



**TWENTIETH CONGRESS OF THE]
REPUBLIC OF THE PHILIPPINES]
First Regular Session]**

25 NOV 12 P5:38

SENATE

RECEIVED BY: _____

S.B. No. 1514

Introduced by SEN. WIN GATCHALIAN

**AN ACT
REQUIRING FOREIGN BIDDERS AND CONTRACT AWARDEES OF OFFICIAL
DEVELOPMENT ASSISTANCE-FUNDED PROJECTS TO EMPLOY FILIPINO
WORKERS IN THEIR DEVELOPMENT PROJECTS, FURTHER AMENDING
REPUBLIC ACT NO. 8182, AS AMENDED BY REPUBLIC ACT NO. 8555, AND
FOR OTHER PURPOSES**

EXPLANATORY NOTE

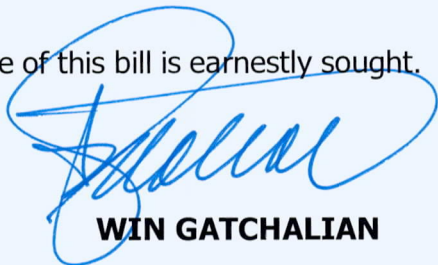
Official Development Assistance (ODA) provides a relatively more concessional means of financing government programs and projects aimed to promote sustainable social and economic development and welfare in the Philippines.

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 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 lenders countries will benefit from such tied-up provisions, the ordinary Filipino worker is deprived of the opportunity to work and partake in the benefits of the loan which they, as taxpayers will be paying for. Thus, this bill seeks to require foreign bidders or contract awardees 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 Department of Economy, Planning, and Development 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.

In light of the foregoing, support for the passage of this bill is earnestly sought.



WIN GATCHALIAN

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**AN ACT
REQUIRING FOREIGN BIDDERS AND CONTRACT AWARDEES OF
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EMPLOY FILIPINO WORKERS IN THEIR DEVELOPMENT PROJECTS,
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 (RA) No. 8182, as amended by RA
2 No. 8555, is further amended to read as 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
10 established under the PEZA law shall be given preference in the
11 utilization of ODA funds. Towards this end, the **DEPARTMENT OF**
12 **ECONOMY, PLANNING, AND DEVELOPMENT (DEPDEV)** [National
13 Economic and Development Authority (NEDA)] shall endeavor to obtain
14 ODA funds from donor countries, which shall approximately be five

1 percent (5%) of the total ODA loan from the immediately preceding year.
2 Said funds shall be administered by the **DEPDEV [NEDA]** for project
3 identification, feasibility studies, master planning at local and regional
4 levels, and monitoring and evaluation: *Provided, further,* That ODA shall
5 not be availed of or utilized directly or indirectly for the following:

- 6 (a) Telephone programs contracted as of 1 January 1996 except basic
7 telephone programs and projects for rural areas not adequately
8 served and/or currently developed by private enterprises shall be
9 entitled to ODA loan availments;
- 10 (b) Projects mandated primarily by law to be served by the private
11 sector; and
- 12 (c) Financing for private corporations with access to commercial credit.

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

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

28 SEC. 2. Section 11-A of RA No. 8182, as amended by RA No. 8555, is
29 amended to read as follows:

30 "Section 11-A. In the contracting of any loan, credit or indebtedness
31 under this Act or any law, the President of the Philippines may, when

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

29 **THE DOLE SHALL ANNUALLY SUBMIT A REPORT TO THE**
30 **CONGRESSIONAL OVERSIGHT COMMITTEE ON THE**
31 **COMPLIANCE BY THE WINNING BIDDERS OR AWARDEES OF**
32 **APPROVED DEVELOPMENT PROJECTS FUNDED BY ODA LOANS**

1 **AND THE IMPLEMENTING AGENCIES ON THE REQUIREMENT TO**
2 **EMPLOY OR ENGAGE ONLY FILIPINO WORKERS UNDER THIS**
3 **PROVISION.”**

4
5 SEC. 3. *Implementing Rules and Regulations.* – The DOLE shall
6 promulgate implementing rules and regulations to implement the provisions of
7 this Act within sixty (60) days from its approval.

8
9 SEC. 4. *Separability Clause.* – If any portion or provision of this Act is
10 declared invalid or unconstitutional, the provisions not affected thereby shall
11 remain in full force and effect.

12
13 SEC. 5. *Repealing Clause.* – All laws, decrees, executive orders, rules,
14 regulations, and issuances which are inconsistent with this Act are hereby
15 repealed, amended, or modified accordingly.

16
17 SEC. 6. *Effectivity.* – This Act shall take effect after fifteen (15) days from
18 its publication in the Official Gazette or in a national newspaper of general
19 circulation.

Approved,