

Notice of Uncontested Sanctions Proceedings

September 17, 2019

Sanctions Case No. 559

**Pakistan Technical Assistance for Social Protection Reform Project
(P112211)**

Respondent:

Mr. Francisco Ayala

1. On June 13, 2019, the World Bank's Chief Suspension and Debarment Officer (the "SDO") issued a Notice of Sanctions Proceedings (the "Notice") to Mr. Francisco Ayala (the "Respondent") pursuant to sub-paragraph 4.01(a) of Section III.A of the Bank Procedure: Sanctions Proceedings and Settlements in Bank Financed Projects issued by the Bank on June 28, 2016 (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 Respondent engaged in sanctionable practices in connection with the above-named project (the "Project"). INT had submitted the SAE to the SDO pursuant to sub-paragraph 3.01(a)(ii) of Section III.A of the Sanctions Procedures, which provides that a case may be referred to the SDO "after a determination by the Director, [Strategy, Performance and Administration] of non-responsibility based on a Sanctionable Practice in connection with the Bank's corporate procurement[.]" 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 the Respondent engaged in fraudulent practices in connection with two corporate procurement technical assistance contracts under the Project by fraudulently failing to disclose, in the proposals of a company related to the Respondent, his intended participation in executing these contracts while at the same time serving as a Short Term Consultant with the World Bank.
4. Based on a review of INT's SAE conducted in accordance with sub-paragraph 4.01(a) of Section III.A of the Sanctions Procedures, and pursuant to sub-paragraph 4.01(c), sub-paragraph 9.01, and sub-paragraph 9.04 of Section III.A of the Sanctions Procedures, with due consideration of the factors set forth in sub-paragraph 9.02 of Section III.A of the Sanctions Procedures and in the World Bank Sanctioning Guidelines, the SDO recommended in the Notice that the Respondents, together with certain Affiliates (as defined in the Sanctions Procedures) where so specified, be sanctioned as follows:

Mr. Francisco Ayala ("Mr. Ayala")

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

It is recommended that Mr. Ayala, together with any entity that is an Affiliate directly or indirectly controlled by Mr. Ayala, including but not limited to:

- (1) Ayala Consulting Cia Ltda (Jose Puerta N39-188 y Eloy Alfaro, Quito, Ecuador); and*
- (2) Ayala Consulting Corporation (1581 W 49th Street 304, Hialeah, FL 33012),*

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 project or program financed by the Bank and 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. Ayala may be released from ineligibility only if Mr. Ayala has, in accordance with sub-paragraph 9.03 of Section III.A of the Sanctions Procedures, demonstrated to the Bank Group's Integrity Compliance Officer that Mr. Ayala has complied with the following conditions:

- (a) Mr. Ayala has taken appropriate remedial measures to address the sanctionable practices for which Mr. Ayala has been sanctioned;*

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.

(b) *Mr. Ayala 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. Ayala has adopted and implemented an effective integrity compliance program in a manner satisfactory to the Bank.*

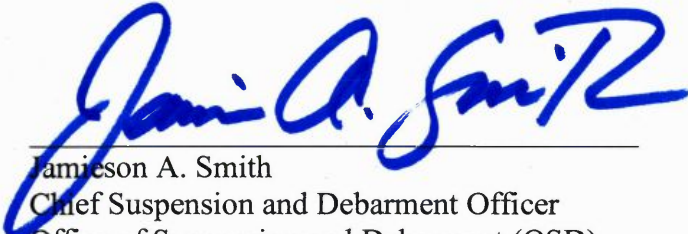
In determining this recommended sanction, the SDO took into account the periods of ineligibility imposed by the Director, Strategy, Performance and Administration, in connection with earlier proceedings under the Bank's Vendor Eligibility Policy, upon several of Mr. Ayala's affiliated companies. The SDO also took into account, as an aggravating factor, Mr. Ayala's repeated pattern of misconduct, noting that Mr. Ayala engaged in multiple fraudulent practices. The SDO did not apply any additional aggravating factors. The SDO also took into account, as mitigating factors: (i) INT's representations as to the extent of Mr. Ayala's cooperation during the course of the investigation, noting in particular that Mr. Ayala agreed to meet with INT and provided INT with certain documentary evidence; and (ii) the significant passage of time since the misconduct occurred and since the Bank was made aware of it. The SDO did not apply any additional 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 9.01(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 Guidelines, Consultant Guidelines or Anti-Corruption Guidelines. Id., sub-paragraph 1.01(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. More*

5. The Respondent did not submit an Explanation in accordance with sub-paragraph 4.02(b) of Section III.A of the Sanctions Procedures.
6. Sub-paragraph 4.04 of Section III.A of the Sanctions Procedures provides that if a respondent does not contest the accusation or the sanction 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 sanction recommended by the SDO shall enter immediately into force.
7. No Response having been submitted to the Sanctions Board by the Respondent within the specified period, INT's accusations in the SAE and the sanction recommended by the SDO in the Notice are deemed uncontested for purposes of sub-paragraph 4.04 of Section III.A of the Sanctions Procedures, and the recommended sanction set forth in paragraph 4 above has entered into force as of the date hereof.



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

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