



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 3, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-27

Mr. Lee E. Holt, City Attorney
Office of the City Attorney
City Hall
Dallas, Texas 75201

Dear Mr. Holt:

This responds to your letter of March 19, 1982, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the financing of payments by the City of Dallas for facilities and services with respect to a presidential nominating convention.

Your letter states that Dallas will be required to make a facilities and services commitment in connection with the 1984 Republican National Convention that will likely include the provision of a municipally owned convention hall and expenditures for the re-design and construction of in-hall facilities, lighting and other electrical work, communication and audio facilities, certain transportation services, and additional security services. These facilities and services will require financing in the amount of several million dollars.

You assert that constitutional constraints and long-standing public policy precludes Dallas from utilizing tax revenues or other public funds for the provision of facilities or services to private parties. Instead, Dallas has historically relied upon private sector donations to finance many of the municipal promotional, cultural and commercial activities financed by other cities through tax revenues. Accordingly, the municipal funds which would be utilized by Dallas to finance its facilities and services commitment to the 1984 Republican National Convention will be generated from the City's traditional private sector financing sources in the same manner as the City finances other quasi-governmental activities.

The City of Dallas intends to finance its commitment to provide facilities and services to the 1984 Republican National Convention through use of the Dallas Convention Fund ("the Fund"),

a general promotion fund presently being established with the Dallas Convention Center, a governmental agency of the City. The Fund will be used by the City government, upon authorization by the City Council, to promote Dallas as a convention center by a variety of means, including the financing of convention facilities and services packages designed to attract prospective convention sponsors. Monies for the Fund will come entirely from the private sector through unrestricted, general donations by individuals, associations, businesses, corporations, and other persons. You add that the fund represents in large measure simply an institutionalization of previous ad hoc private sector financial support to the City for convention-promotion activities. The Fund is designed to provide an efficient mechanism by which the City can administer its traditional private sector financing method in the context of convention promotion and support.

The Fund will be administered by the City on a strictly commercial basis: it will be used to promote Dallas as a world-class convention city generally and to attract and support specific conventions on the basis of expected economic benefits all segments of the Dallas community. The Fund will be administered by the City government, both in terms of acceptance of donations and disbursements of funds, on a strictly non-partisan, non-political basis. Because of the general nature of the Fund, donations will be accepted on an unrestricted basis only. Donations will not be permitted to be designated for use in connection with any particular convention, event or activity. Because of this, you assert that neither the Fund's municipal administrators nor its donors will have any way of knowing whether particular donations are used in connection with any particular convention or for other convention-promotion activities to be financed from the Fund. Under these circumstances you ask whether expenditures made by Dallas from the Fund for facilities and services with respect to the 1984 presidential nominating convention of the Republican party would constitute political contributions for purposes of the limitations and prohibitions of the Act.

The Commission has previously recognized that payments by state or local governments to provide facilities and services to the national committee of a political party in connection with that party's national nominating convention do not constitute prohibited contributions to the national party so long as the city's payments to any vendors of such services and facilities are not at less than the fair market value for those facilities and services. Advisory Opinion 1975-1, copy enclosed. This treatment of municipal corporation payments is reflected also in Commission regulations which provide that local government agencies and municipal corporations may make expenditures for facilities or services with respect to a presidential nominating convention. These expenditures are not considered as contributions to the national committee by the agency or municipal corporation that makes them. 11 CFR 9008.7(b). The cited regulation lists many examples of the types of expenditures that municipal corporations may make under this exemption. 11 CFR 9008.7(b)(2).

The Act and Commission regulations do not require a municipality to make expenditures for the described facilities and services from general tax revenues of the municipality; nor do they impose any other requirement as to a city's source of funding. The regulation states only that in providing facilities and services for the presidential nominating convention, the municipal corporation may not obtain such facilities and services from other persons (e.g. commercial vendors) at less than their fair market value. See 11 CFR 9008.7(b)(1).

The issue presented in this request is whether the City of Dallas, in light of the method by which it traditionally raises governmental revenue for promotional, cultural, and commercial activities of the City, is barred from using that same method to establish a permanent city-controlled Convention Fund, which would make payments for facilities and services with respect to a presidential nominating convention and other kinds of conventions. Because the Act and Commission regulations are silent on the method by which a municipality raises its revenue (as distinct from its payments to commercial vendors who furnish facilities and services for a presidential nominating convention), and in light of the fact that Dallas has traditionally raised governmental revenue for these kinds of purposes in this manner (i.e. private donations); the Commission concludes that nothing in the Act or Commission regulations would preclude Dallas from utilizing the described Convention Fund to finance municipal payments for facilities and services, such as those described in 11 CFR 9008.7(b)(2), with respect to the 1984 Republican presidential nominating convention. Accordingly, payments from the Convention Fund by the City of Dallas for such facilities and services as are set forth in the regulations would not constitute contributions to the Republican National Committee by either the City or by those who donate to the Convention Fund. Moreover, such payments would not count against the expenditure limitation of 26 U.S.C. 9008(d).

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely,

(signed)

Frank P. Reiche
Chairman for the Federal Election Commission

Enclosure (AO 1975-1)