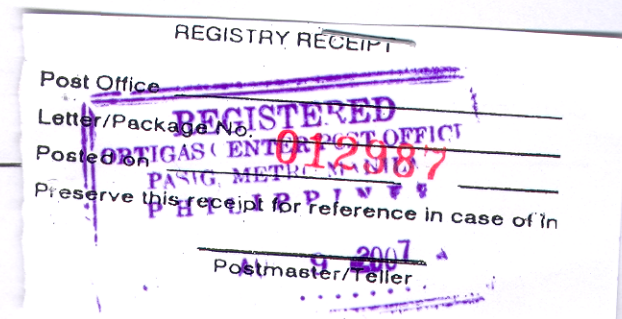


NPM No. 37-2007



6 August 2007

MR. VICENTE G. HISULA
 Linay, Manukan
 Zamboanga del Norte

Re: Observers' Non-Entitlement to Honoraria

Dear Mr. Hisula:

We respond to your letter dated 18 October 2006 requesting for an opinion on whether a non-government organization (NGO) representative, who is a member of the Bids and Awards Committee (BAC) of a municipality, is entitled to receive an honorarium as provided under National Budget Circular 2004-5A dated 7 October 2005 issued by the Department of Budget and Management (DBM).

We would like to clarify that an NGO representative may not be appointed as a member of the BAC¹. However, representatives from NGOs may sit as observers. As such, they may attend all stages of the procurement process as long as the organization which they represent is duly registered with the Securities and Exchange Commission and meet the criteria provided under Section 13.2 of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. 9184 (R. A. 9184).

Section 15 of R. A. 9184 and its IRR-A and the above-mentioned DBM Circular categorically provide that payment of honoraria may be granted to the members of the BAC, the BAC Secretariat, and the Technical Working Group. In the enumeration of persons who may be granted honoraria, observers are not included.

¹ Section 11.2.2 of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. 9184 (R. A. 9184), to wit:

“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. The Chairman of the BAC shall be at least a third ranking permanent official of the procuring entity. The members of the BAC shall be personnel occupying *plantilla* positions of the procuring entity concerned.”

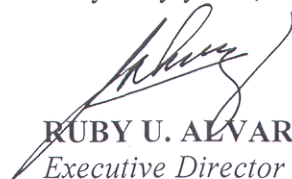
Thus, in GPPB Non-Policy Matter Opinion Nos. 3-2005 dated 13 January 2005 and 11-2005 dated 10 February 2005, this Office opined that observers are not entitled to honoraria to maintain their independence:

“Observers are invited in all stages of the procurement process in order to enhance transparency therein, with the general responsibility of checking if each stage of the procurement process was conducted in accordance with the provisions of R. A. 9184 and its IRR-A.

It is imperative then for observers to maintain the independence from any influence the body it monitors may assert so that the integrity of the observations will not be compromised or tainted with bias. To ensure this independence, we are of the opinion that observers should not be granted honoraria by the procuring entity for its participation in the procurement process.”

We hope to have clarified the matter. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,



RUBY U. ALVAREZ
Executive Director III