

MEMORANDUM CIRCULAR NO. 2016- 006
Series of 2016

TO : ALL CONCERNED

SUBJECT : PEOPLE'S FREEDOM OF INFORMATION MANUAL

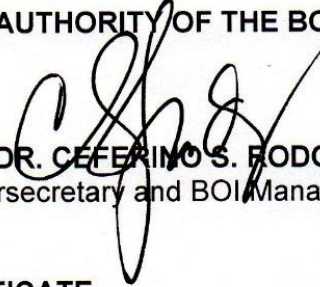
WHEREAS, Executive Order No. 2, series of 2016, operationalizing in the Executive Branch the people's constitutional right to information and the state policies to full public disclosure and transparency in the public service and providing guidelines therefore, was approved on 23 July 2016 and published on 27 July 2016.

WHEREAS, Section 8 of the Executive Order No. 2, series of 2016, directs all government offices to prepare their own People's FOI Manual within 120 calendar days from effectivity of the Order.

NOW THEREFORE, the Board, in its meeting of 05 October 2016 by virtue of Resolution No. 27-02, Series of 2016, with a quorum duly present, adopted the attached People's Freedom of Information Manual.

It shall take effect fifteen (15) days following its publication in a newspaper of general circulation.

BY AUTHORITY OF THE BOI BOARD


DR. CEFERINO S. RODOLFO
Undersecretary and BOI Managing Head

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. 2016 - ____ has been approved by the BOI through Board Resolution No. 27-02 dated 05 October 2016.


Executive Director EFREN V. LEAÑO
Board Secretary

PEOPLE'S FREEDOM OF INFORMATION MANUAL

“Democracies die behind closed doors...
When government begins closing doors,
it selectively controls information rightfully belonging
to the people. Selective information is misinformation”

- Judge Damon Keith,

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INTRODUCTION

This Manual serves as a guide to the public in exercising their constitutional right to information on matters of public concern pursuant to Section 7, Article III of the 1987 Constitution. It also seeks to implement the State policy of public disclosure pursuant to Article 28, Article II of the 1987 Philippine Constitution and Executive Order No. 2, Series of 2016.

The Board of Investments (BOI) adopts the procedures set out in this Manual, the limitations provided herein, and remedies available to the Requester in the event of denial of such request with the view to striking a balance between the people's right to information, and the State's obligation to protect confidential information and ensure efficient use of its resources.

While BOI encourages everyone to be informed of government operations, it cautions against the abuse of such right as it adds undue burden to the government in the form of wasted manpower and time which could be utilized in performing its functions.

Note: The BOI is currently rebuilding its database. Hence, BOI may be needing more time to provide information which are not readily available.

ARTICLE 1

Scope

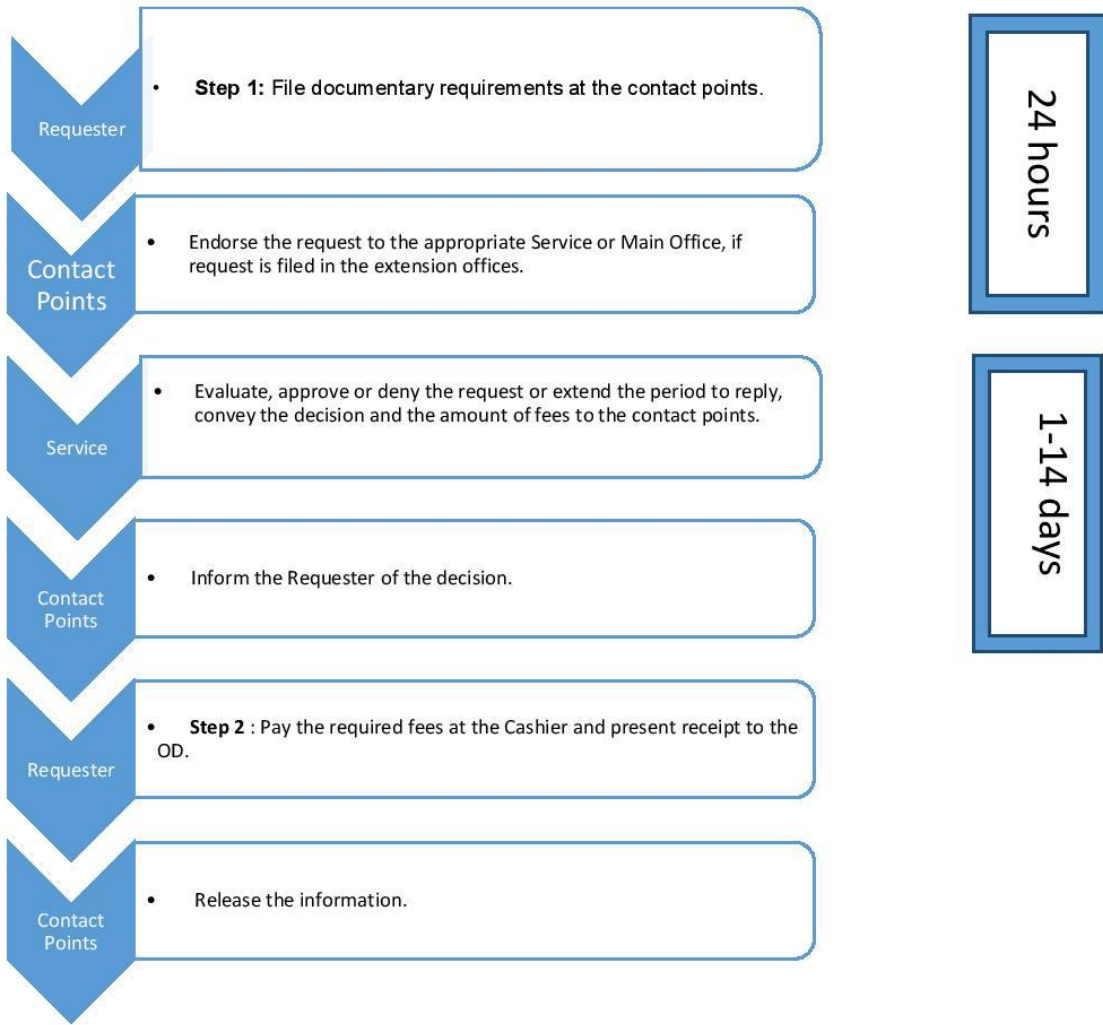
1. This Manual covers request for information, official records, public records which are produced, received or kept under the control of BOI and which are not publicly available. An information, official record, or public record is publicly available if it is published in the BOI website, Official Gazette, and newspaper of general circulation, among others.
2. Confidential information which are protected or considered confidential pursuant to laws, rules, regulations, policies and international agreements shall not be disclosed. Confidential information includes, but is not limited to the following:
 - a. All applications under Executive Order No. 226, also known as the *Omnibus Investments Code of 1987*, and their supporting documents pursuant to Article 81 thereof.
 - b. Information classified as confidential, the disclosure of which would prejudice legitimate commercial interests or the competitive position of the investor or its investment.
 - c. Advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated and which is covered by the deliberative process privilege.
 - d. Personal information (e.g. individual's race, ethnic origin, age, religion, health condition) in the possession of BOI.
 - e. Other confidential information listed in the enumeration of exceptions to Executive Order No. 2 Series of 2016 prepared by the Department of Justice and Office of the Solicitor General.

ARTICLE 2

Requirements

1. The Requester shall submit the following:
 - a. Completed request form (attached as Annex A);
 - b. Photocopy of the Requester's valid identification card;
 - c. Authorization letter; and
 - d. If the requested information is confidential, a Notarized Waiver of Confidentiality issued by that entity whose information is the subject of the request.

ARTICLE 3 Request for Information Procedure



ARTICLE 4

Where and When to File the Request

1. The requirements may be submitted to the following contact points:

- a. **BOI Main Office**

Office: Office of the Division Chief of the General Services Division

Address: Records Division, 2F Industry and Investments Building, 385 Sen. Gil Puyat St., 1200 Makati City.

- b. **Extension Offices:**

Office of the Division Chief
2nd Floor DTI Building
Corner Osmena and Lapu-Lapu St., Cebu City

Office of the Division Chief
3F, 52nd Business Center
Corner Tiano and Gaerlan Street,
Cagayan De Oro

Office of the Division Chief
Door 2, 2/F Bldg3,
GMC Bldg., 97 Mc Arthur Highway,
Matina, Davao City

- c. **Email:** foi@boi.gov.ph with subject line: Request for Access to Information.

2. The schedule of filing requests for information is 8:00 A.M. to 5:00 P.M. on Tuesdays and Fridays only.
3. The contact point shall acknowledge the request by providing the Requester a copy of the submitted request form bearing the signature of the contact point and stamped "Received".
4. Once accepted, the request will be endorsed to the Director of the appropriate Service within twenty-four (24) hours from receipt of the request.

ARTICLE 5

Action on the Request

1. The Service responsible for the production, receipt or keeping of the requested information of documents shall:
 - a. Review the nature of the request and determine if access to such information or documents is permissible.
 - b. Transmit the documents and the Order of Payment to the Officer of the Day of IAS.
2. The contact point shall inform the Requester of the availability of the document within fifteen (15) working days from receipt of the request and release the same upon payment of the fees.
3. All follow-ups shall be directed to contact points and not to the Services.

ARTICLE 6

Extension of Time to Respond

1. The Service may extend the 15 working days period to respond to the request if the inquiry requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous cases or other analogous cases. In no case shall the extension go beyond twenty (20) working days unless exceptional circumstances warrant a longer period.
2. Upon receipt of the Notice of Extension of Time to Respond from the concerned Service, the contact points shall transmit to same to the Requester.
3. The Notice of Extension of Time to Respond shall follow the format in Annex B.

ARTICLE 7

Notice of Denial

1. The request may be denied by the Service, in whole or in part, on the following grounds:
 - a. The information is not produced, received or kept under the control of BOI based on the updated inventory of data and documents.
 - b. The information is publicly available.
 - c. The request is repetitious.

A request is repetitive if the information subject of the second request was already requested by the same person and acted upon by the BOI within six (6) months prior to the date of the second request.

- d. The request entails disclosure of confidential information or is included in the list of exceptions issued prepared by the Department of Justice and Office of the Solicitor General pursuant to Executive Order No. 2 Series of 2016.
 - e. The document has been lost or destroyed and can no longer be reproduced.
2. The Service shall prepare and transmit the Notice of Denial to the contact point which shall in turn inform the Requester of the decision made. The Notice of Denial shall state the basis of the denial without revealing the confidential or exempt information.
 3. Should the Service determine that the information subject of the request is in the custody of another government agency, the Service shall issue indicate in the Notice of Denial the appropriate agency. The contact point shall transfer the request to that agency in accordance with the rules set out in the agency's People Freedom of Information Manual
 4. The Notice of Denial shall follow the format in Annex C.

ARTICLE 8

Service of Notices and Decisions

1. Notice of Extension of Period to Respond shall be served upon the requester through electronic mail.
2. Notice of Denial and Decisions of the Managing Head shall be served to the requester through registered mail or electronic mail, unless the Requester requests otherwise.
3. If the request is granted, the contact point shall inform the Requester through electronic mail of such approval for the latter to arrange payment and pick of the documents

ARTICLE 8

Remedy in Case of Denial of the Request of Access to Information

1. The Requester may appeal the denial of the request to access information to the Managing Head within 15 calendar days from receipt of the Notice of Denial. The

Appeal shall be in writing and shall set forth the reason why the ground cited in the Notice of Denial should be reviewed by the BOI.

2. The Decision of the Managing Head shall be final and binding to the Requester. Failure of the Managing Head to act on the appeal within thirty (30) working days shall be deemed a denial of the appeal. The Notice of Final Decision shall follow the format in Annex D.

ARTICLE 9 Schedules of Fees

Service	Cost
Photocopy	Php 5.00 per page
Retrieval fee	Retrieval Fee of Documents stored in the BOI Building: <ol style="list-style-type: none"> a. For documents retrievable within one day: Php 150.00 b. For documents which requires more than 1 day to one (1) week: Php 300.00 c. For documents requiring more than 1 week: Php 500.0
Appeal of Notice of Denial (administrative expenses and research fee)	Php1,000.00

REQUEST FOR ACCESS TO INFORMATION

Complete Name of the Requester:	
Office Address:	Tel. No:
Home Address:	Tel. No:
Date and Time of Filing:	Email address:
Name of the entity, if request is made by a business entity or organization:	
Position in the Business Organization:	
Specify the requested information, official record, public record. (Requests with general descriptions will not be accepted.)	
Specify the purpose of the request.	
Identify the Service or Division in possession of the requested information, if known to the Requester.	
Have you filed the same request in the last 6 months?	
Does the requested document contain confidential information involving third parties? Yes ___ No ___ Do you have the required authority to access the same from the concerned third party? Yes ___ No ___ Have you requested the same information from that third party? Yes ___ No ___ What was the action taken by that third party? Approved ___ Disapproved ___ Why was it disapproved? _____	
Preferred Mode of Service of Notices and Decisions:	
Pick-up ___ Electronic Mail ___ Registered Mail ___	
Note: For requests which are granted, the BOI shall inform Requester through electronic mail of such approval for the latter to arrange payment and pick of the documents.	

NOTICE OF EXTENSION OF TIME TO RESPOND

Document Reference No.:	Date Filed:
Name of the Requester	
Title of the Requested Document:	
Duration of the Extension	
Reason for the Extension of the Time to Respond:	
Name of the Officer of the Day:	
Signature of the Officer of the Date:	
Mode of Service (email/personal delivery):	

NOTICE OF DENIAL

Document Reference No.	Date Filed:
Name of Requester:	
Specify the Requested Document:	
Decision:	
Grounds for Denial of the Request (Cite the exemption used and appropriate agency having custody of the document, if any):	
Name of the Officer of the Day:	Date:
Position of the Officer of the Day:	
Signature of the Officer of the Day:	

NOTICE OF FINAL DECISION

Document Reference No.	Date Filed:
Name of Requester:	
Subject of the Appeal:	
Decision:	
Reason for the Decision:	
Name of the Officer of the Day:	Date:
Position of the Officer of the Day:	
Signature of the Officer of the Day:	

ANNEX E

NO WRONG DOOR POLICY FOI-MC NO. 21-05

Section 4. Acceptance of request. – As a general rule, all fully compliant requests for information shall be accepted by the FOI Receiving Officer (FRO) and FOI Decision Maker (FDM). No request for information shall be denied or refused acceptance by a government office unless the reason for the request is contrary to the Constitution, pertinent laws, existing rules and regulations, or it is one of the exceptions provided under the Inventory of Exceptions.

Section 5. Process of Referral. – When the requested information is not in the possession of a government agency (government agency no. 1 or GA1), but is available in another government agency (government agency no. 2 or GA2) under the Executive Branch, the request shall be immediately referred by GA1 to GA2 through the most expeditious manner but not exceeding three (3) working days from the receipt of the request. This shall be considered as the “**First Referral**” and a fresh period will apply.

Referral to the appropriate government agency shall mean that another government office is the proper repository or custodian of the requested information or records, or have control over the said information or records.

If GA1 fails to refer the request within three (3) working days upon its receipt, the FRO shall act on it within the remaining period to respond pursuant to EO No. 02, s. 2016. No fresh period shall apply.

If GA1, in good faith, erroneously referred the request to GA2, the latter shall immediately notify the former as well as the requesting party, that the information requested is not available in their agency.

GA2, to whom the request was referred under the First Referral may subsequently refer the request to another government agency (government agency no. 3 or GA3) under the procedure set forth in the first paragraph of this Section. This shall be considered as the “**Second Referral**” and another fresh period shall apply.

Referrals under this Order shall only be limited to two (2) subsequent transfers of request. A written or email acknowledgement of the referral shall be made by the FRO of the government agency where it was referred.

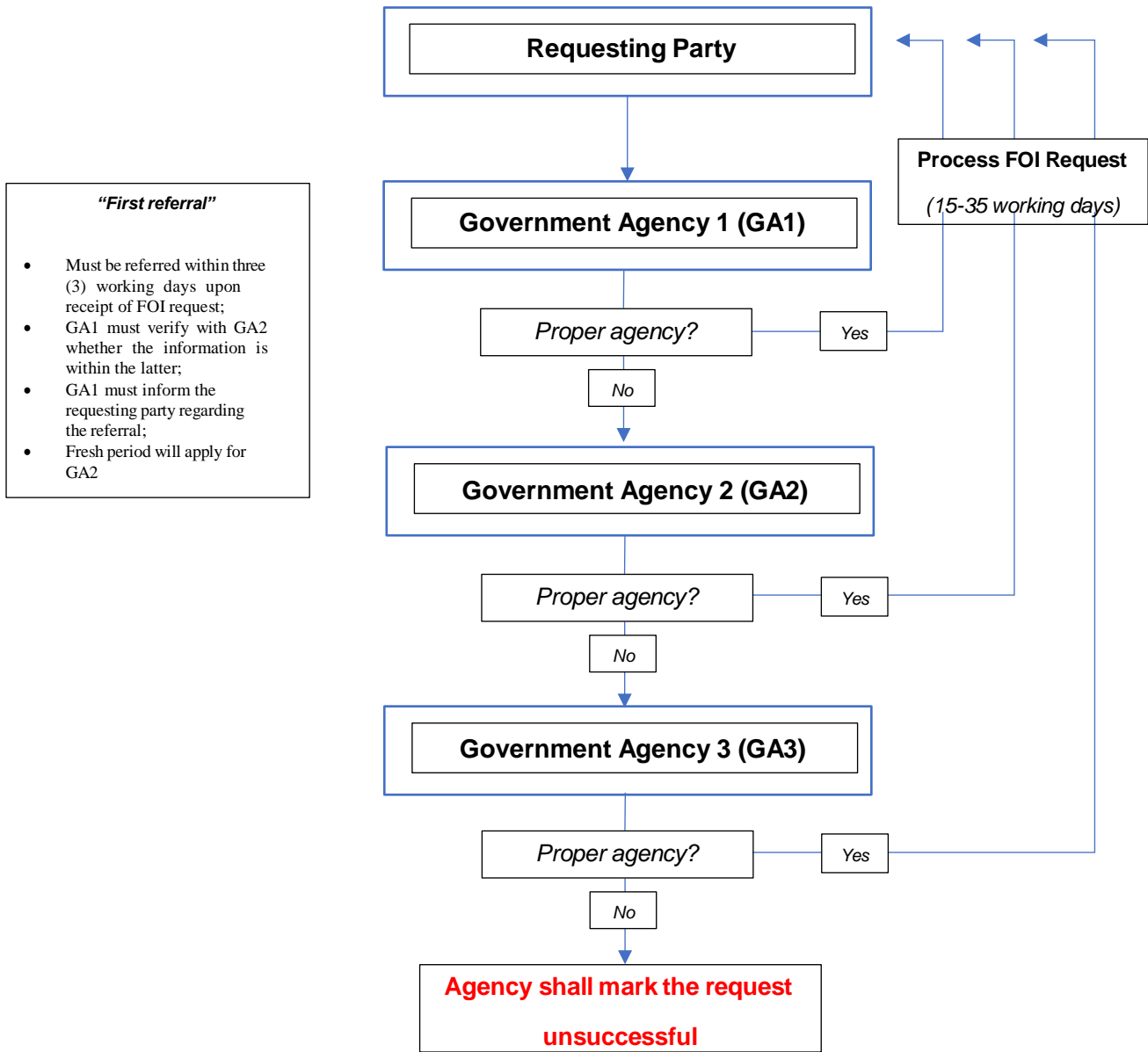
The requesting party shall be notified of the referral and must be provided with the reason or rationale thereof, and contact details of the government office where the request was referred.

Section 7. Status of the Request. – A request that is referred to the appropriate government agency is considered **successful** if the same is acknowledged and the requested information is disclosed to the requestor.

If GA3, after the second referral, still cannot provide the information requested, it shall deny the said request and shall properly notify the requesting party.

In all phases of the referral, the requesting party shall be informed in writing, email, and/or through the eFOI of the status of his/her request.

NO WRONG DOOR POLICY FLOWCHART



NOTE:

If GA1 fails to refer the request within three (3) working days upon its receipt, the FOI Receiving Officer (FRO) shall act on it within the remaining period to respond pursuant to EO No. 2, s. 2016. No fresh period shall apply.