

Review of the ADB Policy on Confidentiality and Disclosure of Information

A Summary of the Current Policy

1. On 8 September 1994, ADB's Board of Directors approved the Policy on Confidentiality and Disclosure of Information ("Disclosure Policy"). The document reviewed ADB policies and practice with respect to confidentiality and disclosure, recent developments on disclosure of information at other multilateral organizations, and concerns and constraints relating to disclosure of information. The document then set forth a general policy on disclosure, procedural steps to implement that policy, and recommendations. The policy took effect on 1 January 1995.
2. A complementary document, the Information Policy and Strategy of ADB, was approved shortly before the Disclosure Policy.
3. Following is a summary of the general policy and implementation arrangements, which incorporate the recommendations.

General Policy on Confidentiality and Disclosure of Information

4. While recognizing important legal and practical constraints, it is ADB's policy to provide the greatest possible degree of transparency and disclosure in all areas of its operations to ensure the success of ADB's mission and to sustain public support for ADB. The policy not only seeks to ensure transparency and disclosure in its operations, but it is also to show that ADB actively encourages transparency and disclosure as a model for those it seeks to assist. Furthermore, once ADB discloses a document, that document will become available to all.
5. To implement the policy, ADB seeks to instill among its staff "a presumption in favor of disclosure of information" in the absence of legal and practical constraints.

Implementation of the Disclosure Policy

6. Two separate implementation steps are identified. First, ADB's classification system should be simplified and clarified. Second, Management will issue clear instructions emphasizing ADB's presumption in favor of disclosure with respect to declassification and release of documents, and the importance of instilling a culture of openness among staff.

Classification System

7. To simplify and clarify the system for classifying documents, the document classification system is revised to create three classification categories: “confidential,” “for official use only,” and “unclassified.”
8. “Confidential” documents are those that contain particularly sensitive information for ADB’s limited internal use, release of which would reasonably be expected to have a seriously adverse effect on, or be prejudicial to, the interests of ADB, its members, borrowers, or others. Confidential documents are restricted to those documents determined by the head of the originating department or office concerned to meet such criteria. In general, documents marked confidential by a government will be declassified and released only with the government’s consent.
9. “For official use only” documents would be those determined by the head of the department or office concerned to contain sensitive information for ADB’s internal use, the release of which could reasonably be expected to interfere with ADB policies or regulations or jeopardize its activities or relations with its members, borrowers or others. With the exception of a document that a government has not consented to release, the head of the originating department or office has the discretion to declassify at any time documents classified “for official use only.”

Public Sector Project and Program Profiles

10. ADB staff are to prepare, for all loan proposals for public sector projects and programs listed in ADB Business Opportunities, a more detailed project or program profile describing the main elements of the proposed project or program, including environmental aspects, social information including information on resettlement and indigenous people, and dates for public consultations if arranged by the proposed borrower or sponsor. The initial profile is prepared to coincide with the initial listing of the project or program in ADB Business Opportunities, and is to be updated each time major changes occur in project design up to the appraisal stage.

Reports and Recommendations of the President (Public Sector)

11. After approval by the Board of Directors of a public sector project or program, copies of the relevant Report and Recommendation of the President (RRP) are declassified, and could be obtained by the general public. To protect borrowers or members prior to negotiation of the concerned loan, the government, borrower or other entities directly concerned is informed that it is ADB policy to release RRP’s after Board approval.

12. ADB's invitation to negotiate would include a request that the prospective borrower's negotiating team be prepared to indicate, during negotiations, any information or data related to the project or program that is confidential or sensitive, or might adversely affect relations between ADB and the government or borrower. Where significant issues of confidentiality do arise for any party concerned, relevant portions of the RRP are circulated separately to the Board and are not to be circulated to the general public.

Technical Assistance Reports

13. After approval, technical assistance documents that have been submitted to the Board for approval or information are declassified and may, in general, be released to the public. Feasibility studies arising from such technical assistance reports can be released except to the extent classified by the government concerned.

Country Specific Documents

14. Following submission to the Board of an economic review and ADB operations paper, or following Board review or consideration of each draft country operational strategy study and Compendium of Country Notes, such documents are declassified and may be released to the public unless Management otherwise determines.

Sector Policy Papers

15. In preparing public sector policy papers for Board review or consideration, ADB staff may consult with interested persons outside of ADB, and may make drafts of such policy papers, including drafts of Board "working papers," publicly available for review and comment. All public sector policy papers, once approved by the Board, are declassified and may be released to the public, as well as all private sector policy papers other than those which Management has advised the Board are to remain classified.

Environment-Related Documents

16. Summary environmental impact assessments, environmental impact assessments, initial environmental examinations, and summary initial environmental examinations for category A and B projects with significant environmental impact proposed to be financed by ADB, after they have been released locally and officially transmitted to ADB, are available to the public upon request, in both public and private sector operations.

Disclosure of Private Sector Documents

17. ADB adopts a presumption in favor of disclosure for its private sector operations where disclosure would not materially harm the business and competitive interests of ADB clients.
18. Project profiles for specific private sector projects are prepared and released to interested parties prior to a project's consideration by the Board, but only after Management has determined that the project is likely to be presented to the Board for consideration and the project sponsors have consented to the project profile's release. The profile provides a brief factual summary of the main elements of the evolving project.
19. A loan and investment proposal for any private sector project or program is listed in ADB Business Opportunities using information in the project profile as soon as the project profile is released for the project or program.
20. RRP's for specific private sector projects are disclosed or released to the public only with the prior consent of the project sponsors.

Other Documents and Information Requests

21. Regarding requests for additional information about a public sector project or program, or technical assistance, the head of the appropriate department or office may declassify and release all or part of factual or technical documents after consulting with the government, borrower or recipient.
22. Any department or office receiving a request for information or documents not covered by the preceding arrangements should relay the request within 3 working days to the Information Office, which, in consultation with the Publications Committee, will arrange for a review of the request by the relevant ADB office and, where appropriate, with the government concerned. The relevant ADB office will give particular regard to the classification of the information or documents and provide a response to the request, either by providing such information or indicating the reasons such information cannot be provided, within 22 working days of ADB's receipt of the request.

Effective Date and Review

23. The new classification system and the proposed procedures for release of documents takes effect on 1 January 1995. A review of the revised classification system and procedures for release of documents is to be undertaken within 2 years after their implementation. The results of this review and proposals for additional action, if any, will be submitted to the Board.

Cost Considerations

24. Dissemination of documents to the public involves substantial publication or communication expenses. The Publications Committee is responsible for recommending document prices, which in general will be established using the principle that the user pays the costs of providing documents requested. ADB will, to the extent possible, make use of the Depository Library System to disseminate documents, and will explore various interactive database options to make information accessible through the Internet or other such servers of information. All possible steps will be taken to minimize expenses, or to arrange for the recovery of the costs of disseminating information from the end-users.

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