

The DPA in the Real Estate Sector

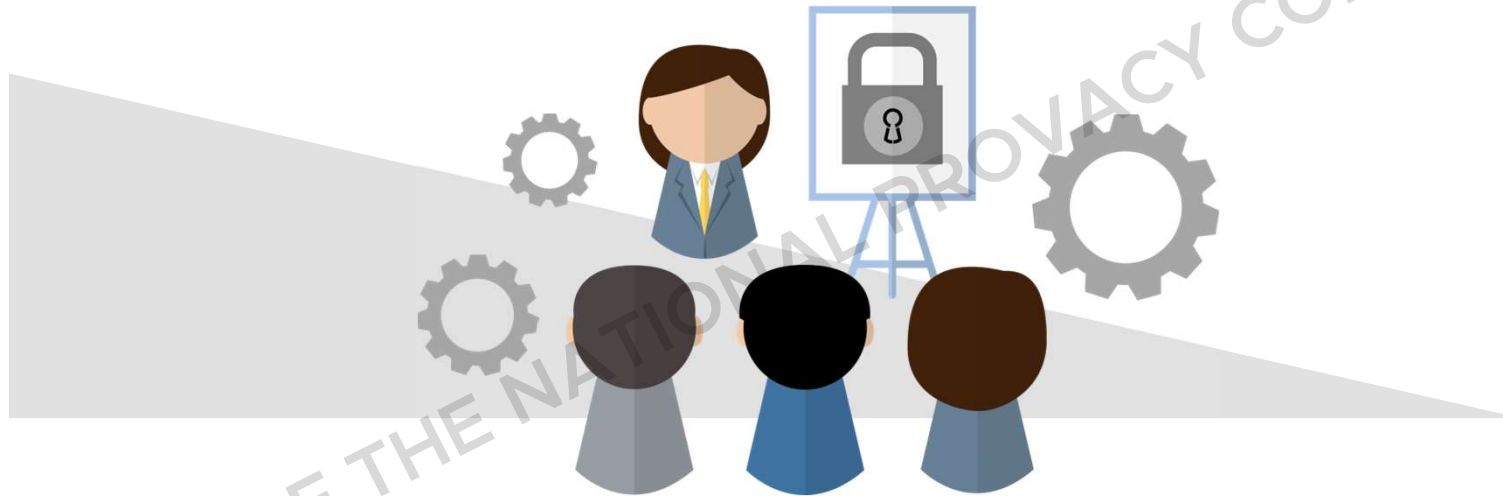


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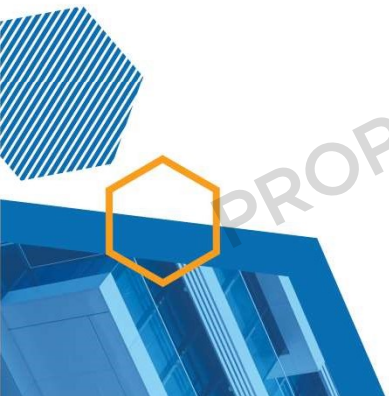




Personal Information Controller (PIC)

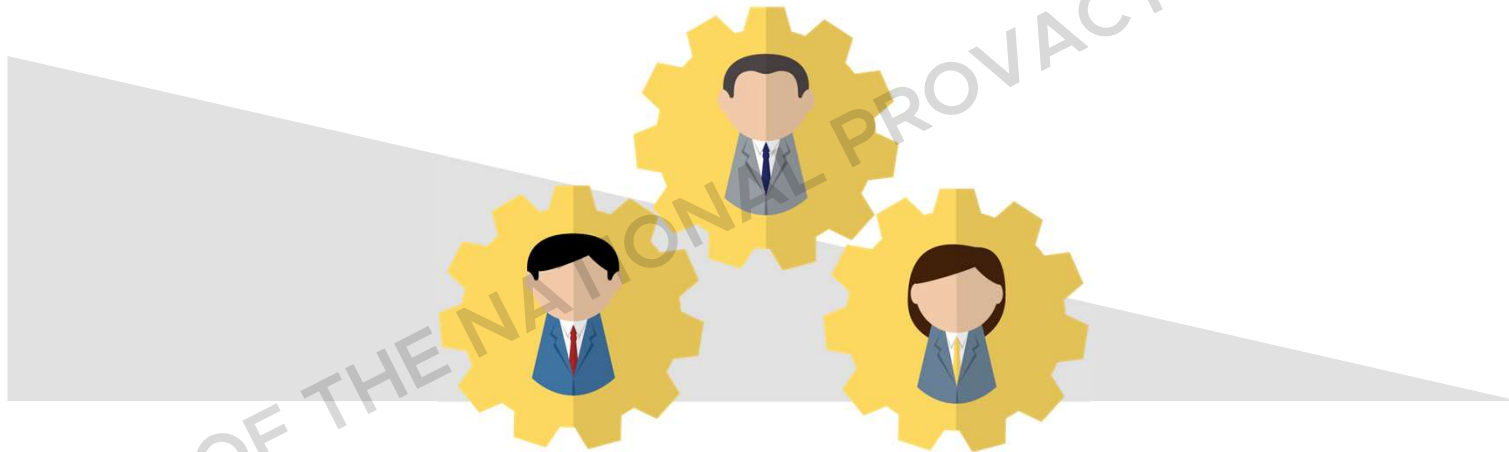


The individual, corporation, or body who decides what to do with data. The PIC is **not** the employee, Chief Information Officer, or data protection officer.



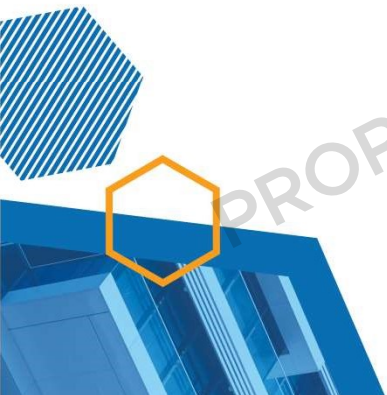


Personal Information Processor (PIP)



One who processes data for a Personal Information Controller.

By definition, the PIP does not process information for the PIP's own purpose.



Consent



Where **the data subject agrees** to the collection and processing of his personal data.

The agreement must inform:

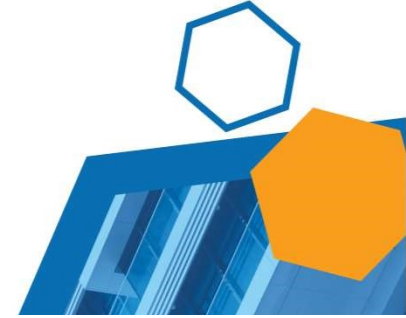

- (a) purpose, nature, and extent of processing;
- (b) period of consent/instruction; and
- (c) rights as a data subject.



General Data Privacy Principles



SEC. 11. *General Data Privacy Principles.* – The processing of personal information shall be allowed, subject to compliance with the requirements of this Act and other laws allowing disclosure of information to the public and adherence to the principles of **transparency**, **legitimate purpose** and **proportionality**.

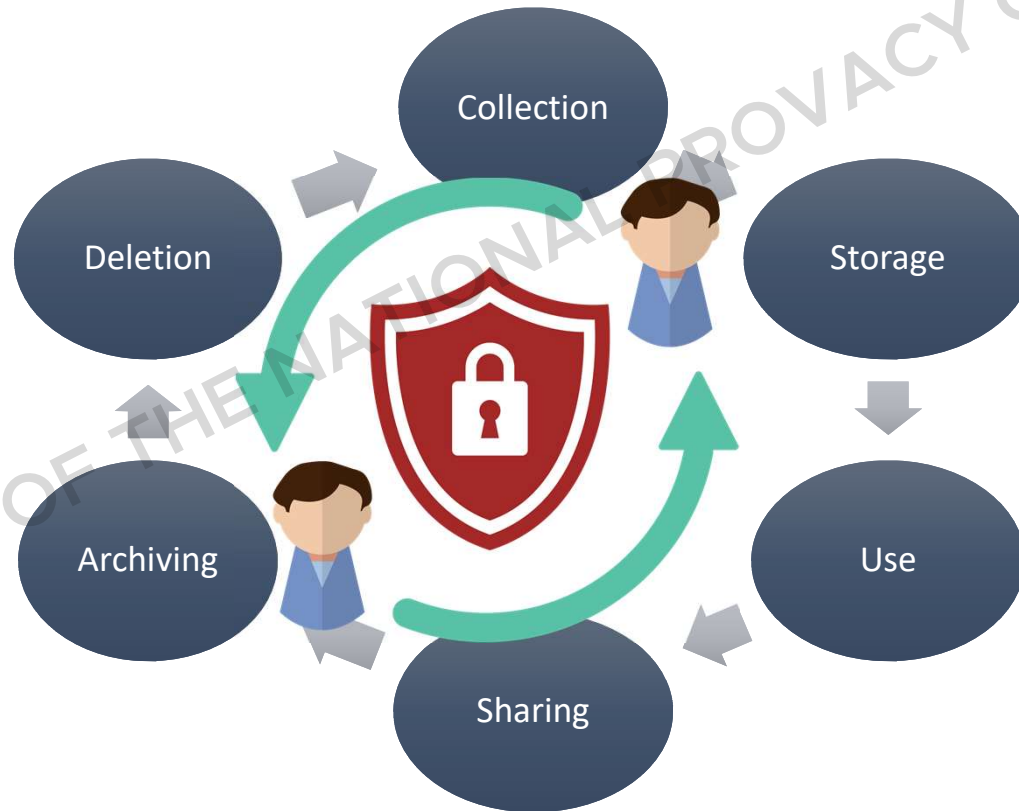


Transparency

- The data subject must know
 - The **kind** of personal data collected
 - **How** the personal data will be collected
 - **Why** personal data will be collected
- The data processing policies of the PIC must be known to the data subject
- The information to be provided to the data subject must be in clear and plain language

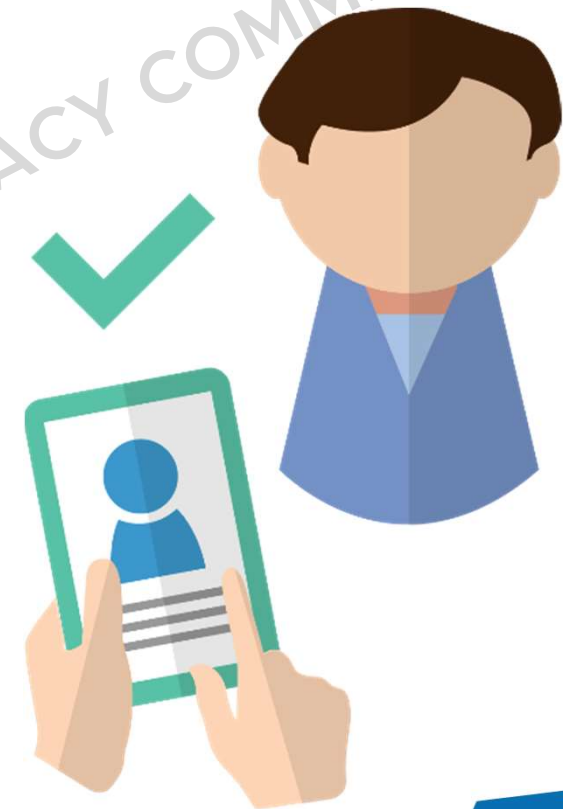


Processing: the data life cycle



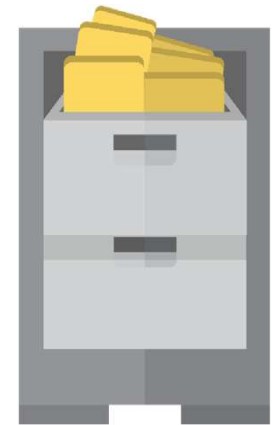
Legitimate Purpose

- Data collected must be always be collected only for the **specific, explicit,** and **legitimate purposes** of the PIC.
- No processing of data that is not compatible with the purpose for which the data was collected.
- The processing of data must respect the law of the applicable jurisdiction, in accordance with the International Bill of Rights.
- Any processing of data that gives rise to unlawful or arbitrary discrimination is unfair.



Proportionality

- The processing of personal data should be limited to such processing as is **adequate**, **relevant**, and **not excessive** in relation to the purpose of the data processing.
- Efforts should be made to limit the processed data to the minimum necessary.



Collection, Processing and Retention

- The collection must be for a **specified and legitimate** purpose
- The processing of personal data should be **fair and lawful**
- The manner of processing should **ensure data quality**
- Data must **not** be **retained longer than necessary**
- Further processing must have **adequate safeguards**



Collecting and Processing Personal Information



Personal information must, be:

- (a) Collected for specified and legitimate purposes determined and declared before, or as soon as reasonably practicable after collection, and later processed in a way compatible with such declared, specified and legitimate purposes only;
- (b) Processed fairly and lawfully.



Maintaining Personal Information



Personal information must, be:

(c) Accurate, relevant and, where necessary for purposes for which it is to be used the processing of personal information, kept up to date; inaccurate or incomplete data must be rectified, supplemented, destroyed or their further processing restricted;

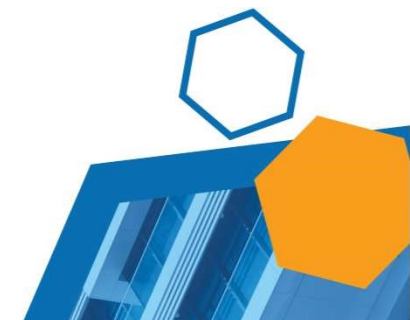
(d) Adequate and not excessive in relation to the purposes for which they are collected and processed;

Retention of Personal Information



Personal information must, be:

(e) Retained only for as long as necessary for the fulfillment of the purposes for which the data was obtained or for the establishment, exercise or defense of legal claims, or for legitimate business purposes, or as provided by law;



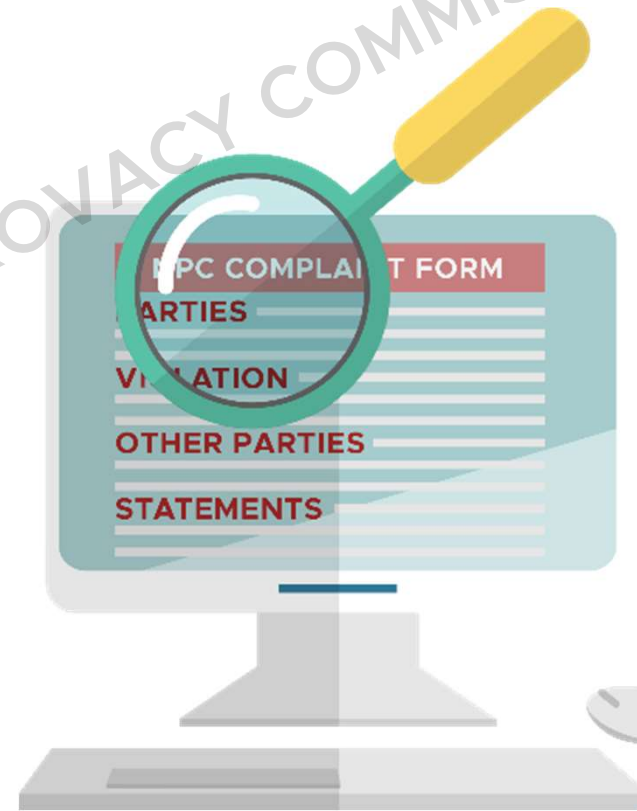
Form of Personal Information

Personal information must, be:

(f) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected and processed:

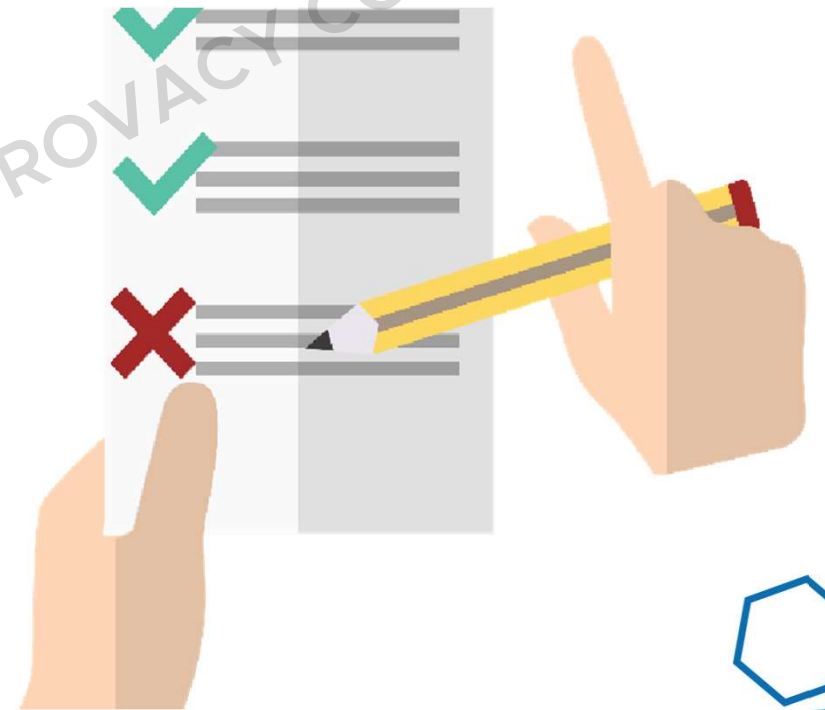
Provided, That personal information collected for other purposes may lie processed for historical, statistical or scientific purposes, and in cases laid down in law may be stored for longer periods:

Provided, further, That adequate safeguards are guaranteed by said laws authorizing their processing.



Responsibility for Personal Information

The personal information controller must ensure implementation of personal information processing principles set out [in the Data Privacy Act].



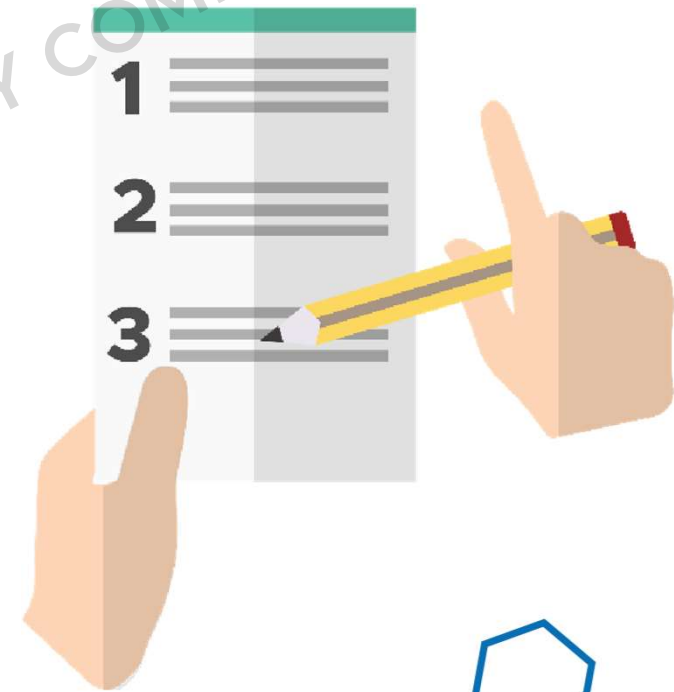
The Further Processing of Data

- Further processing for historical, statistical or scientific purposes are considered compatible with the declared, specified and legitimate purpose.
- If you are the personal information controller, you may process the personal data for research purposes without needing to inform the data subject or asking the data subject to consent to the usage of the data.
- Data can be kept indefinitely if the form does not permit identification of data subjects.



Conditions for Processing Personal Information

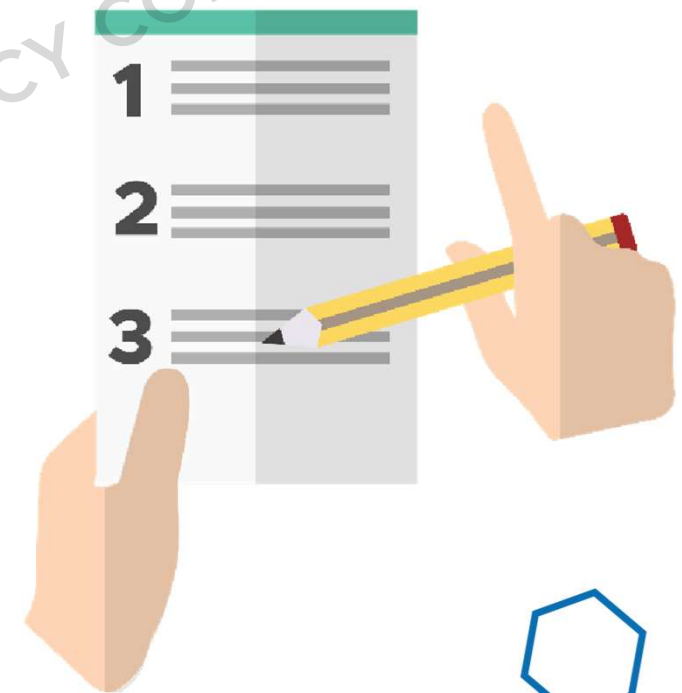
- (a) The data subject has given his or her consent;
- (b) The processing of personal information is necessary and is related to the fulfillment of a contract with the data subject or in order to take steps at the request of the data subject prior to entering into a contract;
- (c) The processing is necessary for compliance with a legal obligation to which the personal information controller is subject;



Conditions for Processing Personal Information

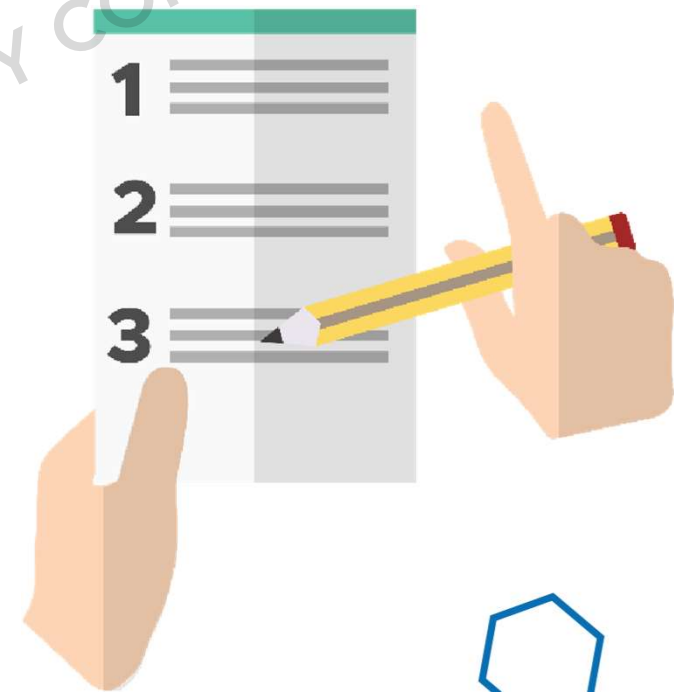
(d) The processing is necessary to protect vitally important interests of the data subject, including life and health;

(e) The processing is necessary in order to respond to national emergency, to comply with the requirements of public order and safety, or to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate; or



Conditions for Processing Personal Information

(f) The processing is necessary for the purposes of the legitimate interests pursued by the personal information controller or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.



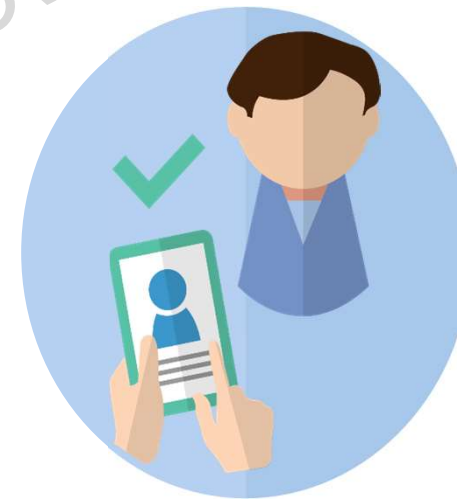
Rights of Data Subjects



Right to be Informed



Right to Object



Right to Access

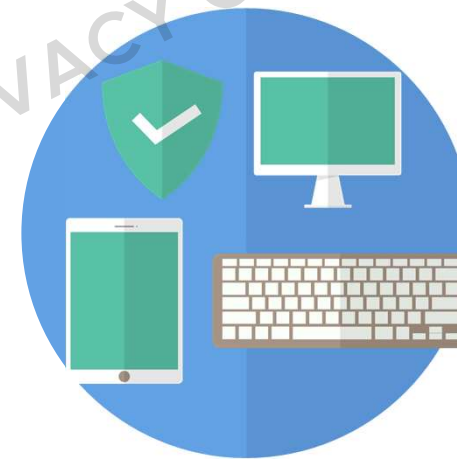
Rights of Data Subjects



**Right to
Correct/Rectify**



**Right to
Block/Remove**



**Right to Data
Portability**

Rights of Data Subjects



**Right to File a
Complaint**



**Right to be
Indemnified**

Data Sharing Agreements

- Understanding NPC Circular No. 16-02

In this section

- Legal Bases
- What is Data Sharing?
- The Data Sharing Agreement
- Contents
- General Principle
- Review by the Commission



Legal Bases

- Sections 3(f), 19(a)(2), 20, 26(c)(1), 32, and 49(c) of the Data Privacy Act of 2012 (Republic Act No. 10173)
- Implementing Rules and Regulations of Republic Act No. 10173
- NPC Circular No. 2016-02 (Data Sharing Agreements with Government Agencies)



What is data sharing?

- The disclosure or transfer to a third party of personal data under the control or custody of a personal information controller or personal information processor
- Excludes outsourcing or subcontracting
- A contract, joint issuance, or similar document that contains the terms and conditions of a data sharing arrangement between 2 or more parties
- Only **personal information controllers** can be parties to a data sharing agreement



DSA Contents



- Purpose/s of data sharing, including the public function or public service
- Identity of personal information controller/s
- Term or duration
- Overview of operational details
- General description of security measures
- (How) data subject may access the DSA
- Details re: online access (if any)
- PIC responsible for addressing info request or complaint
- Method for return, destruction, or disposal
- Other terms and conditions

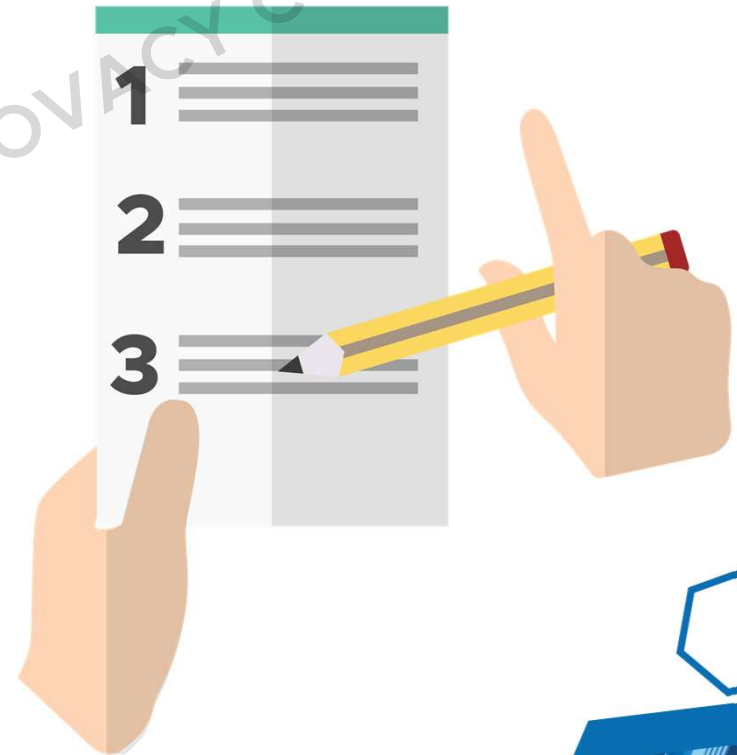
General Principle

Data sharing agreements must always adhere to data privacy principles laid down in the Data Privacy Act, the Implementing Rules and Regulations, and all issuances of the Commission



DSA Review

- A DSA may be reviewed by the National Privacy Commission (NPC), on its own initiative or based on a complaint.
- Prior approval by the NPC is not necessary for the execution of DSAs.



End.

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