

***PERFORMANCE OF PUBLIC WORKS DEPARTMENT IN PROCUREMENT
ACTIVITY COMPLIANCE TO PPA-2006, & PPR -2008***

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

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Dr. Nasiruddin Ahmed

Abstract

Transparency, efficiency, accountability, competitiveness, equitable treatment and free & fair competition are essential to be ensured in the procurement using public funds. In Bangladesh, these could not be ensured earlier due to a lack of proper rules and regulation. To streamline the public procurement activities, the Government of the People's Republic of Bangladesh has enacted Public Procurement Act (PPA) 2006 and thereafter issued Public Procurement Rules (PPR) 2008. Since then government agencies are bound to abide by the Act and Rules very strictly in their procurement activities. The Central Procurement Technical Unit (CPTU) of the Implementation Monitoring and Evaluation Division (IMED) is continually monitoring the compliance of PPA 2006 and PPR 2008 by the target agencies in the light of 45 predetermined Key Performance Indicators (KPI).

In spite of being a major procuring agency of the country PWD is not among the four target agency. At the time of selection of the target agency the amount of procurement in PWD is not in the first four. But after that the amount of procurement has increased substantially. Now PWD has procured more than Water development Board (one of the four target agency).

For not being in the list of initial selection, the procurement activities of PWD are not monitored keenly. Now it is required to take a look on PWD's procurement activities. The research has been designed under the questions if PWD is following PPR 2008 completely or not; and if not, then the causes behind that. The main objectives of the present study are to find out the extent of compliance of PPR 2008 by PWD and to find out the gap of compliance and scope of improvement for implementation. The related literatures and reports, particularly from PWD and SRGB, have been thoroughly reviewed before conducting the main research work. The key findings of these reports have been compared and analyzed which helped to draw important conclusion of the study.

A questionnaire survey was carried out to collect data of different projects undertaken by PWD. The study result shows a clear noncompliance to the rules of PPR 2008 in PWD in carrying out some of the compliance related KPIs. Among the 11 different compliance issues, it has been revealed that PWD is doing well in 7 KPIs. For other 4 issues namely submission of report by the TEC, Average number of days taken between submission of Tender Evaluation Report and approval of contract, Average number of days between final approval and Notification of Award (NOA) and Percentage of Contracts where interest for delayed payments was made are not satisfactory and a clear improvement is required in these areas.

For improvement of these situations, some specific recommendations have been drawn. These are (i) Compiling the contractors profile (ii) Empowering the lower tier will decrease the time in approval process (iii) Strong adherence of law and effective internal auditing (iv) Payment of interest in case of delayed payment should be considered carefully to protect the interests of both the parties. (v) Introduction to e-GP (vi) Training on Procurement law (vii) to ensure the timely payment to the contractors, tender should be floated only after availability of sufficient fund.

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Abbreviations

AA	:	Approving Authority
ADP	:	Annual Development Programme
AO	:	Authorized Officer
CAA	:	Contract Approving Authority
CCGP	:	Cabinet Committee of Government Purchases
CIPS	:	The Chartered Institute of Purchasing and Supply
CPTU	:	Central Procurement Technical Unit
DoFP	:	Delegation of Financial Power
DPP		Development Project Proposal
ERD	:	Economic Relations Division
GCC	:	General Conditions of Contract
GFR	:	General Financial Rules
HOPE	:	Head of Procuring Entity
ICD	:	Intended Completion Date
IMED	:	Implementation Monitoring and Evaluation
KPI	:	Key Performance Indicators
PWD	:	Local Government Engineering Department
LTM	:	Limited Tendering Method
MoF	:	Ministry of Finance
MoP	:	Ministry of Planning
NOA	:	Notification of Award

OECD-DAC	:	Organization for Economic Co-operation and Development Development Assistance Committee
OTM	:	Open Tendering Method
PD	:	Project Director
PE	:	Procuring Entity
PM	:	Project Manager
PPA 2006	:	Public Procurement Act 2006
PPR 2008	:	Public Procurement Rules 2008
PPRP II	:	Public Procurement Reform Project (Phase II)
PWD	:	Public Works Department
RADP	:	Revised Annual Development Programme
REB	:	Rural Electrification Board
RHD	:	Roads and Highways Department
SRGB	:	Survey Research Group of Bangladesh
TDS	:	Tender Data Sheet
TEC	:	Tender Evaluation Committee
TER	:	Tender Evaluation Report
TOC	:	Tender Opening Committee

Chapter 1: Introduction

1.1 Background and Context:

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. The procurement process in Bangladesh lacked any sound framework in earlier days. Until 2003, there was no standard and legal framework for public procurement in Bangladesh and General Financial Rules (GFR) had regulated public procurement procedures and practices in Bangladesh. These rules were originally issued during the British period and slightly revised in 1951 under the Pakistani rule. After Bangladesh's independence, few changes were made to these rules in 1994 and 1999 respectively (Islam, 2011).

The major weaknesses perceptible in the public procurement system were the inordinate delays in awarding of contracts and non-compliance to public procurement rules and regulations. This was exacerbated by frequent changes, inconsistency guidelines, poor monitoring, inadequate knowledge and skills, lack of expert advice and institutional support, non-availability standard contract document and specification, weak contract administration etc. which ultimately resulted in huge cost and over run in many development project.

In a nutshell, the procurement system evidenced a stumbling block which influenced significantly in slowing down economic development of the country. Such an efficient and ineffective procurement system shed a negative effect on good governance as it failed to generate the desired result to ensure value for money of the public contracts and transparency and accountability in offering and selecting public tenders.

Hence, to establish good governance in the country an effective and efficient procurement system became imminent and integral part of public sector reforms in Bangladesh. Over the last several years the government has addressing key weakness in financial management system and took a number of milestone decisions to make substantial progress in reforming its public procurement system.

Over the last few years the Govt. of Bangladesh made considerable efforts to bring about a systematic change in the public procurement environment. So Country Procurement Assessment Report, 2002 (**CPAR**) prepared by World Bank (WB), in agreement with the Government of Bangladesh (GOB), identified several deficiencies in the procurement system of the GOB. To ensure transparency and accountability in the procurement of goods, works or services using public funds, and ensuring equitable treatment and free and fair competition among all persons wishing to participate in such procurement, the Government of the People's Republic of Bangladesh has enacted Public Procurement Act 2006 (hereinafter called PPA 2006) on 06 July 2006. Under the framework of PPA 2006, the government issued Public Procurement Rules 2008 (hereinafter called PPR 2008) which has come into effective on January 31, 2008. All these were the outcomes of the reform process taken by the government to streamline the public procurement. Earlier in 2003, Public procurement Regulations 2003 which was effective till the PPR 2008 was issued (Hoque, 2010).

Since then, the procurement process in Public Works Department (PWD) under Ministry of Housing and Public Works, Government of Bangladesh has followed PPA 2006 and PPR 2008 in procuring goods, works or services.

Upon issuance of the PPA 2006 and PPR 2008, the government agencies are bound to follow the Act and Rules in the day to day procurement activities of their own. The Central Procurement Technical Unit (CPTU) of the Implementation Monitoring and Evaluation Division (IMED) of the Ministry of Planning have been established for carrying out the purposes of Section 67 of PPA 2006 which states as follows:

Section 67: *For carrying out the purposes of the Act, the Government shall, through a Central Procurement Technical Unit or any other unit established by it relating to procurement monitoring, coordination and management, perform the following responsibilities, namely –*

- a. Providing for monitoring compliance with and implementation of this Act through the authority as designated by the Government;*
- b. Arranging for performance of the necessary functions and responsibilities incidental thereto, through the authority as designated by the government and*
- c. Performing any other responsibilities as prescribed.*

To provide for monitoring compliance with implementation of this Act and Rules, the government of Bangladesh has undertaken Public Procurement Reform Project II (PPRP II) in 2009. The aim of project is to progressively improve the performance of public procurement system in Bangladesh. Central Procurement Technical Unit (CPTU) to develop an MIS system for reporting procurement activities and M&E system for monitoring the compliance of PPA 2006 and PPR 2008 by the target agencies in the light of 45 predetermined Key Performance Indicators (KPIs) **(Appendix A)**. The KPIs were developed taking cognizance of the OECD-DAC¹ indicators within the overall framework of the PPA/PPR and its features within the local context.

1.2 Statement of the problem

Public Works Department (PWD) is the oldest engineering organizations in Bangladesh. PWD officials have been in the procurement process throughout the year following PPA-2006 and PPR-2008.

Procurement of Goods, Works, and Services are also covered by the IMED's existing way of undertaking implementation monitoring and evaluation tasks but not monitored and evaluated on the basis of any key performance monitoring indicators. Till now CPTU and

¹ Organization for Economic Cooperation and Development-Development Assistance Committee

IMED or any other organizations did not monitored the procurement activities keenly. As a large amount of public money is being spent by PWD so it is required to take a look on the PWD's procurement activities on the basis of selected Key Performance Indicators.

1.3 Significance of the proposed research

PWD is the epic organization of building construction. PWD construct and maintained all public buildings including the Honorable President's house, Prime Minister's Office and residence, Secretariat, National Assembly, Hospitals, Govt. offices etc. The importance factor of that building is very high. So robust and effective procurement is necessary to implement those projects. As discussed earlier CPTU is not monitoring PWD's procurement activities closely. So it would be wise enough to have an independent study to ascertain the procurement performance of the Public Works Department.

1.4 Research Questions

This study is aims to know the extent of compliance of PPR 2008 by PWD procurement activities. Also it is intended to know the hindrances which have been faced by PWD while complying with the rules of PPR 2008. Thus, the research questions for the present study are:

- i) Is PWD following PPR 2008 completely?*
- ii) If NO, then what are the causes behind this?*

1.5 Objectives of the Study

The objectives of the present study are as follows:

- i) To find out the extent of compliance of PPR 2008 by PWD.
- ii) To find out the gap of compliance and scope of improvement for implementation of PPR 2008 in PWD.

1.6 Scope of the Study:

No study has been made on PWD's procurement activities yet. So an independent study is intended from the concerned authorities to find out the gap of compliance of PPR 2008 in PWD. This study is such an approach for ascertaining the facts in PWD. The research is working with the 11 compliance KPIs among the 45 KPIs specified in the Result Monitoring Frame Work (RMFW) of PPRP II to measure the performance of procurement activities.

1.7 Limitations of the study

The limitations of this study have come from both its scope and its methodology. Survey was confined to PWD HQ, Dhaka and its surrounding District offices. On the other hand, the no. of project taken under this research is very few considering the volume of work PWD done.

Chapter 2: Literature Review

Overview of Public Works Department:

Historical Background

Public Works Department (PWD), under the Ministry of Housing and Public Works, is the pioneer in construction arena of Bangladesh. Over about two centuries, PWD could successfully set the trend and standard in the country's infrastructure development. And it also plays a pivotal role in the implementation of government construction projects. Since the emergence of PWD in 1854, the scene as well as the view of new and old Dhaka started to change step by step. Both national and international all kinds of development have been brought by this precious department.

Salient features of PWD

- PWD has over two hundred years of experience and expertise in construction and design in building monuments, parks and public buildings and is involved in their maintenance as well.
- It has a present strength of 19000 employees including almost 800 Graduate Engineers and 1300 Diploma Engineers and other workers.
- It has expertise in preparation of books of Specifications, in procurement of materials, in valuation of land and property etc.
 - It has highly qualified and experienced professionals forming a multi-disciplinary team of civil, electrical and mechanical engineers.

- PWD also collaborates with the engineers from other departments like Urban Development Directorate (UDD), Housing and Settlement Directorate (HSD), Department of Architecture in the completion of the development works.
 - It is also the first choice among discerning clients for any type of government construction projects in Bangladesh.
 - Besides being the construction agency of the government, it also performs regulatory function in setting the pace and managing projects for the country's construction industry.
 - It is also known as a sister organization falling under the administrative control of the Ministry of Housing & Public Works, to provide services to the nation.
 - Paramount importance is given to the functional and aesthetic quality, application of appropriate technology and local materials, cost effectiveness and mostly to the user satisfaction.
 - It aims at total Quality Management through a system of modernization and human resource development.
 - And it is fully geared to meeting new challenges in the construction sector with numerous projects.
- Over the years, the PWD has gained invaluable experience in a wide range of fields. It has an excellent track record for quality, cost effectiveness and speed. Well-documented standards, specifications, schedule of rates, design practices, costing systems, the application of procedures which ensures proper utilization of public funds and total accountability etc. are all embodiments of the department.

Organogram of PWD:

Abbreviations

S.E Superintending Engineer
 E.E Executive Engineer
 C.A Chief Arboriculturist
 S.D.E Sub-Divisional Engineer
 S.D.O Sub-Divisional Engineer
 A.E Assistant Engineer

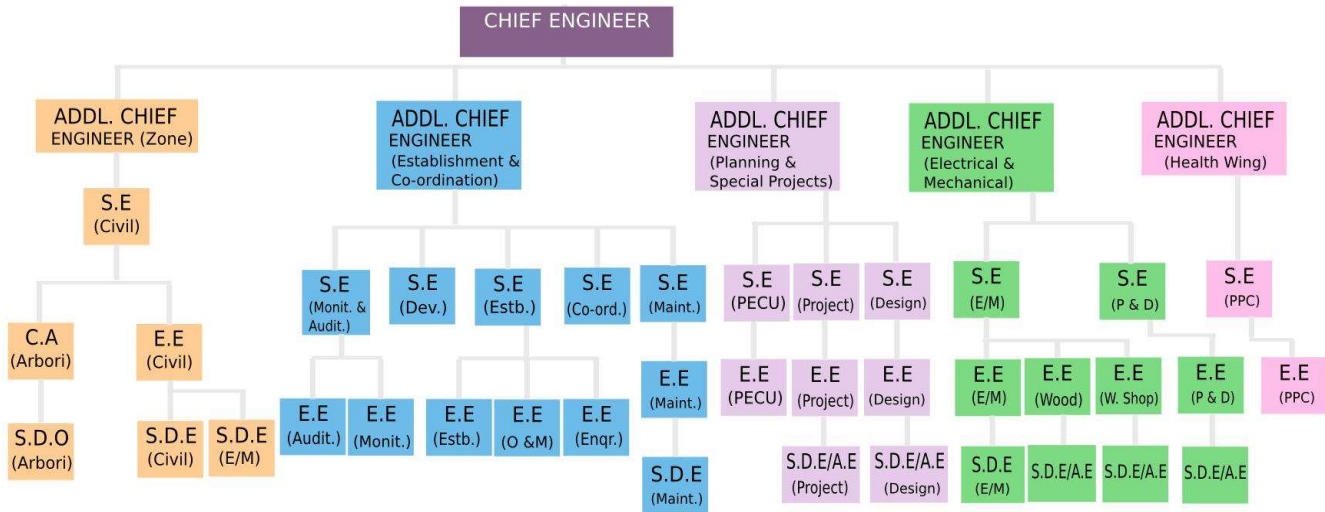


Figure 1: Organogram of PWD

Abbreviation:

1. CE- Chief Engineer.
2. ADDL CE- Additional Chief Engineer
3. SE- Superintending Engineer
4. EE- Executive Engineer
5. SDE- Sub-Divisional Engineer
6. AE- Assistant Engineer

Functions of PWD

- Construction of buildings for other agencies on a deposit work basis.
- Preparation of Book of Schedule of Rates and Analysis of Rates for Construction & Maintenance of Public Buildings.
- Construction and design of public building except those of RHD, T&T, Postal department.
- Maintenance of Public Parks.
- Construction of National Monument.
- Repair and maintenance of public buildings.
- Acquisition and requisition of Land for construction work.
- Preparation of Book of Specification and Code of Practice.
- Procurement of Materials and Equipment required for Construction Work.
- Valuation of Land and Property and fixing of Standard Rent.
- Undertaking projects for autonomous bodies, apart from the public sector.
- Offering consulting services for construction projects right from conception to completion with support coming from its sister concern, the Department of Architecture.
- Executing projects on a turnkey basis with such services as water supply, sewerage systems, internal roads, electrification, air conditioning and fire-fighting coming as part of the package.

2.1 Public Procurement Rules (PPR 2008): An overview

Public Procurement Rules (PPR) 2008 was framed by the Government of People's Bangladesh under the Public Procurement Act (PPA) 2006 which came into effective on January 31, 2008. The main objective of enacting PPA 2006 & introducing PPR 2008 was, generally, of achieving value for money, ensuring transparency, accountability, fair treatment in all public procurement throughout the public sector organizations of our country.

There are 130 Rules in PPR 2008 under nine chapters. Most of the Rules have several Sub-Rules. In chapter one, there are 3 Rules (Rule 1 to Rule 3) where preliminary issues like definition of key terms, scope and application of the Rules are given. There are 9 Rules (Rule 4 to Rule 12) in chapter two. Guideline for preparation of Tender or Proposal document, constitution of different committees for disposal of Tender or Proposal are given in this chapter. In chapter three, principles of public procurement is given. This is a very big chapter divided into twelve parts. There are total 48 Rules (Rule 13 to Rule 60) under chapter three where, among others, procedure for preparation of technical specification, preparation of terms of reference, procedure for rejection of tender, approval procedure of Tender, contract administration and management are described. Rule 61 to Rule 89 constitutes chapter four where methods of procurement for goods and related services, works, physical services and their use are given. Processing of procurement including advertisement, pre-qualifications, processing of Tenders etc. are given in chapter five where there are 13 Rules (Rule 90 to Rule 102). In chapter six, guideline for procurement of intellectual and professional services is given where there are 24 Rules (Rule 103 to Rule 126). Rule 127 and Rule 128 constitute chapter seven and chapter eight respectively. Professional misconduct is described in chapter seven and E-government procurement is described in chapter eight. In chapter nine, miscellaneous issues are described where there are 2 Rules (Rule 129 and Rule 130)

As a part of literature review, the PPA 2006 and PPR 2008 with all amendments have been studied thoroughly. The rules which seemed as the basis of compliance KPIs were reviewed keenly.

2.2 Key Performance Indicator (KPI): Meaning and importance

Key Performance Indicators, also known as KPI or Key Success Indicators (KSI), help an organization to define and measure progress toward organizational goals. These KPIs are quantifiable measurements, agreed to beforehand, that reflect the critical success factors of an organization. Once an organization has analyzed its mission, identified all its

stakeholders, and defined its goals, it needs a way to measure progress toward those goals. Key Performance Indicators are those measurements.

KPIs allow organization adequate measures of performances from the standardized activities. Importance of performance measuring is very significant, which also can be found in a proverb : *If you want to improve something, you have to measure it.* Velimirovic *et.al.*, (2011) stated that continual measuring is a base for continual improvements of organization performances which is one of the most important management principles.

2.3 Compliance: Meaning and significance

Compliance means the act adhering to, and demonstrating adherence to, a standard or regulation. In the context of procurement, compliance is the state of being in accordance with the relevant policies, rules and regulations.

Compliance indicates to what extent the procuring entities adhere to the procurement rules and procedures specified in the PPA 2006 and PPR 2008.

2.4 KPI 6: Average number of days between publishing of advertisement and Tender submission deadline

Average number of days between publishing of advertisement and Tender submission deadline (KPI 6) has been emerged from Rule 61(4) and 64 (5) of PPR 2008. This has been clearly explained in Schedule II of PPR 2008. According to the provisions of PPR 2008, the allowable maximum time between publishing of an Invitation for Tender (IFT) and tender submission deadline depends upon the estimated value of the IFT. In general, it is minimum 14 days and maximum 28 days. However, for an emergency, time can be reduced to 10 days (in case of OTM) to 7 days (in case of LTM).

2.5 KPI 11: Percentage of cases TOC included at least ONE member from TEC

Rule 7 of PPR 2008 expresses how the Tender Opening Committee (TOC) will be formed and this is the base for KPI 11 (*Percentage of cases TOC included at least ONE member from TEC*). According to the provision of Rule 7, there should be three members in the TOC one of them must be from Tender Evaluation Committee (TEC) and two others from concerned procuring entity and other organization.

2.6 KPI 13: Percentage of cases TEC included two external members outside the Ministry or Division

Percentage of cases TEC included two external members outside the Ministry or Division (KPI 13) is adhered to Rule 8 which has explained in Schedule II of PPR 2008. As per provision of Rule 8, TEC should be constituted with minimum five (5) and normally not exceeding seven (7) members, two (2) of whom at least shall be from outside the Ministry or Division or agencies under it. However, for low value procurement, TEC should be formed with minimum three (3) members, one (1) of whom shall be from other agency or procuring entity.

2.7 KPI 14: Average number of days between Tender opening and completion of evaluation

Rule 36 explains the procurement approval procedure which has been explained in more details in Schedule 3 of PPR 2008. KPI 14 (*Average number of days between Tender opening and completion of evaluation*) is based on the stated rule earlier. Depending on the contract approving authority (CAA), it varies from 2 to 3 weeks.

2.8 KPI 19: Average number of days taken between submissions of Tender Evaluation Report and approval of contract

Average number of days taken between submission of Tender Evaluation Report and approval of contract (KPI 19) is also concerned with Rule 14 and 36 of PPR 2008. Depending on CAA, it varies from one (1) week (for PD, PM or AO) to two (2) weeks (HOPE, Ministry, CCGP).

2.9 KPI 20: Percentage of Tenders approved by the proper financial delegated authority

Rule 36 also explains that Delegation of Financial Powers (DoFP) issued by Finance Division, Ministry of Finance (MoF) should be followed in case of approval of procurement/tender. This is a vital issue of ensuring transparency in procurement and has been base for KPI 20 (*Percentage of Tenders approved by the proper financial delegated authority*).

2.10 KPI 21: Percentage of cases TEC submitted report directly to the Contract Approving Authority where Approving Authority is HOPE or below

Where the Approving Authority is at the level of the Head of a Procuring Entity or Project Director (PD), Project Manager (PM), or an authorized officer (AO) as per DoFP, it is the rule to submit the Tender Evaluation Report (TER) by the TEC directly to the Head of the Procuring Entity (HOPE) or the Project Director, Project Manager, or the authorized officer for approval [Rule 36(3)]. This is the basis of KPI 21 (*Percentage of cases TEC submitted report directly to the Contract Approving Authority where Approving Authority is HOPE or below*) which has been fixed for compliance monitoring of PPR 2008.

2.11 KPI 25: Average number of days between final approval and Notification of Award (NOA)

Average number of days between final approval and Notification of Award (NOA) (KPI 25) has emerged from Rule 36 (4) which has been described in Schedule II of PPR 2008. It is generally within seven (7) working days of receipt of the approval but before expiry of the tender or proposal validity date. This has been carefully noticed in compliance monitoring of PPR 2008.

2.12 KPI 31: Percentage of Contracts having liquidated damage imposed for delayed delivery/completion

As per Rule 39 (27), the contractor shall be liable to pay liquidated damages at the rate per day or week as specified in the contract for each day of delay from the Intended Completion Date (ICD) of the original contract or extended completion date provided that the total amount of liquidated damages shall not exceed the amount defined in the contract. On the basis of this, KPI 31 (*Percentage of Contracts having liquidated damage imposed for delayed delivery/completion*) has been formulated for studying compliance of PPR 2008.

2.13 KPI 33: Average number of days taken to release payment from the date of certificate of PM/Engineer

As a measure of compliance monitoring of PPR 2008, *average number of days taken to release payment from the date of certificate of PM/Engineer (KPI 33)* has been taken under consideration. This KPI 33 has been formulated from Rule 39(22). There it has been specified that the Procuring Entity shall pay the contractor the amounts certified by the Project Manager (PM) within twenty eight (28) days of the Project Manager's issuing a certificate of completion.

2.14 KPI 35: Percentage of Contracts where interest for delayed payments was made

Payment of interest is a mandatory requirement of PPR 2008. As a compliance monitoring, it has been looked for whether interest were paid for the delayed payment or not. KPI 35 (*Percentage of Contracts where interest for delayed payments was made*) was solely developed for this.

2.15 Delegation of Financial Powers for Development Projects and Sub-delegation

Delegation of Financial Powers (DOFP) and sub-delegation thereof are important document closely linked to the PPR 2008. These documents have been issued by the Finance Division of the Ministry of Finance, Government of the People's Republic of Bangladesh. As a part of literature review of the present study, Delegation of Financial Powers has been carefully studied and found out the contract approval capacity of different managers such as Project Director (PD), Head of Procuring Entity (HOPE), Ministry, CCGP etc.

Chapter 3: Methodology

3.1 Methods of collecting data/Sampling method

A questionnaire survey was adopted for this study. Survey method was used as this is considered as the best method available to the social scientists interested in collecting original data. It gives a clear idea about the actual facts. A quantitative method was followed in this study.

The questionnaires were used for this study which is given in the **Appendix B**. The questionnaire survey was adopted for collecting primary data from different stakeholders related to procurement activities of PWD and having an acquaintance with PPA 2006 and PPR 2008. For the in-depth study on compliance issues of PPR 2008, Questionnaire was given to all Division of PWD working in Dhaka, Narayngonj, Munshigonj, Manikgonj, Tangail, and Gazipur with a general introduction of the research. Among them 21 (Twenty one) Divisions replied with the procurement data of single project. Here both open and closed ended questions were stipulated for getting the in-depth essence of procurement activities.

Before asking for filling the questionnaire, the general idea of the research objectives were exchanged with them. After the exchange of general idea of the research objectives, the questionnaire was given to them. They were requested to fill the questionnaire based on the actual data of a specific project under his/her territory.

3.2 Selection of Study Area

PWD Head Quarters and District offices were selected for collection of data in the questionnaire. Due to time constraint of the present study, it was not possible to collect data from all the districts. The study was mainly focused on the on-going development projects of PWD under ADP; especially those which are in the middle stage of their

implementation were considered for the study. but some procurement information was collected from projects which ended in June 2015.

Survey was conducted at different Division offices of PWD, Bangladesh from 15 September to 15 October 8, 2015.

3.3 Study Period

Survey was conducted at different Division offices of PWD, Planning Commission, IMED, and TEC members of PWD from Roads and Highways Department (RHD) and Public Works Department (PWD) Dhaka, Bangladesh from 25 March 2016 to 28 August 2016.

3.4 Sample Size

For Questionnaire, the respondents were categorized in four different types namely i) PWD's employee, ii) TEC Members, iii) Persons who are dealing with PWD's projects iv) Others. As there are numerous people are concerned with PWD's procurement activities, a total of 21 different officers given their data.

Projects for the study were randomly selected, but there was a representation of projects from the ADP sectors under which PWD is having projects in the ADP.

3.5 Data processing and Analysis/Analytical Framework

As a means of processing, collected data have been cleaned, edited, arranged and coded before statistical analysis. The main statistical analytical tool used in this study was Statistical Package for Social Science (SPSS) to analyze and interpret the subject matter of the study. 5-point Likert scale was used in the questionnaire to categorize the answers for easy analysis.

Microsoft Excel has been used for preparing the frequency table & other tables and for constructing pie charts. Microsoft Word has been used for preparing the report.

Chapter 4: Results and Discussion

The purpose of this study is to find out the extent of compliance of PPR 2008 by PWD in its procurement activities. More specifically, the purpose of the study is to assess the gap of compliance and scope of improvement for implementation of PPR 2008 in PWD.

4.1 Demographic overview of the respondents

To do this, questionnaire survey has been conducted on the officers from PWD but. The respondents included in different ranks. A summary of the information regarding the respondents different attributes are given in Table 1 below:

Table 1: Summary of demographic information of the respondents

Respondent's Attribute/variants	Frequency	Percent
<i>Organization</i>		
PWD	21	100.0
Total	21	100.0
<i>Designation</i>		
Sub Divisional Engineer	14	66.67
Executive Engineer	7	33.3
Total	21	100.0
<i>Relevancy with PWD</i>		
Employee	21	100.0
Total	21	100.0
<i>Gender</i>		
Male	19	90.47
Female	2	9.53
Total	21	100.0
<i>Education Level</i>		
Masters'	4	19.0
Bachelor	17	81.0
Total	21	100.0
<i>Training on PPA/PPR 2008</i>		
Yes	20	94.24
No	1	4.76
Total	21	100.0

4.2 Overview of the survey questionnaire

The respondents were asked to fill up eleven (11) specific questions on a project under his/her territory regarding compliance of PPR 2008 in PWD's procurement activities.

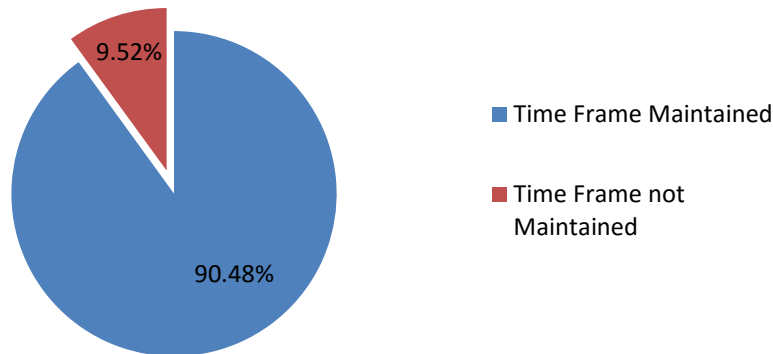
4.3 Findings of the questionnaire survey, analysis and discussion

While asked to fill up the survey questionnaire about the compliance issues of PPR 2008 in PWD, the responded replied by giving the information of a project of their territory. Findings of the survey are discussed below on individual questions basis:

KPI 6: PWD is maintaining time for 'publishing Advertisement and Tender submission deadline'

By analyzing the 21 questionnaires it has been seen that PWD maintains the time frame for 'publishing Advertisement and Tender submission deadline. It has found that among the 21 projects 19 projects are maintaining the time frame; one project is short of 5 days and other was short of 7 days from the standard time allocated by the rule.

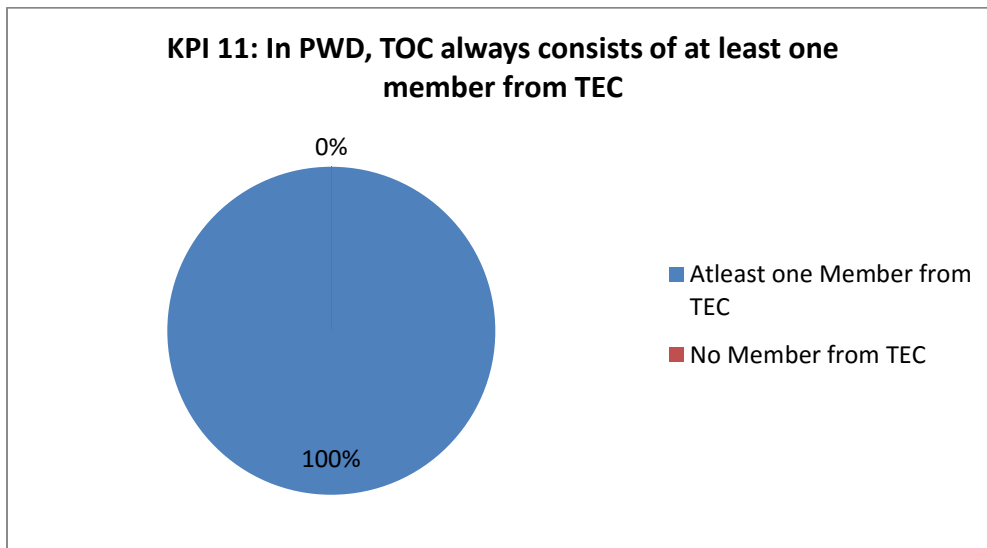
KPI 6 :PWD is maintaining time for 'publishing Advertisement and Tender submission deadline'



According to Rule 61(4) of PPR 2008, the allowable maximum time between publishing of advertisement of an IFT and tender submission deadline depends upon the estimated value of the IFT. The minimum time allowed in this regard is 14 days for Procurement up to 2 (Two) crore taka, 21 days for Procurement of above 2 (Two) crore to 5 (five) crore taka, 28 days for Procurement of above 5 (five) crore taka, 10 days for re-tendering up to 2 (Two) crore take and in other cases 14 days, 42 days for International Tendering and 28 days for re-tendering. From the survey results, it can be said that PWD is strictly following the Rule 61(4) allowing sufficient time in publishing advertisement and tender submission deadline. From the research it has found that 90.48% of the tenders had sufficient tender submission time as reflected in the Survey.

KPI 11: In PWD, TOC always consists of at least one member from TEC

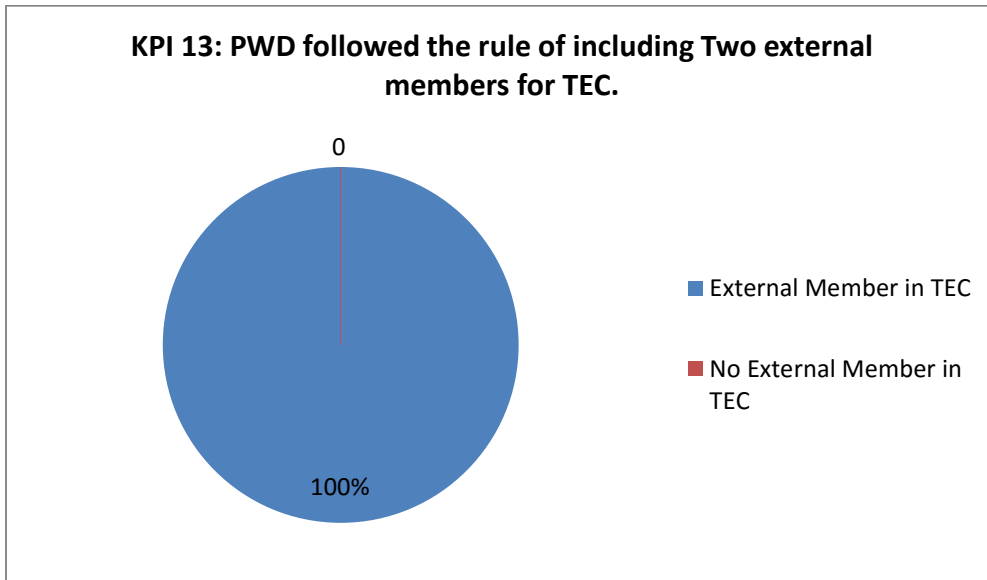
By analyzing the 21 questionnaires it was seen that TOC consist of at least one member from TEC in all the 21 projects.



This means that PWD is complying the Rule 7 of PPR 2008 in a good manner where Tender Opening Committee (TOC) is always consisted of at least one member from TEC. According to Schedule II [Rule 7] of PPR 2008, Tender Opening Committee (TOC) must include one (1) member from Tender Evaluation Committee (TEC).

KPI 13: PWD followed the rule of including Two external members for TEC.

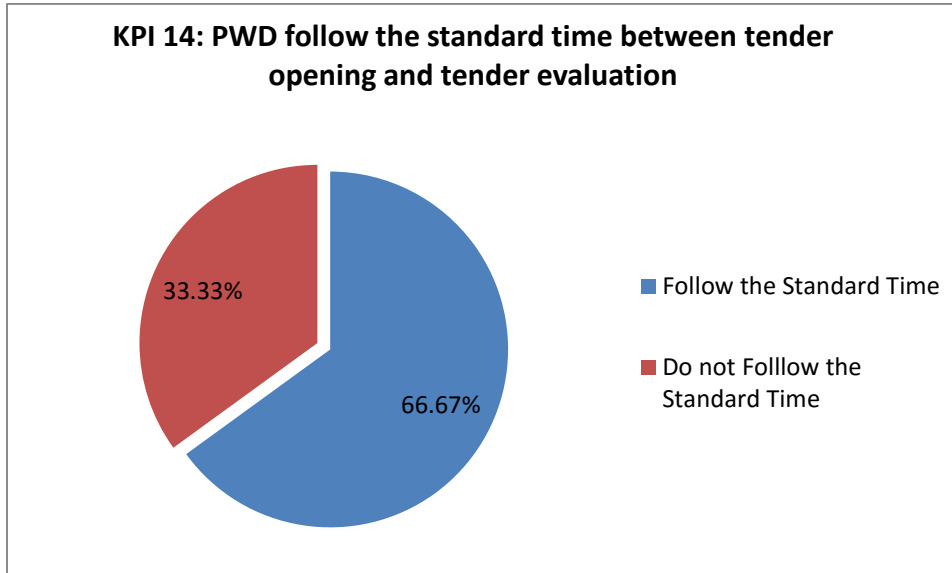
Like the earlier question, it has been seen that PWD followed the rule of including two external members for TEC in all the 21 projects (100%).



According to Schedule II [Rule 8] of PPR 2008, Tender Evaluation Committee (TEC) must include two (2) external members outside the Ministry of procuring entity except in the case of low value purchase. From the perceptions of the respondents in the questionnaire survey, it is observed that PWD has gradually become more conscious about compliance of the requirement of PPR 2008.

KPI 14: PWD follow the standard time between tender opening and tender evaluation

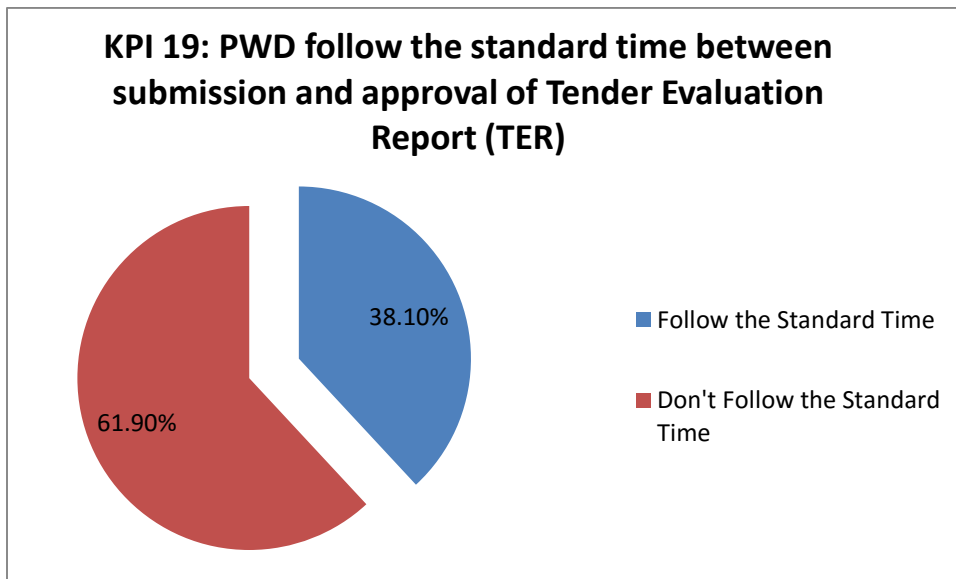
By examining the 21 questionnaires it has been seen that PWD is not followed the standard time between tender opening and tender evaluation in many cases. It has seen that among the 21 project 14 projects (61.9%) had maintained the time frame, rest 7 projects (38.1%) took longer time than the time allocated by the rule. On an average PWD took almost 27 days for tender evaluation which is also in a higher side.



According to Schedule III [Rule 8(14), Rule 36], 2 weeks & 3 weeks' time is allowed for evaluation where Approving Authority is PD or authorized officer (Oxen) & HOPE respectively. The present study result on this issue indicated that PWD is not the following standard time between tender opening and tender valuation keenly.

KPI 19: PWD follow the standard time between submission and approval of Tender Evaluation Report (TER) in most cases.

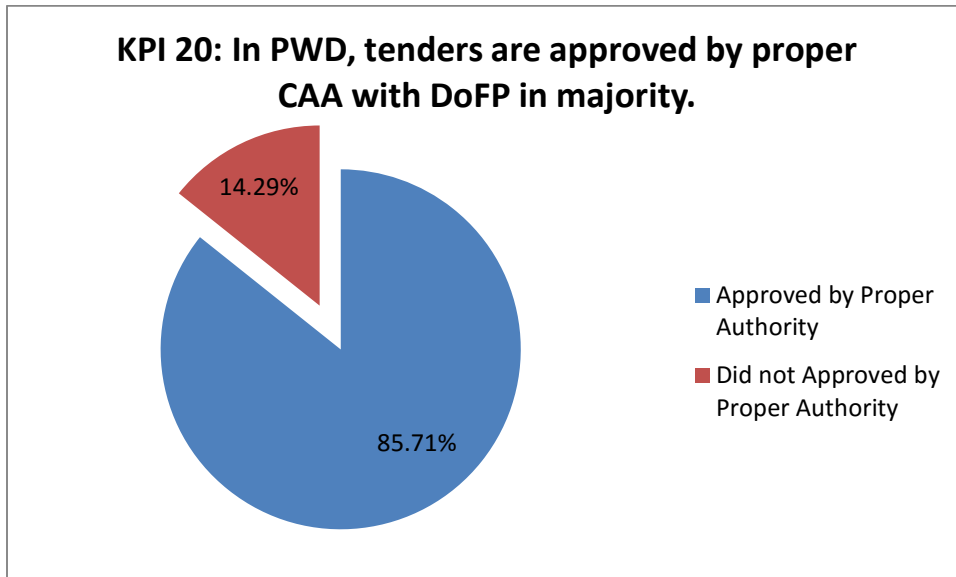
According to the provisions of PPR 2008, timeline has been specified for completion of approval of TERs by the respective Contract Approving Authority (CAA) delegated with proper financial powers. As per schedule III & [Rule 8(14), Rule 36(6)], 1 week & 2 weeks' time is allowed for approval of contract where Approving Authority is PD or authorized officer (Xen) & HOPE, Ministry and CCGP.



From the results of this study, it has found that among the 21 projects only 8 projects met the deadline (38.1%); rest 13 projects (61.9%) took more time than its allocated time which indicates that PWD did not followed the standard time between submission and approval of Tender Evaluation Report (TER). On an average PWD took 43.89 days between submission and approval of Tender Evaluation Report (TER).

KPI 20: In PWD, tenders are approved by proper CAA with DoFP in majority.

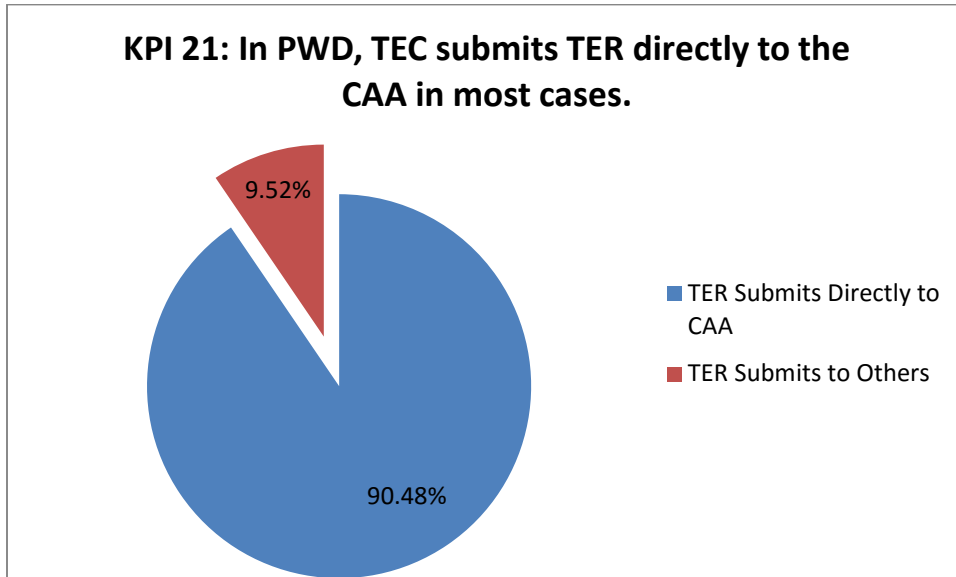
In response to this question, the majority (85.72%) of the tenders are approved by proper Contract Approving Authority (CAA) with Delegation of Financial Power (DoFP). By analyzing the questionnaires it has found that among the 21 tenders 3 tenders did not approved by proper CAA with DoFP.



Delegation of Financial Powers is a document issued by the Finance Division of Ministry of Finance. As per Rule 36 of PPR 2008, this delegation has to be followed strictly for the approval of the contracts. From the responses of the questionnaire survey, it has been indicated that PWD is keen in following this Rule of PPR 2008.

KPI 21: In PWD, TEC submits TER directly to the CAA in most cases.

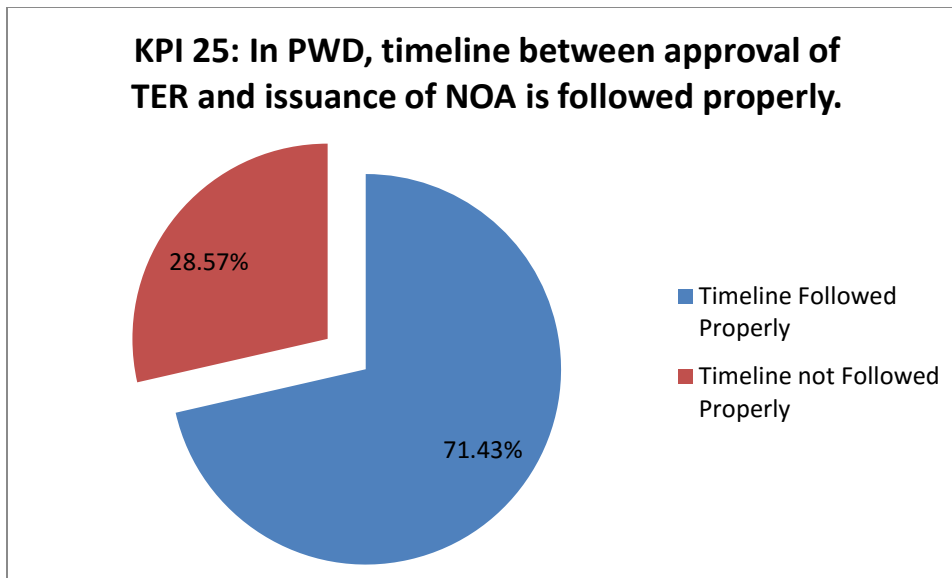
By studying the questionnaire it has found that majority (21 out of 2, 90.48%) of the TER directly submitted to the CAA. In case of the 2 projects (9.52%) TER was not directly submitted to the CAA.



As per Rule 36(3) of PPR 2008, TEC should submit the Tender Evaluation Report (TER) directly to the Head of the Procuring Entity (HOPE) or the Project Director, Project Manager, or the authorized officer, as the case may be, for approval.

KPI 25: In PWD, timeline between approval of TER and issuance of NOA is not followed properly in some projects.

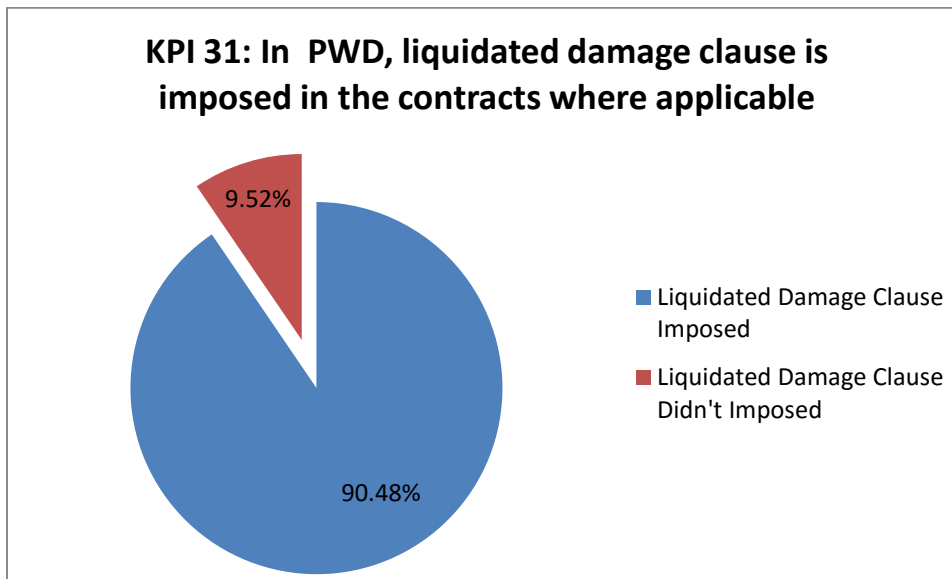
According to Schedule II [Rule 36(4)] and Schedule III [Rule 8(14)], within 1 week after the approval of the approving authority, Notification of Award (NOA) should be issued. In response to this requirement of PPR 2008, the present study indicates that PWD is not very much keen to comply with this timeline.



Examining the 21 projects it has found that in 15 projects (71.43%) timeline between approval of TER and issuance of NOA is followed properly and in 6 projects timeline is not followed properly. The average time consumed between approval of TER and issuance of NOA is 17.82 days.

KPI 31: In PWD, liquidated damage clause is imposed in the contracts where applicable as per Rule 39 (27) in most cases

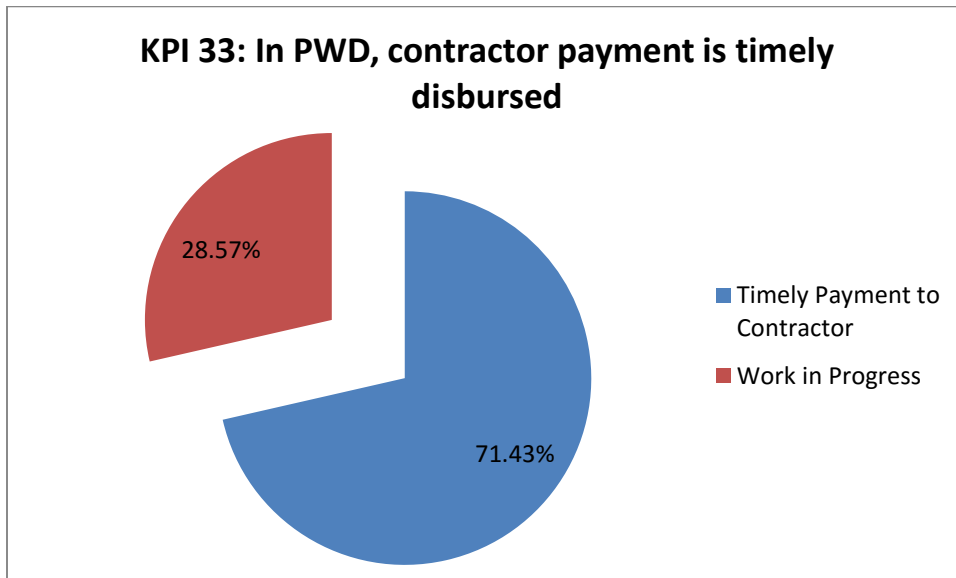
Among the 21 projects in 19 projects (90.48%), *liquidated damage clause is imposed in the contracts where applicable as per Rule 39 (27)*, in 2 projects (7.14%), *liquidated damage clause is not imposed in the contracts where applicable as per Rule 39 (27)*



As per Rule 39 (27) of PPR 2008, it is mandatory to include the liquidated damage clause in the contracts where applicable. The present questionnaire survey though indicates an overall positive result towards imposing liquidated damage clause in the contract;

KPI 33: In PWD, contractor payment is timely disbursed as per Rule 39 (22) in most cases.

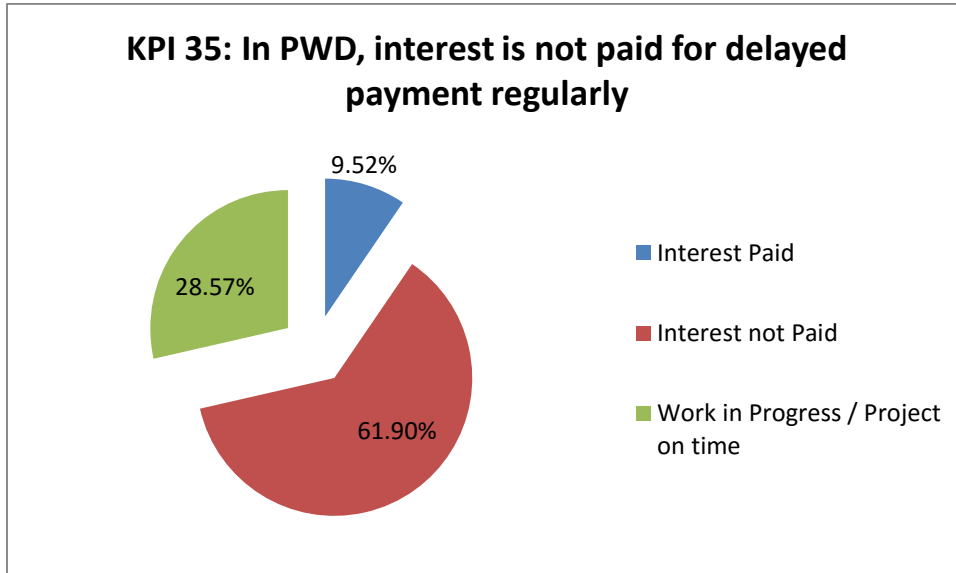
By analyzing the 21 questionnaires it has seen that in 15 (71.42%) projects contractor payment is timely disbursed as per Rule 39 (22) and in 6 (28.52%) Projects the respondent says it is not applicable or work in progress. This meant that PWD paid contractor payment timely as per rule39 (22)



According to Schedule II [Rule 39(22)], the Procuring Entity shall pay the contractor the amount certified by the Project Manager within 28 days from the date of certificate of PM/ Engineer. As seen from the questionnaire survey of the present study, the majority remains neutral in their perception; the key informants were asked the same to explain in a broad aspect. It was then found that most of them argue that payment is not made with the stipulated time. However, there found a gap in understanding about the submission of bill by the contractor and the payment of the same and many of them started to count the date from submission of bill. The days should actually be counted from the certificate issue date by the project manager.

KPI 35: In PWD, interest is not paid for delayed payment regularly in most cases in many cases

Among the 28 projects, the interest is not paid for delayed payment in 13 projects (61.90%), in case of 2 projects (9.52%) of the projects interest is paid for delayed payment regularly, For 6 project (28.57%) of the projects it is not applicable because of ongoing project or project finished in time. So from the above data it can be said that in PWD interest is not paid for delayed payment regularly in most cases.



Chapter 5: Conclusion and Recommendations

5.1 Conclusion

Compliance monitoring of PPR 2008 is a vital issue for insuring good standards and value for money in the public procurement. The PPRP II has added a new dimension in the field of monitoring in the sense that it envisages to assess the compliance of the provisions of PPA-2006 and PPR-2008. This has made a shift from the existing approach and methods in dealing with procurement using public funds. Though awareness to some extent about PPA 2006 and PPR 2008 has already been developed within the officials and staffs of PWD through mandatory application of PPR 2008 in practice and training, it will certainly take some time to get momentum of the reform activities.

The present study results, shows a clear deviation to the rules of PPR 2008 in PWD in carrying out most of the compliance related KPIs.

In respect of KPI 6 (Average number of days between publishing of advertisement and Tender submission deadline), KPI 11 (Percentage of cases TOC included at least ONE member from TEC), KPI 13 (Percentage of cases TEC included Two external members outside the Ministry or Division), KPI 20 (Percentage of Tenders approved by the proper financial delegated authority), KPI 21 (Percentage of cases TEC submitted report directly to the Contract Approving Authority where Approving Authority is HOPE or below), KPI 31 (Percentage of Contracts having liquidated damage imposed for delayed delivery/completion), PWD is doing fine. Again in KPI 33 (Average number of days taken to release payment from the date of certificate of PM/ Engineer) performance of PWD is quite

good as payment is not delayed. Yet there is scope and need for improvement in these areas as to have a 100% compliance of PPR 2008.

However, PWD's performance in the areas of KPI 14 (Average number of days between Tender opening and completion of evaluation), KPI 19 (Average number of days taken between submission of Tender Evaluation Report and approval of contract), KPI 35 (Percentage of Contracts where interest for delayed payments was made) are not satisfactory and needs to improve these to a great extent.

5.2 Recommendations

From the present study, it is seen that in PWD PPR 2008 is being complied with more than 80% in 6 KPIs, more than 70% in 2 KPIs and in 3 KPIs there are clear deviation from the rule. Among the 3 KPIs which are not followed properly are KPI 14 (Average number of days between Tender opening and completion of evaluation), KPI 19 (Average number of days taken between submission of Tender Evaluation Report and approval of contract), and KPI 35 (Percentage of Contracts where interest for delayed payments was made). Among those 3 KPIs 2 of them are time bounded. For further improvement, following recommendations are drawn based on the study:

- In KPI 14 (Average number of days between Tender opening and completion of evaluation) PWD is taken longer time compare to the time allocated in the rule. They main cause of delays are conventional process of checking the tenderers experience certificate, financial statement, another cause is that the Addl Chief Engineer is chairperson of TEC in most project because of the DoFP and also for the Chief

Engineer delegated his power to Addl Chief Engineer. So there is always a schedule problem to set up a TEC meeting which cause the delay.

To reduce those problems PWD may call to submit a company profile to deferent supplier and check their experience, financial capacity which can be used in evaluation. Also Addl Chief Engineer delegates some of his power to lower authority.

- Like the previous KPI PWD is taken longer time compare to the time allocated in the rule in KPI 19 (Average number of days taken between submission of Tender Evaluation Report and approval of contract). This delay is mainly caused by the ministry. As PWD constructed building for other Ministry/ Department, they have to approve the evaluation from those Ministry/ Department, for example PWD has to approve all tender evaluation report Bangladesh Police. This is totally unnecessary because in the TEC there is a member from Bangladesh Police. This Additional one tier of approval causes delay.

To reduce those problems the DoFP should be revised. By Empowering the lower tier will decrease the time in approval process. Also the additional tier of approval from sponsor Ministry/ Department should be cut from the process.

- To improve the performance in KPI 25 i.e. to reduce the Average number of days between final approval and Notification of Award (NOA) strong adherence of law and effective auditing system should be established.
- In KPI 35 (Percentage of Contracts where interest for delayed payments was made) PWD is not doing well. The reason behind this to approve the additional money to pay interest and in most of the cases the officials want to avoid this issue. To

improve the performance in this area they should make the provision for extra money in the DPP. Also provision for payment of interest in case of delayed payment should be kept in the contract and implemented accordingly so that the rights of the contractor can be protected

- Introduction to e-gp is necessary
- Training on Procurement law also improves the competency of the PWD employee.
- In KPI 21 (Percentage of cases TEC submitted report directly to the Contract Approving Authority where Approving Authority is HOPE or below) PWD not following the rule in Some Cases. Ignorance to the law is main reason behind this.

To improve the performance PWD Should arrange regular training on procurement law. Also TEC should be empowered and every member of the TEC should have an understanding of this regulatory requirement. Proper mechanism should be developed within PWD so that it can be complied.

- Tender should be floated only after having availability of sufficient fund. This would ensure the timely payment to the contractor [Rule 39 (22)]
- Liquidated damage clause to be properly applied as per Rule 39 (27) of PPR 2008. The amount of liquidated damage per day or per week should be calculated on the basis of approximate real monetary loss for delay, not just on the basis of blind guessing. Compensation event needs to be properly incorporated in the tender document so that contractors can get appropriate compensation if the situation arises so.


Appendix-A: Key Performance Monitoring Indicators

Sl. No.	Indicator Category	Process Indicator	KPI No.	Performance Data
1	Invitation for Tender	Advertisement of Tender opportunities in Newspaper	1	Percentage of Invitation for Tender (IFT) published in Newspaper
		Advertisement of Tender opportunities in CPTU's website	2	Percentage of Invitation for Tender (above threshold) advertised in CPTU's website
		Tenders following GOB Procurement Rules	3	Percentage of Tenders following GOB Procurement Rules
		Tender following Development Partner Rules	4	Percentage of Tenders following Development Partner Rules
2	Tender Submission	Multiple locations submission Tenders	5	Percentage of Tenders allowed to submit in multiple locations
		Tender preparation time in Open Tendering Method	6	Average number of days between publishing of advertisement and Tender submission deadline
		Tender time compliance	7	Percentage of Tenders having sufficient tender submission time
		Sale of Tender documents	8	Average number of Tenderers purchased Tender Documents
		Tenderer Participation	9	Average number of Tenderers submitted Tenders
		Tenderer Participation Index	10	Ratio of number of Tender submission and number of Tender document sold
3	Tender Opening Committee (TOC) and Tender	Tender Opening Committee formation	11	Percentage of cases TOC included at least ONE member from TEC
		Tender Evaluation Committee	12	Percentage of cases TEC formed by Contract Approving Authority

Sl. No.	Indicator Category	Process Indicator	KPI No.	Performance Data
	Evaluation Committee (TEC)	formation		
		External member in TEC	13	Percentage of cases TEC included Two external members outside the Ministry or Division
4	Tender Evaluation	Tender evaluation time	14	Average number of days between Tender opening and completion of evaluation
		Compliance of Tender evaluation time	15	Percentage of cases Tender evaluation has been completed within timeline
		Tender Acceptance	16	Average number of responsive Tenders
		Re-Tenderding	17	Percentage of cases TEC recommended for Re-Tenderding
		Tender Cancellation	18	Percentage of cases where Tender process cancelled
5	Tender Evaluation Report (TER) approval	Tender Evaluation Approval time	19	Average number of days taken between submission of Tender Evaluation and approval of contract
		Compliance of financial delegation	20	Percentage of Tenders approved by the proper financial delegated authority
		Submission of evaluation report to appropriate authority	21	Percentage of cases TEC submitted report directly to the Contract Approving Authority where Approving Authority is HOPE or below
		TER approval compliance	22	Percentage of cases contract award decision made within timeline by Contract approving Authority after submitting Tender evaluation report
		Additional review of TER	23	Percentage of cases TER reviewed by person/ committee other than the Contract Approving Authority

Sl. No.	Indicator Category	Process Indicator	KPI No.	Performance Data
		Higher tier approval	24	Percentage of Tenders approved by higher tier than the Contract Approving Authority
6	Contract Award	Time for issuance of NOA to Tenderder	25	Average number of days between final approval and Notification of Award (NOA)
		Tender processing lead time	26	Average number of days between Tender opening and Notification of award (NOA)
		Total Tender processing time	27	Average number of days between Invitation for Tender (IFT) and Notification of Award
		Publication of award information	28	Percentage of Contract awards published in CPTU's website
		Efficiency in Contract Award	29	Percentage of contracts awarded within initial Tender validity period
7	Delivery/ Completion	Delivery time	30	Percentage of Contracts completed/ delivered within the original schedule as mentioned in the contract
		Liquidated damage	31	Percentage of Contracts having liquidated damage imposed for delayed delivery/completion
		Completion rate	32	Percentage of Contracts fully completed and accepted
8	Payment	Payment release compliance	33	Average number of days taken to release payment from the date of certificate of PM/ Engineer
		Late payment	34	Percentage of cases (considering each installment as a case) with delayed payment
		Interest paid for delayed payment	35	Percentage of Contracts where interest for delayed payments was made
9	Complaints	Tender procedure complaints	36	Percentage of Tender procedures with complaints

Sl. No.	Indicator Category	Process Indicator	KPI No.	Performance Data
		Resolution of complaints with award modification	37	Percentage of complaints resulting in modification of award
		Resolution of complaints	38	Percentage of cases complaints have been resolved
		Independent Review Panel	39	Percentage of cases review panel's decision upheld
10	Contract amendments	Contract Amendment/variation	40	Percentage of contract amendments/variatio
11	Contract dispute resolution	Unresolved Disputes	41	Percentage of Contracts with unresolved disputes
12	Fraud & Corruption	Fraud & Corruption	42	Percentage of cases Fraud & Corruption detected
13	Procurement Management Capacity	Procurement training	43	Average number of trained procurement staff in each procuring entity
			44	Percentage of procuring entity which has at least one trained/certified procurement staff
			45	Total number of procurement persons in the organization with procurement training

 Shaded KPI's are Compliance KPIs

Appendix B: Sample Questionnaire

Survey Questionnaire

Research Topic: *Performance of Public Works Department in Procurement Activity Compliance to PPA-2006, and PPR-2008*

Part A: Respondent’s Profile [Please encircle (O) where appropriate]

1.	Name of the respondent (Optional)	:						
2.	Designation	:						
3.	Name of the organization	:						
4.	Gender	:	Male / Female					
5.	Job Experience (years)	:	<5	5-10	11-15	15-20	20-25	>25
6.	Relevancy with PWD	:	Employee	TEC Member	Dealing with PWD’s projects		Others (specify pls)	
7.	Educational qualification (Last degree obtained)	:						
8.	Do you have training on PPA 2006 and PPR 2008?	:	Yes / No.					

Part B: The following statements ask you about PWD’s practices of the KPIs as compliance of PPR 2008. Please circle (O) where options are given and specify where needed.

1. Name of the Project/Work:

2. Type of Procurement: Goods/ Works / Service
3. Method of procurement: OTM/ LTM/ TSTM /RFQ /DPM /RTM /QCBS/ SFB/

Other (Please Specify:.....)

4. Value of the Procurement:.....lac

5. Financial Year:.....

Sl no.	KPI no.	Key Performance Indicator	Respondent Answer / Comment	Researcher Comment
1	6	Time between 'publishing Advertisement and Tender submission deadline'days	
2	11	Is TOC consists of at least one member from TEC ?	Yes / No	
3	13	Is TEC consists of two external members outside the ministry/ division of PE?	Yes / No	
4	14	Time between tender opening and tender evaluation :days	
5	19	Number of days taken between submissions of Tender Evaluation Report and approval of contract:days	
6	20	Tender approved by:	EE/ SE/ PD/ ADCE/ HOPE/ MINISTER/ CCGP	
7	21	Is TEC submitted evaluation report directly to the Contract approving Authority where Approving Authority is HOPE or below?	Yes / No	
8	25	Number of days between final approval and Notification of Award (NOA)days	
9	31	Is the liquidated damage clause included in the contract imposed for delayed delivery/completion?	Yes / No/ NA	

10	33	Number of days taken to release payment from the date of certificate of PM/Engineer:days	
11	35	Is interest for delayed payments were made?	Yes / No/ NA	