

POLITICAL LAW, GOVERNMENT ETHICS, AND LOBBYING COMPLIANCE

Interaction with decision makers at all levels of government is a simple fact of doing business. Even if a company does not have a Washington office or employ outside lobbyists, its employees often must communicate with public officials at the federal, state, and local levels on matters such as regulations affecting the company's business, sales of the company's products or services to government entities, or legislation affecting the company or its competitors. These communications -- as well as other contacts with public officials, such as social or charitable events, fact-finding trips and campaign activities -- are subject to strict and varying laws and rules at the federal, state, and local levels.

As the requirements have become increasingly complex and expansive, the task of compliance has become more challenging. Recent scandals in Washington, DC, and in the states have prompted prosecutors to target political corruption as an enforcement priority; thus, compliance with the laws governing political and lobbying activity is more important today than ever before.

Arnold & Porter LLP's political law attorneys have helped clients meet the challenge of complying with a broad range of federal, state, and local laws in this area, including:

- **Lobbying registration and reporting** laws, which require private parties to register and file disclosure reports when they engage in certain types of communications with government officials;
- **Election and campaign finance** laws, which limit the amount of contributions companies and individuals may make to political candidates and provide further restrictions on political activity by corporations, contractors, and lobbyists;
- Laws and rules restricting **entertainment and other benefits that private parties provide to government officials**, including criminal laws that impose fines and imprisonment for illegal gratuities, bribes, and mail and wire "honest services" fraud;
- **Government procurement** laws and rules, which govern bidders' and contractors' interactions with government officials and also prohibit or limit gifts and offers of employment;
- **Tax** laws and regulations governing political and lobbying activity by for profit and nonprofit entities; and
- **Foreign Agents Registration Act**, which requires registration and various disclosures relating to lobbying and other political activity in the United States on behalf of a foreign entity.

Our Clients:

Our clients are diverse and represent a wide variety of industry sectors. They include: US and foreign corporations, partnerships, financial institutions, government contractors, accounting firms, consulting companies, nonprofit organizations, unions, trade associations, foreign governments, corporate executives and individuals, public officials, political action committees (PACs), and candidate campaign committees.

Our Services: Arnold & Porter assists organizations and individuals in the following types of matters:

- *Representing organizations and individuals before the Federal Election Commission (FEC) and state campaign finance authorities, grand jury and other criminal proceedings, and congressional and ethics investigations.* Often a company or other private organization or individual becomes entangled in a government investigation of a candidate, public official, or political party. Our lawyers have represented corporations, financial services organizations, government contractors, and other private persons, as well as government officials and candidate committees, in responding to government inquiries, subpoenas, and summonses. Our broad white collar and civil enforcement experience enables us quickly to assess the nature and scope of the government's interest in a particular client; conduct the necessary investigation to identify all relevant facts and documents; craft an effective response to requests for documents, testimony and other information; and negotiate closure of the matter or other appropriate resolution or, when necessary, defend against an unwarranted prosecution.
- *Conducting Internal Investigations and Counseling on Remedial Actions,* including consideration of self-reporting. Companies that have identified suspected improper or illegal activity within the organization have retained Arnold & Porter to assess, investigate, and counsel on appropriate steps. Our lawyers have conducted numerous internal investigations involving all areas of potential civil enforcement and criminal prosecution, including violations of federal and state campaign finance laws, bribery and illegal gratuities, procurement integrity, tax laws and other areas of government interest. We understand the sensitivity, yet critical importance, of outside counsel's role in these matters, both as to conducting a thorough and credible fact-finding, as well as making the right call on remedial action. We have worked with our clients to make those calls, including employee terminations and, in appropriate cases, self-reporting.
- *Developing/Implementing Government Affairs Compliance Systems .* Our lawyers have helped numerous clients develop and implement company-wide political law compliance policies and procedures. We work with clients to evaluate the nature and scope of the organization's interaction with government officials, then draft tailor-made policies and procedures for its employees and agents. We design and conduct training sessions for employees and agents who are responsible for the entity's political activity and communications with government officials. We advise on and assist in applicable reporting and other filing obligations. We also design internal audits to assess the level of compliance and make recommendations for changes to policies and procedures to enhance compliance where necessary.
- *Advising on PACs: Creation, Operation, Fundraising, Reporting and Audits.* We have assisted many organizations in establishing federal and state PACs and writing policies and

procedures governing their operations. While PAC reporting obligations generally are straightforward and may be delegated to administrative personnel, subject to supervision, we often are brought in to assess the lawfulness of contributions to candidates and other PACs, as well as to counsel on procedures for PAC-hosted events for candidates and procedures for solicitation of contributions from employees and others.

- *Client Counseling on Lobbying, Government Ethics, and Campaign Finance Issues* An essential part of any effective government affairs compliance program is providing an organization's executives and other employees with a mechanism to obtain real time advice on legal questions as they arise. Our clients feel free to pick up the telephone or contact us by e-mail to pose questions relating to specific or proposed scenarios that may arise in the course of their contacts with government officials or fundraising activities. While questions often relate to a specific event, such as a charity event or conference to which a client wishes to invite government officials, we often are asked to provide counseling on a 50-state basis with regard to the client's marketing or other activity. We also track and update clients on developments in the various jurisdictions.
- *Special Issues relating to Government Contractors.* The requirements related to lobbying and contacts with government officials are even more complex for government contractors. In addition to civil and criminal penalties, government contractors that run afoul of the rules regarding gratuities, discussions of future employment, and procurement integrity risk losing existing government contracts and being barred from new ones if they fail to comply. Our lawyers have assisted numerous government contractors in understanding the unique rules that apply to their contacts with government officials. We also have represented clients in responding to government investigations of their conduct, whether the investigation is being conducted by the Department of Justice, an agency debarment official or Office of Inspector General, or the Government Accountability Office.
- *Advising Nonprofit Organizations.* Arnold & Porter has a long history of advising nonprofit organizations on the extent to which they can engage in lobbying, nonpartisan voter education, issue advocacy, and electioneering communications. Our lawyers advise charities, educational institutions, social welfare organizations, labor unions and trade associations on the tax, as well as state and federal election law, implications of their planned activities. We also represent clients in audits or investigations being conducted by federal and state government regulators into improper electioneering activities.

Our Team:

Our team includes former high-level congressional and executive branch officials and former prosecutors. They have decades of experience counseling clients on political law compliance and in representing clients subject to investigations and prosecutions by the Federal Election Commission and other campaign finance commissions and boards, the Internal Revenue Service, as well as before the Department of Justice and other criminal authorities. They are frequent lecturers in this area, speaking before the Practising Law Institute and various industry conferences and bar associations, as well as authors of dozens of articles and other publications in the area of political law, lobbying, government contracts, and criminal law. They also conduct in-house training on lobbying and election laws for employees at for profit and nonprofit clients.

Our core team includes:

Martha Cochran (martha.cochran@aporter.com; 202/942-5228). Ms. Cochran served at the US Securities and Exchange Commission and in senior staff and legal positions in the US Senate and House of Representatives, and in 12 years in private practice has counseled numerous clients on a range of compliance issues, including campaign finance, lobbying, and ethics compliance, as well as enforcement matters before the FEC.

James Joseph (james.joseph@aporter.com; 202/942-5355). Mr. Joseph counsels clients on federal tax matters relating to nonprofit organizations, including their involvement in the legislative and electoral process. He was recognized as one of the "Top Tax Lawyers" by *Washingtonian Magazine*.

Ronald Schechter (ronald.schechter@aporter.com; 202/942-5160). Mr. Schechter counsels clients on government contract compliance issues and has represented contractors in fraud and suspension and debarment proceedings. He formerly served in the Department of Justice.

Lawrence Schneider(lawrence.schneider@aporter.com; 202/942-5694). Mr. Schneider heads the firm's international trade practice. He has 30 years experience in advising clients on compliance with the Foreign Agents Registration Act and related laws.

* While this overview addresses compliance with laws governing US political and lobbying activity, Arnold & Porter also counsels and represents numerous companies with regard to compliance with the Foreign Corrupt Practices Act.