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NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
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RECEIVED BY

SENATE

S. No. 1802

Introduced by Senator Francis "Tol" N. Tolentino

**AN ACT ABOLISHING THE PROCUREMENT SERVICE OF THE DEPARTMENT
OF BUDGET AND MANAGEMENT (PS-DBM) AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Pursuant to Letter of Instruction (LOI) No. 755, dated 18 October 1978, the Procurement Service (PS) was placed under the administrative supervision of the Department of Budget and Management (DBM) and mandated to implement a central procurement system for the purpose of procuring supplies and materials for use of the national government (NG) and its agencies and instrumentalities.

On 28 July 2011, Administrative Order (AO) No. 17 reiterated to all government agencies that their procurement of common use supplies shall be done through the PS-DBM and that PhilGEPS shall be used in all their procurement activities, including publication of their bid opportunities and posting of all their awards and contracts, in accordance with Republic Act (RA) No. 9184.

However, though PS-DBM operates on its own income and does not receive any allotment from the national government, the agency has, for several years already, been tainted with controversies in the performance of its mandate.

In its audit report for the period January to December 2017, the COA found that balances of inter-agency transferred funds for the procurement of Common Use Supplies and Equipment and Non-Common Use Supplies and Equipment totaling P15.705 Billion remained idle for more than four (4) years and have not been

returned/refunded to the respective client-agencies for eventual remittance to the BTr.¹

The COA also observed in the same audit report that the PS-DBM did not institutionalize good practices in procurement to meet global standards in government efficiency as practiced in many developing countries when the re-bidding of several of its projects with an aggregate amount of P11.038 Billion were not conducted in due time contrary to the declared policy of efficiency in the procurement process espoused under RA. 9184.²

In 2020, the COA found that inter-agency fund transfers and other payables totaling P10.870 Billion, which pertains to advances for common-use supplies and equipment (CSE) that remained undelivered/unutilized and dormant for years, still have not been remitted to the BTr, thus depriving the government of the use of funds in the implementation of its projects/programs.³

The same audit report found that only 62 out of the 105 contracts/POs awarded under the Bayanihan Acts (RA Nos. 11469 and 11494) were posted in the GPPB Online Portal, which defeated the government's purpose of transparency and accountability.⁴

In its audit of the PS-DBM for the period January to December 2021, the Commission on Audit (COA) discovered that the PS-DBM is keeping a high-yielding savings account at the Development Bank of the Philippines (DBP) in the amount of P3.001 Billion. The said account was created more than five (5) years ago with the PS-DBM officials not being able to specify its source of funds. As the PS-DBM is not mandated to make investments and invest in high-yield savings accounts, the COA recommended the immediate return of the P3.001 Billion to the Bureau of Treasury (BTr).⁵

Also in the 2021 Management Letter, the COA found that the PS-DBM made payments to foreign suppliers amounting to P11.806 Billion for the procurement of COVID-19 supplies without withholding the final income tax applicable to the non-resident foreign corporations (NRFCs) in the amount of P3.268 Billion and non-remittance of the VAT on importation in the amount of P1.265 Million, thus depriving the national government of potential revenue.⁶

¹ 2018 Executive Summary - COA Audit Report for Procurement Service, page ii

² 2018 Executive Summary - COA Audit Report for Procurement Service, page iii

³ 2020 Executive Summary - COA Audit Report for Procurement Service, page iv

⁴ 2020 Executive Summary - COA Audit Report for Procurement Service, page vii

⁵ 2021 Management Letter - COA Audit Report for Procurement Service, page 78

⁶ 2021 Management Letter - COA Audit Report for Procurement Service, page 71

It was likewise discovered that unexpended/unutilized fund transfers totaling P1.976 Billion from the DOH intended for COVID-19 supplies and equipment remained unremitted to the National Treasury despite the lapse of the validity periods for the use of funds.

All these significant observations, among others, were found in 2021, on top of the procurement of overpriced laptops also conducted by the PS-DBM for the Laptops for Public School Teachers Project of the Department of Education (DepEd).

These are just some of the significant observations found by the COA in recent years against the PS-DBM which showed how the national government has been grossly disadvantaged and deprived of the necessary funds for its efficient operation and support the resounding call for its abolition.

In view of the foregoing, the approval of this bill is earnestly sought.



FRANCIS "TOL" N. TOLENTINO

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

1 **Section 1.** *Abolition of Procurement Service of the Department of Budget and*
2 *Management (PS - DBM).* - The Procurement Service of the Department of Budget
3 and Management (PS-DBM) is hereby abolished. All procurement of goods, including
4 common-use supplies, materials and equipment, and infrastructure projects shall
5 henceforth be undertaken by the respective departments, bureaus, offices, agencies,
6 state universities and colleges, government-owned and / or –controlled corporations,
7 and local government units.

8
9 **Section 2.** *Winding Up of the Operation and Disposition of the Functions,*
10 *Positions, Personnel, Assets and Liabilities of PS-DBM.* – Within ninety (90) working
11 days from the effectivity of this Act, the Secretary of Budget and Management shall
12 fully implement the abolition, including the disposition or transfer of the personnel and
13 assets, as necessary. The Secretary shall be assisted by a skeletal force, composed
14 of PS-DBM personnel, for the sole purpose of winding-up the PS-DBM operations and
15 safekeeping of the resources of PS-DBM.

16
17 All assets and liabilities of PS-DBM shall be transferred to the Department of
18 Budget and Management. All funds held by PS-DBM, other cash on hand and in bank
19 accounts of PS-DBM shall be directly remitted to the National Treasury, in accordance
20 with pertinent auditing laws, rules and regulations.

1 **Section 3. *Absorption of Personnel, Separation and Retirement Benefits.*** – The
2 DBM shall, as needed, absorb the PS-DBM personnel, without diminution of their rank,
3 salaries and other benefits. Positions of the PS-DBM personnel, which will be absorbed
4 by the DBM, shall be treated as coterminous with the incumbent.

5 The PS-DBM personnel who are not absorbed shall be separated from service
6 and shall be allowed to receive the corresponding separation and retirement benefits
7 under applicable laws and regulations.

8 The separation pay authorized herein shall be charged against the available
9 funds of the PS-DBM, and such other funding sources that the Department of Budget
10 and Management may identify, subject to existing budgeting, accounting and auditing
11 laws, rules and regulations.

12
13 **Section 4. *Separability Clause*** – If any provision of this Act shall be declared
14 unconstitutional or invalid, the other provisions not otherwise affected shall remain in
15 full force and effect.

16
17 **Section 5. *Repealing Clause*** – *Letter of Instruction No. 755 (18 October 1978),*
18 *Executive Order No. 359, series of 1989* and all other laws, orders, rules and
19 regulations, other issuances, or parts thereof, inconsistent with any provision of this
20 Act, are hereby repealed, amended or modified accordingly.

21
22 **Section 6. *Effectivity.*** – This Act shall take effect after fifteen (15) days
23 following its publication in the Official Gazette or in two (2) newspapers of general
24 circulation.

25
26 Approved,