

***Submission to the thematic report of the Special Rapporteur on Freedom of Opinion and Expression to the UN Human Rights Council: "Freedom of Opinion and Expression and Sustainable Development - Why Voice Matters"***

Freedom of Information Philippines

**1. What laws, policies, and practices exist in your country to facilitate public participation and access to information and data relating to sustainable development?**

Section 7 of the Philippine Constitution of 1987 emphasizes the people's right to know about matters of public concern. However, thirty years after the introduction of the first Freedom of Information (FOI) Bill, the Philippine Congress has yet to enact legislation that promotes access to information. In July 2016, President Duterte signed Executive Order No. 2, s. 2016 (EO 2) entitled "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."

Following the implementation of the Order is the launching of an electronic platform that makes government information accessible through one's fingertips and is no longer restricted by geographic or physical factors. In addition, the FOI Program enabled the issuance of policies that further promote and enhance FOI mechanisms.

As part of its transparency initiatives and communications strategy, the FOI-PMO produces and disseminates an [annual report](#) as a summary of its accomplishments.

**[Executive Order \(EO\) No. 2 series of 2016](#)**

In July 2016, President Duterte signed Executive Order No. 2, s. 2016 (EO 2) entitled "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."

Executive Order No. 2 leads to the creation of the Freedom of Information (FOI) Program. FOI is the government's response to the call for transparency and complete disclosure of information to the public. FOI is a government mechanism that permits Filipino citizens to request any information about government transactions and operations, so long as it does not compromise privacy or national security.

E.O. 2 allows FOI requests to be filed on all Executive Branch agencies, including National Government Agencies (NGAs), Government Owned or Controlled Corporations (GOCCs), State Universities and Colleges (SUCs), and Local Water Districts (LWDs).

## [eFOI Portal](#)

[The Freedom of Information - Program Management Office](#), being the lead implementing office of the FOI Program developed the electronic Freedom of Information (eFOI) Portal in response to the rise of technology and the need to provide Filipinos with efficient access to information mechanisms ([www.foi.gov.ph](http://www.foi.gov.ph)). The platform permits users to request government information, track the status of their requests, and receive the requested information online. The portal is also designed to assist government offices in receiving, processing, and responding to online requests in order to effectively manage the influx of requests.

The development of the eFOI portal is FOI-PMO's response to the digital revolution. This portal was created so that Filipinos can easily access government information online. Transparency is the primary objective of the program; therefore, the requested information, response time, and outcomes of eFOI requests are published.

The eFOI portal launched in 2016 with fifteen (15) pilot agencies, namely the Department of Budget and Management (DBM), the Department of Finance (DOF), the Department of Justice (DOJ), the Department of Health (DOH), the Department of Information and Communications Technology (DICT), the Department of Transportation (DOTr), the National Archives of the Philippines (NAP), the Office of the Government Corporate Counsel (OGCC), the Presidential Communications Operations Office (PCOO), and the Philippine Statistics Authority (PSA) (PhilHealth).

Security, Scalability, and High Availability are essential to the eFOI Platform's success. The eFOI Portal Technical Infrastructure balances the eFOI Platform System's multiple objectives. It leverages the Google Cloud platform to offer security, dependability, consistent performance, and manageable costs. The eFOI portal can operate effectively and enable its users to perform their duties and responsibilities more effectively. As of February 3, 2023, the public may request official information from a total of 577 government agencies.

## [No-wrong door policy](#)

To break the prevailing "silo system" and lack of interconnection among government agencies, with the end goal of a government acting as a singular unit serving its primary client, its citizens, the FOI-PMO issued FOI Memorandum Circular No. 21-05 or the Guidelines on the Referral of Requested Information, Official Record/s and Public Record/s to the Appropriate Government Agency, otherwise known as the "No Wrong Door Policy for FOI."

FOI-MC No. 21-05 aims to eliminate denying FOI requests based on the government agency's non-possession of the information. 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, GA1 shall immediately refer the request to GA2 in the most expeditious manner possible, but no later than three (3) working days after receiving the request. This will be regarded as the "First Referral," and a new period will commence.

With this new system, the FOI-PMO hopes to interconnect government agencies, with the end goal of providing better service to all FOI requesting parties.

**2. What factors affect the right to expression and information of women and girls, indigenous peoples, and other poor and marginalized communities and their access to information and communications technology in your country? What legal, policy, or other measures has the government taken to overcome these problems?**

As a developing nation, the Philippines faces a socio-economic gap that restricts the access of women, indigenous peoples, and other poor and marginalized communities to information, thereby preventing them from gaining access to government projects and services. The FOI-PMO implements projects and activities to address inclusivity in access to information for local government communities, Women in Conflict with the Law (WICL), Persons Deprived of Liberty (PDLs), Persons with Disabilities (PWDs), and even those without access to electronic services and the internet.

**[Barangay FOI](#)**

The FOI Program Management Office (FOI PMO) is the designated body to oversee the Program implementation. Part of its mandate is to ensure government agencies under the Executive branch are equipped with effective tools and their personnel with apt skills to fulfill their roles as FOI implementers.

The legal scope of EO No. 2, s. of 2016 is limited to the Executive branch of government in operationalizing the public's right to access public information, but the former Presidential Communications Operations Office (PCOO) envisioned a whole-of-government approach on implementing the same. Along the same vein, the office also saw the increasing demand for granular information, which are held by subnational governments.

Local government units are encouraged to implement the FOI practice with the issuance of the former PCOO and the Department of the Interior and Local Government (DILG) [Joint Memorandum Circular \(JMC\) No. 2018-01](#). In the absence of an all-encompassing FOI law, local governments can take part in FOI implementation in their respective jurisdictions through the enactment of an FOI Ordinance.

In the beginning of 2023, there are 64 local governments (subnational units) who have enacted their local FOI policies. After all, for transparency to be realized in the entire government and for its fruits to be beneficial to Filipinos, FOI must be holistically implemented in the bureaucracy.

This year, FOI PMO will continue with its localization efforts, dedicating capacity development activities to local government units that have passed their respective FOI ordinances. It targets representatives from the local government, civil society organizations and people's organizations, indigenous groups, among others. This is instrumental to cementing the FOI Program as a tool to access public information.

### **Bridging Program**

The FOI Bridging Program is an in-person capacity development activity that promotes FOI as an information matchmaking / "bridging tool" through the facilitation of an information mapping mechanism and a 4-hour learning session on the FOI Program and eFOI Portal. This specifically aims to (a) discuss the most requested information from the select and target government agencies and the process of obtaining/accessing select information needs from target government agencies, (b) showcase public records, government transactions, policies, and programs related to the priority agenda and advocacy of the partners, (c) present the data requirements or information needed by the partners from government agencies, (d) familiarize the partners, its members, and the general stakeholders with the available information in the government agencies; and (e) provide an open forum or feedback platform for partners and government agencies to engage in.

Previously conducted FOI Bridging Program with targeted sectors:

- Women in Conflict with the Law (WICL)
- Persons Deprived of Liberty (PDLs)
- Persons with Disabilities (PWDs)

Additionally, one of the most notable achievements of the FOI PMO is the partnership with the Senior Citizens Sector. By signing a Memorandum of Understanding, the two parties have begun to collaborate on enhancing the promotion of FOI among senior citizens.

### **Retention of Traditional ATI mechanism**

Even with the launch of the eFOI Portal, the FOI-PMO continues to honor and encourage the use of traditional pen and paper requests for information in government agencies. It is advantageous for those who lack access to digital devices and the internet.

The FOI-PMO promotes the standard mechanism by [supplying local governments with kiosks](#). These kiosks will serve as a receiving table, allowing a particular office to accept FOI requests, as well as a sign for citizens to easily identify the FOI receiving unit.

**3. What laws, policies, and other institutional measures exist in your country to protect investigative journalism and whistleblowing? Where possible, please provide concrete examples of investigative journalism or whistleblowing related to sustainable development (e.g. exposure of corruption or misuse of natural resources).**

The Philippines has enacted a law protecting the welfare of whistleblowers, known as the Witness Protection Act. On the other hand, pursuant to the provisions of the Data Privacy Act of 2012, the FOI Program maintains the safety of requesting parties' personal data from misuse through the issuance of eFOI Portal Privacy Terms and constant site monitoring.

**[Witness Protection Act](#)**

The purpose of the Republic Act (R.A.) No. 6981, also known as the "Witness Protection, Security and Benefit Act," is to provide protection and security to witnesses, including those who attend legislative investigations conducted by the Congress of the Philippines.

It is a program established under Republic Act No. 6981, "The Witness Protection, Security, and Benefit Act," which aims to encourage a person who has witnessed or has knowledge of the commission of a crime to testify before a court, quasi-judicial body, or investigating authority by protecting him from reprisals and economic dislocation.

- The following individuals are eligible for admission to the Program:
- Anyone with knowledge or information regarding the commission of a crime who has testified, is currently testifying, or is willing to testify is eligible for admission to the program.
- A congressional investigation witness, upon the recommendation of the legislative committee where his testimony is required and with the approval of the Senate President or House Speaker, as the case may be.
- A participant in the commission of a crime who wishes to serve as a State witness.
- A defendant who is released from an information or criminal complaint in order to serve as a state witness.

Information regarding the beneficiaries of R.A. No. 6981 is [exempt from public disclosure](#) under the FOI Program, and therefore cannot be accessed by the general public.

### [Presidential Task Force on Media Security \(PTFOMS\)](#)

The Philippine government abhors any act of violence against journalists and other media professionals. Then-President Rodrigo Roa Duterte formed the Presidential Task Force on Media Security (PTFOMS) to address the pressing matter.

The PTFoMS was established to address the issue of violence against media workers in the country, and it continues to operate despite the change in administration. The Task Force is comprised of various department heads and other government agencies, including the National Prosecution Service (NPS), the Commission on Human Rights (CHR), the National Bureau of Investigation (NBI), and the Philippine National Police (PNP), who collaborate to resolve and monitor cases of violence against media workers in general.

### [Privacy terms of eFOI Portal](#)

When a Filipino citizen submits a request via the standard form or the eFOI portal, the FOI-PMO may collect personal information from a variety of sources, including those listed above (Part II of this document).

FOI-PMO collects and uses personal information to verify user identity only when required and for a specific purpose, which is primarily to process the FOI request/s. The information provided on the FOI form (standard or electronic) will be used by the agency to process the request for access to government records in accordance with Executive Order No. 2 of 2016. In order for the agencies to process the FOI request, the user/requesting party may be required to provide certified copies of identity documents or other documentation.

FOI-PMO may share the personal information of its users with third parties for specific purposes, but only in accordance with all applicable laws and best practices. The Office does not otherwise disclose personal information to third parties: 4. Merger, acquisition, or transfer of FOI Philippines to another agency.

Users have the right to appropriate control over their personal data and to ensure its accuracy and integrity upon your disclosure, per the Data Privacy Act of 2012. They may also file complaints with the National Privacy Commission regarding the collection, processing, and use of their personal information. You have the right to access information about you, correct inaccurate personal data, and revoke consent to any transaction or engagement with FOI Philippines. Users can exercise control over their personal information by logging into any of their FOI Philippines accounts.

FOI Philippines is committed to protecting user information from unlawful and unauthorized access, modification, deletion, and disclosure through the use of the

following technical measures: Providing secure operating environments for the collection, use, and storage of data; Authenticating the user's identity prior to account access using a login ID and password. FOI Philippines will only keep personal information for as long as is required and for the specified purpose.