



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

NPM No. 50-2014

14 October 2014

ENGR. FILEMON I. SIBULO
City Administrator and BAC Chairman
CITY OF SAN PEDRO
San Pedro City Hall
Cataquiz I Subd., Brgy. Poblacion,
San Pedro City, Laguna

Re: Warranty Security


Dear Engr. Sibulo:

This refers to your letter requesting clarification from our office on whether the forms of warranty security provided under the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 may be replaced by other forms of security.

As represented, series of questions were raised by motor vehicle suppliers during one of your meetings concerning the possible replacement of the ten percent (10%) retention money and bank guarantee by other forms of security, particularly vehicle warranty card. It is in this light that you are seeking clarification on whether such proposal of the suppliers may be granted and whether it is consistent with existing procurement policies.

We wish to clarify that under Section 62.1 of the IRR of RA 9184, the warranty shall be covered by either retention money in an amount equivalent to at least ten percent (10%) of every progress payment, or a special bank guarantee equivalent to at least ten percent (10%) of the total contract price. There are only two allowable forms of warranty security mentioned: (1) retention money; and (2) special bank guarantee.

Under the Latin maxim *expressio unius est exclusio alterius*, a rule in statutory construction, the express mention of one person, thing or consequence, implies the exclusion of all others. In the cited provision of the IRR of RA 9184, the rules expressly mentioned retention money and special bank guarantee as the only forms of security to cover the obligation for warranty. Applying the above-mentioned Latin maxim, other forms of security apart from retention money and special bank guarantee cannot be considered as allowable forms of warranty security.

In this regard, it is our considered view that other forms of security apart from retention money and special bank guarantee cannot be used as warranty security for the procurement of goods (expendable or non-expendable supplies). The proposal to use vehicle warranty card as a form of warranty security does not find support under the provisions of RA 9184 and its IRR. 

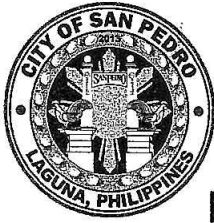
We hope this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should you have further questions, please do not hesitate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

Very truly yours,



DENNIS S. SANTIAGO
Executive Director V

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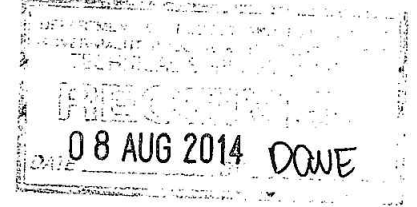


11/21/14

Republic of the Philippines
CITY OF SAN PEDRO
 Province of Laguna
Bids and Awards Committee (BAC)

06 August 2014

Atty. DENNIS S. SANTIAGO
 Executive Director III
Government Procurement Policy Board (GPPB)
 Unit 2506 Raffles Corporate Center
 F. Ortigas Jr., Road, Ortigas Center, Pasig City



RE: **QUERY ON THE TEN (10) PERCENT RETENTION AND BANK GUARANTEE**

14/AUG/14
Sen / Santiago
please prepare OPINION. The warranty must cover the identified period and by the correct retention amount per 11th. Dec 09

Dear Atty. Santiago:

Warmest Greetings of Peace and Prosperity!

Series of questions were raised by suppliers/bidders in a meeting held recently concerning the possible replacement of the ten percent (10%) retention money and bank guarantee by other forms such as but not limited to **vehicle warranty card**.

It is in this regard that we would like to request the guidance of your good office in order for us to determine whether or not we could grant the requests of motor vehicle suppliers on their manifestation to submit the vehicle warranty card instead of the usual ten percent (10%) money retention and bank guarantee and its legality/consistency with the existing policies on procurement.

Thank you very much and we look forward for your prompt and immediate action in this regard.

Very truly yours,

Engr. FILEMON I. SIBULO
 City Administrator
 Chairman, **BIDS and AWARDS COMMITTEE (BAC)**