

PUBLIC CONSULTATION AND INFORMATION DISCLOSURE

Introduction

The ADB's Environment Policy mandates the procedural requirements for effective public consultation and information disclosure in the EA process. The purpose of this chapter is to provide practical guidance on adequate public consultation and suggest approaches on how to achieve it.

Framework for Public Consultation

1. Rationale

Public consultation is an important element of the planning and implementation of economic development activities. It is embedded in the ADB's governance policy, sector policies such as forestry and fisheries, and safeguard policies on environment, involuntary resettlement, and indigenous peoples (Table 1). Public consultation is necessary to ascertain the public's views. Providing for people's participation in project design and development is a way to improve environmental governance by providing a mechanism to influence decisions about the use and management of natural resources.

Table 1: Policy Requirements for Public Consultation

Policies	OM/OP	Handbook/Guidelines
<ul style="list-style-type: none">• Environment Policy• Policy on Indigenous Peoples• Resettlement Policy• Confidentiality and Disclosure Information• Sector Policies (Gender, Water, Forest, Fisheries, energy, etc.)• Governance Policy	<ul style="list-style-type: none">• OM/OP 20: Environmental Considerations in ADB's Operation• OM/OP 47: Incorporation of Social dimensions in Bank Operation• OM/OP 50: Involuntary Resettlement• OM/OP 53: Indigenous Peoples	<ul style="list-style-type: none">• Guidelines for Incorporation of Social Dimensions in Bank Operations• Handbook for Incorporation of Social Dimensions in Bank Operations• Handbook on Resettlement• A Guidebook for Policy on Confidentiality & Disclosure of Information

ADB's safeguard policies on Environment, Involuntary Resettlement, Indigenous Peoples recognize the importance of consulting with the project affected individuals and groups to provide opportunities to raise community's concerns and issues. ADB's operation manuals and guidelines for resettlement, indigenous peoples, and incorporation of social dimensions in ADB operations provide guidance on: i) identifying and assessing stakeholders, ii) assessing and evaluating the social impacts, and iii) developing and implementing appropriate resettlement and indigenous peoples plans. These plans are designed to minimize adverse impacts on the project-affected people, and provide for monitoring and evaluation the outcomes.

2. Principles of Public Consultation

Public consultation and information disclosure in the EA process is to be guided by the following general principles:

- **Information Dissemination.** Sufficient information should be provided in accessible and culturally appropriate ways. Providing information about benefits and disadvantages of the project at an early stage of the EA process allows people time to think about the issues, consider implications, and formulate their views. An informed public will understand the trade-offs; be able to contribute meaningfully to project design; and have greater trust with the project proponent.
- **Information solicitation.** Asking and listening to the local community, residents, and interested groups about their views and input into the EA yield new insights and site-specific information. Past broken promises or mismanagement may have left a legacy of mistrust. Information solicitation provides public's past experience with authorities and can initiate constructive dialogue.
- **Integration.** Predicting likely direct and indirect impacts, short-and long-term resource use implications, evaluating their significance and risks, and developing appropriate mitigation and monitoring programs require not only the scientific data collected by sampling and modeling, but must be based on stakeholder's input and views.
- **Coordination.** The ability to conduct effective public consultation depends on how individual team members appreciate benefits of consultation, understand their roles, and cooperate each other. A well-integrated Project Team with well-defined roles and responsibility can facilitate dialogue with the executive agency to inform the ADB's requirements and gain its commitment to remove any constraints to carry out public consultation throughout the project cycle.
- **Engaging People in Dialogue.** Public consultation involves engaging people in dialogue – a two-way flow of information and ideas between the project proponent and the stakeholders with the opportunity for the stakeholders to express their views and concerns. Ensuring the opportunity to participate in dialogue during the early preparation stage of the EA process enables to manage expectations and detect any potential serious conflict and help resolve issues before they lead to conflict, reducing financial losses due to delays.

3. Benefits

Effective public consultation can add substantial value to the EA process. The information gained through public consultation on the stakeholders' concerns, interests, and their ability to influence decision-making helps identify key cause of environmental problems. This can be used to evaluate direct and indirect environmental impacts, and assess short term and long-term resource use implications. The input from local communities and NGOs can help evaluate alternatives and strengthen the EMP by incorporating local input and know-how.

An informed public will better understand the tradeoffs between project benefits and disadvantages; be able to contribute meaningfully to the project design; and have greater trust with the project proponent and support for the proposed project. Effective public consultation

reduces the risk of conflicts and substantial delays in project implementation. Wider public support for the project is essential for the sustainability of the project.

4. Stakeholder Analysis

Stakeholder analysis is a tool to identify all parties that have direct and indirect interests in the project and its potential impacts on them. Failure to identify the stakeholders and consult with them could impair transparency in decision-making and which, in turn, could lead to conflicts, delaying the project process. Therefore, it is important to identify the stakeholders, the potential project impacts on them, and also to evaluate their concerns and needs, and their ability to understand and influence the decision-making at the project preparation stage.

There are 5 categories of stakeholders:

- Local communities
- Civil society;
- Government and local government bodies
- Private sector bodies
- Other institutions

The 'primary' stakeholders are those who are directly affected, whether positively or negatively. Social development specialists will have to generate and share socioeconomic and cultural information in doing the stakeholder analysis. Social analysis techniques and methods could be used in identifying stakeholders, their needs, aspirations, and concerns regarding the project. The type of data and information required to conduct a stakeholder analysis include household level socioeconomic data, information on ethnic mix and interactions, cultural traditions, gender profile in socioeconomic activities, mechanisms for decision-making regarding their environment and experience with similar projects. It is useful to rank the expectations, concerns and needs of different groups of project-affected persons. It is also important to determine how their diverse interests would impact on the project outcome. One basic issue that needs analysis is how different groups and individuals will interact with each other in influencing the project outcome.

The 'other' stakeholders are those who are indirectly affected. They can be organizations through which benefits are channeled to primary stakeholders. They include local, regional and national government, civil society organizations, individuals who live in the vicinity, private sector agencies, and multilateral and bilateral institutions. Although potential project impact on them may be secondary in nature, they also could become primary stakeholders depending on the type of activities, the sectors involved and the institutional capabilities to influence decision-making. Therefore, it is important that social and environmental specialists and project leaders be aware of the indirectly affected stakeholders.

Choosing Stakeholders. The choice of stakeholders for direct consultation must be made on a fair and equitable basis. Meaningful public consultation requires consultation with people who represent a range of legitimate interests including those:

- Who will be directly or indirectly and positively or negatively affected?
- Who are the most vulnerable groups?
- Who might have an interest or feel that they are affected?
- Who supports or opposes the changes that the project will deliver?

- Whose opposition could be detrimental to the success of the project?
- Whose cooperation, expertise, or influence would be helpful to the success of the project?

5. Conflict Management

Conflicts and disputes can arise over the assessment of environmental and social impacts, compensation, and decisions already made. Carrying out a careful stakeholder analysis, focusing on actual and potential conflicts, during the early stages of EA is a useful step to avoid and manage project related conflicts. However, if there is a potential for serious conflict or conflict has already occurred, voluntary resolution approaches such as problem-solving, consensus building should be used to mediate the situation and develop consensus among stakeholders to gain their support for the proposed project during the EA process.

To achieve consensus on environmental issues, stakeholder representatives must meet and negotiate mutually acceptable solutions during the conflict resolution process. The four key negotiation rules include

- **Assessment.** Identify various stakeholder groups, their concerns and interests, assess procedural ground rules, and selection of a neutral party. Issues related to fundamental values or constitutional and legal rights are not amenable to consensus building while issues of certain way of using the resource can be mediated. Technical and scientific issues need to be dealt with as part of environmental mediation;
- **Areas of agreement and disagreement.** Define all areas of agreement to establish common ground and eliminate those issues from discussion. Identifying areas of disagreement with underlying reasons of each point of conflict gives negotiators an idea of the magnitude of the problem. It also ranks points of conflict in an order of importance;
- **Specific steps.** Suggests specific steps for organizing productive meetings and decision-making processes among groups that have differences; and
- **Issue-by-issue negotiation.** Try to solve points of conflict one at a time, starting from minor issues toward major ones at the end. In this way, negotiators will address the more difficult problems after establishing a successful record of negotiation on less difficult issues.

6. Approaches for Public Consultation

Communication during environmental assessments involves seeking information, imparting information or reaching agreement through dialogue. There are a number of approaches that involve public consultation and information dissemination. A critical element of preparing for public consultation is associated with the selection of appropriate approaches (Table 2). Available approaches maybe categorized into 3 types: (i) disseminating information, (ii) soliciting input, and (iii) getting consensus on issues. The following approaches represent best practices for carrying out public consultation.

Table 2: Common Approaches for Public Consultation

	Disseminating Information	Soliciting Input	Getting Consensus
Approaches	Printed materials, displays and exhibits, advertising, open house	Community liaison officer, survey and questionnaires, interviews, small public meetings, public hearing	Advisory panel, problem solving technique, consensus-building technique, arbitration
Benefits	<ul style="list-style-type: none"> • Reach large audience • Minimum demand on the public • Can provide detailed information 	<ul style="list-style-type: none"> • Allow immediate response and feedback • Allows detailed and focused discussion • Show sociological data and quantify opinions, priority and concerns • Allows direct communication and exchange of information and debate 	<ul style="list-style-type: none"> • Can address highly technical problems • Helps prioritize and reach consensus • Impartiality from an uninvolved party
Challenge	<ul style="list-style-type: none"> • Ability to handle specific interest is low • Excludes illiterates • Costs of preparation and staffing 	<ul style="list-style-type: none"> • Potential conflicts between officer and employers • Requires specialists to deliver and analyze to avoid bias • Can be diverted by special interest groups 	<ul style="list-style-type: none"> • Difficult to include full range of views • May take a long time • Requires highly skilled mediators • Difficult to identify an acceptable neutral party

Requirements for Public Consultation and Information Disclosure

1. Public Consultation

Public consultation is mandatory as part of the EA process for category A and B projects supported by ADB. The ADB's safeguard policies for environment, resettlement, and indigenous people require public consultation at an early stage of the EA process. The adequacy of the public consultation and information disclosure is one of the criteria used to determine the project's compliance with the safeguard policies.

Category A Projects. Public consultation needs to be carried out during the early stage of EA preparation and throughout the project implementation to address any environmental issues that affect the local communities, NGOs, governments, and other interested parties. For all Category A projects, the Environment Policy requires public consultation at least twice: once during the early stages of EIA field work and once when the draft EIA report is available, and prior to loan appraisal by ADB.

Category B Projects. It is recommended that public consultation be carried out during the early stages of the EA process and throughout the project implementation to address any environmental issues that affect the local communities, NGOs, governments, and other interested parties.

Category C Projects. Public consultation is not required for environmental assessment of category C projects. However, consultation requirements may be set on a case-by-case basis, depending on the nature of the project and the relevant environmental and social issues, and interest level of the public.

Category FI Projects. Financial intermediation loans and equity investment require the financial intermediary have an EMS for its operation. Adequate public consultation procedures are to be incorporated into the EMS. Where the financial intermediary projects involve credit lines, ADB public consultation requirements for project loans apply. That is, the environmental assessment and review framework for sub loans must have procedures for public consultation.

2. Information Disclosure

Environmental assessment reports for ADB projects are intended to be accessible to interested parties and the general public. The *Environment Policy and Guidebook for Policy on Confidentiality and Disclosure of Information* outline requirements on the required types of environmental reports for disclosure.

Category A Projects. To facilitate the required consultations with the affected groups and local NGOs, the information about the project's environmental issues as well as technical data needs to be transferred into a form and language(s) accessible to those being consulted. The SEIA is made available to the public through the depository library system, and are placed on the ADB website and also posted on the ADB's website no later than 120 days prior to the Board considerations. The full EIA is also made available to interested parties upon request.

Category B Projects. To facilitate the required consultations with affected groups and local NGOs, the information about the project's environmental issues as well as technical data needs to be transferred into a form and language(s) accessible to those being consulted. For projects deemed environmentally sensitive, SIEEs are made available to the public through the depository library system, and are placed on the ADB website no later than 120 days prior to the Board considerations. For other category B projects, the environmental analysis is posted on the ADB website as part of the RRP. The full IEE reports are also made available to the interested parties upon request.

Proposed project and exchange views with relevant government institutions and other interested parties to facilitate the dialogue. Information disclosure in the environmental assessment is not required for the category C projects. However, the public can access to the environmental information described in the RRP that is posted on the ADB website.

3. Reporting

Reporting the public consultation and information disclosure activities is required as part of the project review. The information regarding the past and future consultation and disclosure activities is reviewed during the mid-term review and annual review for Category A and B sensitive projects. A summary of the past consultation activities and recommendations and future plan needs to be described in the EIA and SEIA for a category A project and IEE and SIEE for a category B project. The key reporting aspects listed below are to be included in both EIA and IEE:

- (i) relevant laws and regulation;
- (ii) methodologies used to inform and involve the public in the EA process;

- (iii) analysis of the data and information gathered;
- (iv) discussion of the strategic issues related to various stakeholders, level of involvement,
- (v) documentation of public meetings and interviews, including dates, names, topics of discussion, and important outcomes;
- (vi) recommendations on how the project might address concerns raised during public consultation; and
- (vii) recommended measures for continuous public consultation during the environmental management program.

Best Practices for Public Consultation and Information Disclosure

Public consultation can be applied at various times throughout the EA process in order to build consultation into project planning and implementation, and to monitor consultation activities throughout the project cycle. While there is no formula for determining when public consultation should be applied, it generally should start early in an EA process. The strategic considerations for public consultation and information disclosure at each EA process of the project cycle are as follows:

1. Determining the Need and Extent of Public Consultation

Project Identification. During the project identification phase, it is important to determine the existence of: i) an EA regulatory framework where public involvement is specified in the Borrower's country, ii) the executing agency's political will and capacity to plan and conduct public consultation; and iii) adequate in-country financial resources to support consultation costs. Political support from the executing agency should be strongly encouraged so that any regulatory constraints can be removed to ensure that the consultation process succeeds. ADB and executing agency need to consult with other donor institutions, if necessary, to ensure that the proposed project has synergetic effect on their projects.

PPTA Fact Finding (TOR for Environmental Assessment). To carry out effective public consultation, it is crucial to develop sound TOR that defines clear roles for each project team members and executing agency. PPTA Fact-finding, identify any site-specific constraints that will make consultation difficult. Constraints may include cultural or political factors such as restrictions on women or ethnic minorities, geographic factors such as inaccessibility or diffuse settlement over a wide area, and public's past confrontational experience with authorities.

To carry out effective public consultation, it is also important to assess executive agency's capacity and skills to collect and analyze data, interact effectively with the public, and interpret findings for decision-makers. Developing systematic training programs or engaging local or international consultants is required in the TOR to ensure required level of expertise and local knowledge and experience in place to carry out public consultation.

2. Public Consultation During the Preparation of EIAs and IEEs

PPTA Feasibility Study. Selection of appropriate consultation approaches is crucial to the effective consultation. Before conducting public consultation, develop a strategy that identifies stakeholders, specifies appropriate consultation tools, schedules, roles of Project Team and the executing agency, conflict resolution methods, and prepare appropriate information materials to support consultation.

The environmental assessment report should integrate social analysis conducted by social development specialists or consultants in the assessment of the magnitude of impacts and develop appropriate mitigation measures and EMP. The EMP should explore roles for communities in environmental monitoring. A community-based monitoring requires good understanding of community's socioeconomic situation, its way of life, and resource use practices, and establishment of interactive mechanisms that allow continuing dialogue and feedback system between project implementers and local inhabitants during implementation.

Effective publication requires the provision sufficient information in a form that is readily understandable and meaningful to the project affected people. If needed, the technical information will need to be presented in a form to ensure that relevant project and environmental information is accessible to the local communities and other stakeholders. Once a draft EIA or IEE is prepared, disclose to the relevant stakeholders the information on the recommended mitigation measures and monitoring plan to gain their consensus and support. Ensure that public consultation activities are adequately documented in the draft EIA/SEIA and IEE/SIEE.

It is necessary to recognize any concerns that local communities or other stakeholders may have to detect any potential serious conflicts in the communities. Appropriate mechanisms that incorporate local decision-making traditions to facilitate dialogue and develop consensus on identified issues should be established. Careful attention to the selection of stakeholder representatives is necessary to make mediation manageable.

3. Monitoring Compliance with Public Consultation Requirements

Safeguard Policy Compliance Memo. Prior to the MRM, RSES reviews the RRP and the final EIA/SEIA or IEE/SIEE to determine the project's degree of compliance with ADB's safeguard policies. To facilitate this review, public consultation activities and future plans should be described in the SEIA or SIEE and include an assessment of compliance with the ADB's requirements and national laws and regulations.

Environmental Loan Covenants. To make all the agreed environmental and social safeguards binding and effective, the procedures, responsibilities, and resource allocations for public consultation and information disclosure activities that are documented in the EIA/SEIA, IEE/SIEE, and RRP are to be included in the environmental covenants of the loan documents.

Loan Approval and Implementation (EMP Implementation). During the implementation stage, the EMP needs to be implemented and monitored. It is important to maintain effective procedures: (i) for addressing complaints, (ii) to detect and document any changes in the project design and EMP, and (iii) for corrective action to mitigate any unforeseen adverse environmental and social impacts. The EMP will need to be modified, as necessary, to minimize unintended or unpredicted adverse environmental and social impacts.

Disclosure of monitoring results to the local communities is recommended if the proposed project proposes community environmental monitoring. Local communities, end-users and beneficiary of natural resources, can act as a watchdog to detect changes in their surroundings and provide site-specific information to the monitoring institutions. With good awareness programs, disclosure of monitoring results can provide incentives for local communities to conserve natural resources they depend on.

Mid-term Review. During the mid-term review mission, the executing agency's progress and performance in EMP implementation are reviewed. Interviews with local communities should be undertaken to detect any negative environmental and social impacts that were not predicted in the EA. The effectiveness of EMP should be assessed and any necessary corrective actions undertaken. The review of EMP and complaints feedback procedures should be described in the back-to-office report.

Project Completion and Evaluation. Annual review mission should cover issues and identified solutions if any concerning project affected people. The executive agency needs to send ADB the annual report to describe the progress made in the on-going public consultation. Evaluate consultation process and draw on the experiences for the future projects. As part of the project review, the effectiveness of consultation process should be assessed in the Project Completion Report. The Performance Audit Reports should draw lessons for future projects.