



INSURANCE COMMISSION

FREEDOM OF INFORMATION MANUAL

(Revised August 2017)

Executive Order No. 02 s. 2016

*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*

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Section 1: Overview

BACKGROUND/RATIONALE

Article II, Section 28 of the 1987 Constitution provides that the State shall adopt and implement a policy of full public disclosure of all its transactions involving public interest, subject to reasonable conditions prescribed by law. Additionally, Article III, Section 7 of the Constitution, guarantees the right of the people to information on matters of public concern.

In order to implement the constitutional provisions, the President issued Executive Order (EO) No. 2 (s. 2016)¹ (Annex “A”) which directs every government office to prepare its own Freedom of Information (FOI) Manual.

In recognition of the fundamental human right of privacy and the role of free and open exchange of information in a democracy in enhancing transparency and accountability in official government acts, the Insurance Commission created the IC – People’s Freedom of Information (FOI) Manual.

OBJECTIVE OF THE MANUAL

In line with the provisions set forth in EO No. 2, the IC – FOI Manual aims to achieve the following objectives:

1. Facilitate access to information through the most efficient and expeditious manner in line with the procedures in this manual;
2. Promote transparency in the exercise of the Commission’s mandate and functions; and
3. Uphold the fundamental right of the public to free flow of information.

SCOPE OF THE MANUAL

The Scope of the Manual covers the Head Office of the Insurance Commission, Cebu District Office, and Davao District Office.

The IC - FOI Manual contains the following information:

- 1) The location and contact information of the IC’s Head Office, Cebu District Office, and Davao District Office. The IC Head Office is the repository of all the archived records of the Insurance Commission.
- 2) The Records Officer or Designated Officer to handle the requests related to the freedom of information;

¹ Entitled “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 Thereof”

- 3) The procedures on:
 - a. Request to Access Information / Record; and
 - b. Appeal to Access Information / Record.
- 4) Forms on:
 - a. Request Form; and
 - b. Letter Template for the Denial of Request.
- 5) Schedule of applicable fees.

POLICY STATEMENT

Consistent with the constitutional mandates upholding the right to freedom of information and the implementation of a policy of full public disclosure of all its transactions involving public interest, the IC is committed to disclose information to the public involving public interest, subject to limitations as provided by the Constitution, applicable laws, rules, regulations and procedures, such as the Republic Act (RA) No. 10173, otherwise known as the “Data Privacy Act,” and the List of Exceptions approved by the Office of the President, among others.

Section 2: Promotion of Openness in Government

- 1. DUTY TO PUBLISH INFORMATION.** The Insurance Commission shall regularly publish, print and disseminate at no cost to the public and in an accessible form, in conjunction with Republic Act 9485, or the Anti-Red Tape Act of 2007, and through their website, timely, true, accurate and updated key information including, but not limited to:
 - a. A description of its mandate, structure, powers, functions, duties and decision-making processes;
 - b. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
 - c. The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
 - d. Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
 - e. Important rules and regulations, orders or decisions;
 - f. Current and important database and statistics that it generates;
 - g. Bidding processes and requirements; and
 - h. Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy of the exercise of its powers.

Section 3: Protection of Privacy

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

- a. The Commission shall ensure that personal information, particularly sensitive personal information, in its custody or under its control is disclosed only as permitted by existing laws;
- b. The Commission shall protect personal information in its custody or under its control by making reasonable security arrangement against unauthorized access, leaks or premature disclosure; and
- c. The Records Officer (RO) or any employee or official who has access, whether authorized or unauthorized, to personal information in the custody of the Commission, shall not disclose that information except as authorized by existing laws.

Section 4: Definition of Terms

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.

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.

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.

RECORDS. Shall refer to information, whether in its original form or otherwise, including documents, signatures, seals, texts, images, sounds, speeches, or data compiled, recorded or stored.

RECORDS OFFICER. Refers to the employee responsible for overseeing the agency's records management program and providing guidance on adequate and proper recordkeeping. For the purpose of this manual, the Records Officer shall be in charge of all requests, to wit: the RO shall receive, act on, facilitate and/or monitor all requests filed with the Commission, collate and ensure correctness and completeness of requested information/record upon retrieval, and release/withhold information in accordance with necessary provisions as to approval/disapproval of requests.

REQUESTOR. Any individual, entity, or party seeking access to certain information through the guidelines of this manual.

Section 5: Guidelines

1. FILING AND RECEIPT OF REQUEST FOR INFORMATION

- 1.1. In compliance with Section 9 (a) of EO No. 2, the Records Officer (RO) shall receive the request for information from the requesting party and check compliance with the following requirements:
 - a. The request must be in writing;
 - b. The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization; and
 - c. The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information.

In case the requesting party is unable to make a written request, because of illiteracy or due to being a person with disability, he or she may make an oral request, and the RO shall fill the Request Form on behalf of the requestor.

Requests received by the district offices shall be forwarded to the RO through electronic mail within the day of receipt. The RO shall facilitate the processing of the forwarded request.

- 1.1. The RO shall provide a Request Form to the requestor or an authorized representative. The requestor/representative shall duly accomplish the Request Form.
- 1.2. Requests can be made through e-mail provided that the requesting party shall attach in the e-mail a scanned copy of the Request Form, and a copy of a duly recognized ID with photo.
- 1.3. The RO stamps "Received" on the letter and Request Form, and indicate the date and time of receipt, his/her name, designation, and signature. The RO shall input the details of the request on the Document Routing System (DRS) and attach the DRS Report on the Request Form.

2. EVALUATION OF REQUEST. Upon receipt, the RO shall evaluate the information being requested, identify the responsible unit/division, and determine access restrictions to the information.

- 2.1. **Requested information is already posted in the IC website.** If the information requested is already available in the IC website, the RO shall inform the requesting party and provides the website link where the information is posted.
- 2.2. **Requested information is substantially similar or identical to previous requests.** Pursuant to Section 11 of EO No. 2, the RO shall deny an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the IC. However, the RO shall inform the applicant the reason of such denial.

2.3. **Requested information is in custody of Records Section.** The RO shall determine availability of information requested and act upon the request, whether approval or denial, within one (1) day.

2.4. **Requested information is in the custody of other Unit/Division.** The RO shall endorse/forward the request and coordinate, through the most expeditious manner, with the concerned unit/division for their handling. The requesting party shall be advised that the requested information is not currently with the Records Section.

3. ROLE OF THE RECORDS OFFICER (RO)

3.1. Upon receipt of the request for information, the RO shall assess and clarify the request if necessary. The RO shall make all necessary steps to locate and retrieve the information requested.

3.2. The RO shall coordinate with the concerned division to facilitate the handling of requests and retrieval of requested information in the custody of the unit/division.

3.3. The concerned division/unit shall advise the RO of its decision on the request. Release of information or issuance of denial letter shall be made through the RO. As such, the RO shall monitor handling of all requests for information.

3.4. The RO shall collate and ensure that the information is complete prior to release. The RO shall prepare a covering memorandum signed by the Manager of the Administrative Division and release the information to the requesting party.

4. **PERIOD FOR APPROVAL AND RELEASE.** Pursuant to Section 9 (d) of EO No. 2, request for information shall be acted upon within fifteen (15) working days from the date of receipt of the request, or the day on which the request is physically or electronically delivered to the government office.

5. **REQUEST FOR AN EXTENSION OF TIME.** Should the information requested require extensive search of the government office record facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases, the RO shall advise the requesting party immediately of the extension of the fifteen (15) day period.

Pursuant to Section 9 (e) of the EO No. 2, in no case shall the extension go beyond twenty (20) working days unless exceptional circumstances warrant a longer period.

6. **APPROVAL AND RELEASE OF REQUEST.** The RO shall ensure that all records have been retrieved and checked for possible exceptions, prior to actual release. The RO shall inform the requestor that the request was favorably granted and to pay applicable fees indicated in the Claim Slip.

6.1. For information in custody of other unit/division, upon determination that the request can be favorably granted, the RO shall inform the requestor of the retrieval and release of such information in the custody of other unit/division, and indicate the date of release on the Claim Slip. The Division Staff concerned shall apprise the RO when the information is retrieved and ready for claiming.

6.2. Claiming of requested information shall not exceed thirty (30) working days from the due date of release. Information/record not claimed within thirty (30) working days of the release date shall be disposed of accordingly.

- 7. DENIAL OF REQUESTS.** In case of denial of the request, the RO shall, within the two (2) working days, notify the requesting party of the denial in writing. The notice, signed by the Administrative Division Manager or Division Manager of the unit/division in custody of the information being requested shall clearly set forth the reasons for denial and the circumstances in which the denial is based.

Section 6: Remedies in Case of Denial

Pursuant to Section 13 of the EO No. 2, a person or party whose request for access to information has been denied may file an appeal set forth below.

- 1. APPEAL TO THE INSURANCE COMMISSION.** Provided, that the written appeal must be filed by the same requesting party within fifteen (15) working days upon denial of request.
- 1.1. Denial of request shall be appealed to the Deputy Insurance Commissioner concerned by filing a written appeal within fifteen (15) working days from the date of notice or letter of denial.
- 1.2. The letter of appeal should state why the requestor/requesting party disagrees with the reason/s for denying the request. The appellant may provide supporting information to the appeal.
- 1.3. In case the Deputy Insurance Commissioner concerned affirms the denial of the request, the request shall be appealable to the Insurance Commissioner within fifteen (15) working days from the date of notice or letter of denial of the first appeal.
- 1.4. Pursuant to Section 13 (b), appeals shall be decided upon by the person or office next higher in authority within thirty (30) working days from the filing of said appeal.

Section 7: Fees

- 1. REASONABLE COST OF REPRODUCTION OF INFORMATION.** The RO shall immediately notify the requesting party of the cost of reproduction of the requested information.
- 2. SCHEDULE OF FEES.** The cost of reproduction is Php10.00 per page in accordance with the IC Circular Letter No. 2014-15.
- 3. NO FEES ON APPROVED APPEALS.** No fees shall be charged to the appellant in case of approval of an appeal.

- 4. EXEMPTION FROM FEES.** The Commission 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: Document Routing System (DRS)

All requests for information shall be encoded in the Insurance Commission – Document Routing System (IC-DRS) for monitoring of the status of the requests it received.

Section 9: Administrative Liability

- 1. NON-COMPLIANCE WITH FOI.** Failure to comply with the provisions of this Manual shall be a ground for administrative penalties. The Revised Rules on Administrative Cases in the Civil Service (RRACS) shall be applicable in the disposition of cases under this Manual.

Section 10: Exceptions to Right to Access to Information²

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.

² 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. - Memorandum from Executive Secretary Salvador C. Medialdea dated 24 November 2017

A. EXCEPTIONS EXPLICITLY COVERING THE INSURANCE COMMISSION

(1) Exception No. 5 (m):

“xxx (m) Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;³ xxx”

NOTE:

This exception pertains to Sec. 295, Title 20 of the Insurance Code (as amended) which states that, *“Every controlled insurer shall file with the Commissioner such reports or materials as he may direct for the purpose of disclosing information concerning the operations of persons within the holding company system which may materially affect the operations, management or financial condition of the insurer.”*

In relation to the foregoing, Sec.297 states that the Commissioner must keep confidential all such reports made pursuant to Title 20 as well as any information obtained by him in connection therewith, and the same may not be made public without the prior written consent of the controlled insurer to which it pertains, except in cases specified in the law.

In addition, Sec. 356 states that all information submitted for examination to any rating organization must likewise be kept confidential.

(2) Exception No. 7 (g):

“xxx (g) All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁴ xxx”

NOTE:

In the exercise of the IC’s Quasi-Judicial functions, the Pre-Need Code provides that the Commission may impose administrative sanctions which include Cease and Desist Orders (CDO). It also specifies that all proceedings prior to the issuance of the CDO must be kept confidential, which covers all records from the time a verified complaint is filed by any party until the conclusion of all investigations and hearings conducted, if any.

³ Section 297 in relation with Section 295 and Section 356, The Insurance Code (as amended by RA No. 10607).

⁴ 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

Section 11: Process Flowcharts and Work Instructions

REQUEST TO ACCESS INFORMATION / RECORD

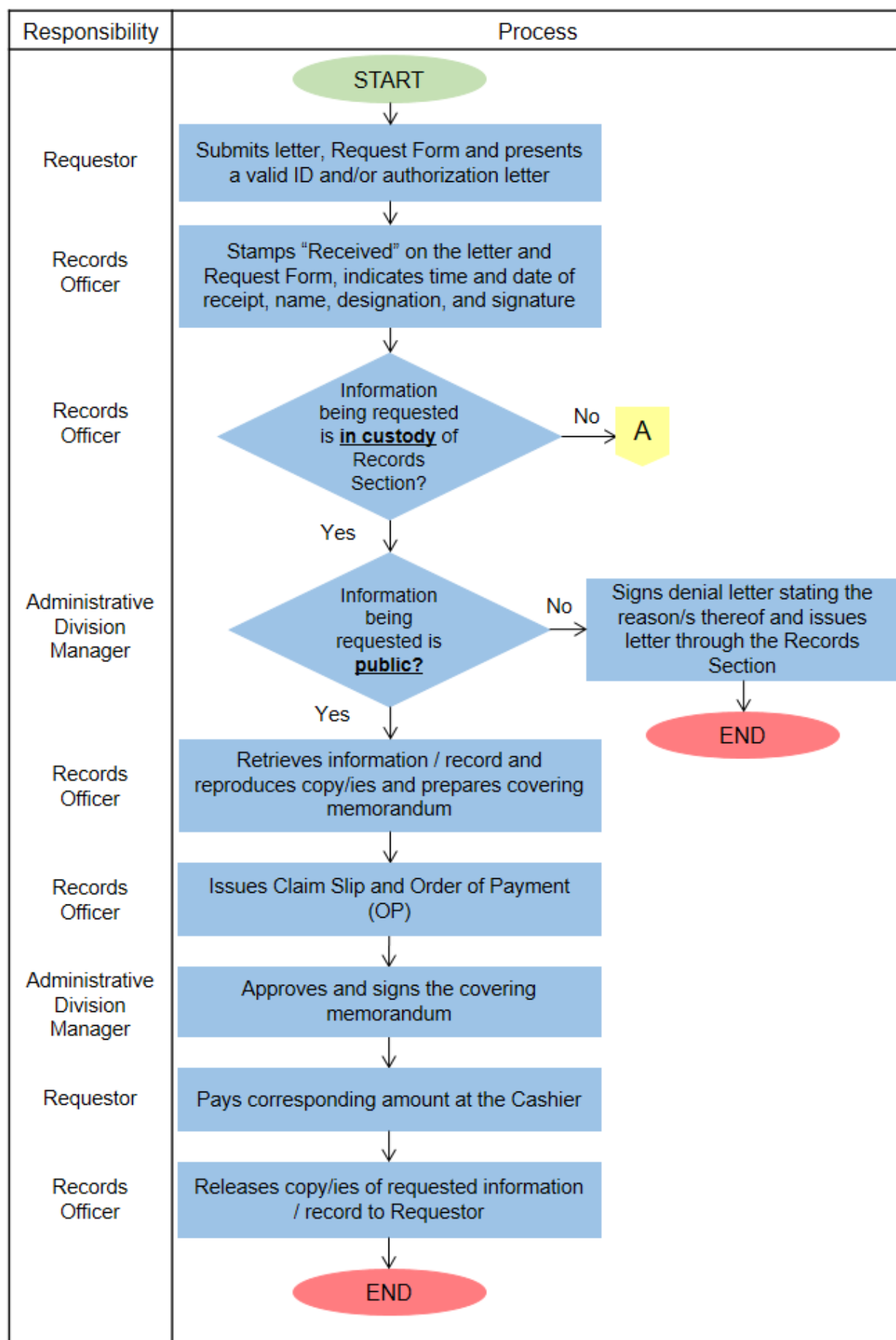
The procedure for Request to Access Information / Record covers the filing of request for information with the Commission, receipt and evaluation of request, and approval/denial of request.

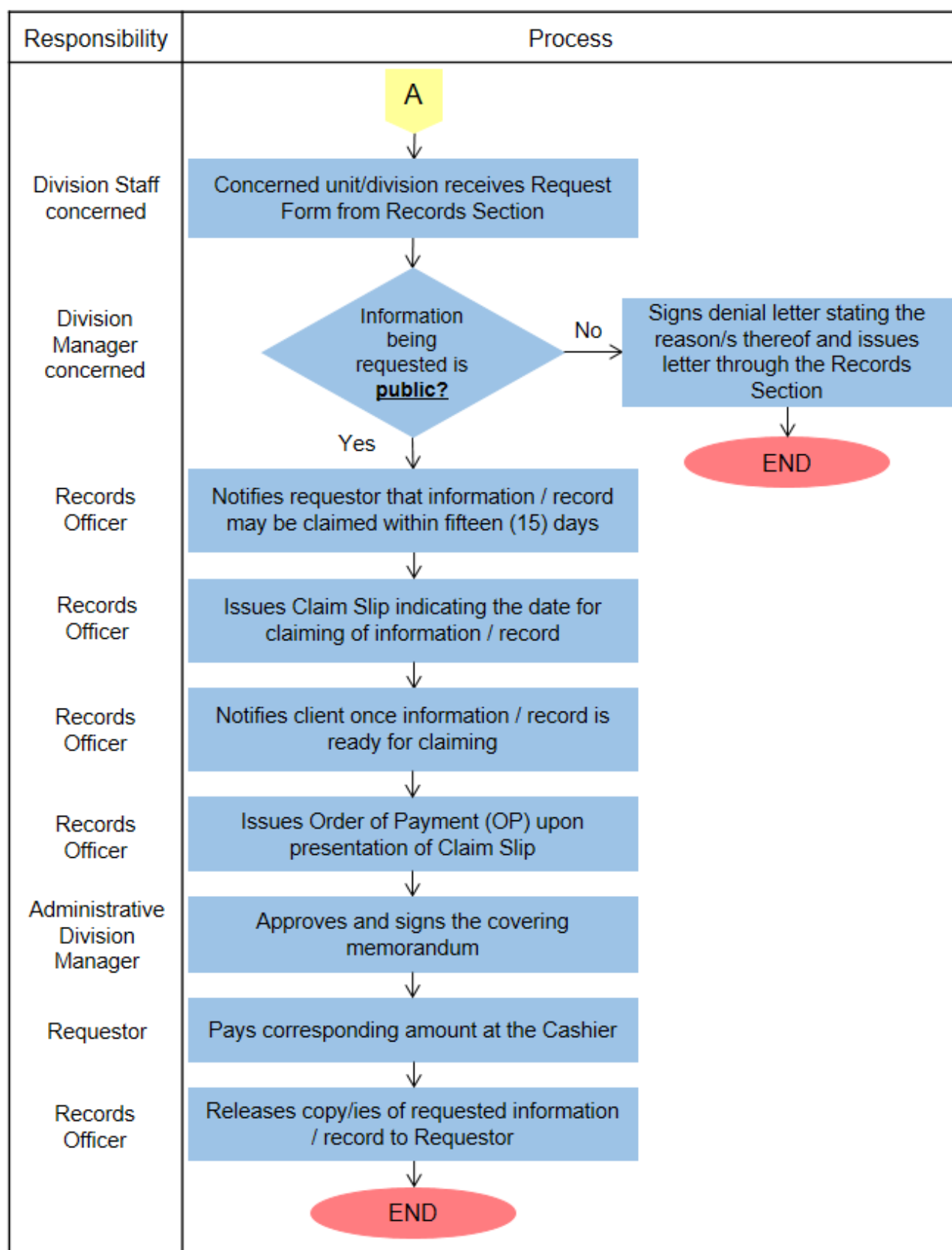
Fees for reproduction apply as per Circular Letter No. 2014-15 dated 15 May 2014.

Requirements:

1. Written request
2. Duly accomplished Request Form
3. Valid identification card
4. For representatives, an authorization letter and valid ID

Process Flowchart: REQUEST TO ACCESS INFORMATION / RECORD





| Work Instructions: | | REQUEST TO ACCESS INFORMATION / RECORD | | |
|--------------------|---|---|---|----------------------------|
| STEP | | APPLICANT / REQUESTOR | INSURANCE COMMISSION | RESPONSIBLE PERSON |
| 1 | Receipt of Request for Information | Submits letter, request form and presents a valid ID and/or authorization letter if requestor is a representative | Stamps "Received" on the letter and Request Form, indicates time and date of receipt, name, designation, signature, and encodes in the Document Routing System (DRS) | Records Officer |
| | | | <i>Note:</i> Requests received by the the district offices shall be forwarded to the Head Office through electronic mail | Division Manager concerned |
| | | | Attaches photocopy of ID and/or authorization letter to Request Form | Records Officer |
| 2 | Determination of custody of requested Information / Record | | Determines whether information is in custody of Records Section | Records Officer |
| | | | In such case that the requested information is available online, advises the requestor that the information can be found in the IC Website and provides the website link where the information is posted | Records Officer |
| | | | For Information / Record in Custody of Records Section: If information being requested is in custody of Records Section, proceed to step no. 3 | Records Officer |
| | | | For Information / Record in Custody of Unit/Division: Notifies requestor that information is in custody of other unit/division and forwards request to concerned unit/division <i>Note:</i> Coordinates and confirms with concerned unit/division whether information being requested is public or confidential | Records Officer |

| | | | | |
|---|---|--|---|--|
| | | | Concerned unit/division receives request form by affixing date and time of receipt and affixes initials, then proceed to step no. 3 | Division Staff concerned |
| 3 | Determination of access restriction | | Determines whether there is access restriction to requested information (public or confidential) Refer to the List of Exceptions approved by the Office of the President | Records Officer / Division Staff concerned |
| | | | If information being requested is public, proceed to step no. 4 | Records Officer / Division Staff concerned |
| | | | If information being requested is confidential, notifies requestor that information is confidential. Prepares and signs the denial letter stating the reason/s thereof. Signs Request Form and releases denial letter through Records Officer within two (2) days upon receipt of request. [END] | Administrative Division Manager / Division Manager concerned |
| 4 | Retrieval and Reproduction of Information / Record | | For Public Information / Record in Custody of Records Section: Retrieves information / record and reproduces copy/ies Prepares covering memorandum stating that the request was granted | Records Officer Records Officer |
| | | | For Public Information / Record in Custody of Other Unit/Division: Notifies requestor that information / record may be claimed within fifteen (15) working days. Retrieval of information / record should not exceed 15 working days upon receipt of request. | Records Officer |
| | | | Prepares Claim Slip indicating the date of claiming of information / | Records Officer |

| | | | | |
|---|---|---|---|---|
| | | <p>Presents Claim Slip and other necessary requirements.</p> <p><i>Note:</i> Information / record should be claimed within thirty (30) days from due date of release.</p> | <p>record being requested and issues to the requestor.</p> <p>Advises requestor to claim information / record on the date indicated on the Claim Slip and to bring other requirements for claiming, as follows:</p> <ul style="list-style-type: none"> • If claiming through a representative: an authorization letter, valid ID of representative and photocopy of requestor's ID <p>Retrieves information / record and reproduces copy/ies, prepares covering memorandum and forwards documents to the Records Section</p> <p>Once information / record is ready for claiming, notify requestor either through e-mail/call/SMS stating the amount to be paid</p> | <p>Records Officer</p> <p>Division Staff concerned</p> <p>Records Officer</p> |
| 5 | Preparation and Issuance of Claim Slip Order of Payment (OP) | | Issues Claim Slip and Order of Payment (OP) to the requestor | Records Officer |
| 6 | Approval | | <p>Forwards copy/ies of requested information / record Administrative Division</p> <p>Sigs on the covering memorandum and forwards to Records Section</p> | <p>Records Officer</p> <p>Administrative Division Manager</p> |
| 7 | Payment | Requestor proceeds to Cashier, presents OP with Claim Slip and pays corresponding fees | Cashier accepts payment, issues Official Receipt (OR), writes OR No. on the Claim Slip and issues the same to the requestor | Cashier |
| 8 | Releasing of Information / Record | Requestor presents OR and Claim Slip to Records Section | <p>Writes OR No. on Request Form</p> <p>Releases copy/ies of requested information / record to requestor with covering memorandum</p> | Records Officer |

APPEAL TO ACCESS INFORMATION / RECORD

In case of denial of request, the requestor may appeal to the Commission through a written appeal. The appeal must be filed by the same requesting party within fifteen (15) working days upon denial of request.

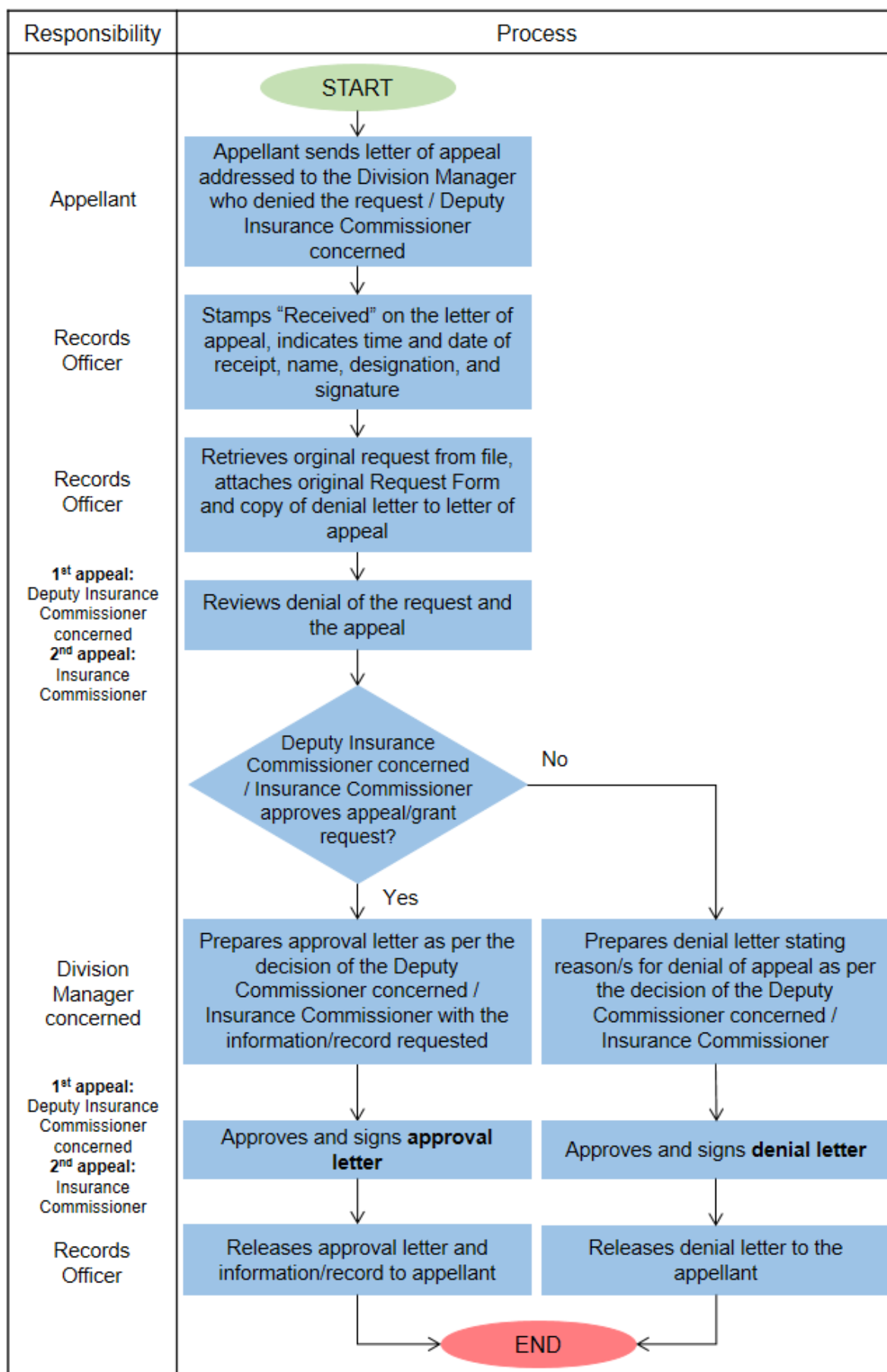
The denial of request shall be first appealable to the Deputy Insurance Commissioner concerned. In case the Deputy Insurance Commissioner concerned affirms the denial of the request, the appellant can still appeal to the Insurance Commissioner (second appeal) within fifteen (15) working days from the date of notice or letter of denial of the first appeal.

The procedure for Appeal to Access Information / Record covers the filing of appeal, evaluation of appeal, recommendation on the appeal, and approval of the recommendation on the appeal.

Requirements:

1. Written letter of appeal addressed to the Division Manager who denied the request or the Deputy Insurance Commissioner concerned
 - The letter of appeal should state why the requestor/requesting party disagrees with the reason/s given for denial of the request.


Process Flowchart: **APPEAL TO ACCESS INFORMATION / RECORD**



| Work Instructions: | | APPEAL TO ACCESS INFORMATION/RECORD | | |
|--------------------|-----------------------------|--|---|--|
| STEP | | APELLANT | INSURANCE COMMISSION | RESPONSIBLE PERSON |
| 1 | Filing of Appeal | <p>The appellant sends letter of appeal addressed to the Division Manager who denied the request / Deputy Insurance Commissioner concerned within fifteen (15) working days upon denial of request for information</p> <p><i>Note:</i></p> <p>The letter of appeal should state why the requestor / requesting party disagrees with the reason/s given for denying the request.</p> <p>The appellant may provide supporting information to the appeal.</p> | <p>Stamps "Received" on the letter of appeal, indicates time of receipt, name, designation, and signature, and encodes in the Document Routing System (DRS)</p> | Records Officer |
| 2 | Handling of Appeal | | Retrieves the original request from file and copy of denial letter and attaches these to the letter of appeal | Records Officer |
| | | | Forwards to the Office of the Commissioner for subsequent forwarding to the Office of the Deputy Insurance Commissioner concerned for handling | Records Officer |
| 3 | Evaluation of Appeal | | Based on the arguments provided in the letter of appeal, the Deputy Insurance Commissioner concerned* reviews denial of the request and the appeal | <p>Deputy Insurance Commissioner concerned</p> <p>*2nd appeal: Insurance Commissioner</p> |

| | | | | |
|---|--|--|---|--|
| 4 | Recommendation on Appeal | | <p>Upon review, the Deputy Insurance Commissioner concerned* recommends a decision on the appeal</p> <p><i>Note:</i> Pursuant to Section 13 (b), appeals shall be decided upon within thirty (30) working days from filing</p> | <p>Deputy Insurance Commissioner concerned</p> <p>*2nd appeal: Insurance Commissioner</p> |
| 5 | Preparation of Approval / Denial letter | | <p>Approval of appeal: If appeal was recommended for approval, prepares approval letter to be signed by the Deputy Insurance Commissioner concerned</p> <p>Instructs Records Section / concerned Division to retrieve and reproduce copy/ies of the requested information / record</p> | Division Manager concerned |
| | | | <p>Denial of appeal: If appeal was recommended for denial, prepares denial letter to be signed by the Deputy Insurance Commissioner concerned</p> | Division Manager concerned |
| 6 | Approval of Recommendation on Appeal | | Approves and signs recommendation letter on appeal | <p>Deputy Insurance Commissioner concerned</p> <p>2nd appeal: Insurance Commissioner</p> |
| 7 | Releasing | | <p>Releases approval letter & copies of requested information to the appellant</p> <p><i>Note:</i> The cost of reproduction shall not be charged to the appellant</p> | Records Officer |
| | | | <p>Releases denial letter to appellant</p> <p><i>Note:</i> The denial shall be appealable to the Insurance Commissioner within fifteen (15) working days from the date of notice or letter of denial of the first appeal</p> | Records Officer |

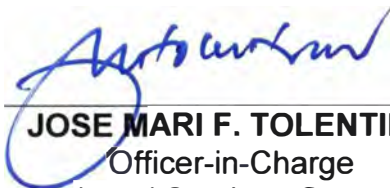
Recommended by:




FERDINAND GEORGE A. FLORENDO
Deputy Insurance Commissioner
Financial Examination Group



DOROTHY M. CALIMAG
Deputy Insurance Commissioner
Management Support Services Group



JOSE MARI F. TOLENTINO
Officer-in-Charge
Legal Services Group



MA. VICTORIA Y. PERALTA
Officer-in-Charge
Technical Services Group

Approved by:



DENNIS B. FUNA
Insurance Commissioner

Section 12: Annexes

Annex A – Executive Order No. 2

Annex B – FOI Directory

Annex C – Request Form and Claim Slip

Annex D – Denial Letter Template

Annex E – Cover Letter – Requested Information is Enclosed

Annex F – Requested Information is Not Available

Annex G – Inventory of Exceptions to Executive Order No. 2 (s. 2016)

Annex "A"

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

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

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

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

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

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

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

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

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

public function or duty.

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

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

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

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

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

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

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

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

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

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

In making such determination, the Head of the Office or his designated officer shall exercise reasonable diligence to ensure that no exception shall be used or availed of to deny any request for information or access to public records, or official records if the denial

is intended primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

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

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

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

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

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

- (a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the reason for, or purpose of, the request for information: *Provided*, that no request shall be denied or refused acceptance unless the reason for the request is contrary to law, existing rules and regulations or it is one of the exceptions contained in the inventory or updated inventory of exception as hereinabove provided.
- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable, to enable all requesting parties and particularly those with special needs, to comply with the request requirements under this Section.
- (c) The request shall be stamped by the government office, indicating the date and time of receipt and the name, rank, title and position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the

requesting party. Each government office shall establish a system to trace the status of all requests for information received by it.

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

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

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

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

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

- (a) Denial of any request for access to information may be appealed to the person or office next higher in the authority, following the procedure mentioned in Section 7 (f) of this Order: Provided, that the written appeal must be filed by the same person making the request within fifteen (15) working days from the notice of denial or from the lapse of the relevant period to respond to the request.
- (b) The appeal be decided by the person or office next higher in authority within thirty (30) working days from the filing of said written appeal. Failure of such person or office to decide within the afore-stated period shall be deemed a denial of the appeal.
- (c) Upon exhaustion of administrative appeal remedies, the requesting 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 “B”

FOI DIRECTORY

| NAME & DESIGNATION | LOCATOIN OF FOI RECEIVING OFFICE | CONTACT DETAILS |
|---|---|--|
| Mr. Tranquilino E. Espejon IC Supervising Administrative Officer | Insurance Commission – Head Office 1071 United Nations Avenue, Manila | (02) 8-523-8461 local 120/160 te.espejon@insurance.gov.ph |
| Atty. Gideon Joseph B. Operiano IC Attorney II / Officer-in-Charge | Insurance Commission – Cebu District Office Door 10-11 Ground Floor, HVG Arcade I.T. Park, Subangdako, Mandaue City, Cebu | (032) 254-0861 gjb.operiano@insurance.gov.ph |
| Atty. Ernesto R. Gavas IC Division Manager | Insurance Commission – Davao District Office Door 2 & 3, 3 rd Floor of YAP Building Quimpo Boulevard, Ecoland, Davao City | (082) 327-36-51 er.gavas@insurance.gov.ph |

Annex "C"



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila



Request for Information *Kahilingan para sa impormasyon*

Date: _____

Proof of Identity presented: _____
(*Katibayan ng pagkakakilanlan*)

ID No.: _____

Name of Requestor (*Pangalan*): _____

Address (*Tirahan*): _____

Contact Nos.: _____

E-mail address: _____

Requested Information:
(*Impormasyong hinihiling*) _____

Reason for request (*Layunin*): _____

No. of copies (*Bilang ng kopyang hinihiling*): _____

Signature of Requestor/Representative
(*Lagda*)

(*To be accomplished by Records Section*)

Stamp "Received" Here
(*Indicate time of receipt*)

Request: ☐ Approved
☐ Disapproved

Remarks/Others: _____

[Signature]

[Name]

[Designation]

[Signature]
Manager, Administrative Division

OR No. _____

CLAIM SLIP

----- Claim Slip -----

OR No. _____

Requestor: _____
No. of copies / _____
pages: _____
Total Amount: _____

Date of Release: _____

[Signature and date]
Records Officer

REMINDERS:

1. Fees for reproduction (Php10.00/page) apply as per Circular Letter No. 2014-15
2. For authorized representatives, please bring authorization letter, valid ID and photocopy of valid ID of requestor
3. Documents should be claimed within thirty (30) working days from due date of release
4. Information/records not claimed within thirty (30) working days shall be disposed of accordingly.

Annex “D”

Denial Letter Template



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila



[Date: dd-mmm-yyyy]

[Name]
[Address]

SUBJECT: Denial of Request for Information: **[indicate requested information / record here]**

Dear [Salutation: Mr./Ms./Dr., etc)] [Last name]:

We regret to inform you that your request for information: **[Indicate requested information / record here]** on **[date of request]** cannot be favourably granted due to **[State grounds for denial i.e. confidentiality restrictions, under exceptions. Provide necessary laws, rules and regulations.]**

Thank you.

Very truly yours,

Name of Division Manager
Division

Annex “E”

Cover Letter – Requested Information is Enclosed



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila



[Date: dd-mmm-yyyy]

[Name]
[Address]

SUBJECT: Request for Information: **[indicate requested information / record here]**

Dear [Salutation: Mr./Ms./Dr., etc)] [Last name]:

We are pleased to inform you that your request dated **[date of request]** for **[Indicate requested information / record here]** has been approved.

Enclosed is/are copy/ies of the requested information released for whatever legal purpose it may serve.

Thank you.

Very truly yours,

Name of Division Manager
Division

Annex “F”

Requested Information is Not Available



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila



[Date: dd-mmm-yyyy]

[Name]
[Address]

SUBJECT: Request for Information: **[indicate requested information / record here]**

Dear [Salutation: Mr./Ms./Dr., etc)] [Last name]:

This is to acknowledge receipt of your request dated **[date of request]** for **[Indicate requested information / record here]**.

Upon evaluation of your request, we regret to inform you that the information being requested is not currently filed with the Insurance Commission, the reason/s being **[state reason/s why the requested information is not available/in custody of the Commission]**.

Thank you.

Very truly yours,

Name of Records Officer

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

MEMORANDUM FROM THE EXECUTIVE SECRETARY

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

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

DATE: **24 November 2016**

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

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

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

For your information and guidance.

SC
SALVADOR C. MEDIALDEA
N *sc*



Exceptions to Right of Access to Information

For the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:¹

1. Information covered by Executive privilege;
2. Privileged information relating to national security, defense or international relations;
3. Information concerning law enforcement and protection of public and personal safety;
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused;
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers;
6. Prejudicial premature disclosure;
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;
8. Matters considered confidential under banking and finance laws, and their amendatory laws; and
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

¹ These exceptions only apply to governmental bodies within the control and supervision of the Executive department. Unless specifically identified, these exceptions may be invoked by all officials, officers, or employees in the Executive branch in possession of the relevant records or information.

For the implementation of the exceptions to the right of access to information, the following provide the salient details and legal bases that define the extent and application of the exceptions.

1. Information covered by Executive privilege:
 - a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;² and
 - b. Matters covered by deliberative process privilege, namely:
 - i. advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated; intra-agency or inter-agency recommendations or communications during the stage when common assertions are still in the process of being formulated or are in the exploratory stage; or information pertaining to the decision-making of executive officials;³ and
 - ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;⁴
2. Privileged information relating to national security, defense or international relations:
 - a. Information, record, or document that must be kept secret in the interest of national defense or security;⁵
 - b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁶ and

² This exception may only be invoked by the President and his close advisors. The extent of the privilege is defined by applicable jurisprudence: *Senate v. Ermita*, G.R. No. 169777, 20 April 2006, 488 SCRA 1; *Neri v. Senate Committee on Accountability of Public Officers and Investigations*, G.R. No. 180643, 4 September 2008, 564 SCRA 152; *Akbayan v. Aquino*, G.R. No. 170516, 16 July 2008, 558 SCRA 468; and *Chavez v. PCGG*, G.R. No. 130716, 9 December 1998, 299 SCRA 744.

³ *Akbayan v. Aquino*, *supra*; *Chavez v. NHA*, G.R. No. 164527, 15 August 2007; and *Chavez v. PCGG*, *supra*. The privilege of invoking this exception ends when the executive agency adopts a definite proposition (*Department of Foreign Affairs v. BCA International Corp.*, G.R. No. 210858, 20 July 2016).

⁴ Section 3(d) Rule IV, *Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees* (Rules on CCESPOE). Drafts of decisions, orders, rulings, policy decisions, memoranda, and the like, such as resolutions prepared by the investigating prosecutor prior to approval for promulgation and release to parties [*Revised Manual for Prosecutors of the Department of Justice (DOJ)*] are also covered under this category of exceptions.

⁵ *Almonte v. Vasquez*, G.R. No. 95367, 23 May 1995, 244 SCRA 286; *Chavez v. PCGG*, *supra*; *Legaspi v. Civil Service Commission*, L-72119, 29 May 1987, 150 SCRA 530; *Chavez v. NHA*, *supra*; *Neri v. Senate*, *supra*; *Chavez v. Public Estates Authority*, G.R. No. 133250, 9 July 2002, 384 SCRA 152; and Section 3(a), Rule IV, Rules on CCESPOE. This exception generally includes matters classified under Memorandum Circular (MC) No. 78, as amended by MC No. 196 as "Top Secret," "Secret," "Confidential," and "Restricted."

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

- c. Patent applications, the publication of which would prejudice national security and interests;⁷
- 3. Information concerning law enforcement and protection of public and personal safety:
 - a. Investigation records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would –
 - i. interfere with enforcement proceedings;
 - ii. deprive a person of a right to a fair trial or an impartial adjudication;
 - iii. disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; or
 - iv. unjustifiably disclose investigative techniques and procedures;⁸
 - b. Informer's privilege or the privilege of the Government not to disclose the identity of a person or persons who furnish information of violations of law to officers charged with the enforcement of law;⁹
 - c. When disclosure of information would put the life and safety of an individual in imminent danger;¹⁰
 - d. Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping;¹¹ and
 - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹²
- 4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:

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

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

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

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

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

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

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

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

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

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the individual¹⁹ and is not prohibited by any law or regulation. Any disclosure of personal information shall be in accordance with the principles of transparency, legitimate purpose and proportionality.²⁰

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of

¹³ Section 3(e), Rule IV, Rules on CCESPOE.

¹⁴ Sections 8 and 15, *Data Privacy Act of 2012* (RA No. 10173); *Personal information* refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual [Section 3(g), *Data Privacy Act of 2012*]; Article 26, Civil Code. May be invoked by National Privacy Commission and government personal information controllers.

¹⁵ Article 7, *The Child and Youth Welfare Code* [Presidential Decree (PD) No. 603].

¹⁶ Section 9(4), *Education Act of 1982* [Batas Pambansa (BP) Blg. 232].

¹⁷ Medical and health records are considered as sensitive personal information pursuant to Section 3(l)(2), *Data Privacy Act of 2012*; See also Department of Health-Department of Science and Technology (DOST)-Philippine Health Insurance Corporation Joint Administrative Order No. 2016-0002 (Privacy Guidelines for the Implementation of the Philippine Health Information Exchange).

¹⁸ Section 3(l), *Data Privacy Act of 2012*.

¹⁹ Article 26(2), *Civil Code*.

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

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

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;²² and
- c. Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:
 - (1) records of child and family cases;²³
 - (2) children in conflict with the law from initial contact until final disposition of the case;²⁴
 - (3) a child who is a victim of any offense under the *Anti-Child Pornography Act of 2009*, including the name and personal circumstances of the child, or the child's immediate family, or any other information tending to establish the child's identity;²⁵
 - (4) a child witness, who is a victim of a crime, an accused of a crime, or a witness to a crime, including the name, address, telephone number, school, or other identifying information of a child or an immediate family of the child;²⁶
 - (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address, employer, or other identifying information of a victim or an immediate family member;²⁷
 - (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;²⁸
 - (7) names of victims of child abuse, exploitation or discrimination;²⁹

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

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

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

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

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

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

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

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

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

- (8) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;³⁰
 - (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;³¹
 - (10) names of students who committed acts of bullying or retaliation;³²
 - (11) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and³³
 - (12) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;³⁴
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers, such as but not limited to the following:
- a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;³⁵

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

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

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

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

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

³⁵ Sections 45, 106.1, and 150.2, *The Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372); Section 66.2, *Securities Regulation Code* (RA No. 8799); DOST Administrative Order No. 004-16; Section 142, *The Corporation Code* (BP Blg. 68); Section 34, *Philippine Competition Act* (RA No. 10667); Sections 23 and 27 (c), *The New Central Bank Act* (RA No. 7653); *Anti-Money Laundering Act* (RA No. 9160); Section 18, *Strategic Trade Management Act* (RA No. 10697); Sections 10 and 14, *Safeguard Measures Act* (RA No. 8800); Section 12, *Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990* (RA No. 6969); Article 290, *Revised Penal Code*; Section 10.10, Rule 10, 2012 Revised IRR of *Build-Operate-Transfer Law* (RA No. 6957); and *Revised Philippine Ports Authority Manual of Corporate Governance*.

- b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);³⁶
- c. Records and reports submitted to the Social Security System by the employer or member;³⁷
- d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;³⁸
- e. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;³⁹
- f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴⁰
- g. Documents submitted through the Government Electronic Procurement System;⁴¹
- h. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the *Electronic Commerce Act of 2000*;⁴²
- i. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the *Philippine Mining Act of 1995* and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;⁴³
- j. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;⁴⁴

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

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

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

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

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

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

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

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

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

- k. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;⁴⁵
 - l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁶
 - m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁴⁷
 - n. Information on registered cultural properties owned by private individuals;⁴⁸
 - o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁴⁹ and
 - p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵⁰
6. Information of which a premature disclosure would:
- a. in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or
 - b. be likely or significantly frustrate implementation of a proposed official action, except such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.⁵¹
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:

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

⁴⁶ Section 10, *Safeguard Measures Act*.

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

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

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

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

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

- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*,⁵²
- b. Matters involved in an Investor-State mediation;⁵³
- c. Information and statements made at conciliation proceedings under the *Labor Code*,⁵⁴
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC),⁵⁵
- e. Results of examinations made by the Securities and Exchange Commission (SEC) on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto;⁵⁶
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*,⁵⁷
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁵⁸
- h. Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the *Comprehensive Dangerous Drugs Act of 2002*,⁵⁹
- i. Investigation report and the supervision history of a probationer;⁶⁰
- j. Those matters classified as confidential under the *Human Security Act of 2007*,⁶¹

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

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

⁵⁴ Article 237, *Labor Code*.

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

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

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

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

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

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

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

- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶² and
 - l. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;⁶³
- 8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
 - a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);
 - b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;
 - c. RA No. 8791 (*The General Banking Law of 2000*);
 - d. RA No. 9160 (*Anti-Money Laundering Act of 2001*); and
 - e. RA No. 9510 (*Credit Information System Act*);
- 9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:
 - a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:
 - (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;⁶⁴
 - (2) Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules);⁶⁵ and
 - (3) Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (s. 2012);

⁶² Section 14, Civil Service Commission Resolution No. 01-0940.

⁶³ Section 18, Rule 139-B and Section 24, Rule 130 of the Rules of Court; and Section 11 of the Rule on DNA Evidence, A.M. No. 06-11-5-SC.

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

⁶⁵ Article 7, UNCITRAL Transparency Rules.

- b. Testimony from a government official, unless pursuant to a court or legal order;⁶⁶
- c. When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:
 - (1) any purpose contrary to morals or public policy; or
 - (2) any commercial purpose other than by news and communications media for dissemination to the general public;⁶⁷
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁶⁸
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁶⁹
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷⁰ and
- g. Attorney-client privilege existing between government lawyers and their client.⁷¹

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

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

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

⁶⁹ Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending Certain Provisions of the New Rules of Procedure of the National Labor Relations Commission, 08 March 2002; Department of Agrarian Reform MC No. 07-11, 19 July 2011; Department of Social Welfare and Development MC No. 021-12, 16 October 2012; and Section 42, *Investment Company Act* (RA No. 2629); When the information requested is not a matter of public concern or interest as decided in *Hilado v. Judge Amor A. Reyes*, G.R. No. 163155, 21 July 2006.

⁷⁰ *Romero v. Guerson*, G.R. No. 211816, 18 March 2015.

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