

AIC decision on appeal #75

**CASE NUMBER AI7115
INSTITUTIONAL REVIEW BOARD (IRB)**

(Decision dated October 22, 2020)

Summary of Decision

- The Access to Information Committee (“AIC”) found that the application is not properly before the AIC for consideration because it was submitted before a decision by the Bank to deny access to the requested information. Under the World Bank’s Policy on Access to Information (“AI Policy”), only a denial of access to information by the Bank is eligible for an appeal (see AI Policy, at Section III.B.8.(a)). For this reason, and pursuant to the Bank Directive/Procedure: Access to Information, at Section III.D.1.a, the appeal is dismissed in its entirety.

The Decision

Facts

1. On August 9, 2020, the requester submitted a request (“Request”) seeking access to:

the Institutional Review Board (IRB) approvals for this study: <https://www.nber.org/papers/w27569> This includes any IRB approvals by the other institutions participating in the study and the World Bank’s own process. For the avoidance of doubt, you can find out more about IRB approvals here: [https://dimewiki.worldbank.org/wiki/IRB Approval](https://dimewiki.worldbank.org/wiki/IRB_Approval)
2. On September 2, 2020, the World Bank (“Bank”) provided the following information to the requester:

In response to your request under S2008-1053, we are pleased to provide you with the information listed below that is in the Bank’s possession and has been found to be responsive to the request.

Because the information is being provided, the request will be closed with an outcome of being fulfilled.

IPA IRB approval document – July 31, 2018 (the actual document is dated July 26, but this was due to a clerical error and it is actually July 31).

<http://pubdocs.worldbank.org/en/814001598873101215/Amendment-Approval-Letter-IPA-IRB-31072018>

Maseno university IRB approval document – August 29, 2018

<http://pubdocs.worldbank.org/en/496491598873302326/MUERC-Amendment-Approval-29082018>

Maseno university IRB extension approval – November 23, 2018

<http://pubdocs.worldbank.org/en/595771598873601561/MUERC-Annual-Renewal-Approval-23112018>

3. The requester replied on the same date indicating that the above documents were not what the requester was seeking. The requester stated that the Request was for the “IRB for this study” (“Modified Request”), not the IRB approvals as unequivocally stated in the Request. The Bank replied on the same date indicating it would “further search and revert” to the requester as soon as possible.

4. On September 9, 2020, the Bank communicated the following to the requester:

We note the original request you submitted reads:

“I would like the Institutional Review Board (IRB) approvals for this study:

<https://www.nber.org/papers/w27569> This includes any IRB approvals by the other institutions participating in the study and the World Bank's own process. For the avoidance of doubt, you can find out more about IRB approvals here: https://dimewiki.worldbank.org/wiki/IRB_Approval”

On 9/2/2020, the Bank provided public access to the following IRB approvals as requested:

IPA IRB approval document – July 31, 2018 (the actual document is dated July 26, but this was due to a clerical error and it is actually July 31).

<http://pubdocs.worldbank.org/en/814001598873101215/Amendment-Approval-Letter-IPA-IRB-31072018>

Maseno university IRB approval document – August 29, 2018

<http://pubdocs.worldbank.org/en/496491598873302326/MUERC-Amendment-Approval-29082018>

Maseno university IRB extension approval – November 23, 2018

<http://pubdocs.worldbank.org/en/595771598873601561/MUERC-Annual-Renewal-Approval-23112018>

On 9/2/2020, you clarified your request is for the IRB itself, not the approvals. In light of this clarification, the Bank restarted its due diligence to have the IRB considered for publicly disclosed. This due diligence is ongoing at this time.

Kindly note that the IRB will be made publicly available after internal clearances are concluded, which is expected by the end of September. We will update you once the information has become publicly available. Please note that your request is open and at this time there is no denial of access to the information. To the contrary, the information will be made publicly available in due course; just not ripe yet for public disclosure.

5. The requester replied on the same date indicating his/her expectation “to receiving the document by the end of September”.

6. On September 18, 2020, the Bank informed the requester that “the IRB is under review and will be disclosed soon. We just cannot give a firm date but we will let you know when it is public”. The requester immediately inquired whether such reply by the Bank was a refusal or not.

7. On September 23, 2020, the Bank informed the requester that:

The Bank's September 18, 2020 response is not a denial of access.

The information you requested will be disclosed in due course and when it is disclosed, the Bank will provide you with a link to the information.

In most cases, we will be able to respond within twenty (20) working days from receipt of a request for information. However, the Bank needs additional time in special circumstances, for example, if the request is complex or voluminous or if it requires further review by or consultation with internal World Bank units, external parties, the Access to Information Committee, or the World Bank’s Board of Executive Directors (see the [World Bank Policy on Access to Information](#)).

We regret any inconvenience that a delay may cause you and we will aim to minimize it as much as possible.

We will notify you promptly of any updates on the status of your request.

8. On October 5, 2020, the requester submitted an application for appeal to the AI Secretariat email account (“Application”). The Application noted that the Bank had not provided the requester with the link to appeal the Bank’s decision on his Request or Modified Request. The Application requested the Bank to immediately disclose the IRB while acknowledging that the Bank did state that the IRB will be disclosed in due course.

Findings and Related Decision

9. 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 Modified Request;
- (d) the nature of the requested information referred to in the Modified Request;
- (e) the Bank’s response to the Modified Request;
- (f) the status of the Modified Request by when this decision is issued.

10. Under the AI Policy, a requester who is *denied access* to information by the Bank may file an appeal (see AI Policy, at Section III.B.8.(a)). Appeals of a Bank *decision to deny access* are first considered by the AIC (see AI Policy, at Section III.B.8.(b).i). The remedy available to a requester who prevails on appeal is limited to receiving the information requested (see AI Policy, at Section III.B.8.(c)). The AI Policy also states that the Bank

(...) must preserve the integrity of its deliberative processes by facilitating and safeguarding the free and candid exchange of ideas. Therefore, while the Bank makes publicly available the decisions, results, and agreements that result from its deliberative processes, it does not provide access to (...) draft reports (...) (see AI Policy, at Section III.B.2(i)i and ii).

11. In this case, the AIC found that:

- (a) the Request is to access IRB *approvals*, not the IRB itself (see para. 1 above);
- (b) the IRB approvals were made publicly available and provided to the requester (see para. 2 above);
- (c) it was only after receiving such IRB approvals that the requester stated he/she was seeking access to the IRB proposal itself, i.e., the Modified Request (see para. 3 above);
- (d) an IRB (i.e., Institutional Review Board) proposal is a proposal to obtain ethical clearance for research. In this case, the IRB proposal was submitted to the Innovations for Poverty Action Institutional Review Board;
- (e) the IRB proposal is an intrinsic part of a draft report restricted by the Deliberative Information exception under the AI Policy and cannot be detached from the draft report;
- (f) The Bank is carrying out the necessary due diligence to finalize the draft report which includes the IRB proposal. The final version of the draft report is expected to be disclosed after the Bank's internal review and clearances are concluded;
- (g) because the IRB proposal is part of the draft report, the IRB proposal will be made publicly available at the same time as the final version of the draft report. While the Bank had initially indicated that it expected to disclose the final version of the draft report by the end of September, the Bank's internal review and clearances of the draft report are ongoing and are not yet concluded. Thus, there is no specific date at this time for disclosing the final version of the draft report, which includes the IRB proposal; and
- (h) the Modified Request was open at the time the Application was submitted and remains open by the time this decision is issued; thus, the Bank has not yet issued a denial of access with respect to the Modified Request.

12. Based on the above, the Application challenging the Bank's decision regarding both the Request and the Modified Request is not properly before the AIC for consideration. The Request was fulfilled since the IRB approvals are publicly available and have been provided to the requester, which is ultimately the remedy available to a requester under appeal; this alone makes the Application moot with respect to the Request. As to the Modified Request, the Bank has indicated that the IRB proposal will be disclosed after "internal clearances are concluded", i.e., at the same time as the final version of the draft report, that the Request remains open, and that the Bank's response is not a denial of access; thus, the Application is not eligible for consideration at this time.

13. For the above reasons, and pursuant to Bank Directive/Procedure: Access to Information, at Section III.D.1.a, the appeal is dismissed in its entirety for failure to file within the required time (i.e., the Application in this case was filed before a denial of access to the information, i.e., has not been filed within 60 calendar days of the Bank's initial decision to deny access to the requested information and, thus, is outside the period of time that makes an appeal eligible for consideration), failure to provide sufficient information that would reasonably support the appeal (i.e., a Bank decision to deny access to the requested information), and for appealing a matter that the AIC does not have authority to consider (i.e., no Bank decision to deny access to the requested information).

14. Despite the above, the link to further appeal to the Access to Information Appeals Board ("AIAB") will be sent directly to the requester through a separate electronic message.