Federal Democratic Republic of Nepal

Second Financial Sector Restructuring Project

REDACTED REPORT

June 1, 2012
Statement of Use and Limitations

This Report was prepared by the World Bank Group’s (Bank’s) Integrity Vice Presidency (INT). It provides the findings of an INT administrative inquiry (the investigation) into allegations of corrupt, fraudulent, collusive, and/or coercive practices, as defined by the Bank, regarding one or more Bank-supported activities.

The purpose of the investigation underlying this Report is to allow the Bank to determine if its own rules have been violated. This Report is being shared to ensure that its recipients are aware of the results of the INT investigation. However, in view of the specific and limited purpose of the investigation underlying this Report, this Report should not be used as the sole basis for initiating any administrative, criminal, or civil proceedings. Moreover, this Report should not be cited to in the course of any investigation, in any investigation reports, or in any administrative, civil, or criminal proceedings.

This Report is provided without prejudice to the privileges and immunities conferred on the Bank and its officers and employees by its Articles of Agreement and other applicable sources of law. The Bank reserves the right to invoke its privileges and immunities, including at any time during the course of an investigation or a subsequent judicial or other proceeding pursued in connection with this matter.
Executive Summary

This Report provides the findings of an administrative inquiry (the investigation) conducted by the World Bank Group’s (Bank’s) Integrity Vice Presidency (INT) into allegations of fraud and corruption in the award of a contract to a company, hereinafter referred to as Company A, in alleged partnership with another company, hereinafter referred to as Company B, under the Second Financial Sector Restructuring Project (FSRP or the Project) in Nepal. INT’s investigation found evidence indicating that Company A submitted a number of forged and fabricated documents in its technical and financial proposals, and that the Bid Evaluation Committee (BEC) relied on these misrepresentations when deciding to award the contract to Company A. INT did not find evidence indicating that Company A engaged in corrupt practices under the Project, nor did it find evidence implicating any Government of Nepal (GoN) officials in corruption. Instead, INT found evidence suggesting that interested parties within Nepal used the discovery of Company A’s forgery and fabrication to (potentially falsely) allege corruption by GoN.
Background

In June 2004, the then-Kingdom of Nepal and the International Development Association (IDA), a part of the World Bank Group, entered into a Development Financing Agreement (DFA) to fund the Second Financial Sector Restructuring Project (FSRP or Project). The Project, which became effective in June 2004 and is scheduled to close in September 2009, was implemented by the Nepal Rastra Bank (NRB, Nepal’s central bank) with the assistance of the Ministry of Finance. The NRB allocated approximately US$ 2.5 million of the Project funds to finance a consulting contract to strengthen its supervision capacity. In February 2006, the NRB contracted with Company A, and allegedly with Company B, to perform this work.

In June 2007, the Bank received an anonymous letter alleging that the contract awarded to Companies A and B was tainted by fraud. Specifically, the letter alleged that:

(a) Company B had never entered into the contract;
(b) the Company B representatives’ signatures on the contract were forged;
(c) Company B staff did not deploy to Nepal or work under the contract;
(d) Company B did not receive an advance payment for the contract; and
(e) Company B never entered into a joint venture agreement with Company A.

The complainant also stated that the Nepalese authorities were investigating the circumstances surrounding the award of the contract.

In January 2008, the Bank received a second letter in which a pseudonymous complainant made the following allegations about Company A’s contract:

(a) Company A and B’s proposal was submitted by a “false group of people”;
(b) the NRB signed a contract with these same people in February 2006 in Kathmandu;
(c) Company B never participated in the proposal and never entered into any contract with the NRB;
(d) the entire contract was false;
(e) the matter was under investigation by Nepalese authorities; and
(f) Government of Nepal (GoN) officials had corresponded with Company B about the matter.

The complainant provided INT with copies of letters between Company B and GoN officials. In these letters, Company B stated that: (i) it was not party to the contract; (ii) it had not, as a corporate entity, signed the contract; and (iii) key documents purporting to have originated within Company B were forgeries.

Methodology

INT’s investigation consisted of a review of relevant Project and contract documentation and interviews with GoN officials, representatives of the companies, and Bank staff. INT also examined the tenders submitted by the winning and losing bidders for patterns indicating fraudulent or corrupt activity.
Findings

1. The investigation found evidence indicating that Company A submitted forged and fabricated documents in its proposal's technical and financial components. The oral and documentary evidence furnished by Company B staff members and other witnesses indicates that there is sufficient evidence to conclude that Company A engaged in fraudulent practices.

According to Company B representatives, Company B submitted an Expression of Interest (EoI) with Company A for this contract, but then did not hear more about it. However, the technical proposal submitted by Company A listed the company as purportedly in partnership with Company B and another company, and it included page header logos, references, technical capacity descriptions, résumés, and signatures that included the personnel, experience and reputation of Company B and consultants associated with another company. Similarly, Company A’s financial proposal also included references to Company B. INT interviewed five current and former Company B staff members, and all five stated that the proposal documents allegedly prepared and signed by them were not legitimate: the documents were not on proper Company B letterhead; Company B had no consortium or partnership agreement with Company A; and the Company B staff members’ signatures on proposal documents and Company A’s contract had been forged. These five witnesses, as well as two consultants associated with another company, also stated that the résumés included in the proposal falsely identified some individuals as Company B or Company A staff and one résumé was of a deceased individual. Moreover, when INT showed Company A’s submitted EoI to a former Company B staff member tasked with preparing such an EoI, he stated that it was not the document that he had prepared and given to Company A.

In addition, INT interviewed an individual whom Company A’s technical and financial proposals falsely identified as a Company A Managing Director. This individual admitted once meeting with Company A’s President—in an effort to promote his personal business—but he denied ever having been appointed to any position with Company A. When shown Company A proposal documents purportedly signed by him, this individual stated that signatures on the documents were not his; they were forgeries.

INT interviewed Company A’s President, who said that he could not believe that the EoI was fraudulent, because he was present when it was submitted by Company B. This statement is inconsistent with the statement of a former Company B staff member, who claimed that Company A’s EoI differed from the one that he prepared while at Company B. Moreover, Company A’s President did not refute the other witnesses’ forgery claims regarding Company A’s proposals. Instead, he denied being personally involved in the preparation of Company A’s proposal documents and stated that another staff member, whom he could not identify, had prepared them.

As detailed below in finding four, some witnesses stated that they believed Company A’s proposal documents to be accurate and Company B’s forgery and falsification claims to be lies, but INT found no evidence to support this allegation. The above evidence therefore indicates that Company A’s proposals contained forged and fabricated documents prepared by an unidentified Company A staff member.

2. Evidence indicates that the Bid Evaluation Committee relied upon, and was misled by, the forged and fabricated documents contained in Company A’s proposal. Procurement documents show that the BEC evaluated Company A’s proposal on the understanding that Company A was associated with Company B and that the résumés contained in the proposal were accurate. The BEC found Company A to be technically responsive and, combining that
evaluation with Company A’s low proposal price, recommended that Company A win the contract. INT interviewed three current or former GoN officials who were BEC members, and all three stated that: (i) at the time of the proposal evaluations, they were unaware that Company B was not involved in Company A’s proposal or associated with Company A; and (ii) had they known that Company B was not involved with Company A, they would have rejected the proposal. This evidence indicates that the BEC’s contract award decision was influenced, to Company A’s benefit, by Company A’s forged and fabricated proposal documents.

3. The investigation found no evidence to suggest that GoN officials engaged in corruption. INT’s investigation found no evidence of corrupt activities related to the award of Company A’s contract, nor any evidence that implicated GoN officials in corrupt activities. Indeed, INT found that one GoN official allegedly involved in corrupt activities was not involved in the procurement process. Rather, the process was managed by two other officials.

INT examined Company A accounting documents that detailed Company A’s receipt and disbursement of contract-related funds. INT was unable to review all of Company A’s books and records, and there may be other contract-related expenditures not included in the reviewed documents. The available records, however, contained no evidence indicating payments to GoN officials.

4. The investigation found evidence suggesting that interested parties within Nepal used the discovery of Company A’s fraud to allege corruption by GoN officials. Several witnesses interviewed by INT maintained that a large number of individuals within the Nepalese business community were subject to investigation and close scrutiny by the GoN. The GoN had, according to witnesses, focused on individuals engaged in “insider lending”—the granting of unsecured loans from a bank to its directors—in many Nepalese commercial banks. These directors often defaulted on their loans when the GoN challenged them.

INT identified one individual, who allegedly engaged in insider lending and whose bank was taken over by the GoN, as the author of the two complaint letters sent to the Bank. Witnesses interviewed by INT alleged that this individual, fulfilling an earlier-announced threat, used his political connections to have other GoN officials indicted and suspended from their positions. Witnesses further alleged that this individual alleged Company A’s fraud to prompt such indictments and suspensions.

Witnesses stated that a senior partner of Company B, whom INT interviewed and who explained that portions of Company A’s proposals were forged and fabricated, was a former business partner of this individual. These witnesses, who are associated politically with certain GoN officials, suggested that there was, in fact, no fraud; that the allegedly-fraudulent documents were actually legitimate; and that Company B was falsely alleging fraud at the individual’s request. However, the only evidence produced to INT to support this allegation was a business agreement from the mid-1990s between the individual and a current Company B manager. Moreover, five other witnesses—two of whom did not work for Company B—stated that proposal documents submitted by Company A were, in fact, forged or falsified. The lack of evidence to support the “no actual fraud” allegation, and the significant evidence to support its alternative, indicates that Company A did, in fact, engage in fraud.