

**POLICY MONITOR
ON THE OWWA CHARTER
September 2011**

*Center for Migrant Advocacy (CMA)
Migrants Rights Policy Monitor
September 2011*

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INTRODUCTION

This document is an effort to monitor, in terms of policy, the proposed Charter of the Overseas Workers Welfare Administration (OWWA). Created by a presidential letter of instruction with the intent of assisting the overseas Filipino workers (OFWs) in terms of welfare and training for more than three decades now, OWWA has now grown into an agency with billion peso - worth of fund pooled from millions of OFWs who have toiled overseas. When glossed-over, there seems to be no problem, but when one started to asked why the OWWA fund collected from the OFWs is controlled by the government and that the members themselves have difficulty accessing it, then the problem is real and needs urgent action.

Included in this document is a collected reply of OFWs from a survey conducted on the experiences of OFWs in accessing welfare and other services from the OWWA. Also included are salient points from the proposed OWWA Charter, in order to start the necessary and overdue debate on the matter. OWWA stands for something very important, and it is critical that Congress defines the nature of OWWA, once and for all, so that it can responsibly fulfill its mandate to look after the welfare of the OFWs and their families.

Many of these questions are interrelated and connected, so that how one is answered affects all the others. For example, if OWWA is an "insurance scheme," it makes sense for it to be a "membership organization." But alternatively, if OWWA is a protection agency, it must be for all OFWs, regardless of status.

Of course, once OWWA's role is defined, the most important step remains: to ensure that the welfare of every OFW is adequately protected by the Philippine government. If OWWA, in its final formation, excludes any OFWs, Congress must establish a mechanism to protect the welfare of those OFWs. If any critical welfare needs are left unanswered, Congress must find a way to cover those needs.

BRIEF BACKGROUND

Having an overt policy of exporting its human capital for more than three decades, the Philippine government has created institutions that manage almost every aspect of migration. These institutions' functions and services range from deployment, the welfare of the worker and his/her family while working overseas, to his/her eventual return and reintegration. Thus, the Philippines has been considered globally as a model for managing its continuing influx of overseas workers.

Public policy on overseas labor employment formally started in 1974 when President Ferdinand Marcos issued a presidential decree creating three government institutions within the Ministry of Labor to facilitate the export of workers: the Overseas Employment Development Board (OEDB), the Bureau of Employment Services (BES), and the National Seamen Board (NSB). As overseas employment continue to increase significantly, the Philippine government was not able to manage the upsurge in demand for recruiting and deploying overseas workers.

A 1977 White Paper by the Ministry (now Department) of Labor and Employment recommended that the government focus on protecting and promoting the rights and welfare of the rights of Overseas Filipino Workers rather than focus solely on recruiting and placing them.

OWWA AT A GLANCE

A Welfare and Training Fund for Overseas Workers (WTFOW) was created under the DOLE in 1977 through Letter of Instruction (LOI) No. 537. LOI 537 provides for social and welfare services, which includes insurance coverage, placement assistance and remittance services, among others, to Filipino migrant workers. The LOI likewise, provides for skills training and career development services for the departing workers. The WTFOW was funded through earnings and welfare fund collections from the OEDB, the BES, the NSB and other donations and contributions.

In 1980, LOI 537 was formalized by the issuance of PD 1649, creating the Welfare Fund for Overseas Workers (Welfund). The Welfund was mandated to provide social and welfare services to Filipino migrant workers, including insurance coverage, legal assistance, placement assistance and remittance services. All contributions to the WTFOW were transferred to the Welfund.

In 1981, PD 1809 was issued amending certain provisions of PD 1649. Amendments include expanding the number of Welfund Board of Trustees from seven (7) to eleven (11); the administration of the Welfund by the Board of Trustees through a Secretariat; and the use of government banks as depository banks for the Welfund.

With the re-organization of the DOLE by EO 126 in 1987, the Welfund was renamed Overseas Workers Welfare Administration (OWWA). Executive Order (EO) 195, issued on August 13, 1994, expanded the scope of OWWA, providing for compulsory Medicare coverage to all OFWs and their dependents, except those with existing coverage with the Government Service Insurance System (GSIS) and the Social Security System (SSS) voluntary membership program.

On September 19, 2003, the OWWA Board of Trustees promulgated Board Resolution No. 38 (Omnibus Policies), providing the guidelines on matters concerning OWWA membership and coverage, collection of contributions, availment of benefits, and the policies on fund management, programs and services, administration , and corporate governance.

OWWA's objectives include the following: the protection of the interest and promotion of the welfare of OFWs; implementation of the Labor Code that would promote the well-being of OFWs; provision of social and welfare services to OFWs; efficient collection and sustainability of the fund; enhancement of the well-being of OFWS through studies and research; and development and financing of specific projects to promote the welfare of OFWs.

The passage of RA 8042 or the "Migrant Workers and Overseas Filipinos Act of 1995" and RA 10022 which amended RA 8042 to further improve the standards of protection and promotion of the welfare of migrant workers and their families, clarified and enhanced the mandate of OWWA to include:

1. Repatriation of workers in cases of war, epidemic, natural or man-made disaster or calamities, and other similar events without prejudice to reimbursement by the employer or the recruitment agency. In cases where the employer or the recruitment agency cannot be identified OWWA shall bear all costs of repatriation. An Emergency Repatriation Fund is created under the administration, control and supervision of OWWA for this purpose. OWWA shall also pay for the repatriation-related expenses such as fines or penalties.
2. Establishment of a Replacement and Monitoring Center for returning migrant workers, wherein OWWA, together with the DOLE and the POEA, are tasked to formulate a program that will motivate migrant workers to plan for productive options, such as entry into highly technical jobs and investment of savings, among others.
3. Creation of a Migrant Workers Loan Guarantee Fund to prevent illegal recruiters from taking advantage of workers seeking employment abroad. The OWWA, in coordination with government financial institutions, is mandated to institute financial schemes expanding the grant of pre-departure and family assistance loans.
4. Formulation and implementation of programs for OFWs and their families while they are abroad and upon their return. It shall also ensure the awareness by the OFWs and their families of these programs and other related governmental programs.

The OWWA's Board of Trustees is a tripartite body with the DOLE Secretary as chair and 12 members representing government, management, and OFWs. The President of the Philippines appoints all board members. The board is broadly representative of a cross-section of government agencies, including the Departments of Foreign Affairs, Finance, and Budget. OFWs are allotted sea-based, land-based, and women's sector representatives.

The board plans and implements policies and programs, crafts the rules and regulations, oversees fund sources, and creates yearly appropriations for the Secretariat, OWWA's administrative arm. Unlike other Philippine government agencies that administer trust funds, OWWA has no charter. This setup allows for more flexibility but may also allow the board to exercise blanket and unregulated

authority. As a permanent government agency, changes to OWWA's operations can only be made through legislation.

OWWA is administered by the Board of Trustees through the Secretariat headed by the Administrator as the Chief Executive Officer and assisted by two Deputy Administrators.

The Secretariat, headed by an administrator, manages day-to-day operations in the Philippines and abroad. Although its main office is in Manila, OWWA has 17 regional offices within the country and 5 satellite offices in the National Capital Region, Regions 1, 3, 5 and ARMM where there are large numbers of migrant workers. The welfare officers abroad work in the Philippine Overseas Labor Officers (POLOs) together with the labor attachés and the ambassadors or consuls-general to assist Filipino migrant workers. The POLOs are usually attached to Philippine embassies and consulates. Indeed, the government considers OWWA staff abroad to be part of its unified team in that country under the One Country-Team Approach, with the ambassador as the head of the team.

Membership in OWWA, upon contribution of US\$25.00, is mandatory for migrants going abroad through official channels by enrollment upon processing of a contract at POEA or by voluntary registration of a would-be member at a job site overseas. Membership is valid for one one contract of two year duration. For voluntary members who register at a job site, membership does not exceed two years. Membership shall be renewed upon payment of contribution on contract renewal / issuance of new contract. In the case of voluntary membership, coverage shall be renewed upon payment of contribution. OWWA membership is tied to the OFW's work contract.

The cumulative contribution of US\$25.00 automatically becomes the OWWA fund - a single trust fund pooled from the membership contributions of foreign employers, land-based and sea-based workers, investment and interest income, and income from other sources. Categorized as a quasi-governmental entity, it is entirely self-funded and receives no budget allocation from the national government.

OWWA Income Statement (unaudited -For the Year Ended December 31, 2010)

	AMOUNT (Pesos)	PERCENTAGE
INCOME		
Membership Fees	1,555,762,878.40	69.3
Interest Income (investment)	658,050,813.34	29.3
Other Income	29,575,586.05	1.3
TOTAL INCOME	2,243,389,277.79	100.0
EXPENSES		
Personal Services	402,941,247.14	18.0
MOOE	282,139,820.19	12.6
Programs & Services	704,184,733.78	31.4
TOTAL EXPENSES	1,389,256,801.11	61.9
TOTAL INCOME	854,123,476.68	38.1

(source: OWWA Annual Report 2010)

The number of OWWA members has increased over the years. As of end of 2010, OWWA enrolled 1,355,331 members, 9.8% higher compared to 1,234,124 enrolled in 2009. This only indicates the continuous upward trend in OFW migration.

OWWA Membership and Services Over The Years

Overall Client	2006	2007	2008	2009	2010
Total Client Served	751,096	813,634	995,479	1,150,063	1,232,019
% Increase per Year		8	18	13	7
Renewal and VMP	954,191	1,107,039	1,242,524	1,234,124	1,355,331
% Increase per Year		14	11	-1	9

(source: OWWA Annual Report 2010)

The table above shows the increasing trend in the number of clients served by OWWA. From 2006 to 2010, total client served increased by 39% or 480,923 members served. The agency has served a total of 1,232,019 clients compared to 1,150,063 of last year, or an increase of 7%. Enrollment of OWWA membership through renewal and voluntary membership registration on-site grew by 30% for the period 2006 to 2010.

OWWA's mandate may be summarized into two: firstly, the delivery of welfare services and benefits to temporary migrant workers, and, secondly, ensuring sustainability and fund viability for the continuous protection of Filipino migrant workers. Consistent with its mandate focusing on the welfare of the OFWs and their families, the main programs of OWWA include (a) health care, disability and death benefits; (b) education and training programs; (c) on-site assistance and services; (d) repatriation; and (e) social services and family welfare assistance.

Health Care and Social Benefits

In 2010, OWWA developed 2 new medical benefits programs in response to the request for an enhanced health package – the Health Program for OFW (HEALTHPRO) and the PGW Medical Rehabilitation Program. These new health benefit packages provided hospitalization benefits and medical rehabilitation services to OFWs who were diagnosed with dreaded diseases or suffering from lingering mental and physical illnesses.

For the period 2006 to 2010, the total number of claimants for various health care and social benefits increased by more than 40%. For 2010 alone, the number of claimants assisted on their claims stepped up to 3,908 from 2,696 of 2009.

Types of Benefits	2006	2007	2008	2009	2010
Death and Burial	1,222	1,328	1,371	1,598	1,846
Disability, Dismemberment & Total Disability	395	587	1,117	1,098	1,529
HEALTHPRO					517
Rehab Program					16
TOTAL	1,617	1,915	2,488	2,696	3,908
Percent Increase per Year		16	23	8	31

(source: OWWA Annual Report 2010)

Education and Training Benefits

OWWA offers two major education programs for leaving migrant workers. The Comprehensive Pre-Departure Education Program (CPDEP) includes culture familiarization and language training plus an optional first aid training and stress management. This started in 2007 and is basically designed for about-to-leave household service workers (HSWs) most of whom are domestic workers. Mandatory pre-departure orientation seminars (PDOS) help build skill sets and familiarize would-be migrants with the culture and practices of their host countries.

Specific modules are customized for domestic workers, performing artists and entertainers, nurses, and seafarers, as well as for workers migrating to certain countries/regions, such as Hong Kong, Libya, the Middle East, South Korea, and Taiwan. In conducting these seminars, OWWA partners with members of the private sector (e.g., recruitment agencies and associations) and civil society (e.g., workers' groups and NGOs). The partners conduct the orientations while OWWA prepares the materials, sets standard qualifications, and conducts training for trainers.

CPDED and PDOS Beneficiaries

Pre-Departure Trainings	2006	2007	2008	2009	2010
CPDEP	365,470	363,478	397,595	399,615	580,074
PDOS		68,377	60,979	117,186	187,485

(source: OWWA Annual Report 2010)

OWWA also provides several kinds of scholarship grants and training opportunities for members and, in some cases, their dependents. These are:

Skills-for-Employment Scholarship Program (SESP) - A technical or vocational training accredited by government institutions granted to member-OFWs or their dependents/beneficiaries in the form of financial assistance of Php14,500.00 maximum.

Microsoft Tulay - A special project in partnership with Microsoft Corporation which provides information and communication technology training granted to OFWs and their families to broaden their career opportunities.

Education for Development Scholarship Program (EDSP) - A scholarship granted to qualified dependents/beneficiaries of active member-OFWs for a college degree (4-5 years), in the form of financial assistance of Php 60,000.00 per school year.

OFW-Dependents Scholarship Program (OFWDSP)- provides the OFWs or their Beneficiaries, the opportunity to acquire vocational, technical or specialized skills through the OFWDSP. This program offers financial assistance to qualified dependents of OFWs who are earning a monthly salary of not more than US\$400.00 and who shall enroll in any four-year or five-year baccalaureate course or associate course leading to a baccalaureate degree or associate degree in a state college or university.

Education and Livelihood Assistance Program (ELAP) for Dependents of Deceased OFWs is designed primarily for survivors of deceased OFWs who were active OWWA members until their time of death. The program has 2 components – an Education Package intended to cover continuous education of an eligible dependent regardless of his educational level until completion of tertiary education or a technical/vocational course of his preference; and a Livelihood Package to a surviving member of the family to augment their income.

Seafarers' Upgrading Program (SUP) - A training assistance to member-seafarers in upgrading their skills and competencies to sustain their employability on board foreign-going vessels in the form of financial assistance of Php7,500.00.

Maritime Dugtong Aral (MDA) - A scholarship granted to qualified graduates of BS Mechanical Engineering (BSME) or BS Electrical Engineering (BSEE), who wish to pursue a BS Marine Engineering (BSMarE) Course.

Cadetship Program for Top 200 Maritime Cadets (CADETSHIP) - A financial incentive granted to the top 200 cadets (Deck and Engine) to ensure completion of their course and employability on board foreign-going vessel.

Maritime Educational Development Loan Program (MEDLOP) - An interest free educational loan (Study Now Pay Later) to prospective marine officers and engineers with guaranteed employment on-board foreign-going vessel.

Scholarship Programs' Beneficiaries

Types of Trainings	2006	2007	2008	2009	2010
SESP	1,981	1,071	2,197	3,129	5,622
Microsoft Tulay	4,508	5,802	8,200	13,210	14,601
EDSP	369	186	245	545	494
OFWDSP					299
ELAP					339
SUP	2,177	3,992	5,719	7,272	9,570
MDA			107	84	78
CADETSHIP					188
MEDLOP					9
TOTAL	9,035	11,051	16,468	24,240	33,282
% Increase per Year		18	33	32	27

(source: OWWA Annual Report 2010)

Repatriation Program

This program provides services, including negotiations with employers, agents, and host country authorities, to facilitate the immediate repatriation of OFWs who are distressed or physically/mentally ill and human remains. They are given airport assistance, domestic transport, temporary shelter, medical/rehabilitation services, and coordination with families.

The table below shows the erratic figure in the number of OFWs repatriated with the assistance of OWWA. Repatriation in 2006 was mainly due to the political crisis in Lebanon, while 2009 figures were mainly due to the termination of contracts in countries affected by the global financial crisis. 2010 repatriation efforts were mainly extended to those stranded/housed in welfare centers in Jeddah, Jordan, Kuwait, Beirut, Abu Dhabi and Riyadh.

Beneficiaries of the OWWA Repatriation Assistance

Repatriation Program	2006	2007	2008	2009	2010
On-site Repatriation Assistance	12,000	9,419	8,026	9,252	6,992
Emergency Repatriation Program (ticket)	6,834	1,466	571	1,903	2,294
Airport Assistance	11,759	5,597	5,538	6,962	6,719
Halfway Home Accommodation	5,030	1,821	1,924	2,231	2,870
Medical Referral	284	45	79	9333	7
Domestic Transportation	6,945	307	761	973	1,162
TOTAL	42,852	18,655	16,899	21,414	20,044

(source: OWWA Annual Report 2010)

Social Services and Family Welfare

Reintegration program covers two (2) major components – economic and psycho-social components. The economic component on the other hand, includes social preparation programs for livelihood projects or community-based income generating projects, skills training and credit facilitation and lending. At present,

the economic component has two (2) loan programs: the OWWA-NLSF Livelihood Development Programs for OFWs (LDPO) and the OFW Groceria Project.

The OWWA-NLSF Livelihood Development Program is a joint undertaking of OWWA and National Livelihood Support Fund (NLSF). to address the economic component of the OFW Reintegration Program. It is meant to further improve access to entrepreneurial development opportunities and credit facilities to OFWs, their families, and organizations.

The OFW Groceria project is an interest-free loan assistance package extended in the form of merchandise goods worth P50,000 per qualified OFW Family Circle beneficiary a series of continuing skills training courses are also provided to enhance the entrepreneurial and technical skills of the family circles running and managing their stores.

OWWA also came out with the Filipino Expatriate Livelihood Support Fund (FELSF) as safety net for their displacement due to the global financial crisis. After OFWs have availed of assistance from the National Reintegration Center for OFWs (NRCO) for the initial assistance package, any interested OFW may avail of the FELSF, which offers a Non-collateral Loan Window where the displaced OFWs can loan up to fifty thousand pesos (Php50,000.00) with a very low interest of five percent (5%) per annum, payable in 24 months. Government banks can also extend loans through their collateral windows if worker decides to expand his business enterprise.

Availtees of OWWA's Livelihood Program

Types of Livelihood	2006	2007	2008	2009	2010
OWWA-NLSF LDPO	198	334	258	217	203
FELSF				4,474	4,821
Groceria Project	261	241	467		
TOTAL	459	575	983	4,691	5,024

(source: OWWA Annual Report 2010)

OWWA BEYOND THE NUMBERS

An institution's effectiveness and efficiency would be best analyzed by its clients. For OWWA, it is best seen through the perspective of its members. For the Philippines, a major origin country of migrants, OWWA's performance gives an overview of the welfare services that the government provides to its citizens who are working abroad. Although not a detailed performance evaluation of Philippine programs, the statements below provide an understanding of the policies, functions, and challenges that the Philippine government addresses through a unique government institution, the OWWA, to protect its workers abroad.

OFWs have complained of the difficulties in availing of OWWA benefits and services due to bureaucratic procedures and lack of assistance from its personnel. Some have questioned the lack of OFW representation in the OWWA Board and its decisions that have not benefited the overseas Filipino workers. Many OFWs and

migrant worker advocates have called on the Philippine government to reform OWWA and to make it more responsive to the needs of OFWs and their families.

To further elucidate these concerns, the Center for Migrant Advocacy conducted an online survey in 2008, of OFWs to obtain information about their understanding of OWWA – its services, operations, and leadership structure. The survey was posted on websites of three nonprofit organizations which are working to protect the rights and welfare of OFWs. A total of 400 OFWs responded and completed the survey. The respondents included men and women of various age groups who are working in the Middle East, Asia, Africa, Canada and Europe in both high-skilled and low-skilled job sectors.

Interview questions focused on four major issues central to OWWA’s role of providing services and maintaining fund stability. These are membership, benefits and services, administration and communication,

Membership in OWWA

OWWA enacted the Omnibus Policies on September 19, 2003 through Board Resolution No. 38. The Omnibus Policies included the requirements to qualify as OWWA members, the amount of the contribution that must be paid by the employer, and membership duration.

OWWA Membership

Questions	Number who said “Yes” (%)	Number who said “No” (%)
<ul style="list-style-type: none"> Are you aware that OWWA membership is mandatory for all overseas workers whose contracts are processed by POEA? (n=389) 	339 (87.15)	50 (12.85)
<ul style="list-style-type: none"> Are you aware that overseas workers may enroll voluntarily with OWWA at job sites overseas? (n=388) 	161 (41.49)	227 (58.51)
<ul style="list-style-type: none"> Are you aware that OWWA benefits are only available to OFWs who are OWWA members and have paid the US\$25 membership fee? (n=387) 	303 (78.29)	84 (21.71)
<ul style="list-style-type: none"> Are you aware that OWWA membership continues until the expiration of the contract if processed by POEA, or for 2 years if registered through voluntary on-site registration? (n=383) 	194 (50.65)	189 (49.35)

<ul style="list-style-type: none"> Are you aware that the employer is supposed to shoulder the cost of the OWWA membership fee? (n=384) 	62 (16.15)	322 (83.85)
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The results showed that 87% of OFW respondents were aware that OWWA membership is mandatory for all overseas workers whose contracts are processed by the Philippine Overseas Employment Administration. However, 59% were not aware that they could voluntarily apply as members at their job sites.

The results also showed that 78% of the respondents were aware that OWWA benefits are only available to those who paid the membership fee. However, only close to half (49%) knew of the duration of membership, that is until the expiration of their contracts if processed by the Philippine Overseas Employment Administration and for two years if processed through voluntary on-site registration.

Approximately 84% of the respondents were not aware that the membership fee should be shouldered by their employers. This showed that OFWs believed that they had to pay their membership fees.

Comments from the respondents reflected differences in their views about the mandate of OWWA. Some OFWs believed that OWWA should provide services to its members only while others said that OWWA should protect the welfare of all OFWs, regardless of membership. An OFW said that “It is unfair if non-OWWA members are entitled to the benefits applicable to the OWWA members who regularly paid the membership fee”. However, some OFWs pointed out that even members rarely enjoy the OWWA benefits. Another OFW said that “the majority of Pinoy workers needing help abroad are unregistered or undocumented” and most likely would not be OWWA members. Other OFWs rejected the “member/non-member” dichotomy because they believed it is the responsibility of the Philippine Government to ensure that OWWA protected all OFWs based on its mandate.

OWWA Benefits and Services

Questions on benefit package	Number who said “Yes” (%)	Number who said “No” (%)	Number who said “NA*” (%)
<ul style="list-style-type: none"> Do you think that OWWA benefits should be limited to OWWA members who pay the membership fee? (n = 387) 	303 (78.29)	84 (21.71)	- -
<ul style="list-style-type: none"> Are you aware that OWWA offers life insurance, disability and burial benefits, training and scholarship programs, repatriation programs for distressed OFWs and their families, reintegration programs, loans and workers assistance and on-site services? (n=388) 	202 (52.06)	186 (47.94)	- -

<ul style="list-style-type: none"> Have you used any of these programs? (n=384) 	26 (6.77)	358 (93.23)	- -
<ul style="list-style-type: none"> If you have availed of any of these services, was it successful in meeting your welfare needs? (n=351) 	16 (5.13)	93 (26.50)	240 (68.38)
<ul style="list-style-type: none"> Are you aware that OWWA is currently the lead welfare institution that seeks to serve the interests and welfare of members? (n=382) 	192 (50.26)	190 (49.74)	- -
<ul style="list-style-type: none"> Are you aware that the OWWA fund is available for loans to non-OFW businessmen? (n=378) 	24 (6.35)	354 (93.65)	- -
<ul style="list-style-type: none"> Do you think that the OWWA funds should be made available to non-OFW loans? (n=378) 	36 (10.05)	340 (89.95)	- -
<ul style="list-style-type: none"> Who do you think should shoulder the cost of OFW welfare services? (n=738) 			
Employer	179 (24.25)	-	-
The OFWs themselves	116 (15.72)	-	-
The Philippine government	256 (34.82)	-	-
The foreign government	83 (11.25)	-	-
All of the above	103 (13.96)		

*NA: not applicable

The results showed that 78% of OFW respondents believe that OWWA benefits should be limited to its members. Around 48% of OFWs reported that they did not know what services and benefits are offered by OWWA. Of the survey respondents, only 7 percent of OFWs have successfully accessed an OWWA service or benefit and 5% said that their needs were met. Of the 93% of OFWs who have not benefited from an OWWA program, a majority reported that they had not accessed the benefit due to lack of information or bureaucratic procedures rather than from lack of need. The results further showed that half of respondents (50%) did not know that OWWA is the lead government agency mandated to protect the welfare of OFWs.

Some respondents said that OWWA does not serve the welfare of OFWs. Instead, it serves as a “milking cow” for other government agencies. In addition, reports of OWWA lending capital to private business groups and corporations gave OFWs the impression that some people were using the agency for their own private interests.

Comments from respondents also showed that current procedures to avail of benefits pose insurmountable obstacles for most OFWs. Some OFWs cited the OWWA bureaucracy as one of the main problems preventing the agency from fulfilling its mandate to protect OFWs. Approximately 93% of OFW respondents have never availed of an OWWA benefit.

Respondents described their common experiences in obtaining benefits from OWWA. The OWWA personnel told the OFWs that the benefits were suspended or no longer available. For those who pursued the benefits and services, they had to undergo a bureaucratic process that ultimately led to hopelessness and the OFW giving up. Because of this reputation within the OFW community, some OFWs in distress do not at all apply for OWWA assistance. As one OFW reported, “I never get a good feedback from those who already experienced (asking for assistance from) OWWA.” Many OFWs believe that the OWWA programs exist only on paper to make the agency look effective but in reality do not benefit OFWs.

Perception of OWWA Administration

Questions on OWWA administration & leadership	Number who said "Yes" (%)	Number who said "No" (%)
<ul style="list-style-type: none"> Are you aware that the OWWA board claims the right to terminate or alter OWWA benefits and services unilaterally? (n=380) 	29 (7.63)	351 (92.37)
<ul style="list-style-type: none"> Are you aware that OFWs make up only 17 percent of the OWWA Board? (n=386) 	11 (2.85)	375 (97.15)
<ul style="list-style-type: none"> Do you think OFWs have enough representation to the OWWA Board? (n=381) 	84 (22.05)	297 (77.95)
<ul style="list-style-type: none"> Are you aware that the OWWA fund is considered a "trust fund," but does not have named "trustors. Trustees or beneficiaries? (n=379) 	54 (14.25)	325 (85.75)
<ul style="list-style-type: none"> Are you aware that OWWA has a "target growth rate" and is trying to increase the size of the fund? (n=373) 	45 (12.06)	328 (87.94)

Results above showed that 92% of OFW respondents were not aware that the OWWA Board had the right to terminate or alter the benefits and services. Approximately 97% of the respondents were also not aware that OFWs made up only 17% of the OWWA Board and 78% said that the OFW representation is not sufficient. In addition, 86% of the respondents did not know that the OWWA trust fund did not have beneficiaries nor that it has a target growth rate (88%).

Trustees from the management and labor sectors are recommended by appropriate agencies and approved by the Office of the President, which leads to the politicization of the process. Some respondents said that "the selection process of Board of Trustees should be transparent and results made known to the membership." They also said that:

- "OWWA should be run by an ex-OFW, not by a political appointee."

- “OWWA should be run by competent, experienced former OFWs or at least majority of whom are ex-OFWs.”
- “Qualified personnel must be at stake instead of coloring it with political appointees.”

Respondents were also asked the following questions:

- Who do you think is responsible for managing the trust?
- Who do you think gives or contributes the money that makes up the OWWA fund?
- For whose benefit do you think the trust has been created?

Of the 75 respondents who answered the three questions, 58 (77%) identified the OFWs as the principal manager of the trust, the primary contributor to the OWWA fund, and therefore the rightful beneficiary. The Philippine government, representatives of foreign employers, and the OWWA leaders were identified as serving a supporting role to the OFWs.

Many OFWs are very concerned that the current Board members do not prioritize OFW welfare and do not understand the experiences of OFWs. A number of OFWs called for a higher ratio of OFW to non-OFW Board members and demanded a Board composed of “persons with known integrity and record.”

Regarding the trustees’ use of the funds, respondents said that:

- “It should and must serve exclusively the needs of OFWs and management of the board should have majority participation by OFW. It is our money.”
- “The OWWA Fund should be ... transparent to all members (and they should be) inform(ed) where the fund is being used.”
- “OWWA should be transparent particularly with regards to its funds.”
- “The only time we see OWWA is when they want us to pay - how about when we need them? A lot of reconstruction needs to be done.”
- “They are just making money out of the people by collecting membership fees but they are not very helpful.
- “One thing I do suggest to OWWA - please manage the OWWA fund because this money is almost taken from the blood of OFWs and they did not just pick the money from the road side and go home to the Philippines. They suffered a lot to build that fund.”
- “It (OWWA) doesn't work and should be changed immediately. This is a robbery by the government who call them "heroes".

When asked if the OFWs were in favor of increasing the fund, many of the 105 respondents supported the idea but indicated that the OFWs should not be the source of the additional funds.

- “Dapat palakihin ang OWWA funds, pero di na magtaas ang babayaran ng OFW. (It is okay to increase the fund as long as OWWA will get it from investments and not by increasing the US\$25 membership fee.)
- ”OWWA is a welfare organization and not a fund institution. Instead of increasing the fund they should look at investments to increase the fund but not to take it from the OFWs (by increasing the membership fees collected from them).

OWWA's Communication with OFWs

Questions on OWWA's communication lines with OFWs	Number who said "Yes" (%)	Number who said "No" (%)
<ul style="list-style-type: none"> ● How would you like to communicate your suggestions to the OWWA Board? (n=674) <ul style="list-style-type: none"> • Through the OWWA website • Through your representative to Congress • Another way 	<p>300 (44.51)</p> <p>196 (29.08)</p> <p>178 (26.41)</p>	-
<ul style="list-style-type: none"> ● Do you think OFWs should have any control over OWWA's decisions to alter or terminate services? (n=377) 	336 (89.12)	41 (10.88)

Results showed that OFWs prefer to communicate to OWWA through its website which is available 24 hours a day. Regarding OWWA's decision making process, 89% of OFW respondents indicated that OFWs should decide which services should be changed or terminated.

FINDINGS

The survey results reflected the need to reform OWWA's operations and structure as the main governmental entity responsible for protecting and promoting the welfare and well-being of overseas Filipino workers. The OFW respondents are demanding simpler and efficient procedures for them to avail of OWWA benefits and services and better information dissemination of the agency's role and its programs. The OFWs are also demanding a change in the composition of the Board that would make it more representative of overseas Filipino workers and which exercises its fiduciary responsibility in keeping with the mandate of OWWA.

After more than 31 years since OWWA's founding, a significant number of OFW respondents were either unaware or misinformed about the role and mandate of the agency. This shows that OWWA has not adequately informed the OFWs and has not utilized effective means of communication. Findings in this study also point to the need for OWWA to create a mechanism which would facilitate communications and consultation with OFWS on all aspects of its operations.

The OWWA Board of Trustees' decision on the membership fee violated the agency's mandate. There is also an absence of transparency in its decision making process, composition, and disbursement of funds. The bureaucratic procedures in applying for membership, availing of the benefits, and obtaining information related to overseas contract work need to be changed.

Reform of OWWA is a priority concern of OFWs because it is the government agency that was mandated to promote and protect the welfare and well-being of overseas Filipino workers. OFWs, CMA, and its partners will continue to advocate for OWWA to fulfill its mandate.

FINDING THE RIGHT BALANCE: PROVIDING SERVICES AND ATTAINING FUND SUSTAINABILITY

Striking the right balance between providing timely and adequate services to OFWs and their families, and achieving fund stability is the core of OWWA's operations. However, looking at the survey results reveal that the balance is far from being achieved.

It is imperative that the Philippine government truly fulfill OWWA's purpose, and protect the OFWs and their families. Unfortunately, OWWA has fallen short of its mandate due to a combination of confusion about its specific powers and responsibilities and problems systemic to the organization as it functions now.

Organizational: Confusion about its specific powers and responsibilities OWWA was created through a series of laws that left some crucial details of the organization undefined. Many questions remain to be resolved about OWWA, and until they are, the organization will not be able to serve the welfare of OFWs effectively. Currently, OWWA is operating in the grey area of this confusion, and is hurting OFWs, rather than protecting them, by charging fees without providing benefits. The questions about OWWA that need to be resolved immediately are:

- Is OWWA a Government agency, or not?

Since 1980, OWWA is an independent financial agency that manages the welfare fund of overseas workers and provide services to its contributing members like loans and insurances. It is entirely self-funded through the contributions of its members and receives no allocation from the national government. Thus, it is undecided if OWWA is a government agency or a private organization. If OWWA is *not* a government organization, then the Philippines government is constitutionally obliged to establish a governmental organization to protect the welfare of its OFWs. If OWWA *is* a government organization, then the Philippine government must begin to fulfill its responsibility and fund the OWWA administration. If not, then the government's representation in the Board of Trustees is definitely in question. To a larger extent, what is being questioned here is the sincerity of the government to implement as mandated in RAs 8042 and 10022 to promote the welfare of migrant workers and place their protection above else.

- Is OWWA an insurance scheme, a protection agency, a loan bank, or social security?

OWWA offers a variety of mixed benefits and services, which imply contradictory definitions of the organization. As the OWWA fund is limited, these various services compete for the finite resources, so that ultimately no OFW can avail of any of them. The matter of expertise on the various programs also come into play. We remember too well that the rationale for the sudden decision to transfer the OWWA Medicare from OWWA to Philhealth was because of OWWA's non-expertise in the administration and management of health-medical benefits for OFWs and their families. Equally important is ensuring that the OWWA welfare programs and services are accessed effectively by the sector by providing clear guidelines and an effective mechanism for their availment.

While all the services and benefits for OFWs and their families make sense, this has raised uncertainties on OWWA's capacity to fund welfare services and manage its members' funds – a fundamental element of OWWA's legitimacy and further survival.

- Who must pay the OWWA fee?

Preferably, the employer and/or agency pays the membership fee. However, it is a well-known fact that this is passed on to migrant workers. Legally, the worker must never be charged the OWWA fee. However, OWWA failed to put in place an effective mechanism for the implementation of this policy. In practice, at least more than 50% of the total annual deployment of POEA who comprised the rehired workers or "*balik manggagawa*" whose work contracts have been extended on-site, pay the OWWA fee themselves upon processing of their documents at the POEA.

For first time migrant workers, on the other hand, their agencies are supposed to shoulder the OWWA fee. However, there are still many accounts by OFWs themselves, claiming that the fee paid for by the agency are later on collected back

from the OFWs themselves. As for OFWs in irregular status abroad, OWWA simply does not have any mechanism in place to ensure the collection of the OWWA fee.

This inequitable practice falls heaviest on those OFWs who have the least leverage with their employers and need the protection of OWWA the most. Since some OFWs are forced to pay every time they come home to visit their families, some OFWs pay hundreds of dollars in OWWA fees, while others pay nothing.

Would it be better to try to enforce the law, and compel the employers to pay despite the practical difficulties? Or is it better to change the law, and to admit that in practice OFWs pay the fee, and charge each OFW systematically and equitably? Some migrant organizations are even questioning the authority of OWWA to require such payment.

- Is it a membership organization?

By virtue of OWWA Board Resolution 038, otherwise known as the OWWA Omnibus Policy, adopted in September 2003, the OWWA Board transformed OWWA into a membership-based organization. The "contribution fee" became a "membership fee" in the Omnibus Policies, and limited the OWWA services to "OWWA members" in an attempt to maintain fund viability. It is illegal for the Philippines government to limit its protection of its OFWs only to "OWWA members."

However, given that some OFWs pay for OWWA, and others do not, how should OWWA disburse its services and benefits most equitably and efficiently while maintaining fund viability? If OWWA is a membership organization, how will the Philippine government protect the remaining, non-"OWWA member" OFWs?

Despite the mandatory membership requirement, it is not a remote possibility given the large number of OFWs, that many OFWs who extended their contracts while overseas but did not renew their OWWA membership.

- How does OWWA relate to other OFW agencies?

Although OWWA is defined as an attached agency of the Department of Labor and Employment (DOLE), it remains uncertain how OWWA is supposed to cooperate with other OFW-orientated agencies. Some of OWWA's services are redundant, some would be better managed by a different agency, and some necessary services are left unmet by any agency.

For example, OWWA offers repatriation services at the same time that OWWA takes charge of the Emergency Repatriation Fund (ERF). Additionally, while OWWA may still provide health and medical benefits, in actuality they relinquished this responsibility to PhilHealth, acknowledging PhilHealth's greater experience and competence. OWWA must establish a clear relationship with OUMWA (Office of the Undersecretary for Migrant Workers Affairs) which is likewise mandated by law to take care of OFWs, PhilHealth, SSS (Social Security System), POEA, DOLE, and loan offering Banks, so that all the OFWs' crucial needs are served, while no efforts are

duplicated.

In reality, OWWA's partnerships with other agencies come with risks. This includes poor coordination on emergency issues and misunderstandings about expectations. Thus, even the use of OWWA's funds, as a loan of the national government to fund emergency repatriation/evacuation, should be entered with utmost caution. Otherwise, this agreement may deplete the agency's fund balance, which is precarious to financial stability.

- Who owns the Trust Fund?

A significant majority of OWWA's investment portfolio had been entered into an Investment Management Agreement with the Land Bank of the Philippines (LBP) and the Development Bank of the Philippines (DBP). As investment managers, both banks are authorized to invest/reinvest funds in government securities.

It is uncertain who owns the OWWA fund, now amounting to some P11.7B deposited in the DBP and LBP. Nobody knows if it belongs to the government or to the OFWs. If OWWA were to be dissolved, would the money go to the Philippine government or back to the OFWs?

- How should the money be used?

It is uncertain if any guidelines limit the use of OWWA funds. Currently, 80% of OWWA's budget supports its own administration. Additionally, OWWA funds are routinely used for outside purposes and "emergency" situations. If OWWA funds are only to be used for OWWA services, they must be explicitly protected in writing to prevent its misuse.

Transparency in the management and accounting of the welfare fund is a must for OWWA since its funds are from the members themselves. Operational transparency is more than required especially with the government's Commission on Audit report from 1999 to 2005 stating that there are millions of pesos in unliquidated cash advances and in "doubtful accounts."

Included in this "doubtful account" was the Smokey Mountain Project, a housing program for the urban poor. The 2005 Audit Report underscored that the recovery of the P479M investment in the project is "uncertain".

Operational: Problems systemic to the organization

OWWA is rife with problems in its current organization. Since it has been operating in the gray area of confusion, many systemic problems have grown into the organization.

- Benefits and Services: broken promises

OWWA promises an astounding array of benefits and services, from loans, to

repatriation, and various insurances. OWWA, however, receives no money from the Philippine government, and relies entirely on the nominal US\$25 "membership fee" collected every two years, at most.

In comparison, SSS charges on the average Php4,000/ year from the employee (within the P10,000 monthly salary bracket). Thus, it is fiscally impossible for OWWA to offer the full array of services it advertises for such a small fee. Additionally, OWWA offers new loans every year, though it has no functional procedures to enforce repayment of loans. Since OWWA is constantly afraid of bankrupting the fund, they routinely suspend benefits and services or institute numerous procedural and bureaucratic obstacles to prevent OFWs from accessing the services.

As mentioned earlier, the current procedures for availment of benefits and services present overwhelming difficulties for most OFWs who seek OWWA's assistance. Thus, it not unusual for OFWs who have tried to access OWWA's services report that "OWWA exists on paper only."

- Severe lack of information among OFWs

To most OFWs, OWWA is associated with the US\$25 fee they have to pay or they will not be issued an overseas employment certificate. They also know that OWWA is the agency to go to if and when they are in distress. But how exactly they can access the services of OWWA is not very clear to many of them. OFWs reported ignorance about major OWWA policies, requirements, benefits, and services. There is no clear mechanism for OWWA to widely reach out and disseminate information to OFWs.

- Transparency

Despite Constitutional requirements for transparency, neither the OWWA funds nor the Board appointments are conducted with adequate transparency. The promulgation of the OWWA Omnibus Policies by the OWWA Board in 2003 without consultation whatsoever with the migrants and the migrant groups was a case in point of severe lack of transparency of OWWA.

Certainly, one area that needs to be transparent is the process for policy and decision making of the Board. Minutes of the board meetings are not accessible to its members nor is it available in the website. Thus, there is always a cloud of doubt hanging over the Board's decision. Whether there is substance to these allegations is difficult to determine due to the lack of transparency in the decision making process.

- Accountability

Under the current Omnibus Policies, an OWWA Board member can elect a proxy to fulfill his/her OWWA duties. This creates a system in which a Board member is neither accountable for attendance nor for Board decisions.

Except for those representing the various government agencies whose representation is automatic by virtue of their position, the President appoints all members of the Board of Trustees. This may seem to be the most practical arrangement given the complex process of consulting OWWA members spread in almost 200 countries. Yet, the question remains: are they accountable to the President who appointed them or will they truly represent the interests of their fellow migrant worker

- Representation

Although OWWA is dedicated to OFW welfare, OFWs make up only 17% of the Board. An overwhelming majority of Board members are not OWWA members, but are representatives from the government sector. The Board member from the women's sector, furthermore, is not required to be a female OFW. The selection process is equally not transparent.

Aside from increasing the number of migrant workers in the Board, it is just as important for OWWA to create and develop mechanisms that would allow for regular feedback and consultation with its members. The representation of OFWs will always be limited if such process will not be institutionalized.

- Consultation

The OWWA Board does not consult OFWs or OFW NGOs before making major decisions such as suspending or terminating benefits or services, or appointing new Board members. Again, a case in point is the OWWA Omnibus Policies. Another example is the transfer of OWWA Medicare to Philhealth.

This predicament is aggravated by the fact that OWWA does not publish or disseminate the decision and/or resolution of the Board.

- Limits on authority of Board are not obeyed

Although the Board is only legally authorized to formulate and implement measures and programs to attain the funds' objectives and purposes, i.e. to provide social and welfare services to OFWs, the Board has assumed greater power by unilaterally promulgating the Omnibus Policies, without any regard to their dire consequences to the OFWs and their families.

The current set-up provides the Board with enough elbow room to craft policies and implement programs that would respond to OFWs need especially in crisis situations, but at the same time, this also gives permission to the Board to exercise comprehensive and unregulated authority.

THE MUCH-NEEDED REFORMS IN OWWA

OWWA was created for the valuable purpose of protecting OFWs and their families. And as working overseas remains a workable option despite its dangers and

limitations, the government has to institutionalize and strengthen its support to OFWs and their families. OWWA may have fallen short in terms of implementing its mandate yet it remains as the main agency for protecting Filipinos working abroad due to its large scope of tasks and responsibilities going beyond legal assistance.

The most crucial step in reforming OWWA is enacting its own charter. What it has in place is the OWWA Omnibus Policies (OP) promulgated by the OWWA Board of Trustees on September 19, 2003. The OP introduced a series of major changes in the operations of the OWWA, particularly in the availment of its programs and services.

These changes, in effect, amended a major law provision which asserts that the OWWA contributions must not in any way be collected from the migrant worker. The OP also made OWWA a membership-based government agency. The case was brought to the courts but to date, after more than five years, no decision has been rendered. Hence, it is urgent and necessary that Congress enacts a legislative charter for OWWA that will define its purposes, composition, management funding, programs and services.

Salient Features of the Proposed OWWA Charter

Chapter I

SEC. 2. Declaration of Policy. It is the policy of the State to afford full protection to labor, local and overseas, organized and unorganized, and promote full employment opportunities for all. Towards this end, it shall be the State's responsibility to protect the overseas Filipino workers (OFWs). The Overseas Workers Welfare Administration (OWWA) will be the primary instrumentality of the State to serve and promote the interest and welfare of the OFWs and their families.

Chapter II

SEC. 3. Nature of OWWA as a Government Body. – The OWWA is a national government agency vested with a special function of developing and implementing welfare programs and services that are responsive to the needs of OFWs and their beneficiaries. It is endowed with powers to administer a trust fund. Its officials and employees are covered by the Salary Standardization Law.

SEC 5. Purposes and Objectives. In order to reaffirm the mandate espoused in Article II Section 18 and Article XIII Section 3, of the 1987 Constitution, OWWA shall:

- Facilitate the implementation of the provisions of the Labor Code concerning the responsibility of the government to promote the well-being of OFWs;
- Provide social and welfare services to OFWs, including, but not limited to, insurance, social work assistance, cultural services and reintegration of returning OFWs;
- Ensure the efficiency of collections and the viability and sustainability

of the Fund through sound, judicious, and transparent investment and management policies;

- Undertake studies and research for the enhancement of OFW social, economic and cultural well-being; and
- Develop, support and finance specific projects for the welfare of OFWs.

Chapter III

SEC. 6. Definition of Terms. For purposes of this Act, the following terms shall mean:

- **Bonafide OWWA Member** refers to any person who fulfills the conditions to be employed or engaged in a productive employment overseas of which he or she is not a citizen or on board a vessel navigating the foreign seas other than a government ship used for military or non-commercial purposes or an installation located offshore or on high seas, and who has paid the required OWWA membership fee;
- **Dependents**
- **Compensation**
- **Contribution** refers to the amount payable to OWWA by a bonafide OFW or the employer in accordance with the provisions of this Act;
- **Active OWWA member** refers to an OFW who has an active employment contract and who has paid the OWWA membership fee.
- **Non-Active OWWA member** refers to an OFW whose OWWA membership has expired and has not renewed it despite having a new employment contract with the same or another employer;
- **Non-Member OFW** refers to an undocumented OFW and who has not availed of the voluntary membership of OWWA on-site.

Chapter IV

SEC. 7. Registration of Membership. Registration or enrollment of members shall be in accordance with the provisions of this Act. Membership in OWWA may be obtained in two (2) ways:

- By compulsory registration upon processing of employment contracts of new-hires, rehires, direct-hires, government-hires at the POEA; and
- By voluntary registration of non-active members and undocumented OFWs at job-sites overseas.

SEC. 8. Proof of Membership.

SEC. 10. Renewal of Membership. Membership shall be renewed upon payment of contribution on contract renewal/issuance of new contract. In the case of voluntary

membership, coverage shall be renewed upon payment of contribution of Twenty Five US Dollars (US \$25.00) or its equivalent in the current foreign exchange rates.

There shall be a grace period of two (2) months in both instances.

SEC. 11. Separation of Sea-based and Land-based Workers Contributions. To effect a more efficient fund management between the two (2) sub-sectoral groups of Land-based and Sea-based workers, the collection of membership contribution shall be accounted for in two (2) separate books of account.

SEC. 15. Prohibition against discrimination on membership to the OWWA. No bonafide OFW shall be denied admission to the OWWA by reason of age, gender, nationality, religious belief, or political opinion or affiliation. The OWWA shall take affirmative steps to enhance the access of overseas Filipinos and migrant Filipino workers to its programs and services.

SEC 16. Payment of Contribution or OWWA Fee by Employer. – Contributions to the OWWA Trust Fund must be paid by the employers/principal, or in their default, the recruitment/manning agency in the case of new-hires. The POEA shall ensure that a provision to this effect shall be made an integral part of the contract for overseas employment.

Chapter V

SEC.19. The OWWA Board of Trustees. - To carry out the purposes of this Act, OWWA shall be directed and controlled by a Board of Trustees as its policy making body. It shall be composed of the following members:

- Secretary of Labor and Employment, as Chairperson;
- OWWA Administrator, as Vice Chairperson;
- Secretary of Foreign Affairs;
- Secretary of Finance;
- Secretary of Budget and Management;
- POEA Administrator;
- One (1) representative from the land-based recruitment sector, who is selected from among the various associations of registered overseas placement and recruitment agencies based in the Philippines who shall be appointed by the President to serve a single term of three (3) years;
- One (1) representative from the sea-based manning sector, who is selected from among the various associations of registered overseas placement and recruitment agencies based in the Philippines who shall be appointed by the President to serve a single term of three (3) years;
- Two (2) representatives from the land-based OFWs who are nominated and appointed in accordance with the provisions of Republic Act No. 10022;

- Two (2) representatives from the sea-based OFWs who are nominated and appointed in accordance with the provisions of Republic Act No. 10022; and
- Two (2) representatives from the women sector who are nominated and appointed in accordance with the provisions of Republic Act No. 10022;

SEC. 21. Responsibilities and Powers of the Board of Trustees. The Board shall exercise the following specific powers and duties:

- To define the thrusts of the OWWA and adopt broad policy guidelines to ensure their implementation;
- To preserve the integrity of the OWWA Trust Fund;
- To approve programs, projects, and the organizational structure of the OWWA Secretariat;
- To fix the membership fee and other necessary charges, as the Board may deem proper to impose;
- To formulate rules and regulations governing financial transactions and fix the yearly appropriations of the Secretariat; and
- To ensure the efficiency of collection and the viability and sustainability of the fund through sound and judicious investment and fund management policies;
- To receive and appropriate all sums as may be provided by law for the support of the OWWA to the ends specified by law, and all other sums in the manner it may, in its discretion, determine to carry out the purposes and functions of the OWWA;
- To authorize the construction or repair of its buildings, machinery, equipment and other facilities, and the purchase and acquisition of real and personal properties, including the necessary supplies, materials and equipment;
- To receive in trust legacies, gifts and donations of real and personal property of all kinds and to administer and dispose the same when necessary for the benefit of the OWWA general membership and subject to the instructions of the donor, if any;
- The provisions of law to the contrary notwithstanding, to authorize any of its Board member to travel abroad for certain specific purpose relative to his/her functions: Provided, That such travel is within the scope and functions of the mandate of OWWA, as prescribed herein;
- To exercise the general powers set out in the Corporation Code;
- To delegate any of its powers to the Chairperson of the OWWA Board or any other officials or officers as it may deem necessary;
- To prescribe such general policies, rules and regulations, not contrary to law, as are consistent with the purposes of the OWWA; and
- To exercise such powers as may be proper and necessary to carry out the objectives of this Act.

SEC. 24. The OWWA Secretariat. – The Secretariat shall function as the implementing arm of OWWA.

SEC. 25. The OWWA Administrator. – The administration of the OWWA is vested in the Administrator insofar as authorized by the Board. As the Chief Executive Officer of the Secretariat, the Administrator administers the overall operations of the Secretariat. He exercises general supervision and control of all its personnel and resources, and assumes full responsibility and accountability thereof.

The Administrator shall be appointed by the President. He must possess good leadership and managerial skills and shall have the rank of a Department Undersecretary. The Administrator shall report to the President through the Secretary of DOLE, and shall perform the duties and functions elsewhere stated in this Act and all the usual, necessary and related functions of the office of the Administrator, subject to the policies and rules prescribed by the Board. The Board shall determine the term of office and compensation of the Administrator.

SEC. 26. The Deputy Administrators. – Two (2) Deputy Administrators shall assist the Administrator in the administration and supervision of operations of OWWA. They shall be appointed by the Board upon the recommendation of the Administrator. They must also possess good leadership and managerial skills and shall have the rank of a Department Assistant Secretary. The Board shall determine their terms of office and compensation. The Board may assign specific functional responsibilities to the Deputy Administrators.

Section 27. Regional and On-Site Officers. – OWWA shall maintain Regional Offices and on-site Welfare Offices under the Philippine Overseas Labor Offices of the Department of Labor. The salaries and allowances of Welfare Officers shall be determined by the Board, subject to the Salary Standardization Law.

Chapter IX Benefits and Services

SEC 40. Benefits and Services to OFWs. –

A. Repatriation Assistance.

- All OFWs in distress shall be ensured of repatriation assistance from OWWA where needed, subject to reimbursement by the foreign employer/principal/agency concerned, or borne by the OWWA if the persons mentioned herein are not identified, as the case may be.
- In case of emergency mass repatriations, the OWWA and the DFA, with full support from the national government, shall undertake mass repatriations/evacuations as may be necessary. The cost shall be shouldered in accordance with the foregoing classification.
- The repatriation of remains of deceased Filipinos abroad shall apply the same attendant circumstances.

B. Loan and Credit Assistance.

In compliance with Article III, Section 21 of RA 8042, OWWA shall coordinate with government financing institutions (GFIs) to provide low-collateral loans to OFWs. The loans shall be granted through designated national banks adopting a special low-collateral rate. The OFW shall provide 2/3 of the collateral requirement while OWWA shall borne the remaining 1/3 of the collateral.

- Pre-Departure Loans (PDL) shall service ready-to-leave, newly hired OFWs whose employers or agents have already paid the compulsory OWWA fee. The loan is designed to assist OFWs in their pre-departure needs, such as payment of placement fees, clothing requirements, pocket money, and other pre-departure expenses.
- Family Assistance Loans (FAL) is available for emergency and other family needs as endorsed by the OFW.
- Returnee Loans (RL) shall be available for returning OFWs to assist in reintegration, settlement, and other needs.
- Entrepreneurial Loans (EL) shall be available to OFWs on-site or to returned to assist in establishing new businesses and other entrepreneurial ventures.

C. Workers Assistance.

- Continuing Education and Counseling about OFW Services and Resources. OWWA shall continue to disseminate information to on-site and returned OFWs regarding all available OWWA services and resources, including but not limited to those enumerated in Article III, Section 4 of this Act.
- Continued Assistance Obtaining OFW Services and Accessing OFW Resources. OWWA will assist any interested OFW to avail of the benefits and services enumerated in Article III, Section 4 of this Act.

D. On-site Services.

OWWA shall sustain and maintain assistance to OFWs in all its regional and overseas offices. Services shall include information regarding the names, occupation/job category and addresses of OFW, providing guidance, developing materials for the Pre-Departure Orientation Seminars, conducting psycho-social counseling, conciliation services, and outreach missions, among others. On behalf of the OFW, OWWA may provide appropriate representation with employers, agents and host government authorities, including, but not limited to assisting OFWs to regain unpaid wages.

E. Death and Disability Benefits.

F. Reintegration of OFWs.

The foregoing benefits/services shall be given to paying/active members of OWWA while former paying members and non-members of OWWA shall enjoy benefits/services D and F, and other benefits/services which shall be determined by the OWWA Board.

SEC. 41. Guiding Principles. - Pursuant to its mandate, OWWA shall deliver to all member-OFWs, loan assistance, education and skills training, social services, family welfare assistance, and other appropriate programs that provide timely social, and economic services.

Nothing in this Act shall be construed as a limitation or denial of the right of the OFW to avail of any benefit plan which may be adopted in the employment contract, or offered voluntarily by employers, or by the laws of the receiving country which are over and above those provided under this Act.

SEC. 42. Commitment to Extend Service to Non-members and Remain Responsive to OFW requirements. - OWWA shall also extend its services and programs, such as education and skills training, social services, and other appropriate programs to non-members or undocumented OFWs and their families.

OWWA shall continue to seek new ways to serve OFW welfare, to meet new OFW needs and requirements as they arise, and to assess the effectiveness of existing services and benefits in serving OFW welfare.

OWWA shall also maintain an interactive website to collect OFW feedback on existing services, comments, suggestions, and complaints.

Chapter X OWWA Trust Fund

SEC. 43. OWWA Fund. - The OWWA Fund is a private fund held in trust by OWWA. The OWWA Fund, being a trust fund, is not government money. No portion thereof or any of its income, dividends or earnings shall accrue to the general fund of the National Government. Neither shall any amount or portion thereof be conjoined with the government money, nor revert to the national government. In the same manner, it is exempted from the "one fund doctrine" of the government.

SEC. 44. Purpose of the OWWA Fund. - The OWWA Fund can only be used for the purposes for which it was created, that is, to exclusively serve the welfare of OFWs and their beneficiaries. The fund is to be used exclusively to finance the core programs and services of the OWWA, further, not less than 30% of their annual collection shall be allocated for reintegration program.

Section 47. Source of the OWWA Fund. - The OWWA Trust Fund is the sum total of the amounts currently under the management and fiscal administration of the OWWA Board and the Secretariat, including the US\$25 contributions that shall accrue to the fund as fees, investment and interest income, and income from other sources.

Section 48. Trustees of the Fund. - The OWWA Board is designated as the trustee of the Fund. It is bound by a fiduciary duty to manage the Fund with the skill, care and diligence of a prudent person necessary under the circumstances.

Section 49. Transparency. - The OWWA Trust must be managed with full transparency and it shall make available all records of how the funds are invested and distributed.

Chapter XI Investment Administration Safeguards

SEC. 48. Safeguards of OWWA Trust Fund; Acquired Assets: Unredeemed Investments and Other Receivables.

- The OWWA Trust Fund shall be managed and expended in accordance with the purpose of the Fund and safeguarded against any possible loss and misuse.

The OWWA shall ensure an appropriate growth rate in the fund sufficient to sustain the growing needs of OFW members. It shall ensure that all investment instruments are periodically inventoried and properly kept at a government bank under a custodianship agreement.

A monthly report on all investment schedules showing the interest rates, yields, discount rates, and other relevant data, shall be submitted to the Board.

- The OWWA shall administer all properties, acquired or foreclosed.
- Unredeemed investments and other receivables shall be inventoried semi-annually and corresponding redemption plan shall be submitted to the Board.

SEC 49. General Investment Policy. - All OWWA investments shall be placed only in government securities and bonds which provide optimum earnings, liquidity and protection of the Fund. Portfolio management of investible funds shall be outsourced to government financial institutions (GFIs).

It shall likewise be exempt from any and all fees, taxes, charges and other imposition arising from the management of the investment of the OWWA funds.

SEC. 50. Examination and Valuation of the Funds.

SEC. 51. Exemption from Tax, Legal Process and Lien. It is hereby declared to be the policy of the State that the actuarial solvency of the OWWA Funds shall be preserved and maintained at all times and that contribution rates necessary to sustain the benefits under this Act shall be kept as low as possible in order not to burden existing OWWA members and other prospective members. Taxes imposed on the OWWA tend to impair the actuarial solvency of its funds and increase the contribution rate necessary to sustain the benefits of this Act.

Chapter XII Fiscal and Budget Policy Management

SEC 52. Operative Budget. - The operative budget must be sufficient to support full protection of the OFW welfare. The budget shall be reviewed annually with emphasis on adequate funding for services and agency efficiency.

The members of the Board shall approve by a unanimous vote the operating budget which shall support the planned work programs and administrative costs to include but shall not be limited to salaries, emoluments and transportation expenses for OWWA personnel, office rentals, office supplies, equipment, technological support, communications and utilities, requirements for personal services, and maintenance.

The approved operating budget shall be drawn from the OWWA Trust Fund.

SEC 53. Benefits and Services Budget. - The annual budget shall include all benefits and services to OFWs. The budget shall prioritize protecting OFW welfare. The amount necessary to defray the cost of these benefits and services shall be drawn from the OWWA Trust Fund.

SEC 54. Budget Preparation and Approval. - In preparing both annual budgets, OWWA shall follow the national government budget system, format and cycle.

SEC 55. Automatic Appropriation. In case the proposed annual budget has not been approved by the Board at the start of the year, OWWA shall operate within the budget level of the previous year allocated on a month to month basis. All savings realized within a previous year shall be deducted from a current year's budget.

SEC. 56. Work and Financial Plans. All cost centers/offices/units of OWWA shall submit their annual work and financial plans (WFP), which should correspond to the approved budget. The Directors shall endorse the WFP of their respective units for approval of the Administrator. The consolidated OWWA-WFP shall be reported to the Board.

SEC. 57. Budget Realignment. Realignment of funds including adjustments in targets shall be submitted to the Board for approval. Similarly, in the event that extra ordinary circumstances may occur which require additional funds beyond the coverage of the approved budget, the same shall be submitted for approval by the Board.

From OFWs: Comments on the Proposed OWWA Charter

To ensure broad consultation on the proposed OWWA Charter, the House Committee on Overseas Workers Affairs (COWA), in cooperation with the Department of Labor and Employment's International Labor Affairs Bureau DOLE-ILAB), conducted online consultations with OFW groups in various destinations¹. CMA likewise solicited the same from its partner OFW groups and individuals. While these comments may not automatically be part of the proposed charter, these are used as reference for the bill's continuous deliberations. Below is a partial list of their inputs:

On Membership and Collection

- The effectivity of OWWA membership be continuous for 2 years, and not on per employer basis so that the OFW does not have to pay each time the OFW changes employer (e.g. when OFW gets terminated before expiration of contract)
- That for those who will apply for membership onsite-- payment of membership fee be not a pre-requisite to the issuance of Overseas Employment Certificate (OEC)
- To strictly implement the policy of not charging/passing on the OWWA fee to OFW -- to include a provision in the work contract that it is the employer that should pay the membership fee
- OWWA should have a computerized and up-to-date database of all its members; should issue e-card
- For professionals/skilled workers to be given the option to pay the fee themselves (and not the employer anymore)
- How to apply for membership onsite when there is no post/POLO in the area?
- That OWWA membership be optional to permanent residents
- Explore the possibility to include former OFWs who paid their membership fees; and expand voluntary membership to include ex-OFWs who have returned to the country for good but are interested to pay the required membership fees to avail the benefits as regular member. At present, some programs are for the active members only.

On Representation

- That there should be more OFW representatives in the OWWA board than government representatives
- That the OWWA administrator and deputy administrators should come from the OFW sector and to be appointed by the president for a term of 3 years

On Availment of Benefits

¹ This is a first in Congress, by COWA, an online consultation via Skype with OFW constituents in Hong kong, Singapore, Malaysia, Taiwan, Jeddah, Riyadh and Al Khobar in Saudi Arabia, Jordan, Qatar, Milan for Italy and Madrid for Spain

- Simplify procedures for availment
- That OFWs get 'rebate' for their owwa contribution once they return for good apart from availment of OWWA programs and services
- That loans be collateral-free for first-time OFWs; if there is collateral, 2/3 to come from OWWA; 1/3 from government; another formula is 50% from OFWs; 50% from government
- Explore the possibility of pension fund for retiring OFWs
- Exclusive health benefits for OFWs and their beneficiaries must be separate from the PhilHealth

On Nature of OWWA

- If OWWA gets its budget for operations and personnel solely from the members' contribution, then government should be hands off
- Is OWWA a GOCC? Then it is is it subject to current national laws covering GOCCs – from the term of office of the Trustees to the salary of its employees
- OWWA is not a national government agency. It is a private agency with funds coming from the contributions of OFWs only managed by the government

On Transparency

- That OWWA undertakes measures to ensure transparency to its members by making available periodically OWWA's finance statements, annual reports, programs and services
- That OWWA creates/ensures a mechanism to inform its members and the OFW community in all matters concerning OWWA's operations

On Consultation

- That a mechanism be set up for OFW representatives in the OWWA board to update and consult their constituents on a regular basis

General Proposal

- Mandatory review of the OWWA charter every five years

CONCLUSION

The enactment of the OWWA Charter is a priority of the House Committee on Overseas Workers' Affairs (COWA). The COWA Technical Working Group (TWG) is now in the finishing stage of consolidating the bill. Another TWG meeting will be conducted with the legal and technical staff of the OWWA to finalize the consolidated version of the two (2) bills. It is targeted that the consolidated version will be approved by the Committee and the proposed bill on the OWWA Charter be scheduled for plenary deliberations by the first quarter of next year.

The current process of enacting the OWWA Charter, in a way, is a mini-evaluation of where the Philippine government's capacity to deliver services for its OFWs rests. The feedback from OFWs also shows the importance of devising services tailor-fit to the immediate and core needs of OFWs without overextending the government's capacity.

Both origin and destination countries play a major role in protecting the migrant workers through an institutionalized welfare fund. The Philippines' case highlights the importance of developing state capacity to effectively deliver services, ensuring accountability to and representation of migrant workers, and creating meaningful partnerships within various government agencies as well as with the private sector.

Once the limitations and basic inadequacies of OWWA are addressed through the enactment of its charter, OWWA, as an institution can be a valuable guide for many other countries as we all face the complex challenges of protecting, promoting and fulfilling the rights and welfare of the OFWs and their families. ##

*The Center for Migrant Advocacy Philippines
takes full responsibility for the contents and analysis
of this publication.*