

Recd 01 July 2013 Speedpost

No. F-12013/130/2013/RTI-UIDAI
Government of India
Planning Commission
Unique Identification Authority of India
2nd Floor, Tower-I, Jeevan Bharati Building,
Connaught Circus, New Delhi – 110 001.
Dated the 17 June, 2013

To ✓

Ms. Qaneez-e-Fatemah Sukhrani
A/3 Hermes Drome I,
211/3/1B Viman Nagar
Pune-411014

Subject : Forwarding of enclosures.

Madam,

Please find enclosed a copy of all enclosures of our letter of even No. 22.05.2013 as desired.

Yours faithfully,


(Shrish Kumar)

Assistant Director General & CPIO
Tele : 011-23466823

(TO BE PUBLISHED IN PART-I, SECTION-2 OF THE GAZETTE OF INDIA)

**GOVERNMENT OF INDIA
PLANNING COMMISSION**

Yojana Bhawan, Sansad Marg,
New Delhi, 28th January, 2009

NOTIFICATION

No. A-43011/02/2009-Admn.I: In pursuance of Empowered Group of Ministers' fourth meeting, dated 4th November 2008, the Unique Identification Authority of India (UIDAI) is hereby constituted and notified as an attached office under aegis of Planning Commission with following terms of reference and initial core staff composition:-

COMPOSITION:

2. UIDAI shall be set up with an initial core team of 115 officials and staff as per details given below:

Post	Level	No. of Posts
UID Authority of India		
Director General & Mission Director	Additional Secretary Govt. of India	1
Deputy Director General (DDG)	Joint Secretary, Govt. of India	1
Assistant Director General (ADG)	Director, Govt. of India	1
Support Staff		
PS	PS	3
Peon	Peon	2
Driver	Driver	2
Total Manpower		10
State /UT Units of UIDAI		
State / UT UID Commissioner	Joint Secretary, Govt. of India	35
Support Staff		
PS	PS	35
Peon	Peon	35
Total Manpower		105
Grand Total		115





Role and Responsibilities of UIDAI

- 3 UIDAI shall have the responsibility to lay down plan and policies to implement UID Scheme, shall own and operate UID database and be responsible for its updation and maintenance on an ongoing basis.
- 4 Implementation of UID scheme will entail, *inter alia*, following responsibilities being undertaken by UIDAI:
 - Generate and assign UID to residents
 - Define mechanisms and processes for interlinking UID with partner databases on a continuous basis
 - Frame policies and administrative procedures related to updation mechanism and maintenance of UID database on an ongoing basis
 - Co-ordinate / liaise with implementation partners and user agencies as also define conflict resolution mechanism
 - Define usage and applicability of UID for delivery of various services
 - Operate and manage all stages of UID lifecycle
 - Adopt phased approach for implementation of UID specially with reference to approved timelines
 - Take necessary steps to ensure collation of NPR with UID (as per approved strategy)
 - Ensure ways for leveraging field level institutions appropriately such as PRIs in establishing linkages across partner agencies as well as its validation while cross linking with other designated agencies
 - Evolve strategy for awareness and communication of UID and its usage
 - Identify new partner /user agencies
 - Issue necessary instructions to agencies that undertake creation of databases, to ensure standardization of data elements that are collected and digitized and enable collation and correlation with UID and its partner databases
 - Frame policies and administrative procedures related to hiring / retention / mobilization of resources, outsourcing of various tasks and budgeting & planning for UIDAI and all State units under UIDAI.
5. Planning Commission shall be the nodal agency for UIDAI for providing logistics, planning and budgetary support. Planning commission would provide initial office and IT infrastructure at central level.

(7)

6. Government housing will be provided to officers of UIDAI appointed on deputation from general pool of Department of Urban Development.

(Signature)
(Dr. Subas Pani) 28/11/0

Secretary to the Government of India

The General Manager
Govt. of India Press
Faridabad.

Copy to:

1. Secretary to the President, Rashtrapati Bhavan, New Delhi
2. Secretary to the Vice-President, Maulana Azad Road, New Delhi
3. Cabinet Secretary, Rashtrapati Bhavan, New Delhi
4. Principal Secretary to the Prime Minister, South Block, New Delhi
5. Private Secretary to the Deputy Chairman, Planning Commission
6. All Ministers/Departments of Govt. of India
7. Chief Secretaries of all States/Union Territories
8. Secretary General, Rajya Sabha Secretariat, New Delhi
9. Secretary General, Lok Sabha Secretariat, New Delhi
10. Pr. Adviser (Admn & PC)/AS & FA/Adviser (C & I)/Director (GA)/DS (Admn.)
11. Pay & Accounts Officer, Planning Commission
12. Drawing & Disbursing Officer, Planning Commission
13. Accounts -I Section, Planning Commission.

(Part V.—The Union.—Arts. 73—74.)

73. (1) Subject to the provisions of this Constitution, the executive power of the Union shall extend—

Extent of executive power of the Union.

(a) to the matters with respect to which Parliament has power to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State ^{1***} to matters with respect to which the Legislature of the State has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

Council of Ministers

74. ²[(1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice:]

Council of Ministers to aid and advise President.

³[Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.]

(2) The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court.

¹The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 13, for cl. (1) (w.e.f. 3-1-1977).

³Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 11 (w.e.f. 20-6-1979).

Department of Legal Affairs

The Government of India, vide Notification dated 28.01.2009 (F/A), constituted the Unique Identification Authority of India (UIDAI) for laying down plan and policies to implement UID Scheme. The Prime Minister's Council on UID Authority, in its meeting held on 12th August 2009, observed that UIDAI has been created through an executive order. In order to ensure that it is able to perform its function of collecting the data on residents and is able to provide linking identification to them, steps should be taken to provide a legislative framework for UIDAI so that it could have legal sanction to perform its functions.

2. In the note dated 01.04.2010 received from the Unique Identification Authority of India, it is stated that in view of the fact that law making process may take time, some working arrangement is needed which will ensure that till the legislative framework is put in place, the authority can function as per its mandate laid down in the executive order. The Authority proposed to seek opinion from the Solicitor General on the following issues:

- (i) Whether in absence of a specific enabling law, would there be any constraints in collecting the data and (including biometrics) and in issuing the UID numbers to residents in accordance with the mandate given to the Authority.
- (ii) If the answer to the question at (i) above is in the affirmative, what should be the roadmap in the interim so that the work of UIDAI can continue as per the mandate till the specific law is put in place?

3. It is settled legal position that powers of the executive are co-extensive with the legislative power of the Government. However, the executive cannot act against the provisions of a law. The Government is not debarred from exercising its executive power in the areas which are not regulated by specific legislation.

4. The implementation of UID Scheme which, *inter alia*, include generating and assigning UID numbers to residents, defining

10
11
12
13
14

15

16

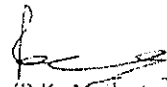
(4)

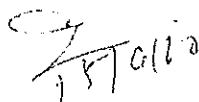
mechanisms and processes for interlinking UID with partner databases, framing policies and administrative procedures relating updation mechanisms and maintenance of UID database, are continuous process involving interaction with agencies, public as well as private and also individuals. In the absence of any legislative framework, if any agency or individual refuses to give information as is required by UIDAI, the purpose of collecting the data will get frustrated and no sanction can be imposed against the person for such refusal. With a view to achieve the objective of UIDAI, it is essential to have a legislative backing empowering the Authority and its officers to collect data for implementation of the scheme. Till the time such legislation is framed the Authority can continue to function under the executive order issued by the Government and the scheme that may be prepared by UIDAI.

5. In view of the foregoing discussion we are of the opinion that till a legislation is passed, the Authority can continue functioning under the executive order and collect information/data for implementation of the UID Scheme. Such implementation can be done by giving wide publicity to the Scheme and by persuading the agencies/individuals to part with necessary information. However, if any agency/individual is not willing to provide the desired information no legal action can be taken in the absence of a statutory backing.

6. The legal position in the matter being free from doubt, there appears to be no necessity to bother Ld. Solicitor General of India on this issue at this stage. The UIDAI may expedite providing a broad framework of the legislation which will be examined by this Department before the draft Bill is prepared by Legislative Department of this Ministry.

May kindly see.


 (P.K. Maihotra)
 Additional Secretary
 Date: 15.06.2010


 Law Secretary
 Sd/- P.K. Maihotra
 23/6/10
 16/6/10
 (A.C.P.)
 Planning Commission
 16/6/10

12

13

14