

REPUBLIC OF THE PHILIPPINES  
**GOVERNMENT PROCUREMENT POLICY BOARD**  
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**NPM No. 025-2004**

March 8, 2004

**ATTY. VICENTE S. AQUINO**  
Executive Director  
Anti-Money Laundering Council  
Bangko Sentral ng Pilipinas Complex  
Manila

**Re : Bids and Awards Committee ("BAC") Composition of the Anti-Money Laundering Council ("AMLC")**

Dear Atty. Aquino:

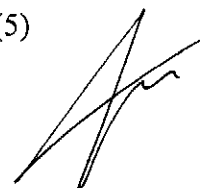
This refers to your letter dated January 27, 2004, requesting for clarification on the qualification of the members of the Anti-Money Laundering Council ("AMLC") Bids and Awards Committee ("BAC"). This concern directly affects the detailing of a Bank Officer VI of the Bangko Sentral ng Pilipinas ("BSP") as Deputy Director of the Legal Evaluation Staff of the AMLC Secretariat, who at the same time serves as the Chairman of AMLC-BAC. We have determined the following issues:

1. Whether or not the position of Deputy Director of the Legal Evaluation Unit of the AMLC Secretariat is considered a *plantilla* position under Republic Act 9184 ("R.A. 9184") and its Implementing Rules and Regulations Part A ("IRR-A"); and
2. Whether or not the Deputy Director of the Legal Evaluation Unit may be designated as AMLC BAC Chairman.

**Organizational Structure of the AMLC Secretariat**

Section 8 of Republic Act 9160 ("R.A. 9160") provides for the creation and composition of the AMLC Secretariat, as follows:

The AMLC is hereby authorized to establish a secretariat to be headed by an Executive Director who shall be appointed by the Council for a term of five (5) years. He must be a member of the Philippine Bar, at least thirty-five (35) years of age and of good moral character, unquestionable integrity and known probity. All members of the Secretariat must have served for at least five (5)



years either in the Insurance Commission, the Securities and Exchange Commission or the Bangko Sentral ng Pilipinas (BSP) and shall hold full-time permanent positions within the BSP.

Based on the above-quoted provision, the AMLC Secretariat is considered an attached office to the Office of the BSP Governor under the BSP organizational structure. On the other hand, the organizational structure of the AMLC Secretariat, as approved by AMLC and the Monetary Board, is composed of four (4) units, namely, Compliance and Investigation Unit; Legal Evaluation Unit; Information Management and Analysis Unit; and Administrative Unit, with each unit headed by a Deputy Director.

In this regard, the position of a Deputy Director of the Legal Evaluation Unit, a position existing within the organizational structure of the AMLC Secretariat, is considered a *plantilla* position within the procuring entity insofar as R.A. 9184 and its IRR-A is concerned.

As provided under Section 11.2.1 of IRR-A of R.A. 9184, the term "permanent" shall refer to a *plantilla* position within the procuring entity concerned. The term "permanent" does not refer to whether the person holding the *plantilla* position is contractual, regular, or appointed; rather, the concern specifically refers to whether the position exists within the organizational structure of the procuring entity or not. Section 11.2.1 of IRR-A of R.A. 9184 specifically provides, as follows:

National Government agencies, departments, bureaus, offices, or instrumentalities of the Government, including the judiciary and legislative branches, constitutional commissions, SUCs, GOCCs, and GFIs:

X X X X

The member of the BAC, including the Chairman and the Vice-Chairman, shall be designated by the head of the procuring entity. Moreover, the Vice-Chairman shall be a regular member of the BAC. For purposes of this IRR-A, **the term "permanent" shall refer to a *plantilla* position within the procuring entity concerned.** (Emphasis supplied)

For this reason, any person holding a position existing within the organizational structure of the procuring entity and possesses the required ranking may be designated as regular BAC member. The determining factor for regular membership in the BAC is not the employment status of the person but the position he is holding. In this regard, we believe that employment status notwithstanding, any person holding the position of Deputy Director of the Legal Evaluation Unit may be designated as member of the BAC.

### **Deputy Director of AMLC Secretariat Designated as BAC Chairman**

Section 11.2.1 of IRR-A of R.A. 9184 provides that the BAC Chairman for National Government agencies, departments, bureaus, offices, or instrumentalities of the Government, including the judiciary and legislative branches, constitutional commissions, SUCs, GOCCs, and GFIs shall be "at least a third ranking permanent official in the procuring entity."

As earlier discussed, the Deputy Director of the Legal Evaluation Unit complies with the requirement that BAC members shall be permanent officials within the procuring entity, and may therefore be designated as a member of the AMLC BAC. However, to be designated as its Chairman, the requirement that the official shall at least be third ranking within the procuring entity must be complied with.

The AMLC, composed of the Governor of the BSP and the Commissioners of the Insurance Commission ("IC") and Securities and Exchange Commission ("SEC"), is considered the head of the procuring entity and thus the first in rank. It is counted and ranked as first (1<sup>st</sup>) since R.A. 9160 provides under Section 8 thereof that the AMLC shall act unanimously in the discharge of its functions. Therefore, the AMLC shall be considered as a collegial body, the actions of which are decided by the majority and not solely by its Chairman. This being the case, the second (2<sup>nd</sup>) in rank would have to be the Executive Director of the AMLC Secretariat and the third (3<sup>rd</sup>) would be any of the four (4) Deputy Directors therein.

In view of the foregoing, we are of the opinion that the designation of the Deputy Director of the Legal Evaluation Unit as BAC Chairman is valid and proper under the provisions of R.A. 9184 and its IRR-A for having complied with all the requirements set forth therein.

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.

We trust that this clarifies matters.

Very truly yours,



**JOSE MARTIN C. SYQUIA**  
Executive Director