BỘ NGOẠI GIAO

Số: 16/2020/TB-LPQT

CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
Độc lập - Tự do - Hạnh phúc

Hà Nội, ngày 04 tháng 3 năm 2020

THÔNG BÁO
Về việc điều ước quốc tế có hiệu lực

Thực hiện quy định tại Điều 56 của Luật Điều ước quốc tế năm 2016, Bộ Ngoại giao trân trọng thông báo:

Hiệp định viện trợ (Các nghiệp vụ đặc biệt) cho Chương trình Đầu tư Phát triển mạng lưới y tế cơ sở vùng khó khăn giữa Cộng hòa xã hội chủ nghĩa Việt Nam và Ngân hàng Phát triển châu Á, số viện trợ *0636-VIE (SF)*, ký tại Hà Nội, ngày 06 tháng 8 năm 2019, có hiệu lực từ ngày 04 tháng 02 năm 2020.

Bộ Ngoại giao trân trọng gửi bản sao Hiệp định theo quy định tại Điều 59 của Luật nêu trên./.

TL. BỘ TRƯỞNG
KT. VỤ TRƯỞNG
VỤ LUẬT PHÁP VÀ ĐIỀU ƯỚC QUỐC TẾ
PHÓ VỤ TRƯỞNG

Nguyễn Văn Ngự

GRANT NUMBER 0636-VIE(SF)

GRANT AGREEMENT
(Special Operations)

(Local Health Care for Disadvantaged Areas Sector Development Program)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK

DATED 6 August 2019

VIE 50285

GRANT AGREEMENT
(Special Operations)

GRANT AGREEMENT dated 6 August 2019 between SOCIALIST REPUBLIC OF VIET NAM ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a loan agreement of even date herewith between the Recipient and ADB ("Program Loan Agreement"), ADB has agreed to provide to the Recipient a loan from its ordinary capital resources equivalent to eighty-eight million six hundred thousand Dollars ($88,600,000) in support of the Recipient's Local Health Care for Disadvantaged Areas Sector Development Program as described in paragraph 1 of the Schedule 1 to the Program Loan Agreement ("Program");

(B) in support of the Program, the Recipient has applied to ADB for a grant for the purposes of the Project described in Schedule 1 to this Grant Agreement ("Project"); and

(C) ADB has agreed to make a grant to the Recipient from ADB's Special Funds resources upon the terms and conditions set forth herein;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Grant Regulations; Definitions

Section 1.01. All provisions of ADB's Special Operations Grant Regulations, dated 1 January 2017 ("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. Wherever used in this Grant Agreement, the several terms defined in the Grant Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Grant Agreement have the following meanings:

(a) "BHSP" means the basic health service package as described in the PAM;

(b) "Consulting Services" means consulting services as described in the Procurement Regulations and set out in the Procurement Plan, and to be financed out of the proceeds of the Grant;

(c) "DHCs" means district health centers as described in the PAM;

(d) "EA" or "Project Executing Agency" means MOH or any successor thereto acceptable to ADB, which is responsible for carrying out of the Project;

(e) "EMDP" means the ethnic minority development plan for the Project, including any updates thereto, prepared and submitted by the EA and cleared by ADB;

(f) "GAP" means the gender action plan prepared for the Project, including any update thereto, and agreed to between the EA and ADB;

(g) "Goods" means equipment and materials as set out in the Procurement Plan and to be financed out of the proceeds of the Grant, including any related Nonconsulting Services such as transportation, insurance, installation, commissioning, training, and initial maintenance;

(h) "Indigenous Peoples Safeguards" means the principles and requirements set forth in Chapter V, Appendix 3 and Appendix 4 (as applicable) of the SPS;

(i) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);

(j) "MOH" means the Ministry of Health of the Recipient or any successor thereto;

(k) "Nonconsulting Services" means nonconsulting services as described in the Procurement Regulations and set out in the Procurement Plan, and to be financed out of the proceeds of the Grant;

(l) "PAM" means the project administration manual for the Project dated 13 November 2018 and agreed between the Recipient, through MOH, and ADB, as updated from time to time in accordance with the respective administrative procedures of the Recipient and ADB;

(m) "Procurement Plan" means the procurement plan for the Project dated 13 November 2018 and agreed between the Recipient, through MOH, and ADB, as updated from time to time in accordance with the Procurement Policy, the Procurement Regulations, and other arrangements agreed with ADB;

(n) "Procurement Policy" means ADB's Procurement Policy - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);

(o) "Procurement Regulations" means ADB's Procurement Regulations for ADB Borrowers - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);

(p) "Safeguard Monitoring Report" means each report prepared and submitted by the EA to ADB that describes progress with

implementation of and compliance with the EMDP, including any corrective and preventative actions;

(q) "Services" means Consulting Services and Nonconsulting Services; and

(r) "SPS" means ADB's Safeguard Policy Statement (2009).

ARTICLE II

The Grant

Section 2.01. ADB agrees to make available to the Recipient from ADB's Special Funds resources an amount of twelve million Dollars ($12,000,000).

ARTICLE III

Use of Proceeds of the Grant

Section 3.01. The Recipient shall cause the proceeds of the Grant to be applied exclusively to the financing of expenditures on the Project in accordance with the provisions of this Grant Agreement.

Section 3.02. The proceeds of the Grant shall be allocated and withdrawn 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, the Recipient shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Grant 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 Services shall be made only on account of expenditures relating to:

(a) Goods which are produced in and supplied from and 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 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 30 September 2025 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, through MOH, shall perform, or cause to be performed, all obligations set forth in Schedule 3 to this Grant Agreement.

Section 4.02. (a) The Recipient, through MOH, shall (i) maintain or cause to be maintained, separate accounts and records 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, the advance account and SOE procedures), 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.

(b) ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

(c) The Recipient, through MOH, shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Recipient's financial affairs where they relate to the Project with the auditors appointed pursuant to subparagraph (a) hereabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of the Recipient, unless the Recipient shall otherwise agree.

Section 4.03. The Recipient, through MOH, shall enable ADB's representatives to inspect the Project, the Goods and Services, and any relevant records and documents.

ARTICLE V

Suspension

Section 5.01. The following is specified as an additional event for suspension of the right of the Recipient to make withdrawals from the Grant Account for the purposes of Section 8.01(k) of the Grant Regulations: the Recipient shall have failed to perform any of its obligations under the Program Loan Agreement.

ARTICLE VI

Effectiveness

Section 6.01. 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 Loan Agreement shall have been duly executed and delivered on behalf of, and shall have become legally binding upon, the Recipient, and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Grant Agreement) shall have been fulfilled.

Section 6.02. A date 90 days after the date of this Grant Agreement is specified for the effectiveness of this Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The Minister of Finance of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

For the Recipient

Ministry of Finance
No. 28 Tran Hung Dao Street
Hoan Kiem District
Ha Noi, Viet Nam

Facsimile Number:

(84-24) 2220-8020

For ADB

Asian Development Bank
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

(632) 636-2444
(632) 636-2305.

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

SOCIALIST REPUBLIC OF VIET NAM

By_____

TRẦN XUÂN HÀ
Deputy Minister
Ministry of Finance

ASIAN DEVELOPMENT BANK

By_____

ERIC SIDGWICK
Country Director
Viet Nam Resident Mission

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SCHEDULE 1

Description of the Project

1. The objective of the Project is to improve the quality of and access to local health care services for women and men in disadvantaged and remote areas of the Recipient.

2. The Project shall support the Program's reform areas in six target provinces (Tuyen Quang, Phu Tho, Dak Nong, Gia Lai, Quang Nam and Soc Trang) and shall comprise:

Component 1: Strengthening Equipment Management for Local Health Care facilities at district level

(a) equipping DHCs with preventive and curative functions to deliver health services;
(b) equipping DHCs which operate centralized testing units to meet quality and biosafety standards; and
(c) equipping DHCs to meet the service delivery requirements of thefamily medicine model.

Component 2: Improving Implementation of Service Models for the Local Health Care Network

(a) piloting implementing service models for disease surveillance and response, primary health care, family medicine principles; and
(b) conducting health information, education and communication campaigns on improved service models.

Component 3: Strengthening the Local Health Care Workforce Financing, Management and Development

(a) assessing local health care human resources capacity for health security functions, family medicine, and service management;
(b) providing recommendations for further policy reforms for local health care delivery; and
(c) delivering the training program on family medicine; and implementing trainings addressing health security, and service management capacity gaps.

3. The Project is expected to be completed by 31 March 2025.

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SCHEDULE 2

Allocation and Withdrawal of Grant Proceeds

General

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

Basis for Withdrawal from the Grant Account

2. Except as ADB may otherwise agree, the proceeds of the Grant shall be allocated to items of expenditure, and disbursed on the basis of the withdrawal percentage for each item of expenditure, as 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, in consultation with 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 allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, in consultation with the Recipient, reallocate such excess amount to any other Category.

Disbursement Procedures

4. Except as ADB may otherwise agree, the Grant proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

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Attachment to Schedule 2

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS			
Number	**Item**	**Total Amount Allocated for ADB Financing ($)** **Category**	**Basis for Withdrawal from the Grant Account**
1	Equipment	6,694,905	100% of total expenditure claimed
2	Trainings and workshops	1,679,871	100% of total expenditure claimed
3	Local health care system development	2,644,409	100% of total expenditure claimed
4	Consulting Services	351,557	100% of total expenditure claimed
5	Project management	729,258	100% of total expenditure claimed
	TOTAL	12,000,000	

SCHEDULE 3

Execution of Project; Financial Matters

Implementation Arrangements

1. The Recipient and the EA shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Recipient and ADB. In the event of any discrepancy between the PAM and this Grant Agreement, the provisions of this Grant Agreement shall prevail.

Procurement

2. The Recipient shall, and shall cause the EA to, ensure that:

(a) the procurement of Goods and Services is carried out in accordance with the Procurement Policy and the Procurement Regulations;

(b) Goods and Services will be procured based on the detailed arrangements set forth in the Procurement Plan, including the procurement and selection methods, the type of bidding documents, and ADB's review requirements. The Recipient shall, and shall cause the EA to, modify the detailed arrangements set forth in the Procurement Plan only with the prior agreement of ADB, and such modifications must be set out in updates to the Procurement Plan; and

(c) (i) all Goods procured and Services obtained (including all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party; and (ii) all contracts for the procurement of Goods and Services contain appropriate representations, warranties and, if appropriate, indemnities from the contractor, supplier, consultant or service provider with respect to the matters referred to in this subparagraph.

Medical and IT Equipment

3. The Recipient shall, and shall cause the EA to, ensure that prior to preparing the relevant bidding documents, the EA has finalized an assessment of medical and IT equipment lists for each district hospital nominated to receive equipment under the Project by taking into account the needs of such district hospital and its existing inventory of equipment. The Recipient shall, and shall cause the EA to, ensure that the EA receives from each of the district hospitals receiving new equipment under the Project, an assurance that a suitable increase in the annual allocation for operations and maintenance budget of medial and IT equipment will be made in order to support the increase in equipment inventory under the Project.

Schedule 3

Health Facility Waste Management

4. The Recipient shall, and shall cause the EA to, ensure that health facility waste management in health facilities supported under the Project (in particular, disposal of hazardous waste) is carried out in accordance with health care waste management guidelines developed by the EA, and that adequate budget, training and supplies are provided under the Project to do so.

Project Budget & Counterpart Support

5. The Recipient shall, and shall cause the EA to, ensure (i) adequate budgetary and human resources are made available to each of the Project provincial health bureaus to ensure mainstreaming of Project activities into the annual operations plans and budgets of such provincial health bureaus, and (ii) the provision of all necessary counterpart funds. In addition, the Recipient shall ensure that the EA has sufficient funds to satisfy its liabilities arising from any Goods and Services under the Project.

6. The Recipient shall, and shall cause the EA to, ensure that each Project provincial health bureau submits to the EA, their respective annual operational plans and budgets for the health sector, including the annual work plans and budgets for the Project, in each case based on the format to be agreed between the concerned parties. The EA shall inform ADB of the approval of such annual plans. In particular, the annual operations plans for the Project will include plans and budgets for implementation of the EMDP.

Safeguards

7. The Recipient shall, and shall cause the EA to, ensure that the Project has only minimal or no environmental impact, does not have any involuntary resettlement or any adverse ethnic peoples impact, all within the meaning of the SPS. In the event that the Project does have any such impact, or in the case of environment it results in more than a minimal impact, the Recipient shall, and shall cause the EA to, take all steps required to ensure that the Project complies with the applicable laws and regulations of the Recipient and with the SPS.

8. The Recipient shall, and shall cause the EA to, ensure that the preparation, design, implementation and operation of the project complies with (a) all applicable local laws and regulations relating to indigenous peoples; (b) the Indigenous Peoples Safeguards set out in the SPS; and (c) all measures and requirements set forth in the EMDP, and any corrective or preventative actions set forth in a Safeguard Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

9. The Recipient shall, and shall cause the EA to, make available necessary budgetary and human resources to fully implement the EMDP.

Schedule 3

Safeguards Monitoring and Reporting

10. The Recipient shall, and shall cause the EA to:

(a) submit semi-annual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;

(b) if any unanticipated environmental and/or social risks and impacts arise during implementation or operation of the project that were not considered in the EMDP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and

(c) report any actual or potential breach of compliance with the measures and requirements set forth in the EMDP promptly after becoming aware of the breach.

Prohibited List of Investments

11. The Recipient shall, and shall cause the EA to, ensure that no proceeds of the Grant is used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Gender and Development

12. The Recipient shall, and shall cause the EA to, ensure that (a) the GAP is implemented in accordance with its terms; (b) the bidding documents and contracts include relevant provisions for contractors to comply with the measures set forth in the GAP; (c) adequate resources are allocated for implementation of the GAP; and (d) progress on implementation of the GAP, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB.

Financial Management

13. The Recipient shall, and shall cause the EA to, ensure that a sound financial management system is in place during Project implementation. In particular, the Recipient shall, and shall cause the EA to, within six months of the Effective Date: (i) prepare a manual and guidelines on financial management and procurement; (ii) carry out staff training on ADB's procedures for financial management, procurement and the use of such manual; and (iii) ensure the implementation of such financial management system.

Governance and Anticorruption

14. The Recipient shall, and shall cause the EA to, (i) comply with ADB's Anticorruption and Integrity Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the project; and (ii) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

Schedule 3

15. The Recipient shall, and shall cause the EA to, ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the EA and all contractors, suppliers, consultants, and other service providers as they relate to the project.

VĂN PHÒNG CHÍNH PHỦ XUẤT BẢN

Địa chỉ: Số 1, Hoàng Hoa Thám, Ba Đình, Hà Nội
Điện thoại liên hệ:
- Nội dung: 080.44417; Fax: 080.44517
- Phát hành: 080.48543
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In tại: Xí nghiệp Bản đồ 1- Bộ Quốc phòng