

The background of the entire cover is a photograph showing a pair of hands being washed under a running faucet. Water is spraying from the faucet onto the hands, creating a dynamic scene with splashing water droplets. The hands are positioned in the lower half of the frame, and the faucet is in the upper half.

FREEDOM OF **INFORMATION** (FOI)

MANUAL 2021

Revision No. 001



Table of Contents

Section 1. Overview.....	2
1. Purpose of the Manual	
2. Structure of the Manual	
3. Coverage of the Manual	
Section 2. Definition of Terms.....	2
Section 3. Protection of Privacy.....	4
Section 4. Role of FOI Officers.....	4
Section 5. Filing and Processing of FOI Requests.....	6
Section 6. Remedies in Case of Denial of Request.....	13
Section 7. Request Tracking System.....	14
Section 8. Fees.....	14
Section 9. Administrative Liability.....	14
Section 10. Posting and Effectivity.....	15
 Annexes	
Annex A. Executive No. 02, s. 2016.....	16
Annex B. Memorandum Circular No. 89	22
Annex C. Standard FOI Request Form.....	36
Annex D. FOI Request Flow Chart.....	38
Annex E. No Wrong Door Policy Flowchart.....	40
Annex F. Designated Personnel for FOI Implementation.....	41



SECTION 1. OVERVIEW

1. **Purpose of the Manual.** The purpose of this Freedom of Information (FOI) Manual is to provide the SWD the processes involved in dealing with requests for information received under Executive Order (EO) No. 2, s. 2016 on Freedom of Information (FOI).
2. **Structure of the Manual.** This Manual shall set out procedures and rules to be followed by the SWD when a request for information is received. The General Manager (GM) is responsible for all actions carried out under this Manual and may delegate this responsibility to the next-in-rank down to the level of the Division Manager. The GM shall have overall responsibility for the final decision on FOI requests.
3. **Coverage of the Manual.** This Manual shall cover all requests for information directed to the SWD.

SECTION 2. DEFINITION OF TERMS

- a. **Freedom of Information or FOI** – pertains to the right of the people to information on matters of public concern, subject to the limitations established by law.
- b. **FOI request** – is a written request by any person submitted to a government office, personally or by electronic means, requesting information or public records as defined herein.
- c. **Information** – means 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.
- d. **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.



- e. **eFOI.gov.ph** – the website that serves as the government's comprehensive FOI website for all information on the FOI. Among many other features, eFOI.gov.ph provides a central resource for the public to understand the FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. eFOI.gov.ph also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, so that they can be compared by agency and over time.
- f. **Official Record/s**- 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.
- g. **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.
- h. **Public Records**- include information required by laws, executive orders, rules, or regulations to be entered, kept, and made publicly available by a government office.
- i. **Sensitive Personal Information**- as defined in the Republic Act No. 10173 (Data Privacy Act of 2012), refers to personal information:
 - 1. About an individual's race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
 - 2. About an individual's health, education, genetic or sexual life of a person, or to any 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.



SECTION 3. PROTECTION OF PRIVACY

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

1. The SWD shall ensure that personal information, particularly sensitive personal information, in its custody or under its control is disclosed only as permitted by existing laws, rules or regulations;
2. The SWD 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
3. Any employee or official of a government office who has access, whether 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 4. ROLE OF FOI OFFICERS

1. **FOI Decision Maker (FDM)** – is the General Manager of the agency. The FDM gives the final approval or denial of all FOI requests lodged to the Sagay Water District. The FDM evaluates and approves the request for information or denies it based on the following:
 - a. SWD 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 (see Annex B); 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 SWD.
2. **FOI Receiving Officer (FRO)** – is designated by the SWD General Manager. A secondary FRO should also be identified in cases where the primary FRO is out of the office due to official travel, scheduled leave or for personal reasons. The FRO carries out the following functions:



- a. receiving all requests for information and forward the same to the appropriate office who has custody of the records;
- b. monitor all FOI requests and appeals;
- c. provide assistance to the FOI Decision Maker;
- d. provide assistance and support to the public and staff with regard to FOI;
- e. compile statistical information as required; and
- f. conduct initial evaluation of the request and advise the requesting party whether the request will be forwarded to the FOI Decision Maker for further evaluation, or deny the request based on:
 - that the form is incomplete; or
 - that the information is already disclosed in SWD's Official website, foi.gov.ph, or at data.gov.ph.

3. Central Appeals and Review Committee - is composed of three (3) officials with a rank not lower than a Division Manager or its equivalent, designated by SWD's General Manager through an Office Order to review and analyze the grant or denial of request of information. The Committee shall also provide expert advice to SWD's General Manager on the denial of such request.



SECTION 5. FILING AND PROCESSING OF FOI REQUESTS

STEPS	ACTIVITIES
1. Request for information	<u>Walk-in Requests</u> a. The requesting party inquires with the customer service assistant where to lodge the FOI request; b. The CSA accommodates and directs the RP to the FOI Receiving Officer (FRO); and c. The requesting party complies and submits the following: c.1 The FOI request must be made in writing. c.2 Submit two (2) copies of the standard FOI request form (Annex C) which contains the following: <ul style="list-style-type: none">• Name, address and contact information of the RP• Description of the information requested• Purpose of the request for information• Preferred mode of communication and receipt of the response• Signature of the RP; if the RP cannot sign the request form due to reasons of disability/illiteracy, he or she may sign through thumb mark in lieu of signature. d. Valid Proof of Identification – any government or institution- issued identification card with picture and signature of the RP (shows original and submits photocopy of the identification). <i>If transacted by a representative, the representative should provide his or her valid proof of identification, a photocopy of the valid proof of identification of the RP, and a letter authorizing the representative to transact on behalf of the RP.</i> <i>If a written request cannot be made by the requesting party because of illiteracy or by reason of disability, he or she may make an oral request, and the FRO shall reduce it in writing.</i>
	<u>eFOI Portal</u> a. The requesting party accesses the eFOI Portal (http://www.foi.gov.ph); b. The requesting party creates an account in the eFOI Portal and submits scanned copy of valid proof of identification; c. Once the account has been created, the requesting party accesses the request window by clicking on the "Make a Request" button; and d. The requesting party fills out the needed information and submits the request.



	<p><u>Mailed/eMailed Requests</u></p> <p>a. FOI requests sent through registered mail or email shall be accompanied by a duly filled-up standard FOI request form and a valid proof of identification.</p> <p>The standard FOI request form shall be made available in the Sagay Water District office and official website (sagaywd.gov.ph)</p> <p>Sagay Water District email : sagaywd@yahoo.com</p>
2. Receipt of request and checking of requirements	<p><u>Walk-in requests</u></p> <p>a. Upon determining that the FOI request is fully compliant, the duly filled-up FOI Request Form, and the first page of the request letter, if attached, shall be signed and stamped "RECEIVED" by the FRO, indicating the date and time of receipt, the name, rank, title and position of the public officer who actually received it, with a corresponding signature and a copy furnished to the requesting party.</p> <p><u>eFOI Portal requests</u></p> <p>b. An automated reply is sent to the RP.</p> <p><u>Mailed/eMailed Requests</u></p> <p>c. FOI requests sent through email shall be printed out by the FRO and shall observe the same procedure above. The FRO shall also acknowledge by email the receipt of a fully compliant FOI request.</p>
3. Period to respond	<p>The FRO shall respond to requests for access to information within fifteen (15) working days from the date of receipt of a fully compliant FOI request.</p> <p>The period to respond to FOI requests shall not commence unless the request is a fully compliant FOI request.</p> <p>A working day is any day other than a Saturday, Sunday or a day which is declared a national public holiday in the Philippines or a local public holiday in the City of Sagay. In computing the fifteen (15) day period, Article 13 of the New Civil Code shall be observed. The date of receipt of the FOI request shall be:</p> <p>a. The day on which the request is physically or electronically delivered to the SWD. If made by registered mail, the date of actual receipt of the request by the FRO. Requests received after 5:00 pm shall be considered received on the next working day; and</p>



	<ul style="list-style-type: none">b. If the FRO has requested the requesting party for further details to identify and locate the requested information, the date of receipt will be the day which the necessaryc. clarification to the satisfaction of the FRO is received. If no clarification is received from the requesting party after thirty (30) calendar days, the request shall be considered closed. <p>In cases when the FRO is out of the office due to official travel, scheduled leave or for personal reasons, the designated secondary FRO shall perform the duties of the primary FRO to ensure availability of personnel and continuity of the FOI process. Upon the return of the primary FRO, the secondary FRO must provide the former, within one (1) working day, with a record of all requests received during his/ her tenure and the subsequent actions applied on such requests.</p>
<p>4. Initial evaluation of request</p>	<p>After receipt of the request for information, the FRO shall evaluate the contents of the request and take note of the following conditions:</p> <ul style="list-style-type: none">a. Request relating to more than one department under the SWD:<p>If a request for information is received which requires to be complied with by different departments, the FRO shall forward such request to the departments concerned and ensure that it is well coordinated and monitor its compliance. The FRO shall also clear with the respective departments that they will only provide the specific information that relates to their unit.</p>b. Request information is not available at the SWD.<p>If the requested information is found to be not available at the SWD after thorough evaluation and deliberation with the FDM, the FRO shall:</p><ul style="list-style-type: none">a. Immediately forward the request to the agency concerned and inform the requesting party the status of his request within the fifteen (15) working day period. The fifteen (15) working day requirement for the receiving office commences the day after it receives the request.b. For requests not covered by EO No. 2 (see Annex A), the requesting party should be duly notified and given the contact details of that office, if knownc. Request information is already posted in the SWD website.<p>For requested information that is already available and posted in the SWD website, the FRO shall inform the</p>



	<p>requesting party and provide the website link where the information is posted.</p> <p>d. Requested information is substantially similar or identical to the previous request.</p> <p>Pursuant to Section 11 of E. O. No. 2, s. 2016, the FRO 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 SWD. However, the FRO shall inform the applicant of the reason of such denial.</p> <p>e. Requested information is under the Exception List.</p> <p>For requests of information that falls under the memorandum issued by the Executive Secretary dated Sept. 13, 2021 entitled Updated Inventory of Exceptions to the Right to Access of Information under EO No. 2, s. 2016. The FRO shall discuss with the FDM if the information requested is indeed an exception. Upon verification, the FRO shall immediately inform the requesting party of the denial and the reason thereof.</p>
5. Transmittal of request by the FRO to the FDM	<p>a. After receipt of the request for information, the FRO shall evaluate the information being requested, and notify the FDM of such request. The copy of the request shall be forwarded to the FDM within one (1) day from receipt of the written request.</p> <p>b. The FRO shall record the date, time and name of the FDM who received the request in a record book with the corresponding signature of acknowledgement of receipt of the request.</p>
6. FDM evaluates request	<p>a. Upon receipt of the request for information from the FRO, the FDM shall assess and clarify the request if necessary. The FDM shall make all necessary steps to locate and retrieve the information requested.</p> <p>b. The FDM shall ensure that the complete information requested be submitted to the FRO within ten (10) days upon receipt of such request. The FRO shall note the date and time of receipt of the information from the FDM.</p> <p>c. If the FDM needs further details to identify or locate the information, he/she shall, through the FRO, seek clarification from the requesting party. The clarification shall stop the running of the fifteen (15) working day period and will commence the day after it receives the required clarification from the requesting party.</p> <p>d. The FDM evaluates if the request is approved, denied or referred based on the SWD Information</p>



	Inventory, list of exceptions in E.O 2 s. 2016, and other existing laws and jurisprudence.
7.1. Approved request	<ul style="list-style-type: none"> a. The FDM shall endorse his grant of approval of the request of information to the FRO who shall communicate the final decision of the SWD to the requesting party either in writing or by email. b. The FRO, together with the FDM, shall ensure that all records to be released are checked for possible exemptions. The FRO is responsible in preparing and sending out the letter or email to the requesting party, within the prescribed period, regarding the approval of his request and be directed to pay any applicable fees.
7.2. Denied request	<ul style="list-style-type: none"> a. The FDM shall endorse his denial of the request of information to the FRO who shall communicate the final decision of the SWD to the requesting party either in writing or by email. b. A notice of denial shall be sent to the requesting party if SWD decides to deny the request wholly or partially, as soon as practicable and within fifteen (15) working days from receipt of the request. The notice shall be made in writing and should clearly state 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.
7.3. Referred request In compliance with FOI Memorandum Circular No. 21-05 of the "No Wrong Door Policy for FOI" <i>Referrals under this Order shall only be limited to two (2) subsequent transfers of request.</i>	<p><u>First Referral</u></p> <ul style="list-style-type: none"> a. When the requested information is not in the possession of SWD, the FRO must verify with another government agency (government agency no. 2 or GA2) under the Executive Branch whether the information is within the latter. The FRO notifies the FDM of the availability. b. The FRO endorses to the FDM for final approval the formal communication expressing referral with the reason or rationale thereof, and contact details of the government office where the request was referred in writing. c. The FRO sends to the RP the formal communication expressing the referral through email not exceeding three (3) working days from the receipt of the request. d. For eFOI Requests, the FRO updates the RP of the progress of the request expressing the referral with the reason or rationale thereof, and contact details of the government office where the request was referred in the eFOI portal not



	<p>exceeding three (3) working days from the receipt of request.</p> <p><i>If SWD fails to refer the request within three (3) working days upon its receipt, the FRO shall act on it within the remaining period to respond pursuant to EO No.02, s.2016. No fresh period shall apply.</i></p> <p><i>If SWD, in good faith, erroneously referred the request to another government agency, the latter shall immediately notify the former as well as the requesting party, that the information requested is not available in their agency.</i></p> <p><u>Second Referral</u></p> <p>If SWD is the government agency to whom the request was referred under the First Referral, steps 1 to 6 in filing and processing FOI requests of this manual must be followed.</p> <ol style="list-style-type: none">When the requested information is not in the possession of SWD, the FRO must verify with another government agency (government agency no. 3 or GA3) under the Executive Branch whether the information is within the latter. The FRO notifies the FDM of the availability.The FRO endorses to the FDM for final approval the formal communication expressing referral with the reason or rationale thereof, and contact details of the government office where the request was referred in writing.The FRO sends to the RP the formal communication expressing the referral through email not exceeding three (3) working days from the receipt of the First Referral. This shall be considered as the "Second Referral" and another fresh period shall apply.For eFOI Requests, the FRO updates the RP of the progress of the request expressing the referral with the reason or rationale thereof, and contact details of the government office where the request was referred in the eFOI portal not exceeding three (3) working days from the receipt of the First Referral. <p><u>Third Referral</u></p> <p>If SWD is the government agency to whom the request was referred under the Second Referral, steps 1 to 6 in filing and processing FOI requests of this manual must be followed.</p> <p>If SWD still cannot provide the information requested, SWD shall deny the said request following Step 7.2 of this manual and mark the request Unsuccessful.</p>
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	<p><u>FOI Internal Messenger</u></p> <p>The FRO shall utilize the FOI Internal Messenger, created by the FOI-PMO located at the eFOI portal or www.foi.gov.ph when confirming which agency has the control and custody of any information or record being requested.</p>
8. Transmission of information to the requesting party	<p>a. Upon receipt of the requested information from the FDM, the FRO shall collate and ensure that the documents and/or records are complete. The FRO shall attach a cover letter signed by the FDM, which is the General Manager, stating the approval or denial of the request. The FRO ensures the transmittal of such to the requesting party within fifteen (15) working days upon receipt of the request for information. The FRO shall maintain a copy of the cover letter and attach it to the request form submitted by the requesting party.</p> <p>b. If the request has been approved and there are applicable fees involved, the FRO shall instruct the requesting party that the fees must be paid first before the information could be provided.</p> <p>c. The FRO shall ensure that a proof of payment must be provided by the requesting party before the information shall be transmitted. The FRO shall affix his/her signature on the copy of the Official Receipt which shall be submitted by the requesting party. Once the FRO secures the proof of payment, he/she shall transmit the information through one of the following methods provided below:</p> <p>c.1. If the requesting party is able to make a personal appearance, the requested information shall be given to the requesting party. The FRO shall inform the requesting party to affix his/ her signature on FRO's copy of the cover letter and logbook as proof of receipt.</p> <p>c.2. If the requesting party is unable to make a personal appearance but has provided an email address, the FRO shall scan the requested information and attach these on the email communication to the requesting party. The FRO must state on the logbook the requesting party's email address and the date and time the email was sent.</p> <p>c.3 If the requesting party stated that the requested information shall be sent through post or courier, the FRO shall provide an estimate cost of the postage or courier to the requesting party. The FRO shall transmit the information through post or courier and take note of the date and time of transmittal, the tracking number (if available) and the person who received the</p>



	documents at the post or courier. The FRO shall then provide the details of the transmittal (date and time of transmittal, expected date of receipt and tracking number (if available) to the requesting party.
9. Requesting of time extension	<ol style="list-style-type: none">a. If the request for information requires extensive search of the records facilities of the SWD, examination of voluminous records, or in case of the occurrence of fortuitous events or other analogous cases, the period of reply may be extended.b. The FDM shall inform the FRO about the need for time extension. In turn, the FRO shall immediately notify the requesting parties of such extension, setting forth the reasons for the extension. In no case shall the extension extend twenty (20) working days on top of the mandated fifteen (15) working days to act on the request, unless exceptional circumstances warrant a longer period.

SECTION 6. REMEDIES IN CASE OF DENIAL

An individual, organization, private or public agency whose request for access to information has been denied may avail of the remedy process set forth below:

1. Denial of any request for access to information may be appealed to the FOI Appeals and Review Committee provided that the written appeal must be filed by the same requesting party within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.
2. The appeal shall be decided by FOI Appeals and Review Committee within thirty (30) working days from receipt of the appeal. Failure to decide within the stated period shall be deemed a denial of the appeal.
3. The denial of the appeal by the FOI Appeals and Review Committee shall be considered final, and the requesting party may file appropriate judicial action in accordance with the Rules of Court.



SECTION 7. REQUEST TRACKING SYSTEM

SWD shall establish a system to trace the status of all requests for information received. The Request Tracking System (RTS) may be paper based, online or both.

SECTION 8. FEES

1. **No request fees.** The SWD shall not charge any fee for accepting requests for access to information.
2. **Reasonable cost of reproduction and copying of the information.** The SWD may charge a reasonable fee to reimburse necessary costs, including actual costs of reproduction, copying, and digitization of the information required. The FRO shall immediately inform notify the requesting party for any cost incurred in order to provide the information.
3. **Exemption from fees.** The SWD may exempt any requesting party from payment of fees, upon submission of a written request stating the valid reason why such requesting party shall not pay any fee.

SECTION 9. ADMINISTRATIVE LIABILITY

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



SECTION 10. POSTING AND EFFECTIVITY

This Manual shall take effect immediately after the approval of the Board of Directors and shall be posted on the SWD website.

Approved by virtue of Board Resolution No. 2017-045.

Engr. Manfred M. Fuentesfina
General Manager
Sagay Water District



ANNEX A. EXECUTIVE ORDER NO. 02

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

OPERATIONALIZING IN THE EXECUTIVE BRANCH THE PEOPLE'S CONSTITUTIONAL RIGHT TO INFORMATION AND THE STATE POLICIES TO FULL PUBLIC DISCLOSURE AND TRANSPARENCY IN THE PUBLIC SERVICE AND PROVIDING GUIDELINES THEREFOR

WHEREAS, pursuant to 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 sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof. The response mentioned above refers to the decision of the agency or office concerned to grant or deny access to the information requested.
- (e) The period to respond may be extended whenever the information requested requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous cases or other analogous cases. The government office shall notify the person making the request of the extension, setting forth the reasons for such extension. In no case shall the extension go beyond twenty (20) working days unless exceptional circumstances warrant a longer period.
- (f) Once a decision is made to grant the request, the person making the request shall be notified of such decision and directed to pay any applicable fees.

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

SECTION 11. Identical or Substantially Similar Requests. The government office shall not be required to act upon an unreasonable subsequent identical or substantially similar request from the same requesting party whose request from the same



requesting party whose request has already been previously granted or denied by the same government office.

SECTION 12. Notice of Denial. If the government office decides to deny the request, in whole or in part, it shall as soon as practicable, in any case within fifteen (15) working days from the receipt of the request, notify the requesting party the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein stipulated shall be deemed a denial of the request for access to information.

SECTION 13. Remedies in Cases of Denial of Request for Access to Information.

- (a) Denial of any request for access to information may be appealed to the person or office next higher in the authority, following the procedure mentioned in Section 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 party may file the appropriate case in the proper courts in accordance with the Rules of Court.

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

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

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

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

SECTION 18. Repealing Clause. All orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Executive Order are hereby repealed, amended or modified accordingly: Provided, that the provisions of Memorandum Circular No. 78 (s. 1964), as amended, shall not be deemed repealed pending further review.



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

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

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

By the President:

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



ANNEX B. MEMORANDUM CIRCULAR NO. 89

**UPDATED INVENTORY OF EXCEPTIONS TO THE RIGHT TO ACCESS OF
INFORMATION UNDER EXECUTIVE ORDER NO. 02, S. 2016**



**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.

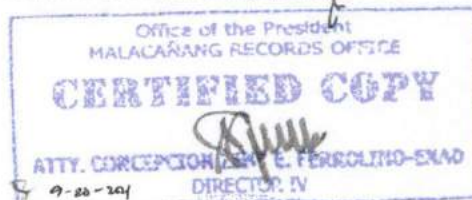
The foregoing list of exceptions shall be without prejudice to existing laws, jurisprudence, rules or regulations authorizing the disclosure of the excepted information upon satisfaction of certain conditions in certain cases, such as the consent of the concerned party or as may be ordered by the courts.

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 ~~13~~ ¹⁴ 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 carjacked vehicles and apprehension of the persons charged with carjacking;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 Carjacking 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
- I. 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*



ANNEX C. STANDARD REQUEST FORM

 Republic of the Philippines SAGAY WATER DISTRICT Cor. Ma. Lopez, Marañon St., Poblacion II, Sagay City, Negros Occidental, PH		CONTACT US Telephone Nos. (034) 488 - 0219 / (034) 454-1986 Tele/Fax Nos. (034) 488 - 0219 Email Address: sagaywd@yahoo.com	
Tracking Number: _____			
FREEDOM OF INFORMATION REQUEST FORM <small>(Pursuant to Executive Order No. 2, s. 2016)</small>			
REQUEST PARTY: You are required to supply your name and address for correspondence. Additional contact details will help us deal with your application and correspond with you in the manner you prefer.			
TITLE: <small>(e.g. Mr, Ms, Miss)</small>		GIVEN NAME/S <small>(Including Last Name, First, MI)</small>	
COMPLETE ADDRESS: <small>(Apt/House Number, Street, City/Municipality, Province)</small>			
COMPLANY/AFFILIATION/ORGANIZATION/SCHOOL and POSITION:			
COMPLETE ADDRESS: <small>(Apt/House Number, Street, City/Municipality, Province)</small>			
TYPE OF GOVERNMENT ID GIVEN <small>(with photograph and picture)</small>			
CONTACT DETAILS:			
LANDLINE NO.:	MOBILE NO.:	EMAIL ADDRESS:	POSTAL ADDRESS:
PREFERRED MODE OF COMMUNICATION:		<input type="checkbox"/> Landline <input type="checkbox"/> Mobile <input type="checkbox"/> Email <input type="checkbox"/> Postal address	
PREFERRED MODE OF REPLY/RESPONSE:		<input type="checkbox"/> Pick-up <input type="checkbox"/> Fax <input type="checkbox"/> Email <input type="checkbox"/> Postal address	
<small>(If your request is successful, we will be sending the documents to you in this manners.)</small>			
ID OF REPRESENTATIVE: _____			
PROOF OF AUTHORITY: _____			
REQUESTED INFORMATION:			
AGENCY - CONNECTING AGENCY <small>(if applicable)</small> : _____			
TITLE OF DOCUMENT/RECORD REQUESTED: <small>(Please provide as much detail as you can)</small>			
DATE OR Period <small>(DD/MM/YYYY)</small> : _____			
Purpose of Request: <small>(Please be as specific as possible)</small>			
ANY OTHER RELEVANT INFORMATION: _____			
DECLARATION: <small>I declare and certify that the information provided in this form is complete and correct. I am aware that giving false information or using forged document 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 Sagay Water District. I understand that the Sagay Water District may collect, use and disclose personal information contained in this request.</small>			
Signature of Requesting Party or Representative: _____			
Date Accomplished: _____			
FREEDOM OF INFORMATION			

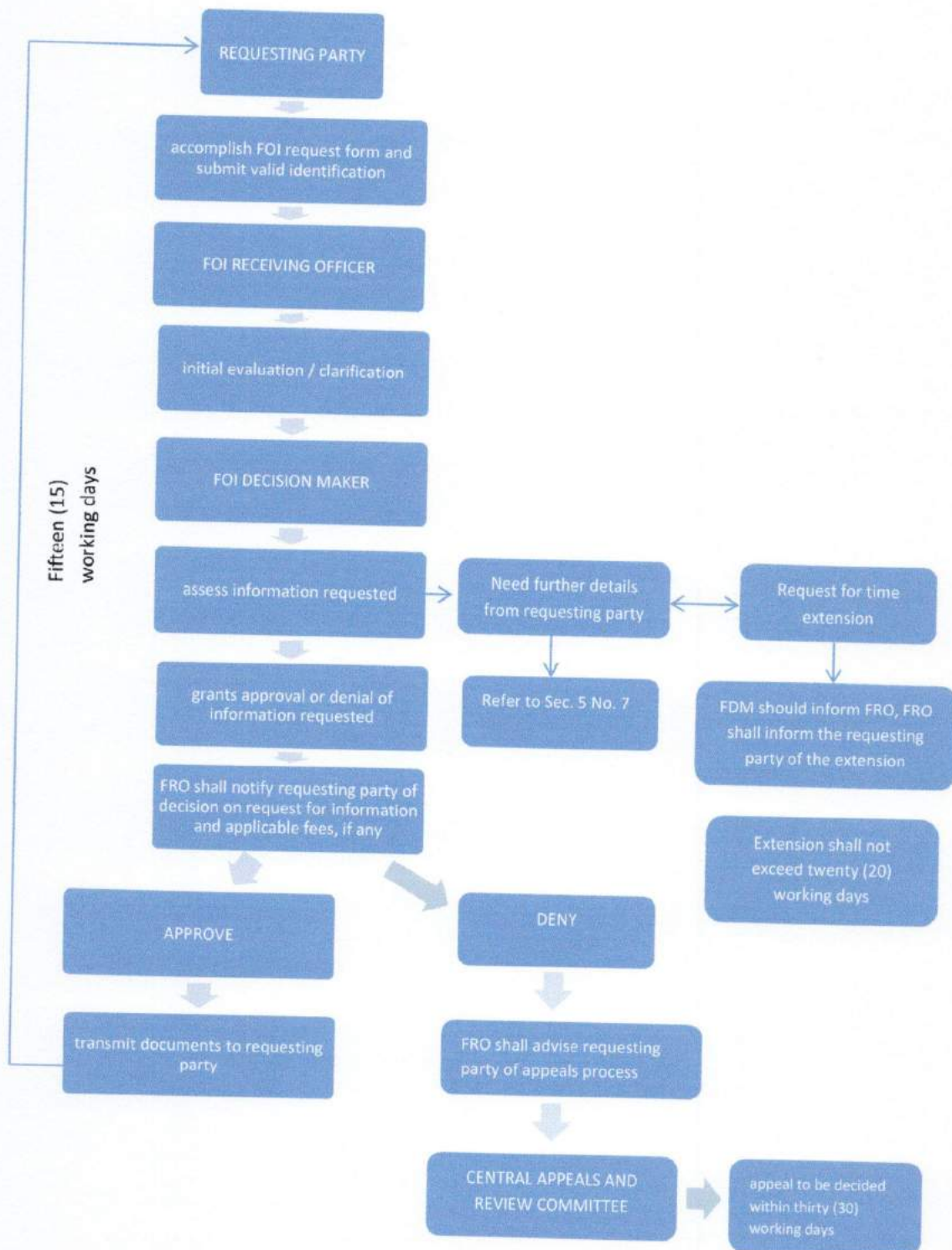


FOI RECEIVING OFFICER (INTERNAL USE ONLY)	
TITLE: (e.g. Mr, Ms, Miss)	GIVEN NAME/S (Including Last Name, First, MI)
AGENCY - CONNECTING AGENCY (If applicable): otherwise N/A	
DATE ENTERED on eFOI (If applicable): otherwise N/A	
Proof of ID Presented (Photocopies of original should be attached)	<input type="checkbox"/> Passport <input type="checkbox"/> Driver's Licence <input type="checkbox"/> SSS ID <input type="checkbox"/> Postal ID <input type="checkbox"/> Voter's ID <input type="checkbox"/> School ID <input type="checkbox"/> Company ID <input type="checkbox"/> Others _____
The Request is recommended to be: If Denied, please tick the Reason for the Denial	<input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Invalid Request <input type="checkbox"/> Incomplete <input type="checkbox"/> Data already available online
Secondary Receiving Officer Assigned: (print name)	_____
Decision Maker Assigned to Application (print name)	_____
Decision on Application If Denied, please tick the Reason for the Denial	<input type="checkbox"/> Successful <input type="checkbox"/> Partially Successful <input type="checkbox"/> Denied <input type="checkbox"/> Cost <input type="checkbox"/> Invalid Request <input type="checkbox"/> Incomplete <input type="checkbox"/> Data already available online <input type="checkbox"/> Exception <input type="checkbox"/> Which Exception? _____
Date Request Finished (DD/MM/YYYY)	_____
Date Documents (if any) Sent (DD/MM/YYYY)	_____
FOI REGISTRY ACCOMPLISHED	<input type="checkbox"/> Yes <input type="checkbox"/> No
RO Signature	_____
Date (DD/MM/YYYY)	_____
FREEDOM OF INFORMATION	



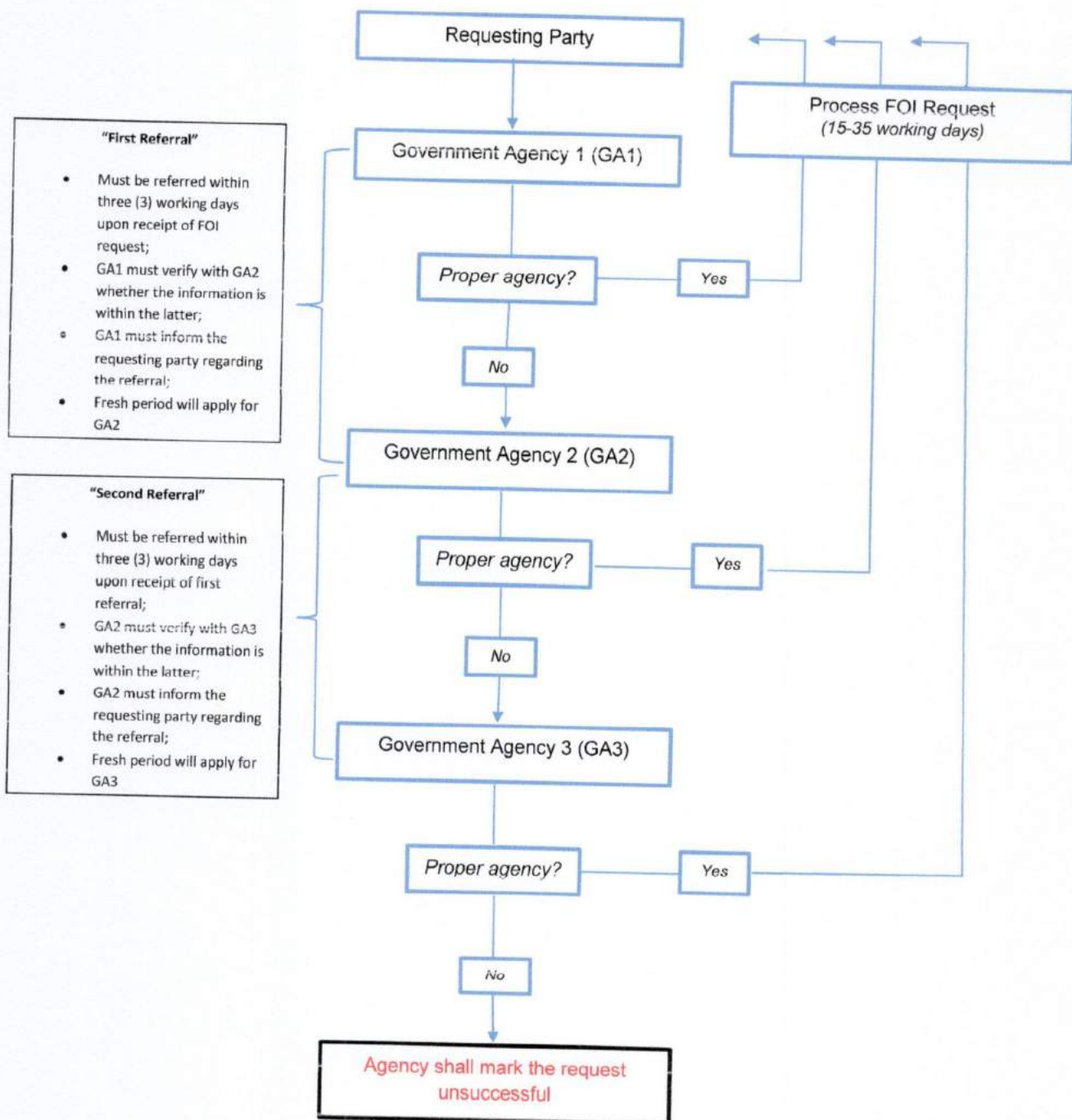
ANNEX D. FOI REQUEST FLOW CHART

(SEE NEXT PAGE)





ANNEX E. NO WRONG DOOR POLICY FLOWCHART





ANNEX F. DESIGNATED PERSONNEL FOR FOI IMPLEMENTATION

OFFICER	FOI ROLE	CONTACT NO	EMAIL ADDRESS
Manfred M. Fuentesfina	FOI Decision Maker	(034) 488-0219 / 09129563238	sagaywd@yahoo.com
Mary Jane A. Tampus	Primary FOI Receiving Officer	(034) 488-0219 / 09988552177	sagaywd@yahoo.com
Kennelyn Ann B. Magbanua	Secondary FOI Receiving Officer	(034) 488-0219 / 09460131325	sagaywd@yahoo.com
Rea T. Soberano	Central Appeals and Review Committee	(034) 488-0219 / 09129563238	sagaywd@yahoo.com
Ronie S. De la Calzada			
Marie Angeline B. Divinagracia			