

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



Senate
Office of the Secretary

15 SEP -8 P1:55

SENATE
S. No. 2943

RECEIVED BY: *J*

Introduced by Senator Miriam Defensor Santiago

AN ACT
TO REQUIRE ALL PROVIDERS OF TELECOMMUNICATIONS SERVICES TO
ESTABLISH AND CARRY OUT PLANS FOR PROCUREMENT FROM
BUSINESSES OWNED BY MINORITIES AND WOMEN

EXPLANATORY NOTE

The Constitution, Article 13 provides:

Section 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

It is in the public interest that business enterprises owned by minorities and women participate in procurement contracts of all providers of telecommunications services. The opportunity in our free enterprise system by minorities and women is essential if this nation is to attain social and economic equality.

Business enterprises can be improved through the development by the providers of telecommunications services of substantial long-range and annual goals, which are supported by training and technical assistance, for the purchase to the maximum practicable extent of technology, equipment, supplies, services, and materials from minority business enterprises.

Procurement policies which include participation of business enterprises that are owned by minorities and women also benefit the communication industry and its

consumers by encouraging the expansion among suppliers and promoting economic efficiency in the process.¹

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
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¹ This bill was originally filed in the Thirteenth Congress, First Regular Session. It was refiled in the Fourteenth Congress, First Regular Session and in the Fifteenth Congress, First Regular Session.

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

1 SECTION 1. *Short Title.* — This Act shall be known as the “Telecommunications
2 Economic Opportunity Act.”

3 SECTION 2. *Declaration of Policy.* — It is the policy of the State to encourage
4 and foster greater economic opportunity for business enterprises that are owned by
5 minorities and women.

6 SECTION 3. *Definition of Terms.* — In this Act, the term —

7 (A) “Business enterprise owned by minorities or women” means—

8 (1) A business enterprise that is at least 51 percent owned by a person or
9 persons who are minority persons or women; or

10 (2) In the case of any publicly owned business, at least 51 percent of the
11 stock of which is owned by one or more persons who are minority persons or
12 women, and whose management and daily business operations are controlled by
13 one or more of those persons.

14 (B) “Commission” means the National Telecommunications Commission.

1 (C) "Control" means exercising the power to make financial and policy
2 decisions.

3 (D) "Minority person" means persons who belong to indigenous cultural
4 communities or group of persons not fully assimilated into the mainstream of social life
5 on account of race, creed, or religion.

6 (E) "Operate" means the active involvement in the day-to-day management of
7 the business and not merely being officers or directors.

8 (F) "Telecommunications service" means the offering, on a common carrier
9 basis, of telecommunications facilities, or of telecommunications by means of such
10 facilities. Such term does not include an information service.

11 SECTION 4. *Annual Plans Required.* –

12 (A) In General. – The Commission shall require each provider of
13 telecommunications services to submit annually a detailed and verifiable plan for
14 increasing its procurement from business enterprises that are owned by minorities or
15 women in all categories of procurement in which minorities are underrepresented.

16 (B) Contents of Plans. – The annual plans required by paragraph (1) shall
17 include, but shall not limited to, short and long-term progressive goals and timetables,
18 technical assistance and training and shall, in addition to goals for direct contracting
19 opportunities, include methods for encouraging both prime contractors and grantees to
20 engage business enterprises that are owned by minorities and women in subcontracts in
21 all categories in which minorities are underrepresented.

22 (C) Implementation Report. – Each provider of telecommunications services
23 shall furnish an annual report to the Commission regarding the implementation of
24 programs established pursuant to this Act in such form as the Commission shall require,
25 and at such time as the Commission shall annually designate.

1 SECTION 5. *Report to Congress.* – The Commission shall provide an annual
2 report to Congress beginning in January of the year in which this law is enacted, on the
3 progress of activities undertaken by each provider of telecommunications services
4 regarding the implementation of activities pursuant to this Act to develop business
5 enterprises that are owned by minorities or women. The report shall evaluate the
6 accomplishments under this Act and shall recommend a program for enhancing the policy
7 declared in this Act, together with such recommendations for legislation as it deems
8 necessary or desirable to further that policy.

9 SECTION 6. *Regulation and Criteria for Determining Eligibility of Minority*
10 *Business Enterprises for Procurement Contracts.* –

11 (A) In General. – The Commission shall establish regulations for implementing
12 programs pursuant to this Act that will govern providers of telecommunications services
13 and their affiliates.

14 (B) Verifying Criteria. – The Commission shall develop and publish regulations
15 setting forth criteria for verifying and determining the eligibility of business enterprises
16 that are owned by minorities or women for procurement.

17 (C) Outreach. – The Commission’s regulations shall require each provider of
18 telecommunications services and its affiliates to develop and to implement an outreach
19 program to inform and recruit business enterprises that are owned by minorities or
20 women to apply for procurement contracts under this Act.

21 (D) Enforcement. – The Commission shall establish and promulgate such
22 regulations necessary to enforce the provisions of this Act.

23 SECTION 7. *Waiver Authority.* – The requirements laid down in the preceding
24 section may be waived, in whole or in part, by the Commission with respect to a

1 particular contract or subcontract in accordance with guidelines set forth in regulations
2 which the Commission shall prescribe when it determines the application of such
3 regulations proven to result in undue hardship or unreasonable expense to a provider of
4 telecommunications services.

5 SECTION 8. *False Representation of Business; Sanctions* –

6 (A) In General. – Any person corporation, through its directors, officers, or agents,
7 which falsely represents the business as a business enterprise that is owned by minorities
8 or women in the procurement or attempt to procure contracts from telephone operating
9 companies and their affiliates pursuant to Section 6, shall be punished by a fine of not
10 more than ₱150,000.00, or by imprisonment for a period not to exceed five years of its
11 directors, officers, or agents responsible for the false statements, or by both fine and
12 imprisonment.

13 (B) Holding Companies. – Any provider of telecommunications services which
14 falsely represents its annual report to the Commission or its implementation of its
15 programs pursuant to Section 6 shall be subject to a fine of ₱1,000,000.00 and be subject
16 to a penalty of up to five years restriction from participation in lines of business activities
17 provided for in this Act.

18 SECTION 9. *Discrimination Prohibited*. – No otherwise qualified business
19 enterprise that is owned by minorities or women shall solely, by reason of its racial,
20 ethnic, or gender composition be excluded from the participation in, be denied the
21 benefits of, or be subjected to discrimination in procuring contracts from telephone
22 utilities.

23 SECTION 10. *Civil Actions Authorized*. – Whenever a qualified business
24 enterprise that is owned by minorities or women has reasonable cause to believe that a

1 provider of telecommunications services or its affiliate is engaged in a pattern or practice
2 of resistance to the full compliance of any provision of this Act, the business enterprise
3 may bring a civil action in the appropriate court against the provider of
4 telecommunications services or its affiliate requesting such monetary or injunctive relief,
5 or both, as deemed necessary to ensure the full benefits of this Act.

6 SECTION 11. *Separability Clause.* – If any provision of this Act is held invalid or
7 unconstitutional, the same shall not affect the validity and effectivity of the other
8 provisions hereof.

9 SECTION 12. *Repealing Clause.* – All laws, decrees, orders, and issuances, or
10 portions thereof, which are inconsistent with the provisions of this Act, are hereby
11 repealed, amended or modified accordingly.

12 SECTION 13. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
13 after its publication in the *Official Gazette* or in two (2) newspapers of general
14 circulation.

Approved,

/tmdp3Sept2015