

Interaction Programme



WELCOME

National Information Commission(NIC)

NEPAL

August 1, 2016

Content of Presentation

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- Part 3: NIC's expectations from DPs



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Part 1 : Legal Provision

Preamble - RTI Act enacted to:

- Make functions of state open, transparent in accordance with democratic norm
- Make it responsible/accountable to citizen.
- Simplify citizens' access to information of public importance held by public bodies.
- Protect sensitive information that could adversely impact nation's and citizen's interest.
- Ensure, through legislation, protection and practice of citizen's right to be well-informed.



What is a Document

- Scripted document, audio/visual material, that can be printed retrieved.



Who are the Public Bodies

- Constitutional/Government agencies, Political parties, (I)NGOs, Private Sector, Organizations directly/indirectly funded by GON, other Governments or International Organizations, or established under Nepalese Law.

Responsibility of Public Body

- To respect/protect /simplify citizen's access to info.
- To classify/update information; make them public.
- To conduct its functions transparently.
- To provide appropriate training/orientation to staff.

What is Information

Any written document, material, information related to functions, proceedings, decisions of public importance made by public body.



What is Right to Information

- The right to ask for/obtain, study, observe information of public importance, proceeding details from public bodies and obtain verified copy of such document.
- Visit or observe construction sites of public importance, obtain verified sample of material.
- Every citizen shall have right to information and access to information held in public.

Restricted Item



Information that:

- Seriously jeopardizes sovereignty, integrity, national security, public peace, stability and Nepal's international relations.
- Directly affects investigation, inquiry and prosecution of a crime.
- Seriously affects protection of economic, trade or monetary interest or intellectual property or banking or trade privacy.
- Directly jeopardizes harmonious relationship among various castes or communities.
- Interferes with individual privacy, security or health.

Proactive disclosure

Public entities to publish every three months (20):

- Structure and nature.
- Functions, duties, and powers .
- Number of employees and working details
- Service to be rendered.
- Branch and responsible officer of the service
- Fee and time limit required for service.
- Decision making process and authority.
- Authority to hear appeal against decision.
- Description of functions performed.
- Name and designation of Chief and Information Officer.
- List of Acts, Rules, By Laws or Guidelines.
- Updated income, expenditure, financial transaction details
- Other particulars as prescribed.



Proactive Disclosure



- Details of program or project run by Public Bod in previous Fiscal Year, if any.
- Details of website of the Public Body, if any.
- Details of receiving foreign assistance, loan, grant and technical support and agreement.
- Progress reports of those programs run by Public Bodies.
- Details of classified information, list and period of restriction.
- Details of information seekers and number of information provided.
- Details of information of the Public Body published or to be published elsewhere.

Provision of Information Officer



- A Public Body shall arrange for Information Officer to disseminate information held in its office; the Chief has to regularly provide information held in the office to the Information Officer.
- Public Body shall set up an Information Section for the purpose of disseminating information as per necessity.

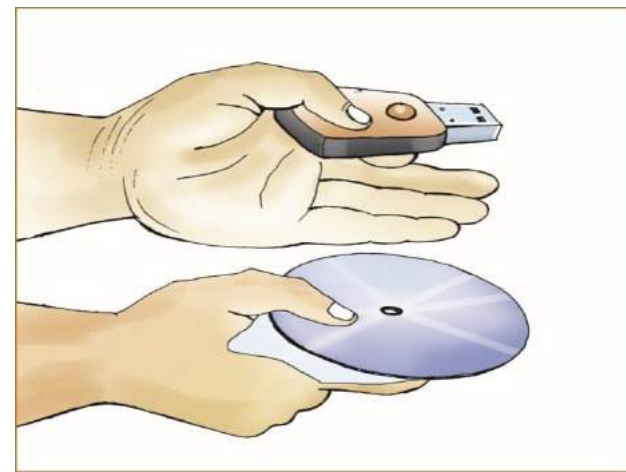
Acquiring Information under RTI Act

- Nepali citizen to submit application to concerned Information Officer
- Information Officer should provide information immediately. If s/he cannot provide it immediately, it has within 15 days but applicant to be notified with valid reason.
- If requested information is related to person's security or life, information officer should provide such information within 24 hours.
- Information to be provided in requested format, if possible.
- Immediate notification on unrelated information.



Fee for Information

- Fee structure based on actual cost of providing information.
- First ten pages free, then per page Rs. 5.
- Rs. 50 for each Diskette and CD.
- First half an hour, to study and observation of information is free. After that per hour per person Rs. 50.
- If the fee is deemed more than the actual price, the concerned person may file a petition before the Commission.



Complaints

- If Information Officer does not provide or denies or partially provides information, provides wrong information or does not provide information by stating that the applicant is not a stakeholder, the concerned person shall make a complaint to the Chief within 7 days from the date of information denied or partially information received.
- While investigating complaint, Chief shall order the Information Officer to provide information as demanded by applicant found that the information was denied or partially provided or wrong information was provided.
- While conducting investigation, if it is found that the Information Officer denied or partially provided information knowingly or with mala fide intention or provided wrong information, the Chief may take departmental action against such Information Officer.



Appeals



- An individual, who is aggrieved by the decision of the Chief, shall appeal before the Commission within 35 days of the notice of decision received.

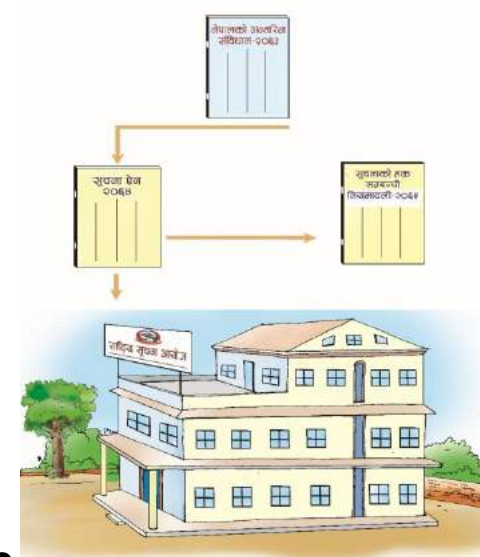
The Commission may:

- Order concerned Chief to provide information, within a given time, to the appellant without fee, if appeal is found reasonable.
- Dismiss the appeal if found unreasonable.
- Timeframe for Commission's final verdict on appeal: 60 days.

Provision for Commission

Three-member independent National Information Commission appointed by Government for protection, promotion and practice of RTI.

- Only Legislative-Parliament can remove them.
- Can accept citizen's appeal and issue the order to provide information.
- Authority to observe any information or document in domain of Public Bodies.
- Authority to punish any public body official who denies information to citizen.
- Special Class Government Secretary designated as administrative chief; Government provides necessary staff from civil service; Budget also provided by Government. May receive necessary financial resources from other sectors with prior permission from Government.





Responsibilities of Commission

- Observe/study records and documents of public importance in Public Bodies.
- Issue order to such Body to list and manage records, documents, other materials pertaining to such information.
- Issue order to the concerned Public Body to make information public.
- Order concerned party to fulfill liability under RTI Act.
- Make necessary suggestions and recommendations to the GON and other bodies related to protection and promotion of right to information.
- Issue other appropriate orders relating to protection, promotion and exercise of RTI.

Classification of Information

Information classification committee

- (a) GON Chief Secretary - Chair
 - (b) Secretary, concerned Ministry – Member
 - (c) Expert, concerned subject (assigned by office Chief or Chairperson)– Member
- A person, who is not satisfied with the classification made by committee may file review petition before the commission to make the information public.
 - The Commission shall, if it finds in the course of review that any information need not be kept confidential, issue an order to make public such information.
 - The information classified may be kept confidential for a maximum period of thirty years.



Protection of Whistleblower

- It shall be a responsibility of an employee of a Public Body to provide information on any ongoing or probable corruption or irregularities or any deed taken as offence under the prevailing laws.
- The whistleblower shall not be terminated from his/her post or punished with any legal responsibility or caused any loss or harm for giving information.
- If any punishment or harm is done to the whistleblower, the whistleblower may complaint, along with demand for compensation, before the commission for revoking such decision.
- While investigating the complaint , the Commission may order to revoke the decision of removal from office if so removed and may grant compensation if any damages caused to the whistleblower.



Information not to be Misused



- A person who obtains information from a Public Body shall not misuse the information by not using it for the same purpose that was considered.
- The concerned Public Body may complain to the Commission against a person who misuses the information.
- The Commission may impose a fine between Five Thousand Rupees to Twenty Five Thousand Rupees considering the seriousness of misuse of information if any person is found misusing the information acquired from public Body instead of using it for purpose it was obtained.

Punishment



- If the Commission finds that Chief of public Body or Information Officer has held back information without valid reason, refused to give information or provided partial or wrong information or destroyed information; the Commission may impose a fine to such Chief or Information Officer from Rupees One Thousand to Twenty Five Thousand Rupees and if such Chief or Information Officer is eligible for departmental action, it may write to the concerned Body for departmental action.
- If the Commission writes to the concerned Body for Departmental action, the Public Body shall take Departmental action against that Chief or Information Officer within three months and notify the same to the Commission.
- If the Chief of a public Body or Information Officer delays provision of information which has to be provided on time without reason, s/he shall be punished with a fine of Two Hundred Rupees per day.
- The Commission may impose a fine up to Ten Thousand Rupees to the concerned person in case its decision or order pursuant this Act is not abided by.

Compensation



- If a person incurs loss and damage due to not providing information, denying to provide information, providing partial or wrong information or destroying of information by the Chief or Information Officer of Public Body, such person may file a petition before the Commission for compensation within three months from the date of not acquiring information, acquiring partial or wrong information or restriction of the information.
- If the application is found reasonable, the Commission may compensate the applicant from the concerned Body with reasonable amount upon considering the actual loses.

Work done in Good Faith



- Notwithstanding anything contained elsewhere in the RTI Act, no case shall be filed and no punishment imposed against the Chief or Information Officer for his/her works relating to the dissemination of information if it was done in good faith.

Part 2: Commission's achievement



- The Commission has issued more than one thousand seven hundred orders in different cases
- We have been able to include RTI chapter in grade nine curriculums.
- All nineteen government training centre have included RTI subject in their training curriculum.
- Public Service Commission and other public bodies have started to provide obtained marks in free competition examination after issuing order from Commission.
- All 75 Chief District Officers have published integrated citizen charter booklet and distributed it up to village development committee level.
- All 75 Local Development Officers have initiated to publicized annual budget and programme regularly in respective district development committee, municipality and village development committee.

Part 2: Commission's achievement



- About three thousand Information Officer have been appointed
- Government offices have started publishing proactive disclosure on regular basis.
- The Commission has issued the orders to all Government Miniseries, Political Parties, Banks and Insurance companies for proactive disclosure, appointment of Information Officers and maintenance of the separate files for RTI cases.
- The Commission is engaged in Open Government Data segment in collaboration with United Nations Department of Public Administration.
- The Commission has recommended to Government of Nepal to join the Open Government Partnership initiatives.
- The Commission is partnering with Government Facility (GF) on Suchana Project for three years, 2016-2018.
- NIC is working with UN Women for protection women's right through RTI.

These are the few highlights of Commission's recent achievement.

Part 3: NIC's expectations from Development Partners



- By observing the RTI legislative provisions, Nepal can compete in the global arena as a full democratic country.
- The RTI global movement has accepted that RTI is oxygen, as well as it is a blood circulation, of the democracy.
- In this context, with full energy, NIC can make suggestion to GON and Development Partner Organizations: if we are working for Good Governance or to establish Rule of Law or control malpractices and Corruption or Empowering Citizen or enhancing Transparency, Accountability, Responsibility, we have to put RTI segment first.
- The Commission has full courage and determination to join hands with GON and Development Partner Organization in this regard.

Part 3: NIC's expectations from DPs



- All Development partner should respect the RTI Legislation and act accordingly.
- In each project/program, DP's should allocate at least 0.25, or 0.50 or 1 percent budget to disseminate information to beneficiary under the title of RTI Budget.
- NIC has carried out RTI Audit in all 31 Ministries with 20 indicators. This is a unique and innovative area in RTI segment.
- NIC has already suggested to GON to deliver incentive package to Information Officers for effective implementation of RTI Legislation.
- Chief Secretary and Secretaries are responsible for classification of information, it is one of the pending issues.

Part 3: NIC's expectations from DPs

- Jointly celebrate Open Data Day (March 5th) and International Right to Know Day (28th September)
- GON has received invitation letter to join the Open Government Partnership (OGP).
- NIC has already initiated online MIS system for seeking and giving information.
- Encourage investigative journalism.
- NIC plans to establish separate portal for proactive disclosure, where we can seek and find all information in one window.
- A Canadian institute named Center for Law and Democracy has initiated the RTI Rating system with 61 indicators. Nepal obtained 104 marks out of 150, standing 23rd in global index.
- Next International conference of Information Commissioners (ICIC) is to be held in Indonesia. Last year it was held at Santiago, Chili.
- NIC is willing to organize South Asian Information Commissioner' conference in Kathmandu.



Part 3: NIC's expectations from DPs

- Support RTI activists.
- Remove the word 'secrecy' from the oath of Civil servants.
- Nominate Commission focal point/person at District/VDC level.
- Identify areas of common interest in Five Year Strategy plan.
- Like the Commission's recent publication on information on facilities available to women on behalf of the Government (with support from UN Women), we could work together on other such issues, like collecting information related to the facilities for Farmers, facilities in Health and Education sectors.
- Prepare RTI related communication outreach strategy, IEC material and training manuals.
- Training on RTI.



These are the indicative areas where we can work together.

Thank you



NIC Welcome for comments & suggestions