CHALLENGES OF PROCUREMENT OF WORKS THROUGH INTERNATIONAL OPEN TENDERING METHOD
A CASE STUDY ON MOGHBAZAR-MOUCHAK FLYOVER PROJECT

Dissertation submitted in partial fulfillment of the
Requirements for the Degree of
Masters in Procurement and Supply Management

Submitted by
Kazi Abdus Samad
MPSM, Batch #7
ID-14282020

Masters in Procurement and Supply Management

February 2015

BRAC INSTITUTE OF GOVERNANCE AND DEVELOPMENT,
BRAC UNIVERSITY

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Supervisor
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Md. Mosta Gausul Hoque
Director (Planning & Development)
Bangladesh Parliament Secretariat

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CERTIFICATE FROM SUPERVISOR

This is to certify that **Kazi Abdus Samad,** Cohort-3 (Session-2014), MPSM Batch # 7, ID-14282020 has prepared the thesis entitled "Challenges of Procurement of Works through International Open Tendering Method: A case study on Moghbazar-Mouchak Flyover Project" under my supervision. I do hereby approve the style and content of this thesis. This is for the partial fulfilment of the requirement for the degree of Masters in Procurement and Supply Management (MPSM) in The *BRAC* Institute of Governance and Democracy (*BIGD*) at *BRAC* University.

25th February,2015

Md. Mosta Gausul Hoque
Director (Planning & Development)
Bangladesh Parliament Secretariat

DECLARATION

It is hereby declaring that no part of thesis, title as "Challenges of Procurement of Works through International Open Tendering Method: A case study on Moghbazar-Mouchak Flyover Project" has been submitted or published elsewhere. The whole dissertation is prepared for academic pursuit and solely aimed for the partial fulfilment for the degree of Masters in Procurement and Supply Management (MPSM). The document is submitted to the BRAC Institute of Governance and Development (BIGD), BRAC University with due acknowledgement of the cited text and norms of standard research works.

Kazi Abdus Samad
25th February, 2015

Acknowledgements

This research is an outcome of the efforts made by many individuals as well as institutions in Bangladesh. Heartiest thanks to Mr Md. Mosta Gausul Hoque, Director (Planning & Development),Bangladesh Parliament Secretariat, Dhaka for his valuable comments, suggestions and guidance as the dissertation supervisor. Sincere thanks to Mr. Abdur Rashid Khan and Mr. Rejaul Karim of LGED for their valuable comments on the survey questionnaire.

This researcher appreciates Mr. Nurul Huda, Executive Engineer, LGED and Mr Forruk Ahmed, Deputy Director, FAPAD, Dhaka for their untiring support during conducting questionnaire survey as well as face to face interview and also helping me during interview sessions and for encouraging me at every stage of the research.

Thanks to the persons who extended their helping hands to this researcher in preparation of proposal, information collection, interview and report writing. Contribution made by the World Bank for financial assistance and also for arranging all sorts of logistics and Government of Bangladesh for nominating the researcher for such a course is acknowledged.

This researcher owes a great deal to his beloved sons Kazi Masud Tanvir Rownak and Kazi Mahmud Tanvir Rashik and his wife Mahmuda Begum for their understanding and cooperation during the long process of the dissertation.

Table of Contents

Table of Tables

Table of Figures

Executive Summary

On the basis of a number of arguments by procurement experts and from findings of some international organizations on International Open Tendering Method (IOTM) procurement procedures, this study has sought to investigate the extent of its practices and major challenges at the procurement for projects implemented in Bangladesh by the Local Government Engineering Department (LGED).

This study has started with reviewing different aspects of IOTM through literature review. It has found that there exist differences in IOTM procurement procedures followed by different donor agencies like World Bank, ADB, IDB, DFID, USAID etc. It has found that IOTM as an essential system in implementing major and complicated public works in Bangladesh particularly by the LGED. Openness and transparency in IOTM is a must. There is no scope of corruption in decision making process of tender evaluation stage.

This study also finds that procurement guideline of World Bank and ADB is very strong and play dominant roles in the procurement policy process. It works in a well structured framework. There exist strong internal control and accountability mechanisms making decision making process unique.

In-depth investigation depicts that procurement official have the willingness and proper attitude to serve the people. This study also reveals structural, managerial as well as efficiency problems in the IOTM procurement. World Bank and ADB's procurement guideline is still flexible and decentralized. Official jobs for procurement, authority and responsibilities are clearly specified. Both the World Bank and the ADB emphasized in favor of delegating financial power to the procurement officials. They felt that there is scope for improving the information disclosure system. Concepts like responsibility, transparency and good governance exist in procurement guidelines of the World Bank and the ADB. If structural deficiencies can be eliminated, level of ensuring efficiency of using IOTM procurement will be enhanced.

This study concludes that the total time required for invitation of tender, evaluation and contracting is less than that of PPR 2008 of Bangladesh in the International Procurement of works. According to the ADB Procurement guidelines 6 to 8 weeks are needed from advertising to Evaluation and Contracting for the procurement of works internationally and according to the WB Procurement guidelines, 6 to 13 weeks are needed from advertising to Evaluation and Contracting for the procurement of works internationally.

On the other hand, according to PPR 2008 Procurement guidelines, 6 to 12 months are needed from advertising to evaluation and contracting for the procurement of works internationally which is too much. But the time required from invitation of tender to evaluation and contracting depends on donors. The World Bank, ADB and JICA (Japan) takes less time compared to others. SFD and IDB take more time for concurrence and approval.

So, for smooth implementation of projects having major and complicated works in public sector of Bangladesh in general and for LGED in particular the existing time frame in the PPR 2008 for procurement through IOTM procedure should be reviewed.

Note on Access to Contents

I hereby declare that with effect from the date on which the dissertation is deposited in the library of the BRAC University, Dhaka, I permit the librarian of the University to allow the dissertation to be copied in whole or in part without reference to me on the understanding that such authority applies to the provision of single copies made for study purposes or for inclusion within the stock of another library. This restriction does not apply to the copying or publication of the title and abstract of the dissertation.

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Kazi Abdus Samad
Author

CHAPTER-1

INTRODUCTION AND CONCEPTUAL FRAMEWORK

CHAPTER-1
INTRODUCTION AND CONCEPTUAL FRAMEWORK

1.1 Introduction

Bangladesh is a developing country and endeavoring to become a mid income ($1046-4150 according to WB) country by 2021. In short, developments mean positive change of present stage of a thing. One of the indicators of development of a country is the quantity of infrastructures. Infrastructure is the basic physical and organizational structures and facilities (e.g. buildings, roads, power supplies) needed for the operation of a society or enterprise: *the social and economic infrastructure of a country*[1] or the services and facilities necessary for an economy to function.[2] It can be generally defined as the set of interconnected structural elements that provide framework supporting an entire structure of development. The term typically refers to the technical structures that support a society, such as roads, bridges, water supply, sewers, electrical grids, telecommunications, and so forth, and can be defined as "the physical components of interrelated systems providing commodities and services essential to enable, sustain, or enhance societal living conditions.[3]" The term *infrastructure* has been used since 1927 to refer collectively to the roads, bridges, rail lines, and similar public works that are required for an industrial economy, or a portion of it, to function.[4] *Urban* or *municipal infrastructure* refers to hard infrastructure systems generally owned and operated by municipalities, such as streets, water distribution, and sewers. It may also include some of the facilities associated with soft infrastructure, such as parks, public pools and libraries.[5] For procurement infrastructure and other type of procurement from public fund, Government of Bangladesh has framed the “The Public Procurement Act 2006” and the “The Public Procurement Rules, 2008”. On the basis of these legislation procurement of Moghbazar-Mouchak combined flyover going on with many challenges.

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[1] *Infrastructure*, Online Compact Oxford English Dictionary, http://www.askoxford.com/concise_oed/infrastructure (accessed December 28,2013)
[2] Sullivan, arthur; Steven M. Sheffrin (2003). Economics: Principles in action. Upper Saddle River, New Jersey 07458: Pearson Prentice Hall. p. 474. ISBN 0-13-063085-3.
[3] Fulmer, Jeffrey (2009). "What in the world is infrastructure?". *PEI Infrastructure Investor* (July/August): 30–32.
[4] http://www.thefreedictionary.com/Urban+infrastructure
[5] http://en.wikipedia.org/wiki/Infrastructure

1.2 General Aim of the Research

The general aim of this research is to analyze the existing IOTM practices in the PPR 2008 of Bangladesh to identify the major challenges in infrastructure procurement through international tendering.

1.3 Objectives of the Research

The objectives of this research are:

1) To review different aspects of IOTM in infrastructure procurement.
2) To analyse provisions of IOTM procedures based on PPR 2008 .
3) Identify the major challenges of IOTM procedures' practices in the infrastructure procurement projects.

1.4 Research Questions

Does Challenges of International tendering method lies in the present procurement regulations or elsewhere?

1.5 Methodology

Moghbazar-Mouchak (Combined) Flyover Project (MMFP) by LGED, Dhaka has been selected as a case study for in-depth investigation. Out of the two main information sources, secondary information has been collected mainly from relevant books, journals, research publications, articles and yearbooks etc. In order to collect primary information, one set of questionnaire (**Appendix-**) has been used for questionnaire survey, and a checklist (**Appendix-**) for face to face interview. Piloting of the questionnaire was done beforehand. The Senior Officials working at the project office (MMFP) having experience of at least ten years in Procurement and supervisory roles was surveyed. Senior procurement officials of LGED participated in the face to face interviews and share their views which are core of this study.

1.5 Scope of the Study

"Challenges of Procurement of Works through International Open Tendering Method: A case study on Moghbazar-Mouchak Flyover Project" only focus on tendering process not the whole supply chain of Mogbhbazar-Mouchak Fly over project. From the following figure scope remain on prequalification and tender phase of this project.

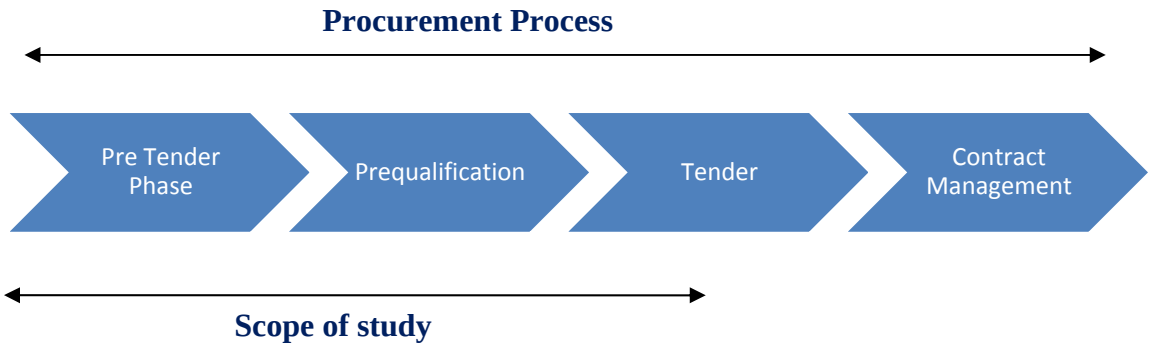


Figure 1: Procurement Process and Scope of Study

1.6 Limitation of the Study

Many limitations persists before and during the study which impacts report writing stage. Limitation of Knowledge followed by lack of time, resource, capacity etc with following are the major limitations of this study.

I. This study is mainly focused on IOTM (International Open Tendering Method) of PPR 2008 in implementation Major and complicated Projects undertaken in Bangladesh by LGED. This study did not cover all other departments in Bangladesh which are using IOTM of PPR 2008.

II. Questionnaire survey and in-depth interview which is important source of primary data may be biased with personal view and acquired knowledge of the respondent.

III. The study tried to find out challenges in international tendering method not all the method used in public procurement.

1.6 Outline of the Dissertation

Besides this **introductory chapter** the dissertation has four more chapters. The **second chapter** titled **'Literature review and conceptual development'** reviews the literatures relevant to the study. Here emphasise has been given to the concept of 'IOTM' and its different aspects: such as its importance, types, accountability framework, for procurement officials etc.

Chapter three bearing the title **'Moghbazar-Mouchak Flyover Project: In depth review'** discusses the IOTM procedures in detail. In order to discuss **'Professional review on challenges in IOTM of MMFP'**, this study introduces merits and demerits of the PPR2008 for IOTM in **Chapter Four**. Existing mechanisms in the procurement methods and their present state or extent of practice amongst procurement officials have also been discussed here

Fifth, the final, chapter summarises the whole thesis report and draws conclusion based on the overall findings of the research. How findings contribute in achieving the main objectives of the research has also been incorporated in the conclusion.

CHAPTER 2

LITERATURE REVIEW AND CONCEPTUAL DEVELOPEMENT

CHAPTER 2
LITERATURE REVIEW AND CONCEPTUAL DEVELOPEMENT

2.1 Introduction

"Challenges of Procurement of Works through International Open Tendering Method: A case study on Moghbazar-Mouchak Fly-over Project" tried to find out insight of infrastructure procurement challenges in tendering process. Tendering method is the part of an entire procurement cycle according to our public procurement act and rules. Section 53 of Public Procurement Act 2006 regulated that tendering process end with after signing of contract for particular procurement (GOB, 2006). Public procurement is the new area of thought in the development regime where cross boundary supply chain is common phenomena. In our procurement regulations there is no definition of International Tendering Method but section 33 of th PPA describes the application of International open tendering method will be applied where it is not feasible to undertake any procurement by inviting competitive tenders within the country and where special efforts is necessary (GOB, 2006). So *International tendering* means the process of selection of a contractor who satisfies the requirements of the procuring entity in which both foreign and domestic tenderers can be participate. According to PPA special effort is necessary to ensure effective international competition (GOB, 2006). So there are challenges in International Open Tendering Method when it is used in procurement of works.

2.2 Procurement Cycle

A procurement cycle also consists of many stages which is complimentary and supplementary to the Infrastructure life cycles. The main stages of the procurement life cycles are as follows .

1. Identify Needs
2. Specification
3. Built or Buy
4. Identify Supplier/Contractor
5. Source Selection
6. Negotiate Contract
7. Receipt and Payment
8. Manage Contract
9. Consumption/Use
10. Decommission & Disposal (Reynolds & Thompson, 2013)

According public procurement act 2006 after singing the contract tendering phase comes to an end (GOB, 2006).

2.3 Key Terms: Procurement, Procurement of Works, Tendering and International Open Tendering

Procurement: According to Rule 2(38) **"Procurement"** means the purchasing or hiring of Goods, or acquisition of Goods through purchasing and hiring, and the execution of Works and performance of Services by any contractual means; (GOB, 2008).

Procurement Works: Section 2(59) **"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 (GOB, 2006).

Tender: Section 2(56) Public Procurement Act 2006 and Rule 2(24) define the Tender as the Tender when it is submitted by a Tenderer to a procuring entity in response to an Invitation for Tender (GOB, 2008).

International Open Tendering: This method describe in the following section of this chapter.

2.5 Procurement Methods in procurement regulations in Bangladesh

Public Procurement can be done by several methods; such as Open Tendering Method, Direct Procurement Method (DPM), International Open Tendering Method (IOTM), Request for Quotation (RFQ), Limited Tendering Method (LTM), and Two Stage Tendering Method (TSTM) etc **(GOB, 2008)**.

There are several types of Procurement method according to PPR2008. These are given below:

i. Open Tendering Method (OTM).
ii. Request for Quotation (RFQ).
iii. Limited Tendering Method (LTM).
iv. Two Stage Tendering Method (TSTM).
v. Direct Procurement Method (DPM),

According to PPR all of the method can be used for National or International tendering (GOB, 2008).

2.5.1 International Open Tendering Method

Open Tendering Method are two major type National Open Tendering Method and International Open Tendering Method. In our procurement regulations there is no defination of International Tendering Method but section 33 of th PPA describes the application of International open tendering method will be applied where it is not feasible to undertake any procurement by inviting competitive tenders within the country and where special efforts is necessary (GOB, 2006). So *International tendering* means the process of selection of a contractor who satisfies the requirements of the procuring entity in which both foreign and domestic tenderers can be participate. According to PPA special effort is necessary to ensure effective international competition (GOB, 2006). So there are challenges in International Open Tendering Method when it is used in procurement of works.

2.5.2 Requirement for International Tendering

According to Public Procurement Rules 2008 Procuring Entity should comply with the following additional requirements for International Tendering -

a. The time allowed for the submission of Tenders shall be sufficient to allow the invitation to reach all potential Tenderers and to enable them to prepare and submit tenders and, in the case of notice inviting re-tender, shall be as specified in Schedule.
b. Technical specifications shall be based upon international standards or those widely used in international trade and such standards shall be compatible with those in use in Bangladesh.
c. Where the Bangladesh standard is thought to be unique, the words “or equivalent” shall be added to allow for wider competition.
d. The acceptable currencies in which the Tenderers shall be permitted to express their Tenders and any Tender or performance securities to be presented by them as well the currency or currencies in which the contract price will be paid shall be stated in the Tender Document.

The Tender Document may allow for a domestic preference as defined in the rules and related to Schedule to provide local manufacturers, Suppliers and Contractors with a price advantage

over their international competitors for the purpose of promoting domestic products or industries.

2.5.3 Process involved in IOTM

2.5.3.1 Prequalification:

The Procuring Entities may undertake Pre-qualification for large and complex Procurements such as, Construction Works, Maintenance Works, Design and build infrastructure, and Management contracts, subject to the thresholds of procurement above BDT 350 million according to the Public Procurement Rules, 2008.

A guidance notes have been prepared by the CPTU and issued to assist the Procuring Entities in the preparation, using this Standard Pre-qualification Document (SPD), for **international** procurement of Works and Physical services having estimated cost above Tk 350 million. The Procuring Entities should also refer to the Public Procurement Act 2006 (Act No 24 of 2006) and the Public Procurement Rules, 2008 and, amendment thereto, issued to supplement the Act. All concerned are advised to refer to the aforementioned Act and Rules, in particular **Section 33 and Rule 83** respectively, while participating in any Tendering process. The Pre-qualification process is required to follow **Section 41, 42 and 43** of the Act, 2006 and **Rule 91, 92 and 93** of the Rules, 2008.

The decision whether to carry out prequalification is a matter of professional judgment based upon a number of considerations about the contract itself, and about the actual process of prequalification. Contract considerations include size, complexity, limitations on completion time, the critical nature of the works, environmental impact, associated risks, etc. Considerations regarding the process of prequalification should weigh the potential advantages against the potential disadvantages mentioned in paragraphs below.

Standard Pre-qualification Document describes the potential benefit and disadvantages.

Benefits of Pre Qualification

The prequalification process may be of benefit to both Tenderers and Procuring Entities alike, in that:

(a) the process enables prospective Tenderers, who may be insufficiently qualified on their own, to avoid the expense of Tendering. Conversely it is an incentive for these

potential Tenderers to form a Joint Venture that may give them a better chance of success;

(b) after being pre-qualified, well-qualified firms will price their Tenders with the knowledge that they are competing against other qualified Tenderers meeting realistic minimum competence criteria; the assurance that inadequately qualified competitors will be excluded from submitting unbalanced low-priced Tenders thus encourages leading contractors to tender;

(c) pre-qualification enables Procuring Entities to assess the interest from qualified firms generated by the contract and, in the event that only a limited number of Applications are received, to make any necessary adjustments in the procurement process (including, in particular, the Particular Conditions of Contract—sharing of risk, payment terms, liquidated damages, or completion times, which may be perceived as onerous by potential Tenderers);

(d) it helps to expose potential conflicts of interest by identifying contractors who may have a business association with consultants to the project;

(e) it reduces the amount of work and time involved by Procuring Entities in evaluating Tenders from unqualified contractors;

(f) it encourages local firms to form Joint Ventures with other local or international firms, thereby benefiting from their resources and experience;

(g) it enables the Procuring Entities to assess the likelihood of contractors' eligibility for '**domestic preference**' where this is applicable; and

(h) it reduces significantly, if not eliminates, problems of rejection associated with low-priced Tenders submitted by Tenderers of doubtful capability; and.

(i) it gives the Development Partner some indication of Procuring Entities' ability to manage an important, early procurement function.

Disadvantages of Prequalification

(a) it may increase procurement lead time, although this can be minimized by good procurement scheduling, e.g., undertaking the prequalification process while Tender Documents are being prepared;

(b) the Procuring Entities are required to review all prequalification Applications, whereas post-qualification requires the review of the qualifications of, normally, only the lowest evaluated Tenderer;

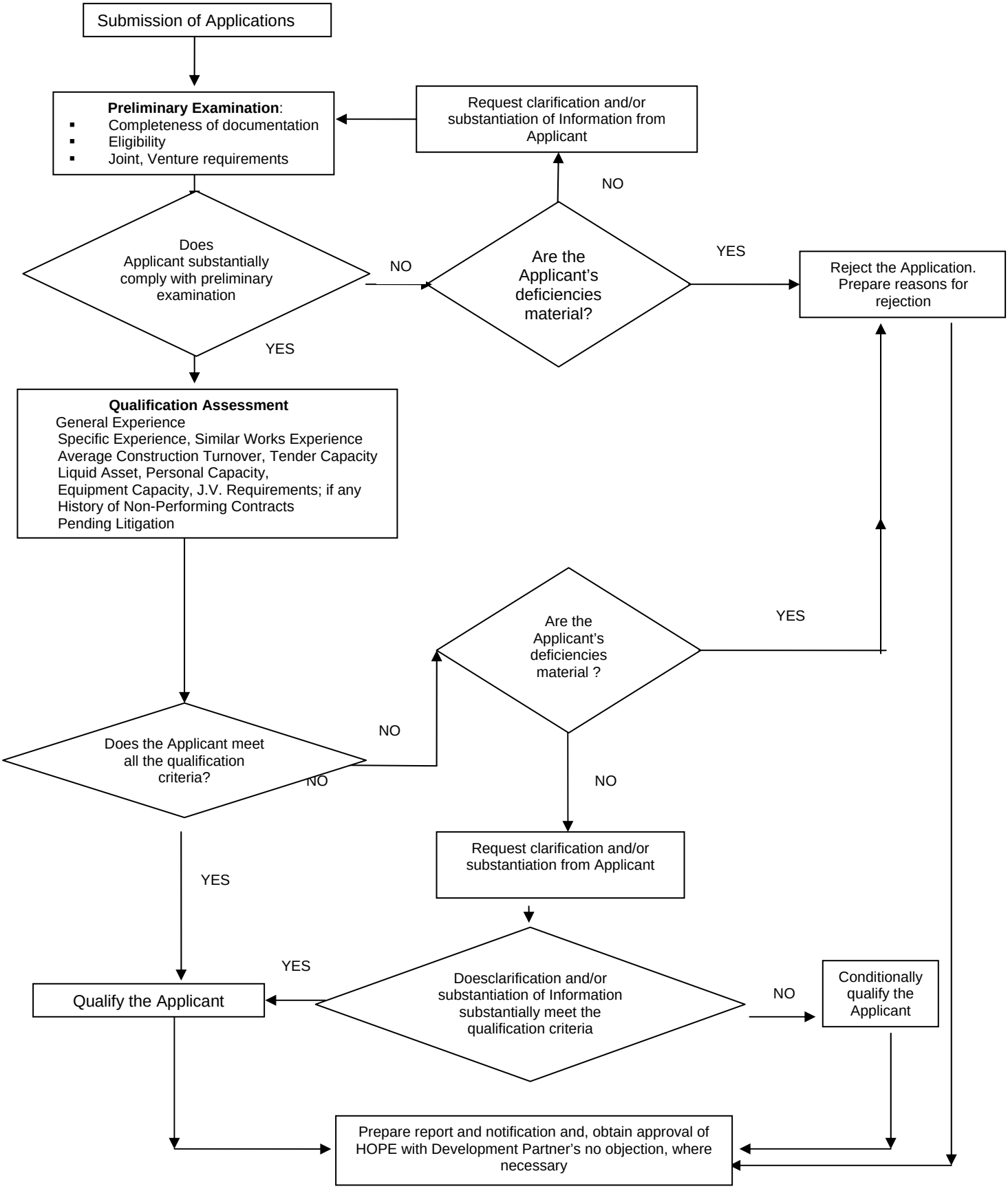
(c) collusion and the possibility of price-rigging is easier among a limited number of identified Tenderers, particularly if they are of the same nationality;

(d) the element of subjective judgment required by evaluators when applying the prequalification criteria to a number of Applicants, and the discretionary rights reserved to the Procuring Entities, provide opportunities for externally influenced deviations from the expected high standards of ethics and impartiality in pre-qualifying Applicants.

The Procuring Entities need to carefully consider the advantages and disadvantages of Pre-qualification before initiating the Pre-qualification process for Procurement of Works and Physical services and, shall obtain the approval of the Head of the Procuring Entity or an officer authorized by him or her.

From following diagram which depicted the prequalification process is seen that procuring may directly qualify the list of applicant or potential tenderer conditionally or unconditionally.

Prequalification Evaluation Flow Chart



2.5.4.2 Tendering Process of IOTM

Section 33 of Public Procurement Act describes the basic guidelines International Open Tendering Method. According to this section after determining prequalification of the tenderers terms and conditions of IOTM are as follows

a) The invitation of tender notice shall be published in English;
b) Tender document shall be prepared in English;
c) Allowed minimum time for submission;
d) Technical specification are determined on the basis of international tender in compliance with national requirements;
e) Provision for payment of the contract price in currency or currencies as mentioned in the contract;
f) General and Particular conditions of contract similar to those used in international trade are set;
g) Domestic preference may be allowed;
h) Joint ventures with local partnerhsips are encouraged;
i) International Arbitration provisions shall be made applicable for final disputes resolution (GOB, 2006).

Tender Evaluation Committee (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. The evaluation process should begin immediately after tender opening following four broad steps:

(a) Preliminary examination
(b) Technical examination and responsiveness
(c) Financial evaluation and price comparison
(d) Post-qualification of the lowest evaluated responsive Tender.

According to Rule 93(20) it is stated that post qualification is of the successful Tenderer(s) will be done prior to contract award even if Pre-Qualification has been carried out. (GOB, 2008).
Rule 100 of PPR stated that The TEC shall follow the Post-Qualification criteria specified in the Tender Document . The TEC should contact the references given by Tenderers about their previous working experience to verify, if necessary, statements made by

them in their Tender and to obtain the most up-to-date information concerning the Tenderers. The TEC may visit the premises of the Tenderer as a part of the post-qualification process, if practical and appropriate, to verify information contained in its Tender particularly when evaluating Tenders in respect of high value or complex Works projects (GOB, 2008).

The objective of any visit under this rule shall be limited to a general and visual inspection of the Tenderer's facilities and its plant and equipment, and there shall be no discussion concerning the Tender or its evaluation with the Tenderer during such visit(s). In the event that the Tenderer with lowest evaluated cost fails the post-qualification, the TEC shall make a similar determination for the Tenderer offering the next lowest evaluated cost and so on from the remaining responsive Tenders, provided that,

(a) such action shall only be taken if the evaluated costs of the Tenders under consideration are acceptable to the Procuring Entity;

(b) when the point is reached whereby the evaluated costs of the remaining responsive Tenders are significantly higher than that of the official estimate, or the market price, the Procuring Entity may be rejected or accept the tender in accordance with Rule 33 of public procurement rule and may proceed for re-Tendering, using a revised Tender Document designed to achieve a more successful result (GOB, 2008).

The TEC shall submit the Evaluation Report along with the findings and award recommendations after having determined through post-qualification whether the Tenderer who submitted the lowest evaluated Tender price has the capability and resources to effectively carry out the contract as offered in its Tender. If a Pre-Qualification of Tenderers was previously carried out, the objective of the Post-Qualification shall be to determine whether the Tenderer is still capable and has the resources required. Following diagram illustrates the standard process of Open Tendering Method (GOB, 2008).

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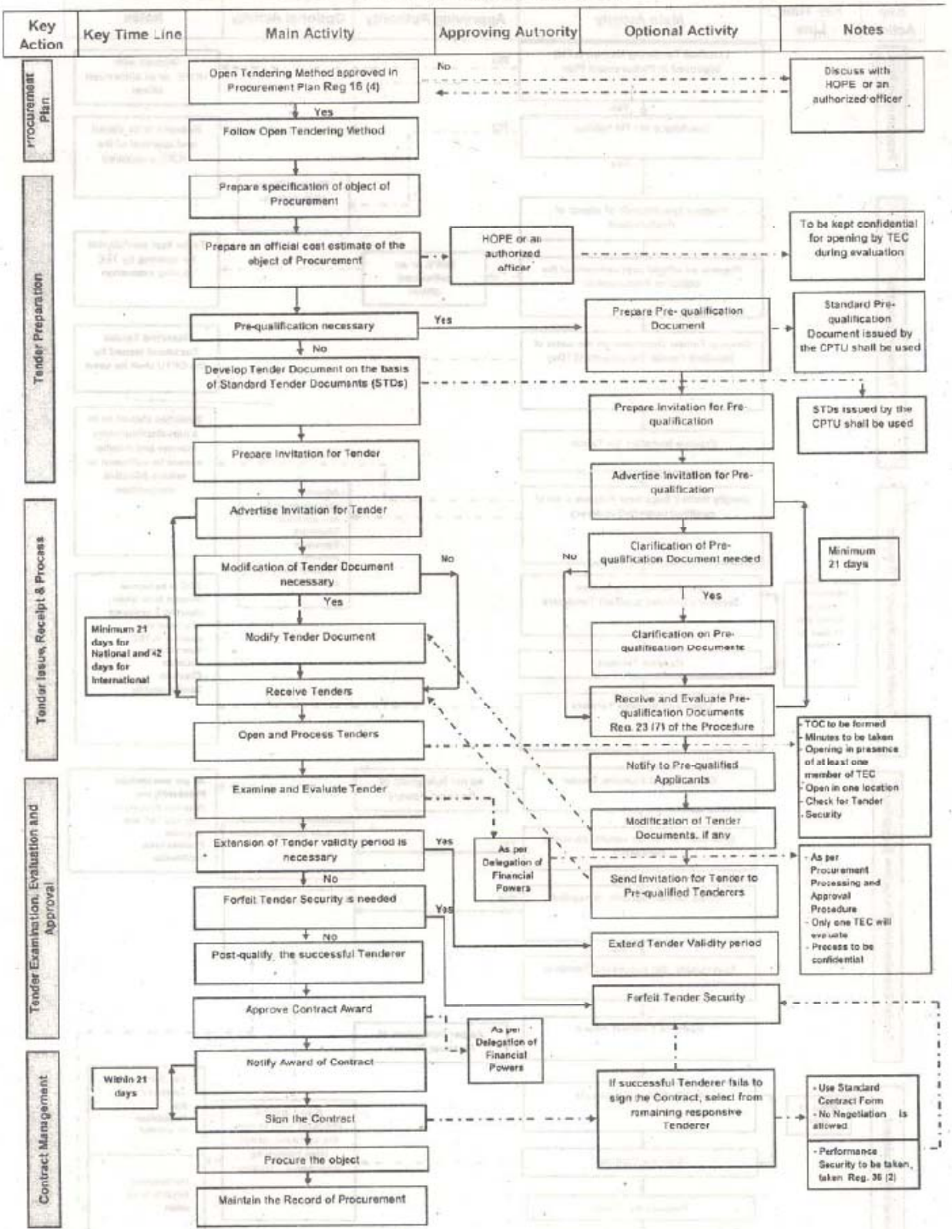
OPEN TENDERING METHOD



The requirements of a national Tenderer to qualify for '**domestic preference'** shall be :

(a) for an individual firm

(i) it is registered within Bangladesh

(ii) it has more than fifty (50) percent ownership by the nationals of Bangladesh

(iii) it does not subcontract more than twenty (20) percent of the Tender price, excluding provisional sums, to foreign contractors

(iv) it meets any other requirements specified in this document

(b) for a Joint Venture

(i) it is registered in Bangladesh

(ii) the individual partners are registered in Bangladesh and have more than 50 percent ownership by the nationals of Bangladesh

(iii) it does not sub-contract more than twenty (20) percent of the Tender price, excluding the provisional sums, to foreign contractors

(iv) it meets any other requirements specified in this document. (GOB, 2006)

2.6 Challenges in Public Procurement

Challenges always exist in public procurement. The second CIPS Australia Public Sector Procurement Forum - Canberra, 16-17 May 2007 identify seven challenges after their strategic conversation in public sector procurement community. These are

1. The setting of clear objectives at the outset of all projects.
2. Development of a procurement strategy.
3. Strategic procurement requires a focus on outcomes not just on processes.
4. Embracing collaboration as a strategic tool.
5. Sustainability has become a strategic driver for professional procurement.
6. The public sector must become a customer of choice.
7. The talent scarcity problem has yet to be resolved. ((CIPSA, 2007).

Challenges identified in public procurement are global as well as local phenomena. Bangladesh may not exclude from the above challenges.

CHAPTER 3

IN-DEPTH REVIEW OF MOGHBAZAR-MOUCHAK FLYOVER PROJECT

CHAPTER 3
IN-DEPTH REVIEW OF MOGHBAZAR-MOUCHAK FLYOVER PROJECT

3.1 Introduction

Total spending on national infrastructure in Bangladesh around 20% of budget which growing trends in recent year (World Bank, 2010). Though it is varies for year to year. Urban infrastructure is important priority as per our strategic document (GOB, 2012) where Moghbazar Mouchak Flyover is one of them.

Figure 2:Model view of Moghbazar-Mouchak Flyover (Taken from leaflet published by project authority)

Success of a city predominantly depends on the efficient delivery of urban services of which efficient transportation system can identify as the key element (Taleb & Majumder, 2012). Urbanization in this area received impetus after 1947, when the Indian subcontinent became independent from British rule and Bangladesh, then East Pakistan, earned a new political

status; Finally after 1971 when Bangladesh emerged as independent state (Islam, 2012). Since then Dhaka the Capital of Bangladesh has been emerged most important urban centre in Bangladesh. Dhaka is generally considered one of the most polluted megacities in the world (Islam, 2012). Dhaka City's area is less than one percent of the country's total land area; it supports about 10 percent of the total population of the country. Now traffic congestion becomes a burning question for the city dwellers along with all levels of policy makers (Taleb & Majumder, 2012). Dhaka is an example of the absence of good management of existing resources resulting in the chaotic disorder that exists on many roads. One of the major untapped assets of Dhaka, is the substantial unused capacity in the existing transport system that is now being wasted through inappropriate use (GOB, 2006). To improve the transport infrastructures and services in Dhaka metropolitan area and ease the prevailing chaotic traffic condition, the government undertook the Dhaka Urban Transport Project (DUTP) funded by multilateral donor agencies . In the first phase of a feasibility study undertaken by DUTP, 20 locations have been prioritised for flyover construction or improving lanes with signalisation.

3.2 Objectives of Moghbazar-Mouchak flyover projects

According to Project Management office publication objectives of the Moghbazar-Mouchak Flyover are to (LGED, 2013).

a) Increase traffic carrying capacity of Dhaka City road network particularly at Seven roads intersection (Tejgoan), FDC, Moghbazar Road and Rail, Mouchak, Malibag and Santinagar intersections;
b) Reduce traffic congestion at above mentioned intersections;
c) Ensure easy, smooth and safe transport movement and
d) Create employment.

3.2 Feasibility Study and Constructing Moghbazar Flyover

In 2004 the government has initiated a feasibility study for constructing more flyovers at Moghbazar and Mouchak, two of city's most traffic congested points. The government has obtained a Technical Assistance grant from Kuwait Fund for Economic Development (KFAED), for feasibility study, detailed engineering design and preparation for tender documents of the two new flyovers. Feasibility study of this project done by three firms ie 'The Associated Engineering Partnership', Kuwait, STUP Consultants P. Ltd, India and

Bangladesh Consultants Ltd (BCL). In September, 2006 final report named "Moghbazar-Mohakhali-Banani Flyover Extended Feasibility Study (KFAED Funded)" Published. After the study, 12 alternatives for Moghbazar and Mouchak intersection flyovers proposed. The project consultants say rapid growth of the population in Dhaka city resulted in a massive increase in vehicular traffic to meet the growing transport demand. The city experiences traffic congestion at almost every road intersections. Though it is little conflicting with Strategic Transport plan this study emphasised that the congestion is mainly due to excessive number of motorised and non-motorised vehicular traffic that has far exceeded the capacity of the available road infrastructure facilities in the city. The Study shows that the new flyovers will solve the problems.

3.3 Funding Arrangement of Moghbazar-Mouchak Flyover

The People's Republic of Bangladesh has applied for financing from the Saudi Fund for Development (SFD) and OPEC Fund for International Development (OFID) in various currencies towards the cost of construction of Flyover Bridges in Dhaka [Construction of Moghbazar-Mouchak (Combined) Flyover]. The total length of the flyover is 8.25 km, covering of 8 road intersections and 2 rail intersections. The estimated cost of the project is 7727.00 Million BDT equivalent to US$ 109.836 Million.The contribution of Saudi Fund for Development (SFD) is 3754.30 million BDT (equivalent Saudi Riyal 200 million and that of OPEC Fund for International Development (OFID) is 1968.00 million BDT (equivalent US$ 28 million). The GOB contribution is BDT 200.47 million. It is expected that the project will be completed within duration of about 3 years.

Table 5: Funding arrangement of Moghbazar Mouchak Flyover

Funding source	Amount (Crore Taka)
Saudi Fund for Development	375.25
OPEC Fund for International Development (OFID)	196.98
Government of Bangladesh	200.47
Total	772.70

3.4 Tendering Phase of Moghbazar-Mouchak Flyover (MMF)

MMF now in construction Phase, but before that it completed hectic tendering phase. It is complex infrastructure project with six packages where three packages are related to works procurement. The construction of a four-lane, 8.25-kilometre flyover entering Moghbazar and Mouchak formally began with the laying of its foundation stone by Hon'ble Prime Minister Sheikh Hasina on February 16, 2013.The structure, an amalgamation of three flyovers, will be constructed in two years from November 18, 2012, the day the project's contract was signed.

Table 1: THREE Works package of MMF

Package No	Name of the Package	Length Meter)	Estimated Cost BDT in Million
PDMMFP- W4	Moghbazar Part	2105	1926.60
PDMMFP- W5	Mouchak Part	3937	3200.70
PDMMFP- W6	Link Part	2208	1881.90

Local Government Engineering Department (LGED) signed the contract with two construction firms Simplex-Navana JV and MCCC(No.4)-SEL-UDC JV on 18 November,2012. The flyover's first part goes from ShatRasta(Tejgoan) to Bangladesh Film Development Corporation (FDC) and Holy Family Hospital while the second goes from Eskaton to Rajarbagh Police Lines via Moghbazar crossing, Malibagh and Mouchak. The third part goes from Mouchak-Shantinagar crossing to Rampura Road via Malibagh rail crossing. Vehicular access will be eased by 15 ramps -- at Shat Rasta crossing and Rampura Road, and near FDC, Holy Family Hospital, Eskaton, Wirless Gate, Rajarbagh Police Lines and Shantinagar (Daily Star, 2 February, 2013). Main Construction is done through the three packages and contract signed with major contractor given in the following table.

Table 2: Contract Details of Moghbazar Mouchak Flyover

Package No	Contractor	Contract Value (BDT in Million)
PDMMFP W-4	Simplex Navana JV	2122.880
PDMMFP W-5	MCCC(No.4)- Toma JV	3437.000
PDMMFP W-6	MCCC(No.4)-SEL-UDC JV	1998.473

(Source: Interview with project official)

3.5 Detailed Tendering Process of Moghbazar-Mouchak Flyover Project (MMFP)

3.5.1 Prequalification of works packages

As we discussed earlier MMFP consists of Three works package for tendering and implementation. Initially Pre-Qualificaiton(PQ) done by the project management in following process

Table 3: Phase 1- Prequalification Process

SL No	Package No	Name of the Package	Length (Meter)	PQAdvertisement	Last date of Submission	Evaluation	Acceptence by Donor (SFD)
1	PDMMFP-W4	Moghbazar Part	2105	14 March 2011	9May 2011	15 July 2011	15 Sep 2011
2	PDMMFP-W5	Mouchak Part	3937	14 March 2011	9May 2011	15 July 2011	15 July 2011
3	PDMMFP-W6	Link Part	2208	14 March 2011	9May 2011	15 July 2011	15 July 2011

(Source: Interview with project official)

According to PPR 2008, minimum for the evaluation of PQA Documents is about Two and Half months. But here PQ process took five months. Finally Package no PDMMFP- W5 does not get clearance from the donor after completion of final IOTM evaluation and further prequalification process done for this package in following steps and dates.

Table 4: Prequalified Tenderer and Tenderer who participated

SL No	Package No	Name of the Package	Number of Pre Qualification Applicants	Number of Prequalified Applicant[6]	Firms Participated in Tender process[7]
1	PDMMFP- W4	Moghbazar Part	26	12	7
2	PDMMFP- W5	Mouchak Part	22	12	6
3	PDMMFP -W6	Link Part	26	11	5

After prequalification evaluation 12 applicants selected for each of the package W-4 and W-5 and 11 applicant prequalified for package W-6 which shown in the table above. Total 29 Applicants of different country like China, India, Korea, Malaysia and some Joint Venture (JV) participated for 3 packages where number of PQA is shown in above table and also given in annexure of this dissertation report.

Table 5: Prequalification for Package No: PDMMFP- W5 (Re process)

Package No	PQA	Submission	Evaluation	Concurrence by donor
PDMMFP W-5	4 March 2013	2 April 2013	25 April 2013	29th May 2013

(Source: Interview with project official)

From the above table it is found that reprocess of package PDMMFP- W5 required two more years for prequalification again.

[6] Detailed list of Prequalified applicant given in the Annex
[7] Detailed list of Tenderer given in the Annex

3.5.2 : Tendering Process of MMFP:

As we discussed earlier in this tendering process starts with advertisement ie Invitation For Tender (IFT) and ends with Contract signing. Following table shows the tendering process of Moghbazar-Mouchak Fly Over project for the three works packages. Package PDMMFP- W 5 ends with advice by the donor for retender primarily where other two packages get final shape after signing the contract. Time taken for tender evaluation and concurrence from donor is about 10 Months instead of two and half months which is allowed according to PPR2008 (GOB, 2008).

Table 6: Key activities of Tendering Process of MMFP and time line

SL No	Package No	IFT	Tender Submission	Evaluation Report Send to SFD	Send by SFD for re evaluation	Re evaluation by Consultant team	Concurrence given by Donor	Contract Signed on
1	PDMMFP W-4	15 Sep 2011	23 Nov 2011	25 Jan 2012	25 April 2012	1 July 2012	15 Oct 2012	18 Nov 2012
2	PDMMFP W-5	15 Sep 2011	23 Nov 2011	25 Jan 2012	25 April 2012	1 July 2012	Advise to Retender	
3	PDMMFP W-6	15 Sep 2011	23 Nov 2011	25 Jan 2012	25 April 2012	1 July 2012	15 Oct 2012	18 Nov 2012

(Source: Interview with project official)

After got advise from the donor for re tender project authority done pre qualification (re process) which discussed in the previous section. The key activities in re tender given in the following table

Table 7: Key activities of Re-Tendering Process of PDMMFP- W5 and time line

IFT	Tender Submission	Evaluation	Evaluation Report Send to SFD	Concurrence given by Donor	Contract Signed on
9th June 2013	21 July 2013	30th July 2013	01 August 2013	27 August 2013	28 October 2013

(Source: Interview with project official)

Due to reprocess of tendering and prequalification, time overrun for the contract signing deferred fro 11 month which may be impacted on project implementation schedule.

3.5.3 Post Qualification: Reasons for Retendering in package PDMMP-W-5

According to public procurement rules post qualification is important part of tender evaluation and contract award. Before went to re-process lead donor SFD sought for post qualification of the package. The up-to-date status of post-qualification checks for the three lowest priced tenderer's was as follows:

3.5.3.1 Post Qualification of 1st Lowest Tenderer : TCCL-HCIL JV

At the 5th Meeting of the TEC of MMFP held on 21 October 2012 it was reported that there was just one post-qualification issue remaining to be resolved – concerning the completeness and authenticity of two separate Court Orders issued by the District Court in Cuttack, India relating to the apparent termination of two contracts in India due to non-performance by Rail Vikas Nigam Limited (A Government of India Enterprise) with effect from 30.11.2011, involving one of the Joint venture partners (HCIL).

In accordance with the suggestion made by the SFD, it was decided at the 5th Meeting of the TEC held on 21 October 2012 to request the High Commission of Bangladesh in India to assist to obtain authenticated true copies of the complete Court Orders.

The High Commission of Bangladesh in India was accordingly requested to arrange to get the necessary authenticated true copies of the Court Orders. On 17 December 2012, vide letter Ref. No. 01.05.03.2009 the High Commission of Bangladesh in India has sent two sets of the notarized copies of the Court Orders to the Chairman of the TEC, LGED. These documents comprise:

Arb.Petition No. 181 dated 27.09.2012 with Annexure-22 (relating to a "Construction of roadbed" contract)

Arb.Petition No. 182 dated 27.09.2012 with Annexure-18 (relating to a "Construction of major bridges" contract) and were examined by members of the TEC at the meeting.

These documents indicate that the decisions of the Employer (Rail Vikas Nigam Limited) to terminate both of the contracts due to non-performance are being legally disputed by the contractor. Therefore, under ITT Sub-clause 56.1 of the Tender Documents and ITA Sub-clause 13.1 of the Prequalification Document, these possible contractual non-performances cannot be considered as actual non-performances because the terminations of these contracts are still under dispute, and have not yet been fully settled.

3.5.3.2 Post Qualification of 2nd Lowest Tenderer : SYAABAN-DCL JV

As reported and discussed at the 5th Meeting of the TEC, post-qualification checks (with the assistance of the High Commission of Bangladesh in Malaysia) have revealed that the experience claimed for one partner in the JV (Syaaban Resources SDN BHD) in construction of the "Sultan Idris Shah II Bridge", Malaysia is not correct. Refer to the letter dated 2 October 2012, Ref. No. BHC/CW/TQ/2008 from the Bangladesh High Commission in Malaysia. Therefore Qualification Criteria ITA 14.1(b) and ITA 14.1(c) are not satisfied.

Also, post-qualification checks have revealed that the Bank Solvency Certificate apparently from Public Islamic Bank in Malaysia for Syaaban Resources is not authentic, and the Bank has confirmed that this document was not issued by them. On this basis, it is concluded that the tender from Syaaban-DCL JV cannot be further considered.

3.5.3.3 Post Qualification of 3rd Lowest Tenderer : ACL-Simplex JV

Post-qualification checks on the specific experiences claimed by the lead partner in the JV (ACL) have confirmed that their claimed involvement in a range of bridge projects in Bangladesh is correct.

Checks on the Bank Solvency Certificates provided for ACL and Simplex with the relevant Banks have confirmed that they are authentic and valid.

However, during November/December 2012 the LGED Project Director has received copies of four (4) letters from Simplex and ACL which indicate that there is a dispute between the two firms concerning whether the JV continues to exist after 15 October 2012. Simplex state that they did not agree to extension of the tender validity period from 16 October 2012 to 15 January 2013, and that they now consider the JV to be terminated. ACL have disputed this attempt by Simplex to terminate the JV and have threatened legal action. It is understood that the two parties are now attempting to resolve this dispute by amicable means. It is not known when this dispute will be resolved, and what the end-result will be.

3.5.3.4 Conclusions of Post Qualification:

After detailed discussion on the various issues, the TEC reached the following conclusions:

(i) The tender from the 2nd lowest price tenderer ((Syaaban-DCL JV) does not qualify for further consideration

(ii) The present validity of the tender from the 3rd lowest tenderer (ACL-Simplex JV) is uncertain, and it is not known when the internal dispute between the JV partners will be resolved, and what the end-result will be is unknown.

(iii) The tender of the 1st lowest tenderer (TCCL-HCIL JV) may be accepted, on the basis that possible contractual non-performance of one JV partner in two recent contracts in India cannot be considered as a basis of disqualification, and other deficiencies previously identified in the tender may be considered as minor deviations from the requirements

(iv) If a decision cannot be made to award the contract before 15 January 2013 (the expiry date of the present extended tender validity period) then the option of re-tendering Contract Package PDMMFP, W05 should be considered.

But these recommendations by the TEC were not considered by the SFD the lead donor of this project and recommend for review of TEC recommendations. A consultant team reviewed this evaluation report and recommend for third lowest MS ACL –Simplex JV for the quoted price of 3299.99 million BDT. There is difference between Tender Evaluation Committee and consultant team. According Country procurement Rule ie Public Procurement Rules 2008 there is no provision re evaluation by another consultant team. Rule of 101(5) of PPP assure that the approving authority may ask for re-evaluate the Tender by the existing TEC. There may be Technical Subcommittee who may assist the TEC. So revaluation by another consultant committee is not appropriate according to country procurement rules. After this review SFD recommend for re tender and Project authority go for retender for this package.

3.5.4. End of Tendering Process:

3.5.4.1 Package PDMMFP W-04 and W-06

Due to reprocess of tendering for Package PDMMFP W-05, finalization of the rest of the packages become necessary for procuring entity. The PD reported that after receiving necessary concurrence from the Saudi Fund for Development (SFD) and approval from the Cabinet Committee on Government Purchase(CCGP), two of the three contracts for the Project have been awarded, and the contracts were signed on 18 November 2012 for:

Contract Package PDMMFP, W04 with contractor Simplex-Navana JV

Contract Package PDMMFP, W06 with contractor MCCC (No.4)- SEL-UDC JV.

Both of this project end with contract without retendering process but it takes around 19 Months to reach the contract.

3.5.4.2 Package PDMMFP W 5

Contact of package PDMMFP, W05 signed with contractor MCC Toma JV on 28th October 2013. From Prequalification advertisement on 14th March 2011 to signing of contract with tenderer it required around 32 month required to end this tendering process where tender validity date generally 3 month so extension of validity date enhanced several time for this package.

3.5 Gap analysis of Regulations and Practiced in MMFP (Time line):

Tendering process of MMFP regulated by PPA and PPR with conditions of loan covenant with funding organisation. Some of the deviation from existing rules and procedures due to reason arises from the donor or tenderer requirement. This gap are given in the following table

Table 8: Present procurement regulations and practiced in MMFP

IOTM stage	Subject	Time line in PPA/ PPR	Required time in MMFP	Reason for Deviation
Prequalification	Pre Qualification Submission	4 Weeks (Maximum)	7 Weeks+	Due to Tenderers' request.
	Prequalification Evaluation	10 Weeks (Maximum)	8 Weeks	
	Pre Qualification Approval	4 Weeks(Maximum)	13 Weeks	Due to Donor's query.
Tendering	Tender Submission	6Weeks + (minimum)	8 Weeks+	Due to Tenderers' request.
	Tender Evaluation	10 Weeks(Maximum)	24 Weeks	Due to re evaluation demanded by the donor.
	ER Concurrence by Donor	No time limit	14 Weeks	
	ER Approval by CCGP	4 Weeks	4 Weeks	
	Approval to Contract Signing	4 Weeks	4Weeks	

Source: Procurement of documents and Public Procurement Rules (GOB, 2008);

From the above table major deviations found in approval in prequalification and tender evaluation phase. Time extended for tender validity due to unavoidable circumstances according to the opinion from project peoples. Evaluation report of TEC was re evaluated by another consultant team which is gross violation of Public Procurement Act 2006. Section 7 of PPA limit the single evaluation committee for any particular tender, more than one evaluation committee is prohibited by this section (GOB, 2006). But according to donor choice this was done by the project authority.

3.6 Gap analysis of National laws and International best Practice (Time line)

Following table drawn on the basis of national procurement regulations of Bangladesh with major development partner like The World Bank and Asian Development Bank (ADB).

Table 9: National law of procurement with World Bank and ADB

SL No	Subject	Time line in PPA/ PPR	World Bank	ADB
PQA	Pre Qualification Submission	4 Weeks	13 Weeks	6 Weeks+
	Prequalification Evaluation	10 Weeks+	Within the Validity period	Within the Validity period
	Pre Qualification Approval	No time limits	2 Weeks	2 Weeks
IOTM	Tender Submission	6 Weeks+	Not less than 6 Weeks	Not less than 6 Weeks
	Tender Evaluation	10 Weeks+	Within the Validity period	Within the Validity period
	ER Concurrence by Donor	Unlimited	2 Weeks	2 Weeks
	ER Approval by CCGP	4 Weeks+	Not Applicable	Not Applicable
	Approval to Contract Signing	Four Weeks	Four Weeks	Four Weeks

Source: Based on Public Procurement Rules (GOB, 2008); Procurement guidelines (ADB, 2013), World Bank guidelines for procurement (World Bank, 2011)

From above table it is understandable the present national procurement act and rules can be consider similar to international rules practiced by the development partner.

3.7 Conclusions

From this above analysis of tendering process with prequalification some challenges identified here

a) Pre-feasibility, feasibility to contract signing is a hectic process in procurement, time is the important concern of IOTM;
b) Funding arrangement is significant function before enter into tendering process;
c) There is a significance gap between contract price with estimated cost;
d) Donor funded project where concurrence of donor may create some gap between existing country procurement practice and loan covenants.
e) Evaluation process Prequalification Application and Tender is complex and technical activities where discretionary opinion may be persist in their recommendation;
f) Post qualification shows that some responsive tender may have serious litigation history which lead the tenderer un qualified for contract award;
g) Post qualification also found some fraudulent incident providing related documents and also validity of tender security.

So International tendering is complex process where many challenges exists in it.

CHAPTER 4

PROFESSIONAL VIEWS ON CHALLENGES IN IOTM

CHAPTER 4
PROFESSIONAL VIEWS ON CHALLENGES IN IOTM

4.1 Introduction

In tendering process different individual and committees involves in the procurement. In the procurement of MMFP there are opening committees, evaluation committee, consultants involve in evaluation and different officials involve in MMFP. This professional gained experience faced the challenges also overcome the challenges with their professional competence. Their views and opinion gave the perfect shape of this study and important part of this study. A semi structured questionnaire with close ended and open ended options used to seek their opinion. Almost all the individual involves in MMFP participated in this survey. To After getting their opinion following section of this chapter discussed the findings. Every point they raised equally scored and cumulated according to number of respondent in following ways

Total score or emphasis of any theme= Score of Individual point (i.e. 4) X Number of respondent (Max 25)

4.2 challenges in public procurement in Bangladesh

Professional asked to identify key challenges in public procurement in Bangladesh. Many issues identified by the respondent given in the following table with appropriate emphasis

Table 10: Challenges in Public Procurement in Bangladesh

SL NO	Issues in Challenges	Emphasis/Total Score
1	Need Assessment	32
2	Fund Arrangement	64
3	Determining procurement Method	60
4	Tendering Process	80
5	Contract Management and Implementation	100
6	Procurement Audit	56
7	Corruption	68
8	Procurement Culture	64
9	Adversarial relationship with Contractor	48

Source: Primary Survey

This table can be put in the following chart for better understanding

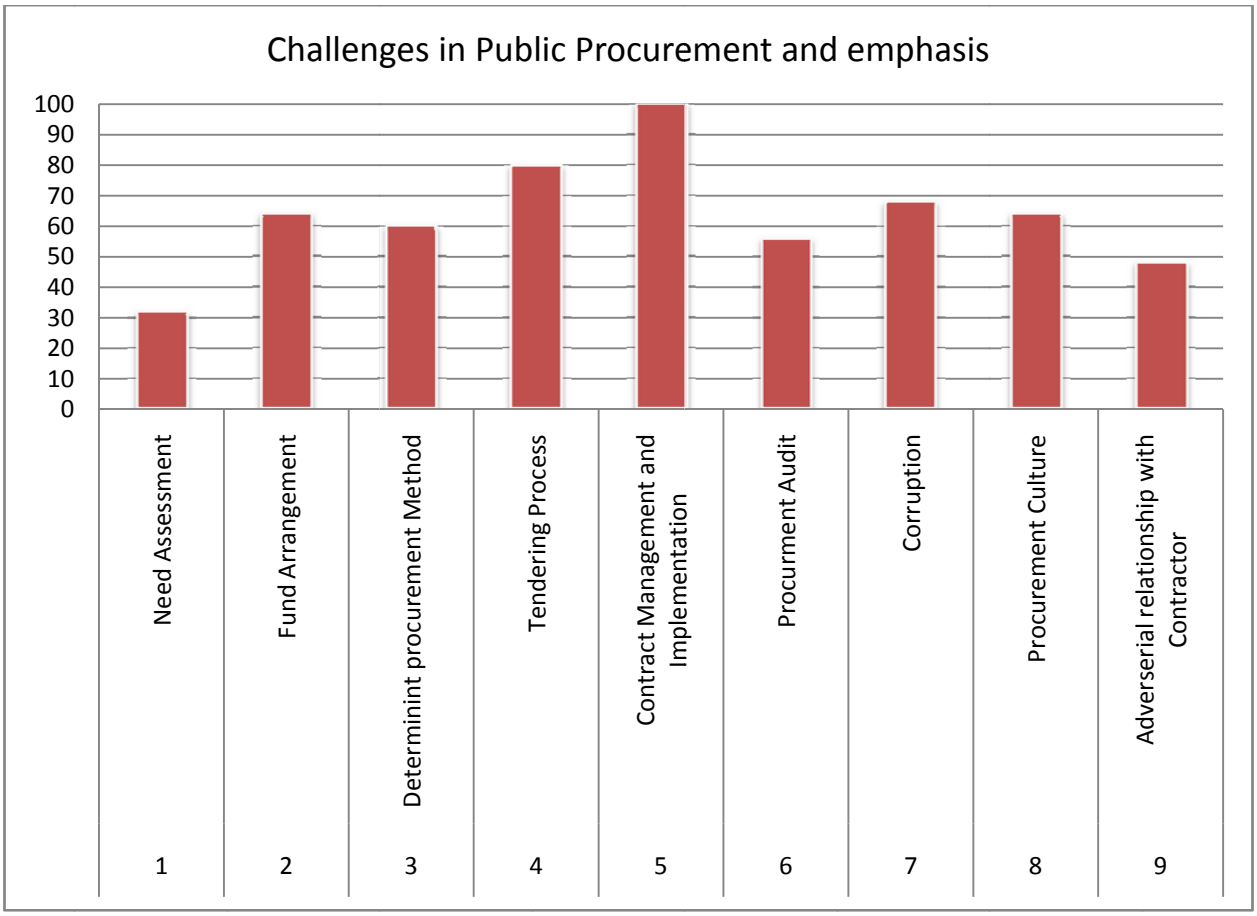


Figure 3: Challenges in Public Procurement in Bangladesh

From above chart most challenging part of public procurement identified by the procurement professional is Contract management and implementation which is not in the scope of our study. But tendering process of public procurement is second highest challenge according to primary survey of the procurement professionals involved in MMFP.

4.3 Major Challenges in Works Procurement in Bangladesh

Execution of works has different challenges than good and service. That is why study seek the opinion who are involves in procurement of works to identify the major challenges there. According to the respondent judgment design and specification, funding, implementation, tendering process, disputes settlement, reprocess etc are illustrates in the following table

Table 11: Challenges in Works Procurement in Bangladesh

SL NO	Major Challenges	Emphasis/Total Score
1	Design and Specification	40
2	Site Selection	72
3	Tendering Process	80
4	Implementation	96
5	Corruption	68
6	Procurement Culture	64
7	Adversarial relationship with Contractor	48

Source: Primary Survey

Above table can be shown in following chart

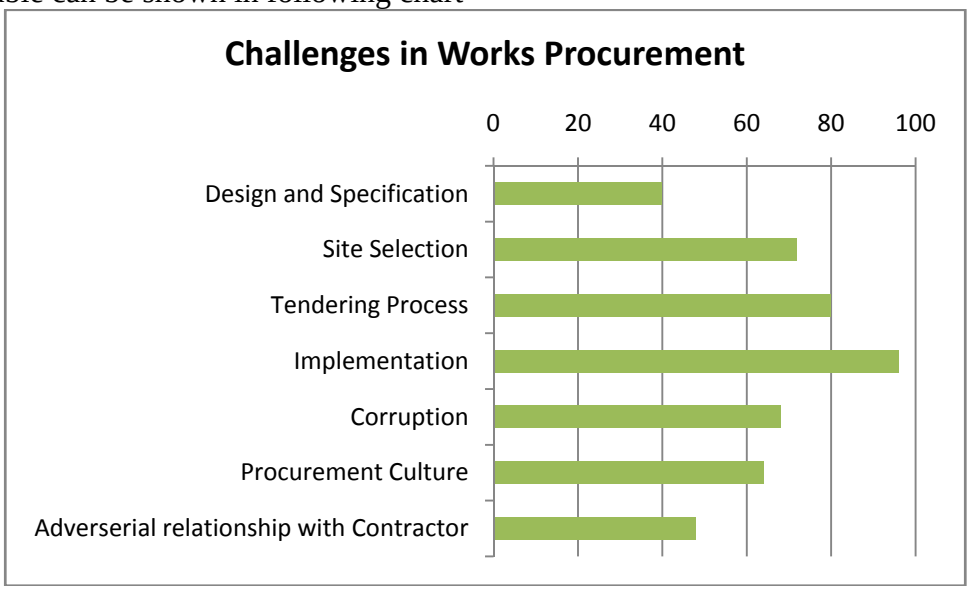


Figure 4: Challenges in Works Procurement

From above table and figure it is comprehensible that tendering process is also most challenging area after contract implementation. Other area like design and specification and site selection is new challenge for works procurement.

4.4 International Open Tendering Method: Challenges and Problem

As we discussed in the previous chapter on IOTM, it is complex process in public procurement where cross boundary procurement is the essential to implement the works project due to many reason. People who are experienced and involve in IOTM process asked identify the challenges and problem it hits. Following table and chart illustrates their opinion.

Table 12: Major Challenges and Problem in IOTM

SL NO	Major Challenges	Emphasis/Total Score
1	Complexity in Tender Process	92
2	Processing time	72
3	Evaluation	88
4	Approval Process	72
5	Post Evaluation	96
6	Pre Contract formalities	76
7	Contract Award	48

Source: Primary Survey

This table can be shown in following chart

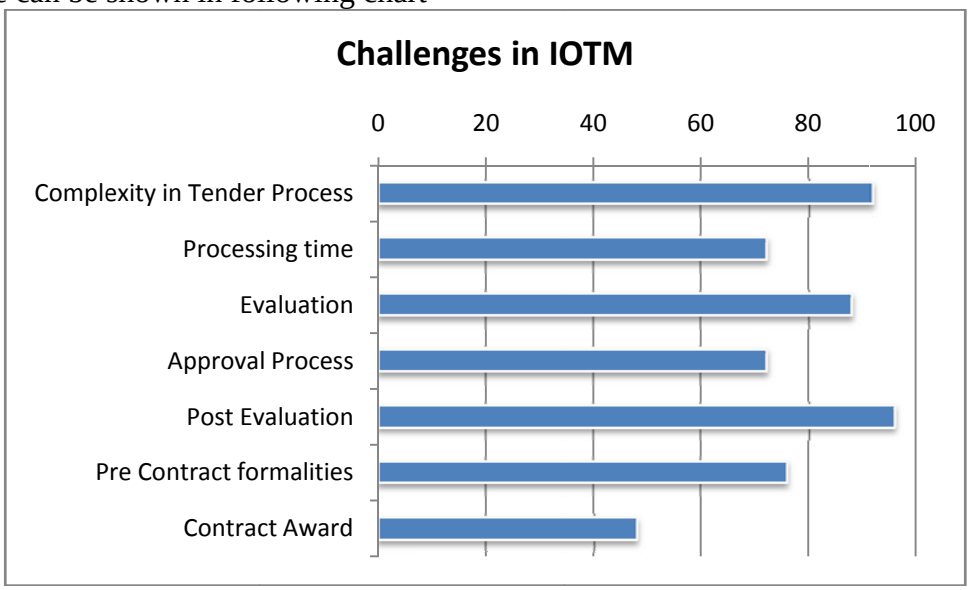


Figure 5: Challenges in IOTM

Respondents views on challenges in IOTM mainly on tendering process as the asked to give their opinion on particular issue. Most of them focus on post evaluation, overall tender process, tender evaluation, pre contract formalities, processing time etc. Processing time not got highest priority though it is sometime most challenging issues in public procurement. Due to time overrun cost overrun is common in public procurement.

4.5 Challenges faced in Tendering of Moghbazar-Mouchak Fly Over Project (MMFP)

International Open Tendering Method is selected for this complex project as the study discussed the overall procedures in previous chapter. Respondents who were involves in Tendering process of MMFP identify the following challenges they faced in the tender processing as part of the total procurement cycle, these are

Table 13: Challenges in MMFP

SL NO	Major Challenges	Emphasis/Total Score
1	Approval Time	92
2	Tender Process	72
3	Evaluation	88
4	Donor Approval	92
5	Re processing	96
6	Post evaluation	80
7	Re Tender	100

Source: Primary Survey

Above data can be presented in following graph

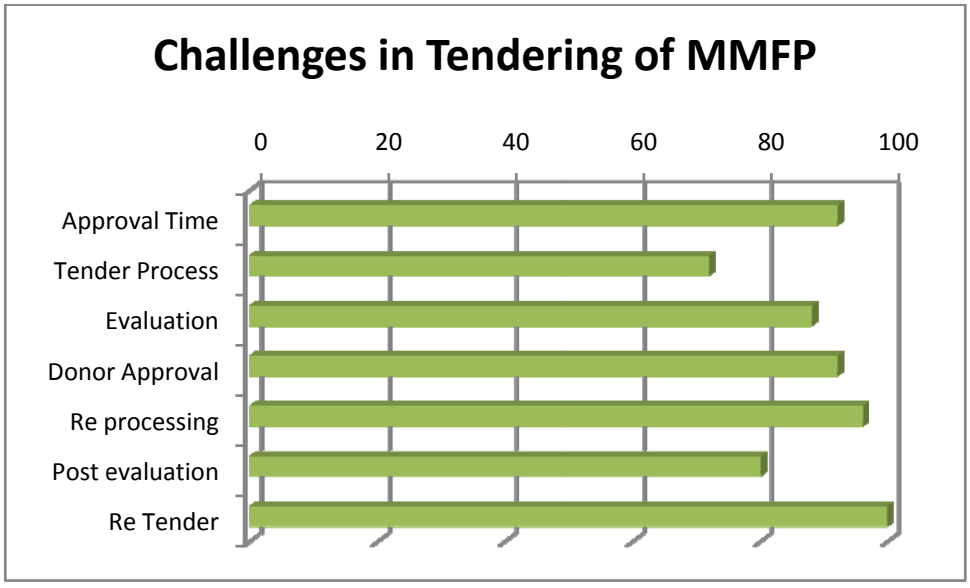


Figure 6: Challenges in Tendering of MMFP

Most of respondent identify the re tender and re process is the major challenge in MMFP as they faced in their procurement. Approval process and donor approval is another key challenge for this particular project of MMFP. Evaluation and post evaluation is the common challenges also identified here.

4.6 Options to overcome the challenges of IOTM

Study also seeks options from respondents to overcome the challenges of IOTM as identified by them. Suggested options to overcome the challenges of International Open Tendering Method are as follows according to their priorities

A. Revision of Act and Rules
B. Adoption of International Best Practice
C. Follow World Bank and UN guideline
D. Use National Tendering
E. Building Capacity of Procuring entity.

Respondent identify the problems in our procurement regulations is time frame. Rules gave some threshold time where procuring entity has no time reduction options, but in many case rules does not limit the procuring to speed up the process.

CHAPTER 5

SUMMARY, FINDINGS, RECOMMENDATIONS AND CONCLUSIONS

CHAPTER 5
SUMMARY, FINDINGS, RECOMMENDATIONS AND CONCLUSIONS

5.1 Introduction

The study reviewed the documents related to Tendering process or MMFP and analyzes the professional views of project people involve in the process. Some interesting findings revealed in this study. Core of the study was research question and objectives.

5.2 Answer to the Research Questions

Does Challenges of International tendering method lie in the present procurement regulations or elsewhere it was the centre part of study. From Chapter1, 2, 3& 4 of the study following facts are identified.

5.2.1 Findings from the Secondary Data

Literature review and secondary data revealed that there is clear difference between existing regulations and present practice found in MMFP. Regulations related to public procurement shown in chapter 3 of this study does not ad per with present practice. More time required against the PPR provisions. Where tender validity generally 3 months it extended upto 31 months which impacted on cost, quality and time of project management. So answer of research question that challenges of IOTM lies in practice not in rules or act.

5.2.2 Findings from the Primary Survey

Primary survey depicted that challenges in public procurement are Contract management, followed by Tender Processing. Works procurement has many challenges like implementation, tender processing, site selection etc. International Open Tendering Method (IOTM) faces many challenges like overall tender process, post evaluation, evaluation etc where Moghbazar-Mouchak specific challenges of Re-tender, Re processing, Donor approval, Approval time line followed by evaluation and tender process. So primary survey found multiple challenges are exists in International Open Tendering Method which is not directly arises from procurement act or rules but from culture of the stakeholders organisations are important challenges in tendering process of MMFP.

5.3 Recommendations

Following recommendations comes out from the study to overcome the challenges of IOTM

5.3.1 of Act and Rules

From the analysis of Chapter Three of the study shows some loopholes in the time of tender processing where more time was spent for evaluation and approval when it is donor funded project. Public Procurement Act and Rules does not provide specific guideline regarding these issues. So country procurement regulations can act as guiding principle in such case, and modification may be done on PPA and PPR.

5.3.2 Adoption of International Best Practice, Follow World Bank and UN guideline

Procurement become a professional activities now a days, it is a strategic function of any organisation. Sharing International best practice impact on country procurement culture and can enhance the acceptability of country procurement system.

5.3.3 Use of National Tendering

National Tendering process is less complex than IOTM. National tendering creates opportunity among the local industry involved in infrastructure sector. So where possible National tendering should be the preferable options for works procurement.

5.3.4 Building Capacity of Procuring entity

It is observes that evaluation of process of MMFP completed with the help of consulted which is symptom of lack of capacity by the procuring entity where donor have less confidence. Expertise of procuring entity should be enhanced by relevant capacity development activities.

5.4 Conclusion

Bangladesh is a developing country where mega infrastructure like MMFP is not very common in public sector. Challenges in procurement always persist in the public sector MMFP is not new one. Procuring entity should consider the change management process to overcome these challenges with various methods. For smooth implementation and achieve the Cost Quality and Time in the project management Bangladesh should look forward with necessary adjustment.

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ANNEXURES

ANNEXURES

Annex 1: List of Prequalified Applicants

Package No: W04 , Moghbazar part (Length =2105 m).

Sl. No	Name and Address of Tenderers Contract Details (Tel. Cell, Fax)	Country of origin.
1	2	
1.	TADDEI SPA-ITALY Viale Mazzini, 121-00195 ROME	ITALY
02	MTD Construction Sdn Bhd I, Jalan Batu Caves, 68100 Batu Caves, Selangor Barul Ehsan, Malaysia	MALAYSIA
03.	Sichuan Road & Bridge (Group) Corporation Ltd. Number & Street : 12 Jiuxing Avenue, High-Tech Developmet Zone. China	CHINA
04.	LARSEN & TOUBRO LIMITED (l&t-ecc) Engineering Construction & Contracts Division , Manapakkam Chennai	INDIA
05.	MBEC-PBL J/V PBL office : 692/B, Bara Moghbazar, Dhaka-1217	CHINA & BANGLADESH
06.	IVRCL LIMITED Corporate Office: “MIHIR” 8-2-350/5/A/24/1-B & 2, Road# 2, Panchavati Colony, Banjara Hills, Hyderabad-500034, A.P.India	INDIA
07.	SIMPLEX-NAVANA J/V House No.-28/A, Road # 83, Gulshan-2,Dhaka-1212	INDIA & BANGLADESH
08.	BINA PURI HOLDING BHD Wisma Bina Puri, 88, Jalan, Bukit, Idaman 8/1, Bukit Idaman, 6800 Selayang, Selangar, Darul Ehsan, Malaysia.	MALAYSIA.
09	AML-TEC JV MONEM BUSINESS DISTRICT 111, Biruttam C.R Datta Road, Dhaka-1205 (Abdul Monem Ltd.)	BANGLADESH & CHINA
10.	GAMMON INDIA LTD GAMMON House, veer savarkar Marg. PO Box. 9129 PRABHADEVI, Minbai-400025.India.	.INDIA
11.	SANJOSE-ICCL JV (Head Office- Span) Local Office: Sheraton Office Complex. Bldg.-2, 1. Minto Road, Dhaka-1000	SPAIN & BANGLADESH
12.	Mir Akhter- Manico JV House # 13, Road # 12, Dhanmondi R/A, Dhaka-1209	BANGLADESH & BANGLADESH

Package No: W05 , Mouchak part (Length = 3937 m).

Sl. No	Name and Address of Tenderers Contract Details (Tel. Cell, Fax)	Country of origin.
1	2	3
1	CHINA GEZHOUBA GROUP COMPANY LTD.(CGGC) Regd. Office: Gezhouba Hotal No. 558, Jiefang Avenue, Wuhan City, Hubei Province-430033, CHINA	CHINA
2.	MTD Construction Sdn Bhd I, Jalan Batu Caves, 68100 Batu Caves, Selangor Barul Ehsan, Malaysia	MALAYSIA
3.	BRT BUILDERS SDN BHD (643522-K) No.60-B, Jalan SS 15/4, Section 15, 47500 Subang Jaya, Selangor Darul Ehsan, Malaysia.	MALAYSIA.
4.	LARSEN & TOUBRO LIMITED (l&t-ecc) Engineering Construction & Contracts Division , Manapakkam ,Chennai ,India.	INDIA
5.	MBEC-PBL J/V PBL office : 692/B, Bara Moghbazar, Dhaka-1217	CHINA & BANGLADESH
6.	BINA PURI HOLDING BHD Wisma Bina Puri, 88, Jalan, Bukit, Idaman 8/1, Bukit Idaman, 6800 Selayang, Selangar, Darul Ehsan, Malaysia.	MALAYSIA.
7.	TEC-AML JV MONEM BUSINESS DISTRICT 111, Biruttam C.R Datta Road, Dhaka-1205 (Abdul Monem Ltd.)	BANGLADESH & CHINA
8.	SYAABAN-DCL-JV House # 11, Road # 19/A, Sector-4, Uttara Model Town	MALAYSIA & BANGLADESH
9.	AFCONS INFRASTRUCTURE LTD. Regd. Office: Afcons House, 16, Shah Industrial Estate Veera Desai Road, Azad Nagar, PO. Box. 11978 Andheri (W), Mumbai-400053	INDIA.
10.	ISU ENGINEERING & CONSTRUCTION Co. Ltd. Seoul, Korea.	KOREA.
11.	TCCL-HCIL (JV) Eastern Mansion (13th Floor) 67/9, Pioneer Road, Kakrail, Dhaka-1000	BANGLADESH & INDIA
12.	ACL-SIMPLEX JV House # 33, Road # 02, Dhanmondi, Dhaka-1205.	BANGLADESH & INDIA

Package No: W06 , Link part (Length =2208 m).

Sl. No	Name and Address of Tenderers Contract Details (Tel. Cell, Fax)	Country of origin.
1	2	3
1.	CHINA GEZHOUBA GROUP COMPANY LTD.(CGGC) Regd. Office: Gezhouba Hotal No. 558, Jiefang Avenue, Wuhan City, Hubei Province-430033, CHINA	CHINA
2.	LARSEN & TOUBRO LIMITED (l&t-ecc) Engineering Construction & Contracts Division, Manapakkam Chennai	INDIA
3.	TEC-AML JV MONEM BUSINESS DISTRICT 111, Biruttam C.R Datta Road, Dhaka-1205 (Abdul Monem Ltd.)	BANGLADESH & CHINA

Sl. No	Name and Address of Tenderers Contract Details (Tel. Cell, Fax)	Country of origin.
1	2	3
4	GAMON INDIA LTD GAMMON House, veer savarkar Marg. PO Box. 9129 PRABHADEVI, Minbai-400025.India.	.INDIA
5.	MCCC (NO.4)-SEL-UDC JV Liaisn Office: House # B-104 (1st floor), Road no. 8, New DoHS Mohakhali, Dhaka-1206, (Samim Enterprise)	CHINA ,BANGLADESH & BANGLADESH
6.	CHINA RAILWAY 15 BUREAU GROUP CORPORATION # 2, Sitong, Road, Luoyang, Henan Province, China	CHINA
7.	AFCONS INFRASTRUCTURE LTD. Regd. Office: Afcons House, 16, Shah Industrial Estate Veera Desai Road, Azad Nagar, PO. Box. 11978 Andheri (W), Mumbai-400053	INDIA.
8.	ISU Engineering & Construction Co. Ltd. Seoul, Korea.	KOREA.
9.	SIL-OTBL (J/V) House # 77, Road#4, Block-B, Niketon	INDIA & BANGLADESH
10.	GANNON DUNKERLY & CO, LTD. B-228, OKHLA Industrial Area phase-1New delhi-110020, India.	INDIA.
11.	NCC-MBEL(J/V) House no.-459, Road # 31, New DOHS Mohakhali, Dhaka. (M.M.Builders)	INDIA & BANGLADESH

LIst of Tenderer who participated in the Tendering Phase

Package No. PDMMFP W-04, Moghbazar Part Length = 2105m

Name of address of Tenders Contract Details (Tel, Cell, Fax)

Sl. No	Name of Tenderers & Contract Details (Tel. Cell, Fax)	Description of Tender Security
1	2	3
1	Mir Akhter- Manico JV House # 13, Road # 12, Dhanmondi R/A, Dhaka-1209	BG # Prime/ERB/BG 2011/240, date 22-11-2011 Tk. 40,000,000.00 Prime Bank Ltd. Elephant Road Dhaka.
2	Sichuan Road & Bridge (Group) Corporation Ltd. Number & Street : 12 Jiuxing Avenue, High-Tech Developmet Zone. China	BG No.NBL/FG/01/15/2011; Dt. 22-11-2011 USD 540,000.00 National Bank ltd. Dilkusha Branch
3	AML-TEC JV MONEM BUSINESS DISTRICT 111, Biruttam C.R Datta Road, Dhaka-1205 (Abdul Monem Ltd.)	BG No.108/2011; Dt. 22-11-2011 USD 300,000.00 BG No, 109/2011 dt. 22-11-2011 tk. 20,400,000/- Prime Bank kowran bazar Branch
4	MBEC-PBL J/V PBL office : 692/B, Bara Moghbazar, Dhaka-1217	BG No. 265/2011 dt. 22-11-2011 tk. 4,00,00,000/- Prime Bank Mouchack.
5	SIMPLEX-NAVANA J/V House No.-28/A, Road # 83, Gulshan-2,Dhaka-1212	BG No. 05111 FG 000307 dt. 22-11-2011 tk. 4,00,00,000/- State Bank of India Dhaka Branch Bangladesh.
6	BINA PURI HOLDING BHD Wisma Bina Puri, 88, Jalan, Bukit, Idaman 8/1, Bukit Idaman, 6800 Selayang, Selangar, Darul Ehsan, Malaysia.	Counter Guarantee # 99080 BG 5848084 dt. 18-11-2011 Prime Bank Ltd. Shat masjieed Road Dhaka USD 5,27,356/60
7.	IVRCL LIMITED Corporate Office: “MIHIR” 8-2-350/5/A/24/1-B & 2, Road# 2, Panchavati Colony, Banjara Hills, Hyderabad-500034, A.P.India	BG No. DBL/KB/PBGL 01/2011 dt. 23-11-2010 tk. 4,00,00,000/- Dhaka Bank Kowran Bazar Branch.

Package No. PDMMFP **W05 (Mouchak part)** Length = 3937M

Name of address of Tenders Contract Details (Tel, Cell, Fax)

Sl. No	**Name of Tenderers & Contract Details (Tel. Cell, Fax)**	**Bank Grantee/payorder/Draft/ Details Name of the Bank no of BG/P.O/Draft Issue date : Amount :**
1	2	3
1	SYAABAN-DCL-JV House # 11, Road # 19/A, Sector-4, Uttara Model Town	BG No.PB/BG/463/2011 dt. 22-11-2011 BDT 6,00,00,000 AB Bank Ltd. Principle Branch Dhaka.
2	TCCL-HCIL (JV) Eastern Mansion (13th Floor) 67/9, Pioneer Road, Kakrail, Dhaka-1000	BG No.SEBL/MCH/BG/ 36/2011; dt. 22-11-2011 Tk. 6,00,00,000/- South East Bank Ltd. Mouchack Branch, Dhaka.
3	TEC-AML JV MONEM BUSINESS DISTRICT 111, Biruttam C.R Datta Road, Dhaka-1205 (Abdul Monem Ltd.)	BG No.107/2011; dt. 22-11-2011 USD 500,000.00 BG No.110/2011; dt 22-11-2011 Tk. 24,000,000/- Prime Bank Ltd. kowran bazar.
4	MBEC-PBL J/V PBL office : 692/B, Bara Moghbazar, Dhaka-1217	BG No.266/2011; dt. 22-11-2011 BDT 6,00,00,000.00 Prime Bank Ltd. Mouchack Branch.
5	ACL-SIMPLEX JV House # 33, Road # 02, Dhanmondi, Dhaka-1205.	BG No.101 TS 551 LG 11 dt. 20-11-2011 TK 6,00,00,000.00 Eastern Bank Ltd. H/Q Dhaka.
6	BINA PURI HOLDING BHD Wisma Bina Puri, 88, Jalan, Bukit, Idaman 8/1, Bukit Idaman, 6800 Selayang, Selangar, Darul Ehsan, Malaysia	Counter Guarantee No.99080 BG 5848085 dt. 18-11-2011 usd 7,91,035/04 Prime Bank Ltd. Shat mojshid road Branch.

Package No. PDMMFP **MMFP, W06 (Link part)** Length = 2208M

Name of address of Tenders Contract Details (Tel, Cell, Fax)

Sl. No	**Name of Tenderers & Contract Details (Tel. Cell, Fax)**	**Bank Grantee/payorder/Draft /Details Name of the Bank no of BG/P.O/Draft Issue date : Amount :**
1	2	3
1	GANNON DUNKERLY & CO, LTD. B-228, OKHLA Industrial Area phase-1New delhi-110020, India.	BG No. 05111 FG 000304 Dt. 21-11-2011 BDT-4,00,00,000/- State Bank of India Dhaka Branch.
2	CHINA RAILWAY 15 BUREAU GROUP CORPORATION # 2, Sitong, Road, Luoyang, Henan Province, China	BG No. 07-242-11 Dt. 20-11-2011 Tk-4,00,00,000/- Prime Bank Mohokhali Branch Dhaka.
3	MCCC (NO.4)-SEL-UDC JV Liaisn Office: House # B-104 (1st floor), Road no. 8, New DoHS Mohakhali, Dhaka-1206, (Samim Enterprise)	BG No. Prime/Banani/BG/353 /2011 Dt. 23-11-2011 Tk-4,00,00,000/- Prime Bank Ltd. Banani Branch Dhaka.
4	TEC-AML JV MONEM BUSINESS DISTRICT 111, Biruttam C.R Datta Road, Dhaka-1205 (Abdul Monem Ltd.)	BG No. 106/2011; Dt. 22-11-2011 USD 350,000.00 BG No. 111/2011; Dt. 22-11-2011 Tk. 16,000,000/- Prime Bank Ltd. Kowran bazar Branch Dhaka.
5	SIL-OTBL (J/V) House # 77, Road#4, Block-B, Niketon.	BG No. 106/2011; Dt. 22-11-2011 Tk. 4,00,00,000/- State Bank of India Dhaka, Branch.

Ranking of the Tenderer:

4.0 Ranking of the Tenderer

After the consideration of 'submitted unconditional discounts' and domestic preferences, package wise final ranking are as given below:

Package No. PPMMFP, W04 (Moghbazar Part)

Sl. No.	Name of Tender	Quoted Price (Taka)	Ranking
01.	Mir Akhter – Monico JV	2,283,020,053.00	3rd.
02.	Sichuan Road and Bridge (Group) Corporation Ltd.	2,657,039,168.00	5th.
03.	AML –TEC JV	3,230,965,156.00	7th.
04.	MBEC– PBL JV	2,283,687,211.24	4th.
05.	Simplex – Navana JV	2,122,580,736.00	1st.
06	Binapuri Holding Bhd..	3,171,967,865.15	6th.
07.	IVRCL Limited	2,277,210,579.00	2nd.

Package No. PPMMFP, W05 (Mouchak Part)

Sl. No.	Name of Tender	Quoted Price (Taka)	Ranking
01.	SYAABAN – DCL JV	3,060,019,420.00	2nd.
02.	TCCL – HCIL JV	3,039,838.525.00	1st.
03.	TEC – AML JV	5,095,791,147.00	6th.
04.	MBEC – PBL JV	3,777,053.819.12	4th.
05.	ACL – Simplex JV	3,299,995,256.00	3rd.
06	Binapuri Holding Bhd.	4,796,506,612.82	5th.

Package No. PPMMFP, W06 (Link Part)

Sl. No.	Name of Tender	Quoted Price (Taka)	Ranking
01.	Gannon Dunkerly and Co. Ltd.	2,140,012,163.74	3rd.
02.	China Railway 15 Bureau Group	6,645,567,401.41	5th.
03.	MCCC (No. 4) – SEL – UDC JV	1,998,473,189.92	1st.
04.	TEC – AML JV	3,285,317,613.00	4th.
05.	SIL – OTBL JV	2,083,551,443.00	2nd.

Donor Comments on W5

Reference to your letter No. LGED/PD/MMFP/T-01/2011/(Part-2)/711 dated December 24th, 2012, pertaining to the results of completed Post-Qualification checks of lowest tenderers for contract package PDMMFP. W05 (Mouckak Flyover). We would like to inform you that we have reviewed the reports along with its recommendation which prepared by the consultant and we found out that all the bidders don't fulfill the tender documents requirements, and since the consultant and the project director stated that the delay of the implementation for package No. W05 will not cause any effect of any means for package No. W04 and W06; therefore, we strongly recommend the consultant suggestion of re-tender package No. W05.

List of the Procurement Professional Interviewed

List of Interviewed Senior Procurement officials

Sl.	Interviewee	Position
01	Mr. Abdur Rashid Khan	Project Director, LGED, Dhaka.
02	Mr. Md. Rezaul Karim	Project Director, LGED, Dhaka.
03	Mr. Mostafa Kamal	Project Director, LGED, Dhaka.
04	Mr. Md. Abdus Salam	Project Director, LGED, Dhaka.
05	Mr. Nurul Huda	Executive Engineer, LGED, Dhaka.
06	Mr. Shushanta Kumar Paul	Executive Engineer, LGED, Dhaka.
07	M. Mizanur Rahman	Executive Engineer, LGED, Dhaka.
08	Md. Amirul Islam Khan	Executive Engineer, LGED, Dhaka.
09	Md. Abdul Malek	Executive Engineer, LGED, Dhaka.
10	SM. Monirul Islam	Executive Engineer, LGED, Dhaka.
11	Abdur Rahim	Executive Engineer, LGED, Dhaka.
12	AM Monjur Sadek	Executive Engineer, LGED, Dhaka.

List of the Procurement Professional Interviewed

Sl.	Interviewee	Position
13	Mr. Siddiqur Rahman	XEN, LGED
14	Md. Rafiqul Hasan	XEN, LGED
15	Md. Manjur Ali	XEN, LGED
16	Md. Tarquzzaman	XEN, LGED
17	Md. Moniruzzaman	XEN, LGED
18	Md. Fazle Habib	XEN, LGED
19	Md. Abdul Baki	Sr.AE, LGED,Dhaka
20	Tarun Banerjee	Sr.AE, LGED,Dhaka
21	Abdul Kalam Azad	Sr.AE, LGED,Dhaka
22	Khan Md. Nazim Uddin	Sr.AE, LGED,Dhaka
23	Md. Golam Azam Sarkar	Sr.AE, LGED,Dhaka
24	Partha Prodip Sarkar	Sr.AE, LGED,Dhaka
25	Md. Shafiqul Islam Khan	Sr.AE, LGED,Dhaka
26	Md. Aminur Rahman	Sr.AE, LGED,Dhaka
27	Hanif Md. Murshidi	Sr.AE, LGED,Dhaka

Questionnaire 1: Respondent from MMFP

for

Challenges of Procurement of Works through International Open Tendering Method: A casecstudy on "Moghbazar-Mouchak Flyover Project."

Challenges of Procurement of Works through International Open Tendering Method: A casecstudy on "Moghbazar-Mouchak Flyover Project." Is a academic study.The following questionnaire is prepared to serve an academic purpose to assess challenges in existing Tendering Method of Works procurement. Your spontaneous support and invaluable time would be highly appreciated.

Directions: Please tick (✓) appropriate box/answer or Fill in the Blanks. There is no right or wrong answers. The only concern of this survey is to assess the present role and what should be future role in dynamic procurement context. Your contribution will be treated as a significant part of this study. In case of any confusion please feel free to Cell number: 01819840053 or Mail to Kazisamad.1966@gmail.com.

PART 01: YOU and Your Experience[1]

01: Name :Quamrul Islam

02: Job Title :

03. Present Position: Deputy Project Director,HILIP,LGED H/Q, Dhaka.

a) Junior Level ☐ b)Medium Level ☐ c)Senior Level ☐

04: Employer

b) Government ☐
c) Autonomous/Semi Autonomous Body ☐
d) Local Body ☐
e) Others ☐

05: Experience (in yrs)

a) 0 to 5 Years ☐
b) 5 to 10 Years ☐
c) 10 to 15 Years ☐
d) 20 Years+ ☐

06: Works Procurement Experience (In yrs)

a) 0 to 5 Years ☐
b) 5 to 10 Years ☐
c) 10 to 15 Years ☐
d) 20 Years+ ☐

PART-2: Questions.

[1] R: Respondent Information

Q1: What are the Key challenges in public procurement in Bangladesh?

A. Need Assessment
B. Fund arrangement
C. Determining procurement method
D. Tendering process
E. Contract Management and Implementation

Q2: What are the Major Challenges in Works Procurement in Bangladesh according to your judgement?

A. Design and Specification
B. Site selection
C. Funding
D. Tender process
E. Implementation

Q3: According to your Experience what are the major challenges and problem in IOTM?

A. Complexity in Tender process
B. Processing Time
C. Evaluation
D. Approval process
E. Contract Award

Q4: As your Procurement Experience how you list the challenges faces in Procurement of MMFP?

A. Approval Time
B. Tender Process
C. Evaluation
D. Donor Approval
E. Re-processing

Q5: Suggest options to overcome the challenges of International Open Tendering Method ?

A. Revision of Act and Rules
B. Adoption of International Best Practice
C. Follow World Bank and ADB Guidelines
D. Use National Tendering Method
E. Building Capacity

Q. Respondent Option (if any)

IOTM is a tedious job for procurement of Works or intellectual Service. It is time consuming and complicated and cost of procurement might be increased in case of Re-tender.Moreover,Donors are enjoying unlimited freedom in respect of approval from existing The Public Procurement Act (PPA) 2006.So, for smooth tendering process and implementation of Works PPR 2008 and PPA 2006 might be reviewed.
Survey Date:…… Cell No……..

World Bank Procurement Guidelines

World Bank Procurement Guidelines

Extension of Validity of Bids

2.57 Borrowers shall complete evaluation of bids and award of contract within the initial
period of bid validity so that extensions are not justified by exceptional circumstances, shall be
requested in writing from all bidders before the expiration date. The extension shall be for the stipulated in the bidding documents or
otherwise to modify the bid as originally
submitted.

Publication of the Award of Contract

2.60 Within two weeks of receiving the Bank's "no objection" to the recommendation of contract award, the Borrower shall publish in
UNDB online and in dgMarket the results identifying the bid and lot numbers and the following information: (a) name of each bidder
who submitted a bid; (b) bid prices as read out at bid opening; (c) name and evaluated prices of each bid that was evaluated; (d) name of
bidders whose bids were rejected and the reasons for their rejection; and (e) name of the winning bidder, and the price it offered, as well
as the duration and summary scope of the contract awarded.
Rejection of All Bids

TENDER VALIDITY PERIOD IN WORLD BANK GUIDELINES IS 120 DAYS.