

Republic of the Philippines
Department of Transportation
MARITIME INDUSTRY AUTHORITY



MANUAL ON FREEDOM OF INFORMATION
(Pursuant to Executive Order No. 02, s. 2016)

Approved by : **MARCIAL Q.C. AMARO III, PhD**
Administrator

Date Approved : 27/11/16

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SECTION 1: OVERVIEW

1. Purpose

The purpose of this FOI Manual is to provide the process for the Maritime Industry Authority (MARINA) in dealing with requests of information received under Executive Order (E.O) No. 2 on Freedom of Information (FOI).

2. Structure of the Manual

This Manual shall contain rules and procedures to be followed when a request for access to information is received. The MARINA Administrator is responsible for all actions carried out under this Manual.

The *MARINA Administrator through the Director II, Legal Service (LS) for the Central Office and the Director through the designated Legal Officer for Regional Offices* shall act as the Decision Maker (DM) and shall have overall responsibility for the initial decision on FOI request particularly:

- a. to decide whether to release all the records,
- b. to partially release the records; or
- c. to deny access of records.

3. Coverage of the Manual

The Manual shall cover all requests for information directed to all Service Units/Regional Offices of the MARINA.

4. FOI Receiving Officers

The **MARINA FOI Receiving Officers** shall be designated by the Administrator as follows:

1. MARINA Central Office

The Chief, General Services Division
Management, Financial and Administrative Service
Maritime Industry Authority
984 Taft Avenue cor. Kalaw Street, Ermita, Manila
Telephone No. 02- 524-6118
Email Address: mfas@marina.gov.ph

Attention: Records Section

2. MARINA REGIONAL OFFICE NO. 1 & 2

MS. SONIA B. MALALUAN

Regional Director
Maritime Industry Authority
3F Tan Bldg., Quezon Avenue
Sevilla Center, San Fernando City, La Union
Contact Nos : (072)607-8108 / (072)607-8109
Email Add : mro1@marina.gov.ph

Attention: The Administrative Officer

3. MARINA REGIONAL OFFICE NO. 4

ATTY. MANUEL C. PORTUS

Regional Director
Maritime Industry Authority
Telof Compound, Telecom Road,
Capitol Site, Kumintang Ibaba,
Batangas City
Contact Num: 723-1365 / 723-2327
Email Add: mro4@marina.gov.ph

Attention : The Administrative Officer

4. MARINA REGIONAL OFFICE NO. 5

ENGR. JAIME BEA

Regional Director
Maritime Industry Authority
2F RDC Primeland Inc. Bldg.
Block 3 Lot 6 Landco Business Park,
Capantawan, Legaspi City
Contact Num : (052)480-6984
Email Add : mro5@marina.gov.ph

Attention : The Administrative Officer

5. MARINA REGIONAL OFFICE NO. 6

MS. MARY ANN ARMI Z. ARCILLA

Regional Director
Maritime Industry Authority
4F Arguelles Bldg. 402 E. Lopez St.,
Jaro, Iloilo City
Contact Num : (033)329-4180/(033)329-6490
Email Add : mro6@marina.gov.ph

Attention : The Administrative Officer

6. MARINA REGIONAL OFFICE NO. 7

ENGR. NANNETTE Z. VILLAMOR-DINOPOL, CESO V

Regional Director

Maritime Industry Authority

2F, Qimonda I.T. Center, Don Sergio Osmena Avenue, North
Reclamation Area, Cebu City

Contact Num : (032)401-0223/401-0226

Email Add : mro7@marina.gov.ph

Attention : The Administrative Officer

7. MARINA REGIONAL OFFICE NO. 8

ENGR. RIZAL J. VICTORIA

Regional Director

Maritime Industry Authority

2/F Uytingkoc Bldg. Senator Enage St.,
Tacloban City

Contact Num : (053)325-5133/(053)523-3010

Email Add : mro8@marina.gov.ph

Attention : The Administrative Officer

8. MARINA REGIONAL OFFICE NOS. 9

ATTY. IRVING L. SAIPUDIN

Regional Director

Maritime Industry Authority

2nd Flr. CAP Bldg.,

N.S. Valderosa Street, Zamboanga City

Contact Num : (062) 991-8876/ 991-2614

Email Add : mro9@marina.gov.ph

Attention : The Administrative Officer

9. MARINA REGIONAL OFFICE NOS. 10

ENGR. MARC ANTHONY P. PASCUA

Regional Director

Maritime Industry Authority

2/F SE JO Lim Bldg

Gemilina St, Carmen, Cagayan de Oro

Contact Num : (088)856-9105 / (088)856-8410

Email Add : mro10@marina.gov.ph

Attention : The Administrative Officer

10. MARINA REGIONAL OFFICE NOS. 11

MS. FELISA N. ORONGAN

Regional Director

Maritime Industry Authority

2F Davao Ching Printers Inc., Bldg. cor. Lakandula & Dacudao

Ave. Agdao, Davao City

Contact Num : (082)224-6228 / (082)224-6231 / (082)282-0544

for MDS/STCW office

Email Add : mro11@marina.gov.ph

Attention : The Administrative Officer

11. MARINA REGIONAL OFFICE NO. 12

ENGR. JOSE VENANCIO A. VERO

Regional Director

Maritime Industry Authority

No. 8 Kadulasan St., Dadiangas East,

General Santos City

Contact Num : (083)301-1714

Email Add : mro12@marina.gov.ph

Attention : The Administrative Officer

12. MARINA REGIONAL OFFICE NO. 13

ENGR. EMMANUEL B. CARPIO

Regional Director

Maritime Industry Authority

Port Area, Surigao City

Contact Num : (086)231-7622

Email Add : mro13@marina.gov.ph

Attention : The Administrative Officer

The functions of the FOI Receiving Officer (FRO) shall include the following:

- a. Receive on behalf of the MARINA all requests for information and forward the same to the appropriate office who has custody of the records;
- b. Monitor all FOI requests and appeals;
- c. Provide assistance to the FOI Decision Maker;
- d. Provide assistance and support to the public and staff with regard to FOI;
- e. Compile statistical information as required; and conduct initial evaluation of the request and advise the requesting party whether the request will be forwarded to the FOI Decision Maker for further evaluation, or deny the access based on:
 - That the form is incomplete; or
 - That the information is already disclosed in the MARINA's official website at www.marina.gov.ph; www.foi.gov.ph; or at www.data.gov.ph

5. FOI Decision Maker

The Administrator through the Director, Legal Service for Central Office and the Regional Directors through their designated Legal Officers shall be the FOI Decision Maker. S/he shall conduct evaluation of the request for information and has the authority to grant the request, or deny it based on the following:

- a. the MARINA does not have the information requested;
- b. the information requested contains sensitive personal information protected by the Data Privacy Act of 2012;
- c. the information requested falls under the list of exceptions to FOI; or,
- d. the request is unreasonable, subsequently identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the MARINA.

6. Central Appeals and Review Committee.

The Administrator shall create Central Appeals and Review Committee to be composed of a Deputy Administrator and two (2) Directors or their equivalent. The Committee shall :

- be responsible for reviewing and analyzing the grant or denial of request for information; and,
- provide an expert advice to the Administrator on the denial of such request.

7. Approval and Denial of Request to Information.

The Decision Maker shall approve or deny all requests for information. In case where the Decision Maker is on Official Leave, the Administrator may delegate such authority to any Deputy Administrator or any Officer not below the rank of Director II.

SECTION 2 - DEFINITIONS

For purposes of this Manual, the following terms shall mean:

1. **Consultation** - When a government office requires a record that contains information of interest to another office, it will ask for the views of that other agency on the disclosability of the records before any final determination is made. This process is called a "consultation."
2. **data.gov.ph** - shall refer to the Open Data website that serve as the government's comprehensive portal for all public government data which are searchable, understandable, and accessible.
3. **eFoi.gov.ph** - shall refer to 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 central resource for the public to understand the FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. eFOI.gov.ph also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, so they can be compared by agency and over time.
4. **Information** - shall mean any records, documents, paper, reports, letter, contracts, minutes and transcript 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, any rules and regulations or in connection with performance or transaction of official business by any government office.

5. **Information for disclosure** - shall refer to information promoting the awareness and understanding of policies, programs, activities, rules or revisions affecting the public, government agencies, and the community and economy. It also includes information encouraging familiarity with the general operations, thrusts, and programs of the government. In line with concept of proactive disclosure and open data, these types of information can already be posted to government websites, such as data.govt.ph, without need for written requests from the public.
6. **Official Record/s** - shall refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.
7. **Open Data** - refers to publicly available data structured in a way that enables the data to be fully discoverable and usable by end users.
8. **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.
9. **Personal Information** - shall refer to any information, whether recorded in a material form or not, from which the identify of an individual is apparent or can be reasonably and directly ascertained by entity holding the information, or when put together with other information would directly and certainly identify an individual.
10. **Sensitive Personal Information** - shall refer to personal information, pursuant to the Data Privacy Act of 2012:
 - a. About an individual race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
 - b. About an individual health, education, genetic or sexual life of a person, or to any proceedings for any offense committed or alleged to have committed by such person, the disposal of such proceedings or the sentence of any court in such proceedings;
 - c. Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and,

- d. Specifically established by an executive order or an act of Congress to be kept classified.
11. **Simple Request** – a request that an agency anticipates will involve a small volume of material or which will be able to be processed relatively quickly.

SECTION 3 – PROMOTION OF OPENNESS IN GOVERNMENT

1. Duty to Publish Information.

The MARINA shall regularly publish, print and disseminate at no cost to the public and in an accessible form, in conjunction with Republic Act 9485, or the Anti-Red Tape Act of 2007, and through their website, timely, true, accurate and updated key information including, but not limited to:

- a. A description of its mandate, structure, powers, functions, duties and decision-making process;
- b. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
- c. The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
- d. Work programs, development plans, investment plans projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
- e. Important rules and regulations, orders or decisions;
- f. Current and important database and statistics that it generates;
- g. Bidding process and requirements; and,
- h. Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers;

2. Accessibility of Language and Form.

The MARINA shall endeavor to translate key information into major Filipino languages and present them in popular form and means.

3. Keeping of Records.

The MARINA shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation or records, policies, transactions, decisions, resolutions, actions, procedures, operations, activities, communications and documents received or filed with them and the data generated or collected.

MARINA Regional Offices shall submit a monthly summary of all FOI related transactions.

SECTION 4: PROTECTION OF PRIVACY

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

- a. The MARINA 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 MARINA 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 FOI Receiving Officers, FOI Decision Maker or any employee or official who has access, whether authorized or unauthorized, to personal information in the custody of the MARINA shall not disclose that information except as authorized by existing laws.

SECTION 5: STANDARD PROCEDURE

1. Receipt of Request for Information.

- 1.1. The FRO shall receive the request for information from the requesting party and check compliance of the following requirements:
 - a. The request must be in writing;
 - b. The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization; and,

- c. The request shall reasonably describe the information requested, and the reason for, or purpose of, the request of information. (See Annex “___”)

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

- 1.2. In case the requesting party is unable to make a written request because of illiteracy or due to being a person with disability, s/he may make an oral request, and the FRO shall reduce it in writing.
- 1.3. The request shall be stamped received by the FRO, indicating the date and time of the receipt of the written request, and the name, rank, title, and position of the public officer who actually received it, with a corresponding signature and a copy, furnished to the requesting party. In case of email request, the email shall be printed out and shall follow the procedure mentioned above, and be acknowledged by electronic mail. FRO shall input the details of the request on the Request Tracking System and allocate a reference number.
- 1.4. The MARINA or any its office must respond to requests promptly, within the fifteen (15) working day following the date of receipt of the request. A working day is any day other than a Saturday, Sunday or a day which is declared a national public holiday in the Philippines. In computing for the period, Art. 13 of the New Civil Code shall be observed.

The date of receipt of the request will be either:

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

2. Initial Evaluation.

2.1. Request Relating to More than One Office under the MARINA

If a request for information is received which requires to be complied with, of different MARINA offices, the FRO shall forward such request to the concerned office(s) that they will only provide the specific information that relates to their offices.

2.2. Requested Information is not in the custody of MARINA or any of its Offices

If the requested information is not in the custody of the MARINA, the following referral and discussions with the FDM, the FRO shall undertake the following steps:

- a. If the records requested refer to another department, the request will be immediately transferred to such appropriate department, agencies & bureaus through the most expeditious manner. The transferring office must inform the requesting party that the information is not held within the 15 working day limit. The 15 working day requirement for the receiving office commences the day after it receives the request.
- b. If the records refer to an office not within the coverage of E.O No.2, the requesting party shall be advised accordingly and provided with the contact details of the office, if known.

2.3. Requested Information is already posted and available on-line:

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

2.4. Requested Information is substantially similar or identical to the previous request:

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

3. 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 acknowledgement of receipt of the request.

4. 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 MARINA, in case the submission is beyond the 10-day period.

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

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

5. Role of FRO to transmit the information to the requesting party

Upon receipt of the requested information from the FDM, the FRO shall collate and ensure that the information is complete. He shall attach a cover/transmittal letter signed by the MARINA Administrator and ensure the transmittal of such to the requesting party within 15 working days upon receipt of the request for information.

6. Request for an extension of Time

If the information requested requires extensive search of the government's office records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases, the FDM should inform the FRO.

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

7. Notice to the Requesting Party of the Approval/Denial of the Request

Once the FRO approved or denied the request, s/he shall immediately notify the FRO who shall prepare the response to the requesting party either in writing or by email. All actions on FOI requests, whether approval or denial, shall pass through the Administrator for final approval.

8. Approval of Request

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

9. 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 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 request shall pass through the Office of the Administrator.

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:

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

- b. The appeal shall be decided by the **Administrator** upon the recommendation of the Central Appeals and Review Committee within thirty (30) working days from the filing of said written appeal. Failure to decide within the 30-day period shall be deemed a denial of the appeal.
2. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 7: FOI REQUEST TRACKING SYSTEM

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

SECTION 8: FEES

1. No Request Fee

The MARINA shall not charge any fee for accepting requests for access to information.

2. Reasonable Cost of Reproduction and Copying of the Information

The FRO shall immediately notify the requesting party in case there shall be reproduction and copying fee in order to provide the information. Such fee shall be the actual amount spent by the MARINA in providing the information to the requesting party. The schedule of fees shall be posted by the MARINA.

3. Exemption from Fees

The MARINA may exempt any requesting party from payment of fees, upon request stating the valid reason why such requesting party shall not pay the fee.

SECTION 9: ADMINISTRATIVE LIABILITY

1. Non-Compliance with FOI

Any designated official who fail to perform his/her duties and responsibilities under this Manual shall be a 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 service

2. Procedure

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

3. Provisions for More Stringent Laws, Rules and Regulations

Nothing in this Manual shall be construed to derogate from any law, any rules or regulations prescribed by any body or agency, which provides for more stringent penalties.

SECTION 10: ADOPTION

This Manual is adopted by the Maritime Industry Authority (MARINA) this 23rd day of November 2016 and shall take effect upon its official submission to the Office of the President or its publication in the MARINA portal at <http://www.marina.gov.ph> whichever comes earlier.

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 camapped vehicles and apprehension of the persons charged with camapping;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 Camapping 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.*