Freedom *of* Information

MANUAL

SECTION 1: OVERVIEW

1. **Purpose:** This Manual is adopted to ensure the effective implementation of Executive Order No. 2, s 2016 **(Annex A)** and specifically to:
    a. provide guidelines and procedures for compliance, monitoring and reporting ;
    b. define the roles and responsibilities of concerned officers; and
    c. provide remedies in case of denial of request.

2. **Coverage of the Manual:** This Manual shall cover all requests for information directed to OPAPP. Requests shall be forwarded to the identified Officers listed in **Annex B**.

3. **Construction:** This Manual shall be construed to promote the intent, purposes and objectives of E.O. No. 2 and any ambiguity in the interpretation hereof shall be resolved in favor of full disclosure except those identified in **Annex C** and Section 1, Par 5 of this Manual.

4. **FOI Receiving Officer:** There shall be an FOI Receiving Officer (FRO) designated at the Office of the Presidential Adviser on the Peace Process. The FRO shall hold office at Agustin I Building, F. Ortigas Jr. Avenue, Ortigas Center, Pasig City.

    The functions of the FROs shall include receiving on behalf of OPAPP all requests for information and forward the same to the appropriate office who has custody of the records; monitor all FOI requests and appeals; provide assistance to the FOI *Decision Maker*; provide assistance and support to the public and staff with regard to FOI; compile statistical information as required; 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; and deny the request for being incomplete in form. All request for information shall be made on the FOI request form (Annex E - FOI Request Form). Only request in this from shall be processed.

5. **FOI Decision Maker:** There shall be an FOI Decision Maker (FDM), designated by the Presidential Adviser to the Peace Process (PAPP), with a rank of not lower than a Director or its equivalent, who shall conduct evaluation of the request

for information and has the authority to grant the request, or deny it based on the following:

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

6. **Central Appeals and Review Committee:** There shall be a central appeals and review committee composed of three (3) officials with a rank not lower than Assistant Secretary or its equivalent, designated by the PAPP to review and analyze the grant or denial of the request of information. The committee shall also provide expert advice to the PAPP on the denial of such request.

7. **Approval and Denial of Request to Information:** The *Decision Maker* shall approve or deny all request of information. In cases where the *Decision Maker* is on official leave, PAPP may delegate such authority to his Chief of Staff or any Officer with a rank not lower than a Director.

SECTION 2: DEFINITON OF TERMS

Administrative FOI Appeal. An independent review of the initial determination made in response to a 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.

data.gov.ph. The Open Data website that serves as the government's comprehensive portal for all public government data that is searchable, understandable, and accessible.

eFOI.gov.ph. The website that serves as the government's comprehensive FOI website for all information on the FOI, Among many other features, eFOI.gov.ph

provides 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.

FOI Request. A written request submitted to a government office personally or by email asking for public records and documents.

FOI Receiving Unit (FRU). It is the contact unit of every agency where the requesting party can call and ask questions about the FOI process or the pending FOI request.

Information. Shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control or 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.

Public Records. Shall include information required by laws, executive orders, rules or regulation to be entered, kept, and made publicly available by a government office.

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.

Working Day. Shall refer to 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, Art. 13 of the New Civil Code shall be observed.

Sensitive Personal Information. As defined in the Data Privacy Act of 2012, shall

refer to personal information:

(1.) About an individual race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
(2.) 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;
(3.) Issued by government agencies peculiar to an individual which includes but not limited to, social security members, 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.

SECTION 3. PROMOTION OF OPENNESS IN GOVERNMENT

1. **Duty to Publish Information.** OPAPP shall, pursuant to Republic Act 9485, or the Anti-Red Tape Act of 2007, regularly publish, print and disseminate timely, true, accurate and updated key information including, but not limited to:

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

i. Data previously requested and are already made available to the general public

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

SECTION 4. PROTECTION OF PRIVACY

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

a. OPAPP shall ensure that personal information, particularly sensitive personal information, in its custody or under its control or disclosed only as permitted by existing laws;
b. OPAPP shall protect personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure;
c. The FRO, FDM, or any employee or official who has access, whether authorized or unauthorized, to personal information in the custody of OPAPP, shall not disclose that information except as authorized by existing laws.

SECTION 5. STANDARD PROCEDURE (Annex D, flowchart)

1. **Receipt of Request for Information.**

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

- The request must be in writing;

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

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.

1.2 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 in the presence of a witness, and the FRO shall reduce it in writing.

1.3 The request shall be stamped as received by the FRO, indicating the date and time of the receipt of the written request, and the name, rank, title and position of the officer who actually received it, with a corresponding signature and 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 email. The FRO shall input the details of the request on the Request Tracking System and allocate a reference number.

1.4 OPAPP must respond to requests within the fifteenth (15) working day upon receipt of the request.

The date of receipt of the request will be either:

a. The day on which the request is physically or electronically delivered to the government office, or directly into the email inbox of a member of staff; or

b. If the government office has asked the requesting party for further details to identify and locate the requested information, the date on which the necessary clarification is received. Request should be complete in form and substance as determined by the FRO.

2. **Request Tracking System.** OPAPP shall establish a system to trace the status of all requests for information received by it, which may be paper-based, on-line or both.

3. **Transmittal of Request by the FRO to the FDM:** After receipt of the request for information, the FRO shall evaluate the information being requested, and notify the FDM of such request. The copy of the request shall be forwarded to such FDM within one (1) day from receipt of the written request. The FRO shall record the date, time and name of the FDM who received the request in a record book with the corresponding signature of the acknowledgement of receipt of the request.

4. **Role of FDM in processing the request:** Upon receipt of the request for information from the 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 within 10 days upon receipt of such request.

   The FRO shall note the date and time of receipt of the information from the FDM and report to the PAPP or the designated Undersecretary or Assistant Secretary, in case the submission is beyond the 10-day period.

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

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

5. **Initial Evaluation.**

   5.1 **Request relating to more than one unit of OPAPP:** If the information requested pertains for different units within OPAPP, the FRO shall forward such request to the said units for compliance.

5.2 **Requested information is not in the custody of OPAPP:** If the requested information is not in the custody of OPAPP, the FROs shall undertake the following steps:

- If the records requested refer to another department, the request will be immediately transmitted to the appropriate department. OPAPP then must inform the requesting party that transmittal. The 15 working day requirement for the receiving department commences the day after it receives the request.
- If the records refer to an office not within the coverage of E.O. No. 2, the requesting party shall be advised accordingly and provided with the contact details of that office, if known.

5.3 **Requested information is already posted and available on-line:** If the information requested is already posted and publicly available in the OPAPP website, data.gov.ph or foi.gov.ph, the FRO shall inform the requesting party of the said fact and provide them the website link where the information is posted.

5.4 **Requested information is substantially similar or identical to the previous request:** Should the requested information be substantially similar or identical to a previous request by the same requester, the request shall be denied. However, the FRO shall inform the applicant of the reason of such denial.

6. **Request for an Extension of Time:** The FRO shall inform the requesting party of the extension, setting forth the reasons for such extension. In no case, shall the extension exceed twenty (20) working days, unless exceptional circumstances warrant a longer period.

7. **Notice of the Requesting Party of the Approval/denial of the Request:** Once the DM approves or denies the request, he shall immediately notify the FRO who shall prepare the response of the requesting party either in writing or by email. All actions on FOI requests, whether approval or denial, shall pass through the PAPP or any designated Undersecretaries or Assistant Secretaries for final approval.

8. **Approval of Request:** In case of approval, the FRO shall prepare the letter or email informing the requesting party within the prescribed period that the request was granted and be directed to pay the applicable fees, if any.

9. **Denial of Request:** In case of denial of the request wholly or partially, the FRO shall within the prescribed period, notify the requesting party of the denial in writing. The notice shall clearly set forth the ground/s for denial. 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 Office of the PAPP or to his designated Undersecretary or Assistant Secretary.

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 OPAPP Central Appeals and Review Committee: 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. OPAPP's Central Appeals and Review Committee shall review the appeal and submit its recommendation to the PAPP within fifteen (15) calendar days from receipt of appeal.
    b. PAPP, upon the recommendation of the Central Appeals and Review Committee shall decide within thirty (30) working days from the filing of 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 PAPP 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 judicial action in accordance with the Rules of Court.

SECTION 7. FEES

1. **No request Fee.** OPAPP shall not charge any fee for accepting requests for access to information.

2. **Reasonable Cost of Reproduction and Copying of the Information:** The FRO shall immediately notify the requesting party in case there shall be reproduction and copying fee in order to provide the information. Such fee shall be the actual amount spent by OPAPP in providing the information to the requesting party. The schedule of fees shall be public posted by OPAPP.

3. **Exemption from Fees:** OPAPP may exempt any requesting party from payment of fees, upon request stating the valid reason why such requesting party shall not pay the fee.

SECTION 8. ADMINISTRATIVE LIABILITY

1. **Non-compliance with FOI.** Failure to comply with the provision of this Manual shall be a ground for the following administrative penalties:

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

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

3. **Provision for More Stringent Laws, Rules and Regulations.** Nothing in this Manual shall be construed to derogate from any law, any rules, or regulation prescribed by anybody or agency, which provide for more stringent penalties.

ANNEX "A"

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

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

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

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

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

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

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

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

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

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

(a) "Information" shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.

(b) "Official record/records" shall refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.

(c) "Public record/records" shall include information required by laws, executive orders, rules or regulations to be entered, kept and made publicly available by a government office.

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

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

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

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

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

Said inventory of exceptions shall periodically be updated to properly reflect any change in the existing law and jurisprudence. 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 Section 3 and 4 of this Order, all public officials are reminded of their obligation to file and make available for scrutiny their Statements of Assets, Liabilities and Net Worth (SALN) in accordance with existing laws, rules and regulations, and the spirit and letter of this Order.

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

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

In making such determination, the Head of the Office or his designated Officer shall exercise reasonable diligence to ensure that no exception shall be used or availed

of to deny any request for information or access to public records or official records if the denial is intended primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

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

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

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

(a) The location and contact information of the head, regional, provincial, and field offices and other established places where the public can obtain information or submit requests;
(b) The person or office responsible for receiving requests for information;
(c) The procedure for the filing and processing of the request as

specified in the succeeding section 9 of this Order.

(d) The standard forms for the submission of requests and for the proper acknowledgment of requests;

(e) The process for the disposition of requests;

(f) The procedure for the administrative appeal of any denial for access to information; and

(g) The schedule of applicable fees.

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

(a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the reason for, or purpose of, the request for information: Provided, that no request shall be denied or refused acceptance unless the reason for the request is contrary to law, existing rules and regulations or it is one of the exceptions contained in the inventory or updated inventory of exception as hereinabove provided.

(b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable all requesting parties and particularly those with special needs, to comply with the request requirements under this Section.

(c) The request shall be stamped by the government office, indicating the date and time of receipt and the name, rank, title and position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the requesting party. Each government office shall establish a system to trace the status of all requests for information received by it.

(d) The government office shall respond to a request fully compliant with requirements of sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof. The response mentioned above refers to the decision of the agency or office concerned to grant or deny access to the information requested.

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

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

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

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

SECTION 12. Notice of Denial. If the government office decides to deny the request, in whole or in part, it shall as soon as practicable, in any case within fifteen (15) working days from the receipt of the request, notify the requesting party the denial in writing. The notice shall clearly set forth the ground or grounds for denial and circumstances on which the denial is based. Failure to notify the requesting

party of the action taken on the request within the period herein stipulated shall be deemed a denial of the request for access to information.

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

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

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

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

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

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

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

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

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

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

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

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

By the President:

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

ANNEX "B"

FOI Decision Makers and Receiving Officer of the Office of the Presidential Adviser on the Peace Process

DECISION MAKERS		
Names	**Contact Details**	**Location of FOI Receiving Office**
Usec. Diosita T. Andot	(02) 636-0701 loc.865 jojoandot@yahoo.com	7th Flr., Agustin 1 Bldg., F Ortigas Jr. Rd., Ortigas Center, Pasig City
Dir. Pamela Ann Padilla-Salvan	(02) 636-0701 loc.825 hrh_pamela@yahoo.com	10th Flr., Agustin 1 Bldg., F Ortigas Jr. Rd., Ortigas Center, Pasig City
RECEIVING OFFICER		
Mr. Jay G. Nuarin	(02) 636-0701 loc.825 opapp.foi@gmail.com	10th Flr., Agustin 1 Bldg., F Ortigas Jr. Rd., Ortigas Center, Pasig City

ANNEX "C"

LIST OF EXCEPTIONS

Office of the President of the Philippines Malacañang

MEMORANDUM FROM THE EXECUTIVE SECRETARY

TO: All Heads of Departments, Bureaus and Agencies of the National/Local Governments Including Government-Owned and Controlled Corporations (GOCCs), Government Financial Institutions (GFIs), and All Others Concerned

SUBJECT: **INVENTORY OF EXCEPTIONS TO EXECUTIVE ORDER NO. 2 (S. 2016)**

DATE: 24 November 2016

Pursuant to Section 4 of Executive Order (EO) No. 2 (s. 2016), the Office of the President hereby circularizes the inventory of exceptions to the right to access of information, for the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) 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.

For your information and guidance.

SALVADOR C. MEDIALDEA

Office of the Presidential Adviser on the Peace Process
RECEIVED
By: ...
Date/Time: 16-4282
Ctrl. No.: NOV 28 2016
ref# 16-2431

CERTIFIED COPY
MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACAÑANG RECORDS OFFICE

Exceptions to Right of Access to Information

For the guidance of all government offices and instrumentalities covered by EO No. 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]

1. Information covered by Executive privilege;

2. Privileged information relating to national security, defense or international relations;

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

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

5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers;

6. Prejudicial premature disclosure;

7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;

8. Matters considered confidential under banking and finance laws, and their amendatory laws; and

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

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

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

1. Information covered by Executive privilege:

    a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;[2] and

    b. Matters covered by deliberative process privilege, namely:

        i. advisory opinions, recommendations 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]

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

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

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

[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; 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."

[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.

c. Patent applications, the publication of which would prejudice national security and interests;[7]

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

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

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

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

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

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

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

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:

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

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

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

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

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

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

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

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

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

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the individual[19] and is not prohibited by any law or regulation. Any disclosure of personal information shall be in accordance with the principles of transparency, legitimate purpose and proportionality.[20]

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of

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

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

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

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

[17] Medical and health records are considered as sensitive personal information pursuant to Section 3(l)(2), *Data Privacy Act of 2012*; See also Department of Health-Department of Science and Technology (DOST)-Philippine Health Insurance Corporation Joint Administrative Order No. 2016-0002 (Privacy Guidelines for the Implementation of the Philippine Health Information Exchange)

[18] Section 3(l), *Data Privacy Act of 2012*.

[19] Article 26(2), *Civil Code*.

[20] Section 11, *Data Privacy Act of 2012*.

the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government;[21]

b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;[22] and

c. Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:

   (1) records of child and family cases;[23]
   (2) children in conflict with the law from initial contact until final disposition of the case;[24]
   (3) a child who is a victim of any offense under the *Anti-Child Pornography Act of 2009*, including the name and personal circumstances of the child, or the child's immediate family, or any other information tending to establish the child's identity;[25]
   (4) a child witness, who is a victim of a crime, an accused of a crime, or a witness to a crime, including the name, address, telephone number, school, or other identifying information of a child or an immediate family of the child;[26]
   (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address, employer, or other identifying information of a victim or an immediate family member;[27]
   (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]

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[21] Section 4, *Data Privacy Act of 2012*.

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

[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.

[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).

(8) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;[30]

(9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;[31]

(10) names of students who committed acts of bullying or retaliation;[32]

(11) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and [33]

(12) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;[34]

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;[35]

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[30] 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*.

[31] 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.

[32] Section 3(h), *Anti-Bullying Act* (RA No. 10627).

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

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

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

b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);[36]

c. Records and reports submitted to the Social Security System by the employer or member;[37]

d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;[38]

e. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;[39]

f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;[40]

g. Documents submitted through the Government Electronic Procurement System;[41]

h. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the *Electronic Commerce Act of 2000*;[42]

i. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the *Philippine Mining Act of 1995* and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;[43]

j. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;[44]

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

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

[38] Section 29, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

[39] 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.

[40] Section 81, EO No. 226 (s. 1987), as amended.

[41] Section 9, *Government Procurement Reform Act* (RA No. 9184).

[42] Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

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

[44] 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, DCT MC No. 2015-06 (Revised Rules and Regulations to Govern the Accreditation of Travel and Tour Agencies).

k. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;[45]

l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;[46]

m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;[47]

n. Information on registered cultural properties owned by private individuals;[48]

o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);[49] and

p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;[50]

6. Information of which a premature disclosure would:

a. in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or

b. be likely or significantly frustrate implementation of a proposed official action, except such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.[51]

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

[46] Section 10, *Safeguard Measures Act*.

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

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

[49] CHED Memorandum Order No. 015-13, 28 May 2013.

[50] 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).

[51] 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*;[52]

b. Matters involved in an Investor-State mediation;[53]

c. Information and statements made at conciliation proceedings under the *Labor Code*;[54]

d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);[55]

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;[56]

f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;[57]

g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission; [58]

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*;[59]

i. Investigation report and the supervision history of a probationer;[60]

j. Those matters classified as confidential under the *Human Security Act of 2007*;[61]

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[52] 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.

[53] Article 10, International Bar Association Rules for Investor-State Mediation.

[54] Article 237, *Labor Code*.

[55] Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

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

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

[58] 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.

[59] DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

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

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

k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;[62] 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;[63]

8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:

a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);

b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;

c. RA No. 8791 (*The General Banking Law of 2000*);

d. RA No. 9160 (*Anti-Money Laundering Act of 2001*); and

e. RA No. 9510 (*Credit Information System Act*);

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

a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:

(1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;[64]
(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);[65] 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);

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[62] Section 14, Civil Service Commission Resolution No. 01-0940.

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

[64] 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.

[65] Article 7, UNCITRAL Transparency Rules.

b. Testimony from a government official, unless pursuant to a court or legal order;[66]

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;[67]

d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;[68]

e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;[69]

f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;[70] and

g. Attorney-client privilege existing between government lawyers and their client.[71]

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[66] *Senate v. Neri, supra*; *Senate v. Ermita, supra*.

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

[68] *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.

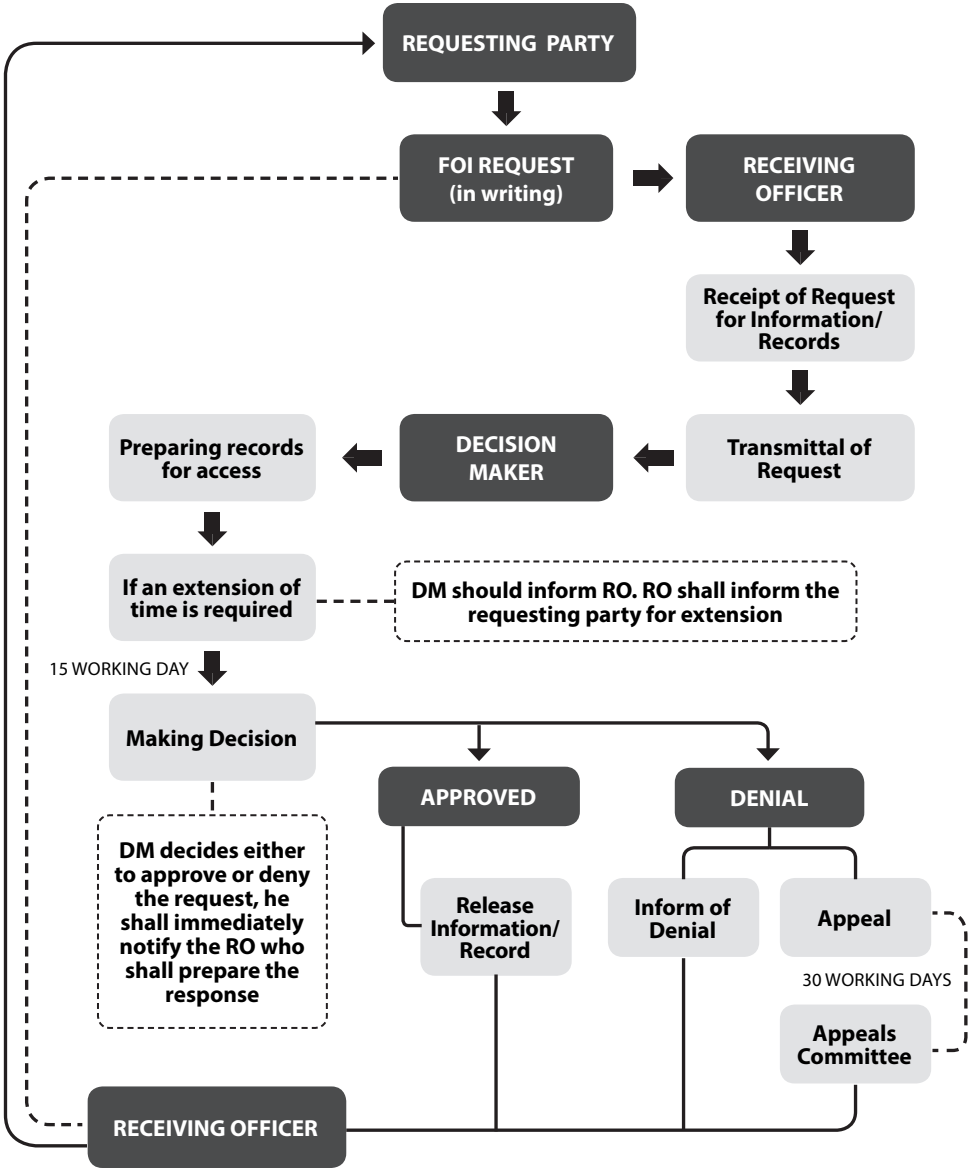
[69] Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending 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.

[70] *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

[71] Canon 21 of the *Code of Professional Responsibility*.

ANNEX "D"

FOI Request Flow Chart



ANNEX "E"

FOI Request Form

(Name of Agency)
(Address of Agency)

PORMULARYO NG KAHILINGAN (FOI)
FOI Request Form

TITULO NG DOKUMENTO/ (Title of the Document): _____
MGA TAON/PANAHONG SAKLAW/ (Year): _____
LAYUNIN/ (Purpose):

_____
_____
_____

PANGALAN/ (Name):_____ **CONTACT Nos.** _____
LAGDA/ (Signature): _____ **PETSA/** (Date): _____
TIRAHAN (Address): _____ **KATIBAYAN NG PAGKAKAKILANLAN/** (Proof of Identity):
Passport No. _____
Driver's License _____
Other _____

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

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

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:

_____

ANNEX "F-1"

FOI RESPONSE TEMPLATE – DOCUMENT ENCLOSED

DATE

Dear_____,

Greetings!

Thank you for your request dated<insert data> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>

Response to your request

Your FOI request is approved. I enclose a copy of (some/most/all) of the information you requested (in the format you asked for)

Thank you.

Respectfully,

_____
FOI Receiving Officer

ANNEX "F-2"

FOI RESPONSE TEMPLATE – ANSWER

DATE

Dear_____,

Greetings!

Thank you for your request dated <insert data> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>

Response to your request

Your FOI request is approved. The answer to your request is <insert answer>

Thank you.

Respectfully,

_____
FOI Receiving Officer

ANNEX "F-3"

FOI RESPONSE TEMPLATE – DOCUMENT AVAILABLE ONLINE

DATE

Dear_____,

Greetings!

Thank you for your request dated <insert data> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>

Response to your request

(Some//Most/All of the information you have requested is already available online from <add details of where that specific information can be obtained e.g. data.gov.ph, foi.gov.ph

Your right to request a review

If you are unhappy with the response to your FOI request, you may ask us to carry out an internal review of the response, by writing to <*insert name of Secretary and postal / e-mail address*>. Your review request should explain why you dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to appeal to the Office of the President under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX "F-4"

FOI RESPONSE TEMPLATE – DOCUMENT NOT AVAILABLE

DATE

Dear_____,

Greetings!

Thank you for your request dated <insert data> under Executive Order No. 2 (s. 2016) on
Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>

Response to your request

While our aim is to provide information whenever possible, in this instance this Office does not have (some of) the information you have requested. However, you may wish to contact <insert name of other authority//organization> at >insert contact details>. Who may be able to help you. The reasons why we don't have the information are explained in the Annex to this letter.

Your right to request a review

If you are unhappy with the response to your FOI request, you may ask us to carry out an internal review of the response, by writing to <*insert name of Secretary and postal / e-mail address*>. Your review request should explain why you dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to appeal to the Office of the President under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

_____

FOI Receiving Officer

ANNEX "F-5"

FOI RESPONSE TEMPLATE – UNDER EXCEPTIONS

DATE

Dear_____,

Greetings!

Thank you for your request dated <insert data> under Executive Order No. 2 (s. 2016) on Freedom of Information in the Executive Branch.

Your request

You asked for <quote request exactly, unless it is too long/complicated>

Response to your request

While our aim is to provide information whenever possible, in this instance we are unable to provide (some of) the information you have requested because an exception(s) under section(s) <insert specific section number(s) of the List of Exceptions that applies to that information>. The reasons why that exemption(s) applies are explained in the Annex to this letter.

Your right to request a review

If you are unhappy with the response to your FOI request, you may ask us to carry out an internal review of the response, by writing to <*insert name of Secretary and postal / e-mail address*>. Your review request should explain why you dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to appeal to

the Office of the President under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

_____

FOI Receiving Officer