



## LIST OF EXCEPTIONS IN THE FOI MANUALS OF EXECUTIVE DEPARTMENTS

AGENCY	EXCEPTIONS	COMMENTS
<p><b>CHED</b></p>	<p>The following are the exceptions:</p> <ul style="list-style-type: none"> <li>• Judicial affidavit (Ombudsman)</li> <li>• Judicial affidavit (Sandiganbayan)</li> <li>• Filed cases (Courts, Ombudsman, and Sandiganbayan)</li> <li>• 201 Files</li> <li>• PSB Documents</li> <li>• SALN</li> <li>• BAC Minutes of meetings</li> <li>• Abstract of Bids</li> <li>• TWG Recommendation</li> <li>• IPCR</li> <li>• Financial Report not yet audited by COA</li> <li>• Minutes of TWG meetings</li> <li>• All reports not in the final form</li> <li>• Inter-office and inter-agency memo/correspondence</li> <li>• Office recommendation as member of inter-agency task force/committee/body</li> <li>• Accomplished eligibility and evaluation forms for project proposals</li> <li>• TF evaluation on SUC levelling</li> <li>• MARC (as this is an attachment to a recommendation to an inter-agency task force)</li> </ul>	<ul style="list-style-type: none"> <li>• JA and cases generally accepted exception as the request will be made to the court</li> <li>• 201 Files/ Personnel Selection Board Documents (or draft notes in relation to drafts as an exception)/ SALN/ Individual Performance Commitment and Review (IPCR) should all be read subject to the provisions of RA10173 – note the importance therefore of redacting, which is provided for in the FOI draft bills</li> <li>• SALN issue: proper custodian for senior public officials and presidential appointees is the Office of the Ombudsman so understandable for denial at this stage</li> <li>• Bid Documents – usually confidential UNTIL an award has been finalized or during bid evaluation as provided in RA9184</li> <li>• Reports not in final form (TWG reco/ Fin reports/ REC/ TF evaluation report/ CEB endorsement/ evaluation report on LUC/ SUC):</li> </ul>

	<ul style="list-style-type: none"> <li>• IPCR</li> <li>• REC/Task force evaluation report</li> <li>• CEB endorsement for SUC levelling to the NEC</li> <li>• Evaluation report on LUC/SUC</li> </ul>	generally understood that the RTI extends to official public documents and a draft is not one of those – unless it becomes basis of an official act already
<b>DA</b>	<p>a. The DEPARTMENT does not have the information requested;</p> <p>b. The information requested contains sensitive personal information protected by the Data Privacy Act of 2012;</p> <p>c. The information requested falls under the list of exceptions to FOI; or</p> <p>d. The request is an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the DEPARTMENT.</p>	<ul style="list-style-type: none"> <li>• subsequent identical or substantially similar – as basis for denial is only in the proposed FOI bills – not in current statutes</li> </ul>
<b>DBM</b>	<p>1. Information on on-going evaluation or review of bids or proposals being undertaken by the Bids and Awards Committee and such other similar committees, as there is yet no official act, transaction or decision at this point.</p> <p>2. Internal communications, memoranda, opinions, reviews, comments, and other operational matters of confidential nature, including but not limited to:</p> <ul style="list-style-type: none"> <li>• Agenda, deliberations and minutes of the meetings of the Management Committee or Executive Committee, Development Budget Coordination Committee, Public Financial Management Committee, Government Procurement Policy Board, and Open Government Partnership Steering Committee/Working Groups;</li> <li>• Internal emails of past and present employees, officers or directors;</li> <li>• Internal files especially drafts and notes of public officers concerned (any unofficial or unacted upon documents should not be disclosed without prior approval);</li> <li>• Legal opinions or comments rendered by the Legal Service;</li> <li>• Contract review including drafts and notes of public officers concerned;</li> <li>• Records of pending internal investigations; and</li> <li>• Documents and/or information pertaining to matters under litigation, the purpose of which is to prejudice a pending issue before a court or obstruct the administration of justice.</li> </ul>	<ul style="list-style-type: none"> <li>• Bid Documents – usually confidential UNTIL an award has been finalized or during bid evaluation as provided in RA9184</li> <li>• Internal communications, memoranda, opinions, reviews, comments: generally understood that the RTI extends to official acts, transactions, or decisions as well as government research data only</li> <li>• “other operational matters” might be construed as too broad and vague</li> <li>• All the above may be accessible once official action stems from the said document</li> </ul>
	1. Any information that directly relates to national security or defense and its revelation may cause grave damage to national security or internal or	• Executive privilege / Presidential

<p><b>DENR</b></p>	<p>external defense of the state.</p> <p>At the very least, this jurisdiction recognizes the common law holding that there is a governmental privilege against public disclosure with respect to state secrets regarding military, diplomatic and other national security matters.</p> <p>2. Executive privilege involving information relating to the President as Commander-in-Chief, appointing, pardoning authority and diplomatic powers.</p> <p>3. Any information pertaining to the foreign affairs of the Republic of the Philippines, when its revelation or disclosure, shall unduly weaken the negotiating position of the government in an ongoing bilateral or multilateral negotiation or seriously jeopardize the diplomatic relations of the Philippines with one or more states.</p> <p>4. Any information or inter-government exchanges prior to the conclusion of treaties and executive agreements may be subject to reasonable safeguards for the sake of national interest.</p> <p>5. Disclosure of information on the Presidential communication's privilege.</p> <p>6. Any information requested which pertains to internal or external defense, law enforcement, and border control, when the disclosure thereof may:</p> <p>6.1 lead to the disclosure of the identity of a confidential source, including a government, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a law enforcement authority in the course of an investigation or by an agency conducting a lawful national security intelligence investigation, involving national security</p> <p>6.2 Disclosure of legitimate techniques, procedures and guidelines for law enforcement investigations or prosecutions if such disclosure could reasonable result to circumvention of the law</p> <p>6.2.1 Endanger the life, safety and security of any individual</p> <p>6.2.2 Deprive a person of the right to a fair trial and impartial adjudication.</p>	<p>communication's privilege can only be invoked by the President himself (clarified in <i>Neri vs. Senate Committee on Accountability of Public Officers and Investigations, et al.</i>; GRN180643)</p> <ul style="list-style-type: none"> <li>• "Personal and sensitive information' should all be read subject to the provisions of RA10173</li> <li>• RA10173 does not prohibit all personal information from being disclosed... NOTE, however, that redacting is needed, which is provided for in the FOI bills</li> <li>• Bid Documents – usually confidential UNTIL an award has been finalized or during bid evaluation as provided in RA9184</li> <li>• RA9072 (caves) provides for a time period for the confidentiality and it has to be limited to this period (1year from discovery) (see Sec.6)</li> <li>• "information which may put business operations at risk" too broad and vague</li> <li>• RA6969 confidentiality provision is subject to this qualification: <ul style="list-style-type: none"> <li>SEC. 12. Public Access to Records, Reports or Notification. — The public shall have access to records, reports,, or information concerning chemical substances and mixtures including safety data submitted, data on emission or discharge into the environment, and such documents shall be available for inspection or reproduction during normal business hours except that the Department of Environment and Natural Resources may consider a record, report, or information or particular portions thereof confidential and may not be made public when such would divulge trade secrets, production, or sales</li> </ul> </li> </ul>
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<p>7. On criminal matters such as classified law enforcement information relating to the apprehension, prosecution and detention of criminals, which the courts may not inquire into prior to such arrest, prosecution and detention.</p> <p>8. Disclosure of confidential source, investigation proceedings, and records of assigned hearing officers, investigators, and deputized inspectors, when the premature disclosure thereof may result to the endangering the life, safety and security of any individual, and pre-empt the resolution of a case.</p> <p>9. Disclosure of proceedings before the Committee on Decorum and Investigation (CODI) during preliminary investigation.</p> <p>10. Personal and sensitive information concerning natural persons resulting in invasion of privacy unless waived in writing by the person concerned pursuant to RA 10171 (Data Privacy Act of 2012).</p> <p>11. Prohibition of disclosure of the identity of persons who furnish information on any violation of the law to public officers.</p> <p>12. Disclosure of information such as drafts of proceedings, orders, resolutions, decisions, memoranda or audit reports by any administrative or quasi-judicial body in the exercise of its regulatory and adjudicatory functions.</p> <p>13. Information pertaining to trade secrets and commercial or financial information submitted by a natural or juridical person obtained in confidence or covered by privileged communication, and/or filed in connection with an application in a government agency, the revelation of which would prejudice the interests of such natural or juridical person in trade, industrial, financial or commercial competition.</p> <p>14. Any information related to RA 9160 (Anti-Money Laundering Act of 2001 as amended).</p> <p>15. Disclosure of confidential information under the National Internal Revenue Code.</p>	<p>figures or methods, production or processes unique to such manufacturer, processor, or distributor, or would otherwise tend to affect adversely the competitive position of such manufacturer, processor, or distributor. The Department of Environment and Natural Resources, however, may release information subject to claim of confidentiality to a medical research or scientific institution where the information is needed for the purpose of medical diagnosis or treatment of a person exposed to the chemical substance or mixture.</p> <ul style="list-style-type: none"> <li>• PD1586 exception by express provision of the law is subject to the limitation in RA6969</li> <li>• RA7942 actually provides for blanket confidentiality of information SUPPLIED BY THE CONTRACTOR for the duration of the project</li> </ul>
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	<p>16. Disclosure of information related to the Republic Act No. 8293 (Intellectual Property Rights Act)</p> <p>17. Disclosure of information related to the Republic Act No. 10055 (Philippine Technology Transfer Act 2009).</p> <p>18. Disclosure of information related to the Republic Act 9285 (Alternative Dispute Resolution Act of 2004)</p> <p>19. Disclosure of information on an on-going evaluation, review of bids or proposals being undertaken by the Bids and Awards Committee (BAC) or its technical working group (TWG) which are not yet considered as official acts, transactions, or decisions.</p> <p>20. Disclosure of information related to identity of news informants or sources under RA 1477 (The Shield Law)</p> <p>21. Disclosure of information in violation of RA 4200 (The Anti-Wiretapping Law)</p> <p>22. Disclosure of SALN shall be subject to the approval of the Office of the Ombudsman and/or Civil Service Commission</p> <p>23. Disclosure of information concerning the nature and specific location of a potentially significant cave pursuant to RA 9072 (National Caves and Cave Resources Management and Protection Act of 2001).</p> <p>24. Any information which may put business operations at risk, and other application data in connection with application for various pollution permits pursuant to Republic Act No. 6969 (Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990).</p> <p>25. Any data in the course of applying for an Environmental Compliance Certificate (ECC) pursuant to Presidential Decree No. 1586 (Philippine Environmental Impact Statement System).</p>	
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<b>DepEd</b>	<p>The department shall deny access to information only when the information requested falls under any of the exceptions enshrined in the Constitution, existing laws or jurisprudence and specified in the inventory of exceptions as embodied in the Circular issued by the Office of the President pursuant to Section 4 of EO 2, s. 2016.</p>	
<b>DICT</b>	<p>i. The requested information is not in the custody of the DICT  ii. The requested information contains Sensitive Personal Information, unless authorized by the owner thereof  iii. The requested information falls under the list of exceptions to FOI  iv. The request is an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the DICT</p>	<ul style="list-style-type: none"> <li>• personal information: subject to the conditions of RA 10173 – not ALL are confidential</li> <li>• subsequent identical or substantially similar – as basis for denial is only in the proposed FOI bills – not in current statutes – until the FOI law is passed, there needs to be a mechanism in place whereby citizens will be made aware if an earlier and substantially similar request had already been made</li> </ul>

<p><b>DILG</b></p>	<p>i. Information classified as <b>sensitive personal information</b> of an official/personnel which would constitute an unwarranted invasion of his/her personal privacy. However, the requesting person can be provided access to such personal information if it forms part of a public record, and the official/personnel has consented, in writing, to the disclosure of the information.</p> <p>ii. The information is classified as <b>restricted documents</b> in a legal proceeding (e.g. appealed cases, orders, and resolutions pertaining to employees and officials of the Department).</p> <p>iii. The information is classified or marked as <b>confidential documents</b> (e.g. Memorandum related to Wanted Personalities and Investigation Reports against local officials/employees).</p> <p>iv. Information on the SALN of an official/personnel, particularly if the following conditions exist:</p> <p>a. the DILG is not the official repository of the requested SALN</p> <p>b. the requested SALN is not on file with or in actual possession of the DILG</p> <p>c. the purpose of the request is contrary to law, morals, or public policy</p> <p>d. the identity of the requesting party appears to be fictitious</p> <p>e. the requesting person has a derogatory record of having misused any information previously furnished to him/her</p> <p>f. there are grounds to believe that the request is being made with a plainly discernible improper motive (e.g. harassment) or other analogous circumstances</p>	<ul style="list-style-type: none"> <li>• personal information: subject to the conditions of RA 10173 – not ALL are confidential</li> <li>• there needs to be clear guidelines on the classifying of documents as <i>confidential documents</i> –again, the absence of a redacting mechanism will make severing information difficult</li> <li>• subsequent identical or substantially similar – as basis for denial is only in the proposed FOI bills – not in current statutes – until the FOI law is passed, there needs to be a mechanism in place whereby citizens will be made aware if an earlier and substantially similar request had already been made</li> <li>• conditions c-f might be problematic – it should be enough for the DILG to invoke the fact that it is not the official repository</li> </ul>
<p><b>DOE</b></p>	<p>Refers to the list of Executive Secretary</p>	
<p><b>DOF</b></p>	<p>a. The information requested falls under any of the exceptions provided for the in the constitution, existing laws or jurisprudence, including:</p> <p>i. the items contained in the inventory of exceptions prepared by the DOJ and the Office of the SolGen, and circularized by the Office of the President, pursuant to Sec. 4 of EO No. 2 (2016)</p> <p>ii. Personal Information, Privileged Information and Sensitive Personal Information, <i>except</i> the following:</p> <ul style="list-style-type: none"> <li>• Information about any individual who is or was an officer of employee of a government institution that relates to the position or functions of the individual;</li> <li>• Information about an individual who is or was performing service</li> </ul>	<ul style="list-style-type: none"> <li>• Reports not in final form: it is generally understood that the RTI extends to official acts, transactions, or decisions as well as government research data only</li> <li>• Executive privilege / Presidential communication’s privilege can only be invoked by the President himself (clarified in <i>Neri vs. Senate Committee on Accountability of Public Officers and Investigations, et al.</i>; GRN180643)</li> <li>• subsequent identical or substantially similar – as basis for denial is only in the proposed FOI</li> </ul>

	<p>under contract for a government institution that relates to the services performed, including the terms of the contract, and the name of the individual given in the course of the performance of those services;</p> <ul style="list-style-type: none"> <li>• Information relating to any discretionary benefit of a financial nature such as the granting of a license or permit given by the government to an individual, including the name of the individual and the exact nature of the benefit</li> <li>• Personal information processed for journalistic, artistic, literary, or research purposes.</li> </ul> <p>iii. information which is specifically authorized to be kept secret under guidelines established by an executive order, and in fact properly classified pursuant thereto: <i>Provided</i>, That 1) The information directly relates to national security or internal and external defense of the State; or 2) The information requested pertains to the foreign affairs of the Republic of the Philippines, when its revelation shall unduly weaken the negotiating position of the government in an ongoing bilateral or multilateral negotiation or seriously jeopardize the diplomatic relations of the Philippines with one or more states;</p> <p>iv. information which consists of records of minutes and advice given and opinions expressed during decision-making or policy formulation, invoked by the Chief Executive to be privileged by reason of the impairment of the Chief Executive's deliberative process that would result from the disclosure thereof</p> <p>v. information pertaining to internal and/or external defense, law enforcement, and border control, when the disclosure thereof would: (i) unduly compromise or interfere with any legitimate military or law enforcement operation; or (ii) unduly compromise or interfere with the prevention, detection or suppression of criminal activity, the effective implementation of immigration controls and border security; or (iii) deprive a person of a right to a fair trial or an impartial adjudication; or (iv) lead to the disclosure of the identity of a confidential source, including a government, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a law enforcement authority in the course of an investigation or by an agency conducting a lawful national security intelligence investigation, involving national security; or (v) disclose</p>	<p>bills – not in current statutes; until the FOI law is passed, there needs to be a mechanism in place whereby citizens will be made aware if an earlier and substantially similar request had already been made</p> <ul style="list-style-type: none"> <li>•</li> </ul>
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	<p>techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or (vi) endanger the life of physical safety of any individual;</p> <p>vi. information consisting of drafts of orders, resolutions, decisions, memoranda or audit reports by the DOF, its bureaus and agencies, or any of their respective offices/units in the exercise of their adjudicatory and/or audit function;</p> <p>vii. information pertaining to trade secrets and commercial or financial information or intellectual property obtained from a natural or juridical person other than the requesting party, whenever the revelation thereof would seriously prejudice the interests of such natural or juridical person in trade, industrial, financial or commercial competition;</p> <p>viii. information classified as privileged communications in legal proceedings by law or by the Rules of Court, unless the person entitled to the privilege has waived it;</p> <p>ix. information of a nature that its premature disclosure would likely frustrate the effective implementation of a proposed official action: <i>Provided</i>, That the information shall be accessible once the anticipated danger has ceased.</p> <p>b. The information requested is not kept in or under the control and custody of the DOF, or any of its attached bureaus and agencies, as the case may be, depending on where the request is filed;</p> <p>c. Any of the requirements, conditions, or procedure prescribed under this FOI Manuals is not complied with, such as failure to state a legitimate purpose for the request, without prejudice to the re-filing of the request upon proper compliance with the requirements, conditions and procedure;</p> <p>d. The information requested is already posted and available online; or</p> <p>e. The request substantially pertains to information previously requested by the same requesting party whose request has already been previously granted or denied by the DOF.</p>	
<b>DOH</b>	Refers to the list of Executive Secretary	

<p><b>DOJ</b></p>	<p>Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing laws and jurisprudence, per inventory prepared by the Department of Justice and Office of the SolGen as circularized by the Office of the President, as follows:</p> <ol style="list-style-type: none"> <li>1. Information covered by Executive Privilege</li> <li>2. Privileged information relating to national security, defense, or international relations;</li> <li>3. Information concerning law enforcement and protection of public and personal safety</li> <li>4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes or the accused;</li> <li>5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to governing agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory, or quasi-judicial powers;</li> <li>6. Prejudicial premature disclosure</li> <li>7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;</li> <li>8. Matters considered confidential under banking and finance laws, and their amendatory laws; and</li> <li>9. Other exception to the right to information under laws, jurisprudence, rules and regulations</li> </ol> <p><b>NOTE:</b> They have an Annex B (Inventory of Exceptions from FOI) that wasn't included in attachment.</p>	<ul style="list-style-type: none"> <li>• Executive privilege / Presidential communication's privilege can only be invoked by the President himself (clarified in <i>Neri vs. Senate Committee on Accountability of Public Officers and Investigations, et al.</i>; GRN180643)</li> <li>• Prejudicial premature disclosure needs to be defined or qualified</li> </ul>
<p><b>DOST</b></p>	<p>The list of exception page is empty.</p>	
<p><b>DTI</b></p>	<p>For the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:</p> <ol style="list-style-type: none"> <li>1. Information covered by executive privilege;</li> </ol>	<ul style="list-style-type: none"> <li>• Executive privilege / Presidential communication's privilege can only be invoked by the President himself (clarified in <i>Neri vs. Senate Committee on Accountability of Public Officers and Investigations, et al.</i>; GRN180643)</li> <li>• personal information: subject to the conditions</li> </ul>

	<p>2. Privileged information relating to national security, defense, or international relations;</p> <p>3. Information concerning law enforcement and protection of public and personal safety;</p> <p>4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims or crimes, or the accused;</p> <p>5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory, or quasi-judicial powers;</p> <p>6. Prejudicial premature disclosure;</p> <p>7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;</p> <p>8. Matters considered confidential under banking and finance laws, and their amendatory laws; and</p> <p>9. Other exceptions to the right to information under laws, jurisprudence, rules, and regulations.</p>	<p>of RA 10173 – not ALL are confidential</p> <ul style="list-style-type: none"> <li>• Prejudicial premature disclosure needs to be defined or qualified</li> <li>•</li> </ul>
<b>NEDA</b>	(Not in its Citizen's Manual)	