

No .: 04-04  
Date: September 3, 2004

Foreign Corrupt Practices Act Review  
Opinion Procedure Release

The Department has reviewed the FCPA Opinion request of a U.S. company that proposes to fund a Study Tour of foreign officials who are members of a committee drafting a new law on mutual insurance, an industry in which the Requestor conducts business. The Requestor represents, however, that it does not have, and does not plan to organize, a mutual insurance company in the foreign country.

According to the Requestor, five committee members will participate in the Study Tour, all of whom were selected by the foreign government and none of whom have any direct decision-making power over the licensing process. The Study Tour would include visits to the Requestor's offices, as well as meetings with state insurance regulators, insurance industry groups, and other insurance companies. The Requestor states that the purpose of the Study Tour is to help the committee members

to develop a practical understanding of how mutual insurance committees are managed and regulated. This trip is intended to help the Committee further understand the differences (if any) in the organization, daily operation, capitalization, regulations, demutualization, and management of mutual insurance companies versus stock insurance companies (life and non-life).

The Requestor does not write any insurance in the foreign country, nor does it own or administer a mutual insurance company in that country. It states that the final law, no matter its terms, will not apply to it as it does not intend to operate as an independent mutual insurer in the foreign country. However, it acknowledges that it does intend, at some point, to apply for a non-life insurance license and that, under current practice, an applicant for such a license must demonstrate that it has been supportive of the country's socio-economic needs, proactive in the development of the insurance industry, and active in promoting foreign investment. Clearly, sponsorship of this Study Tour, as well as other activities in support of the Drafting Committee's work, are intended, at least in part, to help the Requestor satisfy this criteria.

The entire Study Tour will last for approximately 9 days and 8 nights. The Requestor proposes to pay for the government officials' economy airfare, hotels, local transportation, a modest per diem of \$35/day, and occasional additional meals and tourist activities. It estimates that total cost will be approximately \$16,875.

In its request, the Requestor makes the following representations:

1. It has no business in the foreign country or with the foreign government, except for certain reinsurance contracts purchased in the global market and a Representative Office;
2. It is not aware of any pending or anticipated business in the foreign country or with the foreign government;
3. It is not selecting the particular officials who will travel, which decision is solely being made by the foreign government;
4. It intends to pay all costs directly to providers or to reimburse costs only upon presentation of a receipt;
5. It will not provide any gifts or tokens to the officials; and

6. Other than the expenses identified in the request, it will not compensate the foreign government or the government officials for their participation in the Study Tour.

Based upon all of the facts and circumstances, as represented by the Requestor, the Department does not presently intend to take an enforcement action with respect to the proposed Study Tour described in this request.

The FCPA Opinion Letter herein, and this release, have no binding application to any party which did not join in the request, and can be relied upon by the requesting party 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.

crm/fraud/pu/doj (10/27/2004)