

**[REVENUE MEMORANDUM ORDER NO. 33-2002,
NOVEMBER 29, 2002, November 29, 2002]**

**POLICIES, GUIDELINES AND PROCEDURES ON THE
SALE/DISPOSAL OF ACQUIRED/FORFEITED REAL PROPERTIES
TRANSFERRED IN THE NAME OF THE REPUBLIC OF THE
PHILIPPINES PURSUANT TO SECTION 216 OF THE NATIONAL
INTERNAL REVENUE CODE OF 1997, AS AMENDED.**

**I
OBJECTIVES**

This Order is issued to:

1. Prescribe policies, guidelines and procedures on the sale of acquired / forfeited real properties transferred in the name of the Republic of the Philippines;
2. Enhance revenue collections through the sale of acquired/forfeited real properties;
3. Ensure a systematic and timely disposal of acquired / forfeited real property/(ies) in accordance with existing rules and regulations to avoid further deterioration of its value;
4. Define the accountability and responsibility of concerned offices and officials /employees on the sale of acquired / forfeited real properties.

**II.
POLICIES:**

In order to achieve the above objectives, the following policies shall be observed:

1. All acquired/forfeited real properties transferred in the name of the Republic of the Philippines, having passed the one year redemption period shall be converted into cash within three (3) years from date of acquisition/forfeiture and/or seizure. Custodians of said properties are required to submit to the Collection Service or its equivalent office under Executive Order No. 114 inventory list of said properties;
2. Sale of acquired forfeited real properties shall be the responsibility of Collection Service or its equivalent office under E.O. 114;
3. The actual conduct of auction sale of acquired properties obtained by the government in payment/satisfaction of taxes, penalties or costs pursuant to Section 216 of the Tax Code shall be implemented in every Revenue Regional Office by the Regional Office Task Force (ROTF)

composed of the Regional Director; Assistant Regional Director; Chief, Collective Division; Chief, Administrative Division; Chief, Legal Division; Chief, Finance Division and Revenue District Officer where the property is located. A National Office Task Force (NOTF) in the National Office (NO) created under a Revenue Special Order shall supervise the implementation of plans and programs relative to the sale of BIR-forfeited assets;

4. The Commissioner shall constitute an "Awards and Bids Committee (ABC)" in the National Office. The ABC in the National Office shall be headed by the Assistant Commissioner, Collection Service or its equivalent office under E.O. 114. The ROTF in the Regional Offices shall act as ABC in their respective Regions and shall be headed by the Regional Director unless delegated to the Asst. Regional Director;

5. Sale of acquired/forfeited properties shall be witnessed by a Commission on Audit (COA) representative to ensure that the processes to be undertaken are in accordance with existing rules and regulations;

6. A Notice of Sale (Annex C)^[1] shall be accomplished in quadruplicate and signed by Head, NOTF / ROTF, to contain the following information:

- a. the floor price or minimum amount of bid;
- b. the venue and time when public auction shall be conducted;
- c. location and description of property to be sold;
- d. terms and manner of payment, whether in cash or manager's check;
- e. a statement that "THE GOVERNMENT RESERVES THE RIGHT TO REJECT OR CANCEL ANY OR ALL BIDS.";

7. A Notice of Sale (NOS) shall be published once (1) a week for two (2) consecutive weeks in a newspaper of general circulation. The publication of the notice shall be made at least twenty (20) days prior to the actual date of public auction sale pursuant to Section 216 of NIRC of 1997, as amended. Likewise, similar notice shall be posted in conspicuous places/public places in the city, municipality or Barangay where the property is located;

8. Unless the Commissioner provides otherwise, the Minimum Bid Price/Floor Price shall be the fair market value of the real property as determined by the Commissioner, or the fair market value (FMV) per latest Tax Declaration of the Provincial, City, or Municipal Assessors, WHICHEVER IS HIGHER, pursuant to Section 6(E) of the National Internal Revenue Code of 1997;

9. Anyone could bid except foreign nationals, corporations or otherwise, and those disqualified under existing rules and regulations. Employees of the Bureau of Internal Revenue are disqualified from participating in the bidding process;

10. Public auction sale of parcels of land shall be in a Sealed Public Bidding and done parcel by parcel or title by title on a "AS IS WHERE IS BASIS";

11. Bidders to pre-qualify shall be required to post a bid bond either in cash or manager's check at least one (1) working day prior to scheduled date of public auction unless ABC allows otherwise. The amount of bond shall be equivalent to ten percent (10%) of floor price/minimum bid price. It shall form part of the payment, if the sale is awarded to the bidder, subject to Policy Nos. 15 and 16 hereof. Bid bond of the losing bidders, however, shall be returned to them after Notice of Award has been released to the winning bidder, unless otherwise allowed by ABC;

12. Only bids equal to or higher than the floor price/minimum bid price shall be evaluated by the ABC;

13. The registered bidder who submits the highest bid shall, after proper evaluation, be awarded the auctioned property. In case of tie-bids, a new sealed bidding shall immediately be conducted among the tie-bidders until such tie is broken;

14. The winning bidder shall pay the full amount of his bid, either in Cash or Manager's Check, to the CIR, thru the ACIR-Collection Service, BIR National Office Building, for bidding conducted by the National Office, or to the Regional Director, for bidding conducted in the Regional Office, as the case may be, within two (2) days after being notified that the awards made by ABC had been approved by the CIR, through the Deputy Commissioners (ODCIR), Operations Group and Legal Group, or by the Regional Director, as the case may be. Check payments shall be for the account of the Bureau of Internal Revenue;

15. Failure or refusal of the winning bidder to pay the full amount of the bid within the period aforesaid shall render the award void and the bidder's cash bond shall be forfeited in favor of the government unless the Commissioner allows an extension of time to the bidder within which to fully pay the bid price;

16. Any of the following shall constitute grounds for cancellation of awards and/or contract:

- a. fraudulent acquisition of the property;
- b. violation of the terms and conditions of awards;
- c. violation of the terms and conditions in the Certificate of Sale;
- d. violation of existing laws, rules, regulations, and ordinances;
- e. other instances analogous to the above-mentioned grounds.

17. In case of default by the winning bidder and the consequent cancellation of the award, the second and the third highest bidder, in the following order, may increase their bid to the amount equal to that of the highest bid and whoever among them tenders a bid equivalent to the bid of the highest bidder shall be awarded the auctioned real property in lieu of the defaulting bidder.

The defaulting highest bidder shall be disqualified to further bid on the rest of the auctioned real property;

18. Acquired real property that has been repossessed through cancellation of award or sale shall be redispensed in accordance with the same procedures in this RMO;

19. All taxes and expenses relative to the transfer and issuance of certificate of title and/or tax declaration shall be borne by the winning bidder immediately upon signing and approval of the Certificate of Sale;

20. All awards made by the ABC (National Office/Regional Office) shall be subject to the prior clearance by the CIR as reflected in the duly signed "List of Properties Sold Through Public Auction For Issuance of Certificate of Sale" (Annex K)^[2];

21. The winning bidder shall be responsible at his own expense for the ejectment of squatters and/or occupants, if any, on the auctioned real property;

22. Unless the Commissioner provides otherwise, for purposes of evaluation of the bid offers, the Minimum Bid Price/Floor Price for the property shall be the highest among the following:

i. The latest fair market value as determined by the Commissioner of Internal Revenue;

ii. The fair market value (FMV) shown in the latest tax declaration issued by the provincial, city or municipal assessor;

iii. The proportionate or corresponding amount of deficiency internal revenue tax/es, including increments, which was given up by the government/or considered satisfied or collected as a result of the forfeiture proceedings, including the cost to maintain and cost of forfeiture; or

iv. The purchase price offered/proposed by the former owner/s or any party by way of negotiated sale of the acquired real estate;

23. There should at least be three bidders for every property to have a successful bidding process for the property;

24. Negotiated or private sale of real property shall be resorted to as a consequence of failed public bidding for two (2) consecutive times subject to the approval of the Secretary of Finance pursuant to Section 216 of the NIRC of 1997;

25. All restrictions imposed by law, rules and agreements on the disposition of agricultural land, pasture land, fish pond and other classification of real property shall be observed and respected;

26. All awards of the region shall be reviewed by the NOTF and confirmed by the CIR, thru the DCIR-OG, before the Notice of Award/Certificate of Sale be released to the taxpayer. ROTF shall accomplish Annex "J"^[3] while NOTF shall accomplish Annex "K"^[4].

III GUIDELINES AND PROCEDURES:

A. Regional Office Task Force (ROTF)

1. Transmit to NOTF "Inventory of Forfeited/Acquired Real Properties" (Annex A)^[5] signed by the Regional Director of the region having custody over the forfeited real properties registered in the name of the Republic of the Philippines;

2. Conduct ocular inspection of the real property under its jurisdiction which are to be disposed in order to obtain a first hand observation of the status and condition of the property, its marketability or ability to attract prospective buyers, as the need may arise;

3. Secure a location/vicinity map from the Assessor's Office and prepare an updated list of properties registered in the name of the Republic of the Philippines with the following data:

- a. Name of Previous Registered Owner/Taxpayer;
- b. Title Number/Year of Issuance of OCT/TCT/CCT;
 - b.1. Under the Name of the Republic of the Philippines
 - b. 2. Under the Name of the Previous Owner
- c. Latest Tax Declaration Number/Year of Effectivity;
- d. Lot Number;
- e. Block Number;
- f. Location;
- g. Area;
- h. Property Classification;
- i. Current Fair Market Value as Determined by the BIR;
- j. Current Fair Market Value as Determined by the Assessor;
- k. Amount of Tax Satisfied/Paid.

4. Determine the floor price of properties for auction sale;

5. Coordinate with COA, and ABC of the Region relative to sale/disposal of acquired/forfeited real properties under its jurisdiction;