

Right to information

Module 3

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Introduction

Although governments and donors are publishing some aid and budget information, much still remains inaccessible to the public. Poor access to information in these areas acts as a large barrier to civil society organisations (CSOs) that are carrying out advocacy to improve development outcomes. This module introduces readers to the obligations of donors and governments in providing information, and the rights of individuals to request information. It outlines practical steps for issuing information requests and recommended strategies for doing so.

The third in a series of six, this module was developed by [Development Initiatives](#), [Integrity Action](#), the [International Budget Partnership](#) and [Publish What You Fund](#). The module aims to develop and strengthen the skills, capacities and strategic visions of civil society organisations working in the areas of aid and budget analysis, monitoring and advocacy.

Expanded versions of these materials have previously been used in pilot workshops in Nepal and Kenya. Participants engaged in practical, experiential learning activities, which encouraged collaboration and peer learning. This module includes lessons from these pilot workshops.

Why is access to information important in the context of aid?

Citizens in aid recipient countries need information to engage in decisions on the spending of aid funds. People in donor countries need information to hold their governments accountable for the promises made to give more and better aid. Without access to information – as well as monitoring using this information – resources can be used ineffectively and inefficiently, and corruption can thrive.

Access to Information is important because...

“...it can empower citizens and as a result they can effectively participate in processes that affect their lives.”

“...it facilitates good governance through holding leadership to account.”

These statements were made by participants at the pilot workshops in Kenya and reflect the view that good access to information is one of the essential elements that enable citizens and civil society to play a stronger role in holding decision makers to account.

Aid and budget information should be **publicly available**, meaning:

- Every citizen must be able to access it
- It should be produced and released in a reasonable timeframe
- It should be available without cost

Government obligations and citizen rights

There are two elements present in the idea of information as a right, reflecting obligations on the part of the government and rights on the part of citizens:

- **Proactive (or supply side)** – government bodies are positively obliged to publish and share information about their activities, budgets and policies. In this way, the public knows what the government is doing and can participate in public matters and monitor how public authorities behave.
- **Reactive (or demand side)** – all individuals have the right to ask for public information and receive the information (and documents) that public officials hold. Governments are obliged to receive these requests for information and to respond in a timely manner.

Right to information provisions

Legal provisions for the right to information vary among countries. To find out what they are in your country, you might want to explore the following documents:

- In **constitutions** access to information is most commonly recognised as a fundamental human right, upheld by the country in question. One of the most comprehensive provisions can be found in the [1996 South African constitution](#), sections 32 (1) and 32 (2).
- **Right to information acts / freedom of information acts** lay out the precise mechanisms by which the public can request and receive information. They sometimes include proactive publication obligations for public agencies, meaning documents should be published and released without the submission of information requests.

How to access aid information from...

<p>Government donors</p> <p>When a donor country has an access to information law, all central government ministries are bound to provide information (including aid agencies).</p> <p>You can submit information requests to local offices of donor aid agencies in your country, or by email or letter to the head office in the donor country. In some countries (e.g., Canada), you have to be a citizen to make an information request. In this situation, you would need to reach out to an individual, non-governmental organisation (NGO) or international NGO in that country to make the information request on your behalf.</p>	<p>NGOs and private contractors</p> <p>Normally, these actors are placed under no obligation by national access to information laws. However, if these bodies are using public funds, they should be submitting reports to the relevant government body, from which they can be requested.</p> <p>Some organisations are now beginning to publish access to information policies, so check their websites. An example of an organisation that has done this is Oxfam.</p>	<p>Multilateral institutions</p> <p>Multilateral institutions often hold a lot of information about development cooperation resources. Although institutions like the World Bank don't hold the same obligations or legal frameworks as governments, they often have their own internal rules regarding provision of information. These are commonly known as 'access to information policies' or 'disclosure policies'.</p>
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Information requests: A how-to guide

How do I make an information request?

Information requests can be made as **written submissions** (email, post, fax or hand-delivered) or as **oral requests** (in person or over the telephone). It is generally recommended to make the request in writing and keep a copy for your records, in case you don't receive a response.

What should I include in my request?

Be specific and clear about what information or documents you are hoping to access. This will enable the public official dealing with your request to identify the information more easily. The first request you send should be as simple as possible – you are more likely to get a fast response and follow-up requests can be made when necessary. You might want to include the following:

- A reference to the **relevant right to information act** (*though not essential, it can be useful to demonstrate that you know your legal rights*)
- Specific bullet points on the **information you require** (e.g., “*The total number of children vaccinated in each of the years 2009, 2010 and 2011 under the ‘Vaccines for All’ programme*”)
- Details of **how you would like to receive the information** (*you might ask to have it sent by email, to have hard copies sent – i.e., paper, CD or DVD, or to see originals. If you want to see originals, you can make an appointment to visit the relevant agency or publication library*)
- Your **name and address**
- Your **contact details** (*postal address and email, and possibly a telephone number, which can speed up the process if the agency has questions about your request*)

It is never necessary to explain why you want the information and what you want to do with it. Those working in countries affected by conflict or political instability should note that there are risks involved in sharing personal information in information requests.

Do I have to pay a fee for information?

Filing information requests should be free of charge (though in a few countries, including Uganda, you do have to pay a small fee). Electronic delivery should normally be free, but you may be charged for paper copies that are sent to you by post, or if you receive information in other formats (CD, DVD or photocopies). In most cases, public agencies are not allowed to charge more than the actual cost of copying the information into a given format.

How long will I wait to receive information?

Every country will have a different timeframe for answering requests and sending notifications of extensions or refusals, which could range from as soon as possible to one month. In most countries, public agencies are permitted to extend the timeframe for a few days and up to a month, if the information request is more complicated. You should always be informed of a delay and the reasons for it.

I have made an information request and not received the information I asked for. What should I do next?

If you do not receive the information you requested, you have the right to **appeal**. In most countries, there are at least two stages of an appeal:

1. Appeal to the public agency you requested information from in a letter
In most cases, the appeal letter should be addressed to the head of that agency, but details about whom to address should be available in the national Right to Information (RTI) law.
2. Appeal to the courts, or in countries that have them, the Information Commission or Commissioner.

At any stage of the appeal process, if you are unsure what to do, contact either the public agency in question or the information commission. If you experience any problems, you can contact Access Info (info@access-info.org) to let them know about your problem, and they may be able to advise on how to appeal or contact an access to information expert in your country.

Strategies for accessing information

Depending on the work you are doing, you and your organisation could use different strategies to access information. You can learn about the most effective strategies in your own country by discussing them with like-minded organisations and forming coalitions. Participants at the pilot workshop in Kenya shared some of their strategies for accessing information, including:

- Organising coalitions (of media and CSOs) to jointly demand information
- Leveraging informal networks and contacts
- Engaging local communities to monitor projects and share information
- Organising round-table forums to bring the government and CSOs together

The story below is about the work of an organisation in Kenya that has spent the last 10 years trying to access information about constituency-level development projects funded by the Kenyan government.

Social audits in Kenya

Muslims for Human Rights (MUHURI), a CSO based in Mombasa, Kenya, has carried out significant work that demonstrates how public engagement in the budget process can strengthen oversight and improve the delivery of public services. Yet at the same time, MUHURI's experiences speak of the difficulties of working in a country without a freedom of information (FOI) law.

MUHURI has been monitoring the expenditure of constituency development funds (CDFs) since 2005. CDFs are funds that provide every Member of Parliament (MP) in Kenya with approximately \$1 million a year for the purpose of supporting constituency-level development projects. To increase the accountability of the CDFs, MUHURI carried out social audits to monitor the projects funded by them.

To carry out a full social audit, MUHURI required detailed records of CDF projects. Whilst a government website provided a list of CDF projects, the detail was insufficient for the detailed analysis of a social audit. Initially, data was inaccessible, so between 2005 and 2007 MUHURI was only able to carry out awareness-raising exercises with communities about the CDF programme. However, in 2007 they succeeded in accessing detailed CDF records from Changamwe constituency.

They engaged with the MP for Changamwe in the period building up to the 2007 elections, highlighting that providing the information to enable a social audit training would be a ground-breaking event, making him the first MP to open his accounts to civil society. They also framed the audit as a training event rather than a public discussion to make it more appealing and less threatening. After considerable effort, they were finally able to access CDF records for 14 projects. These records included bills of quantities, project lists from the community development committee, minutes of meetings and completion certificates. Armed with these documents, MUHURI and the social audit team were able to visit all 14 project sites. They identified a number of problems with the implementation of the projects. A public hearing was held to explain the results, drawing 1,500 attendees including residents, CDF officials and the media. Officials were faced with a large number of questions about the audit findings, which forced the MP to show up at the public hearing. In the end, the MP was pressured into signing a petition demanding greater accountability and transparency in the CDF act.

This was a major success story for MUHURI and was followed by another social audit in Bahari constituency in 2008. This achievement was possible through the framing of the issue of accountability at a time when the MP was keen for support during the elections, and also defining the social audit as a training, which attracted a range of stakeholders.

Unfortunately, poor legislation still hampers access to information on development resources and the ability of organisations like MUHURI to support the monitoring of development projects and hold leaders to account. Making information public should not be left to the good will of officials. Lack of transparency around development resources prevents people from having a clear picture of what the government is doing with these resources and keeps them from demanding change.

You can read the full case study of MUHURI's work on the [IBP website](#)ⁱ and watch a video on their work on CDF audits, [*It's Our Money. Where's it Gone?*](#)

Glossary

Constitution	Constitutions lay out the basic laws of a country, defining the relationships between government bodies and institutions. They also establish the rights of citizens and, in this way, put limits on the government.
Disclosure policies	A policy – usually made public – that explains how an organisation or institution will share various types of information, and which information they will exclude and why.
Evidence-based advocacy	Influencing outcomes of policy and resource decisions using evidence from quantitative and qualitative information and data (e.g., collected from budget analysis and monitoring) to support the case being made.
Social audits	Participatory processes, through which CSOs or communities evaluate public resource use and recommend or identify ways of improving the outcomes of public policies and projects.

Further reading

- Access Info (2009) *The Aid Transparency Toolkit* – a guide for CSOs and other actors who want to understand more about access to information on aid http://www.access-info.org/documents/files/The_Aid_Transparency_Toolkit_-_Access_Info_22_October_2009.pdf
- Right2info.org – Country List with links of legal provisions for access to information <http://right2info.org/laws>
- Freedominfo.org – a useful resource linking to documentation on access to information for countries around the world <http://www.freedominfo.org/regions/>
- foiaadvocates.net - Complaint and Appeal Bodies Resource http://www.foiaadvocates.net/dmdocuments/Resources/Useful_Complaint_and_Appeal_Bodies.pdf

ⁱ <http://internationalbudget.org/wp-content/uploads/Impact-Story-Kenya-English.pdf>