



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 21, 1983

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1983-29

Mr. Robert A. Kenealey, Assistant Chief Deputy City Attorney  
Office of the City Attorney  
214 Van Ness Avenue  
San Francisco, California 94102

Dear Mr. Kenealey:

This responds to your letter of September 12, 1983, 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 and County of San Francisco ("the City") for facilities and services with respect to a presidential nominating convention.

Your letter states that the City and County of San Francisco have agreed to provide certain convention related facilities and services in connection with the 1984 Democratic National Convention. These facilities will include use of the recently constructed Moscone Convention Center as well as various services mentioned in Commission regulations at 11 CFR 9008.7(b). These facilities and services will require financing in the amount of \$4 to \$5 million.

You assert that San Francisco 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 San Francisco to finance its facilities and services commitment to the 1984 Democratic National Convention will be drawn from general funds of the City and also, in substantial part (no less than \$1 million), from the City's traditional private sector support of municipal purposes.

The City of San Francisco intends to finance no less than \$1 million of its financial commitment to provide facilities and services to the 1984 Democratic National Convention through the use of the San Francisco Convention Promotion and Services Fund ("the Fund"), established by the Board of Supervisors for San Francisco. Your letter describes the Fund as to its purpose and proposed method of operation.

The San Francisco Convention Promotion and Services Fund was established to provide for a permanent, organized method of coordinating private sector financial support for the City's convention-related activities so as to create an effective form of management of these efforts. The Fund will be administered on a strictly commercial basis to attract and promote all conventions which would enhance the City's image as a world-class convention center.

The authority both to receive donations to the Fund and to expend sums from it will be in the City government; specifically the Mayor and the Chief Administrative Officer must jointly authorize any expenditures. The rationale behind this process is to administer the monies from the Fund in a strictly non-political, non-partisan manner. In San Francisco, the Mayor and members of the Board of Supervisors are elected without political party affiliation. The Chief Administrative Officer is an appointed professional manager. Unlike some cities, in San Francisco the administrative duties of the City are divided between the Mayor and the Chief Administrative Officer. Due to the divided responsibility, both officials must approve expenditures from the fund.

The City expects to solicit donations primarily from individuals. However, it is anticipated that contributions will also be received from the other segments of the private sector, i.e., businesses, private foundations, and trade associations. Donations to the Fund will only be accepted on an unrestricted basis, in other words, donations will not be permitted to be earmarked for use in connection with any particular convention event or activity. The City government's discretion to expend in connection with convention-related facilities or services for the commercial benefit of the overall San Francisco community will not be inhibited. It is anticipated that as a result of the establishment of this fund the contributions will be received from sources that have a commercial motivation in promoting San Francisco as a world-class convention center.

Although the fund will be utilized in defraying the expenses of the City's obligations to the Democratic National Convention Committee, by no means is its purpose or use limited to the 1984 Democratic National Convention. It is anticipated, however, that the 1984 Democratic National Convention will bring the type of national and international recognition necessary to assist San Francisco as a world-class convention center. In sum, it is intended that the fund be a continuation of the traditional private sector support of municipal activities and remain as a permanent source of revenue for the City's convention promotion purposes.

Under these circumstances you ask whether expenditures made by San Francisco from the Fund for facilities and services with respect to the 1984 presidential nomination convention of the Democratic party, would constitute political contributions for purposes of the limitations and prohibitions of the Act.

The Commission has previously recognized that payments made by a municipal government from a fund comprised of donations from individuals and corporations, 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. Advisory Opinion 1982-27, copy enclosed. This treatment of municipal payments is generally reflected in a previous advisory opinion, and in Commission regulations.\* Advisory Opinion 1975-1 (copy enclosed), 11 CFR 9008.7(b)(1).

The issue presented in the request is whether the City of San Francisco, in light of its longstanding tradition of receiving gifts from the private sector for promotional, cultural, and commercial activities of San Francisco, is barred from receiving similar private donations to a permanent, City-controlled fund, which will make disbursements for facilities and services to benefit conventions generally, including a presidential nominating convention. In light of Advisory Opinion 1982-27, which is indistinguishable in all material aspects from the situation presented in your request, the City of San Francisco would not be precluded from utilizing the Fund to finance municipal payments for facilities and services with respect to the 1984 Democratic National Convention. Moreover, payments made by the City of San Francisco for such facilities and services would not constitute contributions to the DNC by either the City or contributors to the Fund. Finally, 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 yours,

(signed)

Danny L. McDonald  
Chairman for the Federal Election Commission

Enclosures (AOs 1982-27 and 1975-1)

\*/ These expenditures are not considered as contributions to the national committee by the State agency or municipal corporation that makes them so long as facilities and services are not obtained at less than their fair market value. 11 CFR 9008.7(b)(1). 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).