
LOAN NUMBER 3280-LAO(SF)

TECHNICAL ASSISTANCE LOAN AGREEMENT
(Special Operations)
(Health Sector Governance Program – Subprogram 1)

between

LAO PEOPLE'S DEMOCRATIC REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 1 OCTOBER 2015

LAO 47137

**LOAN AGREEMENT
(Special Operations)**

LOAN AGREEMENT dated 1 October 2015 between LAO PEOPLE'S DEMOCRATIC REPUBLIC ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a separate policy-based loan agreement of even date herewith between the Borrower and ADB ("PBL Agreement"), ADB has agreed to make a policy-based loan to the Borrower from ADB's Special Funds resources in the amount of SDR12,204,000 Special Drawing Rights for the purposes of the first subprogram ("Program") under a programmatic approach described in paragraph 1 of Schedule 1 to the PBL Agreement;

(B) the Borrower has applied to ADB for a loan for the purposes of capacity development technical assistance project ("Project") described in Schedule 1 to this Loan Agreement, to support objectives of the Program described in paragraph 1 of Schedule 1 to the PBL Agreement; and

(C) ADB has agreed to make a loan to the Borrower from ADB's Special Funds resources upon the terms and conditions set forth herein;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All 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.

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) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);

(b) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 3 of Schedule 1 to this Loan Agreement;

(c) “Environmental Assessment and Review Framework” or “EARF” means the environmental review and assessment framework for the Project, including any update thereto, prepared and submitted by MOH and cleared by ADB;

(d) “Environmental Safeguards” means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;

(e) “Ethnic Group Development Plan” or “EGDP” means the Ethnic Minority Development Plan, including any update thereto, prepared for the Project and submitted by MOH and cleared by ADB;

(f) “GAP” means the gender action plan prepared and submitted by MOH for the Project, including any update thereto, and cleared by ADB;

(g) “Goods” means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(h) “Indigenous Peoples Safeguards” means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS;

(i) “Involuntary Resettlement Safeguards” means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;

(j) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2015, as amended from time to time);

(k) “PAM” means the project administration manual for the Project dated 27 July 2015 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(l) “Procurement Guidelines” means ADB’s Procurement Guidelines (2015, as amended from time to time);

(m) “Procurement Plan” means the procurement plan for the Project dated 27 July 2015 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(n) “Project Executing Agency” for the purposes of, and within the meaning of, the Loan Regulations means the Borrower’s Ministry of Health or any successor thereto acceptable to ADB;

(o) “Resettlement Framework” or “RF” means the resettlement framework for the Project, as updated for the Project, including any update thereto, prepared and submitted by MOH and cleared by ADB;

(p) “Safeguards Monitoring Report” means each report prepared and submitted by MOH to ADB that describes progress with implementation of and compliance with the EGDP, including any corrective and preventative actions; and

(q) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009).

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 four million three hundred seven thousand Special Drawing Rights (SDR4,307,000).

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 subsection (a) hereinabove 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 February and 15 August 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 amount 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 Project in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan shall be allocated and 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. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the

proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. Withdrawals from the Loan Account in respect of Goods, Works, and Consulting Services shall be made only on account of expenditures relating to:

- (a) Goods which are produced in and supplied from and Works and Consulting Services which 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) Goods, Works, and Consulting Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.06. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 31 March 2019 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 the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. (a) The Borrower shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements audited annually 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; (iv) as part of each such audit, have the auditors prepare a report (which includes the auditors' opinion on the financial statements, use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the use of the procedures for imprest fund(s) and statement of expenditures) and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt by posting them on ADB's website.

(c) The Borrower shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Borrower's financial affairs where they relate to the Project with the auditors appointed pursuant to subsection (a)(iii) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of the Borrower, unless the Borrower shall otherwise agree.

Section 4.03. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

ARTICLE V

Effectiveness

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this 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) 636-2228.

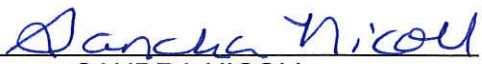
IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

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 Project**

1. The objective of the Project is to strengthen national and subnational public health sector management.
2. The Project shall comprise the following main components:
 - (i) strengthening health sector reform process;
 - (ii) increasing social protection of the poor through health equity fund, and improving health services delivery, particularly mother and child health care;
 - (iii) strengthening health human resources management capacity; and
 - (iv) strengthening health sector financial management.
3. The Project includes provision of Consulting Services for implementation of components described in paragraph 2 above.
4. The Project is expected to be completed by 30 September 2018.

SCHEDULE 2**Amortization Schedule****(Health Sector Governance Program – Technical Assistance Loan for Subprogram 1)**

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 February 2024	89,729
15 August 2024	89,729
15 February 2025	89,729
15 August 2025	89,729
15 February 2026	89,729
15 August 2026	89,729
15 February 2027	89,729
15 August 2027	89,729
15 February 2028	89,729
15 August 2028	89,729
15 February 2029	89,729
15 August 2029	89,729
15 February 2030	89,729
15 August 2030	89,729
15 February 2031	89,729
15 August 2031	89,729
15 February 2032	89,729
15 August 2032	89,729
15 February 2033	89,729
15 August 2033	89,729
15 February 2034	89,729
15 August 2034	89,729
15 February 2035	89,729
15 August 2035	89,729
15 February 2036	89,729
15 August 2036	89,729
15 February 2037	89,729
15 August 2037	89,729
15 February 2038	89,729
15 August 2038	89,729
15 February 2039	89,729
15 August 2039	89,729
15 February 2040	89,729
15 August 2040	89,729
15 February 2041	89,729
15 August 2041	89,729
15 February 2042	89,729
15 August 2042	89,729
15 February 2043	89,729
15 August 2043	89,729
15 February 2044	89,729

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 August 2044	89,729
15 February 2045	89,729
15 August 2045	89,729
15 February 2046	89,729
15 August 2046	89,729
15 February 2047	89,729
15 August 2047	<u>89,737</u>
Total	4,307,000

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

SCHEDULE 3

Allocation and Withdrawal of Loan Proceeds

General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table.)

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Interest Charge

3. The amount allocated to Category 6 is for financing the interest charge on the Loan during the implementation period of the Project.

Reallocation

4. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Loan allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Health Sector Governance Program – Subprogram 1)			
Number	Item	Total Amount Allocated for ADB Financing (SDR) Category	Basis for Withdrawal from the Loan Account
1	Goods (Equipment)	560,000	100% of total expenditure claimed
2	Training and Development	1,910,000	100% of total expenditure claimed
3	Workshops, Studies and System Development	192,000	100% of total expenditure claimed
4	Consulting Services	777,000	100% of total expenditure claimed
5	Project Administration	488,000	100% of total expenditure claimed
6	Interest Charge	124,000	100% of amounts due
7	Unallocated	256,000	
	Total	4,307,000	

SCHEDULE 4

Procurement of Goods, Works and Consulting Services

General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used in this Schedule and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Goods

3. Except as ADB may otherwise agree, Goods shall only be procured on the basis of the methods of procurement set forth below:
 - (a) National Competitive Bidding; and
 - (b) Shopping.
4. The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

National Competitive Bidding

5. The Borrower and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Borrower's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Borrower and ADB shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after approval of such change by the Borrower and ADB.

Consulting Services

6. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Borrower shall apply quality- and cost-based selection for selecting and engaging Consulting Services.
7. The Borrower shall apply the following method for selecting and engaging the specified Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan:
 - (a) Consultants' Qualifications Selection for assessment of the Health Equity Fund schemes and accounting.

8. The Borrower shall recruit the individual consultants for implementation of Project outputs in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

9. (a) The Borrower shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Borrower shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

10. The Borrower shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the Consulting Services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

ADB's Review of Procurement Decisions

11. Contracts procured under international competitive bidding procedures and contracts for Consulting Services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Technical Assistance Project

Implementation Arrangements

1. The Borrower and the Project Executing Agency shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Borrower and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

Safeguards

2. The Borrower shall cause the Project Executing Agency to ensure that the preparation, design, implementation and operation of the Project comply with (a) all applicable laws and regulations of the Borrower relating to environment, health and safety, land acquisition and involuntary resettlement, and ethnic groups; (b) the Environmental Safeguards; (c) the Involuntary Resettlement Safeguards; (d) the Indigenous Peoples Safeguards; and (e) all measures and requirements set forth in the EARF, RF, and EGDP and any corrective or preventive actions (i) set forth in a Safeguards Monitoring Report, or (ii) subsequently agreed between the Borrower and ADB.

Prohibited List of Investments

3. The Borrower shall ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Gender and Development

4. The Borrower shall ensure that (a) the GAP is implemented in accordance with its terms; (b) the bidding documents and contracts include relevant provisions for contractors to comply with the measures set forth in the GAP; (c) adequate resources are allocated for implementation of the GAP; and (d) progress on implementation of the GAP, including progress toward achieving key gender outcome and output targets, are monitored and reported to ADB on a quarterly basis.

Counterpart Support

5. The Borrower through the Project Executing Agency shall ensure that the counterpart funding required for successful Project implementation is allocated in timely manner and provided. The Borrower shall cause the Project Executing Agency to adequately staff and equip the Project implementation unit in a manner acceptable to ADB.

Governance and Anticorruption

6. The Borrower, the Project 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 Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

7. The Borrower, the Project Executing Agency and the implementing agencies shall ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.