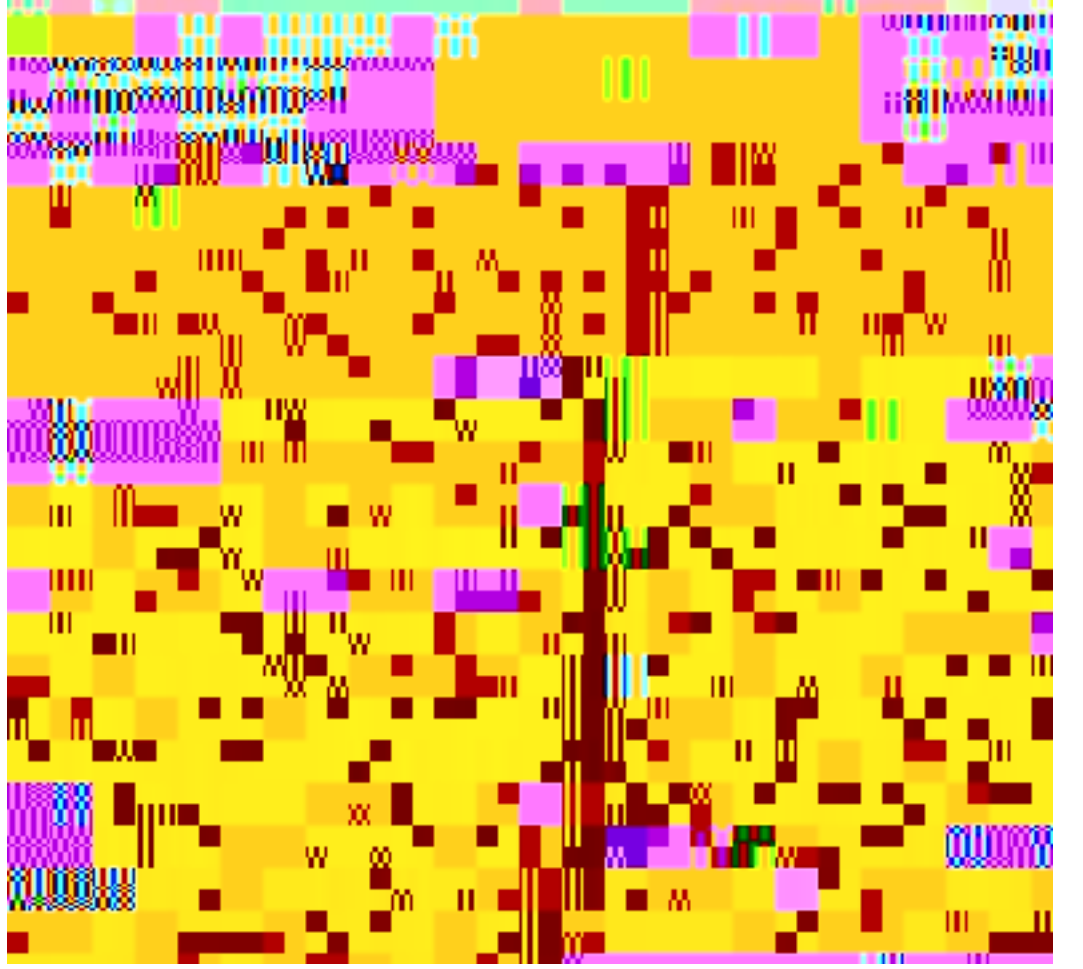


THE WORLD BANK'S

ANTI-CORRUPTION GUIDELINE

ANNEX A (CONT.)



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I) INTRODUCTION

Purpose: This pamphlet provides the reader with a non-technical explanation of the World Bank's Guidelines on Preventing and Combating Corruption in Projects financed by IBRD loans and IDA Credits and Grants (). It is intended primarily for Borrowers and other recipients of World Bank loan proceeds to facilitate their understanding of the Guidelines. It is not intended to substitute for the For a full treatment of this subject, please refer to the attached Anti-Corruption Guidelines.

II) BACKGROUND

Corruption Undermines Development Effectiveness

Fraud and corruption impair development in all its dimensions. Diversion of funds from development projects through fraud, corruption, collusion, and coercion or obstruction (collectively hereinafter referred to as “fraud and corruption”) impairs the ability of governments, donors and the World Bank to achieve the goals of reducing poverty, attracting investment, and encouraging good governance.

The money used to pay a kickback or bribe must come from some part of the overall project financing,

generally leading to increased prices and decreased quality or performance. That means less effective projects. When less-qualified bidders are awarded contracts through bid rigging and other anti-

intended purpose of promoting development and reducing poverty. The Guidelines are intended to set out clearly the actions that Borrowers and other recipients of loan proceeds should take to try to prevent cases of fraud and corruption from occurring, and to address them if they do occur.

The sanctions regime is the term used to describe the arrangements under which the Bank may sanction certain persons and entities involved in Bank financed projects that have engaged in defined forms of Fraud, Corruption, Collusion, Coercion or Obstruction, commonly referred to as fraud and corruption.

III) THE WORLD BANK & SANCTIONS

Since 1996, the World Bank's and have enabled the Bank to sanction firms and individuals that are found to have engaged in fraud or corruption in connection with the procurement of goods or services, the selection of consultants, or the execution of any resulting contracts. Both sets of guidelines contain definitions of the specific sanctionable offenses of fraud, corruption, collusion, coercion and obstruction. Since 1999, more than 330 firms and individuals have been sanctioned by the Bank for engaging in fraud and corruption in Bank financed projects.

Sanctions Reform. In 2006, the World Bank adopted a series of reforms to its sanctions regime aimed at helping ensure uniform compliance with the highest ethical standards in all aspects of Bank financed projects across the world. These standards will help level the playing field among all the various individuals and entities involved in Bank financed projects.

In essence, the reform involved the following changes:

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beneficiaries out of the proceeds of a Bank loan, could escape sanction even though it demanded kickbacks.

- A financial intermediary could escape sanction even though it made false representations to the Borrower and the Bank in order to persuade them that the entity satisfied requirements for participating in the project.
- An NGO engaged by the Borrower to serve as the implementing agency for a Bank-financed project could escape sanction even though it provided false financial information to the Borrower and the Bank, failed to follow the Bank's procurement procedures for Bank financed contracts, charged a billing factor on all Bank financed technical assistance contracts, made improper purchases using loan proceeds, and/or split contracts to avoid review thresholds.

IV) DEFINITIONS OF SANCTIONABLE OFFENSES

The following are the definitions of sanctionable offenses of fraud and corruption as they appear in the Anti-Corruption Guidelines. Each definition is followed by an example as an illustration:

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the company might have been misrepresented. An investigation reveals that the experience and credentials of the principal as well as the qualifications and certifications of the consulting firm were misrepresented in order to meet the selection criteria of the tender.

- A **coercive practice** is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

Example: In a roads project, procurement for two Bank financed roads is found to be tainted by the use of intimidation of competing bidders. An investigation reveals that a company that was pre-determined to win contracts in a collusive scheme used a combination of threats to the future business interests of competitor companies or threats to the physical well being of competitors' staff, in addition to payments to "losing" bidders, to ensure that other bidders submitted inflated bids. In one

higher than they would have been through genuine competitive bidding. As a result, the project's developmental impact is eroded and confidence in the Bank's procurement system severely undermined.

- A **collusive practice** is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

Example: A borrowing government arrests an official of an agency that is responsible for implementing a Bank financed project on charges of financial impropriety. On the basis of that arrest and subsequent information from a contractor, an investigation of the relevant contracts is carried out, and reveals that the agency official had arranged a collusion "ring" to steer a large number of contract awards to his own company and to the companies of people known to him. To implement the collusion, the agency official influenced local officials who had a role in awarding the contracts.

- An **Obstructive practice**

false statements to investigators in order to materially impede a World Bank investigation.

Example: Based on an allegation of corruption, investigators contacted a company that was awarded a contract on a Bank financed project to audit the financial records. While the company is obligated under its contract to allow access to these records, it refused to do so. This refusal of access is itself an offense that could render the company ineligible to bid on future Bank contracts.

The *Anti-Corruption Guidelines* do not require that the illicit act be completed or succeed in its purpose in order for the act to constitute a sanctionable offense. For example, offering to make corrupt payment to another party constitutes a corrupt practice and may be sanctioned whether or not the offer was accepted or the purpose of the payment was achieved.

V) ACTIONS FOR BORROWERS & OTHER RECIPIENTS OF LOANS TO HELP PREVENT AND COMBAT CORRUPTION IN BANK FINANCED PROJECTS

The _____ spell out actions for Borrowers and other recipients of loan proceeds to take to help prevent and combat fraud and corruption in Bank financed projects. These actions include:

- Taking all appropriate measures to prevent fraud and corruption on the project, such as maintaining appropriate fiduciary and administrative arrangements. The Borrower and the Bank will agree on these arrangements as part of project design, and, if supervision uncovers weaknesses, these need to be addressed during implementation.
- Raising awareness, making sure that the _____ are made available to project staff and the NGOs, financial intermediaries, and other implementing agencies and their staff working on the project.
- Reporting allegations of fraud and corruption in connection with the use of loans to the World Bank and cooperating with Bank investigations.
- If fraud or corruption does occur in a Bank financed project, taking timely and appropriate action to address the problem. The Borrower

and the Bank will consult on what needs to be done in each case.

- Borrowers need to include anti-corruption clauses in their agreements with other recipients of loan proceeds (including project implementing entities). Under these clauses, the recipient of loan proceeds agrees to abide by the and that the Borrower may terminate the agreement if the recipient is ever sanctioned by the World Bank. Recipients of loan proceeds that enter into agreements with other recipients of loan proceeds will need to include the same clauses in those agreements.

What's new? Most of these actions are not really new. The are simply spelling out more clearly what the Bank already expects the Borrower to be doing to help prevent and combat fraud and corruption in Bank-financed projects. But there are some new obligations that arise by virtue of the fact that the sanctions regime has been expanded to cover recipients other than suppliers and contractors from whom good and services are procured under the Bank's and consultants employed under the Bank's

This should not result in significant new expenses for the Borrower. For example, awareness raising can be handled as part of project launch and should not normally require a special event. These modalities can be worked out as part of project design. More information on what Borrowers and other recipients of loan proceeds can be doing to prevent and combat corruption is available from the World Bank (see below).

VII) Harmonization with Other International Financial Institutions (IFIs)

VIII) Contact Information

The full version of the

is appended to this pamphlet. Should you have any questions or comments, please contact your nearest World Bank Country Office or send a query through the following website: www.worldbank.org/sanctionsreform.

You may also call the INT Fraud and Corruption Hotline 1-800-831-0463 or call collect at 1-704-556-7046. Please note that anonymous calls are also accepted.

Please find the full version of the Anti-Corruption Guidelines on Preventing and Combating Corruption in Projects Financed by IBRD Loans and IDA Credits appended to this User's Guide.

ANTI CORRUPTION **GUIDELINES**

“Guidelines on Preventing and Combating Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants”

On Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants

Dated October 15, 2006

Purpose and General Principles

1. These Guidelines are designed to prevent and combat fraud and corruption that may occur in connection with the use of proceeds of financing from the International Bank for Reconstruction and Development (IBRD) or the International Development Association (IDA) during the preparation and/or implementation of IBRD/IDA-financed investment projects. They set out the general principles, requirements and sanctions applicable to persons and entities which receive, are responsible for the deposit or transfer of, or take or influence decisions regarding the use of, such proceeds.

2. All persons and entities referred to in paragraph 1 above must observe the highest standard of ethics. Specifically, all such persons and entities must take all appropriate measures to prevent and combat fraud and corruption, and refrain from engaging in, fraud and corruption in connection with the use of the proceeds of IBRD or IDA financing.

Legal Considerations

3. The Loan Agreement¹ providing for a Loan² governs the legal relationships between the Borrower³

(d) A “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

(e)

Sanctions and Related Actions by the Bank in Cases of Fraud and Corruption

11. In furtherance of the above-stated purpose and general principles, the Bank will have the right to take the following actions:

(a) sanction any recipient of Loan proceeds¹³ other than the Member Country¹⁴ (and/or, if such recipient is an entity rather than a natural person, any of its representatives); sanctions include (but are not limited to) declaring such person or entity ineligible to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of the project or any other project financed, in whole or in part, by the Bank, if at any time the Bank determines¹⁵ that such person or entity has

¹³ As in the case for bidders in the procurement context, the Bank may also sanction persons and entities which engage in fraud or corruption in the course of applying to become a recipient of Loan proceeds (e.g., a bank which provides false documentation so as to qualify as a financial intermediary in a Bank-financed project) irrespective of whether they are successful.

¹⁴ Member Country includes officials and employees of the national government or of any of its political or administrative subdivisions, and government owned enterprises and agencies that are not eligible to bid under paragraph 1.8(b) of the Procurement Guidelines or participate under paragraph 1.11(b) of the Consultant Guidelines.

¹⁵ The Bank has established a Sanctions Board, and related procedures, for the purpose of making such determinations. The procedures of the Sanctions Board sets forth the full set of sanctions available to the Bank.

engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in connection with the use of loan proceeds;¹⁶

(b) if the Bank determines that any such recipient of Loan proceeds is also a potential provider of goods, works or services, declare it ineligible under paragraph 1.8 (d) of the Procurement Guidelines or paragraph 1.11 (e) of the Consultant Guidelines (as appropriate); and

(c) declare a firm, consultant or individual ineligible under paragraph 11 (a) above if such firm, consultant or individual has been declared ineligible under paragraph 1.14 of the Procurement Guidelines or under paragraph 1.22 of the Consultant Guidelines.

Miscellaneous

12. The provisions of these Guidelines do not limit any other rights, remedies¹⁷ or obligations of the Bank or the Borrower under the Loan Agreement or any other document to which the Bank and the Borrower are both parties.

¹⁶ The sanction may, without limitation, also include restitution of any amount of the loan with respect to which sanctionable conduct has occurred. The Bank may publish the identity of any entity declared ineligible under paragraph 11.

¹⁷ The Loan Agreement provides the Bank with certain rights