



**NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY (NEDA)
– PHILIPPINE RECLAMATION AUTHORITY (PRA)
JOINT ORDER NO. 01- 2015**

**IMPLEMENTING RULES AND REGULATIONS (IRR) OF
EXECUTIVE ORDER (EO) NO. 146 DATED NOVEMBER 13, 2013
DELEGATING TO THE NATIONAL
ECONOMIC AND DEVELOPMENT AUTHORITY (NEDA) BOARD
THE POWER OF THE PRESIDENT TO APPROVE RECLAMATION
PROJECTS**

Pursuant to Section 6 of EO No. 146, this IRR is hereby issued to prescribe the requirements for the approval of reclamation projects.

Section 1. Scope and Application. Except for reclamation projects where contracts/agreements had been executed between the government entity concerned and private sector proponent/s prior to the effectivity of EO No. 146, this IRR shall apply to all reclamation projects and reclamation components of a development / infrastructure project, and shall specify and enumerate the requirements and procedures for the review, evaluation and approval of all reclamation projects and reclamation components nationwide by the NEDA Board.

Section 2. Coverage. This IRR shall cover the following:

- 2.1. Reclamation projects initiated/proposed by the Philippine Reclamation Authority (PRA);
- 2.2. Reclamation projects and/or reclamation components of a development or infrastructure project initiated by Local Government Units (LGUs) pursuant to Republic Act (RA) No. 7160, otherwise known as the Local Government Code of 1991:
 - 2.2.1. Wholly funded out of the LGU's funds for public use pursuant to Section 17 of RA No. 7160; or
 - 2.2.2. Funded through a partnership with Private sector/entity for any use.
- 2.3. Reclamation projects and/or reclamation components of a development or infrastructure project of any National Government Agencies (NGAs) and Government -Owned or -Controlled Corporations (GOCCs), as defined under RA No. 10149, otherwise known as the GOCC Governance Act of

2011, mandated under existing laws to reclaim such as, but not limited to, the following agencies: Philippine Ports Authority (PPA), Laguna Lake Development Authority (LLDA), Bases Conversion and Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Philippine Veterans Investment Development Corporation (PHIVIDEDEC), Department of Public Works and Highways (DPWH) and National Power Corporation (NPC):

- 2.3.1. Wholly funded out of the GOCC's corporate funds / NGA's budgetary allotment from the General Appropriations Act (GAA), proceeds from loans, borrowings or similar instruments; or
- 2.3.2. Funded through a partnership with Private sector/entity for any use.
- 2.4. Reclamation projects initiated by the private sector/entity through PRA, LGUs, GOCCs or NGAs authorized to reclaim land.
- 2.5. Reclamation projects proposed by qualified Filipino individuals subject to constitutional limitations.

Section 3. Definition of Terms.

- 3.1. Area Clearance — refers to the document issued by the concerned Department of Environment and Natural Resources (DENR) sector indicating that the area covered thereby are free and open for the grant of a Reclamation Application.
- 3.2. Area Status and Land Classification — refers to the document to be issued by the DENR certifying whether the site/area of the proposed reclamation project is not a protected area or covered by any tenurial instrument.
- 3.3. Completed Staff Work (CSW) — refers to the output of the entire process of PRA review and evaluation as basis for the recommendation of reclamation proposals to the PRA Board for acceptance and endorsement to the NEDA Board through a PRA Board resolution.
- 3.4. Environmental Compliance Certificate (ECC) — document issued by the DENR/ - Environmental Management Bureau (EMB) after a positive review of an ECC application, certifying that based on the representations of the proponent, the proposed project or undertaking will not cause significant negative environmental impact. The ECC also certifies that the proponent has complied with all the requirements of the Environmental Impact Statement (EIS) System and has committed to implement its approved Environmental Management Plan. The ECC contains specific

measures and conditions that the project proponent has to undertake before and during the operation of a project, and in some cases, during the project's abandonment phase to mitigate identified environmental impacts.

- 3.5. Equivalent Studies — refer to studies being required by the DENR to secure an ECC such as but not limited to EIS, Initial Environmental Examination (IEE), Environmental Performance Report and Management Plan (EPRMP).
- 3.6. Private Sector/Entity — any qualified individual Filipino Citizen of legal age and with capacity to contract; or a corporation, partnership, association or cooperative organized or authorized for the purpose of engaging in reclamation, with technical and financial capability to undertake reclamation and land development, duly registered in accordance with law, and sixty percent (60%) owned by Filipino Citizens.
- 3.7. Reclamation — the deliberate process of converting foreshore land, submerged areas or bodies of water into land by filling or other means using dredge fill and other suitable materials for specific purpose/s.
- 3.8. Reclamation Component — refers to the reclamation activity as part of the civil works of development or infrastructure project such as ports, airports, power plants and other similar projects consistent with the Philippine Development Plan (PDP) and/or the Public Investment Program (PIP) or its equivalent local plan/program.
- 3.9. Reclamation Project — refers to a project involving the reclamation of a specific size of land in a specific site for a specific use/s or purpose consistent with the PDP and/or PIP or its equivalent local plan/program.

Section 4. Approval of Reclamation Projects and Reclamation Components.

- 4.1. The PRA shall recommend to the PRA Board all reclamation for dispositive action by the NEDA Board. Proposed reclamation projects endorsed by the PRA to PRA Board should include the following documents:
 - a. Letter of Intent (LOI) from Applicant.
 - b. Area Clearance.
 - c. Feasibility Study (F/S) of the proposed reclamation project.

For ports, airports and power plants projects requiring adjacent areas to be reclaimed (reclamation component), if the relevant F/S of such

projects already cover the reclamation aspect, such F/S shall be submitted to PRA for review and validation together with the requirements of a Reclamation Project Description.

- d. Environmental Impact Statement (EIS) or equivalent studies and the ECC.
- e. Provincial / City Council Resolutions expressing no objection to the proposed reclamation project.
- f. Legal Documents to be submitted by Private sector/entity, LGU, GOCC or NGA, as follows:

- For Individual Filipino Citizen

- i. Original or duly authenticated copy of Birth Certificate issued by the Local Civil Registrar or Philippine Statistics Authority (PSA); and
- ii. Certificate of Naturalization or any other legally acceptable documents to prove Filipino citizenship.

- For Partnership / Corporation / Association

- i. Certificate of Registration from the Department of Trade and Industry (DTI) or Securities and Exchange Commission (SEC);
- ii. Proof that the corporation is sixty percent (60%) owned by Filipino Citizens; and
- iii. Certification of Corporate Secretary on the current membership of the Board of Directors and Authority of the Person filing the application to the PRA.

- For LGUs / GOCCs / NGAs

- i. Council's / Board's / Head of the Agency's Resolution authorizing LGU / GOCC / NGA to file an application with PRA; and
- ii. Certified true copy of the charter or other incorporation documents.

- 4.2. For development or infrastructure projects with reclamation components requiring the review and evaluation of the NEDA Board's Investment Coordination Committee (ICC) pursuant to pertinent laws, rules and regulations, the reclamation component shall be subject for CSW of the PRA, and the resulting CSW of the PRA shall be submitted to the NEDA

Board's ICC through a PRA Board resolution for the endorsement of said development or infrastructure project with reclamation component to the NEDA Board.

- 4.3. For development or infrastructure projects with reclamation components not falling within the purview of the NEDA Board's ICC, the reclamation component shall be subject for CSW of the PRA, and the resulting CSW of the PRA shall be submitted / endorsed to the NEDA Board through a PRA Board resolution.

Section 5. Processing, Review and Evaluation by PRA.

Upon submission of an LOI and upon full compliance with the mandatory requirements of Section 4, including payment of filing and processing fees, PRA shall initiate the processing, review and evaluation of the reclamation project proposal and shall accordingly submit to the PRA Board for acceptance and endorsement to the NEDA Board for approval.

Section 6. Competitive Bidding Process.

6.1 Except in cases of:

- a. Reclamation Components as defined above;
- b. LGU-initiated reclamation under 2.2.1; and
- c. NGA-initiated under 2.3.1.

in all reclamation projects, the PRA either by itself or in partnership with a Local Government Unit under Section 2.2.2 / National Government Agency under Section 2.3.2 shall bid out such reclamation projects in accordance with RA 9184, the Build-Operate-Transfer (BOT) Law (RA 6957 as amended by RA 7718), the NEDA Joint Venture Guidelines of 2013, or such other laws, rules and regulations as may be applicable.

- 6.2. Reclamation projects identified under Sections 2.2.2, 2.3.2, 2.4 and 2.5, after undergoing a thorough review, evaluation and negotiation process and upon acceptance by the PRA Board, shall be subjected to a competitive challenge process ("*Swiss Challenge*") in accordance with existing laws such as but not limited to the BOT Law, NEDA JV Guidelines and based on the parameters as approved by the NEDA Board, upon recommendation of the PRA Board.

In all cases, the Public Bidding in Section 6.1 and competitive challenge process ("*Swiss Challenge*") under 6.2 shall be undertaken after the NEDA

Board approval in compliance with the competitive bidding requirement of EO No. 146.

- 6.3. All reclamation projects and reclamation components, upon completion, shall also comply with government rules and regulations on disposition of reclaimed lands consistent with existing jurisprudence on such matter.

Section 7. Contractual Arrangements.

Within fifteen (15) days from receipt by PRA of the LOI, LGUs, GOCCs and/or NGAs shall execute an agreement with PRA.

After NEDA Board approval and the public bidding or the competitive challenge, the relevant Implementing Agreement (IA) / Reclamation Agreement (RA) shall subsequently be executed between PRA, the LGU/GOCC/NGA and the winning proponent.

Section 8. Notice to Proceed (NTP).

For reclamation projects under Section 2.2.1 and 2.3.1 to be funded using respective LGUs or NGAs funds and which shall be devoted for public use pursuant to the Local Government Code of 1991 or the concerned NGA's charter, the PRA, after due evaluation of the project, shall recommend approval thereof to the NEDA Board. Upon NEDA Board approval of the Reclamation project and execution of the relevant IA/RA, PRA shall cause the submission of Pre-construction documents prior to its issuance of the NTP.

After the issuance of the NTP, project implementation shall be the sole responsibility of concerned LGUs, GOCCs or NGAs pursuant to the terms and conditions of the NEDA Board approval. In all other cases, no reclamation works can commence unless the PRA issues the NTP.

Section 9. Transitory Provision.

Reclamation projects and reclamation components where there are contracts or agreements already executed between a government entity and a private sector prior to the effectivity of EO No. 146 shall not be covered by said EO and this IRR, and thus, shall be processed by the PRA pursuant to EO NO. 543 (series of 2006) and its IRR, PRA Administrative Order (AO) No. 2007-2.

Reclamation projects and reclamation components covered under EO No. 146 that were undertaken without the required ECC and approval of the NEDA

Board shall be considered illegal and shall be forfeited to the state pursuant to Presidential Decree (PD) No. 3-A.

Likewise, reclamation projects undertaken without the required approval of the NEDA Board or the President of the Philippines contrary to the provisions of Presidential Decree No. 1084 as amended by Executive Order No. 525 and Executive Order No. 146, shall be considered illegal and shall be forfeited to the State pursuant to Presidential Decree No. 3-A.

Section 10. Amendments.

Amendment to this IRR shall be jointly formulated by NEDA and PRA.

Section 11. Repealing Clause.

Any other issuances, administrative orders, rules or regulations and/or parts thereof which are inconsistent with the provisions of this IRR and EO No. 146 are hereby repealed or modified accordingly.

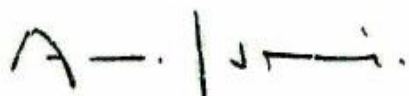
Section 12. Separability Clause.

Should any of the provision of this IRR be declared invalid or unconstitutional, the other provisions unaffected thereby shall remain valid and subsisting.

Section 13. Effectivity.

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

Approved on the 12th of January, 2015.



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Secretary of Socioeconomic Planning

National Economic and Development Authority



ROBERTO T. MULdong

Chairman

Philippine Reclamation Authority Board