

## **Sanctions Committee Procedures**

### **I. INTRODUCTION**

(a) It is the duty of the World Bank, under its Articles of Agreement, to ensure that the proceeds of any loan are used only for the purposes for which the loan was granted.

(b) Fraud and corruption divert resources from Bank-financed projects and undermine public confidence in the Bank and its processes. A central part of the Bank's mission to reduce poverty and improve the quality of people's lives depends on the elimination of fraud and corruption from all Bank-related activities.

(c) The Bank has announced a series of procedures for handling allegations of corrupt and fraudulent practices. The procedures have evolved and been refined as a result of the Bank's ongoing effort to establish an approach that enables the Bank to fulfill its responsibilities in an effective and fair manner.

(d) The Bank is issuing the Procedures set forth in this document to inform Bank officials, parties accused of wrongdoing, and other interested parties of the procedures currently to be followed in sanctioning corrupt and fraudulent practices in connection with a Bank-financed or Bank-executed project. These Procedures are intended to assist in facilitating the reasonable exercise of discretion by Bank officials in responding to allegations of corrupt and fraudulent practices, and do not in themselves confer any rights or privileges.

(e) The Bank reserves its right to amend, supplement, or revise any of the procedures set forth in this document at any time, with or without notice. In particular, the Bank retains all options afforded to it under its Articles of Agreement for pursuing entities and individuals engaged in corrupt and fraudulent practices, and the Bank is not obligated to retain or follow any particular procedures, in any future revision, simply by virtue of their inclusion in this document.

(f) Nothing in these Procedures, and nothing revealed during proceedings under these Procedures, shall be considered to alter, abrogate, or waive the Bank's Status, Immunities and Privileges as set forth in the Bank's Articles of Agreement or other provisions of national or international law.

## II. OPERATIONAL RESPONSIBILITIES

### Section 1. Sanctions Committee

#### (a) *Jurisdiction and Purpose:*

(1) **Composition:** The President of the Bank shall appoint the members of the Sanctions Committee (the "Committee"), which shall consist of at least five members, including two Managing Directors (one of whom shall be appointed by the President to serve as Chairman of the Committee), the General Counsel, and two other senior members of the Bank staff. Each member shall serve a two-year appointment (with the possibility of reappointment), or until the member's earlier resignation or removal.

(2) **Scope of Responsibilities:** The Committee shall determine whether contractors, bidders, suppliers, consultants, and individuals have engaged in fraudulent or corrupt practices in connection with Bank-financed or Bank-executed activities ("Bank Projects"). If the Committee finds that fraud or corruption has occurred, it shall recommend an appropriate sanction to the President of the Bank.

(3) **Definitions of "fraud" and "corruption":** For purposes of these Procedures, the terms "fraudulent practice," "fraud," "corrupt practice" and "corruption" shall have the meanings assigned to them in the Bank's Procurement Guidelines and Consultant Guidelines. As of the date of the issuance of these Procedures, these terms have the following meanings:

(A) "fraudulent practice" or "fraud" means a misrepresentation of facts in order to influence a procurement or selection process or the execution of a contract to the detriment of the borrower, and includes collusive practices among bidders or consultants (prior to or after submission of bids or proposals) designed to establish prices at artificial, noncompetitive levels and to deprive the borrower of the benefits of free and open competition; and

(B) "corrupt practice" or "corruption" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement or selection process or in contract execution.

(b) *Proceedings:*

(1) **Notice:** Notice of a meeting or hearing of the Committee, together with the agenda, shall be given to Committee members at least two days prior to the meeting or hearing, unless there is an emergency. Lack of notice to members of the Committee shall not invalidate any meeting or hearing where a quorum is present.

(2) **Quorum:** At all meetings or hearings conducted by the Committee, the attendance of a majority of the members of the Committee shall constitute a quorum.

(3) **Attendance:** One or more members of the Committee may attend a meeting or hearing of the Committee by means of conference telephone or similar communications media by means of which all persons participating in the meeting or hearing can hear one another.

(4) **Decision Making:** The decisions or acts of a majority of the members of the Committee attending and voting at a meeting or hearing at which a quorum is present shall be the decisions or acts of the Committee.

(5) **Language:** Committee proceedings shall be conducted in English.

**Section 2. Secretary to the Committee**

(a) *Role of the Secretary:* The Committee shall appoint a Bank Staff member to serve as the Secretary to the Committee and as a confidential, impartial adviser to the Committee (the "Secretary"). Specifically, the Secretary shall:

(1) schedule all Committee meetings and hearings relating to debarment proceedings;

(2) brief the Committee members on all aspects of a matter;

(3) assist the Committee during its deliberations;

(4) draft the Committee's written decision pertaining to each matter brought before the Committee, as directed by the Committee;

(5) perform other duties assigned to the Secretary in these Procedures; and

(6) assist the Committee in other ways not inconsistent with these Procedures.

(b) *Recusal; Appointment of Acting Secretary:* The Secretary shall be recused from involvement in any matter before the Committee in which the Secretary had prior substantive involvement, and an Acting Secretary who has not had such prior substantive involvement shall be appointed by the Committee to perform the duties of the Secretary for the matter.

### **Section 3. Department of Institutional Integrity**

(a) *Responsibilities:* Allegations of fraud or corruption within the Bank or in connection with a Bank Project shall be referred to the Department of Institutional Integrity ("INT"). The Director of the INT shall be responsible for the overall investigation of such allegations to determine if fraud or corruption was committed.

(b) *Investigations:* The Director may, in the exercise of professional discretion and in the interest of the most effective usage of Bank resources and of the promotion and protection of the Bank's mission and effectiveness, decide whether to commence, suspend, or terminate an investigation, and the manner in which an investigation is to be conducted. In particular, the Director may decide not to pursue the investigation of an allegation pertaining to an incident that occurred more than three years earlier. The Director shall, semi-annually, file a report with the President summarizing the reasons for all decisions not to pursue an investigation of fraud or corruption allegations, and shall provide copies of such report to the Sanctions Committee and the Corporate Committee on Fraud and Corruption Policy.

(c) *Referrals to Sanctions Committee:* If, upon such investigation, the Director of the INT believes that there is reasonably sufficient evidence to support a finding that fraud or corruption was committed, the INT shall present to the Secretary a proposed Notice of Debarment Proceedings, as described in Section 4(b).

(d) *Disclosures of Exculpatory or Mitigating Evidence:* In transmitting to the Secretary of the Sanctions Committee a proposed Notice of Debarment Proceedings, and in transmitting to the Sanctions Committee any other written submissions pursuant to Section 5, the INT shall present all relevant evidence in INT's possession or known to the INT that would reasonably tend to exculpate the Respondent, or that would mitigate the Respondent's culpability, subject to Section 7(c).

### III. COMMENCEMENT OF PROCEEDINGS

#### Section 4. Notice of Debarment Proceedings

(a) *Issuance of Proposed Notice of Debarment Proceedings:*

(1) **Review of Notice:** The Secretary shall review the proposed Notice of Debarment Proceedings and, within 15 days from its receipt from the INT, shall submit the proposed Notice, together with the Secretary's comments, if any, to a subcommittee of the Committee composed of the Chairman of the Committee and the General Counsel.

(2) **Issuance of Notice:** Unless the subcommittee objects within 10 days of its receipt of the proposed Notice, the Secretary shall issue the Notice to each organization or individual who may be subject to sanctions thereunder ("Respondent") and the Secretary shall notify the Committee and the Director of the INT accordingly.

(3) **Referral Back to the INT:** If the subcommittee objects to the issuance of the proposed Notice, the Secretary shall not issue the Notice and shall notify the Director of the INT of the basis for the objection.

(b) *Contents of Notice of Debarment Proceedings:* The Notice of Debarment Proceedings shall:

- (1) state the specific allegation of fraud or corruption;
- (2) summarize the facts constituting the fraudulent or corrupt practice;
- (3) attach or identify all evidence that the INT intends to present to the Committee in support of any proposed sanction;
- (4) state the sanction recommended by the INT, if any, and the maximum sanction that may be imposed by the Committee;
- (5) explain the opportunity for the Respondent to respond as described in Sections 5 and 6; and
- (6) append a copy of these Procedures, as then in effect.

## IV. SUBMISSIONS TO THE COMMITTEE

### Section 5. Written Submissions

(a) *Respondent's Response to Notice of Debarment Proceedings:* Within 60 days after issuance of the Notice of Debarment Proceedings, the Respondent may submit written materials presenting arguments and evidence in response to the Notice. Upon request, the Chairman of the Committee may, as a matter of discretion, grant a reasonable extension of time for the filing of the Response. The Response shall contain a certification, signed by an individual Respondent or an authorized officer of the Respondent's entity, that the information contained therein is truthful to the best of the signer's knowledge after the exercise of due diligence in reviewing the matter.

(b) *Bank's Reply in Support of Notice of Debarment Proceedings:* Within 20 days after the Respondent's filing of its Response, the INT may submit additional written materials presenting arguments and evidence in reply to the arguments and evidence set forth by the Respondent. Upon request, the Chairman of the Committee may, as a matter of discretion, grant an extension of time not to exceed 10 days. Such materials shall be sent to the Respondent by the Secretary.

(c) *Submission of Additional Materials:* In the event additional material evidence becomes available to the INT or to the Respondent after the applicable deadline for the submission of written materials has passed, but prior to the conclusion of the hearing to be held on the matter, the Chairman of the Committee may, as a matter of discretion, authorize such additional evidence to be submitted to the Committee, together with a brief argument predicated upon such evidence. The Chairman also may authorize either the INT (in the case of the submission of additional materials by the Respondent) or the Respondent (in the case of the submission of additional materials by the INT) to submit, within a reasonable timeframe, additional arguments and evidence responding or replying to the evidence and argument presented in such additional materials.

(d) *Language:* All written materials submitted to the Committee shall be in English, except that exhibits shall be in the original language with the pertinent parts translated into English.

### Section 6. Admissions of Culpability

A Respondent may admit all or part of any allegation set forth in the Notice of Debarment Proceedings. The Respondent may also present evidence or arguments of mitigating circumstances, the intervening implementation of programs to detect or prevent fraud or corruption, or other facts relevant to the Committee's decision concerning an appropriate

sanction. Such evidence or arguments shall be submitted in accordance with the schedule for written submissions set forth in these Procedures.

### **Section 7. Distribution of Written Materials**

(a) *Distribution of Materials to the INT and the Respondent:* The Secretary shall provide to the INT and the Respondent, in a timely manner, in addition to copies of the Notice of Debarment Proceedings, all related written submissions and evidence, records of any related proceedings, and any other materials received or issued by the Committee relating to the proceedings, except as provided in subsection (c) of this section. The Respondent shall have no right to review or obtain any other information or documents in the Bank's possession.

(b) *Distribution of Materials to Others:* The Secretary may at any time, upon approval of the Chairman of the Committee, make available materials submitted to the Committee to other respondents in debarment proceedings involving related allegations, facts, or matters, as well as to relevant governmental authorities. In determining whether to approve the disclosure of such materials, the Chairman of the Committee shall consider, among other things, the standard for withholding sensitive materials set forth in subsection (c).

(c) *Distribution of Sensitive Materials:* Although all evidence presented to the Committee by the INT, including all relevant evidence in the INT's possession or known to the INT that would reasonably tend to exculpate the Respondent or mitigate the Respondent's culpability, shall ordinarily be provided by the Committee to the Respondent, the Committee may, in its discretion and upon request by the INT, withhold particular evidence upon a determination by the Committee that there is a reasonable basis to conclude that revealing the particular evidence might endanger the life, health, safety, or well-being of a person.

### **Section 8. Contents of Record**

The record to be considered by the Committee shall consist of the Notice of Debarment Proceedings, all related written submissions of arguments and evidence, and all arguments presented at any hearing before the Committee.

## **V. HEARINGS**

### **Section 9. Representation at Hearings**

(a) *The INT:* The Bank shall be represented before the Committee by a representative of the INT.

(b) *The Respondent:* A Respondent may be self-represented or represented by an attorney or other individual.

## Section 10. Conduct of Hearings

(a) *Attendance:* The representative of the INT, and the Respondent and its representative, may be present throughout the hearing, but shall be dismissed when the Committee begins its deliberations.

(b) *Presentations:*

(1) **Order:** The representative of the INT shall present its case first. The Respondent's case shall be presented second. The INT shall be permitted to reply.

(2) **Length:** The Chairman shall set a reasonable period of time for each presentation.

(3) **Form:** Presentations shall be informal. They shall be limited to arguments and evidence contained in the written submissions filed with the Committee, and may rely upon or refute individual items of evidence.

(4) **Live Testimony:** No live witness testimony shall be taken, except that the Committee may choose to call one or more witnesses who may be questioned only by the Committee, and except that a Respondent who appears in person may make a statement to the Committee. There shall be no cross-examination, although rebuttal evidence may be presented.

(5) **Matters Relating to the Sanction:** The INT or a Respondent may present to the Committee evidence of mitigating or aggravating factors relating to the appropriateness of a particular sanction.

(c) **Responses to Questions:** The representative of the INT and the individual presenting the Respondent's case shall be subject to questions by the members of the Committee. Refusal to answer, or the failure to answer truthfully, may be construed against that party. The Committee may grant either the INT or the Respondent up to 10 days after the hearing to provide a written supplement to any answers provided during the hearing. The INT or the Respondent shall have 10 days to respond to any such supplemental answers. There shall be no reply to any such response.

## VI. EVIDENCE

### Section 11. Forms of Evidence

Any kind of evidence may form the basis of arguments presented to the Committee and conclusions reached by the Committee. The Committee shall have discretion to determine the relevance, materiality, weight, and sufficiency of all evidence offered. Hearsay evidence or documentary evidence shall be given the weight deemed appropriate by the Committee. Formal rules of evidence shall not apply.

### Section 12. Privileged Materials

Communication between an attorney, or a person acting at the direction of an attorney, and a client for the purpose of providing or receiving legal advice ("attorney-client communications"), and writings reflecting the mental impressions of an attorney in connection with a legal representation ("attorney work product") shall be privileged and exempt from disclosure.

## VII. IMPOSITION OF SANCTIONS

### Section 13. Committee's Findings and Recommendations

(a) *Basis for Findings:* The Committee's review and deliberation shall be restricted to the record as defined in Section 8 and to other facts contained in the public record.

(b) *Findings:*

(1) **Insufficient Evidence:** If the Committee finds that the evidence is not reasonably sufficient to support a finding that the Respondent engaged in a fraudulent or corrupt practice in connection with a Bank Project, the Committee shall direct the Secretary to so notify the INT and the Respondent in writing, and the matter shall be closed.

(2) **Recommendation of Sanctions:** If the Committee finds that the evidence is reasonably sufficient to support a finding that the Respondent engaged in a fraudulent or corrupt practice in connection with a Bank Project, the Committee shall determine an appropriate sanction from the range of possible sanctions, and shall recommend that sanction to the President of the Bank.

(c) *Range of Possible Sanctions:*

(1) **Reprimand:** The Committee may issue a recommendation that the Respondent be reprimanded in the form of a formal letter of censure of the

Respondent's behavior. A reprimand may be imposed in addition to other sanctions.

(2) **Debarment:** The Committee may issue a recommendation that the Respondent be declared ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract.

(3) **Other Sanctions:** The Committee may issue a recommendation that the Respondent be made subject to any other sanctions that the Committee deems appropriate under the circumstances.

(d) *Parties Subject to Sanction:* When the Committee recommends to the President that a sanction be imposed on a particular Respondent, the Committee may also recommend to the President that an appropriate sanction be imposed on any individual or organization that, directly or indirectly, controls or is controlled by the Respondent.

(e) *Factors Affecting Sanction Decision:* The Committee may consider the following factors in determining an appropriate sanction:

- (1) egregiousness and severity of the Respondent's actions;
- (2) past conduct of the Respondent involving fraudulent or corrupt practices;
- (3) magnitude of any losses caused by the Respondent;
- (4) damage caused by the Respondent to the credibility of the procurement process;
- (5) quality of the evidence against the Respondent;
- (6) mitigating circumstances;
- (7) savings of Bank resources or facilitation of an investigation being conducted by the INT occasioned by the Respondent's admission of culpability or cooperation in the investigation or hearing process; and
- (8) any other factor that the Committee deems relevant.

(f) *Written Recommendation*: Upon a finding that a Respondent engaged in a fraudulent or corrupt practice and a determination of an appropriate recommended sanction, the Committee shall transmit to the President a written recommendation stating its findings of fact and its recommended sanction. At the same time that the Committee's written recommendation is submitted to the President, the Secretary shall provide copies to the Respondent and the INT, and to the Executive Directors representing the borrowing country concerned and the country of the Respondent.

#### **Section 14. Entry of Final Decision**

(a) *Decision by the President*: After a period of no less than 10 days from the time the Committee issues its recommendation, the President of the Bank shall issue a final decision concurring with or modifying the Committee's recommendation and proposed sanction. Neither the INT nor the Respondent shall have a right to present additional evidence or arguments to the President.

(b) *Final Nature of Decision*: The President's decision shall be final and shall take effect immediately, without prejudice to any action taken by any government under its applicable law.

(c) *Dissemination of Decision*: The President's decision shall be provided by the Secretary to the Respondent and the INT, and to the Executive Directors representing the borrowing country concerned and the country of the Respondent.

### **VIII. DISCLOSURE**

#### **Section 15. Disclosure of a Sanction to the Public**

If a sanction is imposed on a Respondent, or on another organization or individual as provided in Section 13(d), information concerning the identity of each sanctioned party and the sanctions imposed shall be publicly disclosed.

#### **Section 16. Disclosure of Evidence to Law Enforcement Authorities and Other Organizations**

(a) *Evidence Pertaining to Illegal Activities*: If the Director of the INT determines that laws of member countries may have been violated by a Respondent, the Director may at any time make available to the law enforcement or administrative authorities of the countries involved any information relating to such a violation.

(b) *Evidence Pertaining to a Project Financed by another Organization*: If the Director of the INT determines that there is evidence of fraud or corruption in connection with a project

financed by another international or multinational organization, including another development bank, or by an agency of a member government that promotes international development, the Director may at any time make available to that organization or agency any information relating to such fraud or corruption.

(c) *Sharing of Evidence with other Organizations:* The Secretary may at any time, upon approval of the Chairman of the Committee, make available materials submitted to the Committee to another international or multinational organization, including another development bank, or to an agency of a member government that promotes international development, that has agreed to make similar information available from its own files to the Bank. In determining whether to approve the disclosure of such materials, the Chairman of the Committee shall consider, among other things, the standard for withholding sensitive materials set forth in Section 7(c).

## **IX. ADDITIONAL PROVISIONS**

### **Section 17. Definitions**

Unless stated otherwise, "days" means days on which the World Bank's Headquarters offices in Washington, D.C. are officially open for business.

### **Section 18. Effective Date**

These Procedures shall become effective on the day they are approved by the Chairman of the Sanctions Committee, and shall apply to all pending proceedings in cases then before the Committee as well as to all future cases.