



International Business Ethics and Anti-Corruption

A Code of Ethics cannot stand alone

By Christa C. Wesel, B.A., LL.B., C.Dir.

Growing global concern about the damaging effects of corruption is being reflected in increasing pressure on governments and enforcement agencies around the world to investigate and take action against corruption. It is critical for organizations to have in place certain fundamental elements in order to prevent and detect corruption.

The Canadian government, as well as Canadian regulators and enforcement agencies, are under increasing pressure by the Organization for Economic Co-operation and Development (OECD) and the US Department of Justice to investigate and take action under the Corruption of Foreign Public Officials Act (Canada). The already long-arm of the US law continues to grow, as the US Department of Justice seeks to enforce the Foreign Corrupt Practices Act (FCPA) against organizations and individuals with a relatively limited nexus to the US. The US Department of Justice is also actively encouraging enforcement agencies in other countries to investigate and take action against foreign organizations and individuals suspected of corruption. Penalties can include fines, disgorgement of profits and other sanctions, including jail time for directors and officers of the offending organizations.

The World Bank's anti-corruption guidelines, as well as its "BribeLine" reporting mechanism, are resulting in increased enforcement actions by members of The World Bank Group against organizations and individuals participating in World Bank financed projects. Enforcement often results in bans against bidding on projects funded by The World Bank Group members.

Customers are requiring anti-corruption disclosures and commitments from suppliers, consultants, business partners, agents and other associates as a condition of doing business. Failure to fulfill anti-corruption commitments can result in termination of the underlying contract or relationship as well as civil damages.

An organization's best defence against corruption is the personal integrity and ethics of its employees. All the more reason that a Code of Ethics be articulated and adopted as policy. However, a Code of Ethics cannot stand on its own. It needs supports and a foundation. The supports are a reporting or whistleblower venue and an anti-retaliation policy. The foundation consists of clear and transparent processes and internal controls tied to not only the Code of Ethics, but also the reporting venue and the anti-retaliation policy.

A good Code of Ethics sets out clear expectations regarding how an organization expects its employees to treat each other and how the organization expects its employees to deal with third parties. It will include statements concerning what the organization views as unethical and

illegal conduct. A good Code of Ethics will also include an expectation that employees and others escalate concerns, and will give guidance on whom to talk to about questions or issues. Which leads us to the first Code of Ethics support, a reporting or whistleblower venue.

Where do employees, and possibly customers and suppliers, go if they suspect or experience unethical or illegal conduct? A reporting venue or mechanism can be as simple as the designation of a senior officer to receive such reports, or as complex as an externally managed global hotline. The important thing is that there is a venue and that it is trusted.

The second Code of Ethics support is an anti-retaliation policy. The Code of Ethics and reporting venue are effective only when they are supported by a culture that protects whistleblowers. Loss of trust in the reporting mechanism often occurs when individuals reporting concerns are not treated fairly. This usually means that the organization must not only fulfill the specific commitments made in the anti-retaliation policy, but also the spirit of the policy.

The Code of Ethics, reporting venue and anti-retaliation policy are only effective when reinforced by a foundation consisting of clear and transparent processes and internal controls. Effective process and internal controls must be understood by, and implemented in, the front-lines of an organization.

Together, the Code of Ethics, reporting venue, anti-retaliation policy along with clear and transparent processes and internal controls are fundamental elements of an enterprise risk management program that will protect an organization from the harm that can come from being found to be involved in corruption.

Christa C. Wessel is a partner at Gowling Lafleur Henderson LLP, based in the firm's Toronto, ON office, where she specializes in governance, compliance and the prevention of economic crime. Contact: christa.wessel@gowlings.com or 1.416.814.5643

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