



04 October 2012

CUSTOMS MEMORANDUM ORDER

No. 11-2012

**SUBJECT: ESTABLISHING RULES AND REGULATIONS FOR THE
AUTHORIZED ECONOMIC OPERATOR (AEO) PROGRAM**

Pursuant to Customs Administrative Order, (CAO), 1-2012, and Section 608 of the Tariff and Customs Code of the Philippines, as amended (TCCP), the following rules and regulations relative to the AEO Program are hereby promulgated:

1.0 OBJECTIVES

- 1.1 To comply with the commitment of the Philippines to implement the World Customs Organization (WCO) Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework, for brevity)
- 1.2 To establish a voluntary certification program to be known as the AEO Program, consistent and aligned with the WCO's AEO Program which shall be administered by the Bureau of Customs (BOC) to help certain economic operators in the international supply chain adopt acceptable control measures to enhance the security of such chain.
- 1.3 To enhance BOC-Business partnership on trade security and trade facilitation based on trust and mutual respect.
- 1.4 To establish accreditation procedures that offer certain benefits and incentives to economic operators considered as BOC's trusted allies.

2.0 SCOPE AND PHASE OF IMPLEMENTATION

- 2.1 This Order shall initially apply to exporters/locators inside the Clark Freeport Zone that are within the jurisdiction of the Port of Clark.

Subsequently, and upon the directive of the Customs Commissioner, this Order shall cover AEO applicants in other selected air/sea ports.

3.0 GENERAL PROVISIONS

- 3.1 The AEO Program shall be administered by the Port concerned but directly supervised by a Committee headed by the Deputy

Commissioner for Internal Administration Group (IAG). The Committee shall be in charge of the following:

- 3.1.1 Accreditation of AEOs;
- 3.1.2 Gather and evaluate relevant data for the implementation of the AEO Program in the Philippines;
- 3.1.3 Conduct consultations with the private sector/stakeholders;
- 3.1.4 Establish and enhance benefits and incentives of the AEO Program;
- 3.1.5 Review, revise and draft rules and regulations for the AEO Program;
- 3.1.6 Perform such other functions necessary for the implementation of the AEO Program.

The Committee shall be composed of officials designated by the Commissioner of Customs. The District Collector of the Port having jurisdiction of the AEO applicant however, shall sit as an ex-officio member of the Committee.

- 3.2 Minimum Standards for a company to apply for AEO Program Accreditation shall include, but not be limited to, the following:
 - 3.2.1 At least One Hundred Million Pesos (Php100M) in Authorized Capital Stock, (ACS), or its equivalent in US Dollars;
 - 3.2.2 No pending cases involving the applicant in matters such as intra-corporate disputes, tax and customs issues and other cases analogous to the foregoing; and,
 - 3.2.3 A positive Debt-to-Equity ratio.
- 3.3 Application for the AEO Program must include the following:
 - 3.3.1 Duly filled up Application Form (Annex A), and Self-Assessment Questionnaire (Annex B), both of which shall be under oath.
 - 3.3.2 Payment of the Application and Security Assessment Fees. (These fees shall cover the administrative costs for the implementation of the AEO Program.)
 - 3.3.3 Supporting documents which include:
 - 3.3.3.1 Mayor's Permit and/or Certificate of Registration if applicant is a Freeport/Ecozone locator;
 - 3.3.3.2 SEC/Board of Investments, (BOI), Certificate of Registration;
 - 3.3.3.3 General Information Sheet, (GIS);

- 3.3.3.4 Income Tax Return, (ITR), for the last three (3) fiscal years, when applicable;
 - 3.3.3.5 Audited Financial Statements, (AFS), for the last three (3) fiscal years, when applicable; and,
 - 3.3.3.6 Other documents as may be required by the BOC.
 - 3.3.3.7 The application and its supporting documents shall be submitted in triplicate and in Certified True Copy form.
- 3.3.4 Upon submission of the requirements, mandatory interview(s) and/or conference(s) shall be held by the Committee as part of the evaluation and accreditation process.
- 3.4 The Security Management System summary must contain the following information:
 - 3.4.1 The company's security policy, security objectives and commitment to security;
 - 3.4.2 The procedures for ensuring that pertinent security management information is communicated to and from relevant employees and other stakeholders;
 - 3.4.3 The procedures for the review of the company's security profile at planned intervals, to ensure its continuing suitability, adequacy and effectiveness; and
 - 3.4.4 Any other relevant information.
- 3.5 The Risk Assessment summary must contain the following information:
 - 3.5.1 A flow chart to illustrate the company's risk assessment process;
 - 3.5.2 The risks and vulnerabilities identified from the company's risk assessment process;
 - 3.5.3 The countermeasures put in place to reduce the identified risks and vulnerabilities;
 - 3.5.4 When the risk assessment was conducted;
 - 3.5.5 Who conducted the risk assessment; and,
 - 3.5.6 Any other relevant information.
 - 3.5.7 Newly accredited AEO's shall submit a Risk Assessment summary on an annual basis within 30 days from the anniversary of its accreditation.
- 3.6 The security measures under this Order comprise eight (8) elements that a company must address:
 - 3.6.1 Premise security and access controls;
 - 3.6.2 Personnel security;
 - 3.6.3 Business partner security;
 - 3.6.4 Cargo security;
 - 3.6.5 Conveyance security;
 - 3.6.6 Information and Information Technology, (IT), security;
 - 3.6.7 Incident management and investigations; and,
 - 3.6.8 Crisis management and incident recovery.

- 3.7 AEO Accreditation shall be valid for two (2) years, commencing from the date of issuance as indicated in the Certificate of AEO Accreditation;
- 3.8 An AEO shall enjoy the benefits granted under this Order provided the AEO does not violate the terms of its accreditation or other existing customs rules and/or regulations;
- 3.9 An AEO whose accreditation has expired may file an application for renewal at least thirty (30) days prior to the date of expiration as indicated in its Certificate. For purposes of this Order, a renewal of Accreditation filed after the date of expiration shall be considered as a new application.
- 3.10 An AEO application for renewal shall include the following:
 - 3.10.1 A duly notarized Omnibus Statement, (Annex C), certifying that "No Material Changes" in the AEO's corporate structure and security measures occurred, if applicable;
 - 3.10.2 A duly notarized statement to the effect that the company undertakes to abide by the commitments made in its original AEO Accreditation;
 - 3.10.3 Updated requirements set forth in Section 3.3.3 above.
 - 3.10.4 The documents under 3.10.1 and 3.10.2 shall be executed by a duly authorized corporate officer as evidenced by a Secretary's Certificate.
- 3.11 Aside from the consequent benefits resulting from the implementation of robust security measures in the forms of increased visibility of goods in the supply chain, reduction in pilferages and greater efficiency in their supply chain management, companies accredited under the AEO Program shall be recognized as trusted allies by the BOC and shall be entitled to the following:
 - 3.11.1 Dedicated processing lanes for AEO resulting in reduced processing periods;
 - 3.11.2 Accreditation shall be effective for two (2) years;
 - 3.11.3 Last priority on post-entry audit;
 - 3.11.4 Recognition as a "low-risk" company;
 - 3.11.5 Reduced inspection or expedited clearance by other Customs authorities should certified status be also recognized by other countries under Mutual Recognition Agreement established by bilateral or multilateral arrangement(s); and,
 - 3.11.6 Such other trade facilitation benefits that may be afforded by BOC under existing laws and regulations.
- 3.12 In addition to the terms and conditions stated in the Application Form, an AEO shall have the following responsibilities:
 - 3.12.1 To update BOC when there are significant changes in the company's security profile as well as if there is material

- information required for disclosure under Sections 3.4 to 3.6 hereof;
- 3.12.2 To submit a Statement of Commitment, (Annex D),
- 3.12.3 To inform BOC of any non-conformities by the company with this Order or any subsequent revisions hereof;
- 3.12.4 The AEO shall also inform the BOC of any material changes, such as but not limited to, corporate structure, ownership and management, business address, security-related incidents, etc. within five (5) working days from the occurrence of such material change;
- 3.13 Accreditation under the AEO Program shall be suspended and/or revoked if:
- 3.13.1 The company does not abide by the terms and conditions of this Order or any subsequent revisions hereof;
- 3.13.2 There is non-compliance by the company with Philippine Customs laws and regulations and/or with the laws and regulations of other relevant Philippine governmental authorities;
- 3.13.3 Substantial supply chain security risks in the company are identified by the Committee and duly affirmed in writing by the Commissioner, unless rectified or satisfactorily explained by the company within 48-hours upon being advised in writing of such risk;
- 3.13.4 The company opts to withdraw from the program.
- 3.13.5 A suspended AEO may appeal the Order of Suspension to the Chairman of the AEO Program Committee within five (5) days from receipt of such written Order of Suspension. The Chairman shall then render a decision on such appeal within five (5) working days which Order shall be final and executory.
- 3.13.6 An Order of Suspension shall be effective for a maximum period of six (6) months; upon the understanding however, that such Order shall only be lifted upon the suspended AEO's rectification of the ground(s) for which it was suspended.
- 3.13.7 An AEO whose Accreditation has been revoked upon recommendation of the AEO Program Committee may appeal the Order of Revocation to the Office of the Commissioner within five (5) days from such written Order of Revocation.
- 3.14 A company can lodge an appeal against a BOC decision denying a company's application and participation in the AEO Program by lodging its appeal with the Commissioner of Customs within 15 calendar days from the date of receipt of the relevant decision communicated to the company by BOC, if such denial resulted from non-compliance with duly adopted AEO Program Minimum Standards in Section 3.2 hereof.
- 3.15 The business documents/information are for BOC purposes only and will not be disclosed to a third party without the companies'

prior written consent. All business documents/information provided by the companies will remain confidential.

4.0 OPERATIONAL PROVISIONS

- 4.1 For expediency, applications for accreditation to the AEO program shall be submitted to the point person designated by the AEO committee. The said point person shall, upon receipt thereof, notify the Committee of said application and shall move for the conduct of a meeting to evaluate the application and the documentary requirements submitted by the applicant. The Committee must convene within five (5) days from receipt of the application.
- 4.2 If the minimum requirements herein set are not met by the applicant, or if the application submitted is incomplete, the application shall be denied and the applicant shall be immediately notified thereof.
- 4.3 An application sufficient in form and substance shall be evaluated by the Committee. The evaluation process shall include, among others, interview of the applicant and/or its responsible officers, random site visit and validation of the material information provided by the applicant in its application. An application which meets all the qualifications and none of the disqualifications set forth by this rule or other rules hereinafter issued shall be subject to the approval of the Commissioner, upon favorable recommendation of the Committee.
- 4.4 The operations of an accredited AEO shall be monitored by an account officer, an examiner and enforcement and security officer to be designated by the District Collector of the Port concerned. For this purpose, the AEO shall have the responsibility of bringing a sample of the goods to be exported to the Customs Port for proper classification of the said goods. The packing/stuffing of the goods for export however, shall be at the premises of the AEO. In this regard, the AEO shall inform the District Collector of the scheduled exportation of goods, including the exact date and time when the goods to be exported shall be packed/stuffed in outbound containers. The District Collector shall, in turn, inform the account officer, examiner, the enforcement and security officer and the AEO Committee of the said schedule.
- 4.5 To ensure trade security, packing/stuffing of goods by the accredited AEO shall be witnessed by an examiner and enforcement officer from the port. The said customs officials shall make sure that the items therein packed/stuffed are the items declared in the export declaration filled up by the AEO. The customs officials must likewise insure that the goods for export are included in the list of items which the AEO is allowed to export. Any discrepancy found shall be immediately reported to the District Collector and to any of the members of the AEO Committee for appropriate action.


- 4.6 As soon as the packing/stuffing of the outbound container is completed, the required customs seal shall be placed on the container. The examiner and the enforcement officer shall make sure the seal is properly attached and the seal is intact. The said officers shall record the serial number of the seal placed on the outbound container.
- 4.7 The enforcement officer shall continue to guard the container and shall not leave the premises until the outbound container is dispatched. He shall note the time of departure and notify the port of export of the material details of the said outbound container.
- 4.8 Unless otherwise provided by subsequent countervailing issuances outbound containers of AEO-accredited companies shall not be subject to underguarding.
- 4.9 Prior to loading at the Port of Loading, the trade control examiner shall match the serial number of the customs seal attached during the packing/stuffing process. The trade control examiner must see to it that no tampering of any kind has been made on the said customs seal or any portion thereof. In the event a discrepancy or tampering is found, the trade control examiner shall report the same and hold the loading of the container.
- 4.10 At any point in time, the AEO Committee may conduct random inspection of the AEO premises and the processes followed in the storage and exportation of goods by an AEO.

5.0 REPEALING CLAUSE

All Orders, Memoranda, Circulars or parts thereof, which are inconsistent with this Order, are deemed revoked, amended and/or modified accordingly.

6.0 SEPARABILITY CLAUSE

If any part of this Order is declared by Courts as unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.


ROZZANO RUFINO B. BLAZON
Commissioner



04 OCT 2012