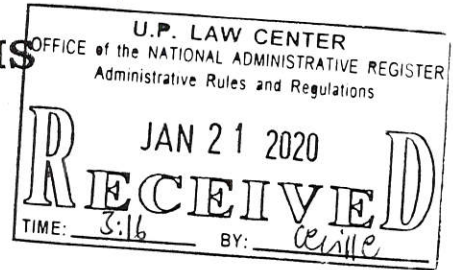




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
1099 Manila

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CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. 03-2020

**SUBJECT: DISPOSITION OF SEIZED, ABANDONED AND FORFEITED
GOODS IN CUSTOMS CUSTODY**

Introduction. This CAO implements Section 1118; Sections 1139 to 1151 of Chapter 10, Title XI and other related provisions of Republic Act No. 10863, otherwise known as the "Customs Modernization and Tariff Act" (CMTA) and Republic Act No. 10845, otherwise known as the "Anti-Agricultural Smuggling Act of 2016".

Section 1. Scope. This CAO shall cover all modes of disposition of seized, abandoned, and forfeited goods by the Bureau pursuant to the provisions of the CMTA.

Section 2. Objectives.

- 2.1. To provide simplified and streamlined rules and procedures for the disposition of seized, abandoned and forfeited goods by the Bureau pursuant to the provisions of the CMTA.
- 2.2. To provide for the speedy disposition of goods in order to maximize revenues that can be generated, to ensure that goods injurious to public safety and health are properly disposed and to protect the interest of the government.
- 2.3. To utilize information and communications technology (ICT) and other modern techniques in the monitoring and disposition of seized, abandoned and forfeited goods.

Section 3. Definition of Terms.

- 3.1. **"As is Where Is"** — shall refer to a condition of sale where no warranty is given as to the quality, state and condition of the goods.
- 3.2. **Bureau** — shall refer to the Bureau of Customs.
- 3.3. **Customs Officer** — as distinguished from a clerk or employee, shall refer to a person whose duty, not being clerical or manual in nature, involves the exercise of discretion in performing the function of the Bureau. It may also refer to an employee authorized to perform a specific function of the Bureau as provided in the CMTA.¹


¹ CMTA, Title I, Chapter 2, Section 102(p).

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- 3.4. Electronic Publication** — shall refer to the posting of the notice of public auction in the official website of the Bureau.
- 3.5. Forfeiture Fund** — shall refer to the account where all proceeds from public auction after deduction of charges as provided in Section 1143 of the CMTA and subject to the claim of the owner or importer of an impliedly abandoned goods, are deposited.²
- 3.6. Garage Sale** — shall refer to the sale of goods that have not been sold through public auction the value of which does not exceed Php50,000.
- 3.7. Goods** — shall refer to articles, wares, merchandise or any other items which are subject of importation or exportation.³ For purposes of this CAO, the term goods shall include other properties including, but not limited to, cargoes, vehicles, vessels or aircrafts seized and forfeited in favor of the government in accordance with the provisions of the CMTA.⁴
- 3.8. Landed Cost** — shall refer to the total cost of a product delivered at a port of destination, including the production cost plus transportation cost, insurance, brokerage fee, bank charge, duties and taxes and other charges, processing fee, arrastre charges and wharfage dues, if applicable.
- 3.9. Notice** — shall refer to posting at a conspicuous place in the customhouse where the goods are located, and to the publication either electronically or in a newspaper of general circulation.⁵
- 3.10. Offeror** — shall refer to persons or entities tendering bids for the purchase of goods through Negotiated Sale.
- 3.11. Outsourcing** — shall refer to any contractual arrangement between the Bureau and a qualified and competent private entity for the latter to perform designated non-sovereign and/or ancillary functions on behalf of the Bureau.⁶
- 3.12. Perishable Goods** — shall refer to goods liable to perish or goods that depreciate greatly in value while stored or which cannot be kept without great disproportionate expense.⁷

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² CMTA, Title XI, Chapter 10, Section 1151.

³ cf. CMTA, Title I, Chapter 2, Section 102 (x).

⁴ cf. CMTA, Title XI, Chapter IV, Section 1113.

⁵ cf. CMTA, Title XI, Chapter 10, Section 1141.

⁶ CAO No.10-2019 "Outsourcing of Non-Sovereign Customs Functions to Private Entities", Section 3.4.

⁷ CMTA, Title I, Chapter 2, Section 102 (gg).

3.13. Private Service Providers — shall refer to private entities duly contracted/authorized by the Bureau to provide services and/or facilities that will be used by the Bureau in the performance of its function.

3.14. Small Value Items — shall refer to goods subject of the floor price the value of which does not exceed Php50,000.00.

Section 4. General Provisions.

4.1. Goods Subject to Disposition. Goods in customs custody that are in the following condition and status shall be subject to disposition:

4.1.1. Abandoned goods with final decree of abandonment;⁸

4.1.2. Goods deemed abandoned pursuant to Section 811 of the CMTA;⁹

4.1.3. Forfeited goods, other than prohibited, restricted and regulated goods after liability have been established by the proper administrative or judicial proceedings in conformity with the provisions of the CMTA.¹⁰

4.1.4. Goods subject to a valid lien for customs duties, taxes and other charges collectible by the Bureau, after the expiration of the period allowed for payment thereof;¹¹ and

4.1.5. Goods subject of forfeiture proceedings when certified by the Customs Officer as Perishable Goods. Goods certified as perishable may be sold at a public auction within five (5) calendar days after a three (3)-day notice during the pendency of the forfeiture proceedings in the following cases:

a. Upon motion by the importer¹²; or

b. Upon a written Order of the District Collector in order to protect the interest of the government after the importer was given the opportunity to comment.

⁸ cf. CMTA, Title XI, Chapter 10, Section 1139 (a).

⁹ cf. CMTA, Title XI, Chapter 10, Section 1139 (b).

¹⁰ CMTA, Title XI, Chapter 10, Section 1139 (c).

¹¹ CMTA, Title XI, Chapter 10, Section 1139 (d).

¹² CMTA, Title XI, Chapter 4, Section 1118.

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The proceeds of the sale through public auction of Perishable Goods shall be held in escrow until the final resolution of the forfeiture proceedings.¹³

4.2. Modes of Disposition. Goods referred to in the preceding section may be disposed in any of the following manner:

4.2.1. Public auction. Public Auction within thirty (30) calendar days after a ten (10)-day notice¹⁴ or in case of Perishable Goods, as certified by the Bureau, within five (5) calendar days, after a three (3)-day notice. The Bureau shall proceed to advertise and sell the same at auction upon notice as shall be deemed to be reasonable.¹⁵

4.2.2. Donation. Donation to another government agency after approval of the Secretary of Finance¹⁶ or donation to the Department of Social Welfare and Development (DSWD) in case of goods suitable for shelter, foodstuffs, clothing materials, or medicines.¹⁷

4.2.3. Official Use of the Bureau. Goods subject to disposition, after approval of the Secretary of Finance,¹⁸ and goods which remain unsold after at least two (2) public biddings, may be declared for official use of the Bureau.¹⁹

4.2.4. Negotiated sale. Goods which remain unsold after at least two (2) public biddings, that are not suitable either for official use or donation may be sold through a negotiated sale subject to the approval of the Secretary of Finance and executed in the presence of a Commission on Audit (COA) representative.²⁰

4.2.5. Re-exportation. Re-exportation as government property of goods not disposed through public auction, donation, and official use, or of goods injurious to public health, as identified by the Board created under Section 1145 of the CMTA, upon the Order of the Collector. Re-exportation shall also be done pursuant to international agreements and treaties.

¹³ CMTA, Title XI, Chapter 4, Section 1118.

¹⁴ cf. CMTA, Title XI, Chapter 10, Section 1141.

¹⁵ cf. CMTA, Title XI, Chapter 10, Section 1144.

¹⁶ cf. CMTA, Title XI, Chapter 10, Section 1141.

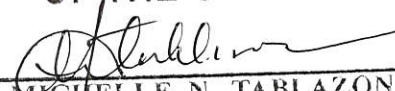
¹⁷ cf. CMTA, Title XI, Chapter 10, Section 1146.

¹⁸ cf. CMTA, Title XI, Chapter 10, Section 1141.

¹⁹ cf. CMTA, Title XI, Chapter 10, Section 1149.

²⁰ cf. CMTA, Title XI, Chapter 10, Section 1149.

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4.2.6. Destruction or Condemnation. Destruction or condemnation in an appropriate manner, upon the order of the District Collector, if the Board created under Section 1145 of the CMTA is in the opinion that such are injurious to public health²¹ or if such is classified as prohibited in accordance with Section 118 of the CMTA except for paragraph (d) thereof.²²

4.2.7. Turn-Over to Proper Government Agencies. Turn-over to proper government agencies as provided in Section 1146 and Section 1147 of the CMTA.

In all modes of disposition, the Bureau shall ensure that other government agencies and the public are invited to witness the disposition of the Goods.

4.3. Mandatory Reporting. All ports are required to submit a monthly report to the Office of the Commissioner the status of cargoes which remain unclaimed at the yard for more than ninety (90) days from the discharge of the last package from the vessel, or in case of goods under Customs Bonded Warehouse (CBW) remained unliquidated or unpaid after the period of one (1) year from the time of arrival, including actions taken thereon.

Section 5. Public Auction.

5.1. Place of Disposition of Goods. Goods shall be sold or otherwise disposed of at the port where the Goods are located, unless the Commissioner shall direct the transfer of the place of auction to another port.²³ Notwithstanding the foregoing, jurisdiction over disposition of the goods shall remain with the District that seized and forfeited the same.

5.2. Floor Price. Floor price of Goods subject to public auction shall not be less than the Landed Cost of the Goods taking into account the normal depreciation of Goods and shall be computed in any of the manner below:

5.2.1. The domestic wholesale price arrived through backward computation using as basis the average of three (3) canvassed retail prices of similar articles in the usual and ordinary course of trade.

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²¹ cf. CMTA, Title XI, Chapter 10, Section 1145.

²² cf. CMTA, Title XI, Chapter 10, Section 1146.

²³ cf. CMTA, Title XI, Chapter 10, Section 1140.

5.2.2. The average of at least three (3) values of similar articles at the time of importation or at least three (3) months prior thereto, plus applicable duties and taxes.

5.2.3. For uniformity and consistency in the setting of floor price, the recommended floor price computed by the District Collector shall be referred to the Imports and Assessment Service (IAS) for proper determination of floor price.

5.3. Notice of Public Auction. The Notice of Public Auction shall be approved by the District Collector which shall contain the following information:

5.3.1. Specific time, date and place for public auction;

5.3.2. Lot number, indicating the seizure identification or abandonment proceeding number(s), container number(s), location of goods, and name(s) of consignee;

5.3.3. Specific description of Goods including their quality, condition, volume or quantity and date of arrival. In case of motor vehicles, the Notice shall specify the year model, make or brand, Vehicle Identification Number (VIN), chassis and engine numbers, except when sold as scrap;

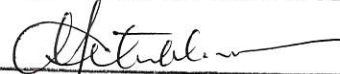
5.3.4. The date of manufacture and expiry date, in case of Perishable Goods, shall be stated;

5.3.5. Specific date, time and place for the viewing of all lots or Goods which shall at least be one (1) working day prior to the auction date; and

5.3.6. The terms and conditions of the public auction, such as, but not limited to, the registration requirements, awarding and payment, offer on an "As Is Where Is" basis.

5.4. Publication and Posting of the Notice of Public Auction. The Notice of Public Auction shall be posted at a conspicuous place in the customhouse where the goods are located, and shall be published either electronically or in a newspaper of general circulation.²⁴ For regulated goods, electronic copy of the Notice of Public Auction shall be sent to the concerned regulatory agency.

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²⁴ cf. CMTA, Title XI, Chapter 10, Section 1141.

5.5. Who Cannot Participate in Public Auction.

- 5.5.1. Employees or officials of the Bureau;
- 5.5.2. Importers or consignees of the Goods being auctioned;
- 5.5.3. Bidders who fail to pay the winning bid price in any auction conducted by the Bureau twice, and those disqualified by the Ports for other infractions in the last twelve (12) months immediately preceding the date of auction; and
- 5.5.4. Offeror/s or his or her authorized representative/s who are not present during the opening of the sealed offers.

5.6. Registration in Public Bidding. Entities or persons interested to participate in every public auction must register with the port concerned and comply with the following requirements:

- 5.6.1. Submission of a valid government issued identification.
- 5.6.2. Payment of non-refundable registration fee of Php5,000.00 and legal research fee of Php50.00.
- 5.6.3. Clearance or registration from the concerned government agencies in case of regulated goods.

The names, addresses, TIN and contact numbers of the registrants shall be indicated in the logbook for registered bidders.


5.7. Offer on "As is Where Is" Basis. All goods subject of disposition pursuant to this CAO shall be offered for sale on an "As is Where Is" basis.

The quantity, number, weight or measurement of the goods subject of sale and/or as listed in the Notice of Public Auction shall be deemed subject to proper determination by Auction and Cargo Disposal Division (ACDD) or equivalent unit prior to delivery. In case any excess is discovered, the winning bidder shall be required to pay for the difference in his bid price, otherwise the excess shall not be deemed included in the sale and shall be returned to the Bureau.

5.8. Sealed Bid System. The sealed bids shall be submitted and opened in public by the Auction Committee at a time, date and place specified in the Notice of Public Auction. The highest bid shall be declared as the winner except when Clustering occurs.



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In case there is a tie for the highest bid, the subject item or lot shall be subjected to another auction through sealed bids among the tied bidders. In case of another tie, the winner shall be determined by toss coin.

In case of multiple sale lots, the opening of the sealed bids, announcement of the winning bidder and payment of fifty percent (50%) of the winning bid price upon announcement of the winning bid, shall be done on a per lot basis. Subsequent sale lots shall not be opened unless the fifty percent (50%) of the winning bid price has been paid or declared a failed bidding.

5.9. Clustering System. Clustering occurs when the difference between the highest and the second highest bid is within ten percent (10%) of the highest bid.

An open-bidding shall be conducted among all the bidders who participated per item or sale lot with the highest bid serving as the new floor price. Only bids raised by three percent (3%) more than the new floor price shall be considered and the highest bid in the open bidding shall be declared as the winner. Otherwise, the highest sealed bid shall be declared as the winner.²⁵

5.10. Payment. At the end of each bidding, the highest bidder shall be required to surrender his acknowledgement receipt. Upon announcement of the winning bid, the winning bidder shall pay the bid price less the bond posted. Failure to pay the balance by the winning bidder shall cause the forfeiture of the deposit without prejudice to any sanction that the Committee may impose.

In case such payment has not been made, the subject Goods shall be re-offered within three (3) working days for non-perishable Goods and the next working day for Perishable Goods, unless the Commissioner provides a different period and subject further to compliance with the publication requirements of this CAO.

5.11. Cancellation of Public Bidding. Requests for cancellation shall be in writing and addressed to the District Collector or the Office of the Commissioner. Cancellations of auction can only be done upon the order of the District Collector or Office of the Commissioner, on any of the following grounds:

- 5.11.1.** No viewing conducted;
- 5.11.2.** Upon request of the concerned regulating agency;
- 5.11.3.** Other cases or circumstances that would warrant the cancellation of the scheduled public auction.

²⁵ CAO 10-2007, Section 9.

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The cancellation order shall be posted immediately by the ACDD in their bulletin board or in other conspicuous place or in the bulletin board within the premises of the port, and in the official website of the Bureau whenever possible. No request for cancellation by any interested bidder shall be allowed unless for valid reasons as determined by the District Collector.

5.12. Awarding of Sale. A Certificate of Award shall be given to the winning bidder upon full payment of the bid amount.

5.13. Failure to Claim. When the winning bidder fails to claim the items or lots awarded to him within thirty (30) calendar days from the date of award, upon due notice, he shall be deemed to have abandoned said goods and to have renounced all his rights thereto including forfeiture of all payments made thereon, except upon justifiable reasons, as determined by the District Collector, upon recommendation of the Auction Committee.

Once declared abandoned, the Order of Abandonment can no longer be appealed and the subject Goods shall be disposed of in any of the manner allowed in this Order.

5.14. Third Party Auction. In the case of heavy equipments, motor vehicles, Small Value Items, and goods which require appraisal by technical and specialized experts, the sale thereof through public auction may be conducted by a third party auctioneer chosen by the Bureau subject to existing rules and regulations on Outsourcing of Non-Sovereign Functions and in accordance with Section 1151 (a) of the CMTA.

5.14.1. The rules and regulations on the conduct of the public auction, including pre and post auction shall be determined by the third party auctioneer selected by the Bureau, subject to the approval of the Commissioner of Customs.

5.14.2. The scope of forfeited and abandoned goods which shall be sold through third party auctioneers may be limited or expanded by the Commissioner.

5.15. Failed Bidding. An auction shall be declared as a failed bidding by the Auction Committee when any of the following circumstances occurs:

5.15.1. When there is no bid;

5.15.2. When the highest bidder fails to comply with any of the payments required under Section 5.10 hereof, said bidder

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shall be disqualified from participating further in the public auction and when applicable, the negotiated sale involving the same, without prejudice to the forfeiture of the minimum deposit and any payment made and imposition of other sanctions as may be warranted.

5.16. Second Bidding. When a failed bidding is declared, the item or sale lot shall be re-offered after five (5) calendar days upon publication in the official website and/or social media page of the Bureau and posting in a conspicuous place of the port. In case of Perishable Goods, the second auction shall be conducted after three (3) calendar days from posting.

5.17. Disposition of Proceeds. The following expenses and obligations shall be paid from the proceeds of the sale in the order provided:

5.17.1. Customs duties, except in the case of forfeited goods;

5.17.2. Taxes and other charges due the government;

5.17.3. Government storage charges;

5.17.4. Expenses for the appraisal, advertisement, and sale of auctioned goods;

5.17.5. Arrastre and private storage charges and demurrage charges; and


5.17.6. Freight, lighterage or general average, on the voyage of importation, of which due notice shall have been given to the District Collector.

The Commissioner is authorized to determine the maximum charges to be recovered by private entities concerned under Subsections 5.17.5 and 5.17.6 of this Section.²⁶

5.18. Forfeiture Fund. All proceeds from sales through public auction after deduction of charges as provided in Section 5.17 and subject to the claim of the owner or importer of impliedly abandoned goods as provided in Section 1130 of the CMTA shall be deposited in a Forfeiture Fund.

The Forfeiture Fund shall be in the name of and managed by the Bureau, subject to the usual government accounting rules and regulations, to utilize it for the following purposes:

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²⁶ CMTA, Title XI, Chapter 10, Section 1143.

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- 5.18.1.** To outsource, subject to the rules on government procurement established by law, the management of the inventory, safekeeping, maintenance and sale of Goods enumerated in Section 4.1 of this CAO to Private Service Providers: Provided, That the Bureau shall retain jurisdictional control and supervision over these Goods as well as the operations of the service providers so contracted;
- 5.18.2.** To facilitate customs seizure, abandonment and forfeiture proceedings and the disposition of Goods under Section 4.1 of this CAO, particularly the disposition of Goods other than by public sale;
- 5.18.3.** To enhance customs intelligence and enforcement capability to prevent smuggling; and
- 5.18.4.** To support the modernization program and other operational efficiency and trade facilitation initiatives of the Bureau.

The Department of Finance (DOF) and the Department of Budget and Management (DBM) shall, upon the recommendation of the Bureau, issue a joint regulation to implement the provisions of this Section.²⁷

Section 6. Donation.

- 6.1. Goods Subject to Donation.** Goods subject to disposition or which remain unsold after at least two public auctions for want of bidders or for lack of an acceptable bid may be donated to another government agency.²⁸ Provided, That for regulated goods, donation shall be made upon concurrence of the concerned regulatory agency.

If the goods are suitable for use as shelter or consists of foodstuffs, clothing materials or medicines, it may be donated to the DSWD.²⁹

- 6.2. Requests for Donation.** All requests for donation shall be coursed through the Commissioner who shall endorse the same to the District Collector/s for determination of the availability of the items requested for donation.

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²⁷ CMTA, Title XI, Chapter 10, Section 1151.

²⁸ CMTA, Title XI, Chapter 10, Section 1141.

²⁹ CMTA, Title XI, Chapter 10, Section 1141.

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6.3. Approval of the Secretary of Finance. In order for the donations made pursuant to this CAO to be effective, the approval of the Secretary of Finance shall be secured.³⁰

Section 7. For Official Use of the Bureau. Goods subject to disposition or which remain unsold after at least two public auctions and which are suitable for official use to promote intensive collection of taxes and/or help prevent or suppress smuggling, may be declared by the Commissioner of Customs for official use of the Bureau, subject to the approval of the Secretary of Finance.³¹

Section 8. Negotiated Sale.

8.1. Committee on Negotiated Sale. A Committee on Negotiated Sale shall be constituted by the Commissioner which shall be composed of the following:³²

8.1.1 Chairman, to be chosen from among the Assistant or Deputy Commissioners;

8.1.2 Vice-Chairman, from the Office of the Deputy Commissioner for Assessment and Operations Coordinating Group (AOCG); and

8.1.3 Three (3) Members, to be chosen by the Chairman.

The Committee shall be assisted by a Secretariat which shall provide administrative and technical support. The Chairman shall designate the members of the Secretariat.


8.2. Duties and Functions of the Committee. The Committee shall have the following duties and functions:

8.2.1. Implement the provisions of this CAO relating to the conduct of negotiated sale;

8.2.2. Conduct an ocular inspection of the sale lots or items;

8.2.3. Reject any or all offers or any part thereof and consider offer/s most advantageous to the interest of the government;

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³⁰ cf. CMTA, Title XI, Chapter 10, Section 1141

³¹ CMTA, Title XI, Chapter 10, Section 1141.

³² CMO No. 10-2007 "Rules and Regulations in the Conduct of Public Auction and Negotiated Sale", Section 15



8.2.4. Recommend to the Secretary of Finance the acceptance of the offer/s most advantageous to the interest of the government; and

8.2.5. Issue orders necessary to implement this CAO.

8.3. Who Cannot Participate in Negotiated Sale.

8.3.1. Employees or officials of the Bureau;

8.3.2. Importers or consignees of the Goods being auctioned;

8.3.3. Defaulting Offerors unable to comply with the payment requirements under this CAO, and those disqualified by the ports for other infractions in the last twelve (12) months immediately preceding the date of negotiated sale;

8.3.4. Offeror/s or his or her authorized representative/s who are not present during the opening of the sealed offers; and

8.3.5. Offeror/s or his or her authorized representative/s who failed to comply with any of the documentary requirements of the Committee on Negotiated Sale.

8.4. Procedure in Negotiated Sale.

8.4.1. The Offeror shall tender his sealed offer in a format designed for the purpose in a sealed drop box within the prescribed period of time indicated in the Notice of Negotiated Sale. No offer to buy shall be entertained if submitted after the said period of time.

The Offeror must indicate their name and contact number on the face of their sealed offer, for facility in communicating with them.

8.4.2. The sealed offers shall be opened on the date, time and place indicated in the Notice in the presence of a COA representative and the Offeror in the negotiated sale.

The presence of the Offeror/s or his duly authorized representative during the opening of the sealed offers is required. Otherwise, the offer of the said person or entity shall not be considered.

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8.5. Payment Procedure.

8.5.1. The Offeror whose offer is considered the most advantageous to the interest of the government shall be required to pay a guarantee cash deposit in an amount equivalent to twenty percent (20%) of the offer within twenty-four (24) hours from receipt of the notice of acceptance of the offer by the Committee, which shall be deposited in a special trust account, prior to referral to the Secretary of Finance for consideration. For this purpose, the District Collector shall open a special trust account.

8.5.2. The eighty percent (80%) remaining balance shall be paid in full within forty-eight (48) hours from receipt of the notice from the Committee on Negotiated Sale of the approval of the offer by the Secretary of Finance.

8.5.3. In case of a failed negotiated sale, the subject sale lot may be disposed of according to the other modes of disposition available under this CAO.

In case of failed negotiated sale or failure to comply with any of the payment requirement provided under this Section, the Offeror shall automatically be disqualified from participating further in any negotiated sale and public auction without prejudice to the forfeiture of any payment/s made thereon.

8.5.4. When the offer is rejected by the Secretary of Finance, the guarantee cash deposit shall be refunded.

8.6. Failed Negotiated Sale. A Negotiated Sale shall be declared as a failed bidding by the Committee on Negotiated Sale when any of the following circumstances occurs:

8.6.1. When there is no offer;

8.6.2. When the highest Offeror fails to comply with any of the payments required under 8.5 hereof, said Offeror shall be disqualified from participating further in the negotiated sale thereof, without prejudice to the forfeiture of the cash bond and any payment made and imposition of other sanctions as may be warranted; or

8.6.3. When the Department of Finance disapproves or rejects the offer of the Offeror.

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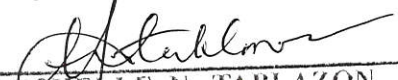
- 8.7. Awarding of Sale.** Upon full payment and presentation of the official receipts evidencing payment of the bid price subject of negotiated sale, the Secretariat shall issue a Notice of Award and shall forward the records of the same to the District Collector having jurisdiction over the goods.
- 8.8. Approval or Disapproval by the Department of Finance.** A Negotiated Sale shall be subject to the approval or disapproval of the Department of Finance.
- 8.9. Refund of Payment.** Payments made by the Offeror which has been disapproved by the Department of Finance shall be refunded within fifteen (15) calendar days from receipt of Notice of Disapproval by the Offeror.
- 8.10. Disposal of Small Value Items.** Goods with a value of Php50,000.00 below or those in the nature of personal effects shall be disposed of through Garage Sale. The Commissioner, subject to approval by the Secretary of Finance, may adjust the threshold value for Small Value Items. For this purpose, the Commissioner shall issue a separate Customs Memorandum Order (CMO).

Section 9. Condemnation.

- 9.1. Goods Subject to Condemnation.** The following goods shall be disposed through condemnation:
- 9.1.1.** Restricted goods which are highly dangerous to be kept or handled;³³
 - 9.1.2.** Goods that are absolutely prohibited unless the mode of disposition is specifically provided by the CMTA;
 - 9.1.3.** Goods that are prohibited by law to be released, unless the mode of disposition is specifically provided by the CMTA;
 - 9.1.4.** Goods that have no commercial value; and
 - 9.1.5.** Goods that are injurious to public health.
- 9.2. Modes of Condemnation.** Goods shall be condemned in the following manner:
- 9.2.1.** Rendering;

³³ CMTA, Title XI, Chapter 10, Section 1147 (f).

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9.2.2. Crushing;

9.2.3. Burning;

9.2.4. Breaking;

9.2.5. Shredding; or

9.2.6. Any other appropriate method.

9.3. **Detailed Condemnation Plan.** Upon receipt of the notice of finality of Order of Forfeiture or Decree of Abandonment, a detailed condemnation plan shall be prepared by the ACDD or equivalent unit of the Port, for the destruction or condemnation of the Goods identified for destruction. The written plan shall contain the following:

9.3.1. Mode of Condemnation;

9.3.2. Nature of the items or Goods to be destroyed or condemned, including their packaging;

9.3.3. Final Order of Forfeiture or Abandonment;

9.3.4. Legal basis or justification for the condemnation of the Goods;

9.3.5. Special or technical requirements needed to ensure the complete destruction and to prevent the subsequent retrieval by persons or even by animals;


9.3.6. Condemnation plan to be in compliance with the requirements to be determined by the appropriate government agency in case of regulated goods;

9.3.7. Notice and invitation to government agencies to witness or supervise the destruction or condemnation process and to ensure that their own regulations on such activities are observed;

9.3.8. The anticipated difficulties with emphasis on the problem of crowd control, looters and scavengers and the general security concerns and contingency measures thereto; and

9.3.9. Required reports to be submitted after the destruction or condemnation and the signatories thereof.

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9.4. Condemnation Committee. A Condemnation Committee is hereby constituted which shall be composed of the following:

Chairman	Chief, ACDD or equivalent unit
Vice Chairman	Chief, Law Division
Members	Representative, Office of the District Collector
	Representative, CIIS
	Representative, ESS

9.5. Functions of the Condemnation Committee. The Condemnation Committee shall perform the following functions:

9.5.1. Provide formalities and procedures in connection with condemnation, consistent with and in pursuance to this Order;;

9.5.2. Evaluate the detailed condemnation plan and make corrections, if necessary;

9.5.3. Evaluate applications for accreditation of contractors;

9.5.4. Choose an accredited contractor to perform the destruction or condemnation of Goods for destruction;

9.5.5. Prepare an Order of Condemnation for the approval of the District Collector; and

9.5.6. Recommend to the District Collector the imposition of administrative or criminal sanctions as maybe appropriate against any contractor, person or entity found to have violated the CMTA or other related laws, rules and regulations in connection with any condemnation activity;

9.6. Order of Condemnation. The Condemnation Committee shall cause the preparation of the Order of Condemnation for the approval of the District Collector, containing the information stated in the Detailed Condemnation Plan and the name of the contractor who will perform the destruction or condemnation of Goods.

In selecting the contractor/s that will perform the condemnation, the Condemnation Committee shall observe the following guidelines:

9.6.1. Only accredited contractors shall be authorized to perform condemnation;

9.6.2. Suspended contractor/s of the port, as well as of other ports, must not be appointed to perform condemnation;

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- 9.6.3.** Only contractors with sufficient facility or equipment or machineries to perform the required mode of condemnation will be considered;
- 9.6.4.** Track record or reputation of the contractor;
- 9.6.5.** For containerized cargoes, the preferred or nominated accredited contractor of the shipping lines shall be given priority.
- 9.7. Accreditation of Contractors.** Interested contractors shall be accredited by the District Collector of a port, which shall be valid within three (3) years from the date of accreditation, subject to the annual submission of updated documents. The applicant shall submit to the Accreditation Committee of the port the following requirements:
- 9.7.1.** Letter of Intent (duly signed by the registered owner or authorized representative);
- 9.7.2.** Company Profile;
- 9.7.3.** List of Services offered;
- 9.7.4.** Diagram of Operation for all the services being offered;
- 9.7.5.** Plant or Facility Layout;
- 9.7.6.** Machineries, Equipment and other facilities owned and located at the facility or plant (with photos);
- 9.7.7.** For Corporate entities, Articles of Incorporation, By-Laws and latest General Information Sheet duly received and stamped by the Securities and Exchange Commission (SEC);
- 9.7.8.** Current Mayor's Permit;
- 9.7.9.** Current Environmental Compliance Certificate (ECC) and allied permits;
- 9.7.10.** Current Transporter Registration Certificate, if applicable;
- 9.7.11.** Updated Sanitary Permit to Operate, if applicable;
- 9.7.12.** Updated City or Municipal Environment Certificate;


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9.7.13. Duly stamped and received Income Tax Return for two (2) years immediately preceding the application;

9.7.14. Audited Financial Statement for two (2) years immediately preceding the application;

9.7.15. Payment of Accreditation Fee of Php10,000.00 and Customs Documentary Stamp of Php265.00; and

9.7.16. Posting of annual performance bond in the amount of Php500,000.00.

9.8. Disputes and/or Complaints. Disputes and/or complaints pertaining to the decisions or actions of the Condemnation Committee, and approved by the District Collector shall be resolved by the Director of the Port Operations Service, subject to the approval of the Commissioner through the Deputy Commissioner of Assessment Operations and Coordinating Group.

9.9. Reportorial Requirements. The accredited contractor shall submit to the District Collector a completion report after every condemnation.

9.10. Sanctions. In case the accredited contractor defaults in complying with the condemnation plan, the Accreditation Committee shall recommend the imposition of the following sanctions to the District Collector, to wit:

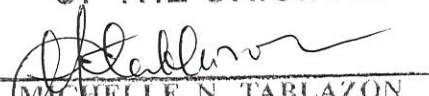
- 1st Offense : Suspension for one (1) year
- 2nd Offense : Suspension for five (5) years
- 3rd Offense : Perpetual disqualification

The District Collector upon receipt of the recommendation shall immediately issue a suspension or disqualification order against the erring contractor.

This is without prejudice to the revocation of accreditation and filing of appropriate criminal charges in case of diversion or failure on the part of the contractor to dispose of the condemned goods.

9.11. Gatepass and Clearance for the Release of Condemned Goods. After the approval of the District Collector of the Order of Condemnation, a corresponding gatepass and Notice of Condemnation for the release of Goods will be issued by the Chief of ACDD or its equivalent office to the chosen accredited contractor. The Chief of Piers Inspection Division (PID) or its equivalent unit shall issue transfer note and shall assign a customs guard who will secure the Goods up to its final destination.

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Section 10. Turn-Over to Proper Government Agencies.

- 10.1. Turn-Over to Armed Forces of the Philippines (AFP).** Dynamite, gunpowder, ammunition and other explosives, firearms and weapons of war and parts thereof shall be turned over, after finality of the Order of Forfeiture, to the AFP or the Philippine National Police.
- 10.2. Turn-Over to Philippine Amusement and Gaming Corporation (PAGCOR).** Roulette wheels, gambling outfits, loaded dice, marked cards, machines, apparatus or mechanical devices used in gambling or the distribution of money, cigars, cigarettes, or other Goods when such distribution is dependent on chance including jackpot and pinball machines or similar contrivances, or parts thereof shall be turned over to PAGCOR.
- 10.3. Turn-Over to Philippine Charity Sweepstakes Office (PCSO).** Lottery and sweepstakes tickets, except advertisements thereof, and lists of drawings therein shall be turned over to the PCSO.
- 10.4. Turn-Over to the Philippine Drug Enforcement Agency (PDEA).** Marijuana, opium, poppies, coca leaves, heroin, or other narcotics or synthetic drugs which are or may hereafter be declared habit forming by the President of the Philippines, or any compound, manufactured salt, derivative, or preparation thereof, including opium pipes and parts thereof, of whatever material shall be turned over to the Dangerous Drugs Board (DDB) through the PDEA.
- 10.5. Turn-Over to Bangko Sentral ng Pilipinas (BSP).** Any Goods manufactured in whole or in part of gold, silver or other precious metals or alloys and the stamp, brand or mark does not indicate the actual fineness of quality of the metals or alloys.³⁴
- 10.6. Turn-Over of Other Prohibited and Regulated Goods.** Whenever deemed appropriate, the Commissioner of Customs may turn-over Goods which cannot otherwise be disposed through the different modes provided under this Order to the concerned agency for proper disposition.

The turn-over shall be made with a corresponding Gate Pass, Clearance and Notice of Turn-Over issued by the District Collector, through the ACDD.

³⁴ CMTA, Title I, Chapter 3, Section 118 (d).

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Section 11. Penal Provision. Violations of this CAO committed by any person, officer, or employee shall be penalized in accordance with Title XIV of the CMTA and other applicable penal provision.

Section 12. Monitoring and Disposition of Seized, Abandoned and Forfeited Goods. The Management Information System and Technology Group (MISTG) shall devise an Information and Communications Technology (ICT) enabled system for monitoring and disposition of seized, abandoned and forfeited goods in all ports.

Section 13. Transitory Provision. Pending full implementation of an ICT enabled system that will admit and store electronic documents pertaining to the registration of bidders, accreditation of contractors, and the conduct of public bidding or Garage Sale, the Bureau shall, as far as practicable and as existing processes may reasonably allow, implement the provisions of this CAO. Provided that, the processing of personal information collected during the registration of bidders and accreditation of contractors shall comply with Republic Act No. 10173 otherwise known as Data Privacy Act of 2012.

The MISTG shall likewise devise a system for monitoring and disposition of seized, abandoned and forfeited goods in all ports.

Section 13. Repealing Clause. All other rules and regulations issued by the Bureau which are inconsistent with this CAO are deemed repealed or modified accordingly.

Section 14. Separability Clause. If any part of this CAO is declared unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.

Section 15. Effectivity. This Order shall take effect thirty (30) days after its complete publication in the Official Gazette or a newspaper of general circulation.

The Office of the National Administrative Register (ONAR) of the UP Law Center shall be provided three (3) certified copies of this CAO.

REY LEONARDO B. GUERRERO
Commissioner of Customs
DEC 20 2019



BOC-02-00996

APPROVED:

CARLOS G DOMINGUEZ
Secretary of Finance
JAN 08 2020



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