

AIC decision on appeal #28

CASE NUMBER AI3127
PUBLIC ACCESS REQUESTS RECEIVED
BY THE WORLD BANK IN OCTOBER 2013 AND RELATED INFORMATION

(Decision dated March 12, 2014)

Summary of Decision

- The Access to Information Committee (“AIC”) upholds the World Bank’s decision to deny access to “copies of all access to information requests” submitted in the month of October 2013. The AIC further finds the request for “any list” and “any summary” of such access to information requests to be unsupported pursuant to the World Bank’s Access to Information Policy (“Policy”). Absent the requester’s indication of the grounds for this appeal, the AIC considered the appeal on both violation of policy and public interest grounds.
- **Violation of Policy.** With respect to the portion of the request that seeks “copies of all access to information requests” submitted to the World Bank in October 2013, the AIC found that the World Bank had properly denied access to the records based on the Policy’s *Security and Safety* exception. The AIC based its decision on, *inter alia*, the following: (a) the “access to information requests” all included some form of personal information; (b) the persons who had submitted the requests were not notified that their information would be made public; (c) as a result, they neither consented nor had the opportunity to communicate concerns regarding such disclosure; and (d) the Bank cannot reasonably discount or dismiss the possible risk of harm to the persons’ security and safety should the information be made public, nor can the Bank reasonably be expected to ascertain, in a reasonable period of time, the likelihood of such harm to each individual in each case, considering the blanket nature of this request. With respect to the portions of the request that seek “any list” and “any summary” of such access to information requests, the AIC found that the World Bank’s written communication to the requester can be read as denying these portions of the request based on the Policy’s *Security and Safety* exception. In this respect, the AIC found the written communication to be in error, but the error to be harmless because: (a) the World Bank had not created and was not in possession of such list or summary; and (b) the Policy expressly reserves the World Bank’s right to refuse unsupported requests that would require the World Bank to collate or create information or data that does not already exist. As such, the World Bank’s refusal to provide information that does not already exist is reasonable and proper under the Policy.
- **Public Interest.** The AIC dismisses consideration of the appeal on public interest grounds for the following reasons: (a) with respect to the information that is restricted by the *Security and Safety* exception, such information may not be subject to a public interest appeal under the Policy; and (b) with respect to the information that does not exist, technically such information is not restricted by a Policy exception and thus, there is no basis to consider a public interest appeal for the purpose of overriding a relevant Policy exception.

The Decision

1. On December 12, 2013, the requester submitted a request seeking to access: “(1) copies of all access to information requests submitted in the month of October, 2013; (2) any list of access requests in the month of October, 2013; and (3) any summary prepared by the World Bank concerning requests made in the month of October, 2013” (“Request”). On January 22, 2014, the World Bank (“Bank”) denied the Request on the basis that the information is covered by the *Security and Safety* exception under the Bank’s Access to Information Policy (“Policy”). On February 7, 2014, the secretariat to the Access to Information Committee received an application (“Application”) appealing the Bank’s decision to deny access to the requested information.

2. The Application asserts the following:

First, the Bank has made an overly broad interpretation of the [*Security and Safety*] exemption, ignoring its literal meaning.

The language of the exemption requires a finding that disclosure is “likely” to endanger a person’s safety security. This choice of words indicates that there must be more than a remote possibility of endangerment. “Likely” necessitates a finding of probable harm, a good chance of harm, a real danger.

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Second, the exemption should not be read as a blanket justification for nondisclosure of all requester names or identifying information.

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A blanket denial is inconsistent with the language of the exemption and overall Bank policy. Application of Section 12 [of the Policy] should require a case-by-case analysis.

Third, even if the disclosure of names or personal information might expose a requester to likely harm, an alternative exists that would provide [the requester in this case] partial information while protecting the requester.

The Bank has erred by not redacting any specific information that might run afoul of Section 12 [of the Policy].

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Fourth, the Bank failed to address or justify in any way its denial of [the requester’s] requests (2) and (3).

Findings and Related Decisions

3. Absent the requester’s indication of the grounds for this appeal, the Access to Information Committee (“AIC”) considered whether the Bank’s decision to deny access to the requested information violated the Policy and whether there are public interest reasons for overriding the relevant Policy exception in this case. In reviewing the Application in accordance with the Policy, the AIC considered:

(a) the Request;

- (b) the Application;
- (c) the nature of the requested information and the related information provided by the relevant business unit concerned;
- (d) the Policy's *Security and Safety* exception that justified the Bank's decision to deny access;
- (e) the Policy interpretation concerning redaction, issued by the AIC on July 14, 2010; and
- (f) the Policy's provision on *Unreasonable or Unsupported Requests*.

“Violation of Policy”

4. Pursuant to the Policy, the Bank allows access to any information in its possession that is not on a list of exceptions (see Policy at paragraph 6). A requester who is denied 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 Policy by improperly or unreasonably restricting access to information that it would normally disclose under the Policy (see Policy at paragraph 36 (a)).

5. The Policy states that the Bank “does not provide access to documents that contain or refer to information listed in paragraphs 8-17” of the Policy, which set out the Policy's list of exceptions. Paragraph 12 of the Policy, which discusses the *Security and Safety* exception, states that the Bank does not provide access to “(a) information whose disclosure would compromise the security of Bank staff . . . other individuals, and Bank assets,” and “(c) information whose disclosure is likely to endanger the life, health, or safety of any individual” (Policy at paragraph 12). The Policy provides that “[r]equests [for information] should indicate, with reasonable specificity, the information that is being sought, to enable the Bank to locate the information within a reasonable period of time. If a particular document is required, it should be identified precisely. . . .” (Policy at paragraph 24). The Policy, under the paragraph titled *Unreasonable and Unsupported Requests*, further provides that the Bank “reserves the right to refuse unreasonable or unsupported requests, including multiple requests, blanket requests, and any request that would require the Bank to create, develop, or collate information or data that does not already exist or is not available in the Bank's records management system” (Policy at paragraph 26).

6. In the first portion of the Request, the requester seeks to access “copies of all access to information requests” submitted in the month of October 2013. The AIC considered the “access to information requests” in their original form, recognizing that the Policy “does not mandate the Bank to redact (black out) restricted information in order to make the document acceptable for public access” (Policy interpretation on redaction, issued by the AIC on July 14, 2010). The AIC found that: (a) this portion of the Request is of a blanket nature, covering all such requests for the month of October 2013, without specifying any particular case; (b) the “access to information requests,” as reflected in and reproduced from the Bank's access to information case management system, all include some form of personal information such as names, email addresses and personal and/or professional affiliations; (c) the members of the public who had submitted the access to information requests were given no notice that their requests and personal information would be publicly released; (d) as a result, the persons neither consented nor had reasonable opportunity to communicate any security and safety concerns relating to

such disclosure; (e) international codes of ethics and codes of conduct for archivists recognize the need to respect the privacy of users, including maintaining the confidentiality of their research and protecting their personal information; (f) in order to ascertain with certainty the level of risk posed to the requesters' security and safety if their personal information was to be released, the Bank would need to notify and seek the views of each individual impacted by the disclosure, which means, at minimum, contacting and getting the views of each person who had submitted an access to information request in the month of October 2013; (g) in view of the blanket nature of the Request, it would be impractical for the Bank to address this portion of the Request within a reasonable period of time, should the Bank need to notify and consult each potentially impacted individual, noting that such notice and consultation are not mandated by the Policy; and (h) short of such notice and inquiry, the Bank cannot reasonably discount or dismiss the possibility that the disclosure of the persons' requests and personal information could compromise their security or safety. Under the circumstances, the AIC found the Bank had acted reasonably and in the spirit of the Policy, by giving due regard to the security and safety of those persons who had submitted an access to information request to the Bank.

7. Additionally, the AIC found that "access to information requests" reproduced from the Bank's access to information case management system also reveal information about Bank staff (e.g., staff names) and the Bank's information technology systems. Thus, while the Bank's communication to the requester only indicated the *Security and Safety* exception (which may also apply to Bank staff and assets), the AIC finds that *Corporate Administrative Matters* exception is also triggered.

8. On the basis of the considerations discussed above, the AIC found that the Bank properly and reasonably denied the request for "copies of all access to information requests" submitted to the Bank in the month of October 2013.

9. With respect to the latter two portions of the Request that seeks any "list of access requests in the month of October, 2013" and "summary prepared by the World Bank concerning requests made in the month of October, 2013," the AIC noted that the Bank's denial to requester indicated, in relevant part, that "the information you requested is restricted from public access under the [Policy] because it is covered by the *Security and Safety* exception." The denial made no distinction between the different information requested. The business unit communicated to the AIC that, while the written denial only referred to the *Security and Safety* exception, the business unit had verbally informed the requester that the requested list and summary do not exist, and of the provision in the Policy concerning unsupported requests.

10. The AIC found that, based solely on the face of the written denial, the Bank's response may be read as denying the whole Request based on the Policy's *Security and Safety* exception. While the AIC found that denying the latter two portions of the Request on this basis would be in error, the AIC found the error to be harmless because: (a) there is no evidence of the existence of such a list or summary; and (b) the Policy expressly reserves the Bank's right to refuse requests that would require it to create, develop or collate information or data that does not already exist or is available in its records management system.

11. Based on all the above findings, the AIC concluded that the Bank's decision did not violate the Policy and upheld its decision to deny public access to the requested information in existence. Under the

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* paragraph 38 of the Policy). If you wish to file an appeal to the AI Appeals Board, click [here](#).

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

“Public Interest” case

12. Pursuant to the Policy, a requester who is denied 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 Policy exceptions that restrict the information requested. 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* Policy at paragraph 36 (b)).

13. In the absence of the requester’s indication of the grounds for this appeal, the AIC considered the appeal on public interest grounds. With respect to the “access to information requests” sought by the requester, the AIC found that, because such information is restricted by the Policy’s *Security and Safety* exception, the information is not subject to a public interest appeal (*see* Policy at paragraph 36). With respect to the requested “list” and “summary” of such public access requests, because such information does not exist, the AIC found that this portion of the appeal cannot be considered on public interest grounds. The AIC also found that the Request provided no information in support of a public interest appeal that would result in a different conclusion. For these reasons, the AIC dismisses consideration of the appeal on public interest grounds (*see* Policy at paragraph 40 (c)). Under the Policy, the decision of the AIC is final for appeals that assert a public interest case to override a Policy exception (*see* Policy at paragraph 37).

14. While the Bank has not, at the time of this appeal, adopted a practice of creating any lists or summaries of access to information requests, the AIC notes that the relevant business units concerned are considering the piloting of a system to disclose certain information from the access to information requests filed by the public. The AIC supports the business units’ consideration of such an initiative, in furtherance of the Policy’s guiding principle to maximize the public’s access to information, so long as: (a) the members of the public are notified, in advance of submitting their information requests, that certain information from their requests may be disclosed; and (b) due consideration is given to any request for confidentiality.