

TITLE: POLICY AND PROCEDURES REGARDING COMPLIANCE WITH THE FOREIGN CORRUPT PRACTICES ACT ("FCPA")

POLICY:

All Hospital Personnel are responsible for complying with the U.S. Foreign Corrupt Practices Act ("FCPA"). Failure to do so can result in significant criminal and other penalties for the Hospital as well as for Hospital Personnel individually. Actual and perceived violations of the FCPA can also tarnish the Hospital's reputation. Failure to comply with the FCPA may result in disciplinary action including termination of employment or retention. It is, therefore, essential that all Hospital Personnel, its contractors, agents and consultants understand and follow the FCPA and the Hospital's FCPA compliance policies and procedures.

PURPOSE:

The purpose of this compliance policy is to establish the Hospital's policy and procedures for maximizing compliance with the FCPA.

APPLICABILITY:

This compliance policy applies to all officers, directors and employees of the Hospital, its contractors, agents and consultants, as well as those of all domestic and foreign subsidiaries or any other entities that the Hospital controls or are under common control with the Hospital (each of the foregoing persons referred to in this Policy as "Hospital Personnel"). The Executive Senior Vice-President, Chief Legal Officer and General Counsel of the Hospital, or her or his nominee (referred to in this Policy as the "General Counsel") shall have responsibility for overseeing compliance with the policies and procedures set forth in this compliance policy.

PROCEDURE:

I. SUMMARY OF THE FCPA

A. Prohibited Acts

1. Gifts or Payments to Foreign Officials

The FCPA makes it a crime for any U.S. company, any agent of a U.S.

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company or any U.S. citizen or resident, whether in or outside the United States, to offer or promise to give a gift, payment or anything of value or to do any act in furtherance of giving a gift, payment or anything of value to any foreign government official, foreign political party, foreign political party official or candidate for foreign political office ("foreign official") for the purposes of:

- influencing any act or decision of such foreign official,
- inducing a foreign official to do or omit to do any act in violation of the lawful duty of such official,
- inducing a foreign official to use his/her or its influence with a foreign government or instrumentality to affect or influence any act or decision of such foreign government or instrumentality or
- securing an improper advantage in order to obtain or retain business.

Note: A foreign official is anyone employed by or acting on behalf of a foreign government or department, agency or instrumentality thereof including without being limited to a government controlled enterprise. It is also anyone acting on behalf of a public international organization. This includes doctors, pharmacists and other healthcare practitioners employed by government-owned or -controlled hospitals, clinics, formulary boards or other healthcare facilities.

Note also: This prohibition applies whether gifts or payments are made to a foreign official directly or indirectly, such as, for example, payments made to a charitable organization connected with a foreign official, and whether or not such gifts or payments are delivered within the U.S. or abroad.

2. Gifts or Payments to Third Parties

The FCPA also makes it a crime for any U.S. company, any agent of a U.S. company or any U.S. citizen or resident to do any act, whether in or outside the United States, in furtherance of giving a gift, payment or anything of value or offering or promising to give a gift, payment or anything of value to any other person while knowing that all or a portion of such thing of value will be given, offered or promised to a foreign official for any purpose described above. As used herein, a "person" means any human (e.g., an individual foreign sales agent or consultant) and any firm, corporation, company, association, partnership, labor organization, government or governmental agency, legal representative, trustee, trustee in

bankruptcy, or receiver.

Note: The FCPA defines “knowing” to include not only actual knowledge of a violation but also awareness of circumstances that should reasonably alert one to a “high probability” of a violation; *i.e.*, so-called “red flags”. Knowing that a general state of corruption exists relating to an activity and understanding that, without the payment of a bribe, a transaction would be unlikely to occur, has been viewed by the Courts as satisfactory evidence of a violation.

B. Exceptions

1. Expediting or Securing Routine Governmental Action

The FCPA’s payment prohibitions do not apply to payments made to facilitate, expedite or secure the performance of “routine governmental action.”

Routine governmental action consists of action ordinarily and commonly performed by a foreign official in (a) obtaining or issuing permits, licenses or other official documents to qualify a person to do business, (b) processing governmental papers, such as visas or work orders, (c) providing police protection, mail pick-up or delivery or scheduling inspections associated with contract performance or the transit of goods, (d) providing phone service, power or water supply, loading or unloading cargo or protecting perishable products or commodities from deterioration or (e) actions of a similar nature.

Routine governmental action does not, however, include decisions on whether or on what terms to award or continue doing business.

2. Lawful Payments

The FCPA’s illegal payment prohibitions do not apply to payments that are explicitly lawful under the written laws of the foreign official’s country.

3. Reasonable and Bona Fide Expenses

The FCPA’s payment prohibitions do not apply to reasonable and bona fide expenses disbursed for a foreign official, such as travel and lodging expenses, which are directly related to (a) the promotion, demonstration or explanation of products or services, or (b) the execution or performance of a contract with a foreign government or agency.

C. Required Acts

The accounting provisions of the FCPA are applicable by statute only to public companies that issue securities on a U.S. exchange. However, the Hospital has adopted the FCPA accounting provisions as the Policy of the Hospital. Therefore, the following accounting principles will apply:

1. Keeping Accurate Books, Records and Accounts

The Hospital shall make and keep books, records and accounts that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Hospital. "Reasonable detail" means the level of detail that would satisfy prudent Personnel in the conduct of their own affairs.

2. Maintaining Internal Accounting Controls

With respect to transactions with foreign officials or entities, the Hospital shall devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that:

- a. transactions are executed in accordance with management's general or specific authorization;
- b. transactions are recorded and correctly categorized as necessary (i) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements and (ii) to maintain accountability for assets;
- c. access to assets is permitted only in accordance with management's general or specific authorization; and
- d. the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

"Reasonable assurances" means the degree of assurance that would satisfy prudent Personnel in the conduct of their own affairs.

D. Caveat

The above is intended to be a general summary of the FCPA.

Questions regarding whether any particular set of facts would violate, or be perceived as violating the FCPA should be referred to the Hospital's General Counsel.

II. REQUIREMENTS

A. Gifts to Foreign Officials

No gifts may be given to or on behalf of any foreign official in connection with efforts to obtain or retain business except for gifts of relatively small value to foreign government officials whose duties are essentially ministerial or clerical and where gift-giving of that type is recognized as customary or accepted protocol. Any such gifts must be promptly reported to Vice-President, Internal Audit - Compliance and the General Counsel and must be properly accounted for on the books, records and accounts of the Hospital or appropriate affiliate.

B. Paying for Travel, Lodging or Entertainment for Foreign Officials

No payments may be made to or on behalf of any foreign official in connection with efforts to obtain or retain business except for reasonable and bona fide payments directly related to (a) the promotion, demonstration or explanation of the Hospital's products or services or (b) the execution or performance of a contract between the Hospital and a foreign government or agency. No payments may be made to influence or induce the recipient or anyone else to purchase or recommend the purchase of the Hospital's products or services or to otherwise provide the Hospital with favorable business treatment.

What is reasonable depends on what is required to provide necessary transportation, meals, lodging and entertainment at a modest level. Approval must be obtained from the General Counsel if payments exceed \$1,000 in the aggregate with respect to any individual transaction or event.

All such expenses must be documented by receipts, invoices, checks, statements or other similar means and should be properly characterized and accounted for on the books, records and accounts of the Hospital. Documentation must include the identification of the foreign official or officials involved. Such documentation may be in the form of an expense report.

C. Use of Foreign Agents

Because the Hospital is engaged in the provision of services related to its mission to recipients overseas and may use the services of U.S. or foreign sales agents, brokers, finders or consultants who may deal with foreign officials (collectively herein called "foreign agents"), this compliance policy contains procedures regarding the use of any foreign agents in connection with the provision of services overseas or the provision of services domestically to persons residing abroad. Foreign agents may help market the Hospital's services in a foreign country. Foreign agents may, for example, be helpful as sources of information relative to the foreign country's procurement climate, as advisors on customs and on dealing with foreign governments.

To maximize compliance with the FCPA in connection with the use of foreign agents, the following guidelines must be observed:

1. The Selection and Approval of a Foreign Agent

Personnel considering retaining a foreign agent on behalf of the Hospital must, with the assistance of the General Counsel, make a thorough investigation of any foreign agent being considered, prior to his or her being engaged, to determine that the foreign agent's experience, reputation and expertise are suitable for the tasks to be performed and are consistent with the Hospital's standards including without being limited to compliance with the FCPA.

In conducting this investigation, the standard agent questionnaire approved by the Office of Legal Affairs should be completed. The completed questionnaire and all related documents must be kept in the prospective foreign agent's file as set forth in the Record Retention Requirements section below. In addition to completing the questionnaire, Personnel considering the Hospital's retention of a foreign agent must also:

- a. Check the prospective foreign agent's business references. Determine, for example, whether the foreign agent has experience selling the relevant services and whether the agent is knowledgeable about the market.
- b. Review publicly available data sources for information about the prospective foreign agent. These sources could include, for example, business directories, online information services or the Internet. When the

prospective foreign agent is a public company or equivalent, the prospective foreign agent's most recent Annual Report and audited Financial Statements should be obtained. For privately held organizations, a Dun & Bradstreet or other available report regarding the prospective foreign agent should be acquired.

- c. Ask for information about the prospective foreign agent from government sources. Examples of such sources could include the country desk at the U.S. State Department, the U.S. Department of Commerce, the commercial attaché at the U.S. Embassy in the local country or the country's embassy in the United States.
- d. If deemed necessary, contact the prospective foreign agent's bank in the foreign agent's home country to check credit references and confirm that he or she has an account with the bank in the foreign agent's name.
- e. Forward the results of investigation including the completed questionnaire to the Office of Legal affairs together with a summary memorandum.

Throughout the approval process, documentation must be maintained to demonstrate the intent and desire to comply with the FCPA.

2. The Agency Agreement

All agreements with foreign agents must be in writing, be reviewed and approved by the Office of Legal Affairs, and be signed by a duly authorized Officer of the Hospital. For guidance and sample terms of agreement, contact the Office of Legal Affairs.

D. Dealing with Conflicts Between the FCPA and Similar Foreign Laws

Personnel doing business in a foreign country should be aware that the FCPA may differ from foreign law on the same subject. If there is a conflict between the FCPA and a similar foreign law, Personnel should consult with Hospital General Counsel before proceeding.

III. INTERNAL CONTROLS

The Hospital's system of internal controls will advance compliance with the FCPA through the following components:

- A. An outside auditing company and/or an internal audit committee will periodically review accounting procedures to determine the strength of the internal system and its ability to identify problems.
- B. The Board of Trustees of the Hospital will assign to one or more committees the responsibility for approving any large or unusual foreign marketing expenditures or foreign agent fees. If the foreign agent fee or other expenditure is substantial or involves a country with a history of bribery and agent abuse, it may be submitted by the General Counsel either to the designated Board committee or committees or to the Board of Trustees or upon the determination of the General Counsel an opinion request may be submitted to the Department of Justice.
- C. The department of the Hospital responsible for International Affairs will monitor the performance of the foreign agent throughout the term of the foreign transaction. The procedure for monitoring the foreign agent may take the form of requiring the foreign agent to file periodic reports.

IV. TRAINING

Effective communication of this compliance policy is essential. International, Purchasing and Strategic Sourcing, management, accounting and financial personnel should receive regular training from the office of the Vice-President, Internal Audit - Compliance, the Office of Legal Affairs (or such other department or consultant who may be designated by the General Counsel) on the FCPA and this compliance policy. Such training should also be provided to any other Personnel engaged in the transaction who are in a position to identify potential violations.

Although not necessarily illegal, the foregoing Hospital personnel should also be trained to identify "red flags" (i.e., warning signs) that warrant further review to avoid possible FCPA violations. Examples of "red flags" include:

- A. Refusal of the foreign agent to sign an FCPA compliance certification upon request.
- B. Unreasonable commissions.

- C. Cash payments.
- D. The payment of commissions or expenses through third parties or in third countries, if not satisfactorily explained.
- E. Large payments or a series of smaller payments.
- F. Involvement of foreign official's relatives or associates.
- G. Countries where the established methods of "doing business" can include pay-offs, bribes or "gifts" to government officials.

V. REPORTING POTENTIAL VIOLATIONS

Personnel are required to report potential violations of the FCPA or this compliance policy directly to the General Counsel.

VI. RECORD RETENTION

All events, discussions and agreements related to FCPA compliance will be documented. When a foreign agent or consultant is retained, a file will be opened and maintained in the department of the Hospital responsible for International Affairs for the period of the foreign agent's or consultant's appointment plus five years after expiration or termination of the agency or consultancy agreement. The foreign agent's or consultant's file will contain the following records:

- A. The agency or consultancy agreement, including any modifications or amendments thereto;
- B. All official notices and correspondence required in the agreement;
- C. All documents obtained or produced when selecting the foreign agent or consultant as described above (e.g., references, agent and reference questionnaires, copies of annual reports or audited financial statements, notes on conversations with government agencies); and
- D. Reports of employees pertaining to the conduct of foreign agents or consultants relating to this Policy.

RESPONSIBILITY:

Office of Legal Affairs

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POLICY DATES:

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Revised: **June 2013**

Approval: Sr. Vice President, Chief Legal Officer and General Counsel