

SIDEBAR 2

What the Witnesses Said

Note from the PCIJ: *What follows are excerpts from the “Record of Interviews “ with some of the witnesses who met with the investigators of the World Bank's anti-corruption unit, Department of Institutional Integrity (INT). on the alleged fraud and collusion in the National Road Improvement and Management Program-1 (NRIMP-1) projects. The interviews were separately conducted between April 2003 and November 2006 in the Philippines, Japan and South Korea.*

Date of Interview - **28 April, 2003**
Interviewee/s - **William Paterson**, lead highway engineer – World Bank East Asia and Pacific region; task team leader for the Philippine National Road Improvement Project Phase 1(NRIMP1)
- **Denis Robitaille** , regional procurement adviser
Interviewers - Mike Richards and Athene Vila-Boteler

Paterson told INT about two incidents in the NRIMP1 that caused him to believe there was collusive bidding in the project: He had heard from 'informal sources' that government officials usually took 3% of the contract value in kickbacks, but learned in the discussions on five contracts for bidding, the demands had increased to 10%.

He said the DPWH secretary who assumed power in January 2001 had a 'much better reputation for honesty' than his predecessor but the replacement in January 2003 was “for the worse.”

The large variation in unit prices alerted him to the possibility of collusion in the bidding. He noted overpricing of materials like asphalt, which was around 50% higher than it should be. The cost of concrete that should be around P700 to P800 per cubic meter was charged P1,100 to P1,400 per cubic meter and the cost of clearing and grubbing was charged P290,000 per hectare when it should only be at P40,000 per hectare.

Paterson raises the possibility that the government, through the DPWH, is actively involved in the collusive arrangements, noting that the bill of quantity (BOQ) is not being reviewed. The excessive pricing of materials, he noted, still conform with the Owners Estimate that is held by the Bureau of Construction.

Paterson found it odd that two local senators have gone to the press to announce the result of the bid evaluation even before the results were published. One of the bidders was rejected because it submitted bogus documents.

According to Paterson, he has “sources” who told him that DPWH takes 10% while senators intend to get 10 – 15% cut of the contract price.

The projects under suspicion of collusion are all in Mindanao. Paterson noted that the DPWH secretary, his deputy, and the project manager that time were all from Mindanao.

Paterson described his sources to INT, including their proximity to the events at issue, but did not identify them by name.

Date of Interview - **17 March, 2005**
Interviewee/s - **William O. Paterson**, task team leader
Interviewer/s - Merly Khouw, Athene Vila-Boteler, Christian Kammer, Annie Yau and Thilda Outhuok

It was suggested that there be an independent analysis by an engineer to benchmark the prices and check against excessive price distortions. Paterson was asked if the Philippine President's personal interest in the project was related to the alleged involvement of her husband as alluded to in the complaint. He said his impression was that it was not as the timing of the government's complaint was circumstantial to the CG meeting in Mindanao, the location for one of the road packages in question.

EC de Luna, considered as a fairly young contractor with good connections at DPWH, did not qualify on its own merit so it had to tie up with China Road for the 2nd bidding for the 1.6 package.

Date of Interview - **3 August, 2005**
Interviewee - **Shingo Nakamura**, vice president, Yoshida Construction Co.
Interviewers - Tim Carrodus / David Hawkes / Michael Kramer

Nakamura filed a complaint against Eduardo C. de Luna and Augusto Miranda, alleging that the two defrauded Yoshida by falsely representing E.C. De Luna as having been already awarded the contract when in fact it had not. Nakamura said he paid de Luna and Miranda P2 million (about \$40,000) in exchange for a P592-million subcontract on a World Bank-financed project (NRIMP-1, CW-RU 1.6) in 2003.

The business environment in the Philippines, he said, is “very dirty,” “as Japan had been 20 to 30 years ago.” All contract awards require “undertables” or corrupt payments. A “syndicate” organized by de Luna with Miranda, local politicians, and other bidders selects the winning bidder or the “champion.” The champion then pays the losing bidders one to three percent of the contract price.

Contract prices are inflated 25 to 35 percent to cover the cost of bribes that must be paid to various parties, including First Gentleman Mike Arroyo, certain politicians, DPWH officials and others. As a result, contractors must cut back on quality and safety in the construction of roads.

Nakamura first met Eduardo De Luna and Tito Miranda in 2002 through Yoshida's agent, “Trix” Lim. Yoshida signed a P592-million subcontract with De Luna in Feb. 2003, and paid the \$40,000 in cash in local currency in April 2003 to Miranda. Miranda was always asking for contributions to the DPWH Secretary and Mike Arroyo.

Yoshida paid a total of about P10 million to a variety of people: P100,000 for Sen. Barbers, P200,000 during Christmas, etc.

E.C. de Luna was Mike Arroyo's man. He travelled with Mr. Arroyo, the President, and Tito

Miranda to Japan. E.C.de Luna organized a syndicate to control the award of contracts. Miranda is involved as an intermediary for Sen. Barbers.

All the companies that participated in the preliminary qualification process had to be a part of the syndicate, especially the Chinese and Korean. Members of the syndicate – bidders, politicians, DPWH officials, Lim. De Luna, and Miranda – would congregate at the Diamond Hotel every three days to discuss the contract awards.

Contract prices were inflated 25- to 35- percent over the actual costs to generate funds for necessary payments which included the following:

- 1 percent to the Malacañang Presidential Palace (Nakamura said this meant the “Cabinet”)
- 5 percent to Senators (including Sen. Barbers and Sen Rebeira (Revilla?) and his son)
- 5 percent to Mike Arroyo
- 1 percent to DPWH personnel
- 1 percent to DPWH director
- 3 percent to other local officials, mayors, etc.

Contractors also had to make payments of P100 to P300 to government pay clerks. Inspectors were also paid relatively small amounts. Some of the bribe funds came from the 15-percent mobilization payment to contractors at the outset of the contract.

Nakamura introduced Mr. Suzuka of Suzuka Construction Co. to the Philippines after Suzuka heard that it was easy to get contracts because of the syndicate arrangement. Mr. Washo of EIWA Construction was also introduced.

Date of Interview - **5 August, 2005**
Interviewee - **Tomatu Suzuka** -president, Suzuka Construction Co. Ltd.
- **Masaki Suzuka** – manager
Interviewers - Tim Carrodus, David Hawkes and Michael Kramer

Suzuka's Philippine office ceased to have business involvement in the Philippines after it had “various issues” three years before the interview. Tomatu Suzuka cited the foreign exchange issues and damage to reputation among the issues his firm withdrew from the Philippines in November 2002.

He said he met with Senator Barbers and Mike Arroyo and “first discussed bribes” but had a “rough approach.” He said he “learned that money was important to do business in the Philippines, which was a “fundamental difference in the way of thinking.”

A certain Mr. Lim, Suzuka's agent, said Suzuka would have to pay to get a contract, and that dollars would settle problems with the World Bank. He mentioned 2 – 3% to obtain credit or financial support.

Suzuka said he met Lim four years ago (2001) at Diamond hotel. There were policemen and government officials present when they discussed payments. A certain Tito Miranda was also with Lim's group. Suzuka said he met Sen. Barbers separately. He said he thought Tito was a

secretary of Barbers. Tito asked Suzuka to pay for Barbers' trip to Japan, but that he refused. He said local contacts introduced him to Barbers.

He identified one Trix Lim as the person he was dealing with in the Philippines.

Suzuka even recalled a meeting with Barbers on an island in the Philippines while President Arroyo was delivering a speech and welcomed the Japanese companies. He said he had no contact with President Arroyo.

Suzuka said it was made clear to him that there would be no business in the Philippines without paying money. Money would have to be paid as high up as the president, senior government officials and politicians in order to do any further business in the country. To win a contract, it would also be necessary to pay the head of the bureau (PMO?) and politicians several million yen.

Suzuka said he knew that the President's husband handles her business, as what he had heard from local companies and the consultant who prepared the documents for the bidding. However, he said he had no specific information or any direct evidence of any money being paid to somebody specifically.

When shown the bid documents for the contract, Suzuka said his signatures were forged.

Date of Interview - **8 August, 2008**
Interviewee - **Kyung Hwan Ko** – trade service department, Shinhan Bank
Interviewers - Athene Vila-Boteles and David Hawkes (in Seoul, Korea)

Ko told the INT that the bid guarantees submitted by Dongsung Construction Co. Ltd. were forged. The document was signed by one Byung Jin Kim, a regular officer of the bank, not a general manager. In addition, Ko said a signature by Shinhan staff on a document would not be in Korean characters, but in English. The letter head of the document was also not correct and that the bank guarantees it issues do not have the guaranteed sum printed on the side. He said the bank does not have a business relationship with Dongsung, which had been bankrupt.

Date of Interview - **8 August, 2005**
Interviewee - **Young Min Noh** – general manager, marketing division -Shingsung Engineering and Construction Co.
Interviewers - Tim Carrodus and Michael Kramer

Noh said he was not familiar with details of the company's operations in the Philippines, having worked in the last six years in the Middle East. His company received two World Bank contracts in the Philippines.

Date of Interview - **9 August, 2005**
Interviewee - **Choong-Jo Oh**, general manager- overseas civil project team, Daewoo E&C
Interviewers - Tim Carrodus and Michael Kramer (at Daewoo head office in Seoul)

Oh said he has heard about problems in the Philippines such as bid rigging but has no personal knowledge about it. He said infrastructure projects are simple and the Chinese companies are very aggressive. Korean companies cannot compete in open tender because of their wage rates

and longer depreciation schedule – Korean companies have 10 years compared to Chinese firms' four years.

Date of Interview - **9 August, 2005**
Interviewee - **M. G. Kwon** - overseas business department/ senior vice president, Hanjin Heavy Industries & Construction Co. Ltd.
- **Hyun Woo Ko**, overseas business team manager
- **B.D. Park**, senior vice president -international finance
Interviewers - Tim Carrodus and Michael Kramer (in Seoul, Korea)

Kwon and Ko both said they have never heard of Suzuka Construction. The Philippine road construction market is difficult for Korean companies. The Chinese companies are 'quite aggressive' while the local companies have political connections.

Date of Interview - **15 August, 2005**
Interviewee - **Min Young Lee** - general manager, Dongsung Construction Co. Ltd, Manila
- **Angelico “Bong” Teraga** - office engineer/project coordinator
Interviewers - David Hawkes and Athene Vila-Boteler

Dongsung Construction was one of the losing bidders in the second round of bidding for contracts 1.4B and 1.6 of NRIMP-1.

INT found Dongsung's bid security was forged. Teraga and Lee acknowledged having prepared the bid documents for both contracts, but said the Shinhan Bank bid securities came from the head office in Korea.

Date of Interview - **17 August, 2005**
Interviewee - **Oscar Mercado**, vice president – marketing and engineering, EEI Corp.
- **Ferdy M. del Prado**, group manager – marketing and proposal
Interviewers - W. Michael Kramer and David Hawkes

EEI does not usually take part in DPWH controlled projects because of the bad reputation of DPWH and because of the perceived system of collusion governing awards. EEI took over from Philrock, Inc.'s contracts with DPWH. It participated in the 1.4B and 1.6 contracts in joint venture with Hanjin.

Date of Interview - **18 August, 2005**
Interviewee - **Manuel M. Bonoan**, undersecretary - DPWH
- (Raul) **Asis**, assistant secretary
Interviewers - Tim Carrodus and Athene Vila-Boteler (at 17th floor, Shangri-la Hotel, Manila)

Undersecretary Bonoan acknowledged the existence of a major problem in the bidding for WB-funded road projects. He said, “We know they are doing it. We know that they are talking to each other, we can see the pattern, but we don't know how to document it.”

He said collusion has been talked about a lot, but DPWH have problems documenting it. The interference of politicians, he said, is “where the problem begins.” He told the INT, “We know all these things; everybody demands money from the contracts so the contractors have to recoup by increasing prices.”

Date of Interview - **18 August, 2005**
Interviewee - **Engr. Lambert Lee**, president, Cavite Ideal
Interviewers - W. Michael Kramer and David Hawkes

Gist: Lee denied the existence of a syndicate and the rigging of bids. Later in the afternoon, he called Athena Vila-Boteler of the INT to request for a second meeting and said the idea of the existence of a syndicate insulted him deeply.

Date of Interview - **19 August 2005**
Interviewee - **Fu Yu Cheng**, president- China State (Phils) Construction and Engineering Co.
Interviewers - Tim Carrodus and Michael Kramer

Fu, who had spent eight years in the Philippines, told INT that it was difficult to do business in the country, particularly in public projects. He noted that China State had withdrawn from Packages 1.4B and 1.6, but refused to explain why. He said no one gave him a price to bid as a losing bidder; neither was China State paid to lose a bid.

Date of Interview - **1 November, 2006**
Interviewee - **S.J. Kim**, general manager-civil department
Heunghwa Industry Co. Ltd.
Interviewers - Tim Carrodus and Edil Dushenaliyev (in Seoul, Korea)

Heunghwa submitted bids for the 1.4B and 1.6 contract packages, but was found ineligible to bid. The INT found that unusual, given the size of the company and its capacity to bid for large-value contracts. The DPWH cited the company's lack of experience in construction projects.

Date of Interview - **1 November, 2006**
Interviewee - **Kuk Jung-Soo** -deputy general manager, Keangham Enterprises Ltd.
Interviewers - Tim Carrodus and Edil Dushenaliyev (in Seoul)

After INT explained its findings of collusion in biddings, Kuk said that the business environment in the Philippines is difficult and that Keangham intend to withdraw from the country. The company is unprofitable, he said.

One of the biggest problems, according to Kuk, is that the length of the roads put up for bidding is too short to be commercially feasible for the company. The scope of the road construction could be initially 100 kilometers and the value of the contract could be up to \$60 million, but when the company buys bidding documents, the length of the proposed road becomes just 20 kilometers.

The company most likely withdrew from the bidding not because of collusion, but because of lack of profitability. Kuk, however, did not rule out that the firm could have withdrawn because of corruption.

Date of Interview - **2 November, 2006**
Interviewee - **Young-Myung Noh** – general manager, marketing division – Shinsung Engineering & Construction Co., Ltd.
Interviewers - Tim Carrodus and Edil Dushenaliyev (in Seoul, Korea)

Noh mentioned that the company's former branch manager in the Philippines had left the Philippines under difficult circumstances but he refused to provide the manager's contact information. He said he was not aware of the details of his company's bids in the Philippines, but had been told of collusion where companies were told to put in a bid even if they were going to lose. He said his company reluctantly participates in such tenders because it did not want to be blacklisted informally from future bidding by the DPWH.

INT wanted to find out why Shinsung withdrew from the second round of bidding for package 1.4B and discuss the contract it won for the rehabilitation of the Buug-Kabasalan section of the Zamboanga-Pagadian road. The company had been implicated in collusion on both projects.

Date of Interview - **2 November, 2006**
Interviewee - **O.Y. Kwon** - general manager, overseas civil team-Daelim Industrial Co. Ltd.
- **Hun-Tak Kim**- general manager , overseas civil engineering department
Interviewers - Tim Carrodus and Edil Dushenaliyev (at the company's office in Seoul)

Kwon and Lim told the INT that Daelim never took part in a collusive scheme and that the company was involved only in plant building and operations projects in the Philippines. They said there are many powerful people around the President of the Philippines who determine the outcome of bidding on road contracts. Because of that, Daelim does not participate in road tenders. Daelim withdrew from the first round of bidding for the 1.4B project because they could not accept a proposal from a powerful man. However, he did not know the name of that person whose supposed agent contacted the company's representative at his hotel in Manila and offered his services to win a package, in exchange for an unsolicited bribe of an unreasonable amount. Kim said he did not know the powerful people behind the road projects, but assumed they could be retired generals.

Date of Interview - **2 November, 2006**
Interviewee - **Pan-Seop Lim** -team manager, Daewoo E&C
- **Eun-Yong Chang** - assistant manager, overseas sales and marketing team
Interviewers - Tim Carrodus and Edil Dushenaliyev (at Daewoo's head office in Seoul)

Lim said he had little knowledge of the details of the allegations of collusion in the bidding of the Philippine road projects. He expressed surprise about bidding pre-arrangement and high level political interference in the WB-financed project. INT said Daewoo could be implicated and that the meeting was an opportunity for them to cooperate by responding to its findings of collusion. Lim said he was not involved in the bidding preparation and that he was not the right person to be asked why the company did not participate on a contract. Lim said the company's involvement in the alleged collusion was insulting and that he was not prepared to hear that.

Date of Interview - **3 November, 2006**
Interviewee - **Hyun-Woo Ko** – manager, Hanjin Heavy Industries
- **Nack-Young** - deputy manager, overseas business marketing team
Interviewers - Tim Carrodus and Edil Dushenaliyev (in Seoul, Korea)

Hanjin placed bids for two packages, one in joint venture with EEI. Both packages were re-bid three times, and the analysis of the bids had shown collusion in the process, with senior level government officials allegedly involved in pre-arranged procurement.

Ko said the competition was very strong in the Philippines and that he was not aware of any cartel operating in the country.

Date of Interview - **3 November, 2006**
Interviewee - **Jeong-Sam Kim** – team manager, overseas operation team – Sammi Construction Co., Ltd
- **Jae-Yong Heo** – department manager, civil engineering team
Interviewers - Tim Carrodus and Edil Dushenaliyev (in Busan, Korea)

INT indicated that Sammi could be implicated in collusion in the third round of bidding for contract packages under NRIMP 1 project in the Philippines. Sammi bid for 1.6A and 1.6B contract packages, but was unsuccessful.

Kim told the INT that he heard from the Manila branch office that corruption was a very serious issue in the country, but he said the company never paid a bribe. The company did not win a single contract although it pre-qualified for four packages under the NRMP 1. He said Chinese companies were acting aggressively in the Philippines, driving the costs extremely low and squeezing out their competitors. For this reason, only a few Korean companies compete with the Chinese on the same tender.

While saying that the company prepared its bid independently of other bidders, Kim admitted to INT that his company had to participate in a collusive scheme out of a concern of being blacklisted and denied future work from DPWH.

Date of Interview - **7 November, 2006**
Interviewee - **Yu-Tae Kim** – director/authorized representative, Manila branch office-Sammi Construction Co., Ltd
Interviewers - Terry Matthews, Tim Carrodus and Edil Dushenaliyev

Kim told the INT that he heard from third parties about “unordinary” bidding on the NRIMP packages. He denied that his company was told to put in a losing bid. When told of possible consequences Sammi may face in case of non-cooperation, Kim started to show signs of anxiety and stayed nervous through the rest of the interview, according to INT. Sammi had the highest bid for both the 1.6A and 1.6B packages. INT said the proposed winner was known one week before the opening of bids. Kim explained its bids were very high because it incurred huge expenses to establish its Manila office but it had to participate in the bidding so as to stay visible in the DPWH radar and not be excluded from future biddings.

Date of Interview - **7 November, 2006**
Interviewees - **Xie Wen Peng, general manager, China Wu Yi Co. Ltd.**
- **Wu Yi Bao** -deputy general manager
Interviewers - Tim Carrodus and Edil Dushenaliyev

Xie said nobody called or exerted pressure on the company and that it was usual among Chinese companies to call and ask each other whether they are going to bid. However, they never shared their bid price with others. He denied paying money to secure the contract. But he sometimes gave Christmas presents and invite project officials over lunch or dinner. He said he could not complain about the business environment in the Philippines and noted it is no different than in other countries.

Date of Interview - **8 November, 2006**
Interviewee - **Suh Seung Wong** – general manager, Sinsung Engineering & Construction Co. Ltd.
Interviewers - Terry Mathews, Tim Carrodus and Edil Dushenaliyev

Wong said he had been in the Philippines for 15 years and found it very difficult to do business in the country. He said some corruption exists, but that he had no evidence to corroborate it. He said he encountered corruption only with the traffic police. He said Shinsung withdrew from the second round of bidding for the 1.4B package because the head office in Korea failed to provide a bid security on time and that the project would overlap with other projects of the company.

Date of Interview - **8 November, 2006**
Interviewee - **Kim Won-Ho** - general manager-Manila branch office, Daewoo E&C
Interviewers - Terry Matthews, Tim Carrodus and Edil Dushenaliyev (in Manila)

Kim recalled that a local politician made him attend a hearing in Congress involving Daewoo's subcontractor on the Halsema project in Benguet. He said the politician probably wanted to get a portion of the contract to be assigned to a local subcontractor in the area. He said it is a practice in the country for local contractors and government officials to ask to be included in the contract with international companies. Kim said Daewoo could have been disqualified in the 2005 pre-qualification bid for the 1.4A and 1.4C contract because of the INT's suspicion that it did not want to be part of the collusive scheme on the two packages.

He said local politicians have a vested interest in having large value contracts sliced into smaller package for re-election purposes, and that some, but not all, of the politicians may extract money from smaller contractors to fund their re-election campaigns.

Asked what he knew about EC de Luna Construction, Kim said a person he refused to name told him that EC de Luna could be involved in bidding pre-arrangements and that the Bank's investigation was triggered by a congressman who wrote a letter to the DPWH.

Date of Interview - **8 November, 2006**
Interviewee - **Li Peng**, general manager-China Geo-Engineering (Phil) Corp.
Interviewers - Terry Matthews and Tim Carrodus

Li talked about payment of revolutionary tax to NPA rebels. “The NPA demand a revolutionary tax in order that you can work and protect your machinery and workers. If you have a contract in their areas you have to negotiate. A fee is fixed. If you disagree, then you are summoned by a NPA liaison officer to a meeting, blindfolded and taken to a mountain area and there you meet the NPA people who tell you what the fees or revolutionary taxes are. If you don't accept you get a bullet in a letter, then a bullet.”

Li also said there were instances when he had to talk to the mayor, governor and congressman to do work in their areas, to be allowed to use the roads. “If you do not cooperate with these politicians, they arrange for your contract to be terminated and rebid and so on.” He said he had to pay “protection fees or commissions” to do work in the project sites.

“Japanese, Korean and Chinese all bid low, then transfer the risk by selling the contract on for a

management fee, they do not do the work they win the contract by diving low and then sell to local contractor or a stranger. There are some Chinese companies, no qualifications bid very low and sell to Korean and Chinese. The one who does the work gives fee – maybe 8% of contract price. The project suffers and the contractor who buys has a loss.”

Li said he “paid some money,” 10 percent of contract price, to Sen. Barbers and Tito Miranda who promised to help him. He said he had also talked to Congressman Pichay and asked him if he could assist in getting the contract.

The protection fees or commissions are booked as consultant's fee, legal expenses or even donations.

Date of Interview - **8 November, 2006** and **15 November, 2006**
Interviewee - **Noelito D. Policarpio**, R.D. Policarpio & Co., Inc. [Philippines]
Interviewers - Terry Matthews, Tim Carrodus, and Tom McCarthy (11/08/06)
- Tim Carrodus, Tom McCarthy, and Edil Dushenaliyev (11/15/06)

R.D. Policarpio & Co., Inc. (Policarpio Co.) participated in the NRIMP project in the following packages: 1.4A, 1.4C and 1.4B (third round).

The involvement of politicians in the awarding of contracts had increased, said Policarpio. In many instances, politicians organize biddings and contractors work together to set how bidding process will turn out.

Contractors obtained the price of the contract by paying bribes to individuals of the implementing agencies. All the bidders would then coordinate which contractor would win the bid. This is referred to as the “standard operating procedure” or “S.O.P.”

Now, however, politicians heavily influence the S.O.P. by supporting particular contractors. A politician’s support is obtained through a sort of an auction where the contractor willing to pay the highest price gets the necessary political support. This system favors the rich, foreign contractors who can outbid local firms.

Policarpio stated that the contractors have had to take part in the corrupt scheme in bidding on all projects in the Philippines that are funded by the World Bank, JBIC, and ADB, as well as locally funded projects.

National Road Improvement and Management Project:

- Packages 1.4A and 1.4C

Policarpio explained that the government rejected the application because it could not supply the proper quantity/quality of cement. This, Policarpio said, was merely a pretext, used to make sure that his company did not “play the game.” INT understood this as his company’s exclusion from the bid collusion that would be formalized by the bidders.

Pre.-qualification, according to Policarpio, is based on “who you know” – not experience. The company had to be close to certain government officials and

politicians. If the company does not cooperate, they can “kick you out.”

- Packages 1.6 (First Round)

INT asked Policarpio why his company withdrew from the bidding even if it was pre-qualified. He said he “just didn’t have the time.”

INT also asked Policarpio if the reason for his withdrawal was because he knew that he was not going to win so he just gave up early. Policarpio did not agree with this. But he admitted, “they tell me how to bid.”

- The ABC’s of the Collusive Bidding Scheme

The bid collusion involves an entire plutocracy, according to Policarpio. “We will talk to each other, and decide who will get the contract. Sometimes will (agree to) have a small contractor get pre-qualified for strategic reasons.”

Policarpio knows that Tito Miranda and Boy Belleza both actively work to manipulate bidding. He said that Eduardo de Luna is “behind” Tito Miranda and “Mr. A” is “behind” de Luna. Mr. A is Mr. Mike Arroyo, Policarpio said.

Policarpio said that de Luna takes an active role in arranging collusive bid schemes in behalf of contractors and politicians. The late Senator Barbers used to be active in using his influence to participate in collusive bid schemes. These activities are now continued by the Barbers sons. Senator Barbers initially used Tito Miranda to arrange his schemes, but later on used de Luna.

Miranda realized that de Luna is very close to Mr. Arroyo, and has now formed a partnership with de Luna in making arrangements on collusive schemes in behalf of the Barbers sons.

Mr. Arroyo is very powerful and places officials in positions, and these officials do what he wants. Policarpio also said he does not believe that Mr. Arroyo’s wife is aware of his corrupt actions.

In large government projects, Policarpio said that the process is completely fixed. Prices and winners and losers are determined before the bidding even takes place. Foreign contractors approach politicians and outbid the Philippine companies.

Policarpio explained that before, contractors would meet among themselves but now, the decision regarding who will win the contract is made not by contractors but by politicians through the results of the “influence action” system.

Losing bidders are paid off by the winning bidder. Politicians would then receive their S.O.P. monies from the contractor’s advance payment, in accordance with the percentage that they have previously negotiated on. Two politicians are usually involved: the politician whose area is hosting or affected by the contract and the politician who controls the implementing agency.

For the collusive schemes to work, Policarpio said that the implementing agency must work with the scheme. The DPWH Secretary exercises a very large influence on the schemes and plays a significant role in their success.

All payments are paid in cash.

Meetings take place at the Diamond Hotel and at a hotel near the U.S. Embassy in Manila. The last meeting Policarpio attended was two weeks ago (check date of interview) at the Diamond Hotel to fix the bidding for a JBIC-funded project.

INT asked Policarpio how he accounted for the S.O.P. payments in his company books. He said he does not worry about accounting for the payments because the company books are all “faked” anyway to avoid taxes.

INT also asked Policarpio what would happen if he refused to participate in the collusive bid schemes. Policarpio said if he does participate, “they” would try to do something to eliminate his company from bidding in future contracts.

Policarpio Co. prepares two bids when tending for a contract: one that conforms with the collusive scheme and one that is a legitimate, “commercial” bid to be submitted in case the collusive scheme falls apart prior to bid submission. Policarpio said he would make the decision as to which bid to actually submit the day before the bid submission deadline.

The joint bid submitted by Policarpio/Pancho/Sebastian joint venture in Package 1.4B on August 8, 2006, was part of a collusive bidding scheme, said Policarpio. Prior to the preparation of the bid, he had a telephone conversation with Clemente Pancho, vice-president for Business Development of the Pancho Co. Pancho informed him that he had received the fixing price from the “arrangers” and that he would prepare the bid to reach the predetermined price.

Consequently, Policarpio understood that the bid was not going to win and that it was not prepared to win.

In a follow-up interview on Nov. 15, 2006, INT asked Policarpio if he was aware if there was a collusive bidding arrangement in the first round of bidding of Package 1.6, where the JV prequalified but withdrew from bidding process. “All bids are fixed,” said Policarpio, noting that the JV in which he was bidding was a designated loser in the scheme.

INT asked him why the JV withdrew from bidding. Policarpio said that many times participants in the schemes would decide that they do not have – or unwilling to devote – the resources and time necessary to prepare the bid package since they know that they are going to lose anyway. The JV withdrew because the companies did not have the time to put together a bid at that time which they knew would be unsuccessful.

Policarpio also informed INT that he did not understand why the DPWH did not use

the ABC formulated by the consultants and used instead used the ABC formulated by its staff. He believes that the ABC's used in these projects are routinely unrealistic.

Date of Interview - **9 November, 2006**
Interviewee - **S.Y. Yoon** - commercial and marketing manager, Hanjin
Interviewers - Tim Carrodus and Terry Matthews (in Manila)

Yoon said Hanjin's bid was higher than that of the winning bidder because Hanjin employs Koreans for its projects while local companies use local labor, which is considerably cheaper. In recent times, he said Hanjin decided not to participate in bidding for IBRD projects because of too much competition. He said his company has interest in water-related projects.

Date of Interview - **9 November, 2006**
Interviewees - **Xu Gian** -CEO/GM, China International Water and Electric Co.
- **Jiang Xiao Hua** - chief engineer
Interviewers -Tim Carrodus, Terry Matthews and Duncan Smith

Xu described the Philippines as “not so easy.” He said that when he took over from the previous general manager in the country, he found the company's finances “very tight,” the material prices were higher, and prices were manipulated by local people, making it difficult to negotiate prices.

He agreed with INT that one of the big problems in the Philippines was the politicians. XQ admitted going “sometimes” to meetings of contractors at the Diamond hotel but said he preferred to keep “clean hands.”

Xu said he knew Senator Barbers and met him in 1994 but only as a courtesy and never talked about projects. According to him, it was necessary to “know people” and keep them “happy.” The local contractors had to pay money to politicians.

Date of Interview - **9 November, 2006**
Interviewee - **Man-Tae Kim** -Keangnam Enterprises, Ltd. (Korea)
Interviewers - Tom McCarthy and Edil Dushenaliyev (in Manila)

Kim explained that the company couldn't compete in the Philippines primarily because the market had many Chinese firms bidding on projects so low that Keangnam cannot get contracts. He also said it is difficult to operate in the Philippines because the government is not “clean.”

The company has had continuing problems in taxes, which are unclear and too high. According to Kim, employees in the Philippines have “a difficult attitude” and are “always striking.”

Date of Interview - **9 November, 2006**
Interviewee - **Junshi Liu**, general manager, China Harbour Engineering Co. (ML China)
Interviewers - Tom McCarthy and Edil Dushenaliyev

The company merged with China Road and Bridge Corp in August 2005, and had changed its name to China Communications Construction Company, Ltd.

It failed to pre-qualify in six packages, pre-qualified but withdrew from bidding in August 2006 on Package 1.6A and pre-qualified and lost in the bidding for Package 1.6B.

Liu described the Philippine government as being “very bureaucratic” on payments and, at time, payments were withheld pending requests for gifts. He found it odd that the government does not favor local contractors. Liu emphasizes the importance of having a good relationship with the DPWH in bidding for projects. But he denied involvement in any discussions with other contractors to arrange bidding, or pricing. He said he had no knowledge of other contractors working together to fix bidding or prices. However, he said there were informal discussions between contractors prior to submission of bids “to exchange views and lessons learned, informally and privately.”

Date of Interview - **10 November, 2006**
Interviewee - **Pil Koo Kang** - general manager-Manila, Heunghwa Industry Co. Ltd (Korea)
Interviewers - Tom McCarthy and Edil Dushenaliyev

Heunghwa submitted to be pre-qualified in a joint venture with EC de Luna but was not pre-qualified for packages 1.4C, 1.4B(1st) and 1.6 (1st); and for 1.4B (2nd) and 1.6 (2nd).

Kang said his company has not bid on IBRD-financed projects because it has no chance of winning the contracts. He said he had heard rumors about IBRD-financed projects in the Philippines, that the contractor has to be connected to many people to win contracts. “We are weak, in that sense and do not know the people you need to know to get the contracts.”

He said the contractors must have connections to government officials, and to agents, or messengers of the government officials. He said there are arrangements made between top government officials and contractors to win contracts. He suggested that INT investigate the winning bidders and talk to the losers “because they always have something to say.”

Kang said he had heard of Tito Miranda and Boy Belleza as agents or messengers for top government officials in arranging bidding on contracts. He confirmed that contractors meet with agents and messengers of government officials before the bidding in order to fix the contract tendering process. Kang said he was told that to get contracts, he has to form a relationship with Eduardo de Luna who was supposedly very close to a top government official. He described de Luna as president of a construction company who is very active in making arrangements between government officials and contractors on contracts. He said de Luna wins contracts with Chinese contractors.

Kang identified the government official that de Luna was connected to as Mike Arroyo, through de Luna's father-in-law. He admitted that he never participated in any of these dealings and that his knowledge were based on what Kim, his predecessor, had told him and on rumors.

Date of Interview - **10 November, 2006**
Interviewees - **Wen Yuegang**, general manager/senior engineer, China Road and Bridge Corp.
- **Xiong Shiling**, deputy general manager
Interviewers - Terry Matthews, Tim Carrodus, Duncan Smith and Edil Dushenaliyev

Yuegang said the Philippines was “not an easy place” to work, with NPA and local armed gangs confiscating or restricting access to equipment, and forcing them to pay money. (CRBC's

equipment was burned twice and work forced to be stopped by local armed people.

He denied being instructed by others to put in a specific bid price and stressed that the company's policy is to set its price at a level so that it will not make a loss. He said his company had never been asked to join a collusive group.

Date of interview - **13 November, 2006**
Interviewee - **Gerardo V. Pancho**, president, C.M. Pancho Construction, Inc. (Phils.)
- **Clemente V. Pancho**, vice president-business development; head, estimating department
Interviewers - Tim Carrodus, Edil Dushenaliyev and Tom McCarthy

Gerardo Pancho told the INT that the company experiences problems when it competes against foreign contractors, which are able to outbid his company. The Chinese companies are competing unfairly against other companies by using the influence of local politicians...using the names of politicians. His company does not need any political support even if has a relative who is a congressman (Pedro Pancho of Bulacan). He says his company does not believe in giving money to politicians, and then getting the money back from the project.

Date of Interview - **15 November, 2006**
Interviewee - **Panya Visetnut** - operations and country manager, Italian-Thai Development Public Co. Ltd (Thailand)
Interviewers - Tim Carrodus and Tom McCarthy

The company failed to pre-qualify in six packages and pre-qualified in three others but lost in the bidding.

Panya said it was difficult to do business in the Philippines as a foreigner, and that foreigners themselves present tough competition. He said that while his company could outbid the Japanese firms, he could not submit bids lower than the Chinese companies who can offer lower prices because they are subsidized by the Chinese government.

On the alleged collusion in WB-funded projects, Panya said his company was “ignored” and was never offered a chance to participate in the collusive bid schemes. He complained that the ABC used by the government is unrealistically low, and does not take into consideration special costs such as the revolutionary tax paid to rebels groups.

Panya said Boy Belleza once offered to do 'follow up' services for him for a fee. He denied participating in any collusive bidding schemes or engaging in any arrangement with any other bidder or participating in meetings to designate the winning bidder.

Date of Interview - **17 November, 2006**
Interviewee - **William (Bill) Paterson**, former task team leader East Region, now based in Hanoi, Vietnam
Interviewers - Tim Carrodus, Edil Dushenaliyev, Duncan Smith, Thomas McCarthy and Richard Leonard

Paterson explained the circumstances leading up to the award of the contracts for NRIMP1 projects.

Date of Interview - **21 November, 2006**
Interviewee - **Edward C. de Luna**, EC de Luna Construction Corp.
Interviewers - Tim Carrodus and Edil Dushenaliyev

EC de Luna, in a joint venture with China State, was a proposed winner on one of the contract packages but the World Bank did not concur with the DPWH recommendation. De Luna said he did not participate in the third round bidding for the contract because he did not want to lose money again. He said he 'hates' politicians. He has to pay them and cannot do anything about it. Some politicians, but not all, want to get a share of contracts in certain areas of the country. Asked of his personal experience with politicians, he said he had to hire local subcontractors connected to politicians in some areas. He likened politicians to the NPA rebels extorting money from contractors. But he denied paying politicians. According to him, politicians meddle in locally funded projects, but not on foreign-funded projects because foreign companies fight back if politicians tried to get a cut out of them.

De Luna denied any involvement in bid collusion. He said one of the losing bidders told him about the alleged collusion. But he did not mind it, thinking that losing bidders in the Philippines always complain about winners and get involved in an intrigue. He admitted knowing Tito Miranda, who coordinates the Philippine-Japan Highway Loan Project of the DPWH, and that he has one contract under the PJHL. But he said he did not know Boy Belleza, an assistant director of Region 4A of the DPWH.

Date of Interview - **21 November, 2006**
Interviewee - **Federico S. de Vera** - sales supervisor- marketing department, EEI Corp.
- **Christopher 'Peng' F. Esguerra**, sales supervisor
Interviewers - Tim Carrodus and Edil Dushenaliyev

De Vera said EEI felt it would not be able to meet the pre-qualification criteria, so it entered into a joint venture with Hanjin. In bidding, he said the price is kept confidential before its submission, with very few people in the company knowing about it. Neither de Vera nor Esguerra knew about the alleged bid rigging or the contractors' meeting at Hyatt or Diamond hotels before the bid opening to designate the winners. Both also said they know either Tito Miranda or Boy Belleza.

The EEI officials said there was a delay in the payment of the P43-million locally-funded Pila-Kalayaan project because of a politician who wanted to get subcontracting work for a local company in his area. They said they did not know if money was given to the politician. Esguerra said he was not aware of any politician asking for a kickback from EEI. Inc as when a local politician expresses interest, EEI can subcontract some work, provided the subcontractor can meet EEI standards.

Date of Interview - **21 November, 2006**
Interviewee - **Rodolfo J. Corpus**, former account of Daelim branch office in Manila
- R.S. Corpus & Associates
Interviewers - Tim Carrodus and Edil Dushenaliyev

Corpus said he was not familiar with the details of Daelim's bidding for the World Bank projects. But having worked for many years at the Construction Development Corporation of the Philippines (CDCP), he told the INT that he had witnessed the corruption that attended

infrastructure projects. He said a third of the project money is lost to corruption of government officials and politicians. He said congressmen would immediately ask for 10 percent of the contract amount, especially on locally-funded projects. World Bank projects are no exemption to this. He said collusion is widely known in the construction community and that it involves all parties, including politicians, government officials, bidders, auditors and officials of the Commission on Audit who get one to two percent of the contract amount. He described DPWH officials as hatchet men or pawns who pull the strings. Contractors who do not participate in the collusive scheme do not get any contract at all. He likened the system to an organized crime where winners are known before the actual bidding could take place.

Corpus said corruption starts from the top, and is a by-product of the political system. He mentioned that Mrs. Arroyo appoints retired generals to top and juicy government positions to buy their loyalty, citing the secretaries of transportation and public works among retired generals who were appointed to plum civilian posts.

Date of Interview - **21 November, 2006**
Interviewee - **Petronilo Sebastian** -P.L. Sebastian
Interviewers - Tim Carrodus and Edil Dushenaliyev (at EDSA Shangri-la Hotel)

Sebastian denied submitting a pre-arranged bid for the 1.4B package in a JV with Policarpio and C.M. Pancho and that each contractor submitted its own bid. He did not recall making any side payments to politicians or government officials. But the situation with the NPA, he said, is different. He called them extortionists. He has to pay otherwise the NPA will burn the equipment.

He had experienced some level of corruption but refused to speak further. He said it involved certain government officials and added that INT should understand his position. Contractors who do not obey the system will be disqualified or face other sanctions. "You know what I mean," he said.

Date of Interview - **22 November, 2006**
Interviewees - **Xie Wen Peng** - general manager, China Wu Yi Co. Ltd.
- **Wu Yi Bao** -deputy general manager
Interviewers - Tim Carrodus and Edil Dushenaliyev

Xie and Wu denied being asked by politicians or government (officials) to make illicit payments. Wu said that if they had done so, they would have been immediately fired by their head office management. Peng said he believed that some disgruntled losing bidders were not happy with the results of the third round (of bidding) and probably complained to INT. He said local contractors always do "such kind of talk."

Date of Interview - **22 November, 2006**
Interviewee - Clemente V. Pancho, VP – CM Pancho Construction, Inc.
Interviewers - Tim Carrodus and Edil Dushenaliyev

Clemente Pancho said his firm, as the lead partner in the joint venture with Policarpio and PL Sebastian on the 1.4B package, was responsible for the bid preparation, including site visit and cost calculation. The joint venture was formed to meet pre-qualification requirements that were discriminatory against local contractors and favored foreign contractors. Pancho said neither he

nor any of his staff attended the Nov. 7, 2006 meeting of the contractors at Hyatt Hotel supposedly to designate CM Pancho as winner in the bid for 1.4.A.1 contract. Pancho said it was unfair to implicate his company in collusion based on INT's source and suggested that the source file a complaint to the DPWH or the Ombudsman.

Pancho complained to INT that nobody checks the accuracy of the papers submitted by the Chinese contractors and certified by the Chinese embassy in Manila. He said he was not aware if the Chinese companies made illicit payments to politicians or government officials. The Chinese companies can afford to bid at a loss because they are subsidized by their government.

Date of Interview - **23 November, 2006**
Interviewee - **Kim Won-Ho**, general manager-Manila branch office, Daewoo E&C
Interviewers - Tim Carrodus and Edil Dushenaliyev

Kim said Daewoo was not at any point in time under pressure from DPWH to submit a bid out of fear of being sanctioned. He said the company withdrew from the second round bidding for the 1.4B package because of tougher competition from the Chinese and manpower problems. And having heard of the INT investigation of alleged collusion, the company did not participate anymore in the third round bidding.

Date of Interview - **23 November, 2006**
Interviewee - **Manolito Madrasto** - chief operating officer, permanent secretariat
- International Federation of Asian and Western Pacific Contractors' Association
Interviewers - Tim Carrodus and Edil Dushenaliyev

IFWAPCA is made up of builders' associations in 15-member countries.

Madrasto told the INT, "Those who don't cheat are penalized by the ones who do." He said any sanctions against contractors should be made with due process and that contractors accused of any wrongdoing should be afforded the opportunity to defend their actions.

He said corruption in the Philippines starts with locally-funded projects and has expanded to internationally-funded projects. He noted that at the local level, the local politician decides who wins. If an international contractor wins, there will be local subcontractors suggested by the local politician. He said he is fully aware of the collusive and corrupt system in the Philippines. According to him, some contractors were threatened physically during the third round of bidding for the packages CW-RU-1.4B , 1.6A and 1.6B where everybody knew who was going to win.

Madrasto estimates that 40 percent is added to the cost of a contract to facilitate payments to the politicians.

He said EC de Luna and J.D. Legaspi are connected to the 'first gentleman' and they brag about this relationship; RII Builders and 310 Construction are connected to former president Fidel Ramos while J.M. Luciano Construction is connected to a congressman.

Date of Interview - **23 November, 2006**
Interviewee - **Yoon Choi** -estimation manager, Hanjin
- **Jong Il Eum**, operations manager
Interviewers - Tim Carrodus and Edil Dushenaliyev (in Manila)

Mr. Choi explained the process the company undertakes in bidding for contracts.

Date of Interview - **24 November, 2006**
Interviewee -**Junshi Liu**, China Harbor Engineering Company
Interviewers -Tom McCarthy and Edil Dushenaliyev

Liu said the level of political interference, especially in the project area, was the most difficult factor in doing business in the Philippines. He said politicians and government officials at all levels want to benefit from contractors. In a project in Zamboanga City, he said Chian Harbor had to hire security to protect its staff. He said he heard from the local personnel that they had to pay the politicians also. He said it was an accepted rule to pay the politicians and that contractors have to play this game in the Philippines. According to him, contractors bid very high to cover all potential side payments in the future. There's also a lot of competition between the politicians in picking the winners for the contracts.

Date of Interview - **28 November, 2006**
Interviewee - **Jonathan M. Amon** -manager, J. M. Luciano Construction, Inc.
Interviewers - Tim Carrodus and Edil Dushenaliyev

Amon said that Luciano has an ongoing WB-funded project in joint venture (JV) with RII Builders and 310 Construction. This contract (1.4C package) is progressing very slowly because of the low bid price, peace and order, and the politicians. The last two factors were the most serious, he said.

Amon said that the engineers of all three companies (Luciano, RII Builders and 310 Construction) worked collectively on the cost estimation, each providing an input to its own part of the work. The cost estimates were consolidated by RII. The JV presented a "normal" bid on both contract packages (1.4A and 1.4C) and did not factor in any "external" factors such as the side payment to politicians.

Amon repeated that the JV presented a normal bid for the 1.4A package and the termination of the contract then was "revenge" from politicians whom the JV refused to pay. It was the politician in the project area (Surigao), Amon said, but he refused to identify the person. He said that the DPWH officials were also part of the retaliation action against the JV. Asked about filing a case with the DPWH Ombudsman, Amon said that he (the Ombudsman) is part of the system since he is appointed by the President and politicians.

Aside from track record and experience, Amon said that one needs to cooperate with everybody to pass pre-qualification. "You know what I mean," he said, referring to such "cooperation" as paying money to the politicians and government officials. If one does not pay, one does not get the contract.

Amon also described Boy Belleza (Asst. General Director of Region 4A) and Tito Miranda (President, DPWH Employees Union Association) as decent persons who would not fix the

bidding. He also does not know anything negative about E.C. de Luna.

Amon refused to identify the facilitators of the collusive scheme, adding that they are different from project to project and much higher than the persons mentioned above. When asked if these could be the Secretary or Undersecretary of the DPWH, Amon refused to answer, saying that he has five children and needs to think of them.

If the bid prices are 20 to 30 percent above the cost estimate (ABC) then politicians are involved in the project, according to Amon. To do away with the interference of politicians, the ABC should be published and no bids above the ABC should be accepted.

Amon also said that Chinese companies are winning all the internationally funded tenders because they pay the local politicians and government officials since they have the money to make illicit payments. He knows this because he said he is in the “system” and that everybody in the contracting community is aware of the situation.

The surplus amount above the ABC goes to the politicians through the foreign banks of international contractors.

Amon noted that foreign contractors rarely partner with local firms but if they do so, they do it for “political insurance.” Foreign contractors need no JVs because they have their own resources and sufficient capacity.

Amon denied attending any pre-arrangement meetings at the Diamond or Hyatt Hotels, but said such meetings could take place after the pre-qualification to finalize the list of winners.

The current Secretary of the DPWH is a retired general and has been in the position for two years. He said that contractors try not to “mess” with him in order to avoid any harm.

Amon stated that Luciano currently has two active projects (hospitals) financed by Land Bank. The company recently finished a P800-million JBIC-financed project in the peaceful part of Mindanao.

Amon said they had to pay the NPA both in kind (computers, cellphone, medicine, rice and other goods) and in cash on the 1.4A and 1.4C contract packages, among others. If the company would not pay, its equipment could be burned or destroyed. He admitted that RII Builders paid P1 million to the NPA. He also noted that the local politicians and rebel groups have a mutual respect for each other and do not step into each other’s turfs.

Amon told INT that the winner of the 1.4A.1 contract package, C.M. Pancho, was predetermined. He advised INT to look at the result of the bidding in order to see a pattern. He also said that the bidders knew about the outcome and therefore intentionally put in losing bids.

- Compiled by Tita Valderama and Karol Ilagan, PCIJ 2009