

GUIDELINES ON THE PRIVATIZATION AND DISPOSITION OF GOVERNMENT ASSETS

TABLE OF CONTENTS

TITLE I. GENERAL PROVISIONS	3
Section 1. Rationale	3
Section 2. Scope	3
Section 3. Objectives	4
Section 4. General Policy	4
Section 5. Definition of Terms	5
Section 6. Disposition Entities	9
TITLE II. PRE-DISPOSITION ACTIVITIES	10
Section 7. Asset Registry	10
Section 7.1. Contents of the Asset Registry	10
Section 7.2. Tier System in the Asset Registry	10
Section 8. Annual Disposition Program	11
Section 9. Asset Disposition Plan	11
Section 9.1. Terms and Conditions	12
Section 10. Appraisal	12
Section 10.1. Base Price	13
Section 10.2. Price Adjustment	13
TITLE III. MODES OF DISPOSITION	14
Section 11. Mode of Disposition for Privatization of Assets	14
Section 12. Alternative Modes Where Ownership Remains with the National Government	15
TITLE IV. DISPOSITION ACTIVITIES	15
CHAPTER 1. PUBLIC AUCTION	15
Section 13. Publication of Invitation to Bid and Tender Documents	15
Section 14. Submission and Receipt of Bids	17
Section 15. Bid Security	17
Section 16. Bid Opening	18
Section 17. Bid Evaluation	18
Section 18. Breaking of Ties	19
Section 19. Confirmation of Sale	19
Section 20. Activities after PRC's issuance of the Letter of Confirmation	20
Section 21. Failure of Public Auction	20
CHAPTER 2. SALE THROUGH NEGOTIATION	21
Section 22. General Procedures in the Sale through Negotiation	21
Section 23. Negotiation Procedures After the Declaration of Failure of Public Auction	22
CHAPTER 3. UNSOLICITED PROPOSAL	23
Section 24. Processing of an Unsolicited Proposal	23

Section 25. Failure to Comply with the Terms and Conditions upon Acceptance of the Unsolicited Proposal	24
CHAPTER 4. OTHER MODES OF DISPOSITION	24
Section 26. Government-to-Government Transactions	24
Section 27. Direct Purchase by Present Occupant	24
Section 28. Leases and Lease-Purchase	24
Section 28.1. Setting the Lease Rate.	25
Section 28.2. Terms and Conditions of the Lease	25
Section 28.3. Procedures in processing Lease Proposals	26
Section 28.4. Termination of Lease Contract	26
Section 29. PPPs and Securitization	27
TITLE V. FINAL PROVISIONS	27
Section 30. Transitory Clause	27
Section 31. General Repeal	27
Section 32. Separability.	28
Section 33. Effectivity	28
ANNEX "A" DISPOSITION OF REAL ESTATE ASSETS	29
Section 1. Contents of the Asset Registry	29
Section 2. Tier System in the Asset Registry	29
Section 3. Appraisal of the Real Property	30
ANNEX "B" BROKER'S ACCREDITATION	32
Section 1. Broker's Accreditation Process	32
Section 2. Broker's Accreditation Requirements	32
Section 3. Duties and Responsibilities	33
Section 4. Prohibited Acts	34
Section 5. Broker's Fees	34
Section 6. Grounds for Revocation of Broker's Accreditation	35
Section 7. Sanctions	36
Section 8. Performance Review	36
Section 9. Brokers Directly Engaged by the DE	36
ANNEX "C" DISPOSITION OF PERSONAL PROPERTIES	37
CHAPTER 1. Shares of Stocks	37
Section 1. Contents of the Asset Registry	37
Section 2. Tier System in the Asset Registry	37
Section 3. Appraisal of Assets	38
Section 4. Sale to Small Local Investors (SLI)	38
Section 5. Sale of Assets in Corporate Form	39
CHAPTER 2. Unserviceable, Fully Depreciated, or Obsolete Personal Properties	40
ANNEX "D" BLACKLISTING	41

TITLE I. GENERAL PROVISIONS

Section 1. Rationale

- A. Republic Act No. 8758¹ provides that upon the expiration of the term of the Asset Privatization Trust ("APT"), all Assets, moneys, and other properties belonging to it, and its liabilities outstanding shall revert to and be assumed by the National Government. The financial assets shall be transferred for Disposition by the President of the Philippines to a trust department of the appropriate government financial institution. Whereas the physical assets remaining at the end of the term of APT shall immediately be transferred to the appropriate government agency for Disposition.

- B. Executive Order No. 323, s. 2000 ("EO 323, s. 2000") established and mandated the Privatization Council ("PrC") to oversee the Privatization program of the Government. It granted authority to the PrC to direct, supervise, and coordinate all privatization and similar disposition efforts undertaken by the Government in order to promote private sector participation in developing the Philippine economy and to generate maximum cash recovery for the National Government. As such, the PrC assumed all the powers, functions, duties, and responsibilities, as well as all properties, real or personal assets, equipment, and records, along with all the obligations and liabilities previously held or exercised by the Committee on Privatization ("COP") under Proclamation No. 50, s. 1986, as amended, which have been devolved to the National Government pursuant to Republic Act No. 8758. The PrC is composed of the Secretary of Finance, as Chairman, and the Secretaries of Budget and Management, Trade and Industry, National Economic and Development Authority, and Justice, as members. The National Treasurer and the Chairman of the Presidential Commission on Good Government ("PCGG") are non-voting members of the PrC.

- C. EO 323, s. 2000 likewise constituted the Technical Committee of the PrC ("PrC-TC") composed of the representative of the Department of Finance, as Chairman, and representatives of the Departments of Justice, Budget and Management, Trade and Industry, National Economic and Development Authority, Bureau of the Treasury, and the PCGG, as members.

Section 2. Scope

- A. These Guidelines shall cover the Privatization and Disposition of government Assets and properties identified by the PrC which shall be assigned to and disposed of by the Disposition Entity ("DE").

¹ Entitled "An Act Extending The Term Of The Committee On Privatization And The Asset Privatization Trust Amending For The Purpose Republic Act Numbered Seven Thousand One Hundred Eighty-One, As Amended".

- B. The DE shall prepare a Disposition Plan for the following government Assets², as designated and approved by the PrC:
- a. Real or personal property of any kind owned or held by the government institutions, directly or indirectly, through foreclosure or other means, in settlement of such obligations;
 - b. Receivables and other obligations due to the government institutions under credit, lease, indemnity, and other agreements, together with all collateral security and other rights granted to such institutions by contract or operation of law to secure or enforce the right of payment of such obligations. These may include rights in relation to shares of stock in corporations such as voting rights, or rights to appoint directors of corporations;
 - c. Shares of stocks and other investments held by government institutions;
 - d. The government institution themselves, whether as parent or subsidiary corporations; and
 - e. Other government Assets that may be deemed underutilized, idle, or not being used for the specific purpose of the possessors' charter and function.

Section 3. Objectives

The objectives of these Guidelines are the following:

- A. To consolidate and improve existing PrC policies, issuances, and guidelines on Disposition of Assets;
- B. To provide a guiding principle in the Disposition of Assets to the private sector or any other entity including Government-Owned and/or-Controlled Corporations ("GOCCs"), Local Government Units ("LGUs"), government agencies, bureaus, or instrumentalities, through the appropriate DE;
- C. To provide transparency for all stakeholders;
- D. To promote private sector participation in developing the Philippine economy;
- E. To generate cash recovery by the National Government for otherwise idle, foreclosed, sequestered, or underutilized Assets; and
- F. To provide basic terms and conditions for the Disposition of Assets.

² As defined in Section 2, Proclamation No. 50 s. 1986.

Section 4. General Policy

- A. Assets identified for Disposition by the National Government, which were previously held by the COP, and all other Assets identified for Disposition by the National Government, shall be privatized or disposed of by the DE, subject to necessary approvals as required by relevant laws, rules, and regulations.
- B. As a general rule, the Disposition of Assets shall be on an "As Is, Where Is" basis.
- C. The Disposition of Assets shall be in accordance with existing laws, rules, and regulations, the Annual Disposition Program, and the Asset Disposition Plan approved by the PrC. Should there be a conflict between these Guidelines and the law, the latter shall prevail.
- D. The DEs shall promote transparency, competition, and efficiency to attract and encourage prospective bidders or buyers in the Disposition of Assets by implementing clear and simple disposition rules and procedures.
- E. A loss recovery provision, *i.e.*, any contractual provision that protects the National Government from financial liability, must be included in the terms and conditions of the sale of any Asset sold below the Base Price or Market Value, whichever is higher.
- F. As a general rule, all sales of Assets shall be paid in cash and in lump sum. Installment or deferred payments may be allowed only under meritorious circumstances subject to the approval of the PrC. In the sale of Assets, transfer of ownership or title shall be allowed only upon full payment of the Winning Bid or Offer Price. In the sale of Assets on installment, transfer of ownership or title may be allowed provided the balance is fully secured by a mortgage on the Assets or by standby letter of credit issued or confirmed by a bank or a government financial institution.
- G. The Disposition of National Government Assets shall, insofar as applicable and/or practicable, adhere to all general policies, rules, and regulations such as, but not limited to the following:
 - a. Proclamation No. 50, series of 1986, as amended, or "Proclaiming and Launching a Program for the Expeditious Disposition and Privatization of certain Government Corporations and/or the Assets thereof, and creating the Committee on Privatization and the Asset Privatization Trust";
 - b. Republic Act No. 7181, as amended by Republic Act No. 7661, Republic Act No. 7886, and Republic Act No. 8758, or "An Act extending the life of the Committee on Privatization (now PrC) and the Asset Privatization Trust (now PMO)"; and
 - c. EO 323, s. 2000.

Section 5. Definition of Terms

- A. **Adjusted Base Price** - refers to PrC approved revised Base Price in the event of a Failed Bidding.
- B. **Annual Disposition Program ("Program")** - refers to the disposition program submitted annually by the DEs to the PrC. Said Program shall contain the Asset Registry, proposed mode of Disposition, disposition timeline, Valuation, and proposed Base Price of the Asset.
- C. **Appraisal** - also known as **Valuation**, is the act or process of estimating the value of an Asset as of a specific date for a given purpose. It is an estimate of value, usually the market value or value as defined by the Appraiser. It is made as of a specific date and is a conclusion which results from a logical and orderly analysis of facts.
- D. **Appraised Value** - refers to the estimated value of an Asset as rendered by an Appraiser based upon an interpretation of facts, assumptions, and conclusion, as of a specific date.
- E. **Appraiser** - refers to one who conducts appraisals; specifically, one who possesses the necessary qualifications, ability, and experience to execute or direct the appraisal of the Asset.
- F. **"As Is, Where Is" basis** - shall refer not only to the physical condition of the Asset and its contents or inclusions at the time of the sale, but also to the conditions of the owner's title or other evidence of ownership and the extent and state of whatever rights, interests, and participation over the Asset the DE may have at the time of the sale. In addition, the term "As Is, Where Is" shall mean to include the buyer's assumption of all unpaid taxes, fees, charges, assessments, encumbrances, liens, and the like accruing on the Asset in order to transfer the Certificate of Title or other evidence of ownership from the owner in the title to the buyer. The buyer shall be responsible in taking steps to verify all disclosures on the Asset/s against its actual condition, title or other evidence of ownership, the size and area since the descriptions of the Asset/s are disclosed based only on available records of the DE. The buyer is purchasing with all attendant faults of the Asset, if any, whether or not immediately apparent and without any express and implied warranty.
- G. **Asset/s** - shall include (i) receivables and other obligations due to the government institutions under credit, lease, indemnity, and other agreements together with all collateral security and other rights, including but not limited to rights in relation to shares of stock in corporations such as voting rights as well as rights to appoint directors of corporations or otherwise engage in the management thereof, granted to such obligations; (ii) real and personal property of any kind owned or held by government institutions, including shares of stock in corporations, obtained by such government institutions, whether directly or indirectly, through foreclosure or other means, in settlement of such obligations; (iii) shares of stock and other investments held by government institutions; (iv) the government institutions themselves, whether as parent

or subsidiary corporations; and (v) real and personal property of any kind obtained through forfeiture or escheat proceedings initiated by government institutions.

- H. **Asset Registry** - refers to the registry containing the list of Assets held by or assigned to the DE for appropriate Disposition.
- I. **Asset Disposition Plan ("Disposition Plan")** - refers to the document submitted by the DEs for approval of the PrC prior to the Disposition process. This contains the Asset to be Disposed, proposed mode of Disposition, disposition timeline, Valuation, proposed Base Price of the Asset, and required authorization to the DEs for Financial Closing.
- J. **Base Price** - the minimum amount or floor price by which the Asset may be sold or disposed of as approved by the PrC.
- K. **Book Value** - refers to the capitalized cost of an Asset less accumulated depreciation, depletion, or amortization as it appears on the account books of the business. With respect to a business entity, the difference between total assets (net of depreciation, depletion, and amortization) and total liabilities of a business as they appear on the balance sheet.
- L. **Closing Price** - refers to the amount to be presented and approved by the PrC for Confirmation of Sale under Section 19 of these Guidelines. Closing Price includes the Winning Bid and, if applicable, the Broker's Fees, Government's costs, expenses, and fees, as enumerated in Section 10.1 (Base Price).
- M. **Disposition** - refers to any act of the DE in the nature of the following activities: (i) selling, transferring, conveying, or assigning of the government Asset with the intention of transferring ownership to the winning bidder; (ii) leasing the government Asset on a long-term basis; or (iii) any other activities of similar nature wherein the government's ownership, possession, or enjoyment of the government Asset will be limited or transferred whether fully or partially, on a permanent or long-term basis.
- N. **Disposition Entity ("DE")** - refers to a government institution designated by the PrC, upon recommendation by the PrC-TC, to dispose of government Assets, including but not limited to the Privatization Management Office ("PMO"), PCGG, National Development Company ("NDC"), and other government institutions identified by the Office of the President.
- O. **Market Value** - refers to the estimated amount for which a real property shall exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently, and without compulsion. Provided, that during the transition period of the implementation of the Republic Act No. 12001 or the "Real Property Valuation and Assessment Reform Act", the Zonal Values, as determined by the Bureau of Internal Revenue, and the market value, as determined by the LGU, shall continue to be referred to for purposes of determining any national or local taxes related to these Guidelines.

- P. **Government-to-Government Transaction** - refers to a transaction between government agencies, bureaus, instrumentalities, and LGUs.
- Q. **Highest Bidder** - refers to an individual or entity with the highest offer in a Public Auction.
- R. **In-house Appraisal** - refers to the Appraisal of an Asset conducted by the DE itself and shall be independent from the Third-Party Appraisal.
- S. **Lease** - refers to a contract arrangement in which rights of use and possession are conveyed from the Asset's title owner ("lessor") in return for a promise by another ("lessee") to pay rents as prescribed by the Lease contract, subject to pertinent laws.
- T. **Long-term Lease** - refers to a lease period of at least one (1) year.
- U. **Market Sounding** - refers to a feedback-gathering exercise with the appropriate or different relevant stakeholders and potential partners, such as but not limited to prospective bidders, financing groups, government institutions, and industry and community groups.
- V. **National Asset Registry System (NARS)** - an Information Technology (IT)-based system established to provide a comprehensive inventory of the non-financial assets of the government that serves as a government resources management tool pursuant to DOF-DBM-NEDA Joint Memorandum Circular No. 2020-1.
- W. **Notice of Award** - refers to a document issued by the DE to the buyer which signifies confirmation of the final PrC approval of Disposition.
- X. **Offeror** - refers to an individual or entity who submits an offer to the DE in charge of an Asset held for Disposition.
- Y. **Original Offeror** - refers to the Offeror with the highest price offer in case more than one (1) unsolicited proposal for the same asset is received.
- Z. **Privatization** - refers to selling, transferring, conveying, or assigning a government Asset with the intention of transferring the ownership of the said Asset to the private sector.
- AA. **Public Auction** - is generally an open and transparent method of selling an Asset where parties can compete equally in the bidding subject to Title IV, Chapter 1 (Public Auction) of these Guidelines. The Asset to be disposed of through this method shall be advertised sufficiently and promoted in an open manner.
- BB. **Revised Bid** - refers to a resubmission of bids by bidders who have been deemed to be the Highest Bids during Bid Evaluation. The Revised Bid will be their final and best offer and is meant to break the tie of the Public Auction.

- CC. Small Local Investors ("SLI")** - refers to individual Filipino investors, including members of the Government Service Insurance System ("GSIS") or the Social Security System ("SSS"), Filipino overseas workers, small farmers, fisherfolks, or employee cooperative, or other similar cooperatives investing not more than One Hundred Thousand Pesos (PhP100,000.00) in government Assets or shares for Privatization, as defined in Republic Act. No. 7886.
- DD. Third-party Appraisal** - refers to the Appraisal of an independent third-party Appraiser accredited by the Securities and Exchange Commission ("SEC") or a professional association of Appraisers engaged by the DE.
- EE. Tier System** - refers to the hierarchical categorization of the inventory of Assets held by the DE based on their physical and legal conditions and their potential and/or priority for Disposition.
- FF. Winning Bidder** - refers to an individual or entity that satisfies all the requirements set forth in the Tender Documents and provides the Winning Bid, which is confirmed by the PrC for award.
- GG. Winning Bid** - refers to the price that is the highest complying bid, as approved by the PrC.
- HH. Schedule of Market Values** - refers to a table of base unit market value for all kinds of real property, except machinery within an LGU, prepared by assessors pursuant to existing laws, rules and regulations. For real property not specified in the SMV, the same shall be appraised at its current market value, and shall be assessed for taxation purposes by applying the prescribed assessment level based on its actual use.

Section 6. Disposition Entities

The DE shall be assigned Assets identified for Disposition by the PrC, upon recommendation by the PrC-TC. The assigned DE shall perform the following, among others:

- A. Establish, organize, update, and maintain its Asset Registry, as provided in Section 7 (Asset Registry) of these Guidelines;
- B. Prepare a digital version of the Asset Registry and ensure a backup strategy;
- C. Prepare a Program of Assets identified for Disposition;
- D. Prepare a Disposition Plan for the marketing and carrying out of the approved Program;
- E. Implement the approved Program, including the execution and delivery of the Deeds of Sale, Lease Contracts, and other legally operative documents, as may be necessary or appropriate to implement the conservation and Disposition of the Asset, subject to the prior approval of the PrC;

- F. Engage external expertise, such as but not limited to Third-party Appraisers, engineers, brokers, lawyers, as may be necessary or allowed under the law in the fulfillment of its tasks under these Guidelines; and
- G. Adopt agency-specific marketing schemes for the Disposition of the Asset, consistent with these Guidelines, and subject to applicable laws, rules, and regulations.

TITLE II. PRE-DISPOSITION ACTIVITIES

Section 7. Asset Registry

The DEs are required to conduct and maintain an inventory of all their Assets including, but not limited to, real and personal properties held by or assigned to them for Disposition.

The Asset Registry must be digitized, linked, networked, and user-friendly. The DE shall maintain a digital copy of all documents referred to in the Asset Registry.

Section 7.1. Contents of the Asset Registry

The Asset Registry should contain information on the Assets as required in the relevant Annex depending on the type thereof.

The DE shall present the Asset Registry to the PrC on a quarterly basis. Further, the DE shall keep the Asset Registry up-to-date and accurate. Upon submission to the PrC, the Head of the DE shall certify its correctness and accuracy. The DE may extract the above information from the NARS.

In support of the Asset Registry, the following documents shall be made available at any time to the PrC, such as, but not limited to:

- a. Certified True Copy of the Original Certificate of Title, Transfer Certificate of Title, Condominium Certificate of Title, or other verifiable documents showing proof of ownership;
- b. Certified True Copy of the Tax Declaration, or other similar documents;
- c. Maps, Locational Plans, Lot Plans, and GPS Coordinates;
- d. Fair Market Value and Appraisal Reports; and
- e. Transfer Documents and History.

Section 7.2. Tier System in the Asset Registry

The DE shall establish a multi-tier system where Assets can be identified to be most ideal for Disposition.

As a general rule, Assets that are clear of liabilities and are transferred in the name of the Republic of the Philippines shall be prioritized for Disposition.

Assets deemed to be most attractive to the public will be placed in the highest Tier category, while Assets with most issues will be in the lowest Tier. The DE shall identify and resolve issues, including, but not limited to the following, in order to advance Assets up the Tier System with the objective of making the Assets more marketable:

- a. Pending case or claim of ownership;
- b. Any tax liabilities, whether national or local taxes;
- c. Missing titles; and
- d. All other issues based on the Tier Classification

To the extent practicable, Assets that still have the potential to generate more Assets or are providing a stream of income for the government, less of all costs, shall be the least priority for Disposition.

Section 8. Annual Disposition Program

The DE shall present its Program to the PrC, upon recommendation of the PrC-TC, on or before November of the preceding calendar year of the implementation of the said Program. This Program shall include all Assets the DE intends to dispose of, along with a rough monthly timeline for the coming calendar year. Once approved by PrC, the DE may proceed with creating individual Asset Specific Disposition Plans to execute the program. The DE may also post the approved Program in its website to allow the public to inquire availability of the Asset.

The PrC may instruct the DE to conduct Market Sounding for significant Assets. Based on the Market Sounding results, the DE shall include the Assets with favorable market interest and their preferred mode of Disposition in the approved Program. Market Sounding results and activities shall be presented to PrC-TC for guidance.

The PrC, upon the recommendation of the PrC-TC, shall have the authority to prescribe changes related to the Program. These changes may cover Assets to be disposed of, appropriate schedules, and/or timelines for Disposition. The DE shall provide quarterly updates on the progress of its Program.

Section 9. Asset Disposition Plan

The DE shall prepare its plan for each Asset which shall include, among other details, the following:

- a. Asset to be disposed of;
- b. Disposition timeline;
- c. Appraisal/s;

- d. Base Price of the Asset, mode of payment;
- e. Terms and conditions; and
- f. Mode of disposition.

The DE shall request approval of the Plan for each Asset to the PrC and shall provide the PrC with a copy of the Tender Documents, as outlined in Section 13 (Publication of Invitation to Bid and Tender Documents) of these Guidelines.

The PrC, upon the recommendation of the PrC-TC, will approve all the details in the Plan prior to the start of the Disposition process. The PrC, in certain instances, may authorize the DE to issue the corresponding Notice of Award for a specific Asset to the Highest Bidder as long as the minimum Base Price is met.

Section 9.1. Terms and Conditions

A. Minimum Terms and Conditions of Disposition

In addition to the basic terms and conditions for a valid Disposition of an Asset, the following shall be included:

- a. The Winning Bidder or Offeror shall be responsible, at his own expense, for the ejectment of informal settlers and/or occupants, if any, on the Asset subject of the Disposition
- b. The Winning Bidder or Offeror shall be responsible for the transfer costs, registration fees, documentary stamp taxes, and other expenses and charges for the transfer of the title;
- c. For Leases, the lessee shall shoulder the costs of operations and maintenance;
- d. Loss recovery provision under Section 4.E., when applicable; and
- e. An "As Is, Where Is" provision, unless otherwise provided.

B. Deficiency Taxes and Civil Liabilities

The PrC, upon recommendation of DE and endorsement of PrC-TC, may include in the terms and conditions that the Winning Bidder or Offeror shall shoulder all deficiency taxes, whether local or national, of the Asset. These taxes may include capital gains tax, documentary stamp tax, and other transfer taxes which should have been paid during the previous transfers.

The DE may recommend plans to settle any tax and/or civil liabilities, such as but not limited to, deductions from the Base Price, application for compromise and/or abatement, and application for tax amnesty, if available, subject to the approval of the PrC.

Section 10. Appraisal

To ensure that the government receives optimum revenues, the DE shall ensure that Assets undergo an Appraisal process, as prescribed in these Guidelines, to establish the Base Price. Further, the DE shall present the Appraisal Report to the PrC to aid in the determination of the Base Price.

The Appraisal of real property Assets shall be in accordance with Section 3 of Annex "A" of these Guidelines.

In cases where the validity of the Appraisal Report of the Asset have lapsed, the DE may request for an extension of validity of the Appraisal from the PrC, upon recommendation of the PrC-TC.

Section 10.1. Base Price

The Base Price of the Asset shall be equivalent to the sum of the following, unless any discounts or adjustments were made under Section 10.2. (Price Adjustment) of these Guidelines, subject to the approval of the PrC:

- a. Market Value based on the SMV or its book value, whichever is higher;
- b. Present Value of all Future Cash Flows arising from any rental income or other income of the Asset at the target time of the Disposition;
- c. Government's Cost, Expenses, and Taxes paid in the process of transferring and registering the Asset under the National Government and/or any DEs; and
- d. Other costs and expenses to put the Asset into its marketable condition, such as but not limited to legal expenses.

The setting of the Base Price shall be in accordance with Section 3. of Annex "A" (Disposition of Real Estate Assets) for real properties and Section 3. of Annex "C" (Disposition of Personal Properties) for personal properties.

The PrC shall have the discretion on the amount to be approved as the Base Price, particularly in Government-to-Government transactions and cases in Section 10.2. (Price Adjustment).

Section 10.2. Price Adjustment

- A. The DE may propose an Adjusted Base Price, for approval of the PrC, in the following events:
 - a. the Appraisals show significant discrepancies;
 - b. the Market Value is higher than the average of the Appraised Values;
 - c. there are physical or legal conditions that may affect the price of the Asset; or

- d. any other meritorious circumstances warranting an adjustment of the Base Price.
- B. When an Asset remains unsold following either (i) two (2) failed Public Auctions or (ii) one (1) failed Public Auction and one (1) failed Sale through Negotiation, the PrC may approve the following Adjusted Base Price, provided the Appraisal used to determine the original Base Price is still valid:
- a. In case of DE's third (3rd) attempt of Sale through Negotiation or Public Auction, the adjusted Base Price shall not be lower than ninety percent (90%) of the original Base Price;
 - b. In case of DE's fourth (4th) attempt of Sale through Negotiation or Public Auction, the adjusted Base Price shall not be lower than eighty percent (80%) of the original Base Price; and
 - c. In case of DE's fifth (5th) attempt of Sale through Negotiation or Public Auction, the adjusted Base Price shall not be lower than seventy percent (70%) of the original Base Price.
- C. When the Adjusted Base Price is lower than the Appraised Value or Market Value, a loss recovery provision, *i.e.*, any contractual provision that protects the National Government from financial liability, must be included in the terms and conditions of the sale of any Asset.

TITLE III. MODES OF DISPOSITION

The DEs shall recommend any of the following modes of Disposition, for approval of the PrC. All modes of Disposition, processes, and Awards shall be subject to the applicable laws and approvals of the appropriate regulatory agencies, as necessary.

Section 11. Mode of Disposition for Privatization of Assets

- A. Public Auction - the primary mode of Disposition is sale through Public Auction;
- B. Sale through Negotiation - In case of Failure of Public Auction, Disposition through negotiated sale may be resorted to and undertaken by the DE. In the exigency of service, it is understood that the price agreed upon during negotiation shall not be lower than the Base Price as approved by the PrC in relation to Section 10.1.;
- C. Unsolicited Proposal - refers to a proposal made by an Offeror for an Asset to undertake Sale through Negotiation, pursuant to Chapter 2 of these Guidelines. This includes Direct Purchase by current occupants; and
- D. Government-to-Government Transactions - The PrC may approve transfers of Assets to LGUs, other government agencies, bureaus, or instrumentalities, subject to the terms and conditions provided by the PrC and applicable laws, rules, and regulations.

Section 12. Alternative Modes Where Ownership Remains with the National Government

Without impeding the speedy Disposition of the Assets, the DEs are authorized, subject to the approval of the PrC, to enter into the following alternative and/or intermediate modes of Disposition where the ownership of the Asset remains with the DE prior to its Privatization. This may apply to cases where it is deemed more beneficial or advantageous for the government to postpone full Privatization of the Asset.

- a. Public-Private Partnership (PPP) - where the DE finds proponents who will undertake infrastructure and/or development projects in its assets, under any of the arrangements provided in Republic Act No. 11966, or the "Public-Private Partnership Code of the Philippines", and its Implementing Rules and Regulations. The DE shall then refer the PPP project to the appropriate government agency for implementation;
- b. Lease – Long-term Lease (that is not a PPP) may be considered subject to the approval of the PrC;
- c. Lease-Purchase - where the lessee of an Asset held by the DE has the right to purchase the same, the price and terms of the purchase must be specified for the option to be valid, which option may run for the duration of the lease period; and
- d. Securitization - where the form of the Asset held by the DE is changed or modified, such as from physical form to equities or certificate of participation, subject to Section 2 of Republic Act No. 7886.

TITLE IV. DISPOSITION ACTIVITIES

CHAPTER 1. PUBLIC AUCTION

The primary mode of Disposition of Assets shall be through Public Auction, which shall adhere to established mechanics and procedures stated below.

Section 13. Publication of Invitation to Bid and Tender Documents

- A. The Invitation to Bid or Request for Expression of Interest shall be published in all of the following manners of publication immediately. The initial posting must be within fourteen (14) calendar days following the DE's receipt of the PrC approval for its Disposition Plan:

Table 1. Publication Guidelines

Manner of Publication	Base Price	Date of Publication	Frequency
Newspaper of general circulation, either print or online	Below Php 5 million	Once a week for two (2) consecutive weeks, provided that the bid submission deadline is at least seven (7) calendar days from the date of last publication	Two (2) consecutive weeks
	Php 5 million and above	Once a week for three (3) consecutive weeks, provided that bid submission deadline is at least seven (7) calendar days from the date of last publication	Three (3) consecutive weeks
Website and/or any official digital platform of the DEs or government portal	Below Php 5 million	First post is at least fifteen (15) calendar days prior to bid submission deadline	Continuous
	Php 5 million and above	First post is at least thirty (30) calendar days prior to bid submission deadline	Continuous
At least two (2) prominent public places in the locality where the property is to be sold	Below Php 5 million	First post is at least fifteen (15) calendar days prior to bid submission deadline	Continuous
	Php 5 million and above	First post is at least thirty (30) calendar days prior to bid submission deadline	Continuous

- B. A Pre-Bid Conference may be held by the DE for the Disposition of an Asset, or as directed by the PrC.
- C. The DE shall make the Tender Documents available from the time of publication of Invitation to Bid or Invitation for Negotiated Sale until the Bid Submission Deadline. These documents shall prescribe the terms and conditions for the Disposition of the Asset. The Tender Documents shall contain information on the following, at minimum:

- a. Invitation to Bid;
 - b. Description of the Asset for Disposition;
 - c. Base Price as approved by PrC;
 - d. Terms of payments and other terms and conditions;
 - e. Relevant dates of the Public Auction;
 - f. Amount and form of the Bid Security;
 - g. Bid submission, including Buyer's Information relative to its capacity to bid and submit Offers;
 - h. Bid opening;
 - i. Bid evaluation;
 - j. Breaking of Ties; and
 - k. Indicative provisions in the deed of sale or other contract with the Winning Bidder.
- D. The resulting contracts from sale must be consistent with the provisions of the Tender Documents and its Supplemental Bid Bulletins.

Section 14. Submission and Receipt of Bids

- A. The DE shall specify the bid submission deadline, indicating the date, time, and place in the Tender Documents and Supplemental Bid Bulletins. Bids submitted after the deadline shall not be accepted.
- B. Prospective bidders may send written clarifications about the Asset and the Public Auction to the DE.
- C. The DEs may allow the online submission of bids. The mechanics of submission of bids shall be indicated in its Tender Documents.
- D. When there is a Pre-Bid Conference, the Bid Submission Deadline should be at least fifteen (15) calendar days from the Pre-Bid Conference, but no more than forty-five (45) calendar days. Should there be any Supplemental Bid Bulletin/s issued, the new Bid Submission Deadline shall be at least seven (7) calendar days from the issuance of the last Supplemental Bid Bulletin.

Section 15. Bid Security

- A. All bids shall be accompanied by a Bid Security, which shall serve as a guarantee that the Winning Bidder will enter into contract with the DE within ten (10) calendar days from the issuance of Notice of Award.
- B. Prospective bidders shall pay a Bid Security equal to ten percent (10%) of their bid amount.
- C. The Bid Security shall be in the form of Cash or a Manager's Check issued by a Universal or Commercial Bank. Other forms of payment, including Direct Bank Deposit, Electronic

Transfer of Funds or E-Payment platforms, may be allowed, as stated in the Tender Documents of the DE.

- D. Failure to enclose the required Bid Security in the prescribed form and amount will result in automatic disqualification of the bid.

Section 16. Bid Opening

- A. The DE shall immediately open all bids upon the bid submission deadline.
- B. In case the bids cannot be opened as scheduled due to justifiable reasons, the DE shall take custody of the submitted bids and reschedule the opening on the next working day or at the soonest possible time. The DE concerned shall issue a Notice of Postponement accordingly.
- C. The bidders and/or their duly authorized representatives may attend the opening of bids. An online livestream may also be conducted by the DE. The DE shall ensure the integrity, security, and confidentiality of all submitted bids.

Section 17. Bid Evaluation

- A. The DE shall conduct a detailed evaluation of all bids using non-discretionary criteria to ensure the completeness of each bid.
- B. The DE shall evaluate all bids equally to ensure fair and competitive bid comparison, net of any PrC accredited Broker's Fees.
- C. All members of the DE, as well as personnel and officials of the DE are prohibited from making or accepting any communication with bidders regarding bid evaluation until the issuance of the Notice of Award.
- D. In case of discrepancies the following rules shall apply:
 - a. Between the bid price in figures and in words, the latter shall prevail;
 - b. Between the bid price in excel format and in PDF format, the latter shall prevail;
 - c. Between the bid marked as original and the other copy(ies) marked as duplicate copy, the original shall prevail;
 - d. Bids shall then be ranked in descending order based on the evaluation conducted by the DE;
 - e. After all bids have been received, opened, examined, evaluated, and ranked, the DE shall prepare a report stating the results of the Public Auction. The report

shall be reviewed by the head of the DE and shall serve as the recommendation report to the PrC through the PrC-TC, for approval; and

- f. Bid evaluation must be completed within five (5) calendar days from Bid opening.

Section 18. Breaking of Ties

- A. In case of a tie among bidders, where two (2) or more bidders are determined to be and declared as the Highest Bids, the said bidders may be allowed to resubmit a Revised Bid as their final and best offer. The DE shall establish the deadline of the submission of the Revised Bid, which shall in no case be more than fourteen (14) days from the Bid opening.
- B. In the event that one of the tied Highest Bidders does not submit a Revised Bid, the Original Bid amount of the non-submitting bidder shall remain valid and be used for evaluation.
- C. If a tie continues to exist, the tie shall be broken through drawing of lots or by similar non-discretionary and non-discriminatory methods done with full transparency where results are based on sheer luck or chance.

Section 19. Confirmation of Sale

- A. The DE shall submit the recommendation report, including broker fees if any, and present the results of the successful Public Auction to the PrC-TC. The PrC-TC shall review the recommendation report submitted by the DE. Upon review, the PrC-TC shall endorse the same for decision to the PrC.
- B. The PrC shall review the recommendation report as endorsed by the PrC-TC. In its review, the PrC shall consider what is deemed most beneficial, economical, advantageous, or practicable to the National Government.
- C. Should the Asset be disposed of with the assistance of a PrC Accredited Broker, the Closing Price shall reflect the winning bid or offer price plus any Broker's Fees computed in accordance with Section 5 (A) of Annex "B" of these Guidelines. The Winning Bid or Offer amount shall be remitted to the Government while the Broker's Fees shall be remitted to the lead accredited broker from the proceeds of the Sale.
- D. The PrC reserves the right to reject any or all of the bids. Upon rejection of the recommendation, the PrC shall provide its decision and instructions to the DE.
- E. Upon approval by the PrC of the recommendation, the PrC Chairperson shall issue a Letter of Confirmation to the DE containing, among others, the accepted Winning Bid, the terms and conditions of the sale, and the DE's retention fee, if any or if applicable.

Section 20. Activities after PrC's issuance of the Letter of Confirmation

- A. The DE shall implement the decisions and/or instructions of the PrC, whether the recommendation has been approved, rejected, or modified by the PrC. This shall include the issuance of the Notice of Award, if warranted.
- B. The DE shall ensure that payment has been fully collected and all conditions are complied with before signing and executing the relevant documents for the Disposition of the Asset subject to PrC's Letter of Confirmation. The DE shall exert all efforts to enforce collection of any unpaid price and the fulfilment by the Winning Bidder of all its obligations.
- C. If the approved payment of the price is through installment, the Winning Bidder shall consider financing arrangements with the GFIs, *e.g.*, Land Bank of the Philippines, relevant government agencies, *e.g.*, Home Development Mutual Fund or Social Housing Finance Corporation, or other commercial or universal banks in order to efficiently pay its installment payments. For this purpose, the DE may assist the Winning Bidder in securing the approval of the appropriate financing arrangement.
- D. The DE shall regularly report to the PrC regarding the status and updates of the subject Asset in the Letter of Confirmation. The PrC may direct the DE to initiate any legal actions or remedies to protect the interest of the National Government.

Section 21. Failure of Public Auction

- A. The DE shall declare the Public Auction a failure when:
 - a. No bids are received;
 - b. All bids are declared ineligible;
 - c. There is only one offer or tender. In this case, the received sealed offer or tender shall be processed in accordance with Section 22;
 - d. The Winning Bidder withdraws or refuses, without justifiable cause, to accept the award of contract, and no award is made; and
 - e. The Winning Bidder fails to settle the full payment or any installment payment thereof within the prescribed time in the Letter of Confirmation.
- B. In the event of failure of Public Auction under Sections 21.d. and 21.e. above, the Bid Security paid by the concerned bidders shall be forfeited. In addition, if the ineligibility under Section 21.b. above is attended with fraud or the documents submitted are found to be falsified or fraudulent, the Bid Security shall also be forfeited.

CHAPTER 2. SALE THROUGH NEGOTIATION

When there is failure of Public Auction as declared under Section 21 (Failure of Public Auction), the DE may proceed to Sale through Negotiation under this Chapter.

Section 22. General Procedures in the Sale through Negotiation

In accepting any offer through this mode of Disposition, the following general procedures shall be observed:

- A. Any Offeror shall submit a written Offer to Purchase to the DE which shall indicate, among others, the description of the Property, Offer Price, Terms of Payment, and other details. Generally, the Offer Price shall be at a minimum the Base Price as provided under Section 10.1. (Base Price).
- B. The DE shall publish a Notice for Negotiated Sale for situations falling under Section 21 (Failure of Public Auction) of these Guidelines, except paragraph c. (existence of lone bidder) thereof, based on the following modes of publication below. The publication shall provide the period within which the DE will receive written Offers to Purchase.

Manner of Publication	Base Price	Date of Publication	Frequency
Newspaper of general circulation, either print or online	Any amount	Within fourteen (14) days from declaration of Failure of Public Auction	Once
Website and/or any official digital platform of the DEs or government portal	Any amount	Within seven (7) days from declaration of Failure of Public Auction	Continuous
At least two (2) prominent public places in the locality where the property is to be sold	Any amount	Within seven (7) days from declaration of Failure of Public Auction	Continuous

- C. In all cases, upon submission of the Offer to Purchase, the Offeror shall submit at least ten percent (10%) of the offer price as a deposit, which may form part of the payment of the purchase of the Asset. If the PrC rejects the Offer to Purchase or the Offeror rejects PrC's terms and conditions of the sale, the deposit shall be returned to the Offeror.

- D. Upon expiration of the period to accept offers, the DE shall evaluate all the offers received giving priority to the most beneficial, economical, advantageous, or practicable offer to the National Government, *e.g.*, the highest cash offer.
- E. The DE shall evaluate all the offers within fifteen (15) calendar days and submit to the PrC-TC for its review and endorsement for the approval of the PrC. To avert possible confabulation among unscrupulous parties, a record of the proceedings of the negotiation must be maintained.
- F. The process of review, evaluation, and approval shall follow the procedures as set forth in Sections 17 (Bid Evaluation) to 20 (Activities after PrC's issuance of the Letter of Confirmation) of these Guidelines, as applicable.

Section 23. Negotiation Procedures After the Declaration of Failure of Public Auction

- A. In case of only one (1) bidder under Section 14 (Submission and Receipt of Bids) of these Guidelines, the DE, after declaring a Failure of Public Auction, shall ask the lone bidder if it is willing to tender its bid as its Offer to Purchase. Should the lone bidder agree, the bid shall be opened and shall be regarded as the outstanding Offer to Purchase.
 - a. If the Offer is equal to or higher than the Base Price, the DE shall submit the results to the PrC-TC for its review and endorsement to the PrC and, subsequently, for the latter's approval.
 - b. If the Offer is below the Base Price, the DE, in its discretion, may present the same to the PrC for the latter's approval, providing the DE's justification for its recommendation and subject to the minimum terms and conditions under these Guidelines.
- B. In case of absence of any bidders under Section 21.A(a) and 21.A(b) of these Guidelines, the DE may accept Offers to Purchase within thirty (30) calendar days after the initial publication of Notice of Negotiated Sale in Section 22.B, subject to any of the following:
 - a. If there is only one (1) Offeror who submits an Offer to Purchase, the process in Section 23 (Negotiation Procedures After the Declaration of Failure of Public Auction) of these Guidelines shall apply;
 - b. If there are two (2) or more Offerors who submitted an Offer to Purchase, the bids that will proceed with the process are those with bid amounts that are equal to or higher than the Base Price; and
 - c. In case there are identical offers constituting the highest bids, the tie shall be resolved immediately as provided in Section 18 (Breaking of Ties) of these Guidelines.

- C. The Procedures in Sections 19 (Confirmation of Sale) and 20 (Activities after PrC's issuance of the Letter of Confirmation) of these Guidelines shall be followed thereafter.

CHAPTER 3. UNSOLICITED PROPOSAL

Section 24. Processing of an Unsolicited Proposal

- A. Any interested party may submit an unsolicited proposal that includes the description of the property, price offer, terms of payment and other details necessary to evaluate the proposal. Generally, the price offer shall be, at a minimum, the Base Price as provided under Section 10.1. The Offeror shall be required to submit at least ten percent (10%) of the price offer or the Market Value of the Asset, whichever is higher, as a form of bid security, which may form part of its payment in the purchase of the Asset.
- B. In case the Asset has not been subject of any Appraisal Report or the validity of the Appraisal Report has already expired in accordance with Section 3 of Annex "A" (Appraisal of the Real Property) and Section 3 of Annex "C" (Appraisal of Assets), the DE shall have the Asset appraised pursuant to Section 10 (Appraisal) of these Guidelines.
- C. The DE shall prepare a Disposition Plan, if not available, or amend any existing Disposition Plan relating to the Asset. The price offer of the Offeror shall follow the Base Price as provided in Section 10.1. In case more than one (1) unsolicited proposal for the same Asset is received, the DE shall set the highest price offer received as the Base Price and the offeror with the highest price offer shall be declared as the Original Offeror ("Original Offeror"), as defined in Section 5 (Definition of Terms) of these Guidelines.
- D. The DE shall publish the Request for Comparative Offer pursuant to Section 13 (Publication of Invitation to Bid and Tender Documents) of these Guidelines. The Request of Comparative Offer is an invitation to the public to offer for the Asset subject of the unsolicited proposal.
- E. When no comparative offers are received, the DE shall declare the Original Offeror as the winning Offer and shall immediately submit its recommendation report to the PrC-TC for their review and endorsement for the approval of the PrC.
- F. When comparative offers are submitted, all the bids and the unsolicited proposal shall be evaluated for the most advantageous offer pursuant to Section 17 (Bid Evaluation) of these Guidelines. The Original Offeror shall have the right to match the most superior comparative offer and shall be given ten (10) calendar days from the receipt of the notice to match from the DE to make such a matching offer. If the Original Offeror is able to match the proposal of the challenger, the Original Offeror shall be declared as the winning Offer. Otherwise, the most advantageous comparative offer shall be declared as the winning Offer.
- G. The DE shall submit the results of the evaluation to the PrC-TC for their review and endorsement for the approval of the PrC.

- H. The Procedures in Sections 19 (Confirmation of Sale) and 20 (Activities after PrC's issuance of the Letter of Confirmation) of these Guidelines shall be followed thereafter.

Section 25. Failure to Comply with the Terms and Conditions upon Acceptance of the Unsolicited Proposal

Failure of the winning Offeror to follow any of the terms and conditions set by the PrC shall be deemed default and will result in the forfeiture of its deposit. The DE may proceed to Public Auction as a mode of disposition.

CHAPTER 4. OTHER MODES OF DISPOSITION

Section 26. Government-to-Government Transactions

- A. In case when the unsolicited proposal is submitted by another government agency, bureau, instrumentality or LGU, the PrC may consider dispensing with the publication of Request for Comparative Offer. The PrC may confirm the sale of the Asset under Section 24 based on the Unsolicited Proposal without considering other comparative offers.
- B. In light of the PrC's mandate to maximize returns to the National Government, when there are similar comparative proposals for the same Asset submitted by a private sector Offeror and a government sector Offeror, preference shall be given to the highest financial offer.

Section 27. Direct Purchase by Present Occupant

The present occupants of the residential property may purchase the Asset following the rules under Chapter 3 - Unsolicited Proposal of these Guidelines.

Section 28. Leases and Lease-Purchase

- A. The DE may enter into a short-term lease, *i.e.*, lease for one (1) year or less, or a long-term lease, *i.e.*, lease for more than one (1) year. Any long-term lease shall be subject to the approval of the PrC.
- B. Lease is the least preferred mode of Disposition of an Asset. However, upon determination of the DE and upon recommendation by the PrC-TC, the PrC may allow a long-term lease for a single lease contract not exceeding twenty-five (25) years for meritorious reasons, such as:

- a. Long-term lease will be more profitable and advantageous to the National Government;
- b. Long-term lease will make the Asset more marketable, thus increasing the Base Price of the Asset for disposition;
- c. Disposition of the Asset, except leasing, is not expected over a short-term period because of several factors, such as but not limited to, the economic and market condition of real estate industry;
- d. Lessee cannot recover its investment into the property within a limited period of time;
- e. The nature of the business requires a longer lease term; and
- f. Prevailing business practices in the lease industry.

Section 28.1. Setting the Lease Rate.

- A. The Lease Rate shall be at least four percent (4%) of the Base Price of the Asset based on the Appraisal requirements pursuant to Section 10 (Appraisal) of these Guidelines, unless otherwise determined by the PrC based on meritorious reasons, such as but not limited to, the market conditions and prevailing business practice in the leasing industry.
- B. The DEs are encouraged to set higher rates if possible, upon the determination of a viable business model, to maximize revenues for the Government.
- C. The applicable escalation rate and security deposit shall be prescribed by the DE, subject to approval by the PrC, in the lease agreement for the entire original term of the Lease.

Section 28.2. Terms and Conditions of the Lease

- A. The terms and conditions of the Lease Contract, including advance rentals, security deposit, performance security, and other applicable taxes, fees, and charges shall be in accordance with the rules and requirements set forth in the Disposition Plan and in these Guidelines for the Lease of the Asset.
- B. Draft pro-forma contracts for all lease activities shall be drafted by the DEs and reviewed and approved by their statutory legal corporate counsel prior to endorsement to the PrC for approval of Notice of Award.
- C. The DE may set minimum eligibility requirements, such as but not limited to the nationality of the lessee, in order to comply with any constitutional and legal prohibitions, financial requirements, and other eligibility requirements relevant to the Asset for lease.

Section 28.3. Procedures in processing Lease Proposals

- A. In soliciting lease proposals, the DE may publish a Notice for Lease Proposals to the public following the publication requirements under Section 13 of these Guidelines. Upon receipt of the lease proposals, it shall be reviewed, evaluated, and approved in accordance with the procedures provided in Sections 17 (Bid Evaluation) to 20 (Activities after PrC's issuance of the Letter of Confirmation) of these Guidelines, as applicable; provided that for this purpose, the proposals shall be considered as bids. If there is only one (1) eligible proposal, said proposal shall be recommended as the Winning Offeror, subject to the approval of the PrC.
- B. In case of unsolicited lease proposal, the Offeror shall submit to the DE a written offer to lease, including, among others, the description of the Property, offer rental rate, terms of payment and other details. The proposals shall be reviewed, evaluated, and approved in accordance with the procedures provided in Sections 17 (Bid evaluation) to 20 (Activities after PrC's issuance of the Letter of Confirmation) of these Guidelines, as applicable; provided that for this purpose, the proposals shall be considered as bids. At the discretion of the PrC and considering the market value of the Asset, the PrC may require the DE to conduct a comparative proposal stage to solicit more competitive rental offers to maximize the revenue of the government. In such a case, the DE shall follow the procedures in Chapter 1 of these Guidelines, as applicable.

Section 28.4. Termination of Lease Contract

The DEs may terminate the Contract of Lease, at no cost to the National Government, in the following instances:

- A. If the lessee violates the Contract of Lease, including abandonment of the leased Asset;
- B. If the lessee fails to develop the leased Asset within the Development Period approved by the DEs and the PrC;
- C. If the lessee develops the leased Asset for a purpose other than that approved by the PrC, as agreed upon by the DEs and the lessee; and
- D. In times of economic or health crisis or in crucial situations that will require the DE to dispose of the Asset through sale to generate funds, subject to compensation agreed upon by the DEs and the lessee as stated in the Contract of Lease or as may be prescribed by the Tender Documents.

Section 29. PPPs and Securitization

- A. The Disposition of Assets shall adhere to the all general policies, rules, and regulations relevant to its proposed Mode of Disposition such as, but not limited to the following:
 - a. Republic Act No. 11966, or the "Public-Private Partnership Code of the Philippines" and its Implementing Rules and Regulations;
 - b. Republic Act No. 12001, or the "Real Property Valuation and Assessment Reform Act" and its Implementing Rules and Regulations;
 - c. Republic Act No. 12009, or the "New Government Procurement Act" and its Implementing Rules and Regulations; and
 - d. Republic Act No. 9267 or "The Securitization Act of 2004" and its Implementing Rules and Regulations.

- B. The DE may set minimum eligibility requirements, such as but not limited to the nationality of the bidders, in order to comply with any Constitutional and legal prohibitions, financial requirements, and other eligibility requirements relevant to the Asset for Disposition.

- C. Draft pro-forma contracts for the Disposition of Assets shall be drafted by the DEs and reviewed and approved by its statutory legal corporate counsel prior to endorsement to the PrC and/or appropriate Government Body.

TITLE V. FINAL PROVISIONS

Section 30. Transitory Clause

Upon effectivity of these Guidelines, all Dispositions, including those being processed and/or reviewed for which a Confirmation Letter has not been issued by the PrC Chairman shall be processed and/or reviewed in accordance with these Guidelines.

Section 31. General Repeal

All previous PrC guidelines, issuances or policies inconsistent with or contrary to these Guidelines are hereby repealed or modified accordingly.

Section 32. Separability.

If any provision of these Guidelines is held unconstitutional or invalid, other parts or provisions hereof not affected thereby shall continue to be in full force and effect.

Section 33. Effectivity

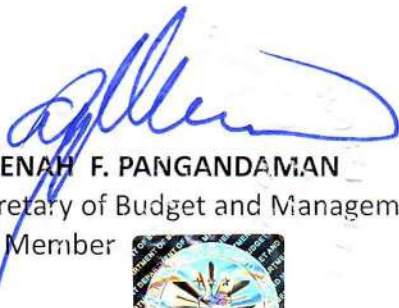
These Guidelines shall take effect fifteen (15) calendar days after the publication thereof in the Official Gazette.


RALPH G. RECTO
Secretary of Finance and
PrC Chairperson

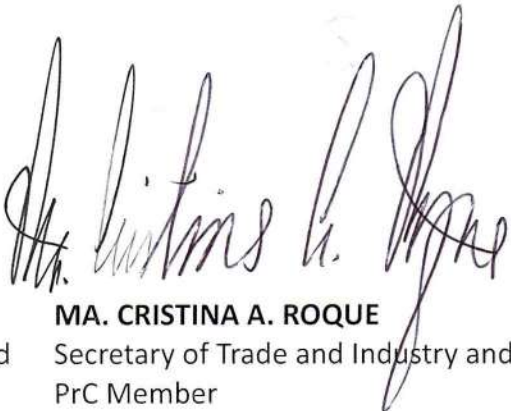



ARSENIO M. BALISACAN
Secretary of National Economic and
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Member





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Secretary of Budget and Management and
PrC Member




MA. CRISTINA A. ROQUE
Secretary of Trade and Industry and
PrC Member




JESUS CRISPIN C. REMULLA
Secretary of Justice and PrC Member

Department of Justice
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ANNEX "A" DISPOSITION OF REAL ESTATE ASSETS

Section 1. Contents of the Asset Registry

- A. The Asset Registry shall include the following:
- a. Country;
 - b. Location (complete address), including geolocation of the asset;
 - c. Registered owner;
 - d. Current possessor of the Asset;
 - e. Land area for real estate assets;
 - f. Land classification for real estate assets;
 - g. Improvements, if any;
 - h. Description of the Asset, including the general condition, actual use, annotations, encumbrances, liens, presence of informal settlers, if any, etc.;
 - i. Date of acquisition, transfer, conveyance to the National Government or DE;
 - j. List of transfer documents;
 - k. Market Value for real estate assets;
 - l. Fair Market Valuation/s and date/s of valuation, if available;
 - m. Appraised Value/s and date/s of valuation/s, if available;
 - n. Tier, in accordance with Section 3.1.2. of these Guidelines; and
 - o. Information of any pending cases, if applicable.
- B. In support of the Asset Registry, the following documents shall be made available at any time to the PrC, such as, but not limited to:
- a. Original or Certified True Copy of the Original Certificate of Title, Transfer Certificate of Title, Condominium Certificate of Title, or other verifiable documents showing proof of ownership;
 - b. Original or Certified True Copy of the Tax Declaration, or other similar documents;
 - c. Maps, locational plans, and lot plans;
 - d. Market Value and Appraisal Reports; and
 - e. Transfer documents.

Section 2. Tier System in the Asset Registry

- A. The DE shall classify the Assets based on the following Tiers:
- a. Tier I: Assets that are titled and/or registered under the Republic of the Philippines or under the name of the respective DE with no legal and physical encumbrance;
 - b. Tier II: Assets that are titled and/or registered under the Republic of the Philippines or under the name of the respective DE with legal or physical encumbrance;

- c. Tier III: Assets that are titled and/or registered under a different owner and are yet to be transferred to the Republic of the Philippines; and
- d. Tier IV: Assets that are not yet titled and/or registered under any owner.

The DE may create sub-Tiers in order to further classify Assets falling under Tiers I to IV.

- B. As a general rule, Assets falling under Tier I shall be prioritized for Disposition. The PrC, upon recommendation of the PrC-TC, may allow the Disposition of Assets falling under Tier II to Tier IV, provided that the Winning Bidder shall assume liability and shall hold the PrC and the government free and harmless from any liability.

Section 3. Appraisal of the Real Property

- A. The required number of Appraisals will depend on the Market Value of the Real Property for Disposition. If the land has improvements, the estimated Market Value shall be computed by adding the Market Value of the land, and the Market Value of the improvement based on the latest Tax Declaration.
 - a. For real properties with a Market Value below Five Million Pesos (PhP5,000,000.00), the DE may either conduct an In-House Appraisal of the property, if available, or engage a Third-Party Appraiser;
 - b. For real properties with a Market Value of at least Five Million Pesos (PhP5,000,000.00) but below One Hundred Million Pesos (PhP100,000,000.00), one (1) Third-Party Appraisal shall be necessary; and
 - c. For real properties with a Market Value of One Hundred Million Pesos (PhP100,000,000.00) and above, at least two (2) Appraisals shall be required which can be either of the following:
 - 1. One (1) Third-party and One (1) In-House Appraisal; or
 - 2. Two (2) Third-party Appraisals.

Table A. Required Number of Appraisals

Market Value based on SMV	Required Number of Appraisals
Below PhP 5 million	One (1) In-house Appraisal or Third-party Appraiser
At least PhP 5 million but below PhP 100 Million	One (1) Third-party Appraisal
PhP 100 Million and above	At least two (2) appraisals: - One (1) Third-party and One (1) In-house Appraisal, or - Two (2) Third-party appraisal

The DEs must ensure that the In-House Appraisal and the Third-party Appraisal remain independent from each other at all times.

For real property Assets that require more than one (1) Appraisal, the Appraisal activities must be conducted and the reports issued during the same period and in no case be more than six (6) months apart.

The Appraisal Reports shall only guide the PrC in setting the Base Price and shall not be binding. The PrC shall have the discretion on the final amount to be approved as the Base Price, particularly in cases where the appraisals show significant discrepancies or where the Market Value is higher than the average of the appraisal values. Appraisal rules may be waived in Government-to-Government Transactions, as the PrC deems appropriate.

B. Market Value higher than Appraisal

- a. For real properties with estimated Market Value below One Hundred Million Pesos (Php100,000,000.00), the Base Price shall be the highest between the Market Value of the Asset and the in-house Appraisal or the Third-Party Appraisal.
- b. For real properties with estimated Market Value of One Hundred Million Pesos (Php100,000,000.00) and above where at least two (2) appraisals are required, the Base Price shall be the highest between the Market Value of the Asset and the average of all Appraisals.

- C. The validity of the Appraisal shall be reckoned from the date of the latest Appraisal Report and shall be valid within two (2) years therefrom. The validity period may be extended for maximum period of one (1) year from its expiry; provided, that such extension may only be made once when an Asset remains unsold following either after (i) two (2) failed Public Auctions or (ii) one (1) failed Public Auction and one (1) failed Negotiated Sale; or

Provided further, that the Appraisal shall remain valid during the period within which there is an Active Disposition process. For this purpose, Active Disposition process means any stage of Disposition starting from DE's publication of its Invitation to Bid/ Negotiated Sale prior to the expiration of the Appraisal. If such Disposition process ceases, the Appraisal shall automatically expire.

However, if the PrC or DE determines that the Market Value or the Appraised Value of the real property has significantly changed due to economic, market, or legal factors, such as rezoning or reclassification of land or increase in the Market Value, the validity of the Appraisals shall be deemed automatically expired. In such cases, the DE shall conduct another Appraisal to capture said changes.

ANNEX "B" BROKER'S ACCREDITATION

Section 1. Broker's Accreditation Process

- A. Brokers who wish to participate in the Disposition of Assets by DE shall submit the requirements listed in Section 2 (Broker's Accreditation Requirements) of Annex "B" to the DEs.
- B. The DEs shall evaluate the requirements and submit to the PrC-TC for approval.

Section 2. Broker's Accreditation Requirements

- A. The following shall be the continuing minimum qualifications for an accredited broker:
 - a. Duly licensed;
 - b. In good standing;
 - c. Of good moral character; and
 - d. Must not have been charged for any crime or offense involving moral turpitude.
- B. The broker shall submit the complete documentary requirements listed below to the DE for evaluation. The documentary requirements may be subject to change without prior notice to conform to guidelines in the disposal of the Assets and industry practices.

For Individual:

- a. Information Sheet for Real Estate Brokers;
- b. Professional Regulation Commission ("PRC") certified photocopy of valid Real Estate Broker's License ("REBL");
- c. Certificate of Good Standing from Broker's Association;
- d. Photocopy of Certificate of Registration issued and certified by the Housing Settlements Adjudication Commission ("HSAC") (formerly Housing and Land Use Regulatory Board);
- e. Photocopy of Tax Identification Number ("TIN") Card;
- f. Two (2) recent "2x2" pictures;
- g. Photocopy of VAT or Non-VAT Certificate of Registration with BIR (Form 2303);
- h. Notarized Certification/Sworn Undertaking that broker has not been charged of any crime or offense and has no pending criminal or civil action or offense; and
- i. Photocopy of Registration of Trade Name with the Department of Trade and Industry (DTI).

For Partnership or Corporation:

- a. Information Sheet for Real Estate Brokers;
- b. SEC Certificate of Registration (certified photocopy by company officer);
- c. Articles of Partnership/Incorporation/By-Laws (certified photocopy by company officer);
- d. Certified True Copy of Certificate of Registration with HSAC;
- e. Business License/Permit from local government (photocopy);
- f. PRC-certified photocopy of REBL of authorized representative(s);
- g. Notarized copy of Secretary's Certificate on name of authorized representative(s);

- h. Original copy of list of Brokers employed and respective REBL Number;
 - i. Photocopy of VAT or Non-VAT Certificate with BIR;
 - j. Original copy of notarized Secretary's Certificate of No Pending Case;
 - k. Original copy of Certificate of Good Standing of principal officer from broker's association;
 - l. TIN Card of the Firm; and
 - m. Two (2) recent "2x2" pictures of authorized representatives.
- C. The PrC shall issue a non-exclusive Authority to Sell ("ATS") to the accredited brokers which shall remain valid until the expiration of their PRC license, unless otherwise earlier revoked by PRC.
- D. The accreditation of the broker does not create a principal agent relationship nor employer-employee relationship among the PrC, the DE, and the broker. As such, the PrC and the DE shall not be held responsible for any and all detrimental acts committed by the accredited broker against his/her clients, or to other persons/institutions he/she may have transactions/dealings with in connection with the marketing and brokering of the assets for Disposition.
- E. The accreditation as a broker is a privilege and may be revoked anytime by the PrC, upon recommendations of the DE and the PrC-TC.
- F. The PrC-accredited broker has the primary responsibility and duty to submit the complete documentary requirements listed below to renew and maintain his/her accreditation, without the need of notification from the DE:

For Individual:

- a. PRC certified photocopy of valid REBL;
- b. Certificate of Good Standing from Broker's Association; and
- c. Notarized Certification/Sworn Undertaking that broker has not been charged of any crime or offense and has no pending criminal or civil action or offense.

For Partnership or Corporation:

- a. Photocopy of updated Business License/Permit from local government;
- b. PRC-certified photocopy of REBL of authorized representative(s);
- c. Original copy of list of Brokers employed and respective REBL Number;
- d. Original copy of notarized Secretary's Certificate of No Pending Case; and
- e. Original copy of Certificate of Good Standing of principal officer from broker's association.

Section 3. Duties and Responsibilities

PrC-accredited brokers may offer, advertise, solicit, list, promote, mediate, negotiate any property for disposition in the Asset Registry of the DE and shall be entitled to Broker's Fees from the proceeds of any successful sale in accordance with these Guidelines.

In the exercise of the privilege of his/her/its accreditation, a PrC-accredited broker shall have the following duties and responsibilities, among others:

- a. Keep abreast of the disposal terms and conditions as approved by the PrC;
- b. Apprise the prospective buyers of the disposal terms and conditions as approved by the PrC;
- c. Assist prospective buyers in obtaining documents from the DE;
- d. Assist the buyer in identifying the Asset and assessing its physical condition;
- e. Coordinate with the DE regarding updates or new developments on the Asset;
- f. Ascertain and disclose to the buyer all pertinent facts concerning the Asset;
- g. Assist the buyer in accomplishing the required forms pertinent to the purchase of the Asset;
- h. Conduct preliminary assessment on the capacity of the buyers to pay the balance of the purchase price;
- i. Coordinate with the DE for the delivery of notices or correspondences to the buyer when necessary; and
- j. Assist the buyer in ensuring the timely execution and delivery of the Deed of Absolute Sale ("DAS") to the DE;
- k. Assist the buyer in the payment of his/her/its monetary obligations, *e.g.* proportionate share of real estate taxes, association dues, etc.

All expenses incurred by the PrC-accredited broker relative to the marketing of the Asset for Disposition shall be solely for the account of the accredited broker.

Section 4. Prohibited Acts

The PrC-accredited broker shall not perform or cause to perform the following acts, among others:

- a. Collect or receive payments in behalf of PrC, the DE, or the buyer;
- b. Employ the name of the PrC or the DE in any advertisements in the media, *i.e.*, newspaper, internet, radio, TV, or flyers;
- c. Represent himself as an employee or official of PrC or the DE;
- d. Represent himself as the owner of the Asset;
- e. Bribe or attempt to bribe any government employee to gain advantage in his transactions with PrC or DE;
- f. Defraud the buyer in any manner regarding the sale of the Asset;
- g. Falsify or forge any document or signature with the purpose of committing fraud;
- h. Act as broker simultaneously for two or more buyers for the same Asset;
- i. Commit any act in violation of the Code of Ethics of Real Estate Brokers; and
- j. Such other analogous acts that the PrC may deem prejudicial to the best interest of PrC.

Section 5. Broker's Fees

- A. In case a broker's services-enabled the Disposition of an Asset, the following broker's fees shall apply:

Winning Bid/Offer Price	Broker's Fees
PhP 100 million and below	5%
Above PhP100 million but below PhP 500 million	4%
Above Php 500 million	3%

- B. The Broker's Fees of PrC-accredited brokers in successful sales shall be on the account of the buyer and on top of the winning bid or offer due to the Government.
- C. Engagement of an accredited broker shall be disclosed and indicated in the Bid Submission, Offer to Purchase, Unsolicited Proposal, etc.
- D. The Broker's fee shall be made payable in the name of the accredited broker/brokerage firm.

In case the sale was executed with the assistance of several PrC-accredited brokers, the brokers shall name a lead broker to whom the Broker's Fees shall be remitted. The brokers shall collectively be entitled to one Broker's Fees, as computed based on the schedule under Section 5 (A) of this Annex. The DE or the PrC shall in no case be held liable for any breach of the private agreement between or among the brokers with respect to the sharing of Broker's Fees.

- E. The broker's commission shall be inclusive of taxes. Any and all withholding taxes pertaining to the commission will be deducted by the buyer and remitted to the appropriate government authorities.
- F. The following are not entitled to broker's commission:
 - a. Brokers without valid ATS or license at the time the offer was approved by PrC;
 - b. Brokers who negotiated a Government-to-Government Transaction; and
 - c. Brokers who committed any act in violation of the Code of Ethics for Real Estate Brokers.

Section 6. Grounds for Revocation of Broker's Accreditation

The PrC may revoke the accreditation it provided to the broker, upon recommendation of the DE and the PrC-TC, on the following grounds:

- A. The broker has been found to have violated the Code of Ethics for Real Estate Brokers;
- B. The broker is a defendant/respondent in any case involving moral turpitude filed in court or quasi-judicial body;
- C. The broker has been convicted of any crime penalized by the Revised Penal Code or special criminal laws;

- D. The broker no longer possesses any of the qualifications for accreditation;
- E. The broker committed any act analogous to the foregoing or detrimental to the interest of the PrC;
- F. The broker garners a "Poor" rating in its Performance Evaluation; and
- G. The broker performs or causes to perform any of the Prohibited Acts under Section 4 of this Annex

Section 7. Sanctions

- A. The commission by the broker of any of the prohibited acts shall be subject to the following sanctions without prejudice to additional disciplinary sanctions that the PrC, upon recommendation of the PrC-TC, may deem necessary:

1st Offense – suspension for six (6) months

2nd Offense – temporary revocation of broker's accreditation for one (1) year

3rd Offense – permanent revocation unless reinstated by PrC after showing good and justifiable reasons and upon their written request.

Section 8. Performance Review

- A. An annual Performance Evaluation shall be conducted by the DE and submitted to the PrC to objectively assess the performance of the brokers in their function as marketing arm of the PrC in the expeditious disposal of the Asset. The DE shall release the corresponding guidelines containing the criteria for said performance review.
- B. A "Poor" rating in the broker's Performance Evaluation shall be a ground to revoke the accreditation or disapprove an application for renewal of accreditation. However, a broker may re-apply for accreditation one (1) year after the date of revocation of ATS or disapproval of application for renewal subject to the requirements for qualification.

Section 9. Brokers Directly Engaged by the DE

Notwithstanding the PrC accreditation of brokers under this Annex, the DE may procure a professional broker to facilitate and assist the disposition of the Assets on their behalf. Any costs incurred by engaging said professional services shall be borne by the DE either through their retention or other sources.

ANNEX "C" DISPOSITION OF PERSONAL PROPERTIES

CHAPTER 1. Shares of Stocks

Section 1. Contents of the Asset Registry

- a. Name of issuing corporation or organization;
- b. Principal address of the issuing corporation or organization;
- c. Registered owner or beneficial owner;
- d. Description of the asset, including the types and class of shares, annotations, encumbrances, liens, existence of unpaid subscriptions and dues, right of first refusal, shareholder agreements, and other contracts that may affect the Disposition;
- e. Date of acquisition, transfer, or conveyance to the National Government or DE;
- f. List of transfer documents;
- g. Book value of the equity or proprietary shares;
- h. Market Value/s and date/s of valuation, if available;
- i. Appraised Value/s and date/s of valuation/s, if available;
- j. Tier, in accordance with Section 2 of Chapter 1 of Annex "C" (Tier System in the Asset Registry) of these Guidelines; and
- k. Information of any pending cases, if applicable.

In support of the Asset Registry, the following documents shall be made available at any time to the PrC, such as, but not limited to:

- a. Stock Certificates;
- b. Articles of incorporation and By-Laws of the Issuing Corporation or Organizations;
- c. Shareholder's agreements, if any;
- d. Market Value and Appraisal Reports; and
- e. Transfer documents.

Section 2. Tier System in the Asset Registry

The DE shall classify the Assets based on the following Tiers:

- a. Tier I: Assets that are registered under the Republic of the Philippines or under the name of the respective DE with no legal and physical encumbrance;
- b. Tier II: Assets that are registered under the Republic of the Philippines or under the name of the respective DE with legal or physical encumbrance;
- c. Tier III: Assets that are registered under a different owner and are yet to be transferred to the Republic of the Philippines; and
- d. Tier IV: Assets that are not yet titled and/or registered under any owner.

The DE may create sub-Tiers in order to further classify Assets falling under Tier I to Tier IV.

As a general rule, Assets falling under Tier I shall be prioritized for Disposition. The PrC, upon recommendation of the PrC-TC, may allow the Disposition of Assets falling under Tiers II to IV, provided that the Winning Bidder shall assume liability and shall hold the PrC and the government free and harmless from any liability.

Section 3. Appraisal of Assets

- A. For shares of stock in corporations listed and traded in the stock exchange, the Market Value shall be determined according to the rules prescribed under the Philippine Stock Exchange Revised Trading Rules.³
- B. For the Valuation of shares of stock in corporations or proprietary shares in membership clubs not listed and traded in local stock exchanges, the Base Price shall be based on either of the following below; provided that the DE upon approval of the PrC should choose at least two (2) methods below:
 - a. Market Value of the shares as computed under Revenue Regulation No. 20 s. 2020, or other subsequent related issuances, on the sale of shares of stock;
 - b. Adjusted net asset method whereby all assets and liabilities are adjusted to the fair market values. The net adjusted asset minus the liability value is the indicated value of the equity. For this purpose, the real property shall be adjusted to the value based on the Based price for Real Properties above; or
 - c. Other valuation methods to be recommended by the DE or by a SEC-accredited appraiser or reputable accounting or auditing firm using the generally accepted valuation standard for unlisted equity shares.

Section 4. Sale to Small Local Investors (SLI)

Pursuant to Executive Order No. 323, the following shall be deemed sale to SLI:

- a. Initial Public Offering ("IPO");
- b. Employee Stock Option/Ownership Plans ("ESOPs"), provided that the SSS and GSIS shall grant loans to qualified employees of the firms under privatizations who would like to avail the ten percent (10%) stock offering as provided in EO 323, s. 2000;
- c. Sale to private and government employees, overseas workers, small farmers, fisherfolks and cooperatives through GFIs such as GSIS, LBP, DBP, and HDMF;
- d. Sales of assets/shares to individual investors not exceeding a maximum of One Hundred Thousand Pesos (PhP100,000.00);

³ Department of Justice Opinion dated 06 March 2019, Pacific Basin Securities Co., Inc. vs. Oriental Petroleum and Minerals Corp. et. al., G.R. No. 143972, 31 August 2007.

- e. Sale of retirement funds pension funds, and other funds managed on behalf of employees and other individuals; or
- f. Sale of privatization bonds issued by the Republic of the Philippines, provided that the terms of such privatization bonds give the option to holders thereof to exercise the exchange option contained in such bonds either into shares in corporate assets privatized through the IPO or into a cash amount where the privatized corporate asset is being sold to one or more block investor.

Section 5. Sale of Assets in Corporate Form

- A. In the Disposition of Assets in corporate form, at least ten percent (10%) of such assets shall be reserved for SLIs and offered for sale to such investors.
- B. The offer for sale to SLIs shall take place before any sale to large investors except when it is not applicable or in the best interests of the public, as in any of the following cases:
 - a. The corporation for sale has financial problem, as reflected in its latest financial statements, which shows any of the following:
 - 1. Negative stockholders equity;
 - 2. Negative retained earnings; or
 - 3. Net operating loss for at least one (1) year.
 - b. The corporation for sale is subject of a pending litigation involving at least fifty percent (50%) of its assets or its outstanding shares of stocks.
 - c. The shares of stock of a privately held corporation has a provision for Right of First Refusal in its Articles of Incorporation
- C. In the event any offer for sale to large investors is made before the offer for sale to SLIs under any of the conditions cited in (2) above, the ten percent (10%) shall be offered to SLIs at the same selling price at which the ninety percent (90%) was sold to block investors within one hundred twenty (120) days from the PrC approval of the sale to large investors. However, in case any further clearances on the block sale are required from the Commission on Audit ("COA") (with respect to valuation for negotiated sales), the SEC (with respect to changes in capital stock), or any other government agency, the one hundred twenty (120) days period shall start from the time of approval of COA, SEC, or any other government agency.
- D. In case the ten percent (10%) shares reserved for SLIs were offered to such investors and there were no takers, in whole or in part, when the first offer was made, the following procedure shall be followed:
 - a. The unsold portion may also be offered to large investors or any other interested party through public bidding in accordance with Chapter 1 of Title IV (Public Auction) of these Guidelines.

- b. In case the sale of the shares of stock is covered by an option to exercise a Right of First Refusal, the unsold portion may be offered following the procedures provided in its Articles of Incorporation or any related contract thereof. Any unsold portion following the Right of First Refusal may be offered through public bidding in accordance with Chapter 1 of Title IV (Public Auction) of these Guidelines.

CHAPTER 2. Unserviceable, Fully Depreciated, or Obsolete Personal Properties

For personal properties that (i) are already unserviceable; (ii) have reached their estimated useful life; (iii) can no longer provide the expected service/output due to obsolescence; or (iv) no longer needed, the DE shall dispose the same in accordance with Joint Circular No. 2024-1 dated 30 January 2024 entitled "Revised Manual on the Disposal of Government Properties" issued by COA and the Department of Budget and Management ("DBM").

ANNEX "D" BLACKLISTING

- A. Individuals or entities which have previously participated in the Disposition activities of the government, but have committed any of the following, shall be blacklisted from participating in the Disposition activities of the government within one (1) to two (2) years upon inclusion in the blacklist:
- a. Submission of falsified documents;
 - b. Withdrawal of Bid, or refusal to accept an award without justifiable cause after the auction tender has been declared as the highest offer; or
 - c. Non-compliance by bidders to the provisions stipulated under the DE's Invitation to Bid or Invitation for Negotiated Sale, Instructions to Bidders, or Terms of Reference.
- B. Without prejudice to any action that the DE may have against the erring bidder, *e.g.*, forfeiture of security, the following are the procedures for Blacklisting:
- a. Any bidder may initiate the suspension and blacklisting proceedings by filing a written complaint with the DE, or the DE may also *motu proprio* commence the proceedings upon *prima facie* determination that the bidder has committed any of the grounds for blacklisting;
 - b. Upon verification of the existence of grounds for blacklisting, the DE shall immediately notify the bidder concerned, and is given ten (10) days to submit a written answer. Upon failure to file an answer, the DE shall issue a resolution recommending to the PrC, upon recommendation of the PrC-TC for approval of the suspension of the bidder and forfeiture of its security bond;
 - c. A bidder is suspended upon receipt of the notice of decision prohibiting it, him or her, from participating in the sale of properties of the agency. A motion for reconsideration ("MR") may be filed by the suspended person or entity within fifteen (15) days from receipt of the Notice of Decision. The DE shall resolve with finality the MR within fifteen (15) days from the filing thereof;
 - d. A protest may be filed with the PrC within fifteen (15) days from receipt of the resolution on the MR. If a protest is filed, the affirmed, modified or reversed decision shall become final and executory upon receipt thereof by the person/entity concerned;
 - e. Upon finality of the decision suspending the bidder, the PrC shall issue a Blacklisting Order ("BO") disqualifying the erring bidder from participating in the auction of all government projects and shall submit the BO to their COA Audit Team and the PrC; and
 - f. The list of blacklisted bidders shall be posted on the website of the DE concerned.