ISO 37001 Anti-Bribery Management Systems (ABMS) Standard

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ISO 37001: Purpose and Application

Purpose:

▶ Help organizations establish, implement, maintain, and improve an anti-bribery compliance program or "management system

▶ Third-party certification or guidance

Includes:

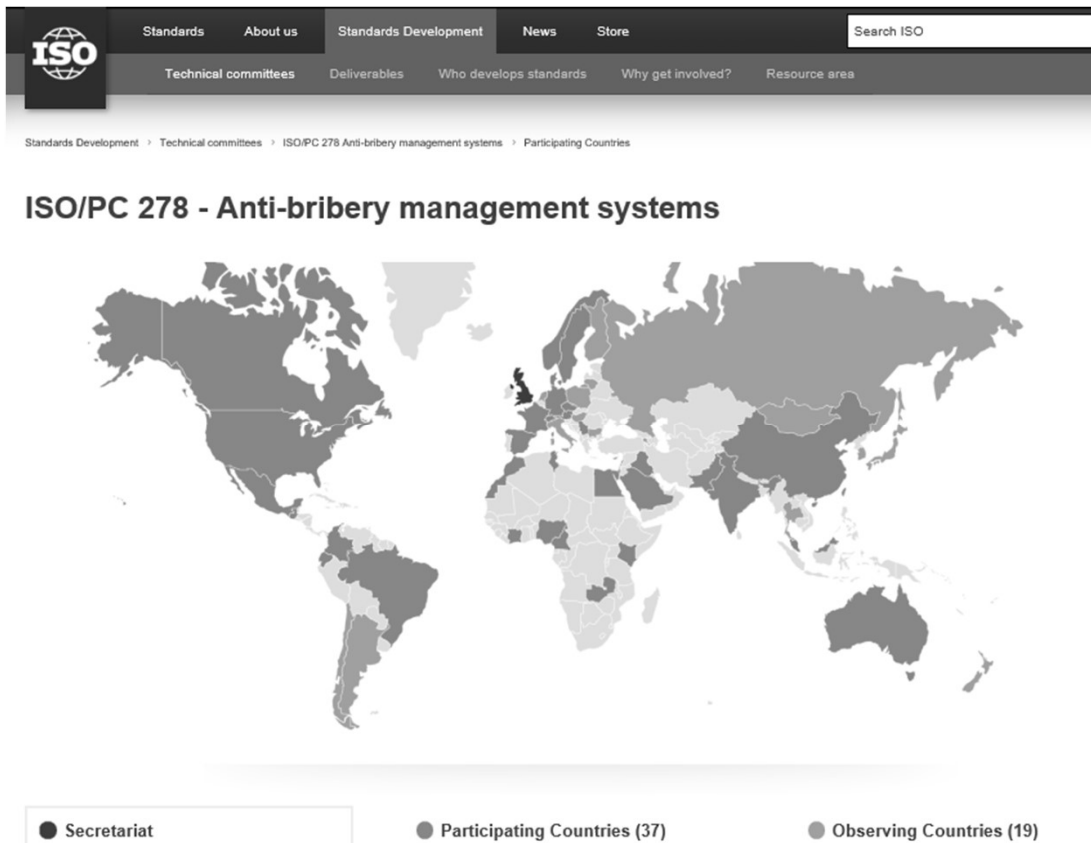▶ Measures and controls that represent global anti-bribery good practice

Addresses:

▶ Foreign and commercial bribery

Applicable to:

▶ Public, private and non-profit sectors

ISO 37001: Team & Timeline

ISO/PC 278 - Anti-bribery management systems

- Secretariat
- Participating Countries (37)
- Observing Countries (19)

- Project Committee ISO/PC 278 established in 2013.

- Consists of 56 countries and 7 liaison organizations.

- Five Committee meetings to date:
  - London (June 2013)
  - Madrid (March 2014)
  - Miami (September 2014)
  - Paris (March 2015)
  - Kuala Lumpur (October 2015)

- Next meeting scheduled for Mexico City in June 2016.

- Final publication expected in late 2016.

The Current Challenges…

▶ No global standard to design, implement, or evaluate an organization's Anti-Bribery Management System.

▶ No shortage of guidance related to Anti-Bribery programs and controls, but focus is on high-level principles not details; readers left to determine which guidance is the "right" or "best".

▶ Anti-Bribery laws and regulations vary by country and may differ from jurisdiction to jurisdiction (e.g., FCPA allows "facilitation payments" while these are considered as bribes in most foreign countries.)

▶ Companies spend a significant amount of time, money, and resources on developing the "right" Anti-Bribery program and controls, as well as evaluating the Anti-Bribery programs of other companies.

The Intended Benefits…

▶ Develop, improve, or benchmark an existing anti-bribery program;

▶ Measure and evaluate the anti-bribery programs of its partners and suppliers, using a single "yardstick";

▶ Obtain an anti-bribery certification, if desired, to demonstrate a commitment to combat bribery, as well as a competitive advantage;

▶ Set expectations with 3rd parties regarding preferred qualifications or eligibility requirements for new or existing business relationships; and

▶ Reduce or avoid certain anti-bribery program costs.

ISO 37001 - Standard Requirements

A series of measures and controls to help prevent, detect, and address bribery, among them:

- An anti-bribery policy, procedures, and controls
- Governing body and top management leadership, commitment, responsibility, and senior level oversight
- Communication and training
- Risk assessment
- Due diligence on projects and business associates
- Monitoring and review
- Corrective action and continual improvement

Certification & Auditor Competency

▶ Certification is voluntary

▶ Certifying bodies governed by:

  ▶ **ISO/IEC Technical Standard *17021-1 Conformity Assessments*** - *requirements for bodies providing audit and certification of management systems*; and

  ▶ **ISO/IEC (Draft) Technical Standard 17021-9** *Competence requirements for auditing and certification of anti-bribery management systems*

    ▶ Developed specifically for ISO 37001

    ▶ Currently in draft review phase; comments and ballot closing in mid-July

▶ 17021-9 requires auditors to have bribery specific knowledge, including:

  ▶ ISO 37001 requirements

  ▶ Bribery concepts & scenarios, risks associated with 3rd parties, and "red flags"

  ▶ Bribery risk assessment and due diligence

  ▶ Designing and evaluating anti-bribery controls

Questions?

Additional Resources

► ISO 37001 *Anti-Bribery Management System Standard Information*
  ► www.iso.org/iso/iso37001

► ISO/IEC 17021-1:2015 - *Conformity assessment - Requirements for bodies providing audit and certification of management systems*
  ► Summary: http://www.iso.org/iso/news.htm?refid=Ref1972
  ► Detail: http://www.iso.org/obp/ui/#iso:std:iso-iec:17021:-1:ed-1:v1:en

► FCPA Blog Articles & Interviews:
  ► http://www.fcpablog.com/blog/2016/5/3/fernando-cevallos-for-latin-america-iso-37001-brings-needed.html
  ► http://www.fcpablog.com/blog/2016/2/23/macmurray-and-benton-iso-37001-is-from-business-for-business.html
  ► http://www.fcpablog.com/blog/2016/2/16/matt-kelly-dont-forget-to-review-and-comment-on-iso-37001.html
  ► http://www.fcpablog.com/blog/2016/3/14/why-iso-37001-because-global-enforcement-has-arrived.html

ISO 37001: Anti-Bribery Management Systems Standard

Executive Summary

What is ISO?

- The International Organization for Standardization (ISO) develops and publishes international standards.

- Its members are the national standards bodies from 163 countries.

- It has published nearly twenty thousand international standards.

What is ISO 37001?

- ISO 37001 is an anti-bribery management systems standard, which is currently under development.

- It is designed to help an organization establish, implement, maintain and improve an anti-bribery compliance program.

- It includes a series of measures which an organization must implement which represent globally recognised anti-bribery good practice.

- It is accompanied by supporting guidance.

Who can use this Standard?

- The standard is flexible and can be adapted to a wide range of organizations, including:

    - Large organizations

    - Small & medium sized enterprises (SMEs)

    - Public and private sector organizations

    - Non-governmental organizations (NGOs)

- The standard can be used by organizations in any country.

Can the Standard's requirements be integrated into existing controls?

- The measures required by ISO 37001 are designed to be integrated into the organization's existing management processes and controls.

- ISO 37001 follows the common ISO structure for management system standards, for easy integration with, for example, ISO 9001 and 14001.

What does ISO 37001 address?

- ISO 37001 specifies measures which an organization must adopt to address:

  - Bribery by the organization, or by its personnel or business associates acting on the organization's behalf or for its benefit.

  - Bribery of the organization, or of its personnel or business associates in relation to the organization's activities.

Does the Standard define bribery?

- Bribery is defined by law which varies between countries. Therefore the Standard does not provide an independent definition of bribery.

- However, the Standard provides guidance on what is meant by bribery to help users understand the intention and scope of the Standard.

What does the standard require (1)?

ISO 37001 specifies a series of measures which the organisation must implement in a reasonable and proportionate manner.

In summary, they include:

- Implement an anti-bribery policy and programme.

- Communicate the policy and programme to all relevant personnel and business associates (joint venture partners, sub-contractors, suppliers, consultants etc.)

- Appoint compliance manager (full time or part time) to oversee programme.

What does the standard require (2)?

- Provide appropriate anti-bribery training to personnel.

- Assess bribery risks, including appropriate due diligence.

- Take reasonable and proportionate steps to ensure that controlled organisations and business associates have implemented appropriate anti-bribery controls.

- Verify as far as reasonable that personnel will comply with the anti-bribery policy.

What does the standard require (3)?

- Control gifts, hospitality, donations and similar benefits to ensure that they do not have a corrupt purpose.

- Implement appropriate financial, procurement and other commercial controls so as to help prevent the risk of bribery.

- Implement reporting (whistle-blowing) procedures.

- Investigate and deal appropriately with any actual or suspected bribery.

What if a requirement is illegal in a country?

- If the whole or part of a requirement is prohibited by applicable law (e.g. if anonymous reporting is prohibited), then an organization will not be required to comply with that prohibited part, but can comply with the remainder of the standard.

How will the Standard benefit an organization?

The standard benefits an organization by providing:

- Minimum requirements and supporting guidance for implementing or benchmarking an anti-bribery management system.

- Assurance to management, investors, business associates, personnel, and other stakeholders that an organization is taking reasonable steps to prevent bribery.

- Evidence in court that an organization has taken reasonable steps to prevent bribery.

Can my organization be ISO 37001 certified?

- ISO 37001 is being developed as a requirements standard, making it capable of independent certification.

- Third parties will be able to certify an organization's compliance with the Standard in the same way that organizations are certified to e.g. ISO 9001 and 14001.

Timeline of the Standard's Development (1)

- In 2013, Project Committee ISO/PC 278 was established to develop the new anti-bribery standard.

- The committee includes <u>37 participating countries, 19 observing countries</u>, and <u>8 liaison organizations</u>.

- Five committee meetings have taken place:
  - London (June 2013);
  - Madrid (March 2014);
  - Miami (September 2014);
  - Paris (March 2015).
  - Kuala Lumpur (September 2015)

Timeline of the Standard's Development (2)

- The Draft International Standard was published in early January 2016.

- Country votes on the draft standard closed on 5th April 2016.

- Majority vote in favour of publication achieved – 91%.

- Final drafting meeting in Mexico City in May 2016.

- The publication of the standard is expected in late 2016.

Further information

Further information on ISO 37001 can be obtained from:

- http://www.iso.org/iso/iso37001

- http://www.iso.org/iso/home/standards_development/list_of_iso_technical_committees/iso_technical_committee_participation.htm?commid=4515115

- http://www.iso.org/iso/home/store/catalogue_tc/catalogue_detail.htm?csnumber=65034