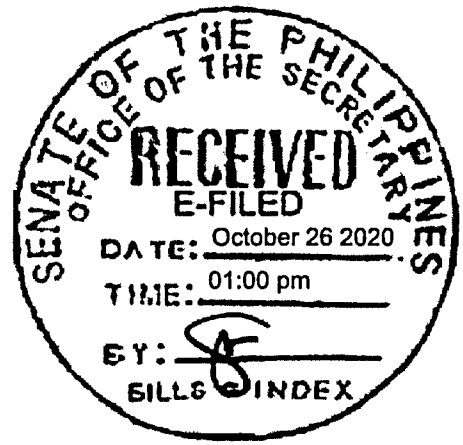


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE

P.S. Res. No. 556

Introduced by SENATOR LEILA M. DE LIMA

RESOLUTION
DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE COMMISSION ON AUDIT (COA) REPORT STATING THAT NEARLY P20 BILLION WORTH OF CONTRACTS AWARDED BY THE NATIONAL IRRIGATION ADMINISTRATION (NIA) HAD VIOLATED PROCUREMENT LAWS, WITH THE END VIEW OF PROMOTING GOOD GOVERNANCE BY IMPROVING GOVERNMENT TRANSPARENCY AND ACCOUNTABILITY

1 WHEREAS, Article II, Section 28 of the 1987 Constitution declares, in part,
2 that “[t]he State adopts and implements a policy of full public disclosure of all its
3 transactions involving public interest;

4 WHEREAS, Article I, Section 2 of Republic Act (R.A.) No. 9184, otherwise
5 known as the “Government Procurement Reform Act”, declares that the State shall
6 “promote the ideals of good governance in all its branches, departments, agencies,
7 subdivisions, and instrumentalities, including government-owned and/or -controlled
8 corporations, and local government units”;

9 WHEREAS, the National Irrigation Administration (NIA) is a government-
10 owned and controlled corporation mandated by the government to harness and
11 develop all available and possible water resources for irrigation. It was created under
12 R.A. No. 3601 on 22 June 1963. Its charter was amended by Presidential Decree
13 (P.D.) 552 on 11 September 1974 and P.D. 1702 on 17 July 1980;

14 WHEREAS, food crops require a steady and reliable supply of water to grow,
15 thus emphasizing the NIA’s crucial and indispensable role in the government

1 bureaucracy to ensure food production and maintain food security for millions of
2 Filipinos;

3 WHEREAS, a recently released audit performed by the Commission on Audit
4 (COA) flagged the NIA for violating procurement laws when it awarded at least 339
5 contracts to “ineligible contractors” totaling ₱19.986 billion in 2019;¹

6 WHEREAS, COA’s report stated that these “ineligible contractors” committed
7 violations as they failed to provide documentary requirements, violated procurement
8 timelines, went through inadequate procedures in the post-qualification evaluation
9 of winning bidders, or did not comply with “issuance of bid and performance security
10 before signing of the contract”;²

11 WHEREAS, the report also revealed that some contracts were “awarded
12 without first securing authorities/permits to enter or proofs of acquisition of Right of
13 Way, contrary to the Revised Implementing Rules and Regulations (IRR) of R.A. No.
14 9184 and Government Procurement Policy Board Manual of Procedures for the
15 Procurement of Infrastructure Projects”;³

16 WHEREAS, “it bears to emphasize that compared to last year’s report of 106
17 contracts, the reported 339 contracts during the year increased by 233 contracts or
18 219.81 per cent. Consequently, the total contract cost also increased from P4.345
19 billion to P19.986 billion, or an increase of P15.641 billion or 359.98 per cent during
20 the year”, the COA said;⁴

21 WHEREAS, in response to the audit, the NIA said the delay in submission of
22 documents was caused by “reshuffling of personnel”;⁵

23 WHEREAS, this purported excuse does not explain why the NIA still went
24 ahead and awarded these contracts to ineligible contractors in the first place.
25 As the COA maintained, the officers’ obligation to exercise to diligence of a good
26 father should have made them comply with the procurement laws – especially after

¹ Rappler.com. (11 October 2020). *COA flags P20-B irrigation agency contracts awarded to 'ineligible contractors'*. Retrieved October 15, 2020, from <https://www.rappler.com/nation/commission-audit-flags-national-irrigation-administration-contracts-awarded-ineligible-contractors>

² *Ibid.*

³ Commission on Audit. Annual Audit Report on the National Irrigation Administration (NIA) for the Years Ended December 31, 2019 and 2018 – Part 2: Observations and Recommendations. Retrieved 15 October 2020, from: <https://www.coa.gov.ph/index.php/gov-t-owned-and-or-controlled-corp-goccs/2019/category/8656-national-irrigation-administration>

⁴ *Supra* Note 3.

⁵ *Supra* Note 1.

1 already having been repeatedly reminded by the COA that they are legally bound to
2 comply thereto;

3 WHEREAS, this is not the first time that the NIA had been flagged by the COA.
4 Just last year, the NIA had been flagged over the delays in its implementation of
5 irrigation projects, a majority of which should have been completed years ago. Based
6 on the COA's annual audit report as of 31 December 2018, the NIA still had 299
7 uncompleted irrigation projects with a total contract cost of ₱20.7 billion. The audit
8 body said the completion of the projects had been delayed for up to 2,287 calendar
9 days (6.2 years) "owing to the unsatisfactory performance of contractors";⁶

10 WHEREAS, in the same audit report, the COA also flagged the NIA for 106
11 contracts amounting to ₱4.345 billion awarded to bidders with questionable
12 qualifications to carry out the projects, noting that winning contractors had
13 "incomplete documentary/eligibility requirements; questionable availability of
14 project personnel and equipment; and deficient legal, technical, and financial
15 eligibility documents";⁷

16 WHEREAS, in 2018, the COA flagged delays in the NIA's implementation of
17 projects worth almost ₱12 billion. In the report, the COA blamed the "inadequate
18 planning and inefficient execution of surveys and engineering designs" behind the
19 non-completion of 436 irrigation projects in 2017. The COA also added that this has
20 been "a recurring issue that the agency [has] been unable to address";⁸

21 WHEREAS, in the most recent COA Audit Report on the NIA, it stressed that
22 its previous recommendation for NIA to "[c]onduct investigation to determine
23 liability of the contractors for submitting deficient documents to support compliance
24 with the eligibility requirements of the Contract", has remained unheeded;⁹

25 WHEREAS, back in 2013, the COA had expressed disappointment at the NIA's
26 poor performance from 2009 to 2012, taking aim at the NIA's "relatively low" level of
27 irrigation development despite spending huge amounts of money;¹⁰

⁶ Marcelo, E. (2019 August 13). *COA scolds NIA for P20 billion delayed projects*. Retrieved October 15, 2020, from <https://www.philstar.com/headlines/2019/08/13/1942963/coa-scolds-nia-p20-billion-delayed-projects>

⁷ *Ibid.*

⁸ Rappler.com. (29 July 2018). *COA hits delays in P12-billion irrigation projects*. Retrieved October 15, 2020, from <https://www.rappler.com/nation/national-irrigation-administration-project-delays-audit-report-2017>

⁹ *Supra* Note 3.

¹⁰ Rappler.com (3 November 2013). *COA hits NIA for poor irrigation record*. Retrieved October 15, 2020, from <https://www.rappler.com/nation/coa-nia-poor-irrigation-record>

1 WHEREAS, as the body whose mandate under P.D. No. 552 is to “effectuate
2 an economic means of achieving the optimal and diversified utilization and control of
3 water by undertaking integrated irrigation projects”, it is duty-bound to comply with
4 procurement laws to ensure that there will be no wastage of public funds, and to
5 obviate any delay in the delivery of the much needed infrastructure, projects and
6 services on the ground;

7 WHEREAS, there is a need for the NIA to improve transparency and ensure
8 that its bidding process is in accordance with the law, as well as improve its efficiency
9 in terms of implementing its irrigation programs and projects for the benefit of
10 Filipino farmers nationwide;

11 WHEREAS, misfeasance, malfeasance and nonfeasance in public service are
12 inimical to the nation’s interest and must never be countenanced. As required by
13 Rule I, Section 3 d) of the Revised IRR of R.A. No. 9184, officials and employees who
14 are responsible for the irregularities and violations must be subjected to investigation
15 and held accountable to the full extent of the law;

16 WHEREAS, there is a need to determine the root causes of the NIA’s seeming
17 chronic underperformance in the implementation of its irrigation programs, and the
18 controversies hounding the procurement processes;

19 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE, to direct the
20 appropriate Senate Committee to conduct an inquiry, in aid of legislation, on the
21 Commission on Audit (COA) report stating that nearly ₱20 billion worth of contracts
22 awarded by the National Irrigation Administration (NIA) had violated procurement
23 laws, with the end view of promoting good governance by improving government
24 transparency and accountability.

Adopted,


DEILA M. DE LIMA