

Compliance Checklist for a Challenging Time

The COVID-19 pandemic presents many unique challenges. With changing corporate strategies and priorities, companies should anticipate new or more prevalent legal and regulatory risks. The current climate creates the “perfect storm” for fraud and corruption risks. Taking the proper precautions now will help avoid liability and exposure. The below checklist provides a way for companies to quickly assess compliance methods to protect themselves and their employees from key compliance risks.

General Compliance

Competing company priorities and uncertain times make maintaining a compliant and ethical culture crucial. It is important for companies to continue compliance efforts and take proactive steps to mitigate any heightened risks.

- Circulate clear “tone from the top” messages that, along with the primary concerns for the safety, health and well-being of employees, also emphasize the importance of following corporate values, ethical standards and policies and encourage a speak-up culture, including in the current remote environment
 - Circulate targeted compliance and values reminders to personnel and third parties, including:
 - The importance of following any codes of conduct and compliance policies;
 - Accurately and properly recording any payments, gifts and entertainment for government officials and business partners in company books and records, such as reimbursement requests

(Note: This may currently apply to those countries with looser restrictions, including for travel, and will be relevant for other countries as their restrictions decrease);
 - How to access the whistleblower hotline or ways to report or ask questions; and
 - Adhering to principles of competition and fair dealing with competitors
- Retain any compliance reminders and evidence of the recipients and timing
- Make compliance training materials available in an electronic format (such as full trainings or the training presentations themselves) on topics such as anti-corruption, competition laws, sanctions and international trade
- Document and maintain any compliance advice or guidance shared with the business units

Anti-Corruption/Anti-Bribery Compliance: Generally

Corruption and bribery present significant risks during tough economic times. Thus, companies should prioritize careful monitoring and oversight regarding interactions between company employees, government officials and business partners when necessary.

- Carefully review any requests for facilitation or expedited fee requests (particularly as the economy “reopens” and there is pressure to deliver items quickly)

- Circulate reminders on the process for reviewing and approving requests for payments, gifts and entertainment for government officials and business partners
- Consider the frequency of past payments, gifts and entertainment for the same government officials and business partners before approving any requests
- Determine whether there are any open or expected government tenders or bids before approving any requests
- Ensure continuation of anti-corruption training for employees and track and retain completion (if there is a need to defer to more comprehensive training, consider circulating a series of short training videos comprising of 5 minutes of core concepts or use daily or weekly scenario email blasts)
- Ask the Internal Audit function to add to its 2020 audit program targeted proactive anti-corruption audits, based on key corruption risks, which could relate to country-specific audits on key procedures, expense reimbursement processes or bidding practices.

Anti-Corruption/Anti-Bribery Compliance: Donations & Sponsorships

During a time of need such as this, governments and charities may request funds or in-kind donations. However, there are risks related to such requests.

- Carefully review and conduct due diligence for donation and sponsorship requests to avoid any reputational or corruption risks
- Ensure that the donations and sponsorships agreements are memorialized and include the appropriate anti-corruption and auditing (if necessary) provisions
- Ensure all donations or sponsorships are completely and accurately reflected in your books and records

Third Party Management

With companies changing their strategies, production priorities and investing in other lines and types of business, companies are diversifying their supplier base and considering new ones. In addition, companies may streamline their use of agents in key markets.

- Conduct due diligence on new or key suppliers and agents that is tailored to the risk
- Obtain a recent anti-corruption certification from third parties
- Obtain disclosures from third parties regarding conflicts of interest
- Monitor payments to third parties, based on the risk, such as asking the Finance function to help with the transaction monitoring of payments to suppliers and agents to ensure the payments follow contractual terms and key documents, including any purchase orders
- Monitor third-parties' conduct, based on the risk, such as asking the Internal Audit function to add to its 2020 audit program targeted audits of key third parties' compliance with contractual agreements and company policies

Contract Management

Remote working and the de-centralization of the workforce makes it more difficult to ensure that contracts are followed and monitored.

- Ensure key and new contracts or terms are in writing and include the appropriate provisions and requirements, such as anti-corruption or sanctions terms
- Monitor company personnel's adherence to key contractual provisions, such as via proactive compliance internal audits

Government Funding, Contracts & Services

During this time, companies may receive increased federal government funding due to present economic challenges or may have the opportunity to work for or sell to the government. These opportunities can create a risk of providing false or misleading statements to the government or misuse of federal resources. To avoid risks in this area, companies should maintain strict controls.

- Ensure that any representations, tenders, invoices, certifications or statements to government authorities, concerning the government project or services, are accurate and truthful
- Ensure adequate financial and management controls are maintained and strictly followed (in anticipation of any post-pandemic government audits or inquiries)
- Retain bidding documentation and correspondence with regard to government tenders
- Retain evidence and track any additional or increased supplier costs and expenses
- Retain evidence and track pricing and invoicing

Whistleblower Hotline

Although companies may have an initial reduction in complaints and hints during this time, ensuring a working and active hotline will be critical for effective reporting channels.

- Confirm that the hotline is active and publically available, including for those employees working remotely
- Consistently and expediently track and review any complaints and hints
- Internally investigate allegations (when warranted) and implement any lessons learned or remedial measures

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