

Government Affairs Compliance Reviews: Can Your Company Pass?

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Election and Political Law

With the mid-term elections behind us, the time is right for corporations and associations to review their government affairs compliance policies and practices. Covington typically conducts these reviews for clients as we head into the new election cycle. A thoughtful compliance review can help spot and correct vulnerabilities before they generate headlines, enforcement actions, or both. This protects the company, lobbyists, and shareholders.

A compliance review for your company's government affairs function can take many forms, and should be tailored to your unique activities and risk profile. But here is a list of the 20 top questions that may be addressed in a typical government affairs compliance review:

Campaign Finance

1. Do your PACs have adequate safeguards in place to ensure they are not accepting political contributions from foreign nationals (for example, employees with work visas but no "green cards")?
2. Are FEC reports, and state or local campaign finance reports, reconciled to the PAC's accounting records?
3. Do the PACs have adequate internal controls to mitigate the risk of embezzlement of funds?
4. Are the PACs inappropriately soliciting contributions from those outside the "restricted class"?
5. If the PACs are hosting candidate fundraisers for those outside the restricted class, are corporate resources being used improperly?
6. Do PAC bylaws and the company's written policies governing political activity follow best practices?
7. If executives are hosting fundraising events for candidates, are they using corporate resources, such as company staff, to organize the events?
8. Does the company have a robust system to prevent the reimbursement of political contributions by employees or other agents?

Lobbying Disclosure

9. Would the company's quarterly federal lobbying disclosure reports withstand the scrutiny of a Government Accountability Office audit?

10. Are the company and its lobbyists registered to lobby in states and cities where they are required to be?
11. Is the company complying with relevant state and local lobbying rules, including those that cover “grassroots” lobbying and “goodwill” lobbying?
12. Are the company and its listed in-house lobbyists regularly and accurately filing their federal LD-203 semiannual political contribution reports?
13. Does the company have documentation to back up its LD-203 certification that it has not provided gifts in violation of House and Senate gift rules?
14. Does the company have an adequate policy for handling its outside lobbying firms?

Gifts and Ethics

15. Does the company have appropriate policies in place to ensure that gifts to federal, state, and local government officials comply with applicable gift laws and rules?
16. Is the company considering the impact of “revolving door” rules when it hires employees out of federal, state, or local government agencies?
17. Are former government employees hired by the company complying with revolving door rules that may impose “cooling off” periods?

Pay-to-Play Rules

18. Does the company have appropriate policies in place to deal with federal, state, and local “pay-to-play” rules restricting political contributions by employees of government contractors?

Corporate Political Disclosure

19. Does the company have a policy in place to address demands from shareholder groups for voluntary disclosure of its political activities and expenditures?
20. Are any voluntary disclosures of political activities on the company’s website accurate and up-to-date?

This list is illustrative but not exhaustive. A review of your government affairs function can be comprehensive, or it can be targeted to address specific topics or vulnerabilities. The real point is to conduct some kind of a compliance review regularly—at least once every Presidential election cycle—to identify molehills before they become mountains. When coupled with regular annual training for your Washington office and other key staff, government affairs compliance reviews can help identify and remedy problems before they become baked into the organizational culture and before they result in major reputational harm.

Covington’s bipartisan Election & Political Law Practice Group regularly conducts these reviews for many major corporate clients and associations. For assistance in conducting a compliance review, and for help providing annual refresher training to lobbyists, PAC managers, and other key staff, please do not hesitate to contact us.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our Election & Political Law practice group:

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