

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH (17th) CONGRESS
First Regular Session

HOUSE BILL NO. 161

HOUSE OF REPRESENTATIVES	
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Introduced by REP. JOSE CHRISTOPHER Y. BELMONTE

EXPLANATORY NOTE

This bill was originally filed by this representation during the 16th Congress. This measure is strongly rooted on the belief that the people's right to information on matters of public concern has a deep historical foundation. Its inclusion in the Bill of Rights was neither spur of the moment, nor whimsical. Rather, it was an offshoot of the long and persistent struggle of the people for genuine reforms, transparency and accountability in governance, and an indispensable element of the right to free speech, expression and people's initiative.

Section 7, Article III of the Constitution explicitly 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 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.*" Alongside with this is Article 28, Article II of the Constitution which mandates full disclosure of all transactions involving public interest, thus: "*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.*"

These provisions are self-executory and no longer require statutory enactments for its enjoyment. What the Constitution requires is the setting-up of reasonable standards and limitations to prevent abuse in its exercise. In spite of its self-executory nature however, government officials in custody of official records and information upon which these constitutional guarantees are asserted, most of the time invoke discretion and the absence of an enabling law for its implementation. Thus, what could have been a ministerial duty became a discretionary function, defeating thereby the purpose for which the constitutional mandate was enshrined, and denying the rights to which the people are entitled.

To address this flaw, several attempts were made in the past to enact a Freedom of Information Act but all these attempts never succeeded. It is hoped that the 17th Congress shall see the importance of a Freedom of Information Act.

In view of the foregoing, the passage of this bill is earnestly sought.

[Signature]



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HOUSE BILL NO. 161

Introduced by REP. JOSE CHRISTOPHER Y. BELMONTE

AN ACT

**AFFIRMING AND STRENGTHENING THE PEOPLE'S CONSTITUTIONAL
RIGHT TO INFORMATION ON MATTERS OF PUBLIC CONCERN AND
OF THE STATE POLICY OF FULL PUBLIC DISCLOSURE OF ALL ITS
TRANSACTIONS INVOLVING PUBLIC INTEREST, AND FOR OTHER
PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

SECTION 1. Short Title. – This Act shall be known as the “Freedom of Information
Act of 2013.”

SEC. 2. Declaration of Policy. – The State recognizes the right of the people to
information on matters of public concern, and adopts and implements a policy of full
public disclosure of all its transactions, subject to the procedures and limitations
provided by this Act. This right is indispensable to the exercise of the people's right to
effective and reasonable participation at all levels of social, political and economic
decision-making.

SEC. 3. Coverage. – This Act shall cover all government agencies as defined under
Section 4 of this Act.

SEC. 4. Definition of Terms. – As used in this Act:

- (a) “Information” shall mean any record, document, paper, report, letter, contract,
minutes, transcript, map, book, photograph, film, sound and video recording,
magnetic or other tape, electronic data, computer stored data, or any other like
or similar material recorded, stored or archived in whatever form or format,
which are made or received by, or kept under the control or custody of, any
government agency pursuant to law, executive order, rules and regulations,
ordinance, or in connection with the performance or transaction of official

1 business by any government agency or official.

2 (b) "Government agency" shall include the executive, legislative and judicial
3 branches as well as the constitutional bodies of the Republic of the Philippines
4 including, but not limited to, the national government and all its agencies,
5 departments, bureaus, offices and instrumentalities, constitutional
6 commissions and constitutionally mandated bodies, local governments and all
7 their agencies, regulatory agencies, chartered institutions, government-owned
8 or -controlled corporations, including wholly-owned or controlled
9 subsidiaries, government financial institutions, state universities and colleges,
10 the Armed Forces of the Philippines, the Philippine National Police, all offices
11 in the Congress of the Philippines including the offices of Senators and
12 Representatives, the Supreme Court and all lower courts established by law.

13 (c) "Official records" refer to information produced or received by a public
14 officer or employee, or by a government agency, in an official capacity or
15 pursuant to a public function or duty. This shall not refer to the stage or status
16 of the information.

17 (d) "Public records" include information required by law, executive orders, rules,
18 or regulations to be entered, kept and made publicly available by a
19 government agency.
20

21 **SEC. 5. Access to Information.** – Every person who is a Filipino citizen has a right to
22 and shall, on request, be given access to and shall be allowed to scrutinize, copy and
23 reproduce, in the manner provided by this Act, any information under the custody
24 and/or control of a government agency, regardless of the physical form or format in
25 which these are contained, subject only to the exceptions enumerated under section 7
26 of this Act.

27
28 **SEC. 6. Presumption.** – There shall be a legal presumption in favor of access to
29 information. Accordingly, government agencies shall have the burden of proving by
30 clear and convincing evidence that the information requested is exempted from
31 disclosure by this Act.
32

33 **SEC. 7. Exceptions.** – Access to information shall be granted unless:
34

35 (a) The information requested is specifically authorized to be kept Secret under
36 guidelines established by an Executive Order, and in fact properly classified pursuant
37 thereto: *Provided, That*
38

39 1) The information directly relates to national defense and its revelation will
40 cause serious damage to the national security or internal and/or external
41 defense of the State; or

42 2) The information requested pertains to the foreign affairs of the Republic of
43 the Philippines, when its revelation will unduly weaken the negotiating
44 position of the government in an ongoing or proposed bilateral or multilateral
45 negotiation or seriously jeopardize the diplomatic relations of the Philippines
46 with one or more states with which it intends to keep friendly relations:
47

48 *Provided, further,* that sufficient information is disclosed to afford reasonable
49 public participation in government decision-making on bilateral and
50 multilateral agreements. The Executive Order shall specify the reasonable

1 period after which the information shall be automatically declassified or be
2 subject to mandatory declassification review. Any reasonable doubt as to
3 classification and declassification shall be settled in favor of the right to
4 information.

5
6 (b) The information requested pertains to internal and/or external defense and law
7 enforcement, when the disclosure thereof would render a legitimate military or law
8 enforcement operation ineffective, unduly compromise the prevention, detection or
9 suppression of a criminal activity, or endanger the life or physical safety of
10 confidential or protected witnesses, law enforcement and military personnel or their
11 immediate families. Information relating to details of the administration, budget and
12 expenditure, and management of the defense and law enforcement agencies shall
13 always be accessible to the public.

14 (c) The information requested consists of drafts of orders, resolutions, or decisions by
15 any executive, administrative, regulatory, constitutional, judicial or quasi-judicial
16 body in the exercise of their adjudicatory function, the revelation of which would
17 impair the impartiality of verdicts, or otherwise obstruct the administration of justice.

18 (d) The information requested is obtained by either House of Congress, or any
19 committee thereof, in executive session, *Provided, that*, such information falls under
20 any of the exceptions provided in this section.

21 (e) The information requested pertains to the personal information of a natural person
22 other than the requesting party, and its disclosure would clearly constitute an
23 unwarranted invasion of his or her personal privacy, unless it forms part of a public
24 record, or the person is or was an official of a government agency and the information
25 relates to his or her public function, or the person has consented in writing to the
26 disclosure of the information.

27 (f) The information requested pertains to trade, industrial, financial or commercial
28 secrets of a natural or juridical person other than the requesting party, obtained in
29 confidence by, or filed with a government agency, whenever the revelation thereof
30 would seriously prejudice the interests of such natural or juridical person in trade,
31 industrial, financial or commercial competition, unless such natural or juridical person
32 has consented to the disclosure of the information.

33 (g) The information is classified as privileged in legal proceedings by law or by the
34 Rules of Court, unless the person entitled to the privilege has waived it.

35 (h) The information requested is exempted by law or the Constitution, in addition to
36 those provided in this section.

37
38 For letters (b) to (h) of this section, the determination whether any of these grounds
39 shall apply shall be the responsibility of the head of office of the government agency
40 in custody or control of the information, or of a responsible central or field officer/s
41 duly designated by him.

42
43 **SEC. 8. Qualifications.** – Even if the information falls under the exceptions set forth
44 in the preceding section, access to information shall not be denied if:

45
46 (a) The information may be reasonably severed from the body of the information
47 which would be subject to the exceptions;

48 (b) The public interest in the disclosure outweighs the harm to the interest sought to
49 be protected by the exceptions;

50 (c) The requesting party is either House of Congress, or any of its Committees and the

1 disclosure is to be made in executive session, unless the disclosure will constitute a
2 violation of the Constitution.

3 (d) Exceptions cannot be invoked to cover-up a crime, wrongdoing, graft, or
4 corruption;

5 (e) The President, the Supreme Court, the Senate, the House of Representatives, and
6 the Constitutional Commissions may waive an exception with respect to information
7 in the custody of offices under their respective supervision or control, when they
8 deem that there is a compelling or overriding public interest in disclosure; and

9 (f) In the exercise of the judicial power to interpret the Constitution, the exceptions set
10 forth in this section may be overcome if the requester is able to prove before a court
11 of competent jurisdiction that there is a compelling public interest or need that
12 outweighs the interest in keeping the information secret or confidential.

13
14 **SEC. 9. Keeping of Records.** – (a) Government agencies shall create and/or maintain
15 in appropriate formats, accurate and reasonably complete documentation or official
16 records of their organization, policies, transactions, decisions, resolutions,
17 enactments, actions, procedures, operations, activities, communications, documents
18 received or filed with them and data generated or collected. These shall include
19 working files such as drafts or notes, whenever these have been circulated within the
20 agency for official purpose such as for discussion, comment or approval or when
21 these contain unique information that can substantially contribute to a proper
22 understanding of the agency organization, policies, transactions, decisions,
23 resolutions, enactments, actions, procedures, operations, and activities.

24 (b) Government agencies shall identify specific or classes of official records in their
25 custody or control that have continuing historical, administrative, informational, legal,
26 evidentiary, or research value for preservation by such agencies or their legitimate
27 successors, or for transfer to the National Archives of the Philippines. In addition, the
28 National Archives of the Philippines shall likewise identify specific or classes of
29 official records that it shall require agencies to preserve and transfer to it.

30 (c) In addition to the specific or classes of official records identified for preservation
31 under letter (b) of this section, the following shall not be destroyed:

- 32
33 (1) Records or contracts pertaining to loans obtained or guaranteed by the
34 government;
35 (2) Records pertaining to government contracts;
36 (3) The declaration under oath of the assets, liabilities and net worth of
37 public officers and employees, as required by law;
38 (4) Records of official investigations on graft and corrupt practices of
39 public officers.
40

41 (d) Government agencies shall prepare, following standards and period promulgated
42 pursuant to Republic Act No. 9470 or the National Archives of the Philippines Act of
43 2007, a records management program that includes the following:

- 44
45 (1) A records maintenance system for the creation, selection,
46 classification, indexing and filing of official records that facilitates the
47 easy identification, retrieval and communication of information to the
48 public;
49 (2) A records maintenance, archival and disposition schedule providing a
50 listing of records under current use, for retention by the agency, for

1 transfer to the National Archives, or for destruction: *Provided*, that
2 destruction of official records may be implemented only upon
3 approval of, or following the guidelines set by, the National Archives
4 of the Philippines; and

- 5 (3) A specification of the rules and responsibilities of agency personnel in
6 the implementation of such system and schedule.
7

8 (e) In addition to its function as repository of all rules and regulations issued by
9 agencies as provided under Book VII, Chapter II of the Administrative Code of 1987,
10 the University of the Philippines Law Center shall, in coordination with the Office of
11 the President which has exclusive printing jurisdiction over the *Official Gazette*, and
12 with other relevant agencies, maintain a database, and publish the same in print in the
13 *Official Gazette* or in digital or online form, the following:
14

- 15 (1) All laws of the Philippines and their amendments, from the period of
16 the Philippine Commission to the present;
17 (2) All presidential issuances from November 15, 1935 to the present,
18 including but not limited to, executive orders, presidential
19 proclamations, administrative orders, memorandum circulars, general
20 orders, and other similar issuances;
21 (3) A database of all appointments and designations made by the
22 President of the Philippines; and
23 (4) Opinions of the Secretary of Justice, the Office of the Solicitor
24 General, the Presidential Legal Counsel, Office of the Government
25 Corporate Counsel, and the Congressional legal offices.
26

27 **SEC. 10. Procedure of Access.** – (a) Any person who wishes to obtain information
28 shall submit, free of charge, a request to the government agency concerned –
29 personally, by mail, or through electronic means. A person who, because of illiteracy
30 or disability, is unable to make a written request may make an oral request, and the
31 public official or employee who receives the oral request shall reduce it to writing and
32 give a copy thereof to the person who made the request. The request shall state the
33 name and contact information of the requesting party, a reasonable description of the
34 information requested, and the preferred means by which the government agency
35 shall communicate such information to the requesting party: *Provided*, that the stated
36 reason cannot be used as a ground to deny the request or to refuse the acceptance of
37 the request, unless such reason is contrary to law. If the request is submitted
38 personally, the requesting party shall show his current identification card issued by
39 any government agency, or government or private employer or school, or other
40 reasonable means of identification. If the request is submitted by mail or through
41 electronic means, the requesting party may submit a photostatic or electronically
42 scanned copy of the identification, or other convenient means as determined by the
43 agency.

44 (b) The agency/public official receiving the request shall provide reasonable
45 assistance, free of charge, to enable all requesters and particularly those with special
46 needs, to comply with the request requirements under this section.

47 (c) The request shall be stamped by the government agency, indicating the date and
48 time of receipt and the name, rank, title and position of the receiving public officer or
49 employee with the corresponding signature, and a copy thereof furnished to the
50 requesting party. In case the request is submitted by electronic means, the government

1 agency shall provide for an equivalent means by which the requirements of this
2 paragraph shall be met. Each government agency shall establish a system to trace the
3 status of all requests for information received by it.

4 (d) The request may indicate the requesting party's preferred mode and means of
5 receiving the information requested, provided that the mode and means are
6 reasonable, taking into consideration equipment normally available to the concerned
7 government agency. A government agency may communicate the information
8 requested in a form other than the preferred means whenever such preferred means
9 would unreasonably interfere with the effective operation of the agency, or the agency
10 has no capability to communicate the information in the preferred format, or the
11 preferred means would be detrimental to the preservation of the record.

12 (e) The government agency shall comply with such request as soon as practicable, and
13 in any case within seven (7) working days from the receipt thereof: *Provided*, that
14 where the information requested is shown to be urgently needed for the protection of
15 the life or liberty of a person, the same shall be provided within a non-extendible
16 period of two (2) working days from the receipt of the request.

17 (f) The period of seven (7) days may be extended whenever there is a need for any of
18 the following:

19
20 (1) To search for and collect the requested information from field facilities or
21 other establishments that are separate from the office processing the request;

22
23 (2) To search for, collect and appropriately examine a voluminous amount of
24 separate and distinct information which are demanded in a single request; and

25
26 (3) To consider fortuitous events or other events due to force majeure or other
27 analogous cases.

28
29 (g) The government agency shall, notify in writing the person making the request of
30 the extension, setting forth the reasons for such extension and the date when the
31 information shall be made available, which in no case shall result in an extension by
32 more than fifteen (15) working days from the original deadline.

33
34 (h) If the information is not held by the government agency to which the request was
35 made, it shall notify the requester that it does not hold the information, and indicate to
36 the requester which agency holds the record, if known. Whenever practicable, the
37 agency receiving the request may cause the transfer of the request to the appropriate
38 agency that holds the information: *Provided*, that the period to comply with the
39 request under this section shall begin to run only upon receipt by the agency to which
40 the request is transferred, *Provided further*, that such transfer of request shall be made
41 within the original seven-(7) working day period.

42
43 **SEC. 11. Processing Fees.** – Government agencies shall not charge any processing
44 fees, but may charge for the reimbursement of the actual cost of reproduction,
45 copying or transcription and the communication of the information requested. An
46 agency may waive these charges whenever it is satisfied that the requester is an
47 indigent, or that the cost of reproduction is negligible, or that it is pursuant to a
48 program for proactive disclosure.

49
50 **SEC. 12. Notice of Denial.** – If the government agency decides to deny the request, in

1 whole or in part, it shall, as soon as practicable and in any case within seven (7)
2 working days from the receipt of the request, notify the requester of the denial in
3 writing or through electronic means. The notice shall indicate the name, rank, title or
4 position of the person making the denial, clearly set forth the ground/s and
5 circumstances on which the denial is based, and indicate available rights of
6 reconsideration or appeal the remedies. In case the denial is by reason of a claimed
7 exception, the denial shall also state clearly the legitimate aim or interest that will
8 result in the disclosure of the information. Failure to notify the person making the
9 request of the denial, or of the extension, shall be deemed a denial of the request for
10 access to information.

11
12 **SEC. 13. Remedies in Cases of Denial. –**
13

14 (a) In all government agencies other than the judicial branch–
15

- 16 (1) A person whose request for information has been denied may file an
17 administrative appeal following the procedure mentioned in Section
18 16 (a) (8) of this Act: *Provided*, That the administrative appeal must
19 be filed within fifteen (15) calendar days from the receipt of the notice
20 of denial and the appeal must be decided within fifteen (15) calendar
21 days from filing. Failure of the government agency to decide within
22 the aforesaid period shall constitute a denial of the appeal; and
23 (2) The person denied access to information may file a verified complaint
24 with the Office of the Ombudsman, praying that the government
25 agency concerned be directed to immediately afford access to the
26 information being requested. Such complaint shall be resolved by the
27 Office of the Ombudsman within sixty (60) calendar days from filing,
28 or earlier when time is of the essence based on factors such as the
29 nature of the information requested, the context of the request, or the
30 danger that the information requested will become moot. The Office
31 of the Ombudsman shall promulgate its special rules of procedure for
32 the immediate disposition of complaints filed pursuant to this Section.
33 Unless restrained or enjoined, the decision of the Office of the
34 Ombudsman shall be immediately executory, without prejudice to
35 review in accordance with the Rules of Court.
36

37 In resolving a complaint or petition brought under the preceding paragraphs,
38 the Ombudsman or the court is empowered to receive the information subject of a
39 claim of exception under Section 7 herein and examine them *in camera* to determine
40 the sufficiency of the factual and legal basis of such claim, when such sufficiency
41 cannot be reasonably determined through evidence and circumstances apart from the
42 information.

43 (b) In the Judicial Branch – The Judiciary shall be governed by such remedies as
44 promulgated by the Supreme Court, such as filing a verified petition for mandamus or
45 any applicable or appropriate remedy, in the proper court, alleging the facts with
46 certainty and praying that judgment be rendered ordering the respondent to disclose
47 the information and to pay the damages sustained by the requesting party by reason of
48 the denial. The procedure for such petition shall be summary in nature. Unless
49 restrained or enjoined, the decision of the court shall be immediately executory,
50 without prejudice to review in accordance with the Rules of Court.

1 (c) The remedies under this section are without prejudice to any other administrative,
2 civil or criminal action covering the same act.

3 (d) The remedies available under this Act shall be exempt from the rules on non-
4 exhaustion of administrative remedies and the application of the provisions of
5 Republic Act No. 9285, otherwise known as the Alternative Dispute Resolution Act
6 of 2004.

7 (e) In case the requesting party has limited or no financial capacity, the Public
8 Attorney's Office shall provide legal assistance to the requester in availing of the
9 remedies provided under this Act.

10
11 **SEC. 14. Mandatory Disclosure of Information.** – (a) Subject to Section 7 of this Act,
12 all government agencies shall upload on their websites, the following information
13 within fifteen (15) days from their availability or in case of agreements such as
14 contracts, memoranda, from the date such agreement is entered into :

15
16 (1) Budget information, including: Annual Budget; Itemized Monthly
17 Collections and Disbursement; Summary of Income and Expenditures; and
18 Component of the IRA Utilization.

19 (2) Procurement information, including: Annual Procurement Plan and
20 Procurement List; Items to Bid; Bid Results on Civil Works, Goods and
21 Services; and Abstract of Bids as Calculated.

22
23 (3) A register of the following transactions:

24
25 (i) Procurement contracts entered into by a government agency;

26 (ii) Construction or concession agreements or contracts entered into by a
27 government agency or government-owned-or controlled corporation
28 with any domestic or foreign person or entity;

29 (iii) Private sector participation agreements or contracts in infrastructure
30 and development projects under Republic Act No. 6957, as amended
31 by Republic Act No. 7718, authorizing the financing, construction,
32 operation and maintenance of infrastructure projects;

33 (iv) Public funding extended to any private entity;

34 (v) Bilateral or multilateral agreements and treaties in defense, trade,
35 economic partnership, investments, cooperation and similar binding
36 agreements;

37 (vi) Licenses, permits or agreements granted by any government agency
38 to any person or entity for the extraction and/or utilization of natural
39 resources, including a list of the grantees;

40 (vii) Guarantees given by any government agency to government-owned
41 or -controlled corporations and to private corporations, persons or
42 entities;

43 (viii) Loans, grants, development assistance, technical assistance, and
44 programs entered into by a government agency with domestic and
45 foreign financial institutions, official bilateral or multilateral
46 agencies, as well as with private aid agencies or institutions; and

47 (ix) Compromise agreements entered into by a government agency with
48 any person or entity.

49
50 The register shall contain a brief description of the transaction involved,

1 including, but not limited to: the nature and object of the transaction, the parties and
2 amounts involved, the key steps undertaken towards its conclusion, and the relevant
3 dates: *Provided*, that contracts and agreements involving an amount of at least fifty
4 million pesos (P50,000,000.00) shall be uploaded in full on the website of the
5 concerned government agency or the Official Gazette Online. A covered information
6 shall be enrolled in the register not later than 30 working days from its perfection or
7 issuance.

8
9 (4) Agency information, including:

- 10 (i) A description of its mandate, structure, powers, functions, duties and
11 decision-making processes;
12 (ii) A description of the frontline services it delivers and the procedure
13 and length of time by which they may be availed of;
14 (iii) The names of its key officials, their powers, functions and
15 responsibilities, and their profiles and curriculum vitae;
16 (iv) Work programs, development plans, investment plans, projects,
17 performance targets and accomplishments;
18 (v) Important rules and regulations, orders or decisions: *Provided*, that
19 they shall be published within fifteen (15) calendar days from
20 promulgation;
21 (vi) Categories of documents and current and important database and
22 statistics that it generates; and
23 (vii) Mechanisms or procedures by which the public may participate in or
24 otherwise influence the formulation of policy or the exercise of its
25 powers.

26
27 (b) The information uploaded in the website under letter (a) of this Section may be
28 withdrawn after a period of three (3) years from the time of uploading: *Provided*, That
29 an abstract of the information withdrawn shall remain uploaded in the website,
30 containing a brief description of the transaction and an enumeration of the
31 information withdrawn, and indicating the dates of posting and withdrawal; *Provided*
32 *further*, That in case the information covers an ongoing project, such information
33 shall remain in the website even three (3) years after the termination of said project.

34 (c) Should an agency lack the capacity to comply with letter (a) of this Section, the
35 agency shall initiate a capacity-building program, or coordinate with another
36 appropriate agency, to facilitate substantive compliance not later than one (1) year
37 upon approval of this Act. An agency's failure to comply with letter (a) of this
38 Section shall make the responsible official/s liable under Section 16 of this Act.

39
40 **SEC. 15. Promotion of Freedom of Information in Government.** – (a) Duty to Publish
41 Information – Government agencies shall regularly publish, print and disseminate at
42 no cost to the public and in an accessible form, in conjunction with R.A. 9485, or the
43 Anti-Red Tape Act of 2007, and through their website, timely, true, accurate and
44 updated key information including, but not limited to:

- 45
46 (1) A description of its mandate, structure, powers, functions, duties and
47 decision-making processes;
48 (2) A description of the frontline services it delivers and the procedure and
49 length of time by which they may be availed of;
50

1
2 **SEC. 16. *Administrative Liability & Criminal Liability.*** – The penalty of
3 imprisonment of not less than one (1) month but not more than one (1) year shall be
4 imposed upon:

5
6 (a) Any public officer or employee receiving the request under Section 10 of this Act
7 who shall fail to promptly forward the request to the public officer within the same
8 office or agency responsible for officially acting on the request when such is the
9 direct cause of the failure to disclose the information within the periods required by
10 this Act.

11 (b) Any public officer or employee responsible for officially acting on the request,
12 who shall:

13
14 (1) Fail to act on the request within the periods required by this Act;

15 (2) Knowingly deny the existence of existing information;

16 (3) Destroy information being requested for the purpose of frustrating the
17 requester's access thereto;

18 (4) Claim an exception under Section 7 of this Act, or under the Constitution,
19 when the claim is manifestly devoid of factual basis; or

20 (5) Refuse to comply with the decision of his immediate supervisor, the
21 Ombudsman or the Court ordering the release of information that is not
22 restrained or enjoined by a Court;

23
24 (c) The head of office of the government agency directly and principally responsible
25 for the negotiation and perfection of any of the transactions enumerated in Section
26 14(a) of this Act, who shall knowingly refuse to direct the mandatory posting or
27 uploading of such transaction despite the agency's capacity to implement such
28 directive, *Provided that*, the public officer or employee who, despite a directive from
29 the head of office, to post or upload any of the transactions enumerated in Section
30 14(a) of this Act shall likewise be liable;

31 (d) Any public officer or employee who shall destroy, or cause to destroy, records of
32 information covered by Section 9(c) of this Act;

33 (e) Any public officer who formulates policies, rules and regulations manifestly
34 contrary to the provisions of this Act, and which policies, rules and regulations are the
35 direct cause of the denial of a request for information; or

36 (f) Any public or private individual who knowingly induced or caused the
37 commission of the foregoing acts under this section.

38
39 The foregoing shall be without prejudice to any administrative liability of the offender
40 under existing law and regulations.

41
42 **SEC. 17. *Act Not a Bar to Claim of right to Information under the Constitution.*** – No
43 provision of this Act shall be interpreted as a bar to any claim of denial of the right to
44 information under Article III, Section 7 of the 1987 Constitution.

45
46 **SEC. 18. *Publication in the Official Gazette.***

47
48 (a) For purposes of mandatory disclosure as provided in section 13 of this Act, online
49 publication in the Official Gazette website shall be considered official publication
50 provided there shall be a timestamp in the said document.

- (3) The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
- (4) Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
- (5) Important rules and regulations, orders or decisions: Provided, That they be published within fifteen (15) calendar days from promulgation;
- (6) Current and important database and statistics that it generates;
- (7) Bidding processes and requirements; and
- (8) Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.

(b) Accessibility of Language and Form – Every government agency shall endeavor to translate key information into major Filipino languages and present them in popular form and means.

(c) Improving Capability – Every government agency shall ensure the provision of adequate training for its officials to improve awareness of the right to information and the provisions of this Act, and to keep updated of best practices in relation to information disclosure, records maintenance and archiving.

(d) Freedom of Information Manual – For the effective implementation of this Act, all government agencies shall prepare and regularly update a Freedom of Information (FOI) Manual, setting forth the following:

- (1) The location and contact information of the head, regional, provincial and field offices of the agency, and other established places where the public can obtain information or submit requests;
- (2) The types of information it generates, produces, holds and/or publishes;
- (3) A description of its record-keeping system;
- (4) The person or office responsible for receiving requests for information;
- (5) The procedure for the filing of requests personally, by mail, or through the identified electronic means;
- (6) The standard forms for the submission of request and for the proper acknowledgement of the request;
- (7) The process for the disposition of the request, including the routing of the request to the person or office with the duty to act on the request and the decision-making process for the grant or denial of the request;
- (8) The procedure for the administrative appeal of any denial for access to information;
- (9) The schedule of fees/charges;
- (10) The process and procedure for the mandatory disclosure of information under Section 13 of this Act; and
- (11) Such other information, taking into consideration the unique characteristics of an agency, that will help facilitate the effective implementation of this Act.

In no case shall the absence of the FOI Manual be a reason for the denial of any request for information made in accordance with this Act.

1 (b) For purposes of compliance with Article 2 of the Civil Code of the Philippines,
2 publication of the following in the online version of the Official Gazette, with the
3 corresponding timestamps on the document, shall be considered as official
4 publication:

- 5
- 6 (1) All important legislative acts and resolutions of a public nature of the
7 Congress of the Philippines;
- 8 (2) All executive and administrative orders and proclamations of general
9 application;
- 10 (3) Decisions or abstracts of decisions of the Supreme Court and the Court
11 of Appeals or other courts of similar rank, as may be deemed by said
12 courts of sufficient importance to be so published;
- 13 (4) Such documents or classes of documents as the President shall
14 determine from time to time to have general application or which he
15 may authorize so to be published.
- 16

17 However, other documents or classes of documents required by law to be
18 published, such as petitions and/or legal notices in connection with land titles,
19 naturalization, or special proceedings shall continue to be published in the print
20 version of the Official Gazette or in any newspaper of general circulation for purposes
21 of compliance with the publication requirement.

22
23 **SEC. 19. Appropriations.** – The amount necessary to carry out the provisions of this
24 Act shall be charged against the agencies' current budget and shall thereafter be
25 included in the annual General Appropriations Act.

26
27 **SEC. 20. Separability Clause.** – If, for any reason, any section or provision of this Act
28 is held unconstitutional or invalid, no other section or provision shall be affected.

29
30 **SEC. 21. Repealing Clause.** – All laws, decrees, executive orders, rules and
31 regulations, issuances or any part thereof inconsistent with the provisions of this Act,
32 including sections 18, 24 and 25 of Executive Order No. 292 in relation to Article 2 of
33 Republic Act No. 386, Memorandum Circular No. 78 dated 14 August 1964
34 (Promulgating Rules Governing Security of Classified Matter in Government
35 Offices), as amended, and Section 3, Rule IV of the Rules Implementing Republic
36 Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and
37 Employees), are deemed repealed.

38
39 *Provided,* that Memorandum Circular No. 78 shall be deemed repealed after
40 one (1) year from the effectivity of this Act or upon issuance of the Executive Order
41 in Section 7(a), whichever comes first.

42
43 **SEC. 22. Effectivity.** – This Act shall take effect fifteen (15) days after its publication
44 in at least two (2) national newspapers of general circulation.

45
46 *Approved.*