

## **SANCTIONS PROCEDURES**

### **1. APPLICABILITY**

- 1.1** These Sanctions Procedures (“Procedures”)\* are to be followed in connection with allegations of fraud and corruption in Projects<sup>1</sup> of the Inter-American Development Bank (the “Bank”), the Inter-American Investment Corporation (the “Corporation”), and the Multilateral Investment Fund (the “Fund”, and collectively with the Bank and the Corporation, the “Bank Group<sup>2</sup>”). The proceedings set forth herein are referred to as “Sanctions Proceedings.”
- 1.2** Parties subject to these Procedures include: (i) in the case of a Project that is not a non-sovereign guaranteed (NSG) Project or a Project financed by the Corporation, any party involved in such a Project whether by virtue of a contract with a member of the Bank Group or with other parties in connection with a Project, including, *inter alia*, borrowers, recipient of grants, beneficiaries of a technical cooperation, bidders, suppliers, contractors, subcontractors, consultants, subconsultants, service providers, applicants, concessionaries and financial intermediaries (including their respective officers, employees and agents); (ii) in a non-sovereign guaranteed (NSG) Project or a Project financed by the Corporation, any party involved provided that such parties are direct contract counterparties of the Bank or the Corporation, including counterparties that are borrowers, sponsors, guaranteed parties, direct beneficiaries of guarantees, and investee companies (including their respective officers, employees and agents), as applicable; (iii) parties who contract with the Bank or Corporation for advisory services to be performed by the Bank or Corporation; and (iv) contract counterparties of the Bank or Corporation in relation to corporate procurement by the Bank or Corporation or any other matter not covered by clauses (i), (ii) or (iii), above.

### **2. PROHIBITED PRACTICES**

- 2.1** The Bank Group requires all parties subject to these Procedures to adhere to the highest ethical standards as defined in the policies of the Bank, the Corporation and the Fund and the terms and conditions of the corresponding agreements (if applicable).
- 2.2** Parties subject to these Procedures are prohibited from engaging in the practices defined in this Section 2.2 (each, a “Prohibited Practice”). A Prohibited Practice is any Corrupt

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\* These Sanctions Procedures are effective as of June 9, 2015.

<sup>1</sup> A “Project” means any activity financed by a member of the Bank Group either with its own resources or with the funds of others, or an activity executed by the Bank or Corporation, including corporate procurement.

<sup>2</sup> The Bank Group consists of the Bank, the Fund and the Corporation which cooperate on operations in their developing member countries. Each of the Bank and the Corporation is a public international organization. The Fund is a fund under the administration of the Bank. Each has a distinct legal status, governance structure and assets. These Procedures shall apply to allegations concerning the activities of any member of the Bank Group and, where the context requires, reference to the Bank shall be understood to include all such members.

Practice, Fraudulent Practice, Coercive Practice, Collusive Practice, or Obstructive Practice committed by a party in a Project, as such terms are defined below:

- (a) A “*Corrupt Practice*” is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (b) A “*Fraudulent Practice*” is 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;
- (c) 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;
- (d) 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; and
- (e) An “*Obstructive Practice*” is (a) deliberately destroying, falsifying, altering or concealing evidence material to the investigation or making false statements to investigators in order to materially impede a Bank Group 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 (b) acts intended to materially impede the exercise of the Bank Group’s inspection and audit rights.

### **3. INVESTIGATION AND REFERRAL TO SANCTIONS OFFICER**

**3.1 Investigation by the Office of Institutional Integrity.** The Office of Institutional Integrity (“OII”) is responsible for investigating allegations of Prohibited Practices.

**3.2 Sanctions Officer.** The President, in accordance with internal procedures, shall appoint a Sanctions Officer (the “Sanctions Officer”), who shall not be a member of the Sanctions Committee (the “Committee”), to serve as provided in these Procedures.

**3.3 Referrals to the Sanctions Officer.** If, as a result of an investigation, the Chief, OII believes that a preponderance of the evidence supports a finding of a Prohibited Practice, OII shall present to the Sanctions Officer a Statement of Charges and Evidence (a “Statement of Charges”). For purposes of these Procedures, a “preponderance of the evidence” means that it is more likely than not that the Respondent (defined in Section 3.4.1, below) has engaged in a Prohibited Practice.

**3.4 Statement of Charges.** A Statement of Charges shall:

- 3.4.1 identify each party alleged to have engaged in a Prohibited Practice (each, a “Respondent”);
- 3.4.2 state the alleged Prohibited Practice;
- 3.4.3 summarize the facts relevant to the basis for the allegation of the occurrence of a Prohibited Practice;
- 3.4.4 attach all evidence relevant to the determination of a sanction then available to OII (except as otherwise provided in Article 10);
- 3.4.5 attach all exculpatory or mitigating evidence in the possession of OII (except as otherwise provided in Article 10); and
- 3.4.6 incorporate any other information that OII deems relevant to the Statement of Charges, if any.

#### **4. REVIEW BY SANCTIONS OFFICER AND COMMENCEMENT OF SANCTIONS PROCEEDINGS**

- 4.1 **Review of the Statement of Charges by the Sanctions Officer.** The Sanctions Officer shall review the Statement of Charges and determine whether a preponderance of the evidence supports a finding that the Respondent engaged in a Prohibited Practice. The Sanctions Officer may: (i) dismiss allegations pursuant to Section 4.2, below; (ii) proceed with issuance of a Notice of Administrative Action (“Notice”) pursuant to Section 4.5, below; and/or (iii) refer a matter to other units of the Bank Group pursuant to Section 14.5, below.
- 4.2 **Dismissal by the Sanctions Officer.** The Sanctions Officer may dismiss the allegations as provided in Sections 4.2.1 and 4.2.2, below. In such case, the Sanctions Officer shall prepare a Notice of Dismissal recording his/her findings and the closure of the Sanctions proceedings and shall deliver the Notice of Dismissal to OII.
  - 4.2.1 **Determination of Insufficient Evidence.** If, in consultation with the Chairperson of the Committee, the Sanctions Officer determines that the Statement of Charges does not, by a preponderance of the evidence, support a finding that the Respondent engaged in a Prohibited Practice, the Sanctions Officer shall dismiss the allegations.
  - 4.2.2 **Determination of Expiration of Statute of Limitations.** The Sanctions Officer shall dismiss allegations of a Prohibited Practice that occurred more than ten (10) years prior to the submission to the Sanctions Officer of the corresponding Statement of Charges.

- 4.3 Partial Dismissal.** When a Statement of Charges includes more than one allegation of a Prohibited Practice or Respondent, the Sanctions Officer may dismiss part or all of the allegations or exclude certain Respondents that are included in a Statement of Charges.
- 4.4 Resubmission.** When the Sanctions Officer dismisses one or more allegations or Respondents, while another allegation or Respondent is not dismissed, OII may amend the Statement of Charges to include only those allegations or Respondents not dismissed and resubmit the Statement of Charges to the Sanctions Officer for further consideration. Any dismissal by the Sanctions Officer shall not prejudice the resubmission by OII of a further Statement of Charges, including allegations or Respondents previously dismissed.
- 4.5 Issuance of Notice.** If the Sanctions Officer determines that the Statement of Charges does, by a preponderance of the evidence, support a finding that the Respondent engaged in a Prohibited Practice and was submitted to the Sanctions Officer within the time limit prescribed in Section 4.2.2, above, the Sanctions Officer shall prepare a Notice, send the Notice to the Respondent, and notify the Executive Secretary of the Sanctions Committee (the “Executive Secretary”) and the Chief, OII in writing.
- 4.6 Notice.** A Notice shall:
- 4.6.1** include a copy of the Statement of Charges;
  - 4.6.2** state the findings of the Sanctions Officer;
  - 4.6.3** if applicable, provide for a Temporary Suspension pursuant to Section 13.1, including an explanation of the basis thereof;
  - 4.6.4** explain that the Respondent has an opportunity to respond to the Sanctions Officer and that failure to respond shall have the effect provided for in Section 4.8;
  - 4.6.5** state that the Bank Group may impose any of the sanctions described in Section 8.2; and
  - 4.6.6** append a copy of these Procedures, as well as any other applicable documentation, as then in effect.
- 4.7 Respondent’s Response to the Notice.** The Respondent may submit written materials to the Sanctions Officer including arguments and evidence in response to the Notice (“Response”) within sixty (60) days from delivery of the Notice. If no Response is received within such sixty (60) calendar-day period, the Sanctions Officer shall make a Determination in accordance with Sections 4.8 and 4.9, below.

- 4.8 Failure to Submit a Response.** If the Respondent does not submit a Response within the time period referenced in Section 4.7, the Respondent shall be deemed to have admitted the allegations set forth in the Notice and to have waived the opportunity for appeal.
- 4.9 Sanctions Officer’s Determination.** After the expiration of the 60-day period provided for in Section 4.7, above, the Sanctions Officer shall assess the submissions of OII and (if any) of the Respondent and shall issue a Determination.
- 4.9.1** If the Sanctions Officer determines that a finding of a Prohibited Practice is not supported by a preponderance of the evidence, the Sanctions Officer shall prepare a Determination recording his/her findings, dismiss the allegations and terminate the associated proceedings under these Sanctions Procedures.
- 4.9.2** If the Sanctions Officer determines that a preponderance of the evidence supports a finding that the Respondent engaged in a Prohibited Practice, the Sanctions Officer shall prepare a Determination recording his/her findings and impose a Sanction on the Respondent. The Sanctions Officer shall so notify the Respondent, the Executive Secretary and the Chief, OII. The notification to the Chief, OII shall include a copy of the Response.
- 4.10 Conflicts of Interest.** The Sanctions Officer shall be subject to the same provisions concerning conflicts of interest, recusal, and other employment with respect to the disposition of cases that are applicable to the members of the Committee as provided in Article X of the Committee Charter provided in Annex A hereto (the “Committee Charter”). In the event of recusal, the Sanctions Officer shall so advise the President of the Bank, who shall temporarily appoint an alternate Sanctions Officer for the corresponding case.

## **5. SANCTIONS COMMITTEE**

- 5.1 Composition of the Committee.** The composition of the Committee and provisions relating to the internal procedures and administration thereof is provided for in the Committee Charter.
- 5.2 Scope of Responsibilities.** Following the receipt of an Appeal as provided for in Section 6.1, below the Committee is responsible for: (i) determining whether a preponderance of the evidence supports a finding that a Respondent engaged in a Prohibited Practice; and (ii) imposing a Sanction on a Respondent determined by the Committee to have engaged in a Prohibited Practice.
- 5.3 Executive Secretary to the Committee.** The President of the Bank shall appoint an Executive Secretary to the Committee, who shall not be a member of the Committee. Among other duties provided herein, the Executive Secretary shall receive all submissions and communicate with the parties on behalf of the Committee. The

submission of any documents to the Committee shall require receipt by the Executive Secretary and delivery shall be effective as of the date of such receipt.

## **6. SUBMISSIONS TO THE COMMITTEE**

**6.1 Respondent's Appeal.** Unless a Respondent has waived the opportunity of appeal pursuant to Section 4.8 above, a Respondent may appeal the Sanctions Officer's Determination to the Committee in writing and within forty-five (45) days from the date of the delivery of such Determination (the "Appeal").

**6.2 OII's Reply.** A copy of the Appeal shall be forwarded by the Executive Secretary to OII. OII may submit additional written materials in reply to the Appeal (the "Reply") within thirty (30) days after receipt by OII of the Appeal.

## **7. DECISION OF THE SANCTIONS COMMITTEE**

**7.1 Decision.** After receiving the Record, as defined in Section 11.1, below, the Committee shall consider whether a preponderance of the evidence supports a finding that the Respondent engaged in a Prohibited Practice.

**7.2 Finding of Insufficient Evidence.** If the Committee decides that a finding of a Prohibited Practice is not supported by a preponderance of the evidence, the Committee shall dismiss the allegations and the associated sanction proceedings shall be terminated. In such cases, the Executive Secretary shall prepare a written document recording the Committee's findings and the closure of the sanctions proceedings, which the Secretary shall deliver to the Sanctions Officer, the Chief, OII, and the Respondent.

**7.3 Finding of Sufficient Evidence.** If the Committee decides that a preponderance of the evidence supports a finding that the Respondent engaged in a Prohibited Practice, the Committee shall prepare a Decision summarizing the Committee's findings and imposing a Sanction on the Respondent. The Decision shall be final and shall take effect immediately.

**7.4 Voting.** All determinations of the Committee shall be made in accordance with the procedures set forth in the Committee Charter.

## **8. IMPOSITION OF SANCTIONS**

**8.1 Selection of Sanctions.** Upon a finding that the Respondent engaged in a Prohibited Practice, the Sanctions Officer or the Committee, as applicable, may impose a Sanction or combination of Sanctions as set forth in Section 8.2, below. In determining a Sanction, the Committee shall not be bound by the Sanctions imposed by the Sanctions Officer.

**8.2 Range of Possible Sanctions.** The possible Sanctions that may be selected by the Sanctions Officer or the Committee are as follows. The imposition of any Sanction shall be public. The Sanctions listed in this Section 8.2 shall not include determinations of management action, taken independently of the Committee, for Projects and other activities in execution.

**8.2.1 Reprimand.** A reprimand is a formal letter of censure of the Respondent's behavior.

**8.2.2 Debarment.** Debarment is a determination that a Respondent is ineligible, either permanently or for a stated period of time, to be awarded and/or participate in additional contracts for Projects. For NSG Projects or Projects financed by the Corporation, the Respondent shall be ineligible to participate as a direct contract counterparty of the Bank or the Corporation. A debarment would not preclude the participation of a sanctioned party in NSG Projects or Projects financed by the Corporation in a capacity other than as a direct contract counterparty of the Bank or the Corporation, however, the Bank or the Corporation may decide not to authorize such participation on the basis of integrity risk or other considerations.

**8.2.3 Conditional Non-Debarment.** Conditional Non-Debarment is a determination that a Respondent is required to comply with certain remedial, preventative or other measures as a condition to avoid debarment from additional contracts for Projects. Failure by such Respondent to comply with such measures in the prescribed time period may result in automatic debarment under the terms provided in the Determination or Decision, as appropriate.

**8.2.4 Debarment with Conditional Release.** Debarment with Conditional Release is a determination that a Respondent is subject to debarment subject to a conditional release under which such debarment shall be terminated upon compliance with conditions set forth in the Determination or Decision, as appropriate.

**8.2.5 Other Sanctions.** Other Sanctions may be imposed as deemed appropriate by the Sanctions Officer, or the Committee, as applicable, including, but not limited to, the restitution of funds, and the imposition of fines representing reimbursement of the costs associated with investigations and proceedings contemplated herein.

**8.2.6 Sanctions of Other Institutions.** The Sanctions provided for herein shall be independent of and without prejudice to the recognition by the Bank or the Corporation of the sanctions of other institutions, the decision of other institutions to recognize Sanctions of the Bank and/or the Corporation, or the taking of any other actions including the approval of any other policies on the part of the Bank or the Corporation related to procurement and/or the eligibility of counterparties to participate in activities financed by the Bank, the Corporation or the Fund.

**8.3 Parties Subject to Sanctions.** The Sanctions Officer and the Committee may include among sanctioned parties any individual, entity or firm that, directly or indirectly, owns

or controls a sanctioned Respondent, is owned or controlled by a sanctioned Respondent, or is under common ownership or control with a sanctioned Respondent, and the officers, employees, affiliates or agents of a sanctioned Respondent who are also owners of a Respondent and/or exercise control over a Respondent, even when such parties are not found of having directly engaged in a Prohibited Practice. Indicia of control include, but are not limited to, the possession, direct or indirect, of the power to direct the management and policies of a business concern, organization or individual, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, or common use of employees. Any Sanctions imposed under this provision may be imposed at the time Sanctions are imposed on a Respondent, or at any subsequent time, provided that the parties subject to Sanctions under this provision receive a Notice and such Sanctions are determined as provided in these Procedures.

**8.4 Factors Affecting Choice of Sanctions.** The Sanctions Officer and the Committee may consider the following factors:

**8.4.1** the egregiousness and severity of the Respondent's actions;

**8.4.2** the past conduct of the Respondent involving a Prohibited Practice;

**8.4.3** the magnitude of any losses caused by the Respondent;

**8.4.4** the damage caused by the Respondent to the operations of the Bank Group, including the credibility of the procurement process;

**8.4.5** the nature of the involvement of the Respondent in the Prohibited Practice;

**8.4.6** any mitigating circumstances, including the intervening implementation of programs to prevent and detect fraud or corruption or other remedial measures by the Respondent;

**8.4.7** the Respondent's admission of culpability or cooperation in the investigation process;

**8.4.8** Sanctions imposed on the Respondent by other parties, including another international or multinational organization, including another development bank; and

**8.4.9** any other factor that the Sanctions Officer or the Committee deems relevant.

**8.5 Effective Date of Sanction.** A Sanction of the Sanctions Officer shall become effective upon the expiration of the period for an Appeal to the Sanctions Committee provided that no such Appeal had been filed. A Sanction of the Committee shall become effective upon notification of the Respondent by the Executive Secretary.



**8.6 Distribution of Decision.** The Determination of the Sanctions Officer and the Decision of the Committee shall be delivered to the Sanctions Officer, OII and the Respondent. Sanctions shall be published on the Bank's website.

**8.7 Requests to Reopen.** Either OII or a Respondent may request that the matter be reopened for reconsideration only on the basis of newly-discovered facts which, by due diligence, could not have been discovered prior to the issuance of the Determination or Decision, as applicable. No later than thirty (30) days following the discovery of such new facts, and in no event later than one (1) year from the Determination or Decision, as applicable. OII or a Respondent may submit such request to the (i) Sanctions Officer, if the Respondent has not appealed to the Committee, or (ii) Committee, if the Committee has issued a Decision. Upon receipt of such request, the Sanctions Officer or the Committee will decide, as applicable and each in its discretion, whether to reopen the matter for further proceedings as the Sanctions Officer or Committee determines appropriate.

## **9. ADMISSIONS OF CULPABILITY**

**9.1 Admissions.** At any stage in the Sanctions Proceedings, a Respondent may admit all or part of any allegation without prejudice to the opportunity to contest other allegations, or any part thereof.

**9.2 Mitigating Circumstances.** The Respondent may present evidence and arguments regarding mitigating circumstances, including admissions and the implementation of programs by the Respondent to detect or prevent fraud or corruption, or any agreement with the Bank or Corporation regarding the allegations or otherwise relevant to the Sanctions Proceedings. Such evidence and arguments shall be submitted with the written submissions contemplated herein and in accordance with the corresponding deadlines.

## **10. DISTRIBUTION OF MATERIALS**

**10.1 Distribution of Submissions.** Pursuant to the terms hereof and except as otherwise provided in Sections 10.2 to 10.6, inclusive, the Sanctions Officer and the Executive Secretary shall cause copies of the contents of the Record as defined in Section 11.1 to be delivered to OII and the Respondent (if such materials are not already in the possession of OII or the Respondent) promptly after their submission pursuant to the terms hereof.

**10.2 Distributions of Other Information to Respondent.** Except as otherwise provided herein, all evidence presented to the Sanctions Officer or to the Committee by OII, including all relevant evidence that would reasonably tend to exculpate the Respondent or mitigate the Respondent's culpability, shall be provided to the Respondent. Notwithstanding any other provision of these Procedures, the Respondent shall not have the right to review or obtain any other information or documents in the possession of either the Bank or the Corporation that is not made publically available pursuant to their respective policies. In particular, the Respondent shall not have the right to discover the

identity of any individual who has provided information to the Bank or the Corporation and who has specifically requested that his/her identity not be disclosed to the Respondent.

- 10.3 Distribution of Submissions to Others.** The Sanctions Officer and the Executive Secretary, at the direction of the Chairperson of the Committee, shall provide materials on a case as may be determined appropriate by the Chairperson to: (i) other Respondents in Sanctions Proceedings involving related allegations, facts, or matters; (ii) other Bank Group units and such other offices as may be necessary for the performance of their duties; (iii) other Bank Group units as appropriate pursuant to Section 14.5; and (iv) other parties as part of referrals pursuant to Sections 14.2, 14.3 or 14.4. In determining whether to direct the distribution of such materials, the parties shall consider, among other things, the standard for disclosing exculpatory materials set forth in Section 10.2 and the standard for withholding sensitive and privileged materials set forth in Sections 10.4, 10.5 and 10.6. Any further distribution of such materials shall be in the discretion of the Committee.
- 10.4 Sensitive Materials.** Notwithstanding any other provision of these Procedures, each of OII, the Sanctions Officer and the Executive Secretary, in the performance of their respective functions, may withhold particular evidence or information from disclosure to a Respondent upon a determination that there is a reasonable basis to conclude that (i) revealing the evidence or information might cause or contribute to a risk of imminent danger or serious harm to individuals or the Bank; or (ii) withholding the evidence or information is required by Bank policies. In exercising this function, the Sanctions Officer and the Executive Secretary shall consult with the Chairperson of the Committee.
- 10.5 Privileged Materials.** Notwithstanding any other provision of these Procedures, communications 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 or other person acting in anticipation of legal proceedings (“attorney work product”) shall be privileged and shall be exempt from disclosure.
- 10.6 Advisors to the Committee.** The Committee shall have the authority to obtain the services of legal advisors and other advisors to assist in its deliberations. When doing so, all communications with such other parties shall be deemed to be privileged to the Committee and shall be exempt from disclosure.

## **11. PROCEEDINGS**

- 11.1 Contents of the Record.** The record (the “Record”) to be considered by the Sanctions Officer shall consist of: (i) the Notice; (ii) the Respondent’s Response; and (iii) any additional materials pursuant to Section 12.1. The Record to be considered by the Committee shall include such documents and shall further include: (i) the Appeal; and

(ii) OII's Reply. The Record shall be confidential and not disclosed except as expressly provided in these Procedures.

- 11.2 Evidence.** The arguments presented to the Sanctions Officer and the Committee and their conclusions may be based on any kind of admissible evidence. The Sanctions Officer and the Committee shall have discretion to determine: (i) that certain evidence is inadmissible; and (ii) if admissible, the relevance, materiality, weight, and sufficiency of evidence. The rules of evidence of a Bank member country or comparable authority shall not apply.
- 11.3 Hearings.** Neither OII nor a Respondent shall have a right to a hearing. The Sanctions Officer shall make his/her Determination on the basis of the Record and without a hearing. The Committee may, in its discretion, hold such hearings as it deems appropriate. In such case, the Committee shall determine the nature, length and form of any such hearing.
- 11.4 Closed Deliberations.** No representative of OII or the Respondent may be present during any part of the Committee's deliberations. Any records concerning the Committee's deliberations shall be confidential.

## **12. FURTHER PROCEDURAL MATTERS**

- 12.1 Additional Materials.** If new evidence becomes available to either OII or the Respondent after the submission of written materials — but prior to a Determination of the Sanctions Officer or a Decision of the Committee — that party may submit such new evidence together with a brief explanation of the significance of such evidence to the Sanctions Officer or to the Executive Secretary, as appropriate, which the Sanctions Officer or the Committee may, in his/her/its discretion, consider. The Sanctions Officer and the Committee also may (i) request clarifications and further evidence from either the Respondent or OII; and (ii) authorize either OII or the Respondent to submit additional arguments and evidence responding to any submissions by the other party pursuant hereto, in the form and time that the Sanctions Officer or Committee may reasonably determine. Also, prior to making a Determination or Decision, the Sanctions Officer and the Committee shall have access to the contents of the Record of any related proceeding or other case before the Sanctions Officer or the Committee involving the same Respondent. Any materials provided to the Sanctions Officer or the Committee pursuant to this Section 12.1 shall be “Additional Materials” for purposes hereof.
- 12.2 Disclaimer.** Upon making any submissions, a Respondent shall be deemed to have certified that the information contained therein is truthful and correct to the best of the Respondent's knowledge, information and belief, formed after such inquiry which is reasonable under the circumstances. A Respondent may be subject to additional investigations and Sanctions if the provided information is not in compliance with this Section.

- 12.3 Language.** All written materials submitted to the Sanctions Officer and the Committee shall be in one of the official languages of the Bank, except that exhibits and attachments shall be submitted in their original language with the relevant Sections translated into one of the official languages of the Bank.
- 12.4 Recordkeeping.** The Sanctions Officer and the Executive Secretary shall maintain such records as may be necessary and appropriate to fulfill the purposes of the Sanctions Procedures.
- 12.5 Extensions of Time.** Upon request and for good cause shown, the Sanctions Officer and the Chairperson of the Committee may, as a matter of discretion, grant reasonable extensions of the deadlines set forth herein. The parties have no right to the extension of any deadline.
- 12.6 Computation of Time.** Unless stated otherwise, the term “days” as used in these Procedures means calendar days, including weekends and holidays. If the last day of any period of time prescribed by these Procedures falls on a weekend or on another day on which the Bank’s Headquarters in Washington, D.C. is not officially open for business, the period shall run until the end of the next day on which the Bank’s Headquarters is officially open for business.
- 12.7 Delivery.** The Sanctions Officer and the Executive Secretary, as appropriate, shall send any communications to a Respondent by registered mail or other means that will provide evidence of delivery. If a Respondent refuses delivery of any communication, the Sanctions Officer or the Executive Secretary may deem the date of such refusal as the date of receipt by the Respondent. If a Respondent’s address is unknown or fictitious, the Sanctions Officer, shall (i) use his/her best efforts to cause the Respondent to receive the communication; (ii) determine whether the Respondent has received the communication; and, if applicable, (iii) determine the date of receipt of constructive notice by the Respondent. For purposes hereof, “constructive notice” shall refer to the inference that the Respondent has knowledge of a communication by virtue of publication and/or other efforts to notify the Respondent as deemed appropriate by and in the discretion of the Sanctions Officer or Executive Secretary, as applicable.
- 12.8 Acceptance of Submissions.** In order for any submission to be accepted by the Sanctions Officer or the Executive Secretary, as applicable, the submission must comply with all the requirements of these Procedures and such further requirements of form, time and place as may be required by the Sanctions Officer or the Executive Secretary. The Sanctions Officer or the Executive Secretary, as applicable, shall have the discretion to determine whether such a submission meets such requirements, and may take such responsive action as deemed appropriate, consistent with these Procedures, including the rejection of any such submissions.

### **13. TEMPORARY SUSPENSION**

- 13.1** As further described below, the Sanctions Officer may temporarily suspend a party from eligibility to participate in or be awarded additional contracts for Projects pending the conclusion of proceedings under these Sanctions Procedures (a “Temporary Suspension”).
- 13.2** From the initiation of an investigation by OII pursuant to Section 3.1, above, and up to the Sanctions Committee’s Decision (if applicable), pursuant to Article 7, above, OII may recommend that the Sanctions Officer impose a Temporary Suspension.
- 13.3** In order to impose a Temporary Suspension, the Sanctions Officer must find, in consultation with the Chairperson of the Committee, that the award of contracts to the concerned party or its participation in additional Projects could result in significant harm to the Bank Group or a Bank Group-financed Project and that OII has offered substantial evidence that supports an allegation of a Prohibited Practice.
- 13.4** In the event of a Temporary Suspension, the Sanctions Officer shall send written notice to the party concerned and OII (“Notice of Temporary Suspension”). The Notice of Temporary Suspension shall include the respective recommendation for the Temporary Suspension as presented by OII pursuant to section 13.2, above, and the basis for the Temporary Suspension by the Sanctions Officer pursuant to section 13.1, above.
- 13.5** The Temporary Suspension shall have immediate effect upon Delivery of the Notice of the Temporary Suspension. However, a party who is the subject of a Temporary Suspension may, within twenty (20) days following such Delivery, file with the Sanctions Officer a request for reconsideration of the Temporary Suspension including the basis and supporting evidence for such Request (“Request for Reconsideration”). The Sanctions Officer shall issue a final determination in response to a Request for Reconsideration, in consultation with the Chairperson of the Committee, with written notice to the party concerned and to OII. The Temporary Suspension shall remain in effect pending such final determination.
- 13.6** The Temporary Suspension shall remain in effect until the earlier of the expiration of twelve (12) months or, as applicable in the respective case: (i) a Determination of the Sanctions Officer to dismiss the allegations pursuant to Section 4.9, above; (ii) a Decision of the Committee to dismiss the allegations pursuant to Section 7.2, above; or (iii) the date of effectiveness of a Sanction pursuant to Section 8.5, above. Such twelve-month period may be renewed pursuant to a further recommendation from OII and the approval of the Sanctions Officer, in consultation with the Chairperson of the Committee.
- 13.7** A Temporary Suspension would apply in the same manner as provided in Section 8.2.2, above.

## 14. DISCLOSURE

- 14.1 Disclosure.** If a Sanction is imposed on a Respondent, information concerning the identity of each sanctioned party, the Prohibited Practice and the Sanction imposed may be disclosed by the Bank and the Corporation to borrowers, other international and multinational organizations, governmental authorities and such other parties, including the public, as deemed appropriate by the Bank or the Corporation.
- 14.2 Referral to Governmental Authorities.** If the Sanctions Officer or the Chairperson of the Committee believes that the laws of any country may have been violated by a Respondent, upon the direction of the Chairperson of the Committee, the Sanctions Officer or the Executive Secretary of the Committee may at any time recommend to the President of the Bank that the matter be referred to appropriate governmental authorities. The Sanctions Officer or the Executive Secretary may make or direct OII to make available to the President such information relating to the suspected violation as the Chairperson of the Committee shall deem appropriate for referral. Such a referral shall be without prejudice to any referrals that may be made by members of the Bank Group in the independent exercise of their authority.
- 14.3 Disclosure to Affected International Organizations.** If the Sanctions Officer or the Chairperson of the Committee determines that there is evidence of a violation of the policies of international or multinational organization outside of the Bank Group, including another development bank, or of an agency of a member government, upon the direction of the Chairperson of the Committee, the Sanctions Officer or the Executive Secretary may at any time make, or direct to OII to make, such evidence available to that organization or agency.
- 14.4 Reciprocal Disclosure.** The Sanctions Officer or the Executive Secretary may at any time make available materials submitted to the Sanctions Officer or the Committee to another international or multinational organization, including another development bank, or to an agency of a member government, pursuant to the terms of agreements that such parties would make similar information available to the Bank or the Corporation.
- 14.5 Referral to Other Units of the Bank Group.** If the Sanctions Officer or the Chairperson of the Committee determines that a Respondent may have committed a procedural irregularity or an act of wrongdoing other than a Prohibited Practice in connection with a Project, the Sanctions Officer, or the Executive Secretary—upon the direction of the Chairperson of the Committee, may refer the matter to the appropriate Bank Group unit for further possible action.

## 15. GENERAL PROVISIONS

- 15.1** These Procedures are adopted to guide the exercise of discretion by the Bank Group, and do not in themselves confer any rights or privileges to any party. The Bank reserves the

right to alter, amend, supplement, or revise these Procedures, with or without notice. In addition, members of the Bank Group may adapt, modify, waive, suspend or terminate these Procedures and suspend or temporarily suspend any party from eligibility to be awarded contracts, in particular cases as circumstances warrant at any time without notice.

- 15.2** Nothing in these Procedures shall be considered to alter, abrogate, or waive the immunities and privileges as set forth in the Agreement Establishing the Inter-American Development Bank, the Agreement Establishing the Inter-American Investment Corporation, the Agreement Establishing the Multilateral Investment Fund II, or in applicable national or international law, regulation or other authority.
- 15.3** Notwithstanding any other provision of these Procedures, the sharing of information contemplated herein shall be subject to the limitations of the policies of disclosure of information of the Bank and the Corporation, other policies governing the Bank, the Corporation or the Fund concerning the use and confidentiality of information, the contractual obligations of the Bank and the Corporation with outside parties, and to other relevant considerations in such policies and contracts.
- 15.4** At any time prior to or during an investigation, but not after the receipt of a Statement of Charges by the Sanctions Officer, the Bank or the Corporation may enter into negotiated resolution agreements related to Prohibited Practices. These negotiated resolution agreements may be entered into with external parties that agree to provide evidence that facilitates the Bank Group's understanding of systemic Prohibited Practices or integrity risks to Bank Group-financed activities, significant Prohibited Practices of the external parties or other parties, and/or such other criteria as may be determined by the Bank or the Corporation.
- 15.5** These Procedures do not apply to investigations of governmental entities, investigations concerning Bank Group employees and other officials whose relationships with the Bank Group are governed by Codes of Conduct of the Bank, the Corporation or the Fund, or to other cases where management determinations are required to protect the interests of the Bank Group.

## **ANNEX A**

### **SANCTIONS COMMITTEE CHARTER**

#### **ARTICLE I**

This Sanctions Committee Charter (this “Charter”) shall govern the Sanctions Committee (the “Committee”) of the Inter-American Development Bank (the “Bank”), the Inter-American Investment Corporation (the “Corporation”) and the Multilateral Investment Fund (the “Fund”, and collectively with the Bank and the Corporation, the “Bank Group”).

#### **ARTICLE II**

The Committee shall review allegations of Prohibited Practices, make decisions, and perform other functions and responsibilities as set forth in the Sanctions Procedures of the Bank Group (the “Sanctions Procedures”). Defined terms used therein shall have the same meaning as in this Charter.

#### **ARTICLE III**

- 1.** The Committee shall be composed of seven members (each, a “Member”). All Members shall possess the professional experience and integrity necessary to qualify them as Members.
- 2.** Three Members of the Committee shall be appointed by the President from among Bank Group staff (each, an “Internal Member”). Four Members of the Committee shall be appointed by the President from outside the Bank Group (each, an “External Member”). External Members must not currently hold any appointment as an employee of the Bank Group (including consultants and other professionals subject to similar contracts with the Bank Group). All Members shall be citizens of one of the member countries of the Bank.
- 3.** For purposes of considering cases involving Corporation activities, one alternate member shall be appointed by the President from among Corporation staff, as nominated by the General Manager of the Corporation (the “Alternate Member”).
- 4.** External Members shall be appointed for terms of up to five years, that may be renewed once. Internal Members shall be appointed for terms of up to three years, that may be renewed once.
- 5.** In the event that a Member resigns from the Committee prior to the end of his/her term, the President of the Bank may appoint a successor to complete the term. Such successor shall be eligible to be appointed for one successive term.



#### **ARTICLE IV**

1. The President shall appoint a Chairperson and Vice Chairperson from among the Members of the Committee.
2. The Chairperson shall direct the work of the Committee, represent the Committee in all administrative matters, assign Panels as provided in Article VI, and preside at all sessions of the full Committee.
3. If the Chairperson is unable to act or attend a session of the full Committee, the Vice Chairperson shall act as Chairperson.

#### **ARTICLE V**

1. Attendance of at least five Members, including a majority of each of Internal Members and External Members, is required to constitute a quorum of the full Committee.
2. A session of all Members may be convened by the Chairperson when, in the opinion of the Chairperson, the complexity of a case requires such a session or when it is necessary to address a question affecting the operation of the Committee or any other matter warranting consideration by the full Committee.

#### **ARTICLE VI**

1. Unless a particular case or cases are deemed by the Chairperson to involve exceptional circumstances that merit consideration by the full Committee, the Chairperson shall appoint a panel comprising two External Members and one Internal Member (a "Panel") to hear and determine each case pursuant to the Sanctions Procedures. The Chairperson shall also designate a Panel Chair from amongst the Members of the Panel. If a case involves a Corporation activity, the Alternate Member shall serve as the staff Member of the Panel considering the case.
2. Attendance of all three Panel Members is required to constitute a quorum of a Panel.
3. The Chairperson shall organize the work program of a Panel in consultation with its Members and shall schedule meetings as needed.
4. References herein and in the Sanctions Procedures to the Committee shall be deemed to include references to a Panel, as appropriate in each context.

#### **ARTICLE VII**

The compensation of External Members and expenses of the Committee shall be borne by the Bank Group.

## **ARTICLE VIII**

1. The Committee and Panels shall hold their sessions at the principal office of the Bank, unless the Chairperson or Panel Chair, as the case may be, considers that the efficient conduct of the proceedings warrants holding sessions elsewhere.
2. Committee hearings and Panel meetings will be in the form of oral proceedings. Any one or more Members of the Committee or a Panel may participate in a meeting of the Committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence at a meeting. Committee and Panel proceedings, including hearings and deliberations of the Committee or a Panel, as the case may be, shall be confidential and shall not be open to the public.

## **ARTICLE IX**

1. Each Member shall have a vote of equal authority, whether acting in a full Committee or in a Panel.
2. Decisions of the full Committee shall be taken by the favorable votes of at least five Members, including a majority of each of the Internal Members and of the External Members.
3. Decisions of a Panel shall be taken by a majority (i.e., two Members) and shall be deemed to constitute a decision of the Committee.
4. In taking decisions, all Members shall act independently and shall not answer to or take instructions from Bank Group management, members of the Board of Executive Directors, member governments or any other entity or individual.

## **ARTICLE X**

1. Members shall promptly advise each of the Chairperson and the Executive Secretary of the Committee of any conflict of interest concerning the performance of their duties for the Committee, and shall recuse themselves from consideration of any related matter. If a Member or an immediate family member has any personal interest, including a financial interest, position of employment or other affiliation, in any matter that is under consideration by the Committee, the Member shall so advise each of the Chairperson and the Executive Secretary of the Committee as soon as possible upon becoming aware of the conflict and shall not participate in the consideration of the matter. The term “immediate family member,” for purposes of this provision shall mean a spouse, domestic partner, child, parent, parent-in-law or sibling.
2. A Member shall not participate in a Sanctions Proceeding involving a Project, loan or other transaction wherein the Member has directly or significantly participated in the Member’s current position, previous employment, or any other capacity.

3. A Member shall not, for two years after the end of the Member's term, accept any kind of employment, consultancy or interest in any firm that has been a Respondent in a Sanctions Proceeding in which the Member has participated.
4. A Member shall be disqualified to appear as an attorney, agent or representative of any Respondent in a Sanctions Proceeding before the Committee for a period of two years following the end of such Member's term.
5. External Members shall not accept employment with the Bank Group or provide the Bank Group with services in connection with any Project, transaction or initiative on behalf of the Bank Group for a period of two years following the end of such Member's term.
6. A Member shall be required to observe the confidentiality and sensitivity of all information to which the Member has access as a Member of the Committee, and shall not use or disclose to any third party any information obtained as a result of membership in the Committee, except to the extent such information is also made publicly available by the Bank Group or otherwise used or disclosed with the prior written consent of the Bank. A Member shall not make any public statements with respect to any past, present or future case or investigation under the Sanctions Procedures without the prior written consent of the Bank.
7. A Member shall, in the discharge of the Member's functions, be guided solely by the merits of the case without regard to other considerations.
8. The provisions of this Article X shall also apply to the Executive Secretary of the Committee except that in Article X, Section 1, the Executive Secretary shall inform the Chairperson of the Sanctions Committee of any conflict.