

MATRIX OF ISSUES AND CONCERNS

September 14, 2023 Public Consultation on the Proposed Guidelines on the Renewal of Existing Contracts on Seaport Terminal Management Services

No.	Association/Organization/ Port User	Comments/Issues	PPA's Response
1.	Atty. Dan Castillo – SCSC & PSC	<p>What is the wisdom behind Sec 4 (9) of the proposed guidelines?</p> <p>1.a. Does it mean that we have to forgo our constitutional right to access to justice (by filing a case against PPA in court questioning what we perceived as unconstitutional/illegal regulation) if only we can be qualified to apply for renewal?</p> <p>1.b. In other words, are we bound to choose only one between 1. Qualifying for renewal, or 2. Suing PPA?</p> <p>1.c. what is the wisdom for making the two choices above exclusive of each other?</p>	<p>We provide the concessionaire with the facts regarding the pending case against the PPA or any of its directors or officers.</p> <p>Section 4, paragraph 9, is a carry-over to the proposed guidelines. This is a standard requirement by PPA in all applications or permits given by the other government agencies. So, the general rule is that there must be no pending case, however, the committee may evaluate the nature and the circumstances of the pending case. Not all pending cases can affect the relationship of the parties or the capacity of the applicant.</p>
2.	Mark Parco – PLSA	Where does it show that Franchise renewals and new contracts are not Exclusive in Nature, and we have competition in port services?	There is no exclusive operator in seaport operations, but it does not mean that there should be multiple operators in a particular seaport.
3.	Emil B. Clarito – NEDA XI	Do the guidelines cover those contracts under the PTMRF?	Yes, the guidelines cover the contract under PTRMF. It is an amendment to the guideline of the PTRMF where in the current guidelines, it does not have provisions for renewal.
4.	Bob Munasque – SCIPSI	Are current holders of hold-over contracts qualified to apply under this new regulation?	One of the qualifications of a bidder is to have an existing contract. If you are on hold-over, you do not have existing contract.
5.	Mark Parco – PLSA	Is there no competition, then how PPA ensures cost effectiveness and efficiency?	The rates and KPI's are provided for by the PPA.
6.	Bien Basco – PUCP/PCBSI	In behalf of the Port Users Confederation of the Philippines, Inc. (PUCP) which includes the Philippine Chamber of Arrastre and Stevedoring Operators, Inc. (PCASO) as a member, we would like to thank PPA for considering this proposed Admin	

		<p>Order which will give existing cargo handlers the chance to take a shot at renewing their existing contracts and perhaps their expiring contracts; a procedure allowed under PPA Admin Order 01-2006. The following are queries cited for the proposed Admin Order:</p> <ol style="list-style-type: none"> 1. Does this proposed Admin Order consider the Specific Policy Guidelines, particularly Investment Categories discussed in PPA Admin Order 03-2016? If so, how do we know in what Tier Category our expiring ports' contract belongs? 2. What investment commitment is required under the proposed Admin Order, infrastructure, or equipment? Different Tiers of Ports require different investment commitments. 	<ol style="list-style-type: none"> 1. The existing port contracts are different from the categories under PTRMF. With regards to the qualifications of existing contracts, first, the operator must have an exemplary record and second, a substantial investment was made. So, the current contracts which were bided out not under the PTRMF cannot be evaluated under the tier system under PTMRF. 2. The category provided for is substantial investments. So, the investment made per port will be evaluated independently.
7.	Atty. Francis Lopez – United Port users Confederation of the Phils.	<p>What is the legal basis for the PhP1 Million application fee? Was this the same fee before or was it increased? Thank you</p>	<p>Previously, we do not have any provisions for the renewal of contract since 2016. The PhP 1 million application fee considers the administrative costs for the renewal and to ensure that the port users are fully qualified before filling an application.</p>
8.	Bien Basco – PUCP/PCBSI	<p>Continuation: 3. Can the scope of this proposed Admin Order be extended to also cover those ports whose contracts already expired and under HOA (Hold Over Authority) considering that the said ports were subject of the same Cargo Handling contract of expiring ports which is exactly the subject of this proposed Admin Order?</p>	<p>The provision is for the renewal of the contract. We cannot renew a contract which has already expired. So, if you are a holder of HOA, there is no contract where and which we can renew.</p> <p>So, the contract under hold-over authority will be subject for provisions under PTMRF.</p>
9.	Carmelo Roa – New Quality Hardware	<p>If a business wishes to run under a new name & a new permit. Can it resume the existing contract, or does it require a form of Renewal? What docs are required for it?</p>	<p>For a concessionaire to be qualified, he/she must have an existing contract. If you are changing the entire name, it is okay. But if you are a new business, you cannot renew a contract for someone else. The only person qualified is the one with an existing</p>

			contract. Someone cannot apply for you. It must be the same entity.
10.	Rona Gatdula – PLSA	No. 6 of Section 4. Criteria for Renewal provides that the Concessionaire must have exhibited exemplary record in the delivery of services.... are there guidelines for the determination of the same? Will determination include stakeholder/ port users' participation? will it be performance-based? how will performance audits/ monitoring be conducted?	The guidelines for the evaluation of exemplary records are still being finalized. We have guidelines for evaluating the current concessionaire but there is a need to expand them. We note your question regarding the inclusion of stakeholder/port user participation.
11.	Philippine Ship Agents Association	If the current / active stevedoring company is not able to fulfill their obligations to provide an exemplary stevedoring service, can we file with PPA the suspension of the company's existing contract? What is the IRR on this? Appreciate your guidance on this please.	What we are discussing now are the guidelines on the renewal of existing contracts. If they cannot comply with the requirement provided for under the contract, then, there are grounds for cancellation of the contract.
12.	Atty. Dan Castillo – SCSC & PSC	If we sue PPA, are we automatically disqualified for renewal? If no, why is the guideline silent as to how PPA will review the application for renewal vis-a-vis the pending case against PPA?	You are not automatically disqualified, but it will be evaluated on a case-to-case basis.
13.	Atty. Dan Castillo – SCSC & PSC	Guidelines for evaluation?	The guidelines for evaluation are not part of the current draft of the guidelines for renewal.
14.	Atty. Dan Castillo – SCSC & PSC	So, it is up to the PPA entirely?	Yes, it is up to the PPA.
15.	Adzlan Imran – LGU Isabela City	Are there considerations in relation to public concerns on the performance of the concessionaire/ their services?	Yes, since there is an aspect on the response to consumer complaints.
16.	Atty. Francis Lopez – United Port users Confederation of the Phils.	If there was no fee indicated before for renewal of existing contracts, was the Task Force on Fees and Charges of the National Tax Research Center consulted in formulating the PhP1 million fee as provided in the IRR of the Public Service Act?	We will look into that aspect regarding consulting the task force on fees and charges and the National Tax Research Center. As stated earlier, there is no fee indicated because there was no renewal of existing contract
17.	Chamie Datoc – ATI	For the filing of the position paper, would it not be on the fifth working day, Sept. 21?	September 20, 2023
18.	Trina Ignacio – CPSI	May I request for a soft copy of the Presentation?	All participants will be provided with a copy of the presentation.