Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. ___5069___

Introduced by Representatives **John Marvin "Yul Servo" C. Nieto, Edward Vera Perez Maceda, Dale "Along" R. Malapitan, Eric M. Martinez**, and **Rolando M. Valeriano**
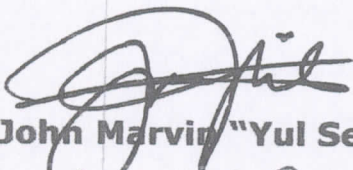
EXPLANATORY NOTE

As a manifestation of support to this timely piece of legislation, this representation respectfully refiles this bill, which has constantly been receiving support from the past and present Congress.
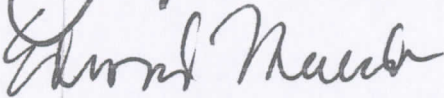
The proposed measure seeks to improve and streamline government procurement processes by introducing two alternative methods of procurement.

This representation strongly advocates the adoption of new but tested technologies available to enhance the service delivery in the government. Technology-enabled procurement processes will surely increase the efficiency and effectiveness in the government as processes will be streamlined. Antiquated and unnecessary practices will be replaced with a more responsive and more accessible way of doing things. Moreover, a huge portion of government procurements are repeat orders and resupplies. Properly providing for a system that can easily and effectively provide a means to address such activity can surely help government agencies deliver their services in a timely manner.
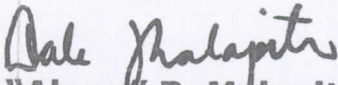
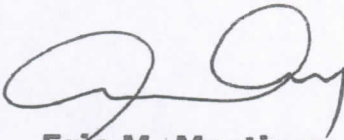In this light, the passage of this bill is earnestly sought.
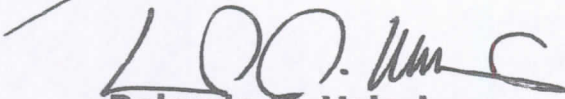

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5069
HOUSE BILL NO. _____

Introduced by Hon. John Marvin "Yul Servo" C. Nieto

AN ACT ESTABLISHING AN ELECTRONIC AND EXPRESS MODE FOR GOVERNMENT PROCUREMENT, AMENDING REPUBLIC ACT NO. 9184, AND FOR OTHER PURPOSES

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

SECTION 1. Section 48 of Republic Act 9184 shall be amended to read as follows:

"**Sec. 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:

XXX

(f) EXPRESS MODE - A METHOD OF PROCUREMENT THAT INVOLVES DIRECT PROCUREMENT FROM A PREVIOUS COMPETITIVE BIDDING WINNING BIDDER, SUBJECT TO CHALLENGES FROM BETTER OFFERS;

(g) ELECTRONIC SHOPPING - A METHOD OF PROCUREMENT WHEREBY THE PROCURING ENTITY REQUESTS THE SUBMISSION OF PRICE QUOTATIONS FOR RATED PRODUCTS THROUGH AN ONLINE PLATFORM AND PROCEEDS TO SELECT A SUPPLIER FROM SAID QUOTATIONS."

SECTION 2. A new section is hereby inserted after Section 51 of Republic Act 9184 to read as follows:

"**Sec. 51-A. EXPRESS MODE. - PROCURING ENTITIES WHO WISH TO PROCURE THE SAME GOODS OR SERVICES FROM A PREVIOUS WINNING BIDDER MAY DO SO SUBJECT TO A CHALLENGE PERIOD FOR BETTER OFFERS.**

THE PROCURING ENTITY UTILIZING THE EXPRESS MODE OF PROCUREMENT SHALL POST A NOTICE TO CHALLENGE, INDICATING THE PRESENT SUPPLIER, THE GOODS OR SERVICES TO BE

PROCURED, THE PRESENT CONTRACT PRICE OF GOODS OR SERVICES, AN INVITATION TO CHALLENGE THE EXISTING SUPPLIER, AND A PERIOD FOR ACCEPTING BETTER OFFERS, WHICH PERIOD SHALL NOT BE LESS THAN SEVEN (7) DAYS.

IN THE EVENT THAT THERE ARE NO BETTER OFFERS SUBMITTED, THE PROCURING ENTITY MAY DIRECTLY PROCURE FROM THE PREVIOUS WINNING BIDDER.

IN THE PRESENCE OF BETTER OFFERS, THE PREVIOUS WINNING BIDDER SHALL BE GIVEN SEVEN (7) WORKING DAYS TO MATCH THE BETTER OFFER. IF THE PREVIOUS WINNING BIDDER MATCHES THE BETTER OFFER, THE PROCURING ENTITY SHALL BE ALLOWED TO DIRECTLY PROCURE FORM THE PREVIOUS WINNING BIDDER. OTHERWISE, PROCURING ENTITY DIRECTLY PROCURE FROM THE SUPPLIER THAT PRODUCED THE BETTER OFFER.

PRIOR TO THE PROCUREMENT, THE PROCURING ENTITY SHALL PUBLICLY POST THE RESULT OF THE CHALLENGE."

SECTION 3. A new section is hereby inserted after Section 52 of Republic Act 9184 to read as follows:

"SEC. 52-A. ELECTRONIC SHOPPING. - PROCURING ENTITIES MAY PURCHASE GOODS THAT HAVE UNDERGONE AN ONLINE PLATFORM RATING PROCESS. THE ONLINE PLATFORM MAY RECEIVE REQUESTS FOR QUOTATIONS FROM PROCURING ENTITIES. IN MAKING THEIR REQUEST FOR QUOTATIONS, THE PROCURING ENTITY SHALL PROVIDE INFORMATION ON THE DESCRIPTION, QUANTITY, DELIVERY LOCATION, MINIMUM RATING REQUIREMENT, AND SUCH OTHER INFORMATION AS IT MAY DEEM NECESSARY.

WITHIN SEVEN (7) DAYS, THE ONLINE PLATFORM SHALL FURNISH THE PROCURING ENTITY WITH A LIST OF RATED PRODUCTS, AND THE QUOTATIONS FROM APPLICANT-SUPPLIERS. FOR PURPOSES OF TRANSPARENCY, A COPY OF THE LIST AND QUOTATIONS SHALL BE IMMEDIATELY TRANSMITTED TO THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE COMMISSION ON AUDIT.

THE END-USER OF THE GOODS BEING PROCURED SHALL SELECT FROM AMONG THE QUOTATIONS RECEIVED AND MAKE A RECOMMENDED PURCHASE TO THE HEAD OF THE PROCURING ENTITY FOR APPROVAL.

THE PROCURING ENTITY SHALL BE GIVEN A MAXIMUM OF SEVEN (7) CALENDAR DAYS FROM DATE OF ISSUANCE OF QUOTATIONS TO ENTER INTO A CONTRACT WITH THE SELECTED SUPPLIER. PROVIDED THAT, IN NO INSTANCE SHALL THE CONTRACT PRICE EXCEED THE APPROVED BUDGET FOR THE CONTRACT OR 120% OF THE LOWEST QUOTED PRICE, WHICHEVER IS HIGHER.

SEC. 52-B. RATING SYSTEM. - WITHIN ONE YEAR FROM THE EFFECTIVITY OF THIS ACT, THERE SHALL BE A RATING SYSTEM FOR GOODS THAT MAY BE PROCURED BY GOVERNMENT.

THE RATING SYSTEM SHALL BE MADE AVAILABLE TO THE PROCURING ENTITIES, SUPPLIERS, AND THE GENERAL PUBLIC THROUGH AN ONLINE PLATFORM THAT SHALL BE MAINTAINED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT, OR ITS RELEVANT ATTACHED AGENCY.

FOR PURPOSES OF RATING PRODUCTS, THERE SHALL BE A TECHNICAL WORKING GROUP HEADED BY THE GOVERNMENT PROCUREMENT AND POLICY BOARD AND COMPOSED OF TECHNICAL EXPERTS FROM AT LEAST ONE (1) GOVERNMENT AGENCY AND END-USERS FROM AT LEAST ONE (1) GOVERNMENT AGENCY. TO ENSURE TRANSPARENCY, AN INDUSTRY REPRESENTATIVE FROM THE PRIVATE SECTOR IS ALLOWED TO OBSERVE AND ACT AS RESOURCE PERSON DURING THE RATING PROCESS. PROVIDED THAT, IN THE EVENT THAT THERE IS NO TECHNICAL EXPERT FROM THE GOVERNMENT, A TECHNICAL EXPERT FROM THE PRIVATE SECTOR SHALL BE INVITED TO RATE THE PRODUCT. PROVIDED FURTHER, THAT IN THE PROCUREMENT OF PRODUCTS THAT WERE NEVER USED BY GOVERNMENT, THE INTENDED END-USERS FROM THE GOVERNMENT SHALL BE INVITED TO RATE THE PRODUCT.

END-USERS FROM PROCURING ENTITIES SHALL BE REQUIRED TO PROVIDE FEEDBACKS ON PRODUCTS PROCURED THROUGH ELECTRONIC SHOPPING WITHIN THREE (3) MONTHS FROM DATE OF DELIVERY. SAID FEEDBACKS SHALL BE USED BY THE SYSTEM TO UPDATE PRODUCT RATINGS.

THERE SHALL BE A MECHANISM FOR SUPPLIERS AND INDUSTRY REPRESENTATIVES TO CHALLENGE THE RATING GIVEN TO PRODUCTS. ANY CHALLENGE TO AN EXISTING RATING SHALL NOT RESULT IN THE EXCLUSION OF THE PRODUCT FROM BEING LISTED IN THE ONLINE PLATFORM.

FOR PURPOSES OF RATING SUPPLIERS, THE ONLINE PLATFORM SHALL ASSIGN BADGES TO PARTICIPATING SUPPLIERS THAT HAVE ACHIEVED DIFFERENT MILESTONES SUCH AS PROMPTNESS IN DELIVERY, NUMBER OF CONTRACTS FULFILLED, VALUE OF CONTRACTS FULFILLED, AND OTHER CRITERIA THAT WOULD DETERMINE THE WORTHINESS OF A SUPPLIER."

SECTION 4. Separability Clause. - If any of the Sections or provisions of this Act is held invalid or unconstitutional, all other provisions not affected thereby shall remain valid.

SECTION 5. Implementing Rules and Regulations. - The GBBP shall promulgate the Rules and Regulations to effectively implement this Act.

SECTION 6. Repealing Clause. - All Laws, Decrees, Executive Orders, Rules and Regulations or parts or provisions thereof which are not inconsistent with this Act are hereby repealed, amended, or modified accordingly.

SECTION 7. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,