

Date of issuance: February 13, 2020

**Sanctions Board Decision No. 124**  
**(Sanctions Case No. 652)**

**Multi-Donor Trust Fund – ARTF Grant No. TF015003**  
**Afghanistan**

**Decision of the World Bank Group<sup>1</sup> Sanctions Board imposing a sanction of debarment on the individual respondent in Sanctions Case No. 652 (the “Respondent”), together with certain Affiliates,<sup>2</sup> for a period of three (3) years beginning from the date of this decision. This sanction is imposed on the Respondent for a fraudulent practice.**

**I. INTRODUCTION**

1. The Sanctions Board convened as a panel composed of Mark Kantor (Panel Chair), Cavinder Bull, and Alejandro Escobar to review this case. A hearing was held on December 11, 2019, at the World Bank Group’s headquarters in Washington, D.C., following a determination of the Sanctions Board Chair to call a hearing in his discretion in accordance with Section III.A, sub-paragraph 6.01 of the Sanctions Procedures. The World Bank Group’s Integrity Vice Presidency (“INT”) participated in the hearing through its representatives attending in person. The Respondent participated via video conference from the World Bank Group’s offices in Kabul, Afghanistan. The Sanctions Board deliberated and reached its decision based on the written record and the arguments presented at the hearing.

2. In accordance with Section III.A, sub-paragraph 8.02(a) of the Sanctions Procedures, the written record for the Sanctions Board’s consideration included the following:

- i. Notice of Sanctions Proceedings issued by the World Bank’s Suspension and Debarment Officer (the “SDO”) to the Respondent on April 15, 2019 (the “Notice”), appending the Statement of Accusations and Evidence (the “SAE”) submitted by INT to the SDO (undated);

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<sup>1</sup> In accordance with Section II(y) of the World Bank Procedure: Sanctions Proceedings and Settlements in Bank Financed Projects, issued on June 28, 2016 (the “Sanctions Procedures”), the term “World Bank Group” means, collectively, the International Bank for Reconstruction and Development (“IBRD”), the International Development Association (“IDA”), the International Finance Corporation (“IFC”), and the Multilateral Investment Guarantee Agency (“MIGA”). The term “World Bank Group” includes Bank Guarantee Projects and Bank Carbon Finance Projects, but does not include the International Centre for Settlement of Investment Disputes (“ICSID”). As in the Sanctions Procedures, the terms “World Bank” and “Bank” are here used interchangeably to refer to both IBRD and IDA. See Sanctions Procedures at Section II(x).

<sup>2</sup> Section II(a) of the Sanctions Procedures defines “Affiliate” as “any legal or natural person that controls, is controlled by, or is under common control with, the Respondent, as determined by the Bank.” The sanctions imposed by this decision apply only to those Affiliates that are directly or indirectly controlled by the Respondent. See infra Paragraph 41.

- ii. Response submitted by the Respondent to the Secretary to the Sanctions Board, as filed on July 14, 2019, and supplemented on July 25, 2019 (the “Response”);
- iii. Reply submitted by INT to the Secretary to the Sanctions Board on August 12, 2019 (the “Reply”);
- iv. Additional submission filed by the Respondent with the Secretary to the Sanctions Board on August 23, 2019 (the “Additional Submission”); and
- v. INT’s comments on the Respondent’s Additional Submission filed with the Secretary to the Sanctions Board on September 3, 2019 (the “Comments on the Additional Submission”).

3. On April 15, 2019, pursuant to Section III.A, sub-paragraphs 4.01 and 4.02 of the Sanctions Procedures, the SDO issued the Notice and temporarily suspended the Respondent, together with any entity that is an Affiliate directly or indirectly controlled by the Respondent, from eligibility<sup>3</sup> with respect to any Bank-Financed Projects,<sup>4</sup> pending the final outcome of these sanctions proceedings. The Notice specified that the temporary suspension would apply across the operations of the World Bank Group. In addition, pursuant to Section III.A, sub-paragraphs 4.01(c), 9.01, and 9.04 of the Sanctions Procedures, the SDO recommended in the Notice the sanction of debarment with conditional release for the Respondent, together with any entity that is an Affiliate directly or indirectly controlled by the Respondent. The SDO recommended a minimum period of ineligibility of three (3) years, after which period the Respondent may be released from ineligibility only if he has, in accordance with Section III.A, sub-paragraph 9.03 of the Sanctions Procedures, demonstrated to the World Bank Group’s Integrity Compliance Officer (the “ICO”) that (i) the Respondent has taken appropriate remedial measures to address the sanctionable practice for which he has been sanctioned, (ii) the Respondent has completed training and/or other educational programs that demonstrate a continuing commitment to personal integrity and business ethics, and (iii) any entity that is an Affiliate directly or indirectly controlled by the Respondent has adopted and implemented an effective integrity compliance program in a manner satisfactory to the Bank.

## **II. GENERAL BACKGROUND**

4. This case arises in the context of the Agricultural Inputs Project (the “Project”) in the Islamic Republic of Afghanistan (“Afghanistan” or the “Recipient”), which sought to strengthen the institutional capacity for safety and reliability of agricultural inputs and sustainable production of certified wheat seed. On June 30, 2013, IDA, acting as the administrator of multi-donor grant funds contributed to the Afghanistan Reconstruction Trust Fund, entered into a Trust Fund Grant

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<sup>3</sup> The full scope of ineligibility effected by a temporary suspension is set out in the Sanctions Procedures at Section III.A, sub-paragraphs 4.02(a) and 9.01(c), read together.

<sup>4</sup> The term “Bank-Financed Projects” encompasses an investment project or a program for results operation, for which IBRD or IDA (as the case may be), whether acting for its own account or in the capacity as administrator of trust funds funded by donors, has provided financing in the form of a loan, credit or grant and governed by the Bank’s Procurement Guidelines, Consultant Guidelines, or Anti-Corruption Guidelines. See Sanctions Procedures at Section II(e).

Agreement with the Recipient to provide an amount equal to US\$74.75 million to finance the Project (the “Grant Agreement”). The Project became effective on June 30, 2013, and closed on June 30, 2019.

5. On November 11, 2017, the project implementation unit (the “PIU”) issued the Terms of Reference and Scope of Services (“TOR”) for the position of Senior Procurement Specialist under the Project (the “Position”). On November 20, 2017, the Respondent applied for the Position and submitted a first version of his curriculum vitae to the PIU (“CV 1”). On January 18, 2018, at the PIU’s request, the Respondent submitted an updated version of his curriculum vitae (“CV 2”). On February 10, 2018, the Respondent and the PIU entered into an employment contract for the Position (the “Contract”). On January 1, 2019, the Respondent and the PIU agreed to an extension of the Contract.

6. INT alleges that the Respondent engaged in a fraudulent practice by making a misrepresentation in his application for the Position.

### **III. APPLICABLE STANDARDS OF REVIEW**

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

8. *Burden of proof:* Under Section III.A, sub-paragraph 8.02(b)(ii) of the Sanctions Procedures, INT bears the initial burden of proof to present evidence sufficient to establish that it is more likely than not that a respondent engaged in a sanctionable practice. Upon such a showing by INT, the burden of proof shifts to the respondent to demonstrate that it is more likely than not that its conduct did not amount to a sanctionable practice.

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

10. *Applicable definitions of fraudulent practice:* The Grant Agreement provided that the World Bank’s Guidelines: Selection and Employment of Consultants under IBRD Loans and IDA Credits & Grants by World Bank Borrowers (January 2011) (the “January 2011 Consultant Guidelines”) would apply to the selection of consultants under the Project. The TOR did not identify the applicable guidelines or include any definitions of sanctionable practices. The Contract set out a definition of “fraudulent practice” consistent with the definition published in the World Bank’s Guidelines: Selection and Employment of Consultants by World Bank Borrowers (May 2004) (the “May 2004 Consultant Guidelines”). INT’s show-cause letter to the Respondent stated that the January 2011 Consultant Guidelines applied to his involvement in the Project. In these circumstances, and considering the specific facts in this case, the Sanctions Board will review

the alleged fraudulent practice based on the definitions set forth by the May 2004 Consultant Guidelines and January 2011 Consultant Guidelines.

11. Paragraph 1.22.(a)(ii) of the May 2004 Consultant Guidelines defines “fraudulent practice” as “misrepresentation or omission of facts in order to influence a selection process or the execution of a contract.” This definition does not include an explicit mens rea requirement such as the “knowing or reckless” standard adopted by the Bank from October 2006 onward. However, the drafting history of the Bank’s various definitions of “fraudulent practice” reflects that the October 2006 incorporation of the “knowing or reckless” standard was intended only to make explicit the pre-existing standard for mens rea, not to articulate a new limitation. Accordingly, the Sanctions Board has held that the “knowing or reckless” standard may be implied under the pre-October 2006 definitions.<sup>5</sup> The inclusion of an explicit mens rea requirement imposes an additional term to be fulfilled by INT to satisfy the pre-October 2006 provision.

12. Paragraph 1.23(a)(ii) of the January 2011 Consultant Guidelines defines “fraudulent practice” as “any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation.” A footnote to this provision specifies that the term “‘party’ refers to a public official; the terms ‘benefit’ and ‘obligation’ relate to the selection process or contract execution; and the ‘act or omission’ is intended to influence the selection process or contract execution.”<sup>6</sup>

#### **IV. PRINCIPAL CONTENTIONS OF THE PARTIES**

##### **A. INT’s Principal Contentions in the SAE**

13. INT alleges that the Respondent knowingly engaged in a misrepresentation in his application for the Position. Specifically referencing CV 2, INT asserts that the Respondent falsely claimed to have worked for three years as a procurement specialist at a humanitarian non-profit organization (the “Non-Profit Organization”), in order to meet the qualification criteria for the Contract. INT does not identify any applicable sanctioning factors.

##### **B. The Respondent’s Principal Contentions in the Response**

14. The Respondent disputes INT’s allegation, maintaining that he did in fact work at the Non-Profit Organization as represented in his application. The Respondent also asserts that INT’s accusations are based on a forged resumé that he did not submit.

##### **C. INT’s Principal Contentions in the Reply**

15. INT reiterates the allegation as set out in the SAE and argues that the Respondent did not sufficiently rebut the evidence against him. In addition, INT refutes the Respondent’s assertion

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<sup>5</sup> See, e.g., Sanctions Board Decision No. 51 (2012) at para. 19; Sanctions Board Decision No. 71 (2014) at para. 12; Sanctions Board Decision No. 83 (2015) at para. 14; Sanctions Board Decision No. 91 (2016) at para. 13.

<sup>6</sup> January 2011 Consultant Guidelines at para. 1.23(a)(ii), n.20.

that the curriculum vitae in question was forged and presents additional evidence of the Respondent's submission of CV 1 and CV 2.

**D. The Respondent's Principal Contentions in the Additional Submission**

16. The Respondent presents a third copy of his curriculum vitae, which the Respondent claims to be the version actually submitted with his application ("CV 3"). The Respondent also contends that he fell short of the required experience even with the asserted period of three years at the Non-Profit Organization, and that he should have been disqualified from selection for the Contract. According to the Respondent, the TOR should have been re-advertised because none of the candidates had met the minimum criteria for the Position.

**E. INT's Principal Contentions in the Comments on the Additional Submission**

17. INT submits that all three versions of the Respondent's resumé contain the same entry on the Respondent's purported experience at the Non-Profit Organization. According to INT, by claiming to have submitted CV 3 to the PIU, the Respondent confirms that his application included a curriculum vitae with a false representation. In addition, INT contends that the Respondent's arguments regarding the selection process for the Contract do not exculpate the Respondent or mitigate his culpability for the misconduct at issue.

**F. Presentations at the Hearing**

18. At the hearing, INT submitted that its investigation was conducted diligently and in accordance with the Sanctions Procedures. With respect to the different versions of the Respondent's resumé, INT asserted that: (i) INT based its investigation and the SAE on CV 2; (ii) INT discovered CV 1 after the Respondent filed the Response; and (iii) CV 3 is the same document as CV 1. INT also contended that the Respondent's conduct merits aggravation because he persistently reiterated the misrepresentation at issue and made uncorroborated assertions that INT had used fabricated evidence.

19. The Respondent maintained that his selection for the Contract was improper and accused the PIU of misconduct. The Respondent also argued that CV 2 was submitted two months after the deadline stated in the TOR, and that INT's investigation was therefore based on an invalid document. Upon questioning by the Sanctions Board, the Respondent admitted that he submitted CV 1 to the PIU, and that he has never worked at the Non-Profit Organization in any capacity. The Respondent also argued that the recommended sanction is unfair because his actions did not harm any individuals and because he has been unemployed since the beginning of his temporary suspension.

20. Both parties confirmed that they were given a fair opportunity to be heard and present their respective cases to the Sanctions Board.

## **V. THE SANCTIONS BOARD'S ANALYSIS AND CONCLUSIONS**

21. The Sanctions Board will first consider whether it is more likely than not that the Respondent engaged in the alleged fraudulent practice. The Sanctions Board will then determine what sanctions, if any, should be imposed on the Respondent.

### **A. Evidence of Fraudulent Practice**

22. In accordance with the definitions of “fraudulent practice” under the May 2004 Consultant Guidelines and January 2011 Consultant Guidelines, and considering the specific facts alleged in this case, INT bears the initial burden to prove that it is more likely than not that the Respondent (i) engaged in a misrepresentation; (ii) that was knowing or reckless; or knowingly or recklessly misled, or attempted to mislead, a party; (iii) in order to influence a selection process; or to obtain a financial or other benefit or to avoid an obligation.

#### **1. Misrepresentation**

23. In past decisions finding that respondents misrepresented their work history – either through false entries in their resumés or forged experience certificates – the Sanctions Board relied primarily on written statements from the parties named in or supposedly issuing the allegedly fraudulent documents, as well as the respondents’ own admissions.<sup>7</sup> In the present case, documentary evidence reveals that the Respondent submitted CV 1 and CV 2 to the PIU in connection with his application for the Position. Both versions of the document state that the Respondent served at the Non-Profit Organization, albeit under different titles – “Procurement Officer” in CV 1 and “Procurement Specialist” in CV 2. The Respondent initially denied that these statements constituted a misrepresentation, submitting evidence – including a handwritten note attributed to a government agency (the “Agency Note”) – that purportedly supports the experience in question. Nevertheless, at the hearing, the Respondent admitted that he has never worked at the Non-Profit Organization in any capacity. This admission is corroborated by correspondence between the Non-Profit Organization and INT, in which the Non-Profit Organization denies having employed the Respondent at any point in time. On balance, the record weighs in favor of INT’s allegation.

24. The Sanctions Board is not persuaded by the Respondent’s challenges to INT’s evidence. Specifically, the Respondent argues that CV 2 was forged or invalid and that CV 3 was the version of his resumé actually submitted to the PIU. However, these assertions lack any corroboration<sup>8</sup> and are contradicted by documentary evidence including the Respondent’s application and related attachments. The record also shows that CV 3 is identical to CV 1, and the Respondent admits to submitting CV 1 to the PIU. Moreover, all three versions of the document contain substantially

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<sup>7</sup> See, e.g., Sanctions Board Decision No. 61 (2013) at paras. 20-21; Sanctions Board Decision No. 69 (2014) at paras. 19-20; Sanctions Board Decision No. 99 (2017) at paras. 18-20.

<sup>8</sup> As the Sanctions Board has previously observed, an assertion must have an evidentiary basis in the record, or it remains a mere assertion and not a substantiated fact. See, e.g., Sanctions Board Decision No. 61 (2013) at para. 41; Sanctions Board Decision No. 63 (2014) at para. 51; Sanctions Board Decision No. 115 (2019) at para. 46.



similar statements about the Respondent's employment at the Non-Profit Organization. Therefore, the Sanctions Board finds the Respondent's contentions to be moot.

25. The Sanctions Board observes with concern that INT did not seek to interview the Respondent – whether remotely or in person – and that INT made only one unsuccessful attempt to contact the government agency to authenticate the Agency Note. This notwithstanding, the evidence examined above sufficiently demonstrates that it is more likely than not that the Respondent engaged in the alleged misrepresentation.<sup>9</sup>

2. That was knowing or reckless; or that knowingly or recklessly misled, or attempted to mislead, a party

26. INT submits that the Respondent knowingly misrepresented his experience with the intent to mislead a party. The Respondent does not address this element of the allegation. The Sanctions Procedures recognize the Sanctions Board's discretion to infer knowledge on the part of a respondent from circumstantial evidence; and state broadly that any kind of evidence may form the basis of conclusions reached by the Sanctions Board.<sup>10</sup> Here, the record shows, and the Respondent admits, that the Respondent personally submitted an application containing untruthful statements about his own prior experience. The only logical inference in these circumstances is that the Respondent knew and understood that he was providing false information and misleading the PIU.<sup>11</sup> Therefore, the Sanctions Board finds that it is more likely than not that the Respondent engaged in a misrepresentation that was knowing and that knowingly misled a party.

3. In order to influence a selection process; or to obtain a financial or other benefit or to avoid an obligation

27. INT contends that the Respondent misrepresented his professional history in order to meet the minimum qualification criteria for the Position. The Respondent does not expressly deny having acted with the alleged intent, but appears to contend that this misrepresentation was immaterial to the selection process. Specifically, the Respondent submits that he fell short of the required experience even with the asserted period of three years at the Non-Profit Organization, but was nevertheless selected for the Contract.

28. The Sanctions Board has consistently found sufficient evidence of intent to influence the selection process, or to obtain a benefit or to avoid an obligation, where a misrepresentation was

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<sup>9</sup> Cf. Sanctions Board Decision No. 81 (2015) at para. 33 (finding that “[t]he Sanctions Procedures do not require INT to interview all potentially relevant witnesses before initiating sanctions proceedings [...] [n]or is a respondent entitled to demand that INT obtain and provide information that is not in INT's possession”).

<sup>10</sup> Sanctions Procedures at Section III.A, sub-paragraph 7.01.

<sup>11</sup> Cf. Sanctions Board Decision No. 63 (2014) at para. 85 (finding that the individual respondent knew or should have known of the misrepresentations as to his own experience, even though there was no direct evidence showing that the individual respondent himself prepared the specific bidding forms containing the misrepresentations in question).

made in response to a tender requirement.<sup>12</sup> In the present case, the TOR required applicants to have at least seven years of experience in public procurement for projects funded by international donors, including four years as a procurement specialist or senior procurement officer. Considering that the Respondent knowingly fabricated work experience that was directly responsive to these stipulations, the Sanctions Board infers that the Respondent acted with the intent to bolster his chances of qualifying for, and securing, the Contract.

29. The Sanctions Board finds the Respondent's defenses unpersuasive. Contrary to the Respondent's assertions, the record does not suggest that the misrepresentation was irrelevant to the hiring decision. According to the PIU's Technical Evaluation Report, based on CV 2, the Respondent was considered to have the required number of years of experience for the Position, ranking first among a total of six qualified candidates. In any case, even if the PIU had ultimately disqualified the Respondent, this would not preclude a finding of intent. As the Sanctions Board has previously observed, where a respondent misrepresents his or her professional history in response to a specific requirement, the respondent's intent to obtain the position may be inferred even if the claimed experience is ultimately immaterial to the selection process.<sup>13</sup>

30. In these circumstances, the Sanctions Board finds that it is more likely than not that the Respondent engaged in a misrepresentation in order to influence the selection process and obtain the Contract.

## **B. Sanctioning Analysis**

### **1. General framework for determination of sanctions**

31. Where the Sanctions Board determines that it is more likely than not that a respondent engaged in a sanctionable practice, Section III.A, sub-paragraph 8.01(ii) of the Sanctions Procedures requires the Sanctions Board to select and impose one or more appropriate sanctions from the range of possible sanctions identified in Section III.A, sub-paragraph 9.01. The range of sanctions set out in Section III.A, sub-paragraph 9.01 includes: (a) reprimand, (b) conditional non-debarment, (c) debarment, (d) debarment with conditional release, and (e) restitution. As stated in Section III.A, sub-paragraph 8.01(ii) of the Sanctions Procedures, the Sanctions Board is not bound by the SDO's recommendations.

32. As reflected in Sanctions Board precedent, the Sanctions Board considers the totality of the circumstances and all potential aggravating and mitigating factors to determine an appropriate

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<sup>12</sup> See, e.g., Sanctions Board Decision No. 69 (2014) at para. 23; Sanctions Board Decision No. 99 (2017) at paras. 23-25.

<sup>13</sup> See Sanctions Board Decision No. 99 (2017) at paras. 24-25 (finding that the individual respondent submitted forged experience certificates and a CV containing false information with the intent to obtain the position advertised, where the vacancy required specific work experience; noting that it is "irrelevant whether the [r]espondent's claimed work experience . . . was ultimately material to the hiring decision" where the misrepresentation was made in response to a specific bid requirement).



sanction.<sup>14</sup> The choice of sanction is not a mechanistic determination, but rather a case-by-case analysis tailored to the specific facts and circumstances presented in each case.<sup>15</sup>

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

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

2. Factors considered in the present case

a. Period of temporary suspension

35. Pursuant to Section III.A, sub-paragraph 9.02(h) of the Sanctions Procedures, the Sanctions Board takes into account that the Respondent has been temporarily suspended since the SDO’s issuance of the Notice on April 15, 2019.

b. Other considerations

36. Under Section III.A, sub-paragraph 9.02(i) of the Sanctions Procedures, the Sanctions Board may consider “any other factor” that it “reasonably deems relevant to the sanctioned party’s culpability or responsibility in relation to the Sanctionable Practice.”

37. *Non-cooperation in sanctions proceedings:* The Sanctions Board has previously applied aggravation where the record demonstrated a respondent’s persistent and implausible denials of responsibility or knowledge of the misconduct, including arguments predicated on an

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<sup>14</sup> See, e.g., Sanctions Board Decision No. 40 (2010) at para. 28.

<sup>15</sup> See Sanctions Board Decision No. 44 (2011) at para. 56.

uncorroborated version of events.<sup>16</sup> In the present case, INT requests aggravation because the Respondent persistently reiterated the misrepresentation at issue and baselessly accused INT of submitting fabricated evidence. The record shows that over the course of INT's investigation and these sanctions proceedings, the Respondent: (i) insisted that his representations were truthful, even after the Non-Profit Organization informed INT that the Respondent "is unknown to [the Non-Profit Organization] and never worked with [the Non-Profit Organization] in Afghanistan;" (ii) maintained that he was unable to present any contemporaneous documents related to his purported relationship with the Non-Profit Organization – such as a copy of his contract or salary statements – because these documents had been lost when he changed addresses; (iii) suggested, without corroboration, that he had acted with the PIU's knowledge and approval; (iv) stated that the PIU held most of the responsibility for the misconduct at issue; and (v) repeatedly asserted that INT had relied on a forged document, even after INT presented clear evidence that the document in question was authentic. The Sanctions Board finds that such implausible statements and unsupported accusations reflect a consistent lack of candor on the part of the Respondent. While the Respondent did admit to wrongdoing at the hearing, this admission was belated and fell short of a full acceptance of responsibility, doing little to offset the Respondent's otherwise uncooperative conduct. In these circumstances, the Sanctions Board finds that aggravation is warranted.

38. *Conduct of the selection process:* Without expressly requesting mitigation, the Respondent challenges the selection process for the Contract. Specifically, the Respondent submits that none of the candidates met the minimum requirements set out in the TOR, that the Position should have been re-advertised, and that he should have been disqualified from consideration for the Contract. INT contends that the asserted facts do not exculpate the Respondent or warrant mitigation in this case. The sanctions framework does not give the Sanctions Board a mandate or jurisdiction to assess the validity of hiring decisions or review complaints against procurement agencies. Moreover, as stated above, where a respondent misrepresents his or her professional history in response to a specific requirement, sanctions may be appropriate under the applicable guidelines even if the claimed experience is ultimately immaterial to the selection process. For the purposes of this sanctioning analysis, the Sanctions Board finds that the Respondent's arguments regarding the conduct of the selection process are not only unsubstantiated, but also unrelated to the

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<sup>16</sup> See, e.g., Sanctions Board Decision No. 61 (2013) at para. 51 (multiple changes of position by the respondents, including inconsistent explanations in response to the allegations); Sanctions Board Decision No. 63 (2014) at para. 121 ("persistent and implausible denials of responsibility for or knowledge of the misconduct, despite substantial evidence to the contrary"); Sanctions Board Decision No. 71 (2014) at para. 107 (respondent's presentation of an uncorroborated and non-credible version of events in order to justify submission of inauthentic documents in a bid); Sanctions Board Decision No. 77 (2015) at paras. 30, 59 (respondent's implausible suggestion that the misrepresentation took place without the respondent's knowledge or authorization); and Sanctions Board Decision No. 90 (2016) at para. 48 (respondents' repeated denials that a misrepresentation was made, despite clear, contemporaneous documentary evidence to the contrary).

Respondent's culpability or responsibility for the misconduct at issue. The Sanctions Board therefore declines to apply any mitigation on this basis.<sup>17</sup>

39. *Absence of harm to individuals:* As a consideration for sanctioning, the Respondent submits that his actions did not violate the rights of any individuals because none of the other candidates were eligible for the Position. The Sanctions Board has consistently found that the absence of aggravating factors – such as harm caused by the misconduct – is a neutral fact that does not warrant mitigation.<sup>18</sup> Accordingly, the Sanctions Board declines to consider the Respondent's assertions in this sanctioning analysis.

40. *Adverse consequences of debarment:* The Respondent requests leniency, submitting that he has been unemployed since the beginning of his temporary suspension and suggesting that a sanction of debarment would make it difficult for him to find a new position in Afghanistan. The Sanctions Board has repeatedly held that the expected future business impact of a sanction is not relevant to a respondent's culpability for the alleged misconduct and the Sanctions Board's analysis in a specific case.<sup>19</sup> Consistent with precedent, the Sanctions Board declines to apply any mitigation on this basis.

### **C. Determination of Appropriate Sanction**

41. Considering the full record and all the factors discussed above, the Sanctions Board determines that the Respondent, together with any entity that is an Affiliate directly or indirectly controlled by the Respondent, shall be, and hereby declares that he is, ineligible to (i) be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;<sup>20</sup> (ii) be a nominated sub-contractor, consultant, manufacturer or supplier, or service provider<sup>21</sup> of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) receive the proceeds of any loan made by the Bank or otherwise participate further in the preparation or implementation

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<sup>17</sup> Cf. Sanctions Board Decision No. 112 (2018) at para. 57 (declining to apply mitigation where a respondent made generalized and uncorroborated accusations against selection officials under the project).

<sup>18</sup> See, e.g., Sanctions Board Decision No. 55 (2013) at paras. 70-72; Sanctions Board Decision No. 71 (2014) at paras. 85-86; Sanctions Board Decision No. 73 (2014) at para. 45; Sanctions Board Decision No. 95 (2017) at para. 55; Sanctions Board Decision No. 106 (2017) at para. 48.


<sup>19</sup> See, e.g., Sanctions Board Decision No. 79 (2015) at para. 56 (declining to apply mitigation for the potential business impact of a debarment or the collateral consequences of that debarment for the respondent's employees).

<sup>20</sup> A respondent's ineligibility to be awarded a contract includes, without limitation (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract. Sanctions Procedures at Section III.A, sub-paragraph 9.01(c)(i), n.14.

<sup>21</sup> A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower. Sanctions Procedures at Section III.A, sub-paragraph 9.01(c)(ii), n.15.

of any Bank-Financed Projects, for a period of three (3) years beginning from the date of this decision. This sanction is imposed on the Respondent for a fraudulent practice as defined in Paragraph 1.22(a)(ii) of the May 2004 Consultant Guidelines and Paragraph 1.23(a)(ii) of the January 2011 Consultant Guidelines.

42. The Respondent's ineligibility shall extend across the operations of the World Bank Group. The Bank will also provide notice of these declarations of ineligibility to the other multilateral development banks ("MDBs") that are party to the Agreement for Mutual Enforcement of Debarment Decisions (the "Cross-Debarment Agreement") so that they may determine whether to enforce the declarations of ineligibility with respect to their own operations in accordance with the Cross-Debarment Agreement and their own policies and procedures.<sup>22</sup>



Mark Kantor (Panel Chair)

On behalf of the  
World Bank Group Sanctions Board

Mark Kantor  
Cavinder Bull  
Alejandro Escobar

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<sup>22</sup> At present, the MDBs that are party to the Cross-Debarment Agreement are the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank Group, and the World Bank Group. The Cross-Debarment Agreement provides that, subject to the prerequisite conditions set forth in the Cross-Debarment Agreement, unless a participating MDB (i) believes that any of the prerequisite conditions set forth in the Cross-Debarment Agreement have not been met or (ii) decides to exercise its rights under the "opt out" clause set forth in the Cross-Debarment Agreement, each participating MDB will promptly enforce the debarment decisions of the other participating MDBs.