

DEPARTMENT OF
TREASURY



ANTI-BRIBERY MANAGEMENT

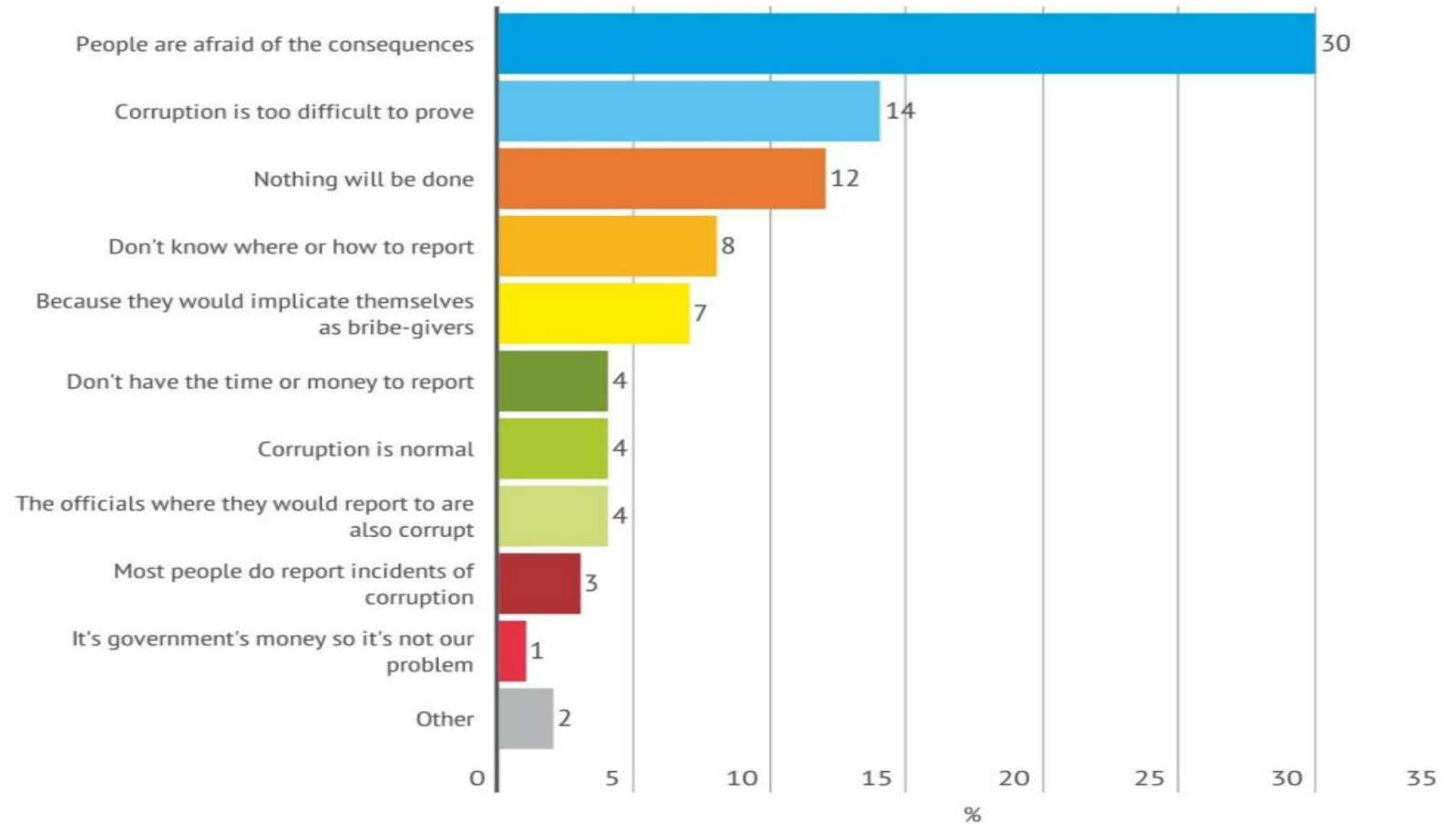
Francisco Parés Alicea
Secretary
Department of the Treasury

Introduction

- ▶ Bribery is the act of offering any object, giving money, gifts, soliciting or receiving something of value from someone in order to get them to do something illegal. This is a widespread phenomenon that causes serious social, moral, economic and political concerns, undermines good governance, hinders development and distorts competition.
- ▶ It erodes justice, undermines human rights and is an obstacle to the relief of poverty. It also increases the cost of doing business, introduces uncertainties into commercial transactions, increases the cost of goods and services, diminishes the quality of products and services, which can lead to loss of life and property, destroys trust in institutions and interferes with the fair and efficient operations of markets.

Main reasons people don't report corruption

Figure 8: Perceived main reasons people don't report corruption



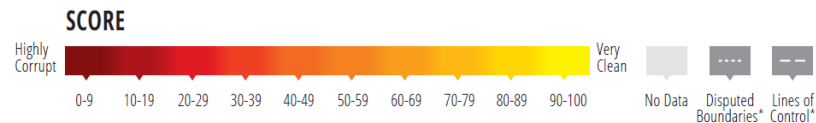
Source: Barómetro Global de la Corrupción 2016

CORRUPTION PERCEPTIONS INDEX 2022

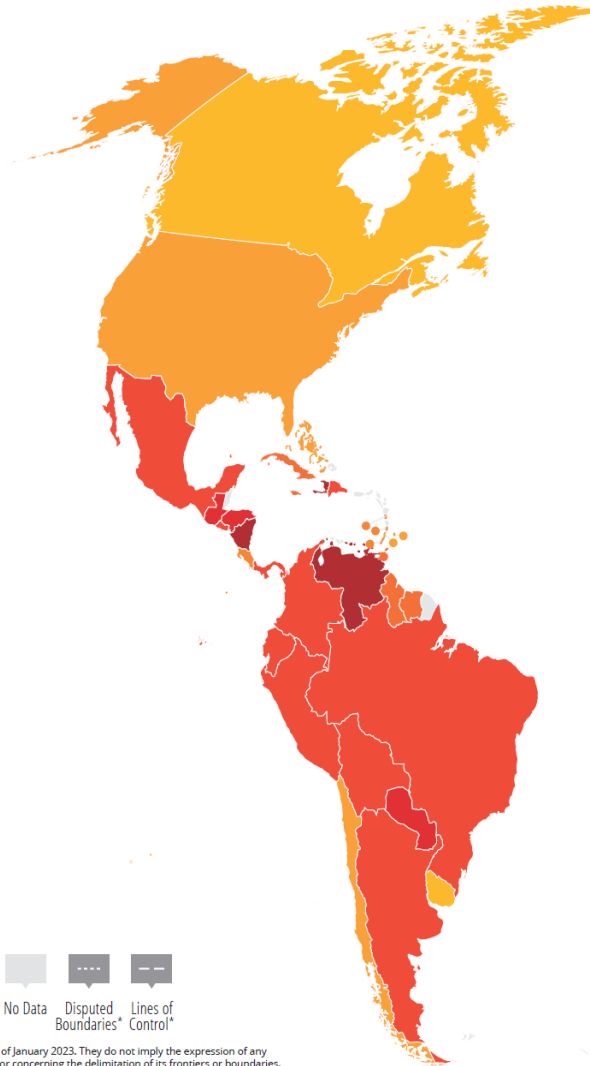
AMERICAS

43/100

AVERAGE SCORE



*The designations employed and the presentation of material on this map follow the UN practice to the best of our knowledge and as of January 2023. They do not imply the expression of any opinion on the part of Transparency International concerning the legal status of any country, territory, city or area or of its authorities or concerning the delimitation of its frontiers or boundaries.



SCORE COUNTRY/TERRITORY

74	Canada
74	Uruguay
69	United States of America
67	Chile
65	Barbados
64	Bahamas
60	Saint Vincent and the Grenadines
55	Dominica
55	Saint Lucia
54	Costa Rica
52	Grenada
45	Cuba
44	Jamaica
42	Trinidad and Tobago
40	Guyana

40	Suriname
39	Colombia
38	Argentina
38	Brazil
36	Ecuador
36	Panama
36	Peru
33	El Salvador
32	Dominican Republic
31	Bolivia
31	Mexico
28	Paraguay
24	Guatemala
23	Honduras
19	Nicaragua
17	Haiti
14	Venezuela

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Transparency International – Scores 2022

Countries with high scores

Score		Country	Rank
88	⊖	Denmark	1
88	⬆️	Finland	1
88	⊖	New Zealand	1
85	⬆️	Norway	4
85	⊖	Singapore	4
85	⊖	Sweden	4
84	⬇️	Switzerland	7
82	⊖	Netherlands	8
81	⬆️	Luxembourg	9
80	⊖	Germany	10
78	⬆️	United Kingdom	11
76	⬇️	Hong Kong	12
74	⬇️	Austria	13
74	⬇️	Canada	13

Countries with low scores

Score		Country	Rank
20	⬇️	Comoros	164
20	⬆️	Haiti	164
20	⬇️	Nicaragua	164
20	⬆️	Sudan	164
19	⊖	Burundi	169
19	⬆️	Democratic Republic ...	169
19	⊖	Turkmenistan	169
17	⬆️	Equatorial Guinea	172
17	⊖	Libya	172
16	⬇️	Afghanistan	174
16	⬇️	North Korea	174
16	⬆️	Yemen	174
14	⬇️	Venezuela	177
13	⬆️	Somalia	178
13	⬇️	Syria	178



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Naciones Unidas

Noticias ONU

Mirada global Historias humanas

Búsqueda



Búsqueda avanzada

Regiones

Temas

A la carta

Secretario General

Prensa

Transparencia Internacional – Informe 2021

AUDIOTECA

SUSCRÍBETE

La corrupción le cuesta al mundo 2,6 billones de dólares al año



<https://news.un.org/es/>

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FOCAL POINTS TO AVOID CORRUPTION



- Transparency
- Public Ethics
- Modernization
- Prevention
- Detection
- Internal Controls



- x Incompetence
- x Bureaucracy
- x Opacity
- x Abuse
- x Control Deficiency
- x Others

Appropriate
Normative
Structure

**GOOD
GOVERNANCE**

**LESS
CORRUPTION**

ADVANCES TO AVOID CORRUPTION

FCPA

Foreign Corrupt Practices Act (1977)

Sentencing Reform Act (1984)

Increase Compliance Programs

COSO

Committee of Sponsoring Organization
of the Treadway Commission (1985)

OECD (1997)

Convention on Combating Bribery of Foreign Public in International
Commercial and Business Transactions

COMPLIANCE

Normative compliance, organizational internal and external controls, through the management of corporate strategies (regulation of good practices, Anti-corruption Code, labor risk prevention, data protection, anti-money laundering, stock market, etc.) that allows among others, the prevention and detection of criminal behavior in the government.

PUERTO RICO (2018)

Act No. 2, Anticorruption Code for the New Puerto Rico

SPAIN (2010 y 2015)

Organic Law 5/2010 / Organic Law 1/2015

ISO 19600 (2014)

Compliance Management System

ISO 37001 (2016)

Anti-Bribery Management System

PERU (2016)

Law No. 30424 (+D.L. 1352-2017)

UNITED KINGDOM (2010)

Bribery Act

BS 10500 (2011)

Anti – Bribery Management System

FRANCE (2016)

SAPIN II Law

UNE 19601 (2017)

Management System for Criminal Compliance

ITALY (2001)

Legislative Decree No. 231, of June 8, 2001



Anti-Bribery Management System ISO 37001:2016

Anti-Bribery Management System

- ▶ Local and international Governments have worked to address bribery by adopting laws and international agreements.
- ▶ Bribery is a crime in most countries.
- ▶ The law alone is not sufficient to solve this problem.
- ▶ Organizations have a responsibility to proactively contribute to combating bribery.
- ▶ This is the purpose of the Anti-Bribery Management System: to provide an effective mechanism that leads to commitment and leadership by developing standards and strategies to enforce a culture of integrity, transparency, openness and compliance. The organizational goal is to avoid or mitigate the costs, risks, and damage of involvement in bribery by promoting an environment of confidence, security and improving reputation.

What is the ISO 37001 Standard?

- ▶ Establishes the requirements for the anti-bribery management system and was published on October 14, 2016.
- ▶ Designed to assist organizations in implementing, maintaining, reviewing and improving an anti-bribery management system.
- ▶ Includes a series of measures and controls that an organization can integrate which represent global anti-bribery good practice.

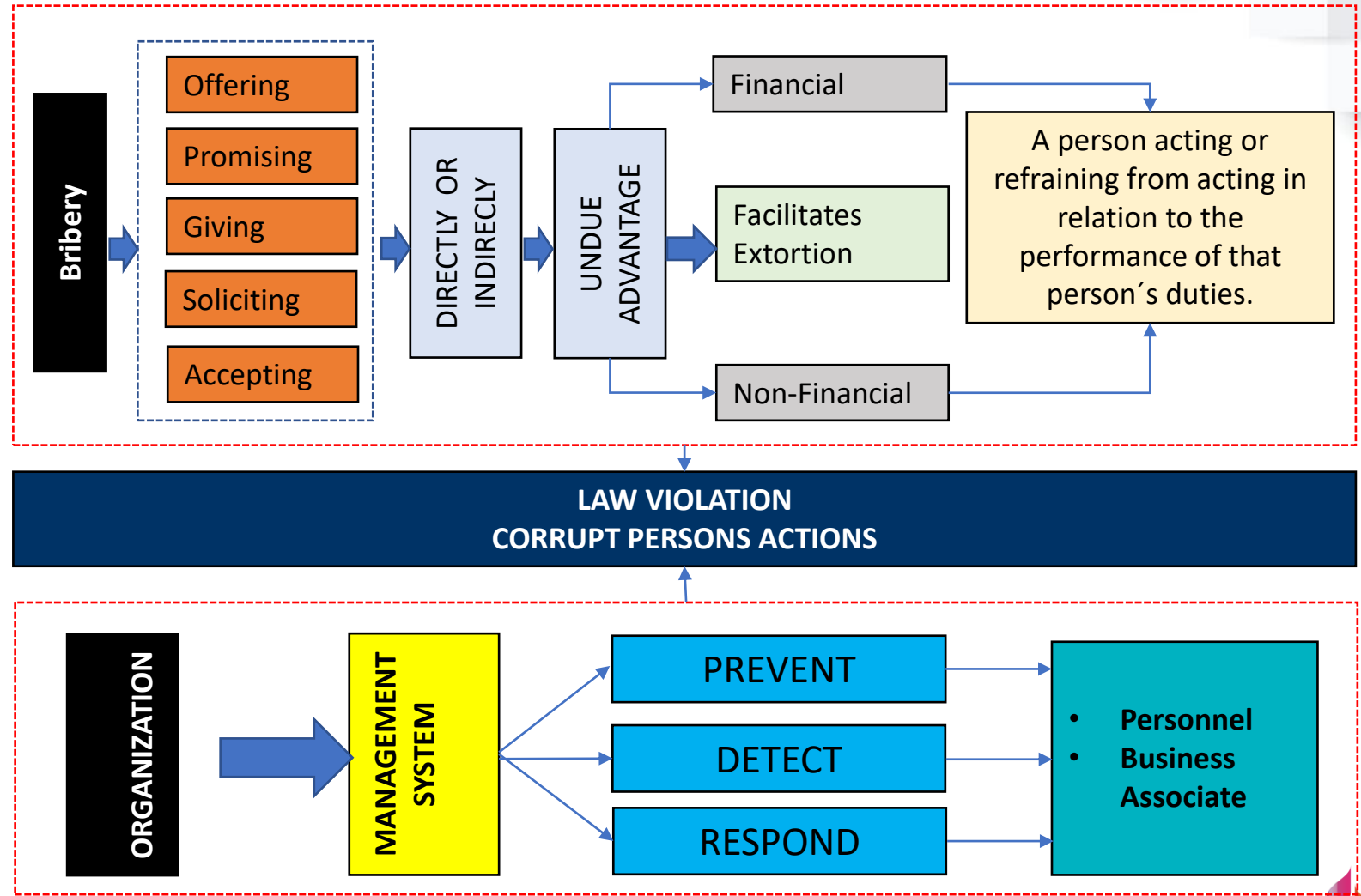
Definition of Bribery

- ▶ *“Offering, promising, giving, accepting or soliciting of an undue advantage of any value (which could be financial or non-financial), directly or indirectly, and irrespective of location(s), in violation of applicable law, as an inducement or reward for a person acting or refraining from acting in relation to the performance of that person’s duties.” (ISO 37001:2016)*

What is Bribery and what does ISO 37001 pursue?

**Regarding
Bribery
what does
ISO 37001
pursue?**

**ISO 37001:2016
ANTI-BRIBERY MANAGEMENT SYSTEM**



Intention of ISO 37001

Intention of ISO 37001

- ▶ Management and prevention of risks.
- ▶ Continuous Improvement
- ▶ Total directional leadership (Strategic)
- ▶ Interaction (Teamwork)
- ▶ Formality and consistency
- ▶ Legal compliance
- ▶ Advanced Human Resource
- ▶ Control the information-based processes
- ▶ Create an anti-bribery culture
- ▶ Interested parties compliance
- ▶ Real anti-bribery results

Intention of ISO 37001



The **ISO 37001 Standard** establishes the **requirements and provides guidance** for a management system designed to **help an organization to prevent, detect and respond to bribery and comply with anti-bribery laws** and voluntary commitments applicable to its activities.

Benefit of the ISO 37001 Implementation



Know and manage the risks of bribery that can affect the institution



Generate leadership commitment to establish a culture of integrity, transparency, openness and compliance.

How do I identify bribery?

Facilitation
or speed
Payments
("grease")

Money

Debt
Adjustment

Benefits or
Employment
to
Relatives

Bribery
(bribe)
(concession)

Gifts

Hospitality

Political or
Charitable
Donations



How should I respond to offerings of bribery?



- ▶ Immediately reject in a clear and definite manner.
- ▶ Indicate that the Department of the Treasury has an Anti-Bribery Policy that expressly prohibits any act of corruption and bribery.
- ▶ Don't stay silent, speak up and seek help.
- ▶ Seek the person in charge of the area and talk to such person about what happened.
- ▶ Report or submit a complaint of the facts in a timely manner to the Compliance Function or the Labor Affairs Office.

Consequences of incurring in Bribery

- ▶ **Soborno;** Ley 146-2012, según enmendada: Todo funcionario o empleado público, jurado, testigo, árbitro o cualquier persona autorizada en ley para tomar decisiones, o para oír o resolver alguna cuestión o controversia que solicite o reciba, directamente o por persona intermedia, para sí o para un tercero, dinero o cualquier beneficio, o acepte una proposición en tal sentido por realizar, omitir o retardar un acto regular de su cargo o funciones, o por ejecutar un acto contrario al cumplimiento regular de sus deberes, o con el entendido de que tal remuneración o beneficio habrá de influir en cualquier acto, decisión, voto o dictamen de dicha persona en su carácter oficial, **será sancionado con pena de reclusión por un término fijo de ocho (8) años.**

Cuando el autor sea un funcionario público, árbitro o persona autorizada en ley para oír o resolver una cuestión o controversia, **será sancionada con pena de reclusión por un término fijo de quince (15) años.**

Nonofficial Translate of definition from Spanish to English. See next slide.

Consequences of incurring in Bribery

- ▶ (Official Version of Act 146-2012, as amended is only available in Spanish -Nonofficial Translate of definition from Spanish to English)

Bribery. (33L.P.R.A.§5350) Act 146-2012, as amended, Section 259: Any official or public employee, juror, witness, arbitrator or any person authorized by law to hear or decide any issue or controversy who solicits or receives, directly or through an intermediary, for him/herself or for a third party, any money or benefit, or accepts a proposal to such effects to perform, omit or delay an act that pertains to his/her regular office or duties, or to perform an act that is contrary to his/her regular duties, or with the understanding that such remuneration or benefit shall influence any action, decision, vote or ruling by said person in his/her official capacity, **will be punished with imprisonment for a fixed term of (8) years.**

When the perpetrator is a public official, arbitrator or person authorized by law to hear or decide any issue or controversy, he/she, **will be punished with a restitution penalty and imprisonment for a fixed term of (15) fifteen years.**

Consequences of Incurring in Bribery

- ▶ **Oferta de soborno;** Ley 146-2012, según enmendada: Toda persona que, directamente o por persona intermediaria, dé o prometa a un funcionario o empleado público, testigo, o jurado, árbitro o a cualquier otra persona autorizada en ley para oír o resolver una cuestión o controversia, dinero o cualquier beneficio con el fin previsto en el Artículo 259, **será sancionada con pena de reclusión por un término fijo de ocho (8) años.**

Si la persona convicta es una persona jurídica **será sancionada con pena de multa hasta treinta mil dólares (\$30,000).**

(Official Version of Act 146-2012, as amended is only available in Spanish -Nonofficial Translate of definition from Spanish to English)

Offer of bribery. (33 L.P.R.A. § 5351); Act 146-2012, as amended, Section 260: Any person who, directly or through an intermediary, gives or promises to give to an official or public employee, witness, juror, arbitrator, or any other person authorized by law to hear or decide any issue or controversy, money or any benefit, for the purpose provided in Section 259, **will be punished with imprisonment for a fixed term of (8) eight years.**

If the convicted person is a legal person **will be punished with a fine of up to (\$30,000) dollars.**

What is needed from you?

- ▶ Share the dream of having transparency in all agencies and organizations.
- ▶ Recognize that openness and rectitude are fundamental qualities.
- ▶ Face this policy with enthusiasm and concern. Never with indifference.
- ▶ Act with responsibility and respect for the Department of the Treasury's policies and procedures.
- ▶ Immediately notify any information you may have of illegal actions.



Department of the Treasury Anti-Bribery Policy

- ▶ The Puerto Rico Department of the Treasury, Government of Puerto Rico, elaborates and administers tax and fiscal policies in a fair, equitable, ethical, effective and efficient manner. Additionally, we collect, keep custody, record and oversee the use of public resources by government agencies, ensuring compliance with the applicable laws and regulations.

With the goal of becoming a worldwide example of tax and fiscal administration, we reaffirm our commitment to the implementation of the anti-bribery programs and mechanisms that undoubtedly promote fundamental values such as integrity, justice and transparency. It's important that as part of this commitment we accomplish compliance with the applicable national and international anti-corruption laws, codes and the anti-bribery management system and its continuous improvement.

Department of the Treasury Anti-Bribery Policy

- ▶ The Puerto Rico Department of the Treasury (“Department”) prohibits all acts of corruption and bribery. All interested parties are properly informed of the consequences they will endure and/or punishments or sanctions in the case of violations to the regulations and policies that are applicable to this Department.

We promote that our officials, employees and other interested parties report or submit in good faith and with reasonable basis, their concerns and complaints of possible violations to the anti-bribery policy. It is guaranteed that no retaliation nor harmful acts against the rights of this person will be allowed.

The Anti-bribery Compliance Function has been created and satisfies the requirement of the necessary authority and independence to address the responsibility of collaborating with the design, implementation and compliance with the anti-bribery management system, design of personal educational training programs that are directed to preventing and addressing situations concerning bribery and the function of the anti- bribery management system.

Francisco Parés Alicea
Secretary, Department of the Treasury

DEPARTMENT OF
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ISO 37001:2016 Standard, Anti-Bribery Management System

——Everyone's Commitment——

Report or submit an anonymous complaint by writing to Anti-bribery Compliance Function (FCA, for its Spanish acronym) at: FCA@hacienda.pr.gov. You can also submit an anonymous complaint to *Grupo para la Prevención y Erradicación de la Corrupción en Puerto Rico* (PRECO, for its Spanish acronym) at: precopr.com.

GOODS, SERVICE AND OTHER PROVIDERS' CERTIFICATION ISO 37001:2016 STANDAD Anti-Bribery Management System

Every one of the Professional, Consulting, Non-Professional, Goods, Service and Other Suppliers' of the Puerto Rico Department of the Treasury must complete and sign the Certification which is available at the end of this Presentation.

Once the Certification is completed, a printed and signed copy must be provided to the Contract Administrator together with the other required documents pursuant to any official publication issued by the Puerto Rico Department of the Treasury for this purpose.

▶ **Roberto Almeida A.**
Anti-Bribery Management System Presentation 2022



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