
GRANT NUMBER 0433-VIE(EF)

GRANT AGREEMENT
(Externally Financed by Global Environment Facility)
(Greater Mekong Subregion Biodiversity Conservation Corridors Project-Additional
Financing)

(Viet Nam Component)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK

DATED 4 SEPTEMBER 2015

VIE 40253

GRANT AGREEMENT

(Externally Financed by Global Environment Facility)

This GRANT AGREEMENT dated 4 September 2015 between the SOCIALIST REPUBLIC OF VIET NAM ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a loan agreement No. 2721-VIE(SF) dated 5 May 2011 between the Recipient and ADB ("Initial Loan Agreement"), ADB has agreed to make a loan to the Recipient from ADB's Special Funds resources in the amount of SDR19,162,000 for the purposes of the Project described in Schedule 1 to the Initial Loan Agreement ("Initial Project");

(B) the Recipient has, through ADB, applied to the Global Environment Facility Trust Fund ("GEF") for a grant, to be administered by ADB pursuant to the Financial Procedures Agreement dated 23 October 2008 between the International Bank for Reconstruction and Development ("IBRD") and ADB ("Financial Procedures Agreement"), for the purpose of financing various additional activities described in Schedule 1 to this Grant Agreement ("Project");

(C) ADB has established the ADB GEF Fund to receive, hold in trust, and administer funds from GEF; and

(D) ADB has agreed to administer a grant to the Recipient from the GEF 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.

Section 1.02. Wherever used in this Grant Agreement, the several terms defined in the Grant Regulations and the Initial Loan 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) "Environmental Assessment and Review Framework" or "EARF" means the environmental review and assessment framework for the Initial Project, as updated for the Project, including any update thereto, prepared and submitted by MONRE and cleared by ADB;

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

(c) “Ethnic Minority Development Framework” or “EMDF” means the ethnic minority development framework for the Initial Project, as updated for the Project, including any update thereto, prepared and submitted by MONRE and cleared by ADB;

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

(e) “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;

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

(g) “Initial Environmental Examination” or “IEE” means the initial environmental examination for the Project, including any update thereto, prepared and submitted by MONRE and cleared by ADB;

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

(i) “PAM” means the project administration manual for the Project dated 11 May 2015 and agreed between MONRE and ADB, as updated from time to time in accordance with the respective administrative procedures of MONRE and ADB;

(j) “Procurement Plan” means the procurement plan for the Project dated 11 May 2015 and agreed between MONRE and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

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

(l) “Safeguards Monitoring Report” means each report prepared and submitted by MONRE to ADB that describes progress with implementation of and compliance with the EARF, the RF and the EMDF (as applicable), including any corrective and preventative actions;

(m) “Safeguard Policy Statement” or “SPS” means ADB’s Safeguard Policy Statement (2009); and

(n) “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 a grant from GEF in the amount of three million seven hundred ninety-four thousand nine hundred fifty-four Dollars (\$3,794,954).

Section 2.02. The Recipient acknowledges that the Grant is funded out of resources made available by the IBRD, acting as the trustee to GEF, to ADB as an implementing entity of GEF. No withdrawals shall be made if, as a result of such withdrawal, the total amount of the Grant withdrawn from the Grant Account would exceed the amount available to ADB from resources provided to it for purposes of the Grant. Only the resources made available to ADB for the purposes of the Grant shall be considered for the enforcement of any obligations, claims or liabilities under or in connection with the 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 and, to the extent applicable, the Initial Loan 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 4 to the Initial Loan Agreement.

Section 3.04. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 September 2019 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 3 to this Grant Agreement and Schedule 4 to the Initial Loan 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 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 on 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 Grant proceeds and compliance with the financial covenants of this Grant Agreement as well as on the use of the procedures for imprest funds 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 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.

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 GEF. Accordingly, the Recipient agrees that (i) it may only withdraw Grant proceeds to the extent that ADB has received proceeds for the Grant from GEF, and (ii) that ADB does not assume any obligations or responsibilities of GEF in respect of the Project or the Grant other than those set out in this Grant Agreement.

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 State Bank of Vietnam 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

State Bank of Vietnam
47-49 Ly Thai To
Ha Noi, Viet Nam

Facsimile Numbers:

(84-4) 3 8250-612
(84-4) 3 8258-385

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2231.


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.

SOCIALIST REPUBLIC OF VIET NAM

By 

NGUYEN VAN BINH
Governor
State Bank of Vietnam

ASIAN DEVELOPMENT BANK

By 

ANDREW J. HEAD
Officer-in-Charge
Viet Nam Resident Mission

SCHEDULE 1

Description of the Project

1. The Project objective is to integrate biodiversity conservation, climate resilience and sustainable forest management in the Trung Truong Son landscape.
2. The Project shall expand the scope of the Initial Project by contributing to the four Outputs described in Schedule 1 of the Initial Loan Agreement, and shall comprise the following two components:
 - (i) Component 1: Strengthened planning and management of the biodiversity and forests in the protected areas and their surroundings in the Trung Truong Son landscape, including improved protected areas' operational management plans, enhanced community participation, strengthened conservation management of target species, and strengthened biodiversity planning and management at provincial level; and
 - (ii) Component 2: Landscapes conservation measures at the community level in the protected areas and their surroundings to facilitate financial sustainability and reduce greenhouse gas emissions, including improved financial sustainability through ecosystem services and payment for forest environmental services, improved sustainable forest management and carbon sequestration in forest landscapes, and establishing provincial monitoring, reporting and verification systems.
3. The Project is expected to be completed contemporaneously with the Initial Project, i.e. by 31 March 2019.

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 (Greater Mekong Subregion Biodiversity Conservation Corridors Project-Additional Financing)			
Number	Item	Total Amount Allocated for GEF Financing (\$) Category	Basis for Withdrawal from the Grant Account
1	Goods	680,000	100% of total expenditure claimed
2	Village Block Grants	400,000	100% of total expenditure claimed
3	Workshops/Training/ Capacity Building	288,000	100% of total expenditure claimed
4	Consulting Services	1,734,000	100% of total expenditure claimed
5	Project Management	692,954	100% of total expenditure claimed
	TOTAL	3,794,954	

SCHEDULE 3

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

2. MONRE will remain the Project Executing Agency. The existing Central Project Management Unit and Provincial Project Management Units (PPMUs) established under the ongoing BCC Project will extend their function to include the scope of work of the additional financing. To strengthen PPMUs' capacity and align with government agencies' mandates, a representative from the Department of Agriculture and Rural Development will be appointed as PPMU Deputy Director to provide oversight of the additional financing activities. The Protected Area Management Boards will become the additional implementing agencies as they are mandated to manage protected areas and buffer zones.

Environment

3. The Recipient shall ensure or cause the Project Executing Agency to ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project and all Project facilities 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 EARF, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

4. The Recipient shall ensure or cause the Project Executing Agency to ensure that all land and all rights-of-way required for the Project are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Recipient relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the RF, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

5. Without limiting the application of the Involuntary Resettlement Safeguards or the RF, the Recipient shall ensure or cause the Project Executing Agency to ensure that no physical or economic displacement takes place in connection with the Project until:

- (a) compensation and other entitlements have been provided to affected people in accordance with the RF; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RF.

Indigenous Peoples

6. The Recipient shall ensure or cause the Project Executing Agency to ensure that the preparation, design, construction, implementation and operation of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Recipient relating to ethnic minorities or indigenous peoples; (b) the Indigenous Peoples Safeguards; and (c) all measures and requirements set forth in the EMDF, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

7. The Recipient shall make available or cause the Project Executing Agency to make available necessary budgetary and human resources to fully implement the EARF, the RF and the EMDF.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

8. The Recipient shall ensure or cause the Project Executing Agency to 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, the EARF, the RF and the EMDF (to the extent they concern impacts on affected people during Project implementation), and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Recipient with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during implementation or operation of the Project that were not considered in the IEE, the EARF, the RF and the EMDF;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

9. The Recipient shall do the following or cause the Project Executing Agency to do the following:

- (a) submit semi-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 EIA, the EARF, the RF and the EMDF, 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 EARF, the RF or the EMDF promptly after becoming aware of the breach.

Prohibited List of Investments

10. 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.

Gender and Development

11. 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; (d) progress on implementation of the GAP, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB; and (e) key gender outcome and output targets are met.

12. The Recipient shall ensure that the principles of gender equity aimed at increasing Project benefits and impacts on women in the Project area consistent with ADB's Policy on Gender and Development (1998) are followed during implementation of the Project, including (a) equal pay to men and women for work of equal value; (b) enabling working conditions for women workers; and (c) taking necessary actions to encourage women living in the Project area to participate in the design and implementation of Project activities.

Governance and Anticorruption

13. 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.

14. 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.

15. The Recipient shall ensure that Grant proceeds are not used, directly or indirectly, in money laundering or financing of terrorism, including payment to persons and

entities that are subject to financial sanctions of United Nations Security Council resolutions on combating the financing of terrorism.

Grant Refund

16. If ADB determines that an amount of the Grant has been used in a manner inconsistent with the provisions of this Grant Agreement, the Recipient shall, upon notice by ADB to the Recipient, promptly refund such amount to ADB. Except as ADB may otherwise determine, ADB shall cancel all amounts refunded pursuant to this provision.

GEF Visibility Campaign

17. The Recipient, the Project Executing Agency and implementing agencies shall comply with the Communication and Visibility Guidelines of GEF and in particular, the Recipient and the Project Executing Agency shall include a GEF logo in all relevant Project publications and on any equipment or facility funded by GEF. For purposes of this provision, "Communication and Visibility Guidelines of GEF" means the Communication and Visibility Guidelines for External Actions Funded by the GEF included in the Communication and Visibility Policy approved by the GEF Council in May 2011 (available at <http://www.thegef.org/gef/node/4373>), as amended from time to time.