

**NPM No. 041-2016**

22 September 2016

[REDACTED]

**Re: BAC-Secretariat Composition**

Dear [REDACTED]

This refers to your letter requesting clarification on whether the Secretary to the *Sanggunian* can be designated as Head/Member of the Local Government Unit-Bids and Awards Committee (LGU-BAC) Secretariat.

Section 14<sup>1</sup> of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184 provides that the Head of the Procuring Entity (HOPE) shall create a Secretariat which will serve as the main support unit of the BAC. Thus, the HOPE, is not only encouraged but is in fact mandated to create a BAC Secretariat. In pursuit of this mandate, the HOPE, has the discretion whether to create a new office or designate an existing organic office to the BAC Secretariat<sup>2</sup>.

As regards the composition of the BAC Secretariat, it should be noted that while the revised IRR, particularly Section 11 thereof, is clear on the composition and qualification of the BAC for NGAs and LGUs, no such distinction is made for the composition of the BAC Secretariat. Generally, the HOPE, in this case the Local Chief Executive (LCE), has the prerogative to determine the appropriate number of members of the BAC Secretariat to be designated as there is no minimum or maximum number of members to the BAC Secretariat<sup>3</sup>. It should be noted that both RA 9184 and its IRR are likewise silent as regards the minimum qualifications of its members. Thus, in selecting the personnel who will be assigned to the BAC Secretariat, the HOPE may consider the following factors, among others:

- i. Integrity;
- ii. Procurement Proficiency, as shown by experience and trainings attended;

<sup>1</sup> Section 14.1. The Head of the Procuring Entity shall create a Secretariat which will serve as the main support unit of the BAC. An existing office within the procuring entity may also be designated to serve as Secretariat. However, to strengthen and promote the professionalization of the organizations' procuring unit, the Head of the Procuring Entity may create procuring units that may serve concurrently as BAC Secretariat in accordance with the guidelines issued by DBM.

<sup>2</sup> Government Procurement Manual Volume 1, Guidelines on Establishing Systems and Organizations.

<sup>3</sup> Local Government Units Procurement Manual, 2014 page 18.



- iii. Satisfactory completion in a certification program conducted by the GPPB-TSO or its accredited institution, if any; and
- iv. The appropriate Civil Service qualification standards<sup>4</sup>.

While the revised IRR is silent on the minimum qualifications of the members to the BAC Secretariat, except for procurement proficiency, Section 14.2 of the IRR imposed qualifications in the selection of the personnel who shall be designated as the BAC Secretariat Head, which by parity of reasoning may also apply to LGUs, thus:

14.2 The head of the Secretariat in central offices shall be at least a fifth ranking permanent employee or, if not available, a permanent official of the next lower rank; or shall be at least a third ranking permanent employee in bureaus, regional offices and sub-regional/district offices, or if not available, a permanent employee of the next lower rank. In addition to integrity, Heads of Procuring Entities shall consider procurement proficiency as a factor in designating the head of the Secretariat and Procurement Unit.

Based on the above-cited provision, the HOPE, in this case the LCE, may designate any employee or official within the procuring entity as the BAC Secretariat Head provided he/she complies with the requirements under Section 14.2 taking into consideration the LGU's respective organizational structure for purposes of determining the rank of the person to be designated. For this purpose, the LCE may also consult the relevant provision of the Local Government Code, when applicable, to aid the same in the determination of whether the person to be designated complies with the ranking requirement under Section 14.2 of the revised IRR.

All told, the creation of the BAC Secretariat, the selection of its members and the designation of the employee or official as BAC Secretariat Head lie solely within the discretion of the HOPE, in this case the LCE, pursuant to the requirements set by the revised IRR, particularly Section 14, guided by the LGU's respective organizational structure and the relevant provisions of the Local Government Code, when applicable.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and 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 V*

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<sup>4</sup> Ibid.