

NPM No. 112-2017

29 December 2017

DR. DANNY B. CORDOVA, CESE
OIC – Assistant Schools Division Superintendent
DEPARTMENT OF EDUCATION
Division of Zamboanga del Sur

Re: Bids and Awards Committee Composition -

Dear Dr. Cordova:


This refers to your email requesting for clarification on the qualification of an Officer-in-Charge (OIC) Assistant Schools Division Superintendent to Chair the Bids and Awards Committee (BAC) of the Department of Education (DepED), Division of Zamboanga del Sur, Region IX.

Per your representation, you were designated by the Honorable Secretary Leonor Magtolis Briones of the Department of Education as OIC Assistant Schools Division Superintendent in Zamboanga del Sur Division. However, you also mentioned that your present position and plantilla is still in the DepED Regional Office, Region IX, as Chief of the Education Support Services Division (ESSD). Hence this query.

**BAC Composition; BAC
Chairman in Regional Offices -**

Pursuant to Section 11.2.2 of the 2016 IRR, BAC in the regional offices shall be composed of three (3) regular members: a) Chairperson, who must be at least third (3rd) ranking permanent official of the Procuring Entity; b) An officer from the legal or administrative area of the procuring entity who shall be at least third (3rd) ranking permanent personnel or if not available, an officer of the next lower rank; and c) An officer from the finance area of the Procuring Entity, who shall be at least third (3rd) ranking permanent personnel or if not available, an officer of the next lower rank. In addition, two (2) provisional BAC members who have technical expertise relevant to the procurement at hand, and a representative from the end-user or implementing unit who has knowledge of procurement laws and procedures.

As can be gleaned from the foregoing, the BAC Chairperson in regional offices shall be a 3rd ranking permanent official. In an earlier opinion¹, we had the occasion to explain the requirement relative to officials or personnel holding a third ranking permanent position, thus:

In this regard, the determination of the ranking of positions based on the approved plantilla position lies within the concerned procuring entity. 

¹ NPM 015-2011 dated 23 September 2011

Reckoning from the highest position in the plantilla, the procuring entity may identify which positions are qualified for membership in the BAC. Among the factors that may be considered in establishing the ranking are the organizational structure, salary grade allocation, nature of work, degree of responsibility, and classification and functional relationship of positions.

Based on the established ranking of positions, the procuring entity may designate any personnel occupying at least a third ranking position as its BAC Chairperson. However, the designation of the BAC Chairperson is subject to the disqualifications provided in Section 11.2.5 of the Implementing Rules and Regulations of Republic Act 9184 and Commission on Audit Circular 2003-004, i.e., Head of the Procuring Entity, Approving Authority, and Chief Accountant and its staff.

Accordingly, if the plantilla position you are currently occupying at the DepED Zamboanga del Sur Division, that is, as Assistant Schools Division Superintendent, is at least a third ranking plantilla position in the Division, you can validly serve as BAC Chairperson even though the designation made by the Honorable Secretary was on an OIC basis. Note that the nature of the appointment or designation is of no consequence, regardless whether the appointment is permanent, temporary, co-terminus, by way of secondment, or as OIC, so long as the plantilla position being occupied conforms with ranking requirement provided for under the procurement law and the rules, the official or personnel may serve as BAC member, or in this situation as BAC Chairman, if the Assistant Schools Division Superintendent plantilla position is at least third ranking within the Division's Organization. In an earlier Non-Policy Matter Opinion², we opined that:

[T]o stress, the term "permanent" does not refer to whether the person holding the *plantilla* position is contractual, regular, or temporary; rather, this refers to whether the position exists within the organizational structure of the procuring entity or not. Thusly, **a third ranking officer occupying a position, albeit in temporary capacity, is eligible to become the Chairman of the BAC for as long as the office he is currently occupying is an existing *plantilla* position** in the university.

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 *mm*

² NPM No. 057-2016, dated 2 November 2016.