

EXECUTIVE ORDER NO. _____

POLICY GUIDELINES ON DATA LOCALIZATION OF
DATA STORED ON THE CLOUD

WHEREAS, the State recognizes the vital role of communication and information in nation-building,¹ and is mandated to provide the policy environment for the full development of Filipino capability and the emergence of communication structures suitable to the needs and aspirations of the nation and the balanced flow of information into, out of, and across the country, in accordance with a policy that respects the freedom of speech and of the press.²

WHEREAS, it is the policy of the State to protect the fundamental human right of privacy, of communication while ensuring free flow of information to promote innovation and growth. The State recognizes the vital role of information and communications technology in nation-building and its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are secured and protected.³

WHEREAS, the State recognizes the vital role of information and communications industries such as content production, telecommunications, broadcasting electronic commerce, and data processing, in the nation's overall social and economic development. The State also recognizes the importance of providing an environment conducive to the development, acceleration, and rational application and exploitation of information and communications technology (ICT) to attain free, easy, and intelligible access to exchange and/or delivery of information; and the need to protect and safeguard the integrity of computer, computer and communications systems, networks, and databases, and the confidentiality, integrity, and availability of information and data stored therein, from all forms of misuse, abuse, and illegal access by making punishable under the law such conduct or conducts. In this light, the State shall adopt sufficient powers to effectively prevent and combat such offenses by facilitating their detection, investigation, and prosecution at both the domestic and international levels, and by providing arrangements for fast and reliable international cooperation.⁴

WHEREAS, it is also the declared policy of the State to ensure the rights of individuals to privacy and confidentiality of their personal information,⁵ and to ensure the security of critical ICT infrastructures including information assets of the government, individuals and businesses.⁶

WHEREAS, Memorandum Circular No. 78 s1964, as amended by Memorandum Circular No. 196 s1968 promulgated rules governing the security of classified matter in government offices, and are supplemented by DICT Department Circular No. 2 s2017 prescribing the Philippine government's cloud first policy, as amended by Department Circular No. 10 s2020, providing guidance on the adoption of cloud computing for the storage, use, and processing of government data.

WHEREAS, the shift towards digitalization and online transactions by both government and the private sector has been accompanied by a steep rise in cybersecurity, cybercrime, and privacy threats

¹ Article II Section 24, 1987 Philippine Constitution

² Article XVI, Section 10, 1987 Philippine Constitution

³ Section 2, Republic Act No. 10173

⁴ Section 2, Republic Act No. 10175

⁵ Section 2 (l), Republic Act No. 10844

⁶ Section 2 (m), Republic Act No. 10844

directed at the data, personal information, and sensitive personal information of Filipinos and the Philippine Government;

WHEREAS, the Constitution vests in the President the power of control over all executive departments, bureaus and offices, and the mandate to ensure the faithful execution of laws,⁷ as well as the exercise of general supervision of local government units.⁸

NOW, THEREFORE, I, FERDINAND R. MARCOS, JR., President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

Section 1. Coverage. This Order covers all national government agencies (NGAs) and their regional and provincial offices, government-owned or -controlled corporations (GOCCs), government financial institutions (GFIs), state universities and colleges (SUCs), local government units (LGUs), and other government instrumentalities.

This Order also covers cloud service providers, intermediaries, and other private entities with transactions, contracts, or data related to, in connection with, or arising from the rendition of cloud computing services:

- i) for the Philippine government;
- ii) for private entities processing sensitive personal information as defined in Republic Act No. 10173;
- iii) private entities processing subscriber's information as defined in Republic Act No. 10175;
- iv) health care providers as defined in Republic Act No. 11223; and v) private entities processing personal information declared to be confidential in nature under existing laws.

Processing as used in this Order refers to any operation or any set of operations performed upon personal information including, but not limited to, the collection, recording, organization, storage, updating or modification, retrieval, consultation, use, consolidation, blocking, erasure or destruction of data.

Section 2. Purpose. This Order is intended to address issues related to cybercrime, data privacy, cybersecurity, and confidentiality of certain types of data in the possession of government and private entities.

Section 3. Classification of Data. All NGAs, GOCCs, GFIs, SUCs, LGUs, and government instrumentalities shall classify their data into discrete categories as:

- i) Non-sensitive;
- ii) Sensitive Data;
- iii) Above Sensitive Data; and
- iv) Highly Sensitive Data.

Section 3.1 Private entities shall identify any subscriber's information, as well as personal information and sensitive personal information declared to be confidential under existing laws, in their possession.

⁷ Section 17, Article VII, 1987 Philippine Constitution

⁸ Section 4, Article X, 1987 Philippine Constitution

Section 3.2 Private entities offering public services and regulated by government agencies will adhere to cybersecurity and data protection policies issued by their respective regulatory bodies. These regulatory bodies shall issue the necessary policies to ensure the enforcement of this Order.

Section 4. Data Residency. Processing of government data shall be done in compliance with the Philippine Government Cloud First Policy insofar as allowing the use of private cloud, public cloud, Philippine GovCloud, or on-premise infrastructure. Only Non-Sensitive Government Data may be stored in off-shore infrastructure.

The following shall utilize infrastructure in the Philippines:

- i) Core operations of Bangko Sentral Supervised Financial Institutions deployed on private cloud;
- ii) Health information systems of health service providers and insurers;
- iii) Subscriber information of service providers located in the Philippines;
- iv) All National Security Systems; and
- v) All sensitive personal information processed by private entities which are also classified as confidential under existing laws.

Section 5. Security Operations Centers. All security operations centers providing cybersecurity services to NGAs, GOCCs, GFIs, SUCs, LGUs, and government instrumentalities should be deployed in infrastructure located within the Philippines.

Section 6. Monitoring. Each concerned NGA, GOCC, GFI, SUC, LGU, and/or government instrumentality shall submit to the DICT monthly reports regarding the status of the implementation and compliance with this Order.

Regulated private entities shall submit to their respective regulatory agencies monthly updates regarding their compliance. Unregulated entities required to register with the National Privacy Commission (NPC) shall submit monthly reports to the NPC.

These reports shall be forwarded to the Technical Working Group created under this Order, for consolidation.

Section 7. Technical Working Group. A Technical Working Group (TWG) is hereby created as an oversight body that shall ensure the implementation of this Order. The TWG shall be headed by the DICT, with the representatives from the following agencies as members: (i) NPC; (ii) DTI; (iii) DILG; (iv) DOF; (iv) BSP; (v) SEC; (vi) DOH; and (vii) CHED.

Section 8. Agency Support. All concerned NGAs, GOCCs, GFI, SUCs, LGUs, and government instrumentalities are hereby directed to provide the necessary assistance and support for the successful implementation of this Order.

Section 9. Transition Period. The transition of government entities from off-shore to in-country infrastructure shall be completed within one (1) year from effectivity of this Order. For private entities covered herein, the period shall be _____ from effectivity of this Order.

Section 10. Reporting. The DICT shall submit regular reports on the implementation of this Order to the President, through the Executive Secretary.

Section 11. Funding. The funds necessary to implement this Order shall be sourced from the existing budget of the concerned agencies or offices. The funding requirements of succeeding years shall be included in their respective budgets, subject to the regular budget process.

Section 12. Sanctions. Failure to comply with the provisions of this Order shall be a ground for administrative or disciplinary sanctions against any erring public official or employee, as provided under existing laws and regulations, without prejudice to criminal, civil or other related liabilities under existing laws.

Section 13. Separability. If any provision of this Order is declared invalid or unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

Section 14. Repeal. All orders, issuances, rules and regulations or parts thereof that are contrary to, or inconsistent with, the provisions of this Order are hereby repealed, modified or amended accordingly.

Section 15. Effectivity. This Order shall take effect immediately upon publication in the Official Gazette or in a newspaper of general circulation.

DONE, in the City of Manila, this day of March in the Year of our Lord, Two Thousand and Twenty Three.

By the President:

LUCAS P. BERSAMIN
Executive Secretary