

Qatar: Keeping your hands clean

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The Rule of Law and Anti-Corruption Centre was subsequently launched in Qatar at the end of 2011. This latest development once again highlighted the issue of corruption in the region, although corruption is not a major problem as such in Qatar which, incidentally, achieved a credible ranking in Transparency International's 2011 Corruption Perception Index. Nevertheless, many companies operating in Qatar occasionally have questions on how their dealings with various authorities might be perceived, as they do not wish to fall foul of local laws. This is especially given the increase in the number of companies involved in projects to construct the infrastructure and facilities for the 2022 World Cup, which could involve a high level of interaction with public authorities.

The offence and the parties involved

Bribery and the attempted bribery of public officers are offences under the Qatari Penal Code No. 11 of 2004 (Penal Code).

It is an offence for any person to offer a public officer money or a benefit of any kind or a promise of anything of the like in order for him to perform or omit to perform a duty assigned to his role. It is also an offence for public officers to solicit or accept bribes, for themselves or others.

A "public officer" is defined widely under the Penal Code as those charged with carrying out public authority, employees of ministries, government departments, public institutions and organisations, including:

- Arbitrators, experts, bankruptcy administrators and liquidators;
- Chairmen and members of board of directors, managers, and all other employees of private institutions and associations, companies and co-operative associations, if one of the ministries, government departments, public organisations or corporations is a shareholder therein;
- Whoever carries out any work connected with a public service under an appointment by a public officer; and
- Heads and members of legislative, parliamentary and municipal councils.

It should be noted, although this point is often overlooked, that employees of companies in which a ministry or government department, public organisation or corporation is a shareholder (regardless of the size of its shareholding) are considered public officers in this context.

Aside from the Penal Code, the Human Resources Law also contains a similar prohibition on civil servants accepting bribes, whether in the form of cash, donations or the like.

What is a bribe? What benefits are permitted?

The law does not specifically prohibit or define any particular acts as amounting to bribery. The offence, as defined above, extends to offering a public officer money or a benefit of any kind (or the promise of such). As such, companies and their employees who deal with or wish to improve ties with public officials often have to consider if their offer/invitation or the provision of hospitality and minor benefits to public officers would be in violation of the law.

According to the Penal Code, if the intention or purpose of any hospitality is to induce a public officer to perform or omit to perform his duty, then the offer or provision of such hospitality would be an offence. The existence of such intention existed would be a question of fact to be proven.

It is likely that a court or any other third party reviewing the situation would consider the situation as a whole and the context in which the hospitality was offered, before inferring an intention to commit bribery. While there are no specific legal provisions or guidelines on the factors to be considered, it would be prudent for companies to consider the following questions collectively before extending any offers of hospitality:

- The type and value of the hospitality: would the form of hospitality be reasonable, significant or excessive, taking into account the status of the relevant public officer?
- Could the relevant public officers be responsible for or could influence decisions in favour of the company, at that particular time or any other time?
- Has the hospitality or benefit been offered on a regular basis to a particular individual or group of individuals, such that there appears to be a pattern in the company's behavior?
- What is the purpose of the hospitality or entertainment offered? Is it just for general marketing or more targeted purposes? Is it customary in the country (for example, events held during Ramadan)?

Conclusion

It is vital to consider all relevant factors, including the questions suggested above when considering if an offer or provision of hospitality would be appropriate and to avoid the perception of such offers as bribes or any intention to commit bribery. In their assessment, companies should also take into account the perspective of the recipient and any neutral observer.