
2014 Winter Olympics: Anti-Bribery Considerations

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In recent years, the US Securities and Exchange Commission (SEC) and Department of Justice (DOJ) have launched multiple anti-corruption investigations relating to corporate hospitality during major sporting events, such as the Olympics and World Cup. For example, Weatherford International recently settled parallel SEC and DOJ investigations relating to, among other things, its provision of “improper travel and entertainment to officials of a state-owned company in Algeria with no legitimate business purpose . . . [including paying] for a 2006 FIFA World Cup trip by two of the officials.” At least one other investigation relating to Olympics hospitality is currently ongoing, as well.

Notwithstanding these specific examples, anti-corruption laws do not generally prohibit travel, gifts and entertainment of customers for legitimate business purposes. However, the line can be grey between bona fide business development activities and those that might attract scrutiny from US and other regulators. While many companies have been planning Olympics-related events for some time, now is a good time to set forth some recommended steps to reduce the anti-corruption risk presented by plans to invite and provide hospitality to customers attending the Sochi Olympics.

Recommendations

- *Document the business purpose of the event:* Document the legitimate commercial reasons for hosting the customer at the Olympics. The absence of a clearly articulated statement of the legitimate business-related purpose for the attendance could increase the risk that its nature could later be misinterpreted by regulators and prosecutors. The business purpose should be reasonably related to the nature of the event.
- *Prior approval for the provision of gifts and hospitality:* Require compliance or legal department approval for Olympics gifts and hospitality over a nominal amount.
- *Properly account for benefits provided:* The costs of any gifts, travel or entertainment, including amenities, and the name and affiliation of each recipient, should be fully and accurately documented in your company's books and records.
- *Update and redistribute anti-bribery policies prior to the Olympics:* Ensure anti-corruption policies and procedures are up to date and circulated in advance of the Olympics to relevant employees involved in the planning or hosting of Olympics-related hospitality.

- *Consider local laws and rules:* Consider whether invited guests are permitted by the local laws and rules applicable to them to accept relevant gifts, travel and hospitality. For significant benefits, consider obtaining confirmation from the guest or the guest's employing organization that the guest is permitted to accept.
 - *Consider issuing anti-corruption reminders to key employees shortly before the Olympics:* The reminder should emphasize that provisions in the FCPA and other anti-bribery laws tend to be broadly interpreted by governmental enforcement authorities. For example, "anything of value" under the FCPA can include numerous improper benefits beyond cash such as gift cards, loans, donations, the hiring of family members and other special favors.
 - *Generally avoid expenses that will attract scrutiny:* Examples of such expenses include the provision of lavish gifts, per diems and/or side trips with no business purpose.
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