

[PPA ADMINISTRATIVE ORDER No. 02-98, August 05, 1998]

**GUIDELINES ON THE TRANSFER OF THE ADMINISTRATION OF
GOVERNMENT PORTS BY LOCAL GOVERNMENT UNITS AND
GOVERNMENT CORPORATIONS**

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Authority

- a. Presidential Decree No. 857, as amended
- b. OCGCC Opinion No. 010, series of 1998 and Opinion No. 210, series of 1997
- c. Resolution adopted by the PPA/LGU Workshop dated 20 June 1998
- d. Board Excom Res. No. 98-529 dated 28 January 1998 and Board Res. No. 1705 dated 26 february 1998

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Scope:

This Order covers government ports outside the PPa Port System which Local Government Units (LGUs) and Government Corporations may be authorized to manage, operate, maintain and develop in accordance herewith. The authority to manage, operate, maintain and develop these ports shall be covered by a corresponding Memorandum of Agreement (MOA), attached and incorporated herein by reference as Annex "A"* , between PPA and the LGU or the government corporation concerned.

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Purpose

- a. To prescribe the administrative procedure in transferring the management, operation, maintenance and development of ports outside the PPA and Port System to the LGUs.
- b. To give more meaning and substance to the concept of LGU empowerment, to include government corporations, as herein defined, without the PPA abandoning its statutory responsibility over ports.
- c. To harmonize LGU empowerment pursuant to Republic Act 7160 and government corporation vis-avis the statutory jurisdiction of the PPA over government ports, pursuant to Presidential Decree No. 857, as amended and OGCC Opinion No. 010,

series of 1996.

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Definition of Terms

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

- a. **Cargo handling services** refer to handling services such as arrastre, stevedoring and portorage.
- b. **Cargo throughout** refers to total volume of cargo discharged or loaded at the port.
- c. **Dockage fee at berth** refers to the amount assessed against a vessel engaged in international or foreign trade, including those engaged in barter trade, for mooring or berthing at a pier, wharf bulkhead, river or channel marginal wharf at any national port in the Philippines, or for mooring or making fast to a vessel so berthed.
- d. **Dockage fee at anchorage** refers to the amount assessed against a vessel engaged in international or foreign trade including those engaged in barter trade that do not berth but drop anchor at either a government or privately owned port whether operated exclusively or commercially.
- e. **Government Corporation** refers to government-owned or controlled corporation tasked by its charter to implement a program for the economic development of a specific territory and its operation of a port facility isd directly or indirectly necessary, incidental or conducive to the attainment of its corporate goal and objectives.
- f. **Government Ports** refer to public ports constructed, owned and maintained by the national government and under the jurisdiction of the PPA.
- g. **LGU** refers to the Local Government Unit as defined in the Local Government Code of the Philippines.
- h. **Management Fee** refers to the amount paid by the PPA to the LGU or government corporation, which is equivalent to (90%) percent of its collection from wharfage, port dues, dockage fee and usage fee.
- i. **MOA** refers to the Memorandum of Agreement entered into by and between PPA and LGU or government corporation concerned.
- j. **Municipal Ports** refer to public ports constructed owned and maintained by the municipal government.
- k. **PD 857**, as amended, refers to the revised charter of the Philippine Ports Authority.
- l. **Port Charges** refer to port dues, dockage fee at berth, dockage fee at anchorage,

m. **Port Dues** refer to the amount assessed against a vessel engaged in foreign trade based on its total GRT or part thereof, including those engaged in barter trade for each entrance into and departure from a port of entry in the Philippines.

n. **Port related services** refer to those services other than cargo handling and pilotage services performed inside the port, including its harbors/fairways and extensions involving provision, application and use of equipment, facility utility manpower/expertise and goods.

o. **PPA** refers to the Philippine Ports Authority.

p. **PPA Port System** refers to a list of ports over which the Philippine Ports Authority exercise 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.

q. **PPA takeover** refers to the assumption by PPA of the management and operations of arrastre, stevedoring and portage services from a contractor or operator for cause in order to protect and promote public interest.

r. **Republic Act no. 7160** refers to the local Government Code of 1991.

s. **Usage fee** refers to the amount assessed against a vessel engaged in domestic trade for berthing, for making fast to a vessel so berthed or for mooring at an anchorage area.

t. **Wharfage** refers to a charge on all cargoes whether containerized or not coming in/going out or transhipped through a port on the basis of the total metric or revenue tonnage whichever is applicable.

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General Guidelines

a. The following ports may be managed, operated, maintained and developed by LGUs and government corporations.

1. Government ports which, under the provisions of P.D. 857, as amended, are under the jurisdiction of the PPA but which are outside the updated PPA Ports system and with an average annual cargo throughput of not more than 50,000 metric tons over a 3-year period.

2. Only ports, within the municipality and jurisdiction of the LGU may be managed, operated, maintained and developed by said LGU.

b. The PPA shall act on any application from the LGU or government corporation for the transfer of the management, operations, maintenance and development of a port within (90) days from receipt hereof, provided that the application is approved and supported by a Sangguniang Resolution for such purpose.

c. Ports qualified to be operated and managed by LGUs or government corporations

may be the subject of a MOA between the PPA and the LGU or government corporation concerned. The contents of the MOA shall be in accordance with this guidelines.

d. When both the LGU and a government corporation signify to PPA the intention to operate and manage a port, preference shall be given to the LGU where the port is situated. A government corporation may be considered for the award of the management and operation of the port when endorsed by the LGU through appropriate resolution of the Sangguniang Bayan. Provided, however, that failure of the LGU concerned to act on any application from the government corporation within 90 calendar days shall be construed as an implied recommendation from the LGU.

e. The authority of the LGUs or the government corporations to manage, operate, maintain and develop a government port, including the rendition of cargo handling and related services, shall be for a term of (5) years.

f. cargo handling and related services contracted out to third parties by the LGUs or government corporations shall have a term not to exceed the stipulated period of the MOA between PPA and LGU or government corporation. Provided, that the LGU or government corporation shall secure the prior approval of PPA, in any and all cases that cargo handling or related services are contracted out to a third party. the contract between the LGU or government corporation and its subcontractor shall be in such form and terms acceptable to PPA.

g. The repair and maintenance of ports, including maintenance dredging, managed and operated by LGUs or government corporations pursuant to this Order shall be the sole and primary responsibility of said LGUs or government corporations.

h. All development plans for the port by the LGU or government corporation shall have prior approval of PPA and shall conform with the overall master plan for all the ports nationwide.

i. 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 Panglunsod concerned.

j. Powers, duties, functions, obligations and responsibilities of LGUs or government corporations so authorized to manage, operate, maintain and develop a port under these guidelines;

1. The LGU or government corporation may, on its own, by contract or otherwise, operate cargo handling and other related services within the port or undertake any port related economic activity therein.

2. The LGU or government corporation shall be allowed to collect port charges, fees and other dues prescribed by the PPA for the use of the port and for services rendered thereat, through the Municipal Treasurer who shall be deputized by the PPA. All revenues of the port shall accrue to the LGU or government corporation, with the exception of wharfage, port dues, dockage fee and usage fee, payment of which may be made to the LGU or government corporation who shall issue the provisional receipt therefor and thereafter turn over the collected revenue for the quarter to the PPA on the tenth (10th) day of the first month of the following