

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

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TSO NPM No. 12-2004

February 11, 2004

HON. EDUARDO F. FONTELERA

City Mayor
Alaminos City
Pangasinan

**Re : Chairman of the Bidding and Awards Committee ("BAC") in
Local Government Units**

Dear Mayor Fontelera:

This refers to your letter dated November 28, 2003, which we received on even date, requesting for clarification regarding Section 11.2.2 of the Implementing Rules and Regulations ("IRR-A") of Republic Act No. 9184 ("R.A. 9184").

As provided for in your letter, the following queries need to be resolved/clarified, to wit:

1. What is the proper interpretation of the phrase "at least a third ranking permanent official of the procuring entity"?
2. Consequently, may the City Administrator, a permanent official whose tenure is coterminous with the appointing authority, be elected as the Chairman of the BAC?

Interpretation of the phrase "at least a third ranking permanent official"

Section 11.2.2 of IRR-A of R.A. 9184 is quoted hereunder, 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. (Emphasis Supplied)

The local chief executive shall designate the members of the BAC. The members shall elect among themselves who shall act as the Chairman and the Vice-Chairman.

Section 11.2.2 should be read in consonance with Section 11.2.1 of IRR-A, to wit:

“ x x x for purposes of this IRR-A, the term “permanent” shall refer to a **plantilla position** within the procuring entity concerned.” (Emphasis Supplied)

It must be stressed that although the latter-quoted provision is included in Section 11.2.1, referring to the BAC composition in national government agencies (“NGAs”), departments, bureaus, offices or instrumentalities of the Government, including the judiciary and legislative branches, constitutional commissions, state universities and colleges (“SUCs”), government-owned and/or –controlled corporations (“GOCCs”) and government financial institutions (“GFIs”), the same is applicable even to Section 11.2.2, where the term “permanent” also refers to a plantilla position. This being so, the phrase “third ranking permanent official” under Section 11.2.2 shall mean a third ranking official occupying a plantilla position in the procuring entity concerned.

In harmonizing the two (2) provisions, we have considered the principle in statutory construction that the legislative intent must be ascertained from a consideration of the statute as a whole. [In that,] particular words, clauses and phrases should not be studied as detached and isolated expressions but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. (Araneta vs. Concepcion, 99 Phil. 709; Tamayo vs. Gsell, 35 Phil 953; Lopez vs. El Hogar Filipino, 47 Phil. 249; Chartered Bank vs. Imperial, 49 Phil. 931; Manila Lodge No. 761 vs. Court of Appeals et al., G.R. No. L-410011, September 30, 1976.)

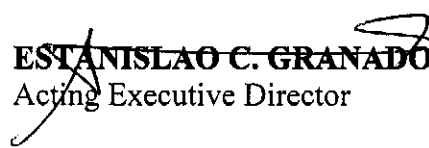
City Administrator as the BAC Chairman

Considering that the City Administrator is a third-ranking official occupying a plantilla position, there is no reason why he cannot be elected as Chairman of the BAC. The fact that his tenure of office is coterminous with the appointing authority is not an issue since, as already stated, the term “permanent” has been interpreted to include any plantilla position for purposes of determining the ranking of a public official. Consequently, for purposes of R.A. 9184 and its IRR-A, the term “permanent” shall refer to the nature of position and not to the nature of the appointment, whether permanent or coterminous, or the person of the appointee occupying the position.

In fine, we are of the opinion that the City Administrator, being a third ranking official occupying a permanent position, may be elected as the Chairman of the BAC in the LGU.

We trust that this clarifies matters.

Very truly yours,


ESTANISLAO C. GRANADOS, JR.
Acting Executive Director