

Matrix for Comments from Bank Staff on Update of Inspection Panel Operating Procedures

<u>Issues Raised</u>	<u>Responses</u>
1. Pre-Request	
<ul style="list-style-type: none"> ▪ 1.1 Improving public awareness of the Panel’s availability as an accountability and recourse mechanism 	<p>Bank staff 53: Sometimes OPCS (Operations Policy and Country Services) comes and gives a safeguards training in a borrowing country, including information on the Panel. It’s not meant as a threat, but just to describe that we have this body that looks over our shoulder.</p>
<ul style="list-style-type: none"> ▪ 1.2 Prior contact between requesters and management 	<p>Bank staff 4: There is a need for an intermediate step before the Request is sent to the Panel. Requesters send a letter, Management responds. If the Requesters don’t like the response, they immediately initiate a Request to the Panel. Clarifying the responsibility to respond [to people in the project area] and codifying how Requesters should contact Management is important. Requesters should be required to discuss with Management in a meeting specifically for this purpose the nature of their complaint, in order to count as bringing an issue to the attention of Management.</p> <p>Bank staff 5: This respondent feels that in the spirit of transparency, the procedures should broadly indicate the methodology or steps used by the Panel to determine requesters’ prior contact with Management.</p> <p>Bank staff 15: The respondent felt that the requirement of prior contact between the Requester and management is loosely stated in the Operating Procedures, but that there is no definition of prior contact on an operational level, and the Panel deals with this requirement arbitrarily. In one case Requesters spoke to Management only after filing a Request with the Panel. The respondent felt that most Requesters have email accounts, post office boxes and fax machines, and the Panel should ask Requesters to provide proof of prior contact with Management. The Operating Procedures should specify that Requesters should speak with the Task Team Leader or project manager, and there should be a formal meeting, with minutes sent by letter or email.</p> <p>Bank staff 27: There is a notion among some Management and Bank staff that there should be an additional internal process prior to requesters accessing the Panel. The respondent thinks that the existing requirements before Requesters access the Panel are just about right. Creating an additional internal process would only divert citizens’ attention from the accountability mechanism and would make the Panel ineffective. If there had been such an internal process prior to submission of the Request in one case, the Requesters would not have been able to access the accountability mechanism.</p> <p>Bank staff 35: Regarding prior contact, the respondent stated that the Vice-President and Director were directly</p>

	<p>involved in responding to the complaints that the Requesters sent by letter, even to the extent that they went to the field.</p> <p>Bank staff 37: The respondent felt that the Panel should be more careful about what is registered. It should verify that prior contact occurred. On some cases, the Requests were registered and a Management response had to be created, but the Requesters had never contacted the Bank. The Requests were found ineligible. The respondent would hope the Panel’s internal guidance would provide more clarity about which cases are real and substantive versus those that are questionable.</p> <p>Bank staff 54: The respondent explained that the project team knows that prior contact with Management is required before submission of a complaint to the Panel. But contact with Management doesn’t mean a procedure just to comply with eligibility criteria. If a letter to Management is sent the same day that a letter is sent to the Inspection Panel, that is not a good faith effort. Are we talking about a real dialogue or are we talking about just fulfilling an administrative procedure? There should be a real interest in finding a solution, not just checking something off a list before I can put this Request in the Panel’s hands.</p> <p>Also, did the Requester contact the Government counterpart? The Government counterpart is in charge of project implementation. The counterparts find it strange: how can a Request be considered eligible if the Requesters haven’t ever talked to the Government agency implementing the project?</p>
<p>2. <u>Submitting a Request</u></p>	
<ul style="list-style-type: none"> ▪ 2.1 Contents of a request 	
<ul style="list-style-type: none"> ▪ 2.2 Form of Request 	
<ul style="list-style-type: none"> ▪ 2.3 Delivery of Request 	
<p>3. <u>Procedures on Receipt of Request</u></p>	
<ul style="list-style-type: none"> ▪ 3.1 Registration 	<p>Bank staff 4: We need to clarify the criteria used to determine if a Request should be registered. Before registration, there must be an intermediate step to engage Management. They may have been out of the loop.</p> <p>Bank staff 10: This respondent recommended a pre-feasibility check before a Request is registered, which is normal for other types of institutions.</p> <p>Bank staff 20: Any complaint sent to the Panel should be acknowledged, but in the respondent’s view, once that’s done,</p>

	<p>the Panel could take a look at the nature of the complaint and notify the appropriate region and OPCS and maybe have a meeting to determine how to proceed. If the opportunity is there, the project team should preferably sort out the issues directly with the Requester.</p> <p>Bank staff 35: Regarding registration, the respondent stated that one could argue that the Panel should not have registered that case. Although the issue of prima facie harm might be hard to prove in this case, the Panel probably saw that this was a large project and so they should be concerned about the potential impacts. The respondent expressed uncertainty if sometimes the Panel brings a team to a project area and then rejects the Request.</p> <p>Bank staff 47: The respondent suggested that the Panel might do fact-finding before registration. An essential element of the fact-finding would be good documentation and dialogue between the Panel and the project team. Currently the system is, 1) The Panel received a claim, so Management responds to the claim. Why couldn't it be, 2) The Panel receives a request, and then talks to Management about it, saying, look I received this, and I'd like to have more information from the project team. Then the Panel could make up its mind. If it thinks the situation is not clear and a fact-finding mission is necessary, then go.</p> <p>The Panel could then produce a "fact-finding report" stating that A-B-C issues were found, and Management is alerted, and after 3 to 6 months Management reports whether the problems have been fixed or not. The Panel then sends a recommendation to the Board to investigate or allow another 6 months to resolve the problems. Or the requester could come back later if the problems remain unresolved.</p> <p>The current system, where the Panel receives a request and sends it to management without interacting with management, is too bureaucratic. This pre-registration phase may help select the cases where the Panel can really make a difference, and drop cases that waste a lot of our time for nothing. Especially the cases where the Panel eventually says no, we won't investigate.</p>
<ul style="list-style-type: none"> ▪ 3.2 Supporting due diligence and interaction with requesters at registration 	
<p>4. <u>Management Response</u></p>	<p>Bank staff 20: The 21-day Management Response is time-consuming, expensive, and screws up everything on the ground. The Management response should be commensurate with the seriousness of the issues raised in the Request. Where the level of harm is relatively minor, perhaps an investigation wouldn't be needed, without questioning the authority of the Panel to investigate. A collaborative phase in the beginning could be useful to sort things out quickly, where the Panel could offer Management a certain time period to fix issues and then monitor the results. This has been</p>

done a bit recently with some success.

Bank staff 23: The Panel should reduce time pressure during the Management Response phase, to improve the quality of responses. In one case, the Panel engaged with the project team and allowed them to prepare and implement an improved Action Plan over a one-year period. Eventually the Panel submitted to the Board a recommendation not to investigate. The respondent felt that the Panel was quite sympathetic but recognized that his impression of the Panel might be rare. If project teams were given the option to interact with the Panel more often, there would be no reason for antagonism.

There should be a template or guidance for the Management Response because time was lost trying to decide how to structure the report. In communication with the Legal Department, the project team obtained some examples of other case responses that had been worked on. In the end, the response created was different from all of the examples, but fit the situation.

Bank staff 24: This respondent stated that the 21 day Management response deadline was very tough. In one case, at the first meeting everybody was accusing everyone else and people were under immense stress. The beginning was terribly chaotic, with lots of pressure and not much time to produce anything, but that after there was a good team. At the time, no one on the project had any experience dealing with the Panel. An advisor from outside the region helped a lot when that individual came on board, but for some reason, was not called right away. The VP was also involved, but only after 1-2 weeks. The response team had to do some studies and some were ready in 21 days, but in a sketchy state. Since the Panel decided to go ahead with the investigation, the project team had more time to do a better job and work with the Government. The respondent suggested giving more time for Management to sort out the response team.

Bank staff 35: The respondent mentioned that at one time Management had to spend all those resources to produce the Management Response, but it was okay. The 21-day period for preparation of the Management Response time was sufficient. Everyone knows that the Management Response is the top priority when a case comes. Everyone contributed, including legal, OPCS, etc., so we had a good team. The case took a lot of resources because we had to include all the technical people on the team, and the project had an EA and a technical side. It took a lot of time and effort, but it was positive for us.

There was quite a coordinated approach to the response. The intention was to add a sector component. It was good that we went to the Board to clear it before we went to implementation. The Panel provided the opportunity to clarify many things. It was inspection before action, whereas in other situations the inspection often comes after the action. The respondent felt that the Panel case was positive. And that Management of the region thinks of it as positive.

<p>5. Eligibility Phase</p>	
<ul style="list-style-type: none"> ▪ 5.1 Ensuring clarity of eligibility criteria 	<p>Bank staff 4: The Panel should clarify what constitutes an eligible request: make sure the subject of the complaint is really attributable to the project and really resulted in substantive and material harm to the Requesters. When project-affected people are not happy, there must be a clear link between Bank staff not following policies and people’s situations. It must be clear that the action of submitting a complaint is the result of a failure of the Bank to apply its policies. Not just that the Bank was involved in a project where harm was caused by someone else. An unlimited “just because you’re not happy” situation should not be sufficient to start an investigation.</p> <p>Bank staff 53: The respondent explained that in one case indeed damage and suffering had occurred but through no act or omission of the Bank. The ultimate conclusion was that the Panel did not investigate. It seems that one could have come to that conclusion earlier, without Management slaving away nights and weekends for 21 days to prepare the Management Response. But it happened again on another case. The Panel concluded they would not inspect because the Bank hadn’t done anything. The respondent wondered if there isn’t a way to screen these earlier. What did the Bank do? Was the project implemented and were people harmed by something that had nothing to do with the project? Or were they harmed somehow by the project? The respondent asked if there are not orders of immediacy or relevance to determine the level of response (like a graduated response).</p>
<ul style="list-style-type: none"> ▪ 5.2 Ensuring clarity of information in describing findings on eligibility 	<p>Bank staff 10: There is currently no understanding of why the Panel takes a case. More screening is needed. All you need is a persistent guy with enough money who will keep asking and keep asking and keep asking, and finally you will get an investigation. There could be a Panel team for the screening process.</p>
<ul style="list-style-type: none"> ▪ 5.3 Conditions for Problem Solving (management proactivity; requesters agreement to give time; Panel satisfaction that this will address issues) 	<p>Bank staff 4: On one project, the Panel deferred the eligibility report. It found the Request eligible, but deferred an investigation on the basis that Management would take a proactive approach to resolving the situation and work closely with the Requesters.</p>
<ul style="list-style-type: none"> ▪ 5.4 Fostering opportunities for management to address problems 	<p>Bank staff 15: Often Management proposes to prepare an Action Plan during the eligibility phase, in the hope that such a plan will provide good rationale for not proceeding with an investigation. But how can you bring an Action Plan into play when we don’t yet know if there are non-compliance issues? If it’s clear that there is non-compliance, sure, make an Action Plan. Sometimes, however, it’s not so clear whether an Action Plan is warranted.</p>

during the early stages of the Panel process, building on or codifying recent practice and lessons from other IAMs

Bank staff 32: The respondent suggested having a meeting between the Government, the Requesters, the Bank and the Panel. Let's sit down and discuss. This is, for example, an important issue and there is a disconnect. Instead of saying, we MUST investigate, have everyone sit down together. The TOR should be to try to avoid a costly investigation that might not add so much by the end. At the early stage, after the Requesters have appealed to Management and have not been satisfied. The case has been submitted and registered. Management produces a Management Response and then at this stage, couldn't we do something before we go into full investigation. This might delay the eligibility phase by one month but might save two years of investigation.

Bank staff 37: Regarding deferring the decision to investigate, the respondent felt that the ability of the Panel to have a gradation of responses and recommendations is not a bad thing. One Panel Chair started the approach that said, in selected situations, "Yes, there's an issue here, but let's give some room to Management to work it out." The respondent felt that the Panel does not have the skills or the authority to problem-solve, but does have the skills and authority to get Management to prepare Action Plans. Management should produce an Action Plan and the Panel should have the right to comment.

Bank staff 46: The Respondent thinks problem solving is not for the Panel to do. It would naturally lead to a conflict of interest. When you mix problem solving with compliance, your incentive systems run the risk of not being right. Yes, you can do it, you can regulate it, but it's a question of perception. But being conservative on this helps to preserve the integrity of the Panel. Just a few cases can destroy the good work that the Panel has done.

Bank staff 53: The respondent said that in one case, the Panel did three good things. First, it received the Request and looked at it, then talked to Management. Second, the Panel said, "We've gone to the project area, had a look, talked to people; this is a good project. We think Management is addressing the real problems that have been identified and we'll give them six months." Management responded with two items. We didn't get those two things done within that time period. But even then, the Panel didn't leap to begin the investigation. Third, the Panel did the inspection and frankly I think they added significant value. The respondent felt that the Panel was helpful and thoughtful and gave Management a chance to work things out and when that didn't work out, they stepped in and did their investigation.

The respondent described a situation in which the Panel allowed Management some time to try to work things out as very informal. They said, "We're leaving questions on the table for 6 months and we'll come back to it. We know you're working on it." It was a soft agreement. To make it more formal you have to do something like a mediation track or problem-solving track and give it enough time to run and if it fails, then...but how do you decide if something goes straight to investigation or not?

The respondent felt that a mediation phase might change the tone of the Management response, which invariably

	<p>says, “The Requesters are wrong.” The respondent felt that it could help if there were a time period in which Management could say, “We haven’t thought of that.” Sometimes Management uses formalized language as to why the request isn’t valid. The knee-jerk reaction is, “The Requesters are wrong.”</p>
<p>6. <u>Panel Recommendation to Board</u></p>	
<p>7. <u>Investigation Phase</u></p>	
<ul style="list-style-type: none"> ▪ 7.1 Shortening investigation phase 	<p>Bank staff 4: Management is given 21 days for its response, but the Panel has unlimited time and resources to make an investigation. That’s not fair. There is the possibility that the Panel will find something in its extended investigation and management won’t be able to respond. That does not allow due process to occur. The respondent recommends that the work of the Panel be time-bound, allowing 6 months at most for an investigation, 3 months if possible. It will be fairer to Requesters, who often have to wait for up to 2 years for a response from the Panel. During that time, Requesters are often disappointed, and the Government may have changed.</p> <p>Bank staff 15: The respondent suggests setting a timeline of 10 months to a year for completion of an investigation.</p> <p>Bank staff 32: The respondent felt the investigations should be time-bound, because the project gets paralyzed. If there is actual harm being done to people, it will be continued until the results of the investigation are shared. There should be a reasonable time like 6 months or less than one year. Whether there is compliance or non-compliance, the investigation should be done in less time.</p> <p>Bank staff 46: The Panel should say from the outset how long the investigation will take. Accountability is a two-way street. The Panel should provide a time-frame and stick to it. If they can’t stick to it, fine. Say that to the Board. But at least give a notional time.</p> <p>Bank staff 53: The respondent stated that the Panel does not adhere to any reasonable or known time schedule, but enforces the Management Response time to the day. They ruined staff’s vacations because they absolutely had to have their report following holidays. The Panel’s actions during the Panel process should be time-bound, just as the Management Responses are time-bound. Or, the time allotted for the Management Response should be as flexible as the time allotted for Panel investigations, but that could be complicated. So maybe requiring the Panel investigation to be time-bound would be easier to handle.</p>

<ul style="list-style-type: none"> ▪ 7.2 Methods of investigation 	<p>Bank staff 4: The Investigation uses audio recording...it gives people the feeling they are guilty until proven innocent. Make clear that it's confidential.</p> <p>Bank staff 10: Time passes before the investigation occurs or the report is done and the perspective of "at that time" should be kept. The Panel seems to have more trust in the "informants" than in staff, but informants should also be judged.</p> <p>Bank staff 20: In the process of an investigation, the respondent feels that the Panel starts investigating one or two issues and comes back criticizing any and every aspect of the project, whether included in the request or not. Fixing things expeditiously and keeping recommendations focused on the request should be the top priority, but the Panel comes in and opens every aspect of the entire project even if the complaint is on limited issues. Sometimes there are issues of poor performance that could be improved, but unless such performance resulted in harm, the Panel should leave it out of the investigation.</p> <p>Bank staff 25: The respondent stated that in some cases the feeling is that the Panel can poke around in any place they want, especially when they cite the supervision policy. It's like a police officer comes to your house because you've been making noise and tells you to quiet down. But while there, they can look at your taxes, see if you've been shoplifting, they can look at whatever they want!</p> <p>Bank staff 46: The Respondent suggested cross-checking facts with Management, something that the Panel has steadfastly refused to do before they issue the Eligibility or Investigation Report. The Panel feels this impacts their independence. But I can write my report and sit down and have a conversation with you and not change my draft at the end of the day if I don't want to. What puts an obstacle in the relationship is when there is no opportunity to check facts.</p> <p>Bank staff 46: Stop recording the interviews, just take notes. The recording apparatus is draconian and not conducive to getting people to open up.</p> <p>Bank staff 54: Regarding the investigation phase, the respondent explained that in some cases, the Panel did not stick to the subject matter raised by the Requesters. There's a letter about X, but the investigation report says, by the way, there is this Y issue and you should fix that. New subjects are brought into the discussion that were not raised by the Requesters and were not part of any letter that was received. The project team was already working with a community and solving issues. But that community was not the Requester. When the Panel came, and heard about this community from Management, the Panel said, well, they must be Requesters also.</p>
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<ul style="list-style-type: none"> ▪ 7.3 Participation of Requester: Improving transparency, including access of Requesters to Panel investigation findings when action plans to address the findings are being developed. 	<p>Bank staff 46: Disclosure of the report before the Board meeting would be inappropriate, because it could influence the way that the meeting would take place. Requesters could be consulted on the Action Plan in some creative ways. It is understandably difficult that they have to comment on a plan in response to a report that they've never seen. But maybe there could be a "living action plan," make a framework. Then when the report comes out, make some adjustments, or not.</p>
<ul style="list-style-type: none"> ▪ 7.4 Participation of Third Parties 	
<p>8. <u>Panel Report to the Board and President</u></p>	<p>Bank staff 15: It would be beneficial for all if the Panel would discuss the findings with Management when an investigation is complete and before finalizing their report. Some of the miscommunication could be eliminated. Management never knows what's going to be in the Panel's report. Likewise the Panel has no idea what Management is going to say in its response, and the two go to the Board at the same time. We need to break the Chinese wall to allow interaction between Management and the Panel, regarding the Panel's first findings.</p> <p>Bank staff 22: When asked if it would be useful for the Panel and Management to share their views before the date that they go to the Board on an investigation, the respondent stated that currently, "it's like you are being prosecuted. I don't want you to see my defense that I will present in court." A report is being presented to the Board. The Management Action Plan that is presented to the Board should be based on the findings of the Panel report.</p> <p>The respondent suggested having two Board meetings: in the first, the Panel reports its findings. In the second, Management says this is what we're going to do about it. This would avoid criticism that the Panel is "reporting to Management" before reporting to the Board.</p> <p>The respondent stated that Requesters have the right to know whether their issues are being presented at the highest level, to determine if they have been rightly presented, and whether the findings are correct and what they expected or not. They have the right to know that, even before the Panel goes to the Board. So that they can say, "You have misrepresented our complaint."</p>
<p>9. <u>Management Response and Action Plan</u></p>	<p>Bank staff 4: Don't involve Requesters before the Action Plan goes to the Board because it puts them in the middle of the picture. If you bring Requesters into the middle, then the process will not be independent.</p> <p>Bank staff 15: When Management develops a response to an Investigation Report, this typically might include an Action Plan and there needs to be consultation with the Requesters. But it's a weird situation where Requesters say they</p>

haven't seen the investigation report and they won't talk to Management until they see it. The respondent said the Requesters must have the impression that the Action Plan is up for negotiation and that it should address every point from the Request. But the Plan is actually about bringing the project into compliance to reduce and mitigate harm that was done. Discussing the Plan with Requesters opens it up to bargaining, when people complain about all sorts of things and there are many expectations and wishes that may or may not have anything to do with compliance and harm. When the Action Plan comes out, they will be disappointed. The Panel needs to be clearer in their outreach to explain the process to the Requesters.

Bank staff 24: An Action Plan was developed for the case in which this respondent was involved, and it made sense to allow Requesters to know in advance the main points of the Plan. The Plan included aspects of following-up on the areas where work was already being done.

Bank staff 25: Bank staff go to the project area to consult with Requesters on the proposed Action Plan, but there was a question about whether staff could even talk to the Requesters during the preparation of the Action Plan. The complainants raised a complaint two years ago, we sat there saying we can't share the results of the investigation report with them, and how do they feel now? Were they served by the process?

Bank staff 27: This respondent said there should be continuous ongoing consultations with the affected communities and that the Management Action Plan should reflect the communities' perspective. Sharing bullet points of the proposed Action Plan with the communities before the Board meeting is important and would be a good practice.

Bank staff 31: The respondent was concerned that if Requesters are kept abreast of what is in the Action Plan before it goes to the Board, it might be hard to avoid a never-ending cycle. At some point a decision has to be made about what is appropriate.

On the other hand, it seems fair that if you make a complaint, you should know what is being done about the complaint that you filed. In one case, after more progress in the project, the group that had brought the complaint came back and asked the same questions they had asked the Panel and the Government at the beginning of the case. The requirements for public access to information after the case was complete were not clear. The Bank's Management Action Plan was available publicly, but the actual results of the studies called for in the Action Plan were not publicly available.

Bank staff 32: One of the difficulties during the investigation process is that we as Bank staff have access to the investigation report, we have to prepare an action plan with the borrower, but we cannot share the document with the Borrower because it's confidential. So it's very awkward. They are saying hey, we have to agree with actions, from an

	<p>investigation that is secret, and they cannot see the Action Plan. In an environment where the Requesters do not trust the Government or the Bank and the Bank has a document but won't show it and says, "Trust me," what will they think?</p> <p>It's tricky because Management comes with an Action Plan. The Action Plan may include some requirements like "strengthen the unit." But most of the remedial actions are on the Government side. Will that satisfy the requesters and the investigation? Without being able to show the Investigation Report and the Action Plan, that's difficult.</p> <p>Bank staff 34: Giving access to the findings of IP investigations, or the proposed Management Action Plan (before its approval by the Board) would be counter-productive and would add to confusion.</p> <p>Bank staff 37: The respondent said that the project team telling the Requesters the main findings of the investigation report is not within the domain of staff. The report hasn't gone to the Board, so that information cannot be released to the public. If Management tells Requesters what the Panel found, it's possible that Management may not agree with the Panel's findings. You don't want Management to represent the Panel. Nor should the Panel represent Management.</p>
<p>10. <u>Board Decision and Public Release</u></p>	
<ul style="list-style-type: none"> ▪ 10.1 Requester's participation in Board Meetings 	
<p>11. <u>Return Visits</u></p>	
<p>12. <u>Panel Follow-up</u></p>	
<ul style="list-style-type: none"> ▪ 12.1 Fact-finding follow-up investigations to check results on the ground, and invite inputs from all parties on the effectiveness and outcomes of the 	<p>Bank staff 15: Having the Panel monitoring with the Board's direction is okay, but in the 1999 clarifications it says "The Board will not ask the Panel to monitor." Any time a project has gone through an Inspection Panel case with an Action Plan in place, typically staff are so terrified that they closely monitor the Action Plan, so additional follow-up from the Panel is probably not necessary.</p> <p>Bank staff 22: The respondent commented that the Project Team would like to see the Panel coming back to determine if the Task Team have accomplished the implementation of the Action Plan, and whether it has reached a point where the problem has been addressed and can be reported "accomplished" or "resolved." The Panel could report, for example, "half-way done" or 100% done or not done, or needs more work.</p>

<p>process.</p>	<p>The respondent was not concerned that the Panel would be stepping into Management’s territory if it monitored the implementation of the Action Plan, and mentioned that in one case the team had to keep monitoring for five years. However, in that case, while one approach was being used to address the problem, as stated in the Action Plan, experts came up with another way to take care of it. But could the team adopt the new approach? Would someone come after and say, “Why did you do this?” Because of the fear of what the Panel would do, no one could introduce new methods of solving the problem that arose after the investigation was complete. So there are some limitations and inflexibility during the monitoring phase.</p> <p>Bank staff 34: The Management should have the primary responsibility of monitoring the implementation of the MAP (Management Action Plan), while the Inspection Panel has the major role of independently investigating the complaints. There should be no dilution of roles. The Management should report to the Board (and through the Board to the Panel) on the progress of the MAP periodically.</p> <p>Bank staff 37: The respondent felt that the Board has never told the Panel to go back and monitor the implementation of the Action Plan. The Panel has proposed to do so in a number of cases, but the Board never agreed. This is a governance issue.</p> <p>Bank staff 53: The respondent felt that it makes sense for the Panel to report on Action Plan implementation. The Panel ought to go back and just keep everybody honest. It could also be useful for the Panel. The Panel could go back and look at the project and see, “Did we add value?” Management will say, there was nothing wrong in first place, why did you cause all this kerfuffle?</p>
<p>13. <u>General Procedures</u></p>	<p>Bank staff 17: As a result of one case, there is so much risk-aversion in the Bank. Just one case can turn the Bank upside down. There is an unnecessary level of distrust of the task managers which leads to them being passive to the point where they wait for someone else to make a decision. The risk aversion has gone to such an extreme, that a good project is rejected just because of this Panel case. This is what the Panel should be worried about.</p> <p>Bank staff 22: The respondent assessed the strengths of the Panel by characterizing the Panel process as very intense and productive. It included lots of consultation, which was very good and useful, with donors, Government, civil society and the Task Team. Many investigations result in specific recommendations that are useful.</p> <p>Bank staff 25: The existence of the Panel has helped the Bank in our relationship with civil society organizations (CSOs). The Bank was the first international financial institution to create an accountability mechanism like this, and so many of our procedures are open to CSO review. It’s the most transparent of all the oversight organizations, and it’s been</p>

helpful. It doesn't hurt staff to know that if things go wrong there is a process to bring attention to it. I think there will always be a need for the Panel.

However, the Panel process is a sledgehammer. The Panel doesn't have a graduated response to complaints. For the Panel to bring 2-3 people of international stature to a location just for the eligibility determination is overblown. Also for the investigation, it's way over-blown. People not associated with the Bank safeguards policy go to the project area, project implementation units get involved...the money and distraction involved in the first stage is completely out of proportion. The Panel should assess the complaint with a varying level of response.

Bank staff 27: The respondent said that the Panel is an independent fact-finding body, and that overall, the Panel's involvement was very healthy. The respondent said that in observing the Panel, one witnessed accountability at work, although the process itself was very uncomfortable. However, that's the nature of accountability.

The Panel process is extremely expensive and time consuming. The costs have been calculated, but not the opportunity costs of Management's response and the investigation. One case cost \$1 million for a project that was about to close and had been going on for years. Another cost \$200,000 and that cost will be at the expense of something else. We should focus on what deserves attention.

Some other accountability mechanisms, such as the CAO (Compliance Advisor Ombudsman), have so-called alternative dispute resolution processes, which involve diplomacy and active engagement in informal conversations among all stakeholders. Those employed by the Panel do not have a mandate to problem-solve or trouble-shoot on the ground. The Panel could use more mediation and diplomacy in its procedures and this should be reflected in its operating procedures.

Bank staff 31: The deterrence factor of the Panel is large. We don't have enough budget these days so, oftentimes if we need more money, I let my boss know that if this is ignored, it could become a Panel case, so if you give us more money now, it could avoid more cost later.

Bank staff 34: The rigor with which Inspection Panel (IP) goes about investigating a project where complaints have been received is commendable. IP brings independent perspectives which may have been overlooked by Task Teams or by the Management. In my opinion, this is the greatest strength of the IP process.

The IP process, however, introduces a certain amount of fear for consequences which may obstruct the free exchange of ideas. This respondent thinks a conscious effort needs to be made to dispel such a perception.

Bank staff 35: The respondent explained that sending a project to the Board for approval with a Panel case going on is very, very difficult. But in the end, the respondent felt that the case was useful even for staff. It helped staff to think through the issues and to have the project documents available. In the end, the project was restructured and the Board

	<p>approved it.</p> <p>Bank staff 37: The Panel has proven to be valuable. It has given the Board a way to ask complex questions when issues are raised concerning compliance. The Panel allows a reasonable assessment. The Panel does their work and Management responds, which allows the Board to hear a range of views. There will be situations where well-qualified professionals have variances of opinion. The Panel allows the Board to make informed assessments on what the key issues are and how Management can get involved.</p> <p>However, the reports become passé when projects close before the report comes out. The Panel should prepare more timely reports.</p> <p>Bank staff 46: The Bank is well-respected and that is in part because we have the Panel.</p> <p>Bank staff 53: The respondent said that, to compliment the Panel, every interaction s/he has had with the Panel has been cordial, respectful on both sides, interesting and even fun in some cases.</p>
<p>14. <u>Cross-cutting general categories and themes</u></p>	
<ul style="list-style-type: none"> ▪ <i>14.1 Improving public awareness of Inspection Panel</i> ▪ 	<p>Bank staff 5: The respondent feels that Governments know of the existence of the Panel, but is not sure whether information about the Panel reaches villages. Generally, people are not comfortable complaining to a project director.</p>
<ul style="list-style-type: none"> ▪ <i>14.2 Transparency and Disclosure during Panel Process</i> 	<p>Bank staff 27: One respondent said that the Panel’s communication and interaction with the Requesters was unstructured. As an example, the respondent mentioned an issue of disclosure of information in the Bank’s internal documents by the Panel. As a Bank staff, the respondent is very cautious about documents, and found it surprising that some information was in the hands of the Requesters, who described their interaction with the Panel as something very informal. The Panel should understand that such interaction should not be too informal, and that perhaps the Panel should follow legal norms in communicating with the Requesters.</p>
<ul style="list-style-type: none"> ▪ <i>14.3 Early Problem Solving</i> 	<p>Bank staff 22: The respondent thought that it might work very well if the Panel could encourage Management to look at the issue in a problem-solving way before Management would need to go through the massive response necessary in a regular case. The respondent stressed the immensity of the time and resources used to write the report, get the Management response, from the country, to the Country Management Unit to the Vice-President and everybody all the way up to the Board. Sometimes you find that the solution wouldn’t cost a quarter of what you are spending on the Panel process.</p>

	<p>The respondent suggested that if the Panel finds that there is a problem that needs to be addressed, it could first give the team a chance to address the problem, and then see if there are results. If Management then says there is no problem, but at the same time there is a complaint, then something becomes clear.</p> <p>Bank staff 27: Some other accountability mechanisms, such as the CAO, have so-called alternative dispute resolution processes, which involve diplomacy and active engagement in informal conversations among all stakeholders. Those employed by the Panel do not have a mandate to problem-solve or trouble-shoot on the ground. The Panel could use more mediation and diplomacy in its procedures and this should be reflected in its operating procedures.</p>
<ul style="list-style-type: none"> ▪ <i>14.4 Affected People's Access to the Panel</i> 	
<ul style="list-style-type: none"> ▪ <i>14.5 Promoting Effective Panel Interaction with Management, the WB Board, and Borrower Countries</i> 	<p>Bank staff 3: Many Government counterparts do not clearly understand the Panel. The project staff go to great lengths to explain the Panel process to them, but often an investigation is started because the Project Team was unable to leverage performance on the Borrower's side. It's very hard to explain why the Project Team is not forging ahead while an investigation is on-going. Once a Request is filed, the Project Team must refer all questions on the issue to the Inspection Panel. Much project work is suspended because the Project Team is the one under review. And thus the team doesn't have the leverage with Government that they did up until the Request was filed. But once a Request is filed, the Project Team spends all its time on the investigation and responding to the Panel and very little time dealing with the Government. The respondent felt that this was an unintended consequence of the mechanism, and must not have been expected when the mechanism was set up.</p> <p>Bank staff 10: According to this respondent, the Panel looks at Management as the culprit. We should be over that phase now. Now things happen because projects are complex and other factors, not so much because people have bad intentions. The Panel should consult Management on both sides – the Bank staff and the Project Director's side – during an investigation. Sometimes project staff are blackmailing a project director—if you don't do X, I will tell the investigation that you did Y.</p> <p>Bank staff 24: This respondent felt that on the one hand, the overall Panel process provides motivation to work more closely with the client and to produce results that would really help people better understand what the project is about. It was a great opportunity to get better results quickly on the ground. But on the other hand there is also the process. The respondent remembered very unfriendly meetings with Management when discussing the project and felt that this is difficult to avoid.</p>

Bank staff 27: Another respondent highlighted that the Panel’s involvement creates a difficult relationship between Management, the Country Office, and the Government. There are set, precise rules, but finding a compromise in practice is a very complex and naturally uncomfortable process. The fact that all of these actors (Management, Government, NGOs, the Panel) have their own interpretation of the Bank’s policies and their own expectations creates this uncomfortable process. The sovereignty issues of the countries also intensify and complicate the discussion between Management, the Country Office and the Government.

Bank staff 31: The respondent thought that Panel investigators should brief Management as they go along. A lack of information about the case going forward is not in anyone’s interest. Ninety-nine percent of the time it’s not malicious intent that causes a Panel case, it’s lack of knowledge. There’s a feeling among Managers, who are even more removed from the task team and the project, that they could get burned.

Bank staff 34: Inspection Panel actions, field visits, and contacts with Requesters during the pre- and post-eligibility phase should be disseminated to the Management and the Task Teams to foster closer collaboration in the investigation process.

Bank staff 37: The respondent felt that the level of interaction with Management is and should be at the discretion of the Panel Chairperson. When you codify that, you get a situation where “the Panel is beholden to Management,” so it is better to leave it to the discretion of the Chair. The Panel’s Chairs have had good judgment and administrative experience. We want to avoid talking past each other. The Chair should have a formally authorized space to interact with Management. We don’t want the Panel to give us their reports to review and clear. But where there are questions and the need for clarifications, more interaction between the Panel and Management would be helpful. During an investigation and before the publication of reports, the Panel should consult with Management.

Bank staff 53: Communication between Management and the Panel could be informal. Maybe there should be one formal meeting after Panel sends the Request to Management. Let’s sit down together and see that we the Panel understand the project and that you Management understand the Request. Interaction shouldn’t be feared.

The respondent felt that the question of interactions between the Panel and Government was very interesting because most Governments want the projects and resent the Panel as torpedoing the project, making them look bad, making the Bank look bad, opening consultation with citizens outside their structure.

Bank staff 54: The respondent said that the Panel process, the role of the Panel and the difference between the Panel and Management are not easy for our counterparts to understand. The Government counterparts hear the project team’s explanation of what the Inspection Panel does, but in reality they find that our explanation is not really what is

	<p>going on. The Panel process is supposed to be internal to the Bank, but we know it will have an impact on the project and on the counterparts. Although the Management Action Plan is supposedly internal, the Government is implementing the project. The Panel sometimes overestimates the Bank team's leverage with the Government. We are not implementing and that is not our role. We suggest, we recommend, it's something that's part of our agreement. But that doesn't mean that the counterpart will run to implement the Action Plan. They have other priorities, they have other realities and that's something that we need to understand.</p> <p>If the Panel has a neutral role toward the Requesters, the Government doesn't understand it. They need to see the difference between the team that they interact with all the time and the Panel. They also need to see the neutrality so that they understand what's going on. It's also important for the stakeholders, the Requesters.</p>
<ul style="list-style-type: none"> ▪ <i>14.6 Promoting Corporate Learning based on the experiences of Panel Investigations</i> 	<p>Bank staff 10: There should be a separate side of the Panel that studies all cases and results and advises on best practices.</p> <p>Bank staff 24: The respondent felt there were no lessons developed from a particular Panel case at the corporate level, but explained that sectoral staff really incorporated the experience they gained into future projects, particularly with respect to community consultations. For this team, governance maps and land-use planning were a by-product of the Panel process.</p> <p>Bank staff 27: The issues surrounding the Panel are perceived as so sensitive by Management, that nobody talks about the issues raised in advance. Therefore, the corporate lesson is that there should be more dialogue within Management and beyond. The respondent said that the CAO's advisory role is very positive. The Panel may want to take a more active advisory role, and it might want to use the services of an outside facilitator to run corporate learning events.</p> <p>Bank staff 34: Once the investigation process has been concluded, and the Management Action Plan approved by the Bank, there is a lot of value in organizing a brown bag lunch (jointly with the Inspection Panel) on lessons learnt.</p>
<ul style="list-style-type: none"> ▪ <i>14.7 Multi-donor Projects</i> 	<p>Bank staff 3 The respondent stated that in one case, the World Bank was not the lead donor, but part of a group of donors. The Management Response and Action Plan were focused on issues raised in the Request that were not a part of the Bank's project.</p>
<p>15. <u>Comments Outside The Scope of this Operating Procedure</u></p>	<p>Bank staff 10: In INT (Integrity Vice-Presidency) investigations, people were saying, they're always coming in after the fact and saying you did this, this, and this wrong and there's nothing you can do about it now. So a Preventive Services arm of INT was developed to allow advising during the planning stages of project development. The Panel could also do</p>

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this and create a “Support Services” function. It should be separate from the investigation arm. A Panel investigation brings gurus to the field, so why don’t they make those gurus available in advance.

QAG (Quality Assurance Group) played a role in reviewing projects early on. They conducted quality rankings while the project was in the preparation phase. A large bridge project is working with INT to develop a governance protocol. If X happens, what should we do?

If this separate branch of the Panel knew all the cases, knew the best practices, and could see the projects as they were being implemented, project teams could talk to the Panel to ask who’s seen this happen before and what was the best approach to deal with it? They could get advice, and bring the experience of the Panel into the design.

Bank staff 22: The respondent felt that a weakness of the Panel process is that the Panel presumes from the outset that the task team has done something wrong. The Bank views and handles the Panel from the perspective of Management. Management does not want the task team to point to things that are wrong going wrong on the project. So when the Panel comes and asks for information, the team wants to reveal things on the technical side. Management, however, wants to present things in a different way, possibly for political reasons. Everybody wants to defend themselves.

In one case the task team and the Country Management Unit had opposite approaches to the findings of studies conducted.

Bank staff 31: The respondent declared there is definitely a need for the Panel and the World Bank needs a watchdog, and sometimes the Panel has positive impacts. But there’s a feeling that the Panel is “the nuclear option”. The general feeling is that the Panel studies are removed from the operations of the Bank and decision-making and situations on the ground. Maybe there’s a need for an intermediate body that understands these projects, but is independent from the sector units. But is it worth incurring additional real and opportunity costs? Because oftentimes that is the result.

In one case, from the beginning the community had not been thrilled about the project. They were encouraged to join forces with those opposed to the technical solution chosen. From the very beginning, the Bank team realized that this was a very sensitive project, and had its own panel of experts to review the design. The Panel, meanwhile, hired one consultant who was not very good. The resulting report, which took eight months, confirmed what the Panel of Experts had found using a less sophisticated technique. The general feeling on the client side and the Bank side was that the intervention was not very productive and caused a two-year delay of the project.