

CoST Information Disclosure: Frequently Asked Questions (FAQs)

Disclosure of project information is a key element of CoST. The process of disclosure is likely to vary between countries depending on existing legislation (e.g. relating to procurement, public finance or freedom of information). For that reason it isn't possible to develop a 'blueprint' for disclosure. MSGs need to find an approach that works within their particular set of circumstances. The purpose of this note is to provide some guidance to pilot countries based on the experience of others, including other pilot countries. It does so in questions and answers format for simplicity and based on requests.

1. What do we mean by disclosure in the context of CoST?

In the context of CoST we mean the release of project information into the public domain. This means that in principle the information is available to any interested person (e.g. on a public website, in newspapers, etc) although in practice it may be difficult for some (e.g. those without internet access) to access it.

2. If information is released to the Multi-Stakeholder Group (MSG) or to the Assurance Team (AT) does this count as disclosure?

Not necessarily. The information may be released to the MSG or the AT with the condition that it is not passed on to the public. It may actually be marked confidential.

If the MSG or AT wishes to pass the information on to the public it must have the agreement of the owner of the information which is the Procuring Entity (PE) acting on behalf of the Client. The agreement must be obtained in advance of any 'quoting' or referring to the information.

Permission of the client must be obtained for releasing either raw information or reports quoting the information. If the report does not contain any confidential information but the opinions expressed are based on such information it can be made public after the appropriate legal review and disclaimers. Legal advice will be available on country and case specific basis. . In cases where the PE has agreed for the information to be made public, the PE should still be informed when and how the information will be made public. They should also be invited to comment on the AT report with their comments considered by the MSG. Where the MSG and PE disagree, the PE's comments can be made available separately on the same website/ through the same communication mediums.

The comments of the PE should be clearly marked and separate to the AT report to not undermine the AT independence.

3. What information should be disclosed?

The information to be disclosed to the public during the CoST pilot phase is the standard list of Material Project Information (MPI) as well as reports of the Assurance Team.

There may be barriers to the release of some of these items in some countries that only become apparent during the course of the project. But the intention of CoST is that all items of information on the list of MPI be released.

4. Who is responsible for disclosure?

The information belongs to the PE. Ideally the PE itself will release the information directly into the public domain because those procedures need to be established by the PE and because the PE should handle any queries or responses that may be received from the public about the information.

Alternatively, it may be released by the MSG (e.g. on a CoST website) but this would be on behalf of the PE. It should therefore be accompanied by a clear statement that the information is being released by the MSG on behalf of the PE. It should also be clearly stated that queries are to be addressed to a contact in the PE.

Whether it is released by the PE or by the MSG (maybe on a CoST website) are options to be considered by the MSG. It is preferable to consult the PEs about their preferences and consider them during the MSG discussion. The MSG may decide to use different approach to the one recommended by the PE but at least the negatives and advantageous would have been discussed, understood by all involved and recorded in case questions arise.

5. How should the information be disclosed?

This will have to be agreed between the MSG and the respective PEs.

The preferred channel depends on the information to be disclosed. Electronic documents can be most easily distributed via a website (the PE website or the CoST website). Summaries of information can be more easily duplicated and distributed in hard copy to local newspapers, trade or professional journals etc. A template for collection and distribution of the basic MPI required by CoST (excluding the whole documents that are required to be disclosed) has already been distributed.

The MSG may decide to use diverse channels for and approaches to disclosing information depending on its target audiences. Please, see the communication tool- kit for more guidance.

Each MSG also has a disclosure and outreach plan incorporated in their agreed work- plans. If the work- plan needs to be revised - please contact the International Secretariat timely.

6. How often should the information be disclosed?

This will also have to be agreed between the MSG and the PEs

The PEs could be asked to disclose new information on a weekly or monthly basis. Or there could be a time limit set for disclosure – e.g. 7 or 14 days after the information has become available.

The MSG may decide to ask the AT to recommend a meaningful frequency of disclosure, based on their more detailed knowledge of the projects. The request should not add to the AT work- load or expenses. If this is considered a practical option by the MSG, the request needs to be made clear during the negotiation of the AT scope of work and during the induction.

7. What is the role of the Assurance Team (AT) in information disclosure?

The AT has no responsibility for disclosing the information.

The MSG may ask the AT to help the PE to compile the information. The AT will also have a role in reviewing the information on a sample basis, either before or after it is published, in order to report on

the quality and completeness of the information. It may also be asked to analyse the information presented by the PE and prepare reports in simple language for distribution to the general public. But the information and reports are forwarded only to the MSG. The AT has no responsibility for disclosing the information to anyone else.

8. What right of reply does the PE have on the AT reports?

This has to be agreed between the MSG and the PE. The key principle should be that the PEs have the right to comment but not censor or edit.

It is suggested that the PE should be shown the AT reports before they are disclosed to the public and that there should be a period allowed for the PE to comment. The comments of the PE should be reviewed by the MSG and might be disclosed together with the AT reports. But the PE should not have the right to stop placations.

The MSG should aim to be transparent by making the PEs comments public/ accessible in ways comparable to the disclosure of the AT reports.

9. Is a Memorandum of Understanding (MoU) required between the MSG and the PE?

An MoU between the MSG and the individual PEs involved in CoST is strongly recommended in order to ensure that all parties are clear about the disclosure process. An example from Ethiopia has already been distributed.

10. How can we ensure that contractors and consultants will also cooperate in disclosing project information?

The prime source of MPI is the PE but information may also be required from the consultant and/or contractor in order to confirm that that released by the PE is accurate and complete.

Where contracts with the consultant and/or contractor have not yet been signed, it is strongly recommended that relevant clauses be included in the standard conditions of contract requiring them to cooperate in information disclosure. An example of such a clause has already been distributed.

Where contracts have already been signed, it is strongly recommended that a separate written agreements be sought with the consultants and contractors on CoST projects to cooperate in information disclosure