

**TOWARDS IMPROVING THE EFFECTIVENESS OF THE PUBLIC
PROCUREMENT RULES OF BANGLADESH: LESSONS FROM THE
UNITED NATIONS PROCUREMENT MANUAL**

A Dissertation Submitted in Partial Fulfillment of the Requirement for the Degree
of Masters in Procurement and Supply Management

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DECLARATION

I hereby declare that the content of this thesis has never been submitted for fulfilment of another academic degree or certification to other academic institutions or universities except this degree in Masters in Procurement and Supply Management (MPSM) at BRAC University, Bangladesh. I also confirm that this dissertation work is an illustration of my own research work. All research work and studies by other authors used in this paper have been distinctly recognized.

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CERTIFICATION

I am happy to acknowledge and recommend that this dissertation for submission to BRAC Institute of Governance and Development (BIGD), BRAC University in partial fulfilment of the requirements for the degree of Masters in Procurement and Supply Management (MPSM) is an individual achievement of the candidate's own efforts and it is not a joint work.

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ABSTRACT

Bangladesh is a country that has already been graduated as developing country. It needs robust and sustained economic growth in order to maintain that economic position. To this end, for bringing out discipline in the procurement management of Bangladesh, Public Procurement Regulation 2003 has been promulgated. Later on PPA- 2006 and subsequently PPR-2006 have been promulgated and Public Procurement Regulation has been repealed. The public procurement of Bangladesh has been regulated by PPA-2006, PPR-08, and standard tender documents/standard request for proposal. The provisions of these instruments are kept changing based on the reality. All the procuring entities in the public sectors come under the purview of those above mentioned act and rules. These act and rules are very comprehensive and cover almost every aspect of national and international procurement. On the other side, the UN has its own procurement manual based on which UN procure and acquire its goods, works and professional and intellectual services. The latest version of UN annual has been released on July 2016. As this is an famous procurement manual in the contemporary world. Bangladesh may take some clues and lesson from this manual. To this end, the current study is attempted. By using the methods of comparison, it is found that there are certain areas where the provisions of the UN manual differ from that of the PPR. And there are several areas where both of these instruments annotate the same thing. The new knowledge area like the disposal policy of the asset is not included in PPR, where as it is included in the UN procurement manual. It's a very common practice in the developed world to consider the total cost of ownership at the time acquisition of the asset which is not currently included in the PPR-2008. In the study, it is found that there are many instances having the same echo regarding the procurement management, while there are other field also having different view.

LIST OF ABBREVIATIONS

PPA	Public Procurement Act
PPR	Public Procurement Rules
SRFP	Standard Request for Quotation
DG	Director General
CPTU	Central Procurement Technical Unit
IMED	Implementation Monitoring and Evaluation Unit
STD	Standard Tender Document
PP	Procurement Plan
ADP	Annual Development Plan
PS	Performance Security
ITC	Instructions to Consultants
PDS	Proposal Data Sheet
GCC	General Conditions of Contract
PCC	Particular Conditions of Contract
ToR	Terms of Reference
TOC	Tender Opening Committee
POC	Proposal Opening Committee
TEC	Tender Evaluation Committee
PEC	Proposal Evaluation Committee
TS	Tender Security
NOA	Notification of Award
CA	Contract administration
PPW	Post Procurement Review
TD	Tender Document
QCBS	Quality and Cost Based Selection

SSS	Single Source Selection
DC	Design Contest
SIC	Single Individual Consultant
EOI	Expression of Interest
VRM	Vendor Registration and Management
VRC	Vendor Review Committee
TCO	Total Cost of Ownership
BAFO	Best And Final Offer
INCOTERMS	International Commercial Terms
TET	Technical Evaluation Team
RFQ	Request for Quotation
PMS	Procurement Management System
RFP	Request For proposal
DPM	Direct Procurement Method
OTM	Open Tendering Method
TSTM	Two Stage Tendering Method
LTM	Limited Tendering Method
SOO	Submission Opening Officer
PS	Procurement of Service
WLC	Whole Life Costing
LCC	Life Cycle Costing

Chapter 1. Introduction

1.1 Background of the Study

Bangladesh is a low middle income country having a robust annual GDP (Gross Domestic Product) growth rate of around 7.5%. It is very imperative to maintain this growth rate and to this end, effective and efficient use of limited resources is of paramount importance. About US\$ 14 billion has been invested through Annual Development Program (ADP) in Bangladesh and 65% to 75% of that ADP is invested for public procurement. This huge investment in the public procurement demands the streamlining of the Public procurement act, rules and related issues for ensuring better value for money. Public Procurement of Bangladesh is carried out in accordance with the Public Procurement Act, 2006 and Public Procurement Rules, 2008. To carry out the purpose of these act and rules, Central Procuring Technical Unit (CPTU) was established under Implementation, Monitoring and Evaluation Division (IMED) of the Ministry of Planning. As per the act and rules CPTU has the power to monitor compliance, to propose any amendment of act, rules and other tender documents. It also has the authority to issue guidance and instruction relating to the implementation of the act and rules and to prepare Standard Tender/Proposal Documents (STD/SPD) for the procurement of goods, works and services. Every Procurement entity use these standardized documents for public procurement. These documents are formulated based on the PPA-2206 & PPR-2008. The United Nations (UN) being one of the largest organizations in the world employ huge number of consultants every year. The UN follows its own procurement guidelines issued by the Department of Management, Office of the Central Support Services at Procurement Division in UN Headquarters at New York. UN procurement guidelines incorporates the pros and cons of selecting of consultants and acquiring goods and works.

1.2 Research Objective

The prime objective of this study is to make a critical review of the existing procurement rules of Bangladesh with a view to improving its effectiveness by eliciting lessons from the relevant UN instruments (notably UN Procurement Manual).

1.2.1 Specific objectives

The specific objectives of the study are as follows:

- i. To provide an overview of the existing status and history of public procurement regulations in BD.
- ii. To critically examine the strengths and weaknesses of the PPR-2008 as the key procurement regulation.

- iii. To review the provision of the UN Procurement Manual as the major procurement instrument for UN in order to identify relevant lessons and clues on improvement for Bangladesh.

1.3 Research Questions

- i. What is the current status of the Public Procurement Regulations of Bangladesh?
- ii. What are the strengths and weaknesses PPR-2008 of Bangladesh as a key public procurement document?
- iii. What are the relevant lessons from the UN Procurement Manual that can be drawn for improving the effectiveness of the Public Procurement regime in Bangladesh?

1.4 Scope and limitation of the study

Before 2003, there was no specific act to regulate Public Procurement of Bangladesh. In 2003, government of Bangladesh has promulgated an instrument titled “Public procurement Regulation-2003”. In 2006, “Public procurement Regulation-2003” had been repealed and a new act titled “Public procurement Act-2006” was enacted. Subsequently, to implement the Public Procurement act, the government of Bangladesh enacted “Public Procurement Rules-2008”. Therefore, PPA-2006 and PPR-2008 are the main instruments for Public Procurement in Bangladesh. As PPR-2008 is more elaborated and inclusive, for the sake of this study, PPR-2008 is taken in to consideration. This study will be confined to the latest amended PPR-2008. On the other hand, the UN as a leading international procuring entity, uses UN Procurement Manual as the major procurement instrument for UN. This instrument is updated based on the actual needs. For this study, version 7 which is published on 1st July 2013 is taken in to cognizance.

1.5 Methodology

This study employs the following tools and techniques:

1.5.1 Review of secondary literature

While preparing this paper, various sources of secondary literatures such as published journals, articles, research papers, working papers have been used. The predominant sources are Journal of Transport and Supply Chain Management, (Vol. 6 Issue: 1), Journal of Public Procurement, (Vol. 7 Issue: 1, pp.3-33), A United Nations Sustainable Development Journal, The European Journal of Social Science Research, (Development-based public procurement policies: a selective survey of literature, cross-country policy experience and the Turkish experience, Innovation).

1.5.2 Official document reviews

For conducting the study, different office orders, circulars, explanation and clarifications issued by the CPTU, resolutions of the meeting held at CPTU with the key public stakeholders including contractors, and consultants are explored. Moreover, the related file, letters, complaints in the review panel, basis of decision are also consulted and taken care of. These documents are not available in the public domain.

1.5.3 Personal observation

Since the author of this study has been posted at the Central procurement technical Unit (CPTU) which is the nodal agency and main regulatory body for public procurement, he had the opportunity to oversee how the current public procurement regime works in Bangladesh, what are the reaction of the main stakeholders about the main public procurement instrument, what are the strengths and weaknesses of these public procurement instruments. Being an official of CPTU, the author has his own practical experience, insight and observation which shaped the findings of the study.

1.6 Rationale of the Study

In the recent years, public expenditure of Bangladesh has been tremendously increased and the country has been experiencing a robust economic growth. It is estimated that about 80% of the total annual ADP has been utilized for procurement purpose. In order ensure value for money, the government has taken initiative to mainstream the procurement activities of the government agencies. To this end, a nodal body, titled “Central procurement Technical Unit (CPTU)” under the guidance and supervision of IMED of the Ministry of Planning has established. CPTU has been the given the mandate to implement rules, preparing tender documents, giving opinion regarding the applicability of the procurement rules. So far, CPTU has prepared 31 tender documents for the procurement of goods, works and related services. Documents related to intellectual and professional services are denoted as ‘PS’- that is procurement of services. In the procurement of services, the procuring entities are supposed to follow the required proposal document. In another side of the spectrum, UN has also devised various tender documents through which it procures. UN tender/ proposal document incorporates some unique features and characteristics, which are different those that of Bangladesh. Therefore, in order to find out the gaps, areas of differences, uniqueness, in between them, this current study is undertaken. This will help identifying the major differences, strengths, weakness, the areas of improvement in between the provisions of UN procurement Manual and those published by the CPTU.

1.7 A Review of the Key Literature

While reviewing the contemporary literature regarding the public procurement management it is found that there were some fundamental concepts and terminologies in the area of public procurement. For example, procurement are sub-divided in to three major headings, like,

procurement of goods, works and intellectual and professional services. Under public procurement system in Bangladesh, a tender or proposal is approved by the approving authority which is defined as the authority, which in accordance with the Delegation of Financial Powers, approves the award of contract. The procuring entity is the entity having administrative and financial powers to undertake the procurement. Head of the Procuring Entity (HOPE) means the Secretary of a Ministry or a Division, the Head of a Government Department, or Directorate, or the Chief Executive, Divisional Commissioner, Deputy Commissioner, District Judge, or by whatever designation called, of a local Government agency, an autonomous or semi-autonomous body or a corporation or a corporate body established under the Companies Act.

There are some empirical studies on the value creation through public procurement for developed, least developed countries and developing countries. As part of the public financial management tool, a smart and efficient public procurement system helps in reducing waste and curbing corruption (Jones 2007). A well-functioning public procurement system directs the public expenditure management in a disciplined way and it helps taking budgetary decision and identifying of the best economically feasible investment opportunity for the government (McCrudden 2004). However, another study (World Bank, 2017) revealed that there are many countries whose public procurement system is limited by the several negative factors and the need for streamlining the public procurement system is getting more attention. The study on the experience of South Africa reveals that insufficient procurement skills, rampant corruption, and lack of accountability are predominant in that country (Ambe & Badenhorst-Weiss, 2012). There are several other studies which shows that developing countries lack in transparent and efficient public procurement system. In the context of public procurement literature, public procurement system can be seen as the link between the requirements of the public- the state as a whole and the private sector service provider. Sometimes, public procurement is regarded as the oxygen of development. These theories and empirical results shows the importance of an efficient public procurement system. However, no study is found in Bangladesh to improve the effectiveness of introduction of PPR in compared to the lessons learned from the relevant UN procurement instrument. This paper tries to fill this gap.

1.8 Structure of the Dissertation

This dissertation consists of four chapters. The first chapter deals with the overview of the public procurement arena of Bangladesh and the background information regarding the study covering background of the study, research objectives in general, specific research objectives, research questions, scope and limitation of the study, different methodologies including review of secondary literature, different official documents, personal observation, rationale of the study, and literature review. The second chapter also accounts for an overview of the PPR of Bangladesh which includes the chapter wise summary of the PPR, a critique of the PPR (Strengths and weaknesses), The third chapter deals with the review of the UN Procurement Manual including the history and background, chapter wise summary of the provisions of the UN Procurement, analysis and findings, and relevant lessons for Bangladesh. Finally, the fourth chapter takes the cognizance of the issues like recommendations and conclusion.

Chapter 2. An Overview of PPR of Bangladesh

2.1 Introduction

In this chapter, history and background of the public procurement in Bangladesh, chapter wise summary of the main provisions of the PPR-2008, critique (strengths and weaknesses) of the PPR will be discussed.

2.2 History and background

Bangladesh had been carrying the legacy of the then British rules regarding the public procurement of Bangladesh. General Financial Rules (GFR) were the instruments based on which public expenditure is controlled and regulated. After the birth of Bangladesh in 1971, ministry of finance is given the mandate to issue necessary circulars to maintain financial discipline as far as public procurement is concerned. Government of the people's republic of Bangladesh in its gazette notification on the 24th January 2008 enacted the public procurement rules in exercise the powers conferred under section 70 of the PPA 2006(Act 24 of 2006). The latest amendment has been published the gazette on 24th November 2016. PPR consists of 130 sections, nine chapters, and fourteen schedules.

2.3 Chapter wise Main Provisions of PPR

2.3.1 Chapter one

PPR- 2008 shall apply to the procurement of goods are related services, works and physical services, and intellectual and professional services using public funds, fund of any government or semi-government, or any statutory body established by the law, or any loan, grant or credit given to any organization through government (unless and otherwise specified in the agreement). This chapter consists of three sections, namely:

Rule 1- Short title and commencement

Rule 2- Definitions

Rule 3- Scope and applications of the rules.

2.3.2 Chapter two

This chapter comprises the provisions related to preparation of tender/proposal and formations of different committees. There are four types of committee in the PPR-2008, namely, TOC or POC, TEC or PEC, Technical Sub- committee, and Official Cost Estimate Committee. TOC or POC is consists of three member, one of whom shall be chairperson. TEC or PEC shall comprise minimum

five or seven members out of whom two member will be from the other externa organization. For any evaluation report to be valid, signature of two external members is mandatory. A chronological list of this chapter is presented as below:

Rule 4: Preparation of procurement related documents and their content.

Rule 5: Tender price

Rule 6: Maintaining records

Rule 7: Tender/proposal opening committee (TOC/POC)

Rule 8: Evaluation committee (EC)

Rule 9 : Appointment of external members

Rule 10 : Chairmanship of the EC

Rule 11 : Approval

Rule 12 : Delegated procurement.

2.3.3 Chapter three

This chapter gives the indication of the major principles of public procurement. It is divided in to two parts, namely, general guidelines, and tender validities and security deposits which ranges from section number 13 to section number 60. For undertaking any public procurement, it is to be included in the procurement plan. This procurement plan can be updated quarterly basis. In general, a tender or proposal shall remain for the period ranging from 60 to 120dys. The provisions under chapter three are mentioned below:

Rule 13: Public accessibility of public procurement act.

Rule 14: Communications

Rule 15: Procurement planning (PP)

Rule 16: PP preparation.

Rule 17: Splitting

Rule 18: Competition in the public procurement.

Rule 19: Validities

Rule 20: Time limit of evaluation of tenders.

Rule 21: Extension of validity

Rule 22: Tender Securities (TS)

Rule 23: Extension of validity

Rule 24: Verification of TS

Rule 25 : Forfeiture of TS

Rule 26 : Return of TS

Rule 27 : Performance security(PS)

Rule 28: Retention money

Rule 29: Specification

Rule 30: Terms of reference(ToR)

Rule 31: Restrictions on disclosure

Rule 32: Safe custody

Rule 33: Rejections of tenders

Rule 34: Actions to be taken.

Rule 35: Informing reasons

Rule 36: Approval procedure

Rule 37: Publication of NOA.

Rule 38: Contract administration (CA)

Rule 39: Works-CA

Rule 40: Goods-CA

Rule 41: Service-CA

Rule 42: Termination

Rule 43: Maintaining records of procurement.

Rule 44: Availability of records

Rule 45: Procurement post review (PPW)

Rule 46: PPW by an independent auditor.

Rule 47: Non-discrimination

Rule 48: Qualifications of persons

- Rule 49: Documentary evidence
- Rule 50: Amendment of specific requirements
- Rule 51: Pre-qualification (PQ)
- Rule 52: List of qualified suppliers.
- Rule 53: Sub contractor
- Rule 54: Joint venture
- Rule 55: Conflict of interest
- Rule 56: Right to complain
- Rule 57: Submission of complain,
- Rule 58: Review panel
- Rule 59: Suspension of NOA
- Rule 60: Disposal.

2.3.4 Chapter four

This chapter incorporates the methods of procurement (National and International) related to goods and works and ranges from section number 61 to section number 89. As per PPR-2008, OTM is recognized as the preferred method for the procurement of goods and works. There are seven other methods which can be used with the approval of the HOPE if the prevailing circumstances allow. Direct Procurement method shall be applicable in the following cases:

- a. Direct contracting; or
- b. Additional deliveries and repeat orders; or
- c. Variation order; or
- d. Extra work order; or
- e. Direct cash purchase; or
- f. Force account.

As per latest amendment, additional deliveries of goods and repeat orders, variation and extra work orders for works and physical services shall be generally limited at maximum 15% of the original contract price. But with the approval of the HOPE, that limit can be extended up to 50%. The rules related to the methods of procurement are cited below as per order of the text:

- Rule 61 & 62: National -open tendering method (OTM)
- Rule 63 & 64: National-limited tendering method (LTM National)
- Rule 65-68: Two stage tendering method (TSTM)
- Rule 69-73: National-request for quotation (RFQ)
- Rule 74 -82: National-direct procurement method (DPM)
- Rule 83-88: International procurement
- Rule 89: Framework contract

2.3.5 Chapter five

This chapter takes in to cognizance of the processing of procurement which ranges from rule 90 to 102. The spirit of PPR-2009 is to ensure free and open competition. To this intent, it is expected to advertise the tender or EOI very widely, if applicable, internationally. All the tenders or proposals received duly are opened by the TOC or POC as per the provision of rule 97. Then those tenders or proposals are sent to TEC or PEC, formed under rule 8 to rule 12 for evaluation. The evaluation committee evaluate the tenders or proposals based on the pre-disclosed objective criteria. Generally, no lottery is allowed in case of procurement of goods or work except LTM. Therefore, negotiation is allowed only for DPM, and for the procurement of professional and intellectual services. Having following the recommendation of the PEC, the NOA is issued to the responsive successful tenderer.

- Rule 90: Advertisement
- Rule 91: PQ for goods and works.
- Rule 92: Opening of PQ.
- Rule 93: Evaluation of PQ applications.
- Rule 94: Issue of tender document (TD)
- Rule 95: Modifications of TD.
- Rule 96: Preparation and submission of tender.
- Rule 97: Opening
- Rule 98: Evaluation
- Rule 99: No negotiation
- Rule 100: Post qualification.

Rule 101: Approval process.

Rule 102: NOA and contract signing.

[N.B: Section 2.3.1 to section 2.3.6 are extracted from Public Procurement Rules-2008.]

2.3.6 Chapter six

This chapter includes the provisions relating to procurement of professional and intellectual services which also ranges from section 103 to section 126. Section 103 to section 112 speaks about the methods and procedures. As per PPR-2008, there eight specific methods for the procurement of intellectual and professional service. In that case, either time based or lump-sum contract is followed. Among the existing eight methods, there are only two preferred methods, namely, QCBS and FBS. As per rule 62 other methods can be used with the prior approval of the HOPE.

Rule 103: Methods

Rule 104: Other methods

Rule 105: Selection under QCBS method.

Rule 106: Fixed budget method

Rule 107: Least cost selection method

Rule 108: SBCQ method

Rule 109: CSOs method

Rule 110. SSS method

Rule 111: DC method

Rule 112: SIC method

Rule 113: EOI submission

Rule 114: EOI opening

Rule 115: Short listing

Rule 116: TOR

Rule 117: RFP

Rule 118: Submission and opening

Rule 119: TP Evaluation

- Rule 120 : FP evaluation
- Rule 121: Combined evaluation
- Rule 122: Provisions for negotiation
- Rule 123: Failure
- Rule 124: Approval
- Rule 125: Signing contract
- Rule 126: Completion
- Rule 127: professional misconduct
- Rule 128: Electronic procurement
- Rule 129: Concession contract
- Rule 130: Responsibility for monitoring

2.4 A Critique of PPR (Strengths and Weaknesses)

This chapter critically identifies the strengths and weaknesses of the PPR-2008 as the key procurement regulation. The strengths of the existing public procurement regulation are outlined below:

2.4.1 Formation of different committees

The existing public procurement regulations includes different types of committee for different purposes, for example, TEC/ PEC for evaluation, Technical sub-committee for evaluation, TOC/ POC for opening of tenders or proposals, Committee for preparation of Official Cost Estimate, Acceptance Committee, Committee for Enlistment. Terms and references of these committees are independent of each other. They ensure the accountability, transparency and neutrality in the processing of the tenders and proposals. For example, rule 8(12) states that each member of the TEC/POC has to sign individually and collectively a letter of impartiality during conducting evaluation of tender or proposal.

2. 4.2 Safeguard against corruption

The PPR of Bangladesh has a very strong stance against professional misconduct. The PPA-2006, PPR-2008 and the STD.s and SPDs ensure that the procuring entities and other persons who are related to the procuring process must abide by the provision of the act (Section 64 of PPA) and the

codes of practice mentioned in the second schedule of PPR-2008. The PPR-2008 states that any tenderer or consultant having the engagement towards corrupt, fraudulent, collusive and coercive practices may be debarred or excluded from further participation in the public procurement, and if any person/ staff/member/ of the procuring entity is engaged in corrupt, fraudulent, collusive and coercive practices, he/she shall be punished under the “Discipline and Appeal Rules-1985” or under “ Anti-Corruption Commission Act-2004”, or under “ The Prevention of Corruption Act-1947”. These above issues give the signal of good governance in the implementation of the existing public procurement regulations of Bangladesh.

2.4.3 Grievance redress system (GRS)

The PPR of Bangladesh ponders about a strong grievance redress system (GRS). Any aggrieved person/tenderer can lodge formal complaint with the Review panel as per rule 56 of the PPR. The aggrieved have to lodge prayer following the time frame indicated in the second schedule of the PPR-2008. There are three tiers in the GRS. Firstly, the complaint has to be lodged with the Project Director or Line Director or Project Manager or Procurement Officer or the person responsible for the procurement. If the aggrieved person is dissatisfied with the decision of the above-mentioned authority or the time limit allowed is expired, then the complaint can be lodged to the Head of the Procuring Entity (HOPE). In that case also, if the aggrieved person is dissatisfied with the decision of the HOPE or the time limit allowed is expired, then the complaint can be lodged to the Secretary to the concerned ministry. The Review Panel is consists of three members having strong expertise on the public procurement related act and rules. The decision of the Review Panel is made on the basis of majority and the decision is binding upon the parties concerned. This quasi-judicial body helps in minimizing the hassle of the law suit of the existing traditional court of law and playing a very positive role in resolving the legal debate related to the public procurement of Bangladesh and thus contributing towards the economic development of Bangladesh.

2.4.4 Non-discriminatory

The PPR of Bangladesh is non-discriminatory. The main objective of the PPR is to ensure free and fair competition in the field of public procurement for ensuring better value for money. Rule 47 of the PPR-2008 states that as for general rule, no discrimination is allowed until and unless it is prohibited by the government. At the same time, rule 95(5) if anyone is interested to buy tender document in the payment of required price, then the procuring entity, in no way, restrain him/ her from buying that tender document. This non-discriminatory nature of the PPR is a very positive aspect which encourages the open and equal participation of all the tenderer.

2.4.5 Provision of digitization

Section 65 of the PPA-2006 states that the government may implement Electronic Government Procurement (E-GP) system in the public procurement process. In order to implement this, rule 128 of the PPR-2008 also echo the same thing. As part of the initiative of the digital Bangladesh,

Bangladesh had been experiencing a tremendous improvement in the area of E-GP. An up to date picture of E-GP is presented below:

Table 2.1: Cumulative Performance of E-GP

Items	Activities/ Performance at June, 2018	Cumulative performance up to June, 2018
Number of tenders invited	5333	190131
Number of signed procurement agreement	7449	112534
Number of registered tenderers	462	46144
Numbers of users	797	77697
Number of Banks/ (Branch)	45 Banks	45 Banks (3769 Branches)

Source: *Monthly Statement of CPTU, June, 2018*

This digitized system has brought about a revolutionary change in the public procurement in Bangladesh. Due to this on-line tendering system, lead time for tender processing has decreased, reliability and accountability has been increased.

Moreover, the PPR of Bangladesh has some downside aspects which are mentioned below:

2.4.6 Too many documents

There are some 31 Standard Tender Documents (STD)/ Standard Proposal Document (SPD) in PPR-2008. All the STDs/ SPDs are published in the CPTU's website. There are some certain issues which could be avoided. The users are often confused with the applicability of the STDs/SPDs. Moreover, the standard documents are prepared in English language which may not be fully understandable on part of the participating tenderers.

2.4.7 Absence of the issues of total cost of ownership (TOC)

The present PPR of Bangladesh does not count the issues related to the Whole Life Costing (WLC), TCO, and Life Cycle Costing (LCC) which are very important in determining the actual cost of the product or service. Under the current provisions, there is no scope to consider the scrape value or salvage value of the asset that may accrue at the end of the expected life of the asset. Therefore, the contract price that is derived with this process may reflect the best value for money.

2.4.8 Performance evaluation of the vendors

Under the provisions of the PPR, there are no room for the determining the rating of the vendor's performance. What is done is that, under limited tendering method, a list of enlisted tenderers/ vendors are maintained with the PEs. This list is updated and renewed, but no rating is applied which can be used for further procurement.

2.4.9 Limiting the scope of specification

The wider spectrum of specification as mentioned in the rule 29 (PPR-2008) is not considered in the current PPR of Bangladesh. Specification is viewed on the view point of conformance and performance only. There are other facets of specification such as specification by sample, specification by grades, specification by standards or specification by the chemical properties are ignored. As specification is the heart of the contract, if these categories of specification are incorporated in to the PPR, it could be more representative.

2.4.10 Too many methods

There are fourteen procurement methods, six of whom for the procurement of goods/ works, and eight for the procurement of professional and intellectual services in the PPR which can be applied for procurement purposes. The methods are a little bit confusing too. The scope of one method is overlapped with other method.

Chapter 3. A Review of the UN procurement Manual

3.1 Introduction

In this chapter, history and background of the UN procurement manual, chapter wise summary of the main provisions of the UN procurement Manual, analysis and major findings, and relevant lessons for Bangladesh will be discussed.

3.2 History and background

Procurement functions of the United Nations are guided by the Financial Regulations and Rules which, for the first time, promulgated by the office of the Secretary General of the UN in 2003. Since then, the UN updated its procurement guidelines on interval basis. Latest version (Version 7) UN Procurement Manual has been published on 1st July, 2013 by the Department of Management, Office of Central Support Services, procurement Division on, United Nations.

3.3 The Chapter wise Summary of the Main Provisions of the UN Procurement Manual

It contains 16 chapters with index of annexes and index of internal web sites. A short chapter-wise description is given below:

Chapter 1: Introduction

Chapter 2: Responsibilities and functions

Chapter 3: Delegation of Procurement Authority

Chapter 4: Ethical Standard

Chapter 5: Global Compact

Chapter 6: Procurement process overview

Chapter 7: Vendor Management

Chapter 8: The acquisition

Chapter 9: The solicitation

Chapter 10: Management and treatment of vendors

Chapter 11: Source Selection Process

Chapter 12: Review by HCC and LCC

Chapter 13: Instruments

Chapter 14: Delivery and Receiving

Chapter 15: Contract Management and Administration

Chapter 16: Disposal of Property

3.3.1 Chapter 1: Introduction and purpose

Chapter 1 comprises Purpose and overview of UN Procurement manual, principles of value for money (optimization of whole life costs and quality), UN financial rules and regulations, authority and responsibility, degree and extent of competition, ways of solicitation, form of contract(oral or written), progress and advanced payment. This chapter also incorporates the exceptions regarding the formal methods of solicitation and the ways the Under-Secretary General for Management cooperate for the achievement of the requirements of the UN.

3.3.2 Chapter 2: Responsibilities and functions

Chapter 2 discuss the functions of the procurement divisions of the UN. It also gives the indication relating to the functions of local procurement structure. Efficient support services to be ensured by the UN/PD. A director is in charge of UN/PD. This director is responsible for the operation and maintenance of UN/PD. Procurement Services Division (PSD) is categorized as Field Procurement Service (FSS) and Headquarters Procurement and Support Service (HPSS).

3.3.3 Chapter 3: Delegation of Procurement Authority

This chapter focuses on the officials who are empowered to authorise, authority and responsibility of procurement, authority at HQ, Procurement authority at OAH & Field Missions, individual procurement authority modification, exceptional delegation of authority, delegation regarding insurance and related services.`

3.3.4 Chapter 3.1: Authorization

As per the provision of financial rule 105.13, the Under- Secretary for Management is responsible for the procurement functions of the UN. He/she has the legitimate power to authorize other persons to perform procurement functions on behalf of the UN. Each and every purchase of UN must be supported by the Manual. No procurement is to be undertaken if it is not mentioned in the manual except some limitations at the HQ. On the other hand, field level procurement is to be supported by DFS. As per UN procurement manual, delegation for any sort of procurement is issued by the Procurement Division of the UN.

3.3.5 Chapter 3.2: Authority and responsibility

Procurement authority is granted in writing by the DOA/CAO. One practice in the UN is that any sort of commitment given by the staff it is taken for granted that the commitment been given on behalf of the UN. Before making any commitment, the official, giving commitment needs to consider some issues, amongst which some may be: the procurement is in compliance with FRR, SGBs AIS, the procurement manual and other rules and policies, the availability of the resources, and approval of the commitment.

3.3.6 Chapter 3.3: HQ/OAH/field missions delegations

3At the UN HQ level, individual who is responsible for the procurement functions, is delegated authority in this purpose. Basically, an officer designated as Director is held responsible for the procurement. The concerned director may sub delegate to other staffs mentioning the ceiling. As per financial rule 105.16 the sub delegation may be in the category as D1, P5, P4, P3, P2, P1, G7, G6 and G5. There are some unique provisions regarding delegation to face emergency situation in the UN Procurement Manual. Emergency situation may defined as the situation when the UN faces a disaster or the lives of the UN personnel are endangered. In that situation the exceptional procurement authority is granted to the Director for the period of two years initially. If needed this period may be extended. Delegation for procurement for the Offices Away from Headquarters (OAH) must be based on the same principle as in the UNHQ.

3.3.7 Chapter 3.7: Delegation related to insurance and other related services

Assistant General of the UN grant separate delegation order for procurement for program planning, budget and accounts for the purpose of meeting expenditure relating to commercial and life insurance and other administrative services connected with staff health insurance program.

3.3.8 Chapter 4: Ethical standards in procurement

As per UN procurement Manual, ethical standards in procurement include the following:

- I. Ethical standards and responsibilities in procurement;
- II. Oath taking
- III. Staff regulations
- IV. Financial rules
- V. Conflict of interest
- VI. Confidentiality

- VII. Financial Disclosure
- VIII. Gifts
- IX. Hospitality
- X. Post employment restriction
- XI. Corrupt practices
- XII. Other related administrative orders.

3.3.9 Chapter 5: The global compact

Under the provision of the UN procurement Manual, it is expected that all the procurement staffs are very familiar with the fact that UN fosters the participation of both public and private sector vendor to engage in to the Global Compact- a voluntary international corporate network which support to face the potentials challenges of globalization. Global Compact s based on the ten basic principles.

3.3.10 Chapter 6: Overview of the procurement process

This chapter depicts a vivid picture as to the overall procurement process of the UN. The potential vendors are to be registered with the UN system to participate in to the bidding process. Diversity of the vendors and the state or status of the economy of the participating vendor are taken in to due consideration. After being scrutinized through a rigorous process, the successful bidders turn in to a contractor and come under contractual obligation in the light of the existing rule and regulation of the UN.

3.3.11 Chapter 7: Vendor registration & management (VRM)

For being registered with the UN for the purpose participation in to the bidding process, the vendors are to submit the application form through the United Nations Global Marketplace (UNGM). The UN keeps a centralized electronic register of vendors. This vendor list is made available on the UNGM and UN website. Using the pre-disclosed criteria, UN evaluate the vendors' applications whether they confirm with the UN requirements. Under the UN systems, there are Vendor Registration Officer (VRO) who are responsible for administration of vendor registration process, evaluation of vendor registration application, giving guidance the Vendor Review Committee (VRC).

3.3.12 Chapter 8: The acquisition process

This chapter takes in to account the overview of the acquisition process and methodologies undertaken under the UN procurement manual. It includes short term, long term planning, and annual planning. Short term planning focuses on the current budget period. Under this planning, the requisitioner tends to avoid last minute order in order to maintain budgetary discipline. Long term planning covers the time horizon beyond the short term planning, and focuses the fact that organizations utilize funds in a professional way to achieve value for money. For implementing annual plans, UN procurement offices shall communicate their requirement for incoming budget year. For the purpose of acquisition, the UN Offices define the needs and prepare specification. The specification is prepared in such a way so that it guarantees the widespread competition and this is how, ensures value for money. The main essence of the specification is that it does not refer to any particular product or brand name. If particular product is the only choice, in that case the words “Equivalent” must be mentioned in the specification. The specification is expected to be clear and free of any ambiguity.

3.3.13 Chapter 9: The solicitation

This chapter includes modalities of preparing for solicitation and vendor selection, methods of selection, and terms and conditions. For solicitation and vendor selection, solicitation documents are prepared and issued. During doing this, UN procurement officer should factor a number of issues in the source selection plan. The procurement officers also evaluate the requisition received from the requisitioner based on the following:

- I. Value for money
- II. Fairness and transparency
- III. Effective international competition
- IV. The interest of the UN

As per UN procurement Manual, all the vendors are not invited, rather limited to when the list of registered vendors are very long, sole sourcing is used, limitation is justified, and for low value procurement. The final approved vendor list should reflect the just and equitable geographical distribution. Methods of solicitation includes the types and methods of solicitation, sole sourcing, security consideration, deletion of vendors from the list of vendors to be invited, vendors recommended by requisitioner or consultant, certification of fair establishment of list of vendors, low value procurement, preparation and modification of standard solicitation document, UN general documents, exception to the use of UN formal methods of solicitation, Special guidance on exigency situations, amendment of solicitation document, consultation with the office of legal; affairs, solicitation documents, and language of solicitation documents.

3.3.14 Chapter 9 (Part-3): Terms and conditions of solicitations consider the following aspects

- I. Similar items
- II. Total cost of ownership (TCO)
- III. Quantities
- IV. Closing and opening dates
- V. Periods of validity of bids and proposals
- VI. Delivery time and place
- VII. Inspection and acceptance clause
- VIII. Method of submission
- IX. Security instruction
- X. Liquidated damage
- XI. Payment on deliverables
- XII. Quality assurance
- XIII. Evaluation criteria
- XIV. Subsidiaries/ Joint ventures
- XV. Subcontractors
- XVI. Rejection of submissions
- XVII. Samples and demonstration
- XVIII. Deviation from procedures
- XIX. Bid summary sheet
- XX. Issuance of solicitation documents
- XXI. Contact with vendor
- XXII. Meeting with the vendor
- XXIII. Clarification request.
- XXIV. Use of INCOTERMS.

3.3.15 Chapter 10: Management and treatment of vendors

This chapter deals with the following issues:

- I. Receipt of submissions
- II. Facsimile submissions
- III. Submission via electronic method
- IV. Protecting submission
- V. Unsolicited submission
- VI. RFQs submission
- VII. Submission withdrawal
- VIII. Modification of submission
- IX. Modifications followed by errors & omissions
- X. Errors in affixing signature
- XI. Errors originated due to clerical mistake
- XII. Late submission & extension of deadline
- XIII. Public submission
- XIV. Opening attendance
- XV. Opening of submissions
- XVI. Availability of information.

3.3.16 Chapter 10.1: Receipt of submissions

As per UN procurement manual, all submissions may be sent by mail, courier, or hand to hand delivery. This submission must be acknowledged by the Procurement Management System (PMS). UN holidays are not counted for this purpose. It is the responsibility of the Tender Opening Committee (TOC) to confirm that all submissions are received before the closing time and date.

3.3.17 Chapter 10.2: Facsimile submissions

Facsimile submission is to be placed in a sealed envelope or in the similar manner. It should indicate the time and date of the receipt, the name of the vendor, the bid number/ the proposal number, opening date and time, the name of the procurement officer who issued the solicitation.

3.3.18 Chapter 10.3: Submission via electronic method

When solicitation document allow, in that case submissions can be made electronically. In the case of electronic submission, the officer in charge of the procurement should give due attention as to the authentication and data security.

3.3.19 Chapter 10.4: Protecting submission

Submitted documents are to kept and preserved in a secured area until they are opened by the designated opening committee at a specified date and time. The personnel in charge should maintain confidentiality in this regard.

3.3.20 Chapter 10.5: Unsolicited submission

Submissions which are not invited by the UN are to be rejected straight. In that case , the submission shall remain unopened and forwarded to the concerned procurement officer.

3.3.21 Chapter 10.6: RFQs submission

The RFQs which are received prior to submission deadline should be recorded in to the contact file of the UN. Public opening of the RFQs in not required.

3.3.22 Chapter 10.7: Submission withdrawal

Any submission can be withdrawn prior to the date and time of submission closing. But request for withdrawal of submission after the submission date and time expires, such request shall not be honoured.

3.3.23 Chapter 10.8: Modification of submission

Any modification to the submission can be accepted if it is sought before the submission closing date and time. This request shall be submitted in writing and in a sealed envelope. No modification is allowed after the submission closing date and time.

3.3.24 Chapter 10.9: Modifications followed by errors and omissions

In case of errors in totalling the cost of a group of items, or the entire total cost of a submission have been made, the unit prices quoted shall prevail.

3.3.25 Chapter 10.10: Errors in affixing signature

All submissions shall be signed by the authorized representative of the vendor. Any unsigned submission shall be rejected.

3.3.26 Chapter 10.11: Errors originated due to clerical mistake

Any mistake that is simple and clerical in nature, in that case procurement officer shall recommend to the Director, UN/PD for correction.

3.3.27 Chapter 10.12: Submission and extension of deadline

Any late submission shall be rejected upright until and otherwise if the delay is caused due the failure of the UN. The director shall forward the rejected the submission unopened to the procurement officer concerned.

3.3.28 Chapter 10.13: Public submission

The director, at the HQ level, appoints submission opening officers (SOO). The SOOs shall receive the submissions recording the date and time of receipt, the date and time of opening.

3.3.29 Chapter 10.14: Opening attendance

An employee or an agent or a representative of the vendor may present during submission opening. In that case attendance is to be kept.

3.3.30 Chapter 10.15: Availability of information

After opening of the submission, ITBs & RFPs shall be made available t those vendors who submitted bids or proposal.

3.3.31 Chapter 11: The Source selection process

This chapter is divided in to two parts, namely part-1 and part- 2. Part- 1 consists of sections 11.1 to 11.19 and part-2 consists of sections 11.20 to 11.44.

Part- 1 discuss about the following aspects:

- I. Source selection
- II. Vendor determination
- III. Submission rejections
- IV. Source selection plan
- V. Evaluation committee
- VI. Technical evaluation team
- VII. Responsibility of the commercial evaluation team
- VIII. Evaluation criteria
- IX. Classification of evaluation criteria
- X. Evaluation criteria categorization
- XI. Weighting and rating system
- XII. Source selection process
- XIII. Source selection process procedures
- XIV. Adherence to solicitation documents
- XV. Use of solicitation abstract sheet for evaluation
- XVI. Scope for seeking clarification.
- XVII. Commercial proposal opening
- XVIII. Opening of commercial submission of technically non- compliant.

3.3.32 Chapter 11.1: Source selection

The main aim of the source selection is to find out the potential vendors for awarding the contracts/ proposals. This process is undertaken in paying due attentions to the UN general principles, such as to ensure value for money, maintaining transparency, ensuring free competition and keeping the interest of the UN.

3.3.33 Chapter 11.2: Vendor determination

As per the provisions of the UN Procurement Manual, for any vendor to be qualified for awarding the contracts, he/ she must have required financial resources, must comply the delivery schedule, well past and current performance record, high degree of integrity and business ethics and some other requirements as per the terms and conditions of the contract.

3.3.34 Chapter 11.3: Submission rejections

If the Submission Opening Committee finds any material deviation as far as it is concerned with the Specification of ToR, then those vendors are to be informed in writing. When the UN thinks that that particular vendor will not be able to perform the contract under the UN, the submissions may be rejected.

3.3.35 Chapter 11.4: Source selection plan

Based on the nature and complexity of the procurement, Source Selection Plan is made which, among others, contains the information like: description of the requirement, method of solicitation, sourcing methods, evaluation criteria and other necessary terms and conditions.

3.3.36 Chapter 11.5: Evaluation committee

The Evaluation Committee is formed based on the ceiling. The main responsibility of this committee is to identify the ability of the potential vendors performing the contract under the UN.

3.3.37 Chapter 11.6: Technical evaluation team (TET)

Based on the source selection plan, pre-disclosed evaluation criteria, and relative weight, the TET conduct technical evaluation and makes a written technical evaluation report.

3.3.38 Chapter 11.7: Responsibility of the commercial evaluation team (RCET)

Under the current provisions, for large and complex financial evaluation, commercial evaluation team will conduct the evaluation.

3.3.39 Chapter 11.8 Evaluation criteria

The evaluation criteria must be discrete, measurable, exhaustive, and verifiable in terms of comparison. While setting up the evaluation criteria, the following factors should be taken in to consideration:

- I. Evaluation method
- II. Subject matter being evaluated
- III. Relative significance of the factor in relation to the performance risk.

3.3.40 Chapter 11.9 Classification of evaluation criteria

In the UN procurement manual, evaluation criteria are as follows:

- I. Commercial criteria
- II. Face value of the goods, works and services
- III. Whole life costing or total cost of ownership or life cycle costing
- IV. Financial capability
- V. Non- financial cost
- VI. Technical criteria
- VII. Management criteria
- VIII. Management experience
- IX. Quality commitment
- X. Qualification and experience of the personnel
- XI. Facilities
- XII. Financial management

3.3.41 Chapter 11.10: Evaluation criteria categorization

Evaluation criteria must be formed based on the following issues like variable, pass/ fail, or minimum requirements. These criteria should be like that does not discriminate the vendors from the developed and developing economies.

3.3.42 Chapter 11.11: Weighting and rating system

Fixing weight between the commercial criteria and technical criteria depends on the various factors like the level of detail in the scoring matrix. In general, it may be 40% to 60% or 30% to 70%.

3.3.43 Chapter 11.12: Source selection process

The source selection committee shall request the Technical Evaluation Team to evaluate the technical compliance based on specification, TOT or SOW.

3.3.44 Chapter 11.13: Adherence to solicitation documents

Each and solicitation document must comply the technical specification. If any minor deviation is found which may have the minor affect on the quality, in that case that submission can be acceptable.

3.3.45 Chapter 11.14: Use of solicitation abstract Sheet for evaluation

For evaluation of quotation, the procurement officer shall prepare the list of all quationers and select the lowest acceptable quotation. For evaluation of Bids, the procurement officer shall prepare solicitation abstract sheet to record the bids received and gives the indication for the lowest bid for each and every item. All the priced items are recorded. In case of evaluation of proposals, the abstract shall not include the price information. The procurement officer shall send the technical proposal to proposal evaluation team to perform technical evaluation. Then TOC shall open the financial proposal.

3.3.46 Chapter 11.15: Scope for seeking clarification

In case of any vague, unclear or unambiguous submission, the procurement officer may contact the potential vendors in writing to request a clarification. This clarification must be limited to only unambiguous facet of the submission.

3.3.47 Chapter 11.16: Commercial proposal opening

Technically accepted commercial proposals are opened by the TOC. Commercial evaluation team shall evaluate the price as per guidance, and procedures mentioned in the sourcing plan.

3.3.48 Chapter 11.17: Opening of commercial submission of technically non- compliant

The general rule is that commercial submission of technically non-compliant submissions are neither opened nor evaluated. However, for ensuring the best value for money and mitigating risk, it may be judicious to open the non- compliant commercial submission.

3.3.49 Chapter 11.18: Part- 2, discuss about the following aspects:

- I. Evaluation of bids
- II. Best and final offers
- III. Availability of products
- IV. Delivery terms
- V. Alternative delivery point
- VI. Warranties in submissions
- VII. Evaluation by grouping
- VIII. Use of INCOTERMS rules for submission
- IX. Payment discount
- X. Tie BIDS
- XI. Exceeds of authorised cost
- XII. Evaluation of risk
- XIII. Discussions with the vendors
- XIV. Negotiations
- XV. Recommendation for award
- XVI. Request for information from the vendors
- XVII. Notice for consideration for award
- XVIII. Statement for award
- XIX. Award
- XX. Letter of regret
- XXI. Debriefing program
- XXII. Legal review
- XXIII. Contract number
- XXIV. Obligation of funds

3.3.50 Chapter 11.19: Evaluation of bids

Technical evaluation shall be based on pass or fail basis. No scoring shall be used in case of the evaluation of the technical evaluation.

3.3.51 Chapter 11.20: Best and final offers

When commercial evaluation of the technically compliant proposals is completed and competitive range is established, the procurement officer may ask for Best and Final Offers from the sufficient number of the vendors. The potential vendors falling in to the competitive range may have the possibility of award.

3.3.52 Chapter 11.21: Availability of products

The vendors must have to prove that they are capable enough to supply the required goods as per contract during the submission.

3.3.53 Chapter 11.22: Delivery terms

If the delivery date is the point of consideration of awarding the contract, in that case the submission must comply that terms. Otherwise that submission shall be rejected.

3.3.54 Chapter 11.23: Alternative delivery point

If the solicitation document mention any alternative delivery point, in that case the procurement officer shall determine the cost accordingly and same shall be recorded in the abstract sheet.

3.3.55 Chapter 11.24: Warranties in submissions

The aspect of warranty shall be examined with due care and attention when it is included in the solicitation document.

3.3.56 Chapter 11.25: Evaluation by grouping

When solicitation document permits, then group evaluation is made. However, splitting of awards can be considered if and only if it ensures the value for money.

3.3.57 Chapter 11.26: Use of INCOTERMS rules for submission

If the solicitation document mentions a specific INCOTERMS, pricing of goods will be based accordingly. The bids or [proposals mentioning different INCOTERMS shall be rejected.

3.3.58 Chapter 11.27: Payment discount

When discount is offered, the procurement officer shall examine the discount rate and time limit. During evaluation of the submission, the aspect of discount needs to be taken in to consideration.

3.3.59 Chapter 11.28: Tie BIDS

In case of tie of the bids, the procurement officer shall request a 'Best And Final Offer (BAFO). If the request for BAFO failed without result, split award is not practicable, then the award shall be made through a public drawing and the vendor with the tie shall be invited to attend. Such public drawing shall be conducted through the automated ways.

3.3.60 Chapter 11.29: Exceeds of authorised cost

When the actual cost of goods, works or services procured exceeds the estimated cost of procurement, then procurement officer seek instructions and the award shall be stopped until amendment of the requisition is made or required additional fund is approved.

3.3.61 Chapter 11.30: Evaluation of risk

Evaluation of risk is very crucial in the procurement process. The procurement manager may be exposed to the risk management which, among other things, include- to ignore the risk, to reduce the risk, to transfer the risk, and to manage the risk.

3.3.62 Chapter 11.31: Discussions with the vendors

In procurement under RFQ method, discussion with the vendors before submission opening is made. In case of sole sourcing selection method, discussion is made with the vendor so that best terms and conditions can be achieved. Normally discussion is conducted at the premises of the UN.

3.3.63 Chapter 11.32: Negotiations

Negotiation with vendors after submission opening, is made with the recommendation by the HCC.

3.3.64 Chapter 11.33: Recommendation for award

For the procurement of the value amounting, beyond the individual authority the matter shall be forwarded for further review and written approval.

3.3.65 Chapter 11.34: Request for information from the vendors

Before giving award for contract, no information regarding the acceptance or rejection of any submission shall be made available for the unauthorized people.

3.3.66 Chapter 11.35: Notice for consideration for award

A notice for consideration for award shall be given to the vendors who are likely to be awarded. This notice is given for giving advice as regards the modalities of the UN procurement systems.

3.3.67 Chapter 11.36: Statement for award

For undertaking the procurement for the amount exceeding US\$ 4000, the procurement officer shall record the case in the form of a Statement of Award on the basis of the decision to give award to a particular vendor.

3.3.68 Chapter 11.37: Award

After preparing a customized contract, the same has been sent to the Director, UN/PD or the CPO for review and clearance together with the statement of Award before sending it to the vendor. After having funding assurance, the procurement officer shall send minimum two copies to the vendor for signing. After getting signed copies from the vendor, the procurement officer shall, take initiative to sign the contract by the UN official.

3.3.69 Chapter 11.38: Letter of regret

For the sake of accountability and transparency, the unsuccessful vendors shall be informed of the result of the procurement. This information shall be limited to mentioning the name of the successful vendor, value of the contract and the basis depending upon which the contract has been awarded.

3.3.70 Chapter 11.39: Legal review

Before entering in to a contract, the procurement officer send one copy of the draft contract to the Legal Affairs office for review.

3.3.71 Chapter 11.40: Obligation of funds

During the payment process, the UN/PD has to ensure the minimum funding to meet the contractual obligation.

3.3.72 Chapter 12: Functions of, and review by the headquarters committee on contracts

This chapter consists of the ten sections, namely, organization and functions of the HCC, organization and functions of the LCC, review by the HCC, review by the LCC, submissions to contracts committee, role of procurement offices, pre-clearance measures by the HCC, meetings and decisions of the contracts committees, special provisions for emergency situations, and ex-post facto presentations. Some highlighted issues of this chapter is discussed below:

In order to face emergency situations, the chairperson of a contracts committee, in accordance with the guidelines of the UN Procurement Manual, may accept late submissions of presentations. There are two types of cases that require presentation to contract committees, for example, “ex-post facto”, and partially “ex-post facto”.

3.3.73 Chapter 13: Contractual instruments

This chapter is divided in to 13 sections, namely, introduction to contractual instruments, UN’s contractual instrument, internal purchase orders, blanket purchase orders, purchase order, customized contracts, standard contract documentation, standard contract elements, systems contracts, institutional or corporate contractor agreement, letters of assists, use of letters of assists, and other contractual elements.

3.3.74 Chapter 14: Delivery and receiving process

This chapter consists of seven sections, namely, introduction relating to delivery and receiving of goods and services, guidelines for recording and receiving, responsibilities of UN/PD, procedures for UN/PD, inspection of goods and services in IMIS, returning material to vendor, and issues from the stores.

3.3.75 Chapter 15: Contract management and administration

This chapter takes in to account of the issues like pros and cons of the contract management, evaluation of vendor performance management, remedies, dispute resolution, contract administration, sub contractor, contract closure, maintenance of files, and contract log.

3.3.76 Chapter 16: Property disposal

This chapter ponders over the issues like property survey boards, disposal of property through sale, treatment of bids, contractual instruments for the sale of goods, exceptions to solicitation, deposits, notice of award billing, removal of property, disposition of assets of peacekeeping operations, and sale of real property.

[N.B: Section 3.3.14 to section 3.3.79 are extracted from the UN Procurement Manual, Version 7]

3.4 Analysis and Findings

An in-depth analysis of the PPR-2008 and UN Procurement Manual it is found that there are both similarities and dissimilarities between the procurement documents.

Major findings of the study are presented below:

3.4.1 General principles of procurement

UN procurement is guided by the general principles as ensuring the best value for money, fairness, integrity, and transparency, effective international competition, and keeping the interest of the UN. On the other hand, the purposes of the PPA/PPR are to ensure free and fair competition with highest value for money. Ensuring economy, efficiency and effectiveness in the arena of public procurement in Bangladesh.

3.4.2 Preparation of procurement plan

UN procurement manual made it compulsory to prepare a procurement plan and got it approved by the competent authority. As per rule 16 of the PPR-2008, the procuring entity shall prepare procurement plan for the development budget and revenue budget at the beginning of each financial year.

3.4.3 Ethical issues in procurement

A comparative statement regarding the ethical issues of procurement that exist in the UN Procurement manual and PPR-2008 are depicted in the table below:

Table 3.1: A comparative account of the ethical issues noted in the PPR-2008 and UN Procurement Manual

Name/ Nature of ethical issue	Existence at UN Procurement Manual	Existence at the PPR-2008
Oath of the office	Yes (Chapter 4.2)	No
Conflict of interest	Yes (Chapter 4.5)	Yes (Rule 55)
Confidentiality	Yes (Chapter 4.6)	Yes [Rule 8.1 and 8.2]
Financial disclosure/Wealth statement	Yes (Chapter 4.7)	No
Gifts and hospitability	No (Chapter 4.8)	No (Rule 127)
Corrupt practices	No (Chapter 4.10)	No (Rule 127)

Source: Developed by the author.

3.4.4 Global compact

The UN Procurement system promotes corporate citizenship and support to uphold human rights, labour standard, and environmental sustainability. In the PPR 2008 does not contain any direct provision regarding the above issues.

3.4.5 Vendor registration and management

UN procurement manual requires all the vendors to be registered with the UN registration portal (www.ungm.org). In PPR-2008, vendor's registration with the CPTU (<http://www.cptu.gov.bd>) is mandatory for the online tendering process. In Bangladesh, both offline (manual) and online [(e-gp: Electronic Government procurement)] tendering methods are accepted. However, as per rule 63 of PPR-2008, under Limited Tendering Method (LTM) tenderers are to be enlisted with the different procuring entities.

3.4.6 Funding requirement

Chapter 8.4 of the UN procurement manual states that it is to be ensured that sufficient funding is available for the particular procurement before issuing the requisition to the procurement office. In case of PPR-2008, funding assurance is not mandatory. If the procuring entity feels the necessity, then having approval from the head of the procuring entity, and updating the annual procurement plan, the procurement process may be undertaken.

3.4.7 Market survey

UN procurement manual requires to conduct market survey in order to find the qualified and capable sources that can satisfy the needs and requirement. Prior discussion with the vendors regarding the latest specification is encouraged so that knowledge gap is minimized. Rule 16 (5)(ka) and 16 (5)(kha) of PPR -2208, contain the issue of conducting current market price verification so that official cost estimate is prepared.

3.4.8 Preparation of solicitation and vendor selection

The term 'Solicitation Documents' is the UN procurement manual, while at PPR-2008, 'Standard Tender Documents' is used to denote the same meaning. In the UN system, formal methods of solicitations are established by the UN's financial regulations. Under the current procurement system, standard tender documents are prepared based on the individual needs, nature and threshold level of the procurement of goods, works and services.

3.4.9 Some other solicitation related issues are given below:

Table 3.2: A comparative statement of the solicitation and vendor selection issues mentioned in the PPR-2008 and the UN Procurement Manual

Name/ Nature of ethical issue	Existence at UN Procurement Manual	Existence at the PPR-2008
Evaluation of requisition	Based on the following issues: <ul style="list-style-type: none">✓ Best value for money✓ Fairness, integrity and transparency✓ Effective competition✓ The interest of the UN	Based on the following principles: <ul style="list-style-type: none">✓ Fairness✓ Transparency✓ Open competition✓ Maintaining Economy,

		✓ Maintaining Effectiveness and Efficiency
Limited number of vendors to be invited	When good cause and justification support, then with the approval of the competent authority, the procurement officer of the UN shall invite limited numbers of vendors. (Chapter 9 part-1, section 9.4)	Rule 63, supports the limited tendering methods for the goods and works of specialized nature, for example, aircraft, locomotives, telecommunications equipments, silos, ports, harbours etc. Or for meeting emergency needs.
Types and methods of solicitations	RFQ, ITB, RFP. They are based on the nature of procurement.	OTM, LTM, DPM, TSTM, STTM, Cash Purchase, RFQ, Force Account, QCBS, SFB, SSS, SIC, LCS, SBCQ, CSOs, DC, RFP, LOI, REOI.
Low Value Procurement	Up to \$4000, direct procurement shall be allowed. (Chapter 9.15)	When specific conditions allow, then direct procurement shall be allowed for any value. (Rule-76)
Special guidance on exigency situations	Yes(Chapter 19)	Yes (Rule-76)
Language of solicitation document	English	English

Source: Developed by the author.

3.4.10 Terms and conditions related issues

Table 3.3: A comparative inclusion relating to the terms and conditions issues as mentioned in the PPR-2008 and the UN Procurement Manual.

Name/ Nature of ethical issue	Existence at UN Procurement Manual	Existence at the PPR-2008
Total cost of ownership	Yes (Chapter 9.27)	No
Period of validity of bids/tender and proposals	Usual validity period ranges from 60 to 180 days. (Chapter 9.30)	Usual validity period ranges from 60 to 120 days. (Rule 21.2)
Inspection and Acceptance clause	Yes	Yes

Liquidated damage	Yes (No more than 10% of the contract price)[Chapter 9.35]	Yes (No more than 10% of the contract price)[Mentioned in the STD]
Clarification of request	Yes (Chapter 9.49)	Yes (Rule 98.8)
Use of INCOTERMS	Yes	Yes
Use of standard documents	Mandatory	Mandatory
Clause relating to rejection of all submission without showing reasons	Yes	Yes

Source: Developed by the author

3.4.11 Management and treatment of vendor submissions

Issues relating to management and treatment of vendor submissions are depicted below:

Table 3.4: A comparative discussion relating to the Management and treatment of vendor submissions issues as mentioned in the PPR-2008 and the UN Procurement Manual

Name/ Nature of ethical issue	Existence at UN Procurement Manual	Existence at the PPR-2008
Electronic submission	Yes	Yes
Opening of submissions received in response to RFQs	No public opening	No public opening
Provisions pertaining to withdrawal, modification and substitution of submissions	Yes	Yes
Clerical errors	Accepted and corrected by the competent committee.	Accepted and corrected by the evaluation committee.
Receipt of late submission	Normally rejected, but if the Director UN/PD (or CPO) thinks that late submission occurred due to the fault of the UN in that case late submission can be accepted.	Under PPR-2008, all late submissions are rejected straight.
Opening of proposal	Public opening of technical proposals is allowed. Financial proposal are kept unopened during this period.	Non-public opening of technical proposal and public opening of financial proposals of technical proposals. (Rule 105.2)
Disclosure of information prior to opening	Not disclosed by the submission opening officer.	Though there are not direct indications at PPR-2008, the TOC shall not disclose anything regarding submission.

Source: Developed by the author

3.4.12 Facets of source selection process are presented below:

Table 3.5: A comparative source selection process issues as mentioned in the PPR-2008 and the UN Procurement Manual

Name/ Nature of ethical issue	Existence at UN Procurement Manual	Existence at the PPR-2008
Submission from receivership, liquidation or bankruptcy	Not allowed	Not allowed
Source selection committee	For large, costly and complex acquisition projects, there is provision of formation of source selection committee.	No such committee is formed.
Formation of EC	Generally EC is divided in to a Technical Evaluation Team responsible for technical evaluation, and Commercial Evaluation Team responsible for commercial evaluation.	Only EC shall perform the task of evaluation. If needed, a separate technical sub-committee can be formed.
Characteristics of Evaluation criteria	Evaluation criteria are characterized by: discrete, reliable, practical, fair, balanced action.	Evaluation criteria are characterized by: non-discriminatory, open, equal for all.
Legal review	Before signing final contract, the signed draft contract is forwarded to the legal office for review.	No legal review by legal office.

Source: Developed by the author

3.5 Relevant Lessons for Bangladesh

The main objective of the UN procurement manual is to acquire goods, works and services at a cost that reflect best value for money, taking in to consideration of all the aspects of the economic, social and environmental sustainability. On the other-hand, the prime motto of the PPR-2008 are to procure goods and related services, works and related physical services and intellectual and professional services at a lower cost with desired quality that reflect value for money. Considering above discussion and findings, we may put forward the following lessons for Bangladesh:

3.5.1 Sustainability

Current version of PPR-2008 does not contain the aspects of sustainability. Hence, the issues relating to responsible procurement, green procurement should be included in the PPR-2008 in line with the Sustainable Development Goals (SDSs).

3.5.2 Oath of the office

As per present status, PPR-2208 lacks the fact that the members of TOC or POC do not require to take oath of the office to maintain the confidentiality of the information that derive at the time of opening of submission.

3.5.3 Disposal policy

During procurement or acquisition of an asset, the cost of disposal that may accrue at the end of the expected life of the asset should also take in to cognizance. For ensuring true value for money, total cost of the asset may be considered at the time of acquisition of the asset.

3.5.4 Life cycle costing, whole life costing

The concept of Life cycle costing, whole life costing, can be incorporated in the PPR-2008. Without taking in to cognizance of the pattern of asset costing, time value of money, performance of the asset over time, time value of money cannot be achieved.

3.5.5 Methods of procurement

There are 14 methods of procurement in PPR-2208. Each method has its own modality. Both the tenderers and the P.Es do not feel comfortable with so many procurement methods. Some methods can be merged together so that it can be easier to deal with.

3.5.6 Number of standard tender documents/ standard proposal document

So far March 2018, there are 31 standard tender/proposal documents in the PPR-2008. Some of the documents are seemed to be overlapping. Hence, this long list can be downsized keeping the contents remain unchanged.

3.5.7 Set up a separate law wing

A separate legal set up to be established under the guidance of CPTU and is to be included in the rules. As per PPR-2008, an independent review panel is working at CPTU to address the complaints raised by the tenderers and the P.Es. Another issue is that according to rule 130(1) of the PPR- 2008, DG, CPTU has been empowered to give opinion relating to the confusion about the provisions of PPR. For these reasons, a separate law wing may be established to see the legal matters on behalf of the DG, CPTU.

3.5.8 Evaluation criteria should be modified

The existing evaluation criteria should be classified based on commercial criteria, technical criteria, management criteria and sustainability criteria. These criteria should be made measurable and quantifiable using SMART criteria.

3.5.9 CPTU to be turned in to an independent body

CPTU as a nodal agency need to be restructured and converted in to an independent authority so that it can have power of enforcement. At the given existing structure of CPTU, it cannot enforce anything. It can only give instructions, opinions and other support to the stakeholders.

Chapter 4. Recommendations and Conclusions

4.1 Conclusions

This paper investigated the similarities and dissimilarities between the provisions of the UN procurement manual and PPR-2008 by using method of comparison and case study. Because Bangladesh adopted PPR in 2008, since then all the amendments are taken in to cognizance. The main purpose of this paper is to address the question whether there are any differences and any analogy between the contents of the UN procurement manual and PPR-2008.

The results suggest that there are some areas where similarities exist and there are some areas where significant difference exist. This may be due to the fact that PPR has been developed based on the socio-economic structure of Bangladesh and UN procurement manual has been implemented considering the global aspect of international business environment. Another important finding is that there were some major qualitative changes in the procurement management arena in Bangladesh after implementation of PPR. In conclusion, the weak areas of PPR-2008, identified, in compared to UN procurement manual, can be eliminated in the subsequent amendments. And this is very imperative in streamlining the national procurement arena and ensure value. However, effective and efficient implementation procedure of PPR may contribute more to the smart public procurement management and economic growth in Bangladesh.

4.2 Recommendations

The identified lessons Bangladesh could implement in the following two levels: one is on the policy level, and the other is on the functional or operational level.

4.2.1 Policy level

Most of the lessons that Bangladesh could learn may be implemented through policy level. The incorporation of the issues like total cost of ownership, responsible procurement, sustainability in procurement, disposal policy of the asset, life cycle costing, whole life costing, restructuring CPTU, translating the STDs in to Bengali language require intervention from the policy level. To bring this lessons in to reality, the existing PPA-2006, PPR-2008 need to be modified and this require the final approval of the cabinet and parliament of Bangladesh.

4.2.2 Functional/Operational level

The policy which are adopted at the policy level are carried out by the operational or functional level. All the policies are gone through this level and the efficiency of this level is of paramount importance. The employees of this level need to be trained and oriented with the newly adopted system and procedure. It is also required to build commitment, cooperation, and mutual exchange among the employees of the functional level.

4.2.3 Scope for further study

This study has been conducted within the purview of the PPA, PPR and UN Procurement Manual. Efforts have given to elicit the learning points and knowledge gap by means of qualitative analysis

and ultimately identified certain points which need to be addressed by further study. The future researchers will have room for conducting research in those areas and may give further observations and findings.

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