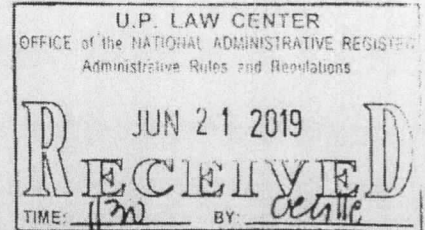




Republic of the Philippines
OFFICE OF THE PRESIDENT
PHILIPPINE RECLAMATION AUTHORITY

7th floor, Legaspi Towers 200 Bldg., 107 Paseo De Roxas St., Legaspi Village, 1226 City of Makati
Tel. No.: (02) 459-5000 • Facsimile No.: (02) 815-2662
Website: www.pea.gov.ph • Email: info@pea.gov.ph

PHILIPPINE RECLAMATION AUTHORITY (PRA)
[formerly Public Estates Authority (PEA)]
ADMINISTRATIVE ORDER NO. 2019-4



**IMPLEMENTING RULES AND
REGULATIONS (IRR) OF EXECUTIVE
ORDER (EO) NO. 74 DATED FEBRUARY 1,
2019, (S. 2019), REPEALING EO NO. 798 (S.
2009) AND EO NO. 146 (S. 2013),
TRANSFERRING THE PHILIPPINE
RECLAMATION AUTHORITY (PRA) TO THE
OFFICE OF THE PRESIDENT (OP),
DELEGATING TO THE PRA GOVERNING
BOARD THE POWER OF THE PRESIDENT
TO APPROVE RECLAMATION PROJECTS,
AND FOR OTHER PURPOSES**

Pursuant to Section 10 of EO No. 74, this IRR is hereby issued to prescribe the necessary requirements, rules and regulations for the approval of reclamation projects and reclamation components of development/infrastructure projects.

Section 1. Scope and Application

This IRR shall apply to all applications for reclamation projects and reclamation components of development/infrastructure projects, and shall specify and enumerate the requirements, rules and regulations for the approval thereof by the PRA Governing Board.

Section 2. Coverage

This IRR shall cover the following:

- 2.1 Reclamation projects initiated by the Philippine Reclamation Authority (PRA);
- 2.2 Reclamation projects, and/or reclamation components of development/infrastructure projects initiated by the city or



CERTIFIED TRUE COPY

[Signature]
ATTY. BAI SAUDIA SHAHARA AMPATUAN
Corporate Secretary

provincial government units, that are either:

- 2.2.1 Wholly funded out of the city or provincial government unit's internally generated funds, Internal Revenue Allotment (IRA), or proceeds from loans, borrowings or similar instruments and for public use pursuant to Section 17 of RA No. 7160; or
- 2.2.2 Public-Private Partnership (PPP). Projects that are funded through a partnership with Private Sector/Entity through PPP in accordance with the Philippine Build-Operate-Transfer (BOT) Law, Joint Venture (JV) Guidelines, or such other applicable laws, rules and regulations;
- 2.3 Reclamation projects and/or reclamation components of a development or infrastructure project initiated by National Government Agencies (NGAs) or 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.
 - 2.3.1 Wholly Government Funded Projects - These are 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 PPP - Projects that are funded through a partnership with Private Sector/Entity through PPP in accordance with the Philippine BOT Law, JV Guidelines, or such other applicable laws, rules and regulations
- 2.4 Reclamation projects, and/or reclamation components of development/infrastructure projects, initiated by Private Sector/Entity through PRA, city or provincial government units, GOCCs or NGAs authorized to reclaim land.
- 2.5 Reclamation projects, and/or reclamation components of development/infrastructure projects initiated by PRA jointly with government entities without authority to reclaim under existing laws through a proper contract.



CERTIFIED TRUE COPY

Axin Shaham
ATTY. BAI SMUDIA SHAHARA AMPATUAN
Corporate Secretary



Section 3. Definition of Terms

- 3.1 Advisory Opinion shall refer to the opinions of :
- a. The National Economic Development Authority (NEDA), on the consistency of the project with national and regional development planning and programming, and established national priorities of the government;
 - b. The Department of Environment and Natural Resources (DENR), on the environmental sustainability of the project and compliance with environmental laws, rules and regulations; and
 - c. The Department of Finance (DOF), on the economic and fiscal viability of the project based on the feasibility study submitted by the project proponent, compliance with Republic Act (RA) No. 6957 as amended by RA No. 7718 and RA No. 9184, and consistency of component joint venture agreements or other incidental agreements with applicable laws.

The above agency advisory opinions must be conveyed to the PRA within thirty (30) calendar days from their receipt from the PRA of all documents reasonably necessary for their respective evaluation and shall be without prejudice to the running of the prescribed periods for PRA's evaluation and approval of the reclamation project under Sections 5.3 and 5.4.

- 3.2 Area Clearance - refers to the document issued by the DENR declaring an area suitable for reclamation on the basis of:
- a. Valid Geo-Hazard Assessment of the Area duly prepared and signed by a licensed Geologist; and
 - b. Community Environment and Natural Resources Office (CENRO) Certification on the status of the area and land classification of adjacent land.
- 3.3 Completed Staff Work (CSW) - refers to the output of the entire process of PRA review and evaluation including the required advisory opinions under Section 3 of E.O. 74, if any, as basis for the recommendation of reclamation proposals for approval of the PRA Governing Board.



CERTIFIED TRUE COPY

Atty. Bai Saudia Shahara Ampatuan

ATTY. BAI SAUDIA SHAHARA AMPATUAN
Corporate Secretary



- 3.4 Environmental Compliance Certificate (ECC) - document issued by the DENR - Environmental Management Bureau (EMB), 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 Philippine Environmental Impact Statement (PEIS) 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) Checklist, Environmental Performance Report and Management Plan (EPRMP), as may be applicable.
- 3.6 Feasibility Study (F/S) - for the purpose of the EO and these IRR, shall refer to the comprehensive report containing the full analysis and evaluation of the technical, financial, including more definite estimates of financial returns and economic impact, social, institutional, legal and environmental merits of the project.
- 3.7 Hydrodynamic Modeling - modeling used to simulate water currents, water levels, circulation and sediment transport including flushing, among others, as the case may be, to predict, simulate, and evaluate the impact of reclamation to the environment.
- 3.8 Joint Venture (JV) Guidelines - for the purpose of the EO and this IRR, shall mean the NEDA-issued JV Guidelines, Public Private Partnership (PPP) ordinances issued by concerned LGUs, or whichever applicable JV Guidelines of government corporate entities (e.g., in the exercise of their primary mandates to dispose of government assets or properties).



CERTIFIED TRUE COPY



ATTY. BAI SAUDIA SHAHARA AMPATUAN
Corporate Secretary

Page 4 of 14

- 3.9 Notice of Full Compliance (NOFC) – notification by PRA to the applicant of compliance with the mandatory requirements set forth under Sections 4 and 5.3 and payment of fees under Section 10 of this IRR.
- 3.10 Pre-Construction Documents – refers to documents required for the issuance of the Notice to Proceed (NTP) for any reclamation activity under Section 8 hereof.
- 3.11 Private Sector/Entity - subject to constitutional limitations, any qualified individual Filipino citizen of legal age and with capacity to contract or a corporation, partnership or association duly registered in accordance with law, or consortium.
- 3.12 Project Description - document substantially describing the proposed reclamation project, particularly the following: description of the reclamation site (area, location, average depth, boundaries, immediate vicinity, distance from shoreline, egress/ingress, available infrastructure facilities/utilities), reclamation methodology (site preparation, compaction and consolidation procedures/techniques), estimated volume and type of fill material, containment wall, identified source of fill material, estimated cost of reclamation, project financing/funding, and project timetable, as well as those aspects of the project which will likely cause environmental impact.
- 3.13 Reclamation - the deliberate process of converting foreshore land, submerged areas or bodies of water into permanent land by filling or other means using dredge fill and other suitable materials for specific purpose/s.
- 3.14 Reclamation and Development Plan (RDP) – shall refer to the plan crafted by PRA in coordination with the DENR, NEDA and affected Local Government Units, taking into consideration, environmental, social, and economic impacts of proposed reclamation projects. Such RDPs shall undergo public consultation and shall be consistent with the greater public interest.



CERTIFIED TRUE COPY

Atty. Bai Saudin Shahara Ampatuan
ATTY. BAI SAUDIN SHAHARA AMPATUAN
Corporate Secretary



3.15 Reclamation Component - refers to the reclamation as a component of a development or infrastructure project such as roads, expressways, bridges, ports, airports, power plants and other similar projects which must be adjacent to the main project area.

3.16 Roads and Open Spaces (ROS) – shall mean an area equivalent to thirty percent (30%) of the total project size reserved exclusively for roads, parks and green spaces, playgrounds, recreational uses and other similar facilities and amenities.

3.17 Serviced Land – refers to the reclaimed land where the land development or horizontal infrastructure includes major facilities and main utilities such as roads, drainage, water, power, sewerage, and other basic or primary utilities and facilities to be reflected in the Master Development Plan (MDP).

Section 4. Requirements for the processing of applications to reclaim

The following requirements shall be submitted for evaluation prior to the approval of the reclamation projects/reclamation components by the PRA Governing Board:

4.1 Pre-Qualification Requirements

The following are the Pre-Qualification requirements for all applications for reclamation projects/components:

4.1.1 Legal Requirements

- a. Letter of Intent (LOI) from Applicant
- b. Provincial / City Council Resolutions expressing no objection to the proposed reclamation project
- c. For Individual Filipino Citizen:
 - i. Original or duly authenticated copy of Birth Certificate issued by the Philippine Statistics Authority (PSA);
 - ii. Certificate of Naturalization or any other legally acceptable documents to prove Filipino citizenship; and



CERTIFIED TRUE COPY



ATTY. BAI SAUDIA SHAHARAMPATUAN
Corporate Secretary

- iii. Tax Identification Number (TIN)
- d. For Partnership / Corporation / Association.
 - i. Certified True Copy of the 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;
 - 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; and
 - iv. Certified True Copy of BIR Certificate of Registration.
- e. For LGUs / GOCCs / NGAs
 - i. Certified True Copy of the Council's / Board's / Head of the Agency's Resolution authorizing LGU / GOCC / NGA to file an application with PRA;
 - ii. Certified true copy of the charter or other incorporation documents; and
 - iii. Certified True Copy of Bureau of Internal Revenue (BIR) Certificate of Registration.

4.1.2 Financial Requirements

- a. For Individual Filipino Citizen
 - i. Certified True Copy of the Income Tax Return (ITR) for the past three years; and
 - ii. BIR Tax Clearance Certificate.
- b. For Partnership / Corporation / Association
 - i. Certified True Copy of the Audited Financial Statements for the past three years;
 - ii. Certified True Copy of the Income Tax Return (ITR) for the past three years; and
 - iii. BIR Tax Clearance Certificate.
- c. For LGUs / GOCCs / NGAs
 - i. Certified True Copy of the Audited Financial Statements for the past three years;
 - ii. Certified True Copy of the Income Tax Return (ITR) for the past three years; and
 - iii. BIR Tax Clearance Certificate.



CERTIFIED TRUE COPY

Atty. Bai Savio A. Ampatuan
ATTY. BAI SAVIO A. AMPATUAN
Corporate Secretary



4.2 Mandatory Requirements

Mandatory Requirements	Case 1 Less than five (5) hectares (<5 ha)	Case 2 Five (5) hectares or more (≥ 5 ha)
1. Feasibility Studies* and final Environmental Impact Statement (EIS) or equivalent studies.		✓
2. Project Description and Initial Environmental Examination (IEE) checklist	✓	
3. Area Clearance and ECC	✓	✓
4. Hydrodynamic Modeling		✓
5. Detailed Engineering Design**	✓	✓

*For roads, expressways, bridges, ports, airports, power plants and other similar 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.

**Detailed Engineering Design shall include, among others, the following:

4.2.1 Detailed engineering design, reclamation plans including reclamation methodology and specifications to include the following:

- Geotechnical investigation;
- Engineering Geological and Geohazard Assessment Report (EGGAR); and
- Climate change adaptation strategy.

4.2.2 Hydrographic, topographic and bathymetric plans / maps of the reclamation site and immediate vicinity as well as of the marine borrow pit areas, as the case maybe.



CERTIFIED TRUE COPY



ATTY. BAI SANDY SHAHARA AMPATUAN
Corporate Secretary

Page 8 of 14

4.3 Other Requirements:

PRA reserves the right to impose from the applicant additional requirements from concerned government agencies that may be affected by the proposed reclamation projects.

Section 5. Application and Pre-Qualification, Review, Evaluation, and Approval by PRA

5.1 Application and Pre-Qualification

Any qualified Filipino individual or entities enumerated under Section 2 hereof may submit a Letter of Intent (LOI) to reclaim specifying the size/area, location and purpose/use of the proposed reclamation project. The following shall be submitted together with the LOI:

- a. sketch plan with preliminary technical description;
- b. legal and financial requirements under Section 4; and
- c. affirmation under oath by the applicant that the area being applied for is free and clear from any legal constraints/claims and/or tenurial instruments.

Upon verification of the completeness and authenticity of the above submissions and their consistency and compliance with existing plans involving reclamations, if any, or plans that will be crafted by PRA in coordination with NEDA, DENR and affected Local Government Units (LGUs), the National and Regional Reclamation and Development Plans (RDPs) which take into consideration the environmental, social and economic impacts of proposed reclamation projects, PRA shall inform the applicant of his/her/its Pre-Qualification and shall be advised accordingly.

5.2 Execution of a Memorandum of Understanding (MOU)

All Pre-Qualified applicants pursuant to Section 5.1 shall be required to enter into a MOU with PRA to detail the mandatory requirements as provided under Section 4.2 herein.



CERTIFIED TRUE COPY



ATTY. BAL SAUDIA SHAHARA AMPATUAN
Corporate Secretary

Page 9 of 14

5.3 Review and Evaluation

Subject to consultation and coordination between the parties during the effectivity of the MOU, the PRA shall conduct its review and evaluation of any of the mandatory requirements but in no case shall be more than sixty (60) calendar days from date of issuance of Notice of Full Compliance (NOFC).

Within the same period and prior to the submission of the application to the PRA Board for approval, PRA shall secure the advisory opinions of the DOF, DENR and NEDA for guidance in its evaluation and approval of the proposed reclamation project.

All proposals for reclamation projects shall be evaluated based on their cumulative impacts rather than on a specific project basis. In this respect, all reclamation project proponents shall be informed by PRA of all pending applications, if any, that may be impacted and/or have an impact on its/their specific reclamation proposals. The EIS, hydrodynamic models, and all technical studies submitted to PRA must show the cumulative impact of the project on the affected body/bodies of water where such reclamation project is to be located.

5.4 Approval

Within ninety (90) calendar days from the date of issuance of NOFC and the submission of Completed Staff Work (CSW), the PRA Governing Board shall take appropriate action on the application to reclaim.

No reclamation projects/components shall be approved by the PRA without the required Area Clearance and ECC to be issued by the DENR. Reclamation projects/components undertaken without the required ECC, Area Clearance and the approval of PRA Governing Board or the President of the Philippines shall be considered illegal and shall be forfeited in favor of the State without need of judicial action pursuant to Presidential Decree No. 3-A.



CERTIFIED TRUE COPY

ATTY. BAI SAUDIA SHARAF AMBATUAN
Corporate Secretary

Section 6. Competitive Bidding.

Consistent with the Government's thrust to promote transparency, accountability and competition, the PRA shall ensure that all reclamation projects undergo competitive selection processes by the concerned Implementing Agency.

The requirement of competition shall be deemed satisfied if the reclamation project complies with public tender under the Government Procurement Reform Act (Republic Act No. 9184), or the competitive selection process, whether solicited or unsolicited, under the Build-Operate-Transfer Law (Republic Act No. 6957, as amended), the 2013 Revised Joint Venture Guidelines issued by the National Economic and Development Authority, or the applicable Public-Private Partnership (PPP) or Joint Venture (JV) ordinance of the LGU, or such other applicable laws and regulations.

Prior to the conduct of the bid tender or competitive selection process, the PRA shall be notified in writing by the proponent LGU or government agency of the terms of reference of the reclamation project and schedule of the bidding. Within ten (10) days from receipt of the notice, the PRA shall authorize the conduct of the public tender or competitive selection process, if the parameters thereof are found to be consistent with applicable rules and regulations.

Section 7. Contractual Arrangements

After PRA Governing Board approval and the public bidding or the competitive challenge, the relevant Memorandum of Agreement (MOA)/Implementing Agreement (IA) shall subsequently be executed between PRA, the LGU/GOCC/NGA and the winning bidder/challenger except for projects falling under Section 2.2.1 and 2.3.1.

Section 8. Pre-Construction Documents and Notice to Proceed (NTP)

The following pre-construction documents shall be submitted to PRA for review and evaluation as basis for issuance of the NTP:



CERTIFIED TRUE COPY



Atty. Bai Saudia
ATTY. BAI SAUDIA SHAHARA AMPATUAN
Corporate Secretary

- 8.1 Final site development plan, land use plan and land allocation plan;
- 8.2. Final land form plan with technical descriptions;
- 8.3. Detailed reclamation and land development schedules, project phasing (if any) and PERT (Project Evaluation and Review Technique) – CPM (Critical Path Method); and
- 8.4. Drainage plan vis-à-vis the land form plan and in relation to existing drainage system for submission to DPWH, City Engineer and / or MMDA subject to modifications, if any.

Section 9. General Supervision and Monitoring of Project Implementation

All approved reclamation projects shall be subject to the regulatory power and monitoring functions of PRA.

Section 10. Schedule of Fees

All applications for reclamation shall be subject to the payment of the following fees to PRA:

- a. Filing Fee;
- b. Review Fee;
- c. Processing Fee;
- d. Regulatory Fee;
- e. Social Environment Fund (SEF); and
- f. Supervision Fee.

which shall be in accordance with prevailing PRA rates as approved by the PRA Governing Board, and in cases where the amount of the fees will be increased or new fees will be charged, subject to prior notice and hearing and the requirement of the rates, provided that the fees imposed shall be commensurate to the cost of regulation.

Section 11. Sharing Scheme

In reclamation projects, the Government and the Proponent shall share equitably in the reclaimed land, taking into account each party's contribution and risk assumption.

For projects initiated by LGUS and NGAs/GOCCs, the Government share in the reclaimed land shall in no case be less than fifty one



CERTIFIED TRUE COPY

Atty. Bai Saudia Shahada Ampatuan
ATTY. BAI SAUDIA SHAHADA AMPATUAN
Corporate Secretary



percent (51%), inclusive of roads and open spaces (ROS), provided that the PRA shall be entitled to sixty percent (60%) of the government share in the saleable area.

Section 12. Disposition of Reclaimed Lands

All reclamation projects/components, upon completion, shall comply with provision of the Constitution and all existing laws, and government rules and regulations on the disposition of reclaimed lands.

Section 13. Penalties/Sanctions

In addition to the forfeiture of reclaimed lands under PD 3-A, any willful violation of these Rules shall be subject to administrative, civil or criminal liability in accordance with existing laws. The Philippine National Police (PNP) and other law enforcement agencies are hereby enjoined to assist the PRA in the enforcement of its Cease and Desist Orders (CDOs) and other regulatory orders.

Section 14. Transitory Provision

These Rules shall apply to all reclamation projects/components for which no contracts/ agreements had been executed between the government entity concerned and a proponent prior to the effectivity of EO No. 74.

Reclamation projects covered by contracts/ agreements executed between the government entity concerned and a private sector proponent prior to the effectivity of EO No. 74 and its IRR shall be reviewed, processed, and approved in accordance with EO No. 543 (s. 2006) and its implementing rules under PRA Administrative Order No. 2007-2.

The power of the PRA Governing Board to approve reclamation projects also includes the power to review reclamation contracts and projects to ensure compliance with the relevant laws, issuances, rules and regulations.



CERTIFIED TRUE COPY

Atty. Bai Saudia Shahara Ampatuan
ATTY. BAI SAUDIA SHAHARA AMPATUAN
Corporate Secretary



Section 15. Prospective Application

Except as otherwise provided in Section 14, the provisions of this IRR shall apply only to reclamation projects and/or reclamation components of development or infrastructure projects covered by contracts or agreements executed between the government entity concerned and a private sector proponent submitted for the approval of the PRA, or by the PRA itself, after the effectivity of this IRR.

Section 16. 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.

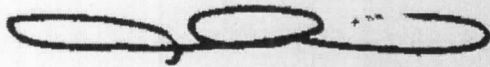
Section 17. Repealing Clause.

All other issuances inconsistent with EO 74 and this IRR are hereby repealed or modified accordingly.

Section 18. Effectivity.

This Order shall take effect immediately upon its publication in a newspaper of general circulation or in the Official Gazette.

For the Board of Directors:



ATTY. ALBERTO C. AGRA
Chairman

(As approved by the Office of the President in its Memorandum to the PRA Chairman and General Manager dated 18 June 2019)