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SENATE

S. B. No. 2375

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Introduced by **Senator TEOFISTO "TG" GUINGONA III**

AN ACT PROVIDING FOR THE ACCREDITATION OF NON-GOVERNMENT ORGANIZATIONS AND PEOPLE'S ORGANIZATIONS ELIGIBLE TO ACCESS GOVERNMENT FUNDS AND FOR A SYSTEM OF ACCOUNTABILITY AND TRANSPARENCY FOR THE USE OF THESE FUNDS

Explanatory Note

Owing to the serious allegations of massive misappropriation of the Priority Development Assistance Fund (PDAF), which was accomplished purportedly through certain dubious non-government organizations (NGOs), it is imperative that a law should be passed creating a body that shall authenticate NGOs and People's Organizations (POs) receiving funds from the government.

The law envisions the Department of Social Welfare and Development (DSWD) to serve as the government's central accrediting agency, which will be mandated to screen and monitor NGOs and POs, which wish to participate in government contracts. Such validation process would ensure that these entities are legitimate, committed, and competent enough to participate in the implementation of government programs using public funds.

To further enhance the DSWD's role as accreditation body, it is mandated to collaborate with government agencies such as the Department of Budget and Management (DBM), and relevant private sector stakeholders such as NGOs, POs, and the Philippine Council for NGO Certification (PCNC).

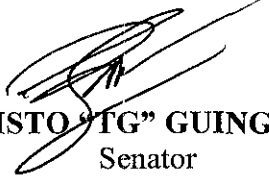
Ultimately, the DSWD, as the central accrediting agency of NGOS and POs, would be tasked to determine whether or not these entities should be given the "seal of good housekeeping," which would allow them to transact with the government.

Another landmark feature of the bill is the government audit of NGOs and POs, which are recipients of government funds, in line with the principle, that government funds, granted to NGOs/POs, shall retain their character as public funds.

The passage of this bill will enhance transparency, accountability and good governance in the allocation and utilization of public funds by ensuring that only legitimate entities that have good reputations for integrity, established track records and proven contributions to the betterment of society, would be able to participate in government projects.

In view of the foregoing, the immediate enactment of this measure is earnestly sought.

20



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

1 **SECTION 1. Short Title.** - This Act shall be known as the "NGO Accreditation for
2 Government Fund Releases Act."
3

4 **SECTION 2. Declaration of Policy.**—It is hereby declared a State policy to encourage
5 independent non-government organizations (NGOs) and People's Organizations (POs) to involve
6 themselves in undertakings, which promote the interest and welfare of the nation. As facilitators
7 of the people's interests at the grassroots level, these organizations may implement programs and
8 projects using public funds. Use of such funds shall, at all times, be governed by the principles of
9 effectiveness, efficiency, economy, transparency, and accountability, and shall not be prejudicial
10 to the public service. It is also the policy of the State to vigilantly guard against organizations
11 misappropriating public funds for private ends to the detriment of the public good and of public
12 service.
13

14 **SECTION 3. Coverage.** – This Act shall cover all non-government organizations
15 (NGOs) and people's organizations (POs) that seek to implement programs and projects using
16 public funds from any department, agency, and instrumentality of the national government and
17 local government units, including government-owned and controlled corporations, and their
18 subsidiaries, either through competitive bidding or through direct releases to beneficiaries
19

20 **SECTION 4. Definition of Terms.** – As used in this Act:

- 21
22 (a) **Accreditation** refers to the in-depth assessment of the capability and capacity of
23 a non-government organization or a people's organization to undertake projects
24 in connection with the regular programs of government involving the provision
25 of goods and services to the public and to determine whether government funds

1 may be entrusted to them to successfully accomplish the particular purpose for
2 which the funds are to be released in a timely, cost-efficient and transparent
3 manner;

- 4
- 5 (b) **Beneficiary** refers to the community or any of its sectors, which is the intended
6 recipient of the results of the developmental efforts of the NGO or PO, which
7 may include, but should never be solely, the NGO and PO themselves or their
8 members;
- 9
- 10 (c) **Funds** refer to the government funds from any national government agency, local
11 government unit, government-owned or controlled corporation and their
12 subsidiaries, or any other instrumentality, official or agent of the government;
- 13
- 14 (d) **Fund Utilization Report (FUR)** refers to a document showing the summary of
15 how funds entrusted to an NGO or PO was utilized for a given period of time;
- 16
- 17 (e) **Government Organization (GO)** refers to departments, agencies, and
18 instrumentalities of the national government and local government units,
19 including government-owned and controlled corporations and their subsidiaries;
- 20
- 21 (f) **Implementer** refers to NGOs or POs, which are entrusted with government
22 funds to implement a particular program or project for the social good;
- 23
- 24 (g) **Non-government organization (NGO)** refers to a non-profit, voluntary
25 organization and foundation committed to the task of socio-economic
26 development and established primarily for public service;
- 27
- 28 (h) **People's organization (PO)** refers to a *bona fide* association of citizens with
29 demonstrated capacity to promote the public interest and with identifiable
30 leadership, membership and structure. This independent community and/or class-
31 based association is established to protect and advance the interest of specific
32 causes or sectors of society.
- 33

34 **SECTION 5. Accreditation** - No NGO or PO shall be eligible to implement publicly-
35 funded programs and projects without being accredited pursuant to this Act.

36

37 An NGO or PO, seeking eligibility to implement publicly-funded programs and projects
38 shall apply for accreditation with the Central Accrediting and Repository Agency of the
39 government, based on the criteria set forth in Section 7 of this Act: *Provided*, That the
40 government office, where an NGO or PO seeks to obtain funds may impose additional
41 requirements for accreditation based on specific circumstances or special needs of the program
42 and project.

43

44 An NGO or PO seeking accreditation shall pay an accreditation fee to defray the costs
45 incurred in the accreditation processes. The accreditation given to any NGO or PO shall be valid

1 for at least three (3) years, and may, after review and assessment of the Central Accrediting and
2 Repository Agency, be renewed every three years thereafter.

3
4 **SECTION 6. *The Department of Social Welfare and Development as Central***
5 ***Accrediting and Repository Agency.*** – The Department of Social Welfare and Development
6 (DSWD) shall serve as the Central Accrediting and Repository Agency of the government.
7

8 As Central Accrediting and Repository Agency of the government, the DSWD is tasked
9 to issue a certificate of accreditation which would certify as to the authenticity and capacity of
10 the NGO/PO to participate in the implementation of government programs using public funds
11 and its compliance with the criteria for accreditation. It shall also maintain a database for
12 accredited NGOs/POs.
13

14 In addition, the DSWD should coordinate with the Department of Budget and
15 Management (DBM), and may also engage in partnerships and consultations with the private
16 sector, such as other accreditation bodies, in the exercise of its functions as the Central
17 Accrediting and Repository Agency of NGOs and POs.
18

19 **SECTION 7. *Criteria for Accreditation.*** – An applicant NGO or PO shall be required to
20 satisfactorily prove and provide evidence on the following:
21

22 (a) *Organizational Profile* – The applicant NGO/PO must provide an official organizational
23 profile, which will detail, among others, its history, vision, mission and goals, governance
24 structure, practices, affiliations, and the like.
25

26 (b) *Years of Existence* - The applicant NGO/CSO/PO must have been in existence and
27 operational for at least three (3) years prior to its application for accreditation. A Certificate
28 of registration with the Securities and Exchange Commission (SEC) and/or the concerned
29 regulatory agencies, depending on the nature of the service required to be rendered, shall be
30 necessary to prove years of existence. Photographs, receipts, employment contracts, proofs of
31 billing, certificate of acceptance under oath by the chief executive officer of the applicant
32 NGO/PO, and other documentary evidence may be used to prove active operations;
33

34 (c) *Legal Personalities* - The incorporators, organizers, officers, personnel and
35 members of the applicant NGO/PO should be natural persons. Necessary documents to be
36 submitted as proof are the authenticated copy of its latest Articles of Incorporation or the
37 Articles of Cooperation, as the case may be, Secretary's Certificate for incumbent officers,
38 together with the Certificate of Filing with the SEC, or a Certificate of Approval by the
39 Cooperative Development Authority (CDA), two (2) government issued identification cards
40 with photograph of each of the named incorporators, organizers, officers, personnel and
41 members, employment contracts of all personnel and a Secretary's Certificate on the persons
42 who are the incorporators, organizers, officers, personnel or members;
43

44 (d) *Fund Sources and Financial Condition* –It is in a stable financial condition, and that
45 government releases shall not be its sole source of funds. Financial Reports, audited by an

1 Independent Certified Public Accountant, for the past two (2) years preceding the application
2 for accreditation, shall be necessary to show its financial condition;

3
4 (e) *Place of Business* -It has an operational office in its registered place of business.
5 Documents to be submitted include Mayor's or Business Permit, Barangay Clearance, and
6 photographs of the office or place of business;

7
8 (f) *Successful Track Record* - It has a successful track record of providing assistance to
9 its members and/or beneficiaries. A sworn statement by its President detailing its
10 accomplishments, projects and programs undertaken and list of actual beneficiaries with
11 their contract details shall be necessary for this purpose. Photographs and other documents
12 that could support the claims made therein shall accompany the sworn statement. If it has
13 previously been entrusted with government releases, a sworn statement detailing the status
14 of the project or program that availed of Government Funds shall also be mandatory;

15
16 (g) *Compliance with all Reportorial Requirements*- It is in compliance with all reportorial
17 requirements of relevant regulating agencies. Necessary documents shall include SEC
18 annual submission of General Information Sheet and Audited Financial Statements, among
19 others;

20
21 (h) *Non-existence of a Conflict of Interest and Nepotism*- No real or apparent conflict of
22 interest exists with it being entrusted with government releases. Necessary documents
23 for this purpose are Disclosure Statements signed by each of its incorporators, organizers,
24 officers and personnel enumerating their relatives by consanguinity and affinity up to the
25 fourth civil degree, who are officials or employees of Government Organizations, and a
26 sworn statement signed by President disclosing the organization's related businesses, if
27 any, and the extent of ownership therein; and

28
29 (i) *Legitimacy and Commitment to Public Service*- It is a legitimate NGO/PO committed to
30 public service and working for the public good. Evidence of this may include membership
31 in good standing of coalitions, accreditations given by its peers and/or private or
32 government organizations, field reviews to show public acceptance, accreditation and/or
33 recognition by international bodies, among others.

34
35 **SECTION 8. *Projects Eligible for Government Releases.*** – The types of programs and
36 projects that may be subject of government releases shall be strictly limited to those that are
37 beyond the capability of the government organization to undertake, which include, but not
38 limited to, any undertaking that involves construction, maintenance, operations and management
39 of infrastructure projects and livelihood programs and projects. In that case, a memorandum of
40 agreement (MOA) shall be executed between the department/ agency involved and the NGO/PO
41 to clearly define the undertaking/ sharing of activities.

42
43 **SECTION 9. *Eligibility of NGOs/POs in Government Procurement.***– After
44 accreditation, the NGO/PO shall be eligible to participate in the procurement of goods and
45 services as contractor, as stipulated under Republic Act No. 9184 or the "*Government*
46 *Procurement Reform Act.*" *Provided,* That the NGO/PO may submit unsolicited proposals, which

1 may be accepted by any government agency or local government unit on a negotiated basis, after
2 meeting the following conditions: a) the programs and projects involve a new concept of
3 technology and b) the programs and projects are beyond the capacity of the government to
4 implement: *Provided further*, That in the event another NGO/PO submits a proposal with a lower
5 price, the original proponent shall have the right to match that price within thirty (30) working
6 days.

7
8 To enhance the transparency of the process, the Bids and Awards Committee (BAC)
9 shall, in all stages of the procurement process, invite, in addition to the representatives of COA,
10 some observers to sit in its proceedings.

11
12 **SECTION 10. *Government Audit of NGOs and POs which are recipients of public***
13 ***funds.*** – In addition to accreditation, NGOs/POs that are public fund recipients, shall be subject
14 to audit. The Commission on Audit shall audit NGOs/POs that implement programs and projects
15 using public funds received from any government organization, in accordance with the
16 Commission’s pertinent rules and regulations.

17
18 **SECTION 11. *Anti-Nepotism.*** – Any NGO/PO, which has an incorporator, organizer,
19 officer or personnel related within the fourth degree of consanguinity or affinity to any
20 government official whose approval, whether discretionary or ministerial, is necessary in
21 effecting the fund release from any government organization, shall be ineligible to participate in
22 publicly-funded programs and projects.

23
24 **SECTION 12. – *Public Disclosure.***– All programs and projects implemented by an
25 NGO/PO using public funds, including the status of implementation thereof, and a fund status
26 report summarizing all funds received by the NGO/PO per program or project with the
27 corresponding expenses incurred, and fund balances, shall be posted in the websites of the
28 government organization, the Philippine Government Electronic Procurement System
29 (PhilGEPS) and the NGO/PO, if available.

30
31 The information shall also be posted in three (3) conspicuous public places for one (1)
32 month, such as on public information boards of the government organization, public markets,
33 and other points of human convergence.

34
35 **SECTION 13. *Submission and Posting of Fund Utilization Report.***– One (1) month
36 after the actual disbursement of government funds and every month thereafter until the
37 completion of the program or project, the NGO/PO shall submit to the releasing government
38 organization and the DWSD a Fund Utilization Report (FUR). The FUR shall be posted
39 physically in the public information boards and in the websites of the concerned government
40 organization as well as of the NGO/PO, if available.

41
42 The concerned NGO/PO, shall also submit to the DSWD, a declaration that government
43 funds had been actually disbursed to it by the concerned government organization, within 15
44 days from disbursement, for purposes of monitoring the pending projects.

1 **SECTION 14. *Monitoring and Evaluation.*** – In addition to the DSWD, the respective
2 government agencies shall, in coordination with the NGO/PO representatives, monitor the proper
3 usage of government funds entrusted to the organizations, the proper implementation of the
4 subject programs and projects, the proper distribution to intended beneficiaries, and compliance
5 with time schedules for the completion of programs and projects, and the like.
6

7 The government organization shall validate the reports through on-site assessment and
8 field interviews. The result of monitoring shall be used to evaluate the problems and issues and
9 to provide the framework of intervention by the government organization.
10

11 **SECTION 15. *Penalties.*** – Any NGO/PO that fails to complete the program and project,
12 or fails to liquidate the funds upon demand by the government organization, shall suffer a
13 penalty ranging from suspension of accreditation, revocation of accreditation, or disqualification
14 from obtaining programs and projects from any government organization, without prejudice to
15 further civil or criminal liabilities of its incorporators, organizers or officers.
16

17 Any government organization that releases public funds to unaccredited NGO/PO shall
18 incur administrative, civil or criminal liabilities, under relevant laws.
19

20 **SECTION 16. *Implementing Rules and Regulations.*** – The DSWD, DBM, and relevant
21 stakeholders such as NGOs, POs, accreditation bodies and the like shall formulate the Rules
22 and Regulations implementing the provisions of this Act within thirty (30) days from the
23 effectivity hereof.
24

25 **SECTION 17. *Separability Clause.*** – If any section or part of this Act is held
26 unconstitutional or invalid, the other sections or provisions shall remain in full force and effect.
27

28 **SECTION 18. *Repealing Clause.*** – All laws, decrees, executive orders, rules and
29 regulations, issuances or any part thereof, insofar as they are inconsistent with the provisions of
30 this Act, are deemed repealed.
31

32 **SECTION 19. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
33 publication in the Official Gazette or in a newspaper of general circulation.
34
35

36 Approved,
37