

Government of Nepal
Ministry of Physical Infrastructure and Transport
Department of Roads, Planning and Design Branch
Road and Traffic Unit, Babarmahal, Kathmandu

Terms of Reference (ToR) for Revising Public Road Act, 2015

Legal Expert

1. Background

The Public Road Act (PRA) was promulgated in 2031 (1974) which was subsequently amended in 2010 January. The PRA made legal provisions mainly for road classification, road encroachment, load control and intended to collect development tax from road neighbors.

The PRA's road classification appears to be less relevant in the current and quickly changing context. At present, Nepal has taken initiative to construct expressways. And rural roads are classified under three different categories. A complex form of urban development has also been taking place requiring comprehensive understanding of urban transport and geometric design of road.

As provisioned in the PRA, the Government could not collect development tax. The problem of encroachment in the Right of Way has been a major issue. Against this context, GON intends to review and revise the Act.

2. Objectives

The main objective of this assignment is to draft an amendment of the Public road Act 2031, that will be more aligned with the current context of road planning, implementation context. This will be followed up by the preparation of regulations.

3. Scope of Work

The activities linked to the proposed amended Public Road Act will, not necessarily limited to, be the following:

- Review the present act and identify inconsistencies and difficulties while implementing the present act.
- Review of international road classification standards, land acquisition policy and relevance of raising development tax from the road neighbors' related literature.

- Review GON's other relevant legislations and policies including Land Acquisition Act, Forest Act, Local Self Governance Act (LSGA), Vehicle Transport Management Act (VTMA), Road Board Act, Rural Road Strategy, and Urban Development Strategy.
- Interact with various stakeholders related to road sector development.
- Present thematic papers among relevant stakeholders and refine them based on the comments from the stakeholders.
- Prepare a draft amendment and related regulations and present them to the relevant stakeholders
- Finalize and submit the draft amended Act and Regulations

4. Team Composition and Tasks

Professionals with the following qualification and experience are required to undertake the task.

- Highway Engineer and Team Leader: - 120 working days.
Minimum qualification will be at least Master Degree in Civil Engineering or Master Degree in Transport related engineering or in Highway engineering or relevant Engineering. Additional master degree or Ph.D. in the related field will be an advantage.
Experience in total 15 years of general experience of which 10 years of experience in full cycle of road project management including land acquisition
- **Legal Expert (Member): – 120 working days.**
Minimum Qualification will be LLM and additional master degree or Ph.D.
.in any relevant field is desirable
Experience of total 10 years in the legal field

Each consultant will be responsible to:

Highway Engineer and Team Leader

- The Team Leader will be responsible for producing all outputs. Following activities are envisaged (however, not limited to) to be performed by him/her in collaboration with the legal expert:
 - Review literature of at least five other countries with regard to road classification and other provision of public roads.
 - On the basis of the aforementioned review and other information propose new road classification along with the Right of way.
 - Examine the prevailing provision in Nepal and other countries of public road protection and maintenance.
 - Include provisions with regard to mining of sand, gravel and stone from the land or river beyond Right of Way but has impact on road.
 - Include provision for drainage system and outlets particularly if it affects beyond the Right of Way.

- Propose provision of utilities along the road.
- Access control mechanism along the highway.
- Corroborate the recommendations by interacting with various stakeholders.
- Assist to organize at least 2 national level workshops and one dissemination seminar.
- Draft the Public Road Act and present it to one of the aforementioned workshops in order to solicit stakeholders' views.
- Finalize and submit the amended Public Road Act based on comments from different stakeholders

Legal Expert

- **His main role is to help the Team Leader towards drafting of the amended Public Road Act from legal perspective. He/she will be jointly responsible for producing final outputs Following activities are envisaged (however, not limited to) to be performed by him/her in collaboration:**
 - **Work closely with the Team Leader in drafting and delivering outputs linked to this consultancy.**
 - **Review present provision of land acquisition and identify reasons for not being able to implement the present land acquisition act in some cases.**
 - **Include provision for the road side development holistically including tree plantation, locating fuel stations and service centers. A concept of public private partnership will be introduced particularly in tree planation involving local poor road neighbors. Assess relevance of development tax and propose provision suitable to the present socio- economic condition.**
 - **Corroborate recommendations with various stakeholders in Terai, Hills and Mountain districts.**
 - **Help develop the whole Public Road Act as per Nepal's standard formats.**
 - **Support in the organization of two workshops and one dissemination seminar.**

5. Timing

The total study period shall be of 25 weeks after the issuance of the work order. By the end of second week, the consultants will produce an inception report. Broadly, at the end of 12 weeks, the consultant is expected to accomplish desk study and field survey. By the end of 18th weeks, the consultant is expected to complete office work and submit the draft act. By the end of 20th week, the consultant is expected to seek feed backs on the draft act from all stakeholders and submit final draft act at the end of 25 weeks.

6. Deliverables

The consultant shall submit the following documents.

- Two copies of inception report within 2nd week.
- Three copies of draft amended PRA by the end of 18th week.
- Five copies of final amended PRA draft incorporating all comments received from the clients and stakeholders by the end of 25th week.
- Background document – all relevant materials which cannot be presented in the act need to be presented in the background document. The structure of the background document has to be agreed beforehand.
- All reports will be in both English and Nepali.

8. Mode of Payment

The consultant will be paid in three installments. First installment (10%) shall be paid at the end of 2 weeks after submission of Inception Report. Second installment (60%) shall be paid at the end of 18 weeks after submission of draft act submitted for comments and suggestions. Final installment (remaining 30%) will be paid after submission of the final draft act (25 weeks) which shall incorporate all necessary comments and suggestions.

9. Reporting

The consultant will report to the DDG - Planning and Design Branch, Unit Chief-Road and Traffic Unit of the Department of Roads.

10. Facilities to be provided by the Client

The client will assist in the facilitation, and with the co-operation of other Government Ministries Departments and Agencies, as required, for carrying out the assignment and liaison as necessary. The client will give the consultant assistance to gain access to all information required for the proper conduct and completion of the assignment.

11. Consultants Obligation

The Consultants shall arrange on their own laptop and cell phone and any other facility not provided by the client, but required in rendering his/her professional services as per the TOR.

