

AIC decision on appeal #48

CASE NUMBER AI4431 CERTAIN INFORMATION RELATED TO THE INCOME SUPPORT PROJECT FOR THE POOREST (Decision dated October 20, 2016)

Summary of Decision

- The Access to Information Committee (“AIC”) upholds the World Bank’s decision to deny access to certain information related to the Income Support Project for the Poorest in Bangladesh, namely the “[n]ame[s] of specific 14 upzilas [sic] in 1st distinct phase as mentioned in ISR 20055”, which were found to be documented in the aide memoire for the project of May 2015 (the “Aide-Memoire”). The AIC considered the appeal on both violation of policy and public interest grounds.
- **Violation of Policy.** The AIC found that the Aide-Memoire contains deliberative information, and thus is restricted by the *Deliberative Information* exception under the Bank Policy: Access to Information, July 1, 2015, Catalogue No. EXC4.01-POL.01 (“AI Policy”); and that the member country has not agreed to make the Aide Memoire publicly available. The AIC noted that the Bank’s decision erroneously specified the *Information Provided by Member Countries or Third Parties in Confidence* exception under the AI Policy as restricting the Aide-Memoire. The AIC considered this error to be harmless, as the Aide-Memoire was already restricted from public access.
- **Public Interest.** The AIC discussed the public interest claim in the appeal and found no compelling ground to support the appeal on a public interest basis. In accordance with the AI Policy, the AIC decided not to override the *Deliberative Information* exception that restricts the Aide Memoire on the basis of public interest.

The Decision

Facts

1. On August 1, 2016, the requester submitted a public access request (“Request”) for certain information related to the Income Support Project for the Poorest in Bangladesh (“Project”), namely the following:

[...]

1/ Detailed component wise month wise contract data and procurement plan specific to this project including even small purchases like furniture or vehicle etc as hardly any details is available in url <http://www.worldbank.org/projects/P146520/?lang=en&tab=procurement&subTab=notices>

2) Date wise component wise procurement notices of even smaller amount specific to this project only. Please do not provide link of whole department of LGD rather specific to this project only.

3) *Contact details like e mail id, specific name wise designation of persons involved in PMU of this project.*

4) *Name of specific 14 upzilas in 1st distinct phase as mentioned in ISR 20055. Please do not provide list of all the upzilas etc as it confuses as done in response of case no AI4301.*

5) *Copy of agreement with the Bangladesh Bureau of Statistics (BBS) as mentioned in / ISR24088*

2. On August 18, 2016, the World Bank (“Bank”) replied to the Request, by: (a) informing the requester that certain information is not in the Bank’s custody; (b) denying access to the information identified as responsive to the portion of the request for “name[s] of specific 14 upzilas in 1st distinct phase as mentioned in ISR 20055” on the basis of the *Information Provided by Member Countries or Third Parties in Confidence* exception under the Bank Policy: Access to Information, July 1, 2015, Catalogue No. EXC4.01-POL.01 (“AI Policy”); and (c) providing access to certain information identified as responsive to specific portions to the Request.

3. On August 24, 2016, the secretariat to the Access to Information Committee (“AIC”) received an application (“Application”) appealing the Bank’s decision to deny access to certain information. The Application challenges the Bank’s decision on “violation of policy” and “public interest” grounds. The Application states, in relevant part, the following:

[...]

1) *I am an emerging social entrepreneur and started working for poor mother and sustainable Livelihood of poor people mainly women.*

2) *I approached many poor women in villages and discovered that their suffering is increasing every day though world bank is funding various projects for the purpose.*

3) *During the efforts I discovered that there are misappropriation, fraud and corruption of vary high level but top management of implementing agency do not allow any information to reach to the right people so that things can be made straight.*

4) *We approached the villagers and tried to tally the world bank report but there is no clarity on which Upzilas are made effective.*

5) *In many a villages , villagers are totally not aware of any survey or reporting of such project*

6) *It was discovered during the villages visit that most of the poor women do not about mother health nor safety net.*

7) *To be sure and to find out what is really going wrong I started asking very basic details from LGD who is implementing agency but they refused to share any information*

8) *Due to refusal of information which will serve the livelihood of poor women in Bangladesh I applied for information to access to information but most the information are*

a) *Delayed too much.*

b) *Not provided as asked.*

c) *Even not in possession is being claimed.*

d) *Even not being provided on the argument of as exception world bank is not allowing is being claimed.*

e) *If I get all information transparently we will be able to serve the health of poor women mainly pregnant women and mother.*

f)Due to ambiguity in providing list of upzilas as declined in the point no 4 social worker and entrepreneur like me gets totally confused and start working with wrong upzilas and villages where there is no inclusion of mother or we double include the poor women which creates LGD top management an advantage due to no accountability, non-transparency and no right access to information enabling the project to remain in capture of Elite only.

[...]

In view of the above I appeal to please provide information which is denied and not provided properly in this case at the moment.

Findings and Related Decision

4. In reviewing the Application in accordance with the AI Policy, the AIC considered:
 - (a) the Request;
 - (b) the Bank’s denial of access;
 - (c) the Application;
 - (d) the nature of the restricted information;
 - (e) the *Information Provided by Member Countries or Third Parties in Confidence* exception under the AI Policy that justified the Bank’s decision to deny public access to the requested information, and the *Deliberative Information* exception under the AI Policy; and
 - (f) the information provided by the relevant business units.

5. The AIC notes upfront that the below analysis is limited to information that is in the Bank’s possession and to which the Bank has denied access. The AIC recognized the delays in responding to public access requests. The AIC noted that: (a) the *Bank Directive/Procedure: Access to Information*, July 1, 2015, Catalogue No. ECR4.01-DIR.01 (“AI Directive/Procedure”) provides that “[t]he Bank [...] endeavors to provide a more comprehensive response within 20 working days. Additional time may be justified in special circumstances, including, for example, those involving complex or voluminous requests, or requests requiring review by or consultations with internal Bank units, external parties, the AI Committee, or the Board.” (*see* AI Directive/Procedure at Section III.C.1); and (b) the number and occasional volume of requests submitted by the requester since January 2016.

“Violation of the AI Policy”

6. Pursuant to the AI Policy, the Bank allows access to any information in its possession that is not on a list of exceptions (*see* AI Policy, at Section III.B.1). A requester who is denied public access to information by the Bank may file an appeal if the requester is able to establish a *prima facie* case that the Bank has violated the AI Policy by improperly or unreasonably restricting access to information that it would normally disclose under the AI Policy (*see* AI Policy, at Section III.B.8 (a) i).

7. The AI Policy states that the Bank “does not provide access to documents that contain or refer to information listed in sub-paragraphs (a) through (j)” of Section III.B.2 of the AI Policy, which set out the AI Policy’s list of exceptions. Sub-paragraph (i) of Section III.B.3 of the AI Policy explicitly states, under the *Deliberative Information* exception, that the Bank does not provide access to information prepared for, or exchanged during the course of, the Bank’s deliberations with member countries or other entities with which the Bank cooperates, to facilitate and safeguard the free and candid exchange of ideas for the purpose of preserving the integrity of the deliberative processes. The AI Directive/Procedure further provides that aide memoires of operational missions may be made publicly available if both the Bank and the member country/borrower agree (*see* AI Directive/Procedure at Section III.B.3.a).

8. The AIC found that: (a) the “name[s] of specific 14 upzilas in 1st distinct phase as mentioned in ISR 20055” were documented in the aide memoire for the Project of May 2015 (the “Aide-Memoire”); and (b) the member country has not agreed to make the Aide Memoire publicly available. The AIC, thus, concluded that the Aide-Memoire is restricted by the *Deliberative Information* exception under the AI Policy. The AIC noted that the Bank’s decision erroneously specified the *Information Provided by Member Countries or Third Parties in Confidence* exception under the AI Policy as restricting the Aide-Memoire. The AIC considered this error to be harmless, as the Aide-Memoire was already restricted from public access.

9. Based on all the above findings, the AIC concluded that the Bank’s decision did not violate the AI Policy and upheld its decision to deny public access to the Aide-Memoire. Under the AI Policy, if the AIC upholds the initial decision to deny public access to information in appeals alleging “violation of policy,” the requester can appeal to the Access to Information Appeals Board (“AI Appeals Board”) as the second and final stage of appeals (*see* AI Policy at Section III.B.8 (b) ii). If you wish to file an appeal to the AI Appeals Board, [click here](#).

[*URL provided in the decision sent to the requester*].

Public Interest case

10. Pursuant to the AI Policy, a requester who is denied public access to information by the Bank may file an appeal on a “public interest” basis if the requester is able to make a public interest case to override certain AI Policy exceptions that restrict the information. Public interest appeals are limited to information restricted by the *Corporate Administrative Matters*, *Deliberative Information*, and/or *Financial Information* (other than banking and billing information) exceptions (*see* AI Policy at Section III.B.8 (a) ii).

11. The AIC found that the member country has not agreed to make the Aide Memoire publicly available. The AIC discussed the public interest claim made in the Application. The AIC recognized that the phasing of Project implementation and the targeted upazilas is information that would benefit the Project beneficiaries and the public at large, and, thus, should be disclosed at an agreed moment during Project implementation. In this regard, the AIC noted: (a) that the full list of upazilas expected to be targeted under the Project is already publicly available in the Project Appraisal Document ([Report No: PAD957](#)); and (b) the Bank’s commitment to document and agree on a process and timeline for disclosing the upazila phasing

at an appropriate time in the course of Project implementation. In light of this, the AIC found no compelling ground to support the appeal on a public interest basis. In accordance with the AI Policy, the AIC decided not to override the *Deliberative Information* exception restricting the Aide-Memoire.

12. For the reasons discussed above, the AIC upholds the Bank's decision to deny public access to the Aide Memoire. Under the AI Policy, for appeals that assert a public interest case to override an AI Policy exception, the decision of the AIC is final (see AI Policy at Section III.B.8 (b) i).