

**POLOMOK WATER DISTRICT
FREEDOM OF INFORMATION
PEOPLE'S MANUAL**

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I. Overview

Purpose

This PolWD FOI People's Manual is to provide the process to guide and assist the **POLOMOLOK WATER DISTRICT (PolWD)** in dealing with requests of information received under Executive Order (E.O.) No. 2 on Freedom of Information (FOI). **(Annex "A")**

Structure of the Manual

This Manual shall set out the rules and procedures to be followed by the PolWD when a request for access to information is received. The General Manager is responsible for all actions carried out under this Manual and may delegate this responsibility to key personnel of the PolWD as may be designated from time to time and as approved by the Board of Directors. The General Manager may likewise delegate specific officers to act as the Decision Makers (DMs), who 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).

Coverage of the Manual

The Manual shall cover all requests for information directed to PolWD.

FOI Receiving Officer/s (FROs) and Functions

There shall be an FOI Receiving Officer/s (FRO) designated at PolWD. The FRO shall hold office at the Admin Office or at the Office of the General Manager and shall perform the following functions:

1. Receive all requests for information and conduct initial evaluation of the request;
2. Advise the requesting party on whether the request will be forwarded to the FOI Decision Maker for further evaluation, or, if the information is already in the PolWD website, advice the requestor accordingly;
3. Forward the request to the appropriate FOI Decision Maker who has custody of the records;

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Approved by:

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General Manager

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4. Monitor and expedite all FOI requests and appeals;
5. Provide assistance to the FOI Decision Maker/s;
6. Provide assistance and support to the public and staff with regard to FOI;
7. Compile statistical information as required on requests of FOI nature.

FOI Decision Maker/s (FDMs) and Functions

The various department/division managers of PolWD are designated as the FOI Decision Maker/s (FDM). The FDM shall have the following functions:

1. Evaluate the request for information;
2. Endorse to the Administrator the grant of the request either completely or partially, or denial of the request.

The Administrator and Functions

The administrator shall refer to the General Manager (GM) of PolWD who makes the final decision on the approval or denial of the request. In case where the Administrator is on official leave, the Officer-in-Charge will be designated on his/her behalf.

Bases for Denial of Request

A request can be evaluated for denial on the following grounds:

1. PolWD does not have the information requested;
2. The information requested contains sensitive personal information protected by the Data Privacy Act of 2012; (**Annex "B"**)
3. The information requested falls under the list of exceptions to FOI; or
4. The request is an identical or substantially similar information requested by the same requesting party which had already been previously granted or denied by PolWD.
5. The requested information is already posted in the PolWD website

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FOI Appeals and Review Committee (FARC) and Functions

There shall be an FOI Appeals and Review Committee composed of three (3) employees designated by the General Manager to review and analyze the grant or denial of request of information. The Committee shall endorse to the Administrator the proper response/action on the appeal. The Administrator makes the final decision on the appeal taking into consideration the endorsement of the Committee.

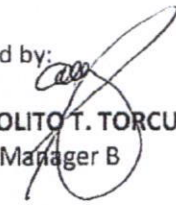
II. Glossary and Definition of Terms

- Consultation** - A process when a government office locates a record that contains information of interest to another office or another person, it will ask for the views of that other agency on the disclosability of the records before any final determination is made.
- Exceptions** - Information that should not be released and disclosed in response to an 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 effective and reasonable participation at all levels of social, political and economic decision-making.
- FOI Contact** - The name, address and phone number of PoLWD where you can make an FOI request.
- FOI Request** - A written request submitted to PoLWD office personally or by email asking for records on any topic.
- FOI Receiving Office** - Refers to PoLWD office where the requesting party can call and ask questions about the FOI process or the pending FOI request.

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Frequently Requested Information

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

Full Denial

- When PoIWD cannot release any records in response to an 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 PoIWD office is able to disclose all records in full in response to an FOI request.

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 PoIWD pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of its official business.

Information for Disclosure

- Information promoting the awareness and understanding of policies, programs, activities, rules or revisions affecting the public, PoIWD, 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 PoIWD website, without need for written requests from the public.

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.

Official Record/s

- Shall refer to information produced or received by officer or employee of PoIWD 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.

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[Signature]
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- Partial Grant/Partial Denial** - When PolWD is able to disclose portions of the records in response to an FOI request, but must deny other portions of the request.
- Pending Request or Pending Appeal** - An FOI request or administrative appeal for which PolWD 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** - An FOI request, which reasonably describes the records sought and is made in accordance with the PolWD's regulations.
- 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.
- Proactive Disclosure** - Information made publicly available by PolWD without waiting for a specific FOI request.
- Processed Request or Processed Appeal** - The number of requests or appeals where PolWD has completed its work and sent a final response to the requester.
- Public Records** - Shall include information required by laws, executive orders, rules, or regulations to be entered, kept, and made publicly available by PolWD.
- Public Service Contractor** - Shall be defined as a private entity that has dealing, contract, or a transaction of whatever form or kind with PolWD.
- Received Request or Received Appeal** - An FOI request or administrative appeal that PolWD has received within a fiscal year.
- Referral** - A process when PolWD 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.

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Sensitive Personal Information

- As defined in the Data Privacy Act of 2012, shall refer to personal information:
 1. About an individual race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
 2. About an individual health, education, genetic or sexual life of a person, or to any proceedings for any offense committed or alleged to have committed by such person, the disposal of such proceedings or the sentence of any court in such proceedings;
 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.

Simple Request

- An FOI request that PolWD anticipates will involve a small volume of material or which it will be able to process relatively quickly.

III. Protection of Privacy

1. While providing for access to information, the PolWD shall afford full protection to a person's right to privacy, pursuant to the Data Privacy Act of 2012, (**Annex "B"**), to wit:
 - a. The PolWD 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 PolWD 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 PolWD, shall not disclose that information except as authorized by existing laws.
2. Requests and release of information pertaining to personnel records shall be made pursuant to CSC Memorandum Circular No. 56, s. 1990

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IV. Standard Procedure

1. Receipt of Request for Information

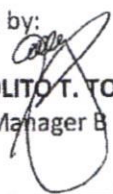
- a. The FOI Receiving Officer (FRO) shall receive the request for information from the requesting party and check compliance of the following requirements:
- The request must be in writing;
 - The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification or authorization;
 - The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information. (**Annex "F-1"**) and
 - The request can be made through e-mail at *foi_polwd@yahoo.com.ph*, or fax at Tel. No. (083)500-8008 provided that a scanned copy of the FOI application request which can be downloaded at PolWD website (www.polwaterdistrict.gov.ph) and a duly recognized government ID shall be attached.
- b. In case the requesting party is unable to make a written request, because of illiteracy or due to being a person with disability, he or she may make a request in person, and to be assisted by the FRO.
- c. 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 shall also be acknowledged by electronic mail. The FRO shall input the details of the request on the FOI Record Book and thru electronic means.

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d. The PolWD must respond to requests promptly, within 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 local and 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:

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

Should the requested information need further details to identify or locate, then the fifteen (15) working days will commence the day after it receives the required clarification from the requesting party. If no clarification is received from the requesting party after sixty (60) calendar days, the request shall be closed.

2. Evaluation of the Request:

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

a. Request relating to more than one unit under the PolWD

If a request for information is received which requires to be complied with by different units, the FRO shall forward such request to the units concerned and ensure that it is well coordinated and monitor its compliance. The FRO shall also clear with the respective units that they will only provide the specific information that relates to their offices.

b. Requested information is not in the custody of the PolWD

If the requested information is not in the custody of the PolWD following referral and discussions with the concerned FDM, the FRO shall undertake the following steps:

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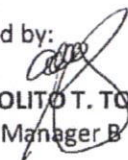
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- If the records requested refer to another government agency, the request will be immediately transferred to such appropriate agency through the most expeditious manner and the PolWD (as transferring office) must inform the requesting party that the information is not held within the 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 (i.e., private company), the requesting party shall be advised accordingly and provided with the contact details of that office, if known.
- c. Requested information is already posted and available on PolWD website
Should the information being requested is already posted and publicly available in the PolWD's website, the FRO shall inform the requesting party of the said fact and provide them 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 requester, the request shall be denied. However, the FRO shall inform the applicant of the reason of such denial.
- e. Requested information is under the Exception List
If the requested information is covered in the Exception List, the FRO shall consult with the concerned FDM if the requested document can indeed not be given to the requesting party. The requesting party should be properly informed of the denial and the reason for the denial. Covered under the Exception List are the following information:
- Minimum Performance Standards and Specifications (MPSS)
 - Bidding Documents prior to Advertisement, pursuant to R.A. 9184 or the Government Procurement Reform Act
 - Those to be provided by the Presidential Communications Operations Office (PCOO)

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f. Requested information is under Restricted Information

If the requested information is under the Classified Information List, the FRO should consult with the concerned FDM regarding the necessary precautionary procedure before releasing the requested information, or denial of the request, whichever is applicable, pursuant to MC No. 78, s. 1964 and other pertinent laws. Covered in the Restricted List are the following information:

- Transcripts and Minutes of the Board Meetings
- Bidding documents after submission, pursuant to R.A. 9184
- Personal information pursuant to Data Privacy Act of 2012, CSC MC No. 56, s. 1990 and other pertinent laws

3. Transmittal from FRO to 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 concerned 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 acknowledgement of receipt of the request.

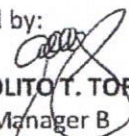
4. Processing the request

Upon 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 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 receipt of such request. In case the submission is beyond the 10-day period, the FRO shall note the date and time of receipt of the information from the FDM and report to the PolWD Administrator or his/her designate. If the FDM needs

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further details from the requesting party 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 working day period which will commence the day after it receives the required clarification from the requesting party.

5. Role of FRO to Transmit the Clarificatory information of the FDM to the Requesting Party

Upon receipt of the requested clarificatory information from the FDM, the FRO shall ensure that the requested information is complete. He shall attach a cover/transmittal letter signed by the PolWD Administrator or his/her designate and ensure the transmittal of such to the requesting party within 15 working days upon receipt of the request for more information.

6. Request for an Extension of Time

The FDM should inform the FRO If the information requested requires extensive search of the PolWD's office records facilities, or examination of voluminous records. 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 Decision

The FDM endorses the approval or denial of the request to the Administrator who shall make the final decision on PolWD's action on the request. The FRO shall prepare the final response of PolWD to the requesting party either in writing or by email.

a. Approval of Request

In case of approval, the FRO, in consultation with the FDM, shall ensure that all records that have been retrieved and considered be checked for possible

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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.

b. 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.

V. Remedies in Case of Denial of Request


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 FOI 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 a request may be appealed by filing a written appeal to the PolWD FOI Appeals and Review Committee 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 FOI Administrator upon the recommendation of the FOI Appeals and Review Committee within thirty (30) working days from the filing of said written appeal. Failure to decide within this prescribed period shall be deemed a denial of the appeal.
2. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

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VI. Request Tracking System

The PolWD 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. The information on the said tracking system will form the bases for the contents of the Annual FOI Report to be submitted to the PCOO.

VII. Fees

1. No Request Fee

The PolWD 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 PolWD in providing the information to the requesting party. The schedule of fees shall be posted by the PolWD.

3. Exemption from Fees

The PolWD may exempt any requesting party from payment of fees, upon request stating the valid reason why such requesting party shall not pay the fee.

VIII. Administrative Liability

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


IX. Approval

This Manual is hereby approved and adopted per Board Resolution No. 17-41, Series of 2017 dated September 28, 2017 at Polomolok Water District, Polomolok, South Cotabato, Philippines.

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MALACANAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

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

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

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

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

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

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

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

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

THE PRESIDENT OF THE PHILIPPINES

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

- (a) "Information" shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recordings, magnetic or other tapes, electronic data, computer-stored data, or any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.
- (b) "Official record/records" shall refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.
- (c) "Public record/records" shall include information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by a government office.

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

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

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

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

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

Said inventory of exceptions shall periodically be updated to properly reflect any change in existing law and jurisprudence and the Department of Justice and the Office of the Solicitor General are directed to update the inventory of exceptions as

the need to do so arises, for circularization as hereinabove stated

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

SECTION 6. Application and Interpretation. There shall be a legal presumption in favor of access to information, public records and official records. No request for information shall be denied unless it clearly falls under any of the exceptions listed in the inventory or updated inventory of exceptions circularized by the Office of the President as provided in Section 4 hereof.

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 him in writing.

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

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

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

SECTION 8. People's Freedom of Information (FOI) Manual. For the effective implementation of this Order, every government office is directed to prepare within one hundred twenty (120) calendar days from the effectivity of this Order, its

own People's FOI Manual, which shall include, among others, the following information:

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

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

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

notify the person making the request of such extension, setting forth the reasons for the extension. In no case shall the extension go beyond twenty (20) working days counted from the end of the original period, unless exceptional circumstances warrant a longer period.

- (f) Once a decision is made to grant the request, the person making the request shall be notified of such decision and directed to pay any applicable fees.

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

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

SECTION 12. Notice of Denial. If the government office decides to deny the request wholly or partially, it shall, as soon as practicable and within fifteen (15) working days from the receipt of the request, 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 for access to information.

SECTION 13. Remedies in Case of Denial of Request for Access to Information. A person whose request for access to information has been denied may avail himself of the remedies set forth below:

- (a) Denial of any request for access to information may be appealed to the person or office next higher in authority, following the procedure mentioned in Section 8 (f) of this Order. Provided, that the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.
- (b) The appeal shall be decided by the person or office next higher in authority within thirty (30) working days from the filing of said written appeal. Failure of such person or office to decide within the afore-stated period shall be deemed a denial of the appeal.
- (c) Upon exhaustion of administrative appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 14. Keeping of Records. Subject to existing laws, rules, and regulations, government offices shall create and/or maintain accurate and reasonably complete records of important information in appropriate formats, and implement a

records management system that facilitates easy identification, retrieval and communication of information to the public.

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

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

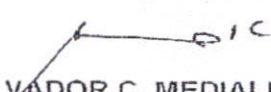
SECTION 17. Separability Clause. If any section or part of this Order is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force and effect.

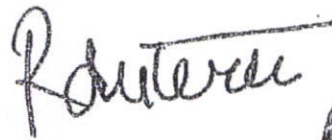
SECTION 18. Repealing Clause. All orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Executive Order are hereby repealed, amended or modified accordingly: *Provided*, that the provisions of Memorandum Circular No. 78 (s. 1964), as amended, shall not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

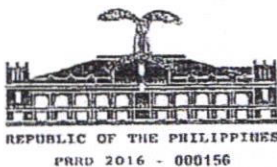
SECTION 19. Effectivity. This Order shall take effect immediately upon publication in a newspaper of general circulation.

Done, in the City of Manila, this 23rd day of July in the year of our Lord Two Thousand and Sixteen.

By the President:


SALVADOR C. MEDIALDEA
Executive Secretary





CERTIFIED COPY:

MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACANANG RECORDS OFFICE

S. No. 2965
H. No. 4115

Republic of the Philippines
Congress of the Philippines
Metro Manila
Fifteenth Congress
Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-fifth day of July, two thousand eleven.

—■—
[REPUBLIC ACT No. 10173]

AN ACT PROTECTING INDIVIDUAL PERSONAL INFORMATION IN INFORMATION AND COMMUNICATIONS SYSTEMS IN THE GOVERNMENT AND THE PRIVATE SECTOR, CREATING FOR THIS PURPOSE A NATIONAL PRIVACY COMMISSION, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* — This Act shall be known as the "Data Privacy Act of 2012".

SEC. 2. *Declaration of Policy.* - It is the policy of the State to protect the fundamental human right of privacy of communication while ensuring free flow of information to promote innovation and growth. The State recognizes the vital role of information and communications technology in nation-building and its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are secured and protected.

SEC. 3. *Definition of Terms.* - Whenever used in this Act, the following terms shall have the respective meanings hereafter set forth:

(a) *Commission* shall refer to the National Privacy Commission created by virtue of this Act.

(b) *Consent of the data subject* refers to any freely given, specific, informed indication of will, whereby the data subject agrees to the collection and processing of personal information about and/or relating to him or her. Consent shall be evidenced by written, electronic or recorded means. It may also be given on behalf of the data subject by an agent specifically authorized by the data subject to do so.

(c) *Data subject* refers to an individual whose personal information is processed.

(d) *Direct marketing* refers to communication by whatever means of any advertising or marketing material which is directed to particular individuals.

(e) *Filing system* refers to any set of information relating to natural or juridical persons to the extent that, although the information is not processed by equipment operating automatically in response to instructions given for that purpose, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular person is readily accessible.

(f) *Information and Communications System* refers to a system for generating, sending, receiving, storing or otherwise processing electronic data messages or electronic documents and

includes the computer system or other similar device by or which data is recorded, transmitted or stored and any procedure related to the recording, transmission or storage of electronic data, electronic message, or electronic document.

(g) *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.

(h) *Personal information controller* refers to a person or organization who controls the collection, holding, processing or use of personal information, including a person or organization who instructs another person or organization to collect, hold, process, use, transfer or disclose personal information on his or her behalf. The term excludes:

(1) A person or organization who performs such functions as instructed by another person or organization; and

(2) An individual who collects, holds, processes or uses personal information in connection with the individual's personal, family or household affairs.

(i) *Personal information processor* refers to any natural or juridical person qualified to act as such under this Act to whom a personal information controller may outsource the processing of personal data pertaining to a data subject.

(j) *Processing* refers to any operation or any set of operations performed upon personal information including, but not limited to, the collection, recording, organization, storage, updating or modification, retrieval, consultation, use, consolidation, blocking, erasure or destruction of data.

(k) *Privileged information* refers to any and all forms of data which under the Rules of Court and other pertinent laws constitute privileged communication.

(l) *Sensitive personal information* refers to personal 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 proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;

(3) Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and

(4) Specifically established by an executive order or an act of Congress to be kept classified.

SEC. 4. *Scope.* - This Act applies to the processing of all types of personal information and to any natural and juridical person involved in personal information processing including those personal information controllers and processors who, although not found or established in the Philippines, use equipment that are located in the Philippines, or those who maintain an office, branch or agency in the Philippines subject to the immediately succeeding paragraph: *Provided,* That the requirements of Section 5 are complied with.

This Act does not apply to the following:

(a) Information about any individual who is or was an officer or employee of a government institution that relates to the position or functions of the individual, including:

(1) The fact that the individual is or was an officer or employee of the government institution;

(2) The title, business address and office telephone number of the individual;

(3) The classification, salary range and responsibilities of the position held by the individual; and

(4) The name of the individual on a document prepared by the individual in the course of employment with the government;

(b) Information about an individual who is or was performing service under contract for a government institution that relates to the services performed, including the terms of the contract, and the name of the individual given in the course of the performance of those services;

(c) Information relating to any discretionary benefit of a financial nature such as the granting of a license or permit given by the government to an individual, including the name of the individual and the exact nature of the benefit;

(d) Personal information processed for journalistic, artistic, literary or research purposes;

(e) Information necessary in order to carry out the functions of public authority which includes the processing of personal data for the performance by the independent central monetary authority and law enforcement and regulatory agencies of their constitutionally and statutorily mandated functions. Nothing in this Act shall be construed as to have amended or repealed Republic Act No. 1405, otherwise known as the Secrecy of Bank Deposits Act; Republic Act No. 6426, otherwise known as the Foreign Currency Deposit Act; and Republic Act No. 9510, otherwise known as the Credit Information System Act (CISA);

(f) Information necessary for banks and other financial institutions under the jurisdiction of the independent central monetary authority or Bangko Sentral ng Pilipinas to comply with Republic Act No. 9510, and Republic Act No. 9160, as amended, otherwise known as the Anti-Money Laundering Act and other applicable laws; and

(g) Personal information originally collected from residents of foreign jurisdictions in accordance with the laws of those foreign jurisdictions, including any applicable data privacy laws, which is being processed in the Philippines.

SEC. 5. *Protection Afforded to Journalists and Their Sources.* - Nothing in this Act shall be construed as to have amended or repealed the provisions of Republic Act No. 53, which affords the publishers, editors or duly accredited reporters of any newspaper, magazine or periodical of general circulation protection from being compelled to reveal the source of any news report or information appearing in said publication which was related in any confidence to such publisher, editor, or reporter.

SEC. 6. *Extraterritorial Application.* - This Act applies to an act done or practice engaged in and outside of the Philippines by an entity if:

(a) The act, practice or processing relates to personal information about a Philippine citizen or a resident;

(b) The entity has a link with the Philippines, and the entity is processing personal information in the Philippines or even if the processing is outside the Philippines as long as it is about Philippine citizens or residents such as, but not limited to, the following:

(1) A contract is entered in the Philippines;

(2) A juridical entity unincorporated in the Philippines but has central management and control in the country; and

(3) An entity that has a branch, agency, office or subsidiary in the Philippines and the parent or affiliate of the Philippine entity has access to personal information; and

(c) The entity has other links in the Philippines such as, but not limited to:

(1) The entity carries on business in the Philippines; and

(2) The personal information was collected or held by an entity in the Philippines.

CHAPTER II

THE NATIONAL PRIVACY COMMISSION

SEC. 7. *Functions of the National Privacy Commission.*
— To administer and implement the provisions of this Act, and to monitor and ensure compliance of the country with international standards set for data protection, there is hereby created an independent body to be known as the National Privacy Commission, which shall have the following functions:

(a) Ensure compliance of personal information controllers with the provisions of this Act;

(b) Receive complaints, institute investigations, facilitate or enable settlement of complaints through the use of alternative dispute resolution processes, adjudicate, award indemnity on matters affecting any personal information, prepare reports on disposition of complaints and resolution of any investigation it initiates, and, in cases it deems appropriate, publicize any such report: *Provided*, That in resolving any complaint or investigation (except where amicable settlement is reached by the parties), the Commission shall act as a collegial body. For this purpose, the Commission may be given access to personal information that is subject of any complaint and to collect the information necessary to perform its functions under this Act;

(c) Issue cease and desist orders, impose a temporary or permanent ban on the processing of personal information, upon finding that the processing will be detrimental to national security and public interest;

(d) *Compel or petition* any entity, government agency or instrumentality to abide by its orders or take action on a matter affecting data privacy;

(e) Monitor the compliance of other government agencies or instrumentalities on their security and technical measures and recommend the necessary action in order to meet minimum standards for protection of personal information pursuant to this Act;

(f) Coordinate with other government agencies and the private sector on efforts to formulate and implement plans and

policies to strengthen the protection of personal information in the country;

(g) Publish on a regular basis a guide to all laws relating to data protection;

(h) Publish a compilation of agency system of records and notices, including index and other finding aids;

(i) Recommend to the Department of Justice (DOJ) the prosecution and imposition of penalties specified in Sections 25 to 29 of this Act;

(j) Review, approve, reject or require modification of privacy codes voluntarily adhered to by personal information controllers: *Provided*, That the privacy codes shall adhere to the underlying data privacy principles embodied in this Act: *Provided, further*, That such privacy codes may include private dispute resolution mechanisms for complaints against any participating personal information controller. For this purpose, the Commission shall consult with relevant regulatory agencies in the formulation and administration of privacy codes applying the standards set out in this Act, with respect to the persons, entities, business activities and business sectors that said regulatory bodies are authorized to principally regulate pursuant to the law: *Provided, finally*, That the Commission may review such privacy codes and require changes thereto for purposes of complying with this Act;

(k) Provide assistance on matters relating to privacy or data protection at the request of a national or local agency, a private entity or any person;

(l) Comment on the implication on data privacy of proposed national or local statutes, regulations or procedures, issue advisory opinions and interpret the provisions of this Act and other data privacy laws;

(m) Propose legislation, amendments or modifications to Philippine laws on privacy or data protection as may be necessary;

(n) Ensure proper and effective coordination with data privacy regulators in other countries and private accountability

agents, participate in international and regional initiatives for data privacy protection;

(o) Negotiate and contract with other data privacy authorities of other countries for cross-border application and implementation of respective privacy laws;

(p) Assist Philippine companies doing business abroad to respond to foreign privacy or data protection laws and regulations; and

(q) Generally perform such acts as may be necessary to facilitate cross-border enforcement of data privacy protection.

SEC. 8. *Confidentiality.* - The Commission shall ensure at all times the confidentiality of any personal information that comes to its knowledge and possession.

SEC. 9. *Organizational Structure of the Commission.* - The Commission shall be attached to the Department of Information and Communications Technology (DICT) and shall be headed by a Privacy Commissioner, who shall also act as Chairman of the Commission. The Privacy Commissioner shall be assisted by two (2) Deputy Privacy Commissioners, one to be responsible for Data Processing Systems and one to be responsible for Policies and Planning. The Privacy Commissioner and the two (2) Deputy Privacy Commissioners shall be appointed by the President of the Philippines for a term of three (3) years, and may be reappointed for another term of three (3) years. Vacancies in the Commission shall be filled in the same manner in which the original appointment was made.

The Privacy Commissioner must be at least thirty-five (35) years of age and of good moral character, unquestionable integrity and known probity, and a recognized expert in the field of information technology and data privacy. The Privacy Commissioner shall enjoy the benefits, privileges and emoluments equivalent to the rank of Secretary.

The Deputy Privacy Commissioners must be recognized experts in the field of information and communications technology and data privacy. They shall enjoy the benefits,

privileges and emoluments equivalent to the rank of Undersecretary.

The Privacy Commissioner, the Deputy Commissioners, or any person acting on their behalf or under their direction, shall not be civilly liable for acts done in good faith in the performance of their duties. However, he or she shall be liable for willful or negligent acts done by him or her which are contrary to law, morals, public policy and good customs even if he or she acted under orders or instructions of superiors: *Provided*, That in case a lawsuit is filed against such official on the subject of the performance of his or her duties, where such performance is lawful, he or she shall be reimbursed by the Commission for reasonable costs of litigation.

SEC. 10. *The Secretariat.* - The Commission is hereby authorized to establish a Secretariat. Majority of the members of the Secretariat must have served for at least five (5) years in any agency of the government that is involved in the processing of personal information including, but not limited to, the following offices: Social Security System (SSS), Government Service Insurance System (GSIS), Land Transportation Office (LTO), Bureau of Internal Revenue (BIR), Philippine Health Insurance Corporation (PhilHealth), Commission on Elections (COMELEC), Department of Foreign Affairs (DFA), Department of Justice (DOJ), and Philippine Postal Corporation (Philpost).

CHAPTER III

PROCESSING OF PERSONAL INFORMATION

SEC. 11. *General Data Privacy Principles.* - The processing of personal information shall be allowed, subject to compliance with the requirements of this Act and other laws allowing disclosure of information to the public and adherence to the principles of transparency, legitimate purpose and proportionality.

Personal information must be:

(a) Collected for specified and legitimate purposes determined and declared before, or as soon as reasonably

practicable after collection, and later processed in a way compatible with such declared, specified and legitimate purposes only;

(b) Processed fairly and lawfully;

(c) Accurate, relevant and, where necessary for purposes for which it is to be used the processing of personal information, kept up to date; inaccurate or incomplete data must be rectified, supplemented, destroyed or their further processing restricted;

(d) Adequate and not excessive in relation to the purposes for which they are collected and processed;

(e) Retained only for as long as necessary for the fulfillment of the purposes for which the data was obtained or for the establishment, exercise or defense of legal claims, or for legitimate business purposes, or as provided by law; and

(f) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected and processed: *Provided*, That personal information collected for other purposes may be processed for historical, statistical or scientific purposes, and in cases laid down in law may be stored for longer periods: *Provided, further*, That adequate safeguards are guaranteed by said laws authorizing their processing.

The personal information controller must ensure implementation of personal information processing principles set out herein.

SEC. 12. *Criteria for Lawful Processing of Personal Information.* - The processing of personal information shall be permitted only if not otherwise prohibited by law, and when at least one of the following conditions exists:

(a) The data subject has given his or her consent;

(b) The processing of personal information is necessary and is related to the fulfillment of a contract with the data subject or in order to take steps at the request of the data subject prior to entering into a contract;

(c) The processing is necessary for compliance with a legal obligation to which the personal information controller is subject;

(d) The processing is necessary to protect vitally important interests of the data subject, including life and health;

(e) The processing is necessary in order to respond to national emergency, to comply with the requirements of public order and safety, or to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate; or

(f) The processing is necessary for the purposes of the legitimate interests pursued by the personal information controller or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.

SEC. 13. *Sensitive Personal Information and Privileged Information.* - The processing of sensitive personal information and privileged information shall be prohibited, except in the following cases:

(a) The data subject has given his or her consent, specific to the purpose prior to the processing, or in the case of privileged information, all parties to the exchange have given their consent prior to processing;

(b) The processing of the same is provided for by existing laws and regulations: *Provided*, That such regulatory enactments guarantee the protection of the sensitive personal information and the privileged information: *Provided, further*, That the consent of the data subjects are not required by law or regulation permitting the processing of the sensitive personal information or the privileged information;

(c) The processing is necessary to protect the life and health of the data subject or another person, and the data subject is not legally or physically able to express his or her consent prior to the processing;

(d) The processing is necessary to achieve the lawful and noncommercial objectives of public organizations and their associations: *Provided*, That such processing is only confined and related to the *bona fide* members of these organizations or their associations: *Provided, further*, That the sensitive personal information are not transferred to third parties: *Provided, finally*, That consent of the data subject was obtained prior to processing;

(e) The processing is necessary for purposes of medical treatment, is carried out by a medical practitioner or a medical treatment institution, and an adequate level of protection of personal information is ensured; or

(f) The processing concerns such personal information as is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment, exercise or defense of legal claims, or when provided to government or public authority.

SEC. 14. *Subcontract of Personal Information.* - A personal information controller may subcontract the processing of personal information: *Provided*, That the personal information controller shall be responsible for ensuring that proper safeguards are in place to ensure the confidentiality of the personal information processed, prevent its use for unauthorized purposes, and generally, comply with the requirements of this Act and other laws for processing of personal information. The personal information processor shall comply with all the requirements of this Act and other applicable laws.

SEC. 15. *Extension of Privileged Communication.* - Personal information controllers may invoke the principle of privileged communication over privileged information that they lawfully control or process. Subject to existing laws and regulations, any evidence gathered on privileged information is inadmissible.

CHAPTER IV

RIGHTS OF THE DATA SUBJECT

SEC. 16. *Rights of the Data Subject.* - The data subject is entitled to:

(a) Be informed whether personal information pertaining to him or her shall be, are being or have been processed;

(b) Be furnished the information indicated hereunder before the entry of his or her personal information into the processing system of the personal information controller, or at the next practical opportunity:

(1) Description of the personal information to be entered into the system;

(2) Purposes for which they are being or are to be processed;

(3) Scope and method of the personal information processing;

(4) The recipients or classes of recipients to whom they are or may be disclosed;

(5) Methods utilized for automated access, if the same is allowed by the data subject, and the extent to which such access is authorized;

(6) The identity and contact details of the personal information controller or its representative;

(7) The period for which the information will be stored;
and

(8) The existence of their rights, i.e., to access, correction, as well as the right to lodge a complaint before the Commission.

Any information supplied or declaration made to the data subject on these matters shall not be amended without prior notification of data subject: *Provided*, That the notification

under subsection (b) shall not apply should the personal information be needed pursuant to a *subpoena* or when the collection and processing are for obvious purposes, including when it is necessary for the performance of or in relation to a contract or service or when necessary or desirable in the context of an employer-employee relationship, between the collector and the data subject, or when the information is being collected and processed as a result of legal obligation;

(c) Reasonable access to, upon demand, the following:

(1) Contents of his or her personal information that were processed;

(2) Sources from which personal information were obtained;

(3) Names and addresses of recipients of the personal information;

(4) Manner by which such data were processed;

(5) Reasons for the disclosure of the personal information to recipients;

(6) Information on automated processes where the data will or likely to be made as the sole basis for any decision significantly affecting or will affect the data subject;

(7) Date when his or her personal information concerning the data subject were last accessed and modified; and

(8) The designation, or name or identity and address of the personal information controller;

(d) Dispute the inaccuracy or error in the personal information and have the personal information controller correct it immediately and accordingly, unless the request is vexatious or otherwise unreasonable. If the personal information have been corrected, the personal information controller shall ensure the accessibility of both the new and the retracted information and the simultaneous receipt of the new and the retracted information by recipients thereof: *Provided*, That the third parties who have previously received

such processed personal information shall be informed of its inaccuracy and its rectification upon reasonable request of the data subject;

(e) Suspend, withdraw or order the blocking, removal or destruction of his or her personal information from the personal information controller's filing system upon discovery and substantial proof that the personal information are incomplete, outdated, false, unlawfully obtained, used for unauthorized purposes or are no longer necessary for the purposes for which they were collected. In this case, the personal information controller may notify third parties who have previously received such processed personal information; and

(f) Be indemnified for any damages sustained due to such inaccurate, incomplete, outdated, false, unlawfully obtained or unauthorized use of personal information.

SEC. 17. Transmissibility of Rights of the Data Subject.

– The lawful heirs and assigns of the data subject may invoke the rights of the data subject for, which he or she is an heir or assignee at any time after the death of the data subject or when the data subject is incapacitated or incapable of exercising the rights as enumerated in the immediately preceding section.

SEC. 18. Right to Data Portability. – The data subject shall have the right, where personal information is processed by electronic means and in a structured and commonly used format, to obtain from the personal information controller a copy of data undergoing processing in an electronic or structured format, which is commonly used and allows for further use by the data subject. The Commission may specify the electronic format referred to above, as well as the technical standards, modalities and procedures for their transfer.

SEC. 19. Non-Applicability. – The immediately preceding sections are not applicable if the processed personal information are used only for the needs of scientific and statistical research and, on the basis of such, no activities are carried out and no decisions are taken regarding the data subject: *Provided,* That the personal information shall be held under strict confidentiality and shall be used only for the declared purpose. Likewise, the immediately preceding sections are not applicable

to processing of personal information gathered for the purpose of investigations in relation to any criminal, administrative or tax liabilities of a data subject.

CHAPTER V

SECURITY OF PERSONAL INFORMATION

SEC. 20. *Security of Personal Information.* - (a) The personal information controller must implement reasonable and appropriate organizational, physical and technical measures intended for the protection of personal information against any accidental or unlawful destruction, alteration and disclosure, as well as against any other unlawful processing.

(b) The personal information controller shall implement reasonable and appropriate measures to protect personal information against natural dangers such as accidental loss or destruction, and human dangers such as unlawful access, fraudulent misuse, unlawful destruction, alteration and contamination.

(c) The determination of the appropriate level of security under this section must take into account the nature of the personal information to be protected, the risks represented by the processing, the size of the organization and complexity of its operations, current data privacy best practices and the cost of security implementation. Subject to guidelines as the Commission may issue from time to time, the measures implemented must include:

(1) Safeguards to protect its computer network against accidental, unlawful or unauthorized usage or interference with or hindering of their functioning or availability;

(2) A security policy with respect to the processing of personal information;

(3) A process for identifying and accessing reasonably foreseeable vulnerabilities in its computer networks, and for taking preventive, corrective and mitigating action against security incidents that can lead to a security breach; and

(4) Regular monitoring for security breaches and a process for taking preventive, corrective and mitigating action against security incidents that can lead to a security breach.

(d) The personal information controller must further ensure that third parties processing personal information on its behalf shall implement the security measures required by this provision.

(e) The employees, agents or representatives of a personal information controller who are involved in the processing of personal information shall operate and hold personal information under strict confidentiality if the personal information are not intended for public disclosure. This obligation shall continue even after leaving the public service, transfer to another position or upon termination of employment or contractual relations.

(f) The personal information controller shall promptly notify the Commission and affected data subjects when sensitive personal information or other information that may, under the circumstances, be used to enable identity fraud are reasonably believed to have been acquired by an unauthorized person, and the personal information controller or the Commission believes that such unauthorized acquisition is likely to give rise to a real risk of serious harm to any affected data subject. The notification shall at least describe the nature of the breach, the sensitive personal information possibly involved, and the measures taken by the entity to address the breach. Notification may be delayed only to the extent necessary to determine the scope of the breach, to prevent further disclosures, or to restore reasonable integrity to the information and communications system.

(1) In evaluating if notification is unwarranted, the Commission may take into account compliance by the personal information controller with this section and existence of good faith in the acquisition of personal information.

(2) The Commission may exempt a personal information controller from notification where, in its reasonable judgment, such notification would not be in the public interest or in the interests of the affected data subjects.

(3) The Commission may authorize postponement of notification where it may hinder the progress of a criminal investigation related to a serious breach.

CHAPTER VI

ACCOUNTABILITY FOR TRANSFER OF PERSONAL INFORMATION

SEC. 21. *Principle of Accountability.* - Each personal information controller is responsible for personal information under its control or custody, including information that have been transferred to a third party for processing, whether domestically or internationally, subject to cross-border arrangement and cooperation.

(a) The personal information controller is accountable for complying with the requirements of this Act and shall use contractual or other reasonable means to provide a comparable level of protection while the information are being processed by a third party.

(b) The personal information controller shall designate an individual or individuals who are accountable for the organization's compliance with this Act. The identity of the individual(s) so designated shall be made known to any data subject upon request.

CHAPTER VII

SECURITY OF SENSITIVE PERSONAL INFORMATION IN GOVERNMENT

SEC. 22. *Responsibility of Heads of Agencies.* - All sensitive personal information maintained by the government, its agencies and instrumentalities shall be secured, as far as practicable, with the use of the most appropriate standard recognized by the information and communications technology industry, and as recommended by the Commission. The head of each government agency or instrumentality shall be responsible for complying with the security requirements mentioned herein while the Commission shall monitor the compliance and may recommend the necessary action in order to satisfy the minimum standards.

SEC. 23. *Requirements Relating to Access by Agency Personnel to Sensitive Personal Information.* - (a) On-site and Online Access - Except as may be allowed through guidelines to be issued by the Commission, no employee of the government shall have access to sensitive personal information on government property or through online facilities unless the employee has received a security clearance from the head of the source agency.

(b) Off-site Access - Unless otherwise provided in guidelines to be issued by the Commission, sensitive personal information maintained by an agency may not be transported or accessed from a location off government property unless a request for such transportation or access is submitted and approved by the head of the agency in accordance with the following guidelines:

(1) Deadline for Approval or Disapproval - In the case of any request submitted to the head of an agency, such head of the agency shall approve or disapprove the request within two (2) business days after the date of submission of the request. In case there is no action by the head of the agency, then such request is considered disapproved;

(2) Limitation to One thousand (1,000) Records - If a request is approved, the head of the agency shall limit the access to not more than one thousand (1,000) records at a time; and

(3) Encryption - Any technology used to store, transport or access sensitive personal information for purposes of off-site access approved under this subsection shall be secured by the use of the most secure encryption standard recognized by the Commission.

The requirements of this subsection shall be implemented not later than six (6) months after the date of the enactment of this Act.

SEC. 24. *Applicability to Government Contractors.* - In entering into any contract that may involve accessing or requiring sensitive personal information from one thousand (1,000) or more individuals, an agency shall require a contractor and its employees to register their personal

information processing system with the Commission in accordance with this Act and to comply with the other provisions of this Act including the immediately preceding section, in the same manner as agencies and government employees comply with such requirements.

CHAPTER VIII

PENALTIES

SEC. 25. *Unauthorized Processing of Personal Information and Sensitive Personal Information.* - (a) The unauthorized processing of personal information shall be penalized by imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be imposed on persons who process personal information without the consent of the data subject, or without being authorized under this Act or any existing law.

(b) The unauthorized processing of personal sensitive information shall be penalized by imprisonment ranging from three (3) years to six (6) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Four million pesos (Php4,000,000.00) shall be imposed on persons who process personal information without the consent of the data subject, or without being authorized under this Act or any existing law.

SEC. 26. *Accessing Personal Information and Sensitive Personal Information Due to Negligence.* - (a) Accessing personal information due to negligence shall be penalized by imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be imposed on persons who, due to negligence, provided access to personal information without being authorized under this Act or any existing law.

(b) Accessing sensitive personal information due to negligence shall be penalized by imprisonment ranging from three (3) years to six (6) years and a fine of not less than

Five hundred thousand pesos (Php500,000.00) but not more than Four million pesos (Php4,000,000.00) shall be imposed on persons who, due to negligence, provided access to personal information without being authorized under this Act or any existing law.

SEC. 27. *Improper Disposal of Personal Information and Sensitive Personal Information.* - (a) The improper disposal of personal information shall be penalized by imprisonment ranging from six (6) months to two (2) years and a fine of not less than One hundred thousand pesos (Php100,000.00) but not more than Five hundred thousand pesos (Php500,000.00) shall be imposed on persons who knowingly or negligently dispose, discard or abandon the personal information of an individual in an area accessible to the public or has otherwise placed the personal information of an individual in its container for trash collection.

b) The improper disposal of sensitive personal information shall be penalized by imprisonment ranging from one (1) year to three (3) years and a fine of not less than One hundred thousand pesos (Php100,000.00) but not more than One million pesos (Php1,000,000.00) shall be imposed on persons who knowingly or negligently dispose, discard or abandon the personal information of an individual, in an area accessible to the public or has otherwise placed the personal information of an individual in its container for trash collection.

SEC. 28. *Processing of Personal Information and Sensitive Personal Information for Unauthorized Purposes.* - The processing of personal information for unauthorized purposes shall be penalized by imprisonment ranging from one (1) year and six (6) months to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00) shall be imposed on persons processing personal information for purposes not authorized by the data, subject, or otherwise authorized under this Act or under existing laws.

The processing of sensitive personal information for unauthorized purposes shall be penalized by imprisonment ranging from two (2) years to seven (7) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be

imposed on persons processing sensitive personal information for purposes not authorized by the data subject, or otherwise authorized under this Act or under existing laws.

SEC. 29. *Unauthorized Access or Intentional Breach.* -- The penalty of imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be imposed on persons who knowingly and unlawfully, or violating data confidentiality and security data systems, breaks in any way into any system where personal and sensitive personal information is stored.

SEC. 30. *Concealment of Security Breaches Involving Sensitive Personal Information.* -- The penalty of imprisonment of one (1) year and six (6) months to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00) shall be imposed on persons who, after having knowledge of a security breach and of the obligation to notify the Commission pursuant to Section 20(f), intentionally or by omission conceals the fact of such security breach.

SEC. 31. *Malicious Disclosure.* -- Any personal information controller or personal information processor or any of its officials, employees or agents, who, with malice or in bad faith, discloses unwarranted or false information relative to any personal information or personal sensitive information obtained by him or her, shall be subject to imprisonment ranging from one (1) year and six (6) months to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00).

SEC. 32. *Unauthorized Disclosure.* -- (a) Any personal information controller or personal information processor or any of its officials, employees or agents, who discloses to a third party personal information not covered by the immediately preceding section without the consent of the data subject, shall be subject to imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00).

(b) Any personal information controller or personal information processor or any of its officials, employees or agents, who discloses to a third party sensitive personal information not covered by the immediately preceding section without the consent of the data subject, shall be subject to imprisonment ranging from three (3) years to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00).

SEC. 33. *Combination or Series of Acts.* - Any combination or series of acts as defined in Sections 25 to 32 shall make the person subject to imprisonment ranging from three (3) years to six (6) years and a fine of not less than One million pesos (Php1,000,000.00) but not more than Five million pesos (Php5,000,000.00).

SEC. 34. *Extent of Liability.* - If the offender is a corporation, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or by their gross negligence, allowed the commission of the crime. If the offender is a juridical person, the court may suspend or revoke any of its rights under this Act. If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties prescribed. If the offender is a public official or employee and he or she is found guilty of acts penalized under Sections 27 and 28 of this Act, he or she shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

SEC. 35. *Large-Scale.* - The maximum penalty in the scale of penalties respectively provided for the preceding offenses shall be imposed when the personal information of at least one hundred (100) persons is harmed, affected or involved as the result of the abovementioned actions.

SEC. 36. *Offense Committed by Public Officer.* - When the offender or the person responsible for the offense is a public officer as defined in the Administrative Code of the Philippines in the exercise of his or her duties, an accessory penalty consisting in the disqualification to occupy public office for a

term double the term of criminal penalty imposed shall be applied.

SEC. 37. *Restitution.* -- Restitution for any aggrieved party shall be governed by the provisions of the New Civil Code.

CHAPTER IX

MISCELLANEOUS PROVISIONS

SEC. 38. *Interpretation.* -- Any doubt in the interpretation of any provision of this Act shall be liberally interpreted in a manner mindful of the rights and interests of the individual about whom personal information is processed.

SEC. 39. *Implementing Rules and Regulations (IRR).* -- Within ninety (90) days from the effectivity of this Act, the Commission shall promulgate the rules and regulations to effectively implement the provisions of this Act.

SEC. 40. *Reports and Information.* -- The Commission shall annually report to the President and Congress on its activities in carrying out the provisions of this Act. The Commission shall undertake whatever efforts it may determine to be necessary or appropriate to inform and educate the public of data privacy, data protection and fair information rights and responsibilities.

SEC. 41. *Appropriations Clause.* -- The Commission shall be provided with an initial appropriation of Twenty million pesos (Php20,000,000.00) to be drawn from the national government. Appropriations for the succeeding years shall be included in the General Appropriations Act. It shall likewise receive Ten million pesos (Php10,000,000.00) per year for five (5) years upon implementation of this Act drawn from the national government.

SEC. 42. *Transitory Provision.* -- Existing industries, businesses and offices affected by the implementation of this Act shall be given one (1) year transitory period from the effectivity of the IRR or such other period as may be

determined by the Commission, to comply with the requirements of this Act.

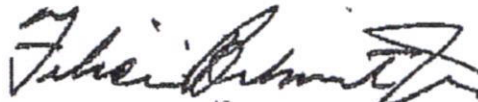
In case that the DICT has not yet been created by the time the law takes full force and effect, the National Privacy Commission shall be attached to the Office of the President.

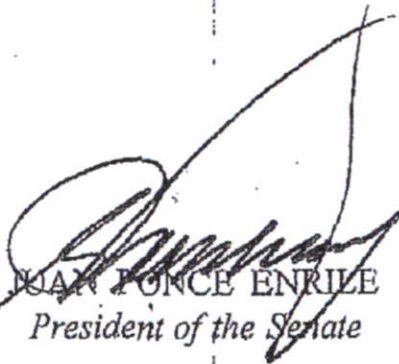
SEC. 43. *Separability Clause.* – If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 44. *Repealing Clause.* – The provision of Section 7 of Republic Act No. 9372, otherwise known as the "Human Security Act of 2007", is hereby amended. Except as otherwise expressly provided in this Act, all other laws, decrees, executive orders, proclamations and administrative regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

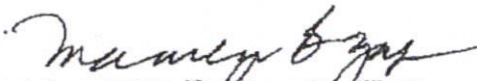
SEC. 45. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

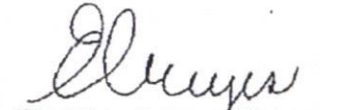
Approved,


 FELICIANO BELMONTE JR.
 Speaker of the House
 of Representatives



 JUAN PONCE ENRILE
 President of the Senate

This Act which is a consolidation of Senate Bill No. 2965 and House Bill No. 4115 was finally passed by the Senate and the House of Representatives on June 6, 2012.


MARILYN B. BARUA-YAP
*Secretary General
House of Representatives*


EMMA LIRIO REYES
Secretary of the Senate

Approved: **AUG 15 2012**


BENIGNO S. AQUINO III
President of the Philippines



O



PNOY006012

LIST OF EXCEPTIONS

For the guidance of all government offices covered by Executive Order no. 2 (s. 2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:¹

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 and certain individuals such as minors, victims of crimes or the accused;
5. Information, documents, or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals and boards or officers, in relation to the performance of their functions or to inquires or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers;
6. Prejudicial, premature disclosure;
7. Records of proceedings or information from proceedings which pursuant to law or relevant rules and regulations are treated as confidential or privileged;
8. Matters considered confidential under banking and finance laws and their amendatory laws, and
9. Other exceptions to the right to information under laws, jurisprudence, and rules and regulations.

Pursuant to Section 4 of E.O. 2, this list of exceptions shall periodically be updated to properly reflect any change in existing law and jurisprudence and the Department of Justice and the Office of the Solicitor General are directed to update the list of exceptions as the need to do so arises, for circulation.

¹ These exceptions only apply to governmental bodies within the control and supervision of the Executive department. Unless specifically identified, these exceptions may be invoked by all officials, officers, or employees in the Executive branch in possession of the relevant records or information.

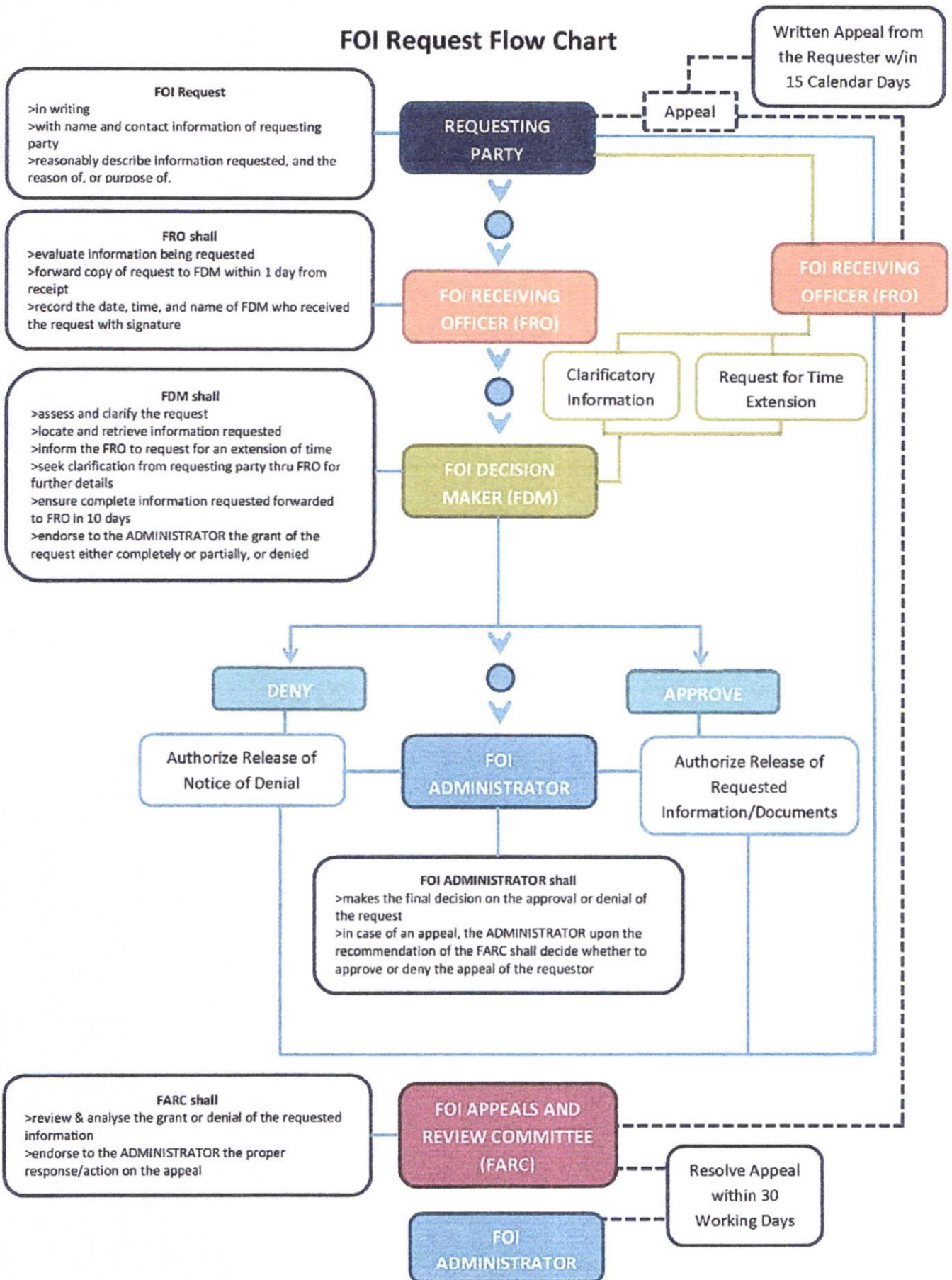
Designated Personnel for FOI Implementation

Names of Personnel	FOI Designation
Solito T. Torcuator	FOI Administrator
Janice M. Balajadia	FOI Receiving Officers
Edwin F. Inductivo, Jr.	
Moises Michael E. Hollite	
Ana Sorita S. Alovera	FOI Decision Maker--Admin Division
Nicasio B. Espesor	FOI Decision Maker--Engineering Division
Cecil D. Mirasol	FOI Decision Maker--Commercial Division
Marlene C. Cagata	FOI Decision Maker--Finance Division
Maridee Y. Corporal	FOI Appeals and Review Committee
Arlene B. Demetillo	
Noli M. Fin	

RECEIVING OFFICER'S CONTACT DETAILS:

Telephone No.: 083-500-8008
 Email address: foi_polwd@yahoo.com.ph
 Mobile No.: 0917-7243377

FOI Request Flow Chart



FOI Request Process In Days

DAY 1	DAY 2-4	DAY 5-8	DAY 9-10	DAY 11-15
<p>RECEIVE REQUEST</p> <ul style="list-style-type: none"> <input type="checkbox"/> Check if request is valid. <input type="checkbox"/> Stamp received. <input type="checkbox"/> Provide copy to requestor. <input type="checkbox"/> Plan work needed with DM. <p>CLARIFY REQUEST (If necessary)</p> <ul style="list-style-type: none"> <input type="checkbox"/> If not clear what information is requested seek clarification (15 working day clock stops). <input type="checkbox"/> Provide appropriate advice and assistance to requestor. <input type="checkbox"/> When clarification is received, NEW working day period starts <input type="checkbox"/> If no clarification received, close request (after 60 days from receipt) and notify applicant. <input type="checkbox"/> Forward to DM. 	<p>ASSESS REQUEST</p> <ul style="list-style-type: none"> <input type="checkbox"/> Does the agency hold the information requested. <input type="checkbox"/> Is the information already accessible? <input type="checkbox"/> Is the request a repeat of a previous request from the same applicant? <p>LOCATE INFORMATION</p> <ul style="list-style-type: none"> <input type="checkbox"/> Obtain all relevant information. <input type="checkbox"/> Prepare schedule of all information located. <p>INFORM / CONSULT</p> <ul style="list-style-type: none"> <input type="checkbox"/> Other officials with key interest. 	<p>CONSIDER RESPONSE</p> <ul style="list-style-type: none"> <input type="checkbox"/> Review content of documents and apply relevant exemptions. <input type="checkbox"/> Consider comment/advice of officials. 	<p>CLEARING RESPONSE</p> <ul style="list-style-type: none"> <input type="checkbox"/> Seek clearance from Administrator 	<p>ISSUE RESPONSE</p> <ul style="list-style-type: none"> <input type="checkbox"/> Prepare information for release – scan or photocopy documents <input type="checkbox"/> If applicant asked for information in a certain format, comply with their preference, if practical. <input type="checkbox"/> Update FOI tracker and save response.

Notes:

1. This table sets our targets, at various points within the 15 working day response period, for completion of key steps in the process of handling an FOI request.
2. Each FOI request is different, so not all of these actions will be required in each case – some will be much simpler – and sometimes actions will be completed earlier or later than the targets in this table. However, it is always important to allow sufficient time for Decision Makers, etc to clear FOI responses before expiry of the 15 working day deadline.
3. For any request, it is essential to start looking at it as soon as it is received, to assess what work needs to be done and to plan that work so that the request is answered on time. This table is intended to help with that planning.

FOI Request Form

Polomolok Water District

PORMULARYO NG KAHILINGAN
FOI Request FormTITULO NG DOKUMENTO */(Title of the Document):* _____MGA TAON/PANAHONG SAKLAW */(Year):* _____LAYUNIN */(Purpose):*

_____PANGALAN */(Name):* _____ CONTACT Nos. _____LAGDA */(Signature/Thumb mark):* _____ PETA */(Date):* _____TIRAHAN */(Address):* _____PARAAN NG PAGTANGGAP NG IMPORMASYON/
(How would you like to receive the information?)

- Email
 Fax
 Postal Address
 Pick-up */(Office name)*

KATIBAYAN NG PAGKAKILALANLAN */(Proof of identity):*

Passport No: _____

Driver's License _____

Other _____

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 aksyon: _____

*(Type of action conducted)*Natanggap ni */(Received by):*

_____Remarks:

FOI Receiving Officer

Republic of the Philippines
POLOMOLOK WATER DISTRICT
National Highway, Polomolok, South Cotabato

FOI RESPONSE FORM

Date: _____

To: _____

Request Status:

Approved Approved with exemption Available Online Request Denied

Notes:

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to ENGR. SOLITO T. TORCUATOR, General Manager. Your review request should explain why you are dissatisfied with this response, and should be made within 15 calendar days from the date when you received this letter. We will complete the review and tell you the result, within 30 calendar days from the date when we received your review request.

FOI Appeals and Review Committee:

Response / Action

FOI Administrator Decision:

Approved:

ENGR. SOLITO T. TORCUATOR
FOI Administrator