CALABANGA WATER DISTRICT

San Antonio, Calabanga, Camarines Sur

Freedom on Information People's Manual 2022

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SECTION 1: OVERVIEW

1 **Purpose:** The purpose of this People's FOI Manual (Manual) is to provide the process to guide and assist Filipino Citizens in requesting for information under Executive Order (E.O.) No. 2, Series of 2016, on Freedom of Information (FOI). **(Annex "B")**

2 **Structure of the Manual:** This Manual shall set out the rules and procedures to be followed by the Calabanga Water District (CAWADI) when a request for access to information is received. The General Manager of CAWADI is responsible for all actions carried out under this Manual and may delegate this responsibility to the key personnel of the CAWADI and as approved by the Board of Directors. The General Manger may likewise delegate specific officer to act as the Decision Maker (DM), who shall have overall responsibility for the initial decision on FOI requests, (i.e. to decide whether to release all the records, partially release the records or deny access).

3 **Coverage of the Manual:** The Manual shall cover all requests for information directed to CAWADI.

4 **FOI Receiving Officer (FRO):** The FRO is from the Administrative & General Services Division of CAWADI or designated by General Manager.

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

a. That the form is incomplete; or

b. That the information is already disclosed in the CAWADI website, foi.gov.ph, or at data.gov.ph.

5. **FOI Decision Maker:** The CAWADI general manager may delegate the Administrative & General Services Division as the FOI Decision Maker (DM). The FOI DM shall conduct evaluation of the request for information and has the authority to grant the request, or deny it based on the following:

a. CAWADI 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 classified as confidential by the agency;

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 CAWADI

6. **General Manager:** The General will evaluate will the transmitted completed information for approval or denial of the request and amount of fees to be paid.

7. **Appeals and Review Committee:** There shall be an appeals and review committee composed of three (3) members of the Board of Directors designated by the Chairman of the Board to review and analyze the grant or denial of request of information. The Committee shall also provide expert advice to the CAWADI General Manager on the denial of such request.

8**.** **Approval and Denial of Request to Information:** The General Manager shall approve or deny all requests for information. In case where the General Manager is on official leave, the latter may delegate such authority to the Group officer-in-charge or to any other CAWADI official with a rank not lower than a division manager.

SECTION 2: DEFINITION OF TERMS

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

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

FOI.gov.ph. The website that serves as the government’s comprehensive FOI website for all information on the FOI. Among many other features, FOI.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. FOI.gov.ph also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, so that they can be compared by agency and over time.

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

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

FOI CONTACT. The name, address and phone number at each government office where you can make an FOI request

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

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

FREQUENTLY REQUESTED INFORMATION. Info released in response to an 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 AGENCY or any of its office, bureau or agency cannot release any records in response to an FOI request, because, for example, the requested information is exempt from disclosure in its entirety or no records responsive to the request could be located.

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

INFORMATION. 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.

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

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

OFFICIAL RECORD/S. 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.

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 a government office is able to disclose portions of the records in response to an FOI request, but must deny other portions of the request.

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

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

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

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

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

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

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

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

ADMINISTRATIVE AND GENERAL SERVICES DIVISION. Provides support services and resources necessary to carry out the operations of the District through its Administrative and Human Resources Section.

PRODUCTION AND MAINTENANCE DIVISION. plans, organize and directs the Operation and Maintenance of the District's catchment areas, water production, treatment plant and storage facilities and equipment; initiate research and prepares studies and report of the District's short and long term programs.

FINANCE AND COMMERCIAL DIVISION. Responsible for managing and integrating wide variety of functions, programs and staff engaged in the billing,collection and accounting system of the district; oversee the District's needs in terms of its commercial transaction; handle daily business issues, manages District's association and recognize business opportunities.

ENGINEERING CONSTRUCTION AND PRODUCTION & WATER QUALITY DIVISION. is responsible for managing and integrating wide variety of functions, programs and staff engaged in the design/construction of district distribution system and appurtenances. The functional activity of this division accomplished through the Planning and Construction Section.

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 affiliation;

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

SECTION 3. PROTECTION OF PRIVACY

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

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

SECTION 4. STANDARD PROCEDURE *(See **Annex "E"** for flowchart)*

1. Receipt of Request for Information.

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

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

The request can be made through email, provided that the requesting party shall attach in the email a scanned copy of the FOI request form, and a copy of a duly recognized government identification card with photo.

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

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

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

The date of receipt of the request will be either:

a. The day on which the request is physically or electronically delivered to the government office, or directly into the email inbox of a member of staff; or

b. If the government office has asked the requesting party for further details to identify and locate the requested information, the date on which the necessary clarification is received.

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

Should the requested information need further details to identify or locate, then the 15 working days will commence the day after it receives the required clarification from the requesting party. If no clarification is received from the requesting party after sixty (60) calendar days, the request shall be closed.

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

2.1. Request relating to more than one office under CAWADI**:** If a request for information is received which requires to be complied with, of different offices, the FRO shall forward such request to the said office concerned and ensure that it is well coordinated and monitor

its compliance. The FRO shall also clear with the respective FROs of such offices that they will only provide the specific information that relates to their offices.

2.2. Requested information is not in the custody of CAWADI**:** If the requested information is not in the custody of CAWADI, following referral and discussions with the FDM, the FRO shall undertake the following steps:

- If the records requested refer to another agency (e.g. private partners/suppliers, National Water Resources Board, Local Water Utilities Administration), the request will be immediately transferred to such appropriate agency through the most expeditious manner and the transferring office must inform the requesting party that the information requested was forwarded to another agency. The 15working day requirement for the receiving office commences the day after it receives the request.
- If the records refer to an office not within the coverage of E.O. No. 2, the requesting party shall be advised accordingly and provided with the contact details of that office, if known.

2.3. Requested information is already posted and available online: Should the information being requested is already posted and publicly available in the CAWADI website, data.gov.ph or foi.gov.ph, the FRO shall inform the requesting party of the said fact and provide them the website link where the information is posted.

2.4. Requested information is substantially similar or identical to the previous request: Should the requested information be substantially similar or identical to a previous request by the same requester, the request shall be denied. However, the FRO shall inform the applicant of the reason of such denial. **Transmittal of Request by the FRO to the FDM:** 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 such FDM within one (1) day from receipt of the written request. The FRO shall record the date, time and name of the FDM who received the request in a record book with the corresponding signature or acknowledgement of receipt of the request. **Role of FDM in processing the request:** Upon receipt of the request for information from the FRO, the FDM shall assess and clarify the request if necessary. He or she shall make all necessary steps to locate and retrieve the Information requested. The FDM shall ensure that the complete information requested be submitted to the FRO within 10 days upon receipt of such request.

The FRO shall note the date and time of receipt of the information from the FDM and report to the AGENCY Head or the designated officer, in case the submission is beyond the 10-day period.

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

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

1 **Role of the General Manager:** upon receipt of the complete information, the General Manager shall decide whether to approve or deny the request for information.

2 **Role of FRO to transmit the information to the requesting party:** Upon receipt of the requested information from the FDM, the FRO shall collate and ensure that the information is

complete. He shall attach a cover/transmittal letter signed by the CAWADI General Manager or the designated officer and ensure the transmittal of such to the requesting party within 15 working days upon receipt of the request for information.

3 **Request for an Extension of Time:** If the information requested requires extensive search of the government's office records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases, the FDM should inform the FRO. The FRO shall inform the requesting party of the extension, setting forth the reasons for such extension. In no case shall the extension exceed twenty (20) working days on top of the mandated fifteen (15) working days to act on the request, unless exceptional circumstances warrant a longer period.

6**.** **Notice to the Requesting Party of the Approval/Denial of the Request:** Once the FDM approved or denied the request, he shall immediately notify the FRO who shall prepare the response to the requesting party either in writing or by email. All actions on FOI requests, whether approval or denial, shall pass through the CAWADI General Manager or his designated officer for final approval.

7 **Approval of Request:** In case of approval, the FRO shall ensure that all records that have been retrieved and considered be checked for possible exemptions, prior to actual release. The FRO shall prepare the letter or email informing the requesting party within the prescribed period that the request was granted and be directed to pay the applicable fees, if any.

8 **Denial of Request:** In case of denial of the request wholly or partially, the FRO shall, within the prescribed period, notify the requesting party of the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of the request to information. All denials on FOI requests shall pass through the Office of the General Manager or to his designated officer.

SECTION 5. REMEDIES IN CASE OF DENIAL

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

1. Administrative FOI Appeal to the CAWADI Central Appeals and Review Committee: Provided, that the written appeal must be filed by the same requesting party within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.

a. Denial of a request may be appealed by filing a written appeal to the CAWADI Central Appeals and Review Committee within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.

b. The appeal shall be decided by the CAWADI General Manager upon the recommendation of the Central Appeals and Review Committee within thirty (30) working days from the filing of said written appeal. Failure to decide within the 30-day period shall be deemed a denial of the appeal.

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

SECTION 6. REQUEST TRACKING SYSTEM

The CAWADI shall establish a system to trace the status of all requests for information received by it, which may be paper-based, online or both.

SECTION 7. FEES

1. **No Request Fee.** CAWADI shall not charge any fee for accepting requests for access to information.
2. **Reasonable Cost of Reproduction, Copying, and/or Delivery of the Information:** The FRO shall immediately notify the requesting party in case there shall be a reproduction, copying and/or delivery fee in order to provide the information. Such fee shall be the actual amount spent by CAWADI in providing the information to the requesting party. The schedule of fees shall be posted by CAWADI.

Service	Cost
Photocopy of reproduction	Php 2.00 per page of any size
Retrieval fee	a. For documents retrieval within one (1) day Php50.00 b. For documents retrieval for more than one (1) day to one (1) week Php100.00 c. For documents requiring more than one (1) week Php 150.00
Delivery charge (in case of registered mail)	Php 70.00
Appeal of Notice of Denial (covers for administrative expenses and research fee)	Php 100.00

3. **Exemption from Fees:** CAWADI 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 8. 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:
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 body or agency, which provides for more stringent penalties.

a. 1st Offense -Reprimand;
b. 2nd Offense -Suspension of one (1) to thirty (30) days; and
c. 3rd Offense -Dismissal from service

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) calendar 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) calendar 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.

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

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 could expose 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

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

own Peoples 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 satellite offices where the public can submit requests to obtain information;
(b) The person or office 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 aforementioned 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

CERTIFIED COPY:

MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACAÑANG RECORDS OFFICE

CAWADI FOI OFFICERS

Name of Employee	Contact Details	FOI Designation
Carmelle A. Malanyaon	(054) 881-0063 calabangawd@yahoo.com.ph CAWADI Bldg., San Antonio, Calabanga, Camarines Sur	FOI Receiving Officer
Betty B. Viola	(054) 881-9188 calabangawd@yahoo.com.ph CAWADI Bldg., San Antonio, Calabanga, Camarines Sur	FOI Decision Maker for Administrative and General Services Division
Raquel M. Saavedra	(054) 881-0063 Commercial: calabangawd@yahoo.com.ph Accounting & Finance: calabangawd_fab@yahoo.com CAWADI Bldg., San Antonio, Calabanga, Camarines Sur	FOI Decision Maker for Finance and Commercial Division
Engr. Michael M. Gutierrez-Moreno	(054) 470-2000 calabangawd@yahoo.com.ph CAWADI Bldg., San Antonio, Calabanga, Camarines Sur	FOI Decision Maker for Engineering Construction/Production and Water Quality Division
Dir. Estelita B. Dulce Dir. Elenita B. Cabaltera, Dir. Neil Harvey S. Salazar	(054) 881-0063 calabangawd@yahoo.com.ph CAWADI Bldg., San Antonio, Calabanga, Camarines Sur	FOI Appeals and Review Committee

ENGR. CELEDONIO I. TOLENTINO, JR.
General Manager 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:

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, 29 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 56 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. 2015-02 (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 CCESPCE.

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. 9), 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. 08-11-5-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;[70]

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 *Hilario v. Judge Amor A. Reyes*, G.R. No. 183165, 21 July 2009.

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

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

REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
Tanggapang Pampanguluhan sa Operasyong Komunikasyon
Ermita, City of Manila

FOI-MC No. 21- 05

FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR

FOR : **ALL AGENCIES, DEPARTMENTS, BUREAUS, OFFICES AND INSTRUMENTALITIES OF THE EXECUTIVE BRANCH INCLUDING GOVERNMENT-OWNED AND/OR CONTROLLED CORPORATIONS (GOCCS), STATE UNIVERSITIES AND COLLEGES (SUCS), AND LOCAL WATER DISTRICTS (LWDS)**

SUBJECT : **GUIDELINES ON THE REFERRAL OF REQUESTED INFORMATION, OFFICIAL RECORD/S AND PUBLIC RECORD/S TO THE APPROPRIATE GOVERNMENT AGENCY OTHERWISE KNOWN AS THE "NO WRONG DOOR POLICY FOR FOI"**

WHEREAS, Executive Order (EO) No. 02, s. 2016 was issued by President Rodrigo Roa R. Duterte to operationalize the Constitutional Right of Access to Information, and Policy of Full Public Disclosure in the Executive Department;

WHEREAS, Memorandum Order (MO) No. 10, s. 2016 designated the Presidential Communications Operations Office (PCOO) as the lead agency in the implementation of EO No. 02, s. 2016;

WHEREAS, Department Order No. 18, s. 2017, issued by the PCOO, created the Freedom of Information – Project Management Office (FOI-PMO) to exercise the mandate of MO No. 10, s. 2016;

WHEREAS, in order to ensure the policy of the President to have an open, transparent and accountable government, it is the mandate of the PCOO to develop programs and mechanisms to enhance the capacity of government agencies to comply with the FOI program;

WHEREAS, there is a need to break the prevailing "silo system" and lack of interconnection among government agencies, with the end goal of a government acting as a singular unit serving its primary client, its citizens;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

in implementing this Circular, an inventory of the names and contact details of all designated FROs and FDMs of government agencies, and an Agency Information Inventory (AII) shall be compiled by the FOI-PMO.

The FOI-PMO shall be the central repository of the inventory of all designated FROs and FDMs and shall collate and update the names and contact information of the designated FROs and FDMs of each government agency. The inventory shall be posted at the eFOI portal, www.foi.gov.ph. FOI-PMO shall strictly adhere to Republic Act No. 10173 or the Data Privacy Act of 2012.

To assist the FROs in locating the requested information or record, an annual updating of the AII shall be required of all agencies on-boarded on the eFOI Portal. The consolidated inventory of information shall likewise be made available in the dashboard of the FRO and FDM for ease of access and information.

Section 9. Separability Clause. If, for any reason, any part or provision of this Memorandum Circular is declared invalid or unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

Section 10. Repealing Clause. All orders, rules and regulations, memoranda, circulars, and issuances or any part thereof inconsistent with the provisions of this Memorandum Circular are hereby repealed, amended or modified accordingly.

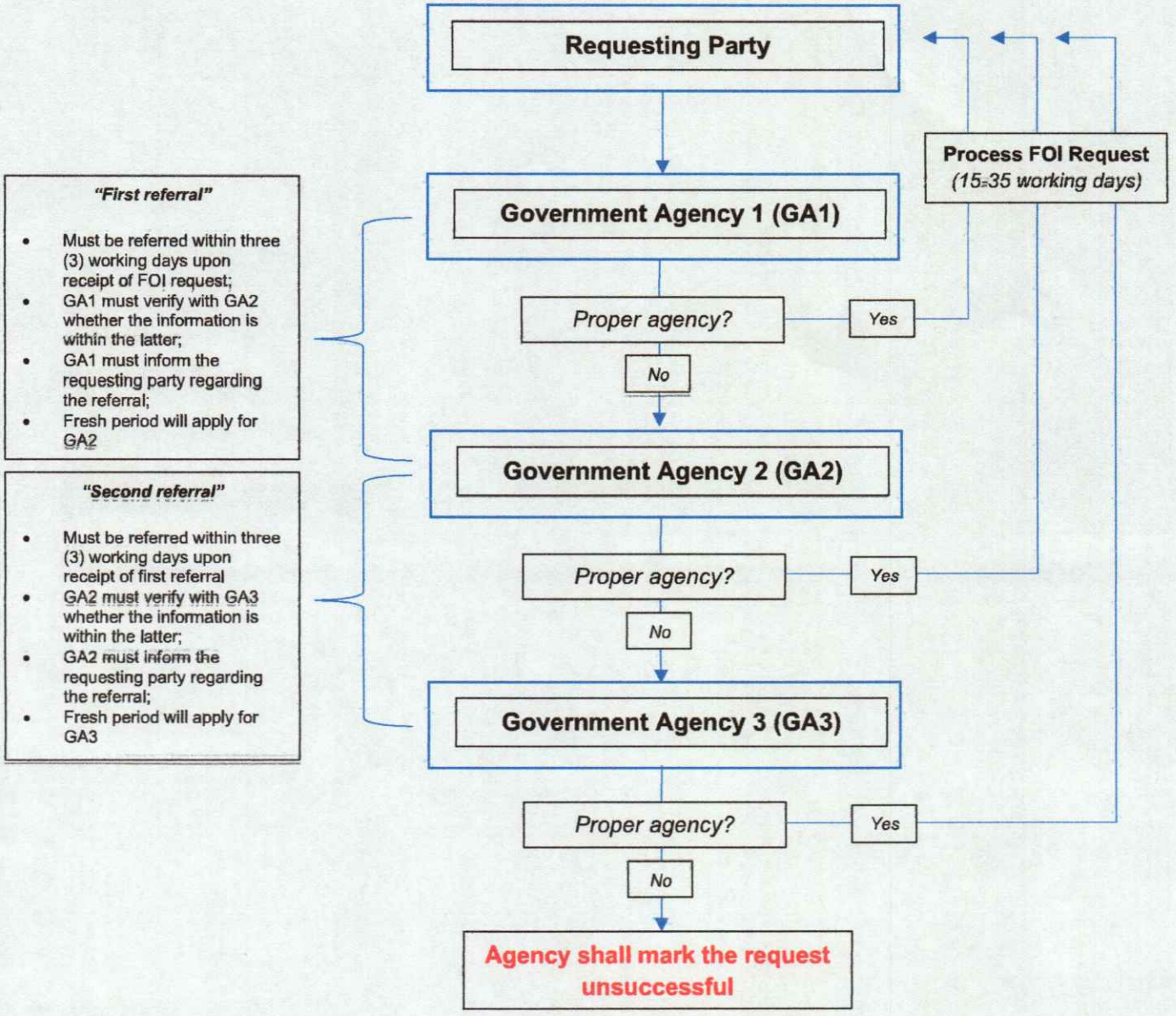
Section 11. Effectivity. This Memorandum Circular shall take effect immediately.

Manila, Philippines, 27th **day of** August **2021.**

JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

Annex A

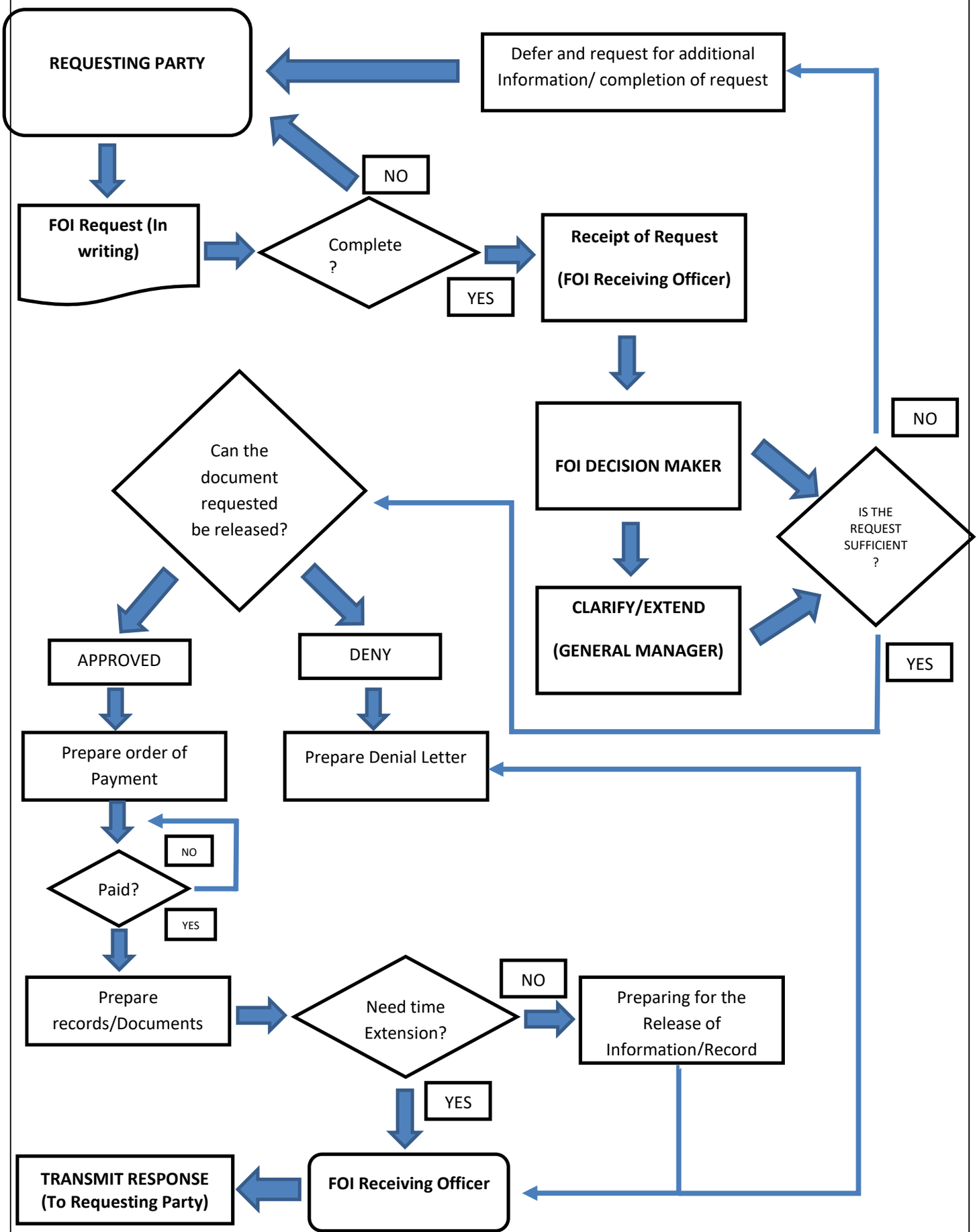
NO WRONG DOOR POLICY FLOWCHART



NOTE:

If GA1 fails to refer the request within three (3) working days upon its receipt, the FOI Receiving Officer (FRO) shall act on it within the remaining period to respond pursuant to EO No. 2, s. 2016. No fresh period shall apply.

FOI REQUEST FORM FLOW CHART



SUBMISSION OF FOI REQUEST (in writing and in prescribed form
RECEIPT AND EVALUATION OF COMPLIANCE OF FOI

CALABANGA WATER DISTRICT

San Antonio, Calabanga, Camarines Sur

FREEDOM OF INFORMATION REQUEST FORM

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

A. Requesting Party

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

1. Title *(e.g. Mr. Mrs. Ms. Miss)* 2. Given Name/s *(including M.I.)* 3. Surname

_____ * _____ * _____

4. Complete Address *(Apt/House Number, Street, City Municipality, Province)*

* _____

5. Landline/Fax 6. Mobile 7. Email

8. Preferred Mode of Communication □ Landline □ Mobile Number □ Email □ Postal Address

(If your request is successful, we will be sending the documents to you in this manner.)

1. Preferred Mode of Reply □ Email □ Fax □ Postal Address □ Pick-up at Agency
2. Name of Representative/ Guardian Surname First name Middle initial (*if applicable)* _____

_____ _____

B. Requested Information

1. Proof of authority : _____
2. Agency – Connecting Agency :_____

(If applicable)

1. Title of Document/record Requested *(Please be as detailed as Possible)*
2. Date or period (DD/MM/YY) _____
3. Purpose _____
4. Document type _____
5. Reference Numbers (if known) _____
6. Any other related information

* _____

* _____ * _____

I declare that:

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

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

* _____

Signature

* _____

Date Accomplished

SCHEDULE OF FEES

Nature of Service	Fee
Authentication of any official record or document	P50
Certification of any document or information	P25
Photocopy per page	P2
Copy of document on CD, DVD	P20

NOTE: All payments must be made with the CAWADI Cashier. Documents will be released upon presentation of official receipt.