



OFFICE OF TRANSPORTATION COOPERATIVES

FREEDOM OF INFORMATION



FREEDOM OF INFORMATION

People's Manual

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SECTION I - OVERVIEW

A. SHORT TITLE

Office of Transportation Cooperatives (OTC) Internal Freedom of Information Manual

B. PURPOSE

The purpose of this Internal FOI Manual is to provide the general public with appropriate guidance and assistance on the processes and procedures involved in the requests for information. It likewise sets out basic guidelines to be observed by the OTC officials and employees in responding and administering requests for information

C. STRUCTURE

This Manual shall set out the rules and procedures of OTC for requests received under Executive Order (E.O) No.2 ("Annex A"). The OTC Chairman is responsible for all actions carried out under this Manual and may delegate this responsibility to the Executive Director. The Executive Director, acting as the FOI Champion, will delegate officer/s to act as the Decision Maker/s (DM) who shall have overall responsibility for the initial decision on FOI requirements.

D. COVERAGE

This Manual shall cover all requests for information directed, submitted, filed or referred to OTC subject to reasonable conditions prescribed by law.

SECTION II - DEFINITION OF TERMS

For the purpose of this Manual, enumerated below are relevant items with their respective definition or description:

- ***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.
- ***otc.gov.ph*** – the official website of the OTC, where people can access or download readily available online information, materials and data on transparency.
- ***eFOI.gov.ph*** – the website that serves as the government's comprehensive FOI website for all information on the FOI. Among many other features, eFOI.gov.ph provides a central resource for the public to understand the FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. eFOI.gov.ph also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics contained in annual FOI Reports, so they can be compared by agency and over time.
- ***Appeal*** – refers to the procedure in requesting/petitioning for reconsideration to unfavorable or adverse action by the FOI Decision Maker on an FOI request. Requesting Party who is dissatisfied with the action taken on the subject request has the right to file an appeal to the Central Appeals and Review Committee for the conduct of appropriate review/evaluation.
- ***Central Appeals and Review Committee*** – a special group created composed of three (3) officials with a rank as a Division Chief or not lower than a supervisory rank or its equivalent, designated by the OTC Chairman to review and analyze the grant or denial of request of information. The Committee shall also provide expert advice to the OTC Chairman and the FOI Champion in the denial of such request. Subject to the authority that may be given by the OTC Chairman, the Committee

may affirm, reverse or modify FDM action and/or prepare recommendations to the FOI Champion or FDM.

- **Exceptions** – refers to those class of privileged information that are outside the scope of the constitutional right to information and which may or should not be publicly released and disclosed, as provided the Constitution, laws or jurisprudence.
- **FOI Champion** – refers to the OTC Chairperson or the Executive Director (if designated) primarily in charge of the promotion FOI advocacy and general administration of the OTC's FOI implementation to ensure compliance with Executive Order No. 2
- **FOI Request** – written request by any person submitted to a government office, personally or by other electronic means requesting for specific information, data or public records as herein defined, subject to limitations established by the law ~~-asking for records~~. An FOI request can generally be made by any Filipino to any government office.
- **FOI Decision Maker** – also refers to FDM designated by the OTC Chairman, with a rank not lower than a Division Chief or its equivalent, tasks to conduct evaluation of the request for information transactions duly endorsed by designated FOI Receiving Officer and has the authority to grant or deny the such request.
- **FOI Receiving Officers** – also refers to FRO designated by the OTC Chairman to receive, pre-evaluate and endorse FOI requests, as well as notify the requesting party of the action as regards to such requests. Preferably from the Records Section of the Administrative and Finance Division, FRO also monitors and tracks status of all requests. A principal and alternate FROs may be designated to ensure OTC's responsiveness to accommodate requests.
- **Fully-Compliant Request** – refers to an FOI request which completely/entirely complies with the formalities set forth by this FOI Manual.
- **Full Denial** – when the Office cannot release any records in response to a FOI request due to contrary to law, existing rules and regulations or if included in the list on inventory of exceptions or no records responsive to the request could be located.
- **Full Grant** – when a government office is able to disclose all records in full response to an FOI request.
- **Information** – refers to records and statistical information, 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.
- **Official Records** – 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 user.
- **Partial Grant/Partial Denial** – when a government office is able to disclose portions of the data or records in response to FOI request, but must deny other portions of the request for valid reasons.
- **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** – includes information required by law, executive orders, rules, or regulations to be entered, kept, and made publicly available by a government office.
- **Referral** – when a government office locates a record/s that originated with, or is of otherwise primary interest to another agency, the request will be forwarded to another agency to process the request and to provide the final determination directly to the requesting party.
- **Requesting Party** – shall refer to the person/organization who makes an official request for access to information.
- **Working Day** – refers to any day other than Saturday, Sunday or a day officially declared a public holiday (national or local).
- **Transport Cooperatives or TCS** – shall refer to the OTC's main/principal clientele which it is mandated to serve. They are legal entities registered with the Cooperative Development Authority (CDA) and accredited by the OTC which were established to provide land/road (limited to motorized) and water/sea transportation (limited to small vessels/sea crafts as defined by the Philippine Maritime laws). A TC is primarily composed of drivers, driver-owners, operators, pilots, ship captain, ship crew, allied workers and other workers in the transport industry, as well as commuters.
- **Transport Cooperative Statistical Data** – refers to figures, data, documents and/or records of transport cooperatives (TCs) specifically possessing/providing roster of information to include number of members, affiliated number and type of units, franchises and route description, business addresses, contact information, financial information (e.g. assets, capital, income) and other business-related information, among others.

SECTION III - SCOPE, LIMITATIONS AND PROACTIVE DISCLOSURE

A. SCOPE OF APPLICATION

This Manual has been instituted to govern the facilitation of all requests for information directed, filed, submitted or referred OTC.

B. LIMITATIONS

1. Sensitive Personal Information

Requests for information that would constitute an unwarranted invasion to a person's privacy will be denied. However, the requesting party can be provided access to such personal information, if the official/personnel has consented, in writing, to the disclosure of information.

As defined in the Data Privacy Act of 2012, sensitive personal information shall refer to personal information:

- About an individual race, ethnic group, marital status, age, color and religious philosophical or political affiliations;
- About an individual health, education, genetic or sexual life of a person, or to any proceedings for any offense committed or alleged to have committed by such person, the disposal of such proceedings or the sentence of any court in such proceedings;

- About an individual race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
- 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.

2. Restricted Documents

Information classified or marked as restricted documents in a legal proceeding (e.g. appealed cases, orders and resolutions pertaining to employees and officials of the OTC)

3. Confidential Documents

The information is classified or marked as confidential documents (e.g. investigation reports against reports against officials or employees).

4. List of Exceptions

Type of information requested is listed under the List of Exceptions (Annex B) as specified under Executive Order No.2. The following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:

- Information covered by Executive privilege;
- Privileged information relating to national security, defense or international relations;
- Information concerning law enforcement and protection of public and personal safety;
- Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused;
- 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;
- Prejudicial premature disclosure;
- Records of proceedings or information from proceedings, which pursuant to law or relevant rules and regulations, are treated as confidential or privileged;
- Matters considered confidential under banking and finance laws, and their amendatory laws; and
- Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

5. Files of Employees

Files that reveal personal information such as address and contact details, among others.

C. PROACTIVE DISCLOSURE

Information made publicly available by government agencies without waiting for a specific FOI request. The OTC posts on its official website and other online platforms, various information, such as:

1. Budgetary and Financial Records

- Approved Budget under General Appropriations
- Financial Statements
- Financial Reports

2. Administrative Records

- OTC Organizational Chart and Structure
- Mandate, Mission and Vision
- Key Officers and Contact Details
- Citizen's Charter
- Job Vacancies
- Memorandum Circular
- Office and Department Orders
- Advisory/Special Announcements

3. Procurement or Public Bidding Documents
4. Accomplishment and Technical Reports
5. List of OTC Regular/Basic Services

SECTION IV - DUTIES/FUNCTIONS OF FOI OFFICERS

A. FOI RECEIVING OFFICER (FRO)

1. Serve as the initial responder/facilitator to the public/requesting party on FOI requests referred to OTC;
2. Receive all FOI requests on behalf of OTC and all divisions/sections/units under it;
3. Conduct the preliminary evaluation of FOI requests and determine whether these fully satisfy the FOI request requirements;
4. Deny or refuse acceptance based on the outcome of such preliminary evaluation;
5. Determine the appropriate divisions/sections/units under OTC which may have the custody/supervision of the requested information;
6. Forward fully-compliant requests to the designated FOI Decision Maker (FDM) for evaluation;
7. Monitor status of all FOI requests and appeals;
8. Prepare mandatory reports required to be accomplished and submitted including the compiling of statistical information on FOI requests and actions taken; and
9. Provide such other assistance that may be required by the FOI Champion, FDM and the Central Appeal Committee

B. FOI DECISION MAKER (FDM)

1. As a primary responsibility, FDM shall evaluate FOI request pre-evaluated and endorsed by FRO and take appropriate action thereon;
2. Based on the result of evaluation, grant (in full or partial) or deny (in full or partial) the FOI request; and
3. May also recommend or order the obscuring of certain information in the request prior to release, refer to other offices/units within the Agency that has the custody of information documents and undertake such other actions as may be deemed necessary.

C. CENTRAL APPEALS AND REVIEW COMMITTEE (CARC)

1. In case there is a need to further determine as to which office, division, section or unit within OTC that has the custody of the data/information requested, the CARC may provide assist or aid the FDM in the determination and evaluation of the request;
2. In case of appeal, review the merits of the request/appeal and recommend to the Head of the Agency or FOI Champion appropriate action/s concerning such appeal based on timeline herein provided; and
3. Provide such other necessary assistance/guidance needed by the FOI officers.

D. FOI CHAMPION

1. Acts as the Lead FOI Advocate and general administration of the OTC FOI implementation;
2. If the FOI Champion is the Head of the Agency, evaluate, act and decide on the appeal endorsed by the CARC or if the FOI Champion is the Executive Director, perform the same function if authorized by the Head of the Agency; and
3. Initiate regular meetings with the FOI officers and attend/represent the Agency in FOI related activities of the government.

SECTION V - STANDARD PROCEDURE

A. Filing and Basic Contents of an FOI Request

1. An FOI request shall be filed with the FRO in written form and shall comply with the supporting requisites set forth in this Manual.
2. The requesting party (individual person or entity) making an FOI request may use the standard FOI Request Form or self-composed communication/letter provided that the same will bear the following information:
 - Date of Request
 - Full Name of Requesting Party
 - Complete Mailing Address
 - Contact Number (landline and cellphone)
 - E-Mail Address, if any
 - Specific/Reasonable Description of the Information Requested
 - Preferred Mode of Communication and Receipt of the Response
 - Signature of the Requesting Party

Failure on the part of the requesting party to clearly specify/communicate the details of the reason/s or purpose/s of the request for information, despite the request by the FRO to provide the same, may be a ground for denial of the FOI request. Vague or general presentation of the purpose such as "for information", "for research", "for legal" or any other similar worded purpose statements will not be considered to have met the requirement.

B. Supplementary Requirements

1. To support the written request, the requesting party shall present at least one (1) valid government-issued IDs containing the photograph and signature of the bearer. Acceptable ID shall include any of the following:
 - GSIS/SSS ID
 - Voter's ID
 - Passport
 - Driver's License
 - PRC License
 - Senior Citizen's ID
 - Postal ID
 - PhilHealth ID
 - Pag-BIG ID

2. If the request is made through a representative, a written authorization or Special Power of Attorney shall be required together with the presentation of at least one (1) valid government-issued ID containing the photograph and signature of the authorized representative.
3. If the requesting party is a legal entity, an acceptable written document disclosing the authority of the representative to act in behalf of the said entity (e.g. board resolution, corporate secretary's certificate).
4. If the requesting party is a natural person who is legitimately affiliated with a legal entity, and the request arises only from such affiliation with the said entity, any sufficient proof of authority or affiliation shall be required (e.g. company/organization or school ID/current registration form with written endorsement from dean/professor/teacher).
5. If the requesting party is illiterate, has a disability or a senior citizen and unable to complete or accomplish a written request, the FRO shall provide the appropriate and necessary assistance in order for the party to make a valid request.

C. Mode of Receiving Request

1. **Walk-in** – the request document shall be stamped "RECEIVED" by the FRO, indicating the date and time of the receipt of the request and the name and position of the public officer who received it with corresponding signature. After which, a stamped copy shall be furnished to the Requesting Party. The FRO shall input the details of this document to the Request Tracking System and allocate a reference number.
2. **Regular Mail/Other Courier Service** – the request document shall be stamped "RECEIVED" by the FRO, indicating the date and time of the receipt of the request and the name and position of the public officer who received it with corresponding signature. The FRO shall input the details of this document to the Request Tracking System and allocate a reference number.
3. **Electronic-Mail** – an acknowledgement electronic mail shall be sent to the Requesting Party. Day 1 of processing shall commence upon acknowledgement of request.
4. FOI Portal – request coursed through the FOI shall be received following the systems and procedures required under the said portal.

D. Response/Action Time

1. The OTC shall act on or respond to FOI requests within fifteen (15) working days from the date of receipt of a fully-compliant request.
2. The period to respond may be extended but in no case exceed an additional twenty (20) working days, counted from the end of the original fifteen (15) day allowable period, on cases or circumstances, such as:
 - There is a need for extensive search in the OTC's records facilities or examination of voluminous records;
 - There are fortuitous events (e.g. man-made occurrences, acts of nature, suspension of office) or other similar circumstances;
 - Should the requested information need further details to identify or locate, then the 15 working days will commence the day after receipt of the required clarification from the requesting party; and
 - The information requested is related to records that are part of a court proceeding.

In such cases, the FRO shall duly notify the Requesting Party of the need for such extension.

3. For purposes of this Manual, reckoning of the fifteen (15) working days shall start:

| | | |
|---------------------|---|--|
| If Personally Filed | – | The actual date filed and stamped "received" by the FRO; |
|---------------------|---|--|

| | | |
|----------------------------|---|---|
| If Sent by Regular Mail | - | Date of actual receipt of the request by the FRO; and |
| If Sent by Electronic Mail | - | Date the request is actually delivered and received by the designated e-mail or portal administrator provided that the same arrived before the end of the working hours of the day (request filed after the office hours shall be considered received on the next working day). |

In cases when FRO/FDM is on leave or "out of office", message with instructions on how to redirect the message to another contact is required. In this scenario, the date of receipt will be the day the request is received and acknowledged in the e-mail inbox of the designated redirected receiver. In instances where the FRO asked for clarifications or further details to clearly identify the requested information, the actual date which the issue/s to the satisfaction of the FRO was received.

E. Processing of Request

1. Upon receipt and acknowledgement of the FOI request, the FRO shall undertake the necessary initial evaluation and determine whether the request is fully-compliant with the requirements. The FRO may deny or refuse acceptance of the request based on the outcome of such pre-evaluation. Generally, the FRO shall only accept a fully-compliant FOI request and shall not accept a request that lacks any of the required contents or documents prescribed under Items A & B of Section V of this Manual.
2. When in doubt, the FRO may ascertain or verify the identity of the requesting party so as to confirm such and preclude possible requests from fictitious persons/entities.
3. Upon determination of the full-compliance FOI request, the FRO shall stamp "received" the document (Letter or FOI Request Form) copy-furnishing the requesting party and shall forward or transmit the request to the FDM within one (1) day from receipt of such request. If the request was made through email, the FRO shall acknowledge receipt by email, produce a print-out of the document and observe the same procedure.
4. Upon receipt of the transmitted FOI request from the FRO, the FDM shall proceed with the necessary evaluation of such request, which involve, but not limited to:
 - Validate the authenticity and compliance of the transmitted request;
 - Establish whether the OTC possesses or is in custody of the information requested;
 - Ascertain if there are basis to grant fully or partially the requested information;
 - Determine if there are grounds for the denial of the requested information; and
 - Perform such other necessary assessment activities.
5. Based on the outcome of the evaluation, FDM to decide whether to grant or deny the FOI request.
6. The FDM shall instruct the FRO to notify the requesting party of the grant or denial, whether wholly or partially. A covering/transmittal letter signed by the Head of the Agency shall be prepared and forwarded to the requesting party. The FRO shall prepare in writing, by-email or if practicable, through other means or mode of response requested/preferred by the requesting party.

F. Other Provisions/Conditions

1. If the information is already in the Agency website, the FRO shall immediately inform the requesting party that the information requested may be accessed online.
2. In the event that the information requested is not under the custody of OTC, the FDM, upon the recommendation of the FRO, shall advise the requesting party or his authorized representative to file the

request to the concerned agency or unit. A referral letter to the right office/agency may also be prepared for this purpose.

3. If the information being requested is no longer available for reason of disposal or no such record is being maintained, a Certification on the non-availability of the document or record shall be provided to the requesting party.
4. If OTC is able to disclose only certain portions of the records/information/documents in response to FOI request, a partial grant shall be accorded to the requesting party. The undisclosed/excepted portion/s should be redacted prior to the release of the requested records/information/documents.
5. If the requested information involves transport cooperative records and statistical data, the same shall be referred to the FDM and Central Appeals and Review Committee for recommendation/approval prior to the notation of the Head of the Agency or FOI Champion (if authorized by the Head of the Agency).
6. In case of full denial of request, the FDM should immediately instruct the FRO to notify the Requesting Party so that he/she shall have the option to file for an appeal.
7. In the determination of the action to be taken, the FDM and FRO may undertake the necessary consultations/coordination with the appropriate offices/divisions, sections or units within OTC or the Central Appeals and Review Committee.
8. Grant and denial on FOI requests shall pass through the Office of the Chairman for notation.

SECTION VI - DENIAL OF REQUEST

In case of denial of the request, whether in whole or partial, the FRO through the FDM, shall within the prescribed period, notify the requesting party in writing, email or other applicable means. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based.

A. Grounds for Denial

The request for information may be denied on any of these conditions:

1. The OTC does not have the information requested;
2. The information requested contains sensitive personal information protected by the Data Privacy of 2012;
3. The information requested falls under the list of exceptions to FOI;
4. There is a similar request made by the same Requesting Party previously granted or denied by OTC; and
5. The information requested will be used for business marketing purposes so as not to be mistakenly construed to be endorsing the requesting party.

B. Remedies for Denial

A person whose request for access to information has been denied may avail of the remedy set forth below:

1. Administrative FOI Appeal to the OTC Central Appeals and Review Committee. Provided, that the written appeal must be filed by the same requesting party within fifteen (15) calendar days from the notice of denial.
2. The appeal shall be decided by the Head of Agency upon the recommendation of the Central Appeals and Review Committee within thirty (30) working days from the filing of said written appeal. Failure to decide within the 30-day period shall be deemed a denial of the appeal.
3. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

C. Issuance of Denial

All notices of denial shall be issued by the FRO, upon instructions of the FDM, within fifteen (15) working days from the acknowledgement of request. Notice may be issued personally, by e-mail or other practicable means/mode preferred by the requesting party.

SECTION VI - FEES

1. **No Request Fee** - the OTC shall not charge any fee for accepting requests for access to information.
2. Reproduction of requested information is free of charge. However, if the number of pages exceeds 50, the FRO will be providing the information needed in electronic form (soft copy).

SECTION VII KEEPING OF RECORDS

The OTC shall create and/or maintain in appropriate format, 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.

- A. **Request Tracking System.** The OTC shall establish a system to trace the status of all requests for information received by it, which may be paper-based, on-line or both.
- B. **Records Keeper.** The OTC shall delegate a personnel in-charge of filing and keeping records.
- C. **Records Format.** The following are considered records for the purpose of this Manual:

- **Hard Copy** - public records, reports, Minutes of meetings, papers, periodicals, books or other items, articles or materials.
- **Soft Copy** - information in electronic form, including but not limited to documents, signatures, seals, texts, images, sounds, speeches, or data compiled, created, received, recorded, or stored by means of any recording device, process, computer, or other electric device or process in the conduct of an office's affairs.
- **Web-based** - information prepared, processed, or stored online and which can be shared to any type of computer device.

SECTION VIII - ADMINISTRATIVE LIABILITY

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

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

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

C. 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 IX - FOI OFFICERS

The OTC Chairman/Head of the Agency has the authority to assigned FOI officers. To formalize such assignment, a Special Order signed by the Chairman/Head of the Agency shall be issued in designating the composition of FOI Officers and the performance of respective and collective duties and responsibilities to ensure proper implementation of the FOI Program as mandated under Executive Order No. 2 dated 23 July 2016, this Manual and other related issuances consistent with the same.

For purposes of this Manual, the Chairman/Head of the Agency shall be the automatic FOI Champion, unless he/she opted to assigned this designation to the Executive Director. The designated FDM should occupy a permanent position with a rank not lower than a Division or its equivalent. For CARC membership, each designated member should be occupying a permanent title with a rank not lower than a supervisory position or its equivalent. For FRO, it is preferable that designation of the same shall be sourced from the Records Section of the Administrative and Finance Division. A permanent and alternate FRO may be selected.


Permanent contact details of the FOI officers shall be assigned with details, as follows:

| DESIGNATION | LANDLINE/CP NO. | E-MAIL ADDRESS |
|--------------------------------------|----------------------------|--|
| FOI Receiving Officer | 332-93-15 | OTCFOIReceivingOfficer@gmail.com |
| FOI Decision Maker | 332-93-12 0977-832-9890 | OTCFOIDecisionmaker@gmail.com |
| Central Appeals and Review Committee | 332-93-15 332-93-12 | OTCFOICentralappeals@gmail.com |
| FOI Champion | 332-93-13 | OTCFOIChampion@gmail.com |

SECTION X - ANNEXES

As integral and supplementary part of this Manual, the following documents are attached hereto:

1. Executive Order No.2 as Annex A;
2. List of Exceptions as Annex B;
3. FOI Request Form as Annex C;
4. FOI Response Template (Approval) as Annex D;
5. FOI Response Template (Denied due to contrary to law, rules and regulations) as Annex E-1;
6. FOI Response Template (Denied falls under list of exceptions) as Annex E-2;
7. Procedure Flowchart as Annex F;
8. E-FOI Workflow as Annex G; and
9. Special Order – Designation of FOI Officers as Annex G.


JESUS FERDINAND D. ORTEGA
Chairman

ANNEX “A”

Signed on July 23, 2016

MALACAÑANG 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:

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

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

ANNEX "B" List of Exceptions

Office of the President
of the Philippines
Malacañang

MEMORANDUM FROM THE EXECUTIVE SECRETARY

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

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

DATE: 24 November 2016

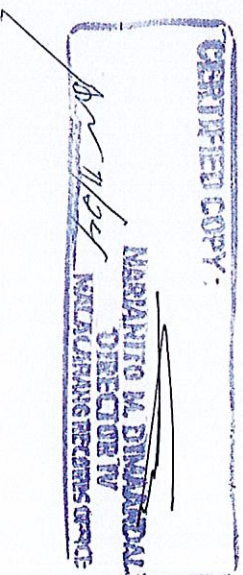
Pursuant to Section 4 of Executive Order (EO) No. 2 (s. 2016), the Office of the President hereby circularizes the inventory of exceptions to the right to access of information, for the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public.

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

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

For your information and guidance.

SALVADOR C. MEDIALDEA
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Exceptions to Right to Access to Information

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

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

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

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

1. Information covered by Executive privilege:
 - a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;² and
 - b. Matters covered by deliberative process privilege, namely:
 - i. advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated; intra-agency or inter-agency recommendations or communications during the stage when common assertions are still in the process of being formulated or are in the exploratory stage; or information pertaining to the decision-making of executive officials;³ and
 - ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;⁴
2. Privileged information relating to national security, defense or international relations:
 - a. Information, record, or document that must be kept secret in the interest of national defense or security;⁵
 - b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁶ and

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

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

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

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

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

- c. Patent applications, the publication of which would prejudice national security and interests;⁷
3. Information concerning law enforcement and protection of public and personal safety:
 - a. Investigation records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would --
 - i. interfere with enforcement proceedings;
 - ii. deprive a person of a right to a fair trial or an impartial adjudication;
 - iii. disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; or
 - iv. unjustifiably disclose investigative techniques and procedures;⁸
 - b. Informer's privilege or the privilege of the Government not to disclose the identity of a person or persons who furnish information of violations of law to officers charged with the enforcement of law;⁹
 - c. When disclosure of information would put the life and safety of an individual in imminent danger;¹⁰
 - d. Any information given by informants leading to the recovery of camouflaged vehicles and apprehension of the persons charged with camouflaging,¹¹ and
 - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹²
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:

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

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

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

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

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

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

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

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

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

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

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

¹³ Section 3(e), Rule IV, Rules on CCE-SPOE.

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

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

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

¹⁷ Medical and health records are considered as sensitive personal information pursuant to Section 3(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).

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

¹⁹ Article 26(2), *Civil Code*.

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

- the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government.²¹
- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence,²² and
- c. Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:
- (1) records of child and family cases;²³
 - (2) children in conflict with the law from initial contact until final disposition of the case;²⁴
 - (3) a child who is a victim of any offense under the *Anti-Child Pornography Act of 2009*, including the name and personal circumstances of the child, or the child's immediate family, or any other information tending to establish the child's identity;²⁵
 - (4) a child witness, who is a victim of a crime, an accused of a crime, or a witness to a crime, including the name, address, telephone number, school, or other identifying information of a child or an immediate family of the child;²⁶
 - (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address, employer, or other identifying information of a victim or an immediate family member;²⁷
 - (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;²⁸
 - (7) names of victims of child abuse, exploitation or discrimination;²⁹

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

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

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

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

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

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

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

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

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

- (8) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;³⁰
 - (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;³¹
 - (10) names of students who committed acts of bullying or retaliation;³²
 - (11) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and ³³
 - (12) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;³⁴
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers, such as but not limited to the following:
 - a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;³⁵

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

³¹ Section 15, *Domestic Adoption Act of 1998* (RA No. 8552) and Section 43, IRR of RA No. 8552; Sections 6 and 16(b), *Inter-Country Adoption Act of 1995* (RA No. 8043) and Sections 53, 54 and 55 of IRR of RA No. 8043.

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

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

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

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

- b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);³⁶
- c. Records and reports submitted to the Social Security System by the employer or member;³⁷
- d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;³⁸
- e. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;³⁹
- f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴⁰
- g. Documents submitted through the Government Electronic Procurement System;⁴¹
- h. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the *Electronic Commerce Act of 2000*;⁴²
- i. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the *Philippine Mining Act of 1995* and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;⁴³
- j. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;⁴⁴

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

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

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

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

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

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

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

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

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

- k. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;⁴⁵
 - l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁶
 - m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁴⁷
 - n. Information on registered cultural properties owned by private individuals;⁴⁸
 - o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁴⁹ and
 - p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵⁰
6. Information of which a premature disclosure would:
- a. in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or
 - b. be likely or significantly frustrate implementation of a proposed official action, except such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.⁵¹
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:

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

⁴⁶ Section 10, *Safeguard Measures Act*.

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

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

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

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

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

- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*.⁵²
- b. Matters involved in an Investor-State mediation.⁵³
- c. Information and statements made at conciliation proceedings under the *Labor Code*.⁵⁴
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC).⁵⁵
- e. Results of examinations made by the Securities and Exchange Commission (SEC) on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto.⁵⁶
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*.⁵⁷
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission.⁵⁸
- h. Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the *Comprehensive Dangerous Drugs Act of 2002*.⁵⁹
- i. Investigation report and the supervision history of a probationer.⁶⁰
- j. Those matters classified as confidential under the *Human Security Act of 2007*.⁶¹

⁵² Sections 9, 23 and 33, *Alternative Dispute Resolution (ADR) Act of 2004* (RA No. 9285); and DOJ Circular No. 98 (s. 2009) or the IRR of the ADR Act.

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

⁵⁴ Article 237, *Labor Code*.

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

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

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

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

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

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

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

- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶² and
 - l. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;⁶³
- 8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
 - a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);
 - b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;
 - c. RA No. 8791 (*The General Banking Law of 2000*);
 - d. RA No. 9160 (*Anti-Money Laundering Act of 2001*); and
 - e. RA No. 9510 (*Credit Information System Act*);
- 9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:
 - a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:
 - (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;⁶⁴
 - (2) Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules);⁶⁵ and
 - (3) Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (s. 2012);

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

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

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

⁶⁵ Article 7, UNCITRAL Transparency Rules.

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

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

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

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

⁶⁹ Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending Certain Provisions of the New Rules of Procedure of the National Labor Relations Commission, 08 March 2002; Department of Agrarian Reform MC No. 07-11, 19 July 2011; Department of Social Welfare and Development MC No. 021-12, 16 October 2012; and Section 42, *Investment Company Act* (RA No. 2629); When the information requested is not a matter of public concern or interest as decided in *Hilado v. Judge Amor A. Reyes, G.R. No. 163155, 21 July 2006.*

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

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

(Name of Agency)
(Address of Agency)

PORMULARYO NG KAHILINGAN (FOI)
FOI Request Form

TITULO NG DOKUMENTO / (Title of the Document): _____

MGA TAON/PANAHONG SAKLAW / (Year): _____

LAYUNIN / (Purpose): _____

PANGALAN / (Name): _____ CONTACT Nos. _____

LAGDA / (Signature): _____ PETA / (Date): _____

TIRAHAN / (Address): _____

KATIBAYAN NG PAGKAKAILANILAN/(Proof of Identity):

Passport No. _____

Driver's License _____

Others _____

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

Email _____

Fax _____

Postal Address _____

Pick-up (Office hours) _____

Gawaing itinalaga kay: _____
(Submitted to) (Lumagda sa ibaba ng pangalang nakalimbag)

Petsa/Oras ng Pagkatalaga: _____ (Date / Time of Submission)

Taong nagpapatunay ng Gawaing Natapos: _____
(Certified by)

(Lumagda sa ibaba ng pangalang nakalimbag)

Uri ng isinagawang aksiyon: _____
(Type of action conducted)

Iniskedyul ni / (Received by): _____
FOI Receiving Officer

Remarks: _____

ANNEX “D” Response Template (Approved)

Date

Dear _____,

Greetings!

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

Your request

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

Response to your request.

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

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX “E-1” FOI RESPONSE TEMPLATE – DENIAL (contrary to law, rules and regulations)

Date

Dear _____,

Greetings!

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

Your request

You asked for <quote request>.

Response to your request

Your FOI request is **DENIED** because it is contrary to [cite specific provision law, rule or regulation]. If you would like to appeal this denial, you may submit an appeal within fifteen (15) days from the receipt of this letter.

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX “E-2” FOI RESPONSE TEMPLATE – DENIAL (falls under list of exceptions)

Date

Dear _____,

Greetings!

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

Your request

You asked for <quote request>.

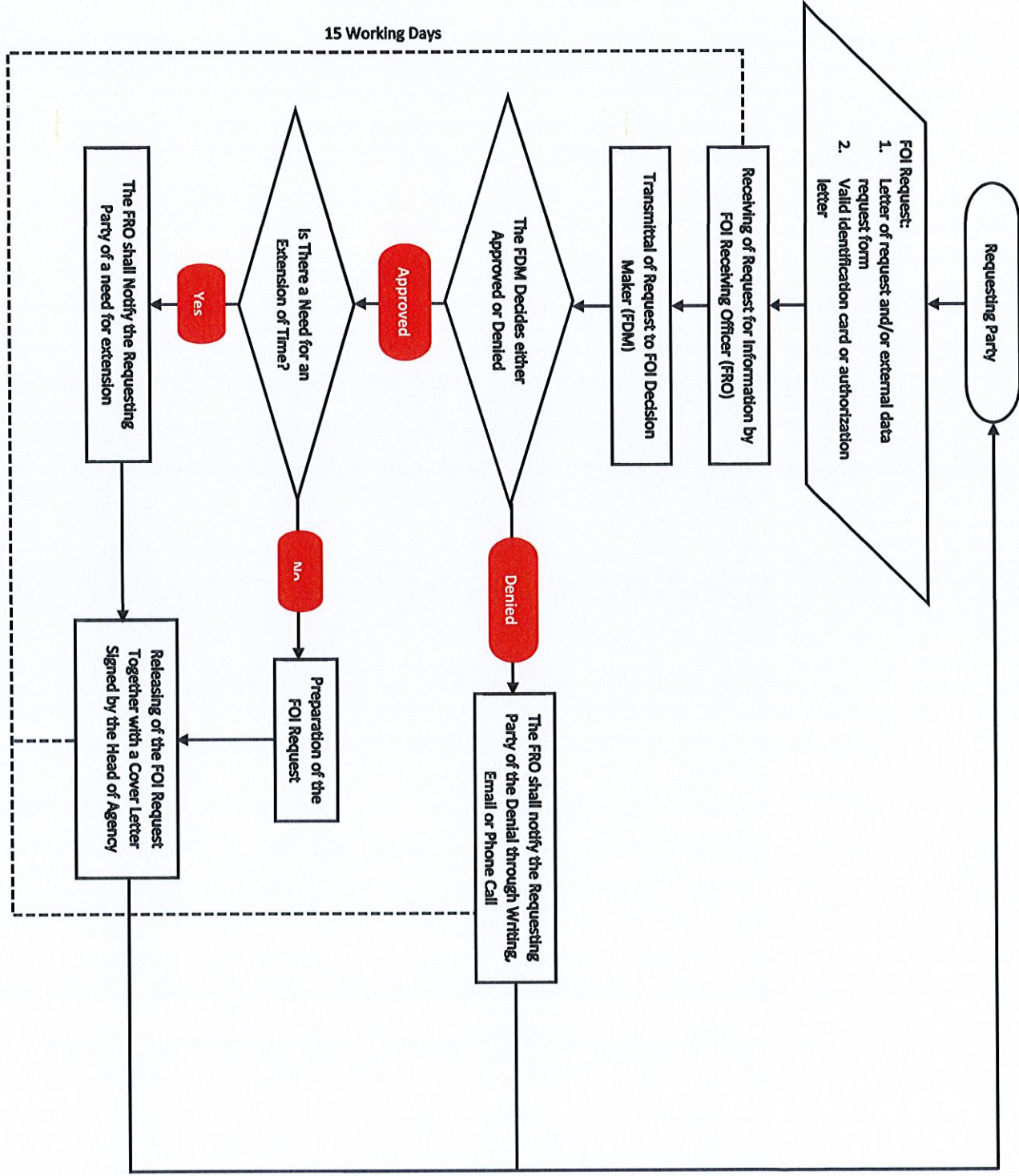
Response to your request

Your FOI request is DENIED because it falls under the list of exceptions, specifically [cite ground for exemption]. If you would like to appeal this denial, you may submit an appeal within fifteen (15) days from the receipt of this letter.
Thank you.

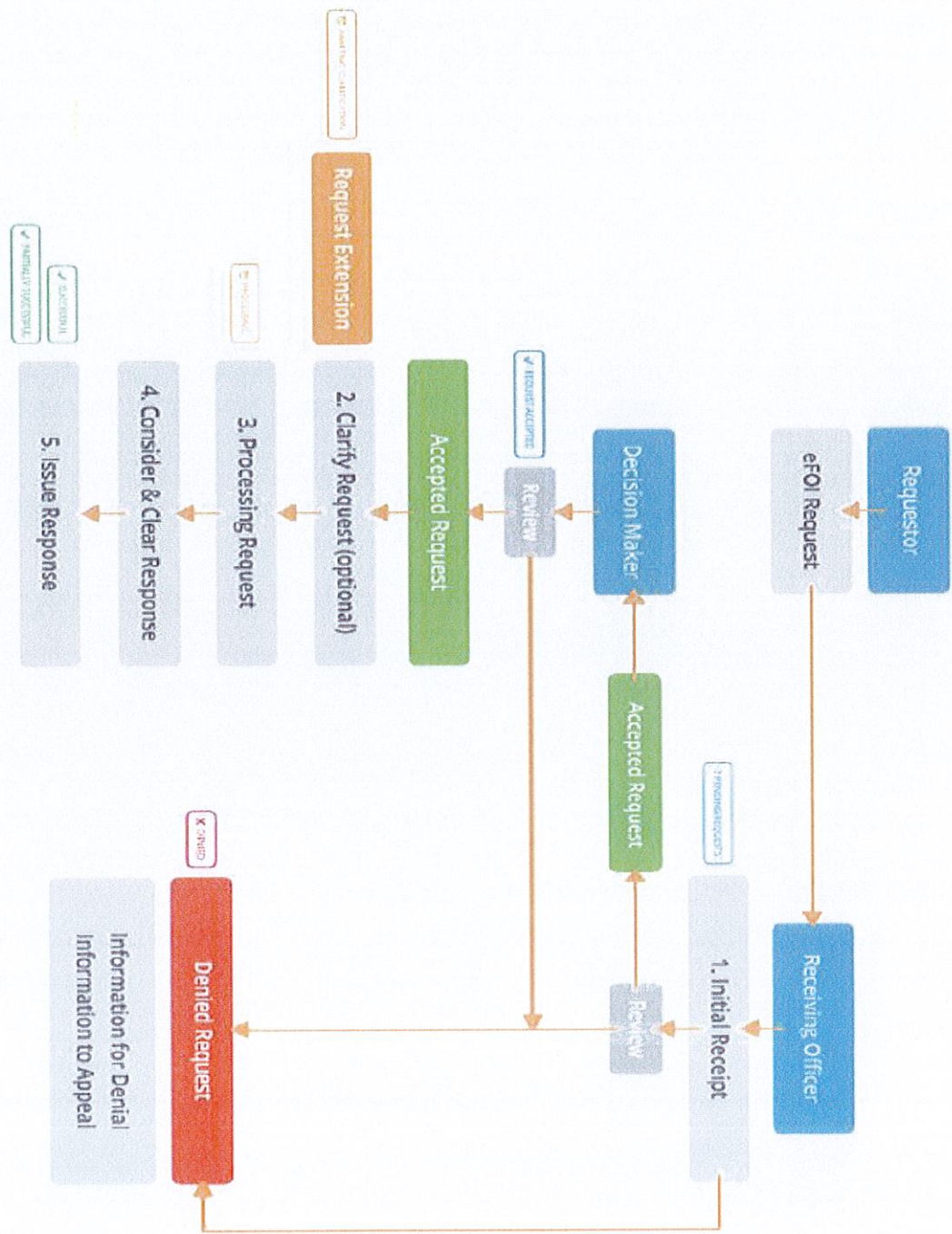
Respectfully,

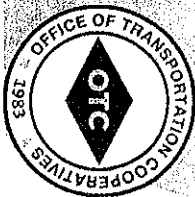
FOI Receiving Officer

ANNEX F - PROCEDURE FLOWCHART



ANNEX G eFOI WORKFLOW





REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF TRANSPORTATION
OFFICE OF TRANSPORTATION COOPERATIVES

SPECIAL ORDER NO.

2023-09-035

TO

:

ALL CONCERNED OTC OFFICERS

SUBJECT

:

**RECONSTITUTION OF THE AGENCY'S FREEDOM
OF INFORMATION (FOI)**

DATE

:

14 September 2023

In the interest and exigency of the service, the following officers and staff are hereby designated as the new composition of this Agency's FOI Officers with their respective delegated titles:

JESUS FERDINAND D. ORTEGA
Chairman

FOI Champion

CRESENCIANA ES GALVEZ
Chief Cooperatives Development Specialist

FOI Decision Maker

JOMAR S. DANS
Planning Officer V

Member, Central Appeals and
Review Committee

CHRISTIAN N. OBERIO
Attorney III

Member, Central Appeals and
Review Committee

ELEANOR C. MUPAS
Administrative Officer V

Member, Central Appeals and
Review Committee

MARU JANE C. TENGSON
Cooperatives Development Specialist I

FOI Receiving Officer (Principal)

ANNA DOMINIQUE M. TAGADTAD
Economist I

FOI Receiving Officer (Alternate)

VERONICA L. CHAVEZ
Administrative Officer II

FOI Receiving Officer (Alternate)

This order takes effect immediately and supersedes previous order/s issued in this regard. All of the designated officers/staff are hereby expected to perform their collective duties and responsibilities to ensure proper implementation of the FOI Program as required under Executive Order No. 2 dated 23 July 2016, the OTC FOI Manual and other related issuances consistent with the same.

[Signature]
JESUS FERDINAND D. ORTEGA
Chairman