

**A Step by Step Guide
For
State Public Information Officers**

Duties and Responsibilities of the State 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;
- 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 State 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 SAPIOS.

Please remember –

- citizens have the right to send information requests to the SAPIO. The SAPIO is duty bound to forward such applications to the PIO of the public authority that controls the information requested.

? 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 to 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 PIO directory published by the State Government may be used for this purpose.

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

- You should transfer the application to the PIO 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 Government. If the applicant does not submit proof of payment of prescribed fees (by bank draft, postal order, court fee stamp or any other mode of payment prescribed by the Government) 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 a receipt in the prescribed format for every complete application.

? 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 –
 - o the reason/s for rejecting the request;
 - o the period within which the applicant may appeal against the rejection;
 - o 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 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.
- furthermore, if the public interest in disclosing exempt information weighs more than the harm to the protected interests then such 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 PIO. You will have to prove before the appellate authority that your rejection order was based on reasons valid under this law. If the Information Commission finds your justification unreasonable you are liable to fine and also disciplinary action. So please be very cautious while rejecting an information request.

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;
- 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 (see below). This does not apply to cases involving the life and liberty of a person. Such information must be given within 48 hours because of the sense of urgency involved.

? 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 Government. 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 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 Government will prescribe the rates at which you may calculate the additional fees towards cost of providing information. The law requires that such fees be reasonable;

- you have a duty to inform the applicant in writing the details of how the additional fee were 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 DAA and/or the SIC a review of the additional fees charged by you as cost of providing the requested information. You are required to inform the applicant in writing – the particulars of the appellate authority, the time limit and the process of appeal and any other forms that may be prescribed in this context.

? 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. Ordinarily, in such cases you are required to provide information in the format sought by the applicant unless such extraction or compilation –
 - o will require spending disproportionately large amount of time, money or human power resources or
 - o will adversely affect the safety or preservation of the relevant record/s.

? 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 -
 - o 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;
 - o name and designation of the person giving the decision for granting partial access;
 - o details of fees calculated by him/her and the amount of fee the applicant is required to deposit;
 - o 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
 - o 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;
- You are required to serve a notice to the concerned third party if the information requested by the applicant was given to your public authority and treated as confidential by that third party;
- this notice should be served on the third party within 5 days of receiving the application. You should also inform the third party through this notice of the particulars of the appellate authority, details of the appeal process and the time limit for filing an appeal if a decision is taken to disclose the information.

- The third party is required to make its representation before the PIO within ten days from the date of receiving such notice.
- If the disclosure of information given by third party is more important in the public interest as compared to the harm or injury it may cause to the interests of the third party you should release it to the applicant. However trade or commercial secrets protected by law are exempt from disclosure.