

BUILDING TRUST: The Anti-Bribery Management Standard (ISO 37001)

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Building Trust : The Anti-Bribery management System (ISO 37001)



Corruption: a common challenge for public and private actors

ISO management standards overview

ISO 37001 for public and private organizations

Practical recommendations for a successful ISO 37001 Certification

Active corruption *Versus* Passive corruption



Passive corruption (being corrupted)

- a) is the act of asking or receiving
- b) an advantage:
 - For oneself (*ex: personal advantage*)
 - For another (*ex: influence peddling*)
 - For an organization (*ex: political party*)
- c) by anyone :
 - Public-sector agent (*ex: Government Official*)
 - Private-sector agent (*ex: Commercial Partner*)
- d) To violate his obligations:
 - Legal
(*ex: in the attribution of a public contract*)
 - Professional
(*ex: divulging confidential information*)

For the employee of an organization receiving a bribe is almost undetectable...

- Preventing passive corruption =
 - Establishing strict procurement processes
 - + Relying on personal integrity

Active corruption (corrupting)

- a) is an act (including an offer or a promise),
- b) made in an effort to obtain an undue advantage:
 - For oneself (*ex: personal advantage*)
 - For another (*ex: influence peddling*)
 - For the company (*ex: obtaining a contract*)
- c) by ensuring that someone:
 - Public-sector agent (*ex: Government Official*)
 - Private-sector agent (*ex: Commercial Partner*)
- d) fails to respect his obligations:
 - Legal
(*ex: in the attribution of a public contract*)
 - Professional
(*ex: divulging confidential information*)

As bribing is a crime and cannot be recorded as such in the company's books, it has to be based on a fraudulent act : fake contract with an intermediary, fake invitation of an official...

- Preventing active corruption =
 - Strong tone at the top
 - + Preventing fraud through processes and controls

Why is corruption damaging for public AND private organizations?

Corruption is devastating for the public sector

- a) Misuse of public funds
 - A company paying a bribe will:
 - include the cost of the bribe in the contract or;
 - diminish the quality of the service/product
 - Corrupt officials will prefer:
 - a bad contract... with a bribe rather than
 - a good contract... without a bribe
- b) Damage to the citizens' confidence in the administration
 - encourages tax fraud
 - damages public authority
- c) Impediment to growth and shared prosperity
 - Inequitable allocation of public resources
 - Reduced efficiency in poverty alleviation

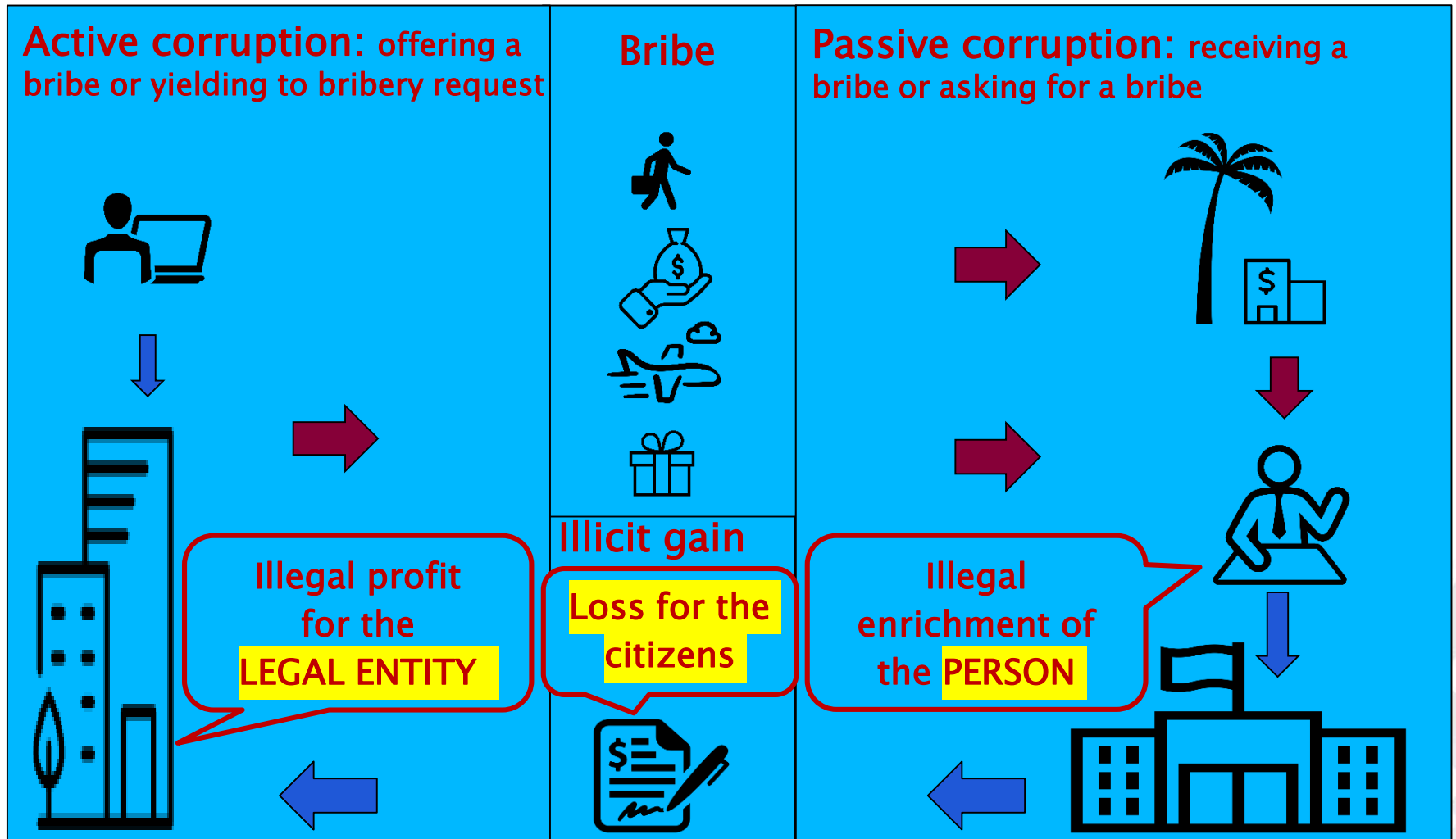
Corruption undermines a company's sustainable growth

- a) Hampers an understanding of the market
 - Top management doesn't know if success is due to innovation and market relevance
 - ...or from a bribery scheme
- b) weakens integrity within the company:
 - increased risk of bribes in the supply chain affects productivity
 - Increased risk of unethical behavior by employees
- c) Creates financial and business risks:
 - Heavy fines
 - Blacklisting
 - Reputational risk

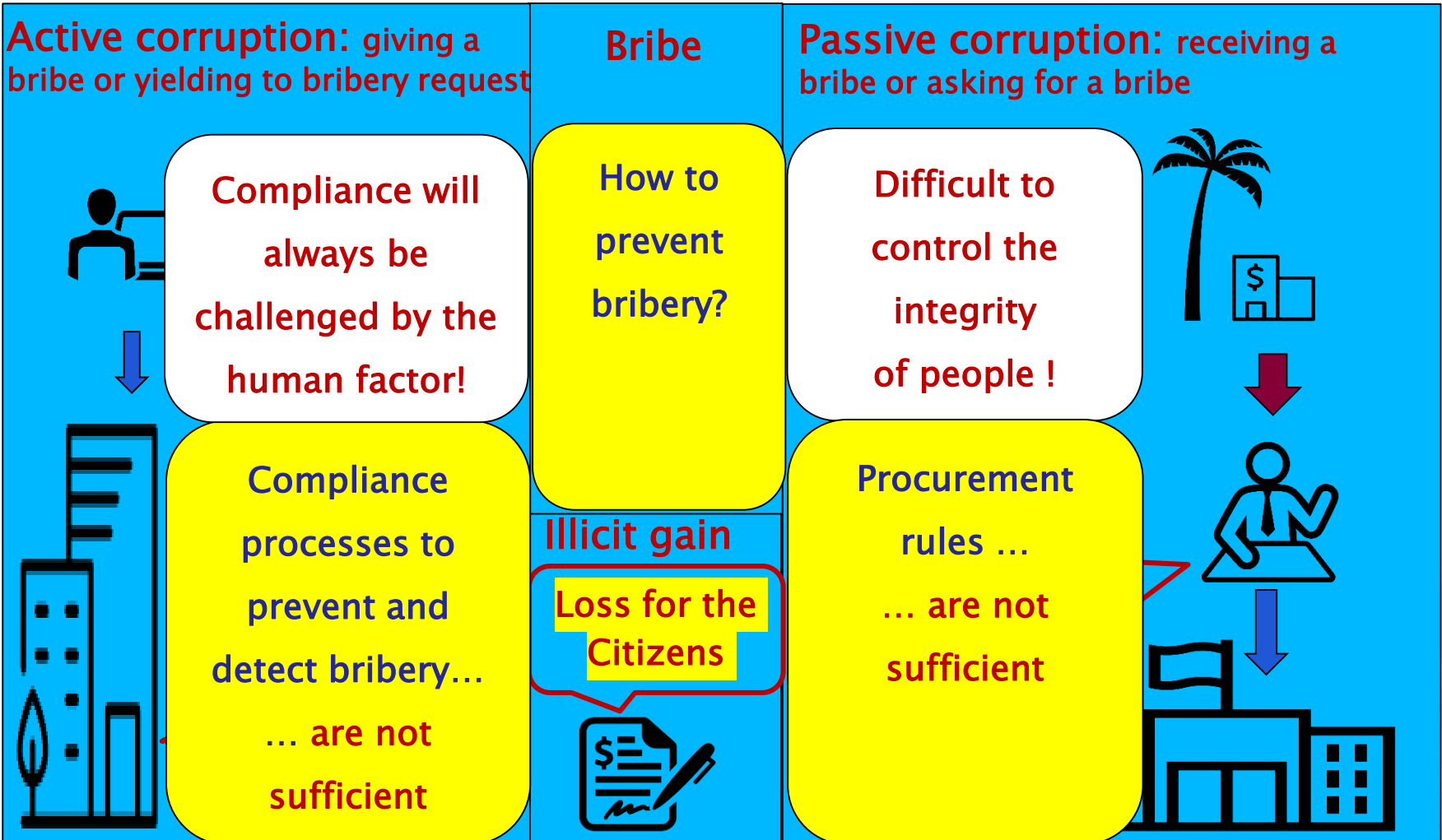
Public administrations and the private sector

- have a common interest in fighting corruption... ...but they face different challenges

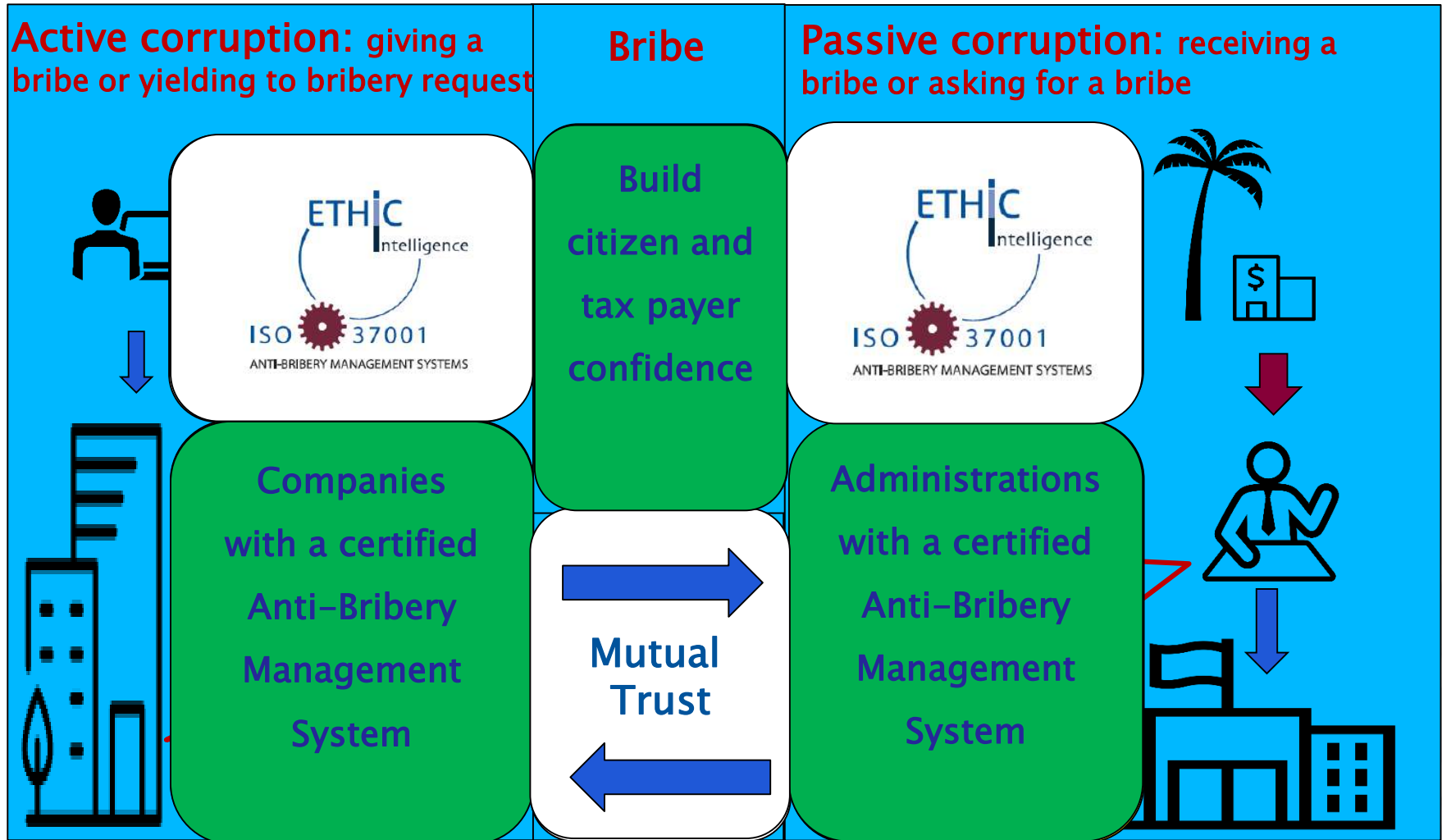
Public corruption: Who wins? Who loses?



How to “really” prevent bribery?



ISO 37001 Certification: Building mutual trust between private and public actors



ISO 37001: Preventing corruption between private and public organizations



Corruption: a common challenge for public and private actors

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The High Level Structure for ISO Management Systems Standards



In 2012, ISO decided that every ISO Standard on Management Systems (ex ISO 9001 Quality,) would have:

1. Common terminology:

- **Organization:** person or group of people that has its own functions with responsibilities, authorities and relationships to achieve its *objectives*
- **Objective:** result to be achieved
- **Management system:** set of interrelated or interacting elements of an organization to establish *policies* and *objectives* and *processes* to achieve those objectives
- **Policies:** intention and direction of an organization, as formally expressed by its *top management*
- **Processes:** set of interrelated or interacting activities which transforms inputs into outputs

2. ...A common structure (10 chapters)

Each standard will add to the High Level Structure the specificities related to its sector and needs:

- ISO 9001 on Quality Management Systems
- **ISO 19600 on Compliance Management Systems (2014)**
- **ISO 37001 on Anti-Bribery Management Systems (2016)**



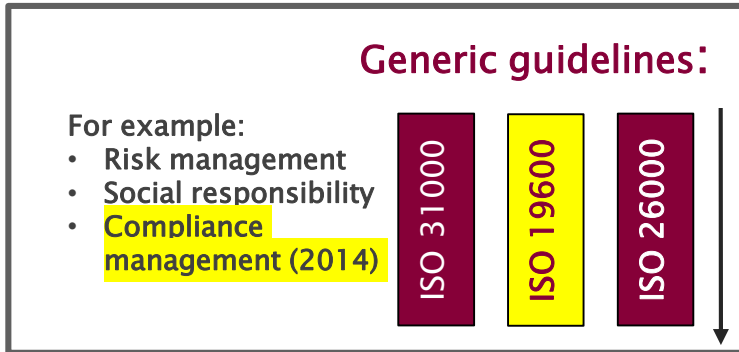
ISO management system standards

Generic guidelines:

For example:

- Risk management
- Social responsibility
- Compliance management (2014)

ISO 31000 ISO 19600 ISO 26000



Specific guidelines:

For example:

- Auditing
- Documentation

ISO 19011

ISO/TR 10013



ISO 9001

ISO 37001

Generic standards:

For example:

- Quality management
- Anti-bribery management (2016)



High Level Structure

ISO 2200

ISO 29001

ISO 14298

Sector standards:

For example:

- Food safety
- Oil and gas industry
- Graphics technology



High Level Structure

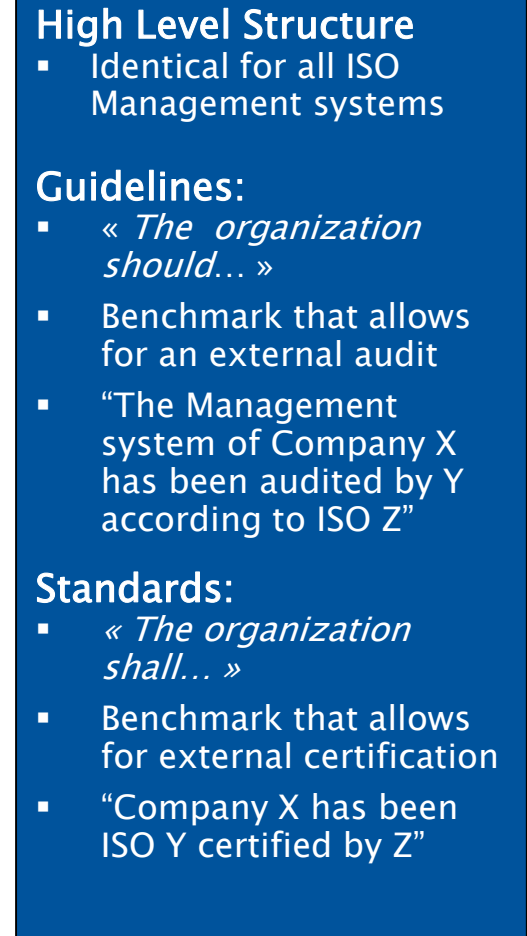
- Identical for all ISO Management systems

Guidelines:

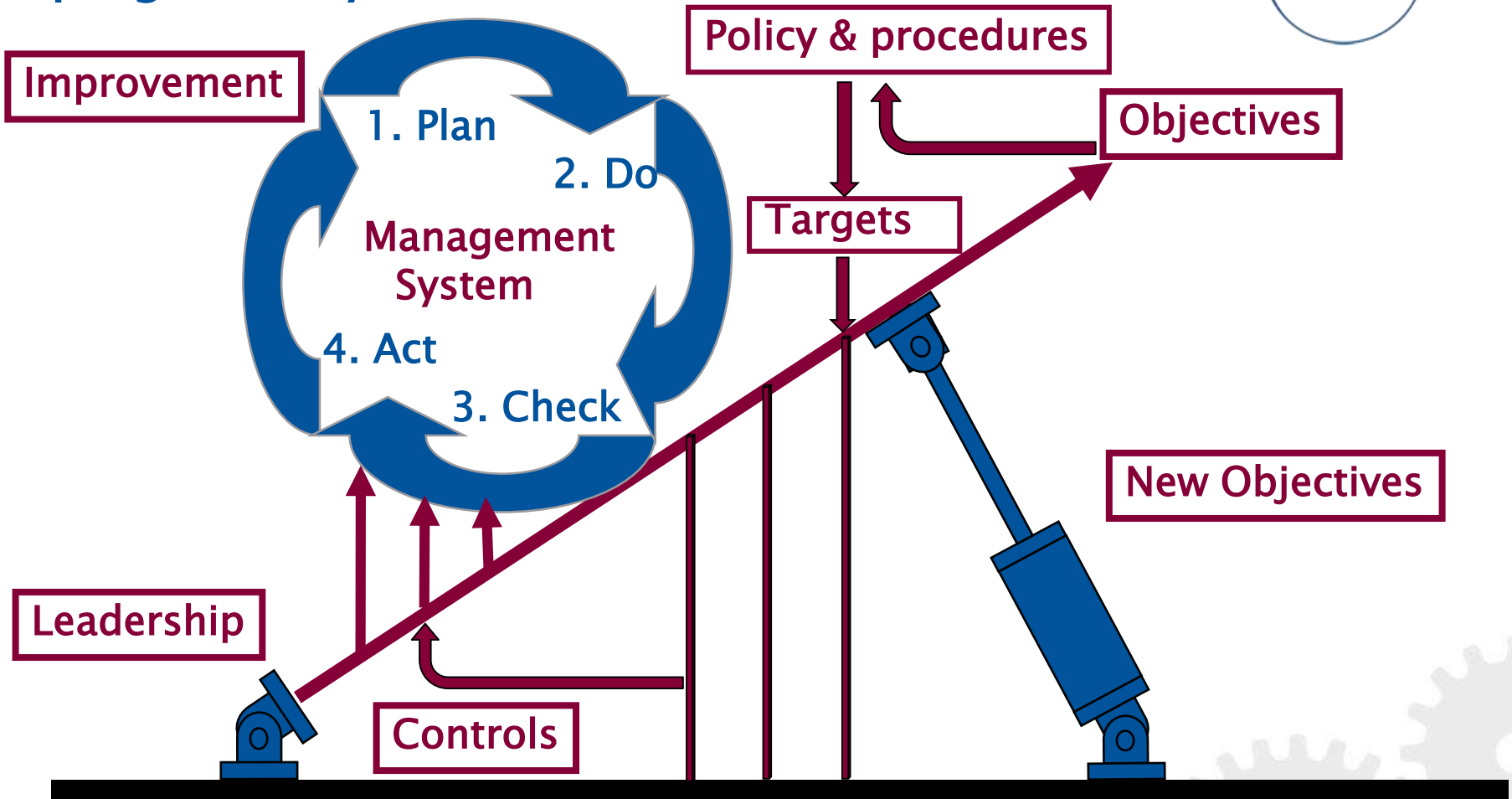
- « *The organization should... »*
- Benchmark that allows for an external audit
- “The Management system of Company X has been audited by Y according to ISO Z”

Standards:

- « *The organization shall... »*
- Benchmark that allows for external certification
- “Company X has been ISO Y certified by Z”



ISO benchmarks ... a process to improve the efficiency of the management system progressively



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ISO 37001 Anti-Bribery Management System (ABMS)



1. Scope

Bribery

- In the public, private and not-for-profit sector
- By the organization (active corruption)
- By the organization's personnel acting on its behalf or for its benefit
- By the organization's business associates acting on its behalf or for its benefit
- Of the organization (passive corruption)
- Direct and indirect bribery

But doesn't address

- Fraud
- Cartel
- Etc...

2. Normative reference

No normative reference

3. Terms & definitions

Definitions :

- Bribery
- public official
- Business associates
- Etc...

ISO 37001 Anti-Bribery Management System (ABMS)



4. Context of the organization

Understanding the organization and its context (incl. applicable laws...)

Administration: purpose of the administration and applicable rules

Company : business model and organization and applicable laws

Understanding the needs and expectations of stakeholders

Administration: citizens expectations on the way public services are delivered (transparency, costs...)

Company : clients, suppliers, employees expectation on the way business is done

Bribery risk assessment

Administration: where are the risks ? Are the high, medium or low

Company : where are the risks ? Are the high, medium or low

Determining the scope of the anti-bribery management system

Administration : which part of the administration ?

Company : All the company ? Some subsidiary

Anti-bribery management system (which should be proportionate)

Administration: Ensure the ABMS is robust where needed

Company : Ensure the ABMS is robust where needed

ISO 37001 Anti-Bribery Management System (ABMS)



5. Leadership

Governing body

Administration: tone at the top (ex : Town council)

Company : idem (Board of directors)

Top Management

Administration: Managers responsibility

Company : idem

Anti-bribery policy

Administration: specific to the organization (cf section 4)

Company : idem

Organizational roles, responsibility and authorities

Administration: Who is doing what?

Company : Idem

Anti-bribery compliance function

Administration: Chief Compliance Officer?

Company : idem

Delegated decision making

Administration: who is reporting to whom?

Company : idem

ISO 37001 Anti-Bribery Management System (ABMS)



6. Planning

Actions to address risks and opportunities

Administration: what are the actions planned over the year (ex training program)

Company : idem

Anti-bribery objectives and planning to achieve them

Administration: which objectives (ex : how many employees should be trained ?)

Company : idem

Resources

Administration: Budget

Company : idem

Competence

Administration: qualification of the compliance officer

Company : idem

Employment procedures

Administration: how to ensure that employees will abide by the compliance rules ?

Company : idem

Awareness and training

Administration: who should be trained? When ? By whom ?

Company : idem

Communication

Administration: ensuring that everyone is aware of the compliance program (internally and externally)

Company : idem

Documented information

Administration: all the procedures should be in written format (paper or web)

Company : idem

7. Support

ISO 37001 Anti-Bribery Management System (ABMS)



8. Operation

Operational planning and control

Administration: how is the planning of the ABMS and control organized year after year

Company : idem

Due diligence

Administration: how do we check integrity of partners : suppliers

Company : how do we check integrity of business partners : sales agents suppliers, subcontractors...

Financial controls

Administration: how are financial controls organized ?

Company : idem

Control over controlled organizations and business associates

Administration: how does the administration controls its subdivisions (in other part of the country...)

Company : how does the company ensure control over its subsidiaries

Anti-bribery commitments

Administration: how to ensure that every one working with the administration has anti-bribery commitments

Company : how to ensure that business partner has anti-bribery commitments

Gifts, hospitality, donations and similar benefits

Administration: what is the policy on such benefits ?

Company : idem

Managing inadequacy of anti-bribery controls

Administration: which process when a breach in compliance is discovered ?

Company : idem

Raising concerns

Administration: how is the whistleblowing line implemented

Company : idem

Investigating and dealing with bribery

Administration: which process when bribery is discovered ?

Company : idem

ISO 37001 Anti-Bribery Management System (ABMS)



9. Performance evaluation

Monitoring, measurement, analysis and evaluation

Administration: how is the yearly evaluation organized?

Company : idem

Review by anti-bribery compliance function

Administration: How is the evaluation reviewed by the compliance officer?

Company : idem

Internal audit

Administration: how is the internal audit of the compliance system performed?

Company : idem

Top management review

Administration: how and when Top Managers are reviewing the ABMS Evaluation?

Company : idem

Governing body review

Administration: How Board Members (ex : Town council) are reviewing the ABMS Evaluation?

Company : idem (Board of directors)

10. Improvement

Non-conformity and corrective actions

Administration: how are non-conformities identified during the evaluation dealt with?

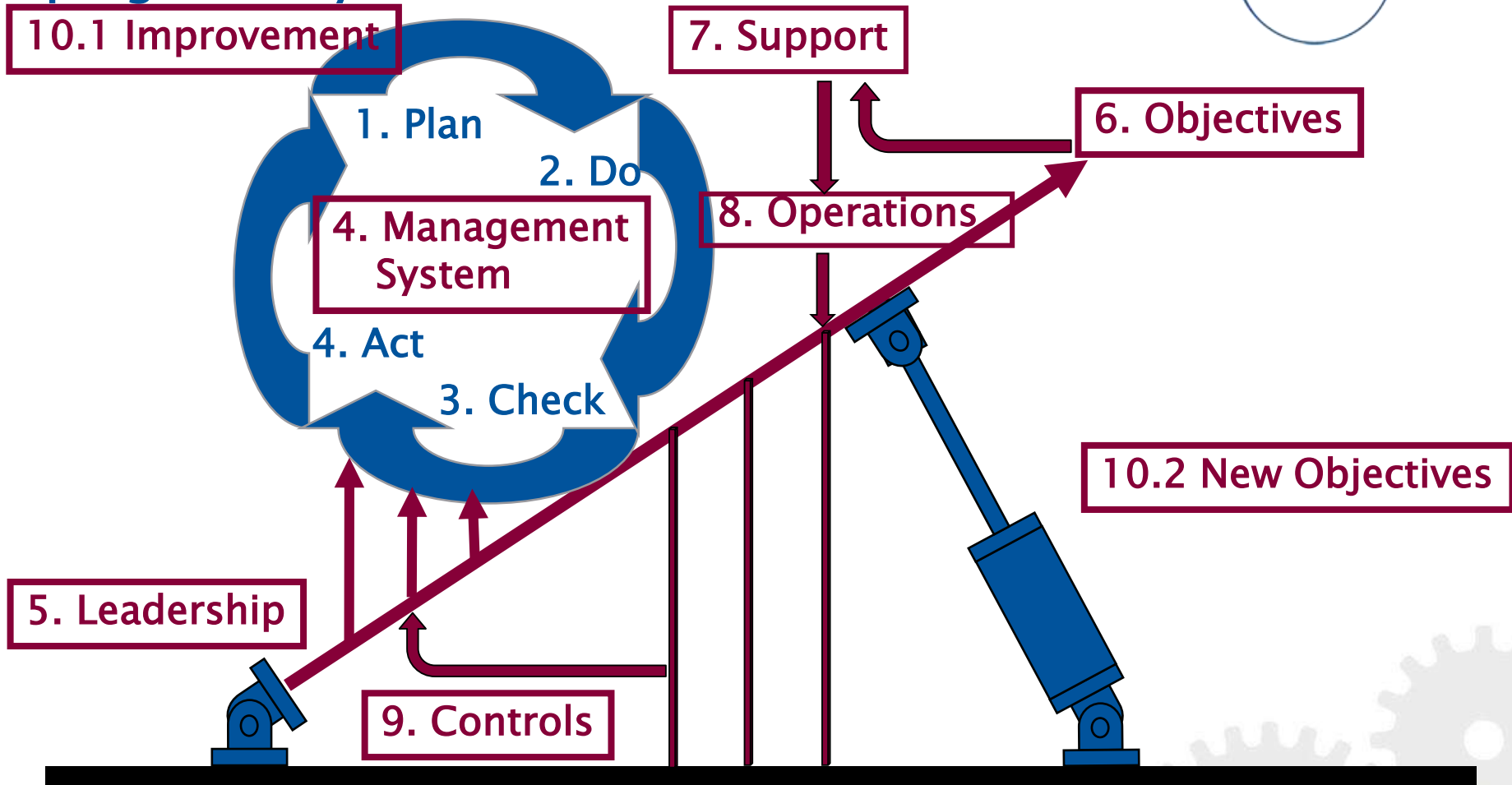
Company : idem

Continual Improvement

Administration: how is the continual improvement organized?

Company : idem

ISO benchmarks ... a process to improve the efficiency of the management system progressively



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ISO 37001 Anti-Bribery Management Systems



Scope

- Anti-bribery only
- Does not concern fraud, cartels...

Type of standard:

- Requirements: The organization “shall”....
- Allows for “comparable” certification

Provides guidance:

- For Chief Compliance Officers to establish and implement an effective anti-corruption management system
- For Consulting firms to evaluate anti-corruption management systems

Published

- October 2016

ISO 37001

- ➔ Doesn't allow the auditor to formulate recommendations
- ➔ Is a “pass or fail” audit according to “requirements”
- ➔ Might be counterproductive if an organization fails...

ISO 19600

Compliance management systems



Scope

- Compliance at large: Anti-bribery, data privacy, money-laundering...

Type of standard:

- Guidelines: the organization “should”....
- Output: 19600 Audit Certificate

Provides guidance:

- For Chief Compliance Officers to establish and implement an effective compliance management system
- For consulting firms to evaluate compliance management systems and formulate recommendations for improvement

Published

- December 2014

ISO 19600

- ➔ Allows for auditor recommendations
- ➔ No failure possible: audit according to “guidelines”
- ➔ When limited to “anti-bribery” has the same structure as ISO 37001
- ➔ Is recommended for an initial audit....prepares for ISO 37001 certification

Tips for a successful ISO 37001 certification



1. **Tone at the top**

- Ensure that the Board/Council... is fully supportive

2. **Don't be over ambitious**

- Start with one part of the administration (but a significant one nevertheless)

3. **Focus on section 4: context**

- Formalize in writing the organization with a view to identifying corruption risk
- Identify your “stakeholder” expectations – including rules by your supervisory authority
- Formalize your bribery assessment

4. **Carry out a Gap Analysis seminar (1 day)**

- Seminar with all department managers (Operations, Human resources, Finance....)
- Analyze the standard collectively step by step
- Identify what has already been implemented... and what remains to be done

5. **Do not hesitate to start with an ISO 19600 audit certification rather than an ISO 37001**

- You will benefit from recommendations that will help you to meet the ISO 37001 requirements
- You will be able to communicate on this first step

Thank you for your attention



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