

---

## What the First World Bank Procurement Review in 70 Years Means for Anti-Corruption Requirements

JUNE 30, 2015

*This article first appeared on [Fraud Intelligence](#)*

The World Bank is, for the first time in its history, conducting a comprehensive review of its procurement policy and procedures. Following [consultation](#)<sup>1</sup> with stakeholders, comprised of 764 individuals from 37 governments, 639 private sector representatives, 104 development agency representatives and 69 individuals representing civil society organisations, the Board of Executive Directors endorsed a new [Procurement Framework](#), which was publicly disclosed on 22 June. The Procurement Framework has been recommended to the full Board for final approval, the outcome of which is expected on 21 July.

Stakeholders [identified](#)<sup>2</sup> fraud and corruption as one of the major problems currently facing procurement. However, the proposed changes to the provisions relating to the sanction of fraud and corruption under the current Procurement Guidelines are [minimal](#)<sup>3</sup>. The proposals give the Bank no new powers of sanction, and do not fundamentally alter the scope of sanctionable practices. Instead, the Bank has focused on increasing the participation of its staff in procurement procedures, for example by sending representatives to supervise negotiations, and altering its involvement based on the specifics of each project.

### ***Public Disclosure of Beneficial Ownership***

Beneficial ownership disclosure for legal entities involved in procurement is, though under consideration by the Bank, in line with trends elsewhere in global anti-corruption, for example in the EU's Fourth Money Laundering Directive (see this [WilmerHale W.I.R.E. UK post](#)). The Procurement Framework states that "*Management will examine options to collect, and make available the beneficial ownership information for legal entities participating in Bank-financed procurements*"<sup>4</sup>. But, no provisions guaranteeing implementation are included in the Framework or elsewhere in the documents, and the World Bank has stated clear [disagreement](#)<sup>5</sup> with the suggestion by stakeholders that disclosure of confidential commercial information could be required during the procurement process.

There are, however, two concrete changes proposed in the [Procurement Regulations](#) of relevance

to the treatment of fraud and corruption in World Bank procurement.

### ***Definition of Corrupt Practices***

First, inconsistencies in the definition of corrupt practices within existing World Bank policies would be redressed. Under the current Procurement Guidelines, the definitions of fraudulent and corrupt practices are limited by a set of [footnotes](#)<sup>6</sup>, which circumscribe relevant targets of bribery and other corrupt practices to include only public officials acting in relation to the procurement process. The current [Anti-Corruption Guidelines](#) contain no such limitations, and already have a broad remit governing procedures that determine the use of Bank funds—including procurement—as well as project implementation. The Anti-Corruption Guidelines would only be altered in a “non-substantive”<sup>7</sup> way under the proposed plans, but the limitations have been removed from the proposed Procurement Regulations, to avoid internal inconsistency and prevent a possible “narrow interpretation” of the Bank’s anti-corruption measures in the specific context of procurement.

### ***Debarment Under Government Sanctions***

Second, the new Procurement Regulations would extend the use of borrowers’ debarment for any kind of procurement method. The present Procurement Guidelines allow borrowers to apply a debarment list from their own government’s anti-corruption programme to World Bank financed contracts, only if the national competitive procurement process was used, and with the Bank’s permission. The new Procurement Regulations provide for the extension of borrower’s debarment under any procurement method, with the agreement of the Bank.

If approved, the new Procurement Framework would come into effect in the fiscal year 2016. Companies and individuals anticipating involvement in World Bank projects under the proposed new regime would not have to make substantial adjustments to their existing anti-corruption measures in respect of its provisions related to the World Bank Sanctions programme. However, if further action is taken on beneficial ownership disclosure by the World Bank after the adoption of the new Procurement Framework, companies should anticipate a more substantial change in transparency requirements; although in what form, and under pain of what sanction—if any—remains unknown.

---

<sup>1</sup> Consultation Feedback 2014, pp1-2

<sup>2</sup> Ibid., p5

<sup>3</sup> Summary of main changes, p16

<sup>4</sup> Procurement Framework, p26

<sup>5</sup> Consultation Feedback 2014, p10

<sup>6</sup> Procurement Guidelines, pp6-8, footnotes 20-25

<sup>7</sup> Procurement Framework, p4