



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 23-2012

22 February 2012

MR. CONRADO J. PADUA
No. 84 C.M. Recto St.
Dela Torre Subdivision, Tayabas City

MR. RADITO C. LABITA
No. 15 Yakal Road
Dela Torre Subdivision, Tayabas City

MR. ROMEO G. CARIAGA
SM Ville Subdivision, Tayabas City

Re: Legal Assistance and Indemnification Package

Dear Sirs:

We respond to your letter requesting for clarification on the rights and benefits of the members of Bids and Awards Committee (BAC) under Republic Act. No. 9184 otherwise known as "Government Procurement Reform Act" and its Implementing Rules and Regulations (IRR).

You mentioned in your letter that a criminal case has been filed against you before the Regional Trial Court of Lucena City, in your capacity as former members of the BAC of the City of Tayabas. This prompted you to request the City Mayor, being the head of the procuring entity, to provide you with legal assistance through the engagement of counsel of your own choice. This request was unheeded and was instead referred to the Government Procurement Policy Board (GPPB) with the idea that the latter is mandated by law to provide legal assistance to BAC members.

We wish to emphasize that a reading of Section 63 of the R.A. 9184 shows that GPPB is merely an administrative body imbued with quasi-legislative power to determine policy directions with regard to government procurement. It does not authorize the GPPB to provide legal assistance to BAC members.

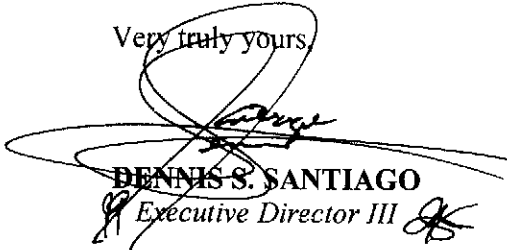
Section 73 of RA 9184 and its IRR direct the GPPB to establish an equitable indemnification package for public officials providing services in and for the BAC. Pursuant thereto, the GPPB issued the Guidelines for Legal Assistance and Indemnification of Bids and Awards Committee (BAC) Members and its Support Staff¹ ("Guidelines") to prescribe rules and procedures in granting legal assistance and indemnification to BAC members and its support staff.

¹ *Approved through GPPB Resolution No. 21-2007 dated 7 October 2005*

As provided in Section 4.1.1 of the Guidelines, the procuring entity shall, to the fullest extent permitted therein, indemnify a BAC member and/or any of its support staff who was or is a party to a pending or a completed action, suit or proceeding whether civil, criminal, or administrative in nature brought against him in the performance of his official functions as BAC member or support staff. Moreover, Section 6 of the Guidelines, states that the funds to be used for the grant of the free legal assistance, liability insurance, or medical assistance shall be taken from the agency's annual appropriation, and augmented by other funds resulting from protest fees, sale of bidding documents, and other income-generating activities of the agency.

From the unequivocal language of the Guidelines, it is clear that it is the procuring entity, not the GPPB, which has the responsibility of providing legal assistance and indemnification to its BAC members and BAC Support Staff, subject to the conditions provided therein.

We hope our advice provided sufficient guidance on the matter. Should you have other concerns, please do not hesitate to contact us.

Very truly yours,

DENNIS S. SANTIAGO
Executive Director III

Copy furnished:

THE HONORABLE PRESIDING JUDGE
Regional Trial Court Branch 58
Lucena City

HON. FAUSTINO A. SILANG
Mayor
City of Tayabas, Province of Quezon

//jmtoril