

OFFICE OF THE GOVERNMENT CORPORATE COUNSEL



Freedom of Information Agency Manual

THE OGCC FREEDOM OF INFORMATION AGENCY MANUAL

I. Introduction

On 23 July 2016, President Rodrigo R. Duterte issued Executive Order (EO) 2 that operationalizes in the Executive Branch the people's Constitutional right to information and the State Policies to full public disclosure and transparency in public service. The EO mandates all executive offices, including but not limited to the national government and all its offices, departments, bureaus, offices, and instrumentalities, including government-owned or -controlled corporations (GOCCs), and state universities and colleges to give every Filipino "access to information, official records, public records and to documents and papers pertaining to official acts, transactions or decisions, as well as government research data used as basis for policy development." Local government units are also encouraged to observe and be guided by the EO.

The EO's Section 8 directs all government offices in the Executive Branch to prepare its own People's Freedom to Information (FOI) Manual specifying a number of implementing details taking into consideration their mandates and the nature of information in their custody and control.

The Office of the Government Corporate Counsel (OGCC) is a government agency attached to the Department of Justice, authorized by law to act as the principal law office of all government-owned or controlled corporations, their subsidiaries, other corporate off-springs and government acquired asset corporations, government financial institutions, government instrumentalities with corporate powers and all other government corporate entities and to exercise control and supervision over all legal departments or divisions maintained separately by them.

As an executive office, the OGCC hereby complies with EO 2 by promulgating this Manual.

II. The OGCC's duties under the EO

SECTION 1. *General Duties.* The OGCC shall, consistent with the mandate

of EO 2, series of 2016, respect the constitutional right of Filipinos to freedom of information (FOI), and subject to the limitations provided by law, make its records and information available, provide for public access to its records and information, protect its own records and information to the extent consistent with the requirements of public interest and personal privacy protection, and protect its public officers from the adverse consequences of disclosing certain kinds of official information without authorization under procedures established here.

Sec. 2. *Recording and Safekeeping Duties.* The OGCC shall ensure that it records and safekeeps information about all its activities, operations and concerns.

Sec. 3. *Maintenance Duties.* It shall ensure the proper organization and maintenance of all information in its custody in a manner that facilitates public access to such information.

Sec.4. *Training for OGCC personnel.* The OGCC shall provide adequate training and/or capacity-building program for its officials and employees to improve awareness of the right of access to information or records held by government agencies, as provided for in EO 2, series of 2016, and to keep updated of best practices in relation to information disclosure and records maintenance.

Sec. 5. *Reportorial Requirement and Publication.* The OGCC shall submit to the DOJ an annual report on the number of requests received, the nature of the information requested and the disposition of such request. Such report shall also be posted in the OGCC website and bulletin board and shall be regularly updated.

III. Definition of Terms

Sec. 6. *Definition.* For purposes of this Manual, the following terms shall mean:

(a) GOCC – shall mean government owned or controlled corporations, government financial institutions, government instrumentalities with corporate powers, government corporate entities as defined in Republic Act 10149;

(b) Information - shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.

(c) 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.

(d) 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.

(e) Evidence of identity-shall refer to current identification document issued by an official agency bearing the photograph and signature of the individual, such as but not limited to, passport, driver's license, *etc.*

(e) Date of receipt - □the day on which the OGCC receives the applicant's complete request for information.

(f) Fees Notice - a written notice that the OGCC gives to an applicant stating that a specified fee for reproduction and copying should first be paid before complying with the request.

(g) Vexatious request- a request that is evidently without any legitimate purpose or aimed at disrupting the work in OGCC units or harassing its employees, including identical or substantially similar requests.

IV. Procedure for FOI access

Sec. 7. *Request for Information.* (a) The OGCC recognizes that every Filipino is entitled (i) to be informed in writing whether it holds a particular information described and specified in a proper request, and,(ii) if that is the case, to have that information communicated to him. In this regard, any Filipino applicant may request for an OGCC information by accomplishing two copies of

the request form available at the OGCC Records Section or downloadable from the OGCC website at www.ogcc.gov.ph.

(b) The applicant must ensure that he shall state his name and contact information, a reasonable description of the information requested, the specific reason/s for the request and present two valid pieces of evidence of his identity or authorization. All requests for information shall be addressed in the name of the Government Corporate Counsel and must be made under oath in accordance with the 2004 Rules on Notarial Practice (A.M 02-8-13-SC).

Sec. 8. *Receipt of the Request.* (a) The duly accomplished request may be submitted to the OGCC by ordinary mail at the 3rd Floor MWSS Administration Building, Katipunan Road, Old Balara, Quezon City or by electronic mail (email) atrecords@ogcc.gov.ph. If the request is sent by email, the requesting party must submit a photostatic or electronically scanned copy of the evidence of identity.

(b) In case of a proxy request, the duly accomplished request form must be accompanied by a letter of authority indicating that the applicant has authorized his representative to submit the request on his behalf, together with copies of two valid evidence of identities for both the applicant and his representative.

(c) In case the applicant is disabled or illiterate, he may be assisted by a relative within the fourth civil degree of consanguinity or affinity or by a representative, who should be a person personally known to him, who is of legal age and who belongs to the same household. In submitting the request, both the applicant and his representative must submit valid evidence of their identities.

Sec. 9. *Bill of particulars.* Where the OGCC (a) reasonably requires added information in order to identify and locate the information requested, and (b) has informed the applicant of such requirement, then it is not obliged to comply with the applicant's request, unless such added information is supplied.

Sec. 10. *Fees.* (a) The OGCC may, within 15 days, give the applicant a fees notice stating the specific amount needed to defray the cost of copying and reproduction of the requested information, indicating that the applicant's request is granted. The applicant must from receipt of the fees notice pay the OGCC within a reasonable period the amount specified.

(b) The OGCC may reduce or waive any of its fees in case the applicant is an indigent, a student or a senior citizen, Provided: that the applicant satisfactorily proves his entitlement to such waiver or reduction of fees.

(c) The OGCC reserves the right to deny the request if the applicant fails or refuses to pay the required fees.

Sec. 11. *Time to act.* (a) The OGCC shall promptly act on the request not later than 15 working days, following the date of its receipt of the complete request.

(b) Where the OGCC gave a fees notice to the applicant, the 15-day period to comply is tolled and will begin to run anew once it receives the applicant's full payment in accordance with the preceding section. If the remaining period is only five working days or less, the OGCC shall have a fresh 10 days from receipt of full payment, unless the requested information is voluminous in which case the OGCC is authorized to act on the request on a longer but reasonable period it may provide.

(c) The OGCC reserves the right to extend the period stated here when the information requested requires extensive research of official records under its control and custody, examination of voluminous records, the occurrence of fortuitous events and other analogous cases. In all these cases, the OGCC shall notify the applicant in writing.

(d) The OGCC may defer action on an incomplete request, promptly giving the applicant a written notice about this.

Sec. 12. *Vexatious requests.* The OGCC is not obliged to comply with an applicant's request for information if the request is vexatious. Where the OGCC has previously complied with a request for information, which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person.

Sec. 13. *Denial of request.* The OGCC shall, within the time to act on a request, give the applicant a notice denying the request in whole or in part, specifying the ground or grounds for the denial and the circumstances upon which the denial is based.

Sec. 14. *Exceptions.* Access to information shall be denied when the information falls under or is otherwise covered by the following:

- a. Inventory of exceptions approved by the Office of the President;
- b. Personal and sensitive information pursuant to the Data Privacy Act (RA 10173);
- c. Exceptions provided in the Constitution, existing laws and jurisprudence,
- d. Information which were already subject of an identical or substantially similar request from the same party and which were previously granted or denied
- e. Information requested is already publicly available, e.g. Internet, Official Gazette, other government website such as COA, DBM, PhilGEPS, national libraries, national archives;
- f. The record and/or information requested does not exist or cannot be found; and,
- i. Information requested refers to a third party or other official repository or custodian of the information requested, e.g. GOCC clients or other government agencies.

V. Administrative Remedies

Sec. 15. *Motion for reconsideration.* Should the applicant disagree with the OGCC's action in denying his request, he may move for its reconsideration within ten calendar days from receipt of the denial notice but only when based on palpable or patent errors; provided, that only one such motion from the applicant shall be entertained. (15a)

Sec. 16. *Appeal.* A denial of an applicant's motion for reconsideration may be appealed to the Office of the Secretary, Department of Justice (DOJ) within 15 calendar days from receipt of such denial notice. The appeal may be entertained if there is *prima facie* evidence of abuse of discretion on the part of the Government Corporate Counsel.

Sec. 17. *Implementing Guidelines.* The OGCC shall issue the appropriate guidelines to ensure that the policy adopted here and the procedure defined in this Manual is properly carried out.

VI. Appendices

A. Standard Request Form

B. Fees


C. Implementing Guidelines

D. Process Flowchart



APPENDIX A

FOI Request Form

	<p>Republic of the Philippines Office of the Government Corporate Counsel 3rd Floor, MWSS Building, Katipunan Road Balara, Quezon City To: The Government Corporate Counsel</p>	<p>CONTACT US</p> <p>Tel. Nos.: (02) 436-4458; (02) 436-3779; (02) 927-0035; (02) 927-0030 Fax No.: (02) 436-4475 Email: records@ogcc.gov.ph Website: www.ogcc.gov.ph</p>	
<p>ACCESS TO INFORMATION REQUEST FORM</p>			
<p>To be accomplished by the Applicant</p>			
<p>1. Name :</p>			
<p>2. Residence/Business Address</p>		<div><div>House No./Blk. No.</div><div>Street</div><div>Barangay</div><div>City/Municipality</div><div>Province</div></div>	
<p>3. Proof of Identity:</p>			
<p>4 Contact Information</p>		<p>Landline:</p>	<p>Mobile No.: Email:</p>
<p>5. Detailed description of the information/document requested:</p>			
<p>6. Purpose of the request:</p>			
<p>7. Name and signature of authorized representative if any:</p>		<p>Proof of identity/evidence of authority:</p>	
<p>CERTIFICATION UNDER OATH</p> <p>I hereby certify under oath that the undersigned is the person whose name and signature appears here and that the above-requested information will be used for the stated purpose/s and for no other. None of the contents of such document/information will be disclosed to a third party, except the applicant here. I have not misused any information previously obtained from this Office. In case where a study is conducted in line with a school-sanctioned project, the identity of the concerned public officer/s or employee/s shall not be unduly disclosed but shall be referred in general terms (e.g. <i>mayors of Metro Manila</i>) to prevent unnecessary disclosure of information about the public official/s or employee/s. Should I violate the terms of this undertaking, I understand that I will be proceeded against under the Revised Penal Code for perjury.</p> <div>Signature over printed name</div>			

APPENDIX B**FEES**

- The applicant shall be notified of the cost of reproduction of the requested information
- The cost of reproduction is P20.00 per page
- No fees shall be charged on the filing of a request for information or appeal

APPENDIX C

Implementing Guidelines of the FOI Manual

1. Receipt of FOI request. The Records Officer (RO) shall provide an applicant with a request form or direct him to go to the OGCC website pursuant to Section 7 of the Manual. The RO must ensure that the applicant supplies the needed data under Section 7(b). If all these have been supplied, the RO shall stamp "Received" across the request form, indicating the date and time of receipt. Otherwise, the Office may defer action on such an incomplete request in accordance with Section 11 (d) of the Manual, promptly giving the applicant a written notice about this.

If the applicant sent his request electronically, such request shall be printed at once and will be acted as if the same has been filed in person.

The RO shall also log the details of the request in the FOI tracker and shall map out a plan on how to help in the proper disposition of the request.

2. Preliminary Evaluation. Upon due receipt of the request, the RO shall, within the day of receipt, preliminarily evaluate it indicating in the duly accomplished request form whether the requested information is in the Office's custody or if the same is publicly available if known or whether the requested information is vexatious as defined under Section 7 of the Manual.

3. Assessment of the Request. Once the preliminary evaluation has been completed, the RO shall route the applicant's request to the Government Corporate Counsel (GCC) or his Deputy for the latter's assessment.

4. Request Evaluation. After the GCC evaluated the applicant's request, he may do any of the following as regards the request:

- a. Direct the deferment of any action on the request for being incomplete or request the applicant for added information to act on the request under Section 9;
- b. Refer the applicant's request to the proper team leader for a prompt comment;
- c. Extend the period to comply with the applicant's request pursuant to Section 11 (c) of the Manual;

- d. Grant the request by executing the proper fees notice pursuant to Section 10 of the Manual; or
- e. Deny the request pursuant to Sections 12 or 13 of the Manual.

5. Execution of the proper notice. After the GCC or his Deputy completes the evaluation of the request, he shall execute the proper notice to the applicant forthwith.

If the applicant sent his request electronically, the GCC's proper notice shall also be sent in a similar manner.

In case, the GCC is inclined to issue a fees notice, the amount of fees to be demanded shall be determined in advance based on a pre-approved schedule of fees. No fee shall be charged from applicants for any information request.

6. Release of documents. Once the required fees have been paid, the RO shall check and ensure that all the needed documents have been retrieved, reproduced and revalidated before their actual release to the applicant. The RO shall also ensure that the usual administrative requirements are observed to guarantee the applicant's receipt of the requested information.

7. Remedies in case of denial. Should the applicant disagree with the denial of his request, he may move for its reconsideration within ten calendar days from receipt pursuant to Section 15 of the Manual citing in particular the palpable or patent errors committed. The GCC shall promptly act on such motion for reconsideration.

In case the GCC affirms the original action and denies the applicant's motion for reconsideration, the denial of such motion may be appealed to the Office of the Secretary, DOJ within 15 calendar days from receipt of such denial notice.

8. Administrative Liability. Failure to comply with the provisions of the Manual may be a ground for administrative and disciplinary sanctions against any erring OGCC official or employee as provided under existing law, rule or regulation.

9. Circulation. OGCC management shall ensure that copies of the Manual shall be widely circulated within the Office.

FOI Process in Days*

Day 1	Days 2-4	Days 5 to 8	Days 9-15
Receipt of the Request <ul style="list-style-type: none"> • Check the completeness of the request • Stamp receipt on it • Provide copy to applicant • Log details on office tracker • Plan work needed by the GCC's office Preliminary evaluation <ul style="list-style-type: none"> • Evaluate the request • Ascertain if the requested information is in the Office's custody or if the same is publicly available • Ascertain if the requested information is vexatious as defined under Section 7 of the 	GCC's assessment of the request <ul style="list-style-type: none"> • Is the request complete in all its material respects? • Does OGCC have custody of the document? • Is the document publicly accessible? • Is the request vexatious under Section 7 of the Manual? • Should I ask the proper team leader for comment? • Is Section 11(c) applicable? Locating the requested information <ul style="list-style-type: none"> • Obtain all the relevant information • Prepare schedule of all information located 	Consider the proper response; issuance of the proper notice <ul style="list-style-type: none"> • Notify applicant about the deficient/ defective request • Issue the proper notice denying the request because the -- -- information is publicly accessible; -- request is vexatious under Section 7 of the Manual; or -- requested information falls under Section 13 in relation to Section 14 of the Manual. • Consider the comment of the team leader after a referral • Ascertain if Section 11(c) applies in this case 	Reproduction of the documents from payment of fees. <ul style="list-style-type: none"> • The RO to reproduce the documents upon presentation of proof of payment. Issuance of proper extension notice pursuant to Section 11 (c) of the Manual. Release of the requested information to the applicant named in the request

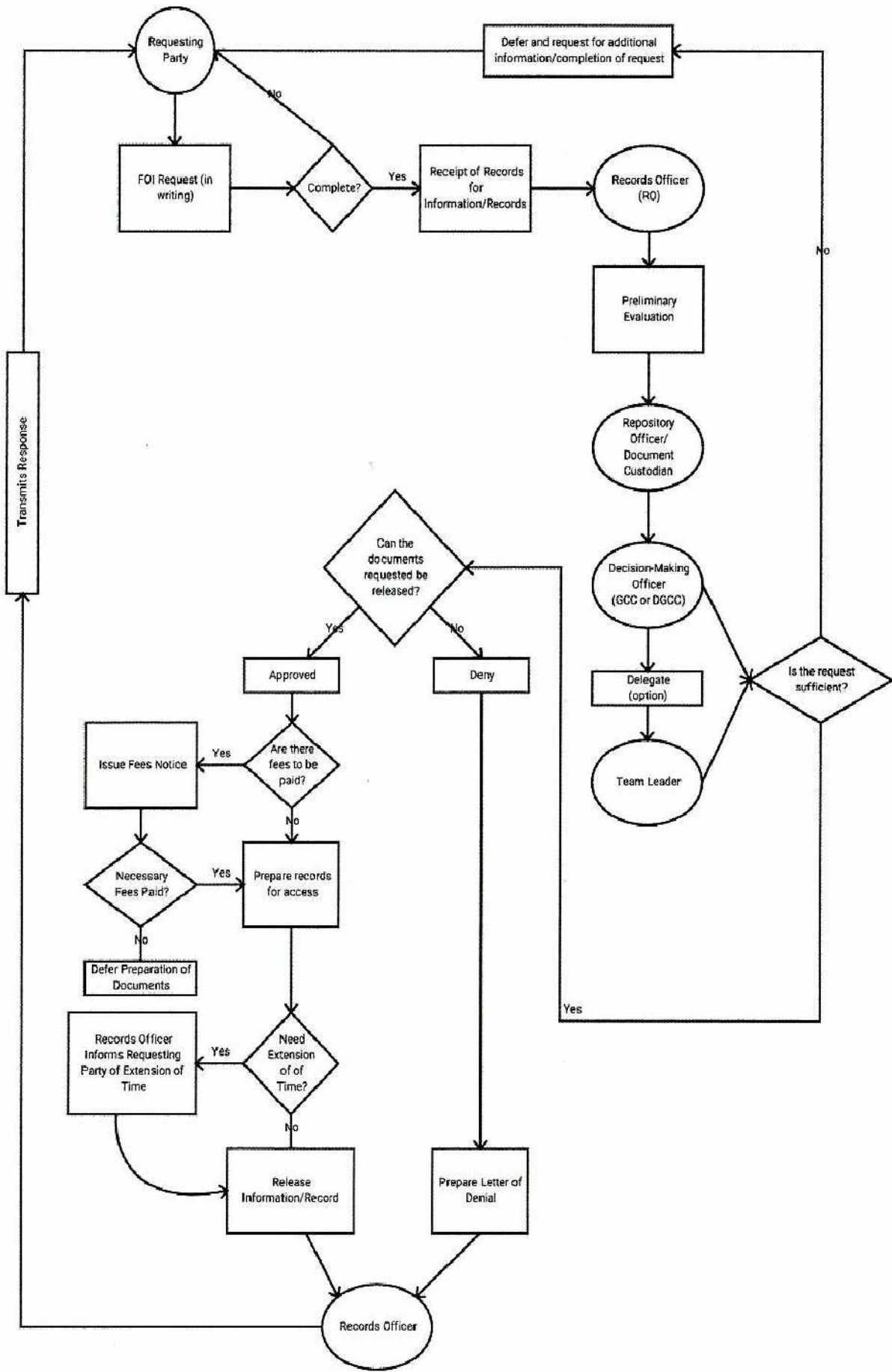
*

Notes:

1. The foregoing presents the projected timetable at various points within the 15-day working period authorized by Executive Order 2.
2. Each FOI request from an applicant is different from another one. Thus, not all actions cited above will be required in each case. The foregoing time element is simply given to guide the GCC's office to clear FOI requests within the 15-working day deadline.
3. For any request, the RO is required to forthwith commence the diligent search for the requested information to ascertain what specific work needs to be done to ensure that work is done on time. The foregoing table is intended to be a helpful planning tool.

Manual. • Noting all these in the request • Routing to the GCC	Inform/Consult • Consult team leader in proper cases	• Issue the proper fees notice if the information requested is extant from the records.	
--	--	---	--

APPENDIX D



VII. Approval of the OGCC Freedom of Information Agency Manual



ELPIDIO J. VEGA

Deputy Government Corporate Counsel
Officer-in-Charge