



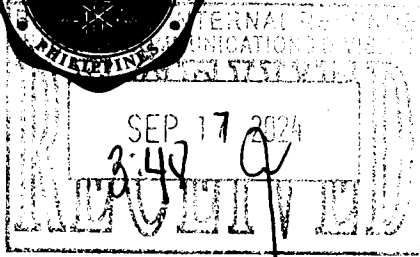
REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

BUREAU OF INTERNAL REVENUE
RECORDS MANAGEMENT DIVISION

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REVENUE REGULATIONS NO. 017-2024

SUBJECT : Prescribing the Presentation of Tax Clearance Prior to Final Settlement of Government Contracts

TO : All Internal Revenue Officials, Employees and Others Concerned

BACKGROUND

Section 1 of Executive Order (E.O.) No. 398, s. of 2005 dated July 12, 2005, directs that:

“SECTION 1. All persons, natural or juridical, local or foreign, desiring to enter into or participate in any contract with the government, its departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions and local government units, shall, as a pre-condition, submit, along with their proposal and/or bid, a copy of their latest income and business tax returns duly stamped and received by the Bureau of Internal Revenue, and duly validated with the tax payment made thereon.

They shall also submit a tax clearance from the Bureau of Internal Revenue to prove full and timely payment of taxes.”

Pursuant thereto, Section 23 of Rule VIII-Receipt and Opening of Bid of the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act (R.A.) No. 9184, otherwise known as the “The Government Procurement Reform Act”, provides that:

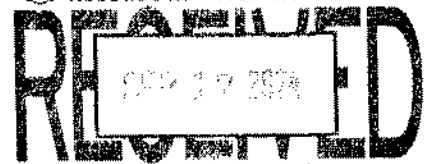
“Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects

23.1. For purposes of determining the eligibility of bidders using the criteria stated in section 23.4 of this IRR, only the following documents shall be required by the BAC, using the forms prescribed in the Bidding Documents:

a) Class “A” Documents

Legal Documents

- i) xxx
- ii) xxx
- iii) Tax clearance per E.O. 398, s. of 2005, as finally reviewed and approved by the Bureau of Internal Revenue (BIR).”



Moreover, Section 3 of the same E.O. mandates that:

"Sec. 3. To ensure continuing compliance with tax laws, all government contracts shall include a stipulation that the private contracting party shall pay taxes in full and on time and that failure to do so will entitle the government to suspend payment for any goods or service delivered by the private contracting party. (Underlining ours)

All government contracts shall likewise include a stipulation requiring the private contracting party to regularly present, within the duration of the contract, a tax clearance from the Bureau of Internal Revenue as well as a copy of its income and business tax returns duly stamped and received by the Bureau of Internal Revenue and duly validated with the tax payments made thereon." (Underlining ours)

The above provisions clearly show that the BIR tax clearance is not only required to be submitted by the contractor during the procurement process as an eligibility requirement. In order to ensure payment of taxes in full and on time, the BIR tax clearance is also required to be presented by the contractor on a regular basis as proof of payment of taxes during the duration of the contract it entered into with the government. Non-submission of such tax clearance entitles the government to suspend the payment for any goods or service, including infrastructure projects, delivered by the contractor.

Accordingly, in order to fully achieve the requirements and objectives of E.O. 398, s. of 2005, these Regulations are hereby issued.

SECTION 1. SCOPE. - Pursuant to Sections 244 and 245 of the National Internal Revenue Code (NIRC) of 1997, as amended, and taking into account the thrusts and objectives of E.O. No. 398, s. of 2005, these Regulations are hereby promulgated to prescribe the presentation of BIR tax clearance prior to the final settlement of all government contracts.

SECTION 2. PRESENTATION OF UPDATED TAX CLEARANCE PRIOR TO FINAL SETTLEMENT OF GOVERNMENT CONTRACTS. - All persons, natural or juridical, local or foreign, who have existing contracts with the government, its departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions and local government units for the supply of goods and services, including infrastructure projects, shall secure from the BIR an updated tax clearance certifying that they have no outstanding tax liabilities and that they have duly filed the latest income and business tax returns and paid the corresponding taxes due thereon. Such tax clearance shall be presented by the contractor to the concerned departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions and local government units prior to the final settlement of the contract it entered into with them.

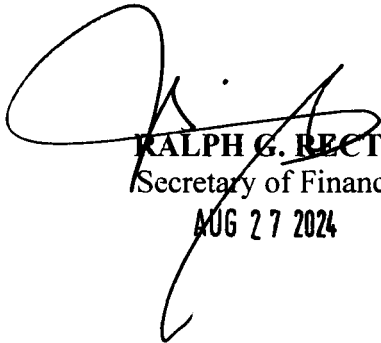
Failure to secure and present the prescribed BIR tax clearance shall entitle the government, its departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions and local government units to suspend the final settlement for any goods or services, including infrastructure projects, delivered by the contractor.

SECTION 3. SUSPENDED FINAL SETTLEMENT AND RETENTION MONEY AS TAX LIEN. – The amount of final settlement on the contract for any goods and services, including infrastructure projects, delivered by the contractor which was suspended by the government, its departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions and local government units due to the failure to present the BIR tax clearance prescribed by these Regulations, including the retention money required pursuant to the provisions of R.A. No. 9184 and its implementing regulations, shall be subject to tax lien as may be warranted in favor of the government to satisfy the contractor's outstanding tax liabilities. The existing guidelines and procedures governing distraint and garnishment shall be applied accordingly.

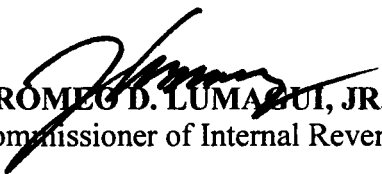
SECTION 4. PENALTIES. - Any violation of these Regulations shall be subject to the corresponding penalties under the pertinent provisions of the NIRC of 1997, as amended, and applicable regulations issued by the BIR.

SECTION 5. REPEALING CLAUSE. – All other issuances and rules and regulations or parts thereof which are contrary to and inconsistent with any provisions of these Regulations are hereby repealed, amended, or modified accordingly.

SECTION 6. EFFECTIVITY. - These Regulations shall take effect fifteen (15) days following its publication in the Official Gazette or the BIR official website, whichever comes first.


RALPH G. RECTO
Secretary of Finance
AUG 27 2024

Recommending Approval:


ROMEO D. LUMAQUI, JR.
Commissioner of Internal Revenue

