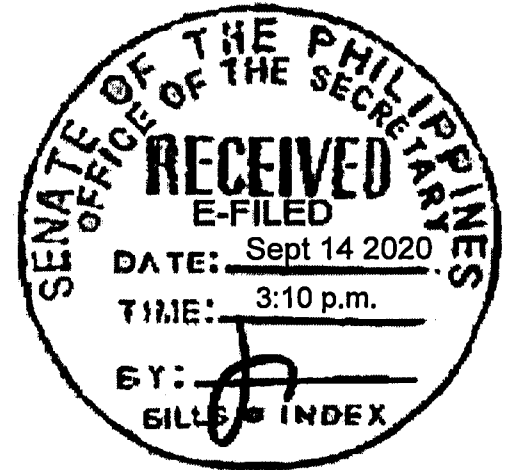


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE
S. No. 1830

Introduced by SENATOR RAMON BONG REVILLA, JR.

AN ACT
TO PURSUE THE ARMED FORCES OF THE PHILIPPINES MODERNIZATION PROGRAM, AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE GOVERNMENT PROCUREMENT REFORM ACT

EXPLANATORY NOTE

In line with the Philippine Development Plan 2017-2022 Strategic Framework to Ensure Security, Public Order, and Safety, which among others, aims to pursue and sustain programs for the modernization of the Armed Forces of the Philippines (AFP) and to enhance the capability of military, police, and other law enforcement units to address the internal security threats posed by local and transnational terrorists and criminal groups, and new and emerging security threats, the government proposes a specialized procurement process for defense assets.

Prior to this, the AFP leadership had already asked Congress to introduce amendments to the stringent requirements of the Government Procurement Reform Act to address the unique needs and demands of purchasing defense equipment and services, such as the need for confidentiality and reasonable extension on time frames with respect to supplies sourced overseas.

Recently, the Commission on Audit (COA) called out the AFP for delays and inefficiencies over the implementation of the AFP Modernization Program. Several projects were not completed within the specific contract time, suspended or terminated.

This bill seeks to provide the necessary authority, opportunity and flexibility for the Department of National Defense and the AFP leadership to fast track its

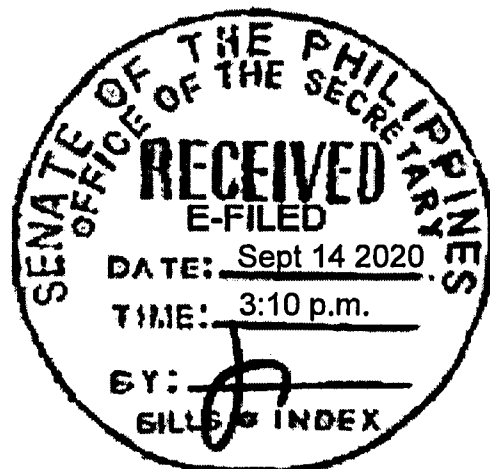
implementation of the long-delayed modernization program. While this measure provides an expeditious and specialized procurement for the defense sector, it is still anchored on the basic principles of quality and reliability of purchases, and accountability and integrity.

It is hoped that with the help of this bill, significant gains will be accomplished in fully realizing the objectives of the AFP Modernization Program, particularly the development of a self-reliant and credible strategic armed force, such that it can fully perform its mandate to uphold the sovereignty and territorial integrity of the Republic and to secure the national territory from all forms of intrusion and encroachment.

In this light, the immediate passage of this bill is highly recommended.


RAMON BONG REVILLA, JR.

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE
S. No. 1830

Introduced by SENATOR RAMON BONG REVILLA, JR.

**AN ACT
TO PURSUE THE ARMED FORCES OF THE PHILIPPINES MODERNIZATION
PROGRAM, AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 9184,
OTHERWISE KNOWN AS THE GOVERNMENT PROCUREMENT REFORM ACT**

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

1 Section 1. Section 4 (Scope and Application), Article I of Republic Act No. 9184,
2 otherwise known as the Government Procurement Reform Act, is hereby amended to
3 read as follows:

4
5 'Sec. 4. *Scope and Application.* – This Act shall apply to the
6 Procurement of Infrastructure Projects, Goods, and Consulting Services,
7 regardless of source of funds, whether local or foreign, by all branches and
8 instrumentalities of government, its departments, offices and agencies,
9 including government-owned and/or –controlled corporations and local
10 government units, subject to the provisions of Commonwealth Act No. 138.

11 **IN THE INTEREST OF NATIONAL SECURITY, THE SECRETARY OF**
12 **NATIONAL DEFENSE MAY PRESCRIBE RULES AND STANDARDS**
13 **IN ACCORDANCE WITH THE PERTINENT PROVISIONS OF THIS**
14 **ACT TO GOVERN THE PROCUREMENT OF DEFENSE ARTICLES,**
15 **SERVICES, AND INFRASTRUCTURES, AND TO ENHANCE THE**
16 **NATIONAL DEFENSE PROGRAM OF THE GOVERNMENT.** Any treaty

1 or international or executive agreement affecting the subject matter of this
2 Act to which the Philippine government is a signatory shall **LIKEWISE** be
3 observed.”

4
5 Sec. 2. Section 5 (Definition of Terms), Article I of the same Act is hereby
6 amended to read as follows:

7
8 “Sec. 5(k). *Infrastructure Projects* – include the construction,
9 improvement, rehabilitation, demolition, repair, restoration or
10 maintenance of roads and bridges, railways, airports, seaports,
11 communication facilities, civil works components of information
12 technology projects **AND SHIP-BUILDING PROJECTS AND THE**
13 **REPAIR, RESTORATION AND MAINTENANCE OF MILITARY**
14 **SHIPS, AIRCRAFT AND OTHER MAJOR MILITARY EQUIPMENT,**
15 irrigation, flood control and drainage, water supply, sanitation, sewerage
16 and solid waste management systems, shore protection, energy/power
17 and electrification facilities, national buildings, school buildings, hospital
18 buildings and other related construction projects of the government.”

19
20 Sec. 3. Section 10 (Competitive Bidding), Article IV of the same Act is hereby
21 amended to read as follows:

22
23 “Sec. 10. *Competitive Bidding*. – All procurement shall be done
24 through Competitive Bidding, except as provided for in Article XVI of this
25 Act. **HOWEVER, IN FURTHERANCE OF THE AFP MODERNIZATION**
26 **PROGRAM PURSUANT TO REPUBLIC ACT NO. 7898, AS**
27 **AMENDED, AND WHEN THE PROCUREMENT INVOLVES**
28 **NATIONAL SECURITY INTEREST, THE SECRETARY OF NATIONAL**
29 **DEFENSE, UPON APPROVAL OF THE PRESIDENT, MAY PRESCRIBE**
30 **ANY OF THE METHODS OF PROCUREMENT PROVIDED FOR IN**
31 **ARTICLE XVI, AS MAY BE APPLICABLE FOR THE PROCUREMENT**
32 **OR DEVELOPMENT OF DEFENSE ARTICLES, SERVICES, AND**

1 **INFRASTRUCTURES, WITHOUT RESORTING TO COMPETITIVE**
2 **BIDDING.”**

3
4 Sec. 4. Section 18 (Reference to Brand Names), Article VI of the same Act is
5 hereby amended to read as follows:

6
7 “Sec. 18. Reference to Brand Names. – Specifications for the
8 Procurement of Goods shall be based on relevant characteristics and/or
9 performance requirements. Reference to brand names shall not be allowed
10 **[.] EXCEPT AS MAY BE OTHERWISE PROVIDED FOR IN THIS ACT.”**

11
12 Sec. 5. Section 43 (Procurement of Domestic and Foreign Goods), Article XII of
13 the same Act is hereby amended to read as follows:

14
15 “Sec. 43. *Procurement of Domestic and Foreign Goods.* – Consistent
16 with the country’s obligations under international treaties or agreements,
17 Goods may be obtained from domestic or foreign sources and the
18 procurement thereof shall be open to all eligible suppliers, manufacturers
19 and distributors. **HOWEVER, IN THE INTEREST OF NATIONAL**
20 **SECURITY AND TO ENSURE HIGH-QUALITY DEFENSE ITEMS, THE**
21 **SECRETARY OF NATIONAL DEFENSE, UPON APPROVAL OF THE**
22 **PRESIDENT, MAY LIMIT THE PROCUREMENT OF DEFENSE**
23 **ARTICLES FROM KNOWN DIRECT MANUFACTURERS OF THE**
24 **ITEMS. [However] FURTHER,** in the interest of availability, efficiency,
25 and timely delivery of Goods, the Procuring Entity may give preference to
26 the purchase of domestically-produced and manufactured goods, supplies,
27 and materials that meet the specified or desired quality.”

28
29 Sec. 6. The last paragraph of Section 48 (Alternative Methods), Article XVI of
30 the same Act is hereby amended to read as follows:

31 “In all instances **NOT INVOLVING THE PROCUREMENT OF**
32 **DEFENSE ARTICLES, SERVICES, AND INFRASTRUCTURES,** the

1 Procuring Entity shall ensure that the most advantageous price for the
2 government is obtained. **IN THE PROCUREMENT OF DEFENSE**
3 **ARTICLES, SERVICES AND INFRASTRUCTURE, THE SECRETARY**
4 **OF NATIONAL DEFENSE SHALL ENSURE THAT THE NATIONAL**
5 **SECURITY INTEREST IS PROTECTED IN TERMS OF EFFICIENCY,**
6 **ECONOMY AND QUALITY OF THE DEFENSE ITEMS TO BE**
7 **PROCURED."**

8
9 Sec. 7. Section 49 (Limited Source Bidding), Article XVI of the same Act is
10 hereby amended, by adding new provisions which shall read as follows:

11
12 **"(C) PROCUREMENT OF DEFENSE ARTICLES WHERE IT IS**
13 **DEEMED OF NATIONAL SECURITY INTEREST AS DETERMINED BY**
14 **THE SECRETARY OF NATIONAL DEFENSE AND APPROVED BY THE**
15 **PRESIDENT, TO LIMIT THE BIDDING TO KNOWN LEGITIMATE**
16 **BIDDERS AND SUPPLIERS OF DEFENSE ARTICLES IN ORDER TO**
17 **OBTAIN AND MAINTAIN THE DESIRED STANDARDIZATION AND**
18 **INTEROPERABILITY OF MILITARY ARTICLES INVENTORY, AND**
19 **TO PROTECT THE PROCUREMENT OF DEFENSE ARTICLES**
20 **AGAINST UNSCRUPULOUS SUPPLIERS.**

21 **(D) THE GOVERNMENT PROCUREMENT POLICY BOARD SHALL**
22 **DESIGNATE THE RELEVANT GOVERNMENT AUTHORITY THAT**
23 **SHALL FORMULATE AND MAINTAIN THE LIST OF PRE-SELECTED**
24 **SUPPLIERS OR CONSULTANTS WITH KNOWN EXPERIENCE AND**
25 **PROVEN CAPABILITY IN THE REQUIREMENT FOR A PARTICULAR**
26 **PROCUREMENT CONTRACT."**

27
28 Sec. 8. Section 50. (Direct Contracting), Article XVI of the same Act is hereby
29 amended, by adding a new provision which shall read as follows:

30 **"(D). SUBSEQUENT PROCUREMENT OF THE SAME TYPE OR**
31 **MODEL OF DEFENSE ARTICLES, SUBJECT TO THE FOLLOWING**
32 **CONDITIONS:**

- 1 **1) THE DEFENSE ITEMS SHALL BE OF UNIFORM, INTER-**
2 **OPERABLE AND COMPATIBLE, AND HAVE THE SAME**
3 **OR BETTER PERFORMANCE CHARACTERISTICS WITH**
4 **THE SIMILAR TYPES OR MODELS OF DEFENSE ITEMS**
5 **CURRENTLY IN USE BY THE ARMED FORCES OF THE**
6 **PHILIPPINES;**
- 7 **2) THE SUBSEQUENT PROCUREMENT WAS PREVIOUSLY**
8 **PROGRAMMED OR PLANNED FOR BUT NOT EFFECTED**
9 **DUE TO RESOURCE CONSTRAINTS AND OTHER**
10 **REASONABLE CAUSES; AND**
- 11 **3) THE ORIGINAL PROCUREMENT OF THE SAME TYPE OR**
12 **MODEL OF THE DEFENSE ITEM WAS UNDERTAKEN**
13 **THROUGH THE LEGITIMATE PROCESS PRESCRIBED**
14 **UNDER THIS ACT, AND THAT SIMILAR TERMS AND**
15 **CONDITIONS, OR BETTER, ARE OBTAINED, EXCEPT**
16 **FOR CHANGES THEREOF FOR REASONS OF**
17 **IMPROVEMENT OR UPGRADE, 'FORCE MAJEURE' OR**
18 **SUCH OTHER CAUSES AS THE SECRETARY OF**
19 **NATIONAL DEFENSE MAY DEEM ACCEPTABLE."**

20
21 Sec. 9. Section 51(c) (Repeat Order), Article XVI of the same Act is hereby
22 amended to read as follows:

23
24 "Sec. 51(c) Except in special circumstances defined in the IRR, the
25 repeat order shall be availed of only within six (6) months from the date
26 of the Notice to Proceed arising from the original contract [~~and~~]. **IN**
27 **THE CASE OF PROCUREMENT OF DEFENSE ARTICLES, SERVICES**
28 **AND INFRASTRUCTURES, A REPEAT ORDER NOT EXCEEDING**
29 **FIFTY PERCENTUM (50%) OF THE ORIGINAL CONTRACT VALUE**
30 **MAY BE AVAILED OF WITHIN ONE (1) YEAR FROM THE DATE OF**
31 **THE LAST DELIVERY OF THE DEFENSE ARTICLES, SERVICES, AND**
32 **INFRASTRUCTURE ARISING FROM THE SAID CONTRACT."**

1
2 Sec. 10. Section 53 (Negotiated Procurement), Article XVI of the same Act is
3 hereby amended, by adding new provisions which shall read as follows:
4

5 **“(F) WHEN THE PRESIDENT, AS COMMANDER-IN-CHIEF, CALLS**
6 **UPON THE ARMED FORCES OF THE PHILIPPINES, TO SUPPRESS**
7 **LAWLESS VIOLENCE, INVASION OR REBELLION, OR THE**
8 **IMMINENT DANGER THEREOF, OR IN TIME OF EMERGENCY AS**
9 **MAY BE DECLARED BY THE PRESIDENT OR CONGRESS, AND FOR**
10 **THE DURATION OF SUCH LAWLESS VIOLENCE, INVASION,**
11 **REBELLION OR EMERGENCY, OR TO ATTAIN OR UNDERTAKE**
12 **PROJECTS FOR SPECIFIC NATIONAL SECURITY OBJECTIVES.**

13 **(G) IN THE CASE OF PROCUREMENT INVOLVING MAJOR**
14 **DEFENSE EQUIPMENT AND MATERIEL, WHEN THE CAPABILITY**
15 **REQUIRED IS NOT AVAILABLE LOCALLY AND WHEN THE**
16 **SECRETARY OF NATIONAL DEFENSE, UPON APPROVAL OF THE**
17 **PRESIDENT, HAS DETERMINED THAT IN VIEW OF SECURITY AND**
18 **OTHER STRATEGIC CONSIDERATIONS, INCLUDING**
19 **CONFIDENTIALITY, INTEROPERABILITY, AND/OR THE**
20 **EXISTENCE OF DEFENSE PARTNERSHIPS, THE PROCUREMENT OF**
21 **THE ABOVEMENTIONED EQUIPMENT SHOULD BE EXEMPTED**
22 **FROM THE REQUIREMENT OF PUBLIC BIDDING UNDER THIS**
23 **ACT; PROVIDED, THAT THE PERFORMANCE BY THE SUPPLIER OF**
24 **ITS OBLIGATIONS UNDER THE PROCUREMENT CONTRACT SHALL**
25 **BE COVERED BY SECTION 39 OF THIS ACT: PROVIDED, FURTHER**
26 **THAT MAJOR DEFENSE EQUIPMENT AND MATERIEL SHALL REFER**
27 **TO AIRCRAFT, VESSELS, TANKS, ARMORED VEHICLES, HIGH**
28 **TECH COMMUNICATION EQUIPMENT, RADAR SYSTEMS,**
29 **SOPHISTICATED WEAPONS SYSTEMS AND HIGH-POWERED**
30 **FIREARMS NOT OTHERWISE LOCALLY AVAILABLE.**

1 *Sec. 11. Separability Clause.* – If any provision or part hereof is held invalid or
2 unconstitutional, the remainder of the law or the provision or part not otherwise
3 affected shall remain valid and subsisting.

4

5 *Sec. 12. Repealing Clause.* – Any law, presidential decree or issuance, executive
6 order, letter of instruction, administrative order, rule, or regulation contrary to or
7 inconsistent with the provisions of this Act are hereby repealed, modified, or amended
8 accordingly.

9

10 *Sec. 13. Effectivity.* – This Act shall take effect fifteen (15) days after its
11 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,