



TECHNICAL SUPPORT OFFICE

Unit 2506 Raffles Corporate Center,
F. Ortigas Jr. Road, Ortigas Center,
Pasig City, Philippines 1605

NPM No. 25-2010

12 August 2010

MR. MELITO KOH

President

GREENMAR PHILIPPINES, INC.

P1403 Elegant Tower Galeria de Binondo Condominiums

Muella dela Industria corner Numancia Street, Binondo, Manila

Re : Tax Clearance

Dear Mr. Koh:

We respond to your letter dated 22 July 2010 seeking clarification on whether a company may be post-disqualified for failing to present its tax clearance issued by the Bureau of Internal Revenue (BIR) pursuant to Executive Order No. (EO) 398 (or Tax Clearance Form 17.14B) despite the fact that the bidding documents recognize manually-filed tax returns.

Based on your representation, Greenmar Philippines, Inc. (Greenmar) was issued a certificate of tax clearance by the BIR Regional Office based on its manually-filed tax returns. Said certificate was submitted to the Social Security System (SSS) in compliance with the documentary requirements during post-qualification. Nonetheless, the SSS Bids and Awards Committee declared Greenmar as post-disqualified for failure to submit a tax clearance per EO 398.

Allow us then to distinguish between a tax clearance per EO 398 and a certificate of delinquency verification/tax clearance issued by the BIR Regional Office. The former shows that the bidder does not have any tax liability nationwide while the latter shows that the bidder is free from any tax liability within the district/region where its principal place of business is located. Also, the former is obtained from the Collection Enforcement Division of the BIR while the latter is obtained from the appropriate BIR District/Regional Office.

What is required under Section 34.2 of the implementing rules of Republic Act No. 9184 is the submission of the tax clearance per EO 398 (or Tax Clearance Form 17.14B).

According to the BIR, a company paying its taxes manually may still apply and be granted a tax clearance per EO 398. If said company has not been enrolled in the Electronic Filing Payment System (EFPS) of the BIR, it may be issued a temporary tax clearance pending enrollment in the EFPS. For more guidance on matters involving tax clearance requirement, please contact the Collection Enforcement Division of the BIR through telephone numbers (02) 924-1552 or 981-7295 to 97.

Based on the foregoing, a bidder may be declared post-disqualified for failing to present a tax clearance per EO 398 (BIR Tax Clearance Form 17.14B) despite the fact that the bidding documents recognize manually-filed tax returns.

We trust that this clarifies matters. Should you have other concerns, please do not hesitate to contact us

Very truly yours,



RUBY U. ALVAREZ
Executive Director