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SENATE

P.S. Resolution No. 1209

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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**A RESOLUTION**

**DIRECTING THE COMMITTEE ON GOVERNMENT CORPORATION AND PUBLIC ENTERPRISES AND OTHER APPROPRIATE COMMITTEES TO INQUIRE, IN AID OF LEGISLATION, ON THE IMPLEMENTATION BY THE METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM (MWSS) OF THE LAIBAN WATER SUPPLY PROJECT**

**WHEREAS**, water is a very basic commodity needed by all for daily living and its supply is imbued with public interest, its procurement therefore must be done with utmost transparency and competitiveness to bring about the best price and, there must be accountability of the people responsible of its procurement and supply;

**WHEREAS**, that pursuant to Section 8 of Executive Order (EO) No. 423, the National Economic Development Authority (NEDA) in consultation with the Government Procurement Policy Board has formulated "Guidelines and Procedures for Entering into Joint Venture (JV) Agreements between Government and Private Entities", which has created a new mode of procurement which circumvents both Republic Act No. 9184, "The Government Procurement Act" and Republic Act 7718, "The BOT Law" thereby creating a new procurement mode called "Negotiated Joint Venture";

**WHEREAS**, the Government Procurement Act applies to all government funded procurements and the BOT Law speaks of private initiatives and private funding for infrastructure projects, both laws specify clearly that they should be conducted thru public bidding;

**WHEREAS**, the Guidelines for Negotiated Joint Ventures issued on April 2008, in effect went beyond Republic Act No. 9184, legislating a new mode of procurement. Worse, it removed the mandatory requirement of public bidding as imposed by the very law it is supposed to implement ;

**WHEREAS**, there are reports that the MWSS, the agency tasked by government for the procurement and supply of water to greater Manila area and its environs, has been conducting secret negotiations with a favored/anointed "Contractor" using EO No. 423 and its "Guidelines" to enter into a Negotiated Joint Venture to the detriment of the people who must shoulder the unconscionable price for a very basic commodity;

**WHEREAS**, there is a grave concern on the adverse impact of this project to price of water to the public and that any new water supply project must be chosen on the basis of the best source and lowest cost, taking into account the requirements of the MWSS system for additional water;

**WHEREAS**, MWSS may have to bear the financial risk of insufficient water for this multibillion dollar project, as there are reports that project lenders and investors would require payment even if water is not produced. Such a risk could be in the billions annually over the contract period;

**WHEREAS**, the other issue is the possible excess capacity, which could result in stranded costs experienced in the power sector which has made Philippines the second highest power cost country in Asia, next to Japan;

**WHEREAS**, the environmental issues must also be looked into especially taking into account the close to 5,000 families or over 100,000 people now living at the dam site as well as the inundation of 8 barangays in Rizal, and various significant sites such as the Sta. Ines falls;

**WHEREAS**, there is a need to look into the necessity of implementing the project through the reported joint venture agreement to ensure that the government will not shoulder the cost of the project and ultimately, to ensure that the consumers will not be unduly burdened with the high cost of water;

**WHEREAS**, as presently structured there is also the anomalous situation where the contracting party MWSS, is also the regulator, hence, there are no checks and balances;

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE**, as it is hereby resolved, that the Committee on Government Corporation and Public Enterprises and other appropriate committees conduct an inquiry, in aid of legislation, on the implementation by Metropolitan Waterworks and Sewerage System (MWSS) of the Laiban water supply project

Adopted,

  
JINGGOY EJERCITO ESTRADA  
Senator