



# **FREEDOM OF INFORMATION (FOI) MANUAL**

# FREEDOM OF INFORMATION MANUAL

## I. INTRODUCTION

In line with the Philippine government's policy of full disclosure of its transactions involving public interest, subject to reasonable conditions prescribed by law and Executive Order No. 02 (EO 2), Series of 2016, which aims to operationalize the people's constitutional right to information, UCPB Leasing and Finance Corporation (ULFC) adopts this Freedom of Information (FOI) Manual.

ULFC adheres to the above policies and has taken measures to implement the same through this Freedom of Information Manual (FOI Manual) designed to accommodate requests of information from the public as regards to matters falling within the mandate of the Corporation.

## II. PURPOSE

The purpose of this Manual is to guide and assist ULFC Directors, Officers and Employees, as well as the public in dealing with requests for information. It is also designed to comply with the following issuances:

- FOI MS No. 001, s. 2019 Guidelines on FOI Appeal Mechanism
- Memorandum Circular (MC) No. 2017 – provides that the FOI Manual shall be uploaded in the agency Transparency Seal on or before 1 October 2017 as one of the Good Governance Conditions (GGCs) to be eligible to PBB, subject to compliance validation by the PCOO starting 1 October 2017
- Executive No. 2 (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 Therefore) dated July 23, 2016.
- Sections 8 and 16 of EO No. 2, s 2016 instructed all government offices under Executive Branch to prepare their respective People's Freedom of Information (FOI) Manual and Implementing Details (Agency FOI Manual) within 120 days upon the effectivity of said EO
- FOI MC No. 01. S. 2016, Freedom of Information Program
- Memorandum Order (MO) No. 10, s. 2016 designated the Presidential Communications Operations Office (PCOO) as the lead agency in the implementation of EO No. 2, s. 2016, and all other FOI programs and initiatives including electronic.
- Administrative Order No. 25, s 2011 created the Inter-Agency Task Force on the Harmonization of National Government Performance, Monitoring, Information and Reporting System which is mandated to harmonize, unify, streamline, simplify all existing monitoring and reporting requirements and processes through the development of a common set performance scorecard and design a government executive information system.

## III. DEFINITION OF TERMS

**Information** - shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films,

sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other 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 ULFC pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by ULFC.

**Exceptions to FOI** – refers to information that are outside the scope of the constitutional right to information and which may not be release, inquire about the FOI process and the status of pending FOI requests.

**Freedom of Information (FOI)** – refers to the right of the people to information on matters of public concern, necessitating the adoption and implementation of a policy of full public disclosure of the Executive Branch's transactions involving public interest, subject to the procedures and limitations provided in the 1987 Constitution, Executive Order No. 2, Republic Act No. 10173 of the Data Privacy Act of 2012, and other existing laws, rules and regulation.

**FOI Request** - refers to a written request by any person submitted to the Receiving Office, personally or by other electronic means, requesting information, as defined herein.

**eFOI.gov.ph** – refers to the website that serves as the government's comprehensive FOI website for all information on the FOI.

**data.gov.ph** – refers to an open data website that serves as the government's comprehensive portal for all public government data that is searchable, understandable, and accessible.

**Partial Grant/Partial Denial** – refers to disclosure by ULFC of portions of records in response to an FOI request, and denial of the remaining portions of such records.

**Receiving Office (RO)** - refers to the office/department with the responsibility to receive and screen FOI Requests.

**Decision Maker** - refers to the office/person with the responsibility to evaluate and rule on FOI Requests.

**FOI Committee** - refers to the committee to which a requesting party whose FOI Request has been denied may appeal.

**Resolution Period** - refers to the period within which the Decision Maker shall resolve the request and communicate the result to the requesting party.

ULFC resolution period is fifteen (15) working days from the date of receipt by the Receiving Office of the FOI request.

#### IV. ROLES AND RESPONSIBILITIES

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| <b>Receiving Office</b>                  | ULFC Executive Assistant<br>Office of the ULFC President/OIC<br>Email Address: customers_ucpbleasing@ucpb.com  |
| <b>Decision Makers<br/>FOI Committee</b> | ULFC's FOI Decision Makers and FOI Committee shall comprise of the following: <ul style="list-style-type: none"> <li>• Marketing Department Head</li> <li>• Treasury Department Head</li> <li>• Remedial Management and Legal Enforcement Department Head</li> </ul> |

##### A. FOI Receiving Officer (FRO)

The duties and functions of the FRO are the following:

- a. Serve as the initial point of contact to the public on FOI requests for ULFC
- b. Receive on behalf of ULFC all FOI requests and transmit the same to the FDM
- c. Conduct initial evaluation of FOI requests and make determination whether these are partial grant or partial denial.
- d. Undertake preliminary determination of the appropriate FOI Document Owner which has custody of the requested information and forward the request to such office
- e. Forward a fully compliant FOI requests to appropriate FOI Document Owner for evaluation
- f. Monitor all FOI requests and appeals
- g. Assist the FOI Decision Maker
- h. Assist and support the public and staff about the FOI
- i. Compile statistical information as required; and
- j. Conduct initial evaluation of the request and advise the requesting party whether the form is completely accomplished, or the information is already disclosed in the data.gov.ph or eFOI.gov.ph
- k. Maintain a record of all information requests

##### B. FOI Decision Maker (FDM)

The duties and functions of the FDM are the following:

- a. FDM shall have the primary function of evaluating the recommendations of the FDO on any FOI request and taking action thereon.
- b. The FDM may grant, deny, partially grant, or deny the request, order the redaction of certain information prior release, refer the request to other offices, or undertake such actions as may be appropriate.
- c. As a general rule, the FDM shall grant FOI request, or deny it based on the following:
  - c.1 ULFC does not have information requested
  - c.2 The information requested contains sensitive personal information protected by the Data Privacy Act of 2012

- c.3 The information requested falls under the Inventory of Exceptions to Executive Order No. 2 series of 2016.
- c.4 The information request is unreasonable; or
- c.5 The information request is identical or substantially similar from the same requesting party which has already been previously granted or denied by ULFC.

### **C. FOI Document Owner (FDO)**

The FDO shall be designated by the ULFC President/OIC that has ownership over the documents containing the information and shall perform the following duties and functions:

- a. Assess and clarify the request, if necessary, and transmit the request and the recommended action to the FDM or his duly authorized representative, for final grant or denial.
- b. Make all necessary steps to locate and retrieve the information requested.

### **D. FOI Committee**

The ULFC FOI Committee shall be composed of at least three (3) senior officers with equivalent or higher rank to the decision maker that will exercise the following functions:

- a. Receive, review, evaluate and assess the appeal on the denial of the request for information
- b. Determine if the appeal was filed within the period provided under EO No. 2, s.2016
- c. Recommended of the Head of Agency the actions on the appeal filed by the requesting party
- d. Ensure that the appeal be decided within the thirty (30) working days from the filing of said appeal
- e. Implement the decision of the Head of Agency regarding the appeal.

## **V. STANDARD PROCEDURES**

### **A. FILING AND CONTENT OF THE FOI REQUEST**

1. The FOI Receiving Officer (FRO) shall receive the FOI requests from the requesting party and check compliance with the following requirements:
  - a. The request must be in writing
  - b. The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification.
  - c. The request shall reasonably describe the information request, and the specific or adequately reason for, or purpose of the request for information
  - d. The request shall state whether a photocopy or a certified true copy of the subject information/document is requested.
  - e. The request shall include the preferred mode of communication and receipt of the response; and

- f. If made through a representative, proof of authority shall be attached to the request.

## **B. MODE OF REQUEST**

1. The requesting party shall use the standard FOI Request Form. An FOI request shall only be considered valid when accompanied by the standard FOI request form.
2. FOI requests may be made through registered mail or electronic mail, provided, that the requesting party shall provide all the required information and attach the supporting documents.
3. If the requesting party chooses to file the FOI request in a separate written request, by e-mail, such request shall be accompanied by a duly filled out standard FOI Request Form attached to said written request or e-mail.

## **C. IDENTIFICATION AND PROOF OF AUTHORITY**

1. Requesting party shall attach to his or her FOI request the following:
  - a. At least two (2) valid government IDs with photo and signature of the requesting party.
  - b. If the request is made through a representative, a written authorization of the principal and at least two (2) valid government IDs with photo and signature of the representative.
  - c. If the requesting party is a juridical entity, original or certified true copy of board resolution, corporate certificate and other acceptable written document showing the authority of the representative to act in behalf of such juridical entity.
  - d. If the requesting party is a natural person who is a member, employee, affiliated with or related to juridical entity, company or organization, and the request is made not in behalf of such juridical entity, company or organization but arises from such membership, affiliation or relation, such other sufficient proof of authority or affiliation.
  - e. If the requesting party is a minor, his or her guardian or any competent supervising adult shall comply with the requirements for a representative.

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

## **D. INITIAL ACTION UPON RECEIPT OF THE FOI REQUEST**

Upon receipt of the FOI request, the FRO shall ascertain whether the request is a fully compliant FOI request in accordance with the requirements provided under Sec. V, sub-section A.

## **E. GROUNDS FOR DENIAL DURING INITIAL EVALUATION**

During the initial evaluation by the FRO, the request may be denied on the following grounds:

### **a. Non-compliant FOI Request**

1. The FRO shall only accept a fully compliant FOI request and shall not accept a request that lacks any of the required contents or documents provided in Sec. V, sub-section A.
2. The requesting party shall be advised of the deficiency with instructions to comply within the deficiency, as soon as practicable, if the request was personally filed, or within the period prescribed in Sec. V, sub-section I, if the request was filed through registered mail or e-mail.
3. In case the request lacks any of the requirements provided in Sec. V, sub-section B-D, the FRO may consider other relevant document or evidence as the circumstances may warrant or waive any requirement, upon showing of meritorious grounds, subject to the approval of the FDM.

### **b. Requested Information is Already Posted and Available Online**

Requested information already posted and available online. In case the requested information and/or record is already posted and publicly available in data.gov.ph or eFOI.gov.ph, the FRO shall inform the requesting party of said fact and provide them with the website link where the information is posted.

### **c. Requested Information is Substantially Similar or Identical to the Previous Request**

If the requested information is substantially similar or identical to a previous request by the same requester, the request shall be denied. However, the FRO shall inform the applicant of the reason of such denial.

## **F. PERIOD TO RESPOND TO FOI REQUEST**

ULFC must respond to the request within fifteen (15) working days following the date of the receipt thereof. For purposes of computing the fifteen (15) working day period, the date of receipt of the FOI request shall be reckoned as follows:

- a. If made personally, the date actually filed and stamped "received" by the FRO.
- b. If made by registered mail, date of actual receipt of the request by the FRO.
- c. If sent by e-mail, the date it was actually electronically delivered to or received by the designated e-mail if the same arrived before 5:00 PM of the working day. Requests received after 5:00PM shall be considered received on the next working day.
- d. Where the officer-in-charge of the designated e-mail is unavailable and the designated e-mail has generated an "out of office" message with instruction on how to re-direct the message to another e-mail contact, the date of receipt will be

the day the request is received in the e-mail inbox of the latter subject to the qualification in the preceding subsection; or

- e. Where the FRO has requested the requesting party for further details to identify and locate the requested information, the date on which the necessary clarification to the satisfaction of the FRO is received.

#### **I. PERIOD TO ADVISE REQUESTING PARTY OF DENIAL BASED ON INITIAL EVALUATION**

The FRO shall, within fifteen (15) working days from receipt of the request, advise the requesting party of denial of the request, specifying the ground for the denial in accordance with Sec. V, sub-section E.

#### **J. RECEIVING OF REQUEST**

Requests received via postal/courier service or personal delivery shall be stamped received by the FRO, indicating the date and time of the receipt of the written request, and the name of the person who actually received it, with a copy furnished to the requesting party. In case of email requests, email shall be printed out and shall follow the same procedure for delivered or mailed request and shall be acknowledged by electronic mail. The FRO shall input the details of the request on the Request Tracking Report and allocate a reference number.

#### **K. TRANSMITTAL OF FOI REQUEST**

- a. The FRO shall then forward the request to the duly designated FOI Document Owner (FDO) which has ownership over the documents containing the information within one (1) day from receipt of the written request. The FRO shall maintain a record of all transmitted requests to the concerned FDOs.
- b. Upon receipt of the request, the FDO shall assess and clarify the request, if necessary, and transmit the request and the recommended action to the FOI Decision Maker (FDM), or his duly authorized representative, for final grant or denial.
  - b.1 Upon full grant of the request by the FDM, the FDO shall make all the necessary steps to locate and retrieve the information requested. Thereupon, shall transmit the requested information to the FRO.
  - b.2 If the FDO needs further details to identify or locate information, he/she shall through the FRO, seek clarification from the requesting party. The clarification shall stop running of the 15-working days period which will resume the day after the required clarification from the requesting party is received.
  - b.3 If the information requested requires extensive search of the ULFC's unit records, examination of voluminous records, or cannot be easily retrieved due to occurrence of fortuitous events or other analogous cases, the FDO shall, in writing/email, inform the FRO of such circumstances and state that an extension of the 15-working day period is necessary. The FRO shall inform the requesting party of the extension, which in no case shall exceed twenty (20) working days in



addition to the original 15-working day period, unless exceptional circumstances warrant a longer period.

#### **L. APPROVAL AND DENIAL OF FOI REQUEST**

1. In case of approval and denial of the request by the FDM, the FRO 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 ULFC President/OIC or his designated officer for final approval.
2. The FDM shall approve or deny all the FOI requests, noted by the ULFC President/OIC. In case where the FDM is on official leave, the ULFC President/OIC may delegate such authority to second officer in rank.
3. In case of approval, the FRO shall ensure that all records that have been retrieved and considered be checked for possible exemptions, prior the 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 fee, if any.
4. In case of denial of the request, wholly or partially, the FRO shall, within the prescribed period notify the requesting party of the denial in writing. The notice shall clearly set forth the ground/s for denial and the circumstances on which the denial is based.
5. Failure to notify the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of the request to information. All denials on FOI requests shall pass through the ULFC President/OIC or the designated officer.
6. An FOI request may be denied based on the following grounds: (1) the office does not have possession or custody of the information requested; (2) The information requested falls under the Exceptions to FOI; or (3) The request is an unreasonable subsequent, identical, or subsequently similar request from the same requesting party whose request has already been previously granted or denied by ULFC.

#### **M. REMEDIES IN CASE OF DENIAL**

1. In case of denial by the FRO on the ground that the subject of the FOI Request is included in the List of Exception, as provided herein, the requesting party may appeal to the FDM, within fifteen (15) working days from its receipt of the notice of denial. The appeal shall be filed with the FRO and the latter shall refer the same to the FDM for resolution.
2. In case of denial by the FDM or the lapse of the resolution period without receiving any notice from the FRO of the action taken on the FOI Request, the requesting party may appeal to the FOI Committee within fifteen (15) working days from either its receipt of the notice of denial or the lapse of the Resolution Period. The appeal shall be filed with the FRO and the latter shall refer the same to the FOI Committee.
3. All appeals shall be decided within thirty (30) working days from receipt by the FRO of the appeal provided that failure of the FDM or the FOI Committee, as the case may be, to decide within the said period shall be deemed a denial of the appeal.

## **N. FOI TRACKING AND REPORTING**

FRO shall report to the Management Committee all requests for information received, status of pending requests, and requests acted upon on a monthly basis.

### **O. FEES**

1. Requests for information under this manual shall be at no cost except for the actual cost of reproduction to be charged to the requesting party.
2. ULFC may charge a reasonable fee, including actual costs of reproduction and copying of the information requested.

The FRO shall notify the requesting party in case there shall be reproduction and copying fee in connection with the requested information. The schedule of fees shall be posted by ULFC.

3. ULFC may exempt the requesting party from payment of fees if they state valid reasons in their request.

## **VI. LIST OF EXCEPTIONS TO FREEDOM OF INFORMATION**

The following information shall be exempted:

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 Stock Broker/Dealer, banking and finance laws, and their amendatory laws; and
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

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;<sup>1</sup> 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;<sup>2</sup> and information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;<sup>3</sup>

## 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;<sup>4</sup>
- b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;<sup>5</sup> and
- c. Patent applications, the publication of which would prejudice national security and interests;<sup>6</sup>

## 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;

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<sup>1</sup> 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 Investigation*, G.R. No. 180643, 4 September 2008, 564 SCRA 152; *Akbayan v. Aquino*, G.R. No. 170516, 16 July 2008, 558 SCRA 468; and *Chaves v. PCGG*, G.R. No. 130716, 9 December 1998, 299 SCRA 744.

<sup>2</sup> *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)

<sup>3</sup> 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 this category of exceptions.

<sup>4</sup> *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."

<sup>5</sup> *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.

<sup>6</sup> The applicability of this exception is determined by the Director General of the Intellectual Property Office subject to the approval of the Secretary of the Department of Trade and Industry, Section 44.3 of the *Intellectual Property Code* (RA N. 8293, as amended by RA No. 10372).

- 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;<sup>7</sup>
- 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;<sup>8</sup>
  - c. When disclosure of information would put the life and safety of an individual in imminent danger;<sup>9</sup>
  - d. Any information given by informants leading to the recovery of car napped vehicles and apprehension of the persons charged with car napping;<sup>10</sup> and
  - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;<sup>11</sup>

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

- a. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,<sup>12</sup> personal information or records,<sup>13</sup> including sensitive personal information, birth records<sup>14</sup>, school records,<sup>15</sup> or medical or health records;<sup>16</sup>

Sensitive personal information as defined under the *Data Privacy Act of 2012* refers to personal information:<sup>17</sup>

- i. about an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
- ii. 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

<sup>7</sup> Section 3(f), Rule IV, Rule on CCESPOE; *Chavez v. PCGG, supra*. May be invoked by law enforcement agencies.

<sup>8</sup> *Akbayan v. Aquino, supra*; and Section 51, Human Security Act of 2007 (RA No. 9372). May be invoked by law enforcement agencies.

<sup>9</sup> Section 3(b), Rule IV, Rules on CCESPOE.

<sup>10</sup> Section 19, *New Anti Carnapping Act 2016* (RA No. 10883). May be invoked by law enforcement agencies.

<sup>11</sup> Section 7, *Witness Protection, Security and Benefit Act* (RA No. 6981).

<sup>12</sup> Section 3(e), Rule IV, Rules on CCESPOE.

<sup>13</sup> Section 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.

<sup>14</sup> Article 7, *The Child and Youth Welfare Code* [Presidential Decree (PD) No. 603].

<sup>15</sup> Section 9(4), *Education Act of 1982* [Batas Pambansa (BP) Blg. 232].

<sup>16</sup> 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).

<sup>17</sup> Section 3(l), *Data Privacy Act of 2012*.

- person, the disposal of such proceedings, or the sentence of any court in such proceedings;
- iii. 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
  - iv. specifically established by an executive order or an act of Congress to be kept classified.

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the individual<sup>18</sup> 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.<sup>19</sup>

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government;<sup>20</sup>

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;<sup>21</sup> 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:
  - i. records of child and family cases;<sup>22</sup>
  - ii. children in conflict with the law from initial contact until final disposition of the case;<sup>23</sup>
  - iii. 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;<sup>24</sup>
  - iv. 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;<sup>25</sup>

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<sup>18</sup> Article 26(2), *Civil Code*.

<sup>19</sup> Section 11, *Data Privacy Act of 2012*.

<sup>20</sup> Section 4, *Data Privacy Act of 2012*.

<sup>21</sup> *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.

<sup>22</sup> Section 12, *Family Courts Act of 1997* (RA No. 8369).

<sup>23</sup> Section 43, *Juvenile Justice and Welfare Act of 2006* (RA No. 9344).

<sup>24</sup> Section 13, *Anti-Child Pornography Act of 2009* (RA No. 9775).

<sup>25</sup> Section 31, A.M. No. 00-4-07-SC, *Re: Proposed Rule on Examination of a Child Witness*.

- v. 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;<sup>26</sup>
- vi. trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;<sup>27</sup>
- vii. names of victims of child abuse, exploitation or discrimination;<sup>28</sup>
- viii. 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;<sup>29</sup>
- ix. records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;<sup>30</sup>
- x. names of students who committed acts of bullying or retaliation;<sup>31</sup>
- xi. first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and<sup>32</sup>
- xii. identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;<sup>33</sup>

**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;<sup>34</sup>

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<sup>26</sup> 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.

<sup>27</sup> Section 7, *Anti-Trafficking in Persons Act of 2003* (RA No. 9208), as amended by RA No. 10364.

<sup>28</sup> Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act* (RA No. 7610)

<sup>29</sup> 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*.

<sup>30</sup> Section 15, *Domestic Adoption Act of 1998* (RA No. 8552) and Section 43, IRR of RA No. 8552; Section 6 and 16(b), *Inter-Country Adoption Act of 1995* (RA No. 8043) and Section 53, 54 and 55 of IRR of RA No. 8043.

<sup>31</sup> Section 3 (h), *Anti-Bullying Act* (RA No. 10627).

<sup>32</sup> Section 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165)

<sup>33</sup> Section 2(b), 18, 30, and 32, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504)

<sup>34</sup> 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 Bldg. 68); Section 34, *Philippine Competition Act* (RA No. 10667); Section 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*

- b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);<sup>35</sup>
- c. Records and reports submitted to the Social Security System by the employer or member;<sup>36</sup>
- d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;<sup>37</sup>
- 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;<sup>38</sup>
- f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;<sup>39</sup>
- g. Documents submitted through the Government Electronic Procurement System;<sup>40</sup>
- 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*;<sup>41</sup>
- i. Any confidential information supplied by the contractors in mineral agreements, and
- j. 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;<sup>42</sup>
- k. 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;<sup>43</sup>
- l. 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;<sup>44</sup>
- m. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;<sup>45</sup>
- n. Certain information and reports submitted to the Insurance Commissioner pursuant to the Insurance Code;<sup>46</sup>
- o. Information on registered cultural properties owned by private individuals;<sup>47</sup>
- p. Data submitted by a higher education institution to the Commission on Higher Education (CHED);<sup>48</sup> and

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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.

<sup>35</sup> Section 26, *Philippine Statistical Act of 2013* (RA No. 10625); and Section 4, *Commonwealth Act No. 591*. May be invoked only by the PSA.

<sup>36</sup> Section 24(c), *Social Security Act of 1997* (RA No. 1161, as amended by RA No. 8282).

<sup>37</sup> Section 29, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8282).

<sup>38</sup> 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.

<sup>39</sup> Section 81, EO No. 226 (s.1987), as amended.

<sup>40</sup> Section 9, *Government Procurement Reform Act* (RA No.9184).

<sup>41</sup> Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

<sup>42</sup> Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

<sup>43</sup> Section 1 Rule IX, DOT MC No. 2010-02 (Rules and Regulations to Govern, the Accreditation of Accommodation Establishments – Hotel, 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).

<sup>44</sup> Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

<sup>45</sup> Section 10, *Safeguard Measures Act*.

<sup>46</sup> Section 297 in relation with section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

<sup>47</sup> Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

<sup>48</sup> CHED Memorandum Order No. 015-13, 28 May 2013.

- q. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;<sup>49</sup>

**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 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.<sup>50</sup>

**7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:**

- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*;<sup>51</sup>
- b. Matters involved in an Investor-State mediation;<sup>52</sup>
- c. Information and statements made at conciliation proceedings under the *Labor Code*;<sup>53</sup>
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);<sup>54</sup>
- 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;<sup>55</sup>
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;<sup>56</sup>
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;<sup>57</sup>

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<sup>49</sup> Article 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).

<sup>50</sup> Section 3(g), Rule IV, Rule on CCESPOE.

<sup>51</sup> Section 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.

<sup>52</sup> Article 10, International Bar Association Rules for Investor-State Mediation.

<sup>53</sup> Article 237, *Labor Code*.

<sup>54</sup> Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

<sup>55</sup> Section 142, *Corporation Code*. May be invoked by the SEC and any other official authorized by law to make such examination.

<sup>56</sup> Section 13.4, 15.4, 29.2 (b), and 64.2 of the *Securities Regulation Code*.

<sup>57</sup> 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.



- 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*;<sup>58</sup>
- i. Investigation report and the supervision history of a probationer;<sup>59</sup>
- j. Those matters classified as confidential under the *Human Security Act of 2007*;<sup>60</sup>
- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;<sup>61</sup> 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;<sup>62</sup>

**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 regulation;
- c. RA No. 8791 (*The General Banking Law of 2000*);
- d. 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:
  - i. When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;<sup>63</sup>
  - ii. 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);<sup>64</sup> and
  - iii. Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (s. 2012);

<sup>58</sup> DOJ Department Circular No. 006-16 (No.6), 10 February 2016.

<sup>59</sup> Section 17, *Probation Law of 1976* [PD No. 968 (s.1976)].

<sup>60</sup> Sections 9, 13, 14, 29, 33 and 34, *Human Security Act of 2007* (RA No. 9372).

<sup>61</sup> Section 14, Civil Service Commission Resolution No. 01-0940.

<sup>62</sup> 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.

<sup>63</sup> Example: 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.

<sup>64</sup> Article 7, UNCITRAL Transparency Rules.

- b. Testimony from a government official, unless pursuant to a court or legal order;<sup>65</sup>
- c. When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:
  - i. any purpose contrary to morals or public policy; or
  - ii. any commercial purpose other than by news and communications media for dissemination to the general public;<sup>66</sup>
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;<sup>67</sup>
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;<sup>68</sup>
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;<sup>69</sup> and
- g. Attorney-client privilege existing between government lawyers and their children.<sup>70</sup>

## VII. REVIEW AND UPDATE OF THE MANUAL

This manual shall be reviewed by the FOI Committee in consultation with concerned ULFC departments annually or as often as necessary.

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<sup>65</sup> *Senate v. Neri supra; Senate v. Ermita, supra.*

<sup>66</sup> Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees.*

<sup>67</sup> *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.

<sup>68</sup> 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.

<sup>69</sup> *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

<sup>70</sup> Canon 21 of the *Code of Professional Responsibility.*