



PEOPLE'S FREEDOM OF INFORMATION MANUAL OF THE GOVERNANCE COMMISSION FOR GOCCs

A. OVERVIEW

1. **STATEMENT OF POLICY.** – It is the policy of the State to adopt and implement a policy of full public disclosure of all its transactions involving public interest, subject to reasonable conditions prescribed by law.¹ Moreover, the 1987 Constitution guarantees the right of the people to information on matters of public concern.² In addition, it is mandated that the governance of GOCCs shall be carried out in a transparent, responsible and accountable manner and with the utmost degree of professionalism and effectiveness.³

The Governance Commission for GOCCs (GCG) adheres to the above policies and has thus taken measures to operationalize the same through this Freedom of Information Manual (FOI Manual), designed to accommodate requests of information from the public as regards matters falling within the GCG's mandate under Republic Act (R.A.) No. 10149.

2. **PURPOSE.** – The purpose of this FOI Manual is to guide and assist the GCG and the public in dealing with requests of information received under Executive Order (E.O.) No. 2 on Freedom of Information issued on 23 July 2016.
3. **COVERAGE.** - This FOI Manual shall cover all requests for information directed to the GCG and all its attached offices.

B. DEFINITION OF TERMS

Administrative FOI Appeal. – An independent review of the initial determination made in response to an FOI request. Requesting parties who are dissatisfied with the response made on their initial request have a right to appeal that initial determination to an office within the agency, which will then conduct an independent review.

Appeals Committee. – Shall refer to the GCG Central Appeals and Review Committee for FOI Matters. The Committee shall be composed of all FDOs of the GCG.

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

E.O. No. 2. - Executive Order No. 2, series of 2016, entitled "Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor" on Freedom of Information.

¹ Section 28, Article II, 1987 Constitution.

² Section 7, Article III, 1987 Constitution.

³ R.A. No. 10149, Section 2(c).

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Exceptions. – Information that should not be released and disclosed in response to an FOI request because these are protected by the Constitution, laws or jurisprudence. See **Annex “D”** for the *Inventory of Exceptions to Executive Order No. 2 (s. 2016)*.⁴

Freedom of Information (FOI). – The right of the people to information on matters of public concern, necessitating the adoption and implementation of a policy of full public disclosure of the Executive Branch’s transactions involving public interest, subject to the procedures and limitations provided in the 1987 Constitution, Executive Order No. 2, Republic Act No. 10173 or the Data Privacy Act of 2012, and other existing laws, rules and regulations.

FOI Decision Maker (FDM). – The Chairman of the Commission or his duly authorized representative who shall have the authority to grant or deny a FOI request.

FOI Decision Owner (FDO). – The Office which has ownership over the documents containing the information requested. The FDO of each Office of the GCG shall hold at least a Director III position.

FOI Processing Office (FPO). – Shall refer to the Office of the General Counsel (OGC), whose functions include:

- (1) Conduct initial evaluation of FOI requests and appeals;
- (2) Monitor all FOI requests and appeals;
- (3) Provide assistance to the FDO and FDM;
- (4) Provide assistance and support to the public and staff with regard to FOI matters; and
- (5) Ensure compliance with all the requirements under E.O. No. 2 and its related issuances.

FOI Receiving Officer (FRO). - Any personnel assigned to the Information and Communications Technology Group (ICTG), who shall receive the request for information from the requesting party and check compliance with documentary requirements. The FRO also ensures the transmittal of the information requested to the requesting party. See **Annex “A”** for the list of FOI Receiving Officers.

FOI Request. – A written request submitted by any Filipino to the GCG personally, by email or through the eFOI Portal asking for records on any topic falling under the GCG’s mandate.

foi.gov.ph. –The website that serves as the government’s comprehensive FOI website for all information on the FOI; otherwise known as the eFOI Portal.

Full Denial. - The non-release by the GCG of information in response to an FOI request.

Full Grant. – Disclosure by the GCG of information in response to an FOI request.

GCG/Commission. – Shall refer to the Governance Commission for Government - Owned or -Controlled Corporations.

⁴ Memorandum from the Executive Secretary dated 24 November 2016.

Information. - 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 the control and custody of the GCG pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by the GCG.

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

Manual. – Shall refer to this FOI Manual.

Official Record. – 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.

Open Data. – Shall refer to publicly available data structured in a way that enables the data to be fully discoverable and usable by end users.

Partial Grant/Partial Denial. – Disclosure by the GCG of portions of records in response to an FOI request, and denial of the remaining portions of such records.

Proactive Disclosure. – Information made publicly available by the GCG without waiting for a specific FOI request.

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

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.

Received Request or Received Appeal. – An FOI request or administrative appeal that the GCG has received within a fiscal year.

Requesting Party. - Shall refer to a Filipino citizen who has made an FOI Request with the GCG.

Sensitive Personal Information. – Shall refer to personal information:

- (1) About an individual's race, ethnic origin, marital status, age, and religious, philosophical or political affiliations;
- (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;

- (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.

C. PROMOTION OF OPENNESS IN GOVERNMENT

1. **DUTY TO PUBLISH INFORMATION.** The GCG shall regularly publish, print and disseminate at no cost to the public and in an accessible form, in conjunction with Republic Act No. 9485 or the Anti-Red Tape Act of 2007, and through its website, timely, true, accurate and updated key information including, but not limited to:
 - a. A description of its mandate, structure, powers, functions, duties and decision-making processes;
 - b. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
 - c. The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
 - d. Work programs, development plans, investment plans, projects, performance targets and accomplishments, budgets, revenue allotments and expenditures;
 - e. Important rules and regulations, orders or decisions;
 - f. Current and important databases and the statistics that they generate;
 - 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.
2. **ACCESSIBILITY OF LANGUAGE AND FORM.** The GCG shall endeavor to translate key information into major Filipino languages and present them in popular form and means.
3. **KEEPING OF RECORDS.** The GCG shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation of records, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications and documents received or filed with them and the data generated or collected.

D. PROTECTION OF PRIVACY

1. While providing for access to information, the GCG shall afford full protection to a person's right to privacy, as follows:
 - a. The GCG shall ensure that personal information, particularly sensitive personal information, in its custody or under its control is disclosed only as permitted by existing laws;
 - b. The GCG shall protect personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure;
 - c. Any GCG personnel or official who has access to personal information in the custody of the GCG shall not disclose such information except as authorized by existing laws.



E. STANDARD PROCEDURE (See Annex “C” for the flowchart)

1. The FRO shall receive the request for information from the requesting party and check compliance with the following requirements:

- The request must be in writing using the FOI Request Form in **Annex “B”**;
- The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification and authorization;
- The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information; and
- The request shall state the preferred mode of delivery, whether via pick-up at the GCG office, mail or e-mail.

The FOI request can be sent to GCG through three (3) channels, namely:

- Personal submission at the GCG office;
- Via e-mail (feedback@gcg.gov.ph); and
- Via eFOI Portal (foi.gov.ph).

Together with the duly filled-out FOI Request Form, a copy of one (1) valid government-recognized ID with photo and authorization (for representatives) shall be submitted.

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

2. The request shall be stamped received by the FRO, indicating the date and time of the receipt of the written request, and provide an acknowledgement letter. 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 input the details of the request in the Document Management System (DMS) and shall allocate a reference number.

The GCG must respond to requests promptly within fifteen (15) working days following the date of the receipt of complete requirements stated above. A working day is any day other than a Saturday, Sunday, or declared national public 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:

- a. The day on which the request is physically or electronically delivered to the GCG or directly into feedback@gcg.gov.ph or through the eFOI Portal; or
- b. If the GCG has asked the requesting party for further details to identify and locate the requested information, the date on which the necessary clarification is received.

3. The FRO shall then forward the request within one (1) day from the receipt thereof to the FPO who shall initially act on the request. Among others, the FPO shall determine whether or not the request and the requirements are in order. Further, at the outset, the FPO shall assess and clarify the request with the requesting party in writing, if necessary.

The clarification shall stall the running of the 15-working-day period and will resume the day after GCG receives the required clarification from the requesting party. The requesting party is given sixty (60) calendar days to provide the information needed for clarification. Otherwise, the FOI request shall be deemed closed.

Further, at this stage, the FPO shall determine whether or not the information requested is covered under the Data Privacy Act of 2012.⁵ If the information requested involves sensitive personal information, then the FOI Request shall be DENIED. If the personal information is exempted from disclosure, the FOI Request shall be processed. Otherwise if the same is not exempted from disclosure, the FOI Request shall be DENIED.

4. The FPO shall then forward the request to the FDO of the Office which has ownership over the documents containing the information, if needed. The FDO of each Office of the GCG shall hold at least a Director III position.

If the FDO determines that a record contains information of interest to another GCG Office or a government agency or office other than the GCG, the FDO shall consult in writing with the Office or agency concerned regarding the legality of disclosing the information before making any determination.

If the information requested requires extensive search and examination of the GCG's official records or facilities, or if fortuitous events occur making timely release of the information impossible, the FDO shall inform the FPO of such circumstances and state that an extension of the 15-working day period is necessary. The FPO shall inform the requesting party of the extension, which in no case shall exceed twenty (20) working days in addition to the original 15-working day period, unless exceptional circumstances warrant a longer period.

5. The FPO shall draft a letter-reply, containing the recommended action, and attaching the requested information or document, if any.

If the requested information is in the custody of a government agency or office other than the GCG, the FPO, 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 therefor.

If the information requested is already posted and publicly available in the GCG website, data.gov.ph or foi.gov.ph, the FPO shall inform the requesting party in writing of said fact and provide them the website link where the information is posted.

6. The draft letter-reply, containing the recommended action, the FOI request and the requested information or document/s, if any, shall be forwarded to the FDM for final grant or denial.

Upon full grant of the request by the FDM, the finalized letter-reply with the requested information or document/s shall be transmitted to the FRO for allocation of a reference number and entry into the DMS. The FRO shall collate the same and ensure its completeness. Further, the FRO shall ensure transmittal of said

⁵ Republic Act No. 10173.

letter and the requested information to the requesting party within 15 working days from receipt of the request.

7. Once the actual cost(s) have been determined, the FPO shall immediately inform the requesting party via e-mail the assessment of the cost(s), and the manner of payment.

The requesting party shall be given three (3) working days from the time he/she was informed of the assessment of cost(s) to deposit the payment and send the proof of payment to GCG via *feedback@gcg.gov.ph*. Otherwise, the requested information shall be delivered to the requesting party via e-mail within the prescribed period.

8. In case of partial or full denial by the FDM of the request, the FPO shall, within the prescribed period, notify in writing the requesting party of such denial, setting forth the grounds thereof and the circumstances on which the denial is made.

The FDM may deny the FOI Request in cases where:

- a. The GCG does not have the information requested;
- b. The information requested contains Personal Information or Sensitive Personal Information protected by the Data Privacy Act of 2012;
- c. The information requested falls under the list of Exceptions to FOI (attached as **Annex "D"**);
- d. The information requested pertains to internal deliberations of the Commission; or
- e. The request is unreasonable, identical or substantially similar to an earlier request from the same requesting party and such earlier request had already been previously granted or denied by the GCG.

In case of partial denial, the release of such information not covered by the denial shall be governed by Item No. 6, Section E hereof.

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

9. Upon receipt of the notice of denial, the requesting party may file a written appeal to the Appeals Committee within fifteen (15) calendar days from the notice of denial. The Committee shall evaluate the appeal and forward its recommendations to the GCG Chairman and Commissioners, who shall decide on the appeal within thirty (30) working days from the date of filing of the written appeal. The FPO 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.
10. Upon exhaustion of all administrative FOI remedies, the requesting party may file the appropriate judicial action under the Rules of Court.

F. FEES

1. **FEES FOR ACTUAL EXPENSES INCURRED.** The GCG shall not charge any fee for accepting requests for information. However, the GCG shall charge reasonable fees for actual expenses incurred for reproduction and copying of information. Herein below is the schedule of fees:

COST ITEM	FEES
Printing	₱1 per page
Binding	₱20 per bind
Courier	Based on actual cost incurred

2. **EXEMPTION FROM PAYMENT OF FEES.** The GCG may exempt any requesting party from payment of fees, stating the valid reasons for such exemption.

G. ADMINISTRATIVE LIABILITY

1. **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 GCG issuances.

- 1.1. 1st Offense - Reprimand;
- 1.2. 2nd Offense - Suspension of one (1) to thirty (30) days; and
- 1.3. 3rd Offense - Dismissal from service.

2. 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 authority.

H. REPEALING CLAUSE

1. All other GCG orders, circulars, issuances, decisions, or parts of the foregoing which are inconsistent with this Manual are hereby repealed or modified accordingly.

I. EFFECTIVITY CLAUSE

1. This Manual shall take effect immediately.

SAMUEL G. DAGPIN, JR.
Chairman

ANNEX "A"

OFFICE	LOCATION OF RECORDS	ASSIGNED FROs	CONTACT DETAILS
GCG Office	3/F Citibank Center, Paseo de Roxas Ave., Makati City 1200	Christina L. Salvio Gee R. Luzadas Jessamin L. Jesuitas	(02) 328-2030 ext. 499/ 319/ 400 <i>feedback@gcg.gov.ph</i>

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ANNEX B



Office of the President of the Philippines
GOVERNANCE COMMISSION
 FOR GOVERNMENT OWNED OR CONTROLLED CORPORATIONS
 3/F, Citibank Center, 8741 Paseo De Roxas, Makati City, Philippines 1226



Management System
 ISO 9001:2015
 www.tuv.com
 ID: 010000102

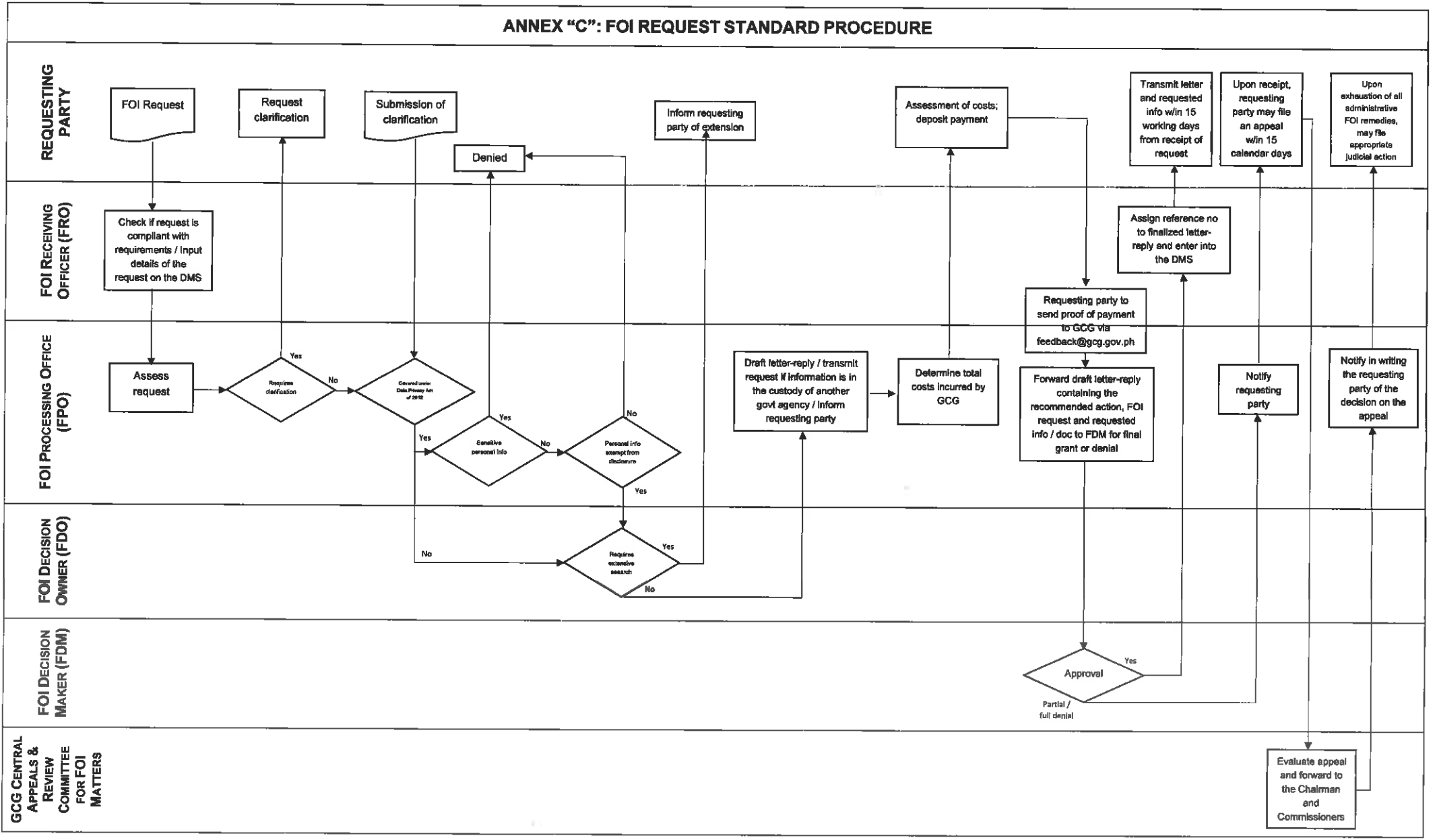
FOI REQUEST FORM

Name: _____ Date of Request: _____
 Contact No.: _____ Releasing Date: _____
 Email Address: _____
 Office/School: _____
 Address: _____

DETAILS ON REQUESTED INFORMATION		
<p>Ano po ang hinahanap ninyong dokumento o impormasyon? What document/s or information are you looking for?</p> 		
<p>Anong panahon ang saklaw ng dokumento o impormasyong inyong hinahanap? What is the covered period of the document/s or information requested for?</p>	<p>Ano po ang layunin sa paghiling ninyo sa dokumento o impormasyon? What is the purpose of the request for the document/s or information?</p>	
<p>Requirements:</p> <p>____ This duly accomplished FOI Request Form</p> <p>____ Authorization for Representative</p> <p>____ 1 Valid Government-recognized ID</p>	<p>Preferred Mode of Delivery:</p> <p>____ Pick-up at the GCG Office (Requires printed copies; for assessment of cost(s))</p> <p>____ Mail (Requires printed copies; for assessment of cost(s))</p> <p>____ E-mail (Electronic copies only; no assessment of cost(s))</p>	<p>_____</p> <p style="text-align: center;">Signature over Printed Name</p>
FOI DECISION OFFICER	FOI DECISION MAKER	ASSESSMENT
<p>Remarks (Recommended Action):</p>	<p style="text-align: center;"> <input type="radio"/> GRANTED <input type="radio"/> DENIED Reason: _____ _____ </p>	<p>No. of Pages _____</p> <p>Printing _____</p> <p>Binding _____</p> <p>Courier _____</p> <p>Total _____</p> <p>OR # _____</p> <p>Date Paid _____</p>
Signature / Date	Signature / Date	
<p>TERMS OF USE: The document and any information provided: (1) shall not be used for any purpose other than what is indicated in the FOI request as approved; (2) shall not be used for purposes contrary to law, morals, good customs, or public policy; and (3) shall not be reproduced for any commercial use. Any violation shall be addressed accordingly.</p> <p>SCHEDULE OF COSTS: Printing – ₱1 per page; Binding – ₱20 per bind; Courier – based on actual cost incurred. Please note that you will be informed of the total amount of cost(s) via e-mail or through SMS once the same has been determined.</p> <p>MODE OF PAYMENT: Kindly deposit the payment within three (3) working days to GCG's LandBank Current Account with details as follows: Account Name: Governance Commission for GOCCs Account Number: 3432-1006-09 Once payment has been made, kindly inform GCG within the same period through feedback@gcg.gov.ph, and attach therein the proof of payment. Otherwise, the requested information shall be delivered to the requesting party's e-mail.</p>		

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ANNEX "C": FOI REQUEST STANDARD PROCEDURE



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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

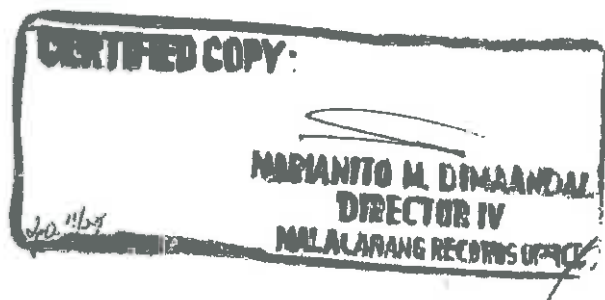
Pursuant to Section 4 of Executive Order (EO) No. 2 (s. 2016), the Office of the President hereby circularizes the inventory of exceptions to the right to access of information, for the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public.

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



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

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:

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

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

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

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; and³³
- (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

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

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, DOT 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:

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

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);

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

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.*