



Republic of the Philippines

SENATE

Dasay City

AGENDA

**Organizational Meeting of the Committee on Public Works
and Hearing on SRN 31 re: Inquiry on the Status and Condition of
On-Going Public Works Projects, Including the Alleged Rampant
Subcontracting Practice to Unqualified and Financially
Unstable Contractors of the DPWH**

HIGHLIGHTS

- Presiding Chair and Senator Ramon Bong Revilla, Jr. explained in his opening statements that the meeting is a two-part activity: the organizational meeting of the Committee on Public Works and hearing on Senate Resolution No. 31, which calls for an investigation on the status of on-going public works projects as well as on the alleged subcontracting practice to unqualified contractors of the DPWH;
- The Chair confirmed the following members of the Committee on Public Works: Senators Mar Roxas, Richard Gordon, Lito Lapid, Ramon Magsaysay, Jr., Pia Cayetano, Ralph Recto and Manny Villar from the Majority and Senators Edgardo Angara, Jinggoy Estrada, Serge Osmena, Alfredo Lim and Panfilo Lacson form the Minority;
- Senator Mar Roxas was designated as Vice Chair of the Committee;
- The Chair moved for the adoption of the Rules of the Senate which include rules 10 and 11 and the rules of procedure governing inquiries in aid of legislation;
- The investigation, which is in response to Senate Resolution No. 31 filed by the Chair, is being initiated out of public complaints regarding the slow pace of completion of infrastructure projects nationwide. It is also intended to inquire into the reported illegal sub-contracting and other irregularities within the bidding process of DPWH projects;
- From August 26 to September 2, 2004, the Chair inspected four (4) sites of DPWH projects in Metro Manila, namely: La Huerta Bridge in Paraque City;

Sevilla Bridge in Mandaluyong City; C5 Boni Serrano-Katipunan Avenue Interchange in Quezon City and Marala Bridge in Balut, Tondo, Manila;

A. La Huerta, Sevilla and Tullahan Bridges:

1. The approved agency estimate and budget contract for three (3) bridges -- La Huerta, Sevilla and Tullahan -- was P87.4 million;
2. As per records from the DPWH, the original P112.9 million bidding price of the winning contractor -- OR Sarmiento Construction -- for the said three (3) bridges was actually the highest among four (4) bidders. After the 3rd evaluation of all the bids, which DPWH Secretary Florante Soriquez claimed as regular procedure, the amount was corrected to be 106.7 million, still higher by 19 million as against the original P87.4 million contract price;
3. The final budget contract was adjusted from P87.4 million to P120.2 million, reflecting a huge increment of P32.8 million. Both the La Huerta and Sevilla Bridges have not met the deadlines set for its completions. Despite initial disbursements by the government to OR Sarmiento, nothing has been started yet on the 3rd project -- the Tullahan Bridge;
4. Upon inspection by the Committee, the contractors actually working on the projects awarded to OR Sarmiento are the 2PIR firm for the La Huerta Bridge and the JD Legaspi and Tokwing Construction for the Sevilla Bridge;

B. C5 Boni Serrano-Katipunan Avenue Interchange:

1. This foreign-assisted project funded by Japan Bank for International Cooperation was started on March 21, 2002 and was supposed to be completed on September 11, 2003. After two and a half years, the project is merely 47% complete and has an equivalent negative 53% slippage. Works have not been finished to this day and completion was again extended up to April 2005;
2. Several accidents have been reported due to the mess and hazards brought by the delayed completion of such project;
3. The reported cause of delay for the said project is the non-completion of the right-of-way acquisition proceedings;

C. Marala Bridge

1. The project involves the construction of a 70-meter bridge along the Radial R-10 Road. It was started on January 8, 2003 and was supposed to be completed in June 10, 2004 but the deadline was extended up to September 30, 2004;

2. The winning contractor -- DM Wenceslao -- was actually among those disqualified initially but was later ruled to be qualified and was eventually awarded of the contract;
 3. The contractor attributes the delay to the alleged non-collection of cash advances from the DPWH;
- Highlights of the Discussion of Secretary Florante Soriquez of the Department of Public Works and Highways (DPWH):
 1. The projects under investigation were awarded not in his incumbency but of former Secretary Simeon Datumanong;
 2. Secretary Soriquez claimed that the major causes of delays for most of the projects are insufficiency of funds; peace and order situation; and problems in the acquisition of right-of-ways. He claimed to have been working on the fast tracking of these particular projects in the last 4 months, which resulted in the completion of the Sevilla Bridge;
 3. The Secretary admitted that he was not able to review the bidding procedures and the circumstances that mattered in the awarding of the projects being probed by the Committee. He obliged to furnish the Committee the department report on the pre-qualification and awarding of the contract to OR Sarmiento;
 4. The DPWH allows fifty percent (50%) of a project to be subcontracted and it does not interfere with the contractors' internal activities and choice of financial partners in the implementation of its contracts. he affirmed the legality of participation of 2PIR, JD Legaspi and Towking Construction in the implementation of La Huerta and Sevilla Projects;
 - Engr. Gil Villanueva of the DPWH explained that the P112 million original bid of OR Sarmiento was corrected to be P106 million after a series of mathematical evaluation that showed discrepancy between the figures and the words expressing the amount of bid. He said that in such case of conflict, the department has a ruling that words would prevail over figures and thus the change/reduction in the amount;
 - Mr. Jesusito Legaspi of JD Legaspi Construction disclosed that they are financial partners of OR Sarmiento, hence their participation in the implementation of the Sevilla Bridge Project. He added that the 2PIR are mere supplier of girder for the La Huerta Project;
 - On the issue of increase in the contract price from P87.4 million to P120.2 million, Secretary Soriquez revealed that they have allowed such increment by virtue of the ruling on variation orders. He maintained that such variations are granted when it is deemed that a project, upon inspection of the site, would not be

finished without altering its original design and scheme or infusing additional items necessary for its completion;

- According to Mr. Vincent Porrazzo of the Everest International Consultants, the P13 million increment in the budget contract of La Huerta and Tullahan projects were covered by two (2) Variation Orders: 1) P10.6 million cost of a pedestrian bridge at Don Galo, La Huerta as requested by the LGU and local residents and as part of an MMDA requirement for an enhanced traffic management program. He averred that this came up after the completion of the initial design and thus, the cost was not included in the project budget; 2) Variation Order No. 2 covers the construction of a P2.8 million detour bridge at Tullahan, which is another requirement by the MMDA -- the discussion also came later after the completion of the design;
- Senator Jamby Madrigal implied her concern over such practice of revising the initial costs/budgets of government projects. In the case of the reported Variation Orders in La Huerta and Tullahan, she remarked that it should have been treated as separate activities that required other funding;
- The Chair demanded from the DPWH copies of the reported Variation Orders in the mentioned bridge projects;
- Senator Madrigal suggested that the DPWH furnish the Committee with the historical data of all government projects that would show its original costs, variation costs, start-up and completion dates, and other pertinent information that would help the Senate determine the percentage of delays and alteration in project costs. She moved for the study of such practice and asserted further to introduce revision into the system of the DPWH particularly in the planning stage of infrastructure projects to avoid delays and revisions in costs;
- Secretary Soriquez divulged that lending institutions like the World bank and Asian Development Bank are now deferring the commencement of projects funded by them that are encountering problems in the acquisition of rights-of-way within the sites;
- In the acquisition of rights-of-way, Senator Alfredo Lim proposed to employ the expropriation scheme rather than the usual purchase of properties and thus avoid negotiations with the owners of such properties;
- Engr. Patrick Gatan, Director of the Infrastructure Right-of-Way Project Management Office of the DPWH declared there are two problems that basically confront the acquisition of right-of-way: a) squatters and b) private properties. He expounded that the negotiations would include the consideration of the BIR zonal, appraisal report of the Committee and finally the expropriation option. He also indicated some delays in the rulings of the courts on various legal acquisition proceedings as well as the delay in the release of Non Cash Allocations (NCA) by the DBM;

- Senator Lim hinted that the executive department should in a way encourage the judiciary to hasten the resolution of cases on squatting and acquisition of properties;
- The Chair pointed out that the Senate is bound to assist the DPWH address the various problems it is confronting and he stressed the need to work together in ridding the department of corruption, which aggravates the situation;
- In answer to the query of Senator Lito Lapid, Secretary Soriquez announced that the department is in the process of restoring the damaged Calibangbang Dike in Paniqui Tarlac, which is a major cause of flooding in some areas in Pampanga and Bulacan;
- The Chair aired his concern over the subcontracting practice allowed by the DPWH, which he deems as irregular and that puts the government in a very losing situation. He expounded on the danger of having these projects end up in the hands of unqualified and incompetent contractors who would naturally craft substandard qualities of infrastructure works. He added that this practice defeats the very purpose of the bidding procedure, which ensures the awarding of projects to the most deserving contractors;
- Senator Lim asked Secretary Soriquez of the implications if the government would opt to implement the infrastructure projects by itself. He encouraged the department to study such scenario wherein the government would get rid of contracting procedures, buy its own equipment and thereby generate employment. He suggested that he would file a measure shifting to such system if he would be assured of its benefits in terms of efficiency, expediency and quality of infrastructure work;
- Secretary Soriquez implied reservations to such proposal indicating that the Bureau of Equipment under the department is in fact being eyed for abolition due to the high costs in the maintenance of infrastructure equipment. He added that lending institutions do not even finance projects that would be undertaken by the administration;
- As asked by the Chair, Secretary Soriquez reported that some DPWH contractors have been convicted of rescinded contracts. The conviction allowed the government to take-over the unfinished projects and compelled the contractors to shoulder the expenses needed to complete such projects. He declared that penalties for such offense range from one year suspension to perpetual disqualification from government bidding;
- The Chair announced the holding of a follow-up meeting by the Committee on a still undetermined date;
- The meeting was suspended at 11:56 A.M.

***Prepared by Norberto M. Villanueva, Legislative Committee Secretary
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