



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

ELLIPTICAL ROAD, DILIMAN, QUEZON CITY TELS. 928-70-31 TO 39

MEMORANDUM CIRCULAR NO. 05
Series of 2007

SUBJECT : GUIDELINES AND PROCEDURES FOR THE DISPOSAL/ LEASE OF
FORECLOSED PROPERTIES/ASSETS

I. BACKGROUND AND RATIONALE

The Task Force Collection (TFC) was created by virtue of the Department Special Order No. 781 dated 30 September 1996, to address the low/non-payment of loans extended to agrarian reform beneficiaries/cooperatives initially under the DAR-SPO/DBP Loan Window III and subsequently, under Dutch Rural Development Assistance Program (DRDAP), DAR SPO Direct Funding Scheme and DAR Direct Lending Financing Program (DDLf).

The TFC's existence has been extended for as long as necessary per Special Order No. 382, s. 1998; S.O. No. 781, s. 1996, amended by S.O. 168, s. 2002. As part of its functions, the TFC facilitates the extra-judicial foreclosure of real and chattel mortgages from various loans under the DAR/SPO-DBP Loan Window III. In some cases, the physical assets of some cooperatives/loan proponents under the other terminated financing programs were surrendered voluntarily to the DAR as partial/full settlement of their loans.

In view thereof, the Department has created an Asset Management Committee (AMC), through Special Order No. 402, s. 2004, to ensure the effective administration/disposal of these properties located in various provinces. However, after two (2) years, the Department amended Special Order No. 402 with Special Order No. 218, series of 2006, conferring to the TFC the functions of the Asset Management Team-Central (AMT-C). The said functions are as follows:

1. Formulation of program and relevant policy guidelines on the management of foreclosed/voluntarily surrendered assets and provision of over-all direction and supervision of its implementation;
2. Identification and adoption of other measures/options for the effective disposition of the foreclosed/voluntarily surrendered assets from various loans under the terminated DAR Financing Programs; and
3. Act on all recommendations/proposals of the Asset Management Team-Province re: disposition of foreclosed/voluntarily surrendered assets.



"Tulong-tulong sa pagsulong"



Further, on 11 November 2004, the Privatization Council (PrC) which is the inter-agency, cabinet-level policy-making body tasked to oversee the implementation of the Government's privatization program, designated the DAR, as the Disposition Entity (DE) for the subject properties (*Annex "A"*). The PrC also approved in principle the proposed disposition plan of the Department on 28 February 2005 (*Annex "B"*).

This Memorandum Circular (MC) prescribes the guidelines and procedures for the following activities: (a) disposal of acquired personal properties;¹ and (b) lease administration of foreclosed real properties².

II OBJECTIVES:

These guidelines and procedures ensure the significant recovery of the funds loaned out through:

1. Immediate disposal of acquired personal properties in accordance with existing rules and regulations;
2. Proper administration of lease and or lease-to-own foreclosed real properties; and
3. Remittance of the sale/rental proceeds to the National Treasury for the account of the Agrarian Reform Fund in accordance with Proclamation No. 131, Executive Order No. 229, Republic Act No. 6657 and Republic Act No. 8532.

III A. GUIDELINES AND PROCEDURES FOR THE DISPOSAL OF ACQUIRED PERSONAL PROPERTIES

1. Upon the award of the Sheriff's Certificate of Sale (COS) in favor of DAR, the Accounting Division of the concerned DAR Provincial Office shall immediately book-up the acquired personal properties and record all relative information to facilitate audit in the event of disposal.

The ownership of motor vehicles obtained under the extra-judicial foreclosure sale shall be transferred first in the name of DAR prior to book-up by accomplishing the requirements of the Land Transportation Office (*Annex "C"*).

¹ For the purpose of this Circular, acquired personal properties are foreclosed chattel mortgages with Sheriff's Certificates of Sale awarded to the Republic of the Philippines, represented by DAR. In the case of foreclosed motor vehicles, the original copy of Sheriff's Certificate of Sale shall be first submitted to the Land Transportation Office (LTO) along with other documents required for the transfer of ownership to DAR.

² Foreclosed real properties are foreclosed real estate mortgages with Certificates of Sale awarded to the Republic of the Philippines, represented by DAR, which are subject for registration with the Registry of Deeds or are already registered and under the one (1) year legal redemption period.

2. The Vice-Chairperson (CARPO for Finance and Administration) and the members of the concerned Asset Management Team-Province (AMT-P) shall be constituted as the Acquired Assets Disposal Committee (ADCom) and shall undertake the sale of the acquired properties through sealed public bidding pursuant to **Commission on Audit (COA) Circular No. 89-296**. The AMT-P Chairperson (PARO II) shall be the designated signing authority for the Notice of Award and the COS to the winning bidder.
3. The ADCom shall follow the Guidelines and Procedure in the Sale of Property prescribed under Section E, Part V of the COA Manual on Public Bidding (*Annex "D"*).
4. The minimum bid price for the properties subject for the disposal shall be set based on the latest appraisal value (one year before the bidding date).
5. The Abstract of Canvass (*Annex "E"*) shall be forwarded to the Task Force Collection (TFC) for review and confirmation as to its correctness. This will then be submitted with the TFC's comment and recommendation to the PrC. The issuance of the COS to the winning bidder shall be subject to prior approval of the PrC as to the price and buyer.
6. The ADCom shall resort to the negotiated sale in the event of the failure of two (2) public biddings. The price agreed upon at the negotiation shall not be lower than the minimum bid price or the highest offer submitted at the failed public auction whichever is higher. The negotiation agreements shall be forwarded for approval to the PrC through the TFC.
7. The winning bidder or the highest offeror (in case of negotiated sale), shall pay the full amount of his/her bid/offer, either in cash, manager's check or cashier's check to the collecting officer of the concerned DAR Provincial Office, within two (2) days after being notified that the awards made by the AMT-P had been approved by the PrC. The Collecting Officer shall acknowledge acceptance of payment through issuance of an official receipt pursuant to Section 69, GAAM, Vol. I. (*Annex "F"*).

Payments on installment basis may also be allowed upon prior approval of the PrC; the same shall be covered by a contract for **LEASE-TO-OWN** to be executed for the purpose by the winning bidder and the AMT-P.

8. The AMT-P Chairperson shall issue the corresponding COS to the winning bidder upon full payment and the delivery of the property shall be made to the awardee or his/her authorized representative.
9. The sale proceeds shall be credited as part of the payment of the loan of the cooperative/mortgagor and shall be remitted to the National Treasury for the account of the Agrarian Reform Fund.

III B. LEASE OF FORECLOSED REAL PROPERTIES

1. Any person, not otherwise disqualified by law, may apply for lease of a foreclosed real property through a written application addressed to the concerned AMT-P Chairperson, stating the following:
 - 1.1 exact property he/she would like to occupy;
 - 1.2 the purpose for which the property shall be used;
 - 1.3 the proposed monthly rate
2. The AMT-P Chairperson shall constitute an Appraisal Committee composed of three (3) members of the AMT-P to investigate the financial capacity of the applicant and the prevailing rental rates in the vicinity and submit its report within three (3) days to the TFC, including the recommendation as to the reasonable rental thereof.
3. The AMT-P Chairperson shall also constitute the Bidding Committee composed of the AMT-P Vice Chairperson and members of the AMT-P not included in the Appraisal Committee.
4. Notice of the date and time of the bidding shall be sent to the applicant and to all known prospective bidders in the following manners:
 - 4.1 by messenger or registered mail; and
 - 4.2 by posting the notice for at least ten (10) days
 - 4.2.1 at the site;
 - 4.2.2 on the bulletin boards of the concerned DAR Provincial and Municipal Offices;
 - 4.2.3 on the bulletin board of the city or municipal hall of the city or municipality where the subject property is located; and
 - 4.2.4 other conspicuous places.
5. Each bidder for the lease of the foreclosed properties shall accompany the bid with a bidder's bond, in cash, manager's check or cashier's check, equivalent to two months of the proposed monthly rate bid, to guarantee his faithful compliance with the contract. Any bid without

the required bond shall be deemed defective and shall not be considered.

6. The Bidding Committee shall evaluate the bids. Within five (5) days from the opening and evaluation of the bids, the Bidding Committee shall submit its report to the PrC, through the TFC, containing among others, the pertinent facts on the bidders and the comparative tabulation of their bids. The investigation/appraisal report from the Appraisal Committee shall also be submitted to the PrC for reference purposes.
7. In the event of a negotiated lease after failure of two (2) public biddings, the record of the negotiation agreements shall also be submitted to the PrC. The award of lease contract to the winning bidder or to the highest offeror (in case of negotiated lease) shall be subject to prior approval of the PrC.
8. The AMT-P shall also prepare the draft lease contract to be submitted to the TFC for review. The maximum contract period is one year only and may be renewed thereafter on a yearly basis.
9. Upon the approval of the PrC of the winning bidder or the highest offeror, the TFC shall send back the reviewed lease contract to the AMT-P and the AMT-P Chairperson shall then award the lease/lease to own contract, to the lessee upon payment of an amount equivalent to one (1) month deposit and 2 months advance rentals.
10. The Contract of Lease/ Lease-to-Own shall take effect and shall immediately be notarized by a Notary Public after being signed by both parties.
11. The above-mentioned proceedings in the disposal of the properties and assets shall be conducted in the presence of the Commission on Audit (COA) Auditor or his representative pursuant to the mandate under COA Circular No. 89-296 dated 27 January 1989.
12. All collections of rental income shall be credited as part of the payment for the loan of the mortgagor/cooperative and shall be deposited/remitted to the National Treasury for the account of the Agrarian Reform Fund.
13. The AMT-P chairperson shall ensure compliance with, as well as completeness and timeliness of all disposition reporting requirements.

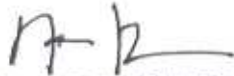
14. This Circular shall be guided by the following Laws, Rules, and Guidelines:

- COA Circular No. 89-296
- Sec. E, Part V of COA Manual on Public Bidding
- Sec. 69 GAAM, Vol. I
- Proclamation No. 50 as amended
- Proclamation No. 131, Sec. 2
- Executive Order No. 229, Sec. 20
- R.A. 6657, Chapter XIV, sec. 63
- R.A. 8532

IV. EFFECTIVITY

This Circular shall take effect immediately.

23rd of May 2007, Diliman, Quezon City.



NASSER C. PANGANDAMAN
OIC-Secretary