



NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY

AGENCY'S FREEDOM OF INFORMATION (FOI) MANUAL





REPUBLIC OF THE PHILIPPINES
NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY

Office Circular No. **05-2023**
4 August 2023

TO : ALL CONCERNED

SUBJECT : REVISED NEDA FREEDOM OF INFORMATION (FOI) GUIDELINES

I. RATIONALE AND LEGAL BASES

In accordance with Executive Order (EO) No. 02, s. 2016, titled "Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor", the National Economic and Development Authority (NEDA) Office Circular No. 06-2016, dated 25 November 2016, which outlines the NEDA Freedom of Information (FOI) Guidelines, is hereby amended to incorporate the Updated Inventory of Exceptions under Memorandum Circular (MC) No. 15, s. 2023, issued on 17 March 2023.

II. OBJECTIVES

Following guidance from the Presidential Communications Office (PCO) through the FOI-Project Management Office (FOI-PMO), this Office Circular provides the **NEDA FOI People's Manual** (*attached*). The manual serves to provide guidelines for NEDA's clients and the general public when requesting information from the NEDA Central Office and Regional Offices.

Likewise, to ensure consistency in handling information requests from the general public, the NEDA Central Office and Regional Offices shall follow the guidelines outlined in the **NEDA FOI Agency Manual** (*attached*).

III. EFFECTIVITY

These FOI Manuals may be amended, revised, supplemented, or modified as deemed necessary and appropriate by the NEDA.

This Office Circular shall take effect immediately. For strict compliance.


ARSENIO M. BALISACAN, PhD
Secretary

OSEC-12456



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Section 1: OVERVIEW

I. Purpose

This Agency's Freedom of Information (FOI) Manual is published to provide guidance on the rules and procedures governing the processing of requests for information/documents/records received by the National Economic and Development Authority (NEDA) pursuant to [Executive Order \(EO\) No. 2, series of 2016 \(Annex A\)](#).

This Manual amends NEDA Office Circular No. 06-2016 dated 25 November 2016.

II. Coverage

This Manual shall cover all requests for information/documents/records directed to the NEDA Central Office (NCO) and the NEDA Regional Offices (NROs).

The Regional Development Council (RDC) may prepare its own guidelines on the classification and release of its documents. In the absence thereof, the RDC Secretariat shall be guided by this Manual in handling requests for copies of RDC documents under their custody.

III. Exceptions

Pursuant to [Memorandum Circular \(MC\) No. 15, s. 2023 \(Annex B\) issued on March 17, 2023](#), the following are the exceptions to the right of access to information, as recognized by the 1987 Philippine Constitution, existing laws, and jurisprudence:

1. Information covered by Executive privilege;
2. Privileged information relating to national security, defense, or international relations;
3. Information concerning law enforcement and protection of public and personal safety;
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or 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



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9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

IV. **Policy Statement**

NEDA provides strategic directions to guide the government, the private sector, and the civil society in the preparation of development policies and plans to attain sustainable economic growth with equitable distribution of wealth. NEDA should provide complete, timely, transparent, consistent and credible documents to afford the right of the public to information.

In view thereof, NEDA Office Circular (OC) No. 06-2016, dated 25 November 2016, is hereby amended to define the balance between the need to grant the public maximum access to documents of public interest in the possession of NEDA and the agency's obligation to ensure the accuracy and integrity of the documents, safeguard the deliberative process, and promptly respond to requests without hampering normal operations.

Section 2: DEFINITION OF TERMS

- a. **Administrative FOI appeal.** An independent review of the initial recommendation made in response to an information request received by NEDA. Requesting parties who are not satisfied with the response to their request have the right to appeal the initial determination to the FOI Decision Maker, who will then conduct an independent review thereon.
- b. **Classified documents.** The collective term for top secret, secret, confidential, and/or restricted information/documents/records, including documents listed under the FOI Inventory of Exceptions.
- c. **Custodian.** The Staff or Office that is in possession of or is otherwise charged with the responsibility of safeguarding and accounting for classified and non-classified documents pertaining to a specific sector.
- d. **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.
- e. **eFOI.gov.ph.** The website that serves as the government's comprehensive FOI website for all information on the FOI. Among its many features, eFOI.gov.ph provides a central resource for the public to understand the FOI system and for the public to locate records that are already available online. If the information is not yet publicly available, the website additionally offers guidance on how to request for such information. The eFOI.gov.ph also promotes agency



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accountability for the administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports. This allows for easy comparison of data by agency and over time.

- f. **Exceptions.** Information/documents/records that should not be released and disclosed in response to an FOI request because they are protected by the Constitution, laws, or jurisprudence. The updated list of exceptions is attached as **Annex B**.
- g. **Freedom of Information (FOI).** The right of the people to access information, as recognized by the Executive Branch, on matters of public concern. It involves the full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in EO No. 02, s. 2016.
- h. **FOI Decision Maker (FDM).** The designated officer, formerly referred to as the FOI Clearance Officer, who shall be responsible for the evaluation of FOI requests forwarded by the FOI Receiving Officer. The FDM shall have the authority to grant or deny an FOI request. The FDM shall also be responsible for making the final decision on any dispute or appeal in relation to the FOI request.
- i. **FOI Receiving Officer (FRO).** The designated officer who is authorized to receive, on behalf of NEDA, all requests for information and take appropriate steps in processing the same.
- j. **Information.** Any records, documents, papers, reports, letters, contracts, minutes, and/or 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 any format, whether offline or online, that 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.
- k. **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.
- l. **Open data.** Publicly available data structured in a way that enables the data to be fully discoverable and usable by end users.
- m. **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.



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- n. Public records.** Information required by laws, executive orders, rules, or regulations to be entered, kept, and made publicly available by a government office.
- o. Requesting party.** Any individual or entity, whether a corporation, civil society organization, academic institution, media organization, or any other private organization, who has made an FOI request directed to NEDA.
- p. Sensitive personal information.** As defined in the Data Privacy Act of 2012, shall refer to personal information:
- i. About an individual's race, ethnic origin, marital status, age, color, and/or religious philosophical or political affiliations;
 - ii. About an individual's health, education, genetic or sexual life, or to any proceedings for any offense committed or alleged to have committed by said 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 is not limited to, social security number, 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.

A list of frequently asked questions (FAQs) on NEDA FOI is attached as **Annex C**.



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SECTION 3: PROMOTION OF OPENNESS IN GOVERNMENT

Duty to Publish Information. NEDA shall regularly publish, print, and disseminate, at no cost to the public and in an accessible form, in conjunction with Republic Act (RA) No. 9485 or the Anti-Red Tape Act of 2007, and through their website, timely, true, accurate, and updated key information, including but not limited to:

- a. A description of its mandate, structure, powers, functions, duties, and decision-making processes;
- b. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
- c. The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
- d. Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
- e. Important rules and regulations, orders, or decisions;
- f. Current and important databases and statistics that it generates;
- g. Bidding processes and requirements; and
- h. Mechanisms or procedures through which the public can participate in or influence the formulation of policy or the exercise of its powers.

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

SECTION 4: PROTECTION OF PRIVACY

While providing for access to information, NEDA shall afford full protection of a person's right to privacy and shall ensure that:

- a. Personal information, particularly sensitive personal information, in its custody or under its control is disclosed only as permitted by existing laws;
- b. Personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks, or premature disclosure is protected; and
- c. The FOI Receiving officer, FOI Decision Maker, or any employee or official who has access, whether authorized or unauthorized, to personal information in the custody of NEDA, shall not disclose that information except as authorized by existing laws.



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SECTION 5: CLASSIFICATION OF DOCUMENTS

(See **Annex D** for MC No. 78, s. 1964)

A NEDA document shall be covered under the classification of documents pursuant to **MC No. 78, s. 1964, as amended**. NEDA documents shall be classified as top secret, secret, confidential, restricted, or open and available documents.

- a. **Top Secret** refers to information and material (matter) the unauthorized disclosure of which would cause exceptionally grave damage to the nation, politically, economically, or from a security aspect. This category is reserved for the nation's closest secrets and is to be used with great reserve;
- b. **Secret** refers to information and material (matter) the unauthorized disclosure of which would endanger national security, cause serious injury to the interest or prestige of the nation or of any governmental activity or would be of great advantage to a foreign nation;
- c. **Confidential** refers to information and material (matter) the unauthorized disclosure of which, while not endangering the national security, would be prejudicial to the interest or prestige of the nation or any government activity, or would cause administrative embarrassment or unwarranted injury to an individual or would be of advantage to a foreign nation; and
- d. **Restricted** refers to Information and material (matter) which requires special protection other than that determined to be Top Secret, Secret or Confidential.
- e. **Open and available** or public record refers to information required by laws, executive orders, rules, or regulations to be entered, kept, and made publicly available by a government office which may not be prohibited.

Special provision on non-restricted access.

Members of any NEDA Board Committee and its sub-committees are allowed non-restricted access (*i.e.*, reproduction or transmittal within the Committees) to all memoranda, reports, minutes, proposals, or other documents within the purview of each respective committee and sub-committees.



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Authority to classify, reclassify, and declassify documents.¹

The Secretary, or the duly authorized representative for the NCO and the Regional Director (RD) for the NROs, upon the recommendation of the NCO or NRO FOI Clearance Officer/Decision Maker, shall have the authority to classify, reclassify, and declassify documents.

The Secretary may delegate the authority to classify, reclassify, and declassify documents in writing, and ensure that the authorized representative adheres to this FOI Agency Manual.

Transmission of classified documents

Classified documents for transmission through online systems and applications shall be prepared as follows:

- a. The classified document shall be accompanied by its corresponding cover sheet (Top Secret, Secret, Confidential, or Restricted);
- b. The classified document and its cover sheet shall be encrypted using NEDA authorized and licensed document encryption software;
- c. The passwords or phrases used to access classified information shall consist of at least eight alphanumeric characters, including special characters;
- d. The classified document shall be transmitted through the NEDA official email with end-to-end encryption;
- e. The password for the encrypted classified document should be sent exclusively to the intended recipients, and in a separate email; and
- f. In case of bulk documents, the classified documents should be zipped and encrypted following the aforementioned procedures.

The transmission of documents under the Updated Inventory of Exceptions shall follow the process for their corresponding classification under **MC No. 78, s. 1964**.

Each office, staff, or NRO should establish controls to ensure that classified documents are transmitted under conditions that provide adequate protection and prevent unauthorized access.

Document storage and reproduction

Each office, staff, or NRO shall comply with the storage and reproduction requirements for printed and electronic documents as provided under **MC No. 78, s. 1964**. The FOI Secretariat shall assist the document owner with storage and reproduction concerns.

¹ Section V (24), MC No. 78, s. 1964 – “Confidential Matter.”



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Disposal of classified documents

All classified documents should be disposed of in accordance with pertinent laws and other government issuances. Retention and disposal of classified documents must comply with RA No. 9470 and the National Archives of the Philippines (NAP) Guidelines. Other concerns regarding the disposal of classified documents should be directed to the NEDA Administrative Staff.

SECTION 6: DESIGNATION OF FOI OFFICERS

FOI Receiving Officer

There shall be FOI Receiving Officers designated for the NCO and NROs. The functions of the FROs shall include the following:

- a. Serve as the initial point of contact for the public on matters related to FOI;
- b. Receive, on behalf of NEDA, all requests for information and conduct an initial evaluation upon receipt;
- c. Deny or refuse to accept FOI requests based on the result of its initial evaluation;
- d. Undertake a preliminary determination of the appropriate NEDA Sector Staff that has custody of the requested information and forward the request to such office;
- e. Monitor all FOI requests and ensure that the same are being acted upon within the prescribed timeline;
- f. Compile statistical information on FOI requests and the actions taken thereon;
- g. Provide support and assistance to the requesting party, FDM, and Sector Staff in processing the FOI request; and

The designated FROs shall likewise act as Secretariat of the FOI program in NEDA, with the following additional duties and responsibilities:

- a. Maintain records of request, investigation, and copies of security clearances and relevant documents relevant thereto;
- b. Assist the FDM in the implementation of this Manual;
- c. Review this Manual every six (6) years from the implementation, or as may deemed necessary;
- d. Submit compliance reports to Presidential Communications Office, or its equivalent office, pursuant to FOI-MC No. 22-01 dated May 2, 2022 or its equivalent issuance; and
- e. Act on any other assignments or instructions given by the FDM or the Secretary.



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FOI Decision Maker

There shall be an FOI Decision Maker designated for the NCO with a rank of no lower than a Division Chief or its equivalent. For NROs, the Assistant Regional Director (ARD) or the Officer-In-Charge shall be designated as the FDM.

The FDM shall conduct an evaluation of the request for information and has the authority to grant the request or deny it based on the following:

- i. The NEDA does not have the information requested;
- j. The information requested contains sensitive personal information protected by the Data Privacy Act of 2012;
- k. The information requested falls under the list of exceptions to FOI; or
- l. The request is an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the NEDA.

SECTION 7. STANDARD PROCEDURE

(See **Annex E** for the NEDA FOI Process Flow Chart)

1. Receipt of Request for Information.

1.1 The FOI Receiving Officer (FRO) shall receive the request for information from the requesting party and check compliance with the following requirements:

- The request must be in writing;
- The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization; and
- The request shall reasonably describe the information being requested, and the reason for, or purpose of, the request for information. (See **Annex "E"** for request form).

The request can be made through email, provided that the requesting party attaches a copy of their request letter and a duly-recognized government ID with photo.

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

2. Initial Evaluation.

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



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2.1. Requested information is not in the custody of the Agency or any of its offices:

If the requested information is not in the custody of NEDA or any of its offices, the FRO shall immediately refer the request to the appropriate Agency through the most expeditious manner.

2.2. Requested information is already posted and available online:

Should the information being requested already be posted and publicly available on the official NEDA website and/or social media accounts, data.gov.ph or eFOI.gov.ph, and other online sites/applications, the FRO shall inform the requesting party and provide them with the corresponding link where the information is posted.

2.3 Requested information has already been provided to the media:

Any information disclosed to the media is deemed public. Therefore, the FRO will coordinate with NEDA's Development Information Staff - Public Relations Division in providing the requested information, which may include presentations, speeches, statements, reports, and other related materials to the requestor.

3. Endorsement to Sector Custodian.

If the requested information is classified as Restricted/Confidential/Secret/Top Secret, the FRO shall endorse the request to the NEDA Office or Staff that is responsible for the custody of the said information or document. The FOI Secretariat shall provide assistance to the Sector custodian as they prepare the requested information and its recommendation.

4. Endorsement to FOI Decision Maker

Once finalized, the sector custodian shall submit the requested information to the FOI Secretariat, along with their recommendation on whether or not to release the information to the requestor.

5. Endorsement to the Secretary of NEDA

Upon receipt of the requested information and recommendation from the Sector custodian, the FOI Decision Maker shall prepare a memorandum addressed to the NEDA Secretary stating the background and timeline of the request, a copy of the requested information and its classification, and the sector custodian's recommendation. The draft transmittal letter should also be attached to the memorandum for the Secretary's approval.

6. Transmittal to the requesting party

Should the NEDA Secretary approve the release of the requested information, the FOI Secretariat will transmit the information to the requesting party, following the security measures in transmitting classified documents (*i.e. with cover sheet and password*).



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If the NEDA Secretary denies the release of the requested information, the FOI Secretariat will inform the requesting party that his/her request has been denied, stating the reasons for denial thereof.

7. Request for an Extension of Time

Pursuant to EO No. 02, s. 2016, NEDA must respond to FOI requests within fifteen (15) working days following the date of receipt of the request.

If the requested information requires an extensive search of the government's office records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases, the FRO may request for an extension from the requesting party, setting forth the reasons for such extension.

In no case shall the extension exceed twenty (20) working days in addition to the mandated fifteen (15) working days to act on the request, unless exceptional circumstances warrant a longer period.

SECTION 8. REMEDIES IN CASE OF DENIAL OF REQUEST

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

- a. Denial of a request may be appealed by filing a written appeal to the NEDA FOI Decision Maker 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 NEDA Secretary upon the recommendation of the FDM within thirty (30) working days from the filing of said written appeal. Failure to decide within the 30-day period shall be deemed a denial of the appeal.

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

SECTION 9. NO WRONG DOOR POLICY

*(See **Annex F** for the No Wrong Door Policy)*

In August 2021, the FOI-Project Management Office (FOI-PMO) issued FOI-MC No. 21-05 providing for the Guidelines on the Referral of Requested Information, Official Record/s and Public Record/s to the Appropriate Government Agency, otherwise known as the "No Wrong Door Policy for FOI."



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FOI-MC No. 21-05 sets the guidelines for the referral of any requested information, official record/s, or public record/s to the appropriate government agency by any other government agencies under the Executive Branch. It aims to eliminate denying FOI requests based on the government agency's non-possession of the information.

SECTION 10. INFORMATION REQUESTS OUTSIDE THE SCOPE OF THE FOI PROGRAM

(See **Annex G** for the FOI 2020 Code of Practice)

Pursuant to the FOI 2020 Code of Practice published by the FOI-PMO, if the requested information falls outside the scope of the FOI program, the FOI Secretariat shall advise the requesting party that the information or services may be provided through other platforms and cannot be considered as a valid FOI request.

Front-line/Government services.

This refers to the process or transaction between clients and government offices or agencies involving applications for any privilege, right, permit, reward, license, concession, or modification, renewal, or extension of any of the enumerated applications and/or document requests which are acted upon in the ordinary course of business of NEDA or any of its offices.

Complaints

A complaint lodged in the FOI platform/s shall be forwarded to the appropriate office or unit. This shall not be counted as an FOI request.

SECTION 11. FEES

1. **No Request Fee.** NEDA shall not charge any fees for accepting requests for access to information.
2. **Reasonable Cost of Reproduction, Copying, and/or Delivery of the Information:**
The FRO shall immediately notify the requesting party in case there shall be a reproduction, copying, and/or delivery fee in order to provide the information. Such fee shall be the actual amount spent by NEDA in providing the information to the requesting party.
3. **Exemption from Fees:** NEDA may exempt any requesting party from payment of fees upon request, provided that the agency will state the valid reason why the requesting party should not be required to pay the fee.



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SECTION 12. ADMINISTRATIVE LIABILITY

1. **Non-compliance with FOI.** Failure to comply with the provisions of this Manual shall be grounds for the following administrative penalties:
 - a. First Offense - Reprimand;
 - b. Second Offense - Suspension of one (1) to thirty (30) days; and
 - c. Third Offense - Dismissal from the service.
2. **Procedure.** The Revised Rules on Administrative Cases in the Civil Service (of the Civil Service Commission) 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, rules, or regulations prescribed by any body or agency that provides for more stringent penalties.

SEC. 13. FINAL PROVISIONS

This Agency's FOI Manual amends NEDA OC No. 06-2016 dated November 25, 2016.

This Manual may be amended, revised, supplemented, or modified as may be deemed necessary and appropriate by the Agency.

If any of the provisions of this Manual is declared invalid or unconstitutional, the validity of the remaining provisions hereof shall remain in force and in effect. Nothing in this Manual shall prejudice or constitute a waiver or amendment of NEDA's confidentiality and disclosure obligations.

This Manual shall take effect immediately.

ANNEX C

FREQUENTLY ASKED QUESTIONS (FAQs)

1. What is Freedom of Information or FOI?

The Freedom of Information (FOI) Program 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 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 (EO) No. 2, s. 2016 is the enabling order for FOI. EO 2 operationalizes in the Executive Branch the People's Constitutional right to information. EO 2 also provides the State policies to full public disclosure and transparency in the public service.

EO 2 is an important enabling mechanism to promote transparency in the government's administrative process. Through FOI, citizens are empowered to make a formal request to get information held by the government, barring certain sensitive and important data related to the nation's security. FOI complements continuing proactive information disclosure efforts where agencies are duty-bound to publish information in the spirit of openness and transparency.

3. Who oversees the implementation of EO 2?

The Presidential Communications Officer (PCO) oversees the implementation and operationalization of the FOI Program.

4. Who is the NEDA FOI Secretariat?

The NEDA FOI Secretariat is lodged at the Development Sector Staff (DIS).

5. Where can I send my FOI request?

You may email foi@neda.gov.ph to send your request to NEDA. You may also make a request through the eFOI platform by using this link: <https://www.foi.gov.ph/requests/new?agency=NEDA>.

For other inquiries, you may reach the NEDA FOI Secretariat through 8631-0945 local 103.

6. Who can make an FOI request?

Any Filipino citizen can make an FOI Request. As a matter of policy, requestors are required to present proof of identification.

7. What information can I ask for through FOI?

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.

For efficient processing of requests, please make your request specific and provide the purpose of the request.

8. How do I make an FOI request?

The requestor may send their request through the eFOI platform, through email, letter, or walk-in. You may refer to the NEDA FOI People's Manual for more information.

9. 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 costs of printing, delivery, reproduction and/or photocopying.

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

You will receive a response either granting or denying your request. If the request is granted, you can expect to receive the documents as an attachment, through the eFOI portal, email, or be requested to collect the documents at the agency you had applied to. If the request is denied, the agency will give an explanation on the denial.

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

The standard processing time is 15 working days. However, in some instances, an agency may need more time to review your request and thereby extend the processing time. Under such circumstances, an agency will inform you of an extension, which shall not be longer than 20 working days.

12. Can I have my request expedited?

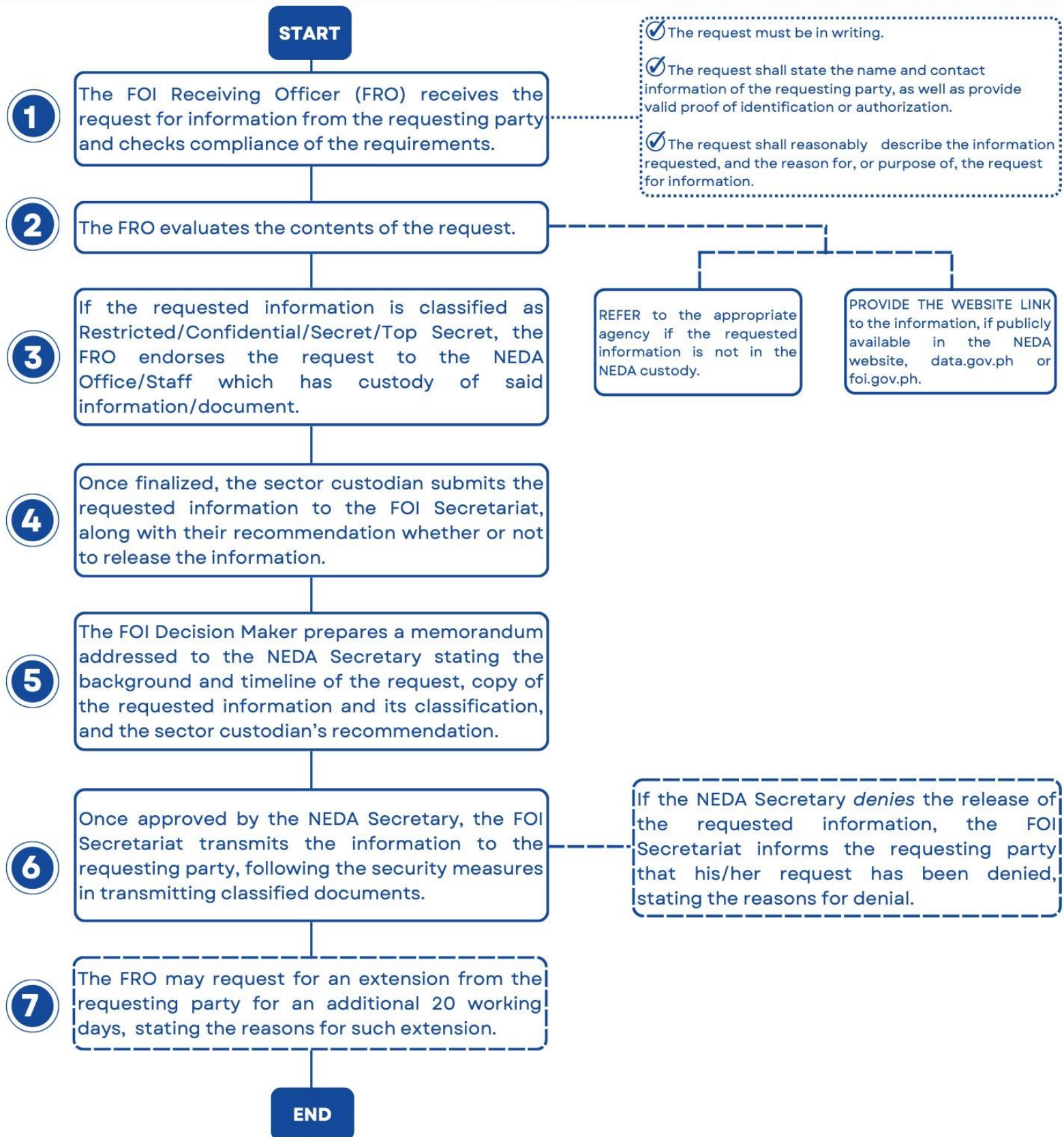
There is no process by which requests can be expedited. All requests will be reviewed equally on a case-by-case basis and allotted the 15 working-day processing period from the time of receipt.

13. What if I am not satisfied with how the Agency handled my FOI request?

If you are not satisfied with the response, you may write an appeal letter to the person or office next higher in authority (or based on the appeals mechanism published on the FOI manual of the agency) within 15 calendar days from the receipt of such response. The appeal shall be decided within 30 working days by said person or office next higher in authority.

If all administrative remedies are exhausted and no resolution is provided, you may file the appropriate case in the proper courts in accordance with the Rules of Court.

FREEDOM OF INFORMATION PROCESS FLOWCHART



Annex H: FOI Champion and Decision Makers for National Economic and Development Authority (Central Office)

	Name/Position	Location	Contact Details
FOI Champion	ARSENIO M. BALISCAN Secretary National Economic and Development Authority (NEDA)	Office of the Secretary No. 12 St. Josemaria Escriva Drive, Ortigas Center, Pasig City, 1605 Philippines	Tel: (+632) 8631-09-45 to 68 foi@neda.gov.ph
FOI Decision Maker	FRANCES FATIMA M. CABANA OIC-Director IV	Development Information Staff (DIS) No. 12 St. Josemaria Escriva Drive, Ortigas Center, Pasig City, 1605 Philippines	Tel: (+632) 8631-09-45 to 68 foi@neda.gov.ph
FOI Receiving Officer/s	CATHERINE N. NANTA Information Officer III LIEZEL M. ALDIANO Information Officer II	Development Information Staff (DIS) No. 12 St. Josemaria Escriva Drive, Ortigas Center, Pasig City, 1605 Philippines	Tel: (+632) 8631-09-45 to 68 foi@neda.gov.ph



REPUBLIC OF THE PHILIPPINES

NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY

Special Order No. 76-A - 2021

Date: 12 November 2021

TO: ALL CONCERNED

SUBJECT: AMENDMENT TO THE NEDA FREEDOM OF INFORMATION (FOI) CLEARANCE OFFICERS IN THE REGIONAL OFFICES

1. Item No. 1 of Special Order (SO) No. 76-2021 dated 19 February 2021 is hereby amended, designating the Assistant Regional Director (ARD) or the Officer-in-Charge (OIC)-ARD of each NEDA Regional Office as the Freedom of Information (FOI) Clearance Officer (CO). This is in accordance with Section 2.3 Title II of the NEDA FOI Guidelines, stating that each NRO shall have a CO.

In the event that there is no full-fledged ARD or OIC-ARD, or such that he/she occupies a plantilla position that is lower than SG 25, the Regional Director (RD) or the OIC-RD shall be designated as CO, until a qualified ARD/OIC-ARD is available.

2. Further, in case there is a newly designated CO, the NRO shall update the Development Information Staff (DIS), for the reference and guidance of the NEDA Central Office.
3. All other items not amended in SO No. 76-2021 shall remain valid and effective.


KARL KENDRICK T. CHUA
Socioeconomic Planning Secretary



CERTIFIED PHOTOCOPY
11/12/2021
CONSTANTINE R. MAYUGA
Administrative Officer I

AMENDMENT TO THE NEDA FREEDOM OF INFORMATION (FOI) CLEARANCE OFFICERS IN THE REGIONAL OFFICES

Page 1 of 1



REPUBLIC OF THE PHILIPPINES

NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY

SPECIAL ORDER NO. 74 - 2021

19 February 2021

TO : All Concerned

SUBJECT : DESIGNATION OF THE NEDA FREEDOM OF INFORMATION (FOI) CLEARANCE OFFICERS

1. Pursuant to Section 2.3 Title II of the NEDA FOI Guidelines,¹ the following NEDA officials are hereby designated as the NEDA FOI Clearance Officers (COs):

OFFICE	CLEARANCE OFFICERS
Central Office	Director Nerrisa T. Esguerra
NRO I	Regional Director (RD) Nestor G. Rillon
NRO II	Assistant Regional Director (ARD) Ferdinand P. Tumaliuan
NRO III	Officer-in-Charge (OIC)-RD Agustin C. Mendoza
NRO IV-A	ARD Gina T. Gacusan
NRO IV-B	OIC-RD Susan A. Sumbeling
NRO V	ARD Edna Cynthia S. Berces
NRO VI	ARD Arcio A. Casing, Jr.
NRO VII	RD Efren B. Carreon
NRO VIII	RD Bonifacio G. Uy
NRO IX	OIC-RD Phlorita A. Ridao
NRO X	RD Mylah Faye Aurora B. Cariño
NRO XI	RD Ma. Lourdes D. Lim
NRO XII	RD Teresita Socorro C. Ramos
NRO CARAGA	RD Priscilla R. Sonido
NRO CAR	RD Milagros A. Rimando

¹ NEDA Office Circular No. 06-2016, 25 November 2016.

DESIGNATION OF THE NEDA FREEDOM OF INFORMATION (FOI) CLEARANCE OFFICERS

Page 1 of 3

2. In the event of separation from the service (*i.e.*, resignation, retirement, re-assignment, or detail) of the above designated COs, the following shall automatically be designated as COs:

For the Central Office:	<ul style="list-style-type: none">• Development Information Staff (DIS) Director or OIC-Director with a permanent status of appointment and a plantilla position not lower than SG 25
For the NEDA Regional Offices:	<ul style="list-style-type: none">• ARD or OIC-ARD with a permanent status of appointment and a plantilla position not lower than SG 25• In case there is no full-fledged ARD and the OIC-ARD occupies a plantilla position lower than SG 25, the RD or OIC-RD shall be designated as the CO.

3. Under Section 2.3.1, Title II of the NEDA FOI Guidelines, the duties and responsibilities of the COs shall include, but are not limited to, the following:
- a. Implement the security clearance procedure;
 - b. Act as security adviser to the Secretary;
 - c. Check records and conduct background investigation of personnel with the assistance of the Administrative Staff (AS), prior to the issuance of an Interim Security Clearance for personnel with access to classified documents at appropriate levels;
 - d. Recommend to the Secretary the issuance of an Interim Security Clearance, as well as the appropriate punishment/penalties for violations of the NEDA FOI Guidelines;
 - e. Maintain records of investigation, copies of security clearances, and other documents relevant to the issuance of such clearances;
 - f. Ensure that personnel granted security clearances have appropriate training on security awareness in coordination with concerned agencies involved in the conduct of such training;

- g. Act as contact person of the agency to National Security Adviser/Office of the National Security Director-General (ONSA/ONSDG) and NICA on matters of security;
- h. Confirm the appropriateness of the classification of NEDA documents, as well as reclassification and/or declassification of documents, in accordance with the NEDA FOI Guidelines, upon recommendation of the authorized official of the respective source Staff; and
- i. Assist the Office of the Secretary in all matters arising under NEDA FOI Guidelines and recommend the release of documents to external stakeholders.

For implementation.



KARL KENDRICK T. CHUA

Acting Socioeconomic Planning Secretary





ANNEX A

MALACANAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

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

WHEREAS, pursuant to Section 28, Article I 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.

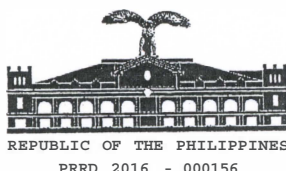
Done, in the City of Manila, this 23rd day of July in the year of our Lord Two Thousand and Sixteen.

By the President:

R Duterte



,C_
SAL DORC.MEDIALDEA
, Executive Secretary



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Office of the President
of the Philippines
Malacañang



MALACAÑANG RECORDS OFFICE

Manila, March 20, 2023

SECRETARY ARSENIO M. BALISACAN
National Economic Development Authority
Pasig City

Sir:

I have the honor to transmit for your information and guidance, a certified copy of Memorandum Circular No. 15 dated March 17, 2023 entitled "**UPDATING THE INVENTORY OF EXCEPTIONS TO THE RIGHT TO ACCESS OF INFORMATION UNDER EXECUTIVE ORDER NO. 02, (S. 2016)**".

Thank you.

Very truly yours,

ATTY. CONCEPCION ZENY E. FERROLINO-ENAD
Director IV

**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;

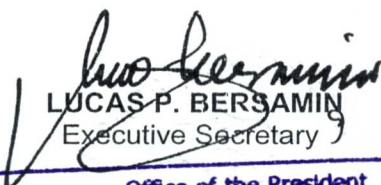
NOW THEREFORE, the attached updated Inventory of Exceptions is hereby circularized for the guidance of all government offices and instrumentalities covered by EO No. 02 and the general public.

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*; *Serenio 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 *Biraogo 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 1989, 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 C

FREQUENTLY ASKED QUESTIONS (FAQs)

1. What is Freedom of Information or FOI?

The Freedom of Information (FOI) Program 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 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 (EO) No. 2, s. 2016 is the enabling order for FOI. EO 2 operationalizes in the Executive Branch the People's Constitutional right to information. EO 2 also provides the State policies to full public disclosure and transparency in the public service.

EO 2 is an important enabling mechanism to promote transparency in the government's administrative process. Through FOI, citizens are empowered to make a formal request to get information held by the government, barring certain sensitive and important data related to the nation's security. FOI complements continuing proactive information disclosure efforts where agencies are duty-bound to publish information in the spirit of openness and transparency.

3. Who oversees the implementation of EO 2?

The Presidential Communications Officer (PCO) oversees the implementation and operationalization of the FOI Program.

4. Who is the NEDA FOI Secretariat?

The NEDA FOI Secretariat is lodged at the Development Sector Staff (DIS).

5. Where can I send my FOI request?

You may email foi@neda.gov.ph to send your request to NEDA. You may also make a request through the eFOI platform by using this link: <https://www.foi.gov.ph/requests/new?agency=NEDA>.

For other inquiries, you may reach the NEDA FOI Secretariat through 8631-0945 local 103.

6. Who can make an FOI request?

Any Filipino citizen can make an FOI Request. As a matter of policy, requestors are required to present proof of identification.

7. What information can I ask for through FOI?

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.

For efficient processing of requests, please make your request specific and provide the purpose of the request.

8. How do I make an FOI request?

The requestor may send their request through the eFOI platform, through email, letter, or walk-in. You may refer to the NEDA FOI People's Manual for more information.

9. 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 costs of printing, delivery, reproduction and/or photocopying.

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

You will receive a response either granting or denying your request. If the request is granted, you can expect to receive the documents as an attachment, through the eFOI portal, email, or be requested to collect the documents at the agency you had applied to. If the request is denied, the agency will give an explanation on the denial.

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

The standard processing time is 15 working days. However, in some instances, an agency may need more time to review your request and thereby extend the processing time. Under such circumstances, an agency will inform you of an extension, which shall not be longer than 20 working days.

12. Can I have my request expedited?

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

13. What if I am not satisfied with how the Agency handled my FOI request?

If you are not satisfied with the response, you may write an appeal letter to the person or office next higher in authority (or based on the appeals mechanism published on the FOI manual of the agency) within 15 calendar days from the receipt of such response. The appeal shall be decided within 30 working days by said person or office next higher in authority.

If all administrative remedies are exhausted and no resolution is provided, you may file the appropriate case in the proper courts in accordance with the Rules of Court.

OFFICE OF THE PRESIDENT
OF THE PHILIPPINES

MEMORANDUM CIRCULAR NO. 78

PROMULGATING RULES GOVERNING SECURITY OF CLASSIFIED MATTER IN
GOVERNMENT OFFICES.

The following regulations entitled "SECURITY OF CLASSIFIED MATTER IN GOVERNMENT DEPARTMENTS AND INSTRUMENTALITIES" for safeguarding official matters affecting the national security, to be enforced and observed in all departments, bureaus, offices and agencies of the government in all national, provincial, municipal and city levels, are hereby promulgated:

SECURITY OF CLASSIFIED MATTER IN
GOVERNMENT DEPARTMENTS & INSTRUMENTALITIES

Section I

GENERAL

1. Classification categories. -

a. Official matter which requires protection in the interest of national security shall be limited to four categories of classification which, in descending order of importance, shall carry one of the following designations:

- (1) TOP SECRET
- (2) SECRET
- (3) CONFIDENTIAL
- (4) RESTRICTED

b. The classifications mentioned in sub-paragraph a above shall not be attached to a matter which does not involve the national security or which does not relate to any one of those specifically enumerated in paragraphs 4, 11, 17, and 23, below.

2. Definition of terms. -

a. The term "Department" is used to cover any Philippine Government Department, Service, or Instrumentality.

b. The term "matter" includes everything, regardless of its physical character, on or in which information is recorded or embodied. Documents, equipment, projects, books, reports, articles, notes, letters, drawings, sketches, plans, photographs, recordings, machinery, models, apparatus, devices, and all other products or substances fall within the general term "matter". Information which is transmitted orally is considered as "matter" for purposes of security.

c. The term "officer" includes any Government or Armed Forces official or officer permanently or temporarily employed in a Department as defined in a.

d. The term "document" covers any form of recorded information, including printed, written, drawn or painted matter, sound recordings, photographs, films, etc. "Documents" are included in "matter".

e. The term "equipment" includes machinery, apparatus, devices, supplies, ammunition, etc.

f. "Security Clearance" is the certification by a responsible authority that the person described is cleared for access to classified matter at the appropriate level.

g. The term "need to know" is the principle whereby access to classified matter may only be given to those persons to whom it is necessary for the fulfillment of their duties. Persons are not to have access to classified matter solely by virtue of their status.

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h. The term "custodian" is an individual who has possession of or is otherwise charged with the responsibility for safeguarding and accounting of classified material.

i. "Certificate of Destruction" is the certification by a witnessing officer that the classified matter described therein has been disposed of, in his presence, by approved destruction methods (ANNEX A).

j. The term "physical security" is the safeguarding by physical means, such as guards, fire protection measures and other similar means, of information, personnel, property, utilities, facilities and installations against compromise, trespass, sabotage, pilferage, theft, espionage or any other dishonest or criminal act.

3. Security Officers. - A properly trained and cleared Security Officer shall be appointed in every Department of the Government which handles classified matter. He shall undergo training to be conducted by the National Intelligence Coordinating Agency or Armed Forces of the Philippines intelligence agencies. He shall be responsible to the Head of the Department for the implementation and enforcement of these regulations and the necessary action on breaches of security. Before appointment as a Security Officer, an officer must first be cleared by the Head of the Department for access to the highest classified matter the Department is authorized to handle. In providing this clearance, the Head of the Department may coordinate with the National Intelligence Coordinating Agency or the Department of National Defense.

Section II

TOP SECRET MATTER

4. Definition. - Information and material (matter) the unauthorized disclosure of which would cause exceptionally grave damage to the nation, politically, economically, or from a security aspect. This category is reserved for the nation's closest secrets and is to be used with great reserve.

Examples:

a. Very important political documents dealing with such matters as negotiations for major alliances.

b. Major governmental projects such as drastic proposals to adjust the nation's economy (before official publication).

c. Matter relating to new and far reaching experimental, technical and scientific developments in methods of warfare or defense, e.g., vital matter relating to atomic warfare, defense against biological warfare, or matter affecting future operational strategy. A TOP SECRET grading is justified if:

(1) It is likely to influence military strategy materially;

(2) It gives us a prolonged military advantage over other nations;

(3) It is liable to compromise some other project similarly graded.

d. Critical information relating to vital strategic areas and the supply of vital strategic materials.

e. Information which would indicate the capabilities or major successes of our intelligence services or which would imperil secret sources.

f. Critical information about cryptography in so far as it relates to devices and equipment under development.

g. Certain compilations of data or items which individually may be classified SECRET or lower, but which collectively should be put in a higher grade.

5. Classification Authority. -

a. Original classification authority for assignment of TOP SECRET classification rests exclusively with the Head of the Department. This power may, however, be delegated to authorized officers in instances when the necessity for such arises.

b. Derivative classification authority for TOP SECRET classification may be granted those officers who are required to give comments or responses to a communication that necessitates TOP SECRET response.

6. Reproduction. -

a. TOP SECRET matter may be copied, extracted, or reproduced only when the classifying authority has authorized such action. Permission to reproduce shall not extend beyond a specified number of copies which are to be accorded the same treatment as the original. At the time of issuance of any TOP SECRET document, the classifying authority shall insure that each copy of the document contains a notation substantially as follows:

(1) "Reproduction of this document in whole or in part is prohibited except with the permission of the issuing office or higher authority;" or

(2) "Reproduction of paragraph(s) _____ of this document is prohibited except with the permission of the issuing office or higher authority; other paragraphs may be reproduced."

b. The reproduction of TOP SECRET matter shall be carried out under the supervision of an authorized officer. All materials and waste incidental to the reproduction shall be accounted for and disposed of as prescribed in sub-paragraph 10a below.

7. Inventory. - The Head of the Department shall require physical inventory of all TOP SECRET matter in the custody of his Department at least once a year. Appropriate action on custodial deficiencies shall be made.

8. Transmission. -

a. TOP SECRET matter in the clear shall be transmitted

by any of the following means:

- (1) By direct contact of officers concerned.
- (2) By the officially designated courier.
- (3) By accompanied Department of Foreign Affairs diplomatic pouch.

b. TOP SECRET matter shall not be transmitted by mail, express or electrical means, unless in cryptographic form.

9. Storage. - TOP SECRET matter shall be stored -

a. In a safe, steel file cabinet or other steel container equipped with a built-in, three-position, dial-type combination lock which is of such weight, size and construction as to minimize possibility of physical theft or damage by fire or tampering.

b. In a secure room or vault which is approved for such use by the Head concerned and which assures protection comparable to sub-paragraph a above.

10. Destruction. - TOP SECRET matter, which becomes eligible for destruction in accordance with approved schedules, shall be destroyed as prescribed below:

a. Destruction shall be accomplished by burning or pulping by the custodian in the presence of a witnessing officer designated by the responsible Head. Witnessing personnel must have a TOP SECRET clearance.

b. A certificate of destruction shall be prepared and forwarded to the originating office.

Section III

SECRET MATTER

11. Definition. - Information and material (matter) the unauthorized disclosure of which would endanger national security, cause serious injury to the interest or prestige of the nation or of any governmental activity or would be of great advantage to a foreign nation.

Examples:

a. High level directives dealing with important negotiations (as distinct from major negotiations which would be in the TOP SECRET category) with other countries.

b. Proposals for new schemes of governmental or other controls, foreknowledge of which would seriously prejudice their operation.

c. Matter relating to certain new methods of warfare or defense, including scientific and technical developments, not classified as TOP SECRET, e.g., new designs of Service aircraft, guided projectiles, tanks, radar and anti-submarine devices. A SECRET grading is justified if:

- (1) It materially influences a major aspect of military tactics;

(2) It involves a novel principle applicable to existing important projects;

(3) It is sufficiently revolutionary to result in a major advance in existing techniques or in the performance of existing secret weapons;

(4) It is liable to compromise some other projects already so graded.

d. Plans or details of schemes for the defense of areas other than vital strategic areas, including plans or particulars of operations connected with them.

e. Vital military information, including photographs, maps, etc., relating to important defenses, establishments, and installations.

f. Intelligence which is not in the TOP SECRET category but which would reveal a secret source, or the value of which depends upon concealing the fact that we possess it.

g. Cryptographic devices and equipment unless specifically assigned to a lower classification.

h. Certain compilations of data or items which individually may be classified CONFIDENTIAL or lower, but which collectively should be put in a higher grade.

12. Classification Authority. - Same as for TOP SECRET matter.

13. Reproduction. - Same as for TOP SECRET matter.

14. Transmission. - SECRET matter shall be transmitted as indicated below:

a. Between points within the Philippines:

(1) Direct contact of officers concerned.

(2) Electrical means in cryptographic form.

(3) Courier specifically authorized by the transmitting agency.

(4) Philippine registered mail.

b. Between points from within and outside the Philippines and vice-versa, and between points outside the Philippines:

(1) As authorized in sub-paragraphs 14a(1) through (3) above.

(2) Accompanied Department of Foreign Affairs diplomatic pouch.

15. Storage. - SECRET matter shall be stored in a manner authorized for TOP SECRET documents, or in metal file cabinets equipped with a steel lockbar and combination padlock of which the manufacturer's identification numbers have been obliterated. The file cabinets must be of such size, weight, construction or installation so as to minimize the chance of unauthorized physical removal or the possibility of persons gaining

unauthorized access by transferring or manipulation or damage by fire.

16. Destruction. - Same as for TOP SECRET matter except that the witnessing officer need have SECRET clearance only and that no certificate of destruction need be prepared. Only records of destruction shall be maintained.

Section IV

CONFIDENTIAL MATTER

17. Definition. - Information and material (matter) the unauthorized disclosure of which, while not endangering the national security, would be prejudicial to the interest or prestige of the nation or any government activity, or would cause administrative embarrassment or unwarranted injury to an individual or would be of advantage to a foreign nation.

Examples:

a. Plans of Government projects such as land development, hydro-electric schemes, road development, or development of areas.

b. Routine Service reports, e.g., on operations and exercises, which contain information of value but not of vital interest to a foreign power.

c. Routine Intelligence reports.

d. Technical matter not of major importance but which has a distinct military value or requires protection otherwise, e.g., new weapons calculated to influence minor tactics or Service tests of war equipment of a standard pattern. A CONFIDENTIAL grading is justified if:

(1) It is more than a routine modification or logical improvement of existing materials and is sufficiently advanced to result in substantial improvement in the performance of existing CONFIDENTIAL weapons;

(2) It is sufficiently important potentially to make it desirable to postpone knowledge of its value reaching a foreign nation;

(3) It is liable to compromise some other project already so graded.

e. Certain personnel records and staff matters.

f. Certain compilations of data or items which individually may be classified RESTRICTED, or which may be unclassified, but the aggregation of which enhances their security value.

g. Matters, investigations and documents of a personal and disciplinary nature, the knowledge of which is desirable to safeguard for administrative reasons.

h. Identification of personnel being investigated for misconduct, anomaly or fraud prior to the filing of appropriate charges or completion of the findings of boards created for such purpose.

18. Classification Authority. - Any officer is authorized to assign CONFIDENTIAL classification to any matter in the performance of his duties.

19. Reproduction. - The copying, extracting from or reproduction of CONFIDENTIAL matter is authorized except when the originator or higher authority has specifically denied this authority.

20. Transmission. - Same as for SECRET matter.

21. Storage. - Same as for SECRET matter.

22. Destruction. - Same as for SECRET matter except that the presence of a witnessing officer and records of destruction are not required.

Section V

RESTRICTED MATTER

23. Definition. - Information and material (matter) which requires special protection other than that determined to be TOP SECRET, SECRET or CONFIDENTIAL.

Examples:

a. Departmental books of instruction and training and technical documents intended for official use only or not intended for release to the public.

b. Routine information relating to the supply and procurement of military stores.

c. Minor modifications and routine tests of equipment.

d. Certain compilations of data or items which individually may be reclassified but which in the aggregate warrant a classification.

24. Authority to Classify, Reproduction, Dissemination, and Destruction. - Authority to classify shall be the same as for CONFIDENTIAL matter. Reproduction is authorized. Transmission shall be through the normal dissemination system. Destruction shall be the same as for that of CONFIDENTIAL matter.

Section VI

CLASSIFYING AND MARKING

25. General. - The originators of classified matter shall be responsible for its proper classification. Overclassification should be avoided because it prejudices the integrity of the classification system, depreciates the importance of correctly classified matter and creates unnecessary delay, expense and administrative burden.

26. Rules for classification. -

a. Documents shall be classified according to their content.

b. The overall classification of a file or a group of physically connected documents shall be at least as high as that of the highest classified document therein. Pages, paragraphs, sections or components thereof may bear different classifications. Documents separated from the file or group shall be handled in accordance with their individual classifications.

c. Transmittal documents or indorsements which do not contain classified information or which contain information classified lower than that of the preceding element or inclosure shall include a notation for automatic downgrading.

d. Correspondence, indices, receipts, reports of possession, transfer or destruction, catalogs or accession lists shall not be classified if any reference to classified matter does not disclose classified information.

e. Classified matter obtained from other Departments shall retain the same original classification.

f. Classified matter furnished to the Philippine Government by a foreign government or international organization shall be assigned a classification which will assure a degree of protection equivalent to that required by the government or international organization which furnished the classified matter. In addition, any special handling instruction shall be complied with.

27. Classification marking. - Classified matter shall be marked as follows:

a. Unbound documents. - The assigned classification for unbound documents, such as letters, memoranda, reports, telegrams and similar documents, the pages of which are not permanently and securely fastened together, shall be marked or stamped (not typed) conspicuously at the top and bottom of all pages which contain classified information. In marking, stamping, or printing the classification categories, the letters shall be larger than the normal lettering of the rest of the document. Front and back covers, and title pages, when used; first pages; and any routing instructions or other papers of any size which conceal or partially conceal the cover, the title or first page shall bear the marking of the overall classification of the document. Other pages, except pages of messages to be transmitted electrically, shall be marked according to the classification of their own content. A cover shall be marked on its outer surface.

b. Permanently bound documents. - A permanently bound document is defined as one from which the pages cannot be removed without damage or mutilation. The classification of permanently bound documents, such as books or pamphlets shall be conspicuously marked, stamped or printed in letters larger than the normal lettering of the rest of the cover or page; at the top and bottom, on the first and back pages, and on the outside of the back cover.

c. Paragraphs, chapters, or sections. - The classification of a paragraph, chapter or section shall be indicated by including the initial of the appropriate classification in parenthesis at the end of such paragraph, chapter or section. Unclassified parts of classified documents will be marked "(U)".

d. Reproduction. - All copies or reproduction of classified matter shall be marked in the same manner as the original.

e. Photographs, films, and recordings. -

(1) Photographs - Negatives shall be marked with the appropriate classification markings and kept in containers bearing conspicuous classification markings. Roll negatives shall be marked at the beginning and end of each strip. Single negatives shall be marked with the appropriate classification. The top and bottom of each photographic print and the center of the reverse side shall be marked with the appropriate classification.

(2) Motion picture films - Classified motion picture films shall be marked at the beginning and end of each roll and in the title of each film, and shall be kept in containers bearing conspicuous classification markings.

(3) Sound recordings - Classified sound recordings shall be marked on readily observable portions with the appropriate markings, preferably at the beginning and at the end; when stored, the container shall display similar markings. When possible the classification shall be announced at the beginning and end of recordings.

f. Charts, maps, and drawings. - Classified charts, maps and drawings shall carry the classification marking under the legend, title block, or scale in such a manner that it can be reproduced on all copies made therefrom. Such classification shall also be prominently marked at the top and bottom in each instance and, if the document is rolled or folded, on the back in a clearly visible place.

g. Products or substances. - The assigned classification shall be conspicuously marked on classified products or substances and on their containers, if possible. If the article or container cannot be marked or if it is necessary to conceal the classified nature of the material, written notification of the classification shall be furnished the recipients of such products or substances.

h. Unclassified material. - Unclassified material should not be marked UNCLASSIFIED, unless it is essential to convey to a recipient of such material that it has been examined specifically with the view of imposing a classification and that it has been determined to be unclassified.

i. Material disseminated outside the Department. - When classified information is furnished to authorized persons outside the Department, the following notation, in addition to the assigned classification markings, shall be placed on the document, on the material, on its container, or, when as indicated in sub-paragraph g above, marking is impracticable, on the written notification of its assigned classification:

"This material contains information affecting the national security of the Philippines, the transmission or revelation of which in any manner to unauthorized persons is punishable under the Revised Penal Code and the Espionage Act (CA Nr 616)."

28. Additional Markings. -

a. All pages of unbound TOP SECRET and SECRET documents shall be marked with the following: (COPY _____ OF _____ COPIES)
(PAGE _____ OF _____ PAGES)

b. All bound TOP SECRET and SECRET matter shall be marked on the front cover as follows: (COPY _____ OF _____ COPIES,

Section VII

CONTROL OF CLASSIFIED MATTER

29. Custody and accounting of classified matter. - Heads of Departments handling classified matter shall issue orders designating their respective custodians of classified matter. Custodians shall -

a. Store all classified matter.

b. Maintain a registry of classified matter showing all classified matter received and to whom transmitted.

c. Maintain a current roster of persons authorized access to classified matter for each classification in the office.

d. Insure physical security for classified matter.

e. Conduct an inventory of all TOP SECRET matter as specified in paragraph 7.

f. Upon his relief, account for all TOP SECRET and SECRET matter by inventory and transmit the same to his successor.

30. Unauthorized keeping of private records. - All government personnel are prohibited from keeping private records, diaries, or papers containing statements of facts or opinions, either official or personal, concerning matters which are related to or which affect national interest or security. Also prohibited are the collection of souvenirs or obtaining for personal use whatsoever any matter classified in the interest of national security.

31. Dissemination. - Dissemination of classified matter shall be restricted to properly cleared persons whose official duties require knowledge or possession thereof. Responsibility for the determination of "need-to-know" rests upon both each individual, who has possession, knowledge or command control of the information involved, and the recipient.

32. Discussion involving classified matter. -

a. Indiscreet discussions or conversation involving classified matter shall not be engaged in within the presence of or with unauthorized persons.

b. When a lecture, address or informal talk to a group includes classified matter, the speaker shall announce the classification at the beginning and end of the period.

c. All personnel leaving the Government Service shall be warned against unlawful disclosures of classified matter.

33. Disclosure to other Departments of classified information originating from another Department. - Classified matter originating from another Department shall not be disseminated to other Departments without the consent of the originating Department.

34. Release of classified matter outside a Department. -

a. General Policy. - No person in the Government shall convey orally, visually or by written communication any classified matter outside his own Department unless such disclosure has been processed and cleared by the Department Head or his authorized representative.

b. Release of classified matter to Congress. -

(1) Government personnel, when giving oral testimony before Congressional Committees involving classified matter, shall advise the committee of the classification thereof. Government personnel called upon to testify shall obtain necessary and prior instruction from his Department Head concerning disclosure.

(2) When Congressional members visit Government offices, Department Heads are authorized to release classified matter which is deemed an adequate response to an inquiry provided that it is required in the performance of official functions.

c. Disclosure to foreign governments or nationals. - Classified matter may be released to foreign governments or nationals of countries having defense obligations with the Philippines, in accordance with sub-paragraph 34a above. The release shall be made only after assurance by the requesting foreign agency or national that:

(1) Its use shall be solely for the purpose for which the classified matter is requested.

(2) It shall be treated or handled in accordance with the classification categories of the originating office.

(3) Handling shall be made by security-cleared personnel.

(4) Reproduction and dissemination shall not be made without the consent of the Department Head.

d. Disclosure of classified matter for publication. - Classified matter shall be released for public consumption only upon the consent of the Department Head or his authorized representative. However, in instances where there is a demand or need for releasing classified information, extreme care and caution must be exercised to analyze in detail the contents of the classified matter before release. Normally, all information are released through Public Information Officers. Public Information Officers should be assisted in the analysis of classified information by the Security Officer.

e. Disclosure through conferences and meetings. -

(1) Disclosure of classified matter in conferences

and other gatherings which include personnel outside the Department shall be in accordance with sub-paragraph 34a above. In conducting conferences involving classified information, the following data should be requested from each participant:

(a) Name and designation or position of participant.

(b) Address of participant.

(c) Signature of participant.

(2) Physical security of the conference room should be assured. Sponsoring agencies shall observe, among other things, the following:

(a) Arrangements for admission of those persons authorized to attend. All individuals must produce positive identification.

(b) Arrangements for protection of classified matter handled during the meeting.

(c) Control of signal equipment, notes and memoranda.

(d) Provision of adequate guards.

35. Removal of classified matter from offices for official use. -

a. Classified matter shall not be removed from offices for the purpose of working on such matter at night or for other purposes involving personal convenience. When necessity requires such removal, Department Heads through the Security Officer shall insure that adequate controls are established as follows:

(1) An appropriate authority specifically designated by the Department Head shall authorize each removal only after insuring that adequate security for the material can be provided.

(2) Storage safeguards shall be strictly observed.

b. Department Heads shall maintain a temporary record in whatever appropriate form of all classified matter removed from their facilities or installations to insure that they are accounted for.

36. Compromise or loss of classified matter. -

a. Any person who becomes aware of the disclosure, or the possibility of disclosure, of classified matter to any unauthorized person, or the loss of a classified document, shall immediately notify by the fastest means available the:

(1) Security Officer of the Department having primary interest (normally the originator), and the

(2) Department Head of the individual having custody.

b. The Department Head of the individual having custody shall cause an investigation to be made. This

investigation will fix individual responsibility for the compromise or possible compromise of TOP SECRET and SECRET matter and, when it can not be established, will fix responsibility on the appropriate officer who allowed the existence of inadequate or insecure conditions, which led to the compromise or possible compromise. In every case, the Head of the Department concerned shall take positive action to correct deficiencies and prevent recurrences, including appropriate disciplinary action and/or criminal prosecution against responsible individuals.

Section VIII

REGRADING AND DECLASSIFICATION

37. Responsibility for regrading. -

a. Each Department Head shall keep under continuing review all classified information in his custody, or of primary interest to him, and will initiate downgrading or declassifying action as soon as conditions warrant.

b. In obvious cases of overclassification or underclassification, higher authority may adjust the classification without referral to the originator, except to notify the originator of the change of classification. The originator will then take the action specified in paragraph 40.

38. Downgrading or declassification. -

a. Originators or letters of transmittal or other covering documents, classified solely or partially because of classified inclosures, shall place on such documents a notation substantially as follows:

"REGRADED UNCLASSIFIED (or appropriate classification) WHEN SEPARATED FROM CLASSIFIED INCLOSURES."

b. For classification purposes, indorsements and numbered comments or routing slips will be handled as separate documents.

c. Holders of classified matter may downgrade or declassify them when circumstances do not warrant retention in the original classification, provided the consent of the appropriate classification authority has been obtained. The downgrading or declassification of extracts from or paraphrases of classified documents also require the consent of the appropriate classification authority. Material which has been classified by a friendly foreign nation or international organization or another Department of the Philippine Government will be downgraded or declassified only with the consent of the originator.

39. Regrading. - If the recipient of classified matter believes that it has been classified too highly, he may request the originator for its downgrading or declassification. If the recipient of unclassified material believes that it should be classified or if the recipient of classified material believes that its classification is not sufficiently protective, the recipient may request the originator to classify the material or upgrade it.

40. Notification of change of classification. -

a. The official taking action to declassify, downgrade or upgrade classified material shall notify all addressees to whom the material was originally transmitted. Officials providing additional distribution (other than initial) of classified material should notify all recipients to whom the additional distribution was furnished of the regrading action required.

b. When downgrading a document in part, the originating Department shall notify recipients as to the new classification of separate chapters, sections, paragraphs or other appropriate subdivisions.

41. Marking of regraded documents. -

a. Authority annotation - Whenever classified matter is declassified, downgraded or upgraded, each copy of the material shall be marked or stamped on the front cover or on the first page, if the document has no cover, with a notice in the following manner:

(1) REGRADED _____ (enter new classification), BY AUTHORITY OF _____ (enter title or position of official authorized to make the change), BY _____ (enter name, grade and organization of the official making the change), ON _____ (enter the date on which the change was made).

b. Classification markings - Regraded documents and material shall be re-stamped or re-marked (not typed) as prescribed in paragraph 27 above and the old classification markings lined through. If the document is declassified, the classification markings on the outside of the front and back covers, title page and first and back pages of the text should be lined through. Prints of motion picture films shall show regrading or declassification action on leaders attached between the plain leader and first title frame.

c. Documents on file - When classified documents on file can not be immediately regraded for obvious reasons, such as the inability to screen a large volume of files to locate the document, the Department Head concerned may establish a system in which individual documents are regraded when charged out of the file for use or screened for regrading purposes, whichever occurs first. In cases requiring upgrading, material shall be given storage safeguards required by the new classification.

Section IX

TRANSMISSION OF CLASSIFIED MATTER

42. Classified document receipts. -

a. Transmission of TOP SECRET and SECRET documents shall be covered by a receipt system (ANNEX B). Transmission of CONFIDENTIAL documents may be covered by a receipt system when required by the sender.

b. The receipt form will identify the addressor, addressees and the document, but should not contain classified

information. It shall be signed by the recipient and returned to the sender. The name of the recipient shall be printed, stamped or typed on the form.

43. Cover Sheets. - Classified documents shall be covered with cover sheets as follows:

For TOP SECRET (ANNEX C)	- 8" x 13" white paper lined with 1/2" green border.
For SECRET (ANNEX D)	- 8" x 13" white paper lined with 1/2" red border.
For CONFIDENTIAL (ANNEX E)	- 8" x 13" white paper lined with 1/2" blue border.

Security classification and instructions are printed on the front page of the cover sheet. The back page is designed to show a record of transmission of the document it will cover.

a. All classified documents (CONFIDENTIAL and up), from the moment they are initiated, shall be covered by appropriate cover sheets, which shall stay with such documents until both are authorized for destruction.

b. When a TOP SECRET or SECRET document is reproduced, the reproduced copies shall be provided with new cover sheets and the "Record of Transmission" on the back page shall record only those personnel who handled each copy from the moment of its reproduction.

c. Cover sheets prescribed by this Executive Order shall be used only for classified documents transmitted among the various Departments of the National Government.

44. Preparation of classified matter for transmission outside a Department. -

a. Classified documents for transmission by Philippine registered mail or diplomatic pouch shall be prepared as follows:

(1) The documents shall be inclosed in two opaque envelopes or covers.

(2) A receipt shall be inclosed with the document as appropriate.

(3) The inner envelope or cover shall be addressed and sealed with sealing wax. The return address should likewise be written in the inner envelope.

(4) The classification on the front and back of the inner envelope shall be marked in such a way that the markings will be easily seen when the outer cover is removed. Special markings required shall be placed on the front of the inner envelope.

(5) The inner envelope shall be inclosed in the opaque outer envelope or cover. The classification marking of the inner envelope must not be detectable through the outer envelope.

(5) The outer envelope with the inner envelope will then be forwarded. Classification or other special markings shall not appear on the outer envelope.

b. Classified documents for transmission through specifically authorized couriers shall be prepared as follows:

(1) The documents shall be inclosed in an opaque sealed envelope.

(2) The document shall be covered by a receipt as appropriate.

(3) The envelope shall be addressed and provided with a return address. No classification or other markings shall appear on the envelope.

45. Transmission within a Department. - Preparation of classified matter for transmission within a Department shall be governed by regulations issued by the Head of the Department.

Section I

SECURITY OF CONTAINERS

46. Unlocked containers. -

a. Any person finding a container of classified matter unlocked and unattended shall:

(1) Report such fact immediately to the Head of the Department concerned, or to the Security Officer.

(2) Notify the person responsible for the container and its contents.

(3) Lock the container.

b. When notified that a container of classified matter has been found unlocked and unattended, the individual responsible for the container shall check the contents for visible indications of tampering.

c. Persons who find classified matter out of safes and unattended shall immediately report such fact to the Head of the Department or to the Security Officer.

47. Record of locking and unlocking containers. - Officers responsible for TOP SECRET and SECRET matters shall maintain a record of the time and date the container is locked and unlocked.

48. Changing, recording and disseminating container combinations. -

a. Combinations shall be changed at least once every six (6) months and at such other times as deemed appropriate, and at the earliest practicable time following:

(1) The loss or possible compromise of the safe combination.

(2) The discharge, suspension or reassignment of any person having knowledge of the combination.

(3) The receipt of a container.

b. Identification numbers must be obliterated from combination padlocks prior to their use. Three-position dial-type combination padlocks, the combinations of which can be changed in the manner as those of locks built into safes, need not have the manufacturer's identification numbers obliterated.

49. Control of keys. - Keys shall be safeguarded as follows:

a. All keys shall be recorded in a control register and checked periodically.

b. All keys for containers of classified matter when not in use shall be placed in a locked box in the office under the care of a responsible officer.

c. Duplicate keys should be placed in a sealed container and kept in a combination safe.

d. The loss of a key must be reported to the Head of the Department or to the Security Officer.

e. Department Heads shall institute additional measures to safeguard keys appropriate to their respective offices.

Section XI

MISCELLANEOUS

50. Special procedures for safeguarding certain documents from foreign nationals. -

a. Classified information which should be withheld from foreign nationals shall be stamped or marked with a special handling notice as follows:

SPECIAL HANDLING REQUIRED. RELEASE
TO FOREIGN NATIONALS NOT AUTHORIZED EXCEPT
_____ (enter "None" or
name of representatives of foreign nations
specifically authorized to have access to
the document) BY AUTHORITY OF _____
_____ (enter title or position
of official authorized to determine which
foreign nationals may have access to the
document) DATE _____
(enter date).

51. Classified matter in the possession of individuals on travel orders. -

a. An individual on travel orders who is authorized to have in his possession classified matter shall safeguard such matter by one of the following methods:

(1) By contacting and availing of the storage facilities of the nearest respective field or branch office, or Armed Forces installation; or

(2) By keeping the matter under personal physical control at all times.

b. Personnel on travel status shall not carry classified matter across international borders where the classified matter may be liable to scrutiny by customs inspectors or other unauthorized individuals. Such matter should be sent in advance by diplomatic pouch or diplomatic courier only.

52. Emergency destruction. -

a. Plans. - Department Heads shall provide for emergency destruction or safe removal of all classified matter under their jurisdiction should civil disturbances, disaster or enemy action require such action.

b. Aboard airplane or ship. - If a craft carrying classified matter is forced down, stranded or shipwrecked on unfriendly territory or on neutral territory where capture appears imminent or, under any other circumstances where it appears unlikely that the classified matter can properly be protected, such matter shall be destroyed in any manner that will render recognition impossible, preferably by burning.

53. Security of typewriter ribbons. - Cotton, rayon, paper and silk typewriter ribbons are insecure until typed through at least twice. Insecure ribbons shall be appropriately safeguarded if used to type classified information. Nylon ribbons are secure at all times.

54. Classified waste. - Waste, such as preliminary drafts, notes, dictaphone- or other-type recordings, typewriter ribbons, carbon paper, stencils, stenographic notes, carbon plates, exposed film (developed or undeveloped) and similar items containing classified information shall be disposed of in a manner prescribed for similarly classified matter. Certificate of destruction is not required.

55. Supplementary security regulations. - Department Heads shall publish regulations to supplement this Executive Order to include measures appropriate to their respective Departments as indicated herein and to cover the following general subjects or circumstances:

a. Movement control of organic personnel and visitors within their respective jurisdictions.

b. Security arrangements in dealing with government contractors engaged in projects concerning classified matter.

c. Security measures to safeguard classified information transmitted through electronic communication facilities.

Department Heads shall seek the assistance of the Director, National Intelligence Coordinating Agency or of the Secretary of National Defense in preparing the above supplemental regulations.

56. Security Clearance. - The Head of the Department shall be responsible for the issuance of security clearances in his Department. In this regard he may coordinate directly with the National Intelligence Coordinating Agency or the Department of National Defense.


Section XII

ADMINISTRATIVE LIABILITY

57. Any violation of the provisions of these regulations shall be dealt with administratively by proper authorities. Said administrative proceeding shall be without prejudice to any criminal prosecution if the violation constitutes an offense under the provisions of the Revised Penal Code or any other penal law. The unauthorized publication of any classified information shall be deemed a violation of these regulations by the parties responsible therefor.

All executive orders, proclamations or circulars inconsistent herewith are hereby revoked.

By authority of the President:


CALISTO O. ZALDIVAR
Acting Executive Secretary

Manila, August 14, 1964

[illegible]

● ANNEX " 2 "

OFFICIAL RECEIPT FOR CLASSIFIED MATTER

FROM : _____

CONTROL NO. _____
FILE : _____
NO.: _____ of _____ Copies

I acknowledge to have received on this _____ day of _____
196 _____ at _____ Hr the following classified documents:

Brief Description

Classification

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

NOTE : _____

(SIGNATURE)

FULL NAME & DESIGNATION IN PRINT

OFFICE TEL. NO. _____

TOP SECRET

(Unclassified if not covering Top Secret Document)

THIS IS A COVER SHEET

WARNING:

THE UNAUTHORIZED DISCLOSURE OF THE INFORMATION CONTAINED IN ATTACHED DOCUMENT WOULD CAUSE EXCEPTIONALLY GRAVE DAMAGE OR HARMER TO THE NATION, EITHER POLITICALLY, ECONOMICALLY OR FROM A SECURITY OR MILITARY STANDPOINT.

RESPONSIBILITY OF PERSONS HANDLING ATTACHED DOCUMENT(S)

1. Do not leave the document(s) unattended except when properly secured.
2. Transfer the document(s) only to persons who need to know and who possess the required security clearance.
3. Obtain a receipt whenever relinquishing control of the document(s).

STORAGE:

Safe or its approved equivalent

REPRODUCTION:

The document may be copied, extracted or reproduced only when classifying authority has authorized such action. Reproduction should be under the supervision of an authorized officer/official.

DISPOSITION:

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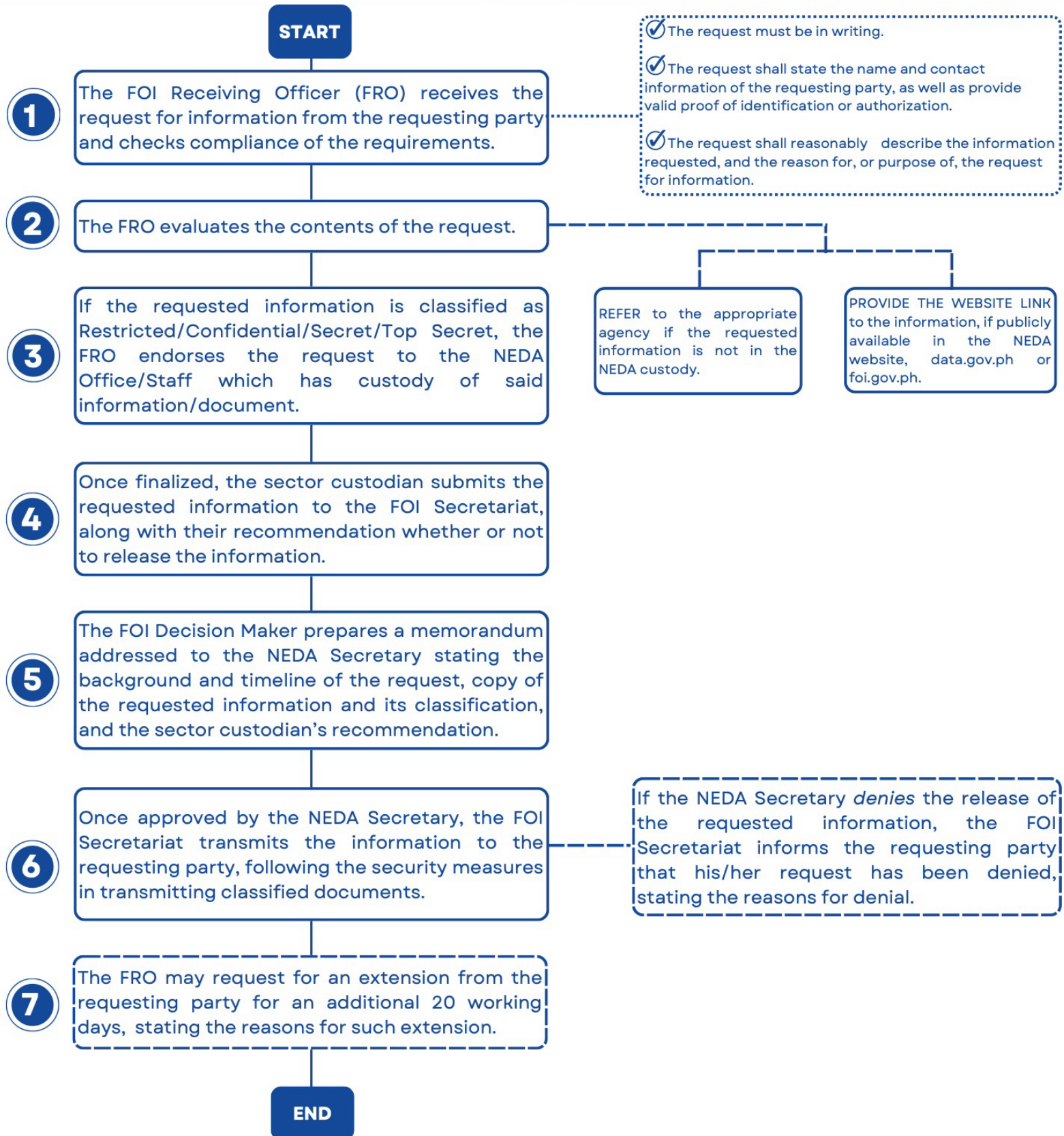
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FREEDOM OF INFORMATION PROCESS FLOWCHART





FOI-MC No. 21-05

**FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

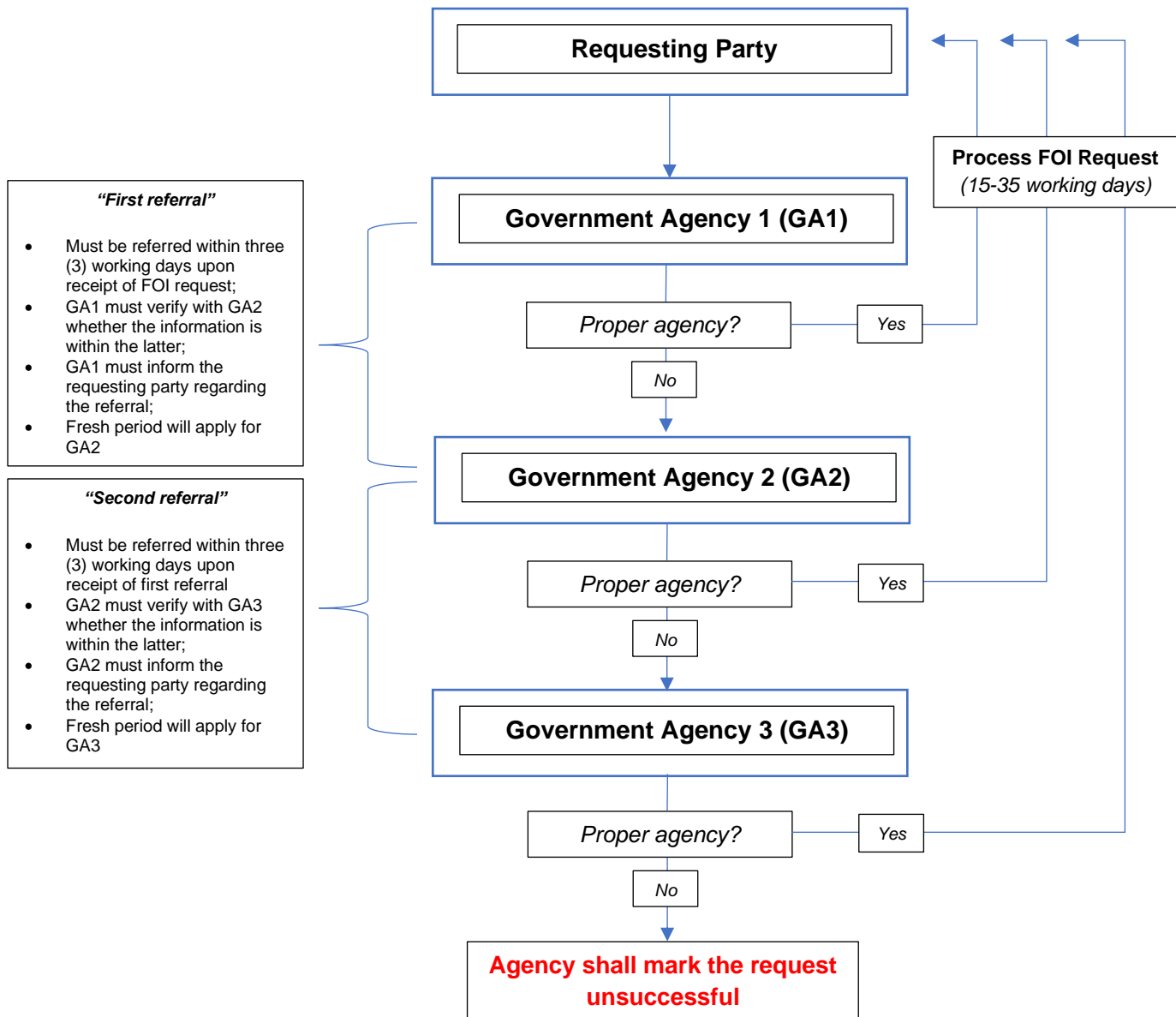
Section 11. Effectivity. This Memorandum Circular shall take effect immediately.

Manila, Philippines, 27th day of August 2021.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

Annex 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.



2020 CODE OF PRACTICE

A COMPILATION OF BEST PRACTICES IN THE
FOI PROGRAM IMPLEMENTATION

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CHAPTER 1

INTRODUCTION

I. FOREWORD

- i. In the Philippine context, the people's right to information is a constitutionally-mandated right enshrined in the Bill of Rights of the 1987 Philippine Constitution. For more than three (3) decades, people have been advocating for a Freedom of Information (FOI) legislation that calls for unfettered access to government documents vested with public interest.
- ii. On 23 July 2016, President Rodrigo Duterte issued Executive Order (EO) No. 2, which operationalizes the people's Constitutional right to information in the Executive Branch. A laudable initiative demonstrating the Duterte administration's commitment to fostering a culture of openness across the government.
- iii. Similarly, the United Nations launched the Sustainable Development Goals (SDGs) back in 2015, which focuses on the 17 key areas that will help achieve a sustainable future for all. In line with this, ensuring public access to information is specifically incorporated under Goal 16 target 10 of the SDGs.
- iv. The Freedom of Information-Project Management Office (FOI-PMO) strongly supports the achievement of the SDGs. It is our vision to cultivate an informed and empowered citizenry through continuously promoting awareness-raising, capacity building, and knowledge sharing on the FOI Program.
- v. The challenge of implementing a new program and embedding a new culture in public governance requires pure dedication, hard work and cooperation. The accomplishment of the FOI Program weaves government agencies to partner and work together for the enhancement of public service in delivering government information. As insularity is never an option for governance, fostering partnerships with agencies has proven to be critical for further realization of our democratic principles.

II. MESSAGE FROM THE FOI CHAMPION



As one of the President's landmark policies, Executive Order (EO) No. 2, series of 2016 became the enabling force for the Freedom of Information (FOI) in the country. The EO is a testament that the present administration is keen on providing the Filipino people access to information.

The Presidential Communications Operations Office (PCOO), through the FOI Project Management Office (FOI-PMO), believes that the Program stands as a beacon of hope for the country as it gradually emerges with better systems fueled by better ideals of transparency, accountability, and open governance. And because we aim for a finer country, we put our best foot forward when it comes to public service delivery.

PCOO being the lead agency for the implementation of the FOI Program has been steadfast in its vocation of operationalizing the people's Constitutional right to information in the Executive branch by religiously conducting capacity building activities and innovating on mechanisms to adapt with recent circumstances, all for the benefit of its stakeholders.

Part of our mandate is to ensure that government agencies are equipped with effective tools and their personnel with apt skills to fulfill their roles as implementers of the Program. And as we move toward institutionalizing the Program, we bring you the 2020 FOI Code of Practice.

We compiled the best practices in the implementation of the FOI Program with the vision of sharing them so that agencies who are administering the FOI service would be guided of their functions and responsibilities and may adopt these in their respective offices.

We have high hopes that this FOI Code of Practice will be useful and insightful to our FOI implementers. We also trust the FOI Code of Practice will help you acclimate to the waves of a budding FOI culture.

As the FOI Champion, I always keep an open mind to new learnings and take wisdom from the simplest of occurrences. As public servants, we may be assigned diverse and distinct functions, but I hope we all see our commonality of being of service to the Filipino people by granting them access to information. May we be inspired to pursue greater endeavors for FOI.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion
Presidential Communications Operations Office

III. MESSAGE FROM THE FOI PROGRAM DIRECTOR

As part of its official mandate, the Freedom of Information - Project Management Office (FOI-PMO) is committed to formulating policies and mechanisms for the effective implementation of the FOI Program. We are keen in adapting to changes and improving our structure to advance our vision for a transparent and accountable governance.

The team has been active in partnering and developing strong relations with the FOI Officers across the Executive Branch. Thus, we conducted numerous training and consultation programs to continually impart our knowledge on FOI Program implementation and be acquainted with their best practices, as well as the challenges that government agencies encounter.



Our four years in FOI have taught us to be attentive and responsive: we put importance in harnessing knowledge from the experiences of our FOI Receiving Officers and Decision Makers in facilitating FOI requests, which serve as our primary reference for program development and policy-making.

The current pandemic made us realize the vulnerability of government service delivery and the need for an inclusive and encompassing FOI policy as a backbone of FOI operations. Hence, we crafted the FOI Code of Practice which serves as a guide for government offices in meeting their FOI responsibilities and sets the standard for efficient facilitation of FOI requests.

The Code of Practice is one of our "future-proofing" efforts to establish easy access to information despite any crisis and changes that we may face. Rest assured that we at FOI will be more assertive in engaging and coordinating with FOI implementers, partners, and stakeholders as we advance our causes for a more transparent and open government.

To conclude, I would like to share the wisdom of former United States President James Madison, which has been our constant guide all these years:

"A popular government without popular information or the means of acquiring it is but a prologue to a farce or a tragedy, or perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives."

A stylized, handwritten signature in white ink, reading "Kristian R. Ablan".

ATTY. KRISTIAN R. ABLAN, CESO II

Assistant Secretary and FOI Program Director
Presidential Communications Operations Office

IV. OBJECTIVES OF THE CODE

- i. By virtue of PCOO's mandate to develop policies, procedures, and regulations necessary to provide the strategic direction in implementing the FOI Program, this Code aims to provide better guidance and support to government agencies to effectively and efficiently implement the FOI Program as a tool for citizen's participation in accessing information. The main objectives of the Code are:
- Institutionalize FOI best practices in government agencies implementing the FOI Program;
 - Guide implementers on their functions and responsibilities under the EO 2, s. 2016;
 - Assess, monitor and inform implementers on their performance and compliance; and
 - Provide a framework for appropriate oversight and accountability of the performance of government offices implementing the Program

V. COVERAGE

All departments, bureaus, offices, and instrumentalities of the Executive Branch including, but not limited to, government-owned or controlled corporations (GOCCs), state universities and colleges (SUCs). Local water districts (LWDs) and local government units (LGUs) are encouraged to be guided by this Code.



VI. SALIENT POINTS OF EO NO. 2, S. 2016

- i. Every Filipino shall have access to information, official records, public records, and documents and papers pertaining to official acts, transactions or decisions, in any format, whether paper-based or digital.
- ii. All government offices under the Executive Branch are included in the scope of EO No. 2, s. 2016, including but not limited to the national government agencies (NGAs) and all its offices, departments, bureaus, and instrumentalities, including government-owned or -controlled corporations (GOCCs), and state universities and colleges (SUCs).
- iii. Government entities outside the Executive Branch (e.g. Judiciary, Legislative, Constitutional Commissions, and Local Government Units) are encouraged to implement the FOI Program within their respective jurisdiction.
- iv. All government offices in the Executive branch are required to prepare their respective People's FOI Manuals and implementing details (Agency FOI Manual) within one hundred twenty (120) days upon issuance of the said EO or on 25 November 2016.
- v. Government offices shall respond, whether approve or deny, to a request within fifteen (15) working days upon receipt of the said request. Resolution of complex requests may be extended for an additional twenty (20) working days.
- vi. 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 is not in the custody of the agency or clearly falls under any of the exceptions listed in the inventory or updated inventory of exceptions. The determination of the applicability of any of the exceptions to the request shall be the responsibility of the FOI Decision Maker or Head of Office which is in custody or control of the information, public record or official record, or the responsible central or field officer duly designated, in writing , by the Head of Office.



- vii.** The Office of the President issued the list of exceptions from the inventory of exceptions submitted by the Department of Justice (DOJ) and the Office of the Solicitor General (OSG), for the guidance of all government offices and instrumentalities covered by EO No. 2, s. 2016 and the general public. Said inventory of exceptions shall be periodically updated, through the Inter-agency FOI Exceptions Committee, to properly reflect any changes in law and jurisprudence.
- viii.** Government offices shall not charge any fee for accepting requests for information. However, a reasonable fee may be imposed to reimburse actual costs of reproduction of the requested information, subject to existing rules and regulations.
- ix.** In case of denial, the requestor may appeal to the person or office next higher in authority or committee within fifteen (15) calendar days from the notice of denial. The appeal shall be decided by the person or office next higher in authority or committee within thirty (30) working days from the filing of said written appeal.
- x.** Failure to comply with EO No. 2, s. 2016 may be a ground for administrative and disciplinary sanctions against any erring public officer or employee.



Freedom of Information
Project Management Office

VII. ROLES OF THE FOI-PROJECT MANAGEMENT OFFICE (FOI-PMO)

- i. To continuously monitor the implementation of EO No. 2, s. 2016 or the FOI Program in the Executive Branch, the Presidential Communications Operations Office (PCOO) was designated as the lead agency, through Memorandum Order (MO) No. 10, s. 2016 issued by the Office of the Executive Secretary on 29 October 2016. As part of its mandate as the lead agency, the PCOO shall (a) oversee implementation of all FOI and e-FOI programs for all government agencies in the Executive Branch and monitor compliance therewith; (b) develop programs and mechanisms to capacitate all government agencies in the Executive Branch, including assisting the Local Government Units in drafting their ordinances in implementing FOI in their respective jurisdictions; and (c) conduct capacity building programs and information education campaigns.
- ii. Subsequently, FOI-PMO was established through PCOO Department Order No. 18 issued on 22 September 2017. The FOI-PMO shall perform all necessary functions to implement the FOI Program with its core values -- Accountability, Transparency, Good Governance, and Citizens Participation.
- iii. On 04 April 2017, Assistant Secretary Michel Kristian R. Ablan was designated as FOI Program Director through PCOO Office Order No. 017.
- iv. The FOI-PMO has three (3) divisions namely, (1) Policy, Planning, and Support Division (PPSD), (2) Compliance Monitoring Division (CMD), and (3) Communications and Capacity Development Division; and one (1) unit under the Program Director, the Strategic Partnership Unit (SPU).



CHAPTER 2

INSTITUTIONALIZATION OF THE BEST PRACTICES IN FOI PROGRAM IMPLEMENTATION

A. KEY FOI OFFICERS

It is essential to have motivated and dedicated key FOI Officers in the implementation of the FOI Program, as they play an important role in maintaining and enhancing the trust and confidence of citizens in the Government.

The FOI Officers must be given appropriate administrative support according to the size of the organization and the volume of requests received. Adequate resources such as financial, infrastructure, and responsible officers are necessary to fully and effectively implement the FOI Program.

1.1. Appointment of FOI Champion. FOI Champion is the Head of Agency.

1.1.1. **Functions.** The following are the functions of the FOI Champion:

- 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/commissions/committees/and task forces dealing with FOI policy matters; and,
- d) Perform other functions as necessary in the exigency of service, determined by the lead agency.

1.2. Designation of FOI Receiving Officer (FRO). There shall be at least one (1) FRO, with a rank of at least Administrative Officer I, designated per government agency. The FRO shall preferably come from the Public Assistance or Information Office, or its equivalent, of the Agency. Local or regional offices of the Agency shall assign their respective FROs.

1.2.1. **Functions.** The functions of the FRO shall include receiving, on behalf of the agency, all requests for information and forward the same to the appropriate office who has custody of the records; monitor all FOI requests and appeals; provide assistance to the FOI Decision Maker; provide assistance and support to the public and staff with regards to FOI; compile statistical information as required (FOI Reports); and, conduct initial evaluation of the request and advise the requesting party whether the request will be forwarded to the FOI Decision Maker for further evaluation, or deny the request based on:

- a) Wrong agency or the information is not within the agency;
- b) Invalid request or not counted as FOI request; and
- c) The request is a subsequent identical or substantially similar request from another requesting party whose request has been previously denied by the Agency.

1.2.2. **Responsibilities.** The FRO is the first point of contact with the public and must liaise effectively and maintain a good and consistent relationship with all concerned parties (i.e., FDM, Appeals Authority/CARC, and FOI-PMO).

1.2.3. **Service standards.** The FRO plays a central role in the implementation of FOI and must ensure that the government agency is guided by good practice and exhibits a commitment to quality service in responding to FOI requests.

1.2.4. **Responding to request.** There is a need to ensure that plain language is used which can be easily understood by the requesting party in responding to FOI requests. The relevant section of the EO or the specific item in the list of exceptions being relied on by FDM shall be cited in the denial of the request. The right to appeal of the requesting party must also be fully explained in the response.

1.2.5. **Contact information.** The FRO should provide their updated official email addresses and phone numbers for ease and convenience of the requesting parties in communicating with the agency.

1.2.6. **Compliance to EO No. 2, s. 2016.** The FRO should advise agency officials and/or the Board of any steps which are necessary to help achieve the overall compliance to the FOI program, including prompt response to requests and timely submission of reports.

1.2.7. **Information available online.** Should the information being requested be already posted and publicly available on the Agency website, data.gov.ph, or foi.gov.ph, the FRO shall inform the requesting party of the said fact and provide them the website link where the information can be accessed.

1.2.8. **Walk-in requester.** In case of a walk-in requester, the FRO shall make a log of the date of the transaction, the title and coverage of the document, and the details of the requesting party. The FRO shall report the said transaction on the FOI registry on the corresponding quarter the transaction was made.

1.2.9. *Reasonable Assistance.* The FRO shall provide reasonable assistance, free of charge, to enable all requesting parties and particularly those with special needs, to comply with the requirements in filing a request.

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

1.2.11. *Pro-active engagement with requesters.* The FRO shall provide reasonable assistance to requesting parties to resolve the FOI requests. FOI officers shall pro-actively assist in clarifying vague requests and referring the requesting party to the proper government agency in case the original request can only be resolved by another government agency.

1.3. FOI Decision Maker (FDM). There shall be an FDM designated by the FOI Champion, with a rank of not lower than a Division Chief or its equivalent.

1.3.1. *Functions.* The functions of the FDM shall include the conduct of an evaluation of the request and shall have the authority to grant or deny the request, based on the following:

- a) The Agency does not have the information requested;
- b) The information requested contain sensitive personal information protected by the Data Privacy Act (DPA) of 2012;
- c) The information requested falls under the list of exceptions; or
- d) The request is identical or substantially similar from the same requesting party whose request has been previously granted or denied by the Agency; or
- e) Vexatious requests.

1.3.2. *Responsibilities.* The FDM is the focal person to provide guidance in implementing the FOI program within his/her office; and should have the ability to provide guidance on, including but not limited to, exceptions, application and clarification on search and retrieval procedures, redaction and extraction of data, and handling of non-traditional requests.

1.3.3. The FDM should report directly to the FOI Champion regularly on the performance of the organization's responsibilities under FOI as set out in the guidelines under this Code.

- 1.3.4. The FDM should maintain up-to-date information on relevant precedents for similar requests received in his or her government office particularly in relation to exceptions applied and including those subsequently confirmed or overturned by decisions of the Appeals Authority and disseminate these amongst FDM.
- 1.3.5. The FRO should develop a strong awareness and knowledge of other existing laws, regulations, and jurisprudence, so as to be in a position to advise the requester if there is a possibility of obtaining access under alternative mechanisms.
- 1.3.6. The FDM must have received at least basic training (or have an adequate level of experience in dealing with FOI requests equivalent to have undertaken basic FOI training) in order to equip them in processing and handling FOI requests. Advance training, where appropriate, is required for FDM who is handling complex requests to have a solid understanding of the application of the exceptions.
- 1.3.7. The FDM should ensure they have good knowledge of the EO and any new guidance in relation to the processing of requests. The FDM shall be up to date on the latest issuances and policies related to the implementation of the FOI program.
- 1.3.8. In addition to the provisions contained in the EO No. 2, s. 2016, the FDMs shall ensure that policies and guidelines are being implemented in their respective agencies.
- 1.3.9. *Engagement with requesters.* The FDM should work proactively with requesters to help them refine requests to ensure requests are specific and targeted, are not voluminous, do not give rise to excessive administrative demands on government offices, and that there is a clear understanding of what information is being requested. The FDM should also have the ability to explain search and retrieval procedures and appeals mechanisms to requesters.
- 1.3.10. *Service delivery / standards.* FDM should ensure they adhere to deadlines and proactively engage with requesters, and consult third parties as necessary, in a timely manner to resolve FOI requests.

1.3.11. The FDM should work collaboratively and cooperatively with FOI officers in dealing with requests, and provide responses, estimates of costs (if applicable) and other assistance, as necessary, on requests that are coordinated by the FRO.

1.3.12. In complex or difficult cases, the FDM should liaise closely with the FRO to identify relevant precedents relating to similar requests received by the body or should consider relevant decisions made by the courts.

1.3.13. In cases where a request involves non-personal records provided by other government offices that may appear in the media once released, it is advisable to contact other government offices to advise them that records are being released so that they may be prepared for any press queries arising from it. It is also advisable for FDM to contact counterparts in other Departments on related requests for advice and to ensure consistency in handling the requests.

1.3.14. The FDM should ensure that all records, including electronic records, that may be relevant to the request are identified and that all staff engaged in the search and retrieval process have a clear understanding of the records that should be extracted for review.

1.4. FOI Alternate. Agencies may create a committee or may designate alternate FROs and/or alternate FDMs. This, in any way, addresses the concern of agencies in instances wherein the permanent FROs or permanent FDMs are on official business or on-leave. The FOI Alternate shall assume the functions and responsibilities of the permanent FRO or FDM.

1.5. FOI Action Officer. Large agencies, such as departments, may designate FOI Action Officer/s or its equivalent, who shall initially evaluate the request (forwarded by the FRO). FOI Action Officer shall assist the FDM by giving initial assessment of the request and by preparing the pertinent documents for the latter's review and approval.

1.6. Central Appeals and Review Committee (CARC)

- 1.6.1. **Purpose.** It is recommended to all implementing agencies to establish their Central Appeals and Review Committee (CARC) who shall be in charge to handle appeals from the denial of a request for information.
- 1.6.2. **Composition.** The CARC shall be composed of at least three (3) senior officers with equal or higher rank to the decision maker. The CARC shall review and analyze the denial of a request for information and provide advice to the head of the agency on granting or denying the request for information.
- 1.6.3. **Alternate to CARC.** If the implementing agency does not establish its CARC or whose decision-maker is the head of the agency, an appeal may be filed to a person or office next higher in authority and shall be called as "FOI Appeals Authority." The FOI Appeals Authority refers to the office or person who decides appeals from the action of the FOI Decision Maker, and has authority to affirm, reverse, or modify such action. It shall have the power to review by appeal the decisions of the FDM and take final action on an FOI request within the agency.
- 1.6.4. **Functions.** Receive, review, evaluate, and assess the appeal on the denial of the request for information; determine if the appeal was filed within the period provided for under EO No. 2, s. 2016; if applicable, recommend to the FDM for actions on the appeal filed by the requesting party; ensure that the appeal is decided within thirty (30) working days from the filing of said appeal; and implement the decision of the CARC or FOI Appeals Authority regarding the appeal.
- 1.6.5. **Benefits.** Provides remedies in cases of denial of request for access to information, wherein denial of any request for information may be appealed to the person or office next higher in authority. It also enhances the capacity of government agencies to comply with the FOI program.



B. POLICY DEVELOPMENT

The guidance provided in this section is additional to that covered in the manuals and is intended to cover new developments pending updating of the manuals.

1.1. Guidelines. FOI Manuals including process flow and processing time, necessary requirements for FOI requests, and name/s of responsible person/s, including their contact details and positions shall be posted on the respective website of the agencies and in a conspicuous place within the office premises. FOI Frequently Asked Questions (FAQs) and a list of exceptions shall be posted on the website or office premises, as well.

1.2. FOI Officers. The name of the designated FOI Receiving Officer/s, office address, official contact numbers, including email addresses shall be posted.

1.3. FOI Request Forms. FOI Request forms shall be available at all times, in paper-based/physical copy in the head office and/or respective regional offices and can be downloaded in the website of respective offices.

1.4. Centralized Platforms. Agencies may receive requests in either of the two (2) platforms: standard paper-based or electronic FOI (eFOI) portal. However, other agencies have the discretion to make their platforms centralized using the eFOI portal only, as long as the agency can provide a place where walk-in requesters can lodge their requests through the online platform. Reasonable assistance to walk-in requesters shall be extended.



C. CONDUCT OF FOI TRAININGS / FOI NETWORKS

- 1.1. Purpose.** To enhance their skill set and knowledge, regular trainings and seminars must be participated by FOI Officers in order to effectively and efficiently fulfill their functions on the process, system, and implementation of the FOI Program.
- 1.2. Content.** The trainings and seminars must cover broad discussion on the procedures, policies, and requirements for FOI Program implementation, including but not limited to, the Data Privacy Act (DPA) of 2012, national security, records management, an work attitude and values enhancement (empathy). It can be conducted, either monthly, quarterly, semestral, or annually, depending on the organizational structure of an office.
- 1.3. Participants.** All FOI Officers must ensure that they have attended trainings and seminars on the FOI Program, either conducted by the Agency or FOI-PMO and must continuously participate in the consultations and meetings conducted by the FOI-PMO. Frontliners, not included in the process flow of FOI Program, may participate at least one (1) training or seminar to be aware of the process in case they encounter an FOI request.
- 1.4. Benefits.** The FOI networks are events and activities that serve as platforms for learning and sharing of best practices among FOI officers. During these events, FOI officers share updates and raise their concerns in the implementation of the FOI program. The FOI networks provide an excellent platform in sharing new learnings, expertise, challenges and assistance in implementing the FOI program. FOI officers are encouraged to participate in relevant FOI networks to realize the benefits of collaboration and coordination with other FOI Officers.





D. KEY ISSUES ON PROCESSING OF REQUEST

On receipt of request by FOI Officer

- 1.1. Written Request.** The requesting party may submit a written request form or log-in through the eFOI portal. The requesting party shall complete the form and include their name and contact information, provide valid proof of identification, reasonably describe the information requested, and the reason for, or purpose of, the request for information.
- 1.2. Standard Requests.** The request can be made through walk-in, email, snail mail and other electronic or paper-based means. In case of a request received through email or any electronic means (other than the eFOI portal), the requesting party shall attach in the said email (or in any electronic means) a scanned copy of the FOI request form, and a copy of a valid proof of identification. Agencies may entertain requests received through telephone calls and social media platforms. However, FRO must instruct the requesting party to comply with the necessary requirements provided under EO No. 2, s. 2016. The 15-working period will commence upon the receipt of the said requirements.
- 1.3. Official electronic mail (email) account.** All FOI Receiving Officers should have an official email where all documents and correspondences should be coursed through. Ideally, this email account can be accessed remotely provided that security and confidentiality measures are in place. In the unavoidable event that only personal email can be used, any official information contained in the communication shall be marked as confidential and for FOI purposes only.
- 1.4. Validity.** The FOI officer should initially evaluate if the request is valid, such as but not limited to the following:
 - the request is made under the EO No. 2, s. 2016;
 - the records sought are likely to be within the custody of the government office;
 - the request is not vexatious; and
 - unreasonable subsequent identical or substantially similar request.
- 1.5. The record does not exist or cannot be found.** If the records sought either do not exist or the records cannot be found upon taking of reasonable steps, the request may be denied. FROs shall review the title and coverage of the requested information and must conduct initial evaluation whether the information can be found in their agency. Otherwise, no need to further ask for other necessary requirements and may deny the

1.6. Information outside the FOI Program. If the information requested falls outside the scope of the FOI Program, the FDM should advise the requester that the information or services may be provided through other platforms and cannot be counted as an FOI request.

- **Front-line/Government services.** This refers to the process or transaction between clients and government offices or agencies involving applications for any privilege, right, permit, reward, license, concession, or for any modification, renewal or extension of the enumerated applications and/or requests which are acted upon in the ordinary course of business of the agency or office concerned.
- **Complaints.** A complaint lodged in the FOI platform/s shall be forwarded to the appropriate office or unit. This shall not be counted as an FOI request.
- **FOI requests lodged outside the FOI portal.** A request for information lodged in the complaint platform/s shall be forwarded accordingly to the FRO or office responsible for receiving requests for information. The transaction under the complaint system shall be closed, while the transaction under the FOI Program shall start, upon the receipt of the FRO or office for receiving requests for information.

1.7. Voluminous Requests. A request should be treated as voluminous under the FOI Program, if it includes requests comprised of more than one subject involving different/unrelated matters. In case of voluminous request, the FDM shall clarify with the requester regarding his/her request, and assist them to simplify the request to be able to process their request properly and promptly.

1.8. Identical or Substantially Similar Requests. The government office shall not be required to act on a subsequent identical or substantially similar request from the same requester or from different requesters whose request has been previously denied by the same government office, the request may be refused.

1.9. Request relating to more than one office under the Agency. If a request for information requires it to be resolved by various offices under one agency or department, the FRO shall forward such request to the offices concerned and ensure that it is well coordinated and monitored. Also, the FRO must make it clear with the concerned FROs of such offices that they should only provide the specific information related to their respective offices. The whole agency must ensure that they respond within fifteen (15) working days as provided under EO No. 2

1.10. Acknowledgement. The FRO shall send an acknowledgement to the requesting party, in case the request for information is valid. The acknowledgement should contain the following details: (a) date of receipt of the request; (b) the date of issuance of the response; and (c) status of the request.

Processing the request

1.11. Awaiting Clarification. Should the requested information need further details to provide full resolution, the FRO shall advise the requesting party and request for the additional information needed to clarify the FOI request. The 15-working day period will commence the day after it receives the required clarification from the requesting party. If no clarification is received from the requesting party after sixty (60) calendar days, the request shall be automatically be considered as closed.

1.12. Request for time extension. If the information requested requires extensive search of the government's office records, examination of voluminous records, the occurrence of fortuitous events or other analogous cases, the FDM should inform the FRO. The FRO shall then inform the requesting party of the extension, setting forth the reasons for such extension in writing. In no case shall the extension exceed twenty (20) working days on top of the mandated fifteen (15) working days to act on the request, unless exceptional circumstances warrant a longer period.

Disclosure of information relating to personal information

1.13. Protection of Privacy. While providing access to information, public records, and official records, responsible officials shall afford full protection to the right to privacy of an individual. Government offices shall ensure that personal information in its custody or under its control is disclosed or released only if it is material or relevant to the subject-matter of the request, and its disclosure is permissible under this order or existing law, rules or regulations.

1.14. If the details about the employee **relates to his or her position or functions** (e.g., a fact that he or she is an officer or employee, his or her title, his or her business address, his or her office telephone number, his or her classification, his or her salary grade, etc.) then these are not protected by the DPA. Thus, they are disclosable.

1.15. Redaction and Extraction. If the FDM considers that any or all of the information sought should not be released in full or in part, the FDM should review guidance available in the inventory of exceptions to the EO and apply them as appropriate. Best practices such as redaction and extraction can be used to balance the disclosure of information with the protection of personal information when a document will be disclosed. Redaction is the process of ensuring that sensitive information is unreadable before disclosing to the requesting party. On the other hand, extraction is the process of separating/isolating specific information from a set of data.

1.16. If the FDM decides to release information which he/she considers may be politically sensitive, he/she should bring this to the attention of the FOI Champion as early as possible.

1.17. Statement of Assets Liabilities and Net Worth (SALN). If a government office receives a request for a copy of SALN, the agency may refer it to the proper repositories of SALN.

Inventory of Exceptions

1.18. Additional list of exceptions. The government agency may propose a list of exempted government information and official documents in addition to the inventor list of exceptions. If the agency considered it as "deemed confidential" (e.g. internal documents), the FOI Decision Maker should submit a letter to the Inter-Agency FOI Exceptions Policy Committee (IA FOI EPC), requesting for inclusion of such information or document in the FOI list of exceptions. The letter should clearly state the basis and justification for the inclusion of said information or document.

Relationship between FOI and DPA

1.19. The implementation of the FOI and Data Privacy Act (DPA) shall complement each other. Though there are a number of differences between the FOI and DPA processes which make it challenging to operate under both policies, the National Privacy Commission and the FOI-PMO shall cooperate, collaborate and provide assistance to each other in the performance of their respective functions.

Vexatious Requests

1.20. The FDM may deny a request if it is determined as vexatious as provided under FOI Memorandum Circular No. 5, s. 2020.

Providing the response

1.21. Notice to the Requesting Party of the Approval/Denial of Request. Once the FDM approved or denied the request, he shall immediately notify the FRO who shall prepare a response to the requesting party either in writing or by email. In responding to the requester, the FDM (or the FOI officer if coordinating the response) should set out clearly:

- As far as practicable, a response to a request for information shall be written in plain and concise language;
- the number and nature of records considered;
- the specific factors were taken into account in making the decision; and
- a schedule should be attached providing details of those records being released in full, of those to which partial access is being given or/and of those being refused and setting out the reasons why access has not been granted in full or in part, and referencing relevant sections of the EO or list of exceptions where refusals/denials are made.

1.22. Partially Successful. If some information being requested is not available, the agency must provide all information that can be disclosed and exhaust all assistance (consultation with other government agencies) to the requesting party and the request shall be marked as partially successful.

1.23. Transferring requests to other government agencies. A government office may refer or transfer the request it received to another government agency, if upon its assessment, the information requested is lodged to the said agency.

1.24. Request for information of an Agency to another government entity. In case where the requesting party is a government office/entity, the request for information, public records and official records related to the official functions and mandate of an agency shall be excluded from the ambit of the FOI Program and may be released in the normal business process of the agency. In addition, information or documents that are not related to the official function and mandate of the requesting agency may undergo the process provided for under the FOI program.

E. MONITORING AND STATISTICS REPORTING

1.1. Recording and Tracking System (RTS). A recording and tracking system (RTS) is maintained to monitor the status of all FOI requests, using the prescribed computer-based (excel) format or similar open and accessible formats.

1.2. FOI Registry and Summary. To facilitate a uniform tracking, monitoring, and evaluation system for FOI program implementation, the FOI Quarterly Registry and Summary sheet is accomplished by FROs. All FOI requests should be logged in to this Excel sheet (the template was provided by the FOI-PMO) and should be updated accordingly. The FOI Registry will be the basis for measuring agency performance and compliance alongside important FOI analytics to assess the initial financial costs of FOI implementation.

The FOI Registry and Summary should provide summary information:

- Date of request;
- Type of request;
- Description of the request (categories of records sought) or link to actual request letter;
- Decision made: whether it was granted in whole or in part, or refused; and
- Date of release.

1.2.1. In calculating the number of days lapsed for FOI requests, the FRO must exclude the date of receipt if it falls on holidays, weekends, and the days where the FOI-PMO announced suspension of the period to resolve FOI requests due to coronavirus disease 2019 (COVID-19) pandemic.

In case the requesting party is unable to acknowledge receipt of response (of the agency) or was not able to claim the requested information, the FRO may discontinue the counting of days until the requesting party received and/or acknowledged receipt of the said information.

1.3. Feedback mechanism. As the government commits for a fast and reliable service delivery, a feedback mechanism shall be established in order to generate valid and consistent feedback from stakeholders, which can be used to initiate strategies that will improve the implementation of the FOI Program in the agency.

F. RECORDS MANAGEMENT

Records management poses a significant challenge for government offices due to the advent and adoption of new information and communication technologies. In particular, there is a lack of clarity and knowledge deficit relating to the management of electronic records. While records management relates to a broader set of corporate responsibilities other than FOI, in order to facilitate the smoother operation of FOI in government offices, there is a compelling need for sound record management practices and systems.

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

1.2. Agency Information Inventory. The Agency Information Inventory is a master list of all government information held by an agency, containing the title, description, and file type of each information.

1.3. In the case where an organization chooses to publish the non-personal records it releases (in whole or in part) in response to the requests it has received, there is a need to ensure that:

- privacy rights are not infringed;
- persons are not subject to commercial disadvantage through the inadvertent release of records;
- exempt information is not published erroneously; and
- records, if any, released under FOI and published should be provided in searchable formats where possible.

G. PUBLICATION SCHEME

1.1. Frequently Requested Information. Information released in response to an FOI request, which the agency determines has become the subject of subsequent requests may be published in their 'Frequently Requested Information' page. This is a list of answers to common FOI questions to an agency.

1.2. Duty to Publish Information. The Agency shall regularly publish, print and disseminate at no cost to the public and in an accessible form, and through their website, specifically under the agency's transparency seal and/or conspicuous places.

H. FOI REQUIREMENTS UNDER THE PERFORMANCE-BASED BONUS

One of the cross-cutting requirements, under the physical targets for the grant of the Performance-Based Bonus (PBB) set by the Inter-Agency Task Force on the Harmonization of National Government Performance Monitoring, Information and Reporting System (Task Force AO 25) under the Administrative Order (AO) No. 25, s. 2011 is the compliance with the FOI Program. In coordination with the FOI-PMO, a performance-based incentive system was established to ensure the compliance of government agencies to the FOI program.

Requirements under E.1.2. FOI Registry and Summary, F.1.2. Agency Information Inventory, and G.1.2 Duty to Publish Information are necessary and relevant to the agencies' compliance to the said requirements under the guidelines on the grant of the PBB issued by the Task Force AO 25.

I. ELECTRONIC FOI PORTAL

The electronic Freedom of Information (eFOI) Portal (www.foi.gov.ph) is an online platform that was developed to provide users ease and convenience in requesting for information, tracking of requests, and receiving the information that they requested online. Likewise, in order to efficiently handle the influx of requests, the platform is designed to assist government offices in receiving, processing, and responding to the requests that they received online.

Government agencies covered by EO No. 2, s. 2016 shall enroll and onboard to the eFOI portal, www.foi.gov.ph, to ensure that the public will have ease and convenience in requesting for information to different agencies under the Executive Branch. As transparency is the primary goal of the program, the details of the requested information, response time, and outcomes of requests lodged to the eFOI portal are published publicly.



ANNEXES

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 TO 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:

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

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

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

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

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

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

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

Said inventory of exceptions shall periodically be updated to properly reflect any change in existing law and jurisprudence and the Department of Justice and the Office of the Solicitor General are directed to update the inventory of exceptions as the need to do so arises, for circularization as hereinabove stated.

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

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

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

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

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

- (a) Each government office per Section 2 hereof shall ensure that personal information in its custody or under its control is disclosed or released only if it is material or relevant to the subject matter of the request and its disclosure is permissible under this order or existing law, rules or regulations;
- (b) Each government office must protect personal information in its custody or control by making reasonable security arrangements against leaks or premature disclosure of personal information, which unduly exposes the individual, whose personal information is requested, to vilification, harassment or any other wrongful acts.
- (c) Any employee, official or director of a government office per Section 2 hereof who has access, authorized or unauthorized, to personal information in the custody of the

office, must not disclose that information except when authorized under this order or pursuant to existing laws, rules or regulation.

SECTION 8. *People's Freedom to Information (FOI) Manual.* For the effective implementation of this Order, every government office is directed to prepare within one hundred twenty (120) calendar days from the effectivity of this Order, its own People's FOI Manual, which shall include among others the following provisions:

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

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

- (a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the 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 or updated inventory of exception as hereinabove provided.
- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable, to enable all requesting parties and particularly those with special needs, to comply with the request requirements under this Section.
- (c) The request shall be stamped by the government office, indicating the date and time of receipt and the name, rank, title and position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the 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 requirements of sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working

days from the receipt thereof. The response mentioned above refers to the decision of the agency or office concerned to grant or deny access to the information requested.

(e) The period to respond may be extended whenever the information requested requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous cases or other analogous cases. The government office shall notify the person making the request of the extension, setting forth the reasons for such extension. In no case shall the extension go beyond twenty (20) working days unless exceptional circumstances warrant a longer period.

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

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

SECTION 11. Identical or Substantially Similar Requests. The government office shall not be required to act upon an unreasonable subsequent identical or substantially similar request from the same requesting party whose 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, in whole or in part, it shall as soon as practicable, in any case within fifteen (15) working days from the receipt of the request, notify the requesting party 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 stipulated shall be deemed a denial of the request for access to information.

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

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

(b) The appeal be decided by the person or office next higher in authority within thirty (30) working days from the filing of said written appeal. Failure of such person or office to decide within the afore-stated period shall be deemed a denial of the appeal.

(c) Upon exhaustion of administrative appeal remedies, the requesting part may file the appropriate case in the proper courts in accordance with the Rules of Court.

SECTION 14. *Keeping of Records.* Subject to existing laws, rules, and regulations, government offices shall create and/or maintain accurate and reasonably complete records of important information in appropriate formats, and implement a records management system that facilitates easy identification, retrieval and communication of information to the public.

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

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

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

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

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

DONE, in the City of Manila, this 23rd day of July in the year of our Lord two thousand and sixteen.

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

By the President:

(Sgd.) **SALVADOR C. MEDIALDEA**
Executive Secretary

ANNEX B: INVENTORY LIST OF EXCEPTIONS

LIST OF EXCEPTIONS

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.²

1. Information covered by Executive privilege:

- a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;³ and
- b. Matters covered by deliberative process privilege, namely:
 - i. advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated; intra-agency or inter-agency recommendations or communications during the stage when common assertions are still in the process of being formulated or are in the exploratory stage; or information pertaining to the decision-making of executive officials;⁴ and
 - ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;⁵

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;⁶
- b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁷ and

² As enumerated in the Memorandum from the Office of the Executive Secretary entitled, "Inventory of Exceptions to Executive Order No. 2 (s. 2016)", dated 24 November 2016, signed by Executive Secretary Salvador C. Medialdea.

³ 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.

⁴ *Akbayan v. Aquino*, supra; *Chavez v. NHA*, G.R. No. 164527, 15 August 2007; and *Chavez v. PCGG*, supra. The privilege of invoking this exception ends when the executive agency adopts a definite proposition (*Department of Foreign Affairs v. BCA International Corp.*, G.R. No. 210858, 20 July 2016).

⁵ 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.

⁶ *Almonte v. Vasquez*, G.R. No. 95367, 23 May 1995, 244 SCRA 286; *Chavez v. PCGG*, supra; *Legaspi v. Civil Service Commission*, L-72119, 29 May 1987, 150 SCRA 530; *Chavez v. NHA*, supra; *Neri v. Senate*, supra; *Chavez v. Public Estates Authority*, G.R. No. 133250, 9 July 2002, 384 SCRA 152; and Section 3(a), Rule IV, Rules on CCESPOE. This exception generally includes matters classified under Memorandum Circular (MC) No. 78, as amended by MC No. 196 as "Top Secret," "Secret," "Confidential," and "Restricted."

⁷ *Akbayan v. Aquino*, supra; Section 3(a) Rule IV, Rules on CCESPOE. This privilege may be invoked by the Department of Foreign Affairs and other government bodies involved in diplomatic negotiations.

- c. Patent applications, the publication of which would prejudice national security and interests;⁸
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;⁹
 - 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;¹⁰
 - c. When disclosure of information would put the life and safety of an individual in imminent danger;¹¹
 - d. Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping;¹² and
 - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹³
 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,¹⁴ personal information or records,¹⁵ including sensitive personal information, birth records,¹⁶ school records,¹⁷ or medical or health records;¹⁸

⁸ 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).

⁹ Section 3(f), Rule IV, Rules on CCESPOE; Chavez v. PCGG, supra. May be invoked by law enforcement agencies.

¹⁰ Akbayan v. Aquino, supra; and Section 51, Human Security Act of 2007 (RA No. 9372). May be invoked by law enforcement agencies.

¹¹ Section 3(b), Rule IV, Rules on CCESPOE.

¹² Section 19, New Anti Carnapping Act of 2016 (RA No. 10883). May be invoked by law enforcement agencies.

¹³ Section 7, Witness Protection, Security and Benefit Act (RA No. 6981).

Sensitive personal information as defined under the Data Privacy Act of 2012 refers to personal information:¹⁹

- (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 individual²⁰ 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.²¹

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

¹⁴ Section 3(e), Rule IV, Rules on CCESPOE.

¹⁵ 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.

¹⁶ Article 7, The Child and Youth Welfare Code [Presidential Decree (PD) No. 603].

¹⁷ Section 9(4), Education Act of 1982 [Batas Pambansa (BP) Blg. 232].

¹⁸ 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).

¹⁹ Section 3(l), Data Privacy Act of 2012.

²⁰ Article 26(2), Civil Code.

²¹ Section 11, Data Privacy Act of 2012.

individual on a document prepared by the individual in the course of employment with the government;²²

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;²³ 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 or a crime or rehabilitated drug offenders, including those pertaining to the following:
 - (1) records of child and family cases;²⁴
 - (2) children in conflict with the law from initial contact until final disposition of the case;²⁵
 - (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;²⁶
 - (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;²⁷
 - (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address, employer, or other identifying information of a victim or an immediate family member;²⁸
 - (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;²⁹
 - (7) names of victims of child abuse, exploitation or discrimination;³⁰
 - (8) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;³¹

²² Section 4, Data Privacy Act of 2012.

²³ An Act to Exempt the Publisher, Editor or Reporter of any Publication from Revealing the Source of Published News or Information Obtained in Confidence (RA No. 53), as amended by RA No. 1477. May be invoked by government newspapers.

²⁴ Section 12, Family Courts Act of 1997 (RA Act No. 8369).

²⁵ Section 43, Juvenile Justice and Welfare Act of 2006 (RA No. 9344).

²⁶ Section 13, Anti-Child Pornography Act of 2009 (RA No. 9775).

²⁷ Section 31, A.M. No. 00-4-07-SC, Re: Proposed Rule on Examination of a Child Witness.

²⁸ 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.

- (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;³²
- (10) names of students who committed acts of bullying or retaliation;³³
- (11) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the Comprehensive Dangerous Drug Act of 2002, as amended; and³⁴
- (12) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;³⁵

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:

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

³² Section 15, Domestic Adoption Act of 1998 (RA No. 8552) and Section 43, IRR of RA No. 8552; Sections 6 and 16(b), Inter-Country Adoption Act of 1995 (RA No. 8043) and Sections 53, 54 and 55 of IRR of RA No. 8043.

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

³⁴ Sections 60, 64 and 67, Comprehensive Dangerous Drugs Act of 2002 (RA No. 9165).

³⁵ Sections 2(b), 18, 30, and 32, Philippine AIDS Prevention and Control Act of 1998 (RA No. 8504).

³⁶ Sections 45, 106.1, and 150.2, The Intellectual Property Code (RA No. 8293, as amended by RA No. 10372); Section 66.2, Securities Regulation Code (RA No. 8799); DOST Administrative Order No. 004-16; Section 142, The Corporation Code (BP Blg. 68); Section 34, Philippine Competition Act (RA No. 10667); Sections 23 and 27 (c), The New Central Bank Act (RA No. 7653); Anti-Money Laundering Act (RA No. 9160); Section 18, Strategic Trade Management Act (RA No. 10697); Sections 10 and 14, Safeguard Measures Act (RA No. 8800); Section 12, Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990 (RA No. 6969); Article 290, Revised Penal Code; Section 10.10, Rule 10, 2012 Revised IRR of Build-Operate-Transfer Law (RA No. 6957); and Revised Philippine Ports Authority Manual of Corporate Governance.

³⁷ Section 26, Philippine Statistical Act of 2013 (RA No. 10625); and Section 4, Commonwealth Act No. 591. May be invoked only by the PSA.

³⁸ Section 24(c), Social Security Act of 1997 (RA No. 1161, as amended by RA No. 8282).

- a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;³⁶
- b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);³⁷
- c. Records and reports submitted to the Social Security System by the employer or member;³⁸
- d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;³⁹
- e. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;⁴⁰
- f. Applications and supporting documents filed pursuant to the Omnibus Investments Code of 1987;⁴¹
- g. Documents submitted through the Government Electronic Procurement System;⁴²
- h. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the Electronic Commerce Act of 2000;⁴³
- i. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the Philippine Mining Act of 1995 and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;⁴⁴
- j. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;⁴⁵
- k. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;
- l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁶
- m. Certain information and reports submitted to the Insurance Commissioner pursuant to the Insurance Code;⁴⁸

³⁹ Section 29, Philippine AIDS Prevention and Control Act of 1998 (RA No. 8504).

⁴⁰ 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.

⁴¹ Section 81, EO No. 226 (s. 1987), as amended.

⁴² Section 9, Government Procurement Reform Act (RA No. 9184).

⁴³ Section 32, Electronic Commerce Act of 2000 (RA No. 8792).

⁴⁴ Section 94(f), Philippine Mining Act of 1995 (RA No. 7942).

- n. Information on registered cultural properties owned by private individuals;⁴⁹
- o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁵⁰ and
- p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵¹

6. Information of which a premature disclosure would:

- a. in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or
- b. be likely or significantly frustrate implementation of a proposed official action, except such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.⁵²

7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:

⁴⁵ Section 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).

⁴⁶ Section 9(c), Anti-Money Laundering Act of 2001, as amended. May be invoked by AMLC, government banks and its officers and employees.

⁴⁷ Section 10, Safeguard Measures Act.

⁴⁸ Section 297 in relation with Section 295 and Section 356, The Insurance Code (as amended by RA No. 10607).

⁴⁹ Section 14, National Cultural Heritage Act of 2009 (RA No. 10066).

⁵⁰ CHED Memorandum Order No. 015-13, 28 May 2013.

⁵¹ 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).

⁵² Section 3(g), Rule IV, Rules on CCESPOE.

⁵³ 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.

⁵⁴ Article 10, International Bar Association Rules for Investor-State Mediation.

⁵⁵ Article 237, Labor Code.

- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the Alternative Dispute Resolution Act of 2004;⁵³
- b. Matters involved in an Investor-State mediation;⁵⁴
- c. Information and statements made at conciliation proceedings under the Labor Code;⁵⁵
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);⁵⁶
- 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;⁵⁷
- f. Information related to investigations which are deemed confidential under the Securities Regulations Code;⁵⁸
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁵⁹
- 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;⁶⁰
- i. Investigation report and the supervision history of a probationer;⁶¹
- j. Those matters classified as confidential under the Human Security Act of 2007;⁶²
- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶³ and
- l. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;⁶⁴

⁵⁶ Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

⁵⁷ Section 142, Corporation Code. May be invoked by the SEC and any other official authorized by law to make such examination.

⁵⁸ Sections 13.4, 15.4, 29.2 (b), and 64.2 of the Securities Regulation Code.

⁵⁹ 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.

⁶⁰ DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

⁶¹ Section 17, Probation Law of 1976 [PD No. 968 (s.1976)].

⁶² Sections 9, 13, 14, 29, 33 and 34, Human Security Act of 2007 (RA No. 9372).

⁶³ Section 14, Civil Service Commission Resolution No. 01-0940. Section 18, Rule 139-B and Section 24, Rule 130 of the Rules of Court; and Section 11 of the Rule on DNA Evidence, A.M. No. 06-11-5-SC.

⁶⁴ Section 18, Rule 139-B and Section 24, Rule 130 of the Rules of Court; and Section 11 of the Rule on DNA Evidence, A.M. No. 06-11-5-SC.

8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
 - a. RA No. 1405 (Law on Secrecy of Bank Deposits);
 - b. RA No. 6426 (Foreign Currency Deposit Act of the Philippines) and relevant regulations;
 - c. RA No. 8791 (The General Banking Law of 2000);
 - d. RA No. 9160 (Anti-Money Laundering Act of 2001); and
 - e. RA No. 9510 (Credit Information System Act);
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:
 - a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:
 - (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;⁶⁵
 - (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);⁶⁶ 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;⁶⁷
 - 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;⁶⁸
 - d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁶⁹

⁶⁵ 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.

⁶⁶ Article 7, UNCITRAL Transparency Rules.

⁶⁷ *Senate v. Neri*, *supra*; *Senate v. Ermita*, *supra*.

⁶⁸ Section 8(D), Code of Conduct and Ethical Standards for Public Officials and Employees.

⁷⁰ *Belgica v. Ochoa*, G.R. No. 208566, 19 November 2013; and *Valmonte v. Belmonte Jr.*, G.R. No. 74930, 13 February 1989, 252 Phil. 264.

- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁷⁰
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷¹ and
- g. Attorney-client privilege existing between government lawyers and their client.⁷²

⁷⁰ Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending Certain Provisions of the New Rules of Procedure of the National Labor Relations Commission, 08 March 2002; Department of Agrarian Reform MC No. 07-11, 19 July 2011; Department of Social Welfare and Development MC No. 021-12, 16 October 2012; and Section 42, Investment Company Act (RA No. 2629); When the information requested is not a matter of public concern or interest as decided in *Hilado v. Judge Amor A. Reyes*, G.R. No. 163155, 21 July 2006.

⁷¹ *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

⁷² Canon 21 of the Code of Professional Responsibility.

Freedom of Information-Project Management Office (FOI-PMO)

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REPUBLIC OF THE PHILIPPINES

NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY

Special Order No. 76-A - 2021

Date: 12 November 2021

TO: ALL CONCERNED

SUBJECT: AMENDMENT TO THE NEDA FREEDOM OF INFORMATION (FOI) CLEARANCE OFFICERS IN THE REGIONAL OFFICES

1. Item No. 1 of Special Order (SO) No. 76-2021 dated 19 February 2021 is hereby amended, designating the Assistant Regional Director (ARD) or the Officer-in-Charge (OIC)-ARD of each NEDA Regional Office as the Freedom of Information (FOI) Clearance Officer (CO). This is in accordance with Section 2.3 Title II of the NEDA FOI Guidelines, stating that each NRO shall have a CO.

In the event that there is no full-fledged ARD or OIC-ARD, or such that he/she occupies a plantilla position that is lower than SG 25, the Regional Director (RD) or the OIC-RD shall be designated as CO, until a qualified ARD/OIC-ARD is available.

2. Further, in case there is a newly designated CO, the NRO shall update the Development Information Staff (DIS), for the reference and guidance of the NEDA Central Office.
3. All other items not amended in SO No. 76-2021 shall remain valid and effective.


KARL KENDRICK T. CHUA
Socioeconomic Planning Secretary



CERTIFIED PHOTOCOPY
11/12/2021
CONSTANTINE R. MAYUGA
Administrative Officer I

AMENDMENT TO THE NEDA FREEDOM OF INFORMATION (FOI) CLEARANCE OFFICERS IN THE REGIONAL OFFICES

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REPUBLIC OF THE PHILIPPINES

NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY

SPECIAL ORDER NO. 74 - 2021

19 February 2021

TO : All Concerned

SUBJECT : DESIGNATION OF THE NEDA FREEDOM OF INFORMATION (FOI) CLEARANCE OFFICERS

1. Pursuant to Section 2.3 Title II of the NEDA FOI Guidelines,¹ the following NEDA officials are hereby designated as the NEDA FOI Clearance Officers (COs):

OFFICE	CLEARANCE OFFICERS
Central Office	Director Nerrisa T. Esguerra
NRO I	Regional Director (RD) Nestor G. Rillon
NRO II	Assistant Regional Director (ARD) Ferdinand P. Tumaliuan
NRO III	Officer-in-Charge (OIC)-RD Agustin C. Mendoza
NRO IV-A	ARD Gina T. Gacusan
NRO IV-B	OIC-RD Susan A. Sumbeling
NRO V	ARD Edna Cynthia S. Berces
NRO VI	ARD Arcio A. Casing, Jr.
NRO VII	RD Efren B. Carreon
NRO VIII	RD Bonifacio G. Uy
NRO IX	OIC-RD Phlorita A. Ridao
NRO X	RD Mylah Faye Aurora B. Cariño
NRO XI	RD Ma. Lourdes D. Lim
NRO XII	RD Teresita Socorro C. Ramos
NRO CARAGA	RD Priscilla R. Sonido
NRO CAR	RD Milagros A. Rimando

¹ NEDA Office Circular No. 06-2016, 25 November 2016.

DESIGNATION OF THE NEDA FREEDOM OF INFORMATION (FOI) CLEARANCE OFFICERS

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2. In the event of separation from the service (*i.e.*, resignation, retirement, re-assignment, or detail) of the above designated COs, the following shall automatically be designated as COs:

For the Central Office:	<ul style="list-style-type: none">• Development Information Staff (DIS) Director or OIC-Director with a permanent status of appointment and a plantilla position not lower than SG 25
For the NEDA Regional Offices:	<ul style="list-style-type: none">• ARD or OIC-ARD with a permanent status of appointment and a plantilla position not lower than SG 25• In case there is no full-fledged ARD and the OIC-ARD occupies a plantilla position lower than SG 25, the RD or OIC-RD shall be designated as the CO.

3. Under Section 2.3.1, Title II of the NEDA FOI Guidelines, the duties and responsibilities of the COs shall include, but are not limited to, the following:
- a. Implement the security clearance procedure;
 - b. Act as security adviser to the Secretary;
 - c. Check records and conduct background investigation of personnel with the assistance of the Administrative Staff (AS), prior to the issuance of an Interim Security Clearance for personnel with access to classified documents at appropriate levels;
 - d. Recommend to the Secretary the issuance of an Interim Security Clearance, as well as the appropriate punishment/penalties for violations of the NEDA FOI Guidelines;
 - e. Maintain records of investigation, copies of security clearances, and other documents relevant to the issuance of such clearances;
 - f. Ensure that personnel granted security clearances have appropriate training on security awareness in coordination with concerned agencies involved in the conduct of such training;

- g. Act as contact person of the agency to National Security Adviser/Office of the National Security Director-General (ONSA/ONSDG) and NICA on matters of security;
- h. Confirm the appropriateness of the classification of NEDA documents, as well as reclassification and/or declassification of documents, in accordance with the NEDA FOI Guidelines, upon recommendation of the authorized official of the respective source Staff; and
- i. Assist the Office of the Secretary in all matters arising under NEDA FOI Guidelines and recommend the release of documents to external stakeholders.

For implementation.


KARL KENDRICK T. CHUA

Acting Socioeconomic Planning Secretary



Annex H: FOI Champion and Decision Makers for National Economic and Development Authority (Central Office)

	Name/Position	Location	Contact Details
FOI Champion	ARSENIO M. BALISCAN Secretary National Economic and Development Authority (NEDA)	Office of the Secretary No. 12 St. Josemaria Escriva Drive, Ortigas Center, Pasig City, 1605 Philippines	Tel: (+632) 8631-09-45 to 68 foi@neda.gov.ph
FOI Decision Maker	FRANCES FATIMA M. CABANA OIC-Director IV	Development Information Staff (DIS) No. 12 St. Josemaria Escriva Drive, Ortigas Center, Pasig City, 1605 Philippines	Tel: (+632) 8631-09-45 to 68 foi@neda.gov.ph
FOI Receiving Officer/s	CATHERINE N. NANTA Information Officer III LIEZEL M. ALDIANO Information Officer II	Development Information Staff (DIS) No. 12 St. Josemaria Escriva Drive, Ortigas Center, Pasig City, 1605 Philippines	Tel: (+632) 8631-09-45 to 68 foi@neda.gov.ph