Republic of the Philippines
METALS INDUSTRY RESEARCH AND DEVELOPMENT CENTER
Department of Science and Techology

People's Freedom of Information manual

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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF SCIENCE AND TECHNOLOGY
METALS INDUSTRY RESEARCH AND DEVELOPMENT CENTER
General Santos Avenue, Bicutan, Taguig City

FREEDOM OF INFORMATION

Implementing Details

Section 1. Overview

1. **Purpose of the Manual.** This Manual will provide the process to guide and assist the MIRDC in dealing with requests of information received under the Executive Order No. 2, series of 2016 "Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor", issued by President Rodrigo Roa Duterte on July 23, 2016.

2. **Structure of the Manual.** This Manual shall set out the rules and procedures to be followed by the MIRDC, when a request for access to information is received. The Executive Director is responsible for all actions carried out under this Manual and may delegate this responsibility to the Deputy Executive Director. The Executive Director may delegate a specific officer to act as the Decision Maker (DM) who shall have overall responsibility for the initial decision on FOI requests, (i.e. to decide whether to release all the records, partially release the records or deny access).

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

4. **FOI Receiving Officer (FRO).** There shall be an FOI Receiving Officer designated at MIRDC and its Extension Offices. The FRO shall hold office at MIRDC Compound, General Santos Avenue, Bicutan, Taguig City and at the MIRDC Extension Offices in Mindanao located at DOST Regional Office X, DJ.V. Seriña St., Carmen, Cagayan de Oro City.

   The functions of the FRO shall include receiving on behalf of the MIRDC 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 MIRDC's Official Website, foi.gov.ph or at data.gov.ph.

5. **FOI Decision Maker (FDM).** The DOST AO 002 s, 2017 designates the Head of Agency, the Executive Director, as the FOI Decision Maker who shall conduct evaluation of the request for information and has the authority to grant the request, or deny it based on the following:

   a. The MIRDC 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 "D" for list of exceptions); or
   d. The request is an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the MIRDC.

6. **Central Appeals and Review Committee.** There shall be a Department Central Appeals and Review Committee for all DOST-attached agencies, institutes, councils and offices composed of the Assistant Secretary for Finance and Legal Affairs, as Chair; Assistant Secretary for International Cooperation, as Vice Chair; and Director of Planning and Evaluation Service, as member.

   The Committee shall review and analyze the denial of request of information of the agency and recommend whether to affirm or reverse the denial to the Office of the DOST Secretary. (DOST AO 002 s, 2017).

7. **Approval and Denial of Request.** The Decision Maker shall approve or deny all request for information. In cases where the Decision Maker is on official leave, the Executive Director may delegate the authority to the alternate officer, which should not fall below the rank of the Deputy Executive Director.

Section 2. Definition of Terms

Administrative FOI Appeal – an independent review of the initial determination made in response to a FOI request. Requesting parties who are dissatisfied with the response made on their initial request have a right to appeal that initial determination to an office within the agency, which will then conduct an independent review.

Consultation – when a government office locates a record that contains information of interest to another office, it will ask the views of that other agency on the disclosability of the records before any final determination is made. This process is called a "consultation".

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

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.

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 Repots, so that they can be compared by agency and over time.

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 Decision Maker – refers to the Head of Agency who evaluates the recommendation of the FED on any FOI request, and has the authority to approve or deny such request.

FOI Evaluating Division (FED) – refers to the division that will review the merits of the FOI request and determine whether it has possession of the requested information or the requested information falls under any of the exceptions to the FOI. The FED shall make the recommendation to the FDM whether to grant, deny, partially deny or grant, redact certain information, refer to other office, and such other actions as may be appropriate.

FOI Evaluating Division Officer (FEDO) – the designated personnel tasked by the Head of the FOI Evaluating Division to perform the functions of the FED.

FOI Receiving Officer (FRO) – the primary contact at each agency where the requesting party can call and ask questions about the FOI process or the pending FOI request. The FRO shall likewise make the initial evaluation of the FOI request, determine the appropriate FED who has custody of the requested information and forward said request to such Division, monitor all FOI requests and appeals, compile statistical information on FOI requests and actions taken thereon, and provide such other assistance to the FDM and FED.

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

Frequently Requested Information – refers to information released in response to a FOI request that the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records.

Full Denial – when the MIRDC cannot release any records in response to a FOI request, because, for example, the requested information is exempt from disclosure in its entirety or no records responsive to the request could be located.

Full Grant – when a government office is able to disclose all records in full in response to a FOI request.

Information – shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored 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 – refers to 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 useable by end users.

Partial Grant/Partial Denial – when a government office is able to disclose portions of the records in response to a FOI request, but must deny other portions of the request.

Pending Request or Pending Appeal – a 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 – a 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 Record/s – shall include information required by laws, executive orders, rules or regulations to be entered, kept and made publicly available by a government office.

Public Service Contractor – shall be defined as a private entity that has dealing, contract, or a transaction of whatever form or kind with the government or a government agency or office that utilizes public funds.

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. The process is called a "referral".

Sensitive Personal Information – as defined in the Data Privacy Act of 2012, shall refer to personal information:

a. About an individual race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;

b. 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;
c. 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
d. Specifically established by an executive order or an act of Congress to be kept classified.

Simple Request – a 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 access to information, the MIRC shall afford full protection to a person's right to privacy, as follows:

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

Section 4. Standard Procedure

(See Annex "E" for Flowchart)

4.1 Receipt of Request for Information

4.1.1 **Where Filed.** The FOI Request shall be filed with the FRO.

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

The standard FOI Request Form shall be available free of charge upon request from the FRO or through the MIRDC's website (www.mirdc.dost.gov.ph). An

FOI Request shall only be considered valid when accompanied by the standard Request Form. The Standard Form is attached as Annex "G" of this Manual.

4.1.3 **Requisites of an FOI Request.** The FRO shall check compliance with the following requirements:

a. The request must be in writing (legible, if request is handwritten);
b. The request shall state the name and contact information of the Requesting Party, as well as provide valid proof of identification or authorization;
c. The request shall reasonably describe the information requested or contains information sufficient to identify the record/s concerned; and
d. The request must state the reason for, or purpose, of the request for information.

The requesting party shall likewise indicate in the FOI Request Form the preferred mode of communication and response.

If the request is not in conformity with the requirements set forth, the FRO shall provide reasonable assistance to enable the Requesting Party to comply.

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

4.1.5 **Identification and Proof of Authority.** The requesting party shall attach to his/her FOI request the following:

a. A copy of any government issued I.D.s containing the photograph and signature of the requesting party. Original must be presented to the FRO for verification;

b. If the request is made through a representative, in addition to the requirement in the immediately preceding paragraph, the written authorization of the principal and copy of any government issued ID containing the photograph and signature of the principal. Original ID of the principal must likewise be presented to the FRO for verification;

c. If the requesting party is a juridical entity, original or certified copy of the board resolution, corporate secretary's certificate, or other acceptable written document showing the authority of the

representative to act in behalf of the such juridical entity. Representative must likewise present any government issued I.Ds containing the photograph and signature;

d. If the requesting party is a natural person who is a member, employee, affiliated with or related to a juridical entity, company or organization, and the request is made not in behalf of such juridical entity, company or organization but arises from such membership, affiliation or relation, such other sufficient proof of authority or affiliation, e.g., copy of the company or organization ID; for students, a copy of the school ID and written endorsement of the advisor/supervising faculty member/instructor; and

e. If the requesting party is a minor, his/her guardian or any competent supervising adult shall comply with the requirements for a representative.

The authorization shall expressly state the extent of the authority of the representative to make the request, provide clarification, received the requested information, and to bind the principal for all representations and/or undertaking made by the representative in connection with the request for information.

4.1.6 **Mode of Request**. FOI Request may be made through registered mail, e-mail, or through official online portals, provided, that the requesting party shall provide all the required information and attach the supporting documents.

If the request is made through e-mail or other official portals, such request must be accompanied by a scanned copy of the duly accomplished FOI Request Form, and a copy of the requesting party's valid government issued ID with photograph and signature.

4.1.7 **Reasonable Assistance**. In case the Requesting Party is unable to make a written request, because of illiteracy or due to being a person with disability, he/she may make an oral request, and the FRO shall reduce it in writing. Reasonable assistance does not cover reproduction costs of the requesting party's copy of the FOI request and the supporting documents.

4.1.8 **Exceptional Situations**. In meritorious cases, the FRO may accept an FOI request which lacks the standard FOI Request Form, provided that the FOI request contains all the required information and complies with the other requirements of an FOI request as provided herein. In such case, the FRO shall accomplish the standard FOI Request Form in relation to such request and attach the same to the written request.

4.1.9 **Acknowledge Receipt.** The FRO shall stamp "RECEIVED" on the FOI Request Form and indicate the date and time of receipt, his/her name, rank and position with the corresponding signature. The FRO shall return one copy 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.

4.1.10 **Reference Number.** The FRO shall input the details of the request on the FOI Request Tracking System and assign a reference number.

4.2 **Period for Approval and Release.** The MIRDC must respond to the requests promptly, within the fifteen (15) working days following the date of receipt of a fully compliant 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, Article 13 of the New Civil Code shall be observed.

The date of receipt of the request will be as follows:

a. If made personally, on the day the FRO stamped "received" on the FOI Request Form;
b. If made by registered mail, the date of actual receipt of the request by the FRO;
c. If sent by e-mail or other official online portals, the date it was actually electronically delivered to or received by the designated e-mail or portal, if the same arrived before 5:00 p.m. of the working day. Requests received after 5:00 p.m. shall be received on the next working day.
d. Where the e-mail of the designated officer request is unavailable and this has generated an "out of office" message with instructions on how to re-direct the message to another contact, the date of receipt will be the day the request arrives in the inbox of that contact.
e. Where the FRO has requesting the Requesting Party for further details to identify and locate the requested information, the day on which the necessary clarification is received.

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

4.3.1 **If the Request Form is sufficient in form and substance**, the FRO shall forward the FOI Request Form to the FED within three (3) working days from receipt of the written request. The FRO shall record the date, time and name of the FDM who received the request in a record book with the corresponding signature of acknowledgement of receipt of the request.

4.3.2 **If the requested information is substantially similar or identical to a previous request by the same requester**, the request shall be immediately

denied. The FRO, however, shall inform the Requesting Party of the reason of such denial.

4.3.3 **If the requested information is already posted and available on-line,** (MIRDC 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.

4.3.4 **If the requested information is in the possession of several/different agencies, institutes, councils or offices,** that part of the request which information are held by MIRDC shall be treated as a normal FOI request and processed accordingly. The FRO shall then forward the request within three (3) working days from receipt of such request to the concerned agency, institute, council or office for action, indicating the portion of the request which pertains to the respective agency, institute, council or office. The requesting party shall be advised accordingly.

The FRO shall coordinate and monitor its compliance. The FRO shall also make clear with the respective FROs of such agency, institute, council or office that they will only provide the specific information that relates to their respective agency, institute, council or office.

As per DOST AO No. 2, s 2017, should the FRO fail to transmit the original request to a second party agency, institute, council or office within (3) working days from receipt of such request, the original receiving agency, institute or council or office shall assume full accountability and responsibility in the handling of such request.

4.3.5 **Requested information is not in the custody of the MIRDC,** the request will be immediately transferred to such appropriate agency, institute, council or office within three (3) working days from the receipt of request by the FRO. The requesting party shall be advised accordingly.

4.3.6 **In case of the inability to determine office jurisdiction, or if the request has been previously transferred from one agency, institute, council or office to another and the requested information is not in the custody of the third (3rd), agency institute, council or office which received it**, the same shall be referred by the latter to the DOST-Central Office within three (3) working days from its receipt of the request. The DOST-Central Office, in turn, shall determine within three (3) working days from receipt of such referral, to which agency, institute, council or office the request properly pertains, with the assistance of the Office of the Assistant Secretary for Legal Affairs.

4.4 **Transmittal of Request by the FRO to the FED.** After the initial evaluation, the FRO shall forward the request to the FED who has custody/possession of the requested information within one (1) working day from receipt of the written request. The FRO shall record the date, time and name of the FED who received the request in a record book with the corresponding signature of acknowledgment of receipt of the request.

In case the FRO cannot determine the appropriate FED, the FRO shall be given additional two (2) working days to undertake further coordination to determine the FED.

If the requested information is under the custody of more than one FED under the MIRDC, the FRO shall forward the request to all concerned FED.

4.5 **Processing of the request by the FED.** Upon receipt of the request for information from the FRO, the FED shall assess and clarify the requests, if necessary. FED shall likewise determine if the requested information falls under the exception.

4.5.1 **Need for Clarification.** If the FED needs further details to identify or locate the information, the FED, through the FRO, shall seek clarification from the Requesting Party. The clarification will stop the running of the 15-working day period. A fresh period of 15 working days will commence after it received the required clarification from the Requesting Party. If no clarification has been received by the FED 60 days from receipt of request for clarification, the FOI Request shall be deemed close. FRO shall notify the Requesting Party of the fact.

4.5.2 **Information is excepted.** If the information falls under any of the exceptions, the request shall be immediately denied. The FRO shall inform the requesting party of the reason of such denial.

4.5.3 **If the information is not excepted**, FED shall make all necessary steps to locate and retrieve the information requested, and ensure that the complete information requested be submitted to the FRO within eight (8) working days upon receipt of the FED of such request. Exempt information shall be blanked out/redacted, as necessary.

4.5.4 **Request for Extension of Time.** If the information requested requires extensive search of the government's office records facilities, examination of voluminous records, or cannot be easily retrieved due to occurrence of fortuitous events or other analogous cases, the FED shall, within eight (8) working days from receipt by the FED of the request, inform the FRO of the need for extension of time to act on the request.

The FRO shall advise the requesting party immediately of the extension, setting forth the reason/s 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.

4.5.5 **Consultation.** The FED shall undertake the necessary consultation with the appropriate offices on whether the requested information is covered by any of the Exceptions to FOI, which consultation shall include that of the office where the information or record originated.

If the FED determines that a record contains third party information, the FED shall conduct consultation on the disclosability of the records before making any final determination.

4.6 **Submission of Recommendation to the FDM.** After determining whether it has possession of the requested information or the requested information falls under any of the exceptions to the FOI, the FEDO shall prepare and submit its recommendation to the FDM whether to grant or deny, partially deny or grant, redact certain information, refer to other office, and such other actions as may be appropriate. FED shall seek the necessary clearances from their directorate and from third parties, if applicable, before submitting the recommendation to the FDM. The FDM shall either approve or deny the request.

The FED shall submit its recommendation to the FDM through the FRO together with the requested information, if the recommendation is to grant the request, within eight (8) working days from the FED's receipt of the request.

4.7 **Notice to the Requesting Party of the Approval/Denial of the Request.** The FRO shall prepare the response in the mode preferred by the requesting party and ensure its transmittal to the Requesting Party within 15 working days upon receipt of the request for information.

4.7.1 **Approval of Request.** In case of approval, the FRO shall ensure that all records that have been retrieved have been checked for possible exemptions prior to actual release. The FRO shall prepare the response informing the Requesting Party within the prescribed period that the request was granted and be directed to pay the applicable fees, if any.

4.7.2 **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/s 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.

The Center is not obliged to state why an exemption applies if by doing so, exempt information would be revealed.

4.7.3 ***Conforme.*** Pursuant to DOST AO 002, s. 2017, the FRO shall ensure that the requesting party has been informed of and agrees to the policies of the Department of Science and Technology as declared in FOI Requested Form.

4.8 **Unclaimed requested information.** Requesting Party has thirty (30) working days from the date of release within which to claim the requested information. Information/record not claimed within that period shall be disposed of accordingly.

4.9 **When Request for Information is Received by the MIRDC Extension Office or by an Office other than the FRO**, such receiving office shall transmit the FOI request to the FRO within three (3) working days from receipt of such request. The office who received the FOI request shall advise the requesting party of the transfer to the FRO accordingly.

4.10 **Copy furnished.** The Office of the DOST Secretary and Office of the Assistant Secretary for Legal Affairs.

4.11 **When requested information is not in the possession or custody of the MIRDC.** If after exercising due diligence, the FDM/FED finds that the requested information is not in the custody of possession of the MIRDC, the FDM shall either deny the request or refer the request to the DOST-CO, other DOST agency, institution, council or office which has custody of the information, if known, within the prescribed period for acting on the request.

If the information requested is in the custody or possession of an office not within the coverage of the E.O. No. 2, the request shall be denied, and the requesting party shall be advised accordingly.

4.12 **Exceptions to FOI.** List of exceptions to FOI is attached as Annexes "D" & "E".

4.13 **Redaction.** If the information, record or document requested contains information which may be disclosed and other information which are covered by the Exceptions to FOI (such as personal information or sensitive personal information protected under the Data Privacy Act of 2012), the FDM shall direct that the information excepted be redacted prior to the release of the information, record or document.

Section 5. Remedies in Case of Denial

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

5.1 Administrative FOI Appeal to the Department Central Appeals and Review Committee: Provided, that the written appeal must be filed by the same Requesting Party within fifteen (15) working days from the notice of denial or from the lapse of the period to respond to the request.

a. Denial of the appeal by the FDM may be appealed by filing a written appeal to the Department Central Appeals and Review Committee stating the reason why the Requesting Party disagrees with the reason/s given for denial of the request.

   The Appeal must be lodged with the FRO of the Department Central Appeals and Review Committee who shall immediately transmit the appeal to the said Committee. The Committee shall make a fresh determination on the FOI Application/Request of the Requesting Party and shall submit its recommendation to the Office of the Secretary within fifteen (15) working days from the filing of said appeal.

b. The appeal shall be decided by the Department Secretary within fifteen (15) working days upon the recommendation of the Committee. Failure to decide within the total 30-day period shall be deemed a denial of the appeal.

c. The denial of the appeal by the Department Secretary or the lapse of the period to respond to the request may be appealed further to the Office of the President pursuant to Administrative Order No. 22, s 2011.

5.2 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 MIRDC shall establish a system to trace the status of all requests for information received by it, which may be paper-based, on-line or both.

Section 7. Fees

7.1 **No Request Fee.** The MIRDC shall not charge any fee for accepting requests for access to information.

7.2 **Reasonable Cost of Reproduction and Copying of the Information.** The FRO shall immediately notify the Requesting Party in case there shall be charges for reproduction and copying of the requested information in order to provide the information. Such fee

shall be the actual amount spent by the MIRDC in providing the information to the Requesting Party.

7.3 **Schedule of Fees.** The cost of reproduction is P1.50 per page.

7.4 **Exemption from Fees.** The MIRDC 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

8.1 **Non-compliance with FOI.** Failure to comply with the provisions of this Manual shall be a ground for the following administrative liabilities:

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

8.2 **Procedure.** The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of cases under this Manual.

8.3 **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 office or agency, which provides for more stringent penalties.

Signed this 23rd day of September 2021 at Bicutan, Taguig City

Approved:

ROBERT O. DIZON
Executive Director
Metals Industry Research
and Development Center

Annexes

Annex A: FOI Frequently Asked Questions

Introduction to FOI

1. What is FOI?

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

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

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

Executive Order No. 2 is the enabling order for FOI. EO 2 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.

Annex B: Executive Order No. 2

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 AGENCYs, bureaus and offices, and the duty to ensure that the laws be faithfully executed;

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

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

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

(a) "Information" shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other like or similar data or materials

recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The location and contact information of the head, regional, provincial, and field offices, and other established places where the public can obtain information or submit requests;
(b) The person or office responsible for receiving requests for information;

(c) The procedure for the filing and processing of the request as specified in the succeeding section 9 of this Order.

(d) The standard forms for the submission of requests and for the proper acknowledgment of requests;

(e) The process for the disposition of requests;

(f) The procedure for the administrative appeal of any denial for access to information; and

(g) The schedule of applicable fees.

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

(a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the reason for, or purpose of, the request for information: *Provided*, that no request shall be denied or refused acceptance unless the reason for the request is contrary to law, existing rules and regulations or it is one of the exceptions contained in the inventory or updated inventory of exception as hereinabove provided.

(b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable, to enable all requesting parties and particularly those with special needs, to comply with the request requirements under this Section.

(c) The request shall be stamped by the government office, indicating the date and time of receipt and the name, rank, title and position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the requesting party. Each government office shall establish a system to trace the status of all requests for information received by it.

(d) The government office shall respond to a request fully compliant with requirements of sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof. The response mentioned above refers to the decision of the agency or office concerned to grant or deny access to the information requested.

(e) The period to respond may be extended whenever the information requested requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous cases or other analogous cases. The government office shall notify the person making the request of the extension, setting forth the reasons for such extension. In no case shall the extension go beyond twenty (20) working days unless exceptional circumstances warrant a longer period.

(f) Once a decision is made to grant the request, the person making the request shall be notified of such decision and directed to pay any applicable fees.

SECTION 10. Fees. Government offices shall not charge any fee for accepting requests for access to information. They may, however, charge a reasonable fee to reimburse necessary

costs, including actual costs of reproduction and copying of the information required, subject to existing rules and regulations. In no case shall the applicable fees be so onerous as to defeat the purpose of this Order.

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

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

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

(a) Denial of any request for access to information may be appealed to the person or office next higher in the authority, following the procedure mentioned in Section 9 of this Order: Provided, that the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.

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

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

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

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

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

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

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

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

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

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

By the President:

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

Annex C: FOI Receiving Officers of MIRDC

Location of FOI Receiving Office	Contact Details	Assigned FOI Receiving Officer
MIRDC	MIRDC Compound, General Santos Avenue, Bicutan, Taguig City TL: (02) 837-0431 to 38 loc 401 Email:oedsecretary@mirdc.dost.gov.ph; TL: (02) 837-0431 to 38 loc 441 Email: records@mirdc.dost.gov.ph	**Ms. Abigail M. Casas** Administrative Assistant III (alternate) **Ms. Dolly Marie T. Borlado** Administrative Officer II
DOST Regional Office No. X	J.V. Seriña St., Carmen, Cagayan de Oro City TL: (088) 858-3931 to 33 Email: rcsaint@gmail.com	**Engr. Roy C. Sagrado** Sr. SRS / Extension Officer-Mindanao

Annex D: Exceptions

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.[2]

1. Information covered by Executive privilege:

   a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;[3] 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;[4] and

      ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;[5]

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;[6]

   b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;[7] and

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[2] *As enumerated in the Memorandum from the Office of the Executive Secretary entitled, "Inventory of Exceptions to Executive Order No. 2 (s. 2016)", dated 24 November 2016, signed by Executive Secretary Salvador C. Medialdea.*

[3] 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.

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

[5] 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.

[6] *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."

[7] *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;[8]

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;[9]

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;[10]

c. When disclosure of information would put the life and safety of an individual in imminent danger;[11]

d. Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping;[12] and

e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;[13]

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,[14] personal information or records,[15]

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[8] 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).

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

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

[11] Section 3(b), Rule IV, Rules on CCESPOE.

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

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

[14] Section 3(e), Rule IV, Rules on CCESPOE.

[15] 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

including sensitive personal information, birth records,[16] school records,[17] or medical or health records;[18]

Sensitive personal information as defined under the *Data Privacy Act of 2012* refers to personal information:[19]

(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[20] 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.[21]

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;[22]

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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.

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

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

[18] 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).

[19] Section 3(l), *Data Privacy Act of 2012*.

[20] Article 26(2), *Civil Code*.

[21] Section 11, *Data Privacy Act of 2012*.

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

b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;[23] 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;[24]
(2) children in conflict with the law from initial contact until final disposition of the case;[25]
(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;[26]
(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;[27]
(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;[28]
(6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;[29]
(7) names of victims of child abuse, exploitation or discrimination;[30]
(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;[31]
(9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;[32]
(10) names of students who committed acts of bullying or retaliation;[33]

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[23] *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.

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

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

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

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

[28] 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.

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

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

[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.

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

(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 [34]

(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;[35]

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;[36]

   b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);[37]

   c. Records and reports submitted to the Social Security System by the employer or member;[38]

   d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;[39]

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

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

[36] 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.*

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

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

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

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;[40]

f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;[41]

g. Documents submitted through the Government Electronic Procurement System;[42]

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*;[43]

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;[44]

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;[45]

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;[46]

l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;[47]

m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;[48]

n. Information on registered cultural properties owned by private individuals;[49]

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[40] 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.

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

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

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

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

[45] 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).

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

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

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

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

o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);[50] and

p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;[51]

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.[52]

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*;[53]

b. Matters involved in an Investor-State mediation;[54]

c. Information and statements made at conciliation proceedings under the *Labor Code*;[55]

d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);[56]

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;[57]

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

[51] 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).

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

[53] 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.

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

[55] Article 237, *Labor Code*.

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

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

f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;[58]

g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission; [59]

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*;[60]

i. Investigation report and the supervision history of a probationer;[61]

j. Those matters classified as confidential under the *Human Security Act of 2007*;[62]

k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;[63] 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;[64]

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*);

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

[59] 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.

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

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

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

[63] Section 14, Civil Service Commission Resolution No. 01-0940.

[64] 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.

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;[65]
(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);[66] 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;[67]

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;[68]

d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;[69]

e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;[70]

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[65] 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.

[66] Article 7, UNCITRAL Transparency Rules.

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

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

[69] *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.

[70] 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.

f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;[71] and

g. Attorney-client privilege existing between government lawyers and their client.[72]

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

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

Annex E: Additional Exceptions

OFFICE OF THE PRESIDENT
OF THE PHILIPPINES

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 and2021-001, 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 13tfiiay of September in the Year of our Lord, Two Thousand and Twenty-One.

By authority of the President:

SALVADOR C. MEDIALDEA (Sgd)

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 personalsafety;

4. Information deemed confidential for the protection of the privacy of persons andcertain 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 andregulations.

[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]

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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; 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 underMemorandum 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 personalsafety:

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]

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

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

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

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

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

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

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

4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:

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

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

(1) about an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
(2) about an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
(3) issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
(4) specifically established by an executive order or an act of Congress tobe 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) Big. 232).

[17] Medical and health records are considered as sensitive personal information pursuant to Section 3(1)(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(1), *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(1), *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).

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 ofthe 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 ofcrime, witnesses to a crime or rehabilitated drug offenders, including thosepertaining to the following:

(1) records of child and family cases;[23]
(2) children in conflict with the law from initial contact until final dispositionof 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 tendingto 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).

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; and[35]

(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]

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[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

   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]

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[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 Big. 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-definedlimitations 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 tothe *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 theaccreditation 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 inrelation 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]

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[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 ofTravel 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]

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

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

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

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

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

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

c. Information and statements made at conciliation proceedings under the *Labor Code;*[59]

d. Arbitration proceedings before the *Construction Industry Arbitration Commission (CIAC);*[60]

e. Results of examinations made by the *Securities and Exchange Commission (SEC)* on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto;[61]

f. Information related to investigations which are deemed confidential under the *Securities Regulations Code;*[62]

g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the *Insurance Commission;* [63]

h. Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the *Comprehensive Dangerous Drugs Act of 2002;*[64]

i. Investigation report and the supervision history of a probationer;[65]

j. Those matters classified as confidential under the *Anti-Terrorism Act of 2020 and its IRR;*[66]

k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;[67] and

l. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;[68]

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[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 andregulations, 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 legalorder;[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 communicationsmedia 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]

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[72] Section 8(0), *Code of Conduct and Ethical Standards for Public Officials and Employees.*

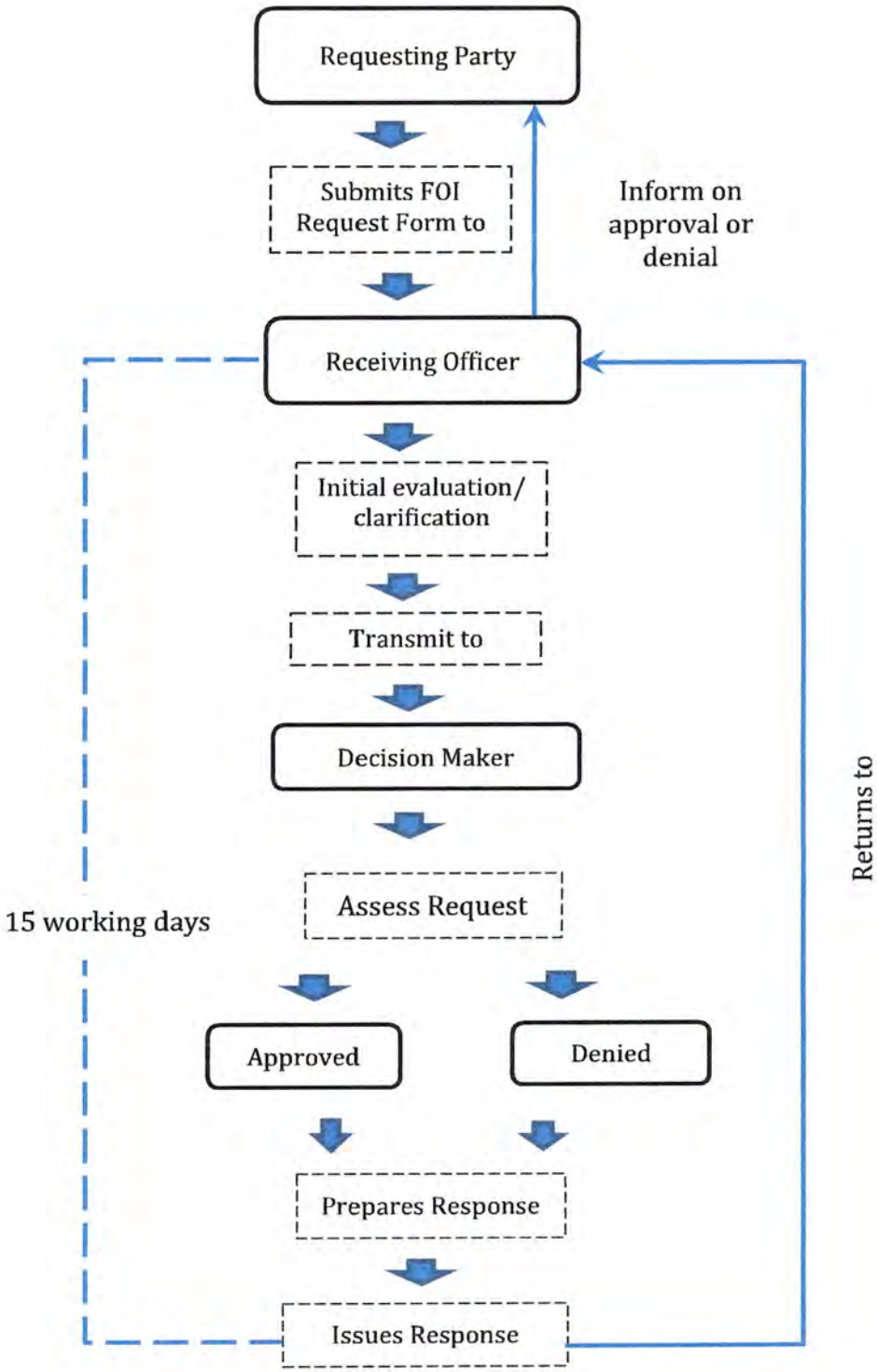
[73] *Belgica v. Ochoa,* G.R. No. 208566, 19 November 2013; and *Valmonte v. Belmonte Jr.,* G.R. No. 74930, 13 February 1989, 252 Phil. 264.

[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 F: Flow Chart



Annex G: FOI Request Form

MIRDC

Metals Industry Research & Development Center

Freedom of Information Request Form

Reference No:

For Official Use Only:

Received by:
Name/Signature: _____
Position: _____
Date/Time Received:

Details of ID Presented:

Attached copy of the IDs Presented and original copy of the authorization letter

CONTACT INFORMATION:

Name:		
Complete Address:		
Mobile No.:	Landline No:	Fax No:
Email:		
Company/Affiliation/Organization/School and Position:		
Name of Representative: (if applicable)		
Proof of Authority:		

REQUESTED INFORMATION:

Use additional sheets if space is insufficient.

Title of the Document/Record Requested:	
Coverage/Time Period:	Document Type:
Reference No. (if known):	
Reason/Purpose for the Request:	
Any other relevant information:	

Preferred Mode of Communication:

☐Landline ☐Mobile ☐E-mail ☐ Postal Address

Preferred Mode of Reply:

☐E-mail ☐Fax ☐Pick-up (office hours) ☐ Mail

PRIVACY NOTICE:
Once deemed valid, your information from your application will be used by the Agency you have applied to, to deal with your application as set out in the Freedom of Information Executive Order No. 2, s 2016. If the Agency gives you access to a document, and the document contains no personal information about you, the document will be published online in the Agency's disclosure log, along with your name and the date you applied, and, if another person, company or body will use or benefit from the documents sought, the name of that person, entity or body.

DECLARATION:
I declare and certify that the information provided in this form is complete and correct and that I have read the Privacy Notice. I understand that giving false or misleading information or using forged documents is a criminal offense. I bind myself and my principal to use the requested information only for the specific purpose stated and shall not be used for commercial purposes or transferred to third parties without the written consent of the MIRDC. MIRDC reserves the right to determine as to which matters are to be deemed commercial in nature.

Signature	Date (mm/dd/yyyy)

Note: Information will only be released upon receipt of applicable fees.

For Internal Use Only:

FOI Receiving Officer : _____

Connecting Agency (if applicable) : _____

Date entered on eFOI (if applicable) : _____

The request is recommended to be : ☐ Accepted ☐ Denied

If denied, the reason for denial : ☐ Incomplete ☐ Similar request by same party
☐ Wrong Agency ☐ Info already available online

FED (signature over printed name) : _____

Date and Time Received : _____

Clarification sought : ☐ Yes ☐ No

Date made : _____ Date received: _____

Time Extension Requested : ☐ Yes ☐ No

FED Recommendation : ☐ Full Grant ☐ Full Denial
☐ Partially Granted/Denial

If denied, reason for denial : ☐ Invalid request ☐ Info already available online
☐ Excepted
Which exception?_____

Remarks : _____

Decision Maker
(signature over printed name) : _____

Decision on Application : ☐ Full Grant ☐ Full Denial
☐ Partially Approved/Denied

If denied, reason for denial : ☐ Invalid request ☐ Info already available online
☐ Excepted
Which exception?_____

Date Request is finished : _____

Date documents is sent (if applicable) : _____

FOI Registry Accomplished : ☐ Yes ☐ No

FRO Signature : _____

Date : _____