NATIONAL ADMINISTRATIVE REGISTER · SEPTEMBER 18, 2013

GUIDELINES IN THE DISPOSITION OF REQUESTS FOR DOCUMENTS/RECORDS/ REPORTS/DECISIONS AND OTHER INFORMATION IN THE POSSESSION AND/OR CUSTODY OF COA, INCLUDING FURNISHING OF COPIES ...

COA CIRCULAR NO. 2013-006, September 18, 2013

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1.0 RATIONALE

1.1

The Constitution recognizes the right of the people to: (a) information on matters of public concern; (b) access to official records and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development; and (c) full public disclosure of all its transactions involving public interest.

1.2

The Constitution also entrusts this Commission with the keeping of the general accounts of the Government and the preservation of the vouchers and other supporting papers pertaining thereto, for a period of ten (10) years as provided by Presidential Decree (P.D.) No. 1445. Likewise, in the exercise of its powers and authority, the Commission acquires custody or possession of documents/records/reports/decisions and other information which this Commission is mandated to keep and preserve.

1.3

This being so, the Commission frequently receives numerous requests for documents/records/reports/decisions and other information from various parties. There is however no law governing the exercise of the aforementioned right of the people and the Commission has inadequate and fragmented guidelines governing the disposition of subject requests.

1.4

This Circular is therefore issued to improve and consolidate existing issuances of the Commission and to prescribe uniform guidelines in line with the Commission's authority to impose reasonable regulations on the manner in which access to information may be allowed to prevent damage or loss of documents/records/reports/decisions and other information.

2.0 SCOPE

These Guidelines shall cover requests for documents/records/reports/ decisions and other information, in whatever form in the custody or possession of any Office, Cluster, Division, Section, Unit of the Central Office or Regional Offices or Audit Teams of the Commission on Audit (COA).

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3.0 GENERAL GUIDELINES

3.1

Access to Documents/Records/Reports/Decisions or Other Information. – All documents/records/reports/decisions or other information in the custody or possession of this Commission or its officials or employees by reason of their official functions shall be made accessible and available to every person in the manner provided herein during reasonable hours of working days and within the view of the custodian officer, subject to the limitations as herein provided.

3.2

Limitations – Requests for documents/records/reports/decisions and other information under the following circumstances shall be denied:

a.

The purpose of the request is contrary to law, morals or public policy, or when no purpose is indicated in the Request Form or RF (Annex A), which can be obtained from any COA Office or downloaded from the COA website;

b.

The documents/records/reports/decisions and other information requested are not described with sufficient particularity in the prescribed RF;

c.

When the documents/records/reports/decisions and other information requested was prepared by and in the custody of the audited agency, unless the same has been submitted to the COA or its representatives and no copy thereof has been retained by or remains in the agency;

d.

The requesting party or his authorized representative refuses to: (i) accomplish the RF; (ii) subscribe the same before the authorized officials of this Commission as provided in 3.11 hereof or a Notary Public; or (iii) present any two (2) valid IDs enumerated in 4.1.5 hereof;

e.

When the purpose of the request indicates that the documents/ records/reports/decisions or other information requested is intended to be used to “fish” for evidence to file a case against a public officer.

f.

The documents/records/reports/decisions or other information requested are no longer in the custody or possession of this Commission or its officials and/or employees by reason of their having been lost or destroyed by fire, flood or other fortuitous events, or had already been disposed of after the lapse of the period for safekeeping, in accordance with the law and regulations;

g.

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The documents/records/reports/decisions and other information are under audit or investigation by this Commission or any investigating body, or when such audit or investigation has already been concluded but no corresponding final audit or investigation report has yet been officially transmitted to and received by the audited agency;

h.

Access to or the furnishing of documents/records/reports/decisions and other information would violate Articles 229 and 230 of the Revised Penal Code of the Philippines on revelation of secrets, the laws on trade and commercial secrets, secrecy of bank deposits, antigraft and corrupt practices act, the confidentiality of records in administrative cases and other similar laws;

i.

Such documents/records/reports or other information comprise of: (i) drafts of decisions, orders, rulings, memoranda, and the like, of the Commission Proper, Director or Auditor; (ii) Interim Audit Reports; (iii) Minutes of Meetings of the Commission Proper, or any Committee or body duly created by this Commission for specific purpose which may frustrate the implementation of a proposed official action of this Commission; (iv) Intra and Inter Office notes such as Indorsement, Memorandum, Advisory and Notice of Meetings, which do not dispose of a matter finally; (v) audit working papers; and (vi) other interlocutory communications such as Audit Observation Memorandum (AOM), Audit Highlights and Management's Comments, and the like prior to the transmittal of the Audit Report;

j.

The documents/records/reports/decisions or other information requested pertain to the audit of Confidential and Intelligence Funds where national security is involved;

k.

The documents/records/reports or other information that are personal in nature such as the: (i) COA official's/employee's address, telephone number, names of family members, and the like; and (ii) auditee officials' /employees' personal information obtained in the course of fraud audit or other special investigation, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

l.

The information is privileged communication such as neuro-psychiatric records, medical records, communication between a respondent COA official/employee in an administrative proceeding before the COA, and the like;

m.

The document requested is the Statement of Assets, Liabilities and Net Worth (SALN) of the officials or employees of this Commission: (i) for which the ten (10)-day period after filing has not yet elapsed; or (ii) for a purpose that is contrary to morals or public policy, or any commercial purpose except if it is to be used for news and communications media for dissemination to the general public (Section 8[D], Republic Act [R.A.] No. 6713). In no instance shall the private addresses of the owners of the SALNs be disclosed to other persons. For this purpose, the Processor shall ensure that the private address/es of their owners are blackened in the copies to be furnished.

3.3

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Compliance to Subpoena Duces Tecum – Notwithstanding the foregoing limitations, where the examination or production of documents/records/ reports/decisions or other information is directed through a subpoena duces tecum or other compulsory processes issued by the Courts, the Office of the Special Prosecutor, the Office of the Ombudsman or any of the latter's Deputies, or any investigating body authorized by law to issue subpoenas, the Supervising Auditor (SA), Audit Team Leader (ATL), Division Chief, or any official or employee of this Commission shall immediately refer the said subpoena to the Legal Service Chief of the Cluster, Office or Regional Office concerned for evaluation. The subpoena shall be complied with without prior clearance from the Director concerned.

3.4

Documents/Records/Reports or Other Information Published in the Official Website of this Commission – Issuances of the Commission, such as but not limited to the following enumerations, may be directly downloaded from the official website of this Commission (www.coa.gov.ph) without need of a written request:

a.

Annual Audit Reports;

b.

Decisions and Resolutions of the Commission Proper;

c.

Decisions of the Adjudication and Settlement Board;

d.

Resolutions;

e.

Circulars; and

f.

Memoranda

3.5

Authentication of Information, Document or Record Downloaded from the COA Website – Should authentication of downloaded documents/records/ reports/decisions or other information from the COA website be necessary, the requesting party shall bring the printed copy to the Processor for authentication and pay the corresponding fees prescribed in 4.2.7 hereof.

3.6

Documents/Records/Reports or other Information that are the Proper Subject of a Special Audit or Investigation –

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Where the documents/ records/reports/decisions or other information requested cover transactions that may be the proper subject of a special audit or investigation, the request shall be referred to the appropriate office of this Commission and no copies thereof shall be furnished so as not to preempt the exercise by this Commission of its audit function.

3.7

Approval by the Director – Except in cases provided under 3.3 (Compliance to Subpoena Duces Tecum) and 3.5 (Authentication of Information, Document or Record Downloaded from the COA Website) hereof, all requests shall be submitted to the Director concerned for approval.

3.8

Confidentiality of Cases Pending Adjudication – Except as to the status of cases, no information as to the action officer and/or the probable disposition or decision of any case pending adjudication before any office of this Commission shall be disclosed to any person. Violation hereof shall be the subject of administrative sanction provided under existing Civil Service Laws.

3.9

Request for Copies of SALNs – A request for a SALN of COA officials or employees shall be forwarded to the Director, Human Resource Management Office, Administration Sector, this Commission for evaluation and for approval taking into consideration the limitations provided in 3.2 (m) hereof, and other pertinent law and regulations.

3.10

Certification and Violation of the Oath – The requesting party and/or his authorized representative shall certify under oath in the RF that all information provided by him in the appropriate portion thereof are true and correct based on his personal knowledge, and that he undertakes that the information, or a copy of the document or record, thusly, furnished him shall be used only for the purpose indicated therein and for no other. Violation of the said undertakings shall give rise to the filing against the requesting party and/or his authorized representative of a case before the Court, pursuant to Section 11 (d) of R.A. No. 6713 and/or Section 183 (False Testimony in Other Cases and Perjury in Solemn Affirmation) of the Revised Penal Code, whichever is applicable.

3.11

Deputation – Pursuant to Section 40, P.D. No. 1445 and for purposes of this Resolution, SAs, ATLs, or Division Chiefs in the Central Office or in the different COA Regional Offices are hereby specially deputized to administer an oath in the RP.

3.12

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Requests not Covered by the Guidelines – Requests for documents/ records/reports/decisions and other information not specifically covered herein shall be referred to the Legal Affairs Office, Legal Services Sector, for evaluation and/or appropriate action.

4.0 SPECIFIC GUIDELINES

4.1 Actions by the Legal Officer on Subpoena Duces Tecum. – The Legal Officer of the Cluster, Office or Regional Offices concerned shall observe the following relative to Subpoena Duces Tecum referred to his office pursuant to 3.3 hereof:

4.1.1

Evaluate immediately the Subpoena Duces Tecum, with due regard of the period within which the same is required to be complied with;

4.1.2

Assist and/or advise the SA/ATL, Service Chief, or any official or employee of this Commission to whom the same is directed on the sufficiency and/or responsiveness of the documents/records/ reports/decisions or other information required to be submitted;

4.1.3

Prepare a “Bill of Particulars” or clarificatory letter to the court, etc. for the signature of the SA/ATL, Service Chief, or any official or employee of this Commission where the subpoena is vague or does not describe with sufficient particularity the documents/ records/reports/decisions or other information required to be submitted;

4.1.4

Prepare certification for the signature of the SA/ATL, Service Chief, or any official or employee of this Commission when the same is required in cases where the documents/records/ reports/decisions or other information are not available for whatever reason/s;

4.1.5

Prepare a motion for extension of the period within which to comply with the subpoena, whenever necessary; and

4.1.6

Submit within ten (10) days after the end of each month to the Legal Affairs Office, Legal Services Sector, a report of subpoenas acted upon including the status thereof and of the case upon which the subpoena was issued.

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4.2

Procedures To Be Observed By Requesting Party – Any person who wishes to obtain any document/record/report or other information shall, by himself or through his authorized representative, or by mail, file a request using the prescribed RF.

4.2.1

The RF shall be accomplished by providing all the information required in Part A thereof, including the manner by which the requested documents/records/reports/decisions or other information shall be released to him. Where the requesting party is unable, because of illiteracy or disability, to make a written request, he shall request the Processor to fill out the Request Form in his behalf. In both cases, the Request Form shall be subscribed and sworn to before any of the officials or employees who, for purposes of this Circular, are authorized to administer an oath.

4.2.2

For documents/records/reports/decisions or other information known to be in the custody of a specific Audit Team, Central or Regional Office, the RF shall be filed before the SA/Service Chief or ATL concerned.

4.2.3

Where the custody of the documents/records/reports/decisions or other information is unknown, the RF shall be filed with the Records Management Division (RMD), General Services Office, Administration Sector of the Central Office, or with the Administration, Training and Finance Services (ATFS) of the Regional Office concerned, as the case may be.

4.2.4

Where the request for documents/records/reports/decisions or other information is by mail, the prescribed RF shall be subscribed and sworn to before a notary public or any person authorized by law to administer an oath. Where submission is by electronic means, the original of the scanned copy of the duly notarized RF shall be presented before release of the documents/records/ reports/ decisions or other information requested.

4.2.5

The requesting party or his authorized representative shall establish his identity by presenting at least two (2) of the following identification documents (lDs), viz:

a)

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GSIS/SSS ID

f)

IBP ID

b)

TIN/Pag-IBIG/Philhealth ID

g)

Voter's ID

c)

Passport

h)

Current Office ID

d)

Driver's license

i)

Senior Citizens' ID

e)

Student ID

j)

PRC ID

4.2.6

If the request is submitted by mail or through electronic means, the requesting party shall attach to the RF a photostatic or electronically scanned copy of at least two (2) of the above IDs.

4.2.7

The requesting party or his representative shall pay the following prescribed fees before the release of the documents/records/ reports/decisions or other information:

a.

P5.00 per page for hard copy

b.

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P20.00 per report for electronic copy of Annual Audit Report, special audit report, etc.

c.

P1.00 per page authentication fee

d.

Cost of mailing by private courier or registered mail as determined by the Processor.

4.2.8

Payment of reproduction and/or authentication fees shall be made at:

a.

The Treasury Services, General Services Office in the Central Office, or at the ATFS of the Regional Office for documents/ records/reports/decisions or other information in the custody of any Office of the Central Office or of the Regional Office

b.

The Cashier/Treasury of the auditees for documents/records/ reports/decisions or other information in the custody of the Audit Teams assigned thereat.

4.2.9

A requesting party who opts to receive the documents/records/ reports/ decisions or other information through mail or private courier as indicated in the appropriate box in Part A of the RF, shall pay the reproduction cost/authentication fees, including the cost of mailing or courier fee, in Postal Money Order payable in the name of the “Commission On Audit” in such exact amount as duly conveyed to him by the Processor. The postal money order shall be sent to the Processor concerned, who shall mail the Official Receipt (OR) evidencing the payment together with the documents/records/ reports/decisions or other information.

4.2.10

If the request is denied, the requesting party shall have fifteen (15) days from receipt of Notice from the Director concerned within which to file his Appeal to the Head of the Sector concerned whose decision shall be final.

4.3

Responsibilities of the COA Offices Concerned – Upon receipt of an RF, the concerned Audit Team/Audit Group/COA Office shall observe the following:

4.3.1

Ensure that requests for documents/records/reports/decisions or other information are acted upon within fifteen (15) working days from the receipt thereof, pursuant to Section 5 (a), R.A. No. 6713. For this purpose, the 15-working day period shall be reckoned from the date received as stamped and marked on the RF.

The Processor

4.3.2

The Processor shall stamp “Received” upon the face of each copy of the RF, indicating the date and time of the receipt, including his name and position with his corresponding signature affixed thereon, and furnish the other copy of the RF to the requesting party.

4.3.3

In cases where the RF is received by mail, the date on which said request is actually received by the office concerned, for purposes of Paragraph 4.2.1, shall be considered the date of receipt thereof.

4.3.4

Where the request is submitted by electronic means, it shall be considered to have been received on such date as indicated in the “soft” or printed copy of the e-mail as automatically indicated by the electronic system. For this purpose, the SA/ATL/COA Office concerned shall check/open their e-mails everyday during weekdays.

4.3.5

In the event that the documents/records/reports/decisions or other information requested is not held by the Office where the request is filed, the Processor thereat shall inform the requesting party or his authorized representative and advise the latter to file the request to the proper Office of this Commission.

4.3.6

The Processor shall establish the identity of the requesting party as provided in Paragraphs 4.2.5 to 4.2.6 and photocopy the latter’s IDs to be attached to the RF. For this purpose, the Processor shall accomplish Part B.1 of the RF.

4.3.7

After determining compliance with all the foregoing requirements, the Processor shall refer the request to the SA/ATL/Service Chief for appropriate action. If the Processor, however, finds that the request is covered by any of the Limitations in Paragraph 3.2 hereof, he shall indicate in Part B.2 of the RF such information and the specific limitations involved or other reason and recommend denial of the request to the Director concerned through the SA/ATL/Service Chief.

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4.3.8

Upon receipt of the RF duly approved by the Director concerned, the Processor shall determine and inform the requesting party or his authorized representative of the volume/number of pages of the documents requested. For RF filed with the Audit Teams, the Processor thereat shall issue an Order of Payment in two (2) copies to the requesting party or his authorized representative indicating the number of copies to be reproduced and the corresponding amounts of fees as prescribed in 4.2.7 hereof to be paid to the Cashier of the agency concerned. For RF filed in any Office of the Central Office or Regional Office, the Processor shall advice the requesting party to proceed to the Accounting Office for the issuance of Order of Payment and thence the payment to the Central Office Treasury/Regional Office Cashier.

4.3.9

Where copies of the documents/records/reports/decisions or other information are to be sent through mail or private courier as indicated by requesting party in the appropriate box in Part A of the RF, the Processor shall determine the total amount of reproduction cost/authentication fees, including the cost of mailing by private courier or registered mail, and shall inform the requesting party thereof.

4.3.10

The Processor shall release copies of the documents/records/ reports/decisions or other information requested after: (1) the requesting party or his authorized representative presents the OR evidencing payment of the prescribed fees provided under 4.2.7; or (2) receipt of the Postal Money Order from the requesting party in cases contemplated in 4.2.9 hereof. In the latter case, the Processor shall cause the payment to be receipted by Treasury Services in the COA Central Office, the ATFS in the Regional Offices, or the Cashier of the Audited agency, as the case may be, and mail the OR together with the documents/records/ reports/decisions or other information. He shall accomplish Part F of the RF, and keep a file thereof for record purposes.

The Supervising Auditor/Service Chief/Audit Team Leader

4.3.11

The SA/ATL or Service Chief concerned shall accomplish Parts C and D of the RF. He shall further evaluate the propriety of the request, validate the identity of the requesting party and/or his authorized representative, and administer the oath of the requesting party or his authorized representative.

4.3.12

The SA/ATL or Service Chief concerned shall submit all requests together with their written comments and recommendations thereon vis-à-vis the conditions and limitations prescribed in 3.2 hereof, for approval of the Cluster, Office or Regional Director concerned.

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4.3.13

The SA or ATL concerned shall ensure the timely and correct recording in the books of the Commission or its Regional Offices, as the case may be, of the receivables from the agencies representing the fees collected and their subsequent remittance to the Treasury Services, General Services Office in the Central Office, or at the ATFS of the Regional Offices, as the case may be.

The Cluster/Office/Regional Director

4.3.14

The Director concerned shall indicate in Part E of the RF his action thereon, taking into consideration the comments and/or recommendation of the SA/Service Chief/ ATL. The request shall be “Approved” if it is found in compliance with the requirements and/or conditions, and is not covered by any of the limitations provided hereof, and shall be returned to the SA/ATL or Service Chief, for the release of the documents/records/reports/decisions or other information requested.

4.3.15

In case the request is “Disapproved,” the Director shall state in the RF the reasons therefor, and advise the requesting party through registered mail that his request may be appealed to the Sector Head within fifteen (15) calendar days from the receipt of the letter.

The Sector Head of this Commission

4.3.16

The Sector Head concerned shall have ten (10) days within which to act on appeals from the action of the Directors concerned denying the request for documents/records/reports/decisions or other information reckoned from the date the said appeal is received.

The Legal Services Sector

4.3.17

The Legal Affairs Office, Legal Services Sector, this Commission, shall act as the central monitoring office relative to compliance with duly issued subpoena duces tecum.

4.3.18

The Legal Affairs Office shall, likewise, act on requests referred thereto in relation to 3.12 hereof.

4.4

Responsibility of the Agency concerned

4.4.1

The Cashier of the Agency concerned shall receive payments of the requesting parties based on the Order of Payment issued therefor. The payment shall be receipted for the account or in trust for this Commission or its Regional Offices, as the case may be. The fees so collected shall be recorded in the books of the agency using the account prescribed in the New COA Chart of Accounts.

4.4.2

The agency concerned shall, at the end of every calendar year or at any time of the year it may deem convenient, remit the fees collected to the Treasury Services, General Services Office in the Central Office, or at the ATFS of the Regional Offices, through the SA or the ATL.

5. Repealing Clause – Any provision of issuances, including COA Memorandum Nos. 87-22-E, 87-22-F and 2003-035, and COA Resolution No. 2008-010, inconsistent with any provision of this Circular are hereby modified or repealed accordingly.

6. Effectivity – This Circular shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

(SGD) MARIA GRACIA M. PULIDO TAN
Chairperson

(SGD) HEIDI L. MENDOZA
Commissioner

(SGD) ROWENA V. GUANZON
Commissioner

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