

Ethical Interactions with Third Party Intermediaries

Due Diligence Definition:

Process to ensure that relevant information is reviewed and properly taken into account before entering into a new agreement or when renewing an agreement with a Third Party Intermediaries.

Regulatory Environment:

Guidance from U.S. Department of Justice (DOJ)¹

“Companies are encouraged to exercise due diligence and to take all necessary precautions to ensure that they have formed a business relationship with reputable and qualified partners and representatives.”

¹*Lay-Person’s Guide to FCPA, USDOJ, June 2001 US Department of Justice*

The Business Case:

There have been several new construction initiatives in the manufacturing site where you are the designated compliance officer. Some were initiated before you came onboard.

You noticed that the third party that is being used to install a new noise reduction system has been the same even though their work schedule is behind and it is affecting the delay of other parts of the project. According to the contract, they are also responsible for getting the licenses; interact with government officials and inspections. Also, some of the equipment they purchase to include in your system is purchased from the government.

Upon looking at the documentation of the procurement process, you notice that there have been many waivers in connection with this third party. When you approach the Project Manager who initiated the purchase, he becomes defensive and the only reason that he can give for choosing this third party is that they are fast and efficient.

Questions:

- ✓ What are some points to consider in moving forward?
- ✓ Are there elements that should be considered under anti-corruption legislation, the FCPA, UK Anti bribery Act and Industry Codes?
 - ✓ What are the risk areas in this scenario?