

NPM No. 137-2017

29 December 2017

MS. JENIELYN C. CABEZAS
cabzjeniel@yahoo.com
PROVINCE OF DAVAO DEL SUR

Re: Annual Income Tax Return -

Dear Ms. Cabezas:

This refers to your electronic mail inquiring whether a bidder should be disqualified under Section 34.2 of the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, the Government Procurement Reform Act, for submitting its latest Annual Income Tax Return (ITR), with most part of the Schedule 10 – Balance Sheet, deleted.

As a rule, pursuant to Executive Order (EO) No. 398, as implemented by Revenue Regulation (RR) No. 3-2005, the latest income and business tax returns (BTR) required to be submitted by taxpayers joining public bidding under Section 34.2 of the 2016 Revised IRR of RA 9184 must be filed and paid through the Electronic Filing and Payment System (EFPS) and printed thru the Tax Return Inquiry facility of the Bureau of Internal Revenue (BIR).

Section 2 of RR No. 3-2005 provides that the above returns must be duly stamped and received by the BIR and duly validated with the tax payments made thereon. Sections 3.2 and 3.3 of the same RR No. 3-2005 define what would constitute the latest ITR and BTR.

In fine, what is important for purposes of bidding is the fact of filing, which means that the bidder paid its tax obligations. As to whether the submitted ITR and BTR by the bidder are valid, this can be verified, validated and ascertained by the Bids and Awards Committee during the post-qualification stage, which includes a verification of whether the said deleted parts in the bidders' submission are relevant or not by the purpose for which the documents are submitted.

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.

(sgd.)

~~HERNAN S. SANTIAGO~~
Executive Director *V. M. M.*

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