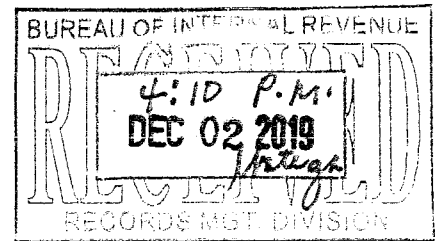




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE



November 28, 2019

REVENUE MEMORANDUM ORDER NO. 57-2019

SUBJECT : Revocation of RMO No. 12-2015 Updated Procedures in the Implementation of the Memorandum of Agreement between the Department of Public Works and Highways (DPWH) and the Department of Finance

TO : All Regional Directors, Revenue District Officers and Others Concerned

I. BACKGROUND

The requirement for contractors of government infrastructure projects to file BIR Form No. 0217 together with other the documentary requirements is the Bureau's standard approach meant to ensure that correct taxes are paid on their income from government transactions. This also provides a mechanism to monitor the withholding taxes paid by respective DPWH Central/Regional/ District Offices on their payments to contractors that have transactions with national government.

Recently, however, concerns have been raised that there is duplication in the requirements being submitted by contractors to the BIR and the DPWH, i.e. BIR Form No. 0217 and the documentary requirements for Final Billing under Department Order No.148 series of 2018 implementing the Document Tracking System for Civil Works (DoTS), respectively. These and other documents required under RMO No 12-2015 result to undue inconvenience and additional burden on the part of the contractor and the DPWH as the latter assumes additional functions in the preparation of some documents required by said RMO.

The concern raised is that this impedes the prompt disbursement of fund for final payment to contractors and contravenes Republic Act (RA) No. 11032 ("Ease of Doing Business and Efficient Government Service Delivery Act of 2018) on the adoption of simplified requirements and procedures that will expedite business and non-business related transaction in the government.

II. OBJECTIVES

This Order is issued to:

1. To address the issues and concerns regarding the duplication of requirements being submitted by contractors to the BIR and the DPWH; and
2. Align the process for the release of the final payment for contractors with Republic Act (RA) No. 11032, ("Ease of Doing Business and Efficient Government Service Delivery Act of 2018).

III. CLARIFICATORY PROVISIONS

In retrospect, Sections 1, 3 and 6 of E.O No. 398, s. 2005 dated July 12, 2015 under Revenue Regulations No. 3-2005 and in compliance with Section 23.1. a) iii) of the 2016 Implementing Rules and Regulations of RA No. 9184 or the "The Government Procurement Reform Act", *provides that only the tax clearance from the Bureau of Internal Revenue shall be required to prove full and timely payment of taxes* especially of those contractors transacting with the government, to wit:

Sections 1, 3 and 6 of E.O No. 398

"Sec. 1. All persons natural or juridical, local or foreign, desiring to enter into or participate in any contract with the government, its department, 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 payments made thereon."

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

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"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

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 the its income and business tax returns duly validated with the tax payments** made thereon." (Emphasis supplied)

"Sec. 6. All executive issuances, rules and regulations, or parts thereof, which are inconsistent with this Executive Order are hereby revoked, amended or modified accordingly."

Section 23.1. a) iii) of the 2016 IRR of RA No. 9184

"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

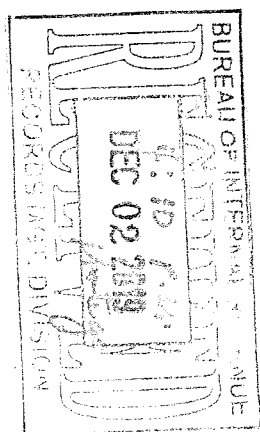
Legal Documents

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iii) Tax clearance per E.O. 398, s. 2005, as finally reviewed and approved by the Bureau of Internal Revenue (BIR)." (Emphasis supplied)



Since a tax clearance serves as a proof of full and timely payment of taxes and that the same is a mandatory requirement for the procurement (bidding) of infrastructure projects then, the Bureau deems it unnecessary to further require filing/ submission of BIR Form No. 0217 under RMO No. 12-2015. Likewise, the attachments to BIR Form 0217 and the documentary requirements for Final Billing under the Department Order No.148 series of 2018 implementing the Document Tracking System for Civil Works (DoTS) show that there is duplication in the requirements being submitted by contractors to two different agencies resulting to undue inconvenience and additional burden to contractors in the processing of their Final Billing/Payment.

IV. REVOCATION CLAUSE

In view of the foregoing, the provision of RMO No. 12-2015 on the filing of an Application for Contractor's Final Payment Release Certificate (BIR Form No. 0217) and presentation of the said certificate duly approved by the BIR to the DPWH as a requirement for the release of the contractors' final payment on their projects with the DPWH is hereby revoked and shall no longer be enforced.

V. REPEALING CLAUSE

All revenue issuances or portions thereof inconsistent herewith are hereby revoked and/or amended accordingly.

VI. EFFECTIVITY

This Order shall take effect immediately.


CAESAR R. DULAY
Commissioner of Internal Revenue
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