

AIC decision on appeal #31

CASE NUMBER AI2969 REQUEST FOR THE OPERATIONS MANUAL FOR THE OUM ER RBIA SANITATION PROJECT IN MOROCCO

(Decision dated May 7, 2014)

Summary of Decision

- The Access to Information Committee (“AIC”) upholds the World Bank’s decision to deny access to the operations manual for the Oum Er Rbia Sanitation Project in Morocco. The AIC considered the appeal based on the requester’s assertion that the World Bank’s denial violated its Policy on Access to Information (“AI Policy”).
- **Violation of Policy.** The AIC found the World Bank had properly and reasonably denied access to the requested information because the information is restricted by the AI Policy’s *Information Provided by Member Countries or Third Parties in Confidence* exception. The AIC based its decision on the following: (a) the information was prepared and owned by a party other than the World Bank; (b) the owner of the information provided it to the World Bank with an expectation that the information would be kept in confidence; and (c) at the time of the World Bank’s denial of the request, and at the time of this decision on the appeal, the owner of the information had not granted the World Bank permission to disclose the information.

The Decision

Facts

1. On November 1, 2013, the World Bank (“Bank”) denied a public access request for the “manuel d’execution concernant PROJET DE MODERNISATION DE L’AGRICULTURE IRRIGUEE DANS LE BASSIN DE L’OUM ER RBIA” (“Request”). The business unit concerned determined that the operations manual for the Oum Er Rbia Sanitation Project in Morocco (P98459; Loan No. 7925-MA) (“Requested Information”) is responsive to the Request. The Bank denied the Request on the basis that the Requested Information is restricted by the *Information Provided by Member Countries or Third Parties in Confidence* exception under the AI Policy. On November 4, 2013, the secretariat to the Access to Information Committee (“AIC”) received an application (“Application”) appealing the Bank’s decision to deny access to the Requested Information.

2. The Application challenges the decision to deny access to the Requested Information on the basis that the denial violates the AI Policy. The Application states that “information should normally [be] provided without any restriction.”

Findings and Related Decisions

3. The AIC considered whether the Bank's decision to deny access to the Requested Information violates the AI Policy. In reviewing the Application in accordance with the AI Policy, the AIC considered:

- (a) the Request;
- (b) the Application;
- (c) the Requested Information;
- (d) the AI Policy's *Information Provided by Member Countries or Third Parties in Confidence* exception that justified the Bank's initial decision to deny access; and
- (e) information provided by the relevant business units concerning the Requested Information and the views expressed by the owner of the information.

“Violation of the AI Policy”

4. 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)).

5. 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 14 of the AI Policy, under the *Information Provided by Member Countries or Third Parties in Confidence* exception, states that the Bank has an obligation to protect information that it receives in confidence and, thus, does not provide access to information provided to it by a member country or a third party on the understanding of confidentiality, without the express permission of that member country or third party. The AI Policy further recognizes that “information may be given by a member country or third party (explicitly or implicitly) in confidence” and that such information would be restricted from disclosure pursuant to the *Information Provided by Member Countries or Third Parties in Confidence* exception (*see* AI Policy at footnote 11).

6. In this case, the AIC found that: (a) the party responsible for implementing the Oum Er Rbia Sanitation Project in Morocco prepared and owns the Requested Information; (b) the owner provided the Requested Information to the Bank with the expectation that it would be kept in confidence; and (c) at the time of the Bank's decision to deny the Request, and at the time of this decision by the AIC on the appeal, the owner concerned had not rescinded its expectation of confidentiality by expressly granting the Bank its permission to disclose the Requested Information. For these reasons, the AIC concluded that the Requested Information had been provided to the Bank in confidence, and the Bank properly and reasonably denied access to the requested information on that basis. Therefore, the Bank's decision to deny access to the Requested Information did not violate the AI Policy.

7. Under the AI Policy, in appeals that allege a violation of the AI Policy, if the AIC upholds the initial decision to deny public access to information, the requester may file an appeal with the Access to Information Appeals Board (“AI Appeals Board”), the second and final stage of appeals (*see* AI Policy at paragraph 38). If you wish to file an appeal with the AI Appeals Board, [click here](#).

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