

**NPM No. 38-2007**

6 August 2007

**MR. RENATO M. DAGUMAN**  
 AGONCILLO SUBDIVISION  
 Barangay Matobato  
 Calbayog City, Samar

**Re: Designation of the Head of the Business Permit and Licensing Office as BAC Member**

Dear Mr. Daguman:

We respond to your undated letter, which we received last 17 October 2006, requesting for opinion on whether the head of the Business Permit and Licensing Office may be designated as a regular member of the Bids and Awards Committee (BAC) in local government units (LGUs).

Section 11.2.2 of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. 9184 (R. A. 9184) provides for the composition of the BAC for LGUs, 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.” (Emphasis supplied)

The phrase “such as, but not limited to” in the above-mentioned section implies that the enumeration provided therein is not exclusive. Thus, the local chief executive may designate one representative each, not only from the offices mentioned above, but also from other regular offices under the Office of the Local Chief Executive such as the Business Permit and Licensing Office.


Moreover, we believe that the designation of the head of the Business Permit and Licensing Officer as a member of the BAC does not give rise to any clear conflict of interest. In a similar matter, the Government Procurement Policy Board (GPPB) has opined that the

Budget Officer and the Treasurer may be designated by the head of the procuring entity as members of the BAC considering that there is no clear conflict of interest unlike in the case of the Chief Accountant and all accounting personnel (GPPB Non-Policy Matter Opinion No. 58-2004 dated 30 April 2004). Under Commission on Audit Circular 2003-004 dated July 30, 2004, only the Chief Accountant and personnel of accounting units are prohibited from being appointed as regular members of the BAC. However, they may still serve as provisional members when the accounting unit is the end-user of the items subject of the bidding.

Based on the foregoing discussion, the head of the Business Permit and Licensing Office may be designated by the head of the procuring entity as a regular member of the BAC.

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

Very truly yours,



**RUBY U. ALVAREZ**  
*Executive Director III*