

OPERATIONS MANUAL BANK POLICIES (BP)

These policies were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.

PUBLIC COMMUNICATIONS

A. Introduction

1. The public communications policy (the Policy) aims to enhance stakeholders' trust in and ability to engage with the Asian Development Bank (ADB). To ensure ADB's operations have greater development impact, the Policy promotes

- (i) awareness and understanding of ADB activities, policies, strategies, objectives, and results among ADB's constituents, other stakeholders, and the general public;
- (ii) sharing and exchange of development knowledge and lessons learned, so as to provide fresh and innovative perspectives on development issues;
- (iii) participatory development, ensuring a greater two-way flow of information between ADB and its stakeholders, including affected people; and
- (iv) transparency and accountability in ADB operations.

B. Definitions

- (i) "Affected people" means people who may be beneficially or adversely affected by a project assisted by the ADB.
- (ii) "Appraisal" means the appraisal mission or its equivalent, or if the latter is waived or not conducted, the management review meeting or its equivalent.
- (iii) "Available to affected people" means available in an appropriate form, manner, and language and at an accessible location to be understandable to affected people.
- (iv) "Board", unless specified otherwise, refers to ADB's Board of Directors.
- (v) "Completion" of a document means preparation up to and including the stage at which it meets the requirements of the ADB department responsible for its preparation.
- (vi) "Confidential business information" means information covered by a confidentiality agreement or a nondisclosure agreement that ADB enters into with clients, advisors, consultants and other related parties.

OPERATIONS MANUAL BANK POLICIES (BP)

- (vii) "Country partnership strategy assessments" or "CPS assessments" refers to analyses and assessments¹ undertaken in preparation of a country partnership strategy. It also includes updates to such assessments.
- (viii) "Final report" means a report (a) formally submitted to ADB as a final report; (b) that ADB has determined to be of sufficient quality to be used in preparing a project; and (c) that requires no further changes.
- (ix) "Historical information" means information concerning ADB projects, policies and general operations that are no longer "active."
- (x) "Publicly available" means available on ADB's Website.²
- (xi) "Project" covers ADB-assisted projects and programs financed under loans and grants, including technical assistance projects.
- (xii) "Regional cooperation strategy assessments" or "RCS assessments" refers to analyses and assessments³ undertaken in preparation of regional cooperation strategy.
- (xiii) "Resettlement plan" means any full or short resettlement plan prepared pursuant to ADB's *Involuntary Resettlement Policy* (1995), as amended from time to time, and *Operations Manual* (OM) section F2/OP on involuntary resettlement.
- (xiv) "Resettlement framework" means any resettlement framework prepared pursuant to OM section F2/OP on involuntary resettlement.
- (xv) "Upon" approval, circulation, completion, endorsement, discussion, issuance or submission, means as soon as is reasonably practical, and no later than 2 weeks (14 calendar days) following the date of approval, circulation, completion, endorsement, discussion, issuance, or submission.

C. The Policy

2. ADB shall proactively share its knowledge and information about its work, its views, and its opinions with stakeholders and the public at large. ADB shall also disclose information in response to individual requests for information. In the absence of a compelling reason for confidentiality, there shall be a presumption in favor of disclosure of information.

¹ See OM A2/OP (Country Partnership Strategy).

² The Policy also calls for other means of disclosure or dissemination, depending on the intended recipient or audience as well as the intended purpose for disclosing the information (for example, information to support a consultation process, information sought by affected people or other local stakeholders, or information for the public at large). These are specified separately and not included in the definition of "publicly available."

³ See OM B1/OP (Regional Cooperation and Integration).

OPERATIONS MANUAL BANK POLICIES (BP)

3. ADB recognizes that transparency not only enhances development effectiveness, but also increases public trust in the institution. ADB shall seek to be a positive example of transparency, and to act in a way that is consistent with the advice it provides members on transparency issues.

4. ADB also recognizes the great importance of country ownership of the activities it supports in developing member countries. The views and interests of these developing member countries shall, therefore, be respected when the Policy is implemented.

5. ADB supports the right of people to seek, receive, and impart information and ideas about ADB-assisted activities. ADB shall provide information in a timely, clear, and relevant manner so it can communicate with, listen to, and consider feedback from its stakeholders. ADB shall share information with affected people early enough for them to provide meaningful inputs into the project design and implementation.

6. To improve performance by learning from its past experiences, ADB shall report failures and disappointments as well as successes. ADB shall not withhold information just because it is negative. ADB shall encourage constructive debate and dialogue on policies and operations. As a public institution, ADB shall be publicly accountable.

7. ADB shall not selectively disclose information; people will have equal access to the information that ADB makes available under the Policy according to the terms of the Policy, strategy, and implementation arrangements.

8. ADB shall seek to enhance the understanding of its members, civil society organizations, businesses, media, academic institutions, development partners, and the general public about its role in poverty reduction in Asia.

9. Full disclosure is not always possible for legal and practical reasons. For example, ADB needs to explore ideas, share information, hold frank discussions internally and with its members, and consider the special requirements of its private sector operations. ADB shall safeguard the privacy of its staff and protect nonpublic business information about itself and of private sector sponsors and clients. However, exceptions are limited, and ADB shall disclose all information it produces unless such information falls within the exceptions set out in paragraphs 67 and 68 of OM section L3/OP.

10. Unless restricted by other provisions in the Policy, documents submitted to the Board for information shall be disclosed no later than upon circulation to the Board, and documents submitted to the Board for consideration shall be disclosed no later than upon approval or endorsement by the Board.

D. Scope of the Policy

11. ADB shall implement the general principles set out in the Policy through the strategy outlined in OM Section L3/OP. The strategy lists the information that ADB shall proactively

OPERATIONS MANUAL BANK POLICIES (BP)

make publicly available, and specifies certain instances where information shall be made available on request, or shall not be made available without the consent of ADB.

12. In the event of a conflict between the disclosure provisions (but not other provisions) of the Policy, and any other Board-approved policy, the disclosure provisions of the Policy shall prevail.

Basis: This OM section is based on:

ADB. 2005. *The Public Communications Policy of the Asian Development Bank Disclosure and Exchange of Information*. March. Manila.

ADB. 2007. *Proposed Amendment to the Public Communications Policy of the Asian Development Bank*. March. Manila.⁴

This OM section is to be read with OM Section L3/OP.

Compliance: This OM section is subject to compliance review.

For inquiries: Questions may be directed to the InfoUnit, Department of External Relations.

⁴ This proposed amendment on PCP para. 126.16 was approved by the Board on a no-objection basis with effect from 9 April 2007.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

These procedures were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.

PUBLIC COMMUNICATIONS

A. Introduction

1. The public communications policy (the Policy) establishes the disclosure requirements for documents ADB produces or requires to be produced. It does not set forth the requirements for producing such documentation. References to other ADB policies are made throughout the Policy. Any reference to another ADB policy includes that policy as amended by ADB from time to time. Any policy or strategy developed or revised by ADB after the Policy's effective date shall clearly articulate the disclosure requirements for documents and other information required to be produced under that policy or strategy. Such disclosure requirements must be consistent with the general principles set out in the Policy.

B. Application of the Policy

2. The following documents shall be made publicly available within the time period specified, after consultation with the respective borrower or private sector sponsor, as appropriate, and subject to the section on exceptions to disclosure (paragraphs 64–71).

1. Information Pertaining to ADB's Operations

a. Country and Regional Programming

i. Strategy Assessments

3. Country partnership strategy¹ (CPS) assessments and regional cooperation strategy² (RCS) assessments may be made available to in-country stakeholders in draft form if they are developed through consultation with nongovernment stakeholders. ADB shall make CPS assessments and RCS assessments³ publicly available upon completion.

ii. Strategies and Business Plans

4. ADB shall maintain and make publicly available on a rolling basis a list of new CPSs, RCSs, CPS midterm reviews, and RCS midterm reviews scheduled for preparation over the course of the next year.

¹ See OM A2 (Country Partnership Strategy).

² See OM B1 (Regional Cooperation and Integration).

³ Assessments that are produced as standalone documents. Disclosure requirements for risk assessments mentioned in OM A2/OP—which could contain confidential or sensitive information that qualifies as exceptions to disclosure under para. 126 of the PCP—are to be determined on a case-by-case basis and are to be covered by a confidentiality agreement when applicable. However, as stated in OM C4/OP, the major findings of the risk assessments should be summarized and included in the CPS to the extent required to report on ADB's governance programs, projects, and activities over the period covered by the CPS.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

5. To facilitate required consultations with stakeholders⁴ and to allow them to contribute to the draft CPS or RCS in their country and/or region, ADB shall make draft CPSs and RCSs available to stakeholders for comment before consultations. They shall be made available (i) after the initiating paper is completed; and (ii) after the CPS or RCS is drafted but before its management review meeting. ADB shall make the draft CPS midterm review, and the draft RCS midterm review, available to stakeholders for comment during the relevant programming missions.

6. ADB shall make CPSs, and RCSs, and the chair's summary of each Board discussion on CPSs and RCSs, publicly available upon endorsement by the Board. ADB shall make CPS midterm reviews and RCS midterm reviews publicly available upon circulation to or endorsement by the Board. The chair's summary of any Board discussion on a CPS midterm review or RCS midterm review shall also be publicly available. If English is not used widely in the relevant country, ADB shall translate any new CPS into a widely understood language within 90 calendar days of Board endorsement of the CPS, and with regard to the CPS midterm review, within 90 days of its circulation to or endorsement by the Board.

7. ADB shall make country operations business plans⁵ and regional operations business plans⁶ publicly available upon circulation to the Board.

b. Policies, Strategies, and Operational Procedures

8. ADB seeks the active participation of its shareholders and other interested individuals and organizations during the development and review of its safeguard policies and sector and thematic strategies. ADB shall make a list of the safeguard policies and sector or thematic strategies to be developed or reviewed over the next 12 months publicly available on a rolling basis. Items will be added to the list after approval by Management of a concept paper for such development or review. ADB shall make plans for consultation, including any anticipated face-to-face meetings with external audiences, publicly available upon completion of such plans. ADB shall make at least one draft of the policy or strategy paper publicly available for consultation. For other policies and strategies—for example, the public communications policy, the poverty reduction strategy, and the accountability mechanism—ADB Management may determine that they are also subject to the requirements of this paragraph.

9. ADB shall make all ADB policy or strategy papers publicly available no later than upon final approval by either the Board or Management. For each policy and strategy discussed by the Board at a formal Board meeting, ADB shall make a chair's summary publicly available at the same time the policy or strategy paper is disclosed.

10. ADB shall make its policies and procedures for CPSs and RCSs and project processing publicly available. These include the *Operations Manual* (Bank Policies and Operational Procedures), the *Business Processes for the Reorganized ADB*, and *Further Enhancing*

⁴ ADB. 2006. *Further Enhancing Country Strategy and Program and Business Processes*. Manila (paragraph 11).

⁵ See OM A2 (Country Partnership Strategy).

⁶ See OM B1 (Regional Cooperation and Integration).

**OPERATIONS MANUAL
OPERATIONAL PROCEDURES (OP)**

Business Processes for the Reorganized ADB. ADB shall also make the *Project Administration Instructions* and staff guidelines and handbooks on ADB operations publicly available.

c. Projects and Programs

i. Project Information Document (PID)

11. ADB shall make publicly available a project information document that provides a brief factual summary of a project. PIDs for public and private sector projects shall include (i) the project title; (ii) sector, thematic, and targeting classification; (iii) project/program number; (iv) type or mode of assistance; (v) location and geographical coverage; (vi) description; (vii) objectives and scope, including expected development impact; (viii) cost and financing plan (for public sector projects only); (ix) implementing agency or project sponsor(s); (x) allocated environmental and social safeguard screening categories; (xi) summary of environmental and social issues; (xii) country context; (xiii) consultations carried out or planned; (xiv) responsible ADB department, division, and officer; (xv) the date of approval of project concept paper or private sector project concept clearance paper; (xvi) the date of PID preparation and most recent update; (xvii) list of feasibility and technical documents prepared or scheduled to be prepared; and (xviii) a timetable for assistance design, processing, and implementation, including estimated dates for appraisal authorization and Board consideration. As the PID is a work in progress, information contained in items (viii), (x), (xi), (xiii), and (xvii) may not be included when the initial PID is made publicly available. These will be included as such information becomes available.

ii. Public Sector PID

12. ADB shall make the initial PID for a public sector project publicly available as soon as preparatory work begins on a project and no later than 30 calendar days following approval of the concept paper for the project. ADB shall make the design and monitoring framework publicly available before appraisal of the project.

13. ADB shall update the PID quarterly during project preparation and processing to reflect the project's status. ADB shall update the PID quarterly during implementation to reflect activities and issues, status of development objectives⁷ and covenants, and loan utilization.

14. Should ADB terminate its involvement in a public sector project, the corresponding PID shall include a statement indicating the reason for the termination. ADB shall keep PIDs for terminated projects publicly available for 6 months following termination.

iii. Private Sector PID

15. ADB shall make the initial PID for a private sector project publicly available after ADB has determined that a project is likely to be presented to the Board, but no later than 30 calendar days before the date for Board consideration. For environmentally-sensitive projects

⁷ ADB currently uses the term "development outcome" to denote "development objective."

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

that are required by the *Environment Policy* (2002) to have a summary environmental impact assessment or a summary initial environmental examination made publicly available at least 120 calendar days before the date for Board consideration,⁸ ADB shall make the private sector PID publicly available at least 120 calendar days before Board consideration. As project preparation, processing, and implementation proceeds, ADB shall update the PID quarterly to reflect activities, status of development objectives, and material changes, if any, regarding the project. Should ADB terminate its involvement in a private sector project, the corresponding PID shall include a statement that ADB's involvement was terminated. ADB shall keep PIDs for terminated projects publicly available for 6 months following termination.

iv. Information for Affected People

16. To facilitate dialogue with affected people and other individuals and organizations, information about a public or private sector project under preparation (including social and environmental issues) shall be made available to affected people. ADB shall work closely with the borrower or project sponsor to ensure information is provided and feedback on the proposed project design is sought, and that a focal point is designated for regular contact with affected people. This should start early in project preparation, so that the views of affected people can be adequately considered in project design, and continue at each stage of project preparation, processing, and implementation. ADB shall ensure that the project's design allows for stakeholder feedback during implementation. ADB shall ensure that relevant information about any major changes to project scope is also shared with affected people.

17. To support the requirements in paragraph 16, developing member country governments and ADB may jointly develop communications plans for certain projects and programs, particularly those likely to generate a high level of public interest. Such plans could, for example, recommend how to engage in dialogue with affected people, broaden public access to information on economic and legal reforms, help governments and project sponsors involve affected people in the design and implementation of ADB-assisted activities, and increase involvement of grassroots and civil society organizations in the development process.⁹

18. Private sector entities and implementing institutions are a diverse group, with varying capabilities, and ADB is generally flexible in dealing with them. The substance of ADB's environmental and social safeguard requirements for private sector investments is generally the same as for the public sector. ADB's safeguard policies require private sector sponsors to assess, manage, monitor, and disclose the social and environmental impacts of their projects. They include requirements for early engagement by the private sector sponsor with affected people, and the timely dissemination of relevant project information to such communities in an

⁸ For ADB's requirements for preparing environmental assessment reports, see ADB. 2002. *Environment Policy*. Manila.

⁹ Communication plans would indicate objectives, form (including languages), method, and timing for sharing information; the stakeholders; and the focal issues. They would also include a process for incorporating responses and inputs, and for reporting on the use of those inputs. Some communication plans could call for the development of project information centers. If relevant, project proposals would include a description and financing plan for such centers.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

understandable and accessible form. Toward this end, the project sponsor shall inform ADB, before appraisal, how it intends to engage with affected people.

v. Environmental Assessments

19. In accordance with the requirements under the *Environment Policy*, ADB shall make a summary environmental impact assessment for a category A project or summary initial environmental examination for a category B project deemed environmentally sensitive, publicly available at least 120 calendar days (i) before the Board considers the loan, (ii) before approval of a category A subproject, or a category B subproject deemed environmentally sensitive, or (iii) in relevant cases before approval of a major change in a project's scope.¹⁰ ADB shall make the full environmental impact assessment and initial environmental examination available to interested parties on request.

20. The borrower or private sector sponsor shall make relevant information on the project's environmental issues available to affected people before or during the consultations with project-affected groups and local nongovernment organizations (NGOs), as required under the *Environment Policy*.¹¹ For category A projects, the borrower or private sector sponsor shall ensure that such information is available to affected people on two occasions: (i) during the early stages of environmental impact assessment field work; and (ii) when the draft environmental impact assessment report is available, and before appraisal.

21. For public sector projects involving equity investment in a financial intermediary, or a credit line for subprojects and that require an environmental management system under the *Environment Policy*, the report and recommendation of the President (RRP) for such a project shall include a description of the environmental management system.

vi. Resettlement Planning Documents

22. The borrower or private sector sponsor shall make available to affected people under *Operations Manual* section F2/BP on involuntary resettlement:¹²

- (i) before appraisal—a draft resettlement plan;
- (ii) after completion of the final resettlement plan—such resettlement plan; and;
- (iii) following revisions to the resettlement plan as a result of detailed technical design or change in scope in the program or project¹³—the revised resettlement plan.

¹⁰ Major changes in project scope arise under section 5.04 of the *Project Administration Instructions*.

¹¹ See paragraph 63 of the *Environment Policy* (ADB. 2002. *Environment Policy*. Manila).

¹² See OM Section F2/BP. Affected persons under OM Section F2/BP on Involuntary Resettlement may be a subset of all affected people under the project.

¹³ Dissemination of the plan or framework may be limited to those people affected by the change in scope.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

23. The information from the documents specified in paragraph 22 can be made available as brochures, leaflets, or booklets in local languages. For nonliterate people, other communication methods will be appropriate.

24. ADB shall make publicly available:

- (i) before appraisal—a draft resettlement plan or framework (or both);
- (ii) upon receipt of the final resettlement plan—the final resettlement plan; and
- (iii) upon receipt of a revised resettlement plan—the revised resettlement plan.

vii. Indigenous Peoples Planning Documents

25. The borrower or private sector sponsor shall make available to affected people who are indigenous peoples/ethnic minorities:

- (i) before appraisal—a draft indigenous peoples development plan;
- (ii) after completion of the final indigenous peoples development plan—such indigenous peoples development plan; and
- (iii) following revisions to the indigenous peoples plan as a result of detailed technical design or change in scope in the program or project¹⁴—the revised indigenous peoples development plan.

26. The information from the documents specified in paragraph 25 can be made available as brochures, leaflets, or booklets in local languages. For nonliterate people, other communication methods will be appropriate.

27. ADB shall make publicly available:

- (i) before appraisal—a draft indigenous peoples development plan or framework (or both);
- (ii) upon receipt of the final indigenous peoples development plan—the final indigenous peoples development plan; and
- (iii) upon receipt of a revised indigenous peoples development plan—the revised indigenous peoples development plan.

¹⁴ Dissemination of the plan or framework may be limited to those people affected by the change in scope.

**OPERATIONS MANUAL
OPERATIONAL PROCEDURES (OP)**

viii. Business Opportunities Listing

28. ADB shall make publicly available a listing of business opportunities for each public sector project being prepared for ADB financing, from identification through approval by the Board. ADB shall also make publicly available procurement notices issued by executing agencies, and contract awards.

ix. Initial Poverty and Social Assessment

29. ADB shall make the initial poverty and social assessment publicly available upon completion.

x. Technical Assistance Report

30. ADB shall make technical assistance reports publicly available no later than upon approval by the relevant authority (Board, President or Vice President). For project preparatory technical assistance (PPTA) projects up to \$1.5 million and S-TA, ADB only makes a summary (updated PID) of the approved sovereign or nonsovereign TA publicly available no later than 14 days following the date of approval of the PPTA or S-TA by the relevant authority.¹⁵

xi. Documents Produced Under Technical Assistance

31. ADB shall make final reports generated from technical assistance¹⁶ publicly available upon completion. In recognition of the fact that countries increasingly seek ADB advice on sensitive matters through advisory technical assistance, ADB shall give the government the opportunity to object to the disclosure of final reports produced under advisory technical assistance.¹⁷ ADB may make drafts of country-specific reports, or portions thereof, prepared under technical assistance available to in-country stakeholders if ADB determines that they are needed to facilitate consultative discussions or development partnerships, or to solicit views on project design.

xii. Report and Recommendation of the President (RRP)¹⁸

32. ADB shall make public sector RRP's publicly available no later than upon approval by the Board. ADB shall make an abbreviated version of private sector RRP's publicly available no later than upon Board approval; this version will exclude confidential information and ADB's assessment of project or transaction risk.

xiii. Project Administration Memorandum

33. ADB shall make the project administration memorandum publicly available upon

¹⁵ See OM D12/OP (Technical Assistance).

¹⁶ This paragraph refers to grant-financed technical assistance.

¹⁷ Consistent with the Policy's presumption in favor of disclosure, any redaction or withholding of such documents shall be based on the exceptions listed in paragraphs 126 or 127 of the PCP.

¹⁸ The report and recommendation of the President (RRP) is a decision document for projects presented to the Board for approval.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

approval by the divisional director.

xiv. Social and Environmental Monitoring Reports

34. A loan agreement may require that certain social or environmental reports be prepared during the course of a project. ADB shall make environmental and social monitoring reports publicly available upon their submission to ADB. ADB shall require private sector sponsors to make environmental and social monitoring reports available to affected people. ADB shall make environmental and social monitoring reports that have been disclosed locally to affected people publicly available upon submission to ADB.

xv. Changes in Scope of Projects and Programs

35. ADB shall make documents submitted to its Board that are related to major changes in the scope of its projects publicly available upon approval of such a change.

xvi. Progress Reports on Tranche Releases

36. ADB shall make progress reports on tranche releases of a public sector program lending operations publicly available upon Board or Management approval.

xvii. Project, Technical Assistance, and Program Completion Reports

37. ADB shall make project, technical assistance, and program completion reports publicly available upon circulation to the Board. The completion report for a private sector project shall report on the achievement of its development objectives.

d. Multitranche Financing Facility (MFF)¹⁹

38. For an MFF, the following documents will be made publicly available: (i) framework financing agreement (FFA) upon approval of the MFF by the Board; (ii) legal agreements upon signing; (iii) project information document for each tranche upon processing of such tranche; (iv) the annual report to the Board upon circulation to the Board; (v) facility completion report upon circulation to the Board; (vi) safeguard frameworks for the MFF before appraisal; (vii) the summary environmental impact assessment or summary initial environmental examination for the tranche, where applicable, 120 days before the approval of the tranche; and (viii) the draft resettlement plan and draft indigenous peoples development plan before appraisal, in case of the first tranche, and before Management review of the Periodic financing request (PFR), in case of the second or subsequent tranche. ADB shall also make the PFRs available to interested parties on request.

¹⁹ See OM D14/OP.

**OPERATIONS MANUAL
OPERATIONAL PROCEDURES (OP)**

e. Other Information Pertaining to Strategies and Programs, and Projects

i. Operations Evaluation

39. ADB shall make a list of its operations evaluations planned for the year publicly available in December of the preceding year. The selection criteria for its evaluations shall also be made publicly available.

40. ADB shall make evaluation reports produced by the Operations Evaluation Department (OED) publicly available upon circulation to Management and the Board. If the report is discussed by the Development Effectiveness Committee (DEC), ADB shall make a DEC chair's summary publicly available within 2 weeks of the discussion. ADB shall also make responses submitted by Management or the OED, if any, publicly available upon completion.

41. ADB shall make the annual review of evaluation activities and the annual report on loan and technical portfolio performance publicly available upon discussion by the DEC.

ii. Cofinancing Information

42. ADB shall make a quarterly summary of public sector projects requiring commercial cofinancing publicly available each quarter. ADB shall make information on official cofinancing—such as major terms and conditions for a given technical assistance or investment project—available in each respective technical assistance report or RRP. ADB shall make the legal and financial agreements for such official cofinancing available on request, unless the cofinancier objects. ADB shall make channel financing agreements between ADB and any bilateral or multilateral cofinancier publicly available after their signing, unless such cofinancier objects. Commercial cofinancing agreements shall not be made publicly available.

iii. Anticorruption Information

43. ADB shall make publicly available statistical information in relation to the results of its investigations into fraud and corruption. In addition, significant recommendations and issues from audits shall be incorporated into ADB's *Annual Report*. Consistent with ADB's *Anticorruption Policy* (1998, as amended to date), ADB may share the results of investigations, including identities of the subjects of investigations and names of parties debarred, with governments of ADB member countries.

iv. Public Sector Project and Program Legal Agreements

44. For public sector loan agreements, project agreements, and amendments thereto entered into by ADB before 1 January 1995, ADB shall seek the consent of the government concerned before making such documents available. Unless the government concerned informs ADB of its objection to disclosure of such documents within 30 calendar days of ADB's request for such consent, ADB shall make such agreements available to any requester within 60 days of the request for the agreement.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

45. ADB shall make public sector loan agreements and project agreements entered into between 1 January 1995 and the effective date of the Policy, and any amendments to such agreements, available on request, after excising any confidential information contained in such agreements and amendments and specified as such by the government concerned at the time of negotiation of such agreements and amendments.

46. ADB shall make public sector loan agreements, Asian Development Fund (ADF) grant agreements, and project agreements for loans and/or ADF grants approved on or after the effective date of the Policy, publicly available together and concurrently with the relevant RRP. ADB shall make such agreements publicly available after excising confidential information. In case of any amendments, ADB shall make such amendments publicly available within 2 weeks of their effectiveness.

v. Private Sector Project Legal Agreements

47. ADB shall not make private sector legal agreements entered into by ADB, or amendments to such agreements, publicly available.

2. Other Information

a. Performance-Based Allocation of Asian Development Fund Resources

48. For each country with access to ADF resources, ADB shall make numerical performance ratings publicly available in an annual report on country performance assessments. The guidelines for country policy and institutional assessments shall also be made publicly available.

b. Economic Data and Research

49. ADB shall make its *Annual Report*, as well as the *Asian Development Outlook*, the *Asian Development Outlook Update*, and *Key Indicators* containing economic and social data, analyses, and forecasts, publicly available.

c. Administrative and Other Information

50. ADB shall make the following documents publicly available:

- (i) Agreement Establishing the Asian Development Bank;
- (ii) By-laws of ADB;
- (iii) Rules of Procedure of the Board of Governors of the Asian Development Bank;
- (iv) Rules of Procedure of the Board of Directors of the Asian Development Bank;
and

**OPERATIONS MANUAL
OPERATIONAL PROCEDURES (OP)**

- (v) Agreement Between the Asian Development Bank and the Government of the Republic of the Philippines Regarding the Headquarters of the Asian Development Bank.
51. ADB shall make the following information publicly available:
- (i) ADB's member countries, their subscribed capital, and voting power;
 - (ii) members of the Board of Governors;
 - (iii) members of the Board and their voting groups;
 - (iv) committees of the Board and their members;
 - (v) members of ADB's Management and senior staff;
 - (vi) ADB's organizational structure; and
 - (vii) contact information for each of the above.
52. ADB shall make country classifications publicly available upon approval by the Board.
53. ADB shall make the work program and budget framework for each fiscal year publicly available upon discussion by the Board.
54. ADB shall make the summary proceedings of its annual meetings, including decisions taken by the Board of Governors and the speeches of the Governors, publicly available within 60 calendar days of each such annual meeting. ADB shall also make decisions made by the Board of Governors through mail vote available on request.
55. ADB shall make (i) the tentative schedule and topics of Board discussions for the forthcoming 3 weeks publicly available on a rolling basis, (ii) the minutes of each regular Board meeting publicly available upon approval of those minutes by the Board and no later than 60 calendar days after the Board meeting.
56. ADB shall make reports of Board committees to the full Board publicly available if the committee so recommends and the Board approves.

d. Financial Information

57. ADB shall make the audited financial statements for ordinary capital resources, Asian Development Fund, Technical Assistance Special Fund, Japan Special Fund, and other funds as established, publicly available before the Annual Meeting of the Board of Governors.

**OPERATIONS MANUAL
OPERATIONAL PROCEDURES (OP)**

58. The following shall be made publicly available upon approval by the Board:
- (i) Management's discussion and analysis of ADB's ordinary capital resources and Special Funds, including financial data on each of the funds;
 - (ii) condensed quarterly financial statements;
 - (iii) annual report on loan servicing of developing member countries; and
 - (iv) the budget of ADB for each fiscal year.
59. ADB shall make any documents related to public offerings publicly available when the laws or regulations governing the financial market concerned require that they be filed with a government agency.

e. Information Produced under ADB's Accountability Mechanism²⁰

i. Consultation Phase

60. The Special Project Facilitator (SPF) shall make the following information and documents publicly available, at the time and subject to agreement of the relevant parties as specified below:
- (i) the complaint letter—upon the SPF's determination of eligibility of the complaint and subject to the agreement of the complainant;
 - (ii) SPF's determination of eligibility of the complaint—upon the SPF's determination of eligibility;
 - (iii) a general description of the complaint—upon the SPF's determination of eligibility of the complaint if the complainant has not consented to disclosure of the complaint letter;
 - (iv) the review and assessment report prepared by the SPF under step 4 of the consultation phase of the *Accountability Mechanism (2003)*—at the commencement of stage 7 of the consultation phase and subject to the consent of the complainant, the government and/or private sector sponsor;
 - (v) a general description of the course of action agreed to by the SPF and the parties involved in the consultation process to resolve the problems raised in the complaint—at the commencement of stage 7 of the consultation phase and subject to the consent of the complainant, the government and/or private sector sponsor;

²⁰ ADB. 2003. *Review of the Inspection Function: Establishment of a New ADB Accountability Mechanism*. Manila.

**OPERATIONS MANUAL
OPERATIONAL PROCEDURES (OP)**

- (vi) status reports on the implementation of the course of action mentioned under (iv) above—in accordance with any timetable for disclosure of any such reports agreed to by the parties involved in the consultation process;
- (vii) the SPF's final report—within 7 calendar days of circulation to the parties and subject to the consent of the complainant, the government and/or private sector sponsor;
- (viii) monitoring reports—upon circulation to the Board and subject to the consent of the complainant, the government and/or private sector sponsor; and
- (ix) the SPF's annual report—upon circulation to the Board.

ii. Compliance Review Phase

61. The Compliance Review Panel (CRP) shall issue²¹ a press advisory within 7 calendar days of receipt of a request for compliance review with the requisite basic information. If the request is determined by the CRP to be eligible, the CRP shall make its report on eligibility and the Board's decision on authorization of compliance review publicly available within 7 calendar days of the CRP's receipt of the Board's decision. If the request is determined by the CRP to be ineligible, the CRP shall make its report on eligibility publicly available upon circulation of the report to the Board. The CRP shall also make the terms of reference of the review publicly available within 14 calendar days of the CRP's receipt of the Board's authorization of the review. The CRP shall make the Board's decision and the CRP's final report, with attachments of any responses to the draft report from Management and the requester, publicly available within 7 calendar days of the Board's decision. The CRP shall make monitoring reports on implementation of any remedial actions approved by the Board publicly available upon circulation to the Board and other stakeholders. The CRP's annual report shall be made publicly available within 4 months of the end of each calendar year.

f. Information Related to Asian Development Fund Negotiations

62. Generally, ADB makes publicly available information related to negotiations for ADF replenishments and midterm reviews. ADB shall make nonfinancial discussion papers for donors' meetings publicly available upon circulation of such discussion papers to the donors. ADB shall make the chair's summary publicly available following each meeting. The Donors' Report shall be made publicly available upon approval by the Board of Governors.

g. Other Documents Presented to the Board

63. ADB shall make documents circulated to the Board for information or approval not cited in the Policy publicly available unless Management informs the Board otherwise, and the Board agrees.

²¹ Documents disclosed by the Compliance Review Panel (CRP) are posted at <http://www.compliance.adb.org>.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

3. Exceptions to Presumed Disclosure

64. Paragraphs 67 and 68 set forth the exceptions to ADB's presumption in favor of disclosure of information. If information is removed from a document because the information falls under an exception, or if a document cited in the Policy is not made publicly available, ADB shall make reference to the removed information and/or the document publicly available, unless citing the removed information or document would itself violate an exception.

65. If only part of a requested document is subject to nondisclosure pursuant to the list of exceptions, any information in the document which is not subject to nondisclosure shall, to the extent it may reasonably be severed from the rest of the information, be communicated to the requester.

66. ADB shall not be required to comply with, or respond to, repeated or unreasonable requests for information on the same subject from the same person, organization, or group if ADB has provided such information after the previous request or has given reasons why it cannot provide the information.

a. Current Information

67. Notwithstanding any other provision of the Policy, the following information shall not be made publicly available:

- (i) Internal information that, if disclosed, would or would be likely to compromise the integrity of ADB's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from Directors, their alternates, Directors' advisors, members of Management, ADB staff, and ADB consultants.
- (ii) Information exchanged, prepared for, or derived from the deliberative and decision-making process between ADB and its members and other entities with which ADB cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ADB and its members and other entities with which ADB cooperates by inhibiting the candid exchange of ideas and communications, particularly with respect to policy dialogue with developing member countries.
- (iii) Information obtained in confidence from a government or international organization that, if disclosed, would or would be likely to materially prejudice ADB's relations with that party.
- (iv) Individual records, including terms of employment, performance evaluations, and personal medical information of Directors, their alternates, and Directors' advisors, members of Management, and ADB staff and consultants, as well as

**OPERATIONS MANUAL
OPERATIONAL PROCEDURES (OP)**

- proceedings of internal appeal mechanisms and investigations, except to the extent permitted by staff rules and Board rules and regulations.
- (v) Estimates of ADB future borrowings, financial forecasts, data on individual investment decisions for ADB's treasury operations, and credit assessments.
 - (vi) Analysis of country creditworthiness and credit ratings.
 - (vii) Proceedings of the Board,²² with the exception of meeting minutes as referenced in paragraph 54 and summaries as referenced in paragraphs 6 and 9.
 - (viii) Information provided to ADB by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party.
 - (ix) Confidential business information.
 - (x) Information related to procurement processes, including prequalification information submitted by prospective bidders, tenders, proposals, or price quotations.
 - (xi) Information that, if disclosed, would or would be likely to endanger the life, health, or safety of any individual.
 - (xii) Information that, if disclosed, would or would be likely to materially prejudice the administration of justice.
 - (xiii) Information subject to the attorney-client privilege, or whose disclosure might prejudice an investigation.
 - (xiv) The source of a corruption allegation.
 - (xv) Names of those declared ineligible (blacklisted) or under investigation under the anticorruption policy.
 - (xvi) Audit reports prepared by the Office of the Auditor General (with the exception of project procurement-related audits) and ADB's external auditor.
 - (xvii) Information that, if disclosed, would or would be likely to materially prejudice the defense or national security of a member.
 - (xviii) Financial information that if disclosed would or would be likely to materially prejudice the ability of a member country government to manage its economy.

²² ADB produces transcripts for each formal Board meeting. These are retained in ADB's archives.

**OPERATIONS MANUAL
OPERATIONAL PROCEDURES (OP)**

- (xix) Information that if disclosed would, or would have the potential to, violate applicable law, including copyright law.

b. Historical Information

68. ADB shall make historical information available on request 20 years after issuance, subject to the following exceptions.

- (i) Information subject to attorney-client privilege, or that if disclosed might prejudice an investigation.
- (ii) Information provided to ADB in confidence with the express understanding that it be kept confidential and that, if disclosed, would or would be likely to materially prejudice ADB's relations with the party that provided the information or would violate the law or breach a legal agreement.
- (iii) The source of a corruption allegation.
- (iv) Names of those having been declared ineligible (blacklisted) or having been investigated under the anticorruption policy.
- (v) Information that if disclosed would or would be likely to materially prejudice the defense or national security of a member.
- (vi) Information that if disclosed would, or would have the potential to, violate applicable law, including copyright law.
- (vii) Individual records, including terms of employment, performance evaluations, and personal medical information of Directors, their alternates, and Directors' advisors, members of Management, and ADB staff and consultants, as well as proceedings of internal appeal mechanisms and investigations, except to the extent permitted by staff rules and Board of Governors' Resolutions.
- (viii) Trade secrets.
- (ix) Financial information that, if disclosed, would or would be likely to materially prejudice the ability of a member country government to manage its economy.
- (x) Information that, if disclosed, would or would be likely to materially prejudice the administration of justice.

69. Information that was not publicly available at the time of its issuance, but would be publicly available if created under the Policy, shall be available on request at the discretion of ADB, subject to the terms and conditions of the Policy and its exceptions.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

70. ADB may disclose information listed in paragraph 67 (1) and (2) and paragraph 68, if ADB determines that the public interest in disclosing the information outweighs the harm that may be caused by such disclosure, or if a member country requests it to do so in accordance with its own laws. ADB may also disclose any other information listed in paragraph 67, if ADB determines that the public interest in disclosing the information significantly outweighs the harm that may be caused by such disclosure, or if a member country requests it to do so in accordance with its own laws.²³

71. However, notwithstanding paragraph 70, ADB shall not disclose information listed in paragraph 67: (i) if ADB has given an express legal commitment to a party to keep such information confidential and not to disclose such information, unless such party consents; or (ii) if disclosure of such information is prohibited by any applicable law.

C. Roles and Responsibilities

72. The aim of the Policy is to enhance stakeholders' trust in, and ability to engage with, ADB. All its departments and offices will be accountable for implementing the Policy. The Department of External Relations (DER) will bear overall responsibility for its implementation and consistent application. The specific roles and responsibilities of ADB Management and staff are outlined in the Disclosure Handbook (<http://der.asiandevbank.org/modules/wfsection/article.php?articleid=41>).

D. Procedures for Accessing Information

1. Proactive Disclosure

73. Requests for information identified in the Policy as publicly available may be communicated to ADB orally or in writing. However, the time limits outlined in paragraph 77 shall start to run only from ADB's receipt of a request in writing. Requests may be directed to the InfoUnit, a resident mission or representative office, or an operations department. Any ADB staff member shall provide publicly available documents in the most expeditious and practical manner possible, which may include referring the requester to the relevant web link if the document is located on ADB's website and the requester has ready access to the internet.

2. Exception-Based Requests for Information

74. For information and documents that are not publicly available under the Policy, requests must be received in writing (E-mail, mail, internet feedback form, or fax). Requests may be directed to the InfoUnit, or to the relevant resident mission or representative office. The contact details for the above offices shall be made publicly available.

75. Where a request concerns an ADB-assisted activity in a developing member country, the relevant operations department shall determine whether the document contains information that

²³ The "public interest override" may be triggered by, for example, a request for information that reveals a serious public safety or environmental risk.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

may not be made publicly available in accordance with the exceptions section (paragraphs 64–71), and shall consult with the government, project sponsor, or cofinancier, as appropriate. When certain information in a document is deemed confidential in accordance with the Policy's exceptions, the department concerned shall remove the confidential information before disclosing the document, while leaving reference to the excised material (with the reason for its removal). Staff from DER's InfoUnit shall provide guidance to other departments on the interpretation of the Policy as necessary.

3. Language of Requests

76. Requests may be submitted to ADB in English or in any of the official or national languages of ADB's members. Requests for information and documents submitted in languages other than English may be addressed to the relevant resident mission or InfoUnit.

4. Time Limits for Responses to Requests for Current Information

77. ADB shall acknowledge receipt of a request (as described in paragraphs 73 and 74) within 5 working days. ADB shall then notify the requester as soon as a decision has been made, and, in any event, no later than 30 calendar days after receiving the request. In its response, ADB shall either provide the requested information or the reasons why the request has been denied, indicating the particular provision in the Policy that justifies such refusal. ADB shall make a list of requests reviewed, and the corresponding decisions and reasons, publicly available.

5. Complaints

78. If a requester believes that a request has been unreasonably denied, or that the Policy has been interpreted improperly, a request for review may be submitted in writing to: Public Disclosure Advisory Committee, Asian Development Bank, 6 ADB Avenue, Mandaluyong City, 1550 Metro Manila, Philippines, or by E-mail to pdac@adb.org, or by fax to +63 2 636 2640.

79. The Public Disclosure Advisory Committee (PDAC) shall acknowledge receipt of a request within 5 working days. The PDAC will convene as soon as possible to consider complaints. In considering denials of requested information, the PDAC will consider the Policy's exceptions to making information publicly available, as well as the public's interest in disclosure of the requested information. The PDAC shall notify the requester of its decision in writing, giving its reasons, as soon as a decision has been made and, in any event, no later than 30 calendar days after receiving the request. The PDAC shall make a list of all such requests, the nature of each request, and the decision taken in each case publicly available on a rolling basis, updated no later than 2 weeks after a request or decision has been made.

6. Requests for Historical Information

80. Historical information is available on request in accordance with paragraphs 68–70 of the Policy. Such requests may be submitted in writing to: Information Resources and Services Section, Asian Development Bank, 6 ADB Avenue, Mandaluyong City, 1550 Metro Manila,

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

Philippines, or by E-mail to adblibrary@adb.org, or by fax to +63 2 632 5020. Requests for historical information must identify the specific information requested; blanket requests for access to historical information will not be accepted. ADB shall acknowledge receipt of such requests within 5 working days, and shall respond to requests for historical information within 30 calendar days. This time period may be extended if the request is for a large amount of information.

E. Effective Date and Transitional Period

81. The Policy has become effective on 1 September 2005.

F. Monitoring and Reporting

82. ADB will monitor the implementation of the Policy and evaluate its impact. ADB shall make the results of ADB's monitoring of its information activities publicly available in an annual report.

83. ADB allows scope for stakeholders to raise issues, access information, and engage effectively with ADB in implementing the Policy. If so requested, ADB will not disclose the names of individuals or groups that raise concerns about the implementation of the Policy.

G. Review and Amendment

84. ADB may need to review and amend the provisions of the Policy to reflect experience in implementation, the results of reviews of other ADB policies and strategies, and the evolving disclosure practices elsewhere. Flexibility will be needed to incorporate such changes periodically. Accordingly, ADB may revise or amend the Policy, as needed, following approval by the Board.

85. Where the Policy has set new disclosure requirements for existing other ADB policies or strategies, the OM sections of such policies or strategies shall be updated within 6 months of the Policy's approval.

86. ADB shall conduct a comprehensive review after a period of time, not to exceed 5 years from the effective date of the Policy. The review will actively engage interested individuals and organizations.

Basis: This OM section is based on
OM Section L3/BP and the documents cited therein.

**OPERATIONS MANUAL
OPERATIONAL PROCEDURES (OP)**

For other background information and references, see:

ADB. 2001. *Business Processes for the Reorganized ADB*. Manila

ADB. 2006. *Further Enhancing Country Strategy and Program and Business Processes*. Manila (paragraph 11).

Compliance: This OM section is subject to compliance review.

For inquiries: Questions may be directed to the InfoUnit, Department of External Relations.