



# Bank Procedure

## Access to Information Appeals Board - Operating Procedures

### **Bank Access to Information Policy Designation**

Public

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### **Content**

These are the Operating Procedures for the functioning of the Access to Information Appeals Board.

### **Applicable to**

IBRD,IDA

### **Issuer**

Senior Vice President and General Counsel, LEGVP

### **Sponsor**

Deputy General Counsel, LEGIA

## SECTION I – PURPOSE AND APPLICATION

1. This Procedure sets forth the instructions for the functioning of the AIAB established under the Policy.
2. This Procedure applies to the Bank.

## SECTION II – DEFINITIONS

The terms and acronyms used in this Procedure have the meanings set forth in Section II of the *Bank Policy: Access to Information* (Policy), and as set forth below:

1. **AIAB**: Access to Information Appeals Board.
2. **AIC**: the Access to Information Committee.
3. **Chair**: the principal AIAB member collectively chosen by all principal AIAB members to act as the Chair of the AIAB for an AIAB session.
4. **Directive/Procedure**: the Bank Directive/Procedure on Access to Information, October 18, 2019, Catalogue No. ECR4.01-DIR.123 at <https://spappscsec.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=e5c12f4e-7f50-44f7-a0d8-78614350f97c>, as amended from time to time and/or any of its successors thereof.
5. **EBC**: the World Bank Group's Office of Ethics and Business Conduct.
6. **LEG**: Legal Vice Presidency of the World Bank.
7. **Secretariat**: the secretariat established under LEG serving the AIAB.
8. **Staff**: persons holding an appointment under Staff Rule 4.01, "Appointment".
9. **Vice-Chair**: the principal AIAB member collectively chosen by all principal AIAB members to act as the Vice-Chair of the AIAB for an AIAB session.
10. **Violation of Policy Ground**: the ground to appeal the World Bank's initial decision to deny access to information by alleging that the World Bank has violated the Policy by improperly or unreasonably restricting access to information that the World Bank normally discloses under the Policy (see Policy, at Section III.B.8.(a)i).

## SECTION III – SCOPE

### A. Mandate

1. **Mandate**. The mandate of the AIAB is to consider – at the second stage of appeal – appeals filed on a Violation of Policy Ground, i.e., appeals for which the requester is able to establish a *prima facie* case<sup>1</sup> that the World Bank has violated the Policy by improperly or unreasonably restricting access to information that it would normally disclose under the Policy, and that the AIC has – at the first stage of appeal – upheld an initial decision of the World Bank to deny access. The AIAB does not consider appeals of Board decisions and/or appeals decided by the AIC as final (i.e., appeals, or portion of an appeal, filed on public interest ground and/or challenging the World Bank's denial of access based on the World Bank's exercise of its prerogative to restrict access as set

<sup>1</sup> See this Procedure, at Section III.A.2(b).

forth in the Policy at Section III.B.8(a)ii, Section III.B.8(b)i and footnote 24, and in the Directive/Procedure at Section III.B.5.b.ii. In fulfilling its mandate, once the Secretariat transmits an appeal to the AIAB and the AIAB receives such appeal, the AIAB reads and applies the Policy as it is written – using the ordinary meaning of the words, absent an express interpretation to the contrary issued by the AIC or the Board – or as the Policy has been amended by the Board, or interpreted by issuance of an express interpretation by the AIC or the Board, when relevant.

2. **Admitting an Application for Appeal.** To carry out this mandate, once the Secretariat transmits an appeal to the AIAB and the AIAB receives such appeal, the AIAB admits an application for appeal, or a portion thereof, as referred to the AIAB through the Secretariat only when such application, and solely with respect to the part of the application that, meets the following criteria:
  - (a) **Is Timely.** The application is timely filed both before the AIC, at the first stage of appeal (i.e., within 60 calendar days of the World Bank's initial decision to deny access), and before the AIAB, at the second stage of appeal (i.e., within 60 calendar days of the AIC's decision to uphold the World Bank's initial decision to deny access), consistent with the Policy, at Section III.B.8.(b).i and ii;
  - (b) **Establishes Prima Facie.** The application before the AIAB establishes a *prima facie* case (i.e., provides sufficient information that would reasonably support the appeal) that the World Bank violated the Policy by improperly or unreasonably restricting access to information that it would normally disclose under the Policy, consistent with the Policy, at Section III.B.8.(a).i;
  - (c) **Authority to consider.** The application, or a portion thereof:
    - (i) appeal was filed on a Violation of Policy Ground; and
    - (ii) follows an AIC decision on appeal to uphold a World Bank's<sup>2</sup> initial decision to deny access to information based on a Policy exception, which AIC decision:
      - (A) found that the AIC had the authority to consider the appeal in accordance with the Policy, and
      - (B) is not final.<sup>3</sup>
3. **Dismissing an Application for Appeal without consideration of the merits.** Pursuant to the Directive/Procedure, at Section III.D.1.a, the AIAB dismisses any application for appeal that fails to fulfill the criteria set forth in Section III.A.2 of this Procedure.
4. **The Policy – Basis for Consideration and Decision.** Upon admission of an application in accordance with Section III.A.2 of this Procedure, the AIAB reviews the documents of record as described in Section III.E.2 of this Procedure. The AIAB considers and decides whether the World Bank has violated the terms of the Policy by improperly or unreasonably restricting access to information that it would normally disclose under the Policy. Such consideration and decision are exclusive of any member country's rules,

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<sup>2</sup> As stated in the Policy, Decisions by the Board are outside the AIC's authority, and thus, outside the AIAB's authority. Such appeals of Board decisions are automatically dismissed by the Secretariat (footnote 24).

<sup>3</sup> As stated in the Policy and in the Directive/Procedure, AIC decisions on appeals, or on a portion of the appeal, (a) alleging a public interest ground, and/or (b) challenging the World Bank's exercise of its prerogative to restrict access, are all final. As final, there is no second stage of appeal to the AIAB in these cases. (See Policy at Section III.B.8.(b).i and Directive/Procedure at Section III.B.5.b.ii).

laws, regulations and/or decisions issued by bodies or entities with no jurisdiction over the World Bank, and are based solely on:

- (a) the AIAB's mandate as set out in Section III.A.1 of this Procedure;
- (b) the terms of the Policy:
  - (i) as they are written, using the ordinary meaning of the words (unless the terms have been expressly interpreted by the AIC or the Board pursuant to subparagraph (iii) of this subparagraph (b));
  - (ii) as they may be amended from time to time by the Board; and
  - (iii) as they are expressly interpreted by the AIC or the Board;
- (c) the standard of review, as described in Section III.E.1 of this Procedure;
- (d) the documents of record, including, for example, those listed in Section III.E.2 of this Procedure; and
- (e) any other input that the World Bank may provide at its discretion.

- 5. **Membership.** Pursuant to the Bank Procedure: Access to Information Appeals Board – Terms of Reference, the AIAB consists of three principal members and, at the World Bank's discretion, of alternate members. Alternate members may act as principal members of the AIAB at the World Bank's request, through the Secretariat, if a principal member is unable to serve at the AIAB.
- 6. **Role and Responsibilities of the AIAB Members.** The AIAB discharges its roles and performs its responsibilities pursuant to the Bank Procedure: Access to Information Appeals Board - Terms of Reference.
- 7. **Conflicts of Interest.** Conflicts of interest are governed by the provisions set forth in the Bank Procedure: Access to Information Appeals Board – Terms of Reference.
- 8. **Restrictions on World Bank Group Employment.** Restrictions on World Bank Group employment by AIAB members are governed by the provisions set forth in the Bank Procedure: Access to Information Appeals Board – Terms of Reference.

## B. Organization

- 1. **Selection and Role of Chair and Vice-Chair for Each Session.** The principal members of the AIAB choose one principal member to act as the Chair and one principal member to act as Vice-Chair, at the beginning of each session and for the duration of each session. The Chair:
  - (a) organizes the AIAB session and conducts the related meetings, which may be done virtually or in person depending on the circumstances specified in Section III.C.2 of this Procedure;
  - (b) presides over the AIAB deliberations and acts as the official channel of communication with the Secretariat for the relevant AIAB session.

The Vice-Chair acts as Chair in the Chair's absence or in case the Chair is unable to act.

2. **Secretariat.** The Secretariat assists the AIAB and performs all Secretariat functions recognized under this Procedure or otherwise necessary for assisting the AIAB in the exercise of its mandate and discharge of its functions and responsibilities consistent with the Bank Procedure: Access to Information Appeals Board – Terms of Reference. The Secretariat informs the AIAB:
  - (a) of appeals and/or applications received by the Bank addressed to the AIAB;
  - (b) on matters of World Bank policy, including any amendments of the Policy approved by the Board and any interpretation of the Policy issued by the AIC or the Board that are applicable to the individual appeal under consideration by the AIAB;
  - (c) of the sessions to be scheduled and the manner in which they will be held;
  - (d) of the necessary logistics for the AIAB to carry out its session;
  - (e) of the need for any alternate member(s) to the AIAB to act as a principal member in an AIAB session, in coordination with the Chair;
  - (f) in case the World Bank requests that they carry out any activities in addition to the core activities explicitly stated in the Bank Procedure: Access to Information Appeals Board – Terms of Reference.

#### C. Sessions

1. **Frequency.** The Secretariat determines the frequency of AIAB sessions based on the caseload of appeals. The AIAB holds sessions as often as needed to review and decide on appeals but not exceeding four times in any fiscal year. The Secretariat determines the dates of the sessions in coordination with the AIAB.
2. **Form of Meeting.** The AIAB generally holds sessions virtually. The World Bank, through the Secretariat, may recommend that the AIAB meet in person. The AIAB may also request to meet in person to decide on appeals. In such cases, the World Bank decides whether the efficient and economical conduct of the proceedings warrant holding sessions in person or by other means. The Secretariat makes and/or informs the AIAB of the necessary arrangements (e.g., travel arrangements; reservation of facilities, including video conference where convenient) for such sessions in good time.

#### D. Communications

1. **Means of Communication.** The members of the AIAB may communicate directly with each other and with the Secretariat. Communications transmitting information regarding appeals and related documents are made in a manner deemed by the World Bank as secure, in accordance with the World Bank's policies relating to information security.
2. **No Direct Communications with requesters.** Consistent with the Bank Procedure: Access to Information Appeals Board – Terms of Reference, members of the AIAB do not communicate directly with requesters. Any and all communications concerning applications for appeals (e.g., conveyance of decisions) or any other matters the public may direct to the AIAB are directed through the Secretariat. The Secretariat consults the necessary business units within the Bank, especially the External and Corporate Relations (ECR, or its successor thereof), before replying to any such communications on behalf of the AIAB.

3. **Public Statements.** Any AIAB member making a public statement concerning his/her AIAB work complies with the relevant policies and procedures of the World Bank (See Section XI - Related Documents).
4. **Communications of the Chair.** When the AIAB is in session, the Chair is the official channel of communication between the AIAB and the Secretariat. The Chair communicates all decisions taken by the AIAB to the Secretariat in accordance with Section F.4 of this Procedure.
5. The **Secretariat**:
  - (a) initiates the AIAB's work by transmitting the relevant documents related to second stage of appeals, as indicated in Section III.E.2 of this Procedure, to the AIAB principal members through World Bank email, fax or any other economic, efficient and secure means of communications as decided by the World Bank;
  - (b) retains all original documents related to the work of the AIAB, as well as arranges for the appropriate distribution of copies and filing;
  - (c) transmits all AIAB decisions to the requesters concerned; and
  - (d) publishes the decisions, the timing and manner for which is determined by the World Bank.

#### **E. Procedures for Considering Applications for Appeal**

1. **Standards of Review.** The AIAB may reverse a decision of the AIC upholding an initial decision of the World Bank to deny access only if the AIAB determines that the World Bank's initial decision to deny access violated the Policy, i.e., was improper or unreasonable pursuant to the terms of the Policy.
2. **Documents Transmitted to the AIAB.** The Secretariat transmits applications for AIAB appeal(s) to the members of the AIAB reasonably in advance prior to the AIAB session, taking into account the nature and volume of the caseload before the AIAB, together with the finalized agenda of appeals to be heard by the AIAB. The Secretariat provides to the AIAB copies of all documents provided to the AIC for consideration, in the same form as that provided to the AIC. The documents in connection with each appeal to be considered by the AIAB may include:
  - (a) the original request for information;
  - (b) any response from the World Bank, member country or third party to the original request for information;
  - (c) the World Bank's response to the requester communicating its decision to deny access to information requested;
  - (d) the requester's application for appeal filed before the AIC;
  - (e) the AIC's decision on the appeal;
  - (f) the requester's application for appeal filed before the AIAB; and
  - (g) a transmittal memo from the Secretariat, which may include, *inter alia*, applicable policy considerations as indicated in Section III.A.4.(b).(ii) and (iii) of this Procedure.
3. **Form and Manner of Review.** Documents are transmitted to the AIAB for review in the manner specified in Section III.D.5.(a) and Section III.E.2 above. In some instances, certain documents may be provided to the AIAB only on World Bank premises, for *in*

camera review, on a confidential basis. Documents provided to the AIAB are in the same form as that provided to the AIC for consideration. Any information obtained or received by an AIAB member through or as result of his/her association with the World Bank as an AIAB member is held in strict confidence, and only used for the purposes of carrying out his/her responsibilities in his/her official capacity as AIAB members. Information provided to the AIAB, regardless of their form, is not be copied, replicated or further disseminated without the World Bank's prior written consent. Documents that are owned by member countries or third parties may be subject to redaction or withholding at the direction of the owners of the documents.

4. **Review of Application for Appeal.** Upon receipt of an application for appeal through the Secretariat, the AIAB reviews the application and accompanying documents and:
  - (a) admits the application for review and decision only if such application fulfills the criteria set forth in Section III.A.2 this Procedure; or
  - (b) dismisses the application in accordance with Section III.A.3 of this Procedure if such application fails to fulfill the criteria set forth in Section III.A.2 of this Procedure.
5. **Admission or Dismissal in its Entirety or in Part.** The AIAB may admit or dismiss an application it receives through the Secretariat in its entirety or in part. An application may be admitted and/or dismissed in part if the application raises multiple matters that require a partial admission and/or dismissal.
6. **Dismissal – without review of merits.** The Secretariat informs the AIAB in writing when an application may be eligible for dismissal without review of the merits pursuant to Section III.A.3 of this Procedure, i.e., the application for appeal fails to fulfill the criteria set forth in Section III.A.2 of this Procedure.
7. **Considerations of Appeals.** The AIAB considers and decides on the application and accompanying documents in accordance with Section III.A.1 and Section III.A.4 of this Procedure and, on that basis, decides to:
  - (a) affirm, in its entirety or in part, the AIC's decision upholding the initial World Bank decision to deny access to the requested information; or
  - (b) reverse, in its entirety or in part, the AIC's decision upholding the initial World Bank decision to deny access to the requested information.

## **F. Decisions**

1. **Majority Decision.** The AIAB makes all decisions by a majority vote of all its principal members.
2. **Justification for Decisions.** Each principal member of the AIAB provides input towards finalizing the written decision of the AIAB for each appeal, indicating the AIAB's decision and justification for either affirming or reversing the decision of the AIC in its entirety or in part. Each written decision, taking into account considerations of economy and efficiency, is recorded in a form pursuant to the AIAB's decision, including any dissents from the majority.
3. **Available Remedy.** No remedy other than making the requested information available to the requester is awarded. If the AIAB reverses a decision to deny access, the AIAB's decision lists the information to be made publicly available.
4. **Communication to the Secretariat.** The Chair communicates all decisions taken by

the AIAB in writing to the Secretariat in accordance with Section III.D.1 and Section III.D.4 of this Procedure and makes his/her best efforts to do so within a reasonable period after the end of the respective session, taking into account economy and efficiency.

5. **Communication to the requester.** The Secretariat notifies the AIAB decision to the requester in writing, normally in the same manner in which the application is received unless otherwise specified by the requester. The AIAB's decisions on appeals are final.

## **G. Expenses**

1. **AIAB Expenses.** Consistent with the Bank Procedure: Access to Information Appeals Board – Terms of Reference, the World Bank reimburses each AIAB member for time and reasonable expenses directly incurred in the carrying out of the above-mentioned responsibilities, as requested by the World Bank through the Secretariat, in line with relevant World Bank policies and procedures and taking into account considerations of economy and efficiency. AIAB members pose questions regarding expenses to the Secretariat for an answer before their incurrence.
2. **Daily Fee.** In addition to receiving reimbursement for expenses reasonably incurred, members of the AIAB receive a daily fee, as indicated in their respective letters of appointment, for the equivalent of each eight-hour day of work performed in connection with the discharge of their functions as members of the AIAB. Each AIAB member individually submits claims for said daily fees to the Secretariat *within seven calendar days from the relevant date of completion of work* (e.g., completion date of an AIAB session, or completion date of travel on authorized World Bank business).
3. **Travel arrangements.** If AIAB members are required to travel on authorized World Bank business under this Procedure, AIAB members follow the WBG Procedure: Official Travel Expenses – Payment and Reimbursement. The Secretariat assists AIAB members with travel arrangements

## **H. Miscellaneous Provisions**

1. **World Bank Property.** All materials produced or acquired by the AIAB as part of their functions and this Procedure remains the property of the World Bank. The World Bank retains the exclusive right to publish or disseminate in all languages reports and works arising from the above-mentioned materials. All information provided to or obtained by an AIAB member through and/or as a result of or in his/her capacity as an AIAB member is (a) exclusively used in his/her official capacity as an AIAB member, and (b) held in strict confidence, i.e., is not be further shared or disclosed to any party without the prior written consent of the World Bank, unless the information is classified by the World Bank as "public" and has been publicly disclosed.
2. The AIAB members destroy all documents received in the course of the discharge of their functions as soon as the session for which they received the documents ends, in accordance with this Procedure, World Bank policies and procedures and/or at the direction of the World Bank.
3. **Changes to the Operating Procedures.** Changes to this Procedure do not affect any pending cases, and are applied only to cases for which an appeal has been received by the Secretariat as of the date of the revision.



4. **Reservations.** Nothing in this Procedure, and no information provided or obtained during the proceedings under this Procedure, constitutes or is considered a waiver of the status, immunities and privileges of the IBRD or IDA as set forth in the Articles of Agreement of IBRD and the Articles of Agreement of IDA, respectively, or other provisions of national and international law, which remain specifically reserved.

#### SECTION IV – EXCEPTION

N/A

#### SECTION V – WAIVER

Provisions of this Procedure, unless cited as governed by a policy or separate directive or procedure, may be waived by the Issuer.

#### SECTION VI – OTHER PROVISIONS

N/A

#### SECTION VII – TEMPORARY PROVISIONS

N/A

#### SECTION VIII – EFFECTIVE DATE

This Procedure is effective as of the date on its cover page.

#### SECTION IX – ISSUER

The Issuer of this Procedure is as stated on its cover.

#### SECTION X – SPONSOR

The Sponsor of this Procedure is as stated on its cover.

#### SECTION XI – RELATED DOCUMENTS

1. Toward Greater Transparency Through Access to Information – The World Bank’s Disclosure Policy, December 10, 2009 (R2009-0259/2; IDA/R2009-0273/2), at <http://documents.worldbank.org/curated/en/241111468161347673/Toward-greater-transparency-through-access-to-information-The-World-Banks-disclosure-policy>

2. *Bank Policy: Access to Information*, July 1, 2015, Catalogue No. EXC4.01-POL.01, at <https://spappscsec.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=3693>.
3. *Bank Directive/Procedure on Access to Information*, October 18, 2019, Catalogue No. ECR4.01-DIR.123 at <https://spappscsec.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=e5c12f4e-7f50-44f7-a0d8-78614350f97c>.
4. *Bank Procedures: Access to Information Appeals Board – Terms of Reference*.
5. *WBG Procedure: Official Travel Expenses – Payment and Reimbursement*, January 1, 2020, Catalog No. WFA1.04-PROC.113, at <https://spappscsec.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=4f80feba-81f8-427f-8796-d9d0073ff295>
6. *Administrative Manual Statement (AMS) 14.20, Public Statements of Staff Members*, January 2010, at <https://spappscsec.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=2173>
7. *Bank Policy – Principles of Staff Employment – Preamble, Forward and Principles 1-11*, August 1, 1983, at <https://spappscsec.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=2666>
8. *World Bank Group Directive - Staff Rule 3.01 – Standards of Professional Conduct*, March 12, 2019, at <https://spappscsec.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=2b5fc09c-985a-48f7-aa27-a4d181711900>
9. *World Bank Group Directive – Copyright*, December 21, 2015, at <https://spappscsec.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=f1893cf7-d571-46c4-9c56-cfe681ce555a>

Questions regarding this Procedure should be addressed to the Sponsor.
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