Law & Compliance:
State and Local Government
Compliance and Ethics Programs

Part II of III part audio/web conference
Society of Corporate Compliance and Ethics
March 19, 2008

Expert Speakers

- Amy Kovalan, Chief Compliance Officer, City of Chicago
- Cheryl Wagonhurst, Partner, Foley & Lardner, LLP
- Colleen G. Waring, Retired, Deputy City Auditor, City of Austin, Texas
- Emma Wollschlager Schwartz, President, Wollschlager Consulting, LLC
Program

Part I: What It Is & Why You Need It
  – March 5, 2008
  – 12:00 PM Central – 90 minutes – 1.2 CEUs

Part II: Getting Started
  – March 19, 2008
  – 12:00 PM Central – 90 minutes – 1.2 CEUs

Part III: Barriers and Best Practices
  – April 2, 2008
  – 12:00 PM Central – 90 minutes – 1.2 CEUs

Part I: Recap

- Important definitions and distinctions
  - Compliance
  - Ethics
- Compliance Program Structure vs. Substance
  - Structure
  - Substance
- Applicability to Public Sector Organizations
- Benefits of a Compliance Program
Why does a municipality need a Compliance Program?

- Enhance public trust
- Move from reactive to proactive approach
- “See around the corner”
- Increase management accountability
- Protect assets
- Enhance business continuity
- Improve services
- Mitigate penalties
- Decrease risk of imposed oversight

Examples of where it is necessary to have a compliance program

- Provision of medical services to government programs patients (Medicare/ MediCaid)
- Environmental and safety standards
- Privacy and information security standards (HIPAA, PCI, state requirements)
- Access and accommodation (ADA and Title II)
- Workplace compliance (EEO, diversity, sexual harassment, hiring)
- Federal and state funding requirements (from Head Start to highway funds)
Basic elements of the Federal Sentencing Guidelines – effective Compliance Program

- Establish standards and procedures
- Establish high level oversight
- Exclude from authority those who have engaged in illegal activities
- Provide ongoing communication and training
- Include auditing and monitoring
- Confidential reporting mechanism
- Create incentives for employees to adhere to compliance and ethics and discipline those who don’t
- Respond appropriately to any misconduct

Compliance Program Implementation

1. Implement the structure (7 elements) of the compliance program
2. Perform a risk assessment
3. Prioritize the risks identified (by severity of problem, cost of remediation, systemic vs. isolated nature of risk, etc.)
4. Deal with the highest risk “substantive issues”
5. Continue to address all the identified and newly discovered risk areas
6. Evaluate the effectiveness of the program
Working in a Public Environment

- Define the scope of the compliance program
  - Government entity employees
  - Appointed officials
  - Elected officials
  - Contractors

- Determine how to bind the various interacting entities to the compliance program
  - Contract terms that require that contractors have an active compliance program (e.g., employees receive training, a compliance manual exists)

- Deal with potential conflicts and overlap
  - Legal counsel
  - Inspector generals
  - Auditor generals

Models

- Corporate style performance management system
- Sarbanes-Oxley
- Committee of Sponsoring Organizations of the Treadway Commission (COSO) standards
- U.S. Government Accountability Office (GAO)
- State Auditor General Model
The City of Chicago

- One of the country’s largest city governments with a population of over 3 million people
- Form of Government
  - Mayor
  - City Council
    - 50 Alderman
  - City departments
    - Over 40 formal city departments
    - Nearly 40,000 employees
- Annual budget of nearly $6 billion

Compliance Program

Purpose

The purpose of the City of Chicago Compliance Program is to promote a culture of ethical conduct and a commitment to compliance with the law, and to prevent and detect misconduct.
Office of Compliance
Mission

The mission of the City of Chicago Office of Compliance is to build and preserve an ethical organizational culture in city government where city officers, officials and employees serve the common good and maintain public trust.

Compliance Program Charter

- Purpose
  - Mission statement
- Executive Compliance Committee
  - Composition
  - Meetings
  - Responsibilities and duties
- Chief Compliance Officer
  - Authority
  - Reporting relationships
  - Responsibilities and duties
- Compliance Office
  - Structure
  - Adequate resources
  - Responsibilities and duties
- Annual Performance Evaluation
Compliance Program Structure

- Executive Compliance Committee
- Office of Compliance
  - Regulatory Compliance
  - Workforce Compliance
  - Internal Audit
  - Departmental Compliance Liaisons
- Board of Ethics
- Chicago Office of Inspector General
- Mayor’s Office Performance Management Program

Compliance Program Structure

Investigate Employee Misconduct
Inspector General’s Office
Comply with Code of Conduct, City Policies and Laws
Board of Ethics
Compliance & Audit Compliance Liaisons
Performance Management

Oversee Performance of City Agencies
Mayor’s Office/Office of Budget and Management
Executive Compliance Committee
Membership

- Chief of Staff (Chief Operating Officer)
- Deputy Chief of Staff
- Executive Director of Office of Compliance
- Chief Compliance Officer
- General Counsel
- Chief Financial Officer
- Comptroller
- Chief Procurement Officer
- Budget Director

Compliance Accountability Model*
Internal Controls

*The Compliance Accountability Model is based on the Internal Controls—Integrated Framework authored by Pricewaterhouse Coopers in 1992 for the Committee of Sponsoring Organizations of the Treadway Commission (COSO), generally referred to as the COSO framework. The COSO framework has been widely adopted by private sector entities to meet the internal control assessment requirements outlined in Section 404 of the Sarbanes-Oxley Act.
Compliance Programs Effectiveness

- Principal measure of compliance program effectiveness = *ability to prevent fraud & abuse*
- Other indicators of effectiveness include:
  - visible and active compliance officer and committee
  - funding and support to the program
  - proactive approach to auditing and monitoring
  - independence of auditors
  - evidence of open lines of communication
  - understanding of stakeholders of compliance activities and their responsibilities within compliance
  - documented practices of corrective and disciplinary actions
  - document retention (e.g., policies & procedures, audit reports, anonymous hotline calls & follow-up, work papers)

Compliance in the Government Context

Challenges

- Resources
  - Selling the value proposition
- Defining Roles & Responsibilities
- Coordination between departments and units and branches
  - Getting management to own compliance
- Building Stakeholder Buy-in
  - New team, new idea, next?
  - Moving from “fighting fires” to risk-based management
- External Communication
  - What’s protected, what’s public?
Compliance in the Government Context
Opportunities

- Resources
  - Streamline compliance and audit activities
- Defining Roles & Responsibilities
  - Establish accountability
  - Reach agreement on priorities
- Building Stakeholder Buy-in
  - The upside of “This is how we’ve always done it”
  - The upside of compliance failures
- External Communication
  - Increased transparency

Questions and Answers