

**NPM No. 088-2016**

15 November 2016

**MS. YANNE FABIAN**  
*Philippine Open Government Partnership Secretariat*  
**FISCAL PLANNING AND REFORMS BUREAU**  
**DEPARTMENT OF BUDGET AND MANAGEMENT (DBM)**  
General Solano St., San Miguel, Manila

**Re: Designation of BAC Chairman**

Dear Ms. Fabian:

This refers to your electronic mail (email) forwarding a letter sent by the University of Eastern Philippines requesting our opinion on whether the Vice President for Administration and Finance (VPAF) is qualified to be the Chairman of the University's Bids and Awards Committee (BAC).

It is represented that the VPAF is a designated position as in other state universities and colleges, and he holds a Professor II plantilla position. Said position (as shown in the attached approved UEP Structural and Flow Chart) is Rank 2 from the University President and Rank 3 from the Board of Regents.

**BAC Chairperson; Qualification**

As we have clarified in our previous opinion<sup>1</sup>, for an official to be designated as BAC Chairman, such official must possess all of the qualifications and none of the disqualifications provided under existing laws, rules and regulations. Under Sections 11.2.1 and 11.2.2 of the IRR of RA 9184, the BAC Chairman must be a person of unquestionable integrity and procurement proficiency who is at least a third ranking permanent official of the procuring entity.

We had the occasion to explain the requirement for a "third ranking permanent official" where we stated that the requirement in Section 11.2.2 of the IRR of RA 9184 is explicit and does not provide for any exception to the third-ranking rule.<sup>2</sup> The rationale for this ranking requirement is to ensure that the official to be designated as BAC Chairman possesses the level of responsibility, decision-making and accountability which the function of the position calls for.

<sup>1</sup> NPM No. 011-2016 dated 21 March 2016.

<sup>2</sup> NPM 24-2011 dated 26 December 2011.

On the other hand, the term "permanent" refers to a *plantilla* position within the procuring entity concerned.<sup>3</sup> It does not qualify whether the appointment is contractual, regular, or temporary, but rather the concern specifically refers to whether the position exists within the organizational structure of the procuring entity.<sup>4</sup> Consequently, an official whose position exists in the organizational structure of the procuring entity may be designated as BAC Chairman if he is occupying a third ranking permanent position.

### **BAC Membership; Disqualifications**

It bears stressing, however, that the HOPE and/or the approving authority shall in no case be the Chairman or a member of the BAC.<sup>5</sup> In addition, the Commission on Audit (COA) Circular No. 2003-004<sup>6</sup> prohibits the Chief Accountant and personnel of accounting units to be regular members of the Bids and Award Committee as it is also necessary to ensure that the procurement and payment functions of a procuring entity are separated, in keeping with the rules and principles of good internal control and to avert the possibility of conflict of interest.

### **Summary**

Accordingly, the VPAF may be designated as BAC Chairman, provided that such employee possesses all of the qualifications and none of the disqualifications provided under existing laws, rules and regulations. In particular, the Chairperson must be at least a third ranking permanent official of the procuring entity; a person of unquestionable integrity and procurement proficiency; and, in no case shall be the HOPE, an approving authority, or a Chief Accountant or personnel of the Accounting Unit, except as an end-user representative when the Accounting Unit is the requesting or procuring end-user.

All told, if the VPAF is designated in a position that is at least third ranking within the organizational structure of the procuring entity, he or she may be designated as the chairman of the BAC, subject to compliance with the other requirements above-mentioned.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

Very truly yours,

  
**DENNIS S. SANTIAGO**  
*Executive Director V*

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<sup>3</sup> Section 11.2.2 last par. of the IRR of RA 9184.

<sup>4</sup> NPM No. 34-2011 dated 28 December 2011 citing NPM No. 24-2009 dated 22 May 2009.

<sup>5</sup> Section 11.2.5 of the IRR of RA 9184.

<sup>6</sup> Issued on July 30, 2003.