

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

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SENATE

RECEIVED BY: 

S.B. No. 1150

Introduced by SEN. WIN GATCHALIAN

**AN ACT
REQUIRING FOREIGN BIDDERS AND CONTRACT AWARDEES OF OFFICIAL
DEVELOPMENT ASSISTANCE-FUNDED PROJECTS TO EMPLOY FILIPINOS
WORKERS IN THEIR DEVELOPMENT PROJECTS, 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.



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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 read as
2 follows:

3 Section 4. Use of ODA for equitable development. — The proceeds of
4 ODA shall be used to achieve equitable growth and development in all
5 provinces through priority development projects for the improvement of
6 economic and social service facilities taking into account such factors as
7 land area, population, scarcity of resources, low literacy rate, infant
8 mortality and poverty incidence in the area: *Provided, That* rural
9 infrastructure, countryside development and economic zones established
10 under the PEZA law shall be given preference in the utilization of ODA

1 funds. Towards this end, the National Economic and Development
2 Authority (NEDA) shall endeavor to obtain ODA funds from donor
3 countries, which shall approximately be five percent (5%) of the total
4 ODA loan from the immediately preceding year. Said funds shall be
5 administered by the NEDA for project identification, feasibility studies,
6 master planning at local and regional levels, and monitoring and
7 evaluation: *Provided, further,* That ODA shall not be availed of or utilized
8 directly or indirectly for the following:

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

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

15 (c) Financing for private corporations with access to commercial
16 credit.

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

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

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

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

1 **ISSUANCES, ESPECIALLY THOSE IN THE INTEREST AND FOR THE**
2 **PROTECTION OF FILIPINO WORKERS.**

3 **THE DOLE SHALL ANNUALLY SUBMIT A REPORT TO THE**
4 **CONGRESSIONAL OVERSIGHT COMMITTEE ON THE COMPLIANCE**
5 **BY THE WINNING BIDDERS OR AWARDEES OF APPROVED**
6 **DEVELOPMENT PROJECTS FUNDED BY ODA LOANS AND THE**
7 **IMPLEMENTING AGENCIES ON THE REQUIREMENT TO EMPLOY**
8 **OR ENGAGE ONLY FILIPINO WORKERS UNDER THIS PROVISION.**
9

10 *Sec. 3. Implementing Rules and Regulations.* – The DOLE shall promulgate
11 implementing rules and regulations (IRR) to implement the provisions of this Act within
12 sixty (60) days from its approval.
13

14 *Sec. 4. Separability Clause.* – If any provision of this Act is declared invalid or
15 unconstitutional, the provisions not affected thereby shall remain in full force and effect.
16

17 *Sec. 5. Repealing Clause.* - All laws, acts, presidential decrees, executive orders,
18 administrative orders, rules and regulations, or parts thereof, inconsistent with or
19 contrary to the provisions of this Act are hereby amended, modified or repealed
20 accordingly.
21

22 *Sec. 6. Effectivity.* – This Act shall take effect after fifteen (15) days from its
23 publication in the Official Gazette or in any newspaper of general circulation in the
24 Philippines.

Approved,