

# PUBLIC PROCUREMENT ACT. 2063

..... POLICY BRIEF .....



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**Public Procurement Act, 2063**  
:::: Policy Brief ::::

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# List of Abbreviations

GoN Government of Nepal

PPA Public Procurement Act

PPMO Public Procurement Management Office

OECD Organization for Economic Co-operation and  
Development

SMC Small and Medium Scale Contractors

SME Small and Medium Enterprises

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# Introduction

With the goal of making procurement activities of Public Entities in Nepal competitive, transparent and accountable to the public, Government of Nepal (GoN) enacted Public Procurement Act (PPA) on 14th January, 2007. In the years following the enactment, PPA became the topic of discussion for various unpopular reasons, due to which the Act was amended on 14th July, 2016. The newly amended act also incorporated provisions that facilitated and supported the new constitution of Nepal.

However, public procurement continues to face numerous problems, majorly due to the pitfalls that persists in its legal provisions. Finance Minister Dr. Yuva Raj Khatiwada pointed out confusion in the construction modality, the involvement of multiple-stakeholders in monitoring and evaluation, low bidding, hurdles in land acquisition, and the shortage of skilled technical human resources as the major problems in the execution of public procurement in Nepal. Additionally, lack of adequate needs assessment, poor procurement planning and preparation, lack of budget or timely payment, poor disclosure of information and data, lack of public/stakeholders' engagement in procurement process, low (or no) timely feedback and problem fixing, conflict of interest and corruption and poor monitoring and supervision of project execution have often hindered infrastructure projects in Nepal. These problems are persistent mainly because of the ambiguity, and inconsistencies in legal provisions, which presents an unclear and complex picture to both government officials and bidding

agencies, encouraging them to be more process-oriented than result-oriented.

Identifying the issues and coming up with practical solutions to these hindrances to smoothen the operation of Public Entities and consequently the development activity of Nepal itself are the main goals of this policy brief.

# Discussion and Recommendation

## 1. Pre-Bidding

### 1.1 Provision for strengthening Public Procurement Management Office and qualification of officers

Table 1: Provision for strengthening Public Procurement Management Office and Qualification of Officers

Section	Sub-section	Clause	
64	2		The chief of the office under Sub-section (1) shall be an employee of the gazetted special class of the civil service of Government of Nepal.
7	2		A Public Entity shall, in carrying out procurement related activity pursuant to Sub-section (1), carry out so through an employee who has the qualification prescribed by the Public Procurement Monitoring Office and has knowledge or training on procurement business.
65	1	i	To make arrangements for regular training program for the bidder or the employee involved or to be involved in procurement proceedings.

Source: Public Procurement Act, 2063

Concerns regarding the inefficiency and incapability of Public Procurement Monitoring Office (PPMO) has been increasing over time. The organizational structure of PPMO has been a major drawback which has resulted in ineffectiveness of the office in delivering the services that it has been mandated to. Thus, enhancing skills and specialization of PPMO staff should be addressed in the act itself. Human resource at PPMO needs to be trained and their absorptive capacity needs to be enhanced. The staff and structural set-up of PPMO must be strengthened.

### **Discussion and Recommendation:**

Currently, the office entails 50 staffs, among which, only eleven officers are dedicated towards specific departments related to procurement who are responsible for the many developmental projects being implemented in Nepal.

While lack of procurement experts already hinders the overall performance of the office, the appointment of staff on transfer basis worsens the situation. Public procurement is a highly technical matter which requires immense knowledge and expertise. It thus takes a lot of time for these employees to grasp the concept and gravity of Public Procurement Monitoring. The appointment on transfer basis implies that the officers are likely to be transferred further, which discourages them from putting immense effort in procurement work. These issues have resulted in there being only unskilled employees left at PPMO.

For example, sometimes when NEA or some other institutions write to PPMO asking for clarification on certain issues related to procurement, the staff at PPMO is rendered unable to meet the expectations of such big institutions. In fact, the employees at these other institutions understand PPA better than staff at PPMO.

Moreover, the act mentions that the chief of the office shall be an employee of the gazetted special class of the civil service of Government of Nepal. However, it does not mention the technical expertise or qualification required. Thus, employees from ministry of health, education, sports and others are transferred to PPMO and are expected to provide expert service. No matter the hard work these officers put into delivering efficient public procurement, lack of technical expertise will always hamper the sector. Thus, the act must clearly mention the qualification and expertise required for the officers and the office chief of PPMO.

Additionally, trainings to all appointed officers regarding the legislation and procedure of public procurement prior to joining the office has become imperative. The act mentions the provision of conducting training, however, it is not practiced. Thus, it should be mandatory that at the time of recruitment all new staffers should attend the training. The training is also necessary for the procurement and monitoring department of individual public entities. Moreover, training related to e-procurement has been very necessary for Nepal for its proper implementation.

## 1.2 Provision for Enhancing Procurement Efficiency

Table 2: Provisions for Enhancing Procurement Efficiency

Section	Sub-section	Clause	
6			A Public Entity shall, in making procurement valued at an amount in excess of the prescribed limit, have to prepare a master procurement plan and annual procurement plan, as prescribed.

7	3	Public entities for the purposes of carrying out the following function shall establish a separate Division, Section or Unit based on the work load and nature of work and shall prescribe a Procurement officer for the same.
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Source: Public Procurement Act, 2063

The current act and regulation of public procurement act mentions that all public entities need to make a separate department for procurement and procurement monitoring. However, the mentioned clauses have not been implemented and many offices do not have such department. Procurement is a highly technical matter; thus, implementation of the clause should be mandatory.

**Discussion and Recommendation:**

Additionally, the act mentions that the public entities must make master procurement plan and annual procurement plan for procuring goods of high value. However, the act should make it mandatory for the public entities to draft Master Procurement Plan and Annual Procurement Plan prior to conducting any procurement in the fiscal year. These should consist the budget the entity has for procurement, its plan for procurement throughout the year, the tenders to be called during different quarters, the bidding process that the entity will follow, its monitoring plan and the payment plan. The report should be submitted to PPMO before the fiscal year starts. The act should also mention that in case the report is not submitted, legal actions will be taken against the concerned officers and the entity will not be able to procure without the reports of the plan.

After the preparation of the mentioned Master and Annual Procurement plan it would be plausible to remove Section 4, 5, 6, 7 and 8 of the act. As the public entities would already have prepared their procurement plan and the budgeting requirements, the mentioned sections would just result in duplication of work and lengthen the time frame of bidding. Time required for preparing the proposal, budget and approval of the same would be reduced substantially.

### **1.3 Provision for promoting small-scale and medium-scale bidders**

As per international public procurement acts, small-scale and medium-scale contractor is defined broadly as one with limited capital investment, who may need financial and managerial support to effectively run his or her business. However, the Public Procurement Act of Nepal does not define or differentiate between different scales of contractors.

The construction industry of Nepal is dominated by small and medium-scale contractors (SMCs) who face an emerging trend of unique challenges in the implementation of projects. It is imperative to create an enabling environment for these contractors by removing barriers to their entry into the market and to their growth and sustainability. Part of the enabling process may offer SMCs some form of support, which will facilitate their access to necessary resources to start and sustain their businesses. With regards to the national projects, the promotion of these contractors might result in efficient and quality project completion and ample competition in the procurement sector.

The international examples of Malaysia and Singapore –

leading countries in terms of procurement and infrastructure developments – demonstrates that the initiatives to support the SMCs is important for success and is the responsibility of government. This can be done by drafting policies that empower SMCs.

### **Discussion and Recommendation:**

There are many compliance and cost-related barriers in Public Procurement Act that could limit the ability of SMEs to participate in procurement process.

Firstly, streamlining the process and time needed for bidding will significantly support SMEs with limited administrative capacities. Some of the aspects worth addressing include:

- Registration requirements, while important, add costs to SMEs ability to participate in procurement.
- Burdensome bid information and documentation requirements create time consuming upfront administrative tasks for the SME.
- Long bid qualification, evaluation and award procedures limit the SME's ability and willingness to participate. As SMEs normally do not have large and specialized administrative capacities, keeping administrative requirements to a minimum is essential.

Although, the amended Public Procurement Act added clauses related to waiver of qualification criteria of contractors for procurement projects less than NRs. Two crores, majority of SMC are not satisfied with the clause. As stated by them, in a time where the economy is advancing rapidly and inflations are high, the amount prescribed is very low and projects up to NRs. Five crores are still small.

This could be addressed by limiting documentation needs for smaller contracts. As per international standards, only

procurement contracts whose values exceed a certain financial threshold are subject to the act and its subsidiary provisions. However, the applicable financial threshold varies as per the identity of the relevant contracting authority, goods and services subject to procurement, the state in which the procurement is to be carried out. Nevertheless, procurements cannot be divided into lots with an intention to lower value for achieving the above-mentioned exclusion. In Poland however, some large contracts which limits competition in the procurement process are divided into lots. It not only promotes competition but also acts as an supporting mechanism for the growth of small and medium enterprises.

Since small and medium contractors often have limited financial resources and its sources. Thus, many a times, amount submitted in the form of bid and performance security and delay in payments can send companies into bankruptcy. Thus, these companies are hesitant towards taking risk and engaging with government projects. Thus, prompt payment reforms work to limit the amount of time needed to receive payment as well as ensure that payments are made on time without delays. The act should thus mention clearly about the time frame within which all the payments must be cleared by the government entities. Making sure contractors are paid as due and on time can help in overcoming liquidity problems for SMCs. It will not only encourage them to bid, but will also incentivize them to finish the project on time.

Lastly, provisions related to merger might incentivize the companies to bid in large-scale projects where individual expertise of merged companies can result in more effective and efficient implementation of the project. Thus, the act should add provisions for merger of two or more contractors where the qualifications of more experienced company will be accepted. It will help in growth and sustainability of small contractors.

## 1.4 Provision for Equal Treatment

Table 3: Provisions Related to Domestic Preference Over Foreign Bidders

Section	Sub-section	Clause	
14	8		<p>In making procurement through an international level bidding, the Public Entity may give domestic preference to the Nepalese entrepreneurs and businesspersons as prescribed, and where domestic preference is to be so given, that matter shall be set forth in the notice on invitation to bid and the bidding documents.</p> <p>Provided that,</p>
15	1	A	<p>While making invitation to bid pursuant to this Act, an international level bid shall be invited in any of the following conditions:-</p> <p>(a) Where the goods or construction works as requisitioned by a Public Entity are not available under competitive price from more than one construction entrepreneur or supplier within the State of Nepal,</p> <p>(b) Where no bid was submitted in response to invitation to national level bidding for the procurement of goods, construction works or other services, and the same has to be procured from abroad,</p>

Source: Public Procurement Act, 2063

A general notion of enacting laws that provides for domestic preference over foreign bidders is that it could end up jeopardizing the nation's own domestic industry for the simple reason that domestic bidders would have little or no access to procurement markets in its own nation while bidders from all other countries would have complete access to the procurement marketplace. It could endanger the domestic contractors and result in job loss and cause other harms to the economy.

However, in reality this is an issue which needs to be reviewed critically in terms of cost-benefit analysis. Developing countries often benefit from the price, skill and technology available through open biddings which help in boosting up local economy through entrepreneurship and industries. It will in turn help achieve socio-economic objectives like reducing poverty and creating employment.

### **Discussion and Recommendation:**

If an open competition system is implemented properly, in the long-term it sees both developing countries as well as corporations benefiting. Domestic preference is not the best way to achieve what can be achieved. If the contracting company are well aware about the fact that they have a preference then they have no incentive to actually perform the contract well.

All countries share the primary aim to develop local economies and make them competitive. But, fair competition and equal opportunities to companies all over the world help to build better and strong local economies. The international trend of developed countries shows that in influence of heavy competition, the local companies mature and begin to win procurement contracts. Thus, it will be in the best interest of the nation if procurement activities are fair and transparent which focuses on competition.

However, if the threat of foreign companies taking over all the procurement projects persists, there are other ways through which the government can ensure the protection of local employment and resources. For example, in Malawi the Public Procurement Act states that in case the procurement is awarded to international bidders, the bidders must ensure the following:

- a) Labour, raw materials and components from within the country should account for more than 30%. Similar policy adopted by US showed that it limits the foreign participants and enhances involvement of small businesses.
- b) Domestic production/assembling facility should be used.

Additionally, the local governments at Malawi who are responsible for small scale projects are at liberty to implement domestic preference in their procurements.

Moreover, in order to promote the small contractors with lesser capabilities, the government can split or divide the contracts in lots. For instance, France, splits up low requirement contracts in favor of domestic bidders. The result has demonstrated that it benefits the domestic contractors and suppliers.

In context of Nepal, corruption is a primary mechanism which has covered all aspect of public activities. In such a scenario, domestic firms might also be resistant to calls for more transparency. Thus, eliminating corruption and allowing international companies will be good for development.

So if public procurement is to work effectively and to the benefit to the people, the business community of suppliers, contractors and consultants must be trained in the concepts of public

procurement, made technically and professionally competent, given access to finance and construction equipment, made to adopt a strict code of ethics and made to complement the efforts of the public purchaser to make the whole process economic, efficient and free of corruption.

## 1.5 Bid Preparation

In order to prevent project delays, Public entities need to be pro-active themselves in terms of planning for procurement. In case of road construction projects, for example, the concerned authority needs to do its homework in terms of procurement planning, pre-assessment survey, initial environmental survey, design and drawing, site clearance, etc. such that the process is not delayed further. Majority of contractors are raged by the fact that the projects are often delayed due to incomplete works performed by public entities like delay in site clearance, mistakes in designing, carelessness in pre-assessment, etc. Moreover, these contractors need to pay fine in case of delay.

### **Discussion and Recommendation:**

The act should thus, mention in clear terms that all the activities to be performed prior to implementation of the projects needs to be completed before the bidding starts.

The current Public Procurement Act of Nepal mentions that in terms of carelessness in pre-evaluation, legal actions will be taken against the responsible officer. This ensures accountability from governments part; however, the clause has not been implemented properly. The act needs to be clearer in terms of holding the officer or contractor accountable for delays.

This not only will ensure that the projects are completed within

the time frame, but also will incentivize quality bidders who do not participate in the bid due to skepticism to bid in the project and enhance competition.

## 2. Bidding

### 2.1 Reduction of bidding time-frame

Table 4: Provisions Related to Bidding Period

Section	Sub-section	Clause	
14	4		In publishing a notice under Sub-section (1), for invitation of national level bidding or prequalification proposals, a period of at least thirty days shall be given and at least forty-five days shall be given in the case of a notice on invitation that of international level bidding or prequalification proposals.

Source: *Public Procurement Act, 2063*

PPA has provisioned a bidding time frame of up to 30 days for national level bidding and up to 45 days for international level bidding. This is an international practice for large-scale projects. The rationale behind the provision is to provide enough time to quality bidders for adequate preparation. However, for small projects, this clause only seems to lengthen the process.

#### **Discussion:**

The bidding time provisioned is definitely too long for small scale projects. However, no compromise should be made in terms of large-scale projects. With enhancement of bidders qualification and the technological advancements like e-procurement that have taken place over the years, time frame can be shortened to 15 days for both domestic biddings and international biddings. The act should also clearly mention the

categorization of projects in order to segregate between small-scale, medium-scale and large-scale projects.

Internationally, the bidding time frame of Singapore is 14 days, Kyrgyzstan 15 days, China 20 days, India 21 days and Australia 25 days. OECD has marked China, India and Australia as countries who provide sufficient time for bidding. Similarly, Europe with its system of Prior Information Notice (PIN) has reduced the bidding period to 15 days. Similar system, where all the possible contracts that is likely to be conducted in the current fiscal year is posted in the official government website prior to calling the tender, is practiced in Singapore and Australia as well.

## **2.2 Bid Evaluation**

In Section 25 the act mentions about the evaluation of the bid. However, no specific time frame regarding the evaluation has been mentioned in the act. The regulation mentions that the bid validity period will be 90 to 120 days. However, the officers are at discretion to increase the time frame. Additionally, this time frame provides sufficient time for contractors to back out from the bid. This might lengthen the time frame of bid evaluation and selection as per the discretion of the evaluation officers, resulting in delayed bid awarding and project implementation. Thus, the act should provide more clarity in bid evaluation time.

In order to shorten the time frame introduction and proper implementation of Internet Based Data Management System is essential. The time frame required to evaluate the three criteria – equipment, manpower and experience – of bidders can be shortened through the initiative.

## 2.3 Low Cost Bidding

Table 5: Provisions Related to Selection of Lowest Bidder

Section	Sub-section	Clause	
25	5		Bid shall be evaluated in accordance with the criteria and methodology set forth in the bidding documents; and in carrying out such evaluation, the bid with the lowest bid price shall be determined by making comparison of the evaluated price of every bid with the evaluated price of the other bids.
27	1		Acceptance of Bid and Procurement Contract: The Public Entity shall select for acceptance only the lowest evaluated substantially responsive bid in accordance with Section 25.

Source: Public Procurement Act, 2063

### Issue:

The practice in Nepal has been that the bidder who proposes the lowest cost is awarded the project. There is corruption within the bidding process and contractors collude. There have been cases where bidders have proposed prices that are lesser than that of the Public Entity's own cost estimation. Since the Act provisions that the lowest bid be awarded, below-par bidders are given the contracts as a consequence. Doing otherwise poses the threat of the Public Entity officials being dragged into the investigation of CIAA. The quality of results is being compromised in the process. This trend can never set Nepal in the path to development.

**Discussion and Recommendation:**

There has actually been a huge confusion over whether or not the lowest bidder must be awarded. The Act does not explicitly necessitate such practice. But since our practice has been so, there is a need to reform the clauses pertaining to low-cost bids. One such reform can be that any bidder who proposes prices that fall 30% or more below the Public Entity's cost estimation be disqualified altogether. Bidders can be allowed a margin that they can vary within. For example, a condition can be set where one has to propose prices that are within 20 and 30% of cost estimates.

Double envelope bidding can be another way out where quality assurance is the prime concern. This is one of international best practices. The best quality proposal is accepted in the first phase. After this process, the price envelope is opened and whatever price the bidder proposes is automatically accepted. Second best option mechanism provides another alternative. The highest and the lowest bidder are automatically disqualified and the second-best bidder or average bidder is awarded. This however beats the fundamental of competitive bidding practice. One has to be able to justify why the best option is disqualified. Fourth possible alternative is that Public Entity publicly float its own cost estimates in the bidding document itself as a lot of corruption happens due to the fact that a secrecy is maintained about such cost estimates. Bidders have bribed public officials to disclose such estimates in the past.

In case of certain projects where a community is the direct beneficiary, the current Act does mention that they can be awarded to the community itself. But this is not mandatory. So, a reform clause in the Act should also be that such projects be awarded to the benefitting community only.

In all cases, it should also be mandatory that the project be implemented at most 15 days after the procurement contract is made.

**2.4 Provision to Enhance Transparency**

Section	Sub-section	Clause	
12	6		If any applicant whose prequalification proposal is rejected, requests for the information of the reasons for the rejection of his or her proposal, within thirty days of the notice being given pursuant to Sub-section (5), the concerned 12 Public Entity shall have to provide such information to him or her.

Source: Public Procurement Act, 2063

The current working modality hinders transparency. The chances of biasness during bid evaluation occurs as the officers do not have to inform each individual bidder about their rejection. The practice of withholding relevant information from the bidder is also high in Nepal.

**Discussion and Recommendation:**

Currently, the public entities inform the bidders about their selection or rejection for the project. However, no additional information is provided to them. The act has a provision which mentions that relevant document and information regarding the rejection of the bid to be provided to the bidder in case of enquiry. The enquiry must be done within thirty days of rejection. After the enquiry, if the bidder notices any mistake

in the evaluation, a complaint can be filed based on which the corrections are made.

Thus, one of the reforms that can be adopted is that the act should clearly mention - while announcing the rejection of bid, the public entities must provide a report which consists of the reason for rejection and the mistakes conducted by the bidders to all the concerned stakeholders who participated in the bidding process. This not only enhances transparency but also helps the bidder to correct their weak points for next bidding. Also, the thirty days' time and the additional delays associated with it can be saved.

In order to enhance transparency of public procurement, the act should also make it mandatory for the bidders to provide a budget breakdown with proper explanation of costs. This can help the evaluation officers to understand the true intention of the bidder. It will also make it easier for the government during implementation and monitoring of the project.

## 3. Post Bidding

### 3.1 Addressing issues related to mobilization fees

Some contractors have been found to be manipulating mobilization fees. They have been utilizing the fee to fulfill their own personal interests (like investing elsewhere) than undertaking the project it is meant for. There are issues of transparency. Many individuals have raised concerns regarding the issue of expediting call for proposals prior to pre-assessment surveys and site clearance in order to accelerate the process of distributing mobilization fee.

#### **Discussion and Recommendation:**

In order to check the misappropriation of mobilization fee, the amended act has incorporated the provision to open up a new bank account in the name of the project before disbursing the fund. With the new clause, all funds are channeled through the project account operated by the contractor and transparency and accountability can be attained. However, the overall challenge related to mobilization fee disbursement still persists. The disbursement of mobilization fee can be regarded as unnecessary as the bidder have to ensure their credit line prior to receiving the tender. This ensures that the contractors have sufficient money to implement the project even if the mobilization fee is unavailable. This can however, limit the medium and small-scale bidders from bidding.

A plausible way to tackle the issue and make the fund flow transparent is that the money be channeled to the contractors in an installment basis. The fund can then be disbursed in installments as per the completion of different phases of project. The contractor has to submit progress reports and

only then does it become eligible for next round of funds. This way, the progress of the project can be constantly checked. If this method is used, then there will be no need to open a new account. Once a new account is opened, then another level of monitoring duty is added and it only increases the bureaucracy. If sound financial management is guaranteed, then there is no need to add up bureaucracy in this way.

One thing to pay attention to while channeling funds in installment basis as per the progress reports is that if some targets are not met within specified time frame, then the contractors need to be liable for that. One way to make that happen is charge them interests for overdue periods.

A second approach that can be taken is that, mobilization fee requirement be removed from the act and the public entity should decide the fee on the basis of nature of work. Currently, the public procurement act governs all kind of procurement and same clauses should be followed for all kind and nature of work. It would not be practical for a single act to regulate the myriad of goods and services that the public entities procure. Since different institutions have different nature of jobs that they have to undertake, different scale and size of procurements and different purposes, it should be regulated differently. In Singapore, the act allows the procuring entity decide on the mobilization of the goods and services as per its nature.

### 3.2 Tender Break

Table 6: Provisions Related to Tender Break

Section	Sub-section	Clause	
59	9		When an agreement is terminated pursuant to subsection 7, for the purposes of completion of remainder of the work an agreement can be made, by calling for economic proposals as prescribed from among the bidders selected as per section 25 by giving 15 days time.

Source: Public Procurement Act, 2063

If a tender is broken before the project is completed, substantial time is consumed for re-starting or continuing the project with a new contractor. Although the amended act has added provisions related to shortening the time frame, it is still cumbersome and can be reformed in more plausible form.

#### **Discussion:**

The amended act mentions that if a tender is broken, the public entity will call for proposals to the bidders who were previously evaluated and who passed the initial qualification phase. However, if no bidders bid for the project, the whole process of public procurement must be redone. However, the practice of calling proposals with bidder who passed the initial qualification criteria is minimal and the whole process is redone in Nepal. This means that all the time, energy and resources have to be utilized again. As a result, the project completion is prolonged. It has thus been against the will of Public Entities and also virtually impossible to break tenders. One of the

alternative floated in this regard has been that we should instead develop a mechanism whereby, the second-best bidder is approached; a new round of negotiation is done with it and then award the project to this bidder. In case of unavailability of second-best bidder, the next bidder in chronological order should be approached. This can save substantial amount of time.

The process can actually have huge cost benefits from the governments perspective.

Another possible solutions to this problem can be to make Framework Agreements or Cooperative Agreements. Under Framework Agreement, if we need to recurrently procure a specific kind of goods or service, then we do not have to call tenders all the time. A framework agreement will serve as an umbrella agreement. Under Cooperative Agreement, the money is awarded to another entity to carry out the project with the involvement of the government.

## 4. Increase efficiency on public procurement by engaging all three-tiers of government effectively.

Table 7: Provisions Related to Applicability of Public Procurement Act

Section	Sub-section	Clause	
3	1		In making procurement, a Public Entity shall have to make such procurement by complying with the procedures set out in this Act.
3	1	A	This act will be applicable to organizations registered as per the prevailing law using a government fund for the purposes of procurement

Source: Public Procurement Act, 2063

The act mentions that all public entities should follow the procedure of the act while conducting any public procurement. However, it fails to incorporate policies that would capacitate the local and state level government to do the same.

### Discussion:

With the onset of federalism, it is equally important to capacitate the local and state level government to conduct public procurement activities. This would not only increase procurement efficiency in order to carry out various national projects' imperative for development, but also would ease out the procedures for procurement. However, currently, the provincial and local government do not have the capacity and capability to draft proper procurement laws.

One of the methods through which the desired result can be obtained is through clear categorization of projects to be procured by different level of government. As mentioned in the previous discussion, segregating between small, medium and large-scale projects would be very beneficial. The act should then clearly state that small-scale projects (For example, projects that cost up to NRs. 5 crore) will be under the jurisdiction of local government, Medium-scale projects (For example, projects that cost NRs. 5 crores to Nrs. 15 crore) will be under the jurisdiction of state government and Large-scale projects (For example, projects that cost more than NRs. 25 crore) will be under the jurisdiction of federal government.

The different tiers of government will be responsible for drafting procurement laws according to their responsibility. Additionally, the act should mention that all the laws should follow the basic principle of procurement – Transparency, integrity, economy, openness, fairness, competition and accountability.

However, the suggested method has its own shortcomings and administrative hassles. Thus another method could be define projects of specific nature that would differ as per the location or region of construction. With the approval of PPMO, the local and state government can thus engage in such specific constructions as per their requirement. However, other general projects like road construction can be implemented by following principles of the federal law.

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## Annexure

### Annexure 1: List of Experts of Consultation Meeting

S.N	Name	Organization
1	Abhanindra Shrestha	Former Secretary
2	Chandra Prasad Subedi	Structural Engineer
3	Dibyesh Giri	Smart Tech Solutions
4	Gopal Gurung	JICA
5	Krishna Gyawali	Former Secretary
6	Krishna Lamsal	JICA
7	Narayan Prasad Parajuli	Office of Auditor General
8	Rajendra Adhikari	Project Management Consultant
9	Shiva Kumar Adhikari	NPC
10	Sugat Ratna Kansakar	Former Managing Director, NAC
11	Shankar P. Pandey	Former Secretary
12	Surendra Raj K.C	Federation of Contractors Association Nepal
13	Tanka Dulal	Federation of Contractors Association Nepal



**SAMRIDDHI**  
FOUNDATION

Samriddhi, The Prosperity Foundation is an independent policy institute based in Kathmandu, Nepal. It works with a vision of creating a free and prosperous Nepal.

Initiated in 2007, it formally started its operations in 2008. The specific areas on which the organization works are:

- i. Entrepreneurship development
- ii. Improving business environment
- iii. Economic policy reform
- iv. Promoting discourse on democratic values

Centered on these four core areas, Samriddhi works with a three- pronged approach—Research and Publication, Educational and Training, Advocacy and Public Outreach.

Samriddhi conducts several educational programs on public policy and entrepreneurship. It is dedicated to researching Nepal’s economic realities and publishing alternative ideas to resolve Nepal’s economic problems. Samriddhi is also known for creating a discourse on contemporary political economic issues through discussions, interaction programs, and several advocacy and outreach activities. With successful programs like “Last Thursdays with an entrepreneur” and “Policy Talkies”, it also holds regular interaction programs bringing together entrepreneurs, politicians, business people, bureaucrats, experts, journalists, and other groups and individuals making an impact in the policy discourse. It also hosts the secretariat of the ‘Campaign for a Livable Nepal’, popularly known as Gari Khana Deu.

*(more information at [www.samriddhi.org](http://www.samriddhi.org))*



Ayushma Maharjhan is a thinker and an ardent libertarian having a degree in Development Finance. She currently works as a Research and Communications Officer where she is regularly involved in drafting policy briefs, discussing her findings with relevant stakeholders and advocating for policy changes. She is also involved in writing blogs, articles, and has been researching on contemporary economic issues of Nepal. She aspires to craft conducive reforms through evidence based policy making and redefine policy discourse in Nepal.