



29 November 2017

James Nugent

Special Senior Advisor to the President
Asian Development Bank (ADB)

**Re: NGO Forum on ADB Summary Comments
as per November 21 meeting with PCP Review Team**

Dear Mr. Nugent,

This is in reference to our meeting with you and the Public Communications Policy (PCP) Review Team last 21 November 2017. We recognize the sound judgment in pushing back the release of the revised draft from 4th quarter of 2017 to 1st quarter of 2018. Disclosing the revised draft for Board consideration and simultaneous posting on the ADB website for comments in the 1st quarter of 2018 would allow for a more robust scrutiny on the said revised draft.

We also recognize the intent of ADB to allow greater access to the ongoing review of the PCP by translating the said policy and its corresponding Staff Instructions in 9 languages¹ as posted in the ADB's website. As per ADB's response we assume the Staff Instructions are mandatory to be followed by staff and both will be subject to compliance review. However we are also deeply concerned with the nature of the said Staff Instructions.

The Forum is apprehensive on the implications of including it under the purview of ADB's Operations Manual (OM). Specifically, under this framework what does this mean relative to subjecting any proposed changes on the Staff Instructions to public consultation? In the same vein, this particular structural issue was also not at all cited in the existing draft neither mentioned in the year – long consultation process which the Forum had been actively engaged on.

During the said meeting, it was also conveyed to us that while the revised draft is not yet completely finished there is hardly any difference (except on the inclusion of the Staff Instructions to the OM) from the existing draft policy. As such, the Forum would still like to express the outstanding issues we fervently hope that the PCP Review Team will reconsider:

Key Issues:

1. Mandatory requirement that any change both in the new Access to Information Policy (AIP) and Staff Instructions should be subjected to public consultation.

- We reiterate our demand to delete the provision, which states “Amendments to the policy will be made from time to time as needed (para.42, draft AIP).”
 - ADB's response that the AIP is not the vehicle to mandate consultations is unacceptable. This also contravenes to the stated commitment on transparency, accountability and recognition of people's rights to seek access (to information).
- Similarly this line should also be removed, “This list (of documents for disclosure) will be updated from time to time, as necessary (para. 3, Staff Instructions).”

¹ Russian, Vietnamese, Bahasa Indonesia, Nepali, Mandarin, Hindu, Khmer and Lao

- Accordingly, ADB's response is that **“any major changes to the policy or Operational Procedures (OP) will be subject to appropriate consultation.** We will define in the Operational Procedures what we mean by a major change.” The Forum will closely monitor this inclusion into the revised draft and for a reasonable definition of what constitute as a “major change” both in the policy and in the OP.
2. **Explicitly cite** in the policy, the ADB's response that the **Staff Instructions are mandatory to be followed by staff and both will be subject to compliance review.**
 3. **Reinstate in paras. 47 and 48 of the current 2011 PCP,** Information to Affected People and Other Stakeholders. We reiterate that a strategic, affirmative and context – specific action for project – affected communities cannot be subsumed or reduced in significance. By deviating from the existing provision in the 2011 PCP, ADB is putting itself in a precarious position to act upon the findings of ADB's own 2016 Learning Report on the Implementation of the Accountability Mechanism which already cited that “information, consultation and participation contributing 33% of the complaints.”
 - The closest section reflecting these are also entitled the same under the Staff Instructions (pp. 4 – 5). However as compared to the current PCP, an identification of the vulnerable groups e.g. women, poor and other vulnerable groups are missing in the Staff Instructions.
 - The current PCP also identifies that a project focal point is designated for regular contact with affected people and other interested stakeholders. This is also omitted in the Staff Instructions.
 4. **Clear disclosure requirements for Category B projects (resettlement and indigenous peoples) be explicitly compliant to ADB SPS 2009.**
 5. **No distinction should be made between disclosing public and private sector project documents.** The timing and modalities for disclosure of all project documents for non – sovereign projects should also follow the same requirements for sovereign loans.

In case the revised draft fails to include the key points made in the consultations undertaken and written submissions, the NGO Forum on ADB strongly urges the PCP Review Team to retain the current PCP 2011 and ensure its due diligent implementation.

Thank you.

Sincerely,



Rayyan Hassan
NGO Forum on ADB

Cc: Ms. Karen Lane, Senior External Relations Specialist, Department of External Relations
Mr. Chris Morris, Head, NGO and Civil Society Center