

NPM No. 48-2008

25 November 2008

ATTY. VALENTIN C. GUANIO

Senior Vice-President, Legal Service Sector

PHILIPPINE HEALTH INSURANCE CORPORATION

Citystate Centre, 709 Shaw Boulevard, Pasig City

Re : Composition of the Bids and Awards Committee

Dear Atty. Guanio:

This refers to your letter dated 1 July 2008, which we received on 18 July 2008, requesting for clarification on whether the composition of the Bids and Awards Committee (BAC) of the Philippine Health Insurance Corporation's (Philhealth) Regional Offices (PRO) is in conformity with the provisions of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. 9184 (R.A. 9184).

As represented in your letter and the attached Philhealth's Office Order No. 003-2004, series of 2004, the composition of the separate BAC-PROs is as follows:

- 1) Five (5) members [i.e. Three (3) regular and two (2) provisional members] shall be appointed by the President and Chief Executive Officer (CEO) upon the recommendation of the Assistant Vice-President;
- 2) The Chairperson and the two (2) regular members of the PRO-BAC must be permanent officers with the rank of Division Chief. To the extent possible, the legal/administrative and finance units shall be represented in the PRO-BAC; and,
- 3) The two (2) provisional members of the PRO-BAC shall include a permanent officer, ideally of Division Chief level, who has knowledge, experience and/or expertise in procurement, and a representative from the end-user unit who has knowledge of procurement laws and procedures.

Under Section 11.1 of the IRR-A of R.A. 9184, each procuring entity shall establish in its head office a single BAC. However, to expedite the procurement process for practical intents and purposes, the head of the procuring entity (HOPE) may create separate BACs where the number and complexity of the items to be procured shall so warrant. The BACs may be organized either according to: (a) geographical location of PMO or end-user units of the procuring entity; or (b) nature of procurement. Similar committees for decentralized and lower level offices may also be formed when deemed necessary by the HOPE. The creation

of the separate BACs shall be limited in order to facilitate professionalization and harmonization of procedures and standards.

Further, 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)

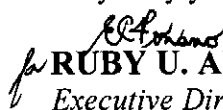
It is clear that the afore-quoted provision makes a distinction in the ranking of regular members for the BACs of subordinate offices and department subdivisions. Hence, it can be said that once a procuring entity decides to decentralize its procurement activities, the HOPE and the BAC members of the regional offices will necessarily be appointed in keeping with their existing hierarchy of regular *plantilla* positions.

To illustrate the foregoing, a division chief in the PRO might be treated as a sixth (6th) or seventh (7th) ranking official in the entire corporation, but may be considered either a second (2nd) ranking official, in case the PRO is headed by an Assistant Vice-President, or a third (3rd) ranking official should the PRO be headed by a Vice-President, for purposes of determining the composition of the Regional BAC.

This opinion is being rendered on the basis of the facts and particular circumstances as represented.

We trust that this clarifies matters. Should you have any additional questions, please feel free to contact us.

Very truly yours,


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