



Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 029-2016

27 April 2016

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Re: Leasing of Government Property

Dear [REDACTED]

This refers to your letter seeking advice on the proper mode of procurement relative to lease of stalls to concessionaires within RTU's buildings.

For your guidance, leasing out of a government-owned building for private use is not within the ambit of Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR). The *Guidelines on Lease of Privately-Owned Real Estate and Venue (Guidelines)* expressly excluded the "lease of government property for private use" from the coverage of the Guidelines. In NPM No. 043-2004¹, we clarified that "[t]he law has no intention to include therein the leasing out of government buildings and spaces, wherein the concerned government agency does not acquire ownership or temporary use of a thing, but generates income by such transaction."

At this juncture, we wish to respectfully inform the RTU President that leasing out of government building for private use is governed by Executive Order (EO) No. 301², dated 26 July 1987, as re-stated in Commission on Audit (COA) Circular No. 87-282, dated 22 December 1987, thus:

Section 7. Jurisdiction over Lease Contracts. - The head of agency intending to rent privately-owned buildings or spaces for their use, or **to lease out government-owned buildings or spaces for private use**, shall have authority to determine the reasonableness of the terms of the lease and the rental rates thereof, and to enter into such lease contracts without need of prior approval by higher authorities, subject to compliance with the uniform standards or guidelines established pursuant to Section 6 hereof by the DPWH and to the audit jurisdiction of COA or its duly authorized representative in accordance with existing rules and regulations.

¹ Dated 30 March 2004.

² Decentralizing Actions on Government Negotiated Contracts, Lease Contracts and Records Disposal.

Verily, per COA Circular No. 88-282A, dated 3 March 1988, DPWH has issued the "Uniform Standards/Guidelines to Determine the Reasonableness of the Terms and Rental Rates of Lease Contracts for Private or Government Buildings/Spaces".

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

Very truly yours,

(sgd.)

MELISSA A. SANTIAGO-YAN
Officer-in-Charge

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