

Republic of the Philippines
HOUSE OF THE REPRESENTATIVES
Constitution Hills, Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4570



Introduced by REPRESENTATIVE BERNADETTE HERRERA

AN ACT
PROVIDING PREFERENCE TO DOMESTIC BIDDERS PARTICIPATING IN
GOVERNMENT PROCUREMENT PROJECTS, AND FOR OTHER PURPOSES.

EXPLANATORY NOTE

This Bill, counterpart of that filed by Senator Sonny Angara in the Senate, seeks to institutionalize the Certification Program of Domestic Bidders. In achieving this, it would be a significant measure by which the government can help local entities during government procurement activities. The current Government Procurement Reform Act and its Revised Implementing Rules and Regulations provide that the procuring entity shall give preference to materials and supplies produced, made and manufactured in the Philippines. The same law mandates the Department of Trade and Industry to certify domestic bidders who claim preference in government procurement.

The institutionalization of said certificate of preference program not only aims to encourage all local suppliers and manufacturers, but also serves to provide assurances that the government is one with all industries and sectors in supporting local labor and products while ensuring the well-being of the Filipinos. This policy will surely contribute to the realization of the goals of the *Tatak Pinoy* campaign. And a successful *Tatak Pinoy* campaign will improve the country's economic productivity and competitiveness, generate more decent jobs for Filipinos, particularly those in the countryside, and eradicate chronic poverty and inequality in the country.

In view of the foregoing, the passage of this bill is earnestly sought.


BERNADETTE HERRERA

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

SECTION. 1. *Short Title.* – This Act shall be known as the “Domestic Bidders Preference Act”.

SEC. 2. *Declaration of Policy.* – Section 12, Article XII, of the Constitution declares that the “State shall promote the preferential use of Filipino labor, domestic materials and locally produced goods, and adopt measures that help make them competitive.” To this end, the State shall provide an enabling environment for the domestic private sector to mobilize its resources to promote Filipino labor, domestic materials, and locally produced goods. As enunciated in the Constitution and other economic policies, the government shall foster local participation in the procurement process by providing preference to products made in and/or sourced from the Philippines.

It is further declared that the State shall pursue a policy of maintaining a reasonable balance between its obligations under international treaties or agreements and enhancement of competitiveness of Philippine trade and local industries. These may include implementation of programs/projects/activities intended to improve the quality of industry outputs and services, as well as the domestic entities productivity, through improvement in business systems and process and the flow of inputs and outputs.

SEC. 3. *Definition of Terms.* – The following terms used in this Act shall have the meanings stated below:

- (a) Bidder* – refers to a manufacturer, supplier, or distributor who submits a bid in response to the requirements of the Bidding Documents;
- (b) Director* – refers to the Competitiveness Bureau Director;

- (c) *Domestic Bidder* – refers to any person or entity offering unmanufactured articles, materials or supplies of the growth or production of the Philippines, or manufactured articles, materials, or supplies manufactured or to be manufactured in the Philippines substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines;
- (d) *Foreign Bid* - refers to any offer of articles, materials or supplies not manufactured or not to be manufactured in the Philippines, substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines;
- (e) *Goods* - refers to all items, supplies, and materials which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind;
- (f) *Grown* – refers to products produced by cultivation such as crops, or products that are grown, raised, and harvested;
- (g) *Manufactured* – means conversion of raw materials into marketable form through physical, mechanical, chemical, electrical, biochemical, biological or other means or by a special treatment or a series of actions. It shall include transformation which can be geometric or compositional, or both. Merely packing or packaging shall not qualify as manufactured;
- (h) *Produced* – creation of or formation of goods through a natural process;
- (i) *Procuring Entity* – refers to any branch, constitutional commission or office, agency, department, bureau, office, or instrumentality of Government of the Philippines, including Government-Owned or -Controlled Corporation, Government Financial Institutions, State University and College, and local government units procuring goods, infrastructure projects and consulting services;
- (j) *Secretary* – refers to the Secretary of the Department of Trade and Industry;
- (k) *Secretariat* – refers to the Supply Chain and Logistics Management Division of the Competitiveness Bureau tasked to provide the assessment, verification, and recommendation to the Committee for approval or disapproval.

SEC. 4. *Application.* – Only a domestic bidder may file an application for certification for domestic preference. The application shall be filed at the Supply Chain and Logistics Management Division of the Competitiveness Bureau.

SEC. 5. *Evaluation.* – Verification of the origin of the goods sought to be certified shall be done through ocular inspection of the site where the goods were grown, produced or manufactured. The Secretariat shall submit an Inspection Report to the Committee containing a statement as to whether the goods offered for bidding satisfy or do not satisfy the requirements for a Domestic Bidder's Certificate and the basis for such finding.

SEC. 6. *Approval or Denial of Application.* – After evaluation, if the Secretariat finds that an applicant conforms to and meets the requirement for a Domestic Bidder's Certificate, the Director shall approve the application and issue the corresponding Certificate.

If the application is denied, the Director shall issue a written notification specifying the grounds for the denial of the application.

Where no request for reconsideration is filed, the denial of the application shall become final. The denial shall be without prejudice to re-filing of application.

SEC. 7. *Determination of Substantial Compliance.* – Prospective bidders shall only be granted a Domestic Bidder's Certificate and apply for domestic preference when the goods, supplies, or materials offered for bidding are substantially grown, produced, or manufactured in the Philippines.

7.1. In determining whether the goods are substantially grown and produced in the Philippines, the following general principles shall be considered:

7.1.1. The origin of the product shall be disputably presumed as that which is indicated in the label;

7.1.2. Livestock born and raised within the Philippines are deemed originated in the Philippines; and

7.1.3. Plants grown and produced within the Philippines are deemed originated in the Philippines.

7.2. In determining whether the goods are substantially manufactured in the Philippines, the following general principles shall be considered:

7.2.1. Manufacture of industrial goods or processing of agricultural products into (a) semi-finished/intermediate goods for use as inputs in the production of other goods, or (b) finished products for final consumption, shall be deemed manufactured or processed in the Philippines.

- 7.2.2. Casting or molding, forming, machining, or joining/assembly of raw materials, and the production of discrete parts to transform materials from one form to another valuable form encompasses manufacturing. Mere packing or packaging shall not constitute manufacturing. Simple processing covering any or a combination of activities such as cleaning, sorting, shredding, pulverizing, grinding, crushing, compacting, dissolving and filtration shall also not be considered manufacturing.

SEC. 8. *Composition of Committee.* – A Committee of Three shall be established to review the recommendation of the Secretariat, and to grant or deny each application.

The Committee shall be composed of the head of agency of the Competitiveness Bureau as Chair, with third level officials from any of the following Department of Trade and Industry agencies: Regional/Provincial Offices, Bureau of International Trade Relations, Board of Investments, Competitiveness and Ease of Doing Business Group, Consumer Protection Group and Management Services Group.

Except for the officials and staff of the Competitiveness Bureau, the Committee members and technical staff shall be entitled to receive an honorarium subject to the existing rules and regulations issued by the Department of Budget and Management and the Commission on Audit, charged to the Competitiveness Bureau.

SEC. 9. *Domestic Bidders Certificate.* – (a) The Certification shall remain valid for a period of two (2) years. It shall include the scope, validity, remarks or conditionalities. It is non-transferable and limited only to the products specified in the scope.

(b) Subject to notice and hearing, the Certificate shall be revoked for any of the following grounds:

- i. Making material false statement in the application required of the Bidder when a true statement would have warranted the Secretariat's denial or to recommend Certification;
- ii. Making false representations as a matter of fact, whether or not the same results in damage or legal injury to a third party, after the Certification has been issued; and
- iii. Any other circumstance analogous to the foregoing.

SEC. 10. *Implementing Rules and Regulations.* – The Department of Trade and Industry shall formulate and issue the necessary rules and regulations to implement the provisions of this Act within sixty (60) days from its effectivity.

SEC. 11. *Repealing Clause.* – All general and special laws, acts, city charters, executive orders, presidential proclamations, issuances, rules and regulations, or parts

thereof which are contrary to or inconsistent with any of the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 12. *Separability Clause.* – If any portion or provision of this Act is subsequently declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall remain in full force and effect.

SEC. 13. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,