



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

NPM No. 48-2014

13 October 2014

MS. AGRIPINA I. SERON

Vice-Chairperson, Bids and Awards Committee (BAC)

KABANKALAN CITY GOVERNMENT

Kabankalan City, Negros Occidental

Re: Department of Trade and Industry (DTI) Registration

Dear Ms. Seron:

This refers to your query sent thru electronic mail (e-mail) relative to whether a procuring entity can accept a bidder's DTI Certificate of Registration issued by another region.

Sections 23.1(a)(i) and 24.1(a)(i) of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, requires a bidder to submit a DTI certificate of registration, in case of sole proprietorship, as part of his legal eligibility documents. The certificate of registration serves as proof that it is a legitimate business enterprise and that it has complied with the registration requirements mandated by law as a condition to engage in a business venture.

Act No. 3883, as amended, otherwise known as the Business Name Law, requires natural persons doing business or proposing to do business in the Philippines to register their business name with the DTI. This is to provide protection to the public, dealing with business establishments, through disclosure of the identity of the person owning and operating the business. It likewise prevents a business establishment from using a name that is identical or confusingly similar to the name of another registered business establishment.

Consequently, DTI, through its Department Administrative Order (DAO) No. 10-01, as amended by DAO No. 10-08, Series of 2010, established a territorial scheme of Business Name Registration based on geographical divisions, namely: barangay, city/municipality, regional and national. Registrants under such scheme are authorized to make use of the business name anywhere within its territorial registration regardless of the number of branches or outlets said applicants might set up.

Thus, we wish to clarify that the foregoing territorial registration scheme merely pertains to the use of a registrant's Business Name. It does not prevent a proprietor from doing business beyond the jurisdiction or limits where the Business Name was issued.

We wish to note that Sections 23.1(a)(i) and 24.1(a)(i) of the IRR of RA 9184 simply require the submission of DTI Certificate of Registration, for sole proprietorship. The said

eligibility requirement does not limit a bidder to participate in bidding activities outside the territorial division where its Business Name was registered.

Accordingly, it is the opinion of this office that a procuring entity may accept a bidder's DTI Certificate of Registration in accordance with Sections 23.1(a)(i) and 24.1(a)(i) of the IRR of RA 9184, even though the bidder's Business Name was registered in another DTI office or geographical division.

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,

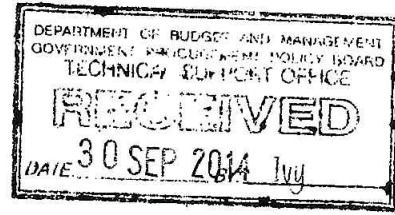


DENNIS S. SANTIAGO
Executive Director V

//skpv

Legal and Research Division

From: Agripina Seron <pineseron@yahoo.com>
Sent: Monday, September 29, 2014 3:21 PM
To: legal@gppb.gov.ph
Subject: Query regarding DTI Registration validity



Sir/Madam:

Greetings!

The BAC Members of the City of the City of Kabankalan, Negros Occidental would like to inquire regarding of our bidding.

The DTI Registration of one bidder is Region 4-A. He joined in our bidding in Region 6, we would like to know if his DTI Registration is valid to participate in our region.

Hoping for your immediate reply on this query.

Thank you very much.

AGRIPINA I. SERON
BAC Vice-Chairman

*Dear Karen,
please prepare OPINION.
submit opinion by Tax. DSI
10/4.*



DEPARTMENT ADMINISTRATIVE ORDER NO. 10-08
SERIES OF 2010

SUBJECT: FURTHER AMENDING THE REVISED IMPLEMENTING RULES AND REGULATIONS OF ACT NO. 3883, AS AMENDED, OTHERWISE KNOWN AS THE BUSINESS NAME LAW

Pursuant to *Title X, Book IV of the Administrative Code of 1987* and to more effectively implement the provisions of *Act No. 3883, as amended*, otherwise known as the Business Name Law, the following further amendments to *Department Administrative Order (DAO) No. 10-01, Series of 2010*, as amended by *Department Administrative Order No. 10-03 Series of 2010*, implementing the same Act, are hereby promulgated:

SECTION 1. Section 2, Rule I of *DAO No. 10-01 Series of 2010*, as amended is further amended to read as follows:

“Section 2. Statement of Policy

The primary purpose of this Order is to provide protection to the public dealing with business establishments through disclosure of the identity and citizenship of the person owning and operating the business as well as other facts of records in the Department of Trade and Industry.

Secondly, THIS ORDER IS AIMED AT PREVENTING a business establishment from using a name that is identical or confusingly similar to the name of another registered business establishment, *EXCEPT WHEN ALLOWED UNDER THESE RULES.*”

SECTION 2. Section 3, Rule I of *DAO No. 10-01 Series of 2010*, as amended is hereby amended to read as follows:

“Section 3. Coverage

These rules shall apply only to natural persons doing business or proposing to do business in the Philippines using a Business Name as defined in this Order.”

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RAQUEL M. CLEMENTE
Head, Records Section

- 6.3 PRESENTATION OF ORIGINAL COPY OF ANY OF THE FOLLOWING IDENTIFICATION DOCUMENTS (ID), TO WIT:
- 6.3.1 PASSPORT
 - 6.3.2 VALID DRIVER'S LICENSE
 - 6.3.3 PROFESSIONAL REGULATION COMMISSION (PRC) ID
 - 6.3.4 NATIONAL BUREAU OF INVESTIGATION (NBI) CLEARANCE
 - 6.3.5 POLICE CLEARANCE
 - 6.3.6 POSTAL ID
 - 6.3.7 VOTER'S ID
 - 6.3.8 GOVERNMENT SYSTEM INSURANCE SYSTEM (GSIS) UNIFIED MULTI-PURPOSE ID
 - 6.3.9 SOCIAL SECURITY SYSTEM (SSS) ID
 - 6.3.10 TAX IDENTIFICATION NUMBER (TIN) ID
 - 6.3.11 OVERSEAS WORKERS WELFARE ADMINISTRATION (OWWA) ID
 - 6.3.12 SEAMAN'S BOOK
 - 6.3.13 GOVERNMENT OFFICE AND GOCC ID, (ARMED FORCES OF THE PHILIPPINES (AFP ID), HOME DEVELOPMENT MUTUAL FUND (HDMF ID) PHILPOST ID, PHILHEALTH ID
 - 6.3.14 INTEGRATED BAR OF THE PHILIPPINES (IBP) ID
 - 6.3.15 SENIOR CITIZEN CARD
 - 6.3.16 PERSON WITH DISABILITY CARD

PROVIDED HOWEVER THAT FOREIGN APPLICANTS SHALL BE REQUIRED TO PRESENT IN LIEU OF THE FOREGOING IDS THE ORIGINAL AND A CLEAR CERTIFIED COPY OF THE CERTIFICATE OF AUTHORITY TO ENGAGE IN BUSINESS IN THE PHILIPPINES PER REPUBLIC ACT NO. 7042 AS AMENDED (FOREIGN INVESTMENT ACT), REPUBLIC ACT NO. 8762 (RETAIL TRADE LIBERALIZATION LAW) OR OTHER SIMILAR LAWS, IF APPLICABLE."

SECTION 6. Section 7 Rule II of DAO No. 10-01 Series of 2010 as amended is hereby deleted. Sections 8 to 20 is hereby redesignated as Sections 7 to 19 accordingly.

SECTION 7. The new Section 7, Rule II of DAO No. 10-01 Series of 2010 as amended is hereby amended to read as follows:

"Section 7. Application Form, Contents

The application form shall contain the following information as required AND specified by the Bureau.

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RAQUEL M. CLEMENTE
Head, Records Section
Department of Trade and Industry

- 10.2 Declares that any false or misleading information supplied, or production of materially false or misleading document to support the application shall be a ground for the appropriate criminal, civil and/or administrative action against the registrant;
- 10.3 Shall voluntarily cancel or change her/his registered BN UPON CONCLUSIVE DETERMINATION THAT a prior registrant and lawful user of an identical or confusingly similar BN EXISTS BASED ON SECTION 30.2.HEREOF;
- 10.4 IS FULLY AWARE OF AND shall comply with the provision of Act No. 3883, as amended, and its implementing rules and regulations and other related laws and rules; AND
- 10.5 DECLARES FULL RESPONSIBILITY TO ENSURE THAT HER/HIS PROPOSED BNS ARE REGISTRABLE UNDER THIS ORDER."

SECTION 11. The new Section 11, Rule III of DAO No. 10-01 Series of 2010 as amended is hereby amended to read as follows:

"Section 11. Filing of Application

Lodgment of a duly accomplished BN application form and acceptance thereof by the DTI Field Office or by the online BN registration system constitutes the filing of the application for BN registration."

SECTION 12. The new Section 13, Rule III of DAO No. 10-01 Series of 2010 as amended is hereby amended to read as follows:

"Section 13. Period to File

13.1 *Original Application*

The original application must be filed AT ANYTIME before the commencement of the applicant's business operation.

13.2 *Renewal Application*

- 13.2.1 Applications for renewal shall be filed WITHIN SIX (6) MONTHS IMMEDIATELY FOLLOWING the expiration of the registration. If the renewal APPLICATION is FILED WITHIN the last three (3) months thereof, a surcharge of Fifty Percent (50%) of the registration fee shall be imposed.

x x x "

SECTION 13. The new Section 14, Rule III of DAO No. 10-01 Series of 2010 as amended is hereby amended to read as follows:

"Section 14. Procedure

14.1 *Over-The-Counter Application*

- 14.1.1 An application for BN registration may be filed with ANY Field Office by submitting TWO (2) COPIES OF DULY ACCOMPLISHED APPLICATION FORM SIMILAR TO ANNEX "A" HEREOF signed by the proper signatory as provided for in Section 9 of this Order and upon payment of the prescribed fee/s and submission of supporting documents, when

SECTION 15. The new Section 16, Rule IV of *DAO No. 10-01 Series of 2010* as amended is hereby amended to read as follows:

"Section 16. Contents

The Certificate of BN Registration shall indicate the following information:

- 16.1 Approved BN;
- 16.2 BUSINESS LOCATION;
- 16.3 Effectivity and expiry date of registration;
- 16.4 Registration certification number;
- 16.5 Name of the owner;
- 16.6 RESIDENTIAL ADDRESS OF THE OWNER;
- 16.7 Office, name, position and signature of the DTI authorized signatory;
- 16.8 TRN;
- 16.9 Payment of Documentary Stamp Tax; and
- 16.10 Date and place of issuance of the certificate.

SECTION 16. The new Section 20, Rule V of *DAO No. 10-01 Series of 2010*, as amended, shall read as follows:

"Section 20. TERRITORIAL BN REGISTRATION

A TERRITORIAL SCHEME OF BN REGISTRATION IS HEREBY ESTABLISHED BASED ON THE FOLLOWING GEOGRAPHICAL DIVISIONS, NAMELY: BARANGAY, CITY/MUNICIPALITY, REGIONAL AND NATIONAL. REGISTRANTS UNDER THIS SYSTEM ARE AUTHORIZED TO MAKE USE OF THE BN ANYWHERE WITHIN THE TERRITORY REGARDLESS OF THE NUMBER OF BRANCHES/OUTLETS SAID APPLICANTS MAY SET UP THEREIN.

BN APPLICANTS SHALL HAVE THE OPTION TO CHOOSE ANY OF THE FOUR (4) TERRITORIES AND MAY BE ALLOWED TO REGISTER A BN IN A SPECIFIC TERRITORY SUBJECT TO THE CONDITIONS PROVIDED FOR IN THIS ORDER.

SECTION 17. Sections 21 and 27 of *DAO No. 10-01 Series of 2010* are hereby deleted.

SECTION 18. The new Section 21, Rule V of *DAO No. 10-01 Series of 2010*, as amended, shall read as follows:

"Section 21. RULES ON APPROVAL OF BNS WITHIN TERRITORIAL BOUNDARIES

- 21.1 IF THE APPLICANT INDICATES HER/HIS BN AS APPLICABLE ONLY WITHIN THE BARANGAY, THE SAME BN SHALL BE APPROVED PROVIDED IT IS NOT IDENTICAL OR CONFUSINGLY SIMILAR WITH BNS REGISTERED WITHIN THE SAME BARANGAY, WITHIN THE CITY/MUNICIPALITY AND REGION OF THAT BARANGAY AND BNS THAT ARE NATIONAL IN SCOPE.

SECTION 20. Subsection 24.1 is hereby deleted; Subsections 24.2 and 24.3 are renumbered as 24.1 and 24.2 accordingly.

SECTION 21. Section 26 Rule VII of DAO No. 10-01 Series of 2010, as amended, shall read as follows:

"Section 26. Request for Information

The right to access information by the public in Business Name Registration records is recognized. However, disclosure of such information shall be done in accordance with the existing applicable laws, and rules and regulations.

- 26.1 Reasonable verbal queries from the public pertaining to information on record in the BN registration database SUPPLIED VERBALLY may be given at no cost SUBJECT TO EXISTING GUIDELINES.
- 26.2 Request for affirmative or negative certification from the public is subject to the prescribed certification fee and shall be granted only upon written request. The information indicated in an affirmative certification shall include the business name, business LOCATION, certificate number, name and residential address of the registrant, date of registration.

x x x"

SECTION 22. Sections 28 to 36 of DAO No. 10-01 Series of 2010, as amended, are redesignated as Sections 27 to 35, respectively.

SECTION 23. The new Section 27 shall read as follows:

"Section 27. BNs that are not Registrable.

- 27.1 Those which are or whose natures of business are illegal, offensive, scandalous, or contrary to propriety.
- 27.2 Those which are identical or nearly resemble a BN already registered with the DTI EXCEPT WHEN EXPRESSLY ALLOWED IN THIS ORDER UNDER SECTION 21, the Securities and Exchange Commission, Cooperative Development Authority, Intellectual Property Office, Food and Drug Administration, Department of Labor and Employment, or any other government office authorized by law to register names, as likely to cause confusion or mistake in the minds of the public taking into consideration the following:
 - 27.2.1 nature of the business;
 - 27.2.2 product/service handled;
 - 27.2.3 location/place of the business;
 - 27.2.4 dominant word;
 - 27.2.5 use of descriptive words; AND
 - 27.2.6 spelling, sound and/or meaning

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28.12 Expiration or termination of franchise or licensing agreement or similar contract allowing the use of the same BN by other person(s) or juridical entities within the life span of BN certificate so issued; AND

28.13 FAILURE TO SUBMIT THE PRESCRIBED IDENTIFICATION DOCUMENT WITHIN TEN (10) WORKING DAYS FROM THE TIME THE ONLINE BN REGISTRATION IS COMPLETED."

SECTION 25. The new Section 32, Rule X of *DAO No. 10-01 Series of 2010*, as amended, shall read as follows:

"Section 32. Implementing Offices; Functions

32.1 Bureau of Trade Regulation and Consumer Protection (BTRCP)

The BTRCP shall oversee the implementation of the BN registration, AND SHALL FORMULATE AND PRESCRIBE POLICY GUIDELINES FOR THE EFFECTIVE AND EFFICIENT IMPLEMENTATION OF BN LAW AND ITS IRR, AS AND WHEN NEEDED. IT SHALL LIKEWISE PERFORM PERIODIC REVIEW OF ITS IMPLEMENTATION.

32.2 DTI MANAGEMENT AND INFORMATION SERVICES (MIS)

THE MIS SHALL KEEP AND MAINTAIN THE BN REGISTRY AND PERFORM SUCH OTHER TECHNICAL FUNCTIONS THAT ARE NECESSARY FOR THE MAINTENANCE OF WEB-ENABLED BUSINESS NAME REGISTRATION SYSTEM.

32.3 REGIONAL OPERATIONS AND DEVELOPMENT GROUP (RODG)

32.3.1 THE RODG THROUGH ITS DESIGNATED OFFICE/S SHALL PERFORM THE FOLLOWING FUNCTIONS, NAMELY:

- (A) RECEIVE AND PROCESS REQUESTS FOR LIST OF BNS, STATISTICAL REPORTS, DIRECTORIES, ETC.;
- (B) APPROVE OR DISAPPROVE REQUESTS FOR ELECTRONIC ACCESS TO COMPUTER INFORMATION;
- (C) TAKE COGNIZANCE OF REQUESTS FOR RECONSIDERATION FROM APPLICANTS WHOSE APPLICATION WERE DENIED BY ANY FIELD OFFICE IN CONSONANCE WITH SEC. 29 OF THIS ORDER; AND
- (D) UNDERTAKE SUCH OTHER MEASURES AS MAY BE DEEMED NECESSARY TO IMPROVE THE REGISTRATION PROCESS.

32.3.2 The Field Offices shall exercise delegated adjudicatory function of the Secretary under *Executive Order No. 913, Series of 1983* in accordance with *Department Administrative Order No. 7, Series of 2006* and its future revisions and amendments. The Provincial and Area Offices, in particular, shall -

- (a) Accept, review and process applications for registration of BNS whose place of business is located within its area of jurisdiction;
- (b) Accept payment of fees related to BN registration;
- (c) Issue certificates of registration of BN and related certifications;
- (d) Receive and process requests for list of BNs, statistical reports, directories, etc.;