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No.1/69/2007-IR
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
Dated: the 27th February, 2008

30-8-2008
प्रकाश

OFFICE MEMORANDUM

Subject: Guidelines for the officers designated as Central Public Information Officer under the Right to Information Act, 2005.

The undersigned is directed to say that the Central Public Information Officer (CPIO) of a public authority plays an important role in effective implementation of the provisions of the Right to Information Act, 2005. At the same time, he is liable for penalty in case of default in performance of duties assigned to him by the Act. It is, therefore, crucial for a CPIO to study the Act carefully and understand its provisions correctly. This Department has prepared 'Guide' which clarifies some of the important aspects of the Act relating to the functions of the CPIOs. The Guide so prepared is enclosed as Annexure.

The Act provides that a CPIO may seek the assistance of any other officer for proper discharge of his/her duties. Such other officer would be deemed to be CPIO and would be liable for contraventions of the provisions of the Act in the same way as the CPIO himself. Since the CPIO may seek the assistance of any other officer, it is desirable for all the officers to acquire necessary knowledge about the provisions of the Act, which a CPIO should have. The Guide would help them in this task.

All Ministries/Departments etc. are requested to bring the contents of the Guide to the notice of all concerned.



(K.G. Verma)
Director
Tel: 23092158

All Ministries / Departments of Govt. of India
Union Public Service Commission / Lok Sabha Secretariat / Rajya Sabha Secretariat / Cabinet Secretariat / Central Vigilance Commission /

ANNEXURE

(OM No.1/69/2007-IR dated the 27th February, 2008)

A GUIDE FOR THE CENTRAL PUBLIC INFORMATION OFFICERS

The Right to Information Act, 2005 empowers citizens to get information from any public authority. The Central Public Information Officer (CPIO) of a public authority plays a vital role in making the right of a citizen to information a reality. The Act casts specific duties on him and makes him liable for penalty in case of default. It is, therefore, essential for a CPIO to study the Act carefully and understand its provisions correctly. Following aspects should particularly be kept in view while dealing with the applications under the Act.

What is Information

Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

Right to Information under the Act

A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority.

The Act gives the citizens a right to information at par with the Members of Parliament and the Members of State Legislatures. According to the Act, the information which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person.

A citizen has a right to obtain an information in the form of diskettes, floppies, tapes, audio cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device from which the information may be transferred to diskettes etc.

The information to the applicant should ordinarily be provided in the form in which it is sought. However, if the supply of information sought in a particular form would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied.

The Act gives the right to information only to the citizens of India. It does not make any provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens. However, if an application is made by an employee

or office-bearer of any Corporation, Association, Company, NGO etc. indicating his name and such employee/office bearer is a citizen of India, information may be supplied to him/her. In such cases, it would be presumed that a citizen has sought information at the address of the Corporation etc.

8. Only such information is required to be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. CPIO is not supposed to create information; or to interpret information; or to solve problems raised by the applicants; or to furnish replies to hypothetical questions.

Information Exempted From Disclosure

9. Sub-section (1) of section 8 and section 9 of the Act enumerate the types of information which is exempt from disclosure. Sub-section (2) of section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if public interest in disclosure outweighs the harm to the protected interest. Further, sub-section (3) of section 8 provides that information exempt from disclosure under sub-section (1), except as provided in clauses (a), (c) and (i) thereof, would cease to be exempted after 20 years from the date of occurrence of the related incident etc.

10. It may be noted that section 8(3) of the Act does not require the public authority to retain records for indefinite period. The records should be retained as per the retention schedule applicable to the concerned public authority. Information generated in the form of a file may survive in the form of an OM or a letter or in any other form even after destruction of the file/record. The Act requires furnishing of information so available after the lapse of 20 years even if such information was exempt from disclosure under sub-section (1) of Section 8. It means that the information which, in normal course, is exempt from disclosure under sub-section (1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, after lapse of 20 years, to give any citizen-

- (i) information disclosure of which would prejudicially affect the sovereignty, integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence;
- (ii) information the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or

- (iii) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso to clause (i) of sub-section(1) of Section 8 of the Act.

Right to Information Vis-a-Vis other Acts

11. The RTI Act has over-riding effect vis-à-vis other laws inasmuch as the provisions of the RTI Act would have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than the RTI Act.

Rendering Assistance to Applicants

12. The Central Public Information Officer has a duty to render reasonable assistance to the persons seeking information. As per provisions of the Act, a person, who desires to obtain any information is required to make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is made. If a person seeking information is not able to make such request in writing, the Central Public Information Officer should render reasonable assistance to him to reduce the same in writing.

13. Where access to a record is required to be provided to a sensorily disabled person, the Central Public Information Officer should provide assistance to such person to enable him to access the information. He should also provide such assistance to the person as may be appropriate for the inspection of records where such inspection is involved.

Assistance Available to CPIO

14. The Central Public Information Officer may seek the assistance of any other officer as he or she considers necessary for the proper discharge of his or her duties. The officer, whose assistance is so sought by the CPIO, would render all assistance to him. Such an officer shall be deemed to be a Central Public Information Officer and would be liable for contravention of any provisions of the Act the same way as any other Central Public Information Officer. It would be advisable for the CPIO to inform the officer whose assistance is sought, about the above provision, at the time of seeking his assistance.

Suo Motu Disclosure

15. The Act makes it obligatory for every public authority to make *suo-motu* disclosure in respect of the particulars of its organization, functions, duties and other matters, as provided in section 4 of the Act. The information so published, according to sub-section (4) of section 4, should be easily accessible with the CPIO in electronic format. The CPIO should, therefore, make concerned efforts to ensure that the requirements of the Section 4 are met and maximum information in respect of the public authority is made available on the internet. It would help him in two ways. First, the number of applications under the Act would be reduced and secondly, it would facilitate his work of providing information inasmuch as most of the information would be available to him at one place.

Fee for Seeking Information

16. An applicant, along with his application, is required to send a demand draft or a banker's cheque or an Indian Postal Order of Rs.10/- (Rupees ten), payable to the Accounts Officer of the public authority as fee prescribed for seeking information. He can also make payment of fee by way of cash to the Accounts Officer of the public authority or to the Central Assistant Public Information Officer against proper receipt.

17. Additional fee has been prescribed by the Right to Information (Regulation of Fee and Cost) Rules, 2005 for supply of information as given below:

- (a) rupees two (Rs. 2/-) for each page (in A-4 or A-3 size paper) created or copied;
- (b) actual charge or cost price of a copy in larger size paper;
- (c) actual cost or price for samples or models;
- (d) for inspection of records, no fee for the first hour; and a fee of rupees five (Rs.5/-) for each subsequent hour (or fraction thereof);
- (e) for information provided in diskette or floppy rupees fifty (Rs.50/-) per diskette or floppy; and
- (f) for information provided in printed form at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication.

18. If the applicant belongs to below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim to belong to the below poverty line. The application not accompanied by the prescribed fee of Rs.10/- or proof of the applicant's belonging to below poverty line, as the case may be, shall not be a valid application under the Act and, therefore, does not entitle the applicant to get information.

its and Format of Application

An applicant making request for information is not required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him. Also, the Act or the Rules do not prescribe any format of application for requesting information. Therefore, the applicant should not be asked to give justification for requesting information or to give details of his job etc. or to submit application in any particular

Applications

Soon after receiving the application, the CPIO should check whether the applicant has made the payment of application fee of Rs. 10 or whether the applicant is a person belonging to a Below Poverty Line (BPL) family. If application is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as a valid application under the Act and may be ignored.

Transfer of Application

If the application is accompanied by the prescribed fee or the Below Poverty Line Certificate, the CPIO should check whether the subject matter of the application or a part thereof concerns some other public authority. If the subject matter of the application concerns any other public authority, it should be transferred to that public authority. If only a part of the application concerns the other public authority, a copy of the application may be sent to that public authority, clearly specifying the part which relates to that public authority. On transferring the application or sending a copy thereof, the concerned public authority should be informed that the application fee has been received. The applicant should also be informed about the transfer of his application and the particulars of the public authority to whom the application or a copy thereof has been sent.

The transfer of application or part thereof, as the case may be, should be made as soon as possible and in any case within five days from the date of receipt of the application. If a CPIO transfers an application after five days from the receipt of the application, he would be liable for delay in disposing of the application to the extent of number of days which he has spent in transferring the application beyond 5 days.

The CPIO of the public authority to whom the application is transferred, should not refuse acceptance of transfer of the application on the ground that it was not transferred to him within 5 days.

24. A public authority may designate as many CPIOs for it, as it may deem necessary. It is possible that in a public authority with more than one CPIO, an application is received by one CPIO other than the concerned CPIO. In such a case, the CPIO receiving the application should transfer it to the concerned CPIO immediately, preferably within the time period of five days for transfer of the application applies only when the application is transferred from one public authority to another public authority and not for transfer of an application from one CPIO to another in the same public authority.

Supply of Information

25. The answering CPIO should check whether the information sought or a part of the information is exempt from disclosure under section 8 or Section 9 of the Act. Request in respect of part of the application which is so exempt may be rejected and rest of the information should be provided immediately or after receipt of additional fees, as the case may be.

26. Where a request for information is rejected, the Central Public Information Officer should communicate to the person making the request—

- (i) the reasons for such rejection;
- (ii) the period within which an appeal against such rejection may be preferred;
- (iii) the particulars of the authority to whom an appeal can be made.

27. If additional fee is required to be paid by the applicant as provided in the Information (Regulation of Fee and Cost) Rules, 2005, the Central Public Information Officer should inform the applicant:

- (i) the details of further fees required to be paid;
- (ii) the calculations made to arrive at the amount of fees asked for;
- (iii) the fact that the applicant has a right to make appeal about the amount of fees demanded;
- (iv) the particulars of the authority to whom such an appeal can be made; and
- (v) the time limit within which the appeal can be made.

Supply of Part Information by Severance

28. Where a request is received for access to information which is exempt from disclosure but a part of which is not exempt and such part can be severed in such a way that the severed part does not contain exempt information then, access to that part of the information/record may be provided to the applicant. Where access is granted to a part of the record in such a way, the Central Public Information Officer should inform the applicant that the information asked for is exempt from disclosure and that only part of the record is being provided.

being provided, after severance, which is not exempt from disclosure. While doing so, he should give the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based. The CPIO should take the approval of appropriate authority before supply of information in such a case and should inform the name and designation of the person giving the decision to the applicant also.

Time Period for Supply of Information

9. The CPIO should supply the information within thirty days of the receipt of the request. Where the information sought for concerns the life or liberty of a person, the same should be provided within forty-eight hours of the receipt of the request.

10. Every public authority is required to designate an officer at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer (CAPIO) to receive the applications or appeals under the Act for forwarding the same to the Central Public Information Officer or the first Appellate Authority or the Central Information Commission. If request for information is received through the CAPIO, the information may be provided within 35 days of receipt of application by the CAPIO in normal course and 48 hours plus 5 days in case the information sought concerns the life or liberty of a person.

In case of an application transferred from one public authority to another public authority, as referred to in para 21, reply should be provided by the concerned public authority within 30 days of the receipt of the application by that public authority in normal course and within 48 hours in case the information sought concerns the life or liberty of a person.

The Central Public Information Officers of the intelligence and security organisations specified in the Second Schedule of the Act may receive applications seeking information relating to allegations of corruption and human rights violations. Information in respect of allegations of violation of human rights, which is provided only after the approval of the Central Information Commission, should be provided within forty-five days from the date of receipt of request. Time limit prescribed for supplying information in regard to allegations of corruption is the same as in other cases.

Where the applicant is asked to pay additional fee, the period intervening between dispatch of the intimation about payment of fee and the payment of fee by the applicant shall be excluded for the purpose of calculating the period of reply. The following table

shows the maximum time which may be taken to dispose off the applications in situations:

Sr. No.	Situation	Time limit for disposing applications
1.	Supply of information in normal course.	30 days
2.	Supply of information if it concerns the life or liberty of a person	48 hours
3.	Supply of information if the application is received through CPIO.	05 days shall be added to the time period indicated in Sr. No. 1 and 2.
4.	Supply of information if application/request is received after transfer from another public authority: (a) In normal course (b) In case the information concerns the life or liberty of a person.	(a) Within 30 days of receipt of the application by the concerned public authority. (b) Within 48 hours of receipt of the application by the concerned public authority.
5.	Supply of information by organizations specified in the Second Schedule: (a) If information relates to allegations of violation of human rights. (b) In case information relates to allegations of corruption.	(a) 45 days from the receipt of application. (b) Within 30 days of receipt of application.
6.	Supply of information if it relates to third party and the third party has treated it as confidential.	Should be provided following the procedure given in para 37 to 40 of these guidelines.
7.	Supply of information where the applicant is asked to pay additional fee.	The period intervening between informing applicant about additional fee and the payment of fee by the applicant shall be excluded for calculating period of reply.

34. If the CPIO fails to give decision on the request for information within the period, the Central Public Information Officer shall be deemed to have refused to provide information. It is pertinent to note that if a public authority fails to comply with the specified time limit, the information to the concerned applicant would have to be provided free of charge.

Third Party Information

5. Third party in relation to the Act means a person other than the citizen who has made request for information. Any public authority other than the public authority to whom the request has been made shall also be included in the definition of third party.

It may be noted that information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, is exempt from disclosure. Section 8(1)(d) requires that such information should not be disclosed unless the competent authority is satisfied that larger public interest warrants disclosure of such information.

If an applicant seeks any information which relates to or has been supplied by a third party and that third party has treated that information as confidential, the Central Public Information Officer should consider whether the information should be disclosed or not. The guiding principle in such cases should be that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party. However, procedure as given below should be followed before disclosing such information. It may be noted that this procedure need be followed only when the third party has treated information as confidential.

If the CPIO intends to disclose the information, he should within five days from the receipt of the application, give a written notice to the third party that the information has been sought by the applicant under the RTI Act and that he intends to disclose the information. He should request the third party to make a submission in writing or orally, regarding whether the information should be disclosed. The third party should be given a period of ten days, from the date of receipt of the notice by him, to make representation against the proposed disclosure, if any.

The Central Public Information Officer should make a decision regarding disclosure of the information keeping in view the submission of the third party. Such a decision should be taken within forty days from the receipt of the request for information. After taking the decision, the CPIO should give a notice of his decision to the third party in writing. The notice given to the third party should include a statement that the third party is entitled to prefer an appeal under section 19 against the decision.

The third party can prefer an appeal to the First Appellate Authority against the decision made by the Central Public Information Officer within thirty days from the date of

so that it may be supplied to their administrative Ministry/Department soon after the year, which in turn may supply to the Commission.
