



NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

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SENATE

S. No. 2272

Introduced by Senator Francis "Tol" N. Tolentino

AN ACT
AMENDING SECTIONS 3, 17, AND 43 OF REPUBLIC ACT NO. 9184,
OTHERWISE KNOWN AS THE GOVERNMENT PROCUREMENT REFORM ACT,
PROVIDING FOR THE REQUIREMENTS OF FULL TRANSPARENCY AND FULL
DISCLOSURE IN THE SUPPLY AGREEMENTS OR PURCHASE IN CONTRACTS
ENTERED INTO BY THE GOVERNMENT OF THE PHILIPPINES ("GOP"), AND
FOR OTHER PURPOSES

EXPLANATORY NOTE

Article IX (D) of the 1987 Constitution provides for the following:

"SECTION 2. (1) The Commission on Audit shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and on a post-audit basis: xxx It shall keep the general accounts of the Government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.

"(2) The Commission shall have exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.

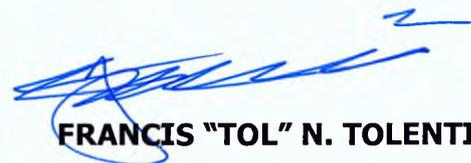
"SECTION 3. No law shall be passed exempting any entity of the Government or its subsidiary in any guise whatever, or any investment of public funds, from the jurisdiction of the Commission on Audit."

Section 2 of RA 9184 provides that "[i]t is the declared policy of the State to promote the ideals of good governance in all its branches, departments, agencies, subdivisions, and instrumentalities, including government-owned and/or controlled corporations, and local government units." Transparency should always be promoted in all aspects of the procurement process.

The Commission on Audit ("COA"), in their Audit Observations, found that the Department of Health entered into Non-Disclosure Agreements (NDA) with vaccine manufacturers in their Supply Agreements which hindered the constitutionally mandated power of the COA to audit, examine, and settle Government accounts.¹ This practice of entering into these kinds of supply agreements is highly disadvantageous to the government as it prevents proper examination of accounts and transactions of government entities, contrary to the precept of transparency of government transactions.²

This bill seeks to update the provisions of RA 9184, to require full disclosure as to the terms and conditions of all contracts entered into by the government, to prevent instances as mentioned above.

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



FRANCIS "TOL" N. TOLENTINO

¹ AOM No. 2023-004 (2021) PCERP. Published on 13 January 2023.

² COA Management Letter on the audit of the Health system Enhancement to Address and Limit Covid-19 Project (HEAL 1) Funded by Asian Development Bank (ADB) under Loan Agreement Number 3961-PHI

1 AND MAY BE ORDERED TO BE PRODUCED AND EXAMINED UNDER
2 COMPULSORY PROCESS BY COMPETENT AUTHORITIES, SUCH AS, BUT NOT
3 LIMITED TO, THE COMMISSION ON AUDIT ("COA"), THE OFFICE OF THE
4 OMBUDSMAN, ANY COMMITTEE OF CONGRESS CONDUCTING
5 INVESTIGATIONS IN AID OF LEGISLATION OR AS AN EXERCISE OF
6 CONGRESSIONAL OVERSIGHT, NOTWITHSTANDING THE INCLUSION IN SAID
7 CONTRACTS OR RELATED DOCUMENTS OF EXEMPTING CLAUSES SUCH AS
8 NON-DISCLOSURE PROVISIONS AND SIMILAR CONTRACTUAL
9 LIMITATIONS."

10 (b) xxx.

11 (c) xxx.

12 (d) xxx.

13 (e) xxx.

14 **SECTION 2.** Section 17 of Republic Act No. 9184 is hereby amended to read as
15 follows:

16 **"SEC. 17. Form and Contents of Bidding Documents.** – The Bidding
17 Documents shall be prepared by the Procuring Entity following the standard forms and
18 manuals prescribed by the GPPB. The Bidding Documents shall include the following:

19 xxx

1 “(i) Form and Amount of Performance Security and Warranty; ~~and,~~

2 “(j) Form of Contract, and General and Special Conditions of Contract; **AND**

3 **“(K) AFFIDAVIT OF FULL DISCLOSURE AS TO THE TERMS AND**
4 **CONDITIONS OF CONTRACT”**

5 **SECTION 3.** Section 43 of Republic Act No. 9184 is hereby amended to read as
6 follows:

7 **“SEC. 43. Procurement of Domestic and Foreign Goods.** – Consistent with
8 the country’s obligations under international treaties or agreements, Goods may be
9 obtained from domestic or foreign sources and the procurement thereof shall be open to
10 all eligible suppliers, manufacturers and distributors. However, in the interest of
11 availability, efficiency and timely delivery of Goods, the Procuring Entity may give
12 preference to the purchase of domestically-produced and manufactured goods, supplies
13 and materials that meet the specified or desired quality. **PROVIDED THAT, IN BOTH**
14 **CASES, THE PROCURING ENTITY SHALL REQUIRE THE BIDDERS TO SUBMIT**
15 **AN AFFIDAVIT OF FULL DISCLOSURE AS TO THE TERMS AND CONDITIONS OF**
16 **THE CONTRACTS.”**

17 **SECTION 4.** *Amendment to the Existing Implementing Rules and Regulations –*
18 The existing Implementing Rules and Regulations of RA 9184 shall be modified
19 accordingly.

1 **SECTION 5. *Repealing Clause*** – All laws, orders, rules and regulations, other
2 issuances, or parts thereof, inconsistent with any provision of this Act, are hereby
3 repealed or modified accordingly.

4 **SECTION 6. *Effectivity***. – This Act shall take effect after fifteen (15) days following
5 its publication in the Official Gazette or in two (2) newspapers of general circulation.

6

7 Approved,