

## **American business needs an election cash code**

By Bruce Freed and Bennett Freeman  
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Last year, Robert Kelner, a leading Washington election lawyer, warned: "More than in the past, the Department of Justice seems to be trying very hard to tie campaign contributions to legislative acts by members of Congress and to draw the inference that there's a criminal connection between the two."

It was an alert that should have sent chills down the corporate spine. A year later, there is little sign that it registered. The Center for Political Accountability, a non-partisan group, recently surveyed the S&P 100 companies to see how they regulated their political activity. It found that none of them included comprehensive policies governing political involvement in their codes of conduct. Moreover, none ensured broad political transparency and accountability and ethical political behaviour.

This is all the more disconcerting as the US heads into what may be the most expensive election in its history. Companies and their executives will be under pressure to underwrite the presidential race and fund elections at all levels, which are expected to top the \$3.9bn (£1.9bn, €2.9bn) spent four years ago. They will find it hard to resist, in part because of weak codes of conduct, and they will risk getting into serious trouble. According to the Center for Responsive Politics, corporate money, from political action committees and individuals, accounted for 73 per cent of "hard money" contributions at the federal level in the last election.

Prosecutors are not cutting companies slack. This past May, the chairman and a top executive of Veco, a multinational oil services company, pleaded guilty to political corruption charges that included illegal campaign contributions. They face up to 20 years in prison and \$750,000 in fines. Last year Freddie Mac, the government-sponsored mortgage finance provider, was fined a record \$3.8m by the Federal Election Commission to settle charges that it illegally used corporate resources for 85 fundraisers for members of Congress between 2000 and 2003.

Secret giving is also a threat. No longer able to contribute "soft money" to national party committees because of campaign finance reforms in 2002, companies have rerouted their political spending through trade associations, "527s" and other tax-exempt organisations where there is no disclosure. They are kidding themselves if they think that this reduces the risk.

Shareholders and directors can deal with this problem by insisting that their companies adopt codes of conduct for political spending that require that the company and its employees act in a legal and ethical manner. Codes set forth basic standards for employee performance and conduct and reflect

how a company presents itself to shareholders. They can create a culture of accountability and integrity that employees are expected to participate in and can help build public trust.

Some companies recognise the risks and are acting. Over the past three years, 31 have committed to disclose and require board oversight of their political spending. Some, such as Verizon, Chevron and PepsiCo, have agreed to report their political contributions made with corporate funds. Others, including American Electric Power, DuPont and Aetna, have also agreed to disclose political expenditures that are made through trade associations and other tax-exempt organisations.

However, none has taken the critical next step of embedding in its code comprehensive policies to ensure that political activity is conducted with integrity and fully disclosed to shareholders. The CPA, in conjunction with a group of socially responsible investors, recently developed a model code of conduct on political spending. It provides a benchmark for evaluating internal policies and practices.

At a minimum, the codes should require companies to disclose their direct and indirect political expenditures made with corporate funds and the executives involved in the spending decisions; board of director oversight of that spending; prior written approval by the general counsel or legal department; companies to commit that their contributions will meet legal and ethical requirements; and an annual report on their adherence to the code. Scandals, investigations and prosecutions sometimes accompany corporate political spending. By adopting and abiding by strong codes for this spending, companies can safeguard themselves, their shareholders and the integrity of the political process.

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