

# AccountAble™

Prior Permission

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*This issue has been revised based on changes in form FC-1A notified on 24-Jan-00, published on 25-Jan-2000.*

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## What is prior-permission?

No NGO can receive foreign funds or materials without FCRA permission. FCRA permission is of two types: (i) permanent FCRA registration, and (ii) case-by-case prior permission.

## When do you need it?

An NGO would need prior permission in the following four situations:

- The NGO does not have an FCRA number (permanent FCRA registration);
- The FCRA number has been cancelled by the Government;
- The NGO has been asked to get prior-permission under section 10(b).
- The FCRA number is 'frozen' due to change in Governing Body (see AccountAble 42: FCRA Registration).

## Procedure

### Apply in FC-1A

For getting prior-permission, you have to file form FC-1A along with required documents.

### Field Inquiry

If your documents are complete, some one from the Intelligence Bureau will visit your main office.

He may look at your accounts and ask questions from you and your neighbours. He may also inquire at the local Police Station or visit the field area.

He will then send a confidential report to FCRA Department at Delhi.

### Reply from FCRA

Based on the report and other factors, the Department will either send you the permission letter or a rejection in 90 days. They may also ask for another 30 days' time. The reply comes by registered post.



## Appeal against rejection

If your application is rejected, try to identify the reasons for rejection. You can apply again also.

If you wish, you can also file an appeal against the rejection in the High Court within 60 days of date of letter [sec. 21].

## Common doubts

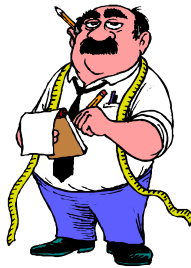
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### More than once

You can get prior-permission more than once. In fact, you can have two or more projects running side-by-side under prior-permission.

### Tailor-made

Each prior-permission is tailor-made. This means you can not use it for a different project or same project under a different agency.



### Joint-grants

If your project is being funded jointly by two or more Agencies, you can apply for both on one form only. You will then get a prior-permission, which covers both.

### Maximum Amount

There is no minimum or maximum limit for prior-permission. For example, there are cases where prior-permission has been given for Rs.1 crore also.

However, FCRA Department is also generally reluctant to give large approvals under prior-permission. The bigger your proposal, the higher it will go for approval..

### How early

Prior permission can be obtained in the first year itself, even before the first year's accounts are finalised. But this will happen only if the Department is fully satisfied about your credibility and accountability.

### Advance Credit

If you have already received the funds in your account by bank transfer, do not spend the money till you receive permis-

sion. If your application is rejected, you will have to return the funds.

### Automatic permission?

Many people think that permission is automatically granted if you don't get a reply in 90 or 120 days. This is not correct!

The Act says that your application must be *disposed* within 90 or 120 days. This means a decision must be taken within that time.

The Act does not say that this decision must be *communicated* within 90 or 120 days to the applicant.

As a matter of practice, the Department *always* sends a reply. If you don't get a reply, it may merely mean that it has been returned undelivered, delayed in post or wrongly delivered. Please check with them.

### Filing FC-3

You have to file FC-3 at the end of each financial year (by 31<sup>st</sup> July). This will continue year after year till the time the FCRA funds you received are exhausted.

## Filling up FC-1A

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### Revised Form

Form FC-1A was revised on 27th December 1996 and 4<sup>th</sup> January 1999. It has now been revised again on 24<sup>th</sup> January 2000 (see AccountAble 19 for the revised form).

### Filling the form

In the revised form there are 11 main items of information. Fill up the entire form in CAPITAL letters only.

### 1. Background

**Applicant:** Start with writing the Chief Functionary's name in the blank space ('I,.....'). This means the person who is directly responsible for day to day running of the NGO.

A different person can also make this application. This person has to be an office bearer and should have been authorized through a resolution of the Governing body.

(i) **Name and address:** Give the name and *postal* address of the NGO. The SIB officers will visit this office to make inquiries. This may be different from your registered office.

(ii) **Registration details:** Give details of your registration as a Society or a Trust here. Non-profit companies also need to give these details.

(iii) **Nature of Association:** This depends on the work you plan to do. If your main work is development, then you can just tick 'social'.

Do not tick Hindu, Christian, Muslim etc. unless yours is a religious association.

(iv) **Aims and objects:** This heading has two parts. First you should give all the main aims and objects of the NGO. Secondly, give the objects and specific programs for which foreign contribution is to be accepted and used. (See AccountAble 42: FCRA Registration, for more on this).

(v) **Governing Body:** Details of all members of the Governing Body or Executive Council etc. should be given in the table.

The table has eight columns. In column 3, give the name of father / husband. If the member is an office bearer (President, Secretary etc.), then say this in column 6. If one of the members is related to an *office-bearer*, then say this (brother, husband, wife of....) in column 7.

## 2. Convictions

This is a new clause. Here the NGO has to provide details of convictions etc. These should relate to one of the members of Governing body listed in the previous table. Moreover, these convictions should be related to their *official* duties. This means that if a person is convicted for a traffic offense while going for a wedding, it need not be listed here.

This information is to be given where:

- A conviction has been made by a court;
- A conviction has not been made, but prosecution for some legal case has been launched; or

- The person has diverted or misutilised funds of this NGO or any other NGO in the past.

## 3. Branch or Associate

Sometimes foreign NGOs or Agencies set up a branch office in India. Clause (a) asks for details of their parent organization. Similarly, your NGO may have a sister NGO that already has FCRA registration. If yes, then you should give details of such sister NGO here.

Clause (b) applies if your NGO had FCRA registration earlier but this has been canceled due to some violation.

Clause (c) applies if your NGO has been asked [under section 10(b)] to get prior-permission for each grant.

## 4. FCRA Registration

There are two clauses here. You may have applied earlier for FCRA registration. Give information about this under clause (i).

Clause (ii) is a little more complicated. Your NGO may have close links with another



NGO (or its branch / unit), which has been refused FCRA registration. Or worse still, that NGO may have been prohibited from accepting foreign funds. You are asked to give this information here.

## 5. Prior-permission

**Past Record:** You may have received foreign contribution earlier under prior permission. Details of this should be given under 5(i)(a). Also give the date when you submitted the related FC-3 and accounts.

**Amount Utilised:** If you have already received funds under prior-permission this year, then you may not have filed FC-3 so far. You should then prepare a report showing amount received, utilised (head-wise) and the unspent balance. This should be attached to form FC-1A.

**Previous Violations:** On the other hand, you may have accepted foreign contribution earlier without legal permission (by channeling, shadow-lending, legal holder etc.). If you have, then give full details here.

Remember that under the law you can get up to five years in prison for this!

## 6. Newspapers

Is your NGO bringing out a newsletter? If yes, check whether it has been registered under Press and Registration of Books Act, 1867 (PRBA). If yes, then, whether it is registered as a 'newspaper'. If it is registered as a 'newspaper', then give details of registration here. For more on this, see AccountAble 42: FCRA registration.

## 7. Activities & Accounts

**Activities:** You have to give a detailed report on the activities carried out in past three years by your NGO. Instead of this, you can also enclose a copy of your annual reports.

Often annual reports contain statement of thanks to individuals and collaborating NGOs. Some of these may mislead the FCRA into thinking that you have received foreign contribution illegally. Therefore, review the report carefully, and clarify this where necessary.

**Accounts:** A copy of the audited Balance Sheet, Income & Expenditure, and Receipts & Payments Account should also be given for last three years.

### 8(i). How much

Give the nature (money, material, shares etc.) and value of foreign contribution which you will be receiving. The donor's consent letter should be attached to Form FC-1A.

How will you use this money or materials? Give the purpose and the geographical area as well. Please be specific as to the districts to be covered. This is important if you are working in a sensitive area.

### 8(ii). Project Proposal & Budget

A copy of the detailed proposal, which has been ap-

proved by the Agency, should be given. Also attach a copy of the approved budget. The budget should be reasonably detailed.

Sometimes, a nodal agency or network makes the grant. In such case, you will be getting the money from another FCRA holder. This information, if required, should be given at 8(iii). In this case also, a copy of proposal and budget for *your* grant should be attached.

## 9. Bank Account

You have to open and use a bank account exclusively for foreign funds. Give details of this FCRA bank account here. These details include account number, name and address of the bank.

## 10. Details of foreign source

Who will give you the grant? Where is their Head Office? Who is their chief functionary? Who are their office bearers? All this information is to be given under 10(b). Avoid guesswork on this. Ask the donor agency for this information.

In case you are receiving the money from another FCRA holder in India, give information related to that NGO only. There is no need to give details of the ultimate source.

If you are getting the money from an embassy or Government agency (e.g. USAID), then this should be clarified under 10(c).

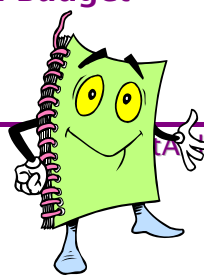
### 10A. Recommendation Certificate

A recommendation certificate should be attached to the application. The format is given at the end of form FC-1A.

This certificate confirms that the NGO has been formed and registered. It also says that the organisation is genuine and there is nothing against them. The area where the proposed project will be implemented is also required.

The total recommended budget of the project and the name of the donor is also to be given in the certificate.

The District Collector of the area can issue this certificate. Alternatively, you can get it



from the concerned Department of the State or Central Government.

## 11. Additional Information

You can give any additional relevant information here. For example, if the money has been credited in advance to your account, this must be stated here.

### Signing

The person whose name was given on first page should sign the application form. This could be the chief functionary on an authorised office bearer (see **Applicant** on page 2). The rubber stamp of the association must be put when you sign.

The form has to be signed at two places, both on the last page. Date of the form is to be given at two places: on first page and again on the last page.

### Documents to attach

Before you file the form, check whether the following have been attached:

- Recommendation certificate (see 10A above)
- Project proposal approved by the donor
- Budget approved by the donor
- Approval letter of the donor
- Activity report for past three years (or less if registered recently)

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- Audited Accounts (Audit Report, Balance Sheet, Receipt & Payment Account, Income & Expenditure Statement) for past three years (or less if registered recently)

- Details of foreign contribution received and utilised this year (see **Amount Utilised** on page 3).

### Copies

You should make two complete sets. But only one has to be sent to the FCRA. The other should be kept on your office files.

### Send it to FCRA

You have to then send these to the Home Ministry at the following address:

The Secretary, Govt. of India,  
Ministry of Home Affairs,  
FCRA Division,  
Jaisalmer House, 26, Mansingh Road,  
New Delhi - 110 011  
Phone: 23383075, 23071170, 24617087

Only one copy is to be sent. You should send your papers by 'Registered Post - Acknowledgement Due'. Retain the proof of posting and acknowledgement card (when received back) carefully.

If you are having the form delivered by hand, make sure you get an acknowledgement, with rubber stamp, date and signatures.

### Question A ble

Does MCD, Delhi need FCRA permission for accepting foreign funds?



Apparently not. Municipal Corporations of Metropolitan areas (including MCD, Delhi) are 'Legislature' under section 2(1)(f). Therefore, these are not covered by the restrictions under section 6.