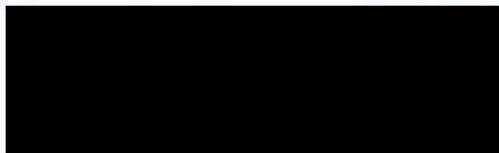


NPM No. 87-2015

13 October 2015



Re: Property/Supply Officer as BAC Chairperson

Dear [REDACTED]:

We respond to your electronic mail requesting our opinion on the propriety of designating a Property/Supply Officer as Chairperson of the Bids and Awards Committee (BAC).

Section 11.2.1 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 requires that the members of the BAC, including the Chairperson, must be persons of unquestionable integrity and procurement proficiency. On the other hand, Section 11.2.2 thereof provides that the Head of the Procuring Entity (HOPE) shall designate a Chairman of the BAC who is at least a third (3rd) ranking permanent official of the Procuring Entity (PE).

In a previous opinion¹, we have clarified that only officers occupying either second or third ranking permanent positions may be designated as BAC Chairperson while any officer holding a position of a lower rank cannot be designated as such. Relatedly, compliance with the ranking requirement under Section 11.2.2 of the IRR of RA 9184 for BAC composition and membership is based on the term "permanent", which is defined as referring to a *plantilla* position within the PE concerned.² It does not qualify whether the *plantilla* position is contractual, regular, or appointed, but rather the concern specifically refers to whether the position exists within the organizational structure of the procuring entity.³

It must be noted, however, that Section 11.2.5 of the IRR of RA 9184 prohibits the designation of the HOPE and/or the approving authority as BAC Chairperson. The prohibition is intended to avoid any conflict of interest between the person who undertakes the procurement and recommends the award of the contract and the one who approves said transaction.⁴ Otherwise stated, it prevents a situation that the subject procurement is deprived of checks and balances as one of the persons conducting the bid evaluation and post-

¹ NPM No. 24-2011, dated 22 October 2011.

² NPM No. 95-2013, dated 20 December 2013.

³ NPM No. 33-2011 dated 28 December 2011 citing NPM No. 24-2009 dated 22 May 2009.

⁴ NPM Nos. 102-2014, dated 3 November 2014, and 16-2009, dated 11 March 2009.

qualification, may have that degree of proclivity towards the recommended action of the BAC; thus, the subsequent award of contract may no longer enjoy the cold neutrality of an impartial HOPE”⁵.

In this regard, it is our considered view that a Property/Supply Officer may be designated as BAC Chairperson, provided that such officer possesses all the qualifications and none of the disqualifications under existing laws, rules and regulations, *i.e.*, the Property/Supply Officer is a person of unquestionable integrity and procurement proficiency; at least a third (3rd) ranking permanent official within the PE; and, one who is not an approving authority of the PE concerned.

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 you have further questions, please do not hesitate to contact us.

(sgd.)

~~DENNIS S. SANTIAGO~~
Executive Director V

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⁵ NPM No. 14-2013, dated 1 March 2013.