



26<sup>th</sup> Floor, LANDBANK Plaza, 1598 M.H. Del Pilar corner Dr. J. Quintos Sts., Malate, Manila

# QUALITY MANAGEMENT SYSTEM OPERATIONS MANUAL

## Document Title: Freedom of Information Manual

Class Code:	CLASS D
Document Code:	OM-ADM-011
Revision No.:	01
Effectivity:	January 1, 2023
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### A. OVERVIEW

1. **Policy Statement** – In Line with the constitutional mandate upholding the right to freedom of information and implementation of full public disclosure of all its transactions involving public interest, the LANDBANK Countryside Development Foundation, Inc. (LCDFI) strengthens its commitment to release information under its control involving public interest, subject to limitations as provided by the Constitution, applicable laws, rules, regulations and procedures, such as Republic Act No. 10173, otherwise known as the "Data Privacy Act" and the List of Expectations approved by the Office of the President, among others.
2. **Purpose** – The purpose of this FOI Manual is to guide and assist LCDFI and the public in dealing with requests of information received under Executive Order (E.O.) No. 2 on "Freedom of Information" issued by the President of the Philippines on July 23, 2016.

### B. DEFINITION OF TERMS

Terms	Definition
<b>Administrative FOI Appeal</b>	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 request have a right to appeal the initial determination to an office within the agency, which will then conduct an independent review.
<b>Exceptions</b>	Information that should not be released and disclosed in response to an FOI request because these are protected by the Constitution, laws or jurisprudence.
<b>Freedom of Information (FOI)</b>	The right of the people to information on matters of public concern, necessitating the adoption and implementation of a policy of full public disclosure transactions involving public interest, subject to the procedures and limitations provided in 1987 Constitution, Executive Order No. 2, Republic Act No. 10173 or the Data Privacy Act of 2012, and other existing laws, rules and regulations.
<b>FOI Committee on Appeal (FCA)</b>	The Executive Committee of LCDFI shall act as the FCA to evaluate the appeal for the denial of the requesting party.



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<b>FOI Decision Maker (FDM)</b>	The LCDFI President or in his the absence the Executive Director
<b>FOI Document Owner (FDO)</b>	The LCDFI Department/Unit which has ownership over the documents.
<b>FOI Receiving Officer (FRO)</b>	The LCDFI employee authorized to receive the request for information from the requesting party.
<b>FOI Request</b>	A written request submitted by any Filipino to LCDFI personally or by email asking for the records on any topic falling under the Foundation's mandate.
<b>Full Denial</b>	The non-release by LCDFI of information in response to an FOI request.
<b>Full Grant</b>	Disclosure by LCDFI of information in response to an FOI request.
<b>Information</b>	Shall mean any record, document, paper, report, letter, contract, minutes, transcript of official meetings, maps, books, photographs, research datum, research material, film, sound and video recording, magnetic or other tape, electronic datum, computer-stored datum, or any other like or similar datum or material recorded, stored or archived in whatever format, whether offline or online, which is made, received, or kept in or under control and custody of LCDFI pursuant to law, executive , and rules and regulations or in connection with the performance or transaction of official business of the Foundation.
<b>Information for Disclosure</b>	Information promoting the awareness and understanding of policies, program, activities, rules or revisions affecting the public, government agencies, and the community and economy. It also includes information encouraging familiarity with the general operation, thrusts, and programs of the government. In line with the concept of proactive disclosure and open data, these types of information are already posted on



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	LCDFI's website without the need for written request.
<b>Official Record</b>	Information produced or received by an employee in an official capacity or pursuant to a function or duty.
<b>Open Data</b>	Refers to publicly available data structured in a way that enables the data to be fully discoverable and usable by end users.
<b>Partial Grant/Partial Denial</b>	Disclosure by LCDFI of portions of records in response to an FOI request, and denial of the remaining portions of such records.
<b>Public Records</b>	Information required by laws, executive orders, rules or regulations to be entered, kept and made publicly available by a government office.
<b>Personal Information</b>	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.
<b>Receive Request or Received Appeal</b>	An FOI request or administrative appeal that LCDFI has received within a fiscal year.
<b>Sensitive Personal Information</b>	Refers to personal information: <ul style="list-style-type: none"> <li>(1) About an individual's race, ethnic origin, marital status, age, and religious, philosophical or political affiliations;</li> <li>(2) About an individual's health, education, genetics, or sexual life, or any proceedings for any offense committed or alleged to have been committed by such individual, or the disposition of such proceedings by any court;</li> <li>(3) Issued by the government agencies peculiar to an individual which includes, but not limited to, social security</li> </ul>



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	<p>numbers, previous or current health records, licenses or its denials, suspensions or revocation and tax returns; and</p> <p>(4) Specifically established by an Executive Order or an act of Congress to be classified as such.</p>
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## C. PROTECTION OF PRIVACY

While providing for access to information, LCDFI shall afford full protection to a person's right to privacy, as follows:

1. LCDFI shall ensure that personal information, particularly sensitive information, in its custody or under its control, is disclosed only as permitted by existing laws;
2. LCDFI shall protect personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure; and
3. Any LCDFI personnel or official who has access to personal information in the custody of LCDFI shall not disclose such information except as authorized by existing laws.

## D. STANDARD PROCEDURE

1. The FRO shall receive the request for information from the requesting party and check compliance with the following requirements:
  - a. The request must be in writing;
  - b. The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification and authorization; and
  - c. The request shall reasonably describe the information requested, and the reason for, or the purpose of, the request for information.

The request can 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 government ID with photo.

2. In case the requesting party is unable to make a written request, because of illiteracy or due to being person with disability, he or she may make a verbal request, and the FRO shall put it in writing.
3. The request shall be stamped received by the FRO, indicating the date and time of the receipt of the written request, and the name of the person who actually received it,

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with a copy furnished to the requesting party. In case of email requests, the email shall be printed out and shall follow the procedure mentioned above, and be acknowledged by electronic mail. The FRO shall record the details of the request in the logbook and allocate a reference number.

- LCDFI must respond to requests promptly within fifteen (15) working days following the date of the receipt of the request. A working day is any day other than Saturday, Sunday, or declared holiday. In computing the period, Article 13 of the New Civil Code shall be observed.

The date of receipt of the request will be either:

- The day on which the request is physically or electronically delivered to LCDFI; or
  - If LCDFI has asked the requesting party for further details to identify and locate the requested information, the date on which the necessary clarification is received.
- The FRO shall present the request to the President or in his absence, the Executive Director for information and instructions then forwards the request to the FDO who has ownership over the documents containing the information within one (1) day from receipt of the written requests. The FRO shall maintain a record of all transmitted requests to the concerned FDOs.

If the requested information is in the custody of a government agency or office other than LCDFI, the FRO, upon verification with the concerned FDO, shall transmit the request to such government agency or office through the most expeditious manner, informing the requesting party of such transmission and the reasons then.


If the information requested is already posted and publicly available in the LCDFI website, the FRO shall inform the requesting party of the said fact and provide them the website link where the information is posted.

- Upon receipt of the request, the FDO shall assess and clarify the request, if necessary, and transmit the request and the recommended action to the FOI Decision Maker (FDM).

Upon full grant of the request by the FDM, the FDO shall make the necessary steps to locate and retrieve the information requested. Thereupon, shall transmit the requested information to the FRO.

If the FDO needs further details to identify or locate the information, he shall, through the FRO, seek clarification from the requesting party. The clarification shall stall the running of the 15 working day period and will resume the day after it receives the required clarification from the requesting party.

If the FDO determines that a record contains information of interest to another government agency or office other than LCDFI, the FDO shall consult with the office or


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agency concerned regarding the legality of disclosing the information before making any determination.

7. If the information requested requires extensive search and examination of the LCDFI's official records or facilities, or if fortuitous events occur making timely release of the information impossible, the FDO shall inform the FRO of such circumstances and state that an extension of the 15 working day period is necessary. The FRO shall inform the requesting party of the extension, which in no case shall exceed twenty (20) working days in addition to the 15 working day period, unless exceptional circumstances warrant a longer period.
8. Upon receipt of the requested information from the FDO, the FRO shall collate the same and ensure its completeness. The FRO shall attach a cover/transmittal letter signed by the FDM or his duly authorized representative, and ensure transmittal of the said letter and the requested information to the requesting party within 15 working days from receipt of the request.
9. In case of partial or full denial by the FDM of the request, the FRO shall, within the prescribed period, notify in writing the requesting party of such denial, setting the forth the grounds thereof and the circumstances on which the denial is made. Denials can only be grounded on the exceptions determined by the Department of Justice (DOJ), Office of the Solicitor General (OSG), or the Office of the President (OP) of the Philippines. In case of partial denial, the release of such information not covered by the denial shall be governed by Item Nos. 6 and 8, Section D hereof.
10. Upon receipt of the notice of denial, the requesting party may file a written appeal to the Executive Committee within fifteen (15) calendar days from the notice of denial. The FCA shall evaluate the appeal and forward its recommendations to the Board of Trustees, who shall decide on the appeal within thirty (30) working days from the date of filing of the written appeal. The FRO shall notify in writing the requesting party of the decision on the appeal, setting forth the grounds therefor and the circumstances on which the decision is made.
11. Upon exhaustion of all administrative FOI remedies, the requesting party may file the appropriate judicial action under the Rules of Court.
12. LCDFI shall establish a tracking system for all requests for information it receives.

**E. REFERRAL OF REQUESTED INFORMATION, OFFICIAL RECORDS/S AND PUBLIC RECORD/S TO THE APPROPRIATE GOVERNMENT AGENCY**

1. 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 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.

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- When the requested information is not in the possession of a LCDFI (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 LCDFI/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 LCDFI/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 process of referral. This shall be considered as the "Second Referral" and another fresh period shall apply.

Referrals are 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.

- 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.

## F. DESIGNATION OF RESPONSIBLE EMPLOYEE

For the efficient and effective implementation of the FOI Manual, the following employees are hereby designated:



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Designation	Responsible Employees
FOI Receiving Officer (FRO)	Executive Assistant
FOI Document Owner (FDO)	Department/Unit Head
FOI Decision Maker (FDM)	President or Executive Director
FOI Committee on Appeal (FCA)	Executive Committee

### G. FEES

- a) **Fees for Actual Expenses Incurred** – LCDFI shall not charge any fees for accepting requests for information. However, LCDFI may charge reasonable fees for actual expenses incurred for the reproduction and copying of information. The FRO shall immediately inform the requesting party if such expenses have been incurred.
- b) **Exemption from Payment of Fees** – LCDFI may exempt any requesting party from payment of actual fees, stating the valid reasons for such exemption.

### H. ADMINISTRATIVE LIABILITY

**Ground for Disciplinary Action** – Failure to comply with the provisions of this Manual shall be ground for disciplinary action under pertinent administrative laws, Civil Service rules, and LCDFI Administrative Policies and Procedures. However, nothing in this Manual shall be construed to derogate from any law, rule or regulation which provides for more stringent penalties as prescribed by competent authorities.

### I. REPEALING CLAUSE

All other LCDFI Orders or parts of the foregoing which are inconsistent with this Manual are hereby repealed or modified accordingly.

### J. EFFECTIVITY CLAUSE

This Manual shall take effect upon approval by the LCDFI Executive Committee and LCDFI Board of Trustees.

**ROY C. OSCILLADA**  
Officer-in-Charge/Executive Director





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**ANNEXES**

<b>Annex No.</b>	<b>Title of Annex</b>
1	FOI Request Form
2	Functions of Accountable Officer and Employee
3	Flow Chart
4	Malacañang Memorandum Circular No. 15, s.2023 : Updating the Inventory of Exceptions to access of information under Executive Order No. 2 (s.2016)
5	FOI-MC No.4, s.2017
6	Flow Chart of No Wrong Door Policy



**FOI REQUEST FORM**

**DOKUMENTO O IMPORMASYON NA KAILANGAN** (Document or Information Needed):

\_\_\_\_\_

**MGA TAON/PANAHONG SAKLAW** (Year/Period Covered): \_\_\_\_\_

**LAYUNIN** (Purpose):

\_\_\_\_\_

**PANGALAN** (Name): \_\_\_\_\_ **CONTACT NO.:** \_\_\_\_\_

**TIRAHAN** (Address): \_\_\_\_\_

**LAGDA** (Signature): \_\_\_\_\_ **PETSA** (Date): \_\_\_\_\_

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

Passport No.: \_\_\_\_\_

Driver's License: \_\_\_\_\_

School/Company ID No.: \_\_\_\_\_

Others: \_\_\_\_\_

**PARAAN NGPAGTANGGAP NG IMPORMASYON**

(How would you like to receive the information?)

Email: \_\_\_\_\_

Pick-up (Office Hours): \_\_\_\_\_

-----  
*(To be accomplished by LCDFI)*

**Time Received:** \_\_\_\_\_ **Date Received:** \_\_\_\_\_ **Reference No.:** \_\_\_\_\_

**Received by:** \_\_\_\_\_

(Signature over Printed Name and Position)

**Referred to/Transmitted to:** \_\_\_\_\_

(Signature over Printed Name and Position)

**Date/Time of Referral:** \_\_\_\_\_

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*(To be accomplished upon completion of the RFI)*

**Type of Action Undertaken:** \_\_\_\_\_

**Approved By:** \_\_\_\_\_

(Signature over Printed Name and Position)

**Received by:** \_\_\_\_\_

FOI Receiving Officer

**Remarks:** \_\_\_\_\_

\_\_\_\_\_

**FUNCTIONS OF ACCOUNTABLE OFFICERS AND EMPLOYEES**

**A. Functions of the FOI Receiving Officer (FRO)**

1. Receives the request for information from the requesting party.
2. Checks compliance with the following requirements:
  - a. The request must be in writing.
  - b. The request has the name and contact information of the requesting party
  - c. The requesting party provides valid proof of identification and authorization
  - d. The request reasonably describes the information requested, reason or purpose of the request for information.
3. Assists the requesting party if unable to write the request due to illiteracy or disability by putting into writing the verbal request.
4. Stamps the requests received indicating the date and time, and copy furnished the requesting party.
5. Print request received through email and acknowledges receipt by electronic mail.
6. Records the details of the request in the logbook and allocates a reference number for tracking purposes.
7. Presents the request received to the FDM for information and for further instructions.
8. Forwards the request to the FDO within one (1) day from receipt of the written requests.
9. Maintains compliance to the FOI Manual by the personnel concerned.
10. Maintains record of all requests transmitted to FDO.
11. If the information requested is in the custody of other government agencies or offices, FDO transmits the request to the concerned government agency and informs the requesting party stating the reasons for the transmission.
12. Informs the requesting party of the LCDFI website and the website link if the information requested is publicly available and already posted in the website of the company.
13. Prepares response/transmittal letter signed by the FDM to be issued to the requesting party within fifteen (15) working days following the date of the receipt of the request.
14. Prepares letter of denial, if such is the case, within the prescribed period to the requesting party setting forth the grounds thereof and the circumstances on which the denial is made.
15. Notify the requesting party in writing of the decision on the appeal, setting forth the grounds therefor and the circumstances on which the decision is made.
16. Ensures completeness of the documents and releases the documents to the requesting party upon approval by the FDM.

17. Records in the logbook the FOI documents released.

**B. Functions of the FOI Documents Owner (FDO)**

1. Receives requests for information from the FRO with the instructions from the FDM.
2. Assesses, reviews, evaluates and clarifies the request.
3. Locates and retrieves the information requested.
4. Seeks clarification from the requesting party through the FRO, if needed.
5. Consults other government agencies/offices concerned before disclosing information of interest related to their agencies/offices regarding the legality before making any determination.
6. Informs the FRO of extension, if required, for the retrieval of information, but in no case shall the extension exceed twenty (20) working days in addition to the original 15 working days period unless exceptional circumstances warrant a longer period.
7. Transmits the information to the FRO upon completion.
8. Maintains the Unit's records of all the transactions referred to the Unit/Department.

**C. Functions of the FOI Decision Maker (FDM)**

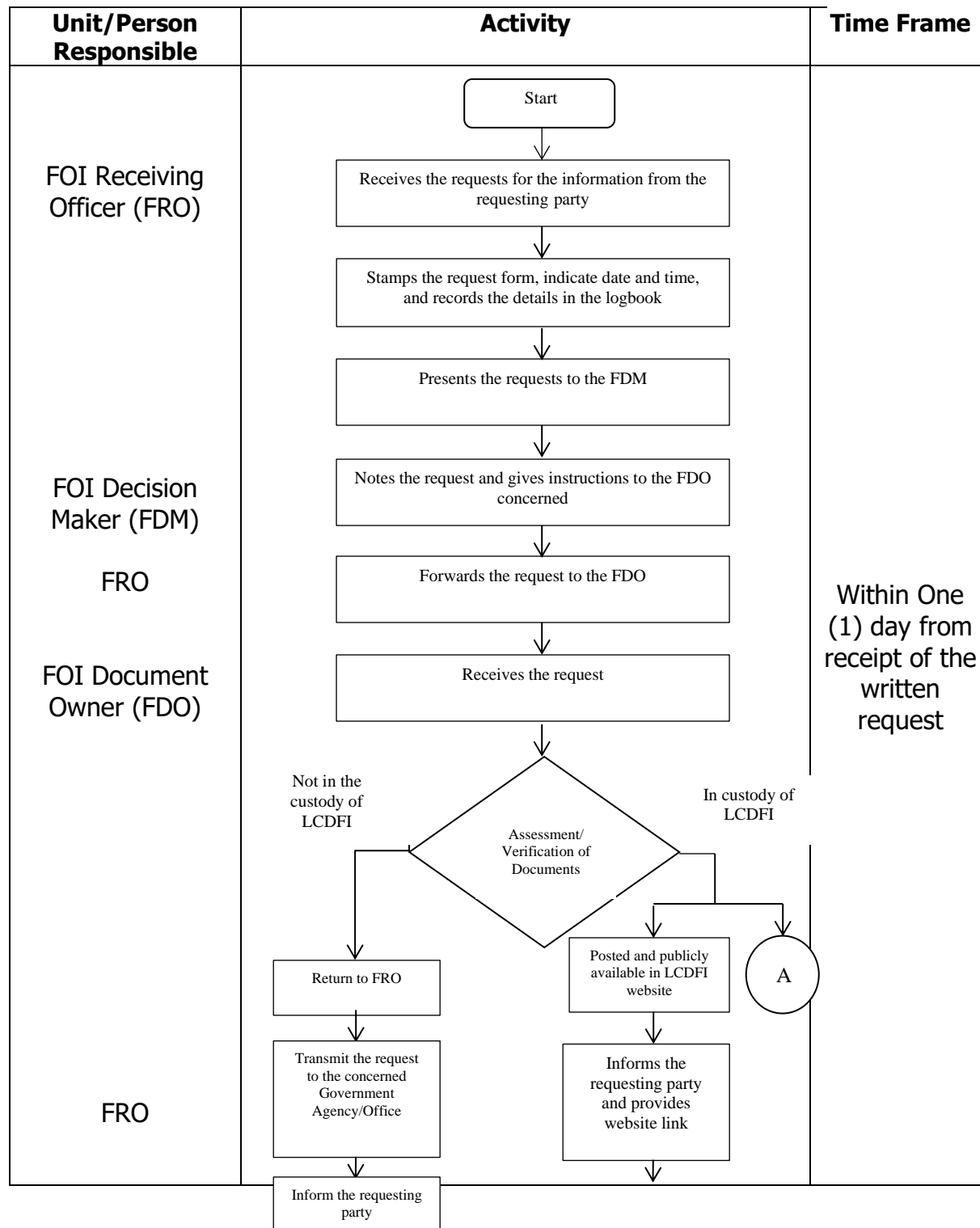
1. Instructs the FDO to act on the requests for information received by the company.
2. Grants/denies the requests for information upon recommendation of the FDO.
3. Approves/signs transmittal letter for the issuance of the information.

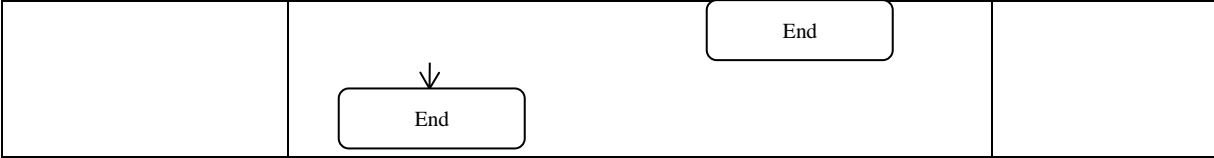
**D. Functions of the FOI Committee on Appeal (FCA)**

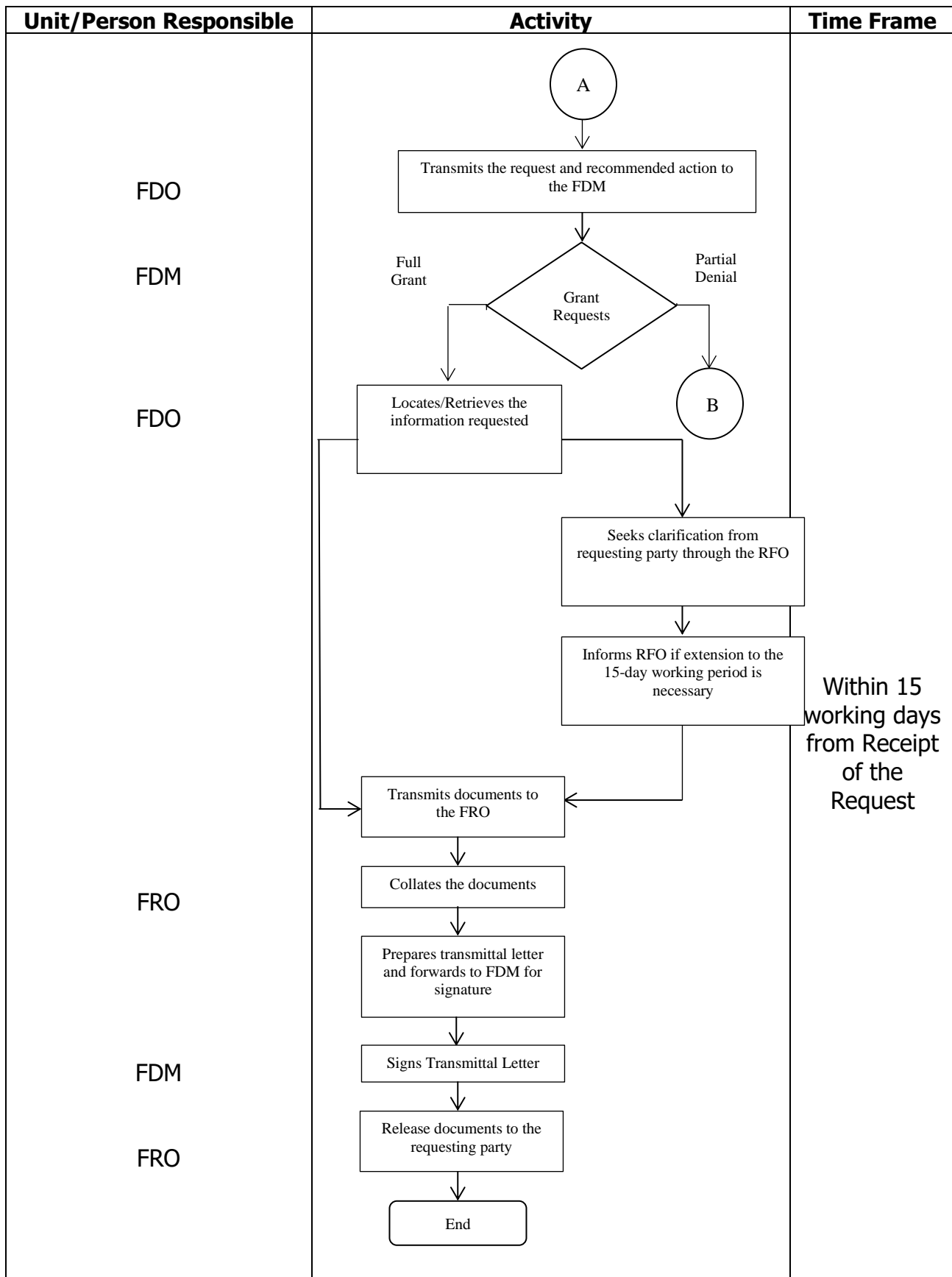
1. Evaluates the appeal of the requesting party for the denial of the request for information.
2. Recommends to the LCDFI Board of Trustees the action/decision of the FCA setting forth the grounds therefor on which the decision is made.

**LCDFI FREEDOM OF INFORMATION STANDARD PROCEDURE**  
*Flow Chart*

Annex 3







**Office of the President  
of the Philippines  
Malacañang**

**MEMORANDUM CIRCULAR NO. 15**

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

**WHEREAS**, pursuant to Section 4 of Executive Order (EO) No. 02, (s. 2016), the Office of the President (OP) issued a Memorandum circularizing the inventory of exceptions to the right to access information under EO No. 02 (Inventory of Exceptions) on 24 November 2016;

**WHEREAS**, Section 4 of EO No. 02 directs the Department of Justice (DOJ) and the Office of the Solicitor General (OSG) to update the Inventory of Exceptions as the need to do so arises and the OP to accordingly circularize the same;

**WHEREAS**, Section 1 of Memorandum Circular (MC) No. 49, (s. 2018), created the Inter-Agency Freedom of Information Exceptions Policy Committee (IA-FOI-EPC), with the DOJ and the OSG as co-chairs, to review the Inventory of Exceptions and periodically update the same to reflect changes in existing laws and jurisprudence;

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

**WHEREAS**, the IA-FOI-EPC, through IA-FOI-EPC Resolution Nos. 2021-002 and 2022-001, proposed further updates to the Inventory of Exceptions;


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

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

In evaluating requests for information, all heads of offices are enjoined to ensure the meaningful exercise of the public of their right to access to information on public concerns.

**DONE**, in the City of Manila, this ~~17<sup>th</sup>~~ day of March in the Year of our Lord, Two Thousand and Twenty-Three.

By authority of the President:

  
LUCAS P. BERSAMIN  
Executive Secretary





## **Exceptions to Right to Access of Information**

For the guidance of all government offices and instrumentalities covered by EO No. 02 (s. 2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:<sup>1</sup>

1. Information covered by Executive privilege;
2. Privileged information relating to national security, defense or international relations;
3. Information concerning law enforcement and protection of public and personal safety;
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused;
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers;
6. Prejudicial premature disclosure;
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;
8. Matters considered confidential under banking and finance laws, and their amendatory laws; and
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

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<sup>1</sup> These exceptions only apply to governmental bodies within the control and supervision of the Executive department. Unless specifically identified, these exceptions may be invoked by all officials, officers, or employees in the Executive branch in possession of the relevant records or information.

For the implementation of the exceptions to the right of access to information, the following provide the salient details and legal bases that define the extent and application of the exceptions.

1. Information covered by Executive privilege:
  - a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;<sup>2</sup> 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;<sup>3</sup> and
    - ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;<sup>4</sup>
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;<sup>5</sup>

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<sup>2</sup> 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.

<sup>3</sup> *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.

<sup>4</sup> 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.

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

- b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;<sup>6</sup> and
  - c. Patent applications, the publication of which would prejudice national security and interests;<sup>7</sup>
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;<sup>8</sup>
  - 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;<sup>9</sup>
  - c. When disclosure of information would put the life and safety of an individual in imminent danger;<sup>10</sup>
  - d. Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping;<sup>11</sup> and
  - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;<sup>12</sup>

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<sup>6</sup> *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.

<sup>7</sup> 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).

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

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

<sup>10</sup> Section 3(b), Rule IV, Rules on CCESPOE.

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

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

4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:
  - a. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,<sup>13</sup> personal information or records,<sup>14</sup> including sensitive personal information, birth records,<sup>15</sup> school records,<sup>16</sup> or medical or health records;<sup>17</sup>

Sensitive personal information as defined under the *Data Privacy Act of 2012* refers to personal information:<sup>18</sup>

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

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

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<sup>13</sup> Section 3(e), Rule IV, Rules on CCESPOE.

<sup>14</sup> Sections 8 and 15, *Data Privacy Act of 2012* (RA No. 10173); *Personal information* refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual [Section 3(g), *Data Privacy Act of 2012*]; Article 26, Civil Code. May be invoked by National Privacy Commission and government personal information controllers. This includes information collected pursuant to Section 18 of the *Department of Migrant Workers Act* (RA No. 11641).

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

<sup>16</sup> Section 9(4), *Education Act of 1982* [Batas Pambansa (BP) Blg. 232].

<sup>17</sup> Medical and health records are considered as sensitive personal information pursuant to Section 3(l)(2), *Data Privacy Act of 2012*; See also Department of Health-Department of Science and Technology (DOST)-Philippine Health Insurance Corporation Joint Administrative Order No. 2016-0002 (Privacy Guidelines for the Implementation of the Philippine Health Information Exchange); Section 9, *Mandatory Reporting of Notifiable Diseases and Health Events of Public Health Concern Act* (RA No. 11332); Section 36, *Universal Health Care Act* (RA No. 11223); Section 28, *National Integrated Cancer Control Act* (RA No. 11215); and Section 5(l), *Mental Health Act* (RA No. 11036). Mental health records under RA No. 11036 include information on any aspect of the mental health, treatment, or care of the service user.

<sup>18</sup> Section 3(l), *Data Privacy Act of 2012*. See also Section 9, *Free Internet Access in Public Places Act* (RA No. 10929); Section 26, *Safe Spaces Act* (RA No. 11313); and Section 21, *Tax Amnesty Act* (RA No. 11213).

individual<sup>19</sup> 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.<sup>20</sup>

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government;<sup>21</sup>

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;<sup>22</sup> and
- c. Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:
  - (1) records of child and family cases;<sup>23</sup>
  - (2) children in conflict with the law from initial contact until final disposition of the case;<sup>24</sup>
  - (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;<sup>25</sup>
  - (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;<sup>26</sup>
  - (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address,

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<sup>19</sup> Article 26(2), *Civil Code*.

<sup>20</sup> Section 11, *Data Privacy Act of 2012*.

<sup>21</sup> Section 4, *Data Privacy Act of 2012*.

<sup>22</sup> *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.

<sup>23</sup> Section 12, *Family Courts Act of 1997 (RA Act No. 8369)*.

<sup>24</sup> Section 43, *Juvenile Justice and Welfare Act of 2006 (RA No. 9344)*.

<sup>25</sup> Section 13, *Anti-Child Pornography Act of 2009 (RA No. 9775)*.

<sup>26</sup> Section 31, A.M. No. 00-4-07-SC, *Re: Proposed Rule on Examination of a Child Witness*.

- employer, or other identifying information of a victim or an immediate family member;<sup>27</sup>
- (6) records of cases and documents involving actions for support including petitions for recognition and enforcement of foreign decisions or judgments on support;<sup>28</sup>
  - (7) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;<sup>29</sup>
  - (8) names of victims of child abuse, exploitation or discrimination;<sup>30</sup>
  - (9) cases of gender-based streets and public spaces sexual harassment, including information on the victim and the accused who is a minor;<sup>31</sup>
  - (10) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;<sup>32</sup>
  - (11) records, documents, and communications of proceedings involving domestic, inter-country, and administrative, adoptions, including the identity of the child, natural parents and adoptive parents;<sup>33</sup>
  - (12) names of students who committed acts of bullying or retaliation;<sup>34</sup>
  - (13) children in situations of armed conflict;<sup>35</sup>
  - (14) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended;<sup>36</sup> and

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<sup>27</sup> 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.

<sup>28</sup> Sections 29 and 30, A.M. No. 21-03-02-SC, *Re: Rules on Action for Support and Petition for Recognition and Enforcement of Foreign Decisions or Judgments on Support*.

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

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

<sup>31</sup> Section 26, *Safe Spaces Act* (RA No. 11313).

<sup>32</sup> 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*.

<sup>33</sup> Section 39, *Domestic Administrative Adoption and Alternative Child Care Act* (RA No. 11642); Sections 6 and 16(b), *Inter-Country Adoption Act of 1995* (RA No. 8043) and Sections 53, 54 and 55 of IRR of RA No. 8043; Section 14, *Simulated Birth Rectification Act* (RA No. 11222) and Section 28 of IRR of RA No. 11222.

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

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

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

(15) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing.<sup>37</sup>

5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers, such as but not limited to the following:
- a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;<sup>38</sup>
  - b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority;<sup>39</sup>
  - c. Records and reports submitted to the Social Security System by the employer or member;<sup>40</sup>
  - d. Information of registered persons with the Philippine Identification System;<sup>41</sup>
  - e. Information gathered for the HIV and AIDS monitoring and evaluation program under RA No. 11166 and all other related health intelligence activities;<sup>42</sup>

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<sup>37</sup> 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.

<sup>38</sup> Sections 45, 106.1, and 150.2, *The Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372); Section 66.2, *Securities Regulation Code* (RA No. 8799); DOST Administrative Order No. 004-16; Section 142, *The Corporation Code* (BP Blg. 68); Section 34, *Philippine Competition Act* (RA No. 10667); Sections 23 and 27 (c), *The New Central Bank Act* (RA No. 7653); *Anti-Money Laundering Act* (RA No. 9160); Section 18, *Strategic Trade Management Act* (RA No. 10697); Sections 10 and 14, *Safeguard Measures Act* (RA No. 8800); Section 12, *Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990* (RA No. 6969); Article 290, *Revised Penal Code*; Section 10.10, Rule 10, 2012 Revised IRR of *Build-Operate-Transfer Law* (RA No. 6957); *Revised Philippine Ports Authority Manual of Corporate Governance*; Section 18, *Energy Virtual One-Stop Shop Act* (RA No. 11234); Section 14, *Philippine Energy Research and Policy Institute Act* (RA No. 11572); Section 270, *National Internal Revenue Code* (RA No. 8424, as amended by RA No. 10963); and Section 33, *LPG Industry Regulation Act* (RA No. 11592).

<sup>39</sup> 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).

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

<sup>41</sup> Section 17, *Philippine Identification System Act* (RA No. 11055).

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

- f. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;<sup>43</sup>
- g. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;<sup>44</sup>
- h. Documents submitted through the Government Electronic Procurement System;<sup>45</sup>
- 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*;<sup>46</sup>
- 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;<sup>47</sup>
- 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;<sup>48</sup>
- 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;<sup>49</sup>
- m. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;<sup>50</sup>
- n. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;<sup>51</sup>

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<sup>43</sup> 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.

<sup>44</sup> Section 81, EO No. 226 (s. 1987), as amended.

<sup>45</sup> Section 9, *Government Procurement Reform Act* (RA No. 9184).

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

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

<sup>48</sup> Section 1, Rule IX, DOT MC No. 2010-02 (Rules and Regulations to Govern, the Accreditation of Accommodation Establishments – Hotels, Resorts and Apartment Hotels); and Section 23, DOT MC No. 2015-06 (Revised Rules and Regulations to Govern the Accreditation of Travel and Tour Agencies).

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

<sup>50</sup> Section 10, *Safeguard Measures Act*.

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



- o. Information on registered cultural properties owned by private individuals;<sup>52</sup>
  - p. Data submitted by a higher education institution to the Commission on Higher Education (CHED);<sup>53</sup>
  - q. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;<sup>54</sup>
  - 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;<sup>55</sup> 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*.<sup>56</sup>
6. Information of which a premature disclosure would:
- a. in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or
  - b. be likely or significantly frustrate implementation of a proposed official action, except where such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.<sup>57</sup>
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:

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

<sup>53</sup> CHED Memorandum Order No. 015-13, 28 May 2013.

<sup>54</sup> 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).

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

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

<sup>57</sup> Section 3(g), Rule IV, Rules on CCESPOE.

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

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<sup>58</sup> 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.

<sup>59</sup> Article 10, International Bar Association Rules for Investor-State Mediation.

<sup>60</sup> Article 237, *Labor Code*.

<sup>61</sup> Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

<sup>62</sup> 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.

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

<sup>64</sup> 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.

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

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

<sup>67</sup> Sections 18 and 45, *The Anti-Terrorism Act of 2020* (RA No. 11479) and Rules 5.8 and 5.19 of the IRR of RA No. 11479.

- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;<sup>68</sup>
  - l. Investigation proceedings and records during the preliminary investigation in administrative cases in the civil service;<sup>69</sup>
  - m. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;<sup>70</sup> and
  - n. Information on a bank inquiry orders issued by the Court of Appeals, including its contents and its receipt.<sup>71</sup>
8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
- a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);
  - b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;
  - c. RA No. 8791 (*The General Banking Law of 2000*);
  - d. RA No. 9160 (*Anti-Money Laundering Act of 2001*), as amended by RA No. 11521;
  - e. RA No. 9510 (*Credit Information System Act*); and
  - f. RA No. 245, as amended by Presidential Decree No. 1878;
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:
- a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:

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

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

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

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

- (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;<sup>72</sup>
  - (2) Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules);<sup>73</sup> 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;<sup>74</sup>
  - 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;<sup>75</sup>
  - d. Failure to comply with regulations on access of records imposed by the records custodian;<sup>76</sup>
  - e. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;<sup>77</sup>
  - f. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;<sup>78</sup>

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<sup>72</sup> Examples: Article 20 (2), ASEAN Comprehensive Investment Agreement; Article 15 (2) Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation between the ASEAN and the Republic of India; and Article 15 (2) of the Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation among the Government of the Member Countries of the ASEAN and the Republic of Korea.

<sup>73</sup> Article 7, UNCITRAL Transparency Rules.

<sup>74</sup> *Senate v. Neri, supra; Senate v. Ermita, supra.*

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

<sup>76</sup> *Biraogo v. Ombudsman Martires*, G.R. No. 254516, 02 February 2021.

<sup>77</sup> *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.

<sup>78</sup> Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending Certain Provisions of the New Rules of Procedure of the National Labor Relations Commission, 08 March 2002; Department of Agrarian Reform MC No. 07-11, 19 July 2011; Department of Social Welfare and Development MC No. 021-12, 16 October 2012; Section X808 of Bangko Sentral ng Pilipinas Circular No. 706, s. 2011; Section 42, *Investment Company Act* (RA No. 2629); When the information requested is not a matter of public concern or interest as decided in *Hilado v. Judge Amor*

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

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

<sup>79</sup> *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

<sup>80</sup> Canon 21 of the *Code of Professional Responsibility*.



Republic of the Philippines  
**PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE**  
Malacañang, Manila

FOI – MC No. 04, s. 2017

**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), Government Financial Institutions (GFIs), Government Corporate Entities (GCEs), Non-Chartered GOCCs, and State Universities and Colleges (SUCs)**

**SUBJECT : UPLOADING OF FOI MANUAL IN THE AGENCY TRANSPARENCY SEAL TO BE ELIGIBLE TO THE PERFORMANCE-BASED BONUS**

**DATE : 26 June 2017**

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**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**, Sections 8 and 16 of EO No. 2, s. 2016 instructed all government offices under the Executive Branch to prepare their respective People's Freedom of Information (FOI) Manual and Implementing Details (Agency FOI Manual) within 120 days upon the effectivity of said EO;

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

**WHEREAS**, Administrative Order No. 25, s. 2011 created the Inter-Agency Task Force on the Harmonization of National Government Performance Monitoring, Information and Reporting System which is mandated to harmonize, unify, streamline and simplify all existing monitoring and reporting requirements and processes through the development of a common set performance scorecard and design a government executive information system;

**WHEREAS**, Section 5 of Executive Order No. 201, s. 2016 provides that the Inter-Agency Task Force on the Harmonization of National Government Performance Monitoring,

Information and Reporting Systems created under Administrative Order No. 25, s. 2011 shall prescribe the conditions on eligibility and procedures for the grant of the enhanced Performance-Based Bonus (PBB);

**WHEREAS**, the Inter-Agency Task Force on the Harmonization of National Government Performance Monitoring, Information and Reporting Systems (Task Force AO 25) issued Memorandum Circular (MC) No. 2017-1 to prescribe the criteria and conditions for the grant of the PBB for fiscal year 2017;

**WHEREAS**, Section 5 of MC No. 2017-1 provides that the FOI Manual shall be uploaded in the agency Transparency Seal on or before 1 October 2017 as one of the Good Governance Conditions (GCCs) to be eligible to PBB, subject to compliance validation by the PCOO starting 1 October 2017;

**NOW, THEREFORE**, in consideration of the foregoing, strict observance to the following are hereby ordered:

**Section 1. Scope.** Section 3.1 of Task Force AO 25 MC No. 2017-1 provides that said Circular covers all Departments, Bureaus, Offices and Other Agencies of the National Government, including Constitutional Commissions, Congress, The Judiciary, Office of the Ombudsman, State Universities and Colleges (SUCs), Government-Owned or Controlled Corporations (GOCCs), Local Water Districts (LWDs) and Local Government Units (LGUs). However, Section 2 of EO No. 2, s. 2016 provides that said EO covers 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 such EO.

To provide clarity and in consideration that the PCOO does not have jurisdictions nor authority to cover or bind other agencies outside the scope provided by EO No. 2, s. 2016, it shall be understood that this Memorandum Circular shall only cover Government Offices under the Executive Branch as defined under Section 2 of EO No. 2, s. 2016.

**Section 2. Validation Process.** The concerned agency shall send a letter to the PCOO requesting for a validation of its compliance to the posting requirement of its People's FOI Manual uploaded in its Transparency Seal not later than 30 September 2017.

The letter shall include the following:

Name of Agency:

Address:

Website:

Contact details:

Printed copy of screen shot of its People's FOI Manual uploaded in the transparency seal:

The PCOO validation officer shall validate if the People's FOI manual uploaded in the official website of the agency concerned is consistent with the provisions of EO No. 2, s. 2016 and shall confirm that it is under the transparency seal.

**Section 3. Issuance of Compliance Certificate.** The PCOO shall issue a compliance certificate to the Agency concerned that can be used as an official document that it complied with the requirements of Task Force AO 25 MC No. 2017-1. Such certificate, signed by the FOI Program Director, shall also be the official document that will be submitted to the Department of Budget and Management (DBM) to be eligible to PBB.

**Section 4. Non-compliance to posting of FOI Manual.** The PCOO shall issue a list of Agencies that does not comply with the requirement of Task Force AO 25 MC No. 2017-1 to the DBM.

**Section 5. Validation Period.** The PCOO shall validate the compliance up to 12:00 mn of 1 October 2017 (Sunday). Request Letters received beyond 1 October 2017 shall not be acted upon.

**Section 6. Contact.** For questions and/or clarifications, please contact Ms. Danica Orcullo at telephone numbers 02-733-1102 or 02-733-8665 or email at [foi.pco@gmail.com](mailto:foi.pco@gmail.com).

Letter request shall be addressed to:

Secretary Jose Ruperto Martin M. Andanar  
Presidential Communications Operations Office (PCOO)  
3/F New Executive Building, JP Laurel St.,  
Malacañang, Manila

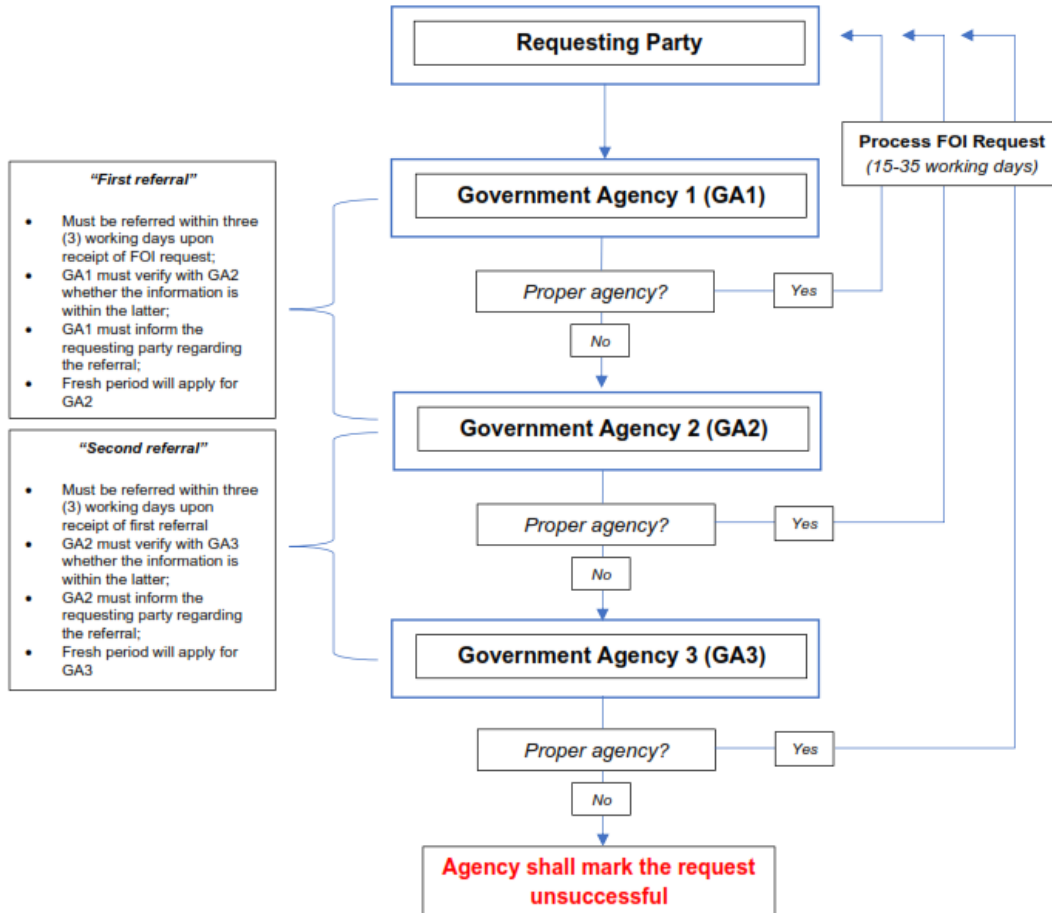
**Section 7. Effectivity.** This Circular shall take effect immediately.

**Section 8. Compliance.** For your guidance and strict compliance.

  
**JOSE RUPERTO MARTIN M. ANDANAR**  
Secretary and FOI Champion 



**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.

*Source: Freedom of Information Memorandum Circular – FOI-MC No. 21-05 : 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"*