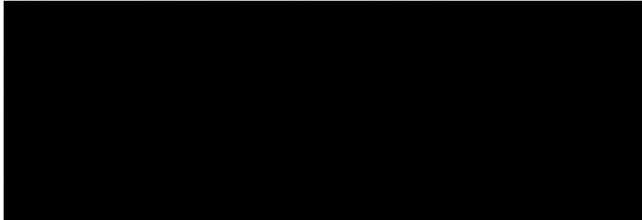


NPM No. 153-2015

11 December 2015



Re: Term of Third Ranking Permanent Official as BAC Chairperson

Dear [REDACTED]:

This refers to your email requesting for an opinion on how long can a third (3rd) ranking official be a BAC Chairperson.

As represented, FPA has no second ranking official for the past three (3) years and has designated you as its BAC Chairperson during the same period. In this regard, you have suggested that the FPA designates the BAC Chairperson on a rotation basis among its third ranking officials. It is in this context that our opinion is sought.

Third Ranking Official as BAC Chairperson

Please be informed that the selection and designation of the BAC Chairperson rests on the Head of the Procuring Entity and that Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR) do not employ a hierarchy of preference in the selection process. In this regard, Section 11.2.2(a) of the revised IRR is clear in requiring that the BAC Chairperson in National Government Agencies (NGAs) be at least a 3rd ranking permanent official of the Procuring Entity. By setting the minimum qualification, all second (2nd) ranking and 3rd ranking permanent officials are equally eligible to be selected as BAC Chairperson. Accordingly, a 3rd ranking permanent official may very well be designated even if a second ranking official is available.

Tenure of BAC Chairperson

Upon expiration of the one (1) year fixed term, Section 11.2.6 of the IRR of RA 9184 gives the HOPE the discretion to renew for another year the designation of the BAC Chairperson and the other BAC Members. In this regard, the BAC Chairperson may be continuously re-designated as long as the HOPE deems fit, and the former has shown efficiency and probity in the performance of his duty.¹ Conversely, the HOPE, in the exercise

¹ Guidelines on the Establishment of Procurement Systems and Organizations, Generic Procurement Manual (Vol.1).

of sound discretion, is not precluded by the rules from designating the BAC Chairperson on a rotation basis or to appoint a new Chairperson every year.

In view of the foregoing, we wish to emphasize that the HOPE has the sole discretion on whom to appoint as BAC Chairperson who should be at least a 3rd ranking permanent official. Upon expiration of the term of the BAC Chairperson, the HOPE may likewise renew the designation or designate a new official to act as such. In all instances, the HOPE should take into consideration the efficiency and probity of the official being designated as BAC Chairperson.

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.)

fr **DENNIS S. SANTIAGO**
Executive Director V

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