



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

NPM No. 72-2014

20 October 2014

MS. RAIJIN LYLE MARIANO
MUNICIPALITY OF CULION
Municipality Hall,
Culion, Palawan

Re: Bids and Awards Committee for Local Government Units

Dear Ms. Mariano:

This refers to your electronic mail (email) dated 18 September 2014 inquiring about the qualifications of the Bids and Awards Committee (BAC) Chairman and members, and the power of the new BAC to revoke or revise decisions of the previous BAC which have not yet become final.

It is represented that your BAC Chairman is the acting General Services Officer (GSO) whose appointment has not been finalized and that your BAC members are not department heads but are holding *plantilla* positions under the Treasurer's Office, Assessors Office, Administration Office, Health Office, and the Municipal Social Welfare and Development Office (MSWDO).

As such, you would like to clarify the following issues: (1) Can the BAC Chairman be validly appointed even if he is just an acting GSO?; (2) Are the BAC members (as mentioned) qualified?; and (3) Can the new members of the BAC revoke or revise the decisions that have not been finalized by the previous members of the BAC?

Qualifications of BAC Chair

Under Section 11.2.3 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 and GPPB Resolution 01-2004¹, the Local Chief Executive (LCE) shall designate the members of the BAC. The members shall elect among themselves who shall act as the Chairman and Vice-Chairman.

The Chairman of the BAC shall be at least a third ranking permanent official of the procuring entity. But in no case shall the local chief executive and/or the approving authority be the Chairman or a member of the BAC. The members of the BAC shall be personnel occupying *plantilla* positions of the procuring entity concerned.

For purposes of determining the rank, in the case of cities and municipalities, the first ranking permanent official shall be the mayor, the second ranking permanent official shall be

¹ "BAC Composition for LGUs", Appendix 2 of the IRR of RA 9184, dated 10 March 2004.

the vice mayor, and the third ranking permanent official shall be the head of any of the regular offices under the Office of the Local Chief Executive: *Provided, however*, That the vice mayor shall not be designated as member of the BAC as its office is not one of the regular offices under the Office of the Local Chief Executive.²

As we have previously opined, the “third” ranking permanent officials mentioned in the IRR refer to officials occupying *plantilla* positions within the approved organizational structure of the procuring entity concerned.³ And in several Non-Policy Matter⁴ opinions, we have clarified that Section 11.2.3 of the IRR does not qualify whether the personnel occupying the *plantilla* position holds the same in a contractual, regular, or permanent status; rather, the concern specifically refers to whether the position exists within the organizational structure of the procuring entity.

Similarly, in an earlier opinion⁵, we clarified that “it is the *plantilla* of the agency that will define whether the position qualifies for regular BAC membership, and the determination of ranking should take into consideration the hierarchy of the *plantilla* positions present in the Procuring Entity, and not whether an official has been appointed/designated/seconded and currently assumed or occupied the identified *plantilla* position.”

Anent the first issue, it is our view that the GSO may be appointed as a Chairman of the BAC provided that he is occupying a *plantilla* position that is at least third ranking within the organizational structure, regardless of the status of his appointment.

Qualifications of BAC Members

As for the second issue, the members to be designated by the LCE to the BAC shall be at least five (5), but not more than seven (7). The BAC for LGUs 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; and a representative from the end user unit.⁶

In this regard, it is clear that no ranking requirement exists as to the other members of the BAC, but that they must be personnel occupying *plantilla* positions in the procuring entity concerned. The rules also do not limit the representatives to be designated from the above-mentioned offices, as long as each regular office or end-user unit is properly represented in the BAC, and the required number of the members of the BAC is met at a minimum of five (5) and maximum of seven (7) members.

BAC Decisions

Lastly, the rules are silent on whether the new members of the BAC may revoke or revise the decisions of previous members with regard to bid evaluation. Considering, however, that there is no final decision or BAC Resolution yet on the subject procurement, the new BAC members may effect lawful, necessary and appropriate changes in the results of the bid evaluation to arrive at a sound and appropriate determination of the bidder with the

² *Id.*

³ Non Policy Matter opinion No. 104-2012 dated 17 August 2012 citing NPM No. 28-2012, dated 27 March 2012.

⁴ NPM No. 95-2013 dated 20 December 2013 citing NPM No. 76-2012 dated 20 June 2012.

⁵ NPM No. 160-2012 dated 21 December 2012.

⁶ *Id.* GPPB Resolution No. 01-2004.

Lowest Calculated Bid (LCB). Note, however, that such changes are still subject to applicable procurement rules and regulations, *i.e.* mandatory periods, etc.

Summary

In view of all the foregoing, it is the opinion of this Office that:

1. A government official at the LGU level may be appointed as a Chairman of the BAC provided that he is occupying a *plantilla* position in any of the regular offices under the Local Chief Executive that is at least third ranking (Head of any of the regular offices) within the organizational structure, regardless of the status of his appointment.
2. As to the BAC members, no ranking requirement exists but they must be personnel occupying *plantilla* positions in the procuring entity concerned. The rules also do not limit the representatives to be designated from the offices provided in the rules, as long as each regular office or end-user unit is properly represented in the BAC, and the required number of BAC members is met.
3. New BAC members may effect lawful, necessary and appropriate changes in the results of the bid evaluation that has not been finally decided upon by the previous BAC members so as to arrive at a sound and appropriate determination of the bidder with the LCB.

We hope this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should you have further questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director V