

PUBLIC

DOCUMENT OF THE INDEPENDENT CONSULTATION AND INVESTIGATION MECHANISM

**MICI-BR-2013-078**  
**DETERMINATION OF ELIGIBILITY FOR THE CONSULTATION PHASE**

**BLUMENAU SUSTAINABLE URBAN MOBILITY PROGRAM 2**  
**(BR-L1272)**

This document was prepared by the Eligibility Committee for the Consultation Phase in accordance with the Transition Plan approved by the Board of Executive Directors on 10 July 2013.

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**ELIGIBILITY DETERMINATION MEMORANDUM  
CONSULTATION PHASE**

**TO:** Requesters, Board of Executive Directors, Senior Management,  
Project Team, and Executing Agency

**FROM:** Consultation Phase Eligibility Committee

**VIA:** Victoria Márquez-Mees, Executive Secretary

**CC:** Independent Consultation and Investigation Mechanism

**PROJECT:** Blumenau Sustainable Urban Mobility Program (BR-L1272)

**DATE:** 25 April 2014

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**I. Executive Summary**

- 1.1 On 12 March 2014, Mr. Rodolfo Souza,<sup>1</sup> a resident of the Ponta Aguda neighborhood and a member of the *Movimento Ponta Aguda Cidadã*, which is comprised of residents of that neighborhood, transmitted a Request<sup>2</sup> (MICI-BR-2014-78) to the Independent Consultation and Investigation Mechanism (“ICIM” or “Mechanism”) in relation to the Blumenau Sustainable Urban Mobility Program (BR-L1272) (“program”), financed by the Inter-American Development Bank (“IDB” or “Bank”).
- 1.2 The Request stems from the announcement by the local authorities of a change in the location of a bridge to be financed with Bank funds. The Requesters allege that this new location will drastically affect the quality of life of the area’s residents, in particular because of the vehicle traffic it will generate, which will have a negative impact on urban development and will increase pollution in the

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<sup>1</sup> Mr. Rodolfo Souza had originally been a member of the group of Requesters who sent an initial Request regarding the program (<http://www.iadb.org/mici/MICI-BR-2013-068>). In the context of the eligibility process of that Request, after several communications by the Eligibility Committee with Mr. Souza, representative of a group of residents of Ponta Aguda, it became obvious that Mr. Souza’s concerns, potential impacts, and objectives were of a different nature than those presented by the other Requesters. As a result, Mr. Souza indicated that he would present a different Request to the ICIM for the residents.

<sup>2</sup> The original Request is available at: [http://www.iadb.org/mici/Solicitud MICI-BR-2014-078](http://www.iadb.org/mici/Solicitud/MICI-BR-2014-078).

- area. They underline that the authorities (i) have not presented studies on the risk of flooding related to the new bridge location and (ii) do not have a management plan for the greater volume of vehicle traffic that they allege will ensue.
- 1.3 The program is a sovereign-guaranteed loan in the transportation sector for US\$59,000,000.00, with a counterpart contribution in the same amount. The program was approved by the Bank’s Board of Executive Directors (“Board of Executive Directors” or “Board”) on 25 June 2012. The executing agency is the Blumenau Municipal Government (“Municipal Government” or “executing agency”). The program was classified under environmental and social category “B” pursuant to the Environment and Safeguards Compliance Policy (OP-703) and is currently in its implementation stage.
- 1.4 The Consultation Phase Eligibility Committee (“Eligibility Committee” or “Committee”), which is responsible for determining eligibility for this Phase, under the ICIM Policy (document GN-1830-49) and the transition plan approved by the Board of Executive Directors,<sup>3</sup> has concluded that, given that the Requesters have indicated that they are not interested in a Consultation Phase process, Request MICI-BR-2014-078 is not eligible for this Phase as it does not comply with the criterion established in Section 40 point (g) of the Policy.
- 1.5 In addition, given that the Requesters have expressed interest in an investigation being conducted of the facts referred to in their Request and that the MICI Policy establishes two identical successive eligibility processes, different only in the criterion for feasibility of a Consultation Phase or a Review Phase, the Eligibility Committee, seeking to apply more efficient methodologies in the operation of the Mechanism, does not address the other eligibility criteria, leaving the detailed analysis of such criteria to the Review Phase, to which the Request will be transferred within five working days from the date this memorandum is issued.
- 1.6 This procedural criterion will be adopted by the Eligibility Committee for all Requests it receives in which the Requesters indicate that they do not want to

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<sup>3</sup> Minutes of the 24 June 2013 meeting of the Organization, Human Resources, and Board Matters Committee, approved on 10 July 2013 at the meeting of the Board of Executive Directors.

participate in a Consultation Phase, unless specific circumstances in the Request require different processing.

## **II. Transition plan for the Consultation Phase and its implications for the determination of eligibility process**

- 2.1 The process for determination of eligibility for the Consultation Phase is conducted pursuant to Sections 37 and 40 of the current ICIM Policy.
- 2.2 In January 2013, in view of the findings and recommendations stemming from the ICIM evaluation report prepared by the Office of Evaluation and Oversight (“OVE”), the Board of Executive Directors decided to launch a process to adjust the ICIM Policy and operating structure, in order to strengthen the Mechanism and ensure its more effective and efficient management.
- 2.3 In particular, changes in human resources led the Board to mandate the introduction of transitional operating arrangements starting on 1 September 2013 and remaining in force until the revised ICIM Policy is introduced. Under these arrangements, the eligibility of Requests for the Consultation Phase is determined by an Eligibility Committee comprised of the Executive Secretary and the two Case Officers from the Consulting Phase team. This determination of eligibility is conducted as mandated under the Transition Plan and pursuant to the provisions of the current ICIM Policy relating this stage.

## **III. The Request**

- 3.1 On 12 March 2014, the ICIM received a Request submitted by residents of the Ponta Aguda neighborhood who are members of the *Movimento Ponta Aguda Cidadã*,<sup>4</sup> raising a series of concerns in relation to the Blumenau Sustainable Mobility Program, financed by the Bank and to be executed by the Blumenau Municipal Government.

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<sup>4</sup> After the original Request and following several communications with Mr. Rodolfo Souza, who had sent the residents’ Request to the ICIM, Mr. Souza indicated that not only is he a Requester but he is also representing the other Requesters. Accordingly, he was asked for proof of the authorization to represent them, pursuant to the provisions of Section 40 (b) of the ICIM Policy.

- 3.2 The Requesters contend that the current municipal government opted to change the location of the new Center Bridge (the “bridge”), which was originally to have been built at another location and will have a drastic impact on the quality of life of the residents of the Ponta Aguda neighborhood. The Requesters report that the decision to change the bridge location was announced as a campaign promise by the then candidate for mayor of Blumenau who, after winning the election, toyed with three different bridge locations, finally selecting a historical site on the curve of the river.
- 3.3 According to the Requesters, the area where they live will be severely affected by traffic and, to date, the Municipal Government has not provided information on alternatives to address this problem. They indicated that the proposed location will increase traffic volume and generate traffic jams at levels incompatible with the area, in addition to additional truck traffic. All of this will result in an increase in noise and pollution levels in the neighborhood. They indicate, moreover, that the bridge will affect the zoning of the neighborhood, which is primarily residential. The Requesters emphasize that there is no Municipal Government proposal for a road system or a budget set aside for it, which puts the entire project at risk.
- 3.4 The Requesters also indicate that the proposed design with pillars—compared with the earlier design that did not include pillars—has not yet undergone any type of study on the risk of flooding as a result of blocking the river.
- 3.5 With regard to the Neighborhood Impact Study (NIS) of the new bridge issued by the Municipal Government, the Requesters indicate that the information is incomplete and that the study raises a series of doubts and questions about the design and location of the bridge. In the opinion of the Requesters, this would be the reason the NIS is being reexamined by the Municipal Government itself.
- 3.6 In view of the gravity of the situation, the Requesters ask that (i) all the facts that led the Municipal Government to suddenly change the location of the bridge without technical justification be investigated; (ii) all the doubts be addressed and the necessary studies performed, and (iii) during the investigation, the IDB not

accept the change of location until the community receives all the information requested and the commitments that the Municipal Government will assume are clarified.

#### **IV. The Project**

- 4.1 The program is a sovereign-guaranteed loan operation in the transportation sector for a total amount of US\$118,000,000.00, of which the IDB would be financing US\$59,000,000.00, with a counterpart contribution in the same amount. The program was approved by the Board of Executive Directors on 25 June 2012 and the executing agency is the Municipal Government of Blumenau. The program was classified as a category “B” operation<sup>5</sup> and is currently in its implementation stage.<sup>6</sup>
- 4.2 The Municipal Government seeks to contribute to sustainable urban development planning by implementing the program, the specific objectives of which are to: (i) improve mobility, urban accessibility, and road safety; (ii) support sustainable development of the city northward by improving the integrated public and nonmotorized transportation systems; (iii) expand and build urban roads and bridges in the structural and basic road systems, seeking to make infrastructure less vulnerable to weather phenomena; and (iv) institutionally strengthen the Municipal Government.<sup>7</sup>
- 4.3 According to the program’s Environmental and Social Management Report (ESMR), in the context of the civil works and works supervision component, the multiple-works program provides for intervention in nine major works, including the Badenfurt and Center Bridges.<sup>8</sup> The Center Bridge is described as part of the road link between Chile and Argentina Avenues, in the Ponta Aguda neighborhood.

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<sup>5</sup> In accordance with the Environment and Safeguards Compliance Policy, B.3. Screening and Classification: “Operations that are likely to cause mostly local and short-term negative environmental and associated social impacts and for which effective mitigation measures are readily available will be classified as Category “B”.”

<sup>6</sup> Project Profile, Blumenau Sustainable Mobility Program, page 1.

<sup>7</sup> Loan Proposal, Blumenau Sustainable Mobility Program, BR-L1272.

<sup>8</sup> ESMR, Blumenau Sustainable Mobility Program, paragraph 2.4.

- 4.4 According to the ESMR, the objective of the new bridge, the right head of which, in that document, is to be located on Beira Rio Avenue, is to offer an alternative river crossing, improve mobility in the central area, and provide a new access road into the city. In addition, the ESMR indicates that that “location was selected following an analysis of six location alternatives and was based on vehicle volume, zoning, aesthetics, urban development, cost considerations, etc.”<sup>9</sup>
- 4.5 Moreover, the ESMR indicates that the bridge project at its original location carefully considered the impacts resulting from the floods that occur with some frequency. “For this it was necessary to determine the magnitude of the impacts through a detailed hydrological study that simulated the changes in the physical characteristics of the hydrodynamic system in the stretch studied, resulting in changes to the two projects. The changes involved eliminating intermediate piles and eliminating interference or reduction in the river bed area.”<sup>10</sup>

## **V. Consultation Phase Eligibility Assessment**

- 5.1 During the eligibility phase conducted from 21 March to 25 April 2014, the Committee held a number of telephone conversations and exchanged written communications with Mr. Souza and written communications with the project team leader to, among other things, obtain more information on the Request and the Requesters and consult with Bank Management regarding its response to the Requesters’ concerns.
- 5.2 The Eligibility Committee required an extension of 10 working days from the original period to determine the current eligibility for two reasons: (i) to consult with the IDB’s Management as to its response to the Requesters’ concerns; and (ii) to clarify who were the Requesters and their representative.
- 5.3 With regard to the first point, Mr. Souza contacted Management and the latter informed the Eligibility Committee that: (i) the Requesters’ communication would not be responded to, since the Requesters already presented the matter to the ICIM and the Mechanism is in contact with them; and (ii) the Municipal

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<sup>9</sup> ESMR, Section III, paragraphs 2.18 and 2.19.

<sup>10</sup> ESMR, Section III, paragraph 3.5.

Government has not formally presented the Center Bridge project to the IDB. In this regard, the Eligibility Committee considers it appropriate to clarify that Section 40 (h) of the ICIM Policy requires the Mechanism, by its nature a last resort, to give Management the option to address the Requesters' concerns within a period of 45 days, before issuing a determination of eligibility for the Consultation Phase. This is why the fact that the Requesters have presented their situation to the ICIM does not preclude Management from taking measures if it considers it appropriate to do so.

- 5.4 As to the identification of the Requesters, the Request was lodged on behalf of more than 800 residents, members of the *Movimento Ponta Aguda Cidadã*. To verify this fact, the Committee requested more specifics on the Requesters and their representative. By the date of issue of this memorandum, the Committee has received documentation regarding some of the residents and their authorization for Mr. Souza to represent them. However, the representative informed the Committee that there were difficulties to gather all the documentation. The Committee will refer to this situation in paragraph 5.11 of this memorandum.
- 5.5 Eligibility for the Consultation Phase is assessed on the basis of the exclusion and eligibility criteria set forth in Sections 37 and 40, respectively, of the ICIM Policy. This involves a *prima facie* examination of the facts alleged in the Request in terms of their eligibility to be addressed by the ICIM, in accordance with the Mechanism's mandate from the Board of Executive Directors. On no account does this analysis or the final decision represent a judgment as to the validity of the issues raised.
- 5.6 In Section 40 (g), the ICIM Policy establishes as a criterion for eligibility for the Consultation Phase that the parties agree to participate in a process of this Phase and, with regard to a matter raised in the Request, that a Consultation Phase process may contribute to addressing a concern or resolving a dispute, or will probably have a positive outcome.
- 5.7 The Policy therefore requires confirmation as to whether the Requesters agree to participate in a process of dialogue or resolution of problems with the other



- parties involved. Without this requirement, obviously, there is no point to a Consultation Phase process.
- 5.8 In the current case, in the original Request, the Requesters ask for an investigation of all the facts related to the change in the bridge's location. In addition, their representative indicated to the Eligibility Committee that the dialogue to address the Requesters' concerns was not feasible for them and confirmed that they are not interested in this type of process. This was due to the fact that, among other reasons, the Requesters had already tried to have a dialogue with the Municipal Government. While they had the opportunity to present their concerns and doubts, they had received evasive responses from the executing agency.
- 5.9 Considering (i) that the Requesters do not want to initiate a Consultation Phase and (ii) that the ICIM Policy establishes two identical successive eligibility processes, different only in the criterion for feasibility of a Consultation Phase or a Review Phase, the Eligibility Committee, seeking to apply more efficient methodologies in the operation of the Mechanism, does not address the other eligibility criteria, leaving the detailed analysis of such criteria to the Review Phase, to which the Request will be transferred within five working days from the date this memorandum is issued.
- 5.10 This procedural criterion will be adopted by the Eligibility Committee for all Requests it receives in which the Requesters indicate not wanting to participate in a Consultation Phase, taking into consideration in each case the particular circumstances in each Request specifically.
- 5.11 With regard to the determination of the Requesters and their representation (paragraph 5.4 above), for purposes of this memorandum the Committee takes into account the obstacles and burden involved for the Requesters and their representative to obtain all the documentation that would make it possible to verify the identity of more than 800 people and their authorization for Mr. Souza to represent them. In view of the foregoing, and that the intent is to activate a Review Phase and not a Consultation Phase, for purposes of this eligibility the Committee considers as Requesters those who signed the original Request and

those who submitted documentation through their representative, and leaves a final determination in this regard in the hands of the Review Phase. In the opinion of the Committee, lengthening the process and requiring paperwork from the Requesters that at any rate will not have an effect on the Consultation Phase means unnecessarily prolonging the processes and adding an undue burden on the people who want to have access to the Mechanism in search of a prompt solution to their problems.

## **VI. Conclusion**

- 6.1 The Committee therefore concludes that, on the basis of the foregoing, and without making any judgment as to the merits of the case, Request MICI-BR-2014-078 **is not eligible** for the Consultation Phase as it does not comply with the requirement of Section 40 (g) of the Policy. Given that the Requesters do not wish to participate in a Consultation Phase but do want an investigation to be carried out, the Committee will not analyze the other eligibility criteria established in the Policy and, consequently leaves it to the Chairperson of the Panel to perform the analysis necessary to determine whether the Compliance Review Phase will be activated or not.
- 6.2 Within a maximum of five business days following notice of this Memorandum, the Executive Secretary will proceed to transfer the Request to the Panel Chairperson for a determination of eligibility of the Request for the Compliance Review Phase.