

AIC decision on appeal # 16

**CASE NUMBER AI1473
ISRS FOR INDIA MUMBAI URBAN TRANSPORT PROJECT**

(Decision dated May 16, 2012)

Summary of Decision

- The requester filed an appeal against the World Bank’s decision to deny access to “the (english) Implementation Status and Results Reports of the India: Mumbai Urban Transport Project (ID P050668) prepared between 2005 and 2010”.
- Under the AI Policy, information prepared for the Bank’s own internal deliberations is covered by the “Deliberative Information” exception.
- The Access to Information Committee (“AIC”) found that the Implementation Status and Results Reports (“ISRs”), dated from May 24, 2005, through April 15, 2010, were prepared to facilitate the Bank’s own internal deliberations during the implementation of the India - Mumbai Urban Transport Project, and reflect the Bank’s internal discussions in support of those deliberations.
- Based on the above, the AIC concluded that the requested ISRs are restricted from disclosure by the “Deliberative Information” exception of the AI Policy and, thus, the Bank’s decision to deny access on that basis did not violate the AI Policy. For this reason, the AIC upheld the Bank’s decision to deny public access to the ISRs.

Decision

Background

1. On February 23, 2012, the World Bank (“Bank”) denied a public access request to “the (english) Implementation Status and Results Reports of the India: Mumbai Urban Transport Project (ID P050668) prepared between 2005 and 2010” (“Request”). The request was denied on the basis that the requested information is covered by the “Deliberative Information” exception under the Bank’s Access to Information Policy (“AI Policy”). On March 21, 2012, the secretariat to the Access to Information Committee (“AIC”) received the attached application (“Application”) appealing the Bank’s decision to deny access to the requested information.

2. The Application challenges the decision to deny access on the basis that the denial is a violation of the AI Policy. The Application states, in its relevant part, the following:

Explanatory statement: By denying access to the requested documents, the Bank has violated its Policy because the requested Implementation Status and Results Reports are not covered by the Deliberative Information section under para. 16 of the Policy.

The requested Implementation Status and Results Reports do not constitute information which may imperil the integrity of the Bank's deliberative process and which is specified under para. 16 (a) – (d). Specifically, they have not been prepared for, or exchanged during the course of, its deliberations with members countries (para 16 (a)). Neither do they constitute information which pertains to Board deliberation as specified by para. 16 (b), No. (i)-(v).

Findings and Decision of the Access to Information Committee

3. The AIC considered the Application on the basis of whether the 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 Application; and

(c) the nature of the requested information (i.e., ISRs).

“Violation of the AI Policy”

4. Pursuant to the AI Policy, 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* paragraph 36 (a) of the AI Policy). 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 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 own internal deliberations (*see* paragraph 16 (b) of the AI Policy).

5. The AIC recognized that ISRs, by their nature, reflect the comments of Bank staff that were made as part of the Bank's internal deliberations concerning the implementation of projects; those comments are further used in the Bank's consideration of the on-going projects. Thus, ISRs have historically been prepared for and exchanged during the course of the Bank's own internal deliberations concerning the implementation of projects. With the effectiveness of the AI Policy in July 2010, the Bank redesigned the ISR format to have two parts, one of which was designed to enable public disclosure in order to maximize the disclosure of project information. The first part of the new ISR format provides all the objective information about the status of project implementation and the overall ratings on project development objectives and implementation progress. This first part is made public. The second part of the new ISR format covers the deliberative aspects – notably the comments of Bank staff and detailed risk ratings –

which continue to be restricted under the “Deliberative Information” exception of the AI Policy. Thus, even for ISRs prepared after July 2010, there continues to be a portion of the ISR that is undisputedly deliberative in nature and, as a result, remains restricted from disclosure. With respect to ISRs created before the Bank’s adoption of the new ISR format, internal Bank deliberations were integrated within the ISRs; for this reason, the older ISRs are restricted from disclosure by the “Deliberative Information” exception until they become eligible for declassification under the AI Policy.

6. There are 11 ISRs for the India - Mumbai Urban Transport Project, dated from May 24, 2005, through April 15, 2010. As these ISRs were prepared under the previous ISR format, which did not segregate the deliberative information from the non-deliberative information, all the ISRs in question include internal deliberative information and are, therefore, restricted from disclosure by the “Deliberative Information” exception of the AI Policy.

7. Based on the above findings, the AIC concluded that the Bank had properly and reasonably denied access to the information requested based on the “Deliberative Information” exception and, therefore, did not violate the AI Policy. For this reason, the AIC decided to uphold the Bank’s decision to deny public access to the ISRs.

8. Under the AI Policy, if the AIC upholds the initial decision to deny access to information in appeals alleging “violation of the AI Policy”, the requester can appeal to the Access to Information Appeals Board (the “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.]