

SENATE
P.S.R NO. 584

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Introduced by Senators Pangilinan, Drilon, Trillanes,
Aquino, Hontiveros, and De Lima

RESOLUTION DIRECTING THE COMMITTEE ON NATIONAL DEFENSE AND SECURITY AND THE CONGRESSIONAL OVERSIGHT COMMITTEE ON THE ARMED FORCES OF THE PHILIPPINES (AFP) MODERNIZATION ACT TO CONDUCT AN INQUIRY IN AID OF LEGISLATION ON THE STATUS OF THE AFP MODERNIZATION PROGRAM, PARTICULARLY THE ACQUISITION OF TWO (2) PHILIPPINE NAVY (PN) FRIGATES

WHEREAS, Republic Act No. 7898 or the "*Armed Forces of the Philippines (AFP) Modernization Act*" aimed to modernize all branches of the AFP such as the Philippine Air Force (PAF), Philippine Navy (PN) and the Philippine Army (PA);

WHEREAS, the original AFP modernization program had a total outlay of Php 331.62 billion. However, only Php 63.39 billion of its budget was released;

WHEREAS, on 11 December 2012, Republic Act No. 10349 was signed to extend the modernization program for another fifteen (15) years with an initial budget of Php 75 billion for the first five (5) years to continue modernizing all branches of the AFP. The AFP modernization program "entails the development and employment of certain capabilities that can address the assessed threats" – which includes those arising from conflicting claims on the West Philippine Sea;

WHEREAS, similar to the 2017 General Appropriations Act (GAA), the amount of Php 25 billion was set aside in 2018 GAA for the AFP modernization program, which includes the acquisition of brand new attack helicopters, tanks and other military hardware;

WHEREAS, the first military contract signed under the Duterte administration, and among the biggest items in the AFP modernization program, is the acquisition of two missile-capable frigates for the PN. It was initiated by the Aquino administration in October 2015 to beef up the country's territorial defense and disaster response capabilities. Currently, the PN's most capable warships are two (2) former United States Coast Guard ships;

WHEREAS, according to a 20 October 2017 Department of National Defense (DND) Report on the Status of the Frigate Acquisition Project, four (4) companies participated in the bidding, with Garden Reach Shipbuilders and Engineer (GRSE) as the lowest calculated bidder and Hyundai Heavy Industries (HHI) as the second lowest

calculated bidder. Using the public bidding mode of procurement, the bid price offered by GRSE was Php 15,047,704,000.00 while HHI's bid was Php 15,744,571,584.00;

WHEREAS, on 18 August 2016, DND Secretary Delfin N. Lorenzana signed the Notice of Award in favor of the HHI after the South Korean company has been declared the Lowest Calculated Responsive Bidder (LCRB) for the project. GRSE was disqualified for failure to meet the Net Financial Contracting Capacity (NFCC) requirement of the project. HHI received the notice to proceed from DND on 13 December 2016. According to Hyundai, the 2,600-ton ships will be delivered by 2020;

WHEREAS, Navy Flag Officer in Command (FOIC) Vice Admiral Ronald Joseph Mercado allegedly resisted the DND's implementation of the Php 16 billion project to acquire the frigates. Mercado supported the PN project management team's stand on issues against HHI;

WHEREAS, on 18 December 2017, Vice Adm. Mercado, who was supposed to serve as Philippine Navy chief until March 2018, has been relieved from his post through a verbal directive. In a news conference on 20 December 2017, DND Secretary Lorenzana said the decision to fire Mercado was his. Mercado was replaced by Rear Adm. Robert Empedrad, the AFP Deputy Chief of Staff for Reserve and Retirees Affairs;

WHEREAS, the PN's contract with HHI stipulates options between Hanwha Thales of South Korea, a subcontractor of Hyundai, and Tacticos Thales of Netherlands to provide the Combat Management System (CMS) for the warships. Mercado allegedly insisted on tapping Tacticos Thales to install the combat management system on the two frigates because of the dissolution of the Hanwha Thales consortium in July 2016 before the contract with HHI was signed. However, HHI wanted to use Hanwha Systems, the subcontractor that replaced Hanwha Thales;

WHEREAS, as published in various news reports, to address the issue with the PN project management team, Secretary Lorenzana allegedly formed a steering committee headed by DND Undersecretary for Finance, Munitions, Installations, and Materiel Raymundo Elefante, which submitted a resolution affirming Hyundai's selection of the combat management system provider;

WHEREAS, according to the DND Report, the PN submitted to DND its position paper on the selection of the CMS in October 2017. Secretary Lorenzana then instructed the AFP to proceed with the implementation of the project pursuant to the provisions of the contract with HHI;

WHEREAS, in the first week of December 2017, the steering committee headed by Undersecretary Elefante was dissolved. There have been allegations that the formation of said committee, in the first place, violated the Government Procurement Act, which does not provide for a creation of a steering committee but for a technical working group to serve as the technical arm for the bids and awards committee, composed of technical, financial, and/or legal experts;

NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED by the Senate of the Philippines to direct the Committee on National Defense and Security and the Congressional Oversight Committee on the Armed Forces of the Philippines (AFP) Modernization Act to conduct an inquiry in aid of legislation on the status of the AFP Modernization Program, particularly the acquisition of two (2) Philippine Navy (PN) frigates, and determine whether or not such acquisition promotes the goals of the modernization program and complies with pertinent laws.

Adopted,



Antonio Lopez



Ben Aquino



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LEILA M. DE LIMA

I fully support
the modernization
of our armed
forces, which
should be done
in accordance
with the constitutional
principles of
transparency and
accountability.