



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

**NPM No.96-2014**

29 October 2014

**REMUS C. MONTERON**  
*Chairman BWD BAC*  
**BALAMBAM WATER DISTRICT (BWD)**  
Balamban, Cebu

**Re: Head of the Procuring Entity (HOPE) in Water Districts**

Dear Mr. Monteron:

This refers to your electronic mail (email) requesting for opinion as to who is considered as the Head of the Procuring Entity (HOPE) for Balamban Water District (BWD).

As represented, the General Manager used to be the official exercising the functions of the HOPE in BWD. However, some of the members of the Board of Directors (Board) contend that the HOPE pertains to the Board of the BWD. In this regard, you are requesting for clarification on the applicability of Section 5(t) of the revised Implementing Rules and Regulations of Republic Act (RA) No. 9184 and Section 18, Chapter 5 of Presidential Decree (PD) No. 198, as amended.

Relative to this, Section 5(t) of the IRR of RA 9184 provides that the Head of the Procuring Entity (HOPE) refers to: (i) the head of the agency or body, or his duly authorized official, for NGAs and the constitutional commissions of offices, and branches of government; (ii) **the governing board or its duly authorized official for GOCCs, GFIs and SUCs**; or (iii) the local chief executive, for LGUs. On the other hand, Section 18 Chapter 5 of PD No. 198 limits the function of the Board to policy-making. It further prohibits the Board from engaging in the detailed management of the district.

It is a well-settled doctrine in a long line of cases<sup>1</sup> decided by the Supreme Court that local water districts (LWDs) are considered as government owned and controlled corporations (GOCCs) with special charter. PD 198 constitutes the special charter by virtue of which local water districts exist.<sup>2</sup> As such, LWDs, such as BWD, falls within the scope and coverage of Section 4, RA 9184 and its IRR.

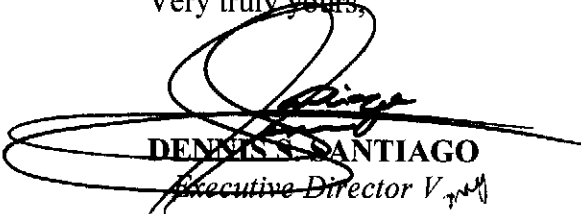
<sup>1</sup> *Davao City Water District v. Civil Service Commission* (G.R. No. 95237-38, 13 September 1991), 201 SCRA 593; *De Jesus v. Commission on Audit* (G.R. No. 149154, 10 June 2003); and *Feliciano v. Commission on Audit* (G.R. No. 147402, 14 January 2004)

<sup>2</sup> *Feliciano v. Commission on Audit*, *id.*

From the foregoing, for purposes of conducting procurement activities under RA 9184 and its revised IRR, the BWD, as a GOCC, shall have its governing board or its duly authorized official as the HOPE pursuant to Section 5(t) of the revised IRR of RA 9184. As such, the Board shall exercise the functions of the HOPE as provided for in the procurement law, its associated rules and procedures. On the other hand, the General Manager, may be authorized by the Board, if it deems fit, to exercise the functions of the HOPE.

We hope that 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 there be other concerns, please do not hesitate to contact us.

Very truly yours,

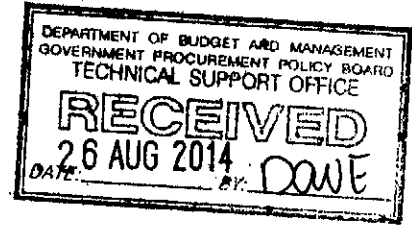


**DENNIS S. SANTIAGO**  
*Executive Director V. gnd*



**GPPB**

**From:** remus monteron <remus\_monteron@yahoo.com>  
**Sent:** Friday, August 22, 2014 11:22 AM  
**To:** gppb@gppb.gov.ph; legal@gppb.gov.ph  
**Cc:** Lucia Melgar  
**Subject:** Balamban Water District HOPE Inquiry  
**Attachments:** img592.jpg; img593.jpg



Dear sir/madam:

Good day! It has been our dilemma for years and we had been asking the same question to COA during the seminar that we attended and in writing but so far we still do not receive a concrete answer to this same question. When we wrote this attached letter to COA legal counsel, they referred us to your office for the answer.

Our question is as follows:

**Who** is considered as the **HOPE** or head of the procuring entity in our agency?

Based on the Handbook on Philippine Government Procurement page 31, Section 5, letter t), (ii) "the HOPE is the governing board or its duly authorized official."

Whereas, on **PD 198** chapter 5 "Powers and Duties of Board", section 18 states that: "Functions Limited to Policy-Making. - The function of the board shall be to establish policy. The Board shall not engage in the detailed management of the district."

Please see attachments for the letter we sent to COA legal counsel and their reply to us.

We are hoping for your response soon.  
Thank you and God bless!

Kind regards,  
**Remus C. Monteron**  
Chairman BWD BAC

*Jan [Signature]*  
*Please reply from email.*  
*Under the rules, for G.O.C.C., the*  
*Hope is the Board. Dr. DS*

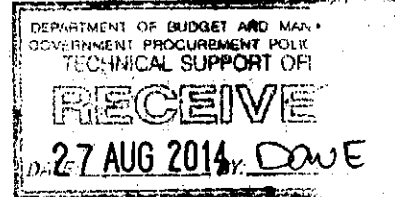


Republic of the Philippines  
**BALAMBAN WATER DISTRICT**

Balamban, Cebu  
Telephone Nos. (033) 455-3224 (033) 455-3224  
Facsimile No. (033) 455-3224  
A Government Owned & Controlled Corporation  
Email: [balamban@water.gov.ph](mailto:balamban@water.gov.ph)

12/10/14

July 10, 2014



**Director Alicia Malquisto**  
Regional Director  
COA 7 Regional Office  
Cebu City

Dear Madam:

Yes/Don!  
Please prepare OPINION.  
Kindly check PD 198 & provision  
to codify claim. TASS-DSI

Attn: The Legal Counsel, COA 7

Good day!

We, the bids and awards committee of Balamban Water District would like to ask a question that has kept us wondering for some time. We would like to ask your legal advice as to who is considered as the HOPE or head of the procuring entity in our agency because based on the Handbook on Philippine Government Procurement page 31, Section 5, letter t), (ii) "the HOPE is the governing board or its duly authorized official." Whereas on PD 198 chapter 5 "Powers and Duties of Board", section 18 states that: "Functions Limited to Policy-Making. - The function of the board shall be to establish policy. The Board shall not engage in the detailed management of the district."

In our case, we are used to having our general manager as our HOPE but some of our BOD claimed that they are the "head of the procuring entity" as what they know from the other seminar they attended. We have a dilemma as to which law should we follow as this issue greatly affects the agency's procurement process.

We hope to have a favorable response regarding this matter in order to make our procurement more compliant and for the protection of the agency's bids and awards committee.

Thank you,  
Bids and Awards Committee, Balamban Water District

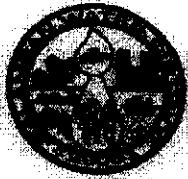
(sgd)  
**Remus C. Monteron**  
BAC Chairman

(sgd)  
**Hazel Marie N. Buhia**  
BAC Vice-Chairman

(sgd)  
**Loramie F. Carmelotes**  
BAC Member

(sgd)  
**May D. Solis**  
BAC Member

(sgd)  
**Sancho Flores**



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**BALAMBAN WATER DISTRICT**  
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A Government Owned & Controlled Corporation  
Email: balambawater@gmail.com

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July 10, 2014

**Director Alicia Malquisto**  
Regional Director  
COA 7 Regional Office  
Cebu City

Dear Madam:

Attn: The Legal Counsel, COA 7

Good day!

We, the bids and awards committee of Balamban Water District would like to ask a question that has kept us wondering for some time. We would like to ask your legal advice as to who is considered as the HOPE or head of the procuring entity in our agency because based on the Handbook on Philippine Government Procurement page 31, Section 5, letter t), (ii) *"the HOPE is the governing board or its duly authorized official."* Whereas on PD 198 chapter 5 "Powers and Duties of Board", section 18 states that: *"Functions Limited to Policy-Making. - The function of the board shall be to establish policy. The Board shall not engage in the detailed management of the district."*

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Thank you,  
Bids and Awards Committee, Balamban Water District

(sgd)

**Remus C. Monteron**  
BAC Chairman

(sgd)

**Hazel Marie N. Buhia**  
BAC Vice-Chairman

(sgd)

**Loramie F. Carmelotes**  
BAC Member

(sgd)

**May D. Solis**  
BAC Member

(sgd)

**Sancho Flores**



Republic of the Philippines  
COMMISSION ON AUDIT  
Regional Office No. VII  
Cebu City

07 August 2014

**REMUS C. MONTERON**  
BAC Chairman  
Balamban Water District  
Balamban, Cebu

Dear Mr. Monteron,

This is in connection with your letter dated 10 July 2014 seeking opinion on who shall be considered as the head of the procuring entity (HOPE) of your agency, pursuant to Section 5(f), Revised IRR of RA 9184.

Section 63.1, Rule XX of the Revised IRR of RA 9184 clearly provides:

63.1. The Government Procurement Policy Board (GPPB), as established in Section 63 of the Act, shall have the following duties and responsibilities:

- b) To formulate and amend public procurement policies, rules and regulations, and amend, whenever necessary, this IRR;
- d) To ensure the proper implementation by procuring entities of the Act, this IRR-A and all other relevant rules and regulations pertaining to public procurement.

The GPPB, being the policy-making entity and the governing body primarily tasked to oversee the effective implementation of the rules and regulations on public procurement, is undoubtedly the appropriate authority to resolve the issue at hand.

In view hereof and in deference to the authority of the Board, this Office finds it proper not to comment thereon.

Hence, we recommend that the same be referred to the GPPB for proper evaluation.

We hope that you understand our position.

  
**ALICIA M. MALQUISTO**  
Regional Director