

## **Ministry of Transport and Roads of the Kyrgyz Republic**

### **Kyrgyz Republic: CAREC Corridor 3 (Bishkek-Osh Road) Improvement Project, Phase 4**

#### **TERMS OF REFERENCE**

##### **LAWYER**

##### **Background**

The Kyrgyz Republic received financing from the Asian Development Bank (ADB) to implement the *CAREC Corridor 3 Improvement Project (Bishkek-Osh Road), Phase 4, CAREC Corridors 1 and 3 Connector Road Project, and CAREC Corridors 1 and 3 Connector Road Project Phase 2 - Additional Financing*. These projects will improve national and regional connectivity by reconstructing and rehabilitating critical road sections between the cities of Bishkek and Osh and a part of the North-South Alternative Corridor, including road safety measures such as road signs, markings, street lights, parking, bus stops, emergency barriers, and sidewalks, and will strengthen road maintenance practices and institutional capacity through the introduction and implementation of a road asset management system and implementation unit operational administration guidelines.

The Ministry of Transport and Roads of the Kyrgyz Republic (MOTR) as the Executing Agency established the ADB Investment Projects Implementation Group (IPIG) responsible for the day-to-day management of project activities to implement the above projects financed by ADB, as well as other projects financed by the Eurasian Development Bank (EDB) and Export-Import Bank of China (EIBC).

The Executive Agency seeks a lawyer to provide legal support in preparing for the implementation of the above projects financed by the ADB, as well as projects financed in parallel by EDB.

##### **Objective/Purpose of the Assignment:**

The key objective of the assignment is to provide legal support and assistance for the implementation of Projects financed by ADB, and other Projects financed in parallel by EDB.

##### **Scope of Work:**

- Providing legal support in the preparation and implementation of investment projects under administration;
- Preparation of materials for legal due diligence of concluded memorandums, agreements, orders contracts, and contract variations;
- Carrying out national procedures for ratification of Financial Agreements;
- Preparation and verification of memoranda, agreements, contracts, and contract variations concluded within the framework of the project for compliance with the Kyrgyz Republic legislation;
- Carrying out national procedures for ratification of Financial Agreements;
- Negotiating and drafting agreements with each affected person (AP) on compensation and other payments under the ongoing projects in accordance with ADB Safeguards Policy 2009. (ADB SPS 2009), the Project Financial Agreement, Land Acquisition and Resettlement Plan and other Kyrgyz legislation;
- Provide consultations to affected persons on the requirements of the 2009 ADB Safeguards Policy, the Project Financial Agreement, the Land Acquisition and Resettlement Plan and other Kyrgyz laws;
- Assisting the MOTR in conducting transactions with land plots;
- Assisting the MOTR in representing its interests in the ministries and departments of the Kyrgyz Republic, courts and other institutions, including the international arbitration court, with regard to legal issues related to the investment projects implementation;
- Provide legal assistance in procurement of civil works, goods and services ;
- Performance of other official assignments of the Director:

For the purposes of the Land Acquisition and Resettlement Plan:

- The lawyer has to review all the documents of the affected people, check the documents for validity, and collect missing documents, if necessary;
- The lawyer has to prepare draft contracts for purchasing land plots and compensation for property acquisition and loss of income, and to coordinate them with the Deputy Minister and the MOTR KR Legal Sector. These agreements should not contradict the terms of the Financial Agreement, which stipulates that the Kyrgyz Republic undertakes to follow the requirements of the Kyrgyz laws, ADB Safeguards Policy Statement 2009, and LARP.
- After obtaining approval from the Deputy Minister and the MOTR KR Legal Sector for the draft agreements, the lawyer has to receive a power of attorney from the Deputy Minister to negotiate on behalf of the MOTR KR and conclude agreements on land acquisition and compensation for the acquired property and loss of income. Before concluding agreements, the lawyer has to provide consultations to APs on their rights;
- Before proceeding with the purchase of land plots, the lawyer, together with the resettlement team, has to carry out all preparatory work. The lawyer has to discuss the procedure for purchasing land plots by the State Register and agree with them on the schedule of concluding agreements. In case of disputes, he/she has to work closely with local authorities;
- After receiving the power of attorney from the Deputy Minister to carry out transactions in the State Register, the lawyer shall carry out the relevant legal transactions on purchasing land plots and paying compensations for acquisition of the property for public needs with site visits;
- The lawyer shall cooperate closely and coordinate with the resettlement team.

### **Reporting Requirements**

The Lawyer will be directly reporting to the IPIG Director.

### **Qualification and Experience**

- Higher education in law (Bachelor`s degree and higher);
- At least 5 years of total experience as a lawyer. Experience in foreign funded projects shall be an preferable.
- Excellent knowledge of the Civil Code of the Kyrgyz Republic, the Civil Procedure Code of the Kyrgyz Republic, the Land Code of the Kyrgyz Republic, the Housing Code of the Kyrgyz Republic and other regulatory legal acts of the Kyrgyz Republic, as well as arbitration legislation;
- Experience in representing clients in the courts of land seizure transactions shall be preferable;
- Experience in land acquisition and involuntary resettlement in international organizations and/or organizations funded by international donors related to legal issues is preferable;
- Excellent knowledge of Russian and/or Kyrgyz languages (speaking and writing);
- Knowledge of English (speaking and writing) shall be an advantage.

### **Assignment Duration**

Trial period shall be 3 (three) months. The duration of the contract shall be 12 (twelve) months. The duration of the consultant contract may be extended by mutual agreement of the parties each year.

### **Place of Assignment**

The main place of assignment shall be the IPIG office in the Ministry of Transport and Roads of the Kyrgyz Republic with intermittent visits to construction sites in the regions, state bodies, meetings with APs, etc., if necessary.