

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session

HOUSE BILL NO. **3488**



Introduced by Honorable Evelina G. Escudero

EXPLANATORY NOTE

This bill seeks to enhance and expedite the government procurement process, amending for the purpose Republic Act (RA) No. 9184, otherwise known as the "*Government Procurement Reform Act (GPRA)*."

RA 9184 was passed into law to modernize, standardize and streamline the procurement process. It was envisioned to be a powerful tool to promote transparency and competition, eradicate graft and corruption, and lessen the delays in the procurement process. However, despite the reforms and the recognition of GPRA by multilateral institutions such as the World Bank as a world class legislation, several issues continue to plague the government procurement system.¹

The World Bank identified the combination of weak budget allocation process, intricate and non-transparent budget execution and the predominance of patron-client relationships in politics and the bureaucracy as factors that facilitate corruption in government procurement.² Other problems of the present system that need to be addressed are lack of organic procurement body in government agencies, low vendor turnout because bid contracts are not posted ahead of time and absence of contract administration mechanism within the solicitation system.

This bill aims to further improve the government procurement system by providing additional measures that will shorten the present bureaucratic intricacies of the system and expediting the procurement process through mandatory inclusion of the procurement plan and purchase priority in the annual development plan, inclusion of the list requirements in the posting and publication of the invitation to bid, upgrading of G-EPS and establishment of electronic bidding process. In addition, this bill prescribes specific periods for the accomplishment of and compliance with procurement processes and practices to prevent delays in the procurement proceedings. This proposed measure also intends to strengthen and advance transparency by enhancing the role of the observers in the procurement process.

¹Policy Brief (Senate Economic Planning Office) *August 2008*.

²*Ibid*.

Likewise, the proposed measure will enable the Government Procurement Policy Board to upgrade the electronic bidding system that will allow electronic payment to Bids and Awards Committee. This innovation will further hasten the procurement process and enhance transparency.

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

A handwritten signature in black ink, appearing to read 'Escudero', with a stylized flourish at the end.

EVELINA G. ESCUDERO

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AN ACT
ENHANCING AND EXPEDITING THE GOVERNMENT PROCUREMENT PROCESS,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9184, OTHERWISE KNOWN
AS THE “GOVERNMENT PROCUREMENT REFORM ACT”

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

SECTION. 1. Section 7 of Republic Act (RA) No. 9184 is hereby amended to read as follows:

“SEC. 7. *Procurement Planning and Budgeting Linkage.* – All procurement should be within the approved budget of the Procuring Entity and should be meticulously and judiciously planned by the Procuring Entity concerned. Consistent with government fiscal discipline measures, only those considered crucial to the efficient discharge of governmental functions shall be included in the Annual Procurement Plan to be specified in the IRR.

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THE ANNUAL PROCUREMENT PLAN OF THE NATIONAL GOVERNMENT AGENCIES SHALL CONFORM WITH THE NATIONAL DEVELOPMENT PLAN AND, IN THE CASE OF THE LOCAL GOVERNMENT UNIT, WITH THE LOCAL DEVELOPMENT PLAN.

THE PROCURING ENTITIES SHALL MAKE A LIST OF THEIR PURCHASE PRIORITY WHICH SHALL BE INCLUDED IN THEIR ANNUAL PROCUREMENT PLAN AND BUDGET.”

SEC. 2. Section 13 of the same Act is hereby amended to read as follows:

“SEC. 13. *Observers.* – To enhance the transparency of the process, the BAC shall, in all stages of the procurement process, invite, in addition to the representative of the Commission on Audit, at least two (2) observers to sit in its proceedings, one (1) from a duly recognized private group in a sector or discipline relevant to the procurement at hand, and the other from a non-government organization: *Provided, however,* That they do not have any direct or indirect interest in the contract to be bid out. The observers should be duly registered with the Securities and Exchange Commission, **MEMBERS IN GOOD STANDING OF THE SECTOR, DISCIPLINE OR NON-GOVERNMENT ORGANIZATION THEY REPRESENT AS DULY CERTIFIED BY THE HEAD OF THE SECTOR, DISCIPLINE OR ORGANIZATION TO WHICH THEY BELONG**, and should meet the criteria for observers as set forth in the IRR.

EACH OBSERVER SHALL MAKE A SEPARATE REPORT ON THE CONDUCT OF THE PUBLIC BIDDING, ITS PROCEDURES, CONDITIONS AND PROBLEMS, IF ANY, WHICH SHALL BE SUBMITTED TO THE PROCURING ENTITY, THE GOVERNMENT PROCUREMENT POLICY BOARD (GPPB) AND THE COMMISSION ON AUDIT.

IN CASE OF UNAVAILABILITY OF THE OBSERVERS FROM THE NON-GOVERNMENT ORGANIZATION OR PRIVATE SECTOR, THE GPPB SHALL PROVIDE QUALIFIED OBSERVERS TO THE BAC. FOR THIS PURPOSE, THE GPPB SHALL MAINTAIN A REGISTRY OF PROCUREMENT PROFESSIONALS QUALIFIED TO BE OBSERVERS TO THE BAC.

THE ABSENCE OF ANY OF THE OBSERVERS AND CORRESPONDING REPORTS SHALL NULLIFY THE BIDDING PROCESS.”

SEC. 3. Section 21 of the same Act is hereby amended to read as follows:

“Sec. 21. *Advertising and Contents of the Invitation to Bid.* – In line with the principle of transparency and competitiveness, all Invitations to Bid for contracts under competitive bidding shall **BE POSTED ON THE ENTITY’S**

WEBSITE AND be advertised by the procuring entity in such manner and for such length of time as may be necessary under the circumstances, in order to ensure the widest possible dissemination thereof. [such as, but not limited to posting,] **THE INVITATION TO BID, INCLUDING THE LIST OF REQUIREMENTS, CONDITIONS, CONTACT DETAILS AND REQUIRED TAX CLEARANCES AND LICENSES, SHALL BE POSTED** in the Procuring Entity's premises, in newspapers of general circulation, the G-EPS and the website of the Procuring Entity[, if available] **AT LEAST SIXTY DAYS BEFORE DEADLINE FOR SUBMISSION OF BIDS.** The details and mechanics of implementation shall be provided in the IRR to be promulgated under this Act.

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SEC. 4. Section 22 of the same Act is hereby amended to read as follows:

“Sec. 22. ***Pre-bid Conference.*** – At least one pre-bid conference shall be conducted for each procurement, unless otherwise provided in the IRR. Subject to the approval of the BAC, a pre-bid conference may also be conducted upon the written request of any prospective bidder.

The pre-bid conference(s) shall be held within **THIRTY (30) DAYS AFTER THE LAST DAY OF POSTING OF THE INVITATION TO BID AND WITHIN** a reasonable period before the deadline for receipt of bids to allow prospective bidders to adequately prepare their bids, which shall be specified in the IRR.”

SEC. 5. Section 25 of the same Act is hereby amended to read as follows:

“Sec. 25. ***Submission and Receipt of Bids.***– A bid shall have two (2) components, namely the technical and financial components which should be in separate sealed envelopes, and which shall be submitted simultaneously. The bids shall be received by the BAC on such date, time and place specified in the invitation to bid. The deadline for the receipt of bids shall be fixed by the BAC, giving it sufficient time to complete the bidding process and giving the prospective bidders sufficient time to study and prepare their bids. The deadline shall also consider the urgency of the procurement involved.

Bids submitted after the deadline shall not be accepted.

Notwithstanding the provisions of this Section and Section 26 of this Act, the GPPB may prescribe innovative procedures for the submission, receipt and

opening of bids through the G-EPS. **THE GPPB SHALL UPGRADE THE ELECTRONIC BIDDING SYSTEM IN THE G-EPS THAT FACILITATES THE SUBMISSION OF BIDS, QUOTATION, DOCUMENTS AND PAYMENT TO THE BAC THROUGH AN ELECTRONIC DEVICE. THE GPPB MAY PRESCRIBE OTHER INNOVATIVE PROCEDURES THAT EXPEDITE THE PROCUREMENT PROCESS."**

SEC. 6. Section 29 of the same Act is hereby amended to read as follows:

"Sec. 29. ***Bid Opening.*** – The BAC shall publicly open all bids at the time, date and place specified in the bidding documents **WHICH SHALL NOT BE MORE THAN FIVE (5) DAYS AFTER THE DEADLINE OF THE SUBMISSION OF THE BIDS.** The minutes of the bid opening shall be made available to the public upon written request and payment of a specified fee."

SEC. 7. Section 35 of the same Act is hereby amended to read as follows:

"Sec. 35. ***Failure of Bidding.*** – xxx

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Under any of the above instances, the contract shall be re-advertised and re-bid. The BAC shall observe the same process and set the new periods according to the same rules followed during the first bidding. After the second failed bidding, however, the BAC may resort to negotiated procurement as provided for in Section 53 of this Act.

THE BAC OF THE PROCURING ENTITY SHALL INFORM IN WRITING THE GPPB OF THE FAILURE OF BIDDING AND THE REASON THEREOF. THE BAC OF THE PROCURING ENTITY SHALL SECURE THE APPROVAL OF GPPB FOR RE-BIDDING OR NEGOTIATED PROCUREMENT."

SEC. 8. ***Implementing Rules and Regulations.*** – Within ninety (90) days from the approval of this Act, the Government Procurement Policy Board shall issue the necessary rules and regulations for the effective implementation of this Act. The implementing rules and regulations shall be published in the *Official Gazette* or in a newspaper of general circulation.

SEC. 9. ***Repealing Clause.*** – All laws, decrees, orders, rules and regulations and other

issuances, or part thereof, which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 10. ***Separability Clause.*** – If any provision of this Act is declared unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SEC. 11. ***Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,