

Organizational Integrity

Shorts



Edition 1.2

Everyone Benefits When An Ethics & Compliance Program Is Integrated Throughout An Organization

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Welcome back to our second installment of *OIG Shorts*. In this post, we focus on the difference between ***Checking Boxes and Solving Problems*** from an Ethics & Compliance (E&C) perspective. We all know what attributes an E&C program *should* have. Combine the elements of DOJ's Corporate Charging Guidelines, the federal Suspension/Debarment rules, and FAR 52.203-13, and you'll have a pretty good checklist. But we contend thinking about an E&C program as a check-the-box exercise is a mistake. Nonetheless, it's what many of us do because that's how the Government evaluates our programs.

Case in point—we were working with a manufacturing company a few years ago that got in trouble for selling products to the Government made in China. (A no-no under the Trade Agreements Act). Knowing the prominence of training on the Government's E&C checklist, the company rushed to implement a training program that would satisfy its legal obligations. It found a generic off-the-shelf PowerPoint and compelled its 5,000-person staff to sit through training that, frankly, was not relevant to most of them. But at least they checked off the box, right? Perhaps, but at what cost? We contend that with a little more thought the company could have adopted a less expensive compliance effort tailored to its actual risk profile that would have been more effective at preventing the activities that actually put the company at risk in the first place.

Federal contractors certainly are not the only entities to slip into a check-the-box mentality from time to time. Schools "teach to the test" at the expense of broader—and arguably more worthwhile—knowledge. Cities and towns launch social programs demanded by one segment of their community or another with no real evidence regarding their efficacy. Law enforcement agencies implement policies of highly arguable effectiveness because one group or another demands immediate action in the face of some event.

But saying corporate E&C programs suffer from the same shortcomings of other industries is no excuse for not trying to avoid those shortcomings. There are some simple things we can do:



1. **Look for evidence-based programs.** Our Organizational Integrity Group conducts *Legal Pre-Mortems* as part of a holistic E&C effort to help clients reduce risk. There is good evidence that a meaningful pre-mortem helps identify hidden problems and risks. Obviously, this is just one example of an evidence-based program (which you can read more about [HERE](#)). There are more well worth exploring.

2. **Measure the effectiveness of our efforts.** Famed management consultant Peter Drucker notably said “you can’t manage what you don’t measure.” That adage applies to E&C programs just as it applies to the sales and marketing teams. Why throw good money after bad if there is no evidence your spending is accomplishing your goals?

3. **Be willing to rethink/restructure programs that are not working.** E&C programs—especially costly ones—develop a certain inertia. After investing in a program, no one wants to admit it was not as effective as they had hoped (and perhaps led management to believe). But, not all seemingly good ideas succeed. While it’s hard to do, everyone benefits from a willingness to reevaluate, rethink, and redeploy.

We recognize that, until the Government changes the way the enforcement community thinks, there will continue to be a check-the-box mentality among companies. But, if we think of those boxes as the starting point rather than the end point, we will end up with more effective, more efficient, and less costly programs. Paper Tiger programs may look meaningful, but they are ineffective and insufficient as a matter of law.

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