



development academy of the philippines

People's Freedom of Information Manual

Approved by:


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Freedom of Information Manual
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SECTION 1: OVERVIEW

1. Purpose and Coverage of the Manual

The People's Freedom of Information (FOI) Manual provides the process for requesting information from the Development Academy of the Philippines (DAP) as mandated by Executive Order (E.O.) No. 2, Series of 2016, on Freedom of Information (FOI) following the provisions of the Republic Act (R.A.) 10173 or Data Privacy Act of 2012. **(See Annex A).**

This manual only covers requests for information from the DAP and sets out rules and procedures to be followed by those who request information from the DAP and by the DAP Receiving Officer who processes and addresses such requests.

2. FOI Receiving Officer

The DAP FOI Receiving Officers (FROs) shall consist of an officer from the Public Affairs Desk of the DAP who holds office at the DAP Building in Pasig City, an officer from DAP Tagaytay, and an officer from Davao City. All FROs must be aware and compliant to the Data Privacy and Protection Guidelines of DAP. **(See Annex B).**

The FRO shall perform the following functions:

- Receive on behalf of the DAP all requests for information;
- Assist those who request information from the DAP in following the proper procedures based on this Manual;
- Conduct initial evaluation and advise the requesting party whether his/her request shall be forwarded to the FOI Decision Maker (FDM) for further evaluation or shall be denied based on:
 - Incomplete request form
 - Information is not within the DAP or can be found in another government agency's website;
 - Invalid request or not counted as FOI request; and
 - Information is already disclosed in the DAP's Official Website.
- Route requests for information to the appropriate office who has custody of the records;
- Assist those who process the request for information from the DAP in following the proper procedures based on this Manual;
- Monitor all FOI requests and appeals;
- Assist the FDM;
- Collate and report statistical information as required; and,
- Report to the DAP Data Protection Officer (DPO) and Task Force of any violations in the request of information that are private and protected by the Academy.

3. FOI Decision Maker

The DAP President shall designate an FOI Decision Maker (FDM) for each Group, with each FDM responsible for making the initial decision on FOI requests. It shall consist of the Vice President for Corporate Concerns Center (for corporate

information), the Senior Vice President for Services (for information emanating from the Services Group), the Senior Vice President for Programs (for programs/projects related information), and the Dean of the Graduate School of Public and Development Management (for information emanating from the Graduate School).

In case the assigned FDM is on official leave, the DAP President may delegate the FDM's authority and functions to a different FDM who can evaluate the information being requested. The FDM shall show to the DAP DPO all the requested information before releasing it to the requesting party. **(See Annex C)**.

The FDM identified to evaluate the request for information shall evaluate the request for information and decide whether to grant or deny the request based on the following:

- The DAP does not have the information requested;
- The information requested contains sensitive personal information protected by the Data Privacy Act of 2012;
- The information requested falls under the list of exceptions to FOI **(See Annex D)**; or,
- The request is identical or substantially similar to a previously granted or denied request from the same requesting party.

4. Central Appeals and Review Committee (CARC)

There shall be a Central Appeals and Review Committee (CARC) composed of at least three (3) members. The CARC shall review and analyze the grant or denial of request for information and shall advise the designated FDM whether to deny or approve a request for information.

The DAP DPO shall be part of the Central Appeals and Review Committee, especially pertaining to private and protected data of the DAP in granting and denying the request for information.

SECTION 2: DEFINITION OF TERMS

CONSULTATION. When a government office locates a record that contains information of interest to another government agency, it will ask for the views of that other government agency on the disclosability of the records before any final determination is made.

DATA PRIVACY ACT. An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for this purpose a National Privacy Commission, and for Other Purposes (R.A. No. 10173).

EXCEPTIONS. Information that should not be released and disclosed in response to a FOI request because they are protected by the Constitution, laws or jurisprudence.

FOI CONTACT. The name, address, and phone number of each government office where a requesting party can direct their request for information.

FOI.gov.ph. The Philippine Government's comprehensive FOI website for all information on the FOI. It provides a central resource for the public to understand the FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. The website also contains Annual FOI Reports that may be compared by government agency and by period.

FREEDOM OF INFORMATION (FOI). The Executive Branch of the Philippine Government recognizes the right of the people to information on matters of public concern and adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in Executive Order No. 2. Freedom of Information is an indispensable right that allows people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making.

FOI RECEIVING OFFICE (FRO). The primary contact in each agency where the requesting party can call and ask questions about the FOI process or the pending FOI request.

FOI REQUEST. A written request submitted to a government office personally or by email asking for records on any topic. It can generally be made by any Filipino to any government office.

FREQUENTLY REQUESTED INFORMATION. Information released in response to a FOI request that the government office determined to likely become or have become subject of subsequent requests for substantially the same records.

FULL DENIAL. When a government office cannot release any records in response to a FOI request due to valid reasons such as that the requested information is exempt from disclosure in its entirety or that no records responsive to the request could be located.

FULL GRANT. When a government office is able to disclose all records in full in response to a FOI request.

INFORMATION. Any record/s, document/s, paper/s, report/s, letter/s, contract/s, minutes and transcripts of official meetings, map/s, book/s, photograph/s, data, research material/s, film/s, sound and video recording/s, magnetic or other tape/s, electronic data, computer stored data, any other like or similar data or material/s recorded, stored or archived in whatever format, whether offline or online, which is/are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.

INFORMATION FOR DISCLOSURE. Information promoting awareness and understanding of policies, programs, activities, rules or revisions to such rules and policies affecting the public, government agencies, and communities. Information for disclosure also includes those that familiarize the public with the general operations, thrusts, and programs of the government. In line with the concept of proactive

disclosure and open data, these types of information can already be posted to government websites without need for written requests from the public.

MULTI-TRACK PROCESSING. A system that divides incoming FOI requests into three tracks according to their complexity: 1) simple requests for information that require relatively minimal review; 2) complex requests; and, 3) expedited requests. Requests in each track are processed on a first in/first out basis.

OFFICIAL RECORD/S. Information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.

OPEN DATA. Data structured in a way that enables full accessibility and usability by the public.

OPEN DATA WEBSITE (data.gov.ph). The Philippine Government's comprehensive portal for all public government data that is searchable, understandable, and accessible.

PARTIAL GRANT/PARTIAL DENIAL. When a government office is able to disclose only portion/s of a record/s in response to a FOI request.

PENDING REQUEST OR PENDING APPEAL. A request for information or an administrative appeal for which a government office has not yet taken final action in all respects. It captures anything that is open at a given time including requests that are well within the statutory response time.

PERFECTED REQUEST. A request for information which reasonably describes the records sought and is made in accordance with the government office's rules and procedures.

PERSONAL INFORMATION. Any information that directly provides the identity of an individual or when put together with other information would directly and certainly identify an individual.

PROACTIVE DISCLOSURE. Any information made publicly available by government agencies without waiting for a specific FOI request.

PROCESSED REQUEST OR PROCESSED APPEAL. The number of requests or appeals that the government office completed with a final response to the requesting party.

PUBLIC RECORDS. Any information required by law/s, executive order/s, rule/s, or regulation/s to be entered, kept, and made publicly available by a government office.

RECEIVED REQUEST OR RECEIVED APPEAL. A request for information or an administrative appeal that a government office received.

REFERRAL. When a government office locates a record that originated from or of primary interest to another government office, the government office that received

the request for information will forward the record to the concerned government office for processing and for coordination with the requesting party.

SENSITIVE PERSONAL INFORMATION. As defined in the Data Privacy Act of 2012, shall refer to personal information:

- About an individual's race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
- About an individual's health, education, genetic or sexual life, or to any proceedings for any offense committed or alleged to have committed by such person, or the disposal of such proceedings or the sentence of any court in such proceedings;
- Issued by government agencies peculiar to an individual which includes, but not limited to, social security number, previous or current health record, licenses or its denials, suspension or revocation, and tax returns; and,
- Specifically established by an executive order or an act of Congress to be kept classified.

SIMPLE REQUEST. A request for information that a government office may process quickly that involves a small volume of material.

SECTION 3: PROTECTION OF PRIVACY

While providing for access to information, the DAP shall afford full protection to an individual's right to privacy through the following:

- The DAP shall ensure that personal information, particularly those considered sensitive in nature, in its custody and under its control is disclosed only as permitted in compliance with existing laws following the DAP Data Privacy and Protection Guidelines;
- The DAP shall protect personal information in its custody and under its control by making reasonable security arrangements against unauthorized access, leaks, or premature disclosure; and,
- The DPO, FRO, FDM, or any employee or official who has access to personal information in the custody and under the control of the DAP, shall not disclose such information except as authorized in compliance with existing laws.

SECTION 4: STANDARD PROCEDURE

(See Annex E for Flow Chart)

1. Receipt of Request for Information

The FRO shall receive the request for information from the requesting party and shall ensure that the request for information complies with the following requirements:

- 1.1. Must be in writing;
- 1.2. Must state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization;

- 1.3. Must reasonably describe the information requested and the reason for or purpose of the request (See Annex F for request form);
- 1.4. Must include a scanned copy of the FOI application request and a copy of a duly recognized government ID with photo if the request is sent through email; and,
- 1.5. Furnish a copy of the FOI application request to the DPO of the requesting individual/party.

2. Receipt of Oral Request

If the requesting party is unable to make a written request due to being illiterate or to being a person with disability (PWD), he or she may make an oral request and the FRO shall reduce it in writing. The request shall be stamped received by the FRO, indicating the following:

- 2.1. The date and time of the receipt of the written request;
- 2.2. The name, rank, title, and position of the public officer who received the request, with a corresponding signature and a copy, furnished to the requesting party.

3. Processing of Request

If the request is sent through email, the email shall be printed out and shall follow the procedure mentioned above and the following additional procedures.

- 3.1.1. The FRO shall acknowledge the receipt of the email by replying to the same email.
- 3.1.2. The FRO shall input the details of the request for information on the Request Tracking System.
- 3.1.3. The FRO shall include the reference number from the Request Tracking System in the acknowledgement email sent to the requesting party.

4. Response Time

The DAP or any of its local offices must respond to requests promptly within fifteen (15) working days following the date of receipt of the request. A working day is any day other than a Saturday, Sunday or a day which is declared a national public holiday in the Philippines. In computing for the period, Article 13 of the New Civil Code shall be observed, which states:

ARTICLE 13. When the laws speak of years, months, days or nights, it shall be understood that years are of three hundred sixty-five days each; months, of thirty days; days, of twenty-four hours; and nights from sunset to sunrise.

5. Date of Receipt of the Request

The date of receipt of the request will either be:

- 5.1. From the day on which the request is physically or electronically delivered to the government office, or directly into the FRO's email inbox; or,
- 5.2. From the day on which the necessary clarification is received if the government office asked the requesting party for further details or clarification in order to identify and locate the requested information.

6. Receipt of Request of the Alternative FRO

If a request for information has been emailed to an absent FRO and that has generated an "out of office" email reply, the requesting party shall be given instructions to email a temporary, alternative FRO. The day the alternative FRO receives the request for information shall be considered the day of receipt.

7. Closing of Request upon Extension

Should the requested information need further details to identify or locate, then the fifteen (15) working days will commence the day after it receives the required clarification from the requesting party. If no clarification is received from the requesting party after sixty (60) calendar days, the request shall be closed.

8. Initial Evaluation

Upon receipt of the request for information, the FRO shall evaluate the contents of the request.

- 8.1. If a request for information is received which requires to be complied with by different offices within the DAP, the FRO shall forward such request to the concerned offices, ensure proper coordination among concerned offices, and monitor each concerned office for compliance.
- 8.2. If the requested information is not in the custody of the DAP or any of its offices, following referral and discussions with the FDM, the FRO shall undertake the following steps in accordance with FOI Memorandum Circular (MC) No. 21-05, otherwise known as the "No Wrong Door Policy for FOI" (See Annex G for the MC and Annex H for the Flow Chart):
 - 8.2.1. If the records requested refer to another government office, the request shall immediately be endorsed to the concerned government office.
 - 8.2.2. When the requested information is not in the possession of a government agency (government agency no. 1 or GA1), but is available in another government agency (government agency no. 2 or GA2) under the Executive Branch, the request shall be immediately referred by GA1 to GA2 through the most expeditious manner but not exceeding three (3) working days from the receipt of the request. This

shall be considered as the “**First Referral**” and a fresh period will apply. *Referral to the appropriate government agency* shall mean that another government office is the proper repository or custodian of the requested information or records, or have control over the said information or records.

- 8.2.3. If GA1 fails to refer the request within three (3) working days upon its receipt, the FRO shall act on it within the remaining period to respond pursuant to EO No. 02, s. 2016. No fresh period shall apply.
 - 8.2.4. If GA1, in good faith, erroneously referred the request to GA2, the latter shall immediately notify the former as well as the requesting party, that the information requested is not available in their agency.
 - 8.2.5. GA2, to whom the request was referred under the First Referral may subsequently refer the request to another government agency (government agency no. 3 or GA3) under the procedure set forth in the first paragraph of this Section. This shall be considered as the “**Second Referral**” and another fresh period shall apply. Referrals under this Order shall only be limited to two (2) subsequent transfers of request. A written or email acknowledgement of the referral shall be made by the FRO of the government agency where it was referred. The requesting party shall be notified of the referral and must be provided with the reason or rationale thereof, and contact details of the government office where the request was referred.
- 8.3. If the requested information is already posted and publicly available on the DAP website, data.gov.ph, or foi.gov.ph, the FRO shall inform the requesting party of the said fact and provide him or her with the website link where the information is posted.
 - 8.4. If the requested information is substantially similar or identical to a previous request by the same requesting party, the request shall be denied. The FRO shall inform the requesting party of the reason for such denial.

9. Transmittal from FRO to Decision Maker

Upon receipt of the request for information, the FRO shall:

- 9.1. Evaluate the requested information;
- 9.2. Notify the FDM of such a request by forwarding him or her the copy of the request within one (1) day from receipt by the FRO; and,
- 9.3. Record the date, time, and name of the FDM who received the request in a record book with the FDM’s signature in acknowledgement of his or her receipt of the request.

10. Role of Decision Maker in Processing the FOI Request

Upon receipt of the request for information from the FRO, the FDM shall:

- 10.1. Assess and clarify the request if necessary;
- 10.2. Locate and retrieve the information requested;

- 10.3. Ensure that the complete information requested be submitted to the FRO within ten (10) days upon receipt of such request;
- 10.4. Note the date and time of receipt of the information from the FRO and report to the DAP President or the designated officer, in case the submission is beyond the ten (10) day period;
- 10.5. Clarify from the requesting party any information needed to better locate or identify the information through the FRO. The counting of the fifteen (15) working day requirement shall stop upon the sending of the clarificatory questions to the requesting party. The counting of the fifteen (15) working day period shall commence upon the FRO's receipt of requesting party's response to the query; and,
- 10.6. Consult with the concerned government office if the involved record contains information that is of interest to them or is of a confidential nature before making any final determination.

11. Role of FRO to Transmit the Information

Upon receipt of the requested information from the FDM, the FRO shall:

- 11.1. Collate and ensure that the information is complete;
- 11.2. Attach a cover/transmittal letter signed by the DAP President or the designated officer; and,
- 11.3. Ensure the transmission of the information to the requesting party within fifteen (15) working days upon receipt of the request for information.

12. Extension of Time

The FDM shall instruct the FRO to request for extension of time from the requesting party if the information requested requires extensive search of the government's office records or in the occurrence of fortuitous events or other analogous cases.

13. Notifying the Requesting Party of the Decision

The FRO shall inform the requesting party of the extension, setting forth the reasons for such extension. In no case shall the extension exceed twenty (20) working days on top of the mandated fifteen (15) working days to act on the request, unless exceptional circumstances warrant a longer period.

14. Role of FRO in the Preparation of Response to the Requesting Party

Upon his or her approval or denial of the request for information, the FDM shall immediately notify the FRO who shall, in turn, prepare the response to the requesting party either in writing or by email. All actions on request for information shall pass through the DAP President or the designated officer for final approval.

15. Approval of Request

Upon the approval of the request for information, the FRO shall ensure that all records that have been retrieved and considered be checked for possible exemptions, prior to actual release. The FRO shall prepare the letter or email informing the requesting party within the prescribed period that the request was granted. The FRO shall also direct the requesting party to settle applicable fees, if there are any.

16. Denial of Request

Upon the denial of the request wholly or partially, the FRO shall notify the requesting party of the denial in writing. The notice shall clearly set forth the ground/s and the circumstance for the denial. Failure to notify the requesting party of the action/s taken on the request within the fifteen (15) working day period shall be deemed as denial of the request for information.

SECTION 5: REMEDIES IN CASE OF DENIAL

A requesting party whose request for information has been denied may avail himself/herself of the following remedies:

1. The requesting party may himself/herself file a written administrative FOI Appeal to the DAP CARC within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request. The appeal shall be decided by the DAP President upon the recommendation of the CARC within thirty (30) working days from the filing of said written appeal. Failure to decide within the 30-day period shall be deemed a denial of the appeal.
2. Upon exhaustion of the administrative FOI appeal remedy, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 6: REQUEST TRACKING SYSTEM

The DAP shall establish a system to trace the status of all requests for information received by it through online or offline means, or both.

SECTION 7: FEES

1. The DAP shall not charge any fee for accepting requests for information.
2. The FRO shall immediately notify the requesting party in case there shall be any reproduction, copying and/or delivery fees. Such fees shall cover the actual amount spent by the DAP in providing the information to the requesting party. The Schedule of fees shall be posted by the DAP.

3. The DAP may exempt any requesting party from payment of fees, upon request stating the valid reason why such requesting party is entitled to such exemption.

SECTION 8: ADMINISTRATIVE LIABILITY

1. Failure to comply with the provisions of this Manual shall be a ground for the following administrative penalties:
 - 1st Offense: Reprimand;
 - 2nd Offense: Suspension of one (1) to thirty (30) days; and,
 - 3rd Offense: Dismissal from the service.
2. The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of cases under this Manual.
3. Nothing in this Manual shall be construed to derogate from any law, any rules, or regulation prescribed by any body or agency, which provides for more stringent penalties.

SECTION 9: FREQUENTLY ASKED QUESTIONS

1. What is FOI?

Freedom of Information (FOI) is the government's response to the call for transparency and full public disclosure of information. Executive Order No. 2 provides the Executive Branch of government the mechanism to implement the FOI, which allows Filipino citizens to request any information about government transactions and operations, provided that access to such requested information shall not put in jeopardy individual privacy and matters of national security.

2. What is Executive Order No. 2, series 2016?

Executive Order No. 2 (EO No. 2) enables and operationalizes in the Executive Branch of government the People's exercise of their constitutional right to information. Signed by His Excellency, President Rodrigo Roa Duterte on July 23, 2016, EO No. 2 also provides the State policies to full public disclosure and transparency.

3. Who oversees the implementation of EO No. 2?

The Presidential Communications Operations Office (PCOO) oversees the operation of the FOI program and serves as the coordinator of all government agencies to ensure the FOI program's proper implementation.

4. Who can make an FOI request?

Any Filipino citizen can make an FOI Request. As a matter of policy, those requesting for information from the government under the FOI are required to present proof of identification.

5. What can I ask from the government under EO No. 2?

Information, official records, public records, documents, and papers pertaining to official acts, transactions or decisions, as well as those pertaining to government research data used as basis for policy development.

6. What government agencies can I ask for information from?

An FOI request under EO No. 2 can be made before all government offices under the Executive Branch, including government owned or controlled corporations (GOCCs) and state universities and colleges (SUCs). FOI requests must be sent to the specific agency of interest and must be received by its respective FRO.

7. How do I make an FOI request?

- a. The requesting party should fill up a request form and submit it to the government office's FRO. The FRO shall validate the request and log the request accordingly on the FOI tracker;
- b. If deemed necessary, the FRO may clarify the request on the same day it was filed, such as specifying the information requested, and providing other assistance needed by the requesting party;
- c. The request is forwarded to the FDM for proper assessment. The FDM shall check whether:
 - i. the government office holds the information requested;
 - ii. the requested information is already accessible; or,
 - iii. the request is a repeat of any previous request.
- d. The request shall be forwarded to the officials involved to locate the requested information;
- e. Once all relevant information is retrieved, officials will check if any exemptions apply, and will recommend appropriate response to the request;
- f. If necessary, the head of the agency shall provide clearance to the government office's response to the request for information;
- g. The government office shall prepare the information for release, based on the desired format of the requesting party. The requested information shall be sent to the requesting party through his/her preferred delivery method.

8. How much does it cost to make an FOI request?

The concerned government office shall not incur any fees for the request for information, but the government office may charge a reasonable fee for necessary costs, including costs of printing, reproduction and/or photocopying.

9. What will I receive in response to an FOI request?

You will be receiving a response either granting or denying your request. If your request is granted, the information requested will be sent to you through your preferred format and delivery method. Otherwise, the government office will provide you with the reason why your request for information was denied.

10. How long will it take before I get a response?

It is mandated that all replies shall be sent fifteen (15) working days after the receipt of the request for information. If there is a need for an additional processing period, the government office shall inform you that the processing shall be extended for no longer than twenty (20) working days.

11. What if I never get a response?

If the agency fails to provide a response within the required fifteen (15) working days, you may write a letter of appeal to the DAP CARC within fifteen (15) calendar days from the lapse of the required response period. The appeal shall be decided within thirty (30) working days by the Central Appeals and Review Committee. If you have exhausted all administrative remedies and no resolution is provided, you may file the appropriate case in the proper courts in accordance with the Rules of Court.

12. What will happen if my request is not granted?

If you are not satisfied with the government office's response to your request for information, you may write a letter of appeal to the DAP CARC within fifteen (15) calendar days from the lapse of the required response period. The appeal shall be decided within thirty (30) working days by the Central Appeals and Review Committee. If you have exhausted all administrative remedies and no resolution is provided, you may file the appropriate case in the proper courts in accordance with the Rules of Court.

ANNEX A

EXECUTIVE ORDER NO. 2, S. 2016



MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

OPERATIONALIZING IN THE EXECUTIVE BRANCH THE PEOPLE'S CONSTITUTIONAL RIGHT TO INFORMATION AND THE STATE POLICIES OF FULL PUBLIC DISCLOSURE AND TRANSPARENCY IN THE PUBLIC SERVICE AND PROVIDING GUIDELINES THEREFOR

WHEREAS, pursuant to Section 28, Article II of the 1987 Constitution, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to reasonable conditions prescribed by law;

WHEREAS, Section 7, Article III of the Constitution guarantees the right of the people to information on matters of public concern;

WHEREAS, the incorporation of this right in the Constitution is a recognition of the fundamental role of free and open exchange of information in a democracy, meant to enhance transparency and accountability in government official acts, transactions, or decisions;

WHEREAS, the Executive Branch recognizes the urgent need to operationalize these Constitutional provisions;

WHEREAS, the President, under Section 17, Article VII of the Constitution, has control over all executive departments, bureaus and offices, and the duty to ensure that the laws be faithfully executed;

WHEREAS, the Data Privacy Act of 2012 (R.A. 10173), including its Implementing Rules and Regulations, strengthens the fundamental human right of privacy and of communication while ensuring the free flow of information to promote innovation and growth;

NOW, THEREFORE, I, RODRIGO ROA DUTERTE, President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

THE PRESIDENT OF THE PHILIPPINES

SECTION 1. Definition. For the purpose of this Executive Order, the following terms shall mean:

- (a) "Information" shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recordings, magnetic or other tapes, electronic data, computer-stored data, or any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.
- (b) "Official record/records" shall refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.
- (c) "Public record/records" shall include information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by a government office.

SECTION 2. Coverage. This order shall cover all government offices under the Executive Branch, including but not limited to the national government and all its offices, departments, bureaus, and instrumentalities, including government-owned or -controlled corporations, and state universities and colleges. Local government units (LGUs) are enjoined to observe and be guided by this Order.

SECTION 3. Access to Information. Every Filipino shall have access to information, official records, public records, and documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development.

SECTION 4. Exception. Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing laws or jurisprudence.

The Department of Justice and the Office of the Solicitor General are hereby directed to prepare an inventory of such exceptions and submit the same to the Office of the President within thirty (30) calendar days from the date of effectivity of this Order.

The Office of the President shall thereafter immediately circularize the inventory of exceptions for the guidance of all government offices and instrumentalities covered by this Order and the general public.

Said inventory of exceptions shall periodically be updated to properly reflect any change in existing law and jurisprudence and the Department of Justice and the Office of the Solicitor General are directed to update the inventory of exceptions as

the need to do so arises, for circularization as hereinabove stated.

SECTION 5. Availability of SALN. Subject to the provisions contained in Sections 3 and 4 of this Order, all public officials are reminded of their obligation to file and make available for scrutiny their Statements of Assets, Liabilities and Net Worth (SALN) in accordance with existing laws, rules and regulations, and the spirit and letter of this Order.

SECTION 6. Application and Interpretation. There shall be a legal presumption in favor of access to information, public records and official records. No request for information shall be denied unless it clearly falls under any of the exceptions listed in the inventory or updated inventory of exceptions circularized by the Office of the President as provided in Section 4 hereof.

The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of the Office which has custody or control of the information, public record or official record, or of the responsible central or field officer duly designated by him in writing.

In making such determination, the Head of the Office or his designated officer shall exercise reasonable diligence to ensure that no exception shall be used or availed of to deny any request for information or access to public records or official records if the denial is intended primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

SECTION 7. Protection of Privacy. While providing access to information, public records, and official records, responsible officials shall afford full protection to an individual's right to privacy as follows:

- (a) Each government office per Section 2 hereof shall ensure that personal information in its custody or under its control is disclosed or released only if it is material or relevant to the subject matter of the request and its disclosure is permissible under this Order or existing laws, rules or regulations;
- (b) Each government office must protect personal information in its custody or control by making reasonable security arrangements against leaks or premature disclosure of personal information which unduly exposes the individual whose personal information is requested to vilification, harassment, or any other wrongful acts; and
- (c) Any employee or official of a government office per Section 2 hereof who has access, authorized or unauthorized, to personal information in the custody of the office must not disclose that information except when authorized under this Order or pursuant to existing laws, rules or regulations.

SECTION 8. People's Freedom of Information (FOI) Manual. For the effective implementation of this Order, every government office is directed to prepare within one hundred twenty (120) calendar days from the effectivity of this Order, its

own People's FOI Manual, which shall include, among others, the following information:

- (a) The location and contact information of the head, regional, provincial, and field offices, and other established places where the public can submit requests to obtain information;
- (b) The person or officer responsible for receiving requests for information;
- (c) The procedure for the filing and processing of the request, as provided in the succeeding Section 9 of this Order;
- (d) The standard forms for the submission of requests and for the proper acknowledgment of such requests;
- (e) The process for the disposition of requests;
- (f) The procedure for administrative appeal of any denial of request for access to information; and
- (g) The schedule of applicable fees.

SECTION 9. Procedure. The following procedure shall govern the filing and processing of requests for access to information:

- (a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the reason for, or purpose of, the request for information: *Provided*, that no request shall be denied or refused acceptance unless the reason for the request is contrary to law, existing rules and regulations, or it is one of the exceptions contained in the inventory of exceptions as hereinabove provided.
- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable all requesting parties, particularly those with special needs, to comply with the request requirements under this Section.
- (c) The request shall be stamped by the government office, indicating the date and time of receipt and the name, rank, title or position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the requesting party. Each government office shall establish a system to trace the status of all requests for information received by it.
- (d) The government office shall respond to a request fully compliant with the requirements of sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof. The response mentioned above refers to the decision of the office concerned to grant or deny access to the information requested.
- (e) The period to respond may be extended whenever the information requested requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases. The government office shall

notify the person making the request of such extension, setting forth the reasons for the extension. In no case shall the extension go beyond twenty (20) working days counted from the end of the original period, unless exceptional circumstances warrant a longer period.

- (f) Once a decision is made to grant the request, the person making the request shall be notified of such decision and directed to pay any applicable fees.

SECTION 10. Fees. Government offices shall not charge any fee for accepting requests for access to information. They may, however, charge a reasonable fee to reimburse necessary costs, including actual costs of reproduction and copying of the information requested, subject to existing rules and regulations. In no case shall the applicable fees be so onerous as to defeat the purpose of this Order.

SECTION 11. Identical or Substantially Similar Requests. The government office shall not be required to act upon an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the same government office.

SECTION 12. Notice of Denial. If the government office decides to deny the request wholly or partially, it shall, as soon as practicable and within fifteen (15) working days from the receipt of the request, notify the requesting party of the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of the request for access to information.

SECTION 13. Remedies in Case of Denial of Request for Access to Information. A person whose request for access to information has been denied may avail himself of the remedies set forth below:

- (a) Denial of any request for access to information may be appealed to the person or office next higher in authority, following the procedure mentioned in Section 8 (f) of this Order: Provided, that the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.
- (b) The appeal shall be decided by the person or office next higher in authority within thirty (30) working days from the filing of said written appeal. Failure of such person or office to decide within the afore-stated period shall be deemed a denial of the appeal.
- (c) Upon exhaustion of administrative appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 14. Keeping of Records. Subject to existing laws, rules, and regulations, government offices shall create and/or maintain accurate and reasonably complete records of important information in appropriate formats, and implement a

records management system that facilitates easy identification, retrieval and communication of information to the public.

SECTION 15. Administrative Liability. Failure to comply with the provisions of this Order may be a ground for administrative and disciplinary sanctions against any erring public officer or employee as provided under existing laws or regulations.

SECTION 16. Implementing Details. All government offices in the Executive Branch are directed to formulate their respective implementing details taking into consideration their mandates and the nature of information in their custody or control, within one hundred twenty (120) days from the effectivity of this Order.

SECTION 17. Separability Clause. If any section or part of this Order is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force and effect.

SECTION 18. Repealing Clause. All orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Executive Order are hereby repealed, amended or modified accordingly: *Provided*, that the provisions of Memorandum Circular No. 78 (s. 1964), as amended, shall not be deemed repealed pending further review.

SECTION 19. Effectivity. This Order shall take effect immediately upon publication in a newspaper of general circulation.

Done, in the City of Manila, this 23rd day of July in the year of our Lord Two Thousand and Sixteen.

By the President:




SALVADOR C. MEDIALDEA
Executive Secretary



CERTIFIED COPY:

MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACANANG RECORDS OFFICE

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ANNEX B

FOI RECEIVING OFFICERS FOR THE DAP AND ITS LOCAL OFFICES

Location of FOI Receiving Office	Contact Details	Assigned FOI Receiving Officer
Pasig City (Main Office)	8 6310921 loc. 100 8 6312171 (0917) 501 2374	Joanne Liezl Q. Nuque Director Institutional Marketing Center
Tagaytay City	(0965) 678 6485 (0920) 219 8511	Pag-asa L. Dogelio Acting Department Manager DAP Conference Center
Davao City	(082) 224 5685 8 6310921 loc. 106 (0918) 916 1547	Dr. Mark Lemuel L. Garcia Acting Vice President DAP sa Mindanao

ANNEX C

FOI DECISION MAKERS FOR THE DAP

Nature of Information	Assigned FOI Decision Maker
For Corporate Information	June Arvin C. Gudoy Vice President Corporate Concerns Center
For Information from the Services Group	Anatalia SD. Barawidan Officer-in-Charge Services Group
For Information from the GSPDM	Dr. Lizan E. Perante-Calina Dean Graduate School of Public and Development Management
For Programs/Project-Related Information	Magdalena L. Mendoza Senior Vice President Programs Operations Group

ANNEX D

LIST OF EXCEPTIONS TO FOI

The following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, and jurisprudence:

1. Information covered by Executive privilege;
2. Privileged information relating to national security, defense, or international relations;
3. Information concerning law enforcement and protection of public and personal safety;
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or those accused of crimes;
5. Information, documents, or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory, or quasi-judicial powers;
6. Prejudicial premature disclosure;
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;
8. Matters considered confidential under banking and finance laws, and their amendatory laws; and,
9. Other exceptions to the right to information under laws, jurisprudence, and rules and regulations.

These exceptions only apply to governmental bodies within the control and supervision of the Executive Branch of the government. Unless specifically identified, these exceptions may be invoked by all officials, officers, or employees in the Executive branch in possession of the relevant records or information.

**Office of the President
of the Philippines
Malacañang**

MEMORANDUM FROM THE EXECUTIVE SECRETARY

TO: All Heads of Departments, Bureaus and Agencies of the National/Local Governments Including Government-Owned and Controlled Corporations (GOCCs), Government Financial Institutions (GFIs), and All Others Concerned

SUBJECT: **INVENTORY OF EXCEPTIONS TO EXECUTIVE ORDER NO. 2 (S. 2016)**

DATE: 24 November 2016

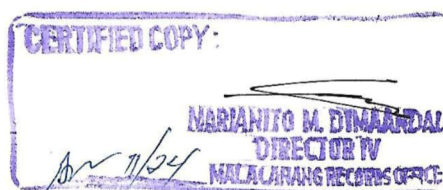
Pursuant to Section 4 of Executive Order (EO) No. 2 (s. 2016), the Office of the President hereby circularizes the inventory of exceptions to the right to access of information, for the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public.

The foregoing list of exceptions shall be without prejudice to existing laws, jurisprudence, rules or regulations authorizing the disclosure of the excepted information upon satisfaction of certain conditions in certain cases, such as the consent of the concerned party or as may be ordered by the courts.

In evaluating requests for information, all heads of offices are enjoined to ensure the meaningful exercise of the public of their right to access to information on public concerns.

For your information and guidance.

sc
SALVADOR C. MEDIALDEA
N *sc*



Exceptions to Right of Access to Information

For the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:¹

1. Information covered by Executive privilege;
2. Privileged information relating to national security, defense or international relations;
3. Information concerning law enforcement and protection of public and personal safety;
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused;
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers;
6. Prejudicial premature disclosure;
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;
8. Matters considered confidential under banking and finance laws, and their amendatory laws; and
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

¹ These exceptions only apply to governmental bodies within the control and supervision of the Executive department. Unless specifically identified, these exceptions may be invoked by all officials, officers, or employees in the Executive branch in possession of the relevant records or information.

For the implementation of the exceptions to the right of access to information, the following provide the salient details and legal bases that define the extent and application of the exceptions.

1. Information covered by Executive privilege:
 - a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;² and
 - b. Matters covered by deliberative process privilege, namely:
 - i. advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated; intra-agency or inter-agency recommendations or communications during the stage when common assertions are still in the process of being formulated or are in the exploratory stage; or information pertaining to the decision-making of executive officials;³ and
 - ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;⁴
2. Privileged information relating to national security, defense or international relations:
 - a. Information, record, or document that must be kept secret in the interest of national defense or security;⁵
 - b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁶ and

² This exception may only be invoked by the President and his close advisors. The extent of the privilege is defined by applicable jurisprudence: *Senate v. Ermita*, G.R. No. 169777, 20 April 2006, 488 SCRA 1; *Neri v. Senate Committee on Accountability of Public Officers and Investigations*, G.R. No. 180643, 4 September 2008, 564 SCRA 152; *Akbayan v. Aquino*, G.R. No. 170516, 16 July 2008, 558 SCRA 468; and *Chavez v. PCGG*, G.R. No. 130716, 9 December 1998, 299 SCRA 744.

³ *Akbayan v. Aquino*, *supra*; *Chavez v. NHA*, G.R. No. 164527, 15 August 2007; and *Chavez v. PCGG*, *supra*. The privilege of invoking this exception ends when the executive agency adopts a definite proposition (*Department of Foreign Affairs v. BCA International Corp.*, G.R. No. 210858, 20 July 2016).

⁴ Section 3(d) Rule IV, *Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees* (Rules on CCESPOE). Drafts of decisions, orders, rulings, policy decisions, memoranda, and the like, such as resolutions prepared by the investigating prosecutor prior to approval for promulgation and release to parties [*Revised Manual for Prosecutors of the Department of Justice (DOJ)*] are also covered under this category of exceptions.

⁵ *Almonte v. Vasquez*, G.R. No. 95367, 23 May 1995, 244 SCRA 286; *Chavez v. PCGG*, *supra*; *Legaspi v. Civil Service Commission*, L-72119, 29 May 1987, 150 SCRA 530; *Chavez v. NHA*, *supra*; *Neri v. Senate*, *supra*; *Chavez v. Public Estates Authority*, G.R. No. 133250, 9 July 2002, 384 SCRA 152; and Section 3(a), Rule IV, Rules on CCESPOE. This exception generally includes matters classified under Memorandum Circular (MC) No. 78, as amended by MC No. 196 as "Top Secret," "Secret," "Confidential," and "Restricted."

⁶ *Akbayan v. Aquino*, *supra*; Section 3(a) Rule IV, Rules on CCESPOE. This privilege may be invoked by the Department of Foreign Affairs and other government bodies involved in diplomatic negotiations.

- c. Patent applications, the publication of which would prejudice national security and interests;⁷
 3. Information concerning law enforcement and protection of public and personal safety:
 - a. Investigation records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would –
 - i. interfere with enforcement proceedings;
 - ii. deprive a person of a right to a fair trial or an impartial adjudication;
 - iii. disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; or
 - iv. unjustifiably disclose investigative techniques and procedures;⁸
 - b. Informer's privilege or the privilege of the Government not to disclose the identity of a person or persons who furnish information of violations of law to officers charged with the enforcement of law;⁹
 - c. When disclosure of information would put the life and safety of an individual in imminent danger;¹⁰
 - d. Any information given by informants leading to the recovery of carjacked vehicles and apprehension of the persons charged with carjacking;¹¹ and
 - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹²
 4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:

⁷ The applicability of this exception is determined by the Director General of the Intellectual Property Office and subject to the approval of the Secretary of the Department of Trade and Industry. Section 44.3 of the *Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372).

⁸ Section 3(f), Rule IV, Rules on CCESPOE; *Chavez v. PCGG, supra*. May be invoked by law enforcement agencies.

⁹ *Akbayan v. Aquino, supra*; and Section 51, *Human Security Act of 2007* (RA No. 9372). May be invoked by law enforcement agencies.

¹⁰ Section 3(b), Rule IV, Rules on CCESPOE.

¹¹ Section 19, *New Anti Carjacking Act of 2016* (RA No. 10883). May be invoked by law enforcement agencies.

¹² Section 7, *Witness Protection, Security and Benefit Act* (RA No. 6981).

- a. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,¹³ personal information or records,¹⁴ including sensitive personal information, birth records,¹⁵ school records,¹⁶ or medical or health records;¹⁷

Sensitive personal information as defined under the *Data Privacy Act of 2012* refers to personal information:¹⁸

- (1) about an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
- (2) about an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
- (3) issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
- (4) specifically established by an executive order or an act of Congress to be kept classified.

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the individual¹⁹ and is not prohibited by any law or regulation. Any disclosure of personal information shall be in accordance with the principles of transparency, legitimate purpose and proportionality.²⁰

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of

¹³ Section 3(e), Rule IV, Rules on CCESPOE.

¹⁴ Sections 8 and 15, *Data Privacy Act of 2012* (RA No. 10173); *Personal information* refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual [Section 3(g), *Data Privacy Act of 2012*]; Article 26, Civil Code. May be invoked by National Privacy Commission and government personal information controllers.

¹⁵ Article 7, *The Child and Youth Welfare Code* [Presidential Decree (PD) No. 603].

¹⁶ Section 9(4), *Education Act of 1982* [Batas Pambansa (BP) Blg. 232].

¹⁷ Medical and health records are considered as sensitive personal information pursuant to Section 3(l)(2), *Data Privacy Act of 2012*; See also Department of Health-Department of Science and Technology (DOST)-Philippine Health Insurance Corporation Joint Administrative Order No. 2016-0002 (Privacy Guidelines for the Implementation of the Philippine Health Information Exchange).

¹⁸ Section 3(l), *Data Privacy Act of 2012*.

¹⁹ Article 26(2), *Civil Code*.

²⁰ Section 11, *Data Privacy Act of 2012*.

the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government;²¹

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;²² and
- c. Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:
 - (1) records of child and family cases;²³
 - (2) children in conflict with the law from initial contact until final disposition of the case;²⁴
 - (3) a child who is a victim of any offense under the *Anti-Child Pornography Act of 2009*, including the name and personal circumstances of the child, or the child's immediate family, or any other information tending to establish the child's identity;²⁵
 - (4) a child witness, who is a victim of a crime, an accused of a crime, or a witness to a crime, including the name, address, telephone number, school, or other identifying information of a child or an immediate family of the child;²⁶
 - (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address, employer, or other identifying information of a victim or an immediate family member;²⁷
 - (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;²⁸
 - (7) names of victims of child abuse, exploitation or discrimination;²⁹

²¹ Section 4, *Data Privacy Act of 2012*.

²² *An Act to Exempt the Publisher, Editor or Reporter of any Publication from Revealing the Source of Published News or Information Obtained in Confidence* (RA No. 53), as amended by RA No. 1477. May be invoked by government newspapers.

²³ Section 12, *Family Courts Act of 1997* (RA Act No. 8369).

²⁴ Section 43, *Juvenile Justice and Welfare Act of 2006* (RA No. 9344).

²⁵ Section 13, *Anti-Child Pornography Act of 2009* (RA No. 9775).

²⁶ Section 31, A.M. No. 00-4-07-SC, *Re: Proposed Rule on Examination of a Child Witness*.

²⁷ Section 44, *Anti-Violence Against Women and their Children Act of 2004* (RA No. 9262); and *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006.

²⁸ Section 7, *Anti-Trafficking in Persons Act of 2003* (RA No. 9208), as amended by RA No. 10364.

²⁹ Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act* (RA No. 7610).

- (8) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;³⁰
 - (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;³¹
 - (10) names of students who committed acts of bullying or retaliation;³²
 - (11) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and³³
 - (12) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;³⁴
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers, such as but not limited to the following:
- a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;³⁵

³⁰ Section 14, *Juvenile Justice and Welfare Act of 2006*; Section 7, *Anti-Trafficking in Persons Act of 2003*, as amended; and Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act*.

³¹ Section 15, *Domestic Adoption Act of 1998* (RA No. 8552) and Section 43, IRR of RA No. 8552; Sections 6 and 16(b), *Inter-Country Adoption Act of 1995* (RA No. 8043) and Sections 53, 54 and 55 of IRR of RA No. 8043.

³² Section 3(h), *Anti-Bullying Act* (RA No. 10627).

³³ Sections 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165).

³⁴ Sections 2(b), 18, 30, and 32, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

³⁵ Sections 45, 106.1, and 150.2, *The Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372); Section 66.2, *Securities Regulation Code* (RA No. 8799); DOST Administrative Order No. 004-16; Section 142, *The Corporation Code* (BP Blg. 68); Section 34, *Philippine Competition Act* (RA No. 10667); Sections 23 and 27 (c), *The New Central Bank Act* (RA No. 7653); *Anti-Money Laundering Act* (RA No. 9160); Section 18, *Strategic Trade Management Act* (RA No. 10697); Sections 10 and 14, *Safeguard Measures Act* (RA No. 8800); Section 12, *Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990* (RA No. 6969); Article 290, *Revised Penal Code*; Section 10.10, Rule 10, 2012 Revised IRR of *Build-Operate-Transfer Law* (RA No. 6957); and *Revised Philippine Ports Authority Manual of Corporate Governance*.

- b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);³⁶
- c. Records and reports submitted to the Social Security System by the employer or member;³⁷
- d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;³⁸
- e. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;³⁹
- f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴⁰
- g. Documents submitted through the Government Electronic Procurement System;⁴¹
- h. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the *Electronic Commerce Act of 2000*;⁴²
- i. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the *Philippine Mining Act of 1995* and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;⁴³
- j. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;⁴⁴

³⁶ Section 26, *Philippine Statistical Act of 2013* (RA No. 10625); and Section 4, *Commonwealth Act No. 591*. May be invoked only by the PSA.

³⁷ Section 24(c), *Social Security Act of 1997* (RA No. 1161, as amended by RA No. 8282).

³⁸ Section 29, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

³⁹ Section 34, *Philippine Competition Act* (PCA), RA No. 10667 and Section 13, Rule 4 of the IRR of PCA. This exception can be invoked by the Philippine Competition Commission subject to well-defined limitations under the PCA.

⁴⁰ Section 81, EO No. 226 (s. 1987), as amended.

⁴¹ Section 9, *Government Procurement Reform Act* (RA No. 9184).

⁴² Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

⁴³ Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

⁴⁴ Section 1, Rule IX, DOT MC No. 2010-02 (Rules and Regulations to Govern, the Accreditation of Accommodation Establishments – Hotels, Resorts and Apartment Hotels); and Section 23, DOT MC No. 2015-06 (Revised Rules and Regulations to Govern the Accreditation of Travel and Tour Agencies).

- k. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;⁴⁵
 - l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁶
 - m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁴⁷
 - n. Information on registered cultural properties owned by private individuals;⁴⁸
 - o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁴⁹ and
 - p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵⁰
6. Information of which a premature disclosure would:
- a. in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or
 - b. be likely or significantly frustrate implementation of a proposed official action, except such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.⁵¹
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:

⁴⁵ Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

⁴⁶ Section 10, *Safeguard Measures Act*.

⁴⁷ Section 297 in relation with Section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

⁴⁸ Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

⁴⁹ CHED Memorandum Order No. 015-13, 28 May 2013.

⁵⁰ Articles 229 and 230, *Revised Penal Code*; Section 3(k), *Anti-Graft and Corrupt Practices Act* (RA No. 3019); Section 7(c), *Code of Conduct and Ethical Standards for Public Officials and Employees* (RA No. 6713); Section 7, *Exchange of Information on Tax Matters Act of 2009* (RA No. 10021); and Section 6.2, *Securities Regulation Code* (RA No. 8799).

⁵¹ Section 3(g), Rule IV, Rules on CCESPOE.

- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*,⁵²
- b. Matters involved in an Investor-State mediation,⁵³
- c. Information and statements made at conciliation proceedings under the *Labor Code*,⁵⁴
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC),⁵⁵
- e. Results of examinations made by the Securities and Exchange Commission (SEC) on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto;⁵⁶
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*,⁵⁷
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁵⁸
- h. Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the *Comprehensive Dangerous Drugs Act of 2002*,⁵⁹
- i. Investigation report and the supervision history of a probationer;⁶⁰
- j. Those matters classified as confidential under the *Human Security Act of 2007*,⁶¹

⁵² Sections 9, 23 and 33, *Alternative Dispute Resolution (ADR) Act of 2004* (RA No. 9285); and DOJ Circular No. 98 (s. 2009) or the IRR of the ADR Act.

⁵³ Article 10, International Bar Association Rules for Investor-State Mediation.

⁵⁴ Article 237, *Labor Code*.

⁵⁵ Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

⁵⁶ Section 142, *Corporation Code*. May be invoked by the SEC and any other official authorized by law to make such examination.

⁵⁷ Sections 13.4, 15.4, 29.2 (b), and 64.2 of the *Securities Regulation Code*.

⁵⁸ Section 53(b)(1) of the *Pre-Need Code of the Philippines*. The confidentiality of the proceedings is lifted after the issuance of the cease and desist order.

⁵⁹ DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

⁶⁰ Section 17, *Probation Law of 1976* [PD No. 968 (s.1976)].

⁶¹ Sections 9, 13, 14, 29, 33 and 34, *Human Security Act of 2007* (RA No. 9372).

- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶² and
 - l. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;⁶³
8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
- a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);
 - b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;
 - c. RA No. 8791 (*The General Banking Law of 2000*);
 - d. RA No. 9160 (*Anti-Money Laundering Act of 2001*); and
 - e. RA No. 9510 (*Credit Information System Act*);
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:
- a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:
 - (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;⁶⁴
 - (2) Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules);⁶⁵ and
 - (3) Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (s. 2012);

⁶² Section 14, Civil Service Commission Resolution No. 01-0940.

⁶³ Section 18, Rule 139-B and Section 24, Rule 130 of the Rules of Court; and Section 11 of the Rule on DNA Evidence, A.M. No. 06-11-5-SC.

⁶⁴ Examples: Article 20 (2), ASEAN Comprehensive Investment Agreement; Article 15 (2) Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation between the ASEAN and the Republic of India; and Article 15 (2) of the Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation among the Government of the Member Countries of the ASEAN and the Republic of Korea.

⁶⁵ Article 7, UNCITRAL Transparency Rules.

- b. Testimony from a government official, unless pursuant to a court or legal order;⁶⁶
- c. When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:
 - (1) any purpose contrary to morals or public policy; or
 - (2) any commercial purpose other than by news and communications media for dissemination to the general public;⁶⁷
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁶⁸
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁶⁹
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷⁰ and
- g. Attorney-client privilege existing between government lawyers and their client.⁷¹

⁶⁶ *Senate v. Neri, supra; Senate v. Ermita, supra.*

⁶⁷ Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees.*

⁶⁸ *Belgica v. Ochoa*, G.R. No. 208566, 19 November 2013; and *Valmonte v. Belmonte Jr.*, G.R. No. 74930, 13 February 1989, 252 Phil. 264.

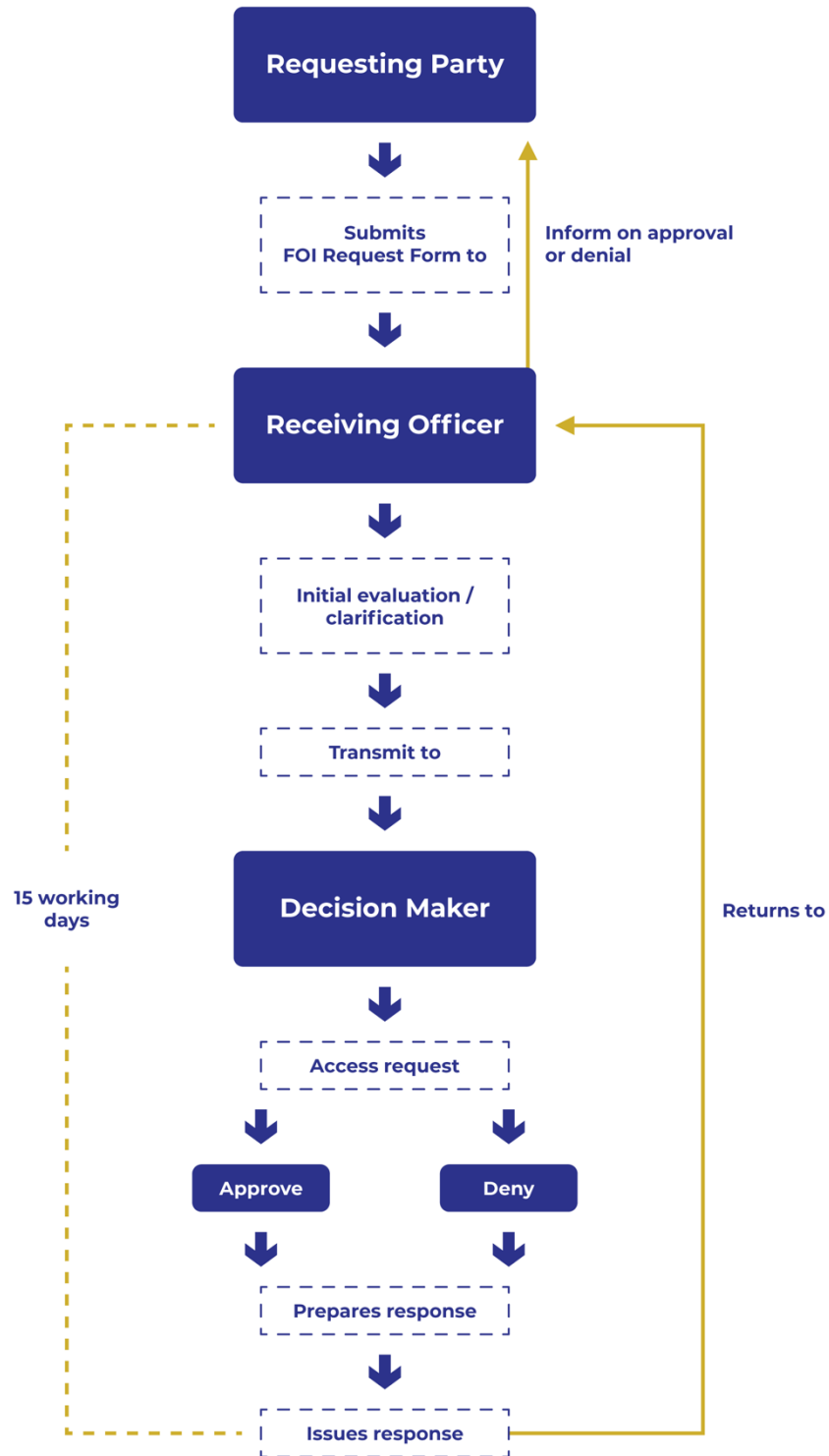
⁶⁹ Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending Certain Provisions of the New Rules of Procedure of the National Labor Relations Commission, 08 March 2002; Department of Agrarian Reform MC No. 07-11, 19 July 2011; Department of Social Welfare and Development MC No. 021-12, 16 October 2012; and Section 42, *Investment Company Act* (RA No. 2629); When the information requested is not a matter of public concern or interest as decided in *Hilado v. Judge Amor A. Reyes*, G.R. No. 163155, 21 July 2006.

⁷⁰ *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

⁷¹ Canon 21 of the *Code of Professional Responsibility.*

ANNEX E

FOI REQUEST FLOW CHART




ANNEX F

FOI REQUEST FORM

This document may be reproduced and is NOT FOR SALE

FOI Tracking Number: _____



FREEDOM OF INFORMATION REQUEST FORM
(Pursuant to Executive Order No. 2, s. 2016)
(as of November 2016)

Please read the following information carefully before proceeding with your application. Use blue or black ink. Write neatly and in BLOCK letters. Improper or incorrectly-filled out forms will not be acted upon. Tick or mark boxes with "X" where necessary. Note: (◀) denotes a MANDATORY field.

A. Requesting Party

You are required to supply your name and address for correspondence. Additional contact details will help us deal with your application and correspond with you in the manner you prefer.

1. Title (e.g. Mr, Mrs, Ms, Miss) 2. Given Name/s (including M.I.) 3. Surname
_____ ▶ ▶ ▶

4. Complete Address (Apt/House Number, Street, City/Municipality, Province)
_____ ▶

5. Landline/Fax 6. Mobile 7. Email
_____ ▶ ▶

8. Preferred Mode of Communication Landline Mobile Number Email Postal Address
(If your request is successful, we will be sending the documents to you in this manner.)

9. Preferred Mode of Reply Email Fax Postal Address Pick-Up at Agency

10. Type of ID Given (Please ensure your IDs contain your photo and signature) Passport Driver's License SSS ID Postal ID Voter's ID
 School ID Company ID Others _____

B. Requested Information

11. Agency - Connecting Agency (if applicable) ▶ ▶

12. Title of Document/Record Requested (Please be as detailed as possible) ▶

13. Date or Period (DD/MM/YY) ▶

14. Purpose ▶

15. Document Type ▶

16. Reference Numbers (if known) ▶

17. Any other Relevant Information ▶

— FREEDOM OF INFORMATION —

C. Declaration

Privacy Notice: Once deemed valid, your information from your application will be used by the agency you have applied to, to deal with your application as set out in the Freedom of Information Executive Order No. 2. If the Department or Agency gives you access to a document, and if the document contains no personal information about you, the document will be published online in the Department's or Agency's disclosure log, along with your name and the date you applied, and, if another person, company or body will use or benefit from the documents sought, the name of that person, entity or body.

I declare that:

- The information provided in the form is complete and correct;
- I have read the Privacy notice;
- I have presented at least one (1) government-issued ID to establish proof of my identity

I understand that it is an offense to give misleading information about my identity, and that doing so may result in a decision to refuse to process my application.

Signature ◀ _____

Date Accomplished (DD/MM/YYYY) ◀ _____

D. FOI Receiving Officer [INTERNAL USE ONLY]

Name (Print name) ◀ _____

Agency - Connecting Agency (if applicable, otherwise N/A) ◀ _____ ◀ _____

Date entered on eFOI (if applicable, otherwise N/A) ◀ _____

Proof of ID Presented (Photocopies of original should be attached) Passport Driver's License SSS ID Postal ID Voter's ID School ID Company ID Others _____

The request is recommended to be: Approved Denied
If Denied, please tick the Reason for the Denial Invalid Request Incomplete Data already available online

Second Receiving Officer Assigned (print name) ◀ _____

Decision Maker Assigned to Application (print name) ◀ _____

Decision on Application Successful Partially Successful Denied Cost
If Denied, please tick the Reason for the Denial Invalid Request Incomplete Data already available online Exception Which Exception? _____

Date Request Finished (DD/MM/YYYY) ◀ _____

Date Documents (if any) Sent (DD/MM/YYYY) ◀ _____

FOI Registry Accomplished Yes No

RO Signature ◀ _____

Date (DD/MM/YYYY) ◀ _____

ANNEX F-1

**FOI RESPONSE TEMPLATE
(DOCUMENT ENCLOSED)**

DATE

Dear _____,

Greetings!

Thank you for your request dated <insert date> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>.

Response to your request

Your FOI request is approved. I enclose a copy of [some/most/all]* of the information you requested [in the format you asked for]

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX F-2

**FOI RESPONSE TEMPLATE
(ANSWER)**

DATE

Dear _____,

Greetings!

Thank you for your request dated <insert date> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>.

Response to your request

Your FOI request is approved. The answer to your request is <insert answer> Thank you.

Respectfully,

FOI Receiving Officer

ANNEX F-3

FOI RESPONSE TEMPLATE (DOCUMENT AVAILABLE ONLINE)

DATE

Dear _____,

Greetings!

Thank you for your request dated <insert date> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>.

Response to your request

[Some/Most/All] of the information you have requested is already available online from

<add details of where that specific information can be obtained e.g. data.gov.ph, foi.gov.ph or other government websites>.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to <insert name of agency head and postal / e- mail address>. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to appeal to the Office of the President under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX F-4

FOI RESPONSE TEMPLATE (DOCUMENT NOT AVAILABLE)

DATE

Dear _____,

Greetings!

Thank you for your request dated <insert date> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>.

Response to your request

While our aim is to provide information whenever possible, in this instance this Office does not have [some of]* the information you have requested. However, you may wish to contact

<insert name of other authority/organization> at<insert contact details. Who may be able to help you. The reasons why we don't have the information are explained in the Annex to this letter.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to <insert name of agency head and postal / e- mail address>. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to appeal to the Office of the President under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX F-5

FOI RESPONSE TEMPLATE (UNDER EXCEPTIONS)

DATE

Dear _____,

Greetings!

Thank you for your request dated <insert date> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>.

Response to your request

While our aim is to provide information whenever possible, in this instance we are unable to provide [some of]* the information you have requested because an exception(s) under section(s) <insert specific section number(s) of the List of Exceptions applies to that information. The reasons why that exemption(s) applies are explained in the Annex to this letter.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to <insert name of agency head and postal / e- mail address>. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to appeal to the Office of the President under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX G

MEMORANDUM CIRCULAR NO. 2021-05: NO WRONG DOOR POLICY



REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
Tanggapang Pampanguluhan sa Operasyong Komunikasyon
Ermita, City of Manila

FOI-MC No. 21- 05

FREEDOM OF INFORMATION MEMORANDUM CIRCULAR

FOR : ALL AGENCIES, DEPARTMENTS, BUREAUS, OFFICES AND INSTRUMENTALITIES OF THE EXECUTIVE BRANCH INCLUDING GOVERNMENT-OWNED AND/OR CONTROLLED CORPORATIONS (GOCCS), STATE UNIVERSITIES AND COLLEGES (SUCS), AND LOCAL WATER DISTRICTS (LWDS)

SUBJECT : GUIDELINES ON THE REFERRAL OF REQUESTED INFORMATION, OFFICIAL RECORD/S AND PUBLIC RECORD/S TO THE APPROPRIATE GOVERNMENT AGENCY OTHERWISE KNOWN AS THE "NO WRONG DOOR POLICY FOR FOI"

WHEREAS, Executive Order (EO) No. 02, s. 2016 was issued by President Rodrigo Roa R. Duterte to operationalize the Constitutional Right of Access to Information, and Policy of Full Public Disclosure in the Executive Department;

WHEREAS, Memorandum Order (MO) No. 10, s. 2016 designated the Presidential Communications Operations Office (PCOO) as the lead agency in the implementation of EO No. 02, s. 2016;

WHEREAS, Department Order No. 18, s. 2017, issued by the PCOO, created the Freedom of Information – Project Management Office (FOI-PMO) to exercise the mandate of MO No. 10, s. 2016;

WHEREAS, in order to ensure the policy of the President to have an open, transparent and accountable government, it is the mandate of the PCOO to develop programs and mechanisms to enhance the capacity of government agencies to comply with the FOI program;

WHEREAS, there is a need to break the prevailing "silo system" and lack of interconnection among government agencies, with the end goal of a government acting as a singular unit serving its primary client, its citizens;

NOW, THEREFORE, by virtue of PCOO's mandate to develop programs and mechanism to ensure compliance with the FOI program, particularly on addressing the issue regarding the referral of any requested information, official record/s, or public record/s to the appropriate government agency, these rules are hereby prescribed and promulgated for the information, guidance and compliance of all concerned:

Section 1. Purpose. – This rule seeks to set guidelines for the referral of any requested information, official record/s, or public record/s to the appropriate government agency by another agency which does not have in its possession or custody the requested information or records, or is not authorized to release the information to the public.

Section 2. Coverage. – This Order shall cover all government agencies under the Executive branch implementing the FOI Program, pursuant to EO No. 2, s. 2016 and all other related issuances, and applies to both paper-based and electronic form of requesting information.

Section 3. Request for Information. – Any person who requests for access to information shall comply with Section 9 of EO No. 02, s. 2016 and all other pertinent laws, existing rules and regulations, issuances, and orders. For purposes of this rule, information and records shall refer to information, official record/s, or public record/s as defined under EO No. 02, s. 2016.

Section 4. Acceptance of request. – As a general rule, all fully compliant requests for information shall be accepted by the FOI Receiving Officer (FRO) and FOI Decision Maker (FDM). No request for information shall be denied or refused acceptance by a government office unless the reason for the request is contrary to the Constitution, pertinent laws, existing rules and regulations, or it is one of the exceptions provided under the Inventory of Exceptions.

Section 5. Process of Referral. – When the requested information is not in the possession of a government agency (government agency no. 1 or GA1), but is available in another government agency (government agency no. 2 or GA2) under the Executive Branch, the request shall be immediately referred by GA1 to GA2 through the most expeditious manner but not exceeding three (3) working days from the receipt of the request. This shall be considered as the “**First Referral**” and a fresh period will apply.

Referral to the appropriate government agency shall mean that another government office is the proper repository or custodian of the requested information or records, or have control over the said information or records.

If GA1 fails to refer the request within three (3) working days upon its receipt, the FRO shall act on it within the remaining period to respond pursuant to EO No. 02, s. 2016. No fresh period shall apply.

If GA1, in good faith, erroneously referred the request to GA2, the latter shall immediately notify the former as well as the requesting party, that the information requested is not available in their agency.

GA2, to whom the request was referred under the First Referral may subsequently refer the request to another government agency (government agency no. 3 or GA3) under the procedure set forth in the first paragraph of this Section. This shall be considered as the “**Second Referral**” and another fresh period shall apply.

Referrals under this Order shall only be limited to two (2) subsequent transfers of request. A written or email acknowledgement of the referral shall be made by the FRO of the government agency where it was referred.

The requesting party shall be notified of the referral and must be provided with the reason or rationale thereof, and contact details of the government office where the request was referred.

Section 6. FOI Internal Messenger. - The FOI-PMO shall create a “**FOI Internal Messenger**”. Such feature shall be included in the dashboards of FROs and FDMs, located at the eFOI portal or www.foi.gov.ph, where all FROs and FDMs can ask or confirm with each other on which agency has the control and custody of any information or record being requested.

Please see Annex “A” of this Circular for the No Wrong Door Policy Flowchart.

Section 7. Status of the Request. – A request that is referred to the appropriate government agency is considered **successful** if the same is acknowledged and the requested information is disclosed to the requestor.

If GA3, after the second referral, still cannot provide the information requested, it shall deny the said request and shall properly notify the requesting party.

In all phases of the referral, the requesting party shall be informed in writing, email, and/or through the eFOI of the status of his/her request.

Section 8. Inventory of Receiving Officers and Decision Makers, and Agency Information Inventory. – For the convenience of all FROs and FDMs

in implementing this Circular, an inventory of the names and contact details of all designated FROs and FDMs of government agencies, and an Agency Information Inventory (AII) shall be compiled by the FOI-PMO.

The FOI-PMO shall be the central repository of the inventory of all designated FROs and FDMs and shall collate and update the names and contact information of the designated FROs and FDMs of each government agency. The inventory shall be posted at the eFOI portal, www.foi.gov.ph. FOI-PMO shall strictly adhere to Republic Act No. 10173 or the Data Privacy Act of 2012.

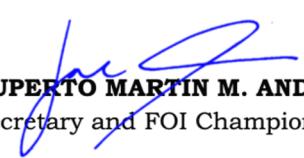
To assist the FROs in locating the requested information or record, an annual updating of the AII shall be required of all agencies on-boarded on the eFOI Portal. The consolidated inventory of information shall likewise be made available in the dashboard of the FRO and FDM for ease of access and information.

Section 9. Separability Clause. If, for any reason, any part or provision of this Memorandum Circular is declared invalid or unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

Section 10. Repealing Clause. All orders, rules and regulations, memoranda, circulars, and issuances or any part thereof inconsistent with the provisions of this Memorandum Circular are hereby repealed, amended or modified accordingly.

Section 11. Effectivity. This Memorandum Circular shall take effect immediately.

Manila, Philippines, 27th day of August 2021.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

ANNEX H

NO WRONG DOOR POLICY FLOW CHART

