

## **AIC Decision on appeal #70**

### **CASE NUMBER AI5946 AMARAVATI REPORT**

**(Decision dated May 8, 2019)**

#### **Summary of Decision**

- The Access to Information Committee (“AIC”) confirms the Bank’s initial decision to deny public access to the “the independent assessment of the land pooling scheme for the Amaravati Sustainable Capital City Development Project (P159808)” (“Amaravati Report”). This is because the Amaravati Report is of deliberative nature, that is, it serves for the Bank to consider and debate on issues which, in this case, are related to a proposed project in Amaravati. In reviewing the appeal and the arguments made by the requester, and taking into consideration input from staff familiar with the proposed project, the AIC did not find a compelling reason to justify exercising the public interest ground to override the *Deliberative Information* exception that restricts public access to the Amaravati Report.

#### **The Decision**

##### ***Facts***

1. On September 29, 2018, the requester submitted a request (“Request”) seeking to access “the independent assessment of the land pooling scheme for the Amaravati Sustainable Capital City Development Project (P159808)” (“Amaravati Report”).
2. On October 5, 2018, the World Bank (“Bank”) informed the requester that public access to the Amaravati Report was denied because the report is restricted by the *Deliberative Information* exception under the Bank Policy: Access to Information, July 1, 2015, Catalogue No. EXC4.01-POL.01 (“[AI Policy](#)”).
3. On November 30, 2018, the secretariat to the Access to Information Committee (“AIC”) received an application (“Application”) appealing the Bank’s decision to deny public access to the Amaravati Report. The Application challenges the Bank’s decision to deny public access to the Amaravati Report on the basis that there is a “public interest” case to override the AI Policy exception that restricts the requested information.

### *Findings and Related Decision*

4. In reviewing the Application in accordance with the AI Policy, the AIC considered:
  - (a) the Request;
  - (b) the Bank's initial denial of access to the Amaravati Report;
  - (c) the nature of the Amaravati Report, as well as the objective and use of the Amaravati Report by the Bank;
  - (d) the AI Policy's *Deliberative Information* exception that justified the Bank's initial decision to deny public access to the Amaravati Report;
  - (e) the arguments presented in the Application by the requester;
  - (f) inputs from the relevant business unit and regional management;
  - (g) the broader context which the information relates to, i.e., a proposed project in Amaravati and specific circumstances around the proposed project;
  - (h) the public interest nature of the appeal;
  - (i) whether there is a public interest to override the *Deliberative Information* exception under the AI Policy restricting the Amaravati Report from public access.

#### ***“Public Interest” case***

5. Pursuant to the AI Policy, a requester who is denied public 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 AI Policy exceptions that restrict the information (*see* AI Policy, at Section III.B.8.(a).ii). Public interest appeals are limited to information restricted by the *Corporate Administrative Matters*, *Deliberative Information*, and/or *Financial Information* (other than banking and billing information) exceptions (*see id.*). Under the AI Policy, for appeals that assert a public interest case to override an AI Policy exception, the decision of the AIC is final (*see* AI Policy, at Section III.B.8.(b).i).

6. The AI Policy states that the Bank does not provide access to documents that contain or refer to the information listed under “The Exceptions” (*see* AI Policy, at Section III.B.2). Under the *Deliberative Information* exception, the Bank must preserve the integrity of its deliberative processes by facilitating and safeguarding the free and candid exchange of ideas (*see* AI Policy, at Section III.B.2.(i)). Safeguarding the deliberative process is also one of the AI Policy's five principles (*see* AI Policy, at Section III.A.1).

7. The AIC held extensive deliberations concerning the appeal, hence the lengthy time taken to issue a decision on the appeal. As part of its due diligence on appeals, the AIC consulted the relevant business unit. In this case, the AIC also consulted relevant management staff familiar with the proposed project which the Amaravati Report relates to. The AIC found that:

- (a) the Amaravati Report was prepared by external experts retained by the Bank to assess the design and implementation of India's Land Pooling Scheme (LPS) in Amaravati against the requirements of OP 4.12 on Involuntary Resettlement (OP 4.12) which applies to the proposed project and, for this reason, is of deliberative nature;
- (b) the Amaravati Report was prepared after an Inspection Panel (IP) request was filed in May 2017, alleging harm from the LPS used to assemble the lands required for the proposed project;
- (c) the Amaravati Report is an important part of management's response to the IP request as it was intended to help management assess project design and compliance with OP 4.12, with a view to incorporating the findings into project preparation and relevant safeguard documents and, also for this reason, is of deliberative nature;
- (d) The Application does not contest the deliberative nature of the report but requests it to be disclosed on the grounds of "public interest."<sup>1</sup>

8. Based on the above findings, the AIC concluded that the Amaravati Report is restricted from public access by the *Deliberative Information* exception under the AI Policy. Additionally, the AIC found no compelling ground to support the appeal on a public interest basis which would justify overriding the AI Policy's *Deliberative Information* exception that restricts the Amaravati Report from public access. For this reason, the AIC decided to uphold the Bank's initial decision to deny public access to the Amaravati Report.

9. Under the AI Policy, for appeals that assert a public interest case to override an AI Policy exception, the decision of the AIC is final (*see* AI Policy, at Section III.B.8.(b).i).

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<sup>1</sup> The Application includes, in relevant part, the following justification for the appeal on public interest grounds: (i) "a strong public interest both in the Bank's client countries and internationally in understanding how the Bank assesses the livelihood impacts of innovative alternatives to land acquisition, especially the impacts on the most vulnerable project-affected people"; and (ii) "disclosure of the document will serve to build public confidence in the Bank's determination that projects that seek to use innovative alternatives to land acquisition meet the high standards that the Board has set for Bank-financed projects".