APPROVING, BY REFERENDUM, THE IMPLEMENTING GUIDELINES FOR LEASE OF PRIVATELY-OWNED REAL ESTATE AND VENUE

WHEREAS, the Government Procurement Policy Board (GPPB), under Section 63 of Republic Act 9184 (R.A. 9184), is mandated to formulate and amend public procurement policies, rules and regulations, and amend, whenever necessary, the implementing rules and regulations of R.A. 9184;

WHEREAS, pursuant to said mandate, the GPBB through Resolution No. 019-2007 dated 27 July 2007, issued the Implementing Guidelines for Lease of Privately-Owned Real Estate (hereinafter, the "Guidelines") as prescribed under Section 53 (i) of the Implementing Rules and Regulations Part –A of R.A. 9184;

WHEREAS, the revised set of Implementing Rules and Regulations (IRR) of R.A. 9184 was approved last 22 July 2009 and took effect last 2 September 2009 or thirty (30) days after its publication in the *Official Gazette*;

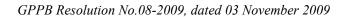
WHEREAS, one of the amendments under the IRR is the inclusion of lease of venue as an additional instance for Negotiated Procurement under Section 53.10 of the IRR, subject to guidelines to be issued by the GPPB;

WHEREAS, during its 9th Regular Meeting held last 30 September 2009, the GPPB deliberated and approved, in principle, the procedural guidelines for lease of venue under Section 53.10 of the IRR and to incorporate these in the Guidelines;

WHEREAS, the Inter-Agency Technical Working Sub-Group, to whom the preparation and finalization of amendments to the Guidelines were delegated, has approved the Guidelines, and agreed to favorably recommend these for the final approval of the GPPB;

NOW, THEREFORE, 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 REVISED IMPLEMENTING GUIDELINES FOR LEASE OF PRIVATELY-OWNED REAL ESTATE AND VENUE, attached as Annex "A" to, and made an integral part of, this resolution.

This resolution shall take effect immediately.



RESOLUTION NO. 08-2009

APPROVED this 3rd day of November 2009 at Pasig City, Philippines.

(Sgd.)

ROLANDO G. ANDAYA, JR. Secretary Department of Budget and Management

(Sgd.)

DEPARTMENT OF EDUCATION

(Sgd.)

DEPARTMENT OF FINANCE

(Sgd.)

DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT

(Sgd.)

DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS

(Sgd.)

DEPARTMENT OF TRADE AND INDUSTRY

(Sgd.)

DEPARTMENT OF NATIONAL

DEFENSE

(Sgd.)

DEPARTMENT OF SCIENCE AND TECHNOLOGY

(Sgd.)

DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS

page 2 of 15

(Sgd.)

DEPARTMENT OF ENERGY

(Sgd.)

AUGUSTO B. SANTOS

Acting Director General

National Economic and Development Authority

(Sgd.)

DEPARTMENT OF HEALTH

Republic of the Philippines



(Sgd.)

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(Sgd.)

RUBY U. ALVAREZ Board Secretary, GPPB Executive Director, GPPB-TSO

Annex A

IMPLEMENTING GUIDELINES FOR LEASE OF PRIVATELY-OWNED REAL ESTATE AND VENUE

1. PURPOSE

The Guidelines on Lease of Privately-Owned Real Estate and Venue (the "Guidelines") shall set forth the rules and procedures in entering into contracts for lease of privately-owned real estate and venue by government agencies for official use pursuant to Section 53.10 of the Implementing Rules and Regulations of Republic Act 9184.

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. **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.
- 3.2. **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.
- 3.3. **Lessor.** Refers to any private individual, partnership, cooperative, association, or corporation having absolute ownership over the real estate or venue to be leased.
- 3.4. **Real Estate.** Refers to land and buildings, including office spaces or units.

- 3.5. **Rental Rate.** 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.
- 3.6. **Venue.** Refers to training centers, convention halls, hotels, and similar establishments catering to trainings, seminars, conferences, conventions, symposia and similar gatherings requiring the official participation of government officials and employees. This may include meals and accommodation depending on the requirements of the procuring entity.

4. GUIDING PRINCIPLES

- 4.1. It is more preferred that government agencies lease publicly-owned real estate and venue from other government agencies.
- 4.2. The location of the real estate or venue to be leased should have been meticulously selected 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. In the lease of venue, other factors such as the nature of the event or the level of security in the proposed location may also be taken into account.
- 4.3. 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, amenities, and convenience from the leased real estate or venue, and the Lessor gets an equitable return of capital or investment.
- 4.4. Rental rates should also be within the prevailing market rates for lease of real estate or venue with the same or similar condition or classification and located within the vicinity.
- 4.5. The procuring entity shall ensure that the objectives and purpose of the lease contract do not constitute an unnecessary, excessive, extravagant, or unconscionable expenditure.

5. **PROCEDURAL REQUIREMENTS**

- 5.1. The end user unit shall conduct a Cost-Benefit Analysis to assess the feasibility of leasing a privately-owned real estate or venue as against purchasing or leasing from a government-owned real estate or venue.
- 5.2. The recommendation of the end user unit to lease a privately-owned real estate or venue shall also indicate the proposed location/s, the justifications therefor, and the result of the market analysis of the

prevailing rates of lease contracts within the vicinity of the selected location/s.

- 5.3. The Approved Budget for the Contract (ABC) shall be set using the mid point of the range obtained from the results of the market analysis on the prevailing lease rates for real estates or venue within the vicinity of the selected location complying with the criteria and technical specifications of the end user unit. In no case shall the rental rates, including additional expenses, such as association dues in the case of lease of real estate, exceed the ABC.
- 5.4. The Annual Procurement Plan of the procuring entity shall reflect the proposed lease of real estate or venue specifying the approved mode of procurement, the ABC, and the general description of the lease.
- 5.5. Selection of the Lessor following the procedures prescribed in Items 6 and 7 of these Guidelines may be delegated to the appropriate bureau, committee, or support unit duly authorized by the Bids and Awards Committee.
- 5.6. Eligibility documents need not be submitted by prospective Lessors. The procuring entity must nevertheless validate whether the Lessor to be awarded the contract is technically, legally and financially capable through other means.
- 5.7. All lease contracts with ABCs costing more than Fifty Thousand Pesos (Php 50,000.00) shall be posted in the Philippine Government Electronic Procurement System.

6. **SPECIFIC GUIDELINES: LEASE OF REAL ESTATE**

- 6.1. The draft contract and the technical specifications for the lease shall be prepared taking into consideration the rating factors under Appendix A of these Guidelines.
- 6.2. Thereafter, at least three (3) prospective Lessors shall be invited to submit sealed price quotations.
- 6.3. On a specified date, submitted price quotations shall be opened to determine the Lowest Calculated Bid (LCB). The real estate being offered by the Lessor with the LCB shall be rated in accordance with the technical specifications prepared pursuant to Appendix A, and the reasonableness of its price quotation shall be determined in accordance with the methodology prescribed in Appendix B of these Guidelines
- 6.4. If the LCB is determined to be responsive and reasonable, said bid shall be declared as the Lowest Calculated Responsive Bid (LCRB). If not, then the second LCB shall be evaluated and its reasonableness

determined pursuant to Item 6.3 of these Guidelines. This procedure shall be repeated for the next LCB until the LCRB is determined.

6.5. Lease contract shall be awarded to the LCRB. If no LCRB has been determined, then another round of prospective Lessors shall be invited to submit sealed price quotations in accord with Item 6.2 of these Guidelines until an LCRB has been determined and awarded the contract.

7. SPECIFIC GUIDELINES: LEASE OF VENUE

- 7.1. Technical specifications shall be prepared taking into consideration the rating factors under Appendix C of these Guidelines.
- 7.2. Once technical specifications have been finalized, at least three (3) price quotations shall be obtained within the vicinity of the selected location.
- 7.3. The venue being offered by the Lessor with the LCB shall then be rated in accordance with the technical specifications prepared pursuant to Appendix C. Compliance rating with technical specifications may be conducted through ocular inspection, interviews, or other forms of due diligence.
- 7.4. If the LCB is determined to be responsive, said bid shall be declared as the LCRB. If not, then the second LCB shall be evaluated and its responsiveness determined pursuant to Item 7.3 of these Guidelines. This procedure shall be repeated for the next LCB until the LCRB is determined.

8. TERMS AND CONDITIONS OF LEASE CONTRACTS

- 8.1. The procuring entity shall ensure that the lease contract provides the most advantageous terms and conditions to the Government.
- 8.2. 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.

9. **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 FORLEASE OF REAL ESTATE

	RATING FACTORS	WEIGHT (%)	RATING
I.	Location and Site Condition		
1.	1. Accessibility	(25)	
	1. Accessionly 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	(10)	
		100	
	I	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	
	1		
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	

	RATING FACTORS	WEIGHT (%)	RATING
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		

Note: Weight of each rating factor may be changed as long as total weight per classification is equivalent to 100. Figures in parenthesis are samples. Procuring entity must determine passing rate before inviting bids from Lessors. A bid is determined to be responsive if it is equal to or higher than the passing rate.

Appendix B

DETERMINATION OF REASONABLESNESS OF RENTAL RATES

1. The reasonableness of rental rates may be determined using any of the following methods.

1.1. Computation based on Observed Depreciation

This method uses the following formula and a depreciation rate determined 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		

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

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

- 1.1.2. Reproduction Cost refers to the estimated total cost of replacing the real estate with the same utility.
- 1.1.3. Capitalization Rate refers to the interest rate on the cost or value of the property.
- 1.1.4. 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.
- 1.1.5. 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.
- 1.2. Computation based on Straight Line Depreciation

This method uses the following formula:

Age of Real	=	Current Year – Year of Construction
Estate		
Depreciation	=	Please See Table of Structural Depreciation
Rate		
Reproduction	=	Estimated Unit Construction Cost \times (1 – Depreciation Rate)
Cost		
Formula Rate	=	Reproduction Cost × Monthly Capitalization Rate
Rental Rate	=	Formula Rate × Factor Value
Monthly	=	Rentable Area × Rental Rate
Rental		

1.2.1. Depreciation rate shall be determined using the following Table of Structural Depreciation provided by the DPWH:

AGE	ESTIMATED LIFE OF REAL ESTATE								
	WOODEN	SEMI-CONCRETE	REINFORCED	STRUCTURAL					
	FRAME	(60 years)	CONCRETE	REINFORCED					
	(40 years)		(75 years)	(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					

- 1.2.2. 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.
- 1.2.3. Reproduction Cost, Capitalization Rate, Rentable Area and Factor Value shall have the same meaning as those referred Items 1.1.2 to 1.1.5.

1.3. Comparative Market Price Analysis

This method is based on the conduct of comparative 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 procuring entity. In the lease of vacant lot or other land spaces, the procuring entity shall likewise consider the zonal valuation issued by the city or municipality having jurisdiction over the property.

- 2. If the price quotation of the prospective Lessor does not exceed the computed monthly rental or is within the prevailing market rates, the rental rate offered may be regarded as reasonable, and its quotation may then be considered for award.
- 3. Sample Computations for Observed Depreciation and Straight Line Depreciation:

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 \times (1 – Depreciation Rate) P25,000/sq.m. (1 – 0.20) P20,000/sq.m.
Formula Rate	=	Reproduction Cost \times 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. <i>say</i> 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 \times (1 – Depreciation Rate) P25,000/sq.m. (1 – 0.248) P18,800/sq.m.
Formula Rate	=	Reproduction Cost \times 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. <i>say</i> 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.

Appendix C

TABLE OF RATING FACTORS FOR
LEASE OF VENUE

	RATING FACTORS	WEIGHT (%)	RATING
I.	Availability	100	
II	Location and Site Condition		
	1. Accessibility	(50)	
	2. Parking space	(50)	
		100	
III.	Neighborhood Data		
111.	1. Sanitation and health condition	(25)	
	2. Police and fire station	(25)	
	3. Restaurant	(25)	
	4. Banking and Postal	(25)	
	4. Danking and Fostal	100	
IV.	Venue	100	
1.	a. Structural condition	(20)	
	b. Functionality	(20)	
		(10)	
		(10)	
	b. Room arrangement (e.g., single, double, etc.)	(5)	
	c. Light, ventilation, and air conditioning	(5)	
	d. Space requirements	(5)	
	c. Facilities		
	a. Water supply and toilet	(4)	
	b. Lighting system	(5)	
	c. Elevators	(4)	
	d. Fire escapes	(4)	
	e. Fire fighting equipment	(4)	
	f. Internet and Telecommunications	(4)	
	g. Audio visual equipment	(5)	
	d. Other requirements		
	a. Maintenance	(5)	
	b. Attractiveness	(5)	
	c. Security	(5)	
	e. Catering Services	(5)	
	f. Client's satisfactory rating	(5)	
		100	
		- *	

	RATING FACTORS	WEIGHT (%)	RATING
I.	Availability	X (.5) =	
II.	Location and Site Condition	X (.1) =	
III.	Neighborhood Data	X (.05) =	
IV.	Venue	X (.35) =	
FACTOR VALUE			

Note: Weight of each rating factor may be changed as long as total weight per classification is equivalent to 100. Figures in parenthesis are samples. Procuring entity must determine passing rate before inviting bids from Lessors. A bid is determined to be responsive if it is equal to or higher than the passing rate.