
GRANT NUMBER 0599-LAO(SF)

GRANT AGREEMENT
(Special Operations)

(Second Greater Mekong Subregion Tourism Infrastructure
for Inclusive Growth Project)

between

LAO PEOPLE'S DEMOCRATIC REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 16 OCT 2018

LAO 49387

**GRANT AGREEMENT
(Special Operations)**

GRANT AGREEMENT dated 16 OCT 2018 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 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.

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) "ASEAN" means the Association of Southeast Asian Nations;
- (b) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (c) "Consulting Services" means the services to be financed out of the proceeds of the Grant as described in paragraph 3 of Schedule 1 to this Grant Agreement;
- (d) "EMPs" means the environmental management plans for the Project, including any update thereto, incorporated in the IEE;
- (e) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (f) "GAP" means the Gender Action Plan for the Project;

- (g) "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;
- (h) "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;
- (i) "Indigenous Peoples Safeguards" means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS;
- (j) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (k) "IPP" means the indigenous peoples plan for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;
- (l) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (m) "MICT" means the Recipient's Ministry of Information, Culture and Tourism;
- (n) "PAM" means the project administration manual for the Project dated 22 May 2018 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;
- (o) "Participating Provinces" means the provinces within the territory of the Recipient that will participate under the Project, namely, Champasak, Luang Prabang, and Vientiane Provinces;
- (p) "PCU" means the Project Coordination Unit to be established within the Project Executing Agency and as further described in the PAM;
- (q) "PIU" means the Project Implementation Unit to be established in each Participating Province and as further described in the PAM;
- (r) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);
- (s) "Procurement Plan" means the procurement plan for the Project dated 22 May 2018 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;

- (t) "Project Executing Agency" for the purposes of, and within the meaning of, the Grant Regulations means MICT or any successors thereto acceptable to ADB, which is responsible for the carrying out of the Project;
- (u) "RP" means the resettlement plan for the Project, including any update thereto, prepared and submitted by the Recipient and cleared by ADB;
- (v) "Safeguards Monitoring Report" means each report prepared and submitted by the Recipient to ADB that describes progress with implementation of and compliance with the EMPs, the RP and the IPP (as applicable), including any corrective and preventative actions;
- (w) "SPS" means ADB's Safeguard Policy Statement (2009); and
- (x) "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 forty-seven million Dollars (\$47,000,000).

ARTICLE III

Use of Proceeds of the Grant

Section 3.01. The Recipient shall cause the proceeds of the Grant to be applied exclusively 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. 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 3.05. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 June 2025 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

Termination

Section 6.01. The Grant Agreement and all obligations of the parties thereunder shall terminate on a date 30 years after the date of this Agreement.

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
23rd Singha Road
P.O. Box 46
Vientiane Capital
Lao PDR

Facsimile Numbers:

(856-21) 412142
(856-21) 911611

For ADB:

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

Facsimile Number:


(632) 636-2444.

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 
THIPPHAKONE CHANTHAVONGSA
Deputy Minister
Ministry of Finance

ASIAN DEVELOPMENT BANK

By 
YASUSHI NEGISHI
Country Director
Lao Resident Mission

SCHEDULE 1**Description of the Project**

1. The objective of the Project is to increase tourism competitiveness of secondary towns within the territory of the Recipient.
2. The Project shall comprise the following:
 - (a) Improvement of urban-rural access infrastructure and urban environmental services, through (i) upgrading around 62 kilometers of existing provincial, district and rural roads in Champasak and Vientiane Provinces; (ii) upgrading 2 passenger piers in Champasak and Vientiane Provinces; and (iii) providing modern waste collection equipment and construct a managed landfill with impermeable liners in Vientiane Province;
 - (b) Strengthened capacity to implement ASEAN tourism standards, through (i) strengthening ASEAN tourism standards certification bodies as well as assessment frameworks; and (ii) promoting standards adoption by tourism service providers in the Participating Provinces; and
 - (c) Strengthened institutional arrangements for tourism destination management and infrastructure operations and maintenance, through strengthening the Recipient's sustainable tourism destination management network.
3. The Project shall include consulting services for Works design and supervision and capacity building support.
4. The Project is expected to be completed by 31 December 2024.

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 allocated and disbursed on the basis of the withdrawal percentage for the item of expenditure set forth in the Table.

Disbursement Procedures

3. 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

4. Notwithstanding any other provision of this Grant Agreement, no withdrawals shall be made from the Grant Account until the Recipient has established a financial management team within the PCU comprising financial controller, head of internal audit and chief accountant

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing (\$)	Basis for Withdrawal from the Grant Account
		Category	
1	Project Implementation Costs*	47,000,000	100% of total expenditure claimed
	TOTAL	47,000,000	

* Subject to the condition for withdrawal described in paragraph 4 of Schedule 2.

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 the Consulting Guidelines, as applicable.

Goods and Works

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

National Competitive Bidding

5. 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

6. The Recipient shall not award any Works contracts which involves environmental impacts until:
 - (a) the Department of Natural Resources and Environment of the relevant Participating Province or any successor thereto has granted the final approval of the IEE; and

- (b) the Recipient has incorporated the relevant provisions from the EMPs into the Works contract.

7. The Recipient shall not award any Works contract which involves involuntary resettlement impacts, until the Recipient has prepared and submitted to ADB the final RP based on the Project's detailed design, and obtained ADB's clearance of such RP.

Consulting Services

8. Except as set forth in the paragraph below, the Recipient shall apply Quality- and Cost-Based Selection for Consulting Services.

9. The Recipient shall recruit the individual consultants for capacity building support 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.

SCHEDULE 4

Execution of Project; Financial Matters

Implementation Arrangements

1. The Recipient 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 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 EMPs, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

3. The Recipient shall 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 RP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

4. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Recipient shall 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 RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

5. The Recipient shall 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 indigenous peoples; (b) the Indigenous Peoples Safeguards; and (c) all measures and requirements set forth in the IPP, and any corrective or preventative actions (i) set forth in a Safeguards Monitoring Report, or (ii) subsequently agreed between ADB and the Recipient.

Human and Financial Resources to Implement Safeguards Requirements

6. The Recipient shall make available necessary budgetary and human resources to fully implement the EMPs, the RP and the IPP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

7. 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, the EMPs, the RP and the IPP (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 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 construction, implementation or operation of the Project that were not considered in the IEE, the EMPs, the RP and the IPP;
- (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

8. The Recipient shall 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 IEE, the EMPs, the RP and the IPP, 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 EMPs, the RP or the IPP promptly after becoming aware of the breach.

Prohibited List of Investments

9. 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.

Labor Standards, Health and Safety

10. 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, sex 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.

11. The Recipient shall strictly monitor compliance with the requirements set forth in paragraph 10 above and provide ADB with regular reports.

Gender and Development

12. 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 on quarterly basis to ADB; and (e) key gender outcome and output targets include: (i) 30% of the overall staff positions and 40% of the management positions in the PCU and PIUs to be filled by women; (ii) appointment of gender focal points in the PCU and each PIU; (iii) at least 40% of training participants under the Project are women; and (iv) disaggregation of all monitoring and evaluation (M&E) data by sex and ethnicity.

Counterpart Support

13. The Recipient shall: (a) through the Project Executing Agency, ensure that counterpart funds for Project implementation are available on time; and (b) ensure that the Project Executing Agency has sufficient funds to satisfy its liabilities arising from any Works, Goods and Consulting Services contract.

14. The Recipient shall (a) through the Project Executing Agency cause each Participating Provinces, prior to their physical completion, prepare and adopt a plan for achieving full cost recovery of the operation and maintenance expenditures of each Project facility within their province; and (b) finance through budget allocation any shortfall in the operation and maintenance of the Project facilities within each Participating Province.

Consultation with Stakeholders

15. The Recipient shall ensure that consultation with the Project stakeholders takes place during Project implementation, in accordance with the stakeholder communication strategy set out in the PAM.

Governance and Anticorruption

16. 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 Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

17. The Recipient 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.