

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



Senate
Office of the Secretary

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SENATE
Proposed Senate Resolution No. 147

Introduced by Senator Aquilino “Koko” Pimentel III

A RESOLUTION
DIRECTING THE SENATE COMMITTEE ON
ACCOUNTABILITY OF PUBLIC OFFICERS AND
INVESTIGATIONS (BLUE RIBBON), TO CONDUCT AN
INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED
UNDUE PAYMENT GIVEN BY THE LAND
TRANSPORTATION OFFICE (LTO) TO THE JOINT
VENTURE OF DERMALOG IDENTIFICATION SYSTEM,
HOLY FAMILY PRINTING CORP., MICROGENESIS AND
VERZONTAL BUILDERS

1 **WHEREAS**, Section 88 of Presidential Decree No. 1445 or the
2 *“Government Auditing Code of the Philippines”* provides for the
3 prohibition against advance payment on government contracts, to wit:

4
5 *Except with the prior approval of the President (Prime*
6 *Minister) the government shall not be obliged to make an*
7 *advance payment for services not yet rendered or for*
8 *supplies and materials not yet delivered under any*
9 *contract therefor. No payment, partial or final, shall be*
10 *made on any such contract except upon a certification by*
11 *the head of the agency concerned to the effect that the*
12 *services or supplies and materials have been rendered or*
13 *delivered in accordance with the terms of the contract*
14 *and have been duly inspected and accepted.*

1
2 **WHEREAS**, Memorandum Order No. 172, s. 2005 was issued
3 on May 19, 2005 providing for the rules on advance payment.
4 Subsequently, Annexes “D” and “E” of the Implementing Rules and
5 Regulations (IRR) of Republic Act No. 9184 or the “*Government*
6 *Procurement Reform Act*” and its corresponding standardized
7 Philippine Bidding Documents and the Manual of Procedures for the
8 Procurement of Goods and Services, Infrastructure Projects and
9 Consulting Services were issued to provide for the payment terms in
10 government procurement contracts;

11
12 **WHEREAS**, all of the above-mentioned issuances are explicit in
13 providing that as a general rule, no payment shall be made for services
14 not yet rendered or for supplies and materials not yet delivered under
15 any contract with the government;

16
17 **WHEREAS**, it should be noted specifically that under Clause 10
18 of the General Conditions of the Contract (GCC) of the standard
19 *Philippine Bidding Documents (PBDs) for Goods*, “Payments shall be
20 made only upon a certification by the Head of the Procuring Entity to
21 the effect that the Goods have been rendered or delivered in accordance
22 with the terms of this Contract and have been duly inspected and
23 accepted.” Moreover, “Ten percent (10%) of the amount of each
24 payment shall be retained by the Procuring Entity to cover the
25 Supplier’s warranty obligations under this Contract as described in
26 GCC Clause 17”;

27
28 **WHEREAS**, the Commission on Audit, in its 2021 Consolidated
29 Annual Audit Report (“COA Report” for brevity) for the Department
30 of Transportation (DOTr), flagged the LTO “for the ‘undue payment’
31 given to its foreign information technology (IT) contractor, Dermalog,
32 despite incomplete turnover of deliverables for the P3.19-billion Road
33 IT Infrastructure project”;¹

34

¹ COA questions LTO for ‘undue payment’ of IT contractor, published on August 10, 2022 in <https://newsinfo.inquirer.net/1644588/coa-questions-lto-for-undue-payment-of-it-contractor>.

1 **WHEREAS**, according to the COA Report, “The contract for
2 the IT Project-Component A was perfected on May 28, 2018 and was
3 awarded to Dermalog Identification Systems, Holy Family Printing
4 Corp., Microgenesis and Verzontal Builders, Inc. Joint Venture (herein
5 referred as the vendor) with a total contract cost of
6 P3,146,991,996.37”;²

7
8 **WHEREAS**, the said COA Report disclosed that all core
9 applications were already paid although some of these core applications
10 have yet to accommodate certain LTO transactions;³

11
12 **WHEREAS**, these core applications include the Driver’s
13 Licensing System (DLS) and the Motor Vehicle Inspection and
14 Registration System (MVIRS), which were included in Component A
15 of the said IT project also known as the Land Transportation
16 Management System (LTMS);

17
18 **WHEREAS**, according to the COA Report, a review of the
19 Quality Assurance (QA) Reports dated December 9, 2021 on the
20 functionality and regression testing performed on each core
21 applications in LTMS version 2.3.0 disclosed a total of 70 open issues
22 still to be delivered by the vendor;⁴

23
24 **WHEREAS**, the COA Report also said that even before the
25 acceptance of the core applications by the LTO, there were 25 existing
26 issues reported on these core applications and they remained
27 unresolved as of December 9, 2021. This is disadvantageous to the
28 government as the core applications were already paid when such have
29 yet to function and operate as intended;⁵

30
31 **WHEREAS**, these unresolved issues have caused disruptions in
32 the operations of various LTO sites. Unsurprisingly, there have been
33 complaints of slow processing of documents in getting driver’s license

² 2021 Department of Transportation Consolidated Annual Audit Report, Observations and Recommendations, p.195.

³ *Id.*, p.197.

⁴ *Ibid.*

⁵ *Ibid.*

1 and its renewal, as well as registration of vehicles, which have been
2 attributed to its new IT system;⁶

3
4 **WHEREAS**, the newly appointed LTO chief himself, Atty.
5 Teofilo Guadiz, acknowledged that the glitches of LTMS are causing
6 massive delays in LTO transactions nationwide. He revealed that the
7 driver’s license application and motor vehicle registration is now taking
8 five (5) days as compared to the usual turnaround time of only two (2)
9 hours;⁷

10
11 **WHEREAS**, according to the COA Report, “While we recognize
12 that the project methodology in software development of LTMS is agile
13 where it can adjust as it is being implemented and no system is perfect
14 upon implementation, the audit team believes that at the minimum, the
15 system should include those processes already existing even before the
16 project started. Thus, the audit team believes that the acceptance of the
17 DLS, MVIRS and EIS applications is premature which led the
18 government to pay for systems which are not yet ready and operating
19 as intended”;⁸

20
21 **WHEREAS**, to reiterate, it is a basic rule in procurement
22 contracts that payment based on progress billing is allowed provided
23 that the goods have been delivered or installed in accordance with the
24 terms and conditions of the contract, and the same was duly inspected
25 and accepted by the procuring entity as evidenced by a certification to
26 that effect;

27
28 **WHEREAS**, it is thus imperative for the LTO to explain why full
29 payment has been made to the vendor of this IT system which has
30 unresolved issues and are clearly not working as intended and is
31 causing massive disruptions to the LTO processes in clear violation of
32 the procurement and auditing rules and to the disadvantage and
33 detriment of our government and country as a whole;

⁶ Guadiz vows to address ‘slow’ LTO transactions as complaints mount, published on August 9, 2022, by Aaron Recuenco in <https://mb.com.ph/2022/08/09/guadiz-vows-to-address-slow-lto-transactions-as-complaints-mount/>.

⁷ Id. COA questions LTO for ‘undue payment’ of IT contractor.

⁸ 2021 Department of Transportation Consolidated Annual Audit Report, Observations and Recommendations, p.201.

1 **NOW, THEREFORE, BE IT RESOLVED** as it is hereby
2 resolved to direct the Senate Committee on Accountability of Public
3 Officers and Investigations (Blue Ribbon), to conduct an inquiry, in aid
4 of legislation, on the alleged undue payment given by the Land
5 Transportation Office (LTO) to the joint venture of Dermalog
6 Identification System, Holy Family Printing Corp., Microgenesis and
7 Verzontal Builders with the end in view of identifying accountability
8 and making changes to our procurement laws and processes, if found
9 necessary.

Adopted,


AQUILINO "KOKO" PIMENTEL III