

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



14 SEP -8 A9 :21

SENATE
P. S. R. No. **898**

RECEIVED BY: *ja*

Introduced by Senator Miriam Defensor Santiago

RESOLUTION ON QUESTION HOUR,
REQUESTING SECRETARY OF BUDGET AND MANAGEMENT FLORENCIO ABAD TO
APPEAR BEFORE THE SENATE ON A MATTER PERTAINING TO HIS DEPARTMENT,
SPECIFICALLY TO BRING WITH HIM A LIST OF THE TOTAL DISBURSEMENT
ACCELERATION PROGRAM (DAP) AMOUNTS DISTRIBUTED TO EVERY SENATOR
AND REPRESENTATIVE, SPECIFYING THE PROJECTS FOR WHICH EACH
DISBURSEMENT WAS RELEASED; AND TO ANSWER INTERPELLATIONS

WHEREAS, the Constitution, Article 6, Section 22 provides:

The heads of departments may, upon their own initiative, with the consent of the President, or upon the request of either House, as the rules of each House shall provide, appear before and be heard by such House on any matter pertaining to their departments. Written questions shall be submitted to the President of the Senate or the Speaker of the House of Representatives at least three days before their scheduled appearance. Interpellations shall not be limited to written questions, but may cover matters related thereto. When the security of the State or the public interest so requires and the President so states in writing, the appearance shall be conducted in executive session;

WHEREAS, the Rules of the Senate, Rule 46, Section 125 provides:

SEC. 125. Any Department Secretary, Cabinet Member, the Governor of the *Bangko Sentral ng Pilipinas* or head of a government financial institution may be summoned by the Senate, through a resolution adopted by it, or upon his own initiative with the consent of the President of the Philippines, appear before the Senate, for information on any matter pertaining to his department.

The resolution adopted by the Senate shall state specifically and clearly the questions to be answered and the date and hour when the Department Secretary, Cabinet Member, Governor of the *Bangko Sentral ng Pilipinas* or head of a government financial institution shall appear and give the information desired. No question shall contain arguments, include offensive or unparliamentary language or expressions; pertain to *sub judice* matters; refer to the internal affairs of a foreign country or contain unwarranted discourtesy to it.

Within three (3) days from receipt of said resolutions, the Department Secretary, Cabinet Member, Governor of the *Bangko Sentral ng Pilipinas* or head of a government financial institution shall appear and answer the questions therein, unless the Senate requires him to comply therewith at a specified date and time.

Interpellations shall not be limited to written questions, but may cover matters related thereto.

The appearance of a Department Secretary, Cabinet Member, the Governor of the *Bangko Sentral ng Pilipinas* or head of a government financial institution shall be conducted in executive session when the security of the State or the public interest so requires and the President of the Philippines so states in writing.

The appearance of a Department Secretary, Cabinet Member, Governor of the *Bangko Sentral ng Pilipinas* or head of a government financial institution shall be scheduled on Tuesdays at five o'clock in the afternoon, unless the Senate decides otherwise.

When a Member of the Cabinet desires to be heard by the Senate on any matter pertaining to his department which is pending consideration in the Senate, a request to that effect shall be sent to the President of the Senate for his approval.

WHEREAS, the power of Congress under the Constitution, Article 6, Section 22, to conduct a question hour and obtain information from the Executive is pursuant to Congress' oversight function (*Senate v. Ermita*, G.R. No. 169777, 20 April 2006);

WHEREAS, Congress has the right to be informed on how department heads implement the statutes which it has issued, in keeping with the principle of checks and balances under our system of government;

WHEREAS, as narrated in the 2014 Supreme Court decision *Araullo v. Aquino* (G.R. No. 209287, 1 July 2014), the controversy on the Disbursement Acceleration Program (DAP) of the government was precipitated on 25 September 2013, when Sen. Jinggoy Ejercito Estrada delivered a privilege speech in the Senate to reveal that certain senators, including himself, had been allotted an additional ₱50 million each as "incentive" for voting in favor of the impeachment of Chief Justice Renato C. Corona;

WHEREAS, responding to Sen. Estrada's revelation, Secretary of Budget and Management Florencio Abad issued a public statement entitled "Abad: Releases to Senators Part of Spending Acceleration Program," explaining that the funds released to the senators had been part of the DAP, a program designed by the Department of Budget and Management (DBM) to ramp up spending to accelerate economic expansion;

WHEREAS, Secretary Abad clarified that the funds had been released to the senators based on their letters of request for funding;

WHEREAS, according to a news report entitled "Solons got ₱5B in DAP during impeachment trial of Corona," which appeared on the 24 February 2014 issue of the *Philippine Daily Inquirer*, the Aquino administration used some ₱6.5 billion DAP funds before, during, and after the Corona impeachment trial to bribe senators and members of the House of Representatives;

WHEREAS, the *Inquirer's* sources, who were reportedly House members, estimated that representatives received some ₱5 billion in DAP funds, while senators received ₱1.5 billion;

WHEREAS, each representative allegedly received at least ₱10 million DAP money;

WHEREAS, in an 8 July 2014 *Inquirer* report entitled “Palace to senators: Account for DAP,” Secretary Abad reportedly “admitted that 20 senators had received DAP funding from the executive branch a few months after the Senate, acting as an impeachment court, convicted Chief Justice Renato Corona in May 2012 but denied this constituted a ‘bribe’”;

WHEREAS, according to the *Inquirer* report, Senate President Franklin Drilon allegedly received the biggest allocation of ₱100 million DAP in 2012, followed by Sen. Francis Escudero with ₱99 million, and Sen. Juan Ponce Enrile with ₱92 million;

WHEREAS, Senators Estrada, Bong Revilla, and Vicente Sotto III reportedly received DAP allocations of ₱100 million each in 2011, which they allegedly channeled to non-government organizations put up by plunder suspect Janet Lim-Napoles;

WHEREAS, Senators Alan Peter Cayetano, Ralph Recto, Antonio Trillanes IV, Teofisto Guingona III, Sergio Osmeña III, and former Sen. Francis Pangilinan also allegedly received ₱100 million each in DAP funds in 2011;

WHEREAS, the three senators who voted against the Corona impeachment – Senators Miriam Defensor Santiago, Joker Arroyo, and Ferdinand Marcos Jr., – reportedly did not receive DAP funds;

WHEREAS, it was later reported by the media, however, that Senator Marcos also received ₱100 million in 2011 in DAP allocations;

WHEREAS, on 1 July 2014, the Supreme Court, in *Araullo v. Aquino*, declared several acts and practices under the DAP unconstitutional for being in violation of Article 6, Section 25(5) of the 1987 Constitution and the doctrine of separation of powers;

WHEREAS, one of the DAP practices declared unconstitutional by the Supreme Court was “[t]he cross-border transfers of the savings of the Executive to augment the appropriations of other offices outside the Executive”;

WHEREAS, in effect, the practice of the Aquino administration of transferring savings from the Executive to Congress, in the form of DAP funds allocated to favored senators and representatives, was declared unconstitutional;

WHEREAS, some two months after the promulgation of the Supreme Court decision, media continues to report on huge amounts of DAP funds received by legislators;

WHEREAS, according to a news report entitled “Drilon got biggest DAP slice—solon,” on the 1 September 2014 issue of the *Manila Standard Today*, Abakada Rep. Jonathan dela Cruz reportedly accused Senate President Franklin Drilon of receiving ₱1 billion in DAP allocations for his pet projects in Iloilo;

WHEREAS, Navotas Rep. Tobias Tiangco reportedly said that Secretary Abad was having a hard time releasing the list of lawmakers who received DAP funding because the list would show that one senator, Liberal party members, and administration allies received the biggest allocations;

WHEREAS, Secretary Abad should furnish the Senate the list of the total DAP amounts received by senators and representatives, in order for the Senate to obtain information in the exercise of its oversight function;

WHEREAS, the senators and representatives who received DAP funds must account for these, especially amid allegations that the DAP funds were diverted to fake NGOs and projects;


WHEREAS, the information that the Senate seeks is not covered by the doctrine of executive privilege, which is recognized only in relation to certain types of information of a sensitive character;

WHEREAS, the types of information covered by executive privilege include military, diplomatic, and other national security matters; Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings; and information on investigations of crimes by law enforcement agencies before the prosecution of the accused;

WHEREAS, the extraordinary character of the exemptions indicates that the presumption inclines heavily against executive secrecy and in favor of disclosure (*Senate v. Ermita*, G.R No. 169777, 20 April 2006);

WHEREFORE, BE IT HEREBY RESOLVED THAT THE SENATE, as provided by the Senate Rules, requests Secretary of Budget and Management Florencio Abad to appear before the Senate on a matter pertinent to his department, specifically to bring with him a list of the total Disbursement Acceleration Program (DAP) amounts distributed to every senator and representative, specifying the projects for which each disbursement was released; and to answer interpellations.

Adopted,


MIRIAM DEFENSOR SANTIAGO
ack

/jab