

NPM No. 38-2008

13 October 2008

MR. KARL FRANKENBERGER
President
WINDSHEAR INTERNATIONAL PHILIPPINES, INC.
6 B.C. C. Benitez St., Cubao, Quezon City

Re : Cash Deposit Certificate

Dear Mr. Frankenger:

We respond to your letter requesting for clarification on the legal basis of Sample Form-Good No. 16 [SF-Good-16] on Cash Deposit Certificate, as a documentary requirement for eligibility containing a commitment to hold out a specific amount for a certain period of time, which shall be at least equal to ten percent (10%) of the Approved Budget for the Contract (ABC).

Please be advised that said matter was raised to the Government Procurement Policy Board (GPPB) during its 6th Regular Meeting held last 27 June 2008. The GPPB notes that Republic Act No. 9184 (R.A. 9184) and its Implementing Rules and Regulations Part A (IRR-A) are silent as to whether the cash deposit certificate should contain a hold-out provision. Section 25.3 of the IRR-A and other relevant provisions [*please see Sec. 23.6 (k) and 23.11.1*] simply state:

“The prospective bidder must present a commitment from a licensed bank to extend to it a credit line if awarded the contract to bid, or a cash deposit certificate, in an amount not lower than that set by the procuring entity in the Bidding Documents, which shall be at least equal to ten percent (10%) of the approved budget for the contract to be bid; xx” (emphasis supplied)

The GPPB further notes that the Generic Procurement Manuals (GPM), which were approved and adopted last 14 June 2006 through GPPB Resolution No. 13-2006, qualified the cash deposit certificate by requiring it to be on a “hold out” basis. The pertinent provisions of the GPM state viz:

“A certificate of hold out on cash deposit, in an amount not lower than that set by the Procuring Entity in the Bidding Documents, which shall be at least equal to ten percent (10%) of the ABC...”

The GPM also explains that the purpose of a hold out commitment is to establish the bidder's liquidity, its capacity to absorb additional obligations and to finance its implementation and completion.

However, during the GPPB deliberations, it was propounded that requiring a hold-out provision on the cash deposit certificate would not serve the purpose of ensuring the contractor's liquidity, and could, seemingly be inconsistent with certain banking and commercial rules and practices.

In consideration of the foregoing, the GPPB resolved to revisit the requirement to submit a cash deposit certificate as one of the eligibility documents for bidding. In the interim, the GPPB has agreed to revise the sample form of cash deposit certificate, and come up with a standard format whereby all references to a hold-out provision are removed, in order to be consistent with the provisions of R.A. 9184 and its IRR-A, among others. Necessarily, all references to a hold-out provision on cash deposit in the GPM are also deleted.

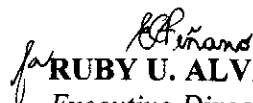
Nevertheless, the GPPB noted that the revised sample cash deposit certificate format, as an eligibility requirement, must still contain the following elements:

1. Issued by a licensed bank;
2. Cash deposited with the bank must not be lower than that set by the Procuring Entity, which amount should be at least ten percent (10%) of the ABC; and
3. Depositor commits not to withdraw said amount within the period of the prospective bidder's bid validity which is one hundred twenty (120) calendar days or until the contract has been awarded, whichever comes first.

For reference purposes, a copy of the aforesaid standard form may be downloaded from our website at www.gppb.gov.ph.

We hope to have clarified the matter. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,


RUBY U. ALVAREZ
Executive Director III



WINDSHEAR INT'L. PHILS., INC.

#6-B C.C. Benitez St., Cubao, Quezon City M.M. 1112 Philippines

Sales/Fax: 411-9269 Sales/Voicemail: 411-9277

Email: wndshr44@itextron.com

26 February 2008

Dräger

SCBA, GAS DET., DET. TUBES RESPIRATORS



FIRE HELMET THERMAL IMAGING CAMERA



VERIDIAN LIMITED FIRECOAT



FIRE BOOTS



FIRE-FIGHTING FOAM AND DRY CHEMICALS

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

ATTN: ATTY. RUBY U. ALVAREZ
Executive Director III

Subject: REQUEST FOR OFFICIAL CLARIFICATION

Dear Madam:

We, *Windshear Int'l Phils., Inc.*, is hereby requesting clarification pertaining to your Standard Form Number SF - GOOD - 16 revised on May 24, 004 with the title "Certificate of Cash Deposit". The certificate of cash deposit rates that it should be on hold. We have encountered in our other bidding in the government they waved this on hold requirements. We required with two of our banks, Bank of the Philippine Islands and Land Bank of the Philippines and both will not issue a certificate of cash deposit on hold, even a government owned bank doesn't issue a certificate of cash deposit on hold. Copy of rulings they allow is attached hereto for your ready reference.

Your immediate response on this matter will be highly appreciated. Thank

you

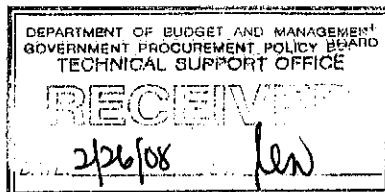
*→ Lucy,
Pls. handle.
We do have to revisit
this sample form ASAP.
I myself do not agree
with it. Ask Bryan
re: history.*

*P.S. If you believe a
response is necessary,
pls. sign in my
behalf.*

3/1/08

Very truly yours,

Karl Frankenberg
KARL FRANKENBERGER
President



TO: SIR KARL

CBG - BSR IMPORTANT No. 04/005- BSP Anti-Money Laundering Examination

- Guidelines in opening and handling of Remittance (Alien and OFW) Accounts with NDB
- Approval requirement for waiver of service charge
- Approval requirement form manual posting/adjustment of interest to deposit accounts
- Issuance of Bank Certification
- Affidavit of Lost Passbook
- Number of Signature Cards Required

Created: 03/24/2004 at 02:58 PM

Category: BG BSR IMPORTANT 2004

CBG-BSR IMPORTANT No. 04/005

March 10, 2004

TO : ALL UNIBANK BRANCH OFFICERS & STAFF

SUBJECT :

Issuance of Bank Certification

5. Issuance of Bank Certification

Any branch officer regardless of rank may sign singly Bank Certification of Deposit, adhering to the regular procedure in issuance of certification of deposit. Please bear in mind that the bank is certifying to the correctness of account name and GL balance of the account as of particular date, therefore any special written request from the client (e.g., balance to be disclosed in the certification is for a particular prior date) may be considered provided bank does not give false information. Any request that may put the bank at risk (e.g., omitting the account holder's name in the certification) should not be entertained.

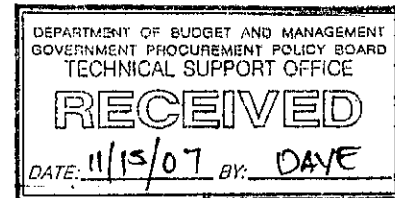
Please be reminded that under CPG Credit Policy Bulletin No. 98/003, the issuance of a certification or undertaking, statement of commitment or any other document which binds the bank to pay or honor a commitment within a certain period has the same force and effect as a Domestic Standby Letter of Credit or a committed credit line which shall only be made after proper credit approval has been secured and the line processed by duly authorized lending units (Business Centers or HO lending units). Thus, branch officers do not have authority to issue these kinds of bank certifications.

Examples of bank certifications which are actually Domestic Standby Letter of Credit are: letters assigning the acct balance to a supplier/ creditor/ principal; letters of commitment on client's account balance to satisfy bidding requirements for government projects; letters addressed to third party guaranteeing that depositor will not withdraw his balance unless with the concurrence of said third party.



GOLDBELL PHILIPPINES, INC.

2150 ROXAS BOULEVARD, MALATE, MANILA, PHILIPPINES
TELS.:(63-2) 303-3014; (63-2) 526-8088 • FAX: (63-2) 303-3030; (63-2) 521-5328
MAILING ADDRESS P.O. BOX 1402 MANILA, PHILIPPINES



November 12, 2007

ATTY. RUBY ALVAREZ

Executive Director

Government Procurement Policy Board – Technical Support Office

Unit 2506 Raffles Corporate Center, F. Ortigas Jr. Road,

Ortigas Center, Pasig City

Dear Madam:

Greetings!

Our company, Goldbell Philippines, Inc. (GPI), has been joining public biddings at the Procurement Service – Department of Budget and Management (PS-DBM) for Combat Clothing and Individual Equipment (CCIE) for the Armed Forces of the Philippines and its major services, the Philippine Army and the Philippine Air Force. We have been awarded numerous contracts valued from Php 16,320,000.00 to Php 45,770,400.00 since 2002 (Please refer to attached partial list of completed contracts, Annex A), with a total cumulative value of Php 332,073,015.04. We have not had one single record of default, and have consistently delivered high quality goods at reasonable prices. In fact, the price of CCIE has gone down significantly since we started to participate in such biddings.

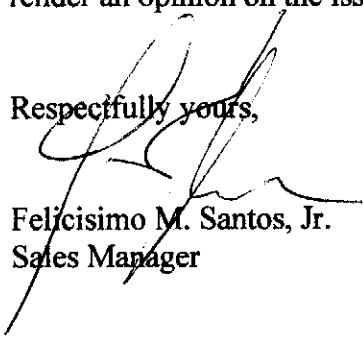
We are trading firm selling the goods manufactured by China Xinxing Guangzhou Import and Export Corporation, a manufacturer of CCIE in China. Xinxing Guangzhou issued a “Letter of Appointment” (please see attached Annex B), designating us as their “sales and marketing agent in the Philippines” for their “complete line of military supplies (equipment).” The said appointment / authority is valid from October 1, 2003 to September 30, 2008. We have repeatedly submitted this document in compliance with the technical requirement for a “Manufacturer’s Authorization Form”, and such submission has been declared compliant with the technical requirements. Lately, however, our competitor has questioned the submission of the said document, for an undisclosed reason.

In order to avoid future issues regarding our company’s compliance with the technical requirements in future biddings for CCIE in the PS-DBM, we would like to seek your confirmation that the above cited “Letter of Appointment” is sufficient to show our relationship with the manufacturer as the latter’s sole distributor in the Philippines, and their commitment to support any supply contract we will enter into with respect to the goods manufactured by them, provided the contract is executed and implemented within the period covered by the appointment / authority. It is our belief that this is the intent of the requirement for a “Manufacturer’s Authorization Form”, and requiring us to submit the said document on a per bidding basis will be an unnecessary burden that will entail additional costs for authentication at the consular

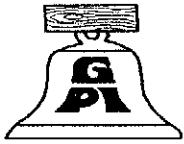
office, and additional time to be allotted for bid preparation. Further,, such a requirement will run counter to the intent of RA 9184 to streamline the procurement process, and the principle of competition.

We are hoping that your good office will find merit in our request, and you will render an opinion on the issue raised before you.

Respectfully yours,



Felicisimo M. Santos, Jr.
Sales Manager



GOLDBELL PHILIPPINES, INC.

2150 ROXAS BOULEVARD, MALATE, MANILA, PHILIPPINES
 TELS: (63-2) 526 - 8088; 338 - 8088 *FAX: (63-2) 303 - 3030; 521 - 5328
 MAILING ADDRESS P. O. BOX 1402 MANILA, PHILIPPINES

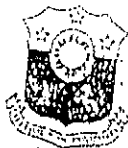
This is to certify that Goldbell Philippines, Inc. has the following ongoing, completed, or awarded government and private contracts for the past five (5) years:

Name of Contract	Date of the Contract	Kind of Goods Sold	Amount of Contract	Contract Status a). Completed b). Ongoing c). Awarded	Date of End-User's Acceptance, if Completed	Bidder is a) Manufacturer b) Supplier c) Distributor
Supply & Delivery of Combat Boots conforms with PAF specifications and sample submitted	06/06/2003	Combat Boots (CCIE)	P 16,320,000.00	Completed	09/13/2003 and 10/17/2003	Distributor
Supply and Delivery of Jogging Pants with Jacket, made of Micro Fiber, designed as per PAF sample submitted	07/21/2003	Jogging Pants with Jacket (CCIE)	P 6,050,000.00	Completed	08/29/2003 and 09/01/2003	Distributor
Supply and Delivery of PAF Rubber Shoes / PAF Seal color and design as per sample submitted by PAF and conforms with AFP QM Spec R C-72SRL dated 1-03-2000	07/03/2002	Rubber Shoes (CCIE)	P 12,751,200.00	Completed	08/09/2002; 08/17/2002; 08/22/2002; 09/05/2002; and 09/19/2002	Distributor
Supply and Delivery of Suit Camouflage, Ripstop Weave (Battle Dress Attire) with Cap and conforms with M SPEC NR C-5BDAC dated 13 July 2000 with Amendment 1 dated 4 June 2001	09/17/2004	Battle Dress Attire (CCIE)	P 28,950,057.00	Completed	04/06/2004 05/22/2004 12/06/2004 12/04/2004	Distributor
Supply and Delivery of Suit Camouflage, Ripstop Weave (Battle Dress Attire) without Cap and conforms with M SPEC NR C-5BDAC dated 13 July 2000 with Amendment 1 dated 4 June 2001	03/15/2004	Battle Dress Attire (CCIE)	P 16,649,600.00	Completed	12/06/2004	Distributor

Name of Contract	Date of the Contract	Kind of Goods Sold	Amount of Contract	Contract Status a). Completed b). Ongoing c). Awarded	Date of End-User's Acceptance, if Completed	Bidder is a) Manufacturer b) Supplier c) Distributor
Supply and Delivery of Combat Boots, for field use, conforms with AFP QM Spec NR C-72BTF dated October 7, 1998 and M SPEC NR C-72BTF Amendment 1 dated September 25, 2003	03/15/2004	Combat Boots (CCIE)	P 96,799,584.00	Completed	05/26/2004 05/29/2004 05/17/2004 05/21/2004 07/26/2004 09/03/2004	Distributor
Supply and Delivery of Blue Suit with Beret (Battle Dress Attire) conforms with M Spec NR C-5BDAC dated 13 July 2000 with Amendment 1 dated 4 June 2001	01/21/2004	Battle Dress Attire (CCIE)	P 15,300,000.00	Completed	04/15/2004	Distributor
Supply and Delivery of Suit Camouflage, Ripstop Weave (Battle Dress Attire) without Cap and conforms with M SPEC NR C-5BDAC dated 13 July 2000 with Amendment 1 dated 4 June 2001	09/17/2004	Battle Dress Attire (CCIE)	P 31,150,350.00	Completed	12/04/2004	Distributor
Supply and Delivery of Beret, Army Green conform with QM NR C-73BOD dated April 23, 2004 with Amendment 1 dated June 30, 2004	09/21/2004	Beret (CCIE)	P 1,673,940.00	Completed	11/26/2004	Distributor
Supply and Delivery of Blanket, Olive Drab, conforms with QM SPEC NR C-55BF-PA dated 24 March 2004 with Amendment 1 dated 30 June 2004	11/03/2004	Blanket (CCIE)	P 6,714,150.00	Completed	01/05/05	Distributor

Name of Contract	Date of the Contract	Kind of Goods Sold	Amount of Contract	Contract Status a). Completed b). Ongoing c). Awarded	Date of End-User's Acceptance, if Completed	Bidder is a) Manufacturer b) Supplier c) Distributor
Supply and Delivery of Combat Boots, for field use, conforms with AFP QM Spec R C-72BTF dated October 7, 1998 and M SPEC NR C-72 BF Amendment 1 dated September 25, 2003	09/15/2004	Combat Boots (CCIE)	P 24,199,896.00	Completed	01/24/2005	Distributor
Supply and Delivery of Beret, Army Green conform with QM R C-73BOD dated April 23, 2004 with Amendment 1 dated June 30, 2004	12/29/2004	Beret (CCIE)	P 368,000.00	Completed	02/21/2005	Distributor
Supply and Delivery of Blanket, Olive Drab, conforms with M SPEC NR C-5BF-PA dated 24 March 2004 with Amendment 1 dated 30 June 2004	01/12/2005	Blanket (CCIE)	P 1,153,450.00	Completed	02/02/2005	Distributor
Supply and Delivery of Blanket, Olive Drab, conforms with M SPEC NR C-5BF-PA dated 24 March 2004 with Amendment 1 dated 30 June 2004	02/28/2005	Blanket (CCIE)	P 857,225.00	Completed	04/18/2005	Distributor
Supply and Delivery of Beret, Army Green conform with QM R C-73BOD dated April 23, 2004 with Amendment 1 dated June 30, 2004	04/04/2005	Beret (CCIE)	P 140,480.00	Completed	05/05/2005	Distributor
Supply and Delivery of Suit Camouflage, Ripstop Weave (Battle Dress Attire) Without Cap and conforms with QM SPEC NR C-55BDAC dated 13 July 2000 with Amendment 1 dated 24 June 2001	04/04/2005	Battle Dress Attire (CCIE)	P 18,600,000.00	Completed		Distributor

Apply and Delivery Lousy Hat	08/05/2005	Lousy Hat (CCIE)	P 1,230,216.00	Completed	08/23/2005	Distributor
Apply and Delivery Bar, Mosquito	07/08/2005	Bar, Mosquito (CCIE)	P 5,339,700.00	Completed	08/30/2005	Distributor
Apply and Delivery Mosquito Bar,OD	02/21/2006	Bar, Mosquito (CCIE)	P 836,312.00	Completed	04/24/2006	Distributor
Apply and Delivery Blanket, OD	02/8/2006	Bar, Mosquito (CCIE)	P 1,218,455.04	Completed	05/5/2006	Distributor
Apply and Delivery Combat Boots	08/08/2006	Combat Boots (CCIE)	P 45,770,400.00	Completed	09/4/2006	Distributor



CONSULADO PANLAHAT NG PILIPINAS PHILIPPINE CONSULATE GENERAL
GUANGZHOU, CHINA

AUTHENTICATION

PHILIPPINE CONSULATE GENERAL)
REPUBLIC OF THE PHILIPPINES) S.S.
GUANGZHOU, P.R.O.C.)

I, ALEX G. CHUA Consul in and for the City of Guangzhou, People's Republic of China duly commissioned and qualified, do hereby certify that Ms. ZHAN YU HUA, who has attested to the genuineness of the signature and notarial seal of ZHANG HUAYAN, Notary Public Office of Guangdong Province, People's Republic of China, before whom the annexed certificate has been executed is, at the time she signed the annexed certificate, a Deputy Director of Consular Division of the Foreign Affairs Office of Guangdong Province, People's Republic of China. I also duly verily believe that her signature affixed hereto is genuine.

The Consulate General assumes no responsibility for the contents, declarations or statements in the annexed certificate in Chinese text, of which an English translation is also attached.

IN WITNESS WHEREOF, I have hereunder set my hand and affixed the seal of the Consulate General of the Philippines, in Guangzhou, People's Republic of China, this 2nd day of October 2003.

ALEX G. CHUA
Consul

Annexed Document refers to a Letter of Appointment/Authority issued by China Xixing Guangzhou Import and Export Corporation.

Doc. 380
Page 94
Service No. 0380
Series 003
Fec: 20 RMB
O.R. No. 747300

Handwritten initials and numbers: "N", "17", "3", "T"

Handwritten mark: "100"

公 证 书

中华人民共和国广东省公证处

F-a. / 108

108



中國新興廣州進出口公司

CHINA XINXING GUANGZHOU IMP. & EXP. CORPORATION

廣州市解放北路1115號(新興大酒店)

No 1115 Jiefang Road, (North) Guangzhou (Xinxing Hotel)

電話Tel: 6683288 傳真Fax: 6662406 電山Cable: 2295 郵政Post Code: 510400

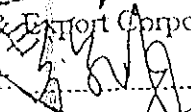
授 權 書

我公司特此授權 Goldbell Philippines Inc. 為我公司在菲律賓的軍需品及相關產品(設備)的經銷商及市場代理, 此授權的有效期為二零零三年十月一日至二零零八年九月三十日。

中國新興廣州進出口公司
 經理:  (徐越飞)
 2003/10/01

Letter of Appointment/Authority

We, China Xinxing Guangzhou Import & Export Corporation, hereby appoint and authorize Goldbell Philippines Inc, as our sales and marketing agent in the Philippines for our complete line of military supplies (equipment). This appointment/authority is valid from OCT.1st, 2003 to SEPT.30th, 2008.

China Xinxing Guangzhou
 Import & Export Corporation
 Manager:  (Xuyuefei)
 2003/10/01

公 证 书

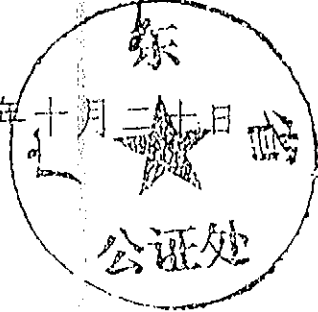
(2003)粤公证外字第 30925 号

兹证明前面《授权书》上的中国新兴广州
进出口公司印章及经理徐越飞签名均属实。

中华人民共和国广东省公证处

公证员：徐越飞

二〇〇三年十月二十七日



X09490521

NOTARIAL CERTIFICATE (Translation)

(2003) YGZW.Zi, No. 30925

This is to certify that the seal of China Xinxing Guangzhou Imp. & Exp. Corporation and the signature of Manager Xu Yue Fei affixed to the Letter of Appointment/Authority attached hereto are found to be authentic.

Notary: Zhang Huayan

Notary Public Office of Guangdong Province

The People's Republic of China

October 20, 2003

J. S. / [Signature]

[Handwritten mark]

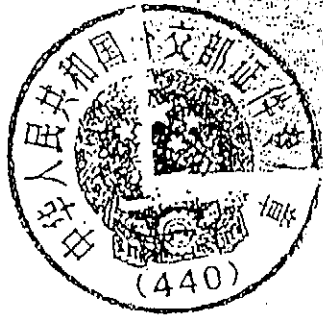
[Handwritten mark]

认字第0304464号

兹证明前面文书上公证处的印章和
公证员张华燕的签名(印章)属实

中华人民共和国外交部 (440)

2003年10月23日 广州



Fin. / lid

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17



WINDSHEAR INT'L. PHILS.

No. 6-B C. C. Benitez St., Cubao, Quezon City M. M., 1112, Philippines
Sales/Fax 411-92-69 Sales/Voicemail 411-92-77/ 7220642
E-mail: windshear_global@msn.com
martinez_fire_safety@yahoo.com

DEPARTMENT OF BUDGET AND MANAGEMENT GOVERNMENT PROCUREMENT POLICY BOARD TECHNICAL SUPPORT OFFICE	
RECEIVED	
DATE: 3/24/08	BY: [Signature]

March 19, 2008

*Bryan,
pls. advise letter refd,
re disasred.*

11:33/08

*Emilio,
pls. prioritize pls.*

3/27/2008

**GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE
Unit 2506 Raffles Corporate Center, Ortigas Jr. Road
Ortigas Center, Pasig City**

Attention: **Atty: RUBY V. ALVAREZ**
Executive Director III

Subject: **REQUEST FOR OFFICIAL CLARIFICATION WITH REGARDS
TO THE ON HOLD ISSUE OF CERTIFICATE OF CASH DEPOSIT**

Dear Sirs:

On February 26, 2008 we send you a request for official clarification with regards to the above subject matter. However, due to your very slow response, we have been sent a disqualification notice (see attached letter) from Manila International Airport Authority, disqualifying Windshear International due to the Certificate of Cash Deposit On Hold.

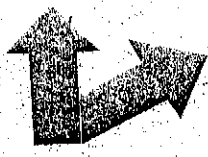
Therefore, we are hereby requesting that you provide us with your response at the soonest possible time in order to correct this misconception of the official form of the G.P.B.B. With regards the certificate of cash deposit which is not provided for in the R.A. 9184.

Thank you so much.

Very Truly Yours,


KARL F. FRANKENBERGER
President

c.c. Manila International Airport Authority



WINDSHEAR INT'L PHILS., INC.

#6-B C.C. Benitez St., Cubao, Quezon City, M.M., 1112, Philippines
Sales/Fax: 411-9269 Sales/Voicemail: 411-9277
Email: wndshr44@itextron.com

26 February, 2008

Dräger
SCBA, GAS DET., DET.
TUBES RESPIRATORS



FIRE HELMET
THERMAL IMAGING
CAMERA



**VERIDIAN
LIMITED**
FIRECOAT



CHEM GUARD INC.
FIRE-FIGHTING FOAM
AND DRY CHEMICALS



FIRE TRUCK & OTHER
FIREFIGHTING
EQUIPMENT

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

Attn: **ATTY. RUBY U. ALVAREZ** *c/o Brian*
Executive Director III

Subject: REQUEST FOR OFFICIAL CLARIFICATION

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Your immediate response on this matter will be highly appreciated. Thank you

Very truly yours,

Karl Frankenger
KARL FRANKENBERGER
President

Attached: as stated.

RECEIVED
DATE
RECEIVED
DATE
2/26/08 8:10 pm

TO: SIR KARL

CBG BSR IMPORTANT No. 04/005- BSP Anti-Money Laundering Examination

- Guidelines in opening and handling of Remittance (Allottee and OFW) Accounts with NDB
- Approval requirement for waiver of service charge
- Approval requirement form manual posting/adjustment of interest to deposit accounts
- Issuance of Bank Certification
- Affidavit of Lost Passbook
- Number of Signature Cards Required

AUDY KAPOLA

Eleanor S. Tabe on 03/24/2004 at 02:55 PM
Category: CBG BSR IMPORTANT 2004

CBG-BSR IMPORTANT No. 04/005
March 10, 2004

TO : ALL UNIBANK BRANCH OFFICERS & STAFF

SUBJECT : - Issuance of Bank Certification

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Examples of bank certifications which are actually Domestic Standby Letter of Credit are: letters assigning the acct balance to a supplier/ creditor/ principal; letters of commitment on client's account balance to satisfy bidding requirements for government projects; letters addressed to a third party guaranteeing that depositor will not withdraw his balance unless with the conforme of said third party.



Republic of the Philippines
MANILA INTERNATIONAL AIRPORT AUTHORITY
MIAA Administration Building, MIA Road Pasay City, Metro Manila

March 17, 2008

MR. KURT P. FRANKENBERGER
Vice President
WINDSHEAR INT'L PHILS.
No. 6-B C. C. Benitez St., Cubao,
Quezon City

Subject: **Supply and Delivery of One (1) Set Portable
Thermal Imaging Camera**

Dear Mr. Frankenger:

This has reference to your letter dated 10 March 2008 requesting that BAC reconsiders its decision declaring Windshear Int'l Phils. as ineligible to participate in the above-subject bidding for submitting an insufficient Cash Deposit Certificate, that is, the certificate failed to state that the deposit shall be put on hold until the duration of the project.

Windshear Int'l. Phils. submits that based on their inquiries, government banks are not authorized to issue such Cash Deposit Certificate pursuant to CBG-BSR IMPORTANT NO. 04/005 and that it has communicated with the Government Procurement Policy Board (GPPB) regarding the issue, although it has not received any response yet to date. Windshear Int'l. Phils. also requests the BAC to look into the IRR-A of RA No. 9184 as the words "ON HOLD" are not explicitly stated therein.

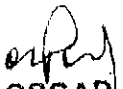
Please be informed that this is not the first time the hold requirement on the Cash Deposit Certificate has been put in issue by bidders before the BAC. BAC has pointed out time and again to the bidders that its Cash Deposit Certificate is a standard form for procurement prescribed by the GPPB as SF-GOOD-16. It is the position of BAC that unless and until the GPPB, which under RA No. 9184 is tasked to "formulate and amend, whenever necessary, the IRR and the corresponding standard forms for Procurement" (Underscoring ours), revokes, amends or modifies its standard forms for procurement, the BAC cannot and is without authority to deviate from the said standard forms. The BAC firmly subscribes to the basic tenet of presumption of regularity of official acts.

The BAC also wishes to underscore the fact that bidders have invariably been able to submit to BAC the required Cash Deposit Certificate from the bank, notwithstanding the hold requirement issue.

Upon the foregoing, the BAC reaffirms its decision to declare Windshear Int'l. Phils. as ineligible to participate in the bidding for the above-project for the reason cited.

Please consider this the final position of BAC on the matter.

Very truly yours


ATTY. OSCAR L. PARAS, JR.
Chairman, BAC