

AUTHORIZING THE GOVERNMENT'S TAKE OVER BY ADMINISTRATION OF DELAYED INFRASTRUCTURE PROJECTS OR AWARDING OF THE CONTRACT TO OTHER QUALIFIED CONTRACTORS

PRESIDENTIAL DECREE NO. 1870, July 12, 1983

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WHEREAS, government infrastructure projects are principally funded by foreign loans amortized by the Government at staggering sums, plus interest and other charges;

WHEREAS, the completion of such infrastructure projects within the agreed period is the prime consideration for the Government's entering into contracts with various contractors;

WHEREAS, any delay in the completion of the contract work in accordance with the approved PERT/CPM and/or contract time as stipulated, will not only dislocate the financial projections and/or the cash flow of the Government on these projects, but also unduly prejudice the public interest sought to be subserved by the timely completion of the infrastructure project involved;

WHEREAS, numerous contractors, in their desire to obtain government contracts, made representations as to their capability to complete their contract work within a certain period in order to induce the Government into awarding the contract to them, only to incur delay later on or refuse, to continue or comply with their commitments under the contract to the prejudice of the Government and the people;

WHEREAS, not only are existing laws read into contracts in order to determine the rights and obligations of the parties, but the reservation of the essential attributes of sovereign power is also read into contracts to secure the well-being of the people;

WHEREAS, government infrastructure contracts are designed to promote the welfare of the people;

WHEREAS, public interest demands that there be a remedy for such, pernicious acts of certain contractors;

WHEREAS, under Section 11 of Presidential Decree No. 1594, the Government may take over the contract work should the contractor unduly delay the said contract work;

WHEREAS, Section II of Presidential Decree No. 1594 should be read into government infrastructure contracts as a valid and reasonable exercise of police power;

WHEREAS, this Presidential Decree is likewise in exercise of the police power of the State in view of the serious damage, prejudice and inconvenience caused by unduly delayed contracts to the people and to the Government;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution and by law, and in order to expedite work in all government infrastructure projects, including ongoing projects, thereby assuring their completion within contract schedule, do hereby decree and order:

- Whenever a contractor is behind schedule in its contract work and incur 15% or more negative slippage based on its approved PERT/CPM, the implementing agency, at the discretion of the Minister concerned, may undertake by administration the whole or a portion of the unfinished work, or have the whole or a portion of such unfinished work done by another qualified contractor through negotiated contract at the current valuation price.
- Whenever, a work activity in the project is not being-done on schedule per approved PERT/CPM, the Minister concerned/Head of Implementing Agency shall notify and direct the contractor to immediately undertake such work activity. If, within fifteen (15) days from receipt of such notice, the contractor fails to start the work and to show satisfactory performance, the Government may take over the whole or a portion of such work and, at the discretion of the Minister concerned, have such work done by administration or award the same to another qualified contractor through negotiated contract at the current valuation price.
- If, at any time during the progress of the contract work, the contractor should fail, refuse or neglect to supply and provide the required tools, materials, supplies, equipment, facilities and labor-workmen; or if the contract or any part thereof is being sublet or assigned without the previous written consent of the Government, or if the contractor is wilfully violating any of the terms, conditions, covenants, agreements or technical requirements of the project, the Government shall have the option to take over the project in whole or in part and to complete the same. The Government, at the discretion of the Minister/Head of Implementing Agency concerned, may have the contract work done by administration or award the same to another qualified contractor through negotiated contract at the current valuation price.
- In all instances, the cost of the work done shall be deducted from the contract price, provided, that if the balance of the contract prices not sufficient to cover the cost of work taken over by the Government, the contractor shall pay the difference.
- This Decree shall take effect immediately.

Done in the City of Manila, this 12th day of July, in the year of Our Lord, nineteen hundred and eighty-three.

(Sgd.) FERDINAND E. MARCOS
President
Republic of the Philippines

By the President:

(Sgd.) JUAN C. TUVERA
Presidential Executive Assistant

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