

# CCN MEXICOREPORT

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## Appeals of Unilateral Settlements and Releases Issued by Government Entities in Public Works Contracts

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Mexico's Federal Administrative Court of Justice published in the April issue of its magazine a case decision in which it held that unilateral settlements and releases granted by governmental entities or departments in agreements subject to the Law of Public Works and Services Related to the Same (LOPSRM for its acronym in Spanish) may be appealed through administrative proceedings.

Pursuant to the provisions of Article 64 of the LOPSRM, a settlement and release may be issued: (i) by both parties, or (ii) unilaterally, derived from a disagreement of the parties as to the settlement and release, or by the contractor not appearing before the corresponding governmental entity or department to prepare such, in which case the governmental entity will proceed to prepare, unilaterally, such settlement and release. The governmental entity then has the obligation to notify the contractor of the result of the settlement and release, granting him a term of fifteen calendar days to respond to such. Upon expiration of this term, and if the contractor fails to respond, such settlement and release will be deemed accepted.

Given the foregoing, the Federal Administrative Court of Justice held that the unilateral settlement and release of a public contract has characteristics attributable to administrative acts, and is subject to appeal before such Court, given that it is an administrative act stating the Government's administrative intent to reach its objectives, consisting of satisfying public policy.

In addition, the court also established that the final nature of the unilateral settlement and release does not occur until the contractor's statements against it are analyzed and resolved. Therefore, the settlement and release become final if the contractor does not challenge it.

The mentioned case issued by the Federal Court serves as an important precedent to defend contractors' rights affected by unilateral settlements and releases granted by governmental entities or departments in relation to public works agreements.

CCN has a team of specialized attorneys in this field who are available to provide assistance in analyzing potential alternatives in the event one is facing this situation.