

Project Administration Instructions

PAI 4.04
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SUSPENSION AND CANCELLATION OF LOANS

A. Introduction

1. ADB *Loan Regulations*¹ describe how loans are suspended or canceled. This PAI explains the provisions in the Regulations.

B. Suspension of Loans

2. ADB may suspend in whole or in part, the borrower's rights to withdraw loan proceeds when any of the events specified in the Regulations occur after the loan agreement date. The loan agreement may identify additional, project-specific events for suspending the rights of the withdrawal. When a loan has been suspended, no further withdrawal can be made from that date. However, withdrawal may be restored if ADB decides to lift the suspension.

3. The decision to suspend and restore a loan is made by the vice-president of the region concerned on recommendation of the regional department concerned.

4. The suspension of withdrawal does not affect disbursements committed through outstanding letters of credit under ADB's commitment letter procedure. Such commitments are irrevocable and ADB is obliged to disburse even after the loan has been suspended. For request of payment received by ADB before effectiveness of the suspension date, ADB may make disbursements to pay for civil works performed, shipment of goods made, and consulting services rendered before ADB sends out its notice of suspension.

5. The effective date of loan suspension and/or lifting the suspension is the date on which ADB sends the notice to the borrower.

C. Procedures for Loan Suspension and Lifting of the Suspension

6. Suspension may be effected in cases specified in the Regulations;¹ PAI 5.09, Submission of Audited Project Accounts and Financial Statements; and PAI 5.10, Appendix 3, Administration Actions for Less Than Satisfactory Projects. The same procedure and approving authorities will be applied to lift the suspension.

D. Cancellation of Loans

7. The borrower or ADB may cancel all or part of an undisbursed loan balance as provided for in the Regulations.

¹ ADB. 2001. Ordinary Operations Loan Regulations (Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources); ADB. 1986. Ordinary Operations Loan Regulations (Applicable to Loans Made by ADB from Its Ordinary Capital Resources); ADB. 1997. Regulations of the Asian Development Fund; and ADB. 1982. Special Operations Loan Regulations (Applicable to Loans Made by ADB from Its Special Funds Resources).

1. Cancellation by the Borrower

8. The borrower may cancel any amount of the loan that it has not withdrawn (the Regulations). The borrower may do this by notifying ADB after prior consultation with ADB. Outstanding amounts of commitment letters issued by ADB cannot be canceled except as expressly provided in such commitment letters. ADB's obligations under the commitment letter are indicated in the withdrawal application form for the commitment letter.²

9. Consultation in this context may be informal. It may be verbal or written, and is handled at the ADB division or department level. Such consultation allows ADB to comment on the borrower's intent before it is put into effect. Once the borrower requests cancellation of all or part of a loan, ADB cannot delay or deny that request. If the ADB loan has associated cofinancing, each cofinancier must be consulted on a cancellation request. Staff should channel all communications with cofinanciers through the Office of Cofinancing Operations (OCO), and incorporate OCO's advice when finalizing the cancellation.

2. Cancellation by ADB

10. Pursuant to the Regulations, ADB may, by notice to the borrower, terminate the borrower's right to withdraw the loan proceeds, if any of the following apply:

- the loan has been suspended for a continuous period of 30 days;
- ADB determines, after consultation with the borrower, that any amount of the loan will not be required for the project;
- an amount of the loan has not been withdrawn from the loan account at the loan closing date;
- ADB identifies cases of noncompliance with prescribed procurement procedures, as explained in para. 11 (viii); or
- ADB identifies cases of procurement involving corrupt or fraudulent practices, as explained in para. 11 (ix).

11. Specific instances justifying the cancellation of all or part of a loan by ADB could take place if

- a new development causes the borrower not to undertake or proceed with the project;
- alternative financing from another source, envisaged but not finalized before ADB Board approval of the loan, materializes during project implementation;
- because of a change in project scope agreed to by ADB, one or more components of the project cannot be implemented, leading to partial cancellation of the loan;
- following suspension of a loan for a continuous period of 30 days, the borrower's right to withdraw the loan proceeds cannot be restored;
- following consultation between the borrower and ADB, a loan is determined to not be fully required to complete the project (i.e., where surplus loan proceeds are identified during project implementation);
- a loan is not fully utilized after project completion;
- a TA loan is refinanced from a subsequent project loan;

² ADB. 2001. *Loan Disbursement Handbook*, Appendix 5, Form ADB-CLf).

- ADB determines that the procurement of any contract to be financed from the loan is inconsistent with the procedures stated or referred to in the loan agreement; or
- ADB determines, for any contract to be financed from the loan, that representatives of the borrowers or beneficiaries of the loan are engaged in corruption or fraud. This could be during procurement, consultant selection, or execution of contracts, without the borrower taking timely and appropriate action, satisfactory to ADB, to remedy the situation.

E. Procedure for Cancellation

12. For paras. 8 and 9, the concerned sector director or country director finalizes the cancellation – no higher-level approval is required – and informs the Operations Coordination Division/Unit (OCD/U) of the cancellation details.

13. For para. 11 (i), the regional department cancels all or part of the loan, in consultation with other offices (Central Operations Services Office [COSO], Controller's Department [CTL], Office of Cofinancing Operations [OCO] if the project is cofinanced, and Office of the General Counsel [OGC]), with the prior approval of the vice president concerned.

14. For para. 11 (ii), (iii), and (v), the director general approves cancellation of all or part of the loan after consulting with other offices (COSO, CTL, OCO if the project is cofinanced, and OGC).

15. For para. 11 (iv), the decision to cancel all or part of the loan is made by the vice-president concerned on the recommendation of the regional department. The regional department consults with other offices (COSO, CTL, OCO if the project is cofinanced, and OGC) prior to submission to the vice-president.

16. For paras. 11 (vi), (vii), and (viii), the director general approves canceling all or part of the loan.

17. For para. 11 (ix), the decision to cancel all or part of the loan is made by the vice-president concerned in accordance with Anticorruption Policy.³

F. Effective Date of Cancellation

18. If the borrower cancels, the effective date of cancellation is when ADB receives the borrower's notice (issued after consulting with ADB and obtaining the guarantor's concurrence where needed). If ADB cancels, the cancellation is effective from the date the notice is given to the borrower, or such other date as maybe determined on a case-by-case basis. The sector division or the regional or resident mission (RM) should discourage executing agencies from submitting requests for cancellations late in the calendar year. This ensures that the effective date of cancellation of loan funds is within the calendar year in which the notice of cancellation is served to the borrower, and thereby ensures accuracy of loan commitments in ADB's annual financial statements.

³ ADB. 1998. *Operations Manual*. Section C5, Bank Policies: Anticorruption Policy. Manila.

G. Notification of Loan Suspension and Cancellation

19. For a suspension initiated by ADB or a cancellation initiated by ADB or the borrower, OCD/U writes to the borrower and executing agency advising of the suspension or cancellation, indicating the effective date and/or the cancelled amount, and copies the concerned ADB offices (COSO, CTLA, OCO if the project is cofinanced, OGC, RM, and sector division). The sector division or RM concerned immediately completes a loan milestone event dates (LMED) form and routes the approved form to the Loan Administration Division for immediate encoding to the system, which automatically implements the suspension of withdrawals and processing of disbursement.