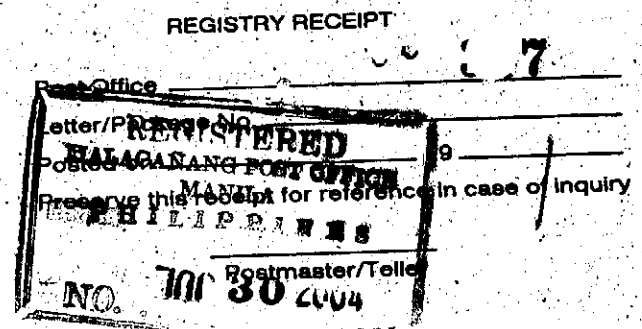


REPUBLIC OF THE PHILIPPINES  
**GOVERNMENT PROCUREMENT POLICY BOARD**  
**Technical Support Office**  
*Mezzanine 125, Mabini Hall, Malacañang, Manila*  
*Telefax Nos. (02) 735-4962; (02) 736-5758*

**NPM No. 103-2004**

July 30, 2004

**ATTY. VIOLA P. VILLANUEVA**  
State Auditor V  
Regional Cluster Director  
Commission on Audit  
Regional Office VI  
Barangay Ungka, Pavia, Iloilo



**Re : Membership of End User Offices in the Bids and Awards Committee of Local Government Units**

Dear Director Villanueva:

This refers to your letter dated July 8, 2004, which we received through facsimile on July 21, 2004, requesting for clarification on membership of end user offices in the Bids and Awards Committee ("BAC") as provided under the Implementing Rules and Regulations Part A ("IRR-A") of Republic Act 9184 ("R.A.9184").

This concern is being raised in relation to your representation that in the present set up of most Local Government Units ("LGUs") there could be at least twenty (20) probable end users that must be represented in the BAC in the procurement of supplies. We quote in verbatim the question being raised by your office, to wit:

How could then all the twenty (20) end users be represented in the BAC when the Local Chief Executive could only designate a maximum of seven (7) members?

**End User Unit Representation in the BAC**

We would like to confirm your observation that the maximum number of BAC members is seven (7) and that the end user offices must always be represented in the BAC. However, please note that not all members of the BAC are to be treated as regular members considering that the representative of an end user office in the BAC is project specific, and therefore, does not have a fixed term of one (1) year. As such, in the same vein that the end user representatives in National Government agencies are regarded as provisional members, the membership of end user

representatives in LGU BAC is also deemed provisional in nature. Accordingly, an end user office shall be represented in the BAC only in procurement activities over which it has a direct interest.

The requirement under Section 11.2.2 of the IRR-A that the end user office shall always be represented in the BAC enjoins the Local Chief Executive to reserve at least one position in the BAC for the relevant end user office. Section 11.2.2 provides as follows:

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. (Emphasis supplied)

In view of Section 11.2.3 of the IRR-A of R.A. 9184,<sup>1</sup> in the event that several end user offices have direct interest over a particular procurement, we are of the opinion that it is legally impossible to give all end user offices representation in the BAC since the maximum number of BAC members is fixed by law. In this regard, the end user offices concerned are inhibited from requesting that they each be given representation in the BAC for the project over which they all have a direct interest. In order to address the concern of representation in accordance with the IRR-A of R.A. 9184, it is suggested that all the end user offices concerned elect or agree on a particular individual, or individuals, depending on the available representation for the end user office, who shall represent them in the BAC.

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,

  
**JOSE MARTIN C. SYQUIA**  
Executive Director

/dlsn/npm/coaro6.lgu-bac/07.04

<sup>1</sup> The members to be designated by the head of the procuring entity to the BAC shall be at least five (5), but not more than seven (7).

RESPONSE SHEET FOR PHONE OPINIONS

PhO No. \_\_\_\_\_

Date Received: 07/21/04 Date Called: 07/23/04

Requesting Entity: COA-ROG

Contact Person / Number: Dir. Villanueva

Issue(s) / Request(s): (Sec. 11.2.3) Interpretation of en

Response: End users are just provisional members and their designation in the BAC is project specific.

They participate only in procurements over which they have direct interest.

Remarks: letter requested

Assigned to: Dennis

DENR  
CALL

REPUBLIC OF THE PHILIPPINES  
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**Technical Support Office**  
*Mezzanine 125, Mabini Hall, Malacañang, Manila*  
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July 21, 2004

**ATTY. VIOLA P. VILLANUEVA**  
State Auditor V  
Regional Cluster Director  
Commission on Audit  
Regional Office VI  
Barangay Ungka, Pavia, Iloilo

Dear Director Villanueva:

This refers to your letter dated July 8, 2004, which we received on July 21, 2004, addressed to Executive Director Jose Martin C. Syquia, requesting for clarification on Republic Act 9184 and its Implementing Rules and Regulations Part A.

We wish to inform you that we shall respond to your concerns either through phone or in writing at the earliest possible opportunity, or raise the same to the Government Procurement Policy Board (GPPB) for appropriate resolution should referral thereto becomes necessary.

Very truly yours,



**ATTY. REYNALDO H. BICOL JR.**  
Procurement Management Officer V