

AMENDING THE PROVISIONS OF SECTION 10(b) OF REPUBLIC ACT NO. 5979 TO AUTHORIZE ADJUSTMENT OR CONTRACT PRICES FOR GOVERNMENT PROJECTS UNDER CERTAIN CONDITIONS

PRESIDENTIAL DECREE NO. 454, May 14, 1974

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WHEREAS, the present provisions of Section 10 (b) of Republic Act No. 5979 allow the adjustment of contract prices if during the effectivity of the contract, the cost of labor, materials and supplies for construction should increase due to acts of the government, such as increase in the minimum wage, imposition of additional taxes on construction materials, etc;

WHEREAS, under existing government policies, adjustment of contract prices is effected only after the completion of the project involved and subject to the approval of the Adjustment Committee composed of the Auditor General, as Chairman and the Secretary of Public Works, Transportation and Communications and the Budget Commissioner as Members;

WHEREAS, because of continuing worldwide economic dislocations resulting not only in the scarcity of commodities, materials and supplies, but also in unprecedented variances in the costs thereof, the provisions of the existing law governing the adjustment of contract prices for government public works projects have become inadequate, as it does not contain any provision for these unforeseen contingencies;

WHEREAS, because of these unprecedented increases in the prices of commodities, materials and supplies, the completion of government project in accordance with target schedules has been jeopardized as contractors by reason of unbearable financial burden are lagging behind schedules and/or are defaulting in discharging their contractual obligations, causing impairment of the country's economic program, as well as, requiring that the government take over and complete projects in default at substantially higher costs;

WHEREAS, to assure the expeditious and successful completion of government public works projects, the government realizes the need for revising the existing contracts to take into consideration the unprecedented increases in the costs of completing the projects;

WHEREAS, unless workable price adjustment mechanisms are provided in the contracts; contractors will tend to excessively provide for price contingencies resulting in unnecessarily high bids to the Government;

WHEREAS, contracts awarded at peaks of abnormal prices will result in higher costs not otherwise recoverable by the government when prices normalize; and

WHEREAS, the Government feels that amendment of the existing escalatory clause is a fair and equitable way of dealing with the situation.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby decree and order:

SECTION 1. The provisions of Section 10 (b) of Republic Act No. 5979 and other existing laws, or Presidential Decrees to the contrary notwithstanding, adjustment of contract prices for public works projects is hereby

authorized, should any or both of the following conditions occur:

- If during the effectivity of the contract, the cost of labor, materials, equipment rentals and supplies for construction should increase or decrease due to the direct acts of the government; and for purposes of this Decree the increase of prices of gasoline and other fuel oils, and of cement shall be considered as direct acts of the Government ;

- If during the effectivity of the contract, the costs of labor, equipment rentals, construction materials and supplies used in the project should cause the sum total of the prices of bid items to increase or decrease by more than five (5%) percent compared with the total contract pries.

The increase or decrease in the contract price shall be determined by application of the appropriate official indices.

SEC. 2. The additive or deductive adjustments shall be added to or deducted from the unit prices every six (6) months beginning from the date of bidding.

SEC. 3. All contracts for the construction of public works projects existing upon the effectivity of this decree, shall be reviewed and revised at the current costs of labor, equipment rentals, materials and supplies in accordance herewith: Provided, That adjustments with respect to existing contracts shall apply only to the balance of work outstanding as of May 1, 1974 which shall be further adjusted in accordance with Section 2 hereof: Provided, That only bid items involving a change in prices of more than five (5%) per cent shall be adjusted: And, provided, further, That where existing agreements contain provisions for cost variations on certain specific items the agreed provisions shall govern but only in respect to the item or items specified.

SEC. 4. The necessary rules and regulations implementing the provisions of this Decree shall be contained in a Letter of Implementation to be issued for the purpose.

SEC. 5. This Decree shall take effect upon its approval.

Done in the City of Manila, this 14th day of May in the year of Our Lord, nineteen hundred and seventy-four.

(Sgd.)

FERDINAND E. MARCOS

President of the Philippines

By the President:

(Sgd.)

ALEJANDRO MELCHOR

Executive Secretary

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