

NPM No. 26-2013

27 March 2013

MR. ROMEO QUILANG, PH.D.

President

CAGAYAN STATE UNIVERSITY (CSU)

Andrews Campus, Caritan, Tuguegarao City

Re: Separate Bids and Awards Committee (BAC)

Dear Dr. Quilang:

This is in response to your letter dated 8 December 2012, requesting guidance on the proper creation of separate BACs pursuant to Section 11.1.2¹ of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184. Specifically, you have posed the following issues:

1. Whether the present structure of the separate BACs of CSU complies with RA 9184 and its IRR; and
2. Whether the designation of the respective College Deans as the Chairman of the BAC for their campus complies with the requirements of RA 9184 and its IRR.

It is represented that CSU, a state university with original charter, has eight (8) campuses throughout the Province of Cagayan and traverses three (3) congressional districts. Given the implementation of its new organizational structure, the campuses have been granted relative administrative and fiscal autonomy, and decentralization due to their geographical locations. To date, however, CSU has no existing Central BAC exercising university-wide jurisdiction. Instead of a Central BAC, CSU has created separate BACs per campus² pursuant to Section 11.1.2 of the IRR of RA 9184, comprising of five (5) to seven (7) members each, including the Chairman. However, considering that CSU Caritan and CSU Carig are both located in Tuguegarao, they have a shared BAC consisting of seven (7) members including the Chairman. The designated BAC members are from the campus where the BAC is organized, and the Chairman is usually the third ranking official determined by *R*

¹ However, to expedite the procurement process for practical intents and purposes, the Head of the Procuring Entity may create separate BACs where the number and complexity of the items to be procured shall so warrant. The BACs may be organized either according to: (a) geographical location of PMO or end-user units of the procuring entity; or (b) nature of procurement. Similar committees for decentralized and lower level offices may also be formed when deemed necessary by the Head of the Procuring Entity.

² Separate BACs in (1) Aparri, (2) Gonzaga, (3) Sanchez Mira, (4) Lallo, (5) Lasam, (6) Piat, and shared BAC for (7) CSU Caritan, and (8) CSU Carig.

the administrative designations, *i.e.*, College Dean in accordance with the hierarchy as follows – President, Campus Executive Officer, and College Dean.


Membership in the Separate BACs

Section 11.1.1 of the IRR of RA 9184 provides that each Procuring Entity (PE) shall establish in its head office a single BAC to undertake the functions specified in Section 12 of the IRR to facilitate professionalization and harmonization of procedures and standards. Section 11.1.2 of the IRR, on the other hand, states that, to expedite the procurement process, the Head of the Procuring Entity (HOPE) may create separate BACs, organized either according to geographical location or nature of procurement, where the number and complexity of the items to be procured shall so warrant.³ In terms of the number of members in the BAC, Section 11.2.1 of the IRR provides that the HOPE shall designate at least five (5) but not more than seven (7) members of unquestionable integrity and procurement proficiency to the BAC.

Having discussed the foregoing, the CSU has the authority to establish separate BACs upon its determination that the creation of separate BACs according to its geographical location is necessary to expedite the procurement process. In addition, we wish to clarify that the directive under Section 11.2.1 of the IRR for the HOPE to designate at least five (5) but not more than seven (7) members to the BAC, pertains to each BAC that the HOPE creates. Thus, the CSU may create separate BACs composed of five (5) to seven (7) members for each of its campuses.

Designation of BAC Chairman

Section 11.2.2(a) of the IRR of RA 9184 provides that the Chairman of the BAC should be at least a third ranking permanent official of the PE. The term “permanent” refers to a *plantilla* position within the PE concerned, and it does not qualify whether the person occupying the *plantilla* position is a contractual, temporary or regular official or personnel; rather, the concern specifically refers to whether the position exists within the organizational structure of the PE.⁴ Generally, the HOPE for state universities and colleges (SUCs) is the governing board or its duly authorized official. However, where the procurement is decentralized, the head of each decentralized unit shall be considered as the HOPE, subject to the limitations and authority delegated by the head of the agency, department or office.⁵

Based on the foregoing, since CSU has decentralized its procurement activities to each of its campuses, it is the official who heads the particular campus, *i.e.* the Campus Executive Officer,⁶ who will be considered the first in rank and serve as the HOPE in that specific campus. On the other hand, we are of the view that CSU Caritan and CSU Carig should create separate BACs, instead of a shared BAC, to be consistent with the concept of decentralization under Section 11.1.2 of the IRR of RA 9184, and to conform with the BAC creation and composition as provided for in Sections 11.1.1, 11.1.2 and 11.2.1. Consequently, following your representation of the hierarchical organizational structure existing in the campuses, the College Dean or the Department Head per Degree Program may be designated as BAC Chairman being the second and third ranking officials, respectively, in each campus. 

³ NPM No. 04-2013 dated 16 January 2013.

⁴ NPM No. 147-2012 dated 29 November 2012.

⁵ Section 5(t) of the IRR of RA 9184.

⁶ Per this office's phone query to Atty. Honorato Carag on 11 March 2013.

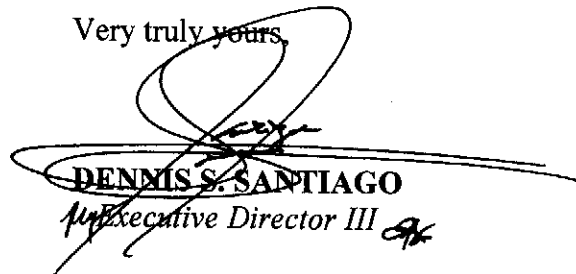
Summary

All told, we are of the view that CSU may create separate BACs, organized based on the geographical location of each of its campuses and composed of at least five (5) but not more than (7) members, including the Chairman.

CSU Caritan and CSU Carig should create separate BACs pursuant to Sections 11.1.1, 11.1.2 and 11.2.1 of the IRR of RA 9184. The President, as may be authorized by the Board, will be the HOPE in the campus where he holds office; while the Campus Executive Officer or the College Dean may be designated as BAC Chairman. For the other campuses where the HOPE is the Campus Executive Officer, the BAC chairman may either be the College Dean or the Department Head per Degree Program of the campus concerned.

We hope that our advice provided sufficient guidance on the matter. Please note that this opinion is being rendered on the basis of the facts and particular situations presented, and may not be applicable given a different set of facts and circumstances. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director III

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