

**[ PPA ADMINISTRATIVE ORDER NO. 05-2007,  
November 09, 2007 ]**

**REVISED GUIDELINES ON THE TRANSFER OF THE MANAGEMENT  
OF PPA PORTS TO LOCAL GOVERNMENT UNITS (LGUS) AND  
GOVERNMENT CORPORATIONS (GCS)**

**I. AUTHORITY**

- a. Presidential Decree No. 857, as amended.
- b. OGCC Opinion No. 010, Series of 1996 and Opinion No. 210, Series of 1997.
- c. BoardCom Resolution No. 2007-1094 as confirmed by Board Resolution No. 2109 both dated 31 July 2007.

**2. POLICY STATEMENT**

The Philippine Ports Authority (PPA) is mandated to manage, operate, maintain and develop ports under its territorial or administrative jurisdiction. In special or exceptional cases, the management and operation of ports under PPA's administrative jurisdiction may be transferred temporarily to the LGU where it is located or to GC created by said LGU, subject to the provisions herein provided.

**3. SCOPE**

This Order covers those ports under the administrative jurisdiction of the PPA, which generally cater only to domestic vessels and cargoes and not categorized by PPA as vital or priority ports or among the ports programmed for development into international standards to make them globally competitive.

**4. PURPOSE**

- a. To clarify and update the guidelines and strengthen the implementation of the Memorandum of Agreement (MOA) between the PPA and the LGU or GC concerned.
- b. To prescribe the revised administrative procedures in the temporary transfer to the qualified LGU or GC the management, operation, maintenance and development of ports as may be allowed by the PPA.
- c. To allow LGU participation as herein defined, without abandoning PPA's statutory responsibility over ports in providing vital transport network linkages and services.
- d. To harmonize LGU empowerment pursuant to Republic Act No. 7160, vis-a-vis the statutory jurisdiction of the PPA over government ports pursuant to Presidential Decree No. 857, as amended.

## 5. DEFINITION OF TERMS

For purposes of this Order, the following terms shall mean or be understood to mean as follows:

- a. GC refers to government-owned or controlled corporation or unit organized/created by the LGU concerned tasked by its charter to implement a program for the economic development of a specific territory and its operation of a port facility is directly or indirectly necessary, incidental or conducive to the attainment of its corporate goals and objectives.
- b. Government Ports refer to public ports constructed, owned and maintained by the national government and under the administrative jurisdiction of the PPA.
- c. LGU refers to the Municipal or City Government Unit as defined in the Local Government Code of the Philippines of 1991.
- d. Supervision Fee refers to the amount paid by the LGU or GC to PPA, which is equivalent to ten (10%) percent of its collection from all domestic Wharfage, Storage and Usage Fees.
- e. MOA refers to the Memorandum of Agreement entered into by and between PPA and the LGU or GC concerned. A copy of the proforma MOA is hereto attached as Annex "A\*".
- f. Port Charges or Dues refer to Usage Fees, Wharfage Dues and Storage Fees assessed against vessels and cargoes engaged in the domestic trade.
- g. PPA Port System refers to those ports over which the PPA exercises jurisdiction and authority and accept responsibility for all functional areas of development to include planning and design, financing/loan servicing, rehabilitation/new construction/repair/ maintenance dredging, port administration/management/operations, regulation, revenue collection and all other activities relevant thereto; which in accordance with the thrusts and priorities of the government is necessary and vital for spurring regional development, providing critical link for the efficient and cheaper transport of cargoes and passengers between islands and for maintaining gateways to other international ports and markets; and where the PPA may likewise appropriate funds and other resources for the conduct of appropriate studies and development of new ports and the repair or maintenance of other existing ports to make these ports effective alternative mode of transport and foster interisland trade and commerce.
- h. PPA Takeover refers to the resumption by PPA of the management, operation, maintenance and development of a port from an LGU or GC for cause in order to protect and promote public interest.

## 6. GENERAL GUIDELINES

- a. When both the LGU and a GC signify to PPA the intention to operate and manage a port, preference shall be given to the LGU where the port is situated. A GC may be considered for the award of the management, operation, maintenance, and

development of the port when endorsed by the LGU through appropriate resolution of the Sangguniang Bayan/Sangguniang Panlungsod.

b. The PPA may act on any application from the LGU or GC for the transfer of the management, operations, maintenance and development of a port provided that the application is complete with all the documentary requirements thereof and approved and supported by a Sangguniang Resolution for such purpose.

c. Ports qualified to be operated and managed by the LGU or GC may be the subject of a MOA between the PPA and the LGU or GC concerned. The contents of the MOA shall be in accordance with these guidelines.

d. The authority of the LGU or GC to manage, operate, maintain and develop a government port, including the rendition of cargo handling and port-related services, shall be for a term of three (3) years.

e. Cargo handling and other port related services contracted out to third parties by the LGU or GC shall have a term not to exceed the stipulated period of the MOA between PPA and the LGU or GC. Provided, that the LGU or GC shall secure the prior approval of PPA, in any and all cases that cargo handling and other related services are contracted out to a third party. The contract between the LGU or GC and its subcontractor shall be in such form and terms in accordance with the applicable PPA rules and regulations on the matter.

f. The development, repair and maintenance of ports managed and operated by LGU or GC pursuant to this Order shall be the sole and primary responsibility of said LGU or GC.

g. All development plans for the port by the LGU or GC shall have prior approval of PPA and shall conform to the overall master plan for all ports nationwide.

h. Unless already covered by law or presidential issuances, these ports shall be properly delineated giving the exact location of the port zone through an approved resolution of the Sangguniang Bayan or Sangguniang Panlungsod concerned.

## 7. PORT ELIGIBLE FOR TRANSFER TO LGU OR GC

The following ports may be managed, operated, maintained and developed by LGU or GC:

a. Those that cater only to domestic vessels and cargoes with an annual cargo throughout of not more than 50,000 metric tons over a 3-year period and not categorized by PPA as vital or priority ports or among the ports programmed for development into international standards; or

b. Those within the municipality and jurisdiction of the LGU.

## 8. OPERATIONAL REQUIREMENTS FOR THE TRANSFER OF PORT TO LGU OR GC

a. The LGU or GC should maintain the standard minimum capitalization from Php250,000.00 to Php 500,000.00 and a working capital from Php50,000.00 to Php100,000.00.

b. The LGU or GC shall have all the cargo handling equipment , tools, gears, and personnel necessary in the operation of the port.

c. The management and supervisory officers of the LGU or GC should have at least three (3) years relevant technical and management experience in cargo handling business and/or port operations. The LGU or GC should maintain well-trained and skilled workers of every category in port operations.

d. The organizational structure of the LGU of GC shall have a Port Operation Section to exclusively handle the port operations activities to ensure efficient services in the port.

## 9. POWERS, FUNCTIONS AND OBLIGATIONS OF LGU OR GC

Powers, duties, functions, obligations and responsibilities of LGU or GC so authorized to manage, operate, maintain and develop a port under these guidelines are:

a. The LGU or GC may operate cargo handling and other related services within the port, or undertake any port-related economic activity therein.

b. The LGU or GC shall be allowed to collect domestic port charges, cargo-handling fees and other dues prescribed by the PPA for the use of the port and for services rendered thereat. All revenues of the port shall accrue to the LGU or GC, and shall issue the corresponding receipt for their collection.

c. The LGU or GC shall pay PPA a quarterly Supervision Fee equivalent to 10% of the total revenue from domestic port charges (whether collected or not). The remaining 90% of said port charges collection shall be considered as income of the LGU or GC.

The Supervision Fee shall be delivered to PPA on or before the 10th day after the end of every quarter to the supervising PMO concerned or thru its authorized depository bank.

d. The LGU or GC shall post the required Performance Security secured from the Government Service Insurance System (GSIS) or any reputable surety or insurance company in the amount of ONE HUNDRED THOUSAND (Php100,000.00) PESOS in favor of PPA to guarantee payment of the PPA quarterly Supervision Fee.

## 10. CANCELLATION OR TERMINATION OF MOA

The PPA may, without prejudice to other remedies against the LGU or GC, extra-judicially suspend, cancel or terminate the MOA on any of the following grounds:

a. Failure of the LGU or GC to account and/or remit to the PPA the Supervision Fee due in accordance with Sec. 9(c) hereof.

b. Failure of the LGU or GC to undertake the development, repairs and/or maintenance of the ports, structures and facilities covered by the MOA.

c. Change of control arising from the sale, assignment, transfer or other disposition of the interests of the LGU or GC in the MOA, without prior approval from PPA.