



Republic of the Philippines
NATIONAL PRIVACY COMMISSION
5th Floor, Philippine International Convention Center,
Vicente Sotto Avenue, Pasay City, Metro Manila 1307



15 January 2024

HIS EXCELLENCY FERDINAND ROMUALDEZ MARCOS, JR.

President
Republic of the Philippines
Malacañan Palace, JP Laurel St.
San Miguel, Manila, 1005

Dear **President Marcos, Jr.:**

Greetings from the National Privacy Commission (NPC)!

Pursuant to Executive Order No. 2, series of 2016, entitled "*Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor,*" it is with great privilege that we respectfully submit the NPC's Freedom of Information Manual.

The NPC reiterates its full support to the President in the continuous pursuit of this endeavor.

Thank you very much.

Very truly yours,

ATTY. JOHN HENRY D. NAGA
Privacy Commissioner and Chairman

National Privacy Commission Freedom of Information Manual

TITLE I GENERAL PROVISIONS

Section 1. *Scope.* - The Manual shall cover all requests for information directed to the National Privacy Commission.

Section 2. *Purpose.* - The Manual shall outline the process through which the Commission shall address Freedom of Information (FOI) requests received pursuant to Executive Order (E.O.) No. 2, s. 2016. It shall set out the rules and procedures to be followed by the members of the Commission, including all officers and employees thereof, when an FOI request is received.

Section 3. *Responsibility of the Commission.* The National Privacy Commission is responsible for all actions carried out under this Manual, but may delegate this responsibility and/or specific functions necessarily included herein to other officers or employees of the Commission.

Section 4. *FOI Receiving Officer.* The Commission shall designate the head of the Public Assistance and Information Division as FOI Receiving Officer (FRO): *Provided*, that the FRO may delegate the authority to directly receive or address FOI requests to his/her immediate subordinate/s.

The functions of the FRO shall include:

- a. receiving on behalf of the Commission, all FOI requests: *Provided*, that this shall include conducting an initial evaluation of the request, advising the requesting party whether the request will be forwarded to the FOI Decision Maker (FDM) for further evaluation, or denying the request based on the following reasons:
 - (1) the form of the FOI request is incomplete; or
 - (2) the information requested is already disclosed in the Commission's official website or at data.gov.ph.
- b. monitoring all FOI requests and appeals;
- c. providing assistance to the FDM;
- d. providing assistance and support to the public, and other officers and employees of the Commission with regard to FOI requests; and
- e. compiling statistical information regarding FOI requests, as may be required.

Section 5. *FOI Decision Maker.* The Executive Director shall be the FOI Decision Maker of the Commission, who shall be responsible for granting or denying an FOI request after a thorough evaluation thereof. A denial of an FOI request may be based on any of the following grounds:

- a. The Commission does not have the information requested;
- b. The information requested contains personal data protected under the Data Privacy Act of 2012;

- c. The information requested falls under the inventory of exceptions provided in the Memorandum from the Executive Secretary issued on 24 November 2016 and subsequent issuances; or
- d. The request is an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the Commission.

Where the Executive Director is on official leave, the Commission may temporarily designate as FDM any official or officer of the Commission with the minimum rank of Director.

Section 6. *Central Appeals and Review Committee.* There shall be a Central Appeals and Review Committee (CARC) composed of the Privacy Commissioner and the two (2) members with minimum rank of director and to be designated by the Privacy Commissioner, whose function is to review the denial of an FOI request, pursuant to a written appeal filed by the requesting party.

Section 7. *Period for Compliance.* The Commission must respond to an FOI request within fifteen (15) working days following the date of receipt thereof. In computing for the period, Art. 13 of the New Civil Code shall be observed. For this purpose, the date of receipt of the FOI request will either be:

- a. the date when the request is physically delivered to the Commission; or
- b. where the Commission has asked the requesting party for further details necessary to properly address the request, the date when the necessary clarification is received by the Commission.

TITLE II DEFINITION OF TERMS

Section 8. *Definition of Terms.* – The following terms used in this Manual are defined, as follows:

- c. “Administrative FOI appeal” shall refer to an independent review by the CARC of the denial of an FOI request, pursuant to a written appeal filed by the requesting party;
- d. “Annual FOI report” shall refer to a report to be filed each year with the Presidential Communications Office (PCO) by the Commission detailing its implementation of its FOI system. It shall contain detailed statistics on the number of FOI requests and appeals received, processed, and pending before the Commission;
- e. “Commission” shall pertain to the National Privacy Commission or NPC;

- f. “data.gov.ph” shall refer to the Open Data website that serves as the government’s comprehensive portal for all public government data that is searchable, understandable, and accessible;
- g. “FOI request” shall refer to a written request for records or information on any topic or subject filed personally with the Commission. Only Filipino citizens may file an FOI request;
- h. “Freedom of Information (FOI)” or “right to information” shall refer to the right of Filipinos to information on matters of public concern. This right is indispensable to the exercise of their right, together with that of their organizations, to effective and reasonable participation at all levels of social, political and economic decision-making;
- i. “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;
- j. “Open data” refers to publicly available data structured in a way that enables the data to be fully discoverable and usable by end users;
- k. “Personal data” shall refer to all types of personal information. For the purpose of this Manual, the term shall include both personal information and sensitive personal information;
- l. “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;
- m. “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.
- n. “Sensitive personal information” shall refer to personal information:
 - (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 proceedings for any offense committed or alleged to have committed by such person, the disposal of such proceedings or the sentence of any court in such proceedings;

- (3) Issued by government agencies peculiar to an individual which includes, but not limited to, social security 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;

TITLE IV PROMOTION OF OPENNESS IN GOVERNMENT

Section 9. *Duty to Publish Information.* The Commission shall regularly publish, print and disseminate at no cost to the public and in an accessible form, in conjunction with Republic Act No. 9485, or the Anti-Red Tape Act of 2007, and through its website, timely, true, accurate and updated key information including, but not limited to:

- a. A description of its mandate, structure, powers, functions, duties and decision-making processes;
- b. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
- c. The names and profiles of its key officials, including their powers, functions and responsibilities;
- 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.

Section 10. *Accessibility of Language and Form.* The Commission shall endeavor to translate key information into major Filipino languages and present them in popular form and means.

Section 11. *Keeping of Records.* The Commission shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation or records, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications and documents received or filed with them and the data generated or collected.

TITLE IV PROTECTION OF PRIVACY

Section 12. *Protection of Privacy.* While providing for access to information, the Commission shall afford full protection to a person's right to privacy. Specifically, it shall:

- a. ensure that personal data in its custody or under its control are disclosed only as permitted by existing laws;
- b. protect personal data in its custody or under its control by adopting appropriate security measures pursuant to the Data Privacy Act and other applicable laws and policies;
- c. ensure that its FRO, FDM, or any other personnel with access to personal data in the custody or under the control of the Commission, whether authorized or unauthorized, shall not disclose such data except as authorized by existing laws.

Section 13. *Upholding Data Privacy Principles.* In releasing information subject of an FOI request, the Commission shall adhere to the principles of transparency, legitimate purpose and proportionality.

Section 14. *Assistance to other Government Agencies.* The Commission may receive requests for opinion from different government agencies on disclosure of information that affects data privacy, mindful of its mandate of safeguarding the right to privacy while supporting the free flow of information.

TITLE VI STANDARD PROCEDURE

Section 15. *Receipt of FOI Request.* The FRO shall receive an FOI request from the requesting party and check the compliance thereof with all of the following requirements:

- a. It must be in writing;
- b. It shall state the name and contact information of the requesting party, and shall include a valid proof of identification; and,
- c. It shall reasonably describe the information requested, and the reason therefor or the purpose thereof.

In case the requesting party is unable to make a written request, because of illiteracy or due to a disability, he or she may make an oral request, which the FRO shall reduce into writing.

The request shall be signed and stamped “received” by the FRO, indicating the date and time of receipt thereof: *Provided*, that where the FRO has delegated the authority to directly receive or address FOI requests to a subordinate, the name and rank, title, and/or position of the latter, shall also be indicated in the request: *Provided further*, that the requesting party shall be furnished with a copy of his or her request, as received by the Commission: *Provided finally*, that the FRO shall input the details of the request on the Request Tracking System and assign thereto a reference number.

The Records Officer or Section of the Commission shall be furnished with a copy of the FOI request for documentation.

Section 16. *Initial Evaluation.* Within two (2) working days upon receipt of an FOI request, the FRO shall make an initial evaluation of the contents thereof.

Where the request is determined to be non-compliant with the form prescribed by this Manual, specifically Section 15(a) hereof, and/or relates to information already disclosed in the Commission's official website or at data.gov.ph, the FRO shall return the same to the requesting party and inform the latter of the reason for such action. Where applicable, he or she shall provide the requesting party with the website link where the information requested may be accessed.

Section 17. *Transmittal of the FOI Request to the FDM.* After the FRO makes a determination that the FOI request is compliant with provisions of this Manual, he or she forward the same to the FDM.

Section 18. *Evaluation of the Request by the FDM.* The FDM shall make a thorough evaluation of the FOI request upon receipt of the same.

- a. If the FDM approves the FOI request, he or she shall forward the same to the appropriate office or division that will provide the information or record subject of the request. Unless a longer period is necessary to address the request, as determined by the concerned offices or divisions, the office or division shall act on the request within three (3) working days upon receipt thereof and relay the information or record requested to the FDM for dissemination or release. The FDM shall ensure that all information or records for disclosure are checked for possible exemptions, prior to their actual release.
- b. If the FDM needs further details to identify or locate the information requested, he or she shall, through the FRO, seek clarification from the requesting party. The clarification shall stop the running of the fifteen (15) working day period within which to respond to the request.
- c. If due to fortuitous events, addressing the request will require an extended period, or if the information requested will require an extensive search of the Commission's records or facilities, or an examination of voluminous records, the FDM shall request for an extension of the period within which to respond to the request. This shall be relayed to the requesting party, through the FRO, who shall set forth reasons for the delay. In no case shall the extension exceed twenty (20) working days, unless exceptional circumstances warrant a longer period.
- d. If the requested information, official record/s, or public record/s is/are not in possession or custody of the Commission or if the Commission is not authorized to release the requested information to the public, the "No Wrong Door Policy for FOI" shall be followed.
- e. If the requested information is substantially similar or identical to a previous request by the same requester, the FDM shall deny the same. Such denial shall be relayed to the requesting party through the FRO.
- f. Where the FDM denies the FOI request wholly or partially, based on any of the other grounds provided in this Manual, he or she shall relay this fact to the FRO, including the ground or grounds for such denial.

Section 19. No Wrong Door Policy. The Commission adopts the process of referral under the FOI MC No. 21-05 on the “No Wrong Door Policy for FOI”. The Commission shall refer to the appropriate government agency the requested information, official record/s, or public record/s which are not in possession or custody of the Commission or if the Commission is not authorized to release the requested information to the public. 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.

- a. **First Referral.** When the requested information is not in possession of the NPC (GA1), but is available in another government agency (GA2) under the Executive Branch, the request shall be immediately referred to another government agency through the most expeditious manner but not exceeding three (3) working days from the receipt of the request. This shall be considered “First Referral” and a fresh period will apply.

If the FRO fails to refer the request within three (3) working days, the FRO shall process the request within the remaining period pursuant to Section 18 of this manual. No fresh period shall apply.

- b. **Second Referral.** 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 immediately preceding paragraph of this Section. This shall be considered as the “Second Referral” and another fresh period shall apply.
- c. **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.

Referrals to the appropriate government agency under this Section shall only be limited to two (2) subsequent transfers of request. 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.

- d. If the NPC receives a notice from another agency indicating that a request was erroneously referred to them, the FRO shall duly record such occurrence to prevent similar requests from being referred to the same agency in the future.
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- e. If another government agency refers a request to the NPC, and the NPC does not possess the requested information or is not authorized to release the requested information to the public, the FRO shall notify the referring agency that the NPC does not have the requested information and advise them to refrain from making similar referrals in the future. If permissible under the prescribed referral process, the FRO shall then forward the request to the appropriate government agency, subject to the limitation that a request may only be transferred twice. If further referral is not possible due to these limitations, and the NPC is unable to provide the requested information, the request shall be denied, and the requesting party shall be duly notified.

Section 20. *Notice to the Requesting Party of Action Taken on the Request.* Once the FDM approves or denies an FOI request, he or she shall immediately notify the FRO of such fact, including, where applicable, the grounds for the action taken.

The FRO shall provide the requesting party with a written notification of the action taken by the Commission within the prescribed period. Where applicable, the notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. If the request is granted, the notice shall also direct the requesting party to pay the applicable fees, if any.

Failure to notify the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of such request.

Section 21. *Transmittal of Information to the Requesting Party.* Upon receipt of the requested information from the FDM, the FRO shall collate and ensure that the information is complete. He shall attach a cover/transmittal letter signed by the FDM and ensure the transmittal thereof to the requesting party.

TITLE VII REMEDIES IN CASE OF DENIAL

Section 22. *Administrative FOI Appeal.* A person whose FOI request has been denied may file a written appeal with Central Appeals and Review Committee (CARC) of the Commission: *Provided*, that the appeal must be filed by the same requesting party within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to an FOI request.

The CARC shall decide on the appeal within thirty (30) working days from the filing thereof. Failure to decide within the 30-day period shall be deemed a denial of the appeal.

Section 23. *Judicial Appeal.* Upon exhaustion of all administrative remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

TITLE VIII REQUEST TRACKING SYSTEM

Section 24. *Request Tracking System.* The Commission shall establish a monitoring or tracking system for all FOI requests.

TITLE IX FEES

Section 25. *No Request Fee.* The Commission shall not charge any fee for accepting requests for access to information.

Section 26. *Reasonable Cost of Reproduction and Copying of the Information.* Where necessary in order to provide the information requested, the FRO shall immediately notify the requesting party of the applicable printing, reproduction, and/or copying fee.

Section 27. *Schedule of Fees.* The schedule of fees is as follows, subject to changes to reflect current market value:

MEDIUM	PRICE
black ink only	PhP 0.75/ photocopied page
black ink only	PhP 1.00/ page of computer printout
colored ink	PhP 5.00/ half page of computer print out
colored ink	PhP 10.00/ full page of computer print out
data transmitted via email not exceeding one (1) gigabyte	Free
DVD	PhP 25.00/ DVD
Others	to be determined by the FRO

Section 28. *Exemption from Fees.* Where requesting party is an indigent with competent proof thereof from the proper authority, the Commission may exempt him or her from the payment of fees.

TITLE X ADMINISTRATIVE LIABILITY

Section 29. *Non-compliance.* 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.

Section 30. *Procedure.* The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of cases under this Manual.

Section 31. *Provisions for More Stringent Laws, Rules and Regulations.* Nothing in this Manual shall be construed as superseding any existing laws, rules, or regulations prescribed by the proper body or agency, which provides for more stringent penalties.

ANNEX "A"

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

**OPERATIONALIZING IN THE EXECUTIVE BRANCH THE PEOPLE'S
CONSTITUTIONAL RIGHT TO INFORMATION AND THE STATE POLICIES
TO FULL PUBLIC DISCLOSURE AND TRANSPARENCY IN THE PUBLIC
SERVICE AND PROVIDING GUIDELINES 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 9 of this Order.
- (d) The standard forms for the submission of requests and for the proper acknowledgment of requests;
- (e) The process for the disposition of requests;
- (f) The procedure for the administrative appeal of any denial for access to information; and
- (g) The schedule of applicable fees.

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

- (a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the reason for, or purpose of, the request for information: *Provided*, that no request shall be denied or refused acceptance unless the reason for the request is contrary to law, existing rules and regulations or it is one of the exceptions contained in the inventory or updated inventory of exception as hereinabove provided.
- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable, to enable all requesting parties and particularly those with special needs, to comply with the request requirements under this Section.
- (c) The request shall be stamped by the government office, indicating the date and time of receipt and the name, rank, title and position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the requesting party. Each government office shall establish a system to trace the status of all requests for information received by it.
- (d) The government office shall respond to a request fully compliant with requirements of sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof. The response mentioned above refers to the decision of the agency or office concerned to grant or deny access to the information requested.
- (e) The period to respond may be extended whenever the information requested requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous cases or other analogous cases. The government office shall notify the person making the request of the extension, setting forth the reasons for such extension. In no case shall the extension go beyond twenty (20) working days unless exceptional circumstances warrant a longer period.
- (f) Once a decision is made to grant the request, the person making the request shall be notified of such decision and directed to pay any applicable fees.

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

SECTION 11. Identical or Substantially Similar Requests. The government office shall not be required to act upon an unreasonable subsequent identical or substantially similar request from the same requesting party whose request 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 9 of this Order: Provided, that the written appeal must be filed by the same person making the request within fifteen (15) working days from the notice of denial or from the lapse of the relevant period to respond to the request.
- (b) The appeal be decided by the person or office next higher in authority within thirty (30) working days from the filing of said written appeal. Failure of such person or office to decide within the afore-stated period shall be deemed a denial of the appeal.
- (c) Upon exhaustion of administrative appeal remedies, the requesting party may file the appropriate case in the proper courts in accordance with the Rules of Court.

SECTION 14. Keeping of Records. Subject to existing laws, rules, and regulations, government offices shall create and/or maintain accurate and reasonably complete records of important information in appropriate formats, and implement a 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"


**FOI Receiving Officer
of the National Privacy Commission**



ROREEN MARIE M. CHIN, PhD
Chief, Public Information and Assistance Division
National Privacy Commission
5th Floor, Secretariat Building, PICC Complex,
Roxas Boulevard, Pasay City

**FOI Decision Maker
of the National Privacy Commission**



ATTY. IVIN RONALD D.M. ALZONA
Executive Director 
National Privacy Commission
5th Floor, Secretariat Building, PICC Complex,
Roxas Boulevard, Pasay City

ANNEX "C"

LIST OF EXCEPTIONS

Inventory of Exception to Executive Order No. 2

"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, personal information or records, including sensitive personal information, birth records, school records, or medical or health records;

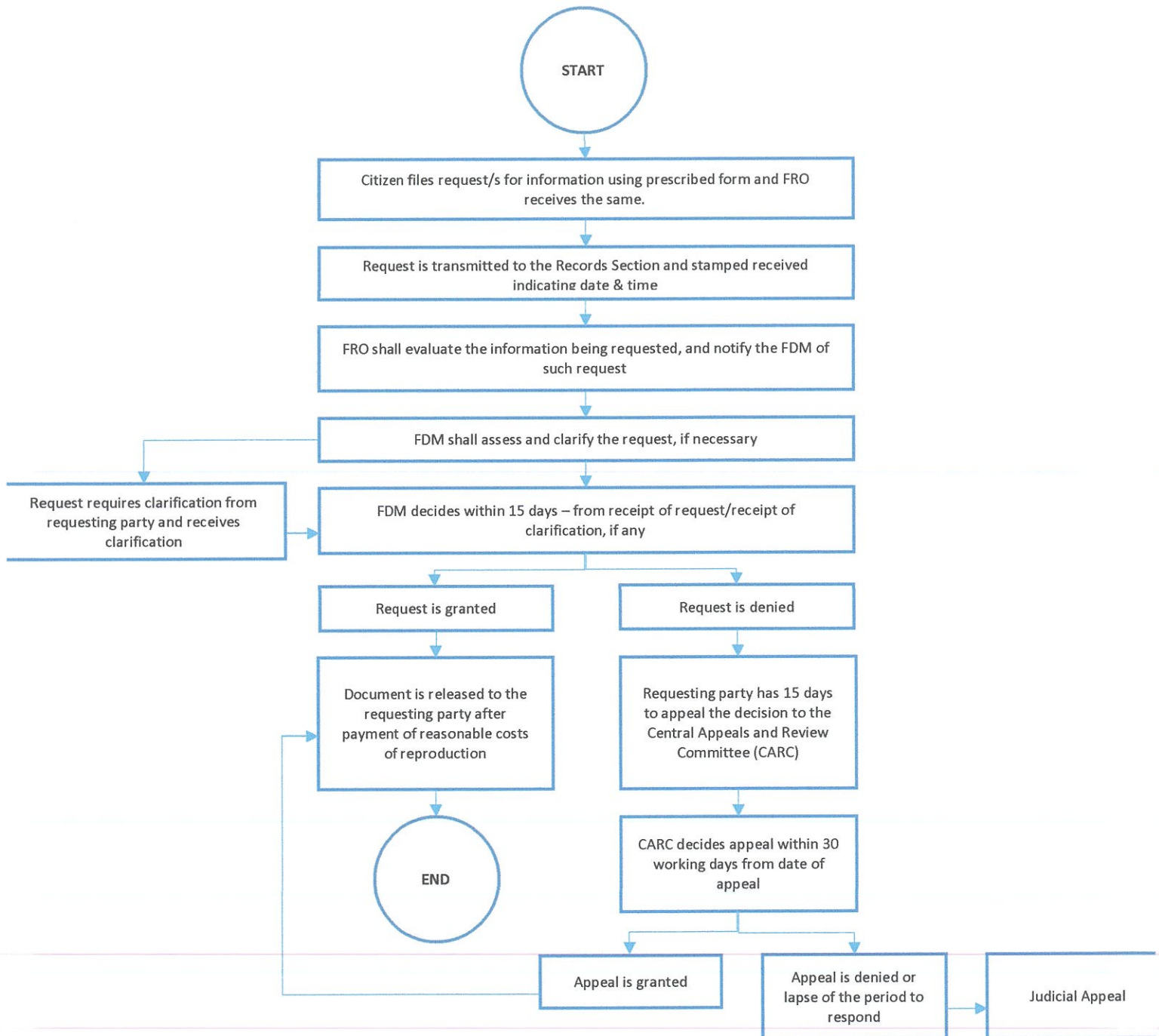
Sensitive personal information as defined under the Data Privacy of 2012 refers to personal information:

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

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the individual 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.

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;

ANNEX "D" FOI Request Flow Chart



ANNEX "E"

FOI Request Form

NATIONAL PRIVACY COMMISSION
5th Floor, Secretariat Building, PICC Complex,
Roxas Boulevard, Pasay City

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 PAGKAKAKILANLAN / (Proof of
Identity): _____

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

Passport No. _____
Driver's License _____
Other _____

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

.....
Gawaing itinalaga kay:
(Submitted to)

(Lumagda sa ibaba ng pangalang nakalimbag)

Peta/Oras ng Pagkatalaga:
(Date / Time of Submission)

Taong nagpapatunay ng Gawaing Natapos: _____
(Certified by)

(Lumagda sa ibaba ng pangalang nakalimbag)

Uri ng isinagawang aksiyon:

(Type of action conducted)

Iniskedyul ni / (Received by):

FOI Receiving Officer

Remarks:

ANNEX "F-1"

FOI RESPONSE TEMPLATE - DOCUMENT ENCLOSED

DATE

Dear _____,

Greetings!

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

Your request

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

Response to your request

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

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX "F-2"

FOI RESPONSE TEMPLATE - ANSWER

DATE

Dear _____,

Greetings!

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

Your request

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

Response to your request

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

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX "F-3"

FOI RESPONSE TEMPLATE - DOCUMENT AVAILABLE ONLINE

DATE

Dear _____,

Greetings!

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

Your request

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

Response to your request

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

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Privacy Commissioner Atty. John Henry D. Naga at info@privacy.gov.ph. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to seek the appropriate judicial remedy before the courts.

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX "F-4"

FOI RESPONSE TEMPLATE - DOCUMENT NOT AVAILABLE

DATE

Dear _____,

Greetings!

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

Your request

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

Response to your request

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

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Privacy Commissioner Atty. John Henry D. Naga at info@privacy.gov.ph. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to seek the appropriate judicial remedy before the courts.

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX "F-5"

FOI RESPONSE TEMPLATE - UNDER EXCEPTIONS

DATE

Dear _____,

Greetings!

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

Your request

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

Response to your request

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

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Privacy Commissioner Atty. John Henry D. Naga at info@privacy.gov.ph. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to seek the appropriate judicial remedy before the courts.

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX G



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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

in implementing this Circular, an inventory of the names and contact details of all designated FROs and FDMs of government agencies, and an Agency Information Inventory (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.

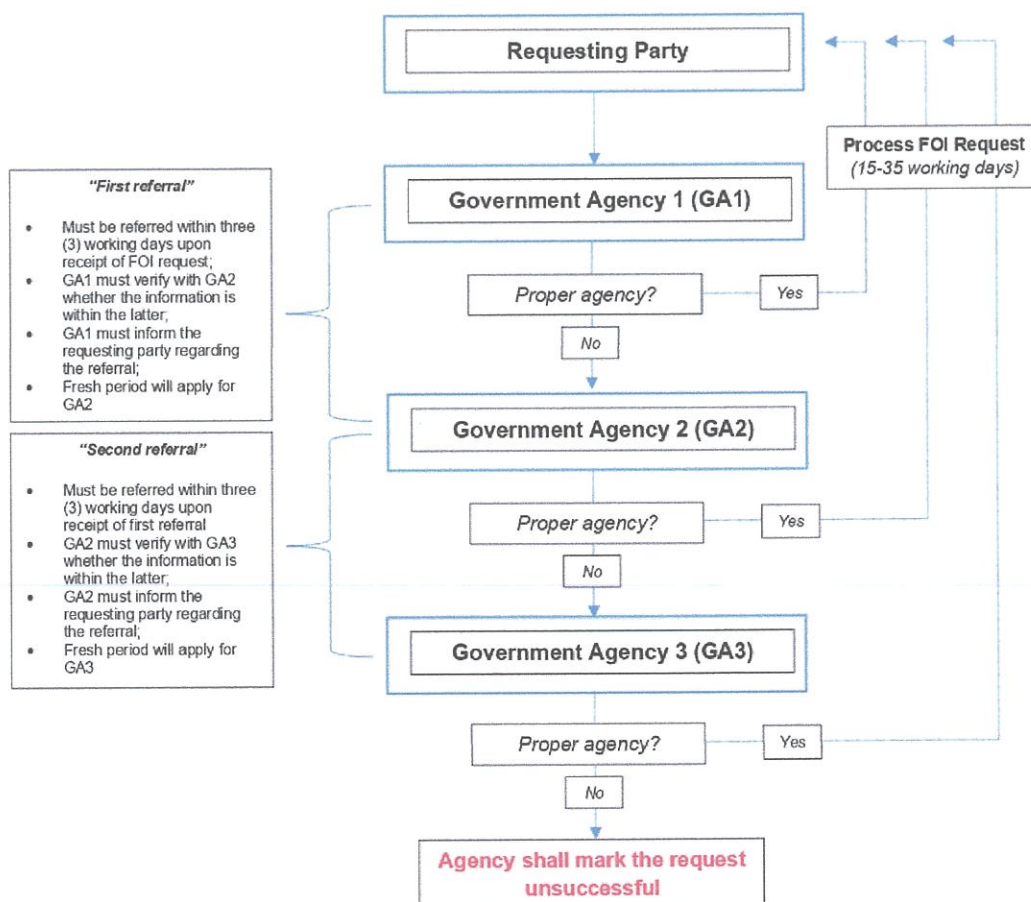
Section 11. Effectivity. This Memorandum Circular shall take effect immediately.

Manila, Philippines, 27th day of August 2021.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

ANNEX H

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.