



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 91-2013

25 November 2013

ENGR. DANTE VENGUA

Chairman, Bids and Awards Committee

NATIONAL TELECOMMUNICATIONS COMMISSION (NTC)

NTC Building BIR Rd. East Triangle

Diliman, Quezon City

Re: PADPAO Rates

Dear Engr. Vengua:

This is in response to your letter dated 10 September 2013 seeking clarification regarding a bidder's compliance with rates issued by the Philippine Association of Detective Protective Agency Operators (PADPAO).

As represented, the NTC proceeded with the procurement of security services, and issued Supplemental Bid Bulletin requiring that the "PADPAO rate shall be strictly followed". This is with the Bids and Awards Committee's (BAC) presumption that the PADPAO rate is compliant with the rates under prevailing wage order issued by the Regional Tripartite Wages and Productivity Board (RTWPB). Certain disqualified bidders pointed out that strict compliance with the PADPAO rate should have been followed. Others on the other hand, pointed out and insisted on compliance with the existing wage order issued by the RTWPB. Although bidders were instructed to strictly comply with the PADPAO rate, NTC firmly believes that said requirement should not have been taken as a waiver of the existing wage rate in the prevailing wage order issued by the RTWPB.

We note that there are two (2) rates being taken into consideration: (1) PADPAO rates; and (2) Rates prescribed in wage orders issued by the RTWPB. PADPAO rates are rates issued and prescribed by the PADPAO, an organization of private security agencies (PSAs), in order to ensure that its member security agencies pay uniform rates for the service of its security guards. Rates prescribed in wage orders issued by the RTWPB, on the other hand, are part of labor rules and standards, and compliance therewith is required of all PSAs as employers of security guards.

In line with this, it is important to note that PSAs, participating as bidders for procurement of security services, are required to comply with labor rules and standards in order to qualify as bidders. Compliance is ensured by the bidder through its submission of an Omnibus Sworn Statement stating, among others, that "[i]t complies with existing labor laws and standards, in the case of procurement of services."³ Accordingly, the procuring entity is

³ Section 25.2; Revised Implementing Rules and Regulations of Republic Act No. 9184.

reminded “to verify, validate and ascertain compliance of the lowest calculated bidder with labor laws and standards during post-qualification.”⁴

In view of the foregoing, we wish to clarify that since wage orders issued by the RTWPB form part of labor laws and standards, security agencies participating in government procurement are mandated to submit bid prices in accordance with the rates prescribed in these wage orders. Considering that bidders are required to comply with labor rules and standards, as stated in the Omnibus Sworn Statement, non-compliance therewith shall result in the bidder’s disqualification.

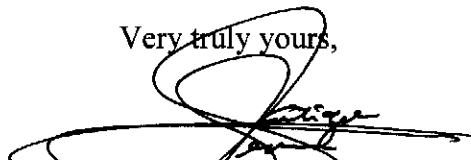
We wish to emphasize that Section 7(g), Rule XVII of the Implementing Rules and Regulations (IRR) of Republic Act No. 5487⁵ provides that “[f]or government contracts, any PSA bidder who shall offer an amount lower than the standard minimum wage and mandated taxes in its financial proposal, shall be automatically disqualified xxx.” Moreover, Section 19, Rule IV of the same IRR requires PSAs to ensure that the compensation of their employed guards complies with the salary and wage prescribed in the minimum wage law. As such, on the basis of Government Procurement Policy Board Circular No. 02-2006, we previously opined⁶ that “all PSA participating in the bidding for government contracts may offer different bid prices, even though it is below the PADPAO rate, without being charged of cut-throat competition or violating the provisions of the IRR of RA 5487, provided that they do not go below the standard salaries and benefit for the guards and the mandated taxes in the minimum cost distribution formula.” The salaries and benefits referred to, including the taxes to be imposed, are those mandated by existing labor laws and standards, and allied laws and rules relative to salaries, benefits, and taxes.

In view of the foregoing, a bidder’s compliance with the minimum wage is concomitant with its compliance with PADPAO rates, such that a PSA cannot be declared compliant with PADPAO rates if it does not comply with the established minimum wage.

All told, we are of the view that a PSA bidder that does not use the applicable minimum wage established by the RTWPB in the computation of its bid, including its PADPAO rates, shall be disqualified for non-compliance with labor laws and standards, and the requirements under RA 9184 and its IRR.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Please note that this opinion is being issued on the basis of facts and particular situations presented, and may not be applicable given a different set of facts and circumstances. Should you have further questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director III *DS*

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⁴ Section 4.0 (Citing Circular 01-2008 dated 7 March 2008); Circular 01-2012 dated 3 August 2012.

⁵ An Act to Regulate the Organization and Operation of Private Detective, Watchmen or Security Guards Agencies or “The Private Security Agency Law”; Approved 21 June 1969.

⁶ Non-Policy Matter Opinion No 042-2007, dated 13 August 2007.