

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

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NPM No. 24-2004

February 18, 2004

MR. BONIFACIO L. MADRIAGA

Municipal Budget Officer
Municipality of Tubao
La Union

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

Dear Mr. Madriaga:

This refers to your letter dated December 18, 2003, which we received on January 14, 2004, requesting for legal opinion/advise on whether or not the members of the Project Monitoring Committee (PMC) such as the Municipal Planning and Development Coordinator (MPDC) and the Municipal Engineer, may be appointed as members of the Bids and Awards Committee (BAC), at the same time, of the procuring entity concerned.

Composition of the BAC

Section 11.2.2 of the Implementing Rules and Regulations (IRR-A) of Republic Act No. 9184 (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 Section 11.2.5 of the IRR-A, to wit:

"In no case shall the head of the procuring entity and/or the approving authority be the Chairman or a member of the BAC."
(Emphasis Supplied)



Although it can be observed from the aforesaid provisions that neither the MPDC nor the Municipal Engineer is prohibited to be members of the BAC, assuming that the offices they represent are considered as regular offices under the Office of the Local Chief Executive, it is a primordial task for the BAC to ensure that the procuring entity has complied with the rules set forth by R.A. 9184 and the IRR-A. Moreover, Section 3 of the IRR-A is explicit that:

“Government Procurement shall be governed by these principles:

X X X X

e) **Public monitoring of the procurement process and the implementation of awarded contracts with the end view of guaranteeing that these contracts are awarded pursuant to the provisions of the Act and this IRR-A**, and that all these contracts are performed strictly according to specifications.”

(Emphasis Supplied)

As such, it becomes necessary to ensure that the functions of the BAC should be segregated from the functions of a monitoring committee that is tasked to check and/or guarantee that the BAC has complied with the provisions of R.A. 9184 and its IRR-A and that the contract has been performed in accordance with the specifications and standards of the law, in keeping with the rules and principles of efficient monitoring of government procurement.

In fine, if the PMC is a monitoring committee which is tasked to check or monitor on the BAC's activities, we believe that they cannot be members of the BAC, at the same time, to avoid the possibility of conflict of interest that may arise under the given functions. It must be considered that, appointing the members of the PMC in the BAC, may weaken the spirit and intention of the law in upholding the principles of transparency, system of accountability of public officials and public monitoring of the procurement process.

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

Please note that 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 and circumstances.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director