



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City



SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5521

Introduced by
REPRESENTATIVE PANTALEON D. ALVAREZ

AN ACT
AMENDING REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS
"AN ACT PROVIDING FOR THE MODERNIZATION,
STANDARDIZATION AND REGULATION OF THE
PROCUREMENT ACTIVITIES OF THE GOVERNMENT" AND FOR
OTHER PURPOSES

EXPLANATORY NOTE

Republic Act No. 9184 (RA No. 9184), otherwise known as the "*Government Procurement Reform Act*," was enacted to establish a Government Procurement System free from graft and corruption through the use of standardized and regularized processes and procedures.

While said processes and procedures have indeed worked to curb transactions which are detrimental to Government, they have likewise created an atmosphere where the pricing of goods and services is prioritized over their quality. Such a situation, however, does not necessarily translate into the best benefit for Government. True enough, Government cannot sacrifice the quality of the goods and services it seeks to acquire in its pursuit of obtaining the lowest prices for such goods and services. This is particularly true today with the emergence of low-cost goods which may, at first glance, seem to approximate the

characteristics and features of more established products, but do not actually provide the same value.

Moreover, even as the stringent requirements and procedures of the law may be necessary to safeguard the best interests of Government, these same requirements and procedures have, at times, proven to unduly delay and hamstring the delivery of certain services to the public in cases of extreme urgency and necessity. Consequently, there is a need to empower Government to act swiftly in such cases in order to minimize, if not prevent, damage to life and property.

In similar fashion, there is also a need to enable Government to freely act with haste in exceptional cases where the processes and procedures provided by the law are unnecessary, such as when there are recognized standardized and fixed industry prices for such goods. To prevent potential abuse of exemption from public bidding, the proposed measure provides for Government Procurement Policy Board (GPPB) action in identifying covered industries and providing guidelines in assessing such industry prices.

This proposed measure aims, among others, to ensure that the quality of the goods and services to be procured by Government is not sacrificed as it pursues the best price for such goods and services. For this reason, it empowers the BAC to also consider the quality of the goods and services to be acquired by Government, consistent with guidelines to be provided by the GPPB.

The measure likewise seeks to expedite bureaucratic processes in cases where the need for public bidding has been rendered unnecessary by contracts which are priced equal to or lower than the Suggested Retail Price (SRP) identified by relevant government agencies.

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



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

SECTION 1. Section 3 of Republic Act No. 9184, otherwise known as "An Act Providing for the Modernization, Standardization, and Regulation of the Procurement Activities of the Government" is hereby amended to read as follows:

"Section 3. Governing Principles on Government Procurement.

All procurement of the national government, its departments, bureaus, offices and agencies, including state universities and colleges, government -owned and/or-controlled corporations, government financial institutions and local government units, shall, in all cases, be governed by these principles:

"(A) Transparency in the procurement process and in the implementation of procurement contracts.

“(B) Competitiveness by extending equal opportunity to enable private contracting parties who are eligible and qualified to participate in public bidding **IN PROVIDING THE BEST QUALITY OF GOODS AND SERVICES AT THE MOST ADVANTAGEOUS TERMS FOR THE GOVERNMENT.**

“(C) xxx

“(D) xxx

“(F) xxx

SECTION 2. Section 25 of the same Act is hereby amended to read as follows:

“Section 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 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, **PROVIDED THAT IN CASES WHERE THE DEADLINE COINCIDES WITH AN UNFORSEEN NATURAL CALAMITY OR EMERGENCY NECESSITATING THE POSTPONEMENT OF SUBMISSION OF THE BIDS, BIDS MAY BE RECEIVED BY THE BIDS AND AWARDS COMMITTEE ON THE NEXT WORKING DAY FOLLOWING SAID NATURAL CALAMITY OR EMERGENCY.** Notwithstanding the provisions of this Section and Section 26 of this Act, the GPPB may prescribe innovative procedure for the submission, receipt and opening of bids through the G-EPS.

SECTION 3. Section 32 of the Act is hereby amended to read as follows:

"Section 32. Bid for the Procurement of Goods and Infrastructure Projects. -

For the procurement of Goods and Infrastructure Projects, the BAC shall evaluate the financial component of the bids. The bids that passed the preliminary examination shall be ranked from lowest to highest in terms of their corresponding calculated price shall be referred to as the "Lowest Calculated Bid" **PROVIDED THAT IN RANKING THE BIDS FROM LOWEST TO HIGHEST, THE BAC SHALL CONSIDER THE QUALITY OF THE GOODS IN RELATION TO THEIR RESPECTIVE CALCULATED PRICES AND ASSESS THE SAME BASED ON GUIDELINES TO BE DETERMINED BY THE GPPB."**

SECTION 4. Section 47 of Republic Act No. 9184 is hereby amended to read as follows:

"Section 47. Disclosure of Relations. - In addition to the proposed contents of the Invitation to Bid as mentioned under Section 21 of this Act, all bidding documents shall be accompanied by a sworn affidavit of the bidder that he or she or any officer of their corporation is not related **BY CONSANGUINITY OR AFFINITY UP TO THE THIRD CIVIL DEGREE** to the Head of the Procuring Entity, **THE MEMBERS OF THE BIDS AND AWARDS COMMITTEE, AND THE MEMBERS OF THE TECHNICAL WORKING GROUP CREATED BY THE BAC, IF ANY. FOR PURPOSES OF THIS SECTION, COMMON LAW RELATIONSHIPS SHALL LIKEWISE BE INCLUDED IN SUCH DISCLOSURES TO BE MADE BY THE BIDDER.** Failure to comply with the aforementioned provision shall be a ground for the automatic disqualification of the bid in consonance with Section 30 of this Act."

SECTION 5. Section 47 of the same Act is hereby amended to read as follows:

"Section 48. Alternative Methods. - Subject to the prior approval of the

Head of the Procuring Entity or his duly authorized representative, and whenever justified by the conditions provided in this Act, the Procuring Entity may, in order to promote economy and efficiency, resort to any of the following alternative methods of Procurement, **PROVIDED THAT, IN ALL INSTANCES, THE PROCURING ENTITY SHALL ENSURE THAT SUCH PROCUREMENT YIELDS THE BEST QUALITY GOODS AND SERVICES CONSISTENT WITH GPPB GUIDELINES, AT TERMS MOST ADVANTAGEOUS TO GOVERNMENT:**"

"(A) xxx

"(B) xxx

"(C) xxx

"(D) xxx

"(E) xxx

SECTION 6. Section 50 of the same Act is hereby amended by the addition of a new subsection (d), to read as follows:

"Section 50. Direct Contracting. - Direct Contracting may be resorted to only in any of the following conditions:

"(A) xxx

"(B) xxx

"(C) Those sold by an exclusive dealer or manufacturer, which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the government; **AND**

"(D) **PROCUREMENT OF GOODS AND SERVICES WHICH ARE SUBJECT TO STANDARDIZED PRICES, FIXED INDUSTRY PRICES, OR SUGGESTED RETAIL PRICE**

(SRP), AS APPROVED BY THE DEPARTMENT OF TRADE AND INDUSTRY, DEPARTMENT OF HEALTH, OR BY OTHER RELEVANT GOVERNMENT AGENCIES, PROVIDED THAT THE CONTRACT PRICE OF THE GOODS AND SERVICES AWARDED THROUGH THIS METHOD SHALL IN NO CASE BE HIGHER THAN THE STANDARDIZED PRICES OR THE SRP DETERMINED BY THE GOVERNMENT.

SECTION 6. Section 53 of the same Act is hereby amended to read as follows:

"Section 53. *Negotiated Procurement.* – Negotiated Procurement shall be allowed only in the following instances:

"(A) xxx

"(B) In case of imminent danger to life or property **BEFORE**, during, **OR AFTER** a [state of] calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities;

a) xxx

b) xxx

SECTION 7. Section 63 of the same Act is hereby amended to read as follows:

"Section 63. *Organization and Functions.* – A Government Procurement Policy Board (GPPB) is hereby established to:

"(A) Protect national interest in all matters affecting public Procurement, having due regard to the country's regional and international obligations;

“(B) Formulate and amend, whenever necessary, the IRR and the corresponding standard forms for Procurement;

“(C) ensure that Procuring Entities regularly conduct Procurement training programs and prepare a Procurement operations manual for all offices and agencies of government;

“(D) **IDENTIFY GOODS AND SERVICES TO BE SUBJECT TO DIRECT CONTRACTING UNDER SECTION 53(D);**
and

“(E) Conduct an annual review of the effectiveness of this Act and recommend any amendments thereto, as may be necessary.”

SECTION 8. Repealing Clause. – All acts, decrees, orders, and instructions or parts thereof inconsistent with the provisions of this Act are repealed and modified accordingly.

SECTION 9. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,