

SEMP2-SEDIP Textbook Procurement Anomaly

A Textbook Case of Foreign Meddling, Monopolistic Corruption, and Useless Debt

By The Freedom from Debt Coalition (FDC)

The education sector in the Philippines had long suffered from chronic under-spending by the government, so much so that the capacity of our country's educational infrastructure cannot even come close to meeting the public's demand for education. Since the demand for more schools, more teachers, and more books steadily increases due to the influx of new school entrants, the sector had to become more and more dependent on external support. In fact, the sector had resorted to foreign assistance to address matters as fundamental as the lack of infrastructure, facilities, and even instructional materials such as textbooks and teachers' manuals.

The method by which the government sought to utilize foreign assistance is through the contracting out of loans. It is thus fortunate for the government that multilateral credit institutions such as World Bank, Asian Development Bank (ADB), and Japan Bank for International Cooperation (JBIC) are currently finding markets for their "social development" loans with which they can fund institutional reforms and capacity-building according to their own foreign standards of clean and efficient governance.

It is thus surprising to hear that the one of such recent loans – meant to fund 17.5 million Social Studies textbooks and teachers' manuals for public elementary and high schools – had been allegedly riddled by high-profile fraud and power-play issues. The infamous tales of undue foreign pressure, monopolistic practices, and bribery that surrounded the textbook procurement process for the World Bank funded Second Social Expenditure Management Project (SEMP2) and ADB-JBIC funded Secondary Education Development and Improvement Project (SEDIP) simply went against the anti-corruption rhetoric espoused by the multilateral creditors themselves.

In the bidding process for the two projects, for instance, the World Bank allegedly pressured the Inter-Agency Bids and Awards Committee (IABAC) to reverse its earlier decision to disqualify Vibal Publishing Group despite being disqualified due to "conflict of interests". Not only was Vibal able to qualify, the publishing company later secured the contract for the project, fueling suspicions of corporate-government collusion and manipulation on the part of the World Bank.

The more ominous thing about the project, however, comes with its output. Opposition Senator Panfilo Lacson exposed that at least 60,000 textbooks funded by the projects were found to have inverted pages. It is thus not hard to imagine that the defective textbooks were ultimately the product of defective processes of textbook procurement.

With our regulatory safeguards and institutional standards besmirched, our public school students left to read erroneous textbooks, and the incident setting a precedent for future fraudulent procurement practices, the legitimacy of the loan incurred is thus in question. Should the populace, now burdened by the increasing cost of sending their children to school, still be burdened to pay an ill-transacted loan that only managed to give their children defective textbooks?

Passing the Buck: SEMP2-SEDIP foreign funding

Clearly, the root of the problem is the government's policy of relying heavily on foreign creditors to finance social projects highly susceptible to corrupt practices – a policy which, ironically, would have been unnecessary should the government have chosen to allocate more to social services than debt payments¹. In fact, there is no shortage of cases of loan-financed projects going to waste due to

¹ There is an ongoing phenomenon in government policy of allocating the majority of the country's revenues to debt service (Aquino allocated a yearly average of 102.10% of the country's revenues to debt payments for the whole of her term, Ramos allocated 61.99%, Estrada, 70.22%, and Arroyo, 97.69%), causing the government to finance its deficit through loans.

inefficiency or corruption, as in the case of the World Bank funded Small Coconut Farmers Development Project (SCFDP)². The case of SEMP2-SEDIP's textbook component is no different.

The first SEMP was launched by World Bank in 2000, with the goal of enhancing the quality of education and the quality of governance in social sector departments. One important component of SEMP was the provision of textbooks for elementary and high school students. Seeing the project as a success, the World Bank followed it up with a SEMP2 in September 2002.

The objective of SEMP2 is more concrete: improving basic social services by enhancing performance (efficiency, quality and equity) and governance (transparency and accountability) in the social sector departments (education, health, and social welfare), through systems improvement and reforms (in particular, procurement, financial management and information technology reforms). Also included as a SEMP2 project component is a school building program to be carried out by the Department of Public Works and Highways (DPWH).

SEDIP's goals are very similar to SEMP2. The project, which began in 1999, "aims to improve equitable access to quality secondary education in poverty-affected areas. It has three main objectives: (1) to improve the quality and relevance of secondary education in the Project provinces, (2) to increase the rates of participation in and completion of secondary education in the underserved areas within the Project provinces; and (3) to facilitate decentralization processes to establish the conditions for school-based management." In particular, SEDIP involves construction and rehabilitation of school facilities, provision of textbooks, teaching manuals and other instructional materials and instructional support/training for teachers, and also the procurement of furniture and equipment for classrooms, laboratories and other school facilities.

SEMP2 was then financed by World Bank's Loan Agreement No. 7118-PH amounting to US\$100 million at the time of the project, US\$40 million of which was earmarked for the procurement of textbooks. SEDIP, meanwhile, was financed by two separate loans from two different credit institutions – loan numbers PH-P200 from JBIC and 1654-PHI from ADB amounting to ¥7.21 billion and US\$53 million respectively. The "Improving Availability of Learning Materials" SEDIP project component (which is benchmarked by the number of textbooks delivered) costs up to Php 6,716,270.00 according to the original target.

The textbook procurement, consequently, had been funded from two loans mentioned above: (a) Sibika 1-3, HeKaSi 4-5 and Araling Panlipunan 1-2 from SEMP 2 Loan Agreement No. 7118-PH and (b) Araling Panlipunan 1-4 from SEDIP Loan Agreement No. 1654-PHI.

Illegitimate Processes, Illegitimate Debts

The strategy itself of depending on World Bank, ADB, and JBIC on financing public school textbooks is already questionable as a national policy, but even more questionable is the process the SEMP2-SEDIP textbook procurement underwent. In fact, the project was riddled by irregularity in multiple stages – from the bidding, to the production, to the investigation itself. Let's explore the anomalies one by one:

Lack of Competitive Bidding Process

As early as October 27, 2005, which is the Invitation to Bid for the contract, Senator Lacson already called the attention of World Bank regarding the supposed "hogging" of contracts of Vibal (see Monopoly and Special Treatment). The IABAC, however, still proceeded to conduct the bidding for the supply and delivery of textbooks and teacher's manual on **December 9, 2005** in response to Department of Education's request for the services of Procurement Service (PS) of the Department of Budget and Management (DBM) for the "procurement of approximately 17.5 million copies of Social Studies

² The SCFDP case, which was funded by US\$128.1 million WB loan, was infamous for the wastage of almost 150,000 bags of various fertilizers, some of which had been resold at a lower price. As of 2006, the National Government already paid a total of US\$185.44 million for the loan and its interest.

Textbooks and Teachers' Manuals for Elementary and High Schools nationwide³. Resolution No. 001-2006 issued by the IABAC disclosed that of the 18 bidders who bought the bid documents for the project only eleven submitted their bids⁴.

On **January 31, 2006**, the joint PS of the DBM and the DepEd's Technical Working Group (TWG) **issued a memorandum** recommending the **disqualification of Vibal and Watana Phanit** for conflict of interest. Conflict of interest occurs "if the bidder is a corporation or a partnership and it has officers, directors, controlling shareholders, partners or members in common with another bidder ... or if the bidder is a joint venture and it or any of its members has officers, directors, controlling shareholders or members in common with another bidder, or any of its members is a bidder"⁵. The latest General Information Sheet obtained by the evaluating body from the Securities and Exchange Commission (SEC) submitted by the bidders reveal "an interlocking ownership structure"⁶. All bidders but Daewoo were disqualified due to various reasons⁷. DepEd Assistant Secretary Camilo Miguel M. **Montesa** then **issued another memorandum on February 15, 2006** following the January 31 memorandum to disqualify the bidders.

In a letter dated **April 24, 2006**, however, **World Bank East Asia and Pacific Region Senior Economist Rekha Menon** wrote to DepEd Undersecretary Fe Hidalgo and DBM Assistant Secretary and IABAC chairman Eduardo Opida **disagreeing with the disqualification of Vibal Group and Watana**. Following World Bank's opinion, Vibal Publishing and Watana will be reinstated as legitimate bidders, and together with Daewoo, will be deemed to have submitted the lowest evaluated bid.

IABAC then proceeded to reverse its earlier decision, submitting to World Bank its recommendation to **award the contract**⁸ to Vibal, Watana, Daewoo on **May 30, 2006**, with the DepEd representatives expressing their dissenting opinion. On **June 9, 2006**, **World Bank East Asia and Pacific Region Sector Manager Fadia Saadah approved IABAC's recommendation**, which of course, merely effectively contains World Bank's earlier prescription.

Thus, Vibal and its supposed partner Watana managed not only to be reinstated, it eventually secured the contract with the only qualified bidder, Daewoo International. The presence of Daewoo International, a legitimate bidder based in Korea, will later be helpful to them as it will serve as a "shield" against legal assaults.

Because of what they perceived to be an unjust bidding process, three of the disqualified bidders, namely Rex Bookstore Inc., Daehan Printing and Publishing Co. and Kolonwel Trading, filed a complaint before the World Bank's Department of Institutional Integrity in Washington, D.C., against three World Bank officials – **Menon, Saadah, and Procurement Specialist Dominic Aumentado**, all in the East Asia and

³ From Resolution No. 001-2006 issued by the IABAC

⁴ Vibal Publishing House, Inc., Watana Phanit Printing & Publishing Co. Ltd., Alkem Co., Lex Media Digital Corp., Ibon Foundation, Grand C Graphics, Inc., Kolonwel Trading, Ningbo Binbin, Rex Bookstore, Anvil Publishing, and Daewoo International

⁵ As defined in the Manual of Procedures for the Procurement of Goods and Services, Government Procurement Policy Board dated March 15, 2005

⁶ Quoted from a memorandum dated January 31, 2006 for IABAC from the Joint PS-DepEd TWG re: Preliminary Evaluation and Findings on the Bid Proposals

⁷ The other bidders, except for Grand C Graphics, Inc. and Ningbo Binbin, which were disqualified prior to the Content Evaluation, were automatically disqualified for failing to pass in the Content Evaluation conducted by the Instructional Material Secretariat – Department of Education.

⁸ From Resolution No. 001-2006-A issued by the IABAC

Pacific region. They complained about the “undue influence” exerted by the three, who claimed have overstepped their functions when they overturned a resolution of IABAC.

Administration Representative Prospero Pichay, who spearheaded the Congressional investigation on the matter, puts it more aptly: “In the bidding process, including the choice of the winning bidder, the concurrence of the international funding agency like the World Bank is allegedly made a requirement in the awarding of a project to a particular bidder, an act which, if uncontroverted, would constitute a direct intervention in the affairs of the Philippine state and a direct assault on our sovereignty, considering the fact that **these are loans, not grants, to be paid by Filipino taxpayers.**”

Monopoly and Special Treatment

To answer the allegations of fraud, World Bank Philippines Country Director Joachim von Amsberg claimed that the “fair, open and transparent competition” in the procurement process has led to a “substantial increase” in bidders which “made it difficult for bidders to collude.” The competitive SEMP2 procurement reforms, he said, even resulted to “savings of around 50 percent in the prices paid for textbooks” by the government.

Senator Lacson replied that the “increase” was “artificial” and ironically the result of big-time suppliers colluding with each other. He noted that Watana Phanit, Alkem, and two other publishing groups (SD Publishing and JTW) are all partners of Vibal. Apparently, monopoly was not eased by the large number of bidders, as these bidders may had been colluding among themselves after all.

Vibal already had a history of monopolistic practice when it comes to textbook contracts. It had been revealed, for instance, that Vibal and its “sister” companies cornered 75.96% of the DepEd bids from 1999 to 2004 – or P2,658,756,511 of P3.5 billion – under the World Bank loan. Senator Lacson revealed that since DepEd is asking for some P2.064 billion for textbooks for 2007, the Vibal ‘group’ stands to corner another P1.5 billion.

Defective Textbooks, Vibal’s “Defective” Reputation

World Bank’s claim that the process was supposedly free of anomaly and even resulted into cheaper and better quality textbooks turned out to be false when Senator Lacson revealed that at least 60,000 of the textbooks were found to contain inverted pages, and at least 5 of the 6 books were found to have defects. Antonio Calipjo Go, academic supervisor of Marian School in Quezon City, testified before the Senate panel and stated that he had encountered as much as 170 factual errors (meaning its contents are either inaccurate or does not make sense) in one textbook.

Vibal already had a history of producing substandard textbooks. In fact, Go earlier exposed in a newspaper ad in September 2005 that the Vibal-published 316-page textbook used by second year high school students, “Asya: Noon, Ngayon at sa Hinaharap,” was riddled with 431 errors, including major historical, technical, substantive and grammatical errors and discrepancies.

Thus, the granting of another textbook publishing contract to Vibal only managed to “reward” poor corporate practice. Given the reputation of Vibal, it should have been punished with disqualification from government book-supply deals for their role in the production of erroneous textbooks in the past. Instead, the government willingly and unjustly allowed Vibal to recuperate from its past mistakes at the cost of competitive bidding, and consequently, of quality publishing.

Bribery and Obstruction of Justice

Due to the controversial nature of the procurement process, it is thus not surprising that even the Senate probe that is tasked to investigate it had been immersed in controversy. Senator Lacson himself disclosed that there had been at least two pay-offs aimed to stop the Senate proceeding he called to investigate the World Bank textbook scam – one is P10 million and the other is at least P50 million.

Lacson said that the "grease money" was given by some key members of the publishing industry to members from the executive and the legislature (in particular, a member of the Lower House) just before the opening of the Senate probe.

Government's inadequate response, Vibal's counter-arguments

The government could have prevented the distribution of error-filled textbooks and held accountable the publishing companies involved. Instead, it risked a PIATCO-scale fiasco which could place it again in an excruciatingly tedious litigation process just so it could recover money lost. In fact, more than a month ago before the Lacson exposé, the Manila Regional Trial Court Branch 18 (Myrna V. Garcia-Fernandez) issued an injunction on **December 4, 2006** against the government (DepEd and DBM) and Vibal Publishing House.

It was unfortunate, however, that on **December 20, 2006**, the Supreme Court (SC) has issued a Temporary Restraining Order (TRO) stopping the Manila RTC from enforcing its injunction or proceeding with the Special Civil Case No. 06116010. In a two-page resolution, the SC – through Chief Justice Reynato S. Puno – directed RTC Judge Myra V. Garcia Fernandez and Kolonwel, a losing bidder, to comment within 10 days on the petition filed by the DepEd, the DBM, and Vibal. On this, lawyers of Kolonwel commented that "by issuing a restraining order... the Supreme Court is paving the way for the consummation of the contract even before the tribunal hears the side of the respondent".

The fact that the complainants can only question Vibal and Watana's qualification and not Daewoo served the Vibal consortium well as it weakened the case for stopping the publication and distribution of the error-filled textbooks. In fact, even after much controversy had been generated, the textbooks had been distributed, with the publishers escaping culpability.

Moreover, Vibal remains intransigent in its claim that Daewoo is the one accountable for the errors in the textbook. They said that it is the Korea-based company and not them that had a hand in the printing of the 12 million copies of the textbook "Ang Bagong Pilipino".

Punish WB and Vibal, not the Taxpayers – FDC

Clearly, the illegitimacy of the undertaking stems from the fact that it failed to follow the set of standards of a proper, acceptable, and responsible business conduct (e.g. non-intervention of creditors of financiers to the business operation, adequate competition among producers to assure the client's interest, etc.). This is especially true in the context of the creditor's direct involvement in the anomaly.

Given the anomalous and highly irregular procurement process, FDC believes that it will be the height of injustice if the Filipino taxpayers will yet again be made to pay for loans that had illegitimately been transacted and only resulted to defective outputs. Thus, FDC calls on the government to recognize the social and institutional consequences of the textbook procurement anomaly and to act according to the best and long-term interest of the public.

Specifically, FDC asserts the following:

The fraudulent dealing should be exhaustively investigated by legitimate authorities, with its policy impacts thoroughly studied.

There had already been two efforts at legislative inquiries. First is Rep. Prospero Pichay's House Resolution 1289 which looks into bidding and procurement process. Second is the more comprehensive probe by the Senate education's subcommittee on textbooks in conjunction with the blue ribbon panel as initiated by Sen. Panfilo Lacson which also investigates the causes of the textbook defects. Even the judiciary already looked into the matter as was already seen in the Manila RTC's injunction against the contract and the subsequent Supreme Court's TRO against the injunction.

What we need, therefore, is to bring the existing investigation into fruition by making sure that it leads up to three things: (1) the punishment of guilty parties involved and the protection of the interests of public school students; (2) policy recommendations on government procurement; and (3) policy revision regarding foreign project financing.

The defective textbooks should be replaced, with the entire cost being shouldered by the publishing groups involved.

The burden of restitution (for the parties affected, such as public schools which received defective textbooks) should also be shared if not totally carried by the guilty parties. Corollary to this, a more stringent and punitive quality-control mechanism should be set-up to permanently put a stop to the continuing phenomenon of defective textbooks being produced by DepEd and distributed to the unfortunate public school students.

Transactions with foreign creditors that are made under dubious terms should be disclaimed and not be paid.

FDC believes that when a loan had been obtained and used in an illegitimate manner, there is no responsibility to pay on the part of the indebted party. FDC asserts the mutual and shared responsibility of the creditor and the government to ensure the legitimacy of the processes, intentions, systems, and loans involved.

In the case of SEMP2-SEDIP case, the part of the loan earmarked for textbook procurement should not be paid. We should avoid the case of SCFDP wherein an illegitimate loan that gave no benefit to Filipino farmers had to be paid, and was paid in even larger amounts, by Filipino taxpayers.

It is with this reason that FDC also calls for a Comprehensive Legislative Debt Audit (in parallel with a Citizens' Debt Audit) which will initiate a review all public debts acquired including assumed and contingent liabilities by the government. FDC believes that such audit will facilitate public understanding of the impact of indebtedness and give them a critical perspective on debt servicing.

Persons and establishments involved must be punished under the full force of the law.

It would only be fair to the creditors if in parallel with non-payment of illegitimate loan incurred from them by the government, the personalities implicated in the fraudulent process be prosecuted, with penalties being imposed on the establishments involved. The guilty parties should be punished under existing laws.

Areas for Further Research

Since the strongest case for illegitimacy comes with the creditor's direct participation in the anomaly, research should naturally focus on World Bank's location relative to the issue. This approach will help us build a case for accountability and debt illegitimacy.

The first set of aspects to be researched further is about World Bank's position relative to the procurement system. Specifically, the following areas need to be studied:

1. **World Bank's role in introducing changes in the procurement system**, which what made possible the procurement anomaly to begin with. It must be remembered that the Procurement Reform Act (RA 9184), which encouraged biddings to be done by IABAC (despite the superior technical capacity and experience of departments in conduct their own biddings, like the DepEd for example), was actually introduced as one of the key policy reforms by SEMP2 as based on International Competitive Bidding (ICB) standards.
2. Corollary to this, **the extent of World Bank's authority in the process**. Can it really object on government's procurement and bidding decisions, or is World Bank's power only

recommendatory? What is the impact of World Bank's issuing of opinion? Can it be traced to the fact that they the procurement process itself came as its policy recommendation in SEMP2?

Next, we need to know better the World Bank's position relative to the other parties involved, including the intentions behind and the interests that motivated the dynamics between the parties. In particular, the following aspects need to be further explored:

3. **Relationship of World Bank with publishing companies, Vibal in particular.** What caused World Bank to come to the rescue of Vibal when the latter had already been disqualified by IABAC? Do we have historical basis to prove this "affinity"? How did Vibal managed to corner the majority of World Bank funded Dep-Ed textbook requirement.
4. **The extent of World Bank's influence in government agencies.** If Vibal somehow influences DepEd, then why did the latter's representative in IABAC dissented in the granting the contract to Vibal? Is Vibal's influence directed to the DBM then or other agencies?
5. The **degree of involvement of the other creditor, the ADB**, should also be questioned. If the money at stake is a contribution of ADB as much as it is a contribution of World Bank, how did ADB react to the alleged World Bank intervention? What really is the contribution of SEDIP in the textbook procurement project? Did the fact that it was SEMP2 that established the procurement environment itself placed more weight on World Bank's "recommendations"?