

AIC decision on appeal #30

CASE NUMBER AI3199

**DOCUMENTS RELATED TO THE BOLIVIA PROGRAM-FOR-RESULTS OPERATION
(P144597)**

(Decision dated April 23, 2014)

Summary of Decision

- The Access to Information Committee (“AIC”) upholds the World Bank’s decision to deny access to certain requested information regarding the Bolivia National Road Sector Management Program (P144597). The AIC considered the appeal based on the premise that the Bank’s decision violated its Policy on Access to Information (“AI Policy”).
- ***Violation of Policy.*** The AIC found that the World Bank properly and reasonably denied access to the requested information because the information is restricted by the AI Policy’s *Deliberative Information* exception. The AIC based its decision on the consideration of the facts, including its recognition that, at the time of the denial, the requested information (a) was in draft form and, for one document, not yet subject to disclosure, and (b) was prepared for, or exchanged during the course of, the World Bank’s deliberations with the member country and/or its own internal deliberations. The AIC noted that of the three documents named in the appeal, one document will be made public in its final form before the program’s appraisal, and information deriving from the other two documents will be made public as part of the program appraisal document.

The Decision

Facts

1. On February 19, 2014, the requester submitted a request (“Request”) seeking to access certain information on the Bolivia National Road Sector Management Program (P144597) (“Program”). Specifically, the request sought to access the Program’s (a) “Evaluación de los Sistemas de Gestión Ambiental y Social (ESGAS)”; (b) “Evaluación de Riesgo de Fraude y Corrupción”; (c) “Plan de Acción y Verificación de Resultados”; and (d) “Ayuda Memoria o notas de las tres misiones del Banco.”

2. On March 10, 2014, the World Bank (“Bank”) issued a response indicating that the “ESGAS (Social and Environmental Evaluation) will be disclosed at appraisal” and that information derived from the *Evaluación de Riesgo de Fraude y Corrupción* and the *Plan de Acción y Verificación de Resultados* will be detailed in the program appraisal document, which would be disclosed at a later date. The response also informed the requester that the remaining requested document (i.e., an aide memoire) is restricted by the AI Policy’s *Deliberative Information* exception.

3. On March 12, 2014, the secretariat to the Access to Information Committee received an application (“Application”) of appeal. The Application states the following:

The Bank held a consultation meeting with CSOs [(civil society organizations)] as part of the preparation of the project P144597 on December 2013 without disclosing any of this relevant documentation for such consultation. The Bank only offered a brief table summary of what it seems to be the ESGAS. Now the Bank is planning another consultation meeting in March without a timely disclosure again of any of this relevant documentation for a proper, effective and in good faith consultation. The documents requested, ESGAS (Social and Environmental Evaluation) and the “Evaluación de Riesgo de Fraude y Corrupción” and “Plan de Acción y Verificación de Resultados” of Project P144597, are the minimum information to have for an informed, effective, meaningful consultation therefore there is an important public interest at stake and possible policy violation. The AIP [(Access to Information Policy)] is based on five principles, one of them “maximizing access to information” particularly with groups affected by its operations. OP/BP 9.00 also stipulates that during the preparation phase “the task team subsequently consults with Program stakeholders on the draft assessment.” These documents contain program-related information during the preparation phase, without a full ESGAS and these other documents, it is impossible to discuss risk or mitigation options in an informed and effective consultation.

Findings and Related Decisions

4. The Access to Information Committee (“AIC”) considered whether the Bank’s decision to deny access to the requested information violated the AI Policy. In reviewing the Application in accordance with the AI Policy, the AIC considered:
 - (a) the Request;
 - (b) the Bank’s response to the Request;
 - (c) the Application and basis for the appeal; and
 - (d) the nature of the information at issue, and the related information provided by the business unit concerned.

“Violation of Policy”

5. 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 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 AI Policy by improperly or unreasonably restricting access to information that it would normally disclose under the AI Policy (*see* AI Policy at paragraph 36 (a)).

6. The AI Policy states that the Bank “does not provide access to documents that contain or refer to information listed in paragraphs 8-17” of the AI Policy, which set out the AI Policy’s list of exceptions. Paragraph 16 of the AI Policy, under the *Deliberative Information* exception, recognizes that, to facilitate and safeguard the free and candid exchange of ideas for the purpose of preserving the integrity of the deliberative processes, the Bank does not provide access to information (including draft reports or other

documents) prepared for, or exchanged during the course of, (a) its deliberations with member countries or other entities with which the Bank cooperates, and (b) its own internal deliberations (*see* AI Policy at paragraph 16 (a) and (b)). The AI Policy 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 Policy at paragraph 20 (a)).

7. The AIC found that, at the time of the Bank’s decision to deny access to the information at issue, as well as at the time of the AIC’s consideration of the appeal:

- (a) the Program continued to be under preparation, and had not reached the appraisal stage;
- (b) the ESGAS was in draft form. While the draft ESGAS is deliberative, the final ESGAS will be made publicly available before the Program’s appraisal pursuant to BP 9.00, *Program-for-Results Financing*;
- (c) the *Evaluación de Riesgo de Fraude y Corrupción* and the *Plan de Acción y Verificación de Resultados*, were both in draft form, and had been prepared as part of the Bank’s deliberations with the borrower and its own internal deliberations.

8. Based on the above findings, the AIC concluded that the Bank properly and reasonably denied access to the documents at issue based on the AI Policy’s *Deliberative Information* exception and, therefore, the Bank’s decision did not violate the AI Policy. Furthermore, while the requester did not appeal the Bank’s decision to deny access to the aide memoire, the AIC found the Bank had properly denied access to the document in accordance with the AI Policy’s *Deliberative Information* exception, in view of the deliberations reflected in the document, and the fact that the member country has not agreed to make the document public.

9. While the AIC upheld the Bank’s decision to deny public access to the requested information, the AIC emphasized that the final ESGAS will be made publicly available before the Program’s appraisal and that information deriving from the *Evaluación de Riesgo de Fraude y Corrupción* and the *Plan de Acción y Verificación de Resultados* will also be made public in the Program’s program appraisal document.

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

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