



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 39-2014

09 October 2014

MR. ARTEMIO R. ROMERO
President / General Manager
U-HIGH SOLUTIONS, INC. (UHSI)
Door 1, No. 80 Chio Bldg.,
Ponciano Reyes St., Davao City

Re: Acceptability of Tax Delinquency Verification Certificate

Dear Mr. Romero:

This refers to your letter dated 25 July 2014 seeking our opinion on whether a Delinquency Verification Certificate can be used as a replacement for the Tax Clearance requirement, which is one of the eligibility requirements for competitive bidding under the revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 9184.

As represented, the inquiry stemmed from the refusal of the Davao City Water District (DCWD) Bids and Awards Committee (BAC) to accept the Tax Delinquency Verification Certificate (with instruction "Valid for Bidding Purposes") submitted by UHSI to the DCWD during the public bidding held on 17 July 2014. It is also represented that in two different occasions, the same Tax Delinquency Verification Certificate was accepted by the BAC of the Province of South Cotabato and the BAC of the Provincial Government of Compostela Valley. It is in this light that you raised the above-mentioned query.

We wish to clarify that under Section 23.1(a)(iii)¹ of the IRR of RA 9184, for purposes of determining the eligibility of bidders, only the Tax Clearance per Executive Order (EO) 398, Series of 2005², as finally reviewed and approved by the Bureau of Internal Revenue (BIR), shall be required by the Procuring Entity.

Section 1 of EO 398 mandates all persons, natural or juridical, local or foreign, desiring to enter into or participate in any contract with the government, to submit a Tax Clearance from the BIR to prove full and timely payment of taxes. Tax Clearance as defined under Section 3.4 of BIR Revenue Regulations No. 3-2005³ refers to the clearance issued by the Collection Enforcement Division (CED)⁴ attesting to the fact that the taxpayer has no outstanding Final Assessment Notice and/or delinquent account.

Expressio unius est exclusio alterius. The express mention of one person, thing or consequence implies the exclusion of all others. As explicitly stated in the IRR of RA 9184, only the Tax Clearance per Executive Order (EO) 398, Series of 2005, as finally reviewed and

¹ As amended by GPPB Resolution No. 21-2013 dated 30 July 2013.

² Entitled "Directing Timely and Complete Payment of Taxes as a Precondition for Entering Into, and as a Continuing Obligation in Contracts with the Government, its Departments, Agencies and Instrumentalities" issued on 12 January 2005.

³ Implementing EO 398 Series of 2005 issued on 16 February 2005.

⁴ Now referred to as Enforcement and Advocacy Services.

approved by the BIR shall be accepted by the Procuring Entity as one of the eligibility requirements. No other proof of tax clearance was mentioned as a valid replacement. On this note, it bears stressing that even a Provisionary Tax Clearance issued by the BIR for bidding purposes is not an acceptable form of Tax Clearance.⁵

In our previous opinions, it is our consistent view that only the Tax Clearance issued by the BIR in the form defined under BIR Revenue Regulations No. 3-2005 shall be accepted by the Procuring Entity. Thus, our opinion on the non-acceptability of the following documents in lieu of the required Tax Clearance:

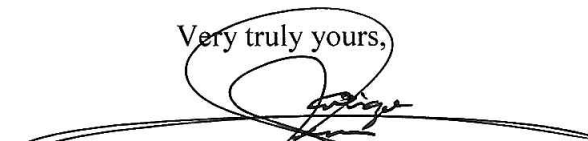
1. Verification Slip issued by the BIR⁶;
2. Application for Tax Clearance accompanied by Delinquency Verification Certificate and other supporting documents⁷;
3. BIR Certification stating that the Tax Clearance is being processed and will be later released⁸; and
4. Certification of Clearance by the Revenue District Office of the BIR where the bidder is registered⁹;

However, an exception to this rule is the tax clearance requirement for Non-Resident Foreign Corporations (NRFC) and Non-Resident Alien Not Engaged in Trade or Business (NRANETB). As regards the Tax Clearance form required under BIR Revenue Regulation No. 3-2005, the Collection Enforcement Division of the BIR issues Delinquency Verification Certificates to NRFC and NRANETB attesting to the fact that the taxpayer has no outstanding Final Assessment Notice and/or delinquent account. Hence, we previously opined that for NRFC and NRANETB, a Delinquency Verification Certificate may be submitted as a form of Tax Clearance.¹⁰

In this regard, it is our considered view that a bidder shall submit the actual Tax Clearance per Executive Order (EO) 398, Series of 2005, as finally reviewed and approved by the BIR to comply with Section 23.1(a)(iii) of the IRR of RA 9184, and that Tax Delinquency Verification Certificate cannot be used as a replacement thereto, except for NRFC and NRANETB.

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

Very truly yours,



DENNIS S. SANTIAGO
Executive Director V



⁵ GPPB Resolution No. 01-2014 dated 04 February 2014.

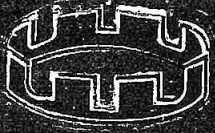
⁶ NPM No. 152-2012 dated 14 December 2012.

⁷ NPM No. 002-2013 dated 14 January 2013.

⁸ NPM No. 006-2013 dated 25 January 2013.

⁹ NPM No. 021-2013 dated 27 March 2013.

¹⁰ NPM No. 45-2013 dated 07 June 2013.

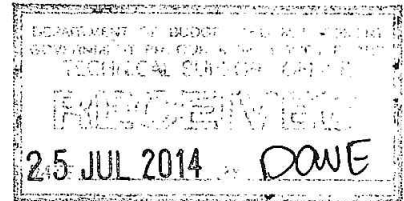


U-High Solutions, Inc.

Door 1 No. 80 Chio Bldg., Ponciano Reyes St., Davao City
 Tel. Nos. (082)221-1435 / (082)304-3889 / Telefax No. +63(082)221-1435
 Mobile Phones: Smart- +63(082)09088725850 / +63(082)09998856882
 Globe- +63(082)0910209755 / Sun- +63(082)09222755249
 E-mail Address: uhighsolution@yahoo.com

July 23, 2014

Government Procurement Policy Board
 Unit 2506 Raffles Corporate Center
 F Ortigas Jr. Road, Ortigas Center
 Pasig City



Gentlemen:

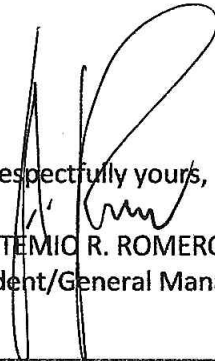
We write to inquire whether a Legal Document issued by the Bureau of Internal Revenue is a substantial document in lieu of a Tax Clearance considering that the usual one year period of a Tax Clearance is now reduced to Six Months. The legal document issued by the Bureau of Internal Revenue is "Delinquency Verification Certificate" with instruction "VALID FOR BIDDING PURPOSES" is a legal Authority issued to our Company" U-High Solutions, Inc.

Last July 10, 2014 we attended a Public Bidding at the Provincial Capitol of South Cotabato, the Document we submitted is Tax Delinquency Verification Certificate with instruction to wit: VALID FOR BIDDING PURPOSES is acceptable to the Bids and Awards Committee. The same is true with the Provincial Government of Compostela Valley it is also acceptable. Last July 17, 2014 we attended a public bidding at the Davao City Water District and the Bids and Awards Committee do not accept it in lieu of Tax Clearance. This concern has a classic similarity on the Business Permit issue in Davao City. Business Permit normally will take two to Three months before a Business Permit is released because of the Volume of Permits being processed and so the Business Permit requirement is substituted by "OK for Payment with receipt attached to it indicating a required Payment". After three months the same is no longer acceptable.

With these occurrences, we would like to inquire whether the legal document issued by the Bureau of Internal Revenue the "Tax Delinquency Verification Certificate with instruction: VALID For BIDDING PURPOSES can be considered in lieu of a Tax Clearance. It is our belief that the legal document issued by the Bureau of Internal Revenue should reconcile with existing Rules and Regulation of the Procurement ACT and should be considered acceptable for Bidding Purposes for a certain period. This inquiry is very vital because this will serve as part of the Philippine Government Policy Guidelines Regarding Procurement.

Thank you very much for your enlightenment.

Jan/Jerry 8/6/14
The actual Tax Clearance is what we require. Before issuing our OPINION, let us clarify the matter with

Very respectfully yours,

 ARTEMIO R. ROMERO
 President/General Manager

PMR. We have issued an opinion on the matter of Tax Clearance in the past. Let us maintain this. Please discuss this with me ASAP. ARS

- * CCTV Surveillance Camera
- * Computers

- * PABX Telephone System
- * Panasonic Intercom System
- * Megaphone

- * Biometric Time Recorder
- * Burglar Alarm System
- * Fiber Optic Cable

CTMQR010 INC
D113ARSB

DAVAO

BIR-CASE MONITORING SYSTEM
Taxpayer's Case Inquiry

Page 1 of 1
06/16/2014

TIN 286-944-700-000 U-HIGH SOLUTIONS, INC.
Address DOOR 1 CHIO BLDG.
P. REYES ST.
DAVAO CITY 8000

2005
Return
Period

Return Period	Case Type	Case Status	Case Number	Creation Date	Closure Date	Case Officer
12/31/2013	RCS	C	113015699305	06/14/2014		
03/31/2014	RCS	C	113015061376	04/26/2014	05/16/2014	
01/31/2014	RCS	C	113014522024	03/08/2014	06/12/2014	
12/31/2013	RCS	C	113014508527	03/01/2014	03/27/2014	
07/31/2013	RCS	C	113012724217	08/31/2013	10/10/2013	
06/30/2013	RCS	C	113012654983	08/24/2013	12/03/2013	
05/31/2013	RCS	C	113012109581	06/29/2013	07/16/2013	
12/31/2012	RCS	C	113011843249	06/15/2013	07/19/2013	
04/30/2013	RCS	C	113011478797	05/25/2013	05/30/2013	
03/31/2013	RCS	C	113011219967	04/27/2013	05/30/2013	
02/28/2013	RCS	C	113010962919	03/30/2013	04/25/2013	

I 01030:At first record.

Count: 11

v

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MARIA CARMEN D. COTTECSON
Revenue Collection Officer

272315615001353

This is to certify that the amount indicated herein has been received by the undersigned.

TAXPAYER'S COPY

ACCOUNT CODE
613

TOTAL AMOUNT DUE 100.00

TOTAL AMOUNT PAID 100.00

ONE HUNDRED PESOS ONLY

MODE OF PAYMENT
CASH 100.00

PAYMENT DETAILS
NATURE OF COLLECTION

AGENCY
BUREAU OF INTERNAL REVENUE
PAYOR
U HIGH SOLUTIONS INC.
FUND
101

OR NO.: OR2014-001363-100046
DATE/TIME: 06/04/2014 3:13 PM

OFFICIAL RECEIPT
Accountable Form No. 51

001363-CALIMAN DAVAO CITY

Republika ng Pilipinas
Kagawaran ng Pananalapi
Kawarman ng Rentas Internas
113-019



APPLICATION FOR CERTIFICATE OF NO OUTSTANDING LIABILITY
(For transfer, cancellation/retirement of business, cancellation of TIN)

June 4, 2014

(Date)

The Revenue District Officer
Revenue District Office No. 113A, Davao
Davao City

Sir/Madam:

This is to request for the issuance of Tax Clearance Certificate for No Outstanding liability which I/We will use for any legal purpose.

I am Artemio R. Romero of legal age, residing at #67 Diamond St. Pag-ibig Heights Cat. Grande Davao City the owner/representative of U-HIGH SOLUTION INC. with registered address at Door 1 Chio Bldg., Ponciano Reyes St Davao City with issued TIN 286-944-700-000 and registered with the BIR on 12/10/2009 under RDO Control No. 2RC0000243914

Very Truly Yours,

ARTEMIO R. ROMERO

(Sign Over/Printed name of Owner/representative)

MIRRA M. AUMAN
ESC CHIEF

Chief, Taxpayer Service Section

Compliance/Tax Verification at RDO Level:

GABY S. PAJAR
Chief, Collection Section

Chief, Collection Section

24 2014

CECILIA C. BONTIA
Processing Sec

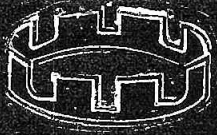
Chief, Document Processing

MARYANN B. CERVANTES
Chief, Assessment Section

According to the records of our respective sections, the above-mentioned taxpayer has no pending tax cases of unpaid internal revenue tax/suspended returns and payments.

In view thereof, it is respectfully recommended that the request of the herein taxpayer for tax clearance be given due course.

FRANCISCO
OIC Asst. Revenue District Officer
TIN 105-292-469
Revenue District Officer



U- High Solutions, Inc.

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Globe- +63(082)09163277856 / Sun- +63(082)09222755249
E-mail Address: uhighsolution@yahoo.com

July 18, 2014

BIDS and AWARDS COMMITTEE – A

ENGR. EXEQUIEL B. HOMEZ

Chairman of the BAC

Davao City Water District (DCWD)

Davao City

Dear Gentlemen:

Greetings!

This is in connection with the bidding conducted by your office yesterday, July 17, 2014, wherein the BID of the **U-HIGH SOLUTIONS INC.** was put on hold because the Tax Clearance was not submitted by the latter pending request for reconsideration.

Please be reminded that the date of bidding per your Invitation to Bid was first set for June 17, 2014, when the Tax Clearance of the **U-HIGH SOLUTIONS INC.** was still current. The same expired last June 27, 2014.

When the said June 17, 2014 Bidding was postponed to July 17, 2014, **U-HIGH SOLUTIONS INC.** exerted utmost efforts to secure a new Tax Clearance from the Bureau of Internal Revenue but due to the limited time (30 days) and the intricacies of the newly implemented On-line payment implemented by the Bureau of Internal Revenue, the same could not be secured in favor of the **U-HIGH SOLUTIONS INC.** a "Delinquency Verification Certificate" showing that **U-HIGH SOLUTIONS INC.** has no Due and Demandable tax assessment. The said certificate included information, to wit: "**VALID FOR BIDDING PURPOSES**". This was submitted to the BAC to stand in place of the Tax Clearance which is still on process. IT IS OUR BELIEF THAT THE SAID CERTIFICATE WAS A SUBSTANTIAL REPLACEMENT OF THE TAX CLEARANCE, THE SAID DOCUMENTS BEING PUBLIC DOCUMENTS ISSUED BY THE SAME BUREAU OF INTERNAL REVENUE. The instruction "**VALID FOR BIDDING PURPOSES**" was a legal authority from the Bureau of Internal Revenue that the **U-HIGH SOLUTIONS INC.** can submit the same in lieu of the Tax Clearance. In fact, the Bids and Awards Committee of the Provincial Government of South Cotabato accepted the said certificate as a reasonable replacement for the Tax Clearance. Should you consider our request, The Davao City Water District will have wider range of choices among suppliers.

Distributors/Dealers of:

- * *Communication Equipment*
- * *Handheld & Base Radio*
- * *CCTV Surveillance Camera*
- * *Computers*

- * *PABX Telephone System*
- * *Panasonic Intercom System*
- * *Megaphone*

- * *Biometric Time Recorder*
- * *Burglar Alarm System*
- * *Fiber Optic Cable*