

# **DISSERTATION PAPER**

**Comparison of Procurement of Non-Consulting Services:  
Public Procurement Rules-2008 Vs World Bank Guidelines**

Submitted by

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## DECLARATION

It is hereby declared that this dissertation or any part of it has not been submitted elsewhere for the award of any degree or diploma.

March, 2016

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## **CERTIFICATE**

This is my pleasure to certify that the dissertation entitled “Comparison of Procurement of Non-Consulting Services: Public Procurement Rules-2008 Vs World Bank Guidelines” is the original work of Md. Masudur Rahman that is completed under my direct guidance and supervision. So far I know, the dissertation is an individual achievement of the candidate’s own efforts, and it is not a conjoint work. I also certify that I have gone through the draft and final version of the dissertation and found it satisfactory for submission to the BRAC Institute of Governance and Development (BIGD), BRAC University in partial fulfillment of the requirements for the degree of Masters in Procurement and Supply Management.

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## ABSTRACT

The World Bank Guidelines and Public Procurement Rules-2008 are basically prepared for the proper guidance of the procurement at the same time it also provides legal support and a restrictive boundary for the parties involved in procurement. This dissertation mainly deals with the comparison of these two guidelines regarding procurement of non-consulting services.

In Public Procurement there are generally three procurement categories: goods, works and services. Services are classified as consulting services and non-consulting services. In some cases, they are simply classified as services because of the difficulty, at times, in clearly determining the difference. The distinguishing factor between the two, however, is the degree of importance of the measurable physical output of the requirement.

This study covers those parts of the guidelines which are related to non-consulting services. In World Bank guidelines non-consulting services have been clarified and procurement process has been outlined. One sample bidding document has been published to facilitate the procurement process. On the other hand Public Procurement Rules -2008 does not clarify the non-consulting services. However there is some provision of procurement of physical services, related services and stand-alone services. It is mandatory for all the public sector procuring entities to follow the standard tender documents prepared by the CPTU, which yet not published for procurement of non-consulting services.

The current scenario of procurement practice in the public sector has been studied through interviews with procurement professionals working in World Bank financed projects regarding non-consulting services. The analyses indicate that there is limited scope of procurement of non-consulting services in the current public procurement rules-2008. For WB guidelines, the current sample bidding documents needs to be update to overcome the shortcomings.

And at last it can be said that the maximum guidance in the two guidelines are almost same and there are some minor difference in some specific cases and this similarity eventually helping the procuring entity to be accustomed easily with all the guidelines.

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## ABBREVIATIONS

BDS	Bid Data Sheet
CPTU	Central Procurement Technical Unit
GCC	General Conditions of Contract
IDA	International Development Association
ITB	Instruction to Bidder
NCB	National Competitive Bidding
OTM	Open Tendering Method
PAD	Project Appraisal Document
PPA	Public Procurement Act
PPR	Public Procurement Rules
PID	Project Information Document
RFQ	Request for Quotation
SSS	single-source selection
SCC	special conditions of contract
SA	Special Account
TOR	Terms of Reference
UN	United Nations
UCS	Use of Country Systems
UNDB	United Nations Development Business

# **CHAPTER 01 – INTRODUCTION**

## **1.1 Background of the study**

Sound procurement policies and practices are one of the essential elements of good governance. Good practices reduce costs and produce timely results; poor practices lead to waste and delays and are often the cause of allegations of corruption and government inefficiency. To ensure sound principles and practices, the government of Bangladesh and World Bank has introduced Public Procurement Rules (PPR)–2008 and Procurement Guidelines respectively.

Generally there are three procurement categories: goods, works and services. Services are classified as consulting services and non-consulting services. In some cases, they are simply classified as services because of the difficulty, at times, in clearly determining the difference. The distinguishing factor between the two, however, is the degree of importance of the measurable physical output of the requirement.

The procurement of Non- Consulting Services is one of the least researched and least discussed topics in procurement. In general, Non-Consulting Services are procuring under goods or consultants categories. There are insufficient numbers of standard bidding/tender documents for Non-Consulting Services. Procurement professionals have argued that research is needed to identify the complexity in procurement of Non-Consulting Services.

## **1.2 Research Objectives**

The main objective of this research is to compare the strength and weakness of Public Procurement Rules (PPR)–2008 and World Bank Procurement Guidelines regarding procurement of Non- Consulting Services. And from this comparison and analysis the shortcomings (if any) of these guidelines can be sorted out. The comparison will also help to find out which guidelines have convenient features over other.

## **1.3 Research Questions**

In response to the objectives mentioned above, the following research questions have been proposed

- What are the similarities and differences of non-consulting service procedures among PPR and WB guidelines?

- What types of limitations are present among them?

#### **1.4 Methodology**

In order to achieve the research objectives mentioned above, initial approach was to review the relevant literature mostly World Bank guidelines and Public Procurement Rules (PPR)–2008 to strengthen the knowledge background in order to proceed with the task.

An extensive interview has been performed for the research in order to achieve a better insight and understanding the concepts of non-consulting service; procurement procedure for non-consulting service; and bidding/tender documents for non-consulting service. For this purpose, an interview schedule has been designed addressing the above mentioned aspects of procurement of non-consulting service. Then 10 related persons have been interviewed according to the planned interview schedule. Procurement professionals were selected from Public Procurement Sector and working in World Bank financed project. In addition to this, consultation has been made with procurement professionals from different level of hierarchy in order to get an overall picture about non-consulting services.

For the purpose of preparing the interview schedule, both open ended and close ended questions were included to gather the required information. Information regarding expenditure on procurement, relative expenditure on procurement of goods, works, services or non-consulting service was sought in the interviews.

The main focus of the interviews was the preparedness and practice of the organizations through addressing the two aspects of similarities and differences of non-consulting service procedures among PPR and WB guidelines, and types of limitations are present among them.

In addition, information on the factors that may act as driver or barrier to the procurement of non-consulting services also address in the interview.

The data collected through the key informant interviews have been analyzed based on the questions asked in the interviews. An individual analysis has been made on each of the questions which would help find a complete picture of the matter. Most of the analysis has been done qualitatively from the perception based interviews with the respondents. However, some quantitative analyses have also been made based on the supplied data by the respondents.

The whole research work has been conducted under the supervision of an academic supervisor. The research outcome has been revealed through the production of a dissertation paper which was prepared under the guidance of the supervisor and as per the instructions given by the BRAC Institute of Governance and Development (BIGD), BRAC University Bangladesh.

## **1.6 Thesis Outline**

The first chapter is the Introduction to the Dissertation. The second chapter discusses the detail review of World Bank Guidelines. Literature review of Public Procurement Rules-2008 is discussed in chapter 3. Review of bidding document in Chapter 4. Analysis findings are discussed in chapter 5. Finally, the sixth chapter is the concluding chapter which summarizes all the major findings of the study, lists the limitations of the study and suggests some recommendations in related sectors.

## **CHAPTER 02– REVIEW OF WORLD BANK GUIDELINES**

The research is performed using review of different literature such Word Bank Procurement Guidelines, Public Procurement Act-2006, Public Procurement Rules-2008 and relevant bidding/tender documents and so on.

There two set of guidelines to carrying out procurement activities of a project that is financed in whole or in part by a loan from the International Bank for Reconstruction and Development (IBRD), a credit or grant from the International Development Association (IDA). These are (i) World Bank’s Guidelines: Procurement of Goods, Works, and Non-consulting Services under IBRD Loans and IDA Credits & Grants, edition of January 2011, Revised July 2014 and (ii) World Bank’s Guidelines: Selection and Employment of Consultants under IBRD Loans and IDA Credits & Grants by World Bank Borrowers, edition of January 2011, Revised July 2014. For research purpose number (i) aforesaid guideline reviewed.

### **2. 1 Introduction**

The purpose of these Guidelines is to inform those carrying out a project that is financed in whole or in part by a loan from the International Bank for Reconstruction and Development (IBRD), a credit or grant from the International Development Association (IDA), a project preparation advance (PPA), a grant from the Bank, or a trust fund administered by the Bank and executed by the recipient, of the policies that govern the procurement of goods, works, and non-consulting services required for the project. The Loan Agreement governs the legal relationships between the Borrower and the Bank, and the Guidelines are made applicable to procurement of goods, works, and non- consulting services for the project, as provided in the agreement. The rights and obligations of the Borrower and the providers of goods, works, and non-consulting services for the project are governed by the bidding documents, and by the contracts signed by the Borrower with the providers of goods, works, and non-consulting services, and not by these Guidelines or the Loan Agreements. No party other than the parties to the Loan Agreement shall derive any rights therefrom or have any claim to loan proceeds.

### **2.2 Applicability of Guidelines**

The principles, rules, and procedures outlined in these Guidelines apply to all contracts for goods, works, and non-consulting services financed in whole or in part from Bank loans. The

provisions described under this Section I apply to all other Sections of the Guidelines. For the procurement of those contracts for goods, works, and non- consulting services not financed in whole or in part from a Bank loan, but included in the project scope of the loan agreement, the Borrower may adopt other rules and procedures. In such cases, the Bank shall be satisfied that the procedures to be used will fulfill the Borrower's obligations to cause the project to be carried out diligently and efficiently and that the goods, works, and non-consulting services to be procured:

- (a) are of satisfactory quality and are compatible with the balance of the project;
- (b) will be delivered or completed in timely fashion; and
- (c) are priced so as not to affect adversely the economic and financial viability of the project.

### **2.3 Joint Ventures**

Any firm may bid independently or in joint venture either with domestic firms and/or with foreign firms. A joint venture may be for the long term (independent of any particular bid) or for a specific bid. The joint venture shall appoint one of the firms to represent it, and all its members shall sign the contract and be jointly and severally liable for the entire contract. The Bank does not accept conditions of bidding or contracting which require mandatory joint ventures or other forms of mandatory association between firms.

### **2.4 International Competitive Bidding**

The objective of International Competitive Bidding (ICB), as described in these Guidelines, is to provide all eligible prospective bidders with timely and adequate notification of a Borrower's requirements and an equal opportunity to bid for the required goods, works, and non-consulting services.

The bidding documents shall clearly state the type of contract to be entered into and contain the proposed contract provisions appropriate therefor. The most common types of contracts provide for payments on the basis of a lump-sum, unit prices, reimbursable cost plus fees, or combinations thereof. Reimbursable cost contracts are acceptable to the Bank only in exceptional circumstances such as conditions of high risk or where costs cannot be determined in advance with sufficient accuracy. Such contracts shall include appropriate

incentives to limit costs.

## **2.5 Two-Stage Bidding**

In the case of contracts for: (a) large complex facilities awarded as single responsibility (including as turnkey) contracts for the design, supply and installation, or single responsibility contracts for the supply and installation of a facility or plant; (b) works of a complex and special nature; or (c) complex information and communication technology that are subject to rapid technology advances, it may be undesirable or impractical to prepare complete technical specifications in advance. Due to the complex nature of such contracts and in order to avoid deviations from the Borrower's specifications, the Bank may require the use of a two-stage bidding procedure. First, un-priced technical proposals on the basis of a conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and adjustments, to be followed by amended bidding documents and the submission of final technical and priced bids in the second stage.

## **2.6 National Competitive Bidding**

National Competitive Bidding (NCB) is the competitive bidding procedure normally used for public procurement in the country of the Borrower, and may be the most appropriate method of procurement of goods, works, and non-consulting services which, by their nature or scope, are unlikely to attract foreign competition.

If foreign firms wish to participate in NCB they shall be allowed to do so on the prevailing NCB terms and conditions that apply to national bidders.

## **2.7 Shopping**

Shopping is a procurement method based on comparing price quotations obtained from several suppliers (in the case of goods), from several contractors (in the case of civil works), or service providers (in the case of non-consulting services) with a minimum of three, to assure competitive prices, and is an appropriate method for procuring limited quantities of readily available off-the-shelf goods or standard specification commodities of small value, or simple civil works of small value when more competitive methods are not justified on the basis of cost and efficiency. If the Borrower has been unable to obtain at least three quotations, it shall provide the Bank with the reasons and justification why no other competitive method could be considered and obtain a

no objection before proceeding on the basis of the only responses already received. Requests for quotations shall indicate the description and quantity of the goods or specifications of works, as well as desired delivery (or completion) time and place. Quotations may be submitted by letter, facsimile, or by electronic means. The evaluation of quotations shall follow the same principles as of open bidding. The terms of the accepted offer shall be incorporated in a purchase order or brief contract.

## **2.8 Framework Agreements**

A Framework Agreement (FA) is a long-term agreement with suppliers, contractors and providers of non-consulting services which sets out terms and conditions under which specific procurements (call-offs) can be made throughout the term of the agreement. FAs are generally based on prices that are either pre-agreed, or determined at the call-off stage through competition or a process allowing their revision without further competition. FAs may be permitted as an alternative to the Shopping and NCB methods for: (a) goods that can be procured off-the-shelf, or are of common use with standard specifications; (b) non-consulting services that are of a simple and non-complex nature and may be required from time to time by the same agency (or multiple agencies) of the Borrower; or (c) small value contracts for works under emergency operations.

## **2.9 Direct Contracting**

Direct contracting is contracting without competition (single-source) and may be an appropriate method under the following circumstances. The Borrower shall submit to the Bank for its review and no objection a sufficiently detailed justification, including the rationale for direct contracting instead of a competitive procurement process and the basis for recommending a particular firm in all such cases, except for contracts below a threshold defined on the basis of risks and the scope of the project, and set forth in the Procurement Plan.

- (a) An existing contract for goods, works, and non-consulting services, awarded in accordance with procedures acceptable to the Bank, may be extended for additional goods, works, and non-consulting services of a similar nature. The Bank shall be satisfied in such cases that no advantage could be obtained by further competition and that the prices on the extended contract are reasonable. Provisions for such an extension,

if considered likely in advance, shall be included in the original contract;

(b) standardization of equipment or spare parts, to be compatible with existing equipment, may justify additional purchases from the original Supplier. For such purchases to be justified, the original equipment shall be suitable, the number of new items shall generally be less than the existing number, the price shall be reasonable, and the advantages of another make or source of equipment shall have been considered and rejected on grounds acceptable to the Bank;

(c) the required equipment is proprietary and obtainable only from one source;

(d) the procurement of certain goods from a particular supplier is essential to achieve the required performance or functional guarantee of an equipment or plant or facility;

(e) in exceptional cases, such as, but not limited to, in response to natural disasters and emergency situations declared by the Borrower and recognized by the Bank; and

(f) in circumstances that are in accordance with the provisions of paragraph 3.10 for procurement from UN Agencies.

## **2.10 Force Account**

Force Account, which are works such as construction and installation of equipment and non-consulting services carried out by a government department of the Borrower's country using its own personnel and equipment, may be the only practical method of procurement under specific circumstances. The use of Force Account requires that the Borrower sets maximum aggregate amounts for the use of Force Account, to which the

Bank shall give its no objection, and applies the same rigorous quality checks and inspection as for contracts awarded to third parties. Force Account shall be justified and may only be used, after Bank no objection, under any of the following circumstances:

(a) quantities of construction and installation works that are involved cannot be defined in advance;

(b) construction and installation works are small and scattered or in remote locations for which qualified construction firms are unlikely to bid at reasonable prices;

(c) construction and installation works are required to be carried out without disrupting ongoing operations;

- (d) risks of unavoidable work interruption are better borne by the Borrower than by a contractor;
- (e) specialized non-consulting services such as aerial surveys and mapping, as a matter of Borrower's law or official regulations for consideration such as national security, can only be carried out by specialized branches of the government; or
- (f) urgent repairs to prevent further damages, requiring prompt attention, or works to be carried out in conflict-affected areas where private firms may not be interested.

### **2.11 Inspection Services**

Pre-shipment inspection and certification of imports is one of the safeguards for the Borrower, particularly where the country has a large import program. The inspection and certification usually covers quality, quantity, and reasonableness of price. Imports procured through ICB procedures shall not be subject to price verification, but only verification for quality and quantity. However, imports not procured through ICB may additionally be subjected to price verification. Physical inspection services may also be included. The inspection service providers are ordinarily paid for on a fee basis levied on the value of the goods. Costs for certification of imports shall not be considered in the evaluation of bids under ICB.

### **2.12 Performance Based Procurement**

Performance Based Procurement, also called Output Based Procurement, refers to competitive procurement processes (ICB, LIB, or NCB) resulting in a contractual relationship where payments are made for measured outputs instead of the traditional way where inputs are measured. The technical specifications define the desired result and which outputs will be measured including how they will be measured. Those outputs aim at satisfying a functional need in terms of quality, quantity, and reliability. Payment is made in accordance with the quantity of outputs delivered, subject to their delivery at the level of quality required. Reductions from payments (or retentions) may be made for lower-quality level of outputs and, in certain cases; premiums may be paid for higher quality level of outputs. The bidding documents do not normally prescribe the inputs, nor a work method for the Contractor. The Contractor is free to propose the most appropriate solution, based on mature and well-proven experience, and shall demonstrate that the level of quality specified in the bidding documents will be achieved.

Performance Based Procurement (or Output Based Procurement) can involve: (a) the provision

of non-consulting services to be paid on the basis of outputs; (b) design, supply, construction (or rehabilitation), and commissioning of a facility to be operated by the Borrower; or (c) design, supply, construction (or rehabilitation) of a facility, and provision of non-consulting services for its operation and maintenance for a defined period of years after its commissioning. Examples of such type of procurement are: (i) for the case of procurement of services: provision of medical services, i.e. payments for specific services, like office visits, or defined laboratory tests, etc.; (ii) for the case of procurement of a facility: design, procurement, construction, and commissioning of a thermal power plant to be operated by the Borrower; (iii) for the case of procurement of a facility and services: design, procurement, construction (or rehabilitation) of a road, and operation and maintenance of the road for 5 (five) years after construction.

### **2.13 Community Participation in Procurement**

Where, in the interest of project sustainability, or to achieve certain specific social objectives of the project, it is desirable in selected project components to (a) call for the participation of local communities and/or nongovernmental organizations (NGOs) in civil works and the delivery of non-consulting services, or (b) increase the utilization of local know-how, goods, and materials, or (c) employ labor-intensive and other appropriate technologies, the procurement procedures, specifications, and contract packaging shall be suitably adapted to reflect these considerations, provided that these are acceptable to the Bank.

### **2.14 Bidding Documents**

The bidding documents shall furnish all information necessary for a prospective bidder to prepare a bid for the goods, works, and non-consulting services to be provided. While the detail and complexity of these documents may vary with the size and nature of the proposed bid package and contract, they generally include: invitation to bid; instructions to bidders and bid data sheet; form or letter of bid; form of contract; conditions of contract, both general and particular; specifications and drawings; relevant technical data (including of geological and environmental nature); list of goods or bill of quantities; delivery time or schedule of completion; and necessary appendices, such as formats for various securities.

Borrowers shall use the appropriate Standard Bidding Documents (SBDs) issued by the Bank with minimum changes, acceptable to the Bank, as necessary to address project- specific

conditions. Any such changes shall be introduced only through bid or contract data sheets, or through special conditions of contract, and not by introducing changes in the standard wording of the Bank's SBDs. When no relevant SBDs have been issued, the Borrower shall use other internationally recognized standard conditions of contract and contract forms acceptable to the Bank.

### **2.15 Standards**

Standards and technical specifications quoted in bidding documents shall promote the broadest possible competition, while assuring the critical performance or other requirements for the goods and/or works under procurement. As far as possible, the Borrower shall specify internationally accepted standards such as those issued by the International Standards Organization with which the equipment or materials or workmanship shall comply. Where such international standards are unavailable or are inappropriate, national standards may be specified. In all cases, the bidding documents shall state that equipment, material, or workmanship meeting other standards, which promise at least substantial equivalence, will also be accepted.

### **2.16 Use of Brand Names**

Specifications shall be based on relevant characteristics and/or performance requirements. References to brand names, catalog numbers, or similar classifications shall be avoided. If it is necessary to quote a brand name or catalog number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" shall be added after such reference. The specification shall permit the acceptance of offers for goods which have similar characteristics and which provide performance at least substantially equivalent to those specified. Before the Borrower issues bidding documents for specific goods with a brand name that does not have any equivalent, especially for Information Technology Systems, it shall submit to the Bank for review and no objection a comprehensive justification, including grounds of compatibility with existing systems and previous investments in the branded item.

### **2.17 Pricing**

Bidders for works and non-consulting services shall be required to quote unit prices or lump sum prices for the performance of the works or non-consulting services, and such prices shall include all duties, taxes, and other levies. Bidders shall be allowed to obtain all inputs (except for

unskilled labor) from any eligible source so that they may offer their most competitive bids.

## **2.18 Price Adjustment**

Bidding documents shall state either that (a) bid prices will be fixed or (b) that price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labor, equipment, materials, and fuel. Price adjustment provisions are usually not necessary in simple contracts involving delivery of goods or completion of works within 18 (eighteen) months, but shall be included in contracts which extend beyond 18 (eighteen) months. The bidding documents for contracts of shorter duration may also include a similar provision for price adjustment when future local or foreign inflation is expected to be high. However, it is standard practice to obtain firm prices for some types of equipment regardless of the delivery time and, in such cases, price adjustment provisions are not needed.

Prices shall be adjusted by the use of a prescribed formula (or formulae) which breaks down the total price into components that are adjusted by price indices specified for each component. The formula(e) and the base date for application shall be clearly defined in the bidding documents. If the payment currency is different from the source of the input and corresponding index, a correction factor shall be applied in the formulae, to avoid incorrect adjustment. Under exceptional circumstances, bidding documents may provide for price adjustment on the basis of documentary evidence (including actual invoices) provided by the Supplier or Contractor.

## **2.19 Terms and Methods of Payment**

Payment terms shall be in accordance with the international commercial practices applicable to the specific goods, works, and non-consulting services. Any advance payment for mobilization and similar expenses, made upon signature of a contract for goods, works, and non-consulting services, shall be related to the estimated amount of these expenses and be specified in the bidding documents. Amounts and timing of other advances to be made, such as for materials delivered to the site for incorporation in the works, shall also be specified. The bidding documents shall specify the arrangements for any security required for advance payments.

## **2.20 Alternative Bids**

The bidding documents shall clearly indicate when bidders are allowed to submit alternative

bids, how alternative bids should be submitted, how bid prices should be offered, and the basis on which alternative bids shall be evaluated.

### **2.21 Liquidated Damages and Bonus Clauses**

Provisions for liquidated damages or similar provisions in an appropriate amount shall be included in the conditions of contract when delays in the delivery of goods, completion of works, or failure of the goods, works, and non-consulting services to meet performance requirements would result in extra cost, or loss of revenue, or loss of other benefits to the Borrower. Provision may also be made for a bonus to be paid to suppliers or contractors for completion of works or delivery of goods ahead of the times specified in the contract when such earlier completion or delivery would be of benefit to the Borrower.

### **2.22 Applicable Law and Settlement of Disputes**

The conditions of contract shall include provisions dealing with the applicable law and the forum for the settlement of disputes. International commercial arbitration in a neutral venue has practical advantages over other methods for the settlement of disputes. Therefore, the Bank requires that Borrowers use this type of arbitration in contracts for the procurement of goods, works, and non-consulting services unless the Bank has specifically agreed to waive this requirement for justified reasons such as equivalent national regulations and arbitration procedures, or the contract has been awarded to a bidder from the Borrower's country. The Bank shall not be named arbitrator or be asked to name an arbitrator. In case of works contracts, supply and installation contracts, and single responsibility (including turnkey) contracts, the dispute settlement provision shall include mechanisms such as dispute review boards or adjudicators, which are designed to permit a speedier dispute settlement.

### **2.23 Bid Opening Procedures**

The time for the bid opening shall be the same as for the deadline for receipt of bids or promptly<sup>48</sup> thereafter, and shall be announced, together with the place for bid opening, in the invitation to bid. The Borrower shall open all bids received by the deadline for bid submission at the designated place stipulated in the bidding documents, irrespective of the number of bids received by such deadline. At the bid opening, the Borrower shall neither discuss the merits of any bid nor reject any bid. Bids shall be opened in public; bidders or their representatives shall

be allowed to be present (in person or online when electronic bidding is used). The name of the bidder and total amount of each bid, and of any alternative bids, if they have been requested or permitted, shall be read aloud (and posted online when electronic bidding is used) and recorded when opened, and a copy of this record shall be promptly sent to the Bank and to all bidders who submitted bids in time. Bids received after the time stipulated, as well as those not opened and read out at bid opening, shall not be considered.

#### **2.24 Bid Evaluation and Comparison of Bids**

The bid price read out at the bid opening shall be adjusted to correct any arithmetical errors. Also, for the purpose of evaluation, adjustments shall be made for any quantifiable non-material deviations or reservations. Price adjustment provisions applying to the period of implementation of the contract shall not be taken into account in the evaluation.

Bidding documents shall also specify the relevant factors in addition to price to be considered in bid evaluation and the manner in which they will be applied for the purpose of determining the lowest evaluated bid. For goods and equipment, other factors may be taken into consideration including, among others, payment schedule, delivery time, operating costs, efficiency and compatibility of the equipment, availability of service and spare parts, and related training, safety, and environmental benefits. The factors other than price to be used for determining the lowest evaluated bid shall be, to the extent practicable, expressed in monetary terms in the evaluation provisions in the bidding documents.

Under works and turnkey contracts, contractors are responsible for all duties, taxes, and other levies, and bidders shall take these factors into account in preparing their bids. The evaluation and comparison of bids shall be on this basis. Bid evaluation for works shall be strictly in monetary terms. Any procedure under which bids above or below a predetermined assessment of bid values are automatically disqualified is not acceptable. If time is a critical factor, the value of early completion to the Borrower may be taken into account according to criteria presented in the bidding documents, only if the conditions of contract provide for commensurate penalties for noncompliance.

#### **2.25 Domestic Preferences**

At the request of the Borrower, and as stipulated in the agreed Procurement Plan and set forth

in the bidding documents, a margin of preference may be provided in the evaluation of bids for works in member countries below a specified threshold of GNP per capita, when comparing bids from eligible domestic contractors with those from foreign firms.

### **2.26 Post qualification of Bidders**

If bidders have not been prequalified, the Borrower shall determine whether the bidder whose bid has been determined to offer the lowest evaluated cost has the capability and resources to effectively carry out the contract as offered in the bid. The criteria to be met shall be set out in the bidding documents, and if the bidder does not meet them, the bid shall be rejected. In such an event, the Borrower shall make a similar determination for the next-lowest evaluated bidder.

### **2.27 Award of Contract**

The Borrower shall award the contract, within the period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined (i) to be substantially responsive to the bidding documents and (ii) to offer the lowest evaluated cost. A bidder shall neither be required nor permitted, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.

# **CHAPTER 03-REVIEW OF PUBLIC PROCUREMENT RULES-2008**

## **3.1 Introduction**

The Public Procurement Act-2006, Act No 26 of 2006: an Act to provide for procedures to be followed for ensuring transparency and accountability in the procurement of goods, works or services using public funds and ensuring equitable treatment and free and fair competition among all persons wishing to participate in such procurement including the matters ancillary thereto. The Government may, by notification in the official Gazette make rules for charring out the purpose this Act.

In-exercise of powers conferred under section 70 of the Public Procurement Act, 2006 (Act 24 of 2006), The Government is pleased to make The Public Procurement Rules, 2008.

## **3.2 Definitions**

- (i) "Physical Services" means the following services with measurable outputs, either-
  - (a) linked to the supply of Goods or execution of Works such as operation and maintenance of facilities or plant, surveys, exploratory drilling, or
  - (b) stand-alone service type contracts such as security services, catering Services, geological Services or third party Services;
- (ii) "Services" means goods related Services, physical Services, or intellectual and professional Services.

## **3.3 Preparation of Tender or Proposal**

Preparation of Procurement Related Documents and their Contents |— (1) Documents needed for Pre-Qualifications, Tenders and Proposals shall be prepared by the Procuring Entity following the Standard Documents issued by the CPTU listed in Schedule-I .

- (2) The Documents for Goods and related Services, Works and Physical Services shall, depending on the context, among others include—
  - (a) instructions for the preparation and submission of an Application or a Tender;
  - (b) information concerning the deadline and location(s) for receipt of Applications; or
  - (c) information concerning the date, hour (local time) and location of the receipt and

public opening of the Tender(s);

(d) a Tender Submission Sheet and sample formats for Tender Security;

Performance Security and manufacturers' authorization, where applicable;

(e) the number of copies to be submitted with the original Application or Tender;

(f) Conditions of Contract, general and particular;

(g) detailed specification of requirements of goods and works;

(h) documentary evidence to be provided by the Tenderer to demonstrate its qualifications for purposes of post-qualification verifications to be conducted by the Tender Evaluation Committee;

(i) the period during which the Tender must remain valid;

(j) the qualifications and other criteria to be taken into account in the evaluation of Applications for Pre-Qualification or Tenders and the basis of its evaluation;

(k) a requirement that a Tenderer or an Applicant must, in the form specified in the Application or Tender Document, pledge not to engage in any corrupt, fraudulent, collusive or coercive practices as specified in Section 64 of the Act;

(l) a statement to the effect that the Procuring Entity may reject any or all Applications, Tenders or Quotations;

(m) a provision for holding a Pre-Tender meeting with potential Tenderers, where appropriate, in order to provide clarifications about the conditions of the Tender Documents;

(n) an indication in the Tender Data Sheet (TDS) or Application Data Sheet (ADS) as to whom a Tenderer or Applicant shall address any complaint under Rule 57;

(o) a provision to the effect that a Tenderer shall be permitted to modify, substitute or withdraw its Tender at any time prior to the deadline for the submission of Tenders.

(3) The Procuring Entity shall set out clearly the following information and conditions in the Tender or Proposal Documents

(a) the description of the Works and Physical Services to be carried out;

(b) the drawings and location of the Works;

- (c) the description of the Goods and related Services to be supplied;
- (d) the location of delivery or installation;
- (e) the schedule for delivery and completion;
- (f) the minimum performance requirements;
- (g) the warranty, defects liability and maintenance requirements;
- (h) the currency(ies) the tenderers shall quote in the tenders and the applicable and the applicable date of its exchange rate;
- (i) the amount(s) and currency(ies) of Tender security and performance security;
- (j) the terms and mode of payment of the Contract price;
- (k) the presence or absence of Advance Payment, in line with the government orders and agreements with development partners;
- (l) the minimum insurance coverage; and
- (m) any other relevant terms and conditions.

### **3.4 Provisions Relating to Determination of Tender Price**

Prices may be adjusted for contracts of more than eighteen (18) months following formula stated in the Tender Document.

Price adjustment provisions shall not usually be necessary in simple Contracts of within eighteen (18) months or in cases where it is normal commercial practice to procure certain types of equipment at firm prices, regardless of the delivery time, provided that if considered necessary by the Procuring Entity it may, with the approval of the HOPE, use the price adjustment formula for contracts of within eighteen (18) months.

### **3.5 Preparation of specifications**

Procedure for Preparation of Technical Specifications of Goods, Etc. |— (1) A Procuring Entity shall at the time of describing requirements in respect of a particular object of Procurement provide, inter alia, the following information, namely –

There shall be no reference, in technical specification of Goods, to a particular trade mark or trade name, patent, design or type, named country of origin, producer or service Supplier.

Procuring Entities shall, where possible, prepare the specifications in close cooperation with the concerned user or beneficiary of the Goods or Works or Services, and follow, among others, the Standards approved or published by -

- (a) the International Organization for Standardization (ISO);
- (b) the International Electro technical Commission (IEC); and
- (c) Standards determined by Bangladesh Standard and Testing Institute (BSTI) or any other national or international institute.

### **3.6 Joint Ventures**

The Procuring Entity may allow Persons to participate in Procurement proceedings individually or by forming JVCA for contracts involving the Procurement of Works, Physical Services and intellectual and professional Services: provided that only the Letter of Intents for formation of a JVCA shall not be enough to prove the existence of a JVCA .

### **3.7 Amendments of Mandatory Requirements of Specific Tenders**

(1) The Procuring Entities may expand or amend the mandatory requirements for any specific Tender, namely -

- (a) in a turnkey Contract, where a Contactor is responsible for design, construction, procurement and installation of equipment and commissioning, for additional information relating to qualification required for confirmation of a Tenderer's capacity to carry out all of these activities in an integrated fashion;
- (b) in the case of a Contract for operational Services, such as security or catering Services, for additional or different information in line with the necessity of the Procuring Entity.

(2) In the case of Procurement of Goods and Works on the basis of lots, minimum qualification requirements may be specified for each lot and for total number of lots.

### **3.8 Open Tendering Method in the Procurement of Goods, Works, Etc.**

(1) The open Tendering shall be the preferred method of Procurement for Goods and related Services, Works and Physical Services, unless the threshold or special circumstances relating to a specific requirement make it more appropriate for one of the other Procurement methods to be used.

(2) Tenders shall be invited from all eligible Tenderers through public advertisement under Rule 90.

(3) Government owned factories or enterprises may participate in the public Tenders if they establish that they are legally and financially autonomous.

(4) The minimum time allowed for Tenderers to prepare and submit their Tenders for Goods, Works and Physical Services shall not be less than as specified in Schedule II, provided that the Tender Documents are ready for sale and made available by the date of publication of the advertisement.

(5) In the case of an urgent national need of Procurement the Government may, if so recommended by the Cabinet Committee on Economic Affairs (CCEA), reduce the time for Procurement processing.

(6) In cases where Pre-Qualification of Applicants has been carried out pursuant to Rules 91, 92 and 93 the Procuring Entity shall restrict the issue of Tender Documents to Pre-Qualified Applicants only.

(7) In the case of Procurement of Goods and related Services and Works and physical Services under Open Tendering Method process and proceedings in flow-charts as given in Part B of Schedule III shall be followed.

### **3.9 Limited Tendering Method**

A Procuring Entity may undertake Procurement by means of Limited Tendering Method in the following circumstances, namely – when Goods and related Services and Works and physical Services by reason of their specialized nature such as aircraft, locomotives, specialized medical equipment, contraceptives, telecommunication equipments, silos, ports, harbors’ etc., are available only from a limited number of qualified potential Suppliers or Contractors.

### **3.10 Request for Quotation Method**

A Procuring Entity may undertake Procurement by means of the RFQ for readily available in the market standard off-the-shelf Goods and related Services, low value simple Works and physical Services, provided that the estimated value of such Procurement shall not exceed the threshold separately specified for revenue and development budget in Schedule II.

Quotations for low value simple Works or physical Services may be requested in the form of -

- (a) unit rate prices, provided quantities can be estimated with a reasonable degree of accuracy; or
- (b) “cost plus fee” arrangements, when quantities cannot be reasonably determined or estimated in advance; or
- (c) a lump sum, if the Procuring Entity has prepared an accurate cost estimate for the Works or physical Services.

### **3.11 Direct Procurement Method**

The Procuring Entity may use the Direct Procurement method for Procurement for Goods and related Services, Works and physical Services from one source without going through Tendering or other Procurement methods but shall under no circumstances be used to avoid competition or to favour a particular Person, Supplier or Contractor to discriminate among Persons, Suppliers or Contractors.2) The Head of a Procuring Entity shall strictly control the use of the Direct Procurement Method as it- does not provide the benefits of competition, lacks transparency and could encourage unacceptable and fraudulent practices.

### **3.12 Use of Direct Contracting**

Contracts for stand-alone Services such as catering Services, security Services, courier Services, and others of a similar nature, with the original Contractor may be renewed on annual or term basis, if the original contract was awarded on competitive basis, provided that the renewal will not be given more than twice.

### **3.13 Framework Contract**

Procuring Entities may enter into a framework Contract, under Section 36 of the Act, for the supply of a quantity of similar items at specified prices during a defined period, in order to avoid repeated Tendering for the same requirement as well as obtain better prices through economics of scale.

Framework Contracts may be concluded following Open or Limited Tendering with one or more Suppliers to provide a range of Goods and physical Services over a defined period of time not exceeding three (3) years.

Framework Contracts may be used to procure transportation Services by inviting Contractors to tender on item-by-item or lot-by-lot basis within a defined period of time not exceeding two (2) years and in such case the following procedures shall be followed -

- (i) the items shall be prepared based on defined transportation "routes" specified by location, region or districts as appropriate and the unit of the item could be "per metric ton" or "per metric ton per km";
- (ii) distances shall be based on the actual distances between the dispatching and receiving centres or on defined transportation routes.
- (iii) lots may include a number of small items on district basis from the point of origin to the local depot;
- (iv) a delivery or transportation schedule shall be provided indicating the peak periods with the highest expected quantities;
- (v) the Procuring Entity shall include in the qualifying criteria of the Tenderers the minimum number of trucks or transportation capacity calculated on the basis of the needs for the peak season and general transportation experience;
- (vi) to encourage competition on large items, Contractors shall be encouraged to form groups, Ad Hoc joint ventures or cooperatives of small number of Contractors or truck owners for the purpose of submitting Tenders;
- (vii) Tenderers may be asked to submit two envelopes including Technical and Financial Proposals;
- (viii) The, a detailed work programme including the Technical Proposals indicating how the transportation will be carried out and shall indicate the allocation of distances among small number of Contractors in the case of Tenders on groups, Ad Hoc joint ventures or cooperatives basis;
- (ix) only the Technical Proposals of Tenderers shall be evaluated and only the Financial Proposals of the responsive Technical Proposals shall be opened and considered;
- (x) the contracts shall be awarded to the Tenderers with the lowest price per item or lot as the case may be;

(xi) If necessary and in the case a Contractor is unable to transport the entire quantity in one item or for ensuring very urgent deliveries by avoiding bottlenecks, the Procuring Entity may sign contracts with more than one Contractor, selected in order of ranking, if they agree to the lowest price, following the provisions in Rule 99 (1) (b)(iii), subject to such a provision in the Tender Document; and

(aa) in the case of group, the Procuring Entity may enter into contract with legally formed group(s) or with each member of the group in accordance with the distances allocated in the Technical Proposal

(bb) the Procuring Entity shall use the Standard Tender Document for Physical Services for this kind of Procurement.

### **3.14 Submission of Tenders**

Tenders shall be received and opened in one location, but in exceptional cases, a Procuring Entity may allow 'multiple dropping' in which case the following guidelines shall apply:

(a) 'multiple dropping' will be used only for Procurements above the threshold value specified in Schedule III;

(b) the Secretary of the concerned Ministry or Division shall approve the use of this procedure for the concerned Procurement;

(c) the Invitation for Tender shall state a deadline for Tender submission at the primary and secondary place(s) and tenders received at the secondary place(s) shall be reached at the primary place within the time specified in Schedule II and shall be opened immediately after those Tenders received at the primary place following the Rule.

(d) the Procuring Entity shall ensure that each of its named secondary places is physically able to receive Tenders in accordance with the requirements of these Rules and it shall designate an officer at each nominated secondary place to receive Tenders;

(e) the Procuring Entity shall ensure the availability at all secondary places of a lockable and secure Tender box into which Tenders can be placed by Tenderers;

(f) an officer designated by Procuring Entity shall sign for all Tenders received from secondary places at the primary place and issue a receipt(s) to the personnel who have

delivered the Tenders from the secondary places;

(g) no information concerning Tenders shall be passed by personnel of one location to that of the another during the Tendering period;

(h) the Procuring Entity's primary place shall have overall responsibility for the Tenders received and it shall ensure that all secondary places to which Tenders may also be delivered are made aware of any extension to the period for the submission of Tenders or of the cancellation of any Tender process;

(i) the Procuring Entity shall ensure that the sealed Tenders at the secondary place(s) are hand-delivered before the date specified for opening of Tenders at the primary place and including its safety shall ensure opening of all Tenders at a time, immediately after the expiry of the deadline for submission of Tenders on the date, place as specified in the Tender Document; and

(j) copies of all receipts issued under 'multiple dropping' shall form part of the Procurement records as described in Rule 43.

### **3.15 Evaluation of Tenders**

(i) Tenders shall not be evaluated on any basis other than the criteria specified in the Tender Documents.

(ii) A TEC shall evaluate and compare Tenders that are responsive to the requirements of Tender Documents in order to identify the successful Tenderer.

(iii) A TEC may consider a Tender as responsive in the evaluation, only if it is submitted in compliance with the mandatory requirements set out in the Tender Document, without material deviation or reservation.

### **3.16 Post-Qualification**

(1) The TEC shall follow the Post-Qualification criteria specified in the Tender Document.

(2) The TEC should contact the references given by Tenderers about their previous working experience to verify, if necessary, statements made by them in their Tender and to obtain the most up-to-date information concerning the Tenderers.

(3) the TEC may visit the premises of the Tenderer as a part of the post-qualification process, if

practical and appropriate, to verify information contained in its Tender particularly when evaluating Tenders in respect of high value or complex Works projects.

### **3.17 Notification of Award**

Prior to the expiry of the Tender validity period and within one (1) week of receipt of the approval of the award by the Approving Authority, a Procuring Entity shall issue the Notification of Award (NOA) to the successful Tenderer.

### **3.18 Procurement of Intellectual and Professional Services**

The prime consideration in the selection of the successful Consultant in the Procurement of intellectual and professional Services shall be given to the quality of a Consultant's Technical Proposal.

The cost of the Services shall be considered judiciously because in the Procurement of intellectual and professional Services in general, if cost considerations predominate in the evaluation, the quality of the resulting Services often ends up being inferior which in turn places further cost burdens on the Procuring Entity due to rework being needed or less economical solutions being recommended.

### **3.19 List of Standard Document for Intellectual and Professional Service**

PS N (National) - Standard Request for Proposal Document for selection of Non- Consulting Services (SRFP) (any value).

## **CHAPTER 4: REVIEW OF BIDDING DOCUMENT**

After review the PPR-2008 and World Bank guidelines one relevant bidding document namely “Procurement of Non-Consultant Services & User’s Guide the World Bank December 2002, Revised April 2007” found for procurement of Non-Consultant Services.

### **4.1 Introduction**

Procurement under projects financed by the International Bank for Reconstruction and Development (IBRD) and its affiliate, the International Development Association (IDA), is carried out in accordance with policies and procedures laid down in the Guidelines: Procurement under IBRD Loans and IDA Credits (hereinafter called Procurement Guidelines). To help Borrowers to contract the performance of Non-Consultant Services (services that are not classified as Consultant Services) the Bank has designed these sample bidding documents to be used voluntarily on a trial basis. Non-Consultant Services will hereinafter be referred to simply as “Services”.

The Sample Bidding Documents in this publication have been prepared for use by Borrowers in the procurement of Services by International Competitive Bidding (ICB). These documents may also be adapted to National Competitive Bidding (NCB) with some changes generally necessary in the Instructions to Bidders and the Conditions of Contract.

These Sample Bidding Documents are intended as model lump sum types of Contract, which are the most common in Services contracting. Lump sum contracts are used in particular for Services which are well defined and are unlikely to change in quantity or specification, and where encountering difficult or unforeseen site conditions are unlikely.

### **4.2 Scope of Bid**

The Employer, as defined in the Bidding Data Sheet (BDS), invites bids for the Services, as described in the Appendix A to the Contract. The name and identification number of the Contract is provided in the BDS.

### **4.3 Qualification of the Bidder**

If the Employer has not undertaken prequalification of potential bidders, all bidders shall include the following information and documents with their bids in Section IV, unless otherwise

stated in the BDS:

- (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder;
- (b) total monetary value of Services performed for each of the last five years;
- (c) experience in Services of a similar nature and size for each of the last five years, and details of Services under way or contractually committed; and names and address of clients who may be contacted for further information on those contracts;
- (d) list of major items of equipment proposed to carry out the Contract;
- (e) qualifications and experience of key site management and technical personnel proposed for the Contract;
- (f) reports on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past five years;
- (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
- (h) authority to the Employer to seek references from the Bidder's bankers;
- (i) information regarding any litigation, current or during the last five years, in which the Bidder is involved, the parties concerned, and disputed amount; and
- (j) proposals for subcontracting components of the Services amounting to more than 10 percent of the Contract Price.

To qualify for award of the Contract, bidders shall meet the following minimum qualifying criteria:

- (a) annual volume of Services of at least the amount specified in the BDS;
- (b) experience as prime contractor in the provision of at least two service contracts of a nature and complexity equivalent to the Services over the last 5 years (to comply with this requirement, Services contracts cited should be at least 70 percent complete) as specified in the BDS;

(c) proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment listed in the BDS;

(d) a Contract Manager with five years' experience in Services of an equivalent nature and volume, including no less than three years as Manager; and

(e) liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than the amount specified in the BDS.

A consistent history of litigation or arbitration awards against the Applicant or any partner of a Joint Venture may result in disqualification.

#### **4.4 Content of Bidding Documents**

The set of bidding documents comprises the documents listed in the table below and addenda issued in accordance with ITB Clause 11:

Section I	Instructions to Bidders
Section II	Bidding Data Sheet
Section III	Bidding Forms
Section IV	Eligible Countries
Section V	Activity Schedule
Section VI	General Conditions of Contract
Section VII	Special Conditions of Contract
Section VIII	Performance Specifications and Drawings (if Applicable)

#### **4.5 Document Comprising the Bid**

The Bid submitted by the Bidder shall comprise the following:

- (a) The Form of Bid (in the format indicated in Section III);
- (b) Bid Security;
- (c) Priced Activity Schedule;
- (d) Qualification Information Form and Documents;
- (e) Alternative offers where invited;

and any other materials required to be completed and submitted by bidders, as **specified in the BDS**.

#### **4.6 Bid Opening**

The Employer will open the bids, including modifications made pursuant to ITB Clause 23, in the presence of the bidders' representatives who choose to attend at the time and in the place specified in the BDS.

#### **4.7 Examination of Bids and Determination of Responsiveness**

Prior to the detailed evaluation of bids, the Employer will determine whether each Bid (a) meets the eligibility criteria defined in ITB Clause 4; (b) has been properly signed; (c) is accompanied by the required securities; and (d) is substantially responsive to the requirements of the bidding documents.

A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the bidding documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the Services; (b) which limits in any substantial way, inconsistent with the bidding documents, the Employer's rights or the Bidder's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.

If a Bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

#### **4.8 Evaluation and Comparison of Bids**

The Employer will evaluate and compare only the bids determined to be substantially responsive in accordance with ITB Clause 27.

In evaluating the bids, the Employer will determine for each Bid the evaluated Bid price by adjusting the Bid price as follows:

- (a) making any correction for errors pursuant to ITB Clause 28;
- (b) excluding provisional sums and the provision, if any, for contingencies in the Activity Schedule, Section V, but including Day work, when requested in the Specifications (or Terms of Reference) Section VIII;

- (c) making an appropriate adjustment for any other acceptable variations, deviations, or alternative offers submitted in accordance with ITB Clause 18; and
- (d) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with ITB Sub-Clause 23.5.

The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors, which are in excess of the requirements of the bidding documents or otherwise result in unsolicited benefits for the Employer will not be taken into account in Bid evaluation.

The estimated effect of any price adjustment conditions under Sub-Clause 7.6 of the General Conditions of Contract, during the period of implementation of the Contract, will not be taken into account in Bid evaluation.

#### **4.9 Preference for Domestic Bidders**

Domestic bidders shall not be eligible for any margin of preference in Bid evaluation.

#### **4.10 Award Criteria**

Subject to ITB Clause 33, the Employer will award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the bidding documents and who has offered the lowest evaluated Bid price, provided that such Bidder has been determined to be (a) eligible in accordance with the provisions of ITB Clause 4, and (b) qualified in accordance with the provisions of ITB Clause 5.

If, pursuant to ITB Sub-Clause 13.2 this contract is being let on a “slice and package” basis, the lowest evaluated Bid Price will be determined when evaluating this contract in conjunction with other contracts to be awarded concurrently. Taking into account any discounts offered by the bidders for the award of more than one contract.

#### **4.11 General Conditions of Contract**

##### **4.11.1 Definitions**

(i) “Activity Schedule” is the priced and completed list of items of Services to be performed by the Service Provider forming part of his Bid.

(ii) “Dayworks” means varied work inputs subject to payment on a time basis for the Service Provider’s employees and equipment, in addition to payments for associated materials and administration.

(iii) “Personnel” means persons hired by the Service Provider or by any Subcontractor as employees and assigned to the performance of the Services or any part thereof.

(iv) “Services” means the work to be performed by the Service Provider pursuant to this Contract, as described in Appendix A; and in the Specifications and Schedule of Activities included in the Service Provider’s Bid.

#### 4.11.2 Obligation of the Service Provider

The Service Provider shall perform the Services in accordance with the Specifications and the Activity Schedule, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Service Provider shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Employer, and shall at all times support and safeguard the Employer’s legitimate interests in any dealings with Subcontractors or third parties.

#### 4.11.3 Description of Personnel

The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider’s Key Personnel are described in Appendix C. The Key Personnel and Subcontractors listed by title as well as by name in Appendix C are hereby approved by the Employer.

#### 4.11.4 Removal and/or Replacement of Personnel

(a) Except as the Employer may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualifications.

(b) If the Employer finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider shall, at the Employer’s written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Employer.

(c) The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

#### 4.11.5 Lump-Sum Remuneration

The Service Provider's remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all Subcontractors' costs, and all other costs incurred by the Service Provider in carrying out the Services described in Appendix A. Except as provided in Sub-Clause 5.2, the Contract Price may only be increased above the amounts stated in Sub-Clause 6.2 if the Parties have agreed to additional payments in accordance with Sub-Clauses 2.4 and 6.3.

### 4.12 Activity Schedule

#### 4.12.1 Objectives

The objectives of the Activity Schedule are

- (a) to provide sufficient information on the quantities of Services to be performed to enable bids to be prepared efficiently and accurately; and
- (b) when a Contract has been entered into, to provide a priced Activity Schedule for use in the periodic valuation of Services executed.

In order to attain these objectives, Services should be itemized in the Activity Schedule in sufficient detail to distinguish between the different classes of Services, or between Services of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Activity Schedule should be as simple and brief as possible.

#### 4.12.2 Daywork Schedule

A Daywork Schedule should be included only if the probability of unforeseen work, outside the items included in the Activity Schedule, is high. To facilitate checking by the Employer of the realism of rates quoted by the bidders, the Daywork Schedule should normally comprise the following:

- (a) A list of the various classes of Services, labor, materials, and Plant for which basic daywork rates or prices are to be inserted by the Bidder, together with a statement of the conditions under which the Service Provider will be paid for work executed on a daywork basis.

- (b) Nominal quantities for each item of Daywork, to be priced by each Bidder at Daywork rates as Bid. The rate to be entered by the Bidder against each basic Daywork item should include the Service Provider's profit, overheads, supervision, and other charges.

#### 4.12.3 Provisional Sums

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by other Service Providers (refer to Clause 8 of the Conditions of Contract) should be indicated in the relevant part of the Activity Schedule as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Employer to select such specialized Service Providers. To provide an element of competition among the bidders in respect of any facilities, amenities, attendance, etc., to be provided by the successful Bidder as prime Service Provider for the use and convenience of the specialist contractors, each related provisional sum should be followed by an item in the Activity Schedule inviting the Bidder to quote a sum for such amenities, facilities, attendance, etc.

These Notes for Preparing an Activity Schedule are intended only as information for the Employer or the person drafting the bidding documents. They should not be included in the final documents.

### 4.13 Form of Contract

#### LUMP-SUM REMUNERATION

This CONTRACT (hereinafter called the "Contract") is made the *[day]* day of the month of *[month]*, *[year]*, between, on the one hand, *[name of Employer]* (hereinafter called the "Employer") and, on the other hand, *[name of Service Provider]* (hereinafter called the "Service Provider").

*[Note: In the text below text in brackets is optional; all notes should be deleted in final text. If the Service Provider consist of more than one entity, the above should be partially amended to read as follows: "...(hereinafter called the "Employer") and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to the Employer for all the Service Provider's obligations under this Contract, namely, *[name of Service Provider]* and *[name of Service Provider]* (hereinafter called the "Service Provider").]*

WHEREAS

- (a) the Employer has requested the Service Provider to provide certain Services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the “Services”);
- (b) the Service Provider, having represented to the Employer that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract at a contract price of.....;
- (c) the Employer has received [*or has applied for*] a loan from the International Bank for Reconstruction and Development (hereinafter called the “Bank”) [*or a credit from the International Development Association (hereinafter called the “Association”)*] towards the cost of the Services and intends to apply a portion of the proceeds of this loan [*or credit*] to eligible payments under this Contract, it being understood (i) that payments by the Bank [*or Association*] will be made only at the request of the Employer and upon approval by the Bank [*or Association*], (ii) that such payments will be subject, in all respects, to the terms and conditions of the agreement providing for the loan [*or credit*], and (iii) that no party other than the Employer shall derive any rights from the agreement providing for the loan [*or credit*] or have any claim to the loan [*or credit*] proceeds;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents shall be deemed to form and be read and construed as part of this Agreement, and the priority of the documents shall be as follows:

- (a) the Letter of Acceptance;
- (b) the Service Provider’s Bid
- (c) the Special Conditions of Contract;
- (d) the General Conditions of Contract;
- (e) the Specifications;
- (f) the Priced Activity Schedule; and
- (g) The following Appendices: [*Note: If any of these Appendices are not used, the words “Not Used” should be inserted below next to the title of the Appendix and on the sheet attached hereto carrying the title of that Appendix.*]

Appendix A: Description of the Services

Appendix B: Schedule of Payments

Appendix C: Key Personnel and Subcontractors

Appendix D: Breakdown of Contract Price in Foreign Currency

Appendix E: Breakdown of Contract Price in Local Currency

Appendix F: Services and Facilities Provided by the Employer

Appendix G: Performance Incentive Compensation

2. The mutual rights and obligations of the Employer and the Service Provider shall be as set forth in the Contract, in particular:
  - (a) the Service Provider shall carry out the Services in accordance with the provisions of the Contract; and
  - (b) the Employer shall make payments to the Service Provider in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of *[name of Employer]*

*[Authorized Representative]*

For and on behalf of *[name of Service Provider]*

*[Authorized Representative]*

*[Note: If the Service Provider consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]*

For and on behalf of each of the Members of the Service Provider

*[name of member]*

*[Authorized Representative]*

*[name of member]*

*[Authorized Representative]*

#### **4.14 Appendices of Contract**

##### **Appendix A—Description of the Services**

Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by Employer, etc.

##### **Appendix B—Schedule of Payments and Reporting Requirements**

List all milestones for payments and list the format, frequency, and contents of reports or products to be delivered; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here “Not applicable.”

#### **Appendix C—Key Personnel and Subcontractors**

- List under:
- C-1 Titles [and names, if already available], detailed job descriptions and minimum qualifications of foreign Personnel to be assigned to work in the Government’s country, and staff-months for each.
  - C-2 Same as C-1 for Key foreign Personnel to be assigned to work outside the Government’s country.
  - C-3 List of approved Subcontractors (if already available); same information with respect to their Personnel as in C-1 or C-2.
  - C-4 Same information as C-1 for Key local Personnel.

#### **Appendix D—Breakdown of Contract Price in Foreign Currency(ies)**

List here the elements of cost used to arrive at the breakdown of the lump-sum price—foreign currency portion:

1. Rates for Equipment Usage or Rental or for Personnel (Key Personnel and other Personnel).
2. Reimbursable expenditures.

This appendix will exclusively be used for determining remuneration for additional Services.

#### **Appendix E—Breakdown of Contract Price in Local Currency**

List here the elements of cost used to arrive at the breakdown of the lump-sum price—local currency portion:

1. Rates for Equipment Usage or Rental or for Personnel (Key Personnel and other Personnel).
2. Reimbursable expenditures.

This appendix will exclusively be used for determining remuneration for additional Services.

#### **Appendix F—Services and Facilities Provided by the Employer**

#### **Appendix G—Performance Incentive Compensation Appendix**

#### **Performance Incentive Compensation Appendix Provisions**

### **ARTICLE 1- GENERAL**

#### **1.1 Documents Comprising the Performance Incentive Compensation Appendix**

**The Performance Incentive Compensation Appendix** consists of:

- (a) the Performance Incentive Compensation Appendix Provisions;

- (b) Attachment #1 Incentive Compensation Calculation Procedure Notes; and
- (c) Attachment #2 Incentive Compensation Charts 1-[ ].

**ARTICLE 2- THE PERFORMANCE INCENTIVE COMPENSATION**

**2.1 Performance Incentive Compensation Limits**

- (1) The Performance Incentive Compensation paid to the Service Provider shall not exceed the equivalent of \$[ ] U.S. over the term of the Contact.
- (2) The actual amount paid to the service Provider as Performance Incentive Compensation shall be determined by the extent to which the Service Provider achieves the performance criteria set out in the Incentive Compensation Charts and by the application of the calculations set out in the Incentive Calculation Procedure Notes for the applicable Contact Year.
- (3) If the Service Provider fails to meet the “Excellent” rating set out in the Incentive Compensation Chart, in any Contact Year, the Service Provider will be obliged to make up the shortfall in the subsequent Contact Year, as well as meet the performance targets for that Contract Year.
- (4) Except as the Employer may, in its sole discretion, otherwise determine based on exceptional circumstances, if the Service Provider fails to attain the Maximum Annual Incentive Compensation in any Contract Year, the shortfall will not be available to the Service Provider in the subsequent Contact Years and the equivalent of \$[ ] U.S. per Contract Year maximum will not be increased.
- (5) For the purpose of calculating the equivalency of \$[ ] U.S. and \$[ ] U.S. pursuant to Sections 2.1(1) and 2.1(2) of this Performance Incentive Compensation Appendix, the equivalency shall be calculated as of the date of payment of the Performance Incentive Compensation.

**ATTACHMENT # 1 – APPENDIX G**

**INCENTIVE COMPENSATION CALCULATION PROCEDURE NOTES**

*[SAMPLE: This part is to be designed on a case by case approach]*

**PART A - THE METHOD FOR CALCULATING PERFORMANCE INCENTIVE COMPENSATION IN EACH CONTRACT YEAR**

I. The Performance Incentive Compensation for each Contract Year shall be calculated as follows:

**Compensation = Composite Score × 0.2 × Maximum Annual Incentive Compensation**

Where:

- (i) The Maximum Annual Incentive Compensation is calculated as set out in Section 2.1 of the Performance Incentive Compensation Appendix Provisions; and
- (ii) The Composite Score is calculated in accordance with “Part B-The Method for Calculating the Composite Score” of these Incentive Compensation Calculation Procedure Notes.

## **PART B - THE METHOD FOR CALCULATING THE COMPOSITE SCORE**

1. The Composite Score for each Contract Year shall be as follows:

**Composite Score Total of All Weighted Scores for the Performance Criteria**

Where:

- (i) The Weighted Score for each Performance Criterion equals Criterion Weight x Criterion Value;
  - (ii) The Criterion Value is measured from “Excellent” to “Poor” with corresponding values of 5 (for “Excellent” performance) to 1 (for “Poor” performance) as set out in the Incentive Compensation Charts and evaluated based on the performance of the Service Provider;
  - (iii) The Criterion Value which the Operator receives for any Performance Criterion is based upon the technical standards set out in the Incentive Compensation Charts under the headings, “Excellent”, “Very Good”, “Good”, “Fair”, and “Poor” as compared against the Operator’s actual technical standards in each Contract Year; and
  - (iv) If the Service Provider’s actual performance in a Contract Year,
    - (a) exceeds the technical standards for an “Excellent” Criterion Value, then the Criterion Value shall be 5;
    - (b) is less than the technical standards for a “Poor” Criterion Value, then the Criterion Value shall be zero; or
    - (c) is in between the technical standards for two Criterion Values, then the Criterion Value shall be rounded down to the nearest whole number or 0.5 decimal point.
2. For the purpose of clarity, it is noted that there are only ten Criterion Values to be used as follows: 0, 1, 1.5, 2, 2.5, 3, 3.5, 4, 4.5 and 5.
3. Notwithstanding paragraphs 1 and 2 above, with respect to the Performance Criterion relating to institutional improvements in Attachment #2 The Incentive Compensation Charts 1-8,

- (a) if the Service Provider’s actual performance in a Contract Year is less than the technical standard for a “Fair” Criterion Value, then the Criterion Value shall be zero;
- (b) for the purpose of clarity, it is noted that there are only three Criterion Values to be used as follows: 0, 2 and 5; and
- (c) each of the documents or plans listed under the Performance Criterion shall be scored with the appropriate Criterion Value and a mean average score will be taken to calculate the Criterion Value for the Performance Criterion, which shall be rounded down to the nearest whole point or 0.5 decimal point.

4. For ease of reference, the following calculation represents the calculation of the Composite Score for a hypothetical Service Provider for four performance criteria in one Contact Year.

**Sample Incentive Compensation Chart**

Performance Criterion		Units	Criterion Values				
			Weight				
			Excellent	Very Good	Good	Fair	Poor
1.	e.g. <b>Electricity use</b> [% reduction in kW. hr consumed from Base Year]	0.30	65	55	50	40	30
2.	[ <b>Criterion 2</b> ] [ ]	0.25	20	19	17	16	15
3.	[ <b>Criterion 3</b> ] [ ]	0.15	30	25	20	15	10
4.	[ <b>C riterion ~</b> ] [ ]	0.30	90	85	80	75	70

The following table demonstrates the procedure for the calculation of the “**Composite Score**”, if at the end of the year the achievements of the Service Provider are as follows:

1.	[e.g. Electricity use]	57
2.	[Criterion 2]	22
3.	[Criterion 3]	29
4.	[Criterion 4]	69

**Performance Incentive Compensation Appendix -- Review Version I — March 20, 2007**

**Chart 1**

**Performance Incentive Obligations**

Year [1]

Services		Units	Weight	Criterion Values				
Apndx. Ref.	Performance Criterion			Excellent 5	Very Good 4	Good 3	Fair 2	Poor 1

	<b>[Development of Plans and Programs<sup>1</sup>]</b>	Quality and Timeliness	[0.45]	Completed on time with no need for revision to the substance of the document	N/A	N/A	Completed on time but requires revision to the substance of the document	N/A
	<b>[Energy Management]</b>	% reduction of kilowatt hours of electricity per unit produced from Base Year	[0.25]	4	3.5	3	2.5	2
	<b>[Computerized Billing and Collection System]</b>	number of days after the Starting Date until the computerized billing and collection system is in place	[0.30]	140	150	160	170	180

**[Note: The chart is a sample only.]**

(1) In respect of the Plans and Programs each plan or program listed in Section [•] shall be given a score of either 5 (Excellent), 2 (Fair) or (0) and the average score for all plans and programs shall be multiplied by the Criteria Weight. The average score shall be rounded to the nearest .5 decimal.

## CHAPTER 05- ANALYSIS AND FINDINGS

### 5.1 Analysis

The reviews are done to analyze the guidelines and rules for comparison. Basically the comparisons are made in the area of procurement of non-consulting services. The analysis encompass two dimensions e.g. guidelines/rules, bidding/tender documents.

### 5.2 Analysis of guidelines

In World Bank procurement guidelines edition of **May 2004**, Revised October 1, 2006 & May 1, 2010, it has mentioned that the purpose of these guidelines is to inform those carrying out a project that is financed in whole or in part by a loan from the International Bank for Reconstruction and Development (IBRD) or a credit or grant from the International Development Association (IDA), of the policies that govern the procurement of goods, works, and services (other than consultant services) required for the project. The provisions of these Guidelines also **apply to services** which are bid and contracted on the basis of performance of a measurable physical output, such as drilling, mapping, and similar operations.

In World Bank procurement guidelines edition of **January 2011**, Revised July 2014 it has mentioned that the purpose of these Guidelines is to inform those carrying out a project that is financed in whole or in part by a loan from the International Bank for Reconstruction and Development (IBRD), a credit or grant from the International Development Association (IDA), a project preparation advance (PPA), a grant from the Bank, or a trust fund administered by the Bank and executed by the recipient, of the policies that govern the procurement of goods, works, and non-consulting services required for the project. The provisions of these Guidelines also **apply to non-consulting services** for which the physical aspects of the activity predominate, are bid and contracted on the basis of performance of a measurable physical output, and for which performance standards can be clearly identified and consistently applied, such as drilling, aerial photography, satellite imagery, mapping, and similar operations.

According to the guidelines, non-consulting services will be procured in same method set forth for goods and works. The key features of the guidelines for non-consulting services

are (i) option of joint venture, (ii) provision of participation of foreign firms in National Competitive Bidding (NCB), (iii) use of Shopping, Framework Agreements and direct contracting method, (iv) Performance Based Procurement.

The bidding documents shall furnish all information necessary for a prospective bidder to prepare a bid for non-consulting services to be provided. Following are the major considerable features of bidding documents;

- (i) Bidders shall be required to quote unit prices or lump sum prices, and such prices shall include all duties, taxes, and other levies.
- (ii) Bidding documents shall state either that (a) bid prices will be fixed or (b) that price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract.
- (iii) Price adjustment provisions are usually not necessary in simple contracts involving delivery of goods or completion of works within 18 (eighteen) months, but shall be included in contracts which extend beyond 18 (eighteen) months.
- (iv) The bidding documents shall clearly indicate when bidders are allowed to submit alternative bids, how alternative bids should be submitted, how bid prices should be offered, and the basis on which alternative bids shall be evaluated.
- (v) Provisions for liquidated damages or similar provisions in an appropriate amount shall be included in the conditions of contract when delays in the delivery of non-consulting services to meet performance requirements would result in extra cost, or loss of revenue, or loss of other benefits to the Borrower.
- (vi) Provision may also be made for a bonus to be paid to suppliers for completion of delivery ahead of the times specified in the contract when such earlier completion or delivery would be of benefit to the Borrower.

### **5.3 Analysis of Public Procurement Rules-2008:**

In Public Procurement Rules-2008, it has defined that “Physical Services” means the services with measurable outputs, either- (a) linked to the supply of Goods or execution of Works such as operation and maintenance of facilities or plant, surveys, exploratory

drilling, or (b) stand-alone service type contracts such as security services, catering Services, geological Services or third party Services. It has also defined that "Services" means goods related Services, physical Services, or intellectual and professional Services.

There are no precise rules for Non-consulting services in PPR-2008. However there are some provision of procurement of related services with goods and physical services with works. Related services with goods are installation of machinery, air conditioner etc. Physical services are security services, catering services, courier services, and geological services etc.

There is a provision of a Standard Request for Proposal Document for selection of Non-Consulting Services (SRFP) (any value) under the list of Standard Document for Intellectual and Professional Service. However this document has not found in CPTU website.

According to PPR-2008, goods related services and works related physical Services will be procured under process and proceedings of Open Tendering Method. For procurement of transportation Services, Framework Contracts may be used by inviting Contractors to tender on item-by-item or lot-by-lot basis within a defined period of time not exceeding two (2) years.

There is a provision of contract renewed for stand-alone Services such as catering Services, security Services, courier Services, and others of a similar nature, with the original Contractor on annual or term basis, if the original contract was awarded on competitive basis, provided that the renewal will not be given more than twice.

#### **5.4 Analysis of Bidding Document:**

According to World Bank guidelines, borrowers shall use the appropriate Standard Bidding Documents (SBDs) issued by the Bank with minimum changes, acceptable to the Bank, as necessary to address project- specific conditions. When no relevant SBDs have been issued, the borrower shall use other internationally recognized standard conditions of contract and contract forms acceptable to the Bank.

There is no standard document for procurement of Non-Consulting Services. However one sample document has been found under World Bank Procurement Guidelines. Following

are the key features of the document:

**Activity Schedule:** The activity schedule will provide sufficient information on the quantities of Services to be performed to enable bids to be prepared efficiently and accurately. The activity schedule will also use for periodic valuation of Services executed.

**Provisional Sums:** The estimated cost of specialized work to be carried out, or of special goods to be supplied, by other Service Providers should be indicated in the relevant part of the Activity Schedule as a particular provisional sum with an appropriate brief description.

**Performance Incentive:** There is a Performance Incentive Compensation provision in Appendix of Contract which includes Compensation Calculation Procedure and Incentive Compensation Charts. The actual amount paid to the service Provider as Performance Incentive Compensation shall be determined by the extent to which the Service Provider achieves the performance criteria set out in the Incentive Compensation Charts and by the application of the calculations set out in the Incentive Calculation Procedure Notes for the applicable Contact Year.

The bidding document has last revised on April 2007. Some part of the bidding document is not aligning with lasted WB guidelines which has published on January 2011 and revised on July 2014. For example, in ITB clause 3.1(v) (bb) it has referred Para 1.14(e) of the Bank's Procurement guidelines however it is found in Para 1.16 (e) of the current Guidelines.

As per Activity Schedule; to meet the objective sufficient information will have to provide on the quantities of Services to be performed to enable bids to be prepared efficiently and accurately. However in some services, the services may be measured on reports base (output base) such as international standard implementation & certification (ISO).

The provisional sum will be carried out by other Service Providers. However, some part of provisional sum may carry out by existing Service Provider such as connectivity materials for Network Connection.

There is no indication of Performance Incentive Compensation in ITB clauses. This may includes in ITB clause with details criteria.

#### **5.4 Review Findings/Comparison of World Bank Guidelines and PPR-2008:**

The World Bank Guidelines and Public Procurement Rules-2008 have almost same feature except some insignificant differences for procurement of non-consulting services. In World Bank guidelines non-consulting services have been clarified and procurement process has been outlined. One sample bidding document has been published to facilitate the procurement process.

On the other hand PPR-2008 does not clarify the non-consulting services. However there is some provision of procurement of physical services, related services and stand-alone services. There is no bid document published from CPTU for this purpose.

The following provisions of World Bank guidelines for contracting of non-consulting services are exceptional from PPR-2008:

- (i) post bidding negotiations shall not be allowed with the lowest evaluated or any other bidder;
- (ii) bids should be submitted and opened in public in one (1) location immediately after the deadline for submission;
- (iii) rebidding shall not be carried out, except with the Association's (World Bank) prior agreement;
- (iv) lottery in award of contracts shall not be allowed;
- (v) bidders' qualification/experience requirement shall be mandatory;
- (vi) bids shall not be invited on the basis of percentage above or below the estimated cost and contract award shall be based on the lowest evaluated bid price of compliant bid from eligible and qualified bidder; and
- (vii) single stage two (2) envelope procurement system shall not be allowed.

#### **5.5 Analysis of Survey Questions and Result**

This section presents the findings and analysis of the survey data. A total of ten respondents were covered under the questionnaire survey. The data collected through the key informant interviews have been analyzed based on the questions asked in the interviews. An individual analysis has been made on each of the questions which would

help find a complete picture of the matter. Most of the analyses have been done qualitatively from the perception based interviews with the respondents. However, slight quantitative analyses have also been made based on the supplied data by the respondents. The questions set to the respondents are presented along with an analysis of the responses. The nature of procurement done by various organizations/projects, from which respondents have been selected, is basically the procurement of works and goods with small amount services.

#### **5.5.1 Procurement of Non-Consulting under guidelines/rules**

In order to know the view of the respondents about the similarities and differences of non-consulting service procedures among PPR-2008 and WB guidelines, most of the respondents opined that there is no guideline of Non-consulting services in PPR 2008. However there are some related services with goods procurement and physical services with works procurement. Related services with goods are installation of machinery, air conditioner etc. Physical services are security services, catering services, courier services, geological services, etc. Physical services can be procured with OTM from the contractor or supplier. There is no bid document issued from CPTU for this purpose. Procuring Entities has customized the goods document for procurement of such physical services. On the other hand the non-consulting services have been included in World Bank's procurement guidelines for goods or works. As per World Bank guidelines, non-consulting services are drilling, aerial photography, satellite imagery, mapping etc. There is a bid document from World Bank for this purpose which may be customized for NCB.

#### **5.5.2 Limitation of guidelines/rules**

The respondents also asked about the types of limitations among PPR-2008 and WB guidelines for procurement of non-consulting services, most of the respondents opined that lack of proper bid document and evaluation criteria for physical services is the main problem in PPR-2008. On the other hand, in World Bank bidding document, the main problem is preparation of activity schedule for the services to be procured. Bidder qualifications and bid evaluation criteria should be more specific in order to procure all sort of non-consulting services.

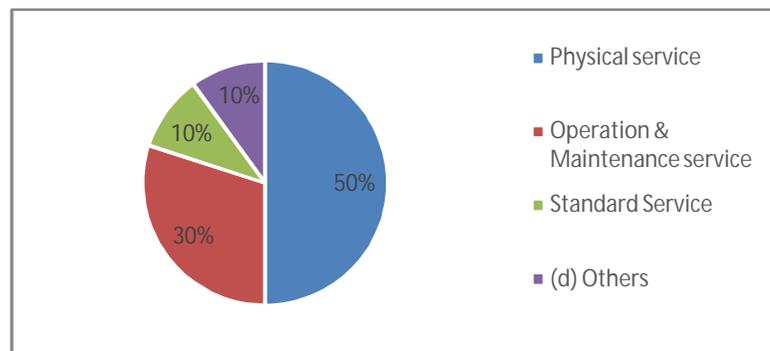
### 5.5.3 Information regarding procurement of non-consulting services

In response to question asked what are perspective for procurement of non-consulting services, the responds were 50% for physical services, 30% operation & maintenance services, 10% for standard services and 10% for others such as outsourcing of 3<sup>rd</sup> and 4<sup>th</sup> class employees. It is clear from the responses that physical paramount nature services are being procured in public sector. Figure-1 shows the responses made by the respondents in answering this question.

In reality, goods are physical products purchased or manufactured on request. There is usually an element of service involved, such as when the agreement is for the purchase of goods to be assembled and/or installed. However, the extent of the service provided is directly related to acceptance of the goods purchased.

On the other hand, physical aspects are predominating in non-consulting services. These type of services will have to bid and contracted on the basis of performance of a measurable physical output, and for which performance standards can be clearly identified and consistently applied, such as drilling, aerial photography, satellite imagery, mapping, and similar operations.

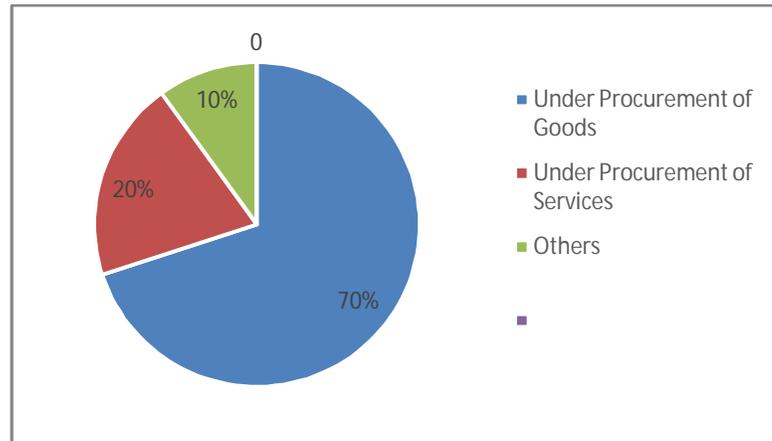
Figure-1: Perspectives for procurement of non-consulting services



In response to question asked what processes have uses for procurement of non-consulting services, the responds were 70% have used goods process, 20% have used services process and 10 % have used others method such as works process. Mix responses have been found from the respondents. Most of them have used procurement of goods process, however services and works process also used in procurement of non-consulting services. For lack of sufficient guidelines especially in PPR-2008, the non-consulting services are being procured under different category. There should be specific guidelines for procurement of non-consulting services. Figure-2 shows the responses made

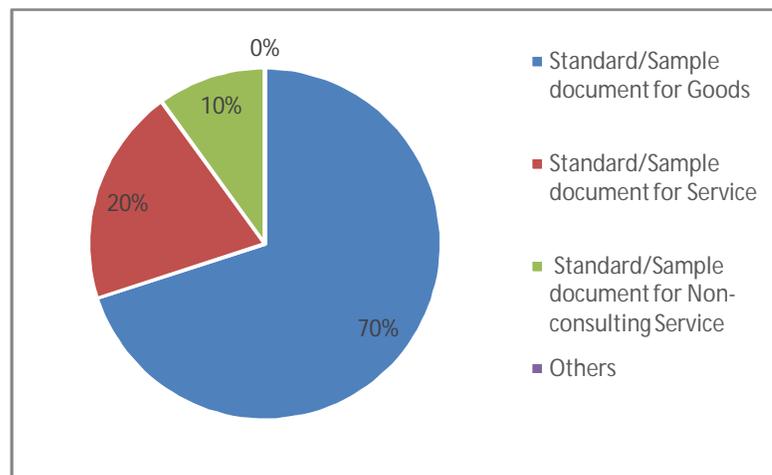
by the respondents in answering this question.

Figure-2: Process used for procurement of non-consulting services



In response to question asked what type of documents have used in bidding/tendering process for non-consulting services, the responds were 70% have used goods document, 20% have used services document and 10 % have used Non-consulting Service document. It is clear from the responses that separate documents are required for procurement of non-consulting services. Figure-3 shows the responses made by the respondents in answering this question.

Figure-3: Types of document used in bidding/tendering process for non-consulting services



## **CHAPTER 06- CONCLUSION AND RECOMMENDATION**

### **6.1 Conclusion**

This dissertation is about the comparison of the WB Guidelines and PPR –2008. This comparison does not cover the all guidelines or all the clauses of the guidelines. This only covers those parts of the guidelines which are related to non-consulting services. The two guidelines are almost same feature except some insignificant differences for procurement of non-consulting services almost uniform and same in nature. That means all the guidelines have provided almost the same instruction regarding the procurement procedure of non-consulting services. They made their guidelines uniform because one procuring entity may has to use the two guidelines in different procurement perspective so huge difference among the guidelines may confuse the procuring entity. However there are some differences in some specific points for example in World Bank guidelines non-consulting services have been clarified and procurement process has been outlined. One sample bidding document has been prepared to facilitate the procurement process. On the other hand PPR-2008 does not clarify the non-consulting services. However there is some provision of procurement of physical services, related services and stand-alone services. There is no bid document issued from CPTU for this purpose.

In response to the research questions, a critical analysis of the procurement currently in practice has been done and it suggests that there is limited scope of procurement of non-consulting services in the current Public Procurement Rules-2008 in Bangladesh.

It is mandatory for all the public sector procuring entities to follow the standard tender documents prepared by the CPTU, which yet not published for procurement of non-consulting services.

According to World Bank guidelines, Borrowers shall use the appropriate Standard Bidding Documents (SBDs) issued by the Bank with minimum changes, acceptable to the Bank, as necessary to address project- specific conditions. When no relevant SBDs have been issued, the Borrower shall use other internationally recognized standard conditions of contract and contract forms acceptable to the Bank. There is no standard document for procurement of Non-Consulting Services. However one sample document has been found under World Bank Procurement Guidelines which is inadequate.

## **6.2 Recommendation**

There are some limitations while performing this dissertation such as all the aspects are not taken into account. If all the aspects regarding the topic are taken in to account in future studies then the findings will be more specific and accurate. For example details evaluation for non-consulting is not taken in to account while comparisons are make among the two guidelines. So details evaluation comparison can also be done in future. Moreover the findings of this dissertation can be used for further topic related studies.

Although procurement of non-consulting is an important issue in public procurement, it has not become an important matter of concern in developing countries like Bangladesh. However, it is a matter of hope that this issue is gaining acceptance in our country which may be a potential driver for introducing tender document by CPTU in the public procurement.

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APPENDIX A - QUESTIONNAIRE

Title of Dissertation: Comparison of Procurement of Non-Consulting Services:  
Public Procurement Rules-2008 Vs World Bank Guidelines

[This is a survey questionnaire for conducting a research on Comparison of Procurement of Non-Consulting Services: Public Procurement Rules-2008 Vs World Bank Guidelines. It is a requirement for the fulfillment of the degree ‘Masters in Procurement and Supply Management’ at the BRAC Institute of Governance and Development (BIGD), BRAC University. Your honest response is valuable for the researcher. The researcher does assure that the information given by you will be kept confidential and will be used only for the academic purpose.]

1.0 General

1.1 Name: .....

1.2 Name of the Organization: .....

.....

1.3 Designation: .....

2.0 Information Regarding the Organization’s Procurement

2.1 Annual volume of procurement? (in approx. Lac Taka)

.....

2.2 Type of procurement (Goods, works, services or non-consulting service with %)

.....

.....

3.0 Information Regarding procurement of non-consulting services Rules/Guidelines

3.1 What are the similarities and differences of non-consulting service procedures among PPR and WB guidelines?

.....

.....

.....

.....

3.2 What types of limitations are present among them?

.....

.....

.....

4.0 Information Regarding procurement of non-consulting services

4.1 What are the perspectives for procurement of non-consulting services?

(Please response all questions based on experience)

(a) Physical service (such as survey, courier, event management, supply of food, etc.)

Yes  No

(b) Operation & Maintenance service (such as repair, after sale service, service level agreement, etc.)

Yes  No

(c) Standard Service (such as training implementation, international standard implementation & certification (ISO), hiring of resource person, etc.).

Yes  No

(d) Others  Yes  No

If Yes, Please specify

.....  
.....

4.2 What processes have used for procurement of non-consulting services?

(Please response all questions based on experience)

(a) Procurement of Goods  Yes  No

(b) Procurement of Service  Yes  No

(c) Others  Yes  No

If Yes, Please specify

.....  
.....

4.3 What types of document have used in bidding/tendering process for non-consulting services?

(Please response all questions based on experience)

(a) Standard/Sample document for Goods  Yes  No

(b) Standard/Sample document for Service  Yes  No

(c) Standard/Sample document for Non-consulting Service  Yes  No

(d) Others  Yes  No

If Yes, Please specify

.....  
.....