
Executive actions of the Ministry of Public Administration in the fight against corruption

On August 20, 2015, the Ministry of Public Administration (“MPA”) published in the Official Journal of the Federation, two executive orders through which it issued the following:

1. Protocol of action in the field of public procurement, issuance and extension of licenses, permits, authorizations and concessions (“Action Protocol”);
2. Formats that must be used by individuals in order to manifest possible links and conflict of interest (“Declaration Formats”);
3. Federal public officials’ Code of Ethics (“Code of Ethics”);
4. Integrity Rules on the exercise of government services (“Integrity Rules”); and,
5. General guidelines for the promotion of the integrity of public officials and to implement permanent actions promoting their ethical behavior, through Ethics and Prevention of Conflicts of Interest Committees (“General Guidelines”).

The Protocol of Action and the Declaration Formats came into effect on September 19, 2015, while the Code of Ethics, the Integrity Rules and the General Guidelines, came into effect on August 21, 2015.

Hereafter, we will explain the key points of such tools for fight against corruption.

1. Action Protocol

The Action Protocol regulates the way in which public officers may contact individuals regarding public procurement, issuance and extension of licenses, permits, authorizations and concessions.

In that regard, the Protocol of Action sets forth rules regarding telephone communications, meetings, visits and public events, involving public officers and individuals.

The Action Protocol stresses that these telephone communications must be recorded, while meetings, visits and public events must be videotaped. For the recording of telephone calls and meetings, the express or tacit consent of individuals is needed. Without such consent, the telephone call or the meeting in question, shall not continue.

2. Declaration Formats

In the proceedings regarding public procurement, issuance and extension of licenses, permits, authorizations and concessions, individuals must submit a declaration of their commercial, personal or family ties or

relationships, such as potential conflicts of interest with public officials provided for in the executive order published on August 20, 2015, by the MPA, including their spouses and first-degree relatives' ties.

Such declaration must be submitted prior to the start of the aforementioned proceedings, subject to the appropriate format, and will be requested by the public officials responsible for processing them.

The format will be available on the following website: www.manifiesto.gob.mx

3. Code of Ethics

The Code of Ethics sets forth the constitutional principles to be observed by all public officials in the performance of their employment, position, commission or function: legality, honesty, loyalty, impartiality and efficiency.

Also, the Code of Ethics sets forth the values that all public officials must prioritize in their employment, position, commission or function: public interest, respect, human rights' respect, equality and nondiscrimination, equality of gender, cultural and ecological environment, integrity, cooperation, leadership, transparency and accountability.

The Code of Ethics defines each of the constitutional principles and values mentioned above.

4. Integrity Rules

The Integrity Rules set forth rules regarding to the following issues: (i) public performance; (ii) public information; (iii) public procurement, issuance and extension of licenses, permits, authorizations and concessions; (iv) Government programs; (v) legal proceedings and services; (vi) human resources; (vii) administration of movable and immovable property; (viii) evaluation processes; (ix) internal control; (x) administrative proceedings; (xi) permanent performance with integrity; (xii) cooperation with integrity.

In addition, regarding each of the issues listed above, with exception of the last one, Integrity Rules set forth a catalogue of behaviors that are considered as contrary to these rules.

5. General Guidelines

The General Guidelines set forth the grounds for the integration, organization and functioning of the Ethics and Prevention of Conflicts of Interest Committees, which shall enter into force in the departments and government-controlled corporations.

Such Committees shall be incorporated within a period of ninety days from the entry into effect of the executive order, i.e., November 2, 2015 at the latest.

The following are some of the relevant Committees' functions that we should highlight:

1. Observe the implementation and enforcement of the Code of Ethics and the Integrity Rules;

2. Develop, review and update the Behavior Code, as well as observe its implementation and enforcement;
3. Resolve accusations; and,
4. Issue comments and recommendations.

On the other hand, the General Guidelines govern the possibility that any person can file an accusation with the corresponding Committee regarding potential breaches to the Code of Ethics, to the Integrity Rules and to the Behavior Code. In this regard, the General Guidelines require offering witnesses, otherwise the file can be filed as concluded and no investigation will be conducted.

Also, the General Guidelines set forth the possibility to admit anonymous accusations, provided that at least one person who testified on the facts is identified.

If the Committee considers that there is a possible breach, it will interview the public official involved and if it deems it necessary, the Committee will also interview the witnesses and the persons who submitted the accusation.

If the Committee considers that there is any breach, it will determine its observations and, where appropriate, recommendations. If such Committee finds a presumptive administrative liability, it will give notice to the corresponding internal control entity.

In any case, the accusation must be resolved within a maximum period of three months from the moment that the Committee finds a probable breach.

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Sincerely,

Von Wobeser & Sierra, S.C.

Mexico City, September 28th, 2015.