

AIC decision on appeal #21

CASE NUMBER AI2359 CERTAIN CORPORATE PROCUREMENT INFORMATION CONCERNING THE CONSULTING PROJECT (SELECTION #1061565, “BEEPS V TURKEY”)

(Decision dated June 19, 2013)

Summary of Decision

- The requester filed an appeal against the World Bank’s decision to deny access to certain corporate procurement information concerning the “consulting project (Selection #1061565, “BEEPS V Turkey)””.
- Under the AI Policy, the World Bank does not provide access to information relating to the World Bank’s corporate administrative matters, including, but not limited to, corporate expenses, procurement, real estate, and other activities. Such information is restricted by the “Corporate Administrative Matters” exception under the AI Policy.
- The Access to Information Committee (“AIC”) found that the requested information consists of certain corporate procurement information. On this basis, the AIC concluded that the requested information is restricted from disclosure by the “Corporate Administrative Matters” exception under the AI Policy.
- Because the AIC found no compelling public interest reason to override the “Corporate Administrative Matters” exception restricting the requested information, the AIC upheld the Bank’s decision to deny public access to the requested information.
- Notwithstanding the above, the AIC additionally considered whether the benefit of disclosing the requested information would outweigh the potential harm; this consideration took into account the request and the views of the relevant business units. Based on these considerations, the AIC decided, pursuant to its authority provided by paragraph 18 (c) of the AI Policy, to exercise the Bank’s prerogative to disclose a portion of the requested information.

Decision

1. On January 18, 2013, the World Bank (“Bank”) denied a public access request for certain corporate procurement information concerning the “consulting project (Selection #1061565, “BEEPS V Turkey)”” (“Request”). The Request was denied on the basis that the requested

information is restricted by the “Corporate Administrative Matters” exception under the Bank’s Access to Information Policy (the “AI Policy”). On March 18, 2013, the secretariat to the Access to Information Committee (the “AIC”) received the attached application (“Application”) appealing the Bank’s decision to deny public access to the requested information.

2. The Application challenges the decision to deny public access on the ground that there is a “public interest” case to override the AI Policy exception that restricts the requested information. The Application states the following:

The "GUIDELINES: SELECTION AND EMPLOYMENT OF CONSULTANTS BY WORLD BANK BORROWERS" stipulates under para 2.6 ("Short lists of consultants") that "Firms that expressed interest, as well as any other firm that specifically so requests, shall be provided the final short list of firms".

The GUIDELINES under para 2.28 ("Publication of the Award of Contract") further stipulates that "2.28 After the award of contract, the borrower shall publish in UNDB online and in dgMarket the following information: (a) the names of all consultants who submitted proposals; (b) the technical points assigned to each consultant; (c) the evaluated prices of each consultant; (d) the final point ranking of the consultants; (e) the name of the winning consultant and the price, duration, and summary scope of the contract. The same information shall be sent to all consultants who have submitted proposals."

The information I requested under Case Number AI2359 exactly falls under the above stipulations. However, the request was rejected on January 18, 2013 quoting the Exception 8 ("Corporate Administrative Matters") under the World Bank’s Access to Information Policy ("the Policy").

The first question to be addressed in this respect is whether the shortlisting and award of TA contracts to consultants advertised on the World Bank's wbgeconsult2 website is a corporate administrative matter. The straightforward answer is yes because these contracts are awarded to "operational consultants" and are financed either from the Bank's own budget or from trust funds. Accordingly, as corporate administrative matters pertain to "including, but not limited to, corporate expenses, procurement, real estate and other activities", these contracts fall under this exception. More generally, as the World Bank is not a BORROWER, it is not bound by above-mentioned GUIDELINES.

If the exception is crystal clear, why I am appealing against this rejection decision? The "Policy" states that the Bank's Access to Information Committee may approve the disclosure of restricted information under this exception if the "overall benefits of such disclosure outweigh the potential harm to the interest(s) protected by the exception(s)".

I feel that I don't need to prove that there is a "public interest" in disclosing the information under this particular case or even under all potential cases for "operational

consultant" contracts. It is up to the Committee [to] decide which interest(s) this exception protect(s).

More generally, the esteemed Committee might wish to ask if there is public interest in disclosure of short list and contract information by BORROWERS, why it is harmful for the Bank to disclose similar information; and how the Bank may maintain the above-mentioned rules if the BORROWERS ask for a similar exception?

Findings and Decision of the Access to Information Committee

3. The AIC considered the Application on the basis of whether the requester was able to make a public interest case to override the "Corporate Administrative Matters" exception restricting the requested information. In reviewing the Application in accordance with the AI Policy, the AIC considered:

- (a) the Request;
- (b) the Application;
- (c) the nature of the requested information;
- (d) the "Corporate Administrative Matters" exception under the AI Policy that justified the Bank's initial decision to deny public access; and
- (e) the information provided by the relevant business units concerning the requested information.

"Public Interest" case

4. Pursuant to the AI Policy, a requester 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 requested information. Public interest appeals are limited to information restricted under the "Corporate Administrative Matters", "Deliberative Information", and "Financial Information (other than banking and billing information)" exceptions (*see* paragraph 36 (b) of the AI Policy).

5. The AIC found that the requested information is of a corporate procurement nature and, thus, is restricted by the "Corporate Administrative Matters" exception under the AI Policy. The AIC discussed whether the public interest assertion in the Application merited overriding the "Corporate Administrative Matters" exception restricting the requested information. The AIC found no compelling public interest reason to override the "Corporate Administrative Matters" exception of the AI Policy on which the Bank initially based its decision to deny public access to the requested information.

6. For these reasons, in response to the public interest appeal, the AIC decided to uphold the Bank's decision to deny public access to the requested information.

7. Under the AI Policy, the decision of the AIC is final for appeals that assert a public interest case to override an AI Policy exception (*see* paragraph 37 of the AI Policy).

8. Notwithstanding the above, the AIC additionally considered whether the benefit of disclosing the requested information would outweigh the potential harm. This consideration took into account the Request and the views of the relevant business units. Based on these considerations, the AIC decided, pursuant to its authority provided by paragraph 18 (c) of the AI Policy, to exercise the Bank's prerogative to disclose a portion of the requested information (i.e., name of the winning bidder and contract value). Thus, please find such portion of the requested information below:

(a) name of the winning bidder: Ipsos- Mori; and

(b) contract value: US\$330,000.