



DEPARTMENT ORDER NO. 2022 - 016

REVISED DEPARTMENT OF TOURISM FREEDOM OF INFORMATION MANUAL

WHEREAS, Executive Order (E.O.) No. 2 s. 2016 mandates all agencies in the Executive Branch to establish their respective Freedom of Information (FOI) Manual pursuant to the right of the people to information on matters of public concern as enshrined in the 1987 Constitution;

WHEREAS, Republic Act No. 6713 or the *Code of Conduct and Ethical Standards for Public Officials and Employees* adopts a policy of transparency and accountability for acts or transactions of the government;

WHEREAS, Rule IV, Section 3 of its Implementing Rules and Regulations provides that all public officials and employees are obliged to make public documents accessible to, and readily available for inspection by the public within reasonable working hours subject to such exceptions as may be provided by the Constitution, laws, and jurisprudence;

WHEREAS, the Department of Tourism (DOT) issued Department Order No. 2019-115 or the *DOT FOI Manual* on 29 November 2019 as a guide to DOT officials, employees, and the general public in the processing of any request for information under E.O. No. 2 s. 2016;

WHEREAS, the Presidential Communications Operations Office (PCOO) issued Freedom of Information (FOI) Memorandum Circular (FOI-M.C.) No. 21-03 on 14 July 2021 prescribing the retention period of personal information and sensitive personal information gathered through the standard FOI request form and electronic FOI (eFOI) portal;

WHEREAS, the PCOO issued FOI M.C. No. 21-04 on 14 July 2021 mandating the de-identification or anonymization of requesters' personal information in the eFOI portal otherwise known as the *Policy on "Anonymization"*;

WHEREAS, the PCOO issued FOI M.C. No. 21-05 on 27 August 2021 prescribing the guidelines on the referral of requested information, official record/s and public record/s to the appropriate government agency otherwise known as the *"No Wrong Door Policy for FOI"*;

NOW, THEREFORE, to comply with the issuances mentioned above, the DOT FOI Manual is hereby revised as follows:

I. GENERAL PROVISIONS

Section 1. Purpose. This Manual (also herein referred to as "FOI Manual") is issued pursuant to Section 8 of Executive Order No. 02, series of 2016. "Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor" (**ANNEX A**), and provide detailed procedures for guidance to officers and personnel concerned for the effective implementation thereof.

Section 2. Coverage. This Manual shall cover all requests for information directed to the Department of Tourism (DOT or Department) including the Regional Offices following the prescribed procedures set forth herein. The attached agencies of the Department shall have their respective FOI Manual.

Section 3. Protection of Privacy. While providing access to information, the DOT shall afford full protection to a person's right to privacy as mandated by the Data Privacy Act of 2021, as follows:

- a. It shall ensure that personal information, particularly sensitive personal information, in its custody or under its control is disclosed only as permitted under the law;
- b. It shall protect personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks, premature disclosure, or unwarranted disclosure which would unduly expose the requesting party to vilification, harassment, or any other wrongful act;
- c. Any official or employee who has access, whether authorized or unauthorized, to personal information in the custody of the Department shall not disclose that information except as authorized by existing law;
- d. Personal and sensitive personal information processed by the Department for the purpose of making an FOI request shall be retained for two (2) years and shall be disposed in a secure manner that shall prevent further processing, unauthorized access or disclosure to any other party or public, or prejudice the interests of the requesting party.¹

II. DEFINITION OF TERMS

Section 4. Definition of Terms. The following terms shall refer to:

- a. **Administrative FOI Appeal** – The procedure for appealing an unfavorable or adverse action by the FOI Decision Maker on an FOI request. Requesting parties who are dissatisfied with the action taken by the FOI Decision Maker on their FOI request have a right to appeal such unfavorable or adverse action to the FOI Appeals and Review Committee, who shall then conduct a review of said appeal.
- b. **Exceptions to FOI** – Those class of privileged information that are outside the scope of the constitutional right to information and which may not be released or disclosed to the public, as provided under the Constitution, laws or jurisprudence.
- c. **FOI Appeals and Review Committee** – The body which decides appeals from action of the FOI Decision Maker, and has authority to affirm, reverse, or modify such action.
- d. **FOI Decision Maker (FDM)** – The person who has overall responsibility for the final decision on FOI requests made to his/her office.
- e. **FOI Focal Person (FFP)** – The Heads of Divisions in the Central Office and the Regional Directors in the Regional Offices who shall take the necessary steps to retrieve and provide the information requested from their offices.

¹ FOI-MC No. 2021-03 or the Retention Period of Personal Information and Sensitive Personal Information Gathered through the Standard FOI Request Form and Electronic Freedom of Information (E-FOI) Portal

- f. **FOI Receiving Officer (FRO)** – The designated person where the public may file or submit FOI requests, inquire about the FOI process and the status of pending FOI requests.
- g. **FOI Request** – A request by any person submitted to a government office, personally or by other electronic means, requesting information or public records as defined herein.
- h. **Freedom of Information (FOI)** – Pertains to the right of the people to information on matters of public concerns, subject to the limitations established by law.
- i. **Fully compliant FOI Request** – An FOI request which fully complies with the formalities set forth by this People’s FOI Manual.
- j. **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, and 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 of transaction of official business by any government office.
- k. **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.
- l. **Personal Information** – Any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.
- m. **Public Records** – This include information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by a government office.
- n. **Sensitive Personal Information** – As defined in Republic Act No. 10173 or the *Data Privacy Act of 2012*, refers to personal information:
 - i. About an individual’s race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
 - ii. About an individual’s health, education, genetic or sexual life of a person, or to any proceedings for any offense or alleged to have committed by such person, the disposal of such proceedings or the sentence of any court in such proceedings;
 - iii. Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns;

Specifically established by an executive order or an act of Congress to be kept classified.

- o. **Vexatious FOI Request**- An FOI request which is frivolous, malicious, made in bad faith, intends to harass, vilify or embarrass or if it poses an actual or imminent danger to the office, its officials or employees

III. PROMOTION OF OPENNESS IN GOVERNMENT

Section 5. Duty to Publish Information. The Department shall regularly publish, print, and disseminate at no cost to the public and in accessible form, in conjunction with Republic Act No. 11032 or the *Ease of Doing Business and Efficient Government Service Delivery Act of 2018*, and through its website, timely, true, accurate, and updated key information including, but not limited to:

- a. A description of its mandate, structure, powers, functions, duties and decision-making processes;
- b. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
- c. The names of its key officials, their functions, and their profiles;
- d. Important rules and regulations;
- e. Updated tourism related database and statistics that it generates;
- f. Bidding processes and requirements; and,
- g. Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.

Section 6. Accessibility of Language and Form. The Department shall endeavor to translate key information into Filipino and English and present them in popular form and means accessible to the general public.

Section 7. Keeping of Records. The Department shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation of records, policies, transactions, decisions, enactments, actions, procedures, operations, activities, communications, and documents received or filed with them and the data generated or collected.

IV. FUNCTIONS OF FOI OFFICES, OFFICIALS, AND EMPLOYEES

Section 8. FOI Receiving Officer (FRO). The Head of the Records and Communications Section shall be the designated FRO of the Department whose functions shall include:

- a. Receiving on behalf of the Department all requests for information and forwarding the same to the appropriate office with custody of the records;
- b. Monitoring of all FOI requests and appeals;
- c. Providing assistance to the FOI Decision Maker;

- d. Providing assistance and support to the public and staff with regard to FOI;
- e. Compiling statistical information as may be required; and
- f. Conducting initial evaluation of the FOI request and advising the requesting party whether the request will be forwarded to the FOI Decision Maker for further evaluation, or denied.

Section 9. FOI Decision Maker (FDM). The Director of the Legal Affairs Service shall be the designated FDM of the Department who shall evaluate the request for information and has authority to grant, or deny it based on the following grounds:

- a. The information requested is personal or sensitive personal information protected by the Data Privacy Act of 2012;
- b. The information requested falls under the list of exceptions to FOI;
- c. 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 Department;
- d. The request is Vexatious FOI Request;²
- e. Reason for the request is contrary to the Constitution, pertinent laws, and existing rules and regulations.³

Section 10. FOI Focal Person (FFP). Heads of Divisions in the Central Office and Regional Directors in the Regional Offices shall be the designated FFP who shall take all necessary steps to retrieve and provide the information requested from their respective offices.

Section 11. FOI Appeals and Review Committee. There shall be an FOI Appeals and Review Committee composed of three (3) officials with a rank not lower than a Director or its equivalent, designated by the Head of the Department that shall review appeals with respect to denied information requests, and recommend appropriate action by the Head of Agency thereon.

Section 12. Display of FOI Officials' Contact Details. The names and official contact information of the FRO, FDM, and the members of the FOI Appeals and Review Committee shall be conspicuously displayed outside the FRO's office for the public's viewing. Any change of information pertaining to the FRO, FDM, and the members of the FOI Appeals and Review Committee shall likewise be posted in the same manner.

V. STANDARD PROCEDURE

Section 13. Filing and Content of the FOI Request.

- 13.1. **Requisites of an FOI Request** – An FOI request must be made in writing and shall comply with the requisites set forth in this Manual.

² FOI-MC No. 05 s. 2020 or Guidelines on Vexatious Freedom of Information Requests and Abuse of Rights Thereunder

³ Section 4, FOI-MC No. 21-05 or the Guidelines on the Referral of Requested Information, Official Record/s and Public Record/s to the Appropriate Government Agency Otherwise Known as the "No Wrong Door Policy for FOI"

- 13.2. **FOI Request Form** – A person or party making an FOI request shall use the standard FOI Request Form (**ANNEX D**) and submit two (2) copies thereof. The original shall be kept by the FRO, while the copy shall be returned to the requesting party.

The standard FOI Request Form shall be available free of charge upon request from the FRO. An FOI request shall only be considered valid when accompanied by the standard FOI Request Form for manual or physical FOI requests.

- 13.3. **Contents** – An FOI request shall contain the following:

- a. Details of the requesting party, such as name, contact information, affiliation, company or organization;
- b. Reasonable description of the information requested;
- c. Specific reason for, or purpose of, the request for information;

- 13.4. **Purpose of Request** – For purposes of this Manual, the reason for or purpose of the request for information shall be specific or adequately and sufficiently described. The following general averments of the purpose such as “For information”, “for research”, “for legal purposes” or other similarly worded purpose shall not be considered to have met the requirement of specificity. Failure to specify the reason for or purpose of the request for information, despite the request by the FRO to provide a specific reason or purpose, shall be a ground for denial of the FOI request.

- 13.5. **Identification and Proof of Authority** – A requesting party shall attach to his or her FOI request the following:

- a. A valid government I.D. containing the photograph and signature of the requesting party;
- b. If the request is made through a representative, in addition to Section 13 (c) (iv), the written authorization of the principal and a valid government I.D. containing the photograph and signature of such representative;
- c. If the requesting party is a juridical entity, original or certified true copy of board resolution, corporate secretary’s certificate, or other acceptable written document showing the authority of the representative to act in behalf of such juridical entity; and
- d. If the requesting party is a natural person who is a member, employee, affiliated with or related to juridical entity, company, or organization, and the request is made not in behalf of such juridical entity, a company, or organization but arises from such membership, affiliation or relation, such other sufficient proof of authority.

For example, for an employee or member, a copy of the company or organization I.D.; or for students, a copy of the school I.D., or written indorsement of the supervising teacher, professor, or instructor.

- 13.6. **Mode of Request** – FOI requests may be made through registered mail, personal service for manual FOI transactions, electronic mail (e-mail) or through the eFOI portal for online FOI transactions, provided, that the requesting party shall provide all the required information and attach the supporting documents.

- 13.7. **Reasonable Assistance** – The FRO shall provide reasonable assistance, free of charge, to enable all requesting parties and particularly those with special needs, to comply with the request requirements, without prejudice to Section 20 of this Manual. In case the requesting party is unable to make a written request, he or she may make an oral request, and the FRO shall reduce it in writing. Reasonable assistance shall not cover reproduction costs of the requesting party's copy of the FOI request and the supporting documents.
- 13.8. **Exceptional Situations** – In meritorious cases, the FRO may accept an FOI request which lacks the standard FOI Request Form, provided that the FOI request contains all the required information and complies with the other requirements of an FOI request as provided in this Section.

Section 14. Time to Respond to FOI Requests

- 14.1. The Department shall respond to requests for access to information within fifteen (15) working days from the date of receipt of a fully compliant FOI request. For clarity, the period to respond to FOI requests shall not commence unless the request is a fully compliant FOI request.
- 14.2. A working day is any day other than a Saturday, Sunday, or a day which is declared a national public holiday in the Philippines.
- 14.3. For purposes of computing the fifteen (15) working days, the date of receipt of the FOI shall be reckoned as follows:
 - a. If made personally, the date actually filed and stamped "received" by the FRO;
 - b. If made by registered mail, the date of actual receipt of the request by the FRO;
 - c. If made through the eFOI portal, the date it was actually lodged in the portal if the same arrived before the end of regular office hours. Requests received after the regular office hours shall be considered received on the next working day;
 - d. Where the FRO has requested the requesting party for further details to identify and locate the requested information, the date on which the necessary clarification to the satisfaction of the FRO received shall be the date of the receipt.

Section 15. Initial Action Upon Receipt of the FOI Request

- 15.1. **Initial Evaluation** – Upon receipt of the FOI request, the FRO shall ascertain whether the request is a fully compliant FOI request in accordance with the requirements provided under Section 13.
- 15.2. **Grounds for Denial During Initial Evaluation** – During the initial evaluation by the FRO, the request may be denied on the following grounds:
 - a. **Non-Compliant FOI Request** – The FRO shall only accept a fully compliant FOI request, and shall not accept a request that lacks any of the required contents or documents in Section 13 hereof.

The requesting party shall be advised of the deficiency with instructions to comply with the deficiency as soon as practicable.

In case the request lacks any of the requirements in Section 13, the FRO may consider other relevant document or evidence as the circumstances may warrant or waive any requirement, upon showing of meritorious grounds.

- b. **Requested information has already been publicly disclosed** – When the information being requested has already been publicly disclosed such as when the information is publicly available in the DOT website, or other websites, the FRO shall inform the requesting party of the said fact and provide them the website link where the information is posted.
 - c. **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 requesting party which request has already been previously granted or denied, the request shall be denied unless the requesting party can provide justifiable explanation for the subsequent request.
- 15.3. **Period to Advise Requesting Party of Denial Based on Initial Evaluation** – The FRO shall, within fifteen (15) working days from receipt of the request, advise the requesting party of denial of the request, specifying the ground for denial in Section 15 (2) hereof.
- 15.4. **Request for Clarification** – The FRO may likewise request for clarification from the requesting party to identify or locate the requested information. The clarification shall toll the running of the fifteen (15) working day-period and the period shall commence anew the day after the required clarification is received by the FRO.
- 15.5. **When Request for Information Received by an Office other than the FRO** – If an FOI request is received by an office other than the FRO, the FFP of such receiving office shall:
- a. Transmit the FOI request to the FRO within two (2) working days from receipt of such request; and
 - b. Advise the requesting party of the transfer to the FRO immediately after such transfer.
- 15.6. **Ascertaining Identity of the Requesting Party** – The FRO shall, using available resources and bearing in mind the time constraints, ascertain and verify the identity of the requesting party to avoid requests from fictitious persons.

Section 16. Determination of and Transmittal to the FDM – Upon determination that the request is a fully compliant FOI request, the FRO shall proceed to determine whether the Department has custody or possession of the requested information.

- 16.1 After ascertaining that the information requested is in possession of the Department, the FRO shall forward the request to the FDM within one (1) day from receipt of such request. The FRO shall record the date and time in a tracking system.
- 16.2. If some of the requested information is not under the custody of the offices under the Department, the FRO shall observe the procedure in Section 17.6.

Section 17. Evaluation and Action by the FDM – Upon receipt of the FOI request from the FRO, the FDM shall ascertain whether the information requested is in the possession or custody of the Department and determine whether there are grounds for the denial of the requested information.

17.1. **Request for Clarification** – If the FDM requires clarification or further details to identify or locate the information requested, he or she shall seek clarification from the requesting party. The clarification shall toll the running of the fifteen (15) working days, which shall commence anew the day after the required clarification is received by the FDM.

17.2. **Request for Extension of Time** – If the information requested requires extensive search of the government's office records facilities, examination of voluminous records, or cannot be easily retrieved due to occurrence of fortuitous events or analogous cases, the FDM shall, within ten (10) working days from receipt of the request, inform the requesting party of the extension, setting forth the reasons for such extension.

In no case shall the extension exceed twenty (2) working days on top of the mandated fifteen (15) working days to act on the request, unless exceptional circumstances warrant a longer period.

17.3. **Approval of Request** – In case of approval, the FDM shall forward the request to the FFP concerned who shall ensure that the complete information requested is submitted to the FDM within ten (10) days upon receipt of such request.

17.4. **Denial of Request** – In case of denial of the request, whether wholly or partially, the FDM shall 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. The notice shall also include the requestor's right to appeal the denial and the procedure for filing the same as provided in Section 18 hereof.

Failure to notify the requesting party of the action taken on the request within the prescribed period shall be deemed a denial of the request for access to information.

17.5. **Grounds for Denial** – An FOI request may be denied based on the following grounds:

- a. The information requested is personal or sensitive personal information protected by the Data Privacy Act of 2012;
- b. The information requested falls under the Exceptions to FOI;
- c. 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;
- d. The request is a Vexatious FOI Request; or
- e. Reason for the request is contrary to the Constitution, pertinent laws, and existing rules and regulations.

17.6. **No Wrong Door Policy; Referral to other Agency** – If, after exercising due diligence, the FRO or FDM finds that the requested information is not in the custody or possession of the Department, the FRO or FDM shall refer the request to the appropriate government agency within three (3) working days.

In case where another agency has erroneously referred an FOI request to the Department, the FRO or FDM shall immediately notify the former as well as the requesting party, that the information requested is not available in the Department.

The FRO or FDM, to whom the request was referred may subsequently refer the request to another agency under the procedure set forth in the first paragraph of this sub-Section.

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

- 17.7. **Release of Requested Information** – In case where a request for information has been granted, the requested information shall be released via mail or courier service, e-mail, or through the eFOI portal, whichever is most convenient.
- 17.8. **Exceptions to FOI** – The list of exceptions to FOI is attached as **ANNEX B** of this Manual.
- 17.9. **Redaction** – If the information, document, or record requested contains information which may not be disclosed and other information which are covered by the Exceptions to FOI such as personal information or sensitive personal information protected under the Data Privacy Act of 2021, the FDM shall redact the information excepted prior to the release of the requested information, document, or record.

VI. REMEDIES IN CASE OF DENIAL

Section 18. A person whose FOI request has been denied by the FRO or FDM may appeal said denial to the FOI 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 decided by the Committee within thirty (30) days from the filing thereof. Failure to decide within the 30-day period shall be deemed an approval of the appeal. The decision of the Committee will be final and cannot be appealed.

VII. FEES

Section 19. No Request Fee. The Department shall not charge any fee for accepting FOI requests.

Section 20. Reasonable Cost of Printing or Reproduction of the Information. The FRO shall immediately notify 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 Department in providing the information to the requesting party.

Section 21. Exemption from Fees. The Department may exempt any requesting party from payment of fees upon request and under meritorious reasons.

VIII. ADMINISTRATIVE LIABILITY

Section 22. Failure to comply with the provisions of this Manual shall be a ground for the imposition of administrative and disciplinary sanctions against the erring official or employee after notice and hearing as provided under existing laws and regulations.

IX. EFFECTIVITY AND SEPARABILITY

Section 23. Repealing Clause. Department Order No. 2019-115 and all other circulars, orders, resolutions and rules and regulations inconsistent with this Order are hereby repealed, modified, or amended accordingly.

Section 24. Separability Clause. If any provision of this Order or the application of such provision to any circumstance is held invalid by competent authority, the remainder of this Order shall remain in full force and effect.

Section 25. Effectivity. This Order shall take effect immediately upon posting in the DOT official website.

20 January 2022


BERNADETTE ROMULO-PUYAT
Secretary



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

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

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

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

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

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

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

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

(a) "Information" shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.

(b) "Official record/records" shall refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function

or duty.
(c) "Public record/records" shall include information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by a government office.

SECTION 2. Coverage. This order shall cover all government offices under the Executive Branch, including but not limited to the national government and all its offices, departments, bureaus, offices, and instrumentalities, including government-owned or -controlled corporations, and state universities and colleges. Local government units (LGUs) are encouraged to observe and be guided by this Order.

SECTION 3. Access to information. Every Filipino shall have access to information, official records, public records and to documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development.

SECTION 4. Exception. Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing law or jurisprudence.

The Department of Justice and the Office of the Solicitor General are hereby directed to prepare an inventory of such exceptions and submit the same to the Office of the President within thirty (30) calendar days from the date of effectivity of this Order.

The Office of the President shall thereafter, immediately circularize the inventory of exceptions for the guidance of all government offices and instrumentalities covered by this Order and the general public.

Said inventory of exceptions shall periodically be updated to properly reflect any change in existing law and jurisprudence and the Department of Justice and the Office of the Solicitor General are directed to update the inventory of exceptions as the need to do so arises, for circularization as hereinabove stated.

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

SECTION 6. Application and Interpretation. There shall be a legal presumption in favor of access to information, public records and official records. No request for information shall be denied unless it clearly falls under any of the exceptions listed in the inventory or updated inventory of exceptions circularized by the Office of the President provided in the preceding section.

The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of the Office which is in custody or control of the information, public record or official record, or the responsible central or field officer duly designated by him in writing.

In making such determination, the Head of the Office or his designated officer shall exercise reasonable diligence to ensure that no exception shall be used or availed of to deny any request for information or access to public records, or official records if the denial is intended primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

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

- (a) Each government office per Section 2 hereof shall ensure that personal information in its custody or under its control is disclosed or released only if it is material or relevant to the subject-matter of the request and its disclosure is permissible under this order or existing law, rules or regulations;
- (b) Each government office must protect personal information in its custody or control by making reasonable security arrangements against leaks or premature disclosure of personal information which unduly exposes the individual whose personal information is requested, to vilification, harassment or any other wrongful acts.
- (c) Any employee, official or director of a government office per Section 2 hereof who has access, authorized or unauthorized, to personal information in the custody of the office, must not disclose that information except when authorized under this order or pursuant to existing laws, rules or regulation.

SECTION 8. People's Freedom to Information (FOI) Manual. For the effective implementation of this Order, every government office is directed to prepare within one hundred twenty (120) calendar days from the effectivity of this Order, its own People's FOI Manual, which shall include among others the following provisions:

- (a) The location and contact information of the head, regional, provincial, and field offices, and other established places where the public can obtain information or submit requests;
- (b) The person or office responsible for receiving requests for information;
- (c) The procedure for the filing and processing of the request as specified in the succeeding section 8 of this Order.
- (d) The standard forms for the submission of requests and for the proper acknowledgment of requests;
- (e) The process for the disposition of requests;
- (f) The procedure for the administrative appeal of any denial for access to information; and
- (g) The schedule of applicable fees.

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

- (a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the reason for, or purpose of, the request for information: Provided, that no request shall be denied or refused acceptance unless the reason for the request is contrary to law, existing rules and regulations or it is one of the exceptions contained in the inventory or updated inventory of exception as hereinabove provided.
- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable, to enable all requesting parties and particularly those with special needs, to comply with the request requirements under this Section.
- (c) The request shall be stamped by the government office, indicating the date and time of receipt and the name, rank, title and position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the requesting party. Each government office shall establish a system to trace the status of all requests for information received by it.
- (d) The government office shall respond to a request fully compliant with requirements of subsection (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 7 (f) of this Order: Provided, that the written appeal must be filed by the same person making the request within fifteen (15) working days from the notice of denial or from the lapse of the relevant period to respond to the request.

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

(c) Upon exhaustion of administrative appeal remedies, the requesting part may file the appropriate case in the proper courts in accordance with the Rules of Court.

SECTION 14. Keeping of Records. Subject to existing laws, rules, and regulations, government offices shall create and/or maintain accurate and reasonably complete records of important information in appropriate formats, and implement a records management system that facilitates easy identification, retrieval and communication of information to the public.

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

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

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

SECTION 18. Repealing Clause. All orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Executive Order are hereby repealed, amended

or modified accordingly: Provided, that the provisions of Memorandum Circular No. 78 (s. 1964), as amended, shall not be deemed repealed pending further review.

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

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

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

By the President:

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

**Office of the President
of the Philippines
Malacañang**

MEMORANDUM CIRCULAR NO. 89

**UPDATING THE INVENTORY OF EXCEPTIONS TO THE RIGHT TO ACCESS OF
INFORMATION UNDER EXECUTIVE ORDER (EO) NO. 02, SERIES OF 2016**

WHEREAS, pursuant to Section 4 of EO No. 02, series of 2016 (EO No. 02), the Office of the President (OP) issued a Memorandum circularizing the inventory of exceptions to the right to access information under EO No. 02 (Inventory of Exceptions) on 24 November 2016;

WHEREAS, Section 4 of EO No. 02 directs the Department of Justice (DOJ) and the Office of the Solicitor General (OSG) to update the Inventory of Exceptions as the need to do so arises and the OP to accordingly circularize the same;

WHEREAS, Section 1 of Memorandum Circular No. 49, series of 2018, created the Inter-Agency Freedom of Information Exceptions Policy Committee (IA-FOI-EPC), with the DOJ and the OSG as co-chairs, to review the Inventory of Exceptions and periodically update the same to reflect changes in existing laws and jurisprudence; and

WHEREAS, the IA-FOI-EPC, through IA-FOI-EPC Resolution Nos. 2019-001 and 2021-001, proposed updates to the Inventory of Exceptions;

NOW THEREFORE, the attached updated Inventory of Exceptions is hereby circularized for the guidance of all government offices and instrumentalities covered by EO No. 02 and the general public.

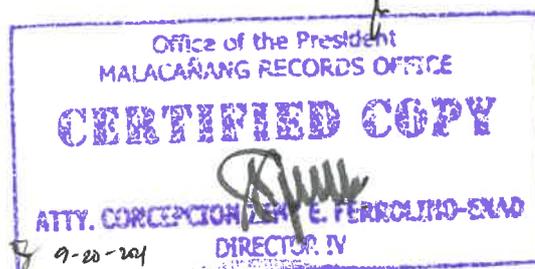
The foregoing list of exceptions shall be without prejudice to existing laws, jurisprudence, rules or regulations authorizing the disclosure of the excepted information upon satisfaction of certain conditions in certain cases, such as the consent of the concerned party or as may be ordered by the courts.

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

DONE, in the City of Manila, this ~~13th~~ day of ~~September~~ in the Year of our Lord, Two Thousand and Twenty-One.

By authority of the President:


SALVADOR C. MEDIALDEA



Exceptions to Right to Access of Information

For the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public, the 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, resolutions, minutes of meetings, 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

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*; *Sereno v. Committee on Trade and Related Matters of the National Economic Development Authority*, G.R. No. 175210, 01 February 2016, 780 PHIL 1-18; and *Department of Foreign Affairs v. BCA International Corporation*, G.R. No. 210858, 29 June 2016. The privilege of invoking this exception ends when the executive agency adopts a definite proposition.

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; *Lagman v. Medialdea*, G.R. Nos. 231658, 231771, and 231774, 4 July 2017, 812 PHIL 179-853; 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." This exception also includes records, papers, and information related to matters provided under Sections 16, 18, and 45, *The Anti-Terrorism Act of 2020* [Republic Act (RA) No. 11479] and its Implementing Rules and Regulations (IRR), as may be invoked by the government agency involved.

- b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁶ and
 - 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

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.

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).

4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:
- a. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,¹³ personal information or records,¹⁴ including sensitive personal information, birth records,¹⁵ school records,¹⁶ or medical or health records;¹⁷

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

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

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); Section 9, *Mandatory Reporting of Notifiable Diseases and Health Events of Public Health Concern Act* (RA No. 11332); Section 36, *Universal Health Care Act* (RA No. 11223); Section 28, *National Integrated Cancer Control Act* (RA No. 11215); and Section 5(l), *Mental Health Act* (RA No. 11036). Mental health records under RA No. 11036 include information on any aspect of the mental health, treatment, or care of the service user.

¹⁸ Section 3(l), *Data Privacy Act of 2012*. See also Section 9, *Free Internet Access in Public Places Act* (RA No. 10929); Section 26, *Safe Spaces Act* (RA No. 11313); and Section 21, *Tax Amnesty Act* (RA No. 11213).

individual¹⁹ and is not prohibited by any law or regulation. Any disclosure of personal information shall be in accordance with the principles of transparency, legitimate purpose and proportionality.²⁰

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

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;²² and
- 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,

¹⁹ Article 26(2), *Civil Code*.

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

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

²² *An Act Expanding the Coverage of Exemptions from Revealing the Source of Published News or Information Obtained in Confidence by Including Journalists from Broadcasts, and News Agencies, Amending for the Purpose Section 1 of RA No. 53, as Amended By RA No. 1477 (RA No. 11458)*. 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*.

- 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) cases of gender-based streets and public spaces sexual harassment, including information on the victim and the accused who is a minor;³⁰
 - (9) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;³¹
 - (10) records, documents, and communications of proceedings involving domestic, inter-country, and administrative, adoptions, including the identity of the child, natural parents and adoptive parents;³²
 - (11) names of students who committed acts of bullying or retaliation;³³
 - (12) children in situations of armed conflict;³⁴
 - (13) 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; and³⁵
 - (14) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;³⁶

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 26, *Safe Spaces Act* (RA No. 11313).

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

³² Section 15, *Domestic Adoption Act of 1998* (RA No. 8552) and Section 43, IRR of RA No. 8552; Sections 6 and 16(b), *Inter-Country Adoption Act of 1995* (RA No. 8043) and Sections 53, 54 and 55 of IRR of RA No. 8043; Section 14, *Simulated Birth Rectification Act* (RA No. 11222) and Section 28 of IRR of RA No. 11222.

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

³⁴ Section 19, *Special Protection of Children in Situations of Armed Conflict Act* (RA No. 11188).

³⁵ Sections 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165).

³⁶ Section 44, *Philippine HIV and AIDS Policy Act* (RA No. 11166). Information covered by Section 44 may be disclosed with the written consent of the affected person or in accordance with Sections 45 and 46 of RA No. 11166.

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;³⁷
 - b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority;³⁸
 - c. Records and reports submitted to the Social Security System by the employer or member;³⁹
 - d. Information of registered persons with the Philippine Identification System;⁴⁰
 - e. Information gathered for the HIV and AIDS monitoring and evaluation program under RA No. 11166 and all other related health intelligence activities;⁴¹
 - f. 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;⁴²
 - g. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴³

³⁷ 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); *Revised Philippine Ports Authority Manual of Corporate Governance*; and Section 18, *Energy Virtual One-Stop Shop Act* (RA No. 11234).

³⁸ Section 26, *Philippine Statistical Act of 2013* (RA No. 10625) and Section 4, *Commonwealth Act No. 591*. See also Section 10, *Community-Based Monitoring System Act* (RA No. 11315).

³⁹ Section 24(c), *Social Security Act of 1997* (RA No. 1161, as amended by RA No. 8282).

⁴⁰ Section 17, *Philippine Identification System Act* (RA No. 11055).

⁴¹ Section 43, *Philippine HIV and AIDS Policy Act* (RA No. 11166).

⁴² 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.

⁴³ Section 81, EO No. 226 (s. 1987), as amended.

- h. Documents submitted through the Government Electronic Procurement System;⁴⁴
- i. 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*;⁴⁵
- j. 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;⁴⁶
- k. 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;⁴⁷
- l. 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;⁴⁸
- m. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁹
- n. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁵⁰
- o. Information on registered cultural properties owned by private individuals;⁵¹
- p. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁵²

⁴⁴ Section 9, *Government Procurement Reform Act* (RA No. 9184).

⁴⁵ Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

⁴⁶ Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

⁴⁷ 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).

⁴⁸ Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

⁴⁹ Section 10, *Safeguard Measures Act*.

⁵⁰ Section 297 in relation with Section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

⁵¹ Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

⁵² CHED Memorandum Order No. 015-13, 28 May 2013.

- q. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵³
 - r. Records or information in connection with any investigation conducted by the Presidential Anti-Corruption Commission (PACC) when such disclosure will deprive the respondent of the right to a fair and impartial investigation;⁵⁴ and
 - s. Records of surveillance of suspects and interception and recording of communications acquired by a law enforcement agent or military personnel pursuant to the *Anti-Terrorism Act of 2020*.⁵⁵
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.⁵⁶
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*;⁵⁷
 - b. Matters involved in an Investor-State mediation;⁵⁸

⁵³ 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).

⁵⁴ Section 3, Rule IV, PACC Resolution No. 001, s. 2018 (IRR of the PACC).

⁵⁵ Section 16, *The Anti-Terrorism Act of 2020* (RA No. 11479).

⁵⁶ Section 3(g), Rule IV, Rules on CCESPOE.

⁵⁷ 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.

⁵⁸ Article 10, International Bar Association Rules for Investor-State Mediation.

- c. Information and statements made at conciliation proceedings under the *Labor Code*;⁵⁹
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);⁶⁰
- 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;⁶¹
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;⁶²
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁶³
- 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*;⁶⁴
- i. Investigation report and the supervision history of a probationer;⁶⁵
- j. Those matters classified as confidential under the *Anti-Terrorism Act of 2020* and its IRR;⁶⁶
- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶⁷ 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;⁶⁸

⁵⁹ Article 237, *Labor Code*.

⁶⁰ Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

⁶¹ Section 178, *Revised Corporation Code of the Philippines*. May be invoked by the SEC and any other official authorized by law to make such examination.

⁶² Sections 13.4, 15.4, 29.2 (b), and 64.2 of the *Securities Regulation Code*.

⁶³ Section 53(b)(1) of the *Pre-Need Code of the Philippines*. The confidentiality of the proceedings is lifted after the issuance of the cease and desist order.

⁶⁴ DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

⁶⁵ Section 17, *Probation Law of 1976* [PD No. 968 (s.1976)].

⁶⁶ Sections 18 and 45, *The Anti-Terrorism Act of 2020* (RA No. 11479) and Rules 5.8 and 5.19 of the IRR of RA No. 11479.

⁶⁷ Section 14, Civil Service Commission Resolution No. 01-0940.

⁶⁸ 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.

8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
 - a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);
 - b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;
 - c. RA No. 8791 (*The General Banking Law of 2000*);
 - d. RA No. 9160 (*Anti-Money Laundering Act of 2001*);
 - e. RA No. 9510 (*Credit Information System Act*); and
 - f. RA No. 245, as amended by Presidential Decree No. 1878;
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;⁶⁹
 - (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);⁷⁰ 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;⁷¹
 - 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

⁶⁹ 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.

⁷⁰ Article 7, UNCITRAL Transparency Rules.

⁷¹ *Senate v. Neri, supra*; *Senate v. Ermita, supra*.

- (2) any commercial purpose other than by news and communications media for dissemination to the general public;⁷²
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁷³
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁷⁴
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷⁵ and
- g. Attorney-client privilege existing between government lawyers and their client.⁷⁶

⁷² Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees*.

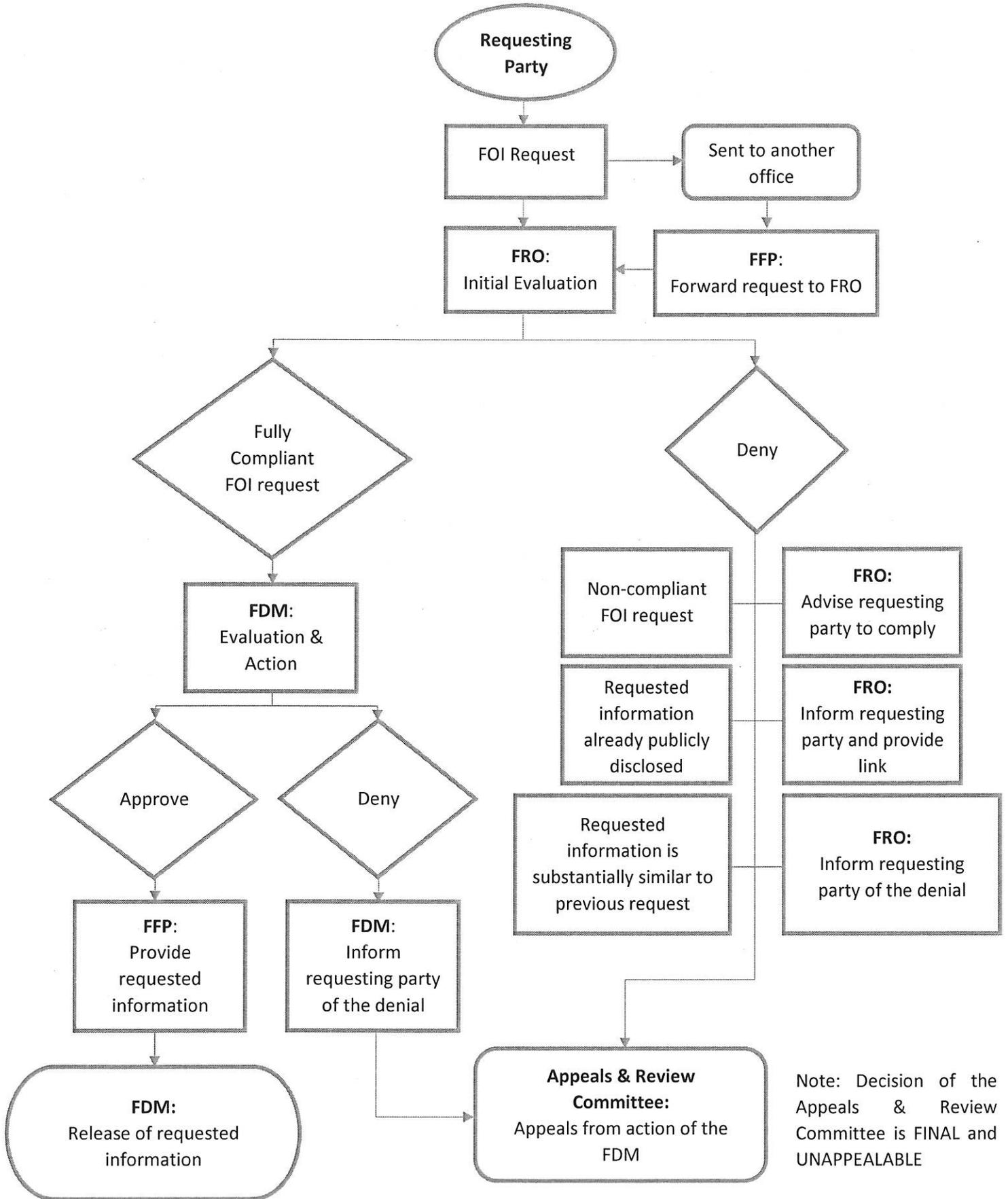
⁷³ *Belgica v. Ochoa*, G.R. No. 208566, 19 November 2013; and *Valmonte v. Belmonte Jr.*, G.R. No. 74930, 13 February 1989, 252 Phil. 264.

⁷⁴ 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.

⁷⁵ *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

⁷⁶ Canon 21 of the *Code of Professional Responsibility*.

FOI Request Flow Chart



**Department of Tourism
FREEDOM OF INFORMATION REQUEST FORM**

PART I. INFORMATION ON REQUESTING PARTY

1. Title: (Mr/Mrs/Miss/Ms) Others

2. Full Name:
Surname
First Name
(including M.I.)

3. Complete Address:
Apt/House No/Street
Brgy/District
City/Municipality
Province & Zip Code

4. Company/Affiliation/Organization/School

5. Type of I.D. Given: (with photograph & signature)
 Passport Driver's License Others: (Pls. Specify)
 Postal ID Voter's ID

6. Contact Details:
Landline:
Fax:
Mobile:
E-mail:

7. Preferred Mode of Communication:
(For clarification and other matters)
 Landline Mobile E-mail Postal Address

8. Preferred Mode of Reply/Response:
 Pick-up Fax E-mail Postal Address

9. Name of Representative/Guardian:
Surname
First Name
(including M.I.)

10. I.D. of Representative:

11. Proof of Authority:

Part II. REQUESTED INFORMATION

12. Title of Document/Record Requested:
(Please provide as much detail as you can)
 Photocopy Certified Photocopy Certified True Copy

13. Date of Document: (DD/MM/YY) / /

14. Purpose of Request (Please be specific as possible):

15. Any other relevant information:

I declare and certify that the information provided in this form is complete and correct. I am aware that giving false information or misleading information or using forged documents is a criminal offense. I bind myself and my principal to use the requested information only for the specific purpose stated and subject to such other conditions as may be prescribed by the Department of Tourism. I understand that the Department of Tourism may collect, use, and disclose personal information contained in this request.

16. Signature of Requesting Party or Representative:

13. Date of Document: (DD/MM/YY) / /

For Official Use Only

Received by:
Nam/Signature:
Position:
Date & Time Received:
Remarks:

**Department of Tourism
FOI Directory**

POSITION/DESIGNATION	OFFICE LOCATION	CONTACT DETAILS	NAME
Head of Agency	Penthouse, DOT Building, 351 Sen. Gil Puyat Ave., Makati City	8459-5200 loc. 612	Bernadette Romulo-Puyat
FOI Decision Maker	Penthouse, DOT Building, 351 Sen. Gil Puyat Ave., Makati City	8459-5200 loc. 620	Atty. Lara Victoria Estevez-Austria
FOI Receiving Officer	Ground Floor, DOT Building, 351 Sen. Gil Puyat Ave., Makati City	8459-5200 loc. 114	Maricel C. Malalad
FOI APPEALS AND REVIEW COMMITTEE			
Assistant Secretary for Tourism Regulation, Coordination and Resource Generation	2 nd Floor, DOT Building, 351 Sen. Gil Puyat Ave., Makati City	8459-5200 loc. 208	Maria Rica C. Bueno
Assistant Secretary for Tourism Development Planning	5 th Floor, DOT Building, 351 Sen. Gil Puyat Ave., Makati City	8459-5200 loc. 526	Roberto P. Alabado III
Director for Office of the Public Affairs and Advocacy	3 rd Floor, DOT Building, 351 Sen. Gil Puyat Ave., Makati City	8459-5200 loc. 323	Czarina Zara-Loyola