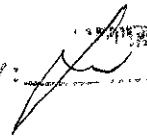


FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE
OFFICE OF THE SECRETARY

10 JUL 15 8:16

SENATE

RECEIVED BY: 

S. No. 1450

Introduced by Senator JUAN MIGUEL F. ZUBIRI

EXPLANATORY NOTE

The government is obliged to protect and render basic services to its inhabitants, and the latter, in turn, are required to support their government in terms of enforced and mandatory contributions called taxes.

However, it is also the duty of the government to alleviate the suffering of its inhabitants in view of the economic hardships they face. Such alleviation can come from various forms such as implementation of social legislations, implementation of finance-generating programs or simply maximizing the taxes paid by the citizens and returning the same through efficient and adequate basic services.

The objective of this Act is to curb, lessen and eventually rid the government off of corruption and red tape resulting from contracts awarded to persons or entities for procurement of goods and services. Various reports yield that a certain percentage of a government contract land on the hands of government officials and employees, the goods or services to be rendered subject of which is proportionately adjusted by the contractor thereby resulting in a lesser quality of goods and services delivered. With this practice, the government and the tax paying public are prejudiced.

In view of the foregoing, it is strongly recommended that this bill be approved immediately.


JUAN MIGUEL F. ZUBIRI

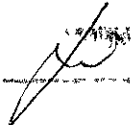
FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE
OFFICE OF THE SECRETARY

10 JUL 15 A9:45

SENATE

S. No. 1450

RECEIVED BY: 

Introduced by Senator JUAN MIGUEL F. ZUBIRI

AN ACT
IMPOSING CRIMINAL SANCTIONS AGAINST UNSCRUPULOUS CONTRACTORS
AND AWARDEES OF GOVERNMENT CONTRACTS THEREBY AMENDING
REPUBLIC ACT no. 9184 AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1.** This Act shall be known as the "Anti Unscrupulous Contracts Act."
2

3 **SECTION 2.** It is declared policies of the State to promote the ideals of good
4 governance in all its branches, rid the government procedures of corruption, and protect
5 the government and the tax paying public from any and all mediocre goods and services
6 rendered by contractors and awardees of procurement rights.
7

8 **SECTION 3.** As stated in Republic Act no. 9184, this Act shall apply to the
9 Procurement of Infrastructure Projects, Goods and Consulting Services, regardless of
10 source of funds, whether local or foreign, by all branches and instrumentalities of
11 government, its departments, offices and agencies, including government-owned
12 and/or-controlled corporations and local government units, subject to the provisions of
13 Commonwealth Act No. 138. Any treaty or international or executive agreement
14 affecting the subject matter of this Act to which the Philippine government is a signatory
15 shall be observed.
16

17 **SECTION. 4.** Unscrupulous Contractors is hereby defined under this Act as those
18 persons or entities winning in established bidding procedures of the government and
19 those acquiring procurement rights who has committed and actually rendered the
20 services or delivered the goods as stated in the contract but is found to have been
21 faulty, defective, and below internationally recognized standards which cost the
22 government and the tax payers additional financial burden on account of undertaking
23 repairs or rectifying such faulty or mediocre goods and services rendered.

1 **SECTION 5.** Any and all goods and services undertaken by a winning contractor
2 or an awardee of a procurement right with the government which is found faulty,
3 mediocre, or found to have prejudiced the government or the public shall suffer the
4 penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years
5 at the discretion of the court taking cognizance of the case. If the contractor is a juridical
6 entity, its officers shall be made primarily liable for the offense.

7 The penalty of imprisonment imposed in this section shall be in addition to the
8 liabilities imposed in Section 62 of Republic Act no. 9184 which provides:

9 a) For the procurement of Goods, in order to assure that manufacturing
10 defects shall be corrected by the supplier, manufacturer, or distributor, as
11 the case may be, for a specific time after performance of the contract, a
12 warranty shall be required from the contract awardee for such period of
13 time as may be provided in the IRR, the obligation for which shall be
14 covered by either retention money in the amount equivalent to a
15 percentage of every progress payment, or a special bank guarantee
16 equivalent to a percentage of the total contract price, to be provided in the
17 IRR. The said amounts shall only be released after the lapse of the
18 warranty period, provided that the Goods supplied are free from defects
19 and all the conditions imposed under the contract have been fully met.

20 b) For the procurement of infrastructure projects, the contractor shall assume
21 full responsibility for the contract work from the time project construction
22 commenced up to a reasonable period as defined in the IRR taking into
23 consideration the scale and coverage of the project from its final
24 acceptance by the government and shall be held responsible for any
25 damage for construction works except those occasioned by *force majeure*.
26 The contractor shall be fully responsible for the safety, protection, security,
27 and convenience of his personnel, third parties, and the public at large, as
28 well as the works, equipment, installation and the like to be affected by his
29 construction work and shall be required to put up a warranty security in
30 the form of cash, bank guarantee, letter of credit, Government Service
31 Insurance System bond, or callable surety bond.

32 The contractor shall undertake the repair works, at his own
33 expense, of any defect or damage to the infrastructure projects on account of
34 the use of materials of inferior quality within ninety (90) days from the time the
35 Head of the Procuring Entity has issued an order to undertake repair. In case
36 of failure or refusal to comply with this mandate, the government shall
37 undertake such repair works and shall be entitled to full reimbursement of
38 expenses incurred therein upon demand.

1 Any contractor who fails to comply with the preceding paragraph
2 shall suffer perpetual disqualification from participating in any public bidding
3 and his property or properties shall be subject to attachment or garnishment
4 proceedings to recover the costs. All payables of government in his favor
5 shall be offset to recover the costs.
6

7 **SECTION 6.** Any tax payer, alone or with others, within the jurisdiction of the
8 municipality, city, or province where a contractor has delivered goods or rendered
9 services upon winning and/or acquiring procurement rights based on a contract with the
10 government, who has knowledge or has suffered any damage on account of the faulty,
11 mediocre or substandard goods, its delivery or the substandard rendition of services,
12 may file an action against the contractor or the awardee of the procurement rights with
13 the court for violation of this Act and against the public officer or employee involved, in
14 line with Article XXI of Republic Act 9184.
15

16 **SECTION 7.** Any other law, presidential decree or issuance, executive order,
17 letter of instruction, administrative order, proclamation order, rule or regulation and/or
18 parts thereof contrary to or inconsistent with this Act, is hereby repealed, modified or
19 amended accordingly.
20

21 **SECTION 8.** If any provision of this Act is declared invalid or unconstitutional, the
22 other provisions not affected thereby shall remain valid and subsisting.
23

24 **SECTION 9.** This Act shall take effect immediately upon its approval.
25

26 Approved,