



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

NPM No. 24-2011

26 December 2011

MR. ALEXANDER B. BUTIC

Officer-In-Charge

QUEDAN AND RURAL CREDIT GUARANTEE CORPORATION

Quedancor Center, 34 Panay Avenue,
Quezon City

Re: Chairman of the Bids and Awards Committee (BAC)

Dear Mr. Butic:

We respond to your letter dated 24 October 2011 seeking our opinion whether a non-third ranking official can be appointed as Chairman of the Bids and Awards Committee (BAC).

As represented, the BAC Chairman of Quedan and Rural Credit Guarantee Corporation (Quedancor) has been recently appointed as the Officer-In-Charge of Quedancor. Being considered as the new BAC Chairman are the remaining permanent officials who are at least third in rank, which are the Executive Vice President (EVP) and the Vice President (VP) for Finance. However, the former has declined to be designated for the said position while the latter is prohibited from being a BAC member being an approving authority. It was further disclosed that the officers of Quedancor are designated to third ranking position on a temporary capacity.

For your guidance, Section 11.2.2 is explicit that the Chairman of the BAC must be at least a third ranking permanent official of the procuring entity. As we have stated in previous opinions, this provision does not provide for any exception to the third-ranking rule¹. Nonetheless, a second ranking permanent official is qualified to be appointed as Chairperson of the BAC as the minimum requirement is at least a third ranking permanent official².

In addition, the term "permanent" does not refer to whether the person holding the *plantilla* position is contractual, regular, or appointed; rather, this refers to whether the position exists within the organizational structure of the procuring entity or not.³ Therefore, a third ranking officer occupying a position, albeit in temporary capacity, is eligible to become the Chairman of the BAC for as long as the office he is currently occupying is an existing *plantilla* position in Quedancor. ✓

¹ NPM No. 049-2007 dated 14 August 2007

² NPM No. 049-2004 dated 12 April 2004

³ NPM No. 025-2004 dated 8 March 2004

On your concern regarding the prohibition against the VP for Finance from being designated as BAC Chairman being an approving authority, we wish to clarify the rule on approving authority under RA 9184 and its IRR. The approving authority contemplated under Section 11 of R.A. 9184 and its IRR refers to the official who approves procurement transactions, who is the Head of the Procuring Entity (HOPE) or the person delegated by the HOPE to perform said function in his or her behalf. As we have explained in a more recent opinion⁴, the prohibition stated in Section 11.2.5 of the IRR is intended to avoid any conflict of interest between the person who takes part in a procurement activity and the one approving the resulting transactions. Consequently, such prohibition does not apply to approving authorities where this conflict of interest is not present.

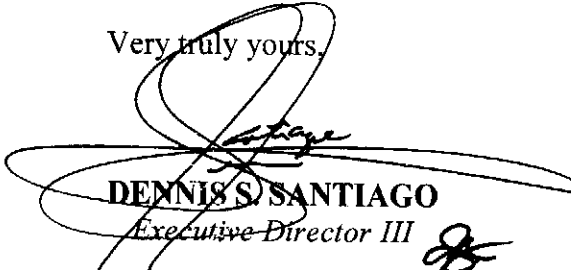
Hence, it is our view that the VP for Finance is proscribed from acting as BAC Chairman for procurement activities involving contracts subject for his approval; and, thus, he can serve as BAC Chairman for procurement of contracts that are not within the level of his approving authority.

On the other hand, the EVP, whether he is a second or third ranking official of Quedancor, can be designated as BAC Chairman. Should the organizational structure of Quedancor ultimately result in the non-constitution/creation of the BAC, the EVP may want to reconsider his decision in the exigency of public service. For after all, if public officials will refuse the designation as BAC members, there is a high probability that BACs will not be constituted at all.

In sum, we wish to clarify that only officers occupying either second or third ranking positions may be designated as BAC Chairman and any officer holding a position of a lower rank cannot be designated as BAC Chairman.

We hope we have provided sufficient guidance on the matter. Should you have further questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director III

⁴ NPM No. 011-2010 dated 22 April 2010