

Republic of the Philippines

**Benguet State University**

La Trinidad, Benguet



**AGENCYMANUAL**  
**[Formulated Under**  
**Executive Order No. 2, Series of 2016]**

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## OVERVIEW

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

In order to implement the constitutional provisions, President Rodrigo R. Duterte issued Executive Order No. 2 s. 2016 in 23 July 2016<sup>1</sup> which directs every government office to prepare its own Agency Freedom of Information (FOI) Manual.<sup>2</sup> The essential guidelines and standard forms for compliance with EO 2 are laid out in the Freedom of Information Memorandum Circular issued by Malacañang in 11 November 2016.<sup>3</sup>

In recognition of both the role of free and open exchange of information in a democracy in enhancing transparency and accountability in official government acts and the fundamental human right of privacy the Benguet State University hereby adopts this BSU Freedom of Information (FOI) Manual.

## POLICY STATEMENT

Consistent with the constitutional mandates upholding freedom of information and the right of the people to information on matters of public concern BSU hereby adopts and implements a policy of full public disclosure of all its transactions involving matters of public interest, subject to limitations as provided by the Constitution, applicable laws, rules, regulations and procedures, such as Republic Act (RA) No. 10173, otherwise known as the “Data Privacy Act,” and the List of Exceptions approved by the Office of the President,<sup>4</sup> among others.

## OBJECTIVES

In line with the provisions set forth in EO No. 2, this Manual aims to provide the process by which BSU shall deal with requests for information to achieve the following objectives:

1. Facilitate access to information that is in the custody of BSU through the most efficient and expeditious manner in line with the procedures outlined in this manual;

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<sup>1</sup>Annex A: “ Operationalizing in the Executive Branch the People’s Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Thereof”

<sup>2</sup> Sections 8 & 16, *ibid.*

<sup>3</sup>Annex B: FOI-MC No. 01 s. 2016, Presidential Communications Operations Office

<sup>4</sup>Annex C, Inventory of Exceptions to EO No.2, s. 2016; Office of the President; 24 November 2016.

2. Promote transparency in the exercise of BSU's mandate and functions; and
3. Uphold the fundamental right of the public to free flow of information.

## SCOPE

This manual details the internal guidelines for all requests for information addressed to BSU, and defines the specific roles and responsibilities of university personnel designated to handle FOI requests. It shall apply to all the campuses of the University.

## PROMOTION OF OPENNESS IN GOVERNMENT

1. **Duty to Publish Information.** The University 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 its website, timely, true, accurate and updated key information including, but not limited to:
  - a. A description of its mandate, structure, powers, functions, duties and decision-making processes;
  - b. A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
  - c. The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
  - d. Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
  - e. Important rules and regulations, orders or decisions;
  - f. Current and important database and statistics that it generates;
  - g. Bidding processes and requirements; and
  - h. Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.
2. **Accessibility of Language and Form.** The University shall endeavor to translate key information into major Filipino languages and present them in popular form and means.
3. **Keeping of Records.** The University shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation or records, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications and documents received or filed with them and the data generated or collected.

## PROTECTION OF PRIVACY

While providing for access to information, BSU shall afford full protection to a person's right to privacy as well, in the following manner:

1. It shall ensure that personal information, particularly sensitive personal information, in its custody or under its control is disclosed only as permitted by existing laws.
2. It shall protect personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure.
3. Any employee or official who has access, whether authorized or unauthorized, to personal information in the custody of BSU shall not disclose that information except as authorized herein or by existing laws.

## DEFINITION OF TERMS

1. **Information** shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of BSU pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business.
2. **Official Records** shall refer to information produced or received by an officer or employee of BSU in an official capacity or pursuant to a public function or duty.
3. **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.
4. **Information for Disclosure.** Any 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 University. In line with the concept of proactive disclosure and open data, these types of information can already be posted in the university's websites without need for written requests from the public

5. **Personal Information** shall refer to any information, whether recorded in a material form or not, from which the identify of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.
6. **Sensitive Personal Information** shall be as defined in the Data Privacy Act of 2012 (Republic Act No. 10173), i.e., personal information:
  - a. About an individual's race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
  - b. About an individual's 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.
7. **FOI Request.** A written request submitted to the University personally or by email asking for information on any topic. A FOI request can generally be made by any Filipino.
8. **FOI Receiving Officer [FRO]** shall be the responsible employee designated as the FOI Focal Person tasked to receive and monitor all FOI requests and appeals; provide assistance and support to the Decision Makers and the public; and compile statistical information as required.
9. **Evaluating Officer [EO]** shall refer to the head of the college, unit, or office that has custody over the information or record being accessed by the requesting party. He shall conduct the formal evaluation on the request and recommend the course of action to the DM.
10. **Decision Maker [DM]** shall refer to the concerned Sector Vice-President and who, under this manual, is authorized to grant or deny the request.
11. **Appeals and Review Committee** shall refer to an appeals and review committee composed of the three (3) remaining Vice-Presidents, not acting as DM, who shall review and analyze all original appeals related to the implementation of the provisions of this manual. They shall always resolve

and decide matters brought/referred to them *en banc*. The Committee shall designate its Secretariat.

12. **Appellate Authority [AA]** shall refer to the University President who shall take final action on matters brought on appeal.

## STANDARD OPERATING PROCEDURE

The procedure for access to information/record covers the filing of request for information, receipt and evaluation, and approval/denial of the request.<sup>5</sup>

### 1. Filing and Receipt of Request for Information.

- 1.1. All requests for information shall be in writing and be accomplished using the prescribed Request Form.<sup>6</sup> The Receiving Officer (RO) shall provide the form to the party making the request. The requesting party or representative shall duly accomplish the Request Form.
- 1.2. The Receiving Officer (RO) shall review the request and check compliance with the following requirements:
  - a. The request shall state the full name and contact information of the requesting party, as well as provide valid proof of identification or authorization; and
  - b. The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information.
- 1.3. In case the request is not in conformity with the requirements, the RO shall provide reasonable assistance to enable the requesting party to comply with such.
- 1.4. The RO stamps "Received" the letter and Request Form, and indicate the date and time of receipt, his/her name, designation, and signature. The RO shall input the details of the request on the Document Routing System (DRS)<sup>7</sup> and attach the Request Form.
- 1.5. The RO shall evaluate the information being requested, identify the responsible unit where the data or information being requested may be found, and thereby immediately transmit the request to said unit/office within twenty-four hours. The RO shall record the time, date and unit/office who received the request in a record book with the corresponding signature.

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<sup>5</sup> Annex "D", Flow Chart

<sup>6</sup> Annex "E", BSU FOI Form 1

<sup>7</sup> Annex 2

- 1.6. Upon receipt of the action of the DM or the decision on appeal, the RO, within two-days, shall inform the requesting party of the retrieval and release of such information and indicate the date of release on the Claim Slip.<sup>8</sup>

2. Initial Evaluation of Request. Upon receipt of the request for information, the EO shall perform all necessary steps to locate and retrieve the information requested. He shall ensure that the information is complete before making a transmittal to the DM within four (4) working days from receipt.

- 2.1. **Determination of access to requested information.** The EO shall assess the request and determine the disclosability or any access restrictions to the information being requested based on the second paragraph of the Policy Statement.
- 2.2. **Requested information is already posted in the BSU website.** If the information requested is already available in the University's website, the EO shall inform the requesting party through the RO providing the website link where the information is posted.
- 2.3. **Requested information is in custody of Decision Maker.** The EO shall determine the availability of the information requested and act upon the request whether this be for approval, extension, or denial.
- 2.4. **Requested information is substantially similar or identical to previous requests.** Pursuant to Section 11 of EO No. 2, the EO shall recommend denial of an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied. However, the requesting party shall be informed of the reason of such denial.
- 2.5. **Requested information is in the custody of other units/offices.** Where the EO needs details from other units/offices, coordination and clarifications with them shall be made in the most expeditious manner for the handling of the request.

3. Transmittal to and Action by the Decision Maker. The EO shall then forward the request and his recommendation to the DM [Sector Vice-President] within the four (4) working days from receipt of the request. The DM shall have three (3) working days within which to act on the recommendation of the EO.

- 3.1. **In Case of Approval.** The approved request and its attachments shall be forwarded to the RO. The RO shall ensure that all records have been retrieved and checked for possible exceptions, prior to actual release. The RO shall inform the requesting party that the request was favorably

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<sup>8</sup> Attachment 2

granted and that payment of applicable fees indicated in the Claim Slip should be made before release.

3.2. **In Case of Denial of Request.** The DM shall issue a letter denying the request under his name, signature and office. The letter shall clearly set forth the reasons for denial and the circumstances in which the denial is based. The denial and all attachments are forwarded to the RO.

3.3. **In case of Extension of Response.** If the information requested requires extensive search of the university's office records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases, the DM should inform the RO.

The RO 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 ten (10) working days to act on the request, unless exceptional circumstances warrant a longer period.

4. **Period for Approval and Release.** The normal processing time for a "Request to Access Information" shall be ten (10) working days.<sup>9</sup> However, should the information requested require extensive search of the University's records, examination of voluminous documents, the occurrence of fortuitous events or other analogous cases, the EO shall immediately advise the requesting party, through the DM and RO, of the extension of the ten (10) working day period. In no case shall the extension go beyond twenty (20) working days from receipt of the request unless exceptional circumstances warrant a longer period.<sup>10</sup>

5. **Release of Decision to Requesting Party.** The DM action/decision shall be forwarded to the RO for logging and monitoring purposes. Release of information or issuance of denial letter shall be made through the University's Records and Archives Office [RAO].

5.1. Claiming of results of requests shall not exceed fifteen (15) working days from the due date of release. Information/record not claimed within thirty (30) working days of the release date shall be disposed of accordingly.

## REMEDIES IN CASE OF DENIAL

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

1. **Appeal to the Appeals and Review Committee.** A written appeal must be filed by the same requesting party with the Appeals and Review Committee, within ten (10) calendar days from receipt of the denial of the request.

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<sup>9</sup>Section 9 (d) of EO No. 2

<sup>10</sup>Section 9 (e) of the EO No. 2

- 1.1. The appeal should state why the requesting party disagrees with the reason/s for denying the request. He may provide supporting information/documents to the appeal.
  - 1.2. The ARC shall have ten (10) working days from receipt of the appeal within which to render their decision.
  - 1.3. The decision of the ARC shall be transmitted to the appellant through the RO acting as FOI Focal Person, and the University Records & Archives Office. The RO shall have two (2) working days within which to notify the appellant of the decision of the ARC.
2. **Appeal to the University President.** The decision of the ARC shall be appealable to the University President whose decision on the matter shall be final.
- 2.1. The appellant shall have ten (10) calendar days upon receipt of the decision of the ARC to make an appeal. The appeal shall be addressed to the University President and shall be deemed perfected once the appellant submits a written letter-appeal to the RO acting as FOI Focal Person.
  - 2.2. Pursuant to Section 13 (b) of E.O No. 02 the University President shall have thirty (30) working days upon receipt of the appeal to render a decision. Where a decision is not made within the thirty-day period, the appeal shall be deemed denied.
  - 2.3. The decision shall be transmitted to the appellant through the RO acting as FOI Focal Person, and the University Records & Archives Office, within ten (10) working days from receipt of the decision of the University President or the lapse of thirty-day appeal period and no decision has been rendered.

## APPLICABLE FEES

1. **Reasonable Cost of Reproduction or Copying of Documents/Records.** The RO shall immediately notify the requesting party of any cost of reproduction or copying. Such fee shall be limited to the schedule of fees approved by the University. Offices or Units who have approved schedule of fees shall have the same posted in the University website and bulletin boards for the information of the public.
3. **No Fees on Approved Appeals.** No fees shall be charged to the appellant in case of an appeal.
4. **Exemption from Fees:** BSU may exempt any requesting party from payment of fees, upon request stating the valid reason why such requesting party shall not pay the fee.

## ADMINISTRATIVE LIABILITY

1. **Non-compliance with FOI.** Failure to comply with the provisions of this Manual shall be a ground for administrative proceedings under the Revised Rules on Administrative Cases in the Civil Service.

# Malacañang Palace

MANILA

BY THE PRESIDENT OF THE PHILIPPINES

## **EXECUTIVE ORDER NO. 02**

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

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

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

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

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

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

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

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

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

- (a) "Information" shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government

office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The location and contact information of the head, regional, provincial, and field offices, and other established places where the public can obtain information or submit requests;
- (b) The person or office responsible for receiving requests for information;
- (c) The procedure for the filing and processing of the request as specified in the succeeding section 9 of this Order.
- (d) The standard forms for the submission of requests and for the proper acknowledgment of requests;
- (e) The process for the disposition of requests;
- (f) The procedure for the administrative appeal of any denial for access to information; and
- (g) The schedule of applicable fees.

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

- (a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the reason for, or purpose of, the request for information: *Provided*, that no request shall be denied or refused acceptance unless the reason for the request is contrary to law, existing rules and regulations or it is one of the exceptions contained in the inventory or updated inventory of exception as hereinabove provided.
- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable, to enable all requesting parties and particularly those with special needs, to comply with the request requirements under this Section.
- (c) The request shall be stamped by the government office, indicating the date and time of receipt and the name, rank, title and position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the requesting party. Each government office shall establish a system to trace the status of all requests for information received by it.
- (d) The government office shall respond to a request fully compliant with requirements of sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof. The response mentioned above refers to the decision of the agency or office concerned to grant or deny access to the information requested.
- (e) The period to respond may be extended whenever the information requested requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous cases or other analogous cases. The government office shall notify the person making the request of the extension, setting forth the reasons for such extension. In no case shall the extension go beyond twenty (20) working days unless exceptional circumstances warrant a longer period.
- (f) Once a decision is made to grant the request, the person making the request shall be notified of such decision and directed to pay any applicable fees.

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

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

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

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

- (a) Denial of any request for access to information may be appealed to the person or office next higher in the authority, following the procedure mentioned in Section 9 of this Order: Provided, that the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.
- (b) The appeal be decided by the person or office next higher in authority within thirty (30) working days from the filing of said written appeal. Failure of such person or office to decide within the afore-stated period shall be deemed a denial of the appeal.
- (c) Upon exhaustion of administrative appeal remedies, the requesting part may file the appropriate case in the proper courts in accordance with the Rules of Court.

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

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

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

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

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

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

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

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

By the President:  
(Sgd.) **SALVADOR C. MEDIALDEA**  
Executive Secretary

Republic of the Philippines  
**PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE**  
Malacañang, Manila

FOI-MC No. 01 s, 2016

**FREEDOM OF INFORMATION  
MEMORANDUM CIRCULAR**

FOR : All Agencies, Departments, Bureaus, Offices and Instrumentalities, Chartered Institutions, Government-Owned or Controlled Corporations (GOCCs), including Government Financial Institutions (GFIs), Government Corporate Entities (GCE), and non-chartered GOCCs, and State Universities and Colleges.

SUBJECT : **FREEDOM OF INFORMATION (FOI) Program**

DATE : 11 November 2016

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**BACKGROUND**

- 1.0 On 23 July 2016, President Rodrigo Roa Duterte signed Executive Order (EO) No. 2 entitled **Operationalizing in the Executive branch of the People's Constitutional Right to Information and the State Policies to Full Disclosure and Transparency in the Public Service and Providing Guidelines Therefor**. The Office of the President, through the Presidential Communications Operations Office (PCOO), was tasked to take the lead in the implementation of the FOI program including the preparation of a model manual and guidelines for the Executive Branch, including GOCCs and State Universities and Colleges.
- 2.0 Section 8 and 16 under EO 2 require all government offices in the Executive branch to prepare their respective People's FOI Manuals and implementing details (Agency FOI Manual) within one hundred twenty (120) days from the effectivity of the order.
- 3.0 On 25 November 2016, the 120<sup>th</sup> day from effectivity of the EO, the FOI program will be launched through an official government announcement which will also showcase the FOI Manuals. To assist agencies with the compliance to the EO, this memorandum provides the essential guidelines and standard forms for FOI implementation.
- 4.0 As a guide for the agencies in the development of their agency FOI Manuals, the PCOO drafted a Model Agency FOI Manual (**Annex A**). This, however, only serves as a guide and does not limit agencies in crafting their own agency manuals.
- 5.0 The Agency FOI Manual details the internal FOI guidelines and defines the specific roles and responsibilities of the following agency personnel designated to handle agency FOI requests: the FOI Champion; the Decision Maker/s; and the Receiving Officer/s. It also includes provisions on the promotion of openness in government

protection of privacy, remedies in case of denial, charging fees, and administrative liabilities. The manual should likewise contain the detailed FOI process flow; comprehensive list of exceptions; and templates for FOI responses.

- 6.0 On the other hand, the People's FOI Manual is a separate document designed for the general public to guide them in making FOI requests. It should include, among others the following:
- 6.1 the location and contact information of the head, regional, provincial and field offices, and other established places where the public can obtain information or submit requests;
  - 6.2 the person or offices responsible for receiving requests for information;
  - 6.3 the procedure for the filing and processing of the request as specified in the succeeding section 9 of this Order;
  - 6.4 the standard forms for the submission of requests and for the proper acknowledgment of requests;
  - 6.5 the process for the disposition of requests;
  - 6.6 the procedure for the administrative appeal of any denial for access to information; and
  - 6.7 the schedule of applicable fees.

#### **AGENCY INFORMATION INVENTORY**

- 7.0 The Agency Information Inventory is a master list of all government information held by an agency, containing the title, description, and file type of each information (**Annex B**). This list will provide the scope and limitations of the types of information which can be requested from an agency. Any information requested not included in the agency inventory is considered a basis for denial of such request.

#### **STANDARD FOI REQUEST FORM**

- 8.0 An FOI request will only be considered valid if applied through the fully accomplished Standard FOI Request Form (**Annex C**). If in case the requesting party cannot fill this out, the Receiving Officer is tasked to translate such request into the form.
- 9.0 This form is the standard form for all FOI request submitted to agencies covered under Section 2 of the EO. Requesting parties are required to supply all information in the form and present at least one (1) valid government-issued ID. Once a request has been approved as valid, the Receiving Officer shall provide a stamped photocopy of the form to the Requesting Party.

#### **STANDARD FOI REGISTRY**

- 10.0 To facilitate a uniform tracking, monitoring and evaluation system for FOI program implementation, attached herein is the Standard FOI Registry sheet (**Annex D – accessible at <http://bit.ly/foipco>**) to be managed by FOI Receiving Officers. All FOI

requests should be logged in to this form and should be updated accordingly. **Annex E** provides a comprehensive instructional note for accomplishing the FOI Registry.

- 11.0 The FOI Registry will be the basis for measuring agency performance and compliance alongside important FOI analytics to assess the initial financial costs of FOI implementation.
- 12.0 This is an interim solution to the standardized reporting procedure across the Executive Branch; moving forward, an online electronic FOI registry system will be developed.

#### **FOI EXCEPTIONS**

- 13.0 Section 4 of EO No. 2 states that “access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing law, or jurisprudence”. The list of exceptions from the Office of the President will be forwarded and disseminated as soon as it becomes available. Agencies may refer to this master list in their respective FOI manuals.
- 14.0 This inventory of exceptions will be periodically updated to properly reflect any changes in the existing law and jurisprudence.

#### **REQUIRED ACTIONS**

- 15.0 In compliance to this memorandum, all agencies covered by EO No. 2 shall observe the following requirements before November 25, 2016:
  - 15.1 Agencies are required to submit their Agency FOI Manual and People’s FOI Manual (pdf/.doc). PCOOs Model Agency FOI Manual can be converted into a People’s FOI Manual by removing its Section 3 (Promotion of Openness in Government), Annex E – 2 (Detailed FOI Request Process), Annex E – 3 (FOI Request Process in Days), and Annex G-1 to G-6 (FOI Response Templates).
  - 15.2 All heads of Agencies shall designate its FOI Champion, Decision Maker/s, and Receiving Officer/s who will handle its FOI Implementation. Information about these FOI Officers should be submitted before November 18, 2016 (pdf/doc), enumerating the following:
    - 15.2.1 Agency Nam & Address;
    - 15.2.2 Full Names;
    - 15.2.3 Positions;
    - 15.2.4 Email addresses; and
    - 15.2.5 Landline & fax numbers.
- 16.0 All agencies are required to submit to the PCOO the Agency Information Inventory and the accomplished FOI Registry every quarter starting March 2017. Non-submission of these requirements will be labeled as non-compliance.
- 17.0 As part of the compliance to the EO, all requirements shall be submitted both in soft copies and hard copies.

- 17.1 Soft copies of the Agency FOI Manual, templates, and forms, provided as annexes to this memo, can be accessed and retrieved from this link: <http://bit.ly/foipco>
- 17.2 Send all soft copies of submissions to [foi@pco.gov.ph](mailto:foi@pco.gov.ph) and [foi.pco@gmail.com](mailto:foi.pco@gmail.com)
- 17.3 Hard copies should be submitted to the following address:

**Sec. JOSE RUPERTO MARTIN M. ANDANAR**  
Presidential Communications Operations Office (PCOO)  
Office of the President  
3F, New Executive Building, J.P Laurel St.  
Malacañang Compound, Manila

## COMPLIANCE

- 18.0 Section 15 of EO No. 2 states, “failure to comply with the provisions of this Order may be a ground for administrative and disciplinary sanctions against any erring public officer or employee as provided under existing laws or regulations”.
- 19.0 Pursuant to this, PCOO will monitor and report on FOI program compliance to the Office of the Executive Secretary. The status of submissions will be published online via [foi.gov.ph](http://foi.gov.ph) which will be unveiled on November 25, 2016.
- 20.0 For compliance.

(Sgd.) **JOSE RUPERTO MARTIN M. ANDANAR**  
Secretary

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

**MEMORANDUM FROM THE EXECUTIVE SECRETARY**

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

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

**DATE: 24 November 2016**

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

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

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

For your information and guidance.

**SALVADOR C. MEDIALDEA**

## Exceptions to Right of Access to Information

For the guidance of all government offices and instrumentalities covered by EO No. 2 (s.2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:<sup>11</sup>

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.
10. 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>12</sup> and

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<sup>11</sup>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.

<sup>12</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 Investigations*, G.R. No. 180643, 4 September 2008, 564 SCRA152; *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.

- b. Matters covered by deliberative process privilege, namely:
  - i. advisory opinions, recommendations and deliberations comprising part of a process by which government 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>13</sup> and
  - ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;<sup>14</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>15</sup>
  - b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;<sup>16</sup> and
  - c. Patent applications, the publication of which would prejudice national security and interests;<sup>17</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

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<sup>13</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>14</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 under this category of exceptions.

<sup>15</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>16</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>17</sup>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).

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;<sup>18</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>19</sup>
  - c. When disclosure of information would put the life and safety of an individual in imminent danger;<sup>20</sup>
  - d. Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping;<sup>21</sup> and
  - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;<sup>22</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>23</sup> personal information or records,<sup>24</sup> including sensitive personal information, birth records,<sup>25</sup> school records,<sup>26</sup> or medical or health records;<sup>27</sup>

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<sup>18</sup> Section 3(f), Rule IV, Rules on CCESPOE; Chavez v. PCGG, supra; May be invoked by law enforcement agencies.

<sup>19</sup> Akbayan v. Aquino, supra; and Section 51, Human Security Act of 2007 (RA No. 9372). May be invoked by law enforcement agencies.

<sup>20</sup> Section 3(b), Rule IV, Rules on CCESPOE.

<sup>21</sup> Section 19, New Anti Carnapping Act of 2016 (RA No. 10883). May be invoked by law enforcement agencies.

<sup>22</sup> Section 7, Witness Protection, Security and Benefit Act (RA No. 6981).

<sup>23</sup> Section 3(e), Rule IV, Rules on CCESPOE.

<sup>24</sup> 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

Sensitive personal information as defined under the *Data Privacy Act of 2012* refers to personal information:<sup>28</sup>

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

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the individual<sup>29</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>30</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

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[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>25</sup>Article 7, The Child and Youth Welfare Code [Presidential Decree (PD) No. 603].

<sup>26</sup>Section 9(4), Education Act of 1982 [Batas Pambansa (BP) Blg. 232].

<sup>27</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>28</sup>Section 3(l), Data Privacy Act of 2012.

<sup>29</sup>Article 26(2), Civil Code.

<sup>30</sup>Section 11, Data Privacy Act of 2012.

the individual on a document prepared by the individual in the course of employment with the government;<sup>31</sup>

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence;<sup>32</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:
  - (1) records of child and family cases;<sup>33</sup>
  - (2) children in conflict with the law from initial contact until final disposition of the case;<sup>34</sup>
  - (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;<sup>35</sup>
  - (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;<sup>36</sup>
  - (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;<sup>37</sup>
  - (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;<sup>38</sup>
  - (7) names of victims of child abuse, exploitation or discrimination;<sup>39</sup>

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<sup>31</sup>Section 4, Data Privacy Act of 2012.

<sup>32</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>33</sup>Section 12, Family Courts Act of 1997 (RA Act No. 8369).

<sup>34</sup>Section 43, Juvenile Justice and Welfare Act of 2006 (RA No. 9344).

<sup>35</sup>Section 13, Anti-Child Pornography Act of 2009 (RA No. 9775).

<sup>36</sup>Section 31, A.M. No. 00-4-07-SC, Re: Proposed Rule on Examination of a Child Witness.

<sup>37</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>38</sup>Section 7, Anti-Trafficking in Persons Act of 2003 (RA No. 9208), as amended by RA No. 10364.

- (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;<sup>40</sup>
  - (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;<sup>41</sup>
  - (10) names of students who committed acts of bullying or retaliation;<sup>42</sup>
  - (11) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and<sup>43</sup>
  - (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;<sup>44</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>45</sup>

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<sup>39</sup>Section 29, Special Protection of Children Against Abuse, Exploitation and Discrimination Act (RA No. 7610).

<sup>40</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>41</sup>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.

<sup>42</sup>Section 3(h), Anti-Bullying Act (RA No. 10627).

<sup>43</sup>Sections 60, 64 and 67, Comprehensive Dangerous Drugs Act of 2002 (RA No. 9165).

<sup>44</sup>Sections 2(b), 18, 30, and 32, Philippine AIDS Prevention and Control Act of 1998 (RA No. 8504).

<sup>45</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 Blg. 68); Section 34, Philippine Competition Act (RA No. 10667); Sections 23 and 27 (c), The New Central

- b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);<sup>46</sup>
- c. Records and reports submitted to the Social Security System by the employer or member;<sup>47</sup>
- d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;<sup>48</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>49</sup>
- f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;<sup>50</sup>
- g. Documents submitted through the Government Electronic Procurement System;<sup>51</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>52</sup>
- 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;<sup>53</sup>
- 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;<sup>54</sup>

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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.

<sup>46</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>47</sup>Section 24(c), Social Security Act of 1997 (RA No. 1161, as amended by RA No. 8282).

<sup>48</sup>Section 29, Philippine AIDS Prevention and Control Act of 1998 (RA No. 8504).

<sup>49</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>50</sup>Section 81, EO No. 226 (s. 1987), as amended.

<sup>51</sup>Section 9, Government Procurement Reform Act (RA No. 9184).

<sup>52</sup>Section 32, Electronic Commerce Act of 2000 (RA No. 8792).

<sup>53</sup>Section 94(f), Philippine Mining Act of 1995 (RA No. 7942).

<sup>54</sup>Section 1, Rule IX, DOT MC No. 2010-02 (Rules and Regulations to Govern, the Accreditation of Accommodation Establishments – Hotels, Resorts and Apartment Hotels);

- 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;<sup>55</sup>
  - l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;<sup>56</sup>
  - m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;<sup>57</sup>
  - n. Information on registered cultural properties owned by private individuals;<sup>58</sup>
  - o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);<sup>59</sup> and
  - p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;<sup>60</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 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.<sup>61</sup>

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and Section 23, DOT MC No. 2015-06 (Revised Rules and Regulations to Govern the Accreditation of Travel and Tour Agencies).

<sup>55</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>56</sup>Section 10, Safeguard Measures Act.

<sup>57</sup>Section 297 in relation with Section 295 and Section 356, The Insurance Code (as amended by RA No. 10607).

<sup>58</sup>Section 14, National Cultural Heritage Act of 2009 (RA No. 10066).

<sup>59</sup>CHED Memorandum Order No. 015-13, 28 May 2013.

<sup>60</sup>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).

<sup>61</sup>Section 3(g), Rule IV, Rules on CCESPOE.

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>62</sup>
  - b. Matters involved in an Investor-State mediation;<sup>63</sup>
  - c. Information and statements made at conciliation proceedings under the *Labor Code*;<sup>64</sup>
  - d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);<sup>65</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>66</sup>
  - f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;<sup>67</sup>
  - g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;<sup>68</sup>
  - 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>69</sup>
  - i. Investigation report and the supervision history of a probationer;<sup>70</sup>
  - j. Those matters classified as confidential under the *Human Security Act of 2007*;<sup>71</sup>
  - k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;<sup>72</sup> and

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<sup>62</sup>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.

<sup>63</sup>Article 10, International Bar Association Rules for Investor-State Mediation.

<sup>64</sup>Article 237, Labor Code

<sup>65</sup>Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

<sup>66</sup>Section 142, Corporation Code. May be invoked by the SEC and any other official authorized by law to make such examination.

<sup>67</sup>Sections 13.4, 15.4, 29.2 (b), and 64.2 of the Securities Regulation Code.

<sup>68</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.

<sup>69</sup>DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

<sup>70</sup>Section 17, Probation Law of 1976 [PD No. 968 (s.1976)].

<sup>71</sup>Sections 9, 13, 14, 29, 33 and 34, Human Security Act of 2007(RA No. 9372).

<sup>72</sup>Section 14, Civil Service Commission Resolution No. 01-0940.

- 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>73</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 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;<sup>74</sup>
      - (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);<sup>75</sup> 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);

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<sup>73</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>74</sup>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.

<sup>75</sup>Article 7, UNCITRAL Transparency Rules.

- b. Testimony from a government official, unless pursuant to a court or legal order;<sup>76</sup>
- 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;<sup>77</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>78</sup>
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;<sup>79</sup>
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;<sup>80</sup> and
- g. Attorney-client privilege existing between government lawyers and their client.<sup>81</sup>

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<sup>76</sup>Senate v. Neri, *supra*; Senate v. Ermita, *supra*.

<sup>77</sup>Section 8(D), Code of Conduct and Ethical Standards for Public Officials and Employees.

<sup>78</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>79</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>80</sup>Romero v. Guerzon, G.R. No. 211816, 18 March 2015.

<sup>81</sup>Canon 21 of the Code of Professional Responsibility.

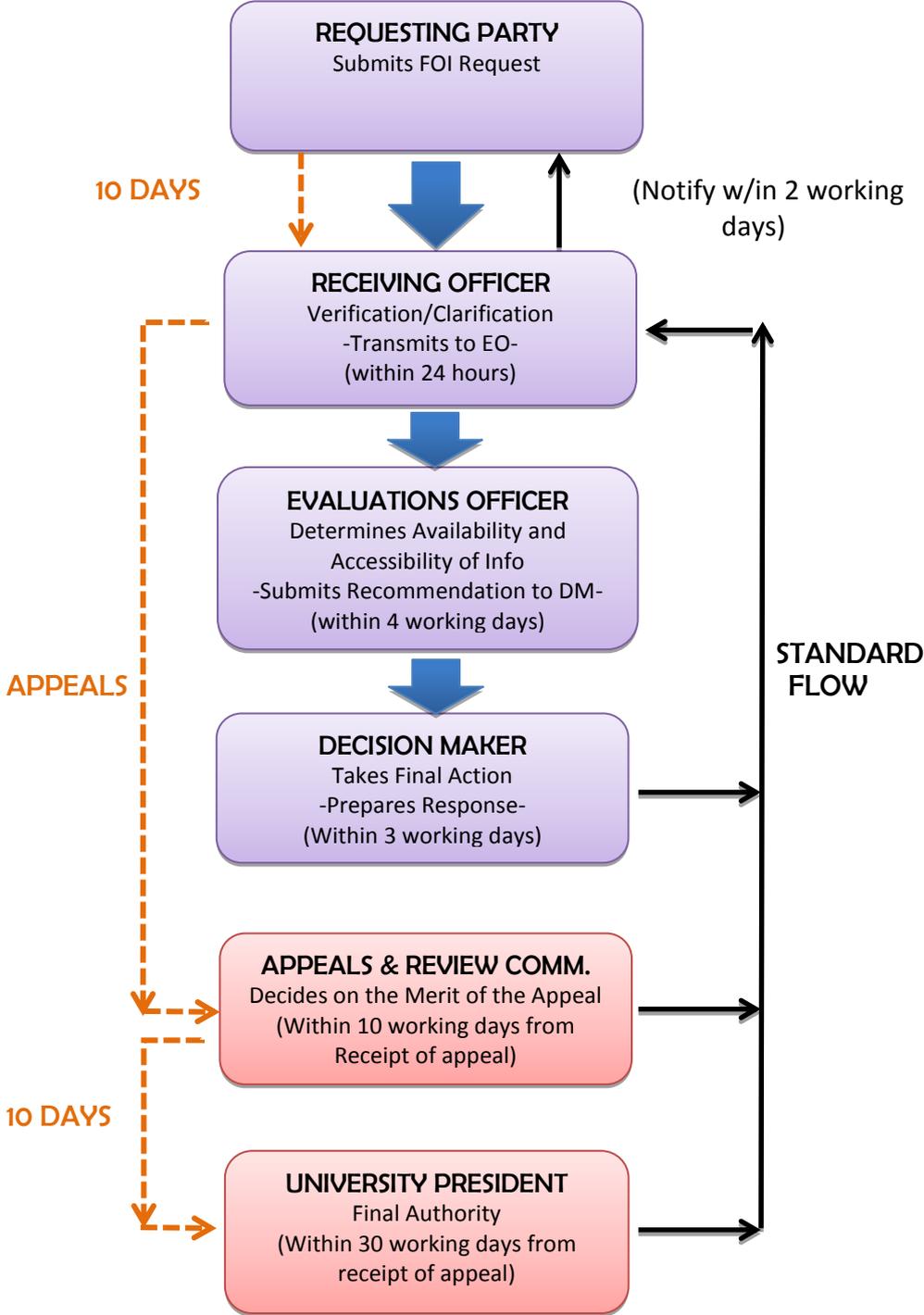
## **Freedom of Information (FOI) List of Exceptions**

### **Department of Budget and Management**

1. Information on on-going evaluation or review of bids or proposals being undertaken by the Bids and Awards Committee and such other similar committees, as there is yet no official act, transaction or decision at this point.
  
2. Internal communications, memoranda, opinions, reviews, comments and other operational matters of confidential nature, including but not limited to:
  - 2.1 Agenda, deliberations and minutes of the meetings of the Management  
  
Committee, Executive Committee, Development Budget Coordination Committee, Public Financial Management Committee, Government Procurement Policy Board, and Open Government Partnership Steering Committee/Working Groups;
  
  - 2.2 Internal emails of past and present employees, officers or directors;
  
  - 2.3 Internal files especially drafts and notes of public officers concerned (any unofficial or unacted upon documents should not be disclosed without prior approval);
  
  - 2.4 Legal opinions or comments rendered by the Legal Service;
  
  - 2.5 Contract review including drafts and notes of public officers concerned;
  
  - 2.6 Records of pending internal investigations; and

- 2.7 Documents and/or information pertaining to matters under litigation, the purpose of which is to prejudge a pending issue before a court or obstruct the administration of justice.

**FLOW CHART**





Republic of the Philippines  
**Benguet State University**  
La Trinidad, 2601 Benguet  
Tel/Fax (074) 422-2176; 422-2402 Loc. 11

## FREEDOM OF INFORMATION REQUEST FORM

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

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

### A. Requesting Party

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

<b>1. Title</b> (e.g. Mr, Mrs, Ms, Miss)	<b>2. Given Name/s</b> (including M.I.)	<b>3. Surname</b>
_____	_____	_____

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

\_\_\_\_\_

\_\_\_\_\_

<b>5. Landline/Fax</b>	<b>6. Mobile</b>	<b>7. Email</b>
x _____	_____	_____

**8. Preferred Mode of Communication**

Landline  Mobile  Email  Postal Address

\_\_\_\_\_

**9. Preferred Mode of Reply**

Email  Fax  Postal Address  Pick-Up at Agency

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

**1 Type of ID**

**0. Given**

(Please ensure your IDs contain your photo and signature)

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

ID  
Number\* \_\_\_\_\_

**B. Requested Information**

**1 Title of**

**1. Document/Record Requested** (Please be detailed as possible)

\* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**1 Purp  
3. ose**

\* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C. Declaration**

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

I declare that:

- I have read the
- Privacy notice;
- I have presented at least one (1) government-issued ID to establish proof of
- my identity

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

**Signature:**

\* \_\_\_\_\_

**Date Accomplished**

\* \_\_\_\_\_

(DD/MM/YY)

\_\_\_\_\_

**D. FOI Receiving Officer [INTERNAL USE ONLY]**

**Name** (Print name)

\*

\_\_\_\_\_

**Position**

\*

\_\_\_\_\_

**Office/Unit**

\*

\_\_\_\_\_

**E. Evaluating Officer**

**Name** (Print name)

\*

\_\_\_\_\_

**Position/Office**

\*

\_\_\_\_\_

**Recommendation on Application**

*If Denied, please tick the Reason for the Denial*

- Successful     Partially Successful     Denied     Cost  
 Invalid Request     Incomplete     Data already available online  
 Exception     Which Exception? \_\_\_\_\_

**Date Request Finished**  
(DD/MM/YY)

\*

\_\_\_\_\_

**Date Transmitted**  
(DD/MM/YY)

\*

\_\_\_\_\_

**F. Decision Maker**

**Name** (Print name)

\*

\_\_\_\_\_

**Position/Office**

\*

\_\_\_\_\_

**Action on Recommendation**

- Approved     Denied

**Date**  
(DD/MM/YY)

\*

\_\_\_\_\_

**G. Receiving**

**Officer**

**FOI Registry  
Accomplished**

YES     NO

**RO Signature**

\* \_\_\_\_\_

**Date**  
(DD/MM/YY)

\* \_\_\_\_\_

**H. Requesting  
Party**

**Received by:**

\* \_\_\_\_\_

**Date**  
(DD/MM/YY)

\* \_\_\_\_\_

APPROVED REQUEST

[DATE]

Dear \_\_\_\_\_,

Greetings!

We are pleased to inform you that your request dated <insert data>made under Executive Order No. 2 s. 2016 or the Freedom of Information in the Executive Branch has been approved

Please find enclosed a copy of the [documents/information/data] you requested in the format you asked for.

Respectfully,

\_\_\_\_\_  
**FOI Receiving Officer**

ANSWER REQUESTED

[DATE]

Dear \_\_\_\_\_,

Greetings!

In [insert data] you made a request under Executive Order No. 2 s. 2016 or the Freedom of Information in the Executive Branch. You asked for [quote request exactly].

Do find enclosed the answer to your request.

Respectfully,

---

**FOI Receiving Officer**

DOCUMENT/RECORD AVAILABLE ONLINE

[DATE]

Dear \_\_\_\_\_,

Greetings!

In [insert data] you made a request under Executive Order No. 2 s. 2016 or the Freedom of Information in the Executive Branch. You asked for [quote request exactly].

The information you have requested is already available online at the BSU Website. Please go to [bsu.edu.phand](http://bsu.edu.phand) [state link].

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing [insert name of Sector Vice-President and contact details]. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result within 30 calendar days from the date when we receive your review request.

If you are not satisfied with the result of the review you may to appeal to the University President.

Respectfully,

---

**FOI Receiving Officer**

DOCUMENT/RECORD NOT AVAILABLE

DATE

Dear \_\_\_\_\_,

Greetings!

In [insert date] you made a request under Executive Order No. 2 s. 2016 or the Freedom of Information in the Executive Branch. You asked for [quote request exactly].

While our aim is to provide information whenever possible we regret to inform you that, in this instance, we do not have the [information/document] you have requested. The reasons why we don't have the information are explained in the Annex to this letter. However, you may wish to contact [insert contact details] who may be able to help you.\*

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to [concerned Sector Vice-President & contact details]. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to appeal to the University President.

Respectfully,

---

**FOI Receiving Officer**

\*Applicable if the request can be referred to an agency or office outside of BSU for response.

UNDER EXCEPTIONS

DATE

Dear \_\_\_\_\_,

Greetings!

In [insert date] you made a request under Executive Order No. 2 s. 2016 or the Freedom of Information in the Executive Branch. You asked for [quote request exactly].

While our aim is to provide information whenever possible we regret to inform you that, in this instance, we are unable to provide the information you have requested because this is included in the list of exceptions. Find annexed to this letter a further explanation of the exemption(s).

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to [concerned Sector Vice-President & contact details]. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to appeal to the University President.

Respectfully,

---

**FOI Receiving Officer**

IDENTICAL REQUEST

DATE

Dear \_\_\_\_\_,

Greetings!

In [insert date] you made a request under Executive Order No. 2 s. 2016 or the Freedom of Information in the Executive Branch. You asked for [quote request exactly].

While our aim is to provide information whenever possible we are unable to provide the information you have requested, in this instance, because the request is substantially similar or identical to a previous request that you made on [insert date of previous request] which we responded to on [insert date of response].

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to [concerned Sector Vice-President & contact details]. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we receive your review request.

If you are not satisfied with result of the review, you then have the right to appeal to the University President.

Respectfully,

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**FOI Receiving Officer**

## ANNEX "H"

## FOI Receiving Officers of BSU and their local offices

Name of Office	Location of FOI Receiving Office	Contact Details	Assigned FOI Receiving Officer
University Public Affairs Office	1 <sup>st</sup> floor, Administration Building, Benguet State University	074 422 2402 loc. 69 <a href="mailto:publicaffairs@bsu.edu.ph">publicaffairs@bsu.edu.ph</a>	Kara S. Panolong
Office of the Vice President for Academic Affairs	2 <sup>nd</sup> floor, Administration Building, Benguet State University	+63.74.422.2127 loc 16 <a href="mailto:vp.acad@bsu.edu.ph">vp.acad@bsu.edu.ph</a>	Kenneth A. Laruan
Office of the Vice President for Research and Extension	2 <sup>nd</sup> floor, Administration Building, Benguet State University	+63-74-422-5547	Alma A. Santiago
Office of the Vice President for Business Affairs	2 <sup>nd</sup> floor, Marketing Center, Benguet State University	<a href="mailto:vp.uba@bsu.edu.ph">vp.uba@bsu.edu.ph</a>	Sheryl I. Fernando