

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
20TH CONGRESS
First Regular Session

House Bill No. **1417**



Introduced by: **REP. JOEL R. CHUA**

Explanatory Note

This bill seeks to impose stricter requirements and guidelines in the utilization of confidential funds for confidential expenses. During the 19th Congress, a similar Bill was filed by this Representation as a product of the hearings conducted by the Committee on Good Government and Public Accountability. The same was referred to Stakeholders but was never approved due to lack of material time.

This Bill is the same as what was proposed during the 19th Congress. As such, this Representation reiterates my explanation stated in the original:

Confidential expenses refer to those related to surveillance activities in civilian government agencies that are intended to support the mandate or operation of the agency. Confidential and intelligence funds were historically subject to the approval of the President of the Republic or specifically identified and authorized in the General Appropriations Act (GAA). The GAA is the governing law on confidential and intelligence funds. In Section 83 of the 2022 GAA, confidential funds "shall be released or disbursed only upon approval of the Department Secretary concerned".

Through the COA-DBM-DILG-GCGDND Joint Circular (JC) No. 2015-01, the guidelines on the entitlement, release, utilization, reporting and auditing of confidential and/or intelligence funds were established. However, these guidelines provide a disappointingly lenient requirement for liquidation of cash advances.

With the several hearings conducted by the Committee on Good Government and Public Accountability during the 19th Congress, the following were discovered:


- Mismatch of the granting of confidential funds to agencies that are not involved in public order and safety nor national security;
- Irregular utilization of confidential expenses to programs, activities, and projects that are not the initiatives of an agency nor was there an actual utilization of confidential funds;

- Payment of rewards to individuals whose identities cannot be verified;
- Purchase of information without proof that utilization of the information led to a successful activity by the same agency from which the confidential funds were sourced;
- Absence of a requirement of a memorandum of agreement between agencies should there be a coordinating event for utilization of the information acquired through the purchase of reward of the agency incurring the confidential expense and the issuance of a Certification for the successful utilization of the information by the agency receiving and utilizing the information.

The spirit of granting confidential funds for confidential expenses was for peace and order programs and public safety. This was not how the confidential funds were used by the civilian agencies as seen in the inquiries of the 19th Congress.

It is high time that stricter requirements and guidelines be issued in the utilization of confidential funds for confidential expenses. While the necessity of confidential funds for national security is recognized, it must be balanced with the duty of the government to safeguard utilization of public funds and introduce much needed statutory changes.

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



REP. JOEL R. CHUA
3rd District of Manila

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AN ACT
REGULATING THE ALLOCATION AND UTILIZATION OF CONFIDENTIAL
AND INTELLIGENCE FUNDS IMPOSING PENALTIES FOR MISUSE AND
MISAPPROPRIATION

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

Section 1. Short Title. - This Act shall be known as the "Confidential & Intelligence Funds (CIF) Utilization and Accountability Act".

Section 2. Declaration of State Policies. - The state recognizes the need for the allocation and use of confidential and intelligence funds in government agencies with mandates that are directly related to national security, law enforcement, and intelligence operations, and other related critical functions requiring discretion. It is the policy of the state that the use of such funds must be subject to stringent oversight, accountability, and transparency to ensure that they are not misused, misappropriated, or diverted for unauthorized purposes. Further, it is the policy of the state to maintain public trust in the use of public funds, protect the integrity of government operations, and prevent corruption in the management of confidential funds.

Section 3. Entitlement to Confidential and Intelligence Funds. - Confidential/intelligence fund shall be allocated to agencies as indicated under the General Appropriations Act and to all other agencies, department, units with mandates related to national security, peace and order, and intelligence gathering.

Section 4. Limits on Confidential/Intelligence Fund Allocation. - The total allocation for confidential funds for any single agency, considering the population serviced, shall not exceed ten percent [10%] of the total annual budget of the agency, unless otherwise explicitly authorized by law.

Section 5. Definition of Terms.

- a. **Accountable Officer (AO)** - refers to every officer of the government whose duties permit or require the possession or custody of government funds and property and who shall be accountable therefore and for the safekeeping thereof in conformity with laws and regulations.
- b. **Audit and Oversight Authorities** - the Commission on Audit (COA), Philippines Congress composed of the House of Representatives and Senate, or any other relevant body empowered by law to audit government agencies and ensure proper use of public funds.
- c. **Confidential Fund (CF)** - refers to the lump-sum amount released or disbursed to civilian government agencies that are intended to support its mandate or operations directly related to Confidential Expenses in Confidential Programs for national security and peace and order.
- d. **Confidential Expenses (CE)** - refer to those expenses directly related to national security and peace and order, including but not limited to surveillance activities and information gathering, in civilian government agencies with mandates directly related to peace and order and intelligence gathering.
- e. **Government-Owned or-Controlled Corporation (GOCC)** - refers to any entity organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government of the Republic of the Philippines directly or through its instrumentalities either wholly or, where applicable as in the case of stock corporations, to the extent of at least a majority of its outstanding capital stock. The term "GOCC" shall include Government Instrumentalities with Corporate Powers/Government Corporate Entities and Government Financial Institutions, and Subsidiaries as defined under Republic Act (R.A.) No. 10149 or the GOCC Governance Act of 2011.
- f. **Governance Commission for GOCCs (GCG)** - refers to the central advisory, monitoring, and oversight body, with authority to formulate, implement and coordinate policies involving GOCCs, created under R.A. No. 10149.
- g. **Head of Agency (HoA)** - refers to the highest official of the NGA and LGU. In the case of GOCCs, the HoA refers to the President and/or Chief Executive Officer, who is in-charge of the day-to-day operations of the corporation.
- h. **Intelligence and Confidential Fund Audit Unit (ICFAU)** - refers to the unit created under the Office of the Chairperson of the COA in charge of the audit of CF and IF.

- i. Intelligence Fund (IF)** - refers to the lump-sum amount released or disbursed to military agencies or agencies engaged in intelligence activities, including funds sourced from savings.
- j. Intelligence Expenses (LE)** - refer to those related to intelligence information gathering activities of uniformed and military personnel, and Intelligence Practitioners that have direct impact to national security;
- k. Local Government Unit (LGU)** - refers to a province, city or, Municipality;
- l. Misuse and Misappropriation of CF and/or IF** - the unauthorized use, misappropriation, diversion, or expenditure of confidential/intelligence funds for purposes other than those specifically approved in the budget or law, or in violation of established rules and regulations, including disbursement of confidential/intelligence funds of an agency allocated with such budget in the GAA but the mandate is not directly related to national security or peace and order;
- m. National Government Agency (NGA)** - refers to any department, bureau or office of the national government, or any of its branches and instrumentalities, other than GOCCs and LGUs;
- n. Notice of Disallowance (ND)** - refers to a written notification to the HoA and/or accountant informing and requiring the person/s liable to reconstitute the amount of CE and/or IE disapproved/disallowed in audit, either in whole or in part, as a result of illegal, irregular, or improper disbursement/expenditure of such funds:
- o. Special Disbursing Officer (SDO)** - refers to the HoA or a regular employee designated by the HoA to be in charge of making disbursements of CF and/or IF so received and accountable therefor;

Section 4. General Guidelines. - Confidential funds shall be allocated to government agencies with a mandate directly related to national security and peace and order, or intelligence gathering for specific and essential purposes, including, national defense and security operations, law enforcement, prevention and response to terrorism and organized crime, emergency responses to national crises where the immediate release of information could jeopardize public safety or national interests.

Section 5. Limitations on Use. - Confidential/intelligence funds shall not be used for agency operations not directly related to peace and order or intelligence gathering, political activities, personal or private expenditure of government officials or employees, and public relations or other non-security-related purposes.

Section 6. Reporting and Transparency. All NGAs, LGUs, and GOCCs releasing CF and IF shall submit reports on the use thereof to the COA-ICFAU for its audit of the

CF and IF utilization, and other audit and oversight authorities, without compromising confidentiality.

Section 7. Public Disclosure. - While maintaining the necessary confidentiality, a summary of the allocation and purpose of the confidential funds should be disclosed to the public, in a manner that does not endanger national security or law enforcement operations.

Section 8. Confidentiality and Loss of Confidentiality Status. - With due regard for the protection from unauthorized disclosure of classified information relating to sensitive, confidential and intelligence matters, all information and documents related to CF and IF are to be treated as confidential.

However, CF loses confidentiality status and shall be declassified immediately once COA issues an ND. The CF, including all the information and documents related thereto shall then be subject to inquiries and investigations, with documents and related information to be made public, without need of compulsory processes.

Section 9. Oversight and Audit. – The Commission on Audit (COA) shall have the authority to audit the use of confidential funds in all government agencies. COA shall (i) review whether the funds were used strictly for the intended purpose, (ii) examine the documentation and receipts to ensure proper use, and (iii) conduct random and special audits whenever deemed necessary. The COA and other relevant oversight authorities shall conduct special audits or investigations if there are reasonable grounds to suspect misuse, fraud, or corruption involving confidential funds. Civil society organizations shall be encouraged to monitor the use of confidential funds, provided that they respect the confidentiality of sensitive operations.

Section 10. Prima facie evidence of misuse and misappropriation. – There shall be prima facie evidence of misuse and misappropriation of the funds if:

- (i) There is failure to comply with the documentary requirements evidencing proper disbursement and liquidation of the CF and/or IF;
- (ii) Failure to comply with Section 6 of this Act on the submission of reports to Audit and other Oversight Authorities, including the Commission on Audit, House of Representatives, Senate and the Office of the President;
- (iii) Disbursement of funds allocated to a government agency, unit or instrumentality the mandate of which is not directly related to national security or peace and order;
- (iv) Disbursement of funds to another person who shall make further disbursement of funds;
or

- (v) Disbursement of funds for activities not directly related to national security, peace and order, or intelligence gathering for effective implementation of its law enforcement mandate.

Section 11. Penalties for Misuse and Misappropriation of Confidential Funds. - The SDO and the HoA shall be jointly and severally liable in case of failure to render accounts, misappropriation, or misuse of the funds whether through negligence or intentionally and shall include perpetual disqualification from office shall be imposed upon the SDO, including loss of benefits.

Section 12. Implementing Rules and Regulations. The Department of Budget and Management (DBM), in consultation with the Commission on Audit (COA), the National Security Council (NSC), and other relevant agencies, shall issue the necessary rules and regulations to implement the provisions of this Act and shall produce Implementing Rules and Regulations within 90 calendar days from publication of this Act. These rules shall include detailed procedures for the justification, approval, reporting, and auditing of confidential funds.

The Commission on Audit, Bureau of Treasury, Department of Interior and Local Government, Governance Commission for Government-owned or -controlled Corporations, Department of Budget and Management, and the Department of National Defense shall review and revise their existing circulars and joint circulars in accordance with this Act.

Section 13. Suppletory Application of the Government Auditing Code and Government Accounting Manual. The entitlement, release, use, reporting, and audit of confidential and intelligence funds shall not be contrary to the requirements of the Government Accounting Manual and must be audited solely by the COA-ICFAU under the Government Auditing Code.

Section 14. Prescription of Crimes. - The offenses punishable under this Act shall prescribe in twenty (20) years.

Section 15. Separability of Provisions. – If any provisions of this Act or the application thereof to any person or circumstance is held invalid, the remaining provisions of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 16. Repealing Clause. – All laws, decrees, orders, rules, and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 17. Effectivity. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,