

CORPORATE LOBBYING COMPLIANCE AND POLITICAL ACTIVITIES IN 2012

KEY TAKEAWAYS

1. Corporations have First Amendment rights to make political expenditures, independent of candidates.
2. Political activities are regulated by the federal, state and, in some cases, local governments.
3. It is important for business corporations to be involved in the political process, within the parameters of applicable law and regulations.
4. Corporate contributions to federal candidates and candidates in half the states are prohibited; but the law does allow for contributions through corporate PACs or contributions to third party entities.
5. Be mindful of the restrictions on use of corporate facilities and resources for certain candidate-related activities; seek legal counsel and guidance as to the permissible ways to engage in the political process.
6. Gifts and entertainment rules for government officials and employees vary by jurisdiction. Gifts and entertainment rules may cover food, beverages, meals, transportation, lodging, sports tickets, and promotional items. Government contractors and lobbyists may be subject to gift bans and special limits. There are civil and criminal penalties for violating gift laws.
7. Many state and local governments and governmental entities prohibit or limit political contributions by their vendors. Pay-to-Play laws may prohibit a company from doing business or entering into a contract with a government or governmental entity if the company or any of its covered employees make or solicit prohibited contributions.

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8. Federal lobbying means attempting to influence Members of Congress, congressional staff and covered executive branch officials regarding federal legislation, regulations, rules, policies, government programs, and the awarding of government contracts. There are civil and criminal penalties for violating federal lobbying laws.
9. Use of Federal *appropriated* funds for lobbying is *prohibited*.
 - Segregate Federal assistance funds (i.e., grant monies) from all other funds through separate accounts
 - Use the funds in the separate, non-appropriated fund accounts to pay lobbying costs for "covered Federal actions"
10. Federal grant recipients also must disclose use of other, *non-appropriated* funds to pay lobbying costs concerning "covered Federal actions".
 - Effectively requires disclosure by Federal grant recipients of all costs for lobbying for Federal grant programs, and the like
 - Standard Form LLL (SF LLL) filing used to disclose the lobbying costs – filed with Federal agency that awarded the grant
 - SF LLL must be amended with subsequent filings when material changes occur
 - Disclosure obligation must be flowed-down to sub-recipients (i.e., lobbyists)
 - Using quarterly filings with the Federal agency is a best practice
11. Federal procurement covered by similar rules.
 - Use of appropriated funds for lobbying is prohibited, but if contractor's profit or fee is more than lobbying cost, that is a "safe harbor"
 - SF LLL submitted with contract offer if lobbyist has made contact with covered Federal person concerning the contract
 - SF LLL required to filed later if subsequent lobbying contact made
 - FAR clauses 52.203-11 and 52.203-12 cover the disclosure and compliance obligations