



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

NPM No. 29-2011

27 December 2011

DIR. LIZA B. FANGSILAT

Regional Office – Cordillera Administrative Region (CAR)

DEPARTMENT OF BUDGET AND MANAGEMENT

No. 8 General F. Segundo Street

Burnham-Legarda Barangay, Baguio City

Re: Surety Bond as Warranty Security for the Procurement of Motor Vehicles

Dear Director Fangsilat:

We respond to your letter dated 13 October 2011 requesting for exemption from Section 62.1 of the Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184, particularly, on the acceptable forms of warranty security provided therein by allowing the acceptance of surety bonds.

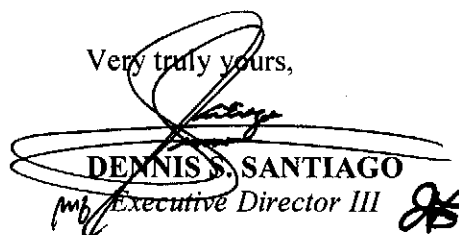
As represented, the Regional Inter-Agency Bids and Awards Committee (RIABAC) of the Procurement Service of the Department of Budget and Management – Cordillera Administrative Region, conducted a public bidding for the procurement of a van. The lone bidder posted a surety bond as warranty security, equivalent to thirty percent (30%) of the total Contract Price, in lieu of retention money or special bank guarantee equivalent to ten percent (10%) of the total contract price. The said bidder was found ineligible due to non-submission of the required bid security.

At the outset, we wish to stress that this office does not have the authority to exempt agencies from the application of the rules. At most it may only render interpretations or constructions of the provisions of the law and the rules.

Please note that the acceptable forms of warranty security in the procurement of goods are limited to retention money and special bank guarantee¹. Surety bond as a form of warranty security is acceptable in case of infrastructure projects². Thus, following the principle "*expressio unius est exclusio alterius*"³, the specific inclusion of retention money and special bank guarantee as acceptable forms of warranty security for the procurement of goods implies the exclusion of other forms of warranty security not mentioned. In this regard, we are of the view that a surety bond cannot be considered an acceptable form of warranty security for the procurement of goods.

We hope that our advice sufficiently addresses your concern. Should you have further questions, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director III

¹ Section 62 of RA 9184 and its Revised IRR.

² Section 62.2.3.3. of RA 9184 and its Revised IRR.

³ "the mention of one thing implies the exclusion of another thing"; *Amel U. Ty, et al. vs. NBI*, G.R. No. 182147, December 15, 2010.