

The Right to Information Act, 2005

A Citizen's Guide



Capacity Building for
Access to Information

A GoI-UNDP Initiative

A Citizen's Guide

(The Right to Information Act 2005)

The Right to Information

The Right to Truth



...the indescribable lustre of Truth, a million times more intense than that of the sun we daily see with our eyes.

January 2008

Published by the Centre for Good Governance (CGG),
Road No. 25 Jubilee Hills
Hyderabad 500033 Andhra Pradesh (India) under the Capacity Building for Access
to Information Project. For comments and suggestions, please contact:
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While all efforts have been made to make this Manual as accurate and elaborate as possible, the information given in this book is merely for reference and must not be taken as binding in any way. This Manual is intended to provide guidance to the readers, but cannot be a substitute for the Act and the Rules made thereunder.

www.rti.org.in

1. Why is the Right to Information Act important for me?

We, The People of India, resolved to secure ourselves . . . LIBERTY of thought, expression . . . through the Preamble to our Constitution, 56 years ago.

Article 19(1) guarantees us the right to freedom of speech and expression and as recognized by the Supreme Court this also implies a full right to information. The Right to Information Act, 2005 ("the Act") has established the necessary practical regime of right to information.

Right to information can empower citizens to take charge by participating in decision-making and by challenging corrupt and arbitrary actions at all levels. With access to government records, citizens can evaluate and determine whether the government they have elected is delivering the results that are expected. RTI is thus a tool that can change the role of the citizens from being mere spectators to that of being active participants in the process of governance.

2. What are the salient features of the Act?

- Universal access to information held by the public authorities- all citizens have access to information, pertaining to any period, in any form, in official language
- Right to information includes inspection of records , works and taking certified samples of material
- 'Information' broadly defined-includes: records, e-mails, samples and models
- Applies to all public authorities ,NGOs, private bodies subject to provisions
- Voluntary disclosure of maximum (17 categories of) information on nation-wide network
- Public Information Officers ("PIO") to provide information
- PIO has the duty to assist requesters and transfer the request to proper public authority, if necessary
- No prescribed form
- Reasonable fees; No fees for persons below poverty line
- No need to give reasons for requesting information but PIO should provide reasons for rejection of the request
- Information concerns the life and liberty to be provided within 48 hours
- Information to be provided expeditiously, within 30 days of receipt of request
- Deemed to be refused if no response is given
- Only absolute exemption from disclosure of information
- All other exemptions are subject to public interest test
- Information which cannot be denied to the Parliament or a State Legislature shall not be denied to you
- Allows partial disclosure
- Internal First Appeals against PIO's decisions on fees / form of access / rejection / partial disclosures
- Independent Information Commissions at Central and State levels
- Citizens can directly make complaints and appeals to Information Commissions
- Presumption in favour of disclosure of information--Onus to prove that a denial of request was justified shall be on the PIO
- Overriding effect on other secrecy laws
- Penalties on delinquent PIOs
- A Guide which includes the details of PIOs of all public authorities
- Educational programmes to disadvantaged communities
- Annual reporting by the Information Commissions

3. What are the benefits of the Act?

You can seek information about your applications or complaints regarding ration cards, electricity connections, water connections and so on, pending with the public authorities and force them to redress your grievances quickly without any need of paying bribes.

The Long title of the Act states that this Act promotes transparency and accountability in the working of every public authority.

Preamble states that the Act:

- contains corruption
- holds Governments and their instrumentalities accountable to the governed
- facilitates informed citizenry and transparency of information which are vital to functioning of democracy

Information laws can have a positive impact on different spheres of society: politics, and public administration.

240 years ago, Sweden passed the first freedom of information law in the world, principally sponsored by a Finnish clergyman Anders Chydenius, who had been inspired by the humanist Confucian philosophy and the fact that the Chinese emperors were expected to “admit their own imperfection as a proof for their love of the truth and in fear of ignorance and darkness.”

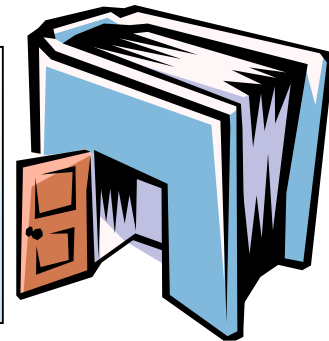
The origins of openness are not in the West, but in the East.³

4. What is the Right to Information?

The Act gives you the right to access:

- information held by a public authority, information under the control of a public authority and includes the right to:

- inspect work, documents, records;
- take notes, extracts or certified copies of documents or records;
- take certified samples of material;
- obtain 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.



5. Whom does the Act apply to?

It extends to the whole of India except the State of Jammu and Kashmir.

The Act gives you the right to access to information held by “public authorities” which includes authorities, bodies, institution of self government which are:

- established or constituted:
 - by the Constitution;
 - by a law of Parliament or a State Legislature;
 - by a notification or order of the State or Central Governments;
- bodies owned, controlled or substantially financed by the State or Central Governments,
- including non-government organisations which receive substantial government funds directly or indirectly.

Thus the Act applies to

- the Executives of the Union, the states and the Union territories;
- Parliament, State Legislatures, Legislatures for the Union territories, Panchayats and Municipalities;
- the Supreme Court, High Courts in the states, Subordinate courts and Tribunals

The Act shall not apply to central intelligence and security agencies specified in the Second Schedule, and other agencies excluded by the State Governments through a Gazette Notification. However, you can seek information in respect of allegations of violations of human rights from the excluded organizations.

They may provide the information within 45 days with the approval of the Information Commission concerned.

6. Are private bodies covered?

Private bodies are not directly covered. But all the information relating to private bodies which can be accessed by a public authority can be accessed by you.

7. Are non-Government organizations covered?

Yes. You can access information from non-Government organizations substantially financed - directly or indirectly by Government funds.

8. What is Information?

The Act defines information as any material in any form including:

- Records
- Documents
- Memos
- E-mails
- 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.

9. What is a Record?

The Act specifies "Records" to include:

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

10. What information is exempted from disclosure by public authorities?

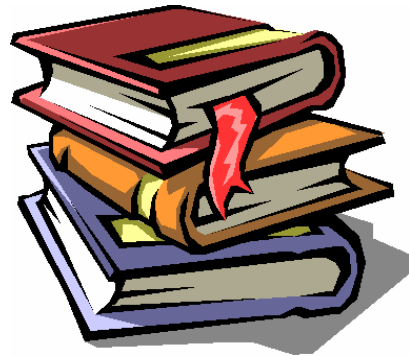
You may not be provided the following information *unless you convince the Public Information Officer that the **public interest** in disclosure outweighs any other interests served by non-disclosure*(partial access may be provided to the part of the record which does not contain information exempted from disclosure):

- 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;
- 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**;
- c. information, the disclosure of which would cause a **breach of privilege** of Parliament or the State Legislature;
- 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;
- 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;
- f. information received in confidence from **foreign Government**;
- 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;
- h. information which would impede the process of **investigation** or apprehension or prosecution of offenders;
- i. **cabinet papers** including records of deliberations of the Council of Ministers, Secretaries and other officers Provided that the decisions of Council of Ministers, the reasons thereof, 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;
- 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 Public Information Officer is satisfied that the larger public interest justifies the disclosure of such information.

11. What information will be proactively disclosed by public authorities?

Every public authority must publish in the **local language** the following information:

- the particulars of its organisation, functions and duties;
- the powers and duties of its officers and employees;
- the procedure followed in the decision making process, including channels of supervision and accountability;
- the norms set by it for the discharge of its functions;
- the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- a statement of the categories of documents that are held by it or under its control;
- the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
- a directory of its officers and employees;
- the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- particulars of recipients of concessions, permits or authorizations granted by it;
- details in respect of the information, available to or held by it, reduced in an electronic form;
- the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
- the names, designations and other particulars of the Public Information Officers;
- such other information as may be prescribed; and thereafter update these publications every year;



Every public authority must also:

- Publish facts behind important policies
- Publish relevant facts before announcing decisions affecting you
- Provide reasons for administrative / quasi-judicial decisions to affected persons.



The publications will be available to you free or at a reasonable price. The information may be made available on the internet / website of the public authority.

12. How can I apply for Information from a Public Authority?

The request for information under the Right to Information Act has to be given to Public Information Officer or Assistant Public Information Officer designated by the Public Authority.



For making a request for information:

- Send your request in English/Hindi/official language of your area or e-mail.
- Specify the particulars of the information.
- You need not give reasons for your request or personal details, except those necessary for contacting you.
- Pay the prescribed fee for application. **If you are a person below poverty line, you need not pay any fee.**
- The Public Information Officer will assist those who need assistance in preparing the application.

- If you know which documents you want, describe them. You might want minutes of particular meetings, a specific report or a set of figures. Alternatively, you may want correspondence between the authority and someone else about a particular issue over a given period.
- Specify the form in which you would like to get the information. For example, photocopies, printouts, email, floppy, CD etc.
- The authority will intimate you in advance about the charges for getting the information in the form you require. The intervening period between the intimation to pay the charges and the date of payment is not counted towards the prescribed time limits.

A sample request letter for guidance is given at the end of the guide.

13. What fees do I have to pay for the information?

The Government of India has prescribed the following fees in respect of information requested from Government of India departments.

To submit your request	Rs. 10-00
To receive information :	
For each page created / copied (in A-4 or A-3 size paper)	Rs. 2-00
If the paper is in larger size	Actual charge / cost price
Diskette / floppy	Rs. 50-00
Samples / Models	Actual charge / cost price
Printed matter	Price fixed / Rs. 2 for page of photocopy
For Inspection of records :	
First hour	Free
Each subsequent hour	Rs. 5-00

Fees may be paid in cash / demand draft / banker's cheque / Indian postal order payable to the Accounts Officer of the public authority. Fees may vary from one state to another. Please check the fees prescribed by your State Government.

October

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

14. How much time does the authority have to reply?

- Within 30 days from the date of receipt of application
- 5 days shall be added to the above response time, in case the application for information is given to Assistant Public Information Officer.
- 48 hours for information concerning the life and liberty of a person
- 40 days where the interests of a third party
- 45 days for information pertaining to allegations of violation of human rights violations from security

and intelligence organizations from the Second Schedule of the Act subject to approval of the Information Commission concerned.

Failure to provide information within the specified period is deemed as refusal.

15. What do I do if my request is rejected or if I do not get the information requested?



First Appeal

You can prefer an appeal to a senior officer in the public authority (Designated Appellate Officer) -

- If you are aggrieved by the decision of the Public Information Officer (within 30 days from the receipt of the decision)
- If you do not receive any response from the Public Information Officer (within 30 days from the expiry of the time limit)

Second Appeal

Independent **Central and State Information Commissions** have been constituted to enforce the Act.

Second Appeal to the Information Commission can be made against the decision of the first appellate officer within 90 days from the date of the receipt of the decision or expected date of the decision where no such decision was given.

Burden of Proof

The Public Information Officer has to prove that rejection of your request is justified.

If you delay in filing an appeal sufficient cause should be shown.

If you have suffered any loss or harm, you can claim compensation from the public authority.

The Information Commission first hears the PIO, so that unless it agrees with the PIO, you need not be bothered with personal presence before the Commission. However, if the Commission sees merit in the PIO's arguments, you will be given an opportunity to present your case in person / through any other person duly authorized by you. You may opt not to be present.

A sample letter of Appeal for guidance is given at the end of the guide.

16. Can I complain to the Information Commission?

You can complain to the Central / State Information Commission:

- If no Public Information Officer is appointed.
- If the APIO or the PIO refuses your request.
- If unreasonable fees are demanded by the PIO.
- If incomplete, misleading or false information is given.

Information Commissions have the power to order a public authority -

- to provide information, records
- to appoint the public information officers
- to publish information
- to reject the request

Decision of the Information Commission is binding. However, the Act does not prescribe time limit for disposal of appeal by the Commission.

17. Can the Public Information Officer be penalized?

The Information Commission can impose penalty of Rs. 250/- per day, up to a maximum of Rs. 25,000/- on erring PIOs for:

Without any reasonable cause:

- refusing an application
- delaying information release without reasonable cause
- malafidely denying information
- knowingly giving incomplete, incorrect, misleading information
- destroying information that has been requested
- obstructing furnishing of information in any manner

The Commission also has powers to recommend disciplinary action against PIOs. It can also direct compensation to be paid to the appellant by the public authority.

18. Have people used the RTI Act to get information?

The following case studies illustrate how citizens have used the Right to Information provisions in different contexts to uncover corruption, foster greater transparency and exact accountability from public servants.

Case Study 1: Using RTI for getting an electricity connection (Delhi)

Ashok Gupta applied to the Delhi Vidyut Board (DVB) for a new electricity connection, in February 2001. Because he refused to pay a bribe, for a year no action was taken on his application. In February 2002, he filed an application under the Delhi RTI Act. In his application, he asked for the following information:

- The daily progress made on his application till date.
- The names and designations of the officials who were supposed to take action on his application and who have not done so.
- As, according to the Indian Electricity Act, a requester should get a new connection within 30 days of application – thus are these officials guilty of violating the Electricity Act?
- As these officials have not provided the connection in time, does the DVB plan to take any action against these officials?
- If yes, in how much time?
- When will he get his connection?

In ordinary circumstances, such an application would have been consigned to the dustbin. However, given that the Delhi RTI Act mandated penalty at the rate of Rs. 50 per day of default, they had to reply to this application. In March 2002, he was granted a new connection.

Source: Right to Information Act, 2005: A Primer, National Campaign for People's Right to Information, 2005.

Case Study 2: PIO pays Rs 8000 for providing misleading information (Maharashtra)

The imposition of Rs. 8000 as penalty on a District Sports Officer for giving incorrect information in Pune came as a wake up call for Public Information Officers (PIOs) in the State of Maharashtra. The Maharashtra Right to Information (MRTI) Act permitted the imposition of a fine of Rs. 250/- per day for unreasonable delay in providing information, and permitted fines 'not exceeding Rs. 2000/- on a PIO who has knowingly given incorrect, misleading, wrong or incomplete information'.

The requester had made four application requests under the MRTI to the PIO at the District Sports Office. By citing an outdated circular, the PIO had misled the requester, claiming that there was no law on the right to request such information. Arguing that the PIO's claim was clearly misleading information, the requester called for a penalty of Rs 2000 to be imposed on the PIO. In his capacity as Appellate Authority, the Deputy Director asked the PIO to explain his actions and then reprimanded him for furnishing misleading information. The

requester was not satisfied with the Deputy Director's response and informed him that as the Appellate Authority, it was imperative that he impose a penalty on the PIO.

Responding favorably, in November 2004, the Deputy Director ordered the PIO to pay a penalty of Rs. 2000 for violating Section 12(2) of the MRTI Act. Yet, the requester was adamant that the PIO be penalized for providing misleading information on all four applications made by him and should be penalized for each act of non-compliance with the law. This argument was soon conceded and the PIO was fined Rs 8000.

Source: Indian Express Pune, PIO Denies Information; Pays Rs 8000 Penalty'
<http://7.cilies.expressindia.com/fullstory.php/newsid=122321>

Case Study 3: Nannu gets his ration card & Triveni gets her PDS entitlements

Nannu is a daily wage earner. He lives in Welcome Mazdoor Colony, a slum habitation in East Delhi. He lost his ration card and applied for a duplicate in January 2004. He made several rounds to the local Food & Civil Supplies Office for the next three months. But the clerks and officials would not even look at him. Ultimately, he filed an application under the Right to Information Act asking for the daily progress made on his application, names of the officials who were supposed to act on his application and what action would be taken against these officials. Within a week of filing application under Right to Information Act, he was visited by an inspector from the Food Department, who informed him that the card had been made and he could collect it from the office. When Nannu went to collect his card next day, he was given a very warm treatment by the Food & Supply Officer (FSO), who is the head of a Circle. The FSO handed over the card to Nannu, offered him tea and requested him to withdraw his application under Right to Information, since his work had already been done.

Source: *Right to Information Act, 2005: A Primer, National Campaign for People's Right to Information, 2005.*

The experience of Triveni is similar to Nannu. Whenever Triveni would go to her ration shopkeeper, he would always say "No stock". She never got her rice entitlements for several months. She was given only 10 litres of kerosene against her entitlement of 14 litres and she would get only 10-15 Kgs of wheat against her entitlement of 25 Kgs. The wheat was given to her at Rs 5 per Kg, whereas the official price is Rs 2 per Kg.

Triveni applied under the RTI Act and asked for official records of rations issued to her and also copies of cash memos purported to have been issued to her. To her utter surprise, she

was told that she had been issued 25 Kgs of wheat @ Rs 2 per Kg, 14 litres of kerosene and 10 Kgs of rice every month for more than a year. The cash memos showed thumb impressions having been made in her name, whereas she always signed her signature. Naturally, the thumb impressions were found to be fake and this showed that the ration dealer had been drawing her ration by forging her thumb impressions for several months. Triveni has since filed complaints to higher authorities, and what's more she has started getting the proper amounts of rations at the right price.

Source: Arvind Kejriwal, April 2003, Parivartan New Delhi. parivartan_india@rediffmail.com

Case Study 4: Ensuring Public Health and Sanitation (New Delhi)

(a) In some areas of Patparganj in Delhi, drinking water was getting contaminated with sewer water resulting in illness of a number of residents. Complaints were made to the Delhi Jal Board (Water Supply Agency) but nothing happened. Subsequently, an application was filed under the Right to Information Act seeking the status of the complaints and the names of the officials responsible for dereliction of duty. The necessary repairs were carried out within two days of filing the application. The Delhi Jal Board even carried out testing of the drinking water at different points in this area and submitted the test reports as part of the reply to the application.

(b) Similarly, a recently replaced water pipeline in the Pandav Nagar area of Delhi started leaking soon after its installation. The residents made several complaints but in vain. Ultimately, the residents filed an application under the Right to Information Act seeking the following details:

- Status of complaints filed earlier and names of officials who should have attended to their complaints and have not done so
- Copy of contract of the pipeline laid
- Copy of completion certificate issued for the said pipeline and copy of the bill
- Names of officials who issued the completion certificate

Within three days of filing this application, the pipeline was repaired.

c) A community garbage house/deposit area was repaired by the Municipal Corporation of Delhi (MCD) in Patparganj in the month of June 2002. The residents noted that only the floor of the garbage house/area was made and no other work was carried out. The residents sought the copy of contract using their right to obtain Government information.

The contract revealed that an iron door was to be installed and the walls were supposed to be plastered. These works were not carried out even though payment for the same had been made to the contractor. Before the residents could take any further steps, they found that the contractor started making the necessary additions to the disposal point. The mere seeking of a copy of the contract had resulted in immediate remedial measures, as the contractor feared punitive action after contract details became public.

- d) The operator of a public toilet was charging one rupee per use from all residents of the slum cluster of Jagdamba Camp in Delhi. However, when a copy of contract was obtained from the MCD using the right to information, people came to know that the operator was supposed to allow free usage for children below the age of 12 years as well as handicapped persons. This information was used for the benefit of these two categories of persons.

Case Study 5: Rickshawpuller benefits from RTI

It has been a year since the Right to Information Act became law and people are starting to see its positive impact in their lives. Mazloom Nadaf, a 70-year old rickshaw puller in Bihar has built his own house after exercising his right to know. But he spent a long time to get his home under the Indira Awas Yojana - the country's national housing scheme. Five years after he applied, authorities demanded Rs 5000 to process his application. But he refused to give in and instead fought back with the help of the Right To Information Act in his success story.

Nadaf approached the legal aid centre of an NGO working in Madhubani district and sought their assistance in drafting and filing a RTI application. In his application Mazloom asked for the daily progress report made on his application to avail of the Indira Awas Yojana. He filed his application with the Circle Officer for his block who forwarded the same to the block development officer (BDO). The BDO on receiving the RTI application sent for Mazloom and treated him like a VIP and with a lot of respect handed him a cheque of Rs. 15,000 (first instalment payment) under the Indira Awas Yojna. Mazloom's house is now under construction. He has also been assured by the BDO that all his other requests will also be taken care of.

NDTV Correspondent
Sunday, July 2, 2006 (Jhanjharpur, Bihar):

Case Study 6: Five women receive their pension while attempting to file an RTI application (Rajasthan)

Ramkaran from Tilonia took 5 women to submit a right to information application on the issue of old age and widow pension to the SDM's office. The SDM immediately called the concerned officer from the pension department. He told the officer that for the last 4 months these women have not received their pension, and the files should be brought to his table immediately. Before accepting the application he began questioning the officer on the issue.

The officer informed that these women had not filed their birth certificates and that was delaying the release of their pension. The SDM instructed the officer to release their pensions and take their birth dates from Ramkaran and the Patwari (government officer who oversees the matter related to land) of the village. So without filing an application the four women were given their four month pension immediately even though the office had closed down and they would have had to wait for the next day under normal circumstances.

Submitted by Manish Sisodia
www.righttoinformation.org

A Model Letter of Application / Request

Date:.....

To,
The Public Information Officer
(Name of the Public Authority)
(Address of the Public Authority)

Sir / Madam:

Sub: Request for Information under the Right to Information Act, 2005

[if applicable] Kindly, provide me the following information:..... (Mention the information you want as specifically and clearly as possible and the period of time to which the information pertains)

- ...
- ...

[if applicable] I request for receipt of the information in the following format(s) – true copy / print out / diskette / floppy / tape / video cassettes / certified copies of documents or records – in person / by post / by e-Mail.

[if applicable] I would like to inspect the following works / documents / records / take notes / extracts..... (Mention clearly and specifically what is wanted for inspection). Kindly inform me the date and time for my visit.

[if applicable] Kindly, provide me certified samples of material (Mention specifically and clearly the material). I request for receipt of the certified samples (Describe)

The details of fees paid by me are as follows (Specify)..... /I belong to the 'Below Poverty Line Category' [if applicable, attach a photocopy of the proof] and I am not required to pay any fees.

Sincerely,
(Applicant's signature/Thumb Impression)

Applicant's Name:
Applicant's Address:
Applicant's Phone Number/e-Mail Address (optional):
Place:
Date:

A Model Letter of Appeal

Date:.....

To,
The Appellate Officer
(Name of the Public Authority)
(Address of the Public Authority)

An appeal under Section 19 of the Right to Information Act, 2005

Ref: [PIO/Appellate Officers' Decision Reference No. & Date, received on
..... (Date) / Date of Deemed Refusal]

Dear Sir / Madam:

[Please describe the details about Appeal and Grounds why Appeal is preferred:

Date & Description of the Application:

Name and Address of the PIO:

Details of Decision of the PIO:

Grounds of Appeal:

Decision Requested:

Sincerely,

(Appellant's signature)

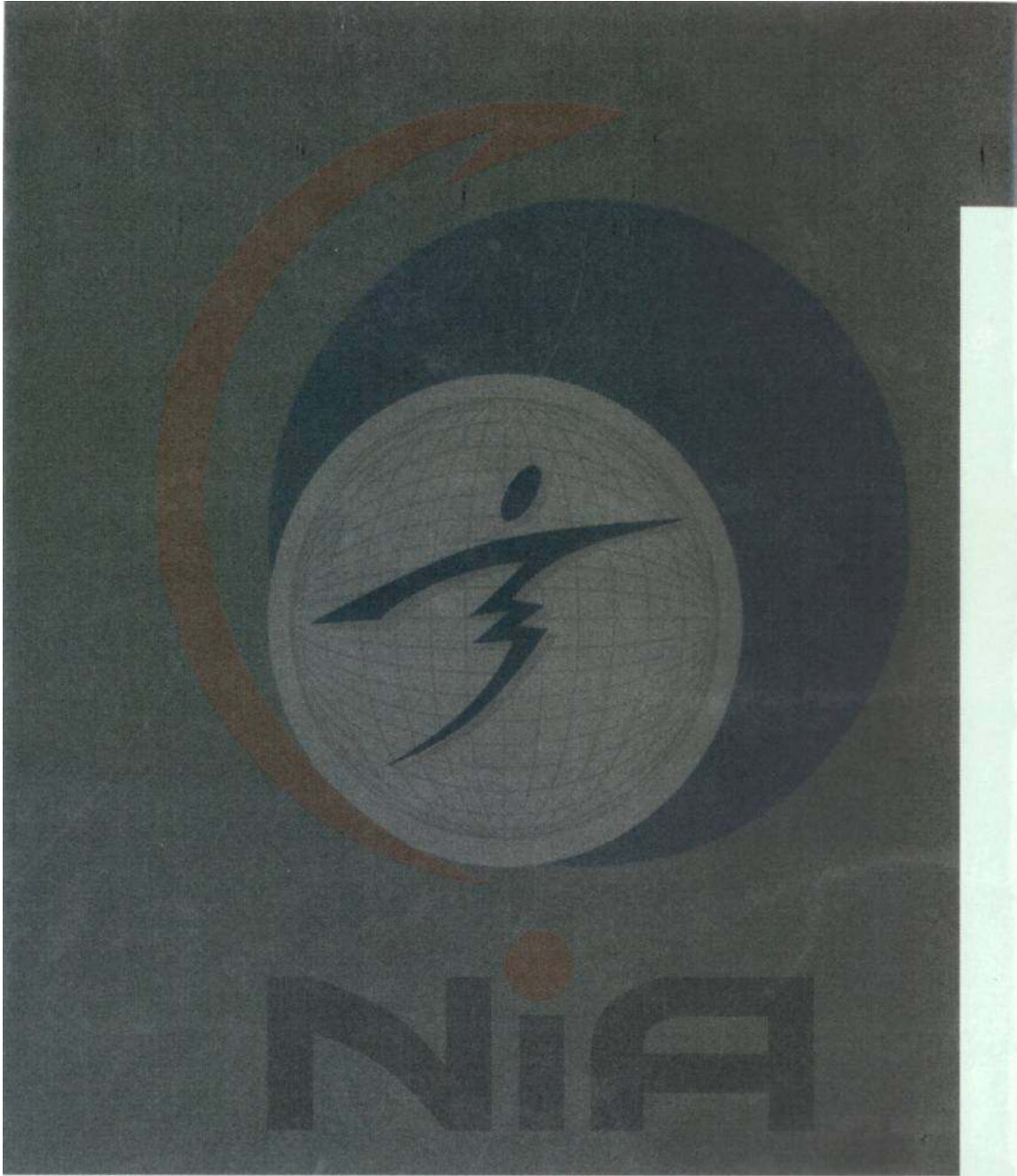
Appellant's Name:

Appellant's Address:

Appellant's Phone Number / e-Mail Address (optional):

Place:

Date:



Project Partners:

