IMPLEMENTING GUIDELINES FOR LEASE OF PRIVATELY-OWNED REAL ESTATE

1. PURPOSE

The Guidelines on Lease of Privately-Owned Real Estate (the "Guidelines") set forth the rules and procedures in entering into contracts for lease of privately-owned real estate by government agencies for official use pursuant to Section 53(i) of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act 9184 (R.A. 9184). It shall assist government agencies in determining reasonableness of rental rates prior to entering into lease contracts.

2. SCOPE AND APPLICATION

The Guidelines shall apply to national government, its branches, constitutional offices, departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or –controlled corporations, government financial institutions, and local government units.

It shall not apply to lease of government properties for private use.

3. DEFINITION OF TERMS

3.1. **Capitalization Rate.** Refers to the interest rate on the cost or value of the property.

3.2. **Comparative Price Analysis.** Refers to the method of comparing the price quotations obtained pursuant to Item 5.5 of these Guidelines against the prevailing market rate of lease contracts within the vicinity of the selected location as determined pursuant to Item 5.1 of these Guidelines.

3.3. **Computation based on Observed Depreciation.** Refers to the method of computation in determining reasonableness of rental rate using a depreciation rate determined by the Bids and Awards Committee (BAC) or its Technical Working Group (TWG) after meticulous ocular inspection of the actual condition of the real estate. The formula for this method is provided in Item 6.3 of these Guidelines.

3.4. **Computation based on Straight Line Depreciation.** Refers to the method of computation in determining reasonableness of rental rate using a depreciation rate based on the Table of Structural Depreciation provided by the Department of Public Works and Highways (DPWH) under Appendix B of these Guidelines. The formula for this method is provided in Item 6.4 of these Guidelines.

3.5. **Cost-benefit Analysis.** Refers to a tool used to aid decision-making by evaluating the benefits to be attained from an action against the costs for its implementation. For purposes of these Guidelines, the cost-benefit analysis should consider, among others, the costs for the transfer to, furnishing, and/or maintenance of the real estate, and include a market analysis of prevailing lease rates within the vicinity of the selected location.

3.6. **Depreciation.** Refers to the decrease in the value of a real estate due to ordinary wear and tear brought about by its use.

3.7. **Estimated Unit Construction Cost.** Refers to the estimated prevailing cost of construction per square meter of the real estate being appraised. The respective Estimated Unit Construction Cost of types of real estate for each region may be obtained from the Bureau of Maintenance of the DPWH.

3.8. **Factor Value.** Refers to the rating factor where locations and site conditions, neighborhood data and real estate structural condition, functionality, facilities and other requirements, including free services and facilities offered by the Lessor are considered. The rating factors and its corresponding weights are provided in Appendix A of these Guidelines.

3.9. **Lessee.** Refers to any government agency temporarily occupying a real estate on the basis of a contract executed with the private individual, partnership, cooperative, association, or corporation having absolute ownership over such real estate.

3.10. **Lessor.** Refers to any private individual, partnership, cooperative, association, or corporation having absolute ownership over the real estate to be leased.

3.11. **Real Estate.** Refers to land and buildings, including office spaces or units.

3.12. **Rentable Area.** Refers to the total area of the real estate in square meters being occupied or to be occupied by the Lessee less the common area like lobby, stairway, elevator hall, common comfort room, machine room for air conditioner, and other areas of common use by the public or upper floor occupants.

3.13. **Rental.** Refers to the amount paid by the Lessee for the use and/or occupancy of the privately-owned real estate to the Lessor, where payment is usually made on a monthly basis.

3.14. **Reproduction Cost.** Refers to the estimated total cost of replacing the real estate with the same utility.

4. GUIDING PRINCIPLES

4.1. It is more preferred that government agencies lease publicly-owned real estate from other government agencies.

4.2. However, if no publicly-owned real estate is available or if cost-benefit analysis indicates that lease of privately-owned real estate is more favorable to government, procuring entities shall have the option to enter into lease contracts either through public bidding or negotiated procurement under Section 53(i) of the IRR-A of R.A. 9184. In the public bidding of lease contracts, the procedures under the IRR-A of R.A. 9184 shall be followed.

4.3. The location of the real estate to be leased should have been meticulously determined by the procuring entity after taking into consideration, among others, the need for prudence and economy in government service and the suitability of the area in relation to the mandate of the office and its accessibility to its clients.

4.4. The Approved Budget for the Contract (ABC) of lease shall be determined using the mid point of the range obtained from the results of the market analysis on the prevailing lease rates for real estates within the vicinity of the selected location complying with the criteria and technical specifications of the end user unit.

4.5. As a general rule, rental rates are considered reasonable when they represent or approximate the value of what the Lessee gets in terms of accommodation, facility, and convenience from the leased real estate, and the Lessor gets an equitable return of capital or investment in the construction and maintenance of the real estate.

4.6. The reasonableness of the computed rental rates is likewise determined by comparing rental rates of real estates with the same or similar condition or classification and located within the vicinity. It should also consider real estate amenities and/or facilities provided free by the Lessor.

4.7. The procuring entity shall ensure that the objectives and purpose of the lease contract do not constitute an unnecessary, excessive, extravagant, or unconscionable expenditure.

4.8. In no case shall the rental rates, including additional expenses, such as association dues, if shouldered by the procuring entity, exceed the ABC.

5. PROCEDURES AND GUIDELINES

5.1. The end user unit shall conduct a cost-benefit analysis to assess the feasibility of entering into a lease contract for a privately-owned real estate as against purchasing or leasing from a government-owned real estate.

5.2. The recommendation of the end user unit to lease a privately-owned real estate shall be supported by the necessary analytical data establishing the benefits to the procuring entity if it enters into a lease contract. The recommendation shall also indicate the result of the market analysis of the prevailing rate of lease contracts within the vicinity of the selected location.

5.3. The BAC shall evaluate the recommendation of the end user unit, and approve the same if it finds such recommendation to be more advantageous to the government.

5.4. Entering into a lease contract through Negotiated Procurement under Section 53(i) shall be included in the approved APP of the procuring entity concerned. If the original mode of procurement recommended in the APP was public bidding but cannot be ultimately pursued, or the project to be undertaken has not been previously included, the BAC, through a resolution, shall justify and recommend the change in the mode of procurement, or the updating of the APP, to be approved by the head of the procuring entity.

The APP of the procuring entity shall reflect the details of the lease contract including, but not limited to, the ABC and the general description of the requirements for the lease of real estate.

5.5. The BAC shall prepare and finalize the draft contract and the technical specifications for the lease of the real estate taking into consideration the rating factors under Appendix A of these Guidelines. The BAC shall then post the notice for the procurement opportunity in accordance with Section 21.2.4 of the IRR-A of R.A. 9184 for a period of seven (7) calendar days.

5.6. After the required posting period, the BAC shall invite at least three (3) prospective Lessors to submit sealed price quotations.

5.7. On the date specified in the notice, the BAC shall open the price quotations and determine the Lowest Calculated Bid (LCB). The price quotation of the bidder with the LCB shall be evaluated, and its reasonableness computed, in accordance with Item 6 of these Guidelines.

5.8. In the case of a proposed lease of a vacant lot or other land spaces, the procuring entity shall determine reasonableness of the proposed rate using a comparative price analysis as guided by the zonal valuation of the real estate issued by the city or municipality having jurisdiction over the property.

5.9. If the BAC determines that the LCB is reasonable pursuant to Item 5.8 or 6 of these Guidelines, it shall declare said bid as the Lowest Calculated Responsive Bid (LCRB), and recommend to the head of the procuring entity the award of contract thereto.

5.10. However, if the BAC determines that the LCB is unreasonable in accordance with Item 5.8 or 6 of these Guidelines, it shall immediately notify the said bidder in writing of its disqualification and the grounds therefor. The BAC shall then proceed to determine the reasonableness of the second LCB. This procedure shall be repeated for the next LCB until the LCRB is determined for award.

5.11. In case all price quotations are considered unreasonable pursuant to Item 5.8 or 6 of these Guidelines, the BAC shall conduct a comparative price analysis between the LCB and the prevailing market rate previously determined under Item 5.1 of these Guidelines. If the LCB exceeds the prevailing market rate, the next LCB will be subjected to the same comparative price analysis until the LCRB is determined for award.

5.12. If all price quotations exceed the prevailing market rate as determined under Item 5.1 of these Guidelines, the BAC shall declare a failure of negotiated procurement; in which case a public bidding or another negotiated procurement process will be conducted, depending on the recommendation of the BAC.

5.13. Immediately after the determination of the LCRB, the BAC shall recommend to the head of the procuring entity the award of contract to such bidder.

6. DETERMINATION OF REASONABLENESS OF RENTAL RATES

6.1. The reasonableness of rental rates may be determined using either of the two (2) methods provided in Items 6.3 and 6.4 of these Guidelines. The procuring entity must adopt only one method of computation and consistently apply this method to all price quotations submitted for said procurement. However, in lease contracts for land spaces, reasonableness of rental rate shall be determined in accordance with Item 5.8.

Sample computations using the above-mentioned formulae are provided in Appendix C of these Guidelines.

6.2. If the price quotation of the prospective Lessor does not exceed the computed monthly rental, the rental rate offered may be regarded as reasonable, and its quotation may then be considered for award.

6.3. *Computation based on Observed Depreciation*

This method uses the following formula and a depreciation rate determined by the BAC or its TWG after meticulous ocular inspection of the actual condition of the real estate:

Reproduction Cost	=	Estimated Unit Construction Cost × (1 – Depreciation Rate)
Formula Rate	=	Reproduction Cost × Monthly Capitalization Rate
Rental Rate	=	Formula Rate × Factor Value
Monthly Rental	=	Rentable Area × Rental Rate

6.3.1. The following weights may be used in arriving at the observed depreciation rate:

Status	Depreciation (%)
Good	20
Fair	40
Poor	60
Very poor	80

6.4. *Computation based on Straight Line Depreciation*

This method uses the following formula and a depreciation rate determined from the Table of Structural Depreciation provided by the DPWH under Appendix B of these Guidelines:

Age of Real Estate	=	Current Year – Year of Construction
Depreciation Rate	=	*See* Appendix B for the Table of Structural Depreciation
Reproduction Cost	=	Estimated Unit Construction Cost × (1 – Depreciation Rate)
Formula Rate	=	Reproduction Cost × Monthly Capitalization Rate
Rental Rate	=	Formula Rate × Factor Value
Monthly Rental	=	Rentable Area × Rental Rate

7. TERMS AND CONDITIONS OF LEASE CONTRACTS

7.1. Lease contracts may be entered into on a multi-year basis, subject to the application of any set of guidelines that governs multi-year contracts.

7.2. The procuring entity shall ensure that the lease contract provide the most advantageous terms and conditions to the Government.

8. EFFECTIVITY

These Guidelines shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general nationwide circulation.

APPENDIX A

TABLE OF RATING FACTORS

	RATING FACTORS	WEIGHT (%)	RATING
I.	**Location and Site Condition**		
	1. Accessibility	25	
	2. Topography and Drainage	20	
	3. Sidewalk and waiting shed	15	
	4. Parking space	15	
	5. Economic potential	10	
	6. Land classification, utilization, and assessment	10	
	7. Other added amenities	5	
		100	
II.	**Neighborhood Data**		
	1. Prevailing rental rate	20	
	2. Sanitation and health condition	20	
	3. Adverse influence	15	
	4. Property utilization	15	
	5. Police and fire station	15	
	6. Cafeterias	10	
	7. Banking/postal/telecom	5	
		100	
III.	**Real estate**		
	1. Structural condition	30	
	2. Functionality		
	a. Module	6	
	b. Room arrangement	6	
	c. Circulation	6	
	d. Light and ventilation	6	
	e. Space requirements	6	
	3. Facilities		
	a. Water supply and toilet	6	
	b. Lighting system	6	
	c. Elevators	6	
	d. Fire escapes	6	
	e. Fire fighting equipment	6	
	4. Other requirements		
	a. Maintenance	5	
	b. Attractiveness	5	
		100	

IV.	**Free Services and Facilities**		
	1. Janitorial and security	20	
	2. Air conditioning	20	
	3. Repair and maintenance	20	
	4. Water and light consumption	20	
	5. Secured parking space	20	
		100	

I.	**Location and Site Condition**	× .20 =	
II.	**Neighborhood Data**	× .20 =	
III.	**Real estate**	× .50 =	
IV.	**Free Services and Facilities**	× .10 =	
FACTOR VALUE			

APPENDIX B

TABLE OF STRUCTURAL DEPRECIATION

AGE	ESTIMATED LIFE OF REAL ESTATE			
	WOODEN FRAME (40 years)	**SEMI-CONCRETE (60 years)**	**REINFORCED CONCRETE (75 years)**	**STRUCTURAL REINFORCED (100 years)**
	Percentage (%) of estimated life			
1	3	2.5	2	1.5
2	6	4.5	3.8	2.8
3	8.9	6.9	5.6	4.2
4	11.7	9	7.4	5.5
5	14.5	11.1	9.1	6.7
6	17.2	13.1	10.7	8.1
7	19.8	15.1	12.3	9.3
8	22.4	17	13.9	10.5
9	25	18	15.5	11.8
10	27.5	20.7	17.9	13
11	29.9	22.5	18.5	14.2
12	32.2	24.5	20	15.3
13	34.5	26.6	21.4	16.4
14	36.8	27.7	22.8	17.5
15	39	29.3	24.3	18.6
20	49.1	37	30.8	24.8
25	57.7	43.8	36.8	29
30	65	50	42.4	33.6
35	70	55.6	47.5	38
40	75	60.6	52.2	42.1
45		65	56.5	46
50		68.9	60.5	49.6
55		72.3	64.1	53.1
60		75	67.3	56.3
65			70.3	59.3
70			73	62
75			75	64.5
80				67
85				69.3
90				71.4
95				73.3
100				75

APPENDIX C

SAMPLE COMPUTATION

A 5-storey office building made of reinforced concrete structure with mechanical equipment, i.e., elevator, air conditioning system, etc.

Date of Construction	1987
Estimated Unit Construction Cost	P25,000/sq.m
Depreciation	20% (Good condition)
Capitalization Rate	20% (Variable based on bank rate)
Factor Value	90% (Based on rating)

COMPUTATION BASED ON OBSERVED DEPRECIATION

Reproduction Cost = Estimated Unit Construction Cost × (1 – Depreciation Rate)
= P25,000/sq.m. (1 – 0.20)
= P20,000/sq.m.

Formula Rate = Reproduction Cost × Monthly Capitalization Rate
= 20,000 (0.20/12) = 20,000 (0.0167)
= P334/sq.m./mo.

Rental Rate = Formula Rate × Factor Value
P334 (0.90)
300.60/sq.m./mo. *say* 300/sq.m.

Rentable Area = 200.00 sq.m.

Monthly Rental = Rentable Area × Rental Rate
= 200/sq.m. × P300/sq.m./mo.
= P60,000.00/mo.

COMPUTATION BASED ON STRAIGHT LINE DEPRECIATION

Age of Real estate = Current Year – Year of Construction
= 2007 – 1987
= 20 years

Depreciation Rate	=	*See* Appendix B for the Table of Structural Depreciation
Reproduction Cost	=	Estimated Unit Construction Cost × (1 – Depreciation Rate)
	=	P25,000/sq.m. (1 – 0.248)
	=	P18,800/sq.m.
Formula Rate	=	Reproduction Cost × Monthly Capitalization Rate
	=	P18,800 (0.20/12) = 18,800 (0.0167)
	=	P313.96/sq.m./mo.
Rental Rate	=	Formula Rate × Factor Value
	=	P313.96 (0.90)
	=	P282.56/sq.m./mo. *say* P285.00/sq.m.
Rentable Area	=	200.00 sq.m.
Monthly Rental	=	Rentable Area × Rental Rate
	=	200 sq.m. × P285.00/sq.m.
	=	P57,000.00/mo.