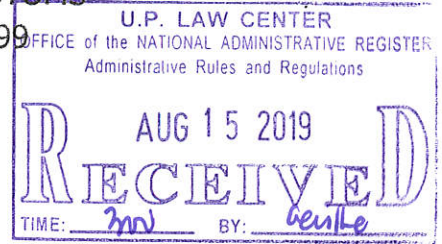




REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF CUSTOMS  
MANILA 1099



**CUSTOMS ADMINISTRATIVE ORDER (CAO)**  
NO. 10-2019

**SUBJECT: OUTSOURCING OF NON-SOVEREIGN CUSTOMS FUNCTIONS TO PRIVATE ENTITIES**

**INTRODUCTION.** This Customs Administrative Order (CAO) prescribes the policies and guidelines on Outsourcing of Non-Sovereign and ancillary functions of the Bureau to Private Entities, pursuant to Section 1513, Chapter 2, Title XV of Republic Act (R.A.) No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

**Section 1. Scope.** This CAO shall cover Outsourcing of Non-Sovereign and ancillary functions of the Bureau to qualified and competent private entities in accordance with government rules on service procurement.

**Section 2. Objectives.**

**2.1.** To provide for customs policies, rules and regulations on the Outsourcing of Non-Sovereign and ancillary functions of the Bureau to private entities.

**2.2.** To adhere to the principles of transparency, accountability, equity, efficiency and economy in the Outsourcing of Non-Sovereign and ancillary customs function.

**Section 3. Definition of Terms.** For purposes of this CAO, the following terms are defined accordingly:

**3.1. Bureau** – shall refer to the Bureau of Customs;

**3.2. Examination of Goods** – shall refer to the inspection of goods by the Bureau and other regulatory agencies under existing laws and regulations to satisfy themselves that the nature, origin, condition, quantity and value of the goods are in accordance with the particulars furnished in the goods declaration.<sup>1</sup>

<sup>1</sup> cf. Revised Kyoto Convention

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- 3.3. Non-Sovereign Function** – shall refer to ancillary function that provides necessary support to the Sovereign functions of the Bureau.
- 3.4. 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.
- 3.5. Sovereign Functions** – shall refer to governmental functions performed by an accountable officer of the Bureau.
- 3.6. Supervision and Control** – shall include authority to act directly whenever a specific function is entrusted by law or regulation to a subordinate; direct the performance of a duty; restrain the commission of acts; review, approve, reverse or modify acts and decisions of subordinate officials or units; determine priorities in the execution of plans and programs; and prescribe standards, guidelines, plans and programs.<sup>2</sup>

**Section 4. General Provisions.**

- 4.1. Sovereign Functions.** The following are the Bureau's Sovereign functions which shall not be outsourced to a private entity:
  - 4.1.1.** Assessment and collection of customs revenues from imported goods and other dues, fees, charges, fines and penalties accruing under the CMTA;<sup>3</sup>
  - 4.1.2.** Prescribe simplified and harmonized customs procedure to facilitate movement of goods in international trade;<sup>4</sup>
  - 4.1.3.** Border patrol and control to prevent entry of smuggled goods;<sup>5</sup>
  - 4.1.4.** Prevention and suppression of smuggling and other customs fraud;<sup>6</sup>
  - 4.1.5.** Facilitation and security of international trade and commerce through an informed compliance program;<sup>7</sup>
  - 4.1.6.** Supervision and control over the entrance and clearance of vessels and aircraft engaged in foreign commerce;<sup>8</sup>

<sup>2</sup> cf. Executive Order No. 292, Administrative Code of 1986, Section 38 (1)

<sup>3</sup> cf. CMTA, Title II, Chapter 1, Section 202

<sup>4</sup> cf. CMTA, Title II, Chapter 1, Section 202

<sup>5</sup> cf. CMTA, Title II, Chapter 1, Section 202 (c)

<sup>6</sup> cf. CMTA, Title II, Chapter 1, Section 202 (d)

<sup>7</sup> cf. CMTA, Title II, Chapter 1, Section 202 (e)

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- 4.1.7.** Supervision and control over the handling of foreign mails arriving in the Philippines for the purpose of collecting revenues and preventing the entry of contraband;<sup>9</sup>
- 4.1.8.** Supervision and control on all import and export cargoes, landed or stored in piers, airports, terminal facilities, including container yards and freight stations for the protection of government revenue and prevention of entry of contraband;<sup>10</sup>
- 4.1.9.** Exercise of exclusive original jurisdiction over forfeiture cases under the CMTA;<sup>11</sup>
- 4.1.10.** Enforcement of the CMTA and all other laws, rules and regulations related to customs administration;<sup>12</sup> and
- 4.1.11.** Such other Sovereign functions as may be provided by law.
- 4.2. Non-sovereign Functions.** The following are the ancillary functions that can be outsourced by the Bureau:
- 4.2.1.** Fuel marking services;
- 4.2.2.** Value Added Service Provider; and
- 4.2.3.** All other Non-Sovereign/ancillary functions as may be determined.
- 4.3. Policies in the Outsourcing of Non-Sovereign Functions.** The Outsourcing of Non-Sovereign and ancillary functions of the Bureau shall be subject to the following:
- 4.3.1.** The outsourcing of non-sovereign and ancillary functions of the Bureau shall be subject to conditions under R.A. No. 9184, otherwise known as the "Government Procurement Reform Act"; and
- 4.3.2.** Those which involve direct financial or material assistance to the Bureau or projects covered by R.A. No. 8182, otherwise known as "Official Development Assistance Act of 1996", shall be done in accordance with existing laws, rules and regulations.
- 4.3.3.** All Outsourcing shall be approved by the Secretary of Finance upon recommendation of the Commissioner.

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<sup>8</sup> cf. CMTA, Title II, Chapter 1, Section 202 (f)

<sup>9</sup> cf. CMTA, Title II, Chapter 1, Section 202 (g)

<sup>10</sup> cf. CMTA, Title II, Chapter 1, Section 202 (h)

<sup>11</sup> cf. CMTA, Title II, Chapter 1, Section 202 (j)

<sup>12</sup> cf. CMTA, Title II, Chapter 1, Section 202 (k)



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4.3.4. All private entities engaged to perform Non-Sovereign and ancillary functions of the Bureau shall strictly comply with all the provisions of R.A. No. 10173 otherwise known as the "Data Privacy Act of 2012".

**Section 5. Exemption.** The Outsourcing of janitorial, clerical, messengerial, security, utility, maintenance, mobility services are not covered under this CAO.<sup>13</sup>

**Section 6. Transitory Provision.** All Outsourcing agreements of the Bureau already existing prior to the effectivity of this CAO shall remain valid.

**Section 7. Periodic Review.** Unless otherwise provided, this CAO shall be reviewed every three (3) years and be amended or revised, if necessary.

**Section 8. Repealing Clause.** All other rules and regulations issued by the Bureau which are inconsistent with this CAO are deemed repealed or modified accordingly.

**Section 9. Separability Clause.** If any part of this CAO is declared unconstitutional or contrary to existing laws, other parts not so declared shall remain in full force or effect.

**Section 10. Effectivity.** This CAO shall take effect thirty (30) days after its publication at the Official Gazette or a newspaper of national circulation. The Office of 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

AUG 05 2019



BOC-02-00284

APPROVED:

**CARLOS G DOMINQUEZ**

Secretary of Finance

AUG 08 2019



<sup>13</sup> cf. CSC-COA-DBM, Joint Circular No. 1, s.2017, Section 5.5

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**Informational Section.** As the title denotes this section only provides information and does not give rise to any substantive or formal rights or obligations.

**1. History.**

- This is the first CAO dealing on Outsourcing of Non-sovereign Customs Functions to Private Entities.
- The collection, recording, storage maintenance, processing, sharing of data and information; and maintenance of data information in the CAO shall be secured and consistent with the principles and policy of Republic Act 10173, also known as the "Data Privacy Act."

**2. Webpage, Forms, Handbooks and other References.**

- Republic Act No. 10863 "Customs Modernization and Tariff Act"
- Republic Act No. 9184 "Government Procurement Reform Act"
- Republic Act No. 8182 "Official Development Assistance Act of 1996"
- Republic Act No. 10173 "Data Privacy Act of 2012"
- Revised Kyoto Convention
- [www.customs.gov.ph](http://www.customs.gov.ph)

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