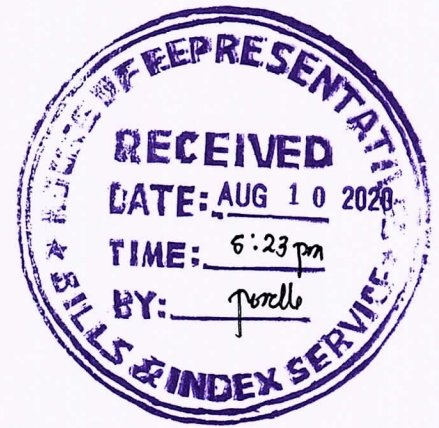


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. **7345**



INTRODUCED BY
HON. FLORIDA "RIDA" P. ROBES and HON. ABRAHAM "BAMBOL" TOLENTINO

EXPLANATORY NOTE

Section 2, Article IX of the 1987 Constitution provides:

"The Commission (on Audit) shall have exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties."

The Constitution has therefore made the COA the guardian of public funds, vesting it with broad powers over all accounts pertaining to government revenue and expenditures and the uses of public funds and property including the exclusive authority to define the scope of its audit and examination, establish the techniques and methods for such review, and promulgate accounting and auditing rules and regulations (*Yap vs. COA; G.R. No. 158562, April 23, 2010*).

One of the safeguards the COA has implemented is the conduct of pre-audit and post-audit of government contracts and other transactions. However, there has been no consistent policy in the implementation of pre-audit. The pre-audit system was patterned after the practice of the United States General Auditing Office (GAO). It has been the practice in the Philippines since the 1920s until former President Ferdinand Marcos reorganized the government and adopted a post-audit system in 1972. This system was adopted by the succeeding presidents until the present administration.

However, the present system of post-audit is prone to abuse and graft and corruption because it reviews disbursements after they have been released and therefore almost impossible to recover if

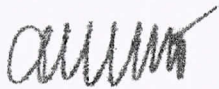
irregularities are discovered. It has been estimated that the Philippines is losing around P700 billion, or around 20 percent of its total budget appropriation, yearly, due to corruption.

It is therefore imperative that the government goes back to the pre-audit system because it can detect anomalies before government funds are disbursed. This in effect protects precious taxpayers' money from graft and corruption.

Those against the pre-audit system, arguing that it will merely create undue delay in the disbursement of public funds, are misleading the public. This is because under the proposed bill, government auditors are mandated to act on the request for pre-audit within a 15-day period from the date all pertinent documents are submitted.

The country has suffered so much from graft and corruption of taxpayers' money by unscrupulous individuals in and outside of government. It is now time to stop this despicable act.

In this regard, the passage of this bill is earnestly sought.



ABRAHAM "BAMBOL" TOLENTINO



FLORIDA "RIDA" P. ROBES

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INTRODUCED BY
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**AN ACT ESTABLISHING A MANDATORY PRE-AUDIT SYSTEM OF ALL
GOVERNMENT DISBURSEMENTS AND USE OF FUNDS AND APPROPRIATING
FUNDS THEREFOR AND FOR OTHER PURPOSES**

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

Section 1. *Short Title.* – This Act shall be known as the "Government Pre-Audit Act of 2020".

Section 2. *Declaration of Policy.* – For purposes of this Act, it is hereby declared the policy of the state to:

- a. Prevent the loss of public funds through graft and corruption or plunder or leakage thereof due to unintended reason by a system of pre-audit procedures prior to the disbursement of funds; and
- b. Make public officials and employees accountable for any loss of government funds, either criminally or administratively, or both.

Section 3. *Definition of Terms.* – For purposes of this Act, the following terms are hereby defined as follows:

- (a) "Certificate of Pre-audit" refers to the sworn document signed and issued by state auditors evidencing that a contract, agreement or transaction creating government obligation has undergone pre-audit and recommending that public funds be released for payment thereof;
- (b) "Infrastructure Projects" shall include construction, improvement, rehabilitation, demolition, repair, restoration or maintenance of roads and bridges, railways, airports, seaports, communication facilities, civil works components of information technology projects, irrigation, flood control and drainage, water supply, sanitation, sewerage and solid waste management systems, shore protection, energy/power and electrification facilities, national buildings, school buildings, hospital buildings and other related construction projects of government;
- (c) "Consulting Services" shall refer to services for Infrastructure Projects and other types of projects or activities of the Government requiring adequate external, technical and professional expertise that are beyond the capability and/or capacity of the government to undertake such as, but not limited to: (i) advisory and review services; (ii) pre-investment or feasibility notes (iii) design (iv) construction supervision; (v) management and related services; and (vi) other technical services or special studies;
- (d) "Goods" shall include all items, supplies, material and general support services except consulting services and infrastructure projects, which may be needed in the pursuit of any government undertaking, projects or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind, including non-personal contractual services such as the repair and maintenance of equipment and furniture as well as trucking, hauling, janitorial, security and related or analogous services;
- (e) COA or Commission refers to the Commission on Audit.

Section 4. *Mandatory Pre-Audit.* – The Commission on Audit shall conduct a thorough and complete pre-audit examination of all expenditures and uses of public funds pertaining to infrastructure projects, procurement of goods and consulting services, including lease of goods and real property, of any branch, office agency or instrumentality of the government, including state universities and colleges, government-owned and controlled corporations, government financial institutions and local government governments, except those provided in Section 5 hereof.

No public funds shall be disbursed or released in payment of a government obligation without the conduct of pre-audit by the Commission on Audit and the issuance of a Certificate of Pre-audit as provided for in this Act within a period of 15 days from receipt of all pertinent documents. If the COA does not issue a Certificate of Pre-audit, it is mandated to decline the issuance of the same, on valid and legal grounds within a period of 15 days from receipt of all pertinent documents relative to the intended disbursement of public funds.

Section 5. *Exceptions.* – This Act shall not apply constitutional bodies, commissions and offices that have been granted autonomy under the Constitution; autonomous state colleges and universities; other government-owned or controlled corporations and their subsidiaries; and other non-government entities receiving subsidy or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution to submit post-audit as a condition to subsidy or entity.

The Commission, however, shall have the authority to conduct or cause to be conducted a special pre-audit in any of the above agencies should it determine, upon proper examination and in the exercise of its judgment, that the internal control system of the office or agency is deficient or inadequate and such pre-audit authority shall continue until the deficiency is corrected.

Section 6. *Effect of No Pre-Audit.* – A Certificate of Pre-Audit signed by state auditors shall be required prior to any disbursement or expenditure of funds. The absence of pre-audit certification shall render the government contract or transaction null and void.

Section 7. *Pre-Audit Office.* – There is hereby created a Pre-Audit Office at the Commission of Audit which shall conduct all pre-audit examinations and issue Pre-Audit certifications in coordination with state auditors detailed in different government offices in the country.

Every government office, aside from state auditors, shall have pre-audit officers to carry out the provisions of this Act.

Section 8. *Accountability of Public Officer or Employee.* – Any disbursement of fund in violation of Section 6 of this Act or where a contract or transaction is declared void because of the absence of a Certificate of Pre-audit, the public officer or employee found responsible shall be personally liable to the Government or to the other contracting party for their consequent damage, without prejudice to other criminal or administrative sanctions as may be imposed upon such responsible official or employee under existing laws.

Section 9. *Full Disclosure/Submission of Documents.* – In all stages of the Pre-audit being conducted by the Pre-Audit Office of the Commission or its duly-authorized representative, the government office or entity under pre-audit examination shall ensure that all relevant and necessary information are disclosed and the pertinent papers and documents are submitted for purposes of the said examination. Failure to comply with this provision shall be a ground for disciplinary action of the public official or employee concerned.

Section 10. *Report to Congress.* - The Commission shall submit an annual report to the President of the Philippines and to Congress on the status of the implementation of this Act not later than June 30 of every year following the approval of this Act.

Section 11. *Implementing Rules and Regulations.* – The Commission on Audit shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

Section 12. *Repealing Clause.* – All laws, decrees and executive issuance or parts thereof which are contrary to or consistent with this Act are hereby repealed, amended or modified accordingly.

Section 13. *Separability Clause.* – If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected shall thereby remain valid and subsisting.

Section 14. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,