

2024

# Healthcare Compliance Benchmark Report

15TH ANNUAL SURVEY





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## Executive Summary

This report provides results from the 15th Annual Healthcare Compliance Benchmark Survey, conducted by SAI360 and Strategic Management Services, LLC. Preparation of the survey and analysis of the results was by Richard P. Kusserow, former DHHS Inspector General. Objectives of the survey included gaining a better understanding of the status and progress of Compliance Program development in the healthcare industry. It included questions related to the current state of healthcare compliance, including demographic data, resource levels, reporting relationships, Compliance Program operations, challenges, and priorities for the upcoming year. In response to the 2023 new OIG General Compliance Program Guidance and DOJ Compliance Program Effectiveness Evaluation Guidelines, several questions were added, while others were deleted. Findings, along with an analysis of the significance of results, are based upon respondents from organizations ranging from very small entities to large healthcare systems.



## Survey Highlights

- 75% percent of respondents reporting the compliance staff work part to full-time remotely.
- Two thirds reported possessing over 10 years of healthcare compliance experience.
- Most expect compliance resource/staffing levels to remain about the same in 2024.
- Only 40% consider their Compliance Office as a C-level Executive
- About half reported the Compliance Officer reporting directly to the CEO
- One quarter reported leadership/Board engaging independent compliance assessments.
- Only 38% had a Compliance Officer participating in executive business strategy development.
- Nearly half reported increased expectations and pressure on the Compliance Officer.
- Top risk identified was responding to new federal and states laws/regulations.
- OCR was the number one agency cited with having enforcement encounters.
- The top 2024 plans call for conducting high-risk area reviews, updating compliance related documents, conducting organization wide compliance risk assessment.
- One third reported increases in Compliance Office responsibilities over the last year.
- Over half reported independent reviews were conducted within the last three years.

## Overview and Objectives

The 2024 annual compliance benchmark survey was designed to assist Compliance Officers in gaining information on how their Compliance Program compares with what is happening with others engaged in the same work. The DHHS Office of Inspector General (OIG) and the Department of Justice (DOJ) both updated their guidance documents in 2023. They continued to note that all Compliance Programs are a work in progress, never completed, and are responding to the ever-changing legal, regulatory, and business environment. They also made it clear that the level of Compliance Program effectiveness can potentially reduce or aggravate penalties and/or settlement terms.



### Q1 HEALTHCARE ORGANIZATION TYPE

Nearly sixty percent of respondents identified their organization as a hospital with about twenty-five percent of respondents reporting medical practices, clinics, mental health, hospices, and home health. Five percent reported being from managed care. Notable was that skilled nursing represented less than two percent, even though it is the one provider sector mandated by law to have effective Compliance Programs, and DME and clinical laboratories were virtually absent from the survey, although these sectors have been considered among the highest areas of enforcement activity. Fifteen percent of respondents ranged from revenue cycle management to telehealth, across the various sectors of health care.

### Q2 NUMBER OF EMPLOYEES IN ORGANIZATION

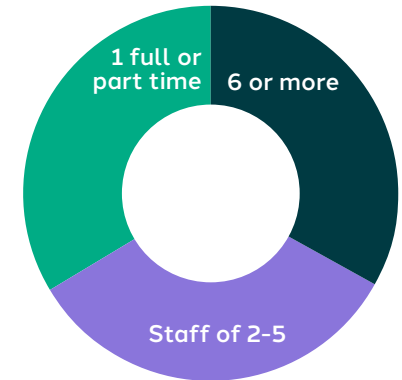
Four out of ten respondents reported their organization has under 1,000 employees. One third reported having over 5,000 employees. The balance reported having 1,000 to 4,999.

### Q3 ORGANIZATION SIZE

Less than one fifth of respondents characterized their organization as a small entity. These numbers are consistent with the question concerning the number of employees in their organization. The significance of this question was related to the new OIG General Compliance Program Guidance that recognizes small organizations may not be able support a Compliance Officer on either a full-time or part-time basis, but still need to designate someone to be responsible for ensuring compliance. This creates the option to engage on a part-time basis a compliance consultant as the designated Compliance Officer but this option does not extend to larger organizations, which may use consultants only as interim Compliance Officers to cover gaps between permanent ones.

### Q4 STAFF LEVEL FOR THE COMPLIANCE OFFICE

About a third of the respondents reported their Compliance Office staff at one full-time or part-time Compliance Officer. Another third of respondents have a staff of two to five, with the remaining third having six or more employees in the Compliance Office. One individual serving as a full-time or part-time Compliance Officer would require that individual to be highly experienced to manage the Compliance Program, but if that person also had responsibility for the HIPAA Privacy Program, it would be very difficult to manage both Programs effectively.



### Q5 COMPLIANCE STAFF WORK LOCATION

About three quarters of respondents reported staff worked partly, mostly, or entirely remote from the job site.

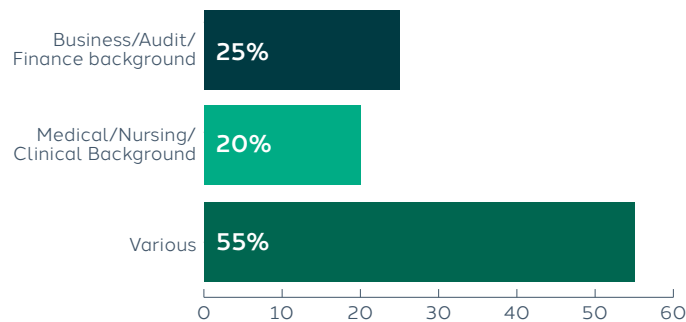
**14%** REPORTED THAT ALL WORK WAS PERFORMED REMOTELY.



### Q6 COMPLIANCE OFFICER EDUCATIONAL BACKGROUND

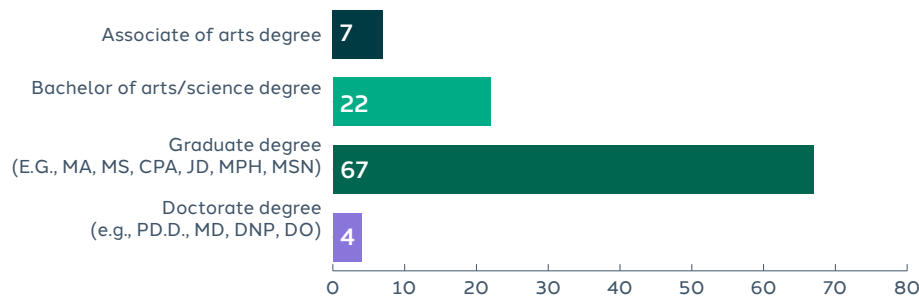
One quarter of respondents report the Compliance Officer has a business, audit, and/or finance background. One fifth reported having a background in legal or a medical, nursing, and/or clinical background.

Relatively few respondents reported having an educational background and/or experience in HR, HIM, government, and arts/science.



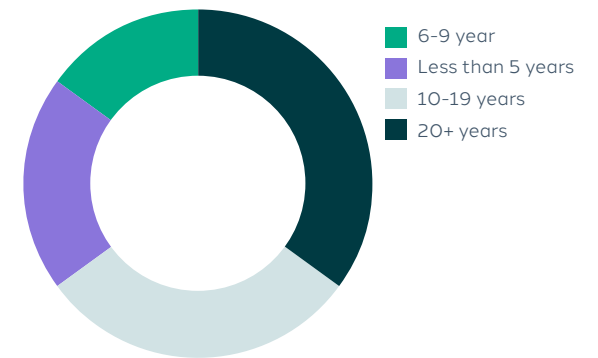
### Q7 COMPLIANCE OFFICER EDUCATIONAL LEVEL

Seventy percent of respondents reported the Compliance Officer possessing a post graduate degree.



### Q8 YEARS OF EXPERIENCE

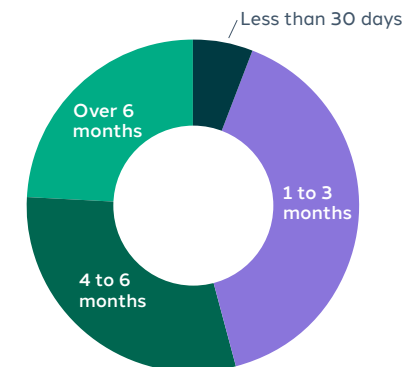
It has been over 25 years since the OIG started publishing its Compliance Program Guidance documents that promoted development of Compliance Programs. Respondents to this question evidenced the continued growth in the level of maturity and experience of Compliance Officers. About one-third of respondents reported having over 20 years of compliance experience, fifteen percent reported six to nine years of experience, and one in five with five years or less experience in compliance.



### Q9 HIRING PROCESS AND TIMELINE

The question did not differentiate between hiring a Compliance Officer or a member of the Compliance Office staff. Thirty percent of respondents who sought a replacement reported taking four to six months to hire someone for the Compliance Office and twenty-five percent reported it took over six months.

What is clear from the results is that replacing compliance staff is a significant problem in terms of time, cost, and effort. This helps explain why so many organizations look to engaging consultants to help address gaps in staffing.





### Q10 BUDGET AND STAFFING LEVELS

More than two thirds of respondents reported expecting resource and staffing levels to remain about the same with one quarter expecting some increases. Very few reported expecting any decreases.

### Q11 JOB LEVEL OF THE COMPLIANCE OFFICER

A principal factor used by the OIG and DOJ in assessing compliance program effectiveness is where in the organization’s pecking order, does the Compliance Officer exist. The expectation is that the Compliance Officer needs to be a high-level executive reporting directly to the CEO. Only forty percent of respondents indicated that the Compliance Officer was a member of the executive C-Suite of the organization. Nearly half of respondents reported the Compliance Officer as a member of senior management (e.g., Director). The balance of respondents reported that the Compliance Officer role is at a challenge to being able to evidence an effective Compliance Program.

### Q12 COMPLIANCE OFFICER IN EXECUTIVE MANAGEMENT

Half of the respondents answered Yes, leaving the balance as No or Don’t Know.

### Q13 REPORTING TO THE BOARD

Eighty-three percent reported having an active process to keep the Board informed on compliance issues as they arise, and take actions to address them.

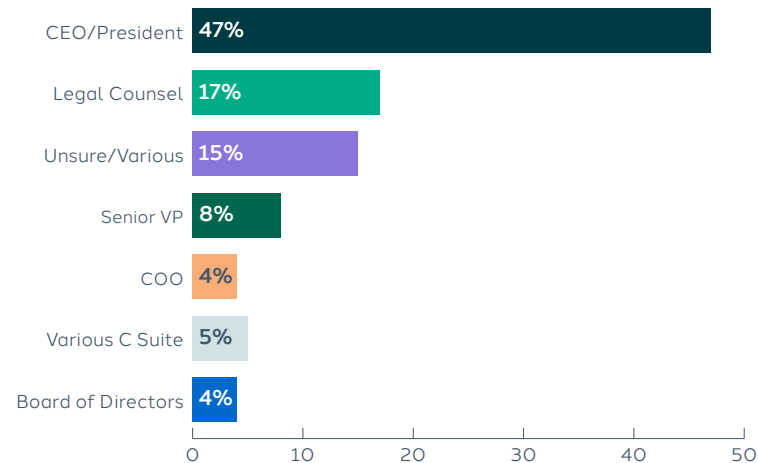
**83%** REPORTED HAVING AN ACTIVE PROCESS.

### Q14 FUTURE CAREER PLANS

Almost three quarters of respondents reported planning to continue their current career track for the foreseeable future and/or retire in the next couple of years. Only twelve percent indicated seeking new compliance opportunities elsewhere or moving outside of compliance. The big question mark is with about fifteen percent who reported being undecided about their current career plans.

### Q15 COMPLIANCE OFFICER REPORTING

OIG Compliance Program Guidance documents and U.S. Sentencing Commission Guidelines call for the Compliance Officer to report directly to the CEO. Nearly half of respondents stated that their organization follows that guidance. However, 17% of respondents report to Legal Counsel (same level reported in 2023), which is contrary to the stated positions of the OIG and DOJ. Legal Counsel advocates for the organization and not as parties who can be counted upon to voluntarily disclose promptly violations of law and regulation to appropriate authorities. 8% had the Compliance Officer reporting to a senior VP, 4% to the COO, and 5% to the chief risk, financial, or information officer, with 4% reporting directly to the board.





### Q16 COMPLIANCE OFFICE BUDGET

Slightly over half of respondents reported that their budget includes direct operating costs and compliance related initiatives. Costs for vendors, outside consultants, and compliance tools and programs. Less than a third included the cost of training in their budget, although the time and effort associated with this compliance activity is likely the costliest part of any Compliance Program. Most significantly is that over 40% of respondents answered negatively to all these areas, which suggests that many do not have a formalized budget process as called for by OIG Compliance Program Guidance.

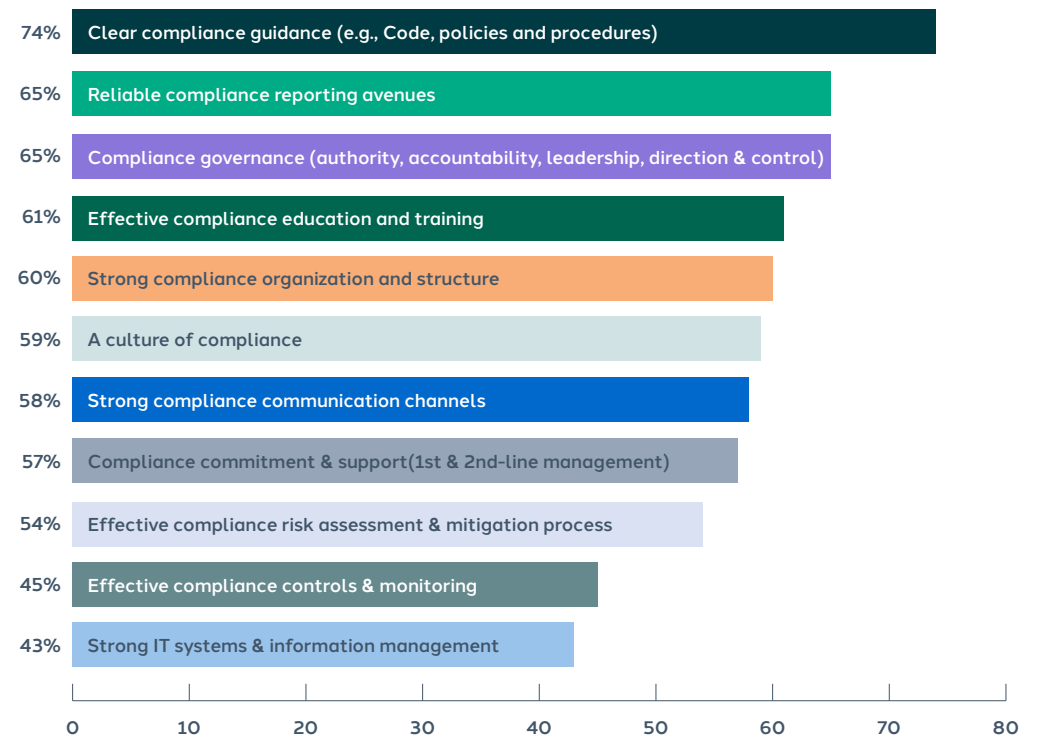
### Q17 MATURITY LEVEL OF COMPLIANCE PROGRAM

Eighty-seven percent of respondents classified their Compliance Program as evolving or proactive. Both are good answers for any program. Only four percent characterized it in the initial stages of development. Interestingly, nine percent characterized it as optimal, which means reaching the most favorable, desirable, or best outcome or result. It is important that both the OIG and DOJ have stated they view all Compliance Programs under development and improvement, never completed, as programs must always respond to and evolve with the ever-changing regulatory, legal, and business environment.

### Q18 MANAGING BASIC COMPLIANCE TASKS

The highest ranking had three quarters of respondents reporting their Compliance Program well managed, providing clear written guidance (code, policies, etc.). Two thirds reported having strong reporting channels (e.g., hotline) and compliance governance (authority, accountability, leadership, direction, and control).

Following that in descending order was effective structure, compliance education, promoting compliance culture, management commitment to compliance, and risk assessment/mitigation. In two areas, effective controls/monitoring and strong IT systems/management, respondents were under fifty percent.







## Q19 BIGGEST CHALLENGES IN 2024

### IN DESCENDING ORDER, THE BIGGEST COMPLIANCE CHALLENGES FOR 2024 WERE:

1. Adequately addressing compliance high risk areas
2. Meeting changes in regulatory/enforcement environment
3. Addressing resource limitations
4. Coordination among control functions (HR, legal, audit, risk management, etc.)
5. Improving senior management relations/support
6. Hiring qualified staff

## Q20 TOP COMPLIANCE PRIORITIES FOR 2024

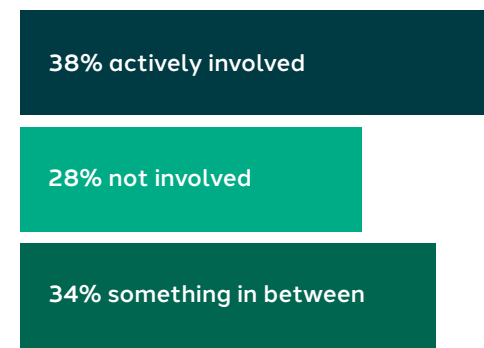
The top compliance priorities for 2024 reported by respondents were keeping up with changing regulatory and enforcement environment; and improving ongoing compliance auditing processes. After that there was a significant drop down to improving the quality of compliance education and training. Relatively few respondents had as their top priority building better relations with leadership and/or Board; improving relationship with Legal, Human Resources, and/or Internal Audit; and developing stronger relationships with Program Managers.

## Q21 INDEPENDENT PROGRAM ASSESSMENTS

The new OIG General Compliance Program Guidance calls for the management/ Executive Compliance Committees to be responsible for measuring compliance effectiveness and that the Board should directly ensure that compliance program effectiveness reviews are conducted, with consideration given to retaining an outside expert to conduct the review. One third of respondents reported that executive leadership, the Board, or Compliance Office engage outside experts to periodically review compliance program effectiveness. Two-thirds reported that compliance program assessments are performed internally, not at all, or don't know. Internal compliance reviews are characterized as the ongoing monitoring by program managers, including the compliance program. However, independent assessments and audits must be conducted by parties independent of the function being reviewed.

## Q22 COMPLIANCE DEPARTMENT BUSINESS STRATEGY

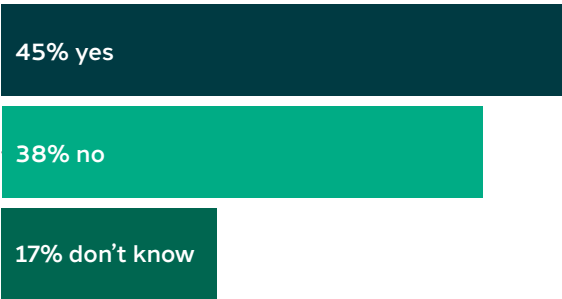
Thirty-eight percent of respondents reported the Compliance Office being actively involved in the executive business strategy development meetings. This is the best answer and one that the OIG and DOJ would like to find. Twenty percent reported not being involved and the balance reporting something in between.





### Q23 LEADERSHIP/BOARD PRESSURE

Forty-five percent of respondents reported increased pressures and expectations by leadership and/or the Board on the Compliance Program, thirty-eight percent responded No. Seventeen percent reported not knowing the answer.



### Q24 COMPLIANCE CULTURE ASSESSMENT

The DOJ has included in its Evaluation of Corporate Compliance Program guidance that it is important for a company to create and foster a culture of ethics and compliance. They cite any questions that prosecutors would ask in assessing the compliance culture, including the frequency of and methods by which an organization measures its compliance culture, such as conducting surveys of employees and what steps were taken in response to the results.

Slightly more than a third of respondents answered positively about having conducted a compliance culture assessment, with about two-thirds answering no or don't know.

### Q25 TOP COMPLIANCE RISK CONCERN FOR 2024

Two thirds of respondents reported the top compliance concern to be responding to new federal and state laws/regulations or other regulatory concerns. Fourteen percent cited concerns about addressing the accuracy of claims processing. Only about six percent of respondents chose arrangements with referral sources as their top priority, although that issue represents most enforcement actions by DOJ and the OIG. The lowest risk reported was the threat of whistle-blowers.

### Q26 ENFORCMENT AGENCY ENCOUNTERS

There were relatively few respondents who did not report encounters. The results suggest that organizations can expect encounters with enforcement agencies. It is just a matter of time. The agency most often cited was the DHHS Office for Civil Rights, followed by state enforcement agencies, most often state Medicaid Fraud Control Units. After that it was the DHHS OIG, DOJ, and a variety of other enforcement agencies (e.g., FDA, DEA, CMS, IRS).

#### REPORTED ENCOUNTERS BY ENFORCEMENT AGENCIES IN DESCENDING ORDER

OCR	30%
State enforcement agencies (e.g., MFCUS)	21%
OIG	15%
DOJ	14%
Other agencies (e.g., FDA, DEA, CMS, EEOC)	12%
No encounters/don't know	8%

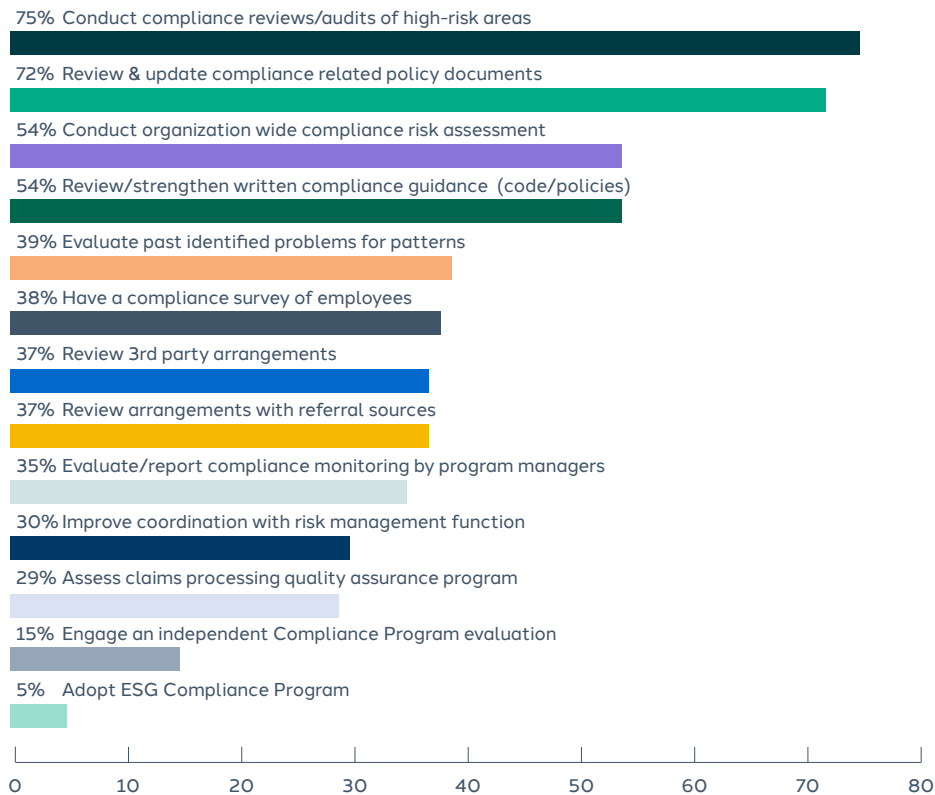
### Q27 CODE OF CONDUCT/POLICY UPDATES

Two thirds of respondents reported review and updating takes place annually.



## Q28 COMPLIANCE PLANS FOR 2024

Three quarters of respondents cited plans to conduct compliance review/audits of high-risk areas and to review and update compliance related policy documents. Over half reported conducting organization wide compliance risk assessments. After that, there was a significant drop off to the next level.

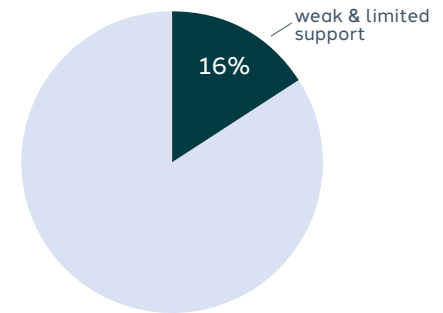


## Q29 COMPLIANCE PROGRAM 2023 PERFORMANCE

Both the DOJ and the OIG have clearly stated that they believe all Compliance Programs are work in progress, never completed, in responding to the ever-changing legal, regulatory, and business environment. One in five respondents reported significant improvement in the program, with nearly half of respondents reporting making significant progress. One quarter reported no improvement, remaining about the same, or slipping.

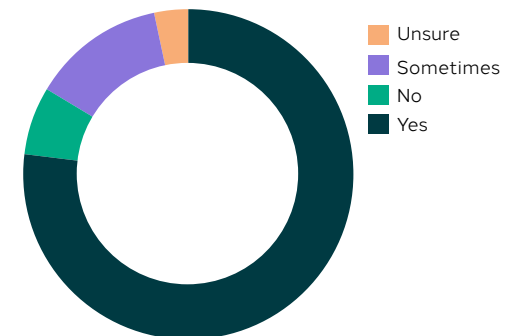
## Q30 EXECUTIVE SUPPORT LEVEL

Overall evidence from respondents was positive about leadership and board support with only 16% of respondents reporting weak and limited support.



## Q31 ORGANIZATION ACTIONS ON FINDINGS

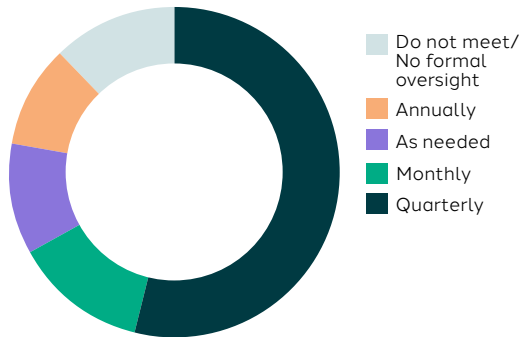
Most of the respondents responded in the positive.





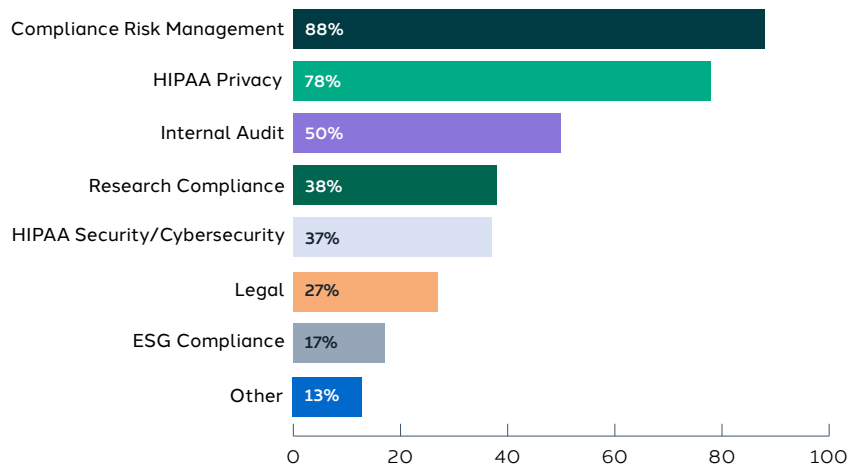
### Q32 FREQUENCY OF MEETING WITH THE BOARD

Over half of respondents reported quarterly meetings, which would be the ideal meeting cadence. Having more frequent oversight meetings would involve the Board in too many details of management operations. The Board’s role is oversight, not making daily decisions. Less frequent meetings are also not ideal because they greatly limit the Board’s ability to meet their fiduciary duties and obligations.



### Q33 SCOPE OF RESPONSIBILITIES

Most respondents cited compliance risk management and HIPAA privacy as being part of the Compliance Officer’s responsibilities. Half reported internal audit under compliance, which is the first time internal audit has ranked this high the annual surveys. More than one third cited HIPAA security /cyber security under compliance rather than under it.

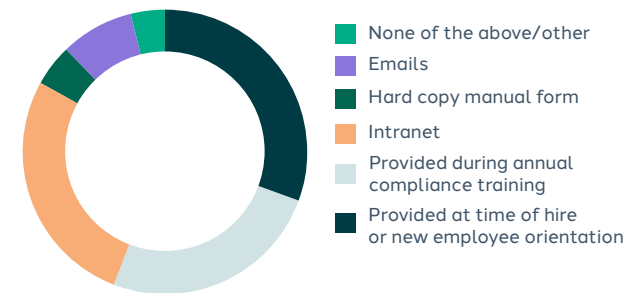


### Q34 CHANGE IN SCOPE

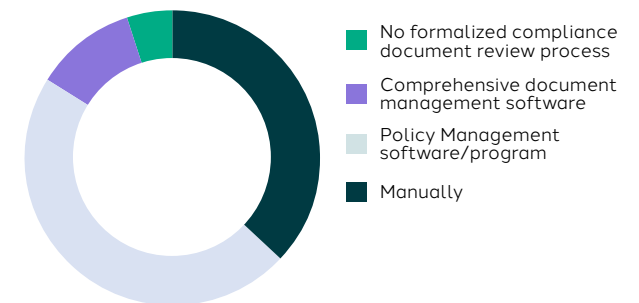
Sixty percent of respondents reported no recent changes to the Compliance Officer’s responsibilities, one third reported an increase and four percent reported a decrease.

### Q35 CODE OF CONDUCT AVAILABILITY

Most respondents report multiple channels for disseminating written guidance.

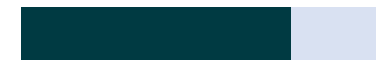


### Q36 MANAGEMENT OF COMPLIANCE DOCUMENTS



### Q37 FREQUENCY OF COMPLIANCE TRAINING

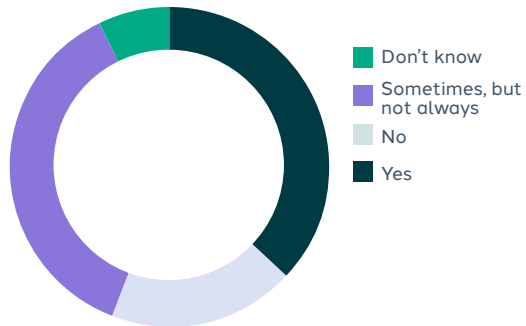
Three quarters of respondents reported following the best practice, which is providing compliance training at orientation and annually thereafter.





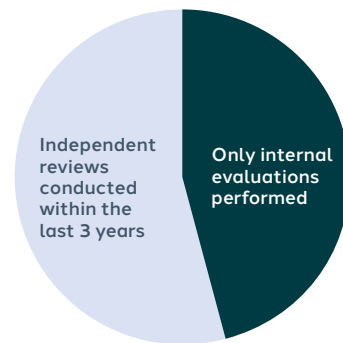
### Q38 COMPLIANCE TRAINING PROGRAMS

In addition to general compliance education and training programs, the OIG and DOJ believe it is critical to have specialized training for those involved in high-risk areas.



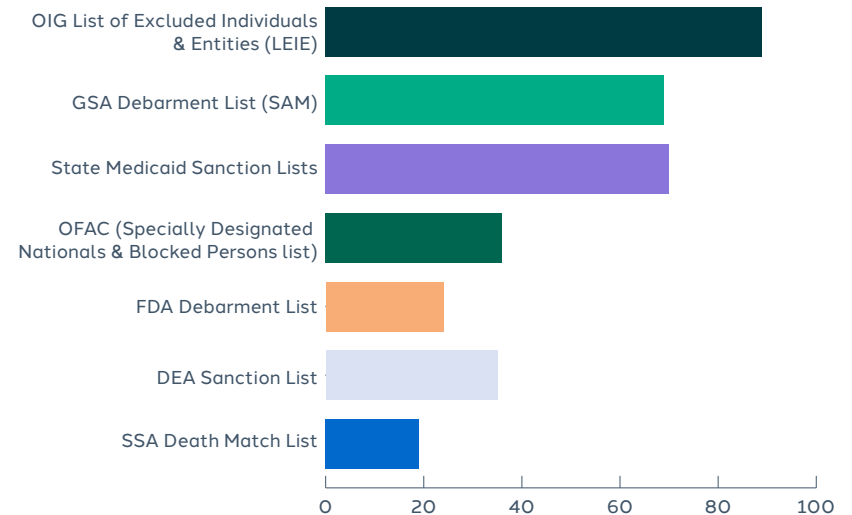
### Q39 COMPLIANCE PROGRAM ASSESSMENTS

All program managers, including the Compliance Officers, are responsible for ongoing monitoring of their areas of responsibility, including conducting internal reviews. However, independently assessing and auditing program compliance must be conducted by parties independent of the functions being reviewed. DOJ guidelines make it clear that for results to be credible, executive leadership and the Board should oversee such reviews and not have them engaged and managed by the Compliance Officer. Over half of the respondents reported independent reviews having been conducted within the last three years. Forty-six percent reported only internal evaluations were performed, no evaluations were conducted to date, or are not known.



### Q40 WHAT DATABASES ARE SCREENED?

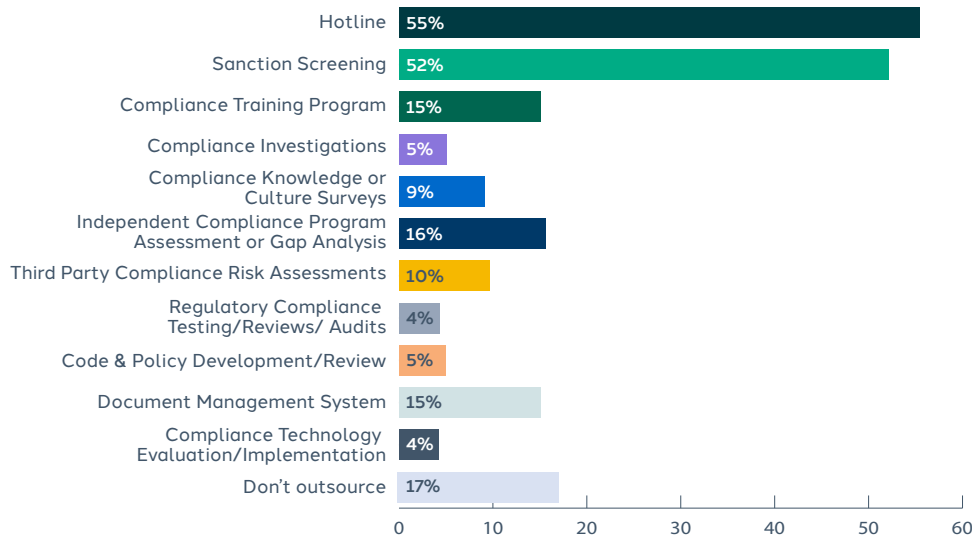
Sanction screening is a critical element of any compliance program. Screening against the OIG's LEIE is not optional. Screening the LEIE is a matter of complying with conditions of participation in Medicare and Medicaid, and engaging a party on the LEIE can result in grave consequences, including enforcement actions. CMS calls for all Medicaid program directors to publish their sanctions and mandate monthly screenings against them.





## Q41 COMPLIANCE SERVICES OUTSOURCED

One of the major trends documented by the Compliance Benchmark Survey over the years has been the growing trend to outsource certain Compliance Program related activities. Today, most organizations outsource the operation of the hotline and sanction screening processes. Other areas commonly outsourced are engaging in an independent assessment of the Compliance Program, development/delivery of compliance training programs, and document management systems. Other work outsourced is for employee compliance surveys and compliance risk assessments. There are many other areas where many organizations seek outside assistance.



## Q42 MEASURING PROGRAM EFFECTIVENESS

Results for this question are provided below in descending order. In reviewing results, note that the measurement of a process is normally in terms of outputs, whereas effectiveness is the result of the process in achieving the desired outcome. Most answers selected by respondents were for items relating to outputs. Those items that focused on outcome were feedback from compliance surveys, comparisons with other organizations, and results from independent Compliance Program assessments, all of which are relatively low on the list.

1. Analysis of hotline complaints and investigations
2. Analytics of audit and review findings
3. Analysis of self-assessment processes
4. Completion rate of compliance training programs
5. Number of complaints received via the hotline or other means
6. Feedback from compliance knowledge/culture surveys
7. Number/percentage of employees that underwent compliance training
8. Feedback from compliance knowledge/culture surveys
9. Comparison with other organizations (e.g., other surveys/benchmarking)
10. Analysis of regulatory and legal reviews
11. Regulatory compliance testing/reviews/audits
12. Results from independent Compliance Program assessment
13. Third party compliance risk assessments



## Q43 PLANNED INITIATIVES FOR 2024

### THE TOP THREE PLANNED INITIATIVES SELECTED BY RESPONDENTS WERE:

1. Improving ongoing monitoring and auditing
2. Increased focus on HIPAA privacy and security
3. Internal Compliance Program effectiveness assessments.

### TOP PLANNED INITIATIVES FOR 2024 IN DESCENDING ORDER OF SELECTION:

1. Improve ongoing compliance monitoring and auditing
2. HIPAA privacy and security
3. Internal Compliance Program effectiveness assessment
4. HIPAA security/cyber-security compliance assessment
5. Employee compliance knowledge or culture survey
6. Enhancement of conflicts of interest management
7. Enterprise-wide regulatory risk assessment
8. Review of arrangements with physicians
9. Claims processing evaluation
10. Independent Compliance Program effectiveness assessment
11. Independent Compliance Program gap analysis
12. Develop environmental, social, and governance (ESG) compliance

## Q44 TOP PRIORITIES FOR 2024

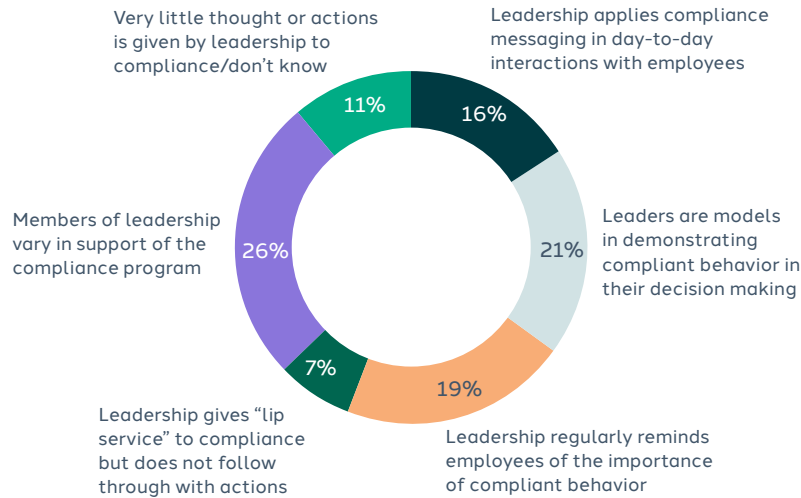
The first five priorities in this descending list garnered the most results, then the subsequent listed priorities dropped off significantly.

1. Evidencing Compliance Program effectiveness
2. Revising and/or updating compliance policy documents
3. Compliance risk assessment process
4. Ongoing compliance auditing
5. Quality and content of compliance training programs
6. Compliance issue tracking and documentation
7. Board compliance reporting
8. Leadership support and involvement
9. Upgrading sanction screening process
10. Program manager ongoing monitoring of compliance risk



### Q45 “TONE AT THE TOP” REGARDING COMPLIANCE

Fifty-six percent of respondents generally were positive about the “tone at the top” regarding compliance, leaving nearly half more negative about the “tone at the top.”

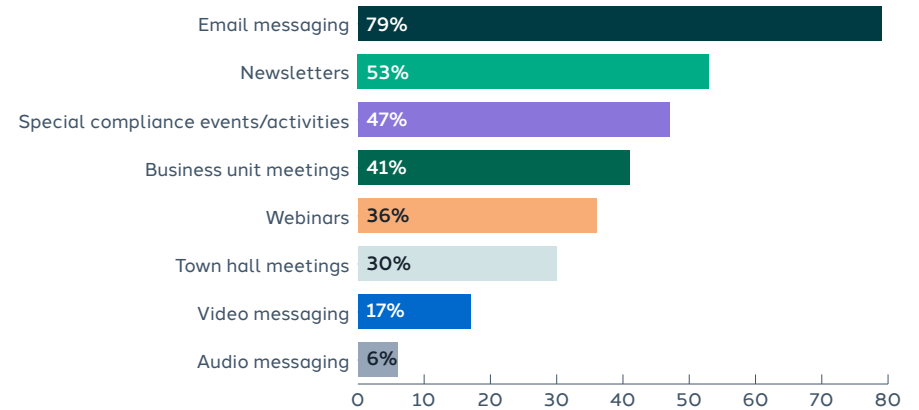


### Q46 COMMUNICATING THE COMPLIANCE METHOD

After orientation and ongoing compliance education and training programs, the question becomes whether the compliance message to employees is being adequately reinforced. Most respondents reported multiple means for doing this.

### Q47 PROGRAM EFFECTIVENESS METHODS

Process outputs have limited value in evidencing effectiveness which is the outcome of the process. The most convincing evidence is that which is verifiable by outside parties. From the responses, the two areas that best meet that standard would be results of independent Compliance Program evaluations and results from an independently conducted employee compliance survey. Most respondents cited multiple methods being employed at their organization. Nearly two-thirds of respondents reported results of audits and investigation findings as one way they evidence Compliance Program effectiveness.







#### Q48 STATEMENTS THAT APPLY TO THE COMPLIANCE PROGRAM

This question was designed to gather general information about Compliance Programs. Respondents were able to select all the statements that applied to their organization. The results are presented in descending order of selection.

- Compliance Officer is not on the same executive level as legal counsel.
- Compliance function is inadequately resourced.
- Compliance Office burdens are increasing faster than resources to address them.
- Compliance Officer is not fully accepted as part of the senior management team.
- Our organization doesn't perform annual organization-wide risk assessments.
- Expectations for the Compliance Office is unrealistically high.
- Ongoing monitoring process by managers is ineffective in mitigating compliance risks.
- Compliance Officer authority is limited in addressing compliance weaknesses.
- Have growing concern about Compliance Officer exposure to liability.
- Employees don't apply the lessons of compliance training in their work.
- Compliance Officer lacks authority to enforce compliance policies and procedures.
- There is tension between compliance and legal counsel.
- Strained relations with program managers.

#### Q49 ARRANGEMENTS WITH POTENTIAL SOURCES OF REFERRAL

The number one enforcement priority by the DOJ and the OIG relates to business arrangements with referral sources that implicate the Anti-Kickback Statute. With few exceptions, enforcement actions by the Civil Division of the DOJ and OIG are the result of corrupt arrangements. This question was designed to gain an understanding of the process by which arrangements with referral sources are developed. It was recognized that many organizations participating in the survey may not have such arrangements, with the result that only 56% answered this question. When the government examines arrangements, they first want to know whether there was a medical need for an arrangement to be established, thus necessitating medical staff involvement in making that determination. Once a need has been established, it is a matter of developing the arrangements. Therefore, it is logical that the executive leadership, legal counsel, and others would have important roles.

#### Q50 INDEPENDENTLY VALIDATED CULTURE SURVEYS

Only 16% responded Yes to this question. The OIG in their Compliance Program Guidance recommended surveying employees as one method for evidencing compliance program effectiveness and called upon using “questionnaires developed to solicit impressions of a broad cross section” of the workforce. The DOJ also asks about whether surveys were used to measure compliance culture. In 2017, the HCCA and the OIG issued “Measuring Compliance Program Effectiveness: A Resource Guide” which promoted use of survey to measure the effectiveness of compliance programs. There are two types of such surveys, one testing employee compliance knowledge and the other the compliance culture. Results can be used as credible evidence Compliance Program evidence to outside authorities; however, internally generated and administered surveys do not carry the same credibility as those conducted independently by experts.



## Conclusion

Expectations for Compliance Officers continue to increase, including the assumption of responsibility for other functions. Respondents this year reported a continuation of this trend, but without corresponding increases in budget and staff. Respondents indicated relying on outsourcing to vendor services (hotline, sanction screening, e-learning). This is consistent with industry trends to focus on core responsibilities using internal staffing and to use vendors to assist with ancillary needs. The experience level among Compliance Officers continues to increase. Despite OIG Compliance Program Guidance, relatively few are reported to have their compliance program independently measured for effectiveness, relying instead on self-assessments, checklist tools, internally generated surveys, and the like. Only a few organizations use professional testing and surveying for employee compliance, understanding, and commitment; most rely upon informal and internally generated processes.

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### About Strategic Management Services

[Strategic Management Services, LLC](https://www.strategicmanagement.com) (Strategic Management) has for the last 30 years focused exclusively on healthcare compliance, before the OIG issued any formal compliance program guidance documents for the industry. The CEO is Richard P. Kusserow, who served eleven years as DHHS Inspector General. The firm has assisted over 3,000 Healthcare organizations and entities with compliance advisory services, including compliance program development, evaluation, management, and enhancement. Strategic Management has been selected as an independent review organization and compliance expert by dozens of organizations under Corporate Integrity Agreements. Strategic Management also operates the Compliance Resource Center (CRC) that provides tools for Compliance Officers, including hotline and sanction screening services.

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