



**The World Bank Group  
Integrity Vice Presidency**

Democratic Republic of the Congo

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**Growth with Governance in the Mineral Sector Project**

**REDACTED REPORT**

December 2014

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## Executive Summary

This report provides the findings of an administrative inquiry (the investigation) by the World Bank Group's Integrity Vice Presidency (INT) into allegations of fraudulent practices in connection with the Growth with Governance in the Mineral Sector Project (hereinafter referred to as the PROMINES Project) in the Democratic Republic of Congo (DRC).

An important component of the PROMINES Project involves supporting activities to make DRC compliant with global standards of transparency and accountability in the mining industry. In order to achieve compliant status, DRC must publish an annual Reconciliation Report which then must be validated by an independent firm and approved by a validation committee. The DRC government agency charged with achieving compliant status is hereinafter referred to as "the Compliance Agency."

Company A financed the preparation of DRC's 2010 Reconciliation Report and awarded Company B the contract for consultancy services related to the Report (Contract 1).

INT found evidence indicating that Company B, with the assistance of the Compliance Agency, sent nearly identical invoices to the PROMINES Project Implementation Unit (PROMINES PIU) and Company A for the same services related to preparation of the 2010 Reconciliation Report. Company B ultimately reimbursed the PROMINES PIU for its payment.

In response to INT's investigative findings and Show Cause Letter, Company B acknowledged to INT that it had double-billed for the same services, but claimed that it had not submitted the two invoices with the intent to defraud. Company B pointed out to INT that it had submitted both invoices at the direction of the Compliance Agency and that it had reimbursed the PROMINES Project for the improper payment.

INT has decided not to seek sanctions against Company B on this matter.

## **Background**

The Growth with Governance in the Mineral Sector Project (the PROMINES Project) is designed to strengthen the capacity of key institutions to manage the minerals sector, improve the conditions for increased investments in and revenues from mining, and help increase the socio-economic benefits from artisanal and industrial mining in PROMINES Project areas in the Democratic Republic of the Congo (DRC). The PROMINES Project implementing unit is hereinafter referred to as the PROMINES PIU.

The PROMINES Project supports activities intended to make DRC compliant with global standards of transparency and accountability in the mining industry. Global standards in the mining industry advocate for governments to respect revenue transparency from natural resources. The relevant government agency charged with achieving compliant status is hereinafter referred to as the Compliance Agency.

In order to achieve compliant status, a country must accomplish two important requirements in less than three years. First, the country must publish an annual Reconciliation Report that reconciles taxes, royalties, and signature bonuses paid by companies (the Reconciliation Report). The second is passing a two-step approval and validation process of the Reconciliation Report which includes: i) validation by an independent firm selected from a short list recommended by international transparency and accountability experts; and ii) approval of the resulting validated report (the Validation Report) by an independent validation committee.

The Compliance Agency has prepared two Reconciliation Reports, the 2007 Reconciliation Report and the 2008-2009 Reconciliation Report. The 2007 Reconciliation Report was submitted to the validation process and approved with recommendations of additional measures to be adopted in the next report to ensure compliance. However, the next report, the 2008-2009 Reconciliation Report, was not completed which has halted the process for DRC becoming a compliant country. In June 2011, the validation committee extended DRC's time period for achieving compliance requirements. Consequently, the 2010 Reconciliation Report and its validation became critical for DRC to become a compliant country before expiration of its window of opportunity.

In support of the DRC's compliance process, Company A decided to finance the preparation of the 2010 Reconciliation Report and was in charge of the selection process, which was based on the procurement rules of Company A's host country, of a consultant firm for such purpose. Company A awarded the contract to Company B (the Company A Contract). The Company A Contract did not allow for advance payments and expressly provided that Company A would pay the total amount of the Company A Contract upon submission and approval of the final 2010 Reconciliation Report. The PROMINES Project only finances the preparation of the Validation Report and it does not finance any activities in relation to the Reconciliation Report.

## **Allegations**

Development representatives in DRC informed INT of allegations that Company B had double-billed Company A and the PROMINES Project by submitting invoices for the same services to Company A and the PROMINES PIU.

## **Methodology**

INT conducted interviews with the relevant World Bank staff as well as representatives of Company A. In addition, INT's investigation consisted of a comprehensive review of PROMINES Project documents as well as documents supplied by the interviewees and Company B.

## **Findings**

According to information provided to INT by partners on the ground in DRC, Company B asked the Compliance Agency to arrange a 40 percent advance payment to start its work on the 2010 Reconciliation Report in connection with the Company A Contract. As discussed above, the Company A Contract did not provide for any advance payments. In response, the Compliance Agency requested that the PROMINES PIU transfer US\$75,000 for a payment to Company B. The PROMINES PIU responded to the Compliance Agency on the same day and explained that it could not make that transfer without an invoice.

Shortly thereafter, Company B sent an invoice to the PROMINES PIU for an amount that was equivalent to 40 percent of the total of the Company A Contract, for services related to preparation of the 2010 Reconciliation Report (the PROMINES invoice). The World Bank staff member handling the PROMINES Project confirmed to INT that the services referenced in that invoice were outside the scope of the PROMINES Project. However, the PROMINES PIU complied with the Compliance Agency's request and initiated the full payment of the PROMINES invoice to Company B's account on the same day.

Based upon the evidence, despite the fact that the Compliance Agency had successfully arranged for 40 percent of the total amount of the Company A Contract to be paid to Company B from the PROMINES Project funds, the Compliance Agency asked Company A to release the same amount to Company B for the 2010 Reconciliation Report in connection with the Company A Contract. Company A agreed to "waive" the Company A Contract's payment provisions that prevented advance payments, and released the funds.

Evidence provided to INT indicates that Company B submitted an invoice to Company A (the Company A invoice) which was identical to the PROMINES invoice in every respect except the information of addressee. As a result, Company A paid Company B for the full amount of the Company A invoice.

Evidence also indicates that after the Compliance Agency was questioned by a co-financier of the PROMINES for weeks about the propriety of the PROMINES invoice

and associated payment from the PROMINES Project funds, Company B reimbursed the PROMINES PIU for that payment.

Based upon the record, after conducting interviews with World Bank staff and representatives from Company A, as well as reviewing documents supplied by the interviewees and Company B itself, INT sent a show-cause letter to Company B asking the firm to explain why the submission of the PROMINES invoice and the Company B invoice had not been a fraudulent attempt to get paid twice for the same services.

INT received Company B's reply to the show cause letter, acknowledging that it had double-billed for the same services, but claiming that they had not submitted the two invoices with the intent to defraud. The firm also pointed out that it had submitted both invoices at the direction of the Compliance Agency and that it had reimbursed the PROMINES Project for the improper payment.<sup>1</sup>

### **Follow Up Action by the World Bank**

INT did not find sufficient evidence that Company B's billing of the PROMINES Project for services unrelated to that project and double-billing the PROMINES PIU and Company A for those services was done with the intent to defraud. Consequently, INT will not seek sanctions in this matter.

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<sup>1</sup> INT makes no finding with respect to why the Compliance Agency requested an advance payment for the services at issue from the Company A Contract after having successfully arranged for that payment to be made from the PROMINES Project funds.