
GRANT NUMBER 0393-KGZ(SF)

GRANT AGREEMENT
(Special Operations)

(Investment Climate Improvement Program – Subprogram 3)

between

KYRGYZ REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 19 JUNE 2014

KGZ 41544

GRANT AGREEMENT (Special Operations)

GRANT AGREEMENT dated 19 June 2014 between KYRGYZ REPUBLIC (“Recipient”) and ASIAN DEVELOPMENT BANK (“ADB”).

WHEREAS

(A) ADB has received from the Recipient a development policy letter dated 30 April 2014 (“Policy Letter”), setting forth certain objectives, policies and actions, described in Schedule 1 to this Grant Agreement, designed to improve the Recipient's investment climate (“Program”);

(B) The Program comprises the third subprogram of the programmatic approach as described in paragraph 1 of Schedule 1 to this Grant Agreement (“Programmatic Approach”), and the Recipient has applied to ADB for a grant for the purposes of the Program; and

(C) ADB has agreed to provide 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 the 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, subject, however, to the following modifications:

(a) Section 2.01(15) is deleted and the following is substituted therefor:

24. The term “Program” means the program for which ADB has agreed to make the Grant, as described in the Grant Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Recipient.

(b) The term “Project” wherever it appears in the Grant Regulations shall be substituted by the term “Program”.

(c) Section 2.01(17) 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 Grant Agreement.

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

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 the Grant Agreement have the following meanings:

(a) “Counterpart Funds” means the local currency generated from the Grant proceeds under the Program and referred to in paragraph 4 of Schedule 3 to this Grant Agreement;

(b) “Deposit Account” means the account referred to in paragraph 3 of Schedule 2 to this Grant Agreement;

(c) “Eligible Imports” means the total imports of the Recipient 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 2 to this Grant Agreement; and
- (iii) imports financed by official international or bilateral aid agencies or any other loans or grants made by ADB;

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

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

(f) “MOE” means the Ministry of Economy of the Recipient;

(g) “NBKR” means the National Bank of the Recipient;

(h) “PPP” means public-private partnership; and

(i) “Program Executing Agency” for the purposes of, and within the meaning of, the Grant Regulations means MOE or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Program.

ARTICLE II

The Grant

Section 2.01. ADB agrees to make available to the Recipient from ADB's Special Funds resources on terms and conditions set forth in this Grant Agreement an amount of twenty two million Dollars (\$22,000,000).

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 Program in accordance with the provisions of this Grant Agreement.

Section 3.02. The proceeds of the Grant shall be 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. Withdrawals from the Grant 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 Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 31 December 2014 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 Program, the Recipient shall perform, or cause to be performed, all obligations set forth in Schedule 3 to this Grant Agreement.

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

(b) The Recipient 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 6.04 of the Grant Regulations, the Recipient shall furnish, or cause to be furnished, to ADB all such reports and information as ADB shall reasonably request concerning 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. A date 90 days after the date of this Grant Agreement is specified for the effectiveness of the Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Minister of Economy 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 Economy
Chui Avenue 106,
Bishkek 720002, Kyrgyz Republic

Facsimile Number:

(996 312) 66 1837.

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2424.

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.

KYRGYZ REPUBLIC

By 

TEMIR SARIYEV
Minister of Economy

ASIAN DEVELOPMENT BANK

By 

MART KHALTARPUREV
Senior Portfolio Management Specialist
Kyrgyz Republic Resident Mission

SCHEDULE 1**Description of the Program**

1. The objective of the Programmatic Approach is to improve the investment climate of the Recipient by (a) reducing exit and entry barriers and compliance costs; (b) improving access to finance; and (c) increasing private sector participation in infrastructure development through PPP. The Programmatic Approach comprises 3 subprograms and the Program is the third subprogram.
2. The principal objective of the Program is to improve business environment and investment climate. The scope of the Program includes reforms to (a) reduce the cost of regulatory compliance; (b) improve access to finance; (c) enhance workers' skills; and (d) facilitate PPP. The Program is described in more detail in the Policy Letter.
3. The Program was completed on 2 April 2014.

SCHEDULE 2**Allocation and Withdrawal of Grant Proceeds**

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

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

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

(c) The Recipient shall allow experts appointed by ADB to verify the value of Eligible Imports during any period in respect of which the Recipient 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 Grant Account, the Recipient shall nominate an account as the Deposit Account at NBKR into which all withdrawals from the Grant Account shall be deposited. The 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 Deposit Account shall be maintained in accordance with accounting principles acceptable to ADB. Upon ADB's request, the Recipient shall have the financial statements for the 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 Program implementation period, the Recipient shall submit trade statistics and any other information as ADB may require from time to time to assess the Recipient's compliance with the formula for determining Eligible Imports.

4. The proceeds of the Grant shall be disbursed upon effectiveness of this Grant Agreement.

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 Recipient:

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

SCHEDULE 3

Program Implementation and Other Matters

Implementation Arrangements

1. The MOE shall be the Program Executing Agency with overall responsibility for execution and coordination of the Program activities. The principal implementing agencies for the Program shall be the Recipient's Agency for Vocational Education, Deposit Protection Agency, MOE, Ministry of Finance, National Bank of the Kyrgyz Republic, State Customs Service, State Tax Service and Single Window Center of Foreign Trade. The Recipient's Macroeconomic and Investment Policy Coordination Council will act as high level steering committee overseeing the Program implementation.

Policy Actions and Dialogue

2. The Recipient shall ensure that all policy actions adopted under the Program, as set forth in the Policy Letter and the policy matrix, continue to be in effect until the Grant Closing Date as specified in Section 3.04 of this Grant Agreement.

3. The Recipient shall keep ADB informed of policy discussions with other multilateral and bilateral aid agencies that may have implications for the implementation of the Program and shall provide ADB with an opportunity to comment on any resulting policy proposals. The Recipient shall take into account ADB's views before finalizing and implementing any such proposal.

Use of Counterpart Funds

4. The Recipient shall ensure that the Counterpart Funds are used to finance the implementation of certain programs and other activities consistent with the objectives of the Program.

Governance and Anticorruption

5. The Recipient 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 Program; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

Review

6. By no later than 31 July 2014, the Recipient shall undertake a review to assess the effectiveness of the Program and the Programmatic Approach based on its experiences in implementing the reforms under the Program and the Programmatic Approach and the recommendations under various technical assistance extended by ADB to assist the Recipient in implementing those reforms. Upon review, the Recipient shall submit a report to ADB in a form satisfactory to ADB.