

AGENCY MANUAL ON FREEDOM OF INFORMATION

**Per Executive Order No. 2 Series of 2016
(NIA - 19 December 2016)**

TABLE OF CONTENTS

	<u>Page No.</u>
I. Overview	1
a. Purpose of this Manual	
b. Structure of the FOI Manual	
b.1 FOI Decision Maker	
c. Coverage of the Manual	
d. FOI Receiving Officer	
II. Definition of Terms	2
III. Promotion of Openness in Government	4
IV. Protection of Privacy	5
V. Standard Procedure	5
a. Receipt of Request for Information	
b. Initial Evaluation	
c. Transmittal of Request by the FRO to the FDM	
d. Role of FDM in processing the Request	
e. Role of FRO to Transmit the Information to the Requesting Party	
f. Request for an Extension of Time	
g. Notice to the Requesting Party of the Approval/Denial of the Request	
h. Approval of the Request	
i. Denial of Request	
VI. Remedies in Case of Denial	9
VII. Request Tracking System	9
VIII. Fees	9
IX. Exemptions from FOI	10
X. Administrative Liability	10
XI. Approval by NIA Administrator	11

XII. Annexes

- a. Executive Order No. 2 Series 2016
- b. FOI Receiving Officers of the Agency
- c. List of Agency Exceptions
- d. FOI Request Flow Chart
- e. Detailed FOI Request Process
- f. FOI Request Process in Days
- g. FOI Request Form
- h. FOI Response / Document Enclosed
- i. FOI Response / Answer
- j. FOI Response / Document Available Online
- k. FOI Response / Document Not Available Online
- l. FOI Response / Document Under Exemptions
- m. Inventory of Exceptions Issued by the Office of the President Under Memorandum from the Executive Secretary
- n. NIA Board of Directors' Resolution Approving the NIA Freedom of Information Manual
- o. Guidelines on the Referral of Requested Information, Official Record/s and Public Record/s to the Appropriate Government Agency otherwise known as the "NO WRONG DOOR POLICY FOR FOI" *(Added here in the NIA FOI Manual on March 20, 2023.)*

NATIONAL IRRIGATION ADMINISTRATION FREEDOM OF INFORMATION MANUAL

SECTION 1: OVERVIEW

- A. **Purpose:** The purpose of this Freedom of Information Manual (FOIM) is to provide the processes to guide and assist the National Irrigation Administration (NIA) in dealing with requests for information received under Executive Order (E.O.) No. 2 on Freedom of Information (FOI). (Annex "A")
- B. **Structure of the FOI Manual:** This Manual shall set out the rules and procedures to be followed by NIA and all its offices nationwide, when a request for access to information is received. The NIA Administrator is responsible for all actions carried out under this Manual. The NIA Administrator shall designate the Deputy Administrator for Engineering and Operations for engineering and operations matters and the Deputy Administrator for Administrative and Finance for administrative and finance matters to act as FOI Decision Maker (FOI-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).

At the Regional / Operations / Project Office level, the FOI Decision Maker is lodged with the Regional/Operations/Project Manager.

- C. **Coverage of the FOI Manual:** The Manual shall cover all requests for information directed to NIA and all its offices nationwide, as follows:
1. All Offices at NIA Central Office (CO), including CO-Based Project Management Offices;
 2. Regional Offices 1-13, Cordillera Administrative Region (CAR), Magat River Integrated Irrigation System (MRIIS), Upper Pampanga River Integrated Irrigation System (UPRIIS), and Negros Island Region (NIR), and all Irrigation Management Offices (IMO);
 3. Project offices, namely: Agno River Irrigation System Extension Project (ARISEP), Casecnan Multipurpose Irrigation and Power Project-Phase II (CMIPP II), Balog-balog Multipurpose Project Phase 2 (BBMP 2), Jalaur River Multipurpose Project Stage II (JRMP II), Pinipisakan Irrigation Project, Umayam River Irrigation Project (URIP), and Malitubog-Maridagao Irrigation Project Phase II (MMIP II).

In the event that a new project office is created, it shall be included in the coverage as defined in this provision.

- D. **FOI Receiving Officer (FRO):** There shall be an FOI Receiving Officer (FRO) designated at the NIA Central and Field Offices. At the NIA Central Office, the FRO shall be the Department Manager of the Public Affairs and Information

Staff. The FRO shall hold office at the Office of the Public Affairs and Information Staff, Ground floor Building A, National Irrigation Administration, EDSA, Diliman, Quezon City. Its direct line is 921-3741. Trunk line is 929-6071 local 113 and 119.

At the Regional/Operations/Project Offices, the Public Relations Officer (PRO) shall be designated as the FRO. In the absence of a PRO, the Head of Office shall designate one. FRO should also be designated at the IMO level, if necessary. List of FRO in all NIA offices nationwide is attached as Annex "B".

The functions of the FRO shall include receiving on behalf of the NIA and all its offices nationwide, all requests for information and forwarding same to the appropriate office which has custody of the records; monitoring all FOI requests and appeals; providing assistance to the FOI Decision Maker; providing assistance and support to the public and staff with regard to FOI; compiling statistical information as required; and, conducting initial evaluation of the request and advising concerned person requesting the information.

SECTION 2: DEFINITION OF TERMS

- A. **Heads of Field Offices.** This refers to heads of offices in the field specifically referred to as, the Regional Managers, Operations Managers, Projects Managers, and Division Managers of Irrigation Management Offices.
- B. www.nia.gov.ph. This is the official website of the National Irrigation Administration that can be accessed by the general public.
- C. 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.
- D. eFOI.gov.ph. The website that serves as the government's comprehensive FOI website for all information on the FOI. Among many other features, eFOI.gov.ph provides a central resource for the public to understand the FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet available. eFOI.gov.ph also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, so that they can be compared by the agency.
- E. **INFORMATION.** Shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, tapes, 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 in connection with the performance or transactions of official business by any government office.

- F. INFORMATION FOR DISCLOSURE.** Information promoting the awareness and understanding of policies, programs, activities, rules or revisions affecting the public, government agencies, and the community and economy. It also includes information encouraging familiarity with the general operations, thrusts, and programs of the government. In line with the concept of proactive disclosure and open data, these types of information can already be posted to government websites, such as data.gov.ph, without need for written requests from the public.
- G. OFFICIAL 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.
- H. OPEN DATA.** Refers to publicly available data structured in a way that enables the data to be fully discoverable and usable by end users.
- I. PUBLIC RECORDS.** Shall include information required by laws, executive orders, rules, or regulations to be entered, kept, and made publicly available by a government office.
- J. 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.
- K. PERSONAL INFORMATION.** Shall refer 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 any entity holding the information, or when put together with other information would directly and certainly identify an individual.
- L. SENSITIVE PERSONAL INFORMATION.** As defined in the Data Privacy Act of 2012, shall refer to personal information:

 - 1. About an individual race, ethnic origin, marital status, age, color and religious philosophical or political affiliations;
 - 2. About an individual health, education, genetic or sexual life of a person, or to any proceedings for any offense committed or alleged to have committed by such person, the disposal or 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.
- M. ADMINISTRATIVE FOR 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.
- N. ANNUAL FOI REPORT.** A report to be filed each year with the Presidential Communications Operations Office (PCOO) by all government agencies detailing the administration of the FOI. Annual FOI Reports contain detailed statistics on the number of FOI requests and appeals received, processed, and pending at each government office.
- O. CONSULTATION.** When a government office locates a record that contains information of interest to another office, it will ask for the views of that

SECTION 3. PROMOTION OF OPENNESS IN GOVERNMENT

- A. Duty to Publish Information.** The NIA 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:
1. A description of its mandate, structure, powers, functions, duties, and decision-making processes;
 2. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
 3. The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
 4. Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
 5. Important rules and regulations, orders or decisions;
 6. Current and important database and statistics that it generates;
 7. Bidding processes and requirements;
 8. Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.
- B. Accessibility of Language and Form.** The NIA shall endeavor to translate key information into Filipino and present them in popular form and means. The Field Offices may translate the Manual into local dialect if they deem it necessary. Translation should however be within the scope of the Manual.

- C. **Keeping of Records.** The NIA shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation or records, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications, and documents received or filed with them and the date generated or collected.

SECTION 4. PROTECTION OF PRIVACY

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

- a. The NIA 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 NIA shall protect personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure.
- c. The FRO, FDM, or any employee or official who has access, whether authorized or unauthorized, to personal information in the custody of the NIA, shall not disclose that information except as authorized by existing laws.

SECTION 5. STANDARD PROCEDURE (with flowchart)

A. **Receipt of Request for Information.**

A.1 The FOI Receiving Officer (FRO) shall receive the request for information from the requesting party and check compliance of the following requirements:

- A.1.1 Requests made through telephone calls are accepted provided the requester shall thereafter confirm the request in writing prior to the release of the information requested.
- A.1.2 The written request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization; and
- A.1.3 The request shall reasonably describe the information requested, and the reason for, or purpose/s of the request for information. (Request Form attached as Annex "G" hereto).

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

A.2 In case the requesting party is unable to make a written request, because of literacy or due to being person with disability, he or she may make an oral request and the FRO shall reduce it in writing.

A.3 The request shall be stamped received by the FRO indicating the date and time of the receipt of the written request, and the name, rank, title and position of the public officer who actually received it, with a corresponding signature and a copy, furnished to the requesting party. In case of email requests, the email shall be printed out and shall follow the procedure mentioned above, and be acknowledged by electronic mail. The FRO shall input the details of the request on the Request Tracking System and allocate a reference number.

A.4 The NIA or any of its offices nationwide must respond to requests promptly, within the fifteenth (15) working day following the date of receipt of the request. A working day is any day other than a Saturday, Sunday, or a day which is declared a national public holiday in the Philippines. In computing for the period, Art. 13 of the New Civil Code shall be observed.

The date of receipt of the request will be either:

- a. The day on which the request is physically or electronically delivered to the government office, or directly into the e-mail inbox of a member of staff; or
- b. If the government office has asked the requesting party for further details to identify and locate the requested information, the date on which the necessary clarification is received.

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

Should the requested information need further details to identify or locate, then the 15 working days will commence on the day after it receives the request clarification from the requesting party.

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

1. Request relating to more than one office under NIA.

If a request for information is received from different NIA office, the FRO shall forward such request to the said NIA Office concerned and ensure that it is well coordinated and monitor its compliance. The FRO

shall also clear with the respective FROs of NIA office that they will only provide the specific information that relates to their office.

2. If the requested information is not in the custody of the NIA or any of its offices nationwide, following referral and discussions with the FDM, the FRO shall undertake the following steps:

- 2.1 If the records requested refer to another agency, the request will be immediately transferred to such appropriate agency through the most expeditious manner and the transferring office must inform the requesting party that the information is not within the 15 working day limit. The 15 working day requirement for the receiving office commences on the day it received the request.

No Wrong Door Policy. In compliance with FOI-MC No. 21-05 or the Guidelines on the Referral of Requested Information, Official Records and Public Record/s to the Appropriate Government Agency, otherwise known as the "No Wrong Door Policy for FOI," the NEA will not deny FOI requests for information and/or records not under its possession but instead refer the request to the appropriate government agency which is the proper repository or custodian of the requested information or records, or have control over the said information or records. (See Annex P.)

- 2.2 If the records refer to an office is not within the coverage of E. O. No. 2, the requesting party shall be advised accordingly and provided with the contact details of that office, if known.

3. Requested information is already posted and available on-line: Should the information being requested is already posted and publicly available in the Agency website, and/or at data.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. Requested information is substantially similar or identical to the previous request: Should the requested information be substantially similar or identical to a previous request by the same requester, the request shall be verified from the requesting party the reason for submitting the same or similar request. Thereafter, the FRO shall inform the applicant of the reason of such denial or any action taken on the request.

C. Transmittal of Request by the FRO to the FDM: After receipt of the request for information, the FRO shall evaluate the information being requested and notify the FDM of such request. The copy of the request shall be forwarded to such FDM within one (1) day from receipt of the written request. The FRO shall record the date, time, and name of the FDM who received the request in a record book with the corresponding signature of the acknowledgement of receipt of the request.

D. Role of FDM in processing the request: Upon receipt of the request for information from the FRO, the FDM shall assess and clarify the request if necessary. He or she shall make all necessary steps to locate and retrieve the information requested. The FDM shall ensure that the complete information requested be submitted to the FRO within 10 days upon receipt of such request.

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

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

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

E. Role of FRO to transmit the information to the requesting party: Upon receipt of the requested information from the FDM, the FRO shall collate and ensure that the information is complete. He / she shall attach a cover/transmittal letter signed by the Agency Head or the designated Deputy of Heads of offices in the field nationwide and ensure transmittal of such to the requesting party within 15 working days upon receipt of the request for information.

F. Request for an Extension of Time: If the information requested requires extensive search of the government's office records facilities, examination of voluminous records, the occurrence of fortuitous events or analogous cases, the FDM should inform the FRO.

The FRO shall inform the requesting party of the extension, setting forth the reasons for such extension. In no case shall the extension exceed twenty (20) working days on top of the mandated fifteen (15) working days to act on the request, unless exceptional circumstances warrant a longer period.

G. Notice to the Requesting Party of the Approval/Denial of the Request:

Once the FDM approved or denied the request, he shall immediately notify the FRO who shall prepare the response to the requesting party either in writing or by e-mail. All actions on FOI requests, whether approved or denied shall pass through the Agency Head or any of his designated Deputy for final approval.

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

I. Denial of Request: In case of denial of the request wholly or partially, the FRO shall, within the prescribed period, notify the requesting party of the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. Failure to notify

the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of the request to information. All denials on FOI shall pass through the Agency Head or his designated Deputy.

SECTION 6. REMEDIES IN CASE OF DENIAL

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

- A. Administrative FOI Appeal to the Agency Central Appeals and Review Committee provided that the written appeal must be filed by the same requesting party within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.
 - 1. Denial of the Appeal by the FDM may be appealed by filing a written appeal to the Agency Central Appeals and Review Committee to be composed of the Head Executive Assistant, a staff from Legal Services, and a staff from the Internal Audit Services to be placed under the Office of the Administrator within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.
 - 2. The appeal shall be decided by the Administrator upon the recommendation of the Central Appeal and Review Committee within thirty (30) working days from the filing of said written appeal. Failure to decide within the 30-day period shall be deemed a denial of the appeal.
 - 3. The denial of the Appeal by the Administrator or the lapse of the period to respond to the request may be appealed further to the Office of the President under Administrative Order No. 22 s 2011.
- B. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 7. REQUEST TRACKING SYSTEM

The NIA shall utilize the existing Document Tracking System (DTS) to trace the status of all requests for information received by it, which may be paper-based , on line or both.

SECTION 8. FEES

- A. **No request Fee.** The NIA and all its offices nationwide shall not charge any fee for accepting requests for access to information.

- B. **Reasonable Cost of Reproduction and Copying of the Information:** The FRO shall immediately notify the requesting party in case there shall be a reproduction and copying fee in order to provide the information. Such fee shall be the actual amount spent by NIA in providing information to the requesting party. The schedule of fees shall be posted by NIA.
- C. **Exemption from fees:** the NIA may exempt any requesting party from payment of fees, upon request stating the valid reason/s why such requesting party shall not pay the fee.

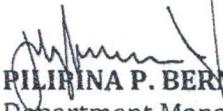
SECTION 9. EXEMPTIONS FROM FOI


The NIA shall come up with a list of exemptions (Annex "C") that will be categorized as Exemption from FOI. It shall likewise adopt the exemptions from FOI as provided by the Office of the Executive Secretary. (Annex "M")


SECTION 10. ADMINISTRATIVE LIABILITY

- A. **Non-compliance with FOI.** Failure to comply with the provisions of this Manual shall be ground for the following administrative penalties:
- a. 1st offense - reprimand;
 - b. 2nd offense - suspension of one (1) to thirty (30) days; and
 - c. 3rd offense - dismissal from the service.
- B. **Procedure.** The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of cases under this Manual.
- C. **Provision for More Stringent Laws, Rules and Regulations.** Nothing in this Manual shall be construed to derogate from any law, rules, or regulations prescribed by anybody or agency, which provides for more stringent penalties.

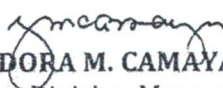
Prepared by, in consultation with the Deputy Administrators,
Central Office Department Managers, Regional / Operations and
Project Managers including CO-Based Project Managers


PILARINA P. BERMUDEZ
Department Manager A
Public Affairs & Information Staff


ATTY. LEMUEL M. DE GUZMAN
Attorney IV
Legal Services




EDEN VICTORIA C. SELVA
Public Relations Chief B
Public Affairs & Information Staff




ISIDORA M. CAMAYA
Acting Division Manager
Management Information Division
Corporate Planning Services

Reviewed by:



LYDIA S. ESGUERRA
OIC-DEPUTY ADMINISTRATOR
For Engineering and Operations



ESTRELLA E. ICASIANO
DEPUTY ADMINISTRATOR
For Administrative and Finance Sector

APPROVED:



PETER TIU LAVIÑA
Administrator

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of the Office which is in custody or control of the information, public

record or official record, or the responsible central or field officer duly designated by him in writing.

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

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

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

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

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

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

- (a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the reason for, or purpose of, the request for information: Provided, that no request shall be denied or refused acceptance unless the reason for the request

is contrary to law, existing rules and regulations or it is one of the exceptions contained in the inventory or updated inventory of exception as hereinabove provided.

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

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

(d) The government office shall respond to a request fully compliant with requirements of subsection (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 Receiving Officers of the Agency

REGIONAL / PROJECT OFFICE	LOCATION OF FRO OFFICE	CONTACT DETAILS	NAME OF ASSIGNED FRO
1	Bayaoas, Urdaneta City, Pangasinan	(075) 632 2776 niaregion1.pro@gmail.com	Oscar S. Navata
2	Minante 1, Cauayan City, Isabela	(078) 307 1681 niacag02@yahoo.com.ph	Dorothy Belle C. de Leon
3	Tambobong, San Rafael, Bulacan	(044) 766 2467 nia03@gmail.com	Eliseo V. Bitangcol
4-A	National Highway, Santa Clara Sur, Pila, Laguna	(049) 559 0726 niaregion4a@yahoo.com	Marietta M. dela Cruz
4-B	Bayanan II, Calapan City, Orienta Mindoro	(043) 288 2367 nia4b_mimaropa@yahoo.com	Aileen Vernice A. Bahia
5	Panganiban Drive, Naga City	(054) 473 8967 strive_nia5@yahoo.com	Eduardo G. Yu
6	Tacas, Jaro, Iloilo City	(033) 329 6596 niaregion6@gmail.com	Marites Bolinas
7	J.A. Clarin St., Dao District, Tagbilaran City	(038) 501 9544 niaregion7@yahoo.com	Anthony O. Alonzo
8	Marasbaras, Tacloban City	(053) 232 6743 paolomon80@gmail.com	Lilia V. Dapuran
9	Tawagan, Labangan, Zamboanga del Sur	(062) 215 4167 empleo.mariateresa@gmail.com	Maria Teresa A. Empleo
10	Villarin St., Carmen, Cagayan de Oro	(088) 858 3256 niareg10@yahoo.com	Janeta G. Larono

11	Bolton St., Davao City	(082) 224 0717 badette_robin@yahoo.com	Bernadette Robin
12	Villarica, Midsayap, Cotobato	(064) 229 8562 nia_region12@yahoo.com	Evelyn A. Bragasin
13 (CARAGA)	Bancasi, Butuan City	(085) 342 5353 nia_caraga13@yahoo.com.ph	Jane Huqueriza
Cordillera Administrative Region (CAR)	Wangal, La Trinidad, Benguet	(074) 422 5064 nia_regioncar@yahoo.com.ph	Mylene I. Malecdan
Magat River Integrated Irrigation System (MRIIS)	Minante 1, Cauayan City, Isabela	(078) 307 0288 niamriis_HO@yahoo.com	Melissa C. Agbisit
Upper Pampanga River Integrated Irrigation System (UPRIIS)	Maharlika Highway, Cabanatuan City	(044) 958 9707 upriispr_desk@yahoo.com	Maria Isobel F. Padolina
Negros Island Region (NIR)	Celis St., Bago City, Negros Occidental	(034) 461 0494 nianegrosislandrio@yahoo.com	Florentina Magbanua
Agno River Irrigation System Extension Project (ARISEP)	Tumana East, Rosales, Pangasinan	(075) 7091	Ceniza T. Tolentino
Balog-balog Multipurpose Project (BBMP)	Matatalaib, Tarlac City	(045) 982 0443	Edgar Ubaldo
Casecnan Multipurpose Irrigation and Power Project (CMIPP) Phase II	Central Luzon State University Compound, Science City of Muñoz, Nueva Ecija	(044) 456 0272	Mildred G. Cruz
Pinipisakan Irrigation Project	Capitol Site, Brgy. Dalakit, Catarman, Northern Samar	(055) 500 9150	Estelita S. Sumile

Jalaur River Multipurpose Project (JRMP)	Brgy. Tacas, Jaro, Iloilo City	(033) 320 5510	Steve Cordero
Malitubog-Maridagao Irrigation Project (MMIP)	Villarica, Midsayap, Cotobato	(064) 229 8843	Sally Sangeban
National Irrigation Sector Rehabilitation and Improvement Project (NISRIP)	4/F Bldg B, National Irrigation Administration, EDSA, Diliman, Quezon City	(02) 929 6071 local 222	Ana Paula C. Estanislao
Participatory Irrigation Development Project (PIDP)	4/F IEC Bldg., National Irrigation Administration, EDSA, Diliman, Quezon City	(02) 927 7270	Ma. Victoria J. Mamaril
Small Reservoir Irrigation Project (SRIP)	6/F Bldg A, National Irrigation Administration, EDSA, Diliman, Quezon City	(02) 926 1601	Olivia G. Ortile
Comprehensive Agrarian Reform Program - Irrigation Component (CARP-IC)	4/F IEC Bldg, National Irrigation Administration, EDSA, Diliman, Quezon City	(02) 928 8841	Ma. Theresa C. Lee

ANNEX "C"
LIST OF EXCEPTIONS

A. ENGINEERING/TECHNICAL MATTERS

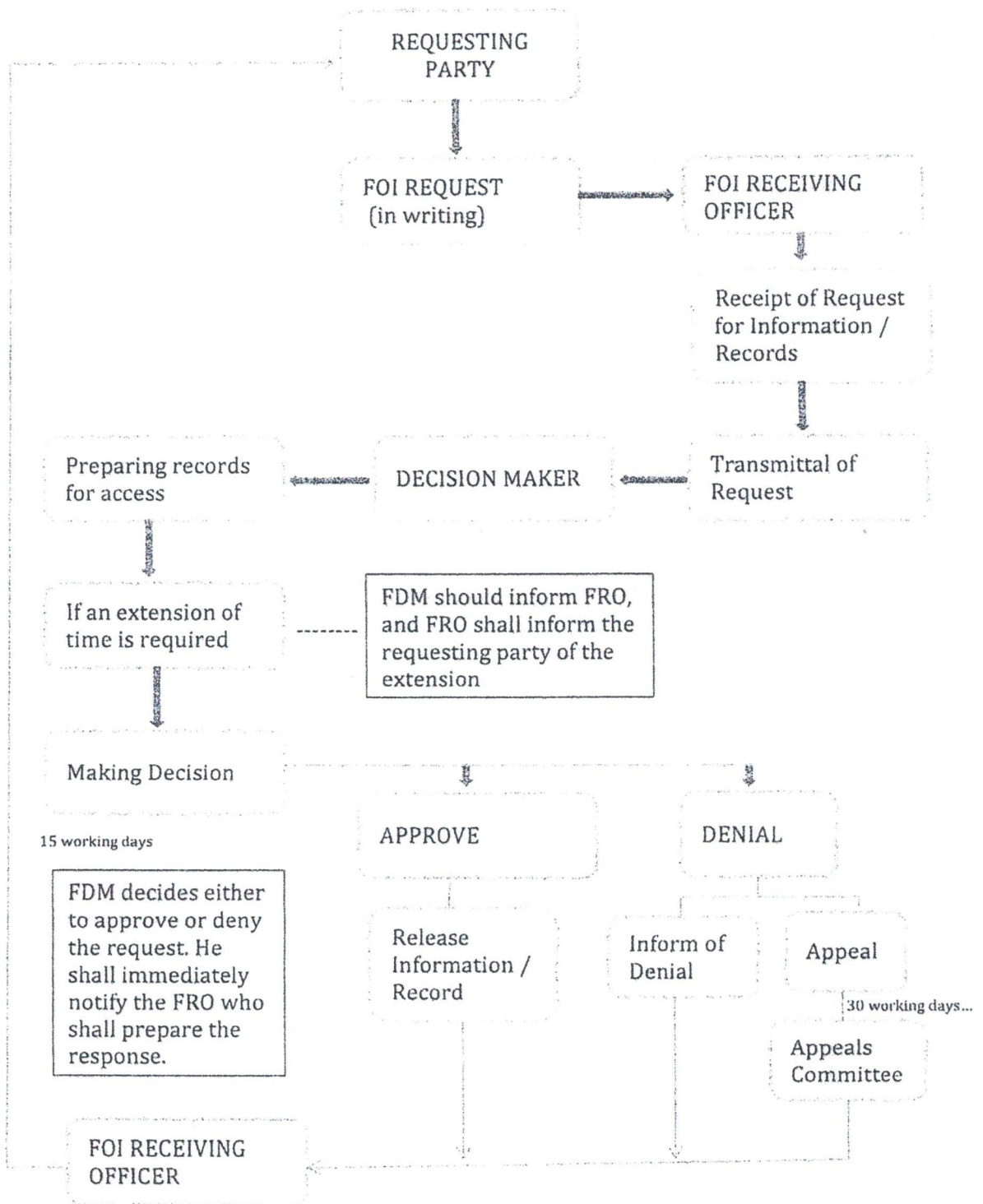
1. Derivation of unit costs of program of works.
2. Derivation of unit costs of the Approved Budget for the Contract (ABC).
3. Electronic file of feasibility study, design reports, plans, and drawings of NIA projects.
4. All bidding documents submitted by bidders and bid evaluation results.
5. Survey data – field books data from survey works undertaken by the field offices.

B. ADMINISTRATIVE MATTERS

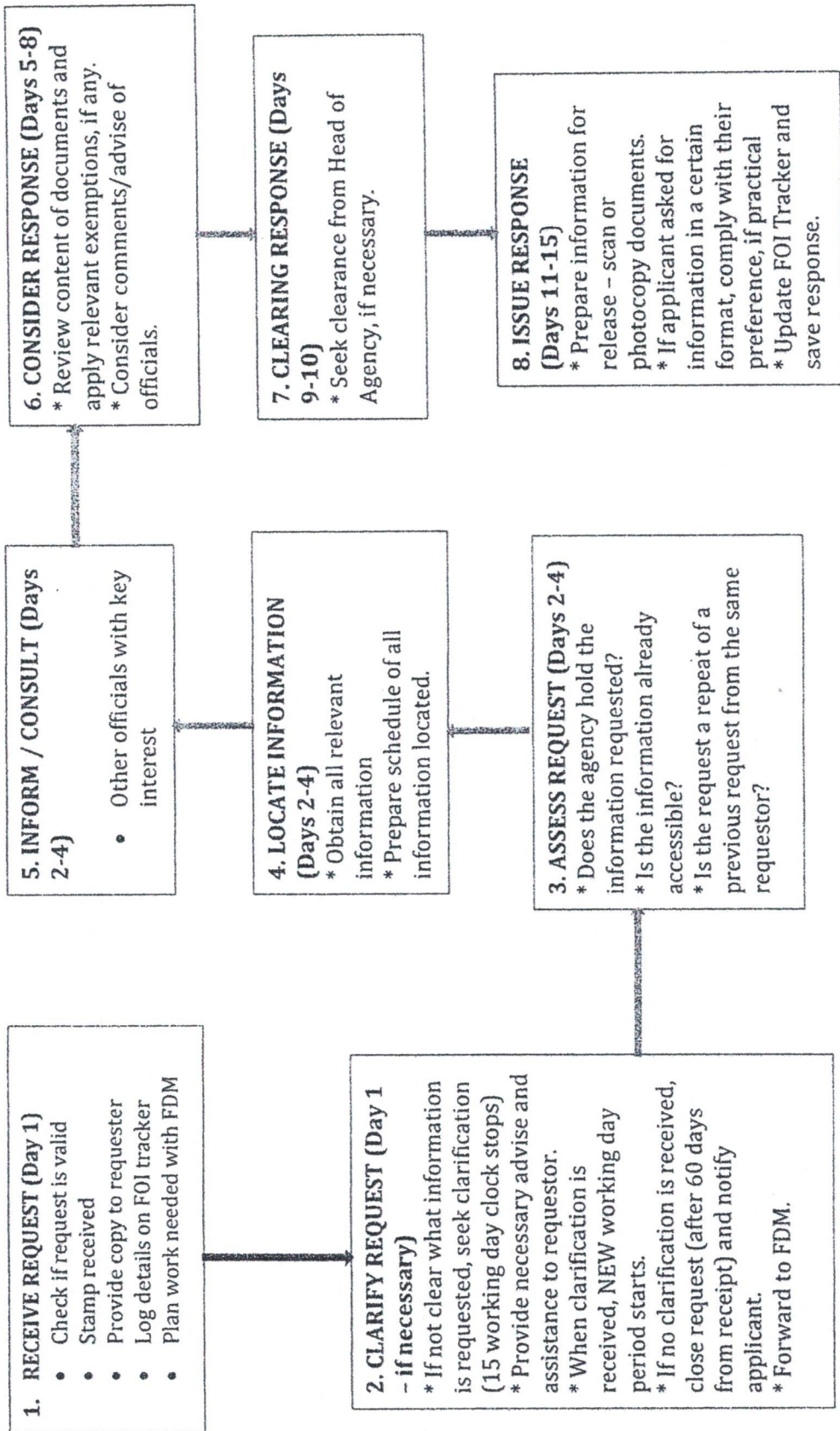
1. Proceedings and documents in the ongoing investigation conducted on cases involving NIA officials and employees.
2. Personal information of NIA officials employees such as, among others, landline numbers, home address, family-related information, medical, and dental records.
3. Proposed itinerary of personnel on official travel.
4. SALN and 201 files of employees except when required by a court order or Office of the Ombudsman.
5. Information on NIA Bank Accounts.
6. Annual Physical Inventory.

xvxxvxxvxx

ANNEX "D"
FOI REQUEST FLOW CHART



ANNEX "E"
DETAILED FOI REQUEST PROCESS



ANNEX "F"

FOI REQUEST PROCESS IN DAYS

Day 1	Day 2-4	Day 5-8	Day 9-10	Day 11-15
RECEIVE REQUEST <ul style="list-style-type: none"> • Check if request is valid • Stamp received • Provide copy to requester • Log details on FOI Tracker • Plan work needed with FDM 	ASSESS REQUEST <ul style="list-style-type: none"> • Does the agency hold the information requested? • Is the information already accessible? • Is the request a repeat of a previous from the same applicant? 	CONSIDER RESPONSE <ul style="list-style-type: none"> • Review content of documents and apply relevant exceptions • Consider comments / advise of officials 	CLEARING RESPONSE <ul style="list-style-type: none"> • Seek clearance from Head of Agency, if necessary 	ISSUE RESPONSE <ul style="list-style-type: none"> • Prepare information to release - scan or photocopy documents • If applicant asked for information in a certain format, comply with their preference, if practical • Update FOI Tracker and save response
CLARIFY REQUEST (if necessary) <ul style="list-style-type: none"> • If not clear, what information is requested, seek clarification (15 working day clock stops) • Provide appropriate advise and assistance to the requester. • When clarification is received, NEW working day period starts • If no clarification is received, close request (after 60 days from receipt) and notify applicant • Forward to FDM 	LOCATE INFORMATION <ul style="list-style-type: none"> • Obtain all relevant information • Prepare schedule of all information located INFORM/CONSULT <ul style="list-style-type: none"> • Other officials with key interest 			

National Irrigation Administration

ANNEX "H"
FOI RESPONSE / DOCUMENT ENCLOSED

Date: _____

Greetings!

Thank you for your request dated _____ under
Executive Order No. 2 s 2016 on Freedom of Information in the Executive Branch.

Your Request:

You requested for _____
_____.

Response to your Request:

Your FOI request is approved. I enclose a copy of _____
of the information you requested.

Thank you.

Respectfully,

FOI Receiving Officer

National Irrigation Administration

ANNEX "I"
FOI RESPONSE / ANSWER

Date: _____

Greetings!

Thank you for your request dated _____ under
Executive Order No. 2 s 2016 on Freedom of Information in the Executive Branch.

Your Request:

You requested for _____
_____.

Response to your Request:

Your FOI request is approved. The answer to your request is _____.

Thank you.

Respectfully,

FOI Receiving Officer

National Irrigation Administration

ANNEX "J"
FOI RESPONSE - DOCUMENT AVAILABLE ONLINE

Date: _____

Greetings!

Thank you for your request dated _____ under
Executive Order No. 2 s 2016 on Freedom of Information in the Executive Branch.

Your Request:

You requested for _____
_____.

Response to your Request:

Some/Most/All of the information you have requested is already available on line
from (add details of where that specific information could be obtained)
www.nia.gov.ph

Your right to request a review:

If you are unhappy with this response to your FOI request, you may ask us to carry
out an internal review of the response by writing to _____ (name,
position, and address) Your review request should explain why you are dissatisfied
with this response and should be made within 15 calendar days from the date when
you received this letter. We will complete the review and tell you the result, within
30 calendar days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal
to the Office of the President under Administrative Order No. 22 S 2011.

Thank you.

Respectfully,

FOI Receiving Officer

National Irrigation Administration

ANNEX "K"
FOI RESPONSE - DOCUMENT NOT AVAILABLE ONLINE

Date: _____

Greetings!

Thank you for your request dated _____ under
Executive Order No. 2 s 2016 on Freedom of Information in the Executive Branch.

Your Request:

You requested for _____
_____.

Response to your Request:

While our aim is to provide information whenever possible, in this instance this Office does not have (some of) the information you have requested. However, you may wish to contact (name of authority, organization, contact details) who may be available to help you. The reasons why we don't have the information are explained in the Annex to this letter.

Your right to request a review:

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response by writing to _____ (name, position, and address) Your review request should explain why you are dissatisfied with this response and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Office of the President under Administrative Order No. 22 S 2011.

Thank you.

Respectfully,

FOI Receiving Officer

ANNEX "L"
FOI RESPONSE - DOCUMENT UNDER EXCEPTIONS

Date: _____

Greetings!

Thank you for your request dated _____ under
Executive Order No. 2 s 2016 on Freedom of Information in the Executive Branch.

Your Request:

You requested for _____
_____.

Response to your Request:

While our aim is to provide information whenever possible, in this instance this Office does not have (some of) the information you have requested because and exemptions under section (s) (insert specific section number (s) of the List of Exemptions that applies to that information. The reasons why that exemptions applies are explained in the Annex to this letter.

Your right to request a review:

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response by writing to _____ (name, position, and address) Your review request should explain why you are dissatisfied with this response and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Office of the President under Administrative Order No. 22 S 2011.

Thank you.

Respectfully,

FOI Receiving Officer



FREEDOM OF INFORMATION REQUEST FORM

(Pursuant to Executive Order No. 2, s. 2016)
(as of November 2016)

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

A. Requesting Party

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

1. Title (e.g. Mr, Mrs, Ms, Miss)

2. Given Name/s (including M.I)

3. Surname

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

5. Landline/Fax

6. Mobile

7. Email

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

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

9. Preferred Mode of Reply

☐ Email ☐ Fax ☐ Postal Address ☐ Pick-Up at Agency

10. Type of ID Given (Please ensure your IDs contain your photo and signature)

☐ Passport ☐ Driver's License ☐ SSS ID ☐ Postal ID ☐ Voter's ID
☐ School ID ☐ Company ID ☐ Others

B. Requested Information

11. Agency - Connecting Agency (if applicable)

12. Title of Document/Record Requested (Please be as detailed as possible)

13. Date or Period (DD/MM/YY)

14. Purpose

15. Document Type

16. Reference Numbers (if known)

17. Any other Relevant Information

C. Declaration

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. If the Department or Agency gives you access to a document, and if the document contains no personal information about you, the document will be published online in the Department's or 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.

I declare that:

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

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

Signature

Date Accomplished (DD/MM/YYYY)

D. FOI Receiving Officer [INTERNAL USE ONLY]

Name (Print name)

Agency - Connecting Agency (if applicable, otherwise N/A)

Date entered on eFOI (if applicable, otherwise N/A)

Proof of ID Presented (Photocopies of original should be attached)

- ☐ Passport ☐ Driver's License ☐ SSS ID ☐ Postal ID ☐ Voter's ID
☐ School ID ☐ Company ID ☐ Others

The request is recommended to be:

- ☐ Approved ☐ Denied

If Denied, please tick the Reason for the Denial

- ☐ Invalid Request ☐ Incomplete ☐ Data already available online

Second Receiving Officer Assigned (print name)

Decision Maker Assigned to Application (print name)

Decision on Application

- ☐ Successful ☐ Partially Successful ☐ Denied ☐ Cost

If Denied, please tick the Reason for the Denial

- ☐ Invalid Request ☐ Incomplete ☐ Data already available online
☐ Exception Which Exception?

Date Request Finished (DD/MM/YYYY)

Date Documents (if any) Sent (DD/MM/YYYY)

FOI Registry Accomplished

- ☐ Yes ☐ No

RO Signature

Date (DD/MM/YYYY)

Office of the President
of the Philippines
Malacañang

MEMORANDUM FROM THE EXECUTIVE SECRETARY

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

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

DATE: 24 November 2016

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

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

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

For your information and guidance.

SALVADOR C. MEDIALDEA



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 carjacked vehicles and apprehension of the persons charged with carjacking;¹¹ and
 - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹²
- 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 Carjacking Act of 2016* (RA No. 10883). May be invoked by law enforcement agencies.

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

- 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. Guerzon*, G.R. No. 211816, 18 March 2015.

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



NATIONAL IRRIGATION ADMINISTRATION

BOARD OF DIRECTORS RESOLUTION

SUBJECT: Freedom of Information Manual of the National Irrigation Administration under Executive Order No. 2, s. 2016.

**RESOLUTION NO. 8388-16
SERIES OF 2016**

RESOLVED, as it is hereby resolved, on motion duly seconded, to approve the Freedom of Information Manual of the National Irrigation Administration (NIA) under Executive Order No. 2, s. 2016, subject to the revision of Sections 2 and 3 for styling purposes.

Date Adopted:

December 13, 2016

I, the undersigned, hereby certify that the foregoing is a true copy of the Resolution adopted by the Board of Directors of the National Irrigation Administration and as read in the Minutes of a duly constituted meeting of said Board held on December 13, 2016.

919th Regular
Board Meeting


GENEVER M. DIONIO
Acting Corporate Board Secretary





FOI-MC No. 21- 05

**FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

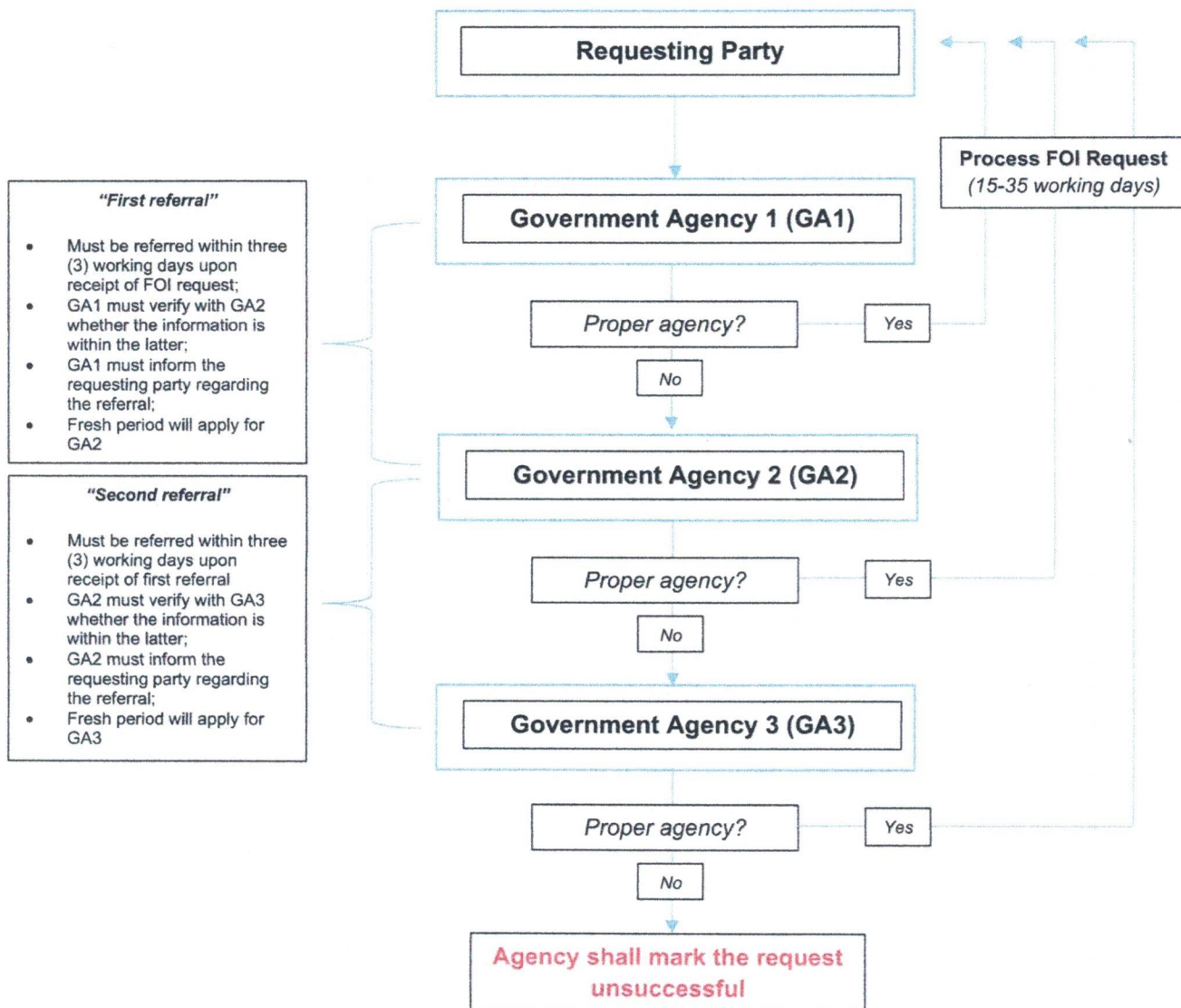
Section 10. Repealing Clause. All orders, rules and regulations, memoranda, circulars, and issuances or any part thereof inconsistent with the provisions of this Memorandum Circular are hereby repealed, amended or modified accordingly.

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

Manila, Philippines, 27th day of August 2021.


JOSE RUPERTO MARTIN M. ANDANAR
Secretary and FOI Champion

NO WRONG DOOR POLICY FLOWCHART



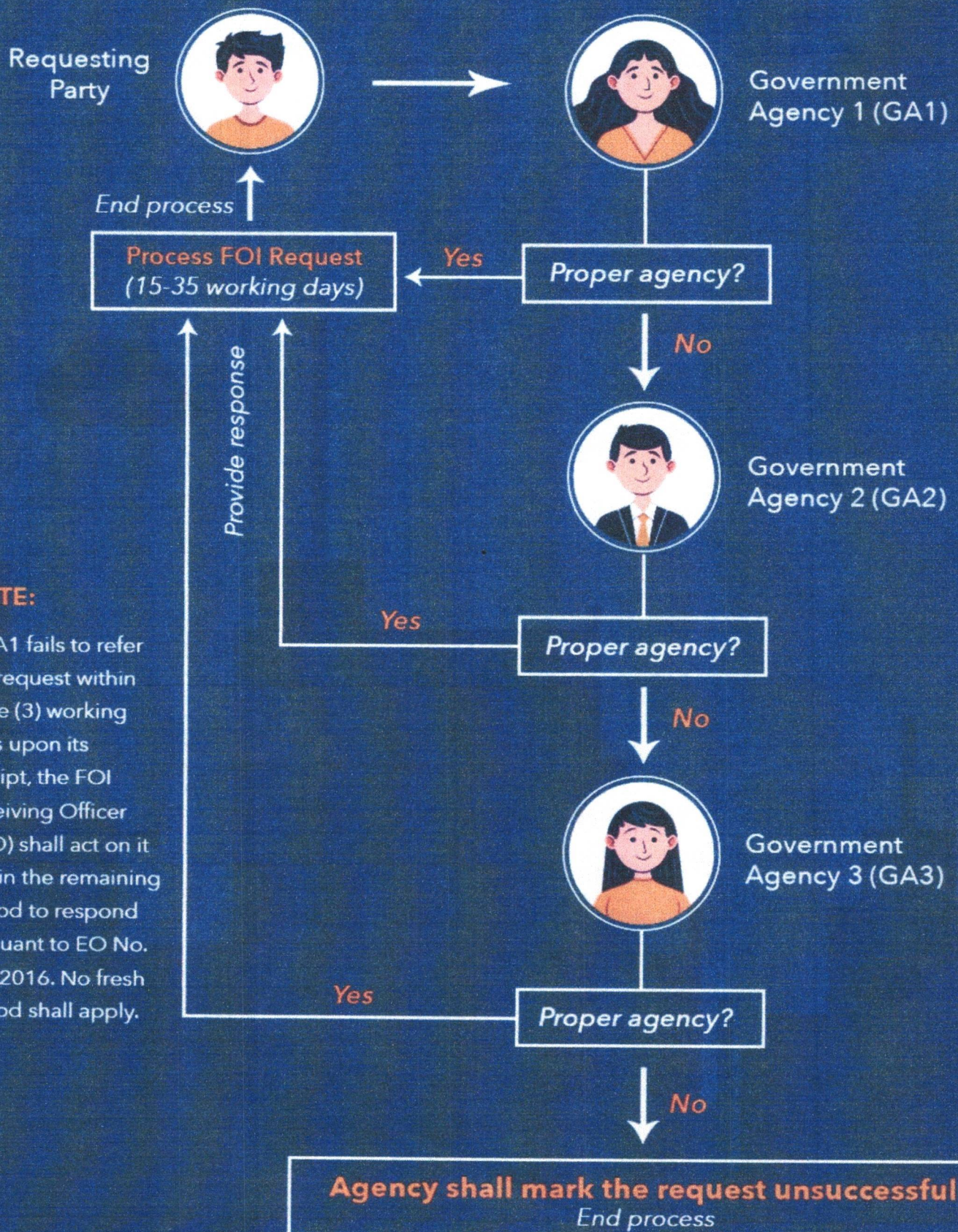
NOTE:

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

NO WRONG DOOR POLICY

F L O W C H A R T

(FOI Memorandum Circular No. 21-05)



NOTE:

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



Freedom of Information
PHILIPPINES

www.foi.gov.ph inquiry@foi.gov.ph

[f](#) foiph [t](#) foi_ph [i](#) foiph