

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



23 JUN -1 P6:14

SENATE

S.B. No. 2273

RECEIVED BY:

Introduced by Senator Francis "Tol" N. Tolentino

**AN ACT
REQUIRING THE PARTICIPATION OF THE OFFICE OF THE SOLICITOR GENERAL
(OSG) IN ALL CONTRACT NEGOTIATIONS WITH FOREIGN GOVERNMENTS,
CORPORATIONS, ENTITIES, OR INDIVIDUALS, AMENDING FOR THE PURPOSE
SECTION 35, CHAPTER 12, TITLE III, BOOK IV OF EXECUTIVE ORDER NO. 292,
OTHERWISE KNOWN AS THE "ADMINISTRATIVE CODE OF 1987", AND FOR
OTHER PURPOSES**

EXPLANATORY NOTE

The 1987 Constitution provides that "[s]ubject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest."¹

The Government of the Philippines ("GOP") borrowed approximately USD 2 billion, or PHP 100 billion, to finance its vaccination program against COVID-19.² GOP negotiated with various vaccine manufacturers for supply prioritization and equitable rates. However, the vaccine supply agreements involved were not without concessions and contained characteristics of vaccine supply contracts which some commentators now classify as "secret vaccine deals".³

In 2022, various countries and institutions have raised the lifting of the veil of secrecy in the name of transparency.⁴ Many have also called for accountability against widespread documented phenomenon of vaccine wastage; an unimaginable concept at the height of the COVID-19 pandemic just a few years ago.⁵

The Senate Committee on Accountability of Public Officers and Investigations ("Blue Ribbon"), in this regard, launched a motu proprio investigation, in aid of legislation, into the non-disclosure by and/or refusal of the GOP's Department of Health ("DOH") to release the details of the vaccine procurement contracts on the pretext of non-disclosure agreements of the GOP with vaccine manufacturers and other contractual parties.

Said inquiry found, among others, that the Office of the Solicitor General ("OSG"), "the principal law officer and legal defender of the Government"⁶ and who by law "shall

¹ PHIL. CONST., Article II, Section 28.

² <https://business.inquirer.net/337450/ph-borrows-a-total-of-p100-5-billion-for-covid-19-vaccines-boosters> (last accessed 29 May 2023).

³ See <https://www.nytimes.com/2021/01/28/world/europe/vaccine-secret-contracts-prices.html> (last accessed 29 May 2023).

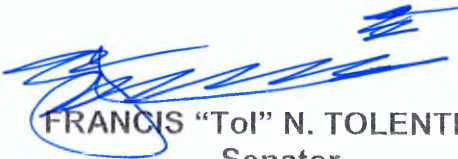
⁴ *Id.*

⁵ <https://gh.bmj.com/content/7/4/e009010> (last accessed 29 May 2023).

⁶ Executive Order No. 292, Book IV, Title III, Chapter 12, Section 34.

represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any xxx matter requiring the services of a lawyer”⁷, had no involvement in the negotiation, drafting, or approval process of COVID-19 vaccine supply agreements and other contractual obligations entered into by the GOP.

As one of the products of said investigation, this proposed Act -- requiring the participation of the Office of the Solicitor General (“OSG”) in all contract negotiations with foreign governments, corporations, entities, or individuals, through amendment of the Administrative Code of 1987 -- seeks to enhance the protections, personnel, and prerogative under the law of and to the GOP, particularly in situations involving multi-billion peso deals and supplies that save lives and in hopes that Philippine public procurement can better protect public funds, public trust, and Filipino lives.



FRANCIS “Toi” N. TOLENTINO
Senator

⁷ Executive Order No. 292, Book IV, Title III, Chapter 12, Section 35..

1 (7) PARTICIPATE IN ALL CONTRACT NEGOTIATIONS OF THE
2 NATIONAL GOVERNMENT WITH FOREIGN GOVERNMENTS,
3 CORPORATIONS ENTITIES, OR INDIVIDUALS INCLUDING CONTRACTS
4 FOR VACCINES, MEDICINES, AND CRITICAL LIFE-SAVING SUPPLIES OR
5 EQUIPMENT AND CONTRACTS FOR SERVICES, TO ENSURE THAT ANY
6 AND ALL TERMS AND CONDITIONS ARE IN COMPLIANCE WITH THE
7 CONSTITUTION AND ENTERED INTO OR PREPARED CONFORMABLY
8 WITH LAW AND FOR THE BEST INTEREST OF THE PUBLIC.
9

10 [(7)] (8) Deputize, whenever in the opinion of the Solicitor General the
11 public interest requires, any provincial or city fiscal to assist him in the
12 performance of any function or discharge of any duty incumbent upon him, within
13 the jurisdiction of the aforesaid provincial or city fiscal. When so deputized, the
14 fiscal shall be under the control and supervision of the Solicitor General with
15 regard to the conduct of the proceedings assigned to the fiscal, and he may be
16 required to render reports or furnish information regarding the assignment.
17

18 [(8)] (9) Deputize legal officers of government departments, bureaus,
19 agencies and offices to assist the Solicitor General and appear or represent the
20 Government in cases involving their respective offices, brought before the courts,
21 and exercise supervision and control over such legal Officers with respect to
22 such cases.
23

24 [(9)] (10) Call on any department, bureau, office, agency or instrumentality
25 of the Government for such service, assistance and cooperation as may be
26 necessary in fulfilling its functions and responsibilities and for this purpose enlist
27 the services of any government official or employee in the pursuit of his tasks.
28

29 Departments, bureaus, agencies, offices, instrumentalities and
30 corporations to whom the Office of the Solicitor General renders legal services
31 are authorized to disburse funds from their sundry operating and other funds for
32 the latter Office. For this purpose, the Solicitor General and his staff are
33 specifically authorized to receive allowances as may be provided by the
34 Government offices, instrumentalities and corporations concerned, in addition to
35 their regular compensation.
36

37 [(10)] (11) Represent, upon the instructions of the President, the Republic
38 of the Philippines in international litigations, negotiations or conferences where
39 the legal position of the Republic must be defended or presented.
40

41 [(11)] (12) Act and represent the Republic and/or the people before any
42 court, tribunal, body or commission in any matter, action or proceeding which, in
43 his opinion, affects the welfare of the people as the ends of justice may require;
44 and
45

46 [(12)] (13) Perform such other functions as may be provided by law.”

47 **Section 2. Repealing Clause** – All laws, orders, rules and regulations, other
48 issuances, or parts thereof, inconsistent with any provision of this Act, are hereby
49 repealed or modified accordingly.

1 **Section 3 . Effectivity.** – This Act shall take effect after fifteen (15) days following
2 its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,