



Republic of the Philippines
MIMAROPA Region
Province of Occidental Mindoro
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 65
Series of 2022

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**"AN ORDER PROVIDING FOR THE GUIDELINES ON THE WARRANTY AMOUNT TO BE
RETAINED/DEDUCTED BY THE AGENCY ON THE CONTRACT AMOUNT ON EVERY
PROCUREMENT OF GOODS USING THE ALTERNATIVE MODES OF PROCUREMENT
AND COMPETITIVE BIDDING"**

WHEREAS, Article 1561 of the Civil Code of the Philippines states under warranty against hidden defects of or encumbrances upon the thing sold that the vendor shall be responsible for warranty against the hidden defects which the thing sold may have, should they render it unfit for the use for which it is intended, or should they diminish its fitness for such use to such an extent that, had the vendee been aware thereof, he would not have acquired it or would have given a lower price for it; but said vendor shall not be answerable for patent defects or those which may be visible, or for those which are not visible if the vendee is an expert who, by reason of his trade or profession, should have known them;

WHEREAS, Section 62(a), Article XIX of Republic Act No. 9184 otherwise known as the Government Procurement Reform Act provides that 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, the obligation of which shall be covered by either retention money in the amount equivalent to a percentage of the total contract price. 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;

WHEREAS, Section 62.1 of the 2016 Revised IRR of RA 9184 sets forth the rules on warranty security required from the contract awardee for the procurement of Goods in order to assure that manufacturing defects shall be corrected by the supplier;

WHEREAS, in view of the aforementioned, the Provincial Government of Occidental Mindoro formulates these guidelines on the warranty amount to be retained on the contract amount on every procurement of goods using the alternative modes of procurement and competitive bidding;

NOW THEREFORE, I, EDUARDO B. GADIANO, Governor of the Province of Occidental Mindoro, by virtue of the powers vested in me by law, do hereby order the issuance of the **GUIDELINES ON THE WARRANTY AMOUNT TO BE RETAINED/DEDUCTED BY THE AGENCY ON THE CONTRACT AMOUNT ON EVERY PROCUREMENT OF GOODS USING THE ALTERNATIVE MODES OF PROCUREMENT AND COMPETITIVE BIDDING**:



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SECTION 1. COVERAGE

These guidelines shall cover the amount of warranty to be withhold on the contract of the suppliers in line with Section 62.1 of the 2016 Revised IRR of RA 9184. The latter mandates that the obligation for warranty for the procurement of goods shall be covered by either retention money in an amount equivalent to at least one percent (1%) of every progress payment, or a special bank guarantee equivalent to at least one percent (1%) of the total contract price. The GPPB agreed to prescribe the rate of the warranty security for the procurement of goods to at least one percent (1%) but not to exceed five percent (5%).

SECTION 2. DIFFERENT ALTERNATIVE MODES OF PROCUREMENT WITH REQUIRED WARRANTY

In cases that the default procurement through general or public bidding cannot be used, alternative modes of procurement shall be applied, to wit:

Alternative Method of Procurement	Warranty Security/Retention Amount
Direct Contracting	✓
Repeat Order	✓
Two-Failed Biddings	✓
Small Value Procurement	✓
Take Over-Contracts	✓
Emergency Cases	✓

SECTION 3. DEFINITION OF TERMS.

For the purpose of these guidelines, the terms below shall be defined as follows:

Goods – refers to all items, supplies, materials and general support services, except Consulting Services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity excluding meals and snacks, drinking water, fuel, oil and gasoline.

Purchase Order (PO) – Is a form/document used by the agency/entity, addressed to a supplier, to deliver specific quantities of supplies/goods/property subject to the terms and conditions contained in the PO.



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Retention Amount – sum of money held by the government as a safeguard for any defective or non-conforming work by the contractor.

The term **“Warranty”** and **“Retention Amount”** will be used in these guidelines interchangeably.

Expendable Supplies – spare parts sought to be procured with a life expectancy of more than one (1) year but which shall have decreased substantially in value after being put to use for only one (1) year.

Non-expendable supplies – Refers to articles which are not consumed in use and ordinarily retain their original identity during the period of use, whose serviceable life is more than one (1) year and which add to the assets of the Government.

Government Procurement Policy Board (GPPB) - The principal body responsible for procurement policy formulation and the implementation and monitoring of effective public procurement reform, thereby promoting and achieving good governance, in general, and transparency, accountability, equity, effectiveness, efficiency and economy in Government, in particular.

SECTION 4. APPLICABLE RULES

To guarantee that the supplier shall perform his responsibilities as prescribed in Section 62.1 of IRR of RA 9184, it shall be required to post a warranty or retention money in accordance with the following schedule:

A. Retention Amount if No Warranty Security Posted

Contract Price	Rate of Retention
₱0 – ₱500,000	1%
₱500,001 – ₱1,000,000	2%
₱1,000,001 – ₱3,000,000	3 %
₱3,000,001 – ₱5,000,000	4%
₱5,000,001 and above	5%

The rate of retention to be applied shall depend on the amount of the Contract as presented in the Purchase Order.



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B. Procedure on Retention of Amount. The Bids and Awards Committee shall inform the contractor/supplier on the rate of retention to be imposed on the contract. The rate of retention shall likewise be indicated on the Purchase Order. The Audit Division of the Provincial Accountant's Office, shall, during the computation of the withholding taxes and audit of vouchers, also withhold the corresponding amount of retention.

The Bookkeeping Division shall record the amount of retention money (warranty) with the following account:

Account Name	Debit	Credit
Accounts Payable	xxx	
Guaranty/Security Deposits Payable		xxx

C. Withdrawal of Retention. The amounts of retention money shall only be released after the lapse of three (3) months, in the case of Expendable Supplies, or after consumption thereof, or a minimum of one (1) year, in the case of Non-expendable Supplies, after acceptance by the Procuring Entity of the delivered supplies. Provided, however, that the supplies delivered are free from patent and latent defects and all the conditions imposed under the contract have been fully met.

C.1. Documentary Requirements on the Withdrawal of Retention. Withdrawal of retention money shall not be approved without completing the following documentary requirements:

1. Disbursement Voucher;
2. Certified photo copy of Disbursement voucher during the payment of original contract;
3. Certified photo copy of Purchase Order;
4. If expendable supplies, Requisition and Issue Slip certified by the General Services Office showing that supplies were already consumed and certification that retention money can be withdrawn;
5. If non-expendable supplies, copy of the Property Acknowledgment Receipt of the accountable person showing its date of receipt.
6. Any other documents peculiar to the nature of transactions.



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SECTION 5. APPLICABILITY. These guidelines apply to all transactions using the alternative modes of procurement as provided in Section 2 hereof and to competitive bidding. The Bids and Awards Committee shall apply these guidelines on all transactions in their office with pending issuance of PO.

SECTION 6. SEPARABILITY CLAUSE. If any provision of this Executive Order is declared invalid for any reason, the parts not affected thereby shall remain valid and in full force and effect.

SECTION 7. REPEALING CLAUSE. All Executive Orders, Rules and Regulations issued by this province which are inconsistent with any of the provisions of this Executive Order are hereby repealed, superseded or modified accordingly.

SECTION 8. EFFECTIVITY. These guidelines shall take effect immediately upon the approval of the Provincial Governor.

DONE this 27th day of September 2022 at the Provincial Capitol, Mamburao, Occidental Mindoro, Philippines.


EDUARDO B. GADIANO
Governor