AMENDMENT TO PPA ADMINISTRATIVE ORDER NO. 05-2007 (REVISED GUIDELINES ON THE TRANSFER OF THE MANAGEMENT OF PPA PORTS TO LOCAL GOVERNMENT UNITS (LGUs) AND GOVERNMENT CORPORATIONS...

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In keeping with its mandate of port development pursuant to Presidential Decree no. 857, as amended, whereby PPA is expected to implement port development projects to serve the public interest regardless of financial viability, and at the same time pursue its corporate duty to generate sufficient revenue to sustain its operations, PPA Administrative Order No. 05-2007, otherwise known as “Revised Guidelines on the Transfer of the Management of PPA Ports To Local Government Units (LGUs) and Government Corporations (GCs),” is hereby amended and modified as follows:

Section 1. Port Development by PPA. PPA shall continue to undertake any required port development, including capital dredging works and major civil works in ports covered by a Memorandum of Agreement (MOA) with LGU or GC, subject to the following conditions:

1.1

Availability of PPA funds and resources appropriated for said purpose;

1.2

Port development plans submitted by LGU or GC have been favourably recommended by the PDO and PMO holding jurisdiction over the port and approved integrated into the PPA Plans and Programs;

1.3

Port development project is located within the delineated port zone and is intended for provision of vessel, cargo and passenger related services;

1.4

LGU or GC has faithfully complied with all of its responsibilities as stipulated in the MOA, including port upkeep, repair and maintenance.

Section 2. Quarterly Supervision Fee

2.1

The Supervision Fee to be remitted by the LGU or GC to PPA shall be equivalent to fifty percent (50%) of the port revenues generated.

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2.2

Remittance of Supervision Fee shall be quarterly, on the tenth (10th) day of the first month of the following quarter.

2.3

Monthly report of revenues collected shall be submitted by the LGU to the PMO, with copies of the corresponding Official Receipts issued.

Section 3. Third Party CH Operator

3.1

Cargo handling and 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 LGU or GC. Provided, that the LGU or GC shall secure the prior approval of Authority, in any and all cases that CH or 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 acceptable to the Authority.

3.2

The chosen operator through a Sanggunian Resolution shall comply with the documentary requirements of the Authority as provided under applicable PPA regulations, before the corresponding Permit-To-Operate (PTO) is issued by PPA.

3.3

The choice of an operator at a port which is constructed and maintained out of national fund and local fund of a city or a municipality shall be exercised by the Authority in line with the provisions of Section 40 of Presidential Decree No. 857, though the former may recommend the operator to the latter, subject to existing pertinent regulations.

Section 4. LGU/GC Obligation

4.1

The LGU or GC shall hold PPA free from any and all liens and/or encumbrances arising from loans and other agreements entered into by the LGU or GC, which shall be held solely responsible whether or not the proceeds thereof were used for port development and similar investments.

4.2

The LGU or GC shall be responsible for the upkeep, repair and maintenance of the port, including maintenance dredging works.

Section 5. Pro-forma MOA. The PDO Transition Committee described under Section 12 of PPA AO No. 05 2007 shall submit, among others, as a requirement for the turn-over of ports to LGU or GC a draft MOA in accordance with the format attached to this Order as Annex “A”.

Section 6. Audit of Ports Transferred to LGU or GC. The prescribed Performance Evaluation Review For Renewal of MOA (PERFORM), herewith attached as Annex “B”, and its subsequent amendments shall be adopted in the conduct of periodic performance audit on the administration and operations of ports transferred to LGU or GC.

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Section 7. Applicability Clause. Any of the rules and regulations issued or promulgated by the Authority not covered by this Order but are deemed necessary by the Authority to be pertinent in ensuring the effective development, management and operations of ports transferred to LGUs or GCs, including proper collection or supervision fee, shall be applied and implemented accordingly.

Section 8. Separability Clause. If any section or part of this Order is declared unconstitutional or invalid by a competent authority, the declared invalid section or part thereof shall not affect the other sections or parts to which such declaration of nullity does not apply nor relate.

Section 9. Repealing Clause. This Order amends/modifies pertinent provisions of PPA Administrative Order No. 05-2007. Likewise, all other PPA policies, rules and regulations, or parts thereof inconsistent herewith, are deemed repealed and modified accordingly.

Section 10. Effectivity. This Order shall, after approval of the PPA Board of Directors, take effect fifteen (15) calendar days from its publication in the Official Gazette or in a newspaper of general circulation and a copy filed with the University of Philippines Law Center.

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General Manager

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