



U.S. Department of Justice

Criminal Division

Washington, D.C. 20530

No.: 11-01

Date: June 30, 2011

Foreign Corrupt Practices Act Review

Opinion Procedure Release

The Department has reviewed the FCPA Opinion Procedure request of a U.S. adoption service provider (the "Requestor") that was submitted on May 25, 2011. The company is a "domestic concern" under 15 U.S.C. § 78dd-2(h)(1)(B) of the FCPA and therefore is eligible to submit an opinion procedure request.

The Requestor proposes to pay certain expenses for a trip to the United States by one official from each of two foreign government agencies to learn more about the services provided by the Requestor. The two officials will be selected by their agencies, without the involvement of the Requestor, to travel to the United States.

The Requestor has no non-routine business pending before the foreign government agencies that employ these officials. The sponsored program will last for approximately two days (not including travel time). The Requestor intends to pay for economy class air fare, domestic lodging, local transport, and meals. The Requestor has asked for a determination of the Department's present enforcement intention under the FCPA.

The Requestor has represented, among other things, that:

- The Requestor has no non-routine business (e.g., licensing or accreditation) under consideration by the relevant foreign government agencies.
- The Requestor's routine business before the relevant foreign government agencies consists primarily of seeking approval of pending adoptions. Such routine business is guided by international treaty and administrative rules with identified standards.
- The Requestor will not select the particular officials who will travel. That decision will be made solely by the foreign government agencies.
- The Requestor will host only the designated officials, and not their spouses or family members.
- The Requestor intends to pay all costs directly to the providers. No cash will be

provided directly to the officials.

- Any souvenirs that the Requestor gives the visiting officials would reflect Requestor's business and/or logo and would be of nominal value.
- Apart from the expenses identified above, the Requestor will not compensate the foreign government agencies or the officials for their visit, nor will it fund, organize, or host any other entertainment, side trips, or leisure activities for the officials, or provide the officials with any stipend or spending money.
- The visit will be for a two-day period (exclusive of travel time), and costs and expenses will be only those necessary and reasonable to educate the visiting officials about the operations and services of U.S. adoption service providers.
- The Requestor has invited another adoption service provider to participate in the visit.

In the following instances, with appropriate protections, the Department has recently issued favorable Opinion Releases with respect to sponsoring travel and related expenses for foreign officials:

- In FCPA Opinion Release 07-02, the Department issued an opinion in response to a private insurance company in the United States, declining to take enforcement action if the company proceeded with sponsoring domestic expenses for a trip by six officials from an Asian government for an educational program at the company's U.S. headquarters. The company represented that the purpose of the visit would be to familiarize the officials with the operation of a U.S. insurance company; that it would not select the officials who would participate; that it would pay costs directly to providers; and that it has no non-routine business pending before the agency that employs the officials.
- In FCPA Opinion Release 07-01, the Department issued an opinion in response to a private company in the United States, declining to take enforcement action if the company proceeded with sponsoring domestic expenses for a trip by a six-person delegation from an Asian government. The company represented that the purpose of the visit would be to familiarize the delegates with the nature and extent of the company's business operations; that it would not select the delegates; it would pay all costs directly to providers; and it did not currently conduct operations in the foreign country at issue.

Based upon all of the facts and circumstances, as represented by the Requestor, and consistent with these prior opinions, the expenses contemplated are reasonable under the circumstances and directly relate to "the promotion, demonstration, or explanation of [the Requestor's] products or services." 15 U.S.C. § 78dd-2(c)(2)(A). Therefore, the Department does not presently intend to take any enforcement action with respect to the planned program and proposed payments described in this request. The FCPA Opinion Release has no binding

application to any party which did not join in the request, and can be relied upon by the Requestor only to the extent that the disclosure of facts and circumstances in its request is accurate and complete and continues to accurately and completely reflect such facts and circumstances. Additionally, this Opinion Release does not purport to endorse the adequacy of the Requestor's anti-corruption policies and procedures.