

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



Senate  
Office of the Secretary

'13 JUL -4 A11 :07

SENATE

S. No. **477**

RECEIVED BY: *ji*

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Introduced by Senator Antonio "Sonny" F. Trillanes IV

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#### EXPLANATORY NOTE

Republic Act No. 9184, otherwise known as the Government Procurement Reform Act, was hailed as a landmark piece of legislation. Its enactment in 2003 was envisaged to employ the much needed reforms in the country's procurement system. A decade since its enactment, however, the procurement system is still plagued with collusion, abuse of discretionary criteria, malfeasance, misfeasance, and other forms of corruption.

On a lighter note, the Philippines has improved in the 2012 global survey, ranking countries in terms of perceived corruption, up 24 places from 2011 to 105th, among 180 countries surveyed by Transparency International<sup>1</sup>. Much of the corruption suggests itself in government procurement, or its acquisition of goods and services.

To further improve and address transparency of the country's procurement system, or its lack thereof, it is imperative to strengthen public monitoring of the procurement process. The public deserves nothing less but the highest standards of transparency and honesty in the execution of government policies. This is in consistent with Article II, Section 28 of the 1987 Constitution which declares that subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

In this light, this Act seeks to strengthen the present procurement law by mandating the video recording of all procurement-related conferences. This measure provides that the video recording may be subpoenaed and may be used as evidence in court, as deemed appropriate, in case of legal action filed with reference to the enforcement or violation of the Government Procurement Reform Act. It is hoped that the enactment of this measure will tighten the patent loopholes of the Procurement Law.

In view of the foregoing, immediate approval of this measure is earnestly sought.

ANTONIO "SONNY" F. TRILLANES IV  
Senator

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<sup>1</sup> Information retrieved from [www.transparency.org/cpi2012/results](http://www.transparency.org/cpi2012/results) on 2 June 2013.



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AN ACT

ENHANCING THE TRANSPARENCY OF THE PROCUREMENT PROCESS BY MANDATING THE VIDEO RECORDING OF ALL PROCUREMENT-RELATED CONFERENCES, THEREBY AMENDING REPUBLIC ACT NUMBERED 9184, OTHERWISE KNOWN AS THE "GOVERNMENT PROCUREMENT REFORM ACT OF 2003", PRESCRIBING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER RELATED PURPOSES

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

1 SECTION 1. *Title.* – Republic Act No. 9184 is hereby amended by inserting a new  
2 Article VII and new Sections 20, 21, 22, 23, 24, 25, 26, 27, and 28 therein, to read as follows:

4 ARTICLE VII

5 VIDEO RECORDS OF ALL BIDDING CONFERENCES

6  
7 "SEC. 20. VIDEO RECORDING OF ALL PROCUREMENT-RELATED  
8 CONFERENCES. TO ENHANCE THE TRANSPARENCY OF THE  
9 PROCUREMENT PROCESS, THE PROCURING ENTITY SHALL KEEP A  
10 VIDEO RECORDING OF ALL PROCUREMENT-RELATED CONFERENCES  
11 INCLUDING BUT NOT LIMITED TO PRE-PROCUREMENT CONFERENCE,  
12 PRE-BID CONFERENCE, BID OPENING, AND ALL MEETINGS OF THE  
13 BIDS AND A WARDS COMMITTEE (BAC), FOR ALL PROCUREMENT  
14 PROJECTS EQUAL OR EXCEEDING THE AMOUNT OF ONE  
15 MILLION PESOS (PHP 1,000,000.00).

1 ALL PROCUREMENT RELATED CONFERENCES MAY NOT  
2 COMMENCE WITHOUT A VIDEO RECORDING INITIATED BY  
3 THE CHAIR OF THE BAC.  
4

5 **SEC. 21. SPECIFICATIONS OF THE VIDEO RECORDING. –**  
6 THE VIDEO RECORDING SHALL BE CLEAR AND SHALL  
7 PROVIDE A CLOSE-UP VIEW OF THOSE PRESENT IN THE  
8 CONFERENCE. DURING RECORDING, THE MEMBERS OF THE  
9 BAC, THE PROSPECTIVE AND/OR QUALIFIED BIDDERS, THE  
10 REPRESENTATIVE OF THE COMMISSION ON AUDIT AND THE  
11 TWO (2) OBSERVERS INVITED IN ACCORDANCE WITH ARTICLE  
12 V OF THIS ACT, SHALL BE INTRODUCED ONE BY ONE.  
13

14 **SEC. 22. COPIES OF THE VIDEO RECORDING. –** THERE  
15 SHALL BE MADE THREE (3) COPIES OF THE VIDEO RECORDING  
16 FOR THE PERUSAL AND/OR RECORD OF THE BAC, THE  
17 GOVERNMENT PROCUREMENT POLICY BOARD (GPPB), AND  
18 THE COMMISSION ON AUDIT (COA). THE VIDEO COPIES SHALL  
19 BE MADE AVAILABLE TO THE PUBLIC UPON WRITTEN  
20 REQUEST AND PAYMENT OF A SPECIFIED FEE.  
21

22 **SEC. 23. WRITTEN AND VIDEO RECORDS AS EVIDENCE**  
23 **IN COURT. –** IN CASE OF ANY PERTINENT LEGAL ACTION, THE  
24 VIDEO RECORDS MAY BE SUBJECT TO SUBPOENA *DUCES*  
25 *TECUM*, AND MAY BE USED AS EVIDENCE IN COURT AS IT  
26 FINDS APPROPRIATE.

27 THE BAC, GPPB, AND COA SHALL STORE THE VIDEO  
28 RECORDS FOR NOT LESS THAN TWENTY (20) YEARS AND MAY  
29 DISPOSE OF THEM THEREAFTER.

1 THE BAC AND THE GPBB SHALL ENSURE THAT THE  
2 COPIES OF THE RECORDING ARE REGULARLY CHECKED TO  
3 ASCERTAIN THAT THEY ARE IN GOOD CONDITION AND NOT  
4 DETERIORATING, SUBJECT TO THE RECOMMENDED  
5 CONSERVATION PRACTICES FOR THE STORAGE OF THE SAME.

6  
7 **SEC. 24. LOGISTICS OF VIDEO RECORDING.** – THE BAC  
8 OF EACH PROCURING ENTITY SHALL BE IN CHARGE OF THE  
9 LOGISTICS OF VIDEO RECORDING AND OTHER RELATED  
10 TECHNICAL MATTERS, SUCH AS BUT NOT LIMITED TO AUDIO,  
11 ARCHIVING, AND SUCH OTHER MATTERS NECESSARY TO  
12 CARRY OUT THE PROVISIONS OF THIS ACT.

13  
14 **SEC. 25. PROCUREMENT OF VIDEO RECORDING**  
15 **EQUIPMENT.** – THE GPPB SHALL BE IN CHARGE OF THE  
16 PROCUREMENT OF THE VIDEO RECORDING EQUIPMENT AND  
17 RELATED SUPPLIES TO BE ALLOCATED TO THE PROCURING  
18 ENTITIES.

19  
20 **SEC. 26. PENAL PROVISION.** – VIOLATIONS OF ARTICLE  
21 VII OF THIS ACT SHALL BE METED OUT PENALTIES AS  
22 PRESCRIBED UNDER ARTICLES XXI, XXII, AND XXIII OF THE  
23 SAME. IN ADDITION TO THE AFOREMENTIONED SANCTIONS,  
24 THE CONTRACT IN FAVOR OF THE ERRANT PARTY SHALL BE  
25 NULLIFIED IF THE BID HAS BEEN AWARDED.

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27 **SEC. 27. APPROPRIATION.** – THE AMOUNT NECESSARY  
28 TO CARRY OUT THE PROVISIONS OF THIS ACT SHALL BE  
29 INCLUDED IN THE ANNUAL GENERAL APPROPRIATIONS ACT.

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**SEC. 28. IMPLEMENTING RULES AND REGULATIONS.** –  
WITHIN NINETY (90) DAYS FROM THE EFFECTIVITY OF THIS  
ACT, THE GPBB SHALL PROMULGATE THE NECESSARY RULES  
AND REGULATIONS FOR THE PROPER IMPLEMENTATION OF  
THE PROVISIONS OF THIS ACT. SUCH RULES AND  
REGULATIONS SHALL TAKE EFFECT IMMEDIATELY  
THEREAFTER.

XXX.”

**SEC. 2. Renumbering of Affected Articles and Sections.** – The current Article VII and subsequent Articles and Sections of Republic Act No. 9184 affected by this amendment shall be amended and re-numbered accordingly, to reflect the insertion of the new article on “Video Records of All Bidding Conferences” as Article VII thereof.

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

**SEC. 4. Repealing Clause.** – All laws, rules, regulations, orders, circulars, and memoranda inconsistent with any provisions of this Act are hereby repealed or modified accordingly.

**SEC. 4. Effectivity Clause.**–This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,