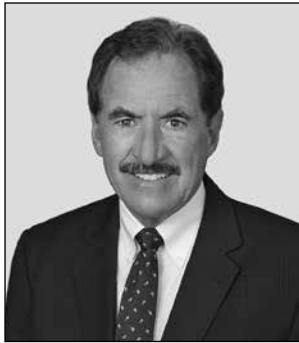


# Two Systems, Two Types of Risk: How the World Bank Sanctions Regime Differs from US Suspension and Debarment

By **WILLIAM A ROBERTS, III**, **TRACYE WINFREY HOWARD**, AND **SAMANTHA S. LEE**



**William A Roberts, III**



**Tracye Winfrey Howard**



**Samantha S. Lee**

In June 2014, close on the heels of the World Bank's second colloquium on suspension and debarment,<sup>1</sup> the World Bank's Office of Suspension and Debarment (OSD) published its Report on Functions, Data, and Lessons Learned from the office's inception in 2007 to 2013.<sup>2</sup> The report traced the history of the World Bank's sanctions system to a call from the World Bank's president in 1996 to "deal with the cancer of corruption" that had afflicted the institution's programs, which led quickly to the establishment of a formal mechanism for sanctioning those who engage in fraud and corruption in connection with World Bank-financed projects and has continued to develop and grow in scope, formality, and reach.<sup>3</sup> Since 2007, the World Bank has sanctioned at least 224 firms and individuals for fraud and corruption in connection with a World Bank project.<sup>4</sup>

The World Bank has identified corruption as the "public enemy number one" of developing countries, and it relies on contractors to avoid and prevent corruption that would divert crucial World Bank funds from its mission to end extreme poverty and boost shared prosperity.<sup>5</sup> The uptick in sanctions activity and increasing severity of sanctions, the World Bank's focus on transparency and consistency, and our own experiences assisting clients with World Bank matters suggest that the World Bank will only become more active in this area. For contractors already working with the World Bank, or considering entering the market to try to capture some

---

*William A. Roberts, III is a partner and co-chair, Tracye Winfrey Howard is a partner, and Samantha S. Lee is an associate of Wiley Rein LLP's Government Contracts Practice Group.*

of the projects funded by the World Bank's budget in loans, grants, investments, and guarantees—a reported \$61 billion in fiscal year 2014 alone—understanding the World Bank's sanctions system is imperative.<sup>6</sup>

A World Bank sanctions proceeding begins with an investigation by the Integrity Vice Presidency (INT).<sup>7</sup> During the investi-

gation, if the INT believes there is sufficient evidence that the target committed a sanctionable practice such that it expects to submit, within a year, a Statement of Accusations and Evidence to the OSD, the INT may submit a request for early temporary suspension to the OSD.<sup>8</sup> If the OSD determines there is sufficient evidence of a sanctionable practice and that an appropriate sanction for that practice would be at least as severe as debarment for two years, the contractor will be suspended "from eligibility to be awarded contracts for Bank Projects or otherwise participate in new activities in connection with Bank Projects" for up to a year while the INT completes its investigation unless the contractor can convince the OSD that the early temporary suspension is not warranted.<sup>9</sup> Early temporary suspension is, however, rare—in its report on the operations of the OSD between 2008 and 2013, the World Bank identified only five times that the measure had been imposed.<sup>10</sup>

If at the end of its investigation, the INT believes that it has collected sufficient evidence to show that a contractor or individual ("respondent") has engaged in sanctionable conduct, it submits a Statement of Accusations and Evidence to the OSD.<sup>11</sup> The OSD evaluates the accusations and evidence from the INT and determines whether there is "evidence sufficient to support a reasonable belief, taking into consideration all relevant factors and circumstances, that it is more likely than not that the respondent has engaged in" the sanctionable practices alleged.<sup>12</sup> If so, the OSD issues a Notice of Sanctions Proceedings to the respondent, specifying its recommended sanction.<sup>13</sup> If the OSD's Notice of Sanctions Proceedings recommends a sanction at least as severe as debarment for six months, the respondent

is suspended pending the conclusion of the sanctions proceedings.<sup>14</sup> Between 2008 and 2013, the World Bank temporarily suspended 234 firms and individuals.<sup>15</sup>

The respondent then has two nonexclusive options. First, within 30 days, it can submit a response to the OSD, called an explanation.<sup>16</sup> Based on that explanation, the OSD could withdraw the Notice of Sanctions Proceedings, revise the recommended sanction, or maintain its initial recommendation.<sup>17</sup> It can also terminate the temporary suspension.<sup>18</sup> Second, within 90 days, the respondent can submit a “response” to the World Bank Sanctions Board, an independent administrative tribunal, contesting the accusations or the recommended sanction.<sup>19</sup> If the respondent does not submit an explanation or a response, the OSD’s recommended sanction will take effect.<sup>20</sup> If the respondent submits a response, the INT has 30 days to file a reply in support of sanctions.<sup>21</sup> The Sanctions Board then conducts a de novo review, possibly including a hearing, before publishing a final written decision to the World Bank’s website.<sup>22</sup> “The decision of the Sanctions Board shall be final and shall take effect immediately.”<sup>23</sup> This is not a short process. Most cases take at least two years from the beginning of investigation to resolution, and a dozen cases included in the OSD’s latest report took more than six years to resolve.<sup>24</sup>

Beyond these unique procedures, the World Bank’s sanctions regime differs in a number of crucial ways from the system known to most contractors that are familiar with the US federal government suspension and debarment system. Contractors must consider these differences and the associated potential risk exposure when deciding whether to compete for World Bank projects, designing compliance programs, and responding to World Bank audits and inquiries.

### A System Designed to Sanction and Deter Wrongdoing

Under the US federal government system, the existence of a cause for suspension or debarment does not necessarily require that a contractor be suspended or debarred; suspension and debarment are discretionary, and are not intended to punish wrongdoing.<sup>25</sup> Instead, suspension and debarment are administrative actions by the federal government to protect itself against unsuitable business partners. As a result, once cause for suspension or debarment is established, the contractor can avoid suspension or debarment if it demonstrates that it is presently responsible.<sup>26</sup> The suspending and debarment official is then obligated to consider the seriousness of the contractor’s acts or omissions, and any remedial measures or mitigating factors, before making the debarment decision.<sup>27</sup>

In stark contrast, the World Bank’s regime is specifically designed to sanction and deter wrongdoing.<sup>28</sup> Thus, if the INT presents sufficient evidence, the burden of proof shifts to the respondent to demonstrate that its conduct did not rise to the level of a sanctionable

practice.<sup>29</sup> Whether the respondent is a responsible entity is not a consideration. Although mitigating factors do play a role in the severity of the sanction imposed (discussed below), the ultimate decision is simple: if it is more likely than not that the respondent did what has been alleged, the respondent *must* be sanctioned.

### Five Broad Categories of Sanctionable Activity

The potential causes for suspension and debarment in the US federal government system are many and varied, including fraud in connection with a public contract or subcontract, antitrust violations, unfair trade practices, knowing failure to comply with the mandatory disclosure rule, and commission of “any other offense indicating a lack of business integrity and honesty” or “any other cause so serious and compelling a nature” that affects the contractor’s present responsibility.<sup>30</sup>

The World Bank’s list of sanctionable activity is shorter, but open to very broad application. The Sanctions Guidelines contemplate five categories of sanctionable practices:

- Corrupt: “the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.”
- Fraudulent: “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.”
- Collusive: “an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.”
- Coercive: “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.”
- Obstructive: “(i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) acts intended to materially impede the exercise of the Bank’s contractual rights of audit or access to information.”<sup>31</sup>

In practice, these offenses have been construed to include conduct ranging from bribery to including an individual’s resume in a proposal without proper permission to submitting false timesheets—and there is no exception for conduct that arguably did not, in fact, adversely affect competition or performance. For example, in February 2015, the World Bank debarred a contractor for one year for making corrupt payments to government officials under two World Bank-financed projects in

Vietnam.<sup>32</sup> The relatively short sanction term is likely reflective of the fact that, in response to a World Bank “inquiry,” the company worked with the World Bank to conduct an internal investigation “in accordance with terms agreed to by the Bank” and shared its findings.<sup>33</sup> According to the Integrity vice president in a press release, “A company’s response to misconduct is clear evidence of where its commitment to integrity lies.”<sup>34</sup> The World Bank also imposed a one-year conditional nondebarment on the contractor’s corporate parent for “fail[ing] to effectively supervise” its subsidiary.<sup>35</sup>

In another example, in November 2014, the World Bank imposed a three-year debarment with conditional release on a respondent and its affiliates for fraud in connection with a bid for a contract to supply 28 off-road motorcycles to support the \$4 million Extractive Industries Technical Assistance Project in Sierra Leone.<sup>36</sup> The solicitation required any bidder that did not itself manufacture the motorcycles to submit a manufacturer’s authorization to supply them in Sierra Leone.<sup>37</sup> The respondent submitted a bid with a fraudulent manufacturer’s authorization and was disqualified from the competition. The respondent took the case all the way to the Sanctions Board and requested no sanction, alleging that it had no intent to mislead.<sup>38</sup> The respondent claimed it, too, had been the victim of fraud because it obtained the manufacturer’s authorization from a broker that it reasonably believed worked directly with the manufacturer. The Sanctions Board, however, found the respondent’s explanation was inconsistent over time and lacked credibility and, thus, it imposed a three-year debarment.<sup>39</sup>

Approximately 86 percent of the cases and settlements handled by the OSD have been for fraudulent practices, and the office reports that fraud “can be as significant to development effectiveness as corruption or collusion, because unqualified consultants and contractors often cannot perform or end up delivering defective goods or services.”<sup>40</sup> Fraud also is easily investigated and proven with a minimum outlay of resources by the World Bank.<sup>41</sup> Among the categories of fraudulent activity that the World Bank has sanctioned are forged bank guarantees, manufacturers authorizations, and performance or experience documentation; fraudulent invoices or payment certifications; and misrepresentations or omissions regarding conflicts of interest, agents, past performance or experience, and future performance.<sup>42</sup>

### From Letter of Reprimand to Long-Term Debarment

The US federal government system allows for suspension, a temporary exclusion while the investigation continues, and debarment.<sup>43</sup> The period of debarment is supposed to be consistent with the conduct that triggered the exclusion, and is generally not longer than three years.<sup>44</sup>

The World Bank, in contrast, has a range of possible sanctions. The least severe (and least used) are the letter of reprimand, a public and formal acknowledgment of

the respondent’s misconduct, and conditional nondebarment, under which the respondent is required to comply with certain conditions to avoid debarment.<sup>45</sup> The next level of sanctions includes debarment and debarment with conditional release.<sup>46</sup> Under debarment, a respondent may not be awarded a contract, serve as a subcontractor, or “receive the proceeds of any loan made by the Bank or otherwise [ ] participate further in the preparation or implementation of any Bank Project.”<sup>47</sup> This final prong of the World Bank’s debarment is distinct from the US federal government system, which does not require the government to terminate existing contracts with a debarred contractor.<sup>48</sup> Although the World Bank’s practice is not to terminate existing contracts,<sup>49</sup> one reading of the language of the World Bank’s sanctions procedures would require contract termination to avoid a sanctioned entity’s further benefit from or participation in a World Bank-funded project. If the respondent receives debarment with conditional release, it must demonstrate compliance with specified remedial, preventative, or other conditions before it is released from debarment.<sup>50</sup> “A principal condition will be the sanctioned party’s establishment and maintenance of an integrity compliance program” acceptable to the World Bank.<sup>51</sup> The default, or “base sanction,” for all misconduct is a three-year debarment with conditional release.<sup>52</sup> The World Bank’s system also authorizes the bank to order restitution or remedy to the entity that borrowed the World Bank funds and any other party affected by the sanctionable conduct.<sup>53</sup>

The US federal government system allows contractors to resolve suspensions and debarment proceedings in settlements known as administrative agreements, which document remedial measures to prevent the recurrence of the incident that led to suspension or debarment.<sup>54</sup> The World Bank’s settlement procedures, set forth in its negotiated resolution agreements, are much more formal and generally result in a lesser debarment period rather than no debarment. The World Bank promotes negotiated resolution agreements, also called settlements, as “an efficient mechanism to resolve investigations [that] can save the [World Bank] considerable resources, while providing certainty for the party under investigation,” and a means for the World Bank “to acquire invaluable information through the cooperation of the party under investigation.”<sup>55</sup> The respondent therefore must first agree to standard terms and conditions to pursuing a negotiated resolution, and the INT must satisfy itself that a settlement is warranted based on the following criteria: admission of culpability; potential resource savings for the World Bank; degree of cooperation with the INT’s investigation; and evidence of corrective measures.<sup>56</sup> A negotiated resolution agreement must be accompanied by an affidavit certifying the respondent’s understanding of the sanctions procedures and guidelines and affirming it is entering the settlement of its own free will.<sup>57</sup> Agreements are negotiated with INT,

but must be approved by the OSD, cleared by the World Bank's general counsel, and signed by the Integrity vice president to become effective.<sup>58</sup> The OSD cannot modify the agreement, but it can terminate an agreement if it determines the respondent did not enter into the agreement freely and fully informed of its terms or if the "terms of the agreement manifestly violate" the World Bank's guidelines on the range of sanctions, and the factors that should affect the sanction decision.<sup>59</sup> The World Bank expects the company to agree to the imposition of some sanction in the negotiated resolution agreement—we understand that the World Bank is likely to insist on a one-year debarment at a minimum.

The World Bank has a cross-debarment agreement with the African Development Bank Group, Asian Development Bank, European Bank for Reconstruction and Development, and the Inter-American Development Bank to mutually enforce debarment actions.<sup>60</sup> It does not have a cross-debarment agreement with the US federal government, so a sanction would not automatically result in suspension or debarment by any federal agency. If a US federal government contractor finds itself the subject of sanctions proceedings, however, the contractor should consider proactively approaching the relevant US federal government suspension and debarment official to demonstrate to that official that the contractor remains presently responsible notwithstanding any sanctionable conduct on a World Bank project.

### Mitigating and Aggravating Factors

The US federal government system lists 10 mitigating factors that the suspending and debarment official should consider in making the debarment decision, all consistent with the focus on present responsibility and future behavior.<sup>61</sup> The regulations are clear that these are only factors for the suspending and debarment official's consideration, and that their "existence or nonexistence . . . are not necessarily determinative of a contractor's present responsibility."<sup>62</sup>

The World Bank also has published specific mitigating factors, but instead of informing the decision about whether to sanction at all, the mitigating factors allow a specific percentage decrease from the sanction that would otherwise be imposed based on the character of the sanctionable conduct.<sup>63</sup> Some of these mitigating factors overlap with the US federal government's, but many are either unique to the World Bank or have a unique definition more applicable to a punitive system—including consideration of whether the respondent's actions show "genuine remorse":

- Minor Rule in Misconduct (up to 25 percent decrease): "Minor, minimal, or peripheral participant; if no individual with decision-making authority participated in, condoned, or was willfully ignorant of the misconduct."
- Voluntary Corrective Action Taken (up to 50 percent decrease absent exceptional circumstances al-

lowing for a greater reduction):

- Cessation of misconduct: "The timing of the action may indicate the degree to which it reflects genuine remorse and intention to reform, or a calculated step to reduce the severity of the sentence."
- Internal action against responsible individual: "Management takes all appropriate measures to address the misconduct engaged in on its behalf, including taking appropriate disciplinary and/or remedial steps with respect to the relevant employee, agent, or representative. The timing of the action may indicate the degree to which it reflects genuine remorse and intention to reform, or a calculated step to reduce the severity of the sentence."
- Effective compliance program: "Establishment or improvement, and implementation of a corporate compliance program. The timing, scope and quality of the action may indicate the degree to which it reflects genuine remorse and intention to reform, or a calculated step to reduce the severity of the sentence."
- Restitution or financial remedy: "When the respondent voluntarily addresses any inadequacies in contract implementation or returns funds obtained through the misconduct. The timing of the action may be indicative of the extent to which it reflects genuine remorse and intention to reform, or a calculated step to reduce the severity of the sentence."
- Cooperation with Investigation (up to 33 percent decrease absent exceptional circumstances allowing for even greater reduction):
  - Assistance and/or ongoing cooperation: "Based on INT's representation that the respondent has provided substantial assistance in an investigation, including voluntary disclosure, the truthfulness, completeness, reliability of any information or testimony, the nature and extent of the assistance, and the timeliness of assistance."
  - Internal investigation: "Respondent conducted its own, effective internal investigation of the misconduct and relevant facts relating to the misconduct for which it is to be sanctioned and shared results with INT. Consideration will also be given to a respondent conducting its own internal investigation that extends beyond the conduct and facts related to the sanctioned misconduct and sharing the results with INT."
  - Admission/acceptance of guilt/responsibility: "Admissions or full and affirmative acceptance of guilt or responsibility for misconduct earlier in the investigation shall be given more weight than later in the investigation or subsequent proceeding."
  - Voluntary Restraint: "Voluntary restraint from

bidding on Bank-financed tenders pending the outcome of an investigation may also be considered as a form of assistance and/or cooperation.”<sup>64</sup>

In another departure from the US federal government system, the World Bank also has published categories of aggravating factors, and the associated increase in the sanction term above the base sanction.<sup>65</sup> The first category is the severity of the misconduct, with an associated increase to the sanction term of one to five years. This category considers factors such as whether the conduct was part of a repeated pattern, the complexity and duration of the misconduct, management’s participation in or willful ignorance of the misconduct, and whether any public officials or World Bank staff were involved.<sup>66</sup> For example, in a decision published in June 2015, the Sanctions Board found “aggravation warranted” because the respondent’s misrepresentations about its experience were “highly detailed and contain[ed] specific references to actual development projects,” which showed “apparent forethought and planning.”<sup>67</sup> The second category considers the harm caused by the misconduct and also carries a potential one- to five-year increase in the sanction term depending on the degree of harm to the World Bank-funded project and whether there was foreseeable risk of death or bodily injury or endangerment of public health or safety.<sup>68</sup> The third category protects the sanctions regime itself, and associates a one- to three-year increase in the sanction term with interference with the World Bank’s investigation, including deliberately destroying evidence; materially impeding the World Bank’s contractual rights for audit and access to information; and intimidation or payment of a witness.<sup>69</sup> The INT must continue to carry the burden if it alleges these aggravating factors—the Sanctions Board declined to apply aggravation in a recent case based on INT’s allegations that the respondent had impeded the bank’s exercise of its audit rights and threatened a witness because INT did not produce enough support for its allegations.<sup>70</sup> The final category is a past history of adjudicated misconduct, including by another multinational development bank, or violation of a sanction or temporary suspension, which carries a 10-year increase to the sanction term.<sup>71</sup>

The World Bank’s published guidelines do not specify whether the increases associated with these aggravating factors are cumulative. However, recent sanctions cases include debarments lasting up to 11 years, like the 10-year debarment of SNC-Lavalin Inc. in April 2013 for “a conspiracy to pay bribes and misrepresentations when bidding for Bank-financed contracts,”<sup>72</sup> and the 11-year debarment in November 2013 of Progressive Constructions Limited for submitting fraudulent documents that misrepresented how the company was using payment advances for mobilization and materials.<sup>73</sup>

### **A Structured Voluntary Disclosure Program**

Under the US federal government system, “whether the contractor brought the activity cited as

cause for debarment to the attention of the appropriate Government agency in a timely manner” is just one of the potential mitigating factors for the suspending and debarment official’s consideration, and failing to make a mandatory disclosure of credible evidence of violations of federal criminal law, the civil False Claims Act, or significant overpayments is itself grounds for debarment.<sup>74</sup>

In contrast, in 2007, the World Bank launched a formal voluntary disclosure program for contractors to self-report the results of internal investigations that revealed fraudulent, corrupt, collusive, or coercive acts in World Bank projects.<sup>75</sup> Although the US federal government system’s mandatory disclosure requirement and the World Bank’s voluntary disclosure program both involve self-reporting of potential violations, the similarities end there.

A contractor is eligible to participate in the voluntary disclosure program only if it is not “already under active investigation.”<sup>76</sup> The World Bank advertises that voluntary disclosure program participants receive the following “benefits for participation”: (1) reducing the risk of being the subject of an INT investigation; (2) avoiding the reputational damage of a public debarment; (3) remaining anonymous as part of the voluntary disclosure program confidentiality agreement; (4) remaining eligible to compete for bank-supported contracts; (5) strengthening the corporate brand by incorporating best practices in compliance; and (6) working “in a constructive framework and responsibly deal with ‘inherited’ problems resulting from previous corporate acquisitions.”<sup>77</sup> If the contractor satisfies the terms and conditions of the program, the only sanction imposed is the financial obligation associated with complying with the program’s terms.<sup>78</sup>

But the costs are significant. Under the program, the contractor provides a list of all contracts financed or supported by the World Bank “that have been signed or were in effect within three years prior to the date of entering the program.”<sup>79</sup> The World Bank then selects contracts and negotiates an investigation plan and timetable for the contractor to conduct internal investigations and report the results to the World Bank.<sup>80</sup> The World Bank also monitors the contractor’s internal compliance program for three years.<sup>81</sup> The contractor is responsible for the costs of the internal investigations and reports, the World Bank’s verification of those investigations and reports, and the costs associated with developing and monitoring the compliance program.<sup>82</sup> The consequence of a misstep during participation, including any misconduct or failure to report past or current misconduct, is severe: a 10-year debarment.<sup>83</sup>

### **Conclusion**

The World Bank’s global reach, important mission, and multi-billion-dollar annual budget are a big draw for contractors. The World Bank tries to protect that reach, mission, and budget with a sanctions system that has grown enormously in scope, severity, and transparency in a short period of time. The challenges the INT

identified for itself to guide its actions over the coming years, including “leveraging sanctions to clean up businesses—and industries” and “ensuring every investigation has a positive impact” are clear indications that the trend will only continue.<sup>84</sup>

Contractors that are considering competing for work financed by the World Bank, and contractors that have already won such work, should be aware of the World Bank’s ever increasing focus on sanctions as a tool to combat fraud and corruption and the important differences between the US federal government’s suspension and debarment system and the World Bank’s sanctions regime. ¶L

## Endnotes

1. Law, Justice and Development Suspension and Debarment Colloquium, (May 15, 2014), <http://tinyurl.com/oa0az6l>.

2. Press Release, The World Bank, World Bank Publishes Data and Lessons Learned on All Debarment Cases since 2007 (June 25, 2014), <http://tinyurl.com/pyshgce>; The World Bank Office of Suspension and Debarment, Report on Functions, Data and Lessons Learned 2007-2014 (June 25, 2014), <http://tinyurl.com/nw2y5c6>.

3. Lessons Learned, *supra* n. 2 at 7–11. The sanctions program discussed in this article is the program specific to misconduct in World Bank-financed projects. The World Bank maintains a separate system for its own corporate procurement, which is administered by the World Bank’s General Services Department.

4. *Id.* at 23.

5. See Press Release, The World Bank, Corruption is ‘Public Enemy Number One’ in Developing Countries, says World Bank Group President Kim, (Dec. 19, 2013), <http://tinyurl.com/ne2tg7v>.

6. See Press Release, The World Bank, World Bank Group Commitments Rise Sharply in FY14 Amid Organizational Change (July 1, 2014), <http://tinyurl.com/lhs5m67>.

7. The World Bank, About Integrity, <http://tinyurl.com/py2drb2> (last visited Sept. 4, 2015).

8. *Id.* § 2.01.

9. *Id.* § 2.02–2.04.

10. Lessons Learned, *supra* n. 2, at 24.

11. World Bank Sanctions Procedures, § 3.01(b), (Jan 1, 2011), <http://tinyurl.com/oopleoq>.

12. See *id.* § 1.02(a).

13. *Id.* § 4.01.

14. *Id.* § 4.02.

15. Lessons Learned, *supra* n. 2, at 24.

16. *Id.* § 4.02(b).

17. *Id.* § 4.03.

18. *Id.*

19. *Id.* § 5.01(a).

20. *Id.* § 4.04.

21. *Id.* § 5.01(b).

22. Lessons Learned, *supra* n. 2, at 16–17; The World Bank Group, Sanctions Board Decisions, <http://tinyurl.com/p77rkrw> (last visited Sept. 4, 2015).

23. World Bank Sanctions Procedures, *supra* n. 11, § 8.03.

24. Lessons Learned, *supra* n. 2, at 26.

25. Federal Acquisition Regulation (FAR) 9.402.

26. FAR 9.406-1(a)(10), 9.407-1(b)(2).

27. *Id.*

28. Anne-Marie Leroy & Frank Fariello, *The World Bank Sanctions Process and Its Recent Reforms*, THE WORLD BANK (2012), available at <http://tinyurl.com/p86koud> (describing the World Bank’s rejection of the “present responsibility concept” because it

would have “potentially far-reaching implications, in particular for the use of sanctions for purposes of general deterrence”); see also Dick Thornburgh, Ronald L. Gainer, and Cuyler H. Walker, *Report Concerning the Debarment Process of the World Bank*, THE WORLD BANK 39 (2002), available at <http://tinyurl.com/palfymx> (discussing establishing a range of sanctions to serve the purposes of incapacitation, general deterrence, specific deterrence, rehabilitation, and restitution).

29. World Bank Sanctions Procedures, *supra* n. 11, § 8.02(b).

30. FAR 9.406-2, 9.407-2.

31. World Bank Sanctions Procedures, *supra* n. 11, Appendix 1.

32. Press Release, World Bank Group Debars Louis Berger Group (Feb. 4, 2015), <http://tinyurl.com/np7ydbj>.

33. *Id.*

34. *Id.*

35. *Id.*

36. World Bank Group Sanctions Board, Sanctions Board Decision No. 75 (Sanctions Case No. 260) (Nov. 6, 2014), <http://tinyurl.com/nek0z4a>.

37. *Id.*

38. *Id.*

39. *Id.*

40. Lessons Learned, *supra* n. 2, at 28.

41. *Id.* at 18.

42. *Id.* at 29.

43. FAR 9.4.

44. FAR 9.406-4.

45. World Bank Sanctions Procedures, *supra* n. 11, § 9.01; World Bank Group Integrity Vice Presidency Annual Update (Fiscal Year 2014) 42–45 (Oct. 8, 2014), <http://tinyurl.com/qb0hvpb> (listing 64 debarments, two conditional non-debarments, and five letters of reprimand in fiscal year 2014).

46. World Bank Sanctions Procedures, *supra* n. 11, § 9.01.

47. *Id.*

48. See FAR 9.405-1.

49. *Report Concerning the Debarment Process of the World Bank*, *supra* n. 28 at 39; see also World Bank, *Guidelines, Procurement of Goods, Works, and Non-Consulting Services under IBRD Loans and IDA Credits & Grants by World Bank Borrowers*, (2011) <http://tinyurl.com/qa3s3nt>, Annex 1 § 8 (requiring bank review and approval for modifications to contracts after the effective date of a suspension or debarment).

50. World Bank Sanctions Procedures, *supra* n. 11, § 9.01.

51. Frequently Asked Questions: Integrity Compliance at the World Bank Group, <http://tinyurl.com/p40ogtn> (last visited Sept. 8, 2015).

52. World Bank Sanctioning Guidelines, 1 (Jan. 1, 2011), <http://tinyurl.com/odu8hd8>.

53. World Bank Sanctions Procedures, *supra* n. 11, § 9.01.

54. Kate M. Manuel, *Debarment and Suspension of Government Contractors: An Overview of the Law Including Recently Enacted and Proposed Amendments*, CONGRESSIONAL RESEARCH SERVICE, 10 (Jan. 6, 2012), available at <http://tinyurl.com/omm94n9>.

55. World Bank Group Settlements: How Negotiated Resolution Agreements Fit Within the World Bank Group’s Sanctions System, <http://tinyurl.com/qblldf4n> (last visited Sept. 8, 2015), at 3.

56. *Id.*

57. *Id.*

58. World Bank Sanctions Procedures, *supra* n. 11, § 11.02; see also Negotiated Resolutions, *supra* n. 55 at 4.

59. Anne-Marie Leroy & Frank Fariello, *The World Bank Group’s Sanctions Process and Its Recent Reforms* (2012), <http://tinyurl.com/p86koud>.

60. Agreement for Mutual Enforcement of Debarment Decisions, (April 9, 2010), <http://tinyurl.com/ozoqcx9>.

61. FAR 9.406-1(a).

62. *Id.*

63. World Bank Sanctioning Guidelines, *supra* n. 11 at 4–5.

64. *Id.*
65. *Id.* at 3–4.
66. *Id.* at 3.
67. The World Bank Group Sanctions Board, Sanctions Board Decision No. 77 (Sanctions Case No. 322) (June 30, 2015), <http://tinyurl.com/o62bq66>.
68. *Id.*
69. *Id.* at 4.
70. The World Bank Group Sanctions Board, Sanctions Board Decision No. 71 (Sanctions Case No. 216 (July 9, 2014)), <http://tinyurl.com/okr63o9>.
71. *Id.*
72. Press Release, The World Bank, World Bank Debars SNC-Lavalin Inc. and Its Affiliates for 10 years (Apr. 17, 2013), <http://tinyurl.com/p2aa6uu>.
73. The World Bank, Notice of Uncontested Sanctions Proceedings (Sanctions Case No. 244) (Nov. 26, 2013), <http://tinyurl.com/o8trfkm>.
74. FAR 9.406-1(a)(3), 9.406-2(b)(vi).
75. World Bank Voluntary Disclosure Program (VDP), <http://tinyurl.com/o375ddg> (last visited Sept. 8, 2015).
76. *Id.*
77. *Id.*
78. VDP Guidelines for Participants, <http://tinyurl.com/pdahvvz> (last visited Sept. 8, 2015) § 4.
79. *Id.* § 5.5–5.6.
80. *Id.* § 7.
81. *Id.*
82. *Id.*
83. *Id.* § 5.8.
84. The World Bank Group Integrity Vice Presidency Annual Update, *supra* n. 45, at 18–20.