



## The True Cost of Small Bribes

No one knows better than companies operating internationally that bribery is bad for business. These companies report that corruption introduces uncertainty into commercial transactions, fosters a permissive atmosphere for other business crimes, undermines employee confidence in management and puts a company's value and reputation at risk.

Most multinational companies have made progress toward eliminating traditional bribes from their business practices. They have done this by implementing comprehensive compliance programs, by training local and foreign employees and business intermediaries and by rigorous internal enforcement.

Now some of these companies are taking steps to eliminate facilitation payments from their business practices as well. These small bribes, also called grease payments, permitted under the laws of some countries, are made to government officials to encourage them to perform or expedite routine, non-discretionary governmental tasks. The definition of such tasks, however, is often unclear and stretched to the breaking point.

Small bribes are inherently illegal, create significant accounting dilemmas, damage companies' reputations and are simply bad for business.

In many companies, a distinction has long been drawn between major bribes and mere facilitation payments. The distinction has been confusing. Bribes and facilitation payments are both payments or gifts to, or favors for, government officials in exchange for preferential treatment. If companies pay these small bribes willingly, they are nevertheless bribes. If companies pay these bribes because they believe they have no choice, they are extortionate.

**Double Standard:** Of the countries that permit these small bribes overseas, none permits them at home. A Canadian or American who makes a grease payment to a foreign customs official would face criminal penalties for making the same payment to an official at home.



Permitting the citizens of one country to violate the laws of another on the grounds 'that it is how they do business there' corrodes international legal standards that otherwise benefit multinational corporations.

***A Confusing Message:*** It is difficult to convey to employees that the payment of large bribes to foreign government officials is likely to cost the employee his job and possibly his freedom, but that the payment of small bribes is acceptable.

***A Slippery Slope:*** The mixed message of permissible small bribes versus impermissible large bribes creates a dangerous arena for business activities. Many companies interviewed complained that small bribes involving routine governmental tasks are both difficult to define and impossible to control. They found that some employees, responding to pressure to ensure timely contract performance, paid bribes for distinctly non-routine services.

***Loss of Local Community's Confidence:*** It is difficult to maintain a good reputation within a local business community when your company is believed to buy its way past the administrative obstacles that local citizens and companies must endure. When a bureaucratic delay is legitimate -- rather than created by the bribe-taker -- purchasing preferential treatment for your company bumps others further down the waiting list.

## **LEGAL RISK**

***Inherent Illegality:*** Every bribe of a government official regardless of size breaks the law of at least one country. There is no country anywhere with a written law permitting the bribery of its officials. A lack of resources, political will or interest has meant violations are rarely prosecuted, but that is changing. Some countries, eager to be seen to be combating corruption, are prosecuting the payment of small bribes with increased frequency. As a result, there is widespread concern amongst the companies interviewed for this guidebook that small bribes could lead to costly legal complications.

***Accounting Dilemma:*** The laws of countries that permit the payment of these bribes abroad also require companies to maintain detailed and accurate records of each transaction. Many business people have expressed reluctance to record on company books a payment to government official for routine task -- creating a record of a violation of local law. Yet failure to keep accurate records of the expense constitutes a violation of law even in countries where the underlying payment does not. Consequently, companies making these payments must choose between falsifying their records in



violation of their own laws or recording the payment accurately and documenting a violation of local law.

***Foreign Subsidiaries:*** With the implementation in many countries of new laws criminalizing the payment of small bribes to foreign governments, there is also an increasing risk that a multinational company with foreign subsidiaries will violate the laws of the country where the subsidiary is based. Companies with offices in more than one country expressed concern that if they do not abolish the use of small bribes altogether, they must undertake different compliance programs based not only upon the location of each office, but the citizenship of the people working there.

***International Security:*** In addition to these more obvious legal issues, there is a growing concern regarding national security. One U.S. company reported that the terrorist attacks of September 2001 put a new face on the practice of paying small bribes. That company had routinely paid foreign officials for processing work permits and visas but then became very uncomfortable promoting corruption in this area. If visas can be bought, borders won't be safe. The practice of bribing immigration officials can lead to serious entanglements with the enhanced security laws of the company's home country.

## **BAD FOR BUSINESS**

Paying small bribes is poor legal practice, but more to the point, we were told, it is bad business practice. Widespread small bribes set a permissive tone, which invites more and greater demands.

Small bribes amount to a hidden tax on business, they tend to proliferate, they buy an uncertain, unenforceable advantage and -- the most common complaint -- they are simply irritating. Well-run businesses seek clear, dependable terms and enforceable contracts. Small bribes introduce uncertainty, risk and delay.

***Reputation as a soft touch:*** The standard argument in defense of bribery is that it is impossible to conduct business successfully overseas without paying bribes to ease the bureaucratic and regulatory burden. If true, business should be more efficient for companies paying bribes, yet this argument is not supported by research or anecdote.

Two World Bank researchers studied the premise that small bribes reduce red tape and found that contrary to the efficient grease theory, . . . firms that pay more bribes are also likely to spend more, not less, management time with bureaucrats negotiating regulations and face higher, not lower, cost of capital.



The study showed that entrepreneurial bribe-takers learn to focus their demands on companies that have paid bribes before. For those companies, the level of harassment for small bribes actually increased with the rate at which they were paid. Entrepreneurial bribe-takers must erect more or greater obstacles in order to increase their income. Small bribe-takers thrive on inefficiency and bureaucratic obstacles.

The message should be clear: it is smarter, safer and makes better business sense to end the practice of paying small bribes.

## **CONCLUSION**

Addressing all forms of business corruption at the same time with a single, coherent message is preferable to laboring under an equivocal policy and waiting until some future ideal time to tackle small bribes.

Many companies have adopted strong policies against the payment of small bribes and the consensus has been that the transition has been simpler, faster and less painful than was expected. By comparison, companies that vacillate paying small bribes in some cases and not in others find themselves mired in an almost perpetual negotiation that runs parallel to their real business and consumes significant resources.

Companies report the benefits of acting decisively by sending a clear message from senior management to employees and business intermediaries -- local and foreign -- and to the markets in which they do business. The short term result for many of the companies interviewed has been relief from constant demands for small bribes; the long term results will be reduced bureaucracy, enhanced predictability and a more stable business environment.