

Client Alert

Government Advocacy & Public Policy Practice Group

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Greater Scrutiny of Corporate Lobbying and Political Activity Underway

On September 13, 2012, the Center for Responsive Politics (CRP), a nonpartisan, nonprofit research group that tracks and analyzes the effect of money in U.S. politics, unveiled a new feature on its website that provides extensive profiles detailing the lobbying and political activities of approximately 20,000 organizations. CRP's profiles represent an unprecedented attempt to correlate the lobbying activities and campaign contributions of corporations, labor unions and trade organizations and the individuals who lobby on their behalf. The information was assembled from numerous public sources, including reports filed with the U.S. Congress, the Federal Election Commission, the Internal Revenue Service and the U.S. Office of Government Ethics.

Two sections of these profiles should be of particular concern to corporations that interact with government officials. In one section, comparisons are made between a corporation's contributions through its political action committee (PAC) and contributions made by individual employees of the corporation. In a press release announcing the new feature, the CRP noted the following regarding the campaign finance activities of one corporation in the energy sector:

...An example of the stark contrast that sometimes exists between the political interests of a company (demonstrated by PAC donations) and the interests of employees (demonstrated by their donations), which is being illustrated for the first time by these new profiles, can be seen in [company's] organizational profile. [Company's] PAC has a strong preference for Republicans (not uncommon in the oil and gas industry), but its employees' giving is almost evenly split between the two parties.

A second section of each profile, titled "Members Invested," provides a link to a list of Members of Congress who own shares in the company. This information is provided in tandem with a section that sets forth the Members who received contributions from either the corporation's PAC or employees, and another section that links to information on legislation on which the corporation lobbied (including the Members who supported the legislation).

Another recent study, conducted by professors from James Madison University and the University of Texas at Austin, focused on the so-called "revolving door" through which former government officials enter the private

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sector. The study found that a large number of former government officials “frequently underreport their previous government employment as mandated” by the Lobbying Disclosure Act and the Honest Leadership and Open Government Act. Sampling the biographies of 1,600 registered lobbyists, the study found that, for 2008, “of the roughly half of lobbyists who were found to have worked in the government, a majority of two in three (67.0%) chose not to report that information.”

With the exponential increase of online databases, these reports are becoming more frequently available to the public. And with this access to more information, there is greater scrutiny of the activities of corporations. Scrutiny comes not just from government enforcement officials, but also from public interest watchdog groups who mine this information for any evidence of non-compliance or violations, and a willing media that will highlight information that could result in enforcement and reputational risks, even for inadvertent or unknowing violations.

It is clear that the scrutiny of corporations, their political activities and their lobbyists will continue. In today’s world of rapidly flowing data, embarrassing information can be released long before there is an opportunity to “set the record straight.” Therefore, it is critical to get it right at the first instance.

Corporations must ensure that they are complying with state and local laws and regulations involving lobbying, making political contributions and expenditures, and providing entertainment or other gifts to government officials at the state and federal level. Just as in other areas of corporate compliance, corporations must have robust policies and related training systems in place to ensure that each employee involved in engagement with government officials understands the law as it applies to the corporation, and them, and what they need to do to comply with reporting and disclosure requirements. As the laws that regulate these activities evolve and become more rigorous, they must ensure that they are keeping up with these changes. And finally, they must regularly audit their activities to demonstrate their compliance.

Information about King & Spalding’s Political Law Practice Group can be found [here](#).

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The Center for Responsive Politics corporate profiles can be found [here](#).

The James Madison University/University of Texas revolving door study can be found [here](#).

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This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice.