

No. 95-01

Date: January 11, 1995

Foreign Corrupt Practices Act Review

Opinion Procedure Release

The Department has reviewed the FCPA Opinion request by a U.S.-based energy company. The requestor plans to acquire and operate a plant in a country in South Asia that lacks modern medical facilities in the region where the plant is located.

A modern medical complex is presently under construction near the requestor's future plant. Costs for the medical facility are projected to run to hundreds of millions of dollars. If the acquisition of the plant is completed, the requestor plans to donate \$ 10 million in a public ceremony to the medical facility for construction and equipment costs. The donation will be made through a charitable organization incorporated in the United States and through a public limited liability company located in the South Asian nation. Because the medical facility will be open to the public, the requestor's employees and affiliates may use the facility when it is completed.

The requestor has represented that, before releasing any funds, it will require certifications from all officers of the U.S. charitable organization and the foreign limited liability company that none of the funds will be used, promised or offered in violation of the FCPA. The requestor further represents that none of the persons employed by or acting, on behalf of the charitable organization or the limited liability company are affiliated with the foreign government. The requestor also represents that it will require audited financial reports from the U.S. charitable organization, accurately detailing the disposition of the donated funds.

Based on all the facts and circumstances, as represented by the requestor, the Department does not presently intend to take any enforcement action with respect to the prospective donation for the construction and equipment of the medical facility described in this request.