

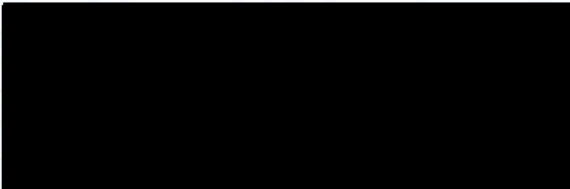


Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 49-2015

9 October 2015



Re: Final Judgment of Violation of Labor Law or Social Legislation

Dear Sirs:

This refers to your letters seeking clarification on the effect of a final judgment against a contractor for a violation of labor law or social legislation. The request for clarification stems from the provision contained in Government Procurement Policy Board (GPPB) Circular No. 01-2008¹, as reiterated in GPPB Circular No. 01-2012², which includes a final judgment against a contractor involving violation of any labor law or social legislation as a ground for post-disqualification.

Omnibus Sworn Statement; Compliance with Labor Laws and Standards

At the onset, we would like to emphasize that Republic Act (RA) No. 9184 recognizes the right of market operators to participate in government procurement opportunities, subject to compliance with the eligibility, technical and financial requirements of specific projects. This right cannot be taken away from market operators without valid and lawful cause.

Section 25 of the revised Implementing Rules and Regulations (IRR) of RA 9184 provides that the bidder shall include in a Sworn Statement its compliance with existing labor laws and standards. Significantly, a final judgment of violation of labor laws and social legislations contradicts such statement of compliance. Thus, in GPPB Circular No. 01-2008, it is included as one of the means to verify the bidder's compliance with existing labor laws and standards, such that an affirmative finding of the existence of such final judgment is considered as a valid and lawful cause to post-disqualify a bidder, thereby forfeiting its right to enter into a procurement contract with government.

Violation of Labor Laws; Effect of Satisfaction of Judgment

However, we wish to clarify that the inclusion of "final judgment involving violation of labor law or social legislation" as one of the recitals in the Sworn Statement is not intended to be a ground to "perpetually disqualify" a market operator or private entity from

¹ Entitled *Clarification on the Adoption of Additional Eligibility and Technical Documents to Ensure Compliance with Labor Laws and Others Social Legislation* and dated 7 March 2008.

² Entitled *Compliance to Labor Laws and Other Social Legislations* and dated 3 August 2012.

participating in public bidding. Instead, the goal is to ensure that government only transacts with contractors that promote and protect the welfare of laborers; and there is no clearer indication of a violation of labor law or social legislation than a final judgment by a competent court to that effect.

The Supreme Court, in the case of *Jacinto v. Gumaru, Jr.*³, held that “[w]hen a judgment has been satisfied, it passes beyond review, satisfaction being the last act and the end of the proceedings, and *payment or satisfaction of the obligation thereby established produces permanent and irrevocable discharge.*” Consequently, a final judgment relative to the violation of labor laws or social legislations, once proven to have been fully satisfied, shall discharge the adjudged violator from the effects of such judgment, and shall no longer serve as a ground for disqualification or to prevent its participation in the government procurement opportunity, unless there are other valid grounds to disqualify the bidder.

At this juncture, it bears stressing that GPPB Circular No. 01-2008 does not limit the verification of a bidder’s compliance with labor laws and standards to those mentioned under Section 3.3 thereof. The list is not exclusive and it is incumbent upon the Procuring Entity (PE) to validate, verify and ascertain the bidder’s stated compliance with existing labor laws and standards taking into consideration other relevant factors. As such, the discovery of a final judgment involving violation of labor laws or social legislations requires the PE to further examine whether the said judgment has been fully satisfied, thereby discharging the bidder from the effects of the judgment.

Summary

All told, it is our considered view that a final judgment for violation of labor laws or social legislations shall cease to be the cause of a bidder’s disqualification and deprivation of its right to participate in public bidding if the final judgment is proven to have been fully satisfied by the bidder as the judgment obligor, unless other grounds exists for its disqualification.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is being 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.)

DENNIS S. SANTIAGO

Executive Director V

³ G.R. No. 191906 promulgated on June 2, 2014 citing *CF. Sharp Crew Management, Inc. v. Undersecretary Espanol, Jr.*, 559 Phil. 826, 834 (2007).