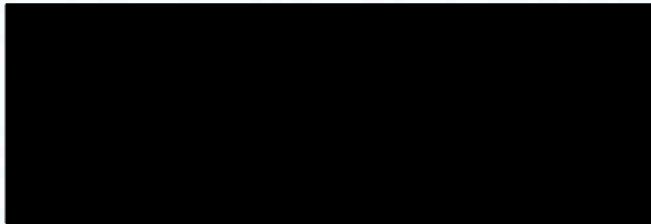


NPM No. 93-2015

13 October 2015



Re: LGU Head Related to a Contractor's Officer

Dear [REDACTED]:

This is in response to your electronic mail dated 25 August 2015 inquiring on whether the relationship between the head of a Local Government Unit (LGU) and an officer of the contractor is prohibited under Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR).

As represented, in researching on several contracts entered into by an LGU, the GMA News Network has gathered that an officer of a contractor is the brother of the son-in-law of the Mayor. It is in this context that you are inquiring on whether the said relation is prohibited under RA 9184 and its IRR.

Please note that Section 47 of RA 9184 and its IRR expressly prescribes the automatic disqualification of a bidder who is related to the Head of the Procuring Entity (HOPE), members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, by consanguinity or affinity up to the third civil degree. In detail, this prohibition applies to the bidder himself, if the bidder is an individual or a sole proprietorship; to all the officers and members of the partnership; to all the officers, directors, and controlling stockholders of a corporation; and to each of the members of the joint venture.

In the case of *Tiggangay v. Wacas*¹, the Supreme Court ruled that Judge Wacas is not related by affinity to the nephew-in-law of his aunt considering that Judge Wacas is not related to the blood relatives of his uncle-in-law so as to apply the disqualification under Sec. 1², of Rule 137 of the Rules of Court. Thus, it held that:

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¹ A.M. OCA IPI No. 09-3243-RTJ dated April 1, 2013

² SECTION 1. Disqualification of Judges. — No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity or to counsel within the fourth degree, computed according to the rules of civil law, or in which he has presided in any inferior court when his ruling or decision

Affinity may also be defined as "the relation which one spouse because of marriage has to blood relatives of the other. The connection existing, in consequence of marriage between each of the married persons and the kindred of the other. The doctrine of affinity grows out of the canonical maxim that marriage makes husband and wife one. The husband has the same relation by affinity to his wife's blood relatives as she has by consanguinity and vice versa.

Indeed, "there is no affinity between the blood relatives of one spouse and the blood relatives of the other. A husband is related by affinity to his wife's brother, but not to the wife of his wife's brother. There is no affinity between the husband's brother and the wife's sister; this is called *affinitas affinitatis*."

In the instant case, considering that Judge Wacas is related to his aunt by consanguinity in the third degree, it follows by virtue of the marriage of his aunt to the uncle of Dagadag that Judge Wacas is the nephew-in-law of the uncle of Dagadag, i.e., a relationship by affinity in the third degree. **But Judge Wacas is not related by affinity to the blood relatives of the uncle of Dagadag as they are not his in-laws and, thus, are not related in any way to Dagadag. In like manner, Dagadag is the nephew-in-law of the aunt of Judge Wacas but is not related by affinity to the blood relatives of Judge Wacas' aunt, like Judge Wacas. In short, there is no relationship by affinity between Judge Wacas and Dagadag as they are not in-laws of each other.** Thus, Judge Wacas is not disqualified under Sec. 1 of Rule 137 to hear Election Case No. 40.

Applying the foregoing decision, while the Mayor is related by affinity within the first degree to his/her son-in-law, no such relationship by affinity exists between the Mayor and the blood relatives of his/her son-in-law as they are not in-laws of each other. Hence, the automatic disqualification under Section 47 of RA 9184 and its IRR is inapplicable because the officer of the contractor is not related by affinity within the third civil degree to the Mayor.

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.

(sgd.)

~~DENNIS S. SANTIAGO~~
Executive Director V

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is the subject of review, without the written consent of all the parties in interest, signed by them and entered upon the record. ...