

DOJ Cracking Down on Corruption

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Warner Norcross & Judd attorneys have learned that the U.S. Department of Justice (DOJ) is cracking down on those who violate the Foreign Corrupt Practices Act (FCPA). That makes now a good time to remind our clients about the FCPA and the steps they can take to comply with it.

At its most basic level, the FCPA prohibits the direct or indirect bribery of foreign government officials by U.S. persons and entities, or foreign persons and entities acting in the United States, for the purpose of retaining or obtaining business. Foreign officials may include governmental leaders, regulators, political party officials and people associated with state-owned enterprises.

Last week, DOJ announced it arrested 22 executives and employees and charged them with attempting to pay bribes in the hope of securing a portion of \$15 million in overseas contracts. Most of them are from small to mid-sized companies in the U.S. They were caught in an FBI sting operation, which was the first-ever large-scale undercover investigation into violations of the FCPA and the largest action ever targeting individuals for FCPA violations.

The recent action by DOJ indicates officials are using more aggressive means and are eyeing smaller and smaller companies. No longer are investigations based solely on tips received by federal agents, nor are the agents focused solely on violations involving large companies. Among those apprehended in the recent sting was the general counsel of a four-employee company in Pennsylvania.

Agents are investigating a wider range of conduct. Charitable contributions, travel expenses, gifts and donations are being scrutinized. Compliance is not a one-size-fits-all process, but usually involves training and a written program that senior management strongly supports.

If you have any questions regarding your corporation's practices as they pertain to the Foreign Corrupt Practices Act, please contact Warner Norcross & Judd attorney Mark Spitzley at mspitzley@wnj.com or 616.752.2714, Craig Meurlin at cmeurlin@wnj.com or 616.752.2448, or Andrew Thorson at athorson@wnj.com or 248.784.5165 or another member of our International Business Law team.