



Republic of the Philippines  
Department of Finance  
**INSURANCE COMMISSION**  
1071 United Nations Avenue  
Manila



Insurance Commission Ruling (ICR) No.:	2021-05
Date:	29 September 2021

**MS. VIVIEN R. ALCUITAS**  
Senior Executive Assistant  
**Bangko Sentral Ng Pilipinas**  
**Cebu Regional Office**  
40 Pantaleon del Rosario St,  
Cebu City, 6000 Cebu

SUBJECT: **Query on Performance Bond**

**Dear Ms. Alcuitas:**

This pertains to your email dated 03 August 2021 seeking clarification on the deletion of a provision in a Performance Bond issued by Prudential Guarantee and Assurance, Inc. (PGA)

In your email, it is mentioned that in a Performance Bond denominated as **OIC Bond No. G(13)174134** which PGA issued for the Elevator Project of the Bangko Sentral Ng Pilipinas Cebu Regional Office (BSP-Cebu), with The Lift Company Philippines, Inc. as Obligor, a provision is included therein which states as follows:

*"It is hereby further agreed and understood that no action at law or equity shall be brought before a competent Court within one year from the date said written notice of any existing obligation is received by the Surety, as herein stipulated."*

Likewise, it is mentioned that the BSP-Cebu requested the winning bidder to have the aforementioned statement removed/deleted through an Endorsement Policy but PGA stated that it could not do so because the above mentioned provision forms part of the Performance Bond Form which was approved by the Insurance Commission.

At the onset, it must be noted that the subject Performance Bond meets the requirements relating to Performance Security under Section 39 of the Revised Implementing Rules and Regulations of RA No. 9184 otherwise known as the "Government Procurement

Reform Act” namely: that the Surety bond shall be callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security; that the performance security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity, which shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the contract; and, that the performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.

Further, please be informed that upon verification with our Records Section, the aforementioned provision which BSP-Cebu seeks to be removed/deleted forms part of the Performance Bond Form as approved by this Commission dated 09 July 2009.

It must be emphasized, however, that there is a limitation as to what an endorsement form may alter/correct in any surety bond form. In any endorsement form approved by this Commission, there is a standard provision which states the following, to quote:

**“[NOTE: Only the following items may be altered/corrected by this endorsement:**

- 1. Name of the Principal/Obligee**
- 2. Period of Coverage**
- 3. Amount of Bond**
- 4. Date of Bidding**
- 5. Change of Address**
- 6. Typographical Error**

It bears to emphasize that an endorsement form cannot be used in all instances to vary the provisions of a surety bond duly approved by this Commission, but is limited only to the above-listed items. Note further that any endorsement form should be approved by the Insurance Commission, and the same is subject to the consent of the contracting parties.

Please be guided accordingly.

Thank you.

Very truly yours,

**DENNIS B. FUNA**  
Insurance Commissioner

