



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

**NPM No. 60-2012**

18 May 2012

**ENGR. ADOLFO L. ESCALONA**

*Executive Director*

**ROAD BOARD**

2F, Ave Maria Building,

1517 Quezon Ave. cor. Examiner St., Quezon City

**Re: Constitution of the Special Bids and Awards Committee (SBAC)**

Dear Executive Director Escalona:

We respond to your letter dated 6 March 2012 requesting for clarification on the constitution of the SBAC of the Road Board Secretariat (RBS) in relation to Republic Act (RA) 9184 and its Implementing Rules and Regulations (IRR).

As represented, the Road Board<sup>1</sup> (Board) is a national government agency (NGA) mandated to ensure the adequate maintenance of national and provincial roads, as well as minimizing air pollution from motor vehicles. The RBS, headed by the Executive Director, assists the Board and is primarily responsible for the day-to-day management of the funds as well as in the implementation of the decisions of the Board. In October 2011, the Board decided to undertake a National Road Lighting Program whereby major thoroughfares in Metro Manila will be lighted with light emitting diode (LED) lamps. To facilitate the implementation of this program, the Board decided to conduct the bidding process by creating an SBAC whose membership consists of personnel from the Department of Public Works and Highways (DPWH) and RBS as follows:

Chairperson	RBS Executive Director
Vice-Chairperson	RBS Engineer IV
Members	RBS Accountant IV
	RBS Executive Assistant IV
	DPWH-NCR Regional Director (end-user)

For your guidance, in determining the proper composition of the Bids and Awards Committee (BAC), reference must be made to Section 11 of the IRR of RA 9184. More specifically, Section 11.2.2 provides the qualifications of BAC members for NGAs such as

<sup>1</sup> Created by RA 8794 on 27 June 2000.

RBS. Based on this provision, the membership is classified into two types – regular and provisional.

As to their qualifications, the regular BAC members, composed of the Chairman and two other officers, must be at least third ranking and fifth ranking permanent officials, respectively, of the procuring entity. The provisional members must either be a technical expert with experience relevant to the particular procurement or the end-user representative knowledgeable in procurement laws. It should be noted that provisional members are designated to sit in the BAC for a particular procurement activity while regular members sit in all the procurement activities of the agency.

It bears stressing, however, that all members of the BAC, whether regular or provisional, must occupy a *plantilla* position in the procuring entity.<sup>2</sup> It may be well to add that the end-user unit contemplated in the rule is not the actual beneficiary of the project, but the unit within the procuring entity which requested the procurement of the project, or from whose Project Procurement Management Plan the procurement is included.

This is consistent with previous procurement laws such as Executive Order (EO) 40<sup>3</sup> and Presidential Decree (PD) 1594<sup>4</sup>. Under Section 7.2.5<sup>5</sup> of the IRR of EO 40, BAC members must either be fifth ranking or third ranking permanent personnel, depending on whether the procuring entity is the central agency or one of its bureaus, regional offices or sub-regional/district offices, respectively. In addition, Section IB2 of the IRR of PD 1594 directs the Head of the Procuring Entity (HOPE) to designate provisional members within the procuring entity. For BAC membership in local government units (LGUs) under Section 11.2.3<sup>6</sup>, it is expressly stated that members must occupy *plantilla* positions of the procuring entity concerned.

In addition to the required qualifications for BAC members, there are limitations imposed in the composition of the BAC. Under RA 9184, the disqualified personnel include the HOPE or approving authority<sup>7</sup> and the official who approves procurement transactions. On the other hand, COA Circular 2003-004<sup>8</sup> prohibits the Chief Accountant and personnel of accounting units to be regular members of the BAC as it is necessary to ensure that the procurement and payment functions are segregated, in keeping with the rules and principles of good internal control and to avert the possibility of conflict of interest as prohibited under the rules.<sup>9</sup> Under the said Circular, the subject personnel may only serve as provisional member if the Accounting Unit is the end-user of the item.

Based on the foregoing, we are of the view that if the RBS Accountant IV is the Chief Accountant or one of the personnel of the accounting unit, such personnel cannot be designated as a regular member of the BAC as proscribed under COA Circular 2003-004. However, he/she may be designated as a provisional member in the capacity of an end-user unit representative. As regards the designation of the DPWH-NCR Regional Director, it is

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<sup>2</sup> NPM No. 47-2008 dated 20 November 2008.

<sup>3</sup> Issued on 8 October 2001.

<sup>4</sup> Issued on 11 June 1978 and as amended on 24 May and 5 July 2000.

<sup>5</sup> Members of BAC of the agency central office shall be at least a fifth ranking, permanent personnel. For bureaus, regional offices and sub-regional/district offices, BAC members shall be at least a third ranking permanent personnel of that bureau, regional office, or sub-regional/district office.

<sup>6</sup> The members of the BAC shall be personnel occupying *plantilla* positions of the procuring entity concerned.

<sup>7</sup> Section 11.2.5 of the IRR of RA 9184.

<sup>8</sup> Dated 30 July 2003.

<sup>9</sup> NPM No. 39-2012 dated 14 May 2012.

our view that such officer cannot be designated as BAC member since the procurement rules limit the BAC composition to officials of the procuring entity.

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

Very truly yours,



**DENNIS S. SANTIAGO**  
*Executive Director III*

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