



Processing Information Requests

Guidelines for the consideration

of

Central Public Information Officers

under

The Right to Information Act, 2005

Introduction

The Right to Information Bill was introduced in the Lok Sabha in December 2004. It was passed by both houses of Parliament in May 2005. The assent of the President was received on 15th June and the Act was notified in The Gazette of India on 21st June. The *Right to Information Act* will become operational by the 12th October, 2005 after the completion of 120 days from the date of Presidential assent. The *Freedom of Information Act* passed by Parliament in 2002 has been repealed.

The *Right to Information Act* (RTI Act) will cover all levels of government – Centre, State, district and local self governing bodies like Panchayats and Municipal bodies. It will also cover non- governmental organisations – i.e. NGOs, VOs companies and other private bodies – that are financed substantially with public funds provided by the government. This means every citizen has the right to put in an application requesting information or copies of records held by these bodies and such information should be given by the concerned body.

The citizens' right to information is not explicitly mentioned in the fundamental rights chapter of the Constitution. But in more than 10 cases the Supreme Court of India has declared that the fundamental right to life and liberty [Art. 21] and the fundamental right to freedom of speech and expression [Art. 19(1)] include every citizen's fundamental right to access information. Parliament passed the RTI Act to enable all citizens to use their fundamental right to access information from public bodies.

The main objectives of the RTI Act are –

- To promote transparency and accountability in the working of every public authority and
- to set up a practical regime for giving citizens access to information that is under the control of public authorities.

Definition of Information



- Information means material in any form including records, documents, memos, emails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and
- information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

Definition of Record

- any document, manuscript or file;
- any microfilm, microfiche and facsimile copy of a document;
- any reproduction of image or images embodied in such micro-film (whether enlarged or not); and
- any other material produced by a computer or any other device.

The definition of a 'file' includes file notings. The CIC has in several cases decided that file notings are a class of information included within the definition of 'information' under the RTI Act. As long as the exemptions mentioned in section 8(1) of the Act do not apply, file notings must be disclosed upon request.

Definition of Right to Information

Right to information accessible under this Act which is held by or under the control of any public authority and includes the right to –

- inspection of work, documents, records;
- taking notes, extracts or certified copies of documents or records;
- taking certified samples of material;
- obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

One of the guiding principles of the RTI Act is – "information which cannot be denied to Parliament or a State Legislature shall not be denied to any person."

The Three Level Regime for Accessing Information

At the first level of the regime, every public authority has designated Public Information Officers for receiving applications (also called 'information requests') from citizens.

At the second level, every public authority has designated senior officers to look into appeals in cases where citizens' requests for information have been refused. If citizens do not get the requested information or are unsatisfied with the information they have received, under this law they have the right to send an appeal to the First Appellate Authority (AA) designated within the concerned public authority.



At the third level, an independent Central Information Commission (CIC) has been set up to look into those cases where citizens are unsatisfied with the decision of the AA. The CIC also has the powers and responsibility to monitor compliance of public authorities under this Act and submit an annual report to Parliament.

Role of Courts

According to the RTI Act the decision of the CIC is binding on all parties. Courts are barred from inquiring into the decision of the CIC. But it must be remembered that this law gives effect to a fundamental right of citizens. According to the Constitution, the High Courts (Art. 224) and the Supreme Court (Art. 32) have the power to look into any matter relating to the fundamental rights of citizens. Technically, a citizen has the right to approach the High Court or the Supreme Court through a writ petition if he/she is not satisfied with the decision of the CIC.

Role of the Central Public Information Officer

Under the RTI Act, Central Public Information Officers (CPIOs) should be designated in all administrative units of every public authority in order to receive information requests from citizens. They also have the responsibility and duty to provide the requested information within 30 days. The CPIO is the main point person whom citizens will contact for exercising their right to information under this law. In public authorities controlled by the State Government they are called State Public Information Officers (SPIOs).

Please remember –

- as a CPIO you may not have access to all records in your office. You have the right to seek assistance from any other officer (senior or subordinate) if you consider it necessary for the proper discharge of your duties under this Act.***
- Any officer whose assistance you seek has a duty to render all such assistance. If that officer refuses assistance as a result of which you are unable to provide information to the citizen then he/she is liable for penalty and disciplinary action.***

The Central Assistant Public Information Officer

The RTI Act requires that the Central Government designate Central Assistant Public Information Officers at the sub-divisional or sub-district level.

Please remember –

- the Central Assistant Public Information Officer is not an assistant to the CPIO.***

In public authorities controlled by State Governments they are called State Assistant Public Information Officers (SAPIOs).

Under the law the CAPIOs will act like a Post Office. Every CAPIO has the duty and responsibility to receive information requests from citizens and forward them to the



CPIO of the concerned public authority that is likely to have the information being sought by the applicant.

Please remember –

- ***It is the responsibility of the Central Public Information Officer to give information to the requestor.*** (A CPIO is not responsible for giving information to the requestor.)



Duties and Responsibilities of the Central Public Information Officer

❑ RECEIVE INFORMATION REQUESTS (APPLICATIONS) FROM CITIZENS SEEKING INFORMATION.

Please remember –

- citizens can submit applications personally or by post/courier or through electronic means (such as email etc.) in English, or Hindi or the official language of your area;
- the Government of India has not prescribed any format for filing applications for information under the RTI Act. Even if your public authority has printed application forms for use under the RTI Act you cannot refuse to accept plain paper applications from citizens. The Central Information Commission has said in several decisions that public authorities must not insist upon citizens to file applications in pre-printed formats nor should an application be rejected because it was not submitted in the printed format;
- citizens are not required to give reasons for requesting information. Please do not demand an explanation from the requestor as to why he/she needs that information;
- refusal to accept an application from the citizen *without reasonable cause* is an offence under the law. The Central Information Commission may impose a fine of Rs. 250/- per day till the application is received up to a maximum of Rs. 25,000/- and also recommend disciplinary action.

❑ PROCESS APPLICATIONS FROM CITIZENS RECEIVED THROUGH CAPIOS.

Please remember –

- citizens have the right to send information requests to the CAPIO. The CAPIO is duty bound to forward such applications to the PIO of the public authority that controls the information requested.
- The Department of Posts has nominated CAPIOs in all Postal Circles around the country to receive applications from citizens for all public authorities under the control of the Central Government. They are empowered to accept application fees and forward the application to the concerned CPIO within five days. You are required to process these information requests forwarded by designated CAPIOs of the Department of Posts. Failure to do so might attract penalty.

❑ ASSIST A PERSON MAKING AN ORAL REQUEST TO REDUCE IT INTO WRITING



Please remember –

- if a requestor is unable to submit a written request because of some physical disability or due the fact that he/she cannot read or write please render reasonable assistance to reduce the oral request for information in writing. This is a requirement under the law.

- **IF INFORMATION REQUESTED IS FULLY OR PARTIALLY HELD BY ANOTHER PUBLIC AUTHORITY OR THE SUBJECT MATTER OF THE APPLICATION IS MORE CLOSELY CONNECTED WITH THE FUNCTIONS OF ANOTHER PUBLIC AUTHORITY TRANSFER THE APPLICATION OR THE RELEVANT PART OF THE APPLICATION TO SUCH PUBLIC AUTHORITY. INFORM THE APPLICANT OF SUCH TRANSFER IN WRITING IMMEDIATELY.**

Please remember –

- if you receive a request for information that is not available with your office but is likely to be available with another office or public authority, it is your duty to transfer that request to the concerned public authority. The CPIO directory published by the Central Government on the RTI portal – <http://rti.gov.in> may be used for this purpose.
- If only a part of the information requested is available with your office and the remaining is available with one or more other public authorities it is your duty as CPIO to transfer such parts of the information request to those relevant public authorities. Your liability is limited only to such information that is available with your public authority. Your liability for information that is not held by your public authority ends with the transfer of those parts of the application. It will now be the liability of the CPIO of that public authority/ies to which you have transferred the application. The CIC cannot penalize you if the CPIO of the public authority to which you have transferred the application refuses to disclose the requested information. That other CPIO will be liable to face penalty proceedings.

(If you advise the requestor to approach the concerned public authority himself/herself he/she may treat this as your refusal to accept the application and send a complaint to the AA or the CIC. This could lead to litigation which can be avoided by transferring the application to the relevant CPIO.)

- You should transfer the application to the CPIO concerned as soon as possible and in no case later than five days.



- You should inform the applicant about the transfer of the application in writing immediately. There is no grace period stipulated in the law for communicating this transfer to the requestor.

□ COLLECT APPLICATION FEES PRESCRIBED IF THE APPLICANT HAS NOT ALREADY SUBMITTED PROOF OF PAYMENT OF THE SAME AND ISSUE RECEIPT

Please remember –

- You have a duty to collect application fees as may be prescribed by the Central Government. If the applicant does not submit proof of payment of prescribed fees (by currently notified modes of payment such as bank draft, postal order, banker's cheque or any other mode of payment that may be prescribed by the Central Government in future) along with the application, you may collect the prescribed fees in cash;
- citizens belonging to the BPL category are exempted from paying application fees. A copy of the BPL/Antyodaya ration card may be attached to claim waiver of the application fee. Please issue an acknowledgement in the prescribed format for every complete application. The Central Government has not notified any such format yet. You may develop a simple format for acknowledgement for use within your public authority.

This acknowledgement may include details such as the name and address of the applicant, the date on which the application was received and the mode of payment of application fees. An acknowledgement must be issued to BPL applicants also. In addition to the aforementioned details the acknowledgement issued to a BPL applicant may include details of identity proof that has been attached for claiming fee waiver. Please sign and stamp the acknowledgement.

Advice:

- Please remember this acknowledgement is in addition to a cash receipt. It is a document issued as proof of having received the citizen's application for information with or without the prescribed fees.
- Please issue this acknowledgement immediately. Do not request the applicant to come back another day to collect the acknowledgement.
- Please remember to mention the date of receipt on the acknowledgement clearly.



- ❑ **ISSUE WRITTEN ORDER REJECTING APPLICATION WITH REASONS AND DETAILS OF APPEAL PROCESS AND APPELLATE AUTHORITY IF REQUESTED INFORMATION FALLS WITHIN ONE OR MORE CATEGORIES OF EXEMPTIONS UNDER SEC. 8 AND ALSO DOES NOT SERVE THE PUBLIC INTEREST IF IT IS RELEASED.**

Please remember –

- You are required to communicate to the applicant in writing –
 - the reason/s for rejecting the request;
 - the period within which the applicant may appeal against the rejection;
 - the particulars of the appellate authority.
- the law specifies 11 categories of information that may not be disclosed to the requestor. Sec. 8 applies to ten categories of information and not categories of records. (Sec. 9 applies to cases where release of information may infringe upon the copyright of any person other than the State) A record may contain both exempt and non-exempt information. Non-exempt information contained in such records may be disclosed upon request.
- No other exemption contained in any other law including the *Official Secrets Act* and the *Indian Evidence Act*, or rules, orders or procedures prescribed by any public authority will take precedence over the operation of the RTI Act. The classification scheme for categorizing records as 'confidential', 'secret' and 'top secret' contained in the Departmental Security Instructions is also overridden by the RTI Act. These classifications will have to be viewed in the light of the exemptions mentioned in Sections 8 and 9. If they coincide with the exemptions then they need not be disclosed unless there is an overriding public interest in disclosure (see next bullet point). If the requested record is not covered by any of the exemptions then despite the security classification accorded to such document it will have to be disclosed;
- furthermore, despite being covered by one or more exemptions mentioned in Sections 8 and 9 of the RTI Act if the public interest in disclosing exempt information weighs more than the harm to the protected interests then the requested information may be released.
- if the requestor appeals against your rejection order he/she is not required to justify why such information is being requested. Under the law the burden of proving why such information cannot be given is placed on the CPIO. You will have to prove before the appellate authority that your rejection order was based on reasons valid under this law. If the CIC finds your justification unreasonable you are liable to fine and also disciplinary action. So please be



very cautious while rejecting an information request. It is advisable to issue a rejection order in the form of a speaking order where you not only indicate the exemptions attracted by the information requested but also the prejudicial/adverse effects that such disclosure might entail.

OR

- ❑ PROVIDE THE INFORMATION REQUESTED WITHIN THIRTY DAYS OF RECEIPT OF THE APPLICATION. IF INFORMATION CONCERNS THE LIFE AND LIBERTY OF A PERSON THEN PROVIDE SUCH INFORMATION WITHIN 48 HOURS.**

Please remember –

- if the information requested is not covered by any of the exemptions you should ordinarily provide it within thirty days. Please do not let applications pile up on your desk. This will only increase your workload in future. Please dispatch all complete applications immediately.
- if the requested information relates to the life and liberty of a person (Art. 21 of the Constitution) then you have a duty to provide such information within 48 hours.
- ordinarily, if the requested information is given by a third party which treats it as confidential then ten extra days are allowed to seek its submission on whether such information may be disclosed (for procedure involving a third party please see page 20 below).

- ❑ IF DECISION IS TAKEN TO PROVIDE INFORMATION THEN INFORM THE APPLICANT IN WRITING ABOUT THE ADDITIONAL FEES CHARGED AS COST OF PROVIDING THE INFORMATION.**

Please remember –

- If you decide to provide the requested information you should immediately inform the applicant in writing about the additional fees he/she is required to pay as cost of providing the information. This additional fee must be calculated at the rate prescribed by the Central Government (RTI Fee and Cost Rules are available on the RTI Portal – <http://rti.gov.in>) The time taken between dispatch of this intimation and the actual payment of fees will not be included while calculating the period of thirty days;
- if the information requested is to be provided in electronic or printed format you may charge additional fees at the rate prescribed by the Government. You will be required to inform the applicant about this additional fee in

writing. The time taken between dispatch of this intimation and the actual payment of fees will not be included while calculating the period of thirty days;

- BPL applicants are exempted from paying additional fees for securing the requested information;
- if for some reason the requested information is not provided within the deadline of thirty days (or 40 days if third party interests are involved) the requestor has a right to receive such information free of cost.

❑ ADDITIONAL FEES SO CHARGED SHOULD BE REASONABLE. ALSO GIVE DETAILS OF CALCULATIONS MADE AND INFORM THE APPLICANT OF HIS/HER RIGHT TO FILE APPEAL AGAINST THE ADDITIONAL FEE.

Please remember –

- the Central Government has prescribed the rates at which you may calculate the additional fees towards cost of providing information. (RTI Fee and Cost Rules are available on the RTI Portal – <http://rti.gov.in>);
- The Central Government has provided for collection of reproduction costs from the citizen such as photocopy fees, fees for providing information in a floppy or diskette and fees for providing samples and models (at actual cost). The Central Government has not prescribed any rates for search, collation or compilation of data or man hours or computer time spent for dealing with the request. As a CPIO you do not have the authority to collect fees for any purpose other than that prescribed in the *RTI Fee and Cost Rules, 2005*;
- you have a duty to inform the applicant in writing the details of how the additional fee was calculated and how the amount was arrived at;
- you have a duty to inform the applicant in writing that he/she has a right to demand from the AA and/or the CIC a review of the additional fees charged by you if he/she thinks it is unreasonable. You are required to inform the applicant in writing – the particulars of the appellate authority, its contact details and the time limit and the process of appeal.

❑ AS FAR AS POSSIBLE PROVIDE INFORMATION IN THE FORM IN WHICH IT HAS BEEN REQUESTED.

Please remember –

- the applicant may request information that might have to be extracted or compiled from one or more public records or documents. Furthermore the



applicant may request that the information be provided in a specific format such as computer floppy or diskette. Ordinarily, in such cases you are required to provide information in the format sought by the applicant unless such extraction or compilation –

- will require spending disproportionately large amount of time, money or human power resources or
- will adversely affect the safety or preservation of the relevant record/s.

The Central Information Commission has held in more than one decision that a CPIO cannot deny access to information to a citizen because he/she has requested information in a particular format or if the requested information is too voluminous. It is the CPIO's duty to make information available to the applicant in any other convenient format that is to the former's satisfaction. Section 7(9) of the RTI Act which deals with this matter cannot be used a ground to deny access to information to the applicant. Rejection of a request is possible only under sections 8 and 9 of the RTI Act.

□ IF INFORMATION REQUESTED RELATES TO ONE OR MORE OF THE EXEMPTIONS IN SEC. 8 YOU MAY SEVER THOSE PORTIONS OF THE RECORD (CONTAINING SUCH INFORMATION) THAT ARE EXEMPT AND PROVIDE THE NON EXEMPT PORTIONS.

Please remember –

- a record may contain both exempt and non-exempt information. Non-exempt information contained in such records may be disclosed upon request;
- you may sever the exempt portions in the manner prescribed by Government while providing access to the non-exempt portions of the record;
- While communicating the decision to grant partial access to information or record/s you are required to give in writing -
 - reasons for rejecting the request including any factual or material findings on which your rejection is based and the materials on which those findings are themselves based;
 - name and designation of the person giving the decision for granting partial access;
 - details of fees calculated by him/her and the amount of fee the applicant is required to deposit;



- the applicant's right to seek review of this decision regarding non-disclosure of part of the information, the amount of fee charged, the form of access provided and the particulars of the appellate authority (DAA and SIC as the case may be) and
- time limits within which the applicant may seek a review of the decision, the process of seeking review and any forms that are prescribed for this purpose.

- **PROVIDE ASSISTANCE TO THE APPLICANT WHO IS SENSORILY DISABLED (BLINDNESS OR SOME OTHER FORM OF SENSORY DISABILITY) TO ACCESS THE REQUESTED INFORMATION INCLUDING APPROPRIATE ASSISTANCE FOR INSPECTION.**

Please remember –

- if the requestor is sensorily disabled (blindness or some other similar disability) you are required to provide reasonable assistance to such persons to accessing the entire record or non-exempt portions (as the case may be). This includes providing reasonable assistance for inspection.

- **IF INFORMATION REQUESTED WAS GIVEN TO THE PIO'S PUBLIC AUTHORITY BY A THIRD PARTY WHO TREATED IT AS CONFIDENTIAL THEN DISPATCH WRITTEN NOTICE TO SUCH THIRD PARTY SEEKING SUBMISSIONS (IF ANY) WHETHER SUCH INFORMATION SHOULD BE DISCLOSED TO THE REQUESTOR.**

Please remember –

- A third party can be anybody other than the applicant and the public authority to which the information request has been sent. This includes any individual, private body and any other public authority;
- Your public authority may have on its record information relating to third parties. Not all such information attracts the no-objection procedure for disclosure mentioned in Section 11 of the RTI Act.
- The no-objection procedure mentioned in Section 11 should be invoked only if the information requested is treated as confidential by that third party. Such information may either merely relate to that third party or it might have been given to your public authority by that third party with a request for it to be treated as confidential;
- While dealing with an information request relating to a third party you should first ascertain whether any of the exemptions mentioned in sections 8 and 9 of the RTI Act apply in this case. If one or more of the

exemptions apply to this case then you may issue a rejection order giving reasons and details of the appellate authority;

- If however you are satisfied that none of the exemptions are attracted, you may then proceed to examine whether such information has been treated as confidential by that third party;
- If the information relating to the third party has been treated as confidential, in such cases you are required to serve a notice to the concerned third party seeking its representation against disclosure of such information. This notice should be served on the third party within five days of receiving the information request from the applicant;
- The third party is required to make its representation before the PIO within ten days from the date of receiving such notice. An additional period of ten days are allowed for the CPIO to complete this procedure. In other words a total of 40 days are allowed for the CPIO to deal with information requests relating to third parties;
- The following scenarios are possible in third party cases-
 - i) If the third party has **no objection** to disclosing the requested information then you are **duty bound to disclose the information** to the applicant.
 - ii) If the third party makes a representation against disclosing the requested information and **if you agree with the third party's reasons** objecting to the disclosure **you are required to issue a rejection order to the applicant giving reasons and details of the appellate authority**. The applicant's right of appeal gets activated.
 - iii) If the third party makes a representation against disclosing the requested information and **if you disagree with the third party's reasons** objecting to the disclosure **you are required to give a decision of disclosure and issue notice of your decision to the third party and the applicant. You are not required to actually disclose the requested information as the third party has a right of appeal against your decision**. You are required to give details of the appellate authority in your decision notice. The requested information cannot be disclosed even if the Appellate Authority rules in favour of disclosure as the third party has a right to file a second appeal with the Central Information Commission. However if the Central Information



Commission orders disclosure then you will be required to disclose the information.

- iv) If the third party does not make any representation within the stipulated period of ten days then you may go ahead and disclose the information. This is because you have already ascertained that none of the exemptions mentioned in the RTI Act are attracted and you have also given the third party an opportunity to make a representation. If the third party has any objection to disclosure it will make a representation to that effect. **In the absence of any representation against disclosure received from the third party, then you are duty bound to disclose information to the applicant.**

Exemptions covered by Sec. 8 and 9

The RTI Act exempts ten categories of information from disclosure in Sec. 8. But all exemptions are subject to the greater public interest. If public interest in disclosing information outweighs the harm caused to the protected interests then such information should be disclosed by the public authority. Please remember, these exemptions relate to categories of information and not categories of records. Additionally Sec. 9 empowers the PIO to reject an application if disclosure will infringe upon the copyright of a third party other than the State. But this is also subject to the public interest override.

8(1)(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

8(1)(b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

8(1)(c) information the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

8(1)(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;



8(1)(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

8(1)(f) information received in confidence from foreign Government

8(1)(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

8(1)(h) information which would impede the process of investigations or apprehension or prosecution of offenders;

8(1)(i) cabinet papers including records of deliberations of the council of Ministers, Secretaries and other officers:

Provided that the decisions of the council of Ministers, the reasons therefore, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

8(1)(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to Parliament or a State Legislature shall not be denied to any person."
