Hiding in plain sight: 
The anatomy of a bribe

Today’s Reality

- Operating in foreign countries carries the risk of bribery and corruption.
- Bribes can lurk anywhere that there is contact with foreign officials.
- Bribes are most often camouflaged as legitimate payments.
- There are many types of bribes, and they can live in both the supply and sales channels.

Enforcement of anti-bribery and corruption laws around the world is at an all-time high. Regulators are attacking corruption by wielding older weapons, such as the 1977 U.S. Foreign Corrupt Practices Act (FCPA), and by using new ammunition like the 2010 U.K. Bribery Act.

If your company does business in any foreign country, there’s a risk that bribes could be hiding in plain sight. To know what they look like and where to find them, you first need to understand the anatomy of a bribe.

What Is a Bribe?
The dictionary defines a “bribe” as “money or favor given or promised in order to influence the judgment or conduct of a person in a position of trust.” Yet its meaning under most global anti-bribery and corruption laws is much more nuanced.

Example: The FCPA prohibits paying, offering, or promising to pay “anything of value” to a foreign government official or instrumentality in order to obtain or retain business. There’s no minimum monetary threshold. Whatever is paid or promised can have an intangible value, and it can be received only beneficially by the recipient.

A bribe also must be intended to corruptly induce the recipient to misuse an official position. The U.K. Bribery Act defines a bribe as being a “financial or other advantage” and does not require corrupt intent. The Anti-Bribery Convention of the Organization for Economic Cooperation and Development, which has been signed by 39 countries, defines a bribe as any “undue pecuniary or other advantage” that was made intentionally.

What Are the Exceptions?
Under the FCPA, payments that otherwise would be bribes aren’t prohibited if they are made to facilitate or expedite routine governmental actions, such as issuing permits or licenses. A payment or promise that would constitute a bribe under the FCPA also isn’t prohibited if it is legal under the written laws of the applicable foreign country.

Most anti-bribery and corruption laws permit payments to foreign government officials for bona fide hospitality, promotion, product demonstration, and other business expenditures that are proportionate and reasonable.

On the Trail of Bribes
Periodic proactive risk assessments should be conducted to pinpoint areas where the business may be most vulnerable. Armed with this risk profile, internal controls can be implemented strategically and testing can be aimed precisely. Bribes most often are camouflaged as legitimate payments. They may take cover in both the supply channel and the sales channel, and they may be propagated by third parties.

Look for foreign government contacts with your organization. These may be direct contacts, such as interacting with government agencies that regulate business licenses, taxes (VAT), customs, import/export, real estate, transportation/shipping, utilities, and product certifications or approvals. Foreign government contacts also occur indirectly through third-party intermediaries. Closely monitor those that carry the greatest risk: brokers, agents, shippers, custom logistics, resellers, and distributors delivering services that interact with foreign officials.
Sufficient background research needs to be conducted on vendors, suppliers, and agents to ensure that you are dealing only with reputable third parties. You must determine if any third parties are owned or controlled by current or former foreign officials, or by people closely affiliated with these officials. Sophisticated corporate intelligence tools can provide various levels of reputational due diligence.

Where Do Bribes Hide?
Look for insufficient or nonexistent descriptions of the transaction, lack of proper support, and specious business rationale for the transaction. Conducting trend analyses and data analytics on these accounts can expose anomalies that might point to a hiding place. Taking a risk-based judgmental sample of transactions for testing can be based on certain risk factors (e.g., the kind of counterparties, the geographical location of counterparties, the stated purpose of the transaction, and the likelihood of government touch points).

Many bribes are relatively small in amount. It may be necessary to take samples of transactions and review supporting documentation to assess the legitimacy of a payment.

With travel and entertainment expenses, look for original receipt documentation; the names of individuals involved and the purpose of the event; proper approvals and timely submissions; reasonable exchange rates; and mathematical accuracy of the expense report.

Each document transmitted to or from your organization should be examined for a bribe’s footprint. Bribes may hide in contracts and agreements, financing arrangements, invoices, purchase orders, bills of lading and shipping documents, bank statements, and written communications. Special attention should be paid to supplemental, modified, or last-issued invoices and purchase orders because many times a bribe is solicited after the initial business dealings. Sales contracts should be reviewed to assess the reasonableness of margins, commissions, and costs, as well as for vague terms, advance fees, large termination fees, or frequent undocumented change orders.

The most common types of disguises are special payments or fees; above-market commissions; business introduction fees; rebates or discounts; promotion and marketing expenses; inspection fees; political or charitable contributions; or unusual selling or distribution charges. More creative covers for bribes can be manipulations of currency exchange conversions; payments in other currencies; overstated product quantities or weights; overly complex financing terms; or unnecessary insurance/indemnity charges.

Simplifying the supply and sales channels can help. Many of the hiding places can be removed by eliminating third parties that aren’t essential for business operation, by reducing complex procurement and distribution processes, and by creating uniform external documentation.

Identifying Bribes That Leave No Trace on the Books and Records
Preferential treatment or manipulation in the bidding or RFP process to select suppliers, vendors, or third-party agents can also be a breeding ground for bribes that rarely leave a trail.

Additionally, bribes may take the form of:
- Gifts
- Use of materials, equipment, facilities, or services
- Transportation and hospitality
- Offers of employment
- Scholarships and educational allowances

Another form of bribery is awarding work to a third party that’s affiliated with a current or former official or their family. This is especially true if the third party isn’t qualified, can’t deliver the service, or doesn’t submit the lowest bid or quote. These types of bribes are extremely difficult to detect because they often don’t leave a footprint anywhere in your organization. In many cases, the only way to detect one of these bribes is for someone to spot it and report it to the appropriate person.

What Can I Do Now?
Armed with understanding of what bribes are and where to look for them, the most effective way to ferret out bribes then becomes implementation of a comprehensive anti-bribery and corruption compliance program. But one size does not fit all. A compliance program must be tailored to accommodate your risk profile and resources.

By taking a proactive approach to preventing bribery, you can dramatically reduce the occurrence of bribery even in the most corrupt locations. Because bribes can live in so many different habitats, a comprehensive compliance program is like a net that can snare bribes wherever they hide...even in plain sight.

Common Hideouts
- Expense reimbursements for excessive travel and entertainment
- Petty cash and advances to employees
- Accounts payable
- Expense and disbursement logs
- Check and wire registers
- Inventory
- Cost of goods sold
- Sales and marketing expenses
- Rebates and discounts

Identifying Bribes That Leave No Trace on the Books and Records
Preferential treatment or manipulation in the bidding or RFP process to select suppliers, vendors, or third-party agents can also be a breeding ground for bribes that rarely leave a trail.

Additionally, bribes may take the form of:
- Gifts
- Use of materials, equipment, facilities, or services
- Transportation and hospitality
- Offers of employment
- Scholarships and educational allowances

Another form of bribery is awarding work to a third party that’s affiliated with a current or former official or their family. This is especially true if the third party isn’t qualified, can’t deliver the service, or doesn’t submit the lowest bid or quote. These types of bribes are extremely difficult to detect because they often don’t leave a footprint anywhere in your organization. In many cases, the only way to detect one of these bribes is for someone to spot it and report it to the appropriate person.

What Can I Do Now?
Armed with understanding of what bribes are and where to look for them, the most effective way to ferret out bribes then becomes implementation of a comprehensive anti-bribery and corruption compliance program. But one size does not fit all. A compliance program must be tailored to accommodate your risk profile and resources.

By taking a proactive approach to preventing bribery, you can dramatically reduce the occurrence of bribery even in the most corrupt locations. Because bribes can live in so many different habitats, a comprehensive compliance program is like a net that can snare bribes wherever they hide...even in plain sight.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2013 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved. The KPMG name, logo and “cutting through complexity” are registered trademarks or trademarks of KPMG International. NDPPS 149204