

**Public-Private Partnership
Center**

**People's Freedom of Information
Manual**

(IMPLEMENTING DETAILS AS OF
JANUARY 16, 2024)

TABLE OF CONTENTS

SECTION 1. OVERVIEW

1. Purpose of the Manual
2. Coverage of the Manual
3. FOI Receiving Officer (FRO)
4. FOI Decision-Maker (FDM)
5. Approval and Denial of Request
6. Appeal of FDM Decision

SECTION 2. DEFINITION OF TERMS

SECTION 3. PROMOTION OF OPENNESS IN GOVERNMENT

SECTION 4. PROTECTION OF PRIVACY

SECTION 5. STANDARD PROCEDURE

1. Receipt of Request for Information
2. Transmittal from FRO to FDM
3. Role of FDM in processing the FOI Request
4. Role of FRO to transmit the Information to the RP
5. Period to Respond
6. Request for an Extension of Time
7. Notice to RP to pay reproduction costs.
8. Central Appeals and Review Committee

SECTION 6. REMEDIES IN CASE OF DENIAL OF REQUEST

SECTION 7. REQUEST TRACKING SYSTEM

SECTION 8. ANNUAL REPORTS TO THE PCOO

SECTION 9. FEES

SECTION 10. ADMINISTRATIVE LIABILITY

SECTION 11. MISCELLANEOUS PROVISIONS

ANNEXES

ANNEX "A"	Executive Order No. 02, (S. 2016), <i>Operationalizing in the Executive Branch of the People's Constitutional Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor.</i>
ANNEX "B"	Memorandum Circular No. 89, s. 2021, September 13, 2021, <i>Updating the Inventory of Exceptions to the Right to Access of Information Under Executive Order (EO) No. 2, Series of 2016</i>
ANNEX "C"	Freedom of Information Memorandum Circular (FOI-MC) No. 04, series of 2021 or the <i>Policy on Anonymization</i>
ANNEX "D"	FOI-MC No. 03, series of 2021 or the <i>Retention Period of Personal Information and Sensitive Personal Information Gathered Through the Standard FOI Request and Electronic Freedom of Information (eFOI) Portal</i>
ANNEX "E"	FOI-MC No. 5, series of 2020 or the <i>Guidelines on Vexatious Freedom of Information Requests and Abuse of Rights Thereunder</i>
ANNEX "F"	FOI-MC No. 21-05, <i>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"</i>
ANNEX "G"	FOI Request Flow Chart
ANNEX "H"	FOI Request Form

SECTION 1: OVERVIEW

1. **Purpose.** The purpose of this FOI Manual (Manual) is to provide the process to guide and assist Filipino Citizens in requesting for information received under Executive Order (E.O.) No. 2, s. of 2016 on Freedom of Information (FOI). (**Annex "A"**)
2. **Coverage of the Manual.** The Manual shall cover all requests for information received by the PPP Center. Questions e-mailed to info@ppp.gov.ph or to PPP Center personnel, and those submitted through the Executive branch's online FOI portal (<http://www.foi.gov.ph>) directed to the PPP Center shall be considered FOI requests.
3. **FOI Receiving Officer.** There shall be an FOI Receiving Officer (FRO), who will hold office in the PPP Center. The FRO shall preferably come from the General Services Division (GSD) of the PPP Center. The Executive Director, by Special Order, shall designate the FRO. Until further notice, Ms. Christy V. Sarmiento, Administrative Officer III of the GSD is the designated FRO of the PPP Center.
4. **FOI Decision Maker.** There shall be an FOI Decision Maker (FDM) who shall have the overall responsibility of implementing the provisions of this Manual. The FDM shall conduct evaluation of FOI Requests and shall have the authority to grant or deny requests based on reasons provided in this Manual. The Executive Director shall, by Special Order, designate a Deputy Executive Director (DED) to act as FDM. The designated Deputy Executive Director shall act as the FDM or, in their absence, delegate such responsibilities to a duly authorized employee in the PPP Center not below the rank of Director III. The FDM shall have overall responsibility of deciding on FOI requests, subject to review as provided in this Manual. Until further notice, Deputy Executive Director Eleazar E. Ricote, is the designated FDM of the PPP Center.
5. **Approval and Denial of FOI Request.** The FDM, or in his absence, their duly authorized personnel, shall approve or deny, either partially or fully, all FOI Requests on grounds provided in this Manual and subject to review as provided herein.
6. **Appeal of FDM Decision.** The decision of the FDM may be appealed to the Executive Director as provided in this Manual.

SECTION 2: DEFINITION OF TERMS

ADMINISTRATIVE FOI APPEAL. An independent review of the initial determination of the FDM by the Executive Director. Requesting Parties (RPs) who are dissatisfied with the action/response made on their FOI request may appeal the FDM's initial determination through an administrative FOI appeal to the Executive Director whose decisions may be based on the recommendation of the Central Appeals and Review Committee.

ALTERNATE FRO. The PPP Center officer authorized to perform the tasks of the FOI Receiving Officer in case of the latter's absence or unavailability.

ANNUAL FOI REPORT. A report to be filed each year with the Presidential Communications Operations Office (PCOO) by the PPP Center detailing the administration of the FOI processes. Annual FOI Reports contain detailed statistics on the number of FOI requests and appeals received, processed, and pending with the PPP Center, among other information.

CENTRAL APPEALS AND REVIEW COMMITTEE. A committee composed of three (3) officials, all with a rank not lower than Director III, designated by the Executive Director, through Special Order, to review appeals of the FDM's denial of an FOI Request and recommend the appropriate action thereon to the Executive Director. The Central Appeals and Review Committee's findings are merely recommendatory and is not binding upon the Executive Director.

www.foi.gov.ph or the electronic FOI (eFOI) Portal. The online FOI platform that is available to select agencies of the Executive Branch, providing an alternative avenue for Filipinos to file their FOI requests. The rules and exceptions in this Manual also apply to the requests made herein.

EXCEPTIONS. Information that should not be released and disclosed in response to an FOI Request because they are protected by the Constitution, law, jurisprudence, or would otherwise be imprudent to disclose to the public. A non-exclusive list is provided in **Annex "B"**.

FREEDOM OF INFORMATION (FOI). A government mechanism in the Executive Branch, which allows Filipino citizens to request information about transactions and operations of the Executive Branch, subject to Exceptions as defined herein. The FOI mechanism for the Executive Branch is enabled by Executive Order No. 2, series of 2016.

FOI REQUEST. A request submitted to the PPP Center and received by the FRO, or other PPP Center personnel for information, official records, and/or public

records as herein defined. A FOI request can be generally made by any Filipino to the PPP Center.

FOI RECEIVING OFFICER (FRO). The PPP Center officer primarily responsible for, among others, attending to any questions or concerns about the FOI process or any pending FOI request from the public; receiving, on behalf of the PPP Center, all requests for information and forwarding the same to the FDM; monitoring all FOI requests and appeals; providing assistance to the FDM; providing assistance and support to the public and staff with regard to FOI; compiling statistical information as required; conducting initial evaluation of requests, and advising the RP of clarifications or decisions of the FDM, and forwarding the FOI request to the appropriate government department, bureau, agency, or office when appropriate. Any reference to the duties of the FRO in this Manual shall be read as the duties of the Alternate FRO in case of the former's absence or unavailability.

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 recording, magnetic or other tapes, electronic data, computer stored data, 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 the PPP Center pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.

OFFICIAL RECORD/S. Shall refer to information produced or received by a PPP Center officer or employee, or by the PPP Center in an official capacity or pursuant to a public function or duty.

PERSONAL INFORMATION. Shall refer 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.

PUBLIC RECORDS. Shall include information required by laws, executive orders, rules, or regulations to be entered, kept, and made publicly available by a government office.

REQUEST TRACKING SYSTEM. Shall have the meaning provided in Section 7 of this Manual.

REQUESTING PARTY (RP). The Filipino party making the FOI request.

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

- (1) About an individual race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations; or
- (2) About an individual health, education, genetic or sexual life of a person, or to any proceedings 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; or
- (3) Issued by government agencies peculiar to an individual which includes, but is not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and

In all cases above, specifically established by an executive order, jurisprudence, or an act of Congress to be kept classified.

SERVICE. The various services of the PPP Center, namely, the Project Development Service; the Project Development and Monitoring Facility Service; the Legal Service; the Administrative Service; the Policy Formulation, Project Evaluation and Monitoring Service; and the Capacity Building and Knowledge Management Service.

SECTION 3. PROMOTION OF OPENNESS IN GOVERNMENT

1. **Duty to Publish Information.** The PPP Center shall regularly publish, print and disseminate at no cost to the public, and in an accessible form, in conjunction with Republic Act No. 9485, or the Anti-Red Tape Act of 2007, as amended by Republic Act No. 11032, or the Ease of Doing Business and Efficient Government Service Delivery Act of 2018, and through their website, timely, true, accurate and updated key information including, but not limited to:
 - a. A description of its mandate, structure, powers, functions, duties and decision-making processes;
 - b. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
 - c. The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;

- d. Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
 - e. Important rules and regulations, orders or decisions;
 - f. Current and important database and statistics that it generates;
 - g. Bidding processes and requirements; and
 - h. Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.
- 2. Accessibility of Language and Form.** The PPP Center shall endeavor to translate key information into major Filipino languages and present them in popular form and means.
- 3. Keeping of Records.** The PPP Center shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation of records, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications and documents received or filed with them and the data generated or collected therefrom.

SECTION 4. PROTECTION OF PRIVACY

While providing for access to information, the PPP Center shall afford full protection to a person's right to privacy, as follows:

- a. The PPP Center shall ensure that Personal Information, particularly Sensitive Personal Information, in its custody or under its control is disclosed only as permitted by existing laws;
- b. The PPP Center shall protect Personal Information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure;
- c. The FRO, FDM, or any employee or official who has access, whether authorized or unauthorized, to Personal Information in the custody of the PPP Center, shall not disclose such Personal Information except as authorized or required by law.

Personal Information of RPs collected or obtained through the eFOI Portal shall be anonymized or de-identified in accordance with FOI-MC No. 04, series of 2021 or the *Policy on Anonymization* in **Annex "C"**, or as may be amended.

All Personal and Sensitive Personal Information of RPs obtained by the PPP Center, through the FRO and/or FDM, through standard/traditional mode shall be retained only for the fulfillment of the purpose for which these information were obtained in order to secure the privacy of personal information and sensitive personal information of RPs. Safekeeping of the Information shall be in accordance with PPP Center's Recordkeeping Policies and Procedures Handbook.

All Personal and Sensitive Personal Information of RPs accessed by the FRO and/or FDM, through the eFOI Portal shall be used only for the fulfillment of the purpose for which these information were accessed in order to secure the privacy of personal information and sensitive personal information of RPs.

The period to retain such Personal and Sensitive Personal information and disposal thereof shall be in accordance with FOI-MC No. 03, series of 2021 or the *Retention Period of Personal Information and Sensitive Personal Information Gathered Through the Standard FOI Request and Electronic Freedom of Information (eFOI) Portal* in **Annex "D"**, or as may be amended.

SECTION 5. STANDARD PROCEDURE

(See **Annex "G"** for flowchart)

1. Receipt of Request for Information

1.1. **Traditional FOI Request.** The PPP Center shall, at all times, have available an FOI Request Form in the form and substance similar to that provided in **Annex "H"** in a conspicuous place in the PPP Center Office located at the 8th Floor, One Cyberpod Centris, EDSA cor. Quezon Avenue, Quezon City. The FRO shall receive the filled-up request form from the RP and check compliance with the following requirements:

- The request must state the name and contact information of the RP;
- The request must reasonably describe the information requested, and the reason for, or purpose of the request for information; and
- The request must be accompanied by a copy of the RP's valid government-issued proof of identity with photo.

The RP must also present the original of the said proof of identity.

1.1.1 In case the RP is unable to make a written request because of illiteracy or due to being a person with disability, they may make a personal oral request, and the FRO shall reduce it in writing. The said RP must nonetheless present valid government-issued proof of identity with photo.

1.1.2 The request shall be stamped "**RECEIVED**" by the FRO, indicating the date and time of the receipt of the written request, and the name, rank, title and position of the FRO or the duly authorized employee who actually received it. The request shall be signed by the FRO and a copy thereof shall be produced and given to the RP.

1.1.3 The FRO or the duly authorized employee shall ensure that the FOI Request Form is correctly filled up and may request for additional information to facilitate the PPP Center in complying with the request. **The FRO or the duly authorized employee may not refuse to accept the complete FOI request.**

1.2. **FOI Requests Through Electronic Mail.** The FOI Request may be made through electronic mail (e-mail), provided that the RP shall attach in the e-mail a scanned copy of the FOI application form and a scanned copy of their proof of identity. If an FOI e-mail request is received but without the information required in Item 1.1 of this Section, the FRO shall reply by requesting the RP to either fill up a copy of the FOI Request Form which the FRO will attach to their response, or to otherwise provide the information required therein, along with a scanned copy of the RP's proof of identity. Only upon receipt of the filled up FOI Request Form or required information complete in form and substance will the request be considered an FOI request for purposes of reckoning the period to respond.

The PPP Center shall also receive and respond to FOI requests and other queries relative to FOI through info@ppp.gov.ph. However, this does not preclude the validity of FOI requests sent through the e-mail addresses of other PPP Center personnel although the counting of the period to respond shall not begin until these FOI requests are forwarded to the FRO. PPP Center employees are enjoined to immediately forward FOI requests they receive to the FRO for proper action.

In case of e-mail FOI Requests, the same shall be acknowledged by e-mail indicating the date and time of the receipt of the request, and the name, rank, title, and position of the FRO or the duly authorized employee who actually received it. The FRO or the duly authorized

employee shall input the details of the request on the Request Tracking System and allocate a reference number thereto.

1.3. **FOI Requests made through www.foi.gov.ph.** The procedure for making FOI Requests through www.foi.gov.ph or the eFOI Portal shall be governed by the rules and processes provided therein. The provisions of this Manual shall govern the period to reply to such requests as well as administrative appeals to decisions made by the FDM thereon.

1.4. **Other modes of FOI Request.** RPs making FOI Requests through modes other than those provided shall be advised to go through the steps outlined in either items 1.1 or 1.2.

2. **Transmittal of Request by the FRO to the FDM:** After receipt of the complete FOI Request, the FRO or the duly authorized employee shall transmit such request to the FDM within one (1) working day from receipt thereof. The FRO or the duly authorized employee shall record the date and time the request was received by the FDM, which should be signed by the FDM or the duly authorized employee to acknowledge receipt thereof. For this purpose, the FRO shall have a record book to record all transfers herein mentioned.

3. **Role of FDM in processing the FOI request.** Upon receipt of the request, the FDM shall assess the FOI Request and shall, within two (2) working days, exercise the following options:

3.1 **Completely approve the FOI Request.** If the FDM approves the FOI Request, the FDM shall cascade the request to the appropriate Service/s which shall make all necessary steps to supply the information requested to the FDM within three (3) working days from its/their receipt thereof. The FDM will review the information provided to ensure it is responsive to the FOI request and that the disclosed information is compliant with all relevant laws and regulations. The FDM shall then submit the same to the FRO within ten (10) working days from receipt of FOI Request by the FRO.

In all cases, the FRO shall note the date and time of receipt of the information from the FDM and report to the Executive Director, in case the submission is beyond the 10-day period.

3.2 **Partially approve the FOI Request.** If an FOI Request is received which requires information from the PPP Center and another department, agency, bureau, or office, or otherwise may be of interest to another department, agency, bureau, or office, the FDM shall

instruct the FRO to forward such portions of the request to the said department, agency, bureau and office concerned, copying the RP of such transmittal. The FDM will then cascade the approved portion of the request to the appropriate Service pursuant to the previous subsection. The PPP Center shall only respond to questions within its capacity, competency and authority.

3.3 Deny the FOI Request. The FOI Request may be denied on the following grounds:

- i. The PPP Center does not have the information requested;
- ii. The information requested contains sensitive personal information protected by the Data Privacy Act of 2012;
- iii. The information requested falls under the list of exceptions to FOI, as provided in **Annex "B"**, as may be amended from time to time;
- iv. The FOI Request is an unreasonable, subsequent, identical, or substantially similar request from the same RP whose request has already been previously granted or denied by the PPP Center;
- v. Vexatious FOI Requests as described in FOI-MC No. 5, series of 2020 or the *Guidelines on Vexatious Freedom of Information Requests and Abuse of Rights Thereunder* in **Annex "E"**, as may be amended from time to time;
- vi. The requested information is already available online and publicly available.

In all instances of denial, the FDM shall instruct the FRO to notify the RP stating the reason for the denial with the periods provided in Item 5 of this Section. .

Failure to notify the RP of the action taken on the request within the period prescribed shall be deemed a denial of the request to information.

3.4 Ask for additional information on the FOI Request. If the FDM needs additional information/clarification to properly address the FOI Request, the FDM shall instruct the FRO to request for such additional information/clarification. The request for additional information/clarification shall stop the running of the 15-day period

provided in item 5 of this Section, and will commence the day after it receives the required information/clarification from the RP.

3.5 Refer the FOI Request. If the PPP Center does not have in its possession or custody the requested information, or is not authorized to release the information to the public, the FDM shall instruct the FRO to immediately refer the request to the appropriate department, agency, bureau, or office in the most expeditious manner, but not exceeding three (3) working days from receipt of the request.

The "appropriate department, agency, bureau, or office" shall mean another government office that is the proper repository or custodian of the requested information or records, or has control over the said information or records.

The procedure for referral shall be in accordance with FOI-MC No. 21-05, the *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" in Annex "F"*, and as may be amended from time to time.

4. Role of FRO to transmit the information to the RP: Upon receipt of the requested information from the FDM, the FRO shall collate attach a cover/transmittal letter signed by the FDM and ensure the transmittal of such letter to the RP.

The FRO shall notify the RP of the availability of the requested documents/information which may be transmitted by any way the FRO deems suitable and/or expedient. The RP may also pick-up the requested materials in the PPP Center office.

5. Period to Respond: The PPP Center must respond to requests within fifteen (15) working days following the date of receipt thereof. 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, Art. 13 of the New Civil Code shall be observed.

The date of receipt of the request shall be the day on which the complete FOI Request is received physically by the FRO, electronically through the FOI e-mail address, info@ppp.gov.ph, or submitted through the FOI online portal.

Provided, that in cases where the request was electronically made to an absent/unavailable FRO and this has generated a message with

instructions on how to re-direct the message to another contact, the date of receipt will be the day the request is electronically received by that contact.

- 6. Request for an Extension of Time:** If the information requested requires extensive search of the PPP Center's office records facilities, examination of voluminous records, or the processing thereof is affected the occurrence of fortuitous events or other analogous circumstances, the FDM should inform the FRO.

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

- 7. Notice to RP to pay reproduction costs.** Should the request be approved, but compliance thereto necessitates that reproduction and photocopying of documents, the FRO shall notify the RP within the prescribed period that the request was granted and directing the RP to pay the applicable fees, if any.
- 8. Central Appeals and Review Committee.** There shall be a Central Appeals and Review Committee (Review Committee) composed of three (3) officials with a rank not lower than Director III, designated by the Executive Director, through Special Order, to review appeals of the FDM's denial of a request for information. The FDM who issued the denial shall not be part of the Review Committee. The functions of the Review Committee shall be that provided in the succeeding Section.

SECTION 6. REMEDIES IN CASE OF DENIAL

The RP who is unsatisfied with the action taken on their request by the FDM may file:

- 1. Administrative FOI Appeal to the Executive Director.**
 - a. Appeal of the FDM decision shall be made by filing a written appeal to the Executive Director within 15 working days from the notice of denial.
 - b. The Executive Director shall make a decision on the appeal, taking into consideration the recommendation of the Review Committee within thirty (30) working days from receipt thereof. Failure to decide within the 30-day period shall be deemed a denial of the appeal.

- c. The Executive Director's decision may be appealed to the Secretary of the National Economic and Development Authority within 30 working days from notice thereof. Failure to decide within the 30-day period shall be deemed a denial of the appeal.
- d. The denial of the appeal by the Secretary within the 30-day period or the lapse thereof may be appealed to the Office of the President pursuant to Administrative Order No. 22, s. 2011.
- e. Upon exhaustion of administrative FOI appeal remedies, the RP may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 7. REQUEST TRACKING SYSTEM

The PPP Center shall establish a system to trace the status of all FOI Requests received by it, fully or partially granted or denied requests, processed requests and/or appeals, and frequently requested information which may be paper-based, on-line or both. It shall also establish a system of determining how much time was used in processing and responding to each FOI request. The FRO shall record the time it utilized in preparing the response for the FOI Request.

SECTION 8. ANNUAL REPORTS TO THE PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE

The PPP Center shall submit an annual report of all requests for information received, fully or partially granted or denied requests, processed requests and/or appeals, and frequently requested information to the Presidential Communications Operations Office or at any time so requested.

SECTION 9. FEES

- 1. No Request Fee.** The PPP Center shall not charge any fee for accepting FOI Requests except for the reasonable cost of reproduction of the information requested as provided in Section 5 of this Manual.
- 2. Exemption from Reproduction Fee.** The PPP Center may, upon its discretion, exempt a RP from paying reproduction fees upon satisfactory proof of indigency.

SECTION 10. ADMINISTRATIVE LIABILITY

- 1. Non-compliance with FOI Manual.** Failure to comply with the provisions of this Manual shall be a ground for the following administrative penalties:

- a. 1st Offense - Reprimand;
- b. 2nd Offense - Suspension of one (1) to thirty (30) days; and
- c. 3rd Offense - Dismissal from the service.

2. Procedure. The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of cases under this Manual.

3. Provisions for More Stringent Laws, Rules and Regulations. 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

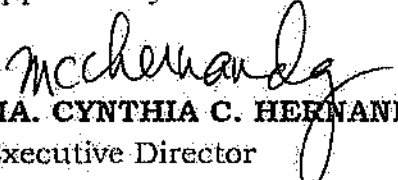
SECTION 11. MISCELLANEOUS PROVISIONS

1. Separability Clause. If any part or provision of these rules is held invalid or unconstitutional, other provisions not affected thereby shall remain in force and effect.

2. Repealing Clause. All other laws, decrees, orders, issuances, rules and regulations which are inconsistent with the provisions of these rules are hereby repealed, amended or modified accordingly.

3. Effectivity. These rules shall take effect fifteen (15) days after its publication in the PPP Center website.

Approved by:


MA. CYNTHIA C. HERNANDEZ
Executive Director

ANNEX "A"

**MALACANAN 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 TO
FULL PUBLIC DISCLOSURE AND TRANSPARENCY IN THE PUBLIC SERVICE
AND PROVIDING GUIDELINES THEREFOR**

WHEREAS, pursuant to Article 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:

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 recording, magnetic or other tapes, electronic data, computer stored data, 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, offices, and instrumentalities, including government-owned or -controlled corporations, and state universities and colleges. Local government units (LGUs) are encouraged 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 to 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 law 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 provided in the preceding section.

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

In making such determination, the Head of the Office or his or her 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 the right to privacy of the individual 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 law, 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.

(c) Any employee, official or director 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 regulation.

SECTION 8. People's Freedom to 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 provisions:

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

SECTION 9. Procedure. The following procedure shall govern the filing and processing of request 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 RP, provide valid proof of his or her 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 or updated inventory of exception as hereinabove provided.
- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable, to enable all requesting parties and 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 and position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the RP. 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 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 agency or 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 cases or other analogous cases. The government office shall notify the person making the request of the extension, setting forth the reasons for such extension. In no case shall the extension go beyond twenty (20) working days 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 required, 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 RP whose request from the same RP 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, in whole or in part, it shall as soon as practicable, in any case within fifteen (15) working days from the receipt of the request, notify the RP 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 RP of the action taken on the request within the period herein stipulated shall be deemed a denial of the request for access to information.

SECTION 13. Remedies in Cases of Denial of Request for Access to Information.

(a) Denial of any request for access to information may be appealed to the person or office next higher in the authority, following the procedure mentioned in Section 9 of this Order: Provided, that the written appeal must be filed by the same person making the request within fifteen (15) working days from the notice of denial or from the lapse of the relevant period to respond to the request.

(b) The appeal 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 case in the proper courts 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 or 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.

(Sgd.) **RODRIGO ROA DUTERTE**
President of the Philippines

By the President:

ANNEX "B"

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

MEMORANDUM CIRCULAR NO. 89

**UPDATING THE INVENTORY OF EXCEPTIONS TO THE RIGHT TO ACCESS OF
INFORMATION UNDER EXECUTIVE ORDER (EO) NO. 02, SERIES OF 2016**

WHEREAS, pursuant to Section 4 of EO No. 02, series of 2016 (EO No. 02), the Office of the President (OP) issued a Memorandum circularizing the inventory of exceptions to the right to access information under EO No. 02 (Inventory of Exceptions) on 24 November 2016;

WHEREAS, Section 4 of EO No. 02 directs the Department of Justice (DOJ) and the Office of the Solicitor General (OSG) to update the Inventory of Exceptions as the need to do so arises and the OP to accordingly circularize the same;

WHEREAS, Section 1 of Memorandum Circular No. 49, series of 2018, created the Inter-Agency Freedom of Information Exceptions Policy Committee (IA-FOI-EPC), with the DOJ and the OSG as co-chairs, to review the Inventory of Exceptions and periodically update the same to reflect changes in existing laws and jurisprudence; and

WHEREAS, the IA-FOI-EPC, through IA-FOI-EPC Resolution Nos. 2019-001 and 2021-001, proposed updates to the Inventory of Exceptions;

NOW THEREFORE, the attached updated Inventory of Exceptions is hereby circularized for the guidance of all government offices and instrumentalities covered by EO No. 02 and the general public.

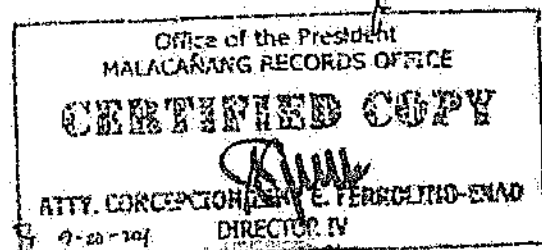
The foregoing list of exceptions shall be without prejudice to existing laws, jurisprudence, rules or regulations authorizing the disclosure of the excepted information upon satisfaction of certain conditions in certain cases, such as the consent of the concerned party or as may be ordered by the courts.

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.

DONE, in the City of Manila, this ~~13~~ ¹⁴ day of ~~September~~ ^{October} in the Year of our Lord, Two Thousand and Twenty-One.

By authority of the President:


SALVADOR C. MEDIALDEA



Exceptions to 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 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, resolutions, minutes of meetings, 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

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*; *Sereno v. Committee on Trade and Related Matters of the National Economic Development Authority*, G.R. No. 175210, 01 February 2016, 780 PHIL 1-18; and *Department of Foreign Affairs v. BCA International Corporation*, G.R. No. 210858, 29 June 2016. The privilege of invoking this exception ends when the executive agency adopts a definite proposition.

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; *Lagman v. Medialdea*, G.R. Nos. 231658, 231771, and 231774, 4 July 2017, 812 PHIL 179-853; 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." This exception also includes records, papers, and information related to matters provided under Sections 16, 18, and 45, *The Anti-Terrorism Act of 2020* [Republic Act (RA) No. 11479] and its Implementing Rules and Regulations (IRR), as may be invoked by the government agency involved.

- b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁶ and
 - 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 carnapped vehicles and apprehension of the persons charged with carnapping;¹¹ and
 - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹²

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.

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 Carnapping 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).

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:
 - 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

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); Section 9, *Mandatory Reporting of Notifiable Diseases and Health Events of Public Health Concern Act* (RA No. 11332); Section 36, *Universal Health Care Act* (RA No. 11223); Section 28, *National Integrated Cancer Control Act* (RA No. 11215); and Section 5(l), *Mental Health Act* (RA No. 11036). Mental health records under RA No. 11036 include information on any aspect of the mental health, treatment, or care of the service user.

¹⁸ Section 3(l), *Data Privacy Act of 2012*. See also Section 9, *Free Internet Access in Public Places Act* (RA No. 10929); Section 26, *Safe Spaces Act* (RA No. 11313); and Section 21, *Tax Amnesty Act* (RA No. 11213).

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 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,

¹⁹ Article 26(2), *Civil Code*.

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

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

²² *An Act Expanding the Coverage of Exemptions from Revealing the Source of Published News or Information Obtained in Confidence by Including Journalists from Broadcasts, and News Agencies, Amending for the Purpose Section 1 of RA No. 53, as Amended By RA No. 1477 (RA No. 11458)*. 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*.

- 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
 - (8) cases of gender-based streets and public spaces sexual harassment, including information on the victim and the accused who is a minor;³⁰
 - (9) 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;³¹
 - (10) records, documents, and communications of proceedings involving domestic, inter-country, and administrative adoptions, including the identity of the child, natural parents and adoptive parents;³²
 - (11) names of students who committed acts of bullying or retaliation;³³
 - (12) children in situations of armed conflict;³⁴
 - (13) 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; and³⁵
 - (14) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;³⁶

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).

³⁰ Section 26, *Safe Spaces Act* (RA No. 11313).

³¹ 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*.

³² 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; Section 14, *Simulated Birth Rectification Act* (RA No. 11222) and Section 28 of IRR of RA No. 11222.

³³ Section 3(h), *Anti-Bullying Act* (RA No. 10627).

³⁴ Section 19, *Special Protection of Children in Situations of Armed Conflict Act* (RA No. 11188).

³⁵ Sections 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165).

³⁶ Section 44, *Philippine HIV and AIDS Policy Act* (RA No. 11166). Information covered by Section 44 may be disclosed with the written consent of the affected person or in accordance with Sections 45 and 46 of RA No. 11166.

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;³⁷
 - b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority;³⁸
 - c. Records and reports submitted to the Social Security System by the employer or member;³⁹
 - d. Information of registered persons with the Philippine Identification System;⁴⁰
 - e. Information gathered for the HIV and AIDS monitoring and evaluation program under RA No. 11166 and all other related health intelligence activities;⁴¹
 - f. 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;⁴²
 - g. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴³

³⁷ 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); *Revised Philippine Ports Authority Manual of Corporate Governance*; and Section 18, *Energy Virtual One-Stop Shop Act* (RA No. 11234).

³⁸ Section 26, *Philippine Statistical Act of 2013* (RA No. 10625) and Section 4, *Commonwealth Act No. 591*. See also Section 10, *Community-Based Monitoring System Act* (RA No. 11315).

³⁹ Section 24(c), *Social Security Act of 1997* (RA No. 1161, as amended by RA No. 8282).

⁴⁰ Section 17, *Philippine Identification System Act* (RA No. 11055).

⁴¹ Section 43, *Philippine HIV and AIDS Policy Act* (RA No. 11166).

⁴² 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.

⁴³ Section 81, EO No. 226 (s. 1987), as amended.

- h. Documents submitted through the Government Electronic Procurement System;⁴⁴
- i. 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*;⁴⁵
- j. 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;⁴⁶
- k. 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;⁴⁷
- l. 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;⁴⁸
- m. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁹
- n. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁵⁰
- o. Information on registered cultural properties owned by private individuals;⁵¹
- p. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁵²

⁴⁴ Section 9, *Government Procurement Reform Act* (RA No. 9184).

⁴⁵ Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

⁴⁶ Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

⁴⁷ 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).

⁴⁸ Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

⁴⁹ Section 10, *Safeguard Measures Act*.

⁵⁰ Section 297 in relation with Section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

⁵¹ Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

⁵² CHED Memorandum Order No. 015-13, 28 May 2013.

- q. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵³
 - r. Records or information in connection with any investigation conducted by the Presidential Anti-Corruption Commission (PACC) when such disclosure will deprive the respondent of the right to a fair and impartial investigation;⁵⁴ and
 - s. Records of surveillance of suspects and interception and recording of communications acquired by a law enforcement agent or military personnel pursuant to the *Anti-Terrorism Act of 2020*.⁵⁵
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.⁵⁶
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:
- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*;⁵⁷
 - b. Matters involved in an Investor-State mediation;⁵⁸

⁵³ 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).

⁵⁴ Section 3, Rule IV, PACC Resolution No. 001, s. 2018 (IRR of the PACC).

⁵⁵ Section 16, *The Anti-Terrorism Act of 2020* (RA No. 11479).

⁵⁶ Section 3(g), Rule IV, Rules on CCESPOE.

⁵⁷ 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.

⁵⁸ Article 10, International Bar Association Rules for Investor-State Mediation.

- c. Information and statements made at conciliation proceedings under the *Labor Code*;⁵⁹
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);⁶⁰
- 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;⁶¹
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;⁶²
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁶³
- 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*;⁶⁴
- i. Investigation report and the supervision history of a probationer;⁶⁵
- j. Those matters classified as confidential under the *Anti-Terrorism Act of 2020* and its IRR;⁶⁶
- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶⁷ 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;⁶⁸

⁵⁹ Article 237, *Labor Code*.

⁶⁰ Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

⁶¹ Section 178, *Revised Corporation Code of the Philippines*. May be invoked by the SEC and any other official authorized by law to make such examination.

⁶² Sections 13.4, 15.4, 29.2 (b), and 64.2 of the *Securities Regulation Code*.

⁶³ 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.

⁶⁴ DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

⁶⁵ Section 17, *Probation Law of 1976* [PD No. 968 (s.1976)].

⁶⁶ Sections 18 and 45, *The Anti-Terrorism Act of 2020* (RA No. 11479) and Rules 5.8 and 5.19 of the IRR of RA No. 11479.

⁶⁷ Section 14, Civil Service Commission Resolution No. 01-0940.

⁶⁸ 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.

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*);
 - e. RA No. 9510 (*Credit Information System Act*); and
 - f. RA No. 245, as amended by Presidential Decree No. 1878;
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;⁶⁹
 - (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);⁷⁰ 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);
 - b. Testimony from a government official, unless pursuant to a court or legal order;⁷¹
 - 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

⁶⁹ 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.

⁷⁰ Article 7, UNCITRAL Transparency Rules.

⁷¹ *Senate v. Neri*, *supra*; *Senate v. Ermita*, *supra*.

- (2) any commercial purpose other than by news and communications media for dissemination to the general public;⁷²
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁷³
 - e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁷⁴
 - f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷⁵ and
 - g. Attorney-client privilege existing between government lawyers and their client.⁷⁶

⁷² Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees*.

⁷³ *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.

⁷⁴ 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.

⁷⁵ *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

⁷⁶ Canon 21 of the *Code of Professional Responsibility*.

Annex "C"



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

FOI – MC No. 21-04

**FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR**

FOR : ALL AGENCIES, DEPARTMENTS, BUREAUS, OFFICES AND INSTRUMENTALITIES OF THE EXECUTIVE BRANCH INCLUDING GOVERNMENT-OWNED AND/OR-CONTROLLED CORPORATIONS, STATE UNIVERSITIES AND COLLEGES, AND LOCAL WATER DISTRICTS, AND FREEDOM OF INFORMATION PROJECT MANAGEMENT OFFICE PERSONNEL

SUBJECT : DE-IDENTIFICATION OF REQUESTERS' PERSONAL INFORMATION IN THE ELECTRONIC FREEDOM OF INFORMATION PORTAL OTHERWISE KNOWN AS THE "POLICY ON ANONYMIZATION"

WHEREAS, Section 7 of Article III of the 1987 Constitution provides that the right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law;

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

WHEREAS, on 23 July 2016, Executive Order (EO) No. 02, series of 2016, was issued by President Rodrigo R. Duterte to operationalize in the Executive Branch the Constitutional mandate of the people's right of access to information;

WHEREAS, Memorandum Order (MO) No. 10, series of 2016, designated the Presidential Communications Operations Office (PCOO) as the lead agency in the implementation of EO No. 2, s. 2016;

WHEREAS, Section 9 of EO No. 02, series of 2016, provides that any person who requests access to information shall submit a written request to the government office concerned and said request shall state the name and contact information of the

authorization, reasonably describe the information requested, and the reason for, or purpose of the request for information;

WHEREAS, Republic Act (RA) No. 10173 or the "Data Privacy Act of 2012" was issued to protect the fundamental human right of privacy, of communication while ensuring free flow of information to promote innovation and growth, and also to recognize the State's inherent obligation to ensure that personal information in information and communications systems in both government and private sector are secured and protected;

WHEREAS, under RA 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. Names of an individual is considered a personal information;

WHEREAS, the International Organization for Standardization defines anonymization as a process by which the personal data is irreversibly altered in such a way that a data subject can no longer be identified both directly or indirectly. Conversely, de-identification was defined as a process of removing the association between a set of dataset or collection of data and the data subject;

WHEREAS, in order to prevent exposure and possible disclosure of the identity of requesting parties, it is imperative that there should be a guiding rule on anonymization and de-identification;

NOW, THEREFORE, in consideration of the foregoing and pursuant to the functions of the Freedom of Information-Project Management Office (FOI-PMO) to develop policies, rules, procedures and regulations necessary to provide the strategic direction in implementing the FOI Program, strict adherence to the following is hereby ordered:

Section 1. Anonymization or De-identification in the electronic FOI (eFOI) Platform. – Any personal information, particularly the names of requesting parties, that the FOI-PMO collects through its electronic FOI portal or www.foi.gov.ph shall be anonymized or de-identified in compliance with RA No. 10173. Accordingly, the names of the requesting parties posted in the electronic FOI portal prior to the effectivity of this Circular shall be anonymized by the said *Office*.

¹Section 2.2 of ISO/IEC 29100:2011

² Section 3.7 of ISO/IEC

For requests made in the standard form, the FOI Receiving Officers (FROs) and FOI Decision Makers (FDMs) shall exercise reasonable diligence in protecting the personal information disclosed in the application form.

Section 2. Access to valid proof of identification (IDs). – FROs, FDMs, and FOI-PMO are allowed access to the IDs uploaded by the requesting parties during the process of signing up in the eFOI portal (Annex A).

They shall advise the requesting parties to refrain from uploading or posting any ID, personal information, or sensitive personal information in the individual request page (*Annex B*), a portion in the eFOI portal which is accessible to the general public that contains the request for information, the agency to which the request is made, and the status of the request.

Those who have access to personal information in the eFOI portal must not disclose the information except when permitted or officially recognized under existing laws, rules or regulations. They shall also exercise reasonable diligence in protecting said personal information against leaks, exposure or unwarranted disclosure which would unduly expose the requesting party to vilification, harassment, or any other wrongful act.

Section 3. Non-compliance. – In case of non-compliance, RA No. 10173, EO No. 02, series of 2016, and other existing laws, rules and regulations shall govern without prejudice to the filing of appropriate action.

Section 4. Separability Clause. If, for any reason, any part or provision of this Circular is declared invalid or unconstitutional, those parts or provisions not affected shall remain in full force and effect.

Section 5. Repealing Clause. All previous orders, rules and regulations, memoranda, circulars, and issuances or any part thereof inconsistent with the provisions of this Circular are hereby repealed, amended or modified accordingly.

Section 6. Effectivity. This Memorandum Circular shall take effect immediately.





For guidance and strict compliance.


Manila, Philippines, 14th day of July 2021.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

ANNEX A

SIGN UP PAGE OF EFOI PORTAL (www.foi.gov.ph/signup)

foi.gov.ph/signup    

 **FEDERAL OF INFORMATION PHILIPPINES** [Home](#) [Browse Requests](#) [View Agencies](#) [Resources](#) [FOI Summary](#) [FAQ](#) [Login](#)

Create an account

Browse all participating 520 government agencies

SIGN UP **LOGIN**

Registration options:

Select Agency:


Email Address:
Enter your email address


Password: **Confirm Password:**


Phone Number:
Enter your phone no.

Mobile No.: **Country (Telephone):**

Workplace:
Name of Agency:
Department:
Department ID:

Select an ID: 

Workplace:
Select an Affiliation: 

I'm not a robot 

CREATE ACCOUNT

Executive Order No. 2

The undersigned, by the authority of the foregoing, hereby orders that all agencies to which this order applies shall immediately implement the following measures:

1. To comply with the existing policies and procedures on information access and dissemination.


Partners for Change

It is the policy of the Department of Education to partner with all stakeholders in the development, implementation, and monitoring of the Department's policies, programs, and projects.

Every Filipino has the right to work in a safe and healthy environment.

ANNEX B

REQUESTING PARTY'S INDIVIDUAL REQUEST PAGE

 Home Browse Requests View Agencies Resources FOI Summit FAQ [Login](#)

Presidential Communications Operations Office

Browse over 279 requests from this government agency

To: Presidential Communications Operations Office

Title of the Document (English or Tagalog)

Search or Filter Period (Date Range)

Intended Purpose of the Requesting


Your message

1. I would like to request the documents regarding

2. the work and reports of Mr. Lopez Jr. as the Ambassador based on the job from 2018.

3. The top relevant effects of President in country.

I agree to the Terms and Conditions

I'm not a robot 

[View my requests](#)

FOI Request Tips

Everything that you enter on this page will **show up online** and be **DISPLAYED PUBLICLY** on this website.

Make sure that everything you're asking for is not already publicly available.

Our goal is to help you, please be clear and specific in your requests so we may be able to assist you the best we can.

While you'll receive an official response to your request, we are not able to guarantee that we will be able to provide you with the information you request. We will do our best to help you understand what we can and cannot provide you with.

Can I ask information about myself?

While we do not prohibit you from asking for information about yourself, we do not have the capability to search for records about you. We do have the capability to search for information about you and how to request your personal government records.

Annex "D"



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

FOI – MC No. 21-03

**FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR**

**FOR : ALL AGENCIES, DEPARTMENTS, BUREAUS, OFFICES
AND INSTRUMENTALITIES OF THE EXECUTIVE
BRANCH, INCLUDING GOVERNMENT-OWNED AND/OR
CONTROLLED CORPORATIONS, STATE UNIVERSITIES
AND COLLEGES, LOCAL WATER DISTRICTS, AND
FREEDOM OF INFORMATION - PROJECT
MANAGEMENT OFFICE PERSONNEL**

**SUBJECT : RETENTION PERIOD OF PERSONAL INFORMATION
AND SENSITIVE PERSONAL INFORMATION GATHERED
THROUGH THE STANDARD FOI REQUEST FORM AND
ELECTRONIC FREEDOM OF INFORMATION (E-FOI)
PORTAL**

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, Executive Order (EO) No. 02, s. 2016, was issued by President Rodrigo R. Duterte on 23 July 2016 to operationalize the People's Constitutional Right to Information and the State Policies to full public disclosure and transparency in the public service;

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. 2, s. 2016, and all other Freedom of Information

WHEREAS, there are two (2) ways of accessing public information through the FOI Program – the standard FOI (paper-based) request form, and through the eFOI portal (www.foi.gov.ph);

WHEREAS, the standard FOI request form and the eFOI portal, which require the requesting party to divulge his/her sensitive personal information, shall be subjected to the existing rules and regulations of Republic Act No. 10173 or the Data Privacy Act of 2012¹, which prohibits unlawful disclosure of personal information and/or sensitive information. Further, any natural or juridical persons who are storing and processing such information are bound to observe and respect data privacy rights;

WHEREAS, the FOI-Project Management Office (FOI-PMO) abides by the provisions of the Data Privacy Act of 2012, to ensure that personal information and sensitive personal information of the requesting public will be protected.

NOW, THEREFORE, in view of the foregoing and pursuant to the function of the FOI-PMO to develop policies, rules, procedures, and regulations necessary to provide strategic direction in implementing the FOI Program, strict adherence to the following is hereby ordered:

Section 1. SCOPE. – This Memorandum Circular shall apply to **all** personal and sensitive personal information of the requesting parties obtained by any agency, through the FOI Receiving Officers (FRO) and FOI Decision Maker (FDM), as a requirement to submit a request under the Standard Mode and through the eFOI Portal.

Section 2. RETENTION. – Pursuant to Section 11 of RA 10173², designated FOI Receiving Officers of all agencies, departments, bureaus, offices and instrumentalities of the Executive Branch, including government-owned

¹ Section 3(g) of Republic Act (RA) No. 10173 defines **Personal Information** as 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.

² Section 3(f) of RA No. 10173 refers **Sensitive Personal Information** as personal information: (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.

³ RA No. 10173 states that personal information must be, among others, retained only for as long as necessary for the fulfilment of the purpose for which the data was obtained or for legitimate purposes, or as provided by law.

and/or controlled corporations (GOCCs), state universities and colleges (SUCs), and local water districts (LWDs), are hereby directed to retain personal and sensitive personal information only for the fulfillment of the purpose for which these information were obtained in order to secure the privacy of personal information and sensitive personal information of the requesting parties.

Section 3. PERIOD TO RETAIN PERSONAL INFORMATION. Personal and sensitive personal information processed by government agencies for the purpose of making an FOI request shall be retained for two (2) years. Said information may include but are not limited to:

- i. FOI request forms containing personal and sensitive personal information;
- ii. Valid proof of identification (i.e., Government-issued IDs, school-ID, etc.);
- iii. Personal address; and
- iv. Personal contact numbers.

The FOI-PMO which is the manager and controller of the eFOI portal shall be responsible in handling and retention of personal and sensitive personal information uploaded and processed therein.

Section 4. RECKONING PERIOD. For the *standard mode*, the 2-year retention period shall be counted after the transaction has been closed, whether successful or denied.

For the *eFOI portal*, the 2-year retention period shall be counted from the last login of the requesting party.

Once the 2-year period lapsed, the eFOI system will send a notification to the requesting party via their registered email. The requesting party has the option whether to retain or delete their account permanently. They may retain their credentials by logging in within thirty (30) calendar days, however, failure to do so will prompt the system to delete their personal information with their IDs permanently.

Section 5. DISPOSAL OF PERSONAL INFORMATION. Agencies and FOI-PMO shall discard and dispose all personal and sensitive information in a secure manner that shall prevent further processing, unauthorized access or disclosure to any other party or the public, or prejudice the interests of the requesting party.

⁴Pursuant to National Privacy Commission Advisory Opinion No. 2017-21 on Retention Period of Personal Information,

For paper-based documents, agencies and FOI-PMO may discard the personal information by mode of redaction and shredding. The FOI-PMO may also redact the personal and sensitive information gathered through the portal by using the initials of the requesting party instead of his/her complete name.

Section 6. SEPARABILITY CLAUSE. If, for any reason, any part or provision of this Memorandum Circular is declared invalid or unconstitutional, any part or provision not affected thereby shall remain in full force and effect.

Section 7. REPEALING CLAUSE. All previous FOI-PMO and PCOO Circulars, orders, memoranda, and other issuances or parts thereof that are inconsistent with the provisions of this Circular are hereby repealed or modified accordingly.

Section 8. EFFECTIVITY. This Memorandum Circular shall take effect immediately.

Manila, Philippines, 14th day of July 2021.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary / FOI Champion

ANNEX "E"



REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
Tanggapan ng Pamponguluhan sa Operasyong Pangkamuhi
Malacañang, Manila

FOI - MC No. 5, s. 2020

**FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR**

**FOR : ALL AGENCIES OF THE EXECUTIVE BRANCH,
GOVERNMENT-OWNED OR CONTROLLED
CORPORATIONS (GOCCs), AND STATE UNIVERSITIES
AND COLLEGES (SUCs)**

**SUBJECT : GUIDELINES ON VEXATIOUS FREEDOM OF
INFORMATION REQUESTS AND ABUSE OF RIGHTS
THEREUNDER**

WHEREAS, the State, by virtue of Section 7, Article III of the 1987 Constitution, recognizes the right of the people to information on matters of public concern. Hence, access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizens, subject to such limitations as may be provided by law;

WHEREAS, President Rodrigo R. Duterte, on 23 July 2016, issued Executive Order (EO) No. 2, s. 2016 to operationalize the Constitutional mandate of the people's right to information;

WHEREAS, the Presidential Communications Operations Office (PCOO), by virtue of Memorandum Order (MO) No. 10, s. 2016, was designated as the lead agency in the implementation of EO No. 2, s. 2016, or the FOI and electronic FOI Programs;

WHEREAS, there has been a growing number of reports regarding vexatious requests and abuse in invoking rights under EO No. 2, s. 2016, or the FOI and electronic FOI Programs, which vexatious requests and abuse disenfranchise citizens with legitimate requests as well as add unnecessary burden to the affected government agencies' operations;

WHEREAS, the PCCO must ensure that the freedom of information is both an enforceable right for citizens with legitimate and reasonable requests, as well as a protected right free from vexatious requests and abuse;

WHEREAS, in order to address the foregoing concerns, the PCCO has deemed it necessary to promulgate guidelines therefor;

NOW, THEREFORE, in consideration of the foregoing, strict adherence to the following is hereby ordered:

Section 1. Coverage. These guidelines shall cover all agencies under the Executive Branch, government-owned or controlled corporations, and state universities and colleges. Local Government Units (LGUs) are encouraged to observe and be guided by this Order.

Section 2. Vexatious FOI Request. A request is considered vexatious if it is frivolous, malicious, made in bad faith, intends to harass, vilify or embarrass, or if it poses an actual or imminent danger to the office, its officials or employees.

Section 3. Determination of a Vexatious Request. The concerned government agency shall consider all relevant circumstances in determining whether or not a request is vexatious. The following may be taken into consideration in evaluating requests:

- a) language of the request;
- b) burden on the concerned government agency;
- c) purpose, motive, or intention for making the request;
- d) value of the requested information; or
- e) history and context of the request.

Section 4. Presumptions. A Request is presumed to be vexatious if it involves:

- a) *Frequent or overlapping requests* – occurs when a requesting party submits a correspondence involving the same issue frequently, or submits the same request over a period of time before the office can have the opportunity to address the earlier request. However, there is no frequent or overlapping request when the information that was previously released has been updated or has already changed.

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 official¹;

- b) *Personal grudges* – occurs when the requesting party submits a correspondence on a particular government official or employee against whom he/she has some personal enmity; or the said request is made to express hatred to a particular official or employee;
- c) *Unfounded accusations* – occurs when the request makes completely unsubstantiated accusations against the public authority or specific employees;
- d) *Unreasonably complex request* – Complex information means requests involving more than one subject matter which can only be processed within thirty-five (35) working days or more. In requests for *complex information*, a valid reason/valid explanation should always be provided by the requesting party;
- e) *Reprocessed data* – means requests for information that will require the agency to *re-process* the data. Re-processed data means that the data was already proactively disclosed or the data was requested and was previously disclosed.

Premature requests or requests that are yet to be processed by the agency – means information which will soon be published, or the disclosure of which would be premature in relation to a planned announcement or publication; or

- f) All other requests that are meant to harass, embarrass or put into actual or imminent danger the life or property of the agency, its officials, or employees.

Section 5. Effects. Government agencies are not precluded from seeking clarification from the requesting party/ies. In case of doubt as to the nature of the request, the concerned government agency may grant the requesting party the opportunity to clarify and/or modify the request; the government agency shall not immediately deny the same, but shall instead extend advice or assistance so that a valid request may be filed.

Despite clarification and extension of reasonable assistance to the requesting party the request still falls under Section 4, the proper authority may deny

¹ Section 1.1 of Executive Order (EO) No. 2, s. 2016

the request, clearly setting forth the ground/s for denial and the circumstance/s on which the denial is based.

Section 6. Appeal. Denial of request on the ground that the same is vexatious may be appealed in accordance with the appeals process provided under EO No. 02, S. 2016 and FOI Memorandum Circular No. 001, S. 2019.

Section 7. Separability Clause. If, for any reason, any part or provision of this Memorandum Circular is declared invalid or unconstitutional, any part or provision not affected thereby shall remain in full force and effect.

Section 8. Effectivity. This Memorandum Circular shall take effect immediately.


JOSE RUPERTO MARTIN M. ANDANAN
Secretary/FOI Champion

15 December 2020 Manila, Philippines

ANNEX "F"



REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
tanggapang Pampanguluhan sa Operasyong Komunikasyon
Emilio, 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 (All) 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 All 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.

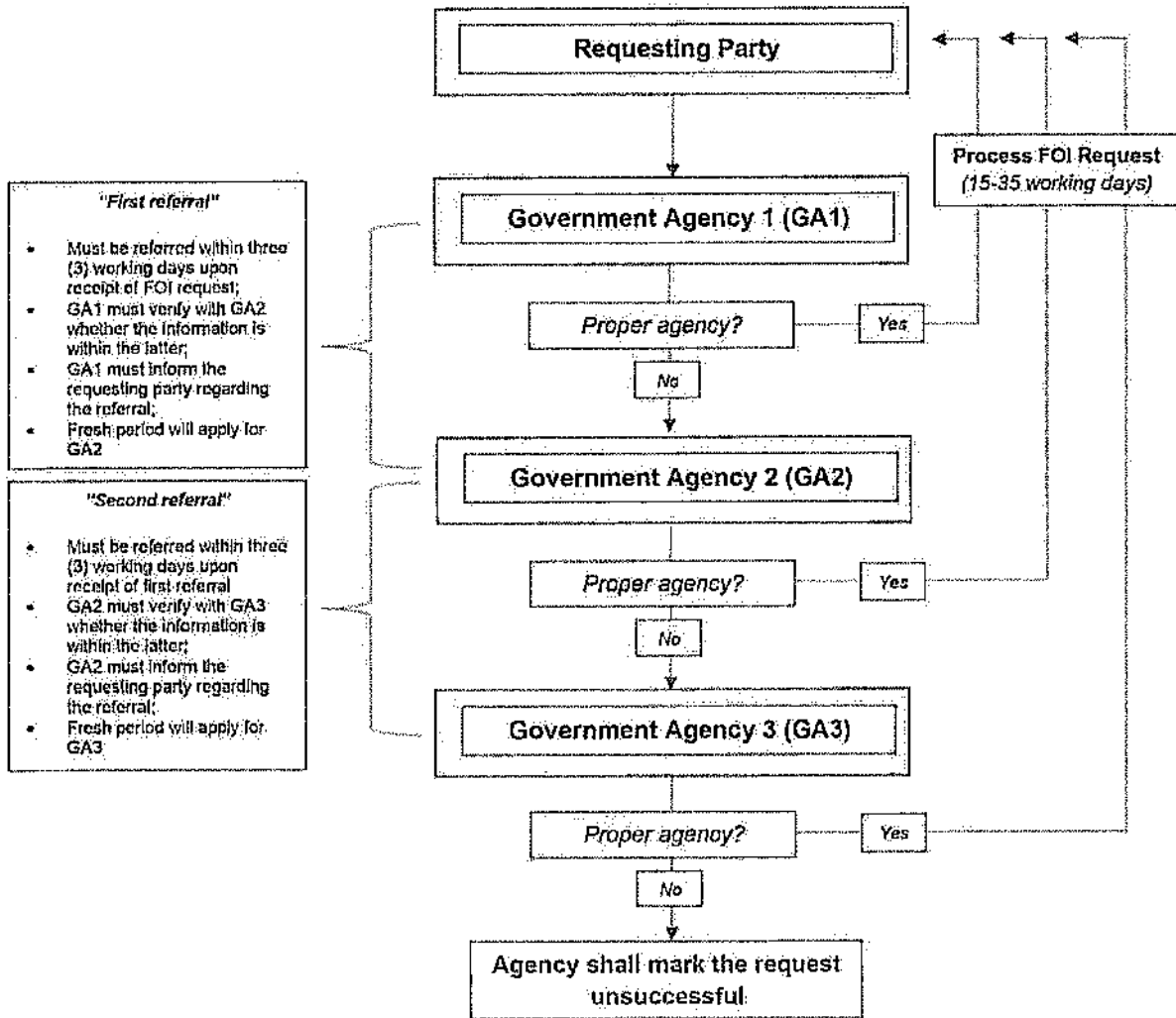
Section 10. Repealing Clause. All orders, rules and regulations, memoranda, circulars, and issuances or any part thereof inconsistent with the provisions of this Memorandum Circular are hereby repealed, amended or modified accordingly.

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

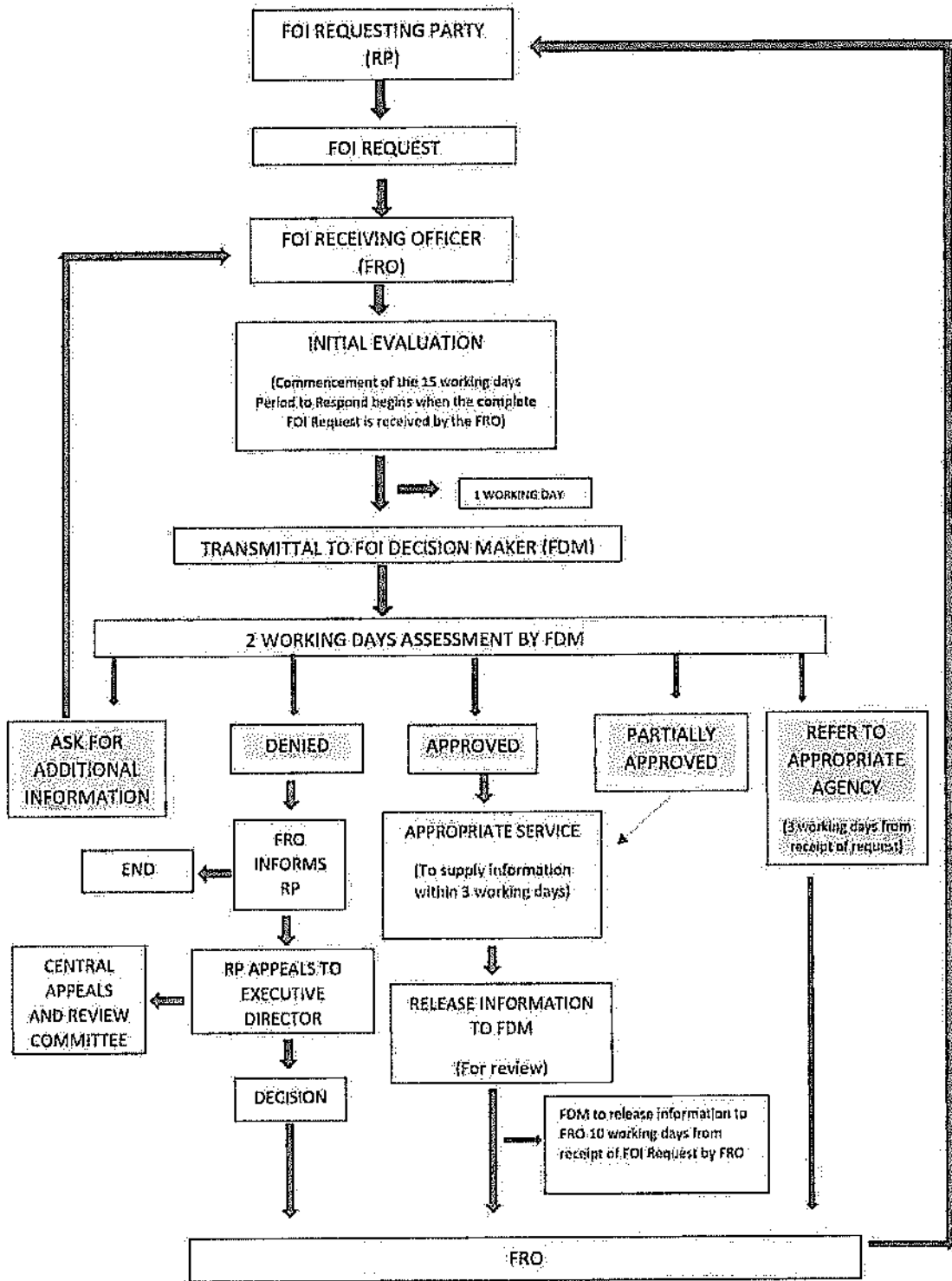
NO WRONG DOOR POLICY FLOWCHART



NOTE:

If GA1 fails to refer the request within three (3) working days upon its receipt, the FOI Receiving Officer (FRO) shall act on it within the remaining period to respond pursuant to EO No. 2, s. 2016. No fresh period shall apply.

ANNEX "G"
FOI REQUEST FLOW CHART



ANNEX "H"

FOI Request Form

PPP Center of the Philippines
8th Floor, One Cyberpod Centris, EDSA cor. Quezon Avenue, Quezon City
www.ppp.gov.ph

FORMULARYO NG KAHILINGAN (FOI)
FOI Request Form

TITULO NG DOKUMENTO / Title of the Document: _____
MGA TAON/PANAHOONG SAKLAW / Year: _____
LAYUNIN / Purpose: _____

PANGALAN / Name: _____ **CONTACT Nos.** _____
LAGDA / Signature: _____ **PETSA / Date:** _____
TIRAHAN / Address: _____

PARAAN NG PAGTANGGAP NG IMPORMASYON / **KATIBAYAN NG PAGKAKAHILANLAN / Proof of Identity:**
How would you like to receive the information? *Passport No.* _____
 Email _____ *Driver's License* _____
 Fax _____ *Other* _____
 Postal Address _____
 Pick-up (office hours) _____

Gawaing itinalaga kay / Submitted to: _____
Signature over Printed Name / Lumagda sa ibaba ng pangalang nakalimbag

Petsa/Oras ng Pagkatalaga / Date/Time of Submission: _____

Taong nagpapatunay ng Gawaing Natapos / Certified by: _____
Signature over Printed Name / Lumagda sa ibaba ng pangalang nakalimbag

Uri ng isinagawang aksiyon / Type of action conducted: _____

Iniskedyul ni / Received by: _____
FOI Receiving Officer

Remarks:

FOI Decision Maker