

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

*Unit 2506 Raffles Corporate Center, Emerald Avenue, Ortigas Center, Pasig City
Telefax Nos. (02) 900-6741 to 44*

NPM No. 06-2005

January 19, 2005

Honorable JOECEL F. OBENZA
Regional Director
Department of Budget and Management
CARAGA Regional Office XIII
Butuan City

Re: Proposed Amendments to Government Procurement Policy Board Resolution No. 01-2004, prescribing the Composition in the Bids and Awards Committee in Local Government Units, including Barangays, and Republic Act No. 9184

Dear Director Obenza:

This refers to your memorandum dated September 28, 2004, which we received on October 15, 2004, addressed to the undersigned, submitting the Manifesto of various barangay officials of Butuan City proposing amendments to the Government Procurement Policy Board (GPPB) Resolution No.01-2004, prescribing the composition of the Bids and Awards Committee (BAC) in Local Government Units (LGUs), including barangays, and Republic Act No. 9184 (R.A. 9184).

We wish to inform you that the aforementioned manifesto was raised during the 8th GPPB meeting held on December 22, 2004 at Unit 2506 Raffles Corporate Center, Emerald Avenue, Ortigas Center, Pasig City. Accordingly, during the said meeting, the GPPB was of the opinion that the proposed amendments to the composition of the BAC, BAC Secretariat, and Technical Working Group (TWG) in barangays cannot be given due course as it will limit their composition to those enumerated in the proposed amendments. This makes the guidelines on composition too restrictive, and thus, limits the discretion of the head of the procuring entity when it designates the members of the BAC and BAC Secretariat, and the BAC when it creates a TWG.

BAC Composition in Barangays

Section 11.2.2, Implementing Rules and Regulations Part A (IRR-A) of R.A. 9184, states that:



Local Government Units

The BAC shall be composed of one (1) representative each from the regular offices under the Office of the Local Chief Executive such as, but not limited to the following: Office of the Administrator, Budget Office, Legal Office, Engineering Office, General Services Offices. The end user office shall always be represented in the BAC. The Chairman of the BAC shall be at least a third ranking permanent official of the procuring entity. The members of the BAC shall be personnel occupying *plantilla* positions of the procuring entity concerned.

The local chief executive shall designate the members of the BAC. The members shall elect among themselves who shall act as the Chairman and Vice-Chairman.

In relation thereto, GPPB Resolution No. 01-2004, Section 2.1 reads:

The BAC shall be composed of at least five (5), but not more than seven (7) regular members of the Sangguniang barangay, except the Punong Barangay.

As may be gleaned from the aforementioned provisions, the local chief executive is given the discretion to designate the members of the BAC from the regular offices mentioned therein. Adopting the proposed amendment of various barangay officials of Butuan City unduly limits the prerogative of the local chief executive to designate members of the BAC. Nevertheless, the concerned local chief executive may opt to designate the Barangay Kagawads and SK Chairperson of the Sangguniang Barangay as members of their respective BACs, such being not inconsistent with the prescribed composition under R.A. 9184, its IRR-A and GPPB Resolution No. 01-2004.

BAC Secretariat and Technical Working Group

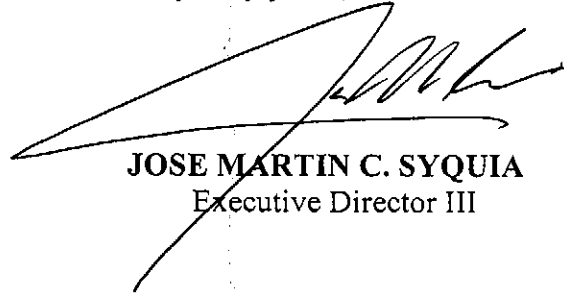
In addition, the proposed composition of the BAC Secretariat and TWG cannot be adopted since R.A. 9184 and its IRR-A, Sections 12.1 and 14.2, does not provide for its composition giving the head of the procuring entity the discretion to determine the composition of BAC Secretariat, the number of members, and its membership. Also, the proposed composition of the TWG cannot be adopted since the creation of TWG depends on the procurement at hand, taking into consideration the knowledge and expertise of the officials to be designated as members.

Nevertheless, the proposed composition of BAC Secretariat and TWG may be adopted by the concerned barangays in Butuan City depending on their respective procurement activities.

This opinion is being rendered on the basis of the facts and particular circumstances as represented. It may not necessarily be applicable upon a different set of facts or circumstances.

We trust that this clarifies matters.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jose Martin C. Syquia', is written over a horizontal line. The signature is stylized and somewhat cursive.

JOSE MARTIN C. SYQUIA
Executive Director III