



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

NPM No. 114-2012

12 September 2012


HON. CONSTANCIA P. DE GUZMAN, Ph.D.
Commissioner and Chairperson
Oversight Committee
NATIONAL POLICE COMMISSION (NAPOLCOM)
Sen. Gil J. Puyat Avenue, Makati City

Re: Commission on Audit (COA) Observers

Dear Commissioner De Guzman:

We respond to your letter dated 13 July 2012 requesting our comment relative to COA's position that the attendance of COA's representatives as Observers is not mandatory and will not nullify the proceedings of the Bids and Awards Committee (BAC).

It is represented that one of the mandated functions of the Oversight Committee on Philippine National Police (PNP) Procurement is to monitor every stage of the procurement process. Thus, the Oversight Committee is consistent in sending observers to various procurement of the PNP and it was reported that COA observers are usually absent despite being notified in writing. Upon formal inquiry with COA¹, NAPOLCOM was informed that the attendance of COA representatives is not mandatory and such absence does not nullify the BAC proceedings.

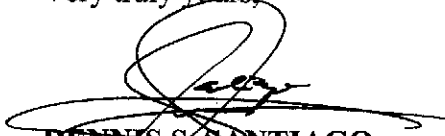

Section 13 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184 contemplates three types of Observers – representative from COA; a duly recognized private group; and, Non-Government Organization (NGO). Section 13.3 of the IRR, on the other hand, mandates that Observers shall be invited at least three (3) calendar days before the date of the procurement stage/activity and the absence of Observers will not nullify the BAC proceedings, provided that they have been duly invited in writing. It is clear from Section 13.3 of the revised IRR that the Procuring Entity (PE) should extend an invitation to the intended Observers so that the representatives are duly informed of the planned bidding. If any of the Observers fail to attend the bidding on the indicated schedule, the procurement process should continue since the absence of any of the observers is not a ground to delay the proceedings. Conversely, in case the PE fails to properly invite and/or inform the Observers of the planned procurement process, then the bidding could not proceed without the PE satisfying this requirement. 


¹ COA letter dated 6 July 2012 signed by Director Rizalina Mutia attaching a copy of the letter dated 14 June 20102 signed by Supervising Auditor Lorna V. Anacay.

Considering the foregoing, we concur with COA's position as indicated in its letters that the attendance of its representative is not mandatory and will not nullify the BAC proceedings. Be that as it may, we strongly encourage the attendance and presence of COA observers in all stages of the procurement process, so that they may immediately address the concerns of the PE and the bidders, if any, relating to audit procedures. Additionally, it is within COA's mandate² to promulgate accounting and auditing rules and regulations on the use of government funds and properties, among others, and attendance in public bidding is a good source of information for would-be policies and regulations based on those gathered during procurement activities. Needless to say, the importance of feedback on audit, through attendance in actual bidding, should be afforded more importance and weight.

We hope that our advice provided sufficient guidance on the matter. Please note that this opinion is being rendered on the basis of the facts and particular circumstances presented, and may not be applicable to 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 III 

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² Section 2(2) of Article IX-D of the 1987 Philippine Constitution.