

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

DEC 10 AM 11:23

SENATE  
S.B. NO. 3375

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Introduced by **Senator TEOFISTO "TG" GUINGONA III**

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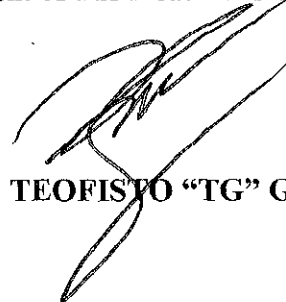
**EXPLANATORY NOTE**

This bill seeks to amend R.A. No. 9184, also known as "the Government Procurement Reform Act," by expanding the list of offenses that can be committed under said Act. Under this Act, recommending, approving, and/or awarding a contract to a bidder that is not legally, technically, and/or financially capable will now be punishable. Other acts that will become punishable are: approving, and/or accepting goods, products, and/or services different from those approved by the appropriate procurement committees, and/or those indicated in the supply contract; and for no lawful cause, changing or causing the change of specifications and/or other technical requirements to favor a particular supplier.

The reason for the amendment of R.A. No. 9184 is to ensure that the procurement process will not be used as a means for corruption.

This bill is a product of the public hearing conducted by the Committee on Accountability of Public Officers & Investigations (Blue Ribbon Committee) on the Philippine National Police (PNP) Helicopter Deal.

In view of the foregoing, the immediate enactment of this measure is earnestly sought.



**TEOFISTO "TG" GUINGONA III**

SENATE  
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**AN ACT AMENDING SECTION 65 OF REPUBLIC ACT NO. 9184, OTHERWISE  
KNOWN AS THE GOVERNMENT PROCUREMENT REFORM ACT**

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

SECTION 1. Section 65 of Republic Act No. 9184 otherwise known as the Government Procurement Reform Act is hereby further amended to read as follows:

**Section 65. Offenses and Penalties. –**

(a) Without prejudice to the provisions of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practice Act" and other penal laws, public officers who commit any of the following acts shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day, but not more than fifteen (15) years:

1. Open any sealed Bid including but not limited to Bids that may have been submitted through the electronic system and any and all documents required to be sealed or divulging their contents, prior to the appointed time for the public opening of Bids or other documents.
2. Delaying, without justifiable cause, the screening for eligibility, opening of bids, evaluation and post evaluation of bids, and awarding of contracts beyond the prescribed periods of Bids or other documents.
3. Unduly influencing or exerting undue pressure on any member of the BAC or any officer or employee of the procuring entity to take a particular bidder.

4. Splitting of contracts which exceed procedural purchase limits and competitive bidding.

5. When the head of the agency abuses the exercise of his power to reject any and all bids as mentioned under Section 41 of this Act with manifest preference to any bidder who is closely related to him in accordance with Section 47 of this Act.

**6. RECOMMENDING, APPROVING, AND/OR AWARDING A CONTRACT TO A BIDDER THAT IS NOT LEGALLY, TECHNICALLY, AND/OR FINANCIALLY CAPABLE.**

**7. APPROVING AND/OR ACCEPTING GOODS, PRODUCTS, AND/OR SERVICES DIFFERENT FROM THOSE APPROVED BY THE APPROPRIATE PROCUREMENT COMMITTEES, AND/OR THOSE INDICATED IN THE SUPPLY CONTRACT**

**8. FOR NO LAWFUL CAUSE, CHANGING OR CAUSING THE CHANGE OF SPECIFICATIONS AND/OR OTHER TECHNICAL REQUIREMENTS TO FAVOR A PARTICULAR SUPPLIER.**

When any of the foregoing acts is done in collusion with private individuals, the private individuals shall likewise be liable for the offense.

In addition, the public officer involved shall also suffer the penalty of temporary disqualification from public office, while the private individual shall be permanently disqualified from transacting business with the government.

(b) Private individuals who commit any of the following acts, including any public officer, who conspires with them, shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than fifteen (15) years:

1. When two or more bidders agree and submit different Bids as if they were bona fide, when they knew that one or more of them was so much higher than the other that it could not be honestly accepted and that the contract will surely be awarded to the pre-arranged lowest Bid

2. When a bidder maliciously submits different Bids through two or more persons, corporations, partnerships or any other business entity in which he has interest of create the appearance of competition that does not in fact exist so as to be adjudged as the winning bidder.

3. When two or more bidders enter into an agreement which call upon one to refrain from bidding for Procurement contracts, or which call for withdrawal of bids already submitted, or which are otherwise intended to secure as undue advantage to any one of them.

4. When a bidder, by himself or in connivance with others, employ schemes which tend to restrain the natural rivalry of the parties or operates to stifle or suppress competition and thus produce a result disadvantageous to the public.

In addition, the persons involved shall also suffer the penalty of temporary or perpetual disqualification from public office and be permanently disqualified from transacting business with the government.

(c) Private individuals who commit any of the following acts, and any public officer conspiring with them, shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but more than fifteen (15) years:

1. Submit eligibility requirements of whatever kind and nature that contain false information or falsified documents calculated to influence the outcome of the eligibility screening process or conceal such information in the eligibility requirements when the information will lead to a declaration of ineligibility from participating in public bidding.

2. Submit Bidding Documents of whatever kind and nature than contain false information or falsified documents or conceal such information in the Bidding Documents, in order to influence the outcome of the public bidding.

3. Participate in a public bidding using the name of another or allow another to use one's name for the purpose of participating in a public bidding.

4. Withdraw a Bid, after it shall have qualified as the Lowest Calculated Bid/Highest Rated Bid, or to accept and award, without just cause or for the purpose of forcing the Procuring Entity to award the contract to

another bidder. This shall include the non-submission of requirements such as, but not limited to, performance security, preparatory to the final award of the contract.

(d) When the bidder is a juridical entity, criminal liability and the accessory penalties shall be imposed on its directors, officers or employees who actually commit any of the foregoing acts.

SECTION 2. Separability Clause. – If for any reason, any section or provision of this Act is declared invalid or unconstitutional, the other sections or provision hereof not affected thereby shall continue to be in full force and effect

SECTION 3. Repealing Clause. – All laws, decrees, orders, rules and regulations, and other issuances, or parts thereof which are inconsistent with the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

SECTION 4. Effectivity. – This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,