






Republic of the Philippines
Department of Science and Technology
TECHNOLOGY APPLICATION AND PROMOTION INSTITUTE


Freedom of Information (FOI) PEOPLE'S MANUAL


2021 Edition

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ABOUT DOST-TAPI

BRIEF BACKGROUND

The Technology Application and Promotion Institute (TAPI) under the Department of Science and Technology (DOST) was created by virtue of Executive Order (EO) No. 128 on 30 January 1987. It is one of DOST's service agencies whose primary responsibility is to promote the commercialization of technologies and market the services of other operating units of the Department.

On 28 April 1992, DOST-TAPI's function was expanded by virtue of Republic Act (RA) No. 7459 otherwise known as the "Inventors and Invention Incentives Act of the Philippines". Among others, DOST-TAPI administers the Invention Development Assistance Fund (IDAF) and the Invention Guarantee Fund (IGF) for the initial experiments and prototype development and other invention-development related activities.

VISION STATEMENT


A strategic partner in advancing national socio-economic growth by advocating a culture of innovation and promoting globally-competitive and useful technologies.

MISSION STATEMENT

DOST-TAPI shall promote an effective and efficient innovation system towards the adoption and utilization of inventions, innovations, and services.

IMPLEMENTATION


To attain this mission, DOST-TAPI shall:

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1. Encourage the use of the intellectual property (IP) system and provide IP and IP-related services;
 2. Provide comprehensive assistance packages for inventions/innovations;
 3. Actively support activities geared towards the promotion of creativity and capacity-building within the innovation system;
 4. Facilitate business development of technologies; and
 5. Promote and strengthen partnerships and linkages with and among stakeholders.

MANDATED FUNCTIONS

1. Serve as the implementing arm of the DOST in promoting the commercialization of technologies and in marketing the services of the other operating units of the Department;
2. Provide grants and venture financing for new and emerging projects;
3. Administer the Invention Development Assistance Fund (IDAF) and Invention Guarantee Fund (IGF) for the initial experiments and prototype development and other invention development-related activities;
4. Assist technology generators, inventors, and researchers avail of the laboratories and other facilities of the Research and Development Institutes including DOST Regional Offices and other government agencies, offices, and instrumentalities; and
5. Accredite and recognize inventors' associations throughout their activities.

MAJOR FUNCTIONS

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1. Office of the Director (OD) - responsible for the overall direction, supervision and operations of all units of the Institute.
 2. Technology Information and Promotion Division (TIPD) - responsible for the elevation of level of awareness and the promotion of the innovation system strategies.
 3. Investment & Business Operations Division (IBOD) - responsible in providing financial support and business operations' improvement services.
 4. Invention Development Division (IDD) - responsible in improving financial support for the use of the intellectual property system and business development of inventions and technologies.
 5. Finance and Administrative Division (FAD) - responsible for the financial and administration support services.

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

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SECTION 1: OVERVIEW

1. **Purpose:** The purpose of the People's Freedom of Information (FOI) Manual is to provide the process to guide and assist the public in processes and procedures involved in dealing with requests of information received under Executive Order (EO) No. 2, s. 2016 on Freedom of Information in the Executive Branch.
2. **Structure of the Manual:** This Manual shall set out the rules and procedures to be followed by the DOST-TAPI, when a request for access to information is received. The Director is responsible for all actions carried out under this Manual.
3. **Coverage of the Manual:** The Manual shall cover all requests for information directed to the DOST-TAPI.
4. **FOI Receiving Officer (FRO) and Alternate FRO:** There shall be an FOI Receiving Officer (FRO) and Alternate FRO designated at the DOST-TAPI. The FRO, and his or her alternate, shall hold office at TAPI Building, DOST Compound, General Santos Avenue, Bicutan, Taguig City. The functions of the FRO and Alternate FRO shall include the following:
 - a. Receive on behalf of DOST-TAPI, all requests for information and forward the same to the appropriate office who has custody of the records;
 - b. Monitor all FOI requests and appeals;
 - c. Provide assistance to the FOI Decision Maker (DM),
 - d. Provide assistance and support to the public and staff with regard to FOI;
 - e. Compile statistical information as required; and
 - f. Conduct initial evaluation of the request and advise the requesting party whether the request will be forwarded to the FOI Decision Maker for further evaluation, or deny the request based on: (1) that the form is incomplete; or (2) that the information is already disclosed in the DOST-TAPI Official Website or at www.tapi.dost.gov.ph
5. **FOI Champion:** The FOI Champion is the Head of the Agency. The functions of the FOI Champion shall include the following:
 - a. Oversee the implementation and compliance of the agency in the FOI Program;
 - b. Supervise, lead, direct, and administer the creation and operation of an FOI Team of the Agency;
 - c. Represent the Agency on various boards/commissions/committees/and task forces dealing with FOI policy matters; and

- d. Perform other functions as necessary in the exigency of service, determined by the lead agency.

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

- a. Conduct of an evaluation of the request and shall have the authority to grant or deny the request, based on the following:
 - i. The Agency does not have the information requested; or
 - ii. The information requested contain sensitive personal information protected by the Data Privacy Act (DPA) of 2012; or
 - iii. The information requested falls under the list of exceptions; or
 - iv. The request is identical or substantially similar from the same requesting party whose request has been previously granted or denied by the Agency; or
 - v. Vexatious requests.

7. FOI Focal Person (FFP): There shall be an FFP designated by the FOI Champion per division, who are holding *plantilla* or permanent positions. The functions of the FFPs shall include the following:

- a. Coordinate with the FOI Receiving Officer (FRO) or Alternate FRO;
- b. Designate staff for the fast rolling of information needed to answer the request;
- c. Facilitate the clearance of draft letter of reply with their respective division; and
- d. Ensure that the period to reply to the said request is within the prescribed period as provided under EO No. 2, s. 2016, to wit:
 - i. Fifteen (15) working days for FOI Requests informing the requestor of the decision whether his or her request was granted or denied; and
 - ii. Additional Twenty (20) working days whenever the information requested requires extensive search of government office's records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases.

SECTION 2: GLOSSARY OF TERMS

1. **ADMINISTRATIVE FOI APPEAL.** Shall refer to an independent review of the initial determination made in response to an FOI request. Requesting parties who are dissatisfied with the response made on their initial request have a right to appeal that initial determination to an office within the agency, which will then conduct an independent review.
2. **ANNUAL FOI REPORT.** Shall refer to a report to be filed each year with the Presidential Communications Operations Office (PCOO) by all government agencies detailing the administration of the FOI. Annual FOI Reports contain detailed statistics on the number of FOI requests and appeals received, processed, and pending at each government office.
3. **CONSULTATION.** Shall refer to the process when a government office locates a record that contains information of interest to another office, it will ask the views of that other agency on the disclosability of the records before any final determination is made.
4. **EXCEPTIONS.** Shall refer to the information that should not be released and disclosed in response to an FOI request because they are protected by the Constitution, laws or jurisprudence.
5. **FREEDOM OF INFORMATION (FOI).** Shall refer to the right of the people to information on matters of public concern, and adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in Executive Order No. 2, s. 2016. This right is indispensable to the exercise of the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making.
6. **FOI CONTACT.** Shall refer to the name, address and phone number at each government office where you can make an FOI request.
7. **FOI REQUEST.** Shall refer to the written request submitted to a government office personally or by email asking for records on any topic. An FOI request can generally be made by any Filipino to any government office.
8. **FOI RECEIVING OFFICE.** Shall refer to the primary contact at each agency where the requesting party can call and ask questions about the FOI process or the pending FOI request.
9. **FREQUENTLY REQUESTED INFORMATION.** Shall refer to the information released in response to an FOI request that the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records.
10. **FULL DENIAL.** Shall refer to the action of the government office when it cannot release any records in response to an FOI request, because, for example, the

requested information is exempt from disclosure in its entirety or no records responsive to the request could be located.

11. FULL GRANT. Shall refer to the action of the government office when it is able to disclose all records in full in response to an FOI request.

12. INFORMATION. Shall refer to 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.

13. INFORMATION OF DISCLOSURE. Shall refer to the information promoting the awareness and understanding of policies, programs, activities, rules or revisions affecting the public, government agencies, and the community and economy. It also includes information encouraging familiarity with the general operations, thrusts, and programs of the government. In line with the concept of proactive disclosure and open data, these types of information can already be posted to government websites, such as data.gov.ph, without need for written requests from the public.

14. MULTI-TRACK PROCESSING. Shall refer to the system that divides 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 other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.

15. OFFICIAL RECORD(S). Shall refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.

16. OPEN DATA. Shall refer to the publicly available data structured in a way that enables the data to be fully discoverable and useable by end users.

17. PARTIAL GRANT OR PARTIAL DENIAL. Shall refer to the action of the government office when it is able to disclose portions of the records in response to an FOI request, but must deny other portions of the request.

18. PENDING REQUEST OR PENDING APPEAL. Shall refer to an FOI request or administrative appeal for which a government office has not yet taken final action in all respects. It captures anything that is open at a given time including requests that are well within the statutory response time.

19. PERFECTED REQUEST. Shall refer to an FOI request, which reasonably describes the records sought, and is made in accordance with the government office's regulations.

20. 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.

21. PROACTIVE DISCLOSURE. Shall refer to the information made publicly available by government agencies without waiting for a specific FOI request. Government agencies now post on their websites a vast amount of material concerning their functions and mission.

22. PROCESSED REQUEST OR PROCESSED APPEAL. Shall refer to the number of requests or appeals where the agency has completed its work and sent a final response to the requester.

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

24. PUBLIC SERVICE CONTRACTOR. Shall refer to a private entity that has dealing, contract, or a transaction of whatever form or kind with the government or a government agency or office that utilizes public funds.

25. RECEIVED REQUEST OR RECEIVED APPEAL. Shall refer to an FOI request or administrative appeal that an agency has received within a fiscal year.

26. REFERRAL. Shall refer to the process when a government office locates a record that originated with, or is of otherwise primary interest to another agency, and forwards that record to the other agency to process the record and to provide the final determination directly to the requester.

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

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

- d. Specifically established by an executive order or an act of Congress to be kept classified.


28. SIMPLE REQUEST. Shall refer to an FOI request that an agency anticipates will involve a small volume of material or which will be able to be processed relatively quickly.

29. www.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.

30. www.foi.gov.ph. Shall refer to the website that serves as the government's comprehensive FOI website for all information on the FOI. Among many other features, eFOI.gov.ph provides 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.

SECTION 3. EXCEPTIONS TO THE RIGHT TO ACCESS OF INFORMATION

For the guidance of all government offices and instrumentalities covered by EO 2 (s. 2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:¹

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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 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.


Pursuant to Memorandum Circular No. 89, s. 2021, as recognized by the Constitution, existing laws, or jurisprudence, 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 Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁶ and

 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, C.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.

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.

- b. 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
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

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 30, 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).

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

records,¹⁴ including sensitive personal information, birth records,¹⁵ school records,¹⁶ or medical or health records;¹⁷

b. Sensitive personal information as defined under the Data Privacy Act of 2012 refers to personal information.¹⁸

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- (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 individual¹⁹ and is not prohibited by any law or regulation. Any disclosure of personal information shall be in accordance with the principles of transparency, legitimate purpose and proportionality.²⁰

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including:

- (1) The fact that the individual is or was an officer or employee of the government institution;

14 Sections 8 and 15, Data Privacy Act of 2012 (RA No. 10173); Personal information refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual [Section 3(g), Data Privacy Act of 2012]; Article 26, Civil Code. May be invoked by National Privacy Commission and government personal information controllers.

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


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

17 Medical and health records are considered as sensitive personal information pursuant to Section 3(1)(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(1), 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(1), 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).

19 Article 26(2), Civil Code.

20 Section 11, Data Privacy Act of 2012.

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- (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
- c. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence,²² and
- d. 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, employer, or other identifying information of a victim or an immediate family member;²⁷

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.

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.

- (6) Trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person,²⁸
- (7) Names of victims of child abuse, exploitation or discrimination,²⁹
- (8) Cases of gender-based streets and public spaces sexual harassment, including information on the victim and the accused who is a minor,³⁰
- (9) Disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons,³¹
- (10) Records, documents, and communications of proceedings involving domestic, inter-country, and administrative, adoptions, including the identity of the child, natural parents and adoptive parents;³²
- (11) Names of students who committed acts of bullying or retaliation;³³
- (12) Children in situations of armed conflict;³⁴
- (13) First time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the Comprehensive Dangerous Drugs Act of 2002, as amended; and³⁵
- (14) Identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;³⁶

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

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

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

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

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

32 Section 15, Domestic Adoption Act of 1998 (RA No. 8552) and Section 43, IRR of RA No. 8552; Sections 6 and 16(b), Inter-Country Adoption Act of 1995 (RA No. 8043) and Sections 53, 54 and 55 of IRR of RA No. 8043; Section 14, Simulated Birth Rectification Act (RA No. 11222) and Section 28 of IRR of RA No. 11222.


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

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

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

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

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:

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- a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;³⁷
 - b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority;³⁸
 - c. Records and reports submitted to the Social Security System by the employer or member;³⁹
 - d. Information of registered persons with the Philippine Identification System;⁴⁰
 - e. Information gathered for the HIV and AIDS monitoring and evaluation program under RA No. 11166 and all other related health intelligence activities;⁴¹
 - f. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;⁴²
 - g. Applications and supporting documents filed pursuant to the Omnibus Investments Code of 1987;⁴³
 - h. Documents submitted through the Government Electronic Procurement System;⁴⁴
 - i. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the Electronic Commerce Act of 2000;⁴⁵

37 Sections 45, 106.1, and 150.2, The Intellectual Property Code (RA No. 8293, as amended by RA No. 10372); Section 66.2, Securities Regulation Code (RA No. 8799); DOST Administrative Order No. 00416; Section 142, The Corporation Code (BP Big. 68); Section 34, Philippine Competition Act (RA No. 10667); Sections 23 and 27 (c), The New Central Bank Act (RA No. 7653); Anti-Money Laundering Act (RA No. 9160); Section 18, Strategic Trade Management Act (RA No. 10697); Sections 10 and 14, Safeguard Measures Act (RA No. 8800); Section 12, Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990 (RA No. 6969); Article 290, Revised Penal Code; Section 10.10, Rule 10, 2012 Revised IRR of Build-Operate-Transfer Law (RA No. 6957); Revised Philippine Ports Authority Manual of Corporate Governance; and Section 18, Energy Virtual One-Stop Shop Act (RA No. 11234).

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

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

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


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

42 Section 34, Philippine Competition Act (PCA), RA No. 10667 and Section 13, Rule 4 of the IRR of PCA. This exception can be invoked by the Philippine Competition Commission subject to well-defined limitations under the PCA.

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

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

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

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- j. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the Philippine Mining Act of 1995 and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;⁴⁶
 - k. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;⁴⁷
 - l. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;⁴⁸
 - m. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁹
 - n. Certain information and reports submitted to the Insurance Commissioner pursuant to the Insurance Code;⁵⁰
 - o. Information on registered cultural properties owned by private individuals;⁵¹
 - p. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁵²
 - q. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵³
 - r. Records or information in connection with any investigation conducted by the Presidential Anti-Corruption Commission (PACC) when such disclosure will deprive the respondent of the right to a fair and impartial investigation;⁵⁴ and
 - s. Records of surveillance of suspects and interception and recording of communications acquired by a law enforcement agent or military personnel pursuant to the Anti-Terrorism Act of 2020.⁵⁵

6. Information of which a premature disclosure would:

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

⁴⁷ Section 1, Rule 'X', DOT MC No. 2010-02 (Rules and Regulations to Govern, the Accreditation of Accommodation Establishments — Hotels, Resorts and Apartment Hotels); and Section 23, DOT MC No. 2015-06 (Revised Rules and Regulations to Govern the Accreditation of Travel and Tour Agencies).

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

⁴⁹ Section 10, Safeguard Measures Act.

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

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

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

⁵³ Articles 229 and 230, Revised Penal Code; Section 3(k), Anti-Graft and Corrupt Practices Act (RA No. 3019); Section 7(c), Code of Conduct and Ethical Standards for Public Officials and Employees (RA No. 6713); Section 7, Exchange of Information on Tax Matters Act of 2009 (RA No. 10021); and Section 6.2, Securities Regulation Code (RA No. 8799).

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

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

- a. In the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or
- b. Be likely or significantly frustrate implementation of a proposed official action, except such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.⁵⁶
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:
- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the Alternative Dispute Resolution Act of 2004;⁵⁷
- b. Matters involved in an Investor-State mediation;⁵⁸
- c. Information and statements made at conciliation proceedings under the Labor Code;⁵⁹
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC):⁶⁰
- e. Results of examinations made by the Securities and Exchange Commission (SEC) on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto;⁶¹
- f. Information related to investigations which are deemed confidential under the Securities Regulations Code;⁶²
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁶³
- h. Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the Comprehensive Dangerous Drugs Act of 2002;⁶⁴

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

57 Sections 9, 23 and 33, Alternative Dispute Resolution (ADR) Act of 2004 (RA No. 9285); and DOJ Circular No. 98 (s. 2009) or the IRR of the ADR Act.

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

59 Article 237, Labor Code.


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

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

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

63 Section 53(b)(1) of the Pre-Need Code of the Philippines. The confidentiality of the proceedings is lifted after the issuance of the cease and desist order.

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

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- i. Investigation report and the supervision history of a probationer;⁶⁵
 - j. Those matters classified as confidential under the Anti-Terrorism Act of 2020 and its IRR;⁶⁶
 - k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶⁷ and
 - l. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;⁶⁸
8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
- a. RA No. 1405 (Law on Secrecy of Bank Deposits);
 - b. RA No. 6426 (Foreign Currency Deposit Act of the Philippines) and relevant regulations;
 - c. RA No. 8791 (The General Banking Law of 2000);
 - d. RA No. 9160 (Anti-Money Laundering Act of 2001);
 - e. RA No. 9510 (Credit Information System Act); and
 - f. RA No. 245, as amended by Presidential Decree No. 1878;
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:
- a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:
 - (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;⁶⁹
 - (2) Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on

65 Section 17, Probation Law of 1976 [PD No. 968 6.1976]].

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

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

68 Section 18, Rule 139-B and Section 24, Rule 130 of the Rules of Court; and Section 1 1 of the Rule on DNA Evidence, A.M. No. 06-11-5-SC.

69 Examples: Article 20 (2), ASEAN Comprehensive Investment Agreement; Article 15 (2) Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation between the ASEAN and the Republic of India; and Article 1 5 (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.

Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules);⁷⁰ and

- (3) Refugee proceedings and documents under the 1951 Convention Relating to the Status of Refugees, as implemented by DOJ Circular No. 58 (s. 2012);
- b. Testimony from a government official, unless pursuant to a court or legal order;⁷¹
- c. When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:
- (1) Any purpose contrary to morals or public policy; or
- (2) Any commercial purpose other than by news and communications media for dissemination to the general public;⁷²
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁷³
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁷⁴
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷⁵ and
- g. Attorney-client privilege existing between government lawyers and their client.⁷⁶

70 Article 7, UNCITRAL Transparency Rules.

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

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

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

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

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

76 Canon 21 of the Code of Professional Responsibility.

SECTION 4. LIST OF DOST-TAPI EXCEPTIONS

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

1. Transactions with Non-Disclosure Agreements (NDA) and/or documents related to the conduct of contests, such as the Regional Invention Contests and Exhibits (RICE) and National Invention Contests and Exhibits (NICE), among others:
 - a. Evaluations
 - b. Reports
 - c. Contests: Rating Sheets, Entries submitted
 - d. Digital file or recording of meetings, interviews, and deliberation of board of judges
 - e. All other declassified documents per National Archives of the Philippines guidelines and issuances
2. Intellectual Property (IP). – all documents, regardless of the status of IP applications, that are related to the disclosures, list or any details of unfiled applications, and internal correspondences.
 - a. Accomplished Invention Disclosure Form
 - b. Prior arts search reports on applications for IP Rights Assistance Program
 - c. Unfiled specification, technical description
 - d. Unpublished IP applications and official correspondences
 - e. Unfiled IP applications
 - f. IP due diligence: Freedom-To-Operate (FTO) opinions or reports, IP valuation reports without the consent of the technology owners
 - g. All documents related to applications that are not yet filed not published that shall be requested by a third person.
 - h. Documents submitted in relation to the Innovation & Technology Support Office (ITSO) such as, but not limited to: (1) personal details of the applicants; (2) Technical Disclosures; (3) Office actions and other IP application that are not yet published by the Intellectual Property Office of the Philippines (IPOPHL);

3. Transactions of the Fairness Opinion Board (FOB)

- a. Transactions of the FOB, including all documents that were received by DOST-TAPI during the period that the DOST-TAPI served as FOB Secretariat, among others:
 - i. Proposed licensing agreements
 - ii. Proposed term sheets
 - iii. Due diligence reports or information (i.e. FTO, valuation, company profile, financial reports)
 - iv. Fairness Opinion Reports (FOR)
 - v. Written Recommendation Assessment Report
 - vi. Written Recommendation signed by the DOST Secretary
- b. FOR that were forwarded to DOST-TAPI as depositary institution per Revised Implementing Rules and Regulations (IRR) of Republic Act No. 10055, otherwise known as the "Philippine Technology Transfer Act of 2019."
- c. All documents related to FOR and request for Written Recommendations that were submitted by the DOST Regional Offices as the present FOB Secretariat to the DOST-TAPI.
- d. All internal communications and correspondences within DOST-TAPI.
- e. All correspondences between DOST-TAPI and the Office of the Secretary that are related to this category except if such is approved by the DOST Secretary.

4. Requests for Assistance that are not yet approved

- a. Proposals and supporting documents
- b. Letter requests
- c. Evaluation reports

5. Legal-related matters


- a. Documents that are subject of legal proceedings
- b. Evidence of the plaintiff or defendant

6. Personal Information of DOST-TAPI officials and employees, experts and clients, UNLESS there is prior consent from the concerned party, or upon order by the court

7. Unofficial documents
 - a. Unsigned communications
 - b. Draft reports
 - c. Drafts and Notes of Instructions
8. Minutes of the Meeting (ONLY excerpts or portion concerning the request)
9. Proposals or any part of it including attachments, sketch, or drawings, UNLESS the requesting party is the owner or author of the proposal, otherwise only the Abstract of the Proposal may be released
10. Results of the Evaluation (ONLY if the requesting party is officially involved with the proposal)
11. Details of computation of cost for posting in PhilGeps. (ONLY the total amount shall be released)
12. Proposal evaluation
13. Bank details per Letter of Instruction (LOI)
14. Notes and instructions during the process of the approval of the assistance including notes of instructions given to the proponent
15. Any details in the documents and attachments of the proposal or project from evaluation to completion stage which may possibly destroy or affect the novelty of any potential, present and future IP Rights, trade secrets and know-how or any other information that may be deemed confidential by the technology developer, monitoring agency, funding agency which may prejudice, negatively affect, or impede the commercialization and transfer of technology by the developer and utilization by the public.

The immediately preceding paragraph includes, but not limited to:

- a. Email communications, EXCEPT if the party requesting is part of the email thread and/or part of the subject of discussion. However, only the portion involving him or her could be disclosed
 - b. Technical reports, assessments, and plans (Business Plan, Marketing Plan, FTO, Valuation, Terminal Report, Field Monitoring, Appraisal, etc.)
 - c. Financial information or details, EXCEPT the amount released to project and utilization
16. Result or status of evaluation (i.e. passed, endorsed, approved for funding, deferred, subject to revision) minutes of meeting, EXCEPT if the Requesting Party is part of the discussion and limited to the portion involving him or her.


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17. Complete documents (Business Plan Valuation Reports). Part of this document may be released subject to the approval of the technology owner.
 18. Financial Records (Bank details per LOI of evaluators, consultants, etc.).
 19. Records of Evaluation (ONLY the final or consensus evaluation or rating or comments or recommendations could be disclosed to the public)
 20. Results of deliberation of Human Resource Management Promotion and Selection Board (HRMPSB) for candidates to permanent position/promotion unless there is a protest made by a qualified next in rank.
 21. Digital file or recording of meetings, interviews, and other forms of data gathering.
 22. Test Results, except if the requestor is the Proponent himself or herself.
 23. Certification and Resolution issued by the Screening Committee for Republic Act No. 7259 to the inventors, except if the requestor is the Inventor himself or herself.

SECTION 5. STANDARD PROCEDURE

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

1. **Receiving of Written Request.** – The FOI Receiving Officer (FRO) or Alternate FRO shall receive the request for information from the Requesting Party and check compliance of the following requirements:
 - a. The request must be in writing. The Requesting Party shall fill-out the FOI Request Form or *Pormularyo ng Kahilingan* (ANNEX E);
 - b. The request shall state the name and contact information of the Requesting Party, as well as a copy of a duly recognized primary and secondary valid ID with photo;
 - c. The request shall reasonably and specifically describe the information requested, and the reason for, or purpose of, the request for information; and
 - d. The Requesting Party shall affix his or her signature in the FOI Request Form (ANNEX “E”).
2. **Oral Request to be Reduced in Writing.** – In case the Requesting Party is unable to make a written request, because of illiteracy or due to being a person with disability, he or she may make an oral request, and the FRO or Alternate FRO shall reduce it in writing. The Requesting Party may also be assisted by a literate or able companion who shall also submit his valid identification card and affix his or her signature in the request form. The FRO or Alternate FRO shall provide appropriate advice and assistance to the Requesting Party regarding the requirements or forms needed for the request of information.
3. **Designation of Reference Number.** – The perfected request shall be stamped received by the FRO or Alternate FRO, indicating the date and time of the receipt of the written request. In cases when the request is received by a person other than the FRO or Alternate FRO, the name, rank, title and position of the public officer who actually received it shall be indicated in the request form, with a corresponding signature and a copy, furnished to the requesting party. The FRO or Alternate FRO shall coordinate with the DOST-TAPI Records Section for the designation or allocation of a reference number and input the details of the request on the Request Tracking System.
4. **Use of DTORS.** – The same shall be uploaded in the DOST-TAPI Online Routing System (DTORS). Drafting, review, approval and sending of communications and other office actions in connection to this Procedure shall be done physically and/or through DTORS. All actions involving DTORS shall follow Procedure for the “Use of DTORS in the Procedures and Processes of the Institute” (PM-TAPI-QMR-07).
5. **Assessment of FOI Request.** – Upon receipt of the duly accomplished FOI Request, the Request shall be forwarded to Office of the Director who then forwards the same to the FRO or Alternate FRO. The FRO or Alternate FRO

assesses whether the information being requested falls under the General List of Exceptions (Section 3) and/or the DOST-TAPI List of Exceptions (Section 4).

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- a. **For Requests not Falling Under the Exception List.** – The FRO or Alternate FRO shall coordinate with the respective divisions, through their designated FFP, regarding the requested information. The FRO or Alternate FRO shall provide the Requesting Party the requested information within the period mentioned under Item A (6) Section 5 of this Manual.
 - b. **For Requests Falling Under the Exception List.** – The FRO or Alternate FRO shall inform the Requesting Party in writing that his or her request has been denied and that the requested information falls under the Exception List mentioned under Section 3 and/or Section 4 of this Manual, citing the specific provision related thereto.
 - c. **For Requests Available at Other Offices.** – The FRO or Alternate FRO shall inform the Requesting Party that the information is not available with the Institute and shall provide the name of the government office or agency and its contact details. The FRO or Alternate FRO shall endorse the FOI Request to the identified government office or agency as provided under the “No Wrong Door” Policy (Annex “G”).
 - d. **For Requests Requiring Redaction and Extraction.** – The FRO or Alternate FRO may release the requested information in part pursuant to the “Guidelines on Redaction and Extraction of Information Before Disclosure to the Public” (Annex “H”).
 - e. **For Request Requiring Clarification.** – If the information being requested is not clearly indicated in the request form, the FRO or Alternate FRO shall seek clarification from the Requesting Party in writing within the fifteen (15)-working day period. This will toll the fifteen (15)-working day deadline which will resume the day after the FRO or Alternate FRO receives the required clarification from the requesting party. If no clarification is received within thirty (30) calendar days, the request shall be deemed as not perfected request and shall be automatically denied. The FRO or Alternate FRO shall inform the Requesting Party about the denial of the request in writing.

6. **Period to Respond.** – The Institute must respond to the requests promptly and within the prescribed period as provided under EO No. 2, s. 2016, to wit:

- a. Fifteen (15) working days for FOI Requests informing the requestor of the decision whether his or her request was granted or denied; and
- b. Additional Twenty (20) working days whenever the information requested requires extensive search of government office’s records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases.

The reckoning period shall be the date of receipt of the request. A working day is any day other than a Saturday, Sunday or a day which is declared a

national public holiday in the Philippines. In computing for the period, Article 13 of the New Civil Code shall be observed.

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

1. The Requesting Party may also lodge his or her request through the use of the eFOI Portal (<https://www.foi.gov.ph/requests/new?agency=TAPI>).
2. The FRO or Alternate FRO shall forward a copy of the request to the Records Section for the designation or allocation of a reference number and input the details of the request on the Request Tracking System.
3. The same shall follow the procedure mentioned in Section 5(A) of this Manual, particularly item numbers 4, 5, and 6.

C. Receipt of Request for Information thru electronic mail.

1. The request may be made through email, provided that the requesting party shall attach in the email a scanned copy of the FOI application request, and a copy of a duly recognized primary and secondary valid ID with photo.
2. If the Request for Information was sent to DOST-TAPI thru its official email address, info@tapi.dost.gov.ph, the Records Section Staff shall acknowledge receipt of said email and shall indicate therein that the request will be forwarded to the FRO or Alternate FRO for initial evaluation.
3. The Records Section Staff shall forward a printed copy of the request to the FRO or Alternate FRO within two (2) working days for initial assessment of the request. The FRO shall assess the request whether it is in compliance with the DOST-TAPI Memorandum Circular No. 2017-001. It shall, thereafter, be stamped received. Otherwise, the FRO or Alternate FRO shall prepare a reply for the Requesting Party clarifying or directing the latter to comply with the requirements under Section 13, Paragraph 1 of the DOST-TAPI MC No. 2017-001.
4. The FRO or Alternate FRO shall send a copy of the stamped perfected request or a reply requesting for clarification, as the case may be.
5. If the request was sent to the email address of any of the DOST-TAPI Staff other than the official email address of DOST-TAPI, said staff shall also acknowledge receipt of the request and shall follow the immediately preceding procedures.
6. The date of receipt of the request will be either:
 - a. The day on which the request was physically or electronically delivered to the Institute, or directly into the email inbox of the DOST-TAPI staff or DOST-TAPI official email address; or
 - b. If the FRO or Alternate FRO required the Requesting Party for further details to identify and locate the requested information, the date on which the necessary clarification and perfected request was received.

7. An exception to this will be where the request has been emailed to an absent member of staff, and this has generated an 'out of office' message with instructions on how to re-direct the message to another contact. Where this is the case, the date of receipt will be the day the request arrives in the inbox of that contact.
8. The same shall follow the procedure mentioned in Section 5(A) of this Manual, particularly item numbers 4, 5, and 6.

D. Role of FRO or Alternate FRO in the Initial Evaluation of the Request. After receipt of the request for information, the FRO or Alternate FRO shall evaluate the contents of the request and shall assess the following:

1. If the Institute has custody of the requested information, the FRO or Alternate FRO shall accept the request and will coordinate with the FOI Focal Person of the division concerned. Otherwise, the FRO or Alternate FRO shall refer the request to the appropriate Advisory Body or Council or RDI or Service Institute who is in custody of the information as provided under the "No Wrong Door" Policy (Annex "G").
2. If the same Requesting Party requests for the same information which was already furnished by the Institute, subsequent request of the same information from the same Requesting Party shall be denied. However, the FRO or Alternate FRO shall inform the applicant of the reason of such denial.
3. The FRO or Alternate FRO shall input the details of the request on the Request Tracking System and allocate a reference number once a perfected request is received.
4. The FRO or Alternate FRO shall forward/endorse the request to the FDM within two (2) working days for approval or denial. The FRO or Alternate 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 request.
5. The FRO or Alternate FRO shall inform the Requesting Party of action taken by the Institute within two (2) working days upon receipt of the request.

E. Request relating to more than one (1) division under the Institute. This refers to an instance where the information being requested needs to be complied by two (2) or more divisions of the Institute.

1. The FRO or Alternate FRO shall endorse the request to the FDM within two (2) working days.
2. The FDM, after receiving the request from the FRO or Alternate FRO, shall forward such request to the concerned divisions with key interest, through their FOI Focal Person, within three (3) working days.
3. The divisions with key interest shall have a maximum of three (3) working days to provide the information which shall be forwarded to the FDM.

4. The division with key interest may request for an extension of time to provide the information needed in cases falling under Section 21 of DOST-TAPI MC No. 2017-001. The FRO or Alternate FRO shall inform the Requesting Party of the said extension, setting forth the reason/s for such. In no case shall the extension exceed twenty (20) working days, unless exceptional circumstances warrant a longer period.
5. The FOI-DM shall render decision whether to approve, deny, or partially approve only a portion of the request for information within ten (10) working days from the date of receipt of the request from FRO or Alternate FRO. Said decision shall be communicated with the FRO or Alternate FRO.

F. Requested information is not in the custody of the Institute. This refers to an instance where the information being requested is not in the custody of DOST-TAPI.

1. If the information requested refers to another Advisory Body or Council or Research and Development Institute (RDI) or Service Institute, the request will be immediately transferred to such appropriate Advisory Body or Council or RDI or Service Institute through the most expeditious manner or within three (3) working days. The FRO or Alternate FRO must inform the Requesting Party that the information is not in the custody of DOST-TAPI within the fifteen (15) working day period. The FRO or the Alternate FRO must also inform the Requesting Party that his or her perfected request was already referred to the appropriate Advisory Body or Council or RDI or Service Institute. The procedure shall follow the "No Wrong Door" Policy (Annex "G").
2. If the records refer to an office not within the coverage of E.O. No. 2, s. 2016 the requesting party shall be advised accordingly and provided with the contact details of that office, if known.
3. In case of inability to determine the office which has custody over the documents or if the request have been previously transferred from one office and the requested information is not in the custody of the third office which received the request, the same shall be referred by the latter to the DOST Central Office within three (3) working days from its receipt of the perfected request.

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

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

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

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

1. The FRO or the Alternate FRO shall attach a cover or transmittal letter signed by the FDM and ensure the transmittal of such to the Requesting Party within fifteen (15) working days upon receipt of the request for information.
2. If the Requesting Party asked for information in a certain format, comply with the latter's request, if practical.
3. Update FOI Tracker and save the Institute's response to the request.

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

- a) If the information requested requires extensive search of the government's office records facilities;
- b) Examination of voluminous records; and
- c) The occurrence of fortuitous events or other analogous cases.

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

K. Full Grant of Request. In case of approval, the FRO or the Alternate FRO shall ensure that all records that have been retrieved and considered be checked for

possible exemptions, prior to actual release. The FRO or the Alternate FRO shall prepare the letter or email informing the Requesting party within the prescribed period that the request was fully granted and be directed to pay reasonable cost of reproduction and copying of the information or documents requested, if any.


- long*
- L. Full Denial of Request.** In case of denial of the request wholly or partially, the FRO or the Alternate FRO shall, within the prescribed period, notify the Requesting Party of the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based.
 - M. Partial Grant or Partial Denial.** When the Institute is able to disclose portions of the records in response to an FOI request, but must deny other portions of the request, the FRO or the Alternate FRO shall, within the prescribed period, notify the Requesting Party of the Partial Grant or Partial Denial in writing. The notice shall clearly set forth the ground or grounds for Partial Grant or Partial Denial and the circumstances on which the decision was 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 pass through the FDM.
 - N. No unauthorized distribution of information.** No information or data shall be transferred or distributed to third parties without the express consent by the Institute.

SECTION 6. REMEDIES IN CASE OF DENIAL

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

1. **Administrative FOI Appeal to the Office of the Secretary:** Provided, that the written appeal must be filed by the same requesting party within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.
 - a. Denial of request for access to information by the DOST-TAPI may be appealed by filing a written appeal to the Office of the Secretary (DOST) within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.
 - b. The appeal shall be decided by the DOST Secretary within thirty (30) working days from the filing of said written appeal. Failure to decide within the 30-day period shall be deemed a denial of the appeal.
 - c. The denial of the Appeal by the DOST Secretary or the lapse of the period to respond to the request may be Appealed further to the Office of the President under Administrative Order No. 22, s. 2011.
2. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate action in accordance with the Revised Rules of Court.

SECTION 7. FEES

- 
1. **No request fee.** The DOST-TAPI shall not charge any fee for accepting requests for access to information.
 2. **Reasonable Cost of Reproduction and Copying of the Information.** In case of voluminous requests, the FRO shall immediately notify the requesting party in case there shall be a reproduction and copying fee in order to provide the information. Such fee shall be the actual amount spent by the DOST-TAPI in providing the information to the requesting party. The schedule of fees shall be posted by the DOST-TAPI.
 3. **Exemption from fees.** The DOST-TAPI may exempt any requesting party from payment of fees, upon request stating the valid reason why such requesting party shall not pay the fee.

ANNEX A: FREQUENTLY ASKED QUESTIONS

Introduction to FOI

1. What is FOI?

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

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

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

3. Who oversees the implementation of EO 2?

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

Making a Request

4. Who can make an FOI request?

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

5. What can I ask for under EO on FOI?

Information, official records, public records, and, documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development.

6. From which agencies can we ask for information from?

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

7. How do I make an FOI request?

- a. The Requesting Party shall fill out a request form and submit to the agency's Receiving Officer. The Receiving Officer shall validate the request and logs it accordingly on the FOI tracker.
- b. If deemed necessary, the Receiving Officer may clarify the request on the same day it was filed, such as specifying the information requested, and providing other assistance needed by the Requesting Party.
- c. The request is forwarded to the Decision Maker for proper assessment. The Decision Maker shall check if the agency holds the information requested, if it is already accessible, or if the request is a repeat of any previous request.
- d. The request shall be forwarded to the officials involved to locate the requested information.
- e. Once all relevant information are retrieved, officials will check if any exemptions apply, and will recommend appropriate response to the request.
- f. The FDM will be the one to decide, all actions whether to release or deny the request shall go thru him or her. The head of the agency may provide clearance to the response.
- g. The agency shall prepare the information for release, based on the desired format of the Requesting Party. It shall be sent to the Requesting Party depending on the receipt preference.

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

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

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

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

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

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

11. What if I never get a response?

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

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

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

ANNEX B: FOI REQUEST PROCESS

Maximum number of days FOI requests must be served upon receipt of request: Fifteen (15) working days

STEP	REQUESTING PARTY	DOST-TAPI ACTION	RESPONSIBLE	TIME FRAME
STEP 1	Give accomplished FOI application request form with complete name, contact information, valid ID (or authorization) to FRO The request should: <ul style="list-style-type: none"> Describe information request Clearly state reason for request of information 	Receive request for information Stamp "RECEIVED" on the request form (time and date, full name of FRO, rank, title and position, with signature For email – the email should be printed out and acknowledged	FRO	IMMEDIATE Within the day or upon receipt
	N/A	Input details of the request on the request tracking system and allocate a reference number	FRO	IMMEDIATE Within the day or upon receipt
*If information is in the possession of another agency, FRO shall forward the request to that other agency or government Institution within three (3) working days				
STEP 2	N/A	Forward to FDM *For requests, sufficient in form and substance	FRO	Within three (3) working days from receipt of the request
	N/A	Record the date, time, name of FDM who received the request, with acknowledgement receipt of request	FRO	IMMEDIATE Within the day
STEP 3	N/A	Assess the request	FDM	Within ten (10) working days from receipt of the request

ACTION			RESPONSIBLE	TIME FRAME
<ul style="list-style-type: none"> DENIAL Once the request falls under the exceptions, the request will be DENIED, FRO will inform the requester that the request was denied and give the reason for such denial. 			FDM FRO	IMMEDIATE Within the day
<ul style="list-style-type: none"> NEEDS MORE INFORMATION If the FDM need more details to locate the information, FRO will seek clarification from requesting party 			FRO	Will stop the running of fifteen (15)-working days and commence after receipt of clarification
<ul style="list-style-type: none"> GRANTED/ACCEPTED FRO will send letter informing request party that the request was granted 			FRO	IMMEDIATE Within fifteen (15) working days from receipt of request for information
<ul style="list-style-type: none"> EXTENSION The FRO shall inform requesting party of request for extension 			FRO	IMMEDIATE *Extension cannot exceed twenty (20) working days upon receipt
STEP	REQUESTING PARTY	TAPI ACTION	RESPONSIBLE	TIME FRAME
STEP 4	N/A	Submit information requested to FRO	FDM	Within ten (10) working days upon receipt of the request
STEP 5	Requesting Party will receive information requested	Information will be forwarded to requester	FRO	Within fifteen (15) working days upon the receipt of the information request

ACTION		RESPONSIBLE	TIME FRAME
APPEALS Denied request may file a written appeal to the Central Appeals and Review Committee (Assistant Secretary for Finance and Legal Affairs)		Requesting Party	Within fifteen (15) working days from the notice of denial or from lapse of the period to respond to the request
STEP	REQUESTING PARTY	RESPONSIBLE	TIME FRAME
STEP 1	Submit recommendation to the Office of the Secretary	Department Central Appeals and Review Committee	Fifteen (15) working days from filing of the written appeal
STEP 2	Department Secretary will decide within fifteen (15) working days and will furnish the committee a copy of its final decision	Department Secretary	Fifteen (15) working days *failure to decide within thirty (30) day period is deemed as a denial of the appeal

ANNEX C: FOI Champion and Decision Makers for the DOST-TAPI

FOI Champion			
Name / Position	Location	Contact Details	
		Telephone/Fax	Email Address
ATTY. MARION IVY D. DECENA Director Technology Application & Promotion Institute (TAPI)	2 nd Floor TAPI Building, DOST Compound, Gen. Santos Ave. Bicutan, Taguig City	(02)8837-6188 (02)8837-2071 local 2151	info@tapi.dost.gov.ph
FOI Decision Makers			
MR. JOYCEL N. AGUILAR Chief Administrative Officer, Finance and Administrative Division (FAD)	Mezzanine TAPI Building, DOST Compound, Gen. Santos Ave. Bicutan, Taguig City	(02)8837-6188 (02)8837-2071 local 2164	info@tapi.dost.gov.ph
MR. ROMEO M. JAVATE Chief Science Research Specialist, Investment and Business Operations Division (IBOD)	2 nd Floor TAPI Building, DOST Compound, Gen. Santos Ave. Bicutan, Taguig City	(02)8837-6188 (02)8837-2071 local 2158	info@tapi.dost.gov.ph
MR. CAEZAR ANGELITO E. ARCEO Officer-in-Charge and Supervising Science Research Specialist, Invention Development Division (IDD)	2 nd Floor TAPI Building, DOST Compound, Gen. Santos Ave. Bicutan, Taguig City	(02)8837-6188 (02)8837-2071 local 2166	info@tapi.dost.gov.ph
MS. NORA P. GUMIA Chief Science Research Specialist, Technology Information and Promotion Division (TIPD)	2 nd Floor TAPI Building, DOST Compound, Gen. Santos Ave. Bicutan, Taguig City	(02)8837-6188 (02)8837-2071 local 2157	info@tapi.dost.gov.ph

ANNEX D: FOI Receiving Officers and Focal Persons for the DOST-TAPI

Location of FOI Receiving Office	Contact Details		Assigned FOI Receiving Officers
	Telephone / Fax	Email Address	
Mezzanine, Legal Unit, TAPI Building, DOST Compound Gen. Santos Ave. Bicutan, Taguig City	(02)8837-2071-82 local 2162	foi@tapi.dost.gov.ph	Mr. Rizalniño L. Noble Legal Assistant III FOI Receiving Officer
			Mr. Ryan H. Ebron Legal Assistant II Alternate FOI Receiving Officer
FOI Focal Persons			
Name		Division	
Ms. Marissa A. Melosantos AO V – Records		Finance and Administrative Division (FAD)	
Engr. Rhoalyn D. Gacho SRS II		Investment and Business Operations Division (IBOD)	
Mr. Roberto R. Verzosa Senior SRS		Invention Development Division (IDD)	
Ms. Emilie S. Capellan SRS II		Technology Information and Promotion Division (TIPD)	

ANNEX E (FOI Request Form)



PORMULARYO NG KAHILINGAN

(FOI Request Form)

TITULO NG DOKUMENTO (*Title of the Document*) _____

MGA TAON/ PANAHOONG SAKLAW (*Year*) _____

LAYUNIN (*Purpose*) _____

PANGALAN / (<i>Name</i>)	CONTACT Nos.
LAGDA / (<i>Signature</i>)	PETSA (<i>Date</i>)
TIRAHAN / (<i>Address</i>)	KATIBAYAN NG PAGKAKAKILANLAN (<i>Proof of Identity</i>) o Passport No. o Driver's License o Other
PARAAN NG PAGTANGGAP NG MGA IMPORMASYON (<i>How would you like to receive the information?</i>) o Email o Fax o Postal Address o Pick-up (<i>Office hours</i>)	

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

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

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

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

Iniskedyul ni (*Received by*):

FOI Receiving Officer

Remarks:



MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

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

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

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

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

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

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

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

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

THE PRESIDENT OF THE PHILIPPINES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

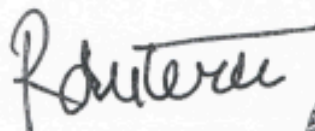
SECTION 18. Repealing Clause. All orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Executive Order are hereby repealed, amended or modified accordingly: *Provided*, that the provisions of Memorandum Circular No. 78 (s. 1964), as amended, shall not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

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

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


By the President:


SALVADOR C. MEDIALDEA
Executive Secretary





CERTIFIED COPY:


MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACANANG RECORDS OFFICE

ANNEX G (No Wrong Door Policy)



REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
Tanggapang Pampanguluhan sa Operasyang 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.

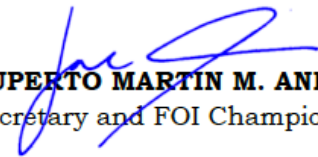
To assist the FROs in locating the requested information or record, an annual updating of the AII shall be required of all agencies on-boarded on the eFOI Portal. The consolidated inventory of information shall likewise be made available in the dashboard of the FRO and FDM for ease of access and information.

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.

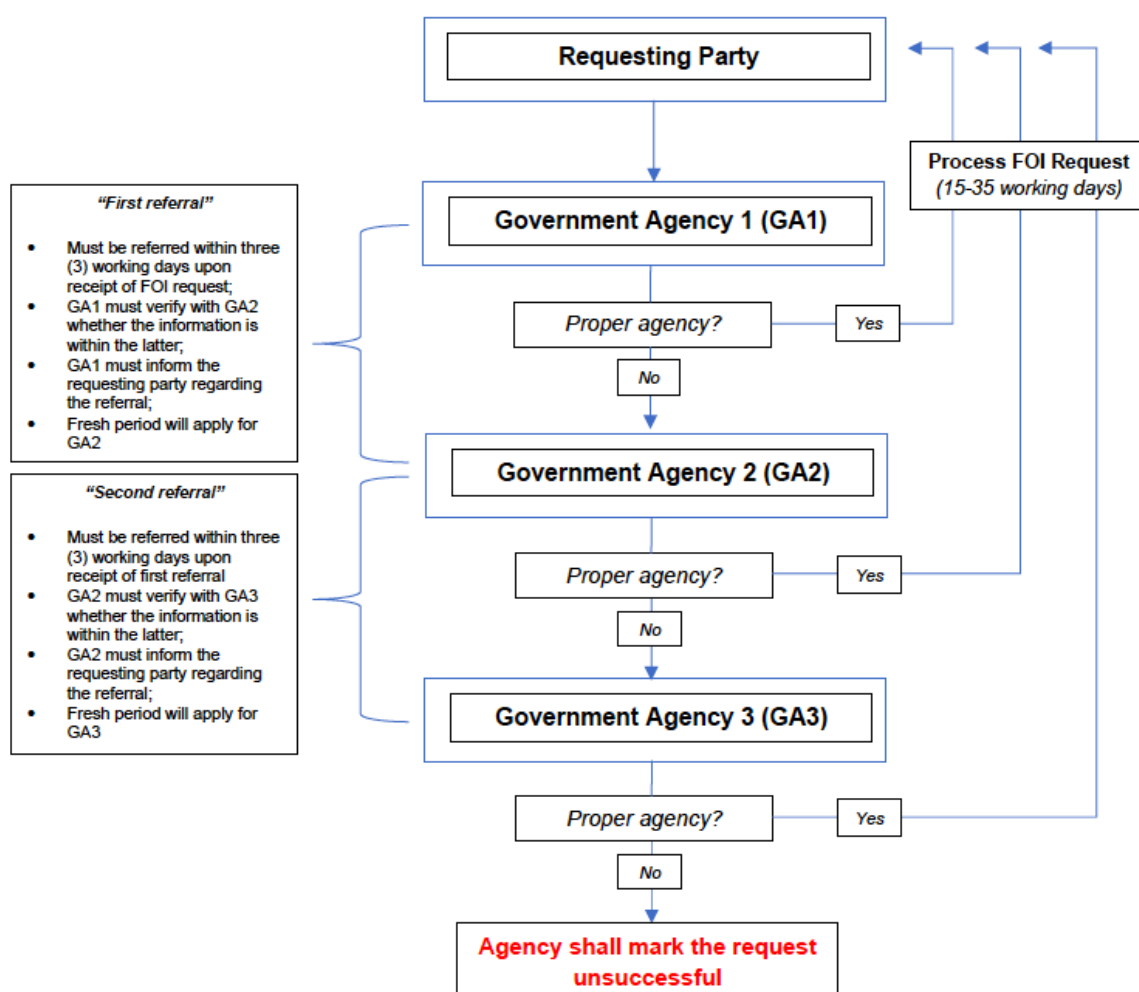
Section 11. Effectivity. This Memorandum Circular shall take effect immediately.

Manila, Philippines, 27th day of August 2021.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

Annex A

NO WRONG DOOR POLICY FLOWCHART



NOTE:

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

ANNEX H (Redaction and Extraction)



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

FOI – MC No. 4, s. 2019

FREEDOM OF INFORMATION MEMORANDUM CIRCULAR

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

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

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

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

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

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

WHEREAS, Section 3 of EO No. 02, s. 2016 provides that every Filipino shall have access to information, official records, public records and to documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


JOSE RUPERTO MARTIN M. ANDANAR
Secretary & FOI Champion

28 September 2019 Manila, Philippines.

ANNEX I (Vexatious Request)



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

FOI – MC No. 5, s. 2020

FREEDOM OF INFORMATION MEMORANDUM CIRCULAR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The government office shall not be required to act upon an unreasonable subsequent identical or substantially similar request

from the same requesting party whose request has already been previously granted or denied by the same government office¹;

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

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

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

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

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


¹ Section 11 of Executive Order (EO) No. 2, s. 2016

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

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

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

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


JOSE RUPERTO MARTIN M. ANDANAR
Secretary/FOI Champion 

_____ Manila, Philippines