



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

13 May 2005

Customs Memorandum Order

No. 24-2005

**To: All District / Port Collectors
Deputy Collectors for Operations
Chiefs, Auction and Cargo Disposal Division
Or Equivalent Unit
All Others Concerned**

SUBJECT: Guidelines in the Donation to the Department of Social Welfare and Development (DSWD), Government Charitable Institutions (GCIs) and other Government Agencies of Forfeited and / or Abandoned Goods Under the Custody of the Bureau of Customs

Pursuant to Section 2610 of the Tariff and Customs Code of the Philippines (TCCP), as amended, the following guidelines are hereby adopted to govern the donations to the Department of Social Welfare and Development (DSWD), government charitable institutions (GCIs) and other government agencies of forfeited and / or abandoned goods under the custody of the Bureau of Customs.

I. OBJECTIVES

1. To delineate the responsibilities of all offices under the Bureau of Customs that are involved in the processing of donations to DSWD, GCIs and other government agencies and provide for a uniform procedure therefor.
2. To expedite the release to the intended donees of forfeited and / or abandoned goods subject of donation, thereby decongesting the Bureau of Customs of its overstaying cargoes.
3. To institute the necessary controls and safeguards to ensure that goods intended as donations are not unlawfully diverted nor put to illegal use and that these are properly delivered and are duly received by their intended donees.
4. To have a statistical data of all goods donated to DSWD, GCIs and other government agencies, including their volume and estimated value for monitoring purposes.

II. SCOPE

These guidelines shall cover all donations from the Bureau of Customs to the DSWD, GCIs and other government agencies pursuant to Section 2610 of the TCCP, as amended, and President Memorandum Order (PMO) No. 23 dated July 30, 1992.

III. GENERAL PROVISIONS

1. For the purpose of this CMO, "donated goods" shall include articles suitable for shelter or consisting of foodstuffs, clothing materials, medicines, and other goods declared forfeited and / or abandoned that are in customs custody.
2. Used clothings whose forfeiture and/ or abandonment decision has become final and executory shall be immediately turned over to the DSWD pursuant to Presidential Memorandum Order No. 23 dated July 30, 1992.
3. Upon request, donations to GCIs of articles suitable for shelter or consisting of foodstuffs, clothing materials other than used clothing under the above provision, and medicines shall be coursed through the DSWD; subject, however, to the approval of the Secretary of Finance.
4. Other goods suitable for donation to DSWD, GCIs and other government agencies shall require the approval of the Secretary of Finance upon request of the DWSD, GCIs and / or the government agency concerned.
5. Goods approved for donation shall be covered by an acknowledgment receipt / memorandum duly signed by the Secretary of the DSWD, the Head / Chief of the GCI or other government agency concerned, or his duly authorized representative.
6. The District Collector of Customs concerned thru the Auction and Cargo Disposal Division (ACDD) or its equivalent unit shall require that goods subject for donations are received and signed for release in the covering Gatepass by a duly authorized representative of the DSWD, GCI and / or government agency concerned holding a position of rank and responsibility to be witnessed by the Bureau's COA Resident Auditor or his authorized representative.
7. Incidental expenses incurred for the release and transfer of the donated goods from the BOC to the donee shall be for the account of the latter.

IV. OPERATIONAL PROVISIONS

A. Donation of Unsold Articles for Want of Bidders

1. All requests for donation shall be coursed through the Office of the Commissioner of Customs which shall subsequently endorse the same to the District Collector/s for determination of the availability of the items requested for donation.
2. The District Collector /s shall request the Chief of the ACDD or its equivalent unit to check the availability of the goods requested for donation.
3. From the list submitted by the Chief, ACDD or its equivalent unit, the District Collector shall then determine which goods are eligible for donation to the DSWD, GCI or other government agency concerned and endorse the same together with the proposed Deed of Donation and Acceptance to the Commissioner of Customs for his approval.
4. The Commissioner of Customs shall then act on the recommendation of the District Collector within three (3) days from receipt thereof by endorsing the same with the supporting documents to the Secretary of Finance for approval / clearance.

5. Upon receipt of the requested approval / clearance from the Secretary of Finance, the Commissioner of Customs shall then cause the execution of the Deed of Donation and Acceptance as prepared by the District Collector; and shall subsequently endorse the same to the latter for implementation.

6. The District Collector through the Chief, ACDD or its equivalent unit shall inform the requesting agency of the approval of the Secretary of Finance of the proposed donation and shall ensure that the Deed of Donation and Acceptance is duly signed by the Commissioner of Customs and the authorized signatory of the donee-agency.

7. It shall be the responsibility of the donee-agency to make the necessary arrangements for the actual transfer of the goods from customs custody to their own custody.

8. The Chief, ACDD or its equivalent unit shall prepare and sign the corresponding gatepass authorizing the release of the articles from customs custody to the donee-agency. It shall be the responsibility of the Chief, ACDD or its equivalent unit to ensure that the donated goods are released to and received by the donee-agency's duly authorized representative.

9. In all instances, release of donated goods shall always be witnessed by this Bureau's COA Resident Auditor or his duly authorized representative, representatives from the CHS, ESS and Office of the Customs Commissioner.

B. Used Clothing

In the case of used clothing, the same shall be immediately transferred / turned over to the DSWD upon finality of the decree of forfeiture or decree of abandonment issued against the same; subject to clearance from the Commissioner of Customs and without need of approval from the Secretary of Finance and the execution of a Deed of Donation and Acceptance pursuant to PMO 23.

C. Donation of Goods Not Qualified for Auction Sale

After finality of its decree of forfeiture or abandonment, goods not eligible for auction and intended for donation shall immediately be processed for donation upon the recommendation of the District Collector having jurisdiction on the same following the procedures in the preceding sections hereof.

V. REPORTING

The Chiefs of the ACDD or its equivalent unit shall, at the end of every month, submit to the Commissioner of Customs thru the Deputy Commissioner for Assessment and Operations Group a report on the volume and estimated value of goods actually donated and goods still to be donated.

VI. ACCOUNTABILITIES

1. It shall be the responsibility of the District / Port Collector to ensure the smooth, proper and effective implementation of this Order in his jurisdiction.

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2. The Chief, ACDD or its equivalent unit shall ensure that all the necessary documentation and clearances needed for the turn over of the goods are complied with.

3. All signatories to any certification / report required under this Order shall be liable for any defect found therein.

VII. REPEALING CLAUSE

All customs rules and regulations inconsistent with this Order are hereby deemed, amended and / or repealed accordingly.

VIII. EFFECTIVITY

This Order shall take effect immediately.


ALBERTO D. LINA
Commissioner



Republic of the Philippines
DEPARTMENT OF FINANCE

Roxas Boulevard Corner Pardo Ocampo, Sr. Street
 Manila 1004

cmd 24-05

ASSESSMENT AND
 OPERATIONS GROUP

RECEIVED

26 April 2005

BY: _____
 DATE: 5/12/05
 TIME: _____

ATTY. GALLANT D. SORIANO
 Officer-in Charge
 Assessment and Operations Coordinating Group
 Bureau of Customs, Manila

Subject: **PROPOSED CMO ON DONATIONS TO THE DSWD AND OTHER
 GOVERNMENT CHARITABLE INSTITUTIONS**

Dear Atty. Soriano:

Please find below our comments on the updated version of the proposed Customs Memorandum Order (CMO) your office transmitted to former Undersecretary Grace Pulido-Tan.

1. The title of the proposed CMO refers to donations of forfeited or abandoned goods to the Department of Social Welfare and Development (DSWD) Government Agencies "and other Government Charitable Institutions." However, the text of the proposed CMO consistently refers to donations to the DSWD "and other government agencies" / "or other government agency concerned" (See Items I.1, III.3, III.4, IV.3 and IV.5 of the proposed CMO). The language creates confusion as to the applicability of the proposed CMO, i.e., in addition to the DSWD, if it only applies to government charitable institutions, or to any other government agency, whether or not a charitable institution.

2. The pertinent portion of Section 2610 of the Tariff and Customs Code of the Philippines (TCCP) from which the proposed CMO is based states that "[i]f the article is suitable for shelter or consists of foodstuffs, clothing materials or medicines then that articles shall be given to government charitable institutions through the Department of Social Services and Development." It is clear from the language of the TCCP that all donations to government charitable institutions must also be coursed through the DSWD. However, the language of the proposed CMO does not necessarily reflect the intent of Section 2610 of the TCCP as it consistently states that donations can be made directly either to the DSWD or to a government charitable institution. (See Items III.4, IV.3 and IV.5 of the proposed CMO)

In view of the above observations, we suggest that the proposed CMO is modified to clarify that it only applies to the DSWD or government charitable institutions, and that donations to the latter shall only be coursed through the DSWD, consistent with the mandate of Section 2610 of the TCCP.

Thank you.

Very truly yours,

Emmanuel P. Bonoan
EMMANUEL P. BONOAN
 Undersecretary

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VOC/mc/dina/letter comml. jereos/021705

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February 17, 2005

ATTY. GEORGE M. JEREOS
Commissioner
Bureau of Customs
South Harbor, Port Area, Manila

Dear **Commissioner Jereos**:

This refers to the draft Customs Memorandum Order on the transfer of forfeited/abandoned goods from customs custody to government charitable institutions through the DSWD, which was referred to this office for comment.

We find the draft in order except for three minor items which we want to clarify, to wit:

1. Under Scope, specific to item #3, quoted as follows: Articles approved for transfer shall be covered by an acknowledgement receipt/memorandum duly signed by the DSWD Secretary or his duly authorized representative and approved by the Commission on Audit.

- What will be approved by COA and why the need for approval of COA?

In our previous experience, BOC - COA representatives only witnessed the transfer & delivery of goods to DSWD warehouse, while DSWD Resident - COA conducts their own inventory after the delivery. Also, DSWD Resident - COA is invited as observer during the conduct of valuation of donation. Thus, we find this specific clause ("approved by the COA") irrelevant.

2. Also under Scope, item #6, please specify if we are referring to DSWD - COA or BOC-COA as the person to witness and acknowledge in the Boat note.
3. On Reporting, item #2, the 30 days period to submit a distribution report on goods received is much too short due to the processes of documentation including inventory, monetization and repacking especially when the Department is stockpiling the goods in preparation for rainy months or occurrence of disasters.

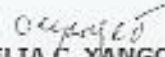
The Department shall submit inventory report of goods receive, as well as quarterly status report of goods, timelines of which will vary.

With regard to the draft Customs Memo Order on the uniform procedures in the conduct of condemnation of forfeited/abandoned articles not allowed for auction sale, this office is not an authority on condemnable goods (biodegradable/non-biodegradable), thus we prefer not to comment on said draft.

We look forward that our comments be given due consideration in finalizing the CMO on abandoned/forfeited goods for transfer to DSWD.

Thank you.

Very truly yours,


CELIA C. YANGCO
Undersecretary for Operations
and Capacity Building Group

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