

Notice of Uncontested Sanctions Proceedings

June 25, 2024

**Sanctions Case No. 545
IBRD Loan Number 7985-CO
(Colombia Río Bogotá Environmental Recuperation and Flood Control Project)**

**Respondents:
Construcciones del Siglo 21 S.A.S. (formerly Constructora Fajardo Nieto Ltda.)
Mr. Orlando Fajardo Castillo**

1. On March 21, 2024, the World Bank’s Chief Suspension and Debarment Officer (the “SDO”) issued a Notice of Sanctions Proceedings (the “Notice”) to Construcciones del Siglo 21 S.A.S. (formerly Constructora Fajardo Nieto Ltda.) (“Siglo 21”) and Mr. Orlando Fajardo Castillo (“Mr. Fajardo”) pursuant to sub-paragraph 4.1(a) of Section III.A of the Bank Procedure: Sanctions Proceedings and Settlements in Bank Financed Projects issued by the Bank on November 30, 2023 (the “Sanctions Procedures”).
2. The Statement of Accusations and Evidence (the “SAE”) prepared by the Bank’s Integrity Vice Presidency (“INT”) and appended to the Notice contained INT’s accusations that the Respondents engaged in Sanctionable Practices (as defined in the Sanctions Procedures) in connection with the above-named project (the “Project”). The SAE also contained the evidence gathered by INT in support of these accusations.
3. The specific accusations made by INT in the SAE were that:
 - (a) Siglo 21 engaged in a collusive practice by participating in an arrangement with another company to improperly provide that other company with access to confidential documents, with the purpose of giving the other company an unfair advantage in the tender for a flood control works contract under the Project;
 - (b) Siglo 21 engaged in a collusive practice by participating in an arrangement with two other companies to facilitate the other companies’ attempt to improperly influence the drafting of the bidding documents in the other companies’ favor in relation to a waste water treatment plant works contract under the Project;
 - (c) Siglo 21 and Mr. Fajardo engaged in a fraudulent practice by misrepresenting, in a bid for the waste water treatment plant works contract, a company’s intended role in the execution of that contract.
4. Based on a review of INT’s SAE conducted in accordance with sub-paragraph 4.1(a) of Section III.A of the Sanctions Procedures, and pursuant to sub-paragraph 4.1(c), sub-paragraph 9.1, and sub-paragraph 9.4 of Section III.A of the Sanctions Procedures, with due consideration of the factors set forth in sub-paragraph 9.2 of Section III.A of the Sanctions Procedures and in the World Bank Group Sanctioning Guidelines, the SDO recommended in the Notice that the Respondent,

together with certain Affiliates (as defined in the Sanctions Procedures) where so specified, be sanctioned as follows:

Respondent 1
Construcciones del Siglo 21 S.A.S.
(formerly Constructora Fajardo Nieto Ltda.)
("Siglo 21")

***Recommended Sanction: Debarment with Conditional Release
Minimum Period of Ineligibility of Three (3) Years and Three (3) Months***

It is recommended that Siglo 21 (together with any entity that is an Affiliate directly or indirectly controlled by Siglo 21) be declared ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;¹ (ii) to be a nominated² 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 Project; provided, however, that after a minimum period of ineligibility of three (3) years and three (3) months, Siglo 21 may be released from ineligibility only if Siglo 21 has, in accordance with sub-paragraph 9.3 of Section III.A of the Sanctions Procedures, demonstrated to the Bank Group's Integrity Compliance Officer that Siglo 21 has complied with the following conditions:

- (a) Siglo 21 has taken appropriate remedial measures to address the sanctionable practices for which Siglo 21 has been sanctioned; and*
- (b) Siglo 21 has adopted and implemented, in a manner satisfactory to the Bank, integrity compliance measures as may be imposed by the World Bank Group's Integrity Compliance Officer pursuant to sub-paragraph 9.3(b) of Section III.A of the Sanctions Procedures (e.g.,*

¹ *For the avoidance of doubt, the declaration of ineligibility to be awarded a contract will include, 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.*

² *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.*

an integrity compliance program or elements thereof) to address the sanctionable practices.

In determining this recommended sanction, the SDO took into account, as aggravating factors, (i) Siglo 21's engagement in a repeated pattern of misconduct, including both fraudulent and collusive practices, and that the collusive practices involved tenders for two separate contracts, (ii) management's role in the fraudulent misconduct, and (iii) the sophisticated means involved in the fraudulent misconduct. The SDO also took into account, as mitigating factors, (i) INT's representations as to the extent of Siglo 21's cooperation during the course of the investigation, noting in particular its lengthy voluntary restraint from participating in future Bank-financed projects and (ii) the passage of time since Siglo 21's misconduct and since the Bank became aware of it. The SDO did not apply any additional aggravating or mitigating factors.

This declaration of ineligibility will extend across the operations of the World Bank Group, including IFC, MIGA, and the guarantee and carbon finance operations of the Bank.³ 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.⁴

³ *Sanctions Procedures, . . . sub-paragraph 9.1(c) of Section III.A. For the avoidance of doubt, the declaration of ineligibility also extends to activities financed through trust funds administered by the Bank to the extent governed by the Bank's Procurement Regulations (or either of the Regulations' predecessor documents, the Procurement Guidelines and Consultant Guidelines) or Anti-Corruption Guidelines, as defined in the Sanctions Procedure. Id., Section II and sub-paragraph 1.1(c)(i) of Section III.A.*

⁴ *At present, the parties to the MDB Cross-Debarment Agreement are the Bank Group, the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group. The MDB Cross-Debarment Agreement provides that, subject to the prerequisite conditions set forth in the MDB Cross-Debarment Agreement, unless a participating MDB (i) believes that any of the prerequisite conditions set forth in the MDB Cross-Debarment Agreement have not been met or (ii) decides to exercise its rights under the "opt out" clause set forth in the MDB Cross-Debarment Agreement, each participating MDB will promptly enforce the debarment decisions of the other participating MDBs.*

Respondent 2
Mr. Orlando Fajardo Castillo (“Mr. Fajardo”)

***Recommended Sanction: Debarment with Conditional Release
Minimum Period of Ineligibility of Two (2) Years and Four (4) Months***

It is recommended that Mr. Fajardo (together with any entity that is an Affiliate directly or indirectly controlled by Mr. Fajardo) be declared ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;⁵ (ii) to be a nominated⁶ 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 Project; provided, however, that after a minimum period of ineligibility of two (2) years and four (4) months, Mr. Fajardo may be released from ineligibility only if Mr. Fajardo has, in accordance with sub-paragraph 9.3 of Section III.A of the Sanctions Procedures, demonstrated to the Bank Group’s Integrity Compliance Officer that Mr. Fajardo has complied with the following conditions:

- (a) Mr. Fajardo has taken appropriate remedial measures to address the sanctionable practices for which Mr. Fajardo has been sanctioned;*
- (b) Mr. Fajardo has completed training and/or other educational programs that demonstrate a continuing commitment to personal integrity and business ethics; and*
- (c) Any entity that is an Affiliate directly or indirectly controlled by Mr. Fajardo has adopted and implemented, in a manner satisfactory to the Bank, effective integrity compliance measures as may be imposed by the World Bank Group’s Integrity Compliance Officer pursuant to sub-paragraph 9.3(b) of Section III.A of the Sanctions*

⁵ For the avoidance of doubt, the declaration of ineligibility to be awarded a contract will include, 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.

⁶ 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.

Procedures (e.g., an integrity compliance program or elements thereof) to address the sanctionable practices.

In determining this recommended sanction, the SDO took into account, as aggravating factors, (i) Mr. Fajardo's management role at the corporate respondent at the time of the fraudulent misconduct and (ii) the sophisticated means involved in the fraudulent misconduct. The SDO also took into account, as mitigating factors, (i) INT's representations as to the extent of Mr. Fajardo's cooperation during the course of the investigation and (ii) the passage of time since Mr. Fajardo's misconduct and since the Bank became aware of it. The SDO did not apply any additional aggravating or mitigating factors.

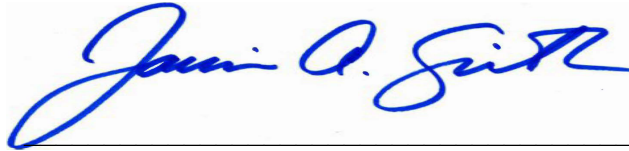
This declaration of ineligibility will extend across the operations of the World Bank Group, including IFC, MIGA, and the guarantee and carbon finance operations of the Bank.⁷ The Bank will also provide notice of this declaration of ineligibility to the other multilateral development banks ("MDBs") that 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.⁸

5. Sub-paragraph 4.4 of Section III.A of the Sanctions Procedures provides that if a respondent does not contest the accusations or the sanctions recommended by the SDO 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 sanctions recommended by the SDO shall enter immediately into force.

⁷ *Sanctions Procedures, . . . sub-paragraph 9.1(c) of Section III.A. For the avoidance of doubt, the declaration of ineligibility also extends to activities financed through trust funds administered by the Bank to the extent governed by the Bank's Procurement Regulations (or either of the Regulations' predecessor documents, the Procurement Guidelines and Consultant Guidelines) or Anti-Corruption Guidelines. Id., sub-paragraph 1.1(c)(i) of Section III.A.*

⁸ *At present, the parties to the MDB Cross-Debarment Agreement are the Bank Group, the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group. The MDB Cross-Debarment Agreement provides that, subject to the prerequisite conditions set forth in the MDB Cross-Debarment Agreement, unless a participating MDB (i) believes that any of the prerequisite conditions set forth in the MDB Cross-Debarment Agreement have not been met or (ii) decides to exercise its rights under the "opt out" clause set forth in the MDB Cross-Debarment Agreement, each participating MDB will promptly enforce the debarment decisions of the other participating MDBs.*

6. No Response having been submitted to the Sanctions Board by either Respondent within the specified period, INT's accusations in the SAE and the sanctions recommended by the SDO in the Notice are deemed uncontested for purposes of sub-paragraph 4.4 of Section III.A of the Sanctions Procedures, and the recommended sanctions set forth in paragraph 4 above have entered into force as of the date hereof.



Jamieson A. Smith
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Office of Suspension and Debarment (OSD)
The World Bank