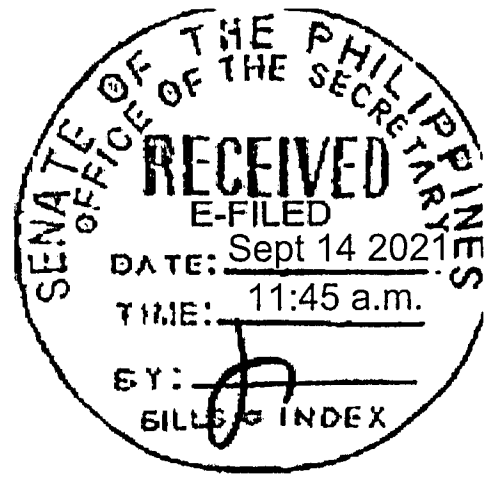


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



SENATE
P.S. Res. No. 906

Introduced by SENATOR LEILA M. DE LIMA

RESOLUTION
DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE PHILIPPINE INTERNATIONAL TRADING CORPORATION'S (PITC) QUESTIONABLE PROCUREMENT OF PERSONAL PROTECTIVE EQUIPMENT (PPE), AS WELL AS DELAYS AND DEFICIENCIES IN ITS PROCUREMENT AND UTILIZATION OF FUNDS FROM VARIOUS SOURCE AGENCIES (SAs), WITH THE END IN VIEW OF IDENTIFYING ACCOUNTABILITY

1 WHEREAS, Article II, Section 27 of the 1987 Constitution states that “the
2 State shall maintain honesty and integrity in the public service and take positive and
3 effective measures against graft and corruption”;

4 WHEREAS, Section 4(u) of the R.A. No. 11494, otherwise known as the
5 “Bayanihan to Recover as One Act (Bayanihan 2)”, prescribes that the procurement
6 of the PPEs shall be made in the most “judicious, economical, and expeditious
7 manner”;

8 WHEREAS, as exemption from the bidding process under R.A. No. 9184, the
9 correct and relevant documents are required to be made available to the Government
10 Procurement Policy Board (GPPB) online portal and the website of the procuring
11 agency, *viz.*:

- 12 (i) Project name;
- 13 (ii) Approved budget for contract;
- 14 (iii) Contract period;
- 15 (iv) Name of the winning supplier, distributor, manufacturer,
16 contractor or consultant;
- 17 (v) Amount of contract as awarded;

1 (vi) Notice of Award;

2 (vii) Date of award and acceptance;

3 (viii) Contract or purchase order; and

4 (ix) A certification stating that the procuring entity exerted all efforts to
5 secure the most advantageous price to the government based on existing price
6 data of the agency, the DTI or other relevant agencies or preliminary market
7 scanning done by the agency showing prevailing market prices and practices”;

8 WHEREAS, Section 4 (u)(6) of the Bayanihan 2 Act provides that “to ensure
9 adequate and responsive supply of critical products, the government, as a procuring
10 entity shall give preference and procure products, materials and supplies produced,
11 made or manufactured in the Philippines.” Procuring agencies, such as the
12 Procurement Service-Department of Budget and Management (PS-DBM) “shall
13 make the award to the lowest domestic manufacturer-bidder notwithstanding its bid
14 is 15% in excess of the lowest foreign bid” as long as “it secures from the DTI a
15 certification that the articles forming part of its bid are substantially composed of
16 articles, materials, or supplies grown, produced, or manufactured in the Philippines”.
17 Also, the provision mandates the Department of Health (DOH), Food and Drug
18 Administration (FDA), and other relevant authorities the prioritization of the
19 documentary requirements by the local manufacturers;

20 WHEREAS, the 2020 Commission on Audit (COA) Report on the Philippine
21 International Trading Corporation (PITC) noted deficiencies, delays, and
22 irregularities in PITC procurement;

23 WHEREAS, the report found a suspicious awarding of emergency-
24 procurement of Personal Protective Equipment (PPEs) to a single supplier.¹
25 Contracts accessed on the PITC website showed that there were ten (10) separate
26 contracts for different items worth ₱129.9 million. A cross-check of the report's
27 reference number with the PITC website indicated that all contracts were awarded to
28 Biosite Medical Instruments of Matina, Davao City.² Reports also revealed that the
29 PITC website had about ten distinct notices of award sent to Biosite on 1 April 2020.

¹ Buan, L. (2021, August 31). *PITC gave P129-M contract to Davao-based supplier despite lower bids – COA*. Retrieved from <https://www.rappler.com/nation/philippine-international-trading-corporation-contract-davao-based-supplier-coa-report-2020>

² *Ibid.*

1 A total of P129.803 million in contracts were awarded for surgical masks, shoe
2 covers, N95 masks, head covers, gowns, goggles, gloves, face shields, coveralls, and
3 aprons for the DOH;

4 WHEREAS, the COA reported that with the total P186.584 million in the
5 approved budget for the contract (ABC), the PITC awarded the procurement of PPEs
6 to a bidder without taking into consideration the lowest price proposal for each item,
7 which would have resulted in P2.166 million cost savings for the government;³

8 WHEREAS, the report also mentioned PITC's failure to utilize P11.022-billion
9 worth of fund transfers from various source agencies (SAs) for projects from 2014 to
10 2020.⁴ Of this amount "P3.229 billion worth of fund transfers from previous years
11 are only scheduled to be bid out in 2021. These include DOH supplies like beds,
12 wheelchairs, ECG machines, and even the design and build of the proposed national
13 reference laboratory building of the Research Institute for Tropical Medicine
14 (RITM), the country's main COVID-19 lab";⁵

15 WHEREAS, deficiencies of the PITC in the delivery of Philippine Air Force
16 (PAF) equipment and supplies were also flagged.⁶ Reports divulged that the PITC
17 had deprived the PAF of "immediate use" of much-needed supplies and equipment
18 despite paying the state-owned trading firm over P736.14 million in the past two to
19 three years with only 35.93% delivery rate.⁷ During the CYs 2018-2019, PAF and
20 PITC entered into various outsourcing requests with fund transfers amounting to
21 P736.14 million. However only 35.93% or P264.25 worth of supplies and equipment
22 were delivered and recorded in the book of accounts as of December 2020 leaving a
23 balance of P471.61 million or 63.86%;⁸

24 WHEREAS, in 2020, the reliability and accuracy of PITC's balance of P 471.62
25 million could not be ascertained due to a net difference of P 386.44 million between

³ *Ibid.*

⁴ *Ibid.*

⁵ Buan, L. (2021, August 31). *PITC gave P129-M contract to Davao-based supplier despite lower bids – COA.* Retrieved from <https://www.rappler.com/nation/philippine-international-trading-corporation-contract-davao-based-supplier-coa-report-2020>

⁶ Manila Bulletin. (2021, July 23). *COA assails anew gov't trading arm PITC for delayed delivery of P736 PAF equipment.* Retrieved from <https://mb.com.ph/2021/07/23/coa-assails-anew-govt-trading-arm-pitc-for-delayed-delivery-of-p736-paf-equipment/>

⁷ *Ibid.*

⁸ *Ibid.*

1 PAF and PITC records of fund transfers.⁹ Out of this difference, P69.936 million
2 referred to items delivered on 1 April 2021 at 420th Strike Wing but not yet accepted
3 as of the date of writing of the COA report.¹⁰ This is compounded by the fact that the
4 residuals/fund balances from completed projects amounting to P1.5 million were not
5 returned by PITC to the PAF,¹¹ which prompted the Air Force Accounting Center
6 (AFAC) to send a letter dated 16 April 2021 to PITC requesting for the return of said
7 residual fund transfer;¹²

8 WHEREAS, the state auditors asserted that the Bids and Awards Committee
9 should have considered the lowest price offered, given that there were separate bids
10 for each item;¹³

11 WHEREAS, on the PITC's assertion that "lowest price proposal of a bidder is
12 not the sole factor in determining the winning bidder", COA maintains that the price
13 "is still one of the primary considerations in awarding the contract particularly when
14 all the bidders met the eligibility and the technical requirements";¹⁴

15 WHEREAS, the PITC reasoned that the above unutilized funds were brought
16 about by the government's shift to cash-based budgeting in 2019 adding that these
17 funds were being returned to the BTr,¹⁵ which is in stark contrast with COA's report
18 that the funds did not revert to the BTr;

19 WHEREAS, this is not the first major irregularity for which PITC has been
20 cited this year. COA flagged PITC's failure to return unutilized funds totaling P11.022
21 billion from various SAs to the concerned SAs or to the Bureau of Treasury (BTr).
22 Instead of reverting back to the SAs which transferred the funds or to the BTr, these
23 funds were "earmarked for procurements in CY 2021 and onwards, contrary to the

⁹COA Report on Philippine Air Force. (2020).

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

¹³ Ibid

¹³ Buan, L. (2021, August 31). *PITC gave P129-M contract to Davao-based supplier despite lower bids – COA*. Retrieved from <https://www.rappler.com/nation/philippine-international-trading-corporation-contract-davao-based-supplier-coa-report-2020>

¹⁴ Ayalin, A. (2021, August 31). *COA flags PITC purchase of PPEs from Davao firm*. Retrieved from <https://news.abs-cbn.com/news/08/31/21/coa-flags-pitc-purchase-of-ppes-from-davao-firm>

¹⁵ Buan, L. (31 August 2021). *PITC gave P129-M contract to Davao-based supplier despite lower bids – COA*. Retrieved from <https://www.rappler.com/nation/philippine-international-trading-corporation-contract-davao-based-supplier-coa-report-2020>

1 pertinent provisions of COA Circular No. 94-013 dated December 13, 1994 and the
2 General Provision of the prior years' General Appropriations Acts (GAAs);¹⁶

3 WHEREAS, under Item 6.7 of COA Circular No. 94-013, implementing
4 agencies must "return to the source agency any unused balance and refund of
5 disallowance upon completion of the project." While the General Provisions of the
6 GAAs for Fiscal Years (FYs) 2014, 2015, 2016, 2017, 2018 and 2019 provide that "xxx
7 unexpected balances of appropriation authorized in this Act shall revert to the
8 General Fund at the end of the validity of appropriation and shall not be available for
9 expenditure except by subsequent legislative enactment," it further provides that
10 "xxx revert all balances of Special Accounts, Fiduciary, Trust Funds, and Revolving
11 Funds to the General Funds on the following instances: (i) when there is no legal
12 basis for its creation; (ii) when their terms have expired for; (iii) when they are no
13 longer necessary for the attainment of the purposes for which said funds were
14 established";

15 WHEREAS, even Executive Order No. 91 on the Cash Budgeting System
16 beginning FY 2019 provides in Section 1 thereof that "[a]ll authorized appropriations
17 shall be available for obligation and disbursement only until the end of each fiscal
18 year.";

19 WHEREAS, the COA further added that there is a risk that this procurement
20 may no longer be necessary in the present time compared to its purpose for when the
21 funds were established years ago;

22 WHEREAS, funds transferred in the CYs 2018-2019 are allocated for projects
23 that should have been completed or ongoing implementation as of December 2020,
24 however none are on either status;¹⁷

25 WHEREAS, PITC does not meet the absorptive capacity requirement under
26 RA 9184;

¹⁶ Commission on Audit. *Annual Report on the Philippine International Trading Corporation For the Years Ended December 31, 2020 and 2019: Executive Summary.*

¹⁷ COA Report on Philippine Air Force. (2020).

1 WHEREAS, had the PAF not inquired about the services of PITC, it could have
2 saved on service fees charged equivalent to 1.75 to 2% of the total contract cost
3 specifically in this case, and PAF could have saved ₱ 20.5 million;¹⁸

4 WHEREAS, in the ongoing Senate Blue Ribbon Committee's Hearings into the
5 pandemic funds, Senators have noted how agencies such as the PITC, as well as PS-
6 DBM, are utilized "to park funds and 'mask' the inefficiency of the requesting
7 agencies to utilize their budget";¹⁹

8 WHEREAS, Senators have previously challenged the "role and efficiency" of
9 the PITC asserting that it "may only be being used to 'make it appear' that budget
10 allocations have already been obligated";²⁰

11 WHEREAS, the PITC's deficient and delayed delivery of its procurement
12 responsibilities to various source agencies (SAs) and disbursement of funds
13 hampered the services and projects that are greatly needed in this time of pandemic;

14 WHEREAS, it is imperative for the PITC to explain its failure to return billions
15 in public funds to source agencies and to the national treasury and justify its action
16 of scheduling for bidding/procurement 99% of the unutilized fund transfers from
17 CYs 2014 to 2020;

18 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE, to direct the
19 appropriate Senate Committee to conduct an inquiry, in aid of legislation, on the
20 Philippine International Trading Corporation's (PITC) questionable procurement of
21 personal protective equipment (PPE), as well as delays and deficiencies in its
22 procurement and utilization of funds from various source agencies (SAs), with the
23 end in view of identifying accountability.

Adopted,


LEILA M. DE LIMA

¹⁸ *Ibid*

¹⁹ Buan, L. (31 August 2021). *PITC gave P129-M contract to Davao-based supplier despite lower bids – COA*. Retrieved from <https://www.rappler.com/nation/philippine-international-trading-corporation-contract-davao-based-supplier-coa-report-2020>

²⁰ Domingo, K. (18 November 2020). *State trading company being used 'to make it appear' funds are obligated: senators*. Retrieved from <https://news.abs-cbn.com/news/11/18/20/state-trading-company-being-used-to-make-it-appear-funds-are-obligated-senators>