



## Vendor Eligibility Policy

### 1. Vendor Eligibility

- 1.1. The following prescribes procedures for determining whether a vendor is excluded, either permanently or for a specified period of time, for determining whether a vendor is eligible to receive future contract awards from the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC), the International Centre for Settlement of Investment Disputes (ICSID), and/or the Multilateral Investment Guarantee Agency (MIGA) together referred to as the “World Bank Group” and each as a “World Bank Group institution”. The determination is made by the Director, Strategy, Performance and Administration (SPADR).
- 1.2. Only vendors found to be responsible or conditionally responsible are eligible to become World Bank Group institution vendors, be awarded contracts, and/or bid on World Bank Group institution solicitations. Pursuant to World Bank Group's Corporate Procurement Directives and Procedures, the responsible Procurement Officer shall assess and confirm the responsibility of a vendor prior to approving a vendor application and prior to issuing a contract award.
- 1.3. Nothing in these procedures, and nothing shared, exchanged, transmitted, or otherwise produced during proceedings, will be considered to alter, abrogate, or waive the privileges and immunities set forth in provisions of national law and international conventions, and in the governing documents of IBRD, IFC, IDA, ICSID, and MIGA.

### 2. Definitions

2.1 The following definitions apply:

- a) **Administrative Agreement.** Means an agreement between a World Bank Group institution and a vendor prescribing conditions and obligations the vendor must meet to be considered conditionally responsible.
- b) **Affiliate.** An entity is an *affiliate* of another entity if:
  - i. Either entity controls or has the power to control the other; or
  - ii. A third party controls or has the power to control both entities. Indications of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity created or organized following the suspension or determination of non-responsibility of a vendor that has the same or similar management, ownership, or principal employees as the vendor that was suspended or deemed non-responsible, including business entities organized as a result of a merger, acquisition or reorganization.
- c) **Collusive practice.** Means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.
- d) **Coercive practice.** Means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or its property, to influence improperly the actions of such party.

- e) **Conviction.** Means a conviction of a criminal offense by a court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of no contest.
- f) **Conditional Responsibility Determination.** Means a decision by the Director, Strategy, Performance and Administration (SPADR) allowing a vendor to be eligible to receive a World Bank Group institution contract award and to bid on a World Bank Group institution solicitation, provided that conditions and obligations prescribed by the World Bank Group institution in an Administrative Agreement are met.
- g) **Corrupt practice.** Means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.
- h) **Donor.** Means the legal entity, corporate or individual, including national governments, that provides financing for World Bank Group institution grant activities.
- i) **Fraudulent practice.** Means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead a party to obtain a financial or other benefit or to avoid an obligation.
- j) **Non-responsibility Determination.** Means a decision by the Director, Strategy, Performance and Administration (SPADR) to exclude a vendor from eligibility to receive World Bank Group institution contract awards and to bid on World Bank Group institution solicitations for a specified or indefinite period of time.
- k) **Obstructive practice.** Means:
  - i. deliberately destroying, falsifying, altering or concealing evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
  - ii. acts intended to materially impede the exercise of a World Bank Group institution's inspection and audit rights provided under its contract with a World Bank Group vendor.
- l) **Responsibility Determination.** Means a decision by the Director, Strategy, Performance and Administration (SPADR) that a vendor is eligible to receive a World Bank Group institution contract award and to bid on a World Bank Group institution solicitation.
- m) **Suspension.** Means an action taken by a World Bank Group institution to temporarily exclude a vendor from World Bank Group procurements pending a determination of whether the vendor is responsible.
- n) **Vendor.** Means any legal entity, including its affiliates, that directly or indirectly (for example, through an affiliate, prime contractor, or subcontractor) submits offers for or reasonably may be expected to submit offers for a World Bank Group institution contract or is awarded a World Bank Group institution contract.

### 3. General Standards

3.1 To be deemed a responsible vendor with whom the World Bank Group will conduct business, a vendor:

- a) Must comply with applicable local and international laws;
- b) Must have adequate financial resources to perform the contract (or the ability to obtain those resources), for the avoidance of doubt, the financial resources provided to the World Bank Group should be those of the entity signing the contract;

- c) Must be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and other business commitments;
- d) Must have a satisfactory performance record;
- e) Must have the necessary organization, experience, accounting, and operational controls, appropriate insurance and technical skills (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the vendor);
- f) Must have the necessary technical experience, equipment, and facilities;
- g) Must not have committed any act or offense indicating a lack of integrity or honesty that seriously and directly affects the present responsibility of a vendor, including fraudulent, corrupt, collusive, coercive, or obstructive practices as defined above;
- h) Must not have been suspended or debarred, or otherwise identified as ineligible for contracting with a World Bank Group institution in connection with the vendor's involvement in operational work;
- i) Must not have been identified on any Anti-Money Laundering/Combating the Financing of Terrorists sanctions lists monitored by a World Bank Group institution, including but not limited to the United Nations 1267 sanctions list, the United States Executive Order 13224 sanctions list, and the United Kingdom terrorist sanctions list;
  - i. Must not have violated the terms of a World Bank Group institution contract in a manner so serious in nature as to justify a non-responsibility Determination, such as:
  - ii. willful failure to perform in accordance with the terms of one or more World Bank Group institution contracts, and/or
  - iii. a history of failure to perform, or unsatisfactory performance on, one or more World Bank Group institution contracts;
- j) Must not have refused to cooperate with any World Bank Group institution review, audit, or investigation, and/or;
- k) Must not have undertaken any other action that in the sole discretion of the World Bank Group is so serious or compelling in nature that it (i) affects the present responsibility of the vendor, including but not limited to attempting to influence a World Bank Group institution procurement decision, or (ii) could result in harm to the World Bank Group's reputation or image.

3.2 The World Bank Group may also consider a vendor to be non-responsible if it, or its owners, officers or key personnel have been suspended, debarred, or otherwise identified as ineligible for contracting or employment with a World Bank Group institution, or any World Bank Group institution member government or other international organization.

3.3 Should it come to the attention of the World Bank Group that a vendor may no longer be a responsible vendor with whom the World Bank Group will conduct business, the Director, Strategy, Performance and Administration (SPADR) may make a determination whether a vendor is responsible, conditionally responsible, or non-responsible.

#### **4. Suspension of Vendors Prior to Responsibility Determination**

4.1 The Director, Strategy, Performance and Administration (SPADR) may suspend a vendor pending a final Responsibility Determination, whenever the Director, Strategy, Performance and Administration (SPADR) determines that there is a reasonable likelihood that further investigation will lead to a finding of non-responsibility.

- 4.2 When a vendor and any specifically named affiliates are suspended, they shall be advised in writing by the Director, Strategy, Performance and Administration (SPADR):
- a) that they have been suspended;
  - b) of the cause(s) relied upon and reasons for imposing suspension;
  - c) of the effect of the suspension;
  - d) that the suspension is for a temporary period pending the completion of proceedings that may ensue;
  - e) that within the time period specified in the notice, the vendor may submit either in writing or through oral presentation, information showing that the vendor is responsible, including any additional specific information that raises a genuine dispute over the material facts, as well as any evidence of remedial measures taken or proposed by the vendor, or mitigating factors, and
  - f) that suspension may lead to a determination of non-responsibility or conditional responsibility.
- 4.3 A vendor suspended pending a Responsibility Determination (a) is not eligible to receive World Bank Group institution contract awards and/or to bid on World Bank Group institution solicitations; (b) is excluded from conducting new business with the World Bank Group as agents or representatives of other vendors; and (c) is precluded from having discussions with the World Bank Group concerning the award of new contracts. A suspension applies to all affiliates of the vendor, unless the suspension decision is limited by its terms to specific divisions, organizational elements, or commodities.
- 4.4 A World Bank Group institution may share information regarding an ongoing investigation with the World Bank Group Donors.

## **5. Responsibility Determinations of Vendors**

- 5.1 The Director, Strategy, Performance and Administration (SPADR) will make the determination of whether a vendor is responsible, conditionally responsible, or non-responsible based on all relevant information reasonably available, including any information submitted by the vendor to the World Bank Group. This determination is final and without appeal.
- 5.2 Vendor found to be responsible are eligible to bid on World Bank Group institution solicitations and receive World Bank Group institution contract awards, subject to the vendors continuing to satisfy the requirements necessary to be considered responsible.
- 5.3 Vendors found to be conditionally responsible are required to meet the conditions and obligations prescribed by the Director, Strategy, Performance and Administration (SPADR) in an administrative agreement prior to being eligible to receive World Bank Group institution contract awards or to bid on World Bank Group institution solicitations.
- 5.4 Vendors found to be non-responsible are, for a period of time determined by the Director, Strategy, Performance and Administration (SPADR), (a) ineligible to receive World Bank Group institution contract awards or to bid on World Bank Group institution solicitations, (b) excluded from conducting business with the World Bank Group as agents or representatives of other vendors, and (c) precluded from having discussions with the World Bank Group concerning the awarding of contracts. A Non-Responsibility Determination applies to all affiliates of the vendor, unless the decision provides otherwise.
- 5.5 In any action in which the determination of non-responsibility is not based upon a conviction, the Non-Responsibility Determination must be established on the basis of evidence that it is

more likely than not that the vendor is not a responsible vendor. “More likely than not” means that upon consideration of all the relevant evidence, a preponderance of the evidence supports a finding that the vendor is not a responsible vendor.

## **6. Notice of Decision on Responsibility**

6.1 Notice to the vendor of a Responsibility Determination will:

- a) Refer to the notice of suspension, if applicable;
- b) Indicate whether the vendor has been determined to be responsible, conditionally responsible, or non-responsible;
- c) In the case of a Non-Responsibility Determination, specify the reason(s) for non-responsibility and the period of non-responsibility, including effective dates, and identify all affiliates, if any, of the vendor also deemed non-responsible;
- d) In the case of conditional responsibility, specify the reason(s) for the Conditional Responsibility Determination and include an administrative agreement as an attachment to the notice indicating the conditions and obligations with which the vendor is required to comply prior to being eligible to receive World Bank Group institution contracts and to bid on World Bank Group institution solicitations.

6.2 Ineligibility of a vendor due to non-responsibility shall be for a period commensurate with the seriousness of the cause(s).

- a) The Director, Strategy, Performance and Administration (SPADR) may extend the ineligibility period for an additional period, if he/she determines that an extension is necessary to protect the World Bank Group’s interests.
- b) The Director, Strategy, Performance and Administration (SPADR) may, upon a vendor’s written request, reduce or eliminate the period or extent of ineligibility for reasons such as:
  - i. newly discovered material information;
  - ii. reversal of the conviction upon which the Non-Responsibility Determination was based;
  - iii. bona fide change in ownership or management;
  - iv. measures taken by the vendor to become responsible; or
  - v. other reasons the Director, Strategy, Performance and Administration (SPADR) deems appropriate.
- c) Restitution, as well as financial and other remedies, may be sought in exceptional circumstances where there is a quantifiable amount to be restored to the World Bank Group.

6.3 A copy of all notices of Non-Responsibility Determinations will be sent to the World Bank Group's responsible Managing Director.

6.4 The World Bank Group will post publicly the names of non-responsible vendors with the basis in the policy for that determination.

6.5 A World Bank Group institution may share information regarding the outcome of any Responsibility Determinations with the World Bank Group Donors.

6.6 This policy can be amended with the approval of a Managing Director.