



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Patricia C. Orrock
Chief Compliance Officer

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FROM: Lisa J. Stevenson *[initials]*
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Assistant General Counsel
Compliance Advice

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Attorney

SUBJECT: Preliminary Audit Report on the 2012 Tampa Bay Host Committee, Inc.
(LRA 948)

The Office of General Counsel reviewed the draft Preliminary Audit Report ("PAR") on the 2012 Tampa Bay Host Committee, Inc. ("Committee"). The draft PAR did not contain any findings of material non-compliance.¹ The cover memorandum transmitting the draft PAR to this Office raised an issue, however, regarding the Committee's payment of national convention related expenses. For the reasons discussed below, we recommend that the Audit Division consider presenting the issue to the Commission in the cover memorandum transmitting the PAR to the Commission. If you have any questions, please contact Danita C. Alberico, the attorney assigned to this audit.

The Audit Division advised this Office that the Committee may have made impermissible expenditures for televising and staging the 2012 Republican National Convention rather than for

¹ We recommend that the Commission consider this document in Executive Session because the Commission may eventually decide to pursue an investigation of matters pertaining to the proposed report. 11 C.F.R. §§ 2.4(a) and (b)(6).

promoting the host city and its commerce or defraying convention expenses. If so, the expenditures could constitute in-kind contributions to the Committee on Arrangements that are subject to the convention expenditure limitation. The regulations promulgated under the Presidential Election Campaign Fund Act provide that expenditures made by a host committee shall not be considered expenditures by a national committee and shall not count against the expenditure limitation provided the funds are spent in accordance with 11 C.F.R. § 9008.52. See 11 C.F.R. § 9008.8(b)(1). Pursuant to section 9008.52(b), the categories of permissible host committee expenditures generally relate to disbursements for promoting the convention city and its commerce and defraying convention expenses (i.e., infrastructure related expenditures made to prepare the convention hall to host the convention). For example, the host committee can incur expenses to promote the suitability of the city as a convention site and it can incur expenses for construction at the convention location. 11 C.F.R. § 9008.52(b)(1) and (5). By contrast, the Commission has found that expenditures primarily related to and for the purpose of presenting the television image of the convention to attendees and the general public are impermissible host committee expenses because they relate to conveying and enhancing a party's message in the hope of influencing the public to support the party hosting the convention and its presidential candidate. See Report of the Audit Division on San Diego Host Committee/Sail to Victory '96 ("San Diego Host").

The auditors indicated that their review of the Committee's contract with David J. Nash and Associates, Inc. ("Nash"), the vendor contracted to produce the Republican National Convention, specified services that may not relate to promoting the host city or defraying convention expenses. The auditors, however, did not retrieve detailed information about these expenses during the audit fieldwork. Therefore, there is a question of fact as to whether these expenses were for the purpose of presenting the television image of the convention – similar to those the Commission found impermissible in the San Diego Host audit.² *Id.* Based on the information and documentation the Audit Division currently possesses, it cannot confirm whether the Committee's disbursements to Nash were in accordance with 11 C.F.R. § 9008.52(b) or not. The auditors would need to obtain additional information and documentation from the Committee to determine whether the disbursements to Nash were permissible.

The Audit Division asked whether it should seek additional information from the Committee to determine whether payments to Nash were for the purpose of presenting the television image of the convention. To assist with the resolution of this issue, the auditors noted that Nash has been the vendor producing the Republican National Convention for every election cycle since the San Diego convention in 1996. The auditors provided a chart which showed that the amounts paid by the host committees to Nash since 1996 had steadily increased. The sources for this chart were the host committees' disclosure reports and the host committees' disbursement databases. The compiled information raised a question for the auditors regarding whether the respective host committees for the Republican national conventions since 2000 paid Nash for television production expenses that were the same as those deemed impermissible in the San

² The 1996 San Diego Host expenditures were also made to Nash and were for services that included producers, directors, production staff, music/orchestra, rigging stage labor, satellite, special effects, makeup and hairdressing, video operations, sound operations, video segments, editing, and graphics.

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Diego Host audit. Factually, however, the auditors could not confirm that the prior host committees' expenditures were for the same production costs at issue in the San Diego Host audit.³

There is no legal impediment to the Audit Division seeking additional information from the Committee to resolve this issue as it pertains to the 2012 Tampa Bay Host Committee. The Commission's regulations contemplate that the auditors may conduct additional fieldwork after the completion of the original fieldwork. See 11 C.F.R. § 9007.1(b)(3).⁴ As a general matter, the Audit Division has some discretion in determining if additional information is necessary for the audit. In exercising this discretion, however, the Audit Division may wish to consider the time that would be required to obtain this information and the stage of the audit. If the Audit Division wishes to seek the Commission's input, it can do so by raising the issue in the cover memorandum to the Commission.⁵

³ If there was information that showed that the prior host committees' expenditures to Nash were the same as in the San Diego Host audit, then this may suggest that the Tampa Bay Host Committee made similar expenditures to Nash.

⁴ Section 9007.1(b)(3) is a general election financing regulation that is incorporated by reference in the host committee regulations at 11 C.F.R. § 9008.54.

⁵ [REDACTED]