

Public Procurement Legislation in Bangladesh: A Study on the
Application of PPA, 2006 and PPR, 2008 in the Procurement
Activities of Election Commission Secretariat

By
Md. Rajib Ahsan
MPSM, Batch-18
ID-19282001

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Declaration

It is hereby declared that

1. The thesis submitted is my own original work while completing degree at Brac University.
2. The thesis does not contain material previously published or written by a third party, except where this is appropriately cited through full and accurate referencing.
3. The thesis does not contain material which has been accepted, or submitted, for any other degree or diploma at a university or other institution.
4. I have acknowledged all main sources of help.

Student's Full Name & Signature:

Md. Rajib Ahsan
ID-19282001


Approval

The thesis titled “Public Procurement Legislation in Bangladesh: A Study on the Application of PPA, 2006 and PPR, 2008 in the Procurement Activities of Election Commission Secretariat” submitted by

1. Md. Rajib Ahsan (ID-19282001) of Fall 2019 has been accepted as satisfactory in partial fulfillment of the requirement for the degree of Masters in Procurement and Supply Management.

Examining Committee:

Supervisor:
(Member)




Shish Haider Chowdhury, NDC, MCIPS
Additional Secretary and Member
Bangladesh Trade and Tariff Commission
Dhaka, Bangladesh

Program Coordinator:
(Member)

Mohammad Sirajul Islam
Coordinator (Academic and Training Programs)
BIGD, Brac University

External Expert Examiner:
(Member)



Masud Akhter Khan
Director (Additional Secretary)
CPTU, IMED, Ministry of Planning
Sher-e Bangla Nagar, Dhaka-1207

Departmental Head:
(Chair)

Dr. Imran Matin
Executive Director
BIGD, Brac University

Ethics Statement

Thesis on “Public Procurement Legislation in Bangladesh: A Study on the Application of PPA, 2006 and PPR, 2008 in the Procurement Activities of Election Commission Secretariat” is out and out a new topic for opening a new horizon to assess the level of application of the rules and regulations related to procurement process in ECS. This endeavor will be an aid to show the path of a result-oriented and efficient use of public money. At the time writing this dissertation the data driving process and their interpretation of the respondent’s correspondence, the methods of writing have been done sincerely and honestly with theoretical and pragmatic field oriented questionnaires to the knowledgeable personnel. They are really competent with knowledge relating to procurement and are closely attached to the implementing project related tasks and also they are related with the level of government’s innovating policy. Consequently the data collected from aforesaid sources have been very realistic and correct. The uses of the idea coming from this topic will assist to make improvement of the procurement steps with proper implementation and ending of works as per the fixed time and the procuring performance has to be uplifted. By eradicating the irregularities and lacings from the process of procurement the performance of the procurement will be more accurate, pragmatic and up-to the mark.

Executive Summary

Bangladesh enters into the public procurement legislation officially at 2006. It has created two procuring law documents like Public procurement Act, 2006 and Public procurement law, 2008, which are supported by Delegation of Financial power, 2015 and e-GP guidelines.

Bangladesh Election Commission is mandated for conducting election according to the supreme law of this republic. With a view to conducting its legislative duties it has to procure different types of items regarding electoral management. All the tasks of BEC are done through its secretariat. The secretariat has its own field offices. Some projects are assisting the activities of ECS. The items procured most of the cases through centralized and a little amount through decentralized system. Election Commission Secretariat was allotted 841 core 59 lakh 62 thousand taka in the fiscal year 2021-22, among which 39.44% of it used in procurement purpose. It uses both revenue and development budget.

The research finds that PPA, 2006 & PPR, 2008 applied properly in the Procurement process of ECS. With some extent due to lack of special knowledge, some sort of deviations were found. But these were not affecting the application of law. Want of technical proficiency, problematic specifications were prepared in a little extent.

Proper monitoring of purchasing activities is needed to prevent or reduce these impediments. The procurement officials of ECS should be trained with necessary capacity enhancing programs for the purpose of making them competent. Those professionals should also have the knowledge of e-GP system. Introducing e-GP in procuring field will make sure the rational treatment for the competitors as well as ensure integrity, fairness, accountability and transparency.

Keywords: Bangladesh; procurement; legislation; Election; Commission; Secretariat

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List of Acronyms

ADB	Asian Development Bank
ADP	Annual Development Program
APP	Annual Procurement Plan
BEC	Bangladesh Election Commission
BWDB	Bangladesh Water Development Board
CAA	Chief Approval Authority
CGFR	Compilation of General Financial Rules
CIPS	Chartered Institute of Purchasing & Supply
CPAR	Country Procurement Assessment Report
CPTU	Central Procurement Technical Unit
DoFP	Delegation of Financial Power
DPM	Direct Procurement Method
ECS	Election Commission Secretariat
e-GP	Electronic Government Procurement
ERD	Economic Relations Division
EVM	Electronic Voting Machine
FBS	Fixed Budget Selection
FY	Fiscal Year
GOB	Government of Bangladesh
HOPE	Head of Procuring Entity
ICT	Information and Communication Technology
IMED	Implementation Monitoring and Evaluation Division
IMF	International Monetary Fund
LCS	Least Cost Selection
LDC	Least Developed Country
LGD	Local Government Division
LGED	Local Government Engineering Department
LTM	Limited Tendering Method
NOA	Notification of Award
OSTETM	One Stage Two Envelope Tendering Method
OTM	Open Tendering Method
PD	Project Director
PE	Procuring Entity
PPA	Public procurement Act, 2006

PPR	Public Procurement Rules, 2008
PPRP	Public Procurement Reform Project
PPRP-II	Public Procurement Reform Project II
QCBS	Quality and Cost-Based Selection
RFQM	Request for Quotation Method
RHD	Roads and Highway Department
SRO	Statutory Regulation Order
SSS	Single Source Selection
STD	Standard Tender Document
TEC	Tender Evaluation Committee
TOC	Tender Opening Committee
TSTM	Two Stage Tendering Method
VFM	Value For Money
WB	World Bank

Chapter-1

Introduction

1.1 Background of the Study

Public Procurement is “the whole process of acquisition from third parties, including the logistical aspects and covers goods, services and construction projects. This process spans the whole life cycle from initial concept and definition of business needs through to the end of the useful life of an asset or the end of a services contract.” The principal target of Public procurement is to gain the best value of public money. The basic principles are to maximize the economy, efficiency and effectiveness through achieving the right goods or services at the right cost maintaining the right quality at the right time, promoting competition and ensuring fair and equitable treatment for the competitors, ensuring integrity and fairness, increase transparency and accountability with increasing public confidence. From time immemorial the societies and its people introduced procurement in the means of exchange of goods or products. This system was known as counter-trade. It continues till the introduction of currency. After starting currency as a medium of exchange cash-purchase system was introduced. In the course of time contract/agreement between buyer and seller enters into this process as the derivatives of legal binding and obligations. These legal documents ensures equality, transparency and accountability in the procurement process.

In the Constitution of the People’s Republic of Bangladesh, public procurement is not specifically addressed. Despite the lack of explicit constitutional provisions, it is clear that Bangladesh's institutional and legal structures for public procurement have drawn support from it. However, this supreme law mandates that all state powers be used solely for the benefit of the people and only with their authority, which affirmed by good governance. The systematic public procurement is the imperative of the rule of law.

Bangladesh has a decentralized system for public procurement. The Ministry of Finance and the Ministry of Planning, however, have some specific responsibilities with respect to public procurement, even if every department can procure services or goods. The Central Procurement Technical Unit (CPTU) has been operating since 2002 with the goal of facilitating an effective and transparent system of public procurement in Bangladesh. Along with some other instructions, information and technical knowledge for public procurements are also provided by CPTU. The finance Ministry issues additional circulars and instructions considering the necessities. So that procuring entities can exercise these on their procuring activities.

Public Procurement in Bangladesh deals with two principal legal instruments. These are the Public Procurement Act, 2006 (PPA, 2006) and Public Procurement Rules, 2008 (PPR, 2008). At present, there are some other legal frameworks used for Public Procurement. These are e-GP guidelines 2011, Standard Tender Documents (STDs), and Delegation of Financial

Powers. All the Public Procurement entities have to follow the mentioned rules and regulations. Before coming into force the Public Procurement Act, 2006 the primary legal framework for public contracts and procurements (World Bank, 2002) were followed by the PE's. Different departments of government, autonomous public bodies and corporations had developed procurement rules and code of practices of their own taking into account the CGFR principles. The Public Procurement Act, 2006 was later enacted by the National Parliament to strengthen the public procurement system. The Public Procurement Rules, 2008 was made and published followed by PPA, 2006, replacing the Public Procurement Regulations, 2003. Till then a transformational change occurred in the public procurement system in Bangladesh. Bangladesh Election Commission Secretariat adopted the PPA, 2006 and PPR, 2008 for Public Procurement processing and approval procedures like other government departments and organizations. As well as Delegation of Financial Powers (DoFP) for the procurement of goods, works and services. It uses Standard Tender Documents to prepare tenders.

1.2 Statement of the Problem:

Since its independence, Bangladesh has been fighting against poverty for the development of its people. The annual Budget of GOB for 2022-23 was 6 lakh 78 thousand 64 Crore Taka and Annual Development Program (ADP) portion was 2 lakh 46 thousand 66 Crore Taka which is 36.34% of the total Budget amount. The Revenue budget was 4 lakh 31 thousand 998 Crore Taka. The lion's share of our national budget are expended in procurement purposes. Though it has some achievements in some sectors. The country has so many problems in different sectors also. Despite of being rich in terms of natural resources Bangladesh could not attain the optimum level of development. Consequently under privileged citizens failed to meet every day basic needs. The causal agents for this failure are poor and unplanned use, inappropriate allocation of resources without prioritizing development activities. Maximum part of the national budget is used for the development programs every year. Due to inefficient procurement strategies and lack of maintaining credentials the steps for procurement are not followed appropriately. For this reason our country could not gain its projected goal. Nowadays the delegated authority took some measures like providing training and uniform legal documents for procurement functions to be done efficiently.

But some other problems, like political influence, corruption, coercion, etc. make barriers to procurement works being done fairly and efficiently. Upon the demand of the situation to eliminate some drawback and limitations of this rules and procedures there was a need for introducing a common procedure for ensuring accountable procurement process. Consequently, PPA, 2006 and PPR, 2008 have made procurement functions uniform for all the procuring entities of Bangladesh. The objective of my research work is to check the compliance of the provision of PPA, 2006 and PPR, 2008 in the procurement process of ECS procurements.

1.3 Research Questions

1. To what extent PPA, 2006 and PPR, 2008 followed in the procurement of ECS and it's projects?
2. How does the existing application of PPA, 2006 and PPR, 2008 add value in the purchasing process of ECS and it's projects?
3. To what extent the reform in the PPA, 2006 and PPR, 2008 including the application of e-GP will aid in significant improvement in the procurement system of ECS and its projects?

1.4 Objective of the Research

The stipulated objectives of this dissertation is to ensure to which extent principles of PPA, 2006 and PPR, 2008 are being followed in the procurement processes of ECS. The explicit objectives are:

- a) To find out whether the procurement processes and contracting proceedings are in accordance with the Public Procurement Act and Rules;
- b) To review whether Standard Tender Document (STD) is followed & tender document is prepared in line with the act and rules;
- c) To review and assess the capacity of the Procuring Entity in handling procurement from preparation to contract implementation as per Rules & required standards;
- d) To review whether the documentation is maintained as per Rules; and
- e) To identify improvements in procurement contracts in the context of deviations identified in the earlier review.

1.5 Research Methodology

Basically the study was conducted focusing on exploring the facts involved in the procurement activities of ECS to justify whether PPA, 2006 and PPR, 2008 are being practiced for public procurement or not. To carry out the research activity primary data was the basic tool that was collected through the survey method. Apart from primary data secondary data resources were also used. Reliable sources like relevant literature, different publications, internet sources, personal experience of procurement specialists were used as secondary data. For the preparation of the questionnaire to know the opinion and preferences of the respondents on specific elements of public procurement process a 5-point Likert type scale was in used. The process of randomization were applied for selecting respondents.

1.6 Scopes and Limitations

Election Commission Secretariat (ECS) has been established to give secretarial assistance to Bangladesh Election Commission. According to the Constitution of Bangladesh, Bangladesh Election Commission is directed to conduct Presidential elections, National election and prepare the Voter list. It also conducts different tiers of Local body elections. Bangladesh Election Commission is financed by Bangladesh Government. It has 1 secretariat, 10 regional, 64 district and 523 Thana/Upazilla offices. At present, it is sponsoring 4 projects. The research depicted a salient feature of the legal instruments used for processing activities and found the activities regarding Procurement of Election Commission Secretariat how it applies PPA, 2006 and PPR, 2008.

The limitations of the study were as follows:

- As there was not any prior research on the procurement system of ECS, it limits the scope of analysis properly;
- The procurement-related documents are highly confidential, so the study faces limited access regarding this.

Chapter- 2

Literature Review

2.1 Public Procurement Background

There is no direct provision concerned with Public Procurement in the Constitution of the People's Republic of Bangladesh. But the state has to maintain the basic values mentioned in the Constitution like the rule of law, equality, justice and democracy. In order to ensure the people's power under the authority of the Constitution, all the executive organ of the state has constitutional competency for enactment. The provision to enter into and award public contracts for the purpose of procuring goods and services will confirm the rule of Law as well as good governance. The state is authorized to make the institutional and legal frameworks for proceeding with public procurement in Bangladesh. The public Procurement System may be Centralized or decentralized. In Bangladesh, we have a decentralized Public Procurement System. Where every single Department can procure goods, works and services under the supervision and monitoring of the Central Procurement Technical Unit which has been working since 2002. Public Procurements are guided by the delegation of financial power issued by the Ministry of Finance. Each and every Procuring Entity (PE) are bound to exercise procuring goods, works and services following these financial delegations.

2.2 Development towards the Public Procurement Legislations in Bangladesh:

Bangladesh has recently qualified to be upgraded from least developed country (LDC) to developing country. In developing economies like Bangladesh, development initiatives are linked to the requirement of spending public funds ensuring transparency, accountability, least cost, and maintaining a standard of quality. From a study of the World Bank/United Nations Development Program found that due to lack of proper skills of the concerned personnel's and complex system of procurement the project completion time extends. To improve this situation ERD prepares guidelines to meet up the requirements of donor funded projects in the year 1992, which were later followed by the local funded projects also. In the year 1999 The Implementation Monitoring and Evaluation Division (IMED) of the Ministry of Planning coordinated a study, which were carried out by the help of World Bank (WB) to find the efficiency, transparency, weakness and addressing the solution comparing international standards. They also assess the probability of using technology to modernize the system. In that year a joint review were conducted by Asian Development Bank (ADB) and World Bank for preparing an Action Plan for the Government. Later in 2000, based on the findings of that study recommendations and action plans were published through the Country Procurement Assessment Report (CPAR). According to CPAR Central Procurement Technical Unit (CPTU) were established. National procurement rules, procedures, and standard tender documents were also introduced by the recommendation of that report. The report also recommends capacity development of staff. Continuation of the development, two project named Public Procurement Reform Project (known as PPRP) and Public Procurement Reform Project II (known as PPRP II) were taken by the assistances of World Bank. The duration of PPRP was

2003 to 2008, while PPRP II was 2007 to 2012. PPRP II project was extended up to 2017. CPTU has prepared the Public Procurement Regulation, 2003, Public Procurement Processing and Approval Procedures, 2004, Revision of Delegation of Financial Powers Award of Contract, Public Procurement Act, 2006, nine papers on procurement of goods and works, and four papers on procurements of services and consultants and 12 draft papers on pre-qualification under the project. Draft guidelines for evaluation of tender, Concession Contract, Post Procurement Review, and Review Panels were established for the settlement of disputes. CPTU provides secretarial services to the said Panels. A dynamic web Portal has been set up also, which provides information about procurements.

2.3 Legal documents regarding Public Procurement in Bangladesh

a) **The Public Procurement Act, 2006:** The main legal document of Public procurement is the Public Procurement Act, 2006, which were enacted at 6th July, 2006. It is the act no. 24 of the year 2006. It comprises of 73 clauses and 9 chapters. The PPA, 2006 has been amended at 2009, 2010 and 2016. This act is mandatorily followed by the procuring entities in case of utilizing public funds without any exception.

b) **The Public Procurement Rules, 2008:** It is the supplement of The Public Procurement Act, 2006, which came into force at 24th January, 2008 under S.R.O no. 21-Act/2008. It comprises of 130 Rules under nine chapters. Most of the Rules have several Sub-rules. It describes definitions, Guidelines for the preparation of the Tender or Proposal document, constitution of different committees, principles, procedure for preparation of technical specification, preparation of terms of reference, rejection, approval procedure, contract administration, methods, processing of procurement including the advertisement, pre-qualifications, processing of Tenders, professional misconduct, e-government procurement etc.

c) **e-GP Guidelines-2011:** "e-Government procurement" (e-GP) guidelines were introduced in 2011, which describes the policy and procedure of procurement through the cooperative use of information and communications technology (especially the Internet).

d) **Standard Tender Documents (STDs):**

In order to prepare uniform tender documents, promote competition, provide uniform instruction for tenderers and give adequate information to the market CPTU has produced and published Standard Tender Documents (STD). In order to fulfill the operation of PPA 2006 and PPR 2008 for goods and related services Procuring Entity has to use PG-1 [Request for Quotation (up to 0.5 million Tk)], PG2 [Open Tendering/Limited Tendering (up to 2.5 million Tk)], PG3 [National Open Tendering (above 2.5 million Tk)], PG4 [International Open Tendering (any value above 2.5 million)]. For works and Physical services Procuring Entity has to use PW1 (Request for Quotation), PW2A [Open Tendering (up to 20 million Tk)], PW2B [Limited Tendering (up to 30 million Tk)], PW3 [National Open Tendering (without pre-qualification) (above 30 million Tk)] PQW4 [National Open Tendering with pre-qualification (above 350 million Tk)] (Pre-qualification phase), PQW5 [International Open Tendering with

pre-qualification (above 350 million Tk)] (Pre-qualification phase). For Intellectual and Professional services Procuring Entity has to use National Request for Proposal for selection of Consulting Firm under QCBS, FBS and LCS methods: PS5 (Lump-Sum Contract up to Tk. 10 million), PS6 (Time based Contract up to Tk. 10 million), PS7 (Lump-Sum Contract above Tk. 10 million), PS8 (Time based Contract above to Tk. 10 million), PSN [Physical Service (Non-Consulting)]. In case of an international request for proposal for selection of consulting firm under QCBS and FBS methods PS11 (Lump-Sum Contract any value) and PS12 (Time based Contract any value).

e) **Delegation of Financial Powers:** Ministry of finance from time to time publishes a delegation of financial power for the Government institutions. It supports the PPA, 2006 and PPR, 2008 for procuring purposes.

2.4 Methods of Public Procurement

According to The Public Procurement Act, 2006 there are several methods for procurement of goods, works, and services. These are as follows-

A. For goods and works:

a) **OTM (Open Tender Method):** Open Tender Method is the best method for ensuring competition. It starts by inviting eligible tenderers through public advertisement. The advertisement is circulated through a minimum of 1 Bengali and 1 English Newspaper. Which at a time was published on the website. The open Tender Method may be performed with or without pre-qualification. In the case of pre-qualification, only pre-qualified candidates are invited to submit a tender. Rule 61 of PPR 2008 describes the Open Tender Method.

b) **LTM (Limited Tendering Method):** Limited Tendering Methods are with or without a threshold. By this method goods or works are procured from an enlisted supplier. The ceiling of this method is a maximum of 25 lakh taka for good and related services and a stand-alone service Maximum of 3 crores for Works and Physical services. If the tender price exceeds the specified threshold, it should be approved by the next higher authority. In the case without threshold goods and works of specialized nature can procure through it. Like aircraft. Locomotives, specialized medical equipment, Telecommunication equipment, silos, ports, and harbors which are available only from a limited number of suppliers. It is also used to meet up the urgent need for procurement where competitive tendering is impractical. The policy of standardization of computers laboratory equipment or research equipment. There is no tender security or retention money required for LTM. Rule 63 and 64 of PPR 2008 describe the Limited Tendering Method.

c) **TSTM (Two Stage Tendering Method):** TSTM is used for turnkey contracts or contracts for large complex nature plants, e.g. supply, installation, and commissioning of processing plants or works of complex nature, communication technology.

d) **RFQM (Request for Quotation Method):** “Quotation” means the priced offer in writing received from tenderers/suppliers. For the procurement of readily available standardized Goods, Works, or Physical Services subject to the financial limitation as prescribed by the rules. In the case of readily available off-the-shelf goods and low-value simple works and physical services, RFQM method is used. Thresholds of RFQM for revenue budget for goods Tk 3 lakh in each case annual aggregate Tk 15 lakh and for works Tk 6 lakh in each case, annual Tk 25 lakh. In the case of the development budget for goods Tk 5 lakh in each case annual aggregate Tk 30 lakh and for works Tk 10 lakh in each case and annual Tk 60 lakh are the thresholds of RFQM.

e) **DPM (Direct Procurement Method):** DPM is of different kinds. Like Direct contracting, Additional delivery and repeat orders, variation orders, extra work orders, direct cash purchase, and force account. In case of emergency, a single supplier, special materials DPM can be used. Here no advertisement requires to be published and Tender security is not required.

f) **OSTETM (One Stage Two Envelope Tendering Method):** Applicable for same contracts as TSTM, but PE is capable of preparing the complete tender documents, Incorporating full specification bill of quantities, schedule of requirements, designs etc.

g) **Framework Agreement:** According to clause 36 of PPA, 2006 and rule 89 of PPR, 2008. In order to avoid reputation and maintain economies of scale framework agreement can be used. It can be done through OTM or LTM method.

B. For Services:

a) **QCBS (Quality and Cost-Based Selection):** In the case of quality and cost-based selection, the PE has to consider the quality of the service and the estimated cost of that service. It is among the competition between shortlisted consultants. QCBS has been described in clause 37 of PPA 2006 and rule 103 (4)(a) of PPR 2008.

b) FBS (Fixed Budget Selection):

If the budget is fixed for a specified service SFB method is used for selecting consultants. SFB has been described in clause 37 of PPA 2006 and rule 103 (4)(b) of PPR 2008.

c) LCS (Least Cost Selection):

In the case of procuring services of a maximum threshold of 50 lakh taka services are of routine items LCS used for Selecting consultants. LCS has been described in clause 38 of PPA 2006 and rule 104 (a) of PPR 2008.

d) SSS (Single Source Selection): If the procurement is the continuation of services, small-scale services, and emergency-based services this method is used for Selecting consultants. SSS has been described in clause 38 (c) of PPA 2006 and rule 104 (d) of PPR 2008. Here threshold level should be considered as a maximum of Tk 20 lakh for the selection of a firm and a maximum of 10 lakh for an individual consultant.

e) There are some other methods also like CSOS, ICS, SBCQ, and DCS for service procurement.

2.5 Public Procurement Cycle: According to CIPS the steps of procurement cycle are as follows:

a) Identify the need (Requisition of the bill of materials): At this stage, the procurement organization assesses the need for the procurement of goods and services. It is done by collecting purchase requisitions from different departments of an institution. This process may also include early supplier involvement and re-evaluation of needs.

b) Define the need (Specification): After assessment of needs the organization should take make/do or buy decisions (Will the organization produce the requirement or source from others). This process generally results in a description of the goods or services to be procured. The specification is also prepared at this stage. Specifications must be clear, comprehensive, and unambiguous. It should meet up the expectations of the requirements of the buyer.

c) Develop contract terms: At this stage, the procuring entity will develop the contract terms for the procurement after conducting a market analysis regarding the availability of the goods or services on the market and potential suppliers considering prices. When writing the contract the conditions should reflect the awarded tender price, quality, and time frame, and clarify expectations, rules, and responsibilities for the management of the contract to avoid conflict and corruption.

d) Source the market (Identify potential suppliers): At this stage, the procurement organization has to pre-screening the potential suppliers to identify who can fulfill the organization's demands and standards.

e) Appraise suppliers: In order to ensure the performance of potential suppliers to be able to conduct any contract or tender fulfilling the required standard, supplier appraisal is needed. This process is valued by avoiding the waste of cost, time, effort, and embarrassment of awarding the contract. In the supply appraisal stage supplier pre-qualification, screening, and short listing are done. FACE 2 FACE model may be used for appraising suppliers.

f) Invite quotations or tenders (Request for quotation (RFQ) or invitation to tender): Depending on the type and complexity of the goods or services in the value of the procurement, the procuring organization selects suitable methods considering delegation of financial powers. According to the financial threshold, the procuring organization usually has to advertise the

procurement. It includes information regarding the specification and the procedures to be followed by the suppliers. It also includes the evaluation criteria of the tender and different timelines regarding the tender.

g) Analyze quotations and select the most promising supplier: After getting the quotations from the suppliers it needs to be evaluated to select the most promising supplier. The evaluation are pre-determined and published in advance and should be done exclusively against the notified requirements and legal instruments. In the case of price, the PE should consider not only the lowest price but also the best offer regarding quality and time. Where price is the soul criteria the lowest bidder will be awarded the contract. It should be done by a committee or a team with a written report. Ray Carter's 10 Cs may be used for supplier selection. Here competency, capacity, commitment, control, cash, consistency, cost, compatibility, compliance and communication are considered.

h) Negotiate the best value: In order to obtain a fair and reasonable price considering quantity and quality, to ensure the contract on time, get cooperation from the suppliers and continue relationship negotiation is done between buyers and suppliers.

i) Award the contract: After evaluating the suppliers on the basis of technical or commercial or both. The best-evaluated supplier should be awarded the contract. All participating bidders should be informed of the result of the evaluation as specified in the country's procurement Acts or Rules. The contract award should be documented and published.

j) Contract/supplier management (Monitor, review and maintain performance): The contract managers or supervisors have to supervise the order, delivery and payment procedures according to the contract agreement. It can be done as an inspection of working progress or delivered goods against the purchase order.

2.6 General Principles of Procurement

The general principles of public procurement are to maximize the economy, efficiency and effectiveness through achieving the right goods or services at the right cost maintaining the right quality at the right time, promoting competition and ensuring fair and equitable treatment for the competitors, promoting integrity and fairness, increase transparency and accountability with increasing public confidence. The Act provides general guidelines to ensure the basic principles of public procurement. It has several clauses related to using standard tender documents, yearly procurement plans, and obligations for participating any tenderer in the procurement processes on the ground of sex, color, race, or any other criteria. The Procuring entity has an obligation to ensure competition by making available all the tender documents and so on. It has to disclose the required qualification or standards of performance. The procuring entity cannot split a single procurement into several packages. The Act provides the validity period of the procurement process which contains money, and the time frame from the advertisement to the contract awarding. Before awarding the contract, the PE has to take necessary approvals. It also describes the procedures regarding deposit of security mind, rate

of charges and the processes of deduction of deposits of security money and the rejection in the case of unsuccessful bidding. PE has to maintain the confidentiality of the whole process of procurement. In order to prevent any persons, attempt to influence the process there are some causes also. The PE is also obliged to maintain records and administer efficient management of the awarded contract. It has to conduct post procurement review within 9 months starting from each fiscal year.

2.7 In the year 2020 The World Bank conducted an assessment of Bangladesh's Public Procurement System. Their findings are as follows:

2.7.1 Strengths

Public procurements must ensure financial appropriation and accountability so that the misuse of money can be controlled and discouraged. Prior to introduction of PPA, 2006 and PPR, 2008 instructions/regulations mentioned in BFR (Bangladesh Financial Rules) were must to be followed. However, some obstacles were witnessed in case of bulk purchases, which led to poor management of public funds. Different development partners noticed the fact and had their strong objection in this regard. Subsequently government of Bangladesh felt the necessity of introducing a standardized and homogenized method to be followed while using public fund. In corporation with e-GP PPR, 2008 has positively contributed to ensure the proper/legislation procurement of utilizing the public fund. Finally Bangladesh enacts laws for procurement system. STDs' used mandatorily for procuring. It also introduces e-GP system for procurement, which is governed by an organization named CPTU. The procurement cycle totally covered by CPTU. In the FY19 an amount of 15 billion US\$ worth of procurement contracts representing 62% of public procurement expenditure in the country was processed through the e-GP system. 1,362 public organizations and 65,559 bidders have been registered in the e-GP system as of FY19. Bangladesh Govt. has established a strong auditing system and anti-corruption system, which supports the purchasing system. Through e-GP there are changes/facilities of monitoring centrally and CPTU is doing so.

2.7.2 Weakness

An unique method of tendering is yet far away depending on its nature of demand of the procuring entities. For this reason, different tendering methods have to observe different limitations. In National OTM the price cap may cause/result to rejecting bids with a fluctuation of +/- 10% of estimated cost which leads to delayed completion of work or intended quality of goods/works/services and market distortion as well. It also limits the procuring of price unstable products. Though LTM method is used to encourage the new entrants but sometimes it encourages non-competitive systems. Sanction/debarment proceedings are used for the vendors who fails to keep commitment as contracted. Here HOPE is the final authority to take decision. But there is not any independent review system on sanction or debarment process. In case of OTM, present provision of legislation are not helpful for the small vendors or new entrants. There is a lack of proper documentation in some cases.

2.8 Elements of sound procurement system:

Laurence Folliot Lalliot, a professor of public law in Paris University, worked for World Bank as Senior Legal Counsel mentioned that a sound procurement system required legal framework to cover uniform and systematic procurement process. There must be some regulatory body like Procuring Entity, Evaluation, Approval and Appellate authority. Unusual deviations or corrupt practices should be prevented and punished under some statutory regulations. The system should be integrated with Budget, Judicial, Civil service and Audit-Control System. There must be provisions for training on this field.

2.9 Procurement in ECS

Bangladesh Election Commission Secretariat follows PPA, 2006 & PPR, 2008 in its procurement activities like other government organizations. ECS is funded by the government of Bangladesh (GoB). According to the constitution it uses Forced Budget. The Government of Bangladesh (GoB) is legally bound to provide the necessary budget according to the requirement of the BEC. ECS has been established to give secretarial assistance to Bangladesh Election Commission. It also uses funds from various donors like the World Bank, the Government of the Netherlands etc. Considering RHD, LGED, BWDB and LGD, ECS has a less significant amount of procurement activities. Most of the procurement activities are done through its development budgets. It is not a negligible amount in the sense of their total allocated budget. The total allocated budget of 2020-21 was 1530 crore 28 lakh. Among these 908 crores 71 lakh in the Non-development budget and 621 crores 57 lakh in the development budget. The total allocated budget for 2021-22 was 1532 crore 34 lakh 7 thousand. Among these 814 crores 6 lakh 7 thousand in the Non-development budget and 718 crore 28 lakh in the development budget. In the fiscal year 2020-21 the expenditure in procurement purposes were 603 crore 55 lakh 44 thousand taka, which is 39.44% out of total budget of that year. In the fiscal year 2021-22 the expenditure in procurement purposes were 680 crore 41 lakh 61 thousand taka, which is 44.40% out of total budget of that year. According to Constitution of Bangladesh, Bangladesh Election Commission is directed to commence Presidential election, National election and prepare Voter list. It also conducts different tiers of Local bodies election also. Most of the fund used for Procurement of Electoral materials like Voter registration form, Printing Ballot Papers, Collecting Electronic Voting Machine (EVM), Control Units, Monitors, Batteries, Equipment of National Database, ICT related equipment, Smart Card etc. Some other materials like office stationeries, Computer and accessories, Vehicles, Furniture etc. also procured. Consulting service and Non-Consulting Services also procured for the projects.

To understand the Procurement function, we have to know the organogram of the Election Commission Secretariat. Bangladesh Election Commission is headed by the Honorable Chief Election Commissioner. The administrative head of the Secretariat is the Senior Secretary/Secretary of the Bangladesh Government. As it is not a Ministry or Division, the Honorable Chief Election Commissioner Acts as the head of the institution. It has 10 Regional offices headed by Regional Election officers, 64 District offices headed by District Election officers and 523 Thana/Upazilla offices headed by Thana/Upazilla Election officers. In the

Secretariat, there are 6 wings. Among these 1 wing (National Identity Registration Wing) is headed by Director General who is equivalent to Additional Secretary and others are Joint Secretary or Equivalent. There are about 4852 Staffs in these offices. Among this 792 are 1st Class Officers and 4060 are of other classes. There is also a Training Institute headed by Director General who is equivalent to Joint Secretary. The Procurement activities of the Secretariat are supported by Planning & Development Branch, which is headed by Deputy Chief. The Procurement function of ECS is partially decentralized. Some year ago, Procurement was being done centrally and Materials were distributed to different Department or Offices from Secretariat. After facing some problems some items are procured from field offices. It was due to local demand fulfillment, decentralization of power and achieving employee empowerment. But in order to maintain Economy of scale, Standardization of items and Standard and uniform procedures most of the items are procured centrally. The main function of the Election Commission is to conduct different types of Election as mentioned earlier. Sometimes the Elections are conducted on a sudden decision. So decentralized procurement is sometimes not possible. There are also individual Project directors for Development Projects. The project uses a development fund where ECS was both development and non-development budgets. There are three categories of projects in ECS (High, Medium and Low) according to the estimated cost. Projects are headed by Additional Secretary or Joint Secretary Equivalent Officers. Projects are categorized by Delegation of Financial Powers (DoFP).

Chapter-3

Results and Discussions

3.1 Introduction

The study focused on depicting the real scenario of the procurement functions conducted in ECS and its compliance with PPA, 2006 and PPR, 2008. This study gives a clear indication of the compliance of PPA, 2006 and PPR, 2008. It also clarifies the problems found by the procuring entities of ECS. Primary and secondary data were collected to use for the purpose of this study. Primary data were collected through a survey questionnaire. The respondents were selected randomly. The questionnaire was divided into three parts (A, B and C). Part A was the respondent profile, Part B was about the survey questionnaire and Part C was about opinions on the application of PPA, 2006 and PPR, 2008. The questionnaire contained twenty questions, of which 10 were MCQ type and 10 questions were for short-answer. The close-ended questions were those were about the implementation of PPA and PPR in the procurement process of ECS. Questions 1-6 of Subpart B1 were about a package in which the respondent was involved. Subpart B2 was about the ranking of the indicators for assessing the implementation of PPA, 2006 and PPR, 2008 in the procurement process of ECS. 4 questions were in Part C which was to find out the extent of PPA and PPR followed, problems regarding applications, suggestion for solutions of the problems and to know the required amendments to make effective use in projects or ECS (Sample questionnaire attached). Secondary data were synthesized for supporting primary data.

In this study, different research results and evidence from secondary data sources have been used. Worldwide published various assessment reports, evaluation reports and public procurement documents were also assessed. Further more personal experiences and informal interview methods were also utilized.

3.2 Procurement is done by ECS in the 2020-21 and 2021-22 fiscal years:

The study was conducted on 2 (two) years of procurement data. The fiscal year 2020-21 and 2021-22 were considered for this purpose. There are 5 (five) PE in ECS. Other than 4 projects all the ECS procurements were proceeds from the Common Service Section of this organization. In the studied years, 13 Goods packages and 6 NCS packages were procured through this Section. There was a total of 66 packages of Goods, 22 packages of Services and 102 packages of NCS procurement done by ECS in these years. There was not any Works related procurement processed in the said years.

Table: 1

SL no.	Name of The Wing/section	Types			
		Goods	Works	Services	Non-consulting services
1	2	3	4	5	6
1	Common service	13	-	-	6
2	IDEA project	5	-	2	45
3	IDEA project (2 nd phase)	17	-	12	39
4	SCDECS project	15	-	8	-
5	EVM project	16	-	-	12
Total=		66	-	22	102

3.3 Demographic overview of the respondents:

The opinions of 25 respondents were surveyed through the prepared questionnaire. All of them were ECS and project officials. The respondents were belonging to the rank of not below Assistant Secretary. It is to be noted that they were selected from different arena, which categories as the budget user, designation, relevancy with ECS, educational level and training on PPA & PPR.

Table: 2

Respondent's Attribute/Variants	Frequency	Percent	Valid Percent	Cumulative Percent
Budget User				
Non-development Budget User	14	56.00	56.00	56.00
Development Budget User	11	44.00	44.00	100.00
Total	25	100.00	100.00	
Designation				
Deputy Secretary and Above	5	20.00	20	20
Assistant Secretary to Senior Assistant Secretary	9	36.00	36.00	56.00
Project Officials	8	32.00	32.00	88.00
Consultant	3	12.00	12.00	100.00
Total	25	100.00	100.00	
Relevancy with ECS				

Respondent's Attribute/Variants	Frequency	Percent	Valid Percent	Cumulative Percent
Employee	9	36.00	36.00	36.00
TOC member	6	24.00	24.00	60.00
TEC Member	7	28.00	28.00	88.00
Dealing with projects	3	12.00	12.00	100.00
Total	25	100.00	100.00	
Educational Level				
Master's	22	88.00	88.00	88.00
Bachelor	3	12.00	12.00	100.00
Total	25	100.00	100.00	
Training on PPA, 2006 and PPR, 2008				
Yes	15	60.00	60.00	60.00
No	10	40.00	40.00	100.00
Total	25	100.00	100.00	

3.4 Following PPA, 2006 and PPR, 2008:

There were 100 percent positive responses following PPA, 2006 and PPR, 2008 in ECS procurement procedures. None gave a Negative Response to it. It means that ECS follows PPA, 2006 and PPR, 2008 properly.

Table: 3

	Frequency	Percent	Valid Percent	Cumulative Percent
Positive	25	100.00	100.00	100.00
Negative	0	0.00	0.00	100.00
No. of Respondents	25	100.00	100.00	

3.5 Use of STD's:

Clause 46 of PPA, 2006 and rule 96 of PPR, 2008 describe the preparation use of Standard Tender Documents (STD's). In order to fulfill the operation of PPA, 2006 and PPR, 2008 CPTU published STD's to prepare uniform tender documents, promote competition, provide uniform instruction for tenderers and give adequate information to the market. Each PE has to use these STD's for the preparation of Tender Documents. To check if ECS is using these documents or not 100 percent of respondents responded positively. Nobody gave a negative response. This indicates that PEs' of ECS use these STDs' regularly.

Table: 4

	Frequency	Percent	Valid Percent	Cumulative Percent
Positive	25	100.00	100.00	100.00
Negative	0	0.00	0.00	100.00
No. of Respondents	25	100.00	100.00	

3.6 Frequency distribution of the questions for assessing the implementation of PPA, 2006 and PPR, 2008 in the procurement process of ECS:

Table: 5

Question	Frequency distribution					Total Frequency
	<i>Strongly Disagree</i>	<i>Disagree</i>	<i>Neutral</i>	<i>Agree</i>	<i>Strongly Agree</i>	
Annual procurement plan (APP) which approved at the start of Fiscal year is always used as a base of the procurement	0	0	1	2	22	25
Formation of TOC followed properly	0	0	0	2	23	25
Formation of TEC followed properly	0	0	0	2	23	25
Tender documents limits more competition	22	1	1	1	0	25
Time for Publishing Advertisement and tender submission deadline maintained	0	0	0	0	25	25
Maintains standard time between tender opening and tender evaluation	0	0	1	1	23	25
Tenders approve by authorized person (CAA/PD/HOPE)	0	0	0	0	25	25
Timeline between approval of evaluation report and issuance of NOA is followed properly.	0	0	0	0	25	25
Timely disbursement of Contractor's payment	0	0	1	1	23	25
Preservation of documents	0	0	1	2	22	25

3.7 Annual procurement plan (APP) which is approved at the start of the Fiscal year is always used as a base of the procurement:

According to clause 11 of PPA, 2006 and rule 15-16 of PPR, 2008 describes the processes to prepare Annual Procurement Plan (APP) by the PEs'. The APP is to be prepared at the start of each Fiscal year. From the Likert-type questionnaire, the study found that APP was prepared at the start of each fiscal year and approved at that time. All the PEs' follows the APP perfectly. In this context, 4 percent were neutral, 8 percent agreed and 88 percent of respondents strongly agreed with this indicator. This means that APP is followed by the PEs' and compliances with the PPA, 2006 and PPR, 2008 properly.

Table: 6

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree	0.00	0.00	0.00	0.00
Disagree	0.00	0.00	0.00	0.00
Neutral	1.00	4.00	4.00	4.00
Agree	2.00	8.00	8.00	12.00
Strongly agree	22.00	88.00	88.00	100.00
No. of Respondents	25.00	100.00	100.00	

3.8 Formation of TOC followed properly:

According to clause 6 of PPA, 2006 and rule 7 of PPR, 2008 the TOC has to be formed by at least 3 members. One of which would be an external member of the concern PE. Here we found that 8 percent agreed and 92 percent strongly agreed with this indicator. So we can say that the formation of TOC followed PPA, 2006 and PPR, 2008 properly.

Table: 7

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree	0.00	0.00	0.00	0.00
Disagree	0.00	0.00	0.00	0.00
Neutral	0.00	0.00	0.00	0.00
Agree	2.00	8.00	8.00	8.00
Strongly agree	23.00	92.00	92.00	100.00
No. of Respondents	25.00	100.00	100.00	

3.9 Formation of TEC followed properly:

According to clause 7 of PPA, 2006 and rule 8 of PPR, 2008 the TOC has to be formed by at least 5-7 members. Two of which would be an external member of the concern PE. Here we found that 8 percent agreed and 92 percent strongly agreed with this indicator. So we can say that the formation of TEC followed PPA, 2006 and PPR, 2008 properly.

Table: 8

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree	0.00	0.00	0.00	0.00
Disagree	0.00	0.00	0.00	0.00
Neutral	0.00	0.00	0.00	0.00
Agree	2.00	8.00	8.00	8.00
Strongly agree	23.00	92.00	92.00	100.00
No. of Respondents	25.00	100.00	100.00	

3.10 Tender documents limit competition:

A basic principle of PPA, 2006 and PPR, 2008 is to ensure more competition among the suppliers. In this regard 88 percent strongly disagree, 4 percent disagree, 4 percent are neutral, and 4 percent agreed that tender documents limit more competition. One among 25 respondents agreed with this. From his observations sometimes tender documents are prepared to give unethical advantages to some vested vendors. This may be due to faulty specifications or unskilled procurement managers.

Table: 9

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree	22.00	88.00	88.00	88.00
Disagree	1.00	4.00	4.00	92.00
Neutral	1.00	4.00	4.00	96.00
Agree	1.00	4.00	4.00	100.00
Strongly agree	0.00	0.00	0.00	
No. of Respondents	25.00	100.00	100.00	

3.11 Time for Publishing Advertisement and tender submission deadline maintained:

PPA, 2006 and PPR, 2008 described the Time for Publishing advertisements and tender submission deadline in the schedules attached with it. Among 25 respondents everybody strongly agreed that ECS maintains Time for Publishing Advertisement and tender submission deadline properly.

Table: 10

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree	0.00	0.00	0.00	0.00
Disagree	0.00	0.00	0.00	0.00
Neutral	0.00	0.00	0.00	0.00
Agree	0.00	0.00	0.00	0.00
Strongly agree	25.00	100.00	100.00	100.00
No. of Respondents	25.00	100.00	100.00	

3.12 Maintains standard time between tender opening and tender evaluation:

PPA, 2006 and PPR, 2008 described the standard Time between tender opening and tender evaluation in the schedules attached with it. Among 25 respondents 92 percent strongly agreed, 4 percent agreed and 4 percent were neutral in this context. It means that ECS maintains the standard Time between tender opening and tender evaluation properly.

Table: 11

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree	0.00	0.00	0.00	0.00
Disagree	0.00	0.00	0.00	0.00
Neutral	1.00	4.00	4.00	4.00
Agree	1.00	4.00	4.00	8.00
Strongly agree	23.00	92.00	92.00	100.00
No. of Respondents	25.00	100.00	100.00	

3.13 Tenders approved by an authorized person (CAA/PD/HOPE):

According to PPA, 2006, PPR, 2008 and DoFP there are different approval authorities for different tenders considering the tender value. All the respondents strongly agreed that tenders were approved by authorized persons (CAA/PD/HOPE).

Table: 12

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree	0.00	0.00	0.00	0.00
Disagree	0.00	0.00	0.00	0.00
Neutral	0.00	0.00	0.00	0.00
Agree	0.00	0.00	0.00	0.00
Strongly agree	25.00	100.00	100.00	100.00
No. of Respondents	25.00	100.00	100.00	

3.14 Timeline between approval of evaluation report and issuance of NOA is followed properly:

PPA, 2006 and PPR, 2008 described the standard Time between approval of evaluation report and issuance of NOA in the schedules attached with it. Among 25 respondents all of them strongly agreed with this context. It means that ECS maintains standard Time between approval of evaluation report and issuance of NOA properly.

Table: 13

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree	0.00	0.00	0.00	0.00
Disagree	0.00	0.00	0.00	0.00
Neutral	0.00	0.00	0.00	0.00
Agree	0.00	0.00	0.00	0.00
Strongly agree	25.00	100.00	100.00	100.00
No. of Respondents	25.00	100.00	100.00	

3.15 Timely disbursement of Contractor's payment:

Timely disbursement of contractor's payment is another challenge for PEs'. Here the study found that Among 25 respondents' 92 percent strongly agreed, 4 percent agreed and 4 percent were neutral in this context. It means that disbursed the contractors' payments timely.

Table: 14

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree	0.00	0.00	0.00	0.00
Disagree	0.00	0.00	0.00	0.00
Neutral	1.00	4.00	4.00	4.00
Agree	1.00	4.00	4.00	8.00
Strongly agree	23.00	92.00	92.00	100.00
No. of Respondents	25.00	100.00	100.00	

3.16 Preservation of documents:

According to PPA, 2006 and PPR, 2008 all procurement-related documents should be preserved properly. Here the study found that Among 25 respondents' 88 percent strongly agreed, 8 percent agreed and 4 percent were neutral in this context. It means that documents are preserved properly by ECS.

Table: 15

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree	0.00	0.00	0.00	0.00
Disagree	0.00	0.00	0.00	0.00
Neutral	1.00	4.00	4.00	4.00
Agree	2.00	8.00	8.00	12.00
Strongly agree	22.00	88.00	88.00	100.00
No. of Respondents	25.00	100.00	100.00	

3.17 Problem in following PPA, 2006 and PPR, 2008 in ECS:

Here the study found that Among 25 respondents' 80 percent were negative and 20 percent were positive in this context. Some of the respondent mention that procurement of non-development funds follows PPA, 2006 and PPR, 2008 properly. But in the case of development funds 82-90% of procurement follow this. They mentioned that this happens due to a lack of proper knowledge, awareness and experience. One of the respondents mentioned that the main problems regarding the application of PPA, 2006 and PPR, 2008 in the purchasing process of ECS are due to the conditions stipulated in the standard tender document. Most of the tender documents are in the English language, which creates problems for the small bidder/supplier. Lack of awareness of PPA, 2006 and PPR, 2008 among the bidder to some extent officials was one of the causes. Another two respondents mention that project official purchase by using the shortcut method. Preparation of vendor-specific specifications is a challenge to implementing PPA, 2006 and PPR, 2008. Budget deficiency is one of the problems regarding the application of legal instruments. The negative respondents also suggest some solutions for the aforesaid problems. According to their opinion, the procurement managers should get proper training on PPA, 2006 and PPR, 2008, tender documents should be in Bangla, proper monitoring by hope, competent should be selected to prepare technical specifications and ToR and sharing knowledge to ensure transparency, instead of individual consultant firm should be selected. In case of emergency tender duration between tender publication and the closing may period be reduced for OTM (national).

Table: 16

	Frequency	Percent	Valid Percent	Cumulative Percent
Positive	5.00	20.00	20.00	20.00
Negative	20.00	80.00	80.00	100.00
No. of Respondents	25.00	100.00	100.00	

3.18 Discussion

After analyzing the primary survey data, a mixed reaction was found. The concerns have expressed their views on the application of PPA, 2006 and PPR, 2008 in ECS. Their opinions were mostly positive. But to a little extent were negative also. In ECS there is a shortage of officials who has procurement-related proper knowledge. It is due to a lack of training facilities. There is not a sufficient number of officers for conducting the functions of BEC. That's why, though there is a lot of procurement-related training arranged by CPTU and other Government training Institutes they can not avail the training. Corruption is an inevitable phenomenon in procurement processes. But ECS is surprisingly out of this regarding its procurement. ECS uses a framework contract for its routine items and regular procuring items. It is a great initiative for ensuring timely supplies. The vendor-specific specification is one of the problems in some cases. There is a little bit tendency to select preferred vendors. In absence of competent people and ethics, this type of specification limits the competition. As most of the procurements are carried out by the projects the HOPE recently introduces a specification verification committee to verify the specifications prepared by the projects. The projects are obliged to get a verification certificate from that committee before sending the tender documents for approval of the delegated authority. As the major parts of the procurement activities are done by the projects the officials of ECS, who are highly trained in procurement processes are deployed as additional charges to procurement smoothly.

Chapter-4

Conclusions and Recommendations

4.1 Conclusions

Since Bangladesh has recently upgraded to a developing country, its social and economic development in recent years is quite impressive. Ensuring a transparent, efficient and accountable procurement system is a milestone of good governance. This study dissected procurement legislation and its implementation in ECS as well as the procurement system of Bangladesh. In order to procure Goods, Works and Services in the right time maintaining the right quality through the proper value of money (VFM), the government had made two principal legal instruments PPA, 2006 and PPR, 2008. There are also some documents and financial orders to support the aforesaid instruments. The use of public funds for public procurement are undoubtedly complex but the objective is specific to societies. The legal procedures were developed from the recommendations of various development partners like WB, IMF etc. According to Lalliot (World Bank, Washington D.C) four factors are integral parts of a sound procurement system. These are; Coverage of the procurement system, Legal elements, Institutional elements and Evaluation tools. Considering these elements recommended by Lalliot it can be stated that the procurement system of Bangladesh is quite sound.

But there are some weaknesses as well in our system. According to WB use of a price cap in OTM for purchasing works resulted in the complexity of price unstable products. LTM may cause failure of constructions, delays and cost-overruns. There is no opportunity of independent review system for sanctioning or debarment. The aggrieved person or company can claim for remedy only before the High Court Division, which leads to a poor sustainable public procurement policies. In case of bulk procurements both the evaluation and approval takes more time. In the existing system there is no provision of monitoring or tracking the expenses by the concerned parties.

Considering RHD, LGED, BWDB and LGD, ECS has a less significant amount of procurement activities. Most of the procurement activities are done through its development budgets. It is not a negligible amount in the sense of their total allocated budget. The total allocated budget of 2020-21 was 1530 crore 28 lakh. Among these 908 crores 71 lakh in the Non-development budget and 621 crores 57 lakh in the development budget. The total allocated budget for 2021-22 was 1532 crore 34 lakh 7 thousand. Among these 814 crores 6 lakh 7 thousand in the Non-development budget and 718 crore 28 lakh in the development budget. In the fiscal year 2020-21 the expenditure in procurement purposes was 603 crores 55 lakh 44 thousand taka, which is 39.44% out of the total budget of that year. In the fiscal year 2021-22, the expenditure on procurement purposes was 680 crores 41 lakh 61 thousand taka, which is 44.40% of total budget of that year. The expended amount is noticeable. ECS have to maintain transparency, quality, and cost and time properly to conduct their procuring activities.

4.2 Recommendations: To make the procurement functions more effective in ECS some important things to do, are

- Amendment of existing legislations;
- Capacity Building;
- Use of e-GP system;
- Introduce sustainable procurement; and
- Enhancing Ethical procurement;

4.2.1 Amendment of existing legislations:

For the establishment sound Public Procurement System the existing legislations need to be amended. There are some inconsistencies between the flowchart and the rules of PPR. This should be addressed immediately. The direct cash purchase ceiling should be increased from the present amount of 25 thousand taka. In PPA 26 (1) no need for experience for LTM up to 3 crores for procurement of works this should be changed. Because this act is misused by PE and authorized officers of PE. In PPA 31 (3) there is a provision for cancel tenders who have submitted above +10% and below -10% of the official cost estimate. This is misusing govt funds and PE and an authorized officer of PE taking scope to give NOA with partiality by disclosing official cost estimate. The methods for service procurements should be clear and unambiguous. The ceiling for various methods should be amended according to the latest delegation of financial power circulated by the Ministry of Finance. Contract management is an important part of the procurement cycle. Chapter-3, part-6 of PPR 2008 shortly describe the contract management procedure where we cannot get an exact answer to some problem that arise during this period. Due to COVID-19, the world supply chain disrupt drastically, thus suppliers were unable to deliver goods in time, in this situation the authority of PE in time (delivery) extension can be increased by 20% to 50%. This will be a congenial solution for both parties. For sustainable procurement life cycle costing should be incorporated in PPA and PPR.

4.2.2 Capacity Building:

Recommendations for the capacity building of ECS personnel:

- a) All the PE's and procurement personnel should be trained on PPA, PPR and other related circulars or guidelines.
- b) ECS has formed a procurement cell according to the instruction of CPTU. This cell should be supported by HOPE to make it functional. The cell should be updated on regular basis.
- c) Proper monitoring is an important instrument for capacity building. Especially the project officials who are involved in procurement activities should be monitored properly on regular basis. The monitoring activities may be done by appointing a procurement specialist of ECS for each project.

4.2.3 Use of e-GP system:

ECS is yet not prepared to do its procurement activities through the e-GP system. It is due to a lack of proper training and unused to with this system. They can train their professionals regarding this and introduce an e-GP system for procurement activities.

4.2.4 Introduce sustainable procurement:

Sustainable procurement is based on three pillars, i.e., economic, environmental and social. In order to introduce sustainable procurement in ECS, the procurement processes should achieve optimal value for money. It means that in the case of selecting the most promising supplier the consideration will be not only the lowest price but also the right quality and right time.

4.2.5 Enhancing Ethical procurement:

ECS should enhance ethical procurement by avoiding supplier favor and conflict of interest. It should maintain confidentiality of information, fair and unbiased treatment and integrity.

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Sample Survey Questionnaire

BRAC University, Dhaka

Research Topic: Public Procurement Legislation in Bangladesh: A study on the application of PPA, 2006 and PPR, 2008 in the procurement activities of Election Commission Secretariat.

This is a survey questionnaire for conducting a research on “Public Procurement Legislation in Bangladesh: A study on the application of PPA, 2006 and PPR, 2008 in the procurement activities of Election Commission Secretariat” to find out whether the procurement processes and contracting proceedings are in accordance with the Public Procurement Act and Rules. The aim of this research is to review whether Standard Tender Document (STD) is followed & tender document is prepared in line with the act and rules, to review and assess the capacity of the Procuring Entity in handling procurement from preparation to contract implementation as per Rules & required standards, to review whether the documentation are maintained as per Rules and to identify improvements in the procurement contracting in the context of deviations if required. It is a part of academic activity for the Masters in Procurement and Supply Management in the BRAC Institute of Governance and Development (BIGD). Your honest response is valuable for the researcher. The information given by you will be kept confidential and will be used only for the academic purpose.

Part A: Respondent’s profile

[Please put a (√) mark where appropriate]

1. Name of the :
respondent (Optional)
2. Designation :
3. Name of the :
organization
4. Gender : Male Female
5. Job Experience (years) : 5-10 11-20 Above 20
6. Relevancy with ECS : Employee TEC member Procuring Entity
7. Educational :
Qualification (Last
degree obtained)
8. Did You have any :
training/degree on
PPA, 2006 and PPR,
2008?

Part B: Survey Questionnaire

The following questions are designed to assess the extent to which the procurement activities of ECS comply with the PPA, 2006 and PPR, 2008.

[Please put a (√) mark where appropriate]

B.1. Mention one package in which you were involved and answer the question no 1-6.

1. Name of the :
Package

2. Type of Procurement :

	Goods		Works		Services
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3. Name of the PE :

4. Methods of Procurement :

	OTM (Open Tender Method)		LTM (Limited Tendering Method)		TSTM (Two Stage Tendering Method)
	RFQM (Request for Quotation Method)		DPM (Direct Procurement Method)		OSTETM (One Stage Two Envelope Tendering Method)
	QCBS (Quality and Cost Based Selection)		SFB (Fixed Budget Selection)		LCS (Least Cost Selection)
	SSS (Single Source Selection)				Other (please specify)

5. Value of the procurement (Taka in lakh) :

6. STD used for this purchasing :

B.2. How would you like to rank the following indicators for assessing the implementation of PPA, 2006 and PPR, 2008 in the procurement process of ECS (1=Strongly Disagree, 2=Disagree, 3=Neutral, 4=Agree and 5=Strongly Agree):

SL.	Indicators	Scale 1 to 5				
1	Annual procurement plan (APP) which approved at the start of Fiscal year is always used as a base of the procurement	1	2	3	4	5
2	Formation of TOC followed properly	1	2	3	4	5
3	Formation of TEC followed properly.	1	2	3	4	5
4	Tender documents limits more competition	1	2	3	4	5
5	Time for Publishing Advertisement and tender submission deadline maintained	1	2	3	4	5
6	Maintains standard time between tender opening and tender evaluation	1	2	3	4	5

7	Tenders approve by authorized person (CAA/PD/HOPE)	1	2	3	4	5
8	Timeline between approval of evaluation report and issuance of NOA is followed properly.	1	2	3	4	5
9	Timely disbursement of Contractor's payment	1	2	3	4	5
10	Preservation of documents	1	2	3	4	5

Part C: Opinion about application of PPA, 2006 and PPR, 2008

[Please provide your valuable opinion regarding the following questions]

1. To what extent PPA, 2006 and PPR, 2008 followed in your project/ECS you think?

2. What are the main problems regarding application of PPA, 2006 and PPR, 2008 in the purchasing process of your project/ECS?

3. Please suggest solution of the aforesaid problems?

4. Do you think that the existing PPA, 2006 and PPR, 2008 needs to be amended to make effective use in your project/ECS? If yes, then please state your opinion?

