



[DATE]

CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. _____

**SUBJECT: ACCREDITATION AND REGULATION OF BUREAU OF CUSTOMS
ACCREDITED INFORMATION PROCESSORS**

Introduction. This CAO implements Section 109 to Section 110, Chapter 2, Title I of Customs Modernization and Tariff Act (CMTA) and other existing policy of the Bureau of Customs (BOC), and given the government's thrust of continuously providing better, efficient and reliable front-line services to the trading community through partnership with the private sector, the BOC shall continue to adhere to the practice of using Accredited Information Processors (AIPs) as a link to deliver world-class-quality front-line Information and Communications Technology (ICT) services to BOC's clients.

Section 1. Scope. This CAO shall apply to all type of electronic transactions relating to the Bureau's automated cargo clearance processing system, including but not limited to:

- 1.1.** Registration of BOC Stakeholders – shall refer to processing of information of parties who transact with the BOC directly or through a designated third-party to act on their behalf;¹
- 1.2.** Lodgment of Import Declarations (Consumption, Warehousing, Transshipment, and Informal) –² shall refer to the registration of a goods declaration with the BOC;³
- 1.3.** Lodgment of Export Declarations – shall refer to the processing of statements in the form prescribed by the BOC by which the persons concerned indicate the procedure to be observed for taking out or causing to be taken out any exported goods and the particulars of which the customs administration shall require;⁴
- 1.4.** Transmission of Raw Materials Liquidation Information – shall refer to the information in relation to accounting the usage of bonded raw materials, including wastages, in the manufacture of finished products

¹ cf. Customs Modernization and Tariff Act (CMTA) of 2016, Title I, Chapter 2, Section 110

² cf. CMTA, Title IV, Chapter 1, Section 401

³ cf. CMTA, Title I, Chapter 2, Section 102 (dd)

⁴ cf. CMTA, Title I, Chapter 2, Section 102 (t)

for export as against the importation by Customs Bonded Warehouses of raw materials using the formula of manufacture;

- 1.5.** Transmission of Surety Bonds Information – shall refer to processing of information in relation to securities which will ensure the satisfaction of an obligation to the BOC;⁵
- 1.6.** Transmission of Payment Information – shall refer to processing of information in relation to the payment of duties and taxes;⁶
- 1.7.** Transmission of Online Release Information – shall refer to the processing of the BOC release instruction message and information on the release of the goods through an on-line medium;
- 1.8.** Transmission of Advance Manifest – shall refer to the processing of the advance manifests of all the shipments intended to be unloaded at a port entry in the Philippines; and
- 1.9.** Other services as may be determined by the Commissioner.

Section 2. Objectives.

- 2.1.** To implement and enhance the administrative and operational framework of the AIPs, as well as to improve their accreditation and regulation.
- 2.2.** To implement the criteria set by the AIPs Technical Support Team (TST) to select and accredit qualified ICT companies to become AIPs, and provide necessary guidelines for the accreditation and operation of AIPs.
- 2.3.** To harness the technical expertise and maximize the participation of all sectors in the delivery of quality front-line customs ICT services of the BOC.
- 2.4.** To manage the use of AIPs by importers, exporters, customs brokers and other customs stakeholders in the processing of import and export entries, registration and other value added services offered to the transacting public.

⁵ cf. CMTA, Title I, Chapter 2, Section 102 (mm)

⁶ cf. CMTA, Title I, Chapter 2, Section 103

Section 3. Definition of Terms.

- 3.1. Accredited Information Processor (AIP)** – shall refer to any BOC-accredited ICT company to whom the collection, holding, processing or use of Personal Information of Stakeholders is outsourced.⁷
- 3.2. Information Processor Accreditation Committee (IPAC)** – shall refer to the BOC body responsible for the accreditation, supervision, and control of AIPs.
- 3.3. Non-Disclosure Agreement (NDA)** – shall refer to an agreement that protects organizational/stakeholder information and informs signatories of their responsibility to protect, use and disclose information in a responsible and authorized manner. This agreement addresses the requirement to protect confidential and/or personal information using legally enforceable terms.⁸
- 3.4. Personal Information** – shall refer to any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual or an organization. For the purpose of this CAO and in order to comply with R.A. 10173, all information stated herein is treated as having personal information.⁹
- 3.5. Service Level Agreement (SLA)** – shall refer to the documented agreement between the AIC and the BOC that identifies the services to be provided and service targets¹⁰ which define the parameters for evaluating the delivery and performance of a service.

Section 4. General Provisions.

4.1. Accreditation of the Information Processors

4.1.1. Technical Support Team (TST) Composition.

AIP-TST Chairman: Customs System Management Officer or any equivalent position from MISTG

⁷ cf. Implementing Rules and Regulation (I.R.R.) of R.A. 10173 also known as the Data Privacy Act of 2012, Rule 1, Section 3(h)

⁸ cf. International Organization for Standardization (2013), Information technology, Security techniques, Code of practice for information security controls (ISO/IEC Standard No. 27002) Section 13.2.4.

⁹ cf. I.R.R. of R.A. 10173, Rule 1, Section 3(l)

¹⁰ cf. International Organization for Standardization (2015), Information technology, Service Management, Part 10: Concepts and terminology (ISO/IEC Standard No. 20000-10) Section 2.29

Members: One (1) Representative from the Office of the Commissioner (OCOM)
One (1) Representative from the Legal Service
Three (3) Representatives from the MISTG

Secretariat: To be designated by the Chairman

4.1.2. TST shall perform the following tasks:

- a.** Facilitate the accreditation process;
- b.** Recommend relevant policies, responsibilities and liabilities of AIPs, rules and processes related to all issues surrounding the accreditation of AIPs;
- c.** Recommend the evaluation criteria, business model and timeframes for accreditation of AIPs for approval of the Commissioner of Customs;
- d.** Assess the legal and financial capacity of each applicants; and
- e.** Publish and hold informational campaigns to ensure widest circulation of the AIPs' program in partnership with the accredited AIPs.

4.1.3. Accreditation Criteria

The TST shall evaluate the published accreditation criteria and shall recommend any amendments thereto to the Deputy Commissioner of MISTG for approval.

4.1.4. Accreditation Process

- a.** Through the TST, the BOC shall publish invitation to submit a letter of intent for accreditation as an AIP. The invitation will include the Eligibility Requirements that interested candidates must meet in order to be eligible for the accreditation process.
- b.** ICT companies will be required to submit their Letter of Intent, which will include their eligibility documents, within twenty (20) calendar days upon publication of the invitation.
- c.** Within ten (10) calendar days after the submission of the Letter of Intent, the TST shall review the documents submitted by the candidate companies. Companies that are compliant to the eligibility requirements shall be qualified

and informed, through a letter of their compliance within five (5) calendar days after the end of the review period.

- d.** The letter of compliance shall include the Terms of Reference, along with the Non-Disclosure Agreement to be signed by the candidate AIP, and the Testing Criteria. The Testing Criteria shall be used as a guide for testing the Systems of the candidate companies. The Terms of Reference shall include the requirements for the technical and financial proposal.
- e.** Candidate AIPs shall submit their technical and financial proposals within twenty (20) calendar days from receipt of the letter of compliance.
- f.** Candidate AIPs shall also start with the development of the system based on the system requirements issued by the TST.
- g.** Using the agreed Testing Criteria as reference, the TST organizes a Quality Assurance Team (QAT), composed of technical experts from MISTG, who will determine the compliance of the candidate company to the system requirements. The testing shall also include, among others, checks for user-friendliness of the system.
- h.** Within fifteen (15) calendar days from receipt of the proposals, the QAT shall conduct the system test and site visit. The QAT shall submit their report to the TST within three (3) calendar days after the test and site visit.
- i.** Within seven (7) calendar days from receipt of the QAT report, the TST will conduct a comparative evaluation which will include the QAT report and the technical and financial proposals of AIP Candidates.
- j.** The technical proposal shall be evaluated by the members of TST from the MISTG and the financial proposal shall be evaluated by the members from the Legal Service. The TST will then submit their recommendation to the Deputy Commissioner of the MISTG.
- k.** The Deputy Commissioner of the MISTG shall approve or disapprove the TST recommendation for the AIP candidates within seven (7) calendar days.
- l.** After the approval of the Deputy Commissioner of the MISTG, the TST shall then issue the Certificate of Accreditation to the AIP for its conformity.

- m.** The AIP shall then return the Certificate of Accreditation with their conformity.
- n.** The TST shall then issue a Notice to Commence to the AIP.
- o.** All issuances of the TST and receipt of submissions shall be processed by the TST Secretariat.

4.1.5. Conditions for Accreditation

- a.** Service Level Agreement (SLA) and a Non-Disclosure Agreement (NDA)
 - i.** The AIP shall sign an SLA and an NDA.
- b.** Accreditation Fees
 - i.** A one-time accreditation fee of One Million Pesos (Php 1,000,000.00) for the first year shall be paid by the selected AIP. After which an annual fee which corresponds to Five percent (5%) of the gross income of the AIP for BOC transactions shall be paid every first week of the second quarter of the year.
- c.** Performance bonds
 - i.** The AIP shall post a Performance Bond, issued by a BOC-accredited surety company, amounting to Five Million Pesos (Php 5,000,000.00), which shall be forfeited in favor of BOC in the event that the AIP is in default in any of its obligations.
- d.** Probationary period
 - i.** The accredited AIP shall undergo a six (6)-month probationary period (technical evaluation). After which, the TST shall decide whether or not it will grant full accreditation status to the AIP.
- e.** Period and renewal of Accreditation
 - i.** The selected AIP shall be given accreditation status for a period of three (3) years inclusive of the probationary period, and renewable every three (3) years. The renewal of the accreditation shall be subject to the evaluation of the quality of AIP's performance as measured by the SLA and compliance to Eligibility requirements. The accreditation fee for the renewal shall be Five Hundred Thousand Pesos (Php 500,000.00).

4.1.6. Other Conditions

- a.** BOC may carry out further accreditation processes after three (3) years of operation of the initially accredited AIPs.

- b.** The AIP may be accredited as long as its minimum paid up capital, upon submission of application, is not less than of Five Million Pesos (Php 5,000,000.00). After the six-month probationary period, the AIP's minimum paid up capital shall not be less than Ten Million Pesos (Php 10,000,000.00).
- c.** AIPs must successfully pass the technical acceptance tests (including systems integration, data security and integrity, communications, and performance) that will be conducted by the TST for the initial, the post-probationary, and the periodic technical evaluation and validation, to qualify for continuous accreditation.

4.1.7. Pre-termination

BOC may pre-terminate its agreement with the AIP for any of the following reasons:

- a.** Violation of the provisions of this Order and related rules and regulations, including the SLA and NDA;
- b.** Violation of the CMTA, e-Commerce Act and other related laws;
- c.** Violation of R.A. 10173 also known as the Data Privacy Act of 2012 and its IRR;
- d.** Actions inimical to the security and integrity of the BOC operations; and
- e.** Other violations as may be determined by the Commissioner of BOC.

BOC reserves the right to change any terms of the SLA as may be deemed necessary by the Commissioner.

4.2. Schedule of Fees Payable to AIP by the Transacting Public.

- 4.2.1.** The AIP will determine its fee structures based on several factors such as market conditions and systems sustainability requirements, among others. The BOC shall not collect those fees in behalf of the AIP. Upon effectivity of this CAO, any changes to the fee structure shall be subject to the approval of the Deputy Commissioner of the MISTG and the Commissioner of Customs.

Section 5. Operational Provisions.

5.1. Systems for Cargo Clearance Covers Registration to Post Audit.

The AIP, under existing agreements or regulations, shall develop the front-line ICT system and establish necessary infrastructure and telecommunications facilities to allow electronic transactions as mentioned in Section 1 herein.

The BOC-AIP Gateway (operated by the BOC) shall be the sole connectivity of AIP to the BOC System for this purpose. The BOC clients shall be connected to the BOC-AIP Gateway via accredited the AIP of their choice, which has the facility for the processing of import and export entries.

The AIP's facility shall be available to duly registered importers, exporters, designated brokers and other stakeholders.

The AIP is mandated to electronically submit periodic reports and other reports as may be required within 24 hours from notice of the BOC.

Section 6. Authority of the Commissioner to Promulgate Implementing Rules and Regulations in a Customs Memorandum Order. The Commissioner of Customs may issue additional or amendatory guidelines for the effective, efficient and appropriate implementation of all initiatives to establish and operate the AIPs.

Section 7. Penalties. AIPs that are not able to meet their SLA targets for Service Availability, Incident Response Time, Incident Resolution Time, and Root Cause Analysis shall be subject to the penalties stated in the SLA.

Section 8. Transitory Provision. On the interim, the current AIPs/VASPs accredited under CAO No. 2-2007 shall continue with their services until their existing accreditation expires. Thereafter, any new accreditation shall follow the rules in this Order.

Section 9. Periodic Review. Unless otherwise, provided, this CAO shall be reviewed every three (3) years and can be amended or revised, if necessary.

Section 10. Repealing Clause. This CAO specifically repeals CAO No. 2-2007 and other previously issued CAOs and Customs Memorandum Orders which are inconsistent with the provisions here stated.

Section 11. Separability Clause. If any part of this CAO is declared unconstitutional or contrary to existing laws, its remainder or the provision not otherwise affected shall remain in full force and effect.

Section 12. Effectivity. This CAO shall take effect after fifteen (15) days following the completion of its publication at the Official Gazette or a newspaper of general circulation.

The Office of National Administrative Register (ONAR) of the UP Law Center shall be provided a three (3) certified copies of this CAO.

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 is an amended version of CAO 2-2007 dealing with the accreditation, establishment and operation of e-2m Value Added Service Providers (VASPs).