

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City

SEVENTEENTH CONGRESS  
First Regular Session

House Bill No. **4142**



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Introduced by Representative GLORIA MACAPAGAL ARROYO

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AN ACT  
AUTHORIZING REFERENCE TO BRAND NAMES IN THE  
SPECIFICATIONS FOR THE PROCUREMENT OF GOODS BY THE  
GOVERNMENT AND ALLOWING FOR THE EXTENSION OF A  
WINNING BIDDER'S PERIOD TO ENTER INTO CONTRACT WITH  
THE PROCURING ENTITY, AMENDING FOR THE PURPOSE  
REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS "THE  
GOVERNMENT PROCUREMENT REFORM ACT"

EXPLANATORY NOTE

This bill seeks to authorize the reference to brand names in the specifications for certain types of procurement of goods by the government and allow the extension of the winning bidder's period to enter into contract with the procuring entity, amending for the purpose Republic Act No. 9184, otherwise known as the Government Procurement Reform Act.

The Government Procurement Reform Act applies to all procurement by the national government and its instrumentalities, including government-owned and controlled corporations (GOCCs). Unfortunately, the blanket or absolute prohibition against reference to brand names found in Section 18 of the law has proven impractical, if not counter-productive, to certain entities, such as GOCCs catering to certain clientele with specialized requirements. For example, the Philippine Amusement and Gaming Corporation (PAGCOR) can attract more clients only if it tailors its services and offerings to the latter's specific tastes, which could mean submitting to the latter's brand

preferences for such items as tobacco products, wines and liquors. In terms of promotional activities, PAGCOR's success also depends on the attractiveness of its prizes, which means brand-specific choices in luxury cars or other high-end items. PAGCOR, however, is hindered by Section 18, which bars brand reference in all government procurement of goods. PAGCOR's competitors in the gaming industry are not similarly limited by such restrictions.

Further, the ten-day period within which a winning bidder is required to enter into contract with the procuring agency, under Section 37 of the law, has proven too short in certain instances. These include instances when the bidder chooses to post a bond through surety, which entails the submission of certain documents including certifications from the Insurance Commission which take time to obtain. Another instance is when the project involves prototypes, which must first be submitted, tested and approved before mass production can proceed.

To address these concerns, this bill allows exceptions to the otherwise absolute restriction against brand reference in the procurement of goods done by government entities, including GOCCs. With this bill, the Government Procurement Policy Board (GPPB) is given the authority to list certain entities or procurement activities that will be exempt from the restriction of Section 18, based on its assessment that the application of the restriction on the entity or the procurement will ultimately be detrimental to the interest of the said entity, the government or the general public. The bill also allows the GPPB to provide for a period longer than ten (10) days for certain winning bidders to enter into contract with the procuring entity or agency.

In view of the foregoing, the approval of this bill is highly recommended.

  
**GLORIA MACAPAGAL ARROYO**  
2<sup>nd</sup> District, Pampanga

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**AUTHORIZING REFERENCE TO BRAND NAMES IN THE SPECIFICATIONS FOR THE PROCUREMENT OF GOODS BY THE GOVERNMENT AND ALLOWING FOR THE EXTENSION OF A WINNING BIDDER'S PERIOD TO ENTER INTO CONTRACT WITH THE PROCURING ENTITY, 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 18 of Republic Act No. 9184 is hereby amended to read as follows:

SEC. 18. Reference to Brand Names. –  
Specifications for the Procurement of Goods shall be based on relevant characteristics and/or performance requirements. Reference to brand names shall not be allowed, EXCEPT IN INSTANCES OF PROCUREMENT WHICH SHALL BE DETERMINED BY THE GPPB AND SPECIFIED IN THE IRR OF THIS ACT.

SEC. 2. Section 37 of the same Act is hereby amended to read as follows:

SEC. 37. Notice and Execution of Award. – Within a period not exceeding fifteen (15) calendar days from the determination and declaration by the BAC of the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid, and the recommendation of the award, the Head of the Procuring Entity or his duly authorized representative shall approve or disapprove the said recommendation. In case of approval, the Head of the Procuring Entity or his duly authorized representative shall immediately issue the Notice of Award to the bidder with the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid.

Within ten (10) calendar days from receipt of the Notice of Award, the winning bidder shall formally enter into contract with the Procuring Entity, EXCEPT WHEN A LONGER PERIOD IS ALLOWED BY THE GPPB FOR CERTAIN TYPES OF PROCUREMENT AND WHICH SHALL BE SPECIFIED IN THE IRR OF THIS ACT. When further approval of higher authority is required, the approving authority for the contract shall be given a maximum of twenty (20) calendar days to approve or

disapprove it. In the case of government owned and/or controlled corporations, the concerned board shall take action on the said recommendation within thirty (30) calendar days from receipt thereof.

The Procuring Entity shall issue the Notice to Proceed to the winning bidder not later than seven (7) calendar days from the date of approval of the contract by the appropriate authority. All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the contractor.

SEC.2. Within ninety (90) days from the approval of this Act, the GPPB shall promulgate a revised IRR of RA 9184 enumerating the types of procurement or procurement entities exempt from the restriction against reference to brand names under Section 18 of RA 9184 and procurement instances wherein the winning bidders are entitled to a period longer than ten (10) days from receipt of the Notice of Award within which they shall enter into contract with the procuring entities under Section 37 of RA 9184.

SEC. 3. This Act shall take effect after fifteen (15) days from its publication in the *Official Gazette* or in a national newspaper of general circulation.

*Approved,*