

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
Third Regular Session

House Bill No. 6411



Introduced by Rep. Erico B. Aumentado

EXPLANATORY NOTE

It has been observed that contractors jockeying for government projects tend to understate the price of the project in their bid proposal to corner juicy contracts. Some even venture to propose bid prices costing less than fifty percent of the approved Agency Budget of the Contract (ABC) just to ensure that they will get the project. This may sound advantageous to the government as it would translate to substantial savings on the part of the implementing agency. However, the result is not at all advantageous to the government since the project suffers in terms of poor quality, the terms of reference in the project not being followed and, worse, are not completed for lack of finances.

The usual recourse of the winning bidder, with a very low bid bordering on the break even scale of the contract, is to request repeated change orders to recoup alleged losses or non profit. This strategy, in more cases than not, leads to graft and corruption as the very low bid usually lacks transparency and accountability.

In the present set up, the law on the government procurement only provides for a maximum ceiling of bid prices for bidders to observe, while there is no cap or minimum limit of bid prices that shall be awarded. Thus, unscrupulous contractors venture to propose a considerably lowered price in their bids compared to the actual approved ABC and then ask for change orders. If the request for change order is not granted, the bidder normally resort to substandard work in order to prevent more losses.

Take for example the project implemented in the second district of Bohol, namely:

- (1) Sagbayan-Danao Road Project with an appropriations of P200 million, an Approved Budget for the Contract (ABC) of P189 million, and the winning bid of P139 million.

As of May 25 ultimo the project incurred a negative slippage of 9.355 percent with a percent time elapsed of 41.39 percent for lack of equipment and manpower support, the project is moving very slow especially so that local contractors refused to lease their heavy equipment to the bidder for failure to settle on time its obligations.

The contractor is supposed to use a computerized cement batching plant and a cement paver. Sadly, the contractor fielded an old cement paver which has been lying idle and by reason of being an old cement paver model, the contractor is still using steel forms to straighten the concrete pavement.

Meanwhile, local contractors in the same Sagbayan-Danao Road project are performing much better than the contractor of the P200 million project under the FY 2011 General Appropriations Act.

This project is in danger of not being completed despite the huge approved budget.

This is the dilemma that the passage of this bill seeks to address by amending the Government Procurement Law to introduce a cap or *floor limit* on bid prices of winning bidders for government projects.

The approval of this bill is earnestly sought.



REP. ERICO B. AUMENTADO

Republic of the Philippines
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AN ACT

SETTING A CAP FOR FLOOR BID PRICE OF WINNING BIDDER, AMENDING FOR THE PURPOSE SECTION 31 OF REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE "GOVERNMENT PROCUREMENT REFORM ACT", PROHIBITING CHANGE ORDER, AND FOR OTHER PURPOSES

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

Section 1. *Section 31 of Republic Act No. 9184 shall be amended to read as follows:*

"Section 31. Ceiling AND FLOOR for Bid Prices. – The Approved Budget for the Contract (ABC) shall be the upper limit or ceiling for the Bid prices, **PROVIDED: THAT THE FLOOR BID FOR WINNING BIDDER SHALL NOT BE LOWER BY TWENTY FIVE (25) PERCENT OF THE APPROVED ABC.** Bid prices that exceed [this] THE UPPER LIMIT OR ceiling, OR BELOW THE FLOOR LIMIT shall be disqualified outright from further participating in the bidding. [There shall be no lower limit to the amount of the award.]

Section 2. Change Order. Any request for change order by the winning bidder, which is not due to errors of the infrastructure agency or due to force majeure, is hereby prohibited for transparency, accountability and avoidance of graft and corruption.

Section 3. Separability Clause. - If any part of the provision of this Act shall be held unconstitutional or invalid, other provisions, which are not affected thereby, shall continue to be in full force and effect.

Section 4. Repealing Clause. – All laws, presidential decrees, executive orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Section 5. Effectivity Clause. – This Act shall take effect fifteen (15) days after its publication in at least (2) national newspapers of general circulation.

Approved