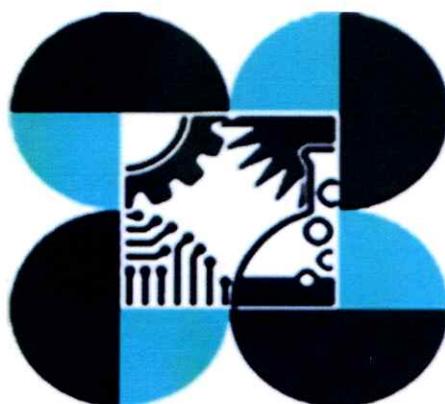


REPUBLIC OF THE PHILIPPINES
Department of Science and Technology

**PHILIPPINE COUNCIL FOR INDUSTRY, ENERGY, AND EMERGING TECHNOLOGY
RESEARCH AND DEVELOPMENT**



ISO 9001:2015

FREEDOM OF INFORMATION People's Manual

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Approved by:

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Executive Director

ABOUT PCIEERD

Brief Background

The Philippine Council for Industry, Energy and Emerging Technology Research and Development (PCIEERD) is the consolidation of the Philippine Council for Industry and Energy Research and Development (PCIERD) and the Philippine Council for Advanced Science and Technology Research and Development (PCASTRD) following DBM's approval of its Rationalization Plan last 29 June 2010, in accordance with the provisions of Executive Order No. 366. PCIEERD is one of the sectoral planning Councils of the Department of Science and Technology (DOST). It is mandated to serve as the central agency in the formulation of policies, plans, and programs as well as in the implementation of strategies in the industry, energy sectors and for emerging technology.

Vision Statement:

By 2040, PCIEERD is the Nexus of Innovation, the leading contributor to the nation's productivity and competitiveness by enabling Science and Technology solutions in the industry, energy sectors, and emerging technology, while upholding the tenets of good governance.

Mission Statement:

Provide strategic leadership in enabling innovation in industry, energy sectors, and emerging technology.

PCIEERD commits to:

- Formulate national policies, plans, programs, and strategies for S&T development in the industry, energy, and emerging technology sectors
- Allocate government and generate external funds for research and development
- Manage* STI programs and projects implemented and supported by the Council towards utilization and adoption

**Management refers to evaluation, monitoring, promotion, utilization, impact assessment and feedback.*

Core Values

- **Innovativeness:** We foster innovation by seeking to continually improve and keep better at what we do.
- **Integrity:** We adhere to ethical standards, honesty, and fairness in all we say and do.
- **Excellence:** We cultivate and demonstrate an environment of competence, quality, and positive attitude.

**DOST-PCIEERD
FREEDOM OF INFORMATION (FOI) PEOPLE'S MANUAL**

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SECTION I. OVERVIEW

1. **Purpose:** This FOI Manual provides the process to guide and assist the public in the processes and procedures involved in dealing with requests of information received under Executive Order (EO) No. 2, series of 2016 on Freedom of Information in the Executive Branch.
2. **Structure of the Manual:** This Manual shall set out the rules and procedures to be followed by DOST-PCIEERD when a request for access to information is received. The Executive Director (ED) is responsible for all actions carried out under this Manual.
3. **Coverage of the Manual:** The Manual shall cover all requests for information directed to DOST-PCIEERD.
4. **FOI Receiving Officer (FRO) and Alternate FRO:** The Executive Director shall designate the FOI Receiving Officer (FRO) and Alternate FRO in DOST-PCIEERD. The FRO and the Alternate FRO shall hold office at the Science Heritage Building, Science Community Complex, Gen. Santos Avenue, Bicutan, Taguig City. The functions of the FRO and Alternate FRO shall include the following:
 - a. Receive on behalf of DOST-PCIEERD, all requests for information
 - b. Conduct initial evaluation of the request by checking on the following:
 - if the request form is complete
 - if the requested information is owned by other agencies
 - if the information is already disclosed in the DOST-PCIEERD website or at <https://pcieerd.dost.gov.ph>
 - c. Forward the request to the appropriate office that has custody of the records;
 - d. Provide assistance to the FDM;
 - e. Provide assistance and support to the public and staff with regards to FOI;
 - f. Monitor all FOI requests and appeals and advise the public on its status; and
 - g. Compile statistical information as required.
5. **FOI Champion:** The FOI Champion is the Head of the Agency. The functions of the FOI Champion shall include the following:
 - a. Oversee the implementation and compliance of the agency in the FOI Program
 - b. Supervise, lead, direct and administer the creation and operation of an FOI Team of the Agency;
 - c. Represent the Agency on various boards/commission/committees and task forces dealing with FOI policy matters; and
 - d. Perform other functions as necessary in the exigency of service, determined by the FOI lead agency.
6. **FOI Decision Maker (FDM):** There shall be an FDM designated by the FOI Champion, with a rank of no lower than a Division Chief or its equivalent. The functions of an FDM shall include the following:
 - a. Conduct of an evaluation of the request and shall have the authority to grant or deny the request, based on the following:
 - i. The Agency does not have the information requested; or
 - ii. The information requested contain sensitive personal information protected by the Data Privacy Act (DPA) of 2012; or

- iii. The information requested falls under the list of exceptions; or
 - iv. The request is identical or substantially similar from the same requesting party whose request has been previously granted or denied by the Agency; or
 - v. Vexatious requests (Annex H).
7. **FOI Focal Person (FFP):** There shall be an FFP designated by the FOI Champion per division, who are holding plantilla or permanent positions. The functions of the FFPs shall include the following:
- a. Coordinate with the FOI Receiving Officer (FRO) or Alternate FRO;
 - b. Designate staff for the fast retrieval of information needed to answer the request;
 - c. Facilitate the clearance of draft reply letter with their respective division; and
 - d. Ensure that the period to reply to the said request is within the prescribed period as provided under EO No. 2, s. 2016, to wit:
 - i. Fifteen (15) working days for FOI Requests informing the requestor of the decision whether his or her request was granted or denied; and
 - ii. Additional Twenty (20) working days whenever the information requested requires extensive search of government office's records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases.

SECTION II. GLOSSARY OF TERMS

1. **ADMINISTRATIVE FOI APPEAL.** An independent review of the initial determination made in response to an FOI request. Requesting parties who are dissatisfied with the response made on their initial request have a right to appeal that initial determination to an office within the agency, which will then conduct an independent review.
2. **ANNUAL FOI REPORT.** A report to be filed each year with the Presidential Communications Operations Office (PCOO) by all government agencies detailing the administration of the FOI. Annual FOI Reports contain detailed statistics on the number of FOI requests and appeals received, processed, and pending at each government office.
3. **CONSULTATION.** A process when a government office locates a record that contains information of interest to another office, it will ask the views of that other office whether or not the record is disclosable before making any final determination.
4. **EXCEPTIONS.** Information that should not be released and disclosed in response to FOI request because it is protected by the Constitution, laws or jurisprudence.
5. **FREEDOM OF INFORMATION.** The right of the people to information on matters of public concern, and adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in Executive Order No. 2, s. 2016. This right is indispensable to the exercise of the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making. Refer to Annex "A", FOI Frequently Asked Questions (FAQs).
6. **FOI CONTACT.** The name, address and contact number at each government office where the public can make an FOI request. Refer to Annex "B", FOI Officers of PCIEERD.
7. **FOI REQUEST.** A written request submitted to a government office personally or by email asking for records on any topic. An information request can generally be made by any Filipino to any government office. Refer to Annex "C" for the FOI Request Process, and Annex "D" for FOI Request Form.

8. **FOI RECEIVING OFFICE.** The primary contact at each agency where the requesting party can call and ask questions about the FOI process or the pending information request.
9. **FREQUENTLY REQUESTED INFORMATION.** Information released in response to an information request that the agency determines has become or is likely to become the subject of subsequent requests for substantially the same records.
10. **FULL DENIAL.** Action of a government office when it cannot release any records in response to an information request where the requested information is exempt from disclosure in its entirety or no records responsive to the request could be located.
11. **FULL GRANT.** Action of a government office when it is able to disclose all records requested in full in response to an FOI request.
12. **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 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.
13. **INFORMATION FOR DISCLOSURE.** Information promoting the awareness and understanding of policies, programs, activities, rules or revisions affecting the public, government agencies, and the community and economy. It also includes information encouraging familiarity with the general operations, thrusts, and programs of the government. In line with the concept of proactive disclosure and open data, these types of information can already be posted to government websites, such as data.gov.ph, without need for written requests from the public.
14. **OFFICIAL RECORD/S.** Information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.
15. **OPEN DATA.** Publicly available data structured in a way that enables the data to be fully discoverable and usable by end users.
16. **PARTIAL GRANT/PARTIAL DENIAL.** Action of a government office when it is able to disclose significant portions of the records in response to an FOI request, but must deny other portions of the request.
17. **PENDING REQUEST OR PENDING APPEAL.** An FOI request or administrative appeal for which a government office has not yet taken final action in all respects. It captures anything that is open at a given time including requests that are well within the statutory response time.
18. **PERFECTED REQUEST.** An FOI request that reasonably describes the records sought and is made in accordance with the government office's regulations.
19. **PERSONAL INFORMATION.** 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.

20. **PROACTIVE DISCLOSURE.** Information made publicly available by government agencies without waiting for a specific request which includes website postings.
21. **PROCESSED REQUEST OR PROCESSED APPEAL.** The number of requests or appeals where PCIEERD has completed its work and sent a final action to the requester.
22. **PUBLIC RECORDS.** Information required by laws, executive orders, rules, or regulations to be entered, kept, and made publicly available by a government office.
23. **PUBLIC SERVICE CONTRACTOR.** A private entity that has dealing, contract, or a transaction of whatever form or kind with the government or a government agency or office that utilizes public funds.
24. **RECEIVED REQUEST OR RECEIVED APPEAL.** An FOI request or an administrative appeal that an agency has received within a fiscal year.
25. **REFERRAL.** A process when a government office locates a record that originated from, or is of another agency's interest, the former will forward the request to the said agency for appropriate action.
26. **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 current health records, licenses or its denials, suspension or revocation, and tax returns; and
 - d. Specifically established by an executive order or an act of Congress to be kept classified.
27. **SIMPLE REQUEST.** An FOI request that an agency anticipates will involve a small volume of material or which can be processed relatively quickly.
28. **TRACE.** Implemented by PCIEERD in 2019, the Tracking, Retrieval, Archiving of Communications for Efficiency (TRACE) is a web-based platform for the storage and tracking of incoming and outgoing organizational communications. It ensures that all communications are acted upon accordingly and facilitates interaction between the top management, supervisor and employee in the delegation and performance of tasks relative to the communication.
29. **www.data.gov.ph.** The Open Data website that serves as the government's comprehensive portal for all public government data that is searchable, understandable, and accessible.
30. **www.foi.gov.ph.** The website that serves as the government's comprehensive FOI website for all information on the FOI. Among many other features, eFOI.gov.ph provides central

resource for the public to understand the FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. eFOI.gov.ph. also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, so that they can be compared by agency over time.

SECTION III. GENERAL EXCEPTIONS TO THE RIGHT TO ACCESS OF INFORMATION

For the guidance of all government offices and instrumentalities covered by EO 2 s. 2016, and the general public, the foregoing are the exceptions to the right to access to information, as recognized by the Constitution, existing laws, or jurisprudence¹:

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 as recognized by the Constitution, existing laws, rules, regulations, and jurisprudence.

For the implementation of the above listed exceptions, salient details and legal basis that define the extent and applications of the exceptions are contained in Annex F "Memorandum Circular No. 15 - Updating the Inventory of Exceptions to the Right to Access of Information Under Executive Order No. 02 (s.2016)

¹These 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 – (Memorandum from the Office of the Secretary, Office of the President, "Inventory of Exceptions to EO 02 s. 2016," dated 24 November 2016).

SECTION IV. List of DOST-PCIEERD Exceptions:

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

1. Personal information of Governing Council Members, resource persons, grantees, and consultants;
2. 201 files of personnel;
3. Medical and psychological records of personnel;
4. Specimen signatures;
5. Information deemed confidential concerning the application of employees, together with all the records, documents and communications relating thereto and its processes;
6. Employees' Statement of Assets, Liabilities and Net Worth (SALN) unless requested with court order and in compliance with the amended guidelines on public access to SALN (Office of the Ombudsman Memorandum Circular No. 01 series of 2020);
7. Information covered by the Republic Act No. 10173 (Data Privacy Act of 2012);
8. Proceeding before the Committee on Decorum and Investigation (CODI) during preliminary investigation of employee/s;
9. Minutes of meetings (only excerpts or portion containing the request).
10. GSIS/PAG-IBIG/SSS/PhilHealth/BIR information of employees, unless in compliance with a subpoena duces tecum of the Court or with the permission of the duly authorized officials of such offices;
11. Confidential information supplied by the suppliers/bidders/contractors to the PCIEERD Procurement Section pursuant to Republic Act No. 9184 (Government Procurement Reform Act);
12. Disclosure of potential Intellectual Property Rights covered by confidentiality agreements, trade secrets, commercial information and propriety information until such time that they were made public, published, or protected by law, pursuant to Republic Act 10055 (Philippine Technology Transfer Act of 2009);
13. Names of commercial establishments, entities and clients whose collaboration in PCIEERD and DOST-funded programs and projects warrant a protection of their rights to anonymity;
14. Project proposal documents, including but not limited to the information stipulated in the duly-signed Non-Disclosure Agreement, unless approved and signed by authorized proponents and PCIEERD officials; and
15. Results of testing and analytical services provided by DOST agencies to clients.

The PCIEERD Executive Director 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 or purposely to cover up a crime, wrongdoing, graft or corruption- (Section 6, EO 02).

SECTION V. STANDARD PROCEDURE

A. Receipt of Written Request for Information (from Walk-ins)

1. **Receiving of Written Request** – The FRO or Alternate FRO shall receive the request for Information from the Requesting Party ensuring that all needed information in the FOI Request Form (Annex D) are complied with.

The filled-out form shall be logged in the **TRACE**, forwarded to the Office of the Executive Director, and tagged to concerned Focal Person/Decision Maker for appropriate action.

2. **Oral Request to be Reduced in Writing** – In case the Requesting Party is unable to make a written request because of illiteracy or disability, the FRO or Alternate FRO shall reduce the oral request in writing. The Requesting Party may also be assisted by a literate or able companion who shall submit his valid identification card and affix his/her signature in the FOI Request Form. The FRO or Alternate FRO shall provide appropriate advice and assistance to the Requesting Party regarding the requirements or forms needed for the request of information.
3. **Initial Evaluation** - Upon receipt of the duly accomplished FOI Request, the FRO or Alternate FRO shall log the request in the TRACE and tag to concerned Focal Person for appropriate action.
 - a. **For requests not falling under the exception list** – The FRO or Alternate FRO shall coordinate with the designation FFP, regarding the requested information. The FRO or Alternate FRO shall provide the Requesting Party with the requested information within the prescribed period.
 - b. **For requests falling under the exception list** – The FRO or Alternate FRO shall inform the Requesting Party in writing that his or her request has been denied and that the requested information falls under the Exception List mentioned under Section IV of this Manual, citing the specific provisions related thereto.
 - c. **For requests available at other offices** – The FRO or Alternate FRO shall inform the Requesting Party that the information is not available in PCIEERD and shall provide the name of the government office or agency and its contact details. The FRO or Alternate FRO shall endorse the FOI Request to the identified government office or agency as provided under the “No Wrong Door” Policy (Annex G).
 - d. **For requests requiring redaction and extraction** – The FRO or Alternate FRO may release the requested information in part pursuant to the “Guidelines on Redaction and Extraction of Information Before Disclosure to the Public (Annex I).
 - e. **For request requiring clarification** – If the information being requested is not clearly indicated in the request form, the FRO or Alternate FRO shall seek clarification from the Requesting Party in writing within the fifteen (15) -working day period. This will toll the fifteen (15)-working day deadline which will resume the day after the FRO or Alternate FRO receives the required clarification from the Requesting Party. If no clarification is received within thirty (30) calendar days, the request shall be deemed as not perfected request and shall be automatically denied. The FRO or Alternate FRO shall inform the Requesting Party about the denial of the request in writing.

- f. **For information already posted and available online** - The FRO or alternate FRO shall inform the requesting party that the information requested is publicly available in PCIEERD's website, www.pcieerd.dost.gov.ph.
 - g. **For information 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, and the FRO shall inform the applicant of the reason of such denial.
4. **Period to Respond** – PCIEERD must respond to the requests promptly and within the prescribed period as provided under EO No. 2, s. 2016, to wit:
- a. Fifteen (15) working days for FOI Requests informing the requestor of the decision whether his or her request was granted or denied; and
 - b. Additional twenty (20) working days whenever the information requested requires extensive search of government office's records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases.

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

B. Receipt of Request for Information through the eFOI Portal (www.foi.gov.ph)

1. The Requesting Party may lodge his/her request through the use of the eFOI Portal (<https://www.foi.gov.ph/requests/new/agency=PCIEERD>).
2. The FRO or Alternate FRO shall forward a copy of the request to the concerned Focal Persons and to the Decision Maker, for appropriate action.

C. Receipt of Request for Information through electronic mail

1. The request may be made through email, provided that the requesting party shall attach to the email a scanned copy of the FOI application request, and a copy of a duly recognized primary and secondary valid ID with photo.
2. If the Request for Information was sent to DOST-PCIEERD through its official email address, pcieerd@pcieerd.gov.ph, the Records Section Staff shall acknowledge receipt of said email and shall indicate therein that the request will be forwarded to the FRO or Alternate FRO for initial evaluation within the prescribed period.
3. The Records Section Staff shall forward a printed copy of the request to the FRO or Alternate FRO within two (2) working days for initial assessment of the request.
4. The FRO or Alternate FRO shall send a copy of the stamped perfected request or a reply requesting for clarification, as the case may be.
5. If the request was sent to the email address of any of the DOST-PCIEERD Staff or other

online platforms other than the official email address of the Council, said staff shall also acknowledge receipt of the request and shall follow the immediately preceding procedures.

D. Role of the FRO or Alternate FRO in the initial evaluation of the request – Upon receipt of the request for information, the FRO or Alternate FRO shall evaluate the contents of the request and shall assess the following:

1. If the PCIEERD has custody of the requested information, the FRO or Alternate FRO shall accept the request and coordinate with the FOI Focal Person of the division concerned. Otherwise, the FRO or Alternate FRO shall refer the request to the appropriate office who is in custody of the information as provided under the “No Wrong Door” Policy.
2. If the same Requesting Party requests for the same information which has already been furnished by the PCIEERD, subsequent request of the same information from the same requesting party shall be denied. However, the FRO or Alternate FRO shall inform the applicant of the reason of such denial.
3. The FRO or Alternate FRO shall input the details of the request in the TRACE and tag the concerned FFP
4. The FRO or Alternate FRO shall inform the requesting party of action taken by the PCIEERD within two (2) working days upon receipt of the request.

E. Request relating to more than one (1) division under PCIEERD – In instances where the information requested needs to be complied by two (2) or more divisions of the Council, the following must be followed:

1. The FRO or Alternate FRO shall endorse the request to the FFO within two (2) working days.
2. The FFO, upon receipt of request, shall forward such request to the concerned personnel with key interest, within three (3) working days.
3. The divisions with key interest shall have a maximum of three (3) working days to provide the information which shall be forwarded to the FRO or Alternate FRO.
4. The division with key interest may request for an extension of time to provide the information needed. The FRO or Alternate FRO shall inform the Requesting Party of the said extension, setting forth the reason/s for such. In no case shall the extension exceed twenty (20) working days unless exceptional circumstances warrant a longer period.
5. The FOI-DM shall render decision whether to approve, deny, or partially approve only a portion of the request for information within ten (10) working days from the date of receipt of the request, as endorsed by the FFO. Said decision shall be communicated with the FRO or Alternate FRO.

F. The requested information is not in the custody of PCIEERD.

1. If the information requested refers to another DOST Offices, the request will be immediately transferred to such appropriate Council, Institute or Advisory Body through the most expeditious manner or within three (3) working days. The FRO or Alternate FRO

must inform the Requesting Party that the information is not in the custody of PCIEERD within the fifteen (15) working day period. The FRO or the Alternate FRO must also inform the Requesting Party that his or her perfected request was already referred to the appropriate DOST Office, following the procedure in the "No Wrong Door" Policy.

2. If the request for information is not within the coverage of PCIEERD, the requesting party shall be advised accordingly and provided with the contact details of the office that maintains the data, if known.
3. In case of inability to determine the office which has custody over the documents or if the request have been previously transferred from one office and the requested information is not in the custody of the third office which received the request, the same shall be referred by the latter to the DOST Central Office within three (3) working days from its receipt of the perfected request.

G. Requested information is already posted and available on-line. Should the information being requested is already posted, having pro-active disclosure and publicly available in the PCIEERD website, www.pcieerd.dost.gov.ph or www.foi.gov.ph, the FRO or the Alternate FRO shall inform the requesting party of the said fact and provide them the website link where the information is posted.

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

1. The FDM shall note of the date and time of receipt of the information.
2. If the FDM needs further details to identify or locate the information, he or she shall, through the FRO or the Alternate 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.
3. The FDM shall review the contents of the documents and apply the relevant exemption. He or she shall also consult with the FOI Focal Person of the division concerned on the disclosure of the records before making any final determination.
4. The FDM may also seek clearance from the Office of the Secretary, if necessary. Provided, the Council shall ensure that the requested information shall be released within the fifteen (15) working day period to furnish information.
5. The FDM shall communicate his or her decision to the FRO or the Alternate FRO whether the request for information is Full Grant, Full Denial, or Partial Grant or Partial Denial and the reason for the said decision.

I. Role of FRO to transmit the processed request to the Requesting Party. Upon receipt of the requested information from the FDM, the FRO or the Alternate FRO shall collate and ensure that the information is complete.

1. The FRO or the Alternate FRO shall attach a cover or 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 for information.
2. If the Requesting Party asked for information in a certain format, comply with the latter's request, if practical.
3. Update FOI Tracker and save the Council's response to the request.

J. Request for an Extension of Time. The instances when request for an extension of time to furnish information may be allowed:

1. If the information requested requires extensive search of the government's office records' facilities;
2. Examination of voluminous records; and
3. The occurrence of fortuitous events or other analogous cases.

In these cases, the FDM should inform the FRO or the Alternate FRO. The FRO or the Alternate FRO shall inform the requesting party of the extension, setting forth the reasons for such extension. In no case shall 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.

K. Full Grant of Request. In the event of approval, the FRO or the Alternate FRO shall ensure that all records that have been retrieved and considered be checked for possible exemptions, prior to actual release. The FRO or the Alternate FRO shall prepare the letter or email informing the Requesting party within the prescribed period that the request was fully granted and be directed to pay reasonable cost of reproduction and copying of the information or documents requested, if applicable.

L. Denial of Request. In case the requested information is included in the list of exceptions, the request will be wholly or partially denied. The FRO or the Alternate FRO shall, within the prescribed period, notify the Requesting Party and shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based.

N. No unauthorized distribution of information. No information or data shall be transferred or distributed to third parties without the express consent by PCIEERD.

SECTION VI. 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:

1. **Administrative FOI Appeal to the PCIEERD FOI Committee.** Provided that the written appeal must be filed by the same requesting party within fifteen (15) working days from the notice of denial or from the lapse of the period to respond to the request.

- a. Denial of the Request by Heads of PCIEERD divisions or units may be appealed in writing to the PCIEERD FOI Committee within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.
 - b. The appeal shall be decided by the PCIEERD Executive Director or the designated Officer-in-Charge upon the recommendation of the FOI Committee within thirty (30) working days from the filing of said written appeal.
 - c. The denial of the Appeal by the PCIEERD Executive Director may be appealed to the Department of Science and Technology Secretary or may be appealed further to the Office of the President under Administrative Order No. 22, s. 2011.
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 VII. REQUEST TRACKING SYSTEM

PCIEERD shall update the status of all paper-based and/or online requests for information received, in the PCIEERD FOI Reports of the PCIEERD Transparency Seal portal.

SECTION VIII. FEES

1. **No Request Fee.** PCIEERD shall not charge any fee for accepting requests for access to information.
2. **Reasonable cost of Reproduction and Copying of the Information.** In case of voluminous requests, the FRO shall immediately notify the requesting party in case there shall be a reproduction and copying fee to provide the information. Such fee shall be the actual amount spent by PCIEERD in providing information to the requesting party.
3. **Exemption Fees.** PCIEERD may exempt any requesting party from payment of fees, upon request stating the valid reason for such payment exemption.

SECTION IX. ADMINISTRATIVE LIABILITY

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
2. Procedure. The 2017 Revised Rules on Administrative Cases in the Civil Service (2017 RACCS) 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 anybody or agency, which provided for more stringent penalties.

ANNEX A. FREQUENTLY ASKED QUESTIONS

1. What is FOI?

Freedom of Information (FOI) is the government's response to the call for transparency and full public disclosure of information. FOI is a government mechanism which allows Filipino citizens to request any information about the government transactions and operations, provided that it shall not put into jeopardy privacy and matters of national security. The FOI mechanism for the Executive Branch is enabled via Executive Order No. 2, series of 2016.

2. What is Executive Order No. 2 S. 2016?

Executive Order No. 2, s. 2016 is the enabling order for FOI. EO 2, s. 2016 operationalizes in the Executive Branch the People's Constitutional right to information. EO 2, s. 2016 also provides the State policies to full public disclosure and transparency in the public service. EO 2, s. 2016 was signed by President Rodrigo Roa Duterte on July 23, 2016.

3. Who oversees the implementation of EO 2?

The Presidential Communications Operations Office (PCOO) oversees the operation of the FOI program. PCOO serves as the coordinator of all government agencies to ensure that the FOI program is properly implemented.

4. Who can make an FOI request?

Any Filipino citizen can make an FOI Request. As a matter of policy, the Requesting Party is required to present proof of identification.

5. What can I ask for under EO on 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.

6. Which agencies can we ask for information from?

An FOI request under EO 2, s. 2016 can be made before all government offices under the Executive Branch, including government owned or controlled corporations (GOCCs) and state universities and colleges (SUCs). FOI requests must be sent to the specific agency of interest, to be received by its respective Receiving Officer.

7. How do I make an FOI request?

- a. The Requesting Party shall fill out a request form and submit it to the agency's Receiving Officer. The Receiving Officer shall validate the request and log it accordingly on the FOI tracker.
- b. If deemed necessary, the Receiving Officer may clarify the request on the same day it was filed, such as specifying the information requested, and providing other assistance needed by the Requesting Party.

- c. The request is forwarded to the Decision Maker for proper assessment. The Decision Maker shall check if the agency holds the information requested, if it is already accessible, or if the request is a repeat of any previous request.
- d. The request shall be forwarded to the officials involved to locate the requested information.
- e. Once all relevant information is retrieved, officials will check if any exemptions apply, and will recommend an appropriate response to the request.
- f. The FDM will be the one to decide, all actions whether to release or deny the request shall go through him or her. The head of the agency may provide clearance to the response.
- g. The agency shall prepare the information for release, based on the desired format of the Requesting Party. It shall be sent to the Requesting Party depending on the receipt preference.

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

There are no fees to make a request. But the agency may charge a reasonable fee for necessary costs, including the costs of printing, reproduction and/or photocopying.

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

You will be receiving a response either granting or denying your request. If the request is granted, the information requested will be attached, using a format that you specified. Otherwise, the agency will explain why the request was denied.

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

It is mandated that all replies should be sent not later than fifteen (15) working days from the receipt of the request. The agency shall send a response informing the requester of an extension of processing period no longer than twenty (20) working days, should the need arise.

11. What if I never get a response?

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

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

If the Requesting Party is not satisfied with the response, the latter may write an appeal letter to the Central Appeals and Review Committee within fifteen (15) working days from the lapse of required response period. The appeal shall be decided within thirty (30) working days by the Central Appeals and Review Committee. If all administrative remedies are exhausted and no resolution is provided, requestors may file the appropriate case in the proper courts in accordance with the Rules of Court.

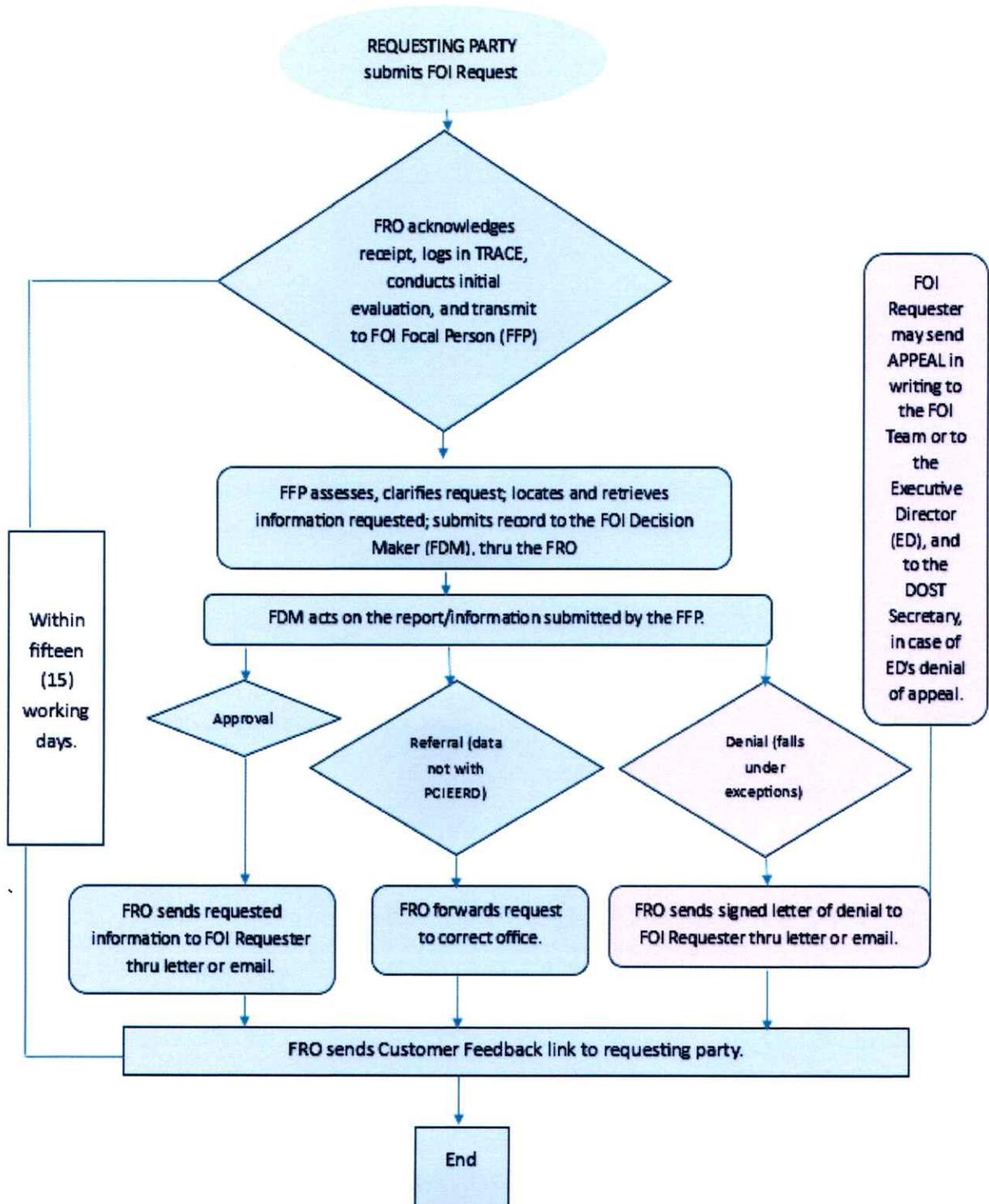
ANNEX B: The FOI Team: FOI Champion, Decision Maker, Focal Persons and Receiving Officers for DOST-PCIEERD

| Name/Position | Location | Contact Details | |
|---|---|---|--|
| | | Telephone/Fax | Email Address |
| FOI Champion | | | |
| DR. ENRICO C. PARINGIT Executive Director Philippine Council for Industry, Energy and Emerging Technology Research and Development (PCIEERD) | 5th Flr., Science Heritage Bldg., Science Community Complex, Gen. Santos Ave., Bicutan, Taguig City | 8837-2071 to 80935 8837-7516 8553-8637 Fax: 8837-6154 | info@pcieerd.dost.gov.ph |
| FOI Decision Maker | | | |
| ENGR. NINALIZA H. ESCORIAL Deputy Executive Director, PCIEERD | 4th Flr., Science Heritage Bldg., Science Community Complex, Gen. Santos Ave., Bicutan, Taguig City | 8837-2935 8837-7516 8553-8637 Fax: 8837-6154 | foidm@pcieerd.dost.gov.ph |
| FOI Focal Persons | | | |
| Officer-in-Charge Chief Administrative Officer Finance and Administrative Division (FAD) | 4th Flr., Science Heritage Bldg., Science Community Complex, Gen. Santos Ave., Bicutan, Taguig City | 8837-2935 8837-7516 8837-2071 to 80 loc. 2103 | info@pcieerd.dost.gov.ph |
| MS. MARY GRACE G. BUENAVIDES Chief Science Research Specialist, Industrial Technology Development Division (ITDD) | 5th Flr., Science Heritage Bldg., Science Community Complex, Gen. Santos Ave., Bicutan, Taguig City | 8837-2071 to 80 loc. 2121 | info@cieerd.dost.gov.ph |
| MS. GRACE F. ESTILLORE Chief Science Research Specialist, Policy Coordination and Monitoring Division (PCMD) | 4th Flr., Science Heritage Bldg., Science Community Complex, Gen. Santos Ave., Bicutan, Taguig City | 8837-2071 to 80 loc. 2107 | info@pcieerd.dost.gov.ph |
| MS. EDNA C. NACIANCENO Chief Science Research Specialist Emerging Technology Development Division (ETDD) | 5th Flr., Science Heritage Bldg., Science Community Complex, Gen. Santos Ave., Bicutan, Taguig City | 8837-2071 to 80 loc. 2106 | info@pcieerd.dost.gov.ph |
| ENGR. NONILO A. PENA Chief Science Research Specialist Energy and Utilities Systems Technology Development Division (EUSTDD) | | 8837-2835 | info@pcieerd.dost.gov.ph |

| | | | |
|--|---|---------------------------|--|
| MS. RUSSELL M. PILI Chief Science Research Specialist Research Information and Technology Transfer Development Division | 4th Flr., Science Heritage Bldg., Science Community Complex, Gen. Santos Ave., Bicutan, Taguig City | 8837-2071 to 80 Loc. 2102 | info@pcieerd.dost.gov.ph |
| MS. RUBY RATERTA Chief Science Research Specialist Human Resource and Institutional Development Division (HRIDD) | 4th Flr., Science Heritage Bldg., Science Community Complex, Gen. Santos Ave., Bicutan, Taguig City | 8837-2071 to 80 loc. 2101 | info@pcieerd.dost.gov.ph |
| MR. MARK IVAN C. ROBLAS Supervising Science Research Specialist OED-IG | 5th Flr., Science Heritage Bldg., Science Community Complex, Gen. Santos Ave., Bicutan, Taguig City | | info@pcieerd.dost.gov.ph |

| Location of FOI Receiving Office | Contact Details | | Assigned FOI Receiving Officers |
|---|---|-------------------------|--|
| | Telephone/Fax | Email address | |
| Records Section, 5th Flr., Science Heritage Bldg., Science Community Complex, Gen. Santos Ave., Bicutan, Taguig City | 8837-2071 to 80 loc. 2104 Fax: 8837-6154 | foi@pcieerd.dost.gov.ph | MS. ENA R. CONDE Administrative Officer V FOI Receiving Officer Mr. CHRISTOPHER H. HERNANDEZ Administrative Assistant III Alternate FOI Receiving Officer |

ANNEX C: FOI REQUEST PROCESS



| STEP | REQUESTING PARTY | DOST-PCIEERD ACTION | PERSON RESPONSIBLE IN DOST-PCIEERD | PROCESSING TIME |
|------|--|--|------------------------------------|--|
| 1 | Submit accomplished FOI request form with valid ID | Receive, log in TRACE the accomplished FOI request form and conduct initial evaluation. | FRO/Alt FRO | IMMEDIATE upon receipt or within the day |
| 2 | | Transmit/ forward FOI Request to responsible FOI Focal Person (FFP), FDM and Office of the Exec. Director | | |
| 3 | | Assess and clarify request. Locate and retrieve information requested, and submits record to FOI Decision Maker (FDM) through the FRO/Alt FRO | FFP; FRO/Alt FRO | WITHIN 3-5 working days |
| | | NEEDS MORE INFORMATION/ CLARIFICATION: Sends letter or informs through email the needed clarification/further information. 15 days processing will be put on hold upon receipt of clarification from the requesting party. | FFP; FRO/Alt FRO | |
| | | EXTENSION: If longer period to process is required, inform the RP that the requested information requires additional working days (at least 20 wd) | FFP; FRO/Alt FRO | |
| 4 | | Act on the request for information submitted by the FFP Decides for: APPROVAL: SUCCESSFUL: If requested information is with the DOST-PCIEERD and does not fall within the list of exceptions, send/grant to Requesting Party. | FDM | WITHIN 3-5 working days |
| | | PARTIALLY SUCCESSFUL: If requested information is with DOST-PCIEERD but requires redaction or extraction, send letter to RP that request was granted in part pursuant to the guidelines on redaction and extraction | FDM | |
| | | REFERRAL: If requested information is with another DOST Office, forward the request to other govt office/s pursuant to the No Wrong Door Policy. Inform the RP party that the request will be forward to appropriate office | FDM | |

| STEP | REQUESTING PARTY | DOST-PCIEERD ACTION | PERSON RESPONSIBLE IN DOST-PCIEERD | PROCESSING TIME |
|------------|---|--|------------------------------------|--|
| | | DENIAL: Inform the RP of the cause of denial (falls under the exceptions) | FDM | |
| 5 | Send appeal to PCIEERD FOI Team/Executive Director, or to the DOST Secretary in case of ED's denial of appeal | Address appeal through the FOI Team/Executive Director, or the DOST Secretary | FDM; Executive Director | IMMEDIATE Upon receipt or within the day |
| 6 | | Log response letter in TRACE | FRO/AIt FRO | |
| 7 | | Send response and Customer Feedback Form/link to RP | | |
| END | | | | |

ANNEX D: FOI Request Form



PHILIPPINE COUNCIL FOR INDUSTRY, ENERGY AND EMERGING TECHNOLOGY RESEARCH AND DEVELOPMENT
Gen. Santos Avenue, Bicutan, Taguig City

PORMULARYO NG KAHILINGAN FOI Request Form

TITULONG DOKUMENTO (Title of the Document) _____

MGA TAON/PANAHONG SAKLAW (Year) _____

LAYUNIN (Purpose) _____

PANGALAN / (Name) _____ CONTACT Nos. _____

LAGDA / (Signature) _____ PETA (Date) _____

TIRAHAN / (Address) _____ KATIBAYAN NG PAGKAKAKILANLAN (Proof of Identity)

Passport No. _____

Driver's License _____

Other _____

PARAAN NG PAGTANGGAP NG MGA IMPORMASYON

(How would you like to receive the information?)

- Email _____
- Fax _____
- Postal Address _____
- Pick-up (Office hours) _____

Gawaing itinalaga kay: _____
(Submitted to) (Lumagda sa ibaba ng pangalang nakalimbag)

Peta / Oras ng Pagkatalaga: _____
(Date / Time of Submission)

Taong nagpapatunay ng Gawaing Natapos: _____
(Certified by) (Lumagda sa ibaba ng pangalang nakalimbag)

Uri ng isinagawang aksiyon: _____
(Type of Action Conducted)

Iniskedyul ni (Received by):

FOI Receiving Officer

Remarks:

ANNEX E: EO 2, s. 2016



MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

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

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

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

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

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

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

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

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

THE PRESIDENT OF THE PHILIPPINES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

By the President:


SALVADOR C. MEDIALDEA
Executive Secretary







CERTIFIED COPY:

MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACANANG RECORDS OFFICE

6

ANNEX F: Memorandum Circular No. 15

Office of the President
of the Philippines
Malacañang

MEMORANDUM CIRCULAR NO. 15

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

WHEREAS, pursuant to Section 4 of Executive Order (EO) No. 02, (s. 2016), 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 (MC) No. 49, (s. 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.

WHEREAS, On 16 September 2021, MC No. 89, (s. 2021) was issued circularizing the updated Inventory of Exceptions;

WHEREAS, the IA-FOI-EPC, through IA-FOI-EPC Resolution Nos. 2021-002 and 2022-001, proposed further 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 17th day of March in the Year of our Lord, Two Thousand and Twenty-Three.

By authority of the President:


LUCAS P. BERSAMIN
Executive Secretary



Exceptions to Right to Access of Information

For the guidance of all government offices and instrumentalities covered by EO No. 02 (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. This includes information collected pursuant to Section 18 of the *Department of Migrant Workers Act* (RA No. 11641).

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) records of cases and documents involving actions for support including petitions for recognition and enforcement of foreign decisions or judgments on support;²⁸
 - (7) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;²⁹
 - (8) names of victims of child abuse, exploitation or discrimination;³⁰
 - (9) cases of gender-based streets and public spaces sexual harassment, including information on the victim and the accused who is a minor;³¹
 - (10) 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;³²
 - (11) records, documents, and communications of proceedings involving domestic, inter-country, and administrative, adoptions, including the identity of the child, natural parents and adoptive parents;³³
 - (12) names of students who committed acts of bullying or retaliation;³⁴
 - (13) children in situations of armed conflict;³⁵
 - (14) 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;³⁶ and

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 Sections 29 and 30, A.M. No. 21-03-02-SC, *Re: Rules on Action for Support and Petition for Recognition and Enforcement of Foreign Decisions or Judgments on Support*.

²⁹ Section 7, *Anti-Trafficking in Persons Act of 2003* (RA No. 9208), as amended by RA No. 10364.

³⁰ Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act* (RA No. 7610).

³¹ Section 26, *Safe Spaces Act* (RA No. 11313).

³² 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*.

³³ Section 39, *Domestic Administrative Adoption and Alternative Child Care Act* (RA No. 11642); 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.

³⁴ Section 3(h), *Anti-Bullying Act* (RA No. 10627).

³⁵ Section 19, *Special Protection of Children in Situations of Armed Conflict Act* (RA No. 11188).

³⁶ Sections 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165).

- (15) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing.³⁷
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;³⁸
 - b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority;³⁹
 - c. Records and reports submitted to the Social Security System by the employer or member;⁴⁰
 - d. Information of registered persons with the Philippine Identification System;⁴¹
 - e. Information gathered for the HIV and AIDS monitoring and evaluation program under RA No. 11166 and all other related health intelligence activities;⁴²

³⁷ 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.

³⁸ 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*; Section 18, *Energy Virtual One-Stop Shop Act* (RA No. 11234); Section 14, *Philippine Energy Research and Policy Institute Act* (RA No. 11572); Section 270, *National Internal Revenue Code* (RA No. 8424, as amended by RA No. 10963); and Section 33, *LPG Industry Regulation Act* (RA No. 11592).

³⁹ 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).

⁴⁰ Section 24(c), *Social Security Act of 1997* (RA No. 1161), as amended by RA No. 8282).

⁴¹ Section 17, *Philippine Identification System Act* (RA No. 11055).

⁴² Section 43, *Philippine HIV and AIDS Policy Act* (RA No. 11166).

- 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;⁴³
- g. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴⁴
- h. Documents submitted through the Government Electronic Procurement System;⁴⁵
- 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*;⁴⁶
- 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;⁴⁷
- 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;⁴⁸
- 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;⁴⁹
- m. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁵⁰
- n. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁵¹

⁴³ 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.

⁴⁴ Section 81, EO No. 226 (s. 1987), as amended.

⁴⁵ Section 9, *Government Procurement Reform Act* (RA No. 9184).

⁴⁶ Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

⁴⁷ Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

⁴⁸ 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).

⁴⁹ Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

⁵⁰ Section 10, *Safeguard Measures Act*.

⁵¹ Section 297 in relation with Section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

- o. Information on registered cultural properties owned by private individuals;⁵²
 - p. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁵³
 - q. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵⁴
 - 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;⁵⁵ 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*.⁵⁶
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 where 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.⁵⁷
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:

⁵² Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

⁵³ CHED Memorandum Order No. 015-13, 28 May 2013.

⁵⁴ 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).

⁵⁵ Section 3, Rule IV, PACC Resolution No. 001, s. 2018 (IRR of the PACC).

⁵⁶ Section 16, *The Anti-Terrorism Act of 2020* (RA No. 11479).

⁵⁷ Section 3(g), Rule IV, Rules on CCESPOE.

- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*,⁵⁸
- b. Matters involved in an Investor-State mediation;⁵⁹
- c. Information and statements made at conciliation proceedings under the *Labor Code*,⁶⁰
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);⁶¹
- 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;⁶²
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;⁶³
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁶⁴
- 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*;⁶⁵
- i. Investigation report and the supervision history of a probationer;⁶⁶
- j. Those matters classified as confidential under the *Anti-Terrorism Act of 2020* and its IRR;⁶⁷

⁵⁸ 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.

⁵⁹ Article 10, International Bar Association Rules for Investor-State Mediation.

⁶⁰ Article 237, *Labor Code*.

⁶¹ Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

⁶² 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.

⁶³ Sections 13.4, 15.4, 29.2 (b), and 64.2 of the *Securities Regulation Code*.

⁶⁴ 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.

⁶⁵ DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

⁶⁶ Section 17, *Probation Law of 1976* [PD No. 968 (s. 1976)].

⁶⁷ 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.

- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶⁸
 - l. Investigation proceedings and records during the preliminary investigation in administrative cases in the civil service;⁶⁹
 - m. 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;⁷⁰ and
 - n. Information on a bank inquiry orders issued by the Court of Appeals, including its contents and its receipt.⁷¹
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*), as amended by RA No. 11521;
 - 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:

⁶⁸ Section 14, Civil Service Commission (CSC) Resolution No. 01-0940.

⁶⁹ Section 21, 2017 Rules on Administrative Cases in the Civil Service, CSC Resolution No. 1701077.

⁷⁰ Section 18, Rule 139-B and Section 24, Rule 130 of the Rules of Court; Section 11 of the Rule on DNA Evidence, A.M. No. 06-11-5-SC; and Section 26 of the Rule on Facilitated Naturalization of Refugees and Stateless Persons, A.M. No. 21-07-22-SC.

⁷¹ Section 16, A.M. No. 21-03-5-CA, *Re: Rule of Procedure in Cases of Bank Inquiry into or Examination of Deposit and Investment Accounts Relating to an Unlawful Activity or a Money Laundering Offense under Republic Act No. 9160, as Amended*.

- (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;⁷²
 - (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);⁷³ 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;⁷⁴
 - c. When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:
 - (1) any purpose contrary to morals or public policy; or
 - (2) any commercial purpose other than by news and communications media for dissemination to the general public;⁷⁵
 - d. Failure to comply with regulations on access of records imposed by the records custodian;⁷⁶
 - e. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁷⁷
 - f. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁷⁸

⁷² 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.

⁷³ Article 7, UNCITRAL Transparency Rules.

⁷⁴ *Senate v. Neri*, *supra*; *Senate v. Ermita*, *supra*.

⁷⁵ Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees*.

⁷⁶ *Braogo v. Ombudsman Martires*, G.R. No. 254516, 02 February 2021.

⁷⁷ *Belgica v. Ochoa*, G.R. No. 208566, 19 November 2013; and *Valmonte v. Belmonte Jr.*, G.R. No. 74930, 13 February 1980, 252 Phil. 264.

⁷⁸ 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; Section X808 of *Bangko Sentral ng Pilipinas Circular No. 706*, s. 2011; 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*

- g. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷⁹ and
- h. Attorney-client privilege existing between government lawyers and their client.⁸⁰

A. Reyes, G.R. No. 163155, 21 July 2006; and Questionnaires in the Professional Regulation Commission test banks, pursuant to *Antolin-Rosero v. Professional Regulation Commission*, G.R. No. 220378, 30 June 2021.

⁷⁹ *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

⁸⁰ Canon 21 of the *Code of Professional Responsibility*.

ANNEX G. No Wrong Door Policy FOI MC No. 21-05



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

FOI-MC No. 21-05

FREEDOM OF INFORMATION MEMORANDUM CIRCULAR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

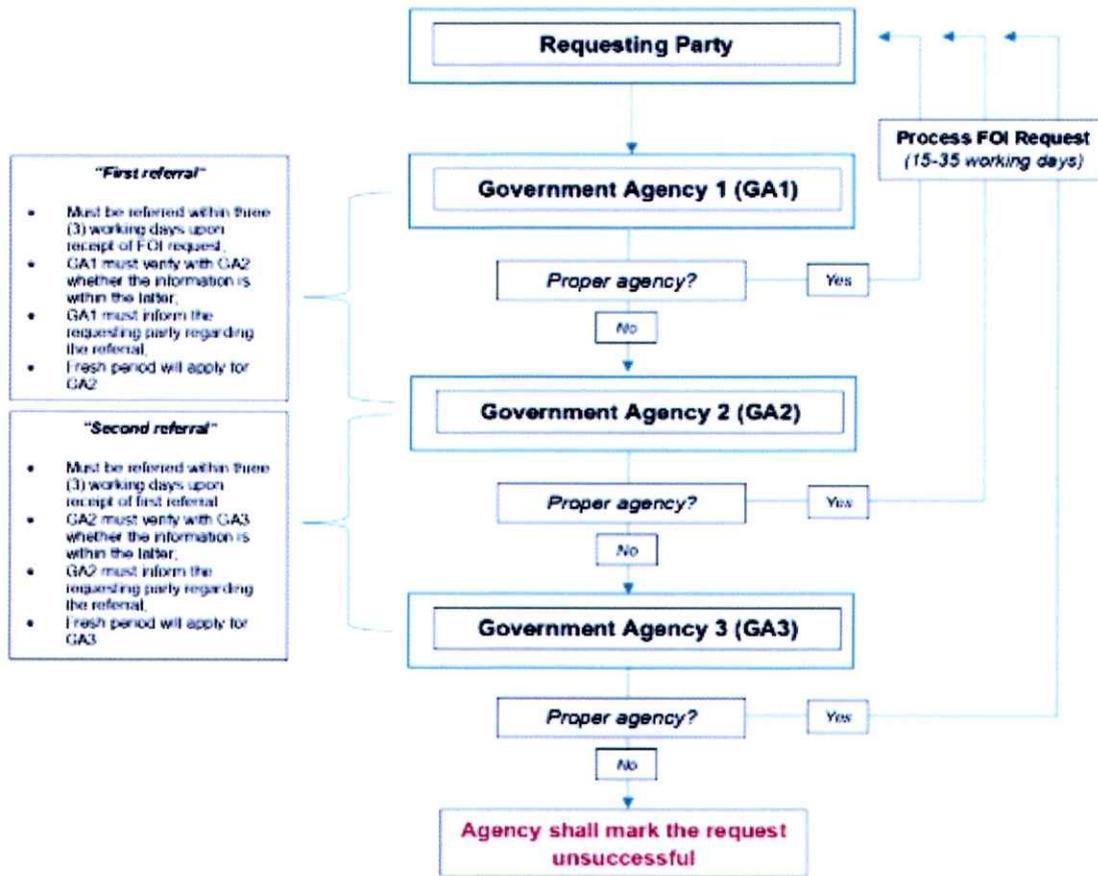
Section 11. Effectivity. This Memorandum Circular shall take effect immediately.

Manila, Philippines, 27th day of August 2021.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

Annex A

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 H: Vexatious Request FOI MC No. 5, s. 2020



REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
Tanggapang Pampanguluhan sa Operasyong Pangkomunikasyon
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;

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WHEREAS, the PCOO 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 PCOO 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 office¹;

- 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 11 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. ANDANAR
Secretary/FOI Champion 

15 December 2020 Manila, Philippines

ANNEX I. Redaction and Extraction FOI MC No. 4, s. 2019



REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
Tanggapang Pampanguluhan sa Operasyong Pangkomunikasyon
Malacanang, Manila

FOI – MC No. 4, s. 2019

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), AND STATE UNIVERSITIES AND COLLEGES (SUCS)**

SUBJECT : **GUIDELINES ON REDACTION AND EXTRACTION OF INFORMATION BEFORE DISCLOSURE TO THE PUBLIC**

WHEREAS, Article II, Section 28 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, Article III, Section 7 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, Executive Order (EO) No. 02, s. 2016 was issued by President Rodrigo R. Duterte on 23 July 2016 to operationalize the constitutional mandate of the people's right to information;

WHEREAS, Memorandum Order (MO) No. 10, s. 2016 designated the PCOO as the lead agency in the implementation of EO No. 2, s. 2016, and all other FOI programs and initiatives including electronic FOI;

WHEREAS, Section 3 of EO No. 02, s. 2016 provides that 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;

WHEREAS, Article II, Section 11 of the 1987 Constitution provides that the State values the dignity of every human person and guarantees full respect for human rights;

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WHEREAS, Section 2 of RA No. 10173 or the Data Privacy Act of 2012, provides that it is the policy of the State to protect the fundamental human right of privacy, of communication while ensuring free flow of information to promote innovation and growth. The State recognizes the vital role of information and communications technology in nation-building and its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are secured and protected;

WHEREAS, pursuant to National Privacy Commission (NPC) Advisory No. 2017-02, disclosure of Personal Data Sheet (PDS) shall only be allowed when permitted by law. Information in the PDS that relate to the position or function of a government official or employee shall be disclosed. Sensitive Personal Information¹ may only be disclosed if necessary to the declared, specified, and legitimate purpose of the requesting party. Information not necessary to be disclosed or prohibited to be disclosed under existing laws, rules and regulations, shall be redacted before release of information to the requesting party;

WHEREAS, there is a need to guide the information officers of the government agencies in disclosing information through FOI requests to avoid violation of the Data Privacy Act, Code of Conduct and Ethical Standards for Public Officials and Employees, privacy rights of individuals and existing laws, rules and regulations with respect to protection of personal information and disclosure of information;

NOW, THEREFORE, in consideration of the foregoing, this Memorandum Circular (MC) is issued to provide guidelines on how to balance the disclosure of information with the protection of personal information when a document will be disclosed under the Freedom of Information Program in the Executive Branch pursuant to EO No. 2, s. 2016.

SECTION 1. DEFINITION OF TERMS. The following shall be defined as follows:

- a. **FOI officers** – individuals designated as FOI receiving officers and shall include the decision maker/s of an agency.

¹ Section 3 (l) of RA No. 10173, provides that sensitive personal information refers to 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.

- b. **Mosaic Effect** – This occurs when the information in an individual dataset, in isolation, may not pose a risk identifying an individual, but when combined with other information, could pose such risk (*US Department of Labor, Open Data Policy*).

Further, when disparate pieces of information—although individually of limited use—become significant when combined with other types of information (*Yale Law Journal, David E. Pozen, 2005*). Applied to public use data, the concept of a mosaic effect suggests that even anonymized data, which may seem innocuous in isolation, may become vulnerable to re-identification if enough datasets containing similar or complementary information are released.

- c. **Sensitive Personal Information** - Section 3 (l) of RA No. 10173, provides that sensitive personal information refers to personal information:

- i. About an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
- ii. 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;
- iii. 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
- iv. Specifically established by an executive order or an act of Congress to be kept classified.

Sensitive Personal Information may only be disclosed, if necessary, to the declared, specified, and legitimate purpose of the requesting party. Information not necessary to be disclosed or prohibited to be disclosed under existing laws, rules and regulations, shall be redacted before release of information to the requesting party.

SECTION 2. SCOPE. This Circular 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 Circular.

SECTION 3. REDACTION OF INFORMATION THAT ARE INCLUDED IN THE LIST OF EXCEPTIONS. All information under the inventory of

exceptions, pursuant to EO No. 2, s. 2016, which are included in the document to be released shall be redacted.

SECTION 4. MANNER OF REDACTING. Redactions can be made to physical documents using redaction tape or a black marker pen. After the concerned information has been redacted from the physical document, it must be scanned and checked to ensure all the redacted information is unreadable.

In redacting a digital document, the rule is to ensure that sensitive information is not just visually hidden or made illegible, but is actually deleted from the source file. In some documents, deleting sections can cause an undesirable reflow of text and graphics. Redactions made to digital documents can in some circumstances be reversed, therefore an edited version of an electronic document must never be released.

The information officer redacting a digital document shall ensure that the redacted information can never be recovered by the requesting party by using pertinent application tools.

SECTION 5. EXTRACTION OF INFORMATION. Information extraction is the process of separating/isolating specific information from a set of data. As an alternative to redaction, where a document or file contain information which are included in the inventory of exceptions and a part or parts thereof are disclosable to the public, and redaction is deemed difficult, the information shall be extracted by reproducing it in a separate file or by photocopying a part or parts of a set of data.

SECTION 6. RESPONSIBILITIES OF THE FREEDOM OF INFORMATION OFFICER. The following are the responsibilities of FOI officers:

- a. Evaluate the request received, ensuring that the request has a declared, specified, and legitimate purpose not contrary to morals or public policy.
- b. Consider the mosaic effect of data aggregation. It is the responsibility of each information officer to perform the necessary analysis to determine whether some combination of existing data and the data intended to be disclosed could allow for the identification of an individual or pose a security concern, otherwise, such data should be redacted before disclosure;
- c. Before the redacted government information, official records, and public records are released, the FOI officers shall require the requesting party to sign a written undertaking that he or she shall not share nor disclose the information obtained through the FOI Program to any other person or entity, or use the information obtained in a manner that is not in accordance with the purpose stated in the request.

Failure of the requesting party to comply with the undertaking may be a ground to refuse any future requests or open the requesting party to criminal prosecutions under existing laws; and

- d. Any other responsibilities as may be deemed necessary in accordance with this Circular.

SECTION 7. SEPARABILITY CLAUSE. If any provisions or sections of this Circular are declared unconstitutional, void or in contravention of any existing laws, rules and regulations, the remaining portions or provisions hereof shall continue to be valid and effective.

SECTION 8. EFFECTIVITY. This Circular shall take effect immediately.

SECTION 9. COMPLIANCE. For your guidance and strict compliance.



JOSE RUPERTO MARTIN M. ANDANAR
Secretary & FOI Champion

28 September 2019 Manila, Philippines.