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SENATE

S. No 2881

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Introduced by Senator Antonio "Sonny" F. Trillanes IV

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. Five years since its enactment, however, the procurement system is still plagued with collusion, abuse of discretionary criteria, malfeasance, misfeasance, and other forms of corruption.

Moreover, high perception of corruption in the country still prevails. The Philippines has fallen further in a 2008 global survey, ranking countries in terms of perceived corruption, dropping to 141st, down 10 places from 2007, among 180 countries surveyed by Transparency International. The country scored a 2.3 in the Corruption Perceptions Index (CPI), lower than last year's 2.5, on a scale where 10 is the highest possible grade. Compared to its neighbors, the Philippines scored lower than Singapore (9.2), Malaysia (5.1), Thailand (3.5), Vietnam (2.7), and Indonesia (2.6).¹ Much of this corruption suggests itself in government procurement, or its acquisition of goods and services.

It is therefore imperative to address transparency of the country's procurement system, or its lack thereof, by strengthening public monitoring of the 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

¹ Information retrieved from: <http://www.gmanews.tv/story/122410/RP-dips-further-down-corruption-perceptions-survey>. Retrieved on 22 October 2008.

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

3
4 ARTICLE VII

5 VIDEO RECORDS OF ALL BIDDING CONFERENCES

6
7 "SEC. 20. VIDEO RECORDING OF ALL PROCUREMENT-
8 RELATED CONFERENCES. — TO ENHANCE THE
9 TRANSPARENCY OF THE PROCUREMENT PROCESS, THE
10 PROCURING ENTITY SHALL KEEP A VIDEO RECORDING OF ALL
11 PROCUREMENT-RELATED CONFERENCES INCLUDING BUT
12 NOT LIMITED TO PRE-PROCUREMENT CONFERENCE, PRE-BID
13 CONFERENCE, BID OPENING, AND ALL MEETINGS OF THE BIDS
14 AND AWARDS COMMITTEE (BAC), FOR ALL PROCUREMENT
15 PROJECTS EQUAL OR EXCEEDING THE AMOUNT OF ONE
16 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 PROSPRECTIVE 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.
26

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.

