

Notice of Uncontested Sanctions Proceedings

August 23, 2011

Sanctions Case No. 166

IDA Credit Number 4168-NI (Nicaragua Rural Telecommunications Project)

Respondents:

Telecomunicaciones y Sistemas S.A.

Mr. Sealtiel Orozco

1. On May 19, 2011, the World Bank's Evaluation and Suspension Officer (the "EO") issued a Notice of Sanctions Proceedings (the "Notice") to Telecomunicaciones y Sistemas S.A. ("TELSSA") and Mr. Sealtiel Orozco (the "Respondents") pursuant to Section 4.01(a) of the World Bank Sanctions Procedures, as adopted by the World Bank as of January 1, 2011 (the "Sanctions Procedures").
2. The Statement of Accusations and Evidence ("SAE") prepared by the Bank's Integrity Vice Presidency ("INT") and appended to the Notice contained INT's accusation that the Respondents engaged in sanctionable practices in connection with the above-named project (the "Project"). The SAE also contained the evidence gathered by INT in support of this accusation.
3. The specific accusation made by INT in the SAE was that the Respondents engaged in fraudulent practices in connection with the procurement process for a Bank-financed supply contract by submitting a bid that contained a forged manufacturer's authorization.
4. Based on a review of INT's SAE conducted in accordance with Section 4.01(a) of the Sanctions Procedures, and pursuant to Section 4.01(c), Section 9.01 and Section 9.04 of the Sanctions Procedures, with due consideration of the factors set forth in Section 9.02 of the Sanctions Procedures and in the World Bank Sanctioning Guidelines, the EO recommended in the Notice that the Respondents, together with certain Affiliates (as defined in the Sanctions Procedures) where so specified, be sanctioned as follows:

Respondent 1

Telecomunicaciones y Sistemas S.A. ("TELSSA")

It is recommended that TELSSA (together with any Affiliate of TELSSA that TELSSA directly or indirectly controls) be declared ineligible (i) to be awarded a contract for any Bank financed or Bank executed project or program governed by the Bank's Procurement Guidelines, Consultant

Guidelines or Anti-Corruption Guidelines, (ii) to be a nominated¹ sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank financed contract, and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank financed or Bank executed project or program governed by the Bank's Procurement Guidelines, Consultant Guidelines or Anti-Corruption Guidelines; provided, however, that after a minimum period of ineligibility of two (2) years, TELSSA may be released from ineligibility only if TELSSA has, in accordance with Section 9.03 of the Sanctions Procedures, demonstrated to the Bank Group's Integrity Compliance Officer that TELSSA has complied with the following conditions:

- (a) TELSSA has taken appropriate remedial measures to address the sanctionable practices for which TELSSA has been sanctioned; and*
- (b) TELSSA has put in place an effective integrity compliance program acceptable to the Bank and has implemented this program in a manner satisfactory to the Bank.*

In determining this recommended sanction, the EO took into account, among other things, INT's representations as to the extent of TELSSA's cooperation during the course of the investigation, noting in particular that TELSSA admitted that the fraudulent practices occurred.

The foregoing declaration of ineligibility will extend across the operations of the World Bank Group, including IFC, MIGA and the guarantee operations of the Bank.² The Bank will also provide notice of this declaration of ineligibility to the other multilateral development banks ("MDBs") that are party to the Agreement for Mutual Enforcement of Debarment Decisions (the "MDB 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 MDB Cross-Debarment Agreement and their own policies and procedures.³

¹ *A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which has: (i) either been 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.*

² *[World Bank Sanctions Procedures], at 24 (Section 9.01(c)).*

³ *At present, the MDBs that are party to the Cross-Debarment Agreement are the Bank, the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development and the Inter-American Development Bank. 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*

Respondent 2

Mr. Sealtiel Orozco ("Mr. Orozco")

It is recommended that Mr. Orozco (together with any Affiliate of Mr. Orozco that Mr. Orozco directly or indirectly controls) be declared ineligible (i) to be awarded a contract for any Bank financed or Bank executed project or program governed by the Bank's Procurement Guidelines, Consultant Guidelines or Anti-Corruption Guidelines, (ii) to be a nominated⁴ sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank financed contract, and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank financed or Bank executed project or program governed by the Bank's Procurement Guidelines, Consultant Guidelines or Anti-Corruption Guidelines; provided, however, that after a minimum period of ineligibility of two (2) years, Mr. Orozco may be released from ineligibility only if Mr. Orozco has, in accordance with Section 9.03 of the Sanctions Procedures, demonstrated to the Bank Group's Integrity Compliance Officer that Mr. Orozco has complied with the following conditions:

- (a) Mr. Orozco has taken appropriate remedial measures to address the sanctionable practices for which Mr. Orozco has been sanctioned;*
- (b) Mr. Orozco has completed training and/or other educational programs that demonstrate a continuing commitment to personal integrity and business ethics; and*
- (c) Any Affiliate of Mr. Orozco that Mr. Orozco directly or indirectly controls has put in place an effective integrity compliance program acceptable to the Bank and has implemented this program in a manner satisfactory to the Bank.*

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. More information about the Cross-Debarment Agreement is available on the Bank's external website (<http://go.worldbank.org/B699B73Q00>).

⁴ *A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which has: (i) either been 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.*

In determining this recommended sanction, the EO took into account, among other things, INT's representations as to the extent of Mr. Orozco's cooperation during the course of the investigation, noting in particular that Mr. Orozco admitted that he was responsible for the submission of the fraudulent document at issue.

The foregoing declaration of ineligibility will extend across the operations of the World Bank Group, including IFC, MIGA and the guarantee operations of the Bank.⁵ The Bank will also provide notice of this declaration of ineligibility to the other multilateral development banks ("MDBs") that are party to the Agreement for Mutual Enforcement of Debarment Decisions (the "MDB 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 MDB Cross-Debarment Agreement and their own policies and procedures.⁶

5. In accordance with Section 4.02(b) of the Sanctions Procedures, TELSSA submitted a written Explanation (as defined in the Sanctions Procedures) on June 20, 2011. After consideration of the arguments and evidence presented by INT in the SAE appended to the Notice and the arguments and evidence presented in TELSSA's Explanation, the EO determined that there was no basis for (i) a withdrawal of the Notice issued to TELSSA pursuant to Section 4.03(a)(i) of the Sanctions Procedures; or (ii) a revision of the recommended sanction for TELSSA pursuant to Section 4.03(a)(ii) of the Sanctions Procedures. Mr. Orozco did not submit a written Explanation in accordance with Section 4.02(b) of the Sanctions Procedures.
6. Section 4.04 of the Sanctions Procedures provides that if a respondent does not contest the accusations or the sanction recommended by the EO in a Notice of Sanctions Proceedings by submitting a Response (as defined in the Sanctions Procedures) to the World Bank Group Sanctions Board (the "Sanctions Board") within ninety (90) days after delivery of such Notice of Sanctions Proceedings, the sanction(s) recommended by the EO shall enter immediately into force.

⁵ [World Bank Sanctions Procedures], at 24 (Section 9.01(c)).

⁶ At present, the MDBs that are party to the Cross-Debarment Agreement are the Bank, the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development and the Inter-American Development Bank. 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. More information about the Cross-Debarment Agreement is available on the Bank's external website (<http://go.worldbank.org/B699B73Q00>).

7. No Response having been submitted to the Sanctions Board by either of the Respondents within the specified period, INT's accusation in the SAE and the sanctions recommended by the EO in the Notice are deemed uncontested for purposes of Section 4.04 of the Sanctions Procedures, and the recommended sanctions set forth in paragraph 4 above have entered into force as of the date hereof.



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