

Bribery and Corruption Red Flags

A “red flag” is a fact, event, or set of circumstances, or other information that may indicate a potential legal compliance concern for illegal or unethical business conduct, particularly with regard to corrupt practices and non-compliance with anti-corruption laws.

When conducting due diligence on a third party (or any intermediary), these “red flag” examples should always trigger concern and appropriate review by Legal. While these examples are not exhaustive and may not in themselves constitute or indicate a violation of the FCPA or other applicable Anti-Corruption Laws, they may be indicators of potential current or future anti-corruption non-compliance. Such indicators must be evaluated to understand any actual risks, any reasonable resolution or measures which must be implemented to mitigate a risk, or if Lockheed Martin should not engage the third party because the risk is unacceptable.

Poor Reputation

- The transaction or the party is in a country known for widespread corruption, as measured by the Transparency International Corruption Perceptions Index or other similar indices
- Party has a poor business reputation or a reputation for unethical conduct, including reports of suspicious, unethical, or unlawful conduct about the party, its sub-agents or its employees
- Party has a history of improper payment practices, such as prior or ongoing formal or informal investigations by law enforcement authorities or prior convictions
- Party has been subject to criminal enforcement actions or civil actions for acts suggesting illegal, improper or unethical conduct
- Allegations the party has made or has a propensity to make prohibited payments or facilitation payments to officials
- Allegations related to integrity, such as a reputation for illegal, improper, or unethical conduct
- Party does not have in place an adequate compliance program or code of conduct or refuses to adopt one
- Other companies have terminated the party for improper conduct
- Information provided about the party or its services or principals is not verifiable by data, only anecdotally
- Demonstrated willingness to violate local law or policy (e.g., prohibitions on commissions, currency or tax law violations)

Ties to Government & Public Officials

- Party is retained primarily for its connections to public officials
- Party is recommended by a public official, his/her family member, or his/her close associate
- A public official requests, urges, insists, or demands that a particular party, company, or individual (agents, vendors, service providers, etc.) be selected or

engaged, particularly if the official has discretionary authority over the business at issue

- Party is a company with an owner, major shareholder or executive manager who is a public official
- Party has financial or business ties, relationship, or association with public officials
- Party previously worked in an government agency or state-owned company at a high level, or in an agency/department relevant to the work he/she will be performing
- Party has a close family relationship to a public official or is closely associated with a public official or agency
- Rumor or suggestion that the party has an undisclosed beneficial owner
- Party makes large or frequent political contributions, makes references to political or charitable donations as a way of influencing official action
- Party conducts private meetings with public officials, provides lavish gifts or hospitality to public officials, or insists on dealing with public officials without the participation of the Corporation
- Party reluctance to act openly or efforts to hide the nature or extent of its interactions with the Company from the public or public officials
- Public official requests for meals, alcohol, travel, entertainment, gifts, services, benefits, hiring of relatives, political or charitable contributions, or any other favor; reports of suspicious, unethical, or unlawful conduct about the foreign official
- Government services involving:
 - Requests for payment in excess of the amount usually required for the specified government services
 - Invoices for government services lack detail (e.g., “services rendered”), appear unofficial or seem too expensive (e.g., higher than posted rates, higher than past charges, sudden unexplained increases, etc.)
 - Large sales go to government agencies with high unit price, low frequency
 - Requests for unusual methods of payment for government services (e.g., payment through a third country or institution or in cash)

Questionable or Unusual Circumstances

- Lack of written agreement or refusal to execute a written agreement or requests to perform services without a written agreement where one is sought
- Misrepresentation or inconsistencies in the party’s application or during the due diligence process
- Failure to cooperate with the due diligence investigation or refusal to answer questions or make representations and warranties
- Party is not in compliance with local law
- Suspicious statements such as needing payments to “get the business” or “make the necessary arrangements” or “take care of things” or “finalize the deal”
- Bankruptcies, default on obligations, civil suits alleging fraud, property seizures, criminal or regulatory issues
- Appointment late in the process

- Losing bidders sought to be hired as agents or subcontractors
- Refusal to agree to comply with the FCPA, UKBA, equivalent applicable anti-corruption legislation, anti-money laundering laws, or other similar laws and regulations.
- Refusal to warrant past compliance with the FCPA, UKBA, equivalent applicable anti-corruption legislation, anti-money laundering laws, or other similar laws and regulations.
- Refusal to accept audit clauses in contracts
- Requests for anonymity or insistence that that identity remain confidential or that the relationship remain secret
- Refusal to divulge the identity of beneficial owners, directors, officers, or other principals
- Any suggestion that anti-corruption compliance policies need not be followed
- Any suggestion that otherwise illegal conduct is acceptable because it is the norm or customs in a particular country
- Representation is illegal under local law
- Alleged performance of the third party is suspiciously higher than competitors or companies in related industries
- Guarantees or promises unusually high rates of return on the promotional services provided
- Requests for approval of a significantly excessive budget or unusual expenditures

Unusual Compensation & Questionable Accounting or Invoicing

- Excessive or unusually high compensation
- Fee, commission, or volume discount provided is unusually high compared to market rate
- Compensation arrangement is based on a success fee or bonus; unusual bonuses for foreign operating managers
- Requests for a commission or other payment substantially above the market rate or a substantial up-front payment or unusual advance payment
- Request to share compensation with others whose identities are not disclosed
- Request for increase in compensation during sales or marketing campaign or at period end
- Request for payments in third countries or through third parties or shell companies, particularly requests for payment in a jurisdiction outside home country that has no relationship to the transaction or the entities involved in the transaction, or when the requested country is an offshore financial center
- Payments to P.O. boxes or non-existent addresses
- Requests that payments be made to two or more accounts
- Request for payments in cash, cash equivalent, or bearer instruments or other anonymous payments
- Requests payment arrangements that raise local law issues, such as payment in another country's currency

- Requests an after-award services contract that it does not have the capacity to perform
- Requests that a donation be made to a charity or for donations of goods and services
- Payment advances to employees or third parties, particularly pressure to receive the payments urgently or ahead of schedule
- Refusal to properly document expenses, unrecorded, or incorrectly recorded transactions and other failures to follow accounting procedures/policies
- Offers to submit or submits inflated, inaccurate, or suspicious invoices
- Requests an invoice to reflect a higher amount than the actual price of goods provided
- Invoices vaguely describe the services provided or lack detail (e.g., “services rendered”)
- Poor or non-existent documentation for travel and expense reimbursements or other disbursements
- Expense reimbursements at or just below the limit allowed by company policy or payments to be made outside of authorization policies
- Over-invoicing, false or backdated invoices, consecutively numbered invoices, duplicate invoices
- Zero dollar invoices
- General purpose or miscellaneous accounts that can be used to hide improper payments
- Large individual or aggregate payments/benefits to one payee
- One-time payments to vendors and other third parties

Insufficient Capabilities

- Party is not expected to perform substantial work
- Party lacks the staff, facilities, or expertise to perform substantial work
- Party lacks relevant industry/technical experience or a “track record” with the product, service, field or industry
- Party has not been in business for very long or was only recently incorporated.
- Party is in a different line of business than that for which it has been engaged
- Party has an unorthodox corporate structure
- Party’s business address is a mail drop location, virtual office, or small private office that could not hold a business the size that is claimed
- Party has poor financial statements or credit
- Party’s plan for performing the work is vague and/or suggests a reliance on contacts or relationships
- Consultants “consulting agreements” include only vaguely described services or consultant is in a different line of business than that for which it has been engaged
- Party is merely a shell company incorporated in an offshore jurisdiction