

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

NPM No. 69-2014

20 October 2014

DIR. ELIGIO S. MENDOZA

OIC - Director

DEPARTMENT OF BUDGET AND MANAGEMENT (DBM VII)

Cebu City

Re: Provisional Membership in the Bids and Awards Committee (BAC)

Dear Director Mendoza:

This is in response to your letter seeking clarification on the qualification of the provisional members of the BAC.


It is represented that one of the provisional members of the Toledo City Water District (TCWD) is Engr. Eric F. Baricuatro, an employee under a Service Contract since 1 August 2010. Engr. Baricuatro's provisional membership in the BAC was supported by Board Resolution No. 09-2012 dated 18 February 2012, which likewise authorized the former to receive honoraria as provisional member of the BAC under DBM Budget Circular No. 2004-5A dated 7 October 2005.

As stated in your letter, Section 11.2.2 of the revised Implementing Rules and Regulations (IRR) of Republic Act No. 9184 provides the qualifications for provisional BAC members. In several Non Policy Matter Opinions, which reiterated that all members of the BAC, whether regular or provisional, must occupy a *plantilla* position in the procuring entity.¹

Considering that persons under a Service Contract provide their services through a contractual arrangement and do not occupy a *plantilla* position, Engr. Baricuatro should occupy and assume a *plantilla* position to be designated as provisional member of the BAC and enjoy the corresponding benefits and entitlements of the position and designation.

We hope that the opinion issued by GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situation 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 V

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¹ NPM 060-2012 dated 18 May 2012.

FROM :

FAX NO. :

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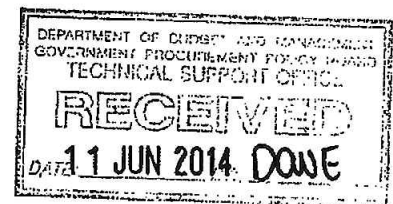
February 5, 2014



MEMORANDUM

FOR : Atty. Dennis S. Santiago
Executive Director IV
GPPB - TSO

SUBJECT : Provisional Membership in the BAC



This pertains to the query of the auditor of the Toledo City Water District (TCWD) which we are elevating to your level for your opinion.

Background Information:

1. Section 11.2.2.d of the IRR of RA 9184 provides that the BAC shall include provisional members with the following qualifications:
 - An officer who has technical expertise relevant to the procurement at hand, and, to the extent possible, has knowledge, experience and/or expertise in procurement; and
 - A representative from the end user unit who has knowledge of procurement laws and procedures.
2. One of the provisional BAC members of the TCWD was Engr. Eric F. Baricuatro, an employee under a service contract since August 1, 2010.
3. Engr. Baricuatro's membership in the BAC was supported by Board Resolution No. 09-2012 dated February 18, 2012. This resolution also authorized him to receive honoraria as BAC member under DBM Budget Circular No. 2004-5A dated October 7, 2005.
4. As certified by the water district's Administrative Division Manager, Engr. Baricuatro's compensation was charged against the LWUA 73M-funded project. Being a Job Order employee, there was no employer-employee relationship.
5. His latest service contract, engaging his services as Project Manager of the Toledo City Water Supply System Project, was executed on September 14, 2012 covering the period August 1, 2012 to July 31, 2013.

FROM :

FAX NO. :

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Since the IRR of RA 9184 did not clearly define the required employment status of BAC provisional members, we would like to solicit your opinion on whether a job-order employee (as in the specific case of Engr. Baricuatro) can be considered as an officer of an agency for him to qualify as a provisional member of the Bids and Awards Committee.

Thank you and more power.


ELIGIO S. MENDOZA
OIC - DIRECTOR

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