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DOJ Emphasizes Adequate Funding in Updated Compliance Guidance

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Whether an organization shows its commitment to compliance with dollars is a new focus of the second update to guidance on evaluating compliance programs from the Department of Justice (DOJ). In its updated *Evaluation of Corporate Compliance Programs*,^[1] released June 1, DOJ indicates that adequate funding of the program and its people helps distinguish between a paper and an active program.

The guidance is used by white-collar prosecutors who evaluate compliance programs when deciding whether to file fraud charges and what the charges should be. Compliance officers also use the guidance to benchmark their organization's compliance program. DOJ published the first version in 2017 and revised it in April 2019. The *Evaluation of Corporate Compliance Programs* modifies the Principles of Federal Prosecution of Business Organizations in the *Justice Manual*.^[2]

There are detailed questions about compliance programs in the guidance, which is organized around three "fundamental questions" that prosecutors try to answer when evaluating effectiveness. The 2020 version modified the second question to refocus on resources:

1. "Is the corporation's compliance program well designed?"
2. "Is the program being applied earnestly and in good faith?" In other words, is the program adequately resourced and empowered to function effectively?
3. "Does the corporation's compliance program work" in practice?

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