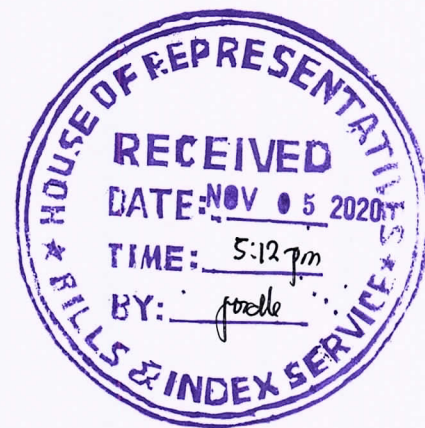


1 Republic of the Philippines
2 **HOUSE OF REPRESENTATIVES**
3 Quezon City

4
5 **EIGHTEENTH CONGRESS**
6 Second Regular Session

7
8 **HOUSE BILL No. 7963**
9



10
11 *Introduced by*

12 **BAYAN MUNA Representatives FERDINAND R. GAITE,**
13 **CARLOS ISAGANI T. ZARATE and EUFEMIA C. CULLAMAT,**
14 **ACT TEACHERS Party-List Representative FRANCE L. CASTRO,**
15 **GABRIELA Women's Party Representative ARLENE D. BROSAS**
16 **and KABATAAN Party-List Representative SARAH JANE I. ELAGO**
17

18
19 **AN ACT**
20 **ENSURING THE EFFECTIVENESS OF ALL LOCAL OFFICIAL DEVELOPMENT**
21 **ASSISTANCE (ODA) LOANS AND GRANTS, AMENDING FOR THE PURPOSE**
22 **REPUBLIC ACT 8182 OTHERWISE KNOWN AS THE OFFICIAL**
23 **DEVELOPMENT ASSISTANCE ACT OF 1996, AS AMENDED,**
24 **AND FOR OTHER PURPOSES.**
25

26 **EXPLANATORY NOTE**
27

28 Government policy on Official Development Assistance (ODA) is defined by the ODA Act of
29 1996 (Republic Act 8182, as amended by R.A. 8555). The law identifies the criteria for what
30 counts as ODA or aid, defines oversight bodies and functions, and sets parameters for the use
31 of aid.
32

33 Ideally, foreign aid is supposed to contribute to national development and the realization of
34 economic, social, cultural and political rights of its beneficiaries. In principle it should add to
35 the limited financial and technical resources for programs and projects of the national
36 government, local government units and civil society.
37

38 In reality, however, ODA has traditionally been used by the donor countries as a conduit for
39 the export of excess capital and goods. As such, aid is often used to penetrate the economies of
40 recipient countries, impose conditionalities suited to the economic and political interests of
41 donors and creditors, or, at the very least, provide an incentive for beneficiaries to follow a
42 certain path of development not necessarily in accordance with the donor's interests.
43

44 In the case of the Philippines, ODA unduly reflects collective donor preferences and not the
45 social and development imperatives of the country. Ironically, aid has tended to reinforce,
46 rather than remedy the basic problems in the official development strategies of the country.
47

48 The largest part of aid goes to infrastructure in areas of the country with relatively high-value
49 economic activity or to projects with direct economic returns rather than to much needed social
50 services or to rural areas where outcomes, though less visible or not immediately measurable.

1 The recent high-profile cases of corruption and rent-seeking in the aid system are also matters
2 of serious concerns.

3
4 Aid infrastructure projects, aside from being often implemented by contractors and consultants
5 from donor countries, also tend to locate where transnational firms can most benefit from their
6 use. In severe instances, ODA projects have been implemented in ways that violate the human
7 rights of host communities, that economically and physically displace marginalized sectors,
8 and that have adverse impacts on the environment.

9
10 Indeed, much has to be done to reform the ODA system of the country, if only to mitigate the
11 insidious nature of development aid and to maximize whatever benefits it may provide to the
12 people. The general direction must be to build democratic ownership, improve transparency
13 and accountability, and encourage stakeholder vigilance and checks and balances in all levels
14 of implementation. It is also vital to assert the sovereignty of the country, and by doing so
15 greatly improve its negotiating leverage vis-a-vis donors and lenders.

16
17 Some constructive steps towards addressing a number of these concerns can be taken with the
18 amendments to the current ODA Law. By introducing such amendments, the authors by no
19 means have the illusion that the self-serving (to the donor) nature of development aid can be
20 altered. Only that somehow, some safeguards for its abuses are put in place in order to
21 maximize whatever potential benefit it may have.

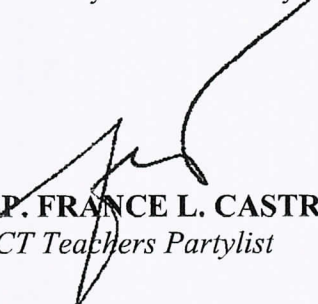
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23 In view of the foregoing, approval of this bill is earnestly sought.

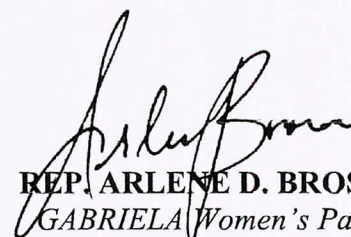
24
25 *Approved,*

26
27
28
29 
30 **REP. FERDINAND R. GAITE**
31 *Bayan Muna Partylist*

32
33
34 
35 **REP. CARLOS ISAGANI T. ZARATE**
36 *Bayan Muna Partylist*

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39 **REP. EUFEMIA C. CULLAMAT**
40 *Bayan Muna Partylist*

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42 
43 **REP. FRANCE L. CASTRO**
44 *ACT Teachers Partylist*

45
46 
47 **REP. ARLENE D. BROSAS**
48 *GABRIELA Women's Party*

49
50 
REP. SARAH JANE I. ELAGO
Kabataan Partylist

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18
19 **AN ACT**
20 **ENSURING THE EFFECTIVENESS OF ALL LOCAL OFFICIAL DEVELOPMENT**
21 **ASSISTANCE (ODA) LOANS AND GRANTS, AMENDING FOR THE PURPOSE**
22 **REPUBLIC ACT 8182 OTHERWISE KNOWN AS THE OFFICIAL**
23 **DEVELOPMENT ASSISTANCE ACT OF 1996, AS AMENDED,**
24 **AND FOR OTHER PURPOSES.**
25

26 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
27 *assembled:*
28

29 **Section 1. Short Title.** This act shall be known as the "Aid Effectiveness Act of 2020".
30

31 **Section 2.** Section 2 of Republic Act No. 8182 is hereby amended as follows:
32

33 Sec. 2. Official Development Assistance (ODA) AND AID EFFECTIVENESS. -
34 For purposes of this Act, ODA is a loan or loan and grant, which MEETS all of
35 the following criteria for ODA TO BE EFFECTIVE:
36

37 (a) IT MUST BE ADMINISTERED WITH THE OBJECTIVES OF
38 PROMOTING AND ACHIEVING SUSTAINED REDUCTION
39 OF POVERTY AND INEQUALITY, SUPPORTING THE
40 ENJOYMENT OF HUMAN RIGHTS, DEMOCRACY,
41 ENVIRONMENTAL SUSTAINABILITY AND GENDER
42 EQUALITY FOR THE FILIPINO PEOPLE;
43

44 (b) IT MUST BE CONTRACTED WITH GOVERNMENTS OF
45 FOREIGN COUNTRIES WITH WHOM THE PHILIPPINES
46 HAS DIPLOMATIC, TRADE RELATIONS OR BILATERAL
47 AGREEMENTS, OR WHICH ARE MEMBERS OF THE
48 UNITED NATIONS, THEIR AGENCIES AND
49 INTERNATIONAL OR MULTILATERAL LENDING
50 INSTITUTIONS, BASED ON THE PRINCIPLES OF

1 DEMOCRATIC OR COUNTRY OWNERSHIP AND MUTUAL
2 ACCOUNTABILITY WITH THE UTMOST INTENTION OF
3 UPLIFTING THE ECONOMIC, SOCIAL AND CULTURAL
4 CONDITION OF THE FILIPINO PEOPLE;

5
6 (c) There are no available comparable financial instruments in the
7 capital market; and

8
9 (d) It must contain a grant element of at least twenty five percent
10 (25%). Grant element under this Act is the reduction enjoyed by the
11 borrower whenever the debt service payments which shall include both
12 principal and interest and expressed at their present values discounted
13 at ten percent (10%) OR AT THE YIELD ON COMPARABLE
14 COMMERCIAL BONDS MOST RECENTLY ISSUED BY THE
15 NATIONAL GOVERNMENT, WHICHEVER IS LOWER, are less
16 than the face value of the loan or loan and grant. The grant element of
17 a loan or loan and grant is computed at the ratio of (i) the difference
18 between the face value of the loan or loan and grant and the debt service
19 payments to (ii) the face value of the loan or loan and grant.
20

21 **Section 3.** Sec. 4 of Republic Act No. 8182, as amended, is hereby further amended to read
22 as follows:

23
24 Sec. 4. Use of ODA for Equitable Development - The process of ODA shall be used to
25 achieve equitable growth and development in all regions and provinces through priority
26 development projects for the improvement of economic and social service facilities
27 taking into account such factors as land area, population, scarcity of resources, low
28 literacy rate, infant mortality, and poverty incidence in the area; Provided, That rural
29 infrastructure, countryside development and social welfare projects and programs
30 established under the law shall be given preference in the utilization of ODA funds;
31 PROVIDED, FURTHER, THAT STUDIES ON THE SOCIAL AND ECONOMIC
32 IMPACT OF THE DEVELOPMENT PROJECT ARE CONDUCTED AND THE
33 INTENDED TARGET GROUPS OF THE PROJECT ARE CONSULTED.
34

35 Towards this end, the National Economic and Development Authority (NEDA) shall
36 endeavor to obtain ODA funds from donor countries, which shall approximately be five
37 percent (5%) of the total ODA loan from the immediately preceding year. Said funds
38 shall be administered by the NEDA for project identification, feasibility studies, master
39 planning at local and regional levels, and monitoring and evaluation; Provided, further,
40 that ODA shall not be availed of or utilized directly or indirectly for the following:

41
42 (a) Telephone programs contracted as of 1 January 1996 except basic telephone
43 programs and projects for rural areas not adequately serviced and/or currently
44 developed by private enterprises shall be entitled to ODA loan availments;

45
46 (b) Projects mandated primarily by law to be served by the private sector; and

47
48 (c) Financing for private corporations with access to commercial credit.
49

50 The NEDA shall ensure that the ODA obtained shall be for previously identified

national priority projects which are urgent or necessary. ODA shall not be accepted or utilized solely because of its availability, convenience, or accessibility.

Section 4. Sec. 6 of Republic Act No. 8182 is hereby amended to read as follows:

Sec. 6. Mechanism for the Distribution and Utilization of ODA Funds - The President of the Republic of the Philippines, upon recommendation of the NEDA AND UPON APPROVAL OF THE CONGRESS, shall develop and formulate the mechanism for the equitable distribution and utilization of ODA funds to all provinces consistent with the provisions of this Act.

Section 5. Sec. 8 of Republic Act No. 8182 is hereby amended to read as follow:

Sec. 8. Oversight. - Pursuant to its constitutional duties, the Executive Department, particularly NEDA, the Commission on Audit and Congress shall discharge Oversight functions, to wit;

(a) the NEDA shall conduct annual review of the status of all projects financed by ODA, identify causes of delays, reasons for bottlenecks, cost overruns, both actual and prospective, and continued viability, and report to Congress not later than June 30 each year; and

(c) There shall be a Congressional Oversight Committee composed of the Chairpersons of the Committee on Ways and Means of both the Senate and the House of Representatives, five (5) members each from the Senate and the House representing the Majority and two (2) members each from the Senate and the House representing the Minority to be designated by the leaders of the Majority and Minority in the respective chambers.

THE CONGRESSIONAL OVERSIGHT COMMITTEE SHALL HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES, AMONG OTHERS:

(1) MONITOR AND ENSURE THE PROPER IMPLEMENTATION OF THIS ACT;

(2) REVIEW ODA LOANS OR LOANS AND GRANTS INCURRED AND ENTERED INTO BY THE PHILIPPINE GOVERNMENT;

(3) ENSURE THAT MECHANISMS ARE IN PLACE THAT WILL ALLOW CONGRESS TO ASSESS AND REJECT CONDITIONALITY, IF NEED BE, WHEN THESE CONDITIONS RUN COUNTER TO THE INTEREST OF THE COUNTRY;

(4) REVIEW THE IMPLEMENTATION AND STUDY THE IMPACT OF ODA-ASSISTED DEVELOPMENT PROJECTS; AND

(5) INITIATE INDEPENDENT IMPACT STUDIES OF ODA PROJECTS. IN FURTHERANCE THEREOF, THE COMMITTEE IS EMPOWERED TO REQUIRE GOVERNMENT ENTITIES IMPLEMENTING ODA-ASSISTED PROJECTS, THE SUBMISSION OF ALL PERTINENT INFORMATION ABOUT THE MATTER.

Section 6. Republic Act No. 8182 is hereby further amended to include a new Sec. 8-A and

1 Sec. 8-B to read as follows:

2
3 Sec. 8-A. ROLE OF CIVIL SOCIETY ORGANIZATIONS - THE GOVERNMENT
4 SHALL ENCOURAGE A WIDE RANGE OF INVOLVEMENT OF
5 STAKEHOLDERS AND A PARTICIPATORY PROCESS IN THE MATTER OF
6 MONITORING AND EVALUATING ODA PROJECTS. CIVIL SOCIETY
7 ORGANIZATIONS SHALL PLAY IMPORTANT ROLES IN THE FOLLOWING,
8 AMONG OTHERS:

9
10 (1) IN DETERMINING MORE APPROPRIATE INDICATORS AND
11 MEASUREMENTS OF AID EFFECTIVENESS IMPACT; AND

12
13 (2) AS A WATCHDOG IN THE EFFICIENT, EFFECTIVE, AND TRANSPARENT
14 IMPLEMENTATION OF ODA PROJECTS FROM THE PROJECT
15 CONCEPTUALIZATION UNTIL ITS COMPLETION.

16
17 SEC. 8-B. CITIZEN'S PARTICIPATION IN ODA PROJECTS - IN FURTHERANCE
18 OF THE OVERSIGHT FUNCTION PROVIDED FOR IN SEC. 8-A, THERE SHALL
19 BE CREATED A CITIZEN'S PARTICIPATION COMMITTEE FOR EACH ODA
20 PROJECT TO BE COMPOSED OF CIVIL SOCIETY ORGANIZATIONS WHICH
21 WILL MONITOR AND REVIEW ODA-FUNDED PROJECTS AND GIVE
22 RECOMMENDATIONS FOR ITS PROPER IMPLEMENTATION.

23
24 THE NEDA SHALL CRAFT THE APPROPRIATE RULES AND REGULATIONS
25 TO EFFECTIVELY IMPLEMENT SEC.-B OF THIS ACT IN CONSULTATION
26 WITH VARIOUS CIVIL SOCIETY STAKEHOLDERS.

27
28 **Section 7.** Sec. 10 of Republic Act No. 8182 is hereby amended to read as follows:

29
30 Sec. 10. Report - It shall be the duty of the President of the Republic of the Philippines
31 to submit, within thirty (30) days after the opening of every regular session, a separate
32 report to each member of Congress on the amount of ODA loans and grants incurred
33 under this Act, INCLUDING THE RECEIPT AND DISBURSEMENT OF AID
34 FLOWS IN THE NATIONAL BUDGET.

35
36 **Section 8.** Sec. 11 of Republic Act No. 8182 is hereby amended to read as follows:

37
38 Sec. 11. Implementation, Restrictions, Rules and Regulations. In the implementation of
39 the projects:

40
41 (a) Consultants for the feasibility and design aspects of the project may not participate,
42 directly or indirectly, in any subsequent phase of project implementation;

43
44 (b) Project execution shall not be delegated by the implementing agency except where
45 the latter does not have the capacity to implement such project;

46
47 (c) In the hiring of consultants, contractors, architects, engineers, and other
48 professionals necessary for a project's implementation, Filipinos shall be given

1 preferences;

2
3 (d) In the purchase of supplies and materials, preference shall be given to Filipino
4 suppliers and manufacturers, [so long as the same shall not adversely alter or affect the
5 project, and such supplies and materials are to the] WHO MEET the standards specified
6 by the consultants, contractors, architects, engineers, and other professional connected
7 with the projects; and
8

9 (e) ODA projects shall not be exempt from the requirement of first obtaining an
10 Environmental Compliance Certificate (ECC), or other such certificates and clearances
11 necessary or required by law for the purpose of environmental protection, from the
12 Department of Environment and Natural Resources (DENR) or proper government
13 agency, as the case may be. The NEDA shall promulgate the Implementing Rules and
14 Regulations (IRR) to implement this Act within thirty (30) days from its approval. The
15 IRR shall take effect five (5) days after publication in a newspaper of general
16 circulation.
17

18 **Section 9. Separability.** Provisions herein which may be declared unconstitutional shall not
19 affect the effectivity and enforcement of other provisions of this Act.
20

21 **Section 10. Repealing Clause.** All laws, decrees, executive orders, rules and regulations and
22 other issuances inconsistent with this Act are hereby repealed or amended accordingly.
23

24 **Section 11. Effectivity.** This Act shall take effect after five (5) days from its publication in
25 the Official Gazette or in atleast two (2) national newspapers of general circulation.
26

27
28 *Approved,*