



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

[Date]

CUSTOMS ADMINISTRATIVE ORDER (CAO)

NO. _____

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).

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

Section 2. Objectives.

- 2.1. To provide for a simplified and streamlined rules and procedures for the disposition of seized, abandoned and forfeited goods by the Bureau of Customs 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 shall be 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"**– refers to a condition of sale where no warranty is given as to the quality, state and condition of the goods.
- 3.2. **Clustering System** – Clustering occurs when the difference between the highest and the second highest bid is within ten percent (10%) of the highest bid.
- 3.3. **Forfeiture Fund** – refers to the account where all proceeds from public auction sale after deduction of the charges are deposited, as provided in Section 1143 of the CMTA, and subject to claim of the owner, importer or consignee of impliedly abandoned goods.¹

¹ Customs Modernization and Tariff Act (CMTA), Chapter 10, Title XI, Section 1143

- 3.4. Goods** – refer to articles, wares, merchandise and any other items which are subject to importation or exportation.²
- 3.5. Perishable Goods** – refers to goods liable to perish or goods that depreciate greatly in value while stored or which cannot be kept without great disproportionate expense, which may be proceeded to, advertised and sold at auction upon notice if deemed reasonable.³
- 3.6. Qualified Bidders** – are persons or entities duly accredited by the district collector of the port to participate in the public auction.

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;⁴
 - 4.1.2. Goods entered under warehousing entry but not withdrawn, or those whose duties and taxes have not been paid within the period prescribed under Section 811 of the CMTA;⁵
 - 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;⁶
 - 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;⁷ and
 - 4.1.5. Perishable Goods, as certified by the Customs Officer, which are the subject of seizure proceeding 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 importer; 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.

² CMTA, Section 102 (x)

³ CMTA, Section 1144

⁴ CMTA, Chapter 10, Title XI, Section 1139 (a)

⁵ *cf* CMTA, Chapter 10, Title XI, Section 1139 (b)

⁶ *cf* CMTA, Chapter 10, Title XI, Section 1139 (c)

⁷ CMTA, Chapter 10, Title XI, Section 1139 (d)

The proceeds of the auction sale of perishable goods shall be held in escrow until the final resolution of the forfeiture proceedings.

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

- 4.2.1. Goods when suitable may be donated to another government agency or declared for official use of the Bureau, after approval of the Secretary of Finance, or sold at a public auction within thirty (30) calendar days after ten (10) day notice.⁸
- 4.2.2. Goods which cannot be disposed under section 4.2.1 may be re-exported as government property or sold through a negotiated sale.⁹
- 4.2.3. Goods which are liable to perish or to deteriorate, when certified by the Bureau as such, may be sold at a public auction within five (5) calendar days, after a three (3) day-notice.¹⁰ The District Collector shall immediately coordinate with the appropriate government agencies for the disposition of such goods.
- 4.2.4. Goods, which in the opinion of the district collector are injurious to public health, shall be disposed through destruction in an appropriate manner or orders its re-exportation.¹¹
- 4.2.5. Prohibited goods, as provided in Section 118 of the CMTA, shall be destroyed, except paragraph (d) thereof which shall be turned over to the Bangko Sentral ng Pilipinas (BSP). All goods suitable for shelter, foodstuffs, clothing materials or medicines may be disposed in accordance with Section 1141 of the CMTA.¹²
- 4.2.6. Restricted goods, as described in Section 119 of the CMTA, shall be disposed pursuant to Section 1147 of the said Act¹³.
- 4.2.7. Regulated goods shall be disposed of in a manner to be determined by the appropriate regulatory agency. In the event that the regulatory agency allows the disposition of the regulated goods with commercial value and capable of legitimate use, these shall be disposed of in accordance with Section 1141 of the CMTA.¹⁴

⁸ *cf* CMTA, Chapter 10, Title XI, Section 1141

⁹ *cf* CMTA, Chapter 10, Title XI, Section 1149

¹⁰ *cf* CMTA, Chapter 10, Title XI, Section 1144

¹¹ *cf* CMTA, Chapter 10, Title XI, Section 1145

¹² *cf* CMTA, Chapter 10, Title XI, Section 1146

¹³ *cf* CMTA, Chapter 10, Title XI, Section 1147

¹⁴ *cf* CMTA, Chapter 10, Title XI, Section 1148

4.2.8. Smuggled goods, when forfeited, shall be disposed of as provided in Section 1148 of the CMTA¹⁵.

- 4.3 The port concerned shall ensure that all offices/divisions of the Bureau and other concerned government agencies are invited to witness the disposition of goods.

Section 5. Public Auction.

- 5.1. **Place of Disposition of Goods.** Upon order of the District Collector, goods may be sold or otherwise disposed of at the port where the goods are located, unless the Commissioner shall direct its transfer to another port.¹⁶

- 5.2. **Guidelines in Setting the 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 obsolescence, condition or 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 canvassed retail prices of similar articles in the usual and ordinary course of trade.

5.2.2. The average of at least three (3) values of similar articles at the time of importation or at least three months prior to, plus applicable duties and taxes. For this purpose regularly published reference values by Imports and Assessment Service (IAS) shall be used as a basis.

- 5.3 **Notice of Public Auction.** The Notice of Public Auction shall be approved by the District Collector containing the following information:

5.3.1. Specific time, date and place for auction sale and opening of sealed bids;

5.3.2. Lot number, indicating the Seizure Identification or Abandonment Proceeding number(s) and name(s) of consignee;

5.3.3. Specific description of goods including their quality, condition, volume or quantity and date of arrival. In no case shall the goods be described in general terms. 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;

¹⁵ cf CMTA, Chapter 10, Title XI, Section 1150

¹⁶ CMTA, Sec. 1140

- 5.3.4. As to perishable goods, the expiry date shall be stated;
- 5.3.5. Floor price per lot;
- 5.3.6. Specific date, time and place for the viewing of all lots or goods which shall at least be one (1) day prior to the auction date; and
- 5.3.7. The terms and conditions of the Public Auction, such as, the registration requirements, sealed bid system, clustering, failed bidding, second auction, awarding and payment, offer on a "As Is Where Is" basis.

5.4. **Publication and Posting of the Notice of Sale.** The Notice of Auction Sale, regardless of the aggregate amount, shall be posted at a public place at the port where the goods are located and published electronically thru the Official Website of the Bureau or in a newspaper of general circulation.¹⁷

5.5. **Accreditation of Bidders.** The Bureau shall provide for the accreditation of bidders who shall be eligible to participate in the public auction. Accreditation shall be valid for three (3) years. Applicants for accreditation shall comply with the following requirements:

- 5.5.1. Duly accomplished notarized Bidder's Information Sheet;
- 5.5.2. Certified true copy of latest income and/or business tax returns of the entity duly stamped and received by the Bureau of Internal Revenue (BIR) and validated with the payments made thereon;
- 5.5.3. At least two (2) government issued ID's for the participating bidder/representative;
- 5.5.4. 2 x 2 ID picture of the participating bidder/representative;
- 5.5.5. For Corporate Entities:
 - a. SEC Registration and latest General Information Sheet duly stamped and received by SEC.
 - b. Secretary Certificate indicating the approval of the Board of Directors to the participation of the company in the public auction.
 - c. The name of the duly authorized representative who must be an officer/employee of the company.

5.5.6. For DTI registered businesses:

¹⁷ cf CMTA, Chapter 10, Title XI, Section 1141

- a. DTI registration duly stamped and received.
- b. If the owner will be represented, a duly notarized Special Power of Attorney designating its representative who must be an officer/employee of the company.

5.5.7. For private individuals, the latest Community Tax Certificate.

5.5.8. Payment of Accreditation Fee of Php 1,000.00 and Customs Documentary Stamp of Php 265.00.

5.5.9. Notwithstanding the above requirements, accreditation of bidders may be dispensed with in case of disposal of less value goods or where the floor price of a sale lot is less than Php 20,000.00.

5.6. **Disqualification to Participate in Auction Sale.** No customs officer or employee, their spouses or relatives within the fourth degree of consanguinity or affinity shall be allowed to bid directly or indirectly, in any customs auction.¹⁸

5.7. **Auction Committee.** There shall be an Auction Committee in each port, composed of the following:

- | | | |
|-------------------|---|---|
| Chairman | - | Chief, Auction and Cargo Disposal Division (ACDD) or Equivalent unit |
| Alternative Chair | - | Law Division of the Port concerned |
| Members | - | Representative of the District Collector |
| | | Representatives of Customs Intelligence & Investigation Service (CIIS) and (Enforcement and Security Service) ESS |

5.8. **Duties and Responsibilities of the Auction Committee.** The Auction Committee shall have the following duties and responsibilities:

5.8.1. Provide formalities and procedures on auction sales consistent with, and pursuant this Order;

5.8.2. To impose, administer and/or recommend to the District Collector the imposition of administrative and/or such other sanctions as maybe appropriate against any bidder, person or entity found to have committed disorderly act or any act prejudicial or inimical to the interest of the Government or violated any law, rules and regulations, in connection with any auction sale;

¹⁸ CMTA, Chapter 10, Title XI, Section 1142

- 5.8.3. To reject any and all bids or offers or any part thereof and accept bids or offers that are most advantageous to the interest of the government and consistent with the objective of this Order;
- 5.8.4. Recommend to the District Collector the reduction of Floor Price for lots which have remained unsold due to being declared as failed bids or lots without registered bidders;
- 5.8.5. Recommend to the District Collector additional requirements or safeguards to be imposed during the public auction.
- 5.9. **Registration and Participation in Public Bidding.** Only those who comply with the following requirements shall be allowed to participate in the public auction:
 - 5.9.1. Certification issued by ACDD or its equivalent unit as eligible bidder;
 - 5.9.2. Filling of the duly accomplished registration form two (2) working days prior to the date of public auction as published;
 - 5.9.3. Payment of non-refundable Registration Fee of Php 5,000.00 and Legal Research Fee of Php 50.00.
 - 5.9.4. Posting of a bond in cash or manager's check in an amount not less than 20% of the floor price for each sale lot. The bond shall be refunded to the losing bidder after the closing of the auction. The bond shall not, however, be required when the floor price of a sale lot is less than Php 20,000.00.
 - 5.9.5. In auction sales involving regulated commodities, the bidder shall also submit proof of qualification at least three (3) calendar days before the day of the auction.
- 5.10. **Offer on "AS IS WHERE IS" Basis.** All articles subject of disposition pursuant to this Order shall be offered for sale on an "AS IS WHERE IS" basis.

The quantity, number, weight or measurement of the articles subject of sale and/or as listed in the Notice of Sale shall be deemed subject to proper determination by 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.

- 5.11. **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 Auction Sale. The highest bid shall be declared as the winner except when clustering occurs.

In case there is a tie for the highest bid, the subject item or lot shall be subject of another auction through sealed bids among the highest bidders involved in the tie. In case of another tie, the winner shall be determined by draw lots.

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

- 5.12. **Clustering System.** When clustering occurs, an open-bidding shall be conducted among all the bidders who participated for 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.

- 5.13. **Payment.** At the end of each bidding, the highest bidder shall be required to pay in cash or manager's or cashier's check fifty percent (50%) of the bid price "on the spot" upon announcement of the winning bid as duly certified to by Auction Committee. The remaining balance shall be paid within the business hours of the succeeding business day.

When the winning bidder fails to pay the 50% "on the spot" payment, the subject sale lot shall be re-offered during the same public auction to all the bidders of the said sale lot. The bond posted by the defaulting bidder shall be forfeited without prejudice to any sanction/s that the Committee may impose. Should the remaining balance of the "full payment" be left unpaid, all payments made thereon shall be forfeited without prejudice to any sanction/s that the Committee may impose.

In case the "full payment" has not been made, the subject goods shall be re-offered immediately, with same floor price, upon compliance with the publication requirements of this Order.

- 5.14. **Awarding of Sale.** A Certificate of Award shall be given to the winning bidder upon full payment of the bid amount.
- 5.15. **Delivery.** When the winning bidder fails to claim and receive delivery of the articles or lots awarded to him within thirty (30) calendar days from the date of award, 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, it can no longer be appealed and can be disposed of in any of the manner allowed in this Order.

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

5.16.1. When there is no bid;

5.16.2. When there is only one sealed bid, in which case the same shall not be opened;

5.16.3. When there are two or more sealed bids but there is only one bid higher than the floor price;

5.16.4. When the highest bidder fails to comply with any of the payments required under 5.13 hereof, said bidder shall be disqualified from participating further in the auction sale and when applicable, 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.

5.16.5. When there are less than two (2) qualified bidders.

5.17. **Second Bidding.** When a failed bidding is declared, the sale lot shall be re-offered after five (5) calendar days without need of further advertisement or posting, at the same floor price. In case of perishable goods, the second auction shall be conducted after three (3) calendar days without need of further advertisement or posting.

New bidders may participate, subject however to compliance with the accreditation and registration requirements stated in this Order.

Subsequent viewing of goods subject to sale may be requested, but the expenses arising from said subsequent viewings shall be paid by the interested bidder, which shall be done one (1) day before the second bidding.

5.18. **Subsequent Re-Offer after Second Failed Bidding and Adjustment of Floor Price.** If the goods subject to sale remains unsold after the second bidding, the Auction Committee may recommend to re-offer the unsold lot at a reduced floor price, subject however to the written approval of the District Collector.

The re-offer of goods at a reduced floor price shall be subject to the following conditions:

- 5.18.1. Compliance with the publication or posting requirements under 5.4 of this Order;
 - 5.18.2. Viewing of the goods after the scheduled viewing during the first offer, may be allowed, but the expenses arising from the said subsequent viewings shall be borne by the interested bidder, which shall be done one (1) day before the date of bidding;
 - 5.18.3. New bidders may be allowed to participate, subject however to compliance with the accreditation and registration requirements stated in of this Order; and
 - 5.18.4. The re-offer of goods at a reduced floor price shall in no case be lower than the landed cost adjusted for normal depreciation or taking into consideration the condition of the goods and the wholesale selling price of similar goods sold in the domestic market.
- 5.19. **Disposition of Proceeds.** The following expense and obligations shall be paid from the proceeds of the sale in the order provided:
- 5.19.1. Customs duties, except in the case of forfeited goods;
 - 5.19.2. Taxes and other charges due the government;
 - 5.19.3. Government storage charges;
 - 5.19.4. Expenses for the appraisal, advertisement, and sale of auctioned goods;
 - 5.19.5. Arrastre and private storage charges and demurrage charges; and
 - 5.19.6. 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 5.19.5 and 5.19.6 of this section.¹⁹

- 5.20. **Forfeiture Fund.** All proceeds from public auction sales after deduction of charges as provided in 5.19 and subject to the claim of the owner or importer of an impliedly abandoned goods as provided in Section 1130 of the CMTA shall be deposited in a Forfeiture Fund.

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

- 5.20.1. 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 4.1 of this Order to private 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;
- 5.20.2. To facilitate customs seizure, abandonment and forfeiture proceedings and the disposition of goods under 4.1 of this Order, particularly disposition of goods other than by public sale;
- 5.20.3. To enhance customs intelligence and enforcement capability to prevent smuggling; and
- 5.20.4. 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 section²⁰.

Section 6. Donation.

- 6.1. **Articles Subject to Donation.** Goods subject to disposition 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.²¹

¹⁹ CMTA, Chapter 10, Title XI, Section 1143

²⁰ CMTA, Chapter 10, Title XI, Section 1151

²¹ CMTA, Chapter 10, Title XI, Section 1141

If the articles are suitable for use as shelter or consist of foodstuffs, clothing materials or medicines, it may be donated to the Department of Social Welfare and Development.²²

- 6.2. **Requests for Donation.** All requests for donation shall be coursed through the Commissioner who shall subsequently endorse the same to the District Collector/s for determination of the availability of the items requested for donation.
- 6.3. **Deed of Donation and Acceptance.** The District Collector shall cause the preparation of Deed of Donation and Acceptance for the approval of the Commissioner of Customs and the Secretary, Department of Finance.
- 6.4. **Approval of the Secretary of Finance.** The Commissioner of Customs upon approval of the Deed of Donation shall secure the approval of the Secretary of Finance by endorsing the Deed of Donation.

Section 7. For Official Use of the Bureau.

- 7.1. **Articles Subject to Official Use of the Bureau.** Goods subject to disposition which remain unsold after at least two public auctions for want of bidders or for lack of an acceptable bid; 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, subject to the approval of the Secretary of Finance, as authorized for official use of the Bureau.²³

Section 8. Negotiated Sale.

- 8.1. **Committee on Negotiated Sale.** A Committee on Negotiated Sale is hereby constituted which shall be composed of the following;²⁴

Chairman	-	Deputy Commissioner Assessment and Operations Coordinating Group (AOCG)
Vice-Chairman	-	Director, Port Operations Service
Members	-	Office of the Commissioner (OCOM) Representative – to be designated by the Commissioner of Customs Representative, Department of Finance
Secretariat	-	To be designated by the Chairman

- 8.2. **Duties and Function of the Committee.** The Committee shall have the following duties and functions:

²² CMTA, Chapter 10, Title XI, Section 1141

²³ CMTA, Chapter 10, Title XI, Section 1141

²⁴ CMO 10-2007, Section 15

- 8.2.1. Implement the provisions of this Order relating to the conduct of negotiated sale;
- 8.2.2. Conduct an ocular inspection of the sale lots;
- 8.2.3. Reject any or all offers or any part thereof and consider offer/s most advantageous to the interest of the government;
- 8.2.4. Disregard offers rendered by disqualified offerors specified under this Order;
- 8.2.5. Recommend to the Secretary of Finance for acceptance of the offer/s most advantageous to the interest of the government;
- 8.2.6. Issue orders necessary to implement this Order.

8.3. **Duties and Functions of the Secretariat.** The Secretariat shall have the following duties and responsibilities:

- 8.3.1. Cause the publication of the appropriate Notice in at least one (1) newspaper of general circulation specifying the date, place, and time of inspection of the lots described therein as well as the date and cut-off time for the submission of the requirements provided in Section 31 hereof. Publication shall be at least five (5) calendar days prior to the date indicated therein and in case of perishable articles, at least three (3) calendar days;
- 8.3.2. Coordinate with the ACDD of the concerned port on the posting requirements;
- 8.3.3. Prepare the Report of the Proceedings of the Committee Meetings;
- 8.3.4. Maintain records related to the functions or activities of the Committee.

8.4. **Grounds for Disqualifications:**

- 8.4.1. Employees or Officials of the Bureau of Customs and Department of Finance;
- 8.4.2. Importers or Consignees of the goods being auctioned;
- 8.4.3. Defaulting offerors unable to comply with the payment requirements under this Order, and those disqualified by the ports for other infractions in the last twelve (12) months immediately preceding the date of Negotiated Sale;

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

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

8.5. Procedure in Negotiated Sale.

8.5.1. The participant 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. No offer to buy shall be entertained if submitted after the said period of time.

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

8.5.2. The sealed offers shall be opened in the date, time and place indicated in the Notice, with the presence of a Commission on Audit (COA) representative and participants 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.

8.6. Payment Procedure.

8.6.1. The participant 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 notice by the Committee prior to referral to the Secretary of Finance for consideration which shall be deposited in a Special Trust Account. For this purpose, the District Collector shall open a special trust account.

8.6.2. An additional thirty (30%) percent of the offer shall be paid in cash or manager's check within forty-eight (48) hours from receipt of the notice from the Committee of the approval of the offer by the Secretary of Finance. The fifty percent (50%) remaining balance shall be paid in full within the succeeding business day.

8.6.3. In case of a failed negotiated sale, the subject sale lot may be disposed of according to the 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 sale without prejudice to the forfeiture of any payment/s made thereon.

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

8.7. **Awarding of Sale.** Upon full payment of the goods subject of negotiated sale and presentation of Official Receipts by the winning offeror, the Secretariat shall issue a Notice of Award and shall forward the records of the same to the District Collector of the port where the goods are located.

8.8. **Approval or Disapproval by the Department of Finance.** The Department of Finance shall approve or disapprove the offer in a negotiated sale within fifteen (15) calendar days from transmittal of the records of the Committee. After the lapse of fifteen (15) days, the offer shall be deemed accepted.

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.

8.10. **Disposal of Less Value Goods.** Items with a value of Php 20,000.00 below or those in the nature of personal effects shall be disposed of through garage sale.

Section 9. Condemnation.

9.1. **Articles Liable for Condemnation.** The following articles shall be condemned by rendering, crushing, burning, breaking, shredding, or any other appropriate method by which the articles cannot be used for the purpose for which they were originally intended, and in the form that would not be injurious to public health and safety:

9.1.1. Articles that are unfit for use or sale;

9.1.2. Articles that are absolutely prohibited unless the mode of disposition is specifically provided by the CMTA;

9.1.3. Articles that are prohibited by law to be released, unless the mode of disposition is specifically provided by the CMTA;

9.1.4. Articles that have no commercial value; and

9.1.5. Articles that are injurious to public health.

9.2. **Detailed Condemnation Plan.** Upon receipt of the Notice of Finality of Order of Forfeiture and Decree of Abandonment, a Detailed Condemnation Plan shall be prepared for the destruction/condemnation of the goods identified for destruction. The written plan shall contain the following:

9.2.1. Nature of the items or goods to be destroyed or condemned, including their packaging;

9.2.2. Reasons the articles are recommended to be destroyed or condemned, i.e., final Order of forfeiture or abandonment;

9.2.3. Laws or rules requiring the destruction of goods or other justifications;

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

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

9.2.6. 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;

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

9.2.8. Needed reports to be submitted after the destruction or condemnation by the signatories thereof.

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

Chairman	Chief, ACDD or equivalent unit
Vice Chairman	Chief, Auction and Cargo Disposal Monitoring Division (ACDMD), Port Operations Service (POS), or his representative
Members	Chief, Law Division; Representative, CIIS

Representative, ESS

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

- 9.4.1. Provide certain formalities and procedures consistent with, and in pursuance to this Order, in connection with Condemnation;
- 9.4.2. Evaluate the Detailed Condemnation Plan and make corrections, if necessary;
- 9.4.3. Evaluate applications for accreditation of contractors;
- 9.4.4. Choose an accredited contractor to perform the destruction or condemnation of goods liable for destruction;
- 9.4.5. Prepare an Order of Condemnation for the approval of the District Collector; and
- 9.4.6. 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;

9.5. **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 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:

- 9.5.1. Only accredited contractors shall be authorized to perform condemnation;
- 9.5.2. Suspended contractor/s of the port, as well as of other ports, must not be appointed to perform condemnation;
- 9.5.3. Only contractors with sufficient facility or equipment or machineries to perform the required mode of condemnation will be considered;
- 9.5.4. Track record or reputation of the contractor;
- 9.5.5. For containerized cargoes, the preferred or nominated accredited contractor of the shipping lines shall be strongly considered.

9.6. **Accreditation of Contractors.** Interested contractors shall be accredited by the District Collector of a Port, which shall be valid within three (3) years from its accreditation, subject to the annual submission of updated documents. The applicant for accreditation for contractor shall comply with the following requirements:

9.6.1. Letter of Intent (duly signed by the registered owner or authorized representative);

9.6.2. Company Profile;

9.6.3. List of Services offered;

9.6.4. Diagram of Operation for all the services being offered;

9.6.5. Plant / Facility Layout;

9.6.6. Machineries, Equipment and other facilities owned and located at the facility / plant (with photos);

9.6.7. For Corporate entities, Articles of Incorporation, By-Laws and latest General Information Sheet duly received and stamped by the SEC (Securities and Exchange Commission);

9.6.8. Current Mayor's Permit;

9.6.9. Current Environmental Compliance Certificate and allied permits;

9.6.10. Current Transporter Registration Certificate, if applicable;

9.6.11. Updated Sanitary Permit to Operate, if applicable;

9.6.12. Updated City / Municipal Environment Certificate;

9.6.13. Duly stamped and received Income Tax Return for the two (2) previous years before application;

9.6.14. Audited Financial Statement for the two (2) previous years before application.

9.6.15. Payment of Accreditation Fee of Php 10,000.00 and Customs Documentary Stamp of Php 265.00.

9.6.16. Posting of annual bond of Php 1,000,000.00.

9.7. **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.

9.8. **Sanctions.** In case the accredited contractor defaulted in condemning the goods, and are found to be in violation of any rules, 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.

9.9. **Gatepass & 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, ACDD or its equivalent office to the chosen accredited contractor. The Chief, 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.

9.10. **Presence of other Representatives.** The Chief, ACDD shall always coordinate with the Bureau's COA Resident Auditor, representatives from the regulating agencies (if regulated commodity), ACDMD, Port Operations Service, AOCG and Office of the Commissioner, which may send their respective representatives to witness and monitor the activity. The assigned Customs Guard, ESS and CIIS agents shall be responsible in ensuring that the goods to be transferred to the contractor's facility shall be delivered and that the condemnation is completed.

Notices shall be given to the above-mentioned authorities at least two (2) calendar days prior to the date of Condemnation.

Section 10. Other Modes of Disposition.

10.1. **Turn-over to Armed Forces of the Philippines (AFP) or the Philippine National Police (PNP).** Dynamite, gunpowder, ammunition and other explosives, firearms and weapons of war and parts thereof, shall be turned over to the Armed Forces of the Philippines 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 the 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 Dangerous Drugs Board (DDB).** 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 DDB through the Philippine Drug Enforcement Agency (PDEA).
- 10.5. **Turn-Over to 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.²⁵
- 10.6. **Turn-Over of Other Prohibited and Regulated Goods.** Whenever deemed appropriate, the Commissioner of Customs upon approval of the Secretary of Finance 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.

Section 11. Authority of the Commissioner to issue Supplementary Rules and Regulations. The Commissioner may issue supplementary rules and regulations to effectively implement the provisions of this CAO.

Section 12. 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 13. Transitory Provision. Pending an electronic system governing accreditation of bidders and contractors, the current BOC system shall be utilized to implement this CAO. The MISTG shall be responsible for the creation of the system allowing these.

²⁵ CMTA, Section 118 (d)

Section 14. Repealing Clause. This Order repeals Customs Administrative Order Nos. 10-2007 and 5-90 and Customs Memorandum Order Nos. 5-2003, 36-2001, 59-90, 55-93, 24-2005 and 9-97 and all other customs rules and regulations or parts thereof that are inconsistent with the provisions of this Order.

Section 15. Separability Clause. If any part of this Order is declared unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.

Section 16. Effectivity. This Order shall take effect fifteen (15) days after its complete publication in the Official Gazette or a newspaper of general circulation.

NICANOR E. FAELDON
Commissioner

APPROVED:

CARLOS G. DOMINGUEZ III
Secretary of Finance

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

1. **History.** This CAO is amendatory to all the previous issuances of the Bureau of Customs relating to Disposition of Goods.
2. **Related Policies.**
 1. CAO 04-2016 - Amendment of CAO 10-2007 on the Rate of Auction Bond
 2. CMO 24-2005 - 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
 3. CAO 10-2007 - Rules and Regulations in the Conduct of Public Auction and Negotiated Sale
 4. CAO 05-1990 - Rules and Regulations Implementing Memorandum Order No. 258 dated 27 September 1989, Issued by the President, in the Disposition of Forfeited Cargoes and other Cargoes Under Customs

Custody as Enumerated in Section 2601 of the Tariff and Customs Code of the Philippines, as amended

5. CMO 59-1990 -Rules and Regulations Implementing CAO 05-1990 dated July 17, 1990, in the Disposition of Forfeited Cargoes and other Cargoes Under Customs Custody as Enumerated in Section 2601 of the Tariff and Customs Code of the Philippines, as amended
3. **Webpage, Forms, Handbooks and other References.** Unit webpage or other information relating to the regulations, such as guidelines, forms, charts, and handbooks, should not be incorporated into the body of the CAO but should be listed and hyperlinked in the additional information section after the text of the CAO. Hyperlinks should refer to the title of the document not the https address.