



Republic of the Philippines
NATIONAL POLICE COMMISSION
NATIONAL HEADQUARTERS, PHILIPPINE NATIONAL POLICE
OFFICE OF THE CHIEF, PNP
Camp BGen Rafael T Crame, Quezon City

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MEMORANDUM CIRCULAR

NO.: **2024-069**

**REVISED GUIDELINES AND PROCEDURES IN THE ACQUISITION AND
MANAGEMENT OF PNP REAL ESTATE PROPERTIES AND RESERVATIONS**

1. REFERENCES:

- a. Republic Act No. 386, otherwise known as the "New Civil Code of the Philippines";
- b. Republic Act No. 7160 also known as the "Local Government Code of 1991";
- c. Implementing Rules and Regulations (IRR) of R.A. No. 10752 titled, "An Act Facilitating the Acquisition of the Right-of-Way, Site or Location for National Government Infrastructure Projects";
- d. Presidential Decree (PD) No. 1445, otherwise known as the "Government Auditing Code of the Philippines";
- e. Executive Order (EO) No. 292 otherwise known as "Instituting the Administrative Code of 1987";
- f. Government Accounting and Auditing Manual;
- g. Commission On Audit (COA) Circular No. 2023-004 dated June 14, 2023, titled, "Prescribing the Updated Requirements for Common Government Transactions, amending COA Circular No. 2012-001 dated June 14, 2012, of Annex A under Section 14.0 "Road Right-Of-Way (ROW)/Real Property";
- h. Joint Circular No. 1 dated September 30, 1989, between the Department of Environment and Natural Resources (DENR), Department of Budget and Management (DBM), and Department of Public Works and Highway (DPWH);
- i. DENR Administrative Order (DAO) No. 2022-01 dated January 11, 2022, titled, "Guidelines in Granting Government Agencies Gratuitous Permits for the Special Uses of Forest Lands";
- j. DAO No. 2019-05 dated May 30, 2019, titled, "Implementing Rules and R.A. No. 7586 or the National Integrated Protected Areas System (NIPAS) Act of 1992 as Amended by R.A. 11038, or the Expanded National Integrated Protected Areas System (ENIPAS) Act of 2018";
- k. GPPB Annex H of the Updated 2016 Revised Implementing Rules and Regulations of R.A. 9184 dated October 15, 2023;
- l. NAPOLCOM MC No. 2007-006 dated September 3, 2007, titled, "Prescribing the New Guidelines Governing Property Accountability and Responsibility Including the Delineation of Duties and Functions of Concerned PNP Officers and Personnel";

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- m. PNP MC No. 2021-109 dated August 12, 2021, titled, "Revised Guidelines and Procedures on Donations from Local Sources";
- n. PNP MC No. 2020-033 May 18, 2020, titled, "Guidelines and Procedures in Ensuring Lot Readiness Prior to Utilization of PNP Lots and/or Construction of PNP Infrastructure Projects";
- o. PNP MC No. 2020-22 dated March 24, 2020, titled, "Guidelines in the Utilization and Protection of PNP-Owned, Administered, or Occupied Lands";
- p. PNP MC No. 2019-003 dated January 24, 2019, titled, "Revised Guidelines and Procedures on the Lease of PNP-Owned, Occupied and Managed Lots, Buildings, and Spaces";
- q. PNP MC No. 2016-069 dated October 26, 2016, titled, "Guidelines and Procedures on the Lease of PNP-Owned, Occupied and Managed Lots, Buildings and Spaces";
- r. PNP MC No. 2002-05 dated March 25, 2002, titled, "Acquisition and Management of PNP Real Estate Properties and Reservations";
- s. Standard Operating Procedure (SOP) No. 2010-01 338 dated January 28, 2010, titled, "Annual Logistics Inspection and Physical Accounting of PNP Properties";
- t. SOP No. 2007-02 558 dated August 13, 2007, titled, "Procedures and Guidelines in Accepting Donated Lots and Establishing Priority Lots for Titling in the Name of the PNP";
- u. Letter of Instruction (LOI) "TITULO"; and
- v. Directorate for Logistics Circular No. 002-02 dated February 14, 2002, titled, "Request for Relief from Property Accountability".

2. RATIONALE:

This MC sets forth the revised policies, guidelines, and procedures in the acquisition, administration, management, and disposition of all PNP-owned, occupied, possessed, administered, managed, or controlled real estate properties and reservations.

3. SITUATION:

In March 2002, the PNP under the leadership of the PNP Chief, Police Director General LEANDRO R MENDOZA issued MC No. 2002-05 titled, "Acquisition and Management of Philippine National Police (PNP) Real Estate Properties and Reservations". It lays down the policies, guidelines, and procedures in the acquisition, administration, management, and disposition of all PNP-owned, occupied, possessed, administered, managed, or controlled real estate properties and reservations. The circular includes general guidelines as well as provisions for the Acquisition, Disposal of Real Estate, and the Responsibility/Accountability of the police personnel concerned.

Since its issuance in 2002, the PNP has seen the passage of new laws, statutes, and rules, and has also issued several memorandum circulars relative to the management of real estate properties, facilities, and infrastructure. However, the PNP



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has not updated or revised this policy to comply with applicable statutes and policies and to incorporate new ideas in public asset management.

Initial analysis and research have found that MC No. 2002-05 lacks important provisions that would enable all PNP offices/units to manage their real estate portfolio more effectively and efficiently. Therefore, after more than 20 years, it is incumbent on the PNP to revisit this policy and subsequently make the necessary revisions to update the policy in pursuance of new statutes and practices in property management.

4. PURPOSE:

This MC shall serve the following purposes:

- a. Provide the revised guidelines and procedures for the proper acquisition, administration, management, and disposal by the PNP of real estate properties and reservations;
- b. Ensure that the PNP follows acceptable and updated protocols and practices regarding public asset management; and
- c. Specify the duties and responsibilities of all PNP offices/units/personnel involved in the acquisition, administration, management, and disposal of real estate properties and reservations, with the end view of establishing their accountability.

5. DEFINITION OF TERMS:

For purposes of this MC, the following terms or words and phrases shall mean or be understood as follows:

- a. Acquisition - is an aspect of public asset management that refers to the ownership or physical possession of real estate properties through various modes, such as purchase, donation, lease, barter/exchange, permit, and expropriation.
- b. Administrator - a person responsible for the management of all PNP lots.
- c. Barter or Exchange - exchange of real estate properties between the PNP and private individuals or other government agencies or entities without the instrument of money.
- d. Custodian - a person responsible for the custody of documents of PNP lots.
- e. Disposal - is an element of public asset management that pertains to the discarding (abandon, shed, reject) of real estate properties through donation or barter/exchange.

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- f. Donation - refers to an act of liberality whereby a person disposes gratuitously of a right or a thing in favor of another who accepts it. As a mode of acquiring ownership, it results in an effective transfer of title over the property from the donor to the donee and the donation is perfected from the moment the donor knows of the acceptance by the donee. And once a donation is accepted, the donee becomes the absolute owner of the property donated.
- g. End-User Unit - refers to PNP offices/units that will use the lot/real estate.
- h. Head of Office/Unit - refers to RD, PROs; D, NSUs; and Commander, APCs.
- i. Lease Agreement - is a contract outlining the terms under which one party agrees to rent a property owned by another party. It guarantees the lessee, also known as the tenant, use of an asset and guarantees the lessor, the property owner or landlord, regular payments for a specified period in exchange.
- j. Memorandum of Agreement (MOA) - is used when the agreement describes the specific responsibilities of, or actions to be undertaken by the parties with the view to the accomplishment of their goals, and the availability of a resource to enforcement action in case of non-compliance with its terms.
- k. PNP Lots - refer to the lots acquired through purchase, donation, barter/exchange, usufruct agreement, MOA, presidential proclamation/executive order, gratuitous special use permit, and special use agreement on protected areas being owned, managed/administered, and occupied.
- l. PNP Real Property - is both land and structures characterized as real property or reservation of the PNP, as well as those acquired through continuous occupation or possession, and its prescription and exercise of ownership are governed by operation of law. Likewise, included are real properties now or in the future declared under the name of or acquired by whatever title in the name of the PNP.
- m. Replacement Cost - refers to the cost necessary to replace the affected structure or improvement with a similar asset based on current market prices.
- n. Reservation - is any real estate property that has been reserved/allocated for police functions/purposes by the President of the Republic of the Philippines through Presidential Proclamations/ Executive Orders or Decrees, by Acts of Congress or any other competent authority.

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- o. Usufruct Agreement - is an agreement through which one can obtain the rights of possessing, managing, using, and enjoying the benefits of a property for a certain period. The person who holds the usufruct, also known as the usufructuary, has the right to make use of the property and enjoy its profits and benefits provided the property is not damaged or altered in any way. At the end of the stipulated period, the usufructuary must hand the property back over to the rightful owner or heirs.
- p. Utilization - is the aspect of asset management that is concerned with the issuance, custodianship, administration/ actual use, and inventory taking of real estate properties.

6. GUIDELINES:

a. General Guidelines:

- 1) The Chief, PNP (CPNP) shall exercise overall authority in matters within the jurisdiction of the PNP, including those relating to its operations, and enforce all laws and regulations pertaining to it. He has the full authority to give final approval involving transactions overall PNP Real Estate Properties.

In the interest of expediency, exigency of service, or as the circumstances warrant, such authority of the CPNP may be delegated to subordinate officials with respect to the units under their respective commands, as he may consider necessary;

- 2) The CPNP will be the signatory of all contracts and conveyances pertaining to real properties unless such authority has been duly delegated;
- 3) All the correspondences (letter/memoranda) shall follow the existing policy on Complete Staff Work (CSW). The CSW is to be undertaken for the processing and evaluation of requests for CPNP's authorizations and approvals, to enable him to adequately assess and indicate approval or disapproval thereof;
- 4) Heads of offices/units shall ensure that provisions embodied in contracts or agreements for the acquisition of real estate properties are advantageous to the government. For this purpose, heads of offices/units shall exercise prudence in accepting real estate properties with informal settlers, tenants, lessees, tax imposition, adverse claims, mortgages, liens and encumbrances, and other obligations;
- 5) All donated properties shall be named to the PNP only. The units concerned shall strictly adhere to the standard format (**Annex "A"**) in preparing the necessary documents; and

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- 6) The head of office/unit must confer with the PNP Legal Officers detailed in their respective offices/units for legal guidance prior to formally proceeding to any transactions overall PNP Real Estate Properties to avoid any future legal impediments that may arise.

b. **Specific Guidelines:**

- 1) Only the CPNP has the final authority to decide transactions overall PNP real properties or modes acquiring private properties, such as donations, usufruct agreements, or MOA. As such, Heads of offices/units are required to secure a Delegation of Authority (DA) to be signed by the CPNP through the Directorate for Logistics (DL) if they intend to represent the PNP in accepting lots acquired through donation, usufruct agreement, and MOA;
- 2) Due diligence must be observed in the acquisition of land for donation, such as: identifying the owner or owners of the land, the users of the land, or any parties that occupy the land (either physically or through ownership of an asset or conduct of livelihood or business activities on the land), any competing claims of ownership or use, structures, assets on the land, and any encumbrances on the land;
- 3) When the donor, the heir, or the successor in interest is re-claiming the donated property either informally (no formal complaint filed in court) or where judicial proceedings had commenced, immediate notice/information must be relayed to the CPNP (Attn: TDL). The affected head of office/unit should seek the initial legal advice/guidance of the PNP Legal Officer;
- 4) All PNP real estate properties acquired through purchase or donation shall be recorded/entered into the PNP Property Book by the Supply Accountable Officer (SAO) concerned. The same shall be forwarded to the Accounting Division, DC for proper recording in the Books of Accounts;
- 5) All pertinent supporting documents pertaining to the new PNP Real Estate Property acquired through all modes of acquisition shall be forwarded to the Accounting Office for proper recording in the books of accounts or disclosure in the notes to financial statements;
- 6) The PNP Engineering Service (ES), shall be the repository of the Original Owner's Duplicate Copy of the Original Certificate of Title (OCT)/Transfer Certificate of Title (TCT) of PNP Real Estate Properties registered under the name of the PNP including the original documents as a proof of acquisition. PNP ES shall forward a Certified Copy of the aforementioned documents to its SAO, the SAO PNP-Wide, and the DL for record keeping;

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- 7) With respect to the lot acquired purposely for the construction of PNP infrastructures, the minimum lot requirements shall be as follows;

Type	Lot Area (m ²)
NSUs/RSUs Co-located inside Camp	Subject to availability of lot in Camp Master Development Plan (CMDP) and approval of the Camp Administrator
NSUs (SAF, MG, ASG, NPTI, and HPG) and APCs	10,000 sqm
PPO/CPO/Regional Training Center	10,000 sqm
RMFB	5,000 sqm
PMFC	2,000 sqm
CPS/SOU/RMUs, MG	1,000 sqm with a minimum frontage of 40m
Type "A" PS/MARPSTA	600 sqm with a minimum frontage of 20m
Type "B/C" PS, Mobile Platoon, and RSUs"	
Tourist Police	As available
COMPAC	400 sqm

- 8) On a case-to-case basis, lots below the minimum lot area requirement may be accepted, due to the peculiarity of the location subject to the approval of the CPNP. The head of office/unit shall request the evaluation and recommendation of the ES as to the plans and design of the infrastructure building to be constructed thereat;
- 9) Prior to the Acquisition of Lots, the following should be observed:
- In acquiring lot property for offices/police stations, it is preferred that the donation of land to the PNP be absolute in character. On the other hand, the use of Deed of Usufruct/Contract of Usufruct with local government units is encouraged, in which the PNP will have full utilization of the property for a minimum duration of 25 years, purposely for the construction of PNP infrastructure building, without any payment for as long as the property is used for PNP purposes;
 - Whenever a lot is offered for the use of the PNP, the End-User Unit shall undertake initial coordination/arrangement with the owner, with due consideration of the requirements of peace and order in the community;
 - The End-User Unit, Regional Engineering Unit (REU), RLRDD/Logistics Officer, and the owner, shall cause the conduct of ocular inspection on the lot to assess the suitability of the lot for building construction and identify its exact location, and physical description; and

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- d) The lot should be strategically located and suitable for use by the PNP. It should preferably conform to the following requirements:
- (1) Accessible to the public;
 - (2) With existing road right of way from a major thoroughfare;
 - (3) With a steady and sufficient supply of potable water and the sources of the supply should also be established whether it is from a local water company or from the ground or any other alternative source;
 - (4) With access to the power supply and internet connection; and
 - (5) Not in a flood/landslide-prone area and more than 5 meters away from the fault line. (A Hazard Assessment Report shall be secured from the Geology Geophysics Research and Development Division (GGRDD), PHIVOLCS)
- 10) The lot acquired should be secured and fenced by the End-User Unit upon acquisition in order to define the metes and bounds of the property and further avoid illegal occupation of informal settlers, and ensure the security and safety of personnel occupying the property.
- 11) Fences can be classified as permanent and temporary as follows:
- a) Permanent Fence using concrete materials and other forms prescribed by the ES for PNP-owned and donated lots in the name of the PNP; and
 - b) Temporary Fence using light materials such as coco lumber, bamboo, bushes, and trees to define the boundaries for lots which use was obtained through Usufruct Agreement, MOA/MOU, or those being leased by the PNP.
- 12) Upon request for budget allocation, the cost of a permanent fence should also be included in order to protect the PNP Real Estate.
- 13) Modes of Acquisition
- a) **Donation**
 - (1) Prior to the signature of the CPNP or his duly delegated Authority, the following Documentary Requirements should be complied with by the Heads of Office/Unit:
 - (a) For the Donor:
 - (a.1) Certified True Copy of Original Certificate of Title (OCT)/Transfer Certificate of Title (TCT) (whichever is available) in the name of the owner/donor (If titled property), to be accompanied by an Affidavit of Undertaking to surrender the Original Owners

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Duplicate Copy of the OCT/TCT (**Annex "B"** Affidavit of Undertaking);

(a.2) Approved Subdivision Plan with technical description from DENR/Land Registration Authority (LRA) or Sketch Plan with technical description duly signed and certified by a licensed Geodetic Engineer;

(a.3) Updated Tax Declaration (Declaration of Real Property) or Latest Real Estate Tax Receipt, whenever applicable; and

(a.4) Appropriate supporting documents confirming the act of donation and authority of the donor, whether another government agency, corporation/private juridical entity, a Local Government Unit (LGU), or a private person:

(a.4.a) If the donor is an LGU, a Sangguniang Bayan/ Panglunsod/ Panlalawigan Resolution authorizes the Local Chief Executive (LCE) to donate a lot. Further, a Certification or a Resolution from Sangguniang Panlalawigan stating that the Sangguniang Bayan/ Panglunsod Resolution was forwarded to the Provincial Board for review and that the same has no objection;

(a.4.b) If the donor is a corporation/association/company, a secretary certificate, and a board resolution is required authorizing the head to donate lot;

(a.4.c) If the donor is private, there is no need for a resolution. However, the End-User Unit should ensure that the tax obligations are settled; and

(a.4.d) If the donor is a corporation or other government agency, a Board/Committee Resolution and/or Secretary's Certificate, as may be applicable, establishes the authority of the head of an office to donate a lot.

(b) For the End-User Unit:

(b.1) Assessment from Mines and Geo-Sciences Bureau as regards rain-induced landslide and flooding and from Philippine Institute of Volcanology and

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Seismology as regards volcanic eruption, ground rupture, liquefaction, earthquake-induced landslide, storm surge, and tsunami;

- (b.2) Certification/Clearance from the LGU and DPWH that the lot to be donated will not be affected by future road widening/road right of way project;
- (b.3) Certification from first and second-level trial court that there is no pending land dispute case over the lot;
- (b.4) Certification from DENR that there is no pending application and claim on the lot;
- (b.5) Assessment of the PNP Quad Staff (Intelligence, Operations, Police Community Relation, and Investigation) on the prevailing situation, taking into consideration the security aspect of the area and the impact/advantage to operation, investigations, and police-community relation; and
- (b.6) Ocular Inspection Report containing analysis and recommendation as to the lot suitability for PNP Office/Police Stations.

b) Usufruct Agreement (Deed of Usufruct/Contract of Usufruct)

(1) Prior to the signature of the CPNP or his duly delegated Authority, the following Documentary Requirements should be complied with by the Heads of Office/Unit:

- (a) Certified True Copy of OCT/TCT (whichever is available) in the name of the owner/donor (If titled property), or any legal document establishing ownership or land administration; and
- (b) Other than the above, the same documentary requirements as required in the Donation of the lot should be secured/complied with by the Heads of Office/Unit.

(2) The Usufruct Agreement shall include the following: (**Annex "C"** Template for Usufruct Agreement)

- (a) Proposed utilization of the lot property;
- (b) Specific area of the lot property subject to Usufruct Agreement;

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- (c) The rights and obligations of both parties shall be clearly defined to preclude ambiguity and shall be fair and equitable to both parties; and
- (d) The duration period of the Usufruct Agreement shall be specified.

On a case-to-case basis, those lot properties under the Usufruct Agreement which utilization is purposely for the construction of a PNP office/police station and for programming of funds by the PNP, the duration shall not be less than 25 years, and renewable for another 25 years.

(3) Termination of the Usufruct Agreement

Neither party shall have the authority to unilaterally terminate the Usufruct Agreement before the expiration of the agreed duration. However, for causes expressly stipulated in the Usufruct Agreement, either of the parties may unilaterally terminate by providing notice to the other party, at least sixty (60) days prior to the intended termination. Termination based on reasons not expressly stipulated in the Usufruct Agreement shall be mutually agreed upon by both parties.

c) Memorandum of Agreement (MOA)

- (1) Prior to the signature of the CPNP or his duly delegated Authority, the following Documentary Requirements should be complied with by the Heads of Office/Unit:
 - (a) Certified True Copy of OCT/TCT (whichever is available) in the name of the owner/donor (If titled property), or any legal document establishing ownership or land administration; and
 - (b) Other than the above, the same documentary requirements as required in the Donation of the lot should be secured/complied with by the Heads of Office/Unit.
- (2) The MOA shall include the following (please see **Annex "D"** Sample MOA):
 - (a) Roles and Responsibilities of the Parties;
 - (b) Proposed utilization of the lot property;
 - (c) Specific area of the lot property subject to MOA;
 - (d) The duration period of the MOA shall be specified; and

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- (e) On a case-to-case basis, that lot property under MOA which utilization is purposely for the construction of PNP office/police station and programming of funds by the PNP, the duration shall not be less than 25 years, and subject to renewal for another 25 years; and

(3) Termination of the MOA

Neither party shall have the authority to unilaterally terminate the MOA before the expiration of the agreed duration. However, for causes expressly stipulated in the MOA, either of the parties may unilaterally terminate by providing notice to the other party, at least sixty (60) days prior to the intended termination. Termination based on reasons not expressly stipulated in the MOA shall be mutually agreed upon by both parties.

d) **Lease of Real Estate Property by PNP (Lot, Building, Spaces, Warehouse, Ports, Hangars, and other facilities)**

(1) Guiding Principle:

Lease of Real Estate Property by the PNP should follow the guiding principles, procedures, and guidelines of GPPB Annex H of the Updated 2016 Revised Implementing Rules and Regulations of RA No. 9184 (as of October 15, 2023). (**Annex "E"**).

(2) Lease Contract

- (a) Contracting parties shall be the PNP as the LESSEE and the owner of the property shall be considered as the LESSOR;
- (b) The Lease Contract shall be embodied in a public instrument and shall integrate all the covenants, understanding, and agreements of the LESSOR and LESSEE;
- (c) For the lease of a lot, the contracting parties may establish stipulations, clauses, terms, and conditions as they deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy;
- (d) The rights and obligations of both parties shall be clearly defined to preclude ambiguity and shall be fair and equitable to both parties;
- (e) Lease Contract shall contain the lot technical description of the property to be leased;
- (f) Neither party shall have the authority to unilaterally

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terminate the Lease Contract before the expiration of the agreed duration. However, for causes expressly stipulated in the Lease of Contract, either of the parties may unilaterally terminate by providing notice to the other party, at least sixty (60) days prior to the intended termination. Termination based on reasons not expressly stipulated in the Lease of Contract shall be mutually agreed upon by both parties; and

- (g) The Lease Contract shall bear the amount that the Lessee shall pay the Lessor in words and figures.

e) Purchase of Real Estate Property

(1) Private Property

- (a) The head of office/unit charged with the acquisition of the land shall secure a certified copy of the tax declaration from the Provincial or City Assessor to determine the fair market value of the property sought to be acquired pursuant to PD No. 76, S - 72. Preliminary coordination shall be made with the property owner with the end in view of having the property acquired by the government at a price not to exceed the fair market value as declared by the owner or the assessor as shown in the tax declaration/BIR Zonal Value or whichever is lower. Likewise, Threat Assessment, Assessment from the Mines and Geo-Sciences Bureau as regards rain-induced landslide and flooding and from the Philippine Institute of Volcanology and Seismology as regards volcanic eruption, ground rupture, liquefaction, earthquake-induced landslide, storm surge, and tsunami shall be obtained first to ensure that the subject lot for purchase is feasible for the construction of any PNP infrastructure project;

- (b) If the negotiation mentioned above fails, the head of the office/unit concerned shall make a formal offer to buy. The price set forth in the offer to buy shall in no way exceed the fair market value as determined by the Provincial/City Assessor/BIR or as declared by the owner whichever is lower;

- (c) The formal request for the purchase of the land shall be accompanied by the following documents:

- (c.1) Documentary evidence showing ownership of the property, such as OCT or TCT, tax declaration, tax receipt, approved lot survey plan, tax clearance as may be necessary (photocopy or certified true copy will suffice); and

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(c.2) A brief description of the land, together with existing improvements, if any. The proposed utilization and development, including the time frame of the development, financing aspect, due of expected occupancy, and certificate that no suitable police reservation is available for the purpose intended.

(d) The PNP ES upon receipt of the request shall make a technical evaluation of the lot pertinent documents, make necessary plotting, and conduct a technical survey in coordination with the lot owner to ensure that the subject lot for purchase has no overlapping issues and as the basis in the preparation of the deed of sale, especially in cases when the subject of purchase is only a portion of a mother lot. If no issues were found based on the technical survey, the ES shall then prepare the necessary Deed of Absolute Sale subject to review of the Legal Service, to be signed by the Vendor and the CPNP or his duly authorized representative which shall be subsequently notarized;

(e) Fund Requirement – The fund requirement for the acquisition of the property shall come from the General Appropriations Act (GAA) from the National Headquarters. Notice of Fund Availability is being issued when the purchase of property comes from the GAA and the certification shall be stamped by the Chief, Accounting Division at the back of the original copy of the Deed of Absolute Sale;

(f) Registration of Deed of Absolute Sale – The D, ES/head of office/unit initiating the purchase of the lot shall cause the registration of the Deed of Absolute Sale with the end in view of transferring the title of the real estate property in the name of the PNP; and

(g) The PNP ES shall be the final depository of the title and the original copy of the Deed of Absolute Sale of the purchased real estate property. The units concerned shall secure certified true copies from the ROD and shall submit the same to its SAO, the SAO PNP-Wide, and the DL for record keeping.

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(2) Property owned by Political Subdivision, and/or Agencies of the Government.

(a) In case the property is owned by the Provincial, City or Municipal Government and/or other agencies of the government, negotiation shall be made with the Governor and City/Municipal Mayor or the Head of the agency as applicable;



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- (b) A resolution authorizing the Governor, the Mayor or the Head of the Agency to dispose/sell property must be secured; and
 - (c) The procedure prescribed in the acquisition of private property shall then be followed.
- f) **Expropriation**
- (1) Expropriation of private property shall be resorted to only after all modes of acquisition of private property through purchase, barter or exchange have been exhausted by the government;
 - (2) Procedure
 - (a) Expropriation of private property and all interests therein for PNP use shall be resorted to where acquisition by any other mode fails and the property is still needed by the PNP;
 - (b) The heads of the interested units shall forward a request to the CPNP (Attn: DL, PNP) for the acquisition of the land. The request shall include the following documents in eight copies to support the action on expropriation:
 - (b.1) The plan or sketch of the property showing the definite boundary and improvement thereon, if any;
 - (b.2) Certificate of occupancy or expected date of occupancy by the unit concerned;
 - (b.3) Certified copy of title, tax declaration, and tax receipt for the current year and/or any evidence of ownership, if any;
 - (b.4) A certification from the Fiscal Division, DC that the amount for the provisional value is available and shall be deposited with the appropriate Provincial/City Treasurer upon order of the court;
 - (b.5) Copies of resolution or certification from the Provincial/City appraisal committee showing the fair market value and tax declaration per Presidential Decree No. 76, S-72;
 - (b.6) Condition Survey of the premises should be conducted immediately before occupancy; and
 - (b.7) A summary report of the negotiation with the owner to include circumstance under which appropriation of the property is deemed justifiable.

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- (c) The CPNP upon the recommendation of TDL; the D, LS; and the D, ES shall request authority from the President for the acquisition of the land through expropriation;
- (d) Entity to initiate expropriation proceedings - Upon receipt of the authority granted by the President to the Chief, PNP to expropriate the private property, the latter shall request the office of the Solicitor General to file with the proper court an action to expropriate the private property. The Solicitor General shall be furnished the following documents:
 - (d.1) Presidential authority to expropriate;
 - (d.2) Technical description of the property;
 - (d.3) A list of names and addresses of the owners concerned to include persons having interest on the land;
 - (d.4) A map/plan of the property duly approved by the Bureau of Lands;
 - (d.5) Separate evaluation of the property if it consists of several parcels of lands to include the improvements therein per PD No, 76, s-72; and
 - (d.6) Certification by the respective Fiscal Division to the effect that the fund for the provisional value is available.
- (e) The Solicitor General shall file expropriation proceedings with the Regional Trial Court of the Province or City where the property is located;
- (f) Writ of Entry - as soon as the Writ of Entry and the order to deposit the amount corresponding to the provisional value of the property is promulgated, the equivalent amount shall be deposited with the corresponding Provincial/City Treasurer;
- (g) Payment of Property - any withdrawal from the provisional value deposited with the treasurer not otherwise covered by a court order shall be opened. Payment to the owners shall be made only after the judgment rendered by a competent court shall have become final and executory;

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- (h) Progress report shall be rendered once a month during the pendency of the expropriation proceedings until such time that final judgment has been rendered therein; and
- (i) Titling - upon issuance of the decision by the court and payment on the lot has been made as ordered, issuance of title(s) of the lot shall be worked out with the Register of Deeds of the Province or City where the land is located.

g) Executive Order/Proclamation

- (1) Before any portion of public or private domain shall be proclaimed for PNP use by the President, the area shall be delineated and a boundary survey conducted subject to the approval of the Bureau of Lands. The area shall be marked by distinctive concrete monuments for proper identification;
- (2) After the survey is approved by the Bureau of Lands, the Head of Office/Unit shall prepare the necessary documents as required in DAO 2016-22, to wit:
 - (a) Written request from the authorized official;
 - (b) Survey plan of the land;
 - (c) Certified Technical Description;
 - (d) Geotagged photographs (recent) (Provided by DENR pursuant to DAO 2016-22); and
 - (e) Certification from the Regional Trial Court/Land Registration Authority.
- (3) The application for Presidential Proclamation will be submitted to CENRO which has jurisdiction over the lot applied for Presidential Proclamation. The Head of Office/Unit is given the authority to represent the CPNP in the said application;
- (4) The Head of Office/Unit shall coordinate and monitor the status of application for presidential proclamation to the office concerned as indicated in the attached flow chart. (**Annex "F"**); and

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- (5) Upon issuance of the proclamation, the Head of Office/Unit shall furnish a Certified True Copy to the ES for safekeeping and DL for reference.

h) Barter or Exchange

- (1) In this kind of contract like any other contract where there is a conveyance of real properties, the authority to execute for and



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on behalf of the PNP is vested in the CPNP or any other officer expressly delegated by him;

- (2) Basis for Barter – The basis for the barter or the exchange of PNP property with private or government property shall be the fair market value of the property involved to be determined pursuant to the provisions of PD No. 76, s-72. Further, the following are the things to consider in the conduct of the assessment:
 - (a) Property to be exchanged that has existing structures in it shall be included in the computation of value and to be replaced by the other party;
 - (b) Condition of the setting/environment that could potentially be disadvantageous to the PNP; and
 - (c) Future development that has already been planned out and supported by necessary documents.
- (3) The PROs/APCs/NSUs; REUs; and RLOs shall review all the documents. The units concerned shall submit the same for comment/recommendation through a Disposal Committee Resolution to the D, ES with the concurrence of D, LS, and the latter shall subsequently submit the CSW to DL, through RPMD, for the approval of the CPNP;
- (4) Upon approval, the End-User Unit shall implement the decision of the CPNP; and
- (5) The real estate property that was approved by the CPNP for barter or exchange shall be rectified/adjusted from the PNP Book of Accounts and rectified/adjusted in the PNP Property Book (PNPPB).

i) **Permit/Agreement from DENR**

- (1) For Gratuitous Special Use Permit (GSUP)

The Head of Office/Unit applying for GSUP shall comply with the DENR DAO 2022-01 dated January 11, 2022. (**Annex "G"**).

- (2) Special Use Agreement on Protected Areas (SAPA)

The Head of Office/Unit applying for SAPA shall comply with the DAO No. 2019-05 dated May 30, 2019. (**Annex "H"**).

j) **RIGHT OF WAY (Easement)**

- (1) Right of Way Requested by the Government for public use

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Request for Right of Way for use of the public shall be granted by the Secretary of the DILG through NAPOLCOM upon recommendation of the CPNP.

(2) Granting of Road Right of Way Permit to Private Entities within PNP Real Estate Properties and Reservations

(a) Permits to qualify persons or private entities for a Road Right-of-Way within PNP reservations may be granted provided that:

(a.1) The security of the PNP property will not be compromised and affected;

(a.2) The purpose of the road right of way is valid;

(a.3) Activities shall be under the supervision of the PNP units in possession of the property;

(a.4) There is no other passage or route except through the PNP property;

(a.5) It is only for the specific route and duration; and

(a.6) PNP security clearance must be secured.

(b) In no case shall a road right-of-way of persons or private entities be allowed without the written approval of the CPNP and the Secretary of the DILG. All personnel of private entities shall secure PNP Security Clearance from the Director for Intelligence.

(3) To acquire the right of way by the PNP, the implementing rules and regulations of RA No. 10752 should be followed. (See **Annex "I"**)

c. Responsibilities:

1) DL

a) Oversee the implementation of this MC;

b) Review the required documentation for the acquisition and/or disposal of real estate properties;

c) Ensure that all the requirements are observed and complied with; and

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- d) Record the completed transaction in the inventory or database of the PNP.

2) Logistics Officers (LO) of APCs/NSUs/PROs

- a) Review the application folder and contents therein;
- b) Coordinate with C, REU for technical evaluation of the Documents;
- c) Coordinate with C, RLO for the Legal Comments and recommendations;
- d) Ensure compliance with the required documents and procedures of this MC; and
- e) Make appropriate recommendations regarding the transaction.

3) All Heads/Chiefs, PNP Offices/Units

- a) Prepare all documentary requirements needed;
- b) Ensure that all the applicable guidelines and procedures are observed;
- c) Responsible for the review of all documents for legality and authenticity;
- d) Submit documentary requirements and recommendations to the PRO; and
- e) Execute the decision regarding the acquisition and disposal of real estate properties.

4) ES

- a) Assess all resolutions for lot disposal endorsed by APCs, PROs, and NSUs together with documentary requirements; and
- b) Prepare CSW to be concurred by LS and DL prior to endorsement to the CPNP.

7. PROCEDURES:

a. Donation (Annex "J"- Flowchart for Donation):

- 1) The End-User Unit shall coordinate with the donor, and facilitate the submission of the Letter of Intent to Donate a Lot with the draft Deed of Donation and Acceptance (DODA), Affidavit of Undertaking, and

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all the documentary requirements. Upon completion of the documents, same shall be submitted to the Head of Office/Unit;

- 2) The Head of Office/Unit shall refer the DODA to the PNP Legal Officer for review and initial legal opinion as to the provisions of the DODA and make a recommendation citing relevant provisions of laws and jurisprudence, as well as executive issuances, providing legal bases;
- 3) The Head of Office/Unit should ensure that all the documentary requirements as mentioned above are secured, evaluated, and the possible legal repercussions are considered prior to signing the DODA;
- 4) The Head of Office/Unit will forward all the secured documentary requirements to DL subject for technical evaluation of ES and legal advice/recommendation of LS;
- 5) Once the evaluation of ES and legal advice of LS are received, DL will prepare the CSW and endorse the whole document for the approval of the CPNP, through the Command Group;
- 6) Once signed, DL will transmit the notarized Original Copy of the DODA to PNP ES and the Unit concerned and an Authenticated Copy of the same document shall be retained with all the requirements mentioned above for recording purposes on real estate property inventory of DL/ES/PRO;
- 7) Provided that, if Delegation of Authority will be requested, such intention should be communicated by the Head of Office/Unit and a draft Delegation of Authority should already be attached;
- 8) The signed delegation of authority shall be transmitted from the OCPNP to the office/unit concerned through DL;
- 9) Within five days from the signing of the DODA, the Head of Office/Unit shall submit the **notarized Original Copy of the DODA to PNP ES/REU and an Authenticated Copy of the same document to DL together with all the requirements mentioned above** for recording purposes on real estate property inventory of DL/ES. Based on the notarized DODA and Affidavit of Undertaking, the End-User Unit shall secure the Original Owners Duplicate Copy of the OCT/TCT, as the case may be if titled; and

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- 10) Within three days from the signing of the DODA or the receipt of the signed DODA, if the delegation of authority was issued, all pertinent data/details/information pertaining to the new PNP Real Estate Property acquired through DODA shall be recorded in the Real Estate Property Inventory using the format of Report on Physical



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Count on Property, Plant and Equipment (RPCPPE). Once titled, it shall be recorded in the PNP Book of Accounts and PNPPB.

- b. **Usufruct and/or MOA (Annex "K"- Flowchart for Usufruct and MOA):**
- 1) The End-User Unit shall coordinate with the lot owner and collate all the complete pertinent documents (Same as required in donation) in support of the intended Usufruct Agreement and shall submit same to the head of office/unit;
 - 2) The Head of Office/Unit shall refer the Usufruct Agreement to the PNP Legal Officer for review and initial legal opinion as to the provisions of the Usufruct Agreement and make a recommendation citing relevant provisions of laws and jurisprudence, as well as executive issuances, providing legal bases;
 - 3) The Head of Office/Unit shall ensure that all the documentary requirements as mentioned above are secured, evaluated, and the possible legal repercussions are considered prior to signing the Usufruct Agreement;
 - 4) The Head of Office/Unit will forward all the secured documentary requirements to DL subject for technical evaluation of ES and legal advice/recommendation of LS;
 - 5) Once the evaluation of ES and legal advice of LS are received, DL will prepare the CSW and endorse the whole document for the approval of the CPNP, through the Command Group;
 - 6) Once signed, DL will transmit the **notarized Original Copy of the Usufruct and/or MOA to PNP ES and the Unit concerned and an Authenticated Copy of the same document shall be retained with all the requirements mentioned above** for recording purposes on real estate property inventory of DL/ES/PRO;
 - 7) Provided that, if Delegation of Authority will be requested, such intention should be communicated by the Head of Office/Unit and a draft Delegation of Authority should already be attached;
 - 8) The signed delegation of authority shall be transmitted from the OCPNP to the concerned office/unit concerned through DL;
 - 9) Within five days from the signing of the Usufruct Agreement, the Head of Office/Unit shall submit the **notarized Original Copy of the Usufruct Agreement to ES/REU and an Authenticated Copy of the same to DL together with all the documentary requirements mentioned above** for record purposes on real estate property inventory of DL/ES;

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- 10) Within three days from the signing of the Usufruct Agreement and MOA or from the receipt of the signed Usufruct Agreement and MOA, if the delegation of authority was issued, all pertinent data/details/information pertaining to the new PNP Real Estate Property shall be recorded in the PNP Real Estate Inventory. After acquiring all pertinent data/details/ information, submit to Accounting Division, DC; ES; and RPMD, DL; and SAO, PNP-Wide for disclosure in the financial statements and PNPPB, respectively; and
- 11) Whenever circumstances warrant, the Head of Office/Unit may renegotiate the Usufruct Agreement or the MOA within three months prior to the expiration of its duration or renewal thereof.

c. Purchase of Real Estate Property (Annex "L"- Flowchart of Purchase of Real Estate Property):

1) Private Property

- a) The head of office/unit charged with the acquisition of the land shall secure a certified copy of the tax declaration from the Provincial or City Assessor to determine the fair market value of the property sought to be acquired pursuant to PD No. 76, S - 72. Preliminary coordination shall be made with the property owner with the end in view of having the property acquired by the government at a price not to exceed the fair market value as declared by the owner or the assessor as shown in the tax declaration/BIR Zonal Value or whichever is lower;
- b) If the negotiation mentioned above fails, the Head of Office/Unit concerned shall make a formal offer to buy. The price set forth in the offer to buy shall in no way exceed the fair market value as determined by the Provincial/City Assessor/BIR or as declared by the owner whichever is lower;
- c) The formal request for the purchase of the land shall be accompanied by the following documents:
 - (1) Documentary evidence showing ownership of the property, such as OCT or TCT, tax declaration, tax receipt, approved lot survey plan, and tax clearance as may be necessary (photocopy or certified true copy will suffice); and
 - (2) A brief description of the land, together with existing improvements, if any. The proposed utilization and development, including the time frame of the development, financing aspect, due of expected occupancy, and certificate that no suitable police reservation is available for the purpose intended.
- d) The PNP ES upon receipt of the request shall make a technical evaluation of the lot pertinent documents, make necessary plotting, and conduct the technical survey in coordination with the

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lot owner to ensure that the subject lot for purchase has no overlapping issues and as basis in the preparation of the deed of sale, especially in cases when the subject of purchase is only a portion of a mother lot. If no issues were found based on the technical survey, the ES shall then prepare the necessary Deed of Absolute Sale subject to review of the Legal Service, to be signed by the Vendor and the CPNP or his duly authorized representative which shall be subsequently notarized;

- e) Fund Requirement – The fund requirement for the acquisition of the property shall come from the GAA from the National Headquarters. Notice of Fund Availability is being issued when the purchase of property comes from the GAA and the certification shall be stamped by the Chief, Accounting Division at the back of the original copy of the Deed of Absolute Sale;
 - f) Registration of Deed of Absolute Sale – The D, ES/Head of Office/Unit initiating the purchase of the lot shall cause the registration of the Deed of Absolute Sale with the end in view of transferring the title of the real estate property in the name of the PNP; and
 - g) The PNP ES shall be the final depository of the title and the original copy of the Deed of Absolute Sale of the purchased real estate property. The units concerned shall secure certified true copies from the ROD and shall submit the same to its SAO, the SAO PNP-Wide, and the DL for record keeping.
- 2) Property owned by Political Subdivisions, and/or Agencies of the Government.
- a) In case the property is owned by the Provincial, City, or Municipal Government and/or other agencies of the government, negotiation shall be made with the Governor and City/Municipal Mayor or the Head of the agency as applicable;
 - b) A resolution authorizing the Governor, the Mayor, or the Head of the Agency to dispose/sell property must be secured; and
 - c) The procedure prescribed in the acquisition of private property shall then be followed.

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d. Expropriation (Annex "M"- Flowchart of Expropriation):

- 1) The heads of the interested units shall forward a request to the CPNP (Attn: DL, PNP) for the acquisition of the land. The request shall include the following documents in eight copies to support the action on expropriation:
 - a) The plan or sketch of the property showing the definite boundary and improvement thereon, if any;


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- b) Certificate of occupancy or expected date of occupancy by the unit concerned;
 - c) Certified copy of title, tax declaration, and tax receipt for the current year and/or any evidence of ownership, if any;
 - d) A certification from the Fiscal Division, DC that the amount for the provisional value is available and shall be deposited with the appropriate Provincial/City Treasurer upon order of the court;
 - e) Copies of resolution or certification from the Provincial/ City appraisal committee showing the fair market value and tax declaration per Presidential Decree No. 76, S-72;
 - f) Condition Survey of the premises should be conducted immediately before occupancy; and
 - g) A summary report of the negotiation with the owner to include circumstances under which appropriation of the property is deemed justifiable.
- 2) The CPNP upon the recommendation of TDL; the D, LS; and the D, ES shall request authority from the President for the acquisition of the land through expropriation;
- 3) Entity to initiate expropriation proceedings - Upon receipt of the authority granted by the President to the Chief, PNP to expropriate the private property, the latter shall request the Office of the Solicitor General to file with the proper court an action to expropriate the private property. The Solicitor General shall be furnished the following documents:
- a) Presidential authority to expropriate;
 - b) Technical description of the property;
 - c) A list of names and addresses of the owners concerned to include persons having interest on the land;
 - d) A map/plan of the property duly approved by the Bureau of Lands;
 - e) Separate evaluation of the property if it consists of several parcels of lands to include the improvements therein per PD No, 76, s-72; and
 - f) Certification by the respective Fiscal Division to the effect that the fund for the provisional value is available.

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- 4) The Solicitor General shall file expropriation proceedings with the Regional Trial Court of the Province or City where the property is located;
 - 5) Writ of Entry - as soon as the Writ of Entry and the order to deposit the amount corresponding to the provisional value of the property is promulgated, the equivalent amount shall be deposited with the corresponding Provincial/City Treasurer;
 - 6) Payment of Property - any withdrawal from the provisional value deposited with the treasurer not otherwise covered by a court order shall be opened. Payment to the owners shall be made only after the judgment rendered by a competent court shall have become final and executory;
 - 7) Progress report shall be rendered once a month during the pendency of the expropriation proceedings until such time that final judgment has been rendered therein; and
 - 8) Titling - upon issuance of the decision by the court and payment on the lot has been made as ordered, issuance of title(s) of the lot shall be worked out with the Register of Deeds of the Province or City where the land is located.
- e. **Executive Order/Proclamation (Annex "N"- Flowchart of Executive Order/Proclamation):**
- 1) Before any portion of public or private domain shall be proclaimed for PNP use by the President, the area shall be delineated, and a boundary survey conducted subject to the approval of the Bureau of Lands. The area shall be marked by distinctive concrete monuments for proper identification;
 - 2) After the survey is approved by the Bureau of Lands, the Head of Office/Unit shall prepare the necessary documents as required in DAO 2016-22, to wit:
 - a) Written request from the authorized official;
 - b) Survey plan of the land;
 - c) Certified Technical Description;
 - d) Geotagged photographs (recent) (Provided by DENR pursuant to DAO 2016-22); and
 - e) Certification from the Regional Trial Court/Land Registration Authority.
 - 3) The application for Presidential Proclamation will be submitted to CENRO which has jurisdiction over the lot applied for Presidential

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Proclamation. The Head of Office/Unit is given the authority to represent the CPNP in the said application;

- 4) The Head of Office/Unit shall coordinate and monitor the status of the application for presidential proclamation to the office concerned as indicated in the attached flow chart; and
- 5) Upon issuance of the proclamation, the Head of Office/Unit shall furnish a Certified True Copy to the ES for safekeeping and DL for reference.

f. Right of Way (Easement) (Annex "O"- Flowchart):

- 1) Upon receipt of the request for right of way, the Head of Office/Unit who exercises administration and control over the PNP Real Estate or Reservation affected shall determine the necessity of the right of way and ensure that the performance of PNP's mandate will not be hampered;
- 2) The request will be subject to an initial legal opinion from the Regional Legal Officer/Provincial Legal Officer citing all relevant provisions of laws, jurisprudence, and rules and regulations;
- 3) The Head of Office/Unit shall coordinate with the requesting party the conduct of a survey on the affected area and the replacement cost;
- 4) The result of survey and the replacement cost should be reviewed by the ES for NHQ, NSUs, and APCs and REU for PROs and RSUs;
- 5) The Head of Office/Unit shall negotiate with the requesting party the replacement of all affected infrastructure and trees;
- 6) The Head of Office/Unit shall endorse to the Committee on Disposal the request together with the necessary document needed in the evaluation and deliberation of the request;
- 7) The Committee on Disposal will evaluate, deliberate, and endorse to ES through resolution the request for right of way citing all relevant provisions of laws, jurisprudence, and rules and regulations;
- 8) The ES will evaluate the resolution and coordinate with the Legal Service for the drafting of the contract/agreement to be used;
- 9) The ES after careful study and finding the request meritorious will recommend and prepare the CSW addressed to CPNP through the Command Group for concurrence of D, LS, and TDL together with the attached letter to SILG;
- 10) The SILG approved request will be forwarded to the Head of Office/Unit for implementation; and

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11) In all cases, no perpetual right of way shall be granted to any person except a government agency or any of its political subdivisions.

8. ADMINISTRATION AND MANAGEMENT

a. Administrator

To ensure maximum utilization of all PNP-Owned, administered, or occupied lands and the protection of portions thereof from Informal Settler Families (ISF), the following are designated as Administrator:

LOTS	ADMINISTRATOR
NHQ	Camp Commander
APCs	Camp Commander or its Equivalent
PROs	Camp Commander
PPOs/CPOs	PESPO/CESPO
RMFBs/PMFCs	BESPO/CESPO
CPS/MPS	CESPO/MESPO
NSUs/RSUs	Camp Commander or its Equivalent

Responsibility of Administrator

- 1) Acquaint themselves or through responsible officers, of the limits of all PNP lots and reservations under their administration;
- 2) Adopt measures and/or actions, which shall deny any unauthorized person entry or construction into the reservation; and
- 3) Ensure the implementation of the PNP MC No. 2020-22 dated March 24, 2020, titled "Guidelines in the Utilization and Protection of PNP-Owned, Administered, or Occupied Lands".

b. Custodianship

To ensure proper recording in the books of their respective unit and efficient maintenance of records, the following are designated as Custodians:

LOTS	CUSTODIAN
NHQ	SAO, HSS
APCs	RSPNCO
PROs	RSO
PPOs/CPOs	PSAO
RMFBs/PMFCs	RSPNCO
CPS/MPS	RSPNCO
NSUs/RSUs	SAO/RSPNCO, NSU

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Responsibility of Custodian

- 1) Ensure proper recording of all PNP lots and reservations in the PNP Property Inventory and Books of Accounts; and
- 2) Ensure availability of records such as histogram of acquisition and pertinent documents of all PNP lots and reservations.

c. Accountability

- 1) Accountability of the Unit Accountable Officer shall commence upon receipt of the approved transfer/acceptance/payment of said property. In cases of Usufruct (enjoyment of use) shared by several offices/units, they shall be equally responsible and accountable for the shared property;
- 2) The Unit Accountable Officer shall render the RPCPPE to the DL; Accounting Division, DC; SAO, PNP-Wide and annual real estate property inventory report to ES; and
- 3) The Chief of Office/Unit designated as an administrator and custodian shall be directly and subsidiarily liable/accountable and/or responsible to the CPNP for abandonment, mismanagement, proliferation of informal settlers, and non-compliance with the proper utilization of the property.

d. Records to be maintained by the Custodian:

- 1) The Custodian shall prepare the Property Card (**Annex "P"**) showing the location plan, brief description, assessed value, and PNP reference number upon receipt of the title of the lot. Thereafter, the custodian shall maintain the records utilizing the Real Estate Inventory Format (**Annex "Q"**) following the RPCPPE form from the Government Accounting Manual (GAM) copy furnished the Accounting Division, DC. The Director, ES shall submit annually to CPNP through TDL the complete Inventory Report of the same.
- 2) Transfer of Accountability:

The accountability and/or responsibility for land including the records shall be transferred by using the Property Transfer Report (PTR) as prescribed form by GAM (**Annex "R"**) copy furnish the Accounting Division, DC.

3) Relief of Accountability for Real Property:

When the PNP loses ownership of any piece of land by transfer or other forms, the custodians shall make appropriate notation in the Equipment Ledger Cards, supported by papers or documents concerning the transaction or evidence in the way the PNP has list ownership of such land. The original and two (2) copies of these

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documents shall be forwarded to the Accounting Division for proper recording.

e. Administration/Actual Use

The administration and actual use of lands of the PNP shall be governed by PNP MC No. 2020-22 entitled "Guidelines in the Utilization and Protection of the PNP-Owned, Administered, and Occupied Lots".

9. DISPOSAL OF PNP REAL ESTATE PROPERTY

a. Guiding Principles:

- 1) PNP Real Estate Property shall be disposed of in a manner deemed advantageous to the PNP. The CPNP has the sole authority to approve matters concerning the disposal of PNP Real Estate Property;
- 2) PNP Real Estate Property may be disposed of **by means of sale, transfer of property, and in exceptional cases through donation or barter/exchange;**
- 3) Disposal of PNP Real Estate Property shall only be done when it is supported by a Resolution made by the Committee on Disposal of Real Estate Property (Committee for brevity) duly approved by the CPNP;
- 4) The Committee shall be activated and corresponding orders shall be issued by DPRM for NHQ, APCs, and NSUs and RPRMD for PROs:

NHQ Committee on Disposal of Real Estate	
Deputy Director for Logistics	Chairperson
Deputy Director Engineering Service	Vice Chairperson
Chief Accountant, PNP	Member
Chief, Logistics Division, HSS	Member
Chief, RPMD, DL	Member
SLO, DL	Member
SAO, ES	Member
SAO, PNP-Wide	Member
COA Representative	Observer
Assistant Chief, RPMD, DL	Head Secretariat
Chief, LUD, ES	Assistant Head Secretariat
Chief, LMS, RPMD, DL	Member
Chief, IFMS, RPMD, DL	Member
Action PNCO/NUP, LUD, ES	Member
Action PNCO/NUP, RPMD, DL	Member

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PROs Committee on Disposal of Real Estate	
Deputy Regional Director for Administration	Chairperson
Chief Regional Staff	Vice Chairperson
Chief, Regional Logistics and Research Development Division	Member
Chief, Regional Comptrollership Division	Member
Chief, Regional Legal Office	Member
Chief, Regional Engineering Unit	Member
Chief, Regional Accounting Office	Member
Regional Supply Accountable Officer	Member
Regional COA Representative	Observer
Assistant Chief, Regional Logistics Division	Head Secretariat
Assistant Chief, Regional Comptrollership Division	Assistant Head Secretariat
Chief, Regional Direct Support Unit	Member
Representative from the Regional Legal Office	Member
Representative from Regional Supply Accountable Officer	Member

NSUs Committee on Disposal of Real Estate	
Deputy Director	Chairperson
Chief of Staff	Vice Chairperson
Logistics Officer	Member
Budget and Finance Officer	Member
Legal Officer	Member
Unit Supply Accountable Officer	Member
COA Representative	Observer
Assistant C, Logistics	Head Secretariat
Chief, Real Estate Section, REU	Assistant Head Secretariat
Real Estate Officer, RLRDD	Member
Real Estate PNCO, RLRDD	Member
Real Estate PNCO, REU	Member
RSPNCO	Member

APCs Committee on Disposal of Real Estate	
Deputy Commander	Chairperson
Executive Officer	Vice Chairperson
Logistics Officer	Member

AUTHENTICATED BY:


HENRICH L LAÑADA
 Police Lieutenant Colonel
 Administrative Officer



BAGONG PILIPINAS

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Budget and Finance Officer	Member
Legal Officer	Member
Unit Supply Accountable Officer	Member
COA Representative	Observer
Assist C, Logistics	Head Secretariat
Chief, Real Estate Section, REU	Assistant Head Secretariat
Real Estate Officer, RLRDD	Member
Real Estate PNCO, RLRDD	Member
Real Estate PNCO, REU	Member
RSPNCO	Member

- 5) The Disposal Committee shall perform the following functions:
- a) Collate and review all the required documents for authenticity and legality and ensure the proper documentation and justification of the properties subject for disposal;
 - b) Evaluate the identified PNP Real Estate Property subject for disposal;
 - c) Deliberate the results of the evaluation; and
 - d) Recommend disposal of PNP real estate properties through a Resolution to the CPNP as the Head of Disposing Entity (HODE). In cases of PROs, APCs, and NSUs, resolutions must be endorsed to ES for evaluation prior to endorsement to the CPNP, through TDL.
- b. **Limitations on Disposal:**
- 1) Real Estate properties acquired by the PNP either by purchase or donation, reserved by Proclamation or EO of the President of the Philippines, cannot be the subject of any form of disposition or alienation such as sale/lease unless the President declares the same alienable;
 - 2) Real Estate properties purchased by the PNP not reserved by Proclamation or EO may be exchanged with other properties, as the CPNP may direct upon the recommendation of the D, ES, subject to the approval of the President of the Philippines pursuant to Section 48, Chapter 12, Book I of the Revised Administrative Code of 1987; and
 - 3) Real Estate properties donated to the PNP may be exchanged with other properties, subject to the conditions of the donation and approval of the President pursuant to Section 48, Chapter 12, Book I of the Revised Administrative Code of 1987.

AUTHENTICATED BY:


HENRICH L LAÑADA
 Police Lieutenant Colonel
 Administrative Officer



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c. **Procedures (Annex "S"- Flowchart for Disposal):**

- 1) The NHQ/APC/NSU/PRO shall convene their Committee on Disposal;
- 2) The Committee shall evaluate the identified real estate property subject for disposal;
- 3) The Committee shall gather all pertinent documents relative to the lot to be disposed;
- 4) The Committee shall deliberate the results of the evaluation together with the pertinent documents gathered;
- 5) The Committee shall draft a resolution recommending the disposal of Real Estate Property for approval of the CPNP;
- 6) The Cmdr, APC/Dir, NSU/RD, PRO concerned shall endorse the resolution to D, ES for review and evaluation;
- 7) Upon receipt of the resolution, D, ES shall review the resolution from the Committee and with the concurrence of the D, LS, and TDL, may recommend to the CPNP the approval of the resolution. If D, ES finds that the same would adversely affect or would not be in consonance with the overall PNP plans, he shall make proper comment to the CPNP; and
- 8) Upon approval of the resolution by the CPNP, D, ES shall forward the same to the office/unit copy furnish DL; SAO, PNP-Wide; and Accounting Division, DC for proper recording in the PNP Books of Accounts.

10. PENALTY CLAUSE:

The Head Office/Unit or any PNP personnel entrusted with the administration or use of a particular PNP-owned real property or private property leased or occupied by a PNP unit shall be held directly and primarily responsible for any violation appertaining to that particular property.

Any violation of this MC shall be investigated, and if warranted by evidence, appropriate criminal, civil, and administrative charges shall be filed against those who may be responsible thereof.

11. REPEALING CLAUSE:

Provisions of existing PNP issuances which are inconsistent with this MC, in whole or in part, are deemed repealed, set aside, amended, or modified accordingly.

AUTHENTICATED BY:




HENRICH L LAÑADA
Police Lieutenant Colonel
Administrative Officer



BAGONG PILIPINAS

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12. EFFECTIVITY:

This MC shall take effect after 15 days from filing a copy thereof at the UP Law Center in consonance with Section 3, Chapter 2, Book VII of Executive Order No. 292, otherwise known as the "Revised Administrative Code of 1987," as amended.



ROMMEL FRANCISCO D MARBIL
Police General
Chief, PNP

Distribution:

- Command Group
- IG, IAS
- Cmdrs, APCs
- D-Staff
- P-Staff
- Ds, NSUs
- RDs, PROs
- SPA to the SILG



SAUTHENTICATED BY:

HENRICH L LAÑADA
Police Lieutenant Colonel
Administrative Officer



DEED OF DONATION

KNOW ALL MEN BY THESE PRESENTS:

This DEED OF DONATION, made and executed by NAME OF DONOR, of legal age, married, and a resident of Address of the Donor called the DONOR, in favor of the PHILIPPINE NATIONAL POLICE (PNP), an agency of the National Government created and existing by virtue of and pursuant to Republic Act (RA) No. 6975 as amended by RA No. 8551, its National Headquarters located at Camp BGen Rafael T Crame, Quezon City, represented herein by NAME CPNP OR HIS DELEGATED PNP REPRESENTATIVE, Designation hereinafter referred to as the DONEE.

WITNESSETH:

That, the DONOR is the owner in fee simple of the real property covered by Transfer Certificate of Title No. _____ more particularly described as follows:

Transfer Certificate of Title No. _____

A PARCEL OF LAND Lot No. __, Psd _____ situated in the Barrio _____, Municipality of _____, Province of _____. Containing an area of _____ Number in words _____ (00,000) Square Meters. More or less.

That, the Fifty Thousand square meter (50,000 sq. m.) portion of the said property will be given by the DONOR to the DONEE to ensure an effective and efficient police force in the locality which technical description is as follows:

LINES	BEARINGS	DISTANCES
Lot _____, Psd _____		
BLLM No. 1, Pls-722-D - 1	S. 00°00' E.	_____ M.
1 - 2	N. ____° ____' W.	_____ M.
2 - 3	N. ____° ____' E.	_____ M.
3 - 4	N. ____° ____' E.	_____ M.
4 - 5	N. ____° ____' E.	_____ M.
5 - 6	S. ____° ____' E.	_____ M.
6 - 7	N. ____° ____' E.	_____ M.
7 - 8	S. ____° ____' E.	_____ M.
8 - 9	S. ____° ____' E.	_____ M.
9 - 10	S. ____° ____' W.	_____ M.
10 - 1	S. ____° ____' W.	_____ M.

That, to ensure the continuing campaign for peace and order and efficient enforcement of pertinent laws, the DONOR does hereby cede, transfer, and convey by way of donation to the DONEE the aforesaid property free from all liens and encumbrances;

That the DONOR hereby states, for the purpose of giving full effect and validity to this donation, that it has reserved to itself sufficient property, in full ownership or in

usufruct, which is necessary and adequate for its support in consonance with its standing in society and as mandated by laws;

That the DONEE shall use the donated property exclusively for the PNP and for other purposes identified in the effective performance its mandate.

That the DONEE hereby accepts the donation of above-described parcel of land situated at _____, _____ made in its favor by the DONOR, and hereby expresses its appreciation and gratefulness for the kindness and generosity of the DONOR;

IN WITNESS WHEREOF, the DONOR and the DONEE, have hereunto affixed their signatures this _____ day of _____, 2024 at Quezon City, Philippines.

NAME OF DONOR
DONOR

NAME OF DONEE
DONEE

With my Conformity:

Wife

Signed in the presence of:

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
QUEZON CITY) S. S.

BEFORE ME, A Notary Public, personally appeared NAME OF DONOR with his Taxpayers Identification Number _____ issued by the Bureau of Internal Revenue (BIR) and NAME OF DONEE as DESIGNATION with his PNP ID NO. _____ issued by the _____, known to me and to me known to be the same persons who executed the foregoing Deed of Donation consisting of three (3) pages including this page whereon the acknowledgement is written and acknowledged before me that the same is their true and voluntary act and deed.

WITNESS MY HAND AND NOTARIAL SEAL, this ____ day of _____, 2024 at Sorsogon City Philippines.

NOTARY PUBLIC

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2024

DEED OF DONATION

KNOW ALL MEN BY THESE PRESENTS:

This DEED OF DONATION, made and executed by the NAME OF MUNICIPALITY represented by its Mayor, _____ with office address at _____, hereinafter called the DONOR, in favor of the PHILIPPINE NATIONAL POLICE (PNP), an agency of the National Government created and existing by virtue of and pursuant to Republic Act (RA) No. 6975 as amended by RA No. 8551, its National Headquarters located at Camp BGen Rafael T Crame, Quezon City, represented herein by the NAME OF CPNP OR HIS DULY DELGATED REPRESENTATIVE, Designation hereinafter referred to as the DONEE.

WITNESSETH:

That, the DONOR is the owner in fee simple of that portion of the real property covered by Transfer Certificate of Title _____ and registered under the name of the _____ more particularly described as follows:

Transfer Certificate of Title No. _____

A PARCEL OF LAND (Lot ___ of the consolidation – subdivision plan Pcs _____, being a portion of Lots _____, _____ and _____, all of Pcs _____, Lot _____ and _____, both of _____, _____ Cadastre, and Lot _____, Psd _____) with an area of _____ sqm situated _____.

That, the one thousand square meter (1,000 sq. m.) portion of the said property will be given by the _____ to the DONEE to ensure an effective and efficient police force in the locality which technical description is as follows:

LINES	BEARINGS	DISTANCES
LOT 5 (PORTION)		
BLLM No. 1 – 1	S. 00°00' E	_____ M.
1 – 2	S. 00°00' E	_____ M.
2 – 3	S. 00°00' W	_____ M.
3 – 4	N. 00°00' W	_____ M.
4 – 1	N. 00°00' W	_____ M.

That, the DONOR undertakes to facilitate the programming of funds for the construction of the _____ Police Station building;

That, to ensure the continuing campaign for peace and order and efficient enforcement of pertinent laws, the DONOR does hereby cede, transfer, and convey by way of donation to the DONEE the aforesaid property free from all liens and encumbrances;

That the DONOR hereby states, for the purpose of giving full effect and validity to this donation, that it has reserved to itself sufficient property, in full ownership or in usufruct, which is necessary and adequate for its support in consonance with its standing in society and as mandated by laws;

That the DONEE shall use the donated property exclusively for the construction and operation of the _____ Police Station.

That the DONEE hereby accepts the donation of above-described parcel of land made in its favor by the DONOR, and hereby expresses its appreciation and gratefulness for the kindness and generosity of the DONOR;

IN WITNESS WHEREOF, the DONOR and the DONEE, have hereunto affixed their signatures this _____ day of _____, 2023 at _____, Philippines.

The Municipal Government of _____
DONOR

By:

The PHILIPPINE NATIONAL POLICE
DONEE

By:

Mayor

Regional Director

Signed in the presence of:

City Administrator

Provincial Director, Name of PPO

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
Municipality of _____) S. S.

BEFORE ME, A Notary Public, personally appeared Name of Donor in his/her capacity as the Mayor of the Name of Municipality with her Taxpayers Identification Number _____ issued by the Bureau of Internal Revenue (BIR) and Name of Donee , Designation with his ID NO. _____ issued by the PNP DPRM known to me and to me known to be the same persons who executed the foregoing Deed of Donation consisting of three (3) pages including this page whereon the acknowledgement is written and acknowledged before me that the same is their true and voluntary act and deed.

WITNESS MY HAND AND NOTARIAL SEAL, this _____ day of _____, 2024 at _____, Philippines.

NOTARY PUBLIC

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2024

Republic of the Philippines)
 _____) s.s.

AFFIDAVIT OF UNDERTAKING

I, _____, Filipino, of legal age, having been duly sworn in accordance with law, hereby depose and state that:

1. I am a resident of _____ and the registered owner of a parcel of land described as _____;
(for natural persons)

or

I am designated as the _____ of _____, with office address at _____, which is the registered owner of a parcel of land described as _____; *(for juridical entities, including LGUs)*

2. I have decided to donate the above described parcel of land in favor of the PNP, particularly the _____, which I have provided with a Certified True Copy of the Original Certificate of Title (OCT)/Transfer Certificate of Title (TCT); *(for natural persons)*

or

The juridical entity I represent has decided to donate the above described parcel of land in favor of the PNP, particularly the _____, which we have provided with a Certified True Copy of the Original Certificate of Title (OCT)/Transfer Certificate of Title (TCT); *(for juridical entities, including LGUs)*

3. To ensure that the police force, particularly the _____, will be able to fully utilize and completely enjoy the above described donated parcel of land, I/(name of juridical entity) support the objective of the PNP to pursue efforts to have it titled under the name of said agency;
4. For this purpose, I/(name of juridical entity) commit to surrender to the PNP the Original Owner's Duplicate Copy of the OCT/TCT, which is a documentary requirement for land titling.
5. I am/(name of juridical entity) is executing this undertaking in order to give absolute significance to the donation.

Affiant sayeth none.

DEED OF USUFRUCT

KNOW ALL MEN BY THESE PRESENTS:

This **DEED OF USUFRUCT** is executed by and between:

The **(name of agency)**, a national government agency, duly created under existing laws of the Philippines with an office address at _____ represented by its **(designation)**, **(name of representative)**, hereinafter referred as the **"OWNER"**;

The **PHILIPPINE NATIONAL POLICE (PNP)**, a government agency created and existing by virtue of and pursuant to Republic Act (RA) No. 6975 as amended by RA No. 8551, with principal office address at PNP National Headquarters, Camp BGen Rafael T Crame, Quezon City, represented herein by _____, hereinafter referred to as the **"USUFRUCTUARY"**;

They shall be collectively referred to as the **"PARTIES"**;

WITNESSETH

WHEREAS, the **OWNER** is the administrator of a certain parcel of land known as _____ with Transfer Certificate Title No. _____ containing a total lot area of _____ sqm;

WHEREAS, the **USUFRUCTUARY** requested from the **OWNER** the utilization of the unused portion of the aforementioned land, with an area of more or less _____ sqm to establish a _____ for the use of **(name of offices/units)** of the PNP;

WHEREAS, the **OWNER** realizes the importance of the aforesaid intention and stands to support the whole of the nation approach to end local communist armed conflict and all efforts of the PNP to fulfill its mandate in maintaining peace and order in the community;

WHEREAS, for and in consideration of the grantor's desire and support to the cause of the PNP to eradicate all forms of illegal activities and maintain peace and order in our community, the **OWNER** as Administrator of the LOT with TCT No. _____, hereby turn over more or less _____ sqm portion of the land with Technical Description to wit:

Line	Bearing	Distance
------	---------	----------

Situated in the _____, to the **USUFRUCTUARY**, subject to the following conditions:

1. The **USUFRUCTUARY** is responsible for the preservation of the land, and that while improvements may be introduced such as constructions of building and facilities necessary for the use of the **(name of offices/units)**, any improvements other than the intended use are subject for the approval or confirmation of the **OWNER**;
2. The **SITE** be used exclusively by the **USUFRUCTUARY** for the establishment of its office and construction of its building;
3. The **USUFRUCTUARY** may construct a building, introduce other structures, facilities and/or improvements that may be necessary for the proper and beneficial use of the **SITE**; and
4. The **USUFRUCTUARY** shall construct and maintain its building and/or facilities structures and improvements in the **SITE** in accordance with local ordinance and/or national laws on environmental safety, maintenance, and preservation.

WHEREAS, the term of this DEED OF USUFRUCT shall be valid for a period of ___ years and renewable for another ___ years or until Congress has passed a law or a Presidential Proclamation granting ownership thereof to the PNP;

WHEREAS, vacant lot turned over to the **USUFRUCTUARY** shall be solely intended for law enforcement functions of the **USUFRUCTUARY**;

WHEREAS, the **USUFRUCTUARY** undertakes to extend necessary assistance and support to the **OWNER** in protecting government interests in the area and in securing and protecting the area under administration by the **OWNER**;

WHEREAS, any violation of the conditions stated herein will be a ground for the **TERMINATION** of this DEED OF USUFRUCT;

WHEREAS, any dispute may be settled between the **PARTIES** subject to the rules under Section 66 of Book IV, Chapter 14 of Executive Order (EO) No. 292, otherwise known as the "Revised Administrative Code of 1987;

IN VIEW OF THE FOREGOING COVENANTS, the **PARTIES** hereby agree, with full responsibility and accountability, to mutually bind themselves to the stipulated conditions contained herein.

IN WITNESS WHEREOF, we have hereunto set our hands this ___ day of _____, 202_ at _____, Philippines.

FOR THE _____:

FOR THE _____:

OWNER

USUFRUCTUARY

SIGNED IN THE PRESENCE OF:

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)

CITY OF _____) S.S

x-----x

BEFORE ME, Notary Public at the City of _____ this _____ personally, appeared the above-named persons personally known to me to be the persons who voluntary executed the foregoing DEED OF USUFRUCT which they acknowledged before me as their free and voluntary act and deed with full authority to sign in their own capacity.

This instrument consists of three (3) pages including this page on this acknowledgement is written and duly signed by the parties with their two (2) instrumental witnesses.

WITNESS MY SEAL, this _____ in _____, Philippines.

Doc No. _____:
Page No. _____:
Book No. _____:
Series of _____:

**Memorandum of Agreement
[GRANT OF USE OF PARCEL OF LAND]**

KNOW ALL MEN BY THESE PRESENTS:

This Agreement is executed this ____ day of _____, 2023 in _____ by and between:

The _____, a local government unit duly created and existing under the laws of the Republic of the Philippines, herein represented by its local chief executive, _____, with office address at _____, hereinafter referred as the "GRANTOR"

And

The **PHILIPPINE NATIONAL POLICE (PNP)**, a government agency created and existing by virtue of and pursuant to Republic Act (RA) No. 6975 as amended by RA No. 8551, with principal office address at PNP National Headquarters, Camp BGen Rafael T Crame, Quezon City, represented herein by _____, hereinafter referred to as the "GRANTEE"

WITNESSETH, That:

WHEREAS, the GRANTOR is the owner of a parcel of land, described as Lot No. _____, CAD _____, covered by TCT No. _____, titled in the name of the Local Government of _____, with an area of _____ square meters (sqm), situated in _____;

WHEREAS, the GRANTEE is in need of a land area to establish _____ for use for other police purposes;

WHEREAS, the GRANTEE underscores the significance of establishing an _____, as it will serve as a catalyst in maintaining law and order and achieving peace and security in the area;

WHEREAS, recognizing this significance, the GRANTOR desires to assist by granting the use of a _____ HECTARE PORTION of the above-described parcel of land that is titled under its name;

NOW THEREFORE, for and in consideration of the foregoing premises, the Parties hereby agree on the following terms and conditions, to wit:

1. The GRANTOR hereby grants the use of a _____ portion of the parcel of land, as described herein, unto the GRANTEE, free from any tax imposition, mortgage, adverse claim, lien or encumbrance, or any other obligation.
2. The purpose for the grant of this land use shall be strictly for the establishment of _____, and for other police purposes.
3. Upon the effectivity of this Agreement, the GRANTEE shall commence the process of fund programming for the construction of _____.
4. The Grantee shall ensure the protection of the land from proliferation of Informal Settlers.
5. The Grantee shall ensure that the land is preserved and maintained.
6. The term of this grant shall be for a period of twenty-five (25) years from the date of execution of the Agreement and renewable for another 25 years.
7. The Parties agree that this Agreement shall be annotated in TCT No. _____.
8. This Agreement shall take effect upon signing.

IN WITNESS hereof, the Parties hereby affix their signatures on the date and place above written.

Mayor
City/Municipality of _____
GRANTOR

Designation
GRANTEE

Signed in the Presence of:

ACKNOWLEDGMENT

Republic of the Philippines)
City of _____) s.s.

BEFORE ME, personally appeared this ____ day of _____ at _____,

Name

Competent Evidence of Identity

Driver's Lic. No. G02 -92-031494/Until 04-11-23

known to me and to me known to be one of the parties who executed this Agreement and acknowledged to me that the same is his free act and voluntary deed.

This Agreement consists of three (3) pages, including this page on which the Acknowledgment is written, both signed by the Parties and their instrumental witnesses.

WITNESS MY HAND AND SEAL.

NOTARY PUBLIC

Doc No. _____
Page No. _____
Book No. _____
Series of 2023



IMPLEMENTING GUIDELINES FOR LEASE OF PRIVATELY-OWNED REAL ESTATE

1. PURPOSE

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

2. SCOPE AND APPLICATION

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

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

3. DEFINITION OF TERMS

- 3.1. **Capitalization Rate.** Refers to the interest rate on the cost or value of the property.
- 3.2. **Comparative Price Analysis.** Refers to the method of comparing the price quotations obtained pursuant to Item 5.5 of these Guidelines against the prevailing market rate of lease contracts within the vicinity of the selected location as determined pursuant to Item 5.1 of these Guidelines.
- 3.3. **Computation based on Observed Depreciation.** Refers to the method of computation in determining reasonableness of rental rate using a depreciation rate determined by the Bids and Awards Committee (BAC) or its Technical Working Group (TWG) after meticulous ocular inspection of the actual condition of the real estate. The formula for this method is provided in Item 6.3 of these Guidelines.
- 3.4. **Computation based on Straight Line Depreciation.** Refers to the method of computation in determining reasonableness of rental rate

using a depreciation rate based on the Table of Structural Depreciation provided by the Department of Public Works and Highways (DPWH) under Appendix B of these Guidelines. The formula for this method is provided in Item 6.4 of these Guidelines.

- 3.5. **Cost-benefit Analysis.** Refers to a tool used to aid decision-making by evaluating the benefits to be attained from an action against the costs for its implementation. For purposes of these Guidelines, the cost-benefit analysis should consider, among others, the costs for the transfer to, furnishing, and/or maintenance of the real estate, and include a market analysis of prevailing lease rates within the vicinity of the selected location.
- 3.6. **Depreciation.** Refers to the decrease in the value of a real estate due to ordinary wear and tear brought about by its use.
- 3.7. **Estimated Unit Construction Cost.** Refers to the estimated prevailing cost of construction per square meter of the real estate being appraised. The respective Estimated Unit Construction Cost of types of real estate for each region may be obtained from the Bureau of Maintenance of the DPWH.
- 3.8. **Factor Value.** Refers to the rating factor where locations and site conditions, neighborhood data and real estate structural condition, functionality, facilities and other requirements, including free services and facilities offered by the Lessor are considered. The rating factors and its corresponding weights are provided in Appendix A of these Guidelines.
- 3.9. **Lessee.** Refers to any government agency temporarily occupying a real estate on the basis of a contract executed with the private individual, partnership, cooperative, association, or corporation having absolute ownership over such real estate.
- 3.10. **Lessor.** Refers to any private individual, partnership, cooperative, association, or corporation having absolute ownership over the real estate to be leased.
- 3.11. **Real Estate.** Refers to land and buildings, including office spaces or units.
- 3.12. **Rentable Area.** Refers to the total area of the real estate in square meters being occupied or to be occupied by the Lessee less the common area like lobby, stairway, elevator hall, common comfort room, machine

room for air conditioner, and other areas of common use by the public or upper floor occupants.

- 3.13. **Rental.** Refers to the amount paid by the Lessee for the use and/or occupancy of the privately-owned real estate to the Lessor, where payment is usually made on a monthly basis.
- 3.14. **Reproduction Cost.** Refers to the estimated total cost of replacing the real estate with the same utility.

4. GUIDING PRINCIPLES

- 4.1. It is more preferred that government agencies lease publicly-owned real estate from other government agencies.
- 4.2. However, if no publicly-owned real estate is available or if cost-benefit analysis indicates that lease of privately-owned real estate is more favorable to government, procuring entities shall have the option to enter into lease contracts either through public bidding or negotiated procurement under Section 53(i) of the IRR-A of R.A. 9184. In the public bidding of lease contracts, the procedures under the IRR-A of R.A. 9184 shall be followed.
- 4.3. The location of the real estate to be leased should have been meticulously determined by the procuring entity after taking into consideration, among others, the need for prudence and economy in government service and the suitability of the area in relation to the mandate of the office and its accessibility to its clients.
- 4.4. The Approved Budget for the Contract (ABC) of lease shall be determined using the mid point of the range obtained from the results of the market analysis on the prevailing lease rates for real estates within the vicinity of the selected location complying with the criteria and technical specifications of the end user unit.
- 4.5. As a general rule, rental rates are considered reasonable when they represent or approximate the value of what the Lessee gets in terms of accommodation, facility, and convenience from the leased real estate, and the Lessor gets an equitable return of capital or investment in the construction and maintenance of the real estate.
- 4.6. The reasonableness of the computed rental rates is likewise determined by comparing rental rates of real estates with the same or similar condition or classification and located within the vicinity. It should also



consider real estate amenities and/or facilities provided free by the Lessor.

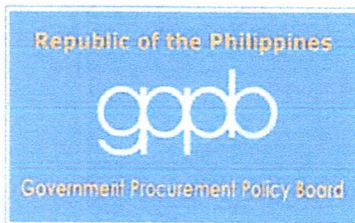
- 4.7. The procuring entity shall ensure that the objectives and purpose of the lease contract do not constitute an unnecessary, excessive, extravagant, or unconscionable expenditure.
- 4.8. In no case shall the rental rates, including additional expenses, such as association dues, if shouldered by the procuring entity, exceed the ABC.

5. PROCEDURES AND GUIDELINES

- 5.1. The end user unit shall conduct a cost-benefit analysis to assess the feasibility of entering into a lease contract for a privately-owned real estate as against purchasing or leasing from a government-owned real estate.
- 5.2. The recommendation of the end user unit to lease a privately-owned real estate shall be supported by the necessary analytical data establishing the benefits to the procuring entity if it enters into a lease contract. The recommendation shall also indicate the result of the market analysis of the prevailing rate of lease contracts within the vicinity of the selected location.
- 5.3. The BAC shall evaluate the recommendation of the end user unit, and approve the same if it finds such recommendation to be more advantageous to the government.
- 5.4. Entering into a lease contract through Negotiated Procurement under Section 53(i) shall be included in the approved APP of the procuring entity concerned. If the original mode of procurement recommended in the APP was public bidding but cannot be ultimately pursued, or the project to be undertaken has not been previously included, the BAC, through a resolution, shall justify and recommend the change in the mode of procurement, or the updating of the APP, to be approved by the head of the procuring entity.

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

- 5.5. The BAC shall prepare and finalize the draft contract and the technical specifications for the lease of the real estate taking into consideration the rating factors under Appendix A of these Guidelines. The BAC shall



Annex "A"

- then post the notice for the procurement opportunity in accordance with Section 21.2.4 of the IRR-A of R.A. 9184 for a period of seven (7) calendar days.
- 5.6. After the required posting period, the BAC shall invite at least three (3) prospective Lessors to submit sealed price quotations.
 - 5.7. On the date specified in the notice, the BAC shall open the price quotations and determine the Lowest Calculated Bid (LCB). The price quotation of the bidder with the LCB shall be evaluated, and its reasonableness computed, in accordance with Item 6 of these Guidelines.
 - 5.8. In the case of a proposed lease of a vacant lot or other land spaces, the procuring entity shall determine reasonableness of the proposed rate using a comparative price analysis as guided by the zonal valuation of the real estate issued by the city or municipality having jurisdiction over the property.
 - 5.9. If the BAC determines that the LCB is reasonable pursuant to Item 5.8 or 6 of these Guidelines, it shall declare said bid as the Lowest Calculated Responsive Bid (LCRB), and recommend to the head of the procuring entity the award of contract thereto.
 - 5.10. However, if the BAC determines that the LCB is unreasonable in accordance with Item 5.8 or 6 of these Guidelines, it shall immediately notify the said bidder in writing of its disqualification and the grounds therefor. The BAC shall then proceed to determine the reasonableness of the second LCB. This procedure shall be repeated for the next LCB until the LCRB is determined for award.
 - 5.11. In case all price quotations are considered unreasonable pursuant to Item 5.8 or 6 of these Guidelines, the BAC shall conduct a comparative price analysis between the LCB and the prevailing market rate previously determined under Item 5.1 of these Guidelines. If the LCB exceeds the prevailing market rate, the next LCB will be subjected to the same comparative price analysis until the LCRB is determined for award.
 - 5.12. If all price quotations exceed the prevailing market rate as determined under Item 5.1 of these Guidelines, the BAC shall declare a failure of negotiated procurement; in which case a public bidding or another negotiated procurement process will be conducted, depending on the recommendation of the BAC.



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

6. DETERMINATION OF REASONABLENESS OF RENTAL RATES

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

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

- 6.2. If the price quotation of the prospective Lessor does not exceed the computed monthly rental, the rental rate offered may be regarded as reasonable, and its quotation may then be considered for award.
- 6.3. *Computation based on Observed Depreciation*

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

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

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

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

6.4. *Computation based on Straight Line Depreciation*

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

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

7. TERMS AND CONDITIONS OF LEASE CONTRACTS

- 7.1. Lease contracts may be entered into on a multi-year basis, subject to the application of any set of guidelines that governs multi-year contracts.
- 7.2. The procuring entity shall ensure that the lease contract provide the most advantageous terms and conditions to the Government.

8. EFFECTIVITY

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

APPENDIX A
TABLE OF RATING FACTORS

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



IV. Free Services and Facilities			
	1. Janitorial and security	20	
	2. Air conditioning	20	
	3. Repair and maintenance	20	
	4. Water and light consumption	20	
	5. Secured parking space	20	
		100	
I.	Location and Site Condition	$\times .20 =$	
II.	Neighborhood Data	$\times .20 =$	
III.	Real estate	$\times .50 =$	
IV.	Free Services and Facilities	$\times .10 =$	
FACTOR VALUE			

APPENDIX B

TABLE OF STRUCTURAL DEPRECIATION

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



APPENDIX C

SAMPLE COMPUTATION

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

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

COMPUTATION BASED ON OBSERVED DEPRECIATION

$$\begin{aligned}
 \text{Reproduction Cost} &= \text{Estimated Unit Construction Cost} \times (1 - \text{Depreciation Rate}) \\
 &= \text{P25,000/sq.m.} (1 - 0.20) \\
 &= \text{P20,000/sq.m.}
 \end{aligned}$$

$$\begin{aligned}
 \text{Formula Rate} &= \text{Reproduction Cost} \times \text{Monthly Capitalization Rate} \\
 &= 20,000 (0.20/12) = 20,000 (0.0167) \\
 &= \text{P334/sq.m./mo.}
 \end{aligned}$$

$$\begin{aligned}
 \text{Rental Rate} &= \text{Formula Rate} \times \text{Factor Value} \\
 &= \text{P334} (0.90) \\
 &= \text{300.60/sq.m./mo. say 300/sq.m.}
 \end{aligned}$$

$$\text{Rentable Area} = 200.00 \text{ sq.m.}$$

$$\begin{aligned}
 \text{Monthly Rental} &= \text{Rentable Area} \times \text{Rental Rate} \\
 &= 200/\text{sq.m.} \times \text{P300/sq.m./mo.} \\
 &= \text{P60,000.00/mo.}
 \end{aligned}$$

COMPUTATION BASED ON STRAIGHT LINE DEPRECIATION

$$\begin{aligned}
 \text{Age of Real estate} &= \text{Current Year} - \text{Year of Construction} \\
 &= 2007 - 1987 \\
 &= 20 \text{ years}
 \end{aligned}$$



Annex "A"

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

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ANNEX “H” CONSOLIDATED GUIDELINES FOR THE ALTERNATIVE METHODS OF PROCUREMENT

I. POLICY STATEMENT

As a general rule, all procurement shall be through Competitive Bidding. However, whenever justified by the conditions provided in Republic Act No. (R.A.) 9184 and its revised Implementing Rules and Regulations (IRR), the Procuring Entity may, in order to promote economy and efficiency, resort to any of the alternative methods of procurement provided in Rule XVI of the IRR of R.A. 9184.

The Alternative Methods of Procurement shall be resorted to only in the highly exceptional cases provided for in this Guidelines and subject to the prior approval of the Head of the Procuring Entity (HOPE) upon recommendation of the Bids and Awards Committee (BAC). In all instances, the Procuring Entity shall ensure that the most advantageous price for the Government is obtained.

II. PURPOSE

This Guidelines is formulated by the Government Procurement Policy Board (GPPB) to provide a single source of information for Alternative Methods of Procurement commonly resorted to by procuring entities; and to prescribe the terms, conditions, rules and procedures for covered Alternative Methods of Procurement for Goods, Infrastructure Projects, and Consulting Services.

III. SCOPE

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

Excluded from this Guidelines are the following:

- A.** Infrastructure projects undertaken through the Armed Forces of the Philippines Corps of Engineers (AFPCOE), for purposes of Sections 53.2 (Emergency Cases) and 53.5 (Agency-to-Agency) of the IRR of R.A. 9184, which shall continue to be governed by the Guidelines on the Implementation of Infrastructure Projects Undertaken by the AFP Corps of Engineers under GPPB Resolution No. 09-2005.
- B.** Limited Source Bidding under Section 49, Negotiated Procurement under Sections 53.8 (Defense Cooperation Agreement), 53.11 (NGO Participation), 53.12 (Community Participation), and 53.13 (UN Agencies).

IV. GENERAL GUIDELINES

- A. Annual Procurement Plan (APP).** The method of procurement, e.g., competitive bidding or any of the alternative methods of procurement, to be utilized by the Procuring Entity shall be indicated in the APP to be approved by the HOPE. If the original mode of procurement in the APP cannot be ultimately pursued, the BAC assisted by its Secretariat, the Technical Working Group, and by the appropriate

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End-User or relevant office, as the case may be, shall justify and recommend through a BAC Resolution such change in the mode of procurement to be approved by the HOPE. The changes must be reflected in the APP and submitted to the GPPB in accordance with Section 7.4 of the IRR of R.A. 9184.

- B. Prohibition on Splitting of Government Contracts.**¹⁴⁴ Splitting of Government Contracts, which means the division or breaking up of government contracts into smaller quantities and amounts, or dividing contract implementation into artificial phases or sub-contracts for the purpose of evading or circumventing the requirements of R.A. 9184 and its IRR, particularly the necessity of competitive bidding and the requirements for the alternative methods of procurement, is prohibited.

For infrastructure projects to be implemented by phases, the Procuring Entity shall ensure that there is a clear delineation of work for each phase, which must be usable and structurally sound. It shall also ensure the conduct of the detailed engineering activities for each phase as provided for in Annex “A” of the IRR of R.A. 9184.

- C. Unnecessary, Excessive, Extravagant and Unconscionable Expenditures.** The Procuring Entity shall ensure that the objectives and purpose of the contract do not constitute an unnecessary, excessive, extravagant, or unconscionable expenditure.
- D. Confidentiality of Bidding Documents.** The procurement documents are strictly confidential and shall not be divulged or released to any person prior to the advertisement or posting of the procurement opportunity, except to those officially authorized in the handling of these documents.

However, in procurements involving and affecting national security, the disclosure of procurement documents shall be dependent upon the HOPE having due regard to the nature, classification, sensitivity and confidentiality of the relevant documents vis-à-vis the purpose and reason for the request.

- E. Advertisement and Posting of Procurement Opportunity.**¹⁴⁵ For alternative methods of procurement, the Procuring Entity may dispense with the advertisement in the newspaper and posting requirement as prescribed in Section 21.2.1 of the IRR of R.A. 9184.

For the following alternative methods, however, the BAC, through its Secretariat, shall post the procurement opportunity [e.g., Request for Quotation (RFQ) or Request for Proposal (RFP)] in the Philippine Government Electronic Procurement System (PhilGEPS) website, the website of the Procuring Entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the Procuring Entity for a period of at least three (3) calendar days:

- 1) Section 52.1(b) – Shopping for ordinary office supplies and equipment not available in the Department of Budget and Management-Procurement Service (DBM-PS), for projects with Approved Budget for the Contract (ABC) above Fifty Thousand Pesos (₱50,000.00);

¹⁴⁴ Section 54.1, IRR of R.A. No. 9184.

¹⁴⁵ Section 54.2, IRR of R.A. No. 9184.

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- 2) Section 53.1 – Two Failed Biddings; and
- 3) Section 53.9 – Small Value Procurement, for projects with ABC above Fifty Thousand Pesos (P50,000.00);

F. Documentary Requirements. The mandatory documents to be submitted by suppliers, manufacturers, distributors, contractors and consultants are enumerated in Appendix A of this Guidelines.

In the case of Negotiated Procurement through Emergency Cases under Section 53.2 of the 2016 IRR of RA No. 9184, PEs are allowed to accept: (i) an expired Business or Mayor's permit with Official Receipt of renewal application, subject to submission of the Business or Mayor's permit after award of contract; and (ii) an unnotarized Omnibus Sworn Statement subject to compliance therewith after award of contract.¹⁴⁶

G. PhilGEPS Registration.¹⁴⁷ Manufacturers, suppliers, distributors, contractors, and/or consultants are mandated to register with the PhilGEPS and provide a PhilGEPS Registration number in the following alternative methods of procurement as a condition for award of the contract:

- 1) Section 50 – Direct Contracting;
- 2) Section 52.1(b) – Shopping for ordinary office supplies and equipment not available in DBM-PS;
- 3) Section 53.3 – Take Over of Contracts (Only for New Bidders, if any.);
- 4) Section 53.6 – Scientific, Scholarly or Artistic Work, Exclusive Technology and Media Services;
- 5) Section 53.7 – Highly Technical Consultants;
- 6) Section 53.9 – Small Value Procurement; and
- 7) Section 53.10 – Lease of Real Property and Venue.

H. Observers. For Negotiated Procurement under Section 53.1 (Two-Failed Biddings), observers shall be invited in accordance with Section 13 of the IRR of R.A. 9184. For other alternative methods of procurement, observers may be invited by the Procuring Entity as it may deem necessary.

I. Reference to Brand Names¹⁴⁸ Specifications for the procurement of Goods shall be based on relevant characteristics, functionality and/or performance requirements. Reference to brand names shall not be allowed except for items or parts that are compatible with the existing fleet or equipment of the same make and brand and will maintain the performance, functionality and useful life of the equipment. This rule shall also apply to the goods component of infrastructure projects and consulting services.

¹⁴⁶ As amended by GPPB Resolution No. 05-2020, dated 20 March 2020, published in the Philippine Daily Inquirer on 24 March 2020.

¹⁴⁷ Section 54.6, IRR of R.A. No. 9184.

¹⁴⁸ Section 18, R.A. No. 9184 and its IRR.

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- J. Delegation of Authority.** The conduct of Shopping and Negotiated Procurement under Emergency Cases, Small Value Procurement and Lease of Real Property and Venue may be delegated to the End-user unit or any other appropriate bureau, committee, or support unit duly authorized by the BAC through a Resolution approved by the HOPE.

For Shopping under Section 52.1(a) due to the urgent nature of the attendant circumstances, the BAC and the HOPE through a Resolution and issuance for the purpose,¹⁴⁹ respectively, may delegate to specific officials, personnel, committee or office in the Procuring Entity the conduct of Shopping and award of contract to efficiently and expeditiously deal with the emergency sought to be addressed.^(a)

For Negotiated Procurement under Section 53.14, the BAC and the HOPE through a Resolution and issuance for the purpose, respectively, shall delegate to specific officials, personnel, committee or office in the Procuring Entity the conduct of Direct Retail Purchase to efficiently and expeditiously deal with the pressing need sought to be addressed.⁽ⁿ⁾

For Negotiated Procurement under Emergency Cases under Section 53.2, the HoPE, through an issuance for the purpose, may delegate to either the BAC or the End-user unit or any other appropriate bureau, committee, support or procuring unit the authority to directly negotiate with a legally, technically, and financially capable supplier, contractor, or consultant.¹⁵⁰

The HoPE may also delegate the awarding of contract under Negotiated Procurement (Emergency Cases) under Section 53.2 to any official of the procuring entity except to the BAC Chairperson or members pursuant to Section 11.2.5 of the 2016 revised IRR of RA No. 9184 and other associated issuances or to any other official where there exists conflict of interest, such as those to whom the HoPE has delegated the authority to directly negotiate under the foregoing modality.¹⁵¹

For record and monitoring purposes, all awards shall be immediately reported with all supporting documents to the HOPE, through the BAC, to ensure compliance with all the conditions and requirements provided for under R.A. 9184, its IRR and related guidelines.

- K. Mandatory Review.** The BAC shall conduct a mandatory review and evaluation of the terms, conditions, specifications, cost estimates in the RFQ or RFP, if none or less than the required number of quotations or proposals are received, despite the extension of deadline for the third time.

Based on its findings, the BAC may revise the terms and conditions and specifications, and if necessary, adjust the ABC, subject to the required approvals, and repeat the procurement process.

¹⁴⁹ As amended by GPPB Resolution No. 24-2019, dated 30 October 2019, published in the Official Gazette on 30 December 2019.

¹⁵⁰ As amended by GPPB Resolution No. 03-2020, dated 9 March 2020, published in the Philippine Daily Inquirer on 13 March 2020.

¹⁵¹ Ibid.

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L. Notice of Award; Contact Approval; Notice to Proceed.

- 1) Except in Shopping, and Negotiated Procurement through Emergency Cases, Agency-to-Agency and Small Value Procurement, and Direct Retail Purchase of Petroleum, Fuel, Oil and Lubricant, Airline Tickets, and Online Subscriptions, the following procedures shall apply in the issuance of the Notice of Award (NOA), Contract/Purchase Order (PO) and Notice to Proceed (NTP) for the Alternative Methods of Procurement identified in this Guidelines, thus:⁽ⁿ⁾
 - a. The BAC shall recommend to the HOPE the award of contract. Within a period not exceeding fifteen (15) calendar days from receipt, the HOPE shall approve or disapprove the BAC's recommendation. In case of approval, the HOPE shall immediately issue the NOA to the Supplier, Contractor or Consultant. In the event the HOPE shall disapprove the recommendation, such disapproval shall be based only on valid, reasonable, and justifiable grounds to be expressed in writing, addressed to the BAC.
 - b. The Supplier, Contractor or Consultant shall immediately enter into contract with the Procuring Entity upon receipt of the NOA. Upon transmission of the signed contract/PO, the HOPE or his duly authorized representative shall immediately sign the contract/PO provided that all the relevant documentary requirements are submitted.
 - c. The HOPE or his duly authorized representative shall issue the NTP, if necessary, and a copy of the approved contract to the Supplier, Contractor or Consultant within three (3) calendar days from the date of approval of the contract by the appropriate government approving authority.
- 2) **Renewal of contract for regular and recurring services.**¹⁵² The end-user shall state in the contract/PO the renewal of contract for regular and recurring services and the required performance evaluation of the service provider.⁽ⁿ⁾
- 3) **Posting of Notice of Award, Contract and Notice to Proceed.**¹⁵³ Unless the contract involves and affects national security as determined by the HOPE in accordance with Section IV(D) of this Guidelines, the BAC, through its Secretariat, shall post the NOA, Contract/PO, including the NTP if necessary, for information purposes, in the PhilGEPS website, the website of the Procuring Entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the Procuring Entity within ten (10) days from their issuance, except for contracts with ABC of Fifty Thousand Pesos (P50,000.00) and below.

M. Bid, Performance and Warranty Securities.¹⁵⁴

Bid security may be dispensed with. However, performance and/or warranty securities are required for the following alternative methods of procurement, in accordance with Sections 39 and 62 of the IRR as summarized below:

¹⁵² As amended by GPPB Resolution No. 06-2022, dated 12 September 2022, published in the Philippine Star on 13 April 2023.

¹⁵³ Section 54.3, IRR of R.A. No. 9184.

¹⁵⁴ Sections 54.4 and 54.5, IRR of R.A. No. 9184.

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Alternative Method of Procurement	Performance Security (PS)	Warranty Security (WS)
Direct Contracting	X	✓
Repeat Order	X	✓
Two-Failed Biddings	✓	✓ In no case shall WS be required in the procurement of Consulting Services.
Emergency Cases	Procuring Entity may require PS depending on the nature of the procurement project. However, for Infrastructure Projects, PS is required.	Procuring Entity may require WS depending on the nature of the procurement project. In no case shall WS be required in the procurement of Consulting Services.
Take-over of Contracts	✓	✓
Adjacent/Contiguous	✓	For Infrastructure Projects, WS is required.
Small Value Procurement	Procuring Entity may require PS depending on the nature of the procurement project. However, for Infrastructure Projects, PS is required.	Procuring Entity may require WS depending on the nature of the procurement project. In no case shall WS be required in the procurement of Consulting Services.
Direct Retail Purchase of POL, Airline Tickets, and Online Subscriptions ⁽ⁿ⁾	x	WS is required if the terms and conditions or similar agreements do not provide corrective actions to be undertaken by the supplier or service provider on any noted defects in the procured item, as determined by the procuring entity. ⁽ⁿ⁾

N. Blacklisting. Suspension or blacklisting of suppliers, contractors, or consultants shall be made in accordance with the Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors, and Consultants. A suspended or blacklisted supplier, contractor or consultant shall not be allowed to participate in all procurement opportunities of the government for the duration of the suspension or blacklisting, regardless of the modality of procurement employed by the Procuring Entity.

V. SPECIFIC GUIDELINES

A. DIRECT CONTRACTING¹⁵⁵

1. Definition. Direct Contracting or single source procurement is a method of procurement of goods that does not require elaborate Bidding Documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. The offer may be accepted immediately or after some negotiations. Direct Contracting may be resorted to under any of the following conditions:

- a) Procurement of goods of proprietary nature which can be obtained only from the proprietary source, i.e., when patents, trade secrets, and copyrights prohibit others from manufacturing the same item;
- b) When the procurement of critical components from a specific supplier is a condition precedent to hold a contractor to guarantee its project performance, in accordance with the provisions of its contract; or
- c) Those sold by an exclusive dealer or manufacturer which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the government.

To justify the need to procure through the Direct Contracting method, the End- User should conduct a survey of the industry and determine the supply source. In all cases where Direct Contracting is contemplated, the survey must be conducted prior to the commencement of the procurement process. Moreover, the End-User must justify the necessity for an item that may only be procured through Direct Contracting, and it must be able to prove that there is no suitable substitute in the market that can be obtained at more advantageous terms.

2. Procedure

- a) The BAC shall prepare the RFQ or pro-forma invoice together with the terms and conditions of sale, and shall send the same to the identified direct supplier.
- b) Simplified negotiations on the terms and conditions of the contract may be conducted by the BAC to ensure that the supplier is technically, legally and financially capable to deliver the goods at the most advantageous price and contract for the Government.
- c) The BAC shall recommend to the HOPE the award of contract in favor of the supplier. Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

¹⁵⁵ Section 50, R.A. No. 9184 and its IRR.

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B. REPEAT ORDER¹⁵⁶

- 1. Definition.** Repeat Order is a method of procurement of goods from the previous winning bidder, whenever there is a need to replenish goods subject to the following conditions:
 - a) The goods were procured under a contract previously awarded through Competitive Bidding;
 - b) Unit prices must be the same as or lower than those in the original contract, provided that such prices are still the most advantageous to the government after price verification;
 - c) The repeat order will not result in splitting of contracts, requisitions, or purchase orders, as provided for in Article IV(B) of this Guidelines;
 - d) Except in cases duly approved by the GPPB, repeat orders shall be availed of only within six (6) months from the date of the NTP arising from the original contract, provided that there has been a partial delivery, inspection and acceptance of the goods within the same period;
 - e) Repeat orders shall not exceed twenty-five percent (25%) of the quantity of each item in the original contract. In order not to exceed the 25% threshold, the goods under the original contract must be:
 - i. Quantifiable;
 - ii. Divisible; and
 - iii. Consisting of at least four (4) units per item.

2. Procedure

- a) Upon determination of the need to replenish the goods earlier procured through competitive bidding, the End-User unit shall prepare the necessary Purchase Request for the procurement of additional goods, after a careful study and confirmation of the prevailing market price of the goods to be re-ordered and comparing this with the price of the goods in the original contract, accompanied by the appropriate justification why the re-ordering is being pursued.
- b) When all the conditions are present, the BAC shall recommend to the HOPE the award of contract through Repeat Order. Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

C. SHOPPING¹⁵⁷

- 1. Definition.** Shopping is a method of procurement of goods whereby the Procuring Entity simply requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications. This method of

¹⁵⁶ Section 51, R.A. No. 9184 and its IRR.

¹⁵⁷ Section 52, R.A. No. 9184 and its IRR.

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procurement shall be employed in any of the following cases:

a) When there is an unforeseen contingency requiring immediate purchase, the amount shall not exceed the following:

- i. For NGAs, GOCCs, GFIs, SUCs, and Autonomous Regional Government, Two Hundred Thousand Pesos (₱200,000)
- ii. For LGUs, in accordance with the following schedule:

DOF Classification of LGUs	Maximum Amount (in Philippine Peso)		
	Province	City	Municipality
1 st Class	200,000	200,000	100,000
2 nd Class	200,000	200,000	100,000
3 rd Class	200,000	160,000	100,000
4 th Class	160,000	120,000	100,000
5 th Class	120,000	100,000	100,000
6 th Class	100,000	100,000	100,000

In the case of barangays, Fifty Thousand Pesos (₱50,000).

b) Procurement of ordinary or regular office supplies and equipment not available in the DBM-PS, in the amount not to exceed the following:

- i. For NGAs, GOCCs, GFIs, SUCs, and Autonomous Regional Government, One Million Pesos (₱1,000,000)
- ii. For LGUs, in accordance with the following schedule:

DOF Classification of LGUs	Maximum Amount (in Philippine Peso)		
	Province	City	Municipality
1 st Class	1,000,000	1,000,000	200,000
2 nd Class	1,000,000	1,000,000	200,000
3 rd Class	1,000,000	800,000	200,000
4 th Class	800,000	600,000	100,000
5 th Class	600,000	400,000	100,000
6 th Class	400,000	200,000	100,000

In the case of barangays, Fifty Thousand Pesos (₱50,000).

The phrase “ordinary or regular office supplies” shall be understood to include those supplies, commodities, or materials which are necessary in the transaction of its official businesses, and consumed in the day-to-day office operations. However, office supplies shall not include services such as repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services.

2. Procedure

a) Shopping under Section 52.1(a)

- i. The End-User unit or the duly authorized official or personnel shall submit a purchase request to the BAC indicating the urgency to address an identified need of the Procuring Entity and the unforeseen contingency that caused its necessity.
- ii. The BAC shall immediately prepare the RFQ, indicating the specifications, quantity, ABC, and other terms and conditions of the contract.
- iii. The RFQ may be sent directly to the supplier of known technical, legal and financial qualifications. Due to the attendant circumstances and the urgency of the procurement, the supplier shall immediately respond to the RFQ and signify its technical, legal and financial capability to supply and deliver the goods to be procured. Posting of the RFQ may be dispensed with.
- iv. The BAC shall immediately validate the technical, legal and financial capability of the supplier to supply and deliver the goods by requiring the submission of relevant documents or through other verifiable means to prove the capability of the Supplier.
- v. Upon confirmation and ascertainment of such capability, the BAC shall recommend to the HOPE the award of contract in favor of the supplier with the Single or Lowest Calculated and Responsive Quotation. In case of approval, the HOPE shall immediately enter into a contract with the said supplier.

b) Shopping under Section 52.1(b)

- i. The End-User unit or the duly authorized official or personnel shall submit a purchase request to the BAC relative to the goods to be procured through Shopping.
- ii. The BAC shall prepare the RFQ, indicating the specifications, quantity, ABC, and other terms and conditions of the contract.
- iii. Except for those with ABCs equal to Fifty Thousand Pesos (₱ 50,000.00) and below, RFQs shall be posted for a period of at least three (3) calendar days in the PhilGEPS website, website of the Procuring Entity, if available, and at any conspicuous place reserved for this purpose in the premises of the Procuring Entity.
- iv. The BAC shall send the RFQs to at least three (3) suppliers of known qualifications, and at least three (3) price quotations must be obtained. This, notwithstanding, those who

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responded through any of the required postings shall be allowed to participate.

- v. The deadline for submission may be extended thrice, if none or less than the required number of quotations are received. For ABCs more than Fifty Thousand Pesos (₱50,000.00), extensions of deadline shall likewise be posted for a period of three (3) calendar days in the PhilGEPS, the website of the Procuring Entity, if any, and at any conspicuous place in the Procuring Entity's premises. In case no supplier responded after the third extension, the BAC shall conduct a mandatory review in accordance with Section IV(K) of this Guidelines.
- vi. Upon receipt of at least three (3) quotations within the prescribed deadline, the BAC shall prepare an Abstract of Quotations setting forth the names of those who responded to the RFQ, their corresponding price quotations, and the lowest calculated quotation submitted.
- vii. The BAC shall validate the technical, legal and financial capability of the supplier to supply and deliver the goods.
- viii. Upon confirmation and ascertainment of such capability, the BAC shall recommend to the HOPE the award of contract in favor of the supplier with the Lowest Calculated and Responsive Quotation. In case of approval, the HOPE shall immediately enter into a contract with the said supplier.

D. NEGOTIATED PROCUREMENT.¹⁵⁸ Negotiated Procurement is a method of procurement of Goods, Infrastructure Projects and Consulting Services, whereby the Procuring Entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant in any of the following cases:

1. TWO FAILED BIDDINGS¹⁵⁹

- a) **Definition.** Where there has been failure of competitive bidding or Limited Source Bidding for the second time as provided for in Section 35 of RA 9184 and its IRR, when:
 - i. No bids are received;
 - ii. All prospective bidders are declared ineligible;
 - iii. All bids fail to comply with all the bid requirements or fail post-qualification, or, in the case of consulting services, there is no successful negotiation; or
 - iv. The bidder with the Lowest/Single Calculated Responsive Bid or Highest/Single Rated Responsive Bid refuses, without justifiable cause, to accept the award of contract, and no award is made in accordance with Section 40 of RA 9184 and its IRR.

¹⁵⁸ Section 53, R.A. No. 9184 and its IRR.

¹⁵⁹ Section 53.1, IRR of R.A. No. 9184.

b) Procedures

- i. After conduct of the mandatory review of the terms, conditions, specifications, and cost estimates, as prescribed in Section 35 of the IRR, the BAC, based on its findings, as assisted by its Secretariat, TWG and End-User unit may revise and agree on the technical, legal and financial eligibility requirements and technical specifications or terms of reference, and if necessary, adjust the ABC, subject to the required approvals. However, the ABC cannot be increased by more than twenty percent (20%) of the ABC for the last failed bidding. In case no revision of the Class “A” Eligibility Document covered by Section 8.5.2 of this IRR is found necessary by the BAC after the conduct of the mandatory review, the submission of the PhilGEPS Certificate of Registration and Membership in accordance with Section 8.5.2 of this IRR shall likewise be mandatory.¹⁶⁰
- ii. The BAC shall invite at least three (3) suppliers, contractors or consultants, including those disqualified in previous biddings for the project, for negotiations to ensure effective competition. This, notwithstanding, those who responded through any of the required postings shall be allowed to participate. Even if only one (1) bidder should respond to such invitation or posting, the BAC shall proceed with the negotiation subject to the rules prescribed hereunder.
- iii. Any requirements, guidelines, documents, clarifications, or other information relative to the negotiations that are communicated by the BAC to a supplier, contractor, or consultant shall be communicated on an equal basis to all other suppliers, contractors, or consultants engaging in negotiations with the BAC relative to the procurement. The prospective bidders shall be given equal time and opportunity to negotiate and discuss the technical and financial requirements of the project to be able to submit a responsive quotation or proposal.
- iv. Following completion of the negotiations, the BAC shall request all suppliers, contractors, or consultants in the proceedings to submit, on a specified date, a best offer based on the final technical and financial requirements.¹⁶¹
- v. The BAC shall recommend award of contract to the HOPE in favor of the supplier, contractor or consultant determined to have the Single or Lowest Calculated and Responsive Quotation (for goods and infrastructure projects) or Single or Highest Rated and Responsive Proposal (for consulting services). Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

¹⁶⁰ As amended by GPPB Resolution No. 15-2021, dated 14 October 2021, published in the Official Gazette on 20 November 2021.

¹⁶¹ Ibid.

2. EMERGENCY CASES.¹⁶²

a) Instances when Negotiated Procurement under Emergency Cases may be resorted to:

- i. In case of imminent danger to life or property during a state of calamity, or
- ii. When time is of the essence arising from natural or man-made calamities or
- iii. Other causes where immediate action is necessary:
 - a) to prevent damage to or loss of life or property, or
 - b) to restore vital public services, infrastructure facilities and other public utilities.

The instances or situations where the foregoing conditions may be applied include the provision of immediate response and initial recovery steps to avoid loss of life, injury, disease and other negative effects on human, physical, mental and social well-being, together with damage to property, destruction of assets, loss of services, social and economic disruption and environmental degradation.¹⁶³

The BAC or the End-user unit or any other appropriate bureau, committee, support or procuring unit shall recommend to the HoPE any revision of the Annual Procurement Plan (APP) to cover the Procurement Project that will be resorting to Negotiated Procurement (Emergency Cases) under Section 53.2 of the 2016 revised IRR subject to the validation by the appropriate office in the Procuring Entity that there are funds in the budget to cover for the same.¹⁶⁴

The proposed APP revision(s) may only be approved by the HoPE upon its confirmation of the existence and veracity of the ground(s) relied upon in resorting to Negotiated Procurement (Emergency Cases) under Section 53.2 of the 2016 revised IRR.¹⁶⁵

Considering that the underlying reason to support a Negotiated Procurement through the Emergency modality relates to “time element” as when there is – a) imminent danger to life or property; or, b) when time is of the essence; or, c) immediate action is necessary, the Procuring Entity, through the HOPE, BAC, its Secretariat and End-User unit, should consider appropriate timing or the proximity of time between the actual procurement activity to be conducted and the emergency sought to be addressed, such that when the reason or cause for the emergency has already been abated, adoption of competitive bidding as the primary mode of procurement shall be considered.

When the ground is based on imminent danger to life during a state of

¹⁶² Section 53.2, IRR of R.A. No. 9184.

¹⁶³ As amended by GPPB Resolution No. 03-2020, dated 9 March 2020, published in the Philippine Daily Inquirer on 13 March 2020.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

calamity, there must be a declaration by a competent authority of a state of calamity pursuant to existing laws, rules and regulations before any procurement activity may be undertaken.¹⁶⁶

The procurement Projects that may be covered by this Section or Negotiated Procurement (Emergency Cases) under Section 53.2 of the 2016 revised IRR include the lease of real property or venue for use as quarantine centers, evacuation sites, medical relief and aid distribution locations, warehousing facilities, or similar temporary disaster or emergency response facility.¹⁶⁷

b) Procedure

- i. The End-User unit or the duly authorized official or personnel shall submit a request to the BAC or the HOPE, as the case may be, accompanied by appropriate supporting documents identifying the emergency sought to be addressed, and the necessary goods, civil works or consulting services (e.g., Technical Specifications, Scope of Work or Terms of Reference) that have to be procured to address the emergency.
- ii. The BAC or the End-user unit or any other appropriate bureau, committee, support or procuring unit shall recommend to the HoPE any revision of the Annual Procurement Plan (APP) to cover the Procurement Project that will be subject to Negotiated Procurement (Emergency Cases) under Section 53.2 of the 2016 revised IRR subject to the validation by the appropriate office in the Procuring Entity that there are funds in the budget to cover for the same.¹⁶⁸
- iii. The HoPE may delegate to either the BAC or the End-user unit or any other appropriate bureau, committee, support or procuring unit the authority to directly negotiate with a legally, technically, and financially capable supplier, contractor, or consultant for procurement undertaken through any of the allowable instances of Negotiated Procurement (Emergency Cases) under Section 53.2 of the 2016 revised IRR.¹⁶⁹
- iv. Upon confirmation and ascertainment of such capability to address the emergency, the HoPE, upon recommendation of the BAC or the End-user unit or any other appropriate bureau, committee, support or procuring unit, authorize for the purpose¹⁷⁰ shall immediately award the contract to the Supplier, Contractor or Consultant.

¹⁶⁶ Section 16, R.A. No. 10121.

¹⁶⁷ As amended by GPPB Resolution No. 03-2020, dated 9 March 2020, published in the Philippine Daily Inquirer on 13 March 2020.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ Ibid.

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3. TAKE-OVER OF CONTRACTS¹⁷¹

a) Instances when Take-over of contracts may be resorted to:

- i. The contract, previously awarded through Competitive Bidding, has been rescinded or terminated for causes provided for in the contract and existing laws; and
- ii. Where immediate action is necessary:
 - a) to prevent damage to or loss of life or property, or
 - b) to restore vital public services, infrastructure facilities and other public utilities.

b) Procedure

- i. The BAC shall post-qualify and negotiate with the second lowest calculated/highest rated bidder for the project under consideration at the said bidder's own original bid price, applicable to the remaining works to be done. Authority to negotiate contracts for projects under the foregoing exceptional cases shall be subject to prior approval by the HOPE concerned, within their respective limits of approving authority.
- ii. If negotiation fails, then the BAC shall post-qualify and negotiate with the next lowest calculated/highest rated bidder at the said bidder's own original bid price.
- iii. If the negotiation fails another time, the process is repeated until all the bidders from the previous bidding have been considered.
- iv. If the negotiation fails and there is no bidder left from the previous bidding or if the original awardee is a Single Calculated Responsive Bidder/Single Rated Responsive Bidder, the BAC may either invite at least three (3) suppliers/contractors/consultants to submit their bids, or resort to any other appropriate alternative method of procurement.
- v. In case of successful post-qualification and negotiation, the BAC shall recommend to the HOPE the award of contract with the said supplier, contractor or consultant. Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

4. ADJACENT OR CONTIGUOUS¹⁷²

- a) Definition.** Where the subject contract is adjacent or contiguous to an on- going Infrastructure Project or Consulting Service where the consultants have unique experience and expertise to deliver the required service, subject to the following conditions:

¹⁷¹ Section 53.3, IRR of R.A. No. 9184.

¹⁷² Section 53.4, IRR of R.A. No. 9184.

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- i. Original contract is the result of a Competitive Bidding;
- ii. Subject contract to be negotiated has similar or related scopes of work;
- iii. It is within the contracting capacity of the contractor/consultant considering the legal, technical (e.g., PCAB license, SLCC) and financial (e.g., NFCC for the contiguous project) requirements for eligibility;
- iv. In determining the SLCC, NFCC and PCAB license, the sum of the value of the remaining works for the existing contract and the ABC of the contiguous or adjacent work shall be considered;
- v. The contractor/consultant uses the same prices or lower unit prices as in the original contract less mobilization cost;
- vi. The ABC of the contiguous or adjacent work involved does not exceed the contract amount of the ongoing project;
- vii. The contractor/consultant has no negative slippage/delay in the original contract during the time of negotiation; and
- viii. Negotiations for the procurement are commenced before the expiry of the original contract.

In infrastructure projects, the phrase “adjacent or contiguous” refers to projects that are in actual physical contact with each other or in the immediate vicinity such that the required equipment and other resources can easily be mobilized; while in consulting services, it pertains to the linkage or relationship of the subject matters, outputs or deliverables required.

If there is a necessity to introduce new items which are related to the scope of work of the original contract, the Procuring Entity shall ensure that the unit prices of the new items are equal to or lower than the prevailing market prices.

b) Procedure

- i. The BAC shall negotiate with the contractor or consultant for the ongoing infrastructure project or consulting services (e.g., scope of work or terms of reference, unit price and other terms and conditions of the contract).
- ii. In case of successful negotiation, the BAC shall recommend to the HOPE the award of contract in favor of the contractor or consultant. Award of contract shall be made in accordance with Section IV (L) of this Guidelines.

5. AGENCY-TO-AGENCY¹⁷³

- a) **Definition.** Procurement from another agency of the government (i.e., Servicing Agency) that has the mandate to deliver goods or services or to undertake infrastructure projects or consultancy services as required by the Procuring Entity.

Agency-to-Agency Agreements shall be governed by the Guidelines, unless otherwise provided by a special law, such as in the case of Procurement of Printing Services from Recognized Government Printers¹⁷⁴ and Procurement of Common-use Supplies and Equipment from the DBM-PS.

All procurement to be undertaken by the Servicing Agency, including those required for the project, shall continue to be governed by the provisions of R.A. 9184.

All projects undertaken through Agency-to-Agency Agreements shall be subject to pertinent budgeting, accounting, and auditing rules and regulations.

- b) **Conditions.** It is the general policy of government to purchase its requirements from the private sector. However, it acknowledges that, in some exceptional cases, procurement from another agency of the government is more efficient and economical for the government, subject to the following conditions:
- i. The Procuring Entity shall justify that entering into an Agency-to-Agency Agreement with the Servicing Agency is more efficient and economical to the government;
 - ii. Servicing Agency has the mandate to deliver the goods and services required to be procured or to undertake the infrastructure project or consultancy required by the Procuring Agency;
 - iii. Servicing Agency has the absorptive capacity to undertake the project;
 - iv. Servicing Agency owns or has access to the necessary tools and equipment required for the project;
 - v. Sub-contracting is not allowed. However, the servicing agency may implement the infrastructure project in-house, by job-order, or through the pakyaw contracting system; and
 - vi. For procurement of infrastructure projects, the Servicing Agency must have a track record of having completed, or supervised a project, by administration or by contract, similar to and with a cost of at least fifty percent (50%) of the project at hand.

¹⁷³ Section 53.5, IRR of R.A. No. 9184.

¹⁷⁴ Refer to Appendix 20 for the Guidelines on the Procurement of Printing Services.

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c) Procedure

- i. The End-User unit shall justify to the BAC that the resort to Agency- to-Agency is more efficient and economical to the government.
- ii. It shall likewise secure a certificate from the relevant officer of the Servicing Agency that the latter complies with all the foregoing conditions.
- iii. Based on the assessment and recommendation of the End-User unit, the BAC shall issue a Resolution recommending the use of Agency- to-Agency Agreement to the HOPE.
- iv. In case of approval, the HOPE shall enter into a Memorandum of Agreement (MOA) with the Servicing Agency.

6. SCIENTIFIC, SCHOLARLY OR ARTISTIC WORK, EXCLUSIVE TECHNOLOGY AND MEDIA SERVICES¹⁷⁵

a) Definition. Where Goods, Infrastructure Projects and Consulting Services can be contracted to a particular supplier, contractor, or consultant as determined by the HOPE, for any of the following reasons:

- i. The requirement is for:
 - a) Work of art; commissioned work or services of an artist for specific artistic skills (e.g., singer, performer, poet, writer, painter, sculptor, etc.)
 - b) Scientific, academic, scholarly work or research, or legal services;
 - c) Highly-specialized life-saving medical equipment, as certified by the Department of Health;
 - d) Scientific, technical, economic, business, trade or legal journal, magazine, paper, subscription, or other exclusive statistical publications and references; or
 - e) Media documentation, advertisement, or announcement through television, radio, newspaper, internet, and other communication media.

Due to the nature of the information to be disseminated, alongside principles of transparency, efficiency and economy, award to more than one (1) supplier may be made by the Procuring Entity.

- ii. The construction or installation of an infrastructure facility where the material, equipment, or technology under a proprietary right can only be obtained from the same contractor.

¹⁷⁵ Section 53.6, IRR of R.A. No. 9184.

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To justify the need to procure through this negotiated modality, the End-User shall conduct a market study and determine the probable sources. This study should confirm that the supplier, contractor or consultant could undertake the project at more advantageous terms. In all cases, the market study must be conducted prior to the commencement of the procurement process.

b) Procedure

- i. The BAC shall undertake the negotiation with a technically, legally and financially capable supplier, contractor or consultant based on the Technical Specifications, Scope of Work or Terms of Reference prepared by the End-User.
- ii. Upon successful negotiation, the BAC shall recommend the award of contract to the HOPE in accordance with Section (IV)(L) of this Guidelines.

7. HIGHLY TECHNICAL CONSULTANTS¹⁷⁶

a) Definition. Procurement of consultancy contract involving an individual consultant, subject to the following conditions:

- i. The individual consultant will be hired to do work that is either:
 - a) Highly technical or proprietary; or
 - b) Primarily confidential or policy determining, where trust and confidence are the primary consideration.
- ii. The term of the individual consultant shall, at the most, be on a six (6) month basis, renewable at the option of the appointing HOPE, but in no case shall exceed the term of the latter.

b) Procedure

- i. The End-User Unit shall justify to the BAC the engagement of the individual in accordance with the conditions set forth in this Section.
- ii. The BAC shall undertake the negotiation with the individual consultant based on the Terms of Reference prepared by the End- User. Considering the nature of the consultancy work, the negotiations need not be elaborate, it is enough that the BAC has validated that the individual is legally, technically and financially capable to undertake and fulfill the consultancy work based on the Terms of Reference.
- iii. The BAC shall recommend to the HOPE the award of contract to the individual consultant. Award of contract shall be made in accordance with Section (IV)(L) of this Guidelines.

¹⁷⁶ Section 53.7, IRR of R.A. No. 9184.

8. SMALL VALUE PROCUREMENT (SVP)¹⁷⁷

a) Definition. Procurement of (a) goods not covered by Shopping under Section 52 of the IRR of RA 9184, (b) infrastructure projects, and (c) consulting services, where the amount involved does not exceed the following threshold:

- i. For NGAs, GOCCs, GFIs, SUCs, and Autonomous Regional Government, One Million Pesos (₱ 1,000,000)
- ii. For LGUs, in accordance with the following schedule:

DOF Classification of LGUs	Maximum Amount (in Philippine Peso)		
	Province	City	Municipality
1 st Class	1,000,000	1,000,000	200,000
2 nd Class	1,000,000	1,000,000	200,000
3 rd Class	1,000,000	800,000	200,000
4 th Class	800,000	600,000	100,000
5 th Class	600,000	400,000	100,000
6 th Class	400,000	200,000	100,000

In the case of barangays, Fifty Thousand Pesos (₱ 50,000).

b) Procedure

- i. The End-User shall submit a request for SVP to the BAC, which indicates the technical specifications, scope of work, terms of reference, ABC and other terms and conditions.
- ii. The BAC shall prepare and send the RFQs/RFPs to at least three (3) suppliers, contractors or consultants of known qualifications. This, notwithstanding, those who responded through any of the required postings shall be allowed to participate. Receipt of at least one (1) quotation is sufficient to proceed with the evaluation thereof.
- iii. Except for those with ABCs equal to Fifty Thousand Pesos (₱ 50,000.00) and below, RFQs shall be posted for a period of three (3) calendar days in the PhilGEPS website, website of the Procuring Entity, if available, and at any conspicuous place reserved for this purpose in the premises of the Procuring Entity.
- iv. Pre-bid conference may be conducted at the discretion of the BAC, in order to clarify and/or explain any of the requirements, terms, conditions, and specifications stipulated in the RFQ/RFP.
- v. After the deadline for submission of quotations/proposals, an Abstract of Quotations/Ratings shall be prepared setting forth the names of those who responded to the RFQ/RFP, their corresponding price quotations/ratings.
- vi. The BAC shall recommend to the HOPE the award of contract in favor of the supplier or contractor with the Single or Lowest Calculated and

¹⁷⁷ Section 53.9, IRR of R.A. No. 9184.

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Responsive Quotation (for goods or infrastructure projects), or consultant with the Single or Highest Rated and Responsive Proposal (for consulting services). In case of approval, the HOPE shall immediately enter into contract with the said supplier, contractor or consultant.

9. LEASE OF REAL PROPERTY AND VENUE¹⁷⁸

a) Definition. Procurement covering lease of real property and venue for official use, where:

- i. Real Property refers to land and buildings (office spaces or units) and constructions of all kinds adhered to the soil.
- ii. Venue refers to training centers, convention halls, hotels, and similar establishments catering to trainings, seminars, conferences, conventions, symposia and similar gatherings requiring the official participation of government officials and employees. This may include meals and accommodation depending on the requirements of the Procuring Entity.
- iii. Lessee refers to any government agency temporarily occupying a real property on the basis of a contract executed with the private individual, partnership, cooperative, association, or corporation having absolute ownership over such real property.
- iv. Lessor refers to any government agency or private individual, partnership, cooperative, association, or corporation having absolute ownership over the real property or venue to be leased.

b) Policy Considerations

- i. Publicly-owned vis-a-vis privately-owned real property and venue

It is preferred that government agencies lease publicly-owned real property or venue from other government agencies.

If there is an available publicly-owned real property or venue that complies with the requirements of the Procuring Entity, it may enter into a contract of lease with the government-agency owner.

In the event that the Procuring Entity would resort to privately-owned real property or venue, the End-User unit shall justify that the same is more efficient and economical to the government.

- ii. Location

The location of the real property or venue to be leased should have been meticulously selected by the Procuring Entity after

¹⁷⁸ Section 53.10, IRR of R.A. No. 9184.

taking into consideration, among others, the need for prudence and economy in government service and the suitability of the area in relation to the mandate of the office, and its accessibility to its clients. In the lease of venue, other factors such as the nature of the event or the level of security in the proposed location may also be taken into account.

iii. **ABC and rental rates**

The ABC shall be set using the midpoint of the range obtained from the results of the market analysis on the prevailing lease rates for real property or venue within the vicinity of the selected location complying with the criteria and technical specifications of the End- User Unit. In no case shall the rental rates, including additional expenses, such as association dues in the case of lease of real property, exceed the ABC.

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

Rental rates should also be within the prevailing market rates for lease of real property or venue with the same or similar condition or classification and located within the vicinity. Rental rate refers to the amount paid by the Lessee for the use and/or occupancy of the privately-owned real property to the Lessor, where payment is usually made on a monthly basis.

iv. **Technical Specifications**

Technical Specification shall be prepared taking into consideration the rating factors under Appendix B of this Guidelines.

c) Procedures for Lease of Privately-Owned Real Property and Venue

i. **Real Property**

- a) The BAC shall invite at least three (3) prospective Lessors to submit sealed price quotations or password-protected price quotations in compressed archive folders, in case of electronic submission of price quotations.¹⁷⁹

On a specified date, submitted price quotations shall be opened to determine the Lowest Calculated Quotation. Receipt of at least one (1) quotation is sufficient to proceed with the evaluation thereof.

¹⁷⁹ As amended by GPPB Resolution No. 09-2020, dated 7 May 2020, published in the Philippine Daily Inquirer on 15 May 2020.

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For electronic submission of price quotations, the passwords for accessing the same will be disclosed by the prospective Lessors on a specified date which may be done in person or face-to-face through videoconferencing, webcasting or similar technology.¹⁸⁰

- b) The real property being offered by the Lessor with the Single or Lowest Calculated Quotation shall be rated in accordance with the technical specifications and the reasonableness of its price quotation shall be determined in accordance with the methodology prescribed in Appendix B.
- c) Upon determination of the responsiveness and reasonableness of the quotation, the BAC shall recommend to the HOPE the award of contract in favor of the Lessor with the Single or Lowest Calculated and Responsive Quotation. Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

ii. Venue

- a) The BAC shall send the RFQ to at least three (3) venues within the vicinity of the selected location. Receipt of at least one (1) quotation is sufficient to proceed with the evaluation thereof.
- b) The venue being offered by the Lessor with the Lowest Calculated Quotation shall then be rated in accordance with the technical specifications prepared pursuant to Appendix B of this Guidelines. Compliance rating with technical specifications may be conducted through ocular inspection, interviews, or other forms of due diligence.
- c) Upon determination of the responsiveness of the quotation, the BAC shall recommend to the HOPE the award of contract in favor of the Lessor with the Single or Lowest Calculated and Responsive Quotation. Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

d) Renewal of Contract of Lease of Real Property

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

¹⁸⁰ Ibid.

- ii. If the results of the CBA, conducted by the end-user, continue to favor the existing lessor, then the Head of the Procuring Entity (HoPE) may renew its lease contract subject to the Guidelines on Renewal of Regular and Recurring Services.¹⁸¹ If it does not, then the PE should procure a new lease contract in accordance with Section 53.10 of the IRR of RA 9184 and these guidelines.

10. DIRECT RETAIL PURCHASE OF PETROLEUM FUEL, OIL AND LUBRICANT (POL) PRODUCTS, AIRLINE TICKETS, AND ONLINE SUBSCRIPTIONS¹⁸²(a)

- a. **Policy Considerations.** All procurement of POL products, airline tickets, and online subscriptions shall be done through competitive bidding, except when the Procuring Entity has determined that Direct Retail Purchase is the best modality for the procurement of (i) non-bulk POL products or where fees for additional services or functionalities are charged on top of the payment for the required POL products, (ii) airline tickets, or online subscriptions.¹⁸³(n)

In case of competitive bidding, other factors such as value-added or related services may also be taken into account in determining the procurement project's ABC.¹⁸⁴(n)

- b. **Definition.** Where Goods and Services are required by a Procuring Entity for the efficient discharge of its principal mandate, governmental functions, or day-to-day operations, direct retail purchase of (i) POL products, and airline tickets, and (iii) online subscriptions may be made by end-users delegated to procure the same from identified direct suppliers or service providers.¹⁸⁵(n)

Online subscription shall cover (i) electronic publications, reference materials, and journals; (ii) computer software and applications such as video conferencing applications, computer-aided design and drafting applications, office productivity tools, and system protection software; (iii) web-based services such as news and social media monitoring tools; and (iv) off-the-shelf information systems, except internet and cloud computing services.⁽ⁿ⁾

- c. **Conditions.** The procurement of POL products, airline tickets, and online subscriptions can be contracted by the end-user to identified direct suppliers or service providers under the following conditions:¹⁸⁶

¹⁸¹ As amended by GPPB Resolution No. 06-2022, dated 12 September 2022, published in the Philippine Star on 13 April 2023.

¹⁸² As amended by GPPB Resolution No. 05-2022, dated 23 June 2022, published in the Philippine Star on 06 October 2022.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

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i. For petroleum fuel (gasoline, diesel, and kerosene), oil and lubricants:¹⁸⁷⁽ⁿ⁾

- a) Direct retail purchase of POL products estimated to be necessary for the operations of the Procuring Entity within the fiscal year, including provisions for foreseeable emergencies based on historical records, shall be reflected in the annual procurement plan (APP) in its entirety including any amendment thereto which shall be reflected in the supplemental APP;¹⁸⁸⁽ⁿ⁾
- b) Direct purchase must be made from any available retailers, dealers or gas stations at retail pump price;¹⁸⁹⁽ⁿ⁾
- c) The requirement must be intended to be used for any official government vehicles and equipment for immediate consumption; and
- d) Payment may be made through cash advance, reimbursement or other allowable payment modalities subject to pertinent auditing and accounting rules.¹⁹⁰

ii. For airline tickets:

- a) Direct purchase of airline tickets required for official travels within the fiscal year, including provisions for foreseeable emergencies based on historical records, shall be reflected in the APP in its entirety including any amendment thereto which shall be reflected in the supplemental APP;
- b) Direct purchase must be made from any commercial airline at fairly reasonable rates, subject to flight availability at the time of booking, travel days, stopovers, routes, additional visa requirements and other reasonable considerations as determined by the end-user;
- c) Payment may be made through cash advance, reimbursement or other allowable payment modalities subject to pertinent auditing and accounting rules; and
- d) Procurement of airline tickets must be in accordance with existing rules and regulations governing official local and foreign travels of government personnel and Executive Order No. 77, s. 2019.

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

¹⁸⁹ Ibid.

¹⁹⁰ As amended by GPPB Resolution No. 24-2019, dated 30 October 2019, published in the Official Gazette on 30 December 2019.

iii. For online subscriptions:⁽ⁿ⁾

- a) The APP shall reflect the direct purchase of online subscription necessary for the operations of the Procuring Entity within the fiscal year;⁽ⁿ⁾
- b) Direct purchase shall be made for online subscription where no local provider is available;
- c) The maximum amount for the ABC shall be One Million pesos (P1,000,000).⁽ⁿ⁾

Provided, that if the online subscription to be directly purchased would require an ABC beyond the aforementioned amount, the ABC may be increased but not exceeding Five Million pesos (P5,000,000) and subject to prior approval of the HoPE;⁽ⁿ⁾

- d) Justification shall be provided by the End-User on its need to directly purchase a specific online subscription to the HoPE. Thus, the End-User shall: (i) submit a report indicating that no local provider is available and (ii) prepare a comparative matrix and evaluation showing that the preferred specific online subscription is better than any other similar online subscriptions available locally or that there is no suitable substitute in the local market that can be obtained at more advantageous terms;⁽ⁿ⁾
- e) Payment for online subscription can only be made through direct electronic payment using credit card subject to the issuance of a certification by the HoPE or his/her duly authorized representative stating that it is the more expeditious and inexpensive mode of payment in accordance with the Commission on Audit Circular No. 2021-014;⁽ⁿ⁾ and
- f) A payment confirmation receipt shall cover the direct purchase of online subscription.⁽ⁿ⁾

d. Procedure.

- i. The end-user delegated to directly purchase POL products, airline tickets, and online subscriptions in accordance with Part IV (J) of this Guidelines shall determine the supplier or service provider capable of delivering the required POL products, airline tickets, and online subscriptions at retail pump price or at the most reasonable retail price, as the case may be.^(a)
- ii. Taking into account the usual trade and business practices being observed in the industry and the requirements and other reasonable considerations identified by the end-user, direct retail

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purchase of the required POL products, airline tickets, or online subscriptions shall be carried out in accordance with pertinent accounting principles and practices as well as of sound management and fiscal administration provided that they do not contravene existing laws and regulations applicable to financial transactions.¹⁹¹⁽ⁿ⁾

- iii. The End-User shall carefully review the terms and conditions or similar agreements which shall contain a provision on compensation for losses incurred caused by delays of the supplier or service provider.⁽ⁿ⁾
- iv. The PE shall require the submission of a warranty security based on the End-User’s determination that the terms and conditions or similar agreements do not provide corrective actions to be undertaken by the supplier or service provider on any noted defects in the procured online subscription.⁽ⁿ⁾
- v. The End-User shall post the electronic copy of the payment confirmation receipt and agreed terms and conditions or similar agreements for the direct purchase of online subscription as equivalent documents of the NOA, and contract or purchase order, respectively.⁽ⁿ⁾

VI. REPEALING CLAUSE

This Consolidated Guidelines for Alternative Methods of Procurement (Consolidated Guidelines) repeals the following Guidelines: Guidelines for Shopping and Small Value Procurement,¹⁹² Guidelines for Agency-to-Agency Agreements,¹⁹³ and Guidelines for Lease of Privately-Owned Real Estate and Venue.¹⁹⁴

Any other guidelines, administrative order, office order, rule or regulation and/or parts thereof contrary to or inconsistent with the provisions of the Consolidated Guidelines are hereby repealed, modified or amended accordingly.

VII. EFFECTIVITY CLAUSE

This Consolidated Guidelines for Alternative Methods of Procurement shall take effect sixty (60) calendar days after its publication in the Official Gazette or in a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) copies of this Annex “H”.

¹⁹¹ Ibid.

¹⁹² GPPB Resolution 09-2009, dated 23 November 2009.

¹⁹³ GPPB Resolution 18-2007, dated 31 May 2007.

¹⁹⁴ GPPB Resolution 08-2009, dated 3 November 2009.

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ANNEX “H” APPENDIX A DOCUMENTARY REQUIREMENT ALTERNATIVE METHODS OF PROCUREMENT

- I.** This Appendix prescribes the documents that the BAC shall require from suppliers, contractors and consultants for Alternative Methods of Procurement, except for Repeat Order, Shopping under Section 52.1(a), and Negotiated Procurement under Section 53.5 (Agency-to-Agency) and 53.14 (Direct Retail Purchase of Petroleum Fuel, Oil and Lubricant products, Airline Tickets, and Online Subscriptions) of the IRR of RA No. 9184.^{195(a)}
- II.** The BAC shall indicate in the RFQ or RFP at what stage of the procurement process these requirements must be submitted, i.e., submission of offer/s, evaluation of offer/s, or¹⁹⁶ before issuance of Notice of Award.^(a)

Alternative Modality	Mayor's/ Business Permit	Professional License /Curriculum Vitae (Consulting Services)	PhilGEPS Reg. Number	PCAB License (Infra.)	NFCC (Infra.)	Income/ Business Tax Return	Omnibus Sworn Statement
I. Direct Contracting [Section 50]	✓		✓			✓ For ABCs above P500K	
II. Shopping [Sec 52.1(b)]	✓		✓				
III. Negotiated Procurement							
A. Two Failed Biddings [(Section 53.1)]			✓ **** PhilGEPS Platinum if legal eligibility requirements are not subject to revision after the conduct of the mandatory review ¹⁹⁷				
B. Emergency Cases [(Section 53.2)]	✓			✓	✓ For ABCs above P500K	✓ For ABCs above P500K	✓ For ABCs above P500K ¹⁹⁸

¹⁹⁵ As amended by GPPB Resolution No. 05-2022, dated 23 June 2022, published in the Philippine Star on 06 October 2022.

¹⁹⁶ As amended by GPPB Resolution No. 36-2017, dated 7 November 2017, published in the Philippine Daily Inquirer on 24 April 2018.

¹⁹⁷ As amended by GPPB Resolution No. 15-2021, dated 14 October 2021, published in the Official Gazette on 20 November 2021.

¹⁹⁸ As amended by GPPB Resolution No. 21-2017, dated 30 May 2017, published in the Philippine Daily Inquirer on 20 November 2017.

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Alternative Modality	Mayor's/ Business Permit	Professional License /Curriculum Vitae (Consulting Services)	PhilGEPS Reg. Number	PCAB License (Infra.)	NFCC (Infra.)	Income/ Business Tax Return	Omnibus Sworn Statement
C. Take-Over of Contracts (Section 53.3.2; for new bidders)	✓	✓	✓	✓	✓		
D. Adjacent/ Contiguous (Section 53.4)				✓	✓		
E. Scientific, Scholarly or Artistic Work, Exclusive Technology and Media Services (Section 53.6)	✓	✓	✓			✓ For ABCs above P500K	
F. Highly Technical Consultant (Section 53.7)	✓	✓	✓				
G. Small Value Procurement (Section 53.9)	✓	✓	✓	✓		✓ For ABCs above P500K	✓ For ABCs above P50K
H. Lease of Real Property or Venue (Section 53.10)	✓ Except for gov't agencies as lessors		✓ Except for gov't agencies as lessors			✓ Except for gov't agencies as lessors	

*For individuals engaged under Sec. 53.6, 53.7 and 53.9 of the IRR of RA No. 9184, only the BIR Certificate of Registration shall be submitted in lieu of DTI Registration and Mayor's Permit.

** Requirements under Section 53.6 of the IRR of RA No. 9184 will not apply to artists such as singer, performer, poet, writer, painter and sculptor who are not engaged in business. (n)

*** For methods of procurement requiring Mayor's Permit and PhilGEPS Registration Number, Certificate of Platinum Membership may be submitted in lieu of the said documents. (n)

**** For purposes of Two-Failed Biddings under Section 53.1 of the IRR of RA No. 9184, the PhilGEPS Certificate of Registration and Membership in accordance with Section 8.5.2 shall be submitted pursuant to Item V(D)(1)(b) of this Guidelines, subject to the qualification stated in Item V(D)(1)(b)(i).¹⁹⁹

III. Procuring Entities already maintaining an updated file of any of the bidder's above-mentioned requirements, whether through the PhilGEPS Certificate of Registration and Membership or its own records, may no longer require its re-submission.

¹⁹⁹ As amended by GPPB Resolution No. 15-2021, dated 14 October 2021, published in the Official Gazette on 20 November 2021.

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**ANNEX “H”
APPENDIX B
DOCUMENTARY REQUIREMENT
ALTERNATIVE METHODS OF PROCUREMENT
LEASE OF REAL PROPERTY AND VENUE:**

RATING FACTORS AND DETERMINATION OF REASONABLENESS OF RENTAL RATES

A. TABLE OF RATING FACTORS FOR LEASE OF REAL PROPERTY

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

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	RATING FACTORS	WEIGHT (%)	RATING
	d. Fire escapes	(6)	
	e. Firefighting equipment	(6)	
	4. Other requirements		
	a. Maintenance	(5)	
	b. Attractiveness	(5)	
		100	
IV.	Free Services and Facilities		
	1. Janitorial and security	(20)	
	2. Air conditioning	(20)	
	3. Repair and maintenance	(20)	
	4. Water and light consumption	(20)	
	5. Secured parking space	(20)	
		100	
I.	Location and Site Condition	× (.20) =	
II.	Neighborhood Data	× (.20) =	
III.	Real property	× (.50) =	
IV.	Free Services and Facilities	× (.10) =	
	FACTOR VALUE		

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

B. DETERMINATION OF REASONABLENESS OF RENTAL RATES

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

1.1 Computation based on Observed Depreciation

This method uses the following formula and a depreciation rate determined after meticulous ocular inspection of the actual condition of the real property:

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

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

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

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- 1.1.2 Reproduction Cost refers to the estimated total cost of replacing the real property with the same utility.
- 1.1.3 Capitalization Rate refers to the interest rate on the cost or value of the property.
- 1.1.4 Rentable Area refers to the total area of the real property in square meters being occupied or to be occupied by the Lessee less the common area like lobby, stairway, elevator hall, common comfort room, machine room for air conditioner, and other areas of common use by the public or upper floor occupants.
- 1.1.5 Factor Value refers to the rating factor where locations and site conditions, neighborhood data and real property structural condition, functionality, facilities and other requirements, including free services and facilities offered by the Lessor are considered. The rating factors and its corresponding weights are provided in Table A of this Appendix.

1.2 Computation based on Straight Line Depreciation

This method uses the following formula:

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

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

ESTIMATED LIFE OF REAL PROPERTY				
AGE	WOODEN FRAME (40 years)	SEMI-CONCRETE (60 years)	REINFORCED CONCRETE (75 years)	STRUCTURAL REINFORCED (100 years)
Percentage (%) of estimated life				
1	3	2.5	2	1.5
2	6	4.5	3.8	2.8
3	8.9	6.9	5.6	4.2
4	11.7	9	7.4	5.5
5	14.5	11.1	9.1	6.7
6	17.2	13.1	10.7	8.1
7	19.8	15.1	12.3	9.3
8	22.4	17	13.9	10.5
9	25	18	15.5	11.8
10	27.5	20.7	17.9	13
ESTIMATED LIFE OF REAL PROPERTY				

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AGE	WOODEN FRAME (40 years)	SEMI- CONCRETE (60 years)	REINFORCED CONCRETE (75 years)	STRUCTURAL REINFORCED (100 years)
	Percentage (%) of estimated life			
11	29.9	22.5	18.5	14.2
12	32.2	24.5	20	15.3
13	34.5	26.6	21.4	16.4
14	36.8	27.7	22.8	17.5
15	39	29.3	24.3	18.6
20	49.1	37	30.8	24.8
25	57.7	43.8	36.8	29
30	65	50	42.4	33.6
35	70	55.6	47.5	38
40	75	60.6	52.2	42.1
45		65	56.5	46
50		68.9	60.5	49.6
55		72.3	64.1	53.1
60		75	67.3	56.3
65			70.3	59.3
70			73	62
75			75	64.5
80				67
85				69.3
90				71.4
95				73.3
100				75

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

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

1.3 Comparative Market Price Analysis

This method is based on the conduct of comparative market analysis on the prevailing lease rates for real properties within the vicinity of the selected location complying with the criteria and technical specifications of the Procuring Entity. In the lease of vacant lot or other land spaces, the Procuring Entity shall likewise consider the zonal valuation issued by the city or municipality having jurisdiction over the property.

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

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

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

COMPUTATION BASED ON OBSERVED DEPRECIATION

$$\begin{aligned} \text{Reproduction Cost} &= \text{Estimated Unit Construction Cost} \times (1 - \text{Depreciation Rate}) \\ &= \text{P25,000/sq.m.} (1 - 0.20) \\ &= \text{P20,000/sq.m.} \end{aligned}$$

$$\begin{aligned} \text{Formula Rate} &= \text{Reproduction Cost} \times \text{Monthly Capitalization Rate} \\ &= 20,000 (0.20/12) = 20,000 (0.0167) \\ &= \text{P334/sq.m./mo.} \end{aligned}$$

$$\begin{aligned} \text{Rental Rate} &= \text{Formula Rate} \times \text{Factor Value} \\ &= \text{P334} (0.90) \\ &= 300.60/\text{sq.m./mo. say } 300/\text{sq.m.} \end{aligned}$$

$$\text{Rentable Area} = 200.00 \text{ sq.m.}$$

$$\begin{aligned} \text{Monthly Rental} &= \text{Rentable Area} \times \text{Rental Rate} \\ &= 200/\text{sq.m.} \times \text{P300/sq.m./mo.} \\ &= \text{P60,000.00/mo.} \end{aligned}$$

COMPUTATION BASED ON STRAIGHT LINE DEPRECIATION

Age of Real Property	=	Current Year – Year of Construction
	=	2007 – 1987
	=	20 years
Depreciation Rate	=	See Appendix B for the Table of Structural Depreciation
Reproduction Cost	=	Estimated Unit Construction Cost \times (1 – Depreciation Rate)
	=	P25,000/sq.m. (1 – 0.248)
	=	P18,800/sq.m.
Formula Rate	=	Reproduction Cost \times Monthly Capitalization Rate
	=	P18,800 (0.20/12) = 18,800 (0.0167)
	=	P313.96/sq.m./mo.
Rental Rate	=	Formula Rate \times Factor Value
	=	P313.96 (0.90)
	=	P282.56/sq.m./mo. say P285.00/sq.m.
Rentable Area	=	200.00 sq.m.

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Monthly Rental	=	Rentable Area × Rental Rate
	=	200 sq.m. × P285.00/sq.m.
	=	P57,000.00/mo.

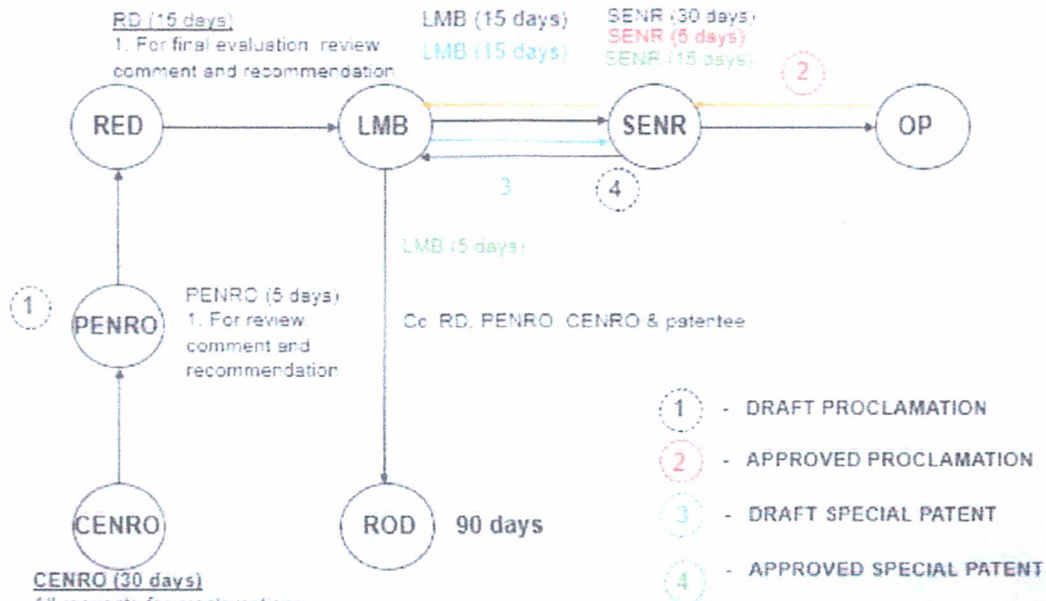
C. TABLE OF RATING FACTORS FOR LEASE OF VENUE

	RATING FACTORS	WEIGHT (%)	RATING
I.	Availability	100	
II	Location and Site Condition		
	1. Accessibility	(50)	
	2. Parking space	(50)	
		100	
III.	Neighborhood Data		
	1. Sanitation and health condition	(25)	
	2. Police and fire station	(25)	
	3. Restaurant	(25)	
	4. Banking and Postal	(25)	
		100	
IV.	Venue		
	a. Structural condition	(20)	
	b. Functionality		
	a. Conference Rooms	(10)	
	b. Room arrangement (e.g., single, double, etc.)	(5)	
	c. Light, ventilation, and air conditioning	(5)	
	d. Space requirements	(5)	
	c. Facilities		
	a. Water supply and toilet	(4)	
	b. Lighting system	(5)	
	c. Elevators	(4)	
	d. Fire escapes	(4)	
	e. Firefighting equipment	(4)	
	f. Internet and Telecommunications	(4)	
	g. Audio visual equipment	(5)	
	d. Other requirements		
	a. Maintenance	(5)	
	b. Attractiveness	(5)	
	c. Security	(5)	
	e. Catering Services	(5)	
	f. Client’s satisfactory rating	(5)	
		100	
I.	Availability	X (.5) =	
II.	Location and Site Condition	X (.1) =	
III.	Neighborhood Data	X (.05) =	
IV.	Venue	X (.35) =	
FACTOR VALUE			

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

PROCESS FLOW FOR LANDS NOT YET RESERVED &/OR SUBJECT OF A PROCLAMATION



Total No. of Days = ROD
240 days + No of Days in OP



Republic of the Philippines
 Department of Environment and Natural Resources
 Visayas Avenue, Diliman, Quezon City
 Tel. Nos. (632) 929-66-26 to 29 • (632) 929-62-52
 Website: <http://www.denr.gov.ph> / E-mail: web@denrgov.ph

JAN 11 2022

DENR ADMINISTRATIVE ORDER
 No. 2022 - 01

SUBJECT : GUIDELINES IN GRANTING GOVERNMENT AGENCIES GRATUITOUS PERMITS FOR THE SPECIAL USES OF FOREST LANDS

In view of the various government agencies exigent use of forest lands through special forest land uses modalities to cater public infrastructure projects or utility systems towards a more balanced economic, environmental and social development and pursuant to the provisions of Section 4 Item C, sub item c2 of Forestry Administrative Order No. 8-3 dated 01 July 1941 and Sections 19, 20, 49, 57 and 64 of Presidential Decree No. 705, as amended, the following guidelines are hereby issued as guidance in granting government agencies a gratuitous permits for the special uses of forest lands.

SECTION 1. Basic Policy. It is the policy of the State to sustainably manage the country's forest resources and to protect and advance the rights of the Filipino people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

SECTION 2. Objective. The objective of this guidelines is to ensure that government agencies partaking in the development of government-managed projects of national interest and infrastructures for public use within forest lands are appropriately granted with a permit which is gratuitous in concept and in conformity to government plans and standards.

SECTION 3. Scope and Coverage. This order shall cover all Gratuitous Special Use Permit (GSUP) applications for special land uses or projects that are non-profit and of national interest, as well as the infrastructures for public service and use to be implemented and/or being managed by National government agencies and local government units.

SECTION 4. Definition of Terms. For the purpose of this Order, the following terms shall be used in, and understood to mean as follows:

- 4.1. Environmental Compliance Certificate (ECC) – the document issued by the Secretary, or the Director or Regional Director of the Environmental Management Bureau (EMB), certifying that based on the representations of the proponent and the preparers, as reviewed and validated by the Environmental Impact Assessment (EIA) Review Committee, the proposed project or undertaking will not cause a significant negative environmental impact; that the proponent has complied with the requirements of the EIA system and that the proponent is committed to implement its approved Environmental Management Plan in the Environmental Impact Statement or mitigation measures in the Initial Environmental Examination.
- 4.2. Environmental Impact Statement (EIS) – the document(s) of studies on the environmental impacts of a project including the discussions on direct and indirect consequences upon human welfare and ecological and environmental integrity. The EIS may vary from project to project but shall contain in every case all relevant information and details about the proposed project or undertaking including the environmental impacts of the project and the appropriate mitigating and enhancement measures.

- 4.3. **Gratuitous Special Use Permit** – a 5-year permit authorizing a head of a government agency and/or local chief executive to use certain portions of forest lands free of charge for the development of government-managed projects of national interest and infrastructures for public service and use, and non-commercial projects of GOCCs.
- 4.4. **Initial Environmental Examination (IEE)** – the document required of proponents describing the environmental impact of, and mitigation and enhancement measures for, projects or undertakings located in an Environmentally Critical Area.
- 4.5. **Infrastructures for public service and use** - shall refer to infrastructure projects intended for public service and use such as roads, bridges, schools, hospitals, health centers, flood control facilities, water reservoir or impounding dam and its related facilities, air strip, landing site, harbor, public market, public plazas, and evacuation site.
- 4.6. **Projects of national interest**- refers to identified priority projects that are to be implemented and/or being managed by the government.

SECTION 5. Qualification of Applicants. The following are qualified to apply for GSUP:

- 5.1. Head of government agency or its duly authorized representative; and
- 5.2. Local chief executive at the municipal, city or provincial level duly authorized by the local legislative bodies.

SECTION 6. Application requirements. The following requirements shall be submitted by the applicant together with the duly accomplished application form (Annex A):

- a. Letter of Intent
- b. Certification as to the land classification of the area being applied for GSUP to be issued by DENR
- c. GIS-generated map of the area
- d. Appropriate certification from the National Commission on Indigenous Peoples
- e. Indicative Management Plan (Annex B)
- f. Proof of budget allocation for the development and management of the project
- g. Agency resolution or authorization designating the authorized representative of the national government agency/ies and other relevant agencies to officially apply with the DENR regarding gratuitous permit acquisition.
- h. Local Government Unit (LGU) endorsement (in case the applicant is an NGA)
- i. Resolution authorizing the local chief executive to apply for gratuitous special use permit (in case the applicant is an LGU)
- j. In case of LGUs, a proof that proposed project is indicated in the Forest Land Use Plan (FLUP) and within the ambit of the approved Comprehensive Land Use Plan (CLUP)
- k. Appropriate clearance from the Palawan Council for Sustainable Development (if the project is located in Palawan).

SECTION 7. Submission of application, processing, and approval of GSUP. For the purpose of this Order, the following procedures are hereby issued for the processing and approval of GSUP applications. The process flows are attached as Annex C.1 and Annex C.2 herein.

- 7.1. Government agencies and LGUs must file the duly accomplished application form with the corresponding documentary requirements prescribed by the Department at the CENRO/Implementing PENRO and the proponent to pay the amount of P3,000.00 per application to cover administrative costs.

- 7.2. The CENRO/Implementing PENRO shall conduct an assessment and evaluation of the area being applied.
- 7.3. The CENRO/Implementing PENRO shall prepare a GIS-generated map of the area based from the map submitted by the applicant, and subsequently, will serve as reference of the region in preparing the final map to be approved by the Regional Executive Director.
- 7.4. The CENRO/Implementing PENRO shall prepare a Completed Staff Work (CSW) report indicating the findings and recommendations based on Items 7.2 and 7.3 hereof for endorsement at the PENRO and subsequently to the Regional Office.
- 7.5. The Licenses, Patents and Deeds Division and Survey and Mapping Division of the Regional Office shall prepare the GSUP (Annex D.1) and its corresponding terms and conditions and the final map of the same, respectively.
- 7.6. The Regional Executive Director (RED) shall approve the corresponding map of the GSUP area.
- 7.7. The GSUP and its terms and conditions shall be approved by the RED. In case the project traverses two (2) or more regions, the GSUP (Annex D.2) and its terms and conditions shall be approved by the Undersecretary for Field Operations.

The proponents, who will implement such projects, shall jointly file the GSUP application and submit the corresponding documentary requirements to the concerned Regional Office with jurisdiction over the majority of the area to be covered by the project. A joint-review of the application and its supporting documents shall be conducted to be chaired by the concerned REDs. The REDs shall endorse the same for the approval/disapproval of Undersecretary for Field Operations.

SECTION 8. Duration of the GSUP. The GSUP shall have a maximum non-renewable term of five (5) years for the (a) construction of roads and bridges and (b) construction and operation of schools, hospitals, health centers, flood control facilities, water reservoir or impounding dam and its related facilities, air strip, landing site, harbor, public market, public plazas and evacuation site.

SECTION 9. Application for Presidential Proclamation. All national government agencies and LGUs with approved GSUP for the construction and operation of infrastructure projects or facilities for public service and use specified in Section 4.5 herein, other than roads and bridges, shall apply for the issuance of Presidential Proclamation within one (1) year from the issuance of GSUP to ensure effective management and sustainability of the infrastructure and facilities and its long-term use of the area where the infrastructure or facilities exists. In case of failure to secure a Presidential Proclamation within the duration of the GSUP, the Permittee shall apply for FLAg pursuant to DENR Administrative Order No. 2004-59 and other related policies on special uses of forest lands.

SECTION 10. Environmental Impact Assessment (EIA) requirement. The permit holder, within three (3) months or based on prescribed schedule of EMB upon issuance of the GSUP, shall secure an ECC from the EMB, copy of which shall be submitted to the DENR Regional Office.

SECTION 11. Terms and Conditions of the GSUP. The GSUP issued in consonance with this regulations (Annex E) shall be subject to the following provisions:

- 11.1 The area granted in this Permit is a public forest land based on existing records, and shall not be involved in any private transactions;
- 11.2 The annual government share or user's fee is waived in favor of the Permittee;
- 11.3 The Permittee shall: (a) comply with the laws, rules and regulations and instructions now or hereinafter enforced for the proper use of the land; (b) respect any legal prior claims; (c) conserve the corners and boundary lines of the area; (d) protect any wetlands such as spring, waterfalls, peatlands, swamps, lake, and marshes or natural/ historical/ archeological sites in the area; (e) report to the nearest local forest officer(s) all forest violations in the area and adjacent lands; and (f) submit a year-end report, not later than March 30 of the succeeding year, to the concerned RED thru the CENRO/PENRO the kind, number and value of improvement(s) introduced in the area, among others;
- 11.4 The area granted in this Permit shall be for public service and use. As such, the Permittee shall: (a) not appropriate for himself/herself exclusive use of public trails traversing or adjoining the area or impede the use thereof by the public; (b) not sublease the area or any portion thereof; and (c) protect and conserve threatened wildlife identified under existing rules and regulations;
- 11.5 A separate permit shall be secured by the Permittee should tree cutting be necessary. However, no tree, regardless of species, shall be cut in the permitted area if found within forty (40) meters from banks of rivers, creeks or streams, buffer strips and shorelines. In case the said 40-meter strip is bereft of trees, the same shall be rehabilitated by the Permittee;
- 11.6 The Permittee shall strictly observe the terms and conditions of the ECC. In case the Permittee will conduct periodic rehabilitation of the infrastructures or introduce new appurtenances within the GSUP area, the same shall secure an appropriate clearance from the EMB for the purpose and submit the clearance to the concerned DENR Regional Office prior to such undertakings thereof;
- 11.7 The Permittee shall protect the permitted area from forest fires and other forms of forest destruction and eventualities;
- 11.8 Non-use of the area within six (6) months after it is granted will result in the cancellation of the Permit except in cases of force majeure or fortuitous events;
- 11.9 In case the area no longer serves the purpose as warranted under the said Permit, the Permit shall be cancelled and the subsequent management and administration of the affected area shall be assumed by the DENR; and
- 11.10 Violation or non-compliance of any of the terms and conditions of the Permit or any environment and natural resources management laws, policies, rules and regulations shall be sufficient grounds for the cancellation of the GSUP without prejudice to whatever legal action that may be taken.

SECTION 12. Transitory Provision. All national government agencies and LGUs with existing Special Land Use Permits (SLUPs) and FLAgs covering non-profit government-managed projects and infrastructure projects for public service and use as enumerated in Section 4.5 of this Order may opt to apply for GSUP, provided that, only the SLUPs and/or FLAgs deemed necessary to be transformed into GSUP may be considered. Provided further, that upon approval of GSUP application, the said SLUP or FLAgs shall automatically be deemed cancelled. Similarly, the GSUP to be issued shall contain the terms and conditions stipulated in this Order.

SECTION 13. Separability Clause. If any provisions of this Order shall be held invalid or unconstitutional, the other portions or provisions hereof which are not affected shall continue in full force and effect.

SECTION 14. Repealing Clause. All Orders and similar issuances inconsistent herewith are hereby revoked, amended or modified accordingly.

SECTION 15. Effectivity. This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation and upon acknowledgement of receipt of the copy thereof by the Office of the National Administrative Register (ONAR).

ROY A. CIMATU
Secretary



Publication: Manila Standard
February 12, 2022

Acknowledgement: U.P. Law Center
February 14, 2022

ANNEX A. Application Form

Application for Gratuitous Special Use Permit

Application No. _____

The CENRO/PENRO/RED

Department of Environment and Natural Resources

Region _____

Sir/Madam:

Pursuant to the provisions of DENR Administrative Order No. _____ dated _____, and other relevant laws, policies and regulations, I/We hereby apply for a Gratuitous Special Use Permit (GSUP), the particulars of which are as follows:

Type of special forest land use or project: _____

Approximate area (ha.): _____

Location: Province _____
Municipality/City _____
Barangay _____
Sitio/s _____

Geographic coordinates (UTM): Easting _____
Northing _____

I/We understand that the filing of this application does not convey the right to enter, occupy or develop the area applied for, until the GSUP has been issued to me/us by the Department of Environment and Natural Resources through its concerned Regional Executive Director in this region.

All application requirements as stipulated in the guidelines on the matter are enclosed together with the required non-refundable application fee in the amount of P _____.

Very truly yours,

Applicant (Signature over printed name)

Postal address

Contact number/s

Republic of the Philippines

Province of _____

Municipality of _____

SUBSCRIBED AND SWORN to before me this _____ day of _____
Affiant exhibited to me his/her government issued identification card bearing the code _____.

Doc. No. _____

Page No. _____

Book No. _____

Series of _____

ANNEX B. Indicative Management Plan

INDICATIVE MANAGEMENT PLAN

I. INTRODUCTION

Description of the area

II. OBJECTIVES

General
Specific

III. PROJECT SCHEDULE

IV. TECHNICAL ASPECT

Project activity
Description of production/development
Site development

V. MANAGEMENT ASPECTS

Organization
Management strategies/policies

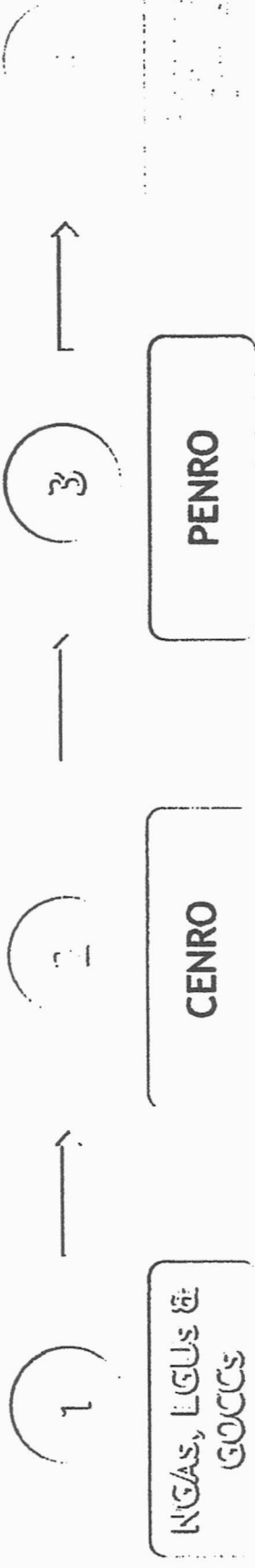
VI. FINANCIAL ASPECTS

Project cost
Sources of funds
Financial projection

Prepared and submitted by:

Signature above name
(The proponent's name)

PROCESSING AND APPROVAL OF GRATUITOUS SPECIAL USE PERMIT (GSUP) [For Projects within one (1) Region]



Secure and submit documentary requirements to the CENRO/Implementing PENRO which has jurisdiction over

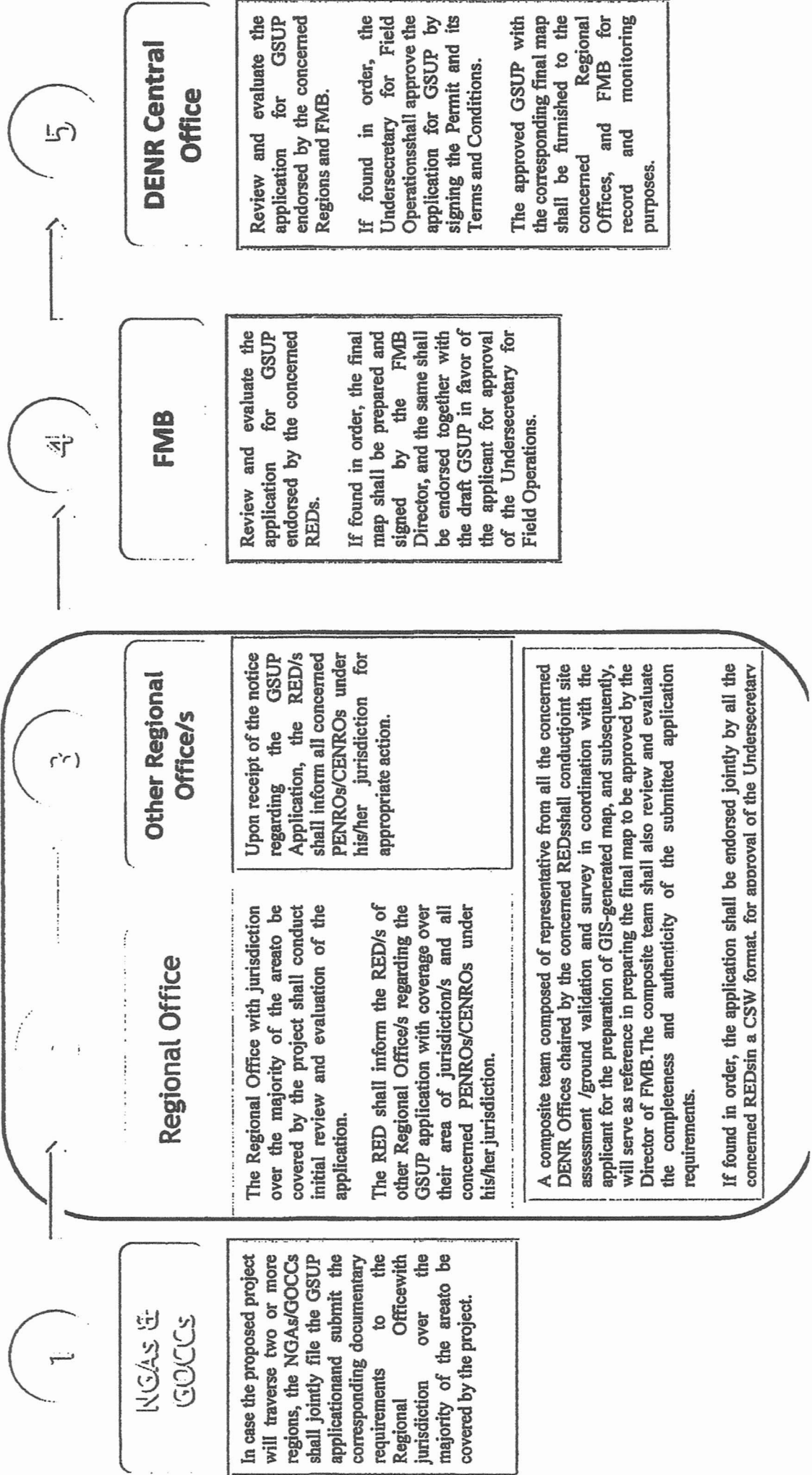
Review and evaluate the completeness and authenticity of the submitted application requirements.
Conduct site assessment/ground validation and survey in coordination with the applicant for the preparation of GIS-generated map, and subsequently, will serve as reference of the region in preparing the final map to be approved by the Regional Executive Director. If found in order, the application shall be endorsed to PENRO.

Review and evaluate the application for GSUP. If found in order, the application shall be endorsed to Regional Office.

Review and evaluate the application for GSUP endorsed by the PENRO.
If found in order, the Regional Executive Director shall approve the application for GSUP by signing the Permit, its Terms and Conditions and the final map.

The approved GSUP with the corresponding final map shall be furnished to DENR Central Office/FMB for record and monitoring purposes.

PROCESSING AND APPROVAL OF GRATUITOUS SPECIAL USE PERMIT (GSUP) [For Projects with two (2) or more Regions]



1

**NGAs &
GOCCs**

In case the proposed project will traverse two or more regions, the NGAs/GOCCs shall jointly file the GSUP application and submit the corresponding documentary requirements to the Regional Office with jurisdiction over the majority of the areato be covered by the project.

2

Regional Office

The Regional Office with jurisdiction over the majority of the areato be covered by the project shall conduct initial review and evaluation of the application.
The RED shall inform the RED/s of other Regional Office/s regarding the GSUP application with coverage over their area of jurisdiction/s and all concerned PENROs/CENROs under his/her jurisdiction.

3

Other Regional Office/s

Upon receipt of the notice regarding the GSUP Application, the RED/s shall inform all concerned PENROs/CENROs under his/her jurisdiction for appropriate action.

4

FMB

Review and evaluate the application for GSUP endorsed by the concerned REDs.
If found in order, the final map shall be prepared and signed by the FMB Director, and the same shall be endorsed together with the draft GSUP in favor of the applicant for approval of the Undersecretary for Field Operations.

5

DENR Central Office

Review and evaluate the application for GSUP endorsed by the concerned Regions and FMB.
If found in order, the Undersecretary for Field Operations shall approve the application for GSUP by signing the Permit and its Terms and Conditions.
The approved GSUP with the corresponding final map shall be furnished to the concerned Regional Offices, and FMB for record and monitoring purposes.

A composite team composed of representative from all the concerned DENR Offices chaired by the concerned REDs shall conduct joint site assessment /ground validation and survey in coordination with the applicant for the preparation of GIS-generated map, and subsequently, will serve as reference in preparing the final map to be approved by the Director of FMB. The composite team shall also review and evaluate the completeness and authenticity of the submitted application requirements.

If found in order, the application shall be endorsed jointly by all the concerned REDs in a CSW format. for approval of the Undersecretary

ANNEX D.1. (Sample GSUP for projects within one (1) region)

Republic of the Philippines
Department of Environment and Natural Resources
Region ____

GRATUITOUS SPECIAL USE PERMIT
GSUP Code: Region Number- Year Issued- Permit Number (RV-2021-01)

of

Department of Public Works and Highways Region V
(Proponent)

Bulan, Sorsogon
(Location of the Project Area)

Road Right-of-Way
(Type of Special Use or Project)

Date of Approval: **26 February 2021**

In accordance with DENR Administrative Order No. ____ dated ____ this PERMIT is hereby granted to the **Department of Public Works and Highways Region V** with business/postal address at **Rawis, Legazpi City** to occupy **3.5** hectare/s of public forest lands situated in **Bulan, Sorsogon** and the same is depicted on the attached map which forms part of this permit.

The Permittee's occupation and utilization of the area as **Road Right-of-Way** shall be free of charge.

The privilege granted under this PERMIT for the use of the area solely by the above-named Permittee is for **Road Right-of-Way** only.

This PERMIT is subject to existing forestry laws, policies, rules and regulations as well as those that may hereinafter be promulgated and to the additional terms and conditions and instructions stipulated in the attached sheet which forms part of this PERMIT.

This PERMIT is **NON-TRANSFERRABLE** and **NON-NEGOTIABLE** and EXPIRES on **26 February 2026**.

Approved by:

Regional Executive Director

Notes:

1. *The agency's dry seal or barcode (whichever is applicable) should be stamped/attached on this Permit.*
2. *Disregard or delete this notation in finalizing the Permit*

ANNEX D.2. (Sample GSUP for projects within two (2) or more regions)

Republic of the Philippines
Department of Environment and Natural Resources
Region _____

GRATUITOUS SPECIAL USE PERMIT
GSUP Code: Region Number- Year Issued- Permit Number (RI-RIII-2021-01)

of

Department of Public Works and Highways Region I and III
(Proponent)

(Municipalities covered by the project)
(Location of the Project Area)

(Type of Special Use or Project)

Date of Approval: **26 February 2021**

In accordance with DENR Administrative Order No. _____ dated _____ this PERMIT is hereby granted to the **Department of Public Works and Highways Region I and III** with business/postal address at _____ and _____, respectively, to occupy **3.5** hectare/s of public forest lands situated in _____ and the same is depicted on the attached map which forms part of this permit.

The Permittee's occupation and utilization of the area as **(Type of Special Use or Project)** shall be free of charge.

The privilege granted under this PERMIT for the use of the area solely by the above-named Permittee is for **(Type of Special Use or Project)** only.

This PERMIT is subject to existing forestry laws, policies, rules and regulations as well as those that may hereinafter be promulgated and to the additional terms and conditions and instructions stipulated in the attached sheet which forms part of this PERMIT.

This PERMIT is **NON-TRANSFERRABLE** and **NON-NEGOTIABLE** and EXPIRES on **26 February 2026**.

Approved by:

Undersecretary for Field Operations

Notes:

1. *The agency's dry seal or barcode (whichever is applicable) should be stamped/attached on this Permit.*
2. *Disregard or delete this notation in finalizing the Permit*

ANNEX E. Additional Terms and Conditions

Republic of the Philippines
Department of Environment and Natural Resources
Region _____

GSUP Code: _____

Date of Approval : _____

**ADDITIONAL TERMS, CONDITIONS AND INSTRUCTIONS UNDER THE
GRATUITOUS SPECIAL USE PERMIT**

1. The area granted in this Permit: (a) is a public forest land based on existing records; and (b) shall not be involved in any private transaction.
2. The annual government share or user's fee is waived in favor of the Permittee.
3. The Permittee shall: (a) comply with the laws, rules and regulations and instructions now or hereinafter enforced for the proper use of the land; (b) respect any legal prior claims; (c) conserve the corners and boundary lines of the area; (d) protect any wetlands such as spring, waterfalls, peatlands, swamps, lake, and marshes or natural/historical/archeological sites in the area; (e) report to the nearest local forest officer(s) all forest violations in the area and adjacent lands; and (f) submit a year-end report, not later than March 30 of the succeeding year, to the concerned Regional Executive Director thru the CENRO/PENRO the kind, number and value of improvement(s) introduced in the area, among others.
4. The Permittee shall: (a) not appropriate for himself/herself exclusive use of public trails traversing or adjoining the area or impede the use thereof by the public; (b) not sublease the area or any portion thereof; and (c) protect and conserve threatened wildlife identified under existing rules and regulations.
5. A separate permit shall be secured by the Permittee should tree cutting be necessary. However, no tree, regardless of species, shall be cut in the permitted area if found within forty (40) meters from banks of rivers, creeks or streams and buffer strips. In case the said 40-meter strip is bereft of trees, the same shall be rehabilitated by the Permittee.
6. The Permittee shall strictly observe the terms and conditions of the ECC. In case the Permittee will conduct periodic rehabilitation of the infrastructures or introduce new appurtenances within the GSUP area, the same shall secure an appropriate clearance from the EMB for the purpose and submit the clearance to the concerned DENR Regional Office prior to such undertakings thereof.
7. The Permittee shall protect the permitted area from forest fires and other forms of forest destruction.
8. Non-use of the area within six (6) months after it is granted will result in the cancellation of the Permit except in cases of force majeure or fortuitous events.
9. In case the area no longer serves the purpose as warranted under the said Permit, the Permit shall be cancelled and the subsequent management and administration of the affected area shall be assumed by the DENR.
10. Violation or non-compliance of any of the terms and conditions of the Permit or any environment and natural resources management laws, policies, rules and regulations shall be

sufficient grounds for the cancellation thereof without prejudice to whatever legal action that may be taken.

11. The GSUP for the construction of roads and bridges shall have a maximum non-renewable term of five (5) years and similarly, the GSUP for the construction and operation of schools, hospitals, health centers, flood control facilities, water reservoir or impounding dam and its related facilities, air strip, landing site, harbor, public market, public plazas and evacuation sites shall have a maximum non-renewable term of five (5) years. The GSUP and its additional terms and conditions shall be approved by the RED. In case the project traverses two or more regions, the GSUP and its terms and conditions shall be approved by the Undersecretary for Field Operations.
12. Except the agencies permitted to construct roads and bridges, the other agencies permitted to construct and operate infrastructure projects or facilities for public service and use shall apply for the issuance of Presidential Proclamation within one (1) year from the issuance of GSUP to ensure effective management and sustainability of the infrastructure and facilities and its long-term use of the area where the infrastructure exists.
13. In case of failure to secure a Presidential Proclamation within the duration of the GSUP, the Permittee shall apply for FLAg pursuant to DENR Administrative Order No. 2004-59 and other related policies on special uses of forest lands.

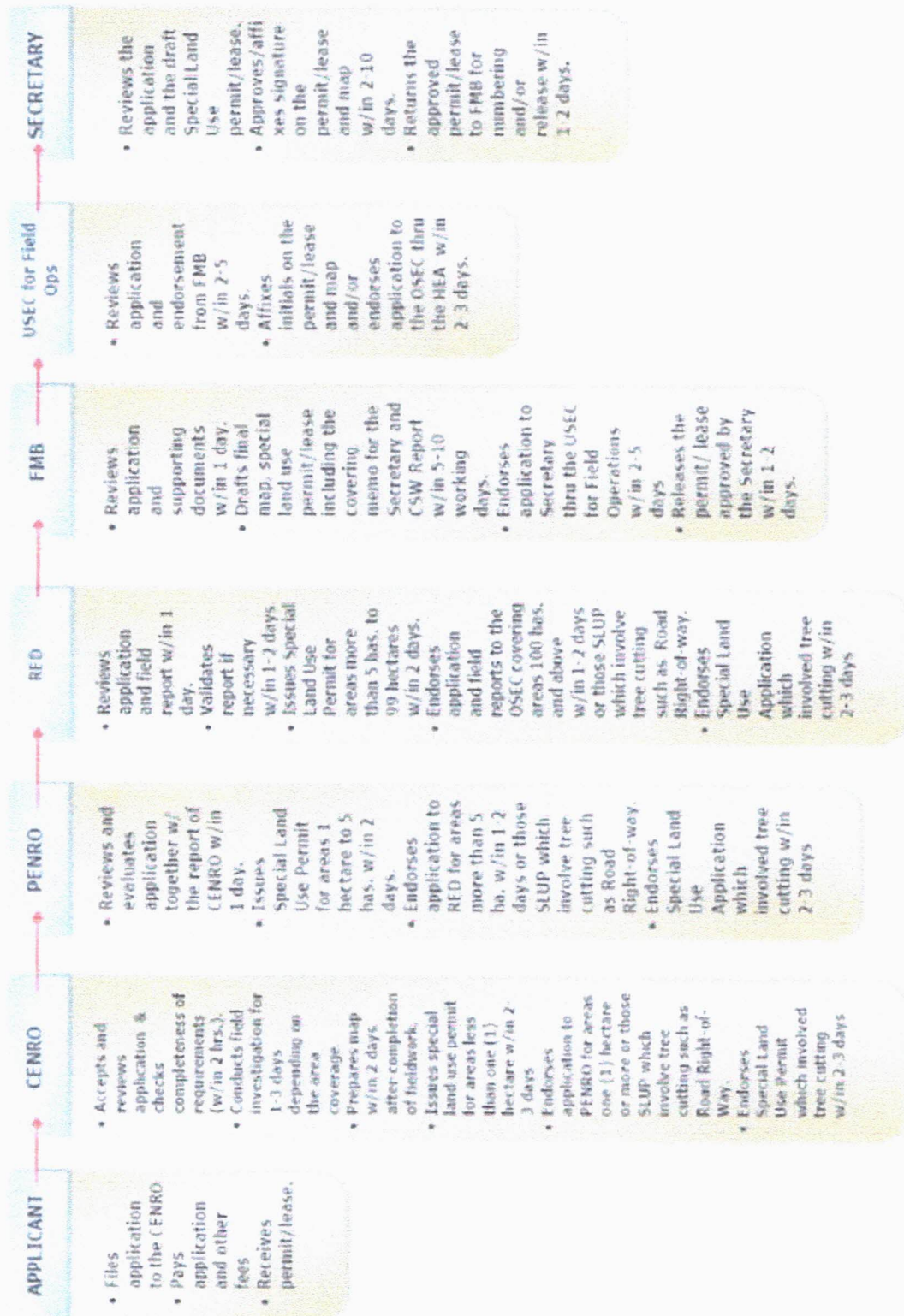
Approved by:

*Regional Executive Director (within one region)/
Undersecretary for Field Operations (for projects within
two or more regions)*

Notes:

1. *The (bond paper) first page of the terms and conditions (TC) should bear the DENR logo (Regional Style), the succeeding page/s bear no more logo.*
2. *Both pages of the terms and conditions should bear the signature of the approving authority, and the agency's dry seal or barcode (whichever is applicable) should be stamped/attached on the permit and its corresponding TC.*
3. *The page number is necessary (e.g., 1 of 2 ; 2 of 2)*

FLOWCHART FOR THE PROCESSING AND APPROVAL OF SPECIAL LAND USE PERMIT/LEASES
(FAO 8.3, as amended)





Republic of the Philippines
 Department of Environment and Natural Resources
 Visayas Avenue, Diliman, Quezon City
 Website: <http://www.denr.gov.ph> / E-mail: web@denr.gov.ph

MAY 30 2019.

DENR Administrative Order
 No. 2019 - 05

SUBJECT : IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 7586, OR THE NATIONAL INTEGRATED PROTECTED AREAS SYSTEM (NIPAS) ACT OF 1992, AS AMENDED BY REPUBLIC ACT NO. 11038, OR THE EXPANDED NATIONAL INTEGRATED PROTECTED AREAS SYSTEM (ENIPAS) ACT OF 2018

Pursuant to Section 32 of the ENIPAS Act, the following rules and regulations, incorporating and integrating all existing regulations relevant thereto, are hereby promulgated:

Section 1. Title. – This Act shall be known and referred to as the "National Integrated Protected Areas System Act of 1992".

Rule 1.1 This Administrative Order shall be known as the Implementing Rules and Regulations of the NIPAS Act, as amended by R.A. 11038¹ or the ENIPAS Act of 2018.

Rule 1.2 This Order applies to the following:

1. The remaining initial components of the NIPAS;
2. Protected areas established by Congressional legislation;
3. Protected areas proclaimed by the President under the NIPAS; and
4. Areas covered by Presidential Proclamation or Executive Order and recommended by the Secretary for inclusion into the System.

Section 2. Declaration of Policy. – Cognizant of the profound impact of human activities on all components of the natural environment particularly the effect of increasing population, resource exploitation and industrial advancement, and recognizing the critical importance of protecting and maintaining the natural, biological, and physical diversities of the environment notably on areas with biologically unique features to sustain human life and development, as well as plant and animal life, it is hereby declared the policy of the State to secure for the Filipino people of present and for future generations, the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated protected areas within the classification of national park as provided for in the Constitution.

¹ RA No. 11038 entitled "An Act Declaring Protected Areas and Providing for Their Management, Amending for this Purpose RA No. 7586, Otherwise Known as the "National Integrated Protected Areas System (NIPAS) Act of 1992", and for Other Purposes" or known as the "Expanded National Integrated Protected Areas System Act of 2018" (22 June 2018). Legend: (a) – amended; (n) – new section/paragraph; (number [letter]) – former section number and/or item. For example: "4" means this was Section 4 of the old law; "(10[d])" means this was Section 10 item d of the old law; "(20[c]a)" means that this was Section 20 item c of the old law and was amended. No end notation means the section number and text are unchanged.

It is hereby recognized that these areas, although distinct in features, possess common ecological values that may be incorporated into a holistic plan to conserve and protect our natural heritage; that effective administration of these areas is possible only through cooperation among the national government, local governments, concerned nongovernment organizations, private organizations, and local communities; that the use and enjoyment of these protected areas must be consistent with the principles of biological diversity and sustainable development. (a)

To this end, there is hereby established a National Integrated Protected Areas System (NIPAS), which shall encompass ecologically rich and unique areas and biologically important public lands that are habitats of rare and threatened species of plants and animals, biogeographic zones and related ecosystems, whether terrestrial, wetland or marine, all of which shall be designated as 'protected areas'. The System shall recognize conservation areas and the management regimes being implemented by local government units (LGUs), local communities and indigenous peoples (IPs). (a)

The State shall ensure the full implementation of this Act, the mobilization of resources for the institutional mechanisms herein established, and the full scientific and technical support needed for the conservation of biodiversity and the integrity of the ecosystems, culture and indigenous practices. (n)

Rule 2.1 The specific policies governing the establishment and management of the NIPAS shall be as follows:

- a. The protected areas and their immediate vicinities shall be contiguous to ensure their integrity. Police power and eminent domain may be exercised to achieve this policy.
- b. Protected areas should complement each other in terms of taxonomic representation, species migration patterns, maintenance of essential ecological processes and life support systems, and efficiency in conservation costs.
- c. The management plan of protected areas shall be harmonized in consonance with the principles of biological diversity and sustainable development.
- d. The management of the NIPAS shall contribute to the significant reduction of biodiversity loss. It shall consider the ability of ecosystems to adapt to the impacts of rapid climate change, reduce disaster risks, and mitigate anthropogenic greenhouse gas emissions.

Rule 2.2 In order to achieve the aforementioned policies of the NIPAS, the following strategies shall be adopted:

- a. In selecting areas for inclusion in the NIPAS, the conservation priority areas in each of the identified biogeographic zones, in both aquatic and terrestrial environments, shall be primarily considered.
- b. The NIPAS should complement the designation, creation or establishment of similar conservation areas under other domestic laws, and the management regimes of LGUs, local communities, and indigenous cultural communities/indigenous peoples (ICCs/IPs). This must likewise be consistent with, and supportive of the obligations of the Philippines under treaties and international laws. For this purpose, the metes and bounds of these areas may be necessary.
- c. The sustainability of the NIPAS depends on the collaboration of all stakeholders through

a functional, transparent, accountable, and participatory governance mechanism; the judicious use of the Integrated Protected Area Fund; fair and equitable benefit-sharing mechanisms; and the development of other means for the sustainable management of protected areas prescribed under the NIPAS Act, as amended.

Section 3. Categories. – *The following categories of protected areas are hereby established:*

- a. *Strict nature reserve;*
- b. *Natural park;*
- c. *Natural monument;*
- d. *Wildlife sanctuary;*
- e. *Protected landscapes and seascapes;*
- f. *Resource reserve;*
- g. *Natural biotic areas; and,*
- h. *Other categories established by law, conventions or international agreements which the Philippine Government is a signatory.*

Rule 3.1 The determination of the category of the proposed protected area shall be consistent with the Protected Area Category Matrix prescribed by the DENR.

Rule 3.2 Other criteria used in determining categories not listed in the NIPAS Act, the ENIPAS Act, or in this Order, but are prescribed by law, or by conventions or international agreements to which the Philippine Government is a signatory, may be considered in the establishment of protected areas. *Provided*, that such criteria support biodiversity conservation and sustainable development.

Section 4. Definition of Terms. – *For purposes of this Act, the following terms shall be defined as follows:*

- (a) *Biological diversity or biodiversity refers to the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems; (n)*
- (b) *Bioprospecting refers to the research, collection, and utilization of biological and genetic resources for purposes of applying the knowledge derived therefrom solely for commercial purposes; (n)*
- (c) *Buffer zones refers to identified areas outside the boundaries of and immediately adjacent to designated protected areas that need special development control in order to avoid or minimize harm to the protected area; (4[c]a)*
- (d) *By-products or Derivatives refer to parts taken or substances extracted from wildlife, in raw or in processed form; (n)*
- (e) *Collecting refers to the act of gathering or harvesting wildlife and its by-products or derivatives; (n)*
- (f) *Conveyance refers to every kind of vessel, including motorized or nonmotorized vehicles, nondisplacement crafts and seaplanes that are used or may be used as a means of transportation on land or water. It shall include everything found therein, except personal effects; (n)*

- (g) *Delineation refers to the actual ground survey of the boundaries of protected areas and their buffer zones and management zones using the global positioning system (GPS) or other applicable survey instruments and technologies, with the intention of producing a map of the area; (n)*
- (h) *Demarcation refers to the establishment of the boundaries of protected areas and their buffer zones using visible markers, monuments, buoys in case of marine areas, and known natural features and landmarks, among others, as a result of the actual ground delineation; (n)*
- (i) *Ecosystem goods and services refer to the multitude of material and nonmaterial provisions and benefits from healthy ecosystems necessary for human sustenance, well-being, and survival including support processes, provisioning and environment regulating services, and cultural resource preservation services; (n)*
- (j) *Endemic species refers to the species or subspecies of flora and fauna which are naturally occurring and found within specific areas in the country; (n)*
- (k) *Exotic species refers to the species or subspecies of flora and fauna which do not naturally occur within the protected area at present or in historical time; (n)*
- (l) *Exploration refers to the act of searching or prospecting for mineral resources, as defined by law, by geological, geochemical or geophysical surveys, remote sensing, test pitting, trenching, drilling, shaft sinking, tunneling or any other means, for the purpose of determining the existence, extent, quantity, and quality of resources in an area, and the feasibility of utilizing these resources for profit; (n)*
- (m) *Gear refers to any instrument or device and its accessories utilized in taking, catching, gathering, killing, hunting, destroying, disturbing, removing, or possessing resources within the protected area; (n)*
- (n) *Genetically modified organism (GMO) refers to any living organism that possesses a novel combination of genetic material through the use of modern biotechnology; (n)*
- (o) *Hunting refers to the killing or catching of wild fauna for food and recreational purposes, with the use of weapons such as guns, bow and arrow, spears, traps and snares, and the like; (n)*
- (p) *Indigenous Cultural Community (ICC)/Indigenous People (IP) refers to a group of people sharing common bonds of language, customs, traditions, and other distinctive cultural traits, and who have, since time immemorial occupied, possessed and utilized a territory; (n)*
- (q) *Integrated Protected Area Fund (IPAF) refers to the special account established for the purpose of financing projects of the NIPAS and individual protected areas; (n)*
- (r) *Invasive alien species refers to species introduced deliberately or unintentionally outside their natural habitats where they have the ability to establish themselves, invade, outcompete native species, and take over the new environment; (n)*

- (s) *Kaingin refers to the slash-and-burn cultivation of vegetated land in a protected area, whether occupied or not, shifting and permanent with little or no provision to prevent soil erosion; (n)*
- (t) *Multiple-use zone refers to the area where settlement, traditional and sustainable land use including agriculture, agroforestry, extraction activities, and income generating or livelihood activities may be allowed to the extent prescribed in the protected area management plan; (n)*
- (u) *National Integrated Protected Areas System (NIPAS) refers to the classification and administration of all designated protected areas to maintain essential ecological processes and life-support systems, to preserve genetic diversity, to ensure sustainable use of resources found therein, and to maintain their natural conditions to the greatest extent possible; (4[a])*
- (v) *National park refers to the lands of the public domain classified as such in the Constitution which include all areas under the NIPAS pursuant to this Act, primarily designated for the conservation of native plants and animals, their associated habitats and cultural diversity; (4[e]a)*
- (w) *Natural biotic area refers to an area set aside to allow the way of life of societies living in harmony with the environment to adapt to modern technology at their pace; (4[g])*
- (x) *Natural monument refers to a relatively small area focused on the protection of small features to protect or preserve nationally significant natural features on account of their special interest or unique characteristics; (4[ff])*
- (y) *Natural park refers to a relatively large area not materially altered by human activity where extractive resource uses are not allowed and is maintained to protect outstanding natural and scenic areas of national or international significance for scientific, educational, and recreational use; (4[h]a)*
- (z) *Occupying refers to a continuous stay of individuals or groups within a protected area, whether residing or engaging in the cultivation of land or fishing for more than twenty-four (24) hours; (n)*
- (aa) *Poaching refers to gathering, collecting, or possessing products or natural resources from the protected area by any individual person, corporation or entity whether local or foreign; in the case of marine protected areas, operating any foreign fishing vessels by any person, corporation, or entity without a permit; (n)*
- (bb) *Protected area refers to identified portions of land and/or water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation; (4[b]a)*
- (cc) *Protected area occupants refers to persons who are residing, utilizing, and cultivating areas within the protected area. These include private owners, IPs, tenured migrants and informal settlers; (n)*
- (dd) *Protected Area Retained Income Account refers to the trust fund maintained by any*

protected area and administered by the respective Protected Area Management Boards (PAMB) created pursuant to this Act representing the seventy-five percent (75%) of revenues generated from the protected area to support its operation and management; (n)

- (ee) Protected landscapes and/or seascapes refers to areas of national significance which are characterized by the harmonious interaction of man and land and water while providing opportunities for public enjoyment through recreation, tourism, and other economic activities; (4[i]a)*
- (ff) Protected species refers to plants or animals declared protected under Philippine laws, rules, and regulations. These shall include all species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora and all its Annexes, the Convention on the Conservation of Migratory Species (CMS), those specified under the red-list categories of the International Union for Conservation of Nature and Natural Resources (IUCN), or any plant or animal which the Department of Environment and Natural Resources (DENR), PAMB or any government agency may deem necessary for conservation and preservation in the protected area; (n)*
- (gg) Quarrying refers to the process of extracting, removing, and disposing sand, gravel, guano, limestone, and all other resources used as building and construction materials that are found within the protected area; (n)*
- (hh) Resource reserve refers to an extensive, relatively isolated, and uninhabited area which is difficult to access and is designated to protect the natural resources of the area for future use and prevent or contain development activities that could affect the resources, pending the establishment of sustainable resource utilization goals which are based upon appropriate information and planning; 4([j]a)*
- (ii) Special Account in the General Fund (SAGF) refers to the trust fund deposited in the national treasury representing the twenty-five percent (25%) of the revenues generated from the operation of individual protected area and earmarked to support the NIPAS; (n)*
- (jj) Strict nature reserve refers to an area possessing some outstanding ecosystem, features, and species of flora and fauna of national scientific importance that should be maintained to protect and preserve nature in its undisturbed state and to preserve ecologically representative examples of the natural environment to ensure their availability for scientific study, environmental monitoring, education, and for the maintenance of genetic resources in a dynamic and evolutionary state; (4[k]a)*
- (kk) Tenured migrants refers to protected area occupants who have been actually, continuously and presently occupying a portion of the protected area for five (5) years before the proclamation or law establishing the same as a protected area, and are solely dependent therein for subsistence; (4[l]a)*
- (ll) Threatened species refers to species or subspecies considered critically endangered, vulnerable, or other accepted categories of wildlife whose population is at risk of extinction; (n)*
- (mm) Wetlands refers to a wide variety of inland habitats such as marshes, peatlands, floodplains, rivers and lakes, and coastal areas such as saltmarshes, mangroves, intertidal mudflats and seagrass beds, and also coral reefs and other marine areas no*

deeper than six (6) meters at low tide, as well as human-made wetlands such as dams, reservoirs, rice paddies and wastewater treatment ponds and lagoons; (n)

(nn) Wildlife refers to the wild forms and varieties of flora and fauna, in all developmental stages, including those which are in captivity or are being bred, fed, or propagated; (n) and

(oo) Wildlife Sanctuary refers to an area which assures the natural conditions necessary to protect nationally significant species, groups of species, biotic communities or physical features of the environment which may require specific human manipulations for the perpetuation. (4[m]n)

Rule 4.1 As used in this Order, the following terms are defined as follows:

- a. *Areas of anthropological significance* refers to places that are of outstanding cultural value from the archaeological, historical, ethnological, and aesthetic points of view such as contiguous areas with relatively preserved fossil and artifact evidences of early human habitation, burial caves and prehistoric cemeteries, ruins or remains of pre-colonial settlements and fortification, places and monuments, sacred grounds of IPs, places with preserved indigenous architecture, scenic landscapes and places with surviving traditional arts and crafts;
- b. *BMB* refers to the Biodiversity Management Bureau of the DENR;
- c. *Department or DENR* refers to the Department of Environment and Natural Resources;
- d. *Ecosystem* refers to dynamic complex of plant, animal, and micro-organism communities, and their non-living environment, interacting as a functional unit;
- e. *IPRA* refers to Republic Act No. 8371, or the "Indigenous Peoples' Rights Act of 1997";
- f. *PAMB* refers to the Protected Area Management Board;
- g. *PAMP* refers to the Protected Area Management Plan;
- h. *Physical features* refers to the geological and hydrologic features present in an area of high biological diversity and that are essential in maintaining the biodiversity, the ecosystem/s and ecosystem services;
- i. *Protected Area Suitability Assessment (PASA)* refers to a rapid screening and evaluation of protected areas, to determine their suitability for retention, establishment, or disestablishment as protected areas, the modification of their boundaries, or the inclusion of proposed additional areas in the System;
- j. *Regional Executive Director* refers to the DENR Regional Director as provided in R.A. 11038;
- k. *Secretary* refers to the Secretary of the Department of Environment and Natural Resources;

- l. *Special Uses* refers to activities and/or development interventions that may be allowed in designated portions of protected areas subject to the payment of user fee. This may include but not be limited to: hotels, resorts and other tourism facilities, communication facilities and transmission lines, large scale power generation projects, and large scale agriculture and aquaculture projects. Excluded from the coverage are activities and development interventions in titled properties, areas already covered by foreshore and miscellaneous leases as well as Forest Land Use Agreements/Forest Land Use Agreements for Tourism issued by the DENR, and other regular uses of protected areas as indicated in the protected area management plan;
- m. *Special Use Agreement in Protected Areas (SAPA)* refers to a binding instrument between the DENR, as the first party, and the project proponent as the second party, relating to the use and/or development of land, resources or facilities within protected areas, pursuant to the NIPAS Act, as amended;
- n. *Strict Protection Zones* refers to portions within protected areas that are closed to human activities by virtue of their significant biodiversity value, high susceptibility to geo-hazard, and identification as permanently dangerous. These areas may also include habitats of threatened species, or degraded areas that are designated for restoration and subsequent protection, regardless of their stages of regeneration; and
- o. *Systematic Adjudication* refers to government-initiated process of adjudicating land rights on a locality basis, progressing barangay by barangay and aiming to register all untitled lands in the locality.

Rule 4.2 Item (l) of Section 4 is further clarified that for the exploration of Renewable Energy resources, this is equivalent to the preliminary assessment and feasibility studies for geothermal resources, hydro power and ocean resources, and potential wind sites.

Section 5. Establishment and Extent of the System. – *The establishment and operationalization of the System shall involve the following:*

- (a) *All areas or islands in the Philippines proclaimed, designated or set aside, pursuant to a law, presidential decree, presidential proclamation or executive order as national park, game refuge, bird and wildlife sanctuary, wilderness area, strict nature reserve, watershed, mangrove reserve, fish sanctuary, natural and historical landmark, protected and managed landscape/seascape as well as old growth forests identified before the effectivity of this Act or still to be identified, are hereby designated as initial components of the System. The initial components of the System shall be governed by existing laws, rules and regulations, not inconsistent with this Act; (a)*
 - (a.1) *Establishment as Protected Area.* – *Aside from the areas already declared as protected areas through acts of Congress, the following parcels of land and/or bodies of water are hereby established as protected areas within the classification of national park pursuant to the Philippine Constitution: (n)*

<i>Region</i>		<i>Protected Area</i>	<i>Province</i>	<i>Area (Has.)</i>
<i>1</i>	<i>1</i>	<i>Kalbario-Patapat Natural Park</i>	<i>Ilocos Norte</i>	<i>3,903.19</i>
	<i>2</i>	<i>Libunao Protected Landscape</i>	<i>Ilocos Norte</i>	<i>47.15</i>
	<i>3</i>	<i>Bessang Pass Natural Monument/Landmark</i>	<i>Ilocos Sur</i>	<i>581.05</i>
	<i>4</i>	<i>Bigbiba Protected Landscape</i>	<i>Ilocos Sur</i>	<i>142.87</i>
	<i>5</i>	<i>Lidlidda Banayoyo Protected Landscape</i>	<i>Ilocos Sur</i>	<i>1,042.29</i>
	<i>6</i>	<i>Salcedo Protected Landscape (formerly Sta. Lucia Protected Landscape)</i>	<i>Ilocos Sur</i>	<i>196.33</i>
	<i>7</i>	<i>Agoo Damortis Protected Landscape and Seascape</i>	<i>La Union</i>	<i>10,774.68</i>
	<i>8</i>	<i>Manlehuag Spring Protected Landscape</i>	<i>Pangasinan</i>	<i>1,938.83</i>
<i>2</i>	<i>9</i>	<i>Palau Island Protected Landscape and Seascape</i>	<i>Cagayan</i>	<i>8,048.57</i>
	<i>10</i>	<i>Peñablanca Protected Landscape and Seascape</i>	<i>Cagayan</i>	<i>118,653.67</i>
	<i>11</i>	<i>Tumauini Watershed Natural Park</i>	<i>Isabela</i>	<i>6,509.38</i>
	<i>12</i>	<i>Salinas Natural Monument</i>	<i>Nueva Vizcaya</i>	<i>5,966.05</i>
	<i>13</i>	<i>Casecnan Protected Landscape</i>	<i>Quirino, Nueva Vizcaya, and Aurora</i>	<i>86,246.77</i>
<i>3</i>	<i>14</i>	<i>Anro River Protected Landscape</i>	<i>Aurora</i>	<i>6,431.30</i>
	<i>15</i>	<i>Dinadiawan River Protected Landscape</i>	<i>Aurora</i>	<i>3,366.54</i>
	<i>16</i>	<i>Simbahan Talagas Protected Landscape</i>	<i>Aurora</i>	<i>2,284.30</i>
	<i>17</i>	<i>Talaytay Protected Landscape</i>	<i>Aurora</i>	<i>3,598.31</i>
	<i>18</i>	<i>Bataan Natural Park</i>	<i>Bataan</i>	<i>20,004.17</i>
	<i>19</i>	<i>Roosevelt Protected Landscape</i>	<i>Bataan</i>	<i>950.43</i>
	<i>20</i>	<i>Masinloc and Oyon Bay Protected Landscape and Seascape</i>	<i>Zambales</i>	<i>7,558.00</i>
<i>NCR</i>	<i>21</i>	<i>Las Piñas-Parañaque Critical Habitat and Ecotourism Area (LPPCHEA), also known as Las Piñas-Parañaque Wetland</i>	<i>Las Piñas City and Parañaque City</i>	<i>181.63</i>
	<i>22</i>	<i>Ninoy Aquino Parks and Wildlife Center</i>	<i>Quezon City</i>	<i>23.85</i>
<i>4A</i>	<i>23</i>	<i>Mts. Palay-Palay-Mataas-na-Gulod Protected Landscape</i>	<i>Batangas and Cavite</i>	<i>3,972.70</i>
	<i>24</i>	<i>Taal Volcano Protected Landscape</i>	<i>Batangas and Cavite</i>	<i>62,292.16</i>
	<i>25</i>	<i>Buenavista Protected Landscape</i>	<i>Quezon</i>	<i>287.24</i>
	<i>26</i>	<i>Maulawin Spring Protected Landscape</i>	<i>Quezon</i>	<i>183.15</i>
	<i>27</i>	<i>Quezon Protected Landscape</i>	<i>Quezon</i>	<i>1,042.85</i>
	<i>28</i>	<i>Hinulugang Taktak Protected Landscape</i>	<i>Rizal</i>	<i>3.58</i>
	<i>29</i>	<i>Pamitinan Protected Landscape</i>	<i>Rizal</i>	<i>609.15</i>
	<i>30</i>	<i>Upper Marikina River Basin Protected Landscape</i>	<i>Rizal</i>	<i>26,125.64</i>
<i>4B</i>	<i>31</i>	<i>Marinduque Wildlife Sanctuary</i>	<i>Marinduque</i>	<i>9,758.71</i>
	<i>32</i>	<i>Apo Reef Natural Park</i>	<i>Occidental Mindoro</i>	<i>15,799.23</i>
	<i>33</i>	<i>Mt. Calavite Wildlife Sanctuary</i>	<i>Occidental Mindoro</i>	<i>18,172.69</i>
	<i>34</i>	<i>Mts. Iglit-Baco Natural Park</i>	<i>Occidental and Oriental Mindoro</i>	<i>106,655.62</i>
	<i>35</i>	<i>Mt. Guiting-Guiting Natural Park</i>	<i>Romblon</i>	<i>15,515.22</i>

5	36	<i>Mt. Mayon Natural Park</i>	<i>Albay</i>	5,327.15
	37	<i>Ticao Burias Pass Protected Seascape</i>	<i>Albay, Masbate and Sorsogon</i>	414,244.00
	38	<i>Abasig-Matogdon-Mananap Natural Biotic Area</i>	<i>Camarines Norte</i>	5,918.31
	39	<i>Bicol Natural Park</i>	<i>Camarines Sur</i>	5,466.35
	40	<i>Buhi Wildlife Sanctuary</i>	<i>Camarines Sur</i>	1,620.65
	41	<i>Lagonoy Natural Biotic Area</i>	<i>Camarines Sur</i>	443.63
	42	<i>Malabungot Protected Landscape</i>	<i>Camarines Sur</i>	147.71
	43	<i>Mt. Isarog Natural Park</i>	<i>Camarines Sur</i>	10,090.89
	44	<i>Catanduanes Natural Park</i>	<i>Catanduanes</i>	48,924.09
	45	<i>Bongsanglay Natural Park</i>	<i>Masbate</i>	518.90
	46	<i>Bulusan Volcano Natural Park</i>	<i>Sorsogon</i>	3,641.57
6	47	<i>Northwest Panay Peninsula Natural Park</i>	<i>Aklan and Antique</i>	12,009.29
	48	<i>Sibalom Natural Park</i>	<i>Antique</i>	6,778.44
	49	<i>Northern Negros Natural Park</i>	<i>Negros Occidental</i>	70,826.16
7	50	<i>Albuquerque-Loay-Loboc Protected Landscape and Seascape</i>	<i>Bohol</i>	1,165.51
	51	<i>Chocolate Hills Natural Monument</i>	<i>Bohol</i>	13,994.95
	52	<i>Panglao Island Protected Seascape</i>	<i>Bohol</i>	2,445.08
	53	<i>Rajah Sikatuna Protected Landscape</i>	<i>Bohol</i>	10,964.64
	54	<i>Talibon Group of Islands Protected Landscape and Seascape</i>	<i>Bohol</i>	6,446.31
	55	<i>Camotes Island Protected Landscape and Seascape</i>	<i>Cebu</i>	1,436.98
	56	<i>Olango Island Wildlife Sanctuary</i>	<i>Cebu</i>	1,382.29
	57	<i>Tañon Strait Protected Seascape</i>	<i>Cebu, Negros Occidental and Oriental</i>	534,589.05
	58	<i>Apo Island Protected Landscape and Seascape</i>	<i>Negros Oriental</i>	691.40
	59	<i>Balinsasayao Twin Lakes Natural Park</i>	<i>Negros Oriental</i>	8,016.05

8	60	<i>Cuatro Islas Protected Landscape and Seascape</i>	<i>Leyte</i>	<i>11,407.46</i>
	61	<i>Lake Danao Natural Park</i>	<i>Leyte</i>	<i>2,244.16</i>
	62	<i>Mahagnao Volcano Natural Park</i>	<i>Leyte</i>	<i>340.82</i>
	63	<i>Guiuan Marine Resource Protected Landscape and Seascape</i>	<i>Eastern Samar</i>	<i>66,725.26</i>
	64	<i>Biri Larosa Protected Landscape and Seascape</i>	<i>Northern Samar</i>	<i>32,284.14</i>
	65	<i>Calbayog Pan-as Hayiban Protected Landscape</i>	<i>Samar</i>	<i>5,067.93</i>
	66	<i>Samar Island Natural Park</i>	<i>Samar, Eastern Samar and Northern Samar</i>	<i>335,105.57</i>
9	67	<i>Basilan Natural Biotic Area</i>	<i>Basilan</i>	<i>4,545.99</i>
	68	<i>Aliguay Island Protected Landscape and Seascape</i>	<i>Zamboanga del Norte</i>	<i>1,188.36</i>
	69	<i>Turtle Islands Wildlife Sanctuary</i>	<i>Tawi-Tawi</i>	<i>242,958.29</i>
	70	<i>Great and Little Sta. Cruz Islands Protected Landscape and Seascape</i>	<i>Zamboanga City</i>	<i>1,827.16</i>
	71	<i>Pasonanca Natural Park</i>	<i>Zamboanga City</i>	<i>12,102.08</i>
	72	<i>Jose Rizal Memorial Protected Landscape</i>	<i>Zamboanga del Norte</i>	<i>474.82</i>
	73	<i>Murcielagos Protected Landscape and Seascape</i>	<i>Zamboanga del Norte</i>	<i>100.40</i>
	74	<i>Selinog Island Protected Landscape and Seascape</i>	<i>Zamboanga del Norte</i>	<i>959.41</i>
	75	<i>Siocon Resource Reserve</i>	<i>Zamboanga del Norte</i>	<i>855.59</i>
	76	<i>Dumanquillas Bay Protected Landscape and Seascape</i>	<i>Zamboanga del Sur</i>	<i>26,112.21</i>
	77	<i>Mt. Timolan Protected Landscape</i>	<i>Zamboanga del Sur</i>	<i>2,244.54</i>
78	<i>Bug Natural Biotic Area</i>	<i>Zamboanga Sibugay</i>	<i>1,261.46</i>	
10	79	<i>Mt. Kalatungan Range Natural Park</i>	<i>Bukidnon</i>	<i>22,225.11</i>
	80	<i>Mt. Timpoong Hibok-Hibok Natural Monument</i>	<i>Camiguin</i>	<i>2,203.39</i>
	81	<i>Mt. Inayawan Range Natural Park</i>	<i>Lanao del Norte</i>	<i>4,236.18</i>

	82	<i>Baliangao Protected Landscape and Seascape</i>	<i>Misamis Occidental</i>	315.50
	83	<i>Initao-Libertad Protected Landscape and Seascape</i>	<i>Misamis Oriental</i>	921.02
	84	<i>Mt. Balatukan Range Natural Park</i>	<i>Misamis Oriental</i>	8,437.86
11	85	<i>Mabini Protected Landscape and Seascape</i>	<i>Compostela Valley</i>	7,292.62
	86	<i>Mainit Hot Springs Protected Landscape</i>	<i>Compostela Valley</i>	1,422.63
	87	<i>Aliwagwag Protected Landscape</i>	<i>Davao Oriental and Compostela Valley</i>	10,261.06
	88	<i>Mati Protected Landscape</i>	<i>Davao Oriental</i>	884.46
	89	<i>Pujada Bay Protected Landscape and Seascape</i>	<i>Davao Oriental</i>	20,873.43
12	90	<i>Sarangani Bay Protected Seascape</i>	<i>General Santos City and Sarangani</i>	210,887.69
	91	<i>Mt. Matutum Protected Landscape</i>	<i>South Cotabato and Sarangani</i>	13,947.00
13	92	<i>Agusan Marsh Wildlife Sanctuary</i>	<i>Agusan del Sur</i>	40,940.96
	93	<i>Siargao Island Protected Landscape and Seascape</i>	<i>Surigao del Norte</i>	283,974.77
	94	<i>Tinuy-An Falls Protected Landscape</i>	<i>Surigao del Sur</i>	4,321.75

(n)

The boundaries and technical descriptions of each protected area as described in the attached Annex, which are duly certified accurate on every page thereof by the National Mapping and Resource Information Authority (NAMRIA) are hereby adopted and made an integral part of hereof. (n)

The DENR, with the assistance of other government agencies, if necessary, shall delineate and demarcate on the ground the boundaries of each protected area which shall not be modified except by an act of Congress. (n)

(a.2) The Remaining Initial Components. – Within three (3) years from the effectivity of this Act, the DENR shall undertake the following activities in preparation for the establishment of the remaining initial components as protected areas through an act of Congress:

- (1) Provide maps and technical descriptions of the areas;*
- (2) Conduct suitability assessment of the areas; and*
- (3) Conduct public consultations.*

Any initial component that does not satisfy the abovementioned requirements shall be disestablished pursuant to Section 7 of this Act. (n)

(b) All DENR records pertaining to said protected areas, including maps and technical descriptions or natural boundaries, copies of rules and regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications shall be made available to the public. These legal documents pertaining to protected areas shall also be available to the public in the respective DENR Regional Offices, Provincial Environment and Natural Resources Offices (PENROs) and Community Environment and Natural Resources Offices (CENROs) and Protected Area Management Offices (PAMOs) where protected areas are

located; (5[c]a)

- (c) *The DENR shall conduct a suitability assessment for each of the proposed protected area. If found suitable for inclusion in the System according to the categories established in Section 3 hereof, a report containing the following items shall be submitted to the president as soon as the study is completed, to wit:*
- (1) A protected area occupants survey;*
 - (2) An ethnographic study;*
 - (3) A protected area resource profile;*
 - (4) Land and water use plans; and*
 - (5) Other background studies (5[d]a)*
- (d) *In the conduct of public consultation, the DENR shall:*
- (1) Notify the public of proposed action through publication in a newspaper of general circulation and such other means including notices to the stakeholders that will likely be affected within the respective localities, thirty (30) days prior to the public consultation;*
 - (2) Conduct public consultation at locations near the proposed protected area;*
 - (3) Invite all local government units (LGUs) in the affected areas, national agencies concerned, people's organizations (POs) and nongovernment organizations (NGOs) and request for corresponding position papers; and*
 - (4) Prepare recommendations based on views and comments gathered from the public consultation; (5[d]a)*
- (e) *Upon receipt of the recommendations of the DENR, the President shall issue a proclamation establishing the proposed protected areas and providing for measures for their protection until the time when Congress shall have enacted a law finally declaring the recommended areas as part of the Systems; and (5[e]a)*
- (f) *Upon completion of the appropriate review, the President shall recommend to the Senate and the House of Representatives the designations of protected areas or reclassification of each area. (5[f]a)*

Rule 5.1 Watershed as referred herein shall cover watershed forest reserves/reservations proclaimed prior to the effectivity of the NIPAS Act of 1992.

Rule 5.2 The Regional Executive Director shall facilitate the activities in preparation for the establishment of remaining initial components.

Rule 5.3 The maps and technical descriptions of the said areas shall be certified by the National Mapping and Resource Information Authority (NAMRIA).

Rule 5.4 The DENR shall ensure public access to records pertaining to the proposed protected areas.

Rule 5.5 The DENR, through its Regional Offices, shall conduct a protected area suitability assessment of every protected area to determine its suitability for retention in the NIPAS,

establishment or disestablishment as a protected area, modification of its boundaries, or the inclusion of additional areas in the System, pursuant to Section 6 and Rules 6.1 to 6.2 hereof.

Rule 5.6 The rich biodiversity of the area shall be the main consideration in the determination of areas for inclusion in the NIPAS. These areas must have the following characteristics:

1. Irreplaceability (presence of restricted range and congregatory species);
2. Vulnerability (presence of globally threatened and endemic species);
3. Naturalness of the area (intact natural cover such as forest, mangroves, seagrass beds and corals, etc.);
4. Abundance and diversity of species of flora and fauna (high concentration of species of flora and fauna);
5. Unique or outstanding cultural, geological and aesthetic features that support biodiversity and sustain ecological processes and functions; and
6. Value of ecosystem services (value in terms of recreational, educational, traditional use, heritage and other sustainable uses).

Rule 5.7 If found suitable for retention or inclusion in the System, according to the categories established in Section 3 of the NIPAS Act, as amended, the DENR Regional Office shall prepare a report which includes:

1. A protected area occupants survey;
2. An ethnographic study;
3. Protected area resource profile;
4. Land and water use plans; and
5. Other background studies

Rule 5.8 The DENR Regional Office shall, through the BMB, submit the PASA Report with the recommended appropriate category to the Secretary. This report shall form part of the supporting documents for proclamation by the President or establishment by Congress of the protected area, as the case may be. *Provided*, that any modification of the category of the protected area shall be based on the results of the PASA and shall require amendment of the Presidential Proclamation or Congressional legislation, as the case may be.

Rule 5.9 All PASA undertaken before the effectivity of the ENIPAS Act and this Order shall be updated based on the requirements provided herein and the guidelines issued by the DENR.

Rule 5.10 In the conduct of public consultation, the DENR shall:

- a. Within thirty (30) calendar days prior to the consultation, notify the public of the proposed action, through publication in a newspaper of general or local circulation, and such other means that may include notices to stakeholders who will likely be affected by the proposed action;
- b. Conduct public consultation in locations near the proposed protected area;
- c. Invite and request for the respective position papers of all concerned LGUs, relevant national agencies, and stakeholders, including civil society organizations (CSOs), non-government organizations (NGOs), people's organizations (POs), and ICCs/IPs. In all cases, consultations with affected local communities and ICCs/IPs shall be conducted in a language understandable and accessible to them, and through participative and

transparent processes that are consistent with their customs and traditions.

- d. Prepare recommendations based on the views and comments gathered from the public consultations.

Rule 5.11 Upon receipt of the recommendations of the DENR with supporting documents, the President shall thereafter issue a proclamation establishing the proposed protected area, and providing for measures for its protection, including delineation of its boundaries, until the time Congress shall have enacted a law finally establishing the same;

Rule 5.12 Upon completion of the appropriate review, the President shall recommend to Congress, the establishment, or as appropriate, the reclassification of the area.

Rule 5.13 Upon enactment of the law establishing the protected area, its boundaries shall be demarcated on the ground with concrete monuments, or other prominent physical landmarks or features. Appropriate markers shall be used where the boundary of the protected area lies in the water.

Section 6. Additional Areas to be Included into the System. – *Upon the recommendation of the DENR, additional areas with unique physical features, anthropological significance and high biological diversity may be proposed for inclusion as part of the System. Such areas shall undergo the same procedure as the remaining initial components for legislative enactment. (a)*

Rule 6.1 The designation of additional areas for inclusion in the System shall follow the same procedure for the establishment of the remaining initial components as protected areas through Congressional legislation, and shall be based on the results of the PASA and public consultations in accordance with existing guidelines and pursuant to Section 5 of the ENIPAS Act.

Rule 6.2 The designation of additional areas shall not impair prior and subsisting private rights arising from, or as a consequence of, land and resource use instruments issued by the DENR and other appropriate government agencies over portions thereof.

Section 7. Disestablishment as Protected Area. – *When in the opinion of the DENR a certain protected area should be withdrawn or disestablished, or its boundaries modified as warranted by a study and sanctioned by the majority of the members of the respective boards for the protected area as herein established in Section 11, it shall, in turn, advise Congress. Disestablishment of a protected area under the System or modification of its boundary shall take effect pursuant to an act of Congress. Thereafter, said area shall revert to the category of public forest unless otherwise classified by Congress: Provided, however, That after disestablishment by Congress, the Secretary may recommend the transfer of such disestablished area to other government agencies to serve other priority programs of national interest.*

Rule 7.1 Any protected area that does not satisfy the criteria and requirements under Rules 3.1 to 3.2 and the corresponding procedures thereof, shall be disestablished from the System. Disestablished areas shall revert to its original classification unless otherwise reclassified by Congress.

Rule 7.2 The modification of boundaries of a protected area shall also follow the requirements and procedures under Section 5 of the ENIPAS Act.

Rule 7.3 The disestablishment of a protected area or the modification of its boundaries shall require a resolution signifying the vote of the majority of the members of the management board present in a meeting at which quorum is present and called for such purpose.

Rule 7.4 The DENR, through the Secretary, shall recommend the disestablishment of a protected area or modification of its boundaries to the President. The Secretary shall submit the DENR's recommendation, together with the resolution of the management board, the technical descriptions of boundaries as certified by NAMRIA, the PASA Report, and the results of the public consultations.

Rule 7.5 Upon completion of the appropriate review, the President shall recommend to Congress, the disestablishment of a protected area, or the modification of its boundaries.

Section 8. Buffer Zones. - *When necessary, the DENR Secretary, upon the recommendation of the PAMB, may designate areas surrounding the protected areas as buffer zones for the purpose of providing extra layer of protection where restrictions may be applied: Provided, That, in cases where the designated buffer zone would cover private lands, the owners thereof shall be required to design their development with due consideration to the protected area management plan. (a)*

Rule 8.1 Buffer zones may be designated when, based on the PASA and socio-economic studies, the ecological integrity of the protected area is threatened by circumstances, such as, but not limited to, the presence of actual and potential sources of pollution, invasive alien species, or encroachment of adjacent communities. Other considerations may include, among others, the presence of natural and semi-natural corridors for faunal movements and/or interchange of species, and geological hazards.

Rule 8.2 One (1) or more of the following criteria may be used in the identification and designation of a buffer zone:

- a. Ecological criteria - the capability of the site to serve as an additional layer of protection, by extending habitats or corridors for wildlife, and other ecological services.
- b. Economic criteria - the capacity of the site to host enterprises or provide gainful employment, and sustainable sources of livelihood for local communities, to deflect pressure away from the protected area.
- c. Social criteria - the capacity of the site to provide a social fence, against the threat of encroachment by communities residing near or adjacent to the protected area.

Rule 8.3 The duly constituted protected area management board (PAMB) shall exercise management authority over buffer zones. It shall ensure the implementation of development control in the buffer zones, and facilitate participatory management, together with other government agencies, LGUs, NGOs, POs and other stakeholders.

Rule 8.4 Buffer zones already established before the effectivity of the ENIPAS Act, and this Order, shall likewise be recognized and protected.

Rule 8.5 In cases where there are private lands within the declared buffer zones, the owner/s in consultation with the PAMB shall prepare a design of their development in accordance with the PAMP.

Section 9. Management Plan. - *Within one (1) year from the establishment of the protected*

area, there shall be a management plan formulated for each protected area that shall serve as the basic long-term framework plan for the management of the protected area and guide in the preparation of its annual operations plan and budget.

The management plan shall, at the minimum, promote the adoption and implementation of innovative management techniques including, when necessary, zoning, buffer zone management, habitat conservation and rehabilitation, diversity management, community organizing and development, socioeconomic and scientific researches, site-specific policy development, climate change adaptation and mitigation, disaster risk reduction and management, waste sewerage and septic management, and gender and development, among others.

The plan shall be harmonized with the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) required under Republic Act No. 8371, or 'The Indigenous People's Rights Act of 1997', the respective Comprehensive Land Use Plans (CLUPs) of local governments required under Republic Act No. 7160 or the 'Local Government Code of 1991' and other local plans.(a)

Rule 9.1 The management plan shall, as far as practicable, consist of the following:

1. Executive Summary;
2. Description of the protected area;
3. Map information;
4. Situational analysis;
5. Vision, goals and objectives;
6. Management strategies, interventions and activities;
7. Human resources and institutional arrangement;
8. Financial plan; and
9. Performance indicators for monitoring and evaluation.

Rule 9.2 The time frame for the PAMP shall be ten (10) years. The crafting of the PAMP shall engender an inclusive and participative approach that involves local stakeholders in the planning process. The PAMB, thru the PASu, may create a technical working group composed of relevant government agencies at the regional or provincial level, NGOs, LGUs, and stakeholders, including ICCs/IPs, local communities, CSOs, and the private sector. The DENR Regional Office shall support the PASu in formulating, updating and implementing the PAMP.

Rule 9.3 At the minimum, areas of stakeholder consultation shall include, but not be limited to, ground validation of appropriate landscape and seascape uses, actual uses, determination of issues and concerns, determination of zoning regime, and development of management prescriptions in specific zones, enforcement planning, monitoring, and evaluation. The rights, obligations and responsibilities of the stakeholders shall be determined and presented in the management strategies, standards and guidelines.

Rule 9.4 The DENR, the regional offices of the national government agencies, and LGUs represented in the PAMB, shall contribute to the collective fund for the crafting of the PAMP.

Rule 9.5 Zoning shall be implemented in all protected areas as a strategy to effectively manage the ecosystems and landscapes/seascapes therein, in accordance with the objectives and principles of biodiversity conservation and sustainable development. The protected area shall be divided into Strict Protection Zones and Multiple Use Zones as follows:

- a. **Strict Protection Zones** which shall consist of one (1) or more of the following:
1. Natural vegetation or representative of any of the ecosystem types;
 2. Habitats of endemic and threatened species, and biologically important areas, including sites for seasonal feeding, foraging, roosting, nesting, and breeding of wild fauna;
 3. Areas prone to natural and man-made hazards;
 4. Areas set aside as permanent danger zones;
 5. Easements of inland wetlands such as lakes, rivers, creeks, etc.;
 6. Class I caves and unclassified caves;
 7. Sacred grounds or areas used by ICCs/IPs; and
 8. Areas that require immediate rehabilitation to restore the vegetative cover to its original state.
- b. **Areas intended as a Multiple Use Zone** shall take into account the location of the following:
1. Areas where traditional or sustainable land and water use, including agriculture, agroforestry, aquaculture, the Indigenous Knowledge Systems and Practices (IKSP) as determined by the IPs/ICCs, and other biodiversity-friendly livelihood activities of local communities and ICCs/IPs;
 2. Areas of high environmental awareness, and recreational/ecotourism or educational values;
 3. Areas of existing and proposed facilities/structures of national significance, such as rights of way, waterways, ports, navigational lanes, telecommunications, energy generation, and transmission lines; and
 4. Existing settlements, community centers, and LGUs

Rule 9.6 The PAMP shall include provisions on benefit-sharing schemes/mechanisms. The PAMB shall identify and through the DENR, enter into an agreement with the stakeholders, investors, and contributors, who are entitled to receive a fair and equitable share in the income and other benefits derived from the management and operations of the protected area, which stakeholders, investors, and contributors include but are not limited to, the ICCs/IPs, if present in the protected area, and the concerned LGU.

Rule 9.7 The PASu shall submit the proposed PAMP to the PAMB for consideration and endorsement to the concerned Community Environment and Natural Resources Officer (CENR Officer), Provincial Environment and Natural Resources Officer (PENR Officer), and DENR Regional Executive Director through a resolution concurred in by the majority of the members. The RED shall then endorse the same for affirmation by the DENR Undersecretary for Policy, Planning and International Affairs through the BMB who shall act within 60 days upon receipt thereof. Otherwise, the same shall be deemed affirmed.

Rule 9.8 The PAMB and the PASu, as the Chief Operating Officer of the protected area, shall be responsible for the effective implementation of the PAMP. The BMB and the DENR Regional Office, through the Assistant Regional Director for Technical Services, shall provide overall guidance, technical assistance, and promote best practices in the implementation of the PAMP.

Rule 9.9 Monitoring and evaluation of the implementation of the PAMP shall be regularly conducted by the PAMB to document the achievement of its objectives, and the challenges

encountered, and to measure the PAMB's overall performance, using indicators prescribed in the PAMP.

Rule 9.10 The PAMB shall review, update, and if necessary, modify the PAMP, at least every three (3) years, in accordance with scientific studies, sound resources assessments, and surveys, as well as relevant developments in biodiversity conservation, and the social dynamics in the protected area. If applicable, the PAMB may also update and modify the PAMP after the occurrence of calamities that may have an adverse impact on the protected area.

Rule 9.11 Protected areas with a subsisting PAMP, and those established prior to the effectivity of the ENIPAS Act but are without a PAMP, shall have one (1) year from the effectivity of this Order, to update or formulate their PAMP in accordance with the Rules herein.

Rule 9.12 Within ninety (90) days from the effectivity of this Order, the DENR shall issue guidelines on the preparation, implementation, monitoring and evaluation of the PAMP.

Section 10. Administration and Management of the System. - *The National Integrated Protected Area System (NIPAS) is hereby placed under the control and administration of the DENR through the Biodiversity Management Bureau (BMB).(a)*

To carry out the mandate of this Act, the Secretary of the DENR is empowered to perform the following acts:

- (a) Issue a system-wide set of rules and regulations to implement the provision of this Act; (10[d]a)*
- (b) Set standards, procedures, and protocols for the establishment and management of protected areas and the System, such as, but not limited to, conduct of study, zoning, review of plans and project proposals, specifications and types of buildings and other structures, and installation of uniform markers and symbols; (10[l] and [m]a)*
- (c) Deputize field officers and other technical and support personnel; (10[e]a)*
- (d) Determine a system-wide set of fees and charges to ensure sustainable financing of protected areas and the System;(10[f]a)*
- (e) Impose administrative fines and penalties; (10[g]a)*
- (f) Report on the status of the Integrated Protected Area Fund (IPAF), its collection of fees, and disbursements from the IPAF;(n)*
- (g) Designate the appropriate Chairperson of each PAMB;(n)*
- (h) Enter into contracts and/or agreements with private entities or public agencies as may be necessary to carry out the objectives of the System;*
- (i) Accept in the name of the Philippine Government and in behalf of NIPAS funds, gifts or bequests of money for immediate disbursements or other property in the interest of the NIPAS, its activities or its services; (10[i])*
- (j) Call on any agency or instrumentality of the Government as well as academic*

institutions, NGOs and the private sector as may be necessary to accomplish the objectives and activities of the System;

- (k) Submit an annual report to the President of the Republic of the Philippines and to Congress on the status of protected areas in the country;*
- (l) Oversee and set guidelines in the construction, operation and maintenance of roads, trails, waterworks, sewerage, fire protection, and sanitation systems and other public utilities within the protected area;(10[o]a)*
- (m) Within the limits allowed by existing laws, rules, and regulations, ensure that settlement areas inside the protected area shall not be expanded and that coverage shall only be limited to the original area/s occupied by tenured migrants and indigenous communities; and (10[p]a)*
- (n) Perform such other functions as may be directed by the President of the Republic of the Philippines, and to do such acts as may be necessary to the accomplishment of the purposes and objectives of the System. (10[q]a)*

Rule 10.1 The DENR Regional Executive Directors may also deputize field officers and other technical personnel including members of the local community and ICCs/IPs, for protection, conservation, intelligence-gathering, law enforcement, and other related tasks.

Rule 10.2 The Secretary shall, in accordance with Section 21 (d) of the NIPAS Act, as amended, issue a System-wide schedule of administrative fines and penalties for the violation of rules, regulations.

Rule 10.3 The Secretary shall designate the appropriate Chairperson of each PAMB in the event that a protected area straddles more than one (1) regional jurisdiction, taking into account the size of the areas concerned and the biodiversity requirements of each protected area. The Secretary shall also designate appropriate Chairperson of the PAMB in case where the protected area is in Philippine waters, including other waters over which the Philippines has sovereignty and jurisdiction.

Rule 10.4 The RED through the PAMB and the PASu, consistent with existing laws, rules, and regulations, shall ensure that settlement areas within the protected area shall not be expanded, and that coverage shall only be limited to the original area/s occupied by tenured migrants and ICCs/IPs taking into account their ancestral domain or ancestral land claim. In case of expansion, the same shall be reported to the Secretary through the Undersecretary for Field Operations.

Section 11. Protected Area Management Board (PAMB). – *Within three (3) months after the effectivity of this Act, a PAMB shall be created for each of the protected areas designated as initial component, established by presidential proclamation, and declared by law. The Board shall be composed of the following:*

- (a) DENR Regional Director under whose jurisdiction the protected area is located, as Chairperson; (a)*
- (b) Governor/s of the province/s where the protected area is located or their duly designated representative/s; (a)*

- (c) *A Senator of the Republic of the Philippines who is a duly registered resident of the city or province where the protected area is located or a duly authorized representative, unless the Senator declines membership in the PAMB; (n)*
- (d) *District Representative/s of the Congressional district/s where the protected area is located or their duly designated representatives, unless the District Representative declines membership in the PAMB;(n)*
- (e) *Mayor/s of the city/cities or municipality/municipalities where the protected area is located or their duly designated representative/s; (a)*
- (f) *Chairperson/s of the barangay/s where the protected area is located;(a)*
- (g) *Regional Directors of the following government agencies, namely: the Department of Agriculture (DA), the National Economic and Development Authority (NEDA), the Department of Science and Technology (DOST), the Philippine National Police (PNP), and the Department of National Defense (DND);(a)*
- (h) *Three (3) representatives from either an NGO or PO, duly accredited both by the DENR and the provincial government. The NGO or PO represented should have been in existence for at least five (5) years and with track record in or related to protected area management; (a)*
- (i) *At least one (1) but not more than three (3) representatives from all the IPs/ICCs present in the area and recognized by the National Commission on Indigenous Peoples (NCIP); (a)*
- (j) *One (1) representative from an academic institution, preferably from a university or college in the province where the protected area is located, with proven track record in or related to the protected area management; and (n)*
- (k) *One (1) representative from the private sector, preferably a resident of the province where the protected area is located, who is distinguished in a profession or field of interest relevant to the protected area management. (n)*

Ex officio members or members of the PAMB by virtue of their elective or appointive government positions as specified in the immediately preceding subparagraphs (a), (b), (c), (d), (e), (f), and (g), shall serve for the duration of their respective terms of office in their respective elective or appointive government positions. (n)

On the other hand, the members of the PAMB specified under subparagraphs (h), (i), (j), and (k) of this section shall be appointed by the DENR Secretary after the conduct of a transparent and fair selection process. They shall each serve a term of three (3) years and may be reappointed for another term. (n)

The members of the PAMB shall serve without compensation, except for the actual and necessary traveling and subsistence expenses incurred in the performance of their duties, either in their attendance in meetings of the PAMB or in connection with other official business authorized through a resolution of the PAMB, subject to existing rules and regulations. Each member shall have the full capacity and accountability for decisions binding to the member's sector. (n)

The PAMB members duly appointed prior to the effectivity of this Act shall continue their term until the expiration of their appointment. Thereafter, members of the management board shall be appointed in accordance with the provisions of this Act: Provided, That the Regional Director of the DENR shall ensure that the relevant members of the PAMB are duly appointed by the DENR Secretary: Provided, further, That at least forty percent (40%) of the PAMB members shall be women, pursuant to Republic Act No. 9710 or the 'The Magna Carta of Women'. (n)

A member of the PAMB may be removed for any of the following grounds:

- (1) More than three (3) consecutive unexcused absences from regular meetings of the management board;*
- (2) Commission of acts prejudicial to the management of protected areas as embodied in Section 20 hereof and/or other existing rules and regulations governing protected areas;*
- (3) Disassociation from the office or organization being represented;*
- (4) Termination of relationship with the office or organization being represented; or*
- (5) Conviction by final judgment of any criminal act. (n)*

Rule 11.1 The DA, NEDA and DND shall designate their official representatives to the PAMB provided that this is communicated/ recommended in writing by the head of said agencies.

Rule 11.2 In order to attain the objectives of the System and in pursuance to Section 10(j) of the NIPAS Act, as amended, the Secretary, through the PAMB Chairperson, and with the written concurrence of the majority of the *ex officio* members of the PAMB, may invite representatives from other relevant government agencies to serve as resource persons.

Rule 11.3 All PAMBs organized before the effectivity of the ENIPAS Act shall be reorganized accordingly.

Rule 11.4 The application of NGOs and POs shall be in accordance with the following:

- a. Within fifteen (15) calendar days from the effectivity of this Order, the PENR Officers concerned shall post a call for applications at the premises of their respective PENRO, the DENR Regional Office, on the DENR Regional Office website, and as applicable, through traditional and social media.
- b. The call for applications shall clearly indicate the requirements, procedures, and the thirty (30)-day deadline for submission.
- c. Within thirty (30) calendar days from the posting of the call for applications, interested NGOs or POs, that have been in existence for at least five (5) years and possess a track record in or related to environmental conservation and protected area management, shall submit the following documents to the PENR Officers concerned:

1. Letter of application;

2. Board resolution signifying intent to be accredited for the purpose of representation in the PAMB;
 3. Certificate of accreditation from the Sangguniang Panlalawigan or in the case of composite cities, the Sangguniang Panglungsod;
 4. Certificate of good community standing or endorsement from any two (2) of the following: (a) the applicable LGU; (b) local leaders; (c) head of local religious organizations; and (d) other network organizations;
 5. Accomplished NGO/PO Data Sheet with Organizational Structure;
 6. Registration with the Securities and Exchange Commission, Cooperative Development Authority, or Department of Labor and Employment (DOLE);
 7. Financial statement for the past year duly signed by the Executive Officers of the organization and duly notarized, and indicating the organization's source of funds;
- d. The PENR Officer shall determine the completeness and sufficiency of the applications and issue a Certificate of Accreditation to each applicant that satisfies the aforementioned requirements. Within fifteen (15) calendar days from the deadline for submission of applications, the PENR Officer shall forward the application documents of all accredited applicants to the PAMB Chairperson.
- e. Upon receipt of the application documents of accredited NGOs/POs, the PAMB shall assess the applicants based on the following criteria:
1. Area(s) of operation;
 2. Length and extent of service in biodiversity conservation, environmental management, and other related fields;
 3. Track record and impact of relevant projects and activities; and
 4. Integrity and commitment to environmental and social issues;
- f. The PAMB shall prioritize locally-based NGOs/POs.
- g. Within twenty (20) calendar days from receipt of the application documents of accredited NGOs/POs, the PAMB Chairperson shall submit to the Secretary the recommended NGOs/POs:

Rule 11.5 At least one (1) but not more than three (3) representatives from all the ICCs/IPs present in the area, and recognized by the NCIP. *Provided*, that said representatives shall come from different ICC/IP community in the protected area concerned.

The application of ICC/IP representatives shall be in accordance with the following:

- a. Within fifteen (15) calendar days from the effectivity of this Order, the CENR Officers concerned shall post a call for applications at the premises of their respective CENRO, the DENR Regional Office, on the DENR Regional Office website, and as applicable, through traditional and social media.
- b. The call for applications shall clearly indicate the requirements, procedures, and the sixty (60) day deadline for submission.

- c. Within sixty (60) calendar days from the posting of the Call for Applications, each ICC/IP within the protected area shall submit to the CENR Officer, the names of their chosen representatives validated by the NCIP. The selection shall be in accordance with the customary laws, practices, and traditional organization structure of the ICCs/IPs.
- d. Within five (5) days from receipt of applications, the CENR Officer shall forward the names of the representatives, through channels, to the Secretary.

Rule 11.6 The representative from academic institution may be chosen from a related field and recommended in writing by the head of concerned university or college. The application of representatives from the academe shall be in accordance with the following:

- a. Within fifteen (15) calendar days from the effectivity of this Order, the PENR Officer shall post a call for applications at the premises of their respective PENRO, the DENR Regional Office, on the DENR Regional Office website, and as applicable, through traditional and social media.
- b. The call for applications shall clearly indicate the requirements, procedures, and the thirty (30)-day deadline for submission.
- c. Within thirty (30) calendar days from the posting of the call for applications, interested members of the academe, who have track record in or related to protected area management, shall submit the following:
 - 1. The applicant's curriculum vitae;
 - 2. A letter of intent that indicates the applicant's contributions to protected area management; and
 - 3. Endorsement from the head of the university or college
- d. Within five (5) calendar days from receipt of applications, the PENR Officer shall forward the application documents, through channels, to the Secretary.

Rule 11.7 The application of representatives from the private sector shall be in accordance with the following:

- a. Within fifteen (15) calendar days from the effectivity of this Order, the CENR Officer shall post a call for applications at the premises of their respective CENRO, the DENR Regional Office, on the DENR Regional Office website, and as applicable, through traditional and social media.
- b. The call for applications shall clearly indicate all the requirements, process, and the thirty (30)-day deadline for submission.
- c. Within thirty (30) calendar days from the posting of the call for applications, interested members of the private sector, who have track record in or related to protected area management, shall submit the following:
 - 1. The applicant's curriculum vitae;
 - 2. A letter of intent that indicates the applicant's contributions to protected area management; and

3. Any two (2) of the following documents: (a) certificate of good standing from the head of local religious organizations, or other network organizations; (b) endorsement from LGU, local leaders, or any ex-officio member of the PAMB; or (c) NBI clearance.
- d. The applicant must submit an affidavit declaring that he/she is not a member of any political party and not affiliated within the fourth degree of consanguinity or affinity with the endorsing entity and other members of the PAMB.
- e. The application may be in English, Filipino, or the predominant language or dialect in the region.
- f. The CENR Officer shall evaluate the applications based on the satisfaction of prescribed qualifications. Within fifteen (15) calendar days from the end of the application period, the CENR Officer shall submit the documents of qualified applicants to the PAMP Chairperson, who shall submit a shortlist of qualified applications to the Secretary, within twenty (20) calendar days from the receipt of documents from the CENR Officer.

Rule 11.8 In cases where a protected area is located in marine waters outside regional administrative jurisdiction and Section 11 (b), (c), (d), (e), (f), and (i) hereof may not be applicable, the DENR shall facilitate the development of guidelines for the composition of the PAMB and its powers and functions.

Rule 11.9 Any representative of ex officio members specified in Section 11 (b), (c), (d) and (e) shall be duly appointed by the Secretary within fifteen (15) working days from receipt of the application documents. The head of the Office concerned shall recommend and endorse such representation.

Rule 11.10 The PAMB Chairperson shall ensure that the members of the PAMB specified in Section 11 (h), (i), (j) and (k) hereof are duly appointed by the Secretary within fifteen (15) working days from receipt of the list of qualified or accredited nominees and the application documents.

Rule 11.11 In the event of a permanent vacancy, including the expiration of the term of any of the foregoing PAMB members, the respective PAMB Chairperson shall issue notice of vacancy which shall be posted within fifteen (15) days from the occurrence of such vacancy. The selection shall follow the same procedure provided in this Rule.

Rule 11.12 The PAMB *en banc* may, through the issuance of a resolution, by a majority vote of members present in a quorum, at a meeting called for such purpose, create the following committees:

- a. Executive Committee;
- b. Technical Working Committees, which may include the following:
 1. Committee on Biodiversity Conservation and Monitoring;
 2. Committee on Community Management;
 3. Committee on Project Development;
 4. Committee on Sustainable Financing;

5. Committee on Conflict Resolution;
6. Committee on Law Enforcement;
7. Committee on External Communication and Public Information; and
8. Such other committees as may be necessary to facilitate the accomplishment of its functions and responsibilities.

Rule 11.13 A quorum shall consist of a majority representing fifty percent (50%) plus one (1) of all the PAMB members, or as applicable, of its committees and sub-committees.

Section 11-A. Powers and Functions of the PAMB. – *The PAMB shall have the following powers and functions:*

- (a) *Oversee the management of the protected area;*
- (b) *Approve policies, plans and programs, proposals, agreements, and other related documents for the management of the protected areas;*
- (c) *Approve the management plan of the protected area and ensure its harmonization and integration with the ADSDPP, land use plan and other development plan, public or private, and its implementation;*
- (d) *Adopt a manual of operations to include rules of procedures in the conduct of business, and the creation of committees and their respective terms of reference;*
- (e) *Recommend the deputation of appropriate agencies and individuals for the enforcement of the laws, rules and regulations governing the management of the protected area;*
- (f) *Allocate financial resources for the implementation of the management plan and manage the Protected Area Retention Income Account and other funds in accordance with the accounting and budgeting rules and regulations;*
- (g) *Set fees and charges in accordance with existing guidelines;*
- (h) *Issue rules and regulations for the resolution of conflicts through appropriate and effective means;*
- (i) *Recommend appropriate policy changes to the DENR and other government authorities;*
- (j) *Monitor and assess the performance of the Protected Area Superintendent (PASU) and other protected area personnel and compliance of partners with the terms and conditions of any undertaking, contract or agreement;*
- (k) *Recommend from among a shortlist of qualified candidates, the designation or appointment of the PASU; and*
- (l) *Assess the effectiveness of the management of the protected area: Provided, That the members of the management board representing the LGUs and national agencies in the PAMB shall inform their respective constituents, offices or sectors, of PAMB-approved or*

other relevant policies, rules, regulations, programs, and projects and shall ensure that the provisions of this Act and its implementing rules and regulations are complied with, and used as reference and framework in their respective plans, policies, programs, and projects. Failure to comply with the foregoing shall be the basis for disciplinary action against such member according to administrative rules and regulations and such penalties as the PAMB may provide: Provided, further, That the DENR, through the Regional Director, shall ensure that the PAMB acts within the scope of its powers and functions. In case of conflict between the resolutions issued by the PAMB and the existing administrative orders of national application, the latter shall prevail. (n)

Rule 11-A.1 The DENR Regional Executive Director, upon recommendation of the PAMB, may impose fines and penalties for the violation of rules and regulations, and of the conditions of clearances issued by the PAMB.

Rule 11-A.2 In protected areas that share common areas with ancestral territories covered by CADT/CALT, pursuant to Section 13 of the NIPAS Act, as amended, and Rule 13.7 hereof, the PAMB shall convene a Coordination and Complementation Committee, which shall include as members, the representatives of ICCs/IPs in the PAMB, indigenous traditional leaders, holders of the Certificate of Ancestral Domain Title (CADT) or Certificate of Ancestral Land Title (CALT), or their duly authorized representatives. The Committee may invite resource persons from concerned agencies such as, but not limited to, the NCIP and the Department of Agrarian Reform (DAR).

Section 11-B. The Protected Area Management Office (PAMO). – *There is hereby established a Protected Area Management Office (PAMO) to be headed by a Protected Area Superintendent (PASU) with a permanent plantilla position who shall supervise the day to day management, protection and administration of the protected area. A sufficient number of support staff with permanent plantilla position shall be appointed by the DENR to assist the PASU in the management of the protected area.*

The PASU shall be primarily accountable to the PAMB and the DENR for the management and operations of the protected area. Pursuant thereto, the PASU shall have the following duties and responsibilities:

- (a) Prepare the management plan, in consultation with the stakeholders, including the annual work and financial plans and ensure its implementation;*
- (b) Ensure the integration of the protected area management plans, programs, projects, and policies with relevant national and LGUs' plans and programs;*
- (c) Provide secretariat services to the PAMB and its committees and ensure the availability of relevant and timely information for decision-making;*
- (d) Formulate and recommend to the PAMB proposed policies, rules, regulations, and programs;*
- (e) Establish, operate, and maintain a database management system which shall be an important basis for decision-making;*
- (f) Enforce the laws, rules and regulations relevant to the protected area, commence and institute administrative and legal actions in collaboration with other government*

agencies or organizations, and assist in the prosecution of offenses committed in violation of this Act;

- (g) Monitor, evaluate, and report the implementation of management activities of the protected area;*
- (h) Request for and receive any technical assistance, support or advice from any agency or instrumentality of the government as well as academic institutions, NGOs, and the private sector, as may be necessary for the effective management, protection and administration of the protected area;*
- (i) Issue permits and clearances for activities that implement the management plan and other permitted activities in accordance with terms, conditions, and criteria established by the PAMB: Provided, That all permits for extraction activities, including collection for research purposes, shall also continue to be issued by relevant authorities, subject to prior clearance from the PAMB, through the PASU, in accordance with the specific acts to be covered;*
- (j) Collect and/or receive pertinent fees, charges, donations, and other income for the protected area: Provided, That such fees, charges, donations, and other income collected/received shall be reported regularly to the PAMB and the DENR in accordance with existing guidelines;*
- (k) Prepare and recommend to the PAMB approval of the annual work and financial plans of the protected area based on the management plan; and*
- (l) Perform such other functions as the PAMB and the DENR may assign.*

The PAMO may be augmented by the deputized local environment and natural resources officers upon the recommendation of the PAMB and approval of the DENR. (n)

Rule 11-B.1 The PASu shall report directly to the CENRO or PENRO who has jurisdiction over the protected area. In cases where the protected area is within the jurisdiction of two or more CENROs, the PASu shall report directly to the PENR Office. When a protected area is within the jurisdiction of two or more PENROs, the PASu shall report directly to the PENR Office that has jurisdiction over the larger portion of the protected area and thereafter coordinate with the other CENROs/PENROs concerned. When a protected area straddles two or more regions, the PASu shall report directly to the DENR Regional Office that has jurisdiction over the larger portion of the protected area.

Rule 11-B.2 In case of protected areas located in Philippine waters, including other waters over which the Philippines has sovereignty and jurisdiction, the PASu shall directly report to the DENR Undersecretary for Field Operations through the Director of the Biodiversity Management Bureau.

Rule 11-B.3 In addition to the functions enumerated in Section 11-B, the PASu shall perform the following duties and responsibilities:

- a. Assume custody of seized items and wildlife, and their by-products or derivatives, the disposition of which shall be subject to a clearance from the PAMB, except for those that: (a) are the subject of *custodia legis*; (b) are the subject of donation; (c) must be deposited with appropriate government agencies; and (d) will be utilized for the DENR's needs, in accordance with the existing rules and regulations;
- b. Exact and collect administrative fees and fines, for violations of Section 21 of the NIPAS Act, as amended, other related guidelines, rules, and regulations on protected areas and biodiversity conservation;
- c. Issue permits for the use of facilities and amenities, except for those considered as special uses, as defined in this Order;
- d. Recommend actions for cutting permit for planted trees solely for the traditional and subsistence uses by ICCs/IPs and tenured migrants, of up to five (5) cubic meters per applicant per year. *Provided*, that, PACBRMA holders with affirmed Community-based Resource Management Plan shall no longer be issued cutting permits. *Provided further*, that the total volume cut shall not exceed the limits set by the PAMB, and that the location of the cutting is within the appropriate site within the Multiple Use Zone; and
- e. Process applications for Certificate of Origin and/or transport permits, for natural resources and other products collected/gathered from the protected area, in accordance with the resource use instruments/agreements, or gratuitous permits, issued by the PAMB and/or the DENR, or as the case may be, with the ADSDPP or the CCP of ICCs/IPs.

Section 12. Environmental Impact Assessment (EIA). – *Considering that protected areas are environmentally critical areas, the proponent of development projects and activities with potentially significant adverse impacts as determined by the Environmental Management Bureau (EMB), whether or not these projects or activities are included in the management plan, shall secure an Environmental Compliance Certificate (ECC) in accordance with the Philippine Environment Impact Statement (EIS) System: Provided, That for development projects and activities that are not environmentally critical, an initial environmental examination (IEE) shall be undertaken instead of a full-blown EIA. No project or activity may be undertaken by any project proponent without prior clearance from the PAMB. The DENR shall require the submission of the PAMB clearance, among others, before issuing an ECC to a project proponent.*

No actual implementation of such activities shall be allowed without the required ECC under the Philippine EIA System. Violations of environmental laws, rules and regulations, including those under the EIA System, shall be penalized accordingly.(a)

Rule 12.1 All development projects or activities, whether proposed by the government or the private sector, shall require a PAMB clearance. The Clearance shall be issued through a Resolution by a majority vote of the PAMB members if the project or activity is in consonance with the PAMP.

If the project or activity is not in the PAMP but such project or activity is consistent with the PAMP, the principles of biodiversity, sustainable development, and the preservation of indigenous cultures and practices, the approval shall likewise require a majority vote of the

PAMB members.

Rule 12.2 The PAMB clearance shall include an endorsement for the EMB Regional Office to determine whether the development project or activity is eligible for a Certificate of Non-Coverage (CNC), or should undergo the scoping process under the EIS System.

A development project or activity determined by the scoping process to be environmentally critical, shall undertake a full-blown EIA. A project or activity that is found to be non-environmentally critical will undertake an IEE instead of an EIA. In both cases, an ECC shall be required prior to the commencement of the project or activity.

Section 13. Ancestral Domains and Customary Rights. – *Ancestral domains and customary rights shall be accorded due recognition.*

As part of heritage preservation and pursuant to the need to conserve biologically significant areas, the territories and areas occupied and conserved for and by IPs and communities shall be recognized, respected, developed, and promoted.

The ICCs and IPs concerned shall have the responsibility to govern, maintain, develop, protect, and conserve such areas, in accordance with their indigenous knowledge systems and practices and customary law, with full and effective assistance from the NCIP, DENR and other concerned government agencies.

A mechanism for coordination and complementation between the indigenous traditional leadership and governance structures and the NCIP, DENR, government agencies, concerned LGUs and civil society organizations shall be created. (a)

Rule 13.1 The ancestral territories covered by CADT and CALT that share common areas with protected areas, shall be recognized and respected.

Rule 13.2 The ICCs/IPs concerned shall govern, maintain, develop, protect, and conserve ancestral territories covered by CADT/CALT, that share common areas with protected areas, in accordance with their ADSDPP or Community Conservation Plan (CCP), except upon submission to the DENR of written notice of their intent to co-manage with or relinquish management to the PAMB.

Rule 13.3 The PAMP shall be harmonized with the ADSDPP of ICCs/IPs. In the absence of an ADSDPP, or in the event that that ICCs/IPs determine the need to enhance the current iteration of their ADSDPP to fully incorporate their sustainable traditional resource rights and IKSP, and to strengthen their governance, development, and conservation of their ancestral territories, the ICCs/IPs, shall craft their CCP, which shall, in turn, be harmonized with the PAMP.

The CCP may include, *inter alia*, the community's profile, the description of their territories, their sustainable traditional resource rights, IKSP, and protection policies. It shall be in a form and language that is understandable and accessible to the ICCs/IPs and shall form an integral part of the PAMP.

The PAMO shall assist the ICCs/IPs concerned in the identification, mapping, and documentation of the areas to be included in the CCP.

Rule 13.4 All policies, rules, regulations, and guidelines shall be subjected to notice and hearing, with the full and engaged participation of the community, and the assistance of the

NCIP, in consonance with their customary laws and practices, and in a language they understand.

Rule 13.5 Development interventions in a protected area that shares common areas with the ancestral territories covered by CADT/CALT, and any activity that will affect ICCs/IPs, shall require the Free and Prior Informed Consent (FPIC) of the concerned ICCs/IPs, in compliance with the IPRA, and other applicable laws, rules, and regulations. The ICCs/IPs shall determine the FPIC process, based on their customs and governance structure.

Bioprospecting in a protected area sharing common areas with ancestral territories covered by CADT/CALT shall be in accordance Joint DENR-DA-PCSD-NCIP Administrative Order No. 01 series of 2005, otherwise known as Guidelines for Bioprospecting Activities in the Philippines along with other relevant existing guidelines.

Rule 13.6 The local communities, ICCs/IPs shall be entitled to a fair and equitable share of benefits arising from the utilization of resources and ecosystem services and the use of Indigenous Knowledge Systems and Practices.

Rule 13.7 In protected areas that share common areas with ancestral territories covered by CADT/CALT, the PAMB shall convene a Coordination and Complementation Committee which shall have the following functions:

- a. Conduct regular meetings and consultations in the community's traditional meeting places;
- b. Coordinate between the PAMB and the community for the purposes of:
 1. Ensuring that the concerns of the community are communicated to the PAMB;
 2. Promoting awareness of the agenda ahead of the PAMB meetings; and
 3. Facilitating discussion on issues affecting the community and ensuring active participation of the ICCs/IPs representatives concerned;
- c. Contribute to the harmonization of the PAMP and the ADSDPP;
- d. Assist in the planning and implementation of the community's ADSDPP or CCP, as the case may be;
- e. Foster intercultural understanding between the ICCs/IPs and the PAMB; and
- f. Perform functions as may be required by the ICCs/IPs, or directed by the PAMB, and such other acts as may be necessary for the accomplishment of the purposes and objectives of the Committee.

Section 14. Energy Resources. – *Consistent with the policies declared in Section 2 hereof, the exploration for energy resources may be allowed in protected areas only for the purpose of gathering data and information and only if such activity is carried out with the least damage to surrounding areas.*

Surveys for nonrenewable energy projects shall be conducted only in accordance with a program approved by the DENR, and the result of such surveys shall be made available to the public and submitted to the President who shall make the appropriate recommendations to Congress. The

development and operation of nonrenewable energy projects are prohibited in areas categorized as strict nature reserves and natural parks.

Renewable energy projects may be allowed within the protected area by the PAMB with the concurrence of the DENR Secretary: Provided, That renewable energy projects, which shall be located outside the strict protection zones, shall undergo the EIA as provided by law, and shall adopt reduced impact technologies so as not to be detrimental to ecosystem functions, biodiversity, cultural practices and traditions: Provided, That sufficient bond shall be remitted by the proponent to the DENR. The amount of which will be based on damage estimation upon decommissioning and projected cost of rehabilitation. It shall be released to the depositor upon the satisfactory decommissioning of all equipment, structures and improvements and the rehabilitation of the site according to the zones and objectives of the management plan as attested to by the PAMB.(a)

Rule 14.1 The DENR, DOE, DOST, and other relevant government agencies shall determine standard practices and/or guidelines to ensure that the gathering of data and information on the exploration of energy resources shall be undertaken in a manner that will protect biodiversity and ecosystem services.

Rule 14.2 Exploration for energy resources may be allowed in protected areas only when all the following conditions are satisfied, without prejudice to such other requirements as may be determined by the DENR:

- a. Exploration shall not be conducted in protected areas categorized as Strict Nature Reserves and Natural Parks, and in Strict Protection Zones;
- b. The sole purpose is for gathering data and information;
- c. The exploration is carried out with the least damage to surrounding areas; and
- d. A PAMB clearance is issued in accordance with Section 12 of the NIPAS Act, as amended, and Rules 12.1 to 12.2 hereof.

Rule 14.3 Renewable energy projects may be allowed within the protected area under the following conditions, without prejudice to such other requirements as may be determined by the DENR:

- a. The project is located outside Strict Protection Zones;
- b. A PAMB clearance is obtained in accordance with Section 12 of the NIPAS Act, as amended, and Rules 12.1 to 12.2 hereof.
- c. The conduct of an EIA, as provided by law, rules and regulations;
- d. A resolution approved by majority vote of the members of the PAMB, attesting to its acceptance of the project, and endorsing it for concurrence by the Secretary;
- e. The concurrence of the DENR Secretary; and
- f. The remittance of a sufficient bond to ensure the availability of funds for the timely compensation of damages and the progressive and sustainable rehabilitation of affected areas.

Rule 14.4 The sufficiency of the bond shall be determined by the PAMO, with assistance of the BMB, and approved by the PAMB, based on damage estimation upon decommissioning, the projected cost of rehabilitation, resource valuation, and ecosystem services of the protected area.

The bond shall be deposited as a trust fund in a government depository bank, and shall be used for the physical and social rehabilitation of the areas, and communities affected by the renewable energy project, as well as for research on the social, technical, and preventive aspects of rehabilitation.

The bond may be released to the proponent, only upon a resolution approved by majority vote of the members of the PAMB present in a quorum, during a meeting called for such purpose, attesting to the satisfactory decommissioning of all equipment, structures, and improvements, and the rehabilitation of the site, in compliance with the protected area's established management zones, the objectives of the PAMP, and if applicable, the ADSDPP or the CCP of the affected ICCs/IPs.

Rule 14.5 Surveys for non-renewable energy projects shall be conducted only upon satisfaction of the following conditions, without prejudice to such other requirements as may be determined by the DENR:

- a. A PAMB clearance is obtained in accordance with Section 12 of the NIPAS Act, as amended, and Rules 12.1 to 12.2 hereof;
- b. The survey will be conducted in accordance with a program approved by the DENR; and
- c. The result of such survey shall be made available to the public and submitted to the President, who shall make the appropriate recommendations to Congress.

Rule 14.6 The development and operation of non-renewable energy projects are allowed only upon satisfaction of the following conditions, without prejudice to such other requirements as may be determined by the DENR:

- a. The projects are not located in areas categorized as Strict Nature Reserves and Natural Parks, and in Strict Protection Zones;
- b. A resolution approved by majority vote of the members of the PAMB, attesting that the non-renewable energy project is not detrimental to the environment and integrity of the protected area, and providing recommendations for consideration of the Secretary;
- c. The projects are undertaken pursuant to Congressional legislation; and
- d. Continuing compliance with environmental laws, rules and regulations.

Rule 14.7 For energy projects of national significance, PAMB Clearance shall be issued within 30 days upon receipt of complete documentary requirements by the PAMB. Other projects shall be approved in accordance with the PAMB Manual of Operations.

Rule 14.8 Any exploration, survey, or energy project in a protected area that shares common areas with ancestral territories covered by CADT/CALT, shall require the FPIC of affected ICCs/IPs, and a Certification of Precondition issued by the NCIP.

Rule 14.9 The DENR and DOE shall determine, among others, the standard thresholds, rates, and revenue-sharing scheme from the operation of energy projects.

Section 15. Areas Under the Management of Other Departments and Government Instrumentalities. – *Should there be protected areas, or portions thereof, under the jurisdiction of government instrumentalities other than the DENR, such jurisdiction shall remain in the said department or government instrumentality: Provided, That the DENR shall retain its oversight function over such protected areas, and the concerned agency shall provide annual reports on the management of said areas focusing on the conservation of the biodiversity therein. (a)*

Rule 15.1 The jurisdiction of government agencies instrumentalities other than the DENR over protected areas, or portions thereof, shall remain with these government agencies or instrumentalities.

Rule 15.2 The DENR shall retain its oversight functions over such protected areas. Provided, the DENR and the concerned government agency may enter into an agreement on the management of the protected area, including the creation of a management body as may be necessary, the preparation of a management plan, monitoring and evaluation, and other related activities, among others.

Rule 15.3 The department or government instrumentality exercising jurisdiction over the protected area shall submit its management plan to the DENR within one (1) year from the effectivity of this Order.

Rule 15.4 Within sixty (60) calendar days from the end of each year, the concerned agency or instrumentality shall submit its annual report to the DENR. The annual report shall highlight the management of said areas and their impacts to the biodiversity therein, and the socio-economic benefits of projects and activities implemented within the protected areas.

Section 16. Integrated Protected Area Fund (IPAF). – *There is hereby established a trust fund to be known as Integrated Protected Area Fund (IPAF) for purposes of financing the projects and sustaining the operation protected areas and the System. Income generated from the operation and management of the protected area shall accrue to the IPAF. The income shall be derived from fees and charges from the use of resources and facilities of protected areas; contributions from industries and facilities directly benefitting from the protected area; and such other fees and income derived from the operation of the protected area.*

The PAMB shall retain seventy-five percent (75%) of all revenues raised through the above means, which shall be deposited in the Protected Area-Retained Income Account (PA-RIA) in any authorized government depository bank within the locality: Provided, That disbursements out of such deposits shall be used solely for the protection, maintenance, administration, and management of the protected area and implementation of duly approved projects of the PAMB.

Grants, donations and endowments from various sources, domestic or foreign, shall be deposited in full in a special account in the National Treasury to be used for the purpose specified in the deeds and instruments covering them.

Voluntary or legislated payments for ecosystem goods and services, including fines, penalties, and compensation for damages from protected area offenses shall accrue fully to the PA-RIA and shall be managed by the PAMB.

The remaining twenty-five percent (25%) of revenues shall be deposited as a special account in the General Fund in the National Treasury for purposes of financing the projects of the System.

The use of the IPAF shall be in accordance with existing accounting, budgeting, and auditing rules and regulations: Provided, further, That the IPAF shall not be used to cover personal services expenditures.

The DENR shall submit to the Department of Budget and Management (DBM) and the Department of Finance (DOF) quarterly reports on the financial and physical accomplishments on the utilization of the IPAF and other documents as may be required by the DBM, and shall furnish a copy of the same to the House Committee on Appropriations and the Senate Committee on Finance.

(a)

Rule 16.1 The following shall provide for the accrual and allocation of revenues of protected areas:

- a. Revenues generated from the operation and management of the protected area shall accrue to the IPAF. In particular, such revenues shall include, but are not limited to:
 1. Fees and charges derived from the use of resources and facilities of protected areas;
 2. Contributions from industries and facilities directly benefitting from the protected area; and
 3. All other fees and income derived from the operation of the protected area.
- b. The PAMB shall retain seventy-five percent (75%) of all revenues raised through the afore-mentioned means. Retention of allocated revenue shall be governed by the following:
 1. The amount shall be deposited in the Protected Area Retention Income Account (PA-RIA) in any authorized government depository bank within the locality; and
 2. Disbursements of PA-RIA shall be used solely for the protection, maintenance, administration, and management of the protected area, and the implementation of duly approved projects of the PAMB.
- c. The remaining twenty-five percent (25%) of revenues shall be deposited as a Special Account in the General Fund (SAGF) of the National Treasury for purposes of financing the projects of the System.
- d. Funds directly coming from LGUs shall be excluded from the SAGF pursuant to Section 26 of the NIPAS Act, as amended, and Rules 26.1 to 26.5 hereof,

Rule 16.2 Grants, donations, and endowments from various sources, foreign or domestic, except for the contributions of LGUs contemplated in Section 26 and Rules 26.1 to 26.5 hereof, shall be deposited in full as Trust Receipt in a special account in the National Treasury to be used for the purpose specified in the deeds and instruments covering them.

Rule 16.3 Voluntary or legislated payments for ecosystem goods and services, including fines, penalties, and compensation for damages from protected area offenses shall accrue fully to the PA-RIA, and shall be managed by the PAMB.

Rule 16.4 The use of the IPAF shall be in accordance with existing accounting, budgeting, and auditing rules and regulations. *Provided that*, the IPAF shall not be used to cover expenditures for personal services.

Rule 16.5 The DENR shall submit to the DBM and the DOF, quarterly reports on the financial and physical accomplishments on the utilization of the IPAF, and other documents, as may be required by the DBM, and shall furnish a copy of the same to the House Committee on Appropriations, and the Senate Committee on Finance.

Section 16-A. Tax Exemption. – All grants, bequests and endowments, donations and contributions made to the protected area fund to be used actually, directly, and exclusively by the protected area, shall be exempted from donor's tax and shall be considered as allowable deduction from the gross income of the donor for the purpose of computing the taxable income of the donor in accordance with the provisions of the National Internal Revenue Code of 1997, as amended. (n)

Rule 16-A Donations shall not circumvent the payment of fees, fines, penalties, damages, rehabilitation costs, and other legally imposed charges, or be received in lieu of the bonds prescribed by the NIPAS Act, as amended, or the relevant rules herein.

Section 17. Annual Report to Congress. – At the opening of each session of Congress, the DENR shall report to the President, for transmission to Congress, on the status of the System, regulation in force and other pertinent information, together with recommendations.

Section 18. Field Officers. – All officials, technical personnel and forest guards employed in the integrated protected area service or all persons deputized by the DENR, upon recommendation of the Management Board shall be considered as field officers and shall have the authority to investigate and search premises and buildings and make arrests in accordance with the rules on criminal procedure for the violation of laws and regulations relating to protected areas. Persons arrested shall be brought to the nearest police precinct for investigation.

Nothing herein mentioned shall be construed as preventing regular enforcers and police officers from arresting any person in the act of violating said laws and regulations.

Rule 18.1 Officials employed in the integrated protected area service, including technical personnel, forest guards, and all persons deputized by the DENR, upon recommendation of the PAMB, shall be considered as field officers.

Rule 18.2 For the purpose of enforcing the NIPAS Act, as amended, this Order, and other laws relating to protected areas, field officers are authorized to perform the following:

- a. Investigate activities constituting violations of the NIPAS Act, as amended, or other laws relating to protected areas;
- b. Search premises and buildings incidental to their investigations; and
- c. Make arrests in connection with investigations and searches in accordance with the rules on criminal procedure; provided that, persons arrested are brought to the nearest police precinct for investigation by police authorities.

Rule 18.3 Field Officers shall be deemed persons in authority in the conduct of their duties, in accordance with Article 152 of Act No. 3815 or "The Revised Penal Code".

Rule 18.4 All persons deputized by the DENR, may be given an allowance in such amount as to be determined by the PAMB from the IPAF and other possible fund sources, subject to applicable accounting rules and regulations.

Rule 18.5 Regular enforcers and police officers shall not be prevented from arresting any person in the act of violating laws relating to protected areas.

Section 19. Special Prosecutors and Retained Counsel. – *Within thirty (30) days from the effectivity of this Act, the Department of Justice (DOJ) shall appoint special prosecutors to prosecute violations of laws, rules and regulations in protected areas. The special prosecutor shall coordinate with the PAMB and the PASU in the performance of duties and assist in the training of wardens and rangers in arrest and criminal procedures. The PAMB may retain the services of counsel to prosecute and assist in the prosecution of cases under the direct control and supervision of the regular or special prosecutor. Said counsel shall also represent and defend the members of the PAMB, PASU and the staff, or any DENR-deputized individual and volunteer, against any legal action arising from the performance of their powers, functions and responsibilities as provided in this Act. (a)*

Rule 19.1 The engagement of the services of private counsel shall be subject to applicable laws, rules, and regulations.

Rule 19.2 The DENR and the DOJ shall issue guidelines on the appointment of special prosecutors, the retention of the services of private counsel, and the reporting and funding mechanisms.

Section 20. Prohibited Acts. – *Except as may be allowed by the nature of their categories and pursuant to rules and regulations governing the same, the following acts are prohibited within protected areas:*

- (a) *Poaching, killing, destroying, disturbing of any wildlife including in private lands within the protected area; (n)*
- (b) *Hunting, taking, collecting, or possessing of any wildlife, or by-products derived therefrom, including in private lands within the protected area without the necessary permit, authorization or exemption: Provided, That the PASU as authorized by the PAMB shall issue a permit, authorization or exemption only for culling, scientific research, the exceptions provided under Section 27(a) of Republic Act No. 9147 (Wildlife Resources, Conservation and Protection Act) or harvests of nonprotected species in multiple-use zones by tenured migrants and IPs; (20[a]a)*
- (c) *Cutting, gathering, removing or collecting timber within the protected area including private lands therein, without the necessary permit, authorization, certification of planted trees or exemption such as for culling exotic species; except, however, when such acts are done in accordance with the duly recognized practices of the IPs/ICCs for subsistence purposes;(n)*

- (d) *Possessing or transporting outside the protected area any timber, forest products, wildlife, or by-products, derived therefrom which are ascertained to have been taken from the protected area other than exotic species, the culling of which has been authorized under an appropriate permit; (20[a]a)*
- (e) *Using any fishing or harvesting gear and practices or any of their variations that destroys coral reefs, seagrass beds or other marine life and their associated habitats or terrestrial habitat as may be determined by the DA or the DENR: Provided, That mere possession of such gears within the protected areas shall be prima facie evidence of their use;(n)*
- (f) *Dumping, throwing, using, or causing to be dumped into or placed in the protected area of any toxic chemical, noxious or poisonous substance or nonbiodegradable material, untreated sewage or animal waste products or products whether in liquid, solid or gas state, including pesticides and other hazardous substances as defined under Republic Act No. 6969, otherwise known as the 'Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990' detrimental to the protected area, or to the plants and animals or inhabitants therein; (20[b]a)*
- (g) *Operating any motorized conveyance within the protected area without permit from the PAMB, except when the use of such motorized conveyance is the only practical means of transportation of IPs/ICCs in accessing their ancestral domain/land; (20[c]a)*
- (h) *Altering, removing destroying or defacing boundary marks or signs; (20[i]j)*
- (i) *Engaging in 'kaingin' or, in any manner, causing forest fires inside the protected area; (n)*
- (j) *Mutilating, defacing, destroying, excavating, vandalizing or, in any manner, damaging any natural formation, religious, spiritual, historical sites, artifacts and other objects of natural beauty, scenic value or objects of interest to IPs/ICCs; (20[d]a)*
- (k) *Damaging and leaving roads and trails in a damaged condition;(20[e]j)*
- (l) *Littering or depositing refuse or debris on the ground or in bodies of water;(20[h]j)*
- (m) *Possessing or using blasting caps or explosives anywhere within the protected area; (n)*
- (n) *Occupying or dwelling in any public land within the protected area without clearance from the PAMB;(20[f]a)*
- (o) *Constructing, erecting, or maintaining any kind of structure, fence or enclosures, conducting any business enterprise within the protected area without prior clearance from the PAMB and permit from the DENR, or conducting these activities in a manner that is inconsistent with the management plan duly approved by the PAMB; (20[g]a)*
- (p) *Undertaking mineral exploration or extraction within the protected area; (20[f]a)*
- (q) *Engaging in commercial or large-scale quarrying within the protected area; (n)*
- (r) *Establishing or introducing exotic species, including GMOs or invasive alien species within the protected area; (n)*

- (s) *Conducting bioprospecting within the protected area without prior PAMB clearance in accordance with existing guidelines: Provided, That in addition to the penalty provided herein, any commercial use of any substance derived from nonpermitted bioprospecting within a protected area will not be allowed and all revenue earned from illegal commercialization thereof shall be forfeited and deposited as part of the IPAF; (n)*
- (t) *Prospecting, hunting or otherwise locating hidden treasures within the protected area; (n)*
- (u) *Purchasing or selling, mortgaging or leasing lands or other portions of the protected area which are covered by any tenurial instrument; and (n)*
- (v) *Constructing any permanent structure within the forty (40)-meter easement from the high water mark of any natural body of water or issuing a permit for such construction pursuant to Article 51 of Presidential Decree No. 1067: Provided, That construction for common usage wharves and shoreline protection shall be permitted by the PAMB only after thorough EIA. (n)*

Rule 20.1 Permit(s), authorization or exemption related to Section 20 (b) should also be consistent with the ADSDPP or CCP of the affected ICCs/IPs.

Rule 20.2 Possession or transportation outside of the protected area of any timber, forest products, wildlife, or by-products derived therefrom, which are not identified in the ADSDPP or CCP as a sustainable traditional resource right, and are ascertained to have been taken from the protected area, other than exotic species, the culling of which has been authorized under an appropriate permit is prohibited.

Rule 20.3 Engaging in kaingin in CADC/CADT areas located inside the protected areas shall be allowed to ICCs/IPs if identified as sustainable traditional resource rights of their ADSDPP and recognized by the NCIP.

Rule 20.4 Any activity that in any manner will mutilate, deface, destroy, excavate, fill-in, vandalize, or damage any natural formation, religious, spiritual, historical sites, artifacts and other objects of natural beauty, scenic value or objects of interest to IPs/ ICCs will not be allowed except those that are consistent with the PAMP and approved by the PAMB.

Section 21. Penalties. – *Violations under this Act shall be subject to the following penalties:*

- (a) *A fine of not less than Two hundred thousand pesos (P200,000) but not more than One million pesos (P1,000,000) or imprisonment from one (1) year but not more than six (6) years, or both, plus damages of triple the value of the said resources, or both, shall be imposed upon any person who violates paragraphs (a) to (e) of Section 20 herein; (a)*
- (b) *A fine of not less than Two hundred thousand pesos (P200,000) but not more than One million pesos (P1,000,000) or imprisonment from one (1) year but not more than six (6) years, or both, shall be imposed upon any person who violates paragraphs (f) to (n) of Section 20 herein; (a)*
- (c) *A fine of not less than One million pesos (P1,000,000) but not more than Five million pesos (P5,000,000) or imprisonment from six (6) years but not more than twelve (12) years, or both, shall be imposed upon any person who violates paragraphs (o) to (v) of Section 20 herein; (a)*

- (d) *A fine of Fifty thousand pesos (P50,000) daily shall be imposed on the owner of existing facilities within a protected area under Section 24 of this Act, if the existence of the same and its future plans and operations will be detrimental to the protected area. For every continuing violation, or if the violation continues to be committed for thirty (30) days and upon reaching a total fine of Five hundred thousand pesos (P500,000), the PAMB through the PASU and other deputized government entities, shall cause the cessation of operation and either forfeit in favor of the PAMO or demolish the facility at the cost of its owner. If the facility is government-owned, the agency in charge shall submit a plan for a substitute facility that complies with the protected area standards and, within one (1) year, execute the approved protected area management plan;(a)*
- (e) *Administrative fines of not less than Fifty thousand pesos (P50,000), but not exceeding Five million pesos (P5,000,000), shall be imposed by the DENR Secretary for the violation of any rule, regulation, or provision of any agreement reached with the PAMB: Provided, That if an area which has sustained damage from any activity conducted therein requires rehabilitation or restoration as determined by the court, the offender shall be required to restore or pay compensation for such damages, which payment shall accrue to the IPAF. (a)*

On the basis of a court order, the DENR shall cause the eviction of an offender from the protected area: Provided, That in cases of emergency, the DENR Secretary may order the immediate exit or departure of the offender from the protected area. The DENR Secretary may call on other enforcement agencies to assist in executing the order to vacate. (a)

An emergency occurs when there is a demonstrated impending threat to human life and biodiversity or to species found within the ecosystem of the protected area.(n)

All minerals, timber or species collected or removed from the protected area, including all equipment, devices, conveyances, and firearms used in connection therewith, shall be forfeited in favor of the government, and any construction or improvement made thereon by the offender shall be subject to confiscation by the PAMO, subject to the application of due process.(a)

The conveyances, vessels, equipment, paraphernalia, implements, gears, tools, and similar devices used in the commission of the crime shall be dealt with in accordance with Part 4, Rule 12 (Custody and Disposition of Seized Items, Equipment, Paraphernalia, Conveyances and Instruments) of Administrative Matter No. 09-6-8-SC (Rules of Procedure for Environmental Cases) issued by the Supreme Court. However, in no case shall any confiscated or rescued protected animal species be sold or in any manner disposed of but shall be immediately turned over to the PAMO for rehabilitation and release to its natural habitat, subject to existing regulations. Valuation of the damage shall take into account biodiversity and conservation considerations as well as aesthetic and scenic value. The valuation and assessment by the DENR, in coordination with other concerned government agencies, shall be presumed regular, unless otherwise proven by preponderance of evidence.(n)

If the offender is an association or corporation, the president or manager, who is proven to have participated in or have actual knowledge of any violation against the provisions of this Act shall be directly liable for the act of the employees and laborers: Provided, finally, That the DENR may impose administrative fines and penalties consistent with this Act. (a)

Any person who shall induce another or conspire to commit any of the acts prohibited in this Act, or force their workers to commit any of the same, shall be liable as principal. (n)

The penalties specified in this section shall be in addition to the penalties provided in Republic Act No. 9072 or the 'National Caves and Cave Resources Management and Protection Act', Republic Act No. 9147 or the 'Wildlife Resources Conservation and Protection Act', Republic Act No. 8550 or the 'Philippine Fisheries Code of 1998' and other related laws. (n)

The conviction of a public officer or officer of the law whether from the LGU or any national government agency for any violation of the provisions of this Act shall carry the accessory penalty of perpetual disqualification from public office. (n)

Rule 21.1 The DENR shall cause the eviction of an offender from the protected area on the basis of a court order, except in cases of emergency, when the DENR Secretary may order the immediate exit or departure of the offender from the protected area.

There is an emergency when there is a demonstrated impending threat to human life and biodiversity, or to species found within the ecosystem of the protected area.

In any case, the DENR Secretary may call on other enforcement agencies to assist in executing the order to vacate.

Rule 21.2 The violations of the foregoing shall result to the following consequences:

- a. All minerals, timber or species collected or removed from the protected area, including all equipment, devices, conveyances, and firearms used in connection therewith, shall be forfeited in favor of the government.
- b. All construction or improvement made thereon by the offender shall be subject to confiscation by the PAMO, subject to the application of due process.
- c. The conveyances, vessels, equipment, paraphernalia, implements, gear, tools, and similar devices used in the commission of the crime shall be under the custody and disposition of the DENR.
- d. Protected animal species which have been confiscated or rescued, shall in no case be sold or disposed of. Such animals shall be immediately turned over to the PAMO or nearest rescue center for rehabilitation and release to its natural habitat, subject to existing regulations.
- e. If the offender is an association or corporation, the president or manager, who is proven to have participated in, or have actual knowledge of any violation against the provisions of the NIPAS Act, as amended, shall be directly liable for the act of the employees and laborers; *Provided*, that the DENR may impose administrative fines and penalties consistent with the NIPAS Act, as amended.
- f. Any person who shall induce another or conspire to commit any of the acts prohibited in the NIPAS Act, as amended, or force their workers to commit any of the same, shall be liable as principal.
- g. The conviction of a public officer or officer of the law, whether from the LGU or any national government agency, for any violation of the provisions of the NIPAS Act, as amended, shall carry the accessory penalty of perpetual disqualification from public office.

Rule 21.3 The penalties specified in the NIPAS Act, as amended, shall be in addition to the penalties provided in Republic Act No. 9072 or the "National Caves and Cave Resources Management and Protection Act", Republic Act No. 9147 or the "Wildlife Resources Conservation and Protection Act", Republic Act No. 8550 or the "Philippine Fisheries Code of 1998", as amended by Republic Act 10654, Presidential Decree No. 705 or the "Revised Forestry Code of the Philippines" and other related laws.

Rule 21.4 The DENR shall intensify its communication, education and public awareness activities on the provisions of the ENIPAS Act and this Order to support law enforcement.

Section 22. Existing Rights. – All property and private rights within the protected area and its buffer zones already existing and/or vested upon the effectivity of this Act shall be protected and respected in accordance with existing laws: Provided, That the exercise of such property and private rights shall be harmonized, as far as practicable, with the provisions of this Act. Notwithstanding this Act, all existing rights, contracts, or agreements entered into by government for the utilization of natural resources within protected areas shall continue to be recognized and governed by Philippine laws.

The renewal of permits, contracts, and agreements shall be subject to the provisions of this Act. If the permits, contracts, and agreements are not renewed, such areas shall be rehabilitated or restored by the permit holders within the period provided by the pertinent laws and shall revert to national parks classification. As such, all holders of permits, contracts, and agreements are required to prepare and submit a rehabilitation plan to the PAMB: Provided, That upon renewal, a sufficient bond shall be remitted by the proponent to the DENR to be released to the depository bank in the event of damage by or closure of the establishment after satisfactory rehabilitation according to the zones and objectives of the management plan as attested to by the PAMB.

The occupation of LGUs and communities within the protected area shall be respected. Within ninety (90) days after the creation of the PAMB, the Board shall assess the physical occupation of said LGUs and communities within protected areas and recommend to proper authorities measures to ensure the protection of their well-being. Municipalities and cities with existing townships and town centers within the protected area shall continue to occupy such townships and town centers: Provided, That in the development of their CLUPs and barangay development plans, due consideration shall be given to the intended use for conservation and biodiversity as well as the objectives for protected areas to keep human habitation and environmental conservation in harmony.
(n)

Rule 22.1 Without prejudice to the identification, verification and review of all tenurial instruments, issuances of permits for resource use, and land claims within protected areas, required by Rule 23 hereof, there shall be an inventory of all property and private rights within a protected area and its buffer zones, already existing and/or vested upon the effectivity of the ENIPAS Act.

The PAMB, through its Chairperson, assisted by the PAMO, CENR and PENR Office concerned, shall:

- a. Within sixty (60) days from the effectivity of this Order:
 1. Secure the Cadastral map indices, list of land claimants, pending public land applications, issued title, and other tenurial instruments;

2. Secure tax maps, and an inventory of business and building permits from the concerned LGUs;
 3. Secure a copy of an inventory of ancestral territories covered by CADT/CALT, and perimeter maps with technical descriptions, and other indicative maps from the NCIP;
 4. Secure an inventory of lands distributed under applicable laws or covered by tenurial instruments issued by the DAR;
 5. Secure an inventory of aquatic resource users from the concerned LGUs and the Bureau of Fisheries and Aquatic Resources; and
 6. Gather such other information as may be necessary to complete the inventory.
- b. Within thirty (30) days from the evaluation of the foregoing maps, indices, lists and instruments, conduct a ground survey for the purpose of verifying the information presented therein.
- c. Prepare an inventory of existing property and private rights, occupation of LGUs and communities, including townships and town centers. The inventory shall indicate, among others, the extent and current land use of each area, and its effects on the management objectives of the protected area. The results of the inventory shall form part of the PAMP.

Rule 22.2 All property rights and private rights, existing and/or vested upon the effectivity of the NIPAS Act, as amended, shall be protected and respected in accordance with existing laws. A property or private right is deemed to be existing, or to have vested, when it has become fixed and established, and is no longer open to doubt or controversy.

Those rights over alienable and disposable land affected by the NIPAS Act as amended shall be deemed vested in favor of a party who has complied as of 1 August 2018, with all the applicable requirements, terms and conditions for the issuance of a title, under existing laws and regulations.

Any land claimant who has acquired vested rights over alienable and disposable lands within a protected area shall file his/her application for titling to the appropriate agency within the period provided by law.

In case of applications filed with the DENR, the same shall be processed through Systematic Adjudication. The right over land sharing common areas with an initial component of the NIPAS should have accrued prior to the effectivity of the NIPAS Act on 5 August 1992. Provided however, the right over land sharing common areas with an additional protected area should have accrued prior to the issuance of the Presidential Proclamation or effectivity of the Congressional legislation, whichever is earlier.

The survey, acceptance, processing, and approval of all public land applications over alienable and disposal lands within protected areas, shall proceed, notwithstanding the sharing of common areas of these lands with initial or additional components of the System.

Rule 22.3 The exercise of property and private rights shall be harmonized with the provisions of the NIPAS Act, as amended. For this purpose, the holders of the property or private right shall be consulted in the preparation of the PAMP.

Rule 22.4 If the restrictions being imposed by the PAMP and the NIPAS Act, as amended, on the exercise of the property and private rights amount to a taking of property, the PAMB may recommend the exercise of the power of eminent domain to the Secretary.

Rule 22.5 Rights arising from contracts, agreements, or permits from the government shall continue to be recognized and respected under Philippine laws.

Rule 22.6 The occupation by LGUs and communities of areas within the protected area shall be respected subject to the requirements and qualifications under Section 23 hereof. Within ninety (90) calendar days from its creation, the PAMB shall assess the physical occupation of the LGUs and communities within protected areas, and recommend to proper authorities, measures to ensure the protection of their well-being.

Rule 22.7 LGUs shall integrate the PAMP in their CLUP/CLWUP, coastal and fisheries resource management plan, local development plans, disaster risk reduction management plans, and other required plans, pursuant to Section 26 of the NIPAS Act, as amended, and Rule 26.1 to 26.5 hereof. In the event that the PAMP is not yet available, due consideration shall be given to the intended use for conservation and biodiversity, as well as the objective to keep human habitation and environmental conservation in harmony.

Rule 22.8 Detailed guidelines, methods, and framework for the harmonization of the PAMP with the LGU development and other plans, shall be provided by the DENR in coordination with the Housing Land Use Regulatory Board (HLURB), and other relevant government agencies and instrumentalities.

Section 23. Tenured Migrants and Other Protected Area Occupants. – *Tenured migrants shall be eligible to become stewards of portions of lands within multiple-use zones. The PAMB shall identify, verify and review all tenurial instruments, land claims, and issuances of permits for resource use within the protected area and recommend the issuance of the appropriate tenure instrument consistent with the zoning provided in the management plan and the provisions of this Act.*

Should areas occupied by tenured migrants be designated as zones in which no occupation or other activities are allowed pursuant to the attainment of sustainable development, the provision for the transfer of the tenured migrants to multiple-use zones or buffer zones shall be accomplished through just and humane means: Provided, That protected area occupants who are not qualified as tenured migrants shall be resettled outside the protected area.

The rights of the tenured migrants may be transferred only to the spouse or one of their direct descendants listed at the time of the survey.

In the event of termination of a tenurial instrument for cause or by voluntary surrender of rights, the PASU shall take immediate steps to rehabilitate the area.

Following the protected area occupants survey required under Section 5(c)(1) hereof, the DENR Regional Director shall submit to the BMB within two (2) years from the passage of this Act, the final list of tenured migrants, which shall be the basis for tenured migrant recognition and issuance of tenurial instruments. Within the two (2)-year period, the DENR Regional Director shall submit accomplishment report every six (6) months.

The DENR through the BMB shall issue guidelines for the determination of the reckoning period for the recognition of the tenured migrants. (n)

Rule 23.1 The Socio-Economic Assessment and Monitoring System (SEAMS) shall be used to generate the socio-economic information necessary for the issuance of tenurial instrument and for management planning purposes. The DENR Regional Executive Director, within two (2) years from the passage of the ENIPAS Act, shall submit to the DENR through the BMB the final list of tenured migrants which shall be the basis for the recognition and issuance of tenurial instruments. Within the two (2)-year period, the DENR Regional Executive Director shall submit an accomplishment report every six (6) months thereof.

Rule 23.2 The household head shall be considered a tenured migrant if proven to have actually and continuously occupied a portion of the protected area for five (5) years before its designation as protected area, and is solely dependent thereon for subsistence. A person is considered solely dependent on the protected area for subsistence, when the utilization of resources from the protected area is indispensable for the survival of the household, and the provision of needs, such as food, clothing, shelter and health.

Rule 23.3 A Certification of Recognition shall be issued to those who qualify as tenured migrants under this Order. The five (5) year continuous occupation is reckoned as follows:

1. For initial components, 5 August 1987, or five (5) years prior to the effectivity of the NIPAS Act.
2. In case the initial component is expanded for the occupation of the expansion area, five (5) years prior to the effectivity date of the recent Presidential Proclamation.
3. For additional protected areas included into the System, five (5) years prior to the effectivity of the Presidential Proclamation. In case the protected area is directly legislated, five (5) years prior to the effectivity of the Congressional legislation.
4. In case the additional area is expanded for the occupation of the expansion area, (5) years prior to the effectivity of the recent Presidential Proclamation or Congressional legislation.

Rule 23.4 Physical structures indicating prolonged occupancy or a Certification under oath from the Barangay Chairperson, or any two (2) respected members of the nearest community, attesting to the occupancy, and any two (2) or more of the following shall be considered as proof of occupancy:

1. Planted trees;
2. Inventory report of forest occupants of concerned government agencies, if available; and
3. Other relevant documents to prove occupancy.

Rule 23.5 In case of protected areas that share common areas with ancestral territories covered by CADT/CALT, the DENR, upon the recommendation of the PAMB and with the FPIC of the affected ICCs/IPs, shall enter into a Protected Area Community-Based Resource Management Agreement (PACBRMA) with the tenured migrant communities of the protected areas.

The DENR shall organize individual tenured migrants into communities. Within one (1) year from the issuance of the PACBRMA, tenure holders shall be required to prepare a Community-based Resource Management Plan (CBRMP), on the basis of the following processes: community mapping, plan preparation, map integration, final validation, PAMB endorsement, and affirmation by the DENR Regional Executive Director. Failure to implement the CBRMP shall be basis for the cancellation of the PACBRMA.

In the event of cancellation of the PACBRMA for cause, or by voluntary surrender of rights, the PAMB shall take immediate steps to rehabilitate the area, without prejudice to recourse to legal remedies.

For cancellation of the PACBRMA for reasons of public interest as determined by the Secretary, the affected tenured migrants shall be accorded just compensation, based on the fair market value of the improvements they introduced in the areas, and granted a substitute site for resettlement in the appropriate zone within the protected area.

Rule 23.6 The rights of tenured migrants may be transferred only to the spouse or one of their direct descendants listed at the time of the survey.

Rule 23.7 In the event of termination of a tenurial instrument, the PASu shall take immediate steps to rehabilitate the area.

Rule 23.8 Should areas occupied by tenured migrants be designated as zones in which no occupation or other activities are allowed, pursuant to the attainment of sustainable development, the provision for the transfer of tenured migrants to Multiple Use Zones or buffer zones through just and humane means. Any resettlement within the protected area shall be in accordance with the PAMP, and the zoning regulations specified in the CLUP of the affected LGUs.

Provided that, protected area occupants who are not qualified as tenured migrants shall be resettled outside the protected area. The resettlement of non-tenured migrants shall be undertaken by the PAMB, led by the DENR and the LGUs concerned, with the assistance of the local offices of HLURB, National Housing Authority (NHA), the DSWD, the PNP, and if applicable, the NCIP and other concerned government agencies.

Rule 23.9 The recognition, transfer, and termination of tenurial rights, and the resettlement of tenured migrants, and other protected area occupants, shall be subject to the guidelines of the DENR.

Section 24. Existing Facilities Within the Protected Area. – *Within sixty (60) days from the effectivity of this Act, an inventory of all existing facilities such as roads, buildings and structures, water systems, transmission lines, communication facilities, heavy equipment, and irrigation facilities, among others, within the protected area shall be conducted.*

The DENR Regional Director shall submit the inventory of facilities with corresponding descriptions and an assessment report containing the appropriate recommendations to the DENR Secretary through the BMB.

The PAMB, with the assistance of the DENR, may impose conditions for the continuous operation of a facility found to be detrimental to the protected area until its eventual relocation. If the conditions are violated, the owner of the facility shall be made liable pursuant to Sec. 21 (d) hereof.

Existing facilities allowed to remain within the protected area shall be charged a reasonable fee by the PAMB based on existing guidelines. Structures found within the forty (40)-meter easement shall be demolished unless proven necessary to protect the shoreline and mitigate habitat destruction. The PAMB shall levy a reasonable fee for the use of such easement for their continued operations. Wharves shall be kept accessible to the public. (n)

Rule 24.1 Within sixty (60) calendar days from the effectivity of this Order, the DENR Regional Executive Director through the BMB, shall submit to the Secretary a report that contains, among others, an inventory and assessment of facilities in the protected area, with corresponding descriptions, geotagged photos, and recommendations. The report shall be in the form prescribed by the BMB.

The DENR Regional Office concerned shall maintain a database, which shall be updated at least every five (5) years.

Rule 24.2 In the interest of protection and conservation, unauthorized facilities within the Strict Protection Zones shall be subject to closure and demolition by Court Order, without prejudice to the issuance by the concerned LGU of a demolition order, pursuant to duly enacted Ordinances.

Rule 24.3 In cases where facilities are found to be actually detrimental, or taking into account the precautionary principle, where the continued existence of facilities, and their future plans and operations will be detrimental to the protected area, the PASu shall issue a written order, requiring the owner of said facilities to show cause, within five (5) working days from receipt of the order, why the fines and penalties under Section 21 herein should not be imposed.

The owner of the existing facility shall be imposed a fine of Fifty thousand pesos (P50,000.00) daily if the existence of the same and its future operation will be detrimental to the protected area.

The PASu shall, within fifteen (15) calendar days from receipt of the owner's reply, or failure of the owner to reply, submit his or her recommendations with supporting photos and documents to the DENR Regional Executive Director, serving as PAMB Chairperson, who shall issue the appropriate written order within fifteen (15) calendar days from receipt of the PASu's recommendations. The owner may appeal the Order of the DENR Regional Executive Director to the Office of the Secretary within 15 calendar days from receipt by paying the corresponding appeal fee. However, the said Order shall be immediately executory pending appeal.

Violations continuously committed by the owner for thirty (30) calendar days, and the accumulation of a total fine of Five hundred thousand pesos (P500,000), shall cause the cessation of operation, forfeiture, or the demolition of the facility by the PAMB through the PASu, at the cost of the owner.

In addition to the penalties imposed under Section 21 (d) and (e) hereof, areas occupied by facilities found to be detrimental, shall be rehabilitated, at the cost of the owner or operator, whether or not an approved rehabilitation plan is in place. In all cases, the PAMB shall oversee the rehabilitation measures under this Rule.

Rule 24.4 Structures found within the forty (40)-meter easement, measured from the high water mark of any natural body of water, shall be demolished, unless proven necessary protect the shoreline, and mitigate habitat destruction. For these purposes, the existence of structures in easements shall be governed by guidelines issued by the DENR.

Section 25. Special Uses Within Protected Areas. – *Consistent with Section 2 hereof, special uses may be allowed within protected areas except in strict protection zones and strict nature reserves. The PAMB may recommend the issuance of tenurial instrument subject to compliance to ECC and payment of corresponding user fee equivalent to five percent (5%) of the zonal value of commercial land within the nearest barangay or municipality where the project is located multiplied by the area of development plus one percent (1%) value of improvement as premium: Provided, That the activity shall not be detrimental to ecosystem functions and biodiversity, and cultural practices and traditions.*

A sufficient bond shall be remitted by the proponent to the DENR to be released to the depository bank in the event of damage by or closure of the establishment after satisfactory rehabilitation according to the zones and objectives of the management plan as attested to by the PAMB. (n)

Rule 25.1 A Special Use Agreement in Protected Areas (SAPA) may be issued to a proponent for the use and development of land, water and ecosystem resources or facilities within the Multiple Use Zones of the protected area, subject to compliance with the requirements of the PAMP, the EIS System, and the payment of annual Development Fees.

As may be applicable, public-private partnership projects in protected areas shall be subject to SAPA, without prejudice to the application of Republic Act. No. 6957, as amended, or "An Act Authorizing the Financing, Construction, Operation, and Maintenance of Infrastructure Projects by the Private Sector, and for other Purposes", as amended, other relevant laws, rules and regulations, and guidelines to be issued by the DENR.

Rule 25.2 A SAPA shall be issued only in protected areas where management zones have been identified and delineated. *Provided*, that no SAPA shall be issued in ancestral domain without the FPIC of the affected ICCs/IPs, in compliance with the IPRA, and other applicable laws, rules, and regulations.

Rule 25.3 The proponent shall comply with the standards and conditions as prescribed herein and by other existing rules and regulations. The DENR, upon the recommendation of the PAMB, may impose such additional terms and conditions, as it finds relevant to the specific use and development involved, taking into consideration the environmental impact particularly on the biodiversity therein, of such use and development.

For non-profit projects of government agencies and/or instrumentalities, only a one-time Development Fee shall be paid, payment scheme of which shall be agreed upon with by the agencies concerned.

Rule 25.4 Existing facilities and structures which are found to be consistent with the management objectives of the protected area based on the assessment under Section 24 shall require the execution of a special use agreement in protected areas. *Provided*, that MOAs issued by the DENR within protected areas prior to the effectivity of R.A. 7586 as amended by R.A. 11038 shall be converted into SAPA upon satisfactory compliance with the requirements.

Provided that, in case of tenured agreements such as Foreshore Lease Agreement, Forest Land Use Agreement, Forest Land Use Agreement for Tourism, and miscellaneous lease agreements, the same shall only be converted to SAPA upon expiration of the term and satisfactory compliance with the requirements.

The proponent shall present its proof of payment of the initial Development Fee to the DENR, through the PASu, who shall release the SAPA to the proponent, upon confirmation of payment.

Rule 25.5 The annual Development Fee for areas covered by SAPA shall be based on the fixed percentage of the zonal value of the land and improvements which is equivalent to five percent (5%) of the most recent zonal value of the commercial zone in the nearest barangay or municipality where the project area is located, multiplied by the size of the area for development and one percent (1%) of the value of improvement, as premium to the protected area. The annual SAPA fee based on this computation shall be paid upon issuance of the SAPA.

For water supply and renewable energy projects of national significance, the proponent shall be subjected to a one-time payment of the Development fee as computed above and an annual fee equivalent to PhP7,200.00 per hectare, or a fraction thereof, and to be increased cumulatively by ten percent (10%) every year.

The highest and most recent zonal values prescribed by the BIR shall be used as basis for the computation of the SAPA Development Fee.

Rule 25.6 The Development Fee shall accrue to the IPAF in accordance with Section 16 and Rule 16.1 hereof.

Rule 25.7 Failure to pay the annual Development Fee shall result to the following:

1. Failure to pay on or before the due date shall be subject to monthly surcharge of 8.33% of the annual Development Fee.
2. Failure to pay for at least one (1) year shall be subject to surcharges of 100% of the annual Development Fee for every year of non-payment, provided that, a fraction of a year beyond one (1) year shall be counted as a full year. Such non-payment shall also cause the suspension of the SAPA, and the SAPA holder's receipt of revenue-sharing allocation proceeds, if applicable.
3. Failure to pay the annual Development Fee for two (2) consecutive years shall be a ground for cancellation of the SAPA. Upon notice and at the expiration of a thirty (30)-day grace period within which to settle unpaid Development Fees, the PASu shall cause the re-opening of the subject area to new applications for special use projects.

Rule 25.8 The BMB shall review the rates of Development Fees every five (5) years from the issuance of the SAPA.

Rule 25.9 The project proponent shall pay an administrative fee of Five thousand pesos (PhP 5,000.00), apart from the Development Fee, for every SAPA application filed as prescribed by existing DENR guidelines. The administrative fee shall cover the cost of examining, assessing, and processing the requirements submitted by the proponent, relative to the application for a special use agreement in a specific protected area. This fee shall be collected by the DENR Field Office concerned and shall accrue to the IPAF of the protected area.

Rule 25.10 A SAPA shall carry a maximum initial term of twenty-five (25) years, and may be renewed for an additional period not exceeding twenty-five (25) years upon endorsement of the PAMB and the approval of the DENR after the review and evaluation of the status, progress, and operations of the project. Renewal may carry such other conditions as may be necessary to ensure the proponent's consistent and continued compliance with the NIPAS Act, as amended, this Order, and all applicable laws, rules, regulations, and guidelines.

Rule 25.11 All SAPAs shall undergo a periodic review and evaluation every five (5) years by the PAMB with the assistance of the PAMO and the Field Offices for monitoring purposes of the proponent's compliance with the provisions of the SAPA. Amendments to the SAPA may be undertaken as a result of the review subject to the agreements of the PAMB, the DENR and the proponent.

Rule 25.12 The proponent shall submit a rehabilitation plan for the areas covered and affected by the SAPA.

For existing SAPA issued before the effectivity of the ENIPAS Act, the PAMB, through the PASu, shall notify in writing, and require all SAPA holders to prepare and submit a rehabilitation plan within six (6) months from receipt of notice. The PAMB, with technical assistance from the Regional Office, shall determine the sufficiency of the rehabilitation plan.

The rehabilitation plan shall ensure the enhancement of the ecosystem, taking into account the principles of biodiversity, and the objectives of the PAMP.

Failure to submit a rehabilitation plan within the prescribed period shall result in the suspension or non-renewal of the SAPA. The suspension shall be lifted upon the submission of the rehabilitation plan, and other requirements as may be prescribed by the PAMB.

The DENR, through the BMB, shall issue guidelines on the form and substance of the rehabilitation plan.

Rule 25.13 The proponent shall post a rehabilitation/performance bond in a form of surety bond or cash in an amount equivalent to twenty five percent (25%) of the rehabilitation cost as reflected in the development plan. The bond shall be posted within thirty (30) working days from the commencement of the project.

The bond shall be released to the proponent only after the attestation by the PAMB of the satisfactory rehabilitation of affected areas, in accordance with the zones and objectives of the PAMP, and if applicable, the ADSDPP or the CCP of the affected ICCs/IPs

The sufficiency of the bond shall be determined by the PAMO with the assistance of the BMB, and approved by the PAMB, taking into account the cost of rehabilitation, resource valuation and ecosystem services of the protected areas. The DENR, through the BMB, shall formulate guidelines for determining the sufficiency of bonds.

The proponent shall post a bond or deposit cash in a government depository bank of the Office of the DENR. The bond shall be used solely for remediation, compensation, and rehabilitation. It may be released only upon the attestation by the PAMB to the satisfactory rehabilitation of the site, in compliance with the protected area's established management zones, the rehabilitation plan, the objectives of the PAMP, and if applicable, the ADSDPP or the CCP of the affected ICCs/IPs.

Every five (5) years, the PAMB, through the PASu, shall review the sufficiency of the rehabilitation plan and bond, and as necessary, require the update thereof.

The renewal of SAPA shall require not only the submission of a rehabilitation plan, but also the remittance of a sufficient bond, to ensure availability of funds for the remediation and compensation of damages, and the progressive and sustainable rehabilitation of the affected areas in accordance with the approved rehabilitation plan.

Rule 25.14 All assignment or transfer of rights and obligations over the area, whether in whole or in part, under a SAPA shall be made upon compliance with the existing rules and regulations and approval of the DENR. An assignment or transfer shall be treated as a new application and shall require examination, assessment, and processing of requirements, the payment of the administrative fee, and such other related fees duly imposed by the DENR, unless the transferee confirms and undertakes all the obligations of the transferor under the SAPA.

Rule 25.15 Environmental programs and/or projects implemented, and services rendered by the proponent, if any, shall be monitored by the PAMB, through PASu.

For this purpose, an annual report on the accomplishments of such programs or projects shall be submitted by the proponent to the PAMB, and shall be used as reference in monitoring the contribution of the project to the conservation of biological diversity and sustainability of ecosystem services of the particular protected area.

The PAMB may also conduct its own compliance monitoring and submit recommendations to the DENR based on the result of the report. Upon finding of any violation of the terms and conditions of the SAPA, or the proponent's failure to comply with applicable laws, rules, regulations, and guidelines, the Regional Executive Director, upon the recommendation of the PAMB, may issue a notice of violation, requiring the proponent to show cause why the SAPA should not be revoked or cancelled. The DENR shall afford the proponent an opportunity to reply within fifteen (15) working days within which to comply or cease the act constituting the violation. Any disagreement arising from the foregoing shall, at first instance, be resolved through the PAMB's conflict resolution mechanism.

Rule 25.16 The SAPA may be revoked or cancelled by the DENR based on any of the following grounds:

- a. Misrepresentation, fraud or deliberate omission of fact/s, made in connection with the application for and in the SAPA which may materially alter or affect the facts, terms, and conditions therein set forth;
- b. Failure to comply with applicable laws, rules, regulations and guidelines;
- c. Violation of the terms and conditions of the SAPA, the ECC, the PAMB Clearance, or other permits issued by the government;
- d. Failure, without justifiable cause, to exercise the privilege granted under the SAPA within one (1) year from its issuance;
- e. Non-payment of the annual Development Fee for two (2) consecutive years, without justifiable cause;
- f. Bankruptcy or closure of operations; and
- g. When national interest requires the summary cancellation, as determined by the DENR.

Rule 25.17 The SAPA may be summarily suspended by the DENR for any of the following grounds:

- a. Failure to pay the annual Development Fee within six (6) months from the date it is due until such fees and applicable surcharges are paid in full; or
- b. In case of imminent danger to life or property, until such danger is removed, or appropriate measures are taken by the proponent.

Rule 25.18 In the event that SAPA is not renewed, the area shall be rehabilitated or restored by the SAPA holder, in accordance with the approved rehabilitation plan within the period provided by their respective agreements, pertinent laws, or as directed by the PAMB.

Rule 25.19 After the expiration, non-renewal, or cancellation of the SAPA, all improvements and structures installed in consideration of the SAPA shall, at the option of the DENR, be forfeited in favor of the DENR or require the proponent to remove the same at their expense. In both cases, the proponent shall undertake rehabilitation measures in accordance with the approved rehabilitation plan.

Rule 25.20 The DENR and DA-BFAR shall issue guidelines to define large scale agriculture and aquaculture projects.

Rule 25.21 The DENR shall review and when necessary, update existing guidelines relating to special uses in protected areas, in accordance with the NIPAS Act, as amended, and this Order.

Section 26. Local Government Units (LGUs). - *The LGUs within the protected area shall participate in its management through representation in the PAMB as provided for in this Act. Said LGUs may appropriate portions of their share from the annual internal revenue allotment and other income for use of the protected area: Provided, That all funds directly coming from the LGUs shall be exempted from the twenty-five percent (25%) remittance requirement for the IPAF under Section 16 hereof.*

The LGUs shall continue to impose and collect other fees not enumerated under Section 16 hereof which they have traditionally collected, such as business permits and rentals of LGU

facilities: Provided, That the LGUs shall not impose property tax on properties owned by the government nor issue any tax declaration for areas covered by the protected area. Furthermore, LGUs may charge add-ons to fees imposed by the PAMB: Provided, That such add-ons shall be based on the contribution of the LGUs in the maintenance and protection of the protected area.

LGUs with territory inside protected areas shall align their CLUPs, local development plans, disaster risk reduction management plans and other required plans according to the objectives specified herein and in the protected area management plans. Within six (6) months from the approval of the protected area management plan, the PAMB and the PASU shall collaborate with the LGU concerned in the formulation of the CLUP and other local plans and in the enforcement thereof. The concerned LGU official shall be held administratively and criminally liable for failure to enforce and/or implement the provisions of this Act. (n)

Rule 26.1 Any LGU with territory inside a protected area may:

- a. Participate in the management of the protected area through representation in the PAMB;
- b. Remit, at its option, a portion of its IRA, or other income, as its contribution to the PA-RIA; and
- c. Impose and collect fees for business permits, regulatory fees, real property taxes on private property, and rentals for LGU facilities they traditionally collect, except such fees enumerated under Section 16 of the NIPAS Act, as amended.

Rule 26.2 The fees for the use of facilities and resources installed or constructed by the LGU within the protected area as allowed in its management plan shall be imposed by the LGU in consideration of its investment and/or its significant contribution to the protected area.

For purposes of this Rule, the significant contributions by an LGU may be in the form of facilities, such as but not limited to, pavilions, multi-purpose halls, picnic sheds, cottages, trails, water and power systems, which have been constructed or installed by the LGU in the protected area.

A mutually acceptable revenue sharing allocation between the PAMB and LGU may be set out in a Memorandum of Agreement (MOA), subject to the following conditions:

1. The allocation shall be fixed in the amount that may allow the LGU to recover its investment, on terms agreed by both parties, and based on the actual cost of the construction of the facility/ies, including actual interest, in case the investment is borrowed from a lending institution, as certified by the Accountant of the LGU;
2. The allocation shall take into account the costs of management, protection, and maintenance of the facilities, which, in the absence of any agreement to the contrary, shall be for the account of the PAMB;
3. A Special Collection Officer for the protected area designated by the DENR shall collect entrance fee and all other fees except for the use of LGU installed facilities for the duration of the MOA;
4. Upon the expiration of the term of the MOA, all revenues shall accrue only to the IPAF for the exclusive use of the protected area; and

5. Any LGU may voluntarily waive its right to recover its investments and donate the facilities, without prejudice to certain privileges that it may enjoy out of its investment. Such waiver and/or donation shall be in writing.

Rule 26.3 The LGU shall neither impose, collect property taxes on government-owned properties, nor issue declarations of real property tax for lands in protected areas.

Rule 26.4 Within six (6) months from the approval of the PAMP, the PAMB shall collaborate with the LGUs for the formulation or update of their CLUP/CLWUP, local development plans, disaster risk reduction management plans and other required plans of the LGU within the protected area, and ensure that such plans are aligned with the PAMP.

Rule 26.5 Any LGU official who fails to enforce and/or implement the provisions of the NIPAS Act, as amended, shall be held administratively and criminally liable.

Section 27. Reporting Responsibility. – *The PASU, through the PAMB, shall submit an annual accomplishment report of the protected area to the Secretary of the DENR through the BMB. A report on the conditions and benefits of the biological resources and ecosystem services of the protected area shall also be submitted by the PASU, through channels, to the Secretary of the DENR every five (5) years. Consequently, the BMB shall likewise prepare a National State of Protected Areas (NSPAs) report every five (5) years and shall submit the same to the President, the Senate and the House of Representatives. (n)*

Rule 27.1 The following reports shall be prepared and submitted:

- a. Upon approval of the PAMB, the DENR Regional Executive Director as Chairperson of the Management Board shall submit an annual report to the Secretary through the BMB every fifteenth (15th) of December of each year;
- b. Every five (5) years from the effectivity of this Order, the PASu shall submit a report through channels, on the conditions and benefits of the biological resources and ecosystem services of the protected area to the Secretary; and
- c. Every five (5) years, the BMB shall, on the basis of the foregoing report, submit an NSPA report to the President, the Senate and the House of Representatives, through the Secretary.

Section 28. Appropriations. – *The Secretary of the DENR shall immediately include in the DENR's program the implementation of this Act, the funding of which shall be included in the annual General Appropriations Act. (n)*

Section 29. Construction and Interpretation. – *The provisions of this Act shall be construed liberally in favor of the protection and rehabilitation of the protected area and the conservation and restoration of its biological diversity, taking into account the needs and interests of qualified tenured migrants, vested rights, IPs and local communities, and the benefits from ecosystem services and functions of protected areas, for present and future generations: Provided, That nothing in this Act shall be construed as a diminution of local autonomy or in derogation of ancestral domain rights under the Indigenous People's Rights Act of 1997. (n)*

Section 30. Subsequent Site-Specific Legislation. – *Upon the generation of site-specific requirements for new legislation, the PAMB, through the DENR, shall endorse to Congress for its consideration and enactment site-specific proposals to appropriately respond to the distinct and particular needs and conservation requirements of the protected areas in each locality. Protected*

areas that may be later established or declared pursuant to this Act shall likewise undergo the same requirements of site-specific legislation. (n)

Section 31. Joint Congressional Oversight Committee. – To monitor and oversee the implementation of this Act, a Joint Congressional Oversight Committee is hereby created. It shall be composed of the Chairpersons of the Senate Committee on Environment and Natural Resources and the House Committee on Natural Resources as Chairperson and Co-chairperson, respectively, five (5) members each from the Senate and the House of Representatives as members: Provided, That two (2) of the five (5) members are nominated by the respective minority leaders of the Senate and the House of Representatives. (n)

Section 32. Implementing Rules and Regulations (IRR). – Within six (6) months from the effectivity of this Act, the DENR shall prepare the IRR of this Act. (n)

Section 33. Transitory Provision. – In order to enhance biological diversity and to develop sustainable livelihood opportunities for tenured migrants, the DENR shall henceforth cease to issue concessions, licenses, permits, clearances, compliance documents or other instruments that allow utilization of resources within the protected area until the management plan shall have been put into effect.

All existing land use and resource use permits issued for purposes which are authorized within the protected area shall be reviewed and shall not be renewed upon their expiration unless consistent with the management plan and approved by the PAMB. (n)

Section 34. Separability Clause. – If any provision of this Act is declared unconstitutional or invalid, other parts or provisions hereof not affected thereby shall continue to be in full force and effect. (22)

Rule 34. If any part or provision of this Order is declared invalid or unconstitutional, any part or provision not affected thereby shall remain in full force and effect.

Section 35. Repealing Clause. – All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly. (23)

Rule 35. DENR Administrative Order No. 25, Series of 1992 and DENR Administrative Order No. 26, Series of 2008 are hereby repealed, amended, or modified accordingly. All issuances inconsistent with this Order are hereby deemed repealed.

Section 36. Effectivity Clause. – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in two (2) newspapers of general circulation. (24)

Rule 36. This Order shall take effect fifteen (15) calendar days after its filing with the Office of the National Administrative Register and/or publication in newspaper of general circulation.

PUBLICATION: MALAYA

July 1, 2019

ACKNOWLEDGEMENT: U.P. LAW CENTER

July 2, 2019


ROY A. CIMATU
Secretary



ANNEX "I"

**COMMITTEE FOR THE PREPARATION OF
THE IRR OF RA 10752**

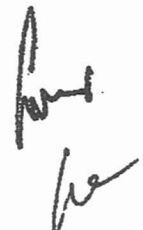
**IMPLEMENTING RULES AND REGULATIONS
OF REPUBLIC ACT NO. 10752,
AN ACT FACILITATING THE ACQUISITION OF RIGHT-OF-
WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT
INFRASTRUCTURE PROJECTS**

25 May 2016



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DPWH, RM, IRRS
DATE: 7/2/16
FILE NO. 097-01
Office of the Sec.

**IMPLEMENTING RULES AND REGULATIONS
OF REPUBLIC ACT NO. 10752,
AN ACT FACILITATING THE ACQUISITION OF RIGHT-OF-WAY, SITE OR
LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS**

Pursuant to the provisions of Section 13 of Republic Act (RA) No. 10752, the following Implementing Rules and Regulations (IRR) are hereby promulgated to carry out the provisions of the said Act.

Section 1. COVERAGE

This IRR shall cover the acquisition of real properties needed as right-of-way, site or location for national government projects undertaken by any department, bureau, office, commission, authority or agency of the national government, including any government-owned or controlled corporation or state college or university, authorized by law or its respective charter to undertake national government projects.

Section 2. DECLARATION OF POLICY

This IRR is governed by the fundamental policy declared in Section 9, Article III of the Constitution which states that private property shall not be taken for public use without just compensation, as reiterated in Section 2 of the Act. Towards this end, the State shall ensure that all persons whose real property is affected by national government infrastructure projects are promptly paid just compensation for the expeditious acquisition of the required right-of-way (ROW).

In accordance with Section 3 of the Act, subject to the provisions of RA No. 7160, otherwise known as the "Local Government Code of 1991," Local Government Units (LGUs) may also adopt the provisions of this IRR for the acquisition of ROW for local government infrastructure projects.

Section 3. DEFINITION OF TERMS

For purposes of this IRR, the following terms shall be understood as defined:

- a. **Act** – means RA No. 10752, otherwise known as "An Act Facilitating the Acquisition of Right-Of-Way, Site or Location for National Government Infrastructure Projects," or "The Right-of-Way Act."
- b. **Implementing Agency or IA**– refers to any department, bureau, office, commission, authority or agency of the national government, including any government-owned or -controlled corporation or state college or university, authorized by law or its respective charter to undertake national government projects.
- c. **IRR** – refers to these Implementing Rules and Regulations for the Act.
- d. **National Government Projects** – as defined in Section 3 of the Act, refers to all national government infrastructure projects and their public service facilities, engineering works and service contracts, including projects undertaken by government-owned and -controlled corporations, all projects covered by RA No. 6957, as amended by RA No. 7718, otherwise known as the "Build-Operate-and-Transfer Law," and other related laws including those

involving private sector participation and all necessary activities or projects that are intended for public use or purpose, such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding. These projects shall include, but not be limited to the following:

- (1) Highways, including expressways, roads, bridges, interchanges, overpasses, tunnels, viaducts and related facilities;
- (2) Railways and mass transit facilities;
- (3) Port infrastructure, like piers, wharves, quays, storage handling and ferry services;
- (4) Airports and air navigation facilities;
- (5) Power generation, transmission and distribution facilities;
- (6) Radio/television broadcasting and telecommunications infrastructure;
- (7) Information technology infrastructure;
- (8) Irrigation, flood control and drainage systems;
- (9) Water and debris retention structures and dams;
- (10) Water supply, sanitation, sewerage and waste management facilities;
- (11) Land reclamation, dredging and development;
- (12) Industrial and tourism estates;
- (13) Government school buildings, hospitals, clinics and other buildings and housing projects;
- (14) Public markets and slaughterhouses; and
- (15) Other similar or related infrastructure works and services of the national government.

e. **Replacement Cost** – refers to the cost necessary to replace the affected structure or improvement with a similar asset based on current market prices.

f. **Right-of-Way or ROW** – means a part or the entirety of a property, site or location, with defined physical boundaries, used or required by a national government project.

Section 4. MODES OF ACQUIRING REAL PROPERTY

As provided in Section 4 of the Act, the following are the regular modes of ROW acquisition:

- a. Donation

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- b. Negotiated Sale
- c. Expropriation

The other modes of ROW acquisition are the following:

- a. Acquisition of Properties under Commonwealth Act (CA) No. 141
- b. Exchange or Barter
- c. Easement of Right-of-Way
- d. Acquisition of Subsurface Right-of-Way
- e. Other modes authorized by law

Section 5. DONATION

The IA may explore the mode of donation of the needed portion or whole of the affected property, i.e., lots with or without improvements, by the property owner concerned, which may be a private individual/corporation or a government agency/corporation.

If the property owner agrees to donate the property to be acquired by the IA as ROW, a deed of donation shall immediately be prepared. The deed of donation shall be simple and unconditional, and contain clauses to the effect that the donation is made not to defraud the donor's creditors, and that the donor has, if necessary, reserved for himself enough property for his family's subsistence, sustenance and support in case the donor is a private individual.

The donation must be accepted by the IA, which shall be indicated in the deed.

The IA shall pay the documentary stamp tax, transfer tax and registration fees, while the donor shall pay any unpaid real property tax.

Section 6. NEGOTIATED SALE

6.1 Compensation Price

As provided in Section 5 of the Act, the IA may acquire through negotiated sale the required ROW project, by offering to the property owner as compensation price, the sum of the:

- a. current market value of the land;
- b. replacement cost of structures and improvements therein; and
- c. current market value of crops and trees therein.

6.2 Use of Government Financial Institutions and Independent Property Appraisers

To determine the appropriate price offer for the acquisition of ROW through negotiated sale, the IA may engage the services of either of the following taking into consideration efficiency

economy and the need of the IA to facilitate the implementation of national government infrastructure projects:

- a. A government financial institution (GFI) with adequate experience in property appraisal to be selected by the IA through a competitive process; or
- b. An independent property appraiser (IPA) accredited by:
 - (1) the Bangko Sentral ng Pilipinas (BSP) or
 - (2) a professional association of appraisers recognized by BSP.

The IPA shall be procured by the IA under the provisions of RA No. 9184, otherwise known as the "Government Procurement Reform Act," and its IRR pertaining to consulting services.

For this purpose, the BSP and the professional association of appraisers shall provide their lists of IPAs upon request of the IA. The BSP and the professional association of appraisers shall not be accountable for any acts of the IPAs stated in the list.

Whenever applicable, priority shall be given to the engagement of the services of a GFI.

The IA may use the appraisal reports of the GFI or IPA as one of the bases of the IA's price offer for negotiated sale, consistent with the standards for assessment under Section 12 of this IRR. For this purpose, the IA is encouraged to develop its in-house personnel capable of validating appraisal reports.

6.3 Terms of Reference for GFIs and IPAs

As basis for the engagement of the services of a GFI or IPA, the IA shall prepare the Terms of Reference (TOR) for the services. The TOR shall contain, among other things, the following basic content:

- a. Background of the project for which the ROW is required, and the objectives of the property appraisal services to be provided by the GFI or IPA;
- b. Desired outputs to be delivered by the GFI or IPA, their description and degree of detail - e.g., estimated market value of the land under consideration, the Replacement Cost of structures and improvements therein, and/or the market value of crops and trees therein,;
- c. Standards and specifications to be observed by the GFI or IPA in providing the services and producing the desired outputs, which shall include those listed under Section 12 of this IRR, as may be applicable;
- d. Duration of the services and timetable for the delivery of outputs by the GFI or IPA; and
- e. Qualifications of the GFI or IPA to be engaged.

In preparing the TOR, the IA may consult the GFI in case of services to be provided by the latter.

6.4 Engagement of GFIs

If the IA decides to engage the services of a GFI, the IA shall enter into a Memorandum of Agreement (MOA) with the GFI in accordance with the following conditions:

- a. The GFI is capable and has adequate experience to undertake the property appraisal services required by the IA;
- b. The GFI must actually undertake the appraisal by administration using its own in-house manpower and resources; and
- c. The IA shall pay the GFI an appropriate fee for its appraisal services in accordance with the terms of the MOA.

6.5 Procurement of IPAs

If the IA decides to engage the services of an IPA to determine the appropriate price of a property to be offered to the property owner through negotiated sale under Section 6 of this IRR, the IA shall procure the IPA in accordance with the rules and procedures for the procurement of consulting services under RA No. 9184 and its IRR,

An IPA must meet the following criteria to qualify for the consulting services:

- a. The IPA must be in the list of the BSP or of a professional association of appraisers recognized by the BSP, provided that IPAs not yet included in the list shall not be barred from joining the procurement for such services, and provided further that prior to award of the contract, such IPAs shall be required to submit a proof that they are already included in the list; and
- b. The IPA must comply with the experience and other eligibility requirements provided in RA No. 9184 and its IRR, including the registration and license required for a Real Estate Appraiser.

6.6 Replacement Cost

With regard to Section 6.1b of this IRR, the Replacement Cost of a structure or improvement affected by the ROW shall be based on the current market prices of materials, equipment, labor, contractors profit and overhead, and all other attendant costs associated with the acquisition and installation of a similar asset in place of the affected asset.

If the affected structure has been damaged, then the Replacement Cost should be based on the pre-damaged condition of that structure. The Replacement Cost of the structure may vary from the market value of the existing structure since the structure that would actually replace it may have a different cost at current market prices. The replacement structure has to perform the same functions and meet the performance specifications as the original structure.

The IA may engage the services of a GFI or an IPA to determine the appropriate price offer, consistent with the guidelines set forth in Section 6.2 of this IRR. The IA may also request the assistance of the DPWH to determine such Replacement Cost.

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If the IA shall directly determine the Replacement Cost of structure or improvement, the following guidelines derived from DPWH standards for estimating civil works costs shall be used:

- a. The IA shall prepare the basic plan and performance-type specifications for the structure to be replaced, generally considering its original condition. These shall indicate, among other things, the following:
 - (1) Main function or purpose of the structure – e.g., residential;
 - (2) Basic configuration and dimensions of the structure – e.g., two-storey house with a total floor area of 150 square meters; and
 - (3) Major structural features – e.g., concrete and wooden structure, with galvanized iron (GI) roof.
- b. Based on the basic plan and specifications prepared in Section 6.6a of this IRR, the IA shall prepare the Replacement Cost of the structure. The Replacement Cost is the price that the IA will pay the owner to replace the existing structure or asset with a similar asset at current market prices.
- c. The Replacement Cost shall be composed of the Estimated Direct Cost and the Estimated Indirect Cost of the replacement structure. These components shall be calculated in accordance with the succeeding items.
- d. The Estimated Direct Cost (EDC) shall consist of the following:
 - (1) Current market cost of materials to be used in doing the work item called for, which shall include the following:
 - (a) Cost at source including processing, crushing, stockpiling, loading, royalties, local taxes, construction and/or maintenance of haul roads, etc.;
 - (b) Expenses for hauling to project site;
 - (c) Handling expenses;
 - (d) Storage expenses; and
 - (e) Allowance for waste and/or losses, at five percent (5%) of materials requirement.
 - (2) Current market cost of labor to be used for:
 - (a) Salaries and wages, within the limits authorized by the Department of Labor and Employment; and
 - (b) Fringe benefits, such as vacation and sick leaves, benefits under the Workmen's Compensation Act, Social Security System (SSS) contributions, allowances, 13th month pay, bonuses, etc.

(3) Equipment Expenses:

(a) Rental of equipment – usually based on the current Associated Construction Equipment Lessors, Inc. (ACEL) rental rates. For simple computation, the operated rental rates are preferred to the bare rental rates as the former includes operator's wages, fringe benefits, fuel, oil, lubricants and equipment maintenance.

(b) Mobilization and demobilization – at one percent (1%) of the EDC of the civil works items.

e. The Estimated Indirect Cost shall consist of the following items based on accepted construction industry practices:

(1) Overhead Expenses not exceeding eight percent (8%) of the EDC, which include the following, as applicable:

(a) Engineering and Administrative Supervision, including expenses for office equipment and supplies, power and water consumption, communication and maintenance;

(b) Transportation allowances;

(c) Premium on Contractor's All Risk Insurance, where necessary; and

(d) Financing Cost, e.g., premium on bonds.

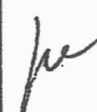
(2) Contingencies and Miscellaneous not exceeding four percent (4.0%) of the EDC. These include expenses for unforeseen events and other activities.

(3) Contractor's Profit Margin not exceeding eight percent (8%) of the EDC for projects with an EDC of more than PhP 5 million and ten percent (10%) for projects with an EDC of PhP 5 million and below.

(4) Value Added Tax (VAT) Component in accordance with law, five percent (5%) in the case of a property owned by a government agency, or twelve percent (12%) in the case of a property owned by a private party, of the sum of the EDC, Overhead, Contingencies, Miscellaneous, and Profit.

In all cases, the Indirect Costs shall not exceed the following limits:

Estimated Direct Cost (EDC)	Overhead, Contingencies, and Miscellaneous (OCM) as % of EDC	Profit, as % of EDC
Up to PhP5M	12	10
Above PhP5M to PhP50M	9	8
Above PhP50M to PhP150M	7	8
Above PhP150M	6	8



If engaged by an IA to determine the Replacement Cost of structures and improvements, the GFI/IPA may use applicable provisions of the valuation standards adopted by the Professional Regulatory Board of Real Estate Service under the Professional Regulation Commission (PRC).

6.7 Acceptance or Rejection of Price Offer

As provided in Section 5 of the Act, the property owner is given thirty (30) days from receipt of the written offer by the IA to decide whether or not to accept the offer as payment for his property. Upon refusal or failure of the property owner to accept such offer or if he fails and/or refuses to submit the documents necessary for payments, the IA shall immediately initiate the expropriation proceedings as provided in Section 7 of this IRR.

6.8 Owners of Structures and Improvements With No Rights to the Land

The provisions of Section 6.6 of this IRR pertaining to the replacement cost of structures and improvements shall also apply to all owners of structures and improvements who do not have legally recognized rights to the land, and who meet all of the following criteria:

- a. Must be a Filipino citizen;
- b. Must not own any real property or any other housing facility, whether in an urban or rural area;
- c. Must not be a professional squatter or a member of a squatting syndicate, as defined in RA No. 7279, otherwise known as the "Urban Development and Housing Act of 1992," and
- d. Must not occupy an existing government ROW.

As defined in RA No. 7279, "professional squatters" refers to:

- a. individuals or groups who occupy lands without the express consent of the landowner and who have sufficient income for legitimate housing, as identified by the proper Local Inter-Agency Committee (LIAC) with the assistance of the Urban Poor Affairs Office (UPAO);
or
- b. persons who have previously been awarded homelots or housing units by the Government but who sold, leased or transferred the same to settle illegally on a different homelot or housing unit but in the same place or in another urban area, and non-bona fide occupants and intruders of lands reserved for socialized housing.

"Squatting syndicate," as defined in RA No. 7279, refers to a group of persons engaged in the business of squatter housing for profit or gain. The term shall not apply to individuals or groups who simply rent land and housing from professional squatters or squatting syndicates.

To complement the four criteria mentioned in the first paragraph of this Section 6.8, the owner and occupant of the structure or improvement must show a proof of ownership of the structure/improvement, e.g., a certification from the Barangay concerned.

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Informal settler families classified as underprivileged and homeless citizens as defined in RA No. 7279 and not qualified under the four criteria above shall be entitled to relocation pursuant to RA No. 7279 in accordance with Section 14 of this IRR.

6.9 Taxes and Fees

As provided in Section 5(c) of the Act, the IA shall pay for account of the seller/owner, the Capital Gains Tax (CGT), as well as the Documentary Stamp Tax (DST), transfer tax and registration fees, while the owner shall pay any unpaid real property tax.

The IA shall pay the CGT to the Bureau of Internal Revenue (BIR) based on the actual consideration stated in the Deed of Sale, as expressed below:

$$AC = NAC + CGT$$

where:

AC = Actual Consideration indicated in the Deed of Sale to be appropriated and paid out by the IA for the negotiated sale,

NAC = Compensation Price as offered by the IA to the property owner in accordance with Section 6.1 of this IRR, net of CGT, and

CGT = Capital Gains Tax to be paid by the IA to the BIR, for the account of the owner.

Since $CGT = x\%$ of AC,

then $NAC = AC - CGT = 100\%AC - x\%AC = (100\% - x\%)AC$,

and, therefore, $AC = NAC / (100\% - x\%)$

Annex B shows an illustrative example in computing the AC, NAC and CGT for a hypothetical property affected by a ROW to be acquired through negotiated sale.

The above provision pertaining to CGT does not apply to the sale of property classified as ordinary assets. The latter is subject to the existing BIR rules and regulations.

In addition, the DST, transfer tax and registration fees for the negotiated sale shall be paid by the IA in accordance with pertinent laws and regulations.

Upon the request of the property owner, the IA shall remit to the LGU concerned the amount corresponding to any unpaid real property tax, subject to the deduction of this amount from the total negotiated price, provided that the said amount is not more than the negotiated price.

Section 6.10 Deed of Absolute Sale and Payments

As provided in Section 5(e) of the Act, the property owner and the IA shall execute a Deed of Absolute Sale after the property owner has submitted to the IA the Transfer Certificate of Title, Tax Declaration, Real Property Tax Certificate or Clearance (as issued by the Treasurer of the concerned LGU) and other documents necessary to transfer the title to the Republic of the

Philippines. The IA shall cause the annotation of the Deed of Absolute Sale on the Transfer Certificate of Title.

In case of sale of land with structures and other improvements, the Deed of Sale shall provide a stipulation allowing the IA or its authorized representatives to demolish and remove them. The Deed of Sale shall also include a stipulation on the right of the IA to immediately enter the property and implement the project.

In case the sale pertains to structures and improvements only, as provided in Section 5(b) of the Act, the property owner and the IA shall execute an Agreement to Demolish and Remove Improvement (ADRI), provided that the former has submitted to the latter the necessary documents to establish proof of ownership of said structures and improvements, as mentioned in Section 6.8 of this IRR. Similarly, the IA shall remit to the LGU concerned the amount corresponding to any unpaid tax on such structures and improvements, subject to the deduction of this amount from the total negotiated price, provided that it is not more than the negotiated price.


Upon the execution of a Deed of Sale, the IA shall pay the property owner:

- a. Fifty percent (50%) of the negotiated price of the affected land, exclusive of the payment of unpaid taxes remitted to the LGU concerned under Section 6.9 of this IRR; and
- b. Seventy percent (70%) of the negotiated price of the affected structures, improvements, crops and trees, exclusive of unpaid taxes remitted to the LGU concerned under Section 6.9 of this IRR.

Where the property owner owns both the land and structures/improvements, as provided in Section 5(g) of the Act, the IA shall, at the periods stated below, pay the property owner the remaining fifty percent (50%) of the negotiated price of the affected land, and thirty percent (30%) of the affected structures, improvements, crops and trees, exclusive of unpaid taxes remitted to the LGU concerned under Section 6.9 of this IRR, provided that the land is already completely cleared of structures, improvements, crops and trees, as certified by the IA:

- a. At the time of the transfer of title in the name of the Republic of the Philippines, in cases where the land is wholly affected; and
- b. At the time of the annotation of a deed of sale on the title, in cases where the land is partially affected.

Where the property owner owns only the land, as provided in Section 5(g) of the Act, the IA shall, at the periods stated below, pay the property owner the remaining fifty percent (50%) of the negotiated price of the affected land, exclusive of unpaid taxes remitted to the LGU concerned under Section 6.9 of this IRR:

- a. At the time of the transfer of title in the name of the Republic of the Philippines, in cases where the land is wholly affected; and
 - b. At the time of the annotation of a deed of sale on the title, in cases where the land is partially affected.
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Where the property owner owns only the structures/improvements, as provided in Section 5(g) of the Act, the IA shall, at the periods stated below, pay the property owner the remaining thirty percent (30%) of the affected structures, improvements, crops and trees, exclusive of unpaid taxes remitted to the LGU concerned under Section 6.9 of this IRR, immediately after the IA has certified that the land is already completely cleared of structures, improvements, crops and trees.

- a. At the time of the transfer of title in the name of the Republic of the Philippines, in cases where the land is wholly affected; and
- b. At the time of the annotation of a deed of sale on the title, in cases where the land is partially affected.

The IA shall ensure the faithful and prompt compliance with the above payment procedures and may revise or issue the necessary orders and directives to this effect.

The IA shall pay the CGT to the BIR within thirty (30) days after (a) the release of the initial payments specified above or (b) the notarization of the Deed of Sale, whichever is earlier. The IA shall also pay the DST within five (5) days after the close of the month when the Deed of Sale is notarized.

6.11 Outstanding Claims for ROW Payments

In accordance with Section 5 of the Act, the provisions of Section 6.1 of this IRR shall also apply to outstanding claims for right-of-way payments, except that the amount to be offered shall be the price at the time of taking of the property, including legal interest until fully paid, subject to the transitory provision in Section 19 of this IRR.

6.12 Special Cases

In case of untitled lands being acquired through negotiated sale, the IA shall compensate the owner using the procedures in Section 6 of the IRR, provided that the land owner shall present:

- a. a Tax Declaration showing his and his predecessors' open and continuous possession of the property for at least thirty (30) years;
- b. Certification from the Department of Environment and Natural Resources (DENR) that the land is alienable and disposable; and
- c. Other documents that may show proof of ownership.

In case of failure to establish ownership over the land, but where improvements are introduced thereon, the apparent property owner may be entitled to compensation for the said improvements subject to Section 6.8 of this IRR.

Section 7. EXPROPRIATION

Whenever it is necessary to acquire real property for the ROW, site or location for any national government infrastructure through expropriation, which includes, among others, the case in Section 6.7 of this IRR where, within thirty (30) days, the property owner refuses or fails to accept the price offer of the IA for negotiated sale or fails and/or refuses to submit the documents

necessary for payment, or when negotiation is not feasible, then the appropriate IA, through the Office of the Solicitor General (for national agencies), the Office of the Government Corporate Counsel (for government-owned and -controlled corporations), or their deputized government or private legal counsel, shall initiate the expropriation proceedings by filing a verified complaint before the proper court under the following guidelines:

- a. Upon the filing of the complaint or at any time thereafter, and after due notice to the defendant, the IA shall immediately deposit to the court in favor of the owner, the amount equivalent to the sum of:
 - (1) One hundred percent (100%) of the value of the land based on the current relevant zonal valuation of the BIR, issued not more than three (3) years prior to the filing of the expropriation complaint, subject to Section 7(c) of this IRR;
 - (2) The replacement cost at current market value of the improvements and/or structures as determined by:
 - (a) the IA;
 - (b) a GFI with adequate experience in property appraisal; and
 - (c) an IPA accredited by the BSP.
 - (3) The current market value of crops and trees located within the property as determined by the government financial institution or an independent property appraiser to be selected as indicated in Section 6 of this IRR.

Upon compliance with the above guidelines, the court shall immediately issue an order to take possession of the property to the IA which shall start the implementation of the project.

If within seven (7) working days after the deposit to the court of the amount equivalent to the sum under items (a)(1) to (a)(3) of Section 7 of this IRR, and the court has not issued to the IA a writ of possession for the affected property, the counsel of the IA shall immediately seek from the court the issuance of the writ of possession. The court shall immediately issue the writ of possession ex parte; no hearing shall be required.

The court shall release the said amount to the owner upon presentation of sufficient proofs of ownership.

- b. In case the owner of the property cannot be found, is unknown, or is deceased in cases where the estate has not been settled, after exerting due diligence, or there are conflicting claims over the ownership of the property and improvements and/or structures thereon, the IA shall deposit the amount equivalent to the sum under items (a)(1) to (a)(3) of Section 7 of this IRR to the court, for the benefit of the person to be adjudged in the same proceeding as entitled thereto. *he*

Upon compliance with the above guidelines, the court shall immediately issue to the IA an order to take possession of the property.

If within seven (7) working days after the deposit with the court of the amount equivalent to the sum under items (a)(1) to (a)(3) of Section 7 of this IRR, the court has not issued to the IA a writ of possession for the affected property, the counsel of the IA shall immediately seek from the court the issuance of the writ of possession.

The court shall release the said amount to the person adjudged in the same expropriation proceeding as entitled thereto.

- c. In provinces, cities, municipalities and other areas where there is no land classification, the city or municipal assessor is hereby mandated within the period of sixty (60) days from the date of filing of the expropriation case, to come up with the required land classification and the corresponding declaration of real property and improvement for the area. In provinces, cities, municipalities and other areas where there is no zonal valuation, or where the current zonal valuation has been in force for more than three (3) years, the BIR is mandated within the period of sixty (60) days from the date of filing of the expropriation case, to conduct a zonal valuation for said area, based on the land classification done by the city or municipal assessor.
- d. With reference to item (a)(1) of Section 7 of this IRR, in case the completion of a government infrastructure project is of utmost urgency and importance, and there is no land classification or no existing zonal valuation of the area concerned or the zonal valuation has been in force for more than three (3) years, the IA shall use the BIR zonal value and land classification of similar lands within the adjacent vicinity as the basis for the valuation.
- e. In any of the cases in items (a) to (d) of Section 7 of this IRR, upon its receipt of the writ of possession issued by the court, the IA may take possession of the property and start the implementation of the project.
- f. In the event that the owner of the property contests the IA's proffered value, the court shall determine the just compensation to be paid the owner within sixty (60) days from the date of filing of the expropriation case. When the decision of the court becomes final and executory, the IA shall pay the owner the difference between the amount already paid and the just compensation as determined by the court.
- g. With regard to the taxes and fees relative to the transfer of title of the property to the Republic of the Philippines through expropriation proceedings, the IA shall pay the DST, transfer taxes under RA No. 7160 and registration fees, while the owner shall pay the CGT, any unpaid real property tax, and all other applicable taxes under the law.

The owner shall pay the CGT to the BIR within thirty (30) days after the judgment in the expropriation case had become final and executory. The IA shall also pay the DST within five (5) days after the close of the month when the judgment in the expropriation case had become final and executory.

Section 8. ACQUISITION OF PROPERTIES UNDER CA 141

As provided in Section 4 of the Act, in cases of lands granted through CA No. 141, dated 07 November 1936, known as the Public Land Act, and its amendments, the IA shall:

- a. follow the other modes of acquisition enumerated in this IRR, if the landowner is not the original patent holder and any previous acquisition of said land is not through a gratuitous title; or
- b. follow the provisions under CA No. 141 regarding acquisition of ROW on patent lands, if the landowner is the original patent holder or the acquisition of the land from the original patent holder is through a gratuitous title.

With respect to Section 8b above, under the provisions of CA No. 141, particularly Section 112, a ROW strip not exceeding 20 meters in width within the land acquired under that law is reserved by the government for public use with damages to improvements only. CA No. 141 was amended by Presidential Decree (PD) No. 635, dated 07 January 1975, which increased the ROW strip reserved for public use to a width not exceeding 60 meters.

If the government decides to exercise its right to use the ROW strip reserved for public use within the land acquired under CA No. 141, the owner is required to execute a quit claim. The IA shall then take possession of the property affected by the ROW without any compensation to the owner for the land, but shall pay the owner the cost of the damages for the improvements within that land equivalent to their replacement cost as determined in accordance with Section 6.6 of this IRR. If the owner refuses or is unable to issue a quit claim, the concerned government officials responsible for the implementation of projects are authorized to immediately take possession of the portion of property subject of the lien, as the need arises and upon due notice to the owner. This is without prejudice to the IA resorting to appropriate proceedings to acquire immediate possession of the property.

PD No. 1381 also allows the government to utilize the reserved ROW strip for temporary buildings for Resident and/or Project Engineers needed in the prosecution of an infrastructure project. Once the infrastructure project is completed and the temporary buildings used by Resident/Project Engineers are no longer needed, the possession of the portion of property used for the building shall revert to the title holders.

The IA shall extend financial assistance to the property owner in accordance with the provisions of Executive Order No. 1035, series of 1985.

Section 9. EXCHANGE OR BARTER

Instead of being paid the money value of his property, the owner of a property needed for a ROW of a national government project may request the government to exchange or barter an old abandoned government road or other government property near the project with his said property. The IA may favorably consider this mode, subject to the provisions of relevant laws and the following conditions:

- a. The exchange shall be done on a "value-for-value" basis, i.e., the properties being exchanged are equivalent in market value or price;
- b. If the government property to be exchanged with the private property was originally donated by a previous owner, the donation must be verified to ensure that there is no condition which prohibits the government from disposing of it to other private persons. If the said government property was originally acquired through sale, the previous owner

shall have the first priority to re-acquire the property if required by law or by the contract or deed of sale;

- c. Owners of property whose land abut the said abandoned government road or other property shall not be deprived of access, i.e., egress or ingress, to the new highway to be built, if any; and
- d. The private property owner and the IA which are parties to the exchange or barter agreement shall be subject to applicable CGT and DST in accordance with BIR rules and regulations.

Section 10. EASEMENT OF RIGHT-OF-WAY

If the portion of a lot needed for a ROW is minimal, such that the expenses for surveying or segregating that portion from the main lot would be very much more than the value of the part of the lot needed, the IA may, if the property owner agrees, resort to the mode of Easement of ROW provided under the Civil Code.

Under this mode, a ROW easement agreement shall be executed by the property owner and the IA whereby the former will grant the latter the right to use the affected portion of the lot as ROW, but the owner retains ownership of that portion of the lot.

The IA shall pay the owner the value of that portion of the lot based on the existing zonal valuation declared by the BIR. In addition, the IA shall compensate the property owner the replacement cost of any improvements and structures on the land affected by the ROW in accordance with Section 6.6 of this IRR. Entry by the IA to the acquired property may be effected upon full payment of the value of the property. The IA may engage the services of an IPA to determine the amount of the easement to be paid.

The mode of ROW acquisition through easement agreement may also be used in government agency-to-agency transactions, including those involving government-owned and controlled corporations.

The IA shall cause the registration of all ROW easement agreements with the Register of Deeds concerned within ten (10) days from the date of their execution. The Register of Deeds shall annotate on the respective titles the agreements within seven (7) days from receipt thereof.

Section 11. ACQUISITION OF SUBSURFACE RIGHT-OF-WAY

As provided in Section 4 of the Act, when it is necessary to build, construct, or install on the subsurface or subterranean portion of private and government owned lands owned, occupied or leased by other persons, such infrastructure as subways, tunnels, underpasses, waterways, floodways, or utility facilities as part of the government's infrastructure and development project, the government or any of its authorized representatives shall not be prevented from entry into and use of such private and government lands by surface owners or occupants, if such entry and use are made more than fifty (50) meters from the surface.

The IA shall duly consult with and notify the affected property owners of any acquisition of subsurface right of way needed for the infrastructure projects.

If the national government project involves underground works within a depth of fifty (50) meters from the surface, the IA may undertake the mode of acquisition in the following order:

- a. Negotiate with the property owner a perpetual easement of ROW for the subterranean portions of his property required by the project; and
- b. Offer to acquire from the property owner the affected portion of the land, including the affected structures, improvements, crops and trees therein in accordance with the provisions of the Act.

To assist the IA in determining (a) the appropriate price offer for the perpetual easement of the ROW under Section 11a of this IRR or (b) the appropriate price offer for the entire affected land including structures, improvement, crops and trees under Section 11b of this IRR, the IA may engage the services of a GFI or an IPA, in accordance with the procedure provided in Section 6 of this IRR. The easement price under Section 11a of this IRR shall be twenty percent (20%) of the market price of the land.

The IA shall follow the other rules for negotiated sale provided in Section 6 of this IRR.

Section 12. STANDARDS FOR ASSESSMENT FOR NEGOTIATED SALE

As provided in Section 7 of the Act, in order to facilitate the determination of the market value of the property, the following relevant standards shall be observed:

- a. The classification and use for which the property is suited based on, among other things, the latest approved land use plan and/or zoning ordinance, if any, of the city or municipality concerned;
- b. The development cost for improving the land based on, among other things, the records and estimates of the City or Municipal Assessor concerned, GFI or IPA for similar or comparable lands;
- c. The value declared by the owners based on the value shown in the owners' latest Tax Declaration Certificates or Sworn Statements;
- d. The current selling price of similar lands in the vicinity based on, among other things, the latest records on Deeds of Sale for similar lands in the office of the Register of Deeds concerned;
- e. The reasonable disturbance compensation for the removal and/or demolition of certain improvements on the land and for the value of improvements thereon considering, among other things, the replacement cost of improvements at current market prices as provided in Section 6.6 of this IRR;
- f. The size, shape or location, tax declaration and zonal valuation of the land based on, among other things, the latest records on Deeds of Sale in the Register of Deeds, tax declaration by the City or Municipal Assessor, zonal valuation of the BIR for comparable properties;
- g. The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and

- h. Such facts and events so as to enable the affected property owners to have sufficient funds to acquire similarly situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

In all cases, the increase in the value of the affected property brought about by the government project itself shall not be considered in the determination of the purchase price.

As provided in Section 6.3 of this IRR, the Terms of Reference, which shall be used by the GFIs and IPAs in the determination of the market value of the land, should include the applicable standards stated in this Section.

Section 13. ECOLOGICAL AND ENVIRONMENTAL CONCERNS

As provided in Section 8 of the Act, in cases involving the acquisition of ROW, site or location for any national government infrastructure project, the IA shall take into account the ecological and environmental impact of the project. Before any national government project could be undertaken, the IA shall consider environmental laws, land use ordinances, and all pertinent provisions of RA No. 7160.

During the feasibility study/detailed engineering design of the projects, except for Public-Private Partnership (PPP) Projects, the IA shall secure from the DENR an Environmental Compliance Certificate (ECC) or Certificate of Non-Coverage (CNC), as the case may be, in accordance with PD No. 1586 and its IRR. In the case of ancestral domain, additional requirements in accordance with RA No. 8371 and its IRR must be complied with.

The IA shall also prepare a Preliminary Land Acquisition Plan and Resettlement Action Plan (LAPRAP) or an Indigenous People's Action Plan, as applicable, which shall form part of the Environmental Impact Assessment (EIA).

For projects undertaken through PPP schemes under RA No. 6957 (as amended), its IRR, and other pertinent laws, the provisions of the same shall govern the requirements for obtaining an ECC/CNC.

Section 14. RELOCATION OF INFORMAL SETTLERS

As provided in Section 9 of the Act, the government, through the Housing and Urban Development Coordinating Council (HUDCC) and the National Housing Authority (NHA), in coordination with the LGUs and IAs concerned, shall establish and develop resettlement sites for informal settlers, including the provision of adequate basic services and community facilities, in anticipation of informal settlers that have to be removed from the ROW or site of future infrastructure projects, pursuant to the provisions of the RA No. 7279. Whenever applicable, the concerned LGUs shall provide and administer the resettlement sites.

In case the expropriated land is occupied by informal settlers who are unable or refuse to demolish their structures and other improvements therein despite the writ of possession issued by the court under Section 7 of this IRR, the court shall issue the necessary writ of demolition for the purpose of dismantling any and all structures found within the subject property. The IA shall take into account and observe diligently the procedure provided for in Sections 28 and 29 of RA No. 7279.

Immediately after the project approval by the appropriate agency, the IA shall notify the HUDCC of its proposed project which may require the acquisition of ROW that may cause the displacement or relocation of informal settlers.

Section 15. APPROPRIATIONS

As provided in Section 10 of the Act, the government shall provide adequate appropriations that will allow the concerned IAs to acquire the required right-of-way, site or location for national government infrastructure projects in advance of the project implementation. These appropriations shall include the funds needed to cover the following expenses for activities directly related to right-of-way acquisition for the projects as provided in this Act:

- a. Cost of parcellary surveys and appraisal of properties affected by the projects;
- b. Compensation for the project-affected land, structures and improvements, including relocation or replacement of compensable utilities, crops and trees;
- c. Cost of development and implementation of resettlement projects covered by this Act, including planning, social preparation, in accordance with HUDCC design standards and costings. Where necessary, this may include land development and housing construction, provision of basic services and community facilities, livelihood restoration and improvement, and other activities under the resettlement action plan in coordination with concerned government agencies; and
- d. Related expenses of the IA, including CGT in the case of negotiated sale under Section 6 of this IRR, DST, transfer tax and registration fees for the transfer of titles, and other relevant administrative expenses for right-of-way management, including the cost of ECC application.

For PPP projects, the IA may, as part of the contract terms and conditions, require the project proponent to:

- a. advance the funds covering the cost of the ROW which shall be reimbursed later by the IA, except for unsolicited proposals; or
- b. finance the ROW cost for the government which shall be recovered partly or fully by the proponent from the tolls, fees, or tariffs to be charged to the users of the completed project.

For budgeting purposes, the ROW costs of projects without any benchmark prices may be based on the BIR zonal values times a factor not exceeding two (2).

For projects that have undergone pre-feasibility or feasibility study only, the proposed budget or appropriations for the replacement cost of affected structures or improvements may be based on benchmark unit costs which are derived from industry standards and accepted by the DPWH. An example of a benchmark unit cost is cost per square meter of floor area of a house or building.

For projects that have undergone detailed engineering design, the proposed budget or appropriations for the replacement cost of affected structures or improvements shall be based on detailed estimates, including bill of materials/quantities, in accordance with the standards and procedures set by the DPWH

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Section 16. DEVELOPMENTS WITHIN RIGHT-OF-WAY

As provided in Section 11 of the Act, upon the approval by the Head of the IA concerned of an infrastructure project with funding authorized in the General Appropriations Act and with defined ROW, no National Government Agency or LGU shall, within two years from date of notice of taking, allow within the said ROW any development or construction, or issue any building, construction, development or business permit, which is contrary to the approved plans and purposes of the project, unless explicitly authorized by the Head of the IA for justifiable reasons.

For this purpose, the date of notice of taking is the date of the letter issued by the IA to the concerned landowners, after the approval of the LAPRAP as part of the detailed engineering design, informing them of the intent of the IA to acquire their lands for the ROW.

Once the notice of taking is issued, any new structure or improvement to an existing one on the land covered by the notice shall not be compensated.

In the same manner, no informal settlers will be eligible for compensation if their structures are built after the cut-off date for entitlements. In this IRR, the "cut-off date" refers to the first day of census undertaken as part of LAPRAP preparation after both the project approval by the IA and Detailed Engineering Design.

Section 17. RIGHT-OF-WAY SURVEY DOCUMENTS FOR ACQUIRED PROPERTIES

The IA shall submit the relevant documents indicating the survey limits for the lands acquired for ROW of infrastructure projects to the LGU concerned for information and reference in development planning, taxation, and other purposes.

Section 18. AGENCY MANUAL OF PROCEDURES FOR ROW ACQUISITION

To provide clear, specific, and operational guidelines for the efficient acquisition of ROW for its infrastructure projects, each IA shall prepare and implement its own "Manual of Procedures for ROW Acquisition" (Manual).

Said Manual must be consistent with the provisions of the Act and this IRR and shall be customized to the particular requirements and systems for ROW acquisition of the IA. The IA Manual shall serve as the standard or uniform reference for the specific rules, processes, standard documents, and template forms to be used by the IA and its concerned central and field offices in the acquisition of ROW. The IA Manual shall also be used by property owners as their reference on the requirements and procedures to be followed to facilitate ROW acquisition, while ensuring that they obtain due process and fair compensation. Finally, the IA Manual shall serve as a guide for the GFIs and IPAs to be engaged by the IA in determining the appropriate price offers to property owners affected by ROW acquisition.

The IA Manual shall include the following basic content, as adapted with modifications from the DPWH Manual:

1. INTRODUCTION

- 1.1 Purpose of the Manual
- 1.2 Coverage and Applications of the Manual

2. PROCEDURES FOR THE ROW ACQUISITION PROCESS

- 2.1 ROW Action Plan as part of Project Feasibility Study and Design
- 2.2 Preparation of LAPRAP
- 2.3 Environmental Impact Assessment (EIA)
- 2.4 Conduct of Parcellary Survey
- 2.5 ROW Acquisition through Donation
- 2.6 ROW Acquisition through Negotiated Sale
- 2.7 Determination of Compensation Price Offer for Negotiated Sale – based on Market Value of Land, Replacement Cost of Structures and Improvements, and Market Value of Crops and Trees
- 2.8 Determination of Package of Compensation and Entitlements to Project-Affected Persons (PAPs)
- 2.9 Use of GFIs and IPAs in Determining Price Offer and Compensation Package for Negotiated Sale
- 2.9 Determination of CGT and Other Taxes and Fees
- 2.10 Preparing Budget and Appropriations for ROW Acquisition – covering all Relevant Expenses – at Preliminary Stage (ROW Action Plan) and Final Stage (based on Price Offer and Relevant Expenses)
- 2.11 Execution of Deed of Sale
- 2.12 Transfer of Title/Tax Declaration
- 2.13 Payments to Owners and PAPs
- 2.14 ROW Acquisition through Expropriation
- 2.15 Obtaining and Implementing Writ of Possession and Permit to Enter Sale
- 2.16 Relocation of PAPs based on LAPRAP
- 2.17 Clearing of Structures/Improvements and Crops/Trees within ROW
- 2.18 Management of ROW including Documents

3. PROCEDURES FOR OTHER CASES

- 3.1 ROW Acquisition for Lands under CA No. 141
- 3.2 ROW Acquisition through Exchange or Barter
- 3.3 ROW Acquisition through Easement of ROW
- 3.4 Acquisition of Subsurface ROW
- 3.5 Other Special Cases

APPENDICES

- RA No. 10752
- IRR of RA No. 10752
- CA No. 141
- Relevant Department/Agency Orders
- ROW Action Plan Preliminary Cost Estimates: for Land, Structures/Improvements and Crops/Trees
- ROW Action Plan Data Checklist
- ROW Action Plan Report Outline
- Templates for Environmental Scoping, EIA, Environmental Management Plan (EMP), Screening, Initial Environmental Examination (IEE) Checklist
- ROW Action Plan Final Cost Estimates: for Land, Structures/Improvements and Crops/Trees
- Parcellary Survey ROW Land Data
- ROW Compensation Matrix
- Deed of Donation Template

Deed of Sale Template
Deed of Exchange or Barter Template
Template Agreement to Demolish and Remove Improvements (ADRI)
Quit Claim Deed Template
Easement of ROW Agreement Template
Permit to Enter Template

WORKFLOW CHARTS

Overall Process Flow
Project Identification, Feasibility Study, Design and ROW Action Plan Preparation
EIA
Conduct of Parcellary Survey
Preparation of LAPRAP
ROW Acquisition through Donation
ROW Acquisition through Negotiated Sale
Preparation of Deed of Absolute Sale
Transfer of Title/Tax Declaration
ROW Acquisition through Expropriation
ROW Acquisition for Lands under CA No. 141
ROW Acquisition through Exchange or Barter
ROW Acquisition through Easement of ROW
Acquisition of Subsurface ROW
Clearing of ROW
Processing of Title Documents
Management of ROW

The IA shall ensure that its Manual includes, among other things, faithful and prompt compliance with the prescribed payment procedures under Section 6.10 of this IRR.

Section 19. TRANSITORY CLAUSE

As provided in Section 14 of the Act, the provisions of this IRR shall apply to all ROW transactions, except ongoing transactions which, as of the effectivity of this Act, have already reached a written agreement as to the price between the IA and the property owner.

Section 20. SANCTIONS

As provided in Section 12 of the Act, violation of any provision of the Act shall subject the government official or employee concerned to appropriate administrative, civil and/or criminal sanctions, including suspension and/or dismissal from the government service and forfeiture benefits in accordance with the provisions of the law.

Section 21. IRR AMENDMENTS

The IRR Committee constituted pursuant to Section 13 of the Act may be reconvened by its Chairperson, at his initiative and/or upon the recommendation of any of its members, to formulate and prescribe amendments to this IRR consistent with the letter and spirit of the Act.

Section 22. REPEAL

As provided in Section 16 of the Act, RA No. 8974 is hereby repealed and all other laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

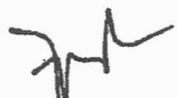
Section 23. EFFECTIVITY

This IRR shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Issued this ___ day of _____, 2016.

COMMITTEE FOR THE IRR OF RA NO. 10752

JOSEPH EMILIO A. ABAYA
Secretary, Department of Transportation
and Communications
Member

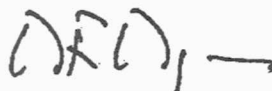

ZENAIDA Y. MONSADA
Secretary, Department of Energy
Member
JUN 30 2016

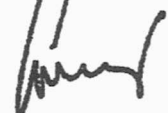




EMMANUEL L. CAPARAS
Secretary, Department of Justice
Member

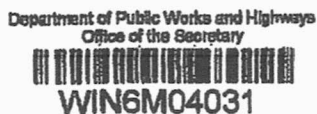


FLORENCIO B. ABAD
Secretary, Department of Budget
and Management
Member


EMMANUEL F. ESGUERRA
Secretary of Socio-Economic Planning and
Director General, National Economic and
Development Authority
Member


CHITO M. CRUZ
Chairperson, Housing and Urban
Development Coordinating Council
Member


ROGELIO L. SINGSON
Secretary, Department of Public Works and Highways
Chairperson



ANNEX A
TEMPLATE TERMS OF REFERENCE
FOR PROPERTY APPRAISAL SERVICES PURSUANT TO RA NO. 10752

As basis for the procurement of the services of a Government Financial Institution (GFI) or Independent Property Appraiser (IPA) to determine the appropriate price of properties to be offered to the property owner through negotiated sale under Section 6 of the Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 10752 (The Right-of-Way Act), the GFI/IPA shall provide the appraisal services for the purpose of acquisition of private properties for national government project under this Terms of Reference (TOR):

1. Background:

- *Insert a brief description and map of the project for which the Right-of-Way (ROW) is required.*
- *Insert the Parcellary Survey Report for the project indicting the properties affected by the ROW.*

2. Objectives of the Services (Include all that apply):

- To determine the fair market value of the land, the replacement cost of structures/improvements, and the fair market value of crops and trees in the properties described above as affected by the ROW requirement of the said project
- To recommend the appropriate price offer for negotiated sale of the affected properties based on the above.
- To provide technical assistance, if necessary, to the IA on the negotiation proceedings, including possible administrative and judicial processes.

3. Desired Outputs -The GFI/IPA is expected to deliver to the IA an Appraisal Report that contains the following (Include all that apply):

- Estimated market value of the land under consideration.
- Estimated replacement cost of structures and improvements therein.
- Estimated market value of crops and trees therein.
- Recommended total price offer for negotiated sale for the properties affected.
- Other reports/advisories as needed in the negotiation proceedings.

The Appraisal Report must be signed by a real property appraiser or valuer duly licensed by the Professional Regulation Commission (PRC) and registered with the Professional Regulatory Board of Real Estate Service (PRBRES) pursuant to RA No. 9646 (Real Estate Service Act of the Philippines, 2009).

4. Standards and Specifications – In providing the services and delivering the desired outputs, the GFI/IPA shall observe the following standards and specification listed under Section 7 of RA No. 10752:

- The classification and use for which the property is suited;

This shall be based on, among other things, the latest approved land use plan and/or zoning ordinance, if any, of the city or municipality concerned.

- The development cost for improving the land;

This shall be based on, among other things, the records and estimates of the City or Municipal Assessor concerned, GFI or IPA for similar or comparable lands.

- The value declared by the owners;

This shall be based on the value shown in the owners' latest Tax Declaration Certificates or Sworn Statements.

- The current selling price of similar lands in the vicinity;

This shall be based on, among other things, the latest records on Deeds of Sale for similar lands in the office of the Register of Deeds concerned.

- The reasonable disturbance compensation for the removal and/or demolition of certain improvements on the land and for the value of improvements thereon;

This shall consider, among other things, the replacement cost of improvements at current market prices as provided in Section 6.6 of this IRR.

- The size, shape or location, tax declaration and zonal valuation of the land;

These shall be based on, among other things, the latest records on Deeds of Sale in the Register of Deeds, tax declaration by the City or Municipal assessor, zonal valuation of the BIR for comparable properties.

- The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and
- Such facts and events so as to enable the affected property owners to have sufficient funds to acquire similarly situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

5. **Duration of Services and timetable for Delivery of Outputs**– The GFI/IPA shall perform the services and deliver the said outputs to the IA within (*insert number of calendar days*) days from its receipt of the IA's Notice to Proceed for the Agreement for these services, and according to the following schedule (*example shown below*):

Phases	Timeline	Deliverables	Remarks
Pre-Project Start-up	(1st Week)	Planning Framework - Conferences/meetings - Confirmation of Proposal - Consolidation and review of documents	Documents needed: Project Layout/ Survey Plans, Parcellary Plans indicating the width of the highway, Title and Tax Declaration per lot.
Pre-Site Visit	2 nd Week	Site Familiarization - Meetings with Barangay Officials - Establishment of Field Office - Pre-Site Inspection - Securing Other References (Tax Map/ Tax Declaration) from the Assessors	

On-Site Investigation and Analysis	3 rd & 4 th Weeks	Property Identification and Site Analysis - Identification of each property on ground versus plans submitted, that includes its location, accessibility, terrain, developments and improvements thereon. - Definition of physical features of improvements and their conditions and measurements. - Counts of considerable trees within each affected lot and other structures on site. - Investigation, queries and validation of current prices of lots and sold properties in the project vicinity. - Canvas of current construction materials in the locality.	
On Site Validation of Ownership	5 th Week	Documentations of Properties Affected - Securing or verification of documents (Titles) with Registry of Deeds and other agencies concerned	
Off Site (Office)	6 th 7 Weeks	Write-ups and Preparation of Draft Report - Consolidation and analysis of gathered data and information. - Establishing benchmarks of valuation and calculations of market value per property - Composition and printing of Draft Report	
	7 th Week	Review of Draft Report - Reproduction of gathered documents for attachments. - Compilation of write-ups and attachments for submission.	
	8 th Week	Review of Revised Draft Report - Review of findings on the Draft Report. - Preparation of Revised Draft Report considering comments/corrections. - Submission of Revised Draft Report.	
	9 th Week	Final Report/Output – Six (6) Copies of Report - Review and reproduction of Revised Draft Report and submission as Final Appraisal Report (6 copies)	

6. *(If IA is engaging an IPA) Qualification of IPA-* An IPA must meet the following criteria to qualify for the consulting services:

- The IPA must be in the list of the BSP or a professional association of appraisers recognized by the BSP, provided, that an IPA not yet included in the list shall not be barred from joining the procurement for such services; and provided further that, prior to award of the contract, such IPA shall be required to submit a proof that they are already included in the list.
- The IPA must comply with the experience and other eligibility requirements provided in R.A 9184 and its IRR, including the registration and license required for a Real Estate Appraiser.

ANNEX B
ILLUSTRATIVE EXAMPLE OF COMPUTATION FOR CAPITAL GAINS TAX

Given:

Net Actual Consideration (NAC) offered by the Implementing Agency (IA) to the property owner based on, among others, the Fair Market Value (FMV) of the property as determined by the GFI/IPA, and accepted by the IA = PhP1,000,000.

Applicable Capital Gains Tax = 6%

Questions:

- (a) What is the Net Amount that the IA should pay to the property owner?
- (b) What is the Gross Amount to be appropriated and allocated by the IA to cover the negotiated sale?
- (c) How much is the Capital Gains Tax (CGT) to be paid by the IA to the BIR for the account of the owner?

Answers:

(a) Net Amount to be paid to the property owner = NAC = PhP1,000,000.

(b) Gross Amount to be appropriated/allocated by the IA = Actual Consideration (AC):

$$AC = NAC / (100\% - 6\%) = NAC / 94\% = \text{PhP}1,000,000 / 0.94 = \text{PhP}1,063,830.$$

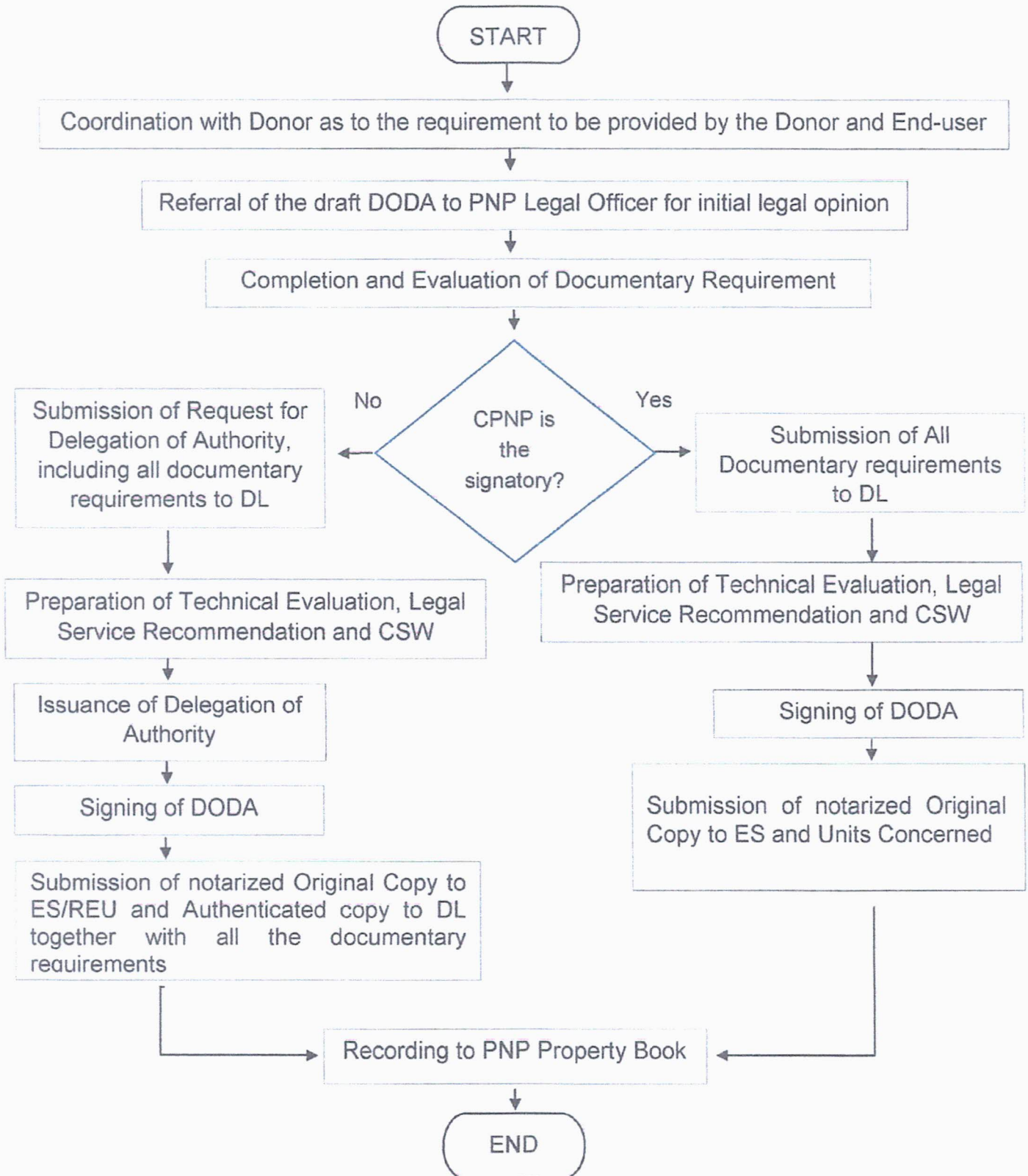
(c) CGT to be paid by the IA to BIR for the account of the owner:

$$CGT = 6\% \text{ of GSP} = 0.06 \times \text{PhP}1,063,380 = \text{PhP}63,830.$$

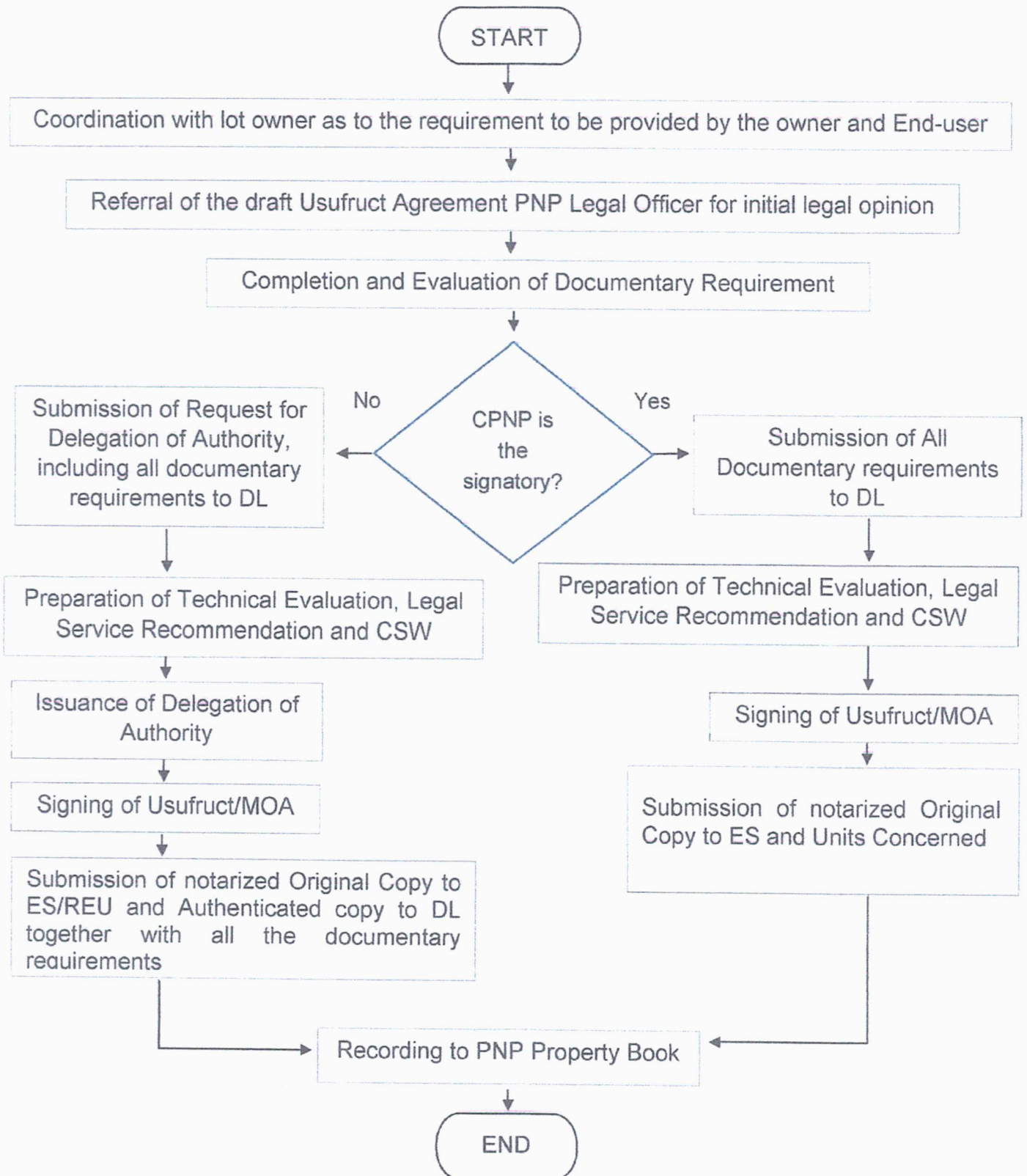


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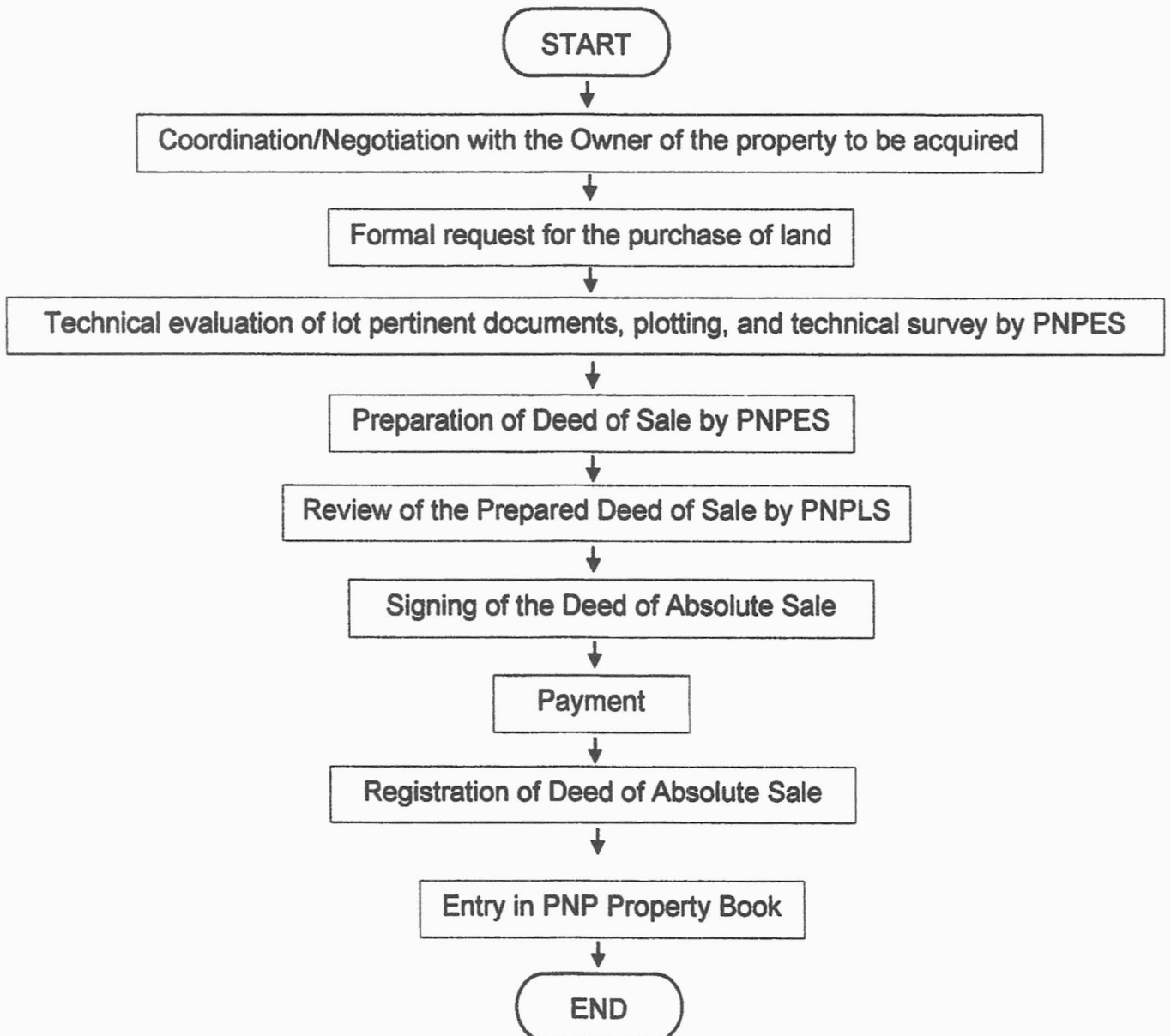
Flowchart for Donation



Flowchart for Usufruct and MOA

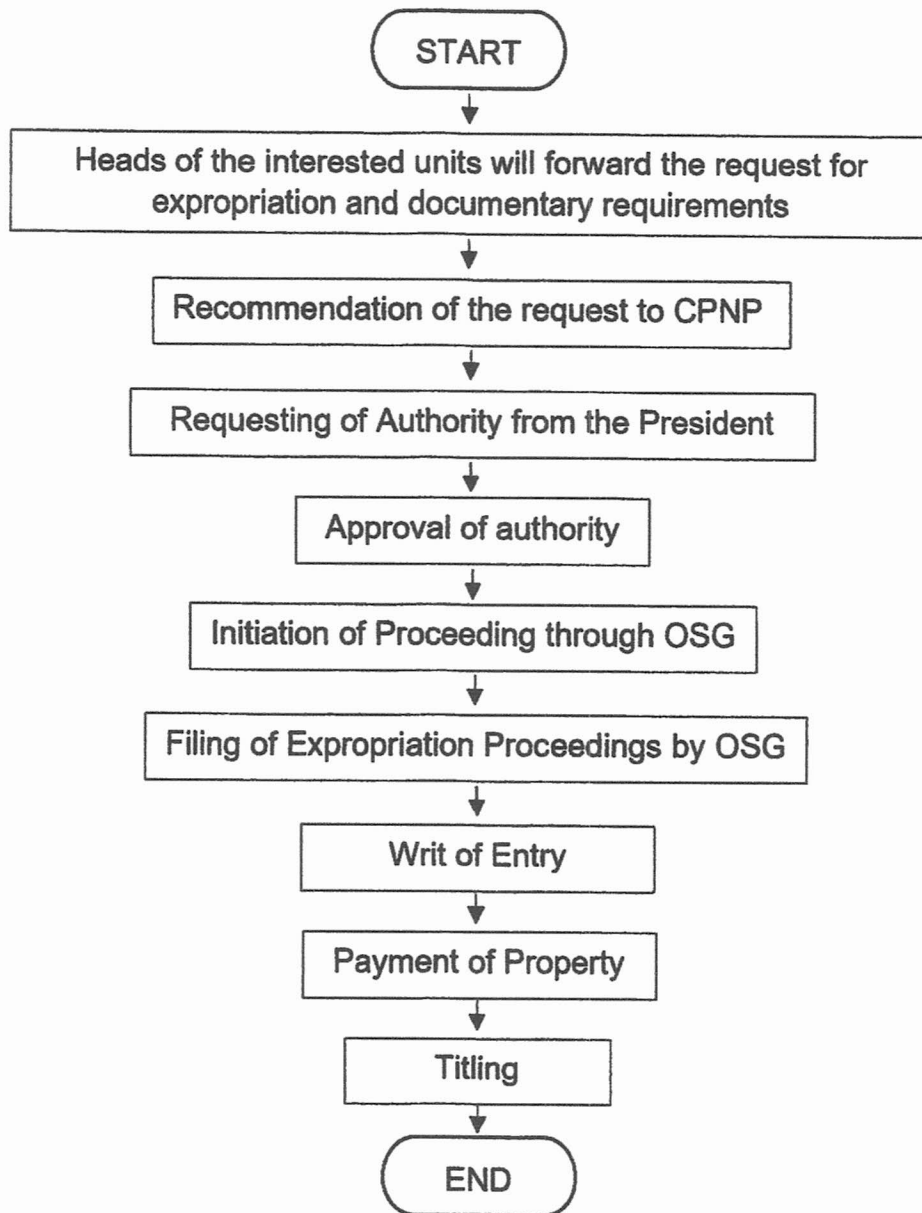


Flowchart for Purchase of Private Property

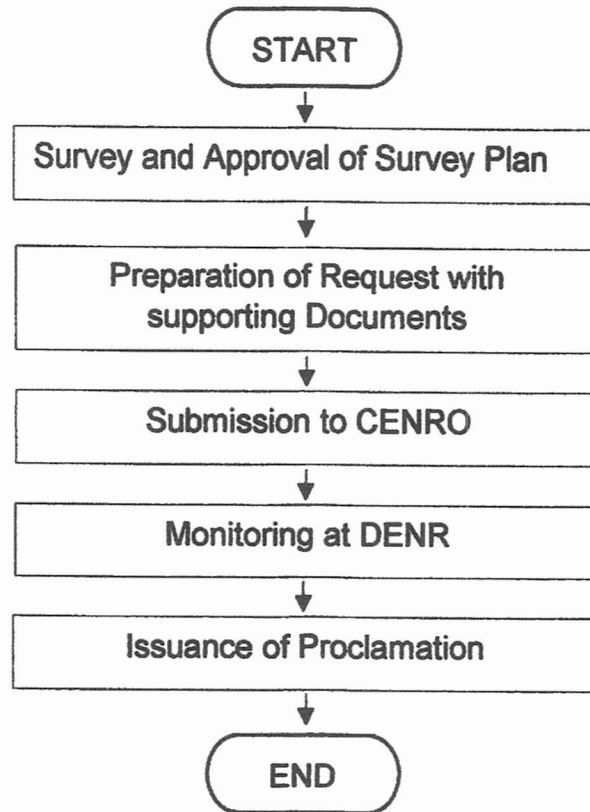


****Flowchart for Purchase of Property owned by Political Subdivision and/or agencies of the Government shall follow the flowchart for purchase of Private Property***

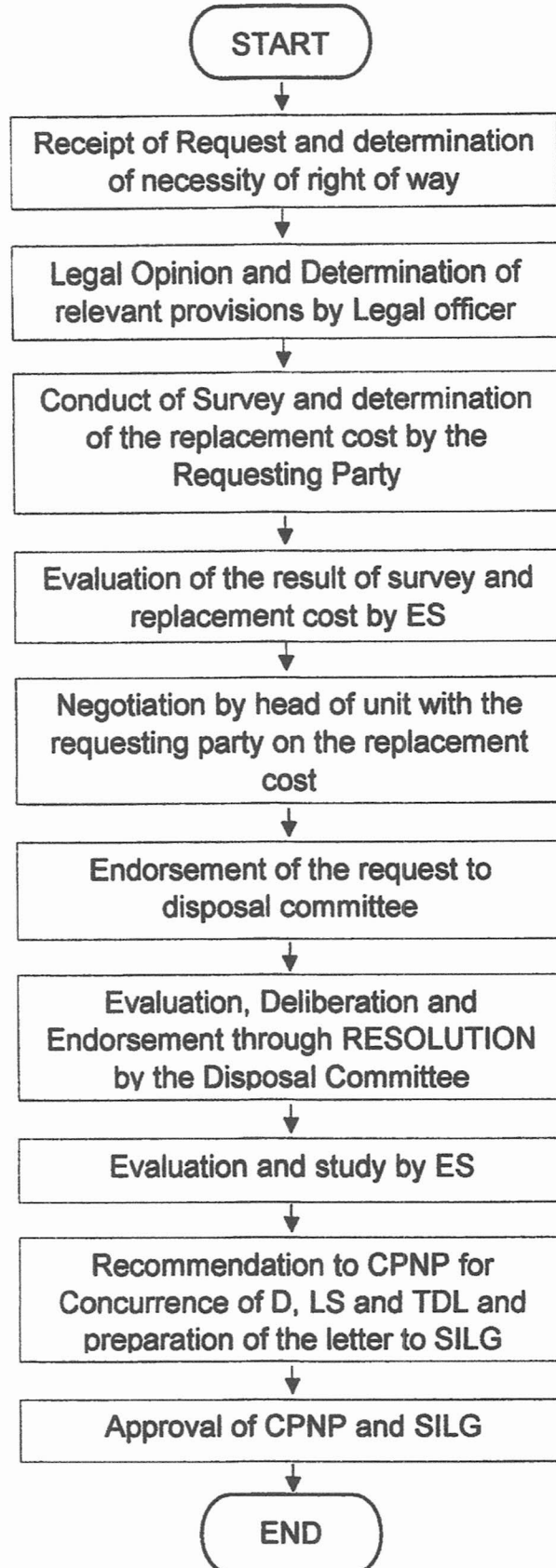
Flowchart on Expropriation



Flowchart for Executive Order/Proclamation



Flowchart for Right of Way Requested by Government for Public Use



Flowchart for Disposal

