



**Islamic Republic Of Afghanistan  
Kabul Municipality**



# **CITY PROPERTY LEASE POLICY DEPARTMENT OF REVENUE**

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# Islamic Republic Of Afghanistan

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### **Purpose**

There are a number of issues contributing to the need for a policy concerning the way Kabul Municipality manages its leased property assets, including both land and buildings. The absence of a framework for decision making regarding lease issues has led to an erratic approach to things such as providing consistent lease terms and conditions, managing insurance, undertaking maintenance, and collecting rents. Therefore, the Property and Revenue Departments seek to provide equitable, supportable, and legal guidelines to staff and the public which will ensure that all tenants are well served in the process and that rent revenue is enhanced.

### **1. Legal framework**

The quality of Afghanistan's legal provisions with respect to rent is a constraint in KM's efforts to generate revenue from this source.

The KM will work in a constructive manner with national government (the President's Office, IDLG, MoF) and other stakeholders (the other municipalities) to upgrade the quality of national legislation (in particular the national Regulation on the Lease Determination of Municipal Property from 1379 / 2000, Official Gazette 794), in particular to safeguard a workable extent of municipal autonomy in this area, and make sure that rent levels reflect market values.

KM will fill the legal gaps by introducing a municipal by-law on rent.

### **2. Allocation of properties**

Properties that are not yet allocated shall be allocated transparently by an auction or competitive tendering procedure in line with the Procurement Act (OG 957). This also concerns buildings whose tenants has left voluntarily or has been evicted. All the proposals after the due date of the public auction shall be evaluated by the Evaluation Committee and the contract shall be awarded to the best proposal. For high value properties, the Director of Revenue may conduct a review of the financial capacity of the prospective tenant.

### **3. Comprehensive Database of Municipal Properties Rented Out**

The ongoing computerization at district level makes it possible to establish a central database of municipal properties that are rented out. The database will contain

- information identifying each the property;
- the variables determining its rent value (listed in Schedule 1 of the Lease Determination Regulation, OG 794), such as number of floors, surface area of each floor, distance from district commercial centre, and construction type;
- information identifying the tenant;
- the start and end date of the current contract.



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This information is essential for determining rent levels in accordance with market value as required by article 88-2 of the Procurement Law. Kabul will adopt a procedure to keep the computerized database up-to-date after the conclusion or amendment of any contract. Kabul will adopt a formal model to determine the market value of its properties. Kabul Municipality will bring sub-market rent rates up to market level by giving notice to the tenants concerned within an appropriate notification term.

#### **4. Standardization of Contracts**

Kabul Municipality will develop standard rent contracts for residential property, commercial property and industrial property. These standard contracts, to be used by the districts, will cover the following issues.

- A reference to the relevant part of the Civil Code (Book Three, Title Two, Chapter One: Lease; art. 1322-1455).
- Entry into force and duration of the contract.
- The initial level of the rent.
- Frequency and timing of rent payments.
- A limitation of the right of the tenant to rent out the property to another person (a sub-tenant) to cases where prior written approval was obtained from the municipality.
- Responsibility of the tenants for the costs of electric power, water and telephone landlines.
- Allocation of the costs of repairs and maintenance with respect to buildings, drainage and landscaping between the municipality and the tenant.
- Regulation of the right of the municipality to inspect the premises, with respect for the privacy of the tenant.
- Notice period to terminate the contract from either side.
- Improvements becoming property of the Kabul Municipality upon termination of the lease, if prior written approval was obtained; otherwise Kabul has the right to remove them at the cost of the tenant.
- Mechanism for dispute resolution.

Existing contracts that fall short of these standards will be replaced.

#### **5. Duration of rent contracts**

Kabul Municipality will issue rent contracts for indefinite periods, that may be terminated from either side within a reasonable notice period. For properties that are already rented out, no auctions will be held, which would result in uncertainty among tenants and transaction costs for all parties (the costs of organizing and attending the auctions, the costs of removals). The municipality will ensure that rent levels are up to market value by adjusting them for inflation.

#### **6. Adjustment of rent level for inflation**



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Each year by the 1<sup>st</sup> of Hamal rent levels will be adjusted for the previous year's estimated level of inflation. Inflation is measured by the Consumer Price Index (CPI) for Kabul as published by the Central Statistical Office (<http://cso.gov.af/fa>, under National Consumer Price Index / فهرست قیمت استفاده کننده ملی). Tenants will be informed about this in advance by a formal letter. If a tenant believes a CPI adjustment is 10% or more above market rates they may submit an objection against the CPI adjustment to Kabul Municipality.

### **8. Termination of Lease**

At the termination of the lease, Kabul Municipality has the right to request the tenant to remove all improvements, including buildings, that did not receive prior written approval. This supports the goals of quality construction and maintenance standards, and minimizes the financial exposure to Kabul Municipality.

### **9. Eviction policy**

Kabul Municipality will adopt a standard procedure to deal with tenants that have fallen in arrears. The first written reminder shall be issued in less than a month after the due date. After two reminders, eviction will become an option. Eventual contributions to the urban economy in terms of jobs created by tenants struggling with a temporary slowdown of business will be considered. Eviction will be a responsibility of the central Property Directorate.

### **10. Policy Evaluation**

This policy shall be evaluated every three years to ensure it is enabling and effectively moving Kabul Municipality towards its objectives.

### **11. Consequences of Violations**

Violation of this policy may result in disciplinary action and will be treated as per the Kabul Municipality's Disciplinary policy. Refer to Disciplinary policy of Kabul Municipality.

### **12. Entry into Force of the Policy**

This policy comes into force after the approval of His Excellency the Kabul Mayor.