



REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
Tanggapang Pampanguluhan sa Operasyong Pangkomunikasyon
Malacañang, Manila

FOI – MC No. 4, s. 2019

**FREEDOM OF INFORMATION
MEMORANDUM CIRCULAR**

FOR : **ALL AGENCIES, DEPARTMENTS, BUREAUS, OFFICES
AND INSTRUMENTALITIES OF THE EXECUTIVE
BRANCH INCLUDING GOVERNMENT-OWNED-AND/OR-
CONTROLLED CORPORATIONS (GOCCS), AND STATE
UNIVERSITIES AND COLLEGES (SUCS)**

SUBJECT : **GUIDELINES ON REDACTION AND EXTRACTION OF
INFORMATION BEFORE DISCLOSURE TO THE PUBLIC**

WHEREAS, Article II, Section 28 of the 1987 Constitution provides that 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;

WHEREAS, Article III, Section 7 of the 1987 Constitution 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;

WHEREAS, Executive Order (EO) No. 02, s. 2016 was issued by President Rodrigo R. Duterte on 23 July 2016 to operationalize the constitutional mandate of the people's right to information;

WHEREAS, Memorandum Order (MO) No. 10, s. 2016 designated the PCOO as the lead agency in the implementation of EO No. 2, s. 2016, and all other FOI programs and initiatives including electronic FOI;

WHEREAS, Section 3 of EO No. 02, s. 2016 provides that every Filipino shall have access to information, official records, public 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;

WHEREAS, Article II, Section 11 of the 1987 Constitution provides that the State values the dignity of every human person and guarantees full respect for human rights;

WHEREAS, Section 2 of RA No. 10173 or the Data Privacy Act of 2012, provides that 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;

WHEREAS, pursuant to National Privacy Commission (NPC) Advisory No. 2017-02, disclosure of Personal Data Sheet (PDS) shall only be allowed when permitted by law. Information in the PDS that relate to the position or function of a government official or employee shall be disclosed. Sensitive Personal Information¹ may only be disclosed if necessary to the declared, specified, and legitimate purpose of the requesting party. Information not necessary to be disclosed or prohibited to be disclosed under existing laws, rules and regulations, shall be redacted before release of information to the requesting party;

WHEREAS, there is a need to guide the information officers of the government agencies in disclosing information through FOI requests to avoid violation of the Data Privacy Act, Code of Conduct and Ethical Standards for Public Officials and Employees, privacy rights of individuals and existing laws, rules and regulations with respect to protection of personal information and disclosure of information;

NOW, THEREFORE, in consideration of the foregoing, this Memorandum Circular (MC) is issued to provide guidelines on how to balance the disclosure of information with the protection of personal information when a document will be disclosed under the Freedom of Information Program in the Executive Branch pursuant to EO No. 2, s. 2016.

SECTION 1. DEFINITION OF TERMS. The following shall be defined as follows:

- a. **FOI officers** – individuals designated as FOI receiving officers and shall include the decision maker/s of an agency.

¹ Section 3 (l) of RA No. 10173, provides that 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.

- b. **Mosaic Effect** – This occurs when the information in an individual dataset, in isolation, may not pose a risk identifying an individual, but when combined with other information, could pose such risk (*US Department of Labor, Open Data Policy*).

Further, when disparate pieces of information—although individually of limited use—become significant when combined with other types of information (*Yale Law Journal, David E. Pozen, 2005*). Applied to public use data, the concept of a mosaic effect suggests that even anonymized data, which may seem innocuous in isolation, may become vulnerable to re-identification if enough datasets containing similar or complementary information are released.

- c. **Sensitive Personal Information** - Section 3 (l) of RA No. 10173, provides that sensitive personal information refers to personal information:

- i. About an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
- ii. 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;
- iii. 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
- iv. Specifically established by an executive order or an act of Congress to be kept classified.

Sensitive Personal Information may only be disclosed, if necessary, to the declared, specified, and legitimate purpose of the requesting party. Information not necessary to be disclosed or prohibited to be disclosed under existing laws, rules and regulations, shall be redacted before release of information to the requesting party.

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

SECTION 3. REDACTION OF INFORMATION THAT ARE INCLUDED IN THE LIST OF EXCEPTIONS. All information under the inventory of

exceptions, pursuant to EO No. 2, s. 2016, which are included in the document to be released shall be redacted.

SECTION 4. MANNER OF REDACTING. Redactions can be made to physical documents using redaction tape or a black marker pen. After the concerned information has been redacted from the physical document, it must be scanned and checked to ensure all the redacted information is unreadable.

In redacting a digital document, the rule is to ensure that sensitive information is not just visually hidden or made illegible, but is actually deleted from the source file. In some documents, deleting sections can cause an undesirable reflow of text and graphics. Redactions made to digital documents can in some circumstances be reversed, therefore an edited version of an electronic document must never be released.

The information officer redacting a digital document shall ensure that the redacted information can never be recovered by the requesting party by using pertinent application tools.

SECTION 5. EXTRACTION OF INFORMATION. Information extraction is the process of separating/isolating specific information from a set of data. As an alternative to redaction, where a document or file contain information which are included in the inventory of exceptions and a part or parts thereof are disclosable to the public, and redaction is deemed difficult, the information shall be extracted by reproducing it in a separate file or by photocopying a part or parts of a set of data.

SECTION 6. RESPONSIBILITIES OF THE FREEDOM OF INFORMATION OFFICER. The following are the responsibilities of FOI officers:

- a. Evaluate the request received, ensuring that the request has a declared, specified, and legitimate purpose not contrary to morals or public policy.
- b. Consider the mosaic effect of data aggregation. It is the responsibility of each information officer to perform the necessary analysis to determine whether some combination of existing data and the data intended to be disclosed could allow for the identification of an individual or pose a security concern, otherwise, such data should be redacted before disclosure;
- c. Before the redacted government information, official records, and public records are released, the FOI officers shall require the requesting party to sign a written undertaking that he or she shall not share nor disclose the information obtained through the FOI Program to any other person or entity, or use the information obtained in a manner that is not in accordance with the purpose stated in the request.

Failure of the requesting party to comply with the undertaking may be a ground to refuse any future requests or open the requesting party to criminal prosecutions under existing laws; and

- d. Any other responsibilities as may be deemed necessary in accordance with this Circular.

SECTION 7. SEPARABILITY CLAUSE. If any provisions or sections of this Circular are declared unconstitutional, void or in contravention of any existing laws, rules and regulations, the remaining portions or provisions hereof shall continue to be valid and effective.

SECTION 8. EFFECTIVITY. This Circular shall take effect immediately.

SECTION 9. COMPLIANCE. For your guidance and strict compliance.



JOSE RUPERTO MARTIN M. ANDANAR
Secretary & FOI Champion

28 September 2019 Manila, Philippines.