
LOAN NUMBER 3205-LAO(SF)

LOAN AGREEMENT
(Special Operations)

(Governance and Capacity Development in Public Sector Management Program –
Subprogram 2)

between

LAO PEOPLE'S DEMOCRATIC REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 11 DECEMBER 2014

LAO 46059

LOAN AGREEMENT (Special Operations)

LOAN AGREEMENT dated 11 December 2014 between LAO PEOPLE'S DEMOCRATIC REPUBLIC ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) ADB has received from the Borrower a development policy letter dated 23 October 2014 ("Policy Letter"), setting forth certain objectives, policies and actions, described in Schedule 1 to this Loan Agreement, designed to develop the Borrower's public service management sector ("Program");

(B) The Program comprises 2 subprograms of a programmatic approach ("Programmatic Approach"), the second of which ("Subprogram 2"), as described in paragraph 3 of Schedule 1 to this Loan Agreement, will be implemented under this Loan Agreement;

(C) The Borrower has applied to ADB for a loan from its Special Funds resources for the purposes of Subprogram 2; and

(D) ADB has agreed to make a loan to the Borrower from ADB's Special Funds resources for the purposes of Subprogram 2 upon the terms and conditions set forth herein.

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 ("Loan Regulations"), are hereby made applicable to this Loan 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(24) is deleted and the following is substituted therefor:

24. The term "Program" means Subprogram 2 for which ADB has agreed to make the Loan, as described in the Loan Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Borrower.

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

(c) Section 2.01(26) 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 Loan Agreement.

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

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

(a) “Counterpart Funds” means the local currency generated from the Loan proceeds under Subprogram 2 and referred to in paragraph 6 of Schedule 4 to this Loan Agreement;

(b) “Eligible Imports” means the total imports of the Borrower 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 to Schedule 3 to this Loan Agreement; and
- (iii) imports financed by official international or bilateral aid agencies or any other loans or grants made by ADB;

(c) “Eligible Items” means the Eligible Imports and services in connection with the delivery and installation of such imports and consulting services;

(d) “Loan Deposit Account” means the account referred to in paragraph 3(a) of Schedule 3 to this Loan Agreement;

(e) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2012, as amended from time to time);

(f) “MAF” means the Borrower’s Ministry of Agriculture and Forestry or any successor thereto;

(g) “MOES” means the Borrower’s Ministry of Education and Sports or any successor thereto;

(h) “MOF” or “Ministry of Finance” means the Borrower’s Ministry of Finance or any successor thereto;

(i) “MOH” means the Borrower’s Ministry of Health or any successor thereto;

(j) “MOHA” means the Borrower’s Ministry of Home Affairs or any successor thereto;

(k) "MONRE" means the Borrower's Ministry of Natural Resources and Environment or any successor thereto;

(l) "MPI" means the Borrower's Ministry of Planning and Investment or any successor thereto;

(m) "NCAW" means the Borrower's National Commission for Advancement of Women or any successor thereto;

(n) "Policy Letter" means the development policy letter addressed to ADB from the Borrower and referred to in Recital (A) of this Loan Agreement;

(o) "Policy Matrix" means the policy matrix attached to the Policy Letter, as agreed between the Borrower and ADB which sets forth actions accomplished or to be accomplished by the Borrower under the Program and the PPPF;

(p) "PPPF" means the post program partnership framework as agreed between the Borrower and ADB and set out in the Policy Matrix which sets forth actions accomplished or to be accomplished by the Borrower following completion of the Programmatic Approach Period;

(q) "Program Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the Borrower's MOF or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Subprogram 2;

(r) "Program Implementing Agencies" or "IAs" means each of MAF, MOES, MOF, MOH, MOHA, MONRE, MPI, NCAW and SAO, which are responsible for carrying out certain reform measures under the Programmatic Approach and the PPPF;

(s) "Programmatic Approach" has the meaning specified in Recital (B) to this Loan Agreement;

(t) "Programmatic Approach Period" means the period during which the Programmatic Approach will be implemented; and

(u) "SAO" means the Borrower's State Audit Organization or any successor thereto.

ARTICLE II

The Loan

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to ten million and fifty-two thousand Special Drawing Rights (SDR10,052,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of 1% per annum during the grace period, and 1.5% per annum thereafter,

on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

(b) The term "grace period" as used in paragraph (a) of this Section means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 May and 15 November in each year.

Section 2.04. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.05. The currency of repayment of the principal of the Loan and the currency of payment of the interest charge for the purposes of Sections 4.03(a) and 4.04 of the Loan Regulations shall be the Dollar.

ARTICLE III

Use of Proceeds of the Loan

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

Section 3.02. The proceeds of the Loan shall be withdrawn in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Withdrawals from the Loan Account shall be made only on account of expenditures relating to Eligible Items which:

- (a) are produced in, and are supplied from, such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement; and
- (b) meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.04. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2015 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of Subprogram 2, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Loan Agreement.

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

(b) The Borrower 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 6.05 of the Loan Regulations, the Borrower 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 Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations: the Loan Deposit Account shall have been established as provided in paragraph 3(a) of Schedule 3 to this Loan Agreement.

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

ARTICLE VI

Miscellaneous

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

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

For the Borrower

Ministry of Finance
23rd Singha Road
P.O. Box 46
Vientiane Capital
Lao People's Democratic Republic

Facsimile Numbers:

(856-21) 412142
(856-21) 911611.

For ADB


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

Facsimile Numbers:

(632) 636-2444
(632) 636-2305.

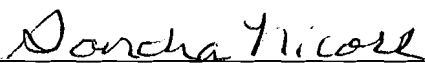
IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of the ADB.

LAO PEOPLE'S DEMOCRATIC REPUBLIC

By 

H.E. THIPPHAKONE CHANTHAVONGSA
Vice Minister
Ministry of Finance

ASIAN DEVELOPMENT BANK

By 

SANDRA NICOLL
Country Director
Lao Resident Mission

SCHEDULE 1

Description of the Program

1. The principal objective of the Programmatic Approach is to strengthen public sector management at the national and subnational level. The Program is described in more detail in the Policy Letter and the Policy Matrix.

2. The Programmatic Approach comprises 2 subprograms and Subprogram 2 is the second subprogram.

3. The Subprogram 2 scope includes 3 major reform measures:

Component 1

Improving public financial management capacity, including multi-year budgeting and intergovernmental fiscal transfers.

Component 2

Strengthening civil service capacity at the central and subnational level, including providing gender-responsive training.

Component 3

Strengthening investment management capacity in the public sector for private sector investment including identifying the potential for public-private partnership arrangements.

4. The proceeds of the Loan are expected to be disbursed in a single tranche. The Loan is expected to be utilized by 30 June 2015.

SCHEDULE 2

Amortization Schedule

(Governance and Capacity Development in Public Sector Management Program – Subprogram 2)

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 May 2023	314,125
15 November 2023	314,125
15 May 2024	314,125
15 November 2024	314,125
15 May 2025	314,125
15 November 2025	314,125
15 May 2026	314,125
15 November 2026	314,125
15 May 2027	314,125
15 November 2027	314,125
15 May 2028	314,125
15 November 2028	314,125
15 May 2029	314,125
15 November 2029	314,125
15 May 2030	314,125
15 November 2030	314,125
15 May 2031	314,125
15 November 2031	314,125
15 May 2032	314,125
15 November 2032	314,125
15 May 2033	314,125
15 November 2033	314,125
15 May 2034	314,125
15 November 2034	314,125
15 May 2035	314,125
15 November 2035	314,125
15 May 2036	314,125
15 November 2036	314,125
15 May 2037	314,125
15 November 2037	314,125
15 May 2038	314,125
15 November 2038	314,125
Total	10,052,000

* The arrangements for payment are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

SCHEDULE 3**Withdrawal of Loan Proceeds**

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

2. (a) An application for withdrawal from the Loan Account shall be submitted to ADB by the Borrower and shall be in a form satisfactory to ADB.

(b) Such withdrawal applications shall be accompanied by a certificate of the Borrower confirming that with respect to each year during which the proceeds of the Loan are expected to be disbursed, the value of the Eligible Imports is expected to be greater than the amount of the Loan expected to be disbursed during such year.

(c) The Borrower shall allow experts appointed by ADB to verify the value of Eligible Imports during any period in respect of which the Borrower has certified the value of Eligible Imports in its withdrawal application.

3. (a) Prior to submitting the first application to ADB for withdrawal from the Loan Account, the Borrower shall nominate an account (the Loan Deposit Account) at Bank of Lao PDR into which all withdrawals from the Loan Account shall be deposited. The Loan Deposit 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 Loan Deposit Account shall be maintained in accordance with accounting principles acceptable to ADB. Upon ADB's request, the Borrower shall have the financial statements for the Loan 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.

(c) Throughout the Subprogram 2 implementation period, the Borrower shall submit trade statistics and any other information as ADB may require from time to time to assess the Borrower's compliance with the formula for determining Eligible Imports.

4. No withdrawal shall be made from the Loan Account for the Loan unless ADB is satisfied that the Borrower has completed the policy actions specified in the Policy Matrix relating to Subprogram 2.

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 Borrower:

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 Borrower or for goods supplied from the territory of the Borrower;
- (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;
- (vi) expenditures for environmentally hazardous goods, the manufacture, use or import of which is prohibited under the laws of the Borrower or international agreements to which the Borrower is a party; and
- (vii) expenditures on account of any payment prohibited by the Borrower in compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

SCHEDULE 4

Program Implementation and Other Matters

Implementation Arrangements

1. The Program Executing Agency shall be responsible for the overall implementation of Subprogram 2 including Subprogram 2 administration, maintenance of all Subprogram 2 records, reporting to ADB, and administering and disbursing the Loan proceeds.
2. The secretariat committee established within MOF under Subprogram 2 of the Programmatic Approach (“Secretariat Committee”), chaired by the Vice Minister of Finance and comprising senior officers from the Program Executing Agency and Program Implementing Agencies involved in Programmatic Approach actions and activities, shall be responsible for coordinating the implementation of, and sustaining, the Program and the PPPF actions. The Borrower shall cause the Secretariat Committee to: (a) meet as required to: (i) monitor progress of the PPPF, and (ii) provide guidance and direction to the Program Executing Agency and Program Implementing Agencies involved in PPPF activities. The Secretariat Committee may invite ADB to participate in its meetings as an observer.

Policy Actions and Dialogue

3. The Borrower shall ensure that all policy actions (including gender actions) adopted and actions taken under the Program, as set forth in the Policy Letter and the Policy Matrix, are fully maintained and continue to be in effect, and all reasonable measures are undertaken to implement the reform actions set out in the PPPF.
4. The Borrower shall keep ADB informed of, and the Borrower and ADB shall from time to time exchange views on, sector issues, policy reforms and additional reforms arising during the implementation of PPPF, that may be considered necessary or desirable, including the progress made in carrying out policies and actions set out in the Policy Letter and the Policy Matrix.
5. The Borrower shall promptly discuss with ADB problems and constraints encountered during implementation of PPPF, and appropriate measures to overcome or mitigate such problems and constraints.

Use of Counterpart Funds

6. The Borrower shall ensure that the Counterpart Funds are used to finance the local currency costs relating to the implementation of the Program and other activities consistent with the objectives of the Programmatic Approach and shall provide the necessary budget appropriations to finance the structural adjustment costs relating to the implementation of reforms under the Program.

Governance and Anticorruption

7. The Borrower, the Program Executing Agency, and the Program 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 Subprogram 2; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

Monitoring and Review

8. The Borrower shall ensure that: (a) the Program Executing Agency is responsible for carrying out evaluation of the impact of the Programmatic Approach and implementation of the PPPF and hosts regular consultative meetings with the Program Implementing Agencies to solicit their feedback on emerging regulations and procedures and the impact of the Program and implementation of the PPPF. The Program Executing Agency shall carry out the activities in this paragraph (a) in consultation with ADB; (b) the PPPF performance shall be monitored by the Borrower and ADB throughout the PPPF period in the areas defined in the Policy Matrix; and (c) the Program Executing Agency shall undertake reviews to evaluate the relevance, effectiveness, efficiency and sustainability of the Program and cooperate with ADB during preparation of the completion report on the Programmatic Approach. To facilitate ADB's preparation of the completion report of the Programmatic Approach and PPPF implementation, the Borrower shall assist ADB by providing relevant public sector management data and information in such detail as ADB may reasonably request. The PPPF reviews shall form the basis for discussions between the Borrower and ADB on further reforms and measures that may be considered necessary or desirable to promote continued public sector management reforms.