



RESOLUTION NO. 06-2018

APPROVING THE AMENDMENT TO THE GUIDELINES ON LEASE OF REAL PROPERTY AND VENUE UNDER ANNEX “H” OF THE 2016 REVISED IMPLEMENTING RULES AND REGULATIONS (IRR) OF REPUBLIC ACT (RA) NO. 9184

WHEREAS, Section 63(b) of Republic Act (R.A.) No. 9184, the Government Procurement Reform Act, and Section 63.1(b) of the 2016 revised Implementing Rules and Regulations (IRR) authorize the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend, whenever necessary, the IRR;

WHEREAS, Section 43 of RA 9184 provides that the rules and guidelines for the implementation and termination of contracts awarded pursuant to the provisions of the Act shall be prescribed in the IRR, while Section 54 thereof states that the specific terms and conditions, including the limitations and restrictions, for the application of each of the alternative methods shall be specified in the IRR;

WHEREAS, Section 53.10 of the 2016 IRR of RA 9184 allows the resort to Negotiated Procurement in case of Lease of Real Property and Venue, subject to the provisions of Annex H of the 2016 IRR of RA 9184 entitled *Consolidated Guidelines for the Alternative Methods of Procurement* (Guidelines for brevity);

WHEREAS, during the 2nd Inter-Agency Technical Working Group Meeting held on 10 May 2018, the Government Procurement Policy Board - Technical Support Office recommended the following amendment to the Guidelines to ensure that contractual arrangements with service providers continue to be favorable to the interest of the government and, thus, remain consistent with the principles of RA 9184 and to adapt to the changes in the procurement environment, *to wit*:

Section V.D.9.(d) of Annex “H” of the 2016 IRR of RA 9184, ***Renewal of Contract of Lease of Real Property*** (New Provision)

- “i. At the end of each year, the end-user of the procuring entity must conduct a cost-benefit analysis to assess the quality of service under the lease contract. For instance, it must compare the rental rates charged by its lessor against other lessors in the area. It must also analyze whether entering into a new contract will be more expensive taking into consideration the cost of transfer and accessibility to the public. In assessing the existing lease, PEs are encouraged to consult relevant government agencies regarding any new policy or directive in the lease of real property.
- ii. If the results of the CBA, conducted by the end-user, continue to favor the existing lessor, then the Head of the Procuring Entity (HoPE) may simply renew its lease contract. If it does not, then the PE should

procure a new lease contract in accordance with Section 53.10 of the IRR of RA 9184 and this guidelines. For efficiency and economy, during the effectivity of the contract, or upon its renewal, the PE may consider the expansion or reduction of the space provided by the existing lessor, provided that the leased premises can accommodate the space requirements of the PE in case of expansion, based on the need of the PE and the best way by which such need may be addressed and satisfied, subject to existing budgeting, accounting and auditing rules.”;

WHEREAS, the IATWG, after due consideration and review, adopted the recommendation of the GPPB-TSO, subject to the clarification that the renewal of the contract of lease of real property need not be reflected in the Annual Procurement Plan (APP);

WHEREAS, during the 2nd Regular Meeting of the GPPB, the GPPB-TSO presented the proposed amendments to the Guidelines as recommended by the IATWG;

WHEREAS, after careful and due deliberation, the Board approved the proposed amendments and additional provisions to the Guidelines, with revisions;

NOW, THEREFORE, for and in consideration of the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law, hereby **RESOLVE** to confirm, adopt and approve as **WE** hereby confirm, adopt and approve the following, *viz*:

- (1) **APPROVAL** of the following amendment to the Guidelines on Lease of Real Property and Venue under Annex H of the 2016 IRR of RA 9184, thus:

d) *Renewal of Contract of Lease of Real Property* (New Provision)

“i. Prior to the expiration of the lease contract, the end-user of the procuring entity must conduct a cost-benefit analysis of the lease. For instance, it must compare the rental rates charged by its lessor against other lessors in the area. It must also analyze whether entering into a new contract will be more expensive taking into consideration the cost of transfer and accessibility to the public. In assessing the existing lease, PEs are encouraged to consult relevant government agencies regarding any new policy or directive in the lease of real property.

ii. If the results of the CBA, conducted by the end-user, continue to favor the existing lessor, then the Head of the Procuring Entity (HoPE) may simply renew its lease contract. If it does not, then the PE should procure a new lease contract in accordance with Section 53.10 of the IRR of RA 9184 and this guidelines. For efficiency and economy, during the effectivity of the contract, or upon its renewal, the PE may consider the expansion or reduction of the space provided by the existing lessor, provided

that the leased premises can accommodate the space requirements of the PE in case of expansion, based on the need of the PE and the best way by which such need may be addressed and satisfied, subject to existing budgeting, accounting and auditing rules.”;

- (2) **CLARIFY** that the renewal of the contract of lease of real property need not be reflected in the APP.

The Amendment to the Guidelines shall take effect after fifteen (15) days following the publication in the Official Gazette or a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified true copies of this Resolution.

APPROVED this 18th day of May 2018 at Pasig City, Philippines.

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