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LOAN NUMBER 2536-IND

PROGRAM AGREEMENT  
(Mizoram Public Resource Management Program)

between

ASIAN DEVELOPMENT BANK

and

STATE OF MIZORAM

DATED 17 SEPTEMBER 2009

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PAL: IND 41607

## **PROGRAM AGREEMENT**

PROGRAM AGREEMENT dated 17 September 2009 between ASIAN DEVELOPMENT BANK (hereinafter called "ADB") and the State of Mizoram, acting by its Governor (hereinafter called the "State").

### **WHEREAS**

(A) by a Program Loan Agreement of even date herewith between India (hereinafter called the "Borrower") and ADB, ADB has agreed to make to the Borrower a loan of ninety four million dollars (\$94,000,0000) on the terms and conditions set forth in the Program Loan Agreement, but only on the condition that the proceeds of the Loan be made available to the State and that the State agrees to undertake certain obligations towards ADB as hereinafter set forth; and

(B) the State, in consideration of ADB entering into the Program Loan Agreement with the Borrower, has agreed to undertake the obligations hereinafter set forth;

NOW THEREFORE the parties hereto agree as follows:

## **ARTICLE I**

### **Definitions**

Section 1.01. Wherever used in this Program Agreement, unless the context otherwise requires, the several terms defined in the Program Loan Agreement and in the Loan Regulations (as so defined) have the respective meanings therein set forth.

## **ARTICLE II**

### **Particular Covenants**

Section 2.01. (a) The State shall carry out the Program with due diligence and efficiency, and in conformity with sound administrative, financial, fiscal and public resource management practices.

(b) In the carrying out of the Program, the State shall perform all obligations set forth in the Loan Agreement to the extent that they are applicable to the State and all obligations set forth in the Schedule to this Program Agreement.

Section 2.02. The State shall make available, promptly as needed, the funds, facilities, services and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of the Program.

Section 2.03. The State shall carry out the Program in accordance with plans and programs formulated in accordance with governance and public resource management best practices as acceptable to ADB. The State shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans and programs, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 2.04. The State shall maintain, or cause to be maintained, records and accounts adequate to identify the use of Counterpart Funds, to disclose the use thereof in the Program, to record the progress of the Program (including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, its operations and financial condition.

Section 2.05. (a) ADB and the State shall cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) The State shall, with a copy to the Borrower, promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Program, the performance of its obligations under this Program Agreement, or the accomplishment of the purposes of the Loan.

(c) ADB and the State shall from time to time, at the request of either party, exchange views through their representatives with regard to any matters relating to the Program, the State and the Loan.

Section 2.06. (a) The State shall furnish to ADB all such reports and information as ADB shall reasonably request concerning: (i) the Loan and the expenditure of the proceeds thereof; (ii) the expenditures financed out of the Matching Funds; (iii) the Program; (iv) the administration, operations and financial condition of the State to the extent relevant to the Program; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, the State shall furnish to ADB quarterly reports on the execution of the Program, on the operation and management of the Program facilities and the State's budgetary position in each current FY and its medium term projections. Such reports shall be submitted quarterly or in such other period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the quarter under review, steps taken or proposed to be taken to remedy these problems, status and progress of expenditures to be financed out of the Counterpart Funds, and proposed program of activities and expected progress during the following quarter.

(c) Promptly after closing date for withdrawal from the Loan Account, but in any event not later than three (3) months thereafter or such later date as ADB may agree for this purpose, the State shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution of the Program, including its cost, the performance by the State of its obligations under this Program Agreement and the accomplishment of the purposes of the Loan, including a comprehensive description of the impact of the reforms implemented under the Program.

Section 2.07. The State shall: (i) maintain separate records of accounts for the Program and for its overall operations; (ii) have such accounts and related financial statements (statement of income and expenses, and related statements) audited by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; and, in accordance with appropriate auditing standards; and (iii) furnish to ADB, promptly after their preparation but in any event not later than six (6) months after the close of the FY to which they relate, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and compliance with the covenants of the Loan Agreement), all in the English language. The State shall furnish to ADB such further information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

Section 2.08. The State shall enable ADB's representatives to examine relevant records and documents pertaining to the use of the Counterpart Funds.

Section 2.09. (a) The State shall, promptly as required, take all action within its powers which are necessary to carry out the Program.

(b) In respect to the Program, the State shall at all times conduct its business in accordance with sound administrative, financial, environmental and fiscal practices, with competent and experienced management and personnel.

Section 2.10. Except as ADB may otherwise agree, the State shall apply the proceeds of the Counterpart Funds to the financing of expenditures on the Program in accordance with the provisions of the Loan Agreement and this Program Agreement, and shall ensure that the expenditures financed out of such Counterpart Funds are used exclusively in the carrying out of the Program.

Section 2.11. The State shall promptly notify ADB of any proposal which in any manner impacts the Program and shall afford ADB an adequate opportunity to comment on such proposal for due consideration by the State.

### **ARTICLE III**

#### **Effective Date; Termination**

Section 3.01. This Program Agreement shall come into force and effect on the date on which the Program Loan Agreement shall come into force and effect. ADB shall promptly notify the State of such date.

Section 3.02. All the provisions of this Program Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the Program Loan Agreement.

**ARTICLE IV****Miscellaneous**

Section 4.01. Any notice or request required or permitted to be given or made under this Program Agreement and any agreement between the parties contemplated by this Program Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex, facsimile or radiogram to the party to which it is required or permitted to be given or made at its address hereinafter specified, or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For ADB

Asian Development Bank  
P.O. Box 789  
0980 Manila, Philippines

Facsimile Numbers:

(632) 636-2444

(632) 636-2337

For the State

Finance Department  
(Fiscal Management Unit)  
Government of Mizoram  
Civil Secretariat  
Aizawl, Mizoram 796001  
India

Facsimile Numbers:

(91-389) 2328701

(91-389) 2328702.


Section 4.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Program Agreement by or on behalf of the State may be taken or executed by an officer of the Finance Department not below the rank of Secretary to the Government of Mizoram and/or any other official specifically authorized by the Government of Mizoram.

(b) The State shall furnish to ADB sufficient evidence of the authority of each person who will act under paragraph (a) of this Section, together with the authenticated specimen signature of each such person.


Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Program Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Program Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

ASIAN DEVELOPMENT BANK

By \_\_\_\_\_  
TADASHI KONDO  
Country Director  
India Resident Mission

STATE OF MIZORAM

By \_\_\_\_\_  
C. LALSAWTA  
Principal Secretary  
Finance Department

## SCHEDULE

### Program Implementation and Other Matters

#### Program Executing Agency and Program Implementing Agencies

1. (a) The State shall be responsible for the coordination and execution of the Program with the various concerned departments and agencies of the State.

(b) Without limiting the generality of the foregoing subparagraph, DOF shall be the Program Executing Agency and shall be responsible for implementation and monitoring of the Program. The Program Implementing Agencies shall be responsible for complying with the policy actions.

(c) The State shall endeavor that (i) critical Program staff shall remain in their position on a full-time basis for a reasonable duration to ensure continuity in the implementation of the Program; and (ii) all implementing agencies will be adequately staffed and provided with the necessary financial, technical, and other resources to perform their functions under the Program.

#### Program Coordination

2. The PSC shall be responsible for overall direction, guidance, monitoring and providing oversight role under the Program. The PSC shall be chaired by the Principal Secretary of DOF and include the Principal Secretary or Secretary of DOPPI and of each of the Program Implementing Agencies, including their heads of departments. The PSC shall report to the Chief Minister through the Chief Secretary. The PSC shall meet, as and when necessary, at least once every quarter.

3. The FMU shall serve as the program management unit, and shall facilitate the various reforms under the Program. The FMU shall be responsible for daily implementation of the Program under the guidance of the PSC. Towards this end, FMU shall (i) coordinate with, and help to the extent necessary, the various PIUs established in each of the Program Implementing Agencies, to carry out their functions in support of the reforms; and (ii) coordinate with ADB and various stakeholders and solicit feedback from experts from within and outside the Government on a regular basis.

4. The PIUs shall liaise closely with the PSC through the FMU. Each of the PIUs shall be chaired by the head of the relevant Department and shall report directly to the Principal Secretary/Secretary of the respective Program Implementing Agency.

#### Policy Actions

5. The Borrower and the State shall ensure that all policies adopted and actions taken under the Program, as set forth in the Policy Letter and the Policy Matrix, shall continue to be in effect for and beyond the duration of the Program.

6. The Borrower and the State shall give due consideration to the findings and recommendations proposed as a result of the Program while carrying out the policies and actions under the Program.

#### Policy Dialogue

7. The Borrower shall cause the State to keep ADB informed of, and the State and ADB shall from time to time exchange views on, the progress made in carrying out the policies and actions set out in the Policy Letter and the Policy Matrix and in the formulation and implementation of new related policies, and keep the Borrower informed.

8. The Borrower, the State and ADB shall promptly discuss problems and constraints encountered during the implementation of the Program and appropriate measures to overcome or mitigate such problems and constraints.

9. The Borrower and the State 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 Borrower and the State shall take into account ADB's views before finalizing and implementing any such proposals.

#### Loan Proceeds and Counterpart Funds

10. The Borrower shall transfer the Counterpart Funds generated under the Loan under the normal arrangements for transfer of external assistance to the State and shall treat such Counterpart Funds as an additional to its transfers allocated annually to the State.

11. The Borrower shall cause the State to use the Counterpart Funds to support the adjustment costs for the policies adopted and actions taken for Program implementation. The Borrower shall cause the State to ensure that sufficient budgetary allocations are made in a timely manner for the efficient and timely implementation of Program.

#### VRS, Health Corpus, and GRF

12. The Borrower shall cause the State to provide the necessary Matching Funds for the (a) complete disbursement of VRS and related compensation for school teachers; (b) augmentation of the health corpus to ensure its sustainability; and (c) augmentation of the GRF to ensure compliance with the relevant tranche conditions.

13. The Borrower shall cause the State to ensure that information relating to the implementation of VRS compensation for teachers is made available to all teachers uniformly.

14. The Borrower shall cause the State to ensure that (a) consultation plans shall be prepared for and applied to teachers affected by reforms; (b) men and women shall be given equal access to, and use of, relevant services, resources, assets, and opportunities in the MHC Scheme and VRS; (c) the Program Implementing Agencies shall receive support in upgrading their information gathering capabilities; (d) specific health care products for women will be made available in the MHC Scheme; and (e) a labor restructuring plan shall be prepared once it is determined the PSEs that are to be restructured.

Program Review

15. The State shall, through DOF, undertake periodic reviews during Program implementation to evaluate the scope, implementation arrangements, progress and achievement of the objectives of the Program. DOF shall ensure that ADB shall have the opportunity to participate in these reviews. The State shall approve a time bound action plan on staffing, computerization, and reporting arrangements for the FMC, as well as the FMU.

Plan for Program Monitoring

16. The Borrower shall cause the State to ensure that all relevant baseline data related to the Program and its components shall be regularly monitored and continually updated. Within 6 months after the Effective Date, the State shall finalize a methodology or plan for monitoring the performance of the Program in line with the design and monitoring framework and the Policy Matrix.

Fund Flow Tracking System

17. The Borrower shall cause the State to establish a fund flow tracking system to track the use of the counterpart funds generated by the loan on a quarterly basis, particularly on ring-fenced Program investments (such as high-cost debt pre-payment, the health corpus, and the VRS for teachers).