

Assessing Information Disclosure Practices For FOI Compliance

(AID-FOI TOOL)

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Introduction

The Government of the Philippines operationalized people's access to information through Executive Order (EO) Number 2 signed by the President in July 2016. While covering only the executive branch of the government, it allowed different users, currently numbering 4,157 (as of December 17, 2018 statistics), access to key government information, managed through a program team housed under the Presidential Communications Operations Office (PCOO). The Freedom of Information (FOI) mandate was recently cascaded to local government units when the Department of Interior and Local Government (DILG), together with PCOO, issued a Joint Memorandum Circular in 2018, encouraging local government units to enact local FOI ordinances.

While significant efforts have been made by the FOI Project Management Office (FOI-PMO) to make citizens aware of the existence of the FOI EO and exact compliance of agencies, only very few has used the measure just yet to seek for information (as indicated in the above number of portal users), and very few of the agencies have been actively responding to information despite including FOI compliance a requirement for agencies to be eligible to received performance-based bonus. As of December 2018, only 34% of a total of 939 covered agencies submitted data inventories, 49% submitted FOI manuals indicating operationalization of the EO at the agency level, while 33% submitted FOI summary reports indicating the number of requests received and responded to. It must be noted, however, that the large bulk of non-compliance are local water districts constituting 55% of the total number of covered agencies.

Among national government agencies, 100% were able to comply with the preparation of FOI manuals, 75% were able to submit data inventories, and 72% have submitted FOI summary reports. The Philippine Statistics Authority topped as the agency with the greatest number of requests, followed by key service delivery agencies like the Department of Health (2nd place), the Department of Public Works and Highways (5th place), and the Department of Education (7th place). Others on the list are the Department of Transportation (3rd place), Department of Budget and Management (4th place), and the DILG (6th place). Interestingly enough legal documents, including contracts, top the list of the most requested information in 2018. Statistics data/research data ranked second.

The Philippine government recognizes that the key to improvement in the responsiveness of agencies to information requests through FOI mechanism is the proper functioning of data management systems of agencies, including the ability of its people, and quality of data leadership, and the different processes and systems that ensure data availability. Thus, this Assessing Information Disclosure practices for FOI (AID-FOI) Tool intends to determine the capacity and performance of agencies in complying with the FOI regulation and its ability to respond to information requests. The results of this tool can be used by the FOI-PMO and by relevant national agencies of the Philippine Government to formulate a capacity development strategy to improve the capacity and performance of the NGA in information disclosure.

This document contains the first version of the AID-FOI Tool. This was developed by Step Up Consulting as part of the "Increasing people's access to procurement information through the FOI program", a research project by Step Up Consulting funded by HIVOS.

The AID-FOI Tool

Fundamental Basis

The AID-FOI Tool assesses whether the conditions within an agency are appropriate for FOI mechanisms to be effective. It assesses whether the agency possesses the critical elements that will enable it to perform proactive disclosure of open agency data. For purposes of the assessment AID-FOI Tool draws heavily from the work of the Carter Center's Rule of Law Program that specifies a set of indicators to assess FOI implementation. These indicators revolve around the following key essential components¹:

i) Leadership

Engagement of high-level leadership in the development and oversight of implementation is critical for its overall success. Motivated leaders committed to the implementation of the access to information legislation will assure that necessary policies and procedures are in place, systems developed, and resources applied.

ii) Rules

Rules serve to ordain or layout the way in which public officials will handle their various access to information regime functions. They may provide binding instructions, mandated actions, or standard operating procedures to advance the implementation of the access to information law. Rules in themselves require a process of drafting an ordinance and imply both a negative and a positive concept: negative in the sense that it prevents failure or negligence from taking place and a positive one because it provides orientation and clear guidance.

iii) Systems

Systems are the processes, both formal and informal, by which an agency functions. They are a crucial component when talking about improving access to information implementation because they determine the way the agency acts and reacts to every action or aspect related to ATI. Systems are the application of rules and procedures.

iv) Resources

It is no secret to anyone that implementing access to information legislation requires considerable resources: human, financial, and infrastructure. These resources are often found within the government's pre-existing structure, but in some cases, they need to be acquired or specially allocated in order to ensure ATI implementation. Trained personnel, infrastructure, technology, and responsible officers are some of the resources that an agency needs to fully and effectively implement access to information legislation.

v) Monitoring

Monitoring the agency's access to information functions is a critical, but often overlooked, the component of the access to information implementation plumbing. Monitoring allows agencies to identify advances and deficits and to make necessary modifications or corrections. Moreover, monitoring also provides leaders with the necessary information to make better decisions pertaining to the establishment of rules, the allocation of resources, and the system adjustments required to improve the implementation of the access to information legislation.

¹ The discussion of the key components are lifted in toto from Carter Center's methodological note in implementing the FOI Implementation Tool. For more discussion, please see <https://www.cartercenter.org/peace/ati/IAT/index.html>

AID-FOI Questionnaire

Element 1: Leadership

Indicator 1: Level of commitment of agency leaders to institutionalize FOI within the agency.

	Always	Sometimes	Rarely	Never	Not Applicable
1. Agency leaders (top or middle managers) provide guidance to the team implementing the FOI (e.g. attending meetings of the FOI team, responding to their questions, issuing directives to support FOI implementation within the agency)	/				
2. Agency leaders (top or middle managers) provide resources for successful FOI implementation (e.g. annual financial budget, people to implement FOI, equipment necessary).	/				
3. Agency leaders (top or middle managers) provide timely decisions on FOI matters (e.g. approval of requests, directives to personnel for compliance.)	/				
4. Agency leaders (top or middle managers) provide motivation to the FOI implementation team in the agency to encourage successful FOI implementation (e.g. giving encouragement or recognizing FOI team's work).	/				
5. Agency leaders (with authority regarding agency policy) actively participates in the crafting of the agency's FOI guidelines).	/				
6. Agency leaders (with authority regarding agency policy) reviews compliance to FOI guidelines).	/				
7. Agency leaders (with authority regarding agency policy) initiates review of agency policy when certain inefficiencies are observed.	/				
Comments					
None yet					
Means of Verification (e.g. minutes of meetings, agency budget, interoffice communication, policy pronouncements)					
LEWAD Board Resolution No. 017 s. 2018 dated December 4, 2018 (Approving the Lemery water District's Freedom of Information People's Manual pursuant to Executive Order No. 2 dated July 23, 2016.					
Office Order dated December 4, 2018 designating the following FOI Officers:					

Decision Makers	-	Engr. Hydee Dela Luna-Ramirez Maria Cecilia M. Mendoza Aldwin O. Bandalaria
Receiving Officer	-	Josephine S. Manabat

Element 2: Strategic and Policy Framework, Guidelines and Procedures

Indicator 2: Presence of whole-of-agency policy, strategy, guidelines and procedures regarding FOI implementation

	Yes	No	NA	Comments
1. The agency's strategic plan includes provisions related to FOI implementation (e.g. transparency, access to information).	/			
2. The agency has issued specific guidelines for FOI (e.g. FOI manual)	/			
3. The agency FOI guidelines are accessible to all in digital format and downloadable from the agency's website.	/			
4. The agency FOI guidelines are accessible to all in hard copy and available to citizens.	/			
5. The agency FOI guidelines have very specific provisions on				
a. How FOI will be implemented	/			
b. Who is responsible for its implementation	/			
c. How citizens can request information	/			
d. How long requests can be processed	/			
e. How citizens can complain if their request is not responded to	/			
6. The agency policy has been disseminated to all officials within the agency.	/			
7. Agency employees handling data and information are all oriented with how the agency policy works.	/			
8. The agency has disseminated the FOI policy to all its customers/constituents.		/		But it is accessible to the LEWAD website and there is a a copy of Citizens Charter at the CCD area that is available to all requesting consumers.
9. The agency has proactively informed all its customers/constituents about the policy.		/		

	Yes	No	NA	Comments
10. The agency has written guidelines for receiving FOI requests, including				
a. Determining what constitutes a request	/			Included in the agency FOI Manual
b. Providing acknowledgment of receipt	/			Included in the agency FOI Manual
c. Assisting the requester	/			Included in the agency FOI Manual
11. The agency has written guidelines for processing requests, including				Included in the agency FOI Manual
a. Coordination within the agency in responding to the request	/			Included in the agency FOI Manual
b. Timeframes	/			Included in the agency FOI Manual
c. Cost determination	/			Included in the agency FOI Manual
d. Fee collection (when applicable)	/			Included in the agency FOI Manual
e. Transfer of request from one office in the agency to another (when applicable)	/			Included in the agency FOI Manual
f. Transfer of request to another agency (when applicable)	/			Included in the agency FOI Manual
12. The agency has written guidelines for responding to requests (e.g. granting or denying), including	/			
a. Process for determining release of information	/			Included in the agency FOI Manual
b. Means for providing the requested information	/			Included in the agency FOI Manual
c. Means for providing notice of denial	/			Included in the agency FOI Manual
d. Reason for denial of information requested	/			Included in the agency FOI Manual
13. The agency has written procedures for logging in and tracking requests and responses including	/			
a. Updating the log/tracker to keep it current	/			Through Agency Dashboard
b. Tracking a request in one central recording system	/			Through Agency Dashboard
c. Detailing the request from submission to processing to resolution, including transfers and internal reviews	/			Through Agency Dashboard
14. The agency has written guidelines for the internal review of FOI requests, including	/			LEWAD FOI Manual
a. Receiving requests for review	/			Included in the agency FOI Manual
b. Reviewing agency's motives for initial decisions	/			Included in the agency FOI Manual
c. Issuing findings and decisions	/			Included in the agency FOI Manual

	Yes	No	NA	Comments
15. The agency has written procedures on processing requests, including				
a. Identifying who in the agency holds the information	/			Included in the agency FOI Manual
b. Searching and finding information	/			Included in the agency FOI Manual
c. Determining release	/			Included in the agency FOI Manual
d. Deciding on redactions	/			Included in the agency FOI Manual
e. Deciding on denials	/			Included in the agency FOI Manual
16. The agency has written procedures in transferring requests to other agencies, including				
a. Identifying the correct agency	/			Included in the agency FOI Manual
b. Transferring the requests	/			Included in the agency FOI Manual
c. Providing notice of transfer to the requester	/			Included in the agency FOI Manual
17. The agency has written procedures for issuing and servicing responses, including				
a. Provision of requested documents	/			Included in the agency FOI Manual
b. Notice and collection of fees where applicable	/			Included in the agency FOI Manual
c. Sending notices of denial	/			Included in the agency FOI Manual
d. Sending notices of the requester's right to appeal	/			Included in the agency FOI Manual
18. The agency has written procedures in capturing the following information				
a. Number of requests		/		Excel copy of FOI Reports
b. Number of transfers		/		Excel copy of FOI Reports
c. Number of denials		/		Excel copy of FOI Reports
d. Reasons for denial		/		Excel copy of FOI Reports
e. Number of days to respond to requests		/		Excel copy of FOI Reports
19. The agency has written procedures on proactive disclosure (i.e. not just responding to FOI requests but providing information to citizens on a regular basis) including				
a. Identifying and listing documents that will be proactively disclosed		/		
b. How the documents will be disclosed (e.g. website, notice boards)		/		
c. Regularity in the disclosure of the documents		/		

	Yes	No	NA	Comments
d. Format of the document when disclosed (e.g. PDF, MS word, spreadsheet)		/		
e. People responsible in the disclosure process		/		
f. Publishing information that is often requested through the FOI channel		/		
20. The agency has record management policy in dealing with paper-based information.		/		
21. The agency has record management policy in dealing with digital information.		/		
22. The agency has written guidelines in record management (regardless of format) including	/			But all records regarding FOI Implementation are maintained accurately in appropriate formats for easy identification, retrieval, and communication of information to the public. LEWAD FOI Manual
a. Creating records				
b. Organizing records				
c. Storing records/preserving records				
d. Retaining records				
e. Securing records				
f. Retrieving records				
g. Accessing records				
23. The agency has written guidelines in records security, including		/		Section 4 of the LEWAD FOI Manual
a. Determining classification				
b. Internal access to classified documents				
h. Transmission of classified documents				
i. Creation of index or other forms of identifying classified documents				
24. The agency has written guidelines and procedures in managing paper records, including		/		
a. Creation				
b. Records organization				
c. Inventory				
d. Indexing and logging				
e. Access permission				

	Yes	No	NA	Comments
f. Retention and disposal				
25. The agency has written guidelines and procedures in managing digital records, including		/		
a. Creation				
b. Records organization				
c. Inventory				
d. Indexing and logging				
e. Access permission				
f. Retention and disposal				
26. Our data management system is decentralized.		/		
27. Access to the data of the agency is available for everyone working in the organization.	/			
Means of Verification				
LEWAD Transparency Seal in its website				
Updated FOI Manual				
Updated FOI Report (Information Inventory, FOI registry and FOI Summary)				
 Note: (In the comments column, indicate how this policy, procedure or guideline, has been implemented, the reasons for your answer, or a further explanation).				

Element 3: Structure, Systems, and Resources

Indicator 3: Presence and functioning of structures and systems to ensure effectiveness and efficiency of FOI implementation.

	Yes	No	NA	Comments
1. One or more agency official has been appointed to handle FOI implementation.	/			1 FRO and 3 DMs
2. One or more agency officials have been informally tasked to handle FOI implementation.				
3. The agency officials handling FOI implementation are also doing other functions besides ensuring the effectiveness and efficiency of FOI implementation.	/			
4. The agency officials handling FOI implementation have the authority and mandate to perform their functions.	/			
5. The names of agency officials tasked to handle FOI		/		

	Yes	No	NA	Comments
implementation are made known to the public.				
6. The agency official/s tasked to handle FOI implementation has/have				
a. The time required to fulfill his/her function				
b. The staff needed to fulfill his/her function				
c. The financial resources needed to fulfill his/her function				
7. The official/s tasked to handle FOI implementation received specialized training on FOI and access to information in order to effectively do his/her job.	/			
8. All agency employees are oriented about the FOI policy and their roles in its implementation.	/			
9. All agency employees receive regular information about the progress of FOI implementation within the agency.	/			
10. The agency has training materials related to the agency's FOI guidelines, procedures, and processes, and these are made available to all employees.				
11. Agency official/s tasked to handle FOI implementation has/have regular access to:				
a. Computers	/			
b. Stable internet connection	/			
c. Scanners	/			
d. Photocopiers	/			
12. The agency has created a physical space where citizens can make written FOI requests.	/			
13. The agency has created an online space where citizens can make online FOI requests.	/			
14. One or more agency officials have been appointed to handle proactive disclosure of information.		/		
15. One or more agency officials have been informally tasked to handle proactive disclosure of information.				
16. The agency officials handling proactive disclosure functions are also doing other functions besides ensuring the effectiveness and efficiency of proactive disclosure mechanisms.	/			
17. The agency officials handling proactive disclosure functions have the authority and mandate to perform their functions.	/			

	Yes	No	NA	Comments
18. The agency official/s tasked to handle proactive disclosure functions has/have				
a. The time required to fulfill his/her function	/			
b. The staff needed to fulfill his/her function				
c. The financial resources needed to fulfill his/her function	/			
19. The official/s tasked to handle proactive disclosure functions received specialized training on open data and proactive disclosure principles to do his/her job.		/		
20. Agency official/s tasked to handle proactive disclosure functions has/have regular access to:				
a. Computers	/			
b. Stable internet connection	/			
c. Scanners	/			
d. Photocopiers	/			
21. The agency has an appointed official/s handling records management.	/			The FRO of the district record and compile all statistical information needed pertinent to FOI implementation.
22. The agency official/s tasked to handle records management has/have				
a. The time required to fulfill his/her function	/			
b. The staff needed to fulfill his/her function	/			
c. The financial resources needed to fulfill his/her function	/			
23. Agency official/s tasked to handle records management has/have regular access to:				
a. Computers	/			
b. Stable internet connection	/			
c. Scanners	/			
d. Photocopiers	/			
24. The official/s tasked to handle records management received specialized training on records management to do his/her job.		/		
25. The agency has created/maintained a physical space and facilities for storing paper records.	/			
26. The agency has created/maintained space and facilities for storing digital records.	/			

	Yes	No	NA	Comments
Means of Verification				
Office Orders				
Certificate of Training Attendance				
Note: (In the comments column, indicate how this policy, procedure or guideline, has been implemented, the reasons for your answer, or a further explanation).				

Element 4: Monitoring

Indicator 4: Presence and functioning of monitoring systems for FOI implementation

	Always	Sometimes	Rarely	Never	Not Applicable
1. The agency monitors its FOI functions and duties.	/				
2. The agency issues FOI implementation reports on a regular basis.	/				
3. The agency's internal audit department includes FOI functioning as part of its auditable areas.	/				
4. The agency reviews the performance of the personnel assigned to handle FOI implementation to determine how they perform their tasks and functions.	/				
5. The agency captures statistics on FOI implementation and discloses this to the public.		/			
6. The agency captures statistics on proactive disclosure implementation and discloses this to the public.		/			
7. The agency monitors its proactive disclosure practices.		/			
8. The agency monitors its records management functions and practices.		/			
9. The agency has designated an official/s who will oversee and monitor FOI implementation.	/				
Comments					
Means of Verification (e.g. minutes of meetings, agency budget, interoffice communication, policy pronouncements)					
FOI Manual					
FOI Reports					
Office Orders					

Agency Website

Annual FOI Validation Form

Note: *(In the comments column, indicate how this policy, procedure or guideline, has been implemented, the reasons for your answer, or a further explanation).*