

E-ALERT | Anti-Corruption

February 17, 2012

CHINESE GOVERNMENT CENTRALIZES DATABASE OF BRIBERY CONVICTIONS Companies Can Now Apply for Nationwide Check of Bribery Convictions

On February 16, 2012, China's Supreme People's Procuratorate ("SPP"), the main investigatory and prosecutorial arm of the Chinese government, in conjunction with other PRC anti-corruption agencies, [announced](#) that a database listing individuals and companies found guilty of certain bribery offenses now has nationwide scope. Companies and individuals can now apply to have the SPP check nationwide to determine whether a particular individual or company has been convicted of certain bribery offenses in mainland China. Previously, checks were limited to one province or region, requiring an applicant to check each province separately to attain nationwide coverage. While the database is not publicly available for online searching, the new scope of the database makes it significantly easier for companies to conduct a nationwide check to ensure that business counterparties and intermediaries have not been found guilty of certain bribery offenses.

BACKGROUND AND SIGNIFICANCE

The SPP started constructing a database of bribery convictions in January 2006 that was limited to five sectors (construction, health/medicine, finance, education, and government procurement). The database contained bribery-related convictions dating back to October 1997, the last major update to the PRC Criminal Law. In September 2009, the SPP announced that the database would be expanded to include all sectors. Companies or individuals could apply to the provincial affiliate of the SPP to check whether a designated company or individual had been convicted of a bribery-related offense, but the results were limited to convictions that occurred in that province. In order to ensure that a company had not been convicted of one of the covered bribery offenses anywhere in mainland China, a company needed to apply separately to 31 provincial-level entities (provinces, autonomous regions, and municipalities directly under the central government).

The SPP announcement signals the integration of the provincial-level databases containing information about bribery-related convictions. The nationwide database reflects an effort to make information about bribery convictions more accessible to the public. (Criminal proceedings in China are often closed to the public, judicial decisions are not always published or publicized, and criminal conviction records are seldom publicly available.)

APPLICATION PROCESS

[Official media reports](#) of the SPP announcement suggest that the application process is similar to the existing application system, whereby an individual or company submits a written application with the name and details of the individual or entity to be checked. Companies are required to complete a written application and include a copy of the company's business license. An individual applying to check the database is required to complete the same application and include a copy of their ID card. Online applications are not available at this time. Official media reports suggest that the SPP will continue to respond to applications within three business days with a written report.

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Note that application, which is free, does not give unlimited access to the database to request broad checks on general or aggregated data, but rather allows the applicant to check whether a certain queried individual or company is listed in the database.

LIMITATIONS AND UNANSWERED QUESTIONS

The SPP announcement suggests that the database is limited to companies and individuals actually convicted of bribery offenses. The database does not appear to include affiliates or subsidiaries of convicted companies, nor would it list the principals of companies convicted of bribery offenses unless the principal were also convicted.

The official media reports of an interview of an SPP official suggests that the offenses covered by the database include bribing an individual, bribing an entity, bribes paid by an entity, and facilitating bribery. Notably, information about individuals and entities *accepting* a bribe are not automatically included. The official media reports hold out the possibility that “bribery-related behavior” may be included in the database, even if the individual or entity were not formally convicted. (For example, if a number of companies and individuals bribed a government official, and the government official were charged with accepting bribes and disclosed the names of the individuals and companies that paid bribes, but the companies and individuals were not formally prosecuted or convicted, the database might have information about the individuals and companies. The information about the government official who accepted the bribes, however, might not be included because of “sensitivities.”)

The SPP announcement and official media reports do not indicate what information would be included in the response if a company is listed in the database. In the past, what was provided generally included information about the time the bribe was offered, the amount of the bribe, the date and the result of the final judgment, and “other related content.”

While several questions remain, the nationwide database is another potential tool for companies to use as part of their due diligence on intermediaries and business counterparties.

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