



COMPLIANCE PROGRAM MANUAL COMPLIANCE ASSESSMENT TOOL CROSS-WALK TO DOJ EXPECTATIONS

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Policy Statement

As part of its Compliance Program, our organization shall annually complete the following assessment tool for the purposes of evaluating the current state of our organization’s Compliance Program and establishing any considerations for continuous improvement.

Definitions

<p>Federal Sentencing Guidelines for Organizations</p>	<p>The United States Sentencing Commission provides an outline of organizational expectations regarding a compliance and ethics program. To the extent such expectations are in place – if an individual or individuals in the organization commit a crime or is involved in a non-compliance activity to which the organization is held accountable, the organization may receive credit for its implementation of a compliance program at sentencing.</p> <p>https://www.ussc.gov/guidelines/organizational-guidelines</p>
<p>June 2020 DOJ Guidance</p>	<p>The Department of Justice has provided guidelines to U.S. Attorneys regarding application of the Federal Sentencing Guidelines for Organizations when deciding to investigate, prosecute and/or settle with organizations accused of misconduct. The guidelines include questions that U.S. Attorneys can use to determine the actual effectiveness of the compliance program.</p> <p>https://www.justice.gov/jm/jm-9-28000-principles-federal-prosecution-business-organizations</p> <p>https://www.justice.gov/criminal-fraud/page/file/937501/download</p>
<p>Organization Specific Activities</p>	<p>Those activities which demonstrate adherence to the expectation and which address the assessment question. References to materials, metrics, training, etc. should be provided.</p>
<p>Organization Continuous Improvement Ideas</p>	<p>If an element is not being fully addressed, an improvement idea should be noted and discussed with management.</p> <p>Where the element is believed to be appropriately managed, continuous improvement ideas should still be identified and discussed with the appropriate management team so that, using a risk-based approach, all opportunities to improve when time and resources allow, can be maximized. There should not be an expectation that every area has an improvement initiative underway at all times.</p>

Assessment Overview, Reporting, and Guidance

- 1) *Information Regarding Assessment Completion and Reporting*
 - a) Provide an overview of the scope of the assessment and process for distributing assessment findings.
 - b) The assessment should be conducted by individuals familiar with the federal sentencing guidelines, expectations for compliance within our organization’s line of business and regulatory environment, and methodology for compliance, internal audit, and root cause analysis.
 - c) Periodically, independent outside reviewers should be considered for validating the assessment.

Date Assessment was Completed:	
Period the Assessment Covered:	
Individual Accountable for the Assessment:	
Individuals Participating in the Assessment:	
Qualifications of Those Participating in the Assessment:	
Distribution of Assessment Findings (Executive Leadership Team, Executive Compliance Committee, Board, Board Committee):	
Other Comments Regarding the Assessment:	

Federal Sentencing Guidelines Alignment and Assessment

Federal Sentencing Guideline Element	Department of Justice June 2020 Guidance Questions	Our Specific Activities from the Period Under Review	Our Continuous Improvement Ideas	Our Overall Organization Alignment
<p><i>Risk Assessment Process</i></p>	<p>What methodology has the company used to identify, analyze, and address the particular risks it faces?</p> <p>What information or metrics has the company collected and used to help detect the type of misconduct in question?</p> <p>How have the information or metrics informed the company's compliance program?</p>			<p><i>Compliance program risk assessment is conducted and mitigation plans for high risk areas are undertaken. Alignment with overall enterprise risk management efforts is in place.</i></p>
	<p>Does the company devote a disproportionate amount of time to policing low-risk areas instead of high-risk areas, such as questionable payments to third-party consultants, suspicious trading activity, or excessive discounts to resellers and distributors?</p> <p>Does the company give greater scrutiny, as warranted, to high-risk transactions (for instance, a large-dollar contract with a government agency in a high-risk country) than more modest and routine hospitality and entertainment?</p>			

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	<p>Is the risk assessment current and subject to periodic review?</p> <p>Is the periodic review limited to a “snapshot” in time or based upon continuous access to operational data and information across functions?</p> <p>Has the periodic review led to updates in policies, procedures, and controls?</p> <p>Do these updates account for risks discovered through misconduct or other problems with the compliance program?</p>			
	<p>Does the company have a process for tracking and incorporating into its periodic risk assessment lessons learned either from the company’s own prior issues or from those of other companies operating in the same industry and/or geographical region?</p>			

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<p><i>Policies and Procedures</i></p>	<p>What is the company's process for designing and implementing new policies and procedures and updating existing policies and procedures, and has that process changed over time?</p> <p>Who has been involved in the design of policies and procedures?</p> <p>Have business units been consulted prior to rolling them out?</p>			<p>Key compliance and billing policies are in place and reviewed in addition to a company Code of Conduct (CoC) and Employee Handbook.</p>
	<p>What efforts has the company made to monitor and implement policies and procedures that reflect and deal with the spectrum of risks it faces, including changes to the legal and regulatory landscape?</p>			

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	<p>How has the company communicated its policies and procedures to all employees and relevant third parties?</p> <p>If the company has foreign subsidiaries, are there linguistic or other barriers to foreign employees' access?</p> <p>Have the policies and procedures been published in a searchable format for easy reference?</p> <p>Does the company track access to various policies and procedures to understand what policies are attracting more attention from relevant employees?</p>			
	<p>Who has been responsible for integrating policies and procedures?</p> <p>Have they been rolled out in a way that ensures employees' understanding of the policies?</p> <p>In what specific ways are compliance policies and procedures reinforced through the company's internal control systems?</p>			

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	<p>What, if any, guidance and training has been provided to key gatekeepers in the control processes (e.g., those with approval authority or certification responsibilities)?</p> <p>Do they know what misconduct to look for?</p> <p>Do they know when and how to escalate concerns?</p>			
<p><i>Training and Communications</i></p>	<p>What training have employees in relevant control functions received?</p> <p>Has the company provided tailored training for high-risk and control employees, including training that addresses risks in the area where the misconduct occurred?</p> <p>Have supervisory employees received different or supplementary training?</p> <p>What analysis has the company undertaken to determine who should be trained and on what subjects?</p>			<p>Training on policies and procedures are in place for all associates with targeted training on higher risk expectations. Annual updates are conducted.</p>

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	<p>Has the training been offered in the form and language appropriate for the audience?</p> <p>Is the training provided online or in person (or both), and what is the company's rationale for its choice?</p> <p>Has the training addressed lessons learned from prior compliance incidents?</p> <p>Whether online or in person, is there a process by which employees can ask questions arising out of the trainings?</p> <p>How has the company measured the effectiveness of the training?</p> <p>Have employees been tested on what they have learned?</p> <p>How has the company addressed employees who fail all or a portion of the testing?</p> <p>Has the company evaluated the extent to which the training has an impact on employee behavior or operations?</p>			

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	<p>What has senior management done to let employees know the company's position concerning misconduct?</p> <p>What communications have there been generally when an employee is terminated or otherwise disciplined for failure to comply with the company's policies, procedures, and controls?</p>			
	<p>What resources have been available to employees to provide guidance relating to compliance policies?</p> <p>How has the company assessed whether its employees know when to seek advice and whether they would be willing to do so?</p>			

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<p><i>Confidential Reporting & Investigations</i></p>	<p>Does the company have an anonymous reporting mechanism and, if not, why not?</p> <p>How is the reporting mechanism publicized to the company's employees and other third parties? Has it been used?</p> <p>Does the company take measures to test whether employees are aware of the hotline and feel comfortable using it?</p> <p>How has the company assessed the seriousness of the allegations it received?</p> <p>Has the compliance function had full access to reporting and investigative information?</p>			<p>A confidential helpline is maintained and advertised to all associates on a regular basis. Investigations are confidential, timely and conducted by trained individuals. The non-retaliation policy is a key part of annual training.</p>

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	How does the company determine which complaints or red flags merit further investigation?			
	How does the company ensure that investigations are properly scoped?			
	What steps does the company take to ensure investigations are independent, objective, appropriately conducted, and properly documented?			
	How does the company determine who should conduct an investigation, and who makes that determination?			
	Does the company apply timing metrics to ensure responsiveness?			
	Does the company have a process for monitoring the outcome of investigations and ensuring accountability for the response to any findings or recommendations?			
Are the reporting and investigating mechanisms sufficiently funded?				
How has the company collected, tracked, analyzed, and used information from its reporting mechanisms?				

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	<p>Does the company periodically analyze the reports or investigation findings for patterns of misconduct or other red flags for compliance weaknesses?</p> <p>Does the company periodically test the effectiveness of the hotline, for example by tracking a report from start to finish?</p>			
<p><i>Third Party Management</i></p>	<p>How has the company's third-party management process corresponded to the nature and level of the enterprise risk identified by the company?</p> <p>How has this process been integrated into the relevant procurement and vendor management processes?</p>			<p>Third parties doing business with our organization are identified and risk ranked with higher risk third parties undergoing additional compliance scrutiny. All are required to submit certifications of compliance. Billing</p>

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	<p>How does the company ensure there is an appropriate business rationale for the use of third parties?</p> <p>If third parties were involved in the underlying misconduct, what was the business rationale for using those third parties?</p> <p>What mechanisms exist to ensure that the contract terms specifically describe the services to be performed, that the payment terms are appropriate, that the described contractual work is performed, and that compensation is commensurate with the services rendered?</p>			<p>data is monitored for anomalies.</p>

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	<p>How has the company considered and analyzed the compensation and incentive structures for third parties against compliance risks?</p> <p>How does the company monitor its third parties?</p> <p>Does the company have audit rights to analyze the books and accounts of third parties, and has the company exercised those rights in the past?</p> <p>How does the company train its third party relationship managers about compliance risks and how to manage them?</p> <p>How does the company incentivize compliance and ethical behavior by third parties?</p> <p>Does the company engage in risk management of third parties throughout the lifespan of the relationship, or primarily during the onboarding process?</p>			

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	<p>Does the company track red flags that are identified from due diligence of third parties and how those red flags are addressed?</p> <p>Does the company keep track of third parties that do not pass the company's due diligence or that are terminated?</p> <p>Does the company take steps to ensure that those third parties are not hired or re-hired at a later date?</p> <p>If third parties were involved in the misconduct at issue in the investigation, were red flags identified from the due diligence or after hiring the third party, and how were they resolved?</p> <p>Has a similar third party been suspended, terminated, or audited as a result of compliance issue?</p>			

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<p><i>Mergers and Acquisitions</i></p>	<p>Was the company able to complete pre-acquisition due diligence and, if not, why not?</p> <p>Was the misconduct or the risk of misconduct identified during due diligence?</p> <p>Who conducted the risk review for the acquired/merged entities and how was it done?</p> <p>What is the M&A due diligence process generally?</p>			<p>Compliance due diligence is conducted at a high level prior to an M&A decision. Within the first quarter after an acquisition, a full detailed compliance assessment is completed. All new associates are training on our expectations within the first thirty days.</p>
	<p>How has the compliance function been integrated into the merger, acquisition, and integration process?</p>			
	<p>What has been the company's process for tracking and remediating misconduct or misconduct risks identified during the due diligence process?</p> <p>What has been the company's process for implementing compliance policies and procedures, and conducting post acquisition audits, at newly acquired entities?</p>			

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<p><i>Commitment by Management</i></p>	<p>How have senior leaders, through their words and actions, encouraged or discouraged compliance, including the type of misconduct involved in the investigation?</p> <p>What concrete actions have they taken to demonstrate leadership in the company's compliance and remediation efforts?</p> <p>How have they modelled proper behavior to subordinates?</p> <p>Have managers tolerated greater compliance risks in pursuit of new business or greater revenues?</p> <p>Have managers encouraged employees to act unethically to achieve a business objective, or impeded compliance personnel from effectively implementing their duties?</p>			<p>Both Board and Executive team Compliance committees meet to review the efficacy of the compliance program. Executives regularly champion the program via their communication and actions.</p>

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	<p>What actions have senior leaders and middle-management stakeholders (e.g., business and operational managers, finance, procurement, legal, human resources) taken to demonstrate their commitment to compliance or compliance personnel, including their remediation efforts?</p> <p>Have they persisted in that commitment in the face of competing interests or business objectives?</p>			
	<p>What compliance expertise has been available on the board of directors?</p> <p>Have the board of directors and/or external auditors held executive or private sessions with the compliance and control functions?</p> <p>What types of information have the board of directors and senior management examined in their exercise of oversight in the area in which the misconduct occurred?</p>			

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<p><i>Autonomy and Resources</i></p>	<p>Where within the company is the compliance function housed (e.g., within the legal department, under a business function, or as an independent function reporting to the CEO and/or board)?</p> <p>To whom does the compliance function report?</p> <p>Is the compliance function run by a designated chief compliance officer, or another executive within the company, and does that person have other roles within the company?</p> <p>Are compliance personnel dedicated to compliance responsibilities, or do they have other, non-compliance responsibilities within the company?</p> <p>Why has the company chosen the compliance structure it has in place?</p> <p>What are the reasons for the structural choices the company has made?</p>			<p>The department budget is adequately funded to provide for compliance staff, contractors, tools and resources. A GRC system tracks all compliance requirements.</p>

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	<p>How does the compliance function compare with other strategic functions in the company in terms of stature, compensation levels, rank/title, reporting line, resources, and access to key decision-makers?</p> <p>What has been the turnover rate for compliance and relevant control function personnel?</p> <p>What role has compliance played in the company's strategic and operational decisions?</p> <p>How has the company responded to specific instances where compliance raised concerns?</p> <p>Have there been transactions or deals that were stopped, modified, or further scrutinized as a result of compliance concerns?</p>			

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	<p>Do compliance and control personnel have the appropriate experience and qualifications for their roles and responsibilities?</p> <p>Has the level of experience and qualifications in these roles changed over time?</p> <p>How does the company invest in further training and development of the compliance and other control personnel?</p> <p>Who reviews the performance of the compliance function and what is the review process?</p>			
	<p>Has there been sufficient staffing for compliance personnel to effectively audit, document, analyze, and act on the results of the compliance efforts?</p> <p>Has the company allocated sufficient funds for the same?</p> <p>Have there been times when requests for resources by compliance and control functions have been denied, and if so, on what grounds?</p>			

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	<p>Do compliance and control personnel have sufficient direct or indirect access to relevant sources of data to allow for timely and effective monitoring and/or testing of policies, controls, and transactions?</p> <p>Do any impediments exist that limit access to relevant sources of data and, if so, what is the company doing to address the impediment?</p>			
	<p>Do the compliance and relevant control functions have direct reporting lines to anyone on the board of directors and/or audit committee?</p> <p>How often do they meet with directors?</p> <p>Are members of the senior management present for these meetings?</p> <p>How does the company ensure the independence of the compliance and control personnel?</p>			

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	<p>Has the company outsourced all or parts of its compliance functions to an external firm or consultant? If so, why, and who is responsible for overseeing or liaising with the external firm or consultant?</p> <p>What level of access does the external firm or consultant have to company information?</p> <p>How has the effectiveness of the outsourced process been assessed?</p>			
<p><i>Incentives and Disciplinary Measures</i></p>	<p>Who participates in making disciplinary decisions, including for the type of misconduct at issue?</p> <p>Is the same process followed for each instance of misconduct, and if not, why?</p> <p>Are the actual reasons for discipline communicated to employees? If not, why not?</p> <p>Are there legal or investigation-related reasons for restricting information, or have pre-textual reasons been provided to protect the company from whistleblowing or outside scrutiny?</p>			<p>Compensation and bonuses are validated annually for compliance risk while disciplinary measures are appropriately enforced commensurate with the violation and circumstances.</p>

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	<p>Have disciplinary actions and incentives been fairly and consistently applied across the organization?</p> <p>Does the compliance function monitor its investigations and resulting discipline to ensure consistency?</p> <p>Are there similar instances of misconduct that were treated disparately, and if so, why?</p>			
	<p>Has the company considered the implications of its incentives and rewards on compliance?</p> <p>How does the company incentivize compliance and ethical behavior?</p> <p>Have there been specific examples of actions taken (e.g., promotions or awards denied) as a result of compliance and ethics considerations?</p> <p>Who determines the compensation, including bonuses, as well as discipline and promotion of compliance personnel?</p>			

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<p><i>Continuous Improvement and Periodic Testing</i></p>	<p>What is the process for determining where and how frequently internal audit will undertake an audit, and what is the rationale behind that process?</p> <p>How are audits carried out?</p> <p>What types of audits would have identified issues relevant to the misconduct?</p> <p>Did those audits occur and what were the findings?</p> <p>What types of relevant audit findings and remediation progress have been reported to management and the board on a regular basis?</p> <p>How have management and the board followed up? How often does internal audit conduct assessments in high-risk areas?</p>			<p>An annual review of the compliance program is undertaken as well as benchmarking and root cause analysis after non-compliant incidents are identified. Every other year an external review of the Compliance Program is conducted.</p>
	<p>Has the company reviewed and audited its compliance program in the area relating to the misconduct?</p> <p>More generally, what testing of controls, collection and analysis of compliance data, and interviews of employees and third parties does the company undertake?</p> <p>How are the results reported and action items tracked?</p>			

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	<p>How often has the company updated its risk assessments and reviewed its compliance policies, procedures, and practices?</p> <p>Has the company undertaken a gap analysis to determine if particular areas of risk are not sufficiently addressed in its policies, controls, or training?</p> <p>What steps has the company taken to determine whether policies/procedures/practices make sense for particular business segments/subsidiaries?</p> <p>Does the company review and adapt its compliance program based upon lessons learned from its own misconduct and/or that of other companies facing similar risks?</p>			
	<p>How often and how does the company measure its culture of compliance?</p> <p>Does the company seek input from all levels of employees to determine whether they perceive senior and middle management's commitment to compliance?</p> <p>What steps has the company taken in response to its measurement of the compliance culture?</p>			

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<i>Investigations & Root Cause Analysis</i>	How has the company ensured that the investigations have been properly scoped, and were independent, objective, appropriately conducted, and properly documented?			Investigations are undertaken by trained individuals and Include appropriate root cause analysis leading to the appropriate improvement in business processes to reduce reoccurrence of the non-compliant incidents.
	Have the company's investigations been used to identify root causes, system vulnerabilities, and accountability lapses, including among supervisory managers and senior executives?			
	What has been the process for responding to investigative findings?			
	How high up in the company do investigative findings go?			
	What is the company's root cause analysis of the misconduct at issue?			
Were any systemic issues identified?				
Who in the company was involved in making the analysis?				

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	<p>What controls failed?</p> <p>If policies or procedures should have prohibited the misconduct, were they effectively implemented, and have functions that had ownership of these policies and procedures been held accountable?</p>			
	<p>How was the misconduct in question funded (e.g., purchase orders, employee reimbursements, discounts, petty cash)?</p> <p>What processes could have prevented or detected improper access to these funds?</p> <p>Have those processes been improved?</p>			
	<p>If vendors were involved in the misconduct, what was the process for vendor selection and did the vendor undergo that process?</p>			
	<p>Were there prior opportunities to detect the misconduct in question, such as audit reports identifying relevant control failures or allegations, complaints, or investigations?</p> <p>What is the company's analysis of why such opportunities were missed?</p>			

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	<p>What specific changes has the company made to reduce the risk that the same or similar issues will not occur in the future?</p> <p>What specific remediation has addressed the issues identified in the root cause and missed opportunity analysis?</p>			
	<p>What disciplinary actions did the company take in response to the misconduct and were they timely?</p> <p>Were managers held accountable for misconduct that occurred under their supervision?</p> <p>Did the company consider disciplinary actions for failures in supervision?</p> <p>What is the company's record (e.g., number and types of disciplinary actions) on employee discipline relating to the types of conduct at issue?</p> <p>Has the company ever terminated or otherwise disciplined anyone (reduced or eliminated bonuses, issued a warning letter, etc.) for the type of misconduct at issue?</p>			