

Policy Profile

Access to Information Policy

March 12, 2010

I. INTRODUCTION

- 1.1 On December 15, 2009, the Board approved the report of the Chairman of the Board of Executive Directors' Policy and Evaluation Committee regarding the document "Disclosure of Information Policy. Report on Implementation and recommendation for policy review" (GN-1831-19), thereby authorizing Management to undertake a broad review of the policy, including presentation of a profile of a revised policy to the Committee during February of this year. The present document is a profile of a new Access to Information Policy, proposed to replace the current Disclosure of Information Policy (OP-102). Once this Profile has been considered by the Management of the Bank and approved by the Board of Executive Directors, Management will conduct a public consultation on the Profile to last no fewer than 30 calendar days. Following the initial public consultation, Management will draft a policy document for a second round of 90 days of public consultation and subsequent consideration by the Board of Executive Directors.

II. SCOPE

- 2.1 The policy will apply to information produced by the Inter-American Development Bank and to certain information that is in the possession of the Bank that is explicitly identified in an annex to be included as part of the new policy document. The policy will also cover information produced by the Bank in connection with the activities of the Office of Evaluation and Oversight, the Office of Institutional Integrity, the Sanctions Committee and the Independent Consultation and Investigation Mechanism (ICIM). The policy will not cover the activities of the Inter-American Investment Corporation.
- 2.2 The provisions of the new Policy, once approved, will supersede the version of OP-102 (GN-1831-18) that entered into effect on August 17, 2006.

III. OBJECTIVES

- 3.1 Management has proposed the current policy review as a means of maintaining its commitment to transparency in all aspects of its operations and as a matter of demonstrating to its clients, principally the countries of the Region that it serves, that it reflects the best practices that they themselves have adopted in recent years.

- 3.2 Various key initiatives of the Bank highlight the importance of promoting access to information, as a matter of governance in borrowing member countries and in the Bank’s activities. The September 2009 report launching the *PRODEV Evaluation Tool (PET)* cites transparency in budgeting and other facets of governmental expenditure as pillars of development effectiveness and includes “information disclosure” and “use and dissemination of information” indicators in evaluating results-based budgets and program and projects, respectively. The *Action Plan to support Countries in their efforts to Fight Corruption and Foster Transparency (PAACT)* approved by the Board in November 2009 cites “...continuity in [Bank] efforts to adopt the highest standards of transparency” as a key feature.
- 3.3 Most of the international financial institutions have recently embarked upon or declared their intention to review their disclosure of information policies, including the Asian Development Bank, African Development Bank, the European Bank for Reconstruction and Development and the International Monetary Fund. In November 2009, the Board of Executive Directors of the World Bank approved a new policy “Toward Greater Transparency through Access to Information.” The annex to this Profile compares the provisions of the proposed new policy with those of the current IDB policy, and the comparable policies of the World Bank and International Monetary Fund.

IV. PRINCIPLES

- 4.1 The new Policy is based on the following principles:
- a. **Principle 1: Maximize access to information.** The IDB reaffirms its commitment to transparency in all of its activities and therefore seeks to maximize access to any documents and information (online databases, webpages and press releases) that it produces and to certain specific documents and information otherwise in its possession¹ that are not on a list of exceptions. Further, so long as the Bank is not legally obligated to non-disclosure, information on the list of exceptions will be disclosed in accordance with timelines specified for that purpose.
 - b. **Principle 2: Narrow and clear exceptions.** Any exceptions to disclosure will be predicated upon the possibility, narrowly and clearly defined, that the harm to interests, entities or parties arising from disclosure of information would outweigh the benefits, or that the Bank is legally obligated to non-disclosure. The Bank may decide not to disclose information that would be normally accessible if it determines that the harm that might occur by doing so will outweigh the benefits of access. In exceptional circumstances, the Bank may also decide to make available to the public

¹ Under the current Policy, the Bank makes available to the public documents describing the potential environmental and social impacts of operations proposed for financing and certain documents prepared jointly with other institutions, including Country Procurement Assessment Reports, Poverty Reduction Strategy Papers and Interim Poverty Reduction Strategy Papers. The new Policy would provide for disclosure, in addition to the foregoing annual audit reports of Bank-financed projects, once they have been provided to the Bank.

information ordinarily excluded from disclosure when it determines that the benefit would outweigh the harm.

- c. **Principle 3: Simple and broad access to information.** The IDB will employ all means to facilitate access to information. Guidelines for maximizing access to information will include timelines for processing requests and will be based on use of a system for classifying information according to its accessibility over time.
- d. **Principle 4: Explanations of decisions and right to review.** When denying access to information the Bank would cite the relevant exception in the policy as the basis for its decision. Requesters who are denied access to information will have the right of review of such decisions by an ad hoc interdepartmental Access to Information Committee chaired by the Office of the Presidency.

V. THE PROPOSED POLICY: KEY ASPECTS

- 5.1 **“Positive” and “negative” lists.** The current IDB policy contains a stated presumption in favor of disclosure “absent a compelling reason for confidentiality” but then goes on to list specific information “products” that can and should be disclosed on a routine basis. Under the current policy information should be determined to be confidential and therefore may not be disclosed only when one of the 13 restrictions in the policy applies. To avoid confusion in the future and emphasize the presumption in favor of disclosure, the Bank will no longer publish a “positive list” of information that it routinely discloses.
- 5.2 The new Policy will contain a “negative list,” a list of specific information (such as the vast majority of e-mail, except for those that convey decisions and are classified as “public”; matters related to ethics inquiries and investigations by the Office of Institutional Integrity; minutes of meetings of Management; quarterly financial reports sent to the Board by the Finance Department; information relating to non-sovereign guaranteed lending operations; etc.)
- 5.3 The new policy will contain as an annex a list of examples of information to be disclosed routinely. The list of examples will not be an integral part of the policy, however, and will not serve as the basis on which the policy is implemented.
- 5.4 **Exceptions.** The following categories of information/documents will not be presumed to be accessible because the Bank has determined that the harm caused by their disclosure outweighs the benefit to be derived from accessibility.
 - a. **Personal information.** The Bank will maintain appropriate safeguards to respect the personal privacy of staff members and protect the confidentiality of personal information about them. Thus, individual staff records and personal medical information, as well as proceedings relating to internal performance matters, will not be made available to the public; provided, however, that this shall not limit the provision of information concerning specific staff members which may be released at

the request of the staff member, or in accordance with Bank policies intended to assure that staff members will meet their personal legal and financial obligations.

- b. **Communications involving Executive Directors.** Communications between and within Executive Directors' offices, between those offices and the member country or countries they represent and between those offices and third parties.
- c. **Legal, disciplinary or investigative matters.** Legal advice, information subject to attorney-client privilege, matters in legal dispute or under negotiation, and legal documentation pertaining to Bank-financed non-sovereign guaranteed projects will not be accessible to the public. This includes also disciplinary and investigatory information generated in or for the Bank, except documents intended for public release pursuant to the Bank's Independent Consultation and Investigation Mechanism. The Bank will not disclose certain reports from the Office of the Executive Auditor or from the Office of Institutional Integrity, nor investigations conducted by the Ethics Committee. Proceedings of the Conduct Committee of the Board of Executive Directors of the Bank and Donors Committee of the Multilateral Investment Fund will not be disclosed. The Bank will not disclose documents, reports or communications in circumstances where disclosure would violate applicable law, such as restrictions imposed by securities or banking laws, or could subject the Bank to undue litigation risk. In the context of litigation, the Bank will require that its privileges and immunities under the Agreement Establishing the Bank be respected.
- d. **Safety and security.** Information that could compromise i) the livelihood or safety of Bank staff and their families, contractual employees and outside contractors; ii) Bank assets; or iii) national security of member governments.
- e. **Information provided in confidence by member countries, private-sector entities or third parties.** Information provided by member countries, private-sector entities or third parties in confidence or with previously agreed restrictions on disclosure, will not be disclosed without their explicit authorization. Intellectual property of and financial, business or proprietary information belonging to parties outside the Bank, or intellectual property of the Bank will not be disclosed.
- f. **Corporate administrative information.** Information related to corporate expenses, procurement, and real estate will not be disclosed, except in the case of the Bank's annual budget program document.
- g. **Deliberative information.** Information about deliberations between the Bank and its clients or third parties, of the Board of Executive Directors, the Board of Governors and member countries, as well as information pertaining to the Bank's own internal deliberative processes.
- h. **Certain financial information.** Information that may affect the Bank's activities in capital and financial markets or to which such markets may be sensitive, including,

but not limited to, liquidity investments, estimates of future borrowings and redemptions of borrowings, expected rates of interest, rates of return and financial ratios, financial forecasts and models, and documents dealing with financial matters not yet approved by the corresponding Bank authorities shall not be made public.

- 5.5 **Budget and resources.** Rededication to the presumption in favor of disclosure will have very substantial resource and cost implications. The redoubling of the Bank's effort to identify all documents and information that are not deemed confidential in accordance with the policy's exceptions is likely to lead to disclosure of a large number of additional information products each year, many of them under the headings of "factual and technical information" and "country and sector analytic work."
- 5.6 Management will provide detailed estimates of costs associated with maximizing access to information according to the new policy. After preliminary meetings with the Office of the Secretary, the Records unit and the Project OPTIMA team in VPF and the Knowledge and Learning Sector, there is consensus among Management units that the capture and disclosure of additional information under a revised policy would affect staff in virtually all areas of the Bank. As noted in the November 2009 Report on Implementation, there is already a need for IT systems to track operational documents required to be disclosed under the current policy and for comprehensive training for staff. The Country Offices will also need strengthening, both in terms of IT systems and staff training.
- 5.7 **Review Mechanism.** The current IDB policy *per se* affords requesters who are denied access to information the right to an explanation by the Office of External Relations of the basis for the decision not to disclose, but provides no additional means by which they can seek a review of the Bank's decision. However, alleged violations of the Disclosure of Information Policy related to Bank-financed operations could be addressed under the Independent Consultation and Investigation Mechanism (ICIM). In order to bring an allegation of violation of the current Disclosure of Information Policy to the ICIM, a complainant must reasonably assert that harm can be expected to occur as a consequence of the Bank not having complied with the policy, and must meet the remaining eligibility criteria of the Mechanism.
- 5.8 The new policy proposes the creation of a review mechanism in the form of an ad hoc interdepartmental Access to Information Committee chaired by the Office of the Presidency. The committee would explain its decisions regarding reviews of denials of information directly in writing to the individual or entity requesting the information. Presentation of an allegation of a violation of the policy before the ICIM would require that the requester had resorted first to the Access to Information Committee of Management and met the Mechanism's eligibility requirements.
- 5.9 **Classification.** The IDB lacks a comprehensive framework for classifying by level of security documents and information produced by the Bank. The new policy would include use of such a system, which would require designation of all information produced by the Bank at the time of its creation and at subsequent points in time as either

“public,” or as belonging to one of the other three classification levels owing to its being subject to non-disclosure according to one of the policy’s exceptions. EXR is responsible for coordinating planning for the adoption of such a system through the creation of a working group that includes the Records Section, ITE, SEC, LEG, and KNL, with other Bank units to be added as needed. Among other attributes, the system will require clear definitions of each security classification, establish timeframes for the disclosure of information for each category and specify procedures related to the classification and disclosure of “documents” on the one hand, and the broader category of “information” (to include online databases and other webpages, press releases, et cetera), on the other.

- 5.10 Once the information security classification system is deployed, responsibility for assigning and maintaining the appropriate security classification will reside with the authors of the information/document in question. When uncertain as to what classification to apply, the author of the information should consult with the Office of External Relations as the unit responsible for implementation of the policy.
- 5.11 **Overrides.** As described in Principle 2, the Bank may decide to provide access to certain specified types of information normally subject to one of the policy’s exceptions—in extraordinary circumstances—if it determines that the benefit to be derived from doing so would outweigh the harm otherwise contemplated by the policy, and so long as the Bank is not legally or otherwise obligated to non-disclosure, as in the case of most information relating to non-sovereign guaranteed operations. Any decision to provide access to information via the override would require the express written authorization of the Access to Information Committee. Similarly, use of a “negative” override, in which the Bank would decide to exclude normally available information from access based on the premise that access would occasion more harm than benefit, would require the Committee’s express written authorization.
- 5.12 **Board records.** Board “records,” as distinct from Board “documents,” refer to information generated by the work of the Board of Executive Directors itself, as opposed to information/documents distributed to the Board by Management. Such records include the agendas and minutes of meetings of the Board and the reports of chairs of Board committees. The current policy provides for disclosure of the agendas of meetings of the Board of Executive Directors, the minutes of the Board of Executive Directors, and the reports of the chairs of the committees of the Board related to certain specific documents.
- 5.13 **Declassification and Archives.** The current policy provides for disclosure of all Bank-produced information 20 years after its issuance. In implementing the policy, however, Management has had neither the information systems nor human resources necessary to disclose automatically information as it reaches the 20-year date. Rather, Management has consistently applied the provision of the current policy as it relates to historical information only on an “upon request” basis—and even then, has sought the non-objection of borrowing countries when requests have been made for country-specific information.

- 5.14 As described briefly in paragraph 5.9, the new policy will incorporate a new information security classification system. The classification level assigned to information/documents will determine the schedule for disclosure, including the declassification of records after intervals of five, ten or 20 years. Under the new policy, all archival documents and information subject to disclosure and not falling under any of the exceptions will be disclosed after 20 years. Information classified under the most restrictive category (“Strictly confidential”) may not be disclosed even after 20 years. Any disclosure of historical information related to operational matters will be subject to the non-objection (within a specified period of time) of the respective member country, borrower, beneficiary, private-sector party or other third party.
- 5.15 Policy name change.** As a means of emphasizing the important shift in emphasis from a regime in which the Bank selectively discloses information to one in which access to information is presumed, Management proposes changing the name of the Policy. To better align IDB practice with the practices of 12 nations in the Region and other multilateral institutions that have adopted the same title, the new policy would be called “Access to Information Policy.”

VI. DOCUMENTS TO BE NEWLY DISCLOSED UNDER THE NEW POLICY

- 6.1 As described above, the new policy will eliminate the “positive list” contained in the former policy. The new policy will include annual audit reports of Bank-financed sovereign-guaranteed projects, subject to the borrower’s right to identify information as confidential and not to be disclosed, under the policy’s exclusions.
- 6.2 As described in paragraph 5.15 in the case of historical information, the new policy will clarify that all information produced by the Bank will be disclosed automatically provided it is not subject to any of the policy’s exceptions, thereby eliminating the practice whereby information is disclosed only “upon request.” This clarification is likely to result in the Bank providing access to a considerable amount of previously non-disclosed information under the headings of “economic and sector work” and “factual technical information,” in addition to historical information.
- 6.3 The new policy will provide for the disclosure of a portion of the Progress Monitoring Report (PMR) that contains objective information on the status of projects in execution, only for sovereign guaranteed projects. The remainder of the PMR, containing Management comments and other non-objective information, will not be disclosed. Portions, if any, of an aide-memoire that contains key decisions taken as a consequence of a supervision mission would be disclosed subject to the borrower’s non-objection, in the case of sovereign-guaranteed projects. The policy would also provide for disclosure of the portion containing rankings of borrowers as part of the documentation on Performance-based Allocation criteria for the Fund for Special Operations. In the current policy, only the methodological portion of this documentation has been disclosed.

VII. IMPLEMENTATION

- 7.1 **Effective date.** The policy document will propose a schedule for implementation that will take into consideration the need for training and development and implementation IT needs to occur following Board approval.. The policy will apply only to information produced by the Bank after the effective date. The disclosure of information produced by the Bank prior to the effective date will be subject to the policy in effect at the time the information was produced, until such time as it becomes "historical information" and is classified under the new policy.
- 7.2 **Responsibilities.** The Office of External Relations (EXR) will be responsible for implementing the new policy, including the development beginning immediately of criteria for the designating of all Bank-produced information as belonging to one of the four categories of the new information security classification system described in paragraph 5.10 and elsewhere. As provided in the ICIM policy and subject to the new information policy, the ICIM office will be responsible for access to information determinations with respect to ICIM matters.
- 7.3 Management has formed a working group on Access to information under the direction of the Vice Presidency for Finance and Administration (VPF). Until the time of the policy's effective date, the working group will assume responsibility for estimating budget and resource requirements for implementation of the new policy and for development of IT system needs to facilitate implementation, including design, testing and implementation of programming for IT aspects of the new information security classification system.
- 7.4 Upon the effective date, the ad hoc interdepartmental Access to Information Committee chaired by the Office of the Presidency and including representatives of the EVP, the four vice presidencies and EXR, will be responsible for reviews of denials of access to information and the exercise of the override provision described in paragraph 5.12. VPF, working with the Office of External Relations and other departments across the Bank, will identify capital, annual and recurrent budget and resource needs related to implementation of the policy. The Record and Archives unit (VPF/ACP) will assume responsibility for disclosing historical information under the Policy. Country Offices and the Offices in Europe and Tokyo will assign a full-time staff person to ensure full compliance with the policy.
- 7.5 **Report and review.** The Office of External Relations will file reports to the Board of Executive Directors on issues related to implementation of the new policy on an annual basis.
- 7.6 **Training.** The Knowledge and Learning Sector and EXR will budget for and implement training programs for headquarters and Country Office staff related to use of the new information security classification system as soon as it has been finalized and also,

subsequent to Board approval of the new policy and prior to its effective date, on all aspects of the broader policy.

VIII. NEXT STEPS

- 8.1 As provided in the report of the Chairman of the Board's Policy and Evaluation Committee (GN-1831-19), concurrent with the submission of this Policy Profile, EXR requests authorization to begin a public consultation process based on the document, to last no fewer than 30 calendar days. Following the initial consultation process, EXR would draft a new policy proposal for Management consideration, a second round of public consultation and subsequent consideration by the Board.
- 8.2 The initial 30-day minimum public consultation would include posting of the Policy Profile on the external website, preceded by an announcement of the starting date and a consultation during the Bank's Annual Meeting with nongovernmental organizations, also open to other Annual Meeting attendees on a space-available basis. Following the conclusion of the initial round, EXR will post a synopsis of comments received on the external website. The second round of 90 days of public consultation would include public meetings in at least one Country Office from each of the four country departments in the Vice Presidency for Countries. In addition, the second round of consultation would include public meetings in Washington, in Canada, in one member country in Europe and one member country in Asia. Following conclusion of the second round, EXR will post a transcript of all written comments received and synopses of the face-to-face meetings. Management respectfully requests authorization to disclose the final draft of the policy document at the time of its distribution to the Board of Executive Directors.

**Annex—Comparison of Current IDB, Proposed New IDB, World Bank and IMF
Access to Information Policies**

Issue	Current IDB Implementation Practice (per GN-1831-19)	New World Bank Policy (version Dec 23, 2009, effective July 1, 2010)	New IMF Transparency Policy (version Dec 17, 2009, effective March 17, 2010)	Proposed New IDB Policy
General Topics				
1. Stated presumption in favor of disclosure?	Yes	Yes	Yes but only regarding specific categories of documents (new)	Yes
2. Policy contains “Positive List” of documents or information that may be disclosed?	Yes	No (list of “examples” included as annex)	Yes (included as part of Policy)	No (list of “examples” included as annex)
3. Create/increase budget for implementation?	No	Yes (\$4.5 million for capital budget and average increase of \$3.5 million per year FY10 onwards)	No	Yes
4. Standard deadline for response to requests?	Yes	Yes	Yes	Yes
5. Confidentiality for “deliberative processes” (e-mail, verbatim transcripts of Management and Board meetings, internal audit	Yes	Yes	Yes (in Archives Policy)	Yes

department [AUG] reports?				
6.Ability to deny “blanket requests”?	Yes, with explanation	Yes, with explanation	N/A	Yes
7.Review/Appeals Mechanism when information denied?	No (actionable under Independent Investigation Mechanism but only when allegation of harm)	Yes (two-step appeals mechanism)	No	Yes (review mechanism)
8.Multiple-category information security classification system?	No (SEC system only for Board documents, i.e. not used for OP-102 implementation)	Yes (“official use only,” “confidential,” “strictly confidential” and “public”)	Yes (same as World Bank)	Yes
9.Declassification for archived information subject to country non-objection?	Yes	No (all information disclosed per five-, ten- and 20-year schedules)	Yes	Yes
10.Bank prerogative to override and disclose information otherwise excluded?	No	Yes (with authorization of Board or Management Disclosure Committee)	No	Yes
11.Requirement that countries directly disclose PRSPs, “Letters of Development Policy,” and “safeguards assessments and plans”—documents they prepare—as prerequisite for	No	Yes	No	No

“doing business with the Bank”? (See also no. 29, below)				
12. Review existing Translation Framework?	No	Yes	No	No
13. Policy title	“Disclosure of Information”	“Access to Information”	“Transparency Policy”	“Access to Information”
Specific Information--Institutional				
14. Disclose detailed administrative budget?	Yes	Yes	Yes (new—”presume publication for papers related to Fund’s income, financing and budget”)	Yes
15. Disclose numerical performance-based FSO/IDA allocation ratings (as distinct from methodological criteria for calculation)?	No	Yes	N/A	Yes
16. Disclose draft operational and sector policies and sector strategies at time of distribution to Board?	No	Yes	N/A	No
17. Disclose consultation plans for Country Strategies or equivalent?	No	Yes	N/A	Yes
18. Disclose country strategies at time of	No	Yes (with country’s non	No (for equivalents	No

distribution to the Board?		objection)	such as UFR and Article IV documents)	
19. Disclose Debt Sustainability Analyses?	No	Yes	N/A	Yes
20. Disclose Financial Sector Assessments?	No (assuming Country Fiduciary Assessment Reports as equivalent)	Yes	Yes (Financial Sector Stability Assessments, FSSAs)	Yes
21. Disclose “quarterly management reports” (WB) or equivalent?	No (Quarterly Business Reports)	Yes	No (no known equivalent)	Yes
22. Disclose all documents prepared jointly with “other partners”?	No, not in all cases (although yes in some, e.g. CPAR)	Yes, final versions, after obtaining agreement of the partner	No	Yes
23. Disclose e-mail containing key process decisions or outcomes after they are classified in records management system as “Public”	No	Yes	No	Yes
Specific Information--Operational				
24. Disclose “decisions of project concept review meetings and decision meetings”?	No	Yes (as part of initial and updated equivalent of Project Profiles)	N/A	Yes
25. Disclose Loan Proposals/TC Plans of Operations at time of distribution to Board?	No	Yes, with country’s non objection	N/A (but UFR, PSI and Article IV documents disclosed only after decision)	No

26. Disclose Development Evaluation Matrix or equivalent as part of Loan Proposal?	Yes (as of January 1, 2010)	No (no equivalent)	N/A	Yes
27. Disclose Loan Review Report or equivalent?	No	Yes (one section of ISR. See also nos. 29 and 30, below)	N/A	No
28. Disclosure of annual project audit reports?	No	Yes (see also no. 11, above)	N/A	Yes (SG projects only)
29. Disclose “key decisions at end of supervision missions and project midterm reviews” (e.g. “full mission aide-memoires...if the Bank and borrower so agree”)?	No	Yes	N/A	Yes (SG projects only)
30. Disclose PMR or equivalent?	No	Yes (newly developed component of ISR, plus SOPE)	N/A	Yes (SG projects only)
Specific Information—Board Records				
31. Disclose Annual Reports of Board Committees?	No	Yes	N/A	Pending Board decision
32. Disclose Minutes of Board Committee meetings?	No	Yes	Yes, but only after five years	Pending Board decision
33. Disclose Board “Green sheets”	N/A	Yes	N/A	N/A

(descriptions of Board Committee deliberations on matters for which subsequent Board discussion is not expected)?				
34. Disclose minutes of Board meetings?	Yes	Yes	Yes, but only after five years	Yes
35. Disclose “summings-up” of COW and Board meetings?	No (committee chair reports on selected matters only)	Yes	No (no known equivalent)	Pending Board decision
36. Disclose “Summaries of Discussion” of Board meetings?	N/A	Yes	No (no known equivalent)	N/A
Specific Information--Financial				
37. Disclose bond offering documents (FIN)?	Yes, upon request	Yes	N/A	Yes