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MICI-BID-AR-2016-0104

ELIGIBILITY DETERMINATION MEMORANDUM

NORTE GRANDE PROVINCES DEVELOPMENT PROGRAM – SECOND REQUEST

(AR-L1136)
(2776/OC-AR)

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ELECTRONIC LINKS
<ol style="list-style-type: none">1. Original Request (link not included per confidentiality requirement of the Requesters)2. Management's Response (redacted version per confidentiality requirement of the Requesters) http://www.iadb.org/document.cfm?id=403739833. Project profile, Norte Grande Provinces Development Program: Water and Sanitation Infrastructure (AR-L1136) https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=368019634. Loan proposal, Norte Grande Provinces Development Program: Water and Sanitation Infrastructure (AR-L1136) http://www.iadb.org/Document.cfm?id=370595165. Environmental impact assessment, main sewer and effluent treatment plant, city of Santiago del Estero; Norte Grande Provinces Development Program: Water and Sanitation Infrastructure (AR-L1136) http://www.iadb.org/Document.cfm?id=36932464

EXECUTIVE SUMMARY

On 31 May 2016, MICI received a Request through a representative of a group of families residing in Santiago del Estero regarding the “Norte Grande Provinces Development Program: Water and Sanitation Infrastructure” (program AR-L1136), which was registered on 3 June 2016 under code MICI-BID-AR-2016-0104.

The Request alleges that the Requesters are being evicted from their dwellings as a result of drainage works that, in their opinion, are part of the main sewer, effluent treatment plant, and local collector line project in the city of Santiago del Estero, a work financed under the “Norte Grande Provinces Development Program: Water and Sanitation Infrastructure” (loan AR-L1136). In that Request, the representative also reported that the Requesters and their families had suffered police abuse and harassment and consequently reiterated that the Request be treated as confidential due to fear of retaliation.

On 13 September 2012, the Bank’s Board of Executive Directors approved a sovereign guaranteed investment loan operation to finance a multiple-works program, in which the borrower is the Argentine Republic and the executing agency is the Ministry for Federal Planning, Public Investment, and Services. The Program’s approved representative sample includes the main sewer, effluent treatment plant, and local collector line project in the city of Santiago del Estero, which is currently in execution.

The MICI Director has determined that Request MICI-BID-AR-2016-0104 **is ineligible**, since it fails to meet one of the eligibility criteria established in paragraph 22 of the MICI Policy. Specifically, the basis for this determination is that no evidence was found that the work that was the subject of the complaint and the alleged harm caused are tied to a Bank-financed Operation.

This eligibility determination is neither an assessment of the merits of the Request and the issues raised therein nor is it a determination of the Bank’s compliance or noncompliance with its Relevant Operational Policies.

Notice of this determination is given directly to the Requesters, Management, and the Board of Executive Directors by means of this Memorandum, and to interested third parties through the Public Registry.

I. THE PROJECT¹

- 1.1 The “Norte Grande Provinces Development Program: Water and Sanitation Infrastructure” (program AR-L1136) is a sovereign guaranteed investment loan operation for a multiple-works program in the water and sanitation sector. It was approved by the IDB Board of Executive Directors on 13 September 2012 for an amount of up to US\$500 million (with a counterpart of US\$55 million). The borrower is the Argentine Republic, and the executing agency is the Ministry for Federal Planning, Public Investment, and Services.
- 1.2 The Program’s objective is to improve water and sanitation sector service and efficiency in the Norte Grande provinces of Argentina by financing projects to: (i) increase coverage and improve potable water and sanitary and stormwater sewerage services in unserved or underserved areas; and (ii) strengthen sector entities in the provinces and improve service provider operational and financial efficiency and management.
- 1.3 The Program consists of multiple works under the following components: (i) water and sanitation systems to expand coverage of drinking water and sewer services, especially for low-income users, through investments in works to build, improve, and/or expand water supply systems and wastewater collection and treatment systems; and (ii) improvement of operational management, which includes: (a) strengthening the operational management capabilities of water and sewer utilities; and (b) strengthening the management of provincial agencies related to execution of the program-financed projects, such as environmental oversight of works execution and public utility regulation.
- 1.4 The selected sample includes the main sewer, effluent treatment plant, and local collector line project in the city of Santiago del Estero, which is the capital of the province of the same name. The main sewer project involves the construction, installation, and commissioning of: (i) the system of sewer mains (open excavation, directional drilling, and microtunneling); (ii) an effluent treatment plant; and (iii) the sewer network. The comprehensive sewage management solution project is divided into two stages. The first stage will include the local collector networks for 15,000 new connections, the system of sewer mains and pressure line to the treatment plant, and the plant with a capacity equivalent to 180,000 inhabitants. The second stage, to meet the needs of the 20-year design horizon, includes the local collectors and sewer mains to extend service to 15,000 additional connections, and expansion of the plant to a capacity equivalent to 360,000 inhabitants.
- 1.5 The Program was classified as a category “B” operation under the Environment and Safeguards Compliance Policy (Operational Policy OP-703). Based on the project documentation, the operational policies identified for the Program are the Environment and Safeguards Compliance Policy (OP-703), the Access to Information Policy (OP-102), and the Disaster Risk Management Policy (OP-704).

¹ The information in this section has been drawn from several Bank documents accessible in the electronic links section.

II. THE REQUEST²

- 2.1 On 5 February 2016, MICI received a Request from a group of families residing in Santiago del Estero regarding the “Norte Grande Provinces Development Program: Water and Sanitation Infrastructure” (program AR-L1136), which was registered on 11 February 2016 under code MICI-BID-AR-2016-0097. During the eligibility stage, the Requesters, through their representative, decided to withdraw the complaint for their own reasons. Because the MICI Policy provides no guidance for such contingencies, and since the eligibility determination stage had already been initiated, the MICI Director decided that the corresponding Eligibility Determination Memorandum needed to be issued and the Request declared “ineligible,” as there was in effect no cause (i.e. Request).
- 2.2 On 31 May 2016, the Requesters’ representative contacted MICI to reactivate the Request under the same terms set forth in Request MICI-BID-AR-2016-0097. The Request alleges that the families are being evicted from their dwellings as a consequence of the works ■■■■■ which, in the Requesters’ opinion, is part of the main sewer, effluent treatment plant, and local collector line project in the city of Santiago del Estero, a work financed under the Program.
- 2.3 The Requesters claim that the eviction is being conducted without regard for national laws and the Bank’s Operational Policy on Involuntary Resettlement (OP-710). They further allege noncompliance with the Access to Information Policy (Operational Policy OP-102), as they did not have access to the environmental and social impact study for the work.
- 2.4 The Request offers additional details on abuse by the police and other acts of harassment against the Requesters and their families. Accordingly, the Requesters reiterated their request for confidentiality due to fear of retaliation.

III. MANAGEMENT’S RESPONSE³

- 3.1 In accordance with paragraph 21 of the MICI Policy, IDB Management was given notice of registration of Request MICI-BID-AR-2016-0104 on 3 June 2016. In that notification, MICI offered Management the option, if deemed appropriate, to use its response to Request MICI-BID-AR-2016-0097 for this Request for reactivation.
- 3.2 On 29 June 2016, within the 21-day time limit established in the Policy, MICI received Management’s Response to this Request. The Response is summarized briefly below and can also be consulted in the electronic links section of this Memorandum.
- 3.3 Management reiterated, as it did in its 14 March 2016 response to Request MICI-BID-AR-2016-0097, that “the Bank is not financing under Loan Contract No. 2776/OC-AR (AR-L1136) ■■■■■ project or any other project that requires resettlement activities (voluntary or involuntary) in that region.”⁴
- 3.4 In its Response, Management further states that the current Request MICI-BID-AR-2016-0104 should not be considered eligible, since it deals with “a matter that has already been reviewed and declared ineligible by the MICI,” and that it “does not include or refer to new

² The Request is being treated as confidential due to the Requesters’ fear of retaliation.

³ Management’s Response is available in the electronic links section of this document.

⁴ Management’s Response, pages 1 and 2.

evidence or circumstances that were not present when the initial Request was made” (MICI-BID-AR-2016-0097).⁵

IV. MICI ACTIONS

- 4.1 In accordance with Section G of the MICI Policy and the eligibility criteria set out in paragraph 22, the process for determination of eligibility followed the timeline below:

Table 1
Timeline of MICI Actions

Date	Actions
31 May 2016	Receipt of Request MICI-BID-AR-2016-0104
3 June 2016	Registration of the Request and notice to the Requesters and Management
29 June 2016	Management’s Response
8 and 9 July 2016	Mission to the city of Santiago del Estero, Argentina
18-29 July 2016	Desk analysis of program documentation
3 August 2016	Eligibility Determination Memorandum issued

- 4.2 As part of the process for determining eligibility, MICI considered the information presented in the Request, the additional information submitted by the Requesters, as well as Management’s Response and Bank documents relevant to this analysis.⁶ Particular attention was paid to identifying the sources of financing for the works that gave rise to the Request, in order to determine with the greatest possible precision whether these works were possibly being carried out with the Program’s local counterpart contributions.
- 4.3 Moreover, a MICI delegation conducted an eligibility mission to Santiago del Estero in Argentina to gather more information firsthand regarding the harm alleged by the Requesters, and to verify in the field the location of the various works involved and their potential links to the Bank-financed multiple-works program.

V. DETERMINATION OF ELIGIBILITY

- 5.1 Under paragraph 22 of the Policy, a Request will be deemed eligible by MICI if it is determined that it meets all of the following criteria:
- (a) The Request is filed by two or more persons who believe that they have been or may be affected and who reside in the country where the Bank-financed Operation is implemented. If the Request is filed by a representative, the identity of the Requesters on whose behalf the Request is filed will be indicated and written proof of representation will be attached.

⁵ Management’s Response, page 1.

⁶ The documents analyzed are available in the electronic links section of this Memorandum.

- (b) The Request clearly identifies a Bank-financed Operation that has been approved by the Board, the President, or the Donors Committee.
 - (c) The Request describes the Harm that could result from potential noncompliance with one or more Relevant Operational Policies.
 - (d) The Request describes the efforts that the Requesters have made to address the issues in the Request with Management and includes a description of the results of those efforts, or an explanation of why contacting Management was not possible.
 - (e) None of the exclusions set forth in paragraph 19 of this Policy apply.
- 5.2 In the case of Request MICI-BID-AR-2016-0104, the analysis of criteria consisted of the following:
- (a) The Request was presented by the Requesters' representative, who furnished documentation signed by them as proof of representation. The identity of the Requesters was also authenticated. In view of the confidentiality request, the identifying information available in the MICI files cannot be disclosed. **MICI finds that this criterion has been met.**
 - (b) The Request identified as a potential cause of the harm the project financed under the "Norte Grande Provinces Development Program: Water and Sanitation Infrastructure" (AR-L1136), approved by the Board of Executive Directors on 13 September 2012. In its Response, Management stressed that the Bank-financed project neither included the works that were the subject of the Request nor provided for resettlement actions. Within reasonable search parameters, MICI found no documentation tying the works that were the subject of the complaint to the Program in general or the project specifically. **Consequently, MICI finds that this criterion has not been met.**
 - (c) The Request describes the harm caused to the Requesters and that they expect to experience due to the works that are the subject of the complaint. In their Request, they also establish a potential link with the Operational Policy on Involuntary Resettlement (OP-710). **MICI finds that even though this criterion is strictly met, the absence of a link to a Bank-financed Operation prevents its application.**
 - (d) The Request describes the efforts that the representative made to present the complaints to Management. **MICI finds that this criterion has been met.**
 - (e) None of the exclusions stipulated in paragraph 19 apply.
- 5.3 Specifically, Management's consideration of the applicability of the exclusion relating to paragraph 19(c) is worthy of mention. Said exclusion establishes that particular issues or matters that have already been reviewed by MICI will not apply, unless justified by new evidence or circumstances not available at the time of the initial Request. In its response, however, Management failed to analyze the reason why Request MICI-BID-AR-2016-0097 was declared ineligible.
- 5.4 As noted in paragraph 2.1 above, the Requesters withdrew their complaint after the eligibility process had been initiated. Since the MICI Policy does not address all situations that may occur in a MICI process, the Director of the Mechanism determined that it was ineligible on grounds that there was no complaint, since in effect there was no Request to analyze. Consequently, the particular issues or matters of the Request were not reviewed, since it did not exist at that time. With respect to the reactivation of the complaint, there was cause for the process, which was in fact duly analyzed in this document. **Consequently, MICI finds that exclusion 19(c) does not apply.**

- 5.5 Upon conducting the corresponding analysis, the MICI Director has determined that Request MICI-BID-AR-2016-0104 **is ineligible**, since it fails to meet one of the eligibility criteria established in paragraph 22 of the MICI Policy, namely the work that was the subject of the complaint and the alleged harm caused are not part of a Bank-financed Operation.
- 5.6 This determination of eligibility is neither an assessment of the merits of the Request and the issues raised therein, nor is it a determination of the Bank's compliance or noncompliance with its Relevant Operational Policies.

VI. CONCLUSION AND NEXT STEPS

- 6.1 In accordance with Section G of the MICI Policy (document MI-47-3), the MICI Director concludes that Request MICI-BID-AR-2016-0104 **is ineligible** since it does not meet one of the eligibility criteria required by the Policy.
- 6.2 Notice of this determination is given directly to the Requesters, Management, and the Board of Executive Directors by means of this Memorandum, and to interested third parties through the Public Registry, once distributed to the Board of Executive Directors. The processing of this Request is concluded with this action.