



DMG BRIEFING NOTE: The Foreign Corrupt Practices Act (FCPA)

Executive Summary

The FCPA is the U.S. law prohibiting the bribing of foreign officials. As a general prohibition the law is broad enough to ensure that any nefarious activity can be prohibited under its umbrella. Thus the law includes more than the proverbial “bags of cash” and “brown envelopes.” The FCPA applies to all U.S. persons including corporations and other business organizations with operations in America. Natural persons, i.e. people, acting as agents, employees, officers, etc. for a company can incriminate not only themselves but also the company. However, Congress understood that rogue actors may exist and the law provides that some fines and penalties imposed directly upon individuals cannot be paid by the company for which the individual acted.

So exactly what is illegal? The “payment,” or gift, offer, promise, or authorization to pay, “anything of value” to a “foreign official” to secure that official’s assistance in obtaining and/or retaining business. “Foreign official” includes political parties, members of the same, candidates for office, business executives of government owned companies, and close family to anyone in this group. “Anything of value” is just that and could even be a meal, drink, or a *minor* gift if such is lavish in the country where the “foreign official” serves.

How DMG Can Help You

Due to the immense risks posed to companies and employees for violating the FCPA, it is important that companies doing business in the U.S. and engaging with foreign entities create, implement, and follow a robust anti-bribery/FCPA compliance policy. The Defense Management Group can assist U.S. and Foreign Companies in developing appropriate guidelines to ensure full compliance with the FCPA and so ensure continuance of lawful and ethical dealings with governments and foreign entities throughout the World. Please contact DMG for further information on general rules, other considerations and reporting requirements.

Failure to comply with the FCPA could result in millions of dollars in fines against the company and/or individual and subject the individual actor to criminal penalties including imprisonment.

In The United States

Defense Management Group, LLC
501 Furman Road
Greenville, SC 29609
USA

(864) 373-6484
(864) 331-0488
info@defensemg.com

In the United Kingdom

Defense Management Group Limited
Registered in Scotland
Company Number: SC415344
info@dmguk.co.uk

Regulations and best practice relevant to Government Contracting change over time, and The DMG is delivering a series of seminars on Government Contracting. For the latest information please contact info@defensemg.com for current information on venues and schedule. Alternatively, please register at www.defensemg.com so that we can email to you new and updated briefing notes as they become available.