



TRANSPARENCY INTERNATIONAL | USA

Verification of Anti-Corruption Compliance Programs

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Today's Discussion

- **Importance of Anti-Corruption Efforts**
- **Introduction to the TI-USA Study**
- **Elements of an Effective Anti-Corruption Program**
- **Verification Methods**
- **Major Conclusions and Recommendations**

How Big is the Problem?

“**[A]n estimate** of the extent of annual worldwide transactions that are tainted by corruption puts it close to US \$1 trillion.”

–World Economic Forum Global Competitiveness Report

“**Corrupt money** associated with bribes received by public officials from developing and transition countries is estimated at \$20 billion to \$40 billion a year – a figure equivalent to 20 to 40 percent of flows of official development assistance.”

– Stolen Asset Recovery (StAR) Initiative



A Business Perspective on Corruption

- Reduces market opportunities for legitimate business
- Increases the cost of doing business by about 10% and creates an inhospitable and unpredictable operating environment
- Once bribed, officials will expect more bribes
- Raises the risk of prosecution of corporate officers and directors, as well as the corporate entity in home and host country
 - US/German investigation cost Siemens \$1.6 billion in fines PLUS millions in legal/accounting fees and executive time
 - US/German investigation cost Daimler \$185 million
 - Two executives from Siemens Argentina subject to U.S. civil penalties
- Increases the risk of reputational damage

Introduction to the TI-USA Study

- Every corporation needs an anti-corruption program
 - Protect against potential violations of anti-corruption laws
 - Increase public confidence in corporate self-regulation
 - Demonstrate to regulatory and judicial authorities the corporation's commitment to preventing bribery
- Verification of corporate anti-corruption programs is an essential element of a compliance program
- **Verification refers to all efforts to assess that an organization has a risk-appropriate and effective program for preventing and detecting corruption in its business operations.**

Description of TI-USA Study

- **Goal – Produce a practical guide to help companies verify that their anti-corruption programs are well-designed and working effectively.**
- Funded by the Siemens Integrity Initiative
- Based on research in five areas:
 1. Public reporting by companies
 2. Verification work carried out by accountants, lawyers, and consulting firms
 3. Companies providing certification of anti-corruption programs
 4. Compliance reviews performed by government-appointed monitors
 5. Certification efforts in the social and environmental areas
- Followed by interviews with compliance officers in U.S. companies, practitioners, government monitors, and certification companies

Elements of an Anti-Corruption Program

- **Executive leadership, accountability and tone at the top**
 - Commitment from senior management and Board of Directors
 - Widespread channels of communicating ethical commitments
- **Compliance management: autonomy and resources**
 - Compliance office that is independent of operating components
 - Staffed by senior executives with adequate resources
- **Risk management**
 - Based on geographic locations, business sectors, business partners, nature of transactions
 - Done on a recurring basis to help identify red flags

Elements of an Anti-Corruption Program

- **Anti-corruption policies** – clearly identify all prohibited conduct
 - Not just cash bribes, but gifts, entertainment, political contributions
- **Anti-corruption procedures** – Requirements and guidelines for risk assessments, due diligence reviews, proper internal controls, auditing practices, confidential reporting procedures, investigations, etc.
- **Written materials** – Code of conduct is starting point
 - Guidance materials with more detailed explanation
 - Contract clauses for joint ventures, subcontractors, agents
- **Training and education** – tailored to job function and risks
- **Channels for advice and reporting** – need confidential mechanism
- **Business relationships** – Policies and procedures need to apply to subsidiaries, affiliates, agents, depending on relationship and risk level

Elements of an Anti-Corruption Program

- **Responding to problems**
 - Need dissuasive disciplinary action – demotion, firing
 - Need to impose penalties where warranted
 - Prompt and rigorous investigation when suspicions arise or reports are received
- **Mergers and acquisitions** – Risk-based acquisition due diligence and post-acquisition harmonization of anti-corruption programs
- **FINALLY – REGULAR MONITORING AND VERIFICATION**
 - **Testing the program for effectiveness**
 - **Refining policies and procedures to reflect lessons learned, business developments and changes in risk profiles.**

Program Verification

- Helps prevent misconduct and uncover new risks
- Crucial in supporting company's efforts to document good faith implementation of an anti-corruption program
- **Two questions: 1) is the program well-designed and 2) is it operating effectively?**
- **Risk Assessment** to determine scope of review needed and locations
- **Other steps** depend on results of risk assessment.
 - **Document review** -- program policies and procedures
 - **Interviews**
 - **Transaction Testing**

Who Should Conduct Verification?

- Internal corporate review is key – demonstrates “ownership” of anti-corruption program and commitment to its continued improvement
 - Conducted by staff independent of operational components
- External review is an important element of verification for any company
 - Companies with strong internal resources need external review for key systems and controls
 - Others may need external review to fill in gaps, conduct risk assessment, benchmark program against other companies
 - External reviewer must be independent
 - Cost is always a factor and a legitimate concern
 - Basing the scope of verification on a risk assessment can minimize costs

External Review

- Public Reporting – Essential for enhancing public credibility through transparency
 - Two major frameworks – Global Reporting Initiative (GRI) and TI/UN Global Compact
 - Great variations in how companies report so limited use to public
- Accounting Firms, Law Firms, Consulting Firms
 - Services range in scope, depending on client’s needs, risk level, risk tolerance and compliance history
 - Can help create a sustainable anti-corruption program, identify gaps in policies and controls, analyze risk, perform transaction testing
- Certification Programs
 - Relatively new phenomenon
 - No uniformity in types of certificates available and variations in scope of review and the review process

Major Findings

Public reporting -- a valuable tool for communicating company's commitment to anti-corruption practices but it needs to be improved to provide meaningful information to stakeholders about how companies manage corruption risk

External Review by accountants, lawyers and consulting firms – Provide important benefits, enabling a company to see gaps in its compliance program and lead to strengthening the program

Certification Programs – Evolving practice, not yet accepted by many because of variations in underlying review procedures

Major Recommendations

- 1) The responsibility for providing effective verification of compliance rests on the company itself, and should include regular reviews and audits.**
 - Companies should evaluate their anti-corruption program on a regular basis for effectiveness and make the necessary improvements.
 - Companies must determine the extent to which they can rely on internal resources and the need to supplement those resources with external review.

Major Recommendations

- 2) A risk-based approach is essential in defining both the appropriate scope of compliance programs and of verification.**
- There is no one-size-fits-all anti-corruption program or method of verifying whether the program is working effectively.
 - A well-designed program will differ from one company to another depending on geography, industry sector, and past history, among other factors.

Major Recommendations

3) Companies should undertake independent external reviews on a regularly planned basis

- Scope of engagement and timing depend largely on company's risk profile
- Companies with high risk profiles should consider external review of the high risk businesses every three years.

Major Recommendations

- 4. Companies should make public disclosures about their anti-corruption programs, including program implementation and verification.**
- 5. Certifying organizations, companies, investor groups and non-profit organizations should develop broader agreement on standards for certification.**

Thank You
Comments welcome!
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