



Do I need an Ethics Program, Compliance Program or both?

The answer to this question depends primarily on what your company does, where it operates, and who it does business with.

In general, Ethics focuses on compliance with moral behavior while Compliance focuses on compliance with legal requirements.

Ethics programs are designed to promote individual behaviors that are in the best interest of the company, its employees, and its customers. Compliance programs are designed to promote compliance with the laws that apply to the Company's operations, employees, and business transactions.

Failure to abide by Ethics policies and procedures can result in a waste of Company resources, loss of revenue, and reputational harm. Failure to abide by Compliance policies and procedures can result in the same types of losses, plus fines and penalties, access to items, technology, services and markets, and criminal prosecution.

Ethics and Compliance programs both include Corporate policies and detailed procedures. Policies explain the Company's high-level commitments to principles (Ethics) and laws (Compliance) as well as the Company's expectations of its employees and business partners. Detailed procedures define roles and responsibilities and the specific actions required by employees and business partners.

While there are similarities between the elements and interests of Ethics and Compliance programs, the objectives are different and companies can benefit from both programs. However, limited staff, resources and

budgets may require choosing the best fit for your Company's operations.

Ethics Programs

Because Ethics focuses on individual behavior, the benefits of an Ethics program applies to all companies regardless of their operations. Ethics programs typically include:

- **Codes of Conduct** – that establish the fundamental standards of legal and ethical behavior the Company expects from its employees and business partners.
- **Conflicts of Interest** – to help employees avoid and disclose potential interests, influences, or other relationships that might conflict with the Company's interest.
- **Fraud and Inducements** – that require employees to avoid all types of fraud (e.g. dishonesty, embezzlement, forgery, theft, falsification of company records), and the giving or receiving of improper inducements.
- **Use of Company Resources** – that require employees to use Company time, materials, equipment, and proprietary information for business purposes and not for personal gain, profit, or other non-business use.

Compliance Programs

Because Compliance focuses on legal requirements, the benefits of a Compliance Program depends on the laws that apply to what your company does, the countries in which it operates, and who it does business with. Where applicable, international criminal laws, such as the US Federal Sentencing Guidelines and the UK Bribery Act, define the elements of effective compliance programs:

- Written Policies and Procedures
- Responsible Corporate Official
- Training and Awareness
- Reporting and Enforcement
- Monitoring, Audit, and Response

Should an employee or business partner violate the law, Companies that have an effective Compliance program may receive reduced penalties and fines, and in some cases, a decision not to prosecute.

Where your company operates and who it does business with

If your operations are purely domestic, the need to develop an effective compliance program will depend on the local laws and regulations that apply to your operations. Where these laws provide affirmative defenses, establishing an effective Compliance program can reduce the impact violations of law would otherwise have on your company, its employees, and its reputation.

If you have international operations, the laws of the countries in which you operate will also apply. These laws may apply to the items, technology and services you acquire from other countries as well as the parties with whom you do business. International business partners may also require you to have an effective Compliance program in order to do business with them.

What your Company does

If your business requires operations in, or access to, US or EU markets, personnel, customers, items, technology, or services, US and/or EU laws related to Corruption and Bribery, Trade Controls and Sanctions, and Data Privacy and Protection will likely apply.

If you do business with international parties, the need for an effective Compliance program increases because the Compliance programs of many international parties require their business partners to have effective Compliance programs

Should staffing, recourses, and financial limitations apply to your Company, an evaluation of your Company's activities, the countries in which it operates, and it's business partners will help evaluate the benefits of establishing your own Ethics and Compliance program.

See "The Case for Compliance" to explore more about the legal and operational requirements for compliance programs.

See "Building Your Compliance Program" to explore more on how to build a regulatory compliance program that is right for your company and its operations.

For more information visit www.emme-advisory.com.