

The Aftermath of the DAP

“[I]t has been adequately shown as to be beyond debate that the implementation of the DAP yielded undeniably positive results that enhanced the economic welfare of the country.”

Supreme Court of the Philippines

IN ARAULLO, ET AL. VS. AQUINO, ET AL., JULY 1, 2014

The Disbursement Acceleration Program (DAP) was introduced in the second half of 2011 when government disbursements severely fell short of target. It was a reform intervention to speed up public spending and boost economic growth. In contrast to the PDAF, which was a Special Purpose Fund in the Budget, the DAP was a mechanism that was hinged on the President’s power to use savings to augment resources for high impact and priority programs and projects. The DAP also made use of the Unprogrammed Fund to deploy windfall revenues for additional spending (*see Budget Integrity and Accountability*).

The DAP drew controversy nonetheless.

In 2013, at the height of the public outcry over the abuse of the Priority Development Assistance Fund (PDAF) in the past (*see The End of Pork As We Know It*), legislators who were implicated in the scandal shifted the spotlight to the DAP by tagging it as a mechanism similar to the PDAF. With a public deeply angered by the PDAF controversy, and despite the government’s defense, such allegation gained momentum and motivated several petitions for the Supreme Court to declare the DAP unconstitutional.

On February 3, 2015, modifying its decision on July 1, 2014, the Supreme Court ruled with finality that, while the DAP indeed delivered on its intended result to boost economic growth, three acts under the DAP were invalid.

Why the Need for the DAP?

“DAP is different from PDAF... It’s clear that with DAP, the people’s money was never stolen—the funds were used for the benefit of Filipinos. And not for later, not soon; but—now: Programs that could be implemented immediately were implemented immediately.”

President Benigno S. Aquino III

STATEMENT ON THE SUPREME COURT’S 2014 RULING ON THE DAP

The Aquino administration’s efforts to plug spending leakages early in its term, coupled by the chronic inability of the agencies to deploy resources promptly, had the unfortunate impact of slowing down spending. From January to September 2011, national government disbursements contracted year-on-year by 7.3 percent and fell below target by a whopping 16.1 percent. As a result, GDP growth slowed down to 3.6 percent in the first three quarters of 2011, from 7.6 percent in the same period of 2010 (DBM, n.d.).

their spending, the government introduced the DAP in October 2011. The measure made use of the President’s power over savings as well as the unprogrammed appropriations: two authorities that past administrations had used. The administration sharpened the use of these authorities by prioritizing programs and projects that were fast moving or quick disbursing, urgent or priority in terms of social and economic development objectives, and performing well and could deliver more services with additional funds (DBM, n.d.).

Together with efforts to push the agencies to catch up on

After the DAP was implemented, disbursements in

the fourth quarter expanded by 32.5 percent year-on-year. As a result, disbursements for the whole of 2011 grew by 2.3 percent, though the government still spent below program by 9.0 percent. A World Bank report said the DAP “was partially successful and contributed 1.3 percentage points to GDP growth in [the fourth quarter]” and pushed GDP growth to 3.6 for the full year of 2011 though it was still below the target of 5 percent (2012).

A Launch Pad For Reforms

At the same time as it implemented the DAP, the government implemented a host of reforms to improve the speed of budget execution and, in the first place, the implementation-readiness of programs and projects. These reforms included the disaggregation of lump-sum funds into detailed programs and projects (see *Linking Planning and Budgeting*); and the deployment of Account Management Teams and the introduction of the GAA-as-Release Document policy (see *Faster and Efficient Budget Execution*).

The DAP continued to be implemented in 2012 and 2013 alongside these reform measures, although to a lesser magnitude than in 2011 (see *Figure 1*). The total allotments released for projects identified through the DAP reached P144.3 billion, or 2.6 percent of total releases from 2011 to 2013. More than half or P80.6 billion went to infrastructure projects and other capital outlays, including the rehabilitation of LRT Lines 1 and 2 and the construction of tourism roads. Among the 116 projects that were supported by DAP included the DOE’s

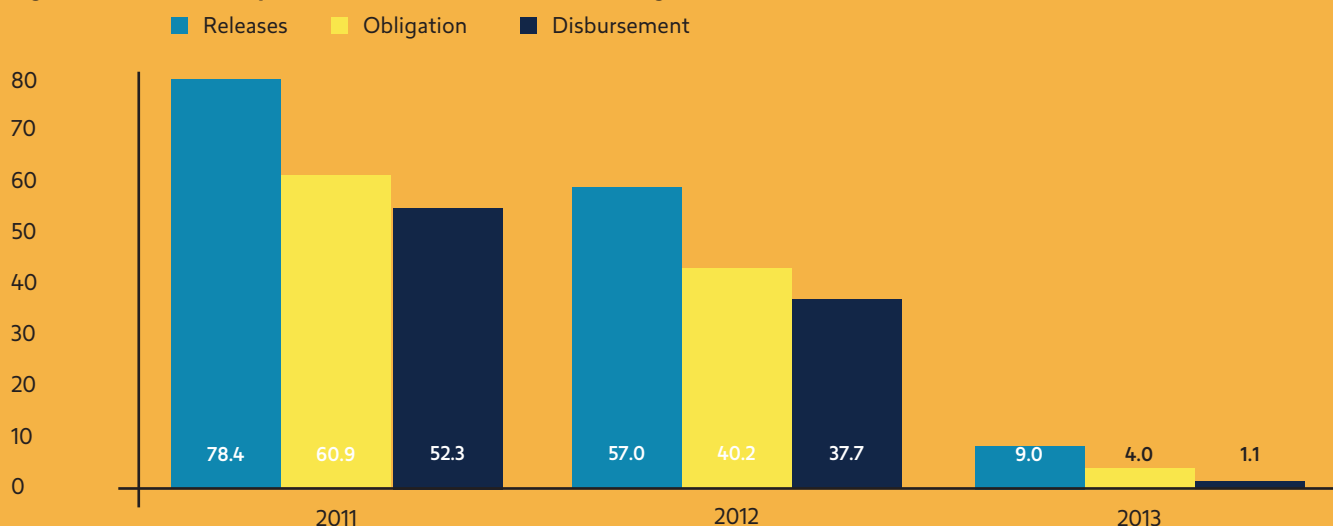
Sitio Electrification Program, TESDA’s Training-for-Work Scholarship Program, and the DOST’s groundbreaking Project NOAH (DBM, n.d.-a).

In 2012 and 2013, the government’s disbursements increased year-on-year by 14.1 percent and 5.8 percent, respectively; and the gap between actual spending and program narrowed further to 3.4 percent and 5.5 percent, respectively. Infrastructure and other capital outlays grew by a whopping 57.7 percent and 42.2 percent for those two years. Such improved performance contributed to boosting GDP growth, which reached 6.8 percent in 2012 and 7.2 percent in 2013.

The Supreme Court Ruling on the DAP

The final decision of the Supreme Court on February 3, 2015, after acting on the motion for consideration filed by the government, did not declare the whole of the DAP as unconstitutional. Rather, it ruled that two acts under the DAP on the use of savings were unconstitutional: the declaration of unutilized appropriations—in the form of unobligated allotments and unreleased appropriations—as savings; and the transfer of savings from the Executive branch to augment the appropriations of offices outside the Executive. It also declared void the use of unprogrammed funds without a Treasury certification of windfall revenue collections (see *box in the next page*).

Figure 1. Summary of Funds Released and Utilized Through DAP (in P billions)



The Decision on DAP on February 3, 2014

Araullo, et al. vs. Aquino, et al. (SC, 2015)

“WHEREFORE, the Court **PARTIALLY GRANTS** the petitions for certiorari and prohibition; and **DECLARES** the following acts and practices under the Disbursement Acceleration Program, National Budget Circular No. 541 and related issuances **UNCONSTITUTIONAL** for being in violation of Section 25(5), Article VI of the 1987 Constitution and the doctrine of separation of powers, namely:

- (a) The withdrawal of unobligated allotments from the implementing agencies, and the declaration of the withdrawn unobligated allotments and unreleased appropriations as savings prior to the end of the fiscal year without complying with the statutory definition of savings contained in the General Appropriations Act; and
- (b) The cross-border transfer of the savings of the Executive to augment the appropriations of other offices outside the Executive.

The Court further **DECLARES VOID** the use of unprogrammed appropriations despite the absence of a certification by the National Treasurer that the revenue collections exceeded the revenue targets for non-compliance with the conditions provided in the relevant General Appropriations Acts.”

Moreover, the Court applied the doctrine of operative fact, acknowledging the beneficial result of the DAP even as it ruled that certain acts under it may be legally infirm: “Not to apply the doctrine of operative fact to the DAP could literally cause the physical undoing of such results by destruction, and would result in most undesirable wastefulness (Supreme Court of the Philippines, 2014).” In its final decision, the Court extended the benefit of the doctrine of operative fact to the proponents and implementors of the DAP; and likewise affirmed that “the authors, proponents and implementors of the DAP, being public officers, further enjoy the presumption of regularity in the performance of their functions (Supreme Court of the Philippines, 2015).”

An Opportunity for Further Reform

Even if the DAP generated controversy, the terminated measure nonetheless provided the government with an opportunity to pursue further budget and management reforms: specifically, those that ensure that Congress’ power of the purse is upheld, while giving the Executive limited but reasonable flexibilities.

For one, in line with the Supreme Court decision, the government clarified the definition of savings and the parameters for their use, as well as the provisions that govern the use of the Unprogrammed Fund, starting with the 2015 GAA (*see Budget Integrity and Accountability*). The clarification of the policies on savings and augmentation, as well as the rationalization

of unprogrammed appropriations, were also included in the proposed Public Financial Accountability Act.

Furthermore, key PFM reforms were implemented to ensure that the government implements the Budget promptly in a manner that adheres faithfully to Congress’ approved Budget. The Unified Accounts Code Structure, the unified accountability reports, and the development of ICT-based systems should enable the government to accurately account for and report how each item of appropriation was implemented (*see Integrated PFM*). The continued application of the GAA-as-Release Document, meanwhile, is being supported by efforts to strengthen the capacity of the agencies to implement programs and projects. The controversy was also one of the motivations for the proposed Public Financial Accountability Act: a landmark measure that modernizes the Philippines’ legal framework on PFM.

“We must inculcate in the minds of our finance people the importance of planning and linking it to budgeting. Careful planning results in an efficient budget execution. With this process, we can avoid what happened with DAP. Likewise, the validity of appropriations should be one year as continuing appropriations distorts target-setting under the Performance-Informed Budgeting regime.”

Undersecretary Luz M. Cantor

DBM BUDGET PREPARATION AND EXECUTION GROUP