

NPM No. 104-2015

2 November 2015

ATTY. WARREN MARC P. LLOREN
BAC Secretariat
PROFESSIONAL REGULATION COMMISSION
P. Paredes St. cor. Morayta St.
Sampaloc, Manila

**Re: BAC Secretariat Head from the Office of the Acting
HOPE**

Dear Atty. Lloren:

We respond to your electronic mail dated 22 September 2015 inquiring on whether the designation as head of the Bids and Awards Committee (BAC) Secretariat of an employee temporarily detailed at the office of the acting head of an agency is in accordance with Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR).

Section 14.2 of the IRR of RA 9184 mandates that the head of the BAC Secretariat in central offices to be at least a fifth ranking permanent employee or, if not available, a permanent official of the next lower rank; or be at least a third ranking permanent employee in bureaus, regional offices and sub-regional/ district offices, or if not available, a permanent employee of the next lower rank. In addition, the heads of procuring entities are directed to consider integrity and procurement proficiency as factors in designating the head of the BAC Secretariat.

For further guidance, please refer to the Guidelines on Establishment of Procurement Systems and Organizations¹, which recommends that the HOPE consider the following factors in selecting the personnel who will be assigned to the BAC Secretariat, among others: (a) integrity; (b) procurement proficiency, as shown by experience and trainings attended; (c) satisfactory completion in a certification program conducted by the GPPB-TSO or its accredited institutions, if any; and (d) the appropriate Civil Service qualification standards.

It also bears stressing that Section 11.2.5 of the IRR of RA 9184 prohibits the HOPE and/or the approving authority from being the Chairman or a member of the BAC, and in the same vein, the head or a member of the BAC Secretariat since the same is the creation of the HOPE by virtue of Section 14. As explained in a previous opinion², the prohibition stated in Section 11.2.5 of the IRR is intended to avoid any conflict of interest between the person who undertakes the procurement and the one approving said transactions.

¹ Issued through GPPB Resolution No. 13-2006 dated 14 June 2006

² NPM No. 11-2010 dated 22 April 2010.

Based on the foregoing, we are of the opinion that the employee temporarily detailed at the office of the acting head of the agency may be designated as the head of the BAC Secretariat provided that s/he possesses all the qualifications prescribed in Section 14.2 of the IRR of RA 9184 and that s/he is not the approving authority disqualified under Section 11.2.5 of the IRR.

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

SPM
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