



Republic of the Philippines
Province of Cavite
CITY OF BACOR
Office of the Mayor

EXECUTIVE ORDER No. 129 - 2023
Series of 2023

**AN ORDER ADOPTING THE IMPLEMENTING RULES AND REGULATIONS
OF CITY ORDINANCE NO. 310-2023, OTHERWISE KNOWN AS THE "2023
RETENTION MONEY FORFEITURE ORDINANCE OF BACOR CITY"**

WHEREAS, Section 16 of Republic Act No. 7160 provides that every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare;

WHEREAS, the Sangguniang Panlungsod enacted and passed City Ordinance No. 310-2023 on 11 September 2023, entitled "An Ordinance Prescribing The Procedure For The Forfeiture Of Retention Money Under Procurement Contracts In Favor Of The City Government Of Bacoor, Cavite And Imposing Penalties For Violations Hereof,"

WHEREAS, the City Government of Bacoor recognizes the need to issue an implementing Rules and Regulations pertinent to the above-mentioned Ordinance;

WHEREAS, the Office of the City Mayor of Bacoor, in coordination with the concerned city government offices, issued the above-mentioned Implementing Rules and Regulations that shall govern the "2023 Retention Money Forfeiture Ordinance Of Bacoor City,"

NOW, THEREFORE, I, STRIKE B. REVILLA, City Mayor of Bacoor, Cavite, by virtue of the powers vested in me by law, do hereby order for the adoption and implementation of the Implementing Rules and Regulations of City Ordinance No. 310-2023 herein attached.

Section 1. Implementing Rules and Regulations (IRR).

Attached herein is the Implementing Rules and Regulations of City Ordinance No. 310-2023 which shall form part of this Executive Order. This shall be known as the "Implementing Rules and Regulations of 2023 Retention Money Forfeiture Ordinance of Bacoor City."

All affected offices and departments are hereby ordered to adopt the said implementing rules and regulations and be guided accordingly.

Strict compliance and observance of all city government officials and employees to this IRR is hereby ordered.





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Section 2. Repealing Clause. All previously issued orders and directives inconsistent with any provision found herein shall be deemed repealed, revoked or amended accordingly.

Section 3. Separability Clause. In the event that any provision found herein shall be judicially or administratively declared illegal or infirm, the remaining provisions shall remain in full force and effect.

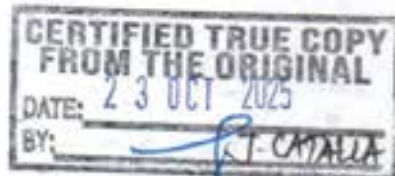
Section 4. Effectivity Clause. This Executive Order shall take effect immediately upon its signing and remain in full force and effect until repealed, revoked or amended accordingly.

SO ORDERED.

DONE this 7th day of December 2023 in the City of Bacoor, Province of Cavite.


STRIKE B. REVILLA
City Mayor





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THE IMPLEMENTING RULES AND REGULATIONS of CITY ORDINANCE NO. 310-2023, Series of 2023

"AN ORDINANCE PRESCRIBING THE PROCEDURE FOR THE FORFEITURE OF RETENTION MONEY UNDER PROCUREMENT CONTRACTS IN FAVOR OF THE CITY GOVERNMENT OF BACOOR, CAVITE AND IMPOSING PENALTIES FOR VIOLATIONS HEREOF."

RULE I - GENERAL PROVISIONS

SECTION 1. TITLE. - These Implementing Rules and Regulations shall be known and cited as the "Implementing Rules and Regulations of City Ordinance No. 266-2023, Series of 2023 ("IRR"), the "2023 RETENTION MONEY FORFEITURE ORDINANCE OF BACOOR CITY."

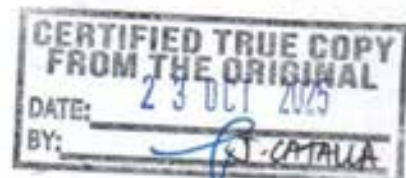
SECTION 2. PURPOSE. - These Implementing Rules and Regulations are promulgated to prescribe a framework for effectively implementing and enforcing City Ordinance No. 310-2023, Series of 2023.

SECTION 3. CONSTRUCTION. - The Implementing Rules and Regulations shall be construed and applied in compliance with and in furtherance of the policies and objectives of the above Ordinance.

RULE II - POLICIES AND OBJECTIVES

SECTION 4. DECLARATION OF POLICY. - It shall be the policy of the City of Bacoor:

- a. To acquire, develop, lease, encumber, alienate, or otherwise dispose of real or personal property held by them in their proprietary capacity and to apply their resources and assets for productive, developmental, or welfare purposes in the exercise or furtherance of their governmental or proprietary powers and functions;
- b. To enter into contracts and to enjoy full autonomy in the exercise of their proprietary functions and to enter into joint ventures with the private sector;
- c. To create its own sources of revenue and levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy and
- d. To continuously enter into procurement contracts, particularly for goods and infrastructure projects, in accordance with the provisions



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of Republic Act (RA) No. 9184 ("Government Procurement Reform Act").

SECTION 5. OBJECTIVE. – Consistent with the above policies, it is the objective of this Ordinance to provide the procedures for the forfeiture of retention money provided in all contracts for the procurement of goods and for the construction of infrastructure projects within the City of Bacoor, Cavite in favor of the Local Government of the City of Bacoor, Cavite.

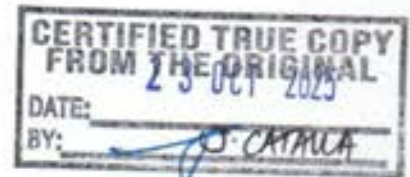
RULE III – SCOPE AND COVERAGE

SECTION 6. COVERAGE. - This Ordinance shall only apply to all procurement of goods and infrastructure projects covered by the Republic Act (R.A.) No. 9184 and to all contracts entered into by the Local Government of the City of Bacoor wherein there is a provision on retention money.

RULE IV - DEFINITION OF TERMS

SECTION 7. DEFINITION OF TERMS – For purposes of this Implementing Rules and Regulations, these terms are defined as follows:

- a. **Contractor** – any person, partnership, corporation, cooperative, or similar entity who is a party to a contract with the City Government of Bacoor to procure goods or construct infrastructure projects.
- b. **Infrastructure Projects** – Includes the construction, improvement, rehabilitation, demolition, repair, restoration, or maintenance of roads and bridges, railways, airports, seaports, communication facilities, civil works components of information technology projects, irrigation, flood control and drainage, water supply, sanitation, sewerage and solid waste management systems, shore protection, energy/power and electrification facilities, national buildings, school buildings, hospital buildings, and other related construction projects of the government. For purposes of, and throughout this IRR, the term "Infrastructure Projects" shall have the same meaning as, and shall be used interchangeably with, "civil works" or "works."
- c. **Month** - shall consist of thirty (30) calendar days.
- d. **Procurement** – refers to acquiring goods, consulting services, and the contracting for infrastructure projects by the Procuring Entity.
- e. **Procuring Entity** – refers to the City Government of Bacoor.
- f. **Retention Money** - a form of security that ensures the work is satisfactorily done and on schedule. It is part of the contract price.



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being withheld by the procuring entity (i.e., the government) from progress payments due to the supplier or contractor to guarantee indemnity for uncorrected discovered defects and third-party liabilities in infrastructure projects.

- g. **Year** - shall consist of three hundred sixty-five (365) days.

RULE V – IMPLEMENTING OFFICES AND COMMITTEE

SECTION 8. IMPLEMENTING OFFICE. – The Office of the City Accountant, in coordination with the City Administrator's Office, shall lead this Ordinance's strict implementation and enforcement.

SECTION 9. DISSEMINATION OF ORDINANCE. – It shall be the duty of the Bids and Awards Committee (BAC) and the concerned end-user or implementing unit of the City Government to inform the suppliers and contractors of the provisions of this Ordinance. The City Information Office shall be responsible for disseminating relevant information to the public regarding this Ordinance.

RULE VI – MANDATORY GUIDELINES

SECTION 10. RELEASE OF RETENTION MONEY. – The supplier or contractor is mandated to claim the retention money within the period provided. The following shall provide the period when the retention money is deemed due for release:

- a. **For infrastructure projects** - within one (1) year after the issuance by the City Engineering Office of the Certificate of Final Inspection which shall signify, for purposes of this Ordinance, the final acceptance of the works by the City Government.
- b. **For procurement of goods** - within one (1) year after the lapse of the warranty period of the procured good/s, or in the case of expendable supplies, after consumption thereof, provided that the supplies delivered are free from patent and latent defects and all the conditions imposed under the contract have been fully met.

SECTION 11. FORFEITURE OF RETENTION MONEY IN FAVOR OF THE CITY GOVERNMENT OF BACOR. – The failure of the supplier or contractor to claim the retention money within the periods mentioned in Section 10 of this IRR, shall be construed as a waiver to collect the said funds. For this purpose, the following notification procedures shall be strictly observed by the City Government:

- a. The Office of the Accounting Services shall immediately notify the City Administrator's Office of the list of suppliers and contractors for release.





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- b. In the absence of a contractual provision in existing and future contracts of the mandate provided in Section 10, the City Administrator's Office shall issue two (2) written notifications to the supplier or contractor to be sent via registered mail at their address as indicated in their bid submissions. The two notices must be issued separately, with the second notice sent not earlier than 90 calendar days but not later than 180 calendar days from when the first notice is issued.
- c. The first notice shall be sent not later than one (1) year after a Certificate of Completion is issued by the Head of the City Engineering Office for infrastructure projects and not later than one (1) year upon issuance of a Certificate of Consumption or Certificate of Lapse of Warranty by the Head of the Department or Unit that used the procured goods or expendable supplies.
- d. The receipt by the City Administrator's Office of a written claim for the retention money from the natural or juridical person who entered into the procurement contract with the City Government within the one-year prescriptive period, whether as a response to the notices issued by the City Administrator's Office or through the contractor's initiative, shall effectively toll the running of the said prescriptive period. The City Administrator's Office shall submit a Report of written claims received to the Office of the City Accountant, copy furnishing the Office of the City Mayor.
- e. If retention money is still uncollected after the lapse of 90 calendar days from the City Government of Bacoor's receipt of the written claim, the prescriptive period shall resume counting. Subsequent written claims, if any, shall allow the tolling of periods for another ninety (90) calendar days.
- f. The contractual provisions mentioned above shall be deemed written in every procurement contract entered into by the City Government of Bacoor for goods and infrastructure projects.

SECTION 12. INCLUSION OF PROVISIONS ON FORFEITURE OF RETENTION MONEY IN ALL PROCUREMENT CONTRACTS. – The Bids and Awards Committee and the City Legal Services Office are hereby directed and mandated to include applicable provisions of this Ordinance in all procurement contracts to be entered into by the City Government starting on the date of effectivity hereof.

SECTION 13. REPORTING. – The Office of the City Accountant shall submit a quarterly and annual Retention Money Report to the Office of the City Mayor, copy furnishing the City Administrator's Office. The quarterly report shall be submitted within 15 days at the end of each quarter (i.e., every April 15, July 15, and October 15). The annual report shall be submitted not later than the 15th day of December of the inclusive calendar year.

SECTION 14. CONTENTS OF THE REPORT. – The reports shall contain the following details:



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- a. List of all completed projects with Reference Number as indicated in the Annual Procurement Plan (APP);
- b. The dates when the retention money is due for release: which refers to the date of acceptance of the complete delivery in case of goods and the date of final acceptance (i.e., one year from project completion) in case of infrastructure projects;
- c. Indication as to "not yet due," "processed" (ongoing), or "released" retention money, including the amounts thereof;
- d. The dates when the retention money is supposed to be forfeited, i.e., 1 year after the dates indicated in number 2 of this Section, considering tolled periods, if any, and
- e. Other relevant details such as notices issued, claims filed, tolled periods, etc.

SECTION 15. NATURE OF THE FORFEITED RETENTION MONEY. - The forfeited retention money shall be treated as unappropriated savings at the end of the calendar year under the General Fund. In case the funding source is governed by a specific law, regulation, or agreement requiring the return of unutilized funds at the end of the prescribed period, the forfeited retention money shall be remitted back to the specified agency as required therein.

SECTION 16. BUDGETARY REQUIREMENTS. - The funds needed to implement the Ordinance shall be taken from any available funds of the Office of the City Mayor subject to existing laws and Commission on Audit regulations.

RULE VII - PENALTIES

SECTION 17. VIOLATION AND PENALTIES. - Any employee of the City Government of Bacoor or any person who worked in connivance with or in conspiracy with the employee of the City Government of Bacoor who shall release or cause the release of the retention money that should have been forfeited in accordance with the Ordinance, shall be liable as follows:

- a. For first-time offenders: an administrative fine of Five Thousand Pesos (Php 5,000.00) plus imprisonment for ten (10) to thirty (30) days upon conviction.
- b. For second-time offenders: an administrative fine of Five Thousand Pesos (Php 5,000.00) plus the penalty of imprisonment of thirty (30) to ninety (90) days upon conviction.
- c. For third-time and succeeding offenders: an administrative fine of Five Thousand Pesos (Php 5,000.00) plus the penalty of imprisonment of six (6) months to one (1) year upon conviction.



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- d. The administrative fines indicated above shall be without prejudice to administrative sanctions, such as suspension or dismissal from service, after administrative due process. The penalty of imprisonment shall apply after criminal conviction in a court of competent jurisdiction.

For purposes of this Section, the Office of the City Legal Service shall conduct a fact-finding investigation and shall be responsible for filing the appropriate legal action for all violations of the Ordinance.

RULE VIII - MISCELLANEOUS PROVISIONS

SECTION 18. SEPARABILITY CLAUSE. – If, for any reason, any provision or part of this IRR is declared invalid or unconstitutional, other provisions not affected thereby shall remain in full force and effect.

SECTION 19. REPEALING CLAUSE. – All Ordinances, Resolutions, local, Executive Orders, or Administrative Issuances or parts inconsistent with the IRR's provisions are hereby repealed, amended, or modified accordingly.

SECTION 20. EFFECTIVITY. – This IRR shall take effect immediately.