SBMA's Freedom of Information Manual

(IMPLEMENTING DETAILS)

TABLE OF CONTENTS

1. **Overview**
   - 1.1. Purpose of the Manual 3
   - 1.2. Structure of the Manual 3
   - 1.3. Coverage of the Manual 3
   - 1.4. Central Appeals and Review Committee 3
   - 1.5. Approval and Denial of Request 3
2. **Definition of Terms** 3
3. **Promotion of Transparency** 7
4. **Recognition of Right to Privacy** 8
5. **Standard Procedure**
   - 5.1. Where to File a Request for Information 8
   - 5.2. Receipt of Request 8
   - 5.3. Processing of RFI's by the Concerned SBMA Departments/Offices 9
   - 5.4. Recommendations on Request for Information 9
   - 5.5. Endorsement of Recommendations to the FOI Decision Maker 10
6. **Remedies in Case of Denial of Request** 10
7. **Request Tracking System** 11
8. **Fees** 11
9. **Administrative Liability** 11
10. **Annexes**
    - a. FOI FAQs
    - b. Executive Order No. 02
    - c. List of Exceptions to FOI
    - d. Flow Chart
    - e. FOI Request Form
    - f. FOI Response Templates

SECTION 1: OVERVIEW

1. **Purpose:** 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.

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

   This SBMA FOI Manual (Manual) will provide for the processes to guide and assist the SBMA in dealing with requests of information received under Executive Order (E.O.) No. 2 on Freedom of Information (FOI).

2. **Structure of the Manual:** This Manual shall set out the rules and procedures to be followed by the SBMA when a request for access to information is received. The SBMA Administrator and CEO is responsible for all actions carried out under this Manual and may delegate this responsibility to an officer, who is at least 3rd ranking permanent official of the SBMA who shall act as the Decision Maker (FDM) and 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 policies and procedures pertaining to all requests for information received by the SBMA.

4. **Central Appeals and Review Committee:** There shall be a central appeals and review committee composed of the Chairman, who is at least 2nd ranking permanent official and two (2) members, who is at least 3rd and 4th ranking permanent official to review and analyze the grant or denial of request of information. The Committee shall also provide expert advice to the AGENCY Administrator on the denial of such request. If the same was elevated to the Central Appeals and Review Committee, the Administrator upon recommendation of the said committee, may approve or deny the request.

5. **Approval and Denial of Request to Information:** The FDM shall approve or deny all request of information. In case where the FDM is on official leave, the function of the FDM is transferred to the Deputy Administrator for Administration.

SECTION 2: DEFINITION OF TERMS

CONSULTATION. When a department/office locates a record that contains information of interest to another office, it will ask for the views of that other department/office on the disclosability of the records and the same is elevated to the FDM for approval or denial. 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.

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. (See **Annex "C")**

FREEDOM OF INFORMATION (FOI). The SBMA 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 EO 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 Receiving Officer. There shall be an FOI Receiving Officer (FRO) designated by the SBMA which shall be the **Auxiliary Services Division (ASD) of the Office Services Department** as recommended by the FDM and approved by the SBMA Administrator.

The functions of the FRO shall include receiving on behalf of the SBMA all requests for information and forward the same to the appropriate department/office who has custody of the records; monitor all FOI requests and appeals; provide assistance to the FDM; 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 FDM who shall approve or deny the request based on:

a. That the form is incomplete; or

b. That the information is already disclosed in the SBMA Official Website.

FOI Decision Maker. There shall be an FOI Decision Maker (FDM), designated by the SBMA Administrator 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 SBMA 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 AGENCY.

The FDM shall be the primary contact of the SBMA where the requesting party can call and ask questions about the FOI process or the pending FOI request.

FOI CONTACT. The name, address and the official phone number of the FRO where you can make a FOI request

FOI REQUEST. A written request or by email by any Filipino submitted to the ***FRO*** asking for records on any topic.

FREQUENTLY REQUESTED INFORMATION. Info released in response to a FOI request 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 SBMA 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 the SBMA is able to disclose all records in full in response to a FOI request.

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 department/office of the AGENCY pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any department/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 the AGENCY's websites, such as ***www.mysubicbay.com.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.

OPEN DATA. Refers to 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 the SBMA is able to disclose portions of the records in response to a FOI request, but must deny other portions of the request.

PERFECTED REQUEST. A FOI request, which reasonably describes the records, sought and is made in accordance with the SBMA's regulations.

PERSONAL INFORMATION. Shall refer to 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 SBMA's Department holding the information, or when put together with other information would directly and certainly identify an individual.

PROACTIVE DISCLOSURE. Information made publicly available by the SBMA without waiting for a specific FOI request.

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

PUBLIC RECORDS. Shall include information required by laws, executive orders, rules, or regulations to be entered, kept, and made publicly available by the SBMA or its departments/offices.

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

REFERRAL/ CONSENT. When the SBMA locates a record that originated with, or is of otherwise primary interest to another Government office, it will forward the request and record to the other government agency/ office to obtain their consent before the final determination of its release be made by the SBMA. This process is called a "referral/ consent."

SENSITIVE PERSONAL INFORMATION. As defined in the Data Privacy Act of 2012, shall refer to personal information:

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

(2) About an individual health, education, genetic or sexual life of a person, or to any proceedings for any offense committed or alleged to have committed by such person, the disposal of such proceedings or the sentence of any court in such proceedings;

(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. A FOI request that a department/office anticipates will involve a small volume of material or which will be able to be processed relatively quickly.

SECTION 3. PROMOTION OF TRANSPARENCY

1. **Duty to Publish Information.** The SBMA 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 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 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. **Keeping of Records**. The SBMA 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. RECOGNITION OF RIGHT TO PRIVACY

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

a. The SBMA 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 SBMA 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 SBMA, shall not disclose that information except as authorized by existing laws.

SECTION 5. STANDARD PROCEDURE *(See **Annex "D"** for flowchart)*

1. Where to File a Request for Information

1.1 A Request for Information (RFI) addressed to Deputy Administrator for Legal Affairs as FOI Decision Maker can be filed at any of the following receiving points:

a. ASD, the SBMA's designated central receiving office for RFIs;
b. Through the SBMA website at www.mysubicbay.com.ph;

1.2 The requesting party shall submit a duly accomplished Standard Request Form for FOI Request, which is available at the receiving points enumerated above. No RFI shall be entertained and/or processed by the SBMA unless the same is made using the said standard form. Accordingly, the FOI Receiving Officer (FRO) assigned at the points mentioned above shall provide reasonable assistance, free of charge, to all requesting parties, particularly those with special needs, to comply with the requirement for an FOI Request.

1.3 The duly accomplished Standard Request Form for FOI Request may also be submitted to the SBMA by ordinary mail at Building 229 Waterfront Road Subic Bay Freeport Zone or by electronic mail: asd@sbma.com; provided that the requesting party shall also submit valid proof of identification and/or authorization.

1.4 The RFI will be received by the FRO assigned at the mentioned points under Item 1.1 hereof.

2. Receipt of the Request

2.1 Upon receipt of the RFI, the assigned FRO shall evaluate the validity and/or completeness of the request.

2.2 If the RFI is determined as valid and/or complete, the request shall be stamped

received by the assigned FRO indicating the date and time of the receipt thereof. Thereafter, the requesting party shall be given an acknowledgment receipt. If the RFI was submitted through ordinary mail or by electronic mail, the requesting party will be sent an acknowledgment also through ordinary mail or by electronic mail.

2.3 On the other hand, if the RFI is determined as invalid and/or incomplete, the requesting party shall be duly informed thereof for the necessary correction and/or compliance. The same applies to invalid and/or incomplete RFIs made submitted through ordinary mail or electronic mail.

2.4 Thereafter, the assigned FRO shall forward the same to the concerned SBMA department/office within the same day. However, if the RFI is received after three o'clock in the afternoon (3:00 PM)**, the assigned FRO shall forward the request on the following working day.**

2.5 The SBMA's designated central receiving office (Auxiliary Services Division) for RFIs shall establish a tracking system to trace the status of all the requests received. The assigned FRO in the central receiving office shall encode/input all details of the request in the system and indicate the respective reference numbers.

3. Processing of RFIs by the concerned SBMA department/office

3.1 The concerned SBMA department/office shall have five (5) working days to evaluate the request and make the necessary recommendation to the FOI Decision Maker on whether or not to grant or deny access to the information being requested.

3.2 In situations wherein the information requested requires extensive search of the SBMA department's/office's records facilities, examination of voluminous records, the occurrence of fortuitous events and other analogous cases, the period to make the recommendation may be extended provided that the SBMA department/office concerned shall inform the FOI Decision Maker of the said extension and shall thereafter notify the requesting party of the additional period required for the requested information including the reason/s for such extension. However, in no case shall the extension go beyond twenty (20) working days from the end of the allowable period for complicated RFIs unless exceptional circumstances warrant a longer period**.**

4. Recommendations on Request for Information

In the evaluation of the RFIs, the SBMA department/office may have any of the following types of recommendation:

4.1 Full Grant. The recommendation is to grant the RFI and the complete information as requested is attached to the recommendation.

4.2 Partial Grant/Denial. The recommendation is that only parts of the requested information is granted and other parts is denied. Thus, only that portion as can be allowed is attached to the recommendation.

4.3 Full Denial. The recommendation is that the requested information cannot be released due to or based on valid grounds, i.e. requested information is already

posted and/or available to the public or online, requested information falls within the exceptions to the FOI (non – disclosure is protected by the Constitution, Philippine laws or jurisprudence, or is among the inventory of exceptions circularized by the Office of the President and identified by the SBMA) or requested information is identical or substantially similar or a previous request by the same requesting party was already made.

4.4 Non-availability. The concerned department/office shall inform the decision maker of the non-availability of the information being requested due to loss, disposal and other analogous circumstances.

5. Endorsement of the recommendation to the FOI Decision Maker

5.1 Once the necessary recommendation of the concerned SBMA department/office has been made, the same shall be endorsed to the FOI Decision Maker for its appropriate action.

5.2 The FOI Decision Maker has three (3) working days from receipt thereof to act upon the said recommendation**.**

5.3 Once a decision is made to grant the request, the requesting party shall be notified in writing of such decision and directed to pay the applicable fees to reimburse necessary costs for the information required**.**

5.4 If the decision is to deny the request, in whole or in part, the requesting party shall be notified of the said denial in writing clearly stating the ground/s for the denial and the circumstances on which the denial is based.

5.5 In case of non-availability of the information being requested, the FOI Decision Maker shall notify the requesting party of the ground/s or reason/s thereof.

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

SECTION 6. PROCEDURE FOR THE ADMINISTRATIVE APPEAL OF ANY DENIAL FOR ACCESS TO INFORMATION *(See **ANNEX "D"** for Flow Chart)*

A person whose request for access to information has been denied by the FOI Decision Maker may avail of the remedy set forth below.

1. Receipt of Appeal. - Within the period of Thirty (30) workings days from the notice of denial or from the lapse of the relevant period to respond to the request, the same person making the request may file with the FOI Receiving Officer (FRO) a written appeal on the denial of his/her request for access to information.

2. Appeals Committee. - Upon receipt of the written appeal, the FRO shall ensure that, **within the same day,** the appeal and the relevant records be transmitted to the Appeals Committee (AC).

3. Recommendation of the AC. - The AC shall convene and deliberate to discuss the merit of the appeal, and shall make its recommendation to the SBMA Administrator not later than 20 working days from receipt of the records on appeal.

4. Decision of the SBMA Administrator. - Upon receipt of the AC's recommendation, the SBMA Administrator shall act thereon and shall make its decision not later the eight (8) working days. The Decision of the SBMA Administrator shall be forwarded to the FRO.

5. Release of the decision. Within the same day from the date of receipt of the SBMA Administrator's decision, The FRO shall notify and furnish the requesting person.

6. Denial by Inaction. - In case the appeal has not been decided after 30 working days from receipt thereof by the FRO, the same shall be deemed denied pursuant to Section 13 of Executive Order No. 2 series of 2016.

SECTION 7. REQUEST TRACKING SYSTEM

The AGENCY 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.

SECTION 8. FEES

1. **No Request Fee.** The SBMA 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 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 SBMA in providing the information to the requesting party. The schedule of fees shall be posted by the SBMA.

   Fees for Cost of Reproduction: (Cost of Paper used (A4 or Legal Size)
   a) Colored ---------- PhP10.00
   b) Monochromatic ---------- PhP 9.00
   c) Certified True Copy---------- PhP 50.00

3. **Exemption from Fees:** The SBMA 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 any government body or agency, which provides for more stringent penalties.

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 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, requestors 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 to government research data used as basis for policy development.

6. What agencies can we ask 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 requestor 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 Requestor.
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 Requestor. It shall be sent to the Requestor 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, requestors 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 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, requestors may file the appropriate case in the proper courts in accordance with the Rules of Court.

ANNEX B

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 OF 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 recordings, magnetic or other tapes, electronic data, computer-stored data, or 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, and instrumentalities, including government-owned or -controlled corporations, and state universities and colleges. Local government units (LGUs) are enjoined 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 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 laws 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 as provided in Section 4 hereof.

The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of the Office which has custody or control of the information, public record or official record, or of 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 an individual's right to privacy 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 laws, 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; and

(c) Any employee or official 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 regulations.

SECTION 8. People's Freedom of 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 information:

(a) The location and contact information of the head, regional, provincial, and field offices, and other established places where the public can submit requests to obtain information;
(b) The person or officer responsible for receiving requests for information;
(c) The procedure for the filing and processing of the request, as provided in the succeeding Section 9 of this Order;
(d) The standard forms for the submission of requests and for the proper acknowledgment of such requests;
(e) The process for the disposition of requests;
(f) The procedure for administrative appeal of any denial of request for access to information; and
(g) The schedule of applicable fees.

SECTION 9. Procedure. The following procedure shall govern the filing and processing of requests 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 of exceptions as hereinabove provided.

(b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable all requesting parties, 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 or 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 the 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 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 events or other analogous cases. The government office shall

notify the person making the request of such extension, setting forth the reasons for the extension. In no case shall the extension go beyond twenty (20) working days counted from the end of the original period, 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 requested, 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 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 wholly or partially, it shall, as soon as practicable and within fifteen (15) working days from the receipt of the request, 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 for access to information.

SECTION 13. Remedies in Case of Denial of Request for Access to Information. A person whose request for access to information has been denied may avail himself of the remedies set forth below:

(a) Denial of any request for access to information may be appealed to the person or office next higher in authority, following the procedure mentioned in Section 8 (f) of this Order: 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.

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

(c) Upon exhaustion of administrative appeal remedies, the requesting party may file the appropriate judicial action 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 and 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.

By the President:

SALVADOR C. MEDIALDEA
Executive Secretary

REPUBLIC OF THE PHILIPPINES
PRRD 2016 - 000156

CERTIFIED COPY:

MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACAÑANG RECORDS OFFICE

7-25-2016

ANNEX C

Office of the President of the Philippines Malacañang

MEMORANDUM FROM THE EXECUTIVE SECRETARY

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

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

DATE: 24 November 2016

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

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

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

For your information and guidance.

SALVADOR C. MEDIALDEA

CERTIFIED COPY:

MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACAÑANG RECORDS OFFICE

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.

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[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

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[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:

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[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 individual[19] 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

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[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*.

the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government;[21]

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

c. Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:

   (1) records of child and family cases;[23]
   (2) children in conflict with the law from initial contact until final disposition of the case;[24]
   (3) a child who is a victim of any offense under the *Anti-Child Pornography Act of 2009*, including the name and personal circumstances of the child, or the child's immediate family, or any other information tending to establish the child's identity;[25]
   (4) a child witness, who is a victim of a crime, an accused of a crime, or a witness to a crime, including the name, address, telephone number, school, or other identifying information of a child or an immediate family of the child;[26]
   (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address, employer, or other identifying information of a victim or an immediate family member;[27]
   (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;[28]
   (7) names of victims of child abuse, exploitation or discrimination;[29]

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

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

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

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

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

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

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

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

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

(8) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;[30]
(9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;[31]
(10) names of students who committed acts of bullying or retaliation;[32]
(11) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and [33]
(12) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;[34]

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

   a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;[35]

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

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

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

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

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

[35] Sections 45, 106.1, and 150.2, *The Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372); Section 66.2, *Securities Regulation Code* (RA No. 8799); DOST Administrative Order No. 004-16; Section 142, *The Corporation Code* (BP 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*.

b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);[36]

c. Records and reports submitted to the Social Security System by the employer or member;[37]

d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;[38]

e. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;[39]

f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;[40]

g. Documents submitted through the Government Electronic Procurement System;[41]

h. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the *Electronic Commerce Act of 2000*;[42]

i. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the *Philippine Mining Act of 1995* and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;[43]

j. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;[44]

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

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

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

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

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

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

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

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

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

k. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;[45]

l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;[46]

m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;[47]

n. Information on registered cultural properties owned by private individuals;[48]

o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);[49] and

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

6. Information of which a premature disclosure would:

a. in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or

b. be likely or significantly frustrate implementation of a proposed official action, except such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.[51]

7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:

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

[46] Section 10, *Safeguard Measures Act.*

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

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

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

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

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

a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*;[52]

b. Matters involved in an Investor-State mediation;[53]

c. Information and statements made at conciliation proceedings under the *Labor Code*;[54]

d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);[55]

e. Results of examinations made by the Securities and Exchange Commission (SEC) on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto;[56]

f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;[57]

g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission; [58]

h. Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the *Comprehensive Dangerous Drugs Act of 2002*;[59]

i. Investigation report and the supervision history of a probationer;[60]

j. Those matters classified as confidential under the *Human Security Act of 2007*;[61]

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

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

[54] Article 237, *Labor Code*.

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

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

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

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

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

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

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

k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;[62] and

l. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;[63]

8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:

   a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);

   b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;

   c. RA No. 8791 (*The General Banking Law of 2000*);

   d. RA No. 9160 (*Anti-Money Laundering Act of 2001*); and

   e. RA No. 9510 (*Credit Information System Act*);

9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:

   a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:

      (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;[64]
      (2) Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules);[65] and
      (3) Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (s. 2012);

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[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.

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

[65] Article 7, UNCITRAL Transparency Rules.

b. Testimony from a government official, unless pursuant to a court or legal order;[66]

c. When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:

   (1) any purpose contrary to morals or public policy; or
   (2) any commercial purpose other than by news and communications media for dissemination to the general public;[67]

d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;[68]

e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;[69]

f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;[70] and

g. Attorney-client privilege existing between government lawyers and their client.[71]

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

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

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

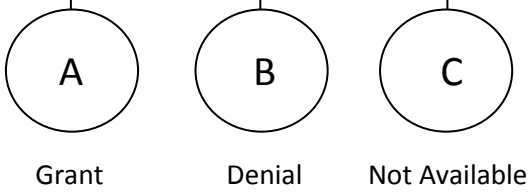
[69] Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending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

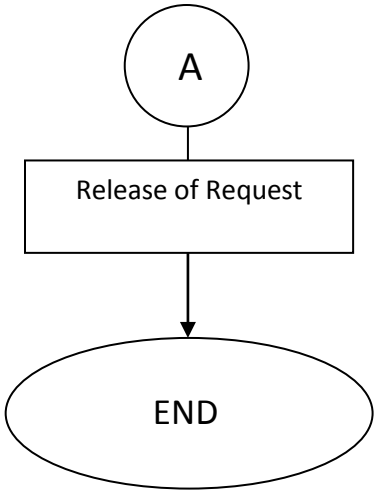
[70] *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

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

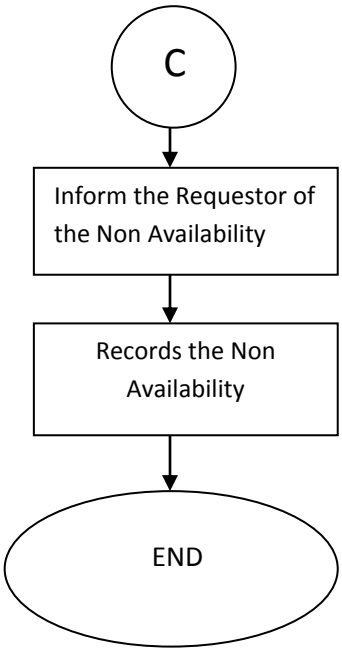
ANNEX D

PERSON RESPONSIBLE	ACTIVITY	INTERFACE	KPM/TIMELINE
FOI Receiving Officer (FRO)	Receipt of Request		1 Day
Department Concerned	Evaluation/Recommendation		5 Days
	Extension? Yes: Dept.concerned informs the FOI Decision Maker of an Extension		
FOI Decision Maker	Act upon the recommendation (No)		3 Days
FRO	Inform/Notify the Requestor of the action taken		1 Day



PERSON RESPONSIBLE	ACTIVITY	INTERFACE	KPM/TIMELINE
FRO		**Requestor**	**1 Day**

PERSON RESPONSIBLE	ACTIVITY	INTERFACE	KPM/TIMELINE
	B		
FRO	Receipt of Appeal	**Requestor**	**1 Day**
Senior Deputy Administrators	Action of Appeal Committee		**20 Days**
Administrator	Decision (Approval/Disapproval)		**8 Days**
FRO	Release of Appeal	**Requestor**	**1 Day**
	END		

PERSON RESPONSIBLE	ACTIVITY	INTERFACE	KPM/TIMELINE
FRO		**Requestor**	**1 Day**
		FRO	

ANNEX E

Certificate Number: AJA13/16628

Document Code: SBMA FOI FORM NO.1
Effectivity Date: August 2017
Revision No. 0

REQUEST FOR INFORMATION/DOCUMENT

Name of Requestor : _____

Office Address : _____

Residence Address : _____

Contact Details:

☐ Landline No._____ ☐ Mobile No. _____

☐ E-mail add:_____

Information/Document Requested:

SUBJECT:

_____

_____

SHORT DESCRIPTION/DETAILS:

_____

_____

_____

_____

_____

PURPOSE:

_____

_____

_____

Subic Bay Metropolitan Authority
LEGAL DEPARTMENT
Building 255, Barryman Road, Subic Bay Freeport Zone, 2222 Philippines
• Tel: +6347 252.4784/4367/4785/4786 • Fax: +6347 252.4780

_____

UNDERTAKING

I, _____, as the requestor of the foregoing information/document, solemnly undertake that should SBMA grant this request, I will not use the said information/document for any unauthorized, unlawful or criminal purpose.

I understand that the use and publication of the information/document obtained from SBMA upon this request, other than the abovementioned purpose, may give rise to civil, criminal, and administrative liability on my part.

I therefore undertake to hold SBMA free and harmless from any action, damage or liability which may be demanded and adjudged against me for the unauthorized or illegal use of the document/information obtained through this request, without prejudice to any action that SBMA may avail due to any misrepresentation and/or non-disclosure that I have committed.

_____

Signature of Requestor

TO BE FILLED-OUT BY THE SBMA FOI RECEIVING OFFICER (FRO):

_____ _____

DATE & TIME RECEIVED TRACKING REFERENCE NO.

ENCLOSURES/ATTACHMENTS:

1. _____
2. _____
3. _____

NAME & SIGNATURE OF FRO : _____

ANNEX F

Certificate Number: AJA13/16628

Document Code: SBMA FOI FORM NO.2
Effectivity Date: August 2017
Revision No. 0

APPROVAL OF REQUEST FOR DOCUMENT/ INFORMATION

Name of Requestor: _____ Tracking/Reference No._____
Address: _____ Date of Request: _____

Dear Sir/Madam:

Please be informed that we have approved the release of the document/information that you have requested; particularly:

Title/Brief Description:
_____
_____

Accordingly, promptly coordinate and claim the certified copy of the requested document/information from Mr./Ms._____, SBMA FOI Receiving Officer (FRO), _____ Department, Room _____, 2nd Floor, Building ____, _____, SBFZ, within three (3) working days from receipt of this notice and pay the reasonable cost of reproduction and copying of the document/information.

We are glad to have served you.

Very truly yours,

_____

SBMA FOI Decision Maker
Date._____

ANNEX F

SUBIC BAY METROPOLITAN AUTHORITY

Certificate Number: AJA13/16628

Document Code: SBMA FOI FORM NO.3
Effectivity Date: August 2017
Revision No. 0

NOTICE OF DENIAL TO FOI ACCESS

Name of Requestor: _____ Tracking/Reference No._____
Address: _____ Date of Request: _____

Dear Sir/Madam:

Please be informed that your request for access to information has been denied. particularly:

Title/Brief Description:
_____
_____

The grounds for the denial of your requested information/document are the following:

☐ Sensitive Personal Information ☐ Executive Privilege

☐ Data Privacy Law ☐ Exceptions under SBMA Res. No. _____

☐ _____ ☐ _____

☐ others: _____
_____
_____

Accordingly, you have 15 working days within which to file an appeal.

Very truly yours,

_____
SBMA FOI Decision Maker
Date: _____

Subic Bay Metropolitan Authority
LEGAL DEPARTMENT
Building 255, Barryman Road, Subic Bay Freeport Zone, 2222 Philippines
• Tel: +6347 252.4784/4367/4785/4786 • Fax: +6347 252.4780