

CLOSURE REPORT

(in compliance with Para. 196 of the 2012 Accountability Mechanism Policy)

I. Complaint Background

A. Project details

Project location	:	Pakistan (Sindh)
Loan/ Grant/ TA number	:	Loan Nos. 2742-3
Project name	:	Pakistan Flood Emergency Reconstruction Project (FERP)
Project number	:	Project No. 44372-013
Borrower	:	Government of the Islamic Republic of Pakistan
Executing agency (if applicable)	:	Planning & Development Department, (Provincial) Government of Sindh
Implementing agency (if applicable)	:	Works & Services Department, (Provincial) Government of Sindh
Project approval, signing, effective, and closing dates	:	30 March 2011, 14 April 2011, 26 May 2011, 25 May 2015
Project description	:	“The package comprises a \$654-million emergency loan (the Flood Emergency Reconstruction Project [FERP]) to help meet urgent reconstruction priorities, focused on transport (primarily roads and bridges) and irrigation. The proposed assistance package has been designed according to the priorities of the damage and needs assessment (DNA) prepared by ADB and the World Bank, in collaboration with the federal and provincial governments and other development partners.”
Safeguard categories	:	B (Environment), B (Involuntary Resettlement), C (Indigenous Peoples)

B. Complaint details

Date of CRO’s receipt of complaint	:	21 Nov. 2013
Choice of Function	:	Problem-solving
Complainants (name, description, and address)	:	Abdul Ghafoor Siyal, Resident of Village Ali Khanana

C. Declaration of ineligibility

Date of declaration of ineligibility	:	30 Dec. 2013
Date of forwarding to OD	:	30 Dec. 2013
Reason for declaration of ineligibility	:	OD has addressed concerns.
SPF/ CRP recommendations, if any	:	

II. Discussion

A. Closure report submission		
Date of submission	:	5 May 2017
Operations Department (OD)	:	CWRD/PRM
Project team leader (name, designation, and division)	:	Pawan Karki, Senior Transport Specialist, CWRD/PRM
B. Resolution of complaint		
What were the allegations and issues in the complaint (See http://www.adb.org/sites/default/files/page/42458/complaint-letter-pak-emergency-reconstruction.pdf)?		
ADB project team noted the following concerns by the complainant		
(i) Negligence of Contractor who has used “less qualitative material” (sic); and		

(ii) Construction not done as per “*prescribed methodologies which are mentioned in PC Book*” (sic).

What were the actions taken by the OD?

After receipt of the complaint from CRO through CWOD, PRM took the following action:

- (i) Instructed the (independent) supervision Engineer of the project to (i) provide a report on the quality of materials and construction methodology adopted for this sub-project; and (ii) to carry out additional testing of the materials.
- (ii) PRM fielded a special review mission from 9-12 December 2013 to visit the sub-project site for visual observation of the road and meet the Project Management Consultants and EA’s Project Management Unit to review contractual documentation.

The Engineer submitted the requisite report based on site visits conducted in mid-December 2013. It established that (i) the civil works were carried out in accordance with the applicable standards and specifications of material and workmanship as contained in the contract agreement; (ii) quality control activities were carried out in accordance with the specifications contained in the contract; (iii) test results are within the limits prescribed by the applicable specifications; and (iv) additional testing (per ADB instructions) was carried out and the results also fall within the limits prescribed by the applicable specifications. The report also provided the Engineer’s response to the complainant regarding the construction activities. The Engineer had, in his report, provided the latest status of execution of outstanding/rectification works [as applicable under Clause 11.1 of the contract (General Conditions of Contract - FIDIC MDB Harmonized Edition June 2010)]. The Engineer had given the target date of 15 January 2014 to the contractor to complete all outstanding work and remedy defects, which have since been completed.

The ADB special review mission that visited the sub-project in December 2013 had noted the following:

- (i) The road is being fully used by traffic;
- (ii) Outstanding/rectification works, as listed in the Engineer’s taking over certificate, are ongoing;
- (iii) Traffic, especially truck traffic, has significantly increased on the road compared with the traffic volume envisaged in the design. This is a result of traffic diverted to the new road because of ongoing construction of national highways (Hala – Moro section of N-5 and Sehwan – Ratodero section of N-55) and a major bridge (over the Indus River) in the vicinity; and
- (iv) The road pavement is intact, with no sign of premature failure.

Accordingly, PRM submitted a memo to OSPF with the above mentioned information and attachments.

What were the decisions or agreement by the parties?

1. OSPF, through letter dated 20 December 2013, informed the complainant that the complaint is ineligible based on the following ADB findings:
 - (i) The works under the scope of the contract are substantially completed, and the road is being fully used by traffic;
 - (ii) Outstanding/rectification works, as identified in the Taking Over Certificate issued by the Engineer, are ongoing, and expected to be completed by mid January 2014;
 - (iii) Diverted truck traffic of Sehwan — Dadu and Moro — Sehwan is using the road (even though the road was not meant to be used by such heavy traffic) due to: (a) construction of National Highway N-55 (Sehwan — Ratodero section) funded by JICA; (b) construction of National Highway N-5 (Hala — Moro section) funded under FERP national highways component; (c) construction of Qazi — Amri bridge over the Indus river (connecting N-5 and N-55); and (d) shortening of distance by 10 KMs between Dadu and Sehwan; and
 - (iv) From visual observation, road pavement was seen to be intact, with no premature signs of failure.
2. OSPF advised the complainant to “*continue to encourage you to use the [project grievance] mechanism for further problems*”.

What were the lessons learned?

1. ADB's fielding a special review mission was instrumental in understanding the situation and to note whether the complaint carries any substance or otherwise.

Please list and attach supporting documents, if any.

1. OSPF letter dated 30 December 2013 to the complainant conveying ineligibility of complaint.



Asian Development Bank

Office of the Special Project Facilitator

Date 30 December 2013

Mr. Abdul Ghafoor Siyal

Village Ali khanana,
P/o Arazi, Taluka Sehwan,
District Jamshoro Sindh-Pakistan
E-mail: ag_siyal@yahoo.com
Contact: +9203023903694

Subject: **Complaint on L2742-PAK and L2743-PAK: Flood Emergency Reconstruction Project** —*Letter of Eligibility*

Dear Mr. Siyal:

In order to determine eligibility of this complaint, the OSPF has undertaken an initial assessment to gather information regarding your complaint. We would like to inform you of our findings as follows:

- (i) The works under the scope of the contract are substantially completed, and the road is being fully used by traffic;
- (ii) Outstanding/rectification works, as identified in the Taking Over Certificate issued by the Engineer, are ongoing, and expected to be completed by mid January 2014;
- (iii) Diverted truck traffic of Sehwan — Dadu and Moro — Sehwan is using the road (even though the road was not meant to be used by such heavy traffic) due to: (a) construction of National Highway N-55 (Sehwan — Ratodero section) funded by JICA; (b) construction of National Highway N-5 (Hala — Moro section) funded under FERP national highways component; (c) construction of Qazi — Amri bridge over the Indus river (connecting N-5 and N-55); and (d) shortening of distance by 10 KMs between Dadu and Sehwan; and
- (iv) From visual observation, road pavement was seen to be intact, with no premature signs of failure.

ADB also requested the Engineer to *"make a special investigation of the materials used and construction methodology adopted for this sub-project and provide your views on the quality of the construction. Please carry out additional quality checks (including laboratory tests) as required under the provisions of contract"*. The Engineer's report (Attachment-2) establishes that all quality control testing during the construction period was carried out and complied with the applicable specifications. The report also provides the Engineer's response to every point raised to CRO by the complainant. All points raised are extracted from the Engineer's Taking over Certificate (TOC), and contain an analysis by the complainant of the current status. The Engineer has, in his report, provided the latest status of execution of outstanding/rectification works, and their (expected) completion date.

In addition, the Engineer has carried out the following additional tests:

- (i) Granular Shoulders: Sub-base thickness and compaction - every 3 KMs (10 Nos.)
- (ii) Asphalt Pavement: Cores for thickness of Pavement structure - every 3 KMs (10 Nos.); and Extraction test for bitumen content at every 10 KMs (3 Nos.)

The results of tests fall within the limits prescribed by the applicable specifications.

With these findings, the OSPF finds your complaint ineligible. We also note that there is a project grievance mechanism that has dealt with a previous complaint made by you. We continue to encourage you to use the mechanism for further problems.

We thank you for your attention.

Yours sincerely,



Jennifer Francis
Officer-in-Charge, OSPF