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SENATE
P.S. RESOLUTION NO. 570

RECEIVED BY: 

Introduced by Senator Panfilo M. Lacson

RESOLUTION

DIRECTING THE COMMITTEES ON EDUCATION, ARTS AND CULTURE; AND THE COMMITTEE ON ACCOUNTABILITY OF PUBLIC OFFICERS AND INVESTIGATIONS TO CONDUCT AN INQUIRY IN AID OF LEGISLATION ON THE UNFAIR COMPETITION IN THE TEXTBOOK PROCUREMENT PROGRAM OF THE DEPARTMENT OF EDUCATION (DEPED) WHICH ALLEGEDLY RESULTED IN A MONOPOLY OF THE VIBAL GROUP OF COMPANIES THUS NEGATING THE PROVISIONS OF EXISTING LAWS TO THE DETRIMENT OF ELEMENTARY AND HIGH SCHOOL STUDENTS, WITH THE END IN VIEW OF REVIEWING AND PROPOSING REMEDIAL LEGISLATION TO R.A. NO. 8047 - THE BOOK DEVELOPMENT ACT OF 1995 AND R.A. NO. 9184 - THE GOVERNMENT PROCUREMENT ACT

WHEREAS, on June 7, 1995, Congress has enacted R.A. No. 8047 otherwise known as the Book Publishing Industry Development Act. Section 10 of the said law specifically lay down the duties of the Department of Education in relation to the procurement of the required books that will be used in public schools;

WHEREAS, on January 10, 2003, Congress enacted Republic Act 9184 otherwise known as the Government Procurement Reform Act. Article XXI, Section 65 (b) (2) and (4) of the said law makes it unlawful for any person to maliciously submit different bids through different entities in which he/she has an interest so as to create competition that does not in fact exist or for any bidder by himself or in connivance with others to 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;

WHEREAS, based on the aforequoted provisions, the law was passed precisely to abolish government monopoly of the public textbook market under the then existing Instructional Materials Development Corporation (IMDC);

WHEREAS, eleven years after the passage of the law, there are allegations that monopoly in the procurement of public textbooks still exists albeit in a different form;

WHEREAS, based on available records, since 1999-2004, the bulk of the bid awards for Textbooks and Teachers Manuals printing have been consistently given to VIBAL GROUP OF BIDDERS (V-GROUP). In the SEMP2 Status of Suppliers, a lion's share of 75.96 % or 2.65 Billion of the 3.5 Billion budget for TX-TM has been awarded to the V-GROUP to the prejudice of all other qualified suppliers who divide among themselves the remaining 24.04%, as indicated in the following data;

	Publisher	Amount	Percentage
VIBAL GROUP	Watana Phanit	105,994,663	30.28
VIBAL GROUP	SD Publishing	811,620,838	23.19
VIBAL GROUP	Alkem	639,406,904	18.27
VIBAL GROUP	JTW	147,584,106	4.22
Total		2,650,000,000	75.96

WHEREAS, the Vibal-Group is comprised of Vibal Publishing, SD Publication, LG & M Publication and JTW as local publishers, and Watana Phanit and Alkem as their foreign partners. The Articles of Incorporation of Vibal Publishing, SD Publication, LG & M Publication would reveal that these publishers have interlocking directors, officers and majority stockholders, to wit;

	SD Publication	Position	Vibal Publishing	Position	LG & M	Position
Jean Fernandez	.012	Secretary	.0355	Secretary	0	Secretary
Gaspar Vibal	24.9701		24.9910		24.991	
Aida V. Gutierrez	24.9701		24.9111	VP	24.944	
Nila V. Mata	24.9701	VP	24.9111	President	24.991	Treasurer
Stella V. Lawson	24.9699	Treasurer	24.9111	Treasurer	24.994	

WHEREAS, each company of the Vibal-Group bids for and against each other "to create the appearance of competition" and in collusion with each other "establishes artificial and non-competitive bid prices deriving the Borrower (DepEd) the benefits of free and open market" These are grounds for disqualification for clear violation of the Procurement Act and Bidding Guidelines. However, despite the antecedent violations, the companies of the V-Group have never been disqualified anent the obvious ground for their ineligibility;

WHEREAS, On January 31, 2006 the Joint PS-DepEd Technical Working Group (TWG) has finally called and recommended the disqualification of V-Group particularly Vibal, SD Publishing, LG & M and Watana Phanit as bidders for SEMP2/SEDIP-02-05-TX&TM based on the following grounds:

Publisher	Lot Bidded		
Vibal	Lot 1 & 2	Conflict of Interest Manual of Procedure for the procurement of goods and services.	Interlocking directors, stockholders with Vibal & LG & M
LG & M (as partner of Vibal)	Lot 1 & 2	Conflict of Interest (with Watana)	Has bidded twice: 1. as partner 2. Thru its agent Watana
SD (as partner of Lex Media Digital Corp.)	Lot 3	Conflict of Interest	Interlocking directors, stockholders with Vibal & LG & M
Watana (as agent of LG & M)	Lot 1,2 & 3	Conflict of Interest (with LG & M)	Agent of LG & M through Board Resolution, in effect has bidded twice

WHEREAS, the PS-DepEd TWG recommendation for disqualification of V-Group was approved by Assistant Secretary Camilo Miguel M. Montesa on February 15, 2006. On February 28, 2006 the Inter Agency Bids and Awards Committee (IABAC) resolved to disqualify the Vibal Publishing and Watana Phanit for conflict of Interest through Resolution No. 001-2006;

WHEREAS, the V-GROUP has violated not only the Philippine Procurement Act but also the provision on "high ethical standard" of the World Bank Procurement Guidelines. However, despite such violation, WB even came to their rescue by disregarding the violation and in effect justified the malicious representation and malevolent acts of this group;

WHEREAS, under the provisions of the Generic Procurement Manual, "**A bidder that has a conflict of interest shall be disqualified to participate in the procurement at hand.** A bidder has conflict of interest with another bidder, which has a relationship directly or common to third parties that puts them in a position to have access to information about or influence on the bid of another bidder, or influence the decisions of the procuring entity regarding the bidding process";

WHEREAS, the highly improper intervention of the World Bank representative has resulted in the government's failure to print and deliver textbooks for various subjects in primary and secondary schools;

WHEREAS, other publishers, booksellers, booktraders and stakeholders are one in saying that Vibal Group is a very fortunate group, having been awarded 75.96% of the bids for 1999-2003 and for being favored by an influential institution who bends its own rule just to accommodate their desired end;

WHEREAS, there is an imperative need to review the implementation of law, particularly Sections 10 and 12 of R.A 8047 and Sections 65 (b) 2 and Sections 65 (b) 4 of R.A 9184; Now, therefore, be it

Resolved as it is hereby resolved, To direct as it hereby directs the Committee on Education, Arts and Culture, and the Committee on Accountability of Public Officers and Investigations, to conduct an inquiry in aid of legislation on the unfair competition in the Textbook Procurement Program of the Department of Education (DepEd) which allegedly resulted in a monopoly of the Vibal Group of Companies thus negating the provisions of existing laws to the detriment of elementary and secondary schools with the end in view of reviewing and possibly proposing remedial legislation to the provisions of R.A. No. 8047-The Book Publishing Development Act of 1995 and R.A. No. 9184- The Government Procurement Act,

Resolved further, the Committees should look into the culpability of government officials who acted in complete disregard of R.A No. 3019 - The Anti-Corrupt and Practices Act as well as the highly improper intervention of the World Bank representative which has resulted in the government's failure to print and deliver textbooks for various subjects in primary and secondary schools.

Adopted,


PANFILO M. LACSON
Senator