

Project Administration Instructions

PAI 1.04
Revised in December 2023
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SIGNING OF LOAN AND TECHNICAL ASSISTANCE LETTER/AGREEMENT¹

1. This Project Administration Instruction (PAI) outlines the procedures for signing of loan and technical assistance (TA) letters and agreements and establishes a timeframe for such actions.

A. Signing of Loan Agreement

2. After approval of a proposed financing for a loan by Asian Development Bank (ADB), the borrower² and ADB will sign the relevant legal agreement(s). The legal agreement will be signed by an authorized representative of the borrower and the President (or an authorized representative of the President).³ It is preferred to sign the related agreements (i.e., project agreement and guarantee agreement) at the same time.

3. Timely signing of the loan agreement and subsequent fulfillment by the borrower of the conditions necessary for loan effectiveness are essential for smooth project implementation under the implementation schedule outlined in the report and recommendation of the President⁴ and project administration manual. Every effort should be made by the borrower and ADB to have loan agreements signed without delay.

4. The validity of ADB approval of a loan lapses automatically 12 months after the date of approval for the loan unless the loan and related agreements are signed within that period or the validity is extended. The borrower and the country director (CD) may agree on a shortened period of validity of the approval for each loan, and such agreement should be confirmed by documentation (e.g., a letter, memorandum, aide-mémoire, etc.).

5. The project team will regularly send formal reminders to the borrower requesting timely signing.

6. Six months prior to the expiry of the specified validity period, if the loan agreement remains unsigned, the project team will prepare a reminder and CD will send a formal reminder advising the borrower concerned of the impending expiry of validity and a final reminder will be sent 3 months prior to the expiry of the specified validity period.

7. One month prior to the expiry of the specified validity period, if the loan agreement remains unsigned, the project team in consultation with the country operations head may send a

¹ In this PAI, the term “loan(s)” includes grant(s) and the term “project(s)” includes program(s), unless the context requires otherwise. This PAI also applies to loans from external sources that are administered by ADB, unless agreed otherwise between ADB and cofinancier(s).

² In this PAI, the term “borrower” also refers to recipients of grants, executing agencies, and/or implementing agencies, unless the context requires otherwise.

³ The authorized representative for signing is defined in Administrative Order 1.03 (*Signature of Written Documents*).

⁴ Includes other approval documents such as for cofinanced projects, project readiness financing, and small expenditure financing facility.

memorandum to the regional director general (RDG) with concurrence of the sector director recommending the extension of its validity for a maximum of 3 months (or longer if special circumstances prevail) for approval. The recommendation will include the effect of the delay in the project's benefits and costs, identify any required changes to the financing plan, and the commitment of the borrower to the project.

8. If extended, the validity of the approval of the loan will lapse on expiry of the extension. The project team will inform the borrower of the extension, emphasizing that this is the only extension and that the loan will lapse when the extension expires. Under special circumstances with strong justification, the project team in consultation with the country operations head may send a memorandum to the RDG, with concurrence of the sector director for approval to grant additional extensions. The Board is informed of this extension through the Quarterly Portfolio Update. The regional department will advise the Portfolio Management Division (PFPM) of the Procurement, Portfolio, and Financial Management Department; the Controller's Department (CTL); and Office of the General Counsel (OGC) about the extension, including the Partner Funds Division (CCPF) of the Climate Change and Sustainable Development Department if the loan is cofinanced.

9. When a loan approval validity lapses, the CD will immediately communicate this to the borrower. The project team will prepare a brief Board information paper explaining the lapse of the validity of approval and CD will circulate to the Board through the RDG and regional vice president. In case of tranches under multitranches financing facility (MFF), the CD through the regional vice president submits a memorandum informing the President of (i) the lapse of approval validity, (ii) the reason for the lapse, and (iii) an assessment on its impact on the delivery of MFF outputs and the achievement of the MFF's outcome. The Board will be informed of such cases through the MFF annual report prepared by the Strategy, Policy, and Partnerships Department. The project team will advise PFPM, CTL, and OGC accordingly for all approval validity lapses.

10. Once the loan and any other legal agreements have been signed, OGC will prepare a loan effectiveness letter stipulating all conditions the borrower or recipient must fulfill to have the loan declared effective (PAI 1.05: *Conditions and Declaration of Loan Effectiveness*), the CD will sign and send the loan effectiveness letter to the borrower.

11. The project team will deliver the original loan agreements to OGC after signing. One original copy of the signed loan agreement should be provided by OGC to the Office of the Secretary (SEC), with a copy to CTL and other relevant departments/offices.

B. Signing and Effectiveness of Technical Assistance

12. Signing of TA letter or TA agreement follows the *Staff Instruction on Business Processes for Technical Assistance*.

13. The validity of ADB approval⁵ lapses automatically 12 months after the date of TA approval unless the related agreements (i.e., TA framework agreement [TAF] and TA letter or TA agreement if there is no TAF) are signed within that period or the validity is extended.

⁵ Excludes TAs that became effective upon approval and TAs that follow the "deemed government approval" procedure.

14. If the developing member country (DMC) government has entered into a TAFE with ADB, the normal procedure is the "deemed government approval" procedure described in the *Staff Instruction on Business Processes for Technical Assistance*. The "deemed government approval" procedure applies in cases where ADB sends the TA letter⁶ to the DMC government⁷ and the DMC government does not notify ADB in writing its objection to the TA within the date specified in the TA letter (generally in 21 calendar days) or a different deadline if agreed in writing between ADB and the DMC government,⁸ and as a result, no-objection is deemed granted by the DMC government and the TA is accordingly considered effective.⁹

15. In case the "deemed government approval" procedure is not applicable, signing of TA letter by ADB and the DMC government is required for purposes of TA effectiveness.¹⁰ The original TA letter after signing is returned by the DMC government to the TA team and forwarded to SEC with a copy to PFPM, CTL,¹¹ and OGC. The transmittal memorandum to the SEC, should indicate the date the TA letter was signed by the DMC government and the name and title of its authorized representative. If there is any doubt whether the TA letter has been duly signed, OGC should be consulted. The TA becomes effective upon ADB's receipt of the countersigned TA letter.

16. The TA team will regularly send formal reminders to the DMC government requesting early signing of the TA agreement or TA letter. Six months prior to the expiry of the validity period, if the TA agreement or TA letter remains unsigned, the TA team will request CD to send a reminder advising the DMC government of the impending expiry of validity.

17. One month prior to the expiry of the validity period, if the TA agreement or TA letter remains unsigned, the TA team through the head of the user department/office or senior director may send a memorandum to the RDG concerned recommending extending its validity for a maximum of 3 months (or longer if special circumstances prevail). The recommendation will include the impact of the delay and the commitment of the DMC government or recipient to the TA.

18. If extended, the validity of the approval of the TA will lapse on expiry of the extension. The TA team will request CD to inform the DMC government or recipient of the extension, emphasizing that this is the only extension and that the TA will lapse when it expires (under special circumstances with strong justification, the RDG concerned may grant additional extension). The

⁶ The authorized representative for signing TA letter is defined in Administrative Order 1.03 (*Signature of Written Documents*).

⁷ Where the executing agency for the TA is a legal entity different from the government, the TA letter is also sent to the executing agency.

⁸ The number of days may be adjusted based on agreement with DMC government. The DMC government may request for an extension before the expiration of such period specified in the TA letter.

⁹ For example, if the TA letter date is 1 August, the count starts on the day after the TA letter date and TA becomes effective on 23 August.

¹⁰ The "deemed government approval" procedure is not applicable in cases where TA team did not seek a confirmed aide-mémoire or signed memorandum of understanding, or the government requires countersigning of the TA letter.

¹¹ The TA team should submit the Technical Assistance Milestone Change Event form as early as possible but not later than 2 working days after the milestone or change event.

TA team will advise PFPM, CTL (footnote 11), and OGC about the extension, including CCPF if the TA is cofinanced by an ADB-administered fund.

19. When a TA fails to become effective within the validity of ADB approval or ADB deems that TA termination is required, the TA team prepares a memorandum in consultation with CCPF if the TA is cofinanced by an ADB-administered fund. For DMC-specific and regional TAs, the TA team seeks approval from RDG with the concurrence of the respective unit director or head and CD for DMC-specific TAs or regional head, operations coordination for regional TAs. For multiregion TAs, the TA team seeks approval from the head of department/office or senior director with the concurrence of the director or head of the processing unit. The TA team will prepare and circulate a brief Board information paper explaining reasons for the termination of the TA and advise PFPM, CTL (footnote 11), and OGC, accordingly, including CCPF if the TA is cofinanced by an ADB-administered fund.