



Freedom of Information People's Manual

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

TABLE OF CONTENTS

- I. Overview
 - 1. Purpose of the Manual
 - 2. Structure of the Manual
 - 3. Coverage of the Manual
 - 4. Freedom of Information Receiving Officer
 - 5. Freedom of Information Decision Maker
 - 6. Approval or Denial of Request for Information
- II. Definition of Terms
- III. Promotion of Openness in Government
- IV. Protection of Privacy
- V. Standard Procedure
- VI. Remedies in case of denial of request
- VII. Request Tracking System
- VIII. Fees
- IX. Undertaking to PHSA
- X. Administrative Liability
- XI. Details of Information
- XII. Annexes
 - a. Executive Order No. 02
 - b. Inventory of Exemptions to Executive Order No. 2 (S.2016)
 - c. FOI Request Form
 - d. Fees
 - e. FOI Appeal Template
 - f. FOI Response Template
 - g. FOI Request Flow Chart
 - h. PCOO FOI-MC No.21-05

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

SECTION I – OVERVIEW

1. Purpose of the Manual

The purpose of this Freedom of Information (FOI) People's Manual is to provide the guidelines, process, and procedures in dealing with requests for information received under Executive Order (E.O.) No. 02, s. 2016. (Annex "A")

2. Structure of the Manual

The Manual shall set out the rules and procedures to be followed by the Philippine High School for the Arts (PHSA) when a request for access to information is received. The PHSA Director IV is responsible for all actions carried out under this Manual and may delegate this responsibility to the Director III who shall have overall responsibility for the initial decision on FOI requests, (i.e. to decide whether to release all the records, partially release the records or deny access).

3. Coverage of the Manual

The Manual shall cover all requests for information directed to the PHSA.

4. Freedom of Information Receiving Officer (FOI RO)

The FOI Receiving Officer shall be the Human Resource Officer and the Registrar, who shall be designated by the Director IV. There shall be at least two (2) FOI RO, at any given time, who shall receive requests for information, which may be increased by the Director IV. The FOI RO shall hold their offices at National Arts Center Mt. Makiling, Los Baños Laguna. The FOI RO shall:

- a. Provide reasonable assistance, free of charge, to enable requesting parties especially those with special needs to comply with the request requirements;
- b. Stamp FOI request as "received," indicating the date and time of receipt, the request reference number, the name of the FOI RO, and his/her signature. Said information shall be furnished the requesting party;
- c. Enter the request in the FOI Tracking System; and
- d. If the information requested is readily accessible to the FOI RO and known to him or her to be routinely made available to the public, the



PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

FOI RO shall release the same following Section 3(b) of this Manual; otherwise the FOI RO shall forward the request to the Director IV not later than the next working day following the receipt of the request, for appropriate action.

5. FOI Initial Decision Maker (FOI IDM) and Director IV

The FOI IDM shall make a recommendation to either approve or deny the FOI requests. In all cases, the Director IV shall approve or deny all FOI requests after initial action of the IDM. The PHSA Director IV is the FOI DM. In case the Director IV is officially unavailable, the Director IV may delegate in writing such authority to a PHSA official acting as Officer-in-Charge.

6. Approval or Denial of Request for Information

The FOI IDM shall approve or deny all requests for information. In case where the FOI DM is on official leave, he/she may recommend to the Director IV an Officer-in-Charge during the period of official leave of the FOI DM.

The denial of the request for information may be appealed to the Director IV in accordance with the procedures outlined under Section 6 hereof.

SECTION 2: DEFINITION OF TERMS

ADMINISTRATIVE FOI APPEAL. An independent review of the determination made in response to an FOI request.

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

eFOI.gov.ph. The website that serves as the government's comprehensive website. Among many other features, eFOI.gov.ph provides a central resource for the public to understand the FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. eFOI.gov.ph also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, so that they can be compared by agency and over time.

INFORMATION. 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

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

of any government office pursuant to law and executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.

OFFICIAL RECORDS. Any information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.

OPEN DATA. Refers to publicly available data structured in a way that enables the data to be fully discoverable and usable by end users.

PERSONAL INFORMATION. Shall refer to any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.

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

UNDERTAKING. A statement provided in the FOI request that the information obtained by the requesting party shall not be used for a purpose other than that stated in the request, and that the requesting party shall pay the reasonable expenses incurred in producing the information.

SECTION 3: PROMOTION OF OPENNESS IN GOVERNMENT

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

2. **Accessibility of Language and Form.** The PHSA shall endeavor to translate key information into major Filipino languages and present them in popular form and means upon request by the party that submitted the FOI request.
3. **Keeping of Records.** The AGENCY 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 generated or collected.

SECTION 4: PROTECTION OF PRIVACY

While providing for access to information, public records, and official records, the PHSA shall afford full protection to the right to privacy of an individual, as follows:

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

If the FDM considers that any or all of the information sought should not be released in full or in part, the FOI DM should review guidance available in the inventory of exceptions to the EO and apply as appropriate.

Best practices such as redaction and extraction can be used to balance the disclosure of information with the protection of personal information when a document will be disclosed. Redaction is the process of ensuring that sensitive information is unreadable before disclosing to the requesting party. On the other hand, extraction is the process of separating/isolating specific information from a set of data.

SECTION 5: STANDARD PROCEDURE

1. Receipt of request for information.

The FOI Receiving Officer (FOI RO) shall receive the request for information from the requesting party and to read as follows:

- o The request must be in writing;
- o The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification (i.e. a government issued ID with photo) or, in case of a representative, the authorization of the requesting party; and

PHILIPPINE HIGH SCHOOL FOR THE ARTS PEOPLE'S FOI MANUAL (rev4)

- The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information (See Annex "C")
- The requesting party shall sign an undertaking stating that the information shall not be used for any purpose other than the reason stated in the request, and that the information shall not be released unless a reasonable fee is paid to defray the expenses, if any, incurred in producing the information which shall include photocopying, printing, and expenses for office resources and transmitting the information.

The request can be made through e-mail, provided that the requesting party shall attach in the e-mail a scanned copy of the signed FOI application request, and a copy of a duly recognized government issued identification card with photo. The FOI RO shall print the request and follow the procedure for stamping the request as "received", provided under Section 1(4) (b) of this Manual. The FOI RO shall acknowledge the e-mail, with a scanned copy of the printed request bearing the "received" stamp attached thereto, within 24 hours from the time the request is received, except when the request is sent on a Saturday, Sunday, a day which is declared a national public holiday in the Philippines or local holiday in Los Baños, Laguna, in which case the e-mail shall be acknowledged on the next working day. The FOI RO shall also provide notice of the undertaking mentioned in the preceding paragraph which should be acknowledged by the requesting party.

- a. PHSA shall respond to an FOI request as soon as practicable but not exceeding fifteen (15) working days from receipt of the request, unless extended whenever the request requires extensive search, or examination of voluminous records, or affected by the occurrence of any fortuitous event preventing access, or other analogous cases. In no case shall the extension go beyond twenty (20) working days counted from the end of the original fifteen (15) working days' period, unless exceptional circumstances warrant a longer period. The response refers to the decision of the Director IV to grant or deny access to the information requested;
- b. After receipt of the FOI request, the FOI RO shall initially assess the request for information, including the purpose of the request, nature of the information requested and identification of the requesting individual and refer the request to the FOI IDM.
- c. If the information requested is not readily accessible to the FOI RO, and/or such is not known to him or her to be routinely made available to the public, the FOI RO shall promptly forward the request to the relevant FOI DM/s for determination of the response to the request; and

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

- d. If the information being requested is already posted and publicly available on the PHSA website, and on data.gov.ph or foi.gov.ph, the FOI RO shall inform the requesting party of said fact and provide the website link where the information is posted.
- e. If the requested information is not in the custody of the PHSA, the FOI RO shall, after securing authorization from the Director IV, undertake the following steps:
 - i. If the information requested pertains to another department, agency, bureau or office, the request shall be immediately referred to such department, agency, bureau or office, within fifteen working days from receipt. The FOI RO shall inform the requesting party of such referral.
 - ii. If the information pertains to an office not within the coverage of E.O. No. 2, s. 2016, the requesting party shall be advised accordingly and provided with the contact details of that office, if known.
 - iii. Should the requested information be substantially similar or identical to a previous request by the same requesting party. The request shall, upon approval of the Director IV, be denied. Thereafter, the FOI RO shall inform the applicant of the reason for such denial.
 - iv. In case the information requested constitutes or contains personal information, determine the appropriate measures to balance the requester's interest in disclosure and the duty to protect the privacy of the individual concerned; and
 - v. Recommend to the Director IV whether to grant or deny the request based on the law, facts, and circumstances.

2. Role of the Director IV in processing FOI request

Return of the Disposition of the Request to the FOI RO.

Upon receipt of the recommendation of the FOI IDM, the Director IV may either grant or deny the FOI request. All actions on FOI requests, whether for approval or denial, shall be approved by the Director IV or the PHSA Official acting as Officer-in-Charge. The Director IV shall act on the recommendation of the FOI IDM within three working days from the time the same is submitted to him/her for review.

If the Director IV denied the recommendation, the report shall be returned to FOI IDM for appropriate action.

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

No response shall be given by the FOI RO to the requesting party without the approval of the Director IV or, by the PHSA Official designated as Officer-in-Charge.

3. Return of the Disposition of the Request to the FOI RO.

After the Director IV approves or denies the request, the FOI IDM shall immediately notify the FOI RO, within five working days, and prepare the response to the requesting party either in writing or by e-mail.

If the period to respond is extended, the notice shall state the reason for the extension and the date when the response is expected to be given.

If the request is granted, the information requested shall be enclosed with the return. The FOI IDM shall ensure that all information have been retrieved and considered, prior to actual release.

If the request is denied, the return shall clearly set forth the ground for denial and the circumstances on which the denial is based. The FOI IDM must also warrant that the exception is not being used or availed of primarily and purposely to cover up a crime, wrong doing, graft or corruption.

4. Notice to the Requester of the Disposition of the Request.

The FOI RO shall notify the requester of the disposition of the request not later than fifteen (15) working days from receipt of the request.

If the period to respond is extended, the notice shall state the reason for the extension and the date when the response is expected to be given.

If the request is granted, the information requested shall be enclosed with the notice in case no fees are assessed. If fees are assessed pursuant to Section 14 of this Manual the notice shall include a breakdown of the fees and order of its payment before the release of the information.

If the request is denied; the notice shall quote or attach the recital of the Director IV of the ground for denial and the circumstances on which the denial is based, as well as his or her warranty that the exception is not being used or availed of primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

SECTION 6: REMEDIES IN CASE OF DENIAL OF REQUEST

The requesting party whose FOI request has been denied may avail himself of the remedy set forth below:

1. A Motion for Reconsideration to the decision of the Director IV may be filed by the requesting party within fifteen days from the time the notice of denial is received by the requesting party or lapse of the period to act on the FOI request without any action taken thereon. Failure to file the necessary Motion for Reconsideration will bar resort to other available remedy to the requesting party.(ANNEX E)
2. An administrative FOI Appeal to the Office of the President pursuant to Administrative Order No. 22, s. 2011, provided that the written appeal must be filed by the same requesting party within fifteen calendar days from notice of the denial of the Motion for Reconsideration.
3. Upon exhaustion of Administrative FOI Appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.



SECTION 7: REQUEST TRACKING SYSTEM

The PHSA shall establish a recording and tracking system (RTS) which is maintained to monitor the status of all FOI requests, using the prescribed computer-based(excel) format or similar open and accessible formats.

SECTION 8: FEES

1. No Request Fee.

PHSA shall not charge any fee for accepting requests for access to information.

2. Reasonable Cost of Reproduction and Copying of the Information.

The FOI RO shall immediately notify the requesting party in case there shall be a reproduction and copying fee in order to provide information. Such fee shall be the actual amount spent by the PHSA in providing the information to the requesting party. (Annex D)

3. Exemption from Fees.

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

**PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)**

SECTION 9: UNDERTAKING TO PHSA

If the information will be used for thesis, scholarly pursuit, audio and visual presentation, the PHSA will require as an undertaking of the requesting party to be provided with the output/manual/thesis/ recognition where the requested information was used and/or utilized.

SECTION 10. ADMINISTRATIVE LIABILITY

1. Non-compliance with FOI.

Upon a valid complaint of a requesting party, the failure to comply with the provisions of this Manual shall be a ground for the following administrative penalties:

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

2. Procedure.

The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of administrative cases for failure to comply with the provisions of this Manual.

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

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

SECTION 11. DETAILS OF INFORMATION

1. The Location and contact information of the head, regional, provincial, field offices, and other established places where the public can obtain information or submit requests;

Name of Office	PHILIPPINE HIGH SCHOOL FOR THE ARTS
Name and Contact Details of Head of Office (FOI DM)	JOSUE GREG M. ZUNIEGA Director IV Mobile No.: 09175089155 Landline: (049) 5722974 Email address: josue_greg.zuniega@phsa.edu.ph directors.office@phsa.edu.ph

**PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)**

Name and Contact Details of Assistant Head of Office (FOI IDM)	(Vacant) Director III Mobile No. 09175456656 Email Address: directors.office@phsa.edu.ph
Address	National Arts Center, Mt Makiling Los Baños 4031, Laguna
PHSA Website	www.phsa.edu.ph
PHSA Email Address	phsafoi@gmail.com

2. The person or office responsible for receiving requests for information;

FOI Receiving Officers:	
FOI RO1 (Employees Records)	Lyza Amat Administrative Officer III Landline: (049)5767015 Email Address: lyza.amat@phsa.edu.ph
FRO2 (Students Records)	Dianne Fernandez Student Services Coordinator Mobile No.: 09178341013 Email Address: dianne.fernandez@phsa.edu.ph
Addresses:	
FRO1	Human Resource Mgt Unit Office Administrative and External Services Division Philippine High School for the Arts National Arts Center, Mt Makiling Los Baños 4031, Laguna
FRO2	Registrar Office Student Services Division Philippine High School for the Arts National Arts Center, Mt Makiling Los Baños 4031, Laguna


PROF. JOSUE GREG M. ZUNIEGA
Director I

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

ANNEX A

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

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

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

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

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

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

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

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

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

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

- (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, departments, bureaus, offices, and instrumentalities, including government-owned or -controlled corporations, and state universities and colleges. Local government units (LGUs) are encouraged to observe and be guided by this Order.

SECTION 3. Access to information. Every Filipino shall have access to information, official records, and 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.

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

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

SECTION 6. Application and Interpretation. There shall be a legal presumption in favor of access to information, public records and official records. No request for information shall be denied unless it clearly falls under any of the exceptions listed in the inventory or updated inventory of exceptions circularized by the Office of the President 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 request for information or access to public records, or official records if the denial is intended primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

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

- (a) Each government office per Section 2 hereof shall ensure that personal information in its custody 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

PHILIPPINE HIGH SCHOOL FOR THE ARTS PEOPLE'S FOI MANUAL (rev4)

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 8 of this Order.
- (d) The standard forms for the submission of requests and for the proper acknowledgment of requests;
- (e) The process for the disposition of requests;
- (f) The procedure for the administrative appeal of any denial for access to information; and
- (g) The schedule of applicable fees.

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

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

- (d) The government office shall respond to a request fully compliant with requirements of sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working days from thereceipt thereof. The response mentioned above refers to the decision of the agency or office concerned to grant or deny access to the information requested.
- (e) The period to respond may be extended whenever the information requested requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous cases or other analogous cases. The government office shall notify the person making the request of the extension, setting forth the reasons for such extension. In no case shall the extension go beyond twenty (20) working days unless exceptional circumstances warrant a longer period.
- (f) Once a decision is made to grant the request, the person making the request shall be notified of such decision and directed to pay any applicable fees.

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

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

SECTION 12. Notice of Denial. If the government office decides to deny the request, in whole or in part, it shall as soon as practicable, in any case within fifteen (15) working days from the receipt of the request, notify the requesting party the denial in writing. The notice shall clearly set forth the ground or grounds for denial and 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 7 (f) of this Order: Provided, that the written appeal must be filed by the same person making the request within

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

fifteen (15) working days from the notice of denial or from the lapse of the relevant period to respond to the request.

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

(Sgd.) SALVADOR C. MEDIALDEA
Executive Secretary

ANNEX B

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.

(sgd)SALVADOR C. MEDIALDEA

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

ANNEX B

Exceptions to Right of Access to Information

For the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:¹

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

1. Information covered by Executive privilege:

- a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;² and
- b. Matters covered by deliberative process privilege, namely:
 - i. advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are

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.

² This exception may only be invoked by the President and his close advisors. The extent of the privilege is defined by applicable jurisprudence: *Senate v. Ermita*, G.R. No. 169777, 20 April 2006, 488 SCRA 1; *Neri v. Senate Committee on Accountability of Public Officers and Investigations*, G.R. No. 180643, 4 September 2008, 564

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

SCRA152; *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

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;³and

ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;⁴

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

- a. Information, record, or document that must be kept secret in the interest of national defense or security;⁵
- b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁶and
- c. Patent applications, the publication of which would prejudice national security and interests;⁷

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

- a. Investigation records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would –
 - i. interfere with enforcement proceedings;
 - ii. deprive a person of a right to a fair trial or an impartial adjudication;
 - iii. disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; or
 - iv. unjustifiably disclose investigative techniques and procedures;⁸

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

⁴Section 3(d) Rule IV, *Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees* (Rules on CCESPOE). Drafts of decisions, orders, rulings, policy decisions, memoranda, and the like, such as resolutions prepared by the investigating prosecutor prior to approval for promulgation and release to parties [*Revised Manual for Prosecutors of the Department of Justice (DOJ)*] are also covered under this category of exceptions.

⁵*Almonte v. Vasquez*, G.R. No. 95367, 23 May 1995, 244 SCRA 286; *Chavez v. PCGG*, *supra*; *Legaspi v. Civil Service Commission*, L-72119, 29 May 1987, 150 SCRA 530; *Chavez v. NHA*, *supra*; *Neri v. Senate*, *supra*; *Chavez v. Public Estates Authority*, G.R. No. 133250, 9 July 2002, 384 SCRA 152; and Section 3(a), Rule IV, Rules on CCESPOE. This exception generally includes matters classified under Memorandum Circular (MC) No. 78, as amended by MC No. 196 as "Top Secret," "Secret," "Confidential," and "Restricted."

⁶*Akbayan v. Aquino*, *supra*; Section 3(a) Rule IV, Rules on CCESPOE. This privilege may be invoked by the Department of Foreign Affairs and other government bodies involved in diplomatic negotiations.

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

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

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

- b. Informer's privilege or the privilege of the Government not to disclose the identity of a person or persons who furnish information of violations of law to officers charged with the enforcement of law;⁹
- c. When disclosure of information would put the life and safety of an individual in imminent danger;¹⁰
 - a. Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping;¹¹ and
 - b. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹²

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

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

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

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

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

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

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

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

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

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

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

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

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

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

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

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the individual¹⁹ and is not prohibited by any law or regulation. Any disclosure of personal information shall be in accordance with the principles of transparency, legitimate purpose and proportionality.²⁰

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

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;²² and
- b. Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, and witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:
 - (1) records of child and family cases;²³

¹⁹Article 26(2), *Civil Code*.²⁰Section 11, *Data Privacy Act of 2012*.

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

²²An 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.

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

- (2) children in conflict with the law from initial contact until final disposition of the case;²⁴
- (3) a child who is a victim of any offense under the *Anti-Child Pornography Act of 2009*, including the name and personal circumstances of the child, or the child's immediate family, or any other information tending to establish the child's identity;²⁵
- (4) a child witness, who is a victim of a crime, an accused of a crime, or a witness to a crime, including the name, address, telephone number, school, or other identifying information of a child or an immediate family of the child;²⁶
- (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address, employer, or other identifying information of a victim or an immediate family member;²⁷
- (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;²⁸
- (7) names of victims of child abuse, exploitation or discrimination;²⁹
- (8) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;³⁰
- (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;³¹
- (10) names of students who committed acts of bullying or retaliation;³²
- (11) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and ³³

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

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

²⁶Section 31, A.M. No. 00-4-07-SC, *re: Proposed Rule on Examination of a Child Witness*.

²⁷ Section 44, *Anti-Violence Against Women and their Children Act of 2004* (RA No. 9262); and *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006.

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

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

³⁰ Section 14, *Juvenile Justice and Welfare Act of 2006*; Section 7, *Anti-Trafficking in Persons Act of 2003*, as amended; and Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act*.

³¹Section 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.

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

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

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

5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers, such as but not limited to the following:

- a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;³⁵
- b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);³⁶
- c. Records and reports submitted to the Social Security System by the employer or member;³⁷
- d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;³⁸
- e. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;³⁹
- f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴⁰

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

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

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*.

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

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

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

³⁹ Section 34, *Philippine Competition Act (PCA)*, RA No. 10667 and Section 13, Rule 4 of the IRR of PCA. This exception can be invoked by the Philippine Competition Commission subject to well-defined limitations under the PCA.

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

- g. Documents submitted through the Government Electronic Procurement System;⁴¹
- h. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the *Electronic Commerce Act of 2000*;⁴²
- i. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the *Philippine Mining Act of 1995* and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;⁴³
- j. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;⁴⁴
- k. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;⁴⁵
- l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁶
- m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁴⁷
- n. Information on registered cultural properties owned by private individuals;⁴⁸
- o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁴⁹ and

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

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

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

⁴⁴ Section 1, Rule IX, DOT MC No. 2010-02 (Rules and Regulations to Govern, the Accreditation of Accommodation Establishments – Hotels, Resorts and Apartment Hotels); and Section 23, DOT MC No. 2015-06 (Revised Rules and Regulations to Govern the Accreditation of Travel and Tour Agencies).

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

⁴⁶Section 10, *Safeguard Measures Act*.

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

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

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

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

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

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*;⁵²
- b. Matters involved in an Investor-State mediation;⁵³
- c. Information and statements made at conciliation proceedings under the *Labor Code*;⁵⁴
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);⁵⁵
- e. Results of examinations made by the Securities and Exchange Commission (SEC) on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto;⁵⁶
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;⁵⁷
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁵⁸
- h. Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the *Comprehensive Dangerous Drugs Act of 2002*;⁵⁹

⁵⁰ Articles 229 and 230, *Revised Penal Code*; Section 3(k), *Anti-Graft and Corrupt Practices Act* (RA No. 3019); Section 7(c), *Code of Conduct and Ethical Standards for Public Officials and Employees* (RA No. 6713); Section 7, *Exchange of Information on Tax Matters Act of 2009* (RA No. 10021); and Section 6.2, *Securities Regulation Code* (RA No. 8799).

⁵¹Section 3(g), Rule IV, Rules on CCESPOE.

⁵²Sections 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.

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

⁵⁴Article 237, *Labor Code*.

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

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

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

⁵⁸Section 53(b)(1) of the *Pre-Need Code of the Philippines*. The confidentiality of the proceedings is lifted after the issuance of the cease and desist order.

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

- i. Investigation report and the supervision history of a probationer;⁶⁰
 - j. Those matters classified as confidential under the *Human Security Act of 2007*;⁶¹
 - k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶²and
 - l. That information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;⁶³
8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
- a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);
 - b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;
 - c. RA No. 8791 (*The General Banking Law of 2000*);
 - d. RA No. 9160 (*Anti-Money Laundering Act of 2001*); and
 - e. RA No. 9510 (*Credit Information System Act*);
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:
- a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:
 - (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;⁶⁴

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

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

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

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

⁶⁴ Examples: Article 20 (2), ASEAN Comprehensive Investment Agreement; Article 15 (2) Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation between the ASEAN and the Republic of India; and Article 15 (2) of the Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation among the Government of the Member Countries of the ASEAN and the Republic of Korea.

(2) Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules);⁶⁵ and

(3) Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (s. 2012);

- b. Testimony from a government official, unless pursuant to a court or legal order;⁶⁶
- c. When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:
 - (1) any purpose contrary to morals or public policy; or
 - (2) any commercial purpose other than by news and communications media for dissemination to the general public,⁶⁷
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁶⁸
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁶⁹
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷⁰ and
- g. Attorney-client privilege existing between government lawyers and their client.⁷¹

⁶⁵Article 7, UNCITRAL Transparency Rules.

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

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

⁶⁸*Belgica v. Ochoa*, G.R. No. 208566, 19 November 2013; and *Valmonte v. Belmonte Jr.*, G.R. No. 74930, 13 February 1989, 252 Phil. 264.

⁶⁹ Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending Certain Provisions of the New Rules of Procedure of the National Labor Relations Commission, 08 March 2002; Department of Agrarian Reform MC No. 07-11, 19 July 2011; Department of Social Welfare and Development MC No. 021-12, 16 October

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

2012; and Section 42, *Investment Company Act* (RA No. 2629); When the information requested is not a matter of public concern or interest as decided in *Hilado v. Judge Amor A. Reyes*, G.R. No. 163155, 21 July 2006.

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

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

ANNEX B-1

Freedom of Information (FOI) List of Exceptions - PHSA

1. Information on on-going evaluation or review of bids or proposals being undertaken by the Bids and Awards Committee and such other similar committees, as there is yet no official act, transaction or decision at this point.¹
2. Internal communications, memoranda, opinions, reviews, comments and other operational matters of confidential nature, including but not limited to:
 - 2.1. Agenda, deliberations and minutes of the meetings of the Advisory Council, Management Committee, Executive Committee;
 - 2.2. Internal emails of past and present employees, officers or directors;
 - 2.3. Internal files especially drafts and notes of public officers concerned (any unofficial or unacted upon documents should not be disclosed without prior approval);
 - 2.4. Legal opinions or comments rendered by the Legal Service;
 - 2.5. Contract review including drafts and notes of public officers concerned;
 - 2.6. Records of pending internal investigations; and
 - 2.7. Documents and/or information pertaining to matters under litigation, the purpose of which is to prejudice a pending issue before a court or obstruct the administration of justice.

¹DBM FOI Manual Annex B-1

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

ANNEX C

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FOI Tracking Number:



FREEDOM OF INFORMATION REQUEST FORM
(Pursuant to Executive Order No. 2, s. 2016)
(as of November 2016)

Please read the following information carefully before proceeding with your application. Use blue or black ink. Write neatly and in BLOCK letters. Improper or incorrectly-filled out forms will not be acted upon. Tick or mark boxes with "X" where necessary: Note (▶) denotes a MANDATORY field.

A. Requesting Party

You are required to supply your name and address for correspondence. Additional contact details will help us deal with your application and correspond with you in the manner you prefer.

1. Title (e.g. Mr, Mrs, Ms, Miss) _____

2. Given Name/s (including M.I.) ▶ _____

3. Surname ▶ _____

4. Complete Address (Apt/House Number, Street, City/Municipality, Province)
▶ _____

5. Landline/Fax _____

6. Mobile ▶ _____

7. Email _____

8. Preferred Mode of Communication Landline Mobile Number Email Postal Address
(If your request is successful, we will be sending the documents to you in this manner)

9. Preferred Mode of Reply Email Fax Postal Address Pick-up at Agency

10. Type of ID Given (Please ensure your IDs contain your photo and signature) Passport Driver's License SSS ID Postal ID Voter's ID
 School ID Company ID Others _____

B. Requested Information

11. Agency - Connecting Agency (if Applicable) ▶ _____

12. Title of Document/Record Requested (Please be as detailed as possible) ▶ _____

13. Date or Period (DD/MM/YY) ▶ _____

14. Purpose ▶ _____

15. Document Type ▶ _____

16. Reference Numbers (if known) ▶ _____

17. Any other Relevant Information ▶ _____

FREEDOM OF INFORMATION

C. Declaration

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Privacy Notice: Once deemed valid, your information from your application will be used by the agency you have applied to, to deal with your application as set out in the Freedom of Information Executive Order No. 2. If Department or Agency gives you access to a document, and if the document contains no personal information about you, the document will be published online in the Department's or Agency's disclosure log, along with your name and the date you applied, and, if another person, company or body will use or benefit from the documents sought, the name of that person, entity or body.

I declare that:

- The information provided in the form is complete and correct;
- I have read the Privacy notice;
- I have presented at least one (1) government-issued ID to establish proof of my identity.

I understand that it is an offense to give misleading information about my identity, and that doing so may result in a decision to refuse to process my application.

Signature ▶ _____

Date Accomplished (DD/MM/YY) ▶ _____

D. FOI Receiving Officer [INTERNAL USE ONLY]

Name (Print Name) ▶ _____

Agency - Connecting Agency (if Applicable) ▶ _____

Date entered on eFOI (if applicable, otherwise N/A) ▶ _____

Proof of ID Presented (Photocopies of original should be attached)

<input type="checkbox"/> Passport	<input type="checkbox"/> Driver's License	<input type="checkbox"/> SSS ID	<input type="checkbox"/> Postal ID	<input type="checkbox"/> Voter's ID
<input type="checkbox"/> School ID	<input type="checkbox"/> Company ID	<input type="checkbox"/> Others	_____	

The request is recommended to be:

<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	
<input type="checkbox"/> Invalid request	<input type="checkbox"/> Incomplete	<input type="checkbox"/> Data already available online

If Denied, please tick the Reason for the Denial

Second Receiving Officer Assigned: ▶ _____

Decision Maker Assigned to Application (print name) ▶ _____

Decision on Application

<input type="checkbox"/> Successful	<input type="checkbox"/> Partially Successful	<input type="checkbox"/> Denied	<input type="checkbox"/> Cost
<input type="checkbox"/> Invalid request	<input type="checkbox"/> Incomplete	<input type="checkbox"/> Data already available online	
<input type="checkbox"/> Exception	Which Exception? _____		

Date Request Finished (DD/MM/YY) ▶ _____

Date Documents (if any) Sent (DD/MM/YY) ▶ _____

FOI Registry Accomplished Yes No

RO Signature ▶ _____

Date (DD/MM/YY) ▶ _____

FREEDOM OF INFORMATION

FEES

- The applicant shall be notified of the cost of reproduction of the requested information.
- The cost of reproduction is P10.00 per page.
- No fees shall be charged on the filing of a request for information.

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PEOPLE'S FOI MANUAL (rev4)

ANNEX E

FOI APPEAL TEMPLATE

[date]

Director IV

Dear Sir/Ma'am,

I submitted a request for information dated _____ asking for _____.
Attached is a copy.

On _____, I received a notice denying the request for the following
reason: _____. Attached is a copy.

I would like to appeal this denial on the following ground: _____.

This appeal is being filed within fifteen (15) working days from receipt of the
notice of denial.

Thank you.

Respectfully,

Requesting Party

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PEOPLE'S FOI MANUAL (rev4)

ANNEX F

FOI RESPONSE TEMPLATE

[Date]

Dear _____,

Greetings from the Philippine High School for the Arts!

Thank you for your request dated _____ under Executive Order No. 2 s. 2026 on Freedom of Information in the Executive Branch.

Your Request

You asked for _____

Response to your Request

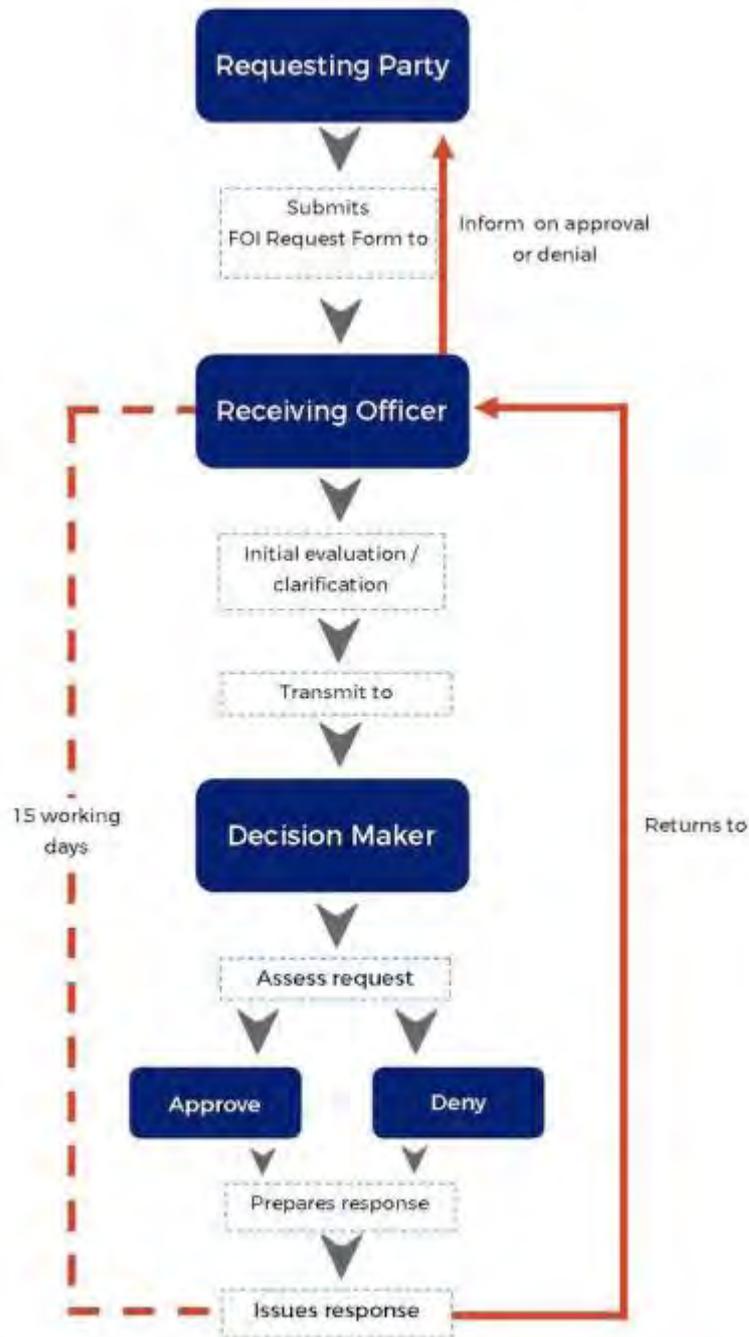
Your FOI request is approved. I enclose a copy of _____ of the information you requested.

Thank you!

Respectfully yours,

FOI Receiving Officer

FOI REQUEST FLOW CHART



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PEOPLE'S FOI MANUAL (rev4)

ANNEX H



REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
Tanggapang Pampanguluhan sa Operasyong Komunikasyon
Ermita, City of Manila

FOI-MC No. 21- 05

**FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR**

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

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

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

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

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

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

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

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

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.

PHILIPPINE HIGH SCHOOL FOR THE ARTS

PEOPLE'S FOI MANUAL (rev4)

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

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

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

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

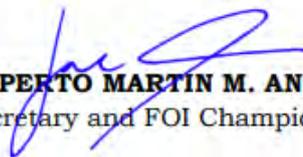
To assist the FROs in locating the requested information or record, an annual updating of the AII shall be required of all agencies on-boarded on the eFOI Portal. The consolidated inventory of information shall likewise be made available in the dashboard of the FRO and FDM for ease of access and information.

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

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

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

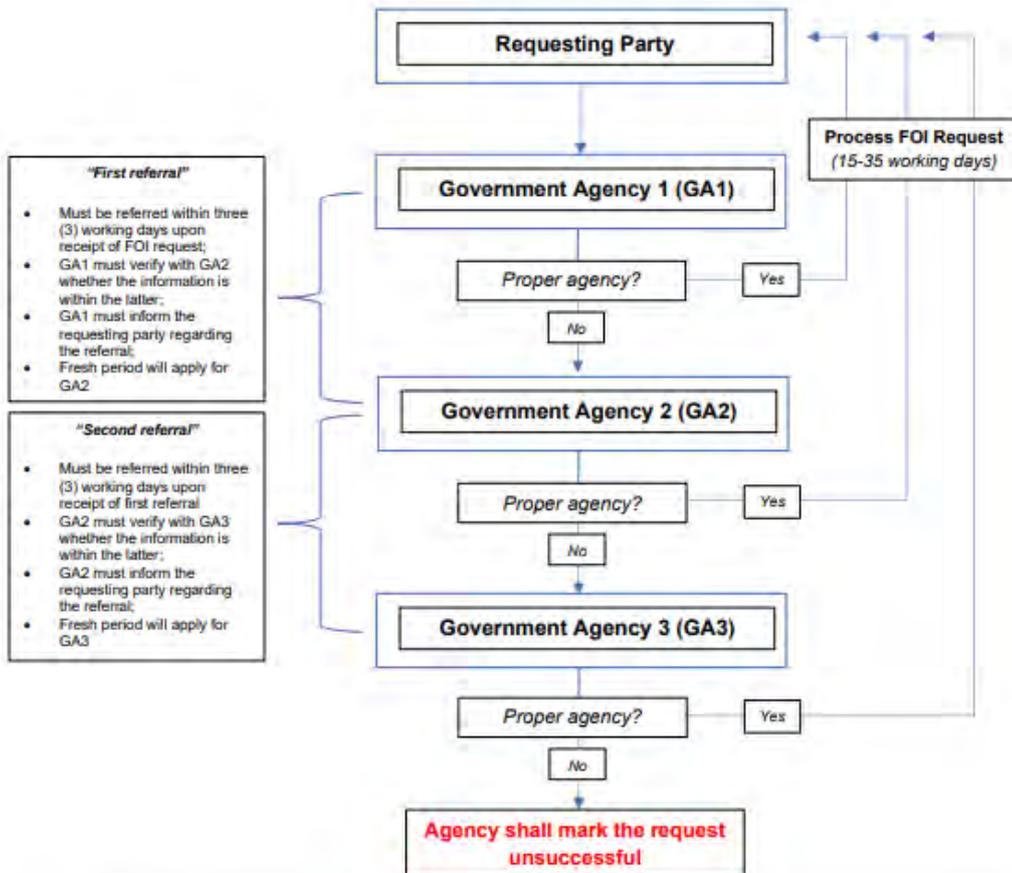
Manila, Philippines, 27th day of August 2021.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

PHILIPPINE HIGH SCHOOL FOR THE ARTS
PEOPLE'S FOI MANUAL (rev4)

Annex A

NO WRONG DOOR POLICY FLOWCHART



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