

Republic of the Philippines
DEPARTMENT OF HEALTH



— *Freedom* —
of Information

Executive Order No. 2
Series of 2016

DOH FOI MANUAL

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**Department of Health
Freedom of Information Manual
Philippines**

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SECTION 1: OVERVIEW

1. **Purpose:** The purpose of this FOI Manual (Manual) is to provide the process to guide and assist the Department of Health Bureaus, Regional Offices and Services, and selected DOH attached agencies (DOH), in dealing with requests of information received under Executive Order (E.O.) No. 2 on Freedom of Information (FOI). (**Annex “C”**)
2. **Structure of the Manual:** This Manual shall set out the rules and procedures to be followed by the DOH when a request for access to information is received. The Secretary of Health is responsible for all actions carried out under this Manual and may delegate this responsibility. The Secretary of Health may delegate a specific officer to act as the Decision Maker (DM), who shall have overall responsibility for the initial decision on FOI requests, (i.e. to decide whether to release all the records, partially release the records or deny access).
3. **Coverage of the Manual:** The Manual shall cover all requests for information directed to all DOH Bureaus, Regional Offices and Services, and selected attached agencies such as the National Nutrition Council (NNC), Philippine National AIDS Council (PNAC) and the Philippine Institute for Traditional and Alternative Health Care (PITHAC) collectively referred to as “DOH”.
4. **FOI Receiving Officer:** There shall be an FOI Receiving Officer (FRO) designated in all DOH Regional Offices and Services, and selected attached agencies. The Administrative Officers (or their counterpart) shall be designated as the FRO.

The functions of the FRO shall include receiving on behalf of the DOH all requests for information and forward the same to the appropriate office who has custody of the records (Data Steward); monitor all FOI requests and appeals; provide assistance to the FOI Decision Maker; provide assistance and support to the public and staff with regard to FOI; compile statistical information as required; and, conduct initial evaluation of the request and advise the requesting party whether the request will be forwarded to the FOI Decision Maker for further evaluation, or deny the request based on:

- a. That the form is incomplete; or
 - b. That the information is already disclosed in the DOH’s Official Website, foi.gov.ph, or at data.gov.ph.
5. **Data Custodian:** The office who has custody of the records requested shall process the FOI request and forward the requested records to the FOI Decision Maker with the appropriate recommendation for approval, partial approval or denial of request. Data Custodians are the Heads of DOH Bureaus, Regional Offices and Services and selected attached agencies who shall act as a recommendatory body to the FOI Decision Makers.

6. FOI Decision Maker: There shall be FOI Decision Makers (FDM), designated by the Secretary of Health, who shall conduct evaluation of the request for information and has the authority to grant the request, or deny it based on the following:

- a. the DOH does not have the information requested;
- b. the information requested contains sensitive personal information protected by the Data Privacy Act of 2012;
- c. the information requested falls under the list of exceptions to FOI; 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 DOH.
- e. The purpose for the request of information is contrary to existing laws and/or policies.

There shall be an FDM to decide on Program and Policy-related FOI Requests, and an FDM to decide on Administrative, Financial and Legal-related FOI Requests.

7. Central Appeals and Review Committee: The Department Order 2017-0236 designates the DOH's Monitoring and Evaluation, and Data Governance Oversight Committee as the Central Appeals and Review Committee within the FOI Unit.

Following the DPO 2016-2630 "Creation of the DOH Monitoring and Evaluation and Data Governance Oversight Committee and Technical Working Group", the individuals who shall take position in the Central Appeals and Review Committee are:

Chair: Cluster Head, Office for Policy and Health Systems

Co-Chair: Cluster Head, Office for Technical Services

Members:

- I. Director, Health Policy Development and Planning Bureau
- II. Director, Epidemiology Bureau
- III. Director, Office for Health Operations
- IV. Director, Knowledge Management and Information Technology Service
- V. Director, Bureau of International Health Cooperation
- VI. Director, Disease Prevention and Control Bureau
- VII. Director, Bureau of Local Health Systems and Development

8. Approval and Denial of Request to Information: The Decision Maker shall approve or deny all requests of information. In case where the Decision Maker is on official leave, the Secretary of Health may delegate such authority to his Chief of Staff or any Officer not below the rank of a Director.

SECTION 2: DEFINITION OF TERMS

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

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

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

EXCEPTIONS: Information that should not be released and disclosed in response to a FOI request because they are protected by the Constitution, laws or jurisprudence.

FREEDOM OF INFORMATION (FOI). The Executive Branch recognizes the right of the people to information on matters of public concern, and adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in Executive Order No. 2. This right is indispensable to the exercise of the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making.

FOI CONTACT: The name, address and phone number of each government office where you can make a FOI request

FOI REQUEST: A written request submitted to a government office personally or by email asking for records on any topic. A FOI request can generally be made by any Filipino to any government office.

FOI RECEIVING OFFICE: The primary contact at each agency where the requesting party can call and ask questions about the FOI process or pending FOI requests.

FREQUENTLY REQUESTED INFORMATION: Information released in response to FOI requests that the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records.

FULL DENIAL: When the DOH or any of its office, bureau or agency cannot release any records in response to a FOI request, because, for example, the requested information is exempt from disclosure in its entirety or no records responsive to the request could be located.

FULL GRANT: When a government office is able to disclose all records in full in response to an FOI request.

INFORMATION: Any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody 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.

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

MULTI-TRACK PROCESSING: A system that divides incoming FOI requests according to their complexity so that simple requests requiring relatively minimal review are placed in one processing track and more complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.

OFFICIAL RECORD/S: 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: Publicly available data structured in a way that enables the data to be fully discoverable and usable by end users.

PARTIAL GRANT/PARTIAL DENIAL: When a government office is able to disclose portions of the records in response to an FOI request, but must deny other portions of the request.

PENDING REQUEST OR PENDING APPEAL: An FOI request or administrative appeal for which a government office has not yet taken final action in all respects. It captures anything that is open at a given time including requests that are well within the statutory response time.

PERFECTED REQUEST: An FOI request, which reasonably describes the records, sought and is made in accordance with the government office's regulations.

PERSONAL INFORMATION: Any information, whether recorded in a material form or not, from which the identify of an individual is apparent or can be reasonably and

directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.

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

PROCESSED REQUEST OR PROCESSED APPEAL: The number of requests or appeals where the agency has completed its work and sent a final response to the requester.

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

RECEIVED REQUEST OR RECEIVED APPEAL: An FOI request or administrative appeal that an agency has received within a fiscal year.

REFERRAL: When a government office locates a record that originated with, or is of otherwise primary interest to another agency, it will forward that record to the other agency to process the record and to provide the final determination directly to the requester. This process is called a “referral.”

SENSITIVE PERSONAL INFORMATION: As defined in the Data Privacy Act of 2012, 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.

SIMPLE REQUEST: An FOI request that an agency anticipates will involve a small volume of material or which will be able to be processed relatively quickly.

SECTION 3. PROMOTION OF OPENNESS IN GOVERNMENT

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

- a. A description of its mandate, structure, powers, functions, duties and decision-making processes;
- b. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
- c. The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
- d. Work programs, development plans, investment plans, projects, performance targets and accomplishments, 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.

2. Accessibility of Language and Form. The DOH shall endeavor to translate key information into major Filipino languages and present them in popular form and means.

3. Keeping of Records. The DOH 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.

SECTION 4. PROTECTION OF PRIVACY

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

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

SECTION 5. STANDARD PROCEDURE

(See **Annex G** for flowchart)

1. Receipt of Request for Information.

1.1 The FOI Receiving Officer (FRO) shall receive the request for information from the requesting party and check compliance of the following requirements:

- The request must be in writing;
- The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization; and
- The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information. (See **Annex G**)

The request can be made through email, provided that the requesting party shall attach in the email a scanned copy of the FOI application request, and a copy of a duly recognized government ID with photo such as but not limited to voter's ID, senior citizen's ID, PRC ID, SSS ID, and the like.

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

1.3 The request shall be stamped received by the FRO, indicating the date and time of the receipt of the written request, and the name, rank, title and position of the public officer who actually received it, with a corresponding signature and a copy, furnished to the requesting party. In case of email requests, the email shall be printed out and shall follow the procedure mentioned above, and be acknowledged by electronic mail. The FRO shall input the details of the request on the Request Tracking System and allocate a reference number.

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

The date of receipt of the request will be either:

- a. The day on which the request is physically or electronically delivered to the government office, or directly into the email inbox of a member of staff; or
- b. If the government office has asked the requesting party for further details to identify and locate the requested information, the date on which the necessary clarification is received.

An exception to this will be where the request has been emailed to an absent member of staff, and this has generated an 'out of office' message with instructions on how to re-direct the message to another contact. Where this is the case, the date of receipt will be the day the request arrives in the inbox of that contact.

Should the requested information need further details to identify or locate, then the 15 working days will commence the day after it receives the required clarification from the requesting party. If no clarification is received from the requesting party after sixty (60) calendar days, the request shall be closed. Provided that, upon request for clarification by the FOI Receiving Officer, the same shall inform the requesting party that if no clarification from their end is received within 60 days, the case is automatically closed thereafter. This will serve as advance notice of closure.

2. Initial Evaluation. After receipt of the request for information, the FRO shall evaluate the contents of the request.

2.1 Request relating to more than one office under the DOH. If a request for information is received which requires to be complied with, of different offices, the FRO shall forward such request to the said office concerned and ensure that it is well coordinated and monitor its compliance. The FRO shall also clear with the respective FROs of such offices that they will only provide the specific information that relates to their offices.

2.2 Requested information is not in the custody of the DOH. If the requested information is not in the custody of the DOH or any of its offices, following referral and discussions with the FDM, the FRO shall undertake the following steps:

- If the records requested refer to another agency not in the custody of DOH, the request will be immediately transferred to the appropriate agency through the most expeditious manner and the transferring office must inform the requesting party that the information is not held within the 15 working day limit. The 15 working day requirement for the receiving office commences the day after it receives the request.
- If the records refer to an office not within the coverage of E.O. No. 2, the requesting party shall be advised accordingly and provided with the contact details of that office, if known.

2.3 Requested information is already posted and available on-line. Should the information being requested is already posted and publicly available in the DOH website (<http://www.doh.gov.ph>), data.gov.ph or foi.gov.ph, the FRO shall inform the requesting party of the said fact and provide them the website link where the information is posted.

2.4 Requested information is substantially similar or identical to the previous request. Should the requested information be substantially similar or identical to a previous request by the same requester, the request shall be denied. However, the FRO shall inform the applicant of the reason of such denial.

- 3. Transmittal of Request by the FRO to the FDM.** After receipt of the request for information, the FRO shall evaluate the information being requested, classify the request as either (1) a program and policy-related request or (2) an Administrative, legal or finance-related request, and notify the appropriate FDM of such request. The copy of the request shall be forwarded to the appropriate FDM within one (1) day from receipt of the written request. The FRO shall record the date, time and name of the FDM who received the request in a record book with the corresponding signature of acknowledgement of receipt of the request.
- 4. Role of FDM in processing the request.** Upon receipt of the request for information from the FRO, the FDM shall assess and clarify the request if necessary.

In assessing, the FOI Decision Makers must first consider the following:

- The information requested contains sensitive personal information protected by the Data Privacy Act of 2012;
- The information requested falls under the list of exceptions (**Annex F**)
- The purpose for the request is contrary to existing laws and/or policies

If any of the above three instances is present, the FOI Decision Maker will immediately deny the request with notice to the requesting party of the grounds of such denial.

If the request is valid in form and substance, the FOI Decision Maker may proceed in retrieving the information requested. He or she shall then forward the request to the appropriate Data Custodian to make all the necessary steps to locate and retrieve the information requested. The Data Custodian shall ensure that the complete information requested be submitted to the FDM within 5 working days upon receipt of such request. The FDM shall then ensure that the information requested be approved and submitted back to the FRO for release within 5 working days.

The FRO shall note the date and time of receipt of the information from the FDM and report to the DOH M&E and Data Governance Technical Working Group in case the submission is beyond the 10-day period.

If the FDM needs further details to identify or locate the information, he shall, through the FRO, seek clarification from the requesting party. The clarification shall stop the running of the 15 working day period and will commence the day after it receives the required clarification from the requesting party.

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

5. **Role of FRO to transmit the 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 or she shall attach a cover/transmittal letter signed by the FDM who approved the request and ensure the transmittal of such to the requesting party within 15 working days upon receipt of the request for information.
6. **Request for an Extension of Time.** If the information requested requires extensive search of the government's office records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases, the FDM should inform the FRO.

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

7. **Notice to the Requesting Party of the Approval/Denial of the Request.** Once the FDM has approved or denied the request, he shall immediately notify the FRO who shall prepare the response to the requesting party either in writing or by email. The Office of the Secretary of Health and the DOH M&E and Data Governance Technical Working Group shall be furnished with a copy of all actions on FOI requests, whether approval or denial.
8. **Approval of Request.** In case of approval, the FRO shall ensure that all records that have been retrieved and considered be checked for possible exemptions, prior to actual release. The FRO shall prepare the letter or email informing the requesting party within the prescribed period that the request was granted and be directed to pay the applicable fees, if any.
9. **Denial of Request.** In case of denial of the request wholly or partially, the FRO shall, within the prescribed period, notify the requesting party of the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of the request to information.

SECTION 6. REMEDIES IN CASE OF DENIAL

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

1. Administrative FOI Appeal to the DOH 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 or from the lapse of the period to respond to the request.
 - a. Denial of a request may be appealed by filing a written appeal to the DOH Central Appeals and Review Committee within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request. The appeal shall be a verified appeal with non-forum shopping certificate to prevent false testimony and avoid multiple appeals of the same facts, issues and parties.
 - b. The appeal shall be decided by the Secretary of Health 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.

The DOH M&E and Data Governance Oversight Committee shall be designated as the DOH Central Appeals and Review Committee for FOI in DOH.

2. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 7. REQUEST TRACKING SYSTEM

The DOH 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.

All FOI requests received by the DOH shall be encoded in the following tracking systems:

1. eFOI.gov.ph; and
2. FOI Registry (excel file prepared by the Department of Information and Communication Technology).

All DOH Bureaus, Regional Offices, Services and selected attached agencies shall submit their accomplished FOI Registry to the DOH M&E and Data Governance TWG every second Monday of the quarter for monitoring and evaluation of FOI implementation.

SECTION 8. FEES

1. **No Request Fee.** The DOH shall not charge any fee for accepting requests for access to information.
2. **Reasonable Cost of Reproduction and Copying of the Information:** The FRO shall immediately notify in writing the requesting party in case there shall be a reproduction and copying fee in order to provide the information. Such fee shall

be the actual amount spent by the DOH in providing the information to the requesting party. An official receipt (OR) shall be issued to the requesting party upon payment of fee and the said OR shall be presented in the releasing of documents.

The schedule of fees shall be posted by the DOH.

3. **Exemption from Fees:** The DOH may exempt any requesting party from payment of fees, upon request stating the valid reason why such requesting party shall not pay the fee.

SECTION 9. ADMINISTRATIVE LIABILITY

1. **Non-compliance with FOI.** Failure to comply with the provisions of this Manual shall be a ground for the following administrative penalties:
 - a. 1st Offense - Reprimand;
 - b. 2nd Offense - Suspension of one (1) to thirty (30) days; and
 - c. 3rd Offense - Dismissal from the service.
2. **Procedure.** The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of cases under this Manual.
3. **Provisions for More Stringent Laws, Rules and Regulations.** Nothing in this Manual shall be construed to derogate from any law, any rules, or regulation prescribed by anybody or agency, which provides for more stringent penalties.

ANNEXES

ANNEX A - FOI FREQUENTLY ASKED QUESTIONS

Introduction to FOI

1. What is FOI?

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

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

2. What is Executive Order No. 2 S. 2016?

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

EO 2 was signed by President Rodrigo Roa Duterte on July 23, 2016.

3. Who oversees the implementation of EO 2?

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

Making a Request

4. Who can make an FOI request?

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

5. What can I ask for under EO on FOI?

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

6. What agencies can we ask for information?

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

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

7. How do I make an FOI request?

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

8. How much does it cost to make an FOI request?

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

9. What will I receive in response to an FOI request?

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

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

10. How long will it take before I get a response?

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

11. What if I never get a response?

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

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

12. What will happen if my request is not granted?

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

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

ANNEX B - DEPARTMENT ORDER 2017- 0236

DEPARTMENT ORDER

No. 2017 - 0236

SUBJECT: Guidelines on the Implementation of the Freedom of Information (FOI) Program and Open Data Initiative (ODI) in the DOH

I. BACKGROUND

The Department of Health (DOH) is committed in enhancing its transparency and accountability through the freedom of information and open governance pursuant to:

- (1) Section 28, Article II of the 1987 Constitution, whereas 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;
- (2) Section 7, Article III of the same Constitution, which guarantees the right of people to information on matters of public concern;
- (3) Data Privacy Act of 2012 (R.A. 10173) and its implementing rules and regulations, which strengthens the fundamental human right of privacy, and of communication while ensuring the free flow of information to promote innovation and growth;
- (4) Executive Order No. 2, series of 2016, which ensures that 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; and
- (5) Philippine Open Government Partnership National Plan 2015 - 2017, which stipulates the commitment of the Philippine government to proactively release government data in open formats

To operationalize the abovementioned provisions in the DOH, there is a need for structures, processes and guidelines that will ensure the effective execution of the Filipinos' right to information.

II. OBJECTIVES

This Order aims to provide guidelines on the operationalization of the constitutional right of the Filipino people to information in the DOH. Specifically, it aims to:

- (1) Establish a management structure for the implementation of the Freedom of Information (FOI) program and Open Data Initiative (ODI) in the DOH; and
- (2) Define and illustrate processes involved in the implementation of the FOI program and ODI in the DOH.

III. SCOPE AND COVERAGE

This Order covers all DOH Bureaus and Services, Regional Offices, DOH special and specialty hospitals, treatment and rehabilitation centers, and attached agencies collectively referred to in this Order as “DOH.”

IV. DEFINITION OF TERMS

1. **FOI or Freedom of Information** - The right of the people to information on matters of public concern, and adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in Executive Order No. 2 s. 2016.
2. **Information** - Any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody 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.
3. **Open Data** – Open Data is data that can be freely used, reused and redistributed by anyone – subject only, at most, to the requirement to attribute and share alike. In order for government data to be fully considered “Open Data”, it shall possess the following characteristics: (1) publicly available and accessible, (2) open, machine-readable, (3) open license, (4) timely, (5) described, and (6) managed post-release.

V. GENERAL GUIDELINES

- (1) The DOH shall recognize the indispensable constitutional right of the Filipino people to information on matters of public concern.
- (2) The DOH shall provide access to information in a manner convenient to the Filipino people (i.e. the public can download/retrieve data in open format without the need to register, log-in or sign-up.)
- (3) The DOH shall aim to fully satisfy FOI requests with legal presumption in favor of access to information, public records and official records. No request for information shall be denied unless the request is invalid or it clearly falls under any of the exceptions enshrined in the Constitution, existing law or jurisprudence or in the inventory of exceptions (Annex D) issued by an authorized government agency. Moreover, the purpose of the request shall not be a basis for denial unless it is contrary to existing laws and/or policies.
- (4) The DOH shall adopt a department-wide Open Data Policy. All datasets published by the DOH shall be in open format by default.

VI. SPECIFIC GUIDELINES

A. Establishment of FOI Unit

An FOI unit shall be created under the Health Policy Development and Planning Bureau (HPDPB). The Unit shall function in line with the Bureau's mission to guarantee evidence-based policies, plans and programs in collaboration with all stakeholders.

The FOI Unit shall also have the following functions:

- (1) Develop policies, plans and programs to effectively promote access of government data in the DOH
- (2) Ensure compliance of DOH Bureaus, Regional Offices and Services, DOH-retained hospitals and attached agencies with the provisions of EO No. 2, s. 2016 and other FOI and ODI policies
- (3) Oversee, manage, monitor and evaluate the operations of the FOI program and ODI in the DOH
- (4) Promote a policy environment supportive of the FOI and ODI, and an attitude of openness through proactive disclosure of data
- (5) Create and maintain the FOI registry and Agency Data Inventory of DOH
- (6) Conduct research and development, and capacity building activities in support of the FOI program and ODI in the DOH
- (7) Engage government agencies, citizens, civil society and the private sector in FOI and ODI efforts; and
- (8) Publish reports and other publications to promote transparency and accountability, evidence-based decision-making, and growth and innovation

B. FOI Officers in the DOH

- (1) **FOI Champion** – The FOI Champion shall have the authority to carry out the roles and functions of the FOI Unit in the DOH. The Director of the HPDPB shall be designated as the DOH's FOI Champion and the head of the FOI unit.
- (2) **FOI Decision Makers** – The FOI Decision Makers (FDM) are responsible for evaluating, clarifying and deciding FOI requests.
 - a. The **Director of the HPDPB** shall be designated as FDM for Policy, Program and Other Technical FOI requests
 - b. The **Director of the Legal Service** shall be designated as FDM for Legal, Financial and Other Administrative FOI requests
- (3) **FOI Receiving Officers** – The FOI Receiving Officers (FROs) shall be responsible in receiving and conducting initial evaluation of FOI requests. FROs shall also be responsible for forwarding the requests to appropriate FOI officers. All Administrative Officers (or their counterpart) shall be designated as the FROs in each office in the DOH.

- (4) **Data Stewards** – Data Stewards are those who have custody of the records requested through the FOI. Data Stewards shall be responsible in processing and providing the requested records to the appropriate FDM. All Heads of DOH Bureaus, Regional Offices and Services, DOH-retained hospitals and attached agencies shall act as the Data Stewards.
- (5) **FOI Central Appeals and Review Committee** – The FOI Central Appeals and Review Committee shall be responsible for monitoring, evaluating, reviewing and resolving FOI appeals and other data governance issues. In relation, the DOH’s Monitoring and Evaluation, and Data Governance Oversight Committee (established by virtue of DPO 2016 – 2630) shall be designated as the FOI Central Appeals and Review Committee in the DOH.

C. Types of FOI Requests

FOI requests can be classified according to (1) the nature of request and (2) the method of submitting the request.

(1) By Nature of Request

- a. **Policy, Program and Other Technical Request** – refers to FOI request on information related to policy or program development and management, including statistical reports of health status and outcomes and the like
- b. **Legal, Financial and Other Administrative Request** -refers to FOI request concerned with the laws, finances, procurement, administration, organization and/or other procedural information in the DOH

(2) By Method of Submission of Request

- a. **Standard FOI Request** – refers to written FOI request submitted through the use of printed FOI request form (Annex E).
- b. **eFOI Request** – refers to electronic FOI requests submitted through the eFOI website (<http://www.foi.gov.ph>)

D. FOI Processes

There are three (3) steps involved in processing FOI requests as follows:

- a. **Step 1: Receipt of requests** – includes the submission of an FOI request by a requesting party, and the receipt of the said FOI request by the FRO either through the use of a printed FOI request form or through the eFOI website
- b. **Step 2: Initial evaluation and processing of requests** – includes the assessment of an FOI request by the FRO, the retrieval and processing of the information requested by the Data Steward, and the transmittal of the request and information to the FDM for decision
- c. **Step 3: Decision and issuance of official response** – includes the issuance of decision and official response to the FOI requests by the FDM in consideration of the list of exceptions and existing laws and jurisprudence

Specific procedures of the steps in processing FOI requests are indicated and illustrated in Annex A for standard FOI request and Annex B for eFOI requests. Moreover, an FOI Manual and People’s Manual reflecting these procedures shall be published and distributed by the FOI Unit.

E. Appeals Process

FOI appeals shall be filed to the FOI Central Appeals and Review Committee in writing or through email within fifteen (15) working days from the notice of decision or from the lapse of the relevant period to respond to the request. The specific steps involved in processing FOI appeals are indicated and illustrated in Annex C.

F. Duty to Proactively Disclose Information and Open Data Initiative

- (1) **Duty to Publish Information.** The DOH shall regularly publish, print and disseminate in an accessible form, in conjunction with Republic Act 9485 Anti-Red Tape Act of 2007, and through their website, timely, true, accurate and updated key information.
- (2) **Accessibility of Language and Form.** The DOH shall translate key information into major Filipino languages and present them in popular form and means.
- (3) **Keeping of Records.** The DOH 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.
- (4) **Open Data by Default.** All datasets created, collected, processed, disseminated, or disposed by the DOH through the use of public funds to the extent permitted by applicable laws and subject to individual privacy, confidentiality, national security, or other legally-mandated restrictions shall be fully disclosed publicly in open formats.

G. Protection of Privacy

DOH shall afford full protection to a person’s right to privacy in compliance with the Data Privacy Act of 2012 (R.A. 10173) and other existing laws and/or policies.

H. Responsible Use of Government Data

Information published by the DOH through its website, FOI platform and/or Open Data portal are provided free for public consumption, and shall be used only in accordance with existing laws, policies, procedures, rules and legal precedents.

VII. PENALTY CLAUSE

All DOH officials, employees, consultants and volunteers shall comply with this Order. Failure to comply with this Order shall be ground for administrative penalties against any erring public officer or employee as allowable by the Revised Rules on Administrative Cases in the Civil Service.

VIII. REPEALING CLAUSE

Other related issuances not consistent with the provisions of this Order are hereby revised, modified, or rescinded accordingly. Nothing in this Order shall be construed as a limitation or modification of existing laws or legal precedents.

IX. EFFECTIVITY DATE

This Order shall take effect immediately.

(Sgd.)PAULYN JEAN B. ROSELL - UBIAL, MD, MPH, CESO III
Secretary of Health

ANNEX C - EXECUTIVE ORDER NO. 02

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 AGENCYS, 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, AGENCYs, 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 AGENCY 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 AGENCY 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.

- (a) 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.
- (b) 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 D - FOI RECEIVING OFFICERS, DATA CUSTODIANS, AND DECISION MAKERS

ANNEX E - DATA GOVERNANCE OVERSIGHT COMMITTEE AND TWG

Republic of the Philippines
Department of Health
Office of the Secretary

19 July 2016

DEPARTMENT PERSONNEL ORDER

No. 2016 - 2630

SUBJECT: Creation of the DOH Monitoring and Evaluation and Data Governance Oversight Committee and Technical Working Group

Monitoring and evaluation is a key component of effective program implementation. With advancements in information and communication technologies, faster collection, consolidation, and analysis and increased reliability of data for planning and decision making is now possible. The increased demand for data has prompted individual DOH programs to develop program-specific information systems. This has resulted to disparate or redundant M&E systems.

An Oversight Committee and Technical Working Group are hereby created to achieve the following objectives:

General Objective:

To facilitate and streamline all activities that promote evidence-based planning and decision-making in the DOH

Specific Objectives:

- a) To raise awareness and encourage a culture of evidence-informed planning and decision-making within the DOH
- b) To ensure efficient, effective and comprehensive monitoring and evaluation activities
- c) To coordinate ICT-enabled M&E Initiatives
- d) To foster data sharing and exchange within the DOH and relevant agencies/partners
- e) To promote transparency and accountability

The expected outputs and outcomes of the Committee and TWG are illustrated in Annex A.

The DOH M&E and Data Governance Oversight Committee shall be composed of Cluster Heads and Directors from the following offices:

Chair: Cluster Head, Office for Policy and Health Systems (OPHS)

Co-Chair: Cluster Head, Office for Technical Services (OTS)

Members:

1. Director, Health Policy Development and Planning Bureau (HPDPB)
2. Director, Epidemiology Bureau (EB)
3. Director, Office for Health Operations (OHO)
4. Director, Knowledge Management and Information Technology Service (KMITS)

5. Director, Bureau of International Health Cooperation (BIHC)
6. Director, Disease Prevention and Control Bureau (DPCB)
7. Director, Bureau of Local Health Systems Development (BLHSD)

Functions:

- a) Ratify and uphold DOH M&E Framework and Plan by DOH offices, partners
- b) Ratify and uphold DOH data governance policies
- c) To elevate and ensure resolution of relevant issues to relevant offices (e.g. SoH/ExeCom, Interagency committee on Statistics, and eHealth Steering Committee)
- d) To endorse sustainability mechanisms for M&E Oversight and Data Governance

The DOH M&E and Data Governance Technical Working Group shall be composed of Division Chiefs and technical staff from the following offices:

1. Division Chief, HPDPB Planning Division
2. Division Chief, HPDPB Research Division
3. Division Chief, KMITS Knowledge Management Division
4. Division Chief, KMITS Systems and Software Engineering Division
5. Division Chief, EB
6. Executive Assistant, OHO
7. Division Chief, BLHSD
8. Division Chief, FHO
9. Division Chief, DPCB

Functions:

- a) To support functions of Oversight Committee
- b) To review existing M&E-related policies, plans, programs and information systems
- c) To evaluate and recommend actions on existing and proposed M&E-related plans/programs, including new information systems, within DOH and with partners
- d) To draft the M&E framework and plan and recommend to Oversight Committee
- e) To draft the data governance agenda and recommend to Oversight Committee
- f) To develop policies on M&E
- g) To recommend sustainability measures for M&E to the Oversight Committee

The following consultants shall assist the Committee and TWG:

1. EpiMetrics
2. Health Sector Performance Monitoring Unit

The DOH M&E and Data Governance Oversight Committee and TWG shall be supported by the Planning Division of Health Policy Development and Planning Bureau as its Technical Secretariat. Furthermore, representatives from other DOH offices, other government, non-government agencies, and industry may be invited to provide inputs as the need arises.

The Oversight Committee shall meet once every quarter and the TWG shall meet once every month.

Under this Order, all expenses incurred by the Oversight Committee and TWG shall be charged to the funds of the Office for Policy and Health Systems subject to usual accounting and auditing rules of their respective agencies.

The newly constituted DOH M&E and Data Governance Oversight Committee and TWG shall perform its functions and responsibilities effective immediately.

(Sgd.) **PAULYN JEAN B. ROSELL-UBIAL, MD, MPH, CESO II**
Secretary of Health

ANNEX F - LIST OF EXCEPTIONS

Exceptions to Right of Access to Information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and

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

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

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

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

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

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

¹⁹ Article 26(2), *Civil Code*.

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

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
 - (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

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).

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*.

- (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;³¹
 - (10) names of students who committed acts of bullying or retaliation;³²
 - (11) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and³³
 - (12) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;³⁴
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers, such as but not limited to the following:
- a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;³⁵
 - b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);³⁶

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

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

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

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

³⁵ Sections 45, 106.1, and 150.2, *The Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372); Section 66.2, *Securities Regulation Code* (RA No. 8799); DOST Administrative Order No. 004-16; Section 142, *The Corporation Code* (BP Blg. 68); Section 34, *Philippine Competition Act* (RA No. 10667); Sections 23 and 27 (c), *The New Central Bank Act* (RA No. 7653); *Anti-Money Laundering Act* (RA No. 9160); Section 18, *Strategic Trade Management Act* (RA No. 10697); Sections 10 and 14, *Safeguard Measures Act* (RA No. 8800); Section 12, *Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990* (RA No. 6969); Article 290, *Revised Penal Code*; Section 10.10, Rule 10, 2012 Revised IRR of *Build-Operate-Transfer Law* (RA No. 6957); and *Revised Philippine Ports Authority Manual of Corporate Governance*.

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.

- 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
- 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

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).

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

- 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:
- 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

⁴⁶Section 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.

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.

- 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
 - 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*);

⁵⁴ Article 237, *Labor Code*.

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

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

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

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

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

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).

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

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

- 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);
 - 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

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.

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

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

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

- 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

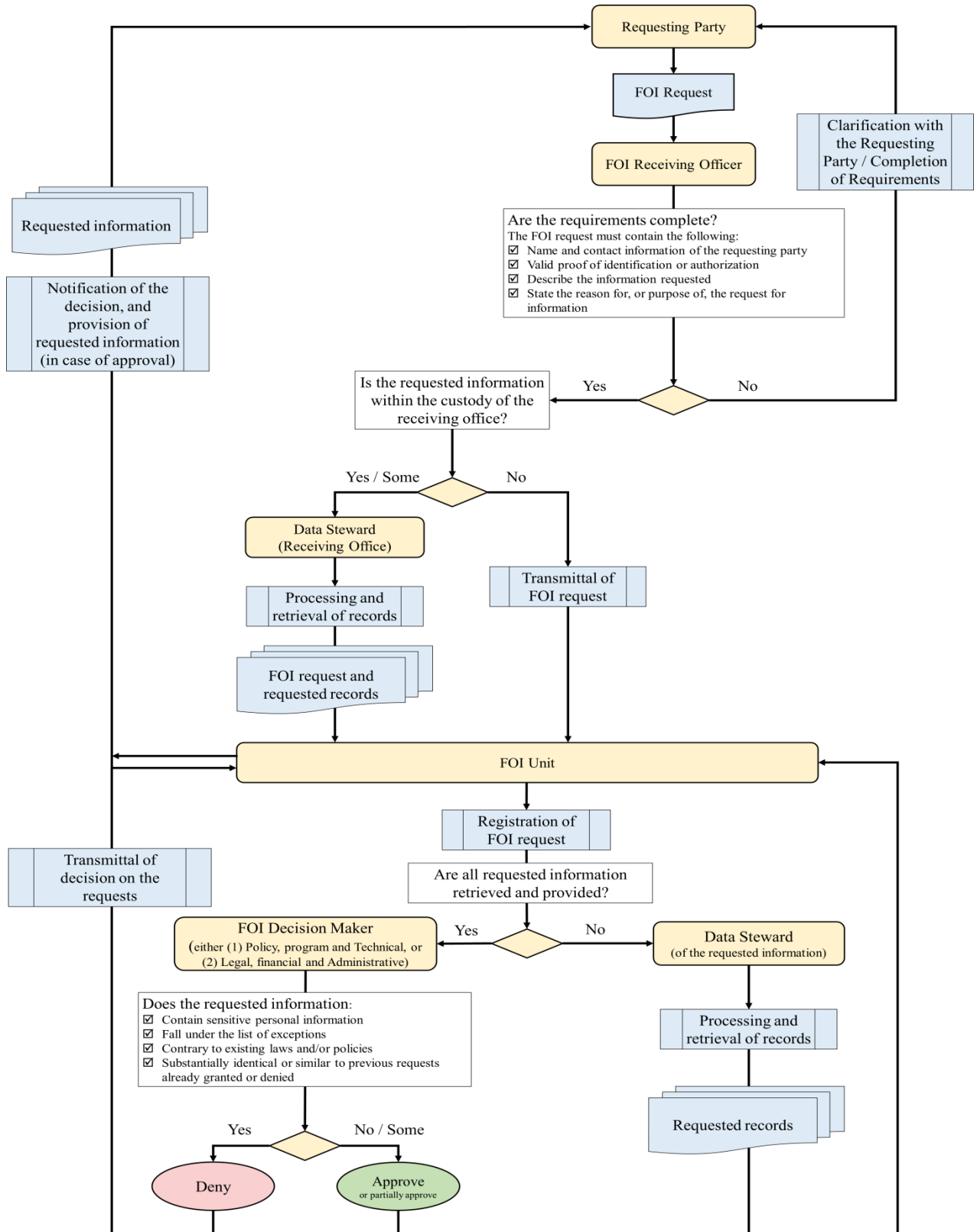
⁶⁹ Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending 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*.

ANNEX G – FLOW CHARTS

ANNEX G-1 -Process Flow for Standard FOI Requests



Step 1: Receipt of Standard FOI Requests

1. The FRO shall receive FOI requests from the requesting party using the FOI request form (Annex E)

- 1.1. In special cases, an email request, verbal request (due to illiteracy or disability), or request on behalf of another person may be allowed if all prescribed requirements in filing an FOI request are supplied or satisfied. These requirements shall be indicated in the FOI Manual.

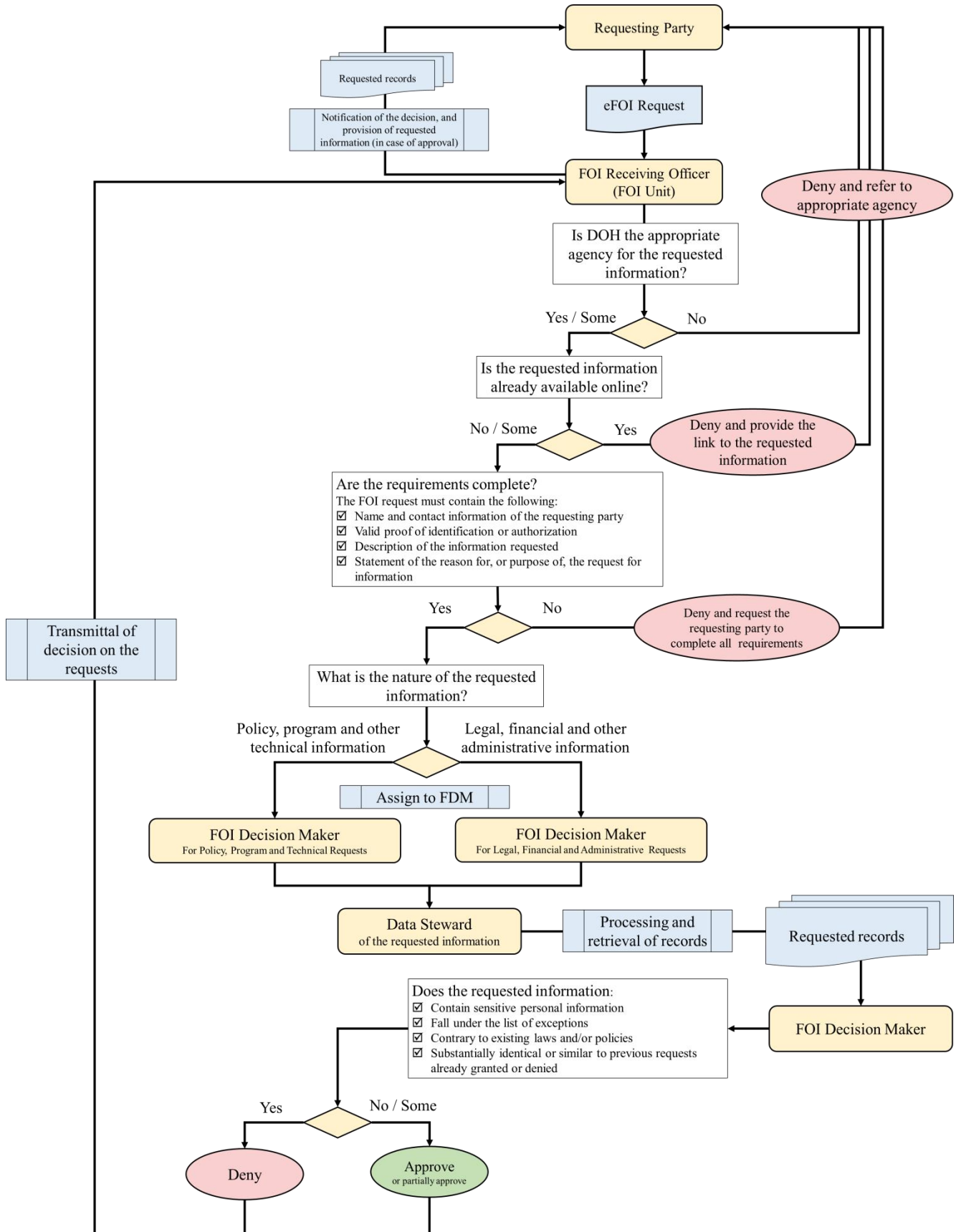
Step 2: Initial Evaluation and Processing of Request

2. The FRO shall evaluate the compliance of the request with the following requirements:
 - The request must be in writing;
 - The request shall state the name and contact information of the requesting party;
 - The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information; and
 - A valid proof of identification or authorization shall be provided
- 2.1. If the request complies with the requirements, the FRO shall assess if the requested records are within the custody of the FRO's office.
 - 2.1.1. If the requested records are within the custody of the office, the FRO shall transmit the request to the Data Steward for immediate processing and retrieval of records. The Data Steward shall then submit the request and the records retrieved to the FOI Unit for registration and decision.
 - 2.1.2. If the requested records are not within the custody of the office, the FRO shall forward the requests to the FOI unit for registration and classification. Once registered and classified, the FOI Unit shall forward the request to the appropriate FDM. The FDM shall issue a memorandum to the Data Steward concerned for processing and retrieval of records. The Data Steward shall then submit the records retrieved to the FDM for decision.
- 2.2. If the request does not comply with the requirements, the FRO shall notify the requesting party that the requests will not be processed unless the requirements are satisfied.

Step 3: Decision and Issuance of Official Response

3. The FDM must consider the following in deciding FOI requests:
 - The information requested contains sensitive personal information protected by R.A.10173.
 - The information requested falls under the list of exceptions
 - The request is contrary to existing laws and/or policies
 - The request is substantially identical or similar to previous requests already granted or denied
4. Once the FDM approved or denied the request, the FDM shall issue an official response to the requesting party either in writing or by email.
5. The FDM shall furnish the FOI Unit and the DOH FOI Central Appeals and Review Committee with a copy of all actions on the FOI request, whether approval or denial.

ANNEX G-2 -Process Flow for eFOI Requests



Step 1: Receipt of eFOI Requests

1. The FRO of the FOI Unit shall receive all FOI requests filed through the FOI portal

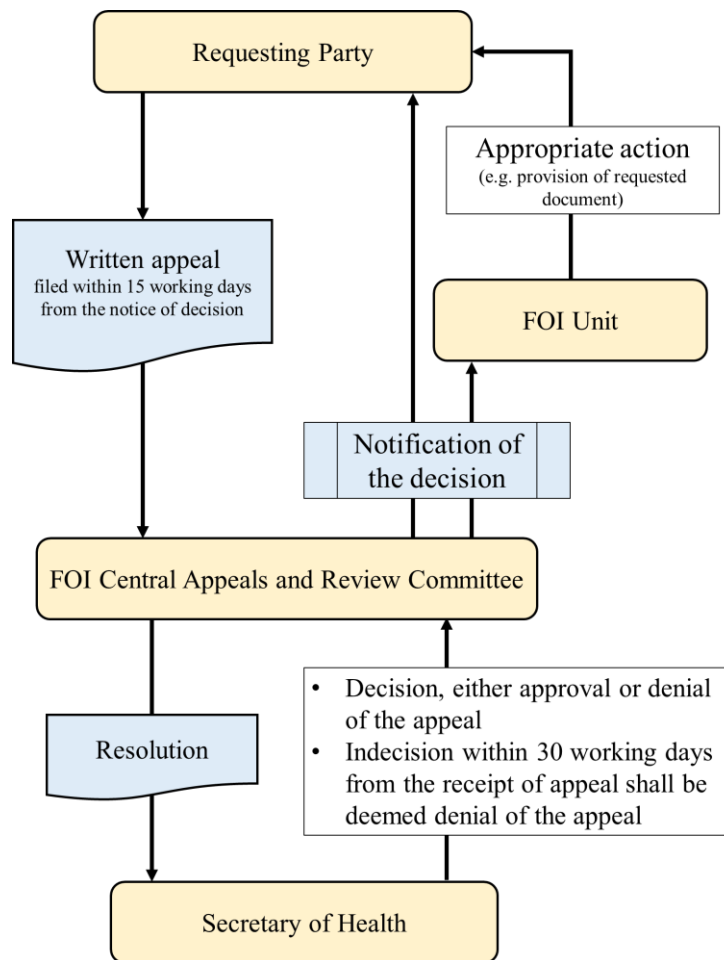
Step 2: Initial Evaluation and Processing of Requests

2. The FRO shall assess whether DOH is the appropriate agency for the requested information.
 - 2.1. If yes, proceed to No. 3.
 - 2.2. If no, the request shall be denied and the requesting party shall be referred to the appropriate agency.
3. The FRO shall assess whether the requested information is already available online.
 - 3.1. If yes, the request shall be denied but the FRO shall provide the exact link where the information can be found.
 - 3.2. If no, proceed to No. 4.
4. The FRO shall evaluate the compliance of the request with the following requirements:
 - The request shall state the name and contact information of the requesting party;
 - The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information; and
 - A valid proof of identification or authorization shall be provided
 - 4.1. If the request complies with the requirements, the FRO shall classify the request by the nature of the FOI requests, either (1) Policy, program and other technical requests or (2) Legal, financial and other administrative requests, and forward it to the appropriate FDM.
 - 4.1.1. The FDM shall forward the requests to the respective Data Steward for processing and retrieval of requested information. The Data Steward shall process and retrieve the requested information. Once retrieved, the Data Steward shall then submit the requests and the information to the FDM for decision.
 - 4.2. If the request does not comply with the requirements, the FRO shall deny the request and notify the requesting party that the requests will not be processed unless the requirements are satisfied.

Step 3: Decision and Issuance of Official Response

5. The FDM must consider the following in deciding FOI requests:
 - The information requested contains sensitive personal information protected by R.A.10173.
 - The information requested falls under the list of exceptions
 - The request is contrary to existing laws and/or policies
 - The request is substantially identical or similar to previous requests already granted or denied
6. Once the FDM approved or denied the request, the FDM shall issue an official response to the requesting party through the FOI website.
7. The FDM shall furnish the FOI Unit and the DOH FOI Central Appeals and Review Committee with a copy of all actions on the FOI request, whether approval or denial.

ANNEX G-3 -Process Flow for FOI Appeals



1. The requesting party shall file an appeal to the FOI Central Appeals and Review Committee in writing or through email within fifteen (15) working days from the notice of decision or from the lapse of the relevant period to respond to the request. The appeal shall be addressed to:

Undersecretary of Health, Office for Policy and Health Systems
Chair, DOH M&E and Data Governance Oversight Committee
Department of Health

2nd floor, Building 3, San Lazaro Compound, Rizal Avenue, Sta. Cruz 1003, Manila
Email: medatagov.doh@gmail.com

2. The Committee shall resolve appeals and issue resolutions subject to the approval of the Secretary of the Health within 30 working days from the filing of the appeal.
3. Failure to decide within the 30-day period shall be deemed a denial of the appeal.
4. The requesting party shall be notified of the decision on his/her appeal as soon as practicable, or within 15 working days from the issuance of the decision.
5. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

ANNEX H – FOI REQUEST FORM



FREEDOM OF INFORMATION REQUEST FORM

IMPORTANT – Please read this information carefully before you complete the FOI request form. Once you have completed your request we **strongly advise** that you keep a copy for your records.

What is Executive Order No.2 s. 2016?

On July 23, 2016, President Rodrigo Roa Duterte signed Executive Order No. 2, also known as the Freedom of Information (FOI) Executive Order (EO). It upholds the constitutional right of people to information on matters of public concern.

The Executive Order covers all government offices under the Executive Branch, including government-owned or -controlled corporations (GOCCs) and state universities and colleges (SUCs). It requires all executive departments, agencies, bureaus, and offices to make public records, contracts, transactions and any information requested by a member of the public, except for sensitive information and matters affecting national security.

What is Freedom of Information?

The FOI EO is an important enabling mechanism to promote transparency in the government's administrative process. Through FOI, citizens are empowered to make a formal request to get information held by the government, barring certain sensitive and important data related to the nation's security. The FOI complements continuing proactive information disclosure efforts where agencies are duty-bound to publish information in the spirit of openness and transparency.

Freedom of Information is an integral element of President Duterte's Good Governance Plan aligned to reforms and initiatives that pursue greater transparency, accountability, and citizen participation in governance.

Who is overseeing the implementation of FOI Executive Order No. 2?

The Office of the President through the Presidential Communications Operations Office (PCOO) is over-seeing the implementation and operationalization of the FOI program. PCOO is also responsible for monitoring compliance and performance of all government agencies.

MAKING AN FOI REQUEST

Who can make an FOI request?

Under the FOI EO, any Filipino citizen can make an FOI request. As a matter of policy, requesting parties are required to present proof of identification (e.g., passport, driver's license, SSS ID, voters ID) in the submission of an FOI request.

Which agencies can I request information from?

An FOI request can be made to any government office 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.

What is the procedure for making a valid FOI request?

To make a valid request, you must:

- Place your request in writing. Ensure to state your full name, contact information and provide a valid copy of your government-issued ID as proof of your identity. You can use the attached form or send a letter detailing your request submitted directly to the concerned agency or by email;
- Describe in detail the documents you wish to access; and
- Include the preferred mode of communication in order to be alerted about the status of your request, as well the preferred mode of receiving the documents, should your request be granted.

FEES

How much does it cost to make an FOI request?

There are **NO FEES** for making an FOI request. An agency however, may charge a reasonable fee for necessary costs associated with processing a request - including costs of printing, delivery, reproduction and/or photocopying.

NOTE: Use of this FOI request form is optional. Any written format for a Freedom of Information request is acceptable.

PROCESSING TIMES

When can I expect to receive a response to an FOI request?

Under the FOI EO, the standard processing time is fifteen (15) working days. During this time, you will be contacted regarding your FOI request through your preferred mode of communication.

If your request is granted, you can expect to receive the documents either through regular mail or email, or be requested to collect the documents at the office you had applied to. Otherwise, the agency will explain why your request is delayed or denied.

Can an agency request for a time extension?

In some cases, an agency may need more time to review your request and thereby inform you of an extension of processing period. Under such circumstances, an agency is permitted to extend an additional twenty (20) working days should the need arise.

Can I have my request expedited?

There is no process by which requests can be expedited. All requests will be reviewed equally on a case-by-case basis and allotted the fifteen (15) working day processing period from the time of receipt.

COMPLAINTS HANDLING

What if you are not happy with how the agency has handled your request?

Denial of any request for access to information may be appealed to the person or office next higher in the authority, following the procedure indicated in the Agency FOI Manual; provided that the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.

The appeal will 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.

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.

IMPORTANT INFORMATION

Privacy

Once deemed valid, your information from your application will be used by the agency you have applied to, to deal with your application as set out in the Freedom of Information Executive Order No. 2.

If the agency gives you access to a document, and if the document contains no personal information about you, the document may be published online in the Agency's disclosure log, along with your name and the date you applied, and, if another person, company or body will use or benefit from the documents sought, the name of that person, entity or body.

Copyright

According to Sec. 176.1 of the Intellectual Property Code of the Philippines (RA No. 8293, as amended), No copyright shall subsist in any work of the Government of the Philippines. However, prior approval of the government agency or office wherein the work is created shall be necessary for exploitation of such work for profit. Such agency or office may, among other things, impose as a condition the payment of royalties. No prior approval or conditions shall be required for the use of any purpose of statutes, rules and regulations, and speeches, lectures, sermons, addresses, and dissertations, pronounced, read or rendered in courts of justice, before administrative agencies, in deliberative assemblies and in meetings

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FOI Tracking Number:



FREEDOM OF INFORMATION REQUEST FORM

(Pursuant to Executive Order No. 2, s. 2016)
(as of November 2016)

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

A. Requesting Party

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

| | | |
|---|--|------------|
| 1. Title <i>(e.g. Mr, Mrs, Ms, Miss)</i> | 2. Given Name/s <i>(including M.I.)</i> | 3. Surname |
| _____ | ◀ _____ | ◀ _____ |
| 4. Complete Address <i>(Apt/House Number, Street, City/Municipality, Province)</i> | | |
| ◀ _____ | | |
| 5. Landline/Fax | 6. Mobile | 7. Email |
| _____ | ◀ _____ | _____ |
| 8. Preferred Mode of Communication | <input type="checkbox"/> Landline <input type="checkbox"/> Mobile Number <input type="checkbox"/> Email <input type="checkbox"/> Postal Address | |
| | <i>(If your request is successful, we will be sending the documents to you in this manner.)</i> | |
| 9. Preferred Mode of Reply | <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Postal Address <input type="checkbox"/> Pick-Up at Agency | |
| 10. Type of ID Given <i>(Please ensure your IDs contain your photo and signature)</i> | <input type="checkbox"/> Passport <input type="checkbox"/> Driver's License <input type="checkbox"/> SSS ID <input type="checkbox"/> Postal ID <input type="checkbox"/> Voter's ID | |
| | <input type="checkbox"/> School ID <input type="checkbox"/> Company ID <input type="checkbox"/> Others _____ | |

B. Requested Information

| | | |
|--|---------|---------|
| 11. Agency - Connecting Agency <i>(if applicable)</i> | ◀ _____ | ◀ _____ |
| 12. Title of Document/Record Requested <i>(Please be as detailed as possible)</i> | ◀ _____ | |
| 13. Date or Period <i>(DD/MM/YY)</i> | ◀ _____ | |
| 14. Purpose | ◀ _____ | |
| | _____ | |
| | _____ | |
| 15. Document Type | ◀ _____ | |
| 16. Reference Numbers <i>(if known)</i> | ◀ _____ | |
| 17. Any other Relevant Information | ◀ _____ | |

C. Declaration

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

I declare that:

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

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

Signature

Date Accomplished (DD/MM/YYYY)

D. FOI Receiving Officer [INTERNAL USE ONLY]

Name (Print name)

Agency - Connecting Agency (if applicable, otherwise N/A)

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

Proof of ID Presented (Photocopies of original should be attached) Passport Driver's License SSS ID Postal ID Voter's ID School ID Company ID Others

The request is recommended to be: Approved Denied

If Denied, please tick the Reason for the Denial Invalid Request Incomplete Data already available online

Second Receiving Officer Assigned (print name)

Decision Maker Assigned to Application (print name)

Decision on Application Successful Partially Successful Denied Cost

If Denied, please tick the Reason for the Denial Invalid Request Incomplete Data already available online

Exception Which Exception?

Date Request Finished (DD/MM/YYYY)

Date Documents (if any) Sent (DD/MM/YYYY)

FOI Registry Accomplished Yes No

RO Signature

Date (DD/MM/YYYY)

ANNEX I-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 I-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 I-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 <insert name of Secretary and postal / e-mail address>. 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 appeal to the Office of the President under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX I-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 <insert name of Secretary and postal / e-mail address>. 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 appeal to the Office of the President under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX I-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 <insert name of Secretary and postal / e-mail address>. 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 appeal to the Office of the President under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX I-6 - FOI RESPONSE TEMPLATE – IDENTICAL REQUEST

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 the information you have requested because it is substantially similar or identical to a previous request that you made on <insert date of previous request>, which we responded to on <insert date of response>.

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 <insert name of Secretary and postal / e-mail address>. 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 appeal to the Office of the President under Administrative Order No. 22 (s. 2011).

Thank you.

Respectfully,

FOI Receiving Officer

ALL FOR HEALTH
TOWARDS
HEALTH FOR ALL

DEPARTMENT OF HEALTH

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