

Implementing Rules and Regulations (IRR) for Republic Act (R.A.) 8182, Otherwise Known as "The Official Development Assistance (ODA) Act of 1996"

Approved by the
National Economic and Development Authority (NEDA) Board on 23 July 1996

Rule 1. Preliminary Provision

These Implementing Rules and Regulations (IRR) shall cover all official development assistance loans or loans and grants as hereunder defined, contracted by the President on behalf of the National Government on or after 1 January 1995 under Republic Act (R.A.) 8182 amending Paragraph 1, Section 2 of R.A. 4860, as amended.

Rule 2. General Provisions

Section 2.1 Definition of Terms. For purposes of these Implementing Rules and Regulations, the terms and phrases hereunder shall be understood as follows:

- a. Act - Refers to R.A. 8182, amending Paragraph 1, Section 2 of R.A. 4860.
- b. Implementing Agency/Agencies - Refers to any department, bureau, office, commission, authority or agency of the national government, including government-owned or -controlled corporations (GOCCs), authorized by law or their respective charters, and Local Government Units (LGUs) likewise authorized by law to undertake development projects.
- c. Weighted Average Grant Element - Refers to the sum of the products of: (i) the grant element of the ODA loan or loan and grant and (ii) the proportion of the loan or loan and grant to the total outstanding loans and loans and grants.
- d. Interest rate - The interest rate of the loan or the loan component of the loan and grant is the nominal interest rate at the time the loan is contracted.
- e. ODA-Assisted Project - Refers to a project that is funded partly or

Rule 5. Counterpart and Proceeds of Loans and Loans and Grants

Section 5.1 General Principles on Budget. All expenditures, inclusive of counterpart and proceeds of loans and loans and grants funds, must be included in the annual national expenditure program to be submitted to Congress for approval.

Section 5.2 Budget Requirement. The budgetary requirements for the two succeeding years, inclusive of local counterpart and proceeds of loans and loans and grants of ODA-assisted projects shall be determined during the annual ODA Portfolio Review conducted by NEDA during the second semester of the year. The heads of all concerned implementing agencies, or their authorized representatives, shall certify and approve the budget estimates submitted for this exercise. NEDA and DBM shall work closely to ensure that the projected budgets are consistent with the Work and Financial Plans and Programs of Work for the projects.

The budget requirements of projects that are meant to cover cost overruns shall only be included in the national expenditure program to be submitted to Congress with the prior approval of the ICC.

Section 5.3 Agency Submission of Budget Documents. All implementing agencies shall submit to the NEDA Secretariat, for the purpose of conducting the annual ODA Portfolio Review, the following project information:

- a. Status of project implementation to include:
 - i. cumulative physical targets and actual accomplishments expressed in output indicators and relative percentage accomplishments;
 - ii. corresponding budget support and funds utilization; and,
 - iii. schedule of implementation, indicating whether the project

a. Adjustment in rates in accordance with the pertinent provisions of E.O. 164 IRR on procurement of consulting services;

b. Additional works not covered under the scope of works contained in the consulting services agreement; and,

c. Additional costs that may be incurred due to reasonable delays (greater than 15% of approved contract duration) in project implementation due to acts undeniably attributable to government and/or force majeure.

Such increase in costs shall be covered by a supplemental agreement and subject to the approval of the concerned head of agency or governing boards of government-owned and -controlled corporations (GOCCs) and government financing institutions (GFIs), but in no case shall the total costs, including such increase, exceed the limits of the percentage fees set forth under the pertinent provisions of E.O. 164 and its IRR on procurement of consulting services.

Rule 7. Continuous and Effective Monitoring

Section 7.1 Monitoring of Ongoing ODA-Assisted Projects. The NEDA shall conduct the continuous and effective monitoring of all ongoing ODA-assisted projects. For this purpose, all concerned implementing agencies with ODA-assisted projects shall submit to the NEDA Secretariat not later than four (4) weeks after the end of every quarter, reports containing the following information:

- a. Physical targets and actual accomplishments;
- b. Budget allocation, project expenditures and loan and loan and grant disbursements;
- c. Statement of expenses submitted to funding agencies per month.

c. **Weighted Average Grant Element** - Refers to the sum of the products of: (i) the grant element of the ODA loan or loan and grant and (ii) the proportion of the loan or loan and grant to the total outstanding loans and loans and grants.

d. **Interest rate** - The interest rate of the loan or the loan component of the loan and grant is the nominal interest rate at the time the loan is contracted.

e. **ODA-Assisted Project** - Refers to a project that is funded partly or wholly by an ODA loan or loan and grant.

f. **Counterpart Funds** - Refers to the component of the project cost to be financed from government-appropriated funds, as part of the government's commitment in the implementation of the project. In the case of government-owned and -controlled corporations, the total peso counterpart may be the equity contribution of the national government and/or internally generated cash.

g. **Head of Agency** - Refers to the authorized approving authority of the Agency, local government unit, and, in the case of a GOCC, the GOCC Governing Board.

h. **Local Government Units (LGUs)** - Refers to provincial, city and/or municipal government entities.

i. **IRR** - Refers to the Implementing Rules and Regulations of R.A. 8182, unless otherwise specified.

j. **Cost Overruns** - Refers to additional costs over and above the ICC-approved project cost.

k. **Project Cost** - Shall include construction cost, price, administrative and physical contingencies and interest during construction.

l. **Loan and Grant** - Refers to a financing facility that combines a loan and grant, neither of which can be offered independently to the borrower.

m. **Loan Proceeds** - Refers to loan or loan and grant disbursements for ODA-assisted projects.

n. **Supplies** - Shall include both goods and equipment.

Rule 3. Funds for Project Development

Section 3.1 Funds Sourcing and Administration. The NEDA shall aim to obtain ODA funds worth approximately five (5) percent of total ODA loans and loans and grants committed in the immediately preceding year for project identification, preparation of feasibility studies, including environmental impact assessment, master planning, and monitoring and evaluation of projects. The NEDA Secretariat shall coordinate the efforts

a. **Status of project implementation to include:**

i. cumulative physical targets and actual accomplishments expressed in output indicators and relative percentage accomplishments;

ii. corresponding budget support and funds utilization; and,

iii. schedule of implementation, indicating whether the project would be completed on schedule, or when slippage is expected, the extent of and factors causing such slippage;

b. Projected annual physical targets, by component, and the corresponding budget requirements for the remaining years of project implementation;

c. Explanations for implementation delays encountered, if any, and actions taken;

d. Magnitude of and explanations for cost overruns incurred, if any, and prospective cost overruns to be incurred for the remaining years of project implementation;

e. Summary of expenditures for land/right-of-way acquisition, capital outlays, consulting services and project management office operations; and,

f. Other information which may be relevant in assessing the progress of implementation of the project.

Implementing agencies may use existing forms that provide the required information and shall adopt additional reporting forms as may be prescribed by NEDA in providing other relevant information.

Section 5.4 Projects with Cost Overruns. Projects with cost overruns, regardless of cause, shall be remanded to the ICC for reappraisal.

The reappraisal will determine the continued viability of the projects and the reasonable levels of cost overruns that shall be the bases for recommending additional appropriations to be included in the annual national expenditure program to be submitted to Congress.

A quarterly report on projects with cost overruns shall be submitted by the NEDA Secretariat to ICC for inclusion in the annual report to Congress.

Rule 6. Government Procurement

Section 6.1 Project Execution. As a general rule, all government projects

with ODA-assisted projects shall submit to the NEDA Secretariat not later than four (4) weeks after the end of every quarter, reports containing the following information:

a. Physical targets and actual accomplishments;

b. Budget allocation, project expenditures and loan and loan and grant disbursements;

c. Statement of expenses submitted to funding agencies per month during the quarter;

d. Implementation delays experienced and actions taken;

e. Recommended actions or action plan to resolve implementation problems; and,

f. Other information which may be relevant in assessing the progress of implementation of the project.

The implementing agencies shall also provide the above-cited information to the Project Monitoring Committees (PMCs) of the regions, provinces, cities and municipalities established under E.O. 93 (s.1993) amending E.O. 376 (s.1989) creating the Regional Project Monitoring and Evaluation System (RPMES); at the regional level, these may be forwarded to the NEDA Regional Offices (NROs) which serve as the secretariats of the Regional Project Monitoring Committees (RPMCs).

The NEDA shall report to the President within six (6) weeks after the end of each semester the overall performance of all ongoing ODA-assisted projects.

Section 7.2 Monitoring Officers. Heads of agencies shall be responsible for the monitoring of projects and the submission of appropriate reports to the NEDA Secretariat. Each concerned agency shall designate a senior official as Monitoring Officer or his alternate to serve as agency liaison for purposes of monitoring.

Section 7.3 Reporting on Contracts. All implementing agencies shall submit copies of contracts costing P1 million and above for consultancy and P10 million and above for civil works and supplies in accordance with pertinent provisions of existing laws such as P.D. 1594, E.O.s 164 and 302, among others, and their respective rules and regulations for purposes of NEDA's monitoring of project execution. These shall include implementation schedules using project management tools showing quarterly programmed physical outputs. Quarterly projected payments to contractors, quarterly reports on approved claims due to price escalation and variation orders of previously awarded contracts as well as other pertinent information regarding contract administration shall likewise be submitted.

... obtain ODA funds worth approximately 5% of total ODA loans and grants committed in the immediately preceding year for project identification, preparation of feasibility studies, including environmental impact assessment, master planning, and monitoring and evaluation of projects. The NEDA Secretariat shall coordinate the efforts in obtaining ODA funds for the said activities. Should portions of the funds be sourced from ODA lending institutions, NEDA and DBM shall establish a mechanism for securing appropriations cover for the utilization of such portions of the fund. The guidelines for the administration of the funds shall be submitted by the NEDA Secretariat for approval by the NEDA Board.

Section 3.2 Forms of Assistance. ODA resources to be channelled to the said activities may, among others, take the following forms of assistance:

- a. Technical assistance projects designed to conduct any of the above-mentioned project development/master planning activities in support of local/regional or sectoral investment priorities;
- b. Conduct of project development/master planning activities as a component of a larger investment package to be financed by an ODA donor/creditor;
- c. Technical assistance facilities designed to accommodate multiple project proposals for project development/master planning activities;
- d. Conduct of and/or technical assistance for the monitoring of ongoing ODA-assisted projects; and,
- e. Conduct of post-evaluation and impact assessment of completed ODA-assisted projects.

Section 3.3 Counterpart Funds. Government counterpart funds for ODA projects for the activities enumerated in this rule shall be imputed within the regular budgets of the agencies.

Rule 4. ICC Processing and Approval

Processing of projects proposed to be financed by ODA loans or loans and grants shall be in accordance with the Investment Coordination Committee's (ICC) (i) Guidelines and Procedures and (ii) Project Evaluation Guidelines and Procedures. These guidelines and procedures shall be updated as may be necessary to reflect the developments in government policies, procedures and methodologies regarding investment programming and project evaluation.

Rule 6. Government Procurement

Section 6.1 Project Execution. As a general rule, all government projects funded partly or wholly through ODA shall be administered by the concerned implementing agencies. In case a government project is of such magnitude or scope as would require a level of expertise or attention beyond the capability of the agency concerned, the head of agency may delegate project execution subject to the submission of a report indicating the reasons and justifications therefor for approval by the ICC and confirmation of the NEDA Board.

Section 6.2 Filipino Preference/Association by Foreign Firms with Local Firms/Practitioners. In order to develop/upgrade a pool of Filipino experts and managers, the role of technology transfer in the implementation of development projects shall be ensured. To effect technology transfer to local firms/individuals, foreign consulting and/or construction firms wishing to participate in development projects in the Philippines shall be required to associate themselves with local firms and/or shall be required to engage Filipinos in carrying out the projects which they are selected to undertake. Such preference shall not adversely affect the project and shall meet the minimum standards/specifications required thereof.

The foregoing paragraph shall be without prejudice to existing laws including but not limited to R.A. 4860 (Foreign Borrowings Act), Presidential Decree (P.D.) 1594 (for procurement of civil works), Executive Orders (E.O.s) 164 (for the procurement of consulting services) and 302 (for procurement of goods/equipment).

Section 6.3 Competitive Procurement. All procurement shall be conducted in an open, fair, transparent and competitive manner in accordance with the provisions of P.D. 1594, E.O. 164 and E.O. 302 and their respective IRRs.

Section 6.4 Limitations on Consultants and Consultancy Firms. Consultants and consulting firms engaged in the feasibility studies and design aspects of the project may not participate directly or indirectly in any subsequent phase of project implementation.

Section 6.5 Costs of Consultant Services. For consulting services contracts, no increase in costs shall be allowed beyond and above the contract amount indicated in the agreement for consulting services except for the following:

variation orders of previously awarded contracts as well as other pertinent information regarding contract administration shall likewise be submitted.

The implementing agencies have the sole responsibility for determining the technical, financial, legal and moral soundness of each contract. The ICC-approved project cost shall serve as basis for NEDA's monitoring of cost overruns.

Section 7.4 Disaggregation of Reporting Data. To facilitate the monitoring of the equitable allocation and use of ODA among provinces, all implementing agencies shall include the provincial breakdown of physical accomplishments and funds utilization in reports to be submitted to the NEDA Secretariat.

Rule 8. Reporting

NEDA shall report to Congress the outcome of the annual ODA Portfolio Review including the performance of projects financed by ODA, causes of delays, reasons for bottlenecks, cost overruns, both actual and prospective, not later than June 30 of every year.

Rule 9. Final Provisions

Section 9.1 Existing Laws. The rules contained herein are without prejudice to the application of existing laws not expressly amended under R.A. 8182.

Section 9.2 Effectivity of the IRR and Amendments. These IRR, including any subsequent amendments thereto, shall take effect five (5) days after their publication in a newspaper of general circulation. No amendments to these IRR may be adopted and prescribed without due public consultations.

Attested by:



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Director-General, NEDA,
Vice-Chairman, NEDA Board and
Chairman, IRR Committee