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Valuation Consultancy Center

وزارة الشؤون البلدية والقروية والإسكان
Ministry of Municipal Rural Affairs & Housing

الهيئة السعودية للمقيّمين المعتمدين
Saudi Authority for Accredited Valuers
تقييم
TAQEEM

Valuation Policy

For Application of Regulations for the Disposal of Municipal Real Estate

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Second Edition

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01 | Overview

1.1. Purpose

This Valuation Policy (the “Policy”) describes best practice for Municipalities for establishing the value of real estate under the Regulations for the Disposal of Municipal Real Estate issued 27 March 2020 (the “Regulations”) and the associated Executive Instructions (Bylaws) issued on 12 August 2020.

The Ministry of Municipal Rural Affairs and Housing (the “Ministry”) has issued this Policy to achieve greater consistency between the approach taken by each Municipality to valuing real estate under the regulations. It does this by identifying best practice for valuations and by aligning the valuation process with established international standards.

1.2. Scope

The Policy covers the following topics:

- Steps to ensure that a Municipality has the appropriate knowledge and experience to support its preparation of the valuations required by the Regulations.
- Operating procedures for the Assessment and Investment Committees.
- Information that should be available to the Assessment and Investment Committees before they decide the value of any real estate to be disposed of by way of a lease or otherwise.
- Definitions and procedures in the International Valuation Standards (IVS) that are relevant to the duties of the Assessment and Investment Committees.
- A description of the main methods of valuation recognised in the IVS that may be applicable to valuations under the Regulations.
- Guidance on setting the value of real estate designated for development required for public benefit.

The Policy does not include guidance on the valuation of different types of real estate. Such guidance is published separately by the Ministry in the “Municipal Real Estate Valuation Manual”. Guidance for the valuation of sites for telecommunication towers is in a separate manual, “Leasing sites for Telecommunication Towers”.

1.3. Review

This Policy shall be reviewed on a periodic basis by the Ministry, as needed.

Any amendments or revisions to this Policy shall specify the superseded versions of the policies, which shall be retained for future reference. These amendments shall be made available to all Municipalities.

1.4. Effective Date

The policy shall be effective from 15 June 2023.

02 | Knowledge and Expertise

2.1. Valuation Profession in the Kingdom.

Saudi Authority for Accredited Valuers (TAQEEM) was established by a Royal Decree, to regulate and improve the standards of the valuation profession in the Kingdom of Saudi Arabia.

Valuers have a vital role in the real estate market. Lenders and investors rely on valuation reports to help them determine asset quality and fair price, assess and mitigate risks, detect and prevent fraud, and generally make better informed transaction decisions. Such a role underpins the stability, as well as the efficient and transparent operation, of the real estate market.

The valuation profession in the Kingdom is subject to the Accredited Valuers Law which requires any natural or corporate person who practices valuation to be accredited and registered. TAQEEM is the body set up under the Law to register and licence individual valuers and firms.

The Authority currently qualifies and accredits valuers in five valuation sectors which include real estate, business, machinery and equipment, vehicle damages assessment and precious metals and gemstones.

TAQEEM sets the criteria for accreditation as a valuer which are based on internationally accepted requirements for education and supervised practical experience. It maintains a register of all accredited valuers and issues licences to practice.

TAQEEM issues standards for the provision of valuation services based on the requirements of the IVS and the specifics of the KSA market; together with a Code of Ethics and Professional Conduct that accredited valuers must follow when providing designated valuation services.

2.2. Knowledge expected of Committee Members

The Regulations and Executive Instructions set criteria for membership of the Assessment and Investment Committees. These include a requirement that members must be university degree holders, and preferably, specialists in related fields.[1]

The Executive Instructions allow the Minister to exclude the above conditions. Neither is there a requirement for Committee members to be accredited valuers. However, the general expectation is that Committee members will have an understanding of recognised valuation techniques, of the applicable parts of the IVS and of the regulations that are applicable to accredited valuers.

The Executive Instructions also make the Investment Department of each Municipality directly responsible for implementing the provisions of the Regulations. This involves determining the real estate for which offers will be invited, including estimating the Market Value of the project and being satisfied that appropriate investigations have been undertaken to establish the strategic benefits of the project.[2]

TAQEEM has developed a training programme aimed at members of Assessment Committees, Investment Committees and Investment Departments. It is recommended that all municipalities should arrange for key members of the Investment Department and members of the Assessment and Investment Committees to take part in this programme.

1 Regulations: Art 15 and 17; and Executive Instructions: Art 20 and 22
2 Exec Instructions: Art 32 and Art 61.

2.3. Internal Advice to Committees

Municipalities are encouraged to ensure that there are accredited valuers employed within the Investment Department to provide technical support and valuation advice to the Committees. This will reduce the amount of background investigation that the Committee members have to undertake themselves and therefore increase the overall capacity of the Committees to respond to offers received from prospective investors and to requests received from existing investors that require valuations.

2.4. Use of External Valuer

Municipalities are encouraged to instruct an external valuer to provide independent valuation advice before confirming their decision to seek invitations from investors for a lease of any project which is of high value, unusual or of critical importance to its comprehensive objectives for an area.

The external valuer's advice should also be made available to the Assessment Committee or Investment Committee making the final decision on value but it should not be binding on the Committees.

2.5. Process for Instructing External Valuer

The External Valuer should be a firm accredited in accordance with the Accredited Valuers Law. The valuation shall be provided in accordance with the IVS. Appendix 1 sets out the procedure for appointing an External Valuer.

2.6. Collection of Data

It is recommended that each Municipality record details of all rents and prices agreed for disposals under the regulations. This data should be kept up to date and made available to the Assessment Committee and Investment Committee and to other Municipalities.

03 | Investigations

3.1. Investigations Required

Before offering any investment opportunity, a Municipality has to prepare a request for proposal (RFP). The RFP has to include all the necessary information about the property to be offered for bidding. The Municipality also has to have sufficient information to respond to questions that may foreseeably be asked by prospective investors.

Article 32 of the Executive Instructions requires the Investment Department to estimate the amount that is likely to be bid in response to a RFP, taking into account the following:

- The estimated realisation of the project.
- The technical and technological requirements of the project.
- Studies conducted by the Municipality to prepare the RFP.
- The size of the administrative and technical staff involved in preparing the project.
- The role the project plays in developing the city.

Before undertaking or confirming a valuation a Municipality must ensure that adequate investigations have been made in order to provide all relevant information to prospective bidders or to the Assessment and Investment Committees. Examples of the types of investigation that a Municipality typically needs to undertake in order to prepare an RFP or assist determination of Market Value are described in this section of the Policy.

3.2. Highest and Best Use

Before an estimate of the Market Value can be made it is necessary to establish the "highest and best use" (HABU) of the property under consideration. This is the use of an asset which produces the highest value and is:

- physically possible,
- legally permissible and
- financially feasible.

This will be the use which a knowledgeable and prudent buyer or seller would have in mind when setting the price that they would be prepared to bid or accept. It is the use that maximises the asset's potential and results in the highest value (that is, the maximally productive or profitable use).

Whether a use is physically possible will depend on the physical characteristics of a site, such as its size and shape. Considering whether a use is financially feasible will also depend on these physical characteristics, and also on factors such as location and ground conditions. For example, it may be physically possible to build an office tower in the desert, but it is unlikely to be financially feasible.

The most difficult of the three criteria for establishing HABU is whether a proposed use is legally permissible. If a Master Plan is in place for the area in which the property is located, this may indicate the use, or range of uses, that would be permitted. If there is not a Master Plan research may be required into the use, and form, of development which would be permitted. This may include considering the type of use which a market participant would consider likely to be permitted.

Another matter which a Municipality needs to consider is what use would be consistent with its overall policy objectives for an area. For example, some land may need to be allocated for public parks or uses such as schools or hospitals in order to ensure that the value of other land is maximised. This may generate a lower value for a specific site than for similar sites in the area but making this the legally permissible use will increase the overall value of the city or district.

Time and cost implications, the historically opaque nature of the market and the general lack of socio-economic data at local level may all have been impediments to market studies and highest and best use analyses in the past. However, these perceived obstacles need to be increasingly weighed against the potential to unlock and enhance the overall value of a city or district through proper HABU studies.

It is therefore necessary for the Assessment and Investment Committees to ensure that the Investment Department has undertaken the necessary investigations to establish the HABU which is consistent with any Master Plan or the Municipality's overall policy objectives.

3.3. Technical Requirements

In order to estimate the Market Value of a property before it is offered for public bidding it may be necessary to investigate the technical or design requirements for any new building or structure that a prospective investor may construct. While a detailed study or design will normally be a matter for a prospective investor, the Municipality will need to be aware of the potential for any abnormal costs that could affect the value due to either physical or legal constraints. Examples could include the need for special foundations because of poor ground conditions, an obligation to remedy any existing contamination or the need to accommodate any third-party rights in the design.

3.4. Design Requirements

The Municipality needs consider any conditions that it either wishes to impose on the design of a new development or that relate to existing third-party rights. A Municipality may wish to impose conditions on the design or layout of a proposed development for historic or cultural reasons, or to preserve the character of an area. A third party may have existing rights over a Municipality's land, such as a right of way, that need to be taken into account in the design of a new development. These are all matters that need to be considered and, if necessary, investigated before any RFP or valuation is finalised.

04 | Standards

4.1. International Valuation Standards

In order to ensure consistency and comparisons in the way valuations are conducted and reported municipalities should follow the IVS as set by the International Valuation Standards Council and endorsed by TAQEEM, where these are applicable.

Some aspects of the IVS are not applicable to valuations produced by internal valuers for internal use. For example, where an internal valuer provides advice to the Assessment or Investment Committee the IVS requirements for confirming the terms of the valuation assignment or for reporting the valuation may not be wholly applicable. However, to the extent that is practical the procedures and definitions in the IVS should be applied and any departure required to comply with legislation or regulation should be disclosed.

4.2. Bases of Value

Municipalities shall use a value measurement, or "basis of value", that is defined in the IVS and is appropriate for the purpose of the valuation. The bases that may be applicable to valuations under the Regulations are listed below together with a brief explanation. More detail on each basis and its application is included in Appendix 2.

- For estimating the price that would be achieved by open competitive bidding, the appropriate basis is **Market Value**.

  This is defined in the IVS as:

  "Market Value is the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion."

  The expression "at arm's length" means that the parties are deemed to be unrelated and each seeking the most advantageous price from their perspective. The most advantageous price for a buyer and seller should also be the highest and best use.

- Where the value required is a periodic rent and not a capital sum the appropriate basis is **Market Rent**.

  This is defined in the IVS as:

  "Market Rent is the estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and a willing lessee on appropriate lease terms in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion."

  It can be seen that this wording is very similar to Market Value and the assumed relationship and motivation of the parties is identical. The variation is that it assumes a lease on appropriate terms. The IVS provide that an estimate of Market Rent can only be provided with an indication of the lease terms that are assumed.

- Where the required value is a price which is fair between two specific parties, not the amount obtainable in the open market, the appropriate basis is Equitable Value.

  This is defined in the IVS as:

  "Equitable Value is the estimated price for the transfer of an asset or liability between identified knowledgeable and willing parties that reflects the respective interests of those parties."

This basis would be appropriate where a Municipality is entering into negotiations with a specific party where the other party has an existing interest in the property which means that it cannot be offered to the market.

• Where a party wishes to establish the value to itself of owning a specific asset, the appropriate basis is Investment Value.

This is defined in the IVS as:

"Investment Value is the value of an asset to a particular owner or prospective owner for individual investment or operational objectives."

In many cases Investment Value will be the same as Market Value, but there may be situations where the advantages to a Municipality of owning and controlling a specific property, say to meet a wider strategic objective or because it owns complementary land, means its value to them is greater than the Market Value.

4.3. Standards and External Valuers

When instructing External Valuers a Municipality should require them to comply with the IVS (see 2.5). The standards require valuers to follow a process to ensure that the valuation assignment meets the following criteria:

- That the valuer is independent and competent.
- That the valuer confirms a suitable scope of work at the start of the assignment, including the basis of value to be reported and any limitations or assumptions that will apply.
- That the valuer makes appropriate investigations.
- That the valuation is reported with all necessary information to ensure it is understood.

Specimen documents for the appointment of an External Valuer, along with the process that a Municipality should follow in making the appointment, are provided in Appendix 1.

05

Valuations Approaches and Methods

5.1. Introduction

This Policy requires municipalities to follow the IVS to the extent this is practical. This means that one or more of the valuation approaches recognised in the IVS should be used.

There are three main valuation approaches in the IVS. These are broad, generic descriptions of the techniques used. Within each there can be many different methods of applying the overriding principle, depending on the type of asset and the market in which it exists.

The Policy provides an overview of these three approaches with a brief summary of the key inputs that are required and comment on the advantages and disadvantages of their use in different situations.

All three approaches are based on the economic principles of price equilibrium, anticipation of benefits or substitution. Using more than one valuation approach or method is recommended where there are insufficient factual or observable inputs for a single method to produce a reliable valuation.

5.2. Market Approach

The Market Approach provides an indication of value by comparing the subject asset with identical or similar assets for which price information is available.

Under this approach the first step is to consider the prices for transactions of identical or similar assets that have occurred recently in the market. If few recent transactions have occurred, it may also be appropriate to consider the prices of identical or similar assets that are listed or offered for sale provided the relevance of this information is clearly established and critically analysed.

It is usually necessary to adjust the price information from other transactions to reflect differences in demand in specific locations or in the physical characteristics of the assets. In some cases it may also be necessary to make adjustments to reflect any differences between the circumstances of the actual transaction being used as evidence and the basis of value required for the valuation being undertaken. For example, if the price in another transaction was not agreed in an "arm's length transaction" (see Market Value in 5.2) it may not be suitable evidence of the Market Value of the property being valued.

The Market Approach is most commonly used where there is an active market with reasonably similar assets. It is the most commonly used approach for real estate where there are many similar properties which are traded on a regular basis. Appropriate adjustments for differences in location, size, quality and design can be made. However, the Market Approach depends on an active market and is difficult to apply if there are few relevant transactions with which the subject of the valuation can be compared. Where the location or design of the subject is unusual, establishing appropriate adjustments to price information obtained from more conventional property may also be difficult.

5.3. Income Approach

The income approach describes any valuation method which involves analysis of anticipated future cash flows. The most common application of the income approach involves estimating the future rental income that will be received from a property and converting this into a single capital sum that an investor would pay for the right to receive that income. The second, more limited, application is to estimate the net income that could be generated by a business in occupation of a property and use this to either estimate the rent that it could afford to pay or the capital amount it would pay to acquire the property.

The income approach has more methods of application than the other approaches. The main methods used for valuing real estate under the income approach are:

- Income capitalisation, where an all-risks yield or overall capitalisation rate is applied to a representative single period income.
- Discounted cash flow, where a discount rate is applied to a series of cash flows for future periods to discount them to a present value.
- Estimating the amount a business would have available to rent or purchase a property after estimating its probable turnover and deducting operating expenses and an allowance for profit. This is often called the "profits test".

The key inputs required by any method under the income approach is a realistic estimate of future cash flows and the selection of a discount rate which would be required by market participants on the valuation date. The income capitalisation method and discounted cash flow method are commonly used for valuing investment property, i.e. property which is held by its owner to earn rentals, for capital appreciation or both. The profits test is only a reliable valuation method for property that is designed for a specific business activity, for example a hotel, theatre, hospital or fuel station where the value of such property is directly related to the income that could be generated by the one type business for which it is designed. It is not appropriate for property which is capable of use by a range of different types of business, for example standard retail or industrial units.

The income approach is a less appropriate method to apply where the future cash flow cannot be reliably estimated, either through lack of relevant data or where the amount and security of future income is highly variable. The resulting value derived from using the income approach can also be disproportionately sensitive to relatively small changes in the financial projections.

5.4. Cost Approach

The cost approach is based on the principle that the price that a buyer in the market would pay for the asset being valued would not be more than the cost to purchase or construct an equivalent asset.

The cost approach is mainly applied to property with specialised buildings for which there is no active market and which does not generate an income which is specific to the property in question. It involves estimating the cost of constructing a modern equivalent of the building or structure, making deductions to reflect the physical, functional and economic obsolescence of the actual building or structure and then adding the value of the land required.

The cost approach is often the only method that can be used where a capital valuation is required of a highly specialised building or structure, for example if the owner needs to include the value in its financial statements. While that capital value can then be used to estimate a rent using an appropriate discount rate, this is rarely done as most specialised properties are owned by the operator. The main disadvantage of the cost approach is that the adjustments for physical, functional and economic obsolescence are rarely supportable with reliable data and can be highly subjective. Challenges also arise in valuing the land element if it is clear that a modern equivalent would not be in the same location as the subject.

The cost approach will be rarely appropriate for valuations under the Regulations since normally the Municipalities do not own specialised structures, only the underlying land which is more reliably valued using the Market Approach.

5.5. Municipal Real Estate Valuation Manual

The Municipal Real Estate Valuation Manual issued by the Ministry provides more information on some of the more commonly accepted methods used to apply each of these main Approaches described above, together with some illustrative examples.

06 Public Benefit or Service Valuations

6.1. Introduction

Market Value and Market Rent as defined in the IVS both assume that first there is a market for the asset and second that buyers and sellers are not prevented from agreeing a price which reflects the highest and best use. However, there are many examples of property is used for providing a public benefit where these assumptions cannot apply. Examples include:

- Where there is only one provider of a public utility, or the utility concerned is subject to regulations that restrict a landowner's normal property rights, for example by allowing free access to the utility provider to install, maintain or replace equipment.
- Where a public service is provided by the private sector, but it does not represent the highest and best use of the land. For substantial facilities, such as a school or hospital, a Master Plan may designate that this is the legally permissible use. However, for services that require only a small area of land there may not be a specific restriction on use. In urban locations this could mean that the Market Value is significantly higher than can be afforded by the provider of the service.
- Where the buildings or other structures constructed are specialised and suitable only for the provision of a specific public service.
- Where there is no reliably measurable financial benefit from a property that provides public benefit, for example by improving the environment or informal recreation.

Globally there is no consensus on what types of assets held by the public sector for providing a public service should be valued or how they should be valued. A study in 2013 by the International Monetary Fund illustrated this with case studies of more than thirty countries that showed significant differences in how publicly owned non-financial assets such as land and buildings were recognised and measured. The International Valuation Standards Council (IVSC) has also examined concepts such as social value on more than one occasion but did not identify any consensus as to how this can be expressed in monetary terms.

This Policy sets a process to assist Municipalities adopt a consistent approach to estimating the value of property which provides a public service or public benefit. A decision tree is provided at Appendix 3 to illustrate the process described below.

6.2. Relevant Regulations

Article 10 of the Regulations excludes certain contracts from public bidding but requires the disposal to be subject to the "Market Value". With few exceptions these disposals are by way of a lease contract with rental payments over the term of the lease rather than a single capital payment. Where this is the case, the appropriate basis of value is Market Rent, see Section 5.2 and Appendix 2. The implementing regulation exempted the following municipal real estates from public bidding:

- Investment contracts with government agencies or companies with public franchise, or those in which the state contributes to their use for the provision of any of the basic services and utilities, such as electricity, telephone, water and sanitation.
- Properties designated for public benefit, and properties designated for utility services which the Minister deems to be excluded from public competition, provided that the contract is not relinquished or sub-let and that the investor performs the activity themselves.

The Regulations define "public benefit properties*" as land or buildings allocated for the sale of livestock, meat, vegetables, fruits, firewood, coal, and the like"* Other examples of public benefit property include small workshops to encourage local businesses and community recreational facilities.

6.3. Valuation Process

Although the required valuations are based on market concepts, the Regulations prevent public bidding, which in some cases would not be possible anyway because the sole qualified bidder would be a government agency or franchise holder. Where this is the case there is no active market to provide information on the prices or rents that would be agreed in open competition. In order to value such property Municipalities should follow the process outlined below:

- Is there an active market for similar or equivalent property in the private sector that could be used for comparison? For example, the range of uses defined as "public benefit properties" in the Regulations is wide and includes some property for retail uses. In many situations there will be evidence from retail uses which are not designated as being of public benefit which can be used to give an indication of the Market Value or Market Rent, with adjustments to allow for differences in location and the physical characteristics.
- If there is no active market for similar or equivalent property in the private sector with which the public benefit property can be compared, a comparison should be made between:
    - the value of the property for any other purpose which would be physically possible, legally permissible and financially feasible; and
    - the value of the financial benefits that the proposed investment will bring to the area which it will serve.

The financial benefits of the proposed investment may be tangible or intangible. An example of a tangible benefit is whether the investment increases or maintains the value of other property. For example, land to assist the provision of utilities or transport infrastructure will usually increase the value of land it serves. In other cases the benefits will be intangible, such as improved health or education for the local population. The value of these intangible benefits may be measurable using economic models or government approved benchmarks.

If the financial benefits that the proposed investment will bring are lower than the value for any alternative use a Municipality can reduce the rent to a figure less than the value of that alternative use that allows the service to be provided to be viable. For a project which a Municipality considers will be of benefit to its area but for which no direct or indirect financial value can be identified, it may charge a nominal rent.
If the benefits that the proposed investment will bring are higher than the value for any alternative use, the property should be leased to the investor at the value of that alternative use.

The value of the property for any alternative use which would be physically possible, legally permissible and financially feasible in the absence of the Public Benefit use should be considered alongside the benefits that the proposed Public Benefit use will bring to the area. The value for the alternative use will set the maximum value for a public benefit property, but if the benefits of the designated public benefit are greater than those for the most likely alternative use of the property, the Municipality may reduce the rent below that of the Market Rent for the alternative use to ensure that the project remains viable. For a project for which no direct or indirect financial value can be identified but which a municipality considers will still be of benefit to its area it may charge a nominal rent.

This Policy allows the Municipality to be compensated for the value of land which may have been used for an alternative use with the flexibility to charge a lower rent if it deems the investment to be in the public interest.

Different methods may be used to determine the values described above. These are explained with examples of their application in the Municipal Real Estate Valuation Manual.

07 | Dispute Resolution

7.1. Introduction

Disputes can arise when an existing lease contract is due for renewal or extension under Article 26 of the Regulations if a lessee/investor disagrees with the value set by the Investment Committee. This is especially likely where the lessee has made significant improvements to a site.

Municipalities should adopt processes that avoiding disputes wherever possible. They need to have regard not only to obtaining the best return from an individual property, but also to maintaining the overall viability of an area. If rents are often in dispute it creates uncertainty over whether a business can remain, or excessive changes of occupier. This can deter new investors and adversely affect the economic performance of an area. Disputes can also be time consuming and a drain on a Municipality's resources.

7.2. Dispute Avoidance

In order to avoid disputes with an existing lessee the Municipality should request the Investment Committee to reassess the Market Rent well before the end of the current lease. No less than six months should be allowed for the renewal process but for larger properties this should be significantly longer. When a lessee is informed of the Municipality's terms for renewing or extending the lease, a clear timetable should also be provided which sets:

- a date before which the lessee must either accept the Municipality's terms, make a counter proposal or indicate that it does not wish to renew.
- A date by which the Municipality must respond to any counter proposal from the lessee.
- A date by which any continuing disagreement on the renewal terms must be either agreed by negotiation or referred to a third party for resolution.

At least two months should be allowed between each of the three dates above.
This process sets out a clear procedure that allows for consideration and negotiation and for any disagreement to be settled without the need for the dispute to be escalated.

7.3. Third Party Resolution

All related matters under dispute will be referred to the subject court in the Kingdom of Saudi Arabia.

Appendix 1
Appointment of External Valuer

Appointment of External Valuer

This Policy encourages Municipalities to instruct an external valuer to provide independent valuation advice before confirming their decision to seek invitations from investors for a lease of land for any project which is of high value, unusual or of critical importance to the Municipality's comprehensive objectives for an area.

The external valuer's advice should also be made available to the Assessment Committee or Investment Committee making the final decision on value but is not binding on them.

This Appendix sets out the process that should be followed for selecting and appointing an External Valuer and provides examples of a suitable RFP to prospective appointees and of an Appointment Letter to the selected valuer.

Criteria for Appointment

Firms must be accredited and registered with TAQEEM and hold a licence for undertaking valuations for the type of asset.

Accreditation and Membership of TAQEEM is necessary to comply with the Accredited Valuers Law. It also provides assurance to the Municipality that the valuers are:

- Qualified to an internationally recognised level for professional valuers,
- Are subject to a Code of Ethics and Professional Conduct, and
- Are subject to disciplinary procedures for a breach of the Code, including withdrawal of accreditation.

Procedure for Appointment

All external valuers shall be appointed in accordance with the new Government Tenders & Procurement Law (the "Procurement Law") effective from November 2019. The Law applies to all governmental entities, including ministries, government agencies, authorities, departments, public institutions and independent public agencies.

The Procurement Law has introduced new methods which a government entity can use to award contracts. These include entering into a "Framework Agreement" with a successful tenderer. Such agreement will contain all the terms and conditions that will apply to any job awarded under the agreement except for those that specifically relate to each job. Thy are useful where any goods or services are likely to be procured on a repeated basis. A framework agreement can include matters such as the legal duties and responsibilities of each party, any requirements that the contractor has to comply with before accepting any future job or order and the basis on which fees will be calculated.

Framework agreements are commonly used by public and private organisations around the world for the procurement of valuation services. Frequently valuations are required within a short time frame which would not be compatible with entering into a full competitive tender in each case. If an entity requires a valuation it is far quicker to seek conformation of a few details specific to that valuation from a limited number of valuation firms which hold framework agreements with that entity.

It is recommended that framework agreements in accordance with the Procurement Law are entered into with at least three suitably qualified valuation firms. To avoid duplication these should be established at the highest level of Municipality that is appropriate within each region. This will allow for competitive fee bids and for occasions when one particular firm cannot act because it has a conflict of interest.

If no framework agreements have been set up, the new Procurement Law permits consulting services to be procured using a tender limited to suppliers that meet the required technical knowledge and experience. Therefore, individual valuations can be procured on the basis of a limited tender but this process will require time for the preparation of an RFP, analysis of responses and award each time an external valuation is required.

Matters included in a Framework Agreement

The following typically need to be included in any Framework Agreement for the provision of valuation services to a Municipality:

Scope of proposed Agreement	Duration, types of valuations required, types of property involved.
Applicable Laws	e.g. Government Tenders and Procurement Law, Accredited Valuers Law, Anti-Corruption Law.
Standards	That valuations provided will comply with professional standards as issued by TAQEEM, including compliance with IVS.
Information that will be provided	Information that will normally be provided by client entity to valuer about the property to be valued.
Investigations and Assumptions	What investigations will normally be expected by valuer, the limits that will be accepted on those investigations, and assumptions that will be accepted.
Service Requirements	Format in which valuation is to be provided, expected timescales etc.
Intellectual Property Rights	Whether transferred to client or retained by valuer.
Information Security	That valuer will keep information provided by client secure.
Confidentiality	That valuer will keep all information provided by the client.
Data Protection	Any requirement regarding collection and retention of data.
Insurance and Liability	Requirements for professional indemnity insurance and any limits on liability.
Complaints Procedure	procedure for dealing with and escalating any dispute.
Process for Commissioning	How invitations for each individual valuation request will be commissioned.
Fees and Payment	Process for submitting fees and payment conditions. If a set fee or formula is agreed this should be included.

Matters included in an invitation under a Framework Agreement

Where a Framework Agreement is in place with a valuation firm which a Municipality is considering appointing to undertake a valuation, the invitation should include the following:

Details of Property to be valued	Type of property, address, interest to be valued, e.g. lease terms and duration to be assumed.
Valuation Purpose	The purpose for which the valuation is required.
Valuation Date	The required date on which the valuation is applicable. This will normally be the date of report or an earlier date.
Date Required	The date by which the valuation is required.
Identification of Third Party Interest	Any party with an interest in the property, for example a current occupier or prospective investor or tenant.

Any special assumptions	If the client requires the valuer to provide a value that assumes facts that differ from those that exist on the valuation date – for example that a building in disrepair has been repaired or that a building that is currently occupied is unoccupied.
Any variation in the terms of the Framework Agreement	For example, the client may require valuer to investigate and verify something which could normally be assumed as fact under the Framework.
Confirmations from Valuer	The valuer should be asked to provide the following confirmations: • That they have no conflict of interest through current or recent involvement with another party with an interest in the property or adjoining property; • That they have the experience and capacity required to undertake the required valuation within the required timeframe; and • The fee they require, (if this is not set by the Framework Agreement).
Date for Response	Date by which above information is required.

Matters to be included in a tender RFP

If no Framework Agreement exists with a valuation firm a limited tender process as detailed in the Procurement Law can be used. The following information will typically be needed in the RFP:

Details of Property to be valued	Type of property, address, interest to be valued, e.g. lease terms and duration to be assumed.
Valuation Purpose	The purpose for which the valuation is required.
Valuation Date	The required date on which the valuation is applicable. This will normally be the date of report or an earlier date.
Date Required	The date by which the valuation is required.
Identification of Third Party Interest	Any party with an interest in the property, for example a current occupier or prospective investor or tenant.
Any special assumptions	If the client requires the valuer to provide a value that assumes facts that differ from those that exist on the valuation date – for example that a building in disrepair has been repaired or that a building that is currently occupied is unoccupied.
Applicable Laws	e.g. Government Tenders and Procurement Law, Accredited Valuers Law, Anti-Corruption Law.
Standards	That the valuation(s) provided will comply with professional standards as issued by TAQEEM, including compliance with IVS.
Information that will be provided	Information that will be provided by client entity to valuer about the property to be valued.
Investigations and Assumptions	What investigations will be expected by valuer, the limits that will be accepted on those investigations, and assumptions that will be accepted.
Intellectual Property Rights	Whether transferred to client or retained by valuer.
Information Security	That valuer will keep information provided by client secure.

Confidentiality	That valuer will keep all information provided by the client.
Data Protection	Any requirement regarding collection and retention of data.
Insurance and Liability	Requirements for professional indemnity insurance and any limits on liability.
Complaints Procedure	procedure for dealing with and escalating any dispute.
Fees and Payment	Process for submitting fee and payment conditions.
Confirmations from Valuer	The valuer should be asked to provide the following confirmations: • That they have no conflict of interest through current or recent involvement with another party with an interest in the property or adjoining property; • That they have the experience and capacity required to undertake the required valuation within the required timeframe; and • The fee required.
Date for Response	Date by which proposal should be returned.

Appendix 2

Bases of Value – Additional Information

Bases of Value – Additional Information

This Appendix provides additional information about the IVS bases of value described in Section 5.2 and the circumstances when their use is appropriate.

IVS 104 requires a valuer to select an appropriate basis (or bases) of value that is suitable for the intended purpose of the valuation and to follow all applicable requirements associated with that basis of value. The basis of value used may influence or dictate a valuer's selection of methods, inputs and assumptions, and the therefore the valuation that is reported.

Market Value

This basis is appropriate where the value is intended to be an estimate of the price that would be obtained in a market transaction. The IVS definition is:

> *The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.*

This concise definition is accompanied in IVS 104 by a detailed "conceptual framework" which explains the meaning of each phrase. A slightly abridged version of this framework is provided below, but a valuer has to have regard to the full explanation published in IVS 104 30.2.

"An asset or liability should exchange"	the fact that the value of an asset or liability is an estimated amount rather than a predetermined amount or actual sale price.
"On the valuation date"	the value applies on a specified date and may be incorrect at any other time.
"A willing buyer"	is one who is motivated, but not compelled to buy. This buyer is neither over-eager nor determined to buy at any price. This buyer purchases in accordance with the realities of the current market and with current market expectations, rather than in relation to an imaginary or hypothetical market that cannot be demonstrated or anticipated to exist. The assumed buyer would not pay a higher price than the market requires. The present owner is included among those who constitute "the market".
"A willing seller"	is neither an over-eager nor a forced seller prepared to sell at any price, nor one prepared to hold out for a price unobtainable in the current market. The willing seller is motivated to sell the asset for the best price attainable in the open market on the valuation date after proper marketing, whatever that price may be. The circumstances of the actual owner are not part of this consideration because the willing seller is a hypothetical owner.
"In an arm's length transaction"	means the transaction is presumed to be between unrelated parties, with no relationship which could cause a price between them to differ from that between any other parties in the market.
"After proper marketing"	means that the asset has been exposed to the market in the most appropriate manner before the valuation date. The method of sale is deemed to be that most appropriate to obtain the best price in the market to which the seller has access. The length of exposure time is not a fixed period but will vary according to the type of asset and market conditions. The only criterion is that there must have been sufficient time to allow the asset to be brought to the attention of an adequate number of market participants.

"Where the parties had each acted knowledgeably, prudently"	both the willing buyer and the willing seller are reasonably informed about the nature and characteristics of the asset, its actual and potential uses, and the state of the market as of the valuation date. Each is further presumed to use that knowledge prudently to seek the price that is most favourable for them.
"And without compulsion"	although each party is motivated to undertake the transaction neither is forced or unduly coerced to complete it.

The parties are deemed to be informed about the characteristics of the asset and its actual and potential uses. They are also deemed to be seeking the price that is most advantageous from their perspective. This means the Market Value should reflect the highest and best use, see Section 4.2 of this Policy.

Market Value is the basis that is most commonly used when an estimate is required of the price that would be obtained by an existing owner if they were to sell their interest on the valuation date. It assumes a transfer of a defined interest in return for a single capital payment. In the context of the Regulations it has limited application as most disposals are on the basis of a lease contract with periodic payments. However, the market hypothesis that it explains is a foundation for bases of value which are likely to be appropriate for valuations required by the Regulations.

Market Value is also based on the same concept as Fair Value as defined by the International Financial Reporting Standards in IFRS 13. With only a few limited exceptions the correct application of Market Value under IVS should produce the same result as the correct application of Fair Value under IFRS 13.

Market Rent

Market rent is a very similar definition to Market Value but is an estimate of a periodic payment that market participants would agree on the valuation date for a lease of a property. The IVS definition is:

> *The estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and a willing lessee on appropriate lease terms in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.*

The concepts of Market Rent are very similar to Market Value and the conceptual framework summarised above should be applied. The principal difference, apart from being a rent instead of a price, is the addition of the words "on appropriate lease terms…" Because lease contracts can vary considerably and contain different rights and obligations on the parties. Market Rent can only be estimated if the main conditions of the lease are known. The IVS therefore include a requirement that an estimate of the Market Rent must always be accompanied by an indication of the lease terms which have been assumed. In most cases these will the terms typically offered in the market on the valuation date. An estimate of Market Rent should therefore indicate the assumed lease terms in respect of:

- The frequency and timing of rent payments (e.g. annual rent payable quarterly in advance or monthly rent payable monthly in advance)
- The length of the term.
- The frequency and method of any rent escalations.
- The party responsible for repairs and maintenance.
- Responsibility for other outgoings, for example tax, insurance.
- Any special obligations, for example, to construct a specified building by a specified date.

In the case of rent valuations under the Regulations some of the conditions such as the length of the term and escalation provisions are prescribed but should still be explicitly referenced along with the Market Rent to avoid misunderstanding.

Equitable Value

This basis may be appropriate where two parties have existing interests in a property or adjoining property, where the price that would be agreed may differ from that which would be paid in the open market between unconnected parties. The IVS definition is:

> *"Equitable Value is the estimated price for the transfer of an asset or liability between identified knowledgeable and willing parties that reflects the respective interests of those parties."*

Equitable Value arises where there are synergies that would create additional value for either the buyer or seller from a transaction between them. Market Value and Market Rent exclude any element of value available only to a defined owner or purchaser. Common examples that arise in property valuation are:

- One party owns a small plot of land adjoining the road which another party owning a large plot of land suitable for development needs to obtain access. In a transaction between the two parties, a knowledgeable and willing seller of the small plot of land would be aware that the larger plot would increase in value if it were sold to its owner. The owner of the large plot is a knowledgeable and willing buyer who would be aware that the price they could pay for the small plot would be significantly greater than could be obtained from any other buyer in the market. The difference between the Market Value of each plot if sold separately and the value of the two sites combined is defined in the IVS as the synergistic value. It is in the best interests of both parties to agree a price that divides the synergistic value between them. The exact apportionment will depend on the facts of each case.

- Where a lessor and lessee can both realise additional value by agreeing a restructuring of the lease contract. A lessee may have a lease for 20 years under which the rent is below the current Market Rent. In the 15th year they may wish to invest in improving and extending the building, but the remaining 5 years is not sufficient to justify the investment financially. The lessee approaches the lessor asking for the existing lease to be surrendered and a new 25 year lease granted. The lessor can increase the value of its holding by granting a longer lease at an increased rent and will benefit from the improved building in the long term. The lessee will benefit from having the improved building it needs and sufficient time to recover the costs of the new investment. The synergistic value is the difference between the sum of the Market Values of the two existing interests and the sum of the Market Values of the two proposed interests. It is in the mutual interests of both parties to agree terms that divide this synergistic value. The tenant's share of this value can be reflected in either a discount from the current Market Rent or a capital contribution by the lessor to the cost of the investment. An example of this scenario is included in the Municipal Real Estate Valuation Manual.

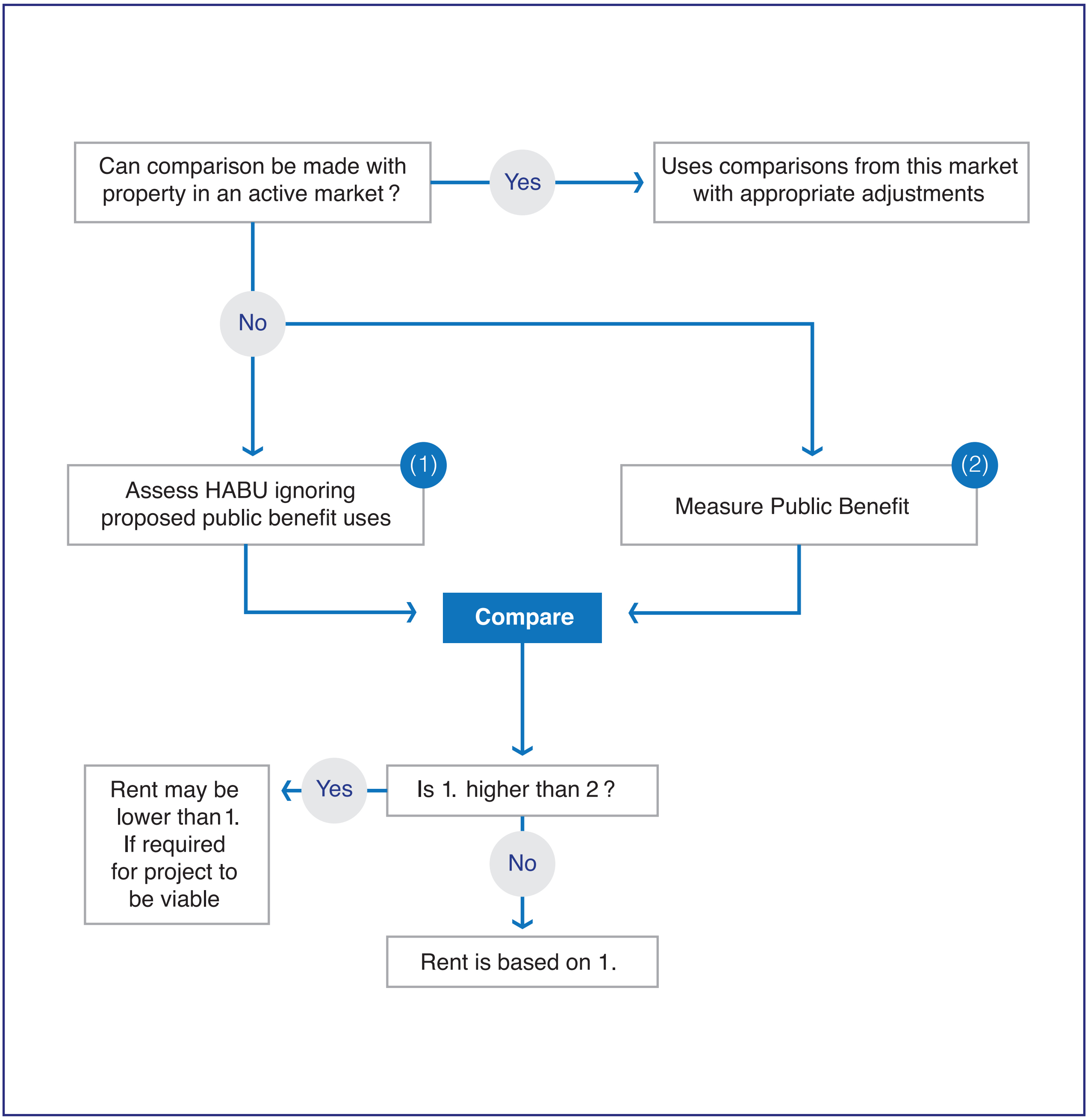
Investment Value

This is defined in the IVS as:

> *"Investment Value is the value of an asset to a particular owner or prospective owner for individual investment or operational objectives."*

In many cases Investment Value will be the same as Market Value, but there may be situations where the advantages of owning a specific property, say to meet a wider strategic objective, is greater than the Market Value. Investment Value may be required as part of a strategic review under which the value to the Municipality of owning property is compared to the Market Value. Investment Value would never be appropriate for estimating the proceeds of a proposed disposal. However, it can be used to help a Municipality decide whether it should invite investment in a property or retain it because it provides greater value to the Municipality's strategic objectives than could be obtained from the income that could be generated from an investor.

Appendix 3
Public Benefit Decision Tree



Can comparison be made with property in an active market ?
Yes
Uses comparisons from this market with appropriate adjustments
No
(1)
Assess HABU ignoring proposed public benefit uses
(2)
Measure Public Benefit
Compare
Is 1. higher than 2 ?
Yes
Rent may be lower than 1. If required for project to be viable
No
Rent is based on 1.

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