

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES
H. No. 4703

Introduced by **Representative Raul C. Tupas**

**AN ACT PROVIDING FOR THE ACQUISITION OF
MATERIEL, SYSTEMS, FACILITIES, INTEGRATED MILITARY SYSTEMS
AND SERVICES BY THE DEPARTMENT OF NATIONAL DEFENSE AND ITS BUREAUS
AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

The AFP Modernization Program dates back to 1995 when Republic Act No. 7898 or the "AFP Modernization Act" was enacted. This law was subsequently amended by Republic Act No. 10349 or the "Revised AFP Modernization Act" passed in December 2012. Under this law, the Armed Forces of the Philippines is undertaking a 15-Year modernization program that started in 2012 and will continue through 2027.

The Revised AFP Modernization Program is being implemented in three phases called Horizon I (2012-2017), Horizon II (2018-2022), and Horizon III (2023-2027). We are currently in Horizon II of the modernization program but data from the AFP show that as of August 1, 2019, 32 out of the 53 projects for Horizon I or 60.38% remain uncompleted. Delays in the implementation of the modernization program resulting to overlap between Horizon I and II can be attributed to strict procurement laws and COA regulations.

A significant and critical component of the AFP Modernization Program is the Capability, Materiel and Technology Development (CMTD) which focuses on the procurement, development, or upgrading of capabilities and equipage of the armed forces to be able to effectively perform its Constitutional mandate to uphold the sovereignty and preserve the patrimony of the Republic. However, the present defense acquisition system that we have in the Department of National Defense (DND) is not responsive to the needs and challenges of national security especially when compared with the acquisition systems of other countries.

This bill seeks to provide the following:

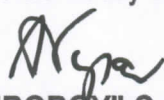
- a. Modes of Acquisition namely, (1) Procurement; (2) Donation; and (3) Barter. Under Procurement, the following modes are allowed: (a) open competition; (b) limited/selective competition; and (c) single-sourced;
- b. Revitalization of the Self-Reliant Defense Program (SRDP) through a local industrial base that is sustainable to the defense needs of the country;

- c. Creation of the Office of the Defense Acquisitions (ODA), a dedicated office which shall orchestrate and centrally manage the acquisition activities of major defense equipment with capability for R&D, procurement and training;
- d. Appointment of SND and the Bureau Heads as the Head of the Acquisition Entity (HAE) for the DND;
- e. Process on the settlement of disputes;
- f. Blacklisting of corporations, companies, board members, single proprietorships, their principals, and duly authorized representatives or agents;
- g. Authorization for DND and its bureaus to enter into multi-year contracts and other multi-year contractual arrangements;
- h. Exemption of acquisitions from import and other licenses imposed by other agencies of the government;
- i. Exemption of donation of defense equipment or items to the DND, which are directly and exclusively used for its projects, undertakings, activities, services and programs from custom duties and other taxes;
- j. Exemption of the sale and/or importation of weapons, equipment and ammunitions to and by the AFP which are directly and exclusively used for its projects, undertakings and activities and programs under the Revised AFP Modernization Act from Value-Added Tax, Customs Duties and other Taxes;
- k. Joint Congressional Oversight Committee on Defense Acquisition.

This bill is in line with the National Defense Strategy (2018-2022) crafted by the DND which aims to address the imperative of strengthening the Department's response to innumerable challenges, and likewise harness opportunities of our security environment. The National Defense Strategy gives emphasis on the DND's future direction in ensuring sovereignty and territorial integrity, internal stability, disaster preparedness, and global-regional relations in peace and security. To be able to achieve all of these, the NDS specifically states that effective implementation of DND's capacity development and capability upgrade, as well as the passage of relevant legislative measures to bolster their strategic mechanisms are needed.

It is but high time that we equip our military not only with the funds that they need to implement its modernization program but also with an effective and efficient acquisition system.

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


RAUL "BOBOY" C. TUPAS

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MATERIEL, SYSTEMS, FACILITIES, INTEGRATED MILITARY SYSTEMS
AND SERVICES BY THE DEPARTMENT OF NATIONAL DEFENSE AND ITS
BUREAUS AND FOR OTHER PURPOSES

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

ARTICLE I
GENERAL PROVISIONS

SECTION 1. Short Title. - This act shall be known as the “**Defense Acquisition Act
of 2019.**”

SECTION 2. Declaration of Policy. – One of the basic principles declared in the 1987
Constitution is the primary duty of the Government to serve and protect its people. The
Department of National Defense (DND) embraces this duty by fulfilling its mandate to:

- a. Maximize the organization’s effectiveness in guarding against external and
internal threats to national peace and security;
- b. Promote the welfare of soldiers and veterans, and
- c. Provide an environment conducive for social and economic development

Towards this end, the acquisition of defense equipment, facilities, materiel,
ordnance, services and integrated military systems shall be given utmost priority.

SECTION 3. Governing Principles. –The Defense Acquisition Act shall be governed
by the following principles:

- a. **Expeditious and specialized process** in the acquisition of defense materiel,
systems, military facilities and installations, and services;

The procurement process shall be simple and made adaptable to advances in
modern technology in order to ensure an effective and efficient method.

- 29 b. **Quality, reliability and sustainability** of defense equipment, facilities, services,
30 systems, critical components, and other critical requirements through the
31 adoption of appropriate criteria in determining the best rated offer;
32
33 c. **Confidentiality** in the acquisition process of defense equipment, facilities,
34 materiel, ordnance, services and integrated military systems that has significant
35 impact to national interest and security;
36
37 d. **Self-reliant defense posture** to support defense requirements of the
38 Department of National Defense (DND) and its bureaus and promote the
39 development of local defense industry, reduce foreign exchange outflow,
40 generate local employment, and enhance technology transfer; and
41
42 e. **System of accountability** where both the public officials directly or indirectly
43 involved in the procurement process as well as in the implementation of
44 procurement contracts and the private parties that deal with government are,
45 when warranted by circumstances, investigated and held liable for their actions
46 relative thereto.

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49 **SECTION 4. Scope and Application.** - This Act shall apply to the acquisition of
50 Defense materiel, services, ordnance, systems, and facilities of the Department of
51 National Defense and its bureaus. In so far as practicable, the Defense System of
52 Management (DSOM) process, as prescribed by the Secretary of National Defense
53 (SND), shall be used in the determination of requirements to be procured under this Act.
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55 When acquisition is done pursuant to a treaty or International or Executive or
56 Defense Cooperation Agreements, said agreements shall prevail.
57

58 **SECTION 5. Definition of Terms.** – For purposes of this Act, the following terms,
59 words or phrases shall mean or be understood as follows:
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61 a. **Acquisition** – refers to the acquisition of defense equipment, materiel,
62 ordnance, services, facilities and integrated military systems, inclusive of
63 computer applications and e-solutions. It is synonymous with “procurement” if
64 pertaining to items not covered by this Act.
65

66 b. **Facilities/Infrastructure** - includes the construction, improvement,
67 rehabilitation, demolition, repair, restoration or maintenance of naval vessels or
68 station and aircraft and bases, roads and bridges, railways, airports, seaports,
69 communication facilities, civil works components of information technology
70 projects, irrigation, flood control and drainage, water supply, sanitation,
71 sewerage and solid waste management systems, shore protection,
72 energy/power and electrification facilities, national buildings, school buildings,
73 hospital buildings, and other related defense construction projects of the
74 government.
75

- 76 **c. Materiel** – refers to all items with military specifications that are necessary for
77 the equipment, maintenance, services, operation and support of governmental
78 and military activities.
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- 80 **d. Services** – refers to all defense related services.
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- 82 **e. Systems** – refers to the organization of hardware, software, materiel, facilities,
83 personnel, data, and services needed to perform a designated function with
84 specified results, such as the gathering of specified data, its processing, and
85 delivery to users. A combination of two (2) or more interrelated equipment's (set)
86 arranged in a functional package to perform an operational function or to satisfy
87 a requirement.
88
- 89 **f. Military specifications** – refers to the project/product standard based on
90 local/international publication recognized and/or made by the AFP.
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- 92 **g. Ordnance** – refers to all items needed by the Navy, Air Force and Army defense
93 requirements.
94
- 95 **h. Head of Acquisition Entity (HAE)** – refers to the Head of the agency or body,
96 or his duly authorized official in the acquisition of defense materiel, ordnance,
97 facilities, services and integrated military systems. It is synonymous with "Head
98 of Procuring Entity (HoPE)" if pertaining to procurement of items not covered by
99 this Act.
100
- 101 **i. Best Rated Offer** – is the offer with the best calculated rating based on
102 criteria/parameters including, but not limited to financial capacity, technical
103 capabilities, additional technical capabilities of appropriate upgrade, and others
104 such as life-cycle cost, after-sales support, willingness to transfer technology,
105 warranty, perquisites and price as determined by the end user.
106
- 107 **j. Previous Supplier** – refers to a juridical entity that has supplied the same
108 defense equipment, critical components, services and other critical requirements
109 being procured. The surviving or consolidated juridical entity resulting from a
110 merger, consolidation and acquisition shall be considered a previous supplier.
111
- 112 **k. Request for Expression of Interest (REI)** – refers to a letter inviting the pre-
113 selected suppliers identified by the Procuring Entity to be technically, legally and
114 financially capable to render services or to supply the requirements and
115 construction of facilities of the DND and its bureaus.
116
- 117 **l. Resource Manager (RM)** - is a designated senior executive official appointed
118 by the SND who is directly accountable to the SND for developing financially
119 realistic program, budget, and spending plan proposals that comply with the
120 centralized policy and planning direction provided by the SND; accomplishing
121 established programmatic and financial management objectives established by
122 the SND; and, reporting performance against the established objectives;
123

ARTICLE II
ACQUISITION, PLANNING, BUDGETING AND EXECUTION

SECTION 6. Defense Acquisition Planning and Budgeting (DAPB). - The DAPB is collaboratively developed acquisition plan with realistic financial programs that meet identified capability requirements in a timely manner. Only priority needs and/or requirements crucial to the efficient discharge of functions shall be included in the DAPB.

6.1. Preparation of Acquisition Plan and Budget (APB). - The APB must be consistent with the duly approved budget of the Department of National Defense and shall bear the approval of the concerned HAE.

6.1.1 Short Term Acquisition Plan and Budget (SAPB). - It is a 3-year defense procurement program to be funded thru General Appropriations.

6.1.1.1 For the AFP, the approving authority shall be the Chief of Staff, Armed Forces of the Philippines.

6.1.1.2 For DND Civilian Bureaus, the approving authority shall be the Head Bureaus.

6.1.2. Midterm Acquisition Plan and Budget (MAPB). - A 5-year defense procurement program to be funded thru General Appropriations and/or other sources as enumerated in the AFP Modernization Program Act (RA7898, as amended by RA 10349).

6.2. Modes of Payment. - In order to have a uniform and standard modes of payment, the same shall be limited to the following:

6.2.1. For Foreign Suppliers. - The modes of payment shall be limited to Letters of Credit and Electronic Wire Transfer.

6.2.2. For Local Suppliers. - The modes of payment shall be limited to Local Letters of Credit or Direct Payment.

6.3. Budgetary Requirements. The Secretary of National Defense shall submit to the President, Congress and Secretary of Budget and Management the required budgets for defense procurement.

6.4. Release of Funds by the Department of Budget and Management (DBM). - The DBM shall release the amounts to support the funding requirements for the acquisition of materiel, systems, facilities and services of the DND proper and its bureaus in accordance with the guidelines set forth by the DBM:

6.5. Execution. - The DND and its bureaus shall utilize the allocated amount for the acquisition of materiel, systems, ordnance, facilities and services in

172 accordance with the existing government accounting and auditing rules and
173 regulations.

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175 **6.6. Review.** – The Office of the Assistant Secretary for Financial Management
176 (OASFM) shall be responsible in the conduct of quarterly review and assessment
177 of the financial performance of the DND proper and its bureaus for the acquisition
178 of the materiel, systems, facilities and services based on the guidelines set forth
179 in the Implementing Rules and Regulations (IRR).

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ARTICLE III
MODES OF ACQUISITION

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184 **SECTION 7. Modes of Acquisition.** – The DND, based on the objective assessment,
185 evaluation, and approval of SND and whenever justified by the conditions provided in
186 this Act, in order to promote economy and efficiency, and in case of national emergency
187 and calamity resort to any of the following modes of acquisition:

188

189 **7.1. Procurement.** – The procurement of defense equipment maybe in any of
190 the following mode:

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192 **7.1.1. Open Competition** - refers to a method of procurement which is
193 open to participation by any interested party or entity who can meet the
194 specified requirements. The procuring entity may enter into a framework
195 agreement as necessary.

196

197 **7.1.2. Limited / Selective Competition** – is a method of procurement
198 that limits the participants in the procurement process to known legitimate
199 manufacturers/suppliers. This mode is used mainly for security reasons;
200 often where the requirements have been deemed classified such that the
201 same may not be disclosed freely through an open competition. It
202 involves direct invitation to at least two (2) manufacturers by the Procuring
203 Entity from the list of pre-selected suppliers with known experience and
204 proven capability. The pre-selection shall be based upon the capability
205 and resources of the manufacturers to perform the contract taking into
206 account their experience and past performance on similar contracts,
207 capabilities with respect to personnel equipment or manufacturing
208 facilities, and financial position.

209

210 **7.1.3. Single-sourced** – refers to the mode of procurement where the
211 Procuring Entity negotiates with one (1) manufacturer/supplier in view of
212 national security and emergency and or other urgent strategic
213 considerations.

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215 **7.1.3.1. Government-to-Government** – refers to an arrangement
216 involving negotiation with a State with which the Philippines has a
217 Treaty or International or Executive Agreements.

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219 **7.1.3.2. Emergency Procurement** – refers to the type of single-
220 sourced procurement of defense materiel and other defense
221 requirements necessary to support and sustain defense
222 operations, in any of the following situations,

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224 **7.1.3.2.1.** During a state of calamity or emergency;

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226 **7.1.3.2.2** Where immediate acquisition is necessary either
227 to prevent loss of life or damage to property; or, to
228 rehabilitate, rebuild and develop an area which has been
229 damaged by an armed conflict.

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231 **7.1.3.3. Anticipated Emergency Procurement** – refers to the
232 type of single-sourced procurement of defense materiel necessary
233 in anticipation of a disaster that poses an imminent danger to life
234 or damage to property.

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236 **7.1.3.4. Direct Purchase** - refers to the type of single-sourced
237 method/mode that allows procurement directly from pre-selected
238 supplier, manufacturer, and/or contractor. It may be resorted to
239 under any of the following circumstances:

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241 **7.1.3.4.1.** For procurement of readily available and off-the-
242 shelf goods not available to the Procurement Service of the
243 Department of Budget and Management, subject to the
244 threshold prescribed in the IRR.

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246 **7.1.3.4.2.** In order to obtain and maintain the desired
247 standardization and interoperability of defense materiel
248 based on the defense inventory of the DND and/or its
249 Bureaus.

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251 **7.1.3.4.3.** Procurement of Goods of proprietary nature
252 which can be obtained only from the proprietary source, i.e.
253 when patents, trade secrets, and copyrights prohibit others
254 from manufacturing the same item.

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256 **7.1.3.5. Assumption of Contracts.** - Assumption of contract by a
257 specific supplier/manufacturer whenever a contract under any of
258 the methods of procurement of this Act is terminated or rescinded
259 for causes provided for in the contract and existing laws. In the
260 case of Open and Limited Competition, all the ranked offerors
261 shall be considered prior to the sending of REIs.

262

263 **7.2. Donation** - refers to an act of liberality whereby private companies,
264 institutions, local government units (LGUs), government agencies and other
265 foreign governments or institutions disposes gratuitously of assorted
266 items/equipment to the DND and its attached bureaus.

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7.3. Barter – refers to the mode of acquisition by the exchange of goods or services for other goods or services without the use of money which may be made with foreign governments, local government agencies and foreign and local private entities.

SECTION 8. Terms and Conditions for the Use of Acquisition Methods. – The specific terms and conditions including the limitations and restrictions, for the application of each of the acquisition methods in this article shall be specified in the IRR.

ARTICLE IV
DOMESTIC AND FOREIGN ACQUISITION

SECTION 9. Acquisition of Domestic and Foreign Materiel. – Consistent with the country's obligations under international treaties or agreements, materiel may be obtained for domestic or foreign sources. However, in the interest of availability, efficiency and timely delivery of materiel, the Head of Acquisition Entity (HAE) may give preference to the purchase of domestically-produced and manufactured goods, supplies and materiel that meet the specified or desired quality.

SECTION 10. Acquisition for the Development of Self-Reliant Defense Posture (SRDP). – refers to the negotiation for acquisition of defense projects services, system and facilities that may also be undertaken, provided, the SND has determined that the security interest of the country is protected and not compromised by entering into in-country production with any foreign or local manufacturer.

ARTICLE V
ORGANIZATIONAL STRUCTURE

SECTION 11. Head of Acquisition Entity (HAE). - The SND and the Bureau Heads shall be the Head of the Acquisition Entity for the DND and their respective bureaus.

SECTION 12. Office of the Defense Acquisitions (ODA). – The ODA shall be created to assist the Secretary of the National Defense in the implementation of this Act. The ODA shall be headed by the Assistant Secretary for Defense Acquisitions who shall be assisted by at least two (2) Directors under the Department of National Defense (DND).

SECTION 13. Defense Acquisition Secretariat (DAS). – There shall be a DAS, whose organization and personnel plantilla positions shall be determined by the SND.

SECTION 14. Defense Acquisitions Division (DAD). – The DAD shall be a permanent body composed of five (5) permanent members, with at least one (1) lawyer. The members of DAD shall occupy plantilla positions with salary grades to be determined by the SND. There shall also be two (2) alternate regular members and two (2) provisional members from the end-user. The SND may create additional ad hoc Defense Acquisitions Committees (DACs) as he deems appropriate and necessary in accordance with this Act. Bureaus of the DND shall create their own permanent and ad hoc DACs in accordance with this Act. All members of the DAC shall have appropriate

315 competencies to be determined by the HAE, and shall undergo a comprehensive
316 training program.

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318 **SECTION 15. Defense Acquisition Technical Assistance Office (DATAO).** – The
319 DATAO shall provide support to the Department in the performance of its duties and
320 responsibilities specified in this Act and its IRR. The DND shall determine the DATAO's
321 organizational structure and staffing. The DATAO shall be headed by a senior official
322 of the Department of good moral character, unquestionable integrity, and known probity,
323 to be designated by the SND. All other officials and employees of the DATAO shall be
324 appointed by the SND, upon favorable recommendation of the Chief, DATAO.

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326 **15.1.** The DATAO shall provide research, technical and administrative support
327 to the Department, including:

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329 a. Research-based acquisition policy recommendations and rule-drafting;

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331 b. Development and updating of generic acquisition manuals and standard
332 bidding forms;

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334 c. Management and conduct of training on acquisition systems and procedures;

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336 d. Evaluation of the effectiveness of the government acquisition system and
337 recommendation of improvements in systems and procedures;

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339 e. Monitoring the compliance to this Act and assisting Acquisitioning Entities
340 improve their compliance; and

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342 f. Secretariat support.

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344 **SECTION 16. Professionalization of Acquisition Personnel.** – The ODA shall
345 establish a sustained training program to develop the capability of the Defense
346 Acquisition Division (DAD), Defense Acquisition Secretariats, Project Management
347 Teams (PMTs), and the Acquisition Units of Acquisitioning Entities, and professionalize
348 the same. The HAE shall ensure that the DAD, its Secretariat and PMT members,
349 including other relevant acquisitioning personnel are sent to attend acquisition training
350 or capacity development program. Within six (6) months upon designation, the DAD, its
351 Secretariat and PMT members should have satisfactorily completed such training or
352 program conducted, authorized or accredited by the DATAO. The HAE is encouraged
353 to attend similar acquisition training and capacity development activities.

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355 **SECTION 17. Project Management Team (PMT).** – There shall be PMTs created to
356 support the DAD which shall be composed of financial, legal and technical experts to
357 assist in the acquisition process.

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ARTICLE VI ACQUISITION PROCEDURES

SECTION 18. Acquisition Requirements. – The acquisition requirements shall be determined in accordance with the DSOM process prescribed by the SND.

18.1. Determination of the Mode of Acquisition. – The end user shall recommend the mode of acquisition for approval of the HAE.

18.2. Best Rated Offer (BRO). - The offer with the best calculated rating based on criteria/parameters including, but not limited to financial capacity, technical capabilities, additional technical capabilities of appropriate upgrade, and others such as life-cycle cost, after-sales support, willingness to transfer technology, warranty, perquisites and price.

SECTION 19. Awarding of Contract. – The DAC shall recommend award of contract to the supplier with the Best Rated Offer.

19.1. Contract Signing. – The HAE shall be the signing authority to enter into a contract with the supplier with the Best Rated Offer.

Section 20. Contract Implementation. - The rules and guidelines for the implementation of contracts which includes but not limited to the delivery, acceptance test, extension of contract, variation of contract and payment shall be prescribed in the IRR. The rules and guidelines shall include standard general and special conditions for contracts.

Section 21. Contract Termination. - The rules and guidelines for the termination of contracts awarded pursuant to the provisions of this Act shall be prescribed in the IRR. The rules and guidelines shall include standard general and special conditions for contracts.

SECTION 22. Warranties. – In order to ensure the integrity of the materiel acquired and the supplier's obligation to repair or replace the same when warranted, a warranty security shall be required from the supplier for a period as specified in the contract.

Section 23. Review and Assessment. – The HAE may create an Acquisition Review Committee to assess the acquisition activities of the Department and its bureaus on a quarterly basis in accordance with the guidelines and procedures provided for in the IRR.

SECTION 24. Security and Confidentiality. -Whenever necessary, an offeror or bidder may be required to sign a Non-Disclosure and Confidentiality Agreement.

ARTICLE VII SANCTIONS FOR DEFAULT

SECTION 25. Liquidated Damages. - All contracts executed in accordance with this Act and its IRR shall contain a provision on liquidated damages which shall be payable by the contractor or supplier in case of breach as specified in the contract.

410 **SECTION 26. Blacklisting.** – Corporations, companies, board members, single
411 proprietorships, their principals, and duly authorized representatives or agents shall be
412 blacklisted in accordance with the grounds and procedures as provided for in the IRR.
413 The Period of Blacklisting shall be as follows:

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- 415 a. 1st Blacklisting – five (5) years
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 - 417 b. 2nd Blacklisting – Perpetual disqualification from participating in
 - 418 the acquisition process of the DND
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420 Non-performance of obligation under warranty shall be a ground for blacklisting.

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422 **ARTICLE VIII**

423 **SETTLEMENT OF DISPUTES**

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425 **SECTION 27. Protests on Decisions of the DAC** – Decisions of the DAC in all stages
426 of acquisition may be protested to the HAE and shall be in writing. Decisions of the
427 DAC may be protested by filing a verified position paper and paying a non-refundable
428 protest fee. The amount of the protest fee and the periods during which the protests
429 may be filed and resolved shall be specified in the IRR.

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431 **SECTION 28. Resolution of Protests** – The protests shall be resolved strictly on the
432 basis of records of the DAC. The decisions of the HAE shall be final.

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434 **SECTION 29. Non-interruption of the Acquisition Process.** – In no case shall any
435 protest taken from any decision treated in this Article stay or delay the acquisition
436 process.

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438 **SECTION 30. Resort to Regular Courts; Certiorari.** – Court action may be resorted
439 to only after the protests contemplated in this Article shall have been completed. Cases
440 that are filed in violation of the process specified in this Act shall be dismissed for lack
441 of jurisdiction. The Regional Trial Court shall have jurisdiction over final decisions of the
442 HAE. Court actions shall be governed by Rule 65 of the 1997 Rules of Civil Procedure
443 or its amendment as the case maybe and as applicable.

444

445 **SECTION 31. Arbitration.** – Any and all disputes arising from the implementation of a
446 contract covered by this Act shall be submitted to arbitration in the Philippines according
447 to the provisions of Republic Act No. 876, otherwise known as the "Arbitration Law":
448 Provided, however, That, disputes that are within the competence of the Construction
449 Industry Arbitration Commission to resolve shall be referred thereto. The process of
450 arbitration shall be incorporated as a provision in the contract that will be executed
451 pursuant to the provisions of this Act: Provided, that by mutual agreement, the parties
452 may agree in writing to resort to alternative modes of dispute resolution.

453

454 **SECTION 32. Appeals.** – The arbitral award and any decision rendered in accordance
455 with the foregoing Section shall be appealable by way of a petition for review to the
456 Court of Appeals. The petition shall raise pure questions of law and shall be governed
457 by the Rules of Court.

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**ARTICLE IX
PENAL CLAUSE**

SECTION 33. Offenses and Penalties. – The provisions of Republic Act No. 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act”, and other pertinent penal laws shall be strictly applied against erring public officers or any person for action or inaction in violation of the provision or intent of this Act as the competent body or court may determine.

**ARTICLE X
CIVIL LIABILITY**

SECTION 34. Civil Liability in Case of Conviction. – Without prejudice to administrative sanctions that may be imposed in proper cases, a conviction under this Act or Republic Act No. 3019 shall carry with it civil liability, which may either consist of restitution for the damage done or the forfeiture in favor of the government of any unwarranted benefit derived from the act or acts in question or both, at the discretion of the courts.

**ARTICLE XI
LEGAL ASSISTANCE**

SECTION 35. Legal Assistance. – The Legal Office of the DND or its equivalent for DND bureaus, is authorized to represent in all stages of the case for the members of DAS, DAD, and PMT or any or all persons involved in the procurement or acquisition process immediately upon receipt of Court Notice that a civil, criminal, or Ombudsman case, suit or proceeding is filed against them.

SECTION 36. Private Legal Assistance. – In case of inability of the legal office of the DND or its equivalent for DND bureaus, the Acquisitioning Entity shall provide for the lawyer's fee subject to guidelines as provided for under the IRR.

**ARTICLE XII
MISCELLANEOUS PROVISIONS**

SECTION 37. Multi-Year Contracts and Other Contractual Arrangements. - For the purpose of acquisitions under this Act, notwithstanding existing laws to the contrary, the DND and its bureaus shall be authorized to enter into multi-year contracts and other multi-year contractual arrangements; Congress shall, upon issuance of a multi-year obligation authority by the DBM, make the corresponding appropriation for the ensuing fiscal years.

SECTION 38. Issuance of Import Licenses and Other Licenses. All acquisition under this Act shall be exempt from import and other licenses imposed by other agencies of the government. In lieu thereof, the SND shall issue an Authority to Import and other certification that the goods, services, systems and equipment being imported are acquired pursuant to this Act.

506 **SECTION 39. Exemption from Custom Duties and other Taxes for Donated Goods.**
507 The donation of defense equipment or items to the Department of National Defense,
508 which are directly and exclusively used for its projects, undertakings, activities, services
509 and programs under this Act, shall be exempted from custom duties and other taxes.

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511 **SECTION 40. Acquisition of Units Deployed Overseas.** – Units deployed overseas
512 such as the DAFA, U.N. Peace-Keepers and the likes are authorized to acquire certain
513 reasonable requirements in connection with the discharge of their functions within the
514 country where they are deployed, subject to the guidelines provided for in the IRR.

515
516 **SECTION 41. Administration of the Revised AFP Modernization Act Trust Fund.** –
517 Section 11 of Republic Act No. 7898, otherwise known as the “AFP Modernization Act”,
518 as amended by Republic Act No. 10349, is hereby further amended to read as follows:

519
520 “Sec. 11. The Revised AFP Modernization Act Trust Fund. – x x x:
521
522 (a) x x x (b) x x x (c) x x x (d) x x x (e) x x x (f) x x x (g) x x x (h) x x x (i) x x x (j)
523 x x x

524
525 Funds from the foregoing sources, regardless of income source, shall be directly
526 deposited to a special account in the general fund created specifically for the
527 Revised AFP Modernization Program. The corresponding allotment and cash
528 allocation shall be released to the DND subject to the submission of a special
529 budget and subject to submission of periodic report to the Oversight Committee.
530 Thereafter, the cash allocation shall be transferred to the Revised AFP
531 Modernization Trust Fund which shall be administered by the Secretary of
532 National Defense in accordance with existing government budgeting and
533 auditing rules and regulations. The DND shall conduct periodic studies on how
534 to maximize the utilization of the trust fund and how additional revenues can be
535 generated to fund the Revised AFP Modernization Program.”

536
537 **SECTION 42. Exemption from Value-Added Tax, Customs Duties and other Taxes.**
538 – The sale and/or importation of weapons, equipment and ammunitions to and by the
539 AFP, which are directly and exclusively used for its projects, undertakings and activities
540 and programs under the Revised AFP Modernization Act, shall be exempt from the
541 value added tax, customs duties and other taxes.

542
543 **ARTICLE XIII**
544 **FINAL PROVISIONS**

545
546 **SECTION 43. Joint Congressional Oversight Committee on Defense Acquisition.**
547 – There is hereby created a Joint Congressional Oversight Committee on Defense
548 Acquisition to oversee the implementation of this Act. The Committee shall be
549 composed of the Chairman of the Senate Committee on National Defense and Security
550 and two (2) members thereof appointed by the Senate President, and the Chairman of
551 the House Committee on National Defense and Security, and two (2) members thereof
552 to be appointed by the Speaker of the House of Representatives.

553 **SECTION 44. Implementing Rules and Regulations: Supplementary Regulations.**
554 – Within 60 days from the promulgation of this Act, the necessary rules and regulations
555 for the proper implementation of its provisions shall be formulated by the DND. The said
556 rules and regulations shall be approved by the President of the Philippines. The
557 President thru the Secretary of National Defense is authorized to implement this Act,
558 formulate and amend, whenever necessary, the implementing rules and regulations and
559 standard forms necessary for the implementation of this Act, and issue supplemental
560 regulations to hasten and facilitate the implementation of this Act.

561
562 **SECTION 45. Rule of Interpretation.** – Rights and obligations existing on the date of
563 effectivity of this Act and arising out of contracts shall be governed by the original terms
564 and conditions of said contract or the law in force at that time such rights were vested.

565
566 **SECTION 46. Repealing Clause.** – All provisions of existing laws, orders and
567 regulations contrary to or inconsistent with this Act are hereby repealed or modified
568 accordingly.

569
570 **SECTION 47. Separability Clause.** – If any provision of this Act is declared invalid or
571 unconstitutional, the other provisions not affected thereby shall remain valid and
572 subsisting.

573
574 **SECTION 48. Effectivity Clause.** – This Act shall take effect fifteen (15) days following
575 its publication in the Official Gazette or in two (2) newspapers of general circulation.

576
577 Approved,