

---

GRANT NUMBER 0121-KGZ(SF)

GRANT AGREEMENT  
(Special Operations)  
(ICIP - System Support Project)

between

KYRGYZ REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 24 November 2008

---

GAS: KGZ 41544

**GRANT AGREEMENT  
(Special Operations)**

GRANT AGREEMENT dated 24 November 2008 between  
KYRGYZ REPUBLIC (the "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;

(B) the Project supports one of the core policy areas of the Recipient's Investment Climate Improvement Program (the "Program Cluster");

(C) the Recipient has applied to ADB for a grant for the first subprogram under the Program Cluster, and by a grant agreement of even date herewith ADB has agreed to provide to the Recipient a grant from its Special Funds resources in the amount of twelve million five hundred thousand Dollars (\$12,500,000) for that purpose (the "Program Grant Agreement");

(D) ADB has, on the basis inter alia of the foregoing, agreed to provide a grant to the Recipient from ADB's Special Funds resources upon the terms and conditions hereinafter set forth.

NOW THEREFORE the parties agree as follows:

**ARTICLE I**

**Grant Regulations; Definitions**

Section 1.01. All provisions of the Special Operations Grant Regulations of ADB, dated 7 February 2005 (the "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. The definitions set forth in the Grant Regulations are applicable to this Grant Agreement unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and Its Recipients dated February 2007, as amended from time to time;

(b) "Consulting Services" means consulting services to be financed out of the proceeds of the Grant, and excludes ancillary services rendered under a contract for the supply of Goods;

(c) “Goods” means equipment and materials to be financed out of the proceeds of the Grant, and includes related services such as transportation, insurance, installation, commissioning, training, and initial maintenance;

(d) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook dated January 2007, as amended from time to time;

(e) “MEDT” means the Ministry of Economic Development and Trade of the Recipient;

(f) “Procurement Guidelines” means ADB’s Procurement Guidelines dated February 2007, as amended from time to time;

(g) “Procurement Plan” means the procurement plan for the Project dated 18 September 2008 and agreed between the Recipient and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(h) “Program Grant Agreement” has the meaning given thereto in Recital (C) of this Grant Agreement;

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

(j) “PWG” means the program working group established to coordinate the implementation of the Program pursuant to paragraph 3 of Schedule 4 to the Program Grant Agreement; and

(k) “TPC” means the technical project cell established within MEDT pursuant to paragraph 2 of Schedule 4 to this Grant Agreement.

## **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 Agreement an amount of two million nine hundred thousand Dollars (\$2,900,000).

### **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 Project in accordance with the provisions of this Grant Agreement.

Section 3.02. The Goods and Consulting Services and other items of expenditure to be financed out of the proceeds of the Grant and the allocation of amounts of the Grant among different categories of such Goods and Consulting Services and other items of expenditure shall be 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, all Goods and Consulting Services to be financed out of the proceeds of the Grant shall be procured in accordance with the provisions of Schedule 3 to this Grant Agreement.

Section 3.04. Withdrawals from the Grant Account in respect of Goods and Consulting Services shall be made only on account of expenditures relating to

- (a) Goods which are produced in and supplied from, 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 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 31 December 2010 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. The Recipient shall (i) maintain, or cause to be maintained, separate accounts for the Project; (ii) have such accounts and related financial statements audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; (iii) furnish to ADB, as soon as available but in any event not later than 6

months after the end of each related fiscal year, 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 Grant proceeds and compliance with the financial covenants of this Grant Agreement as well as on the use of the procedures for statement of expenditures (SOE) and imprest account), all in the English language; and (iv) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

Section 4.03. The Recipient shall enable ADB's representatives to inspect the Project, the goods financed out of the proceeds of the Grant, and any relevant records and documents.

## **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 Program Grant Agreement shall have been duly authorized or ratified by, and executed and delivered on behalf of the Recipient as become legally binding on the Recipient in accordance with its terms, subject only to the effectiveness of this Grant Agreement.

Section 5.02. The following is specified as an additional matter, for the purposes of Section 9.02(c) of the Grant Regulations, to be included in the opinion or opinions to be furnished to ADB: the Program Grant Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Recipient, and is legally binding upon the Recipient in accordance with its terms, subject only to the effectiveness of this Grant Agreement.

Section 5.03. A date thirty (30) 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 Economic Development and Trade 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

Minister of Economic Development and Trade  
Chui Avenue 106  
Bishkek 720002, Kyrgyz Republic

Facsimile Number:

(996 312) 66 18 37.

For ADB

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

Facsimile Numbers:

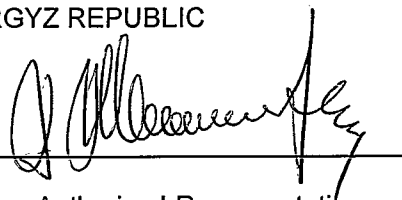
(632) 636-2444

(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 and to be delivered at the principal office of ADB, as of the day and year first above written.

KYRGYZ REPUBLIC

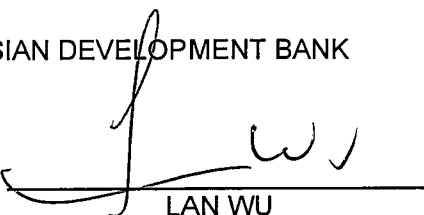
By



Authorized Representative

ASIAN DEVELOPMENT BANK

By



LAN WU  
Country Director  
Kyrgyz Resident Mission

## **SCHEDULE 1**

### **Description of the Project**

1. The Project will support the implementation of the Program Cluster, and more specifically procurement of hardware, software and related consulting services for the establishment of the one-stop-shop business registration system and the pre-customs single window (PCSW) in line with the blueprints adopted under the first subprogram under the Program Cluster, together with improvements to the MEDT website.
2. The Project is expected to be completed by 30 June 2010.

## SCHEDULE 2

### Allocation and Withdrawal of Grant Proceeds

#### General

1. The table attached to this Schedule sets forth the Categories of Goods and Consulting Services and other items of expenditure to be financed out of the proceeds of the Grant and the allocation of amounts of the Grant to each such Category (hereinafter called the Table). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table.)

#### Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories listed in the Table shall be financed out of the proceeds of the Grant on the basis of the percentages 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 then 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 for financing Goods, and Consulting Services and other items shall be disbursed in accordance with the Loan Disbursement Handbook.

#### Imprest Account; Statement of Expenditures

5. (a) Except as ADB may otherwise agree, the Recipient shall establish immediately after the Effective Date, an imprest account at a bank acceptable to ADB. The imprest account shall be established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Recipient and ADB. The currency of the imprest account shall be Dollar. The initial amount to be deposited into the imprest account shall not exceed the lower of (i) the

estimated expenditure to be financed from the imprest account for the first six months of Project implementation, or (ii) the equivalent of ten (10) percent of the Grant amount.

(b) The statement of expenditure (SOE) procedure may be used for liquidation and replenishment of the imprest account or reimbursement of eligible expenditures not exceeding \$5,000 per individual payment. For liquidation, replenishment or reimbursement of payments in excess of the SOE ceiling, full supporting documentation is required.

Condition for Withdrawal from Grant Account

6. Notwithstanding any other provision of this Grant Agreement, no withdrawals shall be made from the Grant Account until the Recipient has provided evidence satisfactory to ADB that all Prior Actions have been completed.

**TABLE**

<b>ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (ICIP - System Support Project)</b>			
<b>CATEGORY</b>			<b>ADB FINANCING</b>
<b>Number</b>	<b>Item</b>	<b>Amount Allocated \$</b>	<b>Percentage and Basis for Withdrawal from the Grant Account</b>
		<b>Category</b>	
1	Equipment	1,915,000	100 percent of total expenditure*
2	Consulting Services	435,000	100 percent of total expenditure*
3	Training/Workshops, Accounting/Audits and other Administrative Costs	50,000	100 percent of total expenditure*
4	Unallocated	500,000	
	Total	2,900,000	

\* Exclusive of taxes and duties imposed within the territory of the Recipient, which must be paid by the Recipient.

### SCHEDULE 3

#### Procurement of Goods and Consulting Services

##### General

1. The procurement of all Goods and Consulting Services shall be subject to and governed by the Procurement Guidelines and the Consulting Guidelines respectively.
2. All terms used and not otherwise defined in this Grant Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

##### Procurement of Goods

3. Except as ADB may otherwise agree, Goods shall only be procured on the basis of the methods of procurement set forth below:

International Competitive Bidding
Limited International Bidding
National Competitive Bidding
Shopping

The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Recipient may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

4. The Recipient may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods.
5. The Recipient and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Borrower'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 written approval of such change by the Recipient and ADB.

##### Selection of Consulting Services

6. The Recipient shall recruit individual consultants in accordance with procedures acceptable to ADB for recruiting individual consultants.

##### Industrial or Intellectual Property Rights

7. (a) The Recipient shall ensure that none of the Goods procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) 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 contain appropriate representations, warranties and, if appropriate, indemnities from the supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

8. 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.

#### ADB's Review of Procurement Decisions

9. All contracts procured under international competitive bidding procedures and contracts for consulting services shall be subject to prior review by ADB, unless otherwise agreed between the Recipient and ADB and set forth in the Procurement Plan.

**SCHEDULE 4****Execution of Project and Operation of  
Project Facilities; Financial Matters**

1. The Recipient shall ensure that the Project is executed and implemented in accordance with the provisions of this Schedule.
2. MEDT shall be the Project Executing Agency with overall responsibility for execution of the Project. MEDT shall establish a technical project cell (TPC) for the day-to-day implementation of the Project, including – without limitation – (i) the procurement of equipment, (ii) the selection and engagement of consultants, (iii) cooperating closely with relevant members of the PWG to ensure that the Project fully supports the relevant aspects of the Program Cluster, and (iv) all related liaison, coordination and reporting activities. The TPC will include project managers with relevant skills and experience appointed by MEDT, MOJ and the State Customs Committee of the Recipient.
3. The Recipient shall make available all counterpart funds required for timely and effective implementation of the Project, including any necessary resources for TPC to perform its tasks throughout the implementation of the Project.
4. The Recipient shall ensure that the TPC submits quarterly progress reports to the PWG on the progress made and any problems encountered with the implementation of the Project during the review period, together with steps taken or proposed to remedy the problems, and expected progress during the following period. The Recipient shall ensure that the PWG's quarterly progress reports under the Program Grant Agreement include all relevant information from the TPC's progress reports.
5. The Recipient, consistent with its commitment to good governance, accountability and transparency, agrees (a) that ADB has the right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project and (b) to cooperate fully with any such investigation and to extend all necessary assistance, including providing access to all relevant books and records, as may be necessary for the satisfactory completion of any such investigation.
6. Within two months of the Effective Date, the Recipient shall establish a project performance monitoring system (PPMS) acceptable to ADB, cause the PPMS to be operated throughout the Project implementation period, and undertake a periodic review of the Project based on the PPMS.