
The New Mexican Anti-Bribery Regulation

by Mauricio Garza.

After many years of corruption stories and manipulation by certain control groups and several unsuccessful actions looking for effective ways to fight bribery in public procurement in Mexico, a Mexican anti-bribery law was finally designed and intended to legitimate and transparent public bidding procedures.

The new regulation, which became effective on June of 2012, is aimed to boost Mexican economy by offering open and fair bids to all competitors, surely attracting more capital and technology in areas such as telecommunication and transportation infrastructure, energy, oil and gas exploration and extraction, among other industries. Mexican regulators adopted worldwide practices from the Inter-American Convention against Corruption, the UN Convention against corruption and the OECD Anti-Bribery Convention, among others.

The main purpose of this new regulation is to impose liability to individuals and entities participating in federal procurement contracts and to sanction them in the case they (among other actions) offer or deliver money or carry out any action directed to cause or force a public officer or any other individual to directly grant or at least favor such individual in a federal procurement contract. The regulation also sanctions the intentional oversight of any omission or requirement which should be complied with by all bid participants and the use of influences and in the case they omit to provide information, or provide false information.

In order to penalize corrupt governmental employees, the new regulation provides sanctions to individuals and companies, domestic and foreign, involved in the bribery acts whether directly participating in the public bids or participating with a bidder as shareholders, partners, representatives, commissioners, agents, employees or in any other position in which their participation could be demonstrated, considering penalties up to around U.S.\$9 Million or even an additional 50% in case that the competent authority considers that the benefit obtained was higher than the sanction. Those found guilty under the regulation may be also deemed ineligible to participate in other federal procurement procedures for a period of up to 10 years.

The new anti-bribery law also grants certain protection to whistleblowers, as it provides for the investigation of a possible bribery act or violation derived from an anonymous accusation, generating certain degree of confidence among the informants. It also offers sanction reduction benefits in the case that any individual or entity which has violated the law confesses to his or its involvement in the bribery actions.

The need of a regulation such as this was evident in order to provide clearer processes on public procurement in Mexico. The new regulation will definitely enhance the growth of

the current strong Mexican economy, adding more confidence to investors which look for opportunities to work under governmental agreements.

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