

**Report of the Working Group on Transparency and Accountability  
(Central Employment Guarantee Council)**

*Report submitted on 7<sup>th</sup> July 2010 to MoRD*

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## **Foreword**

Commitment to transparency and accountability is an integral part of the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA). This commitment also flows from the Right to Information Act 2005, which will be followed as a minimum standard in all matters relating to MGNREGA. The spirit of the peoples Right to Information is also established through the provisions made in the Act to promote the maximum degree of transparency of all MGNREGA related matters specially through proactive and mandatory disclosure.

This Working Group was set up by the Central Employment Guarantee Council (CEGC) to recommend measures to strengthen processes of Transparency and Accountability within the MGNREGA with the objective of facilitating workers and citizen's access to the rights guaranteed under the Act. In order to effectively establish the entitlements of the people, it is understood that these measures need to be strengthened and facilitated through more detailed rules and guidelines. There is also a need to allow and encourage initiatives which enhance the transparency and accountability of the MGNREGS as it is being implemented. It is critical that the poor for whom the Scheme is being implemented are aware of their rights and entitlements; that they participate in the program design and decision making processes; and are empowered to monitor and evaluate the scheme on an ongoing basis. The streamlining of service delivery systems are an intrinsic part of this effort through detailed accountability, and grievance redressal mechanisms.

The MGNREGA is the first law in India that guarantees development rights. As part of the rights based approach, there is an expectation that poor delivery will be overcome by the people themselves demanding their rights, and pressurising the delivery system to increase efficiency and accountability. This must be a two way process. The participation of people is, dependent on strong legal mechanisms of transparency and accountability, and the administrative and political will to act. Along with the legal guarantee, this would enable people- based mechanisms of enforcement. It is keeping in mind this facet of enhanced transparency and a more accountable service delivery mechanism that the CEGC sub-group on Transparency and Accountability was mandated to recommend mechanisms for the CEGC Working Group on Transparency and Accountability

better implementation of this flagship programme. Framing such mechanisms was the task before this working group. In doing so, the following General Principles were accepted as a basis for the detailed suggestions made in the report.

#### General Principles

1. Concepts like transparency and accountability must be framed in a manner in which they are governed by universal and inclusive processes. This is essential to empower every individual or group with the right to monitor the programme, and help and facilitate beneficiaries claim their rights under the Act .
2. This is in keeping with the spirit of the RTI Act 2005 which allows equal and open access to all citizens of India; and specifically precludes any provision that may restrict, or exclude any citizen from using it, or from having to prove their locus standii.
3. Within this universality, in a programme like the MGNREGS, there may be a need to specially empower and facilitate certain marginalized or beneficiary groups with mandatory provisions to support their access. However, this should not be taken as a means of restricting or limiting access of anyone else who might aid the principle of transparency and accountability voluntarily, or through the effort of particular agencies. In fact, in all cases of proactive disclosure or collective monitoring, there is an inherent need for facilitation by external agencies/individuals/groups.
4. Transparency and accountability of the institutions and individuals involved with the implementation of the NREGA is incumbent on the full and informed involvement of, and support to the potential and actual beneficiaries . This is because they, more than any of the other stakeholders, have the incentive, the resilience and the local knowledge required for adequately monitoring and evaluating the implementation of the scheme.
5. Whereas regulatory institutions and mechanisms can be corrupted, co-opted, intimidated, marginalized, or misled by vested interests, the workers and those who are entitled to benefit from the programme, should individually and collectively have access to platforms for exercising their entitlements both inside and out side

the Gram Sabha. Workers are perhaps the least susceptible to such disruptive tactics.

6. In order to enable and empower the workers and the *gram sabha* to effectively perform this function, various conditions need to be fulfilled. These include a widespread understanding of the entitlements, of the prescribed time frames, of who's responsible for what, of the prescribed standards and rates, of the decision making processes, of the possibility for appeal, complaint or grievance redressal, and of the reasonably expected outputs and outcomes.
7. All relevant information regarding the MGNREGA must be proactively displayed (Mandatory) and made accessible through different modes and medium, ensuring local language compatibility and keeping in mind the needs of the semi-literate, the illiterate and the differently abled .
8. Information must be authenticated, updated with reasonable periodicity, and put across in a manner and format that is easy to understand. Towards that end, special proformas and formats need to be developed.
9. Relevant information must be appropriately displayed from the worksite, the village and the gram panchayat office, the block and district level, right up to the state and national level.
10. It must also be kept in mind that, as far as possible, all decision making should be done in public in the full view of all interested stake holders. This is the best way of ensuring that decisions are not only fair but also appear to be fair.
11. Recognising that, despite best efforts, both the modes of providing information and of getting feedback can be corrupted or blocked, multiple modes and routes must be used in order to make it progressively difficult to inhibit the free flow of information to and from the people.
12. Whereas focus must be on using as far as possible culturally appropriate modes of communication, especially traditional modes with which the local people are familiar, the advantages promised by new and emerging technologies must also not be ignored. Of especial relevance are mobile phones which have effectively permeated rural households and promise an innovative, reliable and quick method of simultaneously communicating with a large number of people.

13. Advances in remote sensing and in biometrics must also be appropriately harnessed to give the common man and woman an advantage over traditional vested interests.

The members of the Working Group (including co-opted members and special invitees) have contributed immensely and equally to the deliberations, formulation and the presentation of the final report. The members have participated in the extensive and intensive discussions, including attending the meetings called at short notice, and patiently attended to details in the process. This has been time consuming, but necessary and important. Most of the members have been involved with implementation and policy formulation aspects of the MGNREGA over the last five years. The process and the final recommendations have been enriched by their extensive experience and valuable contributions.

The Working group is deeply concerned about the rapidly increasing levels of corruption in the MGNREGA. MGNREGA expenditure is likely to exceed Rs 39,000 crores per year. If the Transparency and Accountability provisions are not taken seriously, the entire edifice will be undermined by a range corrupt practices - from denial of basic rights, to huge scams. In the process the poor workers of India for whom this Act was brought into place, will suffer and lose faith in the Act, and its capacity to deliver.

There is therefore an urgent need to take the recommendations on board. We want to particularly draw the attention of the Ministry to the interim recommendation sent at the end March 2010, to the MoRD at their request to make appropriate recommendations for amends to Section 13(b) of Schedule I of the Act, and enable effective statutory Social Audits. This final report reiterates that recommendation, and we hope that the recommendation will be incorporated immediately.

In fact it is not just the challenge of fighting corruption. The larger benefits of increased transparency and accountability, is their unmatched potential to encourage the poor to claim their due, and increase the efficiency of implementation in areas where it has been weak. We are convinced that the access to all the rights and guarantees of the worker hinges critically on the effective implementation of the transparency and accountability provisions.

The Working Group would like to place on record its appreciation to the secretariat of four volunteers who contributed time and effort, and who have managed to bring all the penetrating and often intense and varied discussions together. We would also like to thank all the members and co-opted members for taking time to write and edit the recommendations and to ensure that all the issues were reported accurately and precisely.

This effort would not have been possible without the help of the NIRD who gave able and timely support for the logistics throughout the formal deliberations held, and the institutional support received from the IGPRS in Jaipur, the ICSSR in Delhi and the NIRD itself in Hyderabad.

The suggestions in this report should be examined, and incorporated to ensure that continuous monitoring and evaluation of the Scheme is put into place. Unless otherwise specified, these should be incorporated into the Schedule and rules under the Act to make them non-negotiable and legally enforceable. We do hope that the Government of India, and the MoRD will take advantage of this collective effort, and bring in the necessary changes on a priority basis.

## **A Note on the Sequence, Process, and Report**

The Central Employment Guarantee Working Group (CEGC) on Transparency and Accountability was set up by an order issued on 4<sup>th</sup> March 2010. (Copy attached).

The Working group held its first meeting at the India Gandhi Panchyati Raj and Gramin Vikas Sansthan (IGPRS), in Jaipur on 23<sup>rd</sup> -24<sup>th</sup> March 2010. The meeting was chaired by Ms. Aruna Roy, Chairperson of the CEGC Working Group of Transparency and Accountability and was attended by Members of the working group, Co-opted Members, State representatives, and Special invitees.[See List of participants attached]. The meeting also conducted a field visit to a Panchayat to provide a practical orientation and context to the discussions. Based on the discussions and deliberations the Members decided to

- a) Send an interim recommendation on amendment to section 13(b) of schedule 1 of the NREGA, which was unanimously passed and sent was submitted to the Minister Shri C. P. Joshi.
- b) Constitute five sub-groups so that work could effectively take place on each of the “issues to be addressed” . Accordingly, five sub groups were formed as follows- Sub group on (i) Transparency and Proactive Disclosure to be co-ordinated by Aruna Roy . (ii) Grievance Redressal and Ombudsman – Co-ordinated by Shekhar Singh (iii) Social Audit – Co-ordinated by KS Sriram (iv) MIS – Co-ordinated by Santosh Mathew and (v) Peoples Entitlements and Transparency Co-ordinated by Parasuram Rai

It was decided that each of the sub groups would be assisted by one person from the informal secretariat who would provide assistance on a voluntary basis. The sub groups would outline issues by the next meeting (including those that had been stated in the first meeting) and the entire working group would attempt to look at the issues identified, and decide through consensus on the measure to be recommended. This process should be finalised by the third meeting , after which the specific recommendations could be made, circulated amongst all members, comments sought and incorporated, and then finally submitted by the Chairperson to the MoRD.

The second meeting of CEGC Working Group of Transparency and Accountability was held at the Indian Council for Social Science Research (ICSSR) in New Delhi on 27<sup>th</sup> – 28<sup>th</sup> April 2010. The meeting was chaired by Ms. Aruna Roy, and was attended by members (nominated and co-opted) [See List of participants and minutes attached]. A revised interim recommendation on amendment to section 13(b) of schedule 1 of the NREGA was submitted to the Ministry dated 28<sup>th</sup> April 2010. [Attached - interim recommendation ]

The final meeting of the Working group was held at NIRD, Hyderabad on 7<sup>th</sup> May 2010. The meeting was chaired by Ms. Aruna Roy, and was attended members (nominated and co-opted) and others. [See List of participants and minutes attached]

The recommendations, notes, draft suggestions, tables, formats, matrixes etc prepared during this process were put together and edited for consistency. The main recommendations of each of the sub groups was put into the form of draft rules, or amendments to existing provisions. These were circulated to all the members on and comments sought by . The comments have since been incorporated into the Final report which is being submitted in two parts- Part 1 consisting of Main recommendations and annexures, and Part 2 consisting of the list of participants, the guiding principles for each issue, the minutes of meetings, the matrixes prepared during the meetings, and annexures.

## **Framework of Recommendations**

The Report contains a set of draft (a) Transparency Rules (b) Grievance Redressal Rules (c) MIS Rules and (d) Amendments to the Schedule on Social Audit provisions, and Model Social Audit Rules, and (e) a set of Instructions on the Ombudsman.

### **1. Draft Transparency Rules**

The objective of the draft Transparency Rules is to put in place institutional systems and procedures for both pro-active disclosure as well as disclosure on demand to ensure that beneficiaries, other individuals and organizations can quickly get correct and reliable information on the status of implementation of their 10 major rights under MGNREGA, as well as to make the entire MGNREGA programme transparent and responsive.

The rules seek to build up a “Janta Information System” where, through legal requirements, the People are able to examine the information, and act on it. Therefore it seeks to expand on the scope and design of the job cards so that the job card becomes the workers book of rights, recording all the possible transactions with dates, and proofs. Similarly, to enable an even greater understanding of every transaction that has taken place, related to the worker, and work, the MIS should have a “virtual job card” with all the electronic transactions that have taken place related to that job card holder, transparently reflected on that workers “virtual job card”. It should be possible to ensure that once the MIS becomes truly transaction based, all the corrective grievance redressal like payment of unemployment allowance, payment of interest and payment of compensation for delayed wage payments, should be made automatically by the computer as per the established norms. The third part of the Janta Information system is the different means of pro-active disclosure i.e. reading aloud of information at certain points; displaying information through notice boards and wall paintings, and proactive sharing of information during the Rozgaar Divas and social audits.

Similarly, the regime of open office, open inspection seeks to build on provisions established under section 4 of the right to information act, and the provision for obtaining copies of

records seeks to make it easier, and faster than the RTI given the nature and importance of the MGNREGA records.

## 2. Draft Grievance Redressal Rules

The objective of the draft Grievance Redressal Rules is to systematize the process for filing of complaints and grievances, and obtaining redressal thereof. This is a systemic gap in the existing provisions, so the rules seek to establish simple and parallel procedures for recording grievance redressal petitions/ applications and complaints, and connect them with the provisions for disposal of such complaints within seven days under section 23 of the Act. The procedure for filing such complaints/ petitions will be in writing, as well as through the phone (through a help line), through the MIS system, through social audit complaints, as well as through the District Ombudsman.

All these are connected finally to another existing provision – the District Ombudsman (also being looked at separately in these rules) to ensure action and proper disposal of all grievance redressal petitions and complaints.

## 3. Draft MIS Rules

The objective of the draft MIS Rules is to ensure that (a) all payments are made through pay orders generated from the MGNREGA MIS (Central/ State version) – this is to ensure that the MIS forms the primary system of recording and there is no need for post-transaction date entry; (b) the MIS automatically generates alerts on account of deviations/ failures/ non-compliance and also to individual beneficiaries on work done, payments etc. ; that it makes it possible for automatic corrective action on some of the alerts like the payment of unemployment allowance, and compensation for the delayed payment of wages (c) the MIS as well as the Janta Information System (JIS) provide a robust, simple and reliable platform for information gathering and dissemination for a wide variety of stakeholders. The MIS needs to be so designed that every individual can get all the information that might be required for accessing rights, in one place- preferably in the virtual job card, and that information requirements of social audit to proactively provide reliable information to

people in a consolidated form for each worker, work site, village, and panchayat, is made possible in real time.

The MIS rules also seek to establish that the MIS platform would be open source /open access, so that it is inexpensive, and universally accessible, and allows customisation at all levels.

#### 4. Social Audit

The objective of the proposed Amendment to the Schedule I Section 13 (b) is to ensure that the social audit process is consistent with democratic principles and is kept inclusive and open, is consistent with audit principles, and is kept independent from the implementing agencies, and that at the gram sabha is adequately assisted and facilitated in carrying out its task of carrying out statutory social audits, with appropriate institutional support from the State Government, to ensure that social audits are not subject to capture by influential parties/ persons at these levels, and become active and live forums to hold officials accountable for their implementation of MGNREGA, rather than mechanical fulfillment of formalities stipulated in, or under the Act. The objective of the Model Social Audit Rules is to suggest a detailed framework for social audit that State Governments can use while drafting their own rules suitable appropriate to local conditions.

#### 5. Instructions on Ombudsman

The purpose of the “Instructions on Ombudsman” is to further strengthen the order already issued by the GoI for establishment of District level Ombudsman, to ensure that the terms of appointment are such that the right kind of people are persuaded to apply; that the appointment process ensures transparency and independence; that the stipulation of time limes for disposal at each stage, ensures timely disposal of grievances and complaints at a district level, and also to empower the ombudsman to ensure the workers access their rights as laid down under the law in a timely manner, as well as ensure that an autonomous authority can order action against errant functionaries for violating the Act. This includes

the levying of penalties under MGNREGA. It is notable that under the current dispensation, even after the appointment of the Ombudsman, it is not possible to activate section 25 of the MGNREGA and have penalties levied. In fact there is currently no mechanism available to impose the penalty provided for under Section 25 of the MGNREGA.

By virtue of being an autonomous authority for grievance redressal and the disposal of complaints for MGNREGA at a District level, the Ombudsman is also required under these amended instructions to dispose of complaints generated through social audit, and the ones that come through help lines and electronic grievance redressal platforms

## **Specific Recommendations for ensuring Transparency and Public Accountability in MGNREGA**

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**V. Management Information System Rules (Draft)**

## I. Transparency Rules (Draft)

### Preamble

1. In keeping with the spirit of the RTI Act 2005 and the specific transparency provisions of the MGNREGA, the Rules prescribed below will seek to create an effective, appropriate and citizen-friendly transparency regime for the MGNREGA 2005.

### Critical Entitlements

2. The whole process of planning and implementation of the MGNREGA shall be transparent. In particular, attention will be focused on facilitating implementation of the following basic entitlements under the Act. –
  - (a) The Right to 100 days employment a year for every rural household;
  - (b) The Right to register and get a job card;
  - (c) The Right to demand work, and get dated receipt and get work within fifteen days- or else unemployment allowance if work is not given in time;
  - (d) The Right to get work within a five KM radius from home or get 10% extra;
  - (e) The Right to select the work in the Gram Sabha;
  - (f) The Right to Minimum wages;
  - (g) The Right to Payment within fifteen days- or else compensation;
  - (h) The Right to worksite facilities- water, shade, medical kits, and crèches;
  - (i) The Right to Transparency and proactive disclosure of all records;
  - (j) The Right to audit works and expenditure in social audits- public audits;
3. In order to facilitate public monitoring and redressal, all the information related to realizing the basic entitlements under the Act, must be made transparent and universally accessible. The details of the type of information to be recorded, the authority by, and the level at which this is to be recorded, the mode through which it

must be made public, and other relevant details are given separately for each entitlement in annexure ...

## Definitions

4. For all terms in these Rules, unless otherwise specified, the access to information shall extend to all persons and will be as open as possible. The definitions outlined RTI Act 2005 shall be used as a minimum standard. The terms “right to information”, “information”, and “records” will be based upon the definition as in RTI Act 2005:

(a) “Right to Information” includes the right to —

- (i) Inspection of work, documents, records;
- (ii) Taking notes, extracts or certified copies of documents or records;
- (iii) Taking certified samples of material;
- (iv) Obtaining 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;
- (v) be informed by mandatory disclosure by means specified from time to time;

(b) “Information” includes information means 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.

- (c) "Record" includes (i) any document, manuscript or file; (ii) any facsimile/fax, copy of a document; (iii) any reproduction of image or images such as photographs, maps, sketches etc.; (iv) any other material produced by a computer or any other device.

### **Transparency of MGNREGA-related Information**

- 5. All MGNREGA-related information is in the public domain. The MGNREGA Transparency Rules shall ensure as specified in law that- "all accounts and records relating to the Scheme shall be made available for public scrutiny and any person desirous of obtaining a copy or relevant extracts there from may be provided such copies or extracts on demand and after paying such fee as may be specified in the Scheme." The MGNREGA Transparency Rules shall include, but will not be restricted to :-
  - (a) Proactive mandatory disclosure
  - (b) Inspection of all documents, work sites, and offices;
  - (c) Making accessible copies of document, records and samples of material;
  - (d) Ensuring the Transparency of the decision making processes;

### **Mandatory Disclosure**

- 6. Mandatory disclosure places an obligation on the government and the implementing agency to make information available to people without their seeking it , needing to apply for it. Key documents related to MGNREGA must therefore be pro-actively disclosed to the public. A minimum list of such key documents is given in Annexure 2.
- 7. Pro-active disclosure will include the dissemination of records in such a manner that a layperson can understand the information. This would include the dissemination of information in a consolidated and summarized form, wherever appropriate.
- 8. Section 4 of the RTI Act, which concerns mandatory pro-active disclosure of information, shall be strictly complied with at all levels of implementation of MGNREGA. Proactive Disclosure would include but not be restricted to –

- (a) The reading out aloud of essential information as per the prescribed formats of these Rules. (see Annexure 2).
- (b) Through hanging/putting up information on notice boards at the Gram Panchayat, Block, and District levels as specified in the annexure . ( Annexure 2)
- (c) The establishment of painted wall boards at prescribed locations and in the prescribed formats (see Annexure 2).
- (d) The establishment of painted display boards at prescribed locations in the prescribed formats ( Annexure 2)
- (e) The publishing of information through newspaper advertisements, press releases, or the printing of leaflets and reports. ( Annexure 2)
- (f) By making announcements through the audio-visual media, such as , community radio, radio and television. ( Annexure 2)
- (g) Key records should also be made available on the Internet. There shall be free and open access to the website of the MGNREGA where, as much of the information as prescribed in these Rules, including summaries and consolidated information, will be uploaded regularly. Every State Government and the Central Government shall work towards maintaining an online status of information, related to expenditures and disbursements. CDs containing extracts of all the information for a Block shall be prepared every quarter, and made available for open purchase at a nominal rate, not exceeding the cost of the CD.

### **Janta Information System**

9. The MGNREGA will facilitate the right of every job cardholder to have regular transaction based updating of job cards and bank pass books that provide information about worker entitlements, details including photographs of workers in the household, work demanded, work received, money received, measurements recorded, along with dates and proofs of transactions. A model job card is attached as annexure 3(Tamilnadu?)...

## **Inspection**

10. The MGNREGA will follow an open office, open record, and open work site regime, where all records will be open for inspection by any group/individual, free of cost, at the location where the records are in use or stored (for instance, the Gram Panchayat Bhawan, worksite, etc.). Inspection should under normal circumstances be facilitated immediately and in any case within one hour. Inspection will include the right to inspect works or records and copy by hand any part of the records asked for.
11. Any person desirous of inspecting records, or documents shall seek permission only if it exceeds three hours. Permission to continue will be granted only if there is no one waiting to inspect the same records/documents.
12. For inspection of records, no fee shall be charged for the first 3 hours; and a fee of rupees five for each subsequent hour (or fraction thereof).
13. Inspection of documents and sites would include but not be limited to the-
  - (a) inspection of work, documents/records
  - (b) taking notes, extracts or certified copies of documents or records;
  - (c) inspection of offices and other facilities; and
  - (d) samples of materials, RTI Rules.

## **Making accessible copies of documents and records**

14. All documents and records would be provided on demand to any member of the public within seven days of the request. Ordinarily the request should be submitted in writing in English, Hindi or the local language, and a written, dated acknowledgement issued by the receiving person/official.
15. Where an applicant is not able to submit an application in writing (either because of illiteracy, disablement, or some other genuine reason), then the concerned individual/official will invariably reduce the oral request into writing and issue a dated, written acknowledgment to the applicant. No document or record would be refused unless otherwise specified in the MGNREGA.

16. Applications for information can be made in person, or sent by registered/ speed A/d post. No application fees shall be charged. Fees charged for copies of MGNREGA-related documents shall not in any case exceed photocopying costs.
17. Copies of MGNREGA-related documents should generally be sought at source, e.g. from the Gram Panchayat in the case of GP-level documents such as muster rolls, bills and vouchers etc. However, any individual should have the right to apply for copies of information at a Block, and District level, while adding an additional seven days time to enable the PO or the DPC to procure the information and provide it to the applicant.
18. In each office the name and designation of the person (s) who is responsible for receiving and processing request for information must be made known to the public and painted on display boards outside every office.
19. Documents and records can be supplied in one or more of the following forms- 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 or photocopies of such documents.

### **Transparent decision-making**

20. The process of decision-making should be as transparent as possible. The actual process of decision-making shall allow as far as possible observation by other parties. For instance, Gram Panchayat meetings taking place specifically on MGNREGA shall be open for observation.
21. The GS meeting both for planning and selection of projects and social audits shall be video recorded and maintained meticulously and records of the proceedings kept, and these shall be proactively made available at all relevant levels.
22. The government shall ensure the transparency of each process from application of job card till payment, so that every MGNREGA worker can use transparency provisions to ensure access to essential entitlements under the Act. This will allow workers to conduct an entitlement audit, in addition to an audit of financial matters as part of public vigilance and the Social Audit of the programme.

23. Any violation of these rules shall attract the penalty specified under section 25 of the MGNREGA, 2005.
24. In case the applicant is unable to deposit the application at the gram panchayat, or this request is not complied with within seven days, it shall be deemed a refusal. If the applicant fails to receive the information within seven days, he/she can file a complaint under Section 23(6) of the MGNREGA, with the Programme Officer. In addition to taking necessary steps under Section 23(6), the Programme Officer shall procure the copies applied for from the Gram Panchayat and provide it to the applicant within seven days of receiving the complaint.
25. Where either the PO on disposal of a complaint under section 23(6) feels that there has been a violation of the MGNREGA attracting the penalty prescribed under section 25 of the Act, or where a similar view is held by the applicant, either or both can forward the matter to the District Ombudsman, who shall take cognizance and send dated , written, acknowledgement to the complainant (s) and inquire into the matter as per the directions laid down for the Ombudsman. Where the Ombudsman is satisfied that there has been a violation of the Act a penalty shall be imposed on the erring official as specified under section 25 of the MGNREGA.
26. The RTI Act 2005 and these Rules constitute a minimum standard. Nothing in these rules shall constrain any official or functionary from finding ways and means of making more information available in a more citizen friendly manner.

## **II. Grievance Redressal Rules (Draft)**

A violation of any of the basic entitlements under the Act, including those listed in Transparency Rule 2, will constitute a grievance. In such an instance the affected party can seek redressal of the grievance or any violation of any other law in relation to the entitlements under the MGNREGA, through the following process.

### **Process of filing complaints and grievances**

1. Each affected party will have the right to approach the Programme Officer (PO) with a complaint regarding violation of one or more of the entitlements, or any other issue relating to the implementation of the Act or its violation thereof.
2. Multiple modes would be provided by which the complainant can register the complaint with the PO. This would specifically include written complaints and telephone based help lines. All such complaints shall be acknowledged, in writing, along with the date of receipt and date of acknowledgement. Where appropriate, an SMS based acknowledgment will also be sent. The list of complaints recorded would be available in the public domain, through the web, in real time or near real time.
3. As specified in section 23(6) the PO shall dispose off all such complaints within a period of seven days including the redressal of the grievance and the delivery of the entitlement.
4. Where, in disposing off the complaint, the PO finds that there has been a violation of the law attracting penalties, or where the complainant so desires, a complaint shall be lodged with the district Ombudsman, who will dispose it off for levying penalties as per section 25 of the Act and the relevant rules and instructions relating to the office of the Ombudsman.
5. In investigating a complaint, if a PO/ Ombudsman find that there is a prima facie case of corruption/ defalcation, s/he shall file an FIR within fifteen days of the matter being brought to their notice.

6. In addition to the complaint originated by the members of the public and aggrieved parties, there shall be institutional monitoring mechanisms at various levels including those described below.
7. To implement Section 14 of Schedule II of the Act there shall be a Vigilance and Monitoring Committee at all levels, starting from the the Gram Panchayat, Block, Zilla Parishad, State and National. The composition of these Committees and their functions is in annexure 4...
8. Members of the Panchayat VMC should be paid one-day wages under MGNREGA, once a week to perform the tasks assigned to them. An indicative list of tasks is outlined in Annexure 5.
9. In addition to these monitoring committees, it would be the responsibility of officials both at the State and District levels to monitor the implementation of these schemes. The under listed officers will carry out inspections at the levels, periodicity and numbers specified. [Rajasthan Formats Annexure 5] Each inspecting officer, who finds a violation of the law/ or any other wrongdoing would initiate appropriate action as per the relevant law and these rules.

### III. Instructions on Ombudsman (Draft)

The Instructions for NREGS Ombudsman have been formulated under Section 27 of MGNREGA with the objective of establishing a system for redressal of grievances and disposal of complaints relating to implementation of the MGNREGA and the Schemes made under the Act by the States.

#### Chapter I

##### Preliminary Issues

##### 1. Definitions

In these Instructions unless the context otherwise requires:

1.1 **'Authorised representative'** means a person duly authorised by a complainant to act on his/her behalf and represent him in the proceedings before the Ombudsman.

1.2 **'Order'** means an Order passed by the Ombudsman.

1.2.1 **"Interim order"** means an order passed by the Ombudsman to provide immediate relief to the complainant, while pending a hearing or final order.

1.2.1 **"Final order"** means the final order passed by the Ombudsman in a matter indicating the complete disposal of the complaint.

1.3 **'Chief Secretary'** means the Chief Secretary of the State/Union Territory.

1.4 **'Complaint' ordinarily** means a representation in writing or electronically or telephonically recorded containing a grievance alleging deficiency in the implementation of

MGNREGA or Scheme, or some other wrongdoing or shortcoming in relation to the implementation of the MGNREGA.

1.5 '**Department of Personnel**' means the Department in the State Government dealing with the cadre management of the members of the Indian Administrative Service and the State Civil Service.

1.6 '**Nodal Department**' means the Department of the State Government which deals with the implementation of the MGNREGA and Schemes.

1.7 '**MGNREGA functionary or authority**' means any person or persons who have been vested with powers and functions under the MGNREGA.

1.8 '**Ombudsman**' means any person appointed under Clause 3 of the Instructions and includes the Deputy Ombudsman.

1.9 '**State**' means any State, and includes the Union Territory, of India.

## Chapter II

### **Composition of the office of NREGS Ombudsman**

2.1 The State Government may appoint one or more persons, but not more than three persons, as the Ombudsman in a District, of which the senior most will be the Ombudsman and the others will be known as Deputy Ombudsman.

### **Establishment of the office of NREGS Ombudsman**

2. 2 The Selection Committee for selecting Ombudsman shall consist of the following persons :-

(a) Chief Secretary of the State Government ---- Chairperson

(b) Representative of Union Ministry of Rural Development -- Member

(c) Eminent Civil Society Person nominated by Union Ministry of Rural  
Development - Member.

(d) Secretary, State Nodal Department --- Member Secretary

### **Appointment, Tenure and Removal**

2.3.1 The Selection Committee shall prepare a panel of suitable persons who shall be considered for appointment as Ombudsman. Prior to appointment, the panel prepared by the Selection Committee may be published on the official website of the State to invite comments from the public. On expiry of 30 days of publication, the comments may be examined by the Selection Committee. All comments and objections may be settled within 30 days of the date of expiry of the period for inviting comments. Anonymous comments and objections may not be considered.

2.3.2 The selection of Ombudsman shall be made from amongst persons of eminent standing and impeccable integrity with at least twenty years of experience in public administration or law or academics or social work or media or management or any other profession.

2.3.3 No person who is a member of a political party shall be considered for appointment as Ombudsman.

2.3.4 The persons selected as Ombudsman must be physically active and capable of conducting field tours, inspections and visits to remote rural locations in the districts.

2.3.5 The Ombudsman shall be appointed for a tenure of 2 years. Based on objective performance appraisal, the tenure may be extended by an additional three years or till the incumbent attains the age of 65 years, whichever is earlier. Performance appraisal shall be made by the Selection Committee. A copy of the performance appraisal report shall be furnished to the State Employment Guarantee Council.

2.3.6 The Ombudsman may only be removed by the State Government after an enquiry has been conducted by the Selection Committee giving an opportunity of hearing to the concerned Ombudsman.

### **3. Autonomy of Ombudsman**

The Ombudsman shall function as an independent office outside the jurisdiction of the Central or State Governments.

### **4. Remuneration**

An Ombudsman shall receive a salary of Rs. 10,000 per month. In addition to the salary, he/she shall receive a sum of Rs. 1000 per day as sitting fee, provided that the sitting fee in any month would not as an aggregate exceed Rs. 20,000.

### **5. Territorial Jurisdiction**

The State Government shall specify the territorial jurisdiction of each Ombudsman in terms of a District.

#### **6. Location of offices**

The headquarters of the Ombudsman for MGNREGS shall be at the district headquarters of each district or at such other place as the state government may notify.

#### **7. Technical and Administrative Support**

In case of heavy load of cases, not more than two Deputy Ombudsman may be provided to assist the Ombudsman in each district.

The office of the Ombudsman shall be provided one steno and one peon to assist with administrative work. In addition, the Ombudsmen would also have the right to ask for the assistance of technical experts from the District administration, where such help may be required to properly investigate a complaint. Where such expertise is denied by the District administration, the Ombudsman can appeal to the Principal Secretary, RD of the State Government, whose decision on the matter would be final.

## Chapter III

### 8. Powers and Duties

8.1 The Ombudsman shall have the powers to :

8.1.1 Receive complaints from MGNREGA workers and others on any matters concerning any violation and /or denial of the Act as specified in clause 9 of these instructions.

8.1.2 Consider such complaints and facilitate their disposal in accordance with law.

8.1.3 Require the MGNREGA Authority complained against to provide any information or furnish certified copies of any document relating to the subject matter of the complaint which is or is alleged to be in his/her possession. In the event of failure of such authority to comply with the requisition within 7 days without any sufficient cause, the Ombudsman may draw an adverse inference against the MGNREGA authority under question.

8.1.4 Issue directions for conducting spot investigation.

8.1.5 Lodge FIRs against the erring parties.

8.1.6 Initiate proceedings *suo moto* in the event of any circumstance in the nature of a grievance arising within the territorial jurisdiction of the Ombudsman.

8.1.7 Engage experts for inquiring into the technical aspects relating to complaint.

8.1.8 Direct redressal including disciplinary and punitive action against the defaulting authorities.

8.1.9 Report the findings of the Ombudsman to the Chief Secretary of the State or the Secretary, State Nodal Department, or other officials/authorities for appropriate legal action against erring persons. The appropriate authority shall comply with the orders of the Ombudsman, or provide a written explanation for reasons for non compliance within 30

days of receipt of the order. This report of compliance/partial compliance /non-compliance will be sent to the Secretary Rural Development, GOI , to the SEGC and CEGC.

## **8.2 The Ombudsman shall have the following duties :**

8.2.1 To be responsible for the conduct of business in the office.

8.2.2 The Ombudsman is obliged to make all NREGA related documents public and ensure that they are easily accessible. However, to maintain confidentiality of any personal information or document placed before the Ombudsman, in the course of discharging duties, the Ombudsman shall apply the norms relating to third parties as specified in the RTI Act 2005. Before placing the information in the public domain, the concerned party should be given an opportunity to be heard.

Provided that nothing in this clause shall prevent the Ombudsman from disclosing information or documents furnished by a party in a complaint to the other party or parties, to the extent considered reasonable and keeping with the principles of natural justice and fair play in the proceedings. Provided, further, that no document, record or information would be kept confidential unless it qualifies for exemption under Section 8 or Section 9 of the RTI Act 2005.

8.2.3 To send a monthly report to the Chief Secretary and Secretary, State Nodal Department recommending appropriate action. The report shall specially highlight cases where action needs to be taken against erring MGNREGA functionaries for their failure to redress the grievance. The report will be accompanied with primary evidence needed to initiate action against the accused persons.

8.2.4 To furnish a report every year containing a general review of activities of the office of the Ombudsman during the preceding financial year to the Chief Secretary and the Secretary, State Nodal Department along with other relevant information. In the annual report, the Ombudsman, on the basis of grievances handled by the Office will review the quality of the working of the MGNREGA authorities and make recommendations to improve its implementation. The report shall be put on the MGNREGA website and submitted to the State MGNREGA Council.

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8.2.5 To compile a list of 'Interim Orders, and final Orders' passed by it between April and March of each financial year in respect of every MGNREGA Authority complained against and report it to the Chief Secretary of the State and the State Nodal Department. Text of Orders shall also be put on the MGNREGA website.

## Chapter IV

### **Procedure for redressal of grievances.**

#### **9. Grounds on which complaint shall be filed :**

9.1 A complaint pertaining to any one or more of the following issues alleging deficiency in the implementation of the NREG Scheme may be filed with the Ombudsman :

9.1.1 Holding of Gram Sabhas

9.1.2 Registration of households and issue of job cards

9.1.3 Custody of job cards.

9.1.4 Demand for work

9.1.5 Issue of dated acknowledgement receipt against submission of application for work.

9.1.6 Payment of wages.

9.1.7 Payment of unemployment allowance.

9.1.8 Discrimination on the basis of gender/caste/religion.

9.1.9 Worksite facilities.

9.1.10 Measurement of work.

9.1.11 Quality of work

9.1.12 Use of machines

9.1.13 Engagement of contractors

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9.1.14 Operation of accounts in the bank or post offices

9.1.15 Registration and disposal of complaints.

9.1.16 Verification of muster rolls

9.1.17 Inspection of documents

9.1.18 Use of funds

9.1.19 Release of funds

9.1.20 Social audit

9.1.21 Maintenance of record

9.1.22 Corruption/defalcation/falsification/destruction/losing/ tampering/ of records/  
withholding of information/diversion of material

9.1.23 Violation of any other law or rule in relation to NREGS

9.2 State Nodal Department/ SEGC may include any other ground on which a complaint may be filed with the Ombudsman.

## **10. Procedure for filing the complaint**

10.1 Any person, who has a grievance against the MGNREGA Authority, may, himself or through an authorized representative, make a complaint against the MGNREGA authority in writing or electronically, or telephonically to the Ombudsman or to any MGNREGA authority superior to the authority complained against.

10.2 However, where a complainant is unable to file a complaint in writing (due to illiteracy, disability, etc.), the Ombudsman would have the oral complaint reduced to writing by the CEGC Working Group on Transparency and Accountability

Ombudsman.

10.3 The reports of social audits, WVMCs and other reports generated through other monitoring where any deficiency or shortcoming has been pointed out as prescribed under rule ..... would be placed before the Ombudsman. Any deviance, defalcation, lapse, or violation of the law and rules, and subversion of a process will be registered as a complaint by the Ombudsman. The Ombudsman could also, proactively, register a complaint if a violation of law or other wrongdoing comes to his or her notice by any other means.

10.4 All complaints made by individuals or groups directly to the Ombudsman shall be duly signed by the complainant and an authorized representative, if any, and shall state clearly the name and address of the complainant, the name of the office and official of the Nodal Department against whom the complaint is made, the facts giving rise to the complaint supported by documents, if any, relied on by the complainant and the relief sought from the Ombudsman.

10.5 A complaint made by an individual or a group of individuals through electronic means or by telephone through the help line shall also be accepted by the Ombudsman and a print out of such complaint shall be taken on the record of the Ombudsman.

10.6 A printout of such a complaint shall be signed by the Complainant at the earliest possible opportunity and no later than the first hearing of the matter.

10.7 The signed printout shall be deemed to be the complaint and it shall relate back to the date on which the complaint was made through electronic/ telephonic means.

10.8 No complaint to the Ombudsman shall lie if the complaint is in respect of the same subject matter which was disposed by the Office of the Ombudsman in any previous proceedings; whether or not received from the same complainant or along with any one or more complainants; or any one or more of the parties concerned with the subject matter. However, this would in no way restrict the rights of an aggrieved party to seek redressal or compensation even in a matter that has already been settled but under which their claim has not been considered.

10.9 No complaint shall be made to the MGNREGS Ombudsman on an issue which has been or is the subject matter of any proceeding in an appeal, revision, reference or writ before any Tribunal or Court.

#### **11. Proceedings to be summary in nature**

The Ombudsman shall not be bound by any legal rules of evidence and may follow such procedure that appears to him to be fair and proper. The proceedings before the Ombudsman shall be summary in nature.

#### **12. Disposal of complaints**

12.1 On receipt of the complaint made directly, the Ombudsman may refer the complaint to the appropriate MGNREGA Authorities for disposal within 7 days. In the event of failure of the MGNREGA Authority to dispose the complaint, the matter may be taken up by the Ombudsman for disposal.

12.2 The Ombudsman shall cause a notice of the receipt of any complaint along with a copy of the complaint to be sent to the MGNREGA Authority complained against.

12.3 When facts of the case are admitted by the parties, the Ombudsman shall dispose the case in accordance with the law.

12.4 The Ombudsman may issue an “interim order” in order to ensure the complainant gets immediate relief in accessing entitlements under the MGNREGA. These interim orders shall be binding on the concerned implementing authority, who shall be required to report compliance to the Ombudsman within seven days. Compliance/non compliance with the interim orders by the MGNREGA official shall be mentioned as a part of the final order of the Ombudsman.

12.5 If the Ombudsman is satisfied that any action which is a ground for the complaint has to be suspended temporarily, which is essential to protect the interests of justice, the Ombudsman may order such suspension and the same shall be complied with by the CEGC Working Group on Transparency and Accountability

concerned parties.

### **13. Order by the Ombudsman and Appeal**

13.1 If the facts are not admitted by the parties in a case, Ombudsman may pass an Order after affording the parties reasonable opportunity to present their case. He shall be guided by the evidence placed before him by the parties, the reports of social audits, if any, the provisions of MGNREG A and Scheme and practice, directions, and instructions issued by the State Government or the Central Government from time to time and such other factors which in his/her opinion are necessary in the interest of justice. If necessary the Ombudsman may requisition any of the records or order an investigation by technical staff to help reach a reasoned conclusion, based on which an order can be passed.

13.2 The 'Order' passed under sub-clause (13.1) above shall be a speaking order consisting of the following components:

13.2.1 Details of the parties of the case.

13.2.2 Brief facts of the case.

13.2.3 Issues for consideration

13.2.4 Findings against issues along with reasons.

13.2.5 Direction to the concerned MGNREGA Authority such as performance of its obligations like expediting delayed matters, giving reasons for decisions and issuing apology to complainants, taking of disciplinary and punitive action against erring persons, including the imposition of penalties under section 25 of the MGNREGA.

13.2.6 Costs, if any.

13.3 In every case of alleged corruption the Ombudsman may ask the complaint to submit an affidavit. In case the complaint of corruption and the affidavit is found to be false, malicious or vexatious, the Ombudsman shall,

For reasons to be recorded in writing, dismiss the complaint. The Ombudsman may also forward the order along with the affidavit to the District Administration with directions to file a case against the complainant for the submission of false affidavit.

13.4 A copy of the 'Order' shall be sent to the complainant and the MGNREGA Authority Complained against.

13.5 There shall be no appeal against the 'Order' passed by the Ombudsman and the same shall be final and binding on the parties.

13.6 A representative of Programme Officer/District Programme Coordinator may appear in cases where the Programme Officer/District Programme Coordinator is a party. Programme Officer/District Programme Coordinator shall appear only when a proceeding is taken up before the Ombudsman, in where the complaint is such that an order could be passed against the officer in which case the officer shall be provided the opportunity of a hearing.

13.7 All cases not involving complicated questions of fact or law shall be disposed within 15 days. Where external experts or investigators need to be involved or there are other good reasons why proper investigation cannot be completed within fifteen days, the period could be extended every fifteen days for another 15 days, on recording the reasons in writing. However, in no case should the total time between the receipt of the complaint and issuance of the final order exceed 45 days.

Each time the period is so extended, the state government and the MoRD, GOI will be notified in writing, along with the reasons thereof, within seven days of such an extension being allowed.

13.8 Representation of parties by an advocate in any proceeding may be made with the prior permission of the Ombudsman.

13.9 Where the Ombudsman is satisfied, after due investigation and giving opportunity for all the relevant parties to be heard, that there has been a violation of the MGNREGA , the

Ombudsman shall impose penalty on the guilty party as specified in Section 25 of the MGNREGA.

13.10.1 If the Ombudsman is satisfied that there is a prima facie case involving a criminal offence against the alleged person, the Ombudsman shall send the complaint to the District Superintendent of Police along with the findings and recommendations thereon.

13.10.2 The District Superintendent of Police shall, on receipt of complaint and recommendation under sub-rule (1), register an FIR and intimate the Ombudsman.

## Chapter V.

### Miscellaneous

**14. Rectification of error in the order.**—The Ombudsman may, whenever

*suo-motu* or on application by any person, rectify or add as the case may be, any error or omission in its order: Provided that the concerned parties shall be given an opportunity for submitting their grievances before such rectification or addition.

**15. Language to be used in the proceedings and orders.**—The Ombudsman shall use the local language in the trials and proceedings and its orders would either be in the local language or in English/Hindi.

**16. Action, if the order of the Ombudsman is not enforced.**— All the

persons concerned are liable to enforce the orders of Ombudsman and in case of failure the non enforcement shall be considered a violation of the MGNREGA where the Ombudsman can initiate action against the official concerned under these instructions.

**17. Giving copy of the order:**

(1) A copy of final disposal of the complaints before the Ombudsman shall be given to each party to the complaint within one week from the date of disposal: Provided that if any party to the complaint applies in writing that a copy of the Order is immediately required that shall be given within three working days in such circumstances.

(2) The interim and final orders issued by the Ombudsman shall bear the signature and office seal of the Ombudsman and be put up on the website of the MGNREGA.

(3) On the final disposal of the complaints before the Ombudsman, and the pronouncement of final orders, the date of disposal and; nature of disposal and the details thereof, shall be entered into a register, as per the format specified.

(4) All types of records and documents such as files and registers in respect of each complaint in the office of the Ombudsman shall be preserved for a period of twenty years.

**18. Certain powers of the Ombudsman.**— In the cases where procedure in these rules are not specified for the disposal of the complaints before the Ombudsman, it may adopt appropriate procedures for the disposal of the complaint.

19. Review.—The Ombudsman may, suo moto or on application submitted within sixty days from the date of the order, review any of its decisions.

**20. Submission of Report to State Employment Guarantee Council and Legislative Assembly**

The summary report of cases disposed by the Ombudsman will be reported to the State Employment Guarantee Council by the Secretary, State Nodal Department

In writing once every quarter and placed before the State MGNREGA Council in its next meeting. and will also form part of the Annual Report and placed in the Legislative Assembly.

**21. Amount received to be deposited in the State Employment Guarantee Fund**

All sums payable by the parties to the Ombudsman and received by him shall be deposited in the account of the State Employment Guarantee Fund.

## **IV. Framework for Social Audit**

### **1. Social Audit – Background**

Section 17 of the MGNREG Act stipulates that the Gram Sabha shall monitor the execution of works within the Gram Panchayat, and further that the Gram Sabha shall conduct regular social audits of all the projects under the Scheme taken up within the Gram Panchayat. The Act gives a central role to social audits as a means of continuous public vigilance. The NREGA Operational Guidelines indicate two types of social audit:

- a. Social audit as a continuous and ongoing process, involving public vigilance and verification at different stages of implementation; and
- b. Social Audit Forums every six months, involving a mandatory review of all aspects of the social audit at Gram Sabha meetings.

The conduct of the Social Audit Forums has been indicated in Paragraph 13(b) to Schedule I of the Act, introduced vide MoRD's Notification No. S.O. 3000(E) dated 31<sup>st</sup> December 2008. Our views on the revised Paragraph 13(b) have already been communicated separately to MoRD . We reproduce those and reiterate that is crucial that Section 13 (b) be amended as follows in order to ensure that social audit processes are effectively carried out.

### **2. Revised Formulation of Schedule I -13 (b)**

#### **Schedule I - 13 (b) Social Audit**

Social Audit is an effective means for ensuring transparency and accountability under MGNREGA. The process of Social Audit combines people's participation and monitoring with the requirements of the audit discipline, where the Gram Sabha requires inputs and facilitation for skill development and making informed decisions, for carrying out social audits successfully and effectively. Social Audit is a continuous process of public vigilance; the mandatory assembly of the Gram Sabha held every six months for this purpose may be called the 'Social Audit Forum'.

In order to carry out the Social Audits:

- (a) The Social Audit Forum shall be held at least once in every six months.
- (b) To assist and facilitate the members of the Gram Sabha in conducting social audits and in ensuring that Social Audits are held regularly in all Gram Panchayats, each State Government shall set up a Directorate of Social Audit, which shall be independent of the implementing departments/agencies. It shall be the responsibility of the State Government to ensure that the Social Audit Directorate is adequately staffed and resourced, such that it can independently and effectively function. The State Government shall allocate adequate resources for this Directorate from out of MGNREGA funds (say 0.5 per cent of total MGNREGA funds for the State). This allocation will be booked under the funds of six per cent allocated for administrative expenses. The Social Audit Directorate shall also have a Technical Wing to inquire specifically into the upkeep of MGNREGA accounts and other financial records at all levels as also to examine quality related aspects of the MGNREGA works.
- (c) An announcement of the dates of Social Audit will be made by the District Programme Coordinator or the Programme Officer in consultation with the Directorate of Social Audit at least 30 days in advance. The Directorate of Social Audit shall frame an annual calendar for the Social Audit.
- (d) To ensure independent, impartial and transparent Social Audit and avoid allegations of bias and partisanship, the following group, along with other representatives of the Directorate of Social Audit will act as 'Social Audit Facilitators' for Gram Panchayats other than their own Gram Panchayat. For each Social Audit culminating in the 'Social Audit Forum', the Directorate of Social Audit will identify and train the group of not less than 5 workers of integrity from the categories mentioned below: –
  - At least two of whom will be women;
  - At least one member will be from Scheduled Caste / Scheduled Tribe; and

- At least one worker from BPL family who has completed 100 days in the MGNREGA in the last year.

Male members will be at least 10<sup>th</sup> standard pass and female members will at least be 5<sup>th</sup> standard pass;

Preference will be given to workers and members of the Vigilance and Monitoring Committees (who will not be directly or indirectly related with any persons with implementation roles in the MGNREGS – Gram Sarpanch, Gram Sevak (or Secretary), Gram Rozgar Sevak, Field Assistant, Employment Guarantee Scheme Mate, Senior Technical Assistant, Junior Technical Assistant, Junior Engineer, Assistant Engineer).

- (e) To facilitate the conduct of Social Audit, the Social Audit Facilitators shall be responsible for the requisition of all necessary information and records from the Gram Panchayat in advance. It shall be the responsibility of the Programme Officer to ensure that all the required information and records are properly collated in the requisite formats and provided, along with photocopies of all related records, to the Social Audit Facilitators at least 15 days in advance of the scheduled date of meeting of the Social Audit Forum.

- (f) The Social Audit Facilitators shall disseminate information and help/assist the members of the Gram Sabha in verifying records and financial expenditure; examine the delivery of entitlements, critically evaluating the quality of works and services of the programme staff and discuss the priorities reflected in choices made. For this purpose, the Social Audit Facilitators will also obtain oral and written testimonies, as considered appropriate. They will also conduct necessary onsite inspections. The Social Audit Facilitators shall prepare a report of their observations with particular regard to any contravention of the Act and other rules.

- (g) This process will culminate in the Social Audit Forum, where the Social Audit Facilitators will read out their reports of findings in public. This Forum shall not be chaired by any one who is involved in the implementation of MGNREGA, including the Gram Panchayat Sarpanch (President etc.) as the Gram Panchayat is

the main implementing agency. All public representatives and staff involved in implementing MGNREGA shall be present at this Forum to respond to queries. This Forum will provide a platform to all villagers to seek and obtain further information and responses from the Social Audit Facilitators, public representatives and officials.

- (h) The Social Audit Forum shall be an open and inclusive forum to encourage broad based public participation. Any individual or association of individuals shall be allowed to participate, testify and place their observations on record. However, they will have no voting rights.
- (i) DPC shall nominate a district level official to attend the SA Forum meeting. This officer will be responsible for immediate redressal of grievances during the course of meeting and ensuring that the Forum takes place in true democratic spirit in an atmosphere where everyone can speak and testify without fear. This officer will be responsible for filing a report with the DPC as per the prescribed format.
- (j) The Social Audit Report consisting of the minutes of the Social Audit Forum, the resolution(s) passed, written and oral remarks, observations of the Social Audit Facilitators, and any other submissions made, shall be forwarded to the District Programme Coordinator, Programme Officer, concerned implementing Department(s) and Directorate of Social Audit by the Social Audit Facilitators within one week of the Forum for necessary action.
- (k) Every contravention of the Act mentioned in the Social Audit Report shall be treated as complaint under section 23 of the Act.
- (l) The concerned Department/Authority shall take appropriate follow-up action including disposal of complaints within 7 days of receiving the Social Audit Report. In case of any Fund defalcation/misappropriation, the concerned controlling authority shall initiate requisite criminal proceedings and recovery proceedings against the concerned person/authority. Where the concerned

authority is a Panchayati Raj Institution, the DPC/ PO shall be responsible for initiating these actions.

- (m) The Directorate of Social Audit shall ensure that the concerned Department/Authority takes appropriate action to meet the stipulation mentioned under section 23 of the Act.
- (n) While certifying accounts/records of the MGNREGS, the Government auditor shall take cognizance of any complaint regarding financial irregularities or misappropriations, raised through a Social Audit before certifying the accounts.
- (o) The Social Audit Directorate shall be responsible for immediately making available all findings and action taken to the public, by hosting it on the website and through other means of communication.
- (p) The action taken report relating to the previous Social Audit shall be read out at the beginning of the meeting of each Social Audit Forum.
- (q) All Action Taken Reports shall be filed by the concerned authority within a month of convening of the Social Audit to the Social Audit Directorate.
- (r) The state governments shall frame detailed rules for carrying out social audit effectively and in a transparent manner.

### **3. Model Social Audit Rules**

Enclosed are Model Social Audit Rules which may be used as a standard by the States while framing their own Rules. Instead of drafting a set of “generic” National Rules which may not be relevant to different circumstances across the length and breadth of the country, State Governments may be asked to form their own Rules. The Social Audit Rules formulated by the State Governments may be vetted by the MoRD and placed before the CEGC to ensure they subscribe to the standards contained in the Model Rules.

#### **Model Social Audit Rules**

Whereas, the Government of India is committed to the transparent implementation of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (Central Act No.42 of 2005); (henceforth MGNREGA, 2005).

And whereas, Section 17 of MGNREGA, 2005 provides for regular 'social audits' so as to ensure transparency and accountability in the scheme, which are further detailed in paragraph 13(b) of Schedule-I to MGNREGA, 2005. In this regard, subsection (2e) of section 31 of MGNREGA, 2005 mandates that the Central Government can make rules of "any other matter which is to be, or may be, prescribed, (wherein "prescribed" means prescribed by rules made under this Act) or in respect of which provision is to be made by the Central Government by rules".

And whereas, it is intended that social audits are to be conducted in an impartial and objective manner and that the findings of the same may be presented without any dilution and action would be taken to address the gap there of with an aim to strengthen the scheme.

### **1. Short Title**

These rules may be called the "Mahatma Gandhi National Rural Employment Guarantee Act – Government of India Social Audit Rules, 2010".

### **2. Definitions**

In these rules, unless the context otherwise requires:-

- (a) "Act" means the Mahatma Gandhi National Rural Employment Guarantee Act, 2005. (Central Act No.42 of 2005)
- (b) "Block" means a community development area within a district comprising a group of Gram Panchayats, and shall also include "Mandal" or other designation adopted in different States;
- (c) "Civil Society" means any village community, non-official public spirited group or individuals who expressed in writing an interest or choose to participate in the public vigilance process in general, and social audit process in particular.

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- (d) "Directorate of Social Audit" means the apex body constituted by the State Government as a Directorate, Department, Society or other form, which shall be independent of the implementing agencies, and shall oversee the process of social audits throughout the State;
- (e) "District Programme Coordinator" means an officer of the State Government designated as such under sub-section (1) of Section 14 of the Act for implementation of the scheme in a district;
- (f) "Government" means the Government of India or the State Government, as the case may be;
- (g) "Gram Sabhas" shall ordinarily mean the same as defined in the Constitution of India or Panchayati Raj Act and notifications thereunder; however, for social audit purposes, Gram Sabha could also mean a meeting of one ward, village or habitation constituting residents of part of a Panchayat.
- (h) "Implementing Agency" includes any department of the Central Government or State Government, Zilla Parishad, Panchayat at intermediate/ block level, Gram Panchayat or any local authority or Government or authorized by the Central Government or the State Government to undertake the "implementation" of any work taken up under the scheme.
- (i) "Minimum wage" in relation to any area, means the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers as applicable in that area.
- (j) "Notification" means notification published in the Gazette of India, and the word "notified" shall be construed accordingly.
- (k) "Official Functionary" shall mean all public servants either appointed by Government or elected by the public holding public office.
- (l) "Primary Stakeholder" means the wage seekers, who have worked under or have applied for work under the Employment Guarantee Scheme (EGS), and their families, and residents of the Gram Panchayats where the EGS works are being carried out.

- (m) "Programme Officer (PO)" means an officer appointed under sub-section (1) of Section 15 of the Act for implementing the scheme;
- (n) "Resource Persons" mean the persons who will carry out the training and capacity building process for the social audit process.
- (o) "Scheme" means a Scheme notified by the State Government under sub-section (1) of section 4 of the Act.
- (p) "Social Audit Forum" or "Social Audit Gram Sabha" is the special Gram Sabha to be held at least once every six months for this purpose. (Gram Sabha procedures regarding quorum, chair, announcement etc. would also apply to the Social Audit Gram Sabha). No Social Audit Forum shall restrict participation of anyone who has an opinion or testimony to offer or make a contribution in any way as long as they adhere to the principles of social audit.
- (q) "Social Audit Facilitators" mean the persons nominated by the Directorate of Social Audit, who will facilitate the social audit and ensure that it is independent, impartial and transparent.
- (r) "Social Audit of a Scheme" means auditing of a scheme by the primary stakeholders of the Scheme or with the active involvement of the primary stakeholders of the scheme, and includes, but is not limited to, verification of works, or facts on ground vis-à-vis official records by taking into account the recorded or oral evidence, which is aided and facilitated by the Government, Directorate of Social Audit and/or civil society organisations.
- (s) "Social Audit Manual" means the handbook to describe the steps to be followed during a social audit.
- (t) "Ward Sabha" means the meeting held at the ward level defined by the Panchayati Raj Act/ Rules.

All words and expressions used but not defined in these rules have meaning assigned to them under the Act.

### **3. Social Audit Resource Base**

In order to assist and facilitate the members of the Gram Sabha in conducting social audits and in ensuring that Social Audits are held regularly in all Gram Panchayats, the State Government shall facilitate a resource base in the following manner:

- (a) The State Government shall constitute a Directorate of Social Audit as an apex body for overseeing the process of social audits throughout the State. This body, which may be constituted as a Directorate, Department, Society or other form, shall be independent of the implementing agencies for the scheme. The State Government shall be responsible for ensuring that the Directorate of Social Audit Directorate is adequately staffed and resourced, such that it can independently and effectively function. The State Government shall allocate adequate resources for this Directorate from out of MGNREGA funds (say 0.5 per cent of total MGNREGA funds for the State). This allocation will be booked under the funds of six per cent allocated for administrative expenses.
- (b) The Directorate of Social Audit shall also have a Technical Wing to inquire specifically into the upkeep of MGNREGA accounts and other financial records at all levels as also to examine quality related aspects of the MGNREGA works.
- (c) Resource Persons shall be drawn from Civil Society Organisations with experience of having worked on strengthening and establishing people's rights at the grass root level and who are specifically trained in social audit processes. The Directorate of Social Audit shall create a network of Resource Persons at the State and District levels, as well as lower levels (if deemed appropriate), who will form the resource base for carrying out training and capacity building in social audits on an ongoing basis.
- (d) To ensure independent, impartial and transparent Social Audit and avoid allegations of bias and partisanship, the following group, along with other representatives of the Directorate of Social Audit, will act as 'Social Audit Facilitators' for Gram Panchayats other than their own Gram Panchayat.

For each Social Audit culminating in the 'Social Audit Forum', the Directorate of Social Audit will identify and train the group of not less than 5 workers of integrity from the categories mentioned below: –

At least two of whom will be women;

At least one member will be from Scheduled Caste / Scheduled Tribe; and

At least one worker from BPL family who has completed 100 days in the MGNREGA in the last year.

Male members will be at least 10<sup>th</sup> standard pass and female members will at least be 5<sup>th</sup> standard pass;

Preference will be given to workers and members of the Vigilance and Monitoring Committees (who will not be directly or indirectly related with any persons with implementation roles in the Scheme– Gram Sarpanch, Gram Sevak (or Secretary), Gram Rozgar Sevak, Field Assistant, Employment Guarantee Scheme Mate, Senior Technical Assistant, Junior Technical Assistant, Junior Engineer, or Assistant Engineer).

#### **4. Periodicity of Social Audits**

Social Audit Forums shall be carried out in every Gram Panchayat at least once in every six months. The Directorate of Social Audit shall frame an Annual Calendar for social audit, and an announcement of the dates of the Social Audit For shall be made at least 30 days in advance by the District Programme Co-ordinator or Programme Officer, in consultation with the Directorate. In turn, the Programme Officer shall notify, in writing, all Public Representatives and staff of implementing agencies for the scheme in the area of the Gram Panchayat well in advance, so that they co-operate in the conduct of the social audit process and are also present at the Social Audit Gram Sabha. He shall also inform the Sarpanch/ President of the Gram Panchayat to convene the Social Audit Gram Sabha on the stipulated date. As far as possible, social audits of all Gram Panchayats within a block should be scheduled together.

In addition to the formal notifications by the Programme Officer to the public representatives and implementing agency staff as well as notice issued by the Sarpanch/ President/ Pradhan of the Gram Panchayat, the social audit facilitators and the district administration should also publicise the holding of the Social Audit Forum widely amongst the labourers and village community.

In addition to the mandatory “Social Audit Forums” every six months, social audit is a continuous and ongoing process, involving public vigilance and verification at different stages of implementation of the scheme viz.:

Registration of families/ households;

Issue and distribution of job cards;

Receipt of applications for work and issue of dated receipts;

Preparation of shelf of works and selection of works/ sites;

Preparation and approval of technical estimates, and issue of work orders;

Allotment of work to applicants;

Execution of works and maintenance of muster rolls;

Payment of wages;

Evaluation of work;

Payment of unemployment allowance; and

Conduct of Social Audit Forums

Consequently, the statutory requirement for Social Audit Forums cannot preclude any independent initiative by primary stakeholders, other individuals, and groups/ organisations in carrying out additional social audits. Government agencies shall endeavour to support such social audits by providing copies of the scheme records, attending the social audit meetings, and responding to these findings and taking necessary action thereon in the same manner as required for the “Social Audit Forums”. Further, these social audit reports as well as action taken reports shall be placed before the next Gram Sabha.

#### ***5. Filing of Applications for Official Records***

The team of Social Audit Facilitators shall file an application with the Programme Officer for relevant information on the Scheme at least 15 days before the scheduled date of the Social Audit Forum. The information sought shall include, but not limited to,

Shelf of works;

Gram Panchayat resolutions;

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Technical Estimation and Sanction and Administrative Sanction (work-wise);

Work commencement order;

Muster Rolls and Payment orders to banks and post offices;

Measurement Books/ Measurement Sheets

Material payment bills/ invoices and vouchers

Final Report

The Programme Officer shall provide the required information and records in the requisite formats, along with photocopies of all related records, within seven days of the application, without fail. Failure to provide records within the stipulated timeframe shall result in disciplinary action against the Programme Officer, in addition to penalties under the Act.

#### ***6. Social Audit Process in the Village***

Social Audit shall be conducted on all works done and payments made during the specified period. The social audit process will include, but not be limited to, the following activities:

Thorough verification of Muster Roll entries and payments made through door-to-door contacts with the wage seekers whose names are entered in the muster rolls;

Work site verification, including verification of quantity of work done and assessment of the quality of work;

Focused group discussions and holding of Ward Sabhas / habitation meetings with the primary stakeholders, including special meetings in the Scheduled Caste/Scheduled Tribe localities on various aspects of the implementation of the scheme;

Scrutiny of cash book, bank statements and other financial records to verify the correctness and reliability of financial reporting;

Scrutiny of invoices/ bills, vouchers and other related records for procurement of materials to verify that the procurement was economical, and the items procured were received and fully utilised on the work.

The Social Audit Facilitators shall help/assist the members of the Gram Sabha in these processes through disseminating relevant information (appropriately summarized and

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presented); verifying records and financial expenditure; examining the delivery of entitlements; critically evaluating the quality of works and services of the programme staff and discuss the priorities reflected in choices made. For this purpose, the Social Audit Facilitators will also obtain oral and written testimonies, as considered appropriate, and will also conduct necessary onsite inspections.

The Social Audit Facilitators shall prepare a written report of observations and findings with regard to the implementation of the scheme.

### ***7. Conduct of Social Audit Gram Sabha/ Forum***

The Social Audit Forum will provide a platform to all villagers to seek and obtain further information and responses from the Social Audit Facilitators, public representatives and officials, and will also provide an opportunity for informing people about their rights and entitlements under the Act. The Forum shall be conducted as follows:

- (a) The Forum shall not be chaired by any one who is involved in the implementation of MGNREGA, including the Gram Panchayat Sarpanch (President etc.) as the Gram Panchayat is the main implementing agency. All public representatives and staff involved in implementing MGNREGA shall be present at this Forum to respond to queries.
- (b) The Social Audit Forum shall be an open and inclusive forum to encourage broad based public participation. Any individual or association of individuals shall be allowed to participate, testify and place their observations on record. To keep the social audit process open and inclusive, all support and resources that foster its integrity should be given space and opportunity to contribute, and participation is facilitated from any organisation or individual (e.g. social activists, members of workers' associations and civil society organisations) who can build the capacities of the primary stakeholders to understand the documents, details of work undertaken or have their voice heard. However, voting rights to take decisions will vest only with the labourers and their families and other residents of the Gram Panchayat.
- (c) The DPC shall nominate one or more district level officials to attend the Social Audit Forum meeting. These officials will be responsible for immediate redressal of

grievances during the course of meeting and ensuring that the Forum takes place in true democratic spirit in an atmosphere where everyone can speak and testify without fear. These officers will be responsible for filing a report with the DPC as per the prescribed format.

(d) At the forum, the Action Taken Report on the last social audit will be read out. Then, the Social Audit Facilitators will read out their report of findings in public, and will also respond to questions from those present. The concerned official functionary shall respond to each of the issues identified in the report of the social audit facilitators by giving a clarification or an explanation to the affected party and the public as to why a certain action was taken or not taken. In case of inability to carry out rectification action in the meeting itself, the official functionary will specify the time period and nature of action to be taken by him/her to rectify a gap or a lapse in implementation as the case may be. In addition, members of the public have the right to put forward other questions related to the implementation of the scheme to the official functionaries, and receive responses thereto.

(e) The Social Audit Report consisting of the minutes of the Social Audit Forum, the resolution(s) passed, written and oral remarks, observations of the Social Audit Facilitators, and any other submissions made, shall be forwarded to the District Programme Coordinator, Programme Officer, concerned implementing Department(s) and Directorate of Social Audit by the Social Audit Facilitators within one week of the Forum for necessary action.

### ***8. Block/ Mandal Social Audit Public Hearing***

In addition to the Social Audit Gram Sabhas, the State Government may also prescribe social audit public meeting at the block/ mandal level as a culmination of the social audit process in all the Gram Panchayats within the block; a decision on this would depend on the practicability of such hearings, depending on the distances involved, road connectivity, feasibility of people participation at the block level, size of the blocks etc. Such Block/ Mandal level social audit public hearings would be in addition to, and not in substitution, of social audit forums at the level of the Gram Sabha.

## **9. Follow up Action on Social Audit Forum**

- (a) Any social audit finding or any item in the social audit report that indicates a contravention of the Act or a shortcoming in the implementation of NREGA should automatically be treated as a complaint under section 23 of the Act. In case of a social audit finding of a violation of workers' entitlements, such finding shall be disposed off as per the Grievance Redressal Rules.
- (b) Senior officials such as the DPC as well as the Programme Officer shall, within a timeframe of 7 days of receiving the social audit report, ensure that corrective action is taken on the findings of the social audit forum. In the case of defalcation/ misappropriation of funds, the concerned controlling authority shall initiate criminal proceedings and recovery proceedings against the concerned person/ authority. Where the concerned authority is a Panchayati Raj Institution, the DPC/ PO shall be responsible for initiating such action.
- (c) In case of doubt or dispute on any findings of the social audit, senior officials such as the DPC or the Programme Officer shall cause enquiry and shall decide on the issue at the earliest, and not later than one month.
- (d) Where the persons found to have misappropriated funds repay the same in the social audit forum/ block level social audit hearing, the same shall be deposited in the account designated by the State Government and a receipt issued to the person then and there. If the amounts so recovered rightfully belong to wage seekers, the same shall be returned to them within 7 days from the date of recovery of such money.
- (e) All Action Taken Reports shall be filed by the concerned authority within a month of convening of the Social Audit Forum to the Directorate of Social Audit.
- (f) The Directorate of Social Audit shall be responsible for immediately making available all findings and action taken to the public, by hosting it on the website and through other means of communication.

- (g) The procedures for initiation of disciplinary action and registering of criminal cases, depending on the gravity of the irregularity or offence, shall be stipulated by the State Government.
- (h) The Directorate of Social Audit shall be responsible for ensuring that the concerned Department/Authority takes appropriate action on the social audit findings and to meet the stipulations mentioned under section 23 of the Act. Alternatively, the State Government may designate another person or authority, who would be held responsible for monitoring and ensuring that timely and appropriate action is taken on the social audit findings.
- (i) While certifying accounts/records of the MGNREGS, the Government auditor shall take cognizance of any complaint regarding financial irregularities or misappropriations, raised through a Social Audit Forum before certifying the accounts.

#### **4. Social Audit Manual**

Again, instead of drafting a generic social audit manual, we feel that the Social Audit Manuals of Andhra Pradesh may be appended as a model manual, and different States may appropriately alter it to suit their specific requirements.

## V. Management Information System Rules (Draft)

1. All financial and technical transactions relating to the MGNREGA must be proactively (*suo moto*) entered into a Management Information System (MIS) so that it is accessible to any interested person.
2. The general principles to be followed in developing an MIS would include;
  - (a) As far as possible the information fed into a computer based MIS would be transaction based (as detailed in rule 10 & 11 below);
  - (b) The formats used for entering information, analysis and display would be uniform across the country so that information can be uploaded and downloaded seamlessly at all levels from the Gram Panchayat/ Block level up to the National level;
  - (c) In the medium to long term, the platform and software used for the computerised MIS would be open-source/open access so that it is inexpensive and universally accessible and allows customisation at all levels. This will empower and motivate states to shape their Management and Janata Information Systems – MIS and JIS, to suit local needs, while recognising the need for a nationally standardised database;
  - (d) Apart from a computer based web linked MIS, there will also be a Janta Information System (JIS), as detailed in Rule 16-18 and in Transparency Rule 9, which would ensure that the relevant information is available to those who do not have access to computers;
  - (e) The MIS system should facilitate access by individuals to their own accounts so that authentic data in real time is available to them, as detailed in rule
  - (f) To ensure a citizen friendly MIS system, the MIS should display easy to understand features. This includes interactive graphs that offer quick analysis along key indicators such as allocations and expenditures, person days of work allocated and so on. The MIS could also feature maps with search facilities so that the user can search for data down to the panchayat/ worksite level to assess

allocations and expenditures. To make the system interactive, the MIS should also include features that allow citizens to comment on data available, share experiences and so on. Examples of how to develop such interfaces can be found in websites such as [www.recovery.org](http://www.recovery.org) and data.gov.

(g)

### 3. Process based orientation

(a) All payments (wages, salaries, material and administrative expenses, etc) shall be made only through pay orders generated from either MGNREGA soft or its state companions or the new platform/software developed.

Explanation- under the proposed system wage lists sent to the bank and post office shall be generated only from MGNREGA soft or its state companions after the estimate, muster roll and MB have been entered into the system and authenticated (same for payments of material, salaries and all other expenses).

(b) The location at which such pay order generation will take place (viz. Block/ Mandal or Gram Panchayat) will be decided by the State Government, based on geographical, logistical and other considerations.

(c) To take care of interruptions in power supply, the State Government shall make appropriate arrangements for UPS (Uninterruptible Power Supply) with sufficient runtime to ensure that transaction processing and data entry during working hours is not adversely affected.

(d) Considering the widespread growth of mobile connectivity even amongst MGNREGA beneficiaries and potential beneficiaries, the MIS shall be so designed to capture the mobile number of the job card holder (if available), and SMS alerts shall be automatically generated in the local language to the mobile number in case of critical events, e.g. (a) receipt of application for work (b) allotment of work (c) generation of pay order (with details of work days and amount due) etc.

3. Issuing of cheques, cash books, asset cum cumulative register and preparation of various ledgers shall also be similarly done; and the application should seamlessly interface with the Banks/Post Offices, making it possible to reconcile the accounts of Banks and Post Offices through this application.

4. There shall be transparency and connectability audit of various formats to ensure that they conform to the requirements of Social Auditing and are available in the

public domain so that the ends of concurrent audit and social audit are achieved at all times.

5. MoRD shall release funds on the provision of a certificate by States that all payments (wages, staff salaries, other administrative expenses, material suppliers bills etc.) are made only through MGNREGA soft or its state companions.
6. There shall be a standard set of rules developed for data entry. These rules shall be reviewed and certified for conformity with industry standards for data entry.
7. Training manuals shall be developed and made available to states by MoRD for training data entry operators and their supervisors.
8. There shall be a provision by which Panchayat Rozgar Sewak/Gram Sewak, Technical Assistant / Junior Engineer, Accountants and Program Officer should be given a log in with a password and be required to authenticate data that has been entered.
9. The MIS shall be so designed and operated as to be able to generate the following kinds of data, aggregates and comparisons:
  - (a) Estimated costs
  - (b) Value of work done
  - (c) Difference between the above two, if any
  - (d) Value of all vouchers and muster rolls
  - (e) Evaluation of actual expenditure against expenditure incurred against expenditure booked emerging from social audits
  - (f) The differences between the above iv-v, if any

The MIS shall be designed and operated to generate all this information at the National, State, District, Block, Panchayat, MP constituency, MLA constituency, District Panchayat member constituency levels. It shall also generate this data for all the levels defined above- vendor wise materials supplied and payment made, worker wise days worked and payment received, and, material wise rates at which payment was made and quantities purchased.

10. The MIS system shall be designed and operated to highlight and send out alerts (at specified intervals to specified persons), the following information-
  - (a) List of Panchayats that do not have an adequate shelf of projects;
  - (b) List of Panchayats not generating adequate work days in each week;

- (c) Names of job cardholders who have not got 100 days of employment in each year;
- (d) List of works with name in each Panchayat that has failed to record engineering measurements within the stipulated period. List of all incomplete works, along with number and total value of such works for which there is administrative approval;
- (e) List of Panchayats in which wages have not been paid within fifteen days of closure of the muster roll;
- (f) List of Panchayats in which muster rolls are not fully entered into the MIS each week .
- (g) List of Panchayats, which either have over rupees four lakh unspent or less than rupees one lakh to spend

11. All estimates and MBs shall have GPS coordinates of each work i.e. latitude and longitude.
12. MoRD shall, subject to technological capacity, work with the National Remote Sensing Agency to try to assess through remote sensing data the number of workers in random work sites once a month during the peak working season, as well as monitor the nature and quality of asset being created.
13. A national asset register shall be built on an appropriate platform (like Google Earth/Maps) using latitude-longitude coordinates and made available in the public domain.
14. CDs shall be prepared and made available for the complete data for each quarter and for each year, for an entire Block, District and State. at the Block level by the P.O, at the District level by the DPC and at the State level by the Commissioner at the rate of Rs 15 each, This shall also be made downloadable from the MGNREGA web site free of charge.

## **Janta Information System**

15. The MIS should be so designed that any worker who enters the job card no should be able to access all information relating to every transaction connected with that Job Card /worker. The worker should also be able to demonstrate the time lapse between application and provision of work, and the time lapse between completion of work and date of payment, Thereby generating, automatic claims for unemployment allowance and/or compensation for delayed payments. In addition the workers account on the JIS should provide all details of work, wages and payments made through the bank or post office.
16. All, details of Panchayat level information of MGNREGA painted on the outer walls of public buildings as per the Transparency Rules. (proactive disclosure section of Transparency Rule 6,7&8).
17. Prescribed categories of information shall also be printed/entered in the job card/labour card/ work measurement card , as detailed in rule...(proactive disclosure section of Transparency Rule 8,9 & 10)
  - (a) All MBs and muster rolls shall have a unique number countrywide;
  - (b) All Estimates and MB's shall include an analysis of materials to be used/actually used as per the prescribed format;
  - (c) The above shall be in local and engineering units.

## Annexure 1

### **Notes on Instructions of Ombudsman**

The Working Group examined the structure and substance of the existing Ombudsman orders of the MoRD September 2009, and also discussed the difficulties States have been experiencing in implementing this order. Based on the issues that arose in the course of the discussions, a number of suggestions were made to make the institution more credible and effective. The substantial changes suggested are listed below. Brief reasons for the change are also indicated.

#### 1. Change in terminology from “Award” to “Order”

This was done, because the award implies some kind of arbitration or award of damages. In fact, the Ombudsman is issuing a direction to an NREGA authority to redress a grievance, or recommending the imposition of a penalty.

If the government chooses to give the Ombudsman the power to order payment of unemployment allowance, or the compensation for late payment of wages, it would still qualify better as an order rather than an award.

#### 2. Para 2.1 (d) designating the other ombudsmen as deputy ombudsmen

This has been done to make sure that there is a single person who will ensure that the responsibilities of the Ombudsman are carried out without confusion.

#### 3. Para 2.2.5 providing for extension of three years

This is to ensure that those who perform their task well get an extension, without having to go through the selection process again.

#### 4. Para 4, increasing the remuneration for the ombudsman (both salary and sitting fee)

The fees that the Ombudsman receives today would work out to be Rs 10,000/- for a month (if there are 20 sittings) . That is less than the salary that a gram sewak

receives, and not enough for anyone but a committed social worker to be attracted by. The danger is that some people might take the position to make money through bribes, since they are likely to deal with many corruption related complaints.

5. Timelines of 7 and 30 days stipulated in para 8.1.3 and para 8.1.9

The time line of seven days for the PO to provide the information/ records, is so that the Ombudsman can proceed with the enquiry process within a week, and the PO has a week to try and sort out the grievance as per the provisions of section 23 of the Act. Compliance of the final orders within thirty days seemed a reasonable period of time, after which a report could be sent to the government for further action.

6. A clarification in Para 8.2.2. As to the public nature of MGNREGA documents.

The amendment in this section from the earlier draft is to ensure that the MGNREGA, which has been seen as even more progressive and transparent than the requirements of the RTI Act, should not override the RTI Acts provisions by making MGNREGA documents non- disclosable.

7. Additional paras 9.1.22 and 9.1.23

The grounds for complaints should be as broad as possible, so that the grievance redressal authority has an opportunity to take up all matters related to non compliance of the provisions of the Act.

8. Para 10.2 allowing for oral complaints

This is very important for two reasons. 1) Because many workers are illiterate or barely literate, and 2) So that the fast growing network and outreach of mobile phones can be used to have people file their grievances over the phone, or through a help line.

9. The additional sentence under para 10.8

10. Para 12.4 regarding suspension of proceedings

11. Expanding para 13.2.5 to cover imposition of penalties under section 25

This is one of the most important amendments. There is only one provision (section 25) under the MGNREGA where a penalty can be imposed. However, the mechanisms for imposing the penalty have not been put into place even five years after the Act has come into effect. This is a lacunae that must be corrected. When there is an autonomous authority like the Ombudsman set up to look at complaints, then the Ombudsman becomes a very good way to activate the penalty clause after providing for due process.

#### 12. Procedures for the functioning of Ombudsman

Paras 16 to 18 seek to empower the Ombudsman, as well as lay down procedures to be followed by the ombudsman in carrying out functions.