
GRANT NUMBER 0563 -KGZ (SF)

GRANT AGREEMENT
(Special Operations)

(Second Investment Climate Improvement Program – Subprogram 3)

between

KYRGYZ REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 18 DECEMBER 2017

KGZ 41544

**GRANT AGREEMENT
(Special Operations)**

GRANT AGREEMENT dated 18 December 2017 between the Kyrgyz Republic ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) ADB has received from the Recipient a development policy letter dated 17 October 2017 ("Policy Letter"), setting forth certain objectives, policies and actions, described in Schedule 1 to this Grant Agreement, designed to improve the Recipient's business and investment climate ("Program");

(B) the Program comprises the third subprogram of a 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 ADB's Special Operations Grant Regulations, dated 1 January 2017 ("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(l) is deleted and the following is substituted therefor:

"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(n) is deleted and the following is substituted therefor:

"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".
- (e) Section 5.01(b) is deleted.

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 5 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) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (d) "MOE" means the Ministry of Economy of the Recipient or any successor thereto;
- (e) "MOF" means the Ministry of Finance of the Recipient or any successor thereto;
- (f) "NBKR" means the National Bank of the Kyrgyz Republic or any successor thereto;
- (g) "Policy Matrix" means the matrix of policy actions as agreed between the Recipient and ADB, which sets forth actions accomplished or to be accomplished by the Recipient under the Program and is attached to the Policy Letter;
- (h) "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; and
- (i) "Program Implementing Agencies" means the MOE, MOF and NBKR or any successor thereto acceptable to ADB, which are responsible for the day-to-day implementation of their respective components 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-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 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. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 June 2018 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. 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 (a) the Counterpart Funds and the use thereof; and (b) 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. 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 policy actions for the Program as specified in the Policy Matrix shall have been carried out to the satisfaction of ADB.

Section 5.02. 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 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
58 Erkindik Boulevard
Bishkek 720040
Kyrgyz Republic

Facsimile Number:

(996) 312 661 645.

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 
ADYLBEEK R. KASYMALIEV
Minister
Ministry of Finance

ASIAN DEVELOPMENT BANK

By 
CANDICE P. MCDEIGAN
Country Director
Kyrgyz Republic Resident Mission

SCHEDULE 1**Description of the Program**

1. The principal objective of the Programmatic Approach is to increase private sector investment in the economy of the Recipient through an improved business and investment climate. The Programmatic Approach comprises three subprograms and the Program is the third subprogram. The Program is described in more detail in the Policy Letter.
2. The Program is expected to be completed by 30 June 2018.

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

1. Except as set out in this Schedule or as ADB may otherwise agree, the Grant proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.
2. 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.
3.
 - (a) Prior to submitting the first application to ADB for withdrawal from the Grant Account, the Recipient shall nominate an account (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 the applicable regulations and procedures of the Recipient.
 - (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.
4. No Grant proceeds shall be withdrawn to finance any items specified in the Attachment to this Schedule.
5.
 - (a) The Recipient may withdraw part of the Grant in an amount of twenty-four million five hundred ninety-two thousand and forty Dollars (\$24,592,040) upon effectiveness of this Grant Agreement.
 - (b) The balance of the Grant in the amount of four hundred seven thousand nine hundred and sixty Dollars (\$407,960) shall be deferred (Deferred Amount) until ADB and the Recipient have agreed on the aggregate amount of acceptable expenditures incurred in connection with Grant 0121-KGZ(SF): Investment Climate Improvement Program System Support Project. Upon such agreement and prior to the Grant Closing Date, ADB shall disburse to the Recipient the acceptable expenditures, if any, from the Deferred Amount and retain the balance.

Negative List

No withdrawals of Grant proceeds shall 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. MOE shall be the Program Executing Agency and MOE, MOF and NBKR shall be the Program Implementing Agencies. MOE shall oversee and coordinate the carrying out of the policy actions under the Program.
2. The Recipient shall ensure that the Program Executing Agency and the Program Implementing Agencies are adequately staffed and provided with the necessary financial, technical and other resources to perform their respective functions and responsibilities under the Programmatic Approach.

Policy Actions and Dialogue

3. 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 for the duration of the Programmatic Approach.
4. 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

5. The Recipient shall ensure that the counterpart funds are used to finance the implementation of certain programs and activities consistent with the objectives of the Program.

Governance and Anticorruption

6. The Recipient, the Program Executing Agency and the Program 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 Program; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

Monitoring and Review

7. The Recipient has (a) in consultation and agreement with ADB prepared an action plan to strengthen the internal control environment and capacity of the Program Implementing Agencies and other concerned ministries and agencies of the Recipient for effective execution, procurement, financial management, monitoring and implementation of ADB-financed projects and programs; and (b) agreed to fully implement the action plan prior to the Grant Closing Date.

8. The Recipient shall use its consultative mechanisms to facilitate dialogue among relevant stakeholders to evaluate benefits of all policy actions adopted under the Programmatic Approach and to identify future areas of private sector development.