial focus.

## B. Private Events

- The Commission is seeking comments on whether “private events” held in the host city during nominating conventions are subject to regulation under BCRA. Although the Commission’s statement is not clear, this appears to apply to non-campaign events subject to the gift rules.

“Corporations, labor organizations, and other groups can hold these events, and often invite convention attendees including delegates, Federal candidates and officeholders, and party officials. These events are typically held in locations away from the convention venue. The temporal and geographic proximity of these events to nominating conventions has not previously subjected the events to regulation under FECA solely because of that proximity. . . . The Commission seeks comment on whether BCRA requires that private events held in the convention city during the convention are subject to regulation solely on that basis.”

## C. Provision of Goods and Services by Commercial Vendors

- The proposed rule would allow commercial vendors to provide goods and services to national committees at reduced or discounted rates (but not at no charge) and only in the ordinary course of business. This means that vendors must be able to demonstrate that comparable prices, terms and conditions have been or

would be provided to non-political customers. The proposed rule also deletes the provisions allowing goods or services to be provided for promotional consideration and allowing goods or services of de minimis value to be provided at no charge.

- The proposed rules contemplate that these donations to host committees and municipal funds are still appropriate provided they are made in accordance with 11 CFR §§ 9008.52 and 9008.53.

## D. “Local” Business Donations

- The FEC proposes to delete the requirement that only “local” businesses may donate funds or make in-kind donations to host committees. (This proposal appears to be the Commission’s preferred course of action.) Alternatively, the FEC proposes to retain the “local” requirement but revise the provision so it would cover individuals who work for the local office. As a third alternative, the FEC proposes to rely exclusively on an individual’s residence to determine whether the individual is local.

## E. Effective Date

- The Commission seeks comments on what the effective date for any regulations it adopts should be. Can/should the regulations not become effective until the 2008 conventions? We believe that if the Commission determines that any activity is no longer permissible under BCRA, it cannot postpone promulgating and enforcing corresponding regulations.

*The affiliated firms, Sidley Austin Brown & Wood LLP, a Delaware limited liability partnership, Sidley Austin Brown & Wood, an Illinois general partnership, Sidley Austin Brown & Wood, an English general partnership and Sidley Austin Brown & Wood, a New York general partnership, are referred to herein collectively as Sidley Austin Brown & Wood.*



**SIDLEY AUSTIN BROWN & WOOD LLP**  
AND AFFILIATED PARTNERSHIPS

BEIJING CHICAGO DALLAS GENEVA HONG KONG LONDON LOS ANGELES NEW YORK  
SAN FRANCISCO SHANGHAI SINGAPORE TOKYO WASHINGTON, D.C.

[www.sidley.com](http://www.sidley.com)