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GRANT NUMBER 0503-LAO(SF)

GRANT AGREEMENT  
(Special Operations)

(Second Strengthening Technical and Vocational Education and Training Project)

between

LAO PEOPLE'S DEMOCRATIC REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 8 NOVEMBER 2016

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LAO 42278

**GRANT AGREEMENT  
(Special Operations)**

GRANT AGREEMENT dated 8 November 2016 between LAO PEOPLE'S DEMOCRATIC REPUBLIC ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Recipient has applied to ADB for a grant for the purposes of the Project described in Schedule 1 to this Grant Agreement; and

(B) ADB has agreed to make 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 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.

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 this Grant 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 Grant to undertake any of the components as described in paragraph 2 of Schedule 1 to this Grant Agreement;

(c) "Environmental Management Plan" or "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in the IEE;

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

(e) "GAP" means the gender action plan prepared for the Project, including any update thereto, and agreed to between the Recipient and ADB;

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

(g) "Initial Environmental Examinations" or "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;

(h) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2015, as amended from time to time);

(i) "MOES" means the Recipient's Ministry of Education and Sports;

(j) "PAM" means the project administration manual for the Project dated 23 August 2016 and agreed between the Recipient and ADB, as updated from time to time in accordance with the respective administrative procedures of the Recipient and ADB;

(k) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);

(l) "Procurement Plan" means the procurement plan for the Project dated 23 August 2016 and agreed between the Recipient and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(m) "Project Executing Agency" for the purposes of, and within the meaning of, the Grant Regulations means the MOES or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(n) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009);

(o) "Safeguards Monitoring Report" means each report prepared and submitted by the Recipient to ADB that describes progress with implementation of and compliance with the EMP, including any corrective and preventative actions;

(p) "TVED" means the Recipient's Technical and Vocational Education Department;

(q) "TVET" means technical and vocational education and training; and

(r) "Works" means construction or civil works to be financed out of the proceeds of the Grant, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding Consulting Services.

## ARTICLE II

### The Grant

Section 2.01. ADB agrees to make available to the Recipient from ADB's Special Funds resources an amount of twenty-five million Dollars (\$25,000,000).

## 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 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 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. 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 3 to this Grant Agreement.

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

Section 3.05. Withdrawals from the Grant 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 Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 June 2022 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 4 to this Grant 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 Works, and any relevant records and documents.

## ARTICLE V

### Effectiveness

Section 5.01. 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 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  
23<sup>rd</sup> Singha Road  
Vientiane, Lao PDR

Facsimile Numbers:

+856 2141-2142  
+856 2191-1611

For ADB

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

Facsimile Numbers:

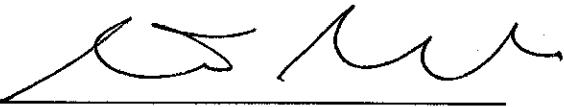
+632 636-2444  
+632 636-2228.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this 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.

LAO PEOPLE'S DEMOCRATIC REPUBLIC

By   
\_\_\_\_\_  
H.E. THIPPHAKONE CHANTHAVONGSA  
Deputy Minister  
Ministry of Finance

ASIAN DEVELOPMENT BANK

By   
\_\_\_\_\_  
STEVEN SCHIPANI  
Officer-in-Charge  
Lao Resident Mission

**SCHEDULE 1****Description of the Project**

1. The objective of the Project is the provision and equitable expansion of TVET aligned with evolving labor market needs.
2. The Project shall comprise:
  - (a) Upgrading of teaching and learning environments at TVET colleges;
  - (b) Improvement of quality and relevance of demand-driven programs;  
and
  - (c) Increased access to TVET for poor students.
3. The Project is expected to be completed by 31 December 2021.



**SCHEDULE 2****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.

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (Second Strengthening Technical and Vocational Education and Training Project)				
Number	Item	Total Amount Allocated for ADB Financing (\$)		Basis for Withdrawal from the Grant Account
		Category	Subcategory	
1	Works	5,000,000		100% of total expenditure claimed
2	Training Equipment and Consumables	6,000,000		100% of total expenditure claimed
3	Consultant Services	3,800,000		100% of total expenditure claimed
3A	Consultant Services - International		630,000	100% of total expenditure claimed
3B	Consultant Services - National		1,470,000	100% of total expenditure claimed
3C	Firms		1,700,000	100% of total expenditure claimed
4	Upgrading Capacity of Teachers and School Management	2,250,000		100% of total expenditure claimed
4A	Upgrading of Academic Teacher Qualification		1,600,000	100% of total expenditure claimed
4B	Facilitation of Capacity Development Measures for Teacher and School Management		650,000	100% of total expenditure claimed
5	Teaching Material	300,000		100% of total expenditure claimed
6	Stipend Scheme	4,000,000		100% of total expenditure claimed
7	Project Management and Operations	1,150,000		100% of total expenditure claimed
7A	PMU Operation and Project Supervision		550,000	100% of total expenditure claimed
7B	Conduct Career Counseling, Job Fairs and TVET Promotion		450,000	100% of total expenditure claimed
7C	Study, Workshop, Conferences		150,000	100% of total expenditure claimed
8	Unallocated	2,500,000		
	Total	25,000,000		

**SCHEDULE 3****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. Except as ADB may otherwise agree, Goods and Works shall be procured and Consulting Services shall be selected and engaged only on the basis of the procurement methods and the selection methods 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.

Goods and Works

4. Goods and Works shall be procured on the basis of the procurement methods set forth below:
  - (a) International Competitive Bidding;
  - (b) National Competitive Bidding; and
  - (c) Shopping.

Domestic Preference

5. The Recipient may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods.

National Competitive Bidding

6. The Recipient and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Recipient's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Recipient 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 Recipient and ADB.

Conditions for Award of Contract

7. The Recipient shall not award any Works contract which involves environmental impacts until (a) the Water Resource and Environment Agency of the

Recipient has granted the final approval of the IEE; and (b) the Recipient has incorporated the relevant provisions from the EMP into the Works contract.

#### Consulting Services

8. The Recipient shall apply Quality- and Cost-Based Selection for Consulting Services.

9. The Recipient shall recruit the individual consultants for the Project in accordance with procedures acceptable to ADB for recruiting individual consultants.

#### Industrial or Intellectual Property Rights

10. (a) The Recipient 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 Recipient 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.

11. 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

12. 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.

**SCHEDULE 4****Execution of Project; Financial Matters**Implementation Arrangements

1. The Recipient 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 Recipient and ADB. In the event of any discrepancy between the PAM and this Grant Agreement, the provisions of this Grant Agreement shall prevail.

Environment

2. The Recipient shall ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project comply with (a) all applicable laws and regulations of the Recipient relating to environment, health and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the IEE, the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

3. The Recipient shall make available necessary budgetary and human resources to fully implement the EMP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

4. The Recipient shall ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the IEE and the EMP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental measures; and
- (c) provide the Recipient with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE.

Safeguards Monitoring and Reporting

5. The Recipient shall do the following:

- (a) submit annual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;

- (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the IEE and the EMP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
- (c) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP promptly after becoming aware of the breach.

#### Prohibited List of Investments

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

#### Social Safeguards

7. The Recipient shall ensure that the Project does not have any indigenous peoples or involuntary resettlement impacts, all within the meaning of SPS. In the event that the Project does have any such impact, the Recipient shall take all steps required to ensure that the Project complies with the applicable laws and regulations of the Recipient and with SPS.

#### Labor Standards, Health and Safety

8. The Recipient shall ensure that the core labor standards and the Recipient's applicable laws and regulations are complied with during Project implementation. The Recipient shall include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things: (a) comply with the Recipient's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate workers in respect of employment and occupation; (d) do not use forced labor; (e) allow freedom of association and effectively recognize the right to collective bargaining; and (f) disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women.

9. The Recipient shall strictly monitor compliance with the requirements set forth in paragraph 8 above and provide ADB with regular reports.

#### Gender and Development

10. The Recipient 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 regularly monitored and reported to ADB.

Governance and Anticorruption

11. The Recipient, 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.

12. The Recipient, 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.

Operation and Maintenance

13. The Recipient shall ensure that the budget allocation for the implementation of the TVET development plan is increased in accordance with its objective under the development plan, and cause MOES to ensure that the operation and maintenance costs are appropriately reflected in the college development plans to be carried out as part of the Project.