

HOUSE OF REPRESENTATIVES

H.B. No. 4283

Introduced by Representative Feliciano R. Belmonte, Jr. and
Representative Neptali M. Gonzales II

EXPLANATORY NOTE

This bill seeks to amend Republic Act No. 9184, otherwise known as the "Government Procurement Reform Act." More particularly, this measure amends Sections 4 (Scope and Application), 18 (Reference To Brand Names), 55 (Protest on the Decisions of the BAC) and 56 (Resolution of Protests) of the existing law to make them more transparent and more responsive to the challenges of government procurement.

Under this proposal, parties shall apply as a first option, the provisions of this act for any procurement that may arise from the government, its departments and instrumentalities, regardless of the source of funds. In case a foreign government or financing institution opt to use another option not provided for in this act, they shall be required to explain in writing the reasons for doing so and commit to review their positions on a regular intervals.

Moreover, specifications for the procurement of goods shall be based on relevant characteristics and performance requirements and not on brand names except in cases where reference to a particular brand name is necessary to clarify an incomplete specification or when a degree of standardization is required to ensure continuity for certain essential features.

Finally, this act allows protest on the decision of the Bids and Awards Committee (BAC) of the procuring entity to be lodged with the Government Procurement Policy Board (GPPB) through the filing of a verified position paper and the payment of a protest fee.

Consistent with the goals and objectives of the 16-point Agenda of the President on the fight against corruption, the urgent passage of this measure is fervently prayed for.


FELICIANO BELMONTE, JR


NEPTALI M. GONZALES II

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11 Introduced by Representative Feliciano R. Belmonte, Jr. and
12 Representative Neptali M. Gonzales II
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15 AN ACT AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 9184,
16 OTHERWISE KNOWN AS THE "GOVERNMENT PROCUREMENT REFORM ACT"
17

18 *Be it enacted by the House of Representatives and Senate of the Philippines in*
19 *Congress assembled:*
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21 SECTION 1. Sec. 4 of Republic Act No. 9184 is hereby further amended to read
22 as follows:
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24 "SEC. 4. *Scope and Application.* – This Act shall apply to the
25 Procurement of Infrastructure Projects, Goods, and Consulting Services,
26 regardless of source of funds, whether local or foreign, by all branches
27 and instrumentalities of government, its departments, offices and
28 agencies, including government-owned and/or-controlled corporations
29 and local government units, subject to the provisions of Commonwealth
30 Act No. 138.
31

32 Any treaty or international or executive agreement affecting the subject
33 matter of this Act to which the Philippine government is a signatory shall
34 be observed. Parties to said agreement are enjoined to apply, as a first
35 option, the provisions of this act, for any procurement that may arise
36 therefrom. Should the foreign government or international financing
37 institution waive the application of this act and insist on using another
38 option, they shall explain in writing the reasons therefor and commit to
39 review their positions at regular intervals."
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41 SECTION 2. Section 18 of Republic Act No. 9184 is hereby amended to read as
42 follows:
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44 "SEC. 18. *Reference to Brand Names.* – Specifications for the
45 Procurement of Goods shall be based on relevant characteristics and/or
46 performance requirements. Reference to brand names shall not be
47 allowed, except in the following instances:
48

- 49 (a) when reference to brand name is necessary to clarify an otherwise
50 incomplete specification; or,
51
52 (b) if it has been determined that a degree of standardization is
53 necessary in order to ensure continuity for certain essential features.
54

55 In these instances, the words "or equivalent" shall be added after such

1 reference. the specification shall permit the acceptance of offers for
2 goods which have similar characteristics and which provide performance
3 at least substantially equivalent to those specified."
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5 **SECTION 3.** Sections 55 and 56 of Republic Act No. 9184 are hereby amended
6 to read as follows:
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8 "**SEC 55.** *Protest on Decisions of the [BAC] Procuring Entity.* - Decisions
9 of the [BAC] Procuring Entity in all stages of procurement may be
10 protested to the [head of the procuring entity] Government Procurement
11 Policy Board (GPPB) and shall be in writing. Decisions of the [BAC]
12 Procuring Entity may be protested by filing a verified position paper and
13 paying a non-refundable protest fee. The amount of the protest fee and
14 the periods during which the protests may be filed and resolved shall be
15 specified in the IRR.
16

17 SEC. 56. *Resolution of Protests.* The protests shall be resolved
18 strictly on the basis of records of the [BAC] Procuring Entity. [Up to a
19 certain amount to be specified in the IRR, the decisions of the Head of the
20 Procuring Entity shall be final.] The GPPB shall form an independent
21 panel composed of procurement experts which shall resolve the protest.
22

23 **SECTION 4.** *Separability Clause.* If any provision or part hereof is held invalid or
24 unconstitutional, the remainder of the law or the provision not otherwise affected shall
25 remain valid and subsisting.
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27 **SECTION 5.** *Repealing Clause.* All laws, presidential decrees, executive
28 orders, proclamations and/or administrative regulations which are inconsistent with the
29 provisions of this Act are hereby amended, modified, superseded or repealed
30 accordingly.
31

32 **SECTION 6.** *Effectivity Clause.* This Act shall take effect fifteen (15) days from
33 its publication in at least two newspapers of national circulation.
34

35 *Approved,*
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