

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 most requested information in 2018. Statistics data/research data ranked second.

The Philippine government recognizes that the key to improvement in 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 capacity and performance of the NGA in information disclosure.

This document contains the first version of the AID-FOI Tool. This was developed by the 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 lay out 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 implementation of the access to information law. Rules in themselves require a process of drafting and 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 an 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 on 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 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, 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)	<input checked="" type="checkbox"/>				
2. Agency leaders (top or middle managers) provide resources for successful FOI implementation (e.g. annual financial budget, people to implement FOI, equipment necessary).		<input checked="" type="checkbox"/>			
3. Agency leaders (top or middle managers) provide timely decisions on FOI matters (e.g. approval of requests, directives to personnel for compliance.)	<input checked="" type="checkbox"/>				
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).	<input checked="" type="checkbox"/>				
5. Agency leaders (with authority regarding agency policy) actively participates in the crafting of the agency's FOI guidelines).	<input checked="" type="checkbox"/>				
6. Agency leaders (with authority regarding agency policy) reviews compliance to FOI guidelines).	<input checked="" type="checkbox"/>				
7. Agency leaders (with authority regarding agency policy) initiates review of agency policy when certain inefficiencies are observed.	<input checked="" type="checkbox"/>				
Comments					
Means of Verification (e.g. minutes of meetings, agency budget, interoffice communication, policy pronouncements)					
Reference: CIAC URL ciac.gov.ph					

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).	<input checked="" type="checkbox"/>			
2. The agency has issued specific guidelines for FOI (e.g. FOI manual)	<input checked="" type="checkbox"/>			
3. The agency FOI guidelines are accessible to all in digital format and downloadable from the agency's website.	<input checked="" type="checkbox"/>			
4. The agency FOI guidelines are accessible to all in hardcopy and available to citizens.		<input checked="" type="checkbox"/>		
5. The agency FOI guidelines have very specific provisions on				
a. How FOI will be implemented	<input checked="" type="checkbox"/>			
b. Who is responsible for its implementation	<input checked="" type="checkbox"/>			
c. How citizens can request information	<input checked="" type="checkbox"/>			
d. How long requests can be processed	<input checked="" type="checkbox"/>			
e. How citizens can complain if their request is not responded to	<input checked="" type="checkbox"/>			
6. The agency policy has been disseminated to all officials within the agency.	<input checked="" type="checkbox"/>			
7. Agency employees handling data and information are all oriented with how the agency policy works.	<input checked="" type="checkbox"/>			
8. The agency has disseminated the FOI policy to all its customers/constituents.		<input checked="" type="checkbox"/>		
9. The agency has proactively informed all its customers/constituents about the policy.	<input checked="" type="checkbox"/>			
10. The agency has written guidelines for receiving FOI requests, including				
a. Determining what constitutes a request	<input checked="" type="checkbox"/>			
b. Providing acknowledgment of receipt	<input checked="" type="checkbox"/>			
c. Assisting the requester	<input checked="" type="checkbox"/>			
11. The agency has written guidelines for processing requests, including				

	Yes	No	NA	Comments
a. Coordination within the agency in responding to the request	<input checked="" type="checkbox"/>			
b. Timeframes	<input checked="" type="checkbox"/>			
c. Cost determination			<input checked="" type="checkbox"/>	
d. Fee collection (when applicable)			<input checked="" type="checkbox"/>	
e. Transfer of request from one office in the agency to another (when applicable)	<input checked="" type="checkbox"/>			
f. Transfer of request to another agency (when applicable)	<input checked="" type="checkbox"/>			
12. The agency has written guidelines for responding to requests (e.g. granting or denying), including				
a. Process for determining release of information	<input checked="" type="checkbox"/>			
b. Means for providing the requested information	<input checked="" type="checkbox"/>			
c. Means for providing notice of denial	<input checked="" type="checkbox"/>			
d. Reason for denial of information requested	<input checked="" type="checkbox"/>			
13. The agency has written procedures for logging in and tracking requests and responses including				
a. Updating the log/tracker to keep it current	<input checked="" type="checkbox"/>			
b. Tracking a request in one central recording system	<input checked="" type="checkbox"/>			
c. Detailing the request from submission to processing to resolution, including transfers and internal reviews	<input checked="" type="checkbox"/>			
14. The agency has written guidelines for the internal review of FOI requests, including				
a. Receiving requests for review	<input checked="" type="checkbox"/>			
b. Reviewing agency's motives for initial decisions	<input checked="" type="checkbox"/>			
c. Issuing findings and decisions	<input checked="" type="checkbox"/>			
15. The agency has written procedures on processing requests, including				
a. Identifying who in the agency holds the information	<input checked="" type="checkbox"/>			
b. Searching and finding information	<input checked="" type="checkbox"/>			
c. Determining release	<input checked="" type="checkbox"/>			

	Yes	No	NA	Comments
d. Deciding on redactions	<input checked="" type="checkbox"/>			
e. Deciding on denials	<input checked="" type="checkbox"/>			
16. The agency has written procedures in transferring requests to other agencies, including				
a. Identifying the correct agency	<input checked="" type="checkbox"/>			
b. Transferring the requests	<input checked="" type="checkbox"/>			
c. Providing notice of transfer to the requester	<input checked="" type="checkbox"/>			
17. The agency has written procedures for issuing and servicing responses, including				
a. Provision of requested documents	<input checked="" type="checkbox"/>			
b. Notice and collection of fees where applicable			<input checked="" type="checkbox"/>	
c. Sending notices of denial	<input checked="" type="checkbox"/>			
d. Sending notices of the requester's right to appeal	<input checked="" type="checkbox"/>			
18. The agency has written procedures in capturing the following information				
a. Number of requests	<input checked="" type="checkbox"/>			
b. Number of transfers	<input checked="" type="checkbox"/>			
c. Number of denials	<input checked="" type="checkbox"/>			
d. Reasons for denial	<input checked="" type="checkbox"/>			
e. Number of days to respond to requests	<input checked="" type="checkbox"/>			
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	<input checked="" type="checkbox"/>			
b. How the documents will be disclosed (e.g. website, notice boards)	<input checked="" type="checkbox"/>			
c. Regularity in the disclosure of the documents	<input checked="" type="checkbox"/>			
d. Format of the document when disclosed (e.g. PDF, MS word, spreadsheet)	<input checked="" type="checkbox"/>			
e. People responsible in the disclosure process	<input checked="" type="checkbox"/>			

	Yes	No	NA	Comments
f. Publishing information that is often requested through the FOI channel	<input checked="" type="checkbox"/>			
20. The agency has record management policy in dealing with paper-based information.	<input checked="" type="checkbox"/>			
21. The agency has record management policy in dealing with digital information.	<input checked="" type="checkbox"/>			
22. The agency has written guidelines in record management (regardless of format) including				
a. Creating records	<input checked="" type="checkbox"/>			
b. Organizing records	<input checked="" type="checkbox"/>			
c. Storing records/preserving records	<input checked="" type="checkbox"/>			
d. Retaining records	<input checked="" type="checkbox"/>			
e. Securing records	<input checked="" type="checkbox"/>			
f. Retrieving records	<input checked="" type="checkbox"/>			
g. Accessing records	<input checked="" type="checkbox"/>			
23. The agency has written guidelines in records security, including				
a. Determining classification	<input checked="" type="checkbox"/>			
b. Internal access to classified documents	<input checked="" type="checkbox"/>			
h. Transmission of classified documents	<input checked="" type="checkbox"/>			
i. Creation of index or other forms of identifying classified documents	<input checked="" type="checkbox"/>			
24. The agency has written guidelines and procedures in managing paper records, including				
a. Creation	<input checked="" type="checkbox"/>			
b. Records organization	<input checked="" type="checkbox"/>			
c. Inventory	<input checked="" type="checkbox"/>			
d. Indexing and logging	<input checked="" type="checkbox"/>			
e. Access permission	<input checked="" type="checkbox"/>			
f. Retention and disposal	<input checked="" type="checkbox"/>			
25. The agency has written guidelines and procedures in managing digital records, including				
a. Creation	<input checked="" type="checkbox"/>			

	Yes	No	NA	Comments
b. Records organization	<input checked="" type="checkbox"/>			
c. Inventory	<input checked="" type="checkbox"/>			
d. Indexing and logging	<input checked="" type="checkbox"/>			
e. Access permission	<input checked="" type="checkbox"/>			
f. Retention and disposal	<input checked="" type="checkbox"/>			
26. Our data management system is decentralized.	<input checked="" type="checkbox"/>			
27. Access to the data of the agency is available for everyone working in the organization.	<input checked="" type="checkbox"/>			
Means of Verification				
<i>Reference: CIAC URL ciac.gov.ph</i>				
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.	<input checked="" type="checkbox"/>			
2. One or more agency official has been informally tasked to handle FOI implementation.	<input checked="" type="checkbox"/>			
3. The agency officials handling FOI implementation are also doing other functions besides ensuring the effectiveness and efficiency of FOI implementation.	<input checked="" type="checkbox"/>			
4. The agency officials handling FOI implementation have the authority and mandate to perform their functions.	<input checked="" type="checkbox"/>			
5. The names of agency officials tasked to handle FOI implementation are made known to the public.	<input checked="" type="checkbox"/>			
6. The agency official/s tasked to handle FOI implementation has/have				
a. The time required to fulfill his/her function	<input checked="" type="checkbox"/>			
b. The staff needed to fulfill his/her function	<input checked="" type="checkbox"/>			
c. The financial resources needed to fulfill his/her function	<input checked="" type="checkbox"/>			

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

	Yes	No	NA	Comments
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	<input checked="" type="checkbox"/>			
b. Stable internet connection	<input checked="" type="checkbox"/>			
c. Scanners	<input checked="" type="checkbox"/>			
d. Photocopiers	<input checked="" type="checkbox"/>			
21. The agency has an appointed official/s handling records management.	<input checked="" type="checkbox"/>			
22. The agency official/s tasked to handle records management has/have				
a. The time required to fulfill his/her function	<input checked="" type="checkbox"/>			
b. The staff needed to fulfill his/her function	<input checked="" type="checkbox"/>			
c. The financial resources needed to fulfill his/her function	<input checked="" type="checkbox"/>			
23. Agency official/s tasked to handle records management has/have regular access to:				
a. Computers	<input checked="" type="checkbox"/>			
b. Stable internet connection	<input checked="" type="checkbox"/>			
c. Scanners	<input checked="" type="checkbox"/>			
d. Photocopiers	<input checked="" type="checkbox"/>			
24. The official/s tasked to handle records management received a specialized training on records management to do his/her job.	<input checked="" type="checkbox"/>			
25. The agency has created/maintained a physical space and facilities for storing paper records.	<input checked="" type="checkbox"/>			
26. The agency has created/maintained space and facilities for storing digital records.	<input checked="" type="checkbox"/>			
Means of Verification				
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.	<input checked="" type="checkbox"/>				
2. The agency issues FOI implementation reports on a regular basis.	<input checked="" type="checkbox"/>				
3. The agency's internal audit department includes FOI functioning as part of its auditable areas.	<input checked="" type="checkbox"/>				
4. The agency reviews the performance of the personnel assigned to handle FOI implementation to determine how they perform their tasks and functions.	<input checked="" type="checkbox"/>				
5. The agency captures statistics on FOI implementation and discloses this to the public.		<input checked="" type="checkbox"/>			
6. The agency captures statistics on proactive disclosure implementation and discloses this to the public.		<input checked="" type="checkbox"/>			
7. The agency monitors its proactive disclosure practices.	<input checked="" type="checkbox"/>				
8. The agency monitors its records management functions and practices.	<input checked="" type="checkbox"/>				
9. The agency has designated an official/s who will oversee and monitor FOI implementation.	<input checked="" type="checkbox"/>				
Comments					
Means of Verification (e.g. minutes of meetings, agency budget, interoffice communication, policy pronouncements)					
Note: (In the comments column, indicate how this policy, procedure or guideline, has been implemented, the reasons for your answer, or a further explanation).					