

REPUBLIC OF ECUADOR

MINISTRY OF LABOR

MINISTERIAL RESOLUTION No. MDT-2021-013

Andrés Isch Pérez

MINISTER OF LABOR

CONSIDERING:

That, the Article 83 of the Ecuadorian Republic's Constitution, when establishing the duties and responsibilities of Ecuadorian citizens, prescribes promoting the public good and placing the general interest before the particular interest in accordance with good living; administering the public patrimony in an honest way and with unrestricted adherence to the law, as well as denouncing and combating acts of corruption; assuming public service as a service to the community and rendering accounts to society and authority in accordance with the law; preserving the cultural and natural heritage of the country, and caring for and maintaining public assets; and, participating in the political, civic and community life of the country in an honest and transparent manner;

That, the Article 154 of the Ecuadorian Republic's Constitution establishes that: "The State ministers, in addition to the powers bestowed upon them by law, are responsible for: **1)** Exercising the stewardship of public policies in the area under their charge and issuing the administrative agreements and resolutions required by their management (...)"

That, the Article 226 of the Ecuadorian Republic's Constitution orders that: "The State institutions, its agencies, dependencies, public servants and people who act in accordance with a state power, will only exercise the competences and powers that are attributed to them in the Constitution and the law. (...)"

That, the Article 227 of the Ecuadorian Republic's Constitution determines that: "The public administration constitutes a service to the community that is governed by the principles of effectiveness, efficiency, quality, hierarchy, deconcentration, decentralization, coordination, participation, planning, transparency and evaluation";

That, the Article 233 of the Ecuadorian Republic's Constitution establishes that: "No public servant will be exempt from responsibilities for acts carried out in the exercise of their functions or for omissions, and they will be administratively, civilly and criminally responsible for the management and administration of public funds, goods or resources (...)"

That Ecuador is a signatory country to the United Nations Convention against Corruption, ratified by the Executive Decree N.- 340, published in Official Gazette N.- 76, dated August 5, 2005, which is intended to, in accordance with Article 1: " (...) **A)** Promote and strengthen measures to prevent and combat corruption more effectively and efficiently; **B)** Promote, facilitate and support international cooperation and technical assistance regarding the prevention and fight against corruption, including asset recovery; **C)** Promote the integrity, the obligation to render accounts and the proper management of public affairs and property";

That, the article 130 of the Organic Administrative Code determines that: "Administrative normative competence. The highest administrative authorities have regulatory competence of an administrative nature, only to regulate the internal affairs of the administrative body under their



charge, except in cases where the law provides for this competence for the highest legislative authority of a public administration. The regulatory competence of people's actions must be expressly attributed by law”;

That, the Article 17 of the Statute of the Legal and Administrative Regime of the Executive Branch, states that: “The State ministers are competent to dispatch all matters inherent to their ministries without the need for any authorization from the President of the Republic, except for those cases expressed in special laws (...)”;

That, by Executive Decree N.- 1091, dated July 9, 2020, the Constitutional President of the Republic of Ecuador, Lenín Moreno Garcés, appointed Andrés Isch Pérez as Minister of Labor;

That, the ISO 37001: 2016 Standard establishes that the Anti-Bribery Management System must consist of: The Governing Body (highest authority), the Senior Management (Ethics Committee) and the Compliance Officer, so that their work grants the effective and efficient operation of the implemented management system;

That, through Ministerial Resolution N.- MDT-2020-052, dated December 18, 2020, published in the Supplement to the Official Gazette N.- 368, dated January 12, 2021, the Ministry of Labor issued the Regulations for the Formation and Operation of the Ethics Committee of the Ministry of Labor, which will perform the role of Senior Management (Ethics Committee) within the Anti-Bribery Management System, as determined in article 1 of the aforementioned regulation;

In exercise of the powers conferred by number 1 of the article 154 of the Ecuadorian Republic's Constitution, the article 130 of the Organic Administrative Code, the article 17 of the Statute of the Legal and Administrative Regime of the Executive Branch; and, the letter c), number 1.1.1.1. of the article 10 of the Organic Statute of Organizational Management by Processes of the Ministry of Labor,

RESOLVES

TO ISSUE THE MINISTRY OF LABOR'S ANTI-BRIBERY POLICY

CHAPTER I GENERAL POINTS

Based on the ISO 37001: 2016 Standard, number 5.2., of the Anti-Bribery Management System (international standard ISO37001: 2016), which establishes that, as a result of the implementation process, an Anti-Bribery Policy of the Ministry of Labor must be established, maintained and reviewed, which:

- Prohibits bribery;
- Requires compliance with the anti-bribery laws that are applicable to the Ministry of Labor;
- Is appropriate to the purpose of the Ministry of Labor;
- Provides a framework for the establishment, review and achievement of anti-bribery objectives;
- Includes a commitment to comply with the requirements of the anti-bribery management system;
- Promotes raising concerns in good faith or on the basis of reasonable belief, in confidence and without fear of retaliation;
- Includes a commitment to continuous improvement of the anti-bribery management system;



- Explains the authority and independence of the anti-bribery compliance function; and
- Explains the consequences of not complying with the anti-bribery policy.

CHAPTER II ANTI-BRIBERY POLICY OF THE MINISTRY OF LABOR

SECTION I OF THE PRINCIPLES, PROHIBITIONS, AND COMPETENCES

The Anti-Bribery Policy reflects the principles on which the Ministry of Labor has based its activities, which are carried out with the highest level of ethics, integrity and compliance with current legislation.

In this regard, this State ministry is firmly committed to applying the corresponding actions, in order to mitigate the risk of bribery in any of its forms, incorporating and giving continuity to the principles, policies and procedures that guide the behavior of all its servants, workers, public and private entities, controlled and uncontrolled.

In this context, bribery, in any of its forms, is **EXPLICITLY PROHIBITED**, whether performed directly or indirectly, in relation to an official, servant, worker, or public entity or a private person or organization; as well as any type of behavior or action that may constitute a violation of the current legislation on bribery.

The Ministry of Labor, within the scope of its powers, issues this policy and has provided the necessary resources and mechanisms for the proper implementation and operation of an ANTI-BRIBERY MANAGEMENT SYSTEM (ABMS), aligned with the requirements of the international standard ISO 37001 : 2016 and current legislation applicable to bribery, in the development of its activities, in order to prevent, control and manage any risk of bribery to which the servants and workers of the institution may be exposed to.

The Anti-Bribery Policy is applied to all the servants and workers of the Ministry of Labor in the "Management Process for the Attention of Complaints and Inspections of the Private Sector", in the Ministry's central facility and its 7 regional offices, according to the following detail:

- 1) Quito;
- 2) Cuenca;
- 3) Guayaquil;
- 4) Ambato;
- 5) Loja;
- 6) Ibarra; and,
- 7) Portoviejo.

SECTION II OF CONTINUOUS IMPROVEMENT AND CONTROL.

The Ministry of Labor identifies and periodically evaluates the bribery risks to which its activities are exposed, documenting the results in its risk matrix. Additionally, risk control plans that have been evaluated and analyzed are established, with the clear objective of preventing and reducing their probability of occurrence; In this regard, monitoring and control mechanisms are set up.



As a product of the internal and external evaluation control of the effectiveness of the Anti-Bribery Management System (ABMS) of the Ministry of Labor, as well as based on the information collected, analyzed and evaluated, this State ministry has established control and supervision measures, committing itself to continuously improve the effectiveness of the Anti-Bribery Management System (ABMS), with the aim of creating an authentic system, capable of adapting to the changing internal and external circumstances of the institution, to the improvements and opportunities detected, as well as to the weaknesses that could be identified in the institutional processes.

To provide the maximum guarantee of independence to the Anti-Bribery Management System (ABMS), the Ministry of Labor has created a specific role within the institutional organic structure, called the Compliance Officer, endowed with capacity, autonomy, independence and authority, so that this person, in direct coordination with the Ethics Committee, ensures the correct designing, implementation, monitoring and improvement of the Anti-Bribery Management System (ABMS).

The designated Compliance Officer will be at the disposal of all the servants and workers of the Ministry of Labor to advice guide and support them in matters of ethical action and compliance with current legislation, in matters of prevention of bribery.

CHAPTER III COMPLIANCE WITH THE MINISTRY OF LABOR'S ANTI-BRIBERY MANAGEMENT SYSTEM

SECTION I DISCIPLINARY SANCTIONS

The disciplinary consequences, product of the breach of this policy; as well as any requirement of the Anti-Bribery Management System (ABMS) are established in the Internal Regulations of the Ministry of Labor, and are applicable to all servants and workers of this State ministry, without limiting the legal consequences that may fall on those for committing acts, events or behaviors that violate the law.

In this regard, the Ministry of Labor has a disciplinary system, known as the Code of Ethics, to punish conducts contrary to what is established in this policy, as well as other requirements established in the Anti-Bribery Management System (ABMS) of the Ministry of Labor and other applicable regulations.

SECTION II COMPLAINT CHANNELS

All the servants and workers of the Ministry of Labor have the obligation to inform and/ or report any conduct, information or evidence that is susceptible or suspected of violating this policy, as well as the requirements of the Anti-Bribery Management System (ABMS) that may lead to criminal conduct by action or omission.

This State ministry offers different communication channels, so that anyone can report any suspicious behavior, or can raise any type of doubt or query in this regard, encouraging the presentation of complaints in case of any indication or suspicion of violation of legality, committed by any official, servant or worker. The reporting channels are the following:

- Email: denunciasantisoborno@trabajo.gob.ec.



- By registering of information through the COMPLAINTS CHANNEL, accessible through the complaints button on the website of the Ministry of Labor (www.trabajo.gob.ec).

The Ministry of Labor has secure internal mechanisms and processes to guarantee the confidentiality of complaints and communications received; as well as oriented to protect the complainants or informants who participate, according to the institutional objective of fighting bribery from any type of threat, intimidation or coercion.

FINAL DISPOSITION

This resolution will come into force from the date of its subscription, without prejudice to its publication in the Official Gazette.

Signed in the city of San Francisco de Quito, Metropolitan District, on the fifth day of the month of February 2021.



Andrés Isch Pérez
MINISTER OF LABOR

