

A STUDY OF THE IMPACT OF NEW PUBLIC PROCUREMENT RULES ON SMALL, MEDIUM AND LARGE BIDDERS

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Dedicated to

*My Loving Parents who supported me all the
way*

*My Family Members whose constant
dedication and love enlightened me*

*My Supervisor whose guidance was a source
of inspiration*

*All of my friends and colleagues who stood
beside me with great commitment*

Declaration

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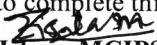
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ABSTRACT

Procurement has been identified as one of the most significant areas that largely affects public sector performance. As part of the broad public sector reforms, the government of Bangladesh has undertaken management of implementation challenges aiming to improve performance of public procurement progressively towards strengthening overall governance. The Central Procurement Technical Unit (CPTU) has been implementing the Public Procurement Reform Project II (PPRP-II) to improve performance of the public procurement system progressively in Bangladesh, focusing largely on the key ministries and targeting their implementing agencies.

As part of the broad public sector reforms, the government has undertaken management of implementation challenges aiming to improve performance of public procurement progressively towards strengthening overall sectoral governance. In order to achieve the aims and objectives, a permanent unit, called Central Procurement Technical Unit (CPTU) was established in 2002. This is an implementing unit in the field of procurement reform and monitoring of reform implementation. Reform process was carried out with ultimate outcomes of formulation and issuance of a unified procurement processing system (Public Procurement Regulations-2003), Implementation Procedures for PPR 2003, Public Procurement Processing and Approval Procedures (PPPA), Revised Delegation of Financial Powers (DOFP) and several Standard Tender Documents (STDs)/Standard Request for Proposal Document for the procurement of Goods, Works and Services. In 2006, the Public Procurement Act (PPA 2006) was passed by the Parliament and in 2008, a new set of Public Procurement Rules (PPR 2008) was issued. The PPA 2006 and PPR 2008 were made effective from 31 January, 2008.

The purpose of the study is to gather information about existing environment related to public procurement system and understand knowledge, perception and practice of stakeholders, procuring entities and bidders regarding public procurement system. The study is expected to help develop long term visions for smooth implementation of PPR-2008 and design communication interventions.

The objective of the study is to determine level of public understanding and appreciation of the procurement system and the values that have been added to it including proper management of public fund, outsourcing the provision of goods and services in a competitive manner, accountability of public officials etc. in Bangladesh.

The objectives of the study were achieved through two approaches; the first one was a valid questionnaire that was obtained from respondents' of RHD, LGED and PWD. The second one is achieved through key informant interviews of officers and bidders. A questionnaire was prepared to to gather information on attitude, ideas and understanding of the stakeholders about public procurement and incorporate those into the development of a comprehensive communication strategy, and design communication interventions to popularize the Public Procurement Rules, 2008.

After getting the response from the respondents' from questionnaire and key informant interview, the study recommends some of the key areas for improvement like:

A comprehensive training / orientation program be designed, developed and implemented. It is being suggested that:

- Each of the courses addresses and describes the salient features of the PPA and PPR
- Rules dealt with in the PPR document
- Guidelines and steps to be followed by the procuring entity and the bidders
- Roles and responsibilities of various stakeholders in the implementation of PPR
- Advantages and benefits of following the PPR.

A policy decision be taken to design and implement planned communication activities for popularizing and smoothly implementing the PPR.

Based on the present situation analysis and other relevant information already captured, a detailed communication strategy including the action be designed and developed.

An efficient and pragmatic monitoring, supervision and evaluation of the communication campaign be in-built into the program.

Now that PPR-2008 is in place, it has been felt that in order to raise awareness and understanding of the same, strategic communication activities need to be undertaken for which a broad-based communication strategy is of utmost necessity. This then is the rationale for this proposed study.

TABLE OF CONTENT

Chapter	Title	Page
	Title Page	i
	Dedication	ii
	Declaration	iii
	Acknowledgement	iv
	Abstract	v
	Table of Content	vii
	List of Tables	ix
	List of Figures	x
1	INTRODUCTION	1
	1.1 Introduction	2
	1.2 Objectives	5
	1.3 Justification	6
	1.4 Methodology	7
	1.6 Limitations of the Research	7
	1.7 Chapter Outline	7
2	ORGANISATIONAL ORIENTATION	9
	2.1 History	10
	2.2 Goal of RHD	11
	2.3 Assets of RHD	11
	2.4 Organisational Structure of RHD	14
	2.5 Management activities of RHD	15
3	RESEARCH METHODOLOGY	18
	3.1 Introduction	19
	3.2 Research Strategy	19
	3.3 Research Design	19
	3.4 Population	20
	3.5 Sample Selection and sample Size Determination	20
	3.6 Methodology of the thesis	21
	3.6.1 Questionnaire Survey	21
	3.6.2 Cases and interviewees	21
	3.7 Questionnaire Design	21
	3.8 Questionnaire Content	22
	3.8.1 General information of the respondents	22
	3.8.2 Knowledge and perception regarding PPR-2008	22
	3.8.2.1 General perception regarding PPR-2008	22
	3.8.3 Practice regarding implementation of PPR-2008	22
	3.8.4 Risk in implementation of PPR-2008	22
	3.9 Pilot Study	22
	3.10 Data/Information Compilation	22
	3.11 Reporting	23
	3.12 Conclusion	23
4	LITERATURE REVIEWS	24
	4.1 Introduction	25
	4.2 Procurement	25
	4.3 Public Procurement	26

4.4	The growing complexity of Procurement	28
4.5	Public Procurement Reform Project-II	29
4.6	Procurement Planning	30
4.7	Procurement Process	30
4.8	Key features of the Public Procurement Rules-2008	34
4.8.1	Definition	34
4.8.2	Areas of applicability of the Rules	34
4.8.3	Competition in Procurement	35
4.9	Typical step to be followed in Procurement under the Public Procurement Rules-2008	35
4.9.1	Advertisement	35
4.9.2	Pre-Qualification	36
4.9.3	Opening of Pre-Qualification Applications	36
4.9.4	Evaluation of Pre-Qualification Applications	36
4.10	Tendering/Bidding process	37
4.10.1	Issuance and Sale of Tender Document and Pre-Tender Meeting, Etc.	37
4.10.2	Modifications to Tender Documents.	37
4.10.3	Modifications to Tender Documents.	37
4.10.4	Opening of Tenders	39
4.10.5	Evaluation of Tenders, Etc.	40
4.11	Notification of Award and Signing of Contract	47
4.12	Large, Medium & Small Bidder	47
5	ANALYSIS OF THE RESULTS	48
5.1	Foreword	49
5.2	Characteristics of the Respondents	49
5.3	Involvement in Public Procurement of Goods, Works and Services	50
5.4	Idea about PPA-2006 and PPR-2008	51
5.5	Practice of following the PPR-2008	53
5.6	sources of information about dropping Tenders	55
5.7	Respondents views on Procurement Practice following PPR-2008	57
5.8	Problems faced in following the procurement process	58
5.9	Respondents views on ways to remove the problems	61
5.10	Respondents views on risk in implementation of PPR-2008	62
6	CONCLUSION & RECOMMENDATIONS	64
6.1	Introduction	65
6.2	Recommendations	65
6.2.1	Organisation and management	65
6.2.2	Personnel Management	65
6.2.3	Recommendation to increase effectiveness of procurement management	66
6.4	Conclusion	67
6.5	Limitation and assumptions	68
6.6	Recommendations for Further Research	68

Reference	69
Appendix A Bibliography	70
Appendix B Questionnaire Survey	71
Appendix C Case Stories	75

ANNEXURE-A
LIST OF TABLES

Sl. No	Table No	Description	Page No
1.	2.1	Major Bridges in Bangladesh	13
2	3.1	Sample size	20
3	5.1	Respondents' Profile	49
4	5.2	Views of bidders in following the PPR	55
5	5.3	Types of problems face by bidders in following the PPR	59
7	5.4	Types of problems face by procuring officials in following the PPR	60
8	5.5	Ways to Remove the Problems Suggested by bidders	61
9	5.6	Ways to Remove the Problems Suggested by procuring officials	61
10	5.7	Risk in implementation of PPR-2008	62
11	5.8	Risk in implementation of PPR-2008	63

ANNEXURE-C
LIST OF FIGURES

Sl. No	Figure No	Description	Page No
1	4.1	The race car model source: Veek and Gunning (1996) in Telgen et al. (2005)	25
2	4.2	Suppliers evaluation and selection process	26
3	4.3	Purchasing Process	33
4	5.1	Involvement of Bidders in Public Procurement	50
5	5.2	Involvement of Officials in Public Procurement	51
6	5.3	Percentage of bidders heard about PPA-2006	52
7	5.4	Percentage of bidders heard about PPA-2008	53
8	5.5	Percentage of bidders following PPR-2008	54
9	5.6	Percentage of officials following PPR-2008	55
10	5.7	Sources of Information about dropping the Tender	56
12	5.8	Views of Procurement officials in following the PPR-2008	57
13	5.9	Percentage of procuring officials face problems	58

CHAPTER-1

INTRODUCTION

1.1 Introduction

The People's Republic of Bangladesh is the official name of Bangladesh. Located in South Asia and bordered by India on all sides except for a small border with Myanmar to the far southeast and by the Bay of Bengal to the south.

Bangladesh is a low-lying, riparian country located in South Asia with a largely marshy jungle coastline of 710 kilometres (440 mi.) on the northern littoral of the Bay of Bengal. Formed by a deltaic plain at the confluence of the Ganges (Padma), Brahmaputra (Jamuna), and Meghna Rivers and their tributaries, Bangladesh's alluvial soil is highly fertile but vulnerable to flood and drought. Hills rise above the plain only in the Chittagong Hill Tracts in the far southeast and the Sylhet division in the northeast. Straddling the Tropic of Cancer, Bangladesh has a subtropical monsoonal climate characterized by heavy seasonal rainfall, moderately warm temperatures, and high humidity. Natural calamities, such as floods, tropical cyclones, tornadoes, and tidal bores affect the country almost every year. Bangladesh also is affected by major cyclones on average 16 times a decade.

The area that is now Bangladesh has a rich historical and cultural past, combining Dravidian, Indo-Aryan, Mongol/Mughul, Arab, Persian, Turkic, and west European cultures. Residents of Bangladesh, about 98% of whom are ethnic Bengali and speak Bangla, are called Bangladeshis. Urdu-speaking, non-Bengali Muslims of Indian origin, and various tribal groups, mostly in the Chittagong Hill Tracts, comprise the remainder. Most Bangladeshis (about 83%) are Muslims, but Hindus constitute a sizable (16%) minority. There also are a small number of Buddhists, Christians, and animists. English is spoken in urban areas and among the educated.

Sufi religious teachers succeeded in converting many Bengalis to Islam, even before the arrival of Muslim armies from the west. About 1200 AD, Muslim invaders established political control over the Bengal region. This political control also encouraged conversion to Islam. Since then, Islam has played a crucial role in the region's history and politics, with a Muslim majority emerging, particularly in the eastern region of Bengal.

Almost from the advent of independent Pakistan in 1947, frictions developed between East and West Pakistan, which were separated by more than 1,000 miles of Indian territory. East Pakistanis

felt exploited by the West Pakistan-dominated central government. Linguistic, cultural, and ethnic differences also contributed to the estrangement of East from West Pakistan. Bengalis strongly resisted attempts to impose Urdu as the sole official language of Pakistan. Responding to these grievances, Sheikh Mujibur Rahman in 1948 formed a students' organization called the Chhatra League. In 1949, Maulana Abdul Hamid Khan Bhasani and some other Bengali leaders formed the East Pakistan Awami Muslim League (AL), a party designed mainly to promote Bengali interests. This party dropped the word Muslim from its name in 1955 and came to be known as Awami League. Mujib became president of the Awami League in 1966 and emerged as leader of the Bengali autonomy movement. In 1966, he was arrested for his political activities.

After the Awami League won almost all the East Pakistan seats of the Pakistan national assembly in 1970-71 elections, West Pakistan opened talks with the East on constitutional questions about the division of power between the central government and the provinces, as well as the formation of a national government headed by the Awami League. The talks proved unsuccessful, however, and on March 1, 1971, Pakistani President Yahya Khan indefinitely postponed the pending national assembly session, precipitating massive civil disobedience in East Pakistan. Mujib was arrested again; his party was banned, and most of his aides fled to India and organized a provisional government. On March 26, 1971, following a bloody crackdown by the Pakistan Army, Bengali nationalists declared an independent People's Republic of Bangladesh. As fighting grew between the army and the Bengali mukti bahini ("freedom fighters"), an estimated 10 million Bengalis, mainly Hindus, sought refuge in the Indian states of Assam and West Bengal. On April 17, 1971, a provisional government was formed in Meherpur district in western Bangladesh bordering India with Sheikh Mujibur Rahman, who was in prison in Pakistan, as President, Syed Nazrul Islam as Acting President, and Tajuddin Ahmed as Prime Minister.

The first government of the new nation of Bangladesh was formed in Dhaka with Justice Abu Sayeed Choudhury as President, and Sheikh Mujibur Rahman ("Mujib")--who was released from Pakistani prison in early 1972--as Prime Minister.

Bangladesh is a secular republic and a parliamentary democracy, with an elected parliament called the Jatiyo Sangshad. The constitution of Bangladesh is a written documents. The head of state is the president. The parliamentary system of the government is same as the British. The

national assembly comprises elected representatives named as member of the parliament. The member of the parliament elect the president. The majority party elects a leader who is invited by the president to form the government under his or her prime ministership. The country follows the common law system, such as is found in Australia, Canada, India and the United Kingdom.

Bangladesh constantly faces a number of major challenges, including widespread political and bureaucratic corruption, economic competition relative to the world, serious overpopulation, widespread poverty, and increasing danger of hydrologic shocks brought on by ecological vulnerable to climate change.

Procurement has been identified as the most significant factor that affects public sector performance with huge financial wastage.¹ In the backdrop of the above, the Central Procurement Technical Unit (CPTU) has been implementing the PPRP-II to improve the performance of the public procurement system progressively in Bangladesh, focusing largely on the key sectoral ministries and targeting their implementing agencies. The PPRP- II focuses, among others, on the following four major components:

- Furthering policy reform and institutionalizing capacity development;
- Strengthening procurement management at the sectoral level;
- Introducing e-Government Procurement (e-GP); and
- Ensuring communication, behavioral change, and social accountability.

The communication, behavioral change, and social accountability component of the project aims at two separate, but interrelated goals, such as:

- Raising awareness and understanding the importance of a well functioning public procurement system; and
- Engaging key stakeholders, including relevant government entities, civil society partners, private sectors, media, and local communities in the monitoring of the procurement process and its outcomes.

As part of the broad public sector reforms, the government has undertaken management of implementation challenges aiming to improve performance of public procurement progressively towards strengthening overall sectoral governance. In order to achieve the aims and objectives, a permanent unit, called Central Procurement Technical Unit (CPTU) was established in 2002. This is an implementing unit in the field of procurement reform and monitoring of reform implementation. Reform process was carried out with ultimate outcomes of formulation and issuance of a unified procurement processing system (Public Procurement Regulations-2003), Implementation Procedures for PPR 2003, Public Procurement Processing and Approval Procedures (PPPA), Revised Delegation of Financial Powers (DOFP) and several Standard Tender Documents (STDs)/Standard Request for Proposal Document for the procurement of Goods, Works and Services. In 2006, the Public Procurement Act (PPA 2006) was passed by the Parliament and in 2008, a new set of Public Procurement Rules (PPR 2008) was issued. The PPA 2006 and PPR 2008 were made effective from 31 January, 2008.

1.2 Objectives

The purpose of the study is to gather information about existing status, needs for new interventions, environment related to public procurement system, etc; and understand knowledge, perception, opinion and practice of procuring entities, and bidders. The research study is expected to help develop long term visions for communication strategy and design communication interventions.

The major objective of the study is to determine level of public understanding and appreciation of the procurement system and the values that have been added to it including proper management of public fund, outsourcing the provision of goods and services in a competitive manner, accountability of public officials etc. in Bangladesh.

The specific objectives of the study are to:

- measure the level of awareness on public procurement system;
- assess the level of understanding of the necessity of PPR in Bangladesh;
- assess the basic knowledge of the respondents regarding public procurement system;
- assess the perception and attitude of the respondents regarding PPR;
- identify the practice of the respondents regarding the implementation of PPR system;
- identify barriers and challenges to communication and awareness regarding PPR;
- understand the level of awareness required for procuring entities and bidders.

1.3 Justification

One of the major reasons for undertaken this research work is the fact that no specific study has yet been conducted in regard to measuring the existing status and finding out the possible ways for improving the existing performance of PPR-2008.

With demonstrated slow procurement performance in different government projects a Country Procurement Assessment was undertaken in 2001 to explore the prevailing public procurement policy, framework, institutions and staff skills. The Country Procurement Assessment Report (CPAR) prepared by World Bank, in agreement with the Government of Bangladesh, identified many deficiencies, including the following major ones, in the procurement system of the country:

- Absence of sound legal framework governing public sector procurement
- Complex bureaucratic procedure causing delay
- Absence of planning
- Multiple layers in the approval and review process
- Lack of adequate professional competence of staff to manage public procurement
- Generally poor quality of bidding documents and bid evaluation process
- Ineffective administration of contracts
- Absence of adequate mechanism for ensuring transparency and accountability.

Against the backdrop of the existing situation, the need for improving governance in the public procurement management area was felt. The first "Public Procurement Reform Project" with IDA assistance which was approved on 14 February 2002 clearly defined its implementation objectives as to contribute to improved performance in public procurement through introduction of measures to make the public procurement system compliant with internationally agreed norms for efficiency, transparency and accountability with the increase of procurement capacity through training and creation of a pool of national procurement professionals. Now that PPRP is in place, it has been felt that in order to raise awareness and understanding of the same, strategic communication activities need to be undertaken for which a broad-based communication strategy is of utmost necessity. This then is the rationale for this proposed study.

1.4 Methodology

The study intends to use questionnaire and interviews as methods and procedures for collecting data and information. It is quite understandable that officers and bidders who are direct and indirect involvement of procurement will be filled up the questionnaire. In addition, top management will be interviewed for suggestions and improvements.

The questionnaire will cover issues such as idea, perceptions and attitudes regarding Public procurement Rules, practice regarding implementation of PPR-2008, problems faced in following the procurement process, ways to remove the problems and risk in implementation of PPR-2008. Pretesting of questionnaire will be done to get a polished Questionnaire with the feedback of the practitioners. General ideas of the research objective will be exchanged with the respondents before requesting for filling the questionnaire. After the exchange of general idea, the practitioner will be asked to fill the questionnaire.

Eventually, a written report will be prepared as per instruction given from the Institute of Governance Studies, BRAC University under the guidance of Supervisor.

1.5 Limitations of the Research

Getting things done must be the indicator of competency and nothing happened smoothly in any process of making new initiatives. This research might be an experience of encountering challenges and resistances for unknown fear. All the relevant expenditure for preparing the questionnaire, for conducting key informant interviews, for writing up the research paper was borne by the research. However, a fixed sum of money will be reimbursed by the BRAC University later after the submission of the research paper. Besides, some of the respondents did not give the required time in filling out the questionnaire due to their preoccupation. However, time for completion the research may hinder quality of research to some extent.

1.6 Chapter Outline

The whole research work is presented in six different chapters.

The first chapter is the introduction chapter; which gives an outline of the general background of Bangladesh and Public Procurement. This chapter also explains the scope of research work, objective, methodologies to be followed with the probable limitations.

The second chapter is the organisational orientation chapter; which gives background, management, organisational structure and its mission and vision.

The third chapter is the research methodology chapter; where an elaboration of the design of the research work is given including the selection of interviewees and framework of the questionnaire.

The fourth chapter is the literature review chapter; which give a generalised concept of Public Procurement basing on which this research work intends to be carried out.

The fifth chapter is the analysis of the results chapter; which encompasses the interpretation of the data in the appropriate format using the analytical methods. This chapter also provides the results regarding existing performance of Public procurement and finding the possible ways for improvement of the existing performance.

The sixth and final chapter is the conclusion and recommendations chapter; which gives guidelines to improve the existing performance of Public Procurement. In addition to these this chapter also gives the limitations, assumptions and scope of further study in this topic.

CHAPTER-2

ORGANISATIONAL ORIENTATION

2.1 History

The Roads and Highways Department was founded in 1962 as an offshoot of the C&B Department. The Department is responsible for the construction and maintenance of the major road network of Bangladesh.

Since the Department was founded the size of the major road network in Bangladesh has grown from approximately 4,500 kms to the present network of about 21,000 kms. The Department is headed by a Chief Engineer who is supported by a number of Additional Chief Engineers. The Department is also responsible for an annual budget of approximately Taka 2430 crore of which about Taka 1765 Crore is from the Development Budget and Taka 665 crore from the revenue budget in financial year 2010-11.



2.2 Goal of RHD

The goal of the Roads and Highways Department is: “The Roads and Highways Department is able to provide the People of Bangladesh with a safe, cost effective well maintained road network”. and the purpose of the Roads and Highways Department is:

“The Roads and Highways Department has a sustainable capacity to plan, manage and deliver its full range of responsibilities in respect of the main road and bridge network and to be accountable for these duties”.

In order to fulfil the objectives of the RHD the strategies of the various wings and zones must be fully implemented so that the outputs from the wings and zones contribute directly to the objectives and vision of the Department.

Personnel should be proud of their organisation and have a strong esprit de corps. Existing Government restrictions on recruitment will dictate future personnel numbers and it will be necessary to concentrate on the core activities of planning, setting standards, procurement and monitoring, whilst some other functions may be outsourced. Professional staff may be encouraged to spend a period on deputation with the private sector as part of their personal development. Specialists will be developed in a number of areas and postings will be made in a coordinated and planned manner. All personnel will receive appropriate job related and CPD training organised by the RHD training centre.

Greater emphasis will be given to the issues of Safety and Environment. Road safety engineering improvements will be implemented, including new road signs and markings. Site safety procedures will be developed and implemented. Environmental and Resettlement guidelines will be prepared and implemented.

2.3 Assets of RHD

The Assets of the Roads and Highways Department have been conservatively estimated at Taka 37,000 crore of which by far the largest proportion is the value of about 21,000 kms of road and about 15,000 bridges. These assets are probably the greatest asset of any organisation in

Bangladesh and maintaining their value is vital to its economy. This places a great responsibility on the Roads and Highways Department.

➤ **Road Length by Classification in Roads and Highways Department:**

National Highway	3,537.91 Km
Regional Highway	4,278.07 Km
Zilla Road	13,454.63 Km
Total Road Length	21,270.61 Km

➤ **Road Length by Surface Type according to latest survey**

Bituminous	16,649.11 Km
Earth	684.51 Km
HBB	638.40 Km
Cement Concrete (CC)	2.44 Km
Cement Blocks	0.37 Km
Total Paved Road Length	17,336.43 Km
Total Unpaved Road Length	638.40 Km
Total Surveyed Road Length	17,974.83 Km
Length of Road Not Surveyed	3,295.78 Km

➤ **Number of Culverts**

Box Culvert	3852
Slab Culvert	2270
Total Number of Culverts	6122

➤ **Number of Bridges**

Unknown	3
Arch Masonry	378
RCC Bridge	1381
RCC Girder Bridge	1238
PC Girder Bridge	93
Steel Beam & RCC Slab	284
Truss with Steel Deck	153

Truss with RCC Slab	42
Bailey with Steel Deck	1005
Bailey with Timber Deck	82
Total Number of Bridges	4659
 Total Number of Structures	 10781

Table 2.1 Major Bridges in Bangladesh

Name of Bridges	Name of Roads	Length(M)
Jamuna Bridge (Under Jamuna Bridge Authority)	Dhaka – Bogra	4800
Lalon shah (Paksey) Bridge	Ishwardi - Kustia Road	1786
Meghna - Gumti (Daud Kandi) Bridge	Dhaka – Chittagong	1408
Khan Jahan Ali (Rupsa) Bridge		1360
Bangladesh UK Friendship (Bhairab) Bridge	Dhaka – Sylhet	1194
2nd Buriganga Bridge		1016
Meghna Bridge	Dhaka – Chittagong	930
Gabkhan Bridge	Barisal – Patuakhali	918
Hajrath Sha Amanath Bridge	Chittagong - Cox's Bazar	914
Ist Bangladesh Chaina Friendship (Postagola) Bridge		848
Dharala Bridge		657
Kaliganga Bridge	Dhaka – Aricha	647
Gorai Bridge	Faridpur – Jessore	630
Karotoa Bridge	Boda – Debigonj	572
Bagabari Bridge	Pabna – Sirajgong	570
Daleswari Bridge	Dhaka – Aricha	492
Shambugonj Bridge	Mymensing - Haluaghat	464
Mohananda Bridge	Rajshahi – Nawabgonj	448
Brahmaputra Bridge	Dhaka – Sylhet	443

2.4 Organisational Structure of RHD

The structure of RHD consists of five Headquarter Wings/Zones and nine Field Zones, each headed by an Additional Chief Engineer who reports Directly to the Chief Engineer. In addition five ACEs will be assigned to manage foreign aided projects.

Organizational Structure of RHD

Chief Engineer

Head Office

- o Planning and Maintenance Wing
- o Bridge Management Wing
- o Technical Services Wing
- o Management Services Wing
- o Mechanical Services wing

Field Zones

- o Dhaka Zone
- o Chittagong Zone
- o Comilla Zone
- o Rajshahi Zone
- o Sylhet Zone
- o Rangpur Zone
- o Khulna Zone
- o Barisal Zone
- o Gopalganj Zone

The current sanctioned staff of the Department totals 9,331 comprising 573 Class I, 773 Class II, 4,759 Class III and 3,226 Class IV personnel. Out of this total figure there are currently about 2,800 vacant posts all excepting about 150 of which are from Class III and Class IV staff. These figures for sanctioned staff however mask the fact that there are currently about 12,000 'temporary' (work charged, muster roll and casual staff) employed by the Department giving a total of about 18,000 staff currently engaged. Because of the Government restrictions on recruitment of Class III and Class IV staff and the total ban on recruitment of temporary staff most staff are now over 40 years of age and there is an increasing rate of retirement which should result in major changes in staff numbers during the next 5-10 years.

2.5 Management activities of RHD

Many highway departments do not carry out surveys or designs in house but contract these items out to the private sector. This has the advantage of allowing these departments to concentrate on their core activities of planning, setting standards, procurement and monitoring. It is also easier to deal with fluctuations in workload if services are contracted out. Separating the design and monitoring roles also provides a safeguard as the department then assumes a design checking function. With increasing demands on staff within the RHD, this Strategy supports the case for outsourcing a number of services.

The outsourcing of services needs to be done in a controlled, organised manner and needs careful thought and planning to be fully successful. The control and monitoring of external services needs skilled and capable RHD staff with a technical knowledge of the subject. In order to develop these skills, the RHD Strategy envisages that staff will require training and will be encouraged to spend periods working with local consultants under deputation.

The organisation of RHD is closely linked to the management policies, systems and procedures. The Figure 'RHD Documentation Framework' shows the hierarchy of management information required to define the organisation and the procedures which are required for effective and efficient operations.

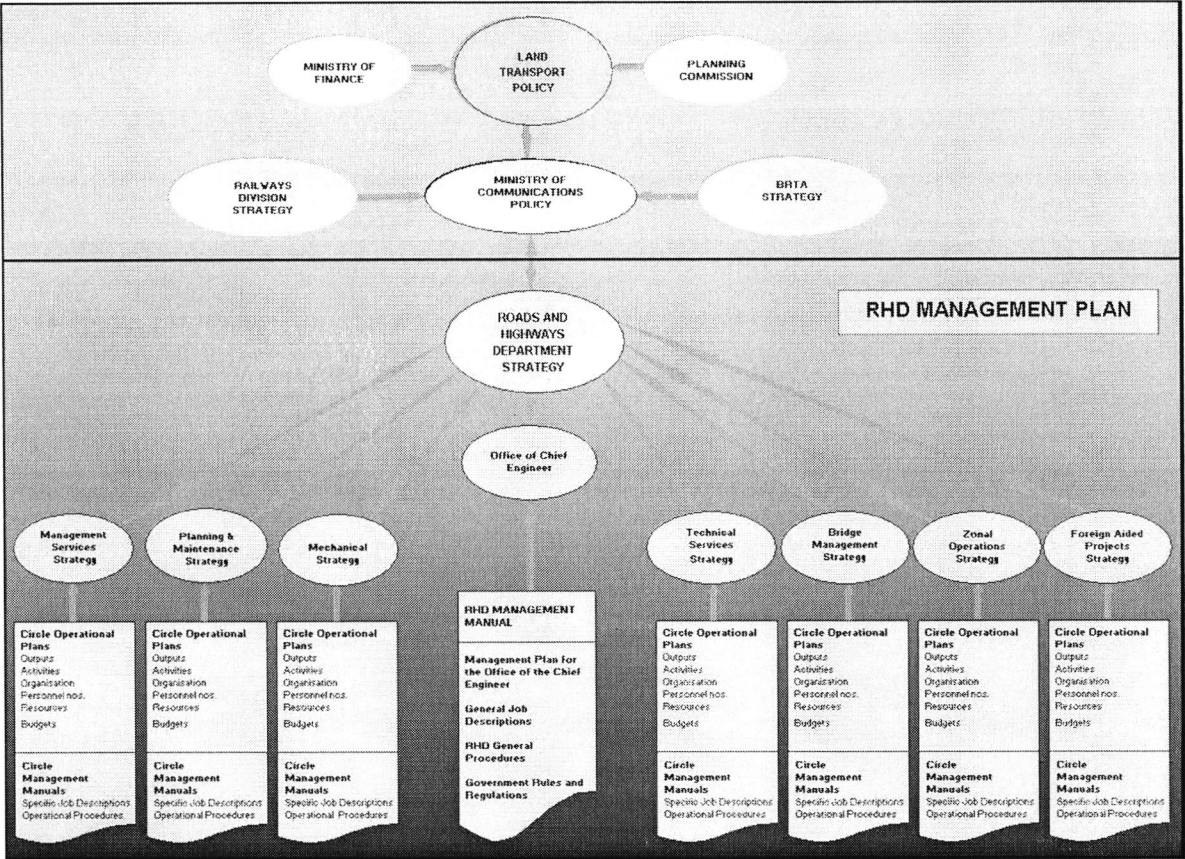
The Roads and Highways Department Strategy is designed to satisfy the requirements of the Ministry of Communications Policy in respect of those activities which are the remit of the RHD. To support the Roads and Highways Department Strategy, a separate strategy has been prepared for each of the Wings and zones within the Department.



The 'Land Transport Policy' is seen to be the guiding document for all issues concerning land transport. These activities come under the auspices of either the Ministry of Communications or the Ministry of Local Government Rural Development and Cooperatives. The Ministry of Communications Policy is a sub-set of the Land Transport Policy covering roads and highways (mainly through RHD), railways (through BR) and the management, regulation and operation of road transport (through BRTA and BRTC).

Two types of documents have been defined to assist in the achievement of the activities within the Wing/Zone strategies. The two document types are Circle Operational Plans and Circle Management Manuals. The Circle Operational Plans contain details of the Objectives, Outputs and Activities of each Circle within the Wings/Zones together with details of the Personnel and other Resources required. Each Circle Operational Plan is supported by an Operational Budget which is essential for the successful implementation of the Plan. The Management Manuals contain operational procedures and regulations and job descriptions for the various grades of

personnel and for specific posts. The sum total of these documents within RHD form the “Roads and Highways Department Management Plan”



The Roads and Highways Department Management Plan is not a static document, it must be changed as the Department changes and portions of the document, especially the Circle Operational Plans and the Management Manuals, will need regular updating.

The sections of this site include the Roads and Highways Department Strategy and the Wing/Zone Strategies together with relevant extracts from the Circle Operational Plans and Management Manuals. These documents indicate the extent and nature of the work to be undertaken by each Circle and provide justification behind the number of personnel, physical resources and budgets required if the reorganised RHD is to operate effectively.

CHAPTER-3

RESEARCH METHODOLOGY

3.1 Introduction

This chapter describes the methodology of this thesis; the main topics included in this chapter are research strategy, research design and population, sample size determination, case study, questionnaire design, questionnaire content, pilot study and tests of reliability and validity of questionnaire and the last but not the least is the process of data analysis.

3.2 Research strategy

Naoum (1998) defined the research strategy as the way in which the research objectives can be questioned. Two types of research strategies are used at studies, quantitative and qualitative research. Quantitative approach is used to gather factual data and to study relationships between facts and how such facts and relationships accord with theories and the findings of any research executed previously, but the qualitative approach seek to gain insights and to understand people's perception of "the world" whether as individuals or groups (Fellows and Liu, 1997). In this thesis, a qualitative approach is used to understand the perception of respondents in regard to existing performance and find out the possible ways for improvement of the Public procurement.

3.3 Research design

"Research design" refers to the plan or organization of scientific investigation, designing of a research study involves the development of a plan or strategy that will guide the collection and analyses of data (Poilt and Hungler, 1985). This research consists of seven phases; the first one is the proposal for identifying and defining the problems and establishment of the objectives of the study and development of research plan. The second phase of the research includes literature review. The third phase of the research includes written questionnaire survey and key informant interview to key people of RHD, LGED and PWD. The fourth phase of the research includes the questionnaire design, through distributing the questionnaire to a sample of respondents. The purpose of the pilot study was to test and prove that the questionnaire questions are clear to be answered in a way that help to achieve the target of the study. The questionnaire was modified based on the results of the pilot study. The fifth phase of the research was questionnaire distribution. The questionnaire was used to collect the required data in order to achieve the research objectives. The sixth phase of the research focused data analysis and discussion. The last phase of the research includes the conclusions and recommendations.

3.4 Population

The populations of this research are the people who are directly and indirectly engaged with the public procuring activities of RHD, LGED and PWD.

3.5 Sample Selection and sample Size Determination

Wood and Haber (1998) defined the sampling as the process of selecting representative units of a population for the study in research investigation. A sample is a small proportion of a population selected for observation and analysis. The samples were selected randomly from the procuring entities and bidders of RHD, LGED and PWD.

The total size of the sample respondents was 50 representing all selected categories of audiences. The table below shows the distribution of sample size by methods of information/data collection:

Table-3.1: Sample size		
Methods	Categories of respondents	No. of respondents and groups
		Respondents
In-depth Interview (IDI)	■ Bidders:	08
	Large	06
	Medium	10
	Small	
	■ Procurement Officials	10
	RHD	06
	LGED	04
	PWD	
	Total	44
Key Informant Interview (KII)	■ Contractors	03
	■ Engineers	03
	Total	06
Total		50

3.6 Methodology of this thesis

After surveying the previous approaches of methodologies, the suitable one is to use questionnaire and case studies methods.

3.6.1 Questionnaire Survey

A questionnaire was developed to assess the perceptions of respondents about existing perception about PPR-2008 and find out the possible ways for the improvement of Public procurement activities. Factors influencing the existing performance of PPR-2008 were first examined and identified through a relevant literature review and by conducting a pilot study that sought advice from experienced practitioners.

3.6.2 Cases and interviewees

Selecting the cases and interviewees serves as a critical step in case study research. The variety of actors involved indicates the presence of many different interests, opinions and motives. These actors, namely from procuring entities of RHD, LGED & PWD and bidders, are involved in procurement process in a different organisation.

Of course it is easier to draw up with a list of all the people one wants to talk to, but actually, arranging an interview is a step further, depending on goodwill and connections. Conveniently, my colleagues of RHD and LGED were very accommodating in giving interviews.

The final list of interviewees is presented below, in chronological order:

1. Executive Engineer/Engineer(Procuring Entity), 3 (three)
2. Bidders 3 (three)

3.7 Questionnaire design

Considering the conditions and circumstances surrounding environment of Public Procurement implementation, factors, which affect the existing performance of procurement activities have been selected.

3.8 Questionnaire content

The questionnaire includes: general information of the respondents, knowledge and perception regarding PPR-2008, practice regarding implementation of PPR-2008 and risk in implementation of PPR-2008. The questionnaire will cover issues such as idea, perceptions and attitudes regarding Public procurement Rules, practice regarding implementation of PPR-2008, problems faced in following the procurement process, ways to remove the problems and risk in implementation of PPR-2008.

3.8.1 General information of the respondents

Four items questions were prepared asking for information about respondents such as the educational background, name of the organisation, designation/current position, relevant, name of the respondent.

3.8.2 Knowledge and perception regarding PPR-2008

This part of questionnaire consist of 04 (four) questions to assess the knowledge and perception regarding PPR-2008.

3.8.2.1 General perception regarding PPR-2008

This part of questionnaire consist of 09 (nine) questions to assess the perception regarding PPR-2008.

3.8.3 Practice regarding implementation of PPR-2008

This part of questionnaire consist of 04(four) questions to analyses experience and problem faced and problem solving technique in implementation of PPR-2008.

3.8.4 Risk in implementation of PPR-2008

This part of the questionnaire evaluates risk factors such as frequent change in laws/policies related the Public Procurement by the Government, improper planning of the Government related to the development activities, unstable law and order situation in Bangladesh, and corruption in Government Officials.

3.9 Pilot study

These structured questionnaires should be based on a carefully prepared set of questions piloted and refined until the researcher is convinced of their validity. Therefore the pre-testing is an important stage in the questionnaire design process, prior to finalizing the questionnaire. It involves administrating the questionnaire to a limited number of potential respondents and other knowledgeable individuals in order to identify and correct design flaws. The test was made by distributing drafts questionnaire among some selected respondents. In general, they agreed that the questionnaire is suitable to achieve the goals of the study.

3.10 Data/Information Compilation

Tabulation of field research data and development of an analysis plan are two important steps of data processing and compilation activity. Again, data processing and compilation has certain steps to undertake before developing the analysis plan and complete the tabulation of data generated from the study.

Data processing and compilation are very important activities in a study/survey research program. Data processing of the study included the steps like: registration of filled-in questionnaires, questionnaire editing and coding, software designing and development of data entry format, computerization of data, data cleaning, tabulation and graphical presentation. Compilation of information generated through FGD and KII has been done manually and presented in textual form.

3.11 Reporting

The report has been prepared according to the outline developed in line with the core objectives of the study. In all interesting cases graphical presentations (graphs and tables) have been attempted to facilitate understanding of the report.

3.12 Conclusion

Based on the design of the research, this thesis work is carried out and the data and associated findings are analysed to arrive at a justifiable conclusion regarding the answers to the research questions.

CHAPTER-4

LITERATURE REVIEW

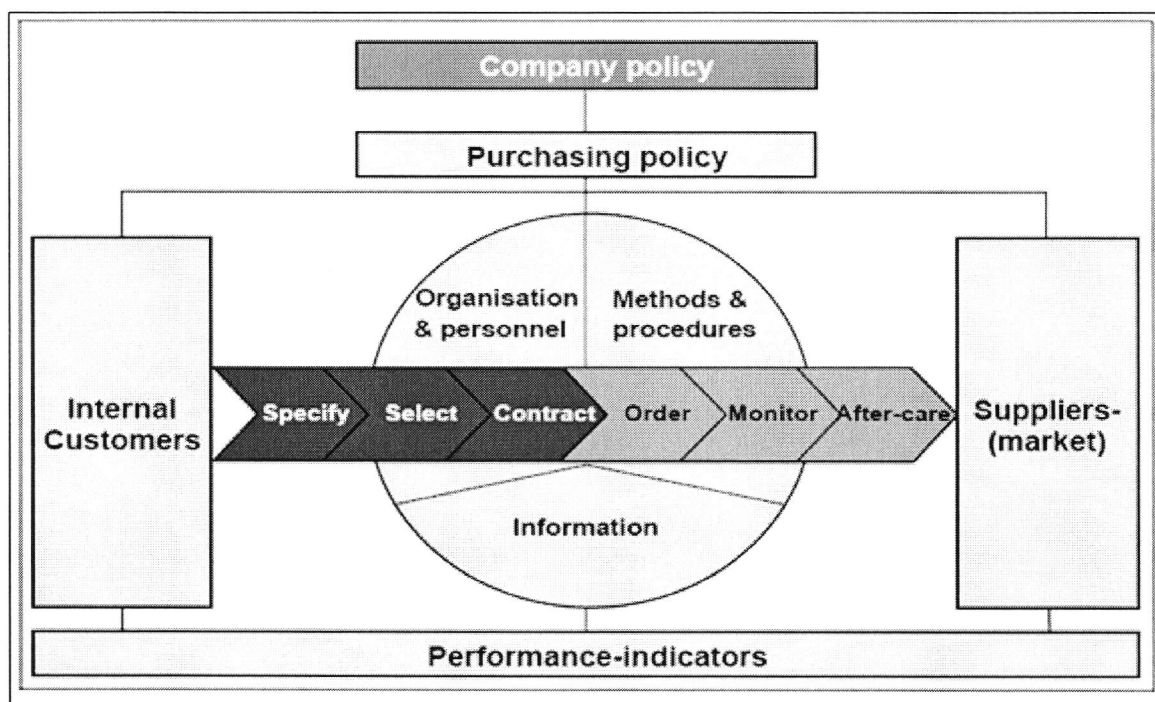
4.1 Introduction

In this chapter I review literature on public procurement in Bangladesh context. The purpose is to examine theoretical perspectives that can make a contribution in unravelling the challenges faced in procurement management in Bangladesh after implementation of PPR-2008. I examine the complexity of procurement, theories particularly supplier selection as finally procurement comes down to selection the best bidder.

4.2 Procurement

The procurement function is increasingly seen as a strategic issue in organizations. This applies to industrial as well as service and government organizations, (De Boer et al. 1998). Procurement consists of specification (of goods, works and services); selecting and contracting of suppliers. All steps of the purchasing process and all elements of the purchasing function are covered in the model given below. Because of its shape it is called the racecar model.

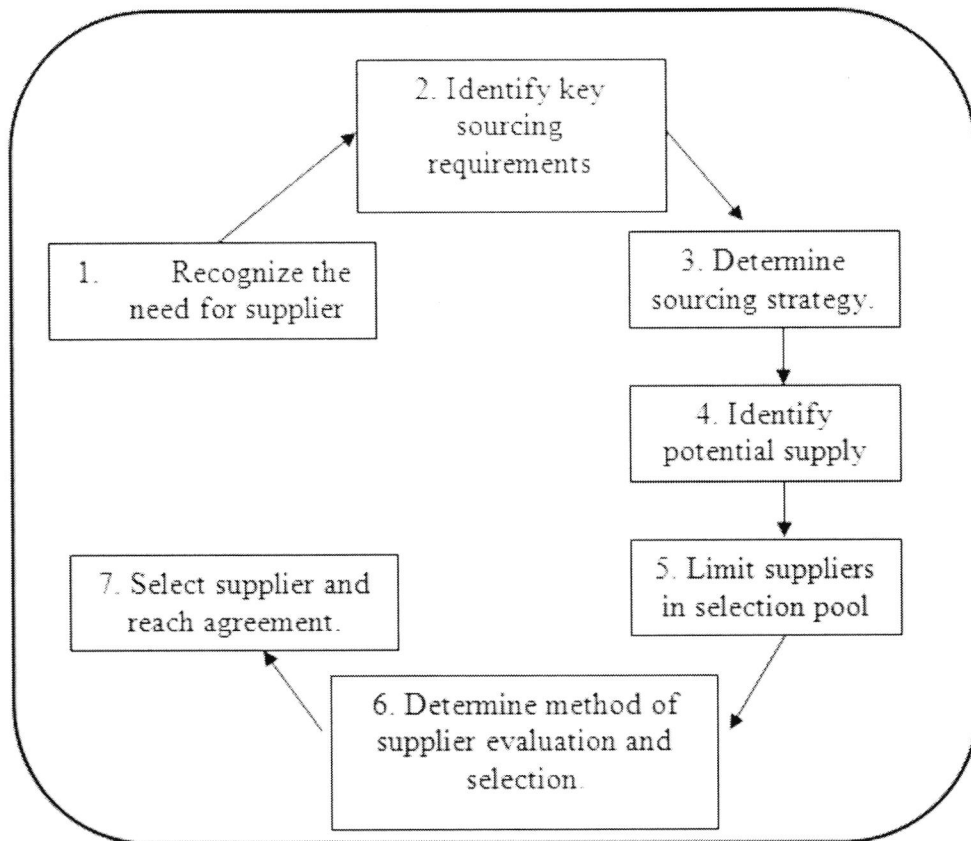
Figure 4.1: The race car model source: Veek and Gunning (1996) in Telgen et al. (2005)



Procurement has been discussed in a number of theoretical contributions. De Boer et al. (2001); Aissaoui et al. (2007) in a review of methods supporting supplier selection analyze procurement under principally two phases: (1) Pre-selection phase and (2) Selection Phase. Further, they have divided the pre-selection phase into three sub-phases: (1) Problem definition, (2) formulation of

criteria and (3) qualification. The steps are interlinked. Monzcka et al. (2005) present a model given below:

Figure 4.2: Suppliers evaluation and selection process



4.3 Public Procurement

Public Procurement by defining what it is. For our purpose, the public procurement is the purchases/procurements made by a government agency –be it (a) the ministry, (b) attached departments and directorates under the ministry and (c) Corporations of the government as well as (d) the local bodies: municipalities etc. But it does not include procurement made by the defence services and their associated organizations.

The procurement by different government agencies of (a) goods, (b) civil works and (c) services is an all pervasive fact of our life and impacts on us either as users of their procured products its services, as suppliers to them or as tax payers (for covering their losses).

Public procurement is an integral part of the development process and a priority area for governance improvement. Budgets get translated into services in large part through the operation of the procurement system. Improving the use of public resources with greater efficiency, transparency, and accountability, and tackling corruption will help give better value for money and contribute to reducing poverty.

Widespread corruption within procurement systems is particularly damaging since it perverts public spending, reduces the value of public assets, and distorts the economy. Public procurement is an arena where corrupt practices can be exposed and addressed, and successful implementation and monitoring of reform actions can help curb corruption.

Shortfalls in core governance, including inefficiencies in public procurement practices, poor financial management, corruption, and quality of civil service have led to low expectations for public services in Bangladesh. It has contributed to the high cost of doing business that, in turn, has deterred rapid private sector development.

Harmonization of procurement rules and policies Consistency of procurement rules and policies throughout a given country is widely considered desirable. Bidders should not face different procedures when bidding on contracts in different parts of the country or dealing with procuring agencies in different ministries. Without uniform rules, the effectiveness of judicial review and the establishment of steady and predictable practice may also suffer.

Before 2003 there was no regulatory framework for the conduct of public procurement in Bangladesh. Immediately after liberation in 1971 some customs, procedures and forms introduced by the British colonial government followed in procurement in Bangladesh. Forms 2908 for works and Forms 2911 for goods had been used for the purpose of public procurement processing since 1971. A Compilation of General Financial Rules (CGFR) originally issued under British rule was slightly revised in 1951 under Pakistani rule and was reissued in 1994 and again in June 1999 with very few changes. The CGFR, inter alia, outlines broad, general principles for government contracts to follow, leaving it to the departments to frame detailed rules and procedures for their respective procurements. It also refers to the Manual of Office Procedure (Purchase) compiled by the Department of Supply and Inspection as the guide for the purchase of goods and the Public Works Department (PWD) code as the guide for works. Both date back to the 1930s and have not

undergone any revision worthy of mention. The CGFR also refers to the Economic Relations Division (ERD) Guidelines issued in 1992, modeled on World Bank Procurement Guidelines at the time, for procurement in externally funded projects, with the provision that the loan conditions would prevail in case of conflict. Since independence in 1971, the public procurement practices have been influenced by the World Bank, the Asian Development Bank, and other donors since the bulk of public procurement is externally funded. Some departments, autonomous boards, and public undertakings have drafted their own set of procedures or a manual, and the rest follow the PWD code.

The Country Procurement Assessment Report 2002 for Bangladesh identified procurement as the single most significant issue affecting public sector performance, with enormous wastage of money. Following the report's recommendations, with the World Bank's technical assistance, the Government has been implementing a public procurement reform project that has successfully addressed key deficiencies in the legal and policy framework.

The Government established a procurement policy unit within the Implementation Monitoring and Evaluation Division of the Ministry of Planning, issued Public Procurement Regulations in 2003. The regulations contain most features of international good public procurement practices. Later on the Public Procurement Act (PPA) was passed in 2006. But Public Procurement Act (PPA) and PPR were made effective during the caretaker government in 2008. It has been modernized and brought to international standard through the enactment of successive law and rules.

In an effort to make public procurement more accountable and transparent, a Public Procurement Act was passed in 2006 and a new set of Public Procurement Rules was issued in 2008. Both were made effective on 31 January 2008. The Public Procurement Act 2006 has unified public procurement procedures for all government procuring entities. The regulations have been framed in order to ensure fair, transparent and non-discriminatory public procurement, and they explicitly address corruption issues.

4.4 The growing complexity of Procurement

Public procurement is the purchase of goods and services by governments and state-owned enterprises. It encompasses a sequence of related activities starting with the assessment of needs through award to the contract management and final payment (OECD 2007). Countries generally aim at achieving a number of goals through public procurement. Clearly, a primary goal is to

obtain goods and services at the best possible price. Further objectives include *inter alia*, efficiency and probity in the procurement process and fair and equal treatment of providers. Other primary goals may be to support industrial, social and environmental policies, to name a few (Ehlermann-Cache 2005).

Procurement in general and public procurement in particular is faced with fundamental evolution challenges. Telgen et.al. (2005) summarize the evolution of the purchasing function shift from analysis of several models.

First there is the shift from operational to strategic purchasing. Purchasing used to be about placing orders and making sure deliveries were made in time and at the right place. Purchasing nowadays is about maximizing the value that purchasing can add to the organization as a whole. Further, the shift from a departmental approach to a functional approach started once organizations realized that purchasing is a joint effort for which success largely depends on the cooperation of all parties involved. The purchasing department that does all the ordering for the entire organization is disappearing and is being replaced by a less strict-defined purchasing function with purchasing officers that move around in the organization, focusing their attention there where their added value will be greatest.

In addition, the area of purchasing has shifted from purely internal to external as well. The purchasing department used to be an operational unit serving internal clients and is changing to a much more flexible function that looks outside its own organization to find out how it can best serve its internal customers. With developing into a more strategic and externally focused function, purchasing is also changing the kind of relationship that organizations enter into with their suppliers. Suppliers' processes and organization's own internal processes get more integrated to achieve higher levels of efficiency, complete tasks are being contracted and even entire functions are being outsourced, resulting in hardly separable processes.

4.5 Public Procurement Reform Project-II

Procurement has been identified as the most significant factor that affects public sector performance with huge financial wastage. In the backdrop of the above, the Central Procurement Technical Unit (CPTU) has been implementing the PPRP-II to improve the performance of the public procurement system progressively in Bangladesh, focusing largely on the key sectoral ministries and targeting their implementing agencies. The PPRP-II focuses, among others, on the following four major components :

- Furthering policy reform and institutionalizing capacity development;

- Strengthening procurement management at the sectoral level;
- Introducing e-Government Procurement (e-GP); and
- Communication, behavioral change, and social accountability.

4.6 Procurement Planning

Procurement Planning as it is understood by WB or other Development Partner is a new concept in Bangladesh; it was not there seven or eight years back, nor included in the Loan or Credit Agreement. The new Loan or Credit agreements are having provisions for procurement planning. Previously; some of the organizations (like BADC) used to prepare Annual Shopping List, which was hardly followed. ERD's 1992 guidelines contain provision for procurement planning, but very few organizations practice it. Some of the organizations still consider the procurement program included in the Annual Budget as the Procurements plan. IMED circulated a format for planning procurement in 1994. But only Petrobangla was found following it. Lack of adequate procurement planning is a major deficiency in public sector procurement. BARC was found preparing annual procurement plan in WB format for ARMP project and under the Bank's guidance. Most of the organizations contacted considered their personnel capable of preparing procurement plan as per requirement, but actually the position was otherwise. For efficient and timely implementation of procurement programs, procurement planning is considered essential. Since this is a new concept, training of concerned procurement personnel in procurement planning is required to be arranged. IMED or ERD may prepare an appropriate format for Procurement Planning embodying general requirements of donors. The Procurement Plan should, among others, indicate who will procure and who will evaluate the bids.

4.7 Procurement Process

Procurement process is always called Purchasing and the group within the organization, the Purchasing Department. Purchasing process is more or less the same step by step process in every organization, irrespective of the size or the business they are in to. Purchasing is often understaffed and the resources are pulled into day-to-day operational activities, leaving precious little time to focus on strategies and tactics. Most of the cases, true procurement skills and expertise did not exist within the organizations.

The purchasing process involved several steps— which get initiated when an employee realizes the need for an Item or Service. In almost all the cases, it is a reactive operational or clerical job

that will follow once a need is realized. The employee will submit a material or service requisition containing the details of required item or service to the immediate supervisor, who, based on the authority set, will approve the requisition. Usually requisition will contain description of the item and the quantity required. The approval authority will be typically set based on the nature cost and/or volume of the item or service. For example, standard office supplies for an individual may not need any approval. However, if there is training for which a set of office supplies are required, would need an approval from the concerned higher authority. On the other side, a desktop computer or flight ticket or hotel accommodation will always need an approval.

Once the material requisition (MR) is approved, it is given to the inventory/store/purchasing department. If that is a stocked item (like office supplies and MRO), the item will be issued to the requester. In case of a service, non stocked items and items that are out of stock, the purchasing team will initiative for the buying process.

A purchase requisition (PR) is the first formal document in the purchasing process. It is usually generated by the Purchasing department and approved by approving authority and finance team. This will contain similar details like in a material request, however, may have same or multiple items required by various groups or individuals in the organization.

The real purchase starts with finding the suppliers or service providers who can deliver the specific goods and services. Tenders and Quotations has been the traditional formal method of finding and selecting vendors. The company issues a tender notification seeking proposal from qualified suppliers. Tenders are usually notified through newspapers and other mass communication media as well as through direct communication with known or incumbent suppliers. Suppliers send the quotations along with other detail on the good or services as well as delivery terms.

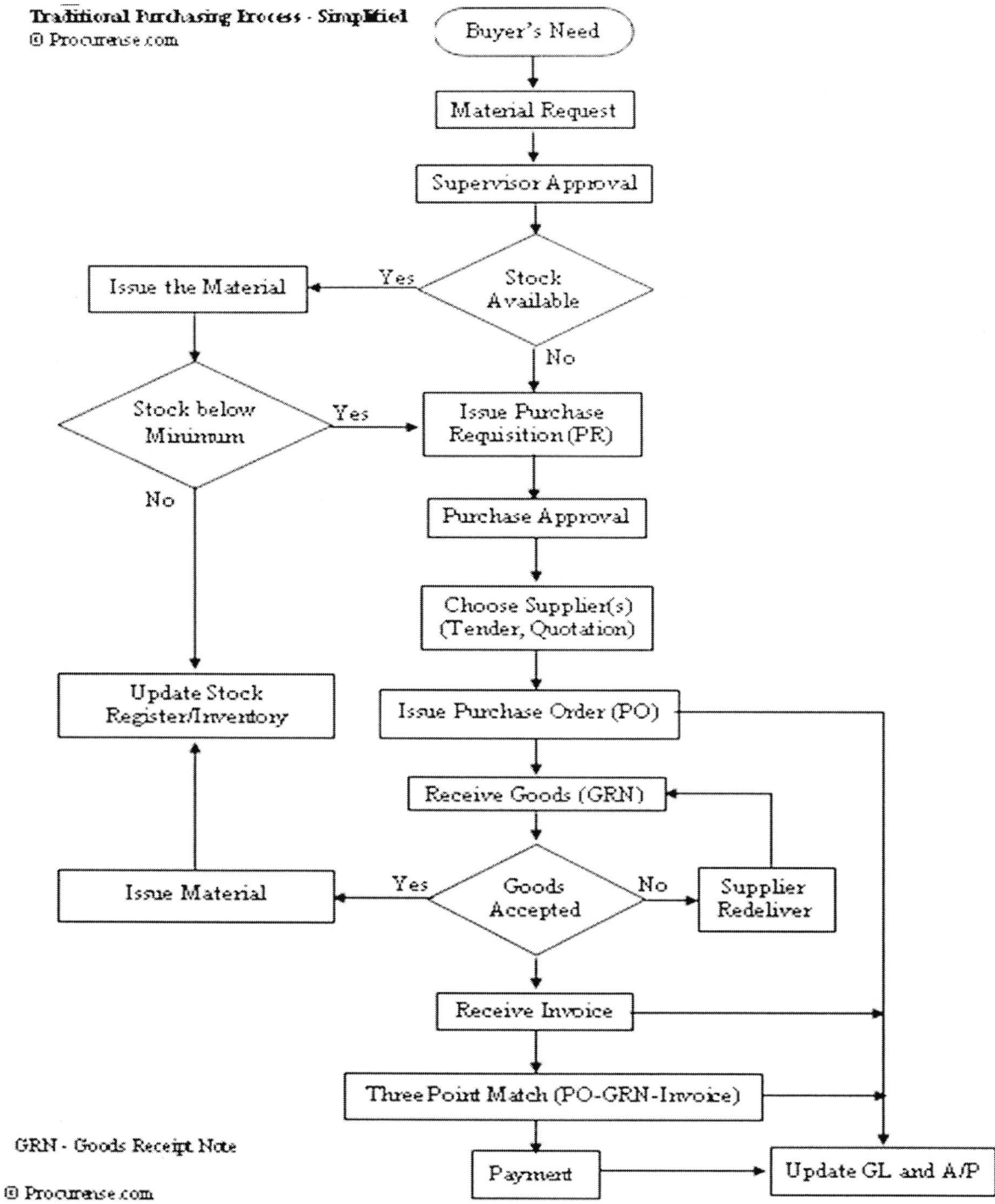
Upon receipt of quotations, one or many suppliers will be selected based on the specific requirement to deliver the good or services. A purchase order (PO) will be send to chosen supplier(s) asking them deliver the goods or services. PO is the first legally valid document that companies send to its supplier. It is a legal agreement warranting to accept the goods or services delivered and to pay as agreed. Typically suppliers send an acknowledgement note for the POs received as an acceptance of the order and to confirm the delivery terms.

Based on the agreed up on timeline, supplier will deliver goods or services. This will be notified through a Goods Receipt Note (GRN). At times, the delivery may not be in full, a partial delivery would be made based on the circumstantial requirements. The good will then go through the inward quality and acceptance process, passed good will be taken in to store, accounted in inventory and then issued to the requestor. In case the goods get rejected for any reasons, it will be send back to supplier for replacement.

Upon the goods acceptance, supplier send across Invoice which is a payment request for the goods or services delivered. Like in case of delivery, invoice can be for a partial delivery. A three point matching, i.e. tally Purchase Order with Goods Received with the Invoice, will confirm the integrity of the transaction. This gets entered in to the Account Payable (AP) system as a payable entry. Once the necessary finance approvals are done, payment will be made to the supplier through the agreed up on means and AP entry get updated with actual payment details.

Below is how a traditional Purchasing process used to work:

Figure 4.3: Purchasing Process



4.8 Key features of the Public Procurement Rules-2008

4.8.1 Definition

"CPTU" means the Central Procurement Technical Unit, established by the in the Implementation Monitoring and Evaluation Division of the Ministry of Planning, for carrying out the purposes of the Act and these Rules;

"Public funds" means any funds allocated to a Procuring Entity under Government budget, or loan, grants and credits placed at the disposal of a Procuring Entity through the Government by the development partners or foreign states or organizations.

"Public Procurement" means Procurement using public funds;

"Works" means all Works associated with the construction, reconstruction, site preparation, demolition, repair, maintenance or renovation of railways, roads, highways or a building, an infrastructure or structure or an installation or any construction work relating to excavation, installation of equipment and

materials, decoration, as well as physical Services ancillary to Works, if the value of those Services does not exceed that of the Works themselves.

"Goods" means raw materials, products and equipment and objects in solid, liquid or gaseous form, electricity, and related Services if the value of such Services does not exceed that of the Goods themselves;

"Services" means goods related Services, physical Services, or intellectual and professional Services;

"Procuring Entity" means a Procuring Entity having administrative and financial powers to undertake Procurement of Goods, Works or Services using public funds;

"Tender or Proposal", depending on the context, means a Tender or a Proposal submitted by a Tenderer or a Consultant for delivery of Goods, Works or Services to a Procuring Entity in response to an Invitation for Tender or a Request for Proposal; and for the purposes of the Act, Tender also includes quotation;

4.8.2 Areas of applicability of the Rules

- a) Procurement of Goods Works or Services by any procuring entity using public funds;
- b) Procurement of Goods, Works or Services by any government, semi-government or any statutory body established under any law;

- c) Procurement of Goods, Works or Services using public funds by -a company registered under the Companies Act, 1994 (Act No. 18 of 1994);
- d) Procurement of Goods, Works or Services under a loan, credit or grant agreement or under any other agreement with a development partner or with a foreign state or an organisation, provided that if there is anything to the contrary in any such agreement entered into, the provision of that agreement shall prevail.

4.8.3 Competition in Procurement

The Procuring Entity shall -

- a) provide reasonable access for visits by potential Tenderers. to sites specified for work or project; arrange a pre-Tender meeting at which potential Tenderers may meet with the Procuring Entity's
- b) representatives to ask questions and seek clarifications for Works or complex supply Contracts, particularly for those requiring refurbishing existing Works or equipment;.
- c) provide minutes of the meeting, if one is convened under Sub-rule 18 (b), in a timely manner as specified in Schedule II , to all prospective Tenderers who have purchased the Tender Documents and to even those who did not attend the meeting.circulate any additional information or correction of errors in the Tender Documents to all Tenderers in the form of an Addendum as specified in Rule 95.

The criteria to be taken into account for assessment of Applicants', Tenderers' or a Consultants' qualifications shall be clearly mentioned in the relevant Documents and the Applicant or Tenderer shall be allowed sufficient time to respond, and such period shall be stated in the applicable Document.

4.9 Typical step to be followed in Procurement under the Public Procurement Rules-2008

4.9.1 Advertisement

A Procuring Entity shall be the authority to directly advertise all Invitations for Pre Qualification (IFPQ), Invitations for Enlistment (IFE), Invitations for Tender (IFT) and Request for Expressions of Interest for Goods and related Services, Works and Physical Services and, intellectual and professional Services, whichever is applicable in accordance with Section 40 of the Public Procurement Act-2006.

4.9.2 Pre-Qualification

A Procuring Entities may undertake Pre-Qualification for the following large and complex Procurement subject to the thresholds specified in Schedule II -

- (a) Construction Works;
- (b) Maintenance Works;
- (c) Supply and installation of plant and equipment;
- (d) Design and build infrastructure;
- (e) Custom designed equipment;
- (f) Management contractors.

The thresholds value as specified in Schedule II are as follows:

- Construction Works above Tk. 350 (three hundred fifty) million
- Maintenance Works above Tk. 35 (thirty five million;
- Supply and installation of plant and equipment above Tk. 150 (one hundred fifty) million;
- Design and build infrastructure above Tk. 350 (three hundred fifty) million;
- Custom designed equipment above Tk. 35 (thirty five) million;
- Management contracts above Tk. 350 (three hundred fifty) million

4.9.3 Opening of Pre-Qualification Applications

(1) The Tender Opening

Committee (TOC) constituted under Rule 7 shall open the Applications in public after the deadline for submission date at the time and place specified in the Pre-Qualification Document.

(2) The TOC shall record the name, address and any other relevant identity of each Applicant during opening and, furnish a copy of the record of opening upon such written request to any Applicant.

(3) The Tender Opening Committee shall forward the Applications to the Procuring Entity which will then be responsible for its safe custody and further action in line with Rule 32.

4.9.4 Evaluation of Pre-Qualification Applications

The Tender Evaluation Committee (TEC) shall use the conditions, criteria, and requirements defined in the Pre-Qualification Document to evaluate the qualifications of the Applicants.

The TEC shall prepare an Evaluation Report and submit it directly to the Head of the Procuring Entity, stating which Applicants have been found eligible for Pre-Qualification.

The Head of the Procuring Entity shall consider the Evaluation Report and decide whether to accept or reject it if any aspects do not comply with the Pre-Qualification Document, in which case he or she may request a re-evaluation to be carried out by the TEC to correct any deficiencies.

The Procuring Entity shall, following the approval of the Evaluation Report, publish the list of Pre-Qualified Applicants and promptly notify all Applicants whether or not they have been pre-qualified.

Only Applicants who have been pre-qualified are entitled to participate further in the Procurement process.

4.10 Tendering/Bidding process

4.10.1 Issuance and Sale of Tender Document and Pre-Tender Meeting, Etc.

Tender Documents shall be made available to Tenderers as soon as the relevant advertisement is published under Rule 90.

All prospective Applicants or Tenderers shall be provided the same information and be assured of equal opportunities to obtain additional information promptly upon request.

Tender Documents shall be posted on the Procuring Entity's website where possible.

4.10.2 Modifications to Tender Documents.

At any time prior to the deadline for the submission of Tenders, a Procuring Entity may, on its own initiative or in response to an inquiry by a Tenderer or as a result of a Pre-Tender meeting, modify the Tender Documents by issuing an addendum.

4.10.3 Modifications to Tender Documents.

- (1) Tenders shall be prepared by the Tenderers following Section 46 of the Act, these Rules and the instructions in the Tender Document in accordance with the sample in the Schedule XI.
- 2) Tenderers shall submit only one Tender, either individually or as a member of a JVCA.
- (3) Tenders shall be submitted on the basis of the Tender Documents issued by the Procuring Entity.

- (4) Tenders shall be delivered by hand or mail, including courier services to location designated in the Invitation for Tender except under Sub-Rule (11).
- (5) Tenders shall be properly marked by Tenderers in order not be confused with other types of correspondence which may also be hand-delivered or posted by mail or courier service.
- (6) The Tenderer is solely and entirely responsible for pre-disclosure of Tender information if the envelope(s) are not properly sealed and marked.
- (7) All Tenders received shall be kept in a secure and safe place with the Procuring Entity as their custodian.
- (8) Locked Tender boxes or cabinets may be used or when the Tenders are in large volumes or in envelopes that are large or thick, they may be directly received by an assigned officer of the Procuring Entity.
- (9) When a Tenderer submits a Tender directly to the officer assigned by the Procuring Entity, that officer on request from the Tenderer shall issue an acknowledgement of receipt stating date and time.
- (10) An acknowledgement of receipt shall also be given when a Tender is sent through either courier service or by post.
- (11) Tenders shall be received and opened in one location, but in exceptional cases, a Procuring Entity may allow '**multiple dropping**' in which case the following guidelines shall apply:
 - (a) 'multiple dropping' will be used only for Procurements above the threshold value specified in Schedule III;
 - (b) the Secretary of the concerned Ministry or Division shall approve the use of this procedure for the concerned Procurement;
 - (c) the Invitation for Tender shall state a deadline for Tender submission at the primary and secondary place(s) and tenders received at the secondary place(s) shall be reached at the primary place within the time specified in Schedule II and shall be opened immediately after those Tenders received at the primary place following the Rule.

- (d) the Procuring Entity shall ensure that each of its named secondary places is physically able to receive Tenders in accordance with the requirements of these Rules and it shall designate an officer at each nominated secondary place to receive Tenders;
 - (e) the Procuring Entity shall ensure the availability at all secondary places of a lockable and secure Tender box into which Tenders can be placed by Tenderers;
 - (f) an officer designated by Procuring Entity shall sign for all Tenders received from secondary places at the primary place and issue a receipt(s) to the personnel who have delivered the Tenders from the secondary places;
 - (g) no information concerning Tenders shall be passed by personnel of one location to that of the another during the Tendering period;
 - (h) the Procuring Entity's primary place shall have overall responsibility for the Tenders received and it shall ensure that all secondary places to which Tenders may also be delivered are made aware of any extension to the period for the submission of Tenders or of the cancellation of any Tender process;
 - (i) the Procuring Entity shall ensure that the sealed Tenders at the secondary place(s) are hand-delivered before the date specified for opening of Tenders at the primary place and including its safety shall ensure opening of all Tenders at a time, immediately after the expiry of the deadline for submission of Tenders on the date, place as specified in the Tender Document ; and
 - (j) copies of all receipts issued under 'multiple dropping' shall form part of the Procurement records as described in Rule 43.
- (12) For e-GP, the provisions of Chapter Eight will prevail.

4.10.4 Opening of Tenders

- a) The Procuring Entity shall convene the meeting for the Tender opening; and Tenders shall be opened at the time and place specified in the IFT in presence of the Tenderers or his or her authorised representatives.
- b) The the place where the Tenders shall be opened should be suitably equipped and reserved in advance for the purpose of the Tender opening.
- c) The Tender Opening Committee (TOC) constituted in accordance with Rule10 shall open, all Tenders received on or before the deadline for the submission of Tenders, in public and in only one place.

4.10.5 Evaluation of Tenders, Etc.

- (1) The Procuring Entity shall ensure that it follows the requirements of Rules 8 and 9 and this Rule with regard to the formation of the Tender Evaluation Committee (TEC), the appointment of its Chair and members, and of Rule 36 with regard to the administrative procedures to be followed during the evaluation and approval process and matters ancillary thereto.
- (2) Tenders shall not be evaluated on any basis other than the criteria specified in the Tender Documents.
- (3) The TEC shall generally follow the procedures detailed below during examination and evaluation of Tenders -
 - (a) the Tender Evaluation Report shall list, in ascending order, the evaluated cost of all responsive Tenders so that re-submission of evaluation report to the Approving Authority on the same aspects is not required , should the the lowest evaluated Tenderer expresses his or her inability to execute the Contract or fails to sign the Contract or fails to provide its performance security or fails to post-qualify; ;
 - (b) all members of the TEC, who participate in the evaluation, shall sign the Evaluation Report, with their names and designations clearly stated therein;
 - (c) in case of any disagreement by any member of the TEC on the recommendations of the Evaluation Report, that member may provide a note of dissent, always provided that, the concerned member shall describe his or her reasons in detail for differing from the overall recommendation of the TEC;
 - (d) the TEC Chairperson shall submit the Evaluation Report along with recommendations for award and the note of dissent, if any, to the Approving Authority and, the Approving Authority shall make its decision based on the information and recommendation provided in the Evaluation Report; and
 - (e) in the case of note of dissent provided by a member , the Approving Authority with his or her own initiative may obtain expert opinion concerning any disputed matter in the Tender Evaluation Report.
- (4) A TEC shall evaluate and compare Tenders that are responsive to the requirements of Tender Documents in order to identify the successful Tenderer.
- (5) A TEC may consider a Tender as responsive in the evaluation, only if it is submitted in compliance with the mandatory requirements set out in the Tender Document, without material deviation or reservation.

- (6) A material deviation or reservation is one-
 - (a) which affects in any substantial way the scope, quality, or performance of the Works;
 - (b) which limits in any substantial way, inconsistent with the Tender Documents, the Procuring Entity 's rights or the Tenderer's obligations under the Contract; or
 - (c) whose rectification would affect unfairly the competitive position of other Tenderers presenting responsive Tenders.
- (7) A TEC may regard a Tender as responsive, even if it contains-
 - (a) minor or insignificant deviations, which do not meaningfully alter or depart from the technical specifications, characteristics and commercial terms and conditions or other requirements set out in the Tender Document and any such deviations shall be quantified in monetary terms, as far as possible;
 - (b) errors or oversights, which if corrected, would not alter the key aspects of the Tender.
- (8) The Chairperson of a TEC may ask Tenderers for clarifications of their Tenders, including breakdowns of unit rates, in order to assist the examination and evaluation of the Tenders, provided that, Tender clarifications which may lead to a change in the substance of the Tender or in any of the key elements of the Tender, such as price and delivery schedule shall neither be sought nor accepted by the TEC.
- (9) Requests for clarification shall be in writing and shall be signed by the Chairperson of the TEC.
- (10) All clarification requests shall remind Tenderers of the need for confidentiality and that any breach of confidentiality on the part of the Tenderer may result in their Tender being disqualified.
- (11) A TEC shall correct any arithmetic errors that are discovered during the examination of Tenders, and shall promptly notify the concerned Tenderer(s) of any such correction(s).
- (12) The item quantified in the BOQ for which no rates or prices have been quoted shall be deemed covered by the amounts of other rates and prices in the Contract and it shall not be a reason to change the Tender price.
- (13) If the TEC determines that the Tender pricing is not balanced, the TEC shall require the Tenderer to submit a detailed price breakdown, and in the case of front loading of the unit rates the TEC may recommend to increase performance security.
- (14) There shall be no requirement for a minimum number of responsive Tenders i.e. an evaluation shall proceed and an award shall be made even if only a single Tender is

received and found responsive, provided the Tender has been widely advertised as per requirement of Rule 90, the Tender price is reasonable compared with the market price or is within the official estimate, and the Tender meets the technical specifications and commercial terms and conditions set-out in the Tender Document.

- (15) A TEC shall not continue to evaluate a Tender when:
- (a) the Tenderer has failed to demonstrate its qualifications as required under Rule
 - (b) the Tenderer does not accept a correction of an arithmetical error made in accordance with Sub-Rule (11); or
 - (c) the Tender is not responsive, i.e. the requirements of the qualifications, technical specifications or financial and commercial terms and conditions set-out in the Tender Document.
- (16) There shall be no consideration during the Tender evaluation of any information contained in a Tender submission that was not requested in the Tender Document.
- (17) For calculating the lowest evaluated price, the TEC shall -
- (a) consider all evaluation criteria mentioned in the Tender Document;
 - (b) ensure that the Tender prices are inclusive of applicable taxes, customs duties and VAT for national Procurement of Goods, related Services, Works and Physical Services;
 - (c) exclude applicable customs duties, taxes and VAT and include inland transportation costs in the case of CIF Tenders for imported Goods under international Procurement and exclude only VAT for Goods manufactured locally;
 - (d) include applicable customs duties, taxes and VAT for Works Tenders under international Procurement; and
 - (e) quantify in monetary terms minor deviations from the evaluation criteria other than the price following the provisions set in the ITT.
- (18) If any Tenderer offered only eighty percent (80%) of the items of a lot, for Tenders invited on lot-by-lot basis for Goods Procurement, the TEC shall determine the lot price by adding up the average prices offered by other responsive Tenderers for the missing items to the lot value to establish the winning lot Tender.
- (19) If the winning lot Tender under Sub-Rule (18) is missing some items, comprising less than twenty percent (20%), the Procuring Entity may procure the missing items from the Tenderer offering the lowest price for the remaining items.
- (20) For Works Tenders invited on lot-by-lot basis, the TEC shall award the lots considering the least cost combination of the lots.

Explanation:

If one Tenderer has won two (2) or more lots and was post-qualified only for one (1) lot, then he shall be awarded the lot that would result in the least cost of the total value of contracts and not necessarily the larger lot as he may wish.

(21) For the purpose of evaluation of Tenders involving domestic preference under Rule 83(2), the procedure shall be as follows:

- (a) the price quoted for Goods in Tenders from Group A shall be ex-works with or without transportation and shall include all duties and taxes paid or payable on the basic materials or components purchased in the domestic market or imported, but exclude the sales and similar taxes on the finished product;
- (b) the price quoted for Goods in Tenders of Group B shall be on CIP or CIF, as specified in the Tender Document, which is exclusive of customs duties and other import duties already paid or to be paid;
- (c) the lowest evaluated Tender price from each group shall be compared;
- (d) if a Tender from Group A is the lowest, that Tender shall be recommended for award;
- (e) if a Tender from Group B has the lowest evaluated Tender price, then it shall be further compared with the lowest evaluated Tender price in Group A and before the final comparison is made, the lowest evaluated Tender price in Group B shall be increased by the percentage for 'domestic preference' specified in Schedule II excluding VAT; and
- (f) the lowest evaluated Tender price in Group A shall then be compared with the lowest evaluated Tender price in Group B and the lowest Tenderer shall be recommended for award.

(22) The successful Tenderer shall be the Tenderer who submitted a responsive Tender with the lowest evaluated Tender cost, calculated upon the basis of factors affecting the economic value of the Tender which have been specified in the Tender Document and to the extent practicable, these factors shall be objective and quantifiable and shall be given a relative weighting in the evaluation method or be expressed in monetary terms, wherever practicable.

Example

One of the factors affecting economic value may be the delivery schedule for Goods or completion schedule for Works. If the delivery or completion schedule for Goods or Works specified in the Tender Documents is between fifteen (15) and eighteen (18) months, and a

Tenderer bases his or her Tender price on a delivery of twenty (20) months, then that Tender price may be adjusted for evaluation purpose only, if it is so specified in the Tender Document, by adding a certain percentage or a lump sum

amount to the Tender price , whereby the percentage or amount for liquidated damages may be considered as a guidance, for the two (2) month delay beyond eighteen (18) months. Other factors affecting the true economic value of the Tender price may be life span costs, such as cost of spare parts, fuel, performance or productivity of the equipment, etc.

- (23) If a Tenderer offers a price significantly below the official estimate then the TEC shall investigate the real reasons behind quoting such a low price and consider the Tender nonresponsive if -
 - (a) it becomes very clear that this Tenderer is inexperienced and cannot price a Tender properly;
 - (b) the Tenderer cannot provide any justifiable reasons in support of his or her low price
- (24) If the Tenderer quotes a low price because it happens to enjoy some favourable conditions with respect to this Tender, then the Tender shall be considered as responsive and evaluated accordingly.
- (25) If, after completing the evaluation, it is found that the lowest evaluated Tender is significantly higher than the official estimate or available budget or both, but is within an acceptable range of the market price levels, the TEC may recommend to the Approving Authority either to accept the Tender, subject to availability of budget or to advise the Procuring Entity to reduce the scope of the requirements for the concerned Procurement or a reallocation of risks and responsibility which can be reflected in a reduction of the contract price.
- (26) If the Procuring Entity decides to reduce the scope of the requirements under Sub- Rule (25) for the concerned Procurement it shall -
 - (a) verify that the lowest Tenderer remains the lowest Tenderer after the scope of work has been revised by the Procuring Entity;
 - (b) sign the Contract only with the initial lowest Tenderer; and
 - (c) ensure that the objective of the Procurement will not be seriously affected through this reduction.

Example 1

A Tenderer has personnel and equipment and has just completed another contract near the proposed work site.

Example 2

A Tenderer has particular interest in keeping his or her workforce employed during a low business season.

Example 2

The road authority would be satisfied by cancelling one minor road or a section of the road project. The impact of this reduction shall be examined for all responsive Tenderers, and may result in the 5th

Tenderer becoming the lowest. So, the Contract can not be awarded to any Tenderer.

Example 1

The road authority would recommend reducing the scope of work by deleting entirely the road safety items which are the last in the BOQ. A comparison of the impact of these items examined for all responsive Tenderers may result in the 4th lowest evaluated Tenderer becoming the lowest. So, the Contract can not be awarded to any Tenderer.

- (27) If, after completing a Tender evaluation of more than one Tender, a TEC finds there is only one (1) responsive Tender and the price is close to the official estimate and comparable with the market price, then the Evaluation Report with the Tender shall be submitted to the Approving Authority with a recommendation for award of contract following the requirements of Rule 36.
- (28) In the event that the Procuring Entity decides because of a high Tender price to reduce the scope of the requirements to meet the available budget, the Tenderer is not obliged to accept the award and shall not be penalised in any way for rejecting the proposed award if the proposed reduction was not within the scope of any requirement of the Instructions to Tenderers.
- (29) A Procuring Entity shall refer a single Tender to a TEC for evaluation in accordance with the provisions of this Rule, if only one (1) Tender is submitted on the due time and date, and wide advertisement has been made as per the requirements of Rule 90.
- (30) If the single Tender is found in the evaluation to be fully compliant with the Tender Document and the price is close to the official estimate and comparable with the market price, then the Evaluation Report including Tender may be submitted to the Approving Authority with a recommendation for award of contract following the provisions of Rule

36 , appropriately explaining in the Evaluation Report the rationale for accepting the single Tender.

- (31) In the extremely unlikely event that there is a tie for the lowest evaluated price, the Tenderer with the superior past performance with the Procuring Entity shall be selected, whereby factors such as delivery period, quality of Goods or Works delivered, litigation history and performance indicators could be taken into consideration.
- (32) In the event that there is a tie for the lowest evaluated price and none of the Tenderers has past performance with the Procuring Entity, then the Tenderer shall be selected after consideration of the following , subject to firm confirmation through the Post-Qualification process described in Rule 100.
- (a) in the case of a Works contract, the Tenderer has demonstrated in its Tender, superior past performance with other Procuring Entities or a more efficient work programme and work methodology
 - (b) in the case of a Goods contract, the quality of Goods that is considered more advantageous by the end-users
- (33) The successful Tenderer under Sub-Rule (31) shall not be selected by lottery under any circumstance.
- (34) All Documents related to the evaluation proceedings shall be kept in safe custody in an office of the Procuring Entity that can only be accessed by members of the TEC.
- No Negotiation or Tender Modification as a Pre-condition for Award
 - Approval Process
 - The Evaluation Report shall be finalised in a timely fashion in order that the Notification of Award can be issued before the expiry date of the validity of Tenders, without the Procuring Entity having to seek an extension to the validity of the Tenders.
 - Tender Evaluation Reports shall be sent to the Approving Authority in accordance with Rule 36.
 - The Approving Authority shall review and approve the award recommendation or raise objections, if any, within the time specified in Rule 36.
 - If objections to the content of the report are raised, they should be sent to the Chairperson of the TEC which should meet and respond to the objections within the period specified in schedule II and such proposals containing responses to those objections shall be sent back through the same route following which the request for approval was initially submitted.

- The Approving Authority may reject the Tender Evaluation Report and ask the TEC to re-evaluate the Tenders if there is any deviation from the requirements specified in the Tender Document within the time specified in Schedule II .
- If the Procuring Entity decides to complete the required Procurement after action in accordance with Rule 33, it shall then proceed to a re-tender using a revised Tender Document and, if necessary, wider advertisement may be considered.

4.11 Notification of Award and Signing of Contract

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

4.12 Large, Medium & Small Bidder

Depending on the value of Works and Goods, CPTU prepared and issued three different type of Standard Bidding documents for using in procurement practices.

Large Bidder: Standard Tender Document for Procurement of Works under Open Tendering Method without Pre qualification (STD) for national procurement of values up to Tk 350 million is termed as PW3 documents as well as Standard Tender Document for Procurement of Goods under Open Tendering Method without Pre qualification (STD) for national procurement of values over Tk 2.5 million is termed as PG3 documents. The bidders participating in the procurement process, where PW3 and PG3 documents are used is known as Large Bidder.

Medium Bidder: Standard Tender Document for Procurement of Works under Open Tendering Method for national procurement of values up to Tk 10 million is termed as PW2 documents as well as Standard Tender Document for Procurement of Goods under Open Tendering Method for national procurement of values up to Tk 2.5 million is termed as PG2 documents. The bidders participating in the procurement process, where PW2 and PG2 documents are used is known as Medium Bidder.

Small Bidder: Standard Tender Document for Procurement of Works under Open Tendering Method for national procurement of values up to Tk 0.50 million is termed as PW1 documents as well as Standard Tender Document for Procurement of Goods under Open Tendering Method for national procurement of values up to Tk 0.50 million is termed as PG1 documents. The bidders participating in the procurement process, where PW1 and PG1 documents are used is known as Small Bidder.

CHAPTER-5

ANALYSIS OF THE RESULTS

5.1 Foreword

This chapter includes the analyzed result and discussions on the findings of existing level of involvement, understanding, awareness on Public Procurement system in Bangladesh and discussions on how the respondents assess the necessity of existing procedure of public procurement management, barriers in implementation of PPR-2008 as well as auctioned required to popularize the Public Procurement Rules-2008.

5.2 Characteristics of the respondents

To conduct the survey, the questionnaires were distributed among 50 respondents. Out of 50, a total of 47 questionnaires were returned from the respondents in which 3 were left blank or partially filled up, which were screened out for analysis. Finally, a total of 44 completely filled-up questionnaires have been considered for further analysis. The overall response rate is 88%, which is quite satisfactory. As the sampling was chosen through convenient sampling method and the survey was done by the researcher through self-administered process, the response rate is quite satisfactory. Respondents are employee of the organisation and bidder of the organisation, who are involve in the Public procurement and they also have much interest in improving the existing process/procedure of Public Procurement Management. The respondents profile can be seen at a glance below:

Table-5.1: Respondents' Profile

Particulars	Variables	No. of respondents	% of total respondents	Total effective participants
Status	Procuring Officials	20	45%	44
	Bidders	24	54%	
Sex	Male	43	98%	44
	Female	1	2%	
Length of involvement in procurement activities	More than 05 years	12	27%	44
	4 to 05 years	18	41%	
	Below 3 years	14	32%	
Education	Post Graduate	12	27%	44
	Graduate	17	39%	
	Below Graduate	15	34%	

5.3 Involvement in Public Procurement of Goods, Works and Services

It has been observed from the respondents’ view that in general the level of involvement of the various categories of respondents in the public procurement of goods, works and services. Data show a very high level of involvement of the respondents of four categories. Cent percent of large, medium and small bidders are involved in the public procurement of any sort. On the other hand, high proportions of the procurement officials (95 percent) have reported that they are involved. All of their high involvement gives the idea that all are want to smooth implementation of the Public procurement procedure as well as get the job done efficiently and effectively.

Of the respondents who are involved in some kind of procurement, are basically involved in construction and repairing of roads, construction of drains, building, embankment, sluice gates, bridge, culvert, electric supply lines, godowns, supply of stationeries, office items, office furniture, and construction of new school buildings and repairing the existing ones and purchase of construction materials.

Figure 5.1: Involvement of Bidders in Public Procurement

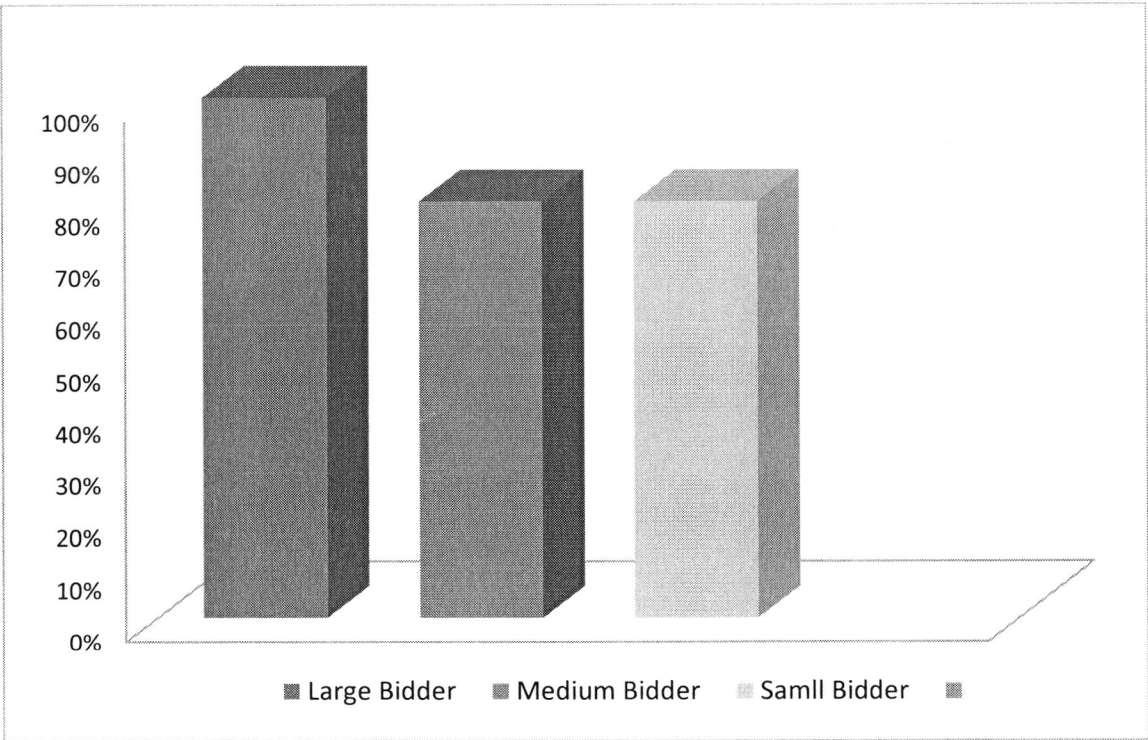
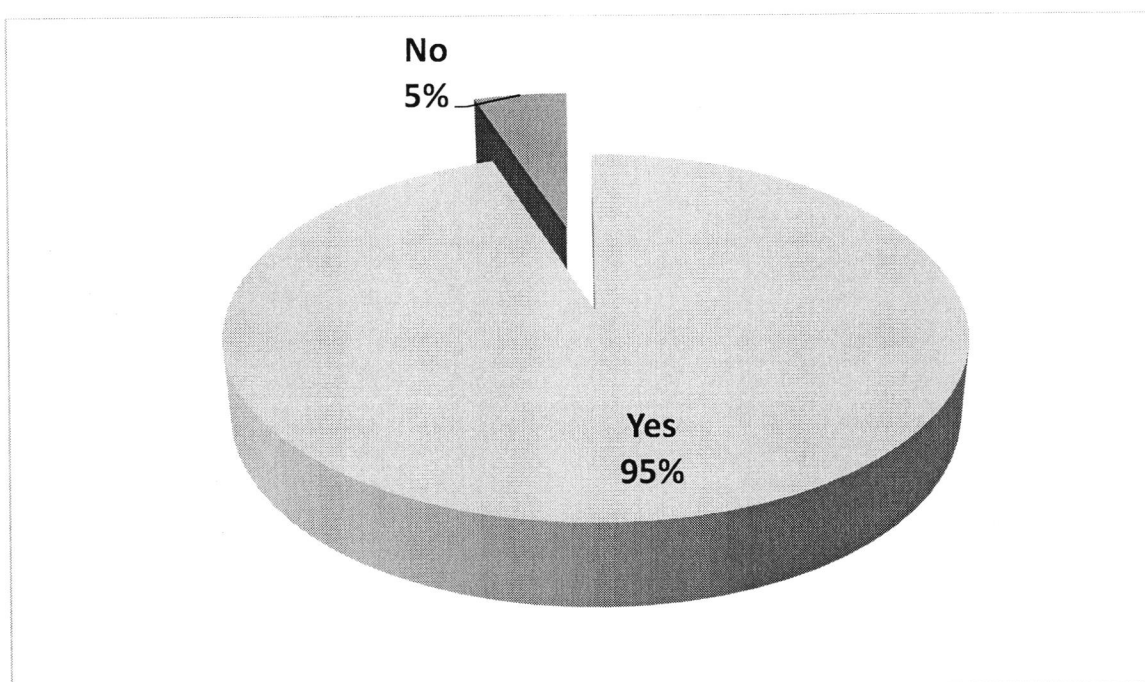


Figure 5.2: Involvement of Officials in Public Procurement

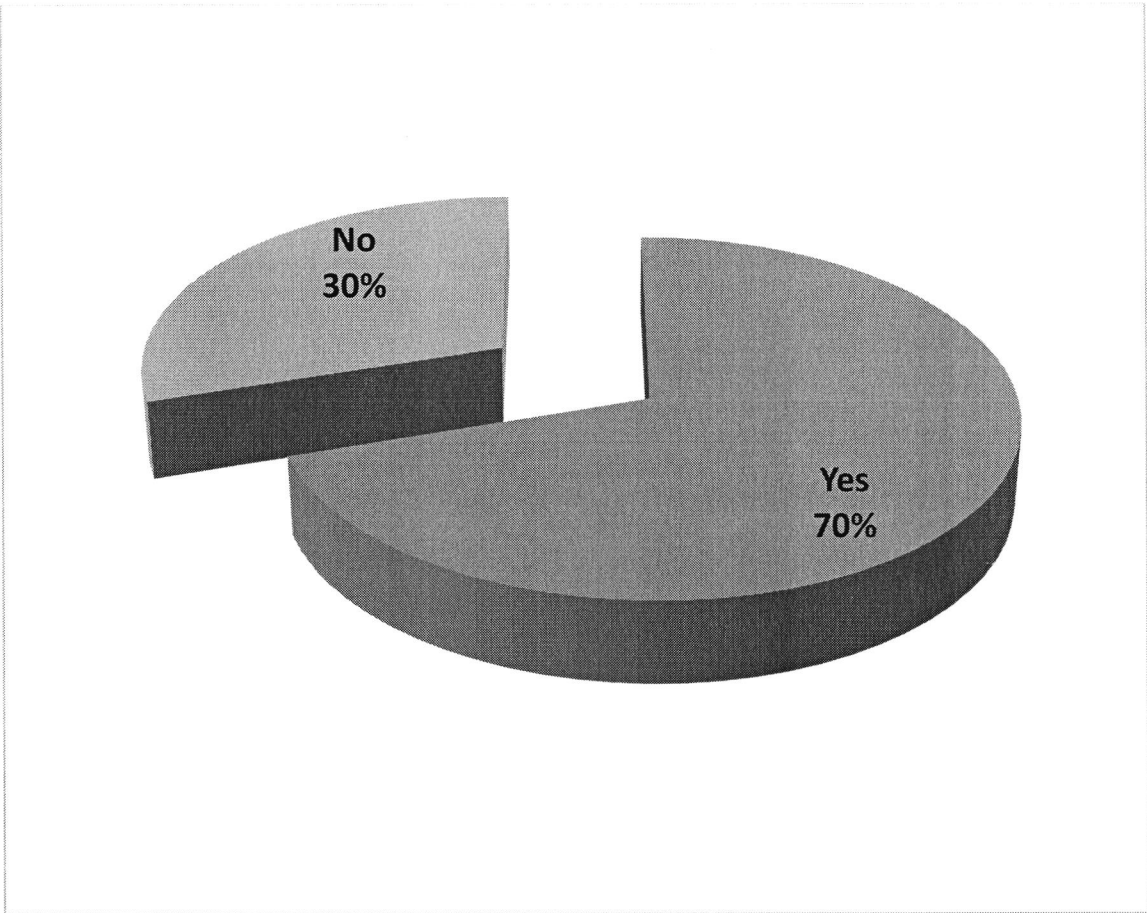


5.4 Idea about PPA-2006 and PPR-2008

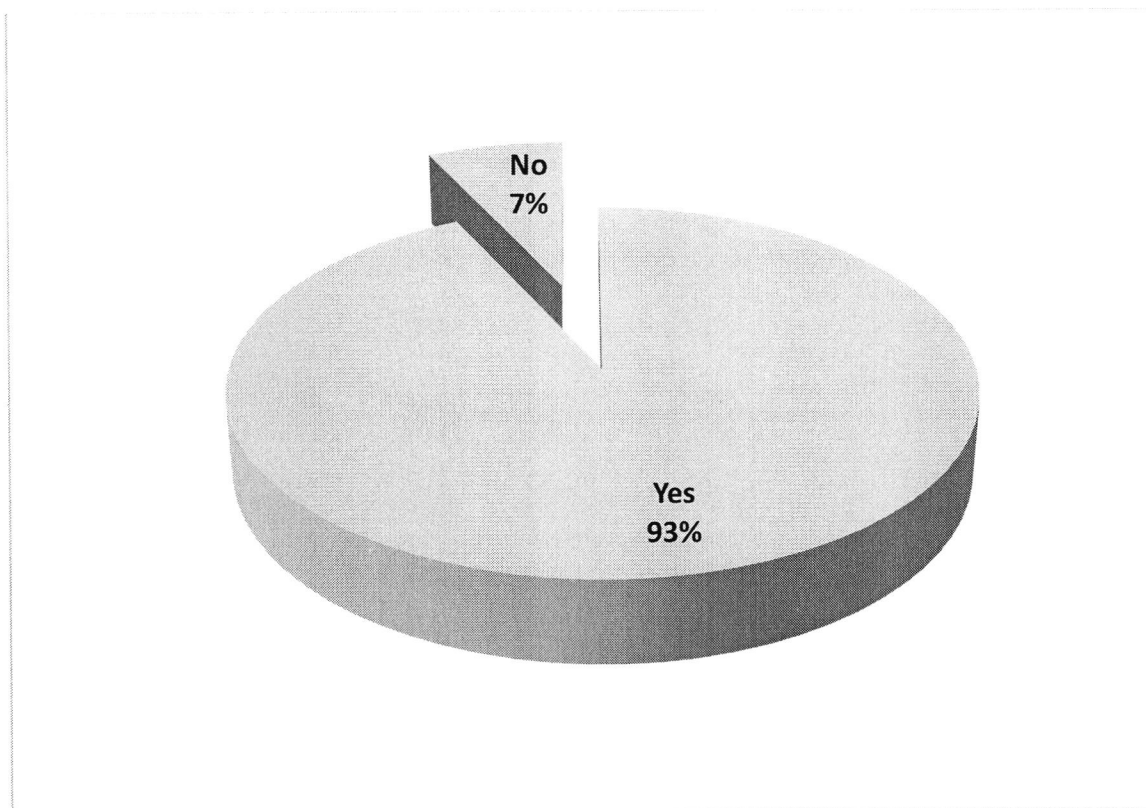
Effective procurement management is all about delivering the right product in the right quantity and in the right condition with the right documentation to the right place at the right time at the right price. The idea about PPA-2006 and PPR-2008 has greater impact on procurement management. Better idea provide effective and efficient management of procurement activities as well as ensured value for money.

In order to assess the level of idea of the respondents about PPA-2006 and PPR-2008, the study examined if they had heard about the two documents. Table 5.3 shows that 70 percent bidders heard PPA-2006. Data show high proportions of bidders of three categories heard of both the documents. Table-5.3 reveals that all the large bidders followed by medium (70.0 percent) and small (40 percent) ones have heard of PPA-2006.

Figure-5.3 Percentage of bidders heard about PPA-2006



With regard to PPR-2008, even higher proportions of bidders mentioned to have heard. Table-5.3 shows that 93 percent contractors heard about PPR-2008. The findings imply that more bidders heard about PPR-2008 than they had heard about PPA-2006. Again, this may be due to the fact that the bidders are more interested to know about the rules than the laws backing up those rules.

Figure-5.4 Percentage of bidders heard about PPA-2008

Almost similar picture has been depicted by the procuring officials of different Department. Table-5.4 shows that more respondents, irrespective of the department, have heard about PPR-2008 (overall, 100 percent of all respondents) than they have about PPA-2006 (overall, 100 percent of all respondents).

Maybe, this is because more people prefer knowing the how-to guide to learning legal provisions behind any activity. They consider PPA-2006 as an embodiment of laws pertaining to public procurement of goods and services and PPR-2008 as a set of rules of performing the procurement.

5.5 Practice of following the PPR-2008

Here I examine the level of practice of the target audiences in using PPR-2008 in public procurement. All categories of target audiences have been approached by employing both quantitative and qualitative methods to know about their level of practice.

In order to assess the level of practice of following the PPR-2008, the bidders were asked if they submitted tenders following the PPR while, the respondents of procuring entity of various department were asked whether they used PPR in their working process. Data presented in Table-5.5 reveal that majority of people who are directly related with public procurement, have higher level of practice of following the PPR. Thus, 88 percent of large, 67 percent of medium bidders and 40 percent of small bidders and 80 percent of procurement officials have been practice of following the PPR. Thus overall, as high as 65 percent of all bidders and as low as 55 percent of all respondent of procuring officials of various department reportedly followed PPR.

Figure-5.5 Percentage of bidders following PPR-2008

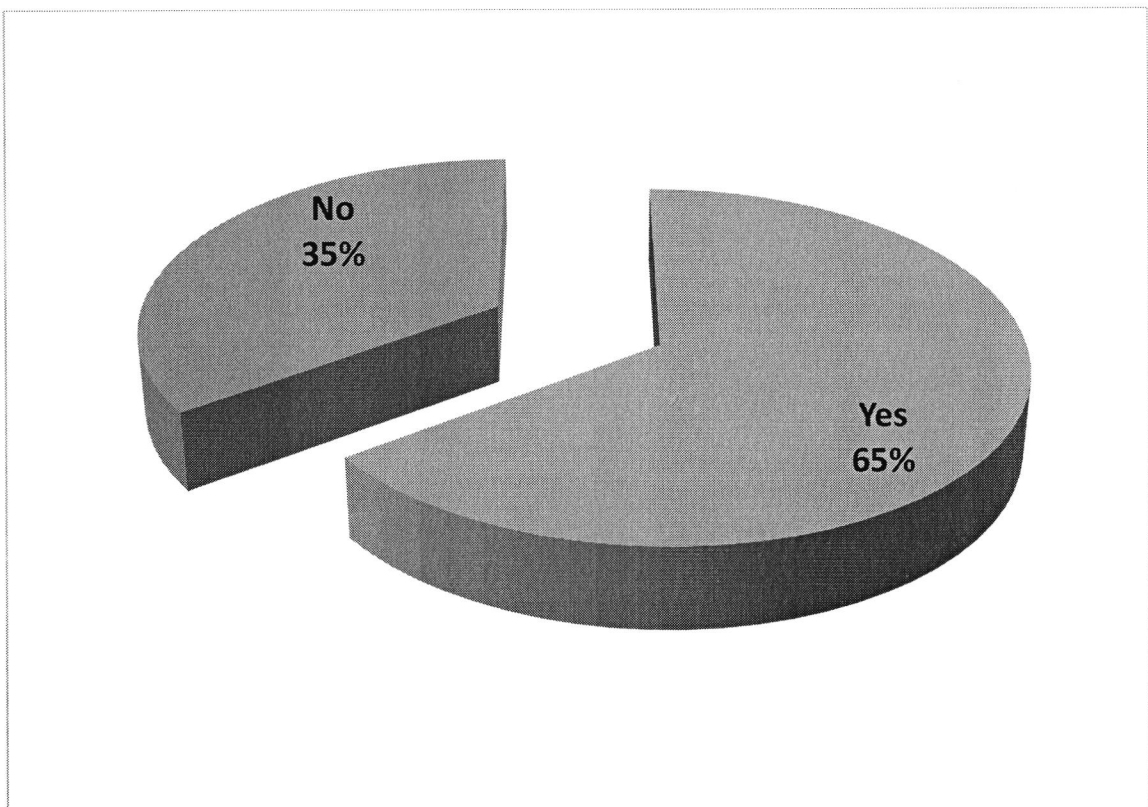
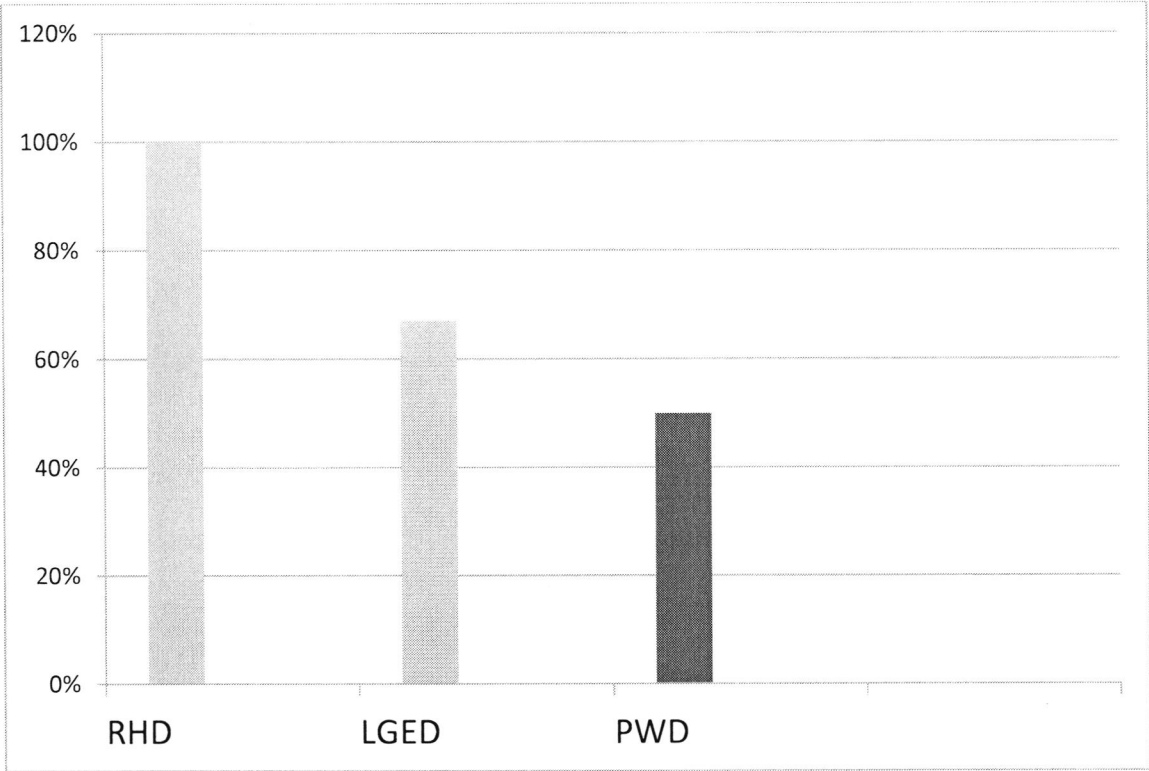


Figure-5.6 Percentage of officials following PPR-2008



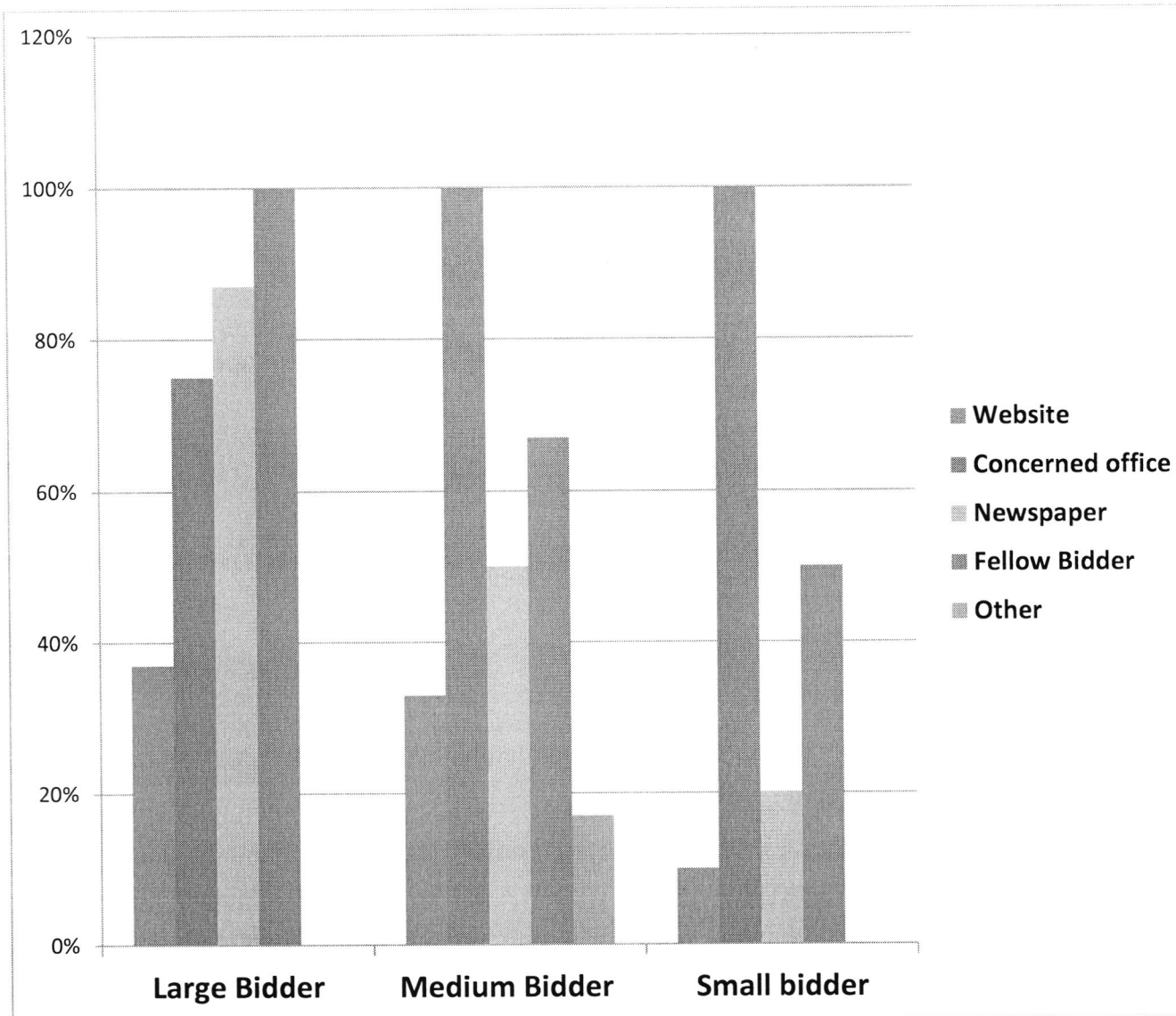
Asked to explain in brief what they know of Public Procurement Rule-2008, majority of the key informants represented by Procuring Entity of various Department mentioned that the Public Procurement Rule-2008 was the policy of the government regarding government procurement or purchase. Some of them think that it has been developed to control and streamline the public procurement system, which went beyond control, while according to a few others this has been developed to regularize the tender related activities. One of them said, “The Public Procurement Rule-2008 of the Government is meant for performing all procurements of the government in an efficient and smooth manner”.

5.6 sources of information about dropping Tenders

People, especially the bidders or contractors, who are directly involved in submitting tenders for public procurement were approached to know about their sources of information about dropping of specific tenders. Table-5.6 shows that for large bidders the key sources of information are other fellow bidders (100 percent), newspaper advertisement(87 percent) and concerned office (75 percent each) and website (37 percent). Lesser number of medium bidders and even lesser number of small bidders cited these sources for their information about dropping the tenders. By far, “Concerned office” was reportedly the most important source of information for all bidders

irrespective of categories (75 percent, 100 percent and 100 percent for large, medium and small bidders respectively).

Figure-5.7 Sources of Information about dropping the Tender



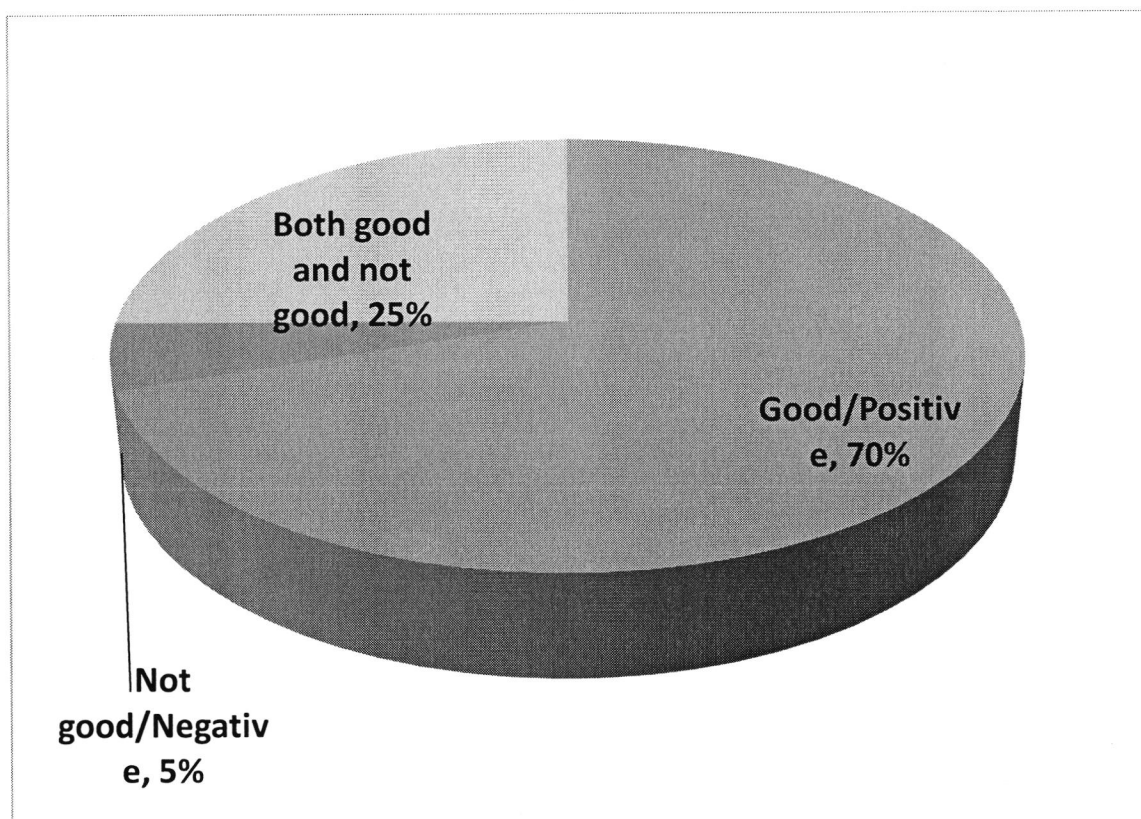
5.7 Respondents views on Procurement Practice following PPR-2008

The target audiences expressed mixed reactions with regard to their experiences of participating in the bidding process by following PPR. Some of them demonstrated positive view about PPR, while others held opposite opinion. As depicted in Table-5.7 medium and small bidders expressed their experience as 'good/positive', while the large bidders mentioned their experience to be 'both good and not-good'.

Table-5.2: Views of bidders in following the PPR

Indicators of experiences	Percentage of bidders expressing experiences					
	Large bidder		Medium bidder		Small bidder	
	Yes	No	Yes	No	Yes	No
Good/positive	0	0	100	0	100	0
Not good/negative	0	0	100	0	0	0
Both good and not-good	100	0	0	0	50	50

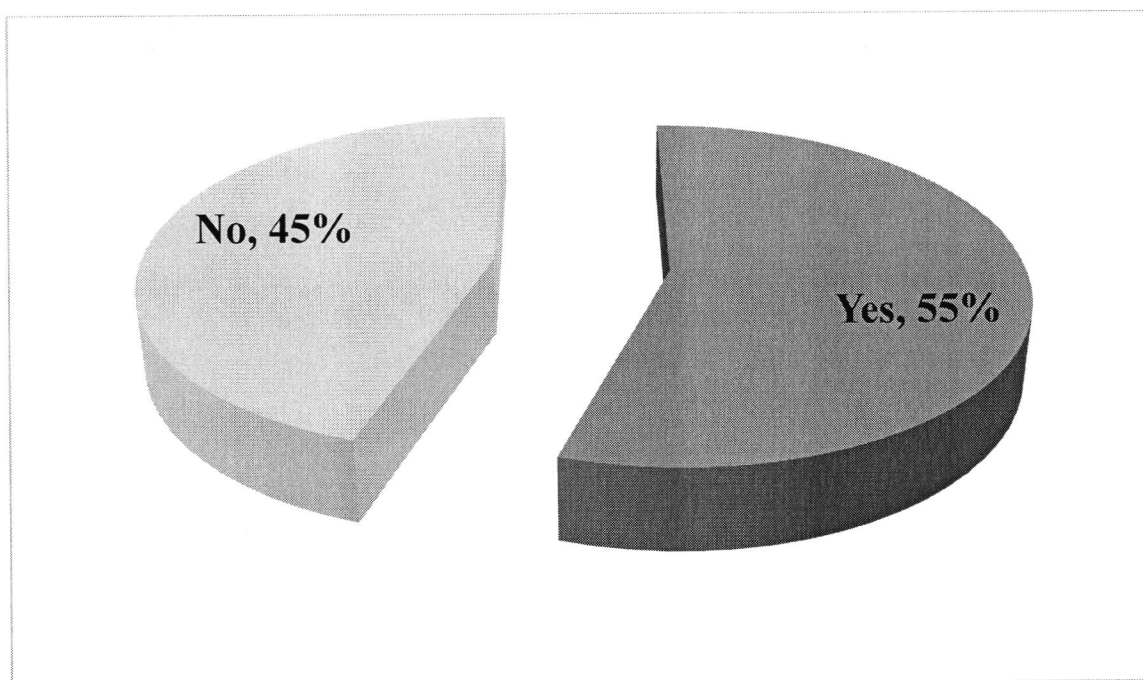
However, substantial proportions of the members of all categories of procuring agencies and see their experiences of following PPR in the bidding process as 'good/positive'. Mixed reactions (both good and not-good) in this regard have been expressed by comparatively smaller proportions of the members of these categories.

Figure-5.8 Views of Procurement officials in following the PPR-2008

5.8 Problems faced in following the procurement process

Procurement practice is very vital for improving contract performance in Public Sector. In response to if they face any problem in following the procurement process, varying proportions of respondents across the categories mentioned that they had faced problems. All large and small bidders and medium bidders, 55 percent of procurement officials stated to have faced problems in the process.

Figure-5.9 Percentage of procuring officials face problems



When asked about what problems they have faced, the bidders and the members of various categories of procuring agencies mentioned the following:

- Bidders of distant locations face problem as there is only one dropping center
- Illogical quote rate
- If the lowest bidder gets cancelled, it takes a long time to select the contractor
- Hard bidding on time limit
- Pressure from policy makers/outside
- Most of the GOB officials do not understand PPR
- It takes longer to understand new PPR

- The lingering of the Evaluation Committee is a big barrier

Table-5.8 shows the types of problems face by bidders in following the PPR-2008

Table-5.3: Types of problems face by bidders in following the PPR			
Problem face	Percentage of bidders		
	Large bidder	Medium bidder	Small bidder
Bidders of distant locations face problem as there is only one dropping centre	75	100	100
Illogical quote rate	100	50	100
If the lowest bidder gets cancelled, it takes a long time to select the contractor	100	50	0
Hard bidding on time limit	75	83	0
Pressure from policy makers/outside	100	83	100
Most of the GOB officials do not understand PPR	38	50	0
It takes longer to understand new PPR	75	100	100
The lingering of the Evaluation Committee is a big barrier	50	50	100

Data show that higher proportion of large and medium bidders faced more problems than those of the small ones. On the other hand, the highest proportion of procurement officials among various categories of procurement agencies, stated to have faced a number of problems in following the PPR.

The problems the target audiences reported might be summarized in Table-5.9

Table-5.4: Types of problems face by procuring officials in following the PPR	
Problem face	% of procuring officials face problems
Bidders of distant locations face problem as there is only one dropping center	60
Illogical quote rate	90
If the lowest bidder gets cancelled, it takes a long time to select the contractor	90
Hard bidding on time limit	100
Pressure from policy makers/outsideers	100
The lingering of the Evaluation Committee is a big barrier	90

The key informations on the other hand, identified a few challenges or problems before themselves and other key target audiences. Below are their identified challenges or problems :

- ✚ The PPR document is not easily available. It is not possible to have adequate idea about the PPR due to lack of proper training. Moreover, there is neither any communication activity nor any publicity for promoting PPR-2008.
- ✚ The procurement agencies do not show their interest to increase their knowledge about the PPR due to lack of large scale campaign and publicity and taking proper and correct steps.

- ✦ The bidders face difficulty of understanding due to lack of proper training. Moreover, there are no books and other communication materials that could be easily understood and followed by the bidders.

5.9 Respondents views on ways to remove the problems

Data in Table-5.10 show majority of the large bidders to suggest ‘continuous training of the contractors and members of procuring entities on PPR (100 percent)’ and ‘initiating communication campaign to popularize PPR (88 percent)’ as the ways that can remove the problems they face in following the PPR. The medium and small bidders also suggested the similar ways as the large bidders did for the removal of the problems effectively.

Table-5.5: Ways to Remove the Problems Suggested by bidders			
Ways to Remove the Problems	Percentage of bidders		
	Large bidder	Medium bidder	Small bidder
By providing continuous training on PPR to the contractors and members of procuring entities	100	100	70
It is necessary initiate communication campaign to popularize/introduce PPR	88	83	30

On the other hand, as Table-5.11 depicts, majority of the procurement officials suggested almost all the above ways for removing the problems.

Table-5.6: Ways to Remove the Problems Suggested by procuring officials	
Ways to Remove the Problems	% of procuring officials
By providing continuous training on PPR to the contractors and members of procuring entities	95
It is necessary initiate communication campaign to popularize/introduce PPR	60

The target audiences of the qualitative investigation suggest below a number of ways that can address their identified problems and challenges:

- ❖ Providing contractors, political leaders and all concerned proper and effective training on PPR-2008.
- ❖ Developing the PPR document in easy Bangla and make it easily available.
- ❖ Mounting strong campaign and publicity to popularize PPR.
- ❖ Educating the members of the public about PPR.

5.10 Respondents views on risk in implementation of PPR-2008

Data Information given by the respondents show that higher proportion of large and medium bidders mentioned that the following factors are very significantly affecting the success of PPR-2008 in the context of Bangladesh than those of others factor:

- ✦ Frequent change in laws/policies related the Public Procurement by the Government.
- ✦ Improper planning of the Government related to the development activities.
- ✦ Unstable law and order situation in Bangladesh.
- ✦ Corruption in Government Officials.

Table-5.7: Risk in implementation of PPR-2008

Risk factors	Percentage of bidders			
	Very significant	significant	Moderately significant	Less significant
Un willingness of the Government to implement PPR-2008		75%	20%	4%
Frequent change in laws/policies related the Public Procurement	79%	13%	8%	
Improper planning of the Government	96%		4%	
Lack of qualified bidders			50%	46%
Unstable law and order situation in Bangladesh	75%		25%	
Corruption in Government Officials.	75%	21%	4%	

Almost similar picture has been depicted by the procuring officials of different Department. Table-5.13 shows that more respondents, irrespective of the department, have given same opinion

regarding risk factor. But nobody mentioned any views regarding factors related to the corruption in Government officials.

Table-5.8: Risk in implementation of PPR-2008				
Risk factors	Procurement officials			
	Very significant	significant	Moderately significant	Less significant
Unwillingness of the Government to implement PPR-2008				
Frequent change in laws/policies related the Public Procurement	80%	20%		
Improper planning of the Government	75%	20%	5%	
Lack of qualified bidders	80%	15%	5%	
Unstable law and order situation in Bangladesh	90%	10%		
Corruption in Government Officials.	-	-	-	-

CHAPTER-6

CONCLUSION & RECOMMENDATIONS
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6.1 Introduction

This chapter includes the conclusions and recommendations that would help in improving level of public understanding and appreciation of the procurement system and the values that have been added to it including proper management of public fund, outsourcing the provision of goods and services in a competitive manner, accountability of public officials etc. in Bangladesh.

The first objective of this study was to measure the level of awareness on public procurement system. The second objective was to assess the level of understanding of the necessity of PPR in Bangladesh. To assess the basic knowledge of the respondents regarding public procurement system was the third objective. The fourth one was to assess the perception and attitude of the respondents regarding PPR. The fifth objective was identifying the practice of the respondents regarding the implementation of PPR system. Last objective was to identifying barriers and challenges to communication and awareness regarding PPR.

6.2 Recommendations

This part of the thesis concludes the recommendations on main findings as following:

6.2.1 Organisation and management

There should be adequate number of competent personnel involved in all stages of Procurement Management. A designated person or at least one trained procurement officials should be appointed at each of the Procuring Entity (PE). Individual responsibilities should be clearly defined and understood by the individuals concerned and recorded as written job descriptions. Certain activities may require special attention such as the preparation of Tender documents, Specification as well as evaluation of complex procurement in accordance with the procedure laid down in the PPR-2008.

6.2.2 Personnel Management

The lack of basic skills training is undoubtedly partially responsible for some of operational accuracy issues being currently encountered. A training needs analysis of procurement related staffs should be undertaken. After that all personnel involved in procurement management (both internal member and external member) should be trained. Records of all trainings should be kept not only in Human Resource Management but also in CPTU website.

6.2.3 Recommendation to increase effectiveness of procurement management

Procurement Management in public sector requires long-term planning to be fully effective. Planning should include setting objectives, quantifying targets for achievement and communicating these targets to others. This process incorporates selecting strategies, tactics, policies, programmes and procedures for achieving the objectives.

In view of the forgoing detailed findings and analysis of the key findings, a number of recommendations have been offered. It is suggested that the offered recommendations are prioritized before going into action. Some recommendations have policy implications and so those should be dealt with cautiously with inclusion of strong policy advocacy strategy in the process. Following recommendations are being offered: Thus it is recommended that:

- ❖ A policy decision be taken to design and implement planned communication activities for popularizing and smoothly implementing the PPR.
- ❖ Based on the present situation analysis and other relevant information already captured, a detailed communication strategy including the action be designed and developed.
- ❖ A comprehensive training / orientation program be designed, developed and implemented. Fresh training needs assessment will not be required since elements of needs assessment have already been employed in this study and enough of needs have been identified. It is being suggested that:
 - ✦ Each of the courses addresses, Description and the salient features of the PPA and PPR
 - ✦ Rules dealt with in the PPR document
 - ✦ Guidelines and steps to be followed by the procuring entity and the bidders
 - ✦ Roles and responsibilities of various stakeholders in the implementation of PPR
 - ✦ Advantages and benefits of following the PPR.
- ❖ A multi-media approach, with emphasis on mass media be taken to disseminate relevant message and information.
- ❖ A campaign approach instead of many one shot communication jerks be planned.
- ❖ A campaign logo, slogan, and a specific jingle be developed to be used in all kinds media and possible materials so that people can instantaneously associate messages, logo, and jingle with the theme helping them in retention of the message
- ❖ Same messages be used and disseminated through all media.

- ❖ An efficient and pragmatic monitoring, supervision and evaluation of the communication campaign be in-built into the program.
- ❖ A plan for reviewing and revising the communication activities be in place.
- ❖ The suggested messages and text and visual concepts for slogan and logo be considered while developing slogan, logo and other communication materials.
- ❖ Following communication materials / activities / interventions be developed and used for PPR communication
 - ✚ Poster,
 - ✚ Billboard,
 - ✚ Brochure,
 - ✚ Leaflet,
 - ✚ PPR training curriculum and guidebook,
 - ✚ TV/Radio spot/drama talk show,
 - ✚ Newspaper articles,
 - ✚ Meeting/workshop/seminar, and
 - ✚ Street drama.

6.4 Conclusion

Given the foregoing detailed findings and subsequent analysis of the key findings, it may be precisely concluded that:

- ✚ PPA and PPR are two very important documents that govern the public procurement process of the country, the objective being to ensure smooth and corruption-free procurement for steady supply of goods and services and works.
- ✚ Many people have just heard about PPA and PPR but lack appropriate knowledge about the contents of the documents.
- ✚ Sources of knowledge about the documents are not adequately tapped and propelled to disseminate message / information about PPA and PPR.
- ✚ People consider PPR as latest version of the PPA and consider that as the document to know more about.
- ✚ As to the perception about PPR, the target audiences are clearly divided into two groups, one maintaining positive and other holding negative perception.

- ✚ It may be assumed that all who drop tenders and the procurement officials follow the PPR and they know pretty well the process of selecting contractors. Also that they access various sources for exploring information about dropping tenders.
- ✚ Those who follow PPR have mixed experience – positive and negative.
- ✚ Quite some gaps of information and problems in following the procurement process have been identified which need to be taken care of.
- ✚ There are potential barriers to communication.
- ✚ There is no publicity at all to popularize and implement PPR.
- ✚ Training is very scanty.
- ✚ All respondents, irrespective of categories think that a special communication intervention needs to be undertaken.

6.5 Limitation and assumptions

During the research work several limitations were faced which ensures that there are scopes of further study in this topic. The limitations and assumptions that were made during the research are mainly as follows:

- a) Prior to the start of the research, it was expected that some works relating this would be undertaken but unfortunately that was not the case.
- b) Time barrier did not permit to work in-depth for example it was not possible to contact various type of bidders involve in various sector as well as general public, politicians and academicians etc.
- c) Finally, it was assumed that for the purpose of confidentiality, disclosure of names of the interviewees has not been allowed by the interviewees.

6.6 Recommendations for Further Research

This type of study has not been previously undertaken in any public sector not in procurement Management. As a result, there are many scopes of further studies to fine tune the findings of this research as well as open new areas of study:

- ✚ A study could be done to measure the impact and effectiveness of Public Sector Reform Project.
- ✚ A similar study could be done covering all stakeholders as well as department.
- ✚ A more holistic approach could be undertaken by incorporating all the process of procurement management.

REFERENCE

BIBLIOGRAPHY
QUESTIONNAIRE
CASE STORIES

ANNEXURE-A

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ANNEXURE-B

QUESTIONNAIRE SURVEY

Institute of Government Studies (IGS)
BRAC University, Dhaka, Bangladesh

(Questionnaire Survey on impact of new Public Procurement Rules on different Bids)

The researcher is undertaking this questionnaire survey as a part of his Top Up Master programme in the IGS of BRAC University, Dhaka, Bangladesh. It would be very much appreciated if you could donate a bit of your valuable time to fill-up this questionnaire. The data collected through the survey will be treated as strictly confidential and will be used for this study purpose only.

Instructions to the respondents:

1. There is no right or wrong answer for the questions mentioned in this questionnaire. Select only the most appropriate answer for each question based on your personal view or experience.
2. There may be questions which appear irrelevant or impertinent to you. However, we would like to attempt to answer all the questions, as each question is asked to achieve a stated objective. If there are any questions you are unwilling or unable to answer, then please continue to answer the remaining of the questions.

Some Definitions

- **Public Procurement**
Acquisition of Goods, Works and services by Government fund (Public Fund)
- **PE**
PE means Procuring Entity, who is the authorised person to use public fund in procurement according to the Rule 1(14) of the Public Procurement Rules 2008.

SECTION 1: General Information

Please fill in and use tick (✓) to indicate your response, (where applicable)

1.1 Your Educational Background:

Masters Degree	Bachelor's Degree	Diploma	Secondary school	Primary School	Other specify
1	2	3	4	5	6

1.2 Name of your Organisation:

1.3 Name of respondent

1.4 Your current position/Designation

1.5 Date:

SECTION 2: Knowledge and perception regarding PPR-2008

Q. 1	Are you in anyway involve in the procurement of Goods/Works/ Services	
	Goods	Yes No
	Services	Yes No
	Works	Yes No
Q. 2	Your total experience in construction or in public procurement.	
	• 6-12 months	
	• 2-3 years	
	• 4-5 years	
	• Over 5 years	
Q. 3	Have you ever heard about :	Yes No
	• PPA 2006?	No
	• PPR 2008?	Yes No
Q. 4	What are your general perceptions about the PPR? [Probe again and again, but don't read out the options. Answers may be multiple. Identify what the participants say by putting ticking appropriate numbers.]	
a.	Good	Yes No
b.	Useful	Yes No
d.	Transparent	Yes No
e.	Takes less time	Yes No
f.	Bureaucratic complications have reduced	Yes No
i.	It is very much bureaucratic	Yes No
j.	Hard to follow	Yes No
k.	It's process is long	Yes No
i.	Other (Specify)	Yes No

SECTION: 3 Practice regarding Implementation of PPR-2008

Q. 5	Do you anyway use PPR in your work process process?	Yes No
Q. 6	What is your experience in implementing PPR:	
a.	Good/positive	
b.	Not good/Negative	
c.	Both good and negative	
Q. 7	Do you face any problems in following the process of procurement?	Yes No
Q. 7.a	If yes, what problems do you face? [Probe again and again, but don't read out the options. Answers may be multiple. Identify what the participants say by putting ticking appropriate numbers.]	
	Tenderers of distant locations face problem as there is only one dropping center	Yes No
	Illogical quote rate	Yes No
	If the lowest bidder gets cancelled, he submits application to the authority. As a result, it takes a long time.	Yes No
	Time limit for evaluation	Yes No
	Pressure from policy makers/outside	Yes No
	The lingering of the Evaluation Committee is a bid barrier	Yes No
	Other (specify)	
Q. 8	How can these problems be solved? [Probe again and again, but don't read out the options. Answers may be multiple. Identify what the participants say by putting ticking appropriate numbers.]	
	By providing continuous training on PPR to the contractors and members of procuring entities	Yes No
	It is necessary initiate communication campaign to popularize/introduce PPR	Yes No
	Developing the guidelines to follow in brief	Yes No
	Other (specify)	

SECTION: 4 Risk in implementation of PPR-2008

How do think the following factors are significantly affecting the success of PPR-2008 in the context of Bangladesh? (Please, put 'tick' (✓) mark in the appropriate box for each factor)

Sl. No.	Risk Factors	Very significant	significant	Moderately significant	Less significant	Very significant
1	Frequent change in laws/policies related the Public Procurement					
2	Improper planning of the Government					
3	Lack of qualified bidders					
4	Unstable law and order situation in Bangladesh					
5	Corruption in Government Officials.					

Any other comments, please:

End of questionnaire. Thank for giving your valuable views

ANNEXURE-C

Case Stories

Case story: One

Md. Salam, Executive Engineer

Mr. Md. Salam, Executive Engineer, is married and father of two sons and a daughter. He is a B.Sc. Engineer. He had received 8-day long training on PPR from LGED, and feels that further training is required on the subject.

Before being promoted as the executive engineer this municipality, he performed the duties of assistant engineer and executive engineer in different municipalities of various districts. He has faced many different problems in his long carrier. He said, “before the introduction of the PPR, there was no clear-cut instruction for purchase and procurement of goods and services and construction materials through tender. Many organizations/departments used to formulate rules and regulations of their own to conduct procurement activities through tender. There was no accountability, and none could be found to solve any serious problem. As a result, it was very difficult to find a solution”.

He further mentioned that PPR was first drafted in 2003 and later on it was approved in 2006 as PPA. This was further reformed and approved as PPR in 2008. Some more reforms were effected later on. In the PPR transparency, accountability, duties and responsibilities and key to the solution of problems have been outlined clearly. He further mentioned that if the rules of the PPR were followed, no one could be able to involve himself in corruption. At the same time, he further advised to bring some changes in the PPR: the machinery parts that are imported from the foreign countries should have the brand name along with the country of origin inscribed on it. Bidders’ past experience should be made compulsory for all tenders larg or small. Otherwise, the work cannot be implemented properly. The features of PPR should be made known to all concerned. In this regard, the bidders and the contractor should be provided with adequate training to create awareness and responsibility among them.

He further mentioned, “I have faced many threats and troubles for implementing works in line with the PPR. But still then, I think that PPR is a right and bold step at the right time. The country will advance steadily if the PPR is followed properly.”

Case story: Two

Md. Zonab Ali

Executive Engineer, PWD

He had completed his education with hard work from his early childhood. He had a dream of becoming a reputed engineer. To make his dream come true he forced him to go through hard work and perseverance. Ultimately he became a successful engineer. But at the end of his carrier he is now beset with troubles. That is, he had to take hard-line to follow the rules of the PPR.

He described the facts of his life in an emotional way. As he was following the PPR strictly, he was transferred by the pressure of the local influential people. The reason behind was that he tried to issue work orders by following the rules of the PPR.

At that time, he was posted in a Project, where he invited a quotation. Many tenders were dropped properly fulfilling the requirements mentioned in the advertisement for the tender. The lowest bidder was then selected, who had 5 years of work experience. He was qualified in all respects. But suddenly he was transferred again to favor the organization preferred by the mayor.

He then asked, if the influential people of the country were not aware of the PPR, how it would be possible to implement it. The answer to this question is unknown to him. He then proudly mentioned that he had the moral courage, as he always tried to perform his responsibility with full satisfaction. He also urged to create awareness among the people about the PPR through mass publicity, and to provide training and orientation to the influential and powerful persons of the country.

Case story: Three

Kazi Daulat

Engineer, LGED

Mr. Kazi Daulat is an Engineer working with the LGED for a long time. His present responsibility includes procurement of goods and services. And he is doing his job fairly well. While expressing his opinion as to the PPA-2006 he said that the procurement policy that was being followed before had been reformed to some extent, and the reformed policy was introduced as PPA. Later, the PPA was further reformed and introduced as PPR-2008 to make government procurement policy easier and up-to-date.

He mentioned some of the reforms in the PPR-2008, which were pretty good. These include opening of the tenders in presence of the bidders as well as others present, posting of tenders of more than Taka one crore in the website, formation of evaluation committee, etc. On the other hand, preconditions of past experience for small works and the requirement of no experience for big works force the small contractors out of work. Moreover, he mentioned that introduction of one tender dropping center had encouraged the bidders to form syndicates.

He has been facing many problems in doing his job up to the mark, he mentions. He further said that the bidders were not dropping the tenders with proper documents. Being dissatisfied, he further mentioned that in such circumstances he was left with no alternative but to issue work orders on the influence and pressure of the political leaders. He said that presently it became very difficult to work in accordance with the PPR rules. To popularize the PPR, he suggested training, mass publicity, publication of booklets on PPR in Bangla and English, preferably with the changes that have been made to reform.

Case story: Four

Md. Shahidur Rahman

Contractor

Mr. Md. Shahidur Rahman, 61, is a contractor by profession. He has studied up to class ix. He is in this profession since 1967. His observation is that before the PPR Tender Form 2911 was used for construction works and Tender Form 2908 was used for government supply works. In 2003, these two forms, 2911 and 2908, were cancelled.

While giving his opinion on PPA, he mentioned that earlier they had to face many unwanted problems. Collection of necessary documents following the PPA was very difficult. On the other hand, his opinion regarding PPR is that it is a very complicated procurement policy. According to his opinion, there is no transparency in the PPR and it creates a dishonest and subtle way of corruption. Therefore, he thinks that complete reform of this Act should be made for the greater interest of the contractors, particularly of the small and medium contractors and for the interest of the procurement authority. He further mentioned that only then the smaller and competent contractors would be able to take part in the development works of the country.

Case story: Five

Md. Salamat

Contractor

Mr. Md. Salamat is a construction contractor. He is in this profession for the last 16 years. He is aware of PPA-2006 and the PPR-2008. He mentioned that the PPR-2008 could be reformed further to make it more acceptable. Following the PPR, he participated in the tender and procured some work orders. He has gone through the PPR on his own initiative and got ideas about the rules and regulations. He mentioned that he felt comfortable in procuring work orders and implementing the works in accordance with the PPR.

He has suggested some reforms in the PPR-2008: one being the requirement of previous experience of doing work worth over Taka 2 crores. He suggested this requirement to be mandatory. He also opined that previous experience should be made compulsory for work worth Taka 50 lacs.

He opined in favor of keeping tender policies free from political influences and making monitoring system compulsory. He thinks that the PPR-2008 is more or less realistic. He is also satisfied with the rules of the PPR which require deposition of security money and liquidity guarantee, and also deduction of VAT.

At the same time, he emphasized on the need for publicity to make PPR rules and regulations well-known to the concerned quarters. To this end he suggested organizing TV talk-shows, workshops, seminars, etc. To his opinion, the above activities can ensure accountability and transparency. He thanked the concerned authorities of the government for the improvement of the law and order situation and for being relieved from the tender mongers and the extortionists, which was a regular phenomenon before the introduction of the PPR-2008.

He suggested implementing the PPR at all levels of government procurement.

Case story: Six

Mr. Abdul Hakim

Contractor

Mr. Abdul Hakim is a contractor by profession. He has been working as a contractor for the last 26 years. He expressed his disappointments in response to the question whether he follows the PPR in his construction business. He mentioned that he differed in principle with the PPR. He pointed out that the reformed policies need to be changed soon. The PPR should be disseminated to the general public in an easy way. This can be done through various media and training, he suggested

He points out that presently he is participating in the tenders by following the rules of the PPR. But the engineers are awarding the work orders to the contractors of their choice. He further points out that in the process of issuing work orders the political leaders and the bureaucrats are playing a decisive role. As a result, contractors like him, who follows the rules of the PPR, are ignored and treated as misfit.

Mr. Hakim also differs with the provision of security deposit as mentioned in the PPR. While criticizing the PPR, he mentioned that as the government had introduced PPR in the country, all citizens must follow it. But the PPR remains only in the book as its application is not visible anywhere. The rules and regulations governing the public procurement have been documented in the PPR, but these are not executed appropriately in practice.

He further mentioned that he had to struggle a lot to reach this present position. He was earlier considered as a class one contractor. But contractors like him are rejected due to present corrupt practices. He therefore came to a conclusion that fair practice of the PPR is useless here. In the PPR it is clearly mentioned that work order shall be awarded to the competent contractors. But the authority is reluctant to give him any work. Therefore, to his opinion, PPR does not have any bearing at all.

Mr. Hakim generally participates in the tenders of civil and engineering departments of the RHD, LGED, BWDB. Recently, he pointed out, he had participated in the tenders of the above mentioned departments. But surprisingly these departments did not sell him any tender

documents of medium or large scale work. They did not consider him as competent, though he had been an established class one contractor for the last 26 years, he mentioned.

Under the above circumstances, he doesn't think that the PPR could be a completely corruption free. He thinks that the rules and regulations which fail to accept the competent person cannot bring any good to the country.

He, however, said, "I do respect some of the rules of the PPR that was introduced to stop irregularities and corruptions. All of us must follow those rules and respect them".