

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



**EIGHTEENTH CONGRESS
First Regular Session**

House Resolution No. 359

Introduced by Hon. **RONNIE L. ONG**

RESOLUTION DIRECTING THE COMMITTEE ON GAMES AND AMUSEMENT TO ENSURE THAT THE BIDDING FOR THE PHILIPPINE LOTTERY SYSTEM (PLS) OF THE PHILIPPINE CHARITY SWEEPSTAKES OFFICE (PCSO) SHALL BE IN ACCORDANCE WITH LAWS AND BEST PRACTICES IN ORDER TO PROMOTE THE PRUDENT USE OF PUBLIC FUNDS AND THE BEST INTERESTS OF THE FILIPINO POOR

WHEREAS, the Philippine Charity Sweepstakes Office (PCSO), by virtue of Republic Act No. 1169, as amended by Batas Pambansa Blg. 42, allocates 30% of funds generated from its conduct of sweepstakes, lotto, and other similar activities for health and charitable services to improve the conditions both of the urban poor and the indigent *probinsyanos* nationwide;

WHEREAS, PCSO, in particular, funds the various health and medical services under the Individual Medical Assistance Program (IMAP) in hospitals, PCSO branches and Malasakit centers nationwide;

WHEREAS, this primary objective of the PCSO to provide funds for health programs, medical assistance and services and charities of national character is being undermined by various contract and bidding issues, irregularities and violations, which have been the subject of previous Congressional hearings and legal battles in court and which have cost the government substantial amount of public funds that could have otherwise been used for the betterment of the poor;

WHEREAS, one major issue is PCSO's Equipment Lease Agreements (ELAs) with the Philippine Gaming Management Corporation (PGMC), under the Berjaya Corporation in Malaysia¹, for Luzon operations, and with the Pacific Online Systems Corporation (Pacific Online), under the Sy-led Belle Corporation, for Visayas and Mindanao operations, in line with the National Online Lottery System (NOLS);

¹ Allegedly backed by a former president, as reported by PCSO

WHEREAS, in particular, PCSO's ELA with the PGMC, which was entered into in 1995 for a period of 8 years (but was actually started in 1999) covering the lease of lotto terminals or equipment for the operation of online lottery in Luzon, was found out to be disadvantageous to the government in a Senate Blue Ribbon committee hearing last 2011. It was found out that PCSO was renting equipment from PGMC for \$148 million when it can buy the same equipment for \$25 million;²

WHEREAS, following the recommendation of the Senate, PCSO renegotiated the rental fee with both PGMC and Pacific Online but only the latter conceded to reduce its rental fee from 10% to 7.85% of the gross lotto sales, thereby compelling PCSO to also award to Pacific Online the online lottery operations in Luzon, aside from its operations in Visayas and Mindanao;

WHEREAS, PGMC was able to get a preliminary writ of injunction from court in July 2012 alleging that it has "exclusive right" for Luzon operations and has also succeeded in December 2013 to also enter into agreement with PCSO to submit the exclusivity issue to international arbitration;

WHEREAS, meanwhile, on August 13, 2015, the ELA with PGMC was also extended by PCSO from August 22, 2015 to August 21, 2018³, on the condition that both parties will dismiss their petitions regarding the matter, except the international arbitration;

WHEREAS, while PCSO moved to dismiss its cases, PGMC did not. The latter was also successful in getting another injunction in 2017 to stop PCSO from conducting the public bidding for the NOLS, consisting of a five-year lease of equipment for Php10.906 billion pesos, but only insofar as Luzon operations is concerned⁴;

WHEREAS, PCSO, fortunately, achieved a series of legal victories against PGMC such as:

- 1) Arbitration ruling in February 2018 declaring that PGMC does not have exclusive contractual right and the dismissal of its Php7.6 billion claims for damages;
- 2) Confirmation of the arbitral award by the RTC of Makati on May 25, 2018; and
- 3) Decision of the Supreme Court in August 15, 2018 that lifted the injunction and ruled that PCSO can proceed with its bidding for the NOLS.

² Aside from the issue on rental fee, having two different system providers also lead to different validation machines and processes for winning tickets.

³ This was the second extension. The first was on December 2004 where PCSO extended the ELA with PGMC for 8 years from 2007 to 2015.

⁴ While there was no impediment to bid the Visayas-Mindanao operations, PCSO waited for the resolution of the case for Luzon because the agency considered it a wiser move to procure the NOLS with a nationwide scope.

WHEREAS, despite winning the said cases, PCSO was not able to timely procure the NOLS, which was renamed as the Philippine Lottery System (PLS) covering the whole country, leading to ELA extensions both for PGMC and Pacific Online. The former's ELA for Luzon was extended from August 23, 2018 to August 22, 2019;

WHEREAS, on the other hand, Pacific Online's ELA for Visayas and Mindanao, which was entered into in November 1995 (but, like the ELA with PGMC, was also actually started on a later date), was extended from July 31, 2018 to August 1, 2019 at a reduced rate;⁵

WHEREAS, last July 2019, the procurement for the PLS (5-year contract to supply PCSO with lotto equipment and technology nationwide) pushed through but both PGMC and Pacific Online ultimately did not qualify—the Pacific Online-Scientific Games Joint Venture lacks compliance/legal papers (hence, their financial bid was not opened) while the PGMC, with a bid of PhP7 billion, did not qualify due to non-compliance with the specification of having a biometric authentication;⁶

WHEREAS, because of the failure of bidding, PCSO extended Pacific Online's ELA for another year starting August 1, 2019, but with a lower rental fee;⁷

WHEREAS, aside from the issue on the ELAs for online lottery, the following contracts were also attended with irregularities and/or violations, hampering the delivery by PCSO of its services to the people:

- 1) ELA in 2003 with DFNN for the provision of mobile text betting system supplementing the online lottery, which involved PhP310 million liquidated damages awarded to DFNN but not yet executed; and
- 2) Joint Venture in 2009 with TMA, an Australian firm, for the supply of paper products for lotto tickets for a period of 25 years, renewable for another 25 years, which was unilaterally terminated by PCSO in 2010 and which resulted to, among others, the garnishing of PhP707 million of PCSO fund from PNB.

WHEREAS, other contracts which the PCSO entered into will also expire in the coming months or year such as the ELA with Total Gaming Technologies, Inc., a subsidiary of Pacific Online, that leases equipment to PCSO for the online Keno game until September 30, 2020;

WHEREAS, there is a need to stop the irregularities, violations, disadvantageous terms and/or corruption as regards PCSO contracts, gaming activities and bidding in line with the President's directive to address the

⁵ There were earlier amendments in 2004, 2012, 2013 and 2015 primarily concerning contract extensions.

⁶ The previous Committee on Games and Amusement leadership had stressed that the bidding timeline may be limiting and restrictive to other bidders and may favor incumbents.

⁷ While not in the news, PCSO logically needs to extend also its ELA with PGMC for Luzon.

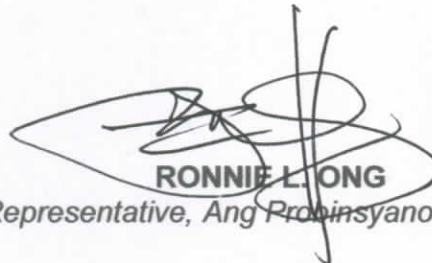
corrupt practices at the PCSO and among the operators of various games; and to revisit these issues so that Congress can assist the PCSO to learn from the lessons of the past and put in place a mechanism to promote transparency and public interests; and

WHEREAS, putting the PCSO in order and addressing the irregularities and violations in the past will help the public regain their trust in the PCSO and the government as a whole and will enable the agency to protect the people's money and sustain its efforts to improve the conditions both of the urban poor and the indigent *probinsyanos* nationwide.

NOW, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, that the House of Representatives directs the Committee on Games and Amusement to ensure that the bidding for the Philippine Lottery System of the PCSO, along with other related procurement activities, shall be in accordance with laws and best practices, especially on procurement, in order to promote the prudent use of public funds and the best interests of the Filipino poor.

RESOLVED FURTHER, that the Committee, learning from the issues and lessons of the previous bidding and contract extensions, shall, with the help of the GPPB and OGCC, assist the PCSO in thoroughly planning and studying the Terms of Reference (including the Filipino nationality of bidders), Coverage, Components/Lots, Timeline and other related procurement such as consultancy, to avoid disadvantageous terms, such as high rental fees, and ensure the success of the upcoming biddings for all expired ELAs.

Approved,



RONNIE L. ONG

Representative, Ang Probinsyano Party-list