

FREEDOM OF INFORMATION

**EXECUTIVE ORDER NO. 02
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 THEREFOR**

**OFFICE OF THE PRESIDENT -
PRESIDENTIAL MANAGEMENT STAFF
FREEDOM OF INFORMATION PEOPLE'S MANUAL**

Version 3

OFFICE OF THE PRESIDENT -
PRESIDENTIAL MANAGEMENT STAFF

FREEDOM OF INFORMATION PEOPLE'S MANUAL

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OFFICE OF THE PRESIDENT - PRESIDENTIAL MANAGEMENT STAFF

FREEDOM OF INFORMATION PEOPLE'S MANUAL

I. OVERVIEW

1.1 RATIONALE AND PURPOSE OF MANUAL

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

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

Accordingly, Executive Order (EO) No. 02, s. 2016,¹ underscores the importance of the incorporation of this right in the Constitution as 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. The EO also provides that the Executive Branch recognizes the need to operationalize these Constitutional provisions (**Annex A**).

Section 4 of EO No. 130, s. 1987,² provides that the Office of the President-Presidential Management Staff (OP-PMS) shall be the primary government agency directly responsible to the Office of the President for providing staff assistance in the Presidential exercise of the overall management of the development process.

This Freedom of Information (FOI) Manual shall guide and assist the OP-PMS in dealing with requests for access to information received from the general public pursuant to EO No. 02, s. 2016.

1.2 FOI FOCAL PERSON

This Manual shall set out the rules and procedures to be followed by the OP-PMS when a request for access to information is received. The PMS Head, who serves as the focal person of the OP-PMS in the implementation of the FOI program, shall ensure that all actions required in this Manual are carried out. The FOI focal person

¹ Entitled, "Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor".

² Entitled, "Reorganizing the Presidential Management Staff, Merging and Consolidating All Offices and Agencies Whose Functions Overlap and/or are Inter-Related, Defining Its Powers and Functions and for Other Purposes".

shall also be responsible for the review, evaluation, and assessment of appeals on the denial of requests for information and the finalization/issuance of decisions on such matters, as necessary. The focal person may, however, delegate this responsibility to the Undersecretary/Assistant Secretary of the OP-PMS. Further, the PMS Head may delegate a specific officer to act as the FOI Decision Maker (FDM), who shall have overall responsibility for the initial decision on all FOI requests, (i.e., to grant the release of all the information being requested, partially release the relevant information, or deny a request for access to information), subject to the existing relevant laws, rules, and regulations.

1.3 FOI DECISION MAKER

There shall be an FDM designated by the PMS Head, with a rank not lower than an Assistant Secretary or its equivalent, who shall evaluate a request for access to information and has the authority to grant the request, in coordination with the concerned office/service/committee and subject to clearance of the Office of the PMS Head, or deny it based on the following:

- a. The OP-PMS does not have the information being requested;
- b. The information requested contains sensitive personal information protected by the Republic Act (RA) no. 10173³ or the Data Privacy Act of 2012;
- c. The information requested falls under the list of exceptions to FOI pursuant to Memorandum Circular No. 15, s. 2023; or
- d. The request is an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has been previously granted or denied by the OP-PMS.

In case where the FDM is on official leave, the FDM may delegate such authority to his/her authorized representative or any Officer with a rank not lower than a Director or its equivalent.

1.4 FOI RECEIVING OFFICER

There shall be an FOI Receiving Officer (FRO) designated at the OP-PMS. The FRO shall come from the unit/division that handles the FOI Program, unless otherwise specified or directed by the PMS Head.

The FRO shall have the following functions: 1) receive, on behalf of the OP-PMS, all requests for access to information and forward these to the FDM for coordination with the appropriate OP-PMS office/service/ committee which has custody of the information/records; 2) monitor the status of all FOI requests and appeals; 3) provide assistance and support to the public and staff with regard to FOI; 4) compile statistical information as required; 5) conduct initial evaluation of the request prior to forwarding the matter to the FDM to help the latter arrive at a well-informed decision; and, 6) advise the requesting party if the request will be forwarded to the FDM for further evaluation, or deny the request based on the following:

- a. The form is incomplete; or

³ Entitled, "An Act Creating 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"

- b. The information is disclosed in the OP-PMS's Official Website (pms.gov.ph), data.gov.ph. or eFOI portal (eFOI.gov.ph);
- c. The information requested does not fall under the purview of EO No. 02, s. 2016 e.g., request for medical assistance, government to government transactions.

II. DEFINITION OF TERMS

For the purpose of this Manual, the following terms shall mean:

1. **Complex Request.** Refers to a request for information that requires extensive search of voluminous records and highly technical knowledge to resolve complicated information, as determined by the FRO and/or FDM.
2. **Consultation.** Refers to the process when a government agency locates a record that contains information of interest by said agency/office, thereby inquiring recommendations, as applicable, on whether the requested information can be disclosed before any final determination is made.
3. **data.gov.ph.** Refers to the government's comprehensive website for public government data that is searchable, understandable, and accessible.
4. **eFOI.gov.ph.** Refers to the government's comprehensive website (www.foi.gov.ph) for all FOI-related information. Among many other features, the site provides a central resource for the public to understand the FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. It also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, allowing the agency to compare these over time.
5. **Enrollment to eFOI Portal.** Refers to the enrollment and onboarding to the eFOI platform to ensure that the public will have ease and convenience in requesting information to different agencies under Executive Branch.
6. **Exceptions.** Refers to information that should not be released and disclosed because these are protected by the Constitution, laws or jurisprudence. The Department of Justice and the Office of the Solicitor General shall prepare and periodically update the Inventory of Exceptions. The said inventory shall be circularized by the Office of the President (**Annex B**).
7. **Freedom of Information (FOI).** Refers to the right of the people to information on matters of public concern, as recognized by the Executive Branch, and as such adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in EO no. 02, s. 2016. 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.
8. **FOI Contact Information.** Refers to the name, postal or email address, and phone number of each government agency where one can make an FOI request.

9. **FOI Request.** Refers to a written document submitted personally, by courier, or by email, to a government agency/office under the Executive Branch, requesting access to information, official records, public records, and documents produced by a public officer or employee in an official capacity or duty. An FOI request can be made by any Filipino citizen or corporation or entity created and organized under Philippine laws, through their duly authorized representatives.

10. **FOI Request Form.** Refers to a form to be accomplished by the requesting party or FOI receiving officer of the concerned agency/office to record requests for access to information. The said form is available at the OP-PMS reception area and on the OP-PMS Website.

11. **FOI Receiving Office.** Refers to the primary contact office in the OP-PMS which the requesting party can call and direct questions to about the FOI process or pending FOI request.

12. **Frequently Requested Information.** Refers to information released in response to an FOI request that the OP-PMS determines to have become or are likely to become the subject of subsequent requests for substantially the same record.

13. **Full Denial.** Refers to a case wherein the OP-PMS cannot release any records in response to an FOI request because the requested information falls under Sec. 1.3 of this Manual and/or there is no available information responsive to the request.

14. **Full Grant.** Refers to a case wherein the OP-PMS is able to disclose all records in full in response to an FOI request.

15. **Information.** Refers to 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 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 OP-PMS pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.

16. **Information for Disclosure.** Refers to information promoting the awareness and understanding of policies, programs, activities, rules or revisions affecting the public, government agencies, and the community and economy. It also includes information encouraging familiarity with the general operations, thrusts, and programs of the government.

17. **Multi-Track Processing.** Refers to the system of sorting incoming FOI requests according to the simplicity or complexity of the request:
 - a. Simple Request which should be acted upon within 15 working days from receipt; and

- b. Complex request which requires extensive search of records/examination of voluminous records/other analogous circumstances, in which case an extension of 20 working days may be granted, unless exceptional circumstances warrant a longer period of extension.

18. **Official Record.** Refers to information produced or received by the OP-PMS in an official capacity or pursuant to a public function or duty.

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

20. **Partial Grant/Partial Denial.** Refers to a case wherein the OP-PMS is able to disclose portions of the records in response to an FOI request, but must deny other portions of the request.

21. **Pending Request or Pending Appeal.** Refers to an FOI request or administrative appeal for which the OP-PMS 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.

22. **Perfect Request.** Refers to FOI request, which reasonably describes the requested records and is granted in accordance with existing laws, rules, and regulations.

23. **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.

Sensitive Personal Information, as defined in the RA no. 10173 or the Data Privacy Act of 2012, refers to information:

- a. About an individual's race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
- b. About an individual's health, education, genetics or sexual life, or to any proceedings 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;
- c. Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and,
- d. Specifically established by an executive order or an act of Congress to be kept classified.

24. **Proactive Disclosure.** Refers to information made publicly available by government agencies without waiting for a specific FOI request. Government agencies can already post to their websites and other government websites, such as data.gov.ph, a vast amount of material concerning their functions, mission, policies, programs, activities, among others.

25. **Processed Request or Processed Appeal.** Refers to the number of requests or appeals that the agency has completed for which a final response has been sent to the requesting party.
26. **Public Record/Records.** Shall include information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by the OP-PMS.
27. **Received Request or Received Appeal.** Refers to an FOI request or administrative appeal that the OP-PMS has received within a fiscal year.
28. **Referral.** Refers to the process wherein the OP-PMS locates a record that originated from, or is of otherwise primary interest to another agency and forwards that record to that other agency to process and advise the requesting party of the final action on the request.
29. **Simple Request.** Refers to a request for information that only requires minimal action from the concerned office in providing resolution to a requested information, as determined by the FRO and/or FDM.

III. PROTECTION OF PRIVACY

While providing for access to information, the OP-PMS shall afford full protection to a person's right to privacy, as follows:

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

IV. PROCEDURE ON ACCESSING INFORMATION FROM THE OP-PMS (*Refer to Annex C for the Flowchart*)

1. Receipt of Request for Access to Information

- a. The FRO shall receive the request for access to information from the requesting party (eFOI portal, walk-in or sent through registered mail) and check compliance with the following requirements:
 - The request must be made through the eFOI portal or in writing using the FOI Request Form (**Annex D**);
 - The request shall state the name and the contact information of the requesting party and include, as necessary, an attached copy of a valid

- proof of identification with photo (scanned or photocopy) or authorization;
and
 - The request shall clearly describe the information requested and the reason for, or purpose of the request for information.
- b. In case the requesting party is unable to make a written request because of illiteracy or due to a disability, he or she may make an oral request, and the FRO shall put it in writing using the FOI Request Form.
- c. The FOI Request Form shall be stamped received by the OP-PMS Receiving Office, indicating the date and time of receipt and the name, rank, title, and position of the OP-PMS officer who received it, with a corresponding signature of said officer and a copy furnished the requesting party. In case of email request, the email shall be printed out, be subjected to the procedure mentioned above, and be acknowledged by electronic mail. The FRO shall input the details of the request in the iDocs and allocate a reference number.
- d. The OP-PMS must respond to a request promptly, within fifteen (15) working days following its date of receipt. A working day is any day other than a Saturday, Sunday, a day that is declared a national public holiday in the Philippines, or a day wherein work is suspended because of natural calamities. In computing for the period, Art. 13 of the New Civil Code shall be observed.

The date of receipt of the request will either be:

- 1) The day on which the request is physically or electronically delivered to the government office, or directly into the email inbox of a member of the staff of said office; or
- 2) The day on which the necessary clarification is received if the OP-PMS has asked the requesting party for further details to identify and locate the requested information.

An exception to this will be when the request has been emailed to an absent member of the staff, and this has generated an "out of office" message with instructions on how to re-direct the message to another contact. Where this is the case, the date of receipt will be the day the request arrives in the inbox of that other contact.

Should further details need to be identified or located prior to processing the requested information, the 15 working days will commence the day after the OP-PMS 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 considered closed.

2. **Initial Evaluation of Request for Access to Information.** After receipt of the request for information, the FRO shall evaluate the contents of the request, and take necessary actions, as necessary.

- a. **Requested information is not in the custody of the OP-PMS.** If the requested information is not in the custody of the OP-PMS, following

referral and discussions with the FDM, the FRO shall undertake the following steps:

- If the information requested is in the custody of another agency, the request will be immediately forwarded to such appropriate agency for proper evaluation based on existing laws, rules, and regulations, in the most expeditious manner (e.g., letter, email, telephone call), and the OP-PMS shall inform the requesting party within the 15-working day limit that the information is not held by the OP-PMS.
 - If the information refer to an agency not within the coverage of EO No. 02, s. 2016, the requesting party shall be advised accordingly (e.g., letter, email, telephone call) and provided with the contact details of that agency, if known.
- b. **Requested information is already posted and available online.** If the requested information is already posted and publicly available in the OP-PMS website, data.gov.ph or efoi.gov.ph, the FRO shall inform the requesting party of the said fact and provide the latter with the website link where the information is posted.
- c. **Requested information is substantially similar or identical to the previous request.** If the requested information is substantially similar or identical to a previous request by the same requester, the request shall be denied. The FRO shall notify the FDM regarding the matter.
- d. **Requested information is under the custody of OP-PMS.** The FRO shall notify the FDM of such request and recommend necessary actions, as applicable.
3. **Processing of Request for Access to Information.** Upon receipt of the request for information, the FRO shall forward a copy of the request to the FDM together with the FRO's initial evaluation within three working days from receipt thereof.

The FDM shall assess and clarify the request based on the validation of the FRO if necessary. He/She shall make all necessary steps to locate and retrieve the information requested from the concerned office/service in the OP-PMS and transmit the same to the FRO within 10 working days upon receipt thereof.

If the FDM needs further details to identify or locate the information, he/she shall, through the FRO, seek clarification from the requesting party. The request for clarification shall suspend the running of the 15-working day period, which will only commence the day after the FRO receives the required clarification from the requesting party.

If the FDM determines that a record contains information of interest to another agency/office, the FDM shall consult with the agency/office concerned on the disclosability of the records before making any final action on the request.

Upon receipt of the requested information, the FRO shall collate and ensure that the information is complete. He/She shall attach a cover/transmittal letter

signed by the FDM or the designated official/staff and ensure the transmittal of such to the requesting party within 15 working days.

4. **Request for an Extension of Time for Processing of Request for Access to Information.** If the information requested requires extensive search of the OP-PMS records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases, the FRO should inform the FDM.

The FRO shall inform the requesting party of the extension, setting forth the reasons for such extension. In no case shall the extension exceed 20 working days in addition to the mandated 15 working days to act on the request, unless exceptional circumstances warrant a longer period.

5. **Approval or Denial of Request.** In case of approval, the FRO shall ensure that all records that have been retrieved and considered are checked for possible 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 the latter shall be directed to pay the applicable reproduction/copying fees, if any.

In case of denial of the request wholly or partially, the FDM shall, within the prescribed period, notify the requesting party of the denial in a letter or email to be prepared by the FRO. The notice shall clearly indicate the ground or grounds for denial and the circumstances on which the denial is based. All denials of FOI requests shall pass through the PMS Head or his designated officer for clearance, as applicable.

V. **NO WRONG DOOR POLICY FOR FOI** (*Refer to Annex E for the Flowchart*)

As a general rule, all fully compliant requests⁴ for information shall be accepted by the FRO. No request for information shall be denied or refused acceptance by a government agency unless the request is contrary to the Constitution, pertinent laws, rules, and regulations, or included under the Inventory of Exceptions.

1. If the requested information is not in the custody of a Government Agency (GA 1) but is available in another government agency (GA 2), the request shall be immediately referred (**First Referral**) by GA 1 to GA 2 within three working days from the receipt thereof. However, if GA 1 erroneously referred the request to GA 2, the latter shall notify GA 1 that the information requested is not available in their agency.
2. Subsequently, GA 2 may refer (**Second Referral**) said request to another government agency for appropriate action. A fresh period of the mandated 15 working days shall apply to every referral. If GA 1 and GA 2 failed to refer the request within the prescribed three working days, its FRO shall act on said request pursuant to EO no. 02, s.2016.

⁴ That request shall state the name and contact information of the requesting party, provide valid proof of identification or authorization, reasonably describe the information requested, and the reason or purpose of the requested information.

3. Referrals under this Policy shall only be limited to two subsequent transfers of request. The requesting party shall be notified that his/her request was referred to another government agency with the contact details of that agency, if known, and the reason for said referral thereof.

VI. REMEDIES IN CASES OF DENIAL OF REQUEST FOR ACCESS TO INFORMATION

A person whose request for access to information has been denied may avail himself/herself of the remedy set forth below:

1. Administrative FOI Appeal to the OP-PMS:
 - a. Denial of a request may be appealed by filing a written appeal addressed to the PMS Head, as the FOI Focal Person, within fifteen (15) calendar days from the notice of denial or from the lapse of the required period to act on the request.
 - b. The PMS Head, through the Central Appeals and Review Committee (CARC), shall receive, review, evaluate, and assess the appeal on the denial of the request for information. The CARC shall recommend, as necessary, possible resolution to said appeal subject to the approval of the PMS Head.
 - c. The appeal shall be decided by the PMS Head based on the CARC recommendation, within 30 working days from the filing of said written appeal.
2. Upon exhaustion of administrative appeal remedies, the requesting party may undertake other options he/she deems appropriate.

VII. REQUEST FOR ACCESS TO INFORMATION TRACKING SYSTEM

The OP-PMS shall establish a system to trace the status of all requests for access to information received by it, which may be paper-based, online or both.

VIII. FEES

1. **No Request Fee.** The OP-PMS shall not charge any fee for 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 OP-PMS in providing the information to the requesting party. The schedule of fees shall be posted by the OP-PMS.
3. **Exemption from Fees.** The OP-PMS may waive the collection of reproduction and copying fee for a valid reason.

VIII. LIABILITY

Failure to comply with the provisions of this Manual may be a ground for administrative, civil, or criminal liability, as provided under applicable laws, rules, and regulations.

IX. FOI AGENCY CONTACT INFORMATION

Agency Name : Office of the President - Presidential Management Staff

Agency Address : PMS Building, Arlegui Street
Malacañang Complex, San Miguel
Manila 1005

FOI Decision Maker : Assistant Secretary, Administrative Services

FOI Receiving Officer : Director/Acting Director/Division Chief, KMS

Agency Email Addresses
FOI Decision Maker : foidecisionmaker@pms.gov.ph
FOI Receiving Officer : foireceivingofficer@pms.gov.ph

Contact Numbers
PMS Trunkline : (02) 8876-8450
KMS : (02) 8876-8450 loc. 1065

X. ANNEXES

Signed:

SIGNATURE REDACTED

ELAINE T. MASUKAT

Senior Undersecretary and Head, PMS

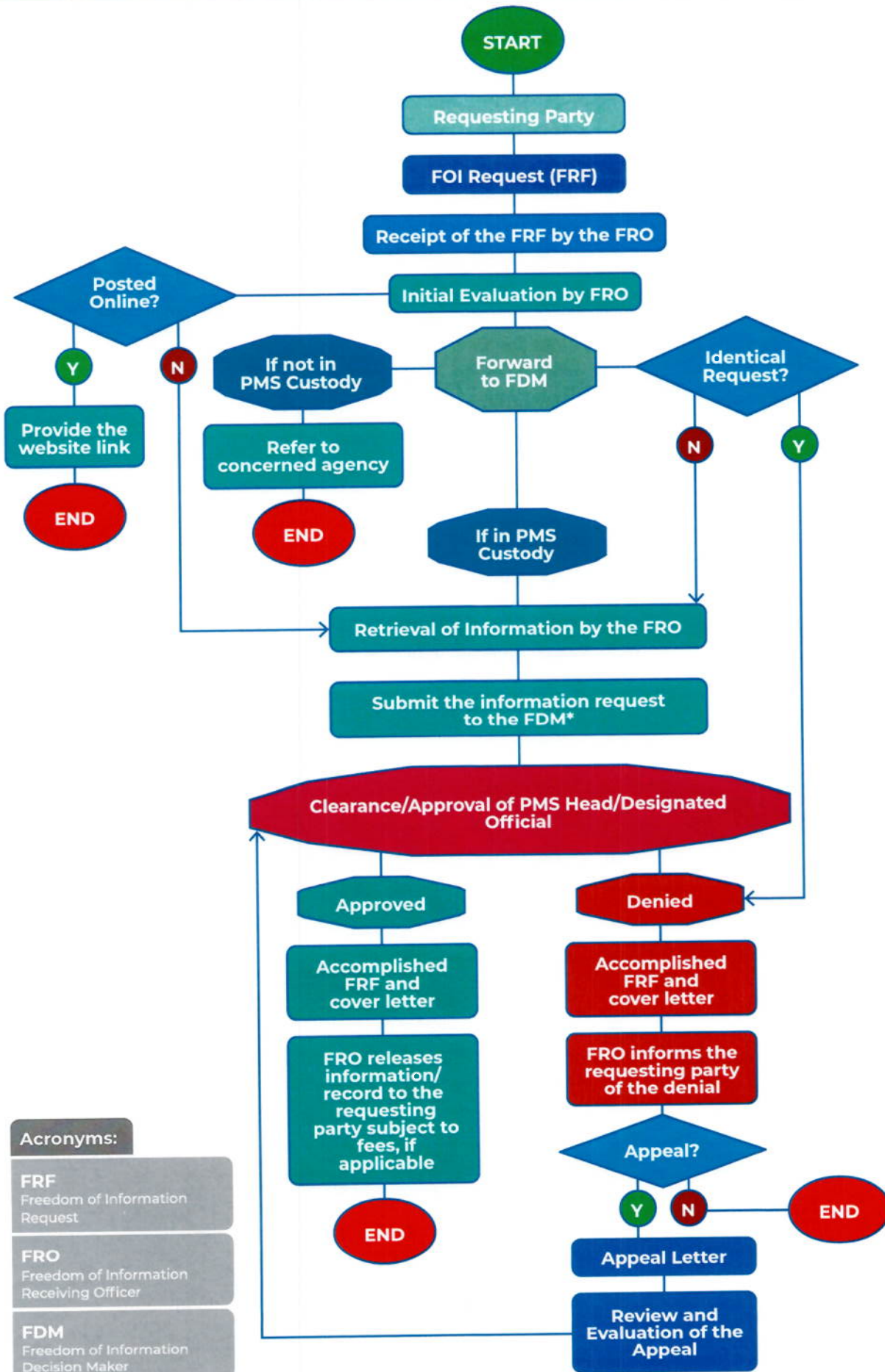
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PROCEDURE ON ACCESSING INFORMATION FLOWCHART



FREEDOM OF INFORMATION PHILIPPINES



Acronyms:

- FRF**
Freedom of Information Request
- FRO**
Freedom of Information Receiving Officer
- FDM**
Freedom of Information Decision Maker

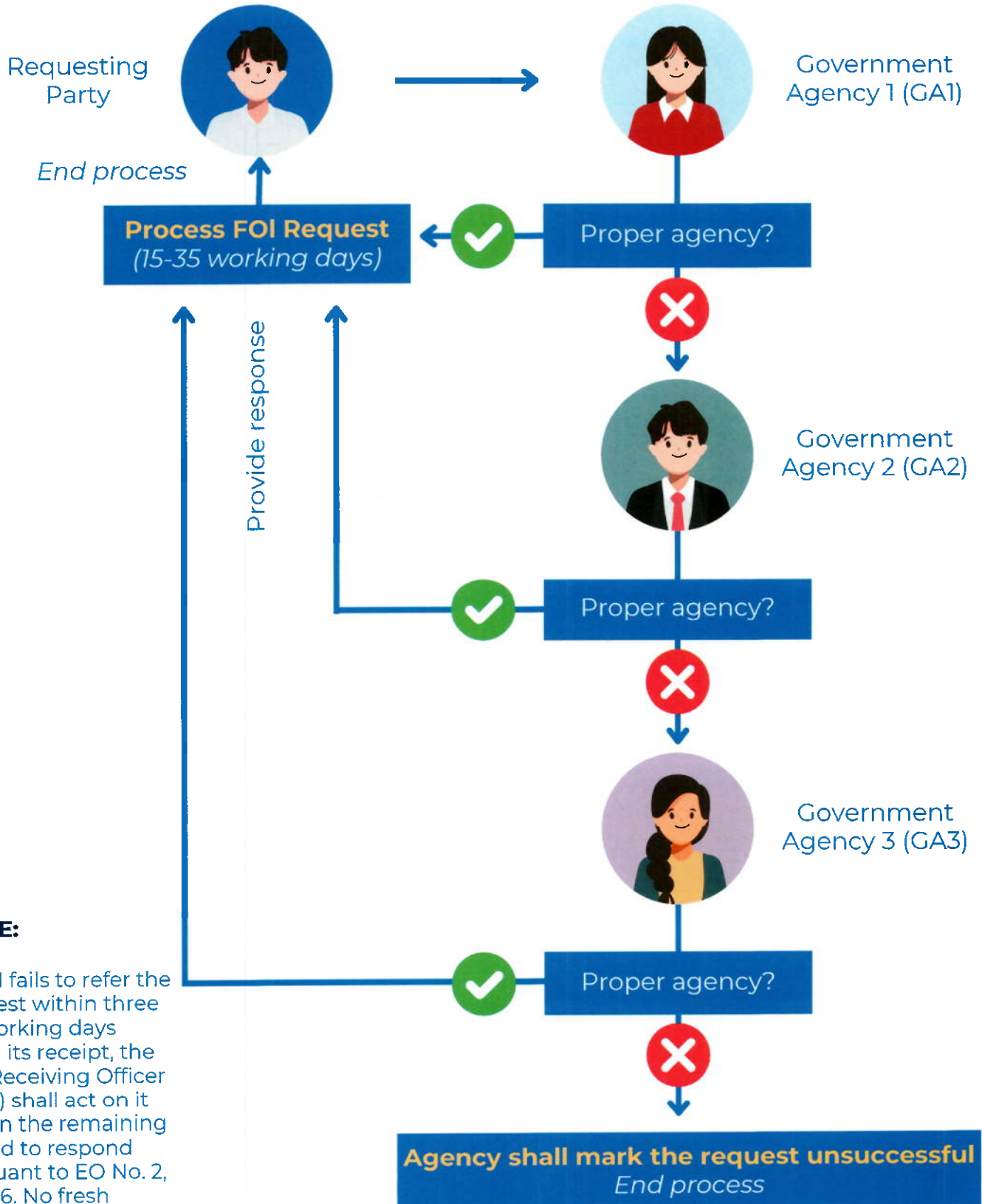
* If the information requested requires extensive search of the OP-PMS, the FRO shall inform the requesting party of the extension, setting forth the reasons for such extension. In no case shall the extension exceed twenty (20) working days on top of the mandated 15 working days to act on the request unless exceptional circumstances warrant a longer period.



NO WRONG DOOR POLICY FLOWCHART



(FOI Memorandum Circular No. 21-05)



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.