

**CCS Series
on
NURM Reforms
No. 6**

February 2007

**PUBLIC DISCLOSURE LAW:
*MODEL MUNICIPALITY
DISCLOSURE BILL***

**Centre for Civil
Society**

www.ccs.in

Centre for Civil Society : Publications on Governance

- *CCS Series on Reforms under National Urban Renewal Mission*
No.1: Implementation of the 74th Amendment: Pending Reforms
No.2: Community Participation Law: Nagara Raj Bill
No.3: Rent Control Laws: Balancing the Interests of Landlords and Tenants
No.4: User Charges Reforms: A Case Study of Water Pricing
No.5: Urban Land Ceiling Act: Appeal to Repeal
No.6: Public Disclosure Law: Model Municipality Disclosure Bill
No.7: Administrative Reforms: Rightsizing the Government
No.8: Public Private Partnership: That government is Best which Governs Least
No.9: Municipal Accounting System: Getting the Numbers Right

- *Handbook on New Public Governance - Edited by Parth J Shah and Makarand Bakore*
- *Law, Liberty and Livelihood: Making A Living on the Street*
- *State of Governance: Jharkhand Citizen Handbook 2005*
- *State of Governance: Jharkhand Citizen Handbook 2006*
- *State of Governance: Delhi Citizen Handbook 2006*
- *Voluntary City – Edited by David T Bieto, Peter Gordon and Alexander Tabarrok*
- *Ward Power: Decentralised Urban Governance – Edited by Parth J Shah and Makarand Bakore*

Published by Parth J Shah on behalf of Centre for Civil Society

K-36, Hauz Khas Enclave, New Delhi 110 016

Phone: 011-26537456 / 26521882 Fax: 26512347

Email: nurm@ccs.in Web: www.ccs.in

February 2007

Right to reprint and use is granted with acknowledgement of the Centre for Civil Society.

Public Disclosure Law

Model Municipality Disclosure Bill

Makarand Bakore¹

JNNURM Reform: *Enactment of Public Disclosure Law to ensure preparation of medium term fiscal plan of ULBs/Parastatals and release of quarterly performance information to all stakeholders.*

A public disclosure law will make it statutory on the municipalities to publish information periodically *suo moto* i.e. on its own. The idea is that the citizens will not have to file requests under the Right to Information (RTI) Act to obtain basic information. This may include financial statements, project details and other such information which may be of common interest to the citizens.

RIGHT TO INFORMATION ACT AND THE PUBLIC DISCLOSURE LAW

To reduce the workload of public officials increased due to additional responsibility of responding to RTI requests, the public disclosure law will require that information be published voluntarily by public authorities. This will significantly reduce the number of routine RTI requests. The Public Disclosure Law will complement the RTI Act. The Disclosure Law will provide for commonly requested information on a regular basis and the RTI Act may be used for more specific information.

SINCE RTI ACT INCLUDES A SECTION ON PROACTIVE DISCLOSURE WHY DO WE NEED ANOTHER LAW?

Sub-sections 4(1) (b), (c) and (d) of the RTI Act provide for *suo moto* disclosure of information by the government. Appendix I reproduces these sections in full. Sub-section 4(1)(b) contains a list of 17 items. Every department differs in its nature of work and thereby in the very nature of the information pertaining to it. Having a general guideline for all departments may leave too much to interpretation. The culture of accountability is gradually evolving in the government. To assist the officials in their endeavour it may be helpful to specify the items for proactive disclosure in detail for each department. The Disclosure Law for municipalities and parastatal bodies will provide a clear

¹ Research Associate, Centre for Civil Society, New Delhi. I would like to thank Prof. Munmun Jha, Asst. Prof. of Sociology, IIT Kanpur for his guidance. My thanks to my colleague, Mr. Ali Mehdi, for reviewing this document

guideline to the urban local bodies on the disclosure norms and will prevent inconsistencies and conflicts. It is important to note that the Disclosure Bill does not override the provisions on proactive disclosure in the RTI Act.

MODEL MUNICIPALITY DISCLOSURE BILL

The Model Municipality Disclosure Bill has been prepared by the central government to assist state governments in enacting a Disclosure Law for urban local bodies as a part of the reforms taken up under JNNURM. The Bill is only a guideline and the states are free to draft their own Bills. The copy of the Model Bill is attached as Appendix II.

PROACTIVE DISCLOSURE LAWS IN OTHER COUNTRIES

Proactive disclosure norms are well established in many countries.

United States

Right to Information came into force in the US in 1966 through the Freedom of Information Act. Provision for proactive disclosure there in are² –

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public-

- (A) **descriptions of its central and field organization** and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;
- (B) statements of the general course and **method by which its functions are channeled and determined**, including the nature and requirements of all formal and informal procedures available;
- (C) **rules of procedure, descriptions of forms available** or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

² The Freedom of Information Act is codified at 5 United States Code, Section 552

(D) **substantive rules of general applicability adopted as authorized by law**, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) **each amendment, revision, or repeal** of the foregoing.

(2) Each agency, in accordance with published rules, shall **make available for public inspection and copying-**

(A) **final opinions**, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those **statements of policy and interpretations** which have been adopted by the agency and are not published in the Federal Register; and

(C) **administrative staff manuals** and instructions to staff that affect a member of the public;

(D) **copies of all records**, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(E) a **general index of the records** referred to under subparagraph (D);

United Kingdom

Freedom of Information Act 2000 came into effect in the UK from 1st January 2005. Section 19 of the Act pertains to proactive disclosure. Every public authority has to publish information as per a '**publication scheme**' adopted by the public authority. Every scheme must specify the classes of information and the manner of publishing.

Additionally, all public authorities publish information furnished through the Freedom of Information Act as '**disclosure logs**'. This avoids duplication of information requests as information provided in one request is available for all others too. This is not mandated by the Act at present but many departments have included it in their publication scheme. The Department of Constitutional Affairs has brought out publications to assist public authorities in creating disclosure logs.

Australia

As per Section 8(1) of the Freedom of Information Act 1982, each public authority has to proactively disclose information regarding particulars of organization, functions of agencies, decision-making powers and procedures. Records have to be maintained of the documents held by the public authority, and procedures to access information have to be disclosed.

Canada

Section 5(1) of the Access to Information Act deals with proactive disclosure:

- (a) a **description of the organization** and responsibilities of each government institution, including details on the programs and functions of each division or branch of each government institution;
- (b) a **description of all classes of records** under the control of each government institution in sufficient detail to facilitate the exercise of the right of access under this Act;
- (c) a description of all manuals used by employees of each government institution in administering or carrying out any of the programs or activities of the government institution; and
- (d) the title and address of the appropriate officer for each government institution to whom requests for access to records under this Act should be sent.

PROACTIVE DISCLOSURE IN INDIA: PROOF- PUBLIC RECORD OF OPERATIONS AND FINANCE

PROOF is an initiative of PAC, VOICES, CBPS and Janaagraha, whose efforts have borne fruit towards bringing proactive disclosure in the municipal corporation of Bangalore. PROOF mandates publishing of the following information on a quarterly basis:

1. Financial statements (revenue and expenditure statements, balance sheet)
2. Performance indicators
3. Management discussion and analysis (areas of focus, concerns and priorities)

COMMENTS ON THE MODEL MUNICIPALITY DISCLOSURE BILL
(Please see Appendix II for the Bill)

Comparison of provisions on proactive disclosure in the RTI Act and the Model Municipality Disclosure Bill

Right to Information Act 2005		Model Municipality Disclosure Bill	
Section	Provision	Section	Provision
4(1)(b)(i)	the particulars of its organisation, functions and duties	Appendix Part A: (1)	Particulars of the municipality The particulars of officers who grant
4(1)(b)(ii)	the powers and duties of its officers and employees;	Appendix Part A: (4)	concession, permits or authorization for each activity
4(1)(b)(iii)	the procedure followed in the decision making process, including channels of supervision and accountability;		
4(1)(b)(iv)	the norms set by it for the discharge of its functions	Appendix Part B: (2)	The service levels being provided for each of the services being undertaken by the municipality
4(1)(b)(v)	the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions	Appendix Part B: (5)	Particulars of the Master plan, City Development Plan or any other plan concerning the development of the municipal area
		Appendix Part B: (6)	The particulars of major works as may be defined in the Rules to be made under this Act, together with information on the value of works, time of completion, and details of contract

Right to Information Act 2005		Model Municipality Disclosure Bill	
Section	Provision	Section	Provision
4(1)(b)(vi)	a statement of the categories of documents that are held by it or under its control		
4(1)(b)(vii)	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		
4(1)(b)(viii)	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	Appendix Part A: (2)	A statement of the boards, councils, committees and other bodies consisting of two or more person constituted as its part or 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
4(1)(b)(ix)	a directory of its officers and employees	Appendix Part A: (3)	A directory of its officers and employees
4(1)(b)(x)	the monthly remuneration received by each of its officers and employees,		

Right to Information Act 2005		Model Municipality Disclosure Bill	
Section	Provision	Section	Provision
4(1)(b)(xi)	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	Appendix Part B: (3)	Particulars of all plans, proposed expenditures, actual expenditures on major services provided or activities performed and reports on disbursements made
		Appendix Part B: (7)	The details of the municipal funds i.e. income generated in the previous year by the following: (a) Taxes, duties, cess and surcharge, rent from the properties, fees from licenses and permission; (b) Taxes, duties cess and surcharge, rent from the properties, fees from licenses and permission that remain uncollected and the reasons thereof; (c) Share of taxes levied by the state government and transferred to municipality and the grants released to the municipality; (d) Grants released by the State Government for implementation of the schemes, projects and plans assigned or entrusted to the municipality the nature

Right to Information Act 2005		Model Municipality Disclosure Bill	
Section	Provision	Section	Provision
			and extent of utilisation; (e) Money raised through donation or contribution from public or non governmental agencies;
		Appendix Part B: (8)	Annual budget allocated to each ward
		Appendix Part B: (1)	Audited financial statements of Balance Sheet, Receipts and Expenditures, and Cash Flow on a quarterly basis, within two months of end of each quarter; and statutorily audited financial statements for the full financial year, within three months of the end of the financial year;
4(1)(b)(xii)	the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes	Appendix Part B: (4)	Details of subsidy programmes on major services provided or activities performed by the municipality, and manner and criteria of identification of beneficiaries for such programmes
4(1)(b)(xiii)	particulars of recipients of concessions, permits or authorisations granted by it		
	details in respect of the information, available to or held by it, reduced in an electronic form		

Right to Information Act 2005		Model Municipality Disclosure Bill	
Section	Provision	Section	Provision
4(1)(b)(xiv)	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		
4(1)(b)(xvi)	the names, designations and other particulars of the Public Information Officers		
4(1)(b)(xvii)	such other information as may be prescribed; and thereafter update these publications every year		Such other information as may be prescribed by the State Government under Part-A or Part-B
4(1)(c)	publish all relevant facts while formulating important policies or announcing the decisions which affect public		
4(1)(d)	provide reasons for its administrative or quasi-judicial decisions to affected persons		

Many provisions in the Model Municipality Disclosure Bill are similar to the proactive disclosure clauses of the RTI Act. The Disclosure Bill provides a broad guideline on publishing information related to municipal services, city plans, municipal contracts and financial reporting. On some counts, the proactive disclosure provisions in the RTI Act go beyond the Municipality Disclosure Bill.

RECOMMENDED ADDITIONS TO THE MODEL MUNICIPALITY DISCLOSURE BILL

The following items will bring more teeth to the Model Municipality Disclosure Bill:

1. List of NGOs and institutions funded by municipality, the funds disbursed and projects taken up by them.
2. List of notified and unauthorized slums in the city, details of proposals for urban poverty alleviation and disbursements including relocation of slums and urban amenities provided there.
3. Funds disbursed to each government school, drop-out rate and teacher attendance records.
4. Zone layout plans. Details of consultation processes with stakeholders. If stakeholders were not consulted, reasons thereof.
5. Details of any consultancy contracts awarded to external agencies including:
 - a. Name and contact details of the consultant
 - b. Objectives of the study
 - c. Copy of the final report
 - d. Fees paid
6. Details of disaster management plans, funds allocated and measures taken in that year, if any.
7. Details of all wards of the municipal corporation, including:
 - a. Maps
 - b. Population
 - c. Revenues by ward
 - d. Expenditure by ward
 - e. Voter's list in the ward
8. Details of travel and hospitality expenses of elected representatives and municipals officials.

APPENDIX I

***Suo moto* disclosure provisions in Right to Information Act 2005 (No. 22 of 2005)**

- 4 (1) Every public authority shall—
- (b) publish within one hundred and twenty days from the enactment of this Act,—
 - (i) the particulars of its organisation, functions and duties;
 - (ii) the powers and duties of its officers and employees;
 - (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
 - (iv) the norms set by it for the discharge of its functions;
 - (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
 - (vi) a statement of the categories of documents that are held by it or under its control;
 - (vii) 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;
 - (viii) 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;
 - (ix) a directory of its officers and employees;
 - (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
 - (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

- (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
 - (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
 - (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
 - (xv) 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;
 - (xvi) the names, designations and other particulars of the Public Information Officers;
 - (xvii) such other information as may be prescribed; and thereafter update these publications every year;
- c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
- d) provide reasons for its administrative or quasi-judicial decisions to affected persons.

Appendix II

Model Municipality Disclosure Bill,....

An Act to provide for transparency and accountability in the functioning of municipalities

Be it enacted by the Legislature of the State of _____ in theyear of Republic of the Indian as follows:

**Short title,
extent and
commencement**

1. 1) This Act may be called the Municipality Disclosure Act of _____.
- 2) It extends to such municipalities as may be notified by the State Government from time to time;
- 3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

Definition

2. In this Act unless there is anything repugnant in the subject or context:
 - 1) **Assets** means all immovable assets vest in the municipality;
 - 2) **Municipality** means an institution of self-government constituted under Article 243-Q of the Constitution of India;

**Obligation of
Municipality**

3. Every municipality shall maintain and publish all its records duly catalogued and indexed, in a manner and form which enables the municipality under this Act to disclose the required information as specified in Part-A and Part-B of Appendix to this Act at quarterly intervals;

**Manner of
Disclosure**

4. Manner of Disclosure shall include:-
 - (a) Newspaper in regional, Hindi and English language;
 - (b) Internet;
 - (c) Notice boards of the municipality;
 - (d) Ward Offices;

- (e) Any other mode, as may be prescribed, by the State government under this Act, rules or notification issued from time to time

APPENDIX

Part A

1. Particulars of the municipality;
2. A statement of the boards, councils , committees and other bodies consisting of two or more person constituted as its part or 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;
3. A directory of its officers and employees;
4. The particulars of officers who grant concession, permits or authorization for each activity;

Part B

1. Audited financial statements of Balance Sheet, Receipts and Expenditures, and Cash Flow on a quarterly basis, within two months of end of each quarter; and statutorily audited financial statements for the full financial year, within three months of the end of the financial year;
2. The service levels being provided for each of the services being undertaken by the municipality;
3. Particulars of all plans, proposed expenditures, actual expenditures on major services provided or activities performed and reports on disbursements made;
4. Details of subsidy programmes on major services provided or activities performed by the municipality, and manner and criteria of identification of beneficiaries for such programmes;

5. Particulars of the Master plan, City Development Plan or any other plan concerning the development of the municipal area;
6. The particulars of major works as may be defined in the Rules to be made under this Act, together with information on the value of works, time of completion, and details of contract;
7. The details of the municipal funds i.e., income generated in the previous year by the following:-
 - (a) Taxes, duties, cess and surcharge, rent from the properties, fees from licenses and permission;
 - (b) Taxes, duties cess and surcharge, rent from the properties, fees from licenses and permission that remain uncollected and the reasons thereof;
 - (c) Share of taxes levied by the state government and transferred to municipality and the grants released to the municipality;
 - (d) Grants released by the State Government for implementation of the schemes, projects and plans assigned or entrusted to the municipality the nature and extent of utilisation;
 - (e) Money raised through donation or contribution from public or non governmental agencies;
8. Annual budget allocated to each ward

Such other information as may be prescribed by the State Government under Part-A or Part-B.

CENTRE FOR CIVIL SOCIETY

The Power of Ideas

The Centre for Civil Society is an independent, non-profit, research and educational organisation devoted to improving the quality of life for all citizens of India by reviving and reinvigorating civil society.

India got her political independence in 1947 from the British state, but we still do not have complete social, cultural and economic independence from the Indian state. We aim to limit the domain of the state and make more space for civil society.

We champion limited government, rule of law, free trade, and individual rights. We are an ideas organisation, a think tank that develops ideas to better the world. We want to usher in an intellectual revolution that encourages people to look beyond the obvious, think beyond good intentions, and act beyond activism.

We are driven by the dream of a free society, where political, social, and economic freedom reigns. We are soldiers for a Second Freedom Movement.

The Centre's *Livelihood Freedom Test* calls to test all existing and new rules and regulations for their impact on the freedom to earn an honest living. Does any law of the city restrict opportunities of any person to earn an honest living, particularly the one that requires little capital or skills? If so, then Review, Revise, or Remove.

The *School Choice Campaign* is aimed at policy change in order to give education subsidies directly to the students, who would be able to choose the school they would like to attend. This will increase competition among schools and lead to better educational services. Fund Students, Not Schools. Join the Education Choice Campaign at <http://schoolchoice.in>!

CCS is creating awareness about *Ward Level Management*, where many of the current services, provided by the state and the Municipal Corporation, can be more effectively delivered by Ward Committees to their respective Ward. Decentralisation of services would bring transparency and accountability into the system.

(continued from back cover)

Optional Reforms (Common to state and local bodies)

1. Revision of bye-laws to streamline the approval process for construction of buildings, development of sites, etc
2. Simplification of legal and procedural frameworks for conversion of agricultural land for non-agricultural purposes
3. Introduction of Property Title Certification System in ULBs
4. Earmarking at least 20-25% of developed land in all housing projects (both Public and Private Agencies) for EWS/LIG category with a system of cross subsidization
5. Introduction of computerized process of registration of land and property
6. Revision of bye-laws to make rain water harvesting mandatory in all buildings to come up in future and for adoption of water conservation measures
7. Bye-laws on reuse of recycled water
8. Administrative reforms, i.e., reduction in establishment by bringing out voluntary retirement schemes, non-filling up of posts falling vacant due to retirement etc., and achieving specified milestones in this regard*
9. Structural reforms
10. Encouraging public-private partnership*

The National Urban Renewal Mission (NURM) is a project of the central government. Through this project, the central government will fund 63 cities for developing urban infrastructure and services. The cities will have to carry out mandated reforms in return. The mission will last for a period of seven years starting December 2005. The total central government funding will be Rs. 50,000 crores. Adding the contribution of states and municipalities, the amount will go up to Rs. 1,25,000 crores over the seven year period.

REFORMS UNDER NURM

CCS research papers are available for the starred reforms.

State Level Mandatory Reforms

1. Effective implementation of decentralization initiatives as envisaged in the Constitution (Seventy-fourth) Amendment Act, 1992 *
2. Repeal of Urban Land (Ceiling and Regulation) Act, 1976 *
3. Reform of Rent Control laws, by balancing the interests of landlords and tenants *
4. Rationalisation of stamp duty to bring it down to no more than 5 per cent within seven years
5. Enactment of public disclosure law *
6. Enactment of a community participation law, so as to institutionalise citizens' participation in local decision making *
7. Association of elected municipalities with the city planning function

Municipal Level Mandatory Reforms

1. Adoption of a modern, accrual-based, double entry system of accounting*
2. Introduction of a system of e-governance using IT applications, GIS and MIS for various urban services
3. Reform of property with GIS, and arrangements for its effective implementation so as raise collection efficiency to 85 per cent
4. Levy of reasonable user charges, with the objective that full cost of operation and maintenance is collected within seven years *
5. Internal earmarking of budgets for basic services to the urban poor
6. Provision of basic services to the urban poor, including security of tenure at affordable prices

(continued on back page)



Centre for Civil Society

K-36, Hauz Khas Enclave, New Delhi 110016.

Tel: 011-26537456/26521882 Fax: 011-26512347

Website: www.ccs.in E-mail: nurm@ccs.in