Siemens Q&A

Q. What was agreed to as part of the Settlement?

A. The Settlement includes a commitment by Siemens to pay $100 million over the next 15 years to support anti-corruption work, an agreement not to contest the four-year debarment for Siemens’ Russian subsidiary, and a two-year voluntary restraint by Siemens from bidding on Bank Group business. The two-year voluntary restraint period runs from 1 January 2009 through 31 December 2010.

Siemens also agreed to co-operate to change industry practices, clean up procurement practices and engage in collective action to fight fraud and corruption. Siemens will also provide information on any additional cases of wrongdoing to the Bank’s Institutional Integrity Vice Presidency (INT), which investigates fraud and corruption in Bank Group-financed activities.

Q: Has Siemens AG been debarred or otherwise sanctioned by the Bank?

A: No. The Bank has not debarred or otherwise sanctioned Siemens AG. As part of the Settlement, Siemens AG has agreed that it and its consolidated subsidiaries and affiliates will voluntarily refrain from bidding on World Bank Group business and projects. For further information on the nature and scope of the voluntary restraint that Siemens AG has agreed to, please see the Settlement Fact Sheet linked here which provides basic information about the parameters of the voluntary restraint. However, contracts with the Siemens Group during the period of voluntary restraint will not be eligible for World Bank Group financing.

As part of the Settlement, Siemens AG agreed that OOO Siemens, a Russian subsidiary, would not contest a sanction of up to four years against OOO Siemens and its controlled subsidiaries. OOO Siemens and its controlled subsidiaries were accordingly debarred on 25 November 2009 for a period of four years which will end on 25 November 2013.

Q: Can Siemens act as a third party supplier or sub-contractor for bidders on World Bank Group financed projects?

A: Siemens may neither be a ‘nominated’ sub-contractor, manufacturer or supplier (different names are used depending on the particular bidding document), nor a sub-consultant to a consulting firm. That means a sub-contractor, manufacturer or supplier who has been 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. ‘Nominated’ sub-contractors are identified in the bid. This applies as well to the submission of Expressions of Interest (EOIs) and to the short-listing process for the selection of consultants.

Q: Can Siemens continue to do business with the Bank Group through its subsidiaries?

A: The voluntary restraint applies to all Siemens AG’s consolidated subsidiaries and affiliates. Broadly speaking, this means that any entity that Siemens AG directly or indirectly controls may not bid on Bank Group business or projects during the voluntary restraint period.
Q. What will happen to Siemens’ existing contracts financed by the World Bank Group?

A: Siemens may continue to perform under existing contracts. However, any change to those contracts is subject to approval by the World Bank Group. The Bank has established criteria for staff to decide whether or not to approve these changes. Minor changes such as short time extensions, for example, would normally be allowed, while changes in the scope of work will generally not be allowed.

Q. Does the settlement affect projects that the World Bank is co-financing?

A: The settlement agreement applies to all activities financed in whole or in part by the World Bank Group (WBG). Therefore activities jointly financed by the WBG and others (ie, the WBG and its partners are each financing an agreed portion of the cost of the same activities) fall under the scope of the Settlement Agreement and, if precluded under the terms of the Voluntary Restraint, Siemens will refrain from participating in those activities. Activities financed entirely by a government or any other financial institution are not affected, even if they are being undertaken as part of the same ‘project’ (this arrangement is sometimes called “parallel financing”). Specific Procurement Notices are always related to activities that come under Bank financing only.

Q: Does the settlement agreement apply just to the World Bank proper (ie, IBRD and IDA) or to the entire World Bank Group?

A: The settlement agreement applies to the International Bank for Reconstruction and Development (IBRD), International Development Association (IDA), International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA). It does not apply to the International Centre for the Settlement of Investment Disputes (ICSID), since ICSID does not finance projects. The agreement also applies to World Bank Group corporate procurement—the procurement that the Bank Group undertakes for its own facilities and operations.

Q: How does the Settlement Agreement apply to projects financed by the WBG’s private sector operations (IFC, MIGA, and IBRD / IDA Partial Risk Guarantee products)?

A: With respect to projects financed or guaranteed by IFC, MIGA and IBRD or IDA partial risk guarantees (“PRG”), the Settlement Agreement precludes Siemens from acting as a sponsor, a project/investee company, a borrower or the direct beneficiary of a WBG guarantee of any nature. Siemens may still act as an Engineering Procurement and Construction (EPC) contractor or a downstream supplier under IBRD or IDA PRGs, and IFC and MIGA-supported projects, if Siemens provides certain representations and covenants regarding its integrity compliance to the WBG on request.

Q: Will the voluntary restraint apply to special funds (ie, Trust Funds) for which the Bank acts as trustee?

A. Yes, trust funds are covered by the voluntary restraint when the activities they are financing are subject to the Bank's procurement policies and eligibility rules and/or sanctions regimes; this includes all trust funded activities that are executed by external recipients, where the transfer of funds are governed by a Grant Agreement specifying that Bank policies and procedures apply.
When Trust Funds are administered in any manner by IFC or MIGA, Siemens may act as a supplier but not as a sponsor.

**Q: How is the Bank implementing the settlement on its side?**

A: Siemens has the principal responsibility for implementing the Settlement Agreement, but the Bank has taken a number of steps to facilitate the implementation. The Bank has alerted its borrowers to the settlement and provided basic information about the parameters of the voluntary restraint. Bank staff have been informed as well, in particular task team leaders and procurement staff who are responsible for clearing ‘no objections’ to bid awards and conducting post-reviews. A ‘SWAT’ team has been formed with deal with issues related to the settlement as they arise that cannot be resolved by line staff.

**Q: We would like to propose a project for financing under the $100 million Integrity Fund. Who should we talk to about applying for a grant?**

A: The Siemens Integrity Initiative will support projects that prevent and fight corruption and fraud through training and education as well as collective action, in which companies and institutions build alliances to achieve clean markets and fair competition. The selection process will favor projects having a direct impact on the private sector and the business environment and that aim, among others, to strengthen compliance standards and legal systems.

Organizations eligible for funds include non-profit organizations, such as non-governmental organizations (NGOs), international organizations, associations and universities. Expressions of interest for funding must be submitted to Siemens at latest by January 31, 2010. Shortlisted projects will be invited to submit a full proposal. The World Bank Group will have audit rights over the use of these funds and veto rights over the selection by Siemens of anti-corruption groups or programs receiving funds. Additional information on the application process, templates for submission of Expressions of Interest (EOIs), eligible project categories, and selection criteria is available at: www.siemens.com/integrity-initiative.