

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office
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NPM No. 49-2004

April 12, 2004

Mr. REYNALDO P. VENTURA
Supervising Auditor
Government Service Insurance System
Financial Center, Pasay City

**Re : Audit Observation Memorandum No. 2003-01 dated
May 19, 2003 Relative to the Audit of Government
Service Insurance System for Calendar 2003**

Dear Mr. Ventura:

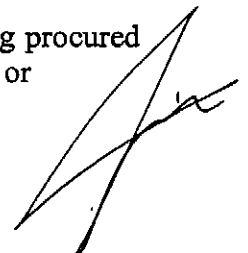
This refers to your Indorsement dated January 26, 2004, addressed to Secretary Emilia T. Boncodin of the Department of Budget and Management, which was referred to our office on January 28, 2004 for opinion on the matter. Your concern pertains to Audit Observation Memorandum ("AOM") No. 2003-01 dated May 19, 2003 relative to the audit of Government Service Insurance System ("GSIS") for calendar 2003 and centers on this issue:

Whether or not the designation of Vice-Presidents of the GSIS as Chairpersons of its Bids and Awards Committees ("BAC"), specifically the Physical Resources' BAC ("PRBAC) and the Information Technology BAC ("ITBAC"), conform with Republic Act No. 9184 ("R.A. 9184") and its Implementing Rules and Regulations Part A ("IRR-A").

BAC Structure and Composition under R.A. 9184 and its IRR-A

Section 11.1 of the IRR-A of R.A. 9184 provides for the BAC structure that shall be adhered to by all government agencies in their procurement organization, which generally prescribes a single BAC structure in the head office. However, to expedite the procurement process for practical intents and purposes, the head of the procuring entity may create separate BACs under any of the following conditions:

- a) the number of transactions and the number of different line items being procured make it impractical for a single BAC to undertake all the procurements; or



b) the items to be procured are complex or specialized.

Thus, a procuring entity may have separate BACs in its regional or decentralized offices, when warranted by the above-mentioned conditions and/or separate BACs to handle specialized procurements.

We have observed that the GSIS has opted to adopt the multi-BAC structure, considering that the GSIS procurement functions are spread out to lower level or decentralized offices, known as the functional groups. Consequently, under this arrangement, there shall be a variation in the BAC composition, considering that the ranking of officials for such purpose would be different from procuring entities adopting the single BAC structure.

In this light, we affirm the observations made by the Legal and Adjudication Office of the Commission on Audit on this matter, particularly in the determination of the third ranking officer who shall chair the BAC. To determine such, the position level is reckoned from the *head of the procuring entity*, which has a specialized meaning in Section 5 (j) of the IRR-A of R.A. 9184, to wit:

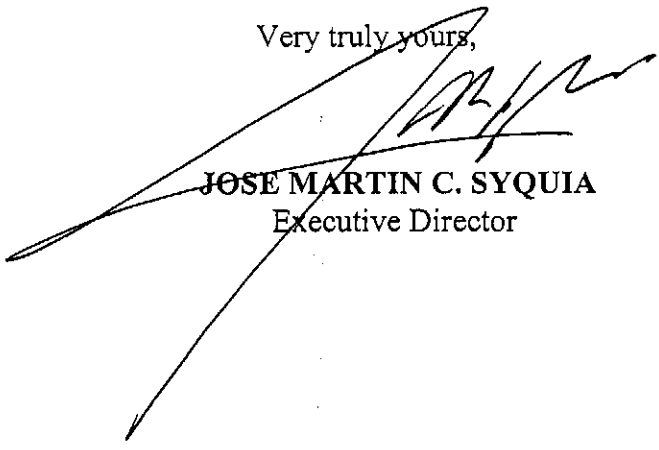
Head of the Procuring Entity - refers to: (i) the head of the agency or his duly authorized official, for national government agencies; (ii) the governing board or its duly authorized official, for government-owned and/or controlled corporations; or (iii) the local chief executive, for local government units. **Provided, That in a department, office or agency where the procurement is decentralized, the Head of each decentralized unit shall be considered as the Head of the Procuring Entity subject to the limitations and authority delegated by the head of the department, office or agency.** (Emphasis supplied)

Applying the aforequoted provision to the GSIS BAC structure, the Senior Vice-Presidents, which are the top-ranking officials in functional groups or decentralized units performing procurement functions through its separate BACs shall be treated as the head of such procuring entities. Accordingly, in this set-up, the Vice-Presidents for such functional groups, which are regarded as second ranking permanent official thereof, are qualified to be appointed as the Chairpersons of its separate BACs, since the minimum requirement set forth by the IRR-A is that the Chairman of the BAC should be *at least a third ranking official of the procuring entity*. Thus, we sustain the view of the Legal and Adjudication Office of the Commission on Audit that the appointment of the Vice-Presidents of the Physical Services Groups and Business Application System Services of the GSIS as Chairpersons of its PBAC and ITBAC meets the minimum requirements provided for under Section 11.2.1 of the IRR-A of R.A. 9184.

With the foregoing elucidations, we trust that our opinion has provided the GSIS with the needed information pertinent to its multiple BAC structure and composition.

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, written over the typed name and title.

JOSE MARTIN C. SYQUIA
Executive Director