

**[ REPUBLIC ACT NO. 6957, July 09, 1990 ]**

**AN ACT AUTHORIZING THE FINANCING, CONSTRUCTION,  
OPERATION AND MAINTENANCE OF INFRASTRUCTURE  
PROJECTS BY THE PRIVATE SECTOR, AND FOR OTHER PURPOSES**

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

SECTION 1. *Declaration of Policy.* - It is the declared policy of the State to recognize the indispensable role of the private sector as the main engine for national growth and development and provide the most appropriate favorable incentives to mobilize private resources for the purpose.

SEC. 2. *Definition of Terms.* - The following terms used in this Act shall have the meanings stated below:

- a. Build-operate-and-transfer scheme - A contractual arrangement whereby the contractor undertakes the construction, including financing, of a given infrastructure facility, and the operation and maintenance thereof. The contractor operates the facility over a fixed term during which it is allowed to charge facility users appropriate tolls, fees, rentals, and charges sufficient to enable the contractor to recover its operating and maintenance expenses and its investment in the project plus a reasonable rate of return thereon. The contractor transfers the facility to the government agency or local government unit concerned at the end of the fixed term which shall not exceed fifty (50) years. For the construction stage, the contractor may obtain financing from foreign and/or domestic sources and/or engage the services of a foreign and/or Filipino constructor: *Provided*, That the ownership structure of the contractor of an infrastructure facility whose operation requires a public utility franchise must be in accordance with the Constitution: *Provided, however*, That, in the case of corporate investors in the build-operate-and-transfer corporation, the citizenship of each stockholder in the corporate investors shall be the basis for the computation of Filipino equity in the said corporation: *Provided, further*, That, in the case of foreign constructors, Filipino labor shall be employed or hired in the different phases of the construction where Filipino skills are available: *Provided, furthermore*, That the financing of a foreign or foreign-controlled contractor from Philippine government financing institutions shall not exceed twenty percent (20%) of the total cost of the infrastructure facility or project: *Provided, finally*, That financing from foreign sources shall not require a guarantee by the Government or by government-owned or controlled corporations. The build-operate-and-transfer scheme shall include a supply-and-operate situation which is a contractual arrangement whereby the supplier of equipment and machinery for a given infrastructure facility, if the

interest of the Government so requires, operates the facility providing in the process technology transfer and training to Filipino nationals.

- b. *Build-and-transfer scheme* - A contractual arrangement whereby the contractor undertakes the construction, including financing, of a given infrastructure facility, and its turnover after completion to the government agency or local government unit concerned which shall pay the contractor its total investment expended on the project, plus a reasonable rate of return thereon.

This arrangement may be employed in the construction of any infrastructure project including critical facilities which, for security or strategic reasons, must be operated directly by the Government.

SEC. 3. *Private Initiative in Infrastructure.* - All government infrastructure agencies, including government-owned and controlled corporations and local government units, are hereby authorized to enter into contract with any duly prequalified private contractor for the financing, construction, operation and maintenance of any financially viable infrastructure facilities through the build-operate-and-transfer or build-and-transfer scheme, subject to the terms and conditions hereinafter set forth.

SEC. 4. *Priority Projects.* - All concerned infrastructure agencies, including government-owned and controlled corporations and local government units, shall include in their infrastructure programs those priority projects that may be financed, constructed, operated and maintained by the private sector under the provisions of this Act. It shall be the duty of all concerned infrastructure agencies to give wide publicity to all projects eligible for financing under this Act, including publication in national newspapers of general circulation once every six (6) months and official notification of contractors registered with them. The lists of all such national projects must be part of the medium-term infrastructure programs of the agencies concerned and must be duly approved by Congress. Local projects funded and implemented by the local government units concerned shall be submitted to the local development councils for confirmation or approval.

SEC 5. *Public Bidding of Projects* - Upon approval of the projects mentioned in Section 4 of this Act, the concerned head of the infrastructure agency or local government unit shall forthwith cause to be published, once every week for three (3) consecutive weeks, in at least two (2) newspapers of general circulation and in at least one (1) local newspaper which is circulated in the region, province, city or municipality in which the project is to be constructed a notice inviting all duly prequalified infrastructure contractors to participate in a public bidding for the projects so approved. In the case of a build-operate-and-transfer arrangement, the contract shall be awarded to the lowest complying bidder based on the present value of its proposed tolls, fees, rentals, and charges over a fixed term for the facility to be constructed, operated, and maintained according to the prescribed minimum design and performance standards, plans, and specifications. For this purpose, the winning contractor shall be automatically granted by the infrastructure agency or local government unit the franchise to operate and maintain the facility, including the collection of tolls, fees, rentals, and charges in accordance with Section 6 hereof.

In the case of a build-and-transfer arrangement, the contract shall be awarded to the lowest complying bidder based on the present value of its proposed schedule of