
GRANT NUMBER 0094-NEP (SF)

PROGRAM GRANT AGREEMENT
(Special Operations)

(Rural Reconstruction and Rehabilitation Sector Development Program)

between

NEPAL

and

ASIAN DEVELOPMENT BANK

DATED 14 JANUARY 2008

LPS:NEP 40554

GRANT AGREEMENT (Special Operations)

GRANT AGREEMENT dated 14 January 2008 between NEPAL ("the Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) ADB has received from the Recipient a development policy letter dated 7 November 2007 (hereinafter called the "Policy Letter"), setting forth certain objectives, policies and actions, described in Schedule 1 to this Program Grant Agreement, designed to develop the Recipient's rural reconstruction and rehabilitation sector (the "Program");

(B) the Recipient has applied to ADB for a grant from its Special Funds resources for the purposes of the Program;

(C) by a Project Grant Agreement of the same date as this Program Grant Agreement between the Recipient and ADB (the "Project Grant Agreement"), ADB has agreed to provide a grant to the Recipient from ADB's Special Funds resources of fifty million dollars (\$50,000,000) for the purposes of the Project part of the Rural Reconstruction and Rehabilitation Sector Development Program (the "Program" or RRRSDP) ; and

(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 the 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, 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 this 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".

(e) Section 5.01(a) is deleted and the following is substituted therefor:

(a) Subject to any conditions or restrictions specified in the Grant Agreement, the Recipient shall be entitled to withdraw from the Grant Account such amounts as shall be required to meet payments for expenditures required for the Program and to be financed under the Grant Agreement.

Section 1.02. The terms defined in the Project Grant Agreement are incorporated into this Program Grant Agreement, unless these terms are otherwise defined herein. The terms defined in the Grant Regulations are incorporated into this Program Grant Agreement, unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "Counterpart Funds" means the local currency proceeds accruing to the Recipient and generated from the Grant proceeds under the Program and referred to in paragraph 6 of Schedule 4 to this Program Grant Agreement;

(b) "Deposit Account" has the meaning ascribed to it in paragraph 4(a) of Schedule 2 hereto;

(c) "Eligible Items" means the goods imported under the Program (except those specifically excluded pursuant to the Attachment to Schedule 2 to this Program Grant Agreement), the foreign exchange costs of which are eligible for financing out of the proceeds of the Grant;

(d) "MOF" means Ministry of Finance of the Recipient and includes any successor thereto;

(e) "Policy Letter" means the development policy letter dated 7 November 2007 addressed by the Recipient to ADB and referred to in Preamble (A) of this Program Grant Agreement;

(f) "Policy Matrix" means the policy matrix agreed between the Recipient and ADB which sets forth actions to be taken by the Recipient under the RRRSDP and which is attached to the Policy Letter;

(g) "Program Executing Agency" means, for the purposes of, and within the meaning of, the Program Grant Agreement, the MOF or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Program;

(h) "Project Grant Agreement" means the agreement between the Recipient and ADB, referred to in Preamble (C) of this Program Grant Agreement which shall have the same date as this Program Grant Agreement; and

(i) "RRRSDP" refers to the Rural Reconstruction and Rehabilitation Sector Development Program that is the subject of 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 Grant Agreement an amount of fifty million dollars (\$50,000,000).

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 may be withdrawn from the Grant Account only for the purposes of financing expenditures incurred for Eligible Items under the Program 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 Eligible Items 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 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 3.05. Except as ADB may otherwise agree, no withdrawals shall be made from the Grant Account in respect of expenditures for Eligible Items prior to the Effective Date.

Section 3.06. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 31 December 2011 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 and operation of the Program 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 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. (a) 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 (i) the Counterpart Funds and the use thereof; and (ii) the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

(b) Without limiting the generality of the foregoing or Section 6.04 of the Grant Regulations, the Recipient shall furnish, or cause to be furnished, to ADB annual and four-monthly reports on the carrying out of the Program and on 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 are specified as additional conditions to the effectiveness of this Grant Agreement for the purposes of Section 9.01(e) of the Grant Regulations:

(a) the Project Grant Agreement shall have been duly executed and delivered on behalf of the Recipient and all conditions precedent (other than the effectiveness of this Program Grant Agreement) shall have been fulfilled; and

(b) all policy actions listed in the Policy Matrix shall have been met by the Recipient to the satisfaction of ADB.

Section 5.02. A date ninety (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 MOF 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

The Secretary
Ministry of Nepal
Government of Nepal

Singha Durbar
Kathmandu, Nepal

Facsimile Number:

(977-1) 4211-165

For ADB

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

Telex Numbers:

29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

Facsimile Numbers:

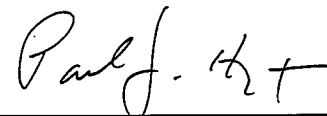
(632) 636-2444
(632) 636-2391.

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.

NEPAL

By 
VIDYADHAR MALLIK
Secretary
Ministry of Finance

ASIAN DEVELOPMENT BANK

By 
PAUL J. HEYTENS
Country Director
Nepal Resident Mission

SCHEDULE 1**Description of the Program**

1. The principal objective of the Program is to support reconstruction and rehabilitation of the rural sector in the Recipient through: (i) enhanced poverty reduction and inclusive development; (ii) improved and inclusive governance and decentralization; and (iii) strengthened support for rural infrastructure development.

The Program is described in more detail in the Policy Letter. The Program will be implemented during the period from 1 January 2008 to 31 December 2011.

2. In support of the Program:

(a) the proceeds of the Grant shall be used to finance the costs of Eligible Items; and

(b) the Counterpart Funds shall be used to finance the local currency costs for purposes of (i) supplementing the Recipient's budget in support of the reform package, and (ii) the Recipient's contribution to ADB-assisted RRRSDP activities within the scope of the Recipient's Three Year Interim Plan.

3. The proceeds of the Grant are expected to be utilized by 31 December 2011.

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) Withdrawals from the Grant Account shall be made for the financing of the cost of Eligible Items.

(b) No withdrawals from the Grant Account shall be made in respect of any expenditures which have been financed by credits from official international or bilateral aid agencies or any other grants or loans made by ADB.

3. (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 equal to or greater than the amount of the Grant expected to be disbursed during such year.

(c) For the purposes of this paragraph, the term "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 for ineligible items specified in the Attachment to this Schedule; and
- (iii) imports financed from credits from official international or bilateral aid agencies or any other loans or grants made by ADB.

(d) 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.

4. (a) Prior to submitting the first application to ADB for withdrawal from the Grant Account, the Recipient shall open an account (the "Deposit Account") at Nepal Rastra Bank 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 consistently maintained sound accounting principles. Upon ADB's request, the Recipient shall have the Deposit Account audited by independent auditors, whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with appropriate auditing standards. Promptly after their preparation but in any

event not later than six (6) months after the date of ADB's request, certified copies of such audited accounts and records shall be furnished to ADB, all in the English language.

(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.

Attachment to Schedule 2**List of Ineligible items**

1. Grant proceeds will finance the foreign currency expenditures for the reasonable cost of imported goods required during the Program.
2. 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 1: 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 of 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; and
- (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 any other goods designated as environmentally hazardous by agreement between the Recipient and ADB, 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

Provisions on Procurement and Consulting Services

1. Except as ADB may otherwise agree, the procedures referred to in the following paragraphs of this Schedule shall apply in the procurement of Eligible Items to be financed out of the proceeds of the Grant.

2. (a) Except as provided in subparagraph (b) of this paragraph, each contract for Eligible Items shall be awarded on the basis of either the purchaser's normal commercial procurement practices, in the case of procurement by the private sector, or the Recipient's prescribed procurement procedures, in the case of procurement by the public sector, having due regard for the principles of economy and efficiency.

(b) Each supply contract for Eligible Items which are commonly traded commodities shall be awarded on the basis of procedures appropriate to the trade and acceptable to ADB.

SCHEDULE 4

Program Implementation and Other Matters

Program Management

1. MOF shall be the Program Executing Agency responsible for coordinating all policy, legal and regulatory actions. The MOF shall ensure that the policy reforms set out in the Policy Letter shall be duly carried out in a timely manner. In particular, the MOF shall ensure that provisions for reporting, monitoring and auditing and other administrative requirements shall be strictly complied with. The Program Grant shall support part of the Recipient's budgetary requirements to undertake post conflict development priorities as specified in the Recipient's Three Year Interim Plan (2007/08-2009/10).
2. The Recipient shall: (a) ensure that the objectives achieved, policies adopted, and actions taken prior to the date of this Grant Agreement, as set forth in the Policy Letter, shall continue to be in full force and effect for the duration of the Program period and subsequently; (b) carry out the policies and actions in accordance with the schedule of policy reforms contained in the Policy Matrix and ensure sustainability of the reforms beyond the Program period; and (c) carry out all of its obligations as stipulated under this Schedule and the Grant Agreement, in a timely manner.

Policy Dialogue

3. The Recipient shall keep ADB informed of, and the Recipient and ADB shall from time to time exchange views on, sector issues, policy reforms and additional reforms during the Program Period that may be considered necessary or desirable, including the progress made in carrying out the Program.
4. The Recipient shall engage in policy dialogue with ADB, in a timely manner, on problems and constraints encountered during Program implementation and on desirable changes to overcome or mitigate such problems and constraints.
5. The Recipient shall keep ADB informed of policy discussions with other multilateral or bilateral agencies that 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 ADB's views into consideration before finalizing and implementing any such proposals.

Counterpart Funds

6. The Recipient shall ensure that the Counterpart Funds shall be used to support the costs associated with the implementation of the reform package set out in the Policy Matrix and to RRRSDP-related activities.

Program Implementation

7. The Recipient shall ensure that all action plans developed as a result of the Policy Matrix shall be fully implemented by the end of the Program period.

Program Review

8. The Program reviews shall be carried out in conjunction with the Project reviews, as detailed in the Project Grant Agreement.

Program Performance Monitoring System

9. The MOF shall monitor and report to ADB the implementation of policy actions set out in the Policy Matrix and its impact on inclusive development, good governance and improved service delivery, in line with the program impact and outcome indicators agreed upon between ADB and the Recipient.