

OCT 03 2023



**PPA ADMINISTRATIVE ORDER**  
NO. 007 -2023

**TO :** All Port Managers  
All Cargo Handling/ Port Owners/ Terminal Operators  
All Others Concerned

**SUBJECT :** General Guidelines on the Renewal of Existing Contracts on  
Seaport Terminal Management Services

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### Section 1. Legal Bases

- 1.1 Sections 2(a) and 2(b) of Article II, Section 6(a) of Article IV, Section 26 of Article VIII of Presidential Decree (PD) No. 857, as amended.
- 1.2 Sections 3 and 31 in relation to Section 4 of Republic Act (RA) No. 11659 or the Act Amending Commonwealth Act No. 146, otherwise known as the Public Service Act, and Section 3 of Rule II, Section 52 (b) of Rule XI in relation to Section 10 (e) of Rule III of the Implementing Rules and Regulations (IRR) of RA No. 11659.

### Section 2. Scope

This General Guidelines is adopted and prescribed as part of the mechanism to determine the qualifications and establish the procedure for the evaluation of all applications for renewal of existing contracts on seaport terminal management services in all government seaports within the PPA's jurisdiction, subject to limitations and criteria as defined hereunder.

### Section 3. Definition of Terms

For purposes of this Guidelines, the following definition of terms shall apply:

- a. **PPA-** refers to the Philippine Ports Authority.
- b. **Business Plan Study-** refers to the study conducted for each specific seaport terminal in order to determine the terms and conditions of the Contract Renewal which shall include:
  - (1) Financial
    - (a) Revenue Projections;
    - (b) Investment Commitment;
    - (c) Proposed Tariff including adjustments; and
    - (d) Proposed Concession Fee.
  - (2) Operational

- (a) Scope of Concession Area as defined in the PPA Port Land Use Scheme for the subject seaport terminal;
- (b) Projected Volume for passenger, cargo, and Ro-Ro traffic, as may be applicable;
- (c) Committed Service Quality and Performance Standards to achieve required key performance indicators; and
- (d) List of Infrastructure and Equipment together with indicative delivery timeline.

(3) Such other information relevant to the application for renewal.

- c. **Concession-** refers to a contract or agreement granting a private concessionaire the privilege to, among others, finance, construct, manage, operate and/or maintain a seaport terminal or engage in Seaport Terminal Management under a Seaport Terminal Management Contract or Port Terminal Management Contract under PPA AO No. 03-2016, as amended.
- d. **Concessionaire-** refers to a natural or juridical person awarded a Concession.
- e. **Cargo Handling Operations-** refers to the provision of services involving handling of cargoes, including but not limited to arrastre, stevedoring, container handling, and other related services.
- f. **Contract Renewal-** refers to the process of entering into a new contract or agreement to take effect upon the expiration of the original contract. It shall involve renegotiating the terms and conditions of the renewal contract, including changes in scope, contract period, fees, investments or such other terms and conditions.
- g. **Guidelines-** refers to this administrative order constituting the General Guidelines on the Renewal of Existing Contracts on Seaport Terminal Management.
- h. **Passenger Terminal Operations-** refers to provision of amenities and services to ensure the safety and accommodation of passengers at the seaport.
- i. **Resolution of Application-** refers to prioritization through determination with finality by the PPA that the current Concessionaire's application for renewal of Contract or Agreement has been granted or denied, or such determination by the PPA that the Concessionaire does not wish to renew its existing Contract or Agreement after due notice, under the applicable terms and conditions of its current Concession, if any. Prioritization includes the holding in abeyance of any new application or offering of the privilege to, among others, finance, construct, manage, operate and/or maintain a seaport through public bidding by the PPA, prior to the PPA's final decision on the current Concessionaire's application for renewal of its Contract or Agreement.
- j. **Ro-Ro (Roll-On, Roll-Off) Operations-** refers to the provision of services for the loading and unloading of cargoes which are either driven or wheeled onto

or off ships at seaports without the need for cranes or other specialized equipment.

- k. **Seaport-** refers to a place where ships may anchor or tie up for the purpose of shelter, repair, loading or discharge of passengers or cargo, or for other such activities connected with water-borne commerce, and including all the land and water areas and the structures, equipment and facilities related to these functions, as is the definition of "ports" under PD No. 857, as amended.
- l. **Seaport Terminal-** refers to a designated facility or infrastructure situated in a Seaport to serve as a point of access for ships and vessels to load and unload passengers and cargo, including the handling, storage, and transfer of goods between seaport and ships, as may be applicable. They may include passenger amenities, docks, piers, warehouses, and other logistics facilities to support the efficient movement of goods and passengers to and from ships.
- m. **Seaport Terminal Management-** refers to the provision of all core services, such as cargo handling, Ro-Ro, and passenger terminal operations, as may be applicable, which are, or may thereafter be, provided at the seaport. It shall include the development, management and maintenance of the facilities and equipment necessary for the provision of such services.
- n. **Seaport Users-** refers to the general public which use the seaport and its appurtenant facilities.

#### **Section 4. Criteria for Renewal of Contract**

A holder of a valid and existing contract or agreement for the provision of Seaport Terminal Management services in a particular seaport terminal may apply for renewal of the same, provided that all the following criteria are met:

- 1. Concessionaire must possess all the qualifications and none of the disqualifications provided for under RA No. 11659 and its IRR, including but not limited to nationality requirements;
- 2. The contract or agreement is valid and existing at the time of filing of the application to renew the same;
- 3. At least half of the stipulated duration of the existing contract or agreement must have been completed;
- 4. The application for renewal must be filed with the Office of the PPA General Manager at the PPA Head Office no later than three (3) years before the stipulated expiration date of the contract or agreement sought to be renewed, provided, that the contract period applied for shall not be longer than the period of the existing contract;
- 5. The existing contract or agreement of the concessionaire applying for renewal covers any of the three (3) core services at the subject seaport terminal, which shall include cargo handling, Ro-Ro and passenger terminal operations, as may be applicable;
- 6. Concessionaire must have exhibited exemplary record in the delivery of services at the subject seaport terminal in accordance with its current contract and latest relevant performance audit;

7. Concessionaire must have made substantial investments on infrastructure, technology or equipment for its operations under its existing contract;
8. Compliance with revenue or remittance commitments under the current contract or agreement;
9. Concessionaire does not have a pending case against the PPA or any of its Directors or Officers, in their official capacity, in any court of law or administrative body;
10. Concessionaire does not have any outstanding obligations, financial or otherwise, with the PPA; and
11. Compliance with PPA rules, regulations and other issuances.

**Section 5. Procedure for Renewal of Contracts**

Applications for renewal of a valid and existing Contract or Agreement shall observe the following procedure:

1. The Concessionaire shall submit a duly sworn Application for Renewal with the Office of the PPA General Manager at the PPA Head Office which shall include the following details:
  - a. Updated General Information Sheet duly received by the Securities and Exchange Commission or document issued by the Cooperative Development Authority, as the case may be;
  - b. Business Plan Study covering all the core services of the subject seaport;
  - c. Supporting documents to show that Concessionaire is fully compliant with the criteria for renewal, as provided in this Guidelines; and
  - d. Other documents which may be relevant to the application for renewal.

The Concessionaire shall pay a non-refundable application fee of One Million Pesos (Php 1,000,000.00) exclusive of Value-Added Tax (VAT) upon the filing of the application.

2. Upon receipt of the Application for Renewal together with proof of payment of the application fee, the same shall be referred to the Committee on Seaport Terminal Management Contract Renewal (the "Committee") created for the purpose.

The Committee shall be composed of the following:

<b>Chairperson</b>	<b>Assistant General Manager for Finance, Legal and Administration</b>
<b>Co-Vice Chairperson</b>	<b>Assistant General Manager for Engineering</b> <b>Assistant General Manager for Operations</b>

<p><b>Members</b></p>	<p>Department Manager Legal Services Department</p> <p>Department Manager Port Operations &amp; Services Department</p> <p>Department Manager Commercial Services Department</p> <p>Department Manager Port Construction &amp; Maintenance Department</p> <p>Department Manager Port Planning and Design Department</p> <p>Department Manager Controllershship Department</p> <p>Department Manager Treasury Department</p> <p>Department Manager Information and Communication Technology Department</p>
<p><b>Provisional Member</b></p>	<p>Port Manager with jurisdiction over subject seaport terminal</p>
<p><b>Secretariat</b></p>	<p>Division Manager Terminal Services Division, Port Operations &amp; Services Department</p>

3. Upon receipt of the application for renewal, the Committee shall cause the publication of a Notice of an Application in a newspaper of general circulation while simultaneously posting the same together with the application for renewal at the PPA website and seaport terminal. The cost of the publication shall be for the account of the Concessionaire.

The Notice shall include a link to an electronic copy of the material and non-proprietary information or documents submitted by the Concessionaire in relation to the Application for Renewal. It shall likewise indicate that all interested parties may submit their comments under oath on the application for renewal within a period of five (5) calendar days from the date of publication with copy furnished to the Concessionaire.

The Committee shall evaluate whether or not the Concessionaire is qualified for a renewal of its contract or agreement in accordance with this Guidelines. In the conduct of its evaluation, the Committee may require the attendance of the Concessionaire's Directors, Officers and Employees, and other interested parties for clarificatory meetings as well as require the submission of additional documents or information relevant to the application. For this purpose, all submissions must be made under oath.

Within forty-five (45) calendar days from publication, the Committee shall submit the result of its evaluation and recommendation to the PPA General Manager for his approval. The Committee may recommend: (1) if the Concessionaire is found to be unqualified for renewal under this Guidelines, the return of the application, or (2) if the Concessionaire is found to be qualified for renewal under this Guidelines, to commence with the negotiation of the terms and conditions for the renewal of the contract. For justifiable grounds, the PPA General Manager may extend the period for evaluation.

In case the recommendation is to return the application, the PPA General Manager shall endorse the same to the PPA Board of Directors for confirmation.

The decision and confirmation of the PPA Board of Directors shall be formally conveyed to the Concessionaire within seven (7) days from the date of such decision.

The return of the application shall not preclude the subsequent filing of a new application for renewal by the Concessionaire in accordance with this guidelines.

In case the recommendation is to commence with the negotiation of the terms and conditions for the renewal of the contract, upon approval of the PPA General Manager and the presentation of the same to the PPA Board for information, the procedure laid down in Sections 6 and 7 hereunder shall apply.

#### **Section 6. Negotiation of the Renewal Contract**

Within a period of sixty (60) days from approval by the PPA General Manager to commence negotiations on the terms and conditions of the renewal contract, the Committee shall negotiate with the Concessionaire the terms and conditions of the renewal contract, which in all cases, shall be consistent with all relevant laws, rules and regulations.

The terms under the existing Contract or Agreement shall generally govern the renewal, unless amended by the parties in consideration of improvement in the management, operation and development of the subject seaport for the benefit of the general public.

**Section 7. Execution of Renewal Contract**

Upon conclusion of the negotiations on the terms and conditions of the renewal contract, the Committee and the Concessionaire shall jointly prepare the proposed renewal contract stipulating the terms and conditions mutually agreed upon by the parties for approval by the PPA General Manager.

Thereupon, the PPA General Manager shall endorse the proposed renewal contract to the PPA Board of Directors for approval.

Upon approval, the PPA General Manager shall seek the review of the Office of the Government Corporate Counsel (OGCC) on the proposed renewal contract.

Once the opinion of the OGCC on the proposed renewal contract is obtained, the decision of the PPA Board of Directors shall be formally conveyed to the Concessionaire within seven (7) days from the issuance of such review.

In case of approval, the PPA, represented by the PPA General Manager, and the Concessionaire shall execute the renewal contract. Otherwise, in case the PPA Board of Directors disapproves the terms and conditions of the renewal contract, the Committee and the Concessionaire shall endeavor to renegotiate the terms and conditions of the renewal contract until mutually acceptable terms and conditions are agreed upon. If the Committee and the Concessionaire fail to agree on mutually acceptable terms and conditions one year prior to the expiration of the existing contract, all negotiations shall automatically cease and PPA shall commence the process for the bidding of the Seaport Terminal Management Contract in accordance with the Port Terminal Management Regulatory Framework under AO No. 03-2016, as amended.

For justifiable reasons, renegotiations may be extended for a period of ninety (90) days and the current Concessionaire shall be on holdover capacity. Should the parties fail to execute the renewal contract within the extension period, PPA shall proceed with the bidding pursuant to the Port Terminal Management Regulatory Framework under AO No. 03-2016, as amended.

**Section 8. Holdover Prior to the Resolution of Application**

The current Concessionaire shall continue with the Concession on a holdover capacity during the pendency of its application for renewal.

PPA shall only conduct bidding of the Seaport Terminal Management Contract in accordance with the Port Terminal Management Regulatory Framework under AO No. 03-2016, as amended, or process any offer to finance, construct, manage, or operate and/or maintain a seaport terminal, among others, after the Resolution of Application.

**Section 9. Repealing Clause**

All other prior issuances, orders, rules and regulations issued by the PPA inconsistent herewith are hereby modified or repealed, including but not limited to the following:

1. Clauses 2 (a) and 2 (b), Item VI of PPA AO No. 03-2016;
2. PPA AO No. 03-2009, which amended Article III (Guidelines in the Conduct of Public Bidding) of PPA AO No. 01-2006;
3. Section 4, Article II of PPA AO No. 03-2004;
4. PPA AO No. 03-2017, amending Section VII of PPA AO No. 03-2016; PPA AO No. 03-2016 is hereby reinstated as originally worded;
5. Clause 3(a) of Item VI of PPA AO No. 03-2016; and
6. Section 2.05, Article II of PPA AO No. 10-81.

**Section 10. Transitory Provision**

Seaport Terminal Management contracts or agreements expiring less than three (3) years from the effectivity of this Guidelines shall be qualified to apply for renewal under this Guidelines notwithstanding the provision of Section 4 (par. 4) herein, provided that the application for renewal of contract is filed within sixty (60) days from the effectivity of this Guidelines.

**Section 11. Effectivity**

This Order shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation and a copy filed with the University of the Philippines Law Center.

  
**JAY DANIEL R. SANTIAGO**  
General Manager

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