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Skadden



# Keeping Your 2016 Convention Plan Compliant Public Affairs Council

**Skadden, Arps, Slate, Meagher & Flom LLP  
and Affiliates**

## **The Americas**

Boston  
Chicago  
Houston  
Los Angeles  
New York  
Palo Alto  
São Paulo  
Toronto  
Washington, D.C.  
Wilmington

## **Europe**

Brussels  
Frankfurt  
London  
Moscow  
Munich  
Paris

## **Asia Pacific**

Beijing  
Hong Kong  
Seoul  
Shanghai  
Singapore  
Sydney  
Tokyo



- Political Party Convention Committees (Convention Committees)
  - Democratic National Convention Committee
  - Committee on Arrangements (RNC)
- Host Committees
  - 2016 Philadelphia Host Committee
  - 2016 Cleveland Host Committee
- Contributions
  - No corporate contributions may be made to the Convention Committees. This prohibition includes money and in-kind services. There are a few exceptions noted below.
  - For the first time, contributions may be made to the Convention Committees. Previously, they were publicly financed.
    - » Individuals: \$100,200 per year (\$33,400 x 3)
    - » Multicandidate PACs: \$45,000 per year (\$15,000 x 3)

# Methods of Contributing – How Can Corporations be Involved?



- Unlimited contributions, including corporate contributions, may be made to the Host Committees.
  - » Tax status
    - > Quid pro quo deduction issue
    - > Written acknowledgement of cash and in-kind gifts for deductibility
- Convention Committees
  - Corporations may sell goods and services to the Convention Committees but discounts are not allowed unless they are discounts given to all non-political customers or discounts consistent with industry practice.
  - Corporations may provide goods or services in return for promotional considerations if commercially reasonable and standard practice.
  - Promotional items of de minimis value allowed, e.g., pens, t-shirts, canvas bags.

# Methods of Contributing – How Can Corporations be Involved?



- In-kind goods and services on behalf of the Host Committee for certain convention expenses, such as:
  - Promoting the suitability of the city as a convention site
  - Welcoming convention attendees (e.g., information booths, receptions, tours)
  - Facilitating commerce (e.g., shopping and entertainment guides, product samples, promotional material)
  - Providing "other similar convention related facilities and services"
  - NOT travel and accommodations of convention speakers or delegates
  - Defraying administrative expenses of the Host Committee (e.g., salaries, rent, travel, insurance)
  - Providing the use of the auditorium or convention center and convention-related construction and services for the location (e.g., podiums, press tables, false floors, camera platforms, additional seating, decorations, utilities, loudspeakers)
  - Local transportation services (e.g., buses and cars)
  - Defraying the costs of law enforcement services
  - Defraying the costs of using convention bureau personnel to provide housing and reservation services
  - Providing hotel rooms at no or reduced charge based on number of rooms sold
- Travel costs associated with attending the conventions for non-delegate non-speakers

# Federal Legislative Branch Gift Rules



- Federal legislative gift rules for various convention-related events
  - Reception exemption
  - Nominal food in certain settings
  - Widely attended gathering
  - Outside activities
  - Friendship (cannot be expensed and subject to increased scrutiny)
  - Site visits: food and local travel outside D.C. (House rules vs. Senate rules)
  - Attendance at events sponsored by charity (House rules vs. Senate rules)
  - Home district products
  - Nominal items (baseball caps, t-shirts, and greeting cards)
  - Training
  - Informational materials
  - Items paid for at market value or promptly returned
  - Commemorative items (allows certain gifts during site visit)
  - Personal hospitality exemption is not permitted for lobbyists
  - Political contributions
- Special ban on honoring a Member under the Lobbying Disclosure Act
- Form LD-203

# Federal Executive Branch Gift Rules



- Gifts to executive branch officials and employees are generally limited to \$20 per occasion and \$50 per calendar year.
- Commonly used exceptions include:
  - There is no reception exception
  - Widely attended gathering (but requires pre-clearance from agency)
  - Meals and entertainment from non-prohibited source
  - Personal relationship (factors: personal payment and relationship history)
  - Modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal
  - Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation
  - Gifts the receipt of which is specifically authorized by statute (e.g., Foreign Gifts and Decorations Act)
  - Gifts to the President and Vice President

# Obama Executive Order Federal Executive Branch Gift Rules



- Obama Executive Order prohibits most gifts to executive branch officials and employees from lobbyists, lobbying firms, and lobbyist employers.
  - Non-Obama employees may be covered as well
- May not utilize \$20/\$50, widely attended, or reception exceptions, among others.
- Limited exceptions remain, including:
  - Personal relationship (factors: personal payment and relationship history)
  - Modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal, but not including receptions with alcohol like in the legislative branch
  - Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation
  - Gifts the receipt of which is specifically authorized by statute (e.g., Foreign Gifts and Decorations Act)
  - Gifts to the President and Vice President
- Press and charity exceptions

# Methods of Contributing – How Can Corporations be Involved?

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- Event examples
  - Meals, such as breakfast or lunch, for a state delegation
  - Hospitality suites
  - Receptions with music
  - Charity events
  - Fundraisers



- Convention-related events must be permissible under state and local gift laws, for example:
  - Ohio
    - » Gifts to state executive branch and local public officials and employees are prohibited from an interested person.
    - » State legislative branch gifts from non-lobbyists are subject to bribery standard.
    - » State legislative branch gifts from lobbyists cannot exceed \$75 per year.



- Pennsylvania
  - » Gifts from interested parties to state executive officials and employees are prohibited.
    - > A recent EO has eliminated most exemptions, including for nominal items and infrequent, nominal food and refreshment in the ordinary course of a meeting.
    - > The EO permits free participation in widely attended gatherings when officials have been invited and are acting in furtherance of their official duties, but this does not extend to food or drink without payment at market value.
  - » Legislative branch gifts which would influence the performance of official duties are prohibited.
  - » Gifts of more than nominal value from persons with professional services contracts with a municipal pension system are prohibited.
    - > “Nominal value” varies by locality.
- Localities have gift rules too
  - » For example, Philadelphia Executive Order gift ban contains a penalty of loss of contract and/or debarment.



- Must be permissible under federal, state, and local campaign finance and pay-to-play laws
  - Campaign and party committee fundraisers