

REPUBLIC OF THE PHILIPPINES  
**GOVERNMENT PROCUREMENT POLICY BOARD**  
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**NPM No. 031-2004**

March 22, 2004

**Hon. MILAGROS V. REGALADO**  
Assistant Commissioner, Legal Service  
Bureau of Internal Revenue  
Agham Road, Diliman, Quezon City

**Re : Composition of the Bids and Awards Committee**

Dear Asst. Comm. Regalado:

This refers to your letter dated February 6, 2004, which we received on February 11, 2004, requesting for clarification on the prescribed composition of the Bids and Awards Committee ("BAC") as provided by the Implementing Rules and Regulations Part A ("IRR-A") of Republic Act No. 9184 ("R.A. 9184"), particularly on the appropriate rank of the officers who may be appointed as regular members thereof in the Bureau of Internal Revenue ("BIR").

**Appropriate BAC Composition for the Bureau of Internal Revenue under the IRR-A of R.A. 9184**

Section 11.2.1 of the IRR-A of R.A. 9184 specifies the regular BAC members for National Government agencies, departments, bureaus, offices or instrumentalities of the Government, including the judiciary and legislative branches, constitutional commissions, state universities and colleges, government owned and controlled corporations, and government financial institutions, as follows:

Regular Members

1. Chairman, who is at least a third ranking permanent official of the procuring entity;
2. An officer, who is at least a fifth ranking permanent official, with knowledge, experience and/or expertise in procurement who, to the



extent possible, represents the legal or administrative area of the procuring entity, **provided that in the case of bureaus, regional offices and sub-regional/district offices, BAC members shall be at least a third ranking permanent personnel;**

3. An officer, who is at least a fifth ranking permanent official, with knowledge, experience and/or expertise in procurement who, to the extent possible, represents the finance area of the procuring entity, **provided that in case of bureaus, regional offices and sub-regional/district offices, BAC members shall be at least a third ranking permanent personnel;** (Emphasis supplied)

It can be readily observed from the afore-quoted provision that the IRR-A of R.A. 9184 distinguishes the subordinate offices and department subdivisions from other units of the Government vis-à-vis their BAC composition. Accordingly, considering that the BIR is a principal subdivision of the Department of Finance under its Revenue Operations Group as provided by Section 16 of the Administrative Code of 1987 ("Executive Order No. 292")<sup>1</sup>, it is categorized as a bureau as defined therein.<sup>2</sup> Accordingly, the regular members of its BAC should be at least third ranking permanent officials to comply with the BAC composition requirement of the quoted provision.

### **Guidelines for BAC Composition of Bureaus**

To ensure BIR's strict compliance with the IRR-A of R.A. 9184 on the specific requirements for BAC composition, we are providing you with the specific guidelines to be observed pertinent thereto, to wit:

- 1) The BAC shall be composed of at least five (5) members and shall not exceed seven (7). Of the five (5), three (3) are regular members and the rest are provisional members.
- 2) The BAC regular members are:

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<sup>1</sup> Sec. 16. Operations Groups. - The Operation Groups, each of which shall be headed by an Undersecretary, shall consist of the following:

(1) Revenue Operations Group, composed of the following:

(a) Bureau of Internal Revenue;

xxxx

<sup>2</sup> Sec. 2. General Terms Defined. - Unless the specific words of the text, or the context as a whole, or a particular statute, shall require a different meaning:

xxxx

(8) "Bureau" refers to any principal subdivision or unit of any department. For purposes of Book IV, this shall include any principal subdivision or unit of any instrumentality given or assigned the rank of a bureau, regardless of actual name or designation, as in the case of department-wide regional offices.

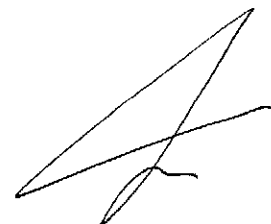
- i) An officer, who is at least a third ranking permanent (plantilla) official of the procuring entity, who shall be designated as the Chairman;
  - ii) An officer, who holds at least a third ranking permanent (plantilla) position, with knowledge, experience and/or expertise in procurement who to the extent possible represents the legal or administrative area of the bureau;
  - iii) An officer, who holds at least a third ranking permanent (plantilla) position, with knowledge, experience and/or expertise in procurement who to the extent possible represents the finance area of the bureau;
- 3) The Head of the Procuring Entity shall designate the members of the BAC, its Chairman and the Vice-Chairman;
- 4) The Chairman and the Vice-Chairman shall be regular members of the BAC.
- 5) The BAC members shall be appointed for a term of one (1) year only, reckoned from the date of appointment. However, the Head of the Procuring Entity may renew such appointment at his discretion. In accordance with the thrust to professionalize the procurement organization, Heads of Procuring Entities are encouraged to re-appoint to the BAC those members who have shown efficiency and probity in the performance of their duties;
- 6) The following officers of the procuring entity are disqualified from membership in the BAC:
- a. The Head of the Bureau;
  - b. The official who approves procurement transactions;
  - c. The Chief Accountant / Head of the Accounting Unit and his/her staff as regular members thereof.<sup>3</sup>

With the foregoing elucidations, we trust that our opinion has provided the BIR with the needed information on the appropriate rank of officers that may be appointed as regular

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<sup>3</sup> Commission on Audit ("COA") Circular No. 2003-004 dated July 30, 2003, provides as follows:

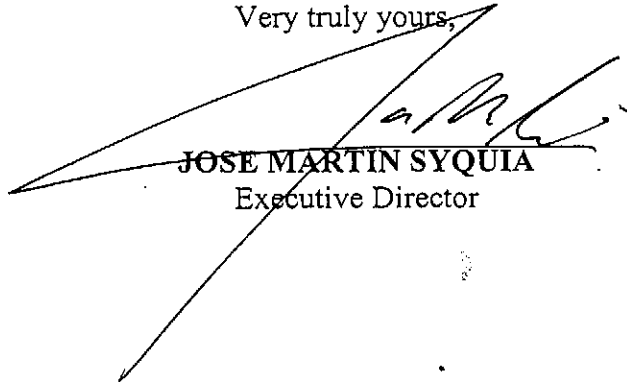
"Pursuant to the authority vested in this Commission to promulgate accounting rules and regulations including those for strengthening of internal control in the operations of the government, it is hereby directed that the Chief Accountant and the personnel of the Accounting Unit of any agency of government 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." (Underscoring supplied)



members of its BAC, as well as the specific requirements of the IRR-A of R.A. 9184 relevant thereto.

This opinion is being rendered on the basis of the facts and particular circumstances as represented. It may not be necessarily applicable upon a different set of facts or circumstances.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read 'Jose Martin Syquia', is written over the typed name and title. The signature is slanted and extends across the text.

**JOSE MARTIN SYQUIA**  
Executive Director