

Global Anti-Bribery & Anti-Corruption Program

Across many countries, our operations are required to comply with a variety of anti-bribery laws, covering situations involving gift-giving, meals and entertainment, and others involving our business partners and agents,

While every function within the Company has exposure to different situations, our goal in this lesson is to help identify red flags for potentially troublesome situations and give you tools to help deal with them.

But First, A Story

Bobby, at the tender age of five, had already learned the power of a sweet smile and a charming personality. Many times, he had charmed his way into his grandmother's heart and had easily coerced her into buying treats that were normally off limits and into taking trips to Playland.

Over the years, as Bobby's needs became more expensive and objectionable, his grandmother became a little resistant to his charm. Bobby, determined as ever, learned to offer to take out the garbage, do the dishes for a week or rake the leaves in exchange for getting what he wanted -- all the harmless pursuits of a strong willed child, but Bobby's grandmother had unwittingly encouraged her grandson to develop skills that could lead him to trouble later in life.

Sarah learned a different lesson . . .

Sarah had just made her first serious blunder at college. She didn't leave enough time to complete a major assignment and knew she would get a failing grade if she handed it in. Her professor, Ms. Roland, was really strict about due dates, so Sarah decided the best course of action was to get on her professor's good side and talk her into an extended deadline.

It felt a little manipulative and Sarah had a pang of regret, but she went ahead and invited Ms. Roland out for lunch. She chose the new French restaurant on the river in hopes that the expensive menu and rich décor would show her professor just how important this was to Sarah.

Ms. Roland, however, was taken aback at the invite and told Sarah that this was a form of bribery and was not acceptable. She added that if Sarah were to behave like this in the workplace she would be seriously reprimanded and quite likely fired.

Sarah, as she originally feared, received a failing grade on her assignment but perhaps learned an important lesson regarding bribery.

Marcus was just promoted to VP of Global Sales for a US company. His team had the best sales record in North America and he was expected to do the same in the global market. His first target market was Italy and he set out to learn as much about their culture as he could. He hired a consultant to serve as his 'cultural guide' and had him tour him through the process of establishing a sales footprint and getting through all the government red tape.

Marcus quickly learned that in many Italian regions, bribing government officials was considered a common, everyday expense of running a business. He knew that in order to be competitive in that environment, he would need to move his product quickly and have officials on his side. He would never consider bribing government officials in North America, as this was clearly illegal and culturally unacceptable, but when in Rome . . .

. . . even when in Rome, as it turned out, Marcus was required to comply to US regulations. Unfortunately, he learned this as a result of a standard compliance audit that his company conducted, after he had already committed several small bribes.

Marcus became the subject of a full investigation and was required to submit detailed records of all his transactions. Even the donation he made to Italy's National Alliance party was under scrutiny. He really, really wished he had thought to check with his legal team before he jumped into action. Not only would taking these few extra steps have saved him from all this work, he would also not be facing the very real possibility of having to pay a hefty penalty or jail time!

4 Key Messages

All the characters in our story had lessons to learn. Although corporate anti-bribery and corruption regulations are more detailed and complex than those presented in our story, there are some key messages that are pretty easy to understand and follow, regardless of where you work or what your role is.

Key Our Success:

- A Bribe is a Bribe
- Motivation Matters
- Company Rules Rule
- We Are All In This Together

Key Message 1: A Bribe is a Bribe

From Shakespeare's World

What's in a name? That which we call a rose
By any other name would smell as sweet.

To Today's Corporate World

What's in a name? That which we call a bribe
By any other name would smell as rotten.

In Bobby's case, a sweet smile and the promise of doing dishes . . .
Sarah's bribe, an expensive lunch . . .
For Marcus, a small cash payment . . .

In our corporate world, a bribe can include just about anything:

- tip, gift, perk, favor
- sweetheart deal, kickback/payback
- discount, skim, waived fee/ticket
- free food, free ad, free trip, free tickets
- inflated sale of an object or property, lucrative contract
- donation, campaign contribution, fundraiser, sponsorship/backing
- higher paying job, stock options, secret commission, or job promotion

Key Message 1: A Bribe is a Bribe

In the world of corporate bribery, although a bribe can take almost any form, there is a difference between a token of appreciation and a bribe.

Token of my appreciation

- Card of thanks
- 1 ticket to a hockey game
- Business lunch at my favorite café

I'm Hoping to Influence you

- Bouquet of roses
- Season hockey tickets for 4
- Dinner/drinks for everyone in your family

How to Know the Difference?

It can be tricky. If a payment is made and it *seems* out of line with the business relationship, industry, culture or business transaction, the government can deem it corrupt.

Regardless of their choice of payment, all three of our story's characters were motivated by their own personal gain. Had their motivation been different, this would not have been a tale of corruption.

If Bobby had offered to do the dishes one night just to show his grandmother how much he appreciated her – he would have been acting sincerely.

If Sarah had asked Ms. Roland out for lunch after her assignment had been graded and the course was over, no harm would have been done.

If Marcus made a payment normally required by the government, such as a fee for service, he would have acted legally and ethically.

Bribery, then, is a combination of the appropriateness of the payment and the payer's motivation – motivation matters.

Key Message 2: Motivation Matters

Any payment , no matter what form it's in, is considered corrupt if it was intended to secure an improper business advantage.

When making a payment that might have a dubious nature under some else's scrutiny, ask yourself:

How much am I paying?

To whom?

Is it for a permissible purpose?

Take Note: record this information, so that you can confidently answer questions, should they arise.

Key Message 2: Motivation Matters

By this time in your career, you've had plenty of occasions to feel grateful. Expressing our gratitude is important and is very often a rewarding experience for you, as well as, the recipient. Working for a publicly traded company, such as ours, demands that we take a second look at how we express our gratitude - to make sure that we're not crossing an important line.

Guidelines:

- Give culturally appropriate and reasonably priced gifts
- Intrinsic value of item should not exceed its ceremonial value
- Don't give cash or cash equivalents
- Putting company logo on expensive gift does not make it permissible

Key Message 2: Motivation Matters

It's not the gift that matters, it's the thought that goes into it.



Key Message 2: Motivation Matters

The Devil is in the Details:

- Do not give gifts of high value (e.g., golf clubs, jewelry), but you may give items of minimal value (logo pens, caps, etc.).
- Tailor the value of the gift, meal or other payment to the standard of living in the country where it is made.
- The gift should be commensurate with the legitimate and generally accepted local custom for such expenses by private business persons in the country.
- If the intrinsic value of the item exceeds its ceremonial value, check with the Legal Department before making the gift.
- Don't give cash (or cash equivalents, such as gift cards), even if that is the local tradition.
- Take Note: record all gifts given, including the value or amount spent per person, and the legitimate business purpose for the gift.

Key Message 2: Motivation Matters

In regards to our ethical meter, whether we should pay for a third party's meals/entertainment depends on the circumstances:

- What is the value of the meal relative to other party's financial position and standard of living?
- Have we paid for meals for same party on multiple occasions?
- Is there a business purpose for the event?

Motive: Unreasonableness of expense is strong evidence of corrupt intent. **Even if you are behaving completely ethically, your actions might suggest otherwise.**

Sometimes, it's wise to chose a better way.

Key Message 2: Motivation Matters

More Detail:

- Pay for a meal with a foreign official or other third party in appropriate circumstances. Don't pay for their family.
- Ensure the value of the meal reflects the party's position in their organization and the overall standard of living in the country. For example, you wouldn't take the president of a company out to a fast food restaurant for lunch, nor would you take a customs clerk to the finest restaurant your city has to offer.
- Record all payments accurately, including the amount spent per person and the number of officials at the event.
- The payment should be made directly to the restaurant.
- Be sure to aggregate all amounts paid for the same party to assess their permissibility.

Key Message 2: Motivation Matters

Paying travel expenses requires legitimate and provable business purpose.

- Let other party select their own attendees.
- Treat attendees' travel expenses the same as colleagues.
- Pay travel expenses directly to providers, rather than by reimbursements to ensure the money goes where you think it's going.
- Limit any non-business activities on itinerary
 - arrange for the other party's lodging for the days/nights necessary to attend the business event.
 - Don't pay for golf outings, side trips to sightseeing destinations, etc. — even if business is discussed — if the primary purpose of these events is simply "relationship-building."
 - Don't pay for the travel expenses of the other party's family members.

Key Message 3: Company Rules Rule

Many governments across the globe have instituted laws regarding bribery and corruption in the corporate world.

This is great news. These laws level out the playing field in a competitive, high stakes market. They protect law abiding citizens and provide a framework to ensure our economy is guided by supply and demand, not unscrupulous deal makers.

Most of the regulations have common themes and requirements, with some variance from country to country.

Our company has written our policies and procedures to meet regulations across the globe. We have eliminated gaps and removed gray areas by setting our policies to meet the highest global standards.

When in doubt, your legal team will answer questions and guide your behaviour to ensure that you are acting in the best interests of our company and yourself.

Key Message 3: Company Rules Rule

There are many recriminations for engaging in corrupt behavior.

Your role as a leader of our corporation demands that you stretch beyond our legal requirements and act in accordance to your own high ethical standards. If, like Sarah, you experience a pang of guilt or need to pause to second guess your choices, then it might be wise to turn up your ethics meter and choose a different, uncompromised course of action.

The news is full of corporate leaders who have chosen corruption over virtue. They have suffered a wide range of consequences including:

- Fines of \$250,000 to \$5 million
- 5 to 20 years imprisonment

The companies they worked for also suffered:

- Loss of reputation
- Loss of business
- Lowered employee morale
- Significant legal costs
- Fines from \$2 to \$25 million
- Forfeiture of property
- Debarment from government contracts
- Civil lawsuits

Key Message 4: We're All In This Together

We are confident that the employees we hire are ethical. It is a little more tricky to extend the same level of confidence to the vendors, suppliers and business partners that we work with.

Part of your role, then, is to make sure you've contracted people who are ethical, then to make sure they understand and follow our high standards.

There are several checks you can do, to make sure we have the right people on our team.

- Conduct due diligence and/or background checks (business, history, 3rd party relationships)
- Include 'Anti-Corruption Certification' in your written contracts
- Require specifics about their fees and services
- Insist on detailed invoicing
- Arrange for audits of books and records

Know who you are doing business with!

Key Message 4: We're All In This Together

Your Standards Should Include:

- Only agree to pay retainers or advances for specified, appropriate services
- Only do business with agents who provide compliance certifications
- Only do business with agents who consent to audits of their books
- Hire 3rd parties who are personally disassociated from government officials (or seek approval from our legal department)

Know who you are doing business with!

Key Message 4: We're All In This Together

We are responsible for the actions that third parties take on our behalf, whether we have actual knowledge of those activities or not. Thus, it is critical to learn as much as we can about all agents, consultants, brokers, advisors and others with whom we deal.

At a minimum, you should determine whether a prospective agent has personal or professional ties to the other party or parties to the business transaction. Know the number and reputation of the agent's clients, and if the agent is in another country, know his/her reputation with our Embassy or Consulate, local bankers, clients and other business associates.

Key Message 4: We're All In This Together

All of these questions should be answered, as well, so that we can assess the legality of the consultant's arrangement.

“What country is it?”– transactions in high-risk countries are a red flag of possible corrupt payments.

“How much will the agent be paid?”– large payments to brokers or agents are a red flag of possible corrupt payments.

“What are the “local processing fees?” – payments with vague terms that don't describe the actual work performed are a red flag of possible corrupt payments.

Key Message 4: We're All In This Together

It is not enough that someone "recommended" a given agent. You must know with whom we are doing business and what he or she is doing to earn a fee and that he or she is qualified to be doing it.

Key Message 4: We're All In This Together

Another Thought

It starts with you, but it doesn't end with you. Know to whom your staff is giving gifts and what the gifts are. Ensure your accountability is understood and supported by your team.

Now that you have read about our key messages:

- A Bribe is a Bribe
- Motivation Matters
- Company Rules Rule
- We Are All In This Together

you can put your understanding to the test.

There are six quick questions to answer, then two 'Statements of Commitment' to electronically 'sign off' on. Once you have completed both of these, you will have complied to our training requirement.

Apply What You've Learned

With the help of a local broker, we entered into an agreement to sell gold to SmeltMax. We paid the broker a large, but appropriate, commission for her work. The broker then tried to find new gold smelters for us in other countries. You have learned that the local broker might be using part of his commission from the Company to buy lavish gifts for executives of other gold smelting companies. Is there a “corrupt payment” issue here us?

- A. **Yes, we can't ignore “red flags” that signal possible corrupt activities by anyone associated with our business.**
- B. No, because we didn't make any gifts, nor did we have direct knowledge that our local broker did.
- C. Maybe, if the local broker was giving monetary gifts to the gold smelting executives.

Apply What You've Learned

You are hiring a consultant to assist you with developing a plan to acquire a business in Spain. This is a key role and you need the right person on board. A quick check on the Internet bears out that your favourite candidate has done a lot of excellent work around the globe. There are, however, two blogs, that imply that she has been involved in some questionable financial activity with government officials. The details are sketchy.

What is your best course of action, ethically and legally speaking?

- **Contact the legal department for advice on how to find the facts of the situation. Blogs are not reliable sources, on their own.**
- Ask the consultant for an explanation.
- Accept the information on the blog as true and do not hire the consultant.

Apply What You've Learned

Ken is a senior manager in our finance department and has worked with auditors at FINTRAC (the Financial Transactions and Reports Analysis Centre of Canada) for several years. They have provided helpful information and feedback over the years and he would like to show his appreciation. He is considering several options but wants to make sure he follows our gift giving policies. Which of Ken's options will best follow our policies?

- A. **Send each member of the FINTRAC audit team a card of thanks and a box of chocolates.**
- B. Host a dinner at a fine restaurant and pay for all of the food and drinks for the team and their spouses.
- C. Take the team members on a three-day trip to Las Vegas.

Apply What You've Learned

In our global economic climate, some countries are more susceptible to corruption than others. You are working with a vendor who is trying to sell you imported supplies. When you question how much it will cost to get the supplies across the border, he tells you not to worry, he'll work it into the total price.

The response that will best protect our assets is:

- **You are concerned that his vague answer might indicate that he is getting supplies across the border using unethical means. You ask him for a detailed quote before proceeding.**
- You agree to his terms and ask him to provide a detailed invoice once you receive the goods. He agrees.
- You end your business relationship immediately. This is an obvious case of corruption and you don't want any part of it.

Apply What You've Learned

We are considering expanding our operations into a foreign country. The operations and real estate teams agreed to hire a local business consultant to help us identify real estate sites, and we agreed to pay the consultant local processing fees. What additional questions should we ask to assess the legality of the arrangement with the consultant?

- A. What country is it?
- B. How much will the consultant be paid?
- C. What do the “local processing fees” consist of?
- D. All of the above.**

Apply What You've Learned

Bob from IT and Mary from accounting put their heads together and devise a way to reduce our licensing fees by using Twitter to make “micro-payments” to officials in various jurisdictions. It was a new and untested approach that could save the Company huge amounts of money. Should we try it?

- A. **No, unless we get prior approval from the Legal Department. Companies can be fined and individuals can go to jail for violations that authorities have never applied before.**
- B. Yes, because enforcement authorities would be lenient on something new and untested. We are only required to comply to specific and listed violations.

Employee Statement of Commitment

It can be difficult to know for sure if a business partner is ethical and compliant with government regulations. Your role requires that you look for red flags such as:

- the transaction occurs in a high risk country or region
- the agent is vague or refuses to disclose details regarding its business relationships and financial obligations
- the agent prefers you make payment through a third party or to cash
- there are unusually high commissions or fees associated with the work
- the agent doesn't appear to know what it's doing or have the necessary resources

I am committed to maintaining a high degree of awareness regarding the behaviour of anyone who is connected to our company.

Employee Statement of Commitment

We are counting on you to help us maintain the best anti-bribery and corruption compliance program possible. You are "in the trenches" where you can see how our business operates day to day — and whether we are doing so in keeping with our compliance program and applicable laws.

Employee Statement of Commitment

If you encounter any corrupt payment red flags or spot any related issues, it is your duty to “report up” - inform your supervisor or the Legal Department, or report the issues via the company's hotline or other reporting mechanisms.

The company will conduct a prompt and thorough investigation, which may include interviewing you and other witnesses, collecting and reviewing relevant documents and consulting outside counsel.

Please Note: The company is prohibited from retaliating against an employee for making a good-faith report, for refusing to comply with a violation of law or for participating in an investigation of the matter.

It's easy to say “don't bribe.” But situations may come up on a day-to-day basis that are far less clear. If it doesn't feel right, please bring the question to your supervisor or a member of the Law Department.

- I am committed to upholding Anti-Bribery and Corruption standards and I will report any issues in good faith.**

Thank you for your participation!