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.

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 components[1]:

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.

[11] The discussion of the key components is 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

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)	X				
2. Agency leaders (top or middle managers) provide resources for successful FOI implementation (e.g. annual financial budget, people to implement FOI, equipment necessary).	X				
3. Agency leaders (top or middle managers) provide timely decisions on FOI matters (e.g. approval of requests, directives to personnel for compliance.)	X				
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).	X				
5. Agency leaders (with authority regarding agency policy) actively participates in the crafting of the agency's FOI guidelines).	X				
6. Agency leaders (with authority regarding agency policy) reviews compliance to FOI guidelines).	X				
7. Agency leaders (with authority regarding agency policy initiates review of agency policy when certain inefficiencies are observed.	X				
Comments					
Means of Verification (e.g. minutes of meetings, agency budget, interoffice communication, policy pronouncements)					

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

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

	Yes	No	NA	Comments
a. Identifying the correct agency		X		
b. Transferring the requests		X		
c. Providing notice of transfer to the requester		X		
17. The agency has written procedures for issuing and servicing responses, including	X			
a. Provision of requested documents	X			
b. Notice and collection of fees where applicable	X			
c. Sending notices of denial	X			
d. Sending notices of the requester's right to appeal	X			
18. The agency has written procedures in capturing the following information				
a. Number of requests	X			
b. Number of transfers		X		
c. Number of denials		X		
d. Reasons for denial	X			
e. Number of days to respond to requests	X			
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		X		
b. How the documents will be disclosed (e.g. website, notice boards)		X		
c. Regularity in the disclosure of the documents		X		
d. Format of the document when disclosed (e.g. PDF, MS word, spreadsheet)		X		
e. People responsible in the disclosure process		X		
f. Publishing information that is often requested through the FOI channel		X		
20. The agency has record management policy in dealing with paper-based information.	X			
21. The agency has record management policy in dealing with digital information.	X			
22. The agency has written guidelines in record management (regardless of format) including	X			

	Yes	No	NA	Comments
a. Creating records	X			
b. Organizing records	X			
c. Storing records/preserving records	X			
d. Retaining records	X			
e. Securing records	X			
f. Retrieving records	X			
g. Accessing records	X			
23. The agency has written guidelines in records security, including	X			
a. Determining classification	X			
b. Internal access to classified documents	X			
h. Transmission of classified documents	X			
i. Creation of index or other forms of identifying classified documents	X			
24. The agency has written guidelines and procedures in managing paper records, including	X			
a. Creation	X			
b. Records organization	X			
c. Inventory	X			
d. Indexing and logging	X			
e. Access permission	X			
f. Retention and disposal	X			
25. The agency has written guidelines and procedures in managing digital records, including	X			
a. Creation	X			
b. Records organization	X			
c. Inventory	X			
d. Indexing and logging	X			
e. Access permission	X			
f. Retention and disposal	X			
26. Our data management system is decentralized.	X			
27. Access to the data of the agency is available for everyone working in the organization.	X			

	Yes	No	NA	Comments
Means of Verification The Department of Finance (DOF) has a Records Disposition Schedule duly approved by the National Archives of the Philippines. This is being used as basis in the retention and disposal of official records of the Department aside from the General Records Disposition Schedule issued by the NAP. On the other hand, this Department also utilized Document Tracking System (DTS) in monitoring the incoming and outgoing communications. The Revenue Office has dedicated system called Tax Exemption System Lite (DTS Lite) in processing all applications related to tax exemption. Finally, the Central Management Information Office (CMIO) of this Department has developed the Central Records Management System This system is dedicated for digitization and electronic storage of permanent records which are in custody of the Central Records Management Division. **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.	X			
2. One or more agency official has been informally tasked to handle FOI implementation.	X			
3. The agency officials handling FOI implementation are also doing other functions besides ensuring the effectiveness and efficiency of FOI implementation.	X			
4. The agency officials handling FOI implementation have the authority and mandate to perform their functions.	X			
5. The names of agency officials tasked to handle FOI implementation are made known to the public.	X			
6. The agency official/s tasked to handle FOI implementation has/have	X			
a. The time required to fulfill his/her function	X			
b. The staff needed to fulfill his/her function	X			
c. The financial resources needed to fulfill his/her function	X			
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.	X			
8. All agency employees are oriented about the FOI policy and their roles in its implementation.	X			

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

	Yes	No	NA	Comments
b. Stable internet connection	X			
c. Scanners	X			
d. Photocopiers	X			
21. The agency has an appointed official/s handling records management.	X			
22. The agency official/s tasked to handle records management has/have	X			
a. The time required to fulfill his/her function	X			
b. The staff needed to fulfill his/her function	X			
c. The financial resources needed to fulfill his/her function	X			
23. Agency official/s tasked to handle records management has/have regular access to:	X			
a. Computers	X			
b. Stable internet connection	X			
c. Scanners	X			
d. Photocopiers	X			
24. The official/s tasked to handle records management received a specialized training on records management to do his/her job.	X			
25. The agency has created/maintained a physical space and facilities for storing paper records.	X			
26. The agency has created/maintained space and facilities for storing digital records.	X			
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.	X				
2. The agency issues FOI implementation reports on a regular basis.	X				
3. The agency's internal audit department includes FOI functioning as part of its auditable areas.	X				
4. The agency reviews the performance of the personnel assigned to handle FOI implementation to determine how they perform their tasks and functions.	X				
5. The agency captures statistics on FOI implementation and discloses this to the public.	X				
6. The agency captures statistics on proactive disclosure implementation and discloses this to the public.	X				
7. The agency monitors its proactive disclosure practices.	X				
8. The agency monitors its records management functions and practices.	X				
9. The agency has designated an official/s who will oversee and monitor FOI implementation.	X				
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).*					