PHILIPPINE COMPETITION COMMISSION

People's Freedom of Information Manual

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SECTION 1: OVERVIEW

1. Purpose

The purpose of this Manual is to provide guidance on the rules and procedures governing the processing of requests for information received by the PCC under E.O. No. 2.

2. Coverage of the Manual

This Manual shall cover all requests for information received by the PCC under E.O. No. 2.

3. Implementation of the Manual

The FOI Champion shall be responsible for the efficient and effective implementation of this Manual. The FOI Champion shall refer to the Chairman or, if the exigencies of public service so require, the Chairman may delegate such responsibility to the Executive Director who shall then be authorized to discharge the duties and functions of the FOI Champion under this Manual. In the event of such delegation, all references to the FOI Champion under this Manual, except Section 1(3) hereof, shall be deemed to refer to the Executive Director.

4. FOI Receiving Officer

The FOI Champion shall designate a FRO who shall conduct the initial evaluation of all FOI Requests. The FRO shall preferably come from the Records Section of the PCC. The FRO shall hold office at the FOI Receiving Office with the following details:

> **Address:** Philippine Competition Commission, 25/F Vertis North Corporate Center 1, North Avenue, Quezon City
> **Contact number:** (+632) 8771 9722
> **Email:** foireceivingofficer@phcc.gov.ph; foi@phcc.gov.ph

Any changes to the foregoing contact information of the FOI Receiving Office shall be posted on the PCC Official Website.

The functions of the FRO shall include the following:

a. Receive, on behalf of the PCC, all requests for information and take the appropriate steps in processing the same;
b. Monitor all FOI Requests and FOI Appeals;
c. Provide assistance to the FDM;
d. Provide assistance and support to the public and staff with regard to FOI matters;
e. Compile statistical information as may be required under this Manual and/or E.O. No. 2; and
f. Conduct an initial evaluation of the request and advise the requesting party whether request will be forwarded to the FDM for further evaluation, or deny the request based on any of the following grounds:

    (i) That the form is incomplete; or
    (ii) That the information is available at PCC's Official Website or at data.gov.ph.

The FOI Champion may designate at least one (1) Alternate FOI Receiving Officer who shall be authorized to temporarily discharge the duties and functions of the FRO under this Manual in case of absence, unavailability, or incapacity of the FRO.

5. FOI Decision Maker

The FOI Champion shall designate a FDM, with a rank not lower than Division Chief or its equivalent, who shall be responsible for the evaluation of FOI Requests forwarded by the FRO under this Manual. The FDM shall have the authority to grant or deny a FOI Request.

The FOI Champion may designate at least one (1) Alternate FOI Decision Maker who shall be authorized to temporarily discharge the duties and functions of the FDM under this Manual in case of absence, unavailability, or incapacity of the FDM.

6. **Central Appeals and Review Committee**

There shall be an Appeals Committee to be composed of three (3) officials, with a rank not lower than Director III or its equivalent, designated by the FOI Champion to review and analyze the grant or denial of a FOI Request. The Appeals Committee shall also provide expert advice to the FOI Champion on the denial of such request.

SECTION 2: DEFINITION OF TERMS

1. **"Administrative FOI Appeal"** shall refer to an independent review of the determination made by the FDM in response to a FOI Request. Requesting parties who are dissatisfied with the FDM's determination on their FOI Request shall have the right to appeal such determination to the Appeals Committee.

2. **"Alternate FOI Decision Maker"** shall have the meaning provided under Section 1(5) of this Manual.

3. **"Alternate FOI Receiving Officer"** shall have the meaning provided under Section 1(4) of this Manual.

4. **"Annual FOI Report"** shall refer to the report to be filed by the PCC annually with the Presidential Communications Operations Office, detailing the agency's administration of FOI matters concerning the PCC. The Annual FOI Report shall contain detailed statistics on the number of FOI Requests and FOI Appeals received, processed, and pending at the PCC.

5. **"Appeals Committee"** shall refer to the Central Appeals and Review Committee.

6. **"Chairman"** shall refer to the PCC Chairman.

7. **"Consultation"** shall refer to the process of requesting the view or opinion of another government agency or office before any final decision is made as to the disclosability of records containing information of interest to such other government agency or office.

8. **"data.gov.ph"** shall refer to the Open Data website that serves as the government's comprehensive portal for all public government data that is searchable, understandable, and accessible.

9. **"E.O. No. 2"** shall refer to Executive Order No. 2, series of 2016, entitled "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" on Freedom of Information.

10. **"Exceptions"** shall refer to information that should not be released and disclosed in response to a FOI Request because these are protected by the Constitution, laws or jurisprudence. These information include, but are not limited to, those listed in the Updated Inventory of Exceptions to the Right to Access Information E.O. No. 2, attached hereto as **Annex "A"**.

11. **"Executive Director"** shall refer to the PCC Executive Director.

12. **"FOI"** shall mean Freedom of Information. The Executive Branch recognizes the right of the people to information on matters of public concern and adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in E.O. No. 2. This right is indispensable to the exercise of the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making.

13. **"foi.gov.ph"** shall refer to the government's comprehensive FOI website for all information relating to the FOI. Among many other features, eFOI.gov.ph provides a central resource for the public to understand the FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. eFOI.gov.ph also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, so that they can be compared by agency and over time.

14. **"FOI Champion"** shall have the meaning provided in Section 1(3) of this Manual.

15. **"FOI Request"** shall refer to a written request submitted to the PCC personally or by email asking for records on any topic.

16. **"FOI Appeal"** or **"Administrative FOI Appeal"** shall have the meaning provided in Section 6(1) of this Manual.

17. **"FOI Receiving Office"** shall refer to the location and primary contact details of the PCC where a requesting party can refer or direct questions about the FOI process or a pending FOI Request.

18. **"FOI Decision Maker"** or **"FDM"** shall have the meaning provided under Section 1(5) of this Manual.

19. **"FOI Receiving Officer"** or **"FRO"** shall have the meaning provided under Section 1(4) of this Manual.

20. **"Full Denial"** shall refer to the disapproval of the PCC to provide information pursuant to a FOI Request due to the following:

    a. The PCC does not have the information requested;

    b. The information requested contains Sensitive Personal Information protected by the Data Privacy Act of 2012;

    c. The information requested falls under the list of Exceptions to FOI (attached as **Annex "A"**);

    d. The information requested pertains to internal deliberations of the Commission or of a PCC Office;

    e. The FOI Request is made by a person who is not a citizen of the Philippines; or

    f. The FOI Request is unreasonable, identical or substantially similar to an earlier request from the same requesting party and such earlier request had already been previously granted or denied by the PCC.

21. **"Full Grant"** shall refer to the approval of the PCC to provide information pursuant to a FOI Request resulting to the disclosure of such relevant records and information.

22. **"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.

23. **"Key Information"** shall have the meaning provided in Section 3(1) and 4(1) of this Manual.

24. **"Manual"** shall refer to this FOI Manual.

25. **"Open Data"** shall refer to publicly available data structured in a way that enables the data to be fully discoverable and usable by end users.

26. **"Partial Grant"** or **"Partial Denial"** shall refer to the situations where the PCC is able to disclose portions of the records in response to a FOI Request, but must deny other portions of the FOI Request.

27. **"PCC"** or **"Commission"** shall refer to the Philippine Competition Commission.

28. **"PCC Office"** shall refer to the Mergers and Acquisitions Office, Competition Enforcement Office, Economics Office, Communications & Knowledge Management Office, Financial Planning and Management Office, Administrative and Legal Office, or any other office thereafter created under the PCC.

29. **"PCC Official Website"** shall refer to phcc.gov.ph.

30. **"Personal Information**" shall refer to any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.

31. **"Received Request"** shall refer to an FOI Request that an agency has received within a fiscal year.

32. **"Received Appeal"** shall refer to an Administrative FOI Appeal that an agency has received within a fiscal year.

33. **"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.

34. **"Request Tracking System"** shall have the meaning provided in Section 8 of this Manual.

35. **"Requesting Party"** shall refer to a Filipino citizen who has made an FOI Request with the PCC.

36. **"Sensitive Personal Information"** shall refer to personal information as defined in the Data Privacy Act of 2012, which includes information:

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

SECTION 3: PROMOTION OF OPENNESS IN GOVERNMENT

1. **Duty to Publish Information.**

   The PCC shall regularly post through their website, in conjunction with Republic Act No. 11032, or the Ease of Doing Business and Efficient Government Service Delivery Act of 2018, 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 process;

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. Bidding processes and requirements; and
g. Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.

2. Plain Language.

The PCC shall ensure that the response to an FOI request shall be written in a brief and concise manner and shall use plain language which can be easily understood by the requesting party.

3. Keeping of Records.

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

SECTION 4: PROTECTION OF PRIVACY

While providing for access to Key Information, the PCC shall afford full protection to a person's right to privacy, as follows:

1. The PCC shall ensure that Personal Information, particularly Sensitive Personal Information, in its custody or under its control is only disclosed to the extent that it is material or relevant to the subject matter of the request, and if its disclosure is permitted by existing laws, rules or regulations;
2. The PCC shall protect Personal Information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure; and
3. The FRO, FDM, or any employee or official of the PCC who has access to Personal Information, whether authorized or unauthorized, in the custody of the PCC, shall not disclose that information except as authorized by existing laws, rules or regulations.

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

All Personal and Sensitive Personal Information obtained and accessed by the PCC shall be used only for the fulfillment of the purpose for which these information were accessed in order to secure the privacy of personal information and sensitive personal information of the requesting party.

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

SECTION 5: LIMITATIONS

Notwithstanding the grounds for approval or denial under Section 7 hereof, the right of access to information is without prejudice to the right of the PCC to determine whether there are grounds to believe that:

1. The identity of the requesting party is fictitious or otherwise not legitimate based on the credentials provided by him/her;

2. The request is prompted by sheer idle curiosity;
3. The request is being made with a plainly discernible improper motive such as harassment;
4. The request pertains to information falling under the Exceptions listed in **Annex "A"**, or privileged documents or communications; or
5. The purpose of the request is contrary to law, morals, good customs or public policy.

SECTION 6: DESIGNATION OF FOI OFFICERS

The names and contact information of the FOI Champion, FDM, and FRO are provided in "**Annex D**".

SECTION 7: STANDARD PROCEDURE

The receipt, assessment, and decision on FOI Request shall be governed by the procedure as provided below. For reference, the process flow is attached hereto as **Annex "G"**:

1. Receipt of Request for Information.

1.1 The FRO shall receive the FOI Request from the requesting party and check compliance with the following requirements:

a. The FOI Request must be in writing and addressed to the FRO;

b. The FOI Request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization of the requesting party;

c. The FOI Request shall reasonably describe the Information requested, and the reason for, or purpose of such request; and

d. The FOI Request shall be substantially in the form attached hereto as **Annex "E"**.

The FOI Request can be made through email to the FRO's designated email address, provided that the requesting party shall attach in the email the scanned copies of (i) the FOI Request, and (ii) the requesting party's valid proof of identification or authorization.

The subject of the email should reasonably specify that that it is in the nature of an FOI Request.

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

1.3 The FOI Request shall be stamped received by the FRO, indicating the date and time of the receipt of the same, with a corresponding signature. A copy of the signed and stamped FOI Request shall be furnished to the requesting party.

In case of FOI Requests transmitted by email, the FOI Request attached to the email shall be printed out by the FRO. Thereafter, the printed FOI Request shall be stamped and signed in the same manner as FOI Requests personally received by the FRO. A scanned copy of the printed FOI Request, as stamped and signed by the FRO, shall be transmitted in an acknowledgment email to be transmitted by the FRO to the requesting party.

The FRO shall input the details of each FOI Request on the Request Tracking System and allocate a reference number for the request.

1.4 The PCC must respond to requests promptly, within fifteen (15) working days following the date of receipt of the FOI Request. A working day is any day other than a Saturday, Sunday or a day which is declared a national public holiday in the Philippines. In computing the relevant periods under this Manual, Article 13 of the New Civil Code shall be observed.

The date of receipt of the FOI Request will be either:

a. The day on which the FOI Request is physically or electronically received by the FRO; or

b. If the FDM has asked the requesting party for further details to identify and locate the requested information, the day on which the necessary clarification is received by the FRO from the requesting party.

Notwithstanding the foregoing, where the FOI Request or necessary clarification, as the case may be, has been emailed by the requesting party to the FRO during his/her absence from the PCC, and this has generated an "out of office" message with instructions to the requesting party on how to re-direct the message to an Alternate FOI Receiving Officer, the date of receipt will be the day the FOI Request or necessary clarification arrives in the email inbox of such Alternate FOI Receiving Officer.

2. Initial Evaluation

After receipt of the FOI Request, the FRO shall evaluate the contents of the request and determine if such FOI Request falls under any of the following situations:

2.1 Requested information is not in the custody of the PCC

If the requested information is not in the custody of the PCC or any of its offices, the FRO shall, following Consultation and discussions with the FDM, undertake the following steps:

a. If the records requested are not in possession of the PCC but are accessible with another government agency under the Executive Branch, the FOI Request shall be immediately endorsed to the appropriate government agency through the most expeditious manner, not exceeding three (3) working days from the receipt of the request. The process of referral is pursuant to FOI Memorandum Circular No. 21-05, also known as the "No Wrong Door Policy for FOI" (attached as **Annex "F"**). The PCC's integration of this policy is outlined under Section 7, item number 8, the process flow of which is attached hereto as **Annex "G."**
b. If the records refer to an office not within the coverage of E.O. No. 2, the requesting party shall be advised accordingly and shall be provided with the contact details of that office, if known.

2.2. Requested information is already posted and available on-line

If the Information requested is already posted and publicly available in the PCC Official Website, foi.gov.ph, or data.gov.ph, the FRO shall inform the requesting party of the said fact and provide them the website link where the information is posted.

3. Transmittal of the FOI Request by the FRO to the FDM

After Initial Evaluation of the FOI Request, the FRO shall notify the FDM of such request. The copy of the FOI Request shall be forwarded to the FDM within one (1) day from receipt of the FRO of such request.

The FRO shall record the date, time and name of the FDM who received the request in a record book with the corresponding signature of acknowledgement of receipt of the FOI Request.

4. Role of FDM in processing the request

Upon receipt of the FOI Request from the FRO, the FDM shall assess the same and make all necessary steps to locate and retrieve the information requested. The FDM shall ensure that the complete information requested shall be submitted to the FRO within ten (10) days upon receipt of such request.

The FRO shall note the date and time of receipt of the information from the FDM and report to the FOI Champion in case the submission is beyond the prescribed ten (10) day period.

If the FDM needs further details to identify or locate the information, he/she shall, through the FRO, seek clarification from the requesting party. The request for clarification shall stop the running of the fifteen (15) working day period and upon the FRO's receipt of the required clarification from the requesting party, the PCC shall have a fresh fifteen (15) working day period to respond to the FOI Request.

If no clarification is received from the requesting party within thirty (30) calendar days from the date on which the requesting party had been informed of the FDM's request for clarification, the FOI Request shall be deemed to have been withdrawn.

If the FDM determines that a record contains information of interest to another office, the FDM shall consult with the agency concerned on the disclosability of the records before making any final determination.

5. Role of FRO to transmit the information to the requesting party

Upon receipt of the requested information from the FDM, the FRO shall collate and ensure that the information is complete. He shall attach a cover/transmittal letter signed by the FOI Champion and ensure the transmittal of such letter to the requesting party within the period prescribed under this Manual.

6. Extension of Period to Respond

The FDM may extend the period to respond to the FOI Request if (i) the information requested requires extensive search of PCC's office records facilities or examination of voluminous records; (ii) the processing of the FOI Request is impeded or prevented by the occurrence of fortuitous events; or (iii) other analogous cases. The FDM shall inform the FRO of the decision to extend the period to respond to the FOI Request, including the reason(s) invoked for such extension. The FRO shall then inform the requesting party of the extension, setting forth the reason(s) for such extension.

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

7. Grounds for Approval or Denial of the Request

The FDM may deny the FOI Request in cases where:

a. The PCC does not have the information requested;

b. The information requested contains Personal Information or Sensitive Personal Information protected by the Data Privacy Act of 2012;

c. The information requested falls under the list of Exceptions to FOI (attached as **Annex "A"**);

d. The information requested pertains to internal deliberations of the Commission or of a PCC Office; or

e. The request is unreasonable, identical or substantially similar to an earlier request from the same requesting party and such earlier request had already been previously granted or denied by the PCC.

Otherwise, the FDM shall approve the FOI Request.

8. No Wrong Door Policy

8.1. First Referral

When the requested information is not in possession of the PCC (government agency no. 1 or "GA1"), but is available in another government agency (government agency no. 2 or "GA2") under the Executive Branch, the FOI Request shall be immediately referred to GA2 through the most expeditious manner, not exceeding three (3) working days from the receipt of the FOI Request. This shall be considered the "First Referral" and a fresh period of fifteen (15) working days shall apply to GA2.

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

8.2 Second Referral

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 immediately preceding paragraph of this Section. This shall be considered as the "Second Referral" and another fresh period shall apply.

8.3 Status of the Request

An FOI 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.

Referrals to the appropriate government agency under this Section 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.

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 or her FOI Request.

8.4 Record of Erroneous Referral

If the PCC receives a notice from another agency indicating that an FOI Request was erroneously referred to the latter, the FRO shall duly record such occurrence to prevent similar requests from being referred to the same agency in the future.

8.5 Limitation of Referrals to and by the PCC

If another government agency refers an FOI Request to the PCC, and the PCC is not in custody of the requested information, or is not authorized to release the same to the public, the FRO shall notify the referring agency of such fact, and shall advise the latter to refrain from making similar referrals in the future.

If permissible under the prescribed referral process, the FRO shall forward the abovementioned request to the appropriate government agency, subject to the limitation that an FOI Request may only be transferred twice.

If further referral is not possible due to the two-transfers limitation, and the PCC does not have the requested information, the FOI Request shall be denied, and the requesting party shall be duly notified.

9. Notice to the Requesting Party of the Approval or Denial of the Request

Once the FDM approves or denies the FOI Request, he/she shall immediately notify the FRO, who shall then prepare the written response to the requesting party. Such written response shall be transmitted by the FRO to the requesting party by hand or by mail, electronic or otherwise. All

actions on FOI Requests, whether approval or denial, shall be submitted to the FOI Champion for final approval.

10. Approval of Request

In case of approval, the FRO shall ensure that all records retrieved do not fall under any of the Exceptions, prior to actual release. The FRO shall prepare the cover/transmittal letter informing the requesting party that the request was granted and directing the payment of applicable fees, if any, within the prescribed period.

11. Denial of Request

In case of Full or Partial Denial of the request, the FRO shall, within the prescribed period, notify the requesting party of such Full or Partial Denial in writing. The notice shall clearly set forth the ground or grounds for the 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 to information. All denials on FOI Requests shall be submitted to the FOI Champion for final approval.

SECTION 8: REMEDIES IN CASE OF DENIAL

A person whose request for access to information was subject to a Full Denial, Partial Grant, or Partial Denial, may avail himself of the remedies set forth below:

1. **Administrative FOI Appeal to the Appeals Committee**

   The written appeal must be filed by the same requesting party within fifteen (15) calendar days from the notice of denial or, where no action was made on the FOI Request, from the lapse of the period to respond to such request. Upon the recommendation of the Appeals Committee, the appeal shall be decided by the FOI Champion within thirty (30) working days from the filing of said written appeal. Where no decision on the appeal has been issued by the Appeals Committee within such thirty (30)-day period, said appeal shall be deemed to have been denied.

2. Upon exhaustion of Administrative FOI Appeal remedies under Section 8(1) hereof, the requesting party may file the appropriate judicial action under the Rules of Court.

SECTION 9: REQUEST TRACKING SYSTEM

The PCC shall establish a system to trace the status of all FOI Requests received by the Commission, which may be paper-based, electronic, or both.

The PCC may adopt a Multi-Track Processing system which classifies incoming FOI Requests according to their complexity so that simple requests requiring relatively minimal review are placed in one processing track and more complex requests are placed in one or more separate tracks. FOI Requests granted expedited processing are placed in yet another track. FOI Requests in each track shall be processed on a first in/first out basis.

SECTION 10: FEES

1. No Request Fee

The PCC shall not charge any fee for accepting FOI Requests.

2. Reasonable Costs of Reproducing Records/Information

The requesting party shall bear the reasonable costs of reproducing records/information which may be incurred by the PCC in acting on the FOI Request. The FRO shall immediately notify the requesting party of such costs, if any. The PCC shall post a schedule of costs associated with the reproduction of records/information. Upon request, and for valid reasons, the PCC may exempt any requesting party from payment of such reproduction costs.

SECTION 11: ADMINISTRATIVE LIABILITY

1. Non-compliance with FOI

Unjustified failure to comply with the provisions of E.O. No. 2 shall be ground for the imposition of the following administrative penalties against any erring officer or employee of the PCC:

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

2. Procedure

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

3. Provisions for More Stringent Laws, Rules and Regulations

Nothing in this Manual shall be construed to derogate from any law, any rules, or regulation prescribed by anybody or agency, which provides for more stringent penalties

SECTION 12: MISCELLANEOUS PROVISIONS

1. Legal Effect

Nothing in this Manual shall prejudice or constitute a waiver or amendment of the PCC's confidentiality and disclosure obligations under the Philippine Competition Act, its implementing rules and guidelines, and such other existing and applicable laws, rules, and regulations.

2. Modifications

This Manual may be modified, amended, supplemented, or repealed, as may be deemed necessary and proper by the Commission.

Approved, this 27th day of August 2025.

Michael G. Aguinaldo
Chairperson

ANNEX "A": AN UPDATED INVENTORY OF EXCEPTIONS TO THE RIGHT TO ACCESS INFORMATION UNDER E.O. NO. 2

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

Office of the President
MALACAÑANG RECORDS OFFICE
CERTIFIED COPY
ATTY. CONCEPCION ZENY E. FERROLINO-ENAD
DIRECTOR IV

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]

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

[3] *Akbayan v. Aquino, supra*; *Chavez v. NHA*, G.R. No. 164527, 15 August 2007; and *Chavez v. PCGG, supra*; *Sereno v. Committee on Trade and Related Matters of the National Economic Development Authority*, G.R. No. 175210, 01 February 2016, 780 PHIL 1-18; and *Department of Foreign Affairs v. BCA International Corporation*, G.R. No. 210858, 29 June 2016. The privilege of invoking this exception ends when the executive agency adopts a definite proposition.

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

[5] *Almonte v. Vasquez*, G.R. No. 95367, 23 May 1995, 244 SCRA 286; *Chavez v. PCGG, supra; Legaspi v. Civil Service Commission*, L-72119, 29 May 1987, 150 SCRA 530; *Chavez v. NHA, supra*; *Neri v. Senate, supra; Chavez v. Public Estates Authority*, G.R. No. 133250, 9 July 2002, 384 SCRA 152; *Lagman v. Medialdea*, G.R. Nos. 231658, 231771, and 231774, 4 July 2017, 812 PHIL 179-853; and Section 3(a), Rule IV, Rules on CCESPOE. This exception generally includes matters classified under Memorandum Circular (MC) No. 78, as amended by MC No. 196 as "Top Secret," "Secret," "Confidential," and "Restricted." This exception also includes records, papers, and information related to matters provided under Sections 16, 18, and 45, *The Anti-Terrorism Act of 2020* [Republic Act (RA) No. 11479] and its Implementing Rules and Regulations (IRR), as may be invoked by the government agency involved.

b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;[6] and
c. Patent applications, the publication of which would prejudice national security and interests;[7]

3. Information concerning law enforcement and protection of public and personal safety:

   a. Investigation records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would –

      i. interfere with enforcement proceedings;
      ii. deprive a person of a right to a fair trial or an impartial adjudication;
      iii. disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; or
      iv. unjustifiably disclose investigative techniques and procedures;[8]

   b. Informer's privilege or the privilege of the Government not to disclose the identity of a person or persons who furnish information of violations of law to officers charged with the enforcement of law;[9]

   c. When disclosure of information would put the life and safety of an individual in imminent danger;[10]

   d. Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping;[11] and

   e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;[12]

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

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

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

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

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

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

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

4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:

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

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

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

      However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the

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[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).

individual[19] 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,

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[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

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[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]

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[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]

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[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:

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[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]

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[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:

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[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]

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[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 "B": POLICY ON ANONYMIZATION

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

FOI – MC No. 21-04

FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR

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

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

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

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

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

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

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

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

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

WHEREAS, under RA 10173, personal information refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual. Names of an individual is considered a personal information;

WHEREAS, the International Organization for Standardization defines anonymization[1] as a process by which the personal data is irreversiblyaltered in such a way that a data subject can no longer be identified both directly or indirectly. Conversely, de-identification[2] was defined as a process of removing the association between a set of dataset or collection of data andthe data subject;

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

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

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

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[1] Section 2.2 of ISO/IEC 29100:2011

[2] Section 3.7 of ISO/IEC

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

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

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

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

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

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

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

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

For guidance and strict compliance.

Manila, Philippines, 14th day of July 2021.

JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

ANNEX "C": RETENTION PERIOD OF PERSONAL INFORMATION AND SENSITIVE PERSONAL INFORMATION GATHERED THROUGH THE STANDARD FOI REQUEST AND ELECTRONIC FREEDOM OF INFORMATION (EFOI) PORTAL

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

FOI – MC No. 21-03

FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR

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

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

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

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

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

WHEREAS, Memorandum Order (MO) No. 10, s. 2016, designated the Presidential Communications Operations Office (PCOO) as the lead agency in the implementation of EO No. 2, s. 2016, and all other Freedom of Information

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

WHEREAS, the standard FOI request form and the eFOI portal, which require the requesting party to divulge his/her sensitive personal information, shall be subjected to the existing rules and regulations of Republic Act No. 10173 or the Data Privacy Act of 2012[1], which prohibits unlawful disclosure of personal information and/or sensitive information. Further, any natural or juridical persons who are storing and processing such information are bound to observe and respect data privacy rights;

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

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

Section 1. SCOPE. – This Memorandum Circular shall apply to **all** personal[1] and sensitive[2] personal information of the requesting parties obtained by any agency, through the FOI Receiving Officers (FRO) and FOI Decision Maker (FDM), as a requirement to submit a request under the Standard Mode and through the eFOI Portal.

Section 2. RETENTION. – Pursuant to Section 11 of RA 10173[3], designated FOI Receiving Officers of all agencies, departments, bureaus, offices and instrumentalities of the Executive Branch, including government-owned

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[1] Section 3(g) of Republic Act (RA) No. 10173 defines ***Personal Information*** as any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.

[2] Section 3(l) of RA No. 10173 refers ***Sensitive Personal Information*** as personal information: (1) About an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations; (2) About an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings; (3) Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and (4) Specifically established by an executive order or an act of Congress to be kept classified.

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

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

Section 3. PERIOD TO RETAIN PERSONAL INFORMATION.[4] Personal and sensitive personal information processed by government agencies for the purpose of making an FOI request shall be retained for two (2) years. Said information may include but are not limited to:

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

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

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

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

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

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

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[4] Pursuant to National Privacy Commission Advisory Opinion No. 2017-24 on Retention Period of Personal Information,

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

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

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

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

Manila, Philippines, 14th day of July 2021.

JOSE RUPERTO MARTIN M. ANDANAR
Secretary / FOI Champion

ANNEX "D": DESIGNATION OF OFFICERS

FOI Officer	Position	Contact Information
FOI Champion	Executive Director	foi@phcc.gov.ph
FOI Decision Maker	Attorney V, Office of the General Counsel – Legal Services Division	foidecisionmaker@phcc.gov.ph
Alternate FOI Decision Maker	Attorney IV, Office of the General Counsel – Legal Services Division	
FOI Receiving Officer	Records Officer III	foireceivingofficer@phcc.gov.ph
Alternate FOI Receiving Officer	Records Officer II or I	

ANNEX "E": FOI REQUEST FORM

(Name of Agency)

(Address of Agency)

PORMULARYO NG KAHILINGAN (FOI)

FOI Request Form

TITULO NG DOKUMENTO / *(Title of the Document)*:

_____

MGA TAON/PANAHONG SAKLAW / *(Year)*:

_____

LAYUNIN / *(Purpose)*:

_____

_____

_____

_____

PANGALAN / *(Name)*: _____ **CONTACT Nos.:** _____

LAGDA / *(Signature)*: _____ **PETSA** / *(Date)*: _____

TIRAHAN / *(Address)*: _____

_____

_____

KATIBAYAN NG PAGKAKAKILANLAN / *(Proof of Identity)*:

Passport No.: _____

Driver's License: _____

Other: _____

PARAAN NG PAGTANGGAP NG IMPORMASYON /
(How would you like to receive the information?)

☐ E-mail _____
☐ Fax _____
☐ Postal Address _____
☐ Pick-up (Office hours) _____

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

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

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

Uri ng isinagawang aksiyon: _____
(Type of action conducted)

Iniskedyul ni / *(Received by)*:

ANNEX "F": GUIDELINES ON THE REFERRAL OF REQUESTED INFORMATION, OFFICIAL RECORD/S, AND PUBLIC RECORD/S TO THE APPROPRIATE GOVERNMENT AGENCY OR "NO WRONG DOOR POLICY FOR FOI"

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

FOI-MC No. 21- 05

FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

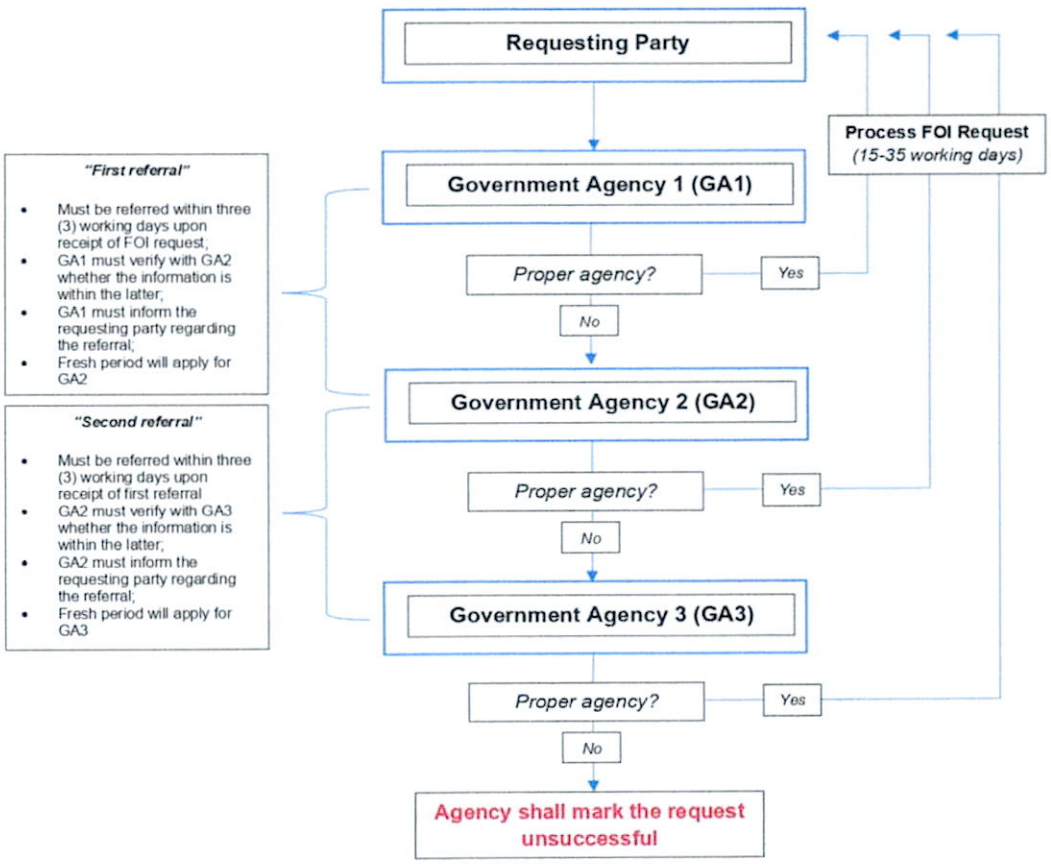
Section 11. Effectivity. This Memorandum Circular shall take effect immediately.

Manila, Philippines, 27th **day of** August **2021.**

JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

ANNEX "F-1": "NO WRONG DOOR POLICY FOR FOI" FLOWCHART

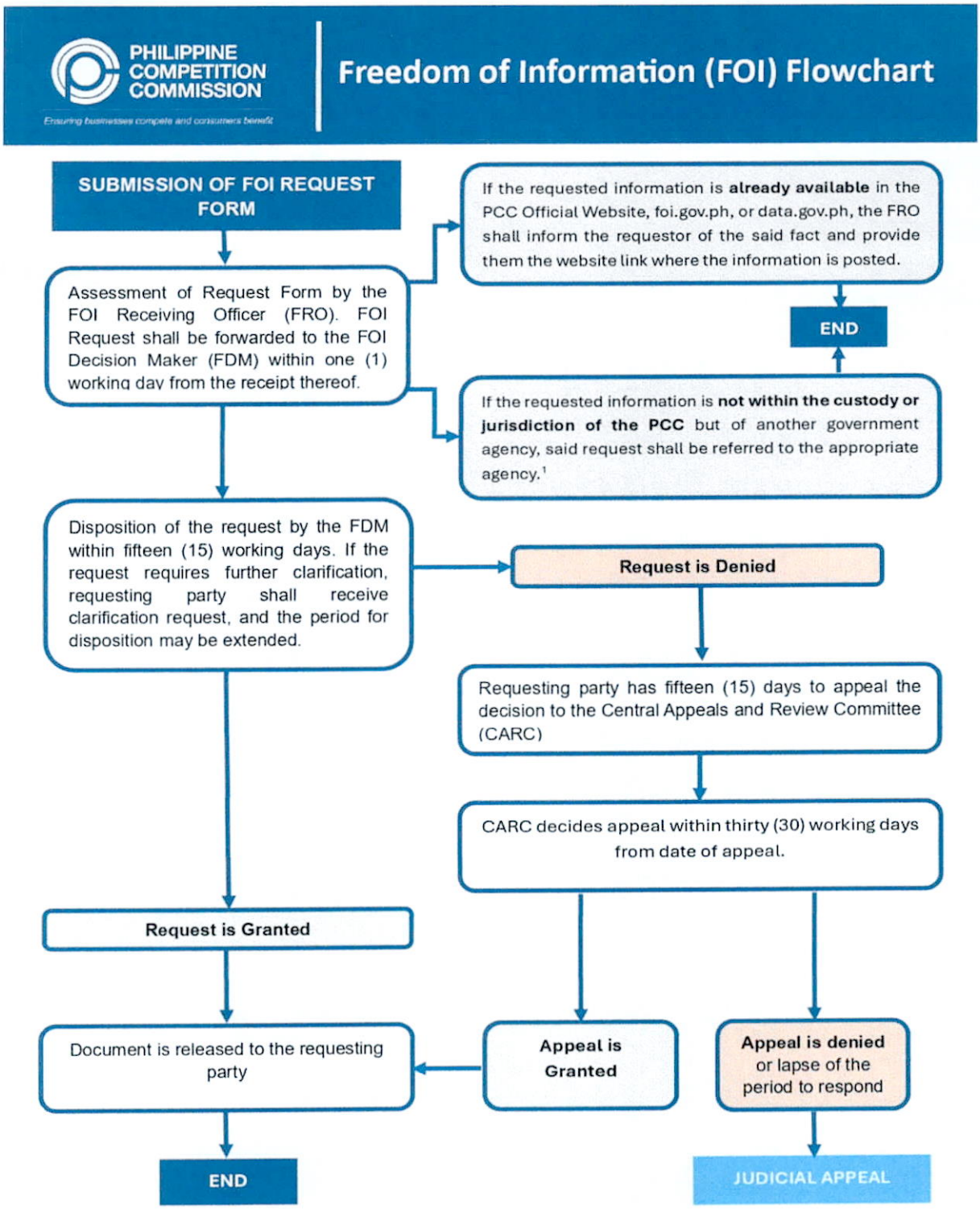
NO WRONG DOOR POLICY FLOWCHART



NOTE:

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

ANNEX "G": PHILIPPINE COMPETITION COMMISSION FREEDOM OF INFORMATION PROCESS FLOWCHART



[1] Please refer to **Annex "F-1"** of the Philippine Competition Commission FOI Manual.