



Top 10 tips for countering small bribes

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By:

The issue of so-called facilitation payments and other small bribes is a thorn in the side of many international businesses. Not only is it difficult to do business in many parts of the world without making such payments, but they are often difficult to detect and eliminate. In many instances, those payments are concealed from the company by its employees or they are paid covertly by agents or intermediaries.

Small bribes of this type have always been illegal under UK law, but the UK Bribery Act has focused more attention on the problem. It has also made it significantly easier for companies to be prosecuted under Section 7 for “failing to prevent bribery”. Under this section, it is irrelevant that the company did not know about or participate in the bribes. The only defence is for the company to demonstrate that it had implemented “adequate procedures” that were designed to prevent such bribery.

There are very few multinational companies that are not at risk of extortion or are not affected by such payments to some extent. But help is now at hand. New guidance published by Transparency International, in conjunction with DLA Piper and FTI Consulting, will assist companies to navigate this difficult area and reduce their risk significantly.

Taking positive action to counter small bribes will also help to generate a positive reputation for integrity while protecting employees and reducing operational cost.

The key principles set out in the guidance – “Countering Small Bribes” – are summarised in the Top 10 Tips below.

TOP TEN TIPS

1. **Develop a supporting culture of integrity.**

Incorporate a commitment to ethics and integrity to create an environment for countering small bribes, supported by a clear tone from the top. Implement a policy of zero tolerance towards bribery supported by a tailored anti-bribery programme.

2. **Commit the company to eliminating small bribes.**

The company should commit to a policy of prohibition of small bribes and a strategy for their elimination through a programme of internal controls and collaborative action.

3. **Use risk assessment as the basis for designing the strategy and programme to eliminate small bribes.**

4. Implement a programme of internal controls comprised of detailed policies and procedures to counter small bribes.

Identify and assess the risks of small bribes being demanded or paid in your business and the factors that cause them.

5. Ensure communication and training are provided to employees.

As part of the programme, ensure that communications and training make clear the company's prohibition of small bribes; give relevant information and advice to employees on how to anticipate and resist demands, and how to seek advice and report concerns about small bribes.

6. Give attention to countering third-party risks.

Incorporate appropriate procedures for third parties including due diligence, contract terms, communication, training and monitoring.

7. Set up internal accounting controls designed specifically to counter small bribes.

As part of the programme, modify and extend your company's internal accounting controls to counter small bribes.

8. Take appropriate actions if small bribes are detected.

As part of the programme, ensure that the company has a procedure to deal with any incidents of bribery including investigation and review, plus disciplinary action and consideration of reporting the incident to the relevant authorities where appropriate.

9. Monitor the effectiveness of your programme to counter small bribes.

Regularly monitor and review your programme for countering small bribes, making changes where necessary to address the key risks and to provide staff and third parties with relevant guidance and support.

10. Act strategically to influence the corruption environment in which your company operates.

Accept responsibility for addressing entrenched factors that lead to demands for small bribes; for example, by collaborative working and investing in communities.

Any policies and procedures that are designed to deal with the issue of small bribes ought to be tailored to a company's individual circumstances if those procedures are to be cost effective, proportionate to the risks that it faces and "adequate" for the purposes of the Bribery Act. If you have any questions about the content of the guidance or any related compliance challenges, please feel free to contact us, in confidence and without obligation.

Download the full version of 'Countering Small Bribes' from Transparency International

For further guidance please contact Simon Airey, Head of Investigations (UK).