

Managing the Politics of Reform

Overhauling the Legal Infrastructure of Public Procurement in the Philippines

*J. Edgardo Campos
Jose Luis Syquia*



THE WORLD BANK

Managing the Politics of Reform

Overhauling the Legal Infrastructure of Public Procurement in the Philippines

J. Edgardo Campos
Jose Luis Syquia



THE WORLD BANK
Washington, D.C.

Copyright © 2006

The International Bank for Reconstruction and Development / The World Bank

1818 H Street, N.W.

Washington, D.C. 20433, U.S.A.

All rights reserved

Manufactured in the United States of America

First Printing: November 2005



printed on recycled paper

1 2 3 4 5 07 06 05

World Bank Working Papers are published to communicate the results of the Bank's work to the development community with the least possible delay. The manuscript of this paper therefore has not been prepared in accordance with the procedures appropriate to formally-edited texts. Some sources cited in this paper may be informal documents that are not readily available.

The findings, interpretations, and conclusions expressed herein are those of the author(s) and do not necessarily reflect the views of the International Bank for Reconstruction and Development/The World Bank and its affiliated organizations, or those of the Executive Directors of The World Bank or the governments they represent.

The World Bank does not guarantee the accuracy of the data included in this work. The boundaries, colors, denominations, and other information shown on any map in this work do not imply any judgment on the part of The World Bank of the legal status of any territory or the endorsement or acceptance of such boundaries.

The material in this publication is copyrighted. Copying and/or transmitting portions or all of this work without permission may be a violation of applicable law. The International Bank for Reconstruction and Development/The World Bank encourages dissemination of its work and will normally grant permission promptly to reproduce portions of the work.

For permission to photocopy or reprint any part of this work, please send a request with complete information to the Copyright Clearance Center, Inc., 222 Rosewood Drive, Danvers, MA 01923, USA, Tel: 978-750-8400, Fax: 978-750-4470, www.copyright.com.

All other queries on rights and licenses, including subsidiary rights, should be addressed to the Office of the Publisher, The World Bank, 1818 H Street NW, Washington, DC 20433, USA, Fax: 202-522-2422, email: pubrights@worldbank.org.

ISBN-10: 0-8213-6435-9

ISBN-13: 978-0-8213-6435-2

eISBN: 0-8213-6436-7

ISSN: 1726-5878

DOI: 10.1596/978-0-8213-6435-2

J. Edgardo Campos is Lead Public Sector Specialist in the Public Sector Governance Department of the World Bank. Jose Luis Syguia is Professor of Law at the University of Santo Toma.

Library of Congress Cataloging-in-Publication Data has been requested.

Contents

Foreword	v
Acknowledgments	vii
Introduction	1
Background	3
Building an Effective Reform Coalition	4
Round One: Almost There But No Cake	6
Round Two: Not Quite Déjà Vu	13
Conclusion: Implications for Strategy and Donor Assistance	30
Appendixes	33
A. List of Participating Agencies during the Two-day “Shoot Down” Workshop at Bayview Hotel, Manila, August 2000	35
B. Senate Party Distribution in the 12th Philippine Congress	37
C. List of Officers and Board Members of Procurement Watch, Inc. (PWI)	39
D. The Transparency and Accountability Network (TAN)	41
E. The TAN Manifesto	43
F. Newsclipping from the <i>Philippine Daily Inquirer</i> , May 18, 2002	45
G. Resolution of the Philippine Association for Government Budget Administration, Inc	47
H. The Motif	49
References	49
LIST OF TABLES	
1. Country Corruption Rankings, East Asia	3

Foreword

This study provides a detailed analysis of a successful effort to reform the legal infrastructure governing public procurement in the Philippines. It grapples with the often-ignored problems of implementing institutional reforms and, more specifically, with the challenge of managing the politics of change. While it may have been a difficult, drawn out, and complicated process, the Philippine experience offers valuable lessons in managing reform in a challenging political environment.

If there is an overarching lesson from this experience, it is the necessity of creating a "well-oiled machine" that is capable of responding to events, unforeseen or anticipated, as the reform process unfolds. The path from the status quo to the desired state is littered with uncertainty. What is needed are mechanisms that enable reformers to deal with this uncertainty on a day-to-day basis. This goes beyond the basic adage of forming a coalition to support a reform effort. It means that members of that coalition have to be knitted tightly into a well-coordinated team that can develop and implement strategy as events unfold.

A number of critical elements helped in successfully shepherding the reform. Proactive civil society engagement, the formation of a tightly knit group of reform-minded government officials, the support of progressive legislators who knew how to traverse the complex legislative maze, the conduct of in-depth technical studies, and the implementation of a well-thought-out communication strategy all contributed to effectively mobilizing public action that led to the passage of landmark legislation.

The challenge was how to stitch all these together. Armed with technical know-how and backed up by steadfast and strategically targeted communications, the reform coalition skillfully navigated the challenging political landscape and successfully charted a path to reform of the procurement regime.

Though the study is about procurement reform, its analysis and findings extend more generally to governance reforms. Tackling problems in procurement is essentially about confronting corruption. Because of the complexity and enormity of the task involved, many developing countries have found it daunting to address the problem of corruption.

Ideally, one would like to launch a comprehensive reform of relevant institutions in order to tackle the problem. But with meager resources, most countries are unable to go this route. The alternative for many then is to focus their efforts on a few specific areas with the hope of leveraging success in one onto future efforts in other areas. We hope that this study offers hope and guidance to those who have dedicated their lives to fighting corruption.

Ian A. Goldin

Vice President

External Affairs, Communications

and United Nations Affairs

Acknowledgments

The authors would like to thank the staff of Procurement Watch and the public sector reform team at the Department of Budget and Management (DBM) for providing numerous background materials for this study, the World Bank for its financial assistance, and Aurora Santiago for editorial assistance. They thank the Development Communication Division of External Affairs for featuring this study in its learning program to highlight the central role of communication in reforms. The authors are especially grateful to Joseph Ryan and Patricia Buckles of USAID for having given them the unique opportunity to participate in this challenging but rewarding reform effort. The views expressed herein are solely those of the authors and not of any of their affiliated organizations.

Introduction

After decades of research, discussion, and debate, economists have finally acknowledged the importance, if not the primacy, of institutions as the bedrock of sustained growth and development. While policies can make a difference, recent econometric studies indicate that much will depend on the institutions that govern a country (Rodrik, Subramanian, and Trebbi 2002).

Institutions, in this context, refers to the agglomeration of rules, both formal and informal, that underpin the “rule of law” and the protection of property rights. Laws and the mechanisms for their enforcement are among the most important of these institutions. In some countries, the pertinent laws may be absent or inadequate. In others, all the possible (pertinent) laws one can imagine have been passed and are “state of the art”; however the enforcement mechanisms are absent or weak. In either case, institutions are deemed to be poor—people are not bound strongly to the rule of law and property rights can be easily violated. Not surprisingly, in such countries, long-term investment is inadequate, growth remains sluggish, and poverty persists if not worsens.

The emerging primacy of institutions has been accompanied by a growing recognition of corruption as a “cancer” that retards development (Rodrik, Subramanian, and Trebbi 2002). This is not at all surprising because corruption is a major symptom of weak rule of law. Corruption thrives much more easily in an environment where laws are inadequate or fragile. If, for instance, there is no law barring the receipt of gifts from the public, or if such actions are illegal but violators can easily avoid or deflect prosecution, then government officials can more easily solicit or extract bribes from citizens and firms. Indeed, there are strong correlations between corruption and weak rule of law (World Bank 1999; Kaufmann, Kraay, and Zoldo-Robaton 1999).

Corruption is a complex phenomenon that takes on many forms. But the multitude of types can be categorized into two broad classes: (i) state capture and (ii) administrative/

bureaucratic corruption (World Bank 2000).¹ State capture refers to the influence that narrow interests can exert on the state to adopt or implement laws and regulations that accrue to their private benefit. Administrative corruption on the other hand refers to the misimplementation of a law or regulation to accommodate bribes or to extract money (extortion). The passage of a law restricting commercial air transportation to a single national airline, when in fact several airlines can provide similar and competitive service, is almost always a sign of state capture. Such a law makes it possible for the beneficiary airline to make monopoly rents—profits over and above what could be earned under more competitive or normal conditions. Part of those rents can potentially be “shared” with officials and politicians who have the authority to grant and implement such a law. So, rents can be sold to the monopolist or alternatively, the monopolist can offer bribes in exchange for the law. By its very nature, state capture almost always involves grand-scale corruption. In contrast, administrative corruption ranges from petty bribes to a policeman to overlook one’s traffic violation all the way to grand-scale corruption in the awarding of contracts for huge infrastructure projects. Both types create distortions that retard investment, growth, and poverty reduction (Kaufmann 2003; World Bank 2000).

Because of the complexity and enormity of the task involved, many developing countries have found it daunting to address the problem of corruption. Ideally, one would like to launch a comprehensive reform of relevant institutions in order to tackle the problem. Yet, with meager resources, most countries are unable to go this route. Corruption is like the Great Wall of China spanning hundreds of miles from east to west and the resources that most developing countries have are barely enough to scale or break through even a small part of the wall. The alternative for many then is to focus their efforts on a few specific areas with the hope of leveraging success in this onto future efforts in other areas.² This study attempts to document and analyze one such effort—the recent procurement reforms in the Philippines.

However, this study is more than just a narrative analysis about an interesting effort at fighting corruption. It also reflects an attempt to grapple with the often ignored problems of implementing institutional reforms and, more specifically, with the challenge of managing the politics of change. Years of debate and research have led to a reasonably good understanding of what makes for bad or good governance, or in the economist’s lingo what constitutes a bad institutional equilibrium and what changes in the institutional landscape are needed to shift to a good equilibrium. For instance, it is now well acknowledged that merit-based recruitment and promotion, adequate compensation, an appropriate balance between managerial autonomy and accountability, and possibly integrity-promoting value systems are key to a well-functioning civil service. By contrast, favoritism, undue political interference, low pay, and weak value systems foster and nurture a poor performing civil service (World Bank, 1997 and 2004). Yet, while the “what is” is well understood, it is the “how to (get from the bad to the good equilibrium)” that continues to stump reformers, policy makers, donors, and the like.

1. Some might add a third category—nepotism and patronage—for these two also involve the use of public office for private gain. Both are typically by-products of state capture.

2. See Levy and Kpundeh (2004) for an excellent discussion of the difficulty of sustaining encompassing, big bang governance reforms and the growing recognition of the need to go piecemeal, albeit strategically. See also Grindle (2002).

Table 1. Country Corruption Rankings, East Asia

	2000
Malaysia	36
South Korea	48
Thailand	60
China	63
Philippines	69
Vietnam	76
Indonesia	85

Source: Transparency International

Most certainly, over the past thirty years, there has been considerable research on the political economy of reform.³ Yet despite this, little is known about managing the politics of engendering reforms—moving from a bad to a better equilibrium—with practical research on this aspect only just beginning (DFID 2003; Robinson, Rosser, and Schneider 2004). Part of the challenge of studying this issue stems from the difficulty of obtaining detailed, so-called blow-by-blow, information on actual reform processes. It is precisely from this type of information that one can discern and cull practical lessons on strategy, which by its very nature is about dealing with political barriers or problems as they crop up during the implementation process. This paper looks microscopically at the sequence of events that ultimately led to the passage of legislation that markedly altered the rules that governed public procurement in the Philippines and, from the emerging details, attempts to distill operationally useful lessons for managing the politics of a reform process.⁴

Background

The Philippines has had a long, running battle with corruption. In every presidential election, except the farcical ones during the Marcos era, corruption has been a major issue. Both before and after the martial law years, newspapers have been strewn with reports, articles, and editorials on corruption. And, since its inception in 1994, the Transparency International Corruption Index has placed the Philippines among the most corrupt countries in East Asia (see Table 1 above).

Partly because of the “Great Wall” phenomena, the country has not had much success in combating corruption. Despite relatively intense media attention and the proliferation of so-called anticorruption agencies, corrupt exchanges have continued to pervade

3. A simple internet search for instance results in hundreds of references.

4. The authors are privileged to have been deeply involved in the process from its initial stages to the passage of the landmark law, The Government Procurement Reform Act.

government activities.⁵ In fact, even after a sitting president was removed for grand-scale corruption and allegations of plunder of the treasury, corruption has not waned. It continues to permeate the daily affairs of government—from the petty bribery to obtain licenses, to “under the table bonuses” to politicians for supporting rent creating or preserving policies, to “commissions” for huge public sector contracts. The “Great Wall” remains as solid as it was in 1945.

It was the gradual recognition of the “Great Wall” phenomenon that eventually led to the formation of a coalition of forces within the government and civil society that would focus their efforts and scarce resources on combating corruption in a specific area—*public procurement*. As the pellets of the outdated shotgun had proven incapable of even denting the daunting Wall, a laser beam was thus created to hone in on a narrow segment of the Wall in the hope that the Wall could eventually be cracked in that critical area.

The focus on public procurement was in fact quite appropriate. As in many countries, procurement has been one of the major sources of corruption. Annual surveys of the Social Weather Station (a local think tank) are indicative. Next to Tax and Customs administration, four Departments—Department of Public Works, Department of Education, Department of Health, and the Department of National Defense—known to be heavily engaged in procurement round out the top five agencies perceived to be the most corrupt (Social Weather Station 2002).

Building an Effective Reform Coalition

Institutional reforms of the kind needed to combat corruption are in general difficult to initiate and even more difficult to sustain. Such reforms effectively reduce opportunities for politicians and government officials to accept, solicit, or extract bribes. They also tend to affect the fortunes of well connected, often times well organized special interests. Thus these reforms can generate considerable opposition.

Reforms in procurement can in fact be among the most challenging. Government contracts for large infrastructure projects are a lucrative source of under the table commissions for both politicians and bureaucrats and often are a major source of additional income for them (PCIJ 1998). Even modest contracts for goods, such as textbooks or drugs, can potentially rake in a handsome sum. Moreover, the revenues from these activities are sometimes major sources of funding for political parties or even individual politicians. Hence, procurement reforms can potentially elicit more than the average opposition. Consequently, unless sufficient and sustained support for them can be harnessed, they are unlikely to even get to the starting gate.

Such was the case in the Philippines. Before the procurement reforms were launched in 1999, the basic regulation that governed the contracting of public infrastructure projects, Presidential Decree (PD) 1594 (a law passed in 1978) had not been challenged

5. On the media, see for instance the much heralded reports of the Philippine Center for Investigative Journalism (PCIJ 1998 and 2000). On anticorruption agencies, there are today seven of these, some with overlapping mandates—the Ombudsman, Anti-Graft Court (*Sandiganbayan*), Presidential Anti-Graft Commission, Presidential Commission on Good Government, Commission on Audit, Civil Service Commission, and Inter-Agency Anti-Graft Coordinating Council.

(let alone altered) for over 20 years.⁶ The regulations governing the procurement of goods and supplies were more malleable largely because, unlike for infrastructure, there was no law that bound the Executive branch. Executive Orders (EOs) could be introduced to make changes. Yet, in both cases, new regulations “at the margins” (new implementing rules in the case of infrastructure) were introduced through the years one on top of the other that, while in theory were supposed to plug loopholes, only created confusion and opacity in government contracting.⁷ Moreover, no attempt was ever made to try and rationalize these rules, an effort that would have necessitated the passage of an omnibus procurement code. From the imposition of martial law in the 1970s through the transition to democracy and to the turn of the century nothing substantive was done to address the legal mess that governed public procurement.

For a procurement code to be passed, four potential impediments had to be overcome. First, the Executive branch had to be unified in the effort. Second, civil society groups had to be mobilized to lead the advocacy needed to get the Legislature to act. Third, the reformers within the Executive branch and the civil society groups had to work together in unison. Fourth, influential legislators had to be recruited to champion the bill in their respective chambers.

A strong, unified position among government agencies, starting from the Office of the President, was essential to getting the Legislature to consider bills that had major ramifications for the government as a whole, particularly so for a bill of this kind which also had significant implications for individual legislators. On the one hand, disagreement among different government agencies gives opposing legislators room to eliminate or water down key provisions of the bill or even to keep it from getting to the “Floor” for debate and voting.⁸ On the other hand, strong consensus among the agencies gives supportive legislators, including in particular the sponsors of the bill, confidence that its key provisions have undergone sufficient scrutiny and debate and that government officials could be called upon to respond adequately to queries from the Legislature, thus enhancing the chances that the majority of legislators could be persuaded to vote for the bill based on its technical merits.

6. During the martial law years, a Presidential Decree (PD) had the force of law. This particularly PD was retained as law even when the Marcos dictatorship had already fallen.

7. Some new laws were passed that were not targeted toward procurement but had significant implications for it. For instance, the Local Government Code, which focused primarily on the decentralization effectively gave each province and municipality the flexibility to design (and change) its own procurement rules. So when the law was passed (1991) all contracts at these levels were subject to province or municipality specific regulations. Only national level contracts were subject to a uniform (albeit numerous and confusing) set of rules.

8. A classic example was the attempt of a reform-minded Commissioner of the Bureau of Internal Revenue (BIR) to seek passage of legislation that would transform the bureau into a semi-autonomous revenue authority and ease out corrupt revenue officials (see Campos 2002). There was very little support from other government agencies. Even the typically reform oriented Budget and Planning ministries were lukewarm to the effort. As a result, the bill proposed by the Commissioner and his team never got past the Ways and Means Committee. There were of course other factors that worked against this effort but the absence of a strong consensus within the Executive made it easy for the opposition to delay any action on the bill. The 12th Congress in fact closed with no action beyond a few Committee Hearings that in turn resulted in a watering down of key provisions to the point of making the bill unattractive (and not worth pursuing further) to even one of its strongest supporters within the Lower House.

Public procurement may have financial ramifications for legislators, as kickbacks from government contracts can be a lucrative source of campaign finance and, some would argue, even personal income. The legislator could own a contracting company in the district that he or she represents or more typically could have *quid pro quo* arrangements with key contractors in the district. So opposition from such legislators would be intense. Potential sponsors (in the Lower House and the Senate) of the bill would have to be convinced that they can gain from sponsoring the bill within their respective chambers, which would include successfully shepherding a good version of the bill (after debate and horse trading) through the legislative maze and getting sufficient “brownie points” from media and organized groups. For this reason, it was important to have highly visible and vocal civil society organizations (CSOs), particularly those fighting corruption, to close ranks to lobby the Legislature. A unified front among CSOs was thus also necessary.

Often enough the government and civil society groups differ in their priorities over reforms. Even on reforms to which they may give similarly high priority, they may disagree on the shape and content of required legislation. Again, such circumstances present opposing legislators with opportunities to play one party against the other in an attempt to water down—if not kill—the bill altogether. This is not to say that all of civil society should agree with the position of the Executive. Certainly there will be some disagreement within the ranks of civil society. What is important is that the more credible groups are in general agreement with the Executive.

Perhaps most crucial to passage of legislation is the emergence of influential “champions” within the Legislature. A champion is someone who is willing to invest significant political capital in pushing for the passage of the bill in the hopes of gaining even more political capital. The more influential (s)he is, the more political capital (s)he can invest. Without such individuals, a bill has little chance of becoming law. Influential legislators know how the system inside works: what could persuade the chamber leadership to support the bill; what Committee would be most sympathetic to the bill; who in the Committee could they trade horses with and for what; what aspects of the bill might draw the most opposition and who needs to be approached to minimize it; when would be the best time to introduce the bill to the Committee and to the Floor, for timing is also important; with whom does the President need to speak to smooth the way and what must he or she be willing to exchange; and so forth. In short, there is no substitute for an influential legislator for developing and implementing inside strategy.

Round One: Almost There But No Cake

In the fall of 1998, a new Secretary, Benjamin Diokno, was appointed to head the Department of Budget and Management (DBM). Diokno, a U.S.-trained economist with a background in public administration, had a strong interest in pushing reforms of the country’s budgeting system. He had already served as an Undersecretary for the department (1987–1991) under then President Corazon Aquino, and from that experience recognized the need for reforms in the budget process. Indeed, reforms in budget formulation—in particular the development of a Filipino Medium-Term Expenditure Framework (MTEF)—were initiated during the succeeding administration of President Fidel Ramos (1993–1998) under the guidance of then newly-promoted Undersecretary

Emilia Boncodin, who retired at the end of Ramos' term.⁹ Appreciative of the implications of this program, Diokno urged his planning staff to continue the work on the MTEF. Boncodin retired at the end of the Ramos administration. Therefore, with political cover from Diokno, the reform work was shepherded by the young, but highly-energetic, crew that Boncodin had nurtured during her stewardship.¹⁰

One aspect of the budget system always bothered Diokno—*procurement*. The DBM was in theory responsible for supervising the government's purchases of goods and supplies. The Government Procurement Service (GPS), essentially a semi-autonomous entity with its own personnel and financial management system, reported directly to the DBM.¹¹ It was mandated to handle all government purchases of common-use goods and supplies. But the GPS had never acquired the capability to meet its mandate, so historically it handled at most 15% of total purchases of common-use goods and supplies. Diokno thus explored the possibility of building the capacity of the GPS through the adoption of rapidly improving information and communications technology. He successfully secured technical assistance from the Canadian International Development Agency (CIDA) to help the GPS develop an electronic procurement system along the lines of the Canadian model.

Perhaps because of his experience as Undersecretary, Diokno was also cognizant of the splintered and chaotic nature of government procurement. The procurement of infrastructure projects and consulting services fell outside the ambit of DBM's responsibilities and was governed by a cacophony of disparate laws, rules, and regulations. The latter made the preparation for and the conduct and monitoring of bids often times problematic and contributed to the constant flow of failed bids, court contested bids, post award contract disputes etc. Hence, Diokno was aware of the need to rationalize the procurement system. But to do this a new, all encompassing law (sometimes referred to as an omnibus code) would have to be passed. He thus sought technical assistance from donors to first undertake an extensive analysis of the problems in government procurement and then, based on the analysis, to prepare a single, all encompassing law that would address the problems.

USAID eventually provided the assistance needed to jumpstart and shepherd the procurement reforms.¹² Two U.S.-based procurement experts were brought in to work with the DBM in conducting an analysis of the problems of the government's procurement system and in preparing a draft omnibus law that would address these. Working feverishly, the consultants completed the study within six months, interviewing many officials while scouring mountains of documents. They completed a draft law shortly thereafter which covered practically everything that had to do with government procurement—purchasing

9. Boncodin was a career civil servant who rose through the ranks. She started and ended her stint with government at the DBM.

10. The informal MTEF task force, which later on became the more formal budget reform task force, consisted of Laura Pascua (then assistant secretary and head of the task force), three mid level officials—Gi Lopez (Planning Bureau), Darlene Casiano (Planning Bureau), Amllet Castillo (Administration), and Romeo de Vera a former career civil servant who served as assistant secretary at the DBM and Undersecretary at the Department of Transportation and Communications before retiring.

11. All of the employees of the GPS are non-tenured and thus outside the civil service. Salaries are higher than those of civil servants and are topped off with bonuses.

12. At USAID Manila, mission director Patricia Buckles, chief economist Joseph Ryan, and Emmanuel Miciano (technical analyst) enthusiastically supported the whole reform effort, with Ryan and Miciano providing encouragement throughout the three-plus years of painstaking work that eventually led to the passage of the law.

of goods and supplies, contracting for civil works and of consultants, sale of assets, privatization through build-operate-transfer schemes, rationalizing national, provincial, and local procurement (Gobiel and Jobidon 1999a and 1999b).

By August 1999, the DBM had two hefty documents necessary to initiate reforms in public procurement. As a critical first step in the process, it had to get the support of the major procurers within the Executive branch. The history of legislation suggested that, unless the Executive presented a united front to the Congress, Congress would not act favorably on its proposals. However, within the DBM, there seemed to be little support for the initiative. Diokno had assigned the task of managing this project to then Undersecretary Cynthia Castel (and her staff), who in the course of the six months became reticent about moving things beyond internal discussions with the consultants. As it turned out, a major problem with the consultants had emerged during the whole preparatory process.

While they had done an excellent job analyzing the problems and preparing an all encompassing draft law,¹³ they had failed miserably to secure “buy-in” from key DBM staff, including the said Undersecretary to whom they had to report. They had alienated practically every government official they had interviewed and/or to whom they had presented earlier drafts of the study.¹⁴ The consultants were not entirely to blame. They were completely unfamiliar with the culture in the government: their experience was limited to countries where dealing exclusively with the Minister was the *modus operandi*—and through “command and control” the rest would follow. In the Philippines, however, a considerable amount of painstaking ownership-building within an agency is necessary, and, for a proposal of this magnitude, within the Executive. Given the political sensitivity of procurement, this was paramount. Diokno, of course, knew this but short-term concerns with a burgeoning deficit diffused his efforts to monitor progress on the procurement front. As a result, the study and the draft law were shelved.

In early 2000, Diokno and USAID successfully concluded a fairly substantial technical assistance program for the DBM’s budget reform programs, which now included procurement reform. A program manager and a small support staff were hired to coordinate requests for assistance by the DBM—for example, workshops, short-term consultancies, meetings with USAID and other donors, and management of consultants who were brought in on a needs basis. Shortly thereafter, upon the request of Diokno, an adviser for budget reforms was also brought in under the TA agreement to help provide guidance on the different aspects of the budget reform program and to manage the technical assistance team. Among the specific requests that Diokno asked of the team was to revisit the planned procurement reforms.

Among the first tasks of the TA team was helping the budget reform task force (BRTF) rekindle the procurement reform project.¹⁵ In close collaboration with the BRTF, the TA team had to formulate a strategy to bring officials from both DBM and other key agencies

13. This draft law was called Public Acquisition, Accountability, and Transparency (PAAT).

14. Based on interviews with DBM officials and other officials from other agencies including, among others, the National Economic and Development Authority (NEDA), the Department of Finance (DOF), the Department of Public Works and Highways (DPWH), and the Department of Education (DEPED).

15. Ed Campos (adviser for budget reforms) and Teresa Taningco (USAID program manager for the TA team) were officially assigned to the task force and became core members. May Santos replaced Teresa Taningco when the latter departed for graduate studies in the United States.

to the table once again and gain their support and assistance for a new encompassing procurement law. After talking to members of the task force and other officials within DBM, the TA team learned of the short, colorful history behind the shelved reform and the resulting deep hole out of which the BRTF would have to dig. Many hours of discussion and brainstorming among the team and task force members eventually led to an innovative approach. Because the procurement consultants drew the ire of most if not all the senior procurement experts within government, the team and BRTF concluded that they could entice these officials to revisit the procurement reforms by inviting these officials to a series of workshops to “shoot down” the consultants’ study section by section, line by line, and then develop their own version of a procurement reform law.

In August 2000, invitations to a two-day “shoot down” workshop at the Bayview Hotel in Manila were sent to approximately 60 procurement experts from all key government agencies and to representatives from the World Bank, the Asian Development Bank, and USAID. The response was tremendous with all invited agencies sending representatives (see Appendix A for the list of participating agencies).

The response of the invitees was indicative of a pent-up interest in and concern for reforming the procurement system. The workshop gave even stronger indications. As planned, the participants dissected the technical study piece by piece, criticizing incorrect analysis and offering alternative explanations, correcting inaccurate facts, and, most important, establishing agreed upon principles that they believed should govern each phase of the procurement process (for example, pre-qualification). At the end of the two-day period, the participants (including the TA team and the BRTF) had completed a set of principles which they agreed should guide the formulation of an omnibus law, and they prepared and committed to an action plan for taking the process forward. The latter involved: (i) the formation of a technical working group (TWG) that would work continuously until an omnibus bill based on the agreed-upon principles was completed, submitted, and debated in the Congress, (ii) the conduct of continuous workshops of the said group over a planned three-month period, and (iii) participation of members of the TWG in congressional deliberations.¹⁶ Over the succeeding three-month period, the TWG did in fact meet regularly and for long hours, and it successfully produced a draft omnibus law which the agencies they represented endorsed to the President and then to the Congress.

In the build up to the law, the TWG first prepared two sets of administrative regulations as an initial step toward changing the rules of the game. The first was a major revision of the implementing rules and regulations for PD 1594 and the second was a new Executive Order, EO 262, replacing the previous Executive Orders that governed the procurement of goods and supplies. The regular meetings of the TWG to carve out these two new regulations not only sharpened the group’s thinking on procurement problems but, equally important, it strengthened the bond between and commitment of its members. It was precisely this bonding that facilitated the consensus building within the Executive, as TWG members worked the ropes in their respective agencies.

Interestingly, the resulting workshop outputs kept the study’s basic findings and analysis more or less intact. What changed was the sense of ownership that the government’s

16. The TWG consisted of representatives with alternates from each of the participating Departments and agencies.

experts had over the findings and recommendations. Based on conversations with a number of these experts, many of the facts, explanations, and recommendations were communicated to the two consultants who had conducted the study. So in hindsight it should not have been surprising that the government experts concurred with the study's basic findings and analysis. Yet, it does point to three important factors in pushing for governance reforms. First, it is essential for any such reform to be backed up with solid technical analysis. A thorough analysis helps ground debates, disagreements, and the general discussion within sound parameters. Second, even if it results in a longer, more difficult process and in some compromises over recommendations, engaging experts in the government is absolutely necessary to lend credence, foster ownership, and thus give impetus to the reforms. It is better to have a less-than-ideal reform with strong government ownership than a "state-of-the-art" reform with little or no ownership. The latter has very little chance of succeeding. Third, sustained workshops leading to a well-defined output was an effective way of bringing together erstwhile latent reformers from different parts of government and creating a highly-motivated group with strong bonds among its members. The single-minded objective of reforming the procurement system made the series of workshops a powerful instrument for drawing reformers out of the woodwork, imbuing a sense of pride and mission among its members, and creating an effective network throughout the Executive.

With the completion of the draft law, the normal procedures were followed for getting the proposed law into an appropriate committee in the Lower House.¹⁷ The DBM sent the proposed law to the President (then Joseph Estrada), requesting that he certify the bill as "Urgent." For every Congress, the President identifies a few critical pieces of legislation which would be needed to fulfill his promises and mandates. In its letter to the President, the DBM argued that the bill fell front and center in his commitment to pursue much-needed budget reforms, a centerpiece of his campaign platform as well as his first State of the Nation address. At this time (circa late October 2000), the public furor over the President's activities—mostly related to corruption—was beginning to build steam. His staff saw this bill as one way of helping to contain the growing discontent. This, plus the President's explicit commitment to budget reforms, led to the immediate designation of the bill as Urgent. From this point onward, responsibility for moving the bill within the Lower House shifted to the Presidential Legislative Liaison Office (PLLO).¹⁸

The office and, for this particular bill, the Budget Department's own Legislative liaison office (DBM-LLO) took charge of identifying which Congressional committee to approach.¹⁹ In consultation with the BRTF (and by invitation the TA team), both developed the strategy to adopt as they pushed the bill forward. On the latter, they recommended that the Government keep a low profile so as not to alert potentially-hostile congressmen to the sweeping ramifications of the bill. Both the BRTF and the TA team concurred. On the former, they suggested that the bill be sent to the Committee on Public

17. In drafting the law, the TWG sought the assistance of expert lawyers, including one of the country's foremost Constitutionalists and highly regarded law professors.

18. The PLLO had two divisions, one to interface with the Lower House and the other with the Senate. The former was headed by an energetic and well informed assistant secretary, Bernie Sayo, who helped frame and implement strategy for the push in the House.

19. A politically-astute individual, Terry Ledesma, headed this DBM office and worked closely with the TWG, BRTF, and the PLLO in implementing the strategy to get the bill passed in the House.

Works. An influential member of this Committee, Congressman Neptali Gonzalez II, had filed earlier a bill on sanctions for violations of government contracting regulations, and, upon being approached by the PLLO, agreed to be the main sponsor of the Government Bill and substitute it for his sanctions bill. Having been in the queue long enough, the sanctions bill was scheduled to be discussed by the Committee on Public Works very shortly, so this move put the procurement reform bill close to the top of the pile.

When the bill finally came up for discussion by the Public Works Committee, the public rancor over the supposed-illegal activities of President Estrada had reached a crescendo calling for his impeachment. By now the Lower House had sent the formal request for impeachment proceedings to the Senate, the constitutionally-mandated body responsible for conducting impeachment hearings. The whole country was thus focused on the impeachment trial and with the massive corruption charges brought against the President. Legislators were beginning to distance themselves from the President, including many in his own political party. With the help and the backing of the staff of the Public Works Committee, Congressman Gonzalez, who was in fact Minority Floor Leader, made a concerted push in the Committee to get it to approve the bill and to send it out for floor debate, on the grounds of the anticorruption nature of the bill.²⁰ Because of its anticorruption flavor, congressmen could gain media points for supporting such a measure in the current environment, where the general public was overwhelmingly concerned with corruption at the highest levels. The proposed measure thus sailed through the Committee.

The next challenge was to schedule the bill for floor debate and get the House to approve it. At this time, the 11th Congress had only two weeks left on its schedule before recess. Upon later resumption of its activities, congressmen would likely be engulfed in the impeachment trial. Congressman Gonzalez was also an influential member of the Rules Committee, which had jurisdiction over the scheduling of bills for floor debate. Five days after the Committee of Public Works sent the bill to the Rules Committee, Gonzalez managed to insert the Procurement Reform Bill into the regular schedule of debates for that day.²¹ He gave a short argument essentially highlighting it as a critical anticorruption measure. Amazingly, the bill was approved unanimously with no amendments and, more interestingly, 36 congressmen asked to be co-sponsors—their names were added to the approved bill which was then to be published in the Official Gazette. The BRTF and the TA team had no idea that the bill was put up for debate and a vote that day. In fact, the team was preparing for that debate and discussing with members of the TWG who among them would respond to the different types of queries, for example, infrastructure, drugs, school buildings, and so forth. It was around noon that day when the staff of the Committee on Public Works called the BRTF and informed them that the bill just had been

20. One often overlooked aspect of legislative advocacy is the need to educate the technical staff of the relevant congressional committees on the merits of a proposed bill. Committee staff members generally do not have the luxury of time to study a bill thoroughly and so rarely champion bills. Yet, given their influence over the agenda of a committee, they do have some influence over the deliberation process and committee decisions. The DBM LLO thus urged the BRTF and the TA team to meet with the staff of the Public Works Committee and brief them on the proposed bill. Two long, but productive, meetings were held with the committee staff, after which the latter committed to support the passage of the proposed bill and set the date for deliberation at the earliest possible slot.

21. The Committee approved the bill on a Monday and, amazingly, the bill was put up for debate on Friday.

approved by the House. This caught everyone by surprise but also brought a long round of cheers.

In later conversations with the staff of the Public Works Committee, the BTRF and the TA team learned that Congressman Gonzalez exploited the configuration of congressmen who were present in the floor that day. Many of the potentially-obstructive and unsympathetic legislators were absent that day, busy perhaps with the impeachment proceedings. So, he used his influence within the Rules Committee to insert the bill for discussion even if it was not scheduled, recognizing that there was a quorum and that the balance within the quorum was at least neutral toward the bill—and thus its substance could actually lead the day.

Though this account of legislative maneuvering might seem peculiar, in fact, it is a classic example reflecting some of the general findings that have emerged from many decades of research into the theory and practice of American politics.²² This literature has established that: (a) legislative committees exert considerable influence over the narrow set of issues over which they have jurisdiction, (b) some committees are more powerful than others, and this includes the “money” committees and the rules committee, (c) legislators compete for key positions in powerful committees because of the influence they can exert on important issues and the consequent bargaining power they acquire to extract concessions that enable them to gain electoral “brownie” points and deepen their incumbency advantage, and (d) those in key positions use their positions to control the voting agenda and influence the outcomes. In sum, this literature indicates that there is nothing unusual about the actions of Congressman Gonzalez—it is part and parcel of everyday life in the legislative politics of presidential systems akin to that of the United States.

Upon approving the bill, the Lower house sent the bill to the Senate. Because the Congressional recess had just started, any action of the Senate had to wait until the resumption of the next (and final) session (before a new Congress was elected). Unfortunately, by the time the session resumed, the Senate was gearing up for the impeachment trial, and so all efforts were focused on this. In what was probably not a bad strategic decision, the BTRF, the TA team, and the PLLO decided to approach the Senate Committee on Constitutional Rules and Amendments to sponsor the bill. The Majority Floor Leader, Senator Francisco Tatad, had advised the group to have that Committee sponsor it and indicated that the Chair of that Committee was someone he could work with and that once the bill was approved by the Committee, he could send it quickly for Floor deliberations. Tatad had expressed strong interest in the bill and had agreed to co-sponsor it. As it turned out, the Committee was ambivalent toward the bill, partly because priorities now focused on the impeachment trial and on re-election concerns (with elections just five months away). Hence, the 11th Congress ended with the bill dying in the Senate. Given the existing rules, this meant that the bill would have to go back to both the Lower House and the Senate when the next Congress opened. That is, it was back to square one.

The jubilation with the House vote was quickly overcome by the disappointment with the Senate’s inaction. At least the group—BTRF, TA Team, the TWG—learned important lessons (for strategy). First, as the “blitzkrieg” process in the House exemplified, anticorruption

22. See for instance Shepsle (1979), Oleszek (1978), Denzau and Mackay (1983), Fenno (1973), Mackay and Weaver (1983), Shepsle and Weingast (1984), Ferejohn (1974), Miller and Oppenheimer (1982), Bendor and Moe (1986).

was an issue that could be used strategically to move a bill forward when the public cast a bright light of scrutiny on corruption. Second, selecting the right interlocutors/sponsors of the bill in both Houses was absolutely critical: they had to have strong incentives to invest political capital in shepherding the bill. In the case of the main House sponsor, he seemed genuinely interested in establishing himself as a corruption fighter and likely saw the procurement bill as a good vehicle to do so. Given the impeachment proceedings and being with the opposition at that time, his move was politically valuable. Indeed, in the next Congress, he was selected by the House to be the Majority Floor Leader. By contrast, the Chair of the relevant Senate Committee had little to gain from pushing the bill. She had been too closely associated with then President Estrada, the object of the impeachment, and sponsoring an anticorruption bill would not have done much for her re-election chances. It was thus logical for her not to act on the bill.

The electoral imperative is very much at the heart of democratic politics. Again, considerable research into American politics drives this point home (Fionina 1977; Mayhew 1974). Hence it is not surprising that both the House sponsor and the Senate sponsor acted differently. Given the different conditions they faced in seeking re-election, they were bound to move in opposite directions.

Round Two: Not Quite Déjà Vù

In May 2001, Estrada stepped down from the Presidency and Vice President Gloria Macapagal-Arroyo (GMA) was declared President, to serve the remainder of Estrada's term. GMA ascended the Presidency on a platform of good governance and anticorruption with the support of many of the civil society groups that clamored for Estrada's impeachment due to grand-scale corruption. So like it or not, GMA had to pursue good governance as part of her reform agenda. This worked in favor of getting the procurement law passed in the new 12th Congress. In particular, in her July 2001 State of the Nation Address (SONA), GMA stressed the urgent need for good governance and, considering the inability of the Procurement Reform bill to pass the 11th Congress, set it as a top priority of her administration.

However, the post-Estrada environment was not quite the same. While civil society groups gained more voice, particularly on good governance issues, the Lower House and the Senate had now changed configurations with entirely new leadership and Committee chairpersons. The Senate was particularly problematic. The recently completed Congressional elections brought in more than the expected number of pro-Estrada Senators, who as a group could effectively block proposed legislation (see Appendix B for the party distribution). Moreover, there were now new department secretaries who brought along new undersecretaries, so the landscape in the Executive branch had changed quite significantly as well.

As good fortunes would have it, Emilia Boncodin was recalled from (early) retirement to serve as DBM Secretary. Having been instrumental in initiating the move to reform the government budgeting system while she was Undersecretary and in creating the BRTF, Boncodin was strongly in favor of resuming the push to get an omnibus procurement law passed. One of her first actions was to formalize within the DBM the BRTF, promoting then Assistant Secretary Laura Pascua to Undersecretary and tasking her with managing all in house budget reform related activities and coordinating the mainstreaming of these reforms with other government agencies. Furthermore, upon advise of the BRTF, she reactivated the

dormant (but legally established) Government Procurement Policy Board (GPPB) to give greater official impetus, support, and political cover for reform work in public procurement. The GPPB was co-chaired by the DBM Secretary and the NEDA (the Planning agency) Secretary General and included the Secretaries of all major spending departments (for example, Public Works). Undersecretaries served as alternates for their respective principals. Its mandate was to recommend policies pertaining to procurement and to oversee their implementation. The proposed procurement reform law fell squarely in its mandate.

In order to gain the confidence and the support of the GPPB, Boncodin suggested that the BRTF reconvene the TWG and work on preparing a new (mega) Executive Order, which eventually was designated EO 40, that would consolidate the new implementing rules and regulations for PD 1594, EO 262, and new rules for contracting consulting services into one document. The procurement law in fact was designed to bring all laws and implementing regulations under one roof and so this task was in a way superfluous. However, Boncodin and then NEDA Director General Dante Canlas saw this consolidation as a way of gaining political mileage for the new administration—it could refer to a consolidated set of administrative regulations as truly its product and not just a simple carryover from the previous administration—and bring the rest of the GPPB to get behind the proposed procurement law. Moreover, EO 40 also had other interesting new features: it clarified the mode of procurement for Information and Communications Technology (ICT) Projects, given the accelerated implementation of these in the light of the passage of the E-Commerce Law in the Philippines, and it mandated that the Philippines' electronic procurement system (EPS) shall be the single and centralized electronic portal for all types of procurement. Perhaps most important, the BRTF and the TA team saw this as an opportunity to highlight the need for the law, as the consolidation of administrative regulations could not compensate for or rectify the existence of many laws that had more profound effects on public procurement—only an omnibus law could do this. Indeed, because EO 40 was a mere Executive issuance, it could neither amend nor repeal Acts of the Legislature and Executive Orders that held the same status, for example, the Local Government Code, PD1594, and EO 164 (that provided the rules for consulting services).

At any rate, the consolidation exercise had an important by-product. It gave new life to the TWG and rekindled the drive of its members to get an omnibus law passed. Because all of its original members were either career Undersecretaries, Assistant Secretaries, and Directors, most returned under the new administration. Hence, the ensuing workshops further strengthened the strong ties they had already established and helped re-establish the institutional base upon which to re-launch the push for a new law.

The TWG worked from September to October 2001, holding weekly workshops during this period. The fruit of its efforts was the draft of EO 40, which the GPPB approved with very few amendments. President GMA subsequently signed EO 40 on October 8, 2001, claiming it as an early achievement of her administration in the fight against corruption. The idea of procurement reform as an anticorruption measure had thus been planted in the President's mind.

The Unsung Heroes

Getting the Executive to sing in one voice is always a challenge, particularly in a country like the Philippines where individualism is strong. Remarkably, through the long process,

the TWG matured into a highly cooperative group tied together with a common goal—getting a new procurement law passed—which made it possible to bring all national government agencies on the same page come deliberation time in the Legislature. This would likely not have emerged had it not been for several key individuals whose reputation, dedication, and persistence brought credibility, unity, and continued motivation to the group.

First among these was Teodoro Encarnacion, long standing Undersecretary for the Department of Public Works who was known informally as “Mr. Clean” and the government guru on the procurement of infrastructure. Whenever there was disagreement among members of the TWG, Undersecretary Encarnacion’s opinion often became the deciding factor. Second was Estanislao Granados, the Executive Director for the Government Procurement Service (GPS); his name had come to be synonymous with the GPS. Tanny, as he likes to be called, was regarded as the government’s guru on the procurement of goods and supplies and like Undersecretary Encarnacion, brought to the table decades of experience and helped establish the TWG as the premier group of procurement experts in government. Third was Director Arcadio Cuenco of the Commission on Audit (COA). Director Cuenco headed the IT group in COA and through the development of the government electronic procurement system was drawn to the TWG. His participation was critical, because COA was certain to be a primary agency that the Legislature would call to Committee hearings—it had the final say on the veracity and appropriateness of government purchases. Finally, the last but certainly not the least, was Laura Pascua, Undersecretary for Policy and Planning with the DBM. Given its control over the annual budget, it was natural for the DBM to be the focal point of the TWG. The challenge was to keep the group together through the arduous process of getting a bill passed—which took over three years. Undersecretary Pascua, who chaired the TWG, succeeded in keeping the TWG together through fair and transparent handling of workshops meetings, and the like, making sure that everyone was always informed of the latest developments. Her management style made every member feel equally important.

In every reform, there are many unsung heroes whose efforts take place in the backroom away from the main stage but without which the reform’s objectives could not be achieved.²³ Perhaps a stroke of luck brought together these individuals with strongly complementary “assets.” Then again, one cannot rule out the effect of the strategy designed to attract these folks out of the woodwork to join a worthwhile cause.

23. The five individuals were the driving force behind the TWG, but there other “unsung heroes,” individuals who at one point or another were members of the TWG and contributed to its efforts, namely: Ruperto Alonzo (Deputy Director General (National Economic Development Authority), Arturo Baloalao (Director, Dept. of Energy), Cesar Bello (Undersecretary, Dept. of National Defense), Venir Cuyco (consultant, Department of National Defense), Katherine de la Cruz (Director, Construction Industries Authority of the Philippines), Elmer Dorado (Division Chief, National Economic development Authority), Edna Formilleza (consultant and former Undersecretary, Dept. of Education), Carolina Herradura (Director, Dept. of Health), Antonio V. Molano, Jr. (Director, Dept. of Public Works and Highways), Ruben Lim (Commission on Audit), Nieva Neri (National Computer Center), Ellen Pascua (Director, Dept. of Interior and Local Government), Ernesto Pangan (Undersecretary, Dept. of Education), Alexander Padilla (Undersecretary, Dept. of Health), Cipriano Ravanos (Executive Director, Procurement Watch), Lourdes Santiago (Director, Dept. of Finance), and Willie Trinidad (Assistant Secretary of Transportation and Communication).

Galvanizing Civil Society—The Birth of Procurement Watch

Having spent more than a year working together on a very focused product and having participated in an exhilarating (albeit unsuccessful) legislative process, the TWG, the BRTF, and the TA team had become a tightly knit, well-oiled machine. However, the group lacked links to civil society. During the earlier attempt to secure passage of the procurement law (during Estrada's aborted term), the BRTF and the TA team had discussed and deliberated on the need for an NGO to monitor the implementation of the new law, if it was passed. Enforcement has always been a problem in the Philippines and this law could very well fall victim to such a problem. A decision was made to form an NGO specialized in procurement issues and tasked primarily with training and monitoring. The TA team was asked to handle this.

Procurement Watch Inc. (PWI) was launched in February 2001 after many months of extensive discussions with various individuals and a considerable amount of foot work.²⁴ Its sole mandate was to fight corruption in public procurement. Though its original purpose was to focus on monitoring and training, it became clear early in the new administration that it would have to take on advocacy as its primary role up till the passage of the law. The public outcry against President Estrada had died down once he stepped down and the various CSOs had gone back to their normal activities. While many CSOs did work on anticorruption or good governance, their separate, uncoordinated efforts were but a faint cry in a vast wilderness that did little to maintain the public's focus on corruption. The party was over, life went back to normal, and people switched the TV channel back to their favorite variety shows.

The impeachment saga was a very big advantage for the effort in round one. It focused the entire public's attention on corruption and created strong incentives for legislators to ride the anticorruption wave. The Procurement Law became an attractive surfboard to ride that wave or avoid being swept by it. Yet, post Estrada, this imposing ambience was now gone. Given that it was also back to normal in both the Lower House and the Senate, getting the procurement bill passed would now be a much greater challenge. The immediate task of PWI was thus daunting: recreate a semblance of the impeachment ambience that could focus the public's attention on corruption, at least to an extent sufficient to convince enough legislators to support the needed legislation.²⁵

For it to be effective in its advocacy efforts, PWI had to establish its credibility, first as an organization with integrity and second as an entity with real expertise in public procurement and advocacy. To address the first, highly reputable individuals from different fields/sectors/specializations in civil society were invited to be active members of the Board. To quickly acquire expertise, a recently retired mid-management level government procurement official (with a spotless reputation and many years experience in government contracting for infrastructure and consulting services) was recruited to be the Executive

24. PWI was conceived by four individuals—Ed Campos and Teresa Taningco (both from the TA team), Patricia Sto. Tomas who eventually became Secretary of Labor, and Jacinto Gavino, a professor of public management at the Asian Institute of Management—with support from the Development Academy of the Philippines (in particular its President, Eduardo Gonzalez). Its formation was made possible by a small grant from the World Bank's ASEM trust fund managed by the DBM.

25. Under Section 16 (2), Article, VI of the 1987 Philippine Constitution, a majority of each House of Congress constitutes a quorum to do business. In the Lower House, a "yea" vote from three-fourths of those present and constituting a quorum would get the bill through.

Director—Cipriano Ravanes, Jr. To support him, a young energetic lawyer—Joel Syquia—with an interest in procurement and civic action and a young, equally energetic economist—Kristina Pimentel—with experience in lobbying the Legislature were also recruited (see Appendix C) for the list of the officers and members of the Board at that time). The two were quickly brought up to speed on the nuances of the rules and regulations on public procurement through their active participation in the drafting of EO 40.

Because PWI was to handle the advocacy efforts, the BRTF recommended to the TWG that PWI's staff be invited to participate in the TWG deliberations on the formulation and completion of EO 40 so that they could communicate clearly the objectives and basic features of the proposed reforms. This helped both the PWI lawyer and economist very quickly acquire a thorough understanding of the nuances of public procurement so much so that the lawyer became the legal sounding board of the TWG and the economist the liaison with the media and other civil society groups. By the time EO 40 was completed, PWI had become a certifiable expert group on public procurement—the only one of its kind in the NGO community.

With the completion of EO 40, efforts now turned to getting an omnibus procurement law passed, with the building of sufficient public support for the bill as the first major task. At this point, PWI's role became central to the reform process.

PWI developed a two-pronged strategy for building public support: (i) approach key civil society groups and associations, and engage vigorously with each of them to get their “buy in” and (ii) work on the media to raise the news profile of corruption in government procurement—in print, radio, and TV. The first was demanding. While there were indeed a number of credible anticorruption/good governance NGOs, with perhaps one exception (the local chapter of Transparency International), none had a good understanding of the problems with government procurement nor were they clearly aware of the legal morass that governed it. PWI had to educate them and convince them that the law drafted by the TWG was sound and addressed the key problems. Given the very “individualistic” nature of NGOs, this was a major challenge. However, some favorable factors helped PWI successfully manage the first task.

The Anticorruption NGOs. During the tenure of then President Estrada, a group of 20 NGOs formed the Transparency and Accountable Network (TAN) as a venue to exchange information, to identify and agree on desirable anticorruption efforts which they as a group could pursue, and to coordinate their activities around the agreed upon efforts (see Appendix D for list of member groups). Some board members of PWI had links with some member groups of TAN and through this connection helped PWI present the case for a new procurement law to the whole TAN. PWI gave several presentations and engaged in bilateral discussions with officers of some of the key member groups. The effort paid off. TAN agreed to prepare a manifesto supporting the passage of a new procurement law with the principles embodied in the proposed draft law (see Appendix E) and invited PWI to become a full-fledged member of TAN.²⁶ The manifesto would come in handy during the legislative deliberations, on the one hand as part of the documentary evidence (submitted

26. There was some disagreement among the members of TAN on minor provisions of the draft law but all were in agreement with the principles. So the manifesto highlighted the principles. It should be noted that, after the passage of the law, PWI was invited to become a member of the Executive Council of TAN.

by the sponsoring Lower House and Senate Committees) on the support of major anti-corruption groups for the law, and, on the other, as a critical input to the largely successful media campaign (more in the next section).

The Young and Idealistic. While PWI was deeply engaged with TAN, a rather unique anticorruption movement involving 13 university student councils ranging from “left to right” on the ideological spectrum emerged on the scene. Its name “Walang Ku-Corrupt” (which means roughly “say no to bribery”) reflected the unity of this rather ideologically-disparate group behind the need to fight bribery and corruption.²⁷ With the help of the Foundation for Economic Freedom, PWI connected with this movement and was invited to conduct training workshops on the procurement law for the movement’s membership. The workshops proved valuable as they helped the student leaders understand the need for a new law and the principles underpinning the proposed law. More importantly, the workshops gave them the confidence to discuss the issue with the media and legislators, effectively becoming so-called “talking heads” for the passage of the proposed law. Their value was best illustrated during the deliberations on the proposed law of the Appropriations Committee in the Lower House. PWI managed to get leaders of the movement invited to the Committee Hearing. They showed up in full force with colorful T-shirts emblazoned with various phrases essentially stating why a new law is needed and why it should be passed. Their appearance drew quite a bit of attention from the Committee and the media personnel who were present. All throughout the deliberations, it was clear that individual legislators were conscious of the presence of the students. In fact, after the Hearing, a number of Committee members approached them to congratulate them and have pictures taken with the group as well as with some members of PWI, and the media crews converged on the students to interview them. The Committee passed the bill with very few amendments and several members asked to be co-sponsors of the bill.

The Church. In the Philippines, the Catholic Church is perhaps the most influential institution (the country is 90 percent Catholic, at least nominally). Despite the official separation of church and state, what it says reverberates strongly in the halls of government and the Legislature. Within the Church, there are various groups, but among them the Catholic Bishops Conference of the Philippines (CBCP) is arguably the most influential. Through one of its staff, Joel Syquia (the lawyer) whose brother was a priest and formerly the head of the Secretariat of the CBCP, PWI sought the support of the CBCP. This would prove to be very useful in pushing for the implementation of the civil society component of the procurement law. In particular, the CBCP eventually announced its intention to request the President to include it as a representative in actual bidding conducted by agencies “to ensure that government procurement deals are aboveboard.”²⁸ The new procurement law opened the doors to civil society participation in public biddings. One newspaper had, in fact, regarded it as “[A] new law which needs an all-out implementation, contains tough provisions, allows priests and bishops to sit in various government bidding bodies, and monitor and compel contractors to refund the government for defective projects.”²⁹

27. The movement was funded and supported by the Foundation for Economic Freedom, whose Executive Director then, Ed Coronel, was a very talented and creative organizer and strategist.

28. “Bishops Want Rep in Gov’t Bid Body,” *Philippine Daily Inquirer*, p. B1, July 15, 2004.

29. “New Law Allows Bishops in Procurement Panel,” *Manila Standard*, July 19, 2004.

The Private Sector. A tricky part of the mobilization effort involved the private sector. PWI was uneasy about engaging the Philippine Contractors Association (PCA) in the advocacy effort because of the potential for conflict of interest among some of its members. So it pursued a two-pronged strategy. First, it approached the President of the Philippine Chamber of Commerce to seek the Chamber's support. The thinking was that there would be less potential conflicts of interest among the Chamber's members, and, with a very large nationwide membership, its support would go a long way in convincing the Legislature of the interest that organized groups in society had in the outcome of the vote as well as in convincing the PCA to support the effort (or at least not derail it). Again, working through mediators, PWI successfully secured the buy in of the Chamber, which issued a statement and agreed to media interviews on the issue—its President, Sergio Luis Ortiz, in fact was quoted heavily in a 30-minute documentary produced by the premier (and widely watched) specialty news TV channel in the country, ANC 21.³⁰

On the second prong, as it turned out, the PCA leadership was very much interested in getting a new, more transparent and all-encompassing procurement law passed. The challenge was to get them to buy into the draft law prepared by the TWG and the TA team. To do this, PWI requested one of the senior members of the TWG, Teodoro Encarnacion, a very highly-respected Undersecretary of the Department of Public Works and Highways, whose advice the PCA always took seriously (because of a long history of engagement with him and the Department) to discuss the draft provisions with the PCA leadership. PWI arranged several meetings with PCA at the office of Undersecretary Encarnacion, who led much of the discussion on the different aspects of the proposed law. In the end, the PCA agreed to support a version of the law with very minor revisions. Undersecretary Encarnacion and PWI then discussed the said changes with the TWG, which then agreed to adopt them with little debate.

Local Government Officials. One of the major weaknesses of the pre-reform procurement regime was the lack of any benchmark procurement process around which local government units (LGUs) could structure their own public bidding systems. The Local Government Code allowed LGUs to adopt whatever process they saw fit, resulting in the proliferation of many different systems many of which were of the “sole source” variety. This made it difficult for the national government (and the courts) to regulate—and for outside parties to monitor—local procurement processes, and to cite violations (for example, conflict of interest).

The proposed law sought to change all this by requiring all government entities, including LGUs, to abide by the regulations set forth in the law. Hence, it had major implications for LGUs—there could no longer be “business as usual.” To seek support from the LGU community, PWI sought out well-respected, forward-looking local officials to endorse the bill. One prominent official, Governor Josie de la Cruz from the province of Bulacan, was well known for her successful efforts to curb corruption in and improve the efficiency of her provincial administration.³¹ At that time, she was also an officer of the League of Provinces (whose membership consisted of all provincial governors in the country). PWI arranged to

30. “Wanted: Procurement Reforms,” TV Documentary, ANC 21, 2001.

31. Other LGU officials sought were Mayor Jesse Robredo of Naga City and Mayor Lito Atienza of Manila, both highly successful local chief executives, respected by their peers.

meet with her at her office at the Bulacan provincial capitol (about an hour from Metro Manila). The Governor was very receptive and committed to getting the League of Governors to issue a letter of endorsement for the bill to the Lower House and the Senate. It took several meetings of the League's officers, with member consultations done in between, before a formal endorsement was eventually secured.

The Media Campaign—Linking the Government, Civil Society, and the Legislature

Perhaps one of the most underestimated and underappreciated factors in a reform advocacy effort (certainly in the Philippines), is the need for a well-thought strategic media campaign. The objective of an advocacy media campaign is to amplify the voices of the different groups supporting the effort and to create a sense of harmony among the voices in order to generate public support and exert pressure on decisionmakers.³² It is both a public relations campaign and an advertising blitz rolled into one—the former (more narrowly targeted one) was designed to create a good image for someone or some organization, and the latter (which casts a wide net) to convince the general public about a product's virtues. It takes special skills to do this, which is why many reform advocacy efforts in the Philippines have remained virtually below the radar screen despite media exposure.

The TA team and the BRTF were concerned about the need to get a “media push,” given that the public's attention toward government corruption had receded substantially after President Estrada stepped down. The TA team was thus tasked with identifying, recruiting, and working closely with a competent media team. After an arduous search, a group which had considerable experience in public relations, advertising, and political campaigns was identified and eventually contracted. As it turns out, experience with political campaigns was critical, for such campaigns require the melding of public relations and advertising techniques and more importantly, they stimulate innovative methods of “getting the word out.” The media group, GWA, was in hindsight perfect for the job.

The largely successful media campaign had four major components: (i) targeted use of AM radio; (ii) invitations to “60 Minutes”-type TV shows; (iii) regular (but strategic) news releases in print media, and (iv) an advertising campaign complete with streamers, posters, stickers, and “give aways.”

AM Radio—the Swath and the Dagger. AM radio is a powerful and influential media vehicle in the Philippines. Though television has penetrated the rural and slum areas, not every household has a TV set. Yet, practically every household in the country has an AM radio (at the very least, a small transistor radio). Moreover, while there are only two privately-owned TV networks, there are many privately-owned AM radio stations throughout the country, some with nationwide coverage. Thus, AM radio extends deep into the far reaches of the country.

Perhaps one of the most interesting (at times hilarious) aspects of the media campaign was the live questioning (in real time and on the air) of key decisionmakers, including

32. Some would argue that it should create a compelling picture to convince people that it is to their advantage to support reform.

among others, the President, the Speaker of the House, the Chairman of the Appropriations Committee in the Lower House, the Senate President, and the minority floor leader in the Senate. Early in the campaign, GWA had successfully convinced several AM radio announcers to attend an informal briefing on the proposed law given by PWI at a private luncheon. In that luncheon, which lasted several hours, PWI basically educated the announcers on the rationale for the law and on the logic of its basic provisions. This started regular informal chats among PWI, GWA, and the announcers throughout the advocacy process. The impact of this was quite significant. These announcers had prime time spots on radio (for example, the lunch hour, the early morning rush hour, the late afternoon rush hour) which attracted the largest audiences during the day. Because they understood the basic aspects of the law and the rationale for it, they could ask very pointed and strategically important questions on the air. Because of the wide reach of their slots, it was difficult for any politician to decline responding to their queries. When announcer X calls Congressman Y on his cell phone, Y would be hard pressed not to answer and engage in a brief conversation over the air. In one incident, for instance, a legislator was asked why he seemed opposed to a bill that would help reduce corruption (per his past actions in Committee); that legislator eventually voted for the bill. The AM radio component became extremely useful in unclogging barriers.

Television—Raising the Ante. Television was perhaps the next-most-important medium for the advocacy effort. Decisionmakers, intellectuals, and, more generally, the middle class tune in regularly to prime time or early morning news feature shows such as Pipol on ABS-CBN, ANC Live on ANC 21, and Teledyaryo Ala-Una on NBN 4. Targeting those shows was imperative if the effort was to reach influential individuals. This is where the successful engagement with CSOs and government officials (in the TWG) paid off immensely, as members of the various groups were tapped to become “talking heads” for the cause, appearing for interviews and discussions on the feature shows on a regular basis to keep the issue alive and on the radar screen.

The TV component had another important effect. Legislators are always looking for reasons to appear on TV, and especially if it is in connection with a good issue. Fighting corruption in public procurement certainly fit the mode perfectly. A key part of the media strategy then was to get TV exposure in the prime-time shows for the main sponsors of the bill—in order to increase their political capital (a “return on their investment”) and sustain their motivation to get the bill passed in their respective chambers. These shows constantly seek good issues to feature and appropriate guests to invite.³³ TV time is extremely expensive, so any free time that a legislator gets is quite valuable to him or her. The payoff from this to the main sponsors of the bill was thus quite high. Not only were they interviewed live many times (a lot of free exposure) but the premier news feature channel, ANC 21, prepared a documentary on the procurement reform effort which featured them very prominently (as front and center of the reforms).

Print Media—Amplifying the Problem. Newspapers and specialty magazines were particularly useful for highlighting events that dealt with corruption in public procurement. Journalists are often moving around seeking interesting, or even controversial, news which

33. There was very little cost involved to get the sponsors and other talking heads invited—at most, a lunch or dinner to discuss the issue with the TV anchor person.

they can write about for their next column, editorial, or feature. Conferences are particularly attractive to them, especially if the topic is controversial—such as corruption in public procurement.

As part of the media strategy, the TA team and the media team developed a Conference series throughout the different regions of the country in partnership with two very large associations with nationwide reach, the Philippines Association of Government Budget Analysts (PAGBA) and the Association of Government Accountants of the Philippines (AGAP). Members of these associations are either former and current government officials, both from the central and local governments, who have been or are engaged in government budget and/or accounting work. However, the associations are not funded by government but through annual membership fees.

Several (two-day) conferences spread out over a year and a half were held, with attendance ranging from 400 to 1,000 at locations from north to south of the country. The key aspect of each was that participants came from various parts of the region (where it was held), which helped increase the visibility of the reform effort. Moreover, each conference offered another venue for the legislative sponsors of the bill to showcase their concern and support for the cause and their understanding of the issues involved—again, another return on investment for them. At each conference, news media was present (both TV and print) and journalists, particularly those from regional papers, attended and eventually wrote up some news item on the event—again free exposure for the sponsors. A sample news headliner in the *Philippine Daily Inquirer*, the newspaper with the largest nationwide circulation, is presented in appendix F to illustrate the potential for exposure.

This conference series produced one significant by-product. Both the PAGBA and the AGAP leadership launched a signature campaign among its members in support of the bill, which proved to be quite valuable during legislative deliberations (see Appendix G for a copy of the PAGBA's Board Resolution submitted to the Lower House and the Senate). PAGBA has over 3,500 and AGAP 9,000 members from all over the country.

Print coverage was not limited to these conferences. There were many workshops and other events to which representatives from PWI, other CSOs, the TWG, and the sponsors were invited to speak. The media team made sure that at least some journalists would attend to write specifically about the procurement reform effort. Moreover, there were quite a few corruption scandals on public procurement that occurred during this period which the team took great advantage of, for instance sending unsolicited commentaries to the main dailies and the most important business paper, *Business World*, about the importance of the procurement reform bill as a necessary first step to address the corruption problem.

Advertising—Creating a “Brand Name.” The ultimate challenge for the media team was to impress in the minds of legislators the importance of the proposed bill to their constituencies. AM radio, TV, and print media all contributed to this effort. However, to heighten this, the media and TA teams agreed to launch an advertising campaign with the objective of establishing some kind of a “brand name” that would percolate throughout the country, or at least in the major cities. If the average citizen, for instance a taxi driver, could easily associate a simple motif or figure with “fighting corruption in public procurement,” even if he or she knew or understood little of the proposed law, this would have a dramatic effect on elected officials, particularly congressmen and local officials. When someone sees the Nike symbol for instance (s)he knows it is Nike and that it represents quality sports wear. A well-designed but simple motif could do the same for corruption in

procurement and raise the awareness of the citizenry about the problem and thus bring it to the attention of their representative officials.

The media team did indeed come up with a clever motif that easily stuck to one's memory (see Appendix H). Streamers were prepared with this motif on them and were hung in major government offices as well as in the Lower House and the Senate. Posters with the same motif were distributed to private sector firms and other organizations. Stickers, fans, and T-shirts, again with the motif, were given away in many events. Finally, perhaps the most unusual (at least at that time), diskettes with a screensaver displaying the motif were distributed widely throughout government (mainly through PAGBA and AGAP) and to the staff of the Lower House and the Senate. Wherever a legislator might go, there was a good chance (s)he would bump into one of these advertising media—reminding him or her about the procurement reform bill and the salience of the issue.

In reality, the issue may have not been as salient as perceived, but the important thing is that legislators did perceive a heightened sense of awareness among the populace. After all, that is what advertising is all about.

Courting the Legislature

Having gone through a wrenching political battle during the impeachment proceedings against President Estrada, the opposition (PDP-NPC) and ruling (Lakas-NUCD) parties were very much at odds. The proceedings had taken a heavy toll on the usual camaraderie and “give and take” attitude among legislators from the different parties. The reform coalition was thus faced with a formidable problem in the Legislature. In order to minimize partisan sniping (that would likely take the bill down), it was decided that a bipartisan strategy was needed to push the bill forward.

The Lower House Saga. In the Lower House, because the Lakas-NUCD had a large majority, it made sense to approach influential legislators from that party. In the Senate, power was much more balanced and the opposition was much more unified, having been at the center of controversy during the impeachment proceedings. Hence, getting an influential Senator from the NPC-PDP coalition to be the main sponsor of the bill was a rational move. With this configuration, the media team would be better able to portray the bill, both in public and within the halls of both Chambers, as a bipartisan effort, thereby minimizing the risk of inter party squabbles that could derail the passage of the bill.

The “courtship” in the Lower House started with the Speaker, Jose de Venecia, a rather charming and skillful politician who had run for President against Joseph Estrada but lost. De Venecia was on good speaking terms with Secretary Boncodin of the DBM. DBM, being the budget ministry, has always had a reasonably good reception from the Legislature.³⁴ A meeting was easily arranged between the Speaker and the Secretary during which the latter gave a brief (powerpoint) presentation on the need for a procurement reform bill. The Speaker saw this as a good opportunity to gain continuous media coverage. In fact, during

34. DBM has the authority to release and withhold (during revenue shortfalls) approved budget allocations to legislators. While the Legislature might press Executive during budget deliberations, once the budget is approved (which is on a commitment basis), actual releases become the sole prerogative of the President and thus the DBM. The release of Congressional pork barrel funds, for instance, is basically at the behest of the Executive and for most releases, with the DBM.

the meeting, he called some press people who were in the vicinity for a picture taking; the photo appeared in the papers the next day with a caption on the Speaker agreeing to push for a procurement reform bill. Indeed, de Venecia gave a strong endorsement and called on the Chairman of the Appropriations Committee, Congressman Rolando Andaya, Jr., to co-sponsor the bill, have his Committee handle the bill, and defend it during the Floor debate.³⁵

As luck would have it, Congressman Andaya was a 34-year-old second-term legislator who was still not caught up in the traditional politics of the House and saw active sponsorship of high profile bills as a good vehicle for maintaining his popularity within his district—indeed as the process unfolded, he was featured in all major conferences and interviews (both radio and TV) on the law.³⁶ He was appointed Chairman of the powerful Appropriations Committee in part because of his very active participation in the impeachment hearings as a member of the prosecution team and in part because of a family legacy—his father was the longest standing chairman of the Committee and was well respected by his colleagues for his ability to manage the difficult terrain of budgetary politics. His Committee is perhaps the most powerful in the House. A strong positive approval from it significantly increases the chances of passage on the floor. The Committee effectively decides on how the flexible component of the proposed budget gets allocated across regions and districts—thus, much is to be gained by a typical legislator from being a “friend of the Committee,” particularly of the chairman.

Young as he was, Andaya had very sharp political instincts (which is perhaps another reason why he was made Chairman of the most powerful committee). In the very first meeting between him, his staff, and representatives from the TWG and the TA team, he requested that a congressional technical working group (CTWG) be created consisting of the TWG, a few select members of his Committee, and PWI (representing civil society). He also assigned senior persons from his staff to be part of the secretariat to the CTWG, and requested that the TA team be part of the secretariat as well. This was really not needed, as the proposed bill had already gone through an immense vetting and revision. Yet, in hindsight, it was extremely useful. What Congressman Andaya wanted to achieve was to get key colleagues in his Committee and his staff to develop ownership of the bill and thus motivate them to work for its passage.

The CTWG met many times, often for a whole day going in painstaking detail through each section of the proposed law, but the hard work paid off in several ways. First, Andaya acquired a firm grasp of the bill that gave him the confidence to defend it within his committee and later on the floor. Second, through the meetings, he was able to informally negotiate differences between the views and preferences of key legislators (whose support he

35. Under the Philippines’ bicameral system, a bill has to undergo three readings on separate days before it is approved. The first reading consists in reading the bill by title and number only and its referral to the proper committee for study. The second reading is the time when the members debate the bill on the floor and approve it after the period of amendments. During the third reading, no amendment is allowed, the members take a vote, and the yeas and nays are entered in the journal.. The third reading is typically pro forma; the first and second readings are what count.

36. In private conversations, he often mentioned that this was the right time for him to push such bills because several years down the road he might be too intertwined in traditional politics to be able to act effectively. He was truly concerned about getting the bill through this time around and devoted considerable effort to making this happen.

knew he needed) and the reform coalition so that by the time the bill went for Committee vote, these differences had already been ironed out. Third, his staff and the representatives of the coalition in the CTWG came to trust each other, enabling vital information to flow smoothly and quickly from one group to the other, and to get problems resolved quickly.

For a variety of reasons, three different versions of the procurement reform bill were introduced in the House, each from different legislators—House Bill Nos. 187, 333, and 2986. This was a bit of a concern, because having several versions of a bill in Congress might create confusion during the debates. Given this situation, in the interest of efficiency, consolidating these three bills into a single simpler version in the Lower House was advisable. The bill was therefore revised, and a simpler draft was prepared by the CTWG.

This version was subsequently introduced as House Bill No. 4809, entitled “An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes.” As a sign of its momentum in the Lower House, in addition to the previous authors of the various versions of the Procurement Reform bill, several other congressmen also signed the House Bill No. 4809 as co-authors. In particular, House Bill No. 4809 was officially introduced by Congressmen Jose C. de Venecia, Jr., Neptali M. Gonzales II, Carlos O. Cojuangco, Rolando G. Andaya, Jr., Imee R. Marcos, Faysah Maniri Racman Dumarpa, Eduardo C. Zialcita, Arthur D. Defensor, J.R. Nereus O. Acosta, Florencio B. Abad, and Manuel N. Mamba.

The revised bill produced by the CTWG was not much different from the coalition’s original version. However, two key provisions were subsequently negotiated. The first was to incorporate the so-called “Flag Law” into the bill. The Flag Law essentially gave preference to domestic firms (at least 75 percent ownership by Filipinos) in the procurement of goods. This was not particularly binding because large projects which domestic firms were not capable of handling were effectively insulated from this provision, and medium and smaller projects were already contracted predominantly to domestic firms. Large projects were either part of donor programs or public-private partnership arrangements; the revised bill expressly provided that contracts with international donors would supersede the Flag Law provision, and public-private partnerships were purposely excluded from the coalition’s original bill (and thus the CTWG bill).³⁷

The second provision was a bit more problematic as it involved the granting of preferential treatment to local (provincial) contractors for priority projects. This issue turned out to be the single major stumbling block to the passage of the bill and occupied most of Congressman Andaya’s time. As it turned out, congressmen from the urban areas did not want any such preferential treatment, which surprised the reform coalition somewhat as they shared this view and assumed all congressmen would prefer some form of protection from inter-provincial competition. Large contractors were based in the urban areas (mostly the big cities) and wanted to get some of the business in the non-urban areas. Hence, their representatives did not want any provision that gave protection to provincial contractors. In the end, a compromise was reached with which all parties could live. Roughly, the compromise provided that if the lowest bid on a provincial project is offered by a contractor from outside the province, the provincial contractor who offered the lowest bid among all

37. BOT projects and similar arrangements were left out of the bill entirely as they were much more complicated and thus required a separate bill.

participating provincial contractors would be given the opportunity to match the outside contractor's bid. Moreover, this provision would only be binding for a maximum of five years from the effective date of the bill once it is signed into law.³⁸ The urban congressmen finally agreed to the compromise and the reform coalition, on the other hand, agreed to it in order to keep the bill from stalling in the Committee. When push came to shove, members always veered toward pragmatic solutions; the bill with the less-than-ideal provision was still far better than the status quo.

After numerous technical working group meetings, House Bill No. 4809 was finally submitted by the Appropriations Committee to the Lower House on May 16, 2002, under the First Regular Session of the 12th Congress, through Committee Report No. 479, in substitution to House Bill Nos. 187, 333, and 2986.

In effect, since negotiations and compromises had already been worked out during the CTWG sessions, the revised bill sailed through the Appropriations Committee. The remaining step was the floor debate and vote—the second and third readings, respectively. Here, Congressman Neptali Gonzalez Jr., the main sponsor of the earlier version of the bill that was passed by the Lower House during Estrada's presidency but failed to make the Senate floor, again played an important role. At this time, he was now Majority Floor Leader and thus had control over the Rules Committee. Earlier Congressman Andaya had asked Congressman Gonzalez to once again co-sponsor the bill with him, the Speaker, and other members of the Appropriations Committee. This was in anticipation of the political gymnastics that would be required once the bill was sent to the floor. Congressman Gonzalez obliged happily, with the reform coalition urging him on as “the original father of the bill.”

As in “round one” above, Congressman Gonzalez moved the bill up the queue. The real problem was when to introduce the bill for debate and a vote. There were still some Congressmen who were strongly opposed to the bill, so the strategy was to put the bill forward when there was a quorum present and with the majority of the quorum in favor of the bill. For the administration's part, President Arroyo, upon the urging of Secretary Boncodin and Speaker de Venecia, certified the Procurement Reform bill as “Urgent”—“to address the public emergency borne out of the pervasive malady of graft and corruption that has long plagued the government procurement system, impaired public service efficiency, and stunted national capacity for economic growth.”³⁹ Still, over a period of three months, there were many false starts. The Appropriations staff would call on the TWG and the TA team to be ready for the floor debate just in case the right configuration of legislators materialized. To their credit, representatives of the TWG and TA team always showed up (rotating through all the false starts). In the first attempt, Congressman Andaya gave a hard-hitting sponsorship speech, and one legislator gave a speech in favor, and another mildly against the bill. However, the timing was not quite right, and the bill was not introduced. Finally, after five months from the time the Appropriations Committee submitted the bill to the Lower House, the bill was brought to the floor for a vote on October 28, 2002 and passed with an overwhelming majority (again within the quorum).

38. This is akin to “import substitution” protection. Congressmen from the non-urban areas argued that their contractors should be given time to mature.

39. Correspondence of President Gloria Macapagal-Arroyo to Speaker Jose C. de Venecia, Jr. (May 27, 2002).

The Senate Run. In line with GMA's State of the Nation Address, during the First Regular Session of the 12th Congress in 2002, the Procurement Reform bill was separately introduced in the Senate by Senators Sergio Osmeña III, Robert S. Jaworski and Loren Legarda Leviste, as Senate Bill Nos. 182, 1477, and 1690, respectively, all entitled "An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of Government and for Other Purposes." However, the bill still required a sponsor who was capable of defending the bill on the floor and of assuring its successful passage. As such, while the CTWG was completing its work on the bill, members of the TA team and the BRTF began exploring possible sponsors in the Senate. The main consideration was to find an influential senator from the opposition (given a desired bipartisan strategy) who would see the bill as a valuable addition to his or her CV that could be parlayed into votes later. In contrast to congressmen who are elected by district constituencies, senators are elected by the national voting populace just like the President and Vice President. A highly-salient issue carries with it nationwide recognition.

After considerable discussion, the TA team and the BRTF decided on pursuing Senator Edgardo Angara.⁴⁰ Senator Angara was one of the most senior and most seasoned members of the opposition, and after the post Estrada elections became its *de facto* leader. If he agreed to be the main sponsor of the bill, others in the opposition would be more likely support it. On the part of the ruling party, because the bill was sent by the President to the Senate as an "Urgent" bill, the group presumed (and as experience showed correctly so) that administration party senators would vote for the bill unless the Committee version differed significantly from the original. So the key was to get Angara on board as the captain.

Again, as luck would have it, the chief of staff (Vivencio Dizon) and the chief policy adviser of Senator Angara (Victor Andres Manhit) were young, avid supporters of reforms in governance, both being professors at the De La Salle University doing research and writing policy papers on governance issues. In fact, Professor Manhit was involved in trying to push procurement reforms in the Department of Education during the time of President Estrada (he was then Undersecretary at the Department) and was aware of the effort then to get a new procurement law passed (the "round one" saga). A few months earlier, Professor Manhit met some members of the TA team at a workshop hosted by the British Council on combating corruption in government. The latter presented the case for procurement reforms in one of the sessions which led to a healthy discussion with Professor Manhit later in the day. In short, through Professors Manhit and Dizon, the TA team was able to arrange a meeting between Senator Angara and Secretary Boncodin, who was always willing and enthusiastic about helping to open doors.

The meeting took place in June 2002 at the Senate Conference Hall. Secretary Boncodin gave a short presentation on the proposed law and the rationale for it and after a short but productive discussion, Senator Angara gave the thumbs up and requested that his staff work with the government TWG, the TA team, and PWI (whom Secretary Boncodin requested to be present) to craft a Senate version of the bill, building on the government's proposed bill. The

40. Senator Angara started his political career during the Marcos years and had been an influential voice in the Marcos camp. Most observers then would have discounted him after the fall of the regime in 1986. However, the Senator managed to make the transition to democratic politics, a testimony to his fine-tuned political skills, and he successfully ran for public office, ultimately establishing himself as an influential legislator and spokesperson for the opposition in the Senate.

Senator, who was chairman of the Committee on Constitutional Amendments, Revisions of Codes and Laws, designated Attorney Johnas Lamorena to be the lead person from his staff and further requested that the staff representatives from the co-sponsors of the bill be invited to join his proposed Senate Technical Working Group (STWG). He further indicated that he would guide the bill through this Committee and wanted the bill to be a product of the STWG. Again, some form of ownership of the bill seemed essential as, in this case, it carried with it reputational gains. In fact, as with Congressman Andaya, Senator Angara was constantly sought by the media for his views on the proposed reforms and the status of the bill. For instance, both he and Congressman Andaya were headliners in the PAGBA and AGAP conferences and in the special TV documentary on procurement reforms.⁴¹

The SWTG, comprising Senator Angara's staff, representatives from the staffs of co-authors Senator Legarda (ruling party) and Senator Jaworski (opposition), the Government TWG, PWI, and the TA team, worked feverishly to complete the Senate version, with the objective of getting the bill passed by the Senate before the Christmas recess. Having learned from its previous experience in "round one," the reform coalition decided to work concurrently on both Houses of Congress for the passage of the Procurement Reform bill, instead of adopting a linear process from the Lower House up to the Senate. Although this strategy meant having to log in more hours than before and, at times, having to be in two places at one time, it saved time and ensured that the bills would be discussed in both Houses while the momentum was still strong. Several whole day, intense workshops were held at the Pan Pacific Hotel resulting ultimately in a much more detailed version of the bill than the House version. There has always been a healthy competition between the two Chambers, with the Senate always aiming to produce a more refined bill. In this case, the Senate bill differed in one major respect from the House bill: it did not include the Flag Law or the "provincial preference" provision.

The Committee on Constitutional Amendments, Revisions of Codes and Laws and the Committee on Finance of the Senate met in July 2002 to discuss the bill. Senator Angara invited the whole SWTG plus representatives from the PCA. The SWTG gave a powerpoint presentation to the Committee, a short discussion ensued, and the bill was cleared. The PCA had inquired about "provincial preference," to which Senator Angara responded that there was a need to have sufficient competition and the other members concurred. Given a nationwide constituency, it was indeed politically wise for the Senators not to entertain this parochial issue.

Finally, during the Second Regular Session of the 12th Congress, after a series of technical working group meetings and debates, Senator Angara's Committee and the Committee on Finance submitted on July 19, 2002, through Committee Report No. 67, Senate Bill No. 2248, entitled "An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes." This was in substitution of Senate Bill Nos. 182, 1477, and 1690, with Senators Sergio Osmeña, Jaworski, Legarda Leviste, Angara, and John Osmeña as co-authors, together with the members of both Committees, namely, Senators Vicente C. Sotto III, Rodolfo G. Biazon, Gregorio B. Honasan, Panfilo M. Lacson, Teresa Aquino-Oreta, Blas F. Ople, and Aquilino Q. Pimentel, Jr.

41. Snippets of the documentary can be viewed on the PWI website, www.procurementwatch.org.

In October 2002, Senator Angara gave a detailed sponsorship speech to the Floor entitled “Building Honest Roads to Progress” which drew a lot of media attention. It took another two months for the Senate to finally discuss the bill and vote on it. During the interim period, the staff of Senators Angara, Legarda, and Jaworski, together with PWI and the TA team, worked behind the scenes to secure the support of other Senators (mostly working through their staffs). Senator Angara himself worked on the Senate Leadership. On December 9, 2002, the Senate passed its version of the bill, which was closer in detail to the government’s proposed bill, with several Senators requesting to be noted as additional co-sponsors. Riding the coattails of an anti-corruption bill which had by this time gotten much public exposure seemed to be the order of the day.

The Conference Committee—The Homestretch. Considering that the various versions of the Procurement Reform bill were born out of the same source—the reform coalition—it would not come as a surprise that all these versions were very similar when originally submitted to Congress. It is interesting to note as well that the Explanatory Notes of almost all the co-authors of the Lower House and Senate bills were identical, focusing on the problems of delays, collusion, lack of transparency, excessive use of discretionary criteria, and lack of competition in Government procurement of goods, supplies, materials, infrastructure projects, and consulting services, thereby leading to graft, corruption, and increased costs of doing business for both the government and the private sector.

However, as these bills navigated each chamber, several changes naturally had to occur, so that each House eventually churned out a bill that reflected the sentiments of its own members. In effect, by the time that the Procurement Reform bill was ready for submission in the Senate, two versions existed in Congress, namely House Bill No. 4809 and Senate Bill No. 2248, with the former a simpler version of the latter. In view of the differences, on December 17, 2002, the Bicameral Conference Committee convened to discuss the differential provisions of the two bills in order to consolidate both versions.⁴² The Senate conferees were Senators Angara, Pimentel, Legarda Leviste, Jaworski, and Ramon B. Magsaysay, Jr.; the Lower House conferees were Congressmen Andaya, Gonzales, Marcos, Defensor, Plaridel M. Abaya, Carlos M. Padilla, Rolex T. Suplico, Didagen P. Dilangalen, and Mauricio G. Domogan. The Consolidated Bill was approved by both Houses the next day, with a new provision, a product of the Bicameral Conference Committee, creating the Joint Congressional Oversight Committee (JCOC) to oversee the implementation of the law for a period not exceeding five (5) years from its effective date, and to formulate its implementing rules and regulations jointly with the GPPB.

After almost two years and six months since the various versions of the Procurement Reform bill were submitted to Congress, President Arroyo signed the Consolidated Procurement Reform bill (HB 4809/SB 2248) into law as Republic Act (RA) No. 9184, entitled “An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes,” on January 10, 2003, at the Philippine Stock Exchange (PSE) in Makati City. RA 9184 was published on January 11, 2003, in two newspapers of general nationwide circulation, namely *Malaya* and the *Manila Times*, and, in accordance with Section 78 thereof, took effect 15 days following the said publications.

42. The final version from the Bicameral Conference Committee would then have to go to the Senate and Lower House for approval and signing.

Post Mortem. While several people heaved a long sigh of relief as the omnibus public procurement law had finally been enacted into law, the members of the reform coalition knew that a long and precipitous road remained to be trudged, for the Implementing Rules and Regulations (IRR) of RA 9184 still had to be issued jointly with the JCOC. Otherwise stated, it was time for the members of the TWG to develop the implementing regulations of several overly-generalized provisions of the Procurement Reform bill that were the result of compromises, considered by some as “bargains” that were necessary in order for the bill to see the light of day. In technical terms, the law required that, within 60 days from its promulgation, “the necessary rules and regulations for the proper implementation of its provisions shall be formulated by the GPPB, jointly with the members of the Oversight Committee.”

It should be noted that, despite the completion of the legislative process, and despite the fact that the tasks of drafting and issuing the implementing rules are normally left to the executing agency—at least insofar as governments with separate Executive and Legislative branches are concerned—the Philippine Congress, through the JCOC, had found a way to involve itself in the development of the IRR. Some circles criticized this as a blatant intrusion of the legislature upon the powers of the executive, and merely as a means by which some quarters in Congress protected their interests in the new “reform” measure. Ironically, on July 10, 2003, in a case that covered a different law but involved the same issue regarding the legality of the creation of the JCOC, the Supreme Court of the Philippines declared that once a law is enacted and approved, the legislative function is deemed accomplished and complete, and that the legislative function may spring back to Congress relative to the same law only if that body deems it proper to review, amend, and revise the law, but not to approve, review, revise, and amend the IRR.⁴³ As such, by vesting itself with the power to review, revise, amend, and approve the IRR, through the instrumentality of the JCOC, which was itself a purely legislative body, the Supreme Court declared in that case that Congress trampled upon the constitutional mandate of the executing agency involved therein, the Commission on Elections (COMELEC). Of course, this decision had no bearing upon the efforts of the reform coalition with the JCOC, because, by this time, the crafting of the IRR was already at its final stages.⁴⁴

Conclusion: Implications for Strategy and Donor Assistance

As this case study amply illustrates, the road toward successful reform is a long and arduous one. In the area of governance and anticorruption (where lies the interface between politics and the economy), it is particularly challenging. Thus, it should come as no surprise that pushing reforms requires considerable patience and a carefully thought-out strategy for managing the politics of the process. The quest to reform the legal underpinnings of public procurement in the Philippines took more than three years to achieve and thousands of man hours of back-breaking work, punctuated with many bouts of frustration. Getting from the “bad” equilibrium to a “good” equilibrium did not occur instantaneously with the derivation of a fancy

43. *Romulo B. Macalintal v. COMELEC*, G.R. No. 157013 (July 10, 2003).

44. However, the Executive may now(once again) on its own amend the Implementing Rules and Regulations if it sees fit to do so.

mathematical formula or the signing of a loan or grant agreement with specific conditionalities. It involved considerable painstaking efforts of many dedicated individuals who together anticipated what events might turn up each day and handled those events that did occur in order to keep the momentum going.

If there is an overarching lesson from this Philippine experience, it is the necessity of creating a “well-oiled machine” that is capable of responding to unanticipated events as the reform process unfolds. The path from the status quo to the desired state is littered with uncertainty. What is needed then is a mechanism that enables reformers to deal with this uncertainty on a day-to-day basis. This goes beyond the basic adage of forming a coalition to support a reform effort. It means that members of that coalition must be knit tightly into a well-coordinated team that can develop and implement strategy as events unfold. How this is done will differ from case to case and country to country. It will likely include a few core elements.

First, it will be necessary to form a cadre of reformers within the Executive. Having a so-called champion is not sufficient, for he or she will necessarily need a core group to lean and depend on to move things along within the government. Moreover, as is typically the case, a champion becomes a clear target of affected vested interests and so will often be the focus of their counteractions. Having a core group of dedicated individuals limits the impact of these actions: even if the champion is forced to go, there still will be others left to step up to the plate. Second, this cadre needs to be armed with sufficient technical knowledge and tools pertinent to the reform in question. Many darts will be thrown at the reform in order to confuse the issues. The reformers must be able to respond objectively, definitively, and confidently to these attempts to “keep people’s eyes on the ball.” Third, the core group within government will need support from well-organized allies in civil society and the business community. Outside pressure will almost always be needed to counter the inherent advantage of vested interests. The latter are generally few in number but highly motivated and often tightly knit. Well-organized allies create another battle front that helps dilute the attention and efforts of these interests. Finally, an aspect which is often underappreciated, a strategic and sustained media campaign must be developed to support the reformers and their allies. In the end, the attention and support of the greater (or relevant) public is what will likely make the difference. There is no real substitute to an effective media campaign in harnessing this good will and support.

The above elements suggest that donor agencies may have to change the way they encourage reforms if they wish to enhance the chances of success. The typical donor approach is to provide technical assistance to study the various issues involved and, in the case of multilateral financial institutions, offer attractive lending arrangements to sweeten the pot. Technical assistance is indeed necessary. However, much more is needed. Donors must find ways to help: (a) create a cadre of reformers, (b) establish and strengthen external alliances, and (c) support a strategic media campaign. In this particular case, USAID stepped up to the plate and pushed the envelope to the limits of its own rules and regulations. Its assistance was vital to all three aspects (and more) of the reform, but most especially at strategic points requiring innovative approaches to funding. Perhaps it was the particular confluence of individuals at the Agency at that time that made a difference; nevertheless, this experience does illustrate the possibilities afforded by the Agency’s own policies which creative staff can explore to push the envelope. The Agency, the World Bank, and the Asian Development Bank all provided funding for the formation and conduct of

workshops of the TWG, which proved to be the critical factor that led to the creation of a dedicated cadre of reformers, as well as the glue that held them together and strengthened their resolve. Donor support for the establishment of external alliances and the strategic media campaign was less forthcoming—for good reason, as these were more political in nature. However, the government, through the cadre of reformers, officially requested these types of support, which made it more acceptable to and feasible within the constraints of some donors. USAID eventually provided support for the media campaign without which the new procurement law might not have passed—a very instructive learning experience for both the government and USAID. The World Bank through its ASEM grant facility provided the seed money to establish Procurement Watch; and the Asia Foundation provided small grants for specific activities to Procurement Watch and other members of the Transparency and Accountability Network.⁴⁵ The convergence of these different types of assistance helped immensely in bringing the disparate but equally well-meaning parties together to form that now fabled well-oiled machine.

The passage of a landmark procurement reform law has been a major achievement in the context of Philippine politics. Indeed, at the outset, few believed that legislation that radically altered the landscape could indeed be secured. But the war is far from finished. Enforcement has always been the Achilles heel of Philippine legislation. Reformers must now face the daunting challenge of getting the new law implemented effectively, not just within national government agencies but across all local government units. It took a little more than three years to secure the legislation. It may very well take a decade to get it fully implemented and working across all levels of government. For as long as there is a well-oiled machine “managing” events, one can have some hope that this later phase will likewise be completed as envisioned.⁴⁶

45. In fact, USAID also provided indirect assistance to PWI by providing space for its consultant team to help set up the organization.

46. By mid-year 2004, a number of well established civil society organizations agreed to work together to train and/or field observers for bids and awards committees. This includes among others Procurement Watch Inc (PWI), the Catholic Bishops Conference of the Philippines (CBCP), the National Movement for Free Elections (NAMFREL), the Philippines Contractors Association (PCA), and the Transparency and Accountability Network. TANCBCP, NAMFREL, and the PCA all have nationwide reach with member units spread from north to south of the country; the alliance was formalized recently in November 2004 with PWI serving as the Secretariat. Moreover, the Ombudsman has established a formal alliance with these groups in monitoring and reporting on government bidding activities. It is also exploring the possibility of having the participation as bid observers qualify as an activity under a government requirement for graduation that all college seniors must participate in a socially-oriented program. Those seniors who opt to participate in the observers program would be trained by the alliance. This proposed program would greatly expand the pool of potential civil society bid observers and, more importantly, would help educate a larger public on the importance of an efficient and clean public procurement process—which in itself would directly enhance civic consciousness and indirectly public accountability.

Appendixes

Appendix A

List of Participating Agencies during the Two-day “Shoot Down” Workshop at Bayview Hotel, Manila, in August 2000*

1. Department of Budget and Management
2. Department of Public Works and Highways
3. Department of Education
4. Department of Health
5. Department of Finance
6. Department of Transportation and Communications
7. National Economic and Development Authority
8. Commission on Audit
9. Government Procurement Service
10. Senate/Congress Representatives
11. Economic Coordinating Council (ECC)
12. Office of the President, Flagship Programs Committee
13. World Bank – RIMMS Project, SEMP Project
14. Asian Development Bank
15. USAID
16. UNDP
17. BTA

* Source: *Department of Budget and Management*

Appendix B

Senate Party Distribution in the 12th Philippine Congress

Drilon, Franklin M. (Senate President)	Independent
Villar, Manuel B., Jr. (President Pro Tempore)	Independent
Legarda-Leviste, Loren (Majority Leader)	LAKAS (Administration)
Pimentel, Aquilino Q., Jr. (Minority Leader)	PDP-LABAN (Opposition)
Angara, Edgardo J.	LDP (Opposition)
Aquino-Oreta, Teresa	LAMP (Opposition)
Arroyo, Joker P.	LAKAS-NUCD-UMDP (Administration)
Barbers, Robert Z.	LAKAS (Administration)
Biazon, Rodolfo G.	LDP (Opposition)
Cayetano, Renato L.	LAKAS (Administration)
De Castro, Noli L.	Independent
Ejercito-Estrada, Luisa P.	Independent
Flavier, Juan M.	LAKAS (Administration)
Honasan, Gregorio B.	Independent
Jaworski, Robert S.	Independent
Lacson, Panfilo M.	LDP (Opposition)
Magsaysay, Ramon B., Jr.	Independent
Ople, Blas F.	LDP (Opposition)
Osmena, John H.	ALAYON (Administration)
Osmena, Sergio R., III	PDP-LABAN (Opposition)
Pangilinan, Francis N.	Liberal Party (Administration)
Recto, Ralph G.	LAKAS-NUCD-UMDP (Administration)
Revilla, Ramon B.	LAKAS (Administration)
Sotto, Vicente C., III	LDP-LABAN (Opposition)

Appendix C

List of Officers and Board Members of Procurement Watch Inc. (PWI)



PROCUREMENT WATCH INC.

Unit 2507, Medical Plaza Ortigas
Condominium, San Miguel Avenue, Ortigas
Center, Pasig City 1600

Phone: (632) 687-4251

Fax: (632) 633-9601

Email: info@procurementwatch.org.ph

WE'RE ON THE WEB!
www.procurementwatch.org.ph

Executive Director:

Mr. Cipriano A. Ravanos, Jr.

Program Director:

Ms. Ma. Kristina V. Pimentel, Program Director for
Advocacy

Atty. Jose Luis C. Syquia, Program Director for Gov-
ernment Affairs

Procurement Watch Inc. ("PWI") is a non-profit, non-partisan, civil society organization created by a group of concerned and seasoned individuals from government, academe, the legal profession, and the private sector.

PWI promotes transparency and accountability, as well as assists in the streamlining of procedures in government procurement procedures.

Through in-depth research, vigilant monitoring and uncompromising advocacy against graft and corruption, PWI sees its role as a prime mover in the battle for greater transparency and accountability in government procurement.

The Officers:

Ms. Helen Macasaet
Chairperson

Prof. Jacinto C. Gavino, Jr., DPA
President

Atty. Ramon Ereñeta
Vice-President

Dr. Eduardo Gonzalez
Secretary

Ms. Josefina U. Esguerra
Treasurer

Other Members:

Justice Jose C. Campos Jr.

Dr. Raul Fabella

Atty. Meilou Sereno

Mr. Gerry Van der Linden

Atty. Sofronio Ursal

Dr. Jose Edgardo Campos

Appendix D

The Transparency and Accountability Network (TAN)

Makati Business Club
KilosBayan
Development Academy of the Philippines
TAPATT Foundation
Bantay Katarungan
Bantay Bukas
De La Salle University
Konsensyang Pilipino
Sulo ng Karangalan
Evelio B. Javier Foundation
Philippine Center for Policy Studies
Pagbabago @ Pilipinas
Social Weather Stations
Caucus of Development NGO Networks
Institute of Politics and Governance
National Institute for Policy Studies
Institute for Popular Democracy
Transparency International
The Asia Foundation
Procurement Watch, Inc.

Appendix E

The TAN Manifesto

Transparency and Accountability Network

29 April 2002

HON. EDGARDO ANGARA
Chairman
Committee on Constitutional Amendments
Philippine Senate
Manila

Dear Senator Angara:

We, the Transparency and Accountability Network (TAN), a coalition of twenty (20) anti-corruption organizations whose objectives include the development of a civil society Transparency and Accountability agenda, believe that the Government Procurement Reform bill is a key element in the effort to weed out corruption in government, particularly the procurement process. In line with this, we express our strong support of the passage of the Government Procurement Reform bill, three of which have been filed in the Senate and referred to your Committee, namely:

- a. S.B. No. 182 – An Act Providing for the Modernization, Standardization and Regulation of Procurement Activities of the Government and for other Purposes by Sen. Sergio Osmeña III
- b. S.B. No. 1477 – An Act Providing for the Modernization, Standardization and Regulation of Procurement Activities of the Government and for other Purposes by Sen. Robert Jaworski
- c. S.B. No. 1690 – An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and other Purposes by Sen. Loren Legarda-Leviste

To this end, any Procurement bill must contain the following features which minimize/eradicate abuse/misuse of discretion, ensure transparency, streamline the bidding and procurement process and ensure accountability:

1. **Shift from pre-qualification to simple eligibility check, strengthen post-qualification** – This shortens the time to complete the procurement process; eliminates wide discretion and uses objective and transparent "pass/fail" criteria; increases efficiency and equity; and encourages the participation of a greater number of bidders.
2. **Shift to Lowest Calculated Responsive Bid as Criterion for award.** Quality and price aspects are de-linked; trade-off is not possible, minimizing misuse/abuse of discretion and creating greater transparency.
3. **Removal of bracketing in evaluating price, available budget will be used as ceiling on bid price** – Removal of floor gives Philippine government more opportunities to save funds; use of a ceiling increases transparency and constrains collusion.
4. **Pre-procurement conference** – results in well-thought of procurement plans; technical specifications are studied prior to bidding resulting in smoother procurement process, increased efficiency and economy; and less probability for prospective bidders to complain.
5. **Standardization of forms** – lessens confusion and the difficulty in completing documents. Incomplete documentation results in failed biddings and opportunities to enter into negotiated procurement which is a less transparent process and results in less probability of complaints from prospective bidders; more simple and thus easier to understand – greater transparency; increased efficiency; less possibility of failed biddings; and less time spent in bidding for same item due to failed biddings.

Room 408 Ateneo Professional Schools, Rockwell Center, Makati City
Telefax: (632) 899-4590; Trunkline: 899-7691 to 98 local 2408 to 2410 Email: tan_secretariat@hotmail.com

Transparency and Accountability Network

6. **Penal and administrative sanctions** -- results in greater accountability for procurement officials.
7. **"Professionalization" of the Bids and Awards Committee** -- ensures the expertise and capacity of BAC members to implement procurement guidelines.
8. **Inclusion of an NGO as BAC observer** -- increases transparency of the procurement process.
9. **Institutionalization of BAC Secretariat** -- creates a single repository of all procurement data.
10. **Jury Duty for BAC members** -- prevents delays as it shall be imperative for Bids and Awards Committee (BAC) members to prioritize biddings.
11. **Legal assistance and indemnification of BAC members** -- increases morale/sense of security of BAC members.
12. **Procurement of Local Government Units shall be covered by this process.** -- increased transparency and equity and lessens confusion and abuse/misuse of discretion.

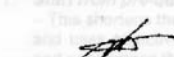
With your shepherding as Chairman of the Committee on Constitutional Amendments, to which the Government Procurement Reform Bills were referred, we ask for your support to calendar a committee hearing for the aforementioned legislative measures, prioritize its discussion in your committee, and support its passage.

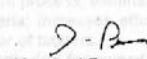
Thank you.

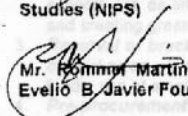
Very truly yours,

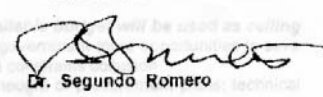
**EXECUTIVE COUNCIL
TRANSPARENCY AND ACCOUNTABILITY NETWORK (TAN)**

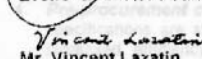
Members:


Atty. Jose Luis Gascon
National Institute of Political
Studies (NIPS)


Mr. Joel Pagsanghan
Philippine Governance Forum

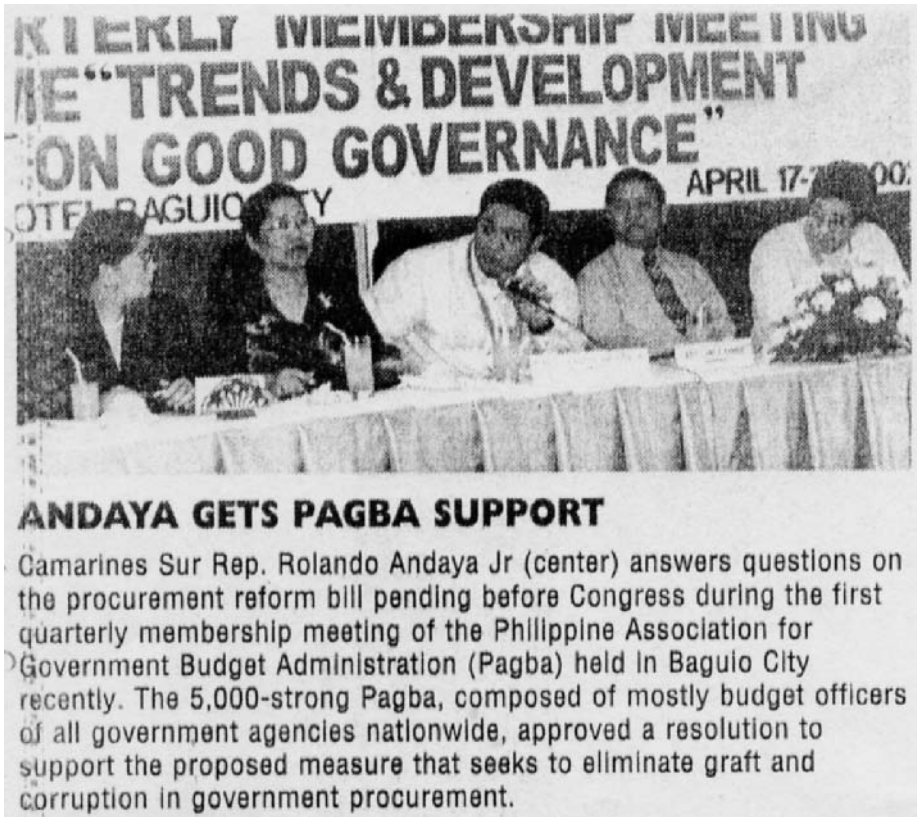

Mr. Rommel Martinez
Evelio B. Javier Foundation


Dr. Segundo Romero


Mr. Vincent Lazatin
pagbabago@philippines

Appendix F

Newsclipping from the *Philippine Daily Inquirer*, May 18, 2002.



Appendix G

**Resolution of the Philippine Association for Government Budget
Administration, Inc.**

Philippine Association for Government Budget Administration, Inc.

GA-4 Building 4, GSIS Metrohomes, GSIS City, Sta. Mesa, Manila
(c/o OFFICE OF THE OMBUDSMAN), Agham Road, Diliman, Quezon City

RESOLUTION

WHEREAS, the Philippine Association of Government Budget (PAGBA), Inc. is an association of government Budget Administrators, Budget Officers and Analyst, with over 3,500 members from all sectors of government, both national and local, state colleges and universities, government-owned and controlled corporations and government financial institutions;

WHEREAS, the Philippine Association of Government Budget Administration (PAGBA), Inc. is a staunch advocate and active partner of government, especially the Department of Budget and Management in introducing reforms and legislation for a more effective public fiscal administration and good governance;

WHEREAS, PAGBA as it is commonly known, has since its organization in 1965, been a vehicle/instrument in periodically bringing to its members, the latest government policies in budget administration and newest trends in public administration, including, taking initiatives in drafting bills to introduce amendments to existing laws, which adversely affect, and/or, benefit its members and all government employees, like the GSIS law on employees' share in contribution and retirement benefits;

WHEREAS, it is PAGBA's vision, and for that matter, all Filipino citizens concerned, to institutionalize good governance in public service through honest and faithful rendition of duty to government;

WHEREAS, pernicious and extensive commission of graft and corruption has practically permeated all aspects of public service, but specially in the procurement of goods, works, infrastructure projects and consulting services because of confusion in the number of laws, rules and regulations and a lack of transparency in the bidding of government contracts;

WHEREAS, there is now pending in the House of Representatives, Congress of the Philippines, a proposed Bill entitled "An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government, and for other purposes" which seeks to integrate all laws and rules on procurement, to safeguard the other resources of government from unnecessary losses and wastage through illegal and improper disposition, and

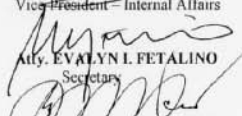
WHEREAS, the aforesaid proposed Bill will embody basic principles to govern all public procurement such as: transparency, competitiveness, a streamlined procurement process, a system of accountability and public monitoring and, an Electronic Procurement System, which certainly will ensure effective in agency and government operations and minimize, if not totally eradicate, graft and corruption.

NOW THEREFORE, for and in consideration of the foregoing premises, the PAGBA Board of Directors and its members fully support this Bill and HEREBY STRONGLY ENDORSE its early approval by honorable representatives and senators of this August body. We, therefore, respectfully call on all members of Congress to fasttrack the approval of this Bill, if we are to successfully eliminate graft and corruption in government.

Approved this 18th day of July, 2002 in Cebu Plaza Hotel, Cebu City, Philippines.

Atty.  **ARILLO E. RAMOS**
President


 **FE C. BELLOSILLO**
Vice-President - Internal Affairs

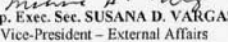
 **EVELYN I. FETALINO**
Secretary

 **ZENaida B. CHANG**
Auditor

 **CECILIA C. ALMAJOSE**
Business Manager

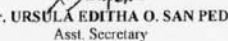
 **MARCELA P. SALES**
Asst. Treasurer

 **MARIO L. RELAMPAGOS**
Executive Vice-President


 **SUSANA D. VARGAS**
Vice-President - External Affairs

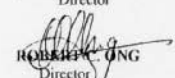
 **LOURDES B. DIMAPILIS**
Treasurer

 **ADELA A. N. B. MARIA**
Public Relations Officer

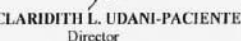
 **URSULA EDITHA O. SAN PEDRO**
Asst. Secretary

BOARD OF DIRECTORS

 **GERARDO F. CARIÑO**
Director

 **ROBERTO C. ONG**
Director

 **ALFREDO E. PEÑOLA, JR.**
Director

 **CLARIDITH L. UDANI-PACIENTE**
Director

The Motif



References

- Bendor, Jonathan, and Terry Moe. 1986. "Agenda Control, Committee Capture, and the Dynamics of Institutional Politics." *American Political Science Review* 80(4):1188–1206.
- Campos, J. Edgardo. 2002. "Holding the Country Hostage: What BIR Saga Means for Juan de la Cruz." *Newsbreak* (Manila), September 16, 2002.
- Denzau, Arthur, and Robert Mackay. 1983. "Gatekeeping and Monopoly Power of Committees: An Analysis of Sincere and Sophisticated Voting Behavior." *American Journal of Political Science* 27(4):740–761.
- DFID. 2003. "What does Drivers of Change mean for DFID?" A draft approach paper.
- Fenno, Richard. 1973. *Congressmen in Committees*. Boston: Little Brown.
- Ferejohn, John. 1974. *Pork Barrel Politics*. Stanford: Stanford University Press.
- Fiorina, Morris. 1977. *Congress: Keystone of the Washington Establishment*. New Haven: Yale University Press.
- Gobiel, Gastan, and Ginette Jobidon. 1999a. "Review and Assessment of Procurement Systems and Procedures in the Philippines." USAID Manila.
- . 1999b. "A Diagnostic Study on the Build-Operate-Transfer Law." USAID Manila.
- Grindle, Merillee. 2002. "Good Enough Governance: Poverty Reduction and Reform in Developing Countries." Report prepared for the Poverty Reduction Group, The World Bank.
- Kaufmann, Daniel. 2003. "Rethinking Governance: Empirical Lessons, Challenge Orthodoxy." Discussion draft, The World Bank.
- Kaufmann, Daniel, Art Kraay, and Pablo Zoldo-Robaton. 1999. "Governance Matters." World Bank Policy Research Department Working Paper No. 2196, Washington, D.C.
- Levy, Brian, and Sahr Kpundeh, eds. 2004. *Building State Capacity in Africa: New Approaches, Emerging Lessons*. World Bank Institute.
- Mackay, Robert, and Carolyn Weaver. 1983. "Commodity Bundling and Agenda Control in the Public Sector." *Quarterly Journal of Economics* 98(4):611–635.
- Mayhew, David. 1974. *Congress: The Electoral Connection*. New Haven: Yale University Press.
- Miller, Gary, and Joe Oppenheimer. 1982. "Universalism in Experimental Committees." *American Political Science Review* 72(2):561–574.
- Oleszek, Walter. 1978. *Congressional Procedures and the Policy Process*. Washington, D.C.: Congressional Quarterly Press.
- Philippine Center for Investigative Journalism (PCIJ). 1998. *Pork and Other Perks: Corruption and Governance in the Philippines*.
- . 2000. *Betrayals of the Public Trust: Investigative Reports on Corruption*.
- Robinson, Mark, Andrew Rosser, and Aaron Schneider. 2004. "The Political Economy of Reforms: Country Lessons and Bank Roles." Workshop, PREM Learning Week, April 28, 2005, World Bank, Washington, D.C.

- Rodrik, Dani, Arvind Subramanian, and Francesco Trebbi. 2002. "Institutions Rule: The Primacy of Institutions over Geography and Integration in Economic Development." Center for International Development at Harvard University Working Paper No. 97.
- Shepsle, Kennet. 1979. "Institutional Arrangements and Equilibrium in Multidimensional Voting Models." *American Political Science Review* 23(1):27–60.
- Shepsle, Kenneth, and Barry Weingast. 1984. "Uncovered Sets and Sophisticated Voting Outcomes with Implications for Agenda Control." *American Journal of Political Science* 28(1):49–74.
- Social Weather Station. 2002. "Surveys of Enterprises on Public Sector Corruption." Presentation, Asian Institute of Management in Manila, Philippines, Intercontinental Hotel, March 21.
- World Bank. 1997. *The World Development Report: The State in a Changing World*. Washington, D.C.
- . 2000. *Anticorruption in Transition*. Washington, D.C.

Eco-Audit

Environmental Benefits Statement

The World Bank is committed to preserving Endangered Forests and natural resources. We print World Bank Working Papers and Country Studies on 100 percent postconsumer recycled paper, processed chlorine free. The World Bank has formally agreed to follow the recommended standards for paper usage set by Green Press Initiative—a nonprofit program supporting publishers in using fiber that is not sourced from Endangered Forests. For more information, visit www.greenpressinitiative.org.

In 2004, the printing of these books on recycled paper saved the following:

Trees*	Solid Waste	Water	Net Greenhouse Gases	Electricity
307	14,387	130,496	28,262	52,480
<small>*40' in height and 6-8" in diameter</small>	Pounds	Gallons	Pounds	KWH



Managing the Politics of Reform is part of the World Bank Working Paper series. These papers are published to communicate the results of the Bank's ongoing research and to stimulate public discussion.

This publication is the second in a series of Working Papers sponsored by the Development Communication Division (DevComm) of the World Bank's External Affairs Vice-Presidency. This series is designed to share innovations and lessons learned in the application of strategic communication in development projects. Together with other donors, NGOs, and private sector partners, DevComm seeks to mainstream the discipline of development communication in development practice.

Over the past 30 years there has been considerable research on the political economy of reform. Yet despite this, little is known about strategies for managing the politics of change—moving from a bad to a better equilibrium. Part of the challenge of studying this issue stems from the difficulty of obtaining detailed, so-called “blow-by-blow” information on actual reform processes. From this type of information, one can discern and cull practical lessons on strategy, which by its very nature is about dealing with political barriers or problems as they crop up during the implementation process. This study looks at the sequence of events that ultimately led to the passage of legislation that markedly altered the rules that govern public procurement in the Philippines. The study attempts to distill operationally useful lessons for managing the politics of a reform process.

World Bank Working Papers are available individually or by subscription, both in print and online.



THE WORLD BANK
1818 H Street, NW
Washington, DC 20433 USA
Telephone: 202 473-1000
Internet: www.worldbank.org
E-mail: feedback@worldbank.org

ISBN 0-8213-6435-9

