
GRANT NUMBER 0510-TAJ(EF)

GRANT AGREEMENT
(Externally Financed)

(CAREC Corridors 2, 5 and 6 [Dushanbe – Kurgonteppa] Road Project)

between

REPUBLIC OF TAJIKISTAN

and

ASIAN DEVELOPMENT BANK

DATED 15 November 2016

TAJ 49042

**GRANT AGREEMENT
(Externally Financed)**

GRANT AGREEMENT dated 15 November 2011 between REPUBLIC OF TAJIKISTAN ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a financing agreement of even date herewith between the Recipient and ADB ("ADB Financing Agreement"), ADB has agreed to make a loan in the amount of thirty-five million two hundred eighty-nine thousand Special Drawing Rights (SDR35,289,000) and a grant in the amount of fifteen million eight hundred thousand Dollars (\$15,800,000) to the Recipient from ADB's Special Funds resources ("ADF Financing"), in each case for the purposes of the Project described in Schedule 1 to the ADB Financing Agreement;

(B) the Recipient has requested ADB to apply on its behalf to the Clean Energy Fund ("CEF") under the Clean Energy Financing Partnership Facility for a grant, to be administered by ADB, for the purposes of cofinancing expenditures in relation to the part of the Project described in subparagraph 2(c) Schedule 1 to the ADB Financing Agreement; and

(C) ADB has agreed to make the proceeds of the Grant available to the Recipient upon the terms and conditions set forth herein;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Grant Regulations; Definitions

Section 1.01. All provisions of the Externally Financed Grant Regulations of ADB, dated 8 April 2009 ("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: the term "Project" wherever it appears in the Grant Regulations shall mean the activities described in subparagraph 2(c) of Schedule 1 to the ADB Financing Agreement.

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

(a) "Consulting Services" means the services to be financed out of the proceeds of the Grant as described in subparagraph 2(c) of Schedule 1 to the ADB Financing Agreement;

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

(c) "Project facilities" means the Goods financed out of the proceeds of the Grant.

ARTICLE II

The Grant

Section 2.01. ADB agrees to make available to the Recipient a grant from the Clean Energy Fund under the Clean Energy Financing Partnership Facility in the amount of two million Dollars (\$2,000,000) ("Grant").

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 Project in accordance with the provisions of this Grant Agreement.

Section 3.02. The proceeds of the Grant shall be allocated and withdrawn in accordance with the provisions of Schedule 1 to this Grant Agreement, as such Schedule may be amended from time to time by agreement between the Recipient and ADB.

Section 3.03. Except as ADB may otherwise agree, the Recipient shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Grant in accordance with the provisions of Schedule 2 to this Grant Agreement.

Section 3.04. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 September 2021 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 Project and operation of the Project facilities, the Recipient shall perform, or cause to be performed, all obligations set forth in Schedule 5 to the ADB Financing Agreement.

Section 4.02. (a) The Recipient shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with financial reporting standards 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 auditing standards acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report, which includes the auditors' opinion(s) on the financial statements and the use of the Grant proceeds, 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 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

(c) The Recipient shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Recipient'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 Recipient, unless the Recipient shall otherwise agree.

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

Section 4.04. The Recipient acknowledges and agrees that this Grant Agreement is entered into by ADB, not in its individual capacity, but as grant administrator for CEF. Accordingly, the Recipient agrees that (a) it may only withdraw Grant proceeds to the extent that ADB has received proceeds for the Grant from CEF, and (b) that ADB does not assume any obligations or responsibilities of CEF in respect of the Project or the Grant other than those set out in this Grant Agreement.

ARTICLE V**Suspension**

Section 5.01. The following is specified as an additional event for suspension of the right of the Recipient to make withdrawals from the Grant Account for the purposes of Section 8.01(k) of the Grant Regulations: the ADB Financing shall have become liable for suspension or cancellation in accordance with the ADB Financing Agreement.

ARTICLE VI**Effectiveness**

Section 6.01. 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 ADB Financing Agreement shall have been duly executed and delivered on behalf of the Recipient, and have become effective in accordance with its terms.

Section 6.02. A date 90 days after the date of this Grant Agreement is specified for the effectiveness of this Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

ARTICLE VII**Miscellaneous**

Section 7.01. 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 7.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

For the Recipient

Ministry of Finance
Republic of Tajikistan
3, Prospekt Akademikov Radjabovych Street
734025 Dushanbe, Tajikistan

Facsimile Number:

(992 37) 221-3329

For ADB

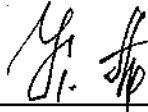
Asian Development Bank
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

(632) 636-2444
(632) 636-2428.

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.

REPUBLIC OF TAJIKISTAN

By 

ABDUSALUM QURBONIYON
Minister of Finance

ASIAN DEVELOPMENT BANK

By 

CHANG CHING YU
Country Director
Tajikistan Resident Mission

SCHEDULE 1**Allocation and Withdrawal of Grant 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 Grant and the allocation of the Grant 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 Grant Account

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

Reallocation

3. Notwithstanding the allocation of Grant proceeds and the withdrawal percentages set forth in the Table,

- (a) if the amount of the Grant allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Recipient, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Grant 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 Grant allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Recipient, reallocate such excess amount to any other Category.

Disbursement Procedures

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

Condition for Withdrawals from Grant Account

5. Notwithstanding any other provision of this Grant Agreement, no withdrawals shall be made from the Grant Account until an appropriate legislation, decree and/or resolution has been duly enacted to provide effective and enforceable exemption from taxes, duties and similar mandatory payments that accrue on Project expenditures in the territory of the Recipient (including, without limitation, for Consulting Services).

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (CAREC Corridors 2, 5 and 6 [Dushanbe – Kurgonteppa] Road Project)			
Number	Item	Total Amount Allocated for CEF Financing (\$) Category	Basis for Withdrawal from the Grant Account
1	Equipment**	1,600,000	100% of total expenditure claimed*
2	Consulting Services**	150,000	100% of total expenditure claimed*
3	Unallocated	250,000	
	Total	2,000,000	

* Exclusive of taxes and duties imposed within the territory of the Recipient.

** Subject to the condition for withdrawal described in paragraph 5 of Schedule 1.

SCHEDULE 2**Procurement of Goods and Consulting Services**General

1. The procurement of Goods and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. Except as ADB may otherwise agree, Goods shall be procured and Consulting Services shall be selected and engaged only on the basis of the procurement method and the selection method set forth below. These methods are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Recipient may only modify the procurement methods and the selection methods or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.
3. All terms used in this Schedule and not otherwise defined in this Grant Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Eligible Source of Procurement of Goods and Consulting Services

4. Goods and Consulting Services may also be procured under the Project from non-member countries of ADB.

Goods

5. Goods shall be procured on the basis of International Competitive Bidding.

Consulting Services

6. Except as set forth in the paragraph below, the Recipient shall apply Quality-Based Selection for Consulting Services.
7. The Beneficiary shall recruit the individual consultants to assist in project implementation in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

8. (a) The Recipient shall ensure that all Goods 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 Recipient shall ensure that all contracts for the procurement of Goods 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.

9. The Recipient 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

10. 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 Recipient and ADB and set forth in the Procurement Plan.

11. In the case of a contract for Goods, which is subject to ADB's prior review, the Recipient shall seek ADB's prior approval of any modification or waiver of the terms and conditions of the contract, including:

- (a) granting an extension of the stipulated time for completion of a contract for a period of 1 month or more, or which is likely to require an extension of the Grant Closing Date; and
- (b) increases in aggregate of the original price by more than 5% (for the avoidance of doubt, such increase shall take into account any previous change under such contract).

12. In the case of a contract for Goods, which is subject to ADB's post review, ADB shall review the required contract modification or waiver and respond to the Recipient as soon as practicable, but not later than 1 month after the receipt of the required document.

13. The Recipient shall provide to ADB copies of all time extensions, modifications or waivers to the contracts (including change orders) within 1 month following amendment of the contract.