The inflation of influence: meeting the need for businesses to invest more in politics

By Ki Hong, Esq., Tyler Rosen, Esq., and Lucy Kalar, Esq., Skadden, Arps, Slate, Meagher & Flom LLP

SEPTEMBER 3, 2025

With the expanding role the government is having on a business's bottom line, many companies are attempting to deepen their engagement in the political process and increase their political giving. Indeed, like many other items in the past few years, the price of admission has gone way up.

Spending on federal lobbying reached an all-time high of approximately $4.5 billion in 2024 and continues to increase. Federal political action committees raised $25.3 billion in 2019-2020 and $25.4 billion in the 2024 election cycle; both more than doubling any previous election cycle according to Federal Election Commission ("FEC") data.

Moreover, corporations, such as DraftKings, McKinsey & Company, Shein, Axon, Stripe and Uber, are rushing to establish PACs for the first time so they can make federal contributions. Anecdotally we are certainly seeing a notable increase in clients wanting to discuss options for expanding their political engagement.

Complicating matters is a maze of laws with which one has to comply when making political expenditures. They range from campaign finance laws that ban corporate contributions to pay-to-play laws where contributions made or solicited by a covered employee or board member trigger an automatic ban on the company's ability to enter into a state or local government contract for several years.

The embrace of political activity is also occurring in an increasingly polarized political climate, giving rise to business and reputational risks. The following describes effective methods for increasing political giving and how to do so safely, at least from a legal perspective.

Increasing corporate PAC participation

Although the Federal Election Campaign Act ("FECA") bans corporations from making contributions, it allows them to establish a "separate segregated fund," or corporate political action committee ("PAC"), to pool voluntary contributions from its solicitable shareholders and employees. While some companies are creating a PAC for the first time, many that already have a PAC are trying to increase PAC fundraising and participation.

A PAC is only as effective as the funds it has available to make contributions. So what are the most effective ways to beef up one's PAC?

One low-hanging fruit is to solicit a broader range of employees and directors for the PAC. Under federal law, a corporate PAC is allowed to solicit only the company's shareholders and its salaried executive and administrative personnel. We find that in many cases, a company only solicits its most senior executives leaving untapped many other executives in the "solicitable class." Moreover, companies sometimes do not realize that board members are solicitable as long as they are compensated in some fashion, such as a per diem, for serving on the board.

Spending on federal lobbying reached an all-time high of approximately $4.5 billion in 2024 and continues to increase.

A significant part of fundraising involves educating employees about the purpose and function of the PAC. This is more important than ever given the highly polarized political landscape. Indeed, corporate PACs typically give in a bipartisan manner, thus almost ensuring that it will contribute to at least some candidates with whom certain employees may personally disagree.

Clearly explaining the mission of the PAC will help employees feel more comfortable about giving regardless of their political leanings. Many corporate PACs draft and publicly release carefully thought-out factors that are used in deciding to whom it will contribute.

There are also ways to incentivize PAC participation. Among the most effective methods is peer-to-peer solicitation, in

Thomson Reuters is a commercial publisher of content that is general and educational in nature, may not reflect all recent legal developments and may not apply to the specific facts and circumstances of individual transactions and cases. Users should consult with qualified legal counsel before acting on any information published by Thomson Reuters online or in print. Thomson Reuters, its affiliates and their editorial staff are not a law firm, do not represent or advise clients in any matter and are not bound by the professional responsibilities and duties of a legal practitioner. Nothing in this publication should be construed as legal advice or creating an attorney-client relationship. The views expressed in this publication by any contributor are not necessarily those of the publisher.

Thomson Reuters™

which colleagues encourage each other to participate in the PAC. However, because FECA imposes restrictions on who may be solicited and how such solicitation may occur, a company must closely control such peer-to-peer solicitation programs.

One usually starts by designating a representative employee in each business unit or office to make the solicitations and then provide detailed guidance and monitoring of their solicitation effort to ensure it is done legally. Another popular approach is a "PAC Match" program, in which the corporation makes a matching charitable contribution to a charity, either of the employee's choice or predetermined by the company, for every contribution made to the company's PAC.

The corporation may also pay for other incentives, such as hats, T-shirts, mugs or other items, to those who contribute to the PAC as long as the cost of such incentives does not exceed one-third of the amount of PAC contributions they help raise.

Corporate fundraising and executive pledge programs

Another option for a corporation seeking to provide more support for a federal candidate is to raise funds directly for candidates. FECA has an "internal communication" exemption that permits corporate resources to be used to solicit contributions directly to candidates from the solicitable class (i.e., the same individuals who may be solicited for the company's PAC).

A growing number of companies are giving to, or establishing, 501(c)(4) "social welfare" organizations. 501(c)(4) organizations are tax-exempt entities that may engage in an unlimited amount of policy advocacy as well as a limited amount of political activity.

This includes permitting the use of a company's facilities and personnel for fundraising as well as paying for catering and other incidental costs without it resulting in an impermissible in-kind contribution by the company. Thus, as long as the event is limited to the solicitable class, a corporation may host fundraisers for federal candidates in its offices, invite its executives to attend and cover the cost of the fundraiser (including staff time, use of the space, and reasonable food and beverage).

Under this exemption, a corporation may also establish a pledge program where such employee voluntarily agrees to give up to a certain total amount during a year or election cycle directly to federal candidates recommended by the corporation. This pledge program may not, however, be enforced and an individual must be allowed to refuse to give to any particular candidate.

Contributing to super PACs

Independent expenditure committees (also known as "Super PACs") are political committees that may raise (and spend) an unlimited amount of money for political communications, as long as they do not coordinate those communications with any candidate or candidate committee.

Although contributions to Super PACs are not subject to FECA's ban on corporate contributions, they are still subject to the bans on contributions from foreign nationals, federal contractors and nationally chartered organizations. While contributions to Super PACs have certain advantages, namely, no contribution limits, corporate contributions remain heavily scrutinized by the press and the public given such PAC has to publicly disclose its donors.

However, despite the scrutiny, Super PACs continue to grow in significance, and contributions to Super PACs have increased over recent years. Just over a decade ago, in the 2013-2014 election cycle, FEC data shows there were 956 registered Super PACs and just 20 of those committees reported total contributions over $10 million.

Contrast that with data from the 2023-2024 election cycle — 2,060 registered Super PACs, 85 of which reported total receipts over $10 million. The total amount of money contributed has skyrocketed as well. In 2023-2024, only the five largest Super PACs reported a combined receipt total that was more than *double* the total aggregated receipts for *all* Super PACs in 2013-2014.

501(c)(4) organizations

A growing number of companies are giving to, or establishing, 501(c)(4) "social welfare" organizations. 501(c)(4) organizations are tax-exempt entities that may engage in an unlimited amount of policy advocacy as well as a limited amount of political activity.

501(c)(4) organizations may not contribute directly or indirectly to federal candidates but gained in popularity following the Supreme Court's 2010 *Citizens United v. Federal Election Commission* decision allowing them to make independent expenditures or even give to Super PACs without having to publicly disclose their donors. Their popularity grew even further after the FEC issued an advisory opinion in 2024, which would allow such c(4)s to coordinate their canvassing effort with a campaign or political party.

Although a c(4) not having to disclose its donors is part of its appeal, this so-called "dark money" creates risks for companies that need to be carefully managed. If establishing a 501(c)(4), it is essential to create clear separation between

©2025 Thomson Reuters

the 501(c)(4) and the company through its governance, while ensuring it has robust controls to ensure it complies with tax law requirements, public disclosure rules arising under campaign finance and lobby laws, disclaimer requirements and the many other legal issues for a 501(c)(4).

If donating to a 501(c)(4), the company must be careful that the organization is not acting as a mere conduit to shield the company from disclosure by the ultimate recipient, such as giving to a c(4) with the understanding that the c(4) will transfer those funds to a Super PAC that is required to disclose its donors. If one is merely giving to a c(4) and not otherwise involved in its day-to-day operations, one can address many of these and other legal issues by obtaining an appropriate representation letter.

While approaches to political participation vary across the corporate landscape, to mitigate some of these risks, many companies are carefully selecting channels for political expression. With a wide menu of options to select from, companies have the chance to thoughtfully craft an individualized and comprehensive political strategy that aligns with their core values, safeguards their business and reputational interests and provides meaningful opportunities to influence policy issues important to the organization.

Ki Hong is a regular contributing columnist on political law for Reuters Legal News and Westlaw Today.

About the authors

Ki Hong (L) is a partner at **Skadden, Arps, Slate, Meagher & Flom LLP** and head of the firm's political law compliance and investigations group. He advises major corporations on the unique political law issues they face when engaging in government affairs or government procurement activity. He is based in Washington, D.C., and can be reached at ki.hong@skadden.com. **Tyler Rosen** (R) is a partner in the firm's political law compliance and investigations group. He advises clients on government affairs compliance matters at the federal, state and local levels, including in the areas of pay-to-play, campaign finance, lobbying, gifts and entertainment, and conflicts of interest. He is based in Washington, D.C., and can be reached at tyler.rosen@skadden.com. **Lucy Kalar** (not pictured) is an associate in the firm's political law compliance and investigations group. She is based in Washington, D.C., and can be reached at lucy.kalar@skadden.com.

This article was first published on Reuters Legal News and Westlaw Today on September 3, 2025.

© 2025 Thomson Reuters. This publication was created to provide you with accurate and authoritative information concerning the subject matter covered, however it may not necessarily have been prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice, and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional. For subscription information, please visit legalsolutions.thomsonreuters.com.