
An Overview of ISO 37001

Anti-Bribery Management System Standard

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Background to ISO 37001

Bribery is a significant risk

- Bribery is widely acknowledged as a significant risk in many countries and sectors.
- Previously, bribery has in many cases been tolerated as a “necessary” part of doing business or obtaining government services.
- Now, increasing awareness of the damage caused by bribery to countries, organizations and individuals has resulted in calls at international and national level for effective action to be taken to prevent bribery.

International treaties

- Many international treaties have been signed during the last 20 years requiring member states to implement anti-bribery laws and procedures:

- Most internationally significant:
 - The United Nations Convention against Corruption (2003)
(Cyprus signed in 2003 and ratified in 2009)

 - The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1999).

Laws

- Most countries have changed their laws in accordance with treaty requirements. Bribery and other corruption offences are therefore crimes worldwide.
- All OECD countries have now made it a crime for their nationals and organizations to bribe overseas. As a result, a person or organization may be liable for bribery both:
 - In the country where the bribery took place; and
 - In the person or organization's home country.

Enforcement (1)

- Prosecution agencies in many countries are now starting to investigate and prosecute organizations and individuals for bribery.
- There have been many recent major cases resulting in:
 - Fines and debarment for organizations
 - Fines and imprisonment of individuals.

Enforcement (2)

- **Odebrecht** and its affiliate **Braskem** have agreed to pay a record fine of \$3.5bn to Brazilian, Swiss and US authorities to settle a vast international bribery case. Odebrecht / Braskem paid bribes of \$788m to secure business on three continents. Odebrecht CEO and other executives imprisoned.
- **Siemens** settled with German and US prosecutors for fines of \$1.6bn in relation to long-term corrupt conduct in many countries. Some Siemens executives imprisoned in Germany.
- **BAE**: BAE fined \$400m by US authorities in relation to Saudi - Al Yamamah military jet contract.

Enforcement (3)

- **Alstom:** Alstom fined \$772m by US authorities for paying \$75 million in bribes via sham consultants to government officials in connection with power and transportation projects in Indonesia, Egypt, Saudi Arabia, the Bahamas and Taiwan.
- **ABB** fined \$17.1 million in USA in relation to bribes totalling approximately \$1.9 million to officials of Mexican state-owned electricity utility company in exchange for receiving contracts worth more than \$81 million.
- **Rolls-Royce** entered into a deferred prosecution agreement with the authorities in UK, USA and Brazil, and paid a fine of £671m in relation to corruption in China, Russia, India, Indonesia, Thailand and Nigeria.

Enforcement (4)

- **TSKJ joint venture - Bonny Island - Nigeria:**
- US Department of Justice fined the following companies for bribe payments to secure liquefied natural gas contract:
 - **Halliburton (Kellogg Brown and Root) (USA):** \$579m (2009)
 - **Technip (France):** \$338m (2010)
 - **Snamprogetti (ENI/Saipem) (Italy):** \$365m (2010)
 - **JGC (Japan):** \$218m (2011)
 - **Marubeni (Japan):** \$54m (2012)
- Individuals imprisoned:
 - KBR CEO
 - TSKJV agent.

Enforcement (5)

- **Balfour Beatty:** UK SFO obtained a Civil Recovery Order of £2m against Balfour Beatty in relation to payment irregularities during the construction of the Bibliotheca Alexandrina in Egypt.
- **Mabey Bridge** convicted and fined £3.5m in UK for corruption in Iraq, Trinidad and Ghana. Managing director and sales director imprisoned.
- **SNC Lavalin:** World Bank debarred SNC-Lavalin and over 100 affiliates for 10 years following the company's misconduct in relation to a bridge project in Bangladesh and an electrification project in Cambodia.

Corporate anti-bribery programme (1)

- While good laws and enforcement are vital, it is also important that organizations implement anti-bribery measures.
- Bribery prevention is increasingly seen as a management issue.
- Good management in government, in organizations and on projects can materially reduce bribery.
- Bribery prevention should be treated in a similar manner to safety, quality and environmental management.

Corporate anti-bribery programme (2)

- Significant number of organizations internationally have responded to the changing legal and ethical environment by implementing anti-bribery management systems within their organizations.
- Ethical organizations also need to ensure that their partners and supply chain implement appropriate controls.
- Government departments, funders, and companies should all adopt anti-bribery measures within their organization.

BS 10500

- As a result of these law changes, organizations require assurance that their own organization, and their more than low risk business associates, have implemented adequate anti-bribery measures.
- This led to a call for a standard which provides minimum requirements and allows independent verification.
- This led to development of British Standard BS 10500 - Specification for anti-bribery management system. Published 2011.
- Recognition that to be widely recognised, needed to be an international anti-bribery standard.
- BSI in 2013 submitted proposal to ISO for international standard.

Development of ISO 37001 (1)

- ISO in 2013 established a Project Committee to publish a new ISO anti-bribery management system standard, ISO 37001.
- **Participating countries (37):** Australia, Austria, Brazil, Cameroon, Canada, China, Colombia, Croatia, Czech Republic, Denmark, Ecuador, Egypt, France, Germany, Guatemala, India, Iraq, Israel, Kenya, Lebanon, Malaysia, Mauritius, Mexico, Morocco, Nigeria, Norway, Pakistan, Saudi Arabia, Serbia, Singapore, Spain, Sweden, Switzerland, Tunisia, UK, USA, Zambia.
- **Observing countries (22):** Argentina, Armenia, Bulgaria, Chile, **Cyprus**, Cote d'Ivoire, Finland, Hong Kong, Hungary, Italy, Japan, Korea, Lithuania, Macau, Mongolia, Netherlands, New Zealand, Poland, Portugal, Russia, Thailand, Uruguay.

Development of ISO 37001 (2)

- **Liaison organizations (8):** ASIS, European Construction Industry Federation (FIEC), Independent International organization for Certification (IIOC), International Federation of Consulting Engineers (FIDIC), IQNet, organization for Economic Co-operation and Development (OECD), Transparency International (TI), World Federation of Engineering organizations (WFEO).
- **Committee Secretariat and Chair:** British Standards Institution (BSI).
- **Co-ordinator and publisher:** The International Organization for Standardization (ISO), which is an independent, non-governmental international organization with a membership of national standards bodies from 162 countries.

Development of ISO 37001 (3)

- First draft of ISO 37001 based on content of BS 10500 merged into ISO standard management systems template. Uses same template as ISO 9001 and 14001, so is consistent with these standards.
- The drafts were circulated for international comment, and were modified at six international drafting meetings over three years to take account of international comments.
- Over 80 experts from over 20 countries participated in these meetings, which were held in London, Madrid, Miami, Paris, Kuala Lumpur and Mexico City.
- Decisions on text made by consensus of participating countries.

Development of ISO 37001 (4)

- ISO 37001 was published on 15th October 2016.
- ISO 37001 replaces BS 10500.
- Is a Type A requirements standard, so can be independently certified.
- Contains supporting guidance to help with implementation.
- Focuses on bribery, but can be expanded to include other corruption offences.

Purpose and scope of ISO 37001 (1)

- ISO 37001 is intended to help an organization to implement an effective anti-bribery management system.
- It requires organizations to implement various anti-bribery measures on a reasonable and proportionate basis according to the type and size of the organization, and the nature and extent of bribery risks faced.
- Requirements of internationally recognised good practice are taken into account.
- It is applicable to small, medium and large organizations in the public, private and voluntary sectors.

Purpose and scope of ISO 37001 (2)

- ISO 37001 cannot provide absolute assurance that no bribery will take place in relation to an organization. But it can help establish that the organization has implemented reasonable and proportionate measures designed to prevent bribery.
- Organization can get certified to ISO 37001 in a similar way to 9001 and 14001. Risk of corrupt or negligent certification reduced by use of well known, accredited certifying organizations.

Benefits of ISO 37001 (1)

- Provides assurance to owners, directors, employees and business associates that organization is taking steps to prevent bribery.
- Can be used as project pre-qualification requirement (i.e. organizations may only be allowed to bid for major projects if they have a certified ISO 37001 programme).
- Can be used as a business associate due diligence mechanism (i.e. that a business will only work on major transactions with other organizations which have a certified ISO 37001 programme).
- Can enhance an organization's reputation (can be displayed on web-site, used in promotional material etc., to show that the organization operates in an ethical manner).

Benefits of ISO 37001 (2)

- Can be used to help an organization's defence in the event of a bribery investigation.
- Many countries' laws (e.g. USA, France, UK, Italy) either require companies to have anti-corruption programmes in place, or allow proof of an adequate programme to act as a defence or mitigating factor in the event of a prosecution.
- Therefore, possession of an independently certified ISO 37001 can help prove to a prosecutor or judge that the organization had adequate anti-bribery procedures in place.

Implementing ISO 37001

Decision to implement an ISO 37001 ABMS

- The organization's governing body must take the decision whether to implement an ISO 37001 compliant anti-bribery management system (ABMS). In making this decision it will consider:
 - Does the organization face bribery risk, and what are the possible consequences of this risk?
 - Would implementing an ABMS help manage this risk?
 - What are the costs and benefits to the organization of implementing an ABMS?

Resources for implementation

- If the organization decides to implement an ABMS, the organization's top management must appoint an appropriate person(s) to lead the implementation of the ABMS, and allocate appropriate resources. In making this decision it will consider:
 - Who is the appropriate person(s). This person must have the ability, authority and commitment to be able to do so effectively.
 - What support this person(s) needs. This could include supporting personnel, expert outside advice, and resources (office, computers etc.).
 - What budget to allocate to the project. It must be sufficient to enable it to succeed.

Planning the ABMS

- Before the ABMS can be implemented, it needs to be planned. This includes the following steps:
 - Determining what anti-bribery laws are applicable to the organization.
 - Determining what types of bribery the ABMS should be designed to prevent.
 - Understanding the nature of the organization and its activities.
 - Understanding the organization's stakeholder requirements.
 - Assessing the bribery risks faced by the organization.
 - Determining the scope of the ABMS.
 - Determining the objective(s) of the ABMS.

Designing the ABMS

- Once the organization understands the overall parameters affecting the ABMS, it then needs to design the specific ABMS policies and procedures, and plan their implementation.
- The organization needs to design these policies and procedures with the intention that they will help the organization:
 - effectively manage its bribery risk;
 - deal appropriately with any bribery which is identified.

Implementing the ABMS policies and procedures

- ISO 37001 specifies various anti-bribery policies and procedures which an organization must implement to assist it prevent bribery, and identify and deal with any bribery which does occur.
- The following slides summarise each of these main policies and procedures.
- An organization is only compliant with ISO 37001 if it has implemented all of the required policies and procedures.
- However, these policies and procedures should be implemented by the organization in a reasonable and proportionate manner according to the type and size of the organization, and the nature and extent of bribery risks it faces.

Requirements of ISO 37001 (1)

1. Implement an anti-bribery policy and supporting anti-bribery procedures (the ABMS). These procedures are listed below.
2. Ensure that the organization's top management has overall responsibility for the implementation and effectiveness of the anti-bribery policy and ABMS.
3. Appoint a person(s) to oversee anti-bribery compliance by the organization (compliance function).

Requirements of ISO 37001 (2)

4. Allocate responsibilities for ensuring compliance with the anti-bribery policy and ABMS throughout the organization. e.g.:
 - department heads responsible for compliance in department;
 - all personnel responsible for their personal compliance.

5. Ensure that controls are in place over the making of decisions in relation to more than low bribery risk transactions (e.g. appropriate seniority of decision maker, no conflicts of interest).

Requirements of ISO 37001 (3)

6. Implement appropriate vetting and controls over the organization's personnel designed to ensure that they are competent, and will comply with the anti-bribery policy and ABMS.
7. Provide appropriate anti-bribery training and/or guidance to personnel on the anti-bribery policy and ABMS.
8. Undertake periodic bribery risk assessments and appropriate due diligence on transactions and business associates.

Requirements of ISO 37001 (4)

9. Implement appropriate financial controls to reduce bribery risk (e.g. two signatures on payments, restricting use of cash, etc.).
10. Implement appropriate procurement, commercial and other non-financial controls to reduce bribery risk (e.g. separation of functions, two signatures on work approvals, etc.).
11. Implement controls over gifts, hospitality, donations and similar benefits to prevent them from being used for bribery purposes.

Requirements of ISO 37001 (5)

12. Ensure that all other organizations over which the organization has control implement reasonable and proportionate anti-bribery measures.
13. Require, where practicable, any business associate which poses more than a low bribery risk to the organization to implement anti-bribery controls which manage the relevant bribery risk.
14. Ensure, where practicable, that appropriate anti-bribery commitments are obtained from business associates which pose more than a low bribery risk to the organization.

Requirements of ISO 37001 (6)

15. Ensure that the organization does not participate in, or withdraws from, any transaction where it cannot appropriately manage the bribery risk.
16. Ensure that resources (personnel, equipment, financial) are made available as necessary for effective implementation of ABMS.
17. Produce and retain appropriate documentation in relation to the design and implementation of the anti-bribery policy and ABMS.

Requirements of ISO 37001 (7)

18. Implement reporting (whistle-blowing) procedures which enable persons to report suspected bribery, or breach of the ABMS, to the compliance function or to appropriate personnel.
19. Implement procedures to investigate and deal appropriately with any suspected or actual bribery or violation of the ABMS.
20. Monitor, measure and evaluate the effectiveness of the ABMS.

Requirements of ISO 37001 (8)

21. Undertake internal audits which assess whether the ABMS complies with ISO 37001 and is being effectively implemented.
22. Undertake periodic reviews of the effectiveness of the ABMS by the compliance function and top management.
23. Rectify any identified problem with the ABMS, and improve the ABMS as necessary.

ISO 37001 has an Annex which contains guidance to help an organization implement an anti-bribery programme.

Cost of implementation (1)

- The cost of implementing an ISO 37001 compliant ABMS will depend on many factors such as:
 - size of the organization
 - complexity of its structure and operations
 - where it does business
 - number of interactions it has with other organizations
 - how advanced its existing programme is.

- If the organization chooses to get its programme independently certified, there will also be the cost of certification. This cost is also likely to vary according to the above factors (which is the same as with e.g. ISO 9001).

Cost of implementation (2)

- Cost is unlikely to be a competitive disadvantage. Likely to be an advantage if:
 - a procuring entity requires all its bidders to be compliant with ISO 37001; or
 - additional points given in the procurement evaluation for evidence of anti-bribery policies.
- Cost of implementing system likely to be minimal when compared to loss and damage which could be suffered by an organization which gets involved in bribery. System can help prevent loss.

Certification (1)

- Organizations can get certified to ISO 37001 in a similar way to 9001 and 14001.
- Certification provides independent assurance to the organization and its stakeholders as to the organization's compliance.

Certification (2)

- Several major international organisations have now obtained certification to ISO 37001. No central register is kept, so total numbers are not known. Examples:
 - ENI (Italy) (oil and gas)
 - ENEL (Italy) (electricity and gas)
 - Alstom (France) (rail)
 - CPA Global (USA) (technology, software)
 - Morgan Sindall (UK) (construction)
 - Mabey Bridge (UK) (bridge manufacturing)
 - Robert Bosch (UAE) (electronics)
 - Olympia (Greece) (energy, retail, technology)

Certification (3)

- For the standard to achieve widespread adoption and recognition internationally, there needs to be a strong pool of reputable certifying organizations with ability to certify to ISO 37001.
- Examples of major certifying bodies offering ISO 37001 certification:

BSI, DNV, BV, LRQA, AFNOR, PECB, RINA,
TÜV, SIRIM, CDG, SII, DQS, NQA

Certification (4)

- For the certifications to maintain credibility, there need to be recognised accreditation schemes for the certifiers, so as to minimise the risk of incompetent or corrupt certifiers.
- Examples of major accreditation bodies offering ISO 37001 accreditation:
 - ANAB (USA)
 - ACCREDIA (Italy)
- UKAS (UK) is undertaking a pilot with a view to offering accreditation from mid-2018.
- More bodies are expected to offer accreditation schemes by 2018.

Training

- For ISO 37001 to become an effective and widely used international standard, it is vital that effective training programmes are established internationally to train:
 - compliance managers on how to implement and operate the ISO 37001 requirements;
 - internal and external auditors on undertaking internal and certification audits of the implementation by an organization of the ISO 37001 requirements;
 - accreditation auditors on how to audit the processes of ISO 37001 certifying bodies.

Outcome

- ISO 37001 cannot provide absolute assurance that no bribery will occur. But it can help establish that the organization has implemented reasonable and proportionate anti-bribery measures.
- The risk of bribery is reduced and the playing field is levelled for organizations if proof of compliance with ISO 37001 is a project pre-qualification requirement.
- The publication and use of ISO 37001 is therefore a major step forward in the fight against bribery.
- For further information, see:
www.giaccentre.org/ISO37001.php

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End of Presentation