

Together we Promote Integrity Values in the IDB Group

# IDB Group Anti-Corruption Guidelines



## Islamic Development Bank Group

Group Integrity Office

Safar 1433H  
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# **The IDB Group Anti-Corruption Guidelines On Preventing and Combating Fraud and Corruption in IDB Group -Financed Activities**

## **Purpose and General Principles**

1. These Guidelines are designed to prevent and combat corrupt and fraudulent practices that may occur in connection with the use of proceeds of financing from the Islamic Development Bank (IDB) or any of the IDB Group affiliates/subsidiary (ITFC, ICD, IRTI, ICIEC) during the preparation and/or implementation of IDB Group-financed activities.<sup>1</sup> They set out the general principles, requirements and sanctions applicable to persons and entities which receive, are responsible for the deposit or transfer of, or take or influence decisions regarding the use of, such proceeds.
2. All persons and entities referred to in paragraph 1 above must observe the highest standard of ethics. Specifically, all such persons and entities must take all appropriate measures to prevent and combat corrupt and fraudulent practices, and refrain from engaging in, corrupt and fraudulent practices in connection with the use of the proceeds of IDB Group financing.

## **Legal Considerations**

3. The Financing Agreement governs the legal relationship between the Beneficiary and the IDB Group with respect to the particular activities for which financing is arranged. The responsibility for implementation of activities under the financing agreement, including the use of finance proceeds, rests with the Beneficiary. It is the duty of the IDB Group, under its Articles of Agreement, to make arrangements to ensure that funds provided by the IDB Group are used only for their intended purposes. These Guidelines constitute an important element of those arrangements and are made applicable to the preparation and implementation of the financing and/or project as provided in the Finance Agreement.

## **Scope of Application**

4. The Guidelines cover corrupt and fraudulent practices that may occur in connection with the use of IDB Group proceeds such as in the direct diversion of IDB Group-financed proceeds for ineligible expenditures, as well as for the purpose of influencing any decision as to the use of the proceeds. All such corrupt and fraudulent practices are deemed, for purposes of these Guidelines, to occur “in connection with the use of IDB Group-financed proceeds”.

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<sup>1</sup> IDB Group-financed activities include activities related to project finance, corporate finance, investments, resource mobilization, equity, procurements/consultancy and where the IDB or any of the IDB Group affiliates/subsidiary (ITFC, ICD, IRTI, ICIEC) is involved.

5. These Guidelines apply to the Beneficiary and all other persons or entities which either receive IDB Group-financed proceeds for their own use (e.g., “end users”), persons or entities such as fiscal agents which are responsible for the deposit or transfer of IDB Group-financed proceeds (whether or not they are beneficiaries of such proceeds), and persons or entities which take or influence decisions regarding the use of IDB Group-financed proceeds. All such persons and entities are referred to in these Guidelines as “recipients of IDB Group-financed proceeds”, whether or not they are in physical possession of such proceeds.<sup>2</sup>
6. The Bank’s specific policy requirements on Corrupt and Fraudulent Practices in connection with the procurement or execution of contracts for goods, works or services financed out of the proceeds from the IDB, are covered in the *Guidelines for Procurement of Goods and Works under IDB Financing*, May 2009, and the *Guidelines for the Use of Consultants under IDB Financing*, May 2009.

#### **Definitions of Practices Constituting Corrupt and Fraudulent Practices**

7. The below practices, as so defined, are referred to collectively in these Guidelines as “Corrupt and Fraudulent Practices”.
8. These Guidelines address the following defined practices when engaged in by recipients of IDB Group-financed proceeds in connection with the use of such proceeds<sup>3</sup>:

A “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.<sup>4</sup>

A “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly<sup>5</sup> misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

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

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<sup>2</sup> Certain persons or entities may fall under more than one category identified in paragraph 4. A financial intermediary, for example, may receive payment for its services, will transfer funds to end users and will make or influence decisions regarding the use of IDB Group-financed proceeds.

<sup>3</sup> Unless otherwise specified in the Finance Agreement, whenever these terms are used in the Finance Agreement, including in the applicable General Conditions, they have the meanings set out in paragraph 6 of these Guidelines.

<sup>4</sup> Typical examples of corrupt practice include bribery and “kickbacks”.

<sup>5</sup> To act “knowingly or recklessly”, the fraudulent actor must either know that the information or impression being conveyed is false, or be recklessly indifferent as to whether it is true or false. Mere inaccuracy in such information or impression, committed through simple negligence, is not enough to constitute fraudulent practice.

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.

An “obstructive practice” is (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 IDB 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 (ii) acts intended to materially impede the exercise of the IDB Group’s contractual rights of audit or access to information.<sup>6</sup>

### **Beneficiary Actions to Prevent and Combat Fraud and Corruption in connection with the Use of Finance Proceeds**

9. In furtherance of the above-stated purpose and general principles, the Beneficiary will:
  - (a) take all appropriate measures to prevent corrupt, fraudulent, collusive, coercive and obstructive practices in connection with the use of IDB Group-financed proceeds, including (but not limited to) (i) adopting appropriate fiduciary and administrative practices and institutional arrangements to ensure that the proceeds of the financing are used only for the purposes for which the financing was granted, and (ii) ensuring that all of its representatives<sup>7</sup> involved with the project and/or investment, and all recipients of IDB Group-financed proceeds with which it enters into an agreement related to the project and/or investment, receive a copy of these Guidelines and are made aware of its contents;
  - (b) immediately report to the IDB Group any allegations of corrupt or fraudulent practices in connection with the use of IDB Group-financed proceeds that come to its attention;
  - (c) if the IDB Group determines that any person or entity referred to in (a) above has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in connection with the use of IDB Group-financed proceeds, take timely and appropriate action, satisfactory to the IDB Group, to address such practices when they occur;
  - (d) include such provisions in its agreements with each recipient of IDB Group-financed proceeds as the IDB Group may require to give full effect to these Guidelines, including (but not limited to) provisions (i) requiring such recipient

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<sup>6</sup> Such rights include those provided for, *inter alia*, in paragraph 8(d) below.

<sup>7</sup> References in these Guidelines to “representatives” of an entity also include its officials, officers, employees and agents.

to abide by paragraph 9 of these Guidelines, (ii) requiring such recipient to permit the IDB Group to inspect all of their accounts and records and other documents relating to the project required to be maintained pursuant to the Financing Agreement and to have them audited by, or on behalf of, the IDB Group, (iii) providing for the early termination or suspension by the Beneficiary of the agreement if such recipient is declared ineligible by the IDB Group under paragraph 10 below; and (iv) requiring restitution by such recipient of any amount of the financing with respect to which corrupt and fraudulent practices has occurred;

- (e) cooperate fully with representatives of the IDB Group in any investigation into allegations of corrupt and fraudulent practices in connection with the use of IDB Group-financed proceeds; and
- (f) in the event that the IDB Group declares any recipient of IDB Group-financed proceeds ineligible as described in paragraph 10 below, take all necessary and appropriate action to give full effect to such declaration by, among other things,
  - (i) exercising the Beneficiary's right to terminate early or suspend the agreement between the Beneficiary and such recipient and/or
  - (ii) seeking restitution.

#### **Other Recipients of IDB Group-Financed Proceeds**

10. In furtherance of the above-stated purpose and general principles, each recipient of IDB Group-financed proceeds which enters into an agreement with the Beneficiary (or with another recipient of IDB Group-financed proceeds) relating to the project and/or investment will:
- (a) carry out its IDB Group-financed related activities in accordance with the above-stated general principles and the provisions of its agreement with the Beneficiary referred to in paragraph 8 (d) above; and include similar provisions in any agreements related to the project and/or investment into which it may enter with other recipients of IDB Group-financed proceeds;
  - (b) immediately report to the IDB Group any allegations of corrupt and fraudulent practices in connection with the use of IDB Group-financed proceeds that come to its attention;
  - (c) cooperate fully with representatives of the IDB Group in any investigation into allegations of corrupt and fraudulent practices in connection with the use of IDB Group-financed proceeds;
  - (d) take all appropriate measures to prevent corrupt, fraudulent, collusive, coercive and obstructive practices by its representatives (if any) in connection with the use of IDB Group-financed proceeds, including (but not limited to): (i) adopting appropriate fiduciary and administrative practices and institutional arrangements to ensure that the proceeds are used only for the purposes for

which the financing was granted, and (ii) ensuring that all its representatives receive a copy of these Guidelines and are made aware of its contents;

- (e) in the event that any representative of such recipient is declared ineligible as described in paragraph 10 below, take all necessary and appropriate action to give full effect to such declaration by, among other things, either removing such representative from all duties and responsibilities in connection with the project or, when requested by the Bank or otherwise appropriate, terminating its contractual relationship with such representative; and
- (f) in the event that it has entered into a project-related agreement with another person or entity which is declared ineligible as described in paragraph 10 below, take all necessary and appropriate action to give full effect to such declaration by, among other things, (i) exercising its right to terminate early or suspend such agreement and/or (ii) seeking restitution.

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

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

- (a) sanction any recipient of IDB Group-financed proceeds<sup>8</sup> other than the Member Country<sup>9</sup> (and/or, if such recipient is an entity rather than a natural person, any of its representatives); sanctions include (but are not limited to) declaring such person or entity ineligible to receive the proceeds of any financing made by the IDB Group or otherwise to participate further in the preparation or implementation of the project or any other investment financed, in whole or in part, by the IDB Group, if at any time the IDB Group determines<sup>10</sup> that such person or entity has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in connection with the use of IDB Group-financed proceeds<sup>11</sup>;
- (b) if the IDB Group determines that any such recipient of IDB Group-financed proceeds is also a potential provider of goods, works or services, declare it

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<sup>8</sup> As in the case for bidders in the procurement context, the IDB Group may also sanction persons and entities which engage in corrupt and fraudulent practices in the course of applying to become a recipient of IDB Group-financed proceeds (e.g., a bank which provides false documentation so as to qualify as a financial intermediary in a IDB Group-financed project) irrespective of whether they are successful.

<sup>9</sup> Member Country includes officials and employees of the national government or of any of its political or administrative subdivisions, and government owned enterprises and agencies that are not eligible to bid under paragraph 1.7.5 of the Procurement Guidelines or participate under paragraph 1.16 of the Consultant Guidelines.

<sup>10</sup> The IDB Group has established a sanctions regime, and related procedures, for the purpose of making such determinations. The procedures of the sanctions regime are defined in the *IDB Group Integrity Principles and Guidelines*, which sets forth the full set of sanctions available to the IDB Group.

<sup>11</sup> The sanction may, without limitation, also include restitution of any amount of the financing with respect to which sanctionable conduct has occurred. The IDB Group may publish the identity of any entity declared ineligible under paragraph 10.

ineligible under paragraph 1.13 (iv) of the Procurement Guidelines or paragraph 1.31 (d) of the Consultant Guidelines (as appropriate); and

- (c) declare a firm, consultant or individual ineligible under paragraph 10 (a) above if such firm, consultant or individual has been declared ineligible under paragraph 1.12 of the Procurement Guidelines or under paragraph 1.28 of the Consultant Guidelines.

### **Miscellaneous**

12. Parties may report corrupt and fraudulent practices to the IDB Group Integrity Office Hotline + 966 2 646 7188. Please note that anonymous calls are also accepted. Alternatively, parties may e-mail [integrity@isdb.org](mailto:integrity@isdb.org).
13. The provisions of these Guidelines do not limit any other rights, remedies<sup>12</sup> or obligations of the IDB Group or the Beneficiary under the Financing Agreement or any other document to which the IDB Group and the Beneficiary are both parties.

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<sup>12</sup> The Financing Agreement provides the IDB Group with certain rights and remedies which it may exercise with respect to the financing in the event of corrupt and fraudulent practices in connection with the use of IDB Group-financed proceeds, in the circumstances described therein.