

AIC decision on appeal #45

CASE NUMBER AI4148 CERTAIN INFORMATION RELATED TO THE EMPOWERMENT AND LIVELIHOOD IMPROVEMENT “NUTON JIBON” PROJECT (Decision dated June 16, 2016)

Summary of Decision

- The Access to Information Committee (“AIC”) found that the document *originally* identified as responsive to the request, namely an outline of the umbrella financing agreement, is information already publicly available. As a result, the AIC concluded that the document is not restricted by the *Deliberative Information* exception under the Bank Policy: Access to Information, July 1, 2015, Catalogue No. EXC4.01-POL.01 (“AI Policy”), as indicated in the Bank’s decision to deny access. Moreover, the AIC found that no other AI Policy exception applied to the document. On this basis, the AIC concluded that the decision to deny access to the document *originally* identified as responsive to the request violated the AI Policy, and reversed the decision.
- In view of the AIC’s decision above, consideration of the portion of the appeal asserting “public interest” was not required.
- The AIC found that the scope of the request was broader than the scope considered by the Bank at the time of the denial of access. As a result, the AIC found that there is additional information responsive to the request, which the Bank has not yet either considered or denied. For the above reasons, the AIC refers the request back to the External and Corporate Relations (ECR) Unit for processing as a request for public access in accordance with the AI Policy.

The Decision

Facts

1. On January 13, 2016, the requester submitted a request (“Request”) for certain information related to the Empowerment and Livelihood Improvement “Nuton Jibon” Project in Bangladesh, namely the following:

[...]

- 1) List of Conditions required for public/private partnership with communities as business promotion, Livelihood and market linkage to help poor women .
- 2) List of conditions of rating as A or B or C or D of villages institutions (Gram Samiti, Social Audit committee, VOC)
- 3) List of District, Upazila, Union, Cluster and Village covered in SIPP-I and SIPP-II and to be covered in NJLIP.

- 4) Copies of Advertisement notice to CPTU for tube wells boring and basis of contract in SIPP-II
- 5) Copies of Advertisement notice to CPTU for supply materials for Dairy and Poultry and basis of contract in SIPP-II.

[...]

- 1) Fund Disbursement since inception of the project in the format as shown in annex III.
- 2) Copy of agreement and amendment as asked in page 4 of mission report as “Agreements had been reached with the Gram Parishad and the umbrella agreement with the village had been amended. Upon request by the previous mission, SDF prepared a list of villages showing the recollected and redistributed funds as of March 11, 2015.”

2. On April 22, 2016, the World Bank (“Bank”) replied to the Request by: (a) providing access to certain information identified as responsive to certain portions of the Request; (b) informing the requester that certain information is not in the Bank’s custody; and (c) denying access to certain information identified as responsive to the portion of the Request for “[c]opy of agreement and amendment as asked in page 4 of mission report as ‘Agreements had been reached with the Gram Parishad and the umbrella agreement with the village had been amended. Upon request by the previous mission, SDF prepared a list of villages showing the recollected and redistributed funds as of March 11, 2015.’” on the basis of the *Deliberative Information* exception under the Bank Policy: Access to Information, July 1, 2015, Catalogue No. EXC4.01-POL.01 (“AI Policy”). The Bank further informed the requester that with respect to the information *originally* identified as responsive to this portion of the Request and for which access was denied (“Originally Identified Information”), the requester may appeal the Bank’s decision in accordance with the AI Policy. On April 25, 2016, the secretariat to the Access to Information Committee received an application (“Application”) appealing the Bank’s decision.

2. The Application challenges the Bank’s decision on “violation of policy” and “public interest” grounds. The Application states, in relevant part, the following:

[...]

- 1) I am an emerging social entrepreneur and started working for sustainable Livelihood of poor people mainly women.
- 2) I approached many poor women in villages and discovered that their suffering is increasing every day though world bank is funding various projects for the purpose.
- 3) During the efforts I discovered that there are misappropriation, fraud and corruption of vary high level but top management of implementing agency do not allow any information to reach to the right people so that things can be made straight.
- 4) We asked approached the villagers and tried to tally the world bank report which were totally mismatch.
- 5) To be sure and to find out what is really going wrong I started asking very basic details from SDF who is implementing agency but they refused to share any information.
- 6) Due to refusal of information which will serve the livelihood of poor women in Bangladesh I applied for information to access to information but most the information are

- 1) Delayed too much.
- 2) Not provided as asked.
- 3) Even not in possession is being claimed.
- 4) Even not being provided on the argument of as exception world bank is not allowing is being claimed.
- 5) If I get all information transparently we will be able to serve the sustainable livelihood of poor women and will be able to mitigate the issues for future.
- 6) All IGA providing entrepreneur like me gets totally confused and start working with wrong villages where there is no fund and SDF top management takes advantage due to non-transparency and no right access to information.

[...]

In view of the above i appeal to please provide information which is denied and not provided properly in this case at the moment.

Findings and Related Decision

3. In reviewing the Application in accordance with the AI Policy, the AIC considered:
 - (a) the Request;
 - (b) the Bank's denial of access to the Originally Identified Information;
 - (c) the Application;
 - (d) the nature of the Originally Identified Information;
 - (e) the AI Policy's *Deliberative Information* exception that justified the Bank's decision to deny public access the Originally Identified Information; and
 - (f) the information provided by the relevant business units concerning the scope of the Request and the Originally Identified 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 Section III.B.1). A requester who is denied public 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 Section III.B.8 (a) i).
5. In this case, the AIC found that the Originally Identified Information was an outline of the umbrella financing agreement contained in the already publicly available Community Operational Manual for the

Empowerment and Livelihood Improvement “Nuton Jibon” Project. As such, the AIC found that the Originally Identified Information is not covered by the *Deliberative Information* exception under the AI Policy. Further the AIC found no other AI Policy exception to apply to the Originally Identified Information.

6. Based on the above findings, in response to the appeal asserting a violation of the AI Policy, the AIC found that the Bank improperly denied access to the Originally Identified Information based on the *Deliberative Information* exception, and thus, the denial was in violation of the AI Policy. For this reason, the AIC reversed the Bank’s decision to deny access to the Originally Identified Information.

7. Please find the Originally Identified Information attached below.

[Originally Identified Information to be attached in original decision to be sent to the requester.]

Public Interest case

8. In view of the AIC’s decision above, consideration of the portion of the appeal asserting “public interest” was not required.

9. Notwithstanding the above, the AIC found that the scope of the portion of the Request for “[c]opy of agreement and amendment as asked in page 4 of mission report as ‘Agreements had been reached with the Gram Parishad and the umbrella agreement with the village had been amended. Upon request by the previous mission, SDF prepared a list of villages showing the recollected and redistributed funds as of March 11, 2015.’” as understood by the AIC at the appeal stage was broader than the scope considered by the Bank at the time of the denial of access. As a result, the AIC found that there is additional information responsive to this portion of the Request, which the Bank has not yet either considered or denied. For the above reasons, the AIC refers this portion of the Request back to the External and Corporate Relations (ECR) Unit for processing as a request for public access in accordance with the AI Policy.