

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



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SENATE
Proposed Senate Resolution No. 141

RECEIVED BY: _____

Introduced by Senator Aquilino “Koko” Pimentel III

**A RESOLUTION
DIRECTING THE SENATE COMMITTEE ON ACCOUNTABILITY OF
PUBLIC OFFICERS AND INVESTIGATIONS (BLUE RIBBON), TO
CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE
ALLEGED LACK OF DILIGENCE OF THE DEPARTMENT OF
BUDGET AND MANAGEMENT-PROCUREMENT SERVICE (DBM-PS)
IN PROCURING P1.386 BILLION WORTH OF PERSONAL
PROTECTIVE EQUIPMENT (PPE)**

1 **WHEREAS**, in its Management Letter (ML) on the Audit of the
2 Procurement Service (PS) for the period January 1 to December 31, 2021, the
3 Commission on Audit (COA) flagged anew the Procurement Service of the
4 Department of Budget and Management on its deficiencies with regard to its
5 compliance with Republic Act No. 1984 or the “*Government Procurement*
6 *Reform Act*”;

7
8 **WHEREAS**, one of the most notable findings is on its failure to secure
9 the required Certificate of Medical Device Notification (CMDN) in seven (7) of
10 its procurement contracts of personal protective equipment (PPE) worth
11 P1,386,525,308.60;

12
13 **WHEREAS**, the Food and Drug Administration (FDA) Circular No.
14 2020-031 dated November 3, 2020 on Licensing and Notification/Registration
15 Requirements for personal protective equipment states:

16
17 “All establishments which intend to import and manufacture
18 personal protective equipment to be used in the COVID-19
19 Pandemic are required to secure a License to Operate (LTO) as
20 medical device importer or manufacturer, as may be proper
21 pursuant to Administrative Order No. 2016-0003 as amended by
22 Administrative Order No. 2020-017.

1 pursuant to Administrative Order No. 2016-0003 as amended by
2 Administrative Order No. 2020-017.

3
4 After securing the LTO, importers and manufacturers of personal
5 protective equipment are required to secure a CMDN prior to the
6 commercial sale and distribution of said medical devices pursuant
7 to Administrative Order No. 2018-0002 entitled “*Guidelines*
8 *Governing the Issuance of the Authorization for Medical Device*
9 *based in ASEAN Harmonized Technical Requirements.*”¹

10
11 **WHEREAS**, the foregoing FDA Circular covers the personal protective
12 equipment items specifically the face masks for medical use including N95
13 masks, surgical masks, shoe covers, gloves, head covers, and gowns;²

14
15 **WHEREAS**, tasked to procure PPEs for the whole of government, the PS
16 needed to prepare the Technical Specifications (TS) which must necessarily
17 include the CMDN as one of the requirements;

18
19 **WHEREAS**, according to the said COA ML, the PS entered into seven (7)
20 contracts for the procurement of personal protective equipment without the safety
21 requirement. Two (2) contracts did not require the CMDN in its TS. For five (5)
22 contracts, the supplier failed to submit the CMDN despite the requirement in the
23 TS;³

24
25 **WHEREAS**, in view of this failure, the audit team found that “The PS did
26 not exercise due diligence in procuring the personal protective equipment items,
27 neither in crafting the TSs nor in the review and evaluation of the technical
28 capacity of the supplier to deliver the goods to be procured using the non-
29 discretionary criteria”;

30
31 **WHEREAS**, the audit team stressed that in the absence of the CMDN, the
32 personal protective equipment was not authorized for sale or public use.
33 “Consequently, the PS cannot assure its client-agencies of the safety of the PPE
34 especially to the medical staff users who are directly exposed to the COVID-19
35 virus during this pandemic”;⁴

36
37 **WHEREAS**, this is not just about compliance to the procurement law and
38 its rules but the safety of our frontliners and our people as a whole. There is

¹ Management Letter on the Audit of the Procurement Service (Jan. 1-Dec.31,2021), dated June 29, 2022, p. 35.

² *Ibid.*

³ *Id.*, p.35-36.

⁴ Auditors flag P1.3-billion PPE contract of PS-DBM by Adrian Ayalin published on August 11, 2022 in <https://news.abs-cbn.com/news/08/11/22/p13-billion-ppe-contract-of-ps-dbm-flagged>

1 a reason for this requirement by the FDA and it should not be brushed aside
2 especially during these times of public health emergency;

3
4 **WHEREAS**, the DBM-PS must explain why it failed to require the said
5 CMDN in 2 of its Technical Specifications, and why it accepted the PPEs of 5
6 contracts despite non-compliance with the TS of the suppliers who failed to
7 submit the required CMDN;

8
9 **NOW, THEREFORE, BE IT RESOLVED** as it is hereby resolved to
10 direct the Senate Committee on Accountability of Public Officers and
11 Investigations (Blue Ribbon), to conduct an inquiry, in aid of legislation, on the
12 alleged lack of diligence of the Department of Budget and Management-
13 Procurement Service (DBM-PS) in procuring P1.386 billion worth of personal
14 protective equipment (PPE) with the end in view of identifying accountability
15 and making changes to our procurement laws and processes, if found necessary.

Adopted,


AQUILINO "KOKO" PIMENTEL III