

# **IMPLEMENTING DETAILS OF THE PEOPLE'S FREEDOM OF INFORMATION MANUAL**

## **RULE I PURPOSE**

**Section 1.** The purpose of this Implementing Details is to ensure the orderly and effective exercise of the right to access to information consistent with the State's policy of full public disclosure of all its transaction involving public interest and the constitutional guarantee of access to information of public concern. In the implementation thereof, the State shall protect confidential information pursuant to international and domestic laws, by ensuring that access to information shall be limited and specific and be subject to a careful and thorough review. Further, the efficient use of government resources shall be taken into consideration in operationalizing the provisions of this Implementing Details.

## **RULE II DEFINITION OF TERMS**

**Section 2.** As used in these Rules, the following terms shall mean as follows:

- (a) "FOI Receiving Office" shall mean the offices designated as FOI Receiving Office (FRO) in the People's Freedom of Information (FOI) Manual.
- (b) "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) "Personal Information" refers to the personal information protected under Republic Act No. 10173, also known as the Data Privacy Act<sup>1</sup>.
- d) "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.
- e) "Requester" shall mean a person filing a request on its own behalf or on behalf of an association, partnership, cooperative or corporation.
- f) "Service" shall mean the BOI Service which made, received, or has control and custody of the information, official record or public record.

### **RULE III SCOPE**

**Section 3. *Right to Information.*** Every Filipino shall have access to information, official records, public record and documents and papers pertaining to official acts, transaction or decisions except the following:

- a. All applications under Executive Order No. 226, also known as the *Omnibus Investments Code of 1987*, and their supporting documents pursuant to Article 81 thereof.
- b. Information classified as confidential, the disclosure of which would prejudice legitimate commercial interests or the competitive position of the investor or its investment.
- c. Advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated and which is covered by the deliberative process privilege.
- d. Personal information (e.g. individual's race, ethnic origin, age, religion, health condition) in the possession of BOI.
- e. Other information included in the list of exemptions provided by the Office of the President.

This does not include the right to compel the Board of Investments (BOI) to prepare lists, abstracts, summaries and the like in requesting information on matters of public concern.

**Section 4. *Exclusions.*** The Implementing Details shall not apply to:

- a. Information which are publicly available.

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<sup>1</sup> "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."

- b. Repetitious requests (i.e. the information subject of the second request was already requested by the same person and acted upon by the BOI within six (6) months prior to the date of the second request)

#### **RULE IV PROTECTION OF PRIVACY**

**Section 5.** *Protection of Private Information.* While providing access to information, public records, and official records, responsible officials shall afford full protection to a person's right to privacy, as follows:

- (a) Each Service 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 Service shall protect personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks, or premature disclosure.
- (c) ALL BOI OFFICIAL AND EMPLOYEES who have access, whether authorized or unauthorized, to personal information in the custody of the BOI, shall not disclose that information except as required by law.

#### **RULE V ACCESS TO INFORMATION**

**Section 6.** *Request for Access to Information.* A request for access to information shall be made by filling out the request form and submitting the same and the other documentary requirements, to the FRO. Incomplete request form shall not be accepted.

**Section 7.** *Manner and Schedule.* The manner and schedule for accessing records shall be set out in the People's FOI Manual.

**Section 8.** *Action on the Request.* Upon review of the request, the BOI shall within fifteen (15) working days from receipt thereof, act on the request by:

- b. Approving the request
- c. Denying the request
- d. Transferring the request to the appropriate agency
- e. Extension of time to respond.

**Section 9.** *Denial of the Request.* A request may be denied by the Service, in whole or in part, on the following grounds:

- a. The information is not produced, received or kept under the control of BOI based on the updated inventory of data and documents.
- b. The document has been lost or destroyed and can no longer be reproduced.

c. The information falls under Sections 4 of Rule III.

Failure of the BOI to provide access to information within the prescribed period shall be deemed as a denial of the request.

**Section 10. *Transfer of Request.*** A request involving information which is produced by or for another government agency having interest in the subject matter shall be transferred to that government agency. The requester shall be notified in writing of such transfer.

**Section 11. *Extension of Time to Respond.*** The 15-day period to respond to the request may be extended if the request requires extensive search of the government office's records facilities, examination of voluminous records, there is delay due to fortuitous events or other analogous cases. Only in exemplary cases shall the extension go beyond twenty (20) working. The requester shall be notified in writing of such extension.

**Section 12. *Severability.*** Where a request is partially denied pursuant to Section 3 hereof or transferred to the government agency having interest in the information pursuant to Section 4 hereof, any part of the request which are accessible under this rules shall be disclosed.

**Section 13. *Fees.*** Upon approval of the request, the Requester shall pay the administrative fees prior to release of the information.

## **RULE VI THIRD PARTY INTERVENTION**

**Section 14. *Notice to Third Parties.*** If upon evaluation, the BOI has reason to believe that the disclosure of information subject of the request will prejudice legitimate commercial interests or the competitive position of a third party, the BOI shall provide the third party a written notice of the request within 5 working days from receipt of the request.

If the request is already accompanied by a Notarized Waiver of Confidentiality issued by that entity whose information is the subject of the request, the third party is deemed to have waived this requirement.

**Section 15. *Time to Respond.*** The third party shall be given five (5) working days to explain in writing why the information should not be disclosed. Failure to respond shall be deemed approval of the disclosure of the information subject of the request.

**Section 16. *Decision on the Third Party Intervention.*** The Service shall decide the third party's intervention within 5 working days from receipt thereof.

**Section 17. *Effect of the Third Party Intervention.*** The Service shall take into account the response of the third party in deciding whether to disclose an information or not. The third party shall be notified of the decision on the request.

## **RULE VII REVIEW BY THE MANAGING HEAD**

**Section 18. *Appeal.*** The requester may request the Managing Head to review the denial of its request for access to information within 15 calendar days from receipt of the notice of denial.

**Section 19. *Form.*** The appeal shall be verified and shall set forth the material dates and the reason why the ground cited in the notice of denial should be reviewed by the BOI. The appeal shall be accompanied by copies of the request for access to information and the notice of denial.

**Section 20. *Fees.*** Upon filing the appeal, the Requester shall pay the filing fee indicated in the People's FOI Manual.

**Section 21. *Decision.*** The Decision of the Managing Head shall be final and binding to the Requester. Failure of the Managing Head to act on the appeal within thirty (30) working days shall be deemed a denial of the appeal.

## **RULE VIII SERVICE OF NOTICES AND DECISIONS**

**Section 22. *Service by Electronic Mail.*** Service of the following to the Requester shall be made by electronic mail:

- a. Notice of Extension of Period to Respond.
- b. Notice of Transfer of Request
- c. Notice of Approval of Request

**Section 23. *Notice of Denial and Decisions of the Managing Head.*** Service of the notice of denial and the decision of the Managing Head shall be made to the requester through registered mail or electronic mail, depending on the mode indicated in the request form.

## **RULE IX INVENTORY OF INFORMATION AND RECORDS**

**Section 24. *List of Information, Documents and Records.*** Every Service shall prepare an inventory of information, documents, and records which are produced, received, or kept under their control. The lists shall indicate if the information is readily available or not, and the time required to produce the same.

**Section 25. *Updating and Consolidation of Lists.*** The Services shall submit updated lists to the BOI Main office FRO every 15<sup>th</sup> day of January who shall in turn consolidate the lists and furnish the FRO of the extensions offices of the consolidated list.

## **RULE X RESPONSIBILITIES OF THE FRO**

**Section 26. *FRO.*** There shall be one FRO for the BOI Main Office and for every extension office. The position and complete address of the FRO shall be specified in the People's FOI Manual.

**Section 27. *Endorsement of Requests.*** Upon receipt of the request, the FRO shall endorse the request to the appropriate Service as indicated in the Inventory of Information and Records copy furnished the other Services, within twenty-four (24) hours from receipt thereof.

No request shall be endorsed unless all the information and documentary requirements specified in the FOI Manual are complied with.

**Section 28. *Information not Included in the List.*** If the information requested is not included in the list, the request shall be emailed to all Services. The email shall indicate that the Services have twenty four (24) hours to confirm or deny custody of the information.

If all the Services deny existence of the information or records, the FRO shall within 24 hours endorse the request to the Legal and Compliance Service with a statement that all Services denied existence of the information or record. The Legal Division shall prepare the Notice of Denial based on the FRO's report.

**Section 29. *Duty to Keep Records and Monitor Requests.*** The FRO shall keep a full and updated record of all requests and keep track of the status of every request to ensure prompt and immediate response. The FRO shall establish an *FOI request tracking system* which shall include tracking the total number of hours for processing each FOI request.

**Section 30. *Service of Notices and Decisions.*** The FRO shall serve the notices and decisions to the Requester within 15 working days from date of request of the request.

## **RULE XI RESPONSIBILITIES OF THE SERVICES**

**Section 31. *Review of Request.*** The Service shall thoroughly review all requests and act on it within thirteen (13) working days from receipt of the request from the FRO. The approval, denial, transfer of the request to other government agencies, or extension of

time to respond to the request shall be conveyed to the FRO on or before the fourteenth (14th) day from receipt of the endorsement.

**Section 32. *Duty to Protect Confidential Information.*** In allowing access to information or records, the Services shall ensure that no confidential information falling under Section 2, Rule III will be disclosed. All confidential information shall be deleted prior to release of the records.

**Section 33. *Duty to Inform.*** The Service shall inform the person, whose personal information is the subject of the request, of the name of the requesting person, the reason for the request, the date when her personal information was requested, and the action taken on the request.

**Section 34. *Assessment of Fees.*** In case of approval of request, the Service shall assess the fees due based on the schedule of fees in the People's FOI Manual and transmit the same to the FRO together with the requested information.

## **RULE XII. FINAL PROVISIONS**

**Section 35. *Severability Clause.*** If any provisions or part this Circular is invalid or unconstitutional, the provisions not otherwise affected shall remain valid and subsisting.

**Section 36. *Effectivity.*** This Circular shall take effect 15 days following its publication in a newspaper of general circulation.

Done in the City of Makati, this \_\_\_ day of November 2016