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REPUBLIC OF THE PHILIPPINES
Department of Budget and Management

PROCUREMENT SERVICE

FREEDOM OF INFORMATION MANUAL

IMPLEMENTING DETAILS

01 AUGUST 2018

(Updated as of 01 January 2024)



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SECTION 1: OVERVIEW

1.1. Purpose: The purpose of this Procurement Service-Department of Budget and Management (PS-DBM) Freedom of Information Manual (Manual) is to prescribe the procedures in dealing with requests of information pursuant to Executive Order (EO) No. 2, s. of 2016 on the Operationalization 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.

1.2. Structure of the Manual: This Manual sets down the rules to be followed by the PS-DBM when a request for access to information is received. The Executive Director is responsible for all actions carried out under this Manual. The Executive Director may delegate a specific officer to act as the FOI Decision Maker (FDM), who shall have overall responsibility for the decisions on FOI requests.

1.3. Coverage of the Manual: The Manual shall cover all requests for information submitted by the general public to obtain information, official record, and public records and documents pertaining to official acts and transactions of PS-DBM.

The protocols under this Manual are not applicable when the requesting party is a government agency, a foreign government, a foreign government agency, or a multilateral organization, taking into consideration that these entities had been previously privy to the information, records, documents, or papers being requested.

Thus, all requests pertaining to the immediately preceding paragraph are enjoined to submit a formal written request to secure a copy of the information, official records, public records, and documents or papers. Such requests shall be endorsed to and accommodated by the concerned unit/division having custody of the requested information subject to the approval of the Executive Director, the authorized Functional Group Heads or other duly authorized officials of PS-DBM.

1.4. Responsible Officers: There shall be an FOI Receiving Officer (FRO) who shall receive and conduct initial evaluation of all requests for information received by PS-DBM; FOI Decision maker (FDM) designated by the Executive Director, with a rank not lower than a Division Chief or its equivalent who shall have overall responsibility and authority for the decisions on such requests; and, an FOI Appeals and Review Committee who shall handle appeals submitted by requesting party/ies with denied requests. The contact details of the above officers are as follows:

FOI Receiving Officer	PMO II/Paralegal	LEGAL DIVISION PS Complex, R.R. Road, Cristobal Street, Paco, Manila Email ad. foi@ps-philgeps.gov.ph
FOI Decision Maker	Division Chief, Legal Division	LEGAL DIVISION PS Complex, R.R. Road, Cristobal Street, Paco, Manila Email ad. legal@ps-philgeps.gov.ph
FOI Appeals and Review Committee	Secretariat	PS-DBM Appeals and Review Committee PS Complex, R.R. Road, Cristobal Street, Paco, Manila

SECTION 2: DEFINITION OF TERMS

- 2.1. INFORMATION.** 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 PS-DBM pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by PS-DBM.
- 2.2. OFFICIAL RECORD/S.** 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.
- 2.3. 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.
- 2.4. PERSONAL INFORMATION.** Shall refer to any information, whether recorded in a material form or not, from which the identify 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.
- 2.5. SENSITIVE PERSONAL INFORMATION.** As defined in the Data Privacy Act of 2012, shall refer to personal information:
- a. About an individual race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
 - b. About an individual health, education, genetic or sexual life of a person, or to any proceedings for any offense committed or alleged to have committed by such person, the disposal of such proceedings or the sentence of any court in such proceedings;
 - c. Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or
 - d. current health records, licenses or its denials, suspension or revocation, and tax returns; and
 - e. Specifically established by an executive order or an act of Congress to be kept classified.
- 2.6. FOI REQUESTING PARTY.** Includes any individual, whether or not a Filipino citizen, or any entity, whether a corporation, civil society organization, academic institution, media organization, or any other private organization. The Requesting Party may also refer to another government agency, a foreign government, or a multilateral organization, though the protocols in this Manual are not applicable to their requests for information.

SECTION 3. PROMOTION OF OPENNESS IN GOVERNMENT

- 3.1. Duty to Publish Information.** PS-DBM 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, and through its websites, timely, true, accurate and updated key information including, but not limited to:

- A. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
- B. The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
- C. Work programs, strategic development plan, investment plans, projects, performance targets and accomplishments, and budgets, revenue and expenditures;
- D. Important rules and regulations, orders or decisions;
- E. Current and important database and statistics that it generates;
- F. Bidding processes and requirements; and
- G. Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.

3.2. Accessibility of Language and Form. PS-DBM shall endeavor to translate key information into major Filipino languages and present them in popular form and means.

3.3. Keeping of Records. PS-DBM shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation or records, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications and documents received or filed with them and the data generated or collected.

SECTION 4. PROTECTION OF PRIVACY

4.1. While providing for access to information, PS-DBM shall afford full protection to a person's right to privacy, as follows:

- a. It 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. It 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 FDM, FRO, or any employee or official who has access, whether authorized or unauthorized, to personal information in the custody of the PS-DBM, shall not disclose that information except as authorized by existing laws.

4.2. Limitations. The right of access to information is without prejudice to the right of the Agency to determine whether there are grounds to believe that:

- a. The identity of the requesting party is fictitious or otherwise not legitimately based on the credentials provided by him/her;
- b. The request is being made with a plainly discernible improper motive such as harassment or vexation;

- i. 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. In such a case, the Agency may grant the requesting party the opportunity to clarify and/or modify the request or deny the same based on the grounds set forth under the Guidelines on Vexatious Freedom of Information Requests and Abuse of Rights Thereunder.¹
- c. The purpose of the Request is contrary to law, morals, ethics, good customs or public policy; or
- d. The request is for a commercial purpose.

SECTION 5. STANDARD PROCEDURE

5.1. Receipt of Request for Information. The FRO shall receive the request for information from the requesting party and check compliance of the following requirements:

- a. The request must be in writing and accomplished using the prescribed Request Form²;
- b. The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization; and
- c. The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information.

5.2. Manner of Making a Request. The request may be made by delivering it personally to the PS-DBM office, by sending it by mail, or through electronic mail (email) at foi@ps-philgeps.gov.ph. In case of requests made through email, the requesting party shall attach a scanned copy of the accomplished FOI Request Form, and a copy of his/her competent evidence of identity;

The request may also be submitted online through the Freedom of Information (eFOI) website, www.foi.gov.ph.

In case the requesting party is unable to make a written request, because of illiteracy or due to being a person with disability, he or she may make an oral request, and the FRO shall reduce it in writing.

5.3. Receipt of Request. 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 public officer who actually received it, with a corresponding signature and a copy, furnished to the requesting party.

In case of email requests, the email shall be printed out and shall follow the procedure mentioned above, and be acknowledged by electronic mail. The FRO shall input the details of the request on the Request Tracking System and allocate a reference number.

The date of receipt of the Request will be either:

- a. The day on which the Request is physically or electronically delivered to the government office, or directly into the email inbox of a member or staff, or through the eFOI portal; or

¹ FOI-MC No. 05, s. 2020

² Annex "B".

- b. If the government office has asked the requesting party for further details to identify and locate the requested information, the date on which the necessary clarification is received.

An exception to this will be where the request has been emailed to an absent PS-DBM staff, and this has generated an 'out of office' message with instructions on how to re-direct the message to another contact. Where this is the case, the date of receipt will be the day the request arrives in the inbox of that contact.

5.4. Period to Respond. PS-DBM shall respond to requests promptly following the Policy on Anonymization³, within the fifteenth (15) working day following the date of receipt of the request.

A working day is any day other than a Saturday, Sunday or a day which is declared a national public holiday in the Philippines. In computing for the period, Art. 13 of the New Civil Code shall be observed.

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

5.5. Initial Evaluation. After receipt of the request for information, the FRO shall evaluate the contents of such request. After the evaluation, the FRO shall forward the request to the FDM or deny the same based on:

- a. Non-compliance with the prescribed form;
- b. The requested information is already posted and available on-line.

5.5.1. Request relating to more than one office in the PS-DBM: If a request for information requires to be complied with by different offices within the PS-DBM, the FRO shall forward such request to the said offices concerned and ensure that it is well coordinated and monitor its compliance. The FRO shall also clear with such offices that they will only provide the specific information that relates to their offices.

5.5.2. No Wrong Door Policy for FOI⁴: When the requested information is not in the possession of PS-DBM but is available in another government agency under the Executive Branch, the request shall be immediately referred by PS-DBM to said agency 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 the FDM 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.

³ FOI-MC No. 21-04, s. 2021.

⁴ Annex "C".

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.

5.5.3. Requested information is already posted and available on-line: Should the information being requested is already posted and publicly available in the PS-DBM and Philippine Government Electronic Procurement System (PhilGEPS) website: www.ps-philgeps.gov.ph, www.philgeps.gov.ph; www.data.gov.ph, or www.foi.gov.ph, the FRO shall inform the requesting party of the said fact and provide them the website link where the information is posted.

5.5.4. Requested information is substantially similar or identical to the previous request: Should the requested information be substantially similar or identical to a previous request by the same requester, the request shall be denied. However, the FRO shall inform the applicant of the reason of such denial.

5.6. Transmittal of Request by the FRO to the FDM: After receipt of the request for information, the FRO shall evaluate the information being requested, and notify the FDM of such request. The copy of the request shall be forwarded to the FDM within one (1) day from receipt of the written request. The FRO shall record the date, time and name of the FDM who received the request in a record book with the corresponding signature of acknowledgment of receipt of the request.

5.7. Role of FDM in processing the request: Upon receipt of the request for information from the FRO, the FDM shall assess and clarify the request if necessary. He or she shall make all necessary steps to locate and retrieve the information requested. The FDM shall ensure that the complete information requested be submitted to the FRO within ten (10) days upon receipt of such request.

The FRO shall note the date and time of receipt of the information from the FDM and report to the Executive Director or duly designated officer-in-charge, in case the submission is beyond the ten (10)-day period.

If the FDM needs further details to identify or locate the information, he/she shall, through the FRO, seek clarification from the requesting party. The clarification shall stop the running of the fifteen (15) working day period and will commence the day after it receives the required clarification from the requesting party.

5.8. Request for an Extension of Time: If the information requested requires extensive search of PS-DBM records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases, the FDM should inform the FRO.

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

5.9. Role of FRO to transmit the information to the Requesting Party: Upon receipt of the requested information from the FDM, the FRO shall collate and ensure that the information is complete. He shall attach a cover/transmittal letter signed by the FDM and ensure the transmittal of such to the requesting party within fifteen (15) working days upon receipt of the request.

5.10. Notice to the Requesting Party of the Approval/Denial of the Request: Once the FDM approved or denied the request, he/she shall immediately notify the FRO who shall prepare the response to the

requesting party either in writing or by email. All actions on FOI requests, whether approval or denial, shall pass through the Executive Director or duly designated officer-in-charge for final approval.

5.11. Approval of Request: In case of approval, the FRO shall ensure that all records that have been retrieved and considered be checked for possible exemptions and/or redaction or extraction of information, prior to actual release. The FRO shall prepare the letter or email informing the Requesting Party within the prescribed period that the request was granted and be directed to pay the applicable fees, if any.

5.12. Denial of Request: In case of denial of the request wholly or partially, the FRO shall, within the prescribed period, notify the Requesting Party of the denial in writing or through e-mail. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based, including, but not limited to the following grounds:

- a. The reason for the request is contrary to laws, rules or regulations;
- b. The requested information falls under any of the circumstances mentioned under Section 7 of this Manual;
- c. The requested information falls under the Inventory of Exceptions⁵;
- d. The requested information is substantially identical to a previous request by the same requesting party whose request has already been previously granted or denied by PS-DBM.

Failure to notify the Requesting Party of the action taken on the request within the period herein provided shall be deemed a denial of the request to information. All denials on FOI requests shall pass through the Executive Director or duly designated officer-in-charge.

SECTION 6. REMEDIES IN CASE OF DENIAL

A person whose request for access to information has been denied may avail himself of the remedy set forth below:

6.1. Administrative FOI Appeal to the PS-DBM Appeals and Review Committee: Provided, that the written appeal must be filed by the same Requesting Party within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.

The appeal shall be decided by the PS-DBM Appeals and Review Committee within thirty (30) working days from the filing of said written appeal. Failure to decide within the 30-day period shall be deemed a denial of the same.

6.2. Upon exhaustion of administrative FOI appeal remedies, the Requesting Party may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 7. LIST OF EXCEPTIONS

The following are the exceptions to the right to access to information:

⁵ Annex "D".

1. Information and submissions on on-going evaluation or review of bids or proposals being undertaken by the Bids and Awards Committees of PS-DBM and such other similar committees, as there is yet no official act, or award at the time of the submission of request. These documents include, but are not limited to:
 - 1.1. Agenda, deliberations, and minutes of BAC meetings and Procurement Division meetings, except for (a) minutes of the Pre-Bid Conference, (b) minutes of Opening of Bids, and (c) abstract of bids during the Opening of Bids;
 - 1.2. Bid submission, post-qualification documents, and all other submissions from and by bidders;
 - 1.3. All other similar documents and submissions not enumerated therein.
2. Internal communications, memoranda, opinions, reviews, comments and other operational matters of confidential nature, including but not limited to:
 - 2.1. Agenda, deliberations and minutes of the meetings of the Management Committee or Executive Committee;
 - 2.2. Internal e-mails of past and present employees, officers or directors;
 - 2.3. Internal files especially drafts and notes of public officers concerned (any unofficial or unacted upon documents should not be disclosed without prior approval);
 - 2.4. Legal opinions or comments rendered by the Legal Division;
 - 2.5. Contract review including drafts and notes of public officers concerned;
 - 2.6. Records of pending internal investigations; and
 - 2.7. Documents and/or information pertaining to matters under litigation. The purpose of which is to prejudice a pending issue before a court or obstruct the administration of justice.

SECTION 8. REQUEST FOR TRACKING SYSTEM

PS-DBM shall establish a system to trace the status of all requests received which may be paper-based, online or both.

SECTION 9. FEES

9.1. No Request Fee. PS-DBM shall not charge any fee for accepting requests for access to information.

9.2. Reasonable Cost of Reproduction and Copying of the Information: The FRO shall immediately notify the Requesting Party in case there shall be a reproduction and copying fee in order to provide the information. Such fee shall be the actual amount spent by PS-DBM in the reproduction of the information sought for.

9.3. Exemption from Fees: PS-DBM may exempt any requesting party from payment of fees, upon request stating the valid reason/s why such requesting party shall not pay the fee.

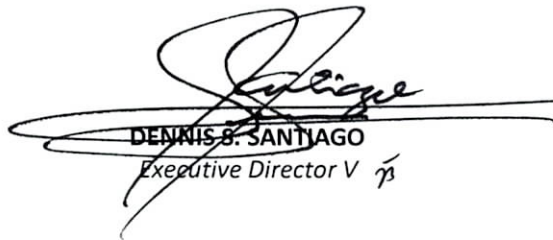
SECTION 9. ADMINISTRATIVE LIABILITY

9.1. Non-compliance with FOI. 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.

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

9.3. 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 anybody or agency, which provides for more stringent penalties.



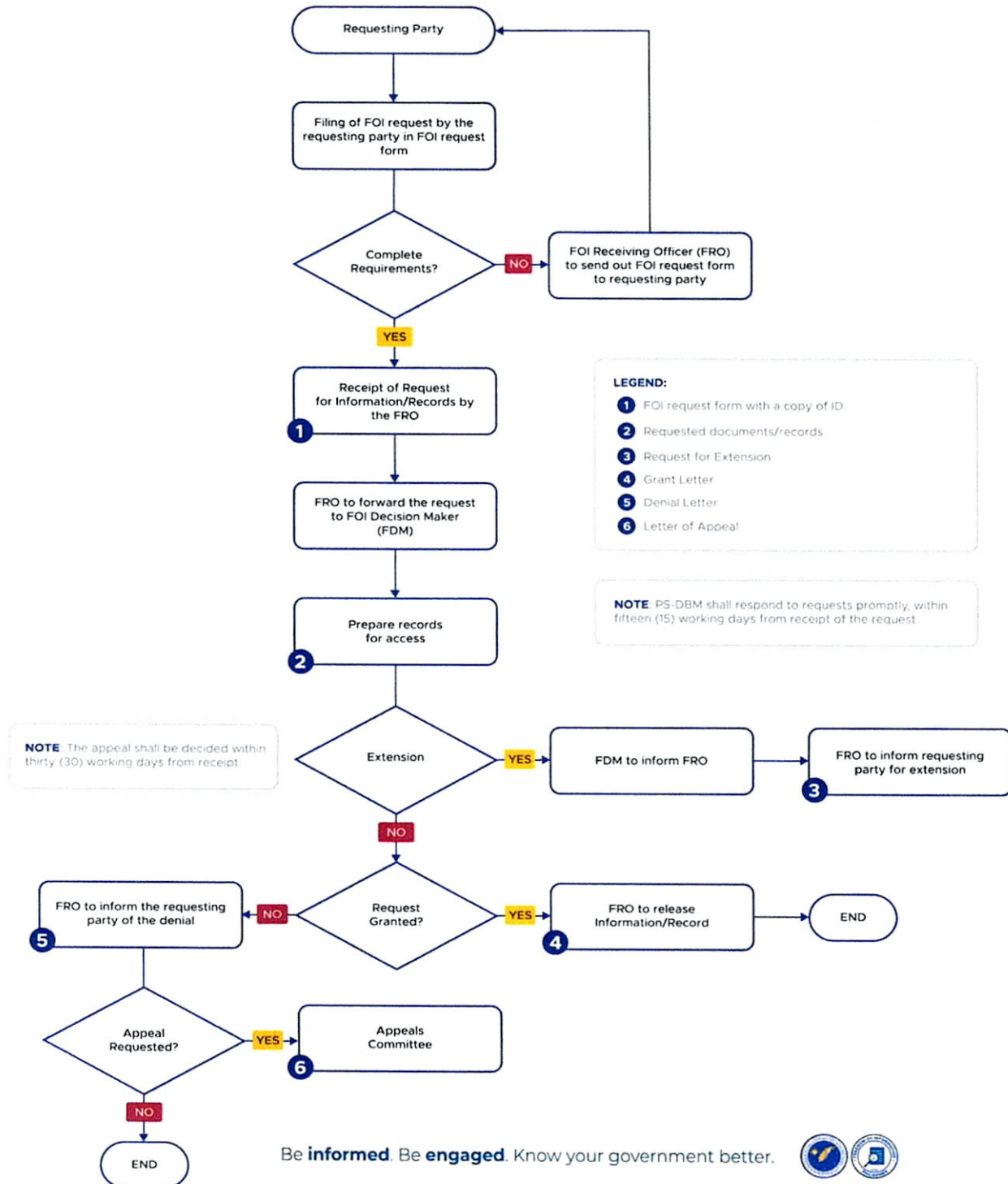
DENNIS B. SANTIAGO
Executive Director V *ns*

PROCUREMENT SERVICE FOI FLOW CHART



www.ps-philgeps.gov.ph

ANNEX "A"



Be **informed**. Be **engaged**. Know your government better.





FREEDOM OF INFORMATION REQUEST FORM

(Pursuant to Executive Order No. 2, s. 2016)
(as of November 2016)

FOI Tracking Number

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

A. Requesting Party

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

1. Title (e.g. Mr, Mrs, Ms, Miss)	2. Given Name/s (including M.I)	3. Surname
4. Complete Address (Apt/House Number, Street, City/Municipality, Province)		
5. Landline/Fax	6. Mobile	7. Email
8. Preferred Mode of Communication	☐ Landline ☐ Mobile Number ☐ Email ☐ Postal Address (If your request is successful, we will be sending the documents to you in this manner.)	
9. Preferred Mode of Reply	☐ Email ☐ Fax ☐ Postal Address ☐ Pick-Up at Agency	
10. Type of ID Given (Please ensure your IDs contain your photo and signature)	☐ Passport ☐ Voter's ID ☐ Driver's License ☐ School ID ☐ SSS ID ☐ Company ID ☐ Postal ID ☐ Others	

A. Requesting Information

11. Agency - Connecting Agency (if applicable)		
12. Title of Document/Record Requested (Please be as detailed as possible)		
13. Date or Period (DD/MM/YY)		
14. Purpose		
15. Document Type		
16. Reference Numbers (if known)		
17. Any other Relevant Information		

C. Declaration

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

I declare that:

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

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

Signature

Date Accomplished (DD/MM/YYYY)

D. FOI Receiving Officer [Internal Use Only]

Name (Print name)

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

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

Proof of ID Presented
(Photocopies of original should be attached)

- | | |
|---|---------------------------------------|
| ☐ Passport | ☐ Voter's ID |
| ☐ Driver's License | ☐ School ID |
| ☐ SSS ID | ☐ Company ID |
| ☐ Postal ID | ☐ Others _____ |

The request is recommended to be:
If Denied, please tick the Reason for the Denial

- | | | |
|--|-------------------------------------|--|
| ☐ Approved | ☐ Denied | |
| ☐ Invalid Request | ☐ Incomplete | ☐ Data already available online |

Second Receiving Officer Assigned
(Print name)

Decision Maker Assigned to Application
(Print name)

Decision on Application

- | | |
|---|---------------------------------|
| ☐ Successful | ☐ Denied |
| ☐ Partially Successful | ☐ Cost |

If Denied, please tick the Reason
for the Denial

- | | |
|--|---|
| ☐ Invalid Request | ☐ Exception |
| ☐ Incomplete | ☐ Which Exception? _____ |
| ☐ Data already available online | |

Date Request Finished
(DD/MM/YYYY)

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

FOI Registry Accomplished

- | | |
|------------------------------|-----------------------------|
| ☐ Yes | ☐ No |
|------------------------------|-----------------------------|

RO Signature

Date (DD/MM/YYYY)



IMPORTANT – Please read this information carefully before you complete the FOI request form. Once you have completed your request, we strongly advise that you keep a copy for your records.

What is Executive Order No.2 s. 2016?

On July 23, 2016, President Rodrigo Roa Duterte signed Executive Order No. 2, also known as the Freedom of Information (FOI) Executive Order (EO). It upholds the constitutional right of people to information on matters of public concern.

The Executive Order covers all government offices under the Executive Branch, including government-owned or - controlled corporations (GOCCs) and state universities and colleges (SUCs). It requires all executive departments, agencies, bureaus, and offices to make public records, contracts, transactions and any information requested by a member of the public, except for sensitive information and matters affecting national security.

What is Freedom of Information?

The FOI EO is an important enabling mechanism to promote transparency in the government's administrative process. Through FOI, citizens are empowered to make a formal request to get information held by the government, barring certain sensitive and important data related to the nation's security. The FOI complements continuing proactive information disclosure efforts where agencies are duty-bound to publish information in the spirit of openness and transparency.

Freedom of Information is an integral element of President Duterte's Good Governance Plan aligned to reforms and initiatives that pursue greater transparency, accountability, and citizen participation in governance.

Who is overseeing the implementation of FOI Executive Order No. 2?

The Presidential Communications Operations Office (PCOO) is over-seeing the implementation and operationalization of the FOI program. PCOO is also responsible for monitoring compliance and performance of all government agencies.

MAKING AN FOI REQUEST

Who can make an FOI request?

Under the FOI EO, any Filipino citizen can make an FOI request. As a matter of policy, requesting parties are required to present proof of identification (e.g., passport, driver's license, SSS ID, voters ID) in the submission of an FOI request.

What information can I request for through FOI?

Information, official records, public records, documents, and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development, subject to exceptions necessary to protect essential public or private interest.

Which agencies can I request information from?

An FOI request can be made to any government office 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.

Is there an online alternative to making an FOI request?

You may choose to fill out an online application on foi.gov.ph after signing up for an account. You will also need to upload a valid copy of your government-issued ID upon registration.

What is the procedure for making a valid FOI request?

To make a valid request, you must:

- Place your request in writing. Ensure to state your full name, contact information and provide a valid copy of your government-issued ID as proof of your identity. You can use the attached form or send a letter detailing your request submitted directly to the concerned agency or by email;
- Describe in detail the documents you wish to access; and
- Include the preferred mode of communication in order to be alerted about the status of your request, as well the preferred mode of receiving the documents, should your request be granted.

FEES

How much does it cost to make an FOI request?

There are NO FEES for making an FOI request. An agency however, may charge a reasonable fee for necessary costs associated with processing a request - including costs of printing, delivery, reproduction and/or photocopying.

NOTE: Use of this FOI request form is optional. Any written format for a Freedom of Information request is acceptable.



PROCESSING TIMES

When can I expect to receive a response to an FOI request?

Under the FOI EO, the standard processing time is fifteen (15) working days. During this time, you will be contacted regarding your FOI request through your preferred mode of communication.

If your request is granted, you can expect to receive the documents either through regular mail or email, or be requested to collect the documents at the office you had applied to. Otherwise, the agency will explain why your request is delayed or denied.

Can an agency request for a time extension?

In some cases, an agency may need more time to review your request and thereby inform you of an extension of processing period. Under such circumstances, an agency is permitted to extend an additional twenty (20) working days should the need arise.

Can I have my request expedited?

There is no process by which requests can be expedited. All requests will be reviewed equally on a case-by-case basis and allotted the fifteen (15) working day processing period from the time of receipt.

COMPLAINTS HANDLING

What if you are not happy with how the agency has handled your request?

Denial of any request for access to information may be appealed to the person or office next higher in the authority, following the procedure indicated in the Agency FOI Manual; provided that the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.

The appeal will 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.

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.

IMPORTANT INFORMATION

Privacy

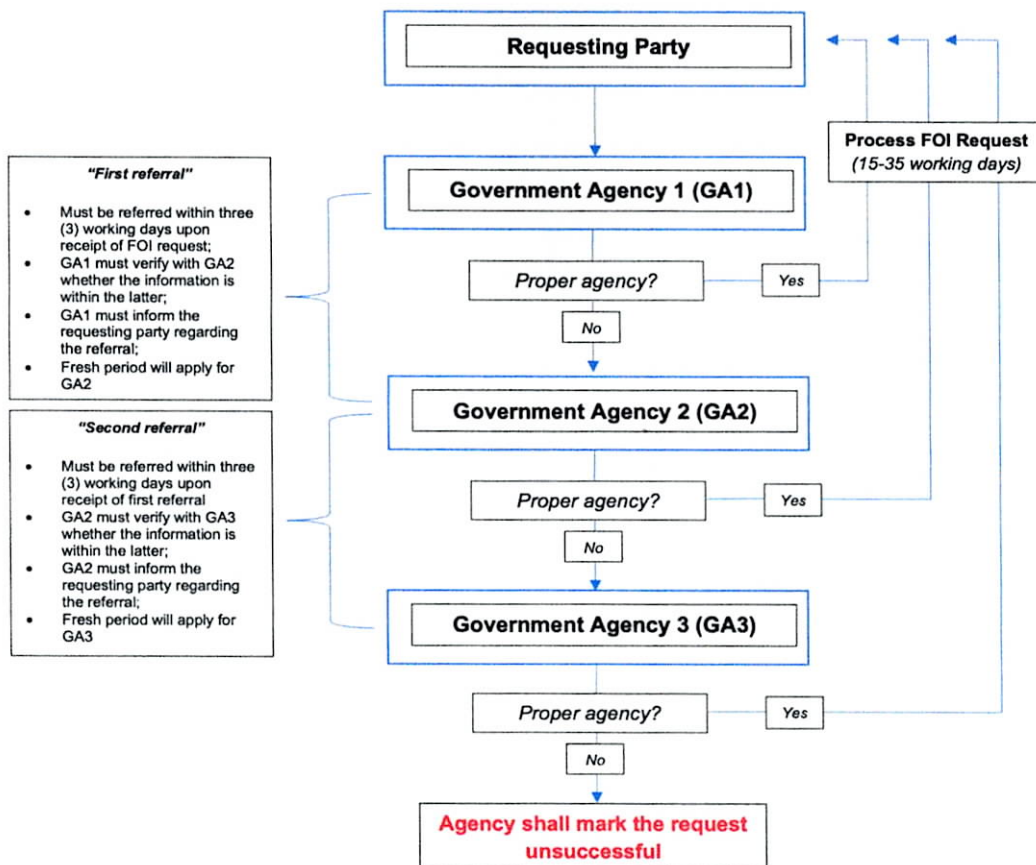
Once deemed valid, your information from your application will be used by the agency you have applied to, to deal with your application as set out in the Freedom of Information Executive Order No. 2.

If the agency gives you access to a document, and if the document contains no personal information about you, the document may be published online in the Agency's disclosure log, along with your name and the date you applied, and, if another person, company or body will use or benefit from the documents sought, the name of that person, entity or body.

Privacy

According to Sec. 176.1 of the Intellectual Property Code of the Philippines (RA No. 8293, as amended), No copyright shall subsist in any work of the Government of the Philippines. However, prior approval of the government agency or office wherein the work is created shall be necessary for exploitation of such work for profit. Such agency or office may, among other things, impose as a condition the payment of royalties. No prior approval or conditions shall be required for the use of any purpose of statutes, rules and regulations, and speeches, lectures, sermons, addresses, and dissertations, pronounced, read or rendered in courts of justice, before administrative agencies, in deliberative assemblies and in meetings of public character.

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.

**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.

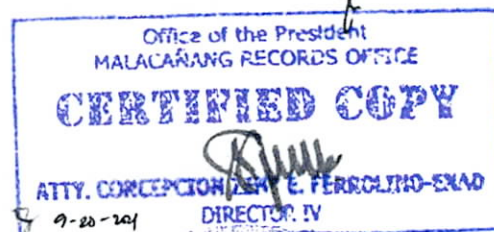
The foregoing list of exceptions shall be without prejudice to existing laws, jurisprudence, rules or regulations authorizing the disclosure of the excepted information upon satisfaction of certain conditions in certain cases, such as the consent of the concerned party or as may be ordered by the courts.

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 13th day of September 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 carjacked vehicles and apprehension of the persons charged with carjacking;¹¹ and
 - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹²

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 Carjacking Act of 2016* (RA No. 10883). May be invoked by law enforcement agencies.

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

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*.



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