

DEPARTMENT ORDER NO **2023-003**
SUBJECT: FREEDOM OF INFORMATION MANUAL
FOR THE DEPARTMENT OF FOREIGN AFFAIRS (DFA)

Title I

PRINCIPLES

Section 1. Legal Basis

Section 7 Article III of the 1987 Constitution guarantees the right of the people to information on matters of public concern, and provides that access to official records, documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law;

Section 28, Article 11 of the 1987 Constitution provides that 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;

Executive Order No. 2 (2016) was issued by the President to operationalize 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 provide guidelines therefor;

Executive Order No. 2 (2016) directs every government office to prepare its own People's Freedom of Information (FOI) Manual;

Executive Order No. 2 (2016) also mandates agencies in the Executive Department, including the DFA, to prescribe guidelines and procedures for handling requests for access to information, official records, and public records which are made, received, or kept in or under the control and custody of each agency;

The Supreme Court has ruled that while access to official records may not be prohibited, it may be regulated by a public officer pursuant to law or his inherent power to manage his office and the records under in custody, by exercising some discretion as to the manner in which persons desiring to inspect, examine, or copy the record may exercise their rights.

Section 2. Objectives

This FOI Manual (Manual) is intended to prescribe the requirements and procedures for the Department of Foreign Affairs (DFA) in dealing with requests for information received under Executive Order No. 2, "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 Therefor."

The DFA is committed to upholding the freedom of information and the implementation of a policy of full public disclosure of all its transactions involving public interest, in accordance with the Constitution, and consistent with applicable laws, rules, regulations and procedures, such as the Republic Act (R.A.) No. 10173, otherwise known as the "Data Privacy Act," the List of Exceptions approved by the Office of the President, and directives from the National Privacy Commission (NCP), among others.

Section 3. Structure of the Manual

This Manual shall set forth the rules and procedures to be followed by the DFA when a request for access to information is received. The Secretary of Foreign Affairs is responsible for all actions carried out under this Manual, with the initial evaluation delegated to the Department

Undersecretary in-charge of the information requested.

The Undersecretaries for Administration (UA), Bilateral Relations and ASEAN Affairs (UBRAA), Civilian Security and Consular Concerns (UCSCA), International Economic Relations (JMAIER), Migrant Workers' Affairs (UMWA) shall vet the FOI requests on their respective areas of concerns and recommend whether to release all the records, partially release the records or deny access.

Requests which involve legal issues may be referred to the Office of Treaties & Legal Affairs (OTLA) for legal opinion.

Section 4. Coverage of the Manual

The Manual shall cover all requests for information directed to the Department, which shall include the following offices:

- Home Office;
- Foreign Service Posts (FSPs) composed of Philippine Embassies, Consulates and Missions;
- Consular Office (COs); and
- Attached Agencies, namely the Foreign Service Institute (FSI), the Technical Cooperation Council of the Philippines (TCCP), and the UNESCC National Commission of the Philippines (UNACOM).

TITLE II

DEFINITION OF TERMS

Section 5. Definition of Terms

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

5.2. Annual FOI Report. A report to be filed each year with the Philippine Information Agency (PIA)¹, 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.

5.3. 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."

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

5.5. 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 administration of the FOI

¹ In view of Section 8 of Executive Order No. 2, s. 2022, stating that PIA shall absorb the Freedom of Information – Program Management Office, which was previously under the control and supervision of the PCDO, now also renamed as the Office of the Press Secretary (OPS).

by graphically displaying the detailed statistics contained in Annual FCI Reports, so that they can be compared by agency and overtime.

5.6. 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.

5.7. 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 effective and reasonable participation at all levels of social, political and economic decision-making.

5.8. FOI Contact. The name, address and phone number at each government office where you can make an FOI request.

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

5.10. 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.

5.11. Frequently Requested Information. Information released in response to an FOI request that the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records.

5.12. Full Denial. When the DFA cannot release any records in response to a FOI request. Possible reason could be that the requested information is exempt from disclosure in its entirety or no records responsive to the request could be located.

5.13. Full Grant. When a government office is able to disclose all records in full in response to an FOI request.

5.14. Home Office. Refers to the main office in the Philippines of the Department of Foreign Affairs.

5.15. 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.

5.16. 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.

5.17. 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.

5.18. 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.

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

5.20. 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.

5.21. 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.

5.22. 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.

5.23. Pending Request or Pending Appeal. An 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.

5.24. Perfected Request. An FOI request, which reasonably describes the records, sought and is made in accordance with the government office's regulations.

5.25. 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.

5.26. 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.

5.27. 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 client.

5.28. Received Request or Received Appeal. An FOI request or administrative appeal that an agency has received within a fiscal year.

5.29. 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 client. This process is called a "referral."

5.30. Sensitive Personal Information. As defined in the Data Privacy Act of 2012, shall refer to 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 or administrative body 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.

5.31. **Simple Request.** An FOI request that an agency anticipates will involve a small volume of material or which will be able to be processed relatively quickly.

Title III DEPARTMENT RESPONSIBILITIES

Section 6. Promotion of Openness in Government

6.1. Duty to Publish Information. The DFA 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 their 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.

6.2. Accessibility of Language and Form. The DFA shall endeavor to translate key information in Filipino and present them in popular form and means.

6.3. Keeping of Records. The DFA 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.

Section 7. Protection of Privacy

While providing for access to information, the DFA shall afford full protection to a person's right to privacy by observing the following measures:

- a. Ensure that personal information, particularly sensitive personal information, in its custody or under its control is disclosed only as permitted by existing laws;
- b. Protect personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure;
- c. Refrain from disclosing personal information in its custody, except as may be authorized by law.

TITLE IV

IMPLEMENTING DETAILS

Section 8. General Responsible Officers

8.1. FOI Receiving Officer: There shall be an FOI Receiving Officer (FRO) in the Home Office designated in the Department's Office of Public and Cultural Diplomacy. The functions of the FRO shall include the following:

- a. Receive on behalf of the DFA all requests for information submitted through e-mail,

postal mail, hand delivered by the requesting party or forwarded to the Home Office by FSPs and COs;

- b. Forward the request to the appropriate office which has custody of the records requested;
- c. Monitor all FOI requests and appeals;
- d. Provide assistance to the FOI Decision Maker;
- e. Provide assistance and support to the public and staff with regard to FOI;
- f. Compile statistical information as required;
- g. Conduct initial evaluation of the request and advise the requesting party whether the request will be forwarded to the FOI Decision Maker of the office concerned for further evaluation, or deny outright the request for any of the following reasons:

- Form submitted was incomplete;
- Information requested is available at the DFA official website, FOI.gov.ph., or at data.gov.ph.; and
- Document requested does not exist.

- h. Prepare the DFA's periodic and annual reports on its implementation of EO No. 2.

8.2. FOI Decision Maker: Assistant Secretaries are designated as the FOI Decision Maker (FDM) for their respective offices. In case the FDM is on official leave or travel overseas, the designated Head of Office assumes the responsibility as FDM. The concerned FDM shall conduct an evaluation of the request and recommend to the Undersecretary concerned the grant or denial of the request based on the following:

- a. The DFA 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 instant request is a duplicate of an earlier request from the same party decided on by the DFA.

8.3. Central Appeals and Review Committee. There shall be a Central Appeals and Review Committee composed of the Undersecretaries for Administration (UA) Bilateral Relations and ASEAN Affairs (UBRAA), Civilian Security and Consular Affairs (UCSCA), International Economic Relations (UMAIER), and Migrant Workers' Affairs (UMWA) to review and analyze the grant or denial of request of information. The Committee shall be assisted by the FRO and the FRO's Office to keep records of the proceedings of the Committee. The Committee shall also provide expert advice to the Secretary on the denial of such request.

Section 9. Procedure

9.1. Request for Information.

a. Requests for information may be submitted by a requesting party in the Home Office, FSPs, and COs. In the Home Office, requests are to be received by the FRO. Requests submitted through FSPs and COs are to be received by the designated officer of such office for immediate onward transmittal to the FRO in the Home Office.

- i. The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization;
- ii. The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information;
- iii. 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 and signature of the requesting party;
- iv. The request shall be stamped received, 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;

v. In case of email requests, the email shall be printed out and shall follow the procedure mentioned above, and be acknowledged by electronic mail and

b. In case the requesting party is unable to make a written request, because of illiteracy or due to a disability, he or she may make an oral request. The FRO in the Home Office, or the designated officer at the FSP or CO, where the request is submitted, shall reduce it in writing.

c. All requests shall be immediately submitted to the FRO in the Home Office.

i. All requests shall be stamped received by the FRO indicating the date and time of receipt and the name, rank, title and position of the public officer who actually received the request;

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

d. The DFA must respond to requests promptly, within the period of fifteen (15) working days 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, holidays observed by the local governments where the Home Office, COs are located or by the host country for FSPs. 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:

i. 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

ii. 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' auto reply with instructions on how to re-direct the message to an alternate contact. Where this is the case, the date of receipt will be the day the request arrives in the inbox of the alternate contact.

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

9.2. Identical or Substantially Similar Requests

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

In connection therewith, the DFA reserves the right to require additional information about the requesting party, the purpose of the inquiry, and his/her particular interest in the requested information.

9.3. Initial Evaluation.

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

a. **Request relating to more than one office under the DFA.** If a request for information received requires coordination among different offices, the FRO shall forward such request to all concerned offices and monitor their compliance. The FRO shall also remind the FDMs to only provide the specific information that relates to the issue handled by their office. The concerned offices shall undertake close consultation to ensure that no undue delay of the processing of the request results under the circumstances.

b. **Requested information is not in the custody of the DFA.** If the requested information is not in the custody of the DFA, following referral and discussions with the FDM, the FRO shall undertake the following steps:

i. If the records requested refer to another department of the executive branch, the request will be immediately transferred to the appropriate departments' FRO through the most expeditious manner. It shall be the responsibility of the DFA's FRO to promptly inform the requesting party that the request has been transferred to another agency and provide the requesting party with the contact details of the receiving department's FRO within the fifteen (15) working day limit from the receipt date of the request.

ii. If the records refer to an office not within the coverage of E.O. No. 2, more particularly the legislative and judicial branches of government the requesting party shall be advised by the FRO accordingly and provided with the contact details of that concerned legislative or judicial office, if known.

c. **Requested information is already posted and available on-line.** Should the information being requested is already posted and publicly available on the DFA website, data.gov.ph or eFOI.gov.ph, the FRO shall inform the requesting party of the said fact and provide him/her the website link where the information is posted.

d. **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 CLIENT, the request shall be denied. However, the FRO shall inform the applicant of the reason for the denial.

9.4. Transmittal of Request by the FRO to the Concerned Office at the Home Office. After receipt of the request for information, the FRO shall evaluate the information being requested and notify the FDM/s of the concerned office/s. The copy of the request shall be forwarded to the concerned office within one (1) day from receipt of the written request. The FRO shall record the date, time and name of the person who received the request in a record book with the corresponding signature of acknowledgement of receipt of the request.

9.5. Role of FDM in processing the request. Upon receipt of the request for information, the FDM shall assess and clarify the request if necessary. The FDM shall ensure that the complete information requested be submitted to the FRO not later than twelve (12) working days upon receipt of such request.

If further details are necessary to identify or locate the information requested, the FDM shall, through the FRO, seek clarification from the requesting party. The clarification shall stop the running of the fifteen-working day period and will commence the day after the required clarification is officially received from the requesting party.

If a record contains information of interest to another government agency or private entity, the FDM shall promptly consult with the agency or entity concerned on the disclosability of the records before making any final determination.

9.6. Role of FRO to transmit the information to the requesting party. Upon receipt of the requested information, the FRO shall ensure its transmittal to the requesting party within fifteen (15) working days upon receipt of the request.

9.7. Request for an Extension of Time. If the information requested requires extensive

search of the government's office records facilities, examination of voluminous records, or is subjected to the occurrence of fortuitous events or other analogous cases, the FDM shall promptly inform the FRO in writing.

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.

9.8. Approval of Request. The FDM transmits the draft letter with the requested information for the consideration and signature of the supervising Undersecretary and forwards the approval with the requested information to the FRO. The FRO shall prepare a letter or email to inform the requesting party that the request was granted, direct the payment of applicable fees, if any, and coordinate with the requesting party for the release or delivery of the requested document.

9.9. Denial of Request. In case the request is to be denied, either wholly or partly, the FDM shall prepare a letter of denial, setting forth the ground/s for denial, for the consideration and signature of the supervising Undersecretary. The FRO shall then inform the client of the decision to deny his/her request. 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.

Section 10. Exceptions

10.1. Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing laws or jurisprudence.

10.2. Access shall also be denied if the requested information falls under the Inventory of Exceptions circularized by the Office of the President and prepared by the Department of Justice and the Office of the Solicitor General.

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

10.4. If the request for information is determined to be frivolous, capricious, malicious, or intended to vex, harass, intimidate, criticize or otherwise expose the Department or any of its officials and employees to embarrassment, ridicule or contempt, the same shall be forthwith denied, without prejudice to any legal action that may be taken against the requesting party.

Section 11. 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:

11.1. Administrative FOI Appeal to the Central Appeals and Review Committee

a. Denial of the request may be appealed by filing a written request to the Central Appeals and Review Committee, provided that the request for appeal is filed by the client 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 Secretary upon the recommendation of the Central Appeals and Review Committee 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.

11.2. Administrative Appeal to the Office of the President. The denial of the Appeal by the Secretary 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.

11.3. Judicial Review. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

TITLE V FORMS AND FEES

Section 12. Standard Request for Information Form

The DFA shall prescribe standard forms for the submission of requests and for the proper acknowledgment of such requests.

Section 13. Request Tracking System

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

Section 14. Fees

14.1. No Request Fee. The DFA shall not charge any fee for accepting requests for access to information except as provided in the following provision.

14.2. Reasonable Cost of Reproduction and Copying of the Information. The DFA shall charge a reasonable fee to reimburse the costs of providing the information, including the costs of reproduction and copying of the information, subject to the accounting and auditing rules and regulations.

Title VI ADMINISTRATIVE LIABILITY

Section 15. 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;
- c. 3rd Offense - Suspension of one (1) month to three (3) months;
- d. 4th Offense - Suspension of six (6) months;
- e. 5th Offense - Suspension of one (1) year; and
- f. 6th Offense - Dismissal from the service.

Section 16. Procedure for Administrative Cases

The Revised Rules on Administrative Cases in the Civil Service and relevant rules and regulations of the DFA on administrative cases shall be applicable in the disposition of cases arising from the implementation of E.O. No. 2 through this Manual.

Section 17. Provisions for More Stringent Laws, Rules and Regulations

Nothing in this Manual shall be construed to derogate from any law for more stringent penalties.

TITLE VII MISCELLANEOUS PROVISIONS

Section 18. 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, or is determined to be without any legitimate purpose.

Section 19. 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 and effect.

Section 18. Repealing Clause

All orders, rules and regulations, memoranda, circular and issuances or any part thereof inconsistent with the provisions of this Manual are hereby repealed, amended or modified accordingly.

Section 19. Effectivity

The Department Order shall take effect fifteen (15) days from the date of its filing with the Office of the National Administrative Register (ONAR) of the University of the Philippines (UP) Law Center.


ENRIQUE A. MANALO
Secretary of Foreign Affairs

JAN 27 2023

ANNEX A

DFA Freedom of Information Receiving Office

Email:	opd.div1@dfa.gov.ph
Telephone:	+63 (2) 834 4483
Fax:	+63 (2) 834 3307
Address:	DoubleDragon Tower, DD Meridian Avenue, Edsa Extension, Pasay City, Metro Manila, 1302, Philippines