

SOCIAL HOUSING FINANCE CORPORATION

**PEOPLE'S
FREEDOM OF INFORMATION
MANUAL**

Series of 2023

PREFACE

This Social Housing Finance Corporation's (SHFC) People's Freedom of Information (FOI) Manual is designed to guarantee citizens' right to access information and freedom of information. It recognizes and confirms the commitment of the Government to full public disclosure, transparency, and accountability in public service.

This Manual contains information on the existing mechanisms for the provision of the information and the processes, timelines and accountability. Definition of Terms is included to provide clarity and a common understanding of key words used repeatedly in the Manual. The Administrative Liabilities are likewise included to guide the public on accountabilities in compliance with FOI.

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I. AGENCY PROFILE

Section 1. Mandate

The SHFC was created by virtue of Executive Order No. 272 (20 January 2004). SHFC is a wholly-owned subsidiary of the National Home Mortgage Finance Corporation (NHMFC) mandated: (a) to undertake social housing programs that will cater to the formal and informal sectors in the low-income bracket; and (b) to take charge of developing and administering social housing programs, particularly the Community Mortgage Program (CMP) and the Abot-Kaya Pabahay Fund (AKPF) Program (amortization support program and development and financing program).

Section 2. Vision and Mission

By 2022, SHFC shall have provided 530,000 organized homeless and low-income families with Flexible, Affordable, Innovative, and Responsive (FAIR) shelter solutions to their housing needs.

The SHFC's mission is to empower and uplift the living conditions of underprivileged communities by Building Adequate Livable Affordable and Inclusive (BALAI) Filipino Communities through the provision of FAIR shelter solutions in strong partnerships with the national and local government, as well as the civil society organizations and the private sector to support the underprivileged communities.

II. OVERVIEW

Section 1. Statement of Policy

The 1987 Philippine Constitution provides for the People's right to information on matters of public concern, such as: (a) access to official records and documents, (b) papers pertaining to official acts, (c) records of transaction or management decisions, and (d) government research data used as basis for policy development but subject to limitations provided by law. Further, Section 28 of the Philippine Constitution (Article II on the Declaration of Principles and State Policies) mandates the government to implement a policy of full public disclosure subject to reasonable conditions.

Recognizing popular clamor for access to information and freedom of information, President Rodrigo Roa Duterte issued Executive Order (EO) No. 2 on 23 July 2016 titled "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" (*See Annex "A"*).

EO No. 2 aims to promote openness in the government by providing a clear, uniform and speedy procedure for access of information. By this, all government agencies are mandated to prepare their respective People's Freedom of Information Manual.

Section 2. Objectives

The SHFC People's FOI Manual aims to uphold the fundamental role of a free and open exchange of information in a democracy and is meant to enhance transparency and accountability of official transactions in government offices.

This Manual shall serve as reference material for accessing information by interested parties such as government agencies, private institutions, non-government organizations (NGOs), community associations, the academe, researchers (local and foreign), or by individuals who have particular concerns and inquiries.

Section 3. Scope and Coverage

The SHFC's People's FOI Manual shall cover all requests for information directed to all its branches and satellite offices nationwide.

Pursuant to Section 6 of EO No. 2, there shall be a legal presumption in favor of access to information and public and official records of SHFC. It also requires that requests for information shall not be denied unless it clearly falls under any of the exceptions to right of access to information of the Corporation, as recognized by the Constitution, existing laws, or jurisprudence¹

Section 4. Composition

FOI Champion

The SHFC President shall be the FOI Champion, who shall be responsible for all actions carried out under this FOI Manual or, if the exigencies of public service so require, the President may delegate such responsibility who shall then be authorized to discharge the duties and functions of the FOI Champion under this Manual.

The FOI Champion shall perform the following functions:

- i. oversee the overall implementation of the FOI program;
- ii. ensure that all requested information is provided by the office;
- iii. review and ensure that the inventory of exceptions is periodically updated and reflects any change in existing law and jurisprudence; and
- iv. has the final approval to grant or deny the requested information as decided or recommended by the FDM.

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.

FOI Receiving Officer (FRO)

The FOI Receiving Officer shall come from the Customer Relations and Complaints Division located at the 3rd Floor BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226 and can be contacted at 7750-6337 loc. 888 or shfc.stratcomms.public@gmail.com. There shall also be a designated FRO for each of the SHFC Satellite Offices. The FRO shall perform the following functions:

- i. Receive on behalf of the SHFC, all requests for information and take the appropriate steps in processing the same;
- ii. Monitor all FOI Requests and FOI Appeals;
- iii. Provide assistance to the FDM;
- iv. Provide assistance and support to the public and staff with regard to FOI matters;
- v. Compile statistical information as may be required under this Manual and/or EO No. 2; and
- vi. Conduct an initial evaluation of the request and advise the requesting party whether the request will be forwarded to the FDM for further evaluation, or deny the request based on any of the following grounds: (a) that the form is incomplete; or (b) that the information is available at SHFC's Official Website.

FOI Decision Maker/s (FDM/s)

The FOI Decision Makers shall be designated by the SHFC President, with a rank not lower than a Vice President, who shall conduct an evaluation of the request for information and has the authority to grant the request, or deny it based on the following:

- i. The SHFC does not have the information requested;
- ii. The information requested contains sensitive personal information protected by the Data Privacy Act of 2012;
- iii. The information requested falls under the list of exceptions to FOI; or
- iv. 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 the SHFC.

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

Section 5. Definition of Terms

For common understanding and clarity, the following terms used in this manual are hereby defined:

Authorized Signatories to Communications. The President and the Vice Presidents of their respective offices and hubs, and the area managers of their respective hubs and satellite offices depending on the nature, type, and jurisdiction of information being requested.

Consultation. When a government office locates a record that contains information of interest to another office, it will ask for the views of that other agency on the disclosability of the records before any final determination is made. This process is called a "consultation."

Data Privacy Officer (DPO). The DPO is the steward of data protection implementation and data privacy strategy within SHFC. The DPO is responsible for the overall management and oversight of data protection strategy and implementation by personal information controllers and personal information processors as well as compliance with the DPA, its Implementing Rules and Regulations, related issuances of the National Privacy Commission (NPC), and other applicable laws and regulations pertaining to data privacy and security such as the General Data Protection Regulation.

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 "B" for the List of Exceptions and Inventory of Exceptions to EO No. 02, S. 2016)

FOI.gov.ph. The website serves as the government's comprehensive FOI website for all information on the FOI. Among many other features, FOI.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. FOI.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 the agency and over time.

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 Contact. The name, official address and contact details of the FOI Champion, designated FOI Receiving Officer/s and FOI Decision Makers where the FOI request can be made (See Annex "C" for the List of SHFC FOI Officers).

FOI Document Owner (FDO). The office/department which has ownership over the documents containing the information requested.

FOI Request. A written request submitted by any Filipino to the SHFC personally, by email, or through the eFOI portal asking for records on any topic falling under the SHFC's mandate (See Annex "D" for the SHFC FOI Request Form).

Information. Any of the following items which are made, received or kept in or under the control and custody of SHFC pursuant to existing laws, executive orders, rules and

regulations or in connection with the performance or transaction of official business by SHFC:

- i. Official records and documents/executive correspondences;
- ii. Papers, reports and external communications/letters;
- iii. Contracts/Memorandum of Agreement;
- iv. Minutes and transcripts of official meetings;
- v. Maps, photographs, data and research materials from SHFC projects;
- vi. Films, sound and video recording, magnetic or other tapes;
- vii. Electronic data, computer-stored data, and other similar data or materials recorded, stored or achieved in whatever format.

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 operations, thrusts, and programs of the government. In line with the concept of proactive disclosure and open data, these types of information are posted at the SHFC official website and can be accessed without the need of written requests by the public.

Manual. Shall refer to this FOI Manual.

Official Record/s. Information produced or received by the SHFC or its employee in an official capacity or pursuant to a public function or duty.

Open Data. Publicly available data is structured in a way that enables the data to be fully discoverable and usable by end users.

Personal Information. 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.

Proactive Disclosure. Information is made publicly available by government agencies without waiting for a specific FOI request. Government agencies now post on their websites a vast amount of material concerning their functions and mission.

Public Record/s. Information required by laws, executive orders, office orders, memorandum circulars, rules or regulations to be entered in the website, kept and made publicly available by SHFC. Also refers to record or classes of records, in any form, in whole or in part, created or received by a government agency in the conduct of its affairs, and have been retained by that government agency or its successors as evidence or because of the information contained therein.

Public Service Contractor. A private entity that has dealing, contract, or a transaction of whatever form or kind with the SHFC that operates on public funds.

Referral. When a government office locates a record that originated with or is of otherwise primary interest to another agency, it will forward that record to the other agency to process the record and to provide the final determination directly to the requester. This process is called a "referral" (*Please see Annex "E" for the No Wrong Door Policy for FOI Referral*).

Requesting Party. This shall refer to a Filipino citizen who has made an FOI Request with the SHFC.

Republic Act 11032. Otherwise known as the *Ease of Doing Business and Efficient Government Service Delivery Act of 2018*. This is an act that mandates all government offices and agencies including local government units (LGUs), Government-Owned and Controlled Corporations (GOCCs) and other government instrumentalities to provide services covering business and non-business related transactions, which adopts simplified procedures that will reduce red tape and expedite transactions in government.

Sensitive Personal Information. As defined in the Data Privacy Act of 2012, shall refer to personal information:

- i. About an individual race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
- ii. About 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;
- iii. Issued by government agencies peculiar to an individual which includes but not limited to social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
Specifically established by an executive order or an act of Congress to be kept classified.

Vexatious Request. A request is considered vexatious if it is frivolous, malicious, made in bad faith, intends to harass, vilify or embarrass, or if it poses an actual or imminent danger to the office, its officials, or employees (*Please see Annex "F" for the Guidelines on the Vexatious FOI Request and Abuse of Rights Thereunder*).

III. PROMOTION OF OPENNESS IN GOVERNMENT

Section 1. Duty to Publish Information

The SHFC 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 their website, timely, true, accurate and updated key information including, but not limited to:

- i. A description of its mandate, structure, powers, functions, duties and decision-making processes;

- ii. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
- iii. The names of its key officials, their powers, functions and responsibilities;
- iv. Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
- v. Important rules and regulations, orders or decisions;
- vi. Current and important database and statistics that it generates;
- vii. Bidding processes and requirements; and
- viii. Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.

Section 2. Accessibility of Language and Form.

The SHFC shall endeavor to translate key information into major Filipino languages and present them in popular form and means.

Section 3. Keeping of Records

The SHFC, through its Strategic Communications Department – Information and Public Assistance Desk as the FOI Receiving Unit, including the Receiving Officers of its Satellite Offices/branches, 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.

IV. PROTECTION OF PRIVACY

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

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

V. OPERATIONAL GUIDELINES/STANDARD PROCEDURE

This section covers/explains the processes involved in the filing of requests for information, as well as the actions to be undertaken by SHFC in processing FOI requests. EO No. 2 directs SHFC to act on all letters, appeals, demands, or requests for access to information (*Please see Annex "G" for the FOI Process Flowchart*).

Section 1. Receipt of FOI Request

The FRO in the SHFC Head Office and the in the Satellite Offices shall receive the FOI request from the requesting party and check compliance with the following requirements:

- i. The requesting party shall accomplish and sign the SHFC FOI Request Form;
- ii. The requesting party's name, address, contact information and provided government-issued identification (I.D.) card;
- iii. A rational description of the requested information;
- iv. The reason for, or purpose of, the request for information; and
- v. The preferred mode of delivery, whether via pick-up at the SHFC Office, mail or e-mail.

FOI requests may be coursed through the following modes: (a) phone call; (b) e-mail and SHFC's Official Facebook Page; (c) letters and other government agencies/offices endorsements; and (d) eFOI portal.

The requesting party shall be advised of the due process and the requirements for filing of FOI Request. The FOI Requests will only be acted upon the submission of a scanned duly accomplished SHFC FOI Request Form together with a government-issued ID via email.

For walk-in/in-person FOI requesting parties, they shall submit two (2) copies of the properly accomplished SHFC FOI Request Form together with their government-issued ID. 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.

The request shall be stamped 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 public officer who actually received it, with a corresponding signature and a copy, furnished to the requesting party. The original copy shall be kept by the FRO while the other copy shall be returned to the requesting party upon assigning a Tracking Number/Code, which can be generated from the SHFC FOI Requests Tracker.

In case of email requests, the email shall be printed out and shall be acknowledged by electronic mail indicating the same information as of the written request. The FRO shall input the details of the request on the Request Tracking System and allocate a reference number.

Section 2. Processing of FOI Requests

Upon receipt of the request for information and ensuring that it is compliant with the needed requirements, the FRO shall evaluate the contents of the request.

If the information being requested is already posted and publicly available in the SHFC official website – www.shfc.dhsud.gov.ph, or SHFC official Facebook page, data.gov.ph, foi.gov.ph or other relevant websites, the FRO shall inform the requesting party of the availability of the information in public use platforms and provide the website link where the information is posted/available.

The FRO may act upon the request on his or her own accord, if the information requested is considered as information for proactive disclosure but not yet accessible or available at SHFC's website but the same or a copy thereof may readily be accessed and provided to the requesting party. Each group or department shall come up with and update its list of information under its custody or control or classified as information for disclosure and provide the Strategic Communications Department – Information and Public Assistance Desk with the list and/or copies thereof.

If the requested information needs to be acted upon by another FRO or SHFC unit/office, the original FRO shall forward such request to the other FRO or unit/office concerned and ensure coordination between them, keeping in mind the timelines for processing a request. The original FRO and the receiving FRO/unit/office can only provide/release such information within their custody or those that specifically relate to their respective offices.

If the requested information is not within the custody of SHFC following referral and discussions with the FDM, the FRO shall undertake the following steps:

- i. If the records/documents/information requested pertains to another agency, the procedure provided under Section 12 shall apply;
- ii. If the records refer to an office are not within the coverage of EO No. 2, the requesting party shall be advised accordingly and provided with the contact details of that office, if known.

For repeated and unreasonable requests by the same person, SHFC shall not be obliged to act upon the same.

The SHFC must respond to requests promptly, within the fifteenth (15) working day following the date of receipt of the request. A working day is any day other than a Saturday, Sunday or a day which is declared a national public holiday in the Philippines. In computing for the period, the rules under Article 13 of the New Civil Code shall be observed.

The date of receipt of the request will be either:

- i. day on which the request is physically or electronically delivered to the FRO, The or directly into the email inbox of the Strategic Communications Department – Information and Public Assistance Desk; or
- ii. If the FDM has asked the requesting party for additional details or clarification on the information being requested, the counting of the 15 working days will stop and shall commence again the day after the receipt of the clarification from the requesting party. If, after the lapse of sixty (60) calendar days no written explanation/clarification is received from the requesting party, then the request shall be deemed as "closed" without further action required on the part of SHFC.

As provided under Republic Act No. 11032 or the Ease of Doing Business and Efficient Government Service Delivery Act of 2018, SHFC shall respond to a request fully compliant with requirements as soon as practicable or within three (3) working days for requests that only require ministerial actions. The period may be extended but not to exceed twenty (20) working days whenever the information requested requires an extensive search of office records or facilities, examination of voluminous records, or the occurrence of unexpected cases or unavoidable circumstances.

Section 3. Transmittal of FOI Request from the FRO to the FDM

If the FOI request is recommended for processing, the request shall be forwarded to the FDM within one (1) day from receipt of the request (written or e-mailed) indicating the date, time, and name of the FDM who will process the request. All requests transmitted from FRO to FDM should be recorded in the record book maintained by the FRO.

The FDM shall ensure that the complete information requested is submitted to the FRO within ten (10) days upon receipt of the FOI request.

Upon receipt of the request for information from the FRO, the FDM has three (3) working days from receipt within which to act upon the request. The FDM may either:

- i. Approve the request;
- ii. Deny the request;
- iii. Clarify some matters; or
- iv. Request for an extension of time within which to process the request.

If upon the determination of the FDM, the request is valid and/or for a legitimate purpose, the FDM shall approve the request and proceed as follows:

- i. immediately inform the FRO and FDO concerned to prepare the requested information/documents; or
- ii. if the requested information pertains to the office of the FDM, or if the requested documents are within the FDM's custody, he or she shall observe the rules in the next succeeding subsection.

If the FDM needs further details to identify or locate the information, the FDM shall, through the FRO, seek clarification from the requesting party. The clarification shall stop

the running of the 15 working-day period and will refresh from the day and time after it receives the required clarification from the requesting party.

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

The FDM, in case of doubt as to the interpretation of this Manual for requests involving personal or sensitive personal information, may refer the matter to the SHFC's DPO.

Section 4. Referral to DPO

SHFC strictly adheres to the Data Privacy Act of 2012 "to protect the fundamental human right of privacy, of communication while ensuring free flow of information to promote innovation and growth (Republic Act No. 10173, Ch. I, Sec. 2).

The FDM shall transmit the request for information to the DPO within one (1) working day from the receipt thereof, should the FDM need clarification on the information being requested. SHFC's DPO shall ensure that the personal data of its clients and stakeholders are properly collected, stored, and processed and that SHFC is duty-bound to observe and respect their data privacy rights.

Section 5. Transmittal of FOI Requests from DPO to FDM

The DPO shall provide the FDM with the approval or denial of the request for information through a written memorandum citing the reason/s behind their decision to approve or deny the request.

Upon determination of whether or not the requested information may be approved or denied, the DPO shall inform the FDM of the result of its review within the 3 working days provided to them.

The FDM and DPO shall be provided with 3 working days that they may share in deciding on the approval or denial of the request for information.

Section 6. Preparation of Requested Information

The FDO (or the FDM) shall perform all necessary steps to locate, retrieve, and prepare the information requested and ensure that the complete information requested be transmitted to the FRO for release within 7-10 working days counted from the time the request was received by the FRO at the first instance.

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

Section 7. Release of Requested Information

The FRO shall collate and ensure that the information/documents are complete. He or she shall attach a cover/transmittal letter signed by the designated officer and proceed to release the information/documents to the requesting party within 15 working days reckoned from the receipt of the request for information.

Section 8. Request for Extension of Time

If the information requested requires additional time beyond 15 working days due to an extensive search of the government's record facilities, examination of voluminous records, the occurrence of fortuitous events, or other analogous cases, the FDM should inform the FRO.

The FRO, in turn, shall inform in writing the requesting party of the extension, setting forth the reasons for such extension. In no case shall the extension exceed twenty (20) working days including the mandated 15 working days to act upon the request, unless exceptional circumstances warrant a longer period.

Section 9. Notice of Approval/Denial

The FDM shall immediately notify the FRO of the approval or denial of the FOI request, who shall prepare the response to the requesting party in writing within the prescribed period of time. The Notice, whether approved or denied, shall pass through the SHFC President or the designated officer for final approval.

Section 10. Approval of FOI request

In case of approval, the FDM shall indicate such approval on the Decision Portion of the FOI Request Form and sign the same. The requested information shall then immediately be forwarded to the FRO for appropriate action. The FRO shall ensure that all records that have been retrieved and considered are checked for possible exemptions, prior to actual release. 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.

Section 11. Denial of FOI 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 or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of the request for information. All denials on FOI requests shall pass through the SHFC President or the designated officer.

Request for information shall be immediately denied if the purpose is contrary to law, existing rules and regulations, or if:

- i. The SHFC does not have the information requested;

- ii. The information requested is already posted and available online;
- iii. The information requested contains Personal Information or Sensitive Personal Information protected by the Data Privacy Act of 2012;
- iv. The information requested falls under the exceptions to right of access to information;
- v. The information requested pertains to internal deliberations of the SHFC;
- vi. The request is unreasonable, identical or substantially similar to an earlier request from the same requesting party and such earlier request had been previously granted or denied by the SHFC; or
- vii. The FOI request is vexatious as stipulated in FOI-MC No. 5, Series of 2020

Section 12. Process of Referral

When the requested information is not in the possession of a government agency (government agency no. 1 or GA1) but is available in another government agency (government agency no. 2 or GA2) under the Executive Branch, the request shall be immediately referred by GA1 to GA2 through the most expeditious manner but not exceeding three (3) working days from the receipt of the request. This shall be considered as the "First Referral" and a fresh period will apply. Referral to the appropriate government agency shall mean that another government office is the proper repository or custodian of the requested information or records, or has control over the said information or records.

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

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

GA2, to whom the request was referred under the First Referral may subsequently refer the request to another government agency (government agency no. 3 or GA3) under the procedure set forth in the first paragraph of this Section. This shall be considered as the "Second Referral" and another fresh period shall apply. Referrals under this Order shall only be limited to two (2) subsequent transfers of request (*Please see Annex "H" for the No Wrong Door Policy Flowchart*).

A written or email acknowledgment of the referral shall be made by the FRO of the government agency to where it was referred. The requesting party shall be notified of the referral and must be provided with the reason or rationale thereof, and contact details of the government office where the request was referred.

Section 13. Status of Referred FOI request

A request that is referred to the appropriate government agency is considered successful if the same is acknowledged and the requested information is disclosed to the requestor.

If GA3, after the second referral, still cannot provide the information requested, it shall deny the said request and shall properly notify the requesting party. In all phases of the referral, the requesting party shall be informed in writing, email, and/or through the eFOI of the status of his/her request.

VI. APPEAL IN CASE OF DENIAL

In cases of disapproval or denial of a request for information by the concerned unit, the requesting party may file the appeal to the SHFC Office of the President (OP) within a period of 15 calendar days from receipt of the denial or from the lapse of the period to respond to the request. The SHFC OP shall evaluate the appeal and notify the requesting party of its resolution as soon as practicable or within seven (7) working days from receipt of the written appeal. The requesting party, through the FRO, shall be notified in writing of the decision on the appeal, setting forth the grounds therefor and the circumstance in which the decision is made.

After the exhaustion of all administrative FOI remedies, the requesting party may file the appropriate judicial action under the Rules of the Court.

VII. FEES

Section 1. No Request Fee

As stipulated under EO No. 2, SHFC shall not charge any fees for accepting incoming and releasing of requests for access to information, including certification of copy/ies of documents.

Section 2. Reasonable Cost of Reproduction, Copying, and/or Delivery of the Information

The FRO shall immediately notify the requesting party in case there shall be a reproduction, copying and/or delivery fee in order to provide the information. Such fee shall be the actual amount spent by the SHFC in providing the information to the requesting party. The schedule of fees shall be posted by the SHFC.

Section 3. Exemption from Fees

The SHFC may exempt any requesting party from payment of fees, upon request stating the valid reason why such requesting party shall not pay the fee.

VI. ADMINISTRATIVE LIABILITY

This section states the penalties both for SHFC officials and employees who fail to act on request for information, as well as the sanctions imposed for who may access and request for information.

Section 1. Non-Compliance with the FOI Manual

Failure of concerned SHFC employee/s to comply with the provisions of this Manual shall be ground for disciplinary action under pertinent administrative laws, Civil Service rules, and SHFC issuances.

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

Section 2. Procedure

The Internal Grievance Procedure of SHFC shall be applicable in the disposition of cases under this Manual.

Section 3. Provisions for More Stringent Laws, Rules and Regulations

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

Section 4. Illegal / Unauthorized Use

A fine of FIVE HUNDRED PESOS (PhP 500.00) to FIFTEEN THOUSAND PESOS (PhP 15,000.00) shall be imposed on any person (including SHFC employees and officials and requesting party) who shall use the information for purposes other than those expressed in the objectives of this Manual, particularly:

- i. **Illegal Reproduction.** Unauthorized reproduction of the document containing the information contrary to SHFC's rules and regulations.
- ii. **Falsification.** Any person who shall deliberately change or falsify the content of the Manual and disseminate the same in any manner with intent to mislead and cause damage.
- iii. **Theft.** Taking of the Authority's information without authorization or consent from the SHFC (which is done without violence nor force upon things).
- iv. **Misuse and alteration of Information Requested or Generated from the Manual.** Information was used to malign or mislead a person.

The imposition of the fine is without prejudice to any administrative and/or criminal sanctions.

Section 5. Repealing Clause

All circulars, orders, rules and regulations, issuance or any part thereof inconsistent with the provision of this Manual are hereby repealed, amended or modified accordingly consistent with Executive Order No. 2 series of 2016.

Section 6. Separability Clause

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

Section 7. Effectivity

This Manual shall take effect upon its posting on the SHFC website. This Manual or part hereof, may be revised or updated as the need arises.

Approved by:


FEDERICO A. LAXA
President and CEO

ANNEX “A”

EXECUTIVE ORDER NO. 02, SERIES 2016

**MALACAÑAN PALACE
MANILA**

BY THE PRESIDENT OF THE PHILIPPINES

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

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

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

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

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

WHEREAS, the President, under Section 17, Article VII of the Constitution, has control over all executive agencies, 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 all government offices under the Executive Branch, including but not limited to the national government and all its offices, agencies, 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 existing law and jurisprudence and the Department of Justice and the Office of the Solicitor General are directed to update the inventory of exceptions as the need to do so arises, for circularization as hereinabove stated.

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

SECTION 6. Application and Interpretation. There shall be a legal presumption in favor of access to information, public records and official records. No RFI 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 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 RFI 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 or under its control is disclosed or released only if it is material or relevant to the subject matter of the request and its disclosure is permissible under this order or existing 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 this 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 RFI: *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 the requirements of sub-section (a) hereof as soon as practicable but not exceeding 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 an 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 for 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 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 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 the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein 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 the 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 15 calendar 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 part 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 records management system that facilitates easy identification, retrieval and communication of information to the public.

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

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

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

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

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

DONE, in the City of Manila, this 23rd day of July in the year of our Lord two thousand and sixteen.

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

By the President:

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

ANNEX "B"

INVENTORY OF EXCEPTIONS TO EXECUTIVE NO. 2, S. 2016

**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



LIST OF EXCEPTIONS TO RIGHT OF ACCESS TO INFORMATION

The following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence²:

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.

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;³ 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;⁴ and

² 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.

³ 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 2005, 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.

⁴ *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).

- ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;⁵
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;⁶
 - b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁷ and
 - c. Patent applications, the publication of which would prejudice national security and interests;⁸
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;⁹
 - 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;¹⁰
 - c. When disclosure of information would put the life and safety of an individual in imminent danger;¹¹

⁵ 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.

⁶ *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."

⁷ *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.

⁸ 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).

⁹ Section 3(f), Rule IV, Rules on CCESPOE; *Chavez v. PCGG*, *supra*. May be invoked by law enforcement agencies.

¹⁰ *Akbayan v. Aquino*, *supra*; and Section 51, *Human Security Act of 2007* (RA No. 9372). May be invoked by law enforcement agencies.

- d. Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping;¹² and
 - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹³
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:
- a. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,¹⁴ personal information or records,¹⁵ including sensitive personal information, birth records,¹⁶ school records,¹⁷ or medical or health records;¹⁸

Sensitive personal information as defined under the *Data Privacy Act of 2012* refers to personal information:¹⁹

- (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 individual²⁰ and is not prohibited by any law or regulation. Any disclosure of personal information shall be in

¹¹ Section 3(b), Rule IV, Rules on CCESPOE.

¹² Section 19, *New Anti Carnapping Act of 2016* (RA No. 10883). May be invoked by law enforcement agencies.

¹³ Section 7, *Witness Protection, Security and Benefit Act* (RA No. 6981).

¹⁴ Section 3(e), Rule IV, Rules on CCESPOE.

¹⁵ 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.

¹⁶ Article 7, *The Child and Youth Welfare Code* [Presidential Decree (PD) No. 603].

¹⁷ Section 9(4), *Education Act of 1982* [Batas Pambansa (BP) Blg. 232].

¹⁸ Medical and health records are considered as sensitive personal information pursuant to Section 3(i)(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).

¹⁹ Section 3(l), *Data Privacy Act of 2012*.

²⁰ Article 26(2), *Civil Code*.

accordance with the principles of transparency, legitimate purpose and proportionality.²¹

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government;²²

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;²³ 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;²⁴
 - (2) children in conflict with the law from initial contact until final disposition of the case;²⁵
 - (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;²⁶
 - (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;²⁷
 - (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;²⁸
 - (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;²⁹
 - (7) names of victims of child abuse, exploitation or discrimination;³⁰

²¹ Section 11, *Data Privacy Act of 2012*

²² Section 4, *Data Privacy Act of 2012*.

²³ *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.

²⁴ Section 12, *Family Courts Act of 1997* (RA Act No. 8369).

²⁵ Section 43, *Juvenile Justice and Welfare Act of 2006* (RA No. 9344).

²⁶ Section 13, *Anti-Child Pornography Act of 2009* (RA No. 9775).

²⁷ Section 31, A.M. No. 00-4-07-SC, *Re: Proposed Rule on Examination of a Child Witness*.

²⁸ Section 44, *Anti-Violence Against Women and their Children Act of 2004* (RA No. 9262); and *People v. Cabaquinto*, G.R. No. 167693, 19 September 2006.

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

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

- (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;³¹
 - (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;³²
 - (10) names of students who committed acts of bullying or retaliation;³³
 - (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 ³⁴
 - (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;³⁵
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;³⁶
 - b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);³⁷
 - c. Records and reports submitted to the Social Security System by the employer or member;³⁸

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

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

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

³⁴ Sections 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165).

³⁵ Sections 2(b), 18, 30, and 32, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

³⁶ 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*.

³⁷ Section 26, *Philippine Statistical Act of 2013* (RA No. 10625); and Section 4, *Commonwealth Act No. 591*. May be invoked only by the PSA.

³⁸ Section 24(c), *Social Security Act of 1997* (RA No. 1161, as amended by RA No. 8282).

- d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;³⁹
- 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;⁴⁰
- f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴¹
- g. Documents submitted through the Government Electronic Procurement System;⁴²
- 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*;⁴³
- 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;⁴⁴
- 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;⁴⁵
- 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;⁴⁶
- l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁷
- m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁴⁸
- n. Information on registered cultural properties owned by private individuals;⁴⁹

³⁹ Section 29, *Philippine AIDS Prevention and Control Act of 1996* (RA No. 8504).

⁴⁰ 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.

⁴¹ Section 81, EO No. 226 (s. 1987), as amended.

⁴² Section 9, *Government Procurement Reform Act* (RA No. 9184).

⁴³ Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

⁴⁴ Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

⁴⁵ 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).

⁴⁶ Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

⁴⁷ Section 10, *Safeguard Measures Act*.

⁴⁸ Section 297 in relation with Section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

- o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁵⁰ and
 - p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵¹
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.⁵²
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:
- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*.⁵³
 - b. Matters involved in an Investor-State mediation;⁵⁴
 - c. Information and statements made at conciliation proceedings under the *Labor Code*.⁵⁵
 - d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC).⁵⁶
 - 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;⁵⁷

⁴⁹ Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

⁵⁰ CHED Memorandum Order No. 015-13, 26 May 2013.

⁵¹ 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).

⁵² Section 3(g), Rule IV, Rules on CCESPOE.

⁵³ 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.

⁵⁴ Article 10, International Bar Association Rules for Investor-State Mediation.

⁵⁵ Article 237, *Labor Code*.

⁵⁶ Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*,⁵⁸
 - g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁵⁹
 - 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*,⁶⁰
 - i. Investigation report and the supervision history of a probationer;⁶¹
 - j. Those matters classified as confidential under the *Human Security Act of 2007*,⁶²
 - k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶³ 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;⁶⁴
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:

⁵⁷ Section 142, *Corporation Code*. May be invoked by the SEC and any other official authorized by law to make such examination.

⁵⁸ Sections 13.4, 15.4, 29.2 (b), and 64.2 of the *Securities Regulation Code*.

⁵⁹ 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.

⁶⁰ DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

⁶¹ Section 17, *Probation Law of 1976* [PD No. 968 (s.1976)]

⁶² Sections 9, 13, 14, 29, 33 and 34, *Human Security Act of 2007* (RA No. 9372).

⁶³ Section 14, Civil Service Commission Resolution No. 01-0940.

⁶⁴ 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.

- 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;⁶⁵
 - (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);⁶⁶ and
 - (3) Refugee proceedings and documents under the 1951 Convention Relating to the Status of Refugees, as implemented by DOJ Circular No. 58 (s. 2012);
- b. Testimony from a government official, unless pursuant to a court or legal order;⁶⁷
- 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;⁶⁸
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁶⁹
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁷⁰
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷¹ and
- g. Attorney-client privilege existing between government lawyers and their client.⁷²

⁶⁵ 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.

⁶⁶ Article 7, UNCITRAL Transparency Rules.

⁶⁷ *Senato v. Neri*, *supra*; *Senato v. Ermita*, *supra*.

⁶⁸ Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees*.

⁶⁹ *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.

⁷⁰ 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.

⁷¹ *Romero v. Guerson*, G.R. No. 211816, 18 March 2015.

⁷² Canon 21 of the *Code of Professional Responsibility*.

ANNEX “C”

SHFC FOI OFFICERS

A. FOI RECEIVING OFFICER

Office	Location of Records	Assigned FRO	Contact Details
Strategic Communications Department – Information and Public Assistance Desk	3 rd Floor, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Mr. Florencio R. Carandang, Jr.	shfc.stratcomms.public@gmail.com (02) 7750-6337 loc. 888

B. FOI DECISION MAKERS

Office	Location of Records	Assigned FDO	Contact Details
Operations			
Recovery Projects Group	3 rd Floor, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Ms. Annicia D. Villafuerte	
Resettlement Services Group	9 th Floor, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Mr. Philip Robert C. Flores	
Accounts Management Group NCR & Luzon	Mezzanine, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Ms. Josefina B. Banglagan	amgncrandluzon@gmail.com
Mega Manila Group	4 th Floor, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Engr. Elsa Juliana D. Calimlim	shfc.ovpmegamanila1@gmail.com
Central Luzon Group		Atty. Ann Margarette C. Vista	ovpcentralluzon.shfc@gmail.com
North Luzon Group		Mr. Jones A. Tomas	shfcnorthluzon@gmail.com
South Luzon		Mr. Jimmy M. Manes	southluzonops2023@gmail.com

Office	Location of Records	Assigned FDO	Contact Details
Group			
Visayas and Southeastern Mindanao Group & AMG VisMin		Atty. Ronaldo B. Saco	shfc.vsmg@gmail.com
Northwestern Mindanao & VisMin 4PH		Engr. Felman R. Gilbang	ovprwmindanao@gmail.com
Support			
Support Cluster	15 th Floor, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Atty. Leo B. Deocampo	
Internal Audit Department	5 th Floor, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Ms. Lourdes P. Panaligan	
Legal Affairs Group	15 th Floor, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Atty. Melanie B. Valenciano	
Program Development and Enhancement Group	6 th Floor, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Atty. Maria Rosalie Richa A. Taguian	shfcpdgroup@gmail.com
Finance and Comptrollership Group	2 nd Floor, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Mr. Dante M. Anabe	
Human Resources and Administrative Group	4 th Floor, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Atty. Tristan Frederick L. Tresvalles	ovphrag@gmail.com
Treasury Group	2 nd Floor, BDO Plaza Bldg., 8737 Paseo de Roxas, Makati City 1226	Mr. Jason C. Yap	

ANNEX "D"

FOI REQUEST FORM



Kapangyari ng Pambansal na Maykapatang Pambansag

FOI REQUEST FORM

FOI TRACKING NUMBER	
PANGALAN (Name)	PETA (Date)
KASARIAN (Sex)	MOBILE/PHONE NUMBER
TIRAHAN (Address)	EMAIL ADDRESS
ONGSAP/PAARALAN/ORGANISASYON (Office/School/Organization)	PAGKAKALAMLAN (Government-issued ID. Proof of Identity. please attach photocopy)

DETAILS ON REQUESTED INFORMATION

Ano po ang hinahanap ninyong dokumento o impormasyon? What document/s or information are you looking for?

Among panahon ang saklaw ng dokumento o impormasyong inyong hinahanap? What is the covered period of the document/s or information requested for?

Ano po ang layunin sa paghiling ninyo sa dokumento o impormasyon? What is the purpose of the request for the document/s or information?

Requirements: This duly-accomplished FOI Request Form (2 copies) Authorization Letter for Representative One (1) Valid Government-issued ID	Preferred Mode of Delivery: Pick-up at the SHFC Office (Requires printed copies) Mail (Requires printed copies) E-mail (Electronic copies only)	Signature over Printed Name
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FOR SHFC OFFICIALS USE ONLY

FOI RECEIVING OFFICER	FOI DECISION MAKER	FOI DOCUMENT OWNER
Received by: Name: _____ Signature: _____ Date & Time: _____	GRANTED DENIED Reason: _____ Signature/Date: _____	Remarks / Recommended Action Signature/Date: _____

TERMS OF USE: The information and any information provided: (1) shall not be used for any purpose other than what is contained in the FOI request or document; (2) shall not be used for disclosure contrary to law, morals, good customs, or public policy; and (3) shall not be retransmitted for any commercial use. Any violation will be addressed accordingly.



800 Plaza, 8257 Paven de Reyes, Makati City 1226 Metro Manila, Philippines
 ☎ (+632) 7758-4617 to 38 📠 V: 3C 📧 shfc@shfc.gov.ph 🌐 www.shfc-shfc.gov.ph

ANNEX “E”
GUIDELINES ON THE REFERRAL OF REQUESTED INFORMATION

FOI-MC No. 21- 05

**FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR**

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

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

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

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

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

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

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

7th Floor Times Plaza Building, United Nations Ave., Bldfa, City of Manila, Philippines

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Manila, Philippines, 27th day of August 2021.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

ANNEX “F”

GUIDELINES ON VEXATIOUS REQUESTS

FOI – MC No. 5, s. 2020

FREEDOM OF INFORMATION MEMORANDUM CIRCULAR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

from the same requesting party whose request has already been previously granted or denied by the same government office⁴;

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

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

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

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

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

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

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

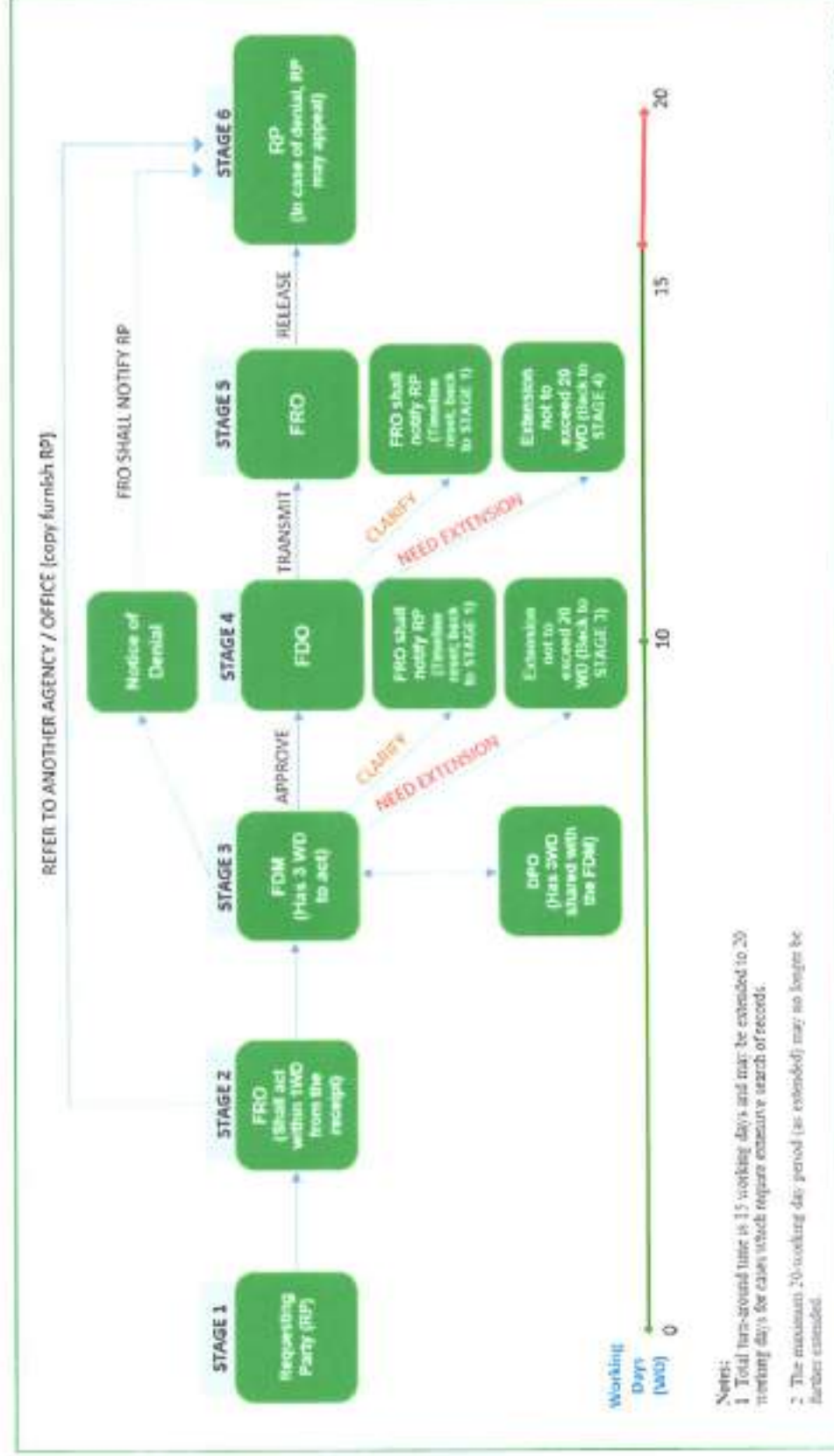
Section 7. Separability Clause. If, for any reason, any part or provision of this Memorandum Circular is declared invalid or unconstitutional, any part or provision not affected thereby shall remain in full force and effect.

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


JOSE RUPERTO MARTIN M. ANDANAR
Secretary/FOI Champion

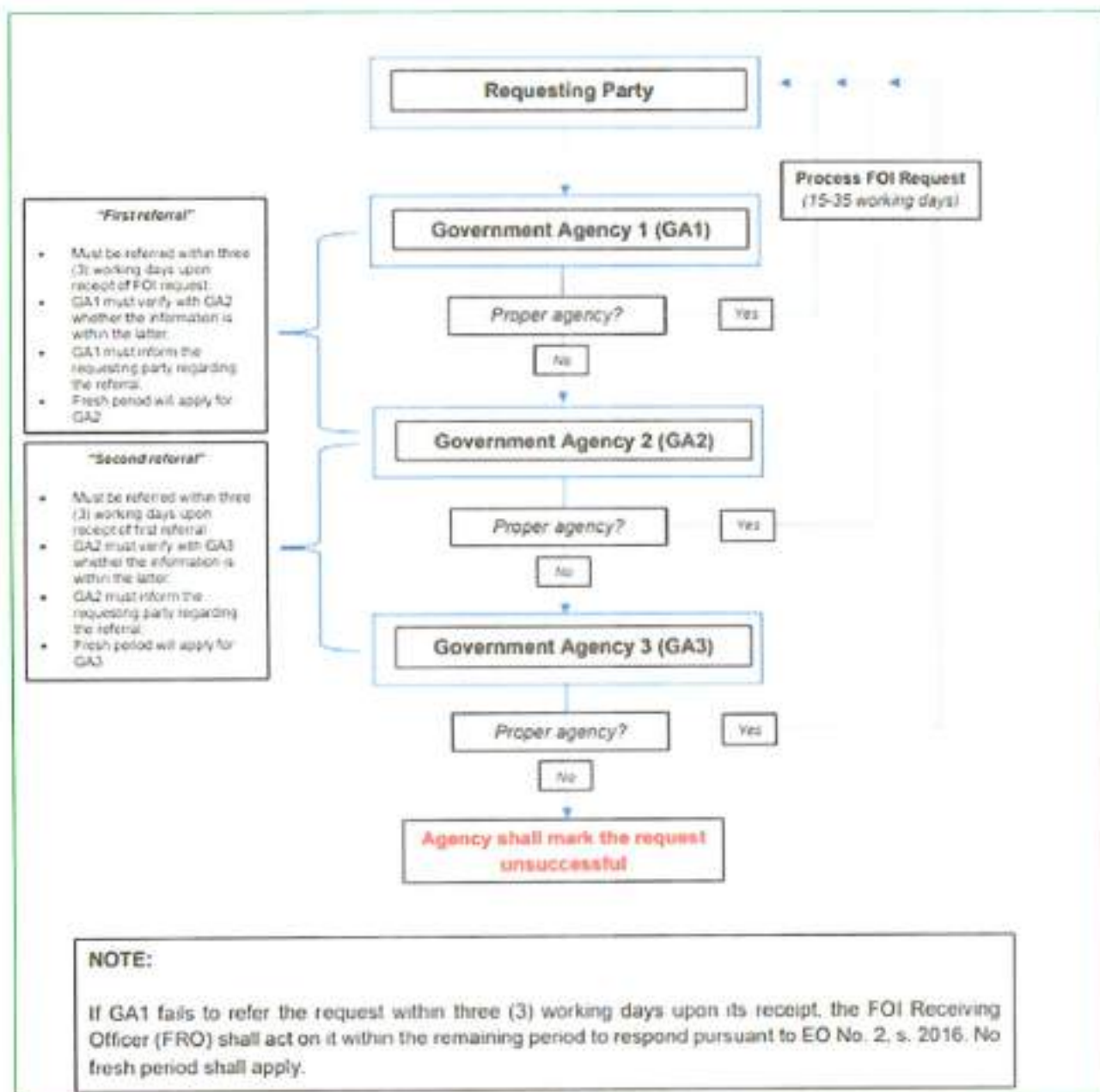
15 December 2020 Manila, Philippines

FOI PROCESS FLOW AND TIMELINE



ANNEX "H"

NO WRONG DOOR POLICY FLOWCHART



ANNEX "I"

FOI FREQUENTLY ASKED QUESTIONS (FAQs)

a) What is FOI?

Freedom of Information (FOI) is the government's response to the call for transparency and full public disclosure of information. FOI is a government mechanism which allows Filipino citizens to request any information about the government transactions and operations, provided that it shall not put into jeopardy -- privacy and matters of national security.

The FOI mechanism for the Executive Branch is enabled via Executive Order No. 2, series of 2016.

b) What is Executive Order No. 2, s. 2016?

Executive Order No. 2 is the enabling order for FOI. E.O. No. 2 operationalizes in the Executive Branch the People's Constitutional right to information. E.O. No. 2 also provides the State policies to full public disclosure and transparency in the public service.

E.O. No. 2 was signed by President Rodrigo Roa Duterte on July 23, 2016.

c) Who oversees the implementation of E.O. 2?

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

d) Who can make an FOI request?

Any Filipino citizen can make an FOI Request. As a matter of policy, requestors are required to present proof of identification.

e) What can I ask for under EO on FOI?

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

f) What agencies can we ask information?

An FOI request under EO 2 can be made before all government offices under the Executive Branch, including government owned or controlled corporations (GOCCs) and state universities and colleges (SUCs).

FOI requests must be sent to the specific agency of interest, to be received by its respective Receiving Officer.

g) How do I make an FOI request?

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

h) How much does it cost to make an FOI request?

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

i) What will I receive in response to an FOI request?

You will be receiving a response either granting or denying your request.

If the request is granted, the information requested will be attached, using a format that you specified. Otherwise, the agency will explain why the request was denied.

j) How long will it take before I get a response?

It is mandated that all replies shall be sent 15 working days after the receipt of the request. The agency will be sending a response, informing of an extension of processing period no longer than twenty (20) working days, should the need arise.

k) What if I never get a response?

If the agency fails to provide a response within the required 15 working days, the Requestor may write an appeal letter to the Appeals and Review Committee within 15 calendar days from the lapse of required response period. The appeal shall be decided within 30 working days by the Appeals and Review Committee.

If all administrative remedies are exhausted and no resolution is provided, requestors may file the appropriate case in the proper courts in accordance with the Rules of Court.

l) What will happen if my request is not granted?

If you are not satisfied with the response, the Requestor may write an appeal letter to the Appeals and Review Committee within 15 calendar days from the lapse of required response period. The appeal shall be decided within 30 working days by the Appeals and Review Committee.

If all administrative remedies are exhausted and no resolution is provided, requestors may file the appropriate case in the proper courts in accordance with the Rules of Court.