

Notice of Uncontested Sanctions Proceedings

April 10, 2018

Sanctions Case No. 483

IDA Credit Number 4707-NP

IDA Grant Number H557-NP

(Nepal Second Health, Nutrition and Population and HIV/AIDS Project)

Respondents:

National Bio-Medical Pvt. Ltd.

Mr. Nabaraj Basnet

1. On January 2, 2018, the World Bank's acting Suspension and Debarment Officer (the "SDO") issued a Notice of Sanctions Proceedings (the "Notice") to National Bio-Medical Pvt. Ltd. ("National Bio-Medical") and Mr. Nabaraj Basnet ("Mr. Basnet") (together, the "Respondents") 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 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 these accusations.
3. The specific accusations made by INT in the SAE were that (i) National Bio-Medical engaged in fraudulent practices by submitting fraudulent financial statements and other documents purportedly issued by its proposed manufacturer in connection with two medical equipment tenders under the Project, and that (ii) the Respondents engaged in corrupt practices by making payments to Project-related officials to improperly influence the officials' actions in connection with seven contracts under the Project.
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 subparagraph 4.01(c), subparagraph 9.01 and sub-paragraph 9.04 of Section III.A of the Sanctions Procedures, with due consideration of the factors set forth in subparagraph 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:

Respondent 1

National Bio-Medical Pvt. Ltd. ("National Bio-Medical")

It is recommended that National Bio-Medical (together with any entity that is an Affiliate directly or indirectly controlled by National Bio-Medical) 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 six (6) years, National Bio-Medical may be released from ineligibility only if National Bio-Medical 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 National Bio-Medical has complied with the following conditions:

(a) National Bio-Medical has taken appropriate remedial measures to address the sanctionable practices for which National Bio-Medical has been sanctioned; and

(b) National Bio-Medical 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 fact that National Bio-Medical engaged in two different types of sanctionable misconduct: fraudulent and corrupt practices. The SDO also took into account, as aggravating factors, (i) National Bio-Medical's repeated pattern of misconduct, noting that National Bio-Medical engaged in multiple fraudulent practices in connection with two contracts; and (ii) the involvement of National Bio-Medical's co-owner and managing director in the corrupt practice. The SDO did not apply any additional aggravating factors. As a mitigating factor with respect to the corrupt practice, the SDO took into account INT's representations as to the extent of National Bio-Medical's cooperation during the course of the

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.

investigation, noting in particular that National Bio-Medical admitted engaging in the corrupt practice. The SDO did not apply any additional mitigating factors.

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.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

Respondent 2

Mr. Nabaraj Basnet (“Mr. Basnet”)

It is recommended that Mr. Basnet (together with any entity that is an Affiliate directly or indirectly controlled by Mr. Basnet) 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 project or program financed by the Bank and governed by the Bank’s

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

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.

Procurement Guidelines, Consultant Guidelines or Anti-Corruption Guidelines; provided, however, that after a minimum period of ineligibility of two (2) years, Mr. Basnet may be released from ineligibility only if Mr. Basnet 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. Basnet has complied with the following conditions:

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

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

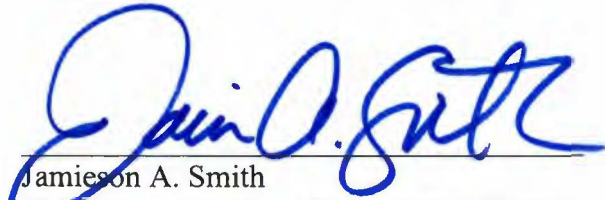
In determining this recommended sanction, the SDO took into account, as an aggravating factor, the fact that Mr. Basnet was the co-owner and managing director of the corporate Respondent. The SDO did not apply any additional aggravating factors. As a mitigating factor, the SDO took into account INT's representations as to the extent of Mr. Basnet's cooperation during the course of the investigation, noting in particular that Mr. Basnet admitted engaging in the corrupt practice. The SDO did not apply any additional mitigating factors.

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.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

⁷ 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.

⁸ At present, the MDBs that are party 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

5. Neither Respondent submitted 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 accusations 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(s) recommended by the SDO shall enter immediately into force.
7. 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 4.04 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
Chief Suspension and Debarment Officer
Office of Suspension and Debarment (OSD)
The World Bank

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