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COMMITTEE MEETING ON HOUSE MEASURES

COMMITTEE	MEASURES		SUBJECT MATTER	ACTION TAKEN/ DISCUSSION
	NO.	PRINCIPAL AUTHOR		
Good Government and Public Accountability	<i>Motu proprio</i> Inquiry		Inquiry into the report of the Commission on Audit (COA) regarding the questionable procurement of medical supplies and equipment by the Procurement Service-Department of Budget and Management (PS-DBM) using the funds from the Department of Health (DOH) for its COVID-19 response	<p>The Committee, chaired by Rep. Michael Edgar Aglipay (Party-List, DIWA), will continue its <i>motu proprio</i> inquiry on issues regarding PS-DBM's procurement of COVID-19 supplies using funds from DOH in its next meeting on September 27.</p> <p>At the outset, Rep. Aglipay underscored the Committee's mandate to investigate "swiftly, expeditiously, and without any fanfare" public officials who are allegedly involved in corruption. The Committee's investigation, he added, is not for media mileage and not in "aid of election or re-election." He also denied that the Committee's <i>motu proprio</i> inquiry is in defense of the administration of President Rodrigo Duterte.</p> <p>Rep. Aglipay mentioned that the Senate's investigation into the 2020 COA report and other issues related to the utilization of the DOH's budget for its fight against COVID-19 is deemed as politicking considering that COA Chair Michael Aguinaldo already testified that the 2020 COA audit report did not have any findings of overpricing of COVID-19 supplies procured by the PS-DBM for the DOH last year.</p> <p>Aguinaldo reiterated in today's meeting that the observations in the COA's 2020 audit report on PS-DBM refer more to "inventory management," not overpricing, relative to the procured medical supplies for the virtual store of the PS-DBM. The inventory management issue, he said, does not involve the medical supplies purchased by the PS-DBM for the DOH.</p> <p>Meanwhile, Deputy Speaker Rodante Marcoleta (Party-List, SAGIP) said that in a meeting of one of the House Committees, Health Secretary Francisco Duque III mentioned that the DOH has partially resolved the deficiencies observed by COA in its 2020 audit report on the DOH's utilization of its COVID-19 funds. He then asked Duque if the deficiency has been fully resolved.</p> <p>Duque informed the Committee that the DOH has already submitted the letter of PS-DBM maintaining that a Memorandum of Agreement (MOA) is not required for the procurement of "commonly-used" supplies and equipment.</p> <p>Based on the COA audit report on COVID-19 funds allocated to the DOH in 2020, an amount of P41.4 billion pandemic response funds were transferred to the PS-DBM for the immediate</p>

<p>Continuation... Good Government and Public Accountability</p>				<p>procurement of COVID-19 medical supplies. The said fund transfer was flagged by the COA due to the absence of MOA and other supporting documents between the DOH and the PS-DBM. According to the COA, the lack of MOA “posed questions on the regularity of transactions.”</p> <p>Several lawmakers agreed that there was nothing illegal in the purchase of the surgical masks and personal protective equipment (PPE) made in March 2020 by the PS-DBM using the funds from the DOH.</p> <p>Deputy Speaker Marcoleta stressed that the purchase in question was legal under Republic Act 11469 or the Bayanihan to Heal as One Act (Bayanihan 1), which grants the President authority to procure in the most expeditious manner COVID-19 related supplies and equipment. The law also provides that such transactions are “exempted from RA 9184 or the Government Procurement Reform Act and other relevant laws.” The Deputy Speaker added that in essence, RA 11469 granted the Executive Branch the power to take the necessary measures to procure all needed supplies to protect the Filipino people at the onset of the pandemic.</p> <p>Responding to the queries of Deputy Speaker Marcoleta and Rep. David "Jay-Jay" Suarez (2nd District, Quezon), Lloyd Christopher Lao, former head of the PS-DBM, reiterated that in March last year, there was scarcity of medical supplies, particularly surgical masks. Considering that the country was on an emergency situation because of the pandemic, Lao said that “we had the urgency to make sure that we have the stock with us.” Lao manifested that during that time, there were no local manufacturers that can supply the Philippine market of the much-needed surgical masks and PPEs. It was only Pharmally Pharmaceuticals Corporation (Pharmally) that was able to deliver the surgical masks on March 25. He also maintained that the surgical masks procured from Pharmally were not overpriced because they were procured below the suggested retail price set by the government.</p> <p>Likewise, Deputy Speaker Johnny Ty Pimentel (2nd District, Surigao del Sur) said that based on the testimonies made during the Committee’s September 15 hearing, the following information surfaced: the procurement process was legal and the agency did more than what was required under the Bayanihan 1; there were no ghost deliveries of supplies and payments were made only after delivery; and the local manufacturers were not excluded from the procurement of the face masks. Deputy Speaker Pimentel further said that if the government did not make the procurement of masks and PPEs in March 2020, more health workers could have been infected by the COVID-19 disease and the country’s healthcare system could have collapsed.</p> <p>Sec. Duque agreed with the statement of Deputy Speaker Pimentel.</p>
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<p>Continuation... Good Government and Public Accountability</p>				<p>Rep. Aglipay asked if Pharmally met the technical and financial capacity requirements under the Government Procurement Policy Board (GPPB) Circular 1-2020 or the Guidelines for Emergency Procurement under the Bayanihan 1. The circular mandates the procuring entities to directly negotiate or procure from a legally, technically, and financially capable supplier, distributor, manufacturer, contractor, or consultant.</p> <p>Lao explained that the financial statement of the company is not required under Bayanihan 1. However, he reasoned, the fact that Pharmally was able to deliver the supplies, which went under thorough inspection by the DOH and DBM-PS, was proof enough that the company has the required financial and technical capacity. The government did not pay Pharmally until the delivery of the items as stated in the contract, he added.</p> <p>Deputy Speaker Bernadette “BH” Herrera-Dy (Party-List, BH) noticed that GPPB’s Circular 1-2020 went beyond what was stated in the Bayanihan 1 when it required that procuring entities should directly negotiate or procure from financially and technically capable suppliers, distributors, manufacturers, contractors, or consultants. She opined that Bayanihan 1 should prevail over the GPPB circular.</p> <p>In reply to the queries of Rep. Presley de Jesus (Party-List, PHILRECA), former DBM-PS Director and now Overall Deputy Ombudsman Warren Rex Liong presented the procurement procedure under the Bayanihan 1 vis-à-vis the procurement process of regular competitive bidding and negotiated procurement under emergency cases under RA 9184.</p> <p>Liong said that a formal written offer or bid may be submitted but it is not required under Bayanihan 1. According to Liong, under this law, a verbal agreement as to the price and as to compliance with documentation shall be "sufficient basis to recommend an award of contract." Despite the reduced requirements under the Bayanihan 1, the interest of the government was still protected because there was no payment made for the subject transactions until after the delivery and inspection of the masks and PPEs were undertaken, Liong further said.</p> <p>Responding to the query of Rep. Ferdinand Gaité (Party-List, BAYAN MUNA), Michael Yang, a former Presidential economic adviser, denied lending money to Pharmally. He clarified that he only referred the Pharmally representatives to his “friends” whom, he said, could financially assist the company for the purchase of COVID-19 supplies.</p> <p>Pharmally Chairman Huang Tzu Yen refused disclosing the names of the Pharmally’s creditors because of the non-disclosure agreement clause in the loan agreement. He also denied that he</p>
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<p>Continuation... Good Government and Public Accountability</p>				<p>gave a bribe, monetary or non-monetary, to any government official. On the other hand, Yang, through his interpreter, committed to submit the names of his friends who lent their money to Pharmally.</p> <p>On the query of Rep. France Castro (Party-List, ACT-TEACHERS), Yang admitted that he had been staying in the Philippines, as a Chinese citizen, since 1999. Yang also confirmed that he was appointed as presidential economic adviser last 2018 and worked as such for more than a year only.</p> <p>Deputy Speaker Marcoleta interjected and asked Rep. Castro to refrain questioning the citizenship as well as Yang's length of stay in the Philippines. The Deputy Speaker said that the questions were not within the purview of the Committee's investigation of the procurement of medical supplies for COVID-19 response.</p> <p>Rep. Castro maintained that her questions are related to the information she got during the hearing of the Senate Blue Ribbon Committee where Yang's name surfaced. The questions, she added, are material in order to establish that there is no "hocus-pocus" or irregularity in the procurement of pandemic supplies.</p> <p>Other Members who made their manifestations during the meeting were Reps. Gil "Kabarangay Jr." Acosta (3rd District, Palawan), Alfredo Garbin Jr. (Party-List, AKO BICOL), Cesar "Jawo" Jimenez Jr. (1st District, Zamboanga City), and Ron Salo (Party-List, KABAYAN).</p> <p>Early on, Rep. Gaité made a motion to adopt the testimonies of Pharmally representatives made at the Senate hearing as part of the Committee's report on the investigation.</p> <p>Deputy Speakers Pimentel and Herrera-Dy objected to the motion. They stressed that the House of Representatives is an institution separate from the Senate, hence can conduct its inquiry and decide on the issues at hand independently.</p> <p>The Chair then ruled to set aside the motion of Rep. Gaité. But the Chair agreed with the suggestion of Rep. Arlene Brosas (Party-List, GABRIELA) to invite the Anti-Money Laundering Council in the Committee's next meeting to shed light on some of the issues raised.</p>
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