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REPUBLIC OF THE PHILIPPINES)
First Regular Session)

Senate
Office of the Secretary

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SENATE

S. No. 459

BY: 

Introduced by Senator Antonio "Sonny" F. Trillanes IV

AN ACT
ENHANCING THE TRANSPARENCY OF THE PROCUREMENT PROCESS BY
MANDATING THE VIDEO RECORDING OF ALL PROCUREMENT-RELATED
CONFERENCES, THEREBY AMENDING REPUBLIC ACT NUMBERED 9184,
OTHERWISE KNOWN AS THE "GOVERNMENT PROCUREMENT REFORM
ACT OF 2003", PRESCRIBING PENALTIES FOR VIOLATIONS THEREOF, AND
FOR OTHER RELATED PURPOSES

EXPLANATORY NOTE

Republic Act No. 9184, otherwise known as the Government Procurement Reform Act, was hailed as a landmark piece of legislation. Its enactment in 2003 was envisaged to employ the much needed reforms in the country's procurement system. A decade since its enactment, however, the procurement system is still plagued with collusion, abuse of discretionary criteria, malfeasance, misfeasance, and other forms of corruption.

On a lighter note, the Philippines has improved in the 2012 global survey, ranking countries in terms of perceived corruption up 24 places from 2011 to 105th, among 180 countries surveyed by Transparency International. Much of the corruption suggests itself in government procurement, or its acquisition of goods and services.

To further improve and address transparency of the country's procurement system, or its lack thereof, it is imperative to strengthen public monitoring of the procurement process. The public deserves nothing less but the highest standards of transparency and honesty in the execution of government policies. This is consistent with Article II, Section 28 of the 1987 Constitution which declares that subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

In this light, this Act seeks to strengthen the present procurement law by mandating the video recording of all procurement-related conferences. This measure provides that the video recording may be subpoenaed and may be used as evidence in court, as deemed appropriate, in case of legal action filed with reference to the enforcement or violation of the Government Procurement Reform Act. It is hoped that the enactment of this measure will tighten the patent loopholes of the Procurement Law.

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


ANTONIO "SONNY" F. TRILLANES IV
Senator

1 DURING RECORDING, THE MEMBERS OF THE BAC, THE
2 PROSPRECTIVE AND/OR QUALIFIED BIDDERS, THE
3 REPRESENTATIVE OF THE COMMISSION ON AUDIT AND THE TWO
4 (2) OBSERVERS INVITED IN ACCORDANCE WITH ARTICLE V OF
5 THIS ACT, SHALL BE INTRODUCED ONE BY ONE.

6 **SEC. 22. COPIES OF THE VIDEO RECORDING.** – THERE SHALL BE
7 MADE THREE (3) COPIES OF THE VIDEO RECORDING FOR THE
8 PERUSAL AND/OR RECORD OF THE BAC, THE GOVERNMENT
9 PROCUREMENT POLICY BOARD (GPPB), AND THE COMMISSION ON
10 AUDIT (COA). THE VIDEO COPIES SHALL BE MADE AVAILABLE TO
11 THE PUBLIC UPON WRITTEN REQUEST AND PAYMENT OF A
12 SPECIFIED FEE.

13
14 **SEC. 23. WRITTEN AND VIDEO RECORDS AS EVIDENCE IN COURT.**
15 – IN CASE OF ANY PERTINENT LEGAL ACTION, THE VIDEO
16 RECORDS MAY BE SUBJECT TO SUBPOENA DUCES TECUM, AND
17 MAY BE USED AS EVIDENCE IN COURT AS IT FINDS APPROPRIATE.

18
19 THE BAC, GPPB, AND COA SHALL STORE THE VIDEO RECORDS FOR
20 NOT LESS THAN TWENTY (20) YEARS AND MAY DISPOSE OF THEM
21 THEREAFTER.

22
23 THE BAC AND THE GPBB SHALL ENSURE THAT THE COPIES OF THE
24 RECORDING ARE REGULARLY CHECKED TO ASCERTAIN THAT
25 THEY ARE IN GOOD CONDITION AND NOT DETERIORATING,
26 SUBJECT TO THE RECOMMENDED CONSERVATION PRACTICES
27 FOR THE STORAGE OF THE SAME.

28
29 **SEC. 24. LOGISTICS OF VIDEO RECORDING.** – THE BAC OF EACH
30 PROCURING ENTITY SHALL BE IN CHARGE OF THE LOGISTICS OF
31 VIDEO RECORDING AND OTHER RELATED TECHNICAL MATTERS,
32 SUCH AS BUT NOT LIMITED TO AUDIO, ARCHIVING, AND SUCH
33 OTHER MATTERS NECESSARY TO CARRY OUT THE PROVISIONS OF
34 THIS ACT.

35
36 **SEC. 25. PROCUREMENT OF VIDEO RECORDING EQUIPMENT.** –
37 THE GPPB SHALL BE IN CHARGE OF THE PROCUREMENT OF THE
38 VIDEO RECORDING EQUIPMENT AND RELATED SUPPLIES TO BE
39 ALLOCATED TO THE PROCURING ENTITIES.

40
41 **SEC. 26. PENAL PROVISION.** – VIOLATIONS OF ARTICLE VII OF THIS
42 ACT SHALL BE METED OUT PENALTIES AS PRESCRIBED UNDER
43 ARTICLES XXI, XXII, AND XXIII OF THE SAME. IN ADDITION TO
44 THE AFOREMENTIONED SANCTIONS, THE CONTRACT IN FAVOR OF

1 THE ERRANT PARTY SHALL BE NULLIFIED IF THE BID HAS BEEN
2 AWARDED.

3
4 **SEC. 27. APPROPRIATION.** – THE AMOUNT NECESSARY TO CARRY
5 OUT THE PROVISIONS OF THIS ACT SHALL BE INCLUDED IN THE
6 ANNUAL GENERAL APPROPRIATIONS ACT.

7
8 **SEC. 28. IMPLEMENTING RULES AND REGULATIONS.** – WITHIN
9 NINETY (90) DAYS FROM THE EFFECTIVITY OF THIS ACT, THE
10 GPBB SHALL PROMULGATE THE NECESSARY RULES AND
11 REGULATIONS FOR THE PROPER IMPLEMENTATION OF THE
12 PROVISIONS OF THIS ACT. SUCH RULES AND REGULATIONS SHALL
13 TAKE EFFECT IMMEDIATELY THEREAFTER.

14
15 XXX”

16
17 **SEC. 2. Renumbering of Affected Articles and Sections.** – The current Article VII
18 and subsequent Articles and Sections of Republic Act No. 9184 affected by this amendment
19 shall be amended and re-numbered accordingly, to reflect the insertion of the new article on
20 "Video Records of All Bidding Conferences" as Article VII thereof.

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22 **SEC. 3. Separability Clause.** – If any provision or part hereof is held invalid or
23 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
24 valid and subsisting.

25
26 **SEC. 4. Repealing Clause.** – All laws, rules, regulations, orders, circulars, and
27 memoranda inconsistent with any provisions of this Act are hereby repealed or modified
28 accordingly.

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30 **SEC. 5. Effectivity Clause.** – This Act shall take effect fifteen (15) days after its
31 complete publication in the Official Gazette or in at least two (2) newspapers of general
32 circulation.

Approved,