

NPM No. 128-2015

27 November 2015

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Re: Tax Clearance Certificate

Dear [REDACTED]

This refers to your letter, requesting opinion on whether a procuring entity can require its suppliers to submit an alternate document, in lieu of a Tax Clearance Certificate.

As represented, Dipolog City BAC requires the submission of a Tax Clearance during post-qualification in accordance with Section 34.2(a) of the revised Implementing Rules and Regulations of Republic Act (RA) No. 9184. However, some of its suppliers are having difficulty in securing a Tax Clearance as the same is only issued by the Central Office of the Bureau of Internal Revenue (BIR). Thus, an opinion is requested on whether the BAC could require, in lieu of a Tax Clearance Certification, the submission of a document specifying the supplier has no outstanding tax obligation or is not in the master list of delinquent taxpayers, issued by the local district revenue office of BIR.

At the outset, we wish to inform you that GPPB Resolution No. 21-2013 dated 30 July 2013¹, has amended Section 34.2(a) of the IRR of RA 9184, which transferred the submission of Tax Clearance as an eligibility requirement. Thus, under Sections 23.1(a)(iii) and 24.1(a)(iii) of the IRR of RA 9184, a bidder shall submit a Tax Clearance Certificate as part of its legal eligibility documents.

The Tax Clearance requirement is based on Executive Order (EO) No. 398 dated 12 January 2005, which requires the submission of a Tax Clearance issued by the BIR to prove full and timely payment of taxes of all persons desiring to enter or participate in any contract with the government. Tax Clearance as defined under BIR Revenue Regulations (RR) No. 3-2005, dated 16 February 2005, refers to the tax clearance issued by the Collection Enforcement Division, now Accounts Receivable Monitoring Division (ARMD), attesting that the taxpayer has no outstanding Final Assessment Notice and/or delinquent account.

In NPM No. 12-2015 dated 5 May 2015, this office had the occasion of clarifying that a "Certificate of No Outstanding Tax Liability" from a BIR Regional Office cannot be a substitute to a Tax Clearance Certificate issued by the ARMD at the BIR Central Office.

¹ Published in Malaya Business Insight on 21 March 2014.


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Accordingly, the BAC can only require its bidders to submit a Tax Clearance Certificate issued by the ARMD as a legal eligibility document, in accordance with Sections 23.1(a)(iii) and 24.1(a)(iii) of the IRR of RA 9184 and EO 398, Series of 2005.

We hope this opinion issued by 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,

(sgd.)

 **DENNIS S. SANTIAGO**
Executive Director V

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