



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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**GRECO ANTONIOUS BEDA B.
 BELGICA,**

Petitioner,

G.R. No. 210503

Present:

- versus -

BERSAMIN, C.J.,
 CARPIO,
 PERALTA,
 PERLAS-BERNABE,
 LEONEN,
 CAGUIOA,
 A. REYES, JR.,
 GESMUNDO,
 J. REYES, JR.,
 HERNANDO,
 CARANDANG,
 LAZARO-JAVIER,
 INTING,* and
 ZALAMEDA, JJ.

**THE HONORABLE EXECUTIVE
 SECRETARY, THE
 HONORABLE SECRETARY OF
 BUDGET, AND THE PHILIPPINE
 CONGRESS, AS REPRESENTED
 BY THE HONORABLE SENATE
 PRESIDENT AND THE
 HONORABLE SPEAKER OF THE
 HOUSE OF REPRESENTATIVES,**
 Respondents.

Promulgated:

October 8, 2019

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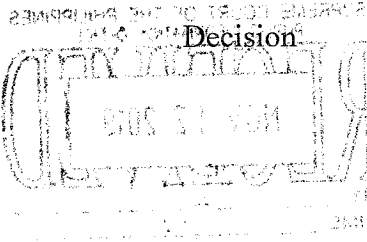
DECISION

PER CURIAM:

Before the Court is a petition for *certiorari* and prohibition (Petition) assailing the constitutionality of the “lump-sum discretionary funds” in the 2014 General Appropriations Act¹ (GAA), including, among others, the Unprogrammed Fund, the Contingent Fund, the E-Government Fund, and the Local Government Support Fund (collectively, the specifically assailed appropriations).

* On official business.

¹ Republic Act No. (RA) 10633, entitled “APPROPRIATING FUNDS FOR THE OPERATION OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES FROM JANUARY ONE TO DECEMBER THIRTY-ONE, TWO THOUSAND AND FOURTEEN, AND FOR OTHER PURPOSES.”



The Facts

On November 19, 2013, the Court rendered its Decision in *Belgica v. Ochoa, Jr.*² (2013 *Belgica* case), declaring certain provisions of the 2013 GAA unconstitutional. The dispositive portion of the Court's Decision in the 2013 *Belgica* case reads:

WHEREFORE, the petitions are **PARTLY GRANTED**. In view of the constitutional violations discussed in this Decision, the Court hereby declares as **UNCONSTITUTIONAL**: **(a)** the entire 2013 Priority Development Assistance Fund [(PDAF)] Article; **(b)** all legal provisions of past and present Congressional Pork Barrel Laws, such as the previous PDAF and [Countrywide Development Fund (CDF)] Articles and the various Congressional Insertions, which authorize/d legislators — whether individually or collectively organized into committees — to intervene, assume or participate in any of the various post-enactment stages of the budget execution, such as but not limited to the areas of project identification, modification and revision of project identification, fund release and/or fund realignment, unrelated to the power of congressional oversight; **(c)** all legal provisions of past and present Congressional Pork Barrel Laws, such as the previous PDAF and CDF Articles and the various Congressional Insertions, which confer/red personal, lump-sum allocations to legislators from which they are able to fund specific projects which they themselves determine; **(d)** all informal practices of similar import and effect, which the Court similarly deems to be acts of grave abuse of discretion amounting to lack or excess of jurisdiction; and **(e)** the phrases (1) “and for such other purposes as may be hereafter directed by the President” under Section 8 of Presidential Decree No. 910 and (2) “to finance the priority infrastructure development projects” under Section 12 of Presidential Decree No. 1869, as amended by Presidential Decree No. 1993, for both failing the sufficient standard test in violation of the principle of non-delegability of legislative power.³

In fine, the Court's Decision in the 2013 *Belgica* case abolished the “pork barrel system” in its latest iteration as the Priority Development Assistance Fund (PDAF) Article in the 2013 GAA, and similar informal practices that allowed individual legislators to participate in the execution of the budget through post-enactment measures of identification of projects, for violation of the separation of powers — by impinging on the authority of the Executive to implement the national budget.

As well, the 2013 *Belgica* case declared as unconstitutional the broad standards of “other purposes as may be hereafter directed by the President,” and “priority infrastructure development projects” for the use of the President's Social Fund and the Malampaya Fund, respectively, for being insufficient standards to check the President's discretion as to the use of these lump-sum funds.

² 721 Phil. 416 (2013).

³ *Id.* at 582.

Republic Act No. (RA) 10633 or the 2014 GAA was subsequently passed on December 27, 2013. It appropriated funds for the operations of the government for fiscal year 2014.

On January 13, 2014, Greco Antonious Beda B. Belgica (Petitioner) filed the instant Petition, seeking to declare all lump-sum appropriations in the 2014 GAA unconstitutional, including the specifically assailed appropriations. Petitioner asserts that the lump-sum discretionary funds in the 2014 GAA were passed in violation of the Constitution, since these funds are of the same character as the pork barrel funds which were declared unconstitutional in the 2013 *Belgica* case, and should thus be prohibited.

Petitioner sought the issuance of a *status quo ante* order to prevent the use and disbursement of the specifically assailed lump-sum funds pending resolution of this Petition. However, no *status quo ante* order was issued by the Court.

Subsequently, the parties submitted their respective pleadings.

The Issues

Based on the issues submitted by the parties in their pleadings, the Court is called upon to determine whether the lump-sum appropriations found in the 2014 GAA are unconstitutional for:

1. violating the doctrine on non-delegability of legislative power;
2. violating the essence and purpose of separation of powers (*i.e.*, checks and balances) and the democratic process; and
3. failing to comply with the requirements of a valid appropriation, the line-item veto power of the President, and Executive Order No. (EO) 292,⁴ otherwise referred to as the Administrative Code of 1987.

Discussion

Procedural Issues

In resorting to the remedy of *certiorari* under Rule 65, Petitioner implores the Court to exercise its power of judicial review to secure the reliefs sought.

⁴ INSTITUTING THE "ADMINISTRATIVE CODE OF 1987", July 25, 1987.

The Court's power of judicial review — specifically its power to review the constitutionality of the actions of other branches of government⁵ — is subject to well-defined limitations, to wit: “(1) there must be an actual case or controversy calling for the exercise of judicial power; (2) the person challenging the act must have the standing to question the validity of the subject act or issuance, [or,] otherwise stated, he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement; (3) the question of constitutionality must be raised at the earliest opportunity; and (4) the issue of constitutionality must be the very *lis mota* of the case.”⁶

Actual case or controversy

The requirement of an actual case or controversy stems from Section 1, Article VIII of the Constitution, which includes within the sphere of judicial power “the duty x x x to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.”

Jurisprudence defines an actual case or controversy as “one which ‘involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute.’”⁷ Subsumed in the requirement of an actual case or controversy is the requirement of ripeness, and “[f]or a case to be considered ripe for adjudication, it is a prerequisite that something has then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to himself as a result of the challenged action.”⁸ To be sure, the Court may not wield its power of judicial review to address a hypothetical problem.⁹ “Without any completed action or a concrete threat of injury to the petitioning party, the act is not yet ripe for adjudication.”¹⁰

The Executive Secretary, the Secretary of Budget, the Senate, and the House of Representatives (collectively, Respondents), through the Office of the Solicitor General (OSG), aver that unlike the 2013 *Belgica* case, which had been prompted by the “findings of irregularities by the Commission on Audit [(COA)] over the use of the PDAF,” no such findings have been alleged by Petitioner so as to warrant judicial intervention.¹¹

⁵ See *Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc.*, 802 Phil. 116, 149 (2016).

⁶ See *Lawyers Against Monopoly and Poverty (LAMP) v. The Secretary of Budget and Management*, 686 Phil. 357, 369 (2012).

⁷ *Samahan ng mga Progresibong Kabataan v. Quezon City*, 815 Phil. 1067, 1090 (2017).

⁸ *Id.* at 1090. Emphasis and underscoring omitted.

⁹ See *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*, supra note 5, at 146-147.

¹⁰ *Id.* at 146.

¹¹ Memorandum of Respondents, p. 18, *rollo*, p. 170.

By challenging the validity of the specifically assailed appropriations, Petitioner questions the implementation of what he characterizes as unconstitutional provisions of the 2014 GAA. Such a challenge has been deemed by the Court as sufficient to afford ripeness to a controversy, involving as it does the possible misapplication of public funds which cause “injury or hardship to taxpayers.”¹²

Hence, the requisite of an actual case or controversy to allow the Court’s exercise of its power of judicial review is satisfactorily met.

Mootness

The Petition assails what it considers lump-sum discretionary funds in the 2014 GAA. In view of the lapse of the said year and the enactment of GAAs for subsequent years, this may raise questions on mootness.

Suffice it to state, however, that the Court may resolve cases otherwise moot and academic, when: (1) there is a grave violation of the Constitution; (2) the exceptional character of the situation and the paramount public interest is involved; (3) when constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; and (4) the case is capable of repetition yet evading review.¹³ The Petition falls under the last three exceptions.

Undoubtedly, this case involves paramount public interest as it deals with the constitutionality of appropriations of public funds. Moreover, the case involves issues concerning significant constitutional principles such as separation of powers, valid delegation, and appropriation.

The constitutional issues raised by Petitioner also require the formulation of controlling principles to guide the Executive, the Legislative, and the public. While the 2013 *Belgica* case drew a conceptual distinction between the two kinds of lump-sum discretionary funds, (*i.e.*, the “Congressional Pork Barrel”¹⁴ and the “Presidential Pork Barrel”), the Court therein “delimit[ed] the use of such term to refer only to the Malampaya Funds and the Presidential Social Fund.”¹⁵ Hence, there is a need to determine the scope of the Executive’s authority with respect to the utilization and management of lump-sum discretionary funds.

Moreover, the Petition presents a case that is capable of repetition, yet evading review. In 2013 *Belgica* case, the Court ruled:

¹² On the issue of ripeness, see generally *Lawyers Against Monopoly and Poverty (LAMP) v. Secretary of Budget and Management*, supra note 6, at 370.

¹³ *Manalo v. Calderon*, 562 Phil. 281, 292-293 (2007).

¹⁴ Understood in the 2013 *Belgica* case as appropriated funds subject to post-enactment legislator approval.

¹⁵ *Belgica v. Ochoa, Jr.*, supra note 2, at 533.

Finally, the application of the fourth exception is called for by the recognition that the preparation and passage of the national budget is, by constitutional imprimatur, an affair of annual occurrence. The relevance of the issues before the Court does not cease with the passage of a “PDAF-free budget for 2014.” The evolution of the “Pork Barrel System,” by its multifarious iterations throughout the course of history, lends a semblance of truth to petitioners’ claim that “the same dog will just resurface wearing a different collar.” In *Sanlakas v. Executive Secretary*, the government had already backtracked on a previous course of action yet the Court used the “capable of repetition but evading review” exception in order “[t]o prevent similar questions from re-emerging.” The situation similarly holds true to these cases. **Indeed, the myriad of issues underlying the manner in which certain public funds are spent, if not resolved at this most opportune time, are capable of repetition and hence, must not evade judicial review.**¹⁶ (Emphasis supplied)

The same reasoning applies squarely in this case. In fact, the GAAs enacted since the filing of the Petition contained appropriations for the Unprogrammed Fund, Contingent Fund, and Local Government Support Fund. Failing the formulation of controlling principles, petitions assailing these subsequent appropriations may likely be filed again.

Substantive Issues

The rule on singular correspondence in the 2013 Belgica case

At the outset, it must be noted that Petitioner heavily anchors the present challenge on his literal reading of the rule on singular correspondence in the 2013 *Belgica* case which purportedly invalidated lump-sum appropriations that he characterizes as “Presidential Pork Barrel.” As well, Petitioner vacillates between claiming that the decision therein made a wholesale declaration of unconstitutionality of lump-sum appropriations,¹⁷ and conceding that lump-sum appropriations are not unconstitutional *per se*.¹⁸

Thus, **it is necessary to begin the discussion by resolving Petitioner’s foremost premise that the 2013 Belgica case ruled upon the general question of constitutionality of lump-sum appropriations per se.** Petitioner bases this premise upon the following quoted portion of the Court’s Decision therein which, according to him, amounts to a wholesale declaration of unconstitutionality of all lump-sum discretionary funds:

Further, it is significant to point out that an item of appropriation must be an item characterized by **singular correspondence** — meaning an allocation of a **specified singular amount for a specified singular purpose**, otherwise known as a “line-item.” This treatment not only allows

¹⁶ Id. at 524-525.

¹⁷ Petition, pp. 14-15, *rollo*, pp. 16-17.

¹⁸ Reply, p. 3, *id.* at 75.

the item to be consistent with its definition as a “specific appropriation of money” but also ensures that the President may discernibly veto the same. Based on the foregoing formulation, the existing Calamity Fund, Contingent Fund and the Intelligence Fund, being appropriations which state a specified amount for a specific purpose, would then be considered as “line-item” appropriations which are rightfully subject to item veto. Likewise, **it must be observed that an appropriation may be validly apportioned into component percentages or values; however, it is crucial that each percentage or value must be allocated for its own corresponding purpose for such component to be considered as a proper line-item.** Moreover, as Justice Carpio correctly pointed out, a valid appropriation may even have several related purposes that are by accounting and budgeting practice considered as one purpose, e.g., MOOE (maintenance and other operating expenses), in which case the related purposes shall be deemed sufficiently specific for the exercise of the President’s item veto power. Finally, special purpose funds and discretionary funds would equally square with the constitutional mechanism of item-veto for as long as they follow the rule on singular correspondence as herein discussed. Anent special purpose funds, it must be added that Section 25 (4), Article VI of the 1987 Constitution requires that the “special appropriations bill **shall specify the purpose for which it is intended, and shall be supported by funds actually available as certified by the National Treasurer, or to be raised by a corresponding revenue proposal therein.**” Meanwhile, with respect to discretionary funds, Section 25 (6), Article VI of the 1987 Constitution requires that said funds “shall be disbursed only for public purposes to be **supported by appropriate vouchers and subject to such guidelines as may be prescribed by law.**”

In contrast, what beckons constitutional infirmity are appropriations which merely provide for a **singular lump-sum amount** to be tapped as a source of funding for **multiple purposes**. Since such appropriation type necessitates the further determination of **both the actual amount** to be expended **and the actual purpose** of the appropriation which must still be chosen from the multiple purposes stated in the law, it cannot be said that the appropriation law already indicates a “specific appropriation of money” and hence, without a proper line-item which the President may veto. As a practical result, the President would then be faced with the predicament of either vetoing the entire appropriation if he finds some of its purposes wasteful or undesirable, or approving the entire appropriation so as not to hinder some of its legitimate purposes. Finally, it may not be amiss to state that such arrangement also raises non-delegability issues considering that the implementing authority would still have to determine, again, both the actual amount to be expended and the actual purpose of the appropriation. Since the foregoing determinations constitute the integral aspects of the power to appropriate, the implementing authority would, in effect, be exercising legislative prerogatives in violation of the principle of non-delegability.¹⁹ (Additional emphasis supplied)

Petitioner’s heavy reliance on the 2013 *Belgica* case as precedent to argue that lump-sum appropriations are unconstitutional *per se* is erroneous. **The rule on singular correspondence therein distinguished what is a**

¹⁹ *Belgica v. Ochoa, Jr.*, supra note 2, at 551-553.

prohibited lump-sum. Identifying the Calamity Fund, the Contingent Fund, and the Intelligence Fund as valid appropriations, the Court explained that:

x x x Based on the foregoing formulation, the existing Calamity Fund, Contingent Fund and the Intelligence Fund, being appropriations which state a specified amount for a specific purpose, would then be considered as “line-item” appropriations which are rightfully subject to item veto. Likewise, **it must be observed that an appropriation may be validly apportioned into component percentages or values; however, it is crucial that each percentage or value must be allocated for its own corresponding purpose for such component to be considered as a proper line-item.** x x x²⁰ (Additional emphasis supplied)

The requirement of singular correspondence does not mean that all lump-sum appropriations are unconstitutional *per se*; hence, the specifically assailed appropriations are constitutional.

As explained in the Concurring Opinion of Associate Justice Estela M. Perlas-Bernabe, the *ponente* in the 2013 *Belgica* case, for as long as the lump-sum amount is meant as a funding source for multiple programs, projects, or activities that may all be clearly classified as falling under *one singular appropriation purpose*, the lump-sum appropriation is valid:

Again, it should be reiterated that the Court’s disquisition regarding “line-item” and “lump-sum” appropriations all hearken to compliance with the constitutional postulates on separation of powers and Presidential item veto. Relatedly, **the rule on singular correspondence**, as discussed in the 2013 *Belgica* case, was therefore meant to subserve these principles. That being said, not all “lump-sum” amounts defy this rule should observance of these principles be preserved. **It is hence, my opinion that a lump-sum amount may still be considered as a valid item subject to the President’s item veto power for as long as the lump-sum amount is meant as a funding source for multiple programs, projects, or activities that may all be clearly classified as falling under one singular appropriation purpose.** In this sense, the “lump-sum” effectively functions as a “line-item” that is compliant with the doctrine of singular correspondence as **amply discussed in the 2013 *Belgica* Decision.**

x x x x

At the risk of belaboring the point, a valid item is one characterized by singular correspondence — meaning, an allocation of a specified singular amount for a specified singular purpose. A lump-sum, albeit meant as a funding source for multiple programs, projects and activities, may effectively function as a proper “line-item” for as long as these multiple programs, projects or activities are clearly classified as falling under one singular appropriation purpose. ***This singular purpose may be as general or specific as the legislative department deems it to be, provided that such generality or specificity does not negate the President’s proper exercise of his item veto power.*** This danger was what was clearly contemplated and showcased by the 2013 PDAF Article because the lump-sum amount of

²⁰ Id. at 552.

P24.79 Billion was treated as a funding source for multiple *unrelated* purposes such as, as noted in the case, “scholarships, medical missions, assistance to indigents, preservation of historical materials, construction of roads, flood control, *etc.*” Worse, these multiple unrelated purposes were all made to fall under the *vague and amorphous* term “Priority Development Assistance Fund,” which ultimately allowed those who were disbursed the funds (*i.e.*, individual legislators) to decide whatever public purpose they deemed as a “priority.” As such, this created a budgeting setup wherein there is no more discernible item left for the exercise of the President’s veto power and hence, constitutionally infirm.²¹

Ruling on Specific Appropriations

Directly traversing the challenges to the constitutionality of the specifically assailed appropriations, the Court finds that the assailed appropriations comply with the rule on singular correspondence in the 2013 *Belgica* case, and are thus, constitutional.

Unprogrammed Fund

The appropriation for the Unprogrammed Fund in the 2014 GAA reads:

XLVI. UNPROGRAMMED FUND

New Appropriations, by Purpose

	<u>Current Operating Expenditures</u>			Total
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	
TOTAL NEW APPROPRIATIONS	<u>P418,800,000</u>	<u>P16,602,744,000</u>	<u>P122,882,215,000</u>	<u>P139,903,759,000</u>

Special Provision(s)

1. Release of the Fund. The amounts authorized herein shall be released only when the revenue collections exceed the original revenue targets submitted by the President of the Philippines to Congress pursuant to Section 22,²² Article VII of the Constitution, as certified by the BTr: PROVIDED, That in case of newly approved loans for foreign-assisted projects, the existence of a perfected loan agreement for the purpose shall be sufficient basis for the issuance of a SARO covering the loan proceeds: PROVIDED, FURTHER, That the release of Unprogrammed Fund shall be subject to Section 63²³ of the General Provisions of this Act.

²¹ J. Bernabe’s Reflections; citations omitted.

²² Section 22. The President shall submit to the Congress, within thirty days from the opening of every regular session as the basis of the general appropriations bill, a budget of expenditures and sources of financing, including receipts from existing and proposed revenue measures.

²³ Section 63 of the General Provisions states:

SEC. 63. **Lump-Sum Appropriations.** Release of lump-sum appropriations shall be subject to Section 35, Chapter 5, Book VI of E.O. No. 292 and shall only be made upon compliance with the requirements under the applicable special provisions and submission by the agency concerned to DBM of the complete details of the programs, projects and activities covering the lump-sum appropriations, including the sub-programs/activities or sub-projects with the corresponding cost up to the lowest level, *i.e.*, provincial, city or municipal level, as the case may be. The complete details shall include: (i) the rationale and objectives of the program, project or activity; (ii) the full components with cost estimates of the program, project or activity; (iii) the implementation strategy to be

Implementation of this provision shall be subject to guidelines to be jointly issued by the DBM, DOF and BTr.

2. Recording of Relent Loans. The appropriations authorized under Purpose 1 shall be used to record the proceeds of National Government loans in the amount of Thirty Six Million Two Hundred Sixty Eight Thousand Pesos (P36,268,000) relent to GOCCs. The SARO/s to be issued shall be the basis of recording the GOCCs' loans payable to the National Government.

In addition, the amount of One Billion Pesos (P1,000,000,000) chargeable against Purpose 6 shall be used for the government's Debt Management Program that will allow access to lower cost of borrowings and better maturity structure for GOCCs: PROVIDED, That availment under this Program shall require favourable endorsement by the DOF upon evaluation of the following criteria: (i) the GOCC's capacity to service the debt to the National Government; and (ii) the GOCC's operational requirements. Implementation of this provision shall be subject to guidelines jointly issued by the DBM, DOF and BTr.

3. Risk Management Program. In order to manage the National Government's fiscal risks and enhance the country's credibility among potential Public-Private Partnership (PPP) proponents, the amount of Twenty Billion Pesos (P20,000,000,000) authorized under Purpose 7 shall be used for the government's Risk Management Program to cover commitments made by, and obligations of, the National Government in the concession agreements relative to PPP projects, subject to the pertinent provisions of laws, rules and regulations.

Implementation of this provision shall be subject to guidelines to be jointly issued by the DBM, DOF and BTr.

4. Reconstruction and Rehabilitation Program. The amount of Eighty Billion Pesos (P80,000,000,000) appropriated herein for Reconstruction and Rehabilitation Program shall be released in accordance with a rehabilitation plan and shall be subject to Section 63 of the General Provisions of this Act: PROVIDED, That collections arising from sources not considered in the aforesaid original revenue targets, proceeds from grants, loans for the repair and rehabilitation of calamity stricken areas, and subject to the approval of the President, savings generated from the programmed appropriations in this Act may be released to cover the appropriations herein provided.

5. Use of Income. In case of deficiency in the appropriations for the following business-type activities, departments, bureaus and offices enumerated hereunder and other agencies as may be determined by the Permanent Committee are hereby authorized to use their respective income collected during the year: PROVIDED, That said income shall be deposited with the National Treasury, chargeable against Purpose 3: PROVIDED, FURTHER, That it shall be used exclusively by the agency for purposes indicated herein or such other purposes authorized by the Permanent Committee: PROVIDED, FURTHERMORE, That it shall cover only the requirements of said agency until the end of the year:

DEPARTMENT/AGENCY	SOURCE OF INCOME	PURPOSE
ENVIRONMENT AND NATURAL RESOURCES NAMRIA	Proceeds from Sales of Maps and Charts	For reproduction of maps and charts and printing publications
FINANCE BOC	Sale of Accountable Forms	For the printing of accountable forms

adopted; (iv) the targeted results or expected outputs; (v) the status of implementation for ongoing programs or projects; and (vi) such other information as may be required by the DBM: PROVIDED, That a copy of the abovementioned requirements, including any subsequent revisions/amendments shall likewise be submitted to the House Committee on Appropriations and the Senate Committee on Finance.

The agency head and the agency's web administrator of his/her equivalent shall be responsible for ensuring that the said list of projects is posted in the official website of the agency/LGU concerned.

PROVIDED, FURTHER, That in the case of lump-sum appropriations covering major infrastructure programs and projects, such as irrigation projects, farm-to-market roads, airports, seaports, fish ports and other ports, health care facilities, Basic Educational Facilities, and housing projects, release of the said appropriations shall be further subject to the submission by the agency concerned to DBM of the following additional details: (i) amount allocated for each infrastructure project; (ii) location/site with covered area in square kilo meters; (iii) list of targeted beneficiaries/recipients; (iv) program of work; (v) such other information as may be required by the DBM. (2014 GAA, pp. 1095-1096)

FOREIGN AFFAIRS		
Office of the Secretary	Issuance of Passport Booklets	For the procurement of additional passport booklets
JUSTICE		
National Bureau of Investigation	Urine Drug Testing and DNA Analysis	For the purchase of reagents, drug testing kits and other consumables
	Issuance of Clearance	For procurement of additional materials and payment of rentals for the laser photo system used in the issuance of NBI clearance
TRANSPORTATION AND COMMUNICATIONS		
Land Transportation Office	Issuance of Driver's License, Plates, Tags and Stickers	For the production of additional driver's licenses, plates, tags and stickers
Maritime Industry Authority	Issuance of Seafarer's Identification and Record Books (SIRBs), Seafarer's Identification Booklets (SIBs) and other statutory certificates	For the production of additional SIRBs, SIBs, and other statutory certificates

Releases from said income shall be subject to the submission of a Special Budget pursuant to Section 35, Chapter 5, Book VI of E.O. No. 292, s. 1987.

Implementation of this provision shall be subject to the guidelines issued by the DBM.

[6.] Use of Excess Income. Departments, bureaus and offices authorized to collect fees and charges as shown in the FY 2014 BESF may be allowed to use their income realized and deposited with the National Treasury: PROVIDED, That said income shall be in excess of the collection targets presented in the BESF: PROVIDED, FURTHER, That it shall be chargeable under Purpose 3: PROVIDED, FURTHERMORE, That it shall only be used to augment their respective current appropriations during the year: PROVIDED, FINALLY, That said income shall not be used to augment Personnel Services appropriations including payment of discretionary and representation expenses.

Releases from said income shall be subject to the submission of a Special Budget pursuant to Section 35, Chapter 5, Book VI of E.O. No. 292.

Implementation of this provision shall be subject to the guidelines issued by the DBM.

[7.] Augmentation within the Unprogrammed Fund. In case the total amount appropriated under any of the Purposes in the Unprogrammed Fund has been fully utilized, the deficiency in the amount needed to cover programs, projects and activities still to be implemented under said Purpose may be augmented by the appropriations authorized for other purposes except Purpose 1 – Budgetary Support to Government-Owned and/or Controlled Corporations – and Purpose 2 – Support to Foreign Assisted Projects, subject to approval by the President of the Philippines.

[8.] Reportorial Requirement. The DBM shall submit, either in printed form or by way of electronic document, to the House Committee on Appropriations and the Senate Committee on Finance separate quarterly reports stating the releases from the Unprogrammed Fund, the amounts released and the purposes thereof, and the recipient departments, bureaus and offices, including GOCCs and GFIs, as well as the authority under which the funds are released under Special Provision No. 1 of the Unprogrammed Fund.²⁴

Petitioner claims that the appropriation for the Unprogrammed Fund is unconstitutional because it merely provides for a lump-sum figure without any enumerated purposes for which these funds should be used.²⁵

²⁴ 2014 GAA, pp. 876-877.

²⁵ Petition, p. 6, *rollo*, p. 8.

Further, it is alleged that the Unprogrammed Fund lacks the requirements of a valid item of appropriation and has no discernible purpose outlined. In contrast to the 2013 GAA, the 2014 GAA supposedly has no purpose.²⁶ According to Petitioner, the Unprogrammed Fund has been noted as susceptible to abuse because it avoids the appropriations procedure. Petitioner insists that if there is excess revenue, then it should undergo the budgetary process and await a supplemental budget.²⁷

The Respondents, on the other hand, aver that Annex "A" of the 2014 GAA provides the specific purposes for which the Unprogrammed Fund may be used: (1) Budgetary Support to Government-Owned and/or Controlled Corporations; (2) Support to Foreign-Assisted Projects; (3) General Fund Adjustments; (4) Support for Infrastructure Projects and Social Programs; (5) AFP Modernization Program; (6) Debt Management Program; (7) Risk Management Program; (8) Disaster Relief and Mitigation Fund; (9) Reconstruction and Rehabilitation Program; (10) Total Administrative Disability Pension; and (11) People's Survival Fund. Such identified purposes serve to constrain executive discretion.²⁸

Contrary to Petitioner's claim, the appropriation for the Unprogrammed Fund under the 2014 GAA, similar to those in previous GAAs, sufficiently identifies the public purposes for which the funds may be used, the only difference being that the GAA for the preceding years consisted of one volume, whereas the specified public purposes and the amounts therefor for the Unprogrammed Fund are found nestled in Annex "A" of the 2014 GAA. Both Petitioner and the OSG fatally overlooked that there is Annex "A" to the Unprogrammed Fund. Annex "A" specifies the amount for each specific purpose, thus it is not the prohibited lump-sum mentioned in the 2013 *Belgica* case.

With respect to the test of compliance with the rule on singular correspondence in the 2013 *Belgica* case, the Unprogrammed Fund stands square. It has a clearly discernible singular appropriation purpose of providing standby appropriation to be sourced from unexpected or windfall revenues to fund the specific programs and projects.

Considering the foregoing, the appropriation in the 2014 GAA for the Unprogrammed Fund is constitutional.

Programmed Special Purpose Funds

The Court now proceeds to resolve the challenges against the Programmed Special Purpose Funds (SPFs) specifically assailed in the

²⁶ Petition, p. 17, id. at 19.

²⁷ Petition, pp. 16-17, id. at 18-19.

²⁸ Comment, p. 14, id. at 58.

Petition, namely: the Contingent Fund, the E-Government Fund, and the Local Government Support Fund.

Contingent Fund

The appropriation for the Contingent Fund in the 2014 GAA reads:

XXXVII. CONTINGENT FUND

New Appropriations, by Purpose

	<u>Current Operating Expenditures</u>			Total
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	
TOTAL NEW APPROPRIATIONS		<u>P740,000,000</u>	<u>P260,000,000</u>	<u>P1,000,000,000</u>

New Appropriations, by Central/Regional Allocation

	<u>Current Operating Expenditures</u>			Total
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	
Regional Allocation		<u>P740,000,000</u>	<u>P260,000,000</u>	<u>P1,000,000,000</u>
Nationwide		<u>740,000,000</u>	<u>260,000,000</u>	<u>1,000,000,000</u>
TOTAL NEW APPROPRIATIONS		<u>P740,000,000</u>	<u>P260,000,000</u>	<u>P1,000,000,000</u>

Special Provision(s)

1. Administration and Use of Fund. The amount of One Billion Pesos (P1,000,000,000) appropriated herein for the Contingent Fund shall be administered by the Office of the President and shall be used exclusively to fund the requirements of new and/or urgent projects and activities that need to be implemented during the year. It may likewise be used to augment the existing appropriations for local and foreign travels of the President: PROVIDED, That in no case shall said Fund be used for the purchase of motor vehicles.

No amount under the Contingent Fund shall be released and disbursed without the prior approval of the President of the Philippines.²⁹

Anent the Contingent Fund, Petitioner claims that it fails as an item of appropriation because Congress failed to identify the kinds of contingencies for which the fund may be used. Petitioner also argues that there is no discernible specific purpose or guidelines for which the Contingent Fund may be used,³⁰ thus, the President is allegedly given unbridled discretion in its disbursement.³¹ As well, the Contingent Fund is also assailed as violative of the President's power of item veto because the President is left only to accept the policy that funding must be provided to meet contingencies, without having the opportunity to decide which contingencies should be given funding.

²⁹ 2014 GAA, p. 853.

³⁰ Petition, p. 16, *rollo*, p. 18.

³¹ Petition, p. 17, *id.* at 19.

Respondents, on the other hand, assert that the uses of the Contingent Fund cannot be itemized precisely because it is allocated for projects and activities that may need funding during the fiscal year but were not previously anticipated whether in terms of amount or object.

The Court agrees again with Respondents. The untenability of Petitioner's stance that the contingencies that may be funded by the Contingent Fund must be identified is self-evident. The purpose of the Contingent Fund is precisely to cover the funding requirements of new or urgent projects that need to be implemented during the year.

These multifarious projects that are necessary but were not anticipated during budget preparation and legislation and had to be funded out of Contingent Funds had historically included the following: initial operational requirements of newly-created offices,³² initial funding requirements to carry out provisions of newly-enacted laws,³³ additional funding requirements of the use of automated election system in national and local elections,³⁴ for

³² Initial operational requirements for the implementation of Credit Surety Fund Department under the Cooperative Development Authority (RA 10744, *Credit Surety Fund Cooperative Act of 2015* and the *Implementing Rules and Regulations [IRR] of RA 10744*, Rule 3, Sec. 6, June 20, 2017); for the initial operations of the regional government in the Autonomous Region in Muslim Mindanao under Article XIX, Section 9 of the ARMM Law (RA 6734, *An Act Providing for an Organic Act for the Autonomous Region in Muslim Mindanao*, August 1, 1989); for the conduct of the election and plebiscite in the Cordillera Autonomous Region under Art. XXI, Secs. 1 and 13 of RA 6766 (*An Act Providing for an Organic Act for the Cordillera Autonomous Region*, October 23, 1989); for the initial operation of the Governance Commission for Government-Owned or -Controlled Corporations under Chapter VI, Section 29 of RA 10149 (*GOCC Governance Act of 2011*, June 6, 2011); as initial operating fund for the National Anti-Poverty Commission under Rule IV, Art. 21 of the IRR of RA 8425 (*Rules and Regulations Implementing the Social Reform and Poverty Alleviation Act of 1998*, December 23, 1998) and under Title III, Sec. 18 of RA 8425 (*Social Reform and Poverty Alleviation Act*, December 11, 1997); for the initial expenses of the Legal Education Board under Sec. 13 of RA 7662 (*Legal Education Reform Act of 1993*, December 23, 1993); for the initial funding requirements of the Joint Enforcement and Monitoring Committee (JEMC) operational expenses of the JEMC and its Secretariat under Sec. 6 of EO 117 (*Reconstituting the Joint Enforcement and Monitoring Committee to Implement the Peace Agreement between the Government of the Republic of the Philippines and the Rebolusyonaryong Partido ng Manggagawa-Pilipinas/Revolutionary Proletarian Army/Alex Boncayao Brigade, Repealing Executive Order No. 335 dated January 4, 2001 and for Other Purposes*, August 20, 2002).

³³ For implementation of the Labor Code, under Book Three, Rule VII, Chapter IV, Sec. 3 of the Omnibus Rules Implementing the Labor Code (May 27, 1989); for the conduct of information campaign on the Local Government Code, under Sec. 533(e) (RA 7160, *Local Government Code of 1991*, October 10, 1991); for the implementation of the Climate Change Act under Rule XIX, Sec. 1 of the IRR (*Revised Implementing Rules and Regulations of the Climate Change Act of 2009, as Amended by RA 10174, Climate Change Commission Resolution No. 3*, November 13, 2015) and under Sec. 21 of RA 9729 (*Climate Change Act of 2009*, October 23, 2009); Art. XVIII, Sec. 10 for the initial operation requirements of the regional government, and for the conduct of plebiscite, respectively under RA 9054 (*Organic Act for the Autonomous Region of Muslim Mindanao*, March 31, 2001); for the initial implementation of RA 7470 under Sec. 15 (*National Economic Research and Business Assistance Center of the Philippines Act of 1992*, April 29, 1992) and the Operating Guidelines of the National Economic Research and Business Assistance Center (NERBAC) of the Philippines under Rule V, Section 17 (*Operating Guidelines in the Implementation of RA 7470*, DTI Administrative Order No. 04-09, May 11, 2009); additional funding for the implementation of RA 6939 under Sec. 16 (*Cooperative Development Authority Law*, March 10, 1990); for the initial implementation of The Initiative and Referendum Act under Sec. 21 (*The Initiative and Referendum Act*, August 4, 1989); for the implementation of the provisions of RA 6724 under Sec. 11 (*Organizing a Joint Legislative-Executive Foreign Debt Council*, April 17, 1989).

³⁴ Sec. 32 of RA 8436, December 22, 1997.

plebiscites in the creation, merger or division of local government units,³⁵ as appropriation for Y2K readiness compliance,³⁶ for the expenses of the National Organizing Council for the Philippine hosting of the 2015 APEC Meetings,³⁷ and additional funding requirement for election related activities.³⁸

These new or urgent projects and the level of travel expenses that will be incurred during the year are necessarily unknown at the time the budget is prepared the year prior. To even attempt to identify these “contingencies” almost two years before they are expected to arise is a perversion of the purpose of the Contingent Fund amounting to the deprivation of the Legislature’s authority to amply provide for contingencies and of the Executive’s power to address them. Such interpretation amounts to, at best, a very fatuous budgetary policy.

The Contingent Fund is likewise assailed as one which precluded the President from exercising his line-item veto power.

As to whether the structure of the Contingent Fund violated the line-item veto power of the President, it is noteworthy that the appropriation for the Contingent Fund already passed the Court’s approval as an item of appropriation in the same case relied upon by Petitioner to argue against its constitutionality.

In the 2013 *Belgica* case, the Court explained:

x x x Based on the foregoing formulation, the existing Calamity Fund, Contingent Fund and the Intelligence Fund, being appropriations which state a specified amount for a specific purpose, would then be considered as “line- item” appropriations which are rightfully subject to item veto. Likewise, it must be observed that an appropriation may be validly apportioned into component percentages or values; however, it is crucial that each percentage or value must be allocated for its own corresponding purpose for such component to be considered as a proper line-item.³⁹ (Emphasis omitted)

³⁵ Under Sec. 6 of RA 6714 (*Merger, Division and/or Revival of Different Barangays in Caloocan City*, February 28, 1989); Sec. 6 of RA 7155 (*Creation of the Municipality of Tulay-na-Lupa, Camarines Norte*, September 6, 1991); Sec. 5 of RA 6851 (*Creation of the Municipality of Kalawit in Zamboanga del Norte*, February 10, 1990); Sec. 3 of RA 6842 (*Creation of the Municipality of San Jose in Tarlac*, January 5, 1990).

³⁶ Under Sec. 13 of RA 8747 (*An Act Requiring Disclosure of Year 2000 Statements and Readiness of Computer-Based Systems and Products, Providing Funds Therefor and for Other Purposes*, June 1, 1999).

³⁷ Sec. 12 of Administrative Order No. 36 (*Creating the National Organizing Council for the Philippine Hosting of the 2015 APEC Meetings*, November 28, 2012).

³⁸ Sec. 25 of RA 8046 (*An Act Authorizing the Commission on Elections to Conduct a Nationwide Demonstration of a Computerized Election System and Pilot-Test it in the March 1996 Elections in the Autonomous Region in Muslim Mindanao (ARMM) and for Other Purposes*, June 7, 1995).

³⁹ *Belgica v. Ochoa, Jr.*, supra note 2, at 552.

The language of the Contingent Fund appropriation in the 2013 GAA, found by the Court as a valid line-item appropriation in the 2013 *Belgica* case, was adopted as the language of the Contingent Fund appropriation in the 2014 GAA.

In this sense, and as already validated in the 2013 *Belgica* case, the Contingent Fund complies with the rule on singular correspondence — the clearly specified singular purpose encompassing these seemingly unrelated purposes is the purpose of meeting contingencies.

In fine, the appropriation in the 2014 GAA for the Contingent Fund is constitutional.

E-Government Fund

The appropriation for the E-Government Fund in the 2014 GAA reads:

XXXIX. E-GOVERNMENT FUND

New Appropriations, by Purpose

	<u>Current Operating Expenditures</u>			Total
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	
TOTAL NEW APPROPRIATIONS		<u>P1,889,204,000</u>	<u>P589,696,000</u>	<u>P2,478,900,000</u>

New Appropriations, by Central/Regional Allocation

	<u>Current Operating Expenditures</u>			Total
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	
Regional Allocation		<u>P1,889,204,000</u>	<u>P589,696,000</u>	<u>P2,478,900,000</u>
Nationwide		<u>1,889,204,000</u>	<u>589,696,000</u>	<u>2,478,900,000</u>
TOTAL NEW APPROPRIATIONS		<u>P1,889,204,000</u>	<u>P589,696,000</u>	<u>P2,478,900,000</u>

Special Provision(s)

1. Strategic Information and Communication Technology Projects. The amount of Two Billion Four Hundred Seventy Eight Million Nine Hundred Thousand Pesos (P2,478,900,000) appropriated herein for strategic information and communication technology projects shall be used exclusively to finance: (i) on-going E-Government funded projects; and (ii) strategic information and communication technology projects in public financial management, basic and higher education, health, justice, peace and order, transport, land use, open government/open data, climate change, and citizen frontline delivery services: PROVIDED, That such projects strictly comply with all the criteria and guidelines jointly prescribed by the Information and Communications Technology Office, DBM and NEDA. In no case shall said amount be used for any other purpose.

Releases from said amount shall be subject to the submission of a Special Budget pursuant to Section 35, Chapter 5, Book VI of E.O. No. 292, s. 1987.

2. Appropriations for the Medium-Term Information and Communication Technology Harmonization Initiative. The amount appropriated herein for strategic information and communication technology projects includes Five Million Pesos (P5,000,000) to be used to finance the activities of the

steering committee tasked to ensure the effective implementation of the Medium-Term Information and Communication Technology Harmonization Initiative, in accordance with DOST-DBM-NEDA Joint Memorandum Circular No. 2012-01 dated November 28, 2012.

GENERAL SUMMARY
E-GOVERNMENT FUND

	<u>Current Operating Expenditures</u>			<u>Total</u>
	<u>Personnel Services</u>	<u>Maintenance and Other Operating Expenses</u>	<u>Capital Outlays</u>	
A. E-Government Fund		<u>P1,889,204,000</u>	<u>P589,696,000</u>	<u>P2,478,900,000</u>
Total New Appropriations, E-Government Fund		<u>P1,889,204,000</u>	<u>P589,696,000</u>	<u>P2,478,900,000</u> ⁴⁰

In arguing against the constitutionality of the E-Government Fund, Petitioner claims that instead of enumerating the strategic information and communication technology projects that would be financed, the 2014 GAA simply identifies a lump-sum amount to be allocated again depending on the whims of the executing authority.⁴¹ Furthermore, Petitioner posits that the determination of which department or agency's information and communication technology project is more important or crucial so as to merit funding is a choice that should have been afforded the President; instead he is left with a policy choice. Each project to be funded should have been specified so the President can choose which projects should proceed or should be discontinued.⁴²

In answer to these arguments, Respondents assert that the provisions of the E-Government Fund already provide the standards for the disbursement of the same: (i) on-going E-Government funded projects; and (ii) strategic information and communication technology projects in public financial management, basic and higher education, health, justice, peace and order, transport, land use, open government/open data, climate change, and citizen frontline delivery services.

When it was first created, the E-Government Fund was under the control and management of the Information Technology and E-Commerce Council (ITECC) which was then the highest policy making body on ICT matters. In 2004, EO 269⁴³ created the Commission on Information and Communications Technology (CICT) under the Office of the President. Under Section 4(e) of said executive order, the CICT was mandated to "oversee the identification and prioritization of all e-government systems and applications as provided for in the Government Information Systems Plan, manage and/or administer the e-Government Fund." Subsequently, the ITECC was abolished by EO 334⁴⁴ and its budgets, assets, personnel, programs and projects were transferred to CICT.

⁴⁰ 2014 GAA, pp. 858-859.

⁴¹ Petition, p. 6, *rollo*, p. 8.

⁴² Petition, p. 18, *id.* at 20.

⁴³ CREATING THE COMMISSION ON INFORMATION AND COMMUNICATIONS TECHNOLOGY, January 12, 2004.

⁴⁴ ABOLISHING THE INFORMATION TECHNOLOGY AND ELECTRONIC COMMERCE COUNCIL AND TRANSFERRING ITS BUDGET, ASSETS, PERSONNEL, PROGRAMS AND PROJECTS TO THE COMMISSION ON INFORMATION AND COMMUNICATIONS TECHNOLOGY, July 20, 2004.

The GAA for fiscal year 2010 mandated the CICT to make guidelines for the release of the E-Government Fund. Pursuant to this, the CICT issued CICT Memorandum Order No. 001-10 entitled "Guidelines on Projects to be Funded by the E-Government Fund" which serves as the reference for proposals of government agencies and the basis for evaluation and implementation of approved projects.

In 2011, pursuant to EO 47,⁴⁵ the CICT was reorganized and renamed as the Information and Communications Technology Office (ICTO) and was transferred to the Department of Science and Technology (DOST). The ICTO is mandated under Section 2(e) of EO 47 to "[f]ormulate the Government Information System Plan and administer the E-Governance Fund." Subsequently, CICT Memorandum Order No. 001-10 was issued.

Clearly, therefore, the argument that there exists no standard for the use and prioritization of the E-Government Fund fails.

Administrative rules, as in the case of the CICT Memorandum Order No. 001-2010 which sets the E-Government Fund Guidelines, are the extant and discernible standards by which the use of the E-Government Fund to support strategic information and communication technology projects is subject. This administrative rule making is recognized because:

[a]dministrative agencies are clothed with rule-making powers because the lawmaking body finds it impracticable, if not impossible, to anticipate and provide for the multifarious and complex situations that may be encountered in enforcing the law. All that is required is that the regulation should be germane to the objects and purposes of the law and that it should conform to the standards that the law prescribes. x x x⁴⁶

Further:

[t]he grant of the rule-making power to administrative agencies is a relaxation of the principle of separation of powers and is an exception to the nondelegation of legislative powers. Administrative regulations or "subordinate legislation" calculated to promote the public interest are necessary because of "the growing complexity of modern life, the multiplication of the subjects of governmental regulations, and the increased difficulty of administering the law. x x x⁴⁷

⁴⁵ REORGANIZING, RENAMING AND TRANSFERRING THE COMMISSION ON INFORMATION AND COMMUNICATIONS TECHNOLOGY AND ITS ATTACHED AGENCIES TO THE DEPARTMENT OF SCIENCE AND TECHNOLOGY, DIRECTING THE IMPLEMENTATION THEREOF AND FOR OTHER PURPOSES, June 23, 2011.

⁴⁶ *People v. Maceren*, 169 Phil. 437, 447 (1977), citing *Director of Forestry v. Muñoz*, 132 Phil. 637, 653-654 (1968); *Geukeko v. Araneta*, 102 Phil. 706, 712-713 (1957), and *People v. Exconde*, 101 Phil. 1125, 1129 (1957).

⁴⁷ *Id.* at 447, citing *Calalang v. Williams*, 70 Phil. 726, 732 (1940); *People v. Rosenthal and Osmeña*, 68 Phil. 328, 343 (1939).

From its inception, the E-Government Fund has been intended as alternative funding for cross-agency information and communication technology projects. Its nature as a cross-agency fund requires that the Fund is kept lump-sum, subject to the determination by the administrative agencies of which are ongoing strategic information and communication technology projects in the priority sectors identified by the Legislature in the budget. **It is noteworthy that these standards are already in place in existing executive issuances predating the contested E-Government Fund provision, which the Court must assume the Legislature is aware of at the time of budget authorization.**

Based on the language of the 2014 appropriation and of its special provisions, it is clear that the E-Government Fund is intended and treated as a funding source for E-Government programs of different government agencies or end-users. Following the program budgeting scheme followed by the Executive and Legislative in preparing and enacting the national budget, the specific purpose that constitutes the item of appropriation is the E-Government Program, which is specific enough for the exercise of the President’s item veto power.

Hence, in the proper interpretation of singular correspondence, the E-Government Fund has a clearly specified singular purpose — funding the E-Government Program consisting of strategic ICT programs of various agencies of government. In fine, the appropriation in the 2014 GAA for the E-Government Fund is constitutional.

Local Government Support Fund (LGSF)

The appropriation for the LGSF in the 2014 GAA reads:

XXXVI. ALLOCATIONS TO LOCAL GOVERNMENT UNITS

x x x x

D. LOCAL GOVERNMENT SUPPORT FUND (FORMERLY FINANCIAL SUBSIDY TO LOCAL GOVERNMENT UNITS)

New Appropriations, by Purpose

Current Operating Expenditures

	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	Total
TOTAL NEW APPROPRIATIONS		<u>P405,000,000</u>		<u>P405,000,000</u>

New Appropriations, by Central/Regional AllocationCurrent Operating Expenditures

	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	Total
Regional Allocation		P405,000,000		P405,000,000
Nationwide		405,000,000		405,000,000
TOTAL NEW APPROPRIATIONS		<u>P405,000,000</u>		<u>P405,000,000</u>

Special Provision(s)

1. Local Government Support Fund. The amount of Four Hundred Five Million Pesos (P405,000,000) appropriated herein for financial assistance to LGUs, including One Hundred Million Pesos (P100,000,000) for the City of Manila, Fifty Million Pesos (P50,000,000) for the City of Calococan and Fifty Million Pesos (P50,000,000) for the Municipality of Lal-lo, Cagayan shall be used to support the various priority programs and projects of LGUs and shall be released in accordance with the guidelines issued by the DBM. (CONDITIONAL IMPLEMENTATION – President’s Veto Message, December 20, 2013, page 1109, R.A. No. 10633)⁴⁸

x x x x

F. LOCAL GOVERNMENT SUPPORT FUND

The earmarking of specific appropriations for selected local government units (LGUs) under the **ALGU-Local Government Support Fund, Special Provision No. 1 “Local Government Support Fund,” page 850**, may not be consistent with the objectives and prioritization of the Local Government Support Fund. Accordingly, I hereby direct the DBM to issue the guidelines in the equal availment of the Fund by LGUs. Indeed, National Government support ought to be responsive to the actual requirements of LGUs in the interest of genuine local development.⁴⁹ (Emphasis in the original)

Petitioner brands the LGSF as a purely discretionary fund given to the President to be disbursed to LGUs without any legislative guidelines in place.⁵⁰ Hence, due to the supposed unfettered discretion granted to the President in disbursing funds in favor of LGUs and the purported lack of guidelines in the disbursement of such funds, Petitioner deems the LGSF contained in the 2014 GAA unconstitutional.

In determining the constitutionality of the Malampaya Funds and the Presidential Social Fund, the Court in the 2013 *Belgica* case explained that while the designation of a determinate or determinable amount for a particular public purpose is sufficient for a legal appropriation to exist, the appropriation law must contain adequate legislative guidelines if the same law delegates rule-making authority to the Executive either for the purpose of: (1) filling up the details of the law for its enforcement, known as supplementary rule-making; or (2) ascertaining facts to bring the law into actual operation, referred to as contingent rule-making. Thus, in order to appraise the merits of Petitioner’s proposition with respect to the LGSF, the Court must examine the LGSF provision of the 2014 GAA *vis-à-vis* the two jurisprudential tests that

⁴⁸ 2014 GAA, p. 850.

⁴⁹ President’s Veto Message, December 20, 2013, 2014 GAA, p. 1109.

⁵⁰ Petition, p. 6, *rollo*, p. 8.

are used to measure the sufficiency of legislative guidelines for purposes of delegating rule-making authority.

The first test is called the “**completeness test.**” A law is complete when it sets forth therein the policy to be executed, carried out, or implemented by the delegate. The second test is called the “**sufficient standard test.**” A law lays down a sufficient standard when it provides adequate guidelines or limitations in the law to map out the boundaries of the delegate’s authority and prevent the delegation from running riot. To be sufficient, the standard must specify the limits of the delegate’s authority, announce the legislative policy, and identify the conditions under which it is to be implemented.⁵¹

With respect to the first test, it is easily discernible that the LGSF satisfies the completeness test. It is clear from the 2014 GAA that the policy consideration for the institution of the LGSF is “genuine local development and the assistance of LGUs”. While couched in general terms, this policy consideration effectively sets forth the purpose for which the LGSF should be carried out. To be sure, the Court has recognized the validity of similarly worded policy considerations such as “public interest”, “justice and equity”, “public convenience and welfare”, and “simplicity, economy and welfare.”⁵²

With respect to the second test, contrary to the argument of Petitioner, the President is not granted unfettered and unabated discretion in disbursing the LGSF. The 2014 GAA provides adequate guidelines and limitations to map out the boundaries of the Executive’s authority in disbursing the LGSF. On this score, the Court finds that the 2014 GAA contains sufficient limitations that prevent the Executive from running riot in disbursing the LGSF, thereby satisfying the sufficient standard test.

The Court notes that the amount allotted for the LGSF is specifically identified, *i.e.*, Four Hundred Five Million Pesos (₱405,000,000.00). Not only is the amount allotted for disbursement specifically determined, the nature of the fund was likewise defined with sufficient specificity. The LGSF, in the aforesaid specified amount, is limited to the expenditure of “Maintenance and Other Operating Expenses” or MOOEs.

The 2014 GAA specifies that the disbursement of the LGSF shall be subject to applicable DBM guidelines, embodied in DBM Local Budget

⁵¹ *ABAKADA GURO Party List (formerly AASJS) v. Purisima*, 584 Phil. 246, 272 (2008); citations omitted.

⁵² See *id.* at 275, citing *Equi-Asia Placement, Inc. v. Department of Foreign Affairs*, 533 Phil. 590, 609 (2006). See also *Eastern Shipping Lines, Inc. v. Philippine Overseas Employment Administration*, 248 Phil. 762, 774 (1988).

Circular No. 104,⁵³ as amended by DBM Local Budget Circular No. 105.⁵⁴ **These guidelines, in turn, identify the programs and projects for which the LGSF may be expended in connection with the specific purpose detailed in the 2014 GAA.**

As precisely mandated by the 2014 GAA, the projects that may be financed through the LGSF are limited to specific initiatives laid down in the applicable DBM guidelines and are likewise reserved to cover MOOEs incurred in relation to these aforesaid specific initiatives.

In fine, the LGSF, as structured under the 2014 GAA, identifies not only the specific purpose for which the same may be expended, but effectively limits, through applicable DBM guidelines, the projects for which the said fund may be utilized.

Therefore, based on the foregoing, the Court is convinced that the 2014 GAA sufficiently: (1) specifies the standards which set the limits of the Executive's authority to disburse the LGSF; (2) determines the legislative policy behind the fund; and (3) identifies the conditions under which the fund may be utilized. Proceeding therefrom, the Court finds that the LGSF satisfies both the completeness and sufficient standard tests, and is thus, valid and constitutional.

As well, the LGSF complies with the rule on singular correspondence because it has the discernible singular appropriation purpose of providing funds for the support of local governments.

Conclusion

In sum, the Court rules upon the question of the constitutionality of the specifically assailed appropriations in the 2014 GAA as follows:

All specifically assailed appropriations are valid items with discernible singular appropriation purpose in compliance with the rule on singular correspondence — the Unprogrammed Fund, to fund the identified programs; the Contingent Fund, to provide funding to meet contingencies or programs yet inexistent and unforeseen during budget authorization; the E-Government Fund, to fund the E-Government Program that subsumes the strategic ICT projects of various government agencies; and the Local Government Support Fund, to provide financial assistance to LGUs.

⁵³ GUIDELINES ON THE RELEASE AND UTILIZATION OF FUNDS CHARGEABLE AGAINST THE LOCAL GOVERNMENT SUPPORT FUND FOR FY 2014, March 7, 2014.

⁵⁴ AMENDING LOCAL BUDGE CIRCULAR (LBC) NO. 104 DATED MARCH 7, 2014, ENTITLED, "GUIDELINES ON THE RELEASE AND UTILIZATION OF FUNDS CHARGEABLE AGAINST THE LOCAL GOVERNMENT SUPPORT FUND FOR FY 2014," October 29, 2014.

The Unprogrammed Fund is constitutional as it specifically identifies the public purposes for which the fund may be used and contains singularly corresponding purposes.

The Contingent Fund is also constitutional. Its purpose is to cover the funding requirements of new or urgent projects that need to be implemented during the year, and the foreign travel expenses of the Office of the President which were not and could not have been anticipated during budget preparation and authorization. Hence, the same cannot be itemized. Further, the Court has already previously held in the 2013 *Belgica* case that the Contingent Fund is a valid line-item appropriation.


Likewise, the E-Government Fund is constitutional. Its nature as a cross-agency fund requires it to be subject to the determination by the administrative agencies of the ongoing strategic information and communication technology projects in the priority sectors identified by the Legislature in the budget. Notably, these standards are already in place in existing executive issuances predating the assailed E-Government Fund provision, which the Court assumes the Legislature to have been aware of.

Lastly, the LGSF provision of the 2014 GAA is constitutional as it provides sufficient standards which set the limits of the Executive's authority to disburse the LGSF, determines the legislative policy behind the fund, and identifies the conditions under which the fund may be utilized.

While the Court applauds the vigilance with which Petitioner guards public funds, the mere possibility of abuse is not an argument against the concession of power as there is no power that is not susceptible to abuse.⁵⁵ In cases involving the exercise of political departments of textually committed powers and a lack of judicially discoverable and manageable standards with which to test the level of specificity and singularity of purpose of appropriations, Petitioner's bid to prohibit the specifically assailed appropriations in the national budget must fail.

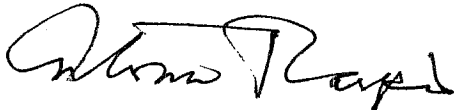
WHEREFORE, the Petition is **DISMISSED** for lack of merit.

SO ORDERED.


LUCAS P. BERSAMIN
Chief Justice

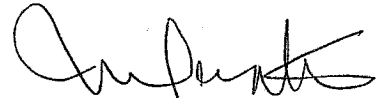
⁵⁵ *Angara v. Electoral Commission*, 63 Phil. 139, 177 (1936).

See Separate Opinion



ANTONIO T. CARPIO
Associate Justice

I join J. Carpio's opinion



DIOSDADO M. PERALTA
Associate Justice

See Separate Opinion



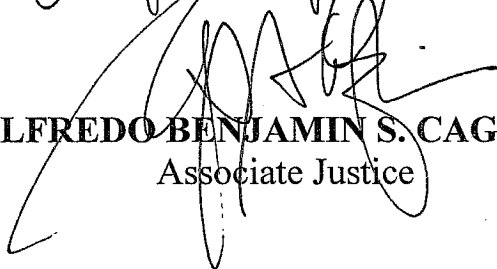
ESTELA M. PERLAS-BERNABE
Associate Justice

See separate opinion



MARVIC M.V.F. LEONEN
Associate Justice

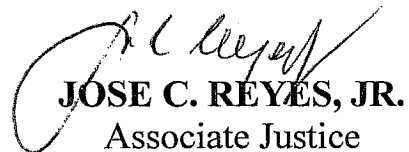
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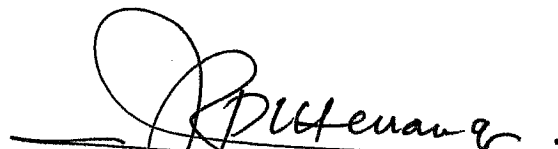


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


Reyes
ANDRES B. REYES, JR.
Associate Justice

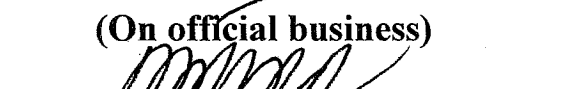

ALEXANDER G. GESMUNDO
Associate Justice

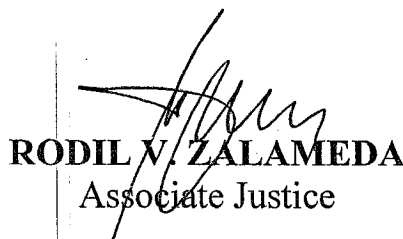

JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice

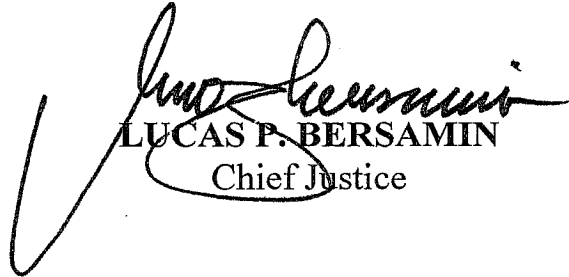

AMY C. LAZARO-JAVIER
Associate Justice

(On official business)

HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY



EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court