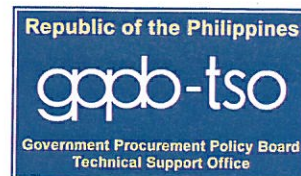




Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 027-2018



28 September 2018

ATTY. ERMAR U. BENITEZ
Chief, Legal Division
GAMES AND AMUSEMENTS BOARD (GAB)
Legaspi Towers 200,
Paseo de Roxas, Makati City

Re: Compliance with the Third Ranking Requirement -

Dear Atty. Benitez:

This refers to your letter seeking clarification on the interpretation of the term “third ranking official” for purposes of appointing a BAC Chairperson for the Games and Amusements Board. Also for clarification are the following questions quoted hereunder *verbatim*:

1. Whether members of the Board, namely the Chairman and Commissioners, are all first ranking officials OR the Chairman is the first ranking while the Commissioners are second ranking. This query is based on the fact that the Board acts as a collegial body in the exercise of the agency’s mandate; and
2. If the Chairman is first ranking and the Commissioners are second ranking, are all the Division Chiefs third ranking officers?

As represented, the GAB is composed of three members appointed by the President of the Philippines with the consent of the Commission on Appointments. Under the Board are the different divisions of the agency with its respective heads as follows:

Division	Head
Legal Division	Chief Legal Officer/Attorney V (SG – 25)
Administrative Division	Chief Administrative & Finance Officer (SG – 24)
Boxing and Other Contact Sports Division	Chief Sports & Games Regulation Officer (SG – 24)
Horse Racing Betting Supervision Division	Chief Sports & Games Regulation Officer (SG – 24)
Pro Basketball and Other Pro Games Division	Chief Sports & Games Regulation Officer (SG – 24)

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Qualifications of BAC Chairperson -

Section 11.2.2 of the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 provides:

11.2.2. The BAC for NGAs, departments, bureaus, offices, or instrumentalities of the GoP, including the judicial and legislative branches, constitutional commissions, SUCs, GOCCs, and GFIs shall be composed of the following:

Regular Members:

- a) Chairperson, who is at least a third (3rd) ranking permanent official of the Procuring Entity;


... ..

In order to determine whether an official is a third ranking permanent official, we have earlier opined¹ this wise:

In this regard, the determination of the ranking of positions based on the approved *plantilla* position lies within the concerned procuring entity.

Reckoning from the highest position in the *plantilla*, the procuring entity may identify which positions are qualified for membership in the BAC. Among the factors that may be considered in establishing the ranking are the organizational structure, salary grade allocation, nature of work, degree of responsibility, and classification and functional relationship of positions.

Based on the established ranking of positions, the procuring entity may designate any personnel occupying at least a third ranking position as its BAC Chairperson. However, the designation of the BAC Chairperson is subject to the disqualifications provided in Section 11.2.5 of the Implementing Rules and Regulations of Republic Act 9184 and Commission on Audit Circular 2003-004, i.e., the Head of the Procuring Entity, Approving Authority, and Chief Accountant and its staff, respectively.

For purposes of determining whether an official is a “third” ranking permanent official, the *plantilla* position being occupied by said official must be so in accordance with the approved organizational structure of the procuring entity. We have also opined² that this determination does not qualify whether the personnel occupying the *plantilla* position holds the same in a contractual, regular, or permanent status; what is important is whether the position exists within the organizational structure of the procuring entity and the chairperson occupies a third ranking or second ranking *plantilla* position. 

¹ NPM No. 099-2017 dated 29 December 2017 citing NPM No. 015-2011 dated 23 September 2011.

² NPM No. 072-2014 dated 20 October 2014 citing NPM No. 95-2013 dated 20 December 2013 citing NPM No. 76-2012 dated 20 June 2012.

Summary -

In sum, we are of the opinion that the ranking of the Chairman and the Commissioners of GAB is of no moment; provided all the positions as represented are existing *plantilla* positions within the organizational structure of GAB, and the Division Chiefs are either second ranking or third ranking permanent officials; either way, they are both qualified to be designated as BAC Chairperson. The difference in salary grade should not be the sole consideration in determining compliance with the ranking requirement, but should also take into consideration the organizational structure, nature of work, degree of responsibility, and classification and functional relationship of positions.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

Very truly yours,
(sgd.)

~~DENNIS S. SANTIAGO~~
Executive Director *VWS*

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