

**NPM No. 10-2009**

04 February 2009

**ATTY. EUGENIO A. INSIGNE**

*Secretary*

**NATIONAL COMMISSION ON INDIGENOUS PEOPLES**

2<sup>nd</sup> Floor, N. de la Merced Bldg.,

Corner West & Quezon Avenues, Q.C.

**Re : Warranty for Goods Procurement**

Dear Atty. Insigne:

This refers to your letter dated 06 October 2008 requesting for clarification as to whether the ten percent (10%) warranty retention covers all procurement of supplies and equipment regardless of amount and supplier, and/or the parameters relative thereto.

At the outset, we would like to point out that the imposition of warranty for the procurement of goods is specifically sanctioned by Section 62 (a) of Republic Act No. 9184 (R.A. 9184), which reads as follows:

“For the procurement of Goods, in order to assure that manufacturing defects shall be corrected by the supplier, manufacturer, or distributor, as the case may be, for a specific time after performance of the contract, a warranty shall be required from the contract awardee for such period of time as may be provided in the IRR, the obligation for which shall be covered by either retention money in the amount equivalent to a percentage of every progress payment, or a special bank guarantee equivalent to a percentage of the total contract price, to be provided in the IRR. The said amounts shall only be released after the lapse of the warranty period, provided that the Goods supplied are free from defects and all the conditions imposed under the contract have been fully met.”

Further, Section 62.1 of the Implementing Rules and Regulations Part A of R.A. 9184 (IRR-A), merely provided for the warranty period (i.e. 3 months for supplies; 1 year for equipment), and the percentage of the retention money [i.e. at least ten percent (10%) of every progress payment] or special bank guarantee [i.e. at least ten percent (10%) of the total contract price].

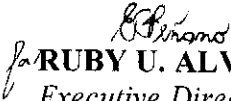
Perusal of the foregoing would reveal that neither R.A. 9184 nor its IRR-A makes a distinction as to the type of goods and suppliers that would be covered by the

warranty requirement. Thus, we are constrained to opine that the warranty provision applies to all types of goods, and to all suppliers alike, regardless of amount and qualification/category of the supplier.

Nonetheless, please be informed that in view of numerous comments and feedbacks received from national government agencies, local government units, civil society partners and other stakeholders, on how to further streamline and improve government procurement, the Government Procurement Policy Board has resolved to revisit the IRR-A of R.A. 9184, and is now conducting consultations on the amendments thereto. Rest assured that your concern will definitely be considered therein.

We trust that this provides sufficient guidance on the matter.

Very truly yours,

  
for **RUBY U. ALVAREZ**  
*Executive Director III*



Republic of the Philippines  
**OFFICE OF THE PRESIDENT**  
**NATIONAL COMMISSION ON INDIGENOUS PEOPLES**  
 2nd Flr. N. dela Merced Bldg., Corner West & Quez  
 Tel Nos. 373-9534 • 373-9578 Tel. Fa:  
 Website: www.ncip.gov.ph

*Queries from man  
 Ernie*

*Mark,  
 Please draft reply  
 Coordinate w/ Demg or Roy.*

*draft REPLY*

**THE CHAIRPERSON**  
 Government Procurement Policy Board  
 Unit 2506, Raffles Corporate Center  
 F. Ortigas Jr. Road  
 Ortigas Center, Pasig City

*TY  
 10/14/08*

*Oct 14, 2008 - received*

**Sir/ Madam,**

This is to inquire re Section 62.1 of the RA 9184 on the warranty of 10% retention which shall be required from the contract awardee for the procurement of goods for a minimum of three months, in case of supplies, and one year, in the case of equipment.

*+ applicable services*

① We would like to know if the aforementioned 10% warranty retention covers all procurement of supplies and equipment **regardless of amount and supplier** or if there are existing parameters in the implementation of the foregoing.

To mention a few of our suppliers which we consider as reputable, they are - National Bookstore Inc., Abensons Inc., Complink, Electroworld Inc., Silicone Forest Philippines Inc, Minolta Copier, Copytech Marketing and Filipinas Multi-Line Corporation.

Procurements of equipment are covered by Warranty Certificates which are being complied with by our suppliers. While the supplies procured when defective are being replaced by the suppliers based on the laws on consumers' right.

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With our meager funds for supplies and capital outlay, our procurements are minimal wherein they range, more often from P1,000.00 to P 300,000.00. Procurements above P300,000.00 are usually for survey equipments which are rare.

② Implementation of the 10% retention may open floodgates to over pricing since part of their cost are retained from 3 months to 1 year. It is also worthy to note that their prices at the time of procurement are at the prevailing rates in the market.

We look forward to your kind attention on this matter.

Thank you and more power!

*Eugenio A. Insigne*  
**ATTY. EUGENIO A. INSIGNE**  
 Secretary

cc: Director IV, FAO  
 Mgmt & Audit Division  
 General Services Division