



UNITAID TRANSPARENCY POLICY

endorsed by
Unitaid Executive Board
on May 9, 2007

1. General principles

- 1.1 The general policy of UNITAID is to operate in a transparent and accountable manner, as outlined in section 1 of UNITAID's Constitution.
- 1.2 UNITAID will make the fullest disclosure of records possible, consistent with the rights of individuals to privacy, the property rights of persons to trade secrets and confidential commercial or financial information, the need for UNITAID to promote frank internal deliberations and the legal provisions of the hosting arrangement with WHO.
- 1.3 In the absence of a legitimate reason for confidentiality, information concerning UNITAID's decisions and operational activities will be made available to the public, in the manner described hereinbelow. This policy is based on the premise that a) the effectiveness of projects supported by UNITAID will be strengthened by public access to information, and b) broad availability to the public of information about UNITAID's projects will increase understanding and support of UNITAID's mission, and increase transparency and accountability.

2. Disclosure Categories

2.1 Records Posted on the Web Site of UNITAID.

The following records will be posted on the UNITAID website (excluding the exceptions described below and, in particular, any confidential information in accordance with paragraph 4.3 of section 4 below):

- a. Minutes of each Executive Board meeting, together with the full text of all decisions approved by the Board and accompanying documents
- b. List of current Members of the Executive Board, Alternates, Members of Board delegations. Members of the Working Groups shall be listed in accordance with the decision of the UNITAID Board ;
- c. Current rules and procedures pertaining to UNITAID bodies such as the Executive Board
- d. Annual report of UNITAID
- e. Approved budget of UNITAID
- f. Approved Proposals (on the understanding that the originators of such proposals shall authorize the disclosure thereof) and the main terms of agreements signed by UNITAID with Partners or by Partners with recipients as per the template attached hereto as Annex 1
- g. Technical performance evaluations, on the understanding that the contracts entered into by UNITAID with implementing partners shall authorize such disclosure and provided that, in consultation with the UNITAID Board, the UNITAID Secretariat may decide that there are compelling reasons not to make a technical performance evaluation public.
- h. Core policies, such as policies on recipient and implementing partner selection and evaluation policies
- i. Core strategies, such as the price reduction strategy

- j. Reports on prices paid by UNITAID for products procured with UNITAID support, including those agreed with suppliers by implementing partners, on the understanding that all contracts entered into by UNITAID shall authorize such disclosure.

2.2 Records to be disclosed Upon Request

Subject only to the exceptions described below, all UNITAID records (excluding any confidential information in accordance with the penultimate paragraph of section 4 below) shall be made available upon request.

2.3 UNITAID Board voting

Section 4 of the Constitution provides that the UNITAID Board will use its best efforts to take all decisions by consensus. If all practical efforts by the Board and its chair have not led to consensus, any Member of the Board may call for a vote. Section 1 of the Constitution mandates that UNITAID will make decisions in an accountable and transparent manner. For this purpose and in the event of a vote, the per member breakdown of a vote in the UNITAID Board shall be put on the record upon the request of any Board member.

3. Non-public UNITAID Records

Members of the Executive Board and the organizations to which they are affiliated, staff of the Executive Secretariat, Working Group members and implementing partners will be entitled to receive non-public UNITAID records based on their relationship with UNITAID, provided that they are bound by appropriate obligations of confidentiality and restrictions on use in regard to such records. Working Group members and implementing partners will only be entitled to receive access to such records, if and to the extent required for the proper discharge of their responsibilities for UNITAID. Members of the Executive Board and the organizations to which they are affiliated, Working Group members and implementing partners will be required to sign a confidentiality undertaking covering the disclosure of any non-public records. Staff of the Executive Secretariat are already bound to confidentiality pursuant to their employment contract with WHO.

4. Exceptions

4.1 Notwithstanding the general principle of the fullest disclosure of records possible, there are legal and practical constraints which may affect UNITAID's ability to achieve it. Exceptions to disclosure should only be invoked to protect UNITAID's interests and the legitimate interests of those who collaborate with UNITAID (including for example recipient countries, implementing partners, suppliers and other parties with whom UNITAID may directly or indirectly enter into an agreement). Wherever possible, third party submissions to UNITAID should be free of the type of information subject to these exceptions, such as business proprietary information, intellectual property, and other information requiring confidential treatment. In the event that such information must be submitted to UNITAID, it should be notified to UNITAID prior to submission, accepted by UNITAID for confidential treatment, and marked for segregated treatment.

4.2 UNITAID shall not disclose the following records to the general public, unless the UNITAID Board determines that there is an overriding public interest in disclosure and subject to the terms of the hosting arrangement with WHO (it being understood that if and to the extent required for the operations of UNITAID, the Executive Secretariat may disclose such records to selected parties under confidential cover) :

- a. Records and documentation relating to internal deliberative processes, including internal notes, memoranda, and correspondence among UNITAID staff.
- b. Privileged information relating to legal advice and matters in legal dispute or under negotiation.
- c. Personal or employment-related information about UNITAID staff, other than information directly related to the financial operations and budget of UNITAID.
- d. Personal information of individuals, intellectual property, business proprietary, or other proprietary information submitted by third parties, appropriately disclosed to and accepted by UNITAID for confidential treatment.
- e. Business confidential information relating to procurement processes, including proposals, price quotations and prequalification information submitted by bidders, as well as records of deliberative selection processes.
- f. MOUs, agreements and contracts entered into by or for UNITAID (including those entered into by implementing partners with recipients) for which only main terms of the agreements will be made public as indicated in Section 2. (i) f. above.

4.3 If a record contains both disclosable and nondisclosable information, the nondisclosable information will be deleted and the remaining record will be disclosed, unless the two are so inextricably intertwined that it is not feasible to separate them or unless release of the disclosable information would compromise or impinge upon the nondisclosable portion of the record. If after redacted treatment, the text of a document is not suitable for public release, an abstract may be prepared and released in its place

4.4 UNITAID shall only accept confidential treatment of a third party's information where the disclosure of such information would harm the legitimate interests of the third party in question.

5. Cost

To the extent possible, and to the extent that it would be cost-effective, the Executive Secretariat may charge a fee to recuperate the expenses associated with the disclosure of UNITAID records to the general public, solely for costs arising from use of document reproduction equipment and provision of copies of printed material and , in accordance with a system to be determined by the UNITAID Executive Secretariat, which shall include provisions for the waiver of the fee in appropriate circumstances.

6. Implementation

UNITAID Executive Secretariat shall be responsible for the implementation of this policy. The Board shall review periodically the implementation of this policy.