regarding the entire process.

Q. What entire process?

A. So, because this was the first time ever, by definition it was new, and because of the current situation then in Mexico, there was a need to have a firm with international best practices, who understands this area, who then also developed a robust business plan, as well as a process and procedures by which to let the external community know about this so that they could interact and bid on it.

Q. When you say they are supposed to come up with a business plan --

A. Not they. We.

Q. Deloitte.

A. Yes. Sorry.

Q. Did you do so?

A. Yes.

Q. Was that plan public or private?

A. Private.

Q. By agreement?

A. The plan was submitted to SCT, though we had discussions with them to meet international best practices to put as much out

on the web as possible.

Q. Deloitte entered into an agreement with SCT to prepare a business plan?

A. Yes.

Q. In your view, did best practices suggest that that plan should be made available to all bidders?

A. In a transparent and nondiscriminatory way, yes.

Q. Was your view accepted by SCT, or did they want a different course?

A. They chose a different course. However, our job is to give them advice, with any client, and they can accept or reject it.

We showed them -- tried to show the benefits and the rationale, but we are not a government function. And they chose in this case to follow their own path.

Q. What was the path that they told you they had chosen to follow?

A. They were not going to, A, put the business plan out on the public record. And, B, allow, by definition, people to see it. And, therefore, C, allow people to publically

comment on it.

So, what I've called like regulatory judo, you want as many people to see your plans as possible, so it is all on their records, so they can get educated.

This is a standard practice in the United States, in Europe, and throughout the world.

Q. But, as to the Red Compartida, SCT made a decision that they wanted the business plan sealed, quiet?

MS. MOSS: Object to the form.

MR. MOSCOW: What?

MS. MOSS: Object to the form.

BY MR. MOSCOW:

Q. Is that correct?

A. The phrasing I don't agree with.

Q. Okay. Let me try it again. Would it be accurate and fair to say that SCT asked Deloitte to agree to keep private the business plan that Deloitte was drafting?

MS. MOSS: Object to the form.

THE WITNESS: Yes, it was -- our deliverable was to SCT, and it remained in

SCT's hands.

BY MR. MOSCOW:

Q. Were you asked to take steps to keep it confidential? You, collectively?

A. Yes, yes, but it was not considered classified or anything like that.

Q. Did you take steps to keep it confidential?

A. Absolutely.

Q. How much was Deloitte paid for the engagement?

A. Approximately $5.2 million.

Q. What -- withdrawn.

Did you keep a record of who had access to the business plan?

A. On the Deloitte or subcontractor to Deloitte, yes. On the SCT side, that is not my responsibility.

Q. Understanding that it is not your responsibility, just for the record --

A. Uh-huh.

Q. -- would it be correct to say that you did not keep track of the business plan once you transmitted it to SCT?

A. I didn't quite follow the question, sorry.

Q. That is all right. First question, did you take efforts to keep it confidential at the level of Deloitte and its subcontracts?

A. Absolutely.

Q. And did there come a time that you transmitted it to SCT?

A. Yes.

Q. And how did you transmit it?

A. I believe by e-mail. But, you know, we also gave them hard copies as well. There is, there is drafts. There is multiple -- this is not a small engagement. This is, this was a highly detailed plan, process, and procedures. Not just a plan, but the process and procedures.

Q. When printed out, how many pages did that plan take, the business plan? 100, 500, 1,000? 10?

A. I don't recall.

Q. Within an order of magnitude?

A. I don't recall. Reason being, there is 15 deliverables. And some of the

deliverables are like spreadsheets. So, spreadsheets, it is -- it would be one spreadsheet, but you would have lots of detailed analysis that is behind the spreadsheet.

Q. Okay. Well, you mentioned that you delivered it in hard copy. I was just wondering how many pages of hard copy we are talking about?

A. I forget. Sorry. A lot. In total, over 100, easily.

Q. Over 100 pages?

A. In total, yes. Yes.

Q. Now, it was your obligation to keep that business plan confidential pursuant to the contract?

A. Yes. Pursuant to the contract.

Q. Did you hear from anyone whether or not there had been any violation of that confidentiality?

A. No.

Q. Did you hear from anyone -- withdrawn.

Who is Rick Keith?

A. Rick Keith is a independent subcontractor to Deloitte Consulting.

Q. And, did Mr. Keith -- is he still working for Deloitte as a subcontractor?

A. On separate issues, yes.

Q. Did he also work with SCT?

MS. MOSS: Object to the form.

THE WITNESS: Not on my engagement. Does that answer your question?

BY MR. MOSCOW:

Q. Yes.

A. Okay.

Q. Did he work on the business -- did he work through other vendors in connection with the business plan that Deloitte had come up with?

A. Sorry. He worked with us as a subcontractor on developing the business plan.

Q. Right.

A. He is a very senior executive. And, subsequently, after Deloitte had served its engagement, at the end of the engagement, he did work as an independent contractor for another entity serving SCT.

Q. So, is that Bank of America?

A. Yes.

Q. So, as to his work with Bank of America, did he talk with you about what he observed?

A. Yes. After the fact.

Q. Yes. And did he -- withdrawn.

Did there come a time that bids were submitted in connection with the SCT process?

A. Yes, but we had no role. We ended our engagement a year ago, you know, and that bid process is public. But, yes, I do know as John Q. Citizen that, informed that, yes, bids were submitted.

Q. And how many bids were submitted, if you know?

A. Two.

Q. By whom were they submitted?

A. My understanding from reading the press is the Altan Group, which also may be known by CVG. I'm not sure. And then Rivada.

Q. And as to the Altan Group or CVG, what does CVG stand for, do you know?

A. Sorry.

Q. Which of them, if either -- well, did they both submit bids as far, as you know?

MS. MOSS: Altan and CVG or --

BY MR. MOSCOW:

Q. I'm sorry, Altan and Rivada, did they both submit bids, as far as you know?

A. As far as I know, yes.

Q. And did you ever talk with Rick Keith about the Altan bid?

A. Not specifically identifying it as Altan.

Q. Okay. What did you say to him, and what did he say to you?

A. Only after the fact, Rick and I had dinner. So, after the selections were made did we -- he initiated a discussion regarding the bids without identifying the parent company of the bidders.

Q. So, he told you that there were two bids --

A. Correct.

Q. -- without names?

A. Correct.

Q. So, sort of like there are two teams

in the World Series, and I'm not going to talk to you about which one is which?

A. Correct.

Q. And, one of them won and one of them lost --

A. Correct, correct.

Q. What did he say about the bid of the winning consortium?

A. He did not say anything explicit to the winning consortium.

Q. What did -- okay. Let's go back --

A. I'm not trying to be coy.

Q. What did he say to you, and what did you say to him?

Sit down and relate the conversation.

A. So, we had dinner, and we were talking about Mexico. We were talking just as colleagues.

And, Rick is a very senior executive. He is a great guy. He is incredibly trustworthy. I just want to state that.

And he, as we were having dinner, he

said that one of the bids was essentially a photocopy of our Deloitte work, or a 1 percent differential.

And, I believe I made some sarcastic comment that they didn't even bother to, you know, change stuff. And, we made a couple other comments and then moved on to other discussions.

Q. For one of the two companies to have your business plan as its bid, would that be consistent with the agreement you had reached with SCT?

A. No.

MS. MOSS: Object to the form.

BY MR. MOSCOW:

Q. Would that be consistent with an open and transparent bidding process?

MS. MOSS: Object to the form.

THE WITNESS: Absolutely not.

BY MR. MOSCOW:

Q. Could you please explain why not?

A. The goal of any independent transparent and nondiscriminatory process is that all parties have equal access.

Whether they use the information or not, they have to have the same access. Having discriminatory access in and of itself is a significant issue. It does not meet anybody's definition of international best practices.

And then subsequently that if there is discriminatory access, that information by definition is discriminatory and asymmetric. And it gives one party an unfair footing.

Q. In the -- would that suggest to you that there was at least collusion?

MS. MOSS: Object to the form.

THE WITNESS: I wouldn't know that.

BY MR. MOSCOW:

Q. Do you know how the documents that you gave in confidence to SCT got to a bidder?

A. Absolutely no idea.

Q. Okay. Now, did you ever -- you spoke -- by the way, have you spoken about that matter with Mr. Keith since that conversation?

A. Yes, when I was contacted by you and I referred you to our OGC folks.

Q. OGC would be the Office of General Counsel?

A. Sorry, yes.

Q. I'm just -- if it shows up on the page with strange initials, people aren't going to know what you are talking about.

A. Sorry about that. I followed firm policy, which is our touchstone on everything.

And, when you contacted me, I contacted our general counsel.

MR. MOSCOW: I believe we have been on for approximately an hour, and I'm going to suggest that we take a five-minute recess at this point.

MS. MOSS: That is fine.

THE VIDEOGRAPHER: The time is 11:22 a.m. and we are going off the record.

(Recess taken -- 11:22 a.m.)

(After recess -- 11:45 a.m.)

THE VIDEOGRAPHER: The time is 11:45 a.m., and we are back on the record.

BY MR. MOSCOW:

Q. Thank you. We are back.

A. Yes. Caffeinated.

Q. All of those things. Going back to the conversation you had with Rick Keith after

the award.

A. Uh-huh.

Q. Where were you?

A. I was at Fiola Mare for dinner.

Q. This is a restaurant?

A. Yes.

Q. Okay. Is it located in Washington?

A. Yes, it is.

Q. Okay. Just --

A. Okay.

Q. Where -- so many different meanings. Seriously.

A. Yes, sorry.

Q. So, you meet him at a restaurant in Washington.

And what do you say to him? You say hi. You start talking, and this subject comes up.

What does he say to you, and what do you say to him?

A. He initiated part of the conversation. You know, once again we are longstanding professional colleagues.

Q. Right.

A. So, it was not this intent. He initiated it. And he said in his role as the evaluator, because I knew he was retained to be the evaluator, that one of the bids was essentially a photocopy of our Deloitte work, and it was a 1 percent difference.

I made some sort of snarky comment that they didn't even bother to change it, or something like that.

One or two other things, which I don't recall about the blatantness of it, apparent blatantness of it. And then we moved on.

Q. And what did you take from what he said?

MS. MOSS: Object to the form.

BY MR. MOSCOW:

Q. No, you can answer.

A. I'm sorry. Rick is a solid guy. And I'm known him for years, when he was a client at Motorola, when I hired him as a contractor. I take him at complete face value.

And so, I was frankly unhappily surprised. And, you know, I was like kind of

that.

Q. Had you spoken previously with Mario about the plan?

A. Mario, as in SCT Mario?

Q. Yes.

A. Because to be clear, Mario Gordillo, the SCT official.

Q. Gordillo, yes. Is there another Mario?

A. No, that I know of. I was just trying -- no. No, and yes, I did talk to him throughout the process.

Q. Okay. When you were working on developing the business plan, where did you do your work?

A. We did our work at Deloitte offices, in the United States and in Mexico. And had our discussions at the client site or also at Deloitte offices.

Q. Did you speak -- did there come a time that Mario indicated to you that he wanted a particular winner in the bidding?

A. Yes, prior to us being awarded the contract.

Q. Prior to Deloitte being awarded the contract to draw up the business plan?

A. Correct.

Q. And, whom did he indicate he desired to win?

A. After a meeting with him and the Vice Minister Aspe --

Q. Is that Monica Aspe?

A. That is correct. The meeting discussed to give a sole source award to CBG. The Vice Minister and I went over this. This was prior to us being engaged.

We went over the benefits to Mexico by having a transparent and independent business process, which was good for the Mexican people.

So, Vice Minister Aspe agreed with my points. And obviously she is the principal saying that they would not go for a sole source of CVG.

After the meeting, I exited, and Mario had two issues. Sorry. One was he turned to me and said I want you to select CVG by the end of the month.

To which I replied, and I actually remember this quite clearly, that we cannot make a multibillion dollar assessment or decision on the back of an envelope. It would be an international scandal that would not meet the President's goals.

And, ministers don't get fired. I told him, staff get fired, and you will get fired.

And then he shrugged and moved to the other point.

Q. What was the other point?

A. He asked again about the CVG. Said can't happen. For policy reasons, too, I want to make that clear, it just doesn't make any sense.

He then -- this is in our pre-bid stage. He then said he wanted Deloitte, me -- he did not say Deloitte. He said me, he turned and talked to me, to write the proposals for McKinsey and Bain and put errors in them so that we can be selected.

I responded that that is illegal. I am a Deloitte partner. I cannot have this

discussion. I will not have this discussion. And I will have no part of this, and I will internally review it.

And he shrugged.

Q. When he said he wanted you to write the proposals for McKinsey and Bain, what proposals was he talking about?

A. For the work that we were competing on to be the independent advisor to SCT.

Q. So, what was he asking you to do?

A. He explicitly asked me to write the proposal for them, put errors in them, so that he can select us.

Q. When you say write the proposals for them, what do you mean? SCT would be seeking -- supposedly, in this charade, if I understand you correctly, he is proposing that there be three companies, but where two of them would be misinformed and would have documents that could be tossed?

MS. MOSS: Objection to form.

Misstates.

BY MR. MOSCOW:

Q. Is that -- okay, please -- your

lawyer says I misstated it. I may well have. Please explain. What is he asking for?

A. Once again, what he said -- so, I'm a Joe Friday, just stick to the facts.

He said I want you to write the proposals for McKinsey and Bain, put errors in them so that we can select you. This was after he said he wanted us to select CVG.

So, that conversation is it. That is it.

Q. What does it mean to write proposals for McKinsey and Bain? How could Deloitte do that?

A. We could never do that. We could never do that.

Q. Was he proposing that you write something that they would send out and get back a bad plan?

MS. MOSS: Object to the form. Who is the they?

BY MR. MOSCOW:

Q. SCT.

A. He did not specify. I can presume, but in any tender you have people, like we are

all business people, and somebody puts out for public tender. We file for it, and we bid for it. Sometimes we win. Sometimes we lose.

Same thing for McKinsey and Bain. They are very good firms. So, we always assume that it would be a public tender for selecting us as a consultant.

Q. And you assumed that all companies would get the same information?

A. The public tender demands that, yes.

Q. And it was his -- was his proposal contrary to that?

A. Yes. Sorry. I'm not trying to be coy here.

Q. No, you have in your mind an understanding of what he meant.

And what I'm really asking you to say is, could you please explain what your understanding is of what he meant?

A. I cannot opine on what he was thinking. I can opine on what my reaction was.

Q. Please do.

A. As I told him, my interpretation of what he was proposing at least on the Bain

McKinsey issue, potentially on the CVG, was illegal. It in no way adheres to Deloitte practices as a firm that follows FCPA. And we would have no participation in it.

We would not in any which way have any discussion on this. And I would not have any discussions on this at all. And we would not participate in any process in that way.

Q. Okay. And how did he react?

A. He shrugged. He had stronger reactions on the CVG issue, but then shrugged.

Q. Well, go back to the CVG issue.

A. As stated, we had the meeting with the Vice Minister Aspe, where we discussed whether to sole select CVG, or to put it out for international tender.

The Vice Minister and I had this discussion. Mario was present. Talking about the benefits to the Mexican people. How putting this out for tender would actually meet President Pena's vision, which I totally agree with.

The Vice Minister was totally on the same page. We were on the same wavelength.

After the meeting, not in her presence, he said we want you to select CVG. And my reaction was, like, we just had a meeting, with, you know, your Vice Minister.

And then he said well, we need you to select -- I want you to select CVG by the end of the month.

Q. Which is it? I or we --

A. I do not recall.

Q. -- if you recall. And what is CVG?

A. CVG was a consortium who put in a sole source bid to SCT that we were asked to look at and provide our input, both to the process, and actually some specific issues within the CVG consortium that -- period.

Q. CVG, is that Comunicacion Vita Grand?

A. I believe so.

Q. Who runs it?

A. Then, I believe it was Miguel Es -- I want to say Escabar, but I think that is wrong. So --

Q. Escobedo?

A. Possibly. I know this sounds

completely politically incorrect to say it, but I believe that is his name, yes.

Q. Something in that audible range?

A. Yes.

Q. But you don't know him. Is that fair?

A. No, I don't know him. I know of him, to be accurate.

Q. Is CVG part of the Atlan consortium that has so far been a successful bidder?

A. I don't know that. I believe CVG morphed into Altan, but that is up to the --

Q. Fair enough. So, if a set is a subset of itself, can we say that it is a subset?

A. I didn't follow that.

MS. MOSS: Object to the form.

BY MR. MOSCOW:

Q. Okay. Leave it alone. So, CVG may have morphed into Altan, which is the company that has been favored?

A. Possibly, yes.

Q. Now, did you view what Mario asked you to do as wrong, as inappropriate?

A. Absolutely.

Q. Were you ever asked by anyone from SCT other than Mario to do anything you considered inappropriate?

A. No.

Q. And prior to the conversation you had with Keith, did you have any reason to know one way or another whether or not Mario had used other means to accomplish his ends?

A. I don't know what his ends are, so I can't comment on that part.

Q. To accomplish the purpose he expressed when he said he wanted you to pick CVG?

A. I don't know whether that was his purpose or not. He expressed it, but later on. I'm not trying to be --

Q. Yes, he expressed it, but later on what? Finish that thought.

A. Later on, during the engagement, there were some SCT initiated potential concerns, which I do believe SCT had identified possible issues with a subcontractor to us, and to Mario.

Q. What subcontractor?

A. Propulsar, which is a subcontractor to us. Monica Aspe, the Vice Minister, came to me with her lawyer and said there may be some concern that Propulsar was taking funds from our engagement as a subcontractor, and paying -- using those funds to pay government officials, such as Mario Gordillo.

I informed the Vice Minister. First off, I offered to resign, because that is what is prudent, and our job is to protect and promote our clients and protect and promote our reputation.

And then, also inform the Vice Minister that we would internally escalate that.

Q. Who said that they would internally escalate that?

A. I responded to the Vice Minister with that.

Q. Did you?

A. Of course.

Q. And did you continue to use that subcontractor?

A. The -- yes. The decision is on the SCT side, not on the Deloitte side.

SCT was the entity raising the potential concern, and then they determined there was not a concern.

I did escalate it internally.

Q. And do you know how it was that they determined it was not a concern?

A. No, I do not.

Q. Did you ever discuss that again with Vice Minister Aspe?

A. Yes.

Q. When and where were you?

A. I don't recall the exact dates and times.

Q. Okay. Where were you?

A. In Mexico City, more than likely at her offices. But, once again, I don't recall the exact date or time.

Q. Do you have records that would show that or from which you can reconstruct that?

A. I clearly have records of going to Mexico, my passport.

The actual meeting and the meeting

minute notes? No.

Q. Who would have those, if anyone?

A. I don't believe anyone would have those notes. I don't believe -- notes were not taken.

Q. Right.

A. Okay. Sorry. Yes.

Q. Look, you are discussing whether or not there were bribes or kickbacks being paid.

A. I didn't say that.

MS. MOSS: Object to the form.

BY MR. MOSCOW:

Q. I -- I know you didn't say that.

A. Okay, sorry. I'm not trying to be a pain.

If I can clarify. I followed -- obviously Deloitte, as a firm, follows our practices, our roles. I internally escalated it, and I went to OGC like that. Okay?

Q. When you were meeting with Vice Minister and with Mario, and there was a discussion about sole source or public tender, where did that meeting take place, in what country?

A. In Mexico.

Q. And did you speak with Mario about CVG other than in Mexico?

A. With Mario, specifically?

Q. Well, with whom did you speak outside Mexico?

A. I'm not following the question. I'm sorry.

Q. Okay. The first question was did you speak with Mario? And I will say yes, specifically.

A. Yes, throughout the engagement.

Q. And did you speak with him about choosing CVG?

MS. MOSS: Object to the form.

THE WITNESS: I discussed with him, the Vice Minister, and others in her staff, the issues surrounding a sole source. What was in the best public interest for Mexico, which included the sole source issue -- it is not an issue, but --

And also, certain piece parts in the CVG consortium that raise economic and national security issues.

Brett Haan

BY MR. MOSCOW:

Q. Did those issues involve China or investments from China?

A. Investments from China. Not the Chinese government directly.

Q. Investments from China?

A. Investments from China. Chinese firms.

Q. And what was the problem?

MS. MOSS: Object to the form.

THE WITNESS: And this is public. I mean everybody in this business knows this.

This is the single largest tender spectrum in the world, ever. It serves both commercial and government of Mexico purposes.

From Vice Minister Peralta to Vice Minister Aspe, and other government officials -- government of Mexico officials, Chinese participation raised several issues, ranging from national security, Mexican national security, to unplaying -- unfair playing field in terms of their bidding structure.

Brett Haan

And our job was to raise those issues and help them address that.

BY MR. MOSCOW:

Q. Does the Atlan consortium include the Chinese money, investment money?

A. From looking at the public record, because I was not involved in it at all, I believe so.

Q. And was there a bid by those or other people involved from China to provide the equipment for the Atlan group?

A. I don't know for Altan. For CVG, yes.

Q. Altan, I'm sorry. I keep doing that.

A. Altan, yes.

Q. Okay. So, initially there was such a plan and you don't know if it carried over. Is that fair?

A. Correct. When our engagement ended, I hate to sound totally, you know -- I moved on to other engagements.

MR. MOSCOW: Okay. Could you bear with me for two minutes?

THE WITNESS: Sure. Do we go off?

MR. MOSCOW: Go off the air for two minutes.

THE VIDEOGRAPHER: The time is 12:10 p.m. and we are going off the record.

(Recess taken -- 12:10 p.m.)

(After recess -- 12:22 p.m.)

THE VIDEOGRAPHER: The time is 12:22 p.m. We are back on the record.

BY MR. MOSCOW:

Q. Okay. I would like to go back, just finish a couple of areas.

A. Sure.

Q. You spoke with the Deputy Minister or Vice Minister, Monica Aspe, about a company that she thought might be transmitting -- she thought there was a possibility that they were transmitting funds back to people in the government?

A. Yes.

Q. Does Leon David Perez, does that name taken together mean anything to you?

A. Yes.

Q. Who is he?

A. He is an independent contractor. He was the independent contractor to the previous Vice Minister, Ignacio Peralta. And then he is an independent contractor, who owns the firm called Propulsar.

Q. Is that the firm about which she was speaking?

A. Yes.

Q. And what did -- you told us that an action that you took was to promptly escalate this up to the Office of General Counsel for Deloitte.

A. Of course.

Q. What did you say to her when she told you what she told you?

A. I said that -- my exact words or --

Q. What meaning did you convey?

A. So, I said that -- it was with her and her lawyer -- that this is a very serious issue.

I, as -- Deloitte treats this as a reportable event, and I'm going to internally report it.

I said the most important thing is

to protect and promote SCT and the process they have, and their reputation and our reputation.

I said it is not my desire, but I offered to resign at the time, because perception of conflict is the most important thing to protect.

So, we wanted to make sure that the process was completely kosher. I did not use that word, but -- and she said no, that is fine. She just wanted to inform me with her counsel.

And then I said, of course, we will report this. There was a little bit of a hesitation, but she acknowledged that I was going to report it.

And then they were going to -- they, being SCT, was going to look into it.

Q. Who is her attorney?

A. I forget his name. I'm not trying to -- I just forget his name.

Q. Was he representing her, or SCT, or both?

A. I believe he was representing SCT, and she is the Vice Minister of SCT.

Q. But, she had not seen it necessary to hire her own lawyer to come see you to talk about this?

MS. MOSS: Object to the form.

THE WITNESS: She -- there were two people in the room. Her and SCT, her lawyer, and me. Sorry.

BY MR. MOSCOW:

Q. Sorry. Vice Minister Aspe had not seen -- had come with a lawyer from her agency rather than a personal lawyer?

A. She came with a lawyer from her agency, that's correct.

Q. What is a reportable event?

A. I used that phrase, maybe inaccurately.

But, in my idea it is something that I am compelled to inform my firm about a client or an issue has occurred, and then follow OGC guidance, which I did.

Q. Were you ever directed to hire a subcontractor, a particular subcontractor?

MS. MOSS: Directed by? I ask because the question follows immediately

after he has described discussions with lawyers.

So, if you are asking him about whether he was directed to do something by a lawyer at OGC.

BY MR. MOSCOW:

Q. No, no. Let me be very clear. I'm not asking you if you were asked to do anything by somebody internal.

MS. MOSS: Thank you.

BY MR. MOSCOW:

Q. Okay?

A. Okay.

Q. Were you ever asked by somebody outside Deloitte to hire a particular subcontractor?

A. In this engagement, you mean? I'm not trying to be coy.

Q. Yes, starting with the CVG sole source, and coming forward in time.

A. Well, there is CVG issues, and there is other issues. Are you talking about --

Q. Well, I'm talking about the time.

A. Okay, okay.

Q. In that time period.

A. There were indications that it would be good if we could retain so and so as a subcontractor.

Q. And who made these indications? One person, more than one person?

A. I don't recall whether it is more than one person, but it was known who the subcontractors from Mexico were desired by SCT.

The Deloitte U.S. subcontractors were solely under my purview.

Q. And was it the -- who for SCT expressed the view as to which subcontractors they would like to see hired?

A. When Ignacio Peralta was the Vice Minister, I believe it was Leon David. And then it was known that Leon David and Mario -- Mario also expressed that interest as well.

The team that we submitted was known to SCT. That is normal business practice, who are you coming with your team, et cetera, et cetera.

Q. Sure. My question is, who suggested names?

A. I don't --

Q. And you were responding by saying we picked names that were known.

A. Correct. Correct.

Q. But, that leaves open the question who suggested names?

A. I believe like at one point Leon David. At one point --

MS. MOSS: Let's just pause. I object to the form, and I'll tell you why.

MR. MOSCOW: Sure.

MS. MOSS: He has identified two groups, subcontractors that SCT might desire, and his team, which I take it is a different list of names.

Which question are you asking him?

MR. MOSCOW: I'm talking about the Mexican subcontracts.

MS. MOSS: Okay.

THE WITNESS: Sure.

BY MR. MOSCOW:

Q. I'm just assuming that the others were selected either by you or by others at Deloitte.

A. Correct.

Q. So, I'm not asking about that.

A. Okay. Got you. So, Leon David and Mario. I clearly recollect them.

However, I'm not limiting myself to them. There could have been others. I just don't recall.

Q. Okay.

A. It --

Q. Now, who is Sonia Dula?

A. I don't know the last name, but I believe she is, if I'm -- I believe she is a Bank of America executive.

Q. Have you had any interaction with her in connection with this?

A. A year or two years ago, yes.

Q. What was that?

A. As part of our business plan, we were also explicitly engaged to do outreach efforts.

So, the outreach efforts included vendors, financial institutions, and others.

So, we did reach out to KKR, JPMorgan, McCrory Bank, and also Bank of

America.

Q. And were you reaching out for financial expertise or for investment money, or both?

A. We were not seeking money. That was not our role.

Q. Okay.

A. Our role was to elicit the responses, questions, concerns, interest from the international community, and to fold that in.

And then, try and build that into A, the process, or also into raising concerns or issues back to SCT, that financial institutions or other vendors would look at for a multibillion dollar thing.

Q. All right. You've referred to multibillion dollars several times.

Is it fair to say that this is approximately a $7 billion award?

A. Yes.

Q. And, you said it covered 90 percent, the communications spectrum. Did I misinterpret that?

A. You did.

Q. Okay. What did you say, and what does it mean?

A. It covers 90 megahertz.

Q. 90 megahertz. I apologize.

A. In the 700-band, which is the largest, sorry, single tender spectrum in the world, and is the most valuable spectrum in the world.

So, it is both in terms of size and value, and innovation from the Mexican government. That is what they are doing is actually really innovative.

Q. And, just, this is 700, not the 800?

A. Correct, correct. So, 800-megahertz is U.S. public safety, which has a role with Mexico public safety, because there is a cross border.

700 is a brand new build, that also involves potentially public safety, both in Mexico and across border.

Q. And how much of Mexico would be covered by the proposed plans, if you know?

A. Our work, I do not know the bids, was looking at the differential between

85 percent going up, and looking at the coverage requirements for that, both for average role, and then the specific potential coverage requirements for enterprises, government services, such as public safety, et cetera.

Q. Does the percentage mean the amount of land area of Mexico that would be covered? Population? What is the percentage of, say, 85 percent and up?

A. The definition is very important, how you define coverage, that is very important, by POP, or by, by population, by -- and, in Mexico's case it was by population, with the asterisks that you can't cover all of the small mountain villages.

And the cross border issue between the U.S. and Mexico is not covered, is not covered in that plan, because of interference between the U.S. and Mexico's systems in this band.

I can get very geeky, but I'm just trying to --

Q. I think that covers it. Going back

to Mr. Leon David Perez.

A. Uh-huh.

Q. What is the name of the company?

A. Propulsar.

Q. P-R-O?

A. I couldn't spell it for my life, sorry.

Q. Limited geeky. So, I guess my question -- you say he was an advisor to SCT.

A. Yes, he was Vice Minister Perez's -- Peralta.

Q. Peralta.

A. I'm sorry. Peralta's advisor, sorry. We came -- I came into contact on, at the very initiation of these ideas because of the cross border public safety interference issues.

And he, he, being Leon David knew about that issue and companies like Huawei and others.

Q. Companies like what?

A. Huawei.

Q. What is it?

A. Huawei is the Chinese firm.

There are X major vendors in the world: Alcatel, Lucent, Ericsson, Nokia, Siemens, ZTE, and Huawei. All very good firms. All do commercial work.

And Huawei had proposed to Peralta that they could solve the public safety cross-border interference with the U.S. which I have my own ideas on. Yes.

Q. But, just going back to Leon David Perez, did he recommend his own company as a consultant?

MS. MOSS: Objection to the form.

THE WITNESS: He didn't.

BY MR. MOSCOW:

Q. Who did?

A. To the extent I can recall, caveat on it, it was known to SCT. And I believe Mario had actually did the recommending, but that is to the extent I can recall.

Q. Okay. Did you communicate with Mario by e-mail?

A. Sometimes.

Q. Did you communicate with Monica Aspe by e-mail?

A. Yes.

Q. In English or in Spanish?

A. English. I don't speak Spanish. I speak German.

Q. Okay. So, I'm going to -- you didn't bring those e-mails with you?

A. No.

MR. MOSCOW: That is, I'm going to -- unless you have questions, I'm going to break at this point.

And I'm going to ask that we are going to continue the deposition after we have had an opportunity to go through certain documents, the production of which we had agreed would not be rushed at this time.

We would call for some. We will be asking for others, and we'll deal with that when it arises.

MS. MOSS: I appreciate that point, although I don't have an order compelling production of documents.

What I have at this point is an order compelling him to be here and

testify, which as you can see he has.

MR. MOSCOW: He has.

MS. MOSS: I'm happy to take up any document related issues with you offline.

MR. MOSCOW: Yes. And we will deal with that. Okay. We are not going to get into that particular professional disagreement or agreement, whichever it might be.

MS. MOSS: Yes.

MR. MOSCOW: So, yes.

I thank you. And we will be --

THE WITNESS: Are we taking a break or coming back?

MR. MOSCOW: No. We are going to break for today, and this will be continued until such future time, if any, that there is a document request that calls --

MS. MOSS: And to be clear, I'm happy to discuss those things with you. I'm obviously not agreeing with you at this point to either produce documents or come back, but we can have discussions about that.

MR. MOSCOW: I am merely saying that we are now --

MS. MOSS: Off the record.

MR. MOSCOW: -- well, about two hours roughly of the deposition.

MS. MOSS: That is about right.

MR. MOSCOW: And, we reserve the right to recall you. Your lawyer says, well, you can reserve it, and we ain't going along.

MS. MOSS: I believe what I said is we will talk.

THE VIDEOGRAPHER: Is that it?

THE WITNESS: I am here for the day so --

MR. MOSCOW: Yes.

Brett Haan

THE VIDEOGRAPHER: Okay. The time is 12:42 p.m., December 20, 2016. Going off the record, completing today's videotape session.

(Time Noted: 12:42 p.m.)

_____

BRETT HAAN

Subscribed and sworn to before me this_____ day of_____, 2016.

_____

(Notary Public)

MY COMMISSION EXPIRES:_____

C E R T I F I C A T E

UNITED STATES OF AMERICA)
) ss.:
DISTRICT OF COLUMBIA)

I, Lori J. Goodin, a Notary Public within and for the District of Columbia, do hereby certify:

That BRETT HAAN the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of December, 2016.

_____

Lori J. Goodin, RPR, CLR, CRR
Realtime Systems Administrator

My Commission Expires:
May 14, 2021

----------I N D E X----------

WITNESS: BRETT HAAN

EXAMINATION BY	PAGE
Mr. Moscow	6

----------EXHIBITS----------

(No exhibits were marked)

ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: In re Application of Rivada Networks et al.

Dep. Date: December 20, 2016

Deponent: BRETT HAAN

CORRECTIONS:

Pg.	Ln.	Now Reads	Should Read	Reason
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_____

Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS____DAY OF_____, 2016.

_____

(Notary Public)

MY COMMISSION EXPIRES:_____

Ciudad de México
2 de enero de 2017

SECRETARÍA DE COMUNICACIONES Y TRANSPORTES
Avenida Xola, esquina con Eje Central S/N
Col. Narvarte, Delegación Benito Juárez
C.P. 03020, Ciudad de México.

ASUNTO: **Concurso Internacional APP-009000896-E1-106, para la adjudicación de un Proyecto de Asociación Público-Privada, conforme a la Ley de Asociaciones Público Privadas, para la instalación y operación de la Red Pública Compartida de Telecomunicaciones.**

Se aporta documental en relación con el diverso escrito presentado con fecha 20 de diciembre de 2016.

Atn':

- **C. GERARDO RUIZ ESPARZA**
  Secretario de Comunicaciones y Transportes.

- **C. MÓNICA ASPE BERNAL**
  Subsecretaria de Comunicaciones de la SCT.

- **C. EZEQUIEL GIL HUERTA**
  Director General de Política de Telecomunicaciones y Radiodifusión de la SCT.

- **C. NIDIA CHÁVEZ ROCHA**
  Titular del Órgano Interno de Control de la SCT.

- **C. MÓNICA GABRIELA RAMÍREZ QUIJADA**
  C. ANALÍA BABINSKY EPSTEIN
  C. CARLA MARÍA CRESPO BENÍTEZ
  Representantes de Transparencia Mexicana, A.C., testigo social designado por la Secretaría de la Función Pública en el Concurso Público Internacional de referencia.

RIVADA NETWORKS, S. DE R.L. DE C.V. y **SPECTRUM FRONTIER, L.P.** (en adelante, "**CONSORCIO RIVADA**"), por conducto de LUIS GUILLERMO ALARCÓN LÓPEZ, quien tiene debidamente acreditada su personalidad en el Concurso Internacional citado al rubro, en su carácter de representante de CONSORCIO RIVADA, reiterando el domicilio señalado para recibir notificaciones y a las personas autorizadas en la Propuesta, respetuosamente comparece ante Ustedes para manifestar lo siguiente:

1. EXHIBICIÓN DE DOCUMENTAL ADICIONAL EN EL PROCEDIMIENTO EN QUE SE ACTÚA.

1.1. Con fecha 20 de diciembre de 2016, CONSORCIO RIVADA presentó un escrito mediante el cual realizó manifestaciones y exhibió ante estas autoridades la declaración jurada del señor Brett Haan, socio de la consultoría Deloitte Consulting Group, rendida bajo la jurisdicción de una Corte de Distrito del Estado de Virginia en los Estados Unidos de América.

1.2. Desde esa fecha, CONSORCIO RIVADA procuró una traducción realizada por un perito traductor autorizado por el Tribunal Superior de Justicia de la Ciudad de México, respecto de la transcripción de la declaración jurada del señor Haan; misma que se exhibe ante estas autoridades como **ANEXO 1** del presente escrito.

1.3. En esta medida, se solicita que tal traducción se integre debidamente al expediente que cada una de las autoridades destinatarias del presente escrito haya integrado conforme a derecho, a efecto de que la documental requerida surta plenos efectos legales al obrar traducida al idioma español, mediante traducción realizada y avalada por un perito traductor autorizado. Lo anterior, en términos de lo dispuesto por el artículo 1055, fracción II, del Código de Comercio, de aplicación supletoria a la Ley de Asociaciones Público Privadas.

2. SE REITERA RESERVA DE DERECHOS.

2.1. Ninguna de las manifestaciones contenidas en el presente escrito podrá entenderse o interpretarse como consentimiento, expreso ni tácito, de CONSORCIO RIVADA respecto de actos, criterios, disposiciones o normas generales expedidos, aplicados o emitidos, ya sea en el pasado o hacia el futuro, por parte de las autoridades responsables en su perjuicio. CONSORCIO RIVADA se reserva igualmente el derecho a iniciar procedimientos diversos y adicionales al juicio de amparo indirecto, incluyendo de manera enunciativa y no limitativa aquellos (a) orientados a reclamar y obtener indemnización en vías internacionales, entre ellas, los mecanismos previstos en el Tratado de Libre Comercio de América del Norte; (b) encaminados a hacer efectiva la responsabilidad patrimonial del Estado por actividad administrativa irregular; (c) los propiamente vinculados con responsabilidades administrativas y/o penales en la actuación de servidores públicos; y (d) las acciones de cualquier naturaleza orientadas a restituir a CONSORCIO RIVADA en el uso y goce de sus derechos fundamentales violados, así como de sacarlo en paz y a salvo por daños y perjuicios causados.

3. PUNTOS PETITORIOS.

Por lo expuesto, se solicita respetuosamente a las autoridades de la Secretaría lo siguiente:

3.1. Tener por presentado a CONSORCIO RIVADA acompañando el elemento probatorio que se exhibe con el presente escrito, en ampliación y alcance del diverso presentado con fecha 20 de diciembre de 2016, y que acredita que por ningún motivo debe continuarse con los actos de ejecución del ilegal fallo dictado en el Concurso Internacional de referencia.

3.2. Bajo la aplicación analógica del supuesto previsto en el segundo párrafo del artículo 85 del Reglamento de la LAPP, adoptar las providencias necesarias a efecto de que el Organismo Promotor de Inversiones y Telecomm, se abstengan de celebrar con la Sociedad de Propósito Específico constituida por Consorcio Altán, el Contrato de APP.

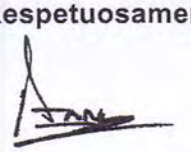
3.3. Realizar en sede administrativa las investigaciones pertinentes, denunciando y dando vista al Órgano Interno de Control de la SCT para que ejerza sus atribuciones.

3.4. Revocar el fallo dictado en el Concurso Internacional de referencia, determinando la descalificación del concursante Consorcio Altán por haber incurrido en causa legal al haber empleado *información privilegiada* para la elaboración de su Propuesta.

3.5. Informar por escrito a Consorcio Rivada el curso de acción que tomará la Secretaría a partir del presente escrito, en la medida en que el presente constituye una petición, por escrito y realizada en forma respetuosa ante una autoridad, en las materias de su competencia.

En la Ciudad de México, el 2 de enero de 2016

Respetuosamente,



LUIS GUILLERMO ALARCÓN LÓPEZ
Representante de CONSORCIO RIVADA