



PHILIPPINE COMPETITION COMMISSION

People's Freedom of Information Manual

23 November 2017

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SECTION 1: OVERVIEW

1. Purpose

The purpose of this Manual is to provide guidance on the rules and procedures governing the processing of requests for information received by the PCC under E.O. No. 2.

2. Coverage of the Manual

This Manual shall cover all requests for information received by the PCC under E.O. No. 2.

3. Implementation of the Manual

The FOI Champion shall be responsible for the efficient and effective implementation of this Manual. The FOI Champion shall refer to the Chairman or, if the exigencies of public service so require, the Chairman may delegate such responsibility to the Executive Director who shall then be authorized to discharge the duties and functions of the FOI Champion under this Manual. In the event of such delegation, all references to the FOI Champion under this Manual, except Section 1(3) hereof, shall be deemed to refer to the Executive Director.

4. FOI Receiving Officer

The FOI Champion shall designate a FRO who shall conduct the initial evaluation of all FOI Requests. The FRO shall preferably come from the Records Section of the PCC. The FRO shall hold office at the FOI Receiving Office with the following details:

Address: Philippine Competition Commission, 2/F DAP Building, San Miguel Avenue, Ortigas Center, Pasig City

Contact number: +632.515.4553

Email: queries@phcc.gov.ph

Any changes to the foregoing contact information of the FOI Receiving Office shall be posted on the PCC Official Website.

The functions of the FRO shall include the following:

- a. Receive, on behalf of the PCC, all requests for information and take the appropriate steps in processing the same;
- b. Monitor all FOI Requests and FOI Appeals;
- c. Provide assistance to the FDM;
- d. Provide assistance and support to the public and staff with regard to FOI matters;
- e. Compile statistical information as may be required under this Manual and/or E.O. No. 2; and
- f. Conduct an initial evaluation of the request and advise the requesting party whether the request will be forwarded to the FDM for further evaluation, or deny the request based on any of the following grounds:
 - (i) That the form is incomplete; or
 - (ii) That the information is available at PCC's Official Website or at data.gov.ph.

The FOI Champion may designate at least one (1) Alternate FOI Receiving Officer who shall be authorized to temporarily discharge the duties and functions of the FRO under this Manual in case of absence, unavailability, or incapacity of the FRO.

5. FOI Decision Maker

The FOI Champion shall designate a FDM, with a rank not lower than Division Chief or its equivalent, who shall be responsible for the evaluation of FOI Requests forwarded by the FRO under this Manual. The FDM shall have the authority to grant or deny a FOI Request.

The FOI Champion may designate at least one (1) Alternate FOI Decision Maker who shall be authorized to temporarily discharge the duties and functions of the FDM under this Manual in case of absence, unavailability, or incapacity of the FDM.

6. Central Appeals and Review Committee

There shall be an Appeals Committee to be composed of three (3) officials, with a rank not lower than Director III or its equivalent, designated by the FOI Champion to review and analyze the grant or denial of a FOI Request. The Appeals Committee shall also provide expert advice to the FOI Champion on the denial of such request.

SECTION 2: DEFINITION OF TERMS

1. **“Administrative FOI Appeal”** shall refer to an independent review of the determination made by the FDM in response to a FOI Request. Requesting parties who are dissatisfied with the FDM’s determination on their FOI Request shall have the right to appeal such determination to the Appeals Committee.
2. **“Alternate FOI Decision Maker”** shall have the meaning provided under Section 1(5) of this Manual.
3. **“Alternate FOI Receiving Officer”** shall have the meaning provided under Section 1(4) of this Manual.
4. **“Annual FOI Report”** shall refer to the report to be filed by the PCC annually with the Presidential Communications Operations Office, detailing the agency’s administration of FOI matters concerning the PCC. The Annual FOI Report shall contain detailed statistics on the number of FOI Requests and FOI Appeals received, processed, and pending at the PCC.
5. **“Appeals Committee”** shall refer to the Central Appeals and Review Committee.
6. **“Chairman”** shall refer to the PCC Chairman.
7. **“Consultation”** shall refer to the process of requesting the view or opinion of another government agency or office before any final decision is made as to the disclosability of records containing information of interest to such other government agency or office.
8. **“data.gov.ph”** shall refer to the Open Data website that serves as the government’s comprehensive portal for all public government data that is searchable, understandable, and accessible.
9. **“E.O. No. 2”** shall refer to Executive Order No. 2, series of 2016, entitled “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” on Freedom of Information.

10. **“eFOI.gov.ph”** shall refer to the website that serves as the government’s comprehensive FOI website for all information relating to 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 administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, so that they can be compared by agency and over time.
11. **“Exceptions”** shall refer to information that should not be released and disclosed in response to a FOI Request because they are protected by the Constitution, laws or jurisprudence. Such list of exceptions are attached to this Manual as **“Annex A”**
12. **“Executive Director”** shall refer to the PCC Executive Director.
13. **“FOI”** shall mean Freedom of Information. 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 E.O. No. 2. This right is indispensable to the exercise of the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making.
14. **“FOI Champion”** shall have the meaning provided in Section 1(3) of this Manual.
15. **“FOI Request”** shall refer to a written request submitted to the PCC personally or by email asking for records on any topic.
16. **“FOI Appeal”** or **“Administrative FOI Appeal”** shall have the meaning provided in Section 6(1) of this Manual.
17. **“FOI Receiving Office”** shall refer to the location and primary contact details of the PCC where a requesting party can refer or direct questions about the FOI process or a pending FOI Request.
18. **“FOI Decision Maker”** or **“FDM”** shall have the meaning provided under Section 1(5) of this Manual.
19. **“FOI Receiving Officer”** or **“FRO”** shall have the meaning provided under Section 1(4) of this Manual.
20. **“Full Denial”** shall refer to the disapproval of the PCC to provide information pursuant to a FOI Request due to the following:
 1. The PCC does not have the information requested;
 2. The information requested contains Sensitive Personal Information protected by the Data Privacy Act of 2012;
 3. The information requested falls under the list of Exceptions to FOI (attached as **Annex “A”**);
 4. The information requested pertains to internal deliberations of the Commission or of a PCC Office;
 5. The FOI Request is made by a person who is not a citizen of the Philippines; or
 6. The FOI Request is unreasonable, identical or substantially similar to an earlier request from the same requesting party and such earlier request had already been previously granted or denied by the PCC.
21. **“Full Grant”** shall refer to the approval of the PCC to provide information pursuant to a FOI Request resulting to the disclosure of such relevant records and information.

22. **“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.
23. **“Key Information”** shall have the meaning provided in Section 3(1) of this Manual.
24. **“Manual”** shall refer to this FOI Manual.
25. **“Open Data”** shall refer to publicly available data structured in a way that enables the data to be fully discoverable and usable by end users.
26. **“Partial Grant”** or **“Partial Denial”** shall refer to the situations where the PCC is able to disclose portions of the records in response to a FOI Request, but must deny other portions of the FOI Request.
27. **“PCC”** or **“Commission”** shall refer to the Philippine Competition Commission.
28. **“PCC Office”** shall refer to the Mergers and Acquisitions Office, Competition Enforcement Office, Economics Office, Communications & Knowledge Management Office, Financial Planning and Management Office, Administrative and Legal Office, or any other office thereafter created under the PCC.
29. **“PCC Official Website”** shall refer to phcc.gov.ph.
30. **“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.
31. **“Received Request”** shall refer to an FOI Request that an agency has received within a fiscal year.
32. **“Received Appeal”** shall refer to an Administrative FOI Appeal that an agency has received within a fiscal year.
33. **“Referral”** shall refer to the process wherein the final determination on the disclosable nature of a record is forwarded or passed on to another agency because such record has originated with, or is otherwise of primary importance and interest to such other agency.
34. **“Request Tracking System”** shall have the meaning provided in Section 8 of this Manual.
35. **“Requesting Party”** shall refer to a Filipino citizen who has made an FOI Request with the PCC.
36. **“Sensitive Personal Information”** shall refer to personal information as defined in the Data Privacy Act of 2012, which includes information:
 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 proceedings for any offense committed or alleged to have committed by such individual, 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: PROTECTION OF PRIVACY

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

1. The PCC shall ensure that Personal Information, particularly Sensitive Personal Information, in its custody or under its control is only disclosed to the extent permitted by existing laws;
2. The PCC shall protect Personal Information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure; and
3. The FRO, FDM, or any employee or official of the PCC who has access to Personal Information, whether authorized or unauthorized, in the custody of the PCC, shall not disclose that information except as authorized by existing laws.

SECTION 4: DESIGNATION OF FOI OFFICERS

The names and contact information of the FOI Champion, FDM, and FRO are provided in **Annex "B"**.

SECTION 5: STANDARD PROCEDURE

The receipt, assessment, and decision on FOI Request shall be governed by the following procedure:

1. Receipt of Request for Information.

- 1.1 The FRO shall receive the FOI Request from the requesting party and check compliance with the following requirements:
 1. The FOI Request must be in writing and addressed to the FRO;
 2. The FOI Request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization of the requesting party; and
 3. The FOI Request shall reasonably describe the Information requested, and the reason for, or purpose of such request.
 4. The FOI Request shall be substantially in the form attached hereto as **Annex "C"**.

The FOI Request can be made through email to the FRO's designated email address, provided that the requesting party shall attach in the email the scanned copies of (i) the FOI Request, and (ii) the requesting party's valid proof of identification or authorization.

The subject of the email should reasonably specify that that it is in the nature of an FOI Request.

- 1.2 In case the requesting party is unable to make a written FOI Request, because of illiteracy or due to being a person with disability, he or she may make an oral request, and the FRO shall document such oral request in writing.
- 1.3 The FOI Request shall be stamped received by the FRO, indicating the date and time of the receipt of the same, with a corresponding signature. A copy of the signed and stamped FOI Request shall be furnished to the requesting party.

In case of FOI Requests transmitted by email, the FOI Request attached to the email shall be printed out by the FRO. Thereafter, the printed FOI Request shall be stamped and signed in the same manner as FOI Requests personally received by the FRO. A scan of the printed FOI Request, as stamped and signed by the FRO, shall be transmitted in an acknowledgment email to be transmitted by the FRO to the requesting party.

The FRO shall input the details of each FOI Request on the Request Tracking System and allocate a reference number for the request.

- 1.4 The PCC must respond to requests promptly, within the fifteen (15) working days following the date of receipt of the FOI 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 the relevant periods under this Manual, Article 13 of the New Civil Code shall be observed.

The date of receipt of the FOI Request will be either:

1. The day on which the FOI Request is physically or electronically received by the FRO; or
2. If the FDM has asked the requesting party for further details to identify and locate the requested information, the day on which the necessary clarification is received by the FRO from the requesting party.

Notwithstanding the foregoing, where the FOI Request or necessary clarification, as the case may be, has been emailed by the requesting party to the FRO during his/her absence from the PCC, and this has generated an "out of office" message with instructions to the requesting party on how to re-direct the message to an Alternate FOI Receiving Officer, the date of receipt will be the day the FOI Request or necessary clarification arrives in the email inbox of such Alternate FOI Receiving Officer.

2. Initial Evaluation

After receipt of the FOI Request, the FRO shall evaluate the contents of the request and determine if such FOI Request falls under any of the following situations:

2.1 Requested information is not in the custody of the PCC

If the requested information is not in the custody of the PCC or any of its offices, the FRO shall, following Consultation and discussions with the FDM, undertake the following steps:

1. If the records requested refer to another government agency, the FRO shall refer the request to such appropriate government agency. The FOI Request shall be immediately transferred to such appropriate government agency through the most expeditious manner. The PCC shall, within fifteen (15) days, inform the requesting party that the Information is not in the custody of the PCC. The fifteen (15) working day requirement for the receiving government agency commences the day after such agency receives the FOI Request referred by the PCC.
2. If the records refer to an office not within the coverage of E.O. No. 2, the requesting party shall be advised accordingly and shall be provided with the contact details of that office, if known.

2.2. Requested information is already posted and available on-line

If the Information requested is already posted and publicly available in the PCC Official Website, data.gov.ph, or eFOI.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 unreasonable, substantially similar or identical to the previous request

If the Information requested is unreasonable, substantially similar or identical to a previous request by the same requesting party, the FOI Request shall be denied. However, the FRO shall inform the applicant of the reason of such denial. For purposes of this Manual, a FOI Request shall be deemed to be unreasonable if, among others, (i) the requesting party is not acting in good faith or for a legitimate purpose in making the request; (ii) the requesting party is already in possession of the requested information or records; or (iii) the FOI Request is a nuisance or is prejudicial to the efficient and effective implementation of the PCC's statutory mandate.

3. Transmittal of the FOI Request by the FRO to the FDM

After Initial Evaluation of the FOI Request, the FRO shall notify the FDM of such request. The copy of the FOI Request shall be forwarded to the FDM within one (1) day from receipt of the FRO of such request.

The FRO shall record the date, time and name of the FDM who received the request in a record book with the corresponding signature of acknowledgement of receipt of the FOI Request.

4. Role of FDM in processing the request

Upon receipt of the FOI Request from the FRO, the FDM shall assess the same and make all necessary steps to locate and retrieve the information requested. The FDM shall ensure that the complete information requested shall be submitted to the FRO within ten (10) days upon receipt of such request.

The FRO shall note the date and time of receipt of the information from the FDM and report to the FOI Champion in case the submission is beyond the prescribed ten (10)-day period.

If the FDM needs further details to identify or locate the information, he/she shall, through the FRO, seek clarification from the requesting party. The request for clarification shall stop the running of the fifteen (15) working day period and upon the FRO's receipt of the required clarification from the requesting party, the PCC shall have a fresh fifteen (15)-working day period to respond to the FOI Request.

If no clarification is received from the requesting party within thirty (30) calendar days from the date on which the requesting party had been informed of the FDM's request for clarification, the FOI Request shall be deemed to have been withdrawn.

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 FOI Champion and ensure the transmittal of such letter to the requesting party within the period prescribed under this Manual.

6. Extension of Period to Respond

The FDM may extend the period to respond to the FOI Request if (i) the information requested requires extensive search of PCC's office records facilities or examination of voluminous records; (ii) the processing of the FOI Request is impeded or prevented by the occurrence of fortuitous events; or (iii) other analogous cases. The FDM shall inform the FRO of the decision to extend the period to respond to the FOI Request, including the reason(s) invoked for such extension. The FRO shall then inform the requesting party of the extension, setting forth the reason(s) for such extension.

In no case shall the extension exceed twenty (20) working days, in addition to the mandated fifteen (15)-working day period to act on the FOI Request, unless exceptional circumstances warrant a longer period.

7. Grounds for Approval or Denial of the Request

The FDM may deny the FOI Request in cases where:

1. The PCC does not have the information requested;
2. The information requested contains Personal Information or Sensitive Personal Information protected by the Data Privacy Act of 2012;
3. The information requested falls under the list of Exceptions to FOI (attached as **Annex "A"**);
4. The information requested pertains to internal deliberations of the Commission or of a PCC Office;
or
5. The request is unreasonable, identical or substantially similar to an earlier request from the same requesting party and such earlier request had already been previously granted or denied by the PCC.

Otherwise, the FDM shall approve the FOI Request.

8. Notice to the Requesting Party of the Approval or Denial of the Request

Once the FDM approves or denies the FOI Request, he shall immediately notify the FRO, who shall then prepare the written response to the requesting party. Such written response shall be transmitted by the FRO to the requesting party by hand or by mail, electronic or otherwise. All actions on FOI Requests, whether approval or denial, shall be submitted to the FOI Champion for final approval.

9. Approval of Request

In case of approval, the FRO shall ensure that all records retrieved do not fall under any of the Exceptions, prior to actual release. The FRO shall prepare the cover/transmittal letter informing the requesting party that the request was granted and directing the payment of applicable fees, if any, within the prescribed period.

10. Denial of Request

In case of Full or Partial Denial of the request, the FRO shall, within the prescribed period, notify the requesting party of such Full or Partial Denial in writing. The notice shall clearly set forth the ground or grounds for the 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 be submitted to the FOI Champion for final approval.

SECTION 6: REMEDIES IN CASE OF DENIAL

A person whose request for access to information was subject to a Full Denial, Partial Grant, or Partial Denial, may avail himself of the remedies set forth below:

1. Administrative FOI Appeal to the Appeals Committee

The written appeal must be filed by the same requesting party within fifteen (15) calendar days from the notice of denial or, where no action was made on the FOI Request, from the lapse of the period to respond to such request. The appeal shall be decided by the Appeals Committee within thirty (30) working days from the filing of said written appeal. Where no decision on the appeal has been issued by the Appeals Committee within such thirty (30)-day period, said appeal shall be deemed to have been denied.

2. Upon exhaustion of Administrative FOI Appeal remedies under Section 6(1) hereof, the requesting party may file the appropriate judicial action under the Rules of Court.

SECTION 7: REQUEST TRACKING SYSTEM

The PCC shall establish a system to trace the status of all FOI Requests received by the Commission, which may be paper-based, electronic, or both.

The PCC may adopt a Multi-Track Processing system which classifies 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 separate tracks. FOI Requests granted expedited processing are placed in yet another track. FOI Requests in each track shall be processed on a first in/first out basis.

SECTION 8: FEES

1. No Request Fee

The PCC shall not charge any fee for accepting FOI Requests.

2. Reasonable Costs of Reproducing Records/Information

The requesting party shall bear the reasonable costs of reproducing records/information which may be incurred by the PCC in acting on the FOI Request. The FRO shall immediately notify the requesting party of such costs, if any. The PCC shall post a schedule of costs associated with the reproduction of records/information. Upon request, and for valid reasons, the PCC may exempt any requesting party from payment of such reproduction costs.

SECTION 9: ADMINISTRATIVE LIABILITY

1. Non-compliance with FOI

Unjustified failure to comply with the provisions of E.O. No. 2 shall be a ground for the imposition of the following administrative penalties against any erring officer or employee of the PCC:

- 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 anybody or agency, which provides for more stringent penalties.

SECTION 10: MISCELLANEOUS PROVISIONS

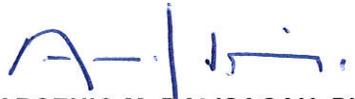
1. Legal Effect

Nothing in this Manual shall prejudice or constitute a waiver or amendment of the PCC's confidentiality and disclosure obligations under the Philippine Competition Act, its implementing rules and guidelines, and such other existing and applicable laws, rules, and regulations.

2. Modifications

This Manual may be modified, amended, supplemented, or repealed, as may be deemed necessary and proper by the Commission.

Approved, this 23rd day of November 2017.



ARSENIO M. BALISACAN, PhD
Chairman

ANNEX "A": LIST OF EXCEPTIONS

Pursuant to Section 4 of E.O. No. 2, access to information shall be denied when the information falls under any of the following types of information:

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 crime 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 proceeding 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; or
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

ANNEX "B": DESIGNATION OF OFFICERS

FOI Officer	Name	Contact information
FOI Champion	Kenneth V. Tanate	kvatanate@phcc.gov.ph
FOI Decision Maker	Gianfrancis S. Camacho	gscamacho@phcc.gov.ph
Alternate FOI Decision Makers	Nerissa J. de Jesus Joseph Giancarlo C. Agdamag	nndejesus@phcc.gov.ph jcagdamag@phcc.gov.ph
FOI Receiving Officer	Vivian Sarah J. Beltran	vcjuanson@phcc.gov.ph
Alternate FOI Receiving Officer	Nicky Jonna P. Pitallano	nppitallano@phcc.gov.ph

ANNEX "C": FOI REQUEST FORM

(Name of Agency)
(Address of Agency)

PORMULARYO NG KAHILINGAN (FOI)
FOI Request Form

TITULO NG DOKUMENTO / (Title of the Document): _____

MGA TAON/PANAHONG SAKLAW / (Year): _____

LAYUNIN / (Purpose): _____

PANGALAN / (Name): _____

CONTACT Nos.

LAGDA / (Signature): _____

PETSA / (Date): _____

TIRAHAN / (Address): _____

KATIBAYAN NG

PAGKAKAKILANLAN / (Proof of Identity): _____

Passport No. _____

PARAAN NG PAGTANGGAP NG IMPORMASYON

Driver's License _____

(How would you like to receive the information?)

Other _____

Email _____

Fax _____

Postal Address _____

Pick-up (Office hours) _____

.....
Gawaing itinalaga kay:

(Submitted to) _____

(Lumagda sa ibaba ng pangalang nakalimbag)

Petsa/Oras ng Pagkatalaga: _____

(Date / Time of Submission)

Taong nagpapatunay ng Gawaing Natapos: _____

(Certified by)

(Lumagda sa ibaba ng pangalang nakalimbag)

Uri ng isinagawang aksiyon:

(Type of action conducted)

Iniskedyul ni / (Received by):