

FREEDOM

of

INFORMATION

**EXECUTIVE ORDER NO.02
SERIES OF 2016**

**OPERATIONALIZING IN THE
PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT
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**

PEOPLE'S MANUAL

TABLE OF CONTENTS

1. Overview

1. Purpose of the Manual
2. Structure of the Manual
3. Coverage of the Manual
4. FOI Receiving Officer
5. FOI Decision Maker
6. Appeals and Review Committee
7. Approval and Denial of Request

2. Definition of Terms

3. Glossary of Terms

4. Protection of Privacy

5. Standard Procedure

1. Receipt of Request for Information
2. Initial Evaluation
 - a. Requested information is not in the custody of the Commission
 - b. Requested information already available in Commission website
 - c. Similar or Identical request for information
3. Transmittal from FRO to Decision Maker
4. Role of Receiving Officer to Transmit the Information
5. Role of Decision Maker in Processing the Freedom of Information Request
6. Extension of Time
7. Notifying the Requesting Party of the Decision
8. Approval of Request
9. Denial of Request

7. Remedies in Case of Denial of Request

8. Fees

9. Administrative Liability

POLICIES AND PROCEDURES

Supersedes: Page/s _____ Number _____ Dated _____	Subject PCGG FREEDOM OF INFORMATION (FOI) MANUAL	Number _____ Page/s _____ Effective Date _____ Approved for the Commission _____ <div style="text-align: right;">Chairman</div>
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SECTION 1: OVERVIEW

1. **Purpose:** The purpose of this Presidential Commission on Good Government (PCGG) FOI Manual is to provide the process to guide and assist the PCGG in dealing with requests of information received under Executive Order (E.O.) No. 2 or the Freedom of Information (FOI) in the Executive Branch.

2. **Structure of the Manual:** This Manual shall set out the rules and procedures to be followed by the PCGG, when a request for access to information and document is received. The PCGG Chairperson shall be responsible for all actions carried out under this Manual. He, however, may delegate this responsibility to a Commissioner of PCGG and may delegate a specific officer to act as the Decision Maker (DM). He shall have overall responsibility for the initial decision on FOI requests, (i.e to decide whether to release all the records, partially release the records or deny access).

3. **Coverage of the Manual:** The Manual shall cover all requests for information directed to the PCGG.

4. **FOI Receiving Officer:** There shall be an FOI Receiving Officer (FRO) designated at the PCGG. The FRO shall preferably come from the Public Assistance or Information Office, or its equivalent, of the Commission. The FRO shall hold office at #82 IRC Bldg. EDSA Mandaluyong City.

The functions of the FRO shall include receiving, on behalf of the PCGG, all requests for information and forwarding the same to the appropriate office who has custody of the records; monitor all FOI requests and appeals; provide assistance to the FOI Decision Maker; provide assistance and support to the public and staff with regard to FOI; compile statistical information as required; and, conduct initial evaluation of the request and advise the requesting party whether the request will be forwarded to the FOI Decision Maker for further evaluation, or deny the request based on:

- a. That the FOI Request Form is incomplete; or
 - b. That the information is already disclosed in the PCGG's Official Website or at data.gov.ph.
5. **FOI Decision Maker:** There shall be on FOI Decision Maker (FDM), designated by the Chairperson, with a rank of not lower than a Director or its equivalent, who shall conduct evaluation of the request for information and shall have the authority to grant the request, or deny it based on the following:
- a. The PCGG does not have the information requested;
 - b. The information requested contains sensitive personal information protected by the Data Privacy Act of 2012.
 - c. The information requested falls under the list of exceptions to FOI; or
 - d. The request is an unreasonable, a subsequently identical or a substantially similar request from the same requesting party whose request has already been previously granted or denied by the PCGG.
6. **Appeals and Review Committee¹:** There shall be an Appeals and Review Committee composed of three (3) officials with a rank not lower than a Commissioner or its equivalent, designated by the Chairperson of the PCGG to review and analyze the denial of request of information if an appeal has been filed by a requesting party. The Committee shall also provide expert advice to the Chairperson on the denial of such request.
7. **Approval and Denial of Request to Information:** The Decision Maker shall approve or deny all request of information. In case where the Decision Maker is on official leave, the Chairperson may delegate such authority to any Officer not below the rank of a Director.

SECTION 2: DEFINITION OF TERMS

datagov.ph. The Open Data website that serves as the government's comprehensive portal for all the public government data that is searchable, understandable, and accessible.

eFOI.gov.ph. The website that serves as the government's comprehensive FOI website for all information on the FOI. Among many other features, eFOI.gov.ph provides a central resource for the public to understand the FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. eFOI.gov.ph also promotes agency accountability for the

¹ In exceptional cases, that in the absence of Commissioners, the members of the Execom shall make such review and decide on the same.

administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, so that they can be compared by the agency over a period of time.

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.

INFORMATION FOR DISCLOSURE. Information promoting the awareness and understanding of policies, programs, activities, rules or revisions affecting the public, government agencies, and the community and economy. It also includes information encouraging familiarity with the general operations, thrusts, and programs of the government. In line with the concept of proactive disclosure and open data, these types of information can already be posted to government websites, such as data.gov.ph. without need for written requests from the public.

OFFICIAL RECORD/S. Shall refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.

OPEN DATA. Refers to publicly available data structured in a way that enables the data to be fully discoverable and usable by end users.

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.

PUBLIC SERVICE CONTRACTOR. Shall be defined as a private entity that has dealing, contract, or a transaction of whatever form or kind with the government or a government agency or office that utilizes public funds.

PERSONAL INFORMATION. Shall refer to any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.

SENSITIVE PERSONAL INFORMATION. As defined in the Data Privacy Act of 2012, shall refer to personal information:

- (1) About an individual's race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
- (2) About the health, education, genetic or sexual life of a person, or to any proceedings 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.

SECTION 3. GLOSSARY OF TERMS

ADMINISTRATIVE FOI APPEAL: An independent review of the initial determination made in response to a FOI request. Requesting parties who are dissatisfied with the response made on their initial requests have a right to appeal that initial determination to an office within the agency, which will then conduct an independent review.

ANNUAL FOI REPORT. A report to be filed each year with the Presidential Communications Operations Office (PCOO) by all government agencies detailing the administration of the FOI. Annual FOI Reports contain detailed statistics on the number of FOI requests and appeals received, processed, and pending at each government office.

CONSULTATION. When a government office locates a record that contains information of interest to another office, it will ask for the views of that other agency on the disclosability of the records before any final determination is made. This process is called a "consultation".

EXCEPTIONS. Information that should not be released and disclosed in response to a FOI request because they are protected by the Constitution, laws or jurisprudence.

FREEDOM OF INFORMATION (FOI). The Executive Branch recognizes the right of the people to information on matters of public concern, and adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in Executive Order No. 2. This right is indispensable to the exercise of the right of the people and their organizations to an effective and reasonable participation at all levels of social, political and economic decision-making.

FOI CONTACT. The name, address and phone number at each government office where you can make a FOI request.

FOI REQUEST. A written request submitted to a government office personally or by email asking for records on any topic. A FOI request can generally be made by any Filipino to any government office.

FOI RECEIVING OFFICE. The primary contact at each agency where the requesting party can call and ask questions about the FOI process or the pending FOI request.

FREQUENTLY REQUESTED INFORMATION. Information released in response to FOI request that the agency determines to have become or are likely to become the subject of a subsequent requests for substantially the same records.

FULL DENIAL. When the PCGG cannot release any information or records in response to a FOI request, because, for example, the requested information is exempt from disclosure in its entirety or no records responsive to the request could be located.

FULL GRANT. When a government office is able to disclose all records in full in response to a FOI request.

MULTI-TRACK PROCESSING. A system that divides incoming FOI requests according to their complexity so that simple requests requiring relatively minimal review are placed in one processing track and more complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.

PARTIAL GRANT/PARTIAL DENIAL. When a government office is able to disclose portions of the records in response to a FOI request, but must deny other portions of the request.

PENDING REQUEST OR PENDING APPEAL. A FOI request or administrative appeal for which a government office has not yet taken final action in all respects. It captures anything that is open at a given time including requests that are well within the statutory response time.

PERFECTED REQUEST. A FOI request, which reasonably describes the records sought and is made in accordance with the government office's regulations.

PROACTIVE DISCLOSURE. Information made publicly available by government agencies without waiting for a specific FOI request. Government agencies now post on their websites a vast amount of material concerning their functions and mission.

PROCESSED REQUEST OR PROCESSED APPEAL. The number of requests or appeals where the agency has completed its work and sent a final response to the requester.

RECEIVED REQUESTS OR RECEIVED APPEAL. A FOI request or administrative appeal that an agency has received within a fiscal year.

REFERRAL. When a government office locates a record that originated with, or is of otherwise primary interest to another agency, it will forward that record to the other agency to process the record and to provide the final determination directly to the requester. This process is called a "referral".

SIMPLE REQUEST. A FOI request that an agency anticipates will involve a small volume of material or which will be able to be processed relatively quickly.

SECTION 4. PROTECTION OF PRIVACY

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

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

SECTION 5. STANDARD PROCEDURE

1. Receipt of Request for Information.

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

- The request must be in writing;
- The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization; and
- The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information.

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

- 1.2 In case the requesting party is unable to make a written request, because of illiteracy or due to being a differently abled person, he or she may make an oral request, and the FRO shall reduce it in writing.

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

The date of receipt of the request will be either:

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

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

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

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

2.1 Requested information is not in the custody of the PCGG: If the requested information is not in the custody of the Commission or any of its offices, following referral and discussion with the FDM, the FRO shall undertake the following steps:

- If the records requested refer to another agency, the request will be immediately transferred to such appropriate agency through the most expeditious manner and the transferring office must inform

the requesting party that the information is not held within 15 working day limit. The 15 working day requirement for the receiving office commences the day after it receives the request.

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

2.2 Requested information is already posted and available on-line: Should the information being requested is already posted and publicly available in the PCGG website, data.gov.ph or foi.gov.ph, the FRO shall inform the requesting party of the said fact and provide them the website link where the information is posted.

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

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

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

The FRO shall note the date and time of receipt of the information from the FDM and report to the Chairperson or the designated Commissioner, in case the submission is beyond the 10-day period.

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

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

- 5. Role of FRO to transmit the information to the requesting party:** Upon receipt of the requested information from the FDM, the FRO shall collate and ensure that the information is complete. He shall attach a cover/transmittal letter signed by the Chairperson or the designated Commissioner concerned and ensure the transmittal of such to the requesting party within 15 working days upon receipt of the request for information.
- 6. Request for an Extension of Time:** If the information requested requires extensive search of the government's office records and facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases, the FDM should inform the FRO.

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

- 7. Notice to the Requesting Party of the Approval/Denial of the Request:** Once the FDM approved or denied the request, he shall immediately notify the FRO who shall prepare the response to the requesting party either in writing or by email. All actions on FOI requests, whether approval or denial, shall pass through the Chairperson or his designated Commissioner for final approval.
- 8. Approval of Request:** In case of approval, the FRO shall ensure that all records that have been retrieved and considered be checked for possible exemptions, prior to actual release. The FRO shall prepare the letter or email informing the requesting party within the prescribed period that the request was granted and be directed to pay the applicable fees, if any.
- 9. Denial of Request:** In case of denial of the request wholly or partially, the FRO shall, within the prescribed period, notify the requesting party of the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of the request to information. All denials on FOI requests shall pass through the Office of the Chairperson or to his designated Commissioner.

SECTION 6. REMEDIES IN CASE OF DENIAL

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

1. Administrative FOI Appeal to the PCGG Appeals and Review Committee: Provided, that the written appeal must be filed by the same requesting party within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.
 - a. Denial of the Appeal by the PCGG Appeals and Review Committee may be appealed by filing a written appeal to the Chairperson within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request.
 - b. The appeal shall be decided by the Chairperson within thirty (30) working days from the filing of said written appeal. Failure to decide within the 30-day period shall be deemed a denial of the appeal.
 - c. The denial of the appeal by the Chairperson or the lapse of the period to respond to the request may be appealed further to the Office of the President under Administrative Order No. 22, s. 2011.
2. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 7. REQUEST TRACKING SYSTEM

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

SECTION 8. FEES

1. **No Request Fee.** The PCGG shall not charge any fee for accepting requests for access to information.
2. **Reasonable Cost of Reproduction and Copying of the Information:** The FRO shall immediately notify the requesting party in case there shall be a reproduction and copying fee in order to provide the information. Such fee shall be the actual amount spent by the PCGG in providing the information to the requesting party. The schedule of fees shall be posted by the PCGG.
3. **Exemption from Fees.** The PCGG may exempt any requesting party from payment of fees, upon request stating the valid reason why such requesting party shall not pay the fee.

SECTION 9. ADMINISTRATIVE LIABILITY

1. **Non-Compliance with FOI.** Failure to comply with the provisions of this Manual shall be a ground for the following administrative penalties:
 - a. 1st Offense – Reprimand;
 - b. 2nd Offense – Suspension of one (1) to thirty (30) days; and
 - c. 3rd Offense – Dismissal from the service.
2. **Procedure.** The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of cases under this Manual.
3. **Provisions for More Stringent Laws, Rules and Regulations.** Nothing in this Manual shall be construed to derogate from any law, any rules, or regulation prescribed by any body or agency, which provides for more stringent penalties.

DONE IN THE City of Mandaluyong, this ____ day of November 2016.


ATTY. REYNOLD S. MUNSAYAC
Acting Chairman