

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



73 JUL -1 AM 21

SENATE
S.B. NO. 76

BY: *ja*

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

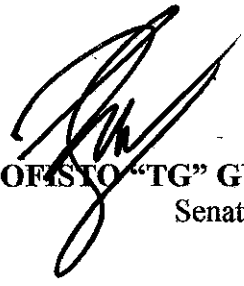
EXPLANATORY NOTE

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
Senator



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SENATE
S.B. NO. 76

RECEIVED BY: *ja*

Introduced by Senator TEOFISTO "TG" GUINGONA III

**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:

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

3
4 **Section 65. Offenses and Penalties. –**

5
6 (a) Without prejudice to the provisions of Republic Act No.
7 3019, otherwise known as the "Anti-Graft and Corrupt Practice
8 Act" and other penal laws, public officers who commit any of
9 the following acts shall suffer the penalty of imprisonment of
10 not less than six (6) years and one (1) day, but not more than
11 fifteen (15) years:

12
13 1. Open any sealed Bid including but not limited to
14 Bids that may have been submitted through the
15 electronic system and any and all documents required to
16 be sealed or divulging their contents, prior to the
17 appointed time for the public opening of Bids or other
18 documents.

19
20 2. Delaying, without justifiable cause, the screening for
21 eligibility, opening of bids, evaluation and post
22 evaluation of bids, and awarding of contracts beyond
23 the prescribed periods of Bids or other documents.

24
25 3. Unduly influencing or exerting undue pressure on
26 any member of the BAC or any officer or employee of
27 the procuring entity to take a particular bidder.

1 4. Splitting of contracts which exceed procedural
2 purchase limits and competitive bidding.
3

4 5. When the head of the agency abuses the exercise of
5 his power to reject any and all bids as mentioned under
6 Section 41 of this Act with manifest preference to any
7 bidder who is closely related to him in accordance with
8 Section 47 of this Act.
9

10 **6. RECOMMENDING, APPROVING, AND/OR**
11 **AWARDING A CONTRACT TO A BIDDER**
12 **THAT IS NOT LEGALLY, TECHNICALLY,**
13 **AND/OR FINANCIALLY CAPABLE.**
14

15 **7. APPROVING AND/OR ACCEPTING GOODS,**
16 **PRODUCTS, AND/OR SERVICES DIFFERENT**
17 **FROM THOSE APPROVED BY THE**
18 **APPROPRIATE PROCUREMENT**
19 **COMMITTEES, AND/OR THOSE INDICATED IN**
20 **THE SUPPLY CONTRACT**
21

22 **8. FOR NO LAWFUL CAUSE, CHANGING OR**
23 **CAUSING THE CHANGE OF SPECIFICATIONS**
24 **AND/OR OTHER TECHNICAL**
25 **REQUIREMENTS TO FAVOR A PARTICULAR**
26 **SUPPLIER.**
27

28 When any of the foregoing acts is done in collusion
29 with private individuals, the private individuals shall
30 likewise be liable for the offense.
31

32 In addition, the public officer involved shall also suffer
33 the penalty of temporary disqualification from public
34 office, while the private individual shall be permanently
35 disqualified from transacting business with the
36 government.
37

38 (b) Private individuals who commit any of the following acts,
39 including any public officer, who conspires with them, shall
40 suffer the penalty of imprisonment of not less than six (6) years
41 and one (1) day but not more than fifteen (15) years:
42

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

1 2. When a bidder maliciously submits different Bids
2 through two or more persons, corporations, partnerships
3 or any other business entity in which he has interest of
4 create the appearance of competition that does not in
5 fact exist so as to be adjudged as the winning bidder.
6

7 3. When two or more bidders enter into an agreement
8 which call upon one to refrain from bidding for
9 Procurement contracts, or which call for withdrawal of
10 bids already submitted, or which are otherwise intended
11 to secure as undue advantage to any one of them.
12

13 4. When a bidder, by himself or in connivance with
14 others, employ schemes which tend to restrain the
15 natural rivalry of the parties or operates to stifle or
16 suppress competition and thus produce a result
17 disadvantageous to the public.
18

19 In addition, the persons involved shall also suffer the penalty of
20 temporary or perpetual disqualification from public office and
21 be permanently disqualified from transacting business with the
22 government.
23

24 (c) Private individuals who commit any of the following acts,
25 and any public officer conspiring with them, shall suffer the
26 penalty of imprisonment of not less than six (6) years and one
27 (1) day but more than fifteen (15) years:
28

29 1. Submit eligibility requirements of whatever kind and
30 nature that contain false information or falsified
31 documents calculated to influence the outcome of the
32 eligibility screening process or conceal such
33 information in the eligibility requirements when the
34 information will lead to a declaration of ineligibility
35 from participating in public bidding.
36

37 2. Submit Bidding Documents of whatever kind and
38 nature than contain false information or falsified
39 documents or conceal such information in the Bidding
40 Documents, in order to influence the outcome of the
41 public bidding.
42

43 3. Participate in a public bidding using the name of
44 another or allow another to use one's name for the
45 purpose of participating in a public bidding.
46

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

1 another bidder. This shall include the non-submission
2 of requirements such as, but not limited to, performance
3 security, preparatory to the final award of the contract.
4

5 (d) When the bidder is a juridical entity, criminal liability and
6 the accessory penalties shall be imposed on its directors,
7 officers or employees who actually commit any of the
8 foregoing acts.
9

10
11 **SECTION 2. *Separability Clause.*** – If any provision of this Act is declared unconstitutional,
12 the same shall not affect the validity and effectivity of the other provisions hereof.
13

14 **SECTION 3. *Repealing Clause.*** – All laws, decrees, orders, and issuances or portions
15 thereof, which are inconsistent with the provisions of this Act, are hereby repealed, amended
16 or modified accordingly.
17

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

Approved,