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OF THE PHILIPPINES )  
First Regular Session )



Senate  
Office of the Secretary

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SENATE  
S. No. 1488

RECEIVED BY: *ji*

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Introduced by Senator Miriam Defensor Santiago

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### EXPLANATORY NOTE

The Constitution, Article 3, Section 7 provides:

The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

Republic Act No. 9184, or the Government Procurement Reform Act, Section 3 provides:

#### Section 3. *Governing Principles on Government Procurement.*

All procurement of the national government, its departments, bureaus, offices and agencies, including state universities and colleges, government -owned and/or-controlled corporations, government financial institutions and local government units, shall, in all cases, be governed by these principles:

(a) Transparency in the procurement process and in the implementation of procurement contracts....

(d) System of accountability where both the public officials directly or indirectly involved in the procurement process as well as in the implementation of procurement contracts and the private parties that deal with government are, when warranted by circumstances, investigated and held liable for their actions relative thereto.

(e) Public monitoring of the procurement process and the implementation of awarded contracts with the end in view of guaranteeing that these contracts are awarded pursuant to the provisions of this Act and its implementing rules and regulations, and

that all these contracts are performed strictly according to specifications.

Fiscal transparency is defined as the clarity, reliability, frequency, timeliness, and relevance of public fiscal reporting and the openness to the public of the government's fiscal policy-making process. Fiscal transparency is a critical element of effective fiscal management. It helps ensure that the government's economic decisions are informed by a shared and accurate assessment of the current fiscal position, the costs and benefits of any policy changes, and the potential risks to the fiscal outlook. Fiscal transparency also provides legislatures, markets, and citizens with the information they need to make efficient financial decisions and to hold the government accountable for its fiscal performance and utilization of public resources. Finally, fiscal transparency facilitates international surveillance of fiscal developments and helps mitigate the transmission of fiscal spillovers between countries.<sup>1</sup>

Recently, six whistle-blowers implicated five senators and 23 congressmen in what NBI investigators are calling the "mother of all scams." The Priority Development Assistance Fund (PDAF) or pork barrel of these legislators allegedly bank-rolled multibillion-peso ghost projects, with fake NGOs acting as conduits for the funds. The pork barrel scandal has revived calls for the abolition of the PDAF, or at the very least, more stringent rules to ensure transparency and accountability in the use of the funds.

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<sup>1</sup> International Monetary Fund, "Fiscal Transparency, Accountability, and Risk," 2 August 2012.

## **How legislators get kickbacks from PDAF**

The PDAF or pork barrel system has turned government into a “grand conspiracy of executive and legislative agencies fused in circles of kickbacks, corruption, patronage politics, and wasteful spending.”<sup>2</sup>

Under the PDAF system, the known tasks of lawmakers are only to identify what projects they want funded at the start and monitor the project completion. The Department of Budget and Management “downloads” the funds to executive departments, government corporations, or local government units that are the implementing agencies of pork projects. They are tasked to bid, award, and implement a multitude of largely small contracts.

In the case of the recent PDAF scam, the Commission on Audit found that the contracts were awarded to bogus NGOs, who pocketed the money but did not deliver on their services nor completed the project they were contracted for. The implicated legislators allegedly got large commissions or “kickbacks” from these bogus NGOs.

**Other potential sources of kickbacks: lump-sums funds, special purpose funds, etc.**

However, the PDAF is not the only government fund that could be a possible source of kickbacks. Executive department heads have access and discretion over huge sums. For instance, the Vice President has annual pork which is equivalent to what each of the senators receives.

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<sup>2</sup> Mangahas, Malou, “Scam, no! PDAF a’mafia’ of executive& legislature,” <http://pcij.org/stories/scam-no-pdaf-a-mafia-of-executive-legislature/>

There are other pork-like lump-sum funds in the national budget. According to University of the Philippines professor and former national treasurer Leonor Magtolis Briones, in the General Appropriations Act for 2013, about P317.5 billion in special purpose funds or SPFs and P117.5 billion in unprogrammed funds were proposed. Nearly all was approved in the enacted budget. Because these were “not as detailed and specific as the budget proposals of regular agencies,” Briones warned that these were “vulnerable to reductions, transfers, and ‘adjustments,’” since these were lump-sum funds. The biggest pork-like lump-sum funds were the Budgetary Support to Government Corporations of P44.1 billion, the Special Financial Assistance to Local Government Units (LGUs) of P17.5 billion, the Miscellaneous Personnel Benefits Fund of P70 billion, the Retirement Benefits Fund of P70 billion, and the Priority Social and Economic Projects (PSEP) Fund of P22.4 billion.

These lump-sum funds are all net of other special purpose funds under the President’s control. He alone may trigger the release of funds from such multibillion-peso lump-sums like the Contingency Fund and the Calamity Fund. Disbursement records on these funds have hardly been published online or disclosed to the citizens, despite repeated requests.

Like pork, these funds are problematic because they are vulnerable to abuse, difficult to document and audit, and with accountability hard to establish.<sup>3</sup>

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<sup>3</sup> *Id.*

## **Hidden income of legislators**

Under the salary standardization law, a senator's annual gross salary is P1,080,000. But as a member of an oversight committee, the legislator receives an appropriation for EME (Extraordinary and Miscellaneous Expenses) in the average amount of P30,000. Typically, a senator is a member of seven oversight committees. Thus, he or she receives around P2,520,000 annually in EME, which is more than double his or her salary. The purpose of the EME is for expenses incurred for meetings, public relations, office equipment, library books, etc. However, this is liquidated not by receipts from bona fide suppliers but by mere certification of the legislator. Thus, rather than being spent on the items which the funds were meant for, legislators can just claim they were used for legitimate items but pocket the funds as additional income.

The same modus operandi can be done with the budget received by the legislator for running his or her office. The 2011 COA report shows that the average total budget of a regular senator was approximately P43,117,307 per annum. The manner of liquidation was by mere certification. It was only in 2013 that the COA began the process of liquidation by official receipts.

Officers of the Senate (the Senate President, the Senate Pro Tempore, the Majority Floor Leader, and Minority Floor Leader) received additional budget allocation, as follows:

Enrile	Senate President		P71,708,150	or 166.30% more than a regular senator
Estrada	Senate Tempore	Pro	P9,354,744	or 21.69% more than a regular senator
Sotto	Majority Leader	Floor	P9,330,700	or 21.64% more than a regular senator
Cayetano	Minority Leader	Floor	P10,208,184	or 23.67% more than a regular senator

The question is on the manner of liquidation. Were these additional amounts subjected to stricter accountability and review rules, that is, were they required to be liquidated by receipts and other documentation or by mere certification by the officers of the Senate?

### **Fiscal transparency**

This bill is patterned after the U.S. Federal Funding Accountability and Transparency Act (FFATA). The FFATA was enacted in 2006 to address wasteful government spending. The intent is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is [www.USASpending.gov](http://www.USASpending.gov).

In the Philippines, the Department of Budget and Management (DBM) has a website where information on the PDAF is posted. The projects which were chosen for funding by each legislator are listed, along with a brief project description and the project proponent, which could be a government agency or a local government unit. However, this information is insufficient. As shown by the recent PDAF scandal involving bogus NGOs and ghost projects, information on government projects should be as comprehensive as possible and easily accessible to the public, to guard against wasteful or corrupt public spending.

This bill mandates the Secretary of Budget and Management to maintain a single searchable website which can be accessed by the public and which contains relevant information on PDAF projects and all other projects receiving government funding to ensure transparency and accountability in government spending.

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*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO



13 SEP -3 AM 10:02

SENATE  
S. No. 1488

RECEIVED BY: *ji*

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Introduced by Senator Miriam Defensor Santiago

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1 AN ACT  
2 REQUIRING FULL DISCLOSURE OF ALL ENTITIES AND  
3 ORGANIZATIONS RECEIVING FUNDING FROM THE GOVERNMENT  
4

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

5 SECTION 1. *Short Title.* – This Act shall be known as the “Government  
6 Funding Accountability and Transparency Act.”

7 SECTION 2. *Declaration of Policy.* – It is the policy of the State to uphold  
8 the Constitutional right of the people to information on matters of public concern.  
9 Towards this end, access to information pertaining to government financial awards  
10 and expenditures shall be afforded our citizens to ensure transparency and  
11 accountability in public spending.

12 SECTION 3. *Definition of Terms.* – As used in this Act, the term—

13 (A) “Entity or entities” include—

- 14 (1) departments, instrumentalities, and agencies of the national  
15 government;  
16 (2) local government units;



1 (3) government-owned or –controlled corporations;

2 (4) whether for profit or nonprofit: corporations, associations,  
3 organizations, partnerships, limited liability partnerships, sole  
4 proprietorships, other legal business entities, grantees or  
5 contractors, and subcontractors or subgrantees;

6 (B) “Government award or government funding” means government  
7 financial assistance and expenditures that—

8 (1) include grants, subgrants, loans, awards, cooperative  
9 agreements, and other forms of financial assistance;

10 (2) include allotments from the Priority Development Assistance  
11 Fund (PDAF);

12 (3) include contracts, subcontracts, purchase orders, task orders,  
13 and delivery orders; and

14 (4) do not include individual transactions below One Million Pesos  
15 P1,000,000.00, except as provided under Section 3 (A) (14);

16 (C) “Searchable website” means a website that allows the public to search  
17 and aggregate government funding by any element required by section 3 (A);  
18 ascertain through a single search the total amount of government funding awarded  
19 to an entity by a government award, by fiscal year; ascertain through a single  
20 search the total amount of government funding awarded to an entity by  
21 government award, by fiscal year; and download data included in the outcome  
22 from searches.

1           SECTION 3. *Government Funding Website.* --

2           (A) In General. – Not later than 1 January 2014, the Department of Budget  
3 and Management (DBM) shall ensure the existence and operation of a single  
4 searchable website, accessible by the public at no cost to access, that includes for  
5 each government award—

- 6           (1) the name of the entity receiving the award;
- 7           (2) if the entity receiving the award is a nongovernment  
8 organization, corporation, association, partnership, or other  
9 nongovernment entity, its corporate name, business address,  
10 and the names of its directors or trustees and officers;
- 11          (3) the intended beneficiaries of the award;
- 12          (4) the amount of the award;
- 13          (5) information on the award, including transaction type, funding  
14 agency, implementing agency, program source, and an award  
15 title descriptive of the purpose of each funding action;
- 16          (6) if the award consists of allotment(s) from the PDAF, the name  
17 of the legislator who authorized the funding of the project;
- 18          (7) information on the contractor(s), subcontractor(s), and  
19 supplier(s), including corporate or business name, business  
20 address, and the names of the proprietor(s), directors or trustees,  
21 and officers;
- 22          (8) the location of the entity receiving the award and the primary  
23 location of performance under the award, including the  
24 barangay, city or municipality, province, region, and  
25 congressional district;

- 1 (9) a unique identifier of the entity receiving the award and of the  
2 parent entity of the recipient, should the entity be owned by  
3 another entity;
- (10) status of the contract, project, or program—whether in progress  
or completed;
- (11) disbursements/awards/contracts made through Special Purpose  
Funds, such as but not limited to the Budgetary Support to  
Government Corporations, Special Financial Assistance to  
Local Government Units (LGUs), Miscellaneous Personnel  
Benefits Fund, Retirement Benefits Fund, and Priority Social  
and Economic Projects (PSEP) Fund;
- 4 (12) disbursement/awards/contracts made through Special Purpose  
5 Funds under the control of the President, such as but not limited  
6 to the Contingency Fund and Calamity Fund;
- 7 (13) disbursement/awards/contracts made from Internal Revenue  
8 Allotment to local government units;
- 9 (14) disbursement/awards/contracts made from any lump-sum fund  
10 appropriated to the office of any public officer, such as but not  
11 limited to Extraordinary and Miscellaneous Expenses and  
12 Capital Outlay, regardless of the amount involved;
- 13 (15) liquidation of Extraordinary and Miscellaneous Expenses by  
14 public officers; and
- 15 (16) liquidation of budget allotted for the office of public officers;  
16 and
- 17 (17) any other relevant information specified by the DBM.

1 (B) Scope of Data. – The website shall include data for the fiscal year  
2 2013, and each fiscal year thereafter.

3 (C) Designation of Agencies. – The Secretary of Budget and Management  
4 is authorized to designate one or more government departments, agencies, and  
5 instrumentalities to participate in the development, establishment, operation, and  
6 support of the single website. In the initial designation, or in subsequent  
7 instructions and guidance, the Secretary may specify the scope of the  
8 responsibilities of each department, agency, or instrumentality.

9 (D) Agency Responsibilities. – Government departments, agencies, and  
10 instrumentalities shall comply with the instructions and guidance issued by the  
11 Secretary of Budget and Management under paragraph (C), and shall provide  
12 appropriate assistance to the Secretary, upon request, so as to assist the Secretary in  
13 ensuring the existence and operation of the single website.

14 (E) Website. – The website established under this section—

15 (1) shall provide an opportunity for the public to provide input about  
16 the utility of the site and recommendations for improvements; and

17 (2) shall be updated not later than thirty (30) days after the award of a  
18 government award requiring a posting.

19 (F) Construction. – Nothing in this Act shall prohibit the DBM from  
20 including through the website established under this section access to data that is  
21 publicly available in any other government database.

22 (G) Report. – The Secretary of Budget and Management shall submit to  
23 the appropriate committees of the Senate and the House of Representatives an  
24 annual report regarding the implementation of the website established under this  
25 section. Each report shall include data regarding the usage and public feedback on

1 the utility of the site (including recommendations for improving data quality and  
2 collection); and an assessment of the reporting burden placed on government  
3 award recipients. The DBM shall make each report submitted under this paragraph  
4 publicly available on the website established under this section.

5 SECTION 4. *Appropriations.* – Such amount as is necessary for the  
6 immediate implementation of this Act is hereby appropriated from the national  
7 treasury. Thereafter, the funds necessary for the implementation of this Act shall  
8 be sourced from the regular appropriations of the Department of Budget and  
9 Management.

10 SECTION 5. *Implementing Rules and Regulations.* – Not later than sixty  
11 (60) days from the effectivity of this Act, the Secretary of Budget and  
12 Management, after consultation with the appropriate government agencies and  
13 other stakeholders, shall promulgate the necessary rules and regulations to  
14 implement this Act.

15 SECTION 6. *Separability Clause.* – If any provision or part thereof is held  
16 invalid or unconstitutional, the remainder of the law or the provision not otherwise  
17 affected shall remain valid and subsisting.

18 SECTION 7. *Repealing Clause.* – All laws, presidential decrees or  
19 issuances, executive orders, letters of instruction, administrative orders, rules, and  
20 regulations contrary to or inconsistent with the provisions of this Act are hereby  
21 repealed, modified, or amended accordingly.

1           SECTION 8. *Effectivity Clause.* – This Act shall take effect fifteen (15) days  
2 following its publication in at least two (2) newspapers of general circulation.

Approved,