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Corporate Political Law Compliance: Top 5 Tips for the 2014 Election Year

Each election year corporations and their leaders are inundated with requests to support federal, state and local candidates. For many companies, political engagement is not an option. Decisions by federal, state and local officials on a host of issues can mean the difference between success and failure for a corporation. At the same time, political activities once considered just part of doing business – such as fund-raising for candidates or making personal campaign contributions – can present a high-stakes compliance challenge for any company.

Here in bullet-point format are our "Top 5" tips for addressing the political law risks facing corporations this election year.

TIP #1: Know the contribution rules that apply to your organization

Federal corporate contributions are prohibited

- No contributions to federal candidates, political parties, or PACs
- But direct and indirect independent candidate advocacy is permitted by the *Citizens United v. FEC* ruling

Federal and state corporate contribution rules may differ

- A few states allow unlimited corporate contributions (AL, VA, UT, OR, MO) in state/local elections
- Prohibited in about 20 states
- Others impose limits on corporate contributions

End-runs are illegal

- Conduit and reimbursement schemes are generally impermissable and provide fertile ground for prosecutors

Consider establishing a federal or state Political Action Committee (PAC)

- A vehicle for contributing when corporate funds cannot be used
- Funded by individuals affiliated with the corporation

Don't use corporate resources to assist in fundraising from individuals

- Corporate facilities or resources should not be used for fundraising activities in support of federal officeholders or candidates (unless paid by permissible source)
- Result: illegal in-kind contribution
- Common corporate violation – significant sanctions possible

TIP #2: Public Contractors: Beware of State and Local "Pay-to-Play" Laws

- Prohibit or restrict political contributions by state/local contractors and bidders
- Laws may apply to the company and its PAC, and to its officers, directors, senior managers & even their spouses and children

- Possible sanctions – bids disqualified, contracts voided, barred from future contracts, adverse publicity!

TIP #3: Be careful – lobbying laws are getting tougher

- A wider range of activity is covered by lobbying laws – *e.g.*, "goodwill," "grassroots" and "procurement" lobbying
- More disclosure about lobbying activities and expenditures required
- More political contribution and gift restrictions imposed on lobbyists
- More collateral obligations, such as mandatory ethics training and wearing ID badges when lobbying

TIP #4: Anything you give a public official might be an illegal gift

- Gift giving is highly regulated by federal, state & local laws
- Review laws carefully because a gift may be anything of value – *even a cup of coffee*!
- Rules cover legislative & executive elected officials, and career government employees
- Reporting requirements may apply
- Majority of states impose additional restrictions on lobbyists and government contractors
- Understand gift exceptions – may allow for wide range of permissable gift giving

TIP #5: Have a political activity risk management strategy

- Develop clear political activity policies & procedures
- Designate a "go-to" person who can respond to employees' political activity questions
- Have tracking process for gifts, contributions & other reportable payments
- Remind employees that personal activities can impact the business
- Provide periodic training for certain key employees
- Periodically review scope of corporate political activities to identify risk areas and prioritize compliance needs

Additional information can be obtained by contacting Jim Kahl at Womble Carlyle Sandridge & Rice.

Jim Kahl | 202.857.4417 | JKahl@wcsr.com