

Date of issuance: December 21, 2017

Sanctions Board Decision No. 105¹
(Sanctions Case No. 427)

IDA Credit No. 4954-BD
Bangladesh

Decision of the World Bank Group² Sanctions Board imposing a sanction of debarment on the Respondent, together with certain Affiliates,³ for a period of eleven (11) months, beginning from the date of this decision. This sanction is imposed on the Respondent for a corrupt practice.

I. INTRODUCTION

1. The Sanctions Board met in a panel session on March 20, 2017, at the World Bank Group's headquarters in Washington, D.C., to review this case. The Sanctions Board was composed of Ellen Gracie Northfleet (Panel Chair), Olufunke Adekoya, and Anne van't Veer. Neither the Respondent nor the World Bank Group's Integrity Vice Presidency ("INT") requested a hearing in this matter. Nor did the Panel Chair⁴ decide, in her discretion, to convene a hearing. Accordingly, the Sanctions Board deliberated and reached its decision based on the written record.⁵

¹ Note from the World Bank's Legal Vice Presidency: On January 7, 2016, the World Bank Sanctions Procedures as adopted April 15, 2012 (the "Sanctions Procedures") were re-adopted and retrofitted as "Bank Procedure: Sanctions Proceedings and Settlements in Bank Financed Projects" (the "2016 Sanctions Procedures"). On June 28, 2016, the 2016 Sanctions Procedures were issued on the Policy and Procedure Repository of the World Bank. At the time of the issuance of the Notice of Sanctions Proceedings (the "Notice") to the individual respondent in Sanctions Case No. 427 (the "Respondent") on June 10, 2016, the applicable procedures made available to the Respondent were the Sanctions Procedures. The so-called "retrofit" of the sanctions framework, initiated in 2014, aimed at codifying and reconstructing the normative architecture of the World Bank's sanctions system. The structure and numbering of the sections and paragraphs under the 2016 Sanctions Procedures was changed, without affecting the content of the rules of the Sanctions Procedures applicable to this case.

² In accordance with Section 1.02(a) of the Sanctions Procedures, the term "World Bank Group" means, collectively, the International Bank for Reconstruction and Development ("IBRD"), the International Development Association ("IDA"), the International Finance Corporation ("IFC"), and the Multilateral Investment Guarantee Agency ("MIGA"). The term "World Bank Group" includes the guarantee operations of IBRD and IDA, but does not include the International Centre for the Settlement of Investment Disputes ("ICSID"). As in the Sanctions Procedures, the terms "World Bank" and "Bank" are here used interchangeably to refer to both IBRD and IDA. See Sanctions Procedures at Section 1.01(a), n.1.

³ Section 1.02(a) of the Sanctions Procedures defines "Affiliate" to include "any legal or natural person that controls, is controlled by, or is under common control with, the Respondent, as determined by the Bank." The sanction imposed by this decision applies only to those Affiliates that are directly or indirectly controlled by the Respondent.

⁴ See Sanctions Procedures at Section 1.02(a).

⁵ See *id.* at Section 6.01.

2. In accordance with Section 8.02(a) of the Sanctions Procedures, the written record for the Sanctions Board's consideration included the following:

- i. Notice issued by the World Bank's Evaluation and Suspension Officer ("EO")⁶ to the Respondent and his former employer (the "Local Agent") on June 10, 2016, appending the Statement of Accusations and Evidence (the "SAE") presented to the EO by INT, dated April 18, 2016;
- ii. Response submitted by the Respondent to the Sanctions Board in two parts on October 21 and October 26, 2016 (the "Response"); and
- iii. Reply submitted by INT to the Sanctions Board on November 28, 2016 (the "Reply").

3. On June 10, 2016, pursuant to Sections 4.01 and 4.02 of the Sanctions Procedures, the EO issued the Notice and temporarily suspended the Respondent and the Local Agent, together with any entity that is an Affiliate directly or indirectly controlled by the Respondent or the Local Agent, from eligibility⁷ with respect to any Bank-Financed Projects,⁸ pending the final outcome of these sanctions proceedings. The Notice specified that the temporary suspensions would apply across the operations of the World Bank Group. In addition, pursuant to Sections 4.01(c), 9.01, and 9.04 of the Sanctions Procedures, the EO recommended in the Notice the sanction of debarment with conditional release for the Respondent, together with any entity that is an Affiliate directly or indirectly controlled by the Respondent. The EO recommended a minimum period of ineligibility of three (3) years, after which the Respondent may be released from ineligibility only if he has, in accordance with Section 9.03 of the Sanctions Procedures, demonstrated to the World Bank Group's Integrity Compliance Officer that he has (i) taken appropriate remedial measures to address the sanctionable practices alleged by INT against the Respondent, (ii) completed training and/or other educational programs that demonstrate a continuing commitment to personal integrity and business ethics, and (iii) adopted and implemented, in a manner satisfactory to the Bank, an effective integrity compliance program with respect to any entity that is an Affiliate under the Respondent's direct or indirect control. Separately, the EO recommended in the Notice that the Local Agent be debarred for a minimum period of three (3) years, also subject to conditional release.

4. Neither the Respondent nor the Local Agent filed a Response by the due date of September 12, 2016, and the EO's recommended sanctions went into effect on September 13,

⁶ Effective March 31, 2013, the EO's title changed to "IBRD/IDA Suspension and Debarment Officer" ("SDO"). For consistency with the Sanctions Procedures, this decision refers to the former title.

⁷ The full scope of ineligibility effected by a temporary suspension is defined in the Sanctions Procedures at Sections 4.02(a) and 9.01(c), read together.

⁸ The term "Bank-Financed Projects" encompasses any project or program financed by the Bank and governed by the Bank's Procurement Guidelines, Consultant Guidelines, or Anti-Corruption Guidelines. The term "Bank-Financed Projects" includes activities financed through trust funds administered by the Bank to the extent governed by said Guidelines. Sanctions Procedures at Section 1.01(c)(i), n.3.

2016.⁹ On October 9, 2016, the Respondent requested a retroactive extension of time to file his Response, which the Sanctions Board Chair granted in his discretion on October 13, 2016. On October 14, 2016, the Bank terminated the Respondent's public sanction and reinstated his temporary suspension pending close of these sanctions proceeding. The Respondent filed his Response in two parts on October 21 and 26, 2016, contesting the EO's recommended sanction.¹⁰

II. GENERAL BACKGROUND

5. This case arises in the context of the Bangladesh Health Sector Development Program (the "Project"), which sought to "enable [Bangladesh] to strengthen its health systems and improve its health services, particularly for the poor." On September 12, 2011, IDA entered into a financing agreement with the People's Republic of Bangladesh (the "Borrower") for a credit of approximately US\$359 million to help finance the Project (the "Financing Agreement"). The Project became effective on October 23, 2011, and closed on June 30, 2017.

6. On January 20, 2013, the implementation unit for the Project (the "PIU") issued bidding documents (the "Bidding Documents") for a contract to supply certain anti-tuberculosis pharmaceuticals under the Project (the "Contract"). In or before April 2013, a pharmaceutical firm intending to bid on the Contract (the "Bidder") retained the Local Agent for assistance during the tender preparation process. On May 8, 2013, the PIU received a bid to perform the Contract (the "Bid"), submitted on behalf of the Bidder. Between June and August 2013, the Respondent filed a correction of the Bid, and the PIU issued a bid evaluation report recommending that the Contract be awarded to the Bidder. The Bidder signed the Contract with the PIU on September 23, 2013.

7. INT alleges that, following submission of the Bid but prior to signature of the Contract, the Respondent – in his role as the General Manager of the Local Agent – engaged in corrupt practices by soliciting the Bidder to make a payment in order to influence a public official. Specifically, INT asserts that the Respondent repeatedly requested that the Bidder monetarily reward a specific clerk within the PIU (the "Clerk") for having permitted the belated correction to the Bid.

III. APPLICABLE STANDARDS OF REVIEW

8. *Standard of proof:* Pursuant to Section 8.02(b)(i) of the Sanctions Procedures, the Sanctions Board determines whether the evidence presented by INT, as contested by a respondent, supports the conclusion that it is "more likely than not" that the respondent engaged in a sanctionable practice. Section 8.02(b)(i) defines "more likely than not" to mean that, upon consideration of all the relevant evidence, a preponderance of the evidence supports a finding that the respondent engaged in a sanctionable practice.

9. *Burden of proof:* Under Section 8.02(b)(ii) of the Sanctions Procedures, INT bears the initial burden of proof to present evidence sufficient to establish that it is more likely than not that a respondent engaged in a sanctionable practice. Upon such a showing by INT, the burden of proof

⁹ See Sanctions Procedures at Section 5.01(a).

¹⁰ See *id.*

shifts to the respondent to demonstrate that it is more likely than not that its conduct did not amount to a sanctionable practice.

10. *Evidence:* As set forth in Section 7.01 of the Sanctions Procedures, formal rules of evidence do not apply; and the Sanctions Board has discretion to determine the relevance, materiality, weight, and sufficiency of all evidence offered.

11. *Applicable definition of corrupt practice:* The alleged corrupt practice in this case has the meaning set forth in the World Bank's Guidelines: Procurement under IBRD Loans and IDA Credits (May 2004, revised October 1, 2006 and May 1, 2010) (the "May 2010 Procurement Guidelines"), which governed procurement for the Project and whose definition of corrupt practice was included in the Bidding Documents. Paragraph 1.14(a)(i) of these Guidelines defines a corrupt practice as "the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party." A footnote to this definition explains that the term "another party" includes public officials acting in relation to the procurement process, who may be World Bank staff or "employees of other organizations taking or reviewing procurement decisions."¹¹

IV. PRINCIPAL CONTENTIONS OF THE PARTIES

A. INT's Principal Contentions in the SAE

12. INT alleges that the Respondent engaged in corrupt practices by soliciting the Bidder to make a payment to the Clerk. INT asserts that the Respondent first invited the Bidder to submit, through him, a belated Bid correction to the PIU and represented to the Bidder that this correction was accepted at the discretion of the Clerk. INT contends that the Respondent then proceeded to repeatedly request that the Bidder pay the Clerk in return for his earlier acceptance of the Bid correction. Specifically, INT asserts that the Respondent initially requested the equivalent of approximately US\$1,200, then revised that request down twice, first to US\$1,000 and then to US\$500. INT submits that the repeated nature of the Respondent's solicitations warrants aggravation. INT also states that the Respondent cooperated during the investigation.

B. The Respondent's Principal Contentions in the Response

13. The Respondent appears to concede to the description of events submitted by INT in the SAE and apologizes for his conduct. The Respondent submits, however, that his actions with respect to the Bid did not seek to obtain personal benefit for himself and asks that the Sanctions Board consider his advanced age, the absence of any financial harm to the Bank, and the impact of any sanction on the Respondent's employment opportunities and financial situation. The Respondent requests that, if a sanction is imposed, it be limited to a "warning" or a "suspension" of six months.

¹¹ May 2010 Procurement Guidelines at para. 1.14(a)(i), n.19.

C. INT's Principal Contentions in the Reply

14. INT asserts that the Respondent's Response constitutes an admission to the alleged corrupt conduct and a request for leniency from the Sanctions Board. INT requests that any credit for the Respondent's cooperation be limited by the Respondent's contradictory statements and denials during the investigation. INT submits that the matters raised by the Respondent – his age, asserted financial hardship, and absence of financial harm to the Bank – do not provide a sufficient basis for the reduction of any sanction under the applicable sanctions framework and Sanctions Board precedent.

V. THE SANCTIONS BOARD'S ANALYSIS AND CONCLUSIONS

15. The Sanctions Board will first address the question of jurisdiction, noting that this is the first case to come before the Sanctions Board where the Respondent is an individual employee of a bidder's agent under a Bank-Financed Project. The Sanctions Board will then consider whether it is more likely than not that the Respondent engaged in the alleged corrupt practice. Finally, the Sanctions Board will determine what sanction, if any, should be imposed on the Respondent.

A. Jurisdiction

16. The question of whether an individual or an entity may be subject to sanction is determined by the Procurement, Consultant, or Anti-Corruption Guidelines that apply to the sanctions case at issue.¹² The Sanctions Board observes that the Financing Agreement identified the May 2010 Procurement Guidelines as applicable to the entire Project. Paragraph 1.14 of the May 2010 Procurement Guidelines provides that "[i]t is the Bank's policy to require that Borrowers (including beneficiaries of Bank loans), as well as bidders, suppliers, and contractors and their agents (whether declared or not), personnel, subcontractors, sub-consultants, service providers or suppliers, under Bank-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Bank: (a) defines, for the purposes of this provision, the terms set forth below as follows: [definitions of sanctionable practices]."¹³ A footnote to that paragraph of the Guidelines clarifies that, "[i]n this context, any action taken by a bidder, supplier, contractor, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees to influence the procurement process or contract execution for undue advantage is improper."¹⁴ The May 2010 Procurement Guidelines specify that sanctions may be applied to firms or individuals.¹⁵

17. The record reflects that the Bidder selected and used the Local Agent as its representative for – at least – the procurement/tender submission activities for the Bid. The record also reveals

¹² See Bank Directive: Sanctions for Fraud and Corruption in Bank Financed Projects (June 28, 2016), available at: [http://siteresources.worldbank.org/EXTOFFEVASUS/Resources/3601045-1377105390925/Directive_Bank_Directive_Sanctions_for_Fraud_and_Corruption_in_Bank_Financed_Projects\(6.28.2016\).pdf](http://siteresources.worldbank.org/EXTOFFEVASUS/Resources/3601045-1377105390925/Directive_Bank_Directive_Sanctions_for_Fraud_and_Corruption_in_Bank_Financed_Projects(6.28.2016).pdf); The World Bank Group's Sanctions Regime: Information Note (November 2011) at pp. 16-20, available at: http://siteresources.worldbank.org/EXTOFFEVASUS/Resources/The_World_Bank_Group_Sanctions_Regime.pdf.

¹³ May 2010 Procurement Guidelines at para. 1.14 (emphasis added) (footnote omitted).

¹⁴ *Id.* at para. 1.14, n.18.

¹⁵ *Id.* at para. 1.14(d).

that the Respondent represented the Local Agent in its relationship with the Bidder, communicated with the PIU as a representative of the Local Agent, and ultimately co-signed the Contract with the Borrower, acting “for and on behalf of” the Bidder in his capacity as a general manager of the Local Agent. In these circumstances, the Sanctions Board finds that the Respondent may be sanctioned as an individual employee of an agent to the Bidder.

B. Evidence of Corrupt Practice

18. In accordance with the definition of “corrupt practice” under the May 2010 Procurement Guidelines, INT bears the initial burden to show that it is more likely than not that the Respondent (i) offered, gave, received, or solicited, directly or indirectly, anything of value (ii) to influence improperly the actions of a public official acting in relation to the procurement process or contract execution.¹⁶ INT asserts that the Respondent solicited a payment valued between US\$1,200 and US\$500 in order to reward the actions of an employee within the PIU. As described in further detail below, the Sanctions Board finds that INT has satisfied its burden of proof with respect to the evidence of corrupt practice in this case.

1. Offering, giving, receiving, or soliciting, directly or indirectly, anything of value

19. The Sanctions Board finds that it is more likely than not that the Respondent solicited something of value from the Bidder. The record contains unambiguous and undisputed contemporaneous correspondence between the Respondent and the Bidder, in which the Respondent invited the Bidder to submit a correction to the Bid and later repeatedly requested the Bidder to monetarily reward the Clerk for having permitted the correction. Consistent with this evidence, the Respondent concedes that he engaged in the behavior described by INT but argues that the misconduct did not serve his personal interests. However, as the Sanctions Board has previously observed, the applicable definition of corrupt practice does not require that one solicit a payment for oneself and may indeed be read to include the act of soliciting or enticing another to give something to a third party in exchange for the third party’s improper influence.¹⁷

2. To influence improperly the actions of another party

20. The Sanctions Board finds that it is more likely than not that the Respondent sought to influence improperly the actions of a public official. The Sanctions Board notes that the Respondent does not contest the allegation and apologizes broadly, but does not comment with specificity on his intent behind urging the Bidder to reward the Clerk. In determining whether the record in a past case supported an intent to influence a public official, the Sanctions Board looked to the circumstances of the relevant solicitation, including what inferences may be reasonably drawn by the target of the request.¹⁸ In the present case, the Sanctions Board finds that it is more likely than not that the Respondent’s solicitations sought to improperly influence the Clerk by rewarding his apparent circumvention of the intended procurement process. First, the correction

¹⁶ May 2010 Procurement Guidelines at para. 1.14(a)(i).

¹⁷ Sanctions Board Decision No. 50 (2012) at para. 44. See also Sanctions Board Decision No. 85 (2016) at para. 26.

¹⁸ Sanctions Board Decision No. 78 (2015) at para. 66.

appears to have been informal and well past the bid submission deadline. Second, the Respondent stated in his Response that his acceptance of the Clerk's "help" to the Bidder was a "bad decision." Third and finally, in emails soliciting the payment, the Respondent wrote that the Bidder "needed" to pay the Clerk and indicated that, without the Clerk's intervention in the Bidder's favor, the Bid would have been rejected as "non-responsive." The Sanctions Board notes that there is also no dispute as to whether the Clerk was a public official; the Respondent's correspondence with the Bidder and the Respondent's statements to INT all reflect the Respondent's understanding that the Clerk was an employee of the PIU with the ability to influence the procurement process.

21. In these circumstances, the Sanctions Board finds that it is more likely than not that the Respondent engaged in a corrupt practice.

C. Sanctioning Analysis

1. General framework for determination of sanctions

22. Where the Sanctions Board determines that it is more likely than not that a respondent engaged in a sanctionable practice, Section 8.01(b) of the Sanctions Procedures requires the Sanctions Board to select and impose one or more appropriate sanctions from the range of possible sanctions identified in Section 9.01. The range of sanctions set out in Section 9.01 includes: (i) reprimand, (ii) conditional non-debarment, (iii) debarment, (iv) debarment with conditional release, and (v) restitution or remedy. As stated in Section 8.01(b) of the Sanctions Procedures, the Sanctions Board is not bound by the EO's recommendations.

23. As reflected in Sanctions Board precedent, the Sanctions Board considers the totality of the circumstances and all potential aggravating and mitigating factors to determine an appropriate sanction.¹⁹ The choice of sanction is not a mechanistic determination, but rather a case-by-case analysis tailored to the specific facts and circumstances presented in each case.²⁰

24. The Sanctions Board is required to consider the types of factors set forth in Section 9.02 of the Sanctions Procedures, which provides a non-exhaustive list of considerations. In addition, the Sanctions Board refers to the factors and principles set out in the World Bank Sanctioning Guidelines (the "Sanctioning Guidelines"). While the Sanctioning Guidelines themselves state that they are not intended to be prescriptive in nature, they provide guidance as to the types of considerations potentially relevant to a sanctions determination. The Sanctioning Guidelines further suggest potentially applicable ranges of increases or decreases from a proposed base sanction of debarment with the possibility of conditional release after a minimum period of three years.

25. Where the Sanctions Board imposes a sanction on a respondent, it may also, pursuant to Section 9.04(b) of the Sanctions Procedures, impose appropriate sanctions on any Affiliate of the respondent.

¹⁹ See Sanctions Board Decision No. 40 (2010) at para. 28.

²⁰ Sanctions Board Decision No. 44 (2011) at para. 56.

2. Factors considered in the present case

a. Severity of the misconduct

26. *Repeated pattern of conduct:* Section 9.02(a) of the Sanctions Procedures requires the Sanctions Board to consider the severity of the misconduct in determining the appropriate sanction. Section IV.A of the Sanctioning Guidelines identifies a repeated pattern of conduct as one example of severity. INT asserts that the Respondent's repeated solicitations warrant aggravation. The Sanctions Board has previously declined to apply aggravation where the respondent's conduct formed part of a single scheme or course of action.²¹ In the present case, the Respondent repeatedly contacted the Bidder in an attempt to elicit a payment to the Clerk in relation to one procurement decision in connection with the Bid. The Sanctions Board finds this conduct to constitute a single course of action and declines to apply aggravation on the basis of repetition.

b. Magnitude of harm caused by the misconduct

27. *Lack of harm:* Section 9.02(b) of the Sanctions Procedures requires the Sanctions Board to consider the magnitude of the harm caused by the misconduct in determining a sanction. As examples of such harm, Section IV.B of the Sanctioning Guidelines identifies harm to public safety/welfare and harm to the project. The Respondent requests the Sanctions Board to take into consideration that the Respondent's conduct did not cause any financial harm to the Bank. The Sanctions Board has previously observed that the absence of harm, even if supported by evidence, constitutes a neutral fact that does not justify mitigation.²² The Sanctions Board thus declines to apply any mitigation for the lack of harm asserted by the Respondent.

c. Cooperation

28. Section 9.02(e) of the Sanctions Procedures provides for mitigation where a respondent "cooperated in the investigation or resolution of the case." Section V.C of the Sanctioning Guidelines identifies a respondent's assistance with INT's investigation and the respondent's admission or acceptance of guilt or responsibility as examples of cooperation.

29. *Assistance and/or ongoing cooperation:* Section V.C.1 of the Sanctioning Guidelines states that cooperation may take the form of assistance to INT's investigation or ongoing cooperation, with consideration of "INT's representation that the respondent has provided substantial assistance" as well as "the truthfulness, completeness, [and] reliability of any information or testimony, the nature and extent of the assistance, and the timeliness of assistance." INT submits in the SAE that the Respondent cooperated with the Bank's investigation by participating in several interviews and sharing documents. However, in its Reply, INT asserts that any mitigating credit should be "cancelled out" by the Respondent's repeated denials and contradictory explanations during the investigation. The record shows that the Respondent met with INT for a total of more than six hours over two interviews; provided INT with at least 80 pages of documents,

²¹ See, e.g., Sanctions Board Decision No. 63 (2014) at para. 97 (declining to apply aggravation for repetition where the respondents' multiple corrupt payments over a period of time under the same contract were made "pursuant to a single scheme.")

²² See, e.g., Sanctions Board Decision No. 100 (2017) at para. 61.

which included inculpatory evidence relied upon by INT in the SAE; and responded to INT's show cause letter. At the same time, the Respondent's initial responses to INT's questions were evasive and sometimes contradicted the documentary evidence. The Sanctions Board finds that, despite the inconsistent nature of the Respondent's statements during INT's investigation, his overall cooperation warrants some mitigation.

30. *Admission/acceptance of guilt/responsibility:* Section V.C.3 of the Sanctioning Guidelines recognizes cooperation in the form of a respondent's admission or acceptance of guilt or responsibility, with the condition that early admissions or acceptance should be given more weight than admissions or acceptance coming later in the investigation or sanctions proceedings. INT supports limited mitigation on the basis of the Respondent's admissions set out in the Response. In considering whether admissions warrant mitigation, the Sanctions Board has looked to the timing of admissions as well as their scope (i.e., whether an admission related only to the conduct alleged or also accepted responsibility).²³ The record reflects that the Respondent admitted to the solicitations during the investigation, but did not accept responsibility for any corrupt conduct at that time. In the Response, the Respondent agrees that he engaged in the actions described by INT. The Sanctions Board finds that some mitigation is warranted in these circumstances.

d. Period of temporary suspension

31. Pursuant to Section 9.02(h) of the Sanctions Procedures, the Sanctions Board takes into account that the Respondent has been temporarily suspended since the EO's issuance of the Notice on June 10, 2016.

e. Other considerations

32. Under Section 9.02(i) of the Sanctions Procedures, the Sanctions Board may consider "any other factor" that it "reasonably deems relevant to the sanctioned party's culpability or responsibility in relation to the Sanctionable Practice."

33. *Proportionality:* The Sanctions Board is not bound by the EO's recommended sanctions.²⁴ For the sake of proportionality, however, the Sanctions Board's determination of sanctions for contesting respondents may take into account the EO's recommended sanctions as imposed on non-contesting respondents in the same matter.²⁵ In determining an appropriate sanction in this case, the Sanctions Board considers that the Local Agent did not submit a Response and was consequently debarred for a minimum period of three years beginning on September 13, 2016, pursuant to the EO's recommendation in this sanctions case.

34. *Period of debarment already served:* As noted in Paragraph 4 above, the Respondent failed to file a Response by the original due date and was publicly debarred by the Bank from

²³ See, e.g., Sanctions Board Decision No. 99 (2017) at paras. 33-34.

²⁴ Sanctions Procedures at Section 8.01(b).

²⁵ See, e.g., Sanctions Board Decision No. 74 (2014) at para. 49.

September 13, 2016, to October 14, 2016. Consistent with past precedent,²⁶ the Sanctions Board takes into account the period of public debarment already served in determining the Respondent's final sanction.

35. *Passage of time:* The Sanctions Board has previously considered as a mitigating factor the passage of a significant period of time from the commission of the misconduct, or from the Bank's awareness of the potential sanctionable practices to the initiation of sanctions proceedings.²⁷ This passage of time may affect the weight that the Sanctions Board attaches to the evidence presented, as well as the fairness of the process for respondents.²⁸ At the time of the EO's issuance of the Notice in July 2016, more than three years had elapsed from the time of the Respondent's solicitations and almost three years had elapsed from the time that the Bank apparently became aware of the potential corrupt conduct at issue in this case. In these circumstances, the Sanctions Board applies some mitigation under this factor.

36. *Adverse consequences of debarment:* The Respondent contends that the consequences of debarment for his financial situation and employment, particularly given his age, warrant mitigation. Consistent with past precedent, the Sanctions Board declines to apply mitigation on the basis of the asserted adverse impact of a sanction on the Respondent.²⁹

D. Determination of Liability and Appropriate Sanction

37. Considering the full record and all the factors discussed above, the Sanctions Board determines that the Respondent, together with any entity that is an Affiliate directly or indirectly controlled by the Respondent, shall be, and hereby declares that he is, ineligible to (i) be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;³⁰ (ii) be a nominated sub-contractor, consultant, manufacturer or supplier, or service provider³¹ of an

²⁶ See, e.g., Sanctions Board Decision No. 100 (2017) at para. 59.

²⁷ Sanctions Board Decision No. 48 (2012) at para. 48 (applying mitigation where almost three years had elapsed between the Bank's awareness of the potential misconduct and the initiation of sanctions proceedings); Sanctions Board Decision No. 87 (2016) at para. 154 (applying mitigation where sanctions proceedings were initiated approximately four years after the sanctionable practices had occurred and approximately three years after the Bank had become aware of the potential misconduct).

²⁸ See Sanctions Board Decision No. 50 (2012) at para. 71.

²⁹ See, e.g., Sanctions Board Decision No. 66 (2014) at para. 48 (rejecting a respondent entity's request for mitigation based on the expected adverse impacts of debarment on its ongoing and prospective business operations and the reputations of its staff).

³⁰ A respondent's ineligibility to be awarded a contract includes, without limitation (i) applying for prequalification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, consultant, manufacturer or supplier, or service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract. Sanctions Procedures at Section 9.01(c)(i), n.16.

³¹ A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its prequalification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower. Sanctions Procedures at Section 9.01(c)(ii), n.17.

otherwise eligible firm being awarded a Bank-financed contract; and (iii) receive the proceeds of any loan made by the Bank or otherwise participate further in the preparation or implementation of any Bank-Financed Projects for a period of eleven (11) months beginning from the date of this decision. The ineligibility shall extend across the operations of the World Bank Group. This sanction is imposed on the Respondent for a corrupt practice as defined in Paragraph 1.14(a)(i) of the May 2010 Procurement Guidelines.



Ellen Gracie Northfleet (Panel Chair)

On behalf of the
World Bank Group Sanctions Board

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