



FREQUENTLY ASKED QUESTIONS ABOUT THE FOREIGN EXTORTION PREVENTION ACT

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A. HISTORY AND OVERVIEW

1. What does FEPA do?

FEPA makes it a crime for a foreign official to ask for, demand, accept, or agree to accept, a bribe from any U.S. person (any citizen, national, or resident of the United States), any U.S. company, any company (whether U.S. or not) listed on a U.S. stock exchange, and any person whatsoever while the foreign official or a person acting on behalf of the foreign official is in the territory of the United States. To this end, it is a law that criminalizes the “demand side” of foreign bribery. Until FEPA became law, only the *offering* or *giving* of bribes was a crime under the primary U.S. foreign bribery statute (the Foreign Corrupt Practices Act, or “FCPA”), which makes it illegal for any U.S. person, U.S. company, or company listed on a U.S. stock exchange to offer or give a bribe to a foreign official, or for any foreign national or foreign company to do so while in the territory of the United States.

FEPA, like the FCPA when it was adopted in 1977, is the first of its kind in the world.

2. When did FEPA become law? Where can I find it?

FEPA became law on December 22, 2023, as part of the National Defense Authorization Act of 2024. Some technical changes to the law were made on July 30, 2024. It is codified at [Title 18 of the United States Code, Chapter 63, section 1352](#) (“18 U.S.C. §1352. Demands by foreign officials for bribes.”).

3. What are some examples of bribes that could be covered by FEPA?

- In Uganda, social welfare officers and court officials used their positions to [accept](#) bribes from an Ohio-based adoption agency in exchange for recommending that a child be placed into an orphanage, for steering adoption cases to “adoption-friendly” judges, and for obtaining favorable guardianship orders. The bribery scheme sought to facilitate the trafficking of Ugandan children.
- In Russia, health care officials used their positions to [accept](#) bribes from a Massachusetts-based pharmaceutical company in exchange for pursuing

favorable regulatory treatment for the company's flagship drug used for immune system disorders, as well as for approving patient prescriptions for the drug and for influencing the government's budget for purchasing it.

- In Indonesia, a government official used his position to accept bribes from a US-based agricultural company. The company, a leading producer of genetically modified crops, illegally paid the government official in exchange for undermining a requirement that an environmental impact study take place before the sale of the crops could be approved.

4. Who can bring a case under FEPA?

The Department of Justice (DOJ) is solely responsible for the implementation and enforcement of FEPA, including any and all cases brought under the law. Unless otherwise authorized, all FEPA cases will be prosecuted by the [Fraud Section of the Criminal Division of the DOJ](#) through its headquarters in Washington, DC.

5. How can I report a potential FEPA violation?

Potential FEPA violations can be confidentially reported by [contacting](#) the FCPA Unit of the DOJ, which is a part of the Fraud Section within the Criminal Division. The phone number for the Fraud Section's Main Switchboard is +1-202-514-2000, the fax line is +1-202-514-3708, and the Section's mailing address is "Fraud Section, Criminal Division, U.S. Department of Justice, ATTN: Chief, FCPA Unit, 950 Constitution Ave. NW, Washington, DC 20530". Additional information related to the DOJ's FCPA Unit is available at <https://www.justice.gov/criminal/criminal-fraud/foreign-corrupt-practices-act>.

Confidential reports of a suspected FCPA or FEPA violation can also be submitted via email to FCPA.Fraud@usdoj.gov.

The Criminal Division also maintains a Citizen Phone Line, which can be reached at +1-202-353-4641.

B. CRITERIA AND CONSIDERATIONS

6. What type of corrupt conduct is covered by FEPA?

The people and entities that foreign officials are prohibited from extorting under FEPA are:

1. any U.S. person (meaning any citizen, national, or resident of the United States);
2. any U.S. company (including any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship with its principal place of business in the United States or organized under the laws of a state of the United States or a territory, possession, or commonwealth of the United States);
3. any company, regardless of where it is organized or has its principal place of business, that is listed on a U.S. stock exchange (e.g., The New York Stock Exchange, NASDAQ, etc.); and
4. any other person from whom a bribe is demanded or accepted while the foreign official or person acting on behalf of the foreign official is in the territory of the United States.

7. Who is considered a “foreign official” under FEPA?

FEPA defines a *foreign official* in four different ways:

1. any official or employee of a foreign government, or of a department, agency, or “instrumentality” (an entity that is controlled by and performs a function for the government, e.g., a state-owned energy company, university, or hospital) of a foreign government;
2. any official or employee of a public international organization (e.g., the United Nations, the World Bank; for a complete list, see [here](#));
3. any person acting in an official capacity for or on behalf of a foreign government or department, agency or instrumentality thereof or a public international organization; and
4. any “[senior foreign political figure](#)”, which means:
 - i. any current or former:
 - i. senior official in the executive, legislative, administrative, military, or judicial branches of a foreign government (whether elected or not);
 - ii. senior official or a major foreign political party; or

- iii. senior executive of a foreign government-owned commercial enterprise;
- ii. any corporation, business, or other entity that has been formed by, or for the benefit of, any such person;
- iii. any immediate family member of any such person (meaning the person's spouses, parents, siblings, children, or spouse's parents or spouse's siblings); or
- iv. any person who is widely and publicly known to be a close associate of such person.

8. What sort of connection to the United States must a bribe or bribe demand have in order to be covered by FEPA?

Because the U.S. Constitution, in this context, limits Congress to enacting laws that affect either U.S. commerce with foreign countries, or commerce that takes place between or among the U.S. states, laws like FEPA must have an appropriate "nexus" to such commerce. To that end, to be covered by FEPA, a bribe must "make use of the mails or any means or instrumentality of interstate commerce". In practice, this means that some part of the bribe or bribe demand must involve a phone call or text message to or from the United States, U.S. mail, emails that go through a U.S. server, or bank transfers (including transfers through correspondent banks) that go through the United States.

9. What are the penalties for violating FEPA?

Those who violate FEPA can face a criminal fine of up to \$250,000, or three times the value of the bribe (whichever is greater), and/or a prison sentence of up to 15 years. These potential penalties are the same that apply to U.S. officials who demand or receive bribes.

10. What reporting requirements are mandated by FEPA?

FEPA requires the DOJ to report certain information to Congress every year, as well as to publish this information online on the DOJ's website. The information that must be reported includes:

- Major FEPA actions taken by the DOJ (including major enforcement actions and penalties imposed);

- The effectiveness of U.S. diplomatic efforts to protect American companies from foreign bribe demands;
- The efforts of foreign governments to prosecute such crimes;
- An evaluation of the effectiveness of the DOJ in enforcing FEPA; and
- What resources or legislative action the DOJ needs to ensure the effective enforcement of FEPA.

C. PRACTICAL CONSIDERATIONS

11. Can the U.S. Government prosecute foreign officials for bribes that take place outside of the U.S.? How would this work in practice?

Yes, provided that the jurisdictional requirements described above are met, FEPA provides express authority for the U.S. Government to prosecute corrupt conduct occurring outside the United States. This means that, assuming the jurisdictional elements of a FEPA violation are established, there may be circumstances in which the overwhelming amount of conduct occurs overseas, including the foreign official's demand or receipt of the bribe. If, for instance, a foreign official sitting in an office building in Perth, Australia, sends a text message or email to a U.S. citizen sitting in an office building in Chicago, Illinois, that asked for a bribe in exchange for business, that conduct could be covered by FEPA.

Ideally, the U.S. Government would assist a foreign government in its own investigation and prosecution of that country's own official—e.g., by providing evidence that is based in the United States—before exercising jurisdiction over the official by charging a violation of FEPA. This is particularly important for those foreign governments that may be willing, but not sufficiently able (perhaps due to resource or capacity limitations), to assemble cases against their own officials. DOJ leadership regularly discusses and cites to the increasing levels of cooperation with foreign authorities, particularly in the context of foreign bribery investigations.

If the DOJ exercises its discretion to charge a violation of FEPA, then, assuming sufficient evidence, it could obtain a grand jury indictment charging the foreign official. From there, assuming that the official was not physically present in the United States, the official could be apprehended by U.S. law enforcement either upon entering the territory of the United States or by foreign law enforcement upon entering a jurisdiction with which the United States has a relevant treaty,

pursuant to a U.S. arrest request. Upon court order, the U.S. government could also freeze U.S.-based assets of the foreign official that were associated with the planning, implementation, or concealment of a FEPA violation.

Ultimately, the possibility of a DOJ prosecution under FEPA may increase the likelihood that the foreign official's home country may pursue criminal and/or civil penalties.

12. Can FEPA be used to go after bribes/bribe demands that took place before FEPA became law?

No. Only bribes that take place after the date that FEPA became law (December 22, 2023) can be prosecuted. Bribes that took place before this date cannot be prosecuted under FEPA, *unless* some part of the bribe scheme was ongoing on or after this date (e.g., additional payments in a series of bribe payments were still being made). Notably, for years, DOJ had previously used the money laundering statutes to charge foreign officials who laundered the proceeds of bribery schemes into the United States or who otherwise used the U.S. financial system to promote bribery. With the passage of FEPA, DOJ has a new tool for investigating and prosecuting foreign bribery.

13. How long after a bribe takes place can the U.S. Government bring a case against a foreign official?

FEPA has a statute of limitations of five years, meaning that the DOJ has five years from the date of the last part of the bribe scheme or conspiracy thereof to bring a case, absent tolling of the statute of limitations.

For more information, or if you have questions, please contact Scott Greytak, Director of Advocacy for Transparency International U.S., at sgreytak@transparency.org.