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Regulatory Analysis of Government Compliance in Mexico

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ABSTRACT: This research work aims to identify the origin, concept and scope of government compliance. It also seeks to locate the history of regulation of corporate and governmental conduct. Finally, an analysis of the various government compliance instruments introduced in the Mexican legal system is carried out. Based on the above, the conclusions obtained will be presented. This research work obtains its justification in the duty of vigilance in charge of every administrator as he is obliged to introduce measures aimed at preventing the risks to which his activity is exposed in order to avoid, control and, where appropriate, compensate for the damages perpetrated against human rights, fundamental freedoms, so it is not simply a matter of obtaining a compliant opinion but of actually preventing the generation of a risk and therefore avoiding damage and inspiring confidence by fostering a good organizational reputation.

In its daily work, the Public Administration is exposed to a variety of risks, which means introducing a set of processes within the scope of its own structure to guarantee respect for behavioral rules.

Government compliance encompasses the adoption of a series of provisions that impose respect for objectives of general interest that range from the fight against corruption, child labor, terrorism, environmental protection, etc.

Government compliance, as a means of controlling the actions of public entities, imposes structural commitments on public administrators such as the establishment of a cartography of systemic risks, the implementation of a behavioral code, which is why they are mechanisms of obtaining results and satisfying the objectives set or that are inherent to their public function.

It is then about assuming and respecting values aimed at preserving the state's heritage, its organizational reputation and thereby providing credibility to public institutions, whether in the face of those individuals, their associates or the national states with whom they have entered into or intend to formalize alliances.

KEYWORDS: Government Compliance, Code of Conduct, Anti-Corruption, Corporate Governance, Open Government

1. INTRODUCTION

By virtue of this work, an examination is carried out of the regulatory provisions on which the figure of government compliance in Mexico is based, making a brief reference to those applicable to the federated state of Jalisco.

To achieve this goal, it is essential to evoke the minimum concepts essential to unravel and understand the effects of government compliance.

Likewise, the need arises to investigate the origins of government compliance with the intention of discovering its reason for being and suitability at the current time in the Mexican legal system.

Finally, a scrupulous identification, description and analysis is carried out of those regulatory provisions that, from our perspective, are significant in the government compliance scheme implemented by the Mexican government, which will favor the consideration of their functionality.

2. MATERIALS AND METHODS

The development of this research was based mainly on the documentary technique of data collection, since, by virtue of the nature of the topic raised, the exhaustive search is predominantly descriptive by virtue of being limited to the study of the most significant normative provisions that make up the government compliance scheme in Mexico. By virtue of the above, the documentary data search carried out in this research work presents the aspects described below: (i) primary sources have been used predominantly; (ii) the postulates of authors known as classics have been taken advantage of; (iii) the best available literature has

been preferred, and (iv) it has not only been compiled, but its scope has been considered and own contributions have been made.

To carry out this research, the following methods had to be used: (i) synthetic (a process by which apparently isolated facts were linked and a theory was formulated that grouped together the various elements, in this case inherent to government compliance); (ii) analytical (by which the distinction of the elements of a phenomenon such as government compliance is identified and accentuated) and each of them is reviewed in an orderly manner separately, (iii) and dialectical (by estimating that the phenomena historical, social, economic, political and scientific corresponding to the government compliance mechanism are in perpetual movement, given that reality is not something impassive, but rather susceptible to contradictions, as well as to perennial evolution and improvement, and depending on This is intended to ensure that all data (in this case specific to the field of government compliance) are studied in relation to others, and in their state of continuous change, since this method considers that nothing exists as an isolated object, but rather that Each form or social phenomenon, having its peculiarities, must be assimilated in its internal transformation process.

3. RESULTS

Among the most relevant findings of this investigative work are those concerning topics such as: (i) the genesis of government compliance as a form of corporate conduct extendable to government actions through the implementation of what is known as The Sarbanes Oxley Act and The Global Business Standards Codex; (ii) the very concept of government compliance as a management instrument for public entities; (iii) the radius of application or scope of government compliance, and (iv) the study of the Mexican context through the identification, description and examination of the regulatory devices on which the government compliance system is based.

Based on the above, the results are shown from authors who have addressed them and from the exhaustive analysis of the Mexican regulations that shape the government management mechanism that under the connotation of compliance has been consolidated in our country.

3.1. Origin, concept and scope of the government compliance.

The origin of compliance is found in what is commonly known under the title The Sarbanes Oxley Act, approved by the Congress of the United States of America in 2002 as a way to address the various cases of bankruptcies and frauds carried out in corporations that generated losses large-scale in financial statements for segments of both institutional and individual investors and establishes a public company accounting oversight board called the Public Company Accounting Oversight Board (and commonly identified by its acronym in English PCAOB), as a non-profit organization, which oversees the audits of public companies that are subject to securities laws. In its section 404, said ordinance establishes the requirements that these companies must satisfy in terms of public information on the administration of the negotiation, which leads to establishing and maintaining an adequate internal control structure, including controls over financial information, and the results of management's evaluation of the effectiveness of internal control over it. Internal control is defined as a process, carried out by the board of directors, management and other personnel of an entity, designed to provide reasonable assurance regarding the achievement of the following objectives: (i) effectiveness and efficiency of operations; (ii) reliability of financial reports; and (iii) compliance with laws and regulations [8].

In general terms, we could assert that government compliance consists of a management mechanism made up of policies, programs, procedures and good practices that facilitate public servants in the management of organizational risks through identification, prevention, evaluation, channeling and control strategies of the risks to which they are exposed, in order to satisfy regulatory obligations within the framework of ethics, through various instruments.

This forces us to analyze the valuable contribution of Lucía Alejandra VARGAS FERNÁNDEZ, highlighting the three causes that legitimize compliance by government entities and which lies in the attribution of the public nature of budget money; raising awareness of the duty to report acts of corruption, and monitoring the personal assets of public servants, as well as their conduct and institutional work:

Reduce Compliance gaps between the public and private sectors

After reviewing the literature related to the topic, we believe that in the public sector, compliance with anti-corruption regulations is downplayed due to 3 fundamental factors: (i) the depersonalized idea of money, that is, as it is money that comes from the public treasury, It belongs to the people, and as long as people do not visualize their own face in that of depersonalized money, the fact that money from public coffers is spent on acts of corruption will continue to go unnoticed or uncared for; (ii) citizens who do not report, whether due to laziness, fear of possible reprisals, awareness of how useless it is to report to the state bureaucracy that does not provide effective solutions, or due to ignorance; and, (iii) the absence of monitoring, since, in many cases, once control actions begin, public entities ignore the recommendations indicated by the Comptroller's Office [7].

The need to implement public policies aimed at timely risk management is what legitimizes the introduction of government compliance, which will entail, among other benefits, the adequate exercise of public spending based on principles of integrity. In

this sense, we agree with the opinion of Juan Carlos GONZÁLEZ SALINAS, stating that:

> Thus, government compliance will be the management instrument that it will allow operators of state entities to manage their risks and organize to comply with their legal obligations regarding the efficient execution of public spending under integrity standards [4].

According to this writer, any government compliance program must consist of the following three elements: (i) formulate it to address eventualities in accordance with real parameters of exposure to risk derived from the incorrect exercise of public spending; (ii) execute it gradually throughout the organization, and (iii) subject it to continuous improvement according to the monitoring of its results, and rethink it if necessary.

Regarding the type of document that contains the program that materializes the public policy of government compliance, the Canadian experience will have to be considered through the analysis of the instrument entitled Framework for Compliance Management whose essential objectives are: (i) clarify the functions of the authorities in charge of monitoring and managing regulatory compliance and the public policy that legitimizes its implementation; (ii) helps ensure that responses to non-compliance are managed appropriately and consistently; (iii) facilitates the identification and sharing of approaches to managing compliance; (iv) connects learning and development with compliance management; (v) encourages innovation and informed risk taking to achieve results [2].

The principles that govern the Canadian Compliance Management Framework are extremely interesting since its success will depend on adequate information at all levels within the public entity, the organizational capacity to sensitize its members regarding the spirit and intention of this public policy, of correct planning with respect to the outlined perspectives, specifying that not only possible situations of non-compliance must be examined, but that real situations of non-compliance are addressed with appropriate responses [9].

Similarly, since December 2003, the Canadian regime provides in its Code that regulates the conduct of public office holders in matters of conflicts of interest and post-employment. The objective of which is to increase public confidence in the integrity of public office holders public positions and in the government decision-making process) various standards of ethics, such as those set forth below: (i) act honestly and according to higher standards of ethics to preserve and increase public confidence in the integrity, objectivity and impartiality of the government; (ii) perform his official duties and organize his personal affairs in such an impeccable manner as to withstand the closest public scrutiny (to fulfill this obligation, it is not enough to simply observe the law); (iii) in the exercise of their official duties, make any decision of public interest taking into account the merits of each case; (iv) the holder must not retain personal interests in which the government activities in which he participates could have any influence; (v) from his appointment he must organize his personal affairs in such a way as to avoid real, potential or apparent conflicts of interest (the public interest must always prevail when the interests of the owner conflict with his official duties); (vi) apart from gifts, hospitality and other benefits of minimal value, you are prohibited from requesting or accepting the transfer of economic values, unless they are transfers resulting from an enforceable contract or a property right; (viii) is prohibited from exceeding his official duties to come to the aid of natural or legal persons in their relations with the government, when this may give rise to preferential treatment; (ix) you are prohibited from using for your own benefit or advantage information obtained in the performance of your official duties and which are generally not accessible to the public; (x) is prohibited from directly or indirectly using government property, including leased property, or permitting use for purposes other than officially approved activities, and (xi) at the end of his term, has a duty not to obtain undue advantage of the public office he held [1].

Let us verify below the French approach carried out by Professor Marie-Anne FRISON-ROCHE who recognizes the novelty of the so-called Compliance Law whose correct approach would be, from a general perspective that of conformity with the supreme norm, and from a pragmatic aspect the series of instruments aimed at making advance decisions that allow preventive management of acts that facilitate the achievement of the entity's objectives, but can also be legitimized in policies that range from the fight against corruption to climate change:

The Right to Compliance is a new branch of Law, born in the United States. This novelty makes it very flexible. It is pertinent to retain the English term Compliance since at the moment; the only term available in French is Compliance. But “compliance” simply refers to the fact of being in a situation that does not contradict the rule of law, or refers to the hierarchy of legal norms; therefore, a law will be “in accordance” with the Constitution.

What is commonly called a “Compliance” device rather aims at all mechanisms being forced to demonstrate that they have taken all measures and put in place Ex Ante instruments to aim for the achievement of goals.

For example, the US Foreign Corrupt Practices Act (FCPA) [11], the British Anti-Bribery Act [12] or the French law known as Sapin 2 [13] are laws that aim to prevent, combat and punish corruption, whether perspective or its realization, whether internal or international. Here it is an end that can be described as political: the public authority, here the legislator, has established that corruption was a behavior detrimental to the proper functioning of the economy and society.

The Law of Compliance extends the Law of Regulation by transferring it to companies that are obliged to organize to participate, or even to carry, the burden of achieving a political and structural goal: here the prevention of a systemic crisis. But Compliance Law can be separated from Regulatory Law to pursue an objective that is not sectored, for example preventing corruption. Furthermore, the Right to Compliance is a Right of a political nature since public authorities can aspire to objectives for which they do not have the means, but which they consider essential to achieve, for example the effective fight against the devastating effects of climate change [3].

Furthermore, from the perspective of Jean-Claude Marin, Attorney General before the Court of Cassation of the French Republic, it is worth highlighting the new scope given to the figure of compliance as a mechanism for respecting business values other than purely legalistic ones as part of its natural evolution, which allows the prevention and comprehensive management of risk, thereby promoting the issuance of new behavioral and professional rules that will address their timely and adequate compliance based on the principle of reasonable diligence or due diligence, which has accentuated the introduction of the compliance concept in the French legal system through Law No. 2016-1691 of December 9, 2016 relating to transparency, the fight against corruption and the modernization of economic life, and Law No. 2017-399 of March 27, 2017 regarding the duty of vigilance of parent and ordering companies [14]:

The company evolves in other systems of values different from those instituted by the legislator; the notion of norm could not be reduced to only the legal norm, since it extends to other diverse normative spheres of law.

… Compliance thus puts into practice particular rules, appearing at first glance as soft law, through the edition of professional standards, codes of conduct, ethical charters and other voluntary commitments implemented within the framework of the company and are imposed to all its actors.

…Compliance thus appears as a permanent procedure, an organizational logic, which implies the creation of new professions, such as compliance officers, risk managers, risk directors, responsible, together with lawyers, for managing prevention and the management of legal risks, as well as deontology and ethics in companies. …Thus, the obligation to prevent corruption risks is imposed on French companies of significant size that must implement "compliance" programs.

… Another measure, much commented on and even criticized, lies in the establishment of a new criminal response known as "judicial convention of public interest." [5].

3.2. Background of the regulation of the corporate and government conduct

3.2.1. Significant precedents in the international framework.- Since the Sarbanes-Oxley Law, a variety of codes of conduct have been introduced and are part of the work not only of public securities issuing companies but also of the business world in general. Multi-sector calls for the preparation of this type of codification of corporate behavior have been copious in order to counteract corruption and business excesses.

As an example, Lynn S. PAINE, Rohit DESHPANDÉ, Joshua D. MARGOLIS, and Kim Eric BETTCHER have developed what they call the Global Business Standards Codex [15] as a reference for the expected conduct of corporations, which they can harmonize it according to their own requirements and print it with their distinctive signs:

> Our Global Business Standards Codex is intended not as a "model code" that companies should adopt as is, but as a benchmark for those wishing to create their own world class code. It represents our attempt to gain a comprehensive, but simplified, picture of the conduct expected of today's corporations. The provisions of the codex most be customized to a company's specific business and situation, and individual companies' codes will include their own distinctive elements as well [6].

3.2.2. Context in Mexico.- Below is a description of the series of regulatory provisions that represent the background of government compliance, which are described starting at the federal level and descending towards the local level.

3.2.2.1. Political Constitution of the United Mexican States [16].

3.2.2.1.1. Section III of article 109 of the Political Constitution of the United Mexican States, in its provisions that the public servant in the performance of his employment, position or commission must observe the principles of: (i) legality; (ii) honesty; (iii) loyalty; (iv) impartiality, and (v) efficiency.

3.2.2.1.2. In accordance with the provisions of Article 113 of the Political Constitution of the United Mexican States, the National Anti-Corruption System is conceived as the instance of coordination between the authorities of all levels of government competent in the prevention, detection and sanction of administrative responsibilities and acts of corruption, as well as the supervision and control of public resources, and the fulfillment of its purpose will be subject to the minimum bases specified therein.

3.2.2.2. General Law of the National Anti-Corruption System [17].

3.2.2.2.1. Section VII of article 2 of the General Law of the National Anti-Corruption System determines as the objective of said system the establishment of the bases and policies for the promotion, promotion and dissemination of the culture of integrity in the public service, as well as of accountability, transparency, oversight and control of public resources.

3.2.2.2.2. Section VIII of article 2 of the General Law of the National Anti-Corruption System also provides for the objective of

establishing permanent actions that ensure the integrity and ethical behavior of public servants, as well as creating the minimum bases so that every body of the Mexican state establishes effective policies of public ethics and responsibility in public service.

3.2.2.2.3. For its part, article 5 of the General Law of the National Anti-Corruption System establishes the following as guiding principles of the public service: (i) legality; (ii) objectivity; (iii) professionalism; (iv) honesty; (v) loyalty; (vi) impartiality; (vii) efficiency; (viii) effectiveness; (ix) equity; (x) transparency; (xi) economy; (xii) integrity, and (xiii) competition on merit.

3.2.2.2.4. Additionally, the aforementioned article 5 of the General Law of the National Anti-Corruption System states that public entities are obliged to create and maintain structural and regulatory conditions that allow the proper functioning of the State as a whole, and the ethical and responsible actions of every public servant.

3.2.2.3. General Law of Administrative Responsibilities [18].

3.2.2.3.1. Section V of article 2 of the General Law of Administrative Responsibilities determines as the object of said regulation to create the bases for all public entities to establish effective policies of public ethics and responsibility in public service.

3.2.2.3.2. Also article 6 of the General Law of Administrative Responsibilities determines that public entities are obliged to create and maintain structural and regulatory conditions that allow the proper functioning of the State as a whole, and the ethical and responsible actions of each server public.

3.2.2.3.3. In synchronization with the above, article 7 of the General Law of Administrative Responsibilities requires that public servants in the performance of their employment, position or commission observe the principles of: (i) discipline; (ii) legality; (iii) objectivity; (iv) professionalism; (v) honesty; (vi) loyalty; (vii) impartiality; (viii) integrity; (ix) accountability; (x) effectiveness and efficiency that govern public service.

3.2.2.3.4. Likewise, article 7 of the General Law of Administrative Responsibilities establishes that, for the effective application of said principles, it is necessary for public servants to observe the guidelines indicated below: (i) act in accordance with what the laws, regulations and other legal provisions attribute to their employment, position or commission, so they must know and comply with the provisions that regulate the exercise of their functions, powers and attributions; (ii) conduct yourself uprightly without using your employment, position or commission to obtain or attempt to obtain any personal benefit, benefit or advantage or in favor of third parties, nor seek or accept compensation, benefits, gifts, gifts or gifts from any person or organization; (iii) satisfy the best interest of collective needs above particular, personal or unrelated interests to the general interest and well-being of the population; (iv) give people in general the same treatment, so they will not grant privileges or preferences to organizations or people, nor will they allow undue influences, interests or prejudices to affect their commitment to make decisions or exercise their functions objectively; (v) act in accordance with a culture of service oriented to achieving results, seeking at all times to better perform their functions in order to achieve institutional goals according to their responsibilities; (vi) manage the public resources that are under its responsibility, subject to the principles of austerity, efficiency, effectiveness, economy, transparency and honesty to satisfy the objectives for which they are intended; (vii) promote, respect, protect and guarantee the human rights established in the Constitution; (viii) correspond to the trust that society has conferred on them; they will have an absolute vocation to serve society, and will preserve the best interest of collective needs above particular, personal or other interests unrelated to the general interest; (ix) avoid and account for interests that may conflict with the responsible and objective performance of its powers and obligations, and (x) refrain from making any private deal or promise that compromises the Mexican State.

3.2.2.3.5. To ensure compliance with said principles and guidelines, article 16 of the General Law of Administrative Responsibilities specifies the obligation of public servants to observe the code of ethics that is issued for this purpose by the secretariats or internal bodies of control, in accordance with the guidelines issued by the National Anti-Corruption System, so that dignified conduct that responds to the needs of society and guides its performance prevails in its actions. The foregoing, with the understanding that said code of ethics must be made known to the public servants of the agency or entity in question, as well as given maximum publicity.

3.2.2.4. Coordinating Committee of the National Anti-Corruption System

3.2.2.4.1. In coherence with the General Law of Administrative Responsibilities, the Coordinating Committee of the National Anti-Corruption System, as the body in charge of the coordination and effectiveness of the National Anti-Corruption System, issued an Agreement that contains the necessary guidelines for the issuance of the Code of Ethics referred to in article 16 of the General Law of Administrative Responsibilities, which was published in the Official Gazette of the Federation on October 12, 2018.

3.2.2.4.2. In accordance with point Four of such guidelines, the Code of Ethics is conceptualized as an element of the integrity policy of public entities, for the strengthening of an ethical and integrity public service, and will be conceived as the instrument that will contain the principles and values considered fundamental for the definition of the role of public service and that will seek to influence the behavior and performance of public servants, to form a shared professional ethic and identity and a sense of pride in belonging to the public service.

3.2.2.4.3. Additionally, from reading point Four of said guidelines, it is clear that the Code of Ethics will establish training mechanisms for public servants in reasoning about the principles and values that should prevail in decision-making and in the correct exercise of public function in a given situation.

3.2.2.4.4. Based on point Five of the aforementioned guidelines, the Code of Ethics issued by the secretariats and internal control bodies must contain the constitutional and legal principles that govern public service: (i) legality; (ii) honesty; (iii) loyalty; (iv) impartiality; (v) efficiency; (vi) economy; (vii) discipline; (viii) professionalism; (ix) objectivity; (x) transparency; (xi) accountability; (xii) competition on merit; (xiii) effectiveness; (xiv) integrity, and (xv) fairness.

3.2.2.4.5. Based on point Six of such guidelines, the Code of Ethics issued by the secretariats and internal control bodies must establish a catalog of values and their definitions, based on the following: (i) public interest; (ii) respect; (iii) respect for Human Rights; (iv) equality and non-discrimination; (v) gender equity; (vi) cultural and ecological environment; (vii) cooperation; (viii) leadership.

3.2.2.4.6. Corresponding to point Eight of the guidelines in question, the Code of Ethics issued by the Secretariats and the Internal Control Bodies will contemplate rules of integrity in the different areas of the public service, in accordance with the powers of the public entity of which. This is based on, but not limited to, the following: (i) public action; (ii) public information; (iii) public procurement, licenses, permits, authorization and concessions; (iv) government programs; (v) procedures and services; (vi) human resources; (vii) administration of real and personal property; (viii) evaluation processes; (ix) internal control; (x) administrative procedure; (xi) permanent performance with integrity; (xii) cooperation with integrity, and (xii) dignified behavior.

3.2.2.4.7. Regarding the structure that the Code of Ethics must contain, point Ninth determines that, in an declarative but non-limiting manner, it must satisfy the following structural elements in its preparation: (i) general provisions; (ii) guiding principles of public service; (iii) values; (iv) integrity rules; (v) training and dissemination mechanisms of the Code of Ethics, and (vi) integrity policies.

3.2.2.4.8. Now, regarding the regime of the application of the Code of Conduct and its compliance, point Eleven of the Guidelines in question, indicates that each public entity, prior approval of its respective Internal Control Body, will issue a Code of Conduct, which will specify in a timely and concrete manner the way in which public servants will apply the principles, values and rules of integrity contained in the corresponding Code of Ethics.

The foregoing, with the understanding that the guiding principles, values and rules of integrity contained in the Code of Conduct will be linked to the mission, vision, objectives and powers of the public entity in particular; in order to generate identification mechanisms for the activities carried out by the public servants that make up each public entity.

3.2.2.4.9. As regards the promotion and monitoring of compliance with the Codes of Ethics and Conduct, in accordance with point Twelfth of the aforementioned guidelines, public entities may form Ethics Committees or similar figures, for which The Secretariats and the Internal Control Bodies will regulate their integration, organization, powers and operation.

3.2.2.4.10. In accordance with point Thirteen, the publicity of the Codes of Ethics and Conduct, and their knowledge by public servants will be achieved through their dissemination and publication on: (i) the internet pages of the Internal Bodies Control and Secretariats; (ii) in the corresponding official newspaper, and (iii) making it known to public servants.

3.2.2.5. Political Constitution of the State of Jalisco, Mexico [19].

In its article 107 Ter, the Anti-Corruption System of the State of Jalisco is conceptualized as the instance of coordination between the state and municipal authorities competent in the prevention, detection and punishment of administrative responsibilities and acts of corruption, as well as the supervision and control of public resources, applying for this purpose the international treaties on anti-corruption to which Mexico is a party and the respective laws.

Thus, the Anti-Corruption System of the State of Jalisco, Mexico is attributed the objective of preventing corruption, with the purpose of strengthening the rule of law, accountability and governance for development; as well as establish principles, general bases, public policies and procedures for coordination between state and municipal authorities in the prevention, detection and punishment of administrative offenses and acts of corruption, as well as in the supervision and control of public resources.

In other words, it is an entity whose purpose is to establish, articulate and evaluate the policy on the matter, for which it will be governed by the principles of impartiality, certainty, legality, objectivity, efficiency, professionalism, honesty, independence, transparency and advertising.

3.2.2.6. Law of Political and Administrative Responsibilities of the State of Jalisco, Mexico [20].

3.2.2.6.1. In its article 47, the Law of Political and Administrative Responsibilities of the State of Jalisco, Mexico establishes that the public servant who is among the cases of acts or omissions classified as such by the General Law of Administrative Responsibilities will incur a non-serious administrative offense.

3.2.2.6.2. Complementarily, article 48 of the Law of Political and Administrative Responsibilities of the State of Jalisco, Mexico stipulates in its Arabic 1 one, section XX that, the public servant whose acts or omissions fail to comply will be considered to

commit a non-serious administrative offense or violate what is contained in a series of obligations, among which is the obligation to observe the code of ethics issued by the respective internal control bodies.

3.2.2.6.3. In section applicable, various powers, among which is that of issuing, observing and monitoring compliance with the Code of Ethics, to which the public servants of the public entity must be subject, in accordance with the guidelines issued by the National Anti-Corruption System.

3.2.2.7. Agreement of the Constitutional Governor of the State of Jalisco, Mexico, and dated January 26, 2017 published in the Official Newspaper El Estado de Jalisco on February 9, 2017 [21].

By virtue of said Agreement, the Specialized Unit in Ethics, Conduct is created and Prevention of Conflicts of Interest of the State Public Administration and the Committees in the matters referred to in the Agencies and Entities of the State Public Administration. The significant aspects of said Agreement are:

3.2.2.7.1. Based on article 1, the object of said Agreement is the creation of the Specialized Unit in Ethics, Conduct and Prevention of Conflicts of Interest of the State Public Administration and the Committees in the matters referred to in the agencies and entities that make it up; as well as the distribution of powers related to the implementation and monitoring of public policies, preventive measures and strategies that allow the effective safeguarding of the principles of competition by merit, confidentiality, economy, effectiveness, equity, honesty, impartiality, independence. Integrity, loyalty, legality, objectivity, professionalism, respect for human dignity, transparency and equal treatment and opportunities, inclusion and non-discrimination, on the part of public servants of the various agencies and entities of the public administration of the State.

3.2.2.7.2. In accordance with section V of article 16 of the reference Agreement, it is up to the Committees of Ethics, Conduct and Prevention of Conflicts of Interest of each of the Agencies and Entities of the Public Administration of the State of Jalisco, Mexico to authorize the Code of Conduct in accordance with which the principles, values and conduct applicable to the public entity of its affiliation are safeguarded, in addition to those provided for in the Code of Ethics and Conduct of Public Servants of the Public Administration of the State of Jalisco, Mexico and its corresponding modifications; and submit it to the validation of the Specialized Unit, through the Executive Secretary.

3.2.2.7.3. Based on fraction XII of article 32 of the aforementioned Agreement, the powers and attributions of the Executive Secretary of the Ethics, Conduct and Prevention of Conflicts of Interest Committee of each of the agencies and entities of the public administration of the State are to prepare the Code of Conduct of the public entity of its affiliation, which must be authorized by said Committee.

3.2.2.7.4. In accordance with the above, section V of article 16 of the reference Agreement establishes as a function of the Ethics, Conduct and Prevention of Conflicts of Interest Committee of each of the agencies and entities of the public administration of the State, to authorize the Code of Conduct, according to which the principles, values and conduct applicable to the public entity of its affiliation are safeguarded in addition to those provided for in the Code of Ethics and Conduct of Public Servants of the Public Administration of the State of Jalisco, Mexico and its corresponding modifications.

3.2.2.8. Agreement 03/2018 issued by the Comptroller's Office of the State of Jalisco, Mexico on February 26, 2018 and published in the Official Newspaper El Estado de Jalisco, Mexico on March 24, 2018, which announces that the entry into operation of the Specialized Unit in Ethics, Conduct and Prevention of Conflicts of Interest of the Public Administration of the State of Jalisco, Mexico) [22].

3.2.2.8.1. In accordance with the first transitional article of said Agreement, it is announced that the entry into operation of the Specialized Unit in Ethics, Conduct and Prevention of Conflicts of Interest of the Public Administration of the State of Jalisco, Mexico will be the day following its publication.

3.2.2.8.2. Based on the third transitional article of the aforementioned Agreement, the formation of the respective Ethics, Conduct and Prevention of Conflict of Interest Committees must not exceed a period of three months counted from the entry into force of said Agreement.

3.2.2.9. Agreement of the Constitutional Governor of the State of Jalisco, Mexico and the Comptroller's Office of the State of Jalisco, Mexico dated February 20, 2019 and published in the Official Newspaper El Estado de Jalisco on March 12, 2019, by which it is issued the Code of Ethics and the Rules of Integrity for public servants of the Public Administration of the State of Jalisco, Mexico [23].

3.2.2.9.1. In its article 7, the Code in question recognizes as constitutional and legal principles that govern public service: (i) austerity; (ii) confidentiality; (iii) competition based on merit and ability; (iv) discipline; (v) economy; (vi) effectiveness; (vii) efficiency; (viii) equity; (ix) honesty; (x) impartiality; (xi) independence; (xii) integrity; (xiii) justice; (xiv) loyalty; (xv) legality; (xvi) objectivity; (xvii) professionalism; (xviii) accountability, and (xix) transparency.

3.2.2.9.2. As values applicable to public servants in the exercise of their functions, the aforementioned Code of Ethics provides in its article 8 the following: (i) commitment; (ii) cooperation; (iii) cultural and ecological environment; (iv) gender equality; (v)

honesty; (vi) equality and non-discrimination; (vii) public interest; (viii) leadership; (ix) respect; (xi) respect for Human Rights; (xii) responsibility; (xiii) solidarity; (xiv) tolerance, and (xv) vocation to service.

3.2.2.9.3. It is up to article 10 to establish in a declarative manner the different areas of application of the rules of integrity within which public servants must conduct themselves: (i) public performance; (ii) public information; (iii) public procurement, licenses, permits, authorizations and concessions; (iv) government programs; (v) procedures and services; (vi) human resources; (vii) administration of real and personal property; (viii) evaluation processes; (ix) internal control (x) administrative procedure; (xi) permanent performance with integrity; (xii) cooperation with integrity, and (xiii) dignified behavior.

3.3. Various instruments of government compliance in Mexico

In this section, reference will be made to the main government compliance mechanisms that the Mexican legislator has designed, mainly at the federal level.

3.3.1. The forecast of annual programs and installation of acquisitions, leases and services committees [24].

In accordance with articles 20 and 22 of the Public Sector Procurement, Leasing and Services Law, the government compliance mechanisms consist of the provision of annual programs and the establishment of procurement, leasing and services committees, respectively.

In effect, based on article 20 of said regulatory body, government agencies and entities will formulate their annual acquisition, leasing and service programs, and those that cover more than one budget year, as well as their respective budgets.

In the preparation of such programs, various elements must be taken into account, such as: (i) actions prior to, during and after carrying out said operations; (ii) short, medium and long term objectives and goals; (iii) the physical and financial scheduling of the necessary resources; (iv) the units responsible for its implementation; (v) its substantive, administrative support and investment programs, as well as, where appropriate, those related to the acquisition of goods for subsequent commercialization, including those that will be subject to production processes; (vi) the existence of sufficient quantities of the goods; the estimated delivery times; the technological advances incorporated into the goods, and, where applicable, the plans, projects and specifications; (vii) the applicable standards under the Quality Infrastructure Law or, in the absence of these, international standards; (viii) the maintenance requirements of the movable property in its charge, and (ix) the other provisions that must be taken into account according to the nature and characteristics of the acquisitions, leases or services.

Regarding the installation of acquisitions, leases and services committees, article 22 of the Law on Public Sector Acquisitions, Leases and Services provides the functions that must be fulfilled, listing below those that I consider relevant due to the topic addressed in this investigation: (i) review the program and budget for acquisitions, leases and services, as well as its modifications, and formulate appropriate observations and recommendations; (ii) rule, prior to the initiation of the procedure, on the admissibility of the exception to the public bidding due to being in one of the cases referred to in sections I, III, VIII, IX, second paragraph, X, XIII, XIV, XV, XVI, XVII, XVIII and XIX of article 41 of said legal system, and (iii) rule on the draft policies, bases and guidelines regarding acquisitions, leases and services that are presented to it, as well as submit them to the consideration of the owner of the agency or governing body of the entities; where appropriate, authorize assumptions not foreseen therein, with the aim of optimizing and sustainably using resources to reduce financial and environmental costs.

3.3.2. The schemes for the development of public-private partnership projects, in accordance with the Public-Private Partnership Law and under the principles of articles 25 and 134 of the Political Constitution of The United Mexican States [25].

It is up to article 2 of the aforementioned legal system to define what should be understood as public-private partnership projects, in accordance with the following elements: (i) they are those that are carried out under any scheme; (ii) with the purpose of establishing a relationship of a contractual nature whose validity is long-term; (iii) that merits the participation of the public and private sectors; (iv) aimed at the provision of services to the public sector itself, wholesalers, intermediaries or the end user; (v) in which the use of infrastructure provided either totally or partially by the private sector is required, and (vi) aimed at satisfying the objectives of increasing social well-being as well as investment rates in Mexico.

Article 14 of the Public-Private Associations Law contains the compliance requirements to be met in order for this type of projects to be considered viable, which will be recorded in an opinion issued by the agency or entity interested in their achievement, in which it will contain and analyze, among other aspects: (i) the description of the project and its technical feasibility; (ii) the real estate, assets and rights necessary for the development of the project; (iii) the authorizations for the development of the project that may be necessary; (iv) the legal feasibility of the project; (v) the environmental impact, the preservation and conservation of the ecological balance and, where applicable, the impact on natural areas or protected zones, human settlements and urban development of the project, as well as its viability in these aspects; by the competent authorities; (vi) the social profitability of the project; (vii) estimates of investment and contributions, in cash and in kind, both federal and private and, where appropriate, state and municipal; (viii) the economic and financial viability of the project; and (ix) the convenience of carrying out the project through a public-private partnership scheme, which includes an analysis of other options.

3.3.3. Review and inspection tools

These are instruments provided for in the Federal Supervision and Accountability Law, and they focus precisely on the review and supervision of: (i) the public account; (ii) irregular situations that are reported with respect to the current fiscal year or previous years other than that of the public account under review; (iii) the application of the formulas for distribution, administration and exercise of federal participations, and (iv) the destination and exercise of resources from financing contracted by states and municipalities, which have the guarantee of the federation.

In accordance with the provisions of Articles 2 and 3 of the Law on Supervision and Accountability of the Federation, the inspection of the Public Account must be carried out on the basis of the principles of legality, definitiveness, impartiality and reliability. Its scope extends to the following two areas: (i) the supervision of the financial management of the audited entities, and (ii) the practice of performance audits to verify the degree of compliance with the objectives of the federal programs.

The purpose of supervising financial management is to verify the satisfaction rates and compliance with the provisions of the Income Law and the Expenditure Budget, and other applicable legal provisions, regarding public income and expenses, as well as public debt.

Said audit exercise also includes: (i) the review of the management, (ii) the custody and application of federal public resources, (iii) as well as the other financial, accounting, patrimonial, budgetary and programmatic information of the audited entities.

3.3.4. The general criteria of financial and financial responsibility

Among the aspects provided by the Law of Financial Discipline of the Federal Entities and Municipalities, is the establishment of the general criteria of fiscal and financial responsibility that will govern the Federal Entities and the Municipalities, as well as their respective Public Entities. [26].

The guiding principles that are intended to be met under Article 1 of said legal system regarding the administration of public resources are: (i) legality; (ii) honesty; (iii) effectiveness; (iv) efficiency; (v) economy; (vi) rationality; (vii) austerity; (viii) transparency; (ix) control, and (x) accountability.

One of the criteria in reference with the greatest significance is the one that commits the federal entities and municipalities, and is the one provided respectively in articles 5 and 18 of the Law of Financial Discipline of the Federal Entities and Municipalities, concerning to be considered in their financial initiatives the Income Laws and the Expenditure Budget projects items such as: (i) annual objectives, strategies and goals; (ii) public finance projections, considering the premises used in the General Economic Policy Criteria; (iii) description of the relevant risks for public finances, including the amounts of Contingent Debt, accompanied by proposals for action to address them; (iv) the results of public finances covering a period of the last five years and the fiscal year in question; (v) an actuarial study of the pensions of its workers that can be updated at least every three years.

Various aspects to be considered as a governing one is that established in article 6 of the legislation under analysis and which translates into the generation by public entities of sustainable budget balances, which means that at the end of the fiscal year and under the accrual accounting moment, said balance must be greater than or equal to zero. Likewise, the budget balance of available resources is sustainable, when at the end of the fiscal year and under the accrual accounting moment, said balance is greater than or equal to zero.

In matters of public debt, two fundamental compliance criteria established in article 22 of the Law of Financial Discipline of Federal Entities and Municipalities must be considered, in accordance with section VIII of article 117 of the Political Constitution of the United Mexican States [28]. The first refers to the limitation determining that public entities may not contract, directly or indirectly, financing or obligations with governments of other nations, with foreign companies or individuals, nor when they must be paid in foreign currency or outside the national territory. The second consists of the limiting determination of the destination of the financing or assumption of obligations of public entities, since their purpose will only be productive public investments, refinancing or restructuring, including the expenses and costs related to their contracting, as well as the reserve indices that must be established with respect to them.

To further clarify what the concept of productive public investment should encompass, the description provided by section XXV of article 2 of the Law under study is useful, considering that it is any expenditure by which it is generated, directly or indirectly, a social benefit, and additionally, whose specific purpose is: (i) the construction, improvement, rehabilitation and/or replacement of public domain assets; (ii) the acquisition of goods associated with the equipment of said public domain goods, included in a limited manner in the concepts of furniture and administration equipment, furniture and educational equipment, medical equipment and medical and laboratory instruments, defense and security equipment, and machinery, according to the classifier by object of expenditure issued by the National Council for Accounting Harmonization, or (iii) the acquisition of goods for the provision of a specific public service, included in a limiting manner in the concepts of public transport vehicles, land and non-residential buildings, according to the Classifier by Object of Expenditure for the Federal Public Administration issued by the National Council for Accounting Harmonization [27].

In effect, it is up to the National Council for Accounting Harmonization (NCAH) as the coordinating body for the harmonization of accounting, to issue said classifier as a budgetary instrument that, taking into account a generic nature and preserving the basic structure (chapter, concept and item generic), allows personal services to be recorded in an orderly, systematic and homogeneous manner; materials and supplies; general services; transfers, subsidies and other aid; movable and immovable property; public investment; financial investments; participations and contributions; public debt, among others.

Additionally, the guidelines for contracting public debt are identified through the assumption of liability obligations, direct or contingent, derived from financing by public entities, considering financing as the contracting inside or outside the country, of credits or loans, in accordance with the bases established by the Federal Public Debt Law applicable: (i) to the Federal Executive and its dependencies; (ii) to the government of Mexico City; (iii) decentralized organizations; (iv) companies with majority state participation; (v) development banking institutions, national auxiliary credit organizations, national insurance and surety institutions; (vi) trusts in which the trustor is the Federal Government or any of the aforementioned entities, and (vii) the productive companies of the State and their subsidiary productive companies.

3.3.5. The National Quality Infrastructure System

The Quality Infrastructure Law through the National Quality Infrastructure System favorably affects government compliance in this segment, by establishing and developing the bases of industrial policy, through normalization, standardization, accreditation, conformity assessment and metrology, promoting economic development and quality in the production of goods and services, in order to expand productive capacity and continuous improvement in value chains, promote international trade and protect legitimate objectives of interest public provided for in said legal system [29].

According to article 10 of the aforementioned regulations, among the main legitimate objectives of public interest whose protection is intended to be exercised through government compliance with quality control, are: (i) the protection and promotion of health; (ii) the protection of the physical integrity, health, and life of workers in the workplace; (iii) the protection of organic production, genetically modified organisms, agri-food, aquaculture, fishing, animal and plant health and safety; (iv) food security; (v) education and culture; (vi) tourist services; (vii) national security; (viii) environmental protection and climate change; (ix) the use and exploitation of natural resources; (x) healthy rural and urban development; (xi) public works and services; (xii) road safety; (xiii) the protection of the right to information, and (xiv) the protection of designations of origin.

It is through the Official Mexican Standards (mandatory technical regulation issued by the competent Standardizing Authorities whose essential purpose is the promotion of quality for economic development and the protection of the legitimate objectives of public interest provided for in the Quality Infrastructure Law, through the establishment of rules, names, specifications or characteristics applicable to a good, product, process or service, as well as those related to terminology, marking or labeling and information) and Standards (technical document that provides for common and repeated use of rules, specifications, attributes or test methods applicable to a good, product, process or service, as well as those related to terminology, symbols, packaging, marking, labeling or agreements), which materializes the government compliance mechanism in the field of particular quality but not exclusively in government management and provision of public services.

3.3.6. Compliance Mechanisms by Credit Institutions

The regulation of the banking and credit service, the organization and operation of credit institutions, the activities and operations that they may carry out, their healthy and balanced development, the protection of the interests of the public and the terms in which the State will exercise the financial governance of the Mexican Banking System corresponds to the Credit Institutions Law [30].

In the terms of article 115 of the aforementioned legal system, complemented by the General Provisions issued by the Ministry of Finance and Public Credit, listening to the prior opinion of the National Banking and Securities Commission, multiple banking institutions must establish measures and procedures to prevent and detect acts, omissions or operations that could favor, provide help, assistance or cooperation of any kind for the commission of the crimes of terrorism or international terrorism provided for respectively in articles 139 and 148 Bis of the Federal Penal Code or that could be located in the cases of operations with resources of illicit origin referred to in article 400 Bis of said federal criminal codification [31].

For their part, the aforementioned General Provisions and their latest reform (product of the evaluation of Mexico within the framework of the Fourth Round of Mutual Evaluation of the FATF Financial Action Task Force), in order to examine their level of compliance in the international standards on the prevention of money laundering and financing of terrorism), establish guidelines on the procedure and criteria that credit institutions must observe, among other things, with respect to: (i) adequate knowledge of their clients and users, to which they must consider the background, specific conditions, economic or professional activity and the places in which they operate; (ii) the information and documentation that these institutions must collect to open accounts or enter into contracts related to the operations and services that they provide and that fully accredits the identity of their clients, and (iii) the establishment of those structures internal entities that must function as compliance areas in this matter, within each

credit institution in accordance with the Compliance Manual of each financial entity.

Additionally, the protection mechanisms of the financial system and the national economy are identified provided for in the Federal Law for the Prevention and Identification of Operations with Resources of Illicit Origin, which establishes measures and procedures to prevent and detect acts or operations that involve resources of illicit origin, through inter-institutional coordination, whose purpose is to collect useful elements to investigate and prosecute the crimes of operations with resources of illicit origin, those related to the latter, the financial structures of criminal organizations and prevent the use of resources for its financing [32].

3.3.7. Compliance mechanisms regarding public works and services related thereto

The regulatory regulation of article 134 of the Political Constitution of the United Mexican States regarding contracting of public works by public entities, as well as the services related to them, is identified in the Law of Public Works and Services related to themselves. Let's see below the most significant compliance mechanisms that this standard has planned.

The first is found in articles 19 and 19 Bis, and consists of the fact that the agencies and entities, when applicable, prior to carrying out the work, must process and obtain from the competent authorities: (i) the opinions, permits, licenses, rights to material banks; (ii) as well as property or property rights; (iii) the rights of way and expropriation of properties on which the public works will be carried out, or, where appropriate, the rights granted by whoever can legally dispose of them. The foregoing is with the understanding that the call for the corresponding tender must specify: (i) the procedures that the contractor must complete, and (ii) the management by the contractor regarding the acquisition of real estate or constitution of real rights that correspond, that are necessary to execute public works.

We identify the second instrument in its article 20 by establishing that in the projects for the execution of works or services related to them, the necessary works must be included so that the environmental conditions are preserved or restored in an equivalent manner when they could deteriorate.

The third government compliance mechanism is established in article 25, which requires the existence of public works committees. In this sense, the heads of the departments and governing bodies of public entities, depending on the volume of public works and services related to them that they execute, must establish such collegiate bodies whose most representative functions consist of: (i) review the program and budget for public works and services related thereto, as well as their modifications, and formulate appropriate observations and recommendations; (ii) dictate the draft policies, bases and guidelines (POBALINES) regarding public works and services related thereto that are presented to it, as well as submit them to the consideration of the head of the agency or the governing body of the entities; where appropriate, authorize cases not provided for therein; (iii) rule, prior to the initiation of the procedure, on the appropriateness of not holding public tenders due to being in one of the exceptional cases provided for in article 42 of said order.

Finally, an issue whose compliance deserves attention refers to the procedures for exceptions to public bidding: (i) procedures for inviting at least three people, or (ii) direct awarding. To this end, article 41 of the aforementioned legislative system determines that in such exceptional cases, the agencies and entities, under their responsibility, may choose not to carry out the public bidding procedure and enter into contracts through the aforementioned exception procedures in accordance with the following regulatory mechanisms: (i) the selection of the exception procedure carried out by the agencies and entities must be based and motivated, according to the circumstances that occur in each case, on criteria of economy, effectiveness, efficiency, impartiality, honesty and transparency that are appropriate to obtain the best conditions for the State; (ii) be recorded in writing and signed by the head of the area responsible for the execution of the work, both the accreditation of the criteria on which the exception is based; as well as the justification of the reasoning on which the exercise of the option is based.

3.3.8. Provided schemes regarding economic competition

These are those provided for by the Federal Economic Competition Law (regulatory of article 28 of the Political Constitution of the United Mexican States), and which are aimed at promoting, protecting and guaranteeing free competition and economic competition, as well as preventing, investigate, combat, effectively prosecute, severely punish and eliminate monopolies, monopolistic practices, illicit concentrations, barriers to free competition and economic competition, and other restrictions on the efficient functioning of markets [33].

Probably the most effective government compliance scheme consists of the opinion that (based on section XIX of article 13 of the law under study) issues the Federal Economic Competition Commission on the incorporation of protective and promotional measures regarding free competition and economic competition in: (i) the processes of disincorporation of public entities and assets, (ii) as well as in the procedures of bidding, assignment, concessions, permits, licenses or similar figures carried out by public authorities, when determined by other laws or the Federal Executive through agreements or decrees.

3.3.9. Criteria to apply in regards to programming, budgeting, approval, exercise, control and evaluation of federal public income and expenditure in accordance with the Federal Budget and Financial Responsibility Law [34].

These aim to guarantee that the administration of federal public resources is carried out based on criteria of: (i) legality; (ii)

honesty; (iii) efficiency; (iv) effectiveness; (v) economy; (vi) rationality; (vii) austerity; (viii) transparency; (ix) control; (x) accountability, and (xi) gender equity, and are contained in the Federal Budget and Fiscal Responsibility Law (regulatory of articles 74 section IV, 75, 126, 127 and 134 of the Political Constitution of the United Mexican States) by establishing unequivocal criteria through instruments such as: (i) the Federal Financial Administration System whose objective is to reduce the costs of treasury operations of the Federal Government and expedite the filing of resources, concentrating information in the matter that helps strengthen the budget process (article 14 of the legal system under analysis); (ii) the Expenditure Object Classifier as an instrument that allows the purchases, payments and disbursements authorized in chapters, concepts and items to be recorded in an orderly, systematic and homogeneous manner, and whose main benefit lies in allowing the formulation and approval of the Expenditure Budget project from the economic perspective and monitoring its exercise (defined by section V of article 2 of said legislation); (iii) the provision of a Programmatic Structure that consists of the set of categories and programmatic elements ordered in a coherent manner, which defines the actions carried out by the executors of expenditure to achieve their objectives and goals in accordance with the policies defined in the National Development Plan and in the programs and budgets, as well as orders and classifies the actions of the executors of expenditure to delimit the application of the expenditure and allows knowing the expected performance of the use of public resources; (iv) a Performance Evaluation System that includes a set of methodological elements that allow an objective assessment of the performance of the programs, under the principles of verification of the degree of compliance with goals and objectives, based on strategic and management indicators that allow us to know the social impact of the programs and projects (articles 100 to 111 of the aforementioned Federal Budget and Fiscal Responsibility Law), and (v) the criteria for the preparation of the Income Law and the Expenditure Budget (since in accordance with article 16 of said federal legislation they will be prepared based on quantifiable objectives and parameters of economic policy, accompanied by their corresponding performance indicators, which, together with the general economic policy criteria and the annual objectives, strategies and goals, in the case of the Federal Public Administration, must be consistent with the National Development Plan and the programs that derive from it, and will include at least the general lines of economic policy; the annual objectives, strategies and goals; the projections of public finances, including the financial requirements of the public sector, with the premises used for the estimates; the results of public finances, including the financial requirements of the public sector, covering a period of the last 5 years and the fiscal year in question; the annual goal of the financial requirements of the public sector, which will be determined by the financing capacity of the federal public sector, and the maximum limit of structural current spending for the fiscal year, as well as projections of this limit for a period of 5 years additional.

3.3.10. Access mechanisms to government public information [35-36].

These are those instruments for establishing the principles, general bases and procedures to guarantee the right of access to information in the possession of any authority, entity, organ and organization of the Legislative, Executive and Judicial powers, autonomous bodies, political parties, trusts and public funds, as well as any natural person, legal entity or union that receives and uses public resources or carries out acts of authority of the Federation, the Federal Entities and the municipalities. Such instruments are offered under the General Law of Transparency and Access to Public Information, regulating article 6 of the Political Constitution of the United Mexican States.

Indeed, with the purpose of providing what is necessary at the federal level, to guarantee the right of access to Public Information in possession of any authority, entity, organ and organization of the Legislative, Executive and Judicial powers, autonomous bodies, political parties, trusts and public funds, as well as any natural person, legal entity or union that receives and exercises federal public resources or carries out acts of authority, the General Law of Transparency and Access to Public Information has established various mechanisms, such as: (i) the introduction of the National System of Transparency, Access to Public Information and Protection of Personal Data (which in accordance with its article 28 is made up of the organic and articulated set of its members, procedures, instruments and policies, with the aim of strengthening accountability of the Mexican State with the purpose of coordinating and evaluating actions related to the transversal public policy of transparency, access to information and protection of personal data, as well as establishing and implementing the relevant criteria and guidelines); (ii) the establishment in its article 8 of the guiding principles in this matter (such as certainty, effectiveness, impartiality, independence, legality, maximum publicity, objectivity, professionalism, and transparency); (iii) the adoption of the form of governance known as open government under the terms of its article 59 (which implies that the guarantor organizations must assist, with the obligated subjects and representatives of civil society, in the implementation of collaboration mechanisms for the promotion and implementation of government openness policies and mechanisms), as well as the concept of open data (public digital data that is accessible online that can be used, reused and redistributed by any interested party and that has the characteristics established by the article 3: accessible, comprehensive, free, non-discriminatory, timely, permanent, primary, machine-readable, in open formats, and free to use; (iv) the establishment of transparency committees, transparency units and an advisory council of the organizations guarantors; (v) the implementation of the National Transparency Platform and its systems for requesting access to information, managing means

of challenge, portals for transparency obligations, and communication between guarantor organizations and obligated subjects (articles 49 to 52); (vi) the guidelines for classifying public information as reserved and confidential (articles 100 to 120); (vii) the procedures for access to public information (articles 121 to 140), and the provision for challenge procedures regarding access to public information, such as the appeal for review, the appeal for non-conformity, the appeal for review in matters of national security, and the appeal for review of jurisdictional matters of the Supreme Court of Justice of the Nation (articles 142 to 200).

3.3.11. National Regulatory Improvement System

Conceived as a public policy, regulatory improvement consists of the regulatory production of clear provisions, procedures and services supported by simplification. It also includes the set of institutions designed to obtain the greatest possible social value from the available public resources and the optimal functioning of public services.

The basis is found in the homonymous law identified as the General Law of Regulatory Improvement, but according to its article 1, the following matters are excluded from its scope of attribution: (i) tax; (ii) responsibilities of public servants; (iii) those inherent to the actions of the Public Ministry in the exercise of its constitutional functions, and (iv) the acts, procedures or resolutions of the Secretariats of National Defense and the Navy.

The purpose of said legal system is provided for in its article 2, and consists of establishing the principles and bases to which the government orders must be subject, within their competency framework regarding regulatory improvement, with the essential purpose of establishing the obligation to: (i) implement public policies for regulatory improvement to introduce regulations and simplify procedures and services; (ii) organize and put into operation the National Regulatory Improvement System (which, based on articles 9 and 10, aims to coordinate the authorities of all levels of government, in their respective areas of competence, through the Strategy, standards, principles, objectives, plans, guidelines, bodies, instances, procedures and the national policy regarding regulatory improvement, and is made up of the National Council, the Strategy; the National Commission; the Regulatory Improvement Systems of the Entities Federations; the Obligated Subjects, and the Observatory); (iii) establish the instruments, tools (integrated in accordance with article 11 by the Catalog; the Regulatory Agenda; the Regulatory Impact Analysis; the Regulatory Improvement Programs, and the Surveys, Statistical Information and Evaluation in the Matter of Regulatory Improvement), actions and regulatory improvement procedures; (iv) establish the creation and operation of the National Catalog of Regulations, Procedures and Services, and (v) establish the obligations of the Obligated Subjects to facilitate the Procedures and obtain Services, including the use of information technologies.

3.3.12. The distribution scheme of competences to operate the regime of responsibilities of public servants and acts of individuals linked to serious administrative misconduct within the framework of the National Anti-Corruption System.

It should be specified that the Law of the National Anti-Corruption System establishes the bases of coordination between the Federation, the federal entities, the municipalities and the mayors of Mexico City, for its operation in accordance with the provisions of article 113 of the Political Constitution of the United Mexican States, so that the competent authorities prevent, investigate and punish administrative offenses and acts of corruption.

It refers to the schemes for the distribution of powers between the levels of government to establish the administrative responsibilities of Public Servants, their obligations, the sanctions applicable for the acts or omissions in which they incur and those that correspond to individuals linked to administrative offenses serious, as well as the procedures for its application.

To confer functionality to the aforementioned System, it has been necessary to highlight details in the General Law of Administrative Responsibilities, whose main objectives are: (i) establish the principles and obligations that govern the actions of Public Servants; (ii) establish the serious and non-serious administrative offenses of Public Servants, the sanctions applicable to them, as well as the procedures for their application and the powers of the competent authorities for this purpose; (iii) establish the sanctions for the commission of Misdemeanors by individuals, as well as the procedures for their application and the powers of the competent authorities for this purpose; (iv) determine the mechanisms for the prevention, correction and investigation of administrative responsibilities, and (v) create the bases for all public entities to establish effective policies of public ethics and responsibility in the public service (articles 1 and 2).

3.3.13. Mechanisms for preservation and restoration of the ecological balance, as well as environmental protection.

The General Law of Ecological Balance and Environmental Protection is responsible for protecting the right of every person to live in a healthy environment for their development, health and well-being in the national territory and the areas over which the nation exercises its sovereignty and jurisdiction [37].

The most forceful mechanism is found in the Environmental Impact Statement as it is the document by virtue of which knowledge is made, based on studies, of the significant and potential environmental impact that a work or activity would generate, as well as the way to avoid it or mitigate it, if it is negative (article 3, section XXI).

Various mechanisms are translated into the so-called Environmental Policy, which must be issued in accordance with the principles referred to in article 15 of the legislation under analysis. The foregoing is with the understanding that, among the various

instruments of the Environmental Policy, there are: (i) Environmental Planning (articles 17 and 18); (ii) the Ecological Planning of the Territory (articles 19 to 20 Bis 8); (iii) Economic Instruments that stimulate compliance with the objectives of environmental policy (articles 21 and 22); (iv) the Environmental Regulation Criteria of Human Settlements (article 23); (v) the Environmental Impact Assessment Procedure (which in accordance with articles 28 to 35, determines the conditions to which the carrying out of works and activities that may cause ecological imbalance or exceed the limits and conditions established in the applicable provisions for protect the environment and preserve and restore ecosystems, in order to avoid or minimize their negative effects on the environment; (vi) the issuance of Official Mexican Standards on Environmental Matters under the Quality Infrastructure Law (articles 36 to 37 Ter), and (vii) the Voluntary Environmental Self-Regulation Processes (which in accordance with articles 38 to 38 Bis 2, aims to enable the producers, companies or business organizations themselves to improve their environmental performance, respecting current legislation and regulations in the matter and commit to exceeding or meeting higher levels, goals or benefits in terms of environmental protection).

4. DISCUSSION

It is progressively that the Mexican state has been incorporating into its legal framework the bases of government compliance as a mechanism for managing the actions of public entities based on the establishment of internal control instruments, which favors the satisfaction of goals in the effective and efficient achievement of its functions, which provides reliability to financial reports and consequently allows compliance with the guidelines that make up this valuable instrument of government administration and which is represented by policies, programs, procedures and good practices that It makes it easier for public servants to properly manage organizational risks, ranging from their identification, prevention, evaluation, channeling and control, thus conferring acceptable rates of satisfaction to regulatory obligations within the framework of ethics.

5. CONCLUSION

5.1. The compliance policy is of North American origin and is developed by virtue of The Sarbanes Oxley Act, under the supervision of the non-profit organization called the Public Company Accounting Oversight Board and is complemented through codes of corporate conduct among the which highlights the Global Business Standards Codex.

5.2. The Mexican state has introduced various regulatory compliance instruments in diversified segments of both federal and state government work, such as; (i) acquisitions, leases and services; (ii) development of public-private partnership projects; (iii) oversight and accountability; (iv) financial discipline; (v) quality infrastructure; (vi) prevention and detection of acts, omissions or operations that could favor, provide help, assistance or cooperation of any kind for the commission of crimes of terrorism or international terrorism; (vii) public works and services related thereto; (viii) promotion, protection and guarantee of free competition and economic competition; (ix) programming, budgeting, approval, exercise, control and evaluation of public income and expenditures; (x) guarantee of the right of access to information in the possession of any authority, entity, body and organization; (xi) regulatory improvement with the implementation of public policies to improve regulations and simplify procedures and services; (xii) operation of the regime of responsibilities of public servants and acts of individuals linked to serious administrative offenses, and (xiii) ecological balance and environmental protection.

6. RECOMMENDATIONS

Although Mexico has the regulatory support to satisfy the government compliance regime, there is still a need to culturally sensitize the public servant and the individual contractor or associate of public entities of the benefits of its effective and timely application.

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ABBREVIATIONS

PCAOB: Public Company Accounting Oversight Board.
USFCPA: US Foreign Corrupt Practices Act.
GBSC: Global Business Standards Codex.

NCAH: National Council for Accounting Harmonization.
FATF: Financial Action Task Force.
POBALINES: Policies, Bases and Guidelines.

AUTHOR CONTRIBUTIONS

Gelacio Juan Ramón Gutiérrez Ocegueda is the sole author. The author read and approved the final manuscript.

CONFLICTS OF INTEREST

The author declare no conflicts of interest.

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