

EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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Senate
Office of the Secretary

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SENATE

S.B. No. 918

RECEIVED BY:

Introduced by SEN. WIN GATCHALIAN

**AN ACT FURTHER AMENDING REPUBLIC ACT NO. 8182, AS AMENDED
BY REPUBLIC ACT NO. 8555, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Official Development Assistance (ODA) provides a relatively more concessional means of financing government programs and projects aimed to promote sustainable social and economic development and welfare in the Philippines.

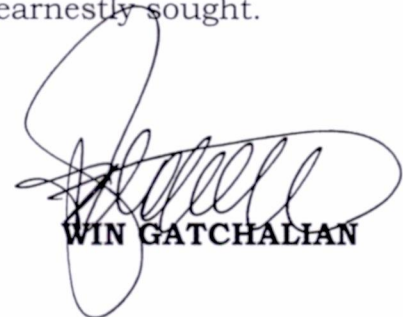
To assist in achieving this goal, Republic Act No. 8182, as amended, or the ODA Law, essentially made it easier for the government to accept non-financial terms prescribed in loan agreements by authorizing the President to waive or modify the application of any provision of law granting preferences or imposing restrictions on procurement – particularly the preferences given to Filipinos. In effect, it enabled the government to consent to the tied-up provisions imposed by ODA lenders requiring the purchase or procurement of goods or services from donor countries of ODA in view of the financial risks they are assuming.

While these loans will enable the Philippine government to deliver necessary development projects and the ODA lender countries will benefit from such tied-up provisions, the ordinary Filipino workers are deprived of the opportunity to work and partake in the benefits of the loan the Filipino

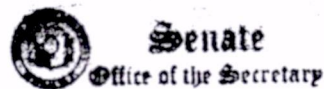
taxpayers will be paying for. Thus, this bill seeks to require foreign bidders or contract awardees coming from donor countries to employ or hire Filipino workers to perform manual, non-technical or other analogous labor in carrying-out these development projects. This legislation proposes that the implementing agencies, together with the Department of Labor and Employment, Department of Justice, and Department of Finance, be primarily responsible in monitoring compliance by these foreign bidders or contract awardees with Philippine laws, rules and regulations, especially those in the interest and for the protection of Filipino workers.

Finally, the necessity to carefully assess the social, environmental and economic impact of these development projects before project approval must be emphasized. This bill thus requires the National Economic and Development Authority to publish the studies on the social, environmental and economic impact of these ODA-funded development projects to promote the transparency of the process and ensure the accountability of the approving authorities and officials.

For the primordial protection and promotion of the best interest of the ordinary Filipino worker, the passage of this bill is earnestly sought.



WIN GATCHALIAN



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**AN ACT FURTHER AMENDING REPUBLIC ACT NO. 8182, AS AMENDED
BY REPUBLIC ACT NO. 8555, AND FOR OTHER PURPOSES**

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

1 Section 1. Section 4 of Republic Act No. 8182 is further amended to
2 read as follows:

3 Section 4. Use of ODA for equitable development. — The
4 proceeds of ODA shall be used to achieve equitable growth and
5 development in all provinces through priority development
6 projects for the improvement of economic and social service
7 facilities taking into account such factors as land area,
8 population, scarcity of resources, low literacy rate, infant
9 mortality and poverty incidence in the area: Provided, That
10 rural infrastructure, countryside development and economic
11 zones established under the PEZA law shall be given preference
12 in the utilization of ODA funds. Towards this end, the National
13 Economic and Development Authority (NEDA) shall endeavor to
14 obtain ODA funds from donor countries, which shall
15 approximately be five percent (5%) of the total ODA loan from
16 the immediately preceding year. Said funds shall be

1 administered by the NEDA for project identification, feasibility
2 studies, master planning at local and regional levels, and
3 monitoring and evaluation: Provided, further, That ODA shall
4 not be availed of or utilized directly or indirectly for the
5 following:

6 (a) Telephone programs contracted as of 1 January
7 1996 except basic telephone programs and projects for
8 rural areas not adequately serviced and/or currently
9 developed by private enterprises shall be entitled to
10 ODA loan availments;

11 (b) Projects mandated primarily by law to be served by
12 the private sector; and

13 (c) Financing for private corporations with access to
14 commercial credit.

15 The NEDA shall ensure that the ODA obtained shall be for
16 previously identified national priority projects which are urgent
17 or necessary. ODA shall not be accepted or utilized solely
18 because of its availability, convenience, or accessibility.

19 THE NEDA SHALL ENSURE THAT THE STUDIES ON THE
20 ECONOMIC, SOCIAL AND ENVIRONMENTAL IMPACT OF
21 APPROVED DEVELOPMENT PROJECTS FUNDED BY ODA
22 LOANS ARE PUBLISHED IN THE NEDA WEBSITE WITHIN
23 FIFTEEN (15) DAYS FROM APPROVAL BY THE NEDA BOARD
24 AND FURNISHED TO THE COMMITTEE ON ECONOMIC
25 AFFAIRS OF THE SENATE AND THE HOUSE OF
26 REPRESENTATIVES OF THE PHILIPPINES AND THE
27 COMMISSION ON AUDIT. THE NEDA SHALL LIKEWISE
28 ANNUALLY PUBLISH AND UPDATE THE LIST OF APPROVED
29 DEVELOPMENT PROJECTS FUNDED BY ODA LOANS.

30
31 Sec. 2. Section 11-A of Republic Act No. 8182, as amended by Republic
32 Act No. 8555, is amended to read as follows:

1 Section 11-A. In the contracting of any loan, credit or
2 indebtedness under this Act or any law, the President of the
3 Philippines may, when necessary, agree to waive or modify the
4 application of any provision of law granting preferences in
5 connection with, or imposing restrictions on, the procurement of
6 goods, [or] services OR INFRASTRUCTURE PROJECTS:
7 Provided, however, That as far as practicable, utilization of the
8 services of qualified Filipino citizens or corporations or
9 associations owned by such citizens in the prosecution of
10 projects financed under this Act shall be prepared on the basis
11 of the standards set for a particular project: Provided, further,
12 That the matter of preference in favor of articles, materials, or
13 supplies of the growth, production or manufacture of the
14 Philippines, including the method or procedure in the
15 comparison of bids for purposes therefor, shall be the subject of
16 agreement between the Philippine Government and the lending
17 institution[.]: PROVIDED, FURTHERMORE, THAT IN THE
18 PROCUREMENT OF SERVICES AND INFRASTRUCTURE
19 PROJECTS, FILIPINOS SHALL BE EMPLOYED OR ENGAGED
20 BY THE WINNING BIDDER OR AWARDEE TO PERFORM
21 MANUAL, NON-TECHNICAL OR ANALOGOUS LABOR, OR SUCH
22 OTHER FUNCTIONS OR POSITIONS AS DETERMINED BY THE
23 DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE): AND
24 PROVIDED, FINALLY, THAT THE IMPLEMENTING AGENCY,
25 TOGETHER WITH THE DOLE, DEPARTMENT OF JUSTICE AND
26 DEPARTMENT OF FINANCE, SHALL MONITOR AND ENSURE
27 COMPLIANCE BY THE WINNING BIDDER OR AWARDEE IN THE
28 PROCUREMENT OF GOODS, SERVICES OR INFRASTRUCTURE
29 PROJECTS WITH ALL PHILIPPINE LAWS, DECREES,
30 EXECUTIVE ORDERS, PROCLAMATIONS, RULES AND
31 REGULATIONS, AND ISSUANCES, ESPECIALLY THOSE IN THE
32 INTEREST AND FOR THE PROTECTION OF FILIPINO
33 WORKERS.

1 THE DOLE SHALL ANNUALLY SUBMIT A REPORT TO
2 THE CONGRESSIONAL OVERSIGHT COMMITTEE ON THE
3 COMPLIANCE BY THE WINNING BIDDERS OR AWARDEES OF
4 APPROVED DEVELOPMENT PROJECTS FUNDED BY ODA
5 LOANS AND THE IMPLEMENTING AGENCIES ON THE
6 REQUIREMENT TO EMPLOY OR ENGAGE ONLY FILIPINO
7 WORKERS UNDER THIS PROVISION.

8
9 Sec. 3. *Implementing Rules and Regulations.* – The DOLE shall
10 promulgate implementing rules and regulations (IRR) to implement the
11 provisions of this Act within sixty (60) days from its approval.

12
13 Sec. 4. *Effectivity.* – This Act shall take effect after fifteen (15) days from
14 its publication in the Official Gazette or in any newspaper of general
15 circulation.

16 Approved,