



# Effective *Due Diligence* on Vendors

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## ***Due Diligence on Other Parties***

The goal and focus of the *Due Diligence* is to obtain sufficient information from the candidates for the international business relationships (Other Party) and other independent sources to make a determination as to whether the Other Party is a financially viable candidate with the capacity to perform the required services and the high standards of ethics and integrity that are required by the Company.

## DUE DILIGENCE CHECKLIST

- Does the other party conduct business in countries ranked as high risk on the TICPI?
- How is the other party's compliance program structured, and what is the content? Evaluate the code of conduct, anti-bribery policies and procedures, training, audit and internal controls.
- Does the third party conduct business directly with a government agency?
- Does the other party enlist third parties as agents or consultants? What do these parties do? Review due diligence that was conducted prior to retention, including the documentation supporting the retention and contractual provisions governing compliance with FCPA and local law.

- In addition to inquiries directly to other party, conduct parallel due diligence review. What do public or proprietary databases reveal about the other party's operations?
- If the other party is an issuer, evaluate the books and records and internal controls for compliance with the accounting provisions of the FCPA. If there are gaps, what work will be required to bring the other party into compliance? During this process, what can be expected by way of the additional compliance gaps?
- Has there been a government investigation of the other party, its subsidiaries or employees in the past 10 years?

## Documents and information to obtain from Other Party for Due Diligence Investigation

- Documents describing registration, legal structure and ownership of the other party. Connections of the other party to any international entity
- Relations of owners and personnel of the other party to officials of the government
- Confirmation that other party is informed about your company's position on compliance with laws
- Code of Conduct of the other party
- References: banks, local business, international business, embassy.

## Information to research about Other Party

- Publications in open sources
- Check in available denial lists (for example, MK Data's Denial List)
- Social Networks: International and Local. References, group discussions, former employees references.
- Sources of business information such as databases (Lexis-Nexis), local business information sources.
- Experience of your company with other party (if applicable).

## Independent Third Party Investigation

- Structural description of the other party:
  - a) Business registration;
  - b) Ownership/shareholders
  - c) Management Structure
  - d) Government affiliation of any owner/shareholder or manager.
- Results of media, public, domain records, and database search
  - a) Criminal prosecutions of the other or party owner/shareholder or manager.
  - b) Records of litigation in which the other party have been involved

- Personal data related to the principals
  - a) Whether any of the principals are related by blood or marriage to any government officials
  - b) Educational and Professional Credentials
- Links the other party has to other companies:
  - a) Principals who are linked to other companies in your business field
  - b) Family members of principals who are linked with other companies.
- Reputational inquiries:
  - a) Professional references
  - b) Banking references
  - c) Confidential sources.



## Common Other Party Red Flags

- High risk country or industry
- No physical address for company's business operations
- Unwilling to disclose true ownership of business
- Unusual payment request or financial arrangements
- Other Party recommended by Government Official
- Other Party recommended by Client
- Unwilling to sign anti-corruption compliance certification
- Unwilling to accept audit clause
- Payment can only be made in cash
- Questionable media or background check report
- Different payment address
- Different legal entities and newly created legal entities with the same name

## Training for other party's employees

- Agent should understand your Company's Code of Conduct
- Agent should know that you will perform audit of the compliance
- The discussion on the compliance should not be focused on the FCPA or UK only. Refer to the local anti-corruption legislation
- Important to make other party to understand that even being an organization acting under local jurisdiction it is potential subject for the international laws as FCPA and UK Anti-Bribery Act
- Explain that you REALLY want other party to follow rules, and will not be satisfied if they will give you promises only.
- Explain that in case of FCPA violation your Company will not protect them or even will have to disclose information to local and international authorities.