
GRANT NUMBER 0473-NAU (SF)

GRANT AGREEMENT
(Special Operations)
(Fiscal Sustainability Reform Program)

between

NAURU

and

ASIAN DEVELOPMENT BANK

DATED 01 MAY 2016

NAU 48478

GRANT AGREEMENT (Special Operations)

GRANT AGREEMENT dated 01 May 2016 between NAURU ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) ADB has received from the Recipient a development policy letter dated 20 January 2016 ("Policy Letter"), setting forth certain objectives, policies and actions, described in Schedule 1 to this Grant Agreement, designed to develop the Recipient's public financial management sector ("Program");

(B) the Recipient has applied to ADB for a grant for the purposes of the Program;

(C) the Recipient has also applied to the Government of Australia for a grant in the amount equivalent to one million eight hundred eighty six thousand Dollars (\$1,886,000) to support the Program; and

(D) ADB has agreed to provide a grant to the Recipient from ADB's Special Funds resources upon the terms and conditions set forth herein;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Grant Regulations; Definitions

Section 1.01. All the provisions of the Special Operations Grant Regulations of ADB, dated 7 February 2005 ("Grant Regulations"), are hereby made applicable to this Grant Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) Section 2.01(15) is deleted and the following is substituted therefor:

24. The term "Program" means the program for which ADB has agreed to make the Grant, as described in the Grant Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Recipient.

(b) The term "Project" wherever it appears in the Grant Regulations shall be substituted by the term "Program".

(c) Section 2.01(17) is deleted and the following is substituted therefor:

26. The term "Program Executing Agency" means the entity or entities responsible for the carrying out of the Program as specified in the Grant Agreement.

(d) The term "Project Executing Agency" wherever it appears in the Grant Regulations shall be substituted by the term "Program Executing Agency".

Section 1.02. Wherever used in this Grant Agreement the several terms defined in the Grant Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in the Grant Agreement have the following meanings:

- (a) "Australian dollars" or "A\$" means the currency of the Recipient;
- (b) "Counterpart Funds" means the local currency generated from the Grant proceeds under the Program and referred to in paragraph 4 of Schedule 3 to this Grant Agreement;
- (c) "Deposit Account" means the NTF Account;
- (d) "Eligible Imports" means the total imports of the Recipient during the relevant period minus the following imports during the same period:
 - (i) imports from countries which are not members of ADB;
 - (ii) imports of ineligible items specified in the Attachment 1 to Schedule 2 to this Grant Agreement; and
 - (iii) imports financed by official international or bilateral aid agencies or any other loans or grants made by ADB;
- (e) "Eligible Items" means the Eligible Imports and services in connection with the delivery and installation of such imports;
- (f) "FMIS" means financial management information system;
- (g) "GDP" means gross domestic product;
- (h) "Implementing Agencies" or "IAs" means MOF and NUC, as described in paragraph 1(c) of Schedule 3 to this Grant Agreement;
- (i) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2012, as amended from time to time);
- (j) "MOF" means the Recipient's Ministry of Finance, and any successor thereto;
- (k) "NTF" means the Nauru Intergenerational Trust Fund;
- (l) "NTF Account" means the account referred to in paragraph 3 (b) of Schedule 2 to this Grant Agreement;

- (m) "NUC" means Nauru Utilities Corporation;
- (n) "PFM" means public financial management;
- (o) "Policy Letter" means the development policy letter referred to in Recital (A) of this Grant Agreement;
- (p) "Policy Matrix" means the policy matrix attached to the Policy Letter as agreed between the Recipient and ADB; and
- (q) "Program Executing Agency" for the purposes of, and within the meaning of, the Grant Regulations means MOF or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Program;

ARTICLE II

The Grant

Section 2.01. ADB agrees to make available to the Recipient from ADB's Special Funds resources on terms and conditions set forth in this Grant Agreement an amount of two million Dollars (\$2,000,000).

ARTICLE III

Use of Proceeds of the Grant

Section 3.01. The Recipient shall cause the proceeds of the Grant to be applied to the financing of expenditures on the Program in accordance with the provisions of this Grant Agreement.

Section 3.02. The proceeds of the Grant shall be withdrawn in accordance with the provisions of Schedule 2 to this Grant Agreement, as such Schedule may be amended from time to time by agreement between the Recipient and ADB.

Section 3.03. Withdrawals from the Grant Account shall be made only on account of expenditures relating to Eligible Items which meet such eligibility requirements as shall have been specified by ADB from time to time.

Section 3.04. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 June 2016 or such other date as may from time to time be agreed between the Recipient and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Program, the Recipient shall perform, or cause to be performed, all obligations set forth in Schedule 3 to this Grant Agreement.

Section 4.02. (a) The Recipient shall maintain, or cause to be maintained, records and documents adequate to identify the Eligible Items financed out of the proceeds of the Grant and to record the progress of the Program.

(b) The Recipient shall enable ADB's representatives to inspect any relevant records and documents referred to in paragraph (a) of this Section.

Section 4.03. As part of the reports and information referred to in Section 6.04 of the Grant Regulations, the Recipient shall furnish, or cause to be furnished, to ADB all such reports and information as ADB shall reasonably request concerning (i) the Counterpart Funds and the use thereof; and (ii) the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

ARTICLE V

Effectiveness

Section 5.01. The following is specified as an additional condition to the effectiveness of this Grant Agreement for the purposes of Section 9.01(e) of the Grant Regulations: the Recipient shall have satisfied all conditions, as set out in Attachment 2 to Schedule 2 to this Grant Agreement.

Section 5.02. A date ninety 90 days after the date of this Grant Agreement is specified for the effectiveness of the Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Minister of Finance of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

For the Recipient

Ministry of Finance
Government Offices, Yaren District
Republic of Nauru

Telephone Number:

+674 557-3133

Facsimile Number:

not available.

For ADB

Asian Development Bank
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

(632) 636-2444

(632) 636-2388.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Grant Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

NAURU

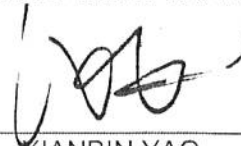
By



MARTIN HUNT
Secretary of Finance

ASIAN DEVELOPMENT BANK

By



XIANBIN YAO
Director General
Pacific Department

SCHEDULE 1**Description of the Program**

1. The principal objective of the Program is to improve the Recipient's fiscal sustainability and the scope includes improvement in public financial management, efficiency in service delivery by the NUC and improvement in funding mechanism for future service delivery. The Program is described in more detail in the Policy Letter.
2. The Program is expected to be completed by 30 June 2016.

SCHEDULE 2**Allocation and Withdrawal of Grant Proceeds**General

1. Except as ADB may otherwise agree, the following provisions of this Schedule shall apply to the withdrawal of Grant proceeds from the Grant Account.

2. An application for withdrawal from the Grant Account shall be submitted to ADB by the Recipient and shall be in a form satisfactory to ADB.

3. (a) Prior to submitting the application to ADB for withdrawal from the Grant Account, the Recipient shall have established the NTF Account at a designated custodian bank based in Australia into which all withdrawals from the Grant Account shall be deposited. The NTF Account shall be established, managed and liquidated in accordance with terms and conditions satisfactory to ADB.

(b) Separate accounts and records in respect of the Deposit Account shall be maintained in accordance with accounting principles acceptable to ADB. Upon ADB's request, the Recipient shall have the financial statements for the Deposit Account audited by independent auditors, whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB. Promptly after their preparation but in any event not later than 6 months after the date of ADB's request, copies of such audited financial statements and the opinion of the auditors on the financial statements, in the English language, shall be furnished to ADB.

Condition for Withdrawals from Grant Account

4. No withdrawal shall be made from the Grant Account for the tranche unless ADB is satisfied that the Recipient has met (i) the policy actions for the release of the tranche specified in Attachment 2 to this Schedule, and (ii) the Recipient has established the NTF Account at a designated custodian bank based in Australia and after the Recipient has made its own initial contribution to the NTF Account in the amount of twenty million four hundred thousand Australian Dollars (A\$20,400,000).

Negative List

No withdrawals will be made for the following:

- (i) expenditures for goods included in the following groups or sub-groups of the United Nations Standard International Trade Classification, Revision 3 (SITC, Rev. 3) or any successor groups or sub-groups under future revisions to the SITC, as designated by ADB by notice to the Recipient:

Table: Ineligible Items

| Chapter | Heading | Description of Items |
|---------|---------|---|
| 112 | | Alcoholic beverages |
| 121 | | Tobacco, unmanufactured; tobacco refuse |
| 122 | | Tobacco, manufactured (whether or not containing tobacco substitute) |
| 525 | | Radioactive and associated materials |
| 667 | | Pearls, precious and semiprecious stones, unworked or worked |
| 718 | 718.7 | Nuclear reactors, and parts thereof, fuel elements (cartridges), nonirradiated for nuclear reactors |
| 728 | 728.43 | Tobacco processing machinery |
| 897 | 897.3 | Jewelry of gold, silver or platinum-group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems) |
| 971 | | Gold, nonmonetary (excluding gold ore and concentrates) |

Source: United Nations.

- (ii) expenditures in the currency of the Recipient or for goods supplied from the territory of the Recipient;
- (iii) expenditures for goods supplied under a contract that any national or international financing institution or agency will have financed or has agreed to finance, including any contract financed under any loan or grant from the ADB;
- (iv) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;
- (v) expenditures for narcotics; and
- (vi) expenditures on account of any payment prohibited by the Recipient in compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

Policy Actions

Subject to paragraph 4 of Schedule 2 to the Grant Agreement, in order to release the Grant proceeds, the following policy actions shall have been complied with:

I. Improved Public Financial Management

1. The accounts payable and bank reconciliation functions of the financial management information system shall have been made fully functional.
2. Quarterly financial progress reports shall have been produced and submitted to the Minister for Finance regularly.
3. Weekly in-year budget reports that include cash flow budget statements shall have been produced and made available to all ministries regularly.
4. Aggregate revenue and expenditure projections for fiscal year FY2016-FY2018 shall have been prepared.
5. The Employment and Services Tax Bill shall have been approved by the Parliament and come into force.

II. Efficient Service Delivery by the NUC

6. A strategic plan for NUC shall have been developed and the following strategies shall have been adopted:
 - (i) Performance-based management system for all employees;
 - (ii) "Mind-Your-Own-Business", or MYOB, financial accounting software; and
 - (iii) Short-term program for asset rehabilitation.
7. A strategic maintenance plan for NUC assets shall have been developed and adopted.

III. Improved Funding Mechanism for Future Service Delivery

8. The memorandum of understanding between the Recipient and the Government of Australia on the establishment of the NTF shall have been signed.
9. An allocation of A\$20,400,000 million shall have been made as the Recipient's initial contribution to the NTF, including A\$10,400,000 million to be paid from fiscal year 2016 revenues and A\$10,000,000 million to be paid from cash set asides from previous financial years.

SCHEDULE 3

Program Implementation and Other Matters

Implementation Arrangements

1. (a) The Recipient shall be responsible for the coordination and execution of the Program with the various concerned departments and agencies of the Recipient.

(b) The MOF shall be the Program Executing Agency and shall be responsible for the overall implementation of the Program, including compliance with all policy actions, facility administration, disbursements and maintenance of records. MOF shall also be responsible for overseeing and coordinating the timely implementation of agreed policy actions to be implemented by the implementing agencies.

(c) The MOF and NUC shall be the Implementing Agencies. MOF shall be responsible for compliance with the policy actions relating to PFM and the funding mechanism for future service delivery. NUC shall be responsible for compliance with policy actions relating to the service delivery by NUC.

(d) The Recipient shall (i) use its best endeavor to ensure that critical Program staff shall remain in their position on a full-time basis for a reasonable duration to ensure continuity in the implementation of the Program; and (ii) ensure that the Implementing Agencies shall be adequately staffed and provided with the necessary financial, technical, and other resources to perform their functions under the Program.

Policy Actions and Dialogue

2. The Recipient shall ensure that all policy actions adopted under the Program, as set forth in the Policy Letter and the Policy Matrix, continue to be in effect for the duration of the Program.

3. The Recipient shall keep ADB informed of policy discussions with other multilateral and bilateral aid agencies that may have implications for the implementation of the Program and shall provide ADB with an opportunity to comment on any resulting policy proposals. The Recipient shall take into account ADB's views before finalizing and implementing any such proposal.

Use of Counterpart Funds

4. The Recipient shall ensure that the Counterpart Funds are used to contribute to the NTF and to finance the local currency cost relating to the implementation of the Program and other activities consistent with the objectives of the Program and shall provide the necessary budget appropriation to finance costs relating to the implementation of reforms under the Program.

Governance and Anticorruption

5. The Recipient, the Program Executing Agency, and the implementing agencies shall: (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and

acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Program; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

Program Review

6. The Recipient shall undertake periodic reviews during Program implementation to evaluate the scope, implementation arrangements, progress and achievement of the objectives of the Program. The Recipient shall ensure that ADB shall have the opportunity to participate in these reviews.

Program Performance Monitoring and Evaluation

7. The Recipient shall monitor the implementation and outcomes of the Program using a set of indicators and targets that has been agreed between the Recipient and ADB to assess progress towards meeting the objectives of the Program. For each of the agreed indicators, progress will be measured against a baseline in fiscal year 2015. MOF shall review the agreed frameworks to determine progress and identify constraints.

Records of Accounts and Reporting

8. The Recipient shall maintain separate records of account for the Program. To ensure proper fund management, ADB retains the right to audit the use of Grant proceeds. The accounts shall be managed, operated, and liquidated in accordance with terms satisfactory to ADB. The Recipient shall prepare a quarterly consolidated progress report on policy and institutional reforms implementation and shall forward the same to ADB. The reports shall describe progress made in the Program and any changes to the implementation schedule, and shall also identify any problems encountered and remedial actions taken. The Recipient shall submit a Program completion report not later than 3 months after Program completion.