

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. 23-2004

February 26, 2004

MS. JOYCE L. HERMAN
Municipal Treasurer
Municipality of Tublay
Benguet

**Re : Composition of the Bids and Awards Committee ("BAC") in
Local Government Units ("LGUs")**

Dear Ms. Herman:

This refers to your letter dated January 29, 2004, forwarded to our office, which we actually received on February 16, 2004. Your letter raised the following issues:

- 1.) Does Republic Act No. 9184 ("R.A. 9184") or its Implementing Rules and Regulations ("IRR-A"), or any circular, order or resolution issued by proper government authorities, prohibit the appointment of the Municipal Treasurer as a member of the BAC?
- 2.) Who takes the place of the General Services Officer ("GSO") in the BAC, in LGUs where there are no appointed GSOs?

Municipal Treasurer as a member of the BAC

Section 11.2.2 of the 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. x x x"
(Emphasis Supplied)

In this connection, we further quote the pertinent portion of Commission on Audit ("COA") Circular No. 2003-004 dated July 30, 2003, relative to this point, to wit:



“Pursuant to the authority vested in this Commission to promulgate accounting rules and regulations including those for strengthening of internal control in the operations of the government, it is hereby directed that the Chief Accountant and the personnel of the Accounting Unit of any agency of government are prohibited from being regular members of the agency’s Bids and Awards Committee as contemplated under the Implementing Rules and Regulations of R.A. 9184. However, they may serve as provisional members when the Unit is the end-user of the items, subject of the bidding.”

In consonance with this COA Circular, the Government Procurement Policy Board (“GPPB”) also issued Circular No. 03-2003 addressed to the Heads of Departments, Bureaus, Offices and Agencies of the National Government, Government-Owned or Controlled Corporations (“GOCCs”), including State Universities and Colleges (“SUCs”), and LGUs. Section 2.3 of the said GPPB Circular, dated December 1, 2003, is quoted hereunder, as follows:

“ [I]n line with the provisions of Sections 11.2.1 (3) and 11.2.2 of IRR-A of R.A. 9184 and COA Circular No. 2003-004, the head of the procuring entity may designate **any personnel from the finance area thereof**, in the case of NGAs, departments, bureaus, offices or instrumentalities of the Government, including judiciary and legislative branches, constitutional commissions, SUCs, GOCCs, and GFIs, **or from the Budget Office, in the case of LGUs, provided that such official is neither the Chief Accountant nor a personnel of the Accounting unit of the procuring entity concerned.**”
(Emphasis Supplied)

From the foregoing citations, it is clear that the only personnel from the finance area who are prohibited to be designated as members of the BAC are the Chief Accountant and any personnel of the Accounting unit of the procuring entity concerned. Hence, the Municipal Treasurer may be designated by the head of the procuring entity as one of the BAC members in the LGU concerned.

Furthermore, we wish to inform your office that the same issue was raised during the orientation on R.A. 9184 and its IRR-A conducted by the Government Procurement Policy Board-Technical Support Office (“GPPB-TSO”) in cooperation with the Philippine League of Local Budget Officers (“PHILLBO”) on November 12-13, 2003, and consequently, was brought to the attention of the GPPB on its 7th GPPB meeting held on December 11, 2003. In the said meeting, the Board unanimously agreed that the head of the procuring entity may designate the Municipal Treasurer as a member of the BAC considering that there is no conflict of interest between these two given functions, unlike in the cases of the Chief Accountant and any other personnel from the Accounting unit of the procuring entity concerned.

GSO as a member of the BAC

Citing the same Section 11.2.2 of the IRR-A, as above-quoted, it is evident that one (1) representative from **any of the regular offices under the Office of the Local Chief Executive, such as but not limited to** the Office of the Administrator, the Budget Office, the

Legal Office, the Engineering Office and the General Services Office, may be designated by the head of the procuring entity as members of the BAC. Hence, considering that the phrase "such as but not limited to" connotes that the enumeration of the regular offices mentioned in the said Section is not exclusive, we believe that in LGUs, especially in certain municipalities where there are no GSOs appointed, a representative from any of the regular offices under the Local Chief Executive, even if not mentioned in the enumeration provided under Section 11.2.2 of the IRR-A, except the Chief Accountant and any personnel from the Accounting unit, may be designated as a member of the BAC in the LGU concerned.

With the foregoing, we trust that our opinion provided the Municipality of Tublay the needed information in the creation of its BAC.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director

Copy furnished:

Honorable LIZA B. FANGSILAT
OIC-Director IV-CAR
Department of Budget and Management